



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

**TRANSCRIPT OF TRIAL PROCEEDINGS - KAING GUEK EAV "DUCH"**

**PUBLIC**

Case File N° 001/18-07-2007-ECCC/TC

22 June 2009, 0905H

Trial Day 31

Before the Judges:

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## WITNESSES

## THE ACCUSED, KAING GUEK EAV

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**List of Speakers:**

Language used unless specified otherwise in the transcript

| Speaker                             | Language |
|-------------------------------------|----------|
| JUDGE CARTWRIGHT                    | English  |
| MR. HONG KIMSUON                    | Khmer    |
| JUDGE LAVERGNE                      | French   |
| MS. MOCH SOVANNARY                  | Khmer    |
| MR. ROUX                            | French   |
| MS. SE KOLVUTHY                     | Khmer    |
| MR. SMITH                           | English  |
| MS. STUDZINSKY                      | English  |
| THE ACCUSED                         | Khmer    |
| THE PRESIDENT (NIL NONN, Presiding) | Khmer    |
| MR. WERNER                          | French   |

1

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

2 (Judges enter courtroom)

3 [09.05.30]

4 MR. PRESIDENT:

5 Please be seated. The Trial Chamber is back in session to hear  
6 the facts and at the beginning the Greffiers please make a report  
7 on the attendance of the parties for the hearing today.

8 THE GREFFIER:

9 Mr. President, the parties who are present on today's hearings  
10 are all present.

11 MR. PRESIDENT:

12 Before we start our session of the hearing the Trial Chamber  
13 would like to inform the parties on the scheduling of the trial.  
14 The Trial Chamber would like to provide the parties with  
15 information pertaining to the scheduling of the trials. It  
16 wishes to announce that it will hold a trial management meeting  
17 on Thursday, 25 June 2009 at 1.30 p.m. The schedule for the  
18 meeting three weeks is as follows.

19 Monday the 22nd of June to Wednesday the 24th a.m. of June,  
20 questioning of the accused by the parties on the functioning of  
21 S-21 and Choeung Ek. In the afternoon of Wednesday the 24th of  
22 June to Monday, 29th of June, the questioning of the accused by  
23 the Chamber and the parties on the operations of the security  
24 office of S-24, or known as Prey Sar.

25 On Tuesday the 30th of June to Tuesday the 14th of July, hearing

2

1 of the following survivors of S-21 in Phnom Penh at the pace of  
2 one witness per day, including the following witnesses: KW-01,  
3 D25/3, D25/1, CP1/6, A2/61, A2/23, A2/33, A2/80, A2/32.

4 The Trial Chamber would like to take this opportunity to draw the  
5 parties attention to the fact that it is using certain names for  
6 the witnesses who are yet to come to testify and for civil  
7 parties who will be heard in the Court at this stage. It urges  
8 our parties to continue to do so when they refer to these  
9 individuals in the Court.

10 In order to ensure that the Trial is conducted expeditiously, the  
11 Trial Chamber has re-examined the witness list and would like to  
12 propose to reduce the witness list. The party will get a printed  
13 list of witnesses to be discussed, with notes.

14 The Trial Chamber has calculated that if agreement is reached at  
15 the close of the trial management meeting, we could save up to 30  
16 sitting days. These are the information that we have some change  
17 on the scheduling for the three following weeks, and we will have  
18 a consideration on the approaches to conduct our hearings so that  
19 we can move faster. The Trial Chamber would like -- has not  
20 informed parties just now.

21 [9.11.27]

22 The security, please bring the accused to the dock.

23 MR. SMITH:

24 Good morning, Mr. President, Your Honours.

25 If I can just raise a brief technical matter in relation to the

3

1 questioning of the accused this morning.

2 As we indicated on Friday, the prosecution would be putting a few  
3 documents to the accused for his comment this morning, and we  
4 would ask if it was possible that the AV switch to the  
5 prosecution desk and the cameras stay -- or the computer be  
6 connected throughout that hour-and-a-half to save that time of  
7 asking to take the document off and put it back on. Then we  
8 would indicate to the AV booth once the document has been looked  
9 at by the accused, to switch back to the cameras so that we can  
10 get through the proceedings a little more efficiently, if  
11 possible.

12 MR. ROUX:

13 Thank you, President.

14 Just one remark. Journalists have noticed that when documents  
15 are being shown on the screens, the continuity of the hearing is  
16 lost in terms of the memory that we want to store in our  
17 archives, so I would like to respectfully draw the attention --  
18 call the attention of the hearing to this.

19 [9.13.35]

20 When we put documents up on the screen we should not leave it up  
21 on the screen for too long because it's the memory content and  
22 the continuity of this memory that gets lost for the archives.

23 Thank you.

24 (Deliberation between Judges)

25 MR. PRESIDENT:

4

1 The Trial Chamber (recording malfunction) it and approved the  
2 request by the Co-Prosecutor. However, the Trial Chamber would  
3 like to remind you that we will give you the time for the  
4 questioning to the Co-Prosecutor on the facts, especially the  
5 facts of the operation of S-21 and Choeung Ek -- only three  
6 hours.

7 And during this three hours we combine the questionings so,  
8 please, Mr. Co-Prosecutor, be informed. And, secondly, when  
9 there is a view of the documents or other image on the screen, we  
10 should focus that we are display for the purpose of questioning  
11 and when you finish that, we will remove to the normal screen.

12 Next, I would like to give the floor to the Co-Prosecutor to  
13 question to the accused. The floor is yours.

14 MR. YET CHAKRIYA:  
15 Thank you, Mr. President.

16 [9.15.59]

17 What the Prosecutor would like to do now is to show some  
18 documents to the accused that we believe to be written by the  
19 accused so that the accused confirms and responds to what he had  
20 done in the past.

21 Based on these documents, we hoped that during this hearing we  
22 will receive more information on the operation and actual -- or  
23 the concrete role of the accused in the arrest, in the  
24 interrogation, the torture, and the killings at S-21. We would  
25 like to ask more questions to the accused in relation to his

5

1 involvement in the interrogation, the torture, and the killing of  
2 Men San alias Ya. We believe that we do in this way we can show  
3 the extent of the participation of the accused in the torture and  
4 the killings at S-21.

5 Now, I would like to start with the topics regarding the arrest.

6 Mr. President, I would like you to order to the accused to look  
7 at the documents E5/2.10 and ERN in Khmer it is 00227230 and ERN  
8 in English is 00227224 and ERN in French is 00294492.

9 There was a notation of the accused on the confession of Prum  
10 Khoeurn dated 28th October 1975. I would like now to request  
11 that the audio-visual connects to the Co-Prosecutor's computer.

12 MR. PRESIDENT:

13 Please, the AV section, do the connection to the Co-Prosecutor's  
14 computer.

15 QUESTIONING BY THE CO-PROSECUTORS

16 BY MR. YET CHAKRIYA:

17 Q. So you can read the document on the screen, so please respond  
18 to my questions as the following.

19 [19.19.06]

20 Can you say that you wrote in the box which is shown here? Were  
21 you the one who wrote that annotations?

22 A. Mr. President, these are my writings.

23 Q. With your annotation you requested to arrest Prum Mi when you  
24 were the deputy chief of S-21. Was it your ordinary role that  
25 you make the suggestions to arrest anyone at that time?



6

1 A.From the beginning I would like to say that about M-21. M-21  
2 was the secretariat of Nat, who was the chief of S-21. M-21 was  
3 completely under him. It's not under the deputy chief. And  
4 there was a document; I can prove that. The confession of Prum  
5 Duong, as far as I read it from the beginning, it is based on the  
6 confession of Long Seng. I would like to tell the Chamber that  
7 Nat, when he was the chief, he used the term M-21 to request for  
8 the arrest of people who were not passed through the competent  
9 Angkar, meaning that he is not -- has been approved by the  
10 General Staff.

11 [09.21.30]

12 So at the end there was a request like this. There were a lot of  
13 documents like this that the term M-21 appear on that document.

14 Q.Did you expect that your request would be authorized and that  
15 those people would fall into the hands of the interrogators at  
16 S-21?

17 A.According to what I remember, Aing Ly arrived at S-21 but I  
18 could not recall regarding Prum Duong.

19 Q.Thank you.

20 Now I would like you to look at a document in the introductory  
21 submission annexed C18.81, ERN in Khmer 00001898; in English  
22 00001897; and in French 00250323. This document is the S-21  
23 record made on the 5th of August 1977. Have you examined the  
24 document?

25 A.Mr. Co-Prosecutor, I have seen this document since during the

7

1 investigation stage. It is my annotation after I had received a  
2 letter from my superior. It was a letter from Cheng An from the  
3 Ministry of Industry when I went to work for him. After I  
4 returned home I annotated on this confession for the  
5 interrogation. I would like everyone to examine my annotation  
6 and the translation. The translation is not correct. It's not  
7 corresponding to my annotation and this is a legal issue here.

8 Q. In your third proposal in the record you wrote, "Seek to  
9 locate all of their remaining network and absolutely get them  
10 arrested." This record seems to be an order rather than a  
11 proposal. Do you agree?

12 [09.24.51]

13 A. Mr. Co-Prosecutor, I would like to read my annotation by  
14 myself on the third proposal that I made to Brother Mam Nai.  
15 Number 3, "To seek to locate all of their remaining network," it  
16 is to identify them clearly and not -- it doesn't mean to arrest  
17 them, to absolutely get them arrested. So I think this is the  
18 issue of translation and we all have to look at the issue  
19 altogether.

20 MR. PRESIDENT:

21 I notice the presence of the defence counsel. You can take the  
22 floor.

23 MR. ROUX:

24 Thank you, Mr. President.

25 Co-Prosecutor, I apologize, but if there is a translation problem

8

1 then the translation problem needs to be addressed first, and I  
2 would like to know who translated this document. It's quite  
3 clear to say that the need to identify does not mean the same  
4 thing as to arrest. So before you carry on with your questioning  
5 I think we need to know who did this translation, once again.

6 MR. PRESIDENT:

7 The Co-Prosecutor, you can take the floor.

8 MR. SMITH:

9 Thank you, Your Honour.

10 [09.26.43]

11 In terms of the translation, as you know, because of the  
12 translation workload at the ECCC on occasion the Co-Prosecutors  
13 Office have to undertake some of those translations. However,  
14 the translation shown on the screen is a guide and the official  
15 translation, which is 00001897 is in fact on the case file.  
16 I think for the hearing this morning, if there is an issue with  
17 translation -- and as Your Honour is aware, it is very, very  
18 difficult to translate from Khmer into English, into French, and  
19 one of the reasons for that is that there are some words that  
20 just do not exist in Khmer that exist in English. Now, if there  
21 is a translation issue, if it's minor or major, it will be raised  
22 by the defence, and quite rightly, and as Your Honours are aware,  
23 we provided the documents to the accused last Friday. The  
24 documents had been on the case file for some months, and we just  
25 ask that the translation on the screen be used as a guide. If

9

1 there's a problem it will be raised by the accused but obviously  
2 the official Khmer must be the decider as to what the accused in  
3 fact wrote.

4 MR. PRESIDENT:

5 Through the Chamber's observation, there are two issues. One is  
6 the use of the Khmer language and the writing is also difficult  
7 in the original documents. Actually it's the character in Khmer  
8 which is rather hard to read, so it might be confusing from the  
9 Khmer original text whether it is "to identify" or "to arrest"  
10 because the document has been so long already and I think this is  
11 also a possibility that might lead to the mistranslation.  
12 This doesn't mean we are responsible in providing a judgment  
13 during the questioning and that we understand during the  
14 questioning and the requests made by each party to see whether  
15 the document is exculpatory or inculpatory, and the accused  
16 himself also made his observations. This means he read the  
17 document and took note.

18 [09.29.35]

19 So the uncertainty in the translation or the wording in the  
20 original documents that he himself has to reread the document in  
21 order to provide what it is read -- what it was written in the  
22 document. So now I would like the Co-Prosecutor to continue his  
23 questioning and as a remind, in the case of uncertainty, the  
24 issue needs to be raised.

25 MR. YET CHAKRIYA:

10

1 Thank you, Mr. President.

2 BY MR. YET CHAKRIYA:

3 Q. Another question; did you want to arrest many people and send  
4 to S-21? Do you agree to this suggestion?

5 A. Mr. Co-Prosecutor, before I respond to your question, I would  
6 seek permission to

7 confirm that the translation of the document we spoke about is  
8 not correct even for the second point.

9 [09.30.59]

10 And now let me respond to your question. I did not have any  
11 intention to arrest people and send to S-21. This is my brief  
12 answer.

13 Q. My final question is regarding the fact on the arrest. I  
14 would like you to read a document in the Introductory Submission  
15 in Annex C; ERN in Khmer is 00002476 and in English is 00001904.  
16 There is no French ERN. This document has the annotation of the  
17 accused on the confession at S-21 of Mut Heng which was made on  
18 the 21st of June 1978.

19 My question to you; can you confirm that you are the person who  
20 wrote that annotation?

21 A. Mr. President, this is my annotation.

22 Q. In the annotation you wrote, "Remove him urgently. Arrest  
23 him, beat him and interrogate him," dated 21st June 1978.

24 You said that in 1978, it was the busy year for you. Can we  
25 agree that this is an order for the arrest?

11

1 A.Mr. Co-Prosecutor, I would like to respond to your question  
2 rather long, but this is in order to make it clear. The original  
3 document was not the confession of Comrade Heng. It was the  
4 history of Comrade Mut Heng and the management of Hor.  
5 [09.33.25]

6 When Comrade Mut Heng had an incident, Comrade Hor reported to me  
7 including his biography and requested me to request the opinion  
8 from the upper echelon. After I received the opinion from the  
9 upper echelon, then I annotated on the confession and gave it to  
10 Comrade Hor for the interrogation. I think this is the process  
11 that happened at the time.

12 Thank you.

13 Q.Thank you.

14 My next question; through this example, you were directly  
15 responsible for any person who was arrested or who were not  
16 supposed to be arrested. Do you agree to this?

17 A.Mr. Co-Prosecutor, the S-21 staff reported to me on the  
18 incidents and I reported to  
19 the incidents to the upper echelon for a decision. I only made a  
20 decision that I would make the arrest or order for the arrest and  
21 there were more than 100 of them. This is according to the  
22 figure provided by the Office of the Co-Prosecutors the other  
23 day. So that was the process of arrest at S-21. It was  
24 requested by the lower subordinate to me and then I would request  
25 to the Standing Committee for their decision.

12

1 Regarding Comrade Khieu, or Son Sen, he was the one who would  
2 make the decision and such case involved the arrest of more than  
3 100 persons.

4 [09.35.21]

5 Q.Now my question is now related to that document. Through your  
6 confirmation  
7 before this Chamber, the children who came along with their  
8 parents were separated from their parents and the parents were  
9 detained and for the children, they would be killed immediately  
10 and the rest were not killed immediately; and for those children  
11 who were not killed immediately, where were they detained?

12 A.Mr. Co-Prosecutor, I am not sure on the process; only from the  
13 surviving documents from Sre I saw that 160 children were killed.  
14 So I can say all the children would be separated from their  
15 parents and the majority of them were sent to the rice fields at  
16 Prey Sar and then they would be smashed and the rest will be  
17 killed around the compound of the Ponhea Yat College.

18 Q.While they were waiting to be killed, did you provide food to  
19 the children?

20 A.This is according to my conclusion because I did not go there  
21 at the time. I think there was food, but the food ration was the  
22 same as the food ration provided to all the victims at Prey Sar.  
23 It was not sufficient.

24 Q.Thank you.

25 My next question; the prisoners who were detained the longest,

13

1 how long was it?

2 A.Mr. Co-Prosecutor, I cannot recall it.

3 [09.37.36]

4 Q.Do you still recall the names of those prisoners?

5 A.Mr. Co-Prosecutor, I did not make the total number, but  
6 through my analysis, there was one person who was the -- detained  
7 the longest; it was Professor Phing Ton. He was detained for  
8 more than 10 months.

9 Q.If the person was detained this long, it means the hair of the  
10 prisoners will be long. Was there any tailor to cut the hairs of  
11 the prisoners?

12 A.No, I am not sure on this matter.

13 Q.There were numerous prisoners and the cuff and shackles were  
14 used. Who provided the handcuffs and the shackles, and who made  
15 them?

16 A.Mr. Co-Prosecutor, the handcuffs and the shackles were  
17 collected from the former police collection; that's for the  
18 handcuffs. And for the shackles, I think that they might be  
19 collected from the PJ prison or from the Prey Sar prison, but I  
20 think some of them were made additionally.

21 Q.Thank you.

22 All the prisoners were detained in the room day and night with  
23 insufficient food and from what was known, at night, light was  
24 turned on in each room.

25 And there were insects attracted to the light and some of them



14

1 died and fell on the ground and on the prisoners. And those  
2 prisoners ate those insects in order to fulfill their hunger.  
3 Were you aware of that?

4 A.Mr. Co-Prosecutor, I did not know but I think the incident  
5 happened.

6 Q.Did you believe it happened?

7 A.Yes; yes, frankly speaking.

8 Q.You said the duration of the detention of prisoners at S-21  
9 before they were smashed is according to the completion of the  
10 interrogation. What about the detention of Professor Phing Ton,  
11 which was almost 20 months, and the detention of Ke Kim Huot,  
12 which was close to 14 months, who were your professors and they  
13 were detained the longest if comparing to other important  
14 prisoners.

15 [9.40.45]

16 The question is, why the duration of their detentions were longer  
17 than the rest? Can you elaborate on this?

18 MS. STUDZINSKY:

19 I would only want to clarify. There was maybe a translation  
20 problem. I got the translation "20 months" for Professor Phing  
21 Ton. Could you clarify what your question was?

22 BY MR. YET CHAKRIYA:

23 Q.The period, the duration of 20 months is based on the  
24 document.

25 A.Mr. Prosecutor, Ke Kim Huot, I knew about that. When he was

15

1 sent to S-21 we kept him for longer because the upper echelon  
2 needed his confessions and then I changed several interrogators.  
3 Finally we have Comrade Toy. I did not know about Professor  
4 Phing Ton. I did not know whether he spent a much longer time at  
5 that period. So I did not know about that.  
6 I looked at the document. He was very sick. I think that he  
7 died because of a disease and starvation. This is based on what  
8 I believe and my analysis that I wrote on the 25/5. This is my  
9 analysis.

10 Q.Thank you.

11 Now I would like to come to topic number two. It's about the  
12 interrogations.

13 [09.42.47]

14 MR. YET CHAKRIYA:

15 Mr. President, could you please order the AV to connect the  
16 system to the Co-Prosecutor's PC?

17 MR. PRESIDENT:

18 Please, the AV, take action following the proposal by the  
19 Co-Prosecutor.

20 MR. YET CHAKRIYA:

21 Mr. President, I would like the accused to look at the document  
22 B58/2 annex 13, ERN in Khmer 00172738; ERN in English 00223140;  
23 and ERN in French 00296036. This documents containing the  
24 annotation believed to be made by the accused on the S-21  
25 confessions of Ly Phel, dated 17th of September 1976.

16

1 MR. PRESIDENT:

2 The accused, please don't reply to this question because it is a  
3 repeated question.

4 Mr. Co-Prosecutor, please move on to another question.

5 MR. YET CHAKRIYA:

6 The Co-Prosecutors would like to respond whether it is the  
7 accused's annotation or not.

8 MR. PRESIDENT:

9 We found that we have a lot of questions and answers to this  
10 matter.

11 MR. YET CHAKRIYA:

12 Thank you, Mr. President.

13 [9.44.56]

14 BY MR. YET CHAKRIYA:

15 Q.Now, please look at the documents D58/2 Annex 13, ERN in Khmer  
16 00172716, and in French 00296039. There was no English  
17 translation. These are the confessions at S-21 of Ly Phel. Is  
18 it possible to ask the accused to reply?

19 A. Mr. Co-Prosecutor, I cannot read the documents on the  
20 screen. Could you please enlarge, have someone enlarge so that I  
21 can read?

22 Q.Can you read it?

23 A.Yes, I can read it.

24 Q.Can you say that you were the one who wrote this annotation?

25 A.Yes, Mr. Co-Prosecutor. This is the writing of Pon who wrote

17

1 to me. It is the annotation on the confession of Ruos Phuon or  
2 was it on Ly Phel? But it is the annotation of Comrade Pon who  
3 wrote to report to me.

4 Q.It's on the confession of Ly Phel.

5 [9.47.37]

6 Finally, on the topic of the interrogation, now please read  
7 documents in the file, document E5/2.24 and ERN in Khmer  
8 00228010, and ERN in English is 00284048, and in French 00294514  
9 through to 00284516.

10 There was an annotation of the accused appeared on this document,  
11 on the confession of S-21 of Suon San dated 27th of October 1977.  
12 Can you read that annotation? Once again, can you say again that  
13 these annotations were yours?

14 A.Mr. Co-Prosecutor, they were my annotations.

15 Q.On these annotations, you seemed to be very concerned about  
16 your interrogators that they did not fulfill proper of their  
17 roles. Was that true?

18 A. Mr. Co-Prosecutor, anyone who failed to perform their  
19 duties, that caused me to pay more attention and, based on this  
20 matter, Comrade Chhun Thum called a problem that extended to  
21 Brother Sam, who was in Prambei Mom commune, in Thpong District  
22 of Kampong Speu, who was the old base of the revolutionary  
23 movement. That's all I can tell you.

24 Q.In these annotations, you said that you sent one interrogator,  
25 Chhun, to the rice field. So did you actually send him to the

18

1 rice paddy?

2 A.Mr. Co-Prosecutor, I sent Comrade Chhun to the rice paddy but  
3 he was in S-21 unit. He was not considered as the prisoner. He  
4 was removed from the interrogator to work in Prey Sar at S-24.

5 [09.51.06]

6 MR. YET CHAKRIYA:

7 With permission from the Trial Chamber, I would like to ask some  
8 questions in relation to the third topic in the hearing. It's  
9 the torture; about the torture.

10 Mr. President, now I would like the accused to look at document  
11 D58/2 Annex 24, ERN in Khmer 00172792; in English 00223142; and  
12 ERN in French 00246037. The annotations of the accused appear on  
13 this document in relation to the confession of Oum Soeun which  
14 extracted by S-21 dated the 28th of August 1975.

15 BY MR. YET CHAKRIYA:

16 Q.The accused, can you say whether you wrote the annotation in  
17 red on this confession?

18 A.Mr. Prosecutor, it is my annotation order of the people to  
19 torture.

20 Q.Were the beatings for confession -- were they the normal  
21 practice of S-21?

22 A.Mr. Prosecutor, there were two types of it. If it is ordinary  
23 prisoner, it is under my responsibility, but if the prisoner was  
24 a key prisoner it's up to the decision from the upper echelon.

25 Q.Thank you. Now, please now move on to document D58/2 Annex 2,

19

1 ERN in Khmer 00172772; and in English 00225275; and in French  
2 00250642. There is a confession of the accused appears on this  
3 document in relation to the confession of Danh Siyan extracted  
4 by S-21 dated the 8th of January 1976. Can you say that the  
5 annotation in red was yours?

6 [09.54.36]

7 A.Yes, the annotation in red was mine.

8 Q.How did you know that Danh Siyan did not say the truth about  
9 her experience in Vietnam of herself?

10 A.Let me read in Khmer; my annotation in Khmer. My annotations  
11 in Khmer, "Question precisely, plus serious torture". My  
12 intention to my interrogator is to find the network but my  
13 approach, I ordered them to stop beating when she stopped saying  
14 that she went to Vietnam for the treatment of her period problem,  
15 so this is my annotations.

16 In conclusion, I thought that Danh Siyan did not response any  
17 clear, so she spend many days. So that's all I can tell you.

18 MR. YET CHAKRIYA:

19 Now the topics on the torture.

20 Mr. President, please order the accused to read the documents  
21 D58/2 Annex 2, ERN in English 002242; and French 002926 -- 96077.

22 There was annotation of the accused on the confession of Oum  
23 Soeun extracted by S 21, dated 28th of August 1975. Can the  
24 accused say that -- were you or anyone who wrote the annotation  
25 in red on this confession? It's my apology, Mr. President. I

20

1 read the wrong topics.

2 Please read documents in Annex 35, point 35 of the introductory  
3 submissions, ERN in Khmer 00014091; and ERN in English 00242278;  
4 and in French 00226226.

5 One of the annotations of the accused appears on this document in  
6 relation to confession of Ke Kim Huot extracted by S-21. The  
7 victim was the former professor of the accused, and it is dated  
8 the 22nd July 1977.

9 BY MR. YET CHAKRIYA:

10 Q. Were you the one who wrote the annotation which is in the red  
11 block?

12 A. Mr. Co-Prosecutor, there are two red circles. The one on  
13 the right, it is written "22nd 07 '77 initial interrogator". It  
14 is my annotation to my handwriting.

15 Q. My second question, did you give instructions -- or any  
16 special instructions for his interrogation?

17 A. From what I can recall, when he just arrived I provided  
18 instruction to the interrogator on the spirit of me respecting  
19 him. When he was discharged from the hospital, I took the car  
20 and I went to pick him up and then I took him to the embassy.  
21 And I wanted the interrogator to specify on this point in order  
22 to show my respect to him. I only provided instruction to the  
23 interrogator and I did not go and see him personally. So I think  
24 the development of torture was progressed and it involved an  
25 incident.

21

1 [10.01.44]

2 Q.My next question, was they force to eat excrement -- is a  
3 general and common strategy as part of the torture at S-21?

4 A.Mr. Co-Prosecutor, this is a violation in conducting torture.

5 Q.Why Ke Kim Huot was forced to eat excrement directly,  
6 apparently?

7 A.Mr. Co-Prosecutor, this is the matter where the subordinate  
8 did it by themselves without my awareness.

9 Q.Thank you. Next question.

10 If the detainees were forced to eat excrement, was not allowed to  
11 exercise at S-21, did you punish or reprimand to the  
12 interrogators who used such measures in their interrogation which  
13 was not allowed to be used?

14 A.On this matter, I reported already through the Co-Prosecuting  
15 Judges. In all instances -- and I maintained my response without  
16 any addition, however, I would like to state that I did not  
17 punish them.

18 Q.Thank you. Now, I would like you to read the document E5/2.1  
19 ERN Khmer 00227634, in English is 00242278 and in French  
20 00226226.

21 This document has an annotation of the accused on the question of  
22 Sar Phorn which was extracted by S-21.

23 [10.04.36]

24 MR. YET CHAKRIYA:

25 I would like to seek the President's permission for the



22

1 audio-visual to connect to the Co-Prosecutor's computer.

2 MR. PRESIDENT:

3 The audio-visual section, when there is a request -- subsequent  
4 request by the Co-Prosecutor, please show the document on their  
5 screen -- on the main screens without me having to repeat it  
6 during this questioning time.

7 BY MR. YET CHAKRIYA:

8 Q.Can the accused confirm this -- if this is your annotation?

9 A.Mr. Co-Prosecutor, yes, this is my annotation.

10 Q.Thank you. In this annotation you wrote:

11 "Request Brother to stand independently and apply constant  
12 pressure. Torture was the basis."

13 Does this phrase mean that you had the right to order the  
14 interrogator to torture?

15 A.Mr. Co-Prosecutor, yes, I had the right to order the  
16 interrogator to conduct torture, as I stated just then, for the  
17 ordinary prisoners except the main prisoners.

18 [10.06.22]

19 Q.Thank you. In your annotation, there is an extraction for the  
20 interrogator to interrogate on the main points. Was it a common  
21 practice that you instructed the interrogators to ask all the  
22 points that you want?

23 A.Mr. Co-Prosecutor, that is correct because the title of the  
24 order is that our objective -- so I really emphasize on the  
25 objective.

23

1 MR YET CHAKRIYA:

2 Thank you. Mr. President, could you instruct the audio-visual  
3 section to return to the normal view? Thank you.

4 BY MR. YET CHAKRIYA:

5 Q>Your statement last week was that the interrogators could ask  
6 three -- could interrogate three prisoners in alternative by  
7 himself alone. So the question is, did the interrogator  
8 interrogate and torture as well?

9 A.Mr. Co-Prosecutor, one interrogator could interrogate one  
10 prisoner and torture, and after that prisoner was returned to the  
11 cell then another one would be brought in for the interrogation.

12 Q.My next question is, and if those prisoners refused to write  
13 their own confession then the interrogator would interrogate,  
14 would torture, and would write their confessions by himself?

15 [10.08.54]

16 A.This is regarding the actual operation, so I can only provide  
17 my conclusion.

18 If the prisoners were illiterate, there was only one way which  
19 was to use a tape recorder to tape their confession and then the  
20 typist who transcribed the voice on the tape. This is just my  
21 conclusion.

22 Q.Thank you. My next question.

23 You said you interrogated prisoner Chhit Iv while you were the  
24 deputy chief, and when, after Chhit Iv confessed, you slapped him  
25 in the face. In general, the torture was to extract the

24

1 confessions. How come you, yourself, liked to torture after the  
2 prisoners already confessed? Can you verify on this?

3 A. Thank you, Mr. Co-Prosecutor. I want to talk about the code  
4 of interrogation or the order on interrogations that I did.  
5 Usually the torture was done when one was angry. If I could talk  
6 to the persons and I want him emotionally or evidently, then I  
7 would conduct small torture just to reprimand the person not to  
8 lie again.

9 However, in the case of Chhit Iv, he was aggressive toward Ma  
10 Mengkheang. Nat and I were walking together, and Nat asked me to  
11 interrogate him because Ma Mengkheang verbally was defeated by  
12 Chhit Iv. So I went in to interrogate him, and finally he gave  
13 in. So I slapped him. The slap was in order to prevent Nat from  
14 going and beating him up because he was senior than me and he  
15 wanted to beat Chhit Iv up because Chhit Iv was the former police  
16 inspector interrogating Khmer Rouge people and Nat knew that and  
17 he wanted to beat him up. So that was a separate case.

18 [10.11.30]

19 I was a bit longer in my response, my apologies.

20 Q.Thank you. According to your statement, later on a female  
21 interrogator team was established to interrogate the female  
22 prisoners. Did the team conduct any torture on the female  
23 prisoners? If so, how was it done?

24 A.Mr. Co-Prosecutor. Regarding the female interrogating cadres  
25 for the female prisoners, there was no rule or regulations, so

25

1 the principle of torture still applied. However, at what level  
2 it was practiced, it was beyond my knowledge.

3 It was an exclusive task to the wives of the Hor, Mot.

4 Q. Did you believe that the torture was practiced?

5 A. It is possible, yes. So, if they did not want to conduct  
6 torture, then they would send the prisoner to the main  
7 interrogator to torture, however I believe they -- it's possible  
8 that they might torture.

9 Q. Thank you. Now I would like to ask you a question regarding  
10 the forth topic, that is the execution.

11 [10.13.31]

12 I would like the audio-visual unit to link to the computer of the  
13 Co-Prosecutor. We request the accused to examine the  
14 Introductory Submission at Annex C, number 18.81 ERN in Khmer is  
15 00001891, and in English is 00021304. There is no French  
16 translation of this document.

17 This document is the list of S-21 prisoners which was made on the  
18 30th of May 1978. The list provides the names of the S-21  
19 prisoners. The question: Mr. Kaing Guek Eav, can you verify it,  
20 were you the one who annotated this list?

21 A. I do not see the document on my screen. The document does not  
22 appear on my screen.

23 Q. Mr. Kaing Guek Eav, can you verify it, were you the one who  
24 annotated on the list?

25 A. Mr. Co-Prosecutor, it is my handwriting.

26

1 Q.In the annotation on the list of prisoners, which, with the  
2 names of 17 children, did you annotate, "Smash them to pieces,"  
3 in order to instruct to your subordinate named Peng to follow?

4 A.Mr. Co-Prosecutor, it is my annotations to order Peng to  
5 smash.

6 [10.16.43]

7 Q.Regarding the inspection of each list of prisoners, in order  
8 to find which prisoners which prisoners required for the  
9 interrogation or which prisoners who were ready for the  
10 execution; was this part of your ordinary task?

11 A.In normal operation, this type of task was under the  
12 responsibility of Comrade Hor. For me, I was above him, and I  
13 interrogated other people with Nat. Importantly, the reports and  
14 the confessions that I need to make and send to the upper  
15 echelon. That was my task.

16 Q.My next question: after you ordered Peng, was it a routine in  
17 the daily operation, that is, Peng or any other person, after  
18 receiving the authorization in order to smash all those  
19 prisoners?

20 A.Mr. Co-Prosecutor, I confirmed repeatedly that the people who  
21 were arrested and sent to S-21, regardless of their age - young  
22 or male - they were decided already that S-21 had to imprison  
23 them, interrogated them, and finally had to smash them. And we  
24 had to follow this implementation, and in the actual daily  
25 operation, this task was assigned to Comrade Hor. And when

27

1 Comrade Hor was not in, Comrade Peng would take his place.

2 Q.Thank you, did they have to consult with or seek opinions from  
3 any other people?

4 A.Mr. Co-Prosecutor, at S-21, they had no rights to consult  
5 with anybody else besides their chairman and they were not  
6 allowed to receive any order from their superior.

7 Q.Now, please look at the documents in the introductory  
8 submissions at Annex C/16.46, ERN 00106315, in English ERN  
9 00185362 through 63, in French 00296018. This is the list of  
10 prisoners at S-21, which annotation of Duch appears on that  
11 document.

12 Can you say that -- were you the one who wrote the annotations on  
13 the bottom of this list?

14 A.Mr. Co-Prosecutor, it was annotated by two people. From the  
15 victim's name, say that it may be removed and to keep my  
16 annotation and on the bottom, it's the annotation of Chan, Mam  
17 Nai.

18 [10.21.18]

19 Q.Thank you. My next question.

20 In the annotation, it's wrote that decided to smash 115 on this  
21 list and to keep 44 of them. In that annotation, you said that  
22 you propose that measures to the upper echelon and it was  
23 approved by the upper echelon. Do you believe that your proposal  
24 for execution of those people would be approved or it should be  
25 just a proposal and less likely to be approved?

28

1 A.Mr. Co-Prosecutor, normally those victims who were sent to  
2 S-21 had to smash. This document related to the smash of a mass  
3 of people in 1977 after the arrest of Kuy Thuon from the north so  
4 that we should have a better accommodation.

5 I remember well that I went to see my superior with a list and he  
6 dictated to me. I read the name to him and then I came back. I  
7 asked Mam Nai to follow the decision.

8 In conclusion, to remove anyone on which date, we all at S-21,  
9 especially myself, I did not ask for any consultation from  
10 anyone. I had to follow the order and not to allow anyone to  
11 flee; so not to release and not to let anyone sneak out.

12 But for those key prisoners, we need to keep them for the period  
13 that the upper echelon required.

14 Q.Thank you. Question -- so what did the Angkar know? Who  
15 would be smashed? Please mention about that?

16 [10.24.10]

17 A.Mr. Co-Prosecutor, for those who -- for the victims who were  
18 interested by the upper echelon, they keep asking, "Did you  
19 finish the confession?" And later they told me that, please  
20 remove that. This is the mission against the key prisoners, so  
21 in general if I found that it is completed in the confession, so  
22 I make the arrangement to kill that person.

23 This is the general principal of the Angkar.

24 Q.Thank you.

25 Now, please look at documents D57 Annex 00296, ERN in Khmer

29

1 language 00171143, and ERN in English 00181789 through to 90, and  
2 ERN in French 00296035.

3 It is a list of prisoners at S-21; the female prisoners with the  
4 annotation of Duch on that. Question, can you say that on this  
5 page, were you the one who wrote these annotations?

6 A.Mr. Co-Prosecutor, they were my annotations.

7 Q.My next question. In this annotation, you wrote that "Do not  
8 take them out". It means that to keep them in S-21 for  
9 interrogations?

10 A.I cannot confirm like that. I just want to say that not to  
11 take out is not to kill right then.

12 Q.For those victims that you did not annotate next to their  
13 name, does it mean that they were all smashed?

14 A.Mr. Co-Prosecutor, it is an old document. I almost forget,  
15 but one female prisoner on 64, she was a dentist. I kept her in  
16 the prison. When the Vietnamese invaded, we fled together but  
17 she die of disease.

18 [10.27.24]

19 Q.How did you know that other prisoners that you did not specify  
20 to keep whether or not they were prepared for smashing or keeping  
21 later on?

22 A.Mr. Co-Prosecutor, on this document on the list, those who  
23 were not selected to keep may have been removed, taken out,  
24 except those Yoem Sok, Hak Phadet, was also medics, and Lach Dara  
25 alias Than who was the nephew of Uncle Nuon, and they fled with



30

1 me when the Vietnamese troops arrived.

2 Q.Thank you. My next question. How did you know that the other  
3 victims which have not selected to keep -- it's my apology. I  
4 asked that question already. So my final topic's in relation to  
5 the interrogation of Men San, alias Ya.

6 Mr. Kaing Guek Eav, as you told briefly to the Trial Chamber, Ya  
7 was the Secretary of the Northeast Zone in the Democratic  
8 Kampuchea when he was arrested. Was it true that he was a  
9 secretary of the zone and then arrested?

10 A.Yes, it is correct.

11 Q.The next question.

12 In addition to this, Ya was not only the leader of the Khmer  
13 Rouge but it was also true that he was one of the members of the  
14 Party in the first -- from the first place?

15 A.Mr. Co-Prosecutor, Brother Men San, alias Ya, called Sieng was  
16 the member -- was a full-rights member of the Central Committee  
17 of the Party. He was a full-rights member. If you count from  
18 Pol Pot, he was the 10th member. Pol Pot was on the top, number  
19 one, and he was number 10.

20 Q.Thank you. Was he the powerful leader in that zone, in the  
21 Northeast Zone of Kampuchea at that time?

22 A.Mr. Co-Prosecutor I was not -- am not sure about his power or  
23 authority, but let me tell you the history of Men San. He was  
24 the one in charge of the transportation of weapons for the Khmer  
25 Rouge, and after the 17th of April '75 he became the chairman or

31

1 the secretary for the General Staff, and later he was sent to be  
2 the Secretary of the Northeast Zone of the Khmer Rouge.

3 [10.31.16]

4 Q.Thank you. Was he an important person that make the Khmer  
5 Rouge to be popular in his zone?

6 A.As I told you, when he went to be the secretary -- and at the  
7 zone for about one year, or less than one year.

8 Q.My next question. After you were appointed as the Chairman of  
9 S-21, Ya was arrested at your home in 1976 and he was told to  
10 your house for the medical consultation. Was that true?

11 A.Yes. It is true.

12 Q.Thank you.

13 My next question. Did you talk with Ya and invite him to come to  
14 your house?

15 A.I never know or see his face before. I knew -- I saw him when  
16 he arrived S-21.

17 Q.Thank you.

18 My next question. Who were discussing with you or other people  
19 about the arrest of Ya?

20 A.Mr. Co-Prosecutor, we did not have any discussion. It is an  
21 instruction from my superior, Brother Khieu, Son Sen.

22 [10.33.17]

23 Q.Thank you.

24 Now, please look at documents in Annex C, Number 5.56 of the  
25 Introductory Submission, ERN in Khmer 00009574. There was no

32

1 translation to other languages. This document was the letter of  
2 S-21 of Duch sent to Ya dated the 24th of September 1976. Can  
3 you say that the letter was written by you and sent to Ya?

4 A.Mr. Co-Prosecutor, in the operation of interrogation of Ya it  
5 combined two or three people. The interrogator was Pon; the one  
6 who led the interrogation, that was me; and the one who  
7 supervised and made corrections was Son Sen. The letter is  
8 another method to threat -- to make the mental threat so that he  
9 make confession.

10 Q.In this letter, the letter praised his role in the revolution  
11 and his good task in the regime for the Khmer Rouge, but you can  
12 put pressure on him to recognize his activity with Vietnam and  
13 other foreigners, and his purpose to create a party to act  
14 against the revolution, to say to act against the CPK in itself.  
15 Please clarify that.

16 [10.35.50]

17 A.Mr. Co-Prosecutor, I would like to make two brief summaries.  
18 Number one is there was a confession implicated Brother Ya.  
19 There's many of them. Number two, there was a conflict, a bitter  
20 conflict between Brother Pol Pot, Pol Pot, and Son Sen to act  
21 against Ya and Keo Meas. These are the two conflicts that made  
22 the upper echelon to decide to arrest Brother Ya and send to  
23 S-21.

24 I wrote this based on my understanding and based on the  
25 instructions so that we can threat Brother Ya to confess. This

33

1 is my summary for you.

2 Q.My next question. When you wrote this letter did you believe  
3 or you don't believe whether Ya, who was the biggest betray -- or  
4 the big traitor against the revolution?

5 A.Mr. Co-Prosecutor, there were confessions that implicated Ya.  
6 It's another matter, but in fact I based on the conflict between  
7 Keo Meas and Brother Ya and Pol Pot in relation to Vietnamese  
8 connection or not. There were two bitter conflicts. I don't  
9 know whether he was traitor or not but we need to look at the  
10 policy or the stance toward Vietnam, and I learned that through  
11 the presentation or the instruction by telephone.

12 Q.What did you know that would happen to the traitor in itself;  
13 for Ya, for example?

14 A.Mr. Co-Prosecutor, your question is broad, so could you  
15 reframe your question so that I can understand and I can respond?

16 Q.Let me specify my question. Did you think what would happen  
17 to the traitor like Ya?

18 [10.38.43]

19 A.Before the arrest or after the arrest? What happened to whom?  
20 I don't understand your question.

21 Q.I would like to mention that if he was a traitor, what was the  
22 consequence later?

23 A.Mr. Co-Prosecutor, in the Communist Party of Kampuchea anyone  
24 who failed to follow the collective democracy and follow the  
25 instruction by Vietnam, he or she consider as the traitor and

34

1 will end up with the arrest so the power was central to Pol Pot.  
2 So anyone who did not follow Pol Pot or trust any cadre of the  
3 Vietnamese cadre, he or she will be consider traitor so no  
4 matter. So if someone consider traitor, what happened later; he  
5 or she were arrested and then sent to S-21 and experience torture  
6 and then smashed.

7 Q.Thank you.

8 After receiving this letter, he refused to recognize anything;  
9 is that true?

10 A.Mr. Co-Prosecutor, Ya resisted for quite some time. I was not  
11 sure whether he gave in  
12 after he received the letter or not, but we have sent him  
13 numerous letters.

14 This is my response.

15 [10.40.48]

16 Q.Thank you.

17 Now, I would like you to read the documents in the Index C of  
18 the Introductory Submission.

19 MR. PRESIDENT:

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

22 (Judges exit courtroom)

23 (Court recesses from 1041H to 1101H)

24 (Judges enter courtroom)

25 MR. PRESIDENT:

35

1 Please be seated. The Chamber is now back in session. I would  
2 like now to give the floor to the Co-Prosecutor. The floor is  
3 yours.

4 BY MR. YET CHAKRIYA:

5 Q.Let me look at a document in Annex C of the Introductory  
6 Submission, ERN in Khmer 00053001; in English 00184021; and in  
7 French 00290165. This document is an S-21 letter from Pon sent  
8 to Duch dated the 25th of September 1976.

9 The question; can you confirm whether this letter was written by  
10 Pon and sent to you?

11 A.Mr. Co-Prosecutor, yes, indeed, it is Pon's letter sent to me.

12 [11.03.16]

13 Q.Thank you.

14 The question is, this letter confirms that Ya was tortured  
15 according to your order and as a result, Ya confessed verbally of  
16 what he wrote in the confession. Can you confirm that?

17 A.Thank you.

18 It is clearly stated in the letter regarding the oral confession  
19 and the written confession -- a one-page written confession.

20 This is my response.

21 Q.Thank you.

22 I would like now to ask you to read the documents in Annex C,  
23 10.5 of the Introductory Submission, ERN in Khmer 00053000; in  
24 English 00184020; and in French 00290166. This document is an  
25 S-21 letter of Pon sent to Duch dated 26 September 1976.

36

1 The question is; can you confirm that you received this letter  
2 from Pon?

3 A.Mr. Co-Prosecutor, I, indeed, received the letter from Pon.

4 Q.Thank you.

5 [11.05.18]

6 In the letter, Pon said you instructed him to interrogate Ya  
7 whether his family knew of his whereabouts and whether they knew  
8 and he knew about their living condition.

9 A.From what I understand, the question is to indicate the second  
10 red box; that is to remind us about how the wife and the children  
11 go in and whether the wife and the children knew whether he was  
12 detained here.

13 Q.Yes, indeed.

14 A.Let me confirm that Brother Ya had a young wife -- 25 years  
15 younger -- so the upper echelon knew the situation and raised the  
16 issue of the wife to me and Comrade Pon also raised the issue of  
17 the wife so that Brother Ya would consider the wife's situation.  
18 And we tried to lie that the upper echelon already detained the  
19 wife and the children and whether he was aware of that. So the  
20 instructions from the upper echelon to me and to Comrade Pon was  
21 to tell Brother Ya that the wife and the children were detained  
22 and whether he was aware of the situation and whether they knew  
23 of his whereabouts. That was a report from Pon to me.

24 Q.My next question; is this a threat for Ya to confess further  
25 regarding his traitorous activities?

37

1 A.Mr. Co-Prosecutor, indeed, it is the case.

2 Q.I would like you to read the document in Annex C, 5.65 of the  
3 Introductory Submission, ERN in Khmer 00009499; in English  
4 00106287; and in French 00233429. This document is an S-21  
5 confession of Ya with Duch annotation.

6 [11.08.07]

7 The question is, can you confirm that you annotated quite a long  
8 one on the confession which you wrote for Ya:

9 "Do not write these words that I have crossed out in red. You  
10 don't have the right to report on such issues to Angkar. I have  
11 the right."

12 Can you confirm that?

13 A.Mr. Co-Prosecutor, these few words towards the right were  
14 Brother Ya's handwriting and the cross out is in red. I crossed  
15 out and I wrote:

16 "Do not write the words that I have crossed out in red. You  
17 don't have the right to report to Angkar. I have the right."

18 So the handwriting on the letter was my handwriting dated the 30  
19 of September '76.

20 Q.My next question; part in the confession which was crossed out  
21 by Ya which  
22 reads:

23 "Please kindly note that my responses since the 18th September  
24 were made after I was severely and strongly tortured."

25 Were you unhappy when Ya tried to inform Angkar about the torture



38

1 without letting you know?

2 A.Mr. Co-Prosecutor, in fact the authorization or the order for  
3 me to order Pon to torture him was from the upper echelon, so  
4 whatever I asked Ya to do was already known by the upper echelon  
5 because the order was from the upper echelon for Pon and I to  
6 torture him, and for me to lead this interrogation and torture.  
7 So there was no need for him to write it in a confession because  
8 the upper echelon already was aware of the situation.

9 Q.Thank you.

10 [11.10.58]

11 Now let's read a document in Annex C 18.15 of the Introductory  
12 Submission. The ERN in Khmer is 00008162; in English 00172213;  
13 and in French 00232722. This document is an S-21 letter of Duch  
14 sent to Ya, dated the 1st of October 1976.

15 The question is: can you confirm that you wrote this letter and  
16 sent it to Pon?

17 A.Mr. Co-Prosecutor, this is a strategy of interrogation that we  
18 both play a role. This letter indeed was the letter I wrote to  
19 Comrade Pon.

20 Q.Thank you. In this letter you wrote:

21 "Don't let him play games with us any longer. He only spoke of  
22 one word but he refused for the whole book. Angkar determined  
23 this is an incident of affronting the Party and not just only the  
24 State Security Committee. Therefore, with this person you can  
25 use the hot method, strongly and longer, although which might

39

1 lead to his death. You would not be facing any disciplinary  
2 action."

3 Can you confirm that?

4 A.Mr. Co-Prosecutor, as I've stated, this is a strategy to bluff  
5 him, to scare him by letter so that he would confess. This is  
6 not really to ensure that Comrade Pon would not receive any  
7 discipline if Ya died, but this is just a strategy. So then I  
8 pretended to write a letter to Comrade Pon.

9 [11.13.33]

10 Q.My next question. Did you instruct Pon to show this letter to  
11 Ya? Because Pon confirmed at the corner of this document that he  
12 had shown the document.

13 A.Mr. Co-Prosecutor, I wrote this letter so that Comrade Pon  
14 would deliver it to Comrade Ya, so it's appropriate for him to  
15 make such annotation.

16 Q.My next question. According to this letter of yours you  
17 ordered Pon to torture Ya because of your anger that Ya refused  
18 to confess. Is that true?

19 A.That is true. I would like to repeat the same thing. The  
20 interrogation of this Brother Ya involved three people.

21 Q.I would like you now to read the documents in the Annex C5.65  
22 of the Introductory Submission, with the Khmer ERN 00009538.  
23 There are no ERN numbers in English or French. This document is  
24 an S-21 letter of Duch sent to Pon, dated the 30th of September  
25 1976.

40

1 The question is: can you verify that this is your annotation for  
2 Pon?

3 A.Mr. Co-Prosecutor, indeed it is my annotation.

4 [11.15.36]

5 Q.My next question. In point number 2 of the document which is  
6 being shown, can you tell us why you decided not to report to  
7 Angkar? Did you decide to make this order by yourself?

8 A.Mr. Co-Prosecutor, this is a game or a trickery. In fact I  
9 already reported to Angkar. This is just a trick to show to  
10 Brother Ya by Comrade Pon.

11 Q.My next question is, in the third point you wrote:

12 "Based on our experience, we have to use the hot method with this  
13 Ya. We can no longer play with him. Request you to proceed."

14 Does this mean that you ordered Pon to torture Ya?

15 A.Indeed it is. This is also a joint decision made from the  
16 upper echelon.

17 Q.Thank you.

18 My next question. Through this annotation it is shown that you  
19 were no longer patient with Ya. Was that true?

20 A.Mr. Co-Prosecutor, you could say that I was no longer patient,  
21 but in fact the upper echelon were no longer patient with this  
22 person.

23 Q.My next question. Did you believe that only after the torture  
24 was used then the confession would be extracted?

25 A.Mr. Co-Prosecutor, torture was the last resort, as I have

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1 already informed.

2 [11.17.47]

3 Q.My next question to you -- they are not related to the  
4 documents. The word "order" and the word "instruction" from the  
5 upper echelon, are they the same?

6 A.Mr. Co-Prosecutor, in general I myself saw some differences.  
7 I used to say I satisfied Brother Khieu, or Son Sen, because when  
8 he ordered he gave us reasons and instructions. So he provided  
9 us instructions with reasons and it was easier for us, for me, to  
10 implement. But as for Brother -- Uncle Nuon, it was different.  
11 Whatever he said, we had to accomplish it. So for Uncle Nuon, he  
12 tended toward orders than Brother Khieu, who tended to go through  
13 instructions, although when I went to work I sat opposite these  
14 two people and that was my reflection.

15 Q.Thank you.

16 My next question is: did you think that during the time that you  
17 were the deputy and the Chairman of S-21, at what level of  
18 achievement did you receive in implementing the orders from the  
19 upper echelon?

20 A.There are two issues. One is the orders, the second is the  
21 principles or the lines, and we tried whatever we could not to  
22 violate the lines. However, we also tried our best to follow the  
23 orders. So with the lines, if it is shown that we have to go  
24 left, we have to go left; right, we had to go right. If we were  
25 ordered to torture, we had to torture. If we were ordered to

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1 smash, we had to smash.

2 So if the line said S-21 has no authority to arrest any person,  
3 then I had to implement it and I practised this since I was at  
4 M-13. And for those people who were arrested, then I had -- they  
5 had to be smashed and I had to follow the line.

6 So this is my response to you, Mr. Co-Prosecutor.

7 [11.20.54]

8 Q.My next question. You indicated that when the subordinate  
9 failed to comply with the order of the upper echelon they shall  
10 be killed. Then why you refused the order of Nuon Chea to change  
11 the poisonous medicine to be the paracetamol for the victim, for  
12 the prisoners? Didn't you fear of being execution in that case?

13 A.Mr. Co-Prosecutor, if it was known to him, I was -- I must  
14 have been killed. Even my wife had no idea what I did.

15 Q.Did you know the interrogator who violated physical conduct, a  
16 physical violation to Doem Saroeun? What was the name of that  
17 interrogator?

18 A.Mr. Co-Prosecutor, I did not ask for information because it  
19 was a violation of the regulation of torture. I just had him  
20 removed and he was no longer allowed to interrogate the female  
21 prisoners, and I replaced the female interrogator for that.

22 Q.My final question. Based on your confirmation on last  
23 Tuesday, you said that all the prisoners who replied before the  
24 authority and never made their true confessions, including you,  
25 yourself, or who were imprisoned by the Sihanouk regime, you said

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1 only 50 percent truth to the authority. Was that true?

2 A.Yes. It is true.

3 [11.23.19]

4 Q.My next question. And before this Trial Chamber, all of your  
5 confessions, did you know what is the percentage of truth in it?

6 A.Mr. Co-Prosecutor, with the old regime police, it was  
7 different. We were enemies. I was Khmer Rouge. It was a  
8 dictatorship tool of the Lon Nol. It's the true nature, it's  
9 different. As for the Trial Chamber and the Military Tribunal, I  
10 cooperated with the tribunals to provide the truth as I am a  
11 Cambodian that I rely on the ECCC and Tribunal, but I do not rely  
12 on Christophe Peschoux.

13 MR. YET CHAKRIYA:

14 And next I will give the floor to my colleagues to put questions  
15 to the accused.

16 MR. PRESIDENT:

17 Please, the international Co-Prosecutor, the floor is yours.

18 MR. SMITH:

19 Good morning, Mr. President, Your Honours, counsel, and Mr. Kaing  
20 Guek Eav.

21 BY MR. SMITH:

22 Q.Perhaps if I can just pick up on that last point that you just  
23 made, that you've cooperated with the ECCC and you've given the  
24 truth. Over the last two weeks you've testified a great deal.

25 You've answered a lot of questions by the Trial Chamber in

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1 relation to the functioning of S-21 and your role in it, and also  
2 you were asked a lot of questions by the Co-Investigative Judges  
3 over the last year.

4 It appears, over the last two weeks, that you've been more honest  
5 with the ECCC. It appears that you have given more information  
6 and you've been clearer about your activities. And when I say  
7 that, I'm referring to the role that you had in the crimes at  
8 S-21, the role that your Deputy had -- Comrade Hor -- and also in  
9 relation to your activities in 1978 at S-21.

10 [11.26.03]

11 It appears from the record there is a great deal of inconsistency  
12 between what you've said to the Co-Investigating Judges and what  
13 you've told the Court over the last two weeks. So my question  
14 is, have you decided to be more honest with the ECCC? Or is it  
15 the case that you just haven't had that full opportunity before?

16 A.Mr. Prosecutor, I submitted myself to respond to the  
17 Co-Investigating Judges truthfully, and also to the Trial Chamber  
18 here. The points that are inconsistent, I do not recall those  
19 points. If you found any inconsistency please let me know so  
20 that I can understand that. Thank you.

21 Q.Well, the Trial Chamber and the parties will be able to see  
22 that inconsistency for themselves. However, throughout my  
23 questioning I will try and bring up some of that inconsistency  
24 this morning and in the early afternoon.

25 Perhaps, if now, if we can move away from your written

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1 annotations, your written orders, and move a little bit more to  
2 how you functioned at S-21 on a day-to-day basis. To give us  
3 more of an understanding of actually how much -- how you did your  
4 work, and how much you did.

5 [11.28.15]

6 You've testified recently, and you said that you had three  
7 important duties at S-21, and they were to manage and to resolve  
8 issues, they were to teach and train, and the third one was to  
9 annotate and analyze. You said that each duty required a third  
10 of your time. To understand each of those more easily I would  
11 like to ask you a few questions about where you lived, and your  
12 family life during S-21, and also about your office, how many  
13 staff you had, and also about your typical day so we can  
14 understand how many hours you spent on managing, how many hours  
15 you spent on training, and how many hours you spent on  
16 annotating.

17 So perhaps my first question is, then, when you came to S-21, or  
18 when you were appointed deputy secretary of S-21, you were  
19 single?

20 Is that correct?

21 A.Yes, it is correct. I was single until the 20th of December  
22 1975. Then I married  
23 after that.

24 Q.And at the time that you got married, and certainly well  
25 before you got married, you knew that you were involved in the



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1 killing, the unlawful killing of enemies. You knew that because  
2 you worked at M-13 and you knew that because you had started work  
3 at S 21.

4 Why did you get married on the 20th of December 1975? Why did  
5 you bring another person into your life at that time, bearing in  
6 mind what you were doing?

7 A.Mr. Prosecutor, the task that we did in M-13 as well as in  
8 S-21, whether I was a deputy chairman or the chairman, it has the  
9 impact on the life of the people. In Buddhism we call it a sin.  
10 It was a crime.

11 [11.31.16]

12 I mentioned several times now, before I accepted the position as  
13 Chairman of M-13 I was told that it is the class, and class  
14 struggle, and the Party appeared to its people to follow the  
15 policy. It's the upper echelon who decided to arrest the people  
16 and you are the subordinate. You should do what you are ordered  
17 to do.

18 So my marriage -- it is normally it is an ordinary matter. In  
19 1970s in the Khmer Rouge, anyone who were 25 years of age was  
20 allowed to marry. So in 17th April 1975 I asked to go to work in  
21 the industry and later I requested for a marriage.

22 So let me speak one word in French, *nécessité humaine*, that  
23 forced me to get into marriage.

24 MR. PRESIDENT:

25 So we are now hearing the operation in S-21 in Phnom Penh and the

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1 killing field at Choeung Ek. So Mr. Co-Prosecutor, reframe your  
2 question to the facts for our hearing. Secondly, please base on  
3 your time remaining, so you don't have much more time.

4 Another issue is that the biography of the accused -- we keep  
5 this for an appropriate time when we come to the fact on the  
6 facts relating to that matter. And then the Trial Chamber will  
7 schedule to hear the biography of the accused from the childhood  
8 until the arrest and now.

9 [11.33.50]

10 MR. SMITH:

11 Thank you, Your Honour. Well, I will move on from those  
12 questions and hopefully be able to take up that opportunity at a  
13 later date.

14 BY MR. SMITH:

15 Q.When you were at S-21, you were married and you had a number  
16 of houses and the last house you had, you had for almost two  
17 years. Is that correct? From early 1977 to when you fled in  
18 1979?

19 A.Mr. Prosecutor, the house that I spent longer, it was on  
20 Monivong Boulevard. It is correct. It was more than one year,  
21 more than two years.

22 Q.And just so we have the context correct, during that time you  
23 had two children whilst you were at S-21. Is that correct?

24 A.Mr. Prosecutor, before the 17th of April or the 7th of January  
25 before I fled, I have two children.

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1 Q.And so we're clear on the transport you had when you worked at  
2 S-21, you said you had a motorbike. Did you also have access to  
3 a car?

4 A.Mr. Prosecutor, it is allowed by the Angkar, the CL motorbike,  
5 the 90cc, but I was in a kind of proud of. I used a Jeep car, so  
6 it's a car that has the maximum load of more than 500 kilograms.  
7 So these two vehicles are not the official permit by the Angkar.  
8 [11.36.35]

9 Q.Sorry, when you say "not the official permit by the Angkar",  
10 were you allowed to have the Jeep, or just wasn't the official  
11 vehicles a type of vehicle that was assigned to the senior  
12 leadership?

13 A.Mr. Prosecutor, the cadre of the Central Committee, they had  
14 the right to use the vehicle but the medium cadre can use only  
15 motorbike. The commander of the division, they are entitled to  
16 the Jeep vehicle. So the Jeep was left by Nat at the place.

17 Q.And just so we can understand your day, you slept in your  
18 house, is that correct, on most nights whilst you were at S-21,  
19 with your wife?

20 A.My wife was not stay with me all night every night.

21 Q.How often did your wife stay with you whilst you were at S-21?  
22 Was she away for great lengths of time or was she there  
23 constantly? How often?

24 A.Mr. Prosecutor, after my marriage my wife was at her tailors  
25 unit at Longveaek at Kampong Chhnang along National Road Number 5

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1 and later the Secretary of the West Zone sent my wife to stay  
2 with me. And when she arrived I reported to my superior, Son  
3 Sen, and Son Sen assigned my wife to work at the military  
4 hospital called 98 Hospital and we can meet each every 10 days.  
5 So 10 days we can stay together one night.

6 Q. So your wife rarely stayed in the same house as you. Is that  
7 correct?

8 [11.39.10]

9 A. Mr. Prosecutor, that is correct.

10 Q. And perhaps if we can concentrate on the house that you lived  
11 in for the last almost two years; did anyone else live in that  
12 house other than yourself and the occasional visits of your wife?

13 A. Mr. Co-Prosecutor, there were four of us excluding my wife.  
14 Three messengers of mine; one was in charge of the telephones,  
15 the other two were for typing so they became like my clerk.

16 Q. And the messenger or the person in charge of the telephone,  
17 what was his name?

18 A. Mr. Co-Prosecutor, the one in charge of the telephone was the  
19 person from Division 703. He was amputated on the right arm. His  
20 name is Phorn. Another person was Chhen. He was a typist. And  
21 another person named Thann he was also a typist. So together  
22 there were three of them.

23 Q. And you've told the Court that whenever you moved to a new  
24 house you also had an adjacent office next to it. And that's the  
25 same, isn't it, for your last house at S-21. You had an office

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1 right next to that house. Is that correct?

2 [11.41.25]

3 A.Mr. Co-Prosecutor, the house where I stayed and the office was  
4 back-to-back. So there was only one floor that separated the  
5 house and the office.

6 Q.And why did you have a separate house and office? Why didn't  
7 you live and work in the one place; why did you keep it separate?

8 A.Mr. Co-Prosecutor, because at the house I might have an  
9 occasional visit from my wife and I did not want her to interfere  
10 with my confidential documents, and I did not want other people  
11 to see or to observe that I might reveal secrets when my wife  
12 came to visit.

13 Q.Thank you. And if we can talk about your last office, the  
14 office that you were in for the longest time, did your -- were  
15 your telephone operator and your typists -- they obviously worked  
16 there. Did anyone else work in that particular office?

17 A.Mr. Co-Prosecutor, the house was to the front near the  
18 Monivong Boulevard. My three messengers stayed there constantly  
19 and I, myself, I worked at the back at Street 95. I was alone.  
20 That was when I met Comrade Hor. There was the place I called  
21 Pon to come for instruction, and that was also the place when the  
22 subordinates would come to seek my decision and approval.

23 [11.43.25]

24 Q.And just so we're clear, your telephone operator and your  
25 typists worked in your house. You worked in your office and you

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1 had your deputy secretary come to that office for meetings, and  
2 also you had your chief interrogator come to that office for  
3 meetings, Pon. Is that right?

4 A.That is correct.

5 Q.So other than when Hor is visiting or Pon is visiting, were  
6 you the only one working in that office?

7 A.That is correct. I alone worked in that office.

8 Q:Is it fair that the office -- fair to say that the office is a  
9 house -- was a converted house, and had a couple of storeys, at  
10 least two floors. Is that correct?

11 A.Mr. Co-Prosecutor, in the Khmer style it's called a two-storey  
12 house. So usually if my wife did not come I would stay, sleep on  
13 the upper floor.

14 Q.And you've told the Court that you had two telephones. You  
15 had a telephone that was a direct line to the Central Committee,  
16 to Son Sen, to Nuon Chea, and you've also told that you had a  
17 direct line to Comrade Hor's house. Is that correct; two  
18 different telephone systems?

19 A.Mr. Co-Prosecutor, that is correct. I had two telephone  
20 lines. They were separate lines.

21 Q.And those telephone lines, were they connected to your office  
22 or to your house?

23 [11.46.01]

24 A.Thank you, Mr. Co-Prosecutor. For the phone connected to  
25 Comrade Hor, it was at the office and for the telephone

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1 connecting to my superior, it was at the house where Comrade  
2 Phorn was stationed.

3 Q.And the telephone line that was going direct to Son Sen and to  
4 Nuon Chea, did you have someone specifically in charge of that,  
5 and was that person's name Pheng?

6 A.Mr. Co-Prosecutor, Comrade Pheng was in charge of telephone  
7 line installation for S-21, but the only person who was in charge  
8 of my telephone was Comrade Phorn. So when he received a call  
9 from the upper echelon he would run and come to call me to answer  
10 the phone.

11 Q.And did you communicate a lot to Comrade Hor by the telephone?

12 A.Mr. Co-Prosecutor, the communication on the telephone with Hor  
13 was occasional. When I called him I asked him whether he was  
14 available. He said, "Yes, I was available, Brother, and I just  
15 got into camp" and he would come. So when he came then we  
16 talked.

17 Q.So is it fair to say that you didn't discuss your daily  
18 business with Hor on the phone, but that was generally always  
19 conducted in person?

20 A.Mr. Co-Prosecutor, between myself and my superior, Son Sen,  
21 it happened on almost everyday. I spent like an hour a day on  
22 the telephone, but I and Comrade Hor rarely spoke at length on  
23 the telephone. I would call him to meet me.

24 [11.48.24]

25 Q.And just so that we can understand a little about how much

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1 work, S-21 work, you could fit in one day -- and I know everyday  
2 is not the same -- but, typically, what time would you get up and  
3 what time would you go to bed when you were working at S-21?

4 A.Mr. Co-Prosecutor, in the morning I, myself, started working  
5 at 7 a.m. I rested at 11 for lunch. After then I had a nap, a  
6 rest. After I woke up, I ate a little fruit and I started  
7 working at 2 p.m. until five when I stopped for dinner. In the  
8 evening, I started from 7 p.m. sometimes until 11 p.m. or 12 a.m.,  
9 and sometimes during the busy work it required me to work until  
10 1.00 a.m.

11 Q.So it seems that on average, to fulfil your managing tasks,  
12 your training tasks and your annotating tasks -- on average you  
13 took about 12 hours a day to work on the S-21 business.

14 A.I think that is about right.

15 Q.And just so we can understand your day a bit better, where did  
16 you eat your meals: your breakfast, your lunch, and your dinner?  
17 Previously in your testimony you stated that you had a communal  
18 eating-house and you had to eat together. Where did you eat your  
19 meals?

20 A.Mr. Co-Prosecutor, the house where I had our communal meal was  
21 at the corner of Street 360 and 95 -- I'm sorry, it's 113.

22 [11.51.16]

23 Q.Thank you. And was it only your evening meal that you shared  
24 with other staff, or did you eat with other staff at lunch and at  
25 breakfast time as well?



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1 A.Mr. Co-Prosecutor, from what I can recall we had no breakfast.  
2 We only had lunch and dinner, and we had our meal at our common  
3 kitchen.

4 Q.When you talk about the evening meal, that was with other  
5 staff at the place you mentioned. You said in your testimony  
6 that you remembered that you'd have your meal with Brother Mam  
7 Nai, Comrade Hor -- sometimes he came, sometimes he didn't -- and  
8 Comrade Pon. Is that correct?

9 A.Mr. Co-Prosecutor, the dining area was huge. We only had a  
10 small lower wall surrounding the dining place and we had many  
11 tables and about seven or eight chairs for each table. So most  
12 of the time Brother Mam Nai and Pon had a meal with me, and  
13 sometimes Comrade Hor would join us.

14 Q.How often would Comrade Hor have dinner with you; say, on  
15 average, per week? It sounds like it wasn't every night, but  
16 about how often in a week?

17 A.I cannot recall. It's hard to estimate. I think he only came  
18 once in a while.

19 [11.53.28]

20 Q.What staff were eating at that canteen or that communal  
21 eating-house? You've mentioned Pon, who was the chief  
22 interrogator. You've mentioned Mam Nai. You've mentioned Hor  
23 occasionally. What other groups of staff would eat there? This  
24 is in the evening. For example, would the guards eat there?  
25 Would the logistics people eat there? Who would eat there?

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1 A.I would like to inform you that we can say all of them except  
2 the guards, who had to be in two shifts for their meal because  
3 not all of them could come at the same time.

4 Q.So on some occasions would you get some guards that were off  
5 shift or on shift eating there, if not all at the same time?

6 A.That is correct.

7 Q.So, for example, I assume you would have seen the head of the  
8 guards eat there on occasion. Is that correct?

9 A.That is correct.

10 Q.About how many people could you fit in that eating-hall at one  
11 time? How many could eat together?

12 A.Mr. Co-Prosecutor, I did not pay attention to this matter at  
13 the time. Maybe other people could recall the number but I  
14 myself did not pay attention to that. Until today it's hard for  
15 me to estimate the size of the common kitchen.

16 [11.55.53]

17 Q.You said it was a large area. Can you give us a best  
18 estimate? Was it 20 people or was it 200 people or 100 people?  
19 Can you help us out there?

20 A.Let me estimate, but I don't think it is correct. It could  
21 accommodate about 100, or a little bit more than 100 people, but  
22 it would not be able to accommodate up to 200. Maybe other  
23 people are clearer on this than me.

24 Q.And you said earlier that you had to eat at this communal  
25 eating-hall. Did that mean that all of the S-21 staff that

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1 worked within the high school compound, that that's where they  
2 would eat, as a general rule, in the evening?

3 A.Mr. Co-Prosecutor, the common dining was for the two main  
4 meals, lunch and dinner. All of us had to eat there together.

5 Q.So there was no other large eating-hall for staff, other than  
6 this one? Is that correct?

7 A.Mr. Co-Prosecutor, the common dining hall was newly-built from  
8 wood, so it was large enough to accommodate the people and it was  
9 not a former existing building. The new dining hall was  
10 newly-built.

11 Q.So would it be fair to say that at lunch and at dinner time  
12 you were able to be in contact with a large majority of the S-21  
13 staff that worked at the high school?

14 A.Mr. Co-Prosecutor, if I intended to chit-chat with any other  
15 staff, yes, I could do as I wished. But what I tried was just to  
16 finish the meal quickly so that I could return home and rest, and  
17 I did not speak much to anybody.

18 [11.58.44]

19 Q.But at the same time you would generally eat with Pon, the  
20 chief interrogator, and Mam Nai, one of the chief interrogators,  
21 and also Hor on occasion? You would always go to that same  
22 table?

23 A.Yes, it was at the same table and my place was also the same  
24 -- my seat.

25 Q.And would it be fair to say that the food the staff ate at

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1 this communal eating-hall was a lot, lot better than the food  
2 that was given to detainees, to prisoners?

3 A.Yes, I can say, but I cannot assess how much better.

4 Q.You said that the rations for detainees was decided by your  
5 superior. Is that right?

6 A.Yes, it's correct, but I do not recall.

7 Q.Bearing in mind that you're the Chairman of S-21, if your  
8 superior decided the rations, as a matter of military practice  
9 you would be told what they are so that you could pass that on to  
10 Hor and the people distributing the food. Do you agree?

11 A.Yes, I agree.

12 [12.00.46]

13 Q.But you can't remember the phone call or the meeting with Son  
14 Sen or Nuon Chea telling you exactly what those rations would be?  
15 You can't remember that now, can you?

16 A.Mr. Prosecutor, the food ration was determined since I was not  
17 become the vice-chief or the chief. It was determined by Son Sen  
18 to Nat before I arrived.

19 Q.But as Chairman of S-21 it was your duty to make sure those  
20 rations stayed in place and they didn't change, wasn't it? It  
21 was your duty to make sure that they don't get more or less?

22 A.Mr. Prosecutor, I did not try to change the food rations at  
23 that time. I dare not do that.

24 MR. SMITH:

25 Thank you, Your Honour, I just have a couple more questions on

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1 this topic. If I can finish, it will take about five minutes.

2 And if I can ask that document E63, which is Annex 70 in the  
3 booklet, ERN Number 0005247, also D69/15 for the same document --  
4 I ask that that be called up and placed on the screen.

5 Mr. President, if the AV could switch to the prosecution desk?

6 BY MR. SMITH:

7 Q.Mr. Kaing Guek Eav, can you look at this photograph that's in  
8 front of you? It's a photo of people having a meal. Can you  
9 describe the photograph, what you see and when you think it was  
10 taken?

11 [12.03.25]

12 A.Mr. Prosecutor, this is not in the common dining room. It was  
13 in a house. It is in my office in the corner of 95, east of 95  
14 and south of 310, as far as I understand. I think that this is  
15 the day when we married Comrade Khoeun and Comrade Huy because  
16 both of them sat next to each other, so it was not a normal  
17 dinner or a meal time. You can look on the right row and you can  
18 see the first row is a different man. The second is Comrade Huy;  
19 Comrade Khoeun next to Huy. It was Khoeun, yes. It's the curly  
20 hair.

21 Q.When you say Comrade Huy, is that Comrade Huy that headed the  
22 guard unit or is that someone else?

23 A.Mr. Prosecutor, Comrade Huy was the guard. He is in the  
24 special unit. He is single. This is Nun Huy, Huy Sre, who is  
25 being married. He is from Prey Sar.

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1 Q.And can you remind the Court again, the special unit, what did  
2 that do at S-21? What job did they have?

3 A.Mr. Prosecutor, I would like to remain silent about the  
4 special unit at this moment.

5 Q.Why do you want to remain silent about the special unit?

6 A.Because I have nothing to add in addition to what I reported  
7 to the hearings as well as to the Co-Investigating Judges.

8 [12.06.10]

9 MR. PRESIDENT:

10 The special unit was asked by the Trial Chamber, except a  
11 specific point that you are not clear, so if you ask the general  
12 question it may be a repeated question, so your question was not  
13 allowed to ask.

14 MR. SMITH:

15 Thank you, Mr. President. I'm trying my hardest to avoid  
16 previous questions on the topic.

17 BY MR. SMITH:

18 Q.If we look at the photograph on the left-hand side, that's  
19 you, isn't it, Mr. Kaing Guek Eav?

20 A.Mr. Prosecutor, it is me.

21 Q.Just by looking at the photograph it doesn't look so much that  
22 you are joining in on the meal. Perhaps it looks that you are  
23 supervising it. Is that the mood that existed at that time?

24 Were you supervising the meal or were you a part of the meal?

25 A.Mr. Prosecutor, I just arrived and went in to show that it is

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1 a wedding. There was one photographer. So if it is normal meal  
2 time there would be no photographer, and I have another table for  
3 myself. That's all my response.

4 MR. SMITH:

5 Thank you, Mr. President. I've finished the questions on that  
6 topic.

7 [12.08.06]

8 MR. PRESIDENT:

9 Now it is time for a break for lunch. The Trial Chamber declares  
10 an adjournment for this morning's session and we will start it  
11 again in the afternoon at 1.30. Please, the parties attend the  
12 session this afternoon.

13 And the security, please bring the accused to the waiting room  
14 and bring him back before 1.30 of this afternoon.

15 (Judges exit courtroom)

16 (Court recesses from 1208H to 1330H)

17 (Judges enter courtroom)

18 MR. PRESIDENT:

19 Please be seated. The Trial Chamber is now back in session.

20 It's a session to hear on the facts, and we give the floor to the  
21 international Co-Prosecutor to put questions to the accused.

22 Please, the prosecutor, the floor is yours.

23 MR. SMITH:

24 Thank you, Mr. President.

25 Mr. President, I understand that I have about 40 minutes left in

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1 relation to questioning, but I would also ask that -- depending  
2 on the length of the accused's replies, I'll try and keep my  
3 questions as focussed as I can, but if at the end a few more  
4 minutes is required, I would ask that that be allowed. But  
5 perhaps if I plan on 40 and then decide -- make a request if  
6 required.

7 BY MR. SMITH:

8 Q.Mr. Kaing Guek Eav, thank you very much for your responses  
9 this morning to help us understand how you lived your day to day  
10 life whilst you were Chairman of S-21.

11 I think we concluded that you worked about 12 hours a day and,  
12 based on your answers previously to the Chamber, you said you  
13 split your time one-third on management, one-third on training  
14 and one-third on annotations. That would mean, therefore, that  
15 on average you're spending about four hours a day on each of  
16 those three important duties. Would that be correct?

17 A.Mr. Co-Prosecutor, it's not 100 percent correct. I spent  
18 almost all my time to do the annotations.

19 Q.Thank you. Well, why did you say to the civil party lawyer  
20 that you spent a third of your time managing and resolving  
21 issues, a third of your time teaching and training, and a third  
22 of your time responding to superiors with your annotations? Why  
23 did you say that then?

24 A.I think it might be a translation problem. I did not make a  
25 clear distinction like that.



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1 [13.33.57]

2 Q.Perhaps if I just read back the quote to you. Perhaps I'll  
3 leave it for the moment, but Their Honours can look at the record  
4 and make their own mind up.

5 In any event, if we can move towards your S-21 committee  
6 meetings, which you said to the Trial Chamber that you had them  
7 about two or three times a day. Often you had them two or three  
8 times a day and that was with Comrade Hor. Do you remember  
9 saying that?

10 A.When I have something,I call Comrade Hor to come and we  
11 discuss. This is our discussion to make a decision together. We  
12 can call it a meeting. It is very often that we do that -- we  
13 met.

14 Q.And it's fair to say that because Huy Sre was based at Prey  
15 Sar you more often met with Comrade Hor than Huy Sre because of  
16 the distance between Prey Sar and S 21?

17 A.Mr. Prosecutor, it is not 100 percent correct. My tasks, I  
18 was very close with Comrade Huy, the guards and is -- so the  
19 re-education, it's not so close, not always there.

20 Q.And in answer to a question by Judge Cartwright which she put  
21 to you where she said:

22 "The S-21 has a broad range of responsibilities as you have  
23 described. This means, does it not, that you knew exactly -- on  
24 a day-to-day basis, exactly what was happening at S-21. Is that  
25 correct?"

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1 And you responded, "Your Honour, that is correct".

2 [13.36.30]

3 Therefore, through these S-21 committee meetings, the meetings  
4 with Hor, you knew about the numbers detained, you knew about the  
5 conditions, you obviously knew about the torture, and you knew  
6 about the killing. Is that right?

7 A.I knew that activity in general, but he was the one who  
8 implemented. He knew that much better than me.

9 Q.And that's because you were the manager and you had to  
10 delegate responsibilities because you couldn't do everything. Is  
11 that correct?

12 A.It does not mean that I could not do everything, but the time  
13 did not allow me to do everything, so I need to delegate some of  
14 the tasks to my subordinate.

15 Q.I didn't mean to say that you were not capable. I just meant  
16 to say that you didn't have enough time.

17 Where would you meet Comrade Hor? When you met frequently, where  
18 would that be?

19 A.I called him to my office on Street 95. I called Hor to come  
20 to my office at Street Number 95.

21 Q.Also though, you went to the sculptures workshop in the  
22 compound of the high school frequently as well. Is that correct?

23 [13.38.44]

24 A.Mr. Prosecutor, after I felt hopeless in my life, after Nget  
25 You alias Hong, I went to the sculpture building almost every

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1 day.

2 Q.And the sculpture's workshop is in Building E on the map that  
3 we've seen, on the photograph; the centre building in the high  
4 school?

5 A.Yes, it is correct.

6 Q.And that's in the same building that the prisoners were  
7 registered and photographed and their biographies were taken  
8 initially. Is that correct?

9 A.Yes, it is correct.

10 Q.I would like to ask you a few questions now about how you knew  
11 about the detentions, the conditions, and the tortures and the  
12 killings through these S-21 committee meetings. You've told us  
13 that you knew, and it's clear in your evidence you knew because  
14 you were involved in it, but how in these committee meetings did  
15 Comrade Hor tell you what was happening at S-21 on a daily basis?  
16 What types of things were you discussing?

17 A.The detentions and the smashing I delegate the other  
18 subordinates to do 100 percent. So they reported to me only as  
19 an accidental incident as, for example, one of the prisoners  
20 reported to me when Achar Kang took the weapon, and they  
21 immediately reported to me.  
22 Another one is that when the small -- the interrogator abused one  
23 of the female prisoners. So I get the information immediately  
24 when there's an incident and the subordinate had to be  
25 responsible before me that no prisoner would be released or would

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1 be escaped. No one will be released. So that's my overall  
2 management.

3 [13.41.37]

4 Q. But good management doesn't arise out of waiting for problems  
5 to occur. Good management occurs when you predict problems and  
6 you make sure that your systems are in place and your systems are  
7 working, so I assume that's why you met so frequently with Hor,  
8 and at times two to three times a day, to make sure that your  
9 systems were running well at S-21. Isn't that correct; that's  
10 why you met so frequently?

11 A. Your Honours, your assumption is not wrong, but let me report  
12 about my meetings with Hor. When there is urgent, I call him to  
13 make -- instruct -- send to him. So at the interrogation I also  
14 instruct Hor, so when the implication when -- why I called him to  
15 -- it was me who called him to come. But sometimes he came to  
16 me, but in general I call him to come and I make new order to  
17 him.

18 Q. So would it be fair to say that there were lots of little  
19 problems arising all the time with who was to be killed, when  
20 they were to be killed, when prisoners were coming in? Because  
21 you met with Hor so frequently, there was lots of problems  
22 occurring almost on a daily basis. Would you say that? And  
23 that's why you met.

24 A. That is correct. There were many things that I had to meet  
25 with Hor for daily activity. For example, the upper echelon send

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1 a number of prisoners and I call him to come. We will have to  
2 receive those prisoners.

3 [13.43.54]

4 Q.And so when you resolved these problems, you tried to make  
5 sure that your prison was running smoothly.

6 A.That is correct. I try my best to do so.

7 Q.Perhaps if we can now move to 1978. You testified in court on  
8 the 8th of June, at pages 52 and 53, that in 1978 you were so  
9 busy compared to previous years because "the Party needed us  
10 more". And consequently, you needed more people trained and  
11 polished.

12 Why did the Party need you so much more in 1978?

13 A.Mr. Prosecutor, in 1976-77 I was so busy with the annotation  
14 almost all day to do the annotations. For example, I told to the  
15 Co-Investigating Judges several times, and also the Trial Chamber  
16 here, the annotations on the documents -- when it came to the  
17 Nuon Chea period, he did not feel very interested and then I  
18 needed to change to do the education for the interrogators, and  
19 then I sent them to do the job after the training.

20 So this is in 1978, the training was very often, and in early  
21 1978 I used just less time for the annotations but spend more  
22 time with the education and some part of my time I went to the  
23 sculpture building so that I can release my stress in doing that  
24 kind of work.

25 Q.But, if you can answer the question, please. Why did the

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1 Party need you more? Why did it need S-21 more in 1978?

2 A.The Party needs S-21 more in 1978 because more people were  
3 sent to S-21. So I was needed to provide education to the  
4 interrogators more often and as many as possible.

5 [13.47.03]

6 Q.Thank you.

7 MR. SMITH:

8 Mr. President, if I could show E68 Annex 4. It's a chart  
9 relating to the S-21 arrests by month.

10 MR. PRESIDENT:

11 The audio-visual officer, please connect with the link to the  
12 Co-Prosecutor's PC.

13 BY MR SMITH:

14 Q.Mr. Kaing Guek Eav, if you look at the chart on your screen  
15 you can see that from April '77 to June '78 it in fact was a very  
16 busy period at S-21 in terms of the number of arrests that were  
17 brought to -- the number of people that were brought there. Do  
18 you agree?

19 A.Mr. Prosecutor, I agree,

20 Q.So would it be fair to say that the numbers of people that  
21 were taken to S-21 directly affected on how busy you were in  
22 terms of detaining and killing? Do you agree?

23 A.I agree.

24 [13.48.55]

25 Q.And now if we could look to E68 Annex 40, which is a chart

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1 that shows the number of S-21 personnel, the number of your staff  
2 that were imprisoned at S-21 and consequently killed, if we look  
3 at the interrogation unit -- and now this is from the revised  
4 prison list -- you can see that 34 interrogators are listed as  
5 being killed, or imprisoned and consequently killed at S-21.

6 These interrogators were your interrogators that carried out the  
7 tortures on other people. That's correct, isn't it?

8 A.I believe the Office of the Co-Prosecutor has such figures, so  
9 I think it is appropriate and correct.

10 Q.But does that figure, that number of about 34 interrogators  
11 from the S-21 interrogation unit, does that sound about right in  
12 relation to your memory as to how many were arrested and killed?

13 A.I believe it is correct.

14 [13.50.42]

15 Q.Now, in relation to S-21 personnel that were killed, isn't it  
16 correct that you had to notify your superiors for that to happen,  
17 for their deaths to be approved? Is that right?

18 A.It is not a notification. It is a report, and seek approval  
19 from my upper echelon. It is not a notification. If it is a  
20 notification it means if we would make a decision, then we send a  
21 notification, but this is different. This is to seek approval  
22 from the upper echelon.

23 Q.And it's to seek approval from your request to have them  
24 killed -- your staff?

25 A.That is correct.

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1 Q.And if I can refer you to your statement that you made to the  
2 Co-Investigative Judges, D71, 00185499, you were talking about  
3 the purges at S-21 and you stated:

4 "If I remember well, there were never any exceptions. I always  
5 reported to the  
6 superiors and they always ordered the arrest of the person  
7 implicated."

8 Is that correct?

9 A.Mr. Co-Prosecutor, I do not want to talk about a slight  
10 difference or discrepancy in translation. As I've already  
11 confirmed to the Co-Prosecutor, the arrests could only be  
12 conducted after the decision was made from the upper echelon.  
13 Then we would conduct the arrest. That is the process whereby we  
14 would not violate any regulation.

15 [13.53.02]

16 Q.But you were quite happy to send your staff to their death.

17 A.What you said is not correct. I was not happy. However, if  
18 we did not do it we would be in danger. If there was an incident  
19 in that doing it in violation of any Party line, then we would be  
20 responsible. Yet the Co-Prosecutor looked at what happened when  
21 a young male mistreated the teacher; if I knew it was a crime I  
22 would not spare him. So being happy or not, the issue already  
23 happened, so we had to provide a solution. And that was what  
24 happened.

25 Q.You've said on numerous occasions that your role at S-21, as



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1 you have just said, is not one that you've relished, not one that  
2 you enjoyed. You've stated to the Co-Investigative Judges that  
3 you committed your criminal actions out of fear of the  
4 consequences for failing to carry them out.

5 However, you testified on the 27th of April, at pages 86 and 87;  
6 you said that you were personally -- you personally were scared  
7 when Vorn Vet was arrested.

8 "Why didn't I see the same when other people, especially  
9 subordinates, were arrested? I did not even think of that. I  
10 only valued myself higher than the others at the time."  
11 My question is: Vorn Vet, he was arrested on the 2nd of November  
12 1978; late 1978. Do you agree with that?

13 A.Mr. Co-Prosecutor, I recall the date, yes. I also remember  
14 what you have just stated.

15 [13.55.46]

16 Q.Can you give me -- can you give the court some reasons why,  
17 before -- why before Vorn Vet was arrested, why you were not  
18 personally scared when other subordinates were arrested? And  
19 they are your words.

20 A.Mr. Co-Prosecutor, the subordinates at S-21 was the components  
21 implicated or involved with a cadre named Neou Phan, alias Sok,  
22 former 703 Secretary. So it is a separate unit from M-13. They  
23 were the elements of S-21 but they were separate from the  
24 elements of M-13. If a number of M-13's elements were arrested,  
25 then it would be unavoidable that one day I would be arrested.

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1 That is the reason I was not really worried about my safety, but  
2 I was shocked and worried when the cadres from the North Zone  
3 were arrested because some of our elements were also from that  
4 zone. So that is my response to you regarding the arrest of my  
5 subordinates.

6 Q.And you were personally scared when Vorn Vet was arrested  
7 because he was your boss at M-13. Is that right?

8 A.Mr. Co-Prosecutor, as I already reported to the  
9 Co-Investigating Judges clearly, when I was really scared, it was  
10 when Nget You, an ethnic Chinese, was arrested. He's the person  
11 who provided support to the revolution and I think it was in  
12 early 1978. That's when I started to feel hopeless in my life.  
13 And when Vorn Vet and Chhay Kim Huor were later arrested, I was  
14 fully hopeless until I was so weak that I could not walk or work.  
15 On the 2nd or the 3rd of January '79, when we were ordered to  
16 remove all the prisoners, I was so hopeless and so exhausted I  
17 could not walk.

18 [13.58.41]

19 Q.You say you were so hopeless and so exhausted, and yet, right  
20 up to the end, before the Vietnamese came into Phnom Pehn, you  
21 were very busy with your job: annotating, training, and managing  
22 S-21. Do you agree with that?

23 A.Mr. Co-Prosecutor, I was not busy. The annotation -- as I  
24 reported to you earlier, I stopped annotating quite a long time  
25 ago. Regarding the training, I was forced to do it so it was

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1 unavoidable to provide the training to the cadres. Regarding the  
2 guards, or the taking the prisoners out, they were done by other  
3 people.

4 It was my role to make sure they would not release any prisoner  
5 because those people who were sent to S-21 had to be smashed  
6 according to the order. When I felt so hopeless, it was after  
7 the 2nd or the 3rd of January 1979; that's when the time I could  
8 not work. I slept day and night a lot. Even when my wife tried  
9 to wake me up, I would not want to wake up.

10 Q. So to be clear, the date when you felt very hopeless was in  
11 1979?

12 A. When I was hopeless and slept day and night, it was in '79.

13 It was time that I felt I was just waiting for the date.

14 [14.00.31]

15 Q. And perhaps you may want to rethink your last answer because I  
16 would like to show a document; it's E5/2.52, Khmer ERN 00226779;  
17 English 00284080; and French 00294526.

18 MR. SMITH:

19 If that can be shown on the screen, Mr. President?

20 BY MR. SMITH:

21 Q. Mr. Kaing Guek Eav, can you look at that note on that  
22 confession -- confession of Kim Sok and can you confirm that  
23 that's your writing? Yes or no, please.

24 A. Mr. Co-Prosecutor, this is my handwriting.

25 Q. Can you also confirm that the date of the annotation is the

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1 23rd of December 1978?

2 A.I acknowledge the date is like what you said.

3 Q.Now, I thought previously you said that you stopped annotating  
4 earlier than that, but it appears that almost two weeks up until  
5 the Vietnamese came into Phnom Penh, you were still busily  
6 working. And if we look at this annotation, it's been sent to,  
7 "Respected Brother" and it's in relation to missing or hidden  
8 Vietnamese and you've asked and I quote:

9 "Please allow me to arrest. At the moment, we control his  
10 ability to escape. With respect."

11 In this annotation, you're asking someone to arrest a Vietnamese  
12 person; is that correct?

13 A.Mr. Co-Prosecutor, the person's name was Trueng within the  
14 S-21 framework. The incident took place and I reported to the  
15 upper echelon so it was not a general annotation; it was the  
16 incident that happened at S-21 and that we have to be  
17 self-mastery and not to let a person escape and destroy the S-21  
18 because it is my responsibility.

19 [14.04.22]

20 Q.From this annotation, it looks as though this person is not  
21 detained in S-21, but you're requesting to have him arrested.

22 A.The important person was Trueng. His activity was  
23 considerably monitored. So we had no ability to follow or  
24 monitor anybody outside our respective unit in order to prevent  
25 the person from destroying us. And by looking very far in the

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1 document, it is not appropriate because on the 8 -- because in  
2 August '78 (no interpretation)  
3 THE INTERPRETER:  
4 I would ask the accused to repeat again.  
5 THE ACCUSED:  
6 It is very hard to explain the document. The problem of the  
7 hidden Yuon was linked to Region 25. The father Heng, he was the  
8 messenger of Huy, and Huy, as I remember, he was arrested on the  
9 6th of December '78; therefore, this Ieng was flatly arrest  
10 before that because when the boss was arrest -- when the superior  
11 was arrested then the messenger would be arrested too. And he  
12 would not know where -- which unit Trueng belongs to.  
13 [14.06.27]  
14 And here I annotated on the left; according to the verification,  
15 the date on the document is incorrect because the August '78, he  
16 was at Kampong Chhnang. There was no reason for him and he just  
17 talking or saying things which not true and request further  
18 interrogation, but I could not complete the sentence. So it is  
19 very helpful of me to provide any clear answer to this incomplete  
20 document so I am confused.  
21 I do not know where Trueng is. I thought from the beginning  
22 that Trueng was at S-21, but then in August '78, he was in  
23 Kampong Chhnang. I cannot understand this annotation at all.  
24 However, I do not deny that this document is not S-21 document.  
25 It is, in fact, an S-21 document so if I can read the full

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1 confession then probably I can provide a clearer answer.

2 Q.Thank you.

3 And who was the messenger of the chief of the guards, Him Huy;

4 who was his messenger?

5 A.This Huy is not Him Huy. This Huy is Nun Huy. At S-21 and at

6 Prey Sar and this Heng was his messenger. I still can recognize

7 his face if I see him now.

8 MR. SMITH:

9 If we can ask that the document be taken off the screen?

10 Mr. President, I have gone through my questioning and have about

11 20 more minutes. I would ask that we be able to put some certain

12 matters to the accused and we suggest it will take 20 minutes.

13 It's obviously a very important part of the case and we would

14 appreciate to be able to obtain his answers on this couple of key

15 issues.

16 [14.09.02]

17 MR. PRESIDENT:

18 I notice the presence of the defence counsel. François Roux, you

19 take the floor.

20 MR. ROUX:

21 Mr. President, three hours have been used up by the

22 Co-Prosecutors to question the accused. We've all been able to

23 see that a number of questions were put that were not within the

24 topic of today. It was up to the Co-Prosecutors to put questions

25 that are relevant to today's issues within the time allotted to

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1 them. The time that I would be allotted will depend on the  
2 responses of the accused, said my colleague. Ever since this  
3 morning, the accused -- as we have all been able to see -- has  
4 given very short answers, so the Co-Prosecutors cannot complain  
5 that too much time would have been taken up by lengthy answers.  
6 Mr. President, I would consequently like to ask for this  
7 questioning to be -- for an end to be put to this questioning  
8 now. It had been up to the Co-Prosecutors to better manage their  
9 questioning time.

10 [14.10.42]

11 MR. SMITH:

12 Mr. President, if I can briefly respond?

13 Your Honours, this section of the case, the functioning of S-21,  
14 is the main part of this trial. Issues such as whether or not  
15 the defendant was in fear when he was working at S-21, whether or  
16 not he was acting under duress, whether or not he had any choice,  
17 are very, very central issues to the case.

18 And, Your Honours, the prosecution appreciate and welcome very  
19 much these trial management guidelines that have been put in  
20 place, but I would ask that the prosecution be allowed to ask  
21 this next series of questions for about 20 minutes, bearing in  
22 mind all the amount of time, effort and money that has been put  
23 into this Court just to put some ideas to the accused to see what  
24 his view is.

25 And, Mr. President, if the defence is really genuinely wanting to

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1 come to this Court and with repentance, with the idea of telling  
2 the truth in relation to all of the matters, I don't think they  
3 should be objecting to 20 minutes of questioning. Thank you.

4 MR. ROUX:

5 Mr. President, when questions are at the core of a questioning  
6 session, you don't wait for the end of your questioning time to  
7 ask those particular questions that are at the heart of the  
8 matter.

9 You are right. Those questions that you have referred to are  
10 indeed important, so why have you waited for the end of your  
11 questioning time to seek the permission to use some more time?

12 [14.13.06]

13 [Deliberation between Judges]

14 MR. PRESIDENT:

15 The international prosecutor, please mention briefly what is your  
16 intention to put the question to the accused. What is your main  
17 purpose and what is necessary because of the remark by Francois  
18 Roux is appropriate, and you should select the main question and  
19 in that question to the operation of S-21 and at S-21 and at  
20 Choeung Ek and other questions, the extent of those questions? I  
21 think you understand and you have studied the case for years. So  
22 what is your real intention to ask those questions in the 20  
23 minutes you requested?

24 MR. SMITH:

25 Thank you, Mr. President.



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1 Your Honours, it's a series of questions that relate to the fact  
2 that this accused was not in the state of fear that he says he  
3 was either in the courtroom or to the Co-Investigative Judges,  
4 and I would like to put to him a number of factors that would  
5 highlight that fact and would ask that he would comment on them.  
6 Now, Your Honour, it's difficult in some respects to determine  
7 when certain questions are to be put to the accused. Maybe this  
8 series of questions could be put now or perhaps they could be put  
9 in another part of the case when we talk about the accused's  
10 personality or in another section of the case. So I'm in Your  
11 Honours' hands when those questions should be put, but I think  
12 they should be put at some point.

13 [14.16.25]

14 MR. PRESIDENT:

15 Now, the Trial Chamber permits you to ask the questions within 20  
16 minutes, and we will not allow you to put the questions to the  
17 biography of the accused, except it is not a repeated question to  
18 the biography you asked at this Trial hearing.

19 MR. SMITH:

20 Thank you, Your Honours. I take note of those remarks.

21 BY MR. SMITH:

22 Q.Mr. Kaing Geuk Eav, perhaps if I can give you some reasons  
23 that I have asked you to comment on, on why you were not  
24 personally scared when other subordinates were arrested before  
25 Vorn Vet.

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1 I submit that you were not personally scared because you were  
2 extremely good at your job and you were a great asset for the CPK  
3 party. Do you agree?

4 A.Yes, it is true that I was the one who do the good job for  
5 them.

6 Q.And moving on from that, your superiors, Son Sen, Nuon Chea  
7 and Pol Pot, were very satisfied with your work and made no  
8 complaints. They sought your opinions on security matters, and  
9 they saw that you were a very proactive manager to implement the  
10 CPK policy. Do you agree with that?

11 [14.18.47]

12 A.I told you truthfully when I'm talking about the national  
13 security and also the security of the Central Committee so they  
14 tried to think about that. So what they ordered me to do, I do  
15 anything that's ordered. So they felt about their security and  
16 about the CPK security -- they made the decision and they ordered  
17 me to do and I had to follow the order 100 percent. But I was  
18 not the one who has a mastery on this policy or that policy. No,  
19 I don't have that kind of stance.

20 Q.(Microphone not activated) to you that you were not scared  
21 before Vorn Vet was arrested because, as you've stated in your  
22 own words, "I was regarded as the German Shepherd. That's why  
23 they trusted me." And I'm referring to your superiors. You  
24 believed that your superiors trusted you, that's why you were not  
25 scared. Is that right?

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1 A. When you are talking about fear, it has a degree. When the  
2 North Zone cadre was arrested, so my fear become from less to the  
3 most extent, to the degree that I was very weakened to myself; I  
4 could not walk. So I trust in the manner that I try to work for  
5 them. I follow any order day and night, so I spend most of my  
6 time to work, so the fear -- the degree of fear become increasing  
7 at that time.

8 [14.20.53]

9 Q. I also put it to you that you were not scared because you were  
10 very proud of your work. You were proud of the techniques that  
11 you adopted in terms of torture. You were proud of your  
12 techniques in relation to training and education. You were proud  
13 that you had that position. You, at S-21, had the only position  
14 that could impart the CPK policy as educator and trainer, and  
15 that position made you feel proud that you were entrusted with  
16 that responsibility.

17 A. I would like to tell Mr. Prosecutor truthfully that what I  
18 hoped -- continued to hope to be alive because I was so honest to  
19 them, I did not dare anything. I do 100 percent what's ordered  
20 and in other matters I am good at education. It is a secondary  
21 work. Other people could do that, but the true nature that they  
22 need me and that I was the most important person for them is I am  
23 the most loyal to them.

24 Q. And that's why I think you said in Court recently that when  
25 you met Pol Pot, or when you were in Pol Pot's company in 1978,

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1 you got a strange feeling and it made you feel good when you were  
2 in Pol Pot's company. Do you remember saying that?

3 A.Mr. Prosecutor, I never accompanied Pol Pot. I went to a  
4 study session. Pol Pot was the instructor at that time. I was  
5 happy because my former teacher was Son Sen, who teaches  
6 politics. Son Sen was the seventh member in the Party but, at  
7 that time, I was trained by the first person in the Party. I  
8 feel a bit relaxed, so I could not describe my feeling at that  
9 time, so that was my comparisons.

10 Before I used to learn with the seventh member of the Party and  
11 now it was the first person in the Party who taught. That's why  
12 I feel that way.

13 [14.23.59]

14 Q.And I put it to you that you were not scared because you were  
15 one of the most highly connected CPK members. You were connected  
16 to Son Sen, to Nuon Chea, and you felt protected, you felt  
17 untouchable. That's why you were not scared before Vorn Vet was  
18 arrested. Do you agree?

19 A.This matter, I am difficult to determine myself. I was in  
20 fear. Another matter that I hope -- but a little hope at that  
21 time; very little hope. That's why I was fearful.

22 Q.Mr. Kaing Guek Eav, would it be fair to say that you  
23 knowingly, intentionally, willingly and continually commanded a  
24 system of abuse that inflicted terror on innocent Cambodian  
25 people?

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1 A.Mr. Prosecutor, this matter, the fearful in the ranks and  
2 among the people across the country, it was true. It was not  
3 only those who were fearful. It's myself, I was fearful, but who  
4 create that kind of paranoia? It was the Central Committee of  
5 the Party. We are the tool of the Party. It affects the feeling  
6 of the people of Cambodia and the people in the ranks. It was  
7 the Central Committee who imposed the terror, and if we fail to  
8 follow their order we will be executed.

9 Q.Mr. Kaing Guek Eav, I would like you to look at a document I  
10 will now show you. It's P0005319. It's document number D69.  
11 Mr. Kaing Guek Eav, do you see the photograph on your screen?

12 A.Yes, I do.

13 [14.27.14]

14 Q.This is a photograph of a baby, and presumably her mother,  
15 contained in a small cell in a school you picked and in a cell  
16 you designed. In all good conscience, how could you have ever,  
17 ever, thought that these were the faces of the enemy?

18 A.This case, who they were could not reply because those who  
19 were considered as enemies, it was the Central Committee. It was  
20 the four groups of people who assigned the right to decide and  
21 smash, so anyone out of the four groups, the security police had  
22 to follow their decision.

23 So this person and the baby was considered as enemy. It was not  
24 S-21, it was not me, it was the upper echelon who made decisions.  
25 So when there's an order, decision, we had to follow. If we

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1 failed to do that, we would be beheaded.

2 MR. SMITH:

3 No further questions, Your Honour.

4 MR. PRESIDENT:

5 Next, I would like to give the floor to the civil party lawyers,  
6 and the questions to be put to the accused, I would like to know  
7 if there is any internal agreement amongst the four groups. Do  
8 you see at the time or there is one representation of the four  
9 groups for this fact?

10 MS. STUDZINSKY:

11 Thank you, Mr. President. I would like to inform the Chamber  
12 what civil party lawyers agreed upon.

13 Due to the fact that the representative of group 4 will not be  
14 able to attend tomorrow's hearing, we suggest that group 4  
15 starts, then followed by group 3, then followed by group 1 and  
16 then 2. We agreed upon to share the time and from each group one  
17 representative will ask the accused. Thank you.

18 MR. PRESIDENT:

19 I would like to invite the lawyer for the civil parties in Group  
20 4. So only one representative for this group to put questions to  
21 the accused regarding the operation of S-21 and Choeung Ek.

22 [14.31.05]

23 And I would like to remind you that the time allocation for each  
24 group is 45 minutes. The floor is yours. Lawyer Hong Kimsuon.

25 MR. HONG KIMSUON

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1 Thank you, Mr. President, Your Honours, all the participants of  
2 the proceedings. In order not to waste time, let me put the  
3 questions right away to the accused, Mr. Kaing Guek Eav,  
4 regarding the operation at S-21 and the killing field at Choeng  
5 Ek.

6 QUESTIONING BY CIVIL PARTY COUNSEL

7 BY MR. HONG KIMSUON

8 Q.My first question is when you, Mr. Kaing Guek Eav, alias Duch,  
9 was the Chairman of S-21 until you got married toward the end of  
10 1975, in between that period up to the period of '76 or '77, your  
11 wife was pregnant or delivered a baby. Is that correct?

12 A.That is true.

13 Q.Thank you. My next question is, until 1977, between the time  
14 that you became the Chairman of S-21, you already told the  
15 Chamber that there were numerous children who were sent to S-21  
16 along with their parents. At the time you were aware of the  
17 children, some of whom were interrogated and some were not before  
18 they all were smashed.

19 [14.33.39]

20 So the question is, when you returned to your house after work,  
21 what was your feeling in comparing those children who were  
22 smashed and your young baby at home?

23 A.Those children, in principle we provided them the instruction  
24 but I did not witness them by myself. Regarding my child, I  
25 believed the child survived because of my survival. If the Party

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1 decided to arrest me, then my children, my baby and the wife  
2 would be arrested and killed as well.  
3 If I were gone then the rest would be gone. It means my  
4 relatives, my siblings, six of my siblings and my parents will be  
5 arrested. The whole lot would be gone. So I saw myself  
6 separately from them because I thought of my baby and that's why  
7 I needed to survive. That was my mentality and thinking at the  
8 time.

9 Q.Thank you. Let me continue my question. Regarding the  
10 victims, or they were called detainees or prisoners at S-21, you  
11 told the Chamber that all the children who were sent for  
12 detention or who entered S-21, their fate was already decided.  
13 It means they were already dead. But you also informed the  
14 Chamber that the food ration for the prisoners was minimal.  
15 That's what I heard during your statement.

16 The question is, did you know the distribution of food rations to  
17 the prisoners who were yet to be smashed? If so, how? For  
18 example, were the prisoners distributed with a bowl each or one  
19 ladle of gruel each? And how the food was distributed?

20 [14.36.10]

21 This is because from the painting I saw that prisoners were  
22 stacked into a long row of bars inside a room, so how the food  
23 was distributed? Were they provided one ladle of gruel each and  
24 they were fed one ladle each at a time? Can you explain on this  
25 matter?



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1 A>Your question is related to law on humanity. However,  
2 personally I cannot provide you the answer because I did not  
3 witness the situation by myself. What I said is -- not means  
4 that I deny my crimes against humanity in providing or  
5 distributing the food rations. The only issue is that I did not  
6 witness these things myself.

7 I would like just to state that the S-21 prison was not the same  
8 as the prisons assisting in the state of law. They were just a  
9 depository for people to be killed, or we could say it's an  
10 execution chamber. So when you talk about the law of humanity,  
11 it is far from being correct.

12 And I don't blame my subordinates. It is my responsibility.  
13 However, in reality I could not explain it to you because I did  
14 not witness it myself.

15 Q.Thank you. My next question is related to the torture or the  
16 interrogation to extract the confessions.

17 You told the Chamber already that S-21 did not have any insects  
18 or poisonous insects to be used for the interrogations, or  
19 centipedes, or to use the method of pulling out nails. The  
20 question is how did you know that during the interrogation or the  
21 torture, and how many prisoners whose nails were pulled out?

22 A.Regarding the pulling out of the finger nails or toes, yes, it  
23 was reported to me and I told the person, "Stop it immediately."  
24 I told Comrade Hor that. He told me that the nail was pulled so  
25 it was easier to get the confession. After he reported that to

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1 me I told him, no, that was a criminal act so the practice had to  
2 be stopped immediately.

3 And one witness said his nails were pulled out. Yes, I would not  
4 deny the allegation because the criminal act did happen.

5 Q.Thank you.

6 Were you aware or did you believe that after you ordered your  
7 subordinates to stop the torture by pulling out nails or by  
8 burning by using cigarette lighters?

9 A.Frankly speaking, I was not sure regarding the burning. Let  
10 us put that matter aside for now.

11 [14.40.43]

12 I believe the nail pulling out was stopped after I ordered to  
13 Comrade Hor. However, I did not try to find the person who  
14 practiced the nail pulling but I believed it was stopped because  
15 if it was not stopped and if I knew then I would warn Comrade Hor  
16 that he had to be responsible before the Party. And regarding  
17 the cigarette burning I believed it existed. Maybe Comrade Hor  
18 witnessed it or he did not witness it or if he witnessed it he  
19 would not report it to me anyway.

20 Q.Thank you.

21 As you informed the Chamber or the President that you did not  
22 want to do the security work and you wanted to work in the  
23 industry area; however, because of your superior or Son Sen did  
24 not allow you to transfer so you continued your security work.  
25 So the detention of the interrogation of prisoners at S-21 as you

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1 said was no different to those practiced at M-13, regarding the  
2 physical torture, for instance, the beating and the pulling out  
3 of nails or the cigarette burning on the body that was the form  
4 of physical torture.

5 And what about the torture in the form of paying homage to the  
6 dog or when the prisoners were forced to eat excrement? Was it a  
7 psychological torture?

8 A.For the physical torture it existed in four forms, as I  
9 reported earlier. And for the psychological torture, the eating  
10 of the excrement was a violation of the torture practices as well  
11 as the pulling out of the nails.

12 [14.43.22]

13 The paying homage to the dog was practiced and because of its  
14 effectiveness I accepted it to be used because I saw that then  
15 the prisoners would not be hurt physically. But of course you  
16 can say this is a psychological torture that is paying homage to  
17 the dog. However, after I learned that it was used then I  
18 allowed it. I allowed the practice to continue.

19 Q.Thank you.

20 So when you allowed the continuation of the practice the results  
21 that you wanted, was it better than the physical torture?

22 A.I did not do any comparative study.

23 Q.Thank you.

24 Regarding your statement to the President two weeks ago, you said  
25 Nuon Chea wanted to experiment in using the medicine through you

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1 on the victims or the prisoners, and today you also replied to  
2 the Co-Prosecutor's questions that you swapped the paracetamol to  
3 be used instead and nobody was aware of this except you yourself  
4 alone. So the question is, your decision to do that in violation  
5 of the order or the instruction from your superior, was it your  
6 feeling of sympathy or what was your thinking at the time?

7 A.I would like to reiterate that there are actually two matters.  
8 One was the issue of sympathy. I think, yes, to a certain level  
9 I did have the feeling of sympathy. The second important matter  
10 is that I did not want to kill anyone with my own hands, as I  
11 stated to Judge Lavergne. I would not want to have my hands  
12 involved directly in the killing of any person. So these two  
13 issues combine together in response to your question.

14 [14.46.43]

15 Q.Thank you.

16 My next question: when Nuon Chea gave you the medicine was it a  
17 pill, was it a powder or was it a serum, a fluid or was it a  
18 capsule type, and was he there to wait and see the experiment of  
19 the medicine?

20 A.Uncle Nuon never entered S-21. He called me for assignment at  
21 the Buddhist Institute, and the medicine was in the form of  
22 capsule. So they can pull one side out and throw out the powder  
23 inside and replace it with the paracetamol powder.

24 Q.Thank you.

25 Can you confirm in which month or year did you undertake the

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1 experiment of that medicine?

2 A.I cannot recall but I think probably some surviving documents  
3 would give us some lead on this. The documents from my training  
4 during a certain period of time I gave instructions regarding the  
5 hiding of weapons, regarding the poisoning. So it happens during  
6 that period of training. However, I cannot recall the date.

7 Q.Thank you. My question is that the capsules that you provided  
8 to the prisoners, what was the name of the powder inside the  
9 capsule? What was the actual medical name for that?

10 A.Mr. Hong Kimsuon, I do not know what it was called but I can  
11 clearly recall that the capsule itself has half is in dark green  
12 colour and the other one is a pale green colour. And when I pull  
13 it out I saw a powder mixed with other substance inside. I threw  
14 that away. I was not sure whether it was poisonous or not.  
15 After I cleaned the inside of the capsules then I refilled it  
16 with the paracetamol powder.

17 MR. PRESIDENT:

18 The Chamber would take a 15 minute break until five past three  
19 when the Chamber will resume.

20 (Judges exit courtroom)

21 (Court recesses from 1449H to 1505H)

22 (Judges enter courtroom)

23 MR. PRESIDENT:

24 Please be seated.

25 And now the Trial Chamber would like to give the floor to lawyer

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1 Hong Kimsuon. As there is a request by the defence counsel, you  
2 should hold on and wait for the comments made by Mr. François  
3 Roux.

4 Please, Mr. François Roux, the floor is yours.

5 MR. ROUX:

6 Thank you, Mr. President. I did not really wish to interrupt my  
7 learned colleague but the coffee break came just at the right  
8 time.

9 I would like to express my concern over the nature of the  
10 questions that are being put at the present moment. I do believe  
11 that this gives us an opportunity to clarify yet again the role  
12 of the civil parties. I do not see how the civil parties whom my  
13 colleague is defending -- how they are directly concerned or  
14 directly related to the issue that is being addressed at the  
15 present moment because, indeed, inasmuch as the accused has  
16 prevented the actual occurrence of what was demanded of him,  
17 there were no victims in that particular operation.

18 Now, the prosecution has asked about the facts in general, and  
19 the civil parties have the role of expressing to us the suffering  
20 experienced by the victims, but the job of the civil parties is  
21 not to go to prosecute and to prosecute over again. I have  
22 already both the prosecutors and the civil parties stating they  
23 have said -- and they have stated that their roles are very  
24 different. So I would very much like the civil parties to be  
25 urged not to reopen a prosecution submission as if they were

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1 prosecutors.

2 I would like very much for the civil parties to be urged to  
3 concentrate on what is of direct relevance to the victims. I do  
4 believe that this, as was recalled by one of the lawyers for the  
5 civil parties -- I do believe that that is the added value that  
6 the civil parties can contribute to this trial, to express the  
7 questions from the viewpoint of the victims but certainly not to  
8 do again the job that has been done already at length by the  
9 Court and by the prosecution. I would like the role of each and  
10 every party to be clear and to be clearly performed. Thank you.

11 [15.09.37]

12 MS. STUDZINKSY:

13 Mr. President, I would like to ask the Chamber or, to seek  
14 guidance to allow the civil party lawyers to respond to this  
15 fundamental submission by the defence and to allow us now, or at  
16 a later stage, before maybe the Chamber takes a position on this  
17 -- to allow us to respond because it concerns directly the civil  
18 parties and to which extent they can ask questions. Thank you.

19 MR. PRESIDENT:

20 Please, Mr. Alain Werner, the floor is yours.

21 MR. WERNER:

22 Your Honour, very briefly, I'm a bit surprised by this submission  
23 of my friend. We had a trial management meeting 10 days ago, and  
24 that would have been the moment to raise that. I think all of us  
25 are trying to do our best, we are guided by Rule 23 (1)(b) which

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1 says that we have to support the prosecution. The limit is not  
2 to ask repetitive questions and not to have questions outside the  
3 scope of the matter, and my friend said that it's not for us to,  
4 again, ask questions which were asked, and we fully agree.

5 [15.11.34]

6 Now, if he's fundamentally challenging what we have been doing  
7 until now and saying that we should only focus to something then,  
8 of course, we would request to make proper submission. I don't  
9 think that's the case and again I think the rule is clear. And  
10 if we do not ask repetitive questions, and questions within the  
11 scope, then we submit we should of course be able to ask any  
12 questions. I'm grateful.

13 MR. PRESIDENT:

14 In relation to the remarks made by the lawyers, Mr. Hong Kimsuon,  
15 you intended to ask questions or you make a remark in response to  
16 the defense counsel?

17 MR. HONG KIMSUON:

18 Thank you, Mr. President. It is my time to pose questions, so I  
19 will follow your instruction to ask the question. I do not taken  
20 this time to respond to the defence counsel.

21 MR. PRESIDENT:

22 Mr. Francois Roux, please, the floor is yours.

23 [15.12.58]

24 MR. ROUX:

25 Thank you, Mr. President. I think we are now working on a



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1 subject that is of paramount importance. I am in no way seeking  
2 to restrict the role of the civil parties. I am seeking for this  
3 role to be fully meaningful. I have already had occasion to say  
4 that there is nobody here who can be fully satisfied if, after  
5 five judges having already questioned the accused, and then two  
6 Co-Prosecutors who have already questioned the accused, if in  
7 front of me I were to have four more prosecutors, I don't think  
8 anybody in this Court would be content, would be satisfied with a  
9 trial where the accused would have to be questioned by six  
10 prosecutors, so I'm simply recalling what is the role of each one  
11 of us?

12 Five Judges on the Bench have questioned the accused, both in an  
13 exculpatory and in a disculpatory fashion. The Co-Prosecutors  
14 have asked inculpatory questions, and that is their job. Civil  
15 parties do not have the remit to do the same job as the  
16 prosecutors. Their role is completely distinct.

17 I would like to refer you to a major work by Serge Guinchard on  
18 criminal procedure. This is a seminal work. On page 536 of that  
19 book, in paragraph 947 it is stated, and I quote:

20 "In our mixed procedure regime, where there is a dominant nature  
21 of adversarial hearings whereby it is first up to the Bench to  
22 implement the procedure, the victim logically does not have more  
23 than a secondary role. However, there should be no pejorative  
24 nuance in this secondary or ancillary role."

25 The same book also says very clearly that the civil parties

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1 defend their own positions, their own interests in relation to  
2 their own suffering, to the damage that they have suffered, but  
3 never -- it is never a situation of having the civil parties in  
4 charge of prosecution.

5 [15.16.28]

6 We were just now in a debate which showed our learned colleague  
7 putting extremely general questions, questions of very general  
8 import which have no direct bearing on the interests of the civil  
9 parties whom he defends. And that is the fundamental issue here,  
10 Mr. President.

11 Your Honours, I would like also to clarify that this is directly  
12 related to the questions that have been put of late, the question  
13 raised of late by the civil parties in their latest submission  
14 regarding sentencing. Now if we go back to the same civil law  
15 book that I just quoted, in paragraph 912 of the same book I  
16 would like to quote, and please listen carefully, civil parties,  
17 colleagues; I quote:

18 "The logical rule of our adversarial system is what explains why  
19 taking the floor after the civil party, the representative of the  
20 prosecution will request upon the issue of the sentencing, which  
21 is the subject of the prosecution, that which cannot and must not  
22 be the role of the civil party."

23 This is what our fundamental texts say. You can go and look at  
24 all the authoritative references available. You can only support  
25 the prosecution in demonstrating the guilt of the accused when

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1 such demonstration enables you thereafter to refer to the  
2 suffering of the victims.  
3 So once again, I must insist that we must all stick to our  
4 respective roles and under that kind of conditions our trial will  
5 be able to proceed in a smooth fashion in full abidance with the  
6 rights of the accused, and it is there and it is in this, and if  
7 we all stick to our respective roles then we will be in position,  
8 together, through the performance of our respective roles to  
9 conduct an equitable trial.

10 [15.19.30]

11 MR. PRESIDENT:

12 The floor is now for Hong Kimsuon.

13 MR. HONG KIMSUON:

14 Thank you, Mr. President.

15 I thought I did not want to delay the proceedings because we  
16 ought to receive instructions and decision from the Chamber  
17 already regarding the avoidance of repetitive questions and the  
18 respect of the time allocation.  
19 We well understood the respect of the rights of the accused. It  
20 is the right stipulated and recognized by the existing law.  
21 However, for the victims of the genocide, their rights have also  
22 been stipulated in the Internal Rules that their lawyers, the  
23 lawyers of the civil parties, are a party of the proceedings.  
24 And we have three parties: the Co-Prosecutors, the defence  
25 counsel, and the civil party lawyers.

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1 [15.20.40]

2 So in our Internal Rules, authority is vested to the lawyers for  
3 the civil parties, and I do not think there is a restriction for  
4 the civil parties lawyers to question the accused based on the  
5 decision made by the President.

6 What we need to do is to avoid the repetitive questions, and if  
7 the defence counsel only want us, the lawyers of the civil  
8 parties, to talk about the sufferings and the reparation, of  
9 course we would stand here and express the suffering and the  
10 reparation requested by each party in order to delay the  
11 proceedings.

12 This is not what we want. We had our technical meeting in order  
13 to try to expedite the proceedings, and I think the rights of the  
14 accused is stipulated by the law as well as the rights of the  
15 victims. And when you quoted Jacques Vergès says in this case --  
16 Jacques Vergès is also the defence counsel for one of the charged  
17 persons here at the ECCC, so it is not acceptable. We are only  
18 bound by the Internal Rules of the ECCC.

19 Third, the Internal Rules, Rule 23, gives the right to the  
20 victims or the civil parties as stipulated in that provision.

21 So I respect the rights of the accused and in return I would like  
22 the defence counsel to respect the rights of the civil parties  
23 and the victims. And I would like now the President and the  
24 Chamber to rule that we, as a party, also has the right.

25 Thank you.

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1 [15.22.45]

2 (Deliberation between Judges)

3 MR. PRESIDENT:

4 After hearing the observations by the defence counsel and the  
5 observations in response by Mr. Hong Kimsuon, the Chamber has  
6 examined the Internal Rules, Rule 23(1), which states:

7 "The purpose of the civil party application before the Chamber:  
8 in order to participate in the criminal proceedings for the  
9 people who fall under the jurisdiction of the ECCC mandate which  
10 are being prosecuted."

11 So the Chamber allows the questionings of the civil parties'  
12 lawyers in order to support the alleged prosecution.

13 The Chamber would like to remind the defence counsel that, first,  
14 try to avoid repetitive questions which has already been raised  
15 and asked by the Co-Prosecutors. There is no need to recall the  
16 questions by other parties which were already posed. So you only  
17 specify the points that you are unclear.

18 The second point is try to avoid a very long-winded question,  
19 otherwise the accused will be confused. We have reminded you a  
20 number of times on this point.

21 Third, try to avoid questions which are not related to the  
22 current fact that is being before the Chamber, that is the  
23 operations of S-21 and Choeung Ek including sub-facts, including  
24 the torture, the interrogation and the execution or smash; that  
25 is the smashing at S-21 or at the areas surrounding S-21 and at

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1 Choeung Ek.

2 [15.26.07]

3 So these are the facts which the Chamber has clearly reminded the  
4 parties, and despite our reminders, sometimes the questions still  
5 are not on the point. So this is, again, a reminder to all  
6 parties.

7 Now, I would like to give the floor to Mr. Hong Kimsuon to  
8 continue the questions. You have another 25 minutes for your  
9 team, and your time will expire at five to four. The floor is  
10 yours.

11 MR. HONG KIMSUON:

12 Thank you, Mr. President. I will continue my questions.

13 BY MR. HONG KIMSUON:

14 Q.Before the break, I asked Mr. Kaing Guek Eav alias Duch  
15 regarding the attempts to experiment of the medicine given to you  
16 by Nuon Chea on the prisoners at S-21. The question -- you  
17 responded that you were not sure regarding the date.

18 The question now is, after you received the medicine from Nuon  
19 Chea, did you know from where the medicine was taken from or was  
20 this a drug involved in the alleged attempts to poison Pol Pot?

21 A.I did not know where the medicine was taken from, or whether  
22 it's related to the drugs allegedly being attempted to poison Pol  
23 Pot. I did not know, but probably Uncle Nuon had a suspicion  
24 through the confessions that he read.

25 [15.28.14]

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1 Q.Thank you. Now, my question is related to the execution or  
2 smashing.  
3 You already answered to the Chamber's questions regarding the  
4 smashing of the foreigners at S-21. The question is, before they  
5 were taken to be smashed, did you know that their bodies were  
6 burned to ash after they were killed, or were they burned alive?

7 MR. PRESIDENT:

8 The accused does not need to answer the questions. The Chamber  
9 already asked this question. Move on.

10 MR. HONG KIMSUON:

11 Thank you, Mr. President.

12 BY MR. HONG KIMSUON:

13 Q.My next question is related to your response in the previous  
14 week, regarding the transportation of prisoners by vehicle to the  
15 entrance which is now the Beehive radio station location. That  
16 was in relation to your communication between you and your  
17 superior.

18 So the question is, the transferring of the prisoners and when  
19 they stopped at the current Beehive radio station, was that the  
20 location of the centre where S-21 used to communicate with  
21 various other units, or was it only a depository location for  
22 S-21?

23 A.S-21 had no authority to contact or communicate directly with  
24 any other units by the radio. The location I marked R on the map  
25 is now the current Beehive radio station. There was a radio from

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1 S-21 to the Prey Sar location, and for that R location it was a  
2 reception area for prisoners who were brought to us. So at  
3 whatever times the prisoners were transferred to that location,  
4 then S-21 would be notified by my superior and I would order  
5 people to go and receive the prisoners. So for the R location  
6 they had no authority to communicate by radio with any other  
7 units.

8 [15.31.22]

9 Q.Thank you.

10 Regarding the entrance of the prisoners to S-21, the question is:  
11 when the prisoners were transported and they were -- they entered  
12 the compound of the Ponhea Yat High School when they arrived at  
13 dusk, were they provided with any food?

14 A.I was not sure.

15 Q.Thank you.

16 Regarding the training, in the transcript last week you informed  
17 the Chamber that you taught the method of interrogation, so I do  
18 not want to ask the details again, but on the technique of  
19 interrogation, including -- was it included as part of the cold,  
20 hot, or chewing methods? Was the technique for the interrogation  
21 of the important prisoners taught by you as well?

22 A.Mr. Lawyer, I taught the techniques of interrogation in the  
23 early phase that I took control of S-21. That is when I was the  
24 Deputy Chairman. After I had constant teaching I taught about  
25 what to do according to the actual situation or issues, and my



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1 teaching was in the notebook and you can read the notebook.

2 Q.Thank you.

3 [15.33.56]

4 Regarding the confession now, previously I asked you about the  
5 psychological torture and you responded that both physical and  
6 psychological tortures were used for the extracting of the  
7 confessions, and the confessions would be only half true. So  
8 when a prisoner confessed to implicate other people, you would  
9 then send the confession to the upper echelon for their decision.  
10 And if you said you don't believe 100 percent of the confession,  
11 what about the people who were implicated in the confession and  
12 then the upper echelon decided to arrest those people? And for  
13 those people who were arrested, did you believe that their  
14 confessions were also not fully true?

15 A.I still think the confession was not true, I still thought  
16 about it, but I could not do anything. Whatever the principle  
17 set by the Party to arrest people, we had to arrest people. We  
18 had to interrogate them and to smash them according to the  
19 Party's order.

20 Q.Thank you. Also, for the same question, so in your mind you  
21 thought it was not true but it was unavoidable, as you just said.  
22 However, you read the confessions before they were sent to the  
23 upper echelon. Some children were sent to Prey Sar. How would  
24 you make a decision to have some children be sent to Prey Sar and  
25 not be adult prisoners?

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1 A.It was easier to manage and control the children. The  
2 principle of the Communist Party of Kampuchea was absolute  
3 regarding the prisoners. If they were arrested they would be  
4 arrested, handcuffed and be imprisoned. There would be no  
5 emotion involved. That was the general principle.

6 Q.Thank you. My last question regarding the prisoners at S-21.  
7 If you can recall, you can just provide a brief answer.

8 [15.37.19]

9 You knew an engineer from Soviet. His name is Chea Khon, alias  
10 Chin. He was your friend. Did you know him?

11 A.Chea Khon, alias Chin, studied with me in the last final class  
12 and he was there. This is my frank response. He was my  
13 schoolmate. I did not dare to see him because I didn't know what  
14 to say to him, whether I should blame him or to provide my  
15 guarantee or to vouch for him. So later on, because of such  
16 issues, I did not know how many those people that I knew entered  
17 S-21.

18 Q.Thank you.

19 MR. HONG KIMSUON:

20 Mr. President, I have no more questions.

21 MR. PRESIDENT:

22 Next the floor is open to the civil party lawyer of group 3. If  
23 you have questions, the floor is yours.

24 MS. MOCH SOVANNARY:

25 Thank you, Mr. President, for providing us the group to put

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1 questions to the accused.

2 [15.38.46]

3 Before I ask the questions I would like the accused to confirm  
4 regarding the inconsistencies in his response from the hearing  
5 date on the 16th of June.

6 BY MS. MOCH SOVANNARY:

7 Q.In the transcript in the English on page 24, line 12,  
8 regarding the question asked by the President regarding the  
9 teaching of the interrogation techniques, you responded that  
10 after the teaching you went to inspect the interrogators while  
11 they were interrogating the prisoners. However, when we look at  
12 the transcript on the same day at page 39 on line 19, you said  
13 you never entered interrogation place or personally interrogated  
14 except for few people. Could you verify or elaborate on the  
15 inconsistency in your testimony?

16 A.Ms. Lawyer, you said that the transcript in English; is that  
17 the one you mentioned about? I heard you said that you used the  
18 English transcript. Is it true?

19 Q.Yes.

20 A.Why don't you refer to the Khmer language transcript?

21 Q.Because it's a little difficult for me to find; that's why I  
22 refer to the English transcripts.

23 A.I do not know that well so let me try to verify the  
24 transcripts. I don't think it is a contradiction or  
25 inconsistency in the text.

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1 [15.40.54]

2 Q.Thank you for your remarks.

3 I have another question in relation to the form of torture and  
4 the type of torture at S-21. Do you know that the interrogator  
5 uses cigarette and burning to the face or the body of the  
6 victims? Did you know about that practice?

7 A.This morning I responded to this question. I never instructed  
8 anybody to use that kind of torture. That's all.

9 Q.Thank you for your response.

10 My next question. On the 16th of June hearing you mentioned  
11 about the two victims, Suon Kaset and Choulong Raingsy. At the  
12 time you said that they confessed because of torture, so I  
13 thought at the time that you knew their story well. If you can  
14 recall, can you tell the Chamber how did they get executed in  
15 S-21 or at Choeung Ek?

16 A.As far as I remember, they were killed at Ta Khmau prison or  
17 it might be at S-21.

18 Q.Thank you for your response.

19 I have another question. Can you tell us is there any practice  
20 of sending from S-21 to Prey Sar? Was there any case like that?

21 A.There was none of that case. Let me mention again about Suon  
22 Kaset, about Madame Choulong Raingsy; I told the Trial Chamber,  
23 based on my assumptions, I was not clear on that. That's all.

24 [15.43.40]

25 Q.Thank you. Another question.

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1 Thank you, the accused, that you are brave in informing the Trial  
2 Chamber about your decision that you are brave enough to oppose  
3 the order from the Brother Number Two in relation to the  
4 medicines experiment, and thank you that you tell this to the  
5 world.

6 I would like to know from your heart; for example, of those who  
7 received the order to do the medicine experiment -- it was not  
8 you -- it's any of your subordinates? And do you suppose that  
9 with two simple reasons that a reasonable person would know, one  
10 is that they have the sympathy on the victim and another one,  
11 they keep their hand free from blood?  
12 And it was known to the upper echelon about refusal to obey their  
13 orders. As you were the chief of S-21, what action will you take  
14 to the person who failed to follow the order from the upper  
15 echelon like this?

16 A.This is your conclusion or your assumption. I cannot respond  
17 to your question.

18 [15.45.17]

19 Q.Thank you for your honest reply that you cannot reply to my  
20 question.

21 Then is that true if you say that to protect your interest or  
22 your life you have one choice and you can make a decision to  
23 oppose the order from your upper echelon; is it true to say that?

24 A.If you dare do anything, unless we have a better assurance  
25 that it is secret, it's not disclosed to other people and we feel

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1 enough to be safe. This is the only way we can do.

2 Q.Thank you for your clarification.

3 I have another question, so I would like to come back to the two  
4 victims that I asked you; Suon Kaset and Choulong Raingsy. In  
5 your view, do you think that they were considered as the  
6 important prisoner or just ordinary prisoner at that time?

7 A.Suon Kaset and Madame Choulong Raingsy were simple prisoners  
8 who were the former civil servants.

9 Q.Thank you for your response.

10 I have another question as my last question for you. Do you  
11 remember the name of the prisoner at S-21 who was a former of the  
12 Foreign Affairs Ministry? Do you remember his name?

13 A.I had not remember that name, but I read the civil party  
14 complaint. I read  
15 that complaint.

16 [15.47.41]

17 Q.I have a question related to the victim. I would like you to  
18 -- know from you that -- is it okay for us to show you the  
19 document, the list of prisoner to be smashed? And in that list  
20 of -- the victim I refer to was also on that list.

21 A.Yes, I read the document, but I might forget that.

22 Q.Thank you.

23 I came here; I bring with me the intention of the civil party who  
24 is the relative of Ouk Ket. Ouk Ket was arrested and sent to  
25 S-21 on the 15th of June 1977 on the prisoners list. He was

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1 decided to be smashed on 1977. In response to the wish of the  
2 civil party who try to find information from his relative and the  
3 cause about what happened to the victim, in response to this  
4 wish, can you tell the Chamber why the detention of that victim  
5 was quite long -- it's about six months -- as far as I remember,  
6 for important prisoners the detention may last five months or so.  
7 Why it is important that he's the important prisoner or what are  
8 the reasons behind that?

9 A. There were many stories; I do not recall all. If you would  
10 like me to explain about Ouk Ket, I would like you to give me his  
11 confessions to me. At any point-in-time that we can see the  
12 civil party, I can provide further response.

13 Q. Thank you for your comments, but the confession was not  
14 survived and we could not find those documents. Thank you.

15 MS. MOCH SOVANNARY:

16 I observe that there's some time remaining for me, so I would  
17 like to give the floor for other civil party lawyers if they  
18 would like to use the remaining time. Thank you.

19 [15.50.40]

20 MR. PRESIDENT:

21 Next, the floor is open for civil party lawyers, group number 2.  
22 Please, lawyer from group number 2, the floor is yours.

23 MS. STUDZINSKY:

24 Excuse me, Mr. President. We agreed upon that group 1 now  
25 continues, if you do not mind.

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1 MR. PRESIDENT:

2 So it means that you don't have questions? Please indicate your  
3 intention whether or not you have questions. So it's not at your  
4 discretion, so we need to -- from group number 4, group 3 and  
5 group 2 and group 1 will be the last. This is our agreement from  
6 the beginning.

7 If you don't have any questions, please indicate that. If you  
8 make a request, please do so. It does not mean that you can  
9 select the order for the questioning at your own discretion. We  
10 are the Trial Chamber who made that decision following your  
11 agreement.

12 MS. STUDZINSKY:

13 Thank you, Mr. President. Then I will start but, however, I have  
14 understood the Chamber that it is up to the civil lawyer party  
15 lawyers how we share the time. However, I will start then if  
16 this -- I was ordered.

17 [15.53.00]

18 BY MS. STUDZINSKY:

19 Q.I have first a question seeking clarification according to the  
20 transcript from 17th of June on page 37, line 13 in the English  
21 version. You have said that photos were taken from the four  
22 foreign prisoners. On page 76, line 21 the same day, in the  
23 transcript you have said photos were not taken.

24 Could you please clarify if this is a translation problem or if  
25 you gave these two different answers?



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1 A.Ms. Lawyer, I would like to mention about the four westerners;  
2 that I know you feel interested in these people. They did not  
3 have their photo taken, photo like Vorn Vet, but their corpses  
4 were burnt out.

5 Q.I understand now, there were no photos taken. Is this the  
6 case what you have said now -- from these four foreigner  
7 westerners?

8 A.Let me mention again to you. For those victims that the upper  
9 echelon orders to take photos to show, it's only the Cambodians  
10 key prisoners only, not for others.

11 Q.And I would continue with other question.

12 If photos were taken, as far as I have understood during the last  
13 days, that you have said they were not requested from normal  
14 prisoners but the staff made photos to have proof in the case  
15 that a superior would ask them if the persons were dead. And as  
16 far as I understood, you said as well photos were taken without  
17 request, so far, but were taken from those who died in S-21.

18 Could you please clarify if this is right?

19 [15.57.25]

20 A.I would like to say that the taking of photos for those who  
21 died at S-21, my deputy chairman ordered to take. Yes, at that  
22 time I didn't know about that. I saw -- I knew about that when  
23 the Co-Investigating Judges took me to the place and one of the  
24 witnesses said that this is the prisoner who died in the evening  
25 and in the morning they took photos to show as the evidence that

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1 the victim died before the interrogations. That's all.

2 Q.Do you have knowledge if also prisoners who were brought to  
3 Choeung Ek were photographed there to prove in the case of any  
4 request, that they were killed in Choeung Ek?

5 A.At Choeung Ek, I did not order for any taking of photos,  
6 never, and I didn't see any photograph until now about the  
7 execution at Choeung Ek.

8 Q.I return now to the four westerners who were burned at S-21  
9 and you stated and declared exactly the order of Nuon Chea.  
10 Could you please tell us which order you gave then to your staff,  
11 what should happen with these prisoners? Because as far as I  
12 understood Nuon Chea did not speak of burning but he has said  
13 those are not necessary.

14 A.I did not want to make comment on this. I will reserve my  
15 rights to be silent.

16 Q.However, I will try to ask you then did you order directly to  
17 burn them?

18 A.I reserved my rights to be silent.

19 MR. PRESIDENT:

20 Ms. Studzinsky, move on. Your questions are repetitive to the  
21 questions already asked by the Chamber.

22 [16.02.01]

23 BY MS. STUDZINSKY:

24 Q.You've told the Chamber that the killing was in secret; nobody  
25 should observe the killing. There are witnesses who report that

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1 these or that foreigners were burned alive. How could witnesses  
2 observe how they were burned alive if, on the other side, the  
3 killing should be kept secret?

4 A.Ms. Studzinsky, whatever stated by the witnesses it's your  
5 choice to examine their testimony. How could they observe it? I  
6 do not know.

7 Q.Do you remember -- I'm gone to another issue -- do you  
8 remember when the head of medics at S-21 was arrested?

9 A.There were two heads of the medic. Comrade Oeu was arrested  
10 and Comrade Try was replaced and later on he was arrested as well  
11 and later on I did not remember who came to replace Comrade Try.

12 Q.I'm asking about Comrade Try. Do you remember when he was  
13 arrested?

14 A.I think it is better if we had the documents to read. I  
15 cannot remember every detail of more than 10,000 victims.  
16 Sometimes I remember the incident or matter clearly but it's not  
17 always the case.

18 [16.04.01]

19 Q.Do you remember if he was imprisoned in S-21?

20 A.Even for the S-21 staff, even the former chairman of S-21 he  
21 was also detained at S-21 because there was the decisions made by  
22 the Standing Committee to imprison those former S-21 staff.

23 Q.Do you remember when the head of the Hospital 98, Moeng Sam  
24 Noeb, alias Tai ,was arrested?

25 A.Comrade Tai -- I knew him. I did not know the year he was

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1 arrested because there were many of them so you had to read the  
2 document.

3 Q.Do you remember who was his superior?

4 A.The Chairman of 98 Hospital was Son Sen.

5 Q.Do you know if he was sent to S-21?

6 A.Whoever was arrested since I became the Chairman of S-21, all  
7 their names had to go through me but, as I tell you, I cannot  
8 remember all.

9 [16.07.44]

10 Q.You have said that your contact to him was close and that you  
11 trusted him. Am I correct?

12 A.I and Comrade Tai knew each other since 1970 when I was in  
13 Sector 25 in Sa'ang Koh Thom. I was close to him.

14 Q.Did you meet him during your time as Chairman of S-21?

15 A.I cannot recall. Even if I met him it would be unofficial.

16 Q.Did you discuss with him or through Son Sen the needs of Unit  
17 98 and how S-21 could contribute?

18 A.Regarding that matter, I think you are talking about the  
19 blood, right?

20 Q.Not limited to the blood but all what is related to Unit 98  
21 and how you contributed, yes, but there were three issues; blood,  
22 surgery and the medicine.

23 A.Regarding the blood, the superior ordered S-21 to distribute  
24 to 98, so as one had to implement the order and the medic 3 drew  
25 the blood from the prisoners and took the blood to give to

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1 Comrade Tuy. That's from what I can recall regarding the blood.

2 Q.Was Unit 98 the only hospital that had needs like blood for  
3 combatants or the need to train staff on anatomy, surgery?

4 [16.11.20]

5 A.There are two parts to the question here so I will respond in  
6 two parts.

7 The 98 Unit belongs to the general staff. It's under the same  
8 superior as S-21 so the superior would, of course, support the  
9 unit under his supervision. So that is one part.

10 The second part is the study of anatomy. It was a decision by  
11 Nat, probably with the approval from the superior. And from my  
12 proposition I thought it was approved by the superior and it was  
13 the S-21 operation alone.

14 Q.You told the Chamber that this practice of blood-drawing  
15 stopped after the head Tai was arrested and you did not continue  
16 this practice with the new head of 98.

17 My question, am I right or is this a misunderstanding?

18 A.That is correct.

19 Q.And my question, there is -- did your superior, Son Sen, who  
20 had ordered to contribute to the needs of Unit 98, withdraw this  
21 order?

22 A.I did not hear anything from the new 98 Hospital chairman and  
23 my superior did not call me on the telephone from Nget You  
24 regarding the blood drawing at all. So the matter of that blood  
25 drawing was finished at that point.

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1 Q.Was the S-21 committee informed about the blood drawing?

2 A.I reserve my right to remain silent.

3 [16.15.07]

4 Q.The next question is more seeking clarification, which might  
5 be also a translation problem.

6 Where did the blood drawing take place; at S-21 or at 98?

7 Because I would like to mention that, according to the  
8 transcript, you have said they -- in the English version -- they  
9 were sent to 98, the prisoners.

10 A.Let me respond that transporting prisoners for blood drawing  
11 at 98 was hectic work because if we transport the blood for --  
12 for example, only six kilos, so it's much lighter than transport  
13 a live prisoner. So it means that the blood was drawn at S-21  
14 and only the blood was taken from S-21 to 98, not the live  
15 prisoners.

16 Q.Thank you. Concerning the surgery and anatomic studies, I  
17 would like to know if these studies took place in S-21?

18 A.Yes.

19 Q.Were there special arrangements in which -- rooms in which --  
20 places these anatomy studies were organized?

21 A.I did not know. I did not go there.

22 Q.(Recording malfunction) information about this, even if you  
23 didn't see it yourself?

24 A.I did not receive any information.

25 [16.18.04]

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1 Q. Was the S-21 Committee informed about these anatomic studies?

2 A. I did not know. I was a politician. Whatever I tried to do  
3 was not to make any mistakes regarding the Party's policy, and  
4 anatomy was not my concern.

5 Q. Do you know how many prisoners were used for such experiments?

6 A. I do not know. I only knew one person, the wife of Thach  
7 Chea.

8 Q. I come now to the experiments, the medicinal plant  
9 experiments.

10 And you have told the Chamber that you had to do it personally  
11 and you got strict order from Nuon Chea to keep it secret.

12 My question is, as you told the Chamber that staff from S-21 was  
13 informed and spoke to you. I quote from the English transcript  
14 from 16th of June on page 98.

15 "Oh, now you test the drug. How could it be that S-21 staff was  
16 informed and" --

17 A. Miss Lawyer, I remember, I always remember that I hold the  
18 medicine in my hand. I order my subordinate to keep locked up  
19 the victims in a room, the four of them. I myself took the  
20 medicine to that place. So who said that I do the treatment to  
21 the victims? They perceived that I was the one and they believe  
22 and they assume that I was the one who do the experiment against  
23 the victim.

24 [16.21.52]

25 It's not word by word from what you refer. This is the statement

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1 I can say.

2 Q.I come to another issue. You already mentioned the  
3 establishment of a group of female interrogators. My first  
4 question on this: did they receive starting training, how to  
5 interrogate and how to torture?

6 A.Normally, I would like to tell you that the education on the  
7 interrogation to the interrogator in Division 703, it's only from  
8 the beginning of the S-21 establishment. And later I assigned  
9 the new people to observe the interrogator and then they can  
10 start the interrogation.

11 And the senior interrogator will advise the newly recruited  
12 people and for these female interrogators, they didn't receive  
13 any education from me but they learned from other interrogators  
14 and they start to do the interrogation based on my guidelines and  
15 my supervision. It's going like that.

16 Q.Am I right that they attended interrogations of other senior  
17 interrogators to learn and observe how to interrogate? Is this  
18 right?

19 A.At the beginning the senior interrogator conduct the  
20 interrogation and the new staff sit and observe and can ask a few  
21 questions if authorized by the senior interrogator.

22 [16.24.49]

23 Q.Were these female interrogators assigned to one senior  
24 interrogator or did they attend only each of them a session alone  
25 with one senior interrogator? Or were these group sessions?



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1 A.As far as I recall, it happens many years. As far as I  
2 remember, the five female interrogators observed one senior  
3 interrogator and later moved to another one or two interrogators  
4 and they learn. And these female interrogators were the wives of  
5 the cadre as the wives of Comrade Hor, wives of Comrade Pon and  
6 the former interrogators would like to show that they did a good  
7 job and they would like to tell the spouses of the senior chief.

8 MR. PRESIDENT:

9 Now it comes to the time for the evening break and the Trial  
10 Chamber would like to declare an adjournment for today and we  
11 will continue our session tomorrow from 9.00 a.m. and the parties  
12 should be advised on that.

13 The Security Officer, please take the accused to the detention  
14 facility and bring him back at 9.00 tomorrow.

15 (Judges exit courtroom)

16 (Court adjourns at 1626H)

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