



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

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អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

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26 March 2012
Trial Day 41

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

The Accused: NUON Chea
IENG Sary
KHIEU Samphan

Lawyers for the Accused:

SON Arun
Michiel PESTMAN
Jasper PAUW
ANG Udom
Michael G. KARNAVAS
KONG Sam Onn
Arthur VERCKEN

Trial Chamber Greffiers/Legal Officers:

DUCH Phary
Roger PHILLIPS
SE Kolvuthy

For the Office of the Co-Prosecutors:

SENG Bunkheang
William SMITH
Dale LYSAK
VENG Huot
PICH Sambath
PAK Chanlino

Lawyers for the Civil Parties:

Élisabeth SIMONNEAU-FORT
SIN Soworn
Barnabé NEKUIE
LOR Chunthy
Lyma NGUYEN
VEN Pov

For Court Management Section:

UCH Arun

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MR. KAING GUEK EAV, alias DUCH

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Language used unless specified otherwise in the transcript

Speaker	Language
MR. ANG UDOM	Khmer
JUDGE CARTWRIGHT	English
MR. KAING GUEK EAV alias DUCH	Khmer
MR. KARNAVAS	English
MS. NGUYEN	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. NUON CHEA	Khmer
MR. PESTMAN	English
MS. SIMONNEAU-FORT	French
MR. SMITH	English
MR. VERCKEN	French

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

2 (Court opens at 0902H)

3 MR. PRESIDENT:

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

5 During today's session, the Chamber is going to hear the
6 testimony of witness Kaing Guek Eav alias Duch, questions to be
7 posed by the Co-Prosecutors.

8 We now hand over to the prosecutors to proceed with the
9 questioning.

10 And once again, before we commence these proceedings, witness is
11 reminded to speak slowly so that your statement can be rendered
12 fully into the other two languages.

13 [09.04.36]

14 The Co-Prosecutor, you may now proceed.

15 QUESTIONING BY MR. SMITH RESUMES:

16 Q. Good morning, Mr. President. Good morning, Your Honours. Good
17 morning, Counsel. And good morning to the general public. And
18 good morning to you, Mr. Kaing Guek Eav.

19 On Wednesday, we finished asking questions about some aspects of
20 the principle of self-criticism and criticism within the CPK. You
21 explained how that principle was put into practice at the monthly
22 livelihood meetings and also on an ongoing manner, to ensure that
23 a CPK member continued to build themselves in the right
24 direction, in the eyes of the Party.

25 I'd like to ask you a few more questions about that and then the

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1 remaining two principles, which are the key fundamental
2 principles of the CPK Statute. And then, today, I'd like to look
3 at the membership criteria, the criteria for membership to the
4 CPK, and the duties of CPK members, and particular -- in
5 particular the duties of senior Communist Party Kampuchea
6 members, members that worked in the leading organizations of the
7 Party at the time. And then, finally, today I'd like to discuss
8 communication lines between different members and different
9 organizations during the Democratic Kampuchea period, and if you
10 can give us an explanation about how members -- how individuals
11 communicated between different organizations within the CPK.

12 [09.06.48]

13 So, if we can go back to the self-criticism sessions,
14 particularly the livelihood meetings that were held every month,
15 are you able to say whether the -- those sessions of
16 self-criticism and criticism were recorded in writing, or were
17 they just oral sessions that were not recorded in that manner?

18 MR. KAING GUEK EAV:

19 A. The livelihood meetings -- the criticism and self-criticism
20 sessions -- were not properly recorded. Minutes of the meetings
21 would only be made during the rally -- or the assembly. And the
22 documents of that meetings have already been kept and available
23 to the Court.

24 Q. And in the Statute, it states that the self-criticism sessions
25 was a "means to struggle to build the Party internally in

1 eradicating and altering faults and various confusions inside the
2 Party".

3 [09.08.26]

4 Can you explain what the Statute means in relation to the term
5 "altering faults and various confusions inside the Party"? What
6 does "various confusions" mean?

7 A. Paragraph 7 mentions "confusions". "Confusions", here, refer
8 to the internal confusions regarding awareness, or knowledge. For
9 example, Comrade Hor performed his duty and he, indeed, executed
10 a prisoner based on his duty. However, such execution of a
11 prisoner led to the cut of a confession of that person because
12 the confession was not yet complete. So, here, it refers to the
13 internal fault and the confusions internally, and it is more
14 about the understanding, within the Party, that create this
15 confusions.

16 Q. Thank you.

17 [09.10.04]

18 And if we can move to principle number 8, it states that "the
19 Communist Party of Kampuchea clings closely to the principles and
20 stances of independence, mastery, self-reliance, and self-
21 determination of fate".

22 In the context of the Statute, what does "independence" mean?

23 A. I already indicated that the Communist Party of Kampuchea was
24 unique regarding these principles. They were independent --
25 dependent from all -- I mean, it was independent from all

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1 Parties, that -- the Party of China and Vietnam. And in the
2 Statute itself, they only focused on the real situation in
3 Cambodia. And the term "independence" or "mastery", here,
4 referring to such independence they enjoyed.

5 Q. And the term "self-determination of fate", what does that mean
6 in the context of the Statute?

7 MR. PRESIDENT:

8 Witness is instructed not to respond.

9 But, Counsel for Ieng Sary (sic), you may proceed.

10 MR. PESTMAN:

11 Yes. Thank you, Mr. President. Good morning to everyone. I have
12 two objections to this question.

13 First of all, this witness is asked to interpret a statute which
14 he has not written, as far as I am aware of. If he's asked to
15 interpret the meaning of certain words or expressions in the
16 Statute, the least the prosecutor should do is ask him - ask him
17 for the sources of his knowledge; he's not an expert, he's a
18 simple witness.

19 [09.12.51]

20 And secondly, maybe even more importantly, as far as I'm aware,
21 this is a statute which goes back to 1976, which is -- I just
22 want to point out -- after the relevant period for the first
23 trial. I think the prosecutor should explore whether these
24 principles applied in the relevant period. In other words, does
25 this Statute contain new principles? Were these rules amended, or

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1 this Statute amended? Did they apply in April 1975? Did they
2 apply when the decision was taken to evacuate Phnom Penh? If not,
3 then there's not much point asking this witness about this
4 particular Statute. Thank you.

5 MR. PRESIDENT:

6 Thank you, Counsel.

7 International Co-Prosecutors, you may proceed.

8 MR. SMITH:

9 Thank you, Your Honour. We oppose the objection on a couple of
10 grounds.

11 Firstly, even though the witness, of course, didn't write the
12 Statute, he taught it, he studied it. Your Honours have heard
13 significant testimony that this witness -- part of his role was
14 to educate other CPK members on the Statute and the meaning of
15 the Statute. So it's our submission that he's in a - in an
16 extremely good position to be able to explain what certain terms
17 of the Statute mean, certainly in a far better position than
18 anyone in this Court here today, and perhaps even - even some
19 experts.

20 [09.14.49]

21 Secondly, in relation to exploring whether or not these
22 principles applied prior to 1976 -- I mean, Nuon Chea himself has
23 said that the principles laid out in the 1976 Statute are the
24 same principles that were laid out in the 1960 Statute. So that -
25 that consistency of terminology -- the basis for that has been

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1 provided by the Defence themselves.

2 In addition to that, Your Honours, the witness has stated
3 previously that, other than some changes in the Statute relating
4 to the introduction of key criteria for senior leadership which
5 were introduced into the 1971 Statute, the principles of this
6 Statute largely stayed the same. So, for Your Honours to get a
7 greater understanding of what the Statute mean, a teacher, a
8 studier of the Statute at the time, I think, is best placed to be
9 able to provide that information, along with others.

10 MR. PRESIDENT:

11 Counsel for Nuon Chea, you may proceed.

12 MR. PESTMAN:

13 Just very briefly. I do not remember -- but it might be my memory
14 -- this witness saying that he taught the principles of the
15 Statute to other people. I remember that he said that he went to
16 meetings where somebody - or other people explained to him what
17 the Statute meant. That's a fundamental difference.

18 [09.16.30]

19 And what the prosecutor, basically, is doing now is answering the
20 question for the witness. It's up to the witness to explain to us
21 that the Statute of 1976 was a codification -- if you want to
22 call it that -- of principles which were already established
23 before that. I don't see why a new statute has to be adopted if
24 it's exactly the same as the one in 1960 or 1971. There must be
25 differences, and I think we should explore those differences

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1 because they're relevant for this particular trial. Thank you.

2 (Judges deliberate)

3 [09.17.42]

4 MR. PRESIDENT:

5 International counsel for Nuon Chea's objection is not sustained.

6 Witness is now instructed to respond to the question posed by the

7 International Co-Prosecutor.

8 If he does not remember the question, Co-Prosecutor is advised to

9 repeat the question so that he can respond properly.

10 BY MR. SMITH:

11 Q. Do you remember the question, or shall I repeat it? I think

12 I'll repeat it.

13 In the Statute, it has the phrase that the CPK clings to the

14 principle of the "self-determination of fate". From your

15 learnings of the Statute during the period, what - what does that

16 term mean? Can you assist the Chamber?

17 MR. KAING GUEK EAV:

18 A. The term was taught to every members of the Party who imparted

19 this knowledge to other people -- other members -- since 1971.

20 I did not talk about the situation when I was still in prison,

21 because I was not attached to the movements of the Party back

22 then.

23 [09.19.35]

24 When it comes to the terms "independence" and "mastery", it

25 refers to -- they refer to how we were independent to the Party

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1 of Vietnam and China and also the Soviet Union. We were on our
2 own, using the Leninist and Marxist principles -- have them
3 integrated into what we would like them to be. And we also taught
4 these principles in our unit, and I, also, was leading such
5 sessions in the trainings.

6 Q. Thank you for clarifying your role in learning and teaching
7 the Statute.

8 The next question is: The term "revolutionizing oneself by
9 oneself", what does that mean?

10 A. Could Mr. Co-Prosecutor refer directly to the paragraph? I'm
11 afraid the rendition was not able to allow me to -- because the
12 rendition was not what I expected.

13 Q. It's paragraph 8. And I understand that some of these terms,
14 when we look at them in different parts of the Statute, there
15 appears to be some overlap. But the reason why I'm asking you
16 these questions is to look at them in the various contexts in
17 which they appear in the Statute. It states, at paragraph 8:
18 "The Communist Party of Kampuchea clings closely to the
19 principles and stances of independence, mastery, self-reliance,
20 [...] self-determination of fate [and] revolutionizing oneself by
21 oneself."

22 [09.21.57]

23 What does that - what does that mean? It should be at the top of
24 the Khmer page 6 of the Statute, "revolutioning oneself by
25 oneself".

1 A. I think the terms should be read all together, which means
2 "self-reliance" -- and another one is that one has to be
3 self-determination of its -- one's own revolutionary course,
4 absolutely and firmly. This means that no other proletariat --
5 proletarian party asked - asked us to do anything other than we,
6 ourselves -- do this ourselves. So we had to implement this cause
7 by ourselves without any influence from the China or from the
8 Vietnam. So this is what we taught to others.

9 Q. Thank you.

10 And the last question I have in relation to the fundamental
11 principles of the CPK is in principle 9, and it's in the last
12 half of principle. It may relate to what you just said, but it's
13 stated in quite explicit terms.

14 [09.23.59]

15 So, if I can read it to you and ask if you can provide the Court
16 with an understanding of what - of what this means:

17 "The Communist Party of Kampuchea clearly understands its
18 extremely heavy task, its highest task. Every member of our Party
19 must strive build and to consolidate the internal solidarity and
20 unity of the Party to make it stronger politically,
21 ideologically, and organizationally at all times, and must always
22 be on the offensive, forging himself in the heat constantly,
23 always agitating, attacking, and pushing constantly, inside the
24 great, hot, and deep revolutionary movement of the popular masses
25 and the [workers and peasants]..."

1 And then it goes on.

2 My question to you: Does that – does that passage place a heavy
3 duty on a Communist Party member to assist and promote the goals
4 of the CPK?

5 A. I thank you. First, allow me to emphasize that this paragraph
6 is the conclusion of the first part, not the conclusion of
7 paragraph 9. It describes the highest duty, or the supreme duties
8 of each member of the Party. When we refer to duties -- I think
9 "duties" should not be the term; it is more about the obligation,
10 obligation imposed on each and every one member of the Party.

11 Q. And as we move off the principles contained in the Statute,
12 are these principles consistent with the principles that were in
13 force prior to 1975?

14 (Short pause)

15 [09.27.24]

16 Perhaps if I rephrase the question: The principles that are
17 contained in the first part of the Statute -- are they consistent
18 with the principles of the 1971 Statute and the 1960 Statute? Can
19 you answer that?

20 A. I think you are now referring to Chapter 2 of the Statute. Is
21 that what I understand correctly?

22 Q. No. I apologize for the confusion. What I'm asking is: The
23 general principles at the beginning of the Statute -- are they
24 similar to and consistent with the general principles in the
25 previous Statute that you studied in -- that was released in

1 1971?

2 A. Please allow me to elaborate in details on this.

3 The 1971 Statute and the 1966 (sic) Statute were different, but
4 very minimal -- it was a slight difference. And I think the
5 difference was in the military section. 1976 Statute states more
6 clearly on the role of the army. However, I already indicated
7 earlier that the Statute of the Party of 1971 and that of 1976
8 were in the selection of the cadres.

9 [09.29.53]

10 And these statutes were different from that of 1960s Statute
11 because of this new criteria concerning the age -- or the
12 seniority of Party's member before they could be recruited as a
13 member.

14 I cannot tell whether the first part of the statutes of 1971 and
15 1976 -- the same or consistent with the Statute of 1960s or not
16 because it was a long time ago and I may not recall them very
17 well.

18 Q. Now, if we can look at the duties and obligations and the
19 criteria for the membership of the Party, if we look at Article
20 1, it explains what the criteria was to join the Party and it
21 states that there were two qualifications required. But before
22 those qualifications could be met, it had a precondition to join
23 the Party. And at the beginning in Article 1 it states:
24 "Persons who may join the Communist Party of Kampuchea are
25 members of the Party core organizations (the Youth League and the

12

1 Pillars)..." And they be "male or female, of age 18 [or] older",
2 and who then fulfil "two following qualifications".

3 [09.31.45]

4 My question is: Can you briefly explain to the Court what the
5 Youth League was?

6 A. "Youth League" referred to the alliance of the Communist Party
7 of Kampuchea youth.

8 Q. And do you know how that was organized and when that was first
9 established?

10 A. The Youth League, I actually do not know when it incepted --
11 it was incepted, but it was an organization tasked to select
12 revolutionary individuals from the, for example, progressive
13 youth to join the Youth League. And they had to refashion
14 themselves and they have to shoulder certain responsibility for a
15 certain period of time before they can be promoted to the Party
16 members. In other words, the Youth League is the -- the core
17 organization before they are actually inducted into the Party.

18 [09.33.58]

19 There are two groups: the Youth League and the Pillars. The Youth
20 -- the difference between the Youth League and the Pillars are as
21 follows: those who have professions or occupation -- for example,
22 petite bourgeoisie or those who are 18 years and older -- are not
23 going to be -- were not included in the Youth League, but they
24 would be included into the Pillars. For example, Nat and myself,
25 we joined the Pillars; we did not join the Youth League because

1 we were older than 18 years and we had our specific occupation at
2 that time.

3 Q. Thank you. And if we look at Article 26 of the Statute, it's
4 -- it reads:

5 "The Communist Youth League of Kampuchea and the Pillars are core
6 organizations of the Party in implementing the Party's political
7 line, ideological principles and stances, and organizational
8 lines among the popular masses, the worker-peasants and the
9 Revolutionary Army of Kampuchea."

10 [09.35.16]

11 Can you tell the Court whether, in fact, that was the role of the
12 Youth League and the Pillars, particularly when you were a member
13 of that Pillar organization? It should be at the bottom of page
14 52 in your document.

15 A. This particular article provides that the two core
16 organizations are the arms of the Party, and that is correct. And
17 I was ordered to implement the Party's political line, and
18 subsequently I also set direction for Youth Leagues within S-21
19 and M-13 to follow this working procedure.

20 Q. And how long were you a member of the CPK Pillar for before
21 you became a Party member?

22 A. I was in the Pillar with -- along with Nat in -- sometime in
23 1965, and I was promoted into a candidate Party member on the
24 25th of December 1967, and I had to -- I had to -- started my
25 probationary period on the 20th of July 1969.

1 Q. Thank you.

2 [09.37.43]

3 And once that -- under the Statute, once that precondition is
4 met, then it requires that a candidate fulfil two qualifications.
5 Now, if we look at Article 1.1, Part A, it lists five criteria in
6 the first qualification category to become a member of the Party,
7 and I would like to ask you some questions about what that
8 criteria meant.

9 If we look at Part A, it states that the member must have -- must
10 have had good and constantly combative activities, tested in
11 successive revolutionary work in the unions, the cooperatives,
12 the Revolutionary Army, following the Party political line and
13 the ideological stances of the Party and-- And it repeats itself.

14 [09.38.50]

15 But the question I have is: What does it mean that the member
16 "must have had good and constantly [competitive] activities,
17 tested..."? What does that particular requirement -- "[competitive]
18 activities" -- mean?

19 A. Those who were in the core organization, to be promoted to the
20 members of the Parties, they had to meet this criteria of good
21 and constantly combative activities, and this good quality varies
22 depending on the social context in which they operated.

23 I was back then a teacher in Skun High School. I led a number of
24 students to spread the tracts, or leaflets, and then I constantly
25 expanded my lines of networks, and I also instilled the Party

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1 morals with the youths at that time. So I were considered a
2 combative member. And in that -- in this Statute, it refers to
3 the good combative activities in the unions and the cooperatives.
4 So I did that.

5 [09.40.44]

6 So those who were in the Youth League as wells -- as well as in
7 the Pillars, they had to understand this core concept of being
8 involved in the activities.

9 So that's what I can tell you, Mr. Prosecutor, about my
10 involvement.

11 Q. So, to be clear, the -- this first criteria, or the first
12 qualification, doesn't -- didn't require a member to be involved
13 in armed combat, involved in the military forces or militia
14 forces; it required the member to be proactive in pushing the
15 Party line, stats, and ideology; is that correct?

16 A. Thank you, Mr. Co-Prosecutor. I was actually working in a
17 different context from the underground forces or the militia
18 group. If it was involved with the underground forces or militia
19 group, then, of course, that was the prime requirement; but since
20 I was not in that group or categories, then I was not required to
21 meet that criteria.

22 Q. Thank you.

23 And if we move to the second criteria, it states that the member
24 "must be of a good class pedigree, and in particular hold the
25 worker class stance".

1 [09.42.28]

2 When they refer to "must be of a good class pedigree", what does
3 that mean in the context of the CPK ideology at the time?

4 A. Thank you. By "good class pedigree", if we talk about farmers
5 or peasants, we refer to poor peasant or the lower middle-class
6 peasants. If we refer to workers, we refer to industrial workers.
7 If we refer to students, we refer to the background of their
8 parents. So this is what is meant by "good class pedigree". Thank
9 you.

10 Q. And, so we understand it clearly, what would -- what would be
11 a bad class pedigree, in light of the ideology in this Statute?

12 A. The other class were considered the second or third
13 categories. For example, the middle class are farmers or the
14 upper-class farmers or the petite bourgeoisie are considered in
15 the second categories.

16 [09.44.32]

17 And the first categories actually involve the farmers, or
18 peasants, or industrial workers, or student whose parents were in
19 the workers' class; but as for the second categories, we refer to
20 those who were in the group of middle-class peasant or
21 upper-class peasant.

22 Q. And the requirement also requires that the member "hold the
23 worker class stance". What does it mean, to "hold the worker
24 class stance"?

25 A. This is more theoretical than being realistic. When we refer

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1 to the good class pedigree, it must be compliant with the five
2 elements: the first one is the scientific, social elements,
3 collective elements -- it means that we think collectively and
4 everything is for the collective interest; and the elements of
5 respect to the organization disciplines; the true element of
6 vanguard force. But I have forgotten one more element. But they
7 must be in compliance with the five core elements which was
8 embedded in the theory of Leninism.

9 But I, myself, view it as purely theoretical, and it is not at
10 all realistic.

11 Q. And if we look at -- if we look at qualification C, it says
12 the member "must have good and clean life morals and be good and
13 clean politically".

14 [09.46.43]

15 What do both of those terms mean?

16 A. Thank you. By "good and clean life morals", it constitutes a
17 person who does not consume alcohols -- they are not alcoholic --
18 they do not womanize, example, they-- So these are some of the
19 elements of good and clean life morals.

20 Q. And "good and clean politically", what -- what does that mean?

21 A. By good and clean politically means twofold: one is that they
22 have never been involved with the enemies, in other words they
23 did not join the enemy; second element is that the person was not
24 related to any members in the enemies -- by blood, I mean, in
25 this context.

1 Q. Thank you. And in the -- in the context of this qualification,
2 what does "the enemy" mean - "not been involved with the enemy"?
3 Who were they referring to in this context?

4 A. "Enemy", in this context, refers to the enemies before 1975.
5 For example, the member was not related or linked to any activity
6 of the Lon Nol clique, or Lon Non, or Chea Kim Eng, who was the
7 commander in armies at that time. So that was what it meant.
8 And following 1975, it was rather difficult to describe because
9 Noy, the son-in-law of Vorn Vet, were considered enemies, as
10 well, because -- and it was quite difficult to describe enemies
11 after 1975.

12 [09.49.47]

13 Q. And if we look at criteria D, it states that the member "must
14 examine, question, and take the measure of the opinions of the
15 popular masses" and "those selected into the Party must live or
16 work in the cooperatives".

17 What does it mean that the member must examine, question, and
18 take measure of the opinions of the popular masses?

19 A. "Take the measure of the public -- opinions of the popular"
20 has a very practical meaning.

21 After the 17 April 1975, Division 107 appointed - rather,
22 Division 703 appointed Comrade Mon to follow up the personal
23 history of individual at the base. They had to track the personal
24 history of those individuals so they had to ask the local
25 authorities, for example whether or not that person had had a bad

1 record, for example being theft in the village or so.

2 [09.51.15]

3 So, following 1975, they continued to track along their line
4 organization; for example, the person had -- had the personal
5 history of working in the cooperatives or in the unions. So they
6 ask the opinions of their -- the respective organization with
7 which the individuals worked, so they ask the company -- for
8 example, company committees and other organizations involved --
9 for the history of individuals.

10 Q. And I think this is the first time you've mentioned this
11 phrase -- or we were asking you the meaning of this phrase, and
12 it's the last criteria in the first qualification; and it states
13 the member "must have a clear personal history".

14 Can you briefly explain what that means, "a clear personal
15 history"?

16 A. Thank you. As I explained a bit earlier on, when S-21
17 appointed Mon to follow up the personal history of our members,
18 that was about -- to reflect the personal history, so we tried to
19 detect the personal history of our members. And, in addition, the
20 organization with which the person works had to -- had clear
21 record of personal history. And if someone cheated us, for
22 example saying that they were the -- or they belong to the worker
23 class or proletariat -- proletarian class, then we had to detect
24 and track the personal history of that person.

25 [09.53.42]

20

1 Q. And I think you've begun to answer my next question, which is
2 the second qualification category required for membership, and
3 that is that "many levels of [the] Party organization must
4 collectively examine, deliberate, and decide before permission to
5 join can be granted".

6 And then, as you see in Article 2.2 (sic), it lists the various
7 levels of committees that are required, for a particular
8 individual, to review their application.

9 So, for example, if we look at the first category, it states, for
10 A:

11 "For the base: Four levels of Party organization must
12 collectively examine, deliberate, and decide, that is: [the]
13 Branch; [the] District Party Committee; [the] Sector Party
14 Committee; and [the] Zone Party Committee."

15 And then, for each different occupation or position of the
16 candidate, they have different levels of Party committees that
17 must examine and deliberate.

18 [09.55.11]

19 My question for you is: Why was that requirement of a four --
20 three or four level committee review required for a candidate?
21 Why was that deemed to be necessary, from your understanding of
22 the Statute and how it was put into practice?

23 A. I had attended a training course, but I did not recollect when
24 it took place. But before 1970, particularly before 1975, no one
25 wanted to join the Party because it was dangerous for them to

21

1 join the Party. But following 1975, everyone wanted to join the
2 Party because they wanted a leadership position; that was the
3 real situation at that time. That's why the Party invited
4 different committees in order to decide membership status of the
5 member so that they can ensure that no enemy elements can
6 infiltrated into the Party.

7 Q. Thank you.

8 [09.56.48]

9 And, in fact, in the Statute, under Article 2E (sic), this
10 examination, discussion, and deliberation had to be done over a
11 certain period.

12 And if we look at page 14 of the Statute, it states:

13 "[The] preparatory period: There are two types of preparatory
14 periods which are designated according to the quality of each
15 individual subject: First, examine according to the 'Ten
16 Criteria' of the Party..."

17 And then: "...according to the movement which the subject has
18 served, a hot movement or one not so hot; and third, examine
19 according to the original class of the subject..."

20 Can you answer the question as to what is meant in the Statute
21 when it says "according to the movement which the subject has
22 served, a hot movement [and] a not so hot"? What do those two
23 terms mean?

24 A. There are two distinctive -- distinct movements. The "hot
25 movement" refers to military movements which involve combats in

1 the battlefields, and the not-so-hot movement refers to the
2 ministerial activities; for example, youths worked in M-13. This
3 were not considered as a hot movement. The movement at S-21 was
4 not considered hot movement.

5 [09.59.02]

6 Movement in the cooperatives were considered a hot movement
7 because they -- they resolve matters; for example, they have --
8 they had to build dyke and dams and they had to try to meet the
9 quota set by the Party to produce, for example, 3 tonnes per
10 hectare. So this is considered hot movement.

11 Q. And the -- the article provides two preparatory periods: one
12 for six months for the first-category quality, and one for 12
13 months for the second-category quality.

14 Do you know why there were the two different preparatory periods
15 for the first and second quality candidate?

16 [10.00.20]

17 A. Thank you. If one was the alternate member of the Party, then
18 one had to be checked on their first-quality criteria, so they
19 had been in the preparatory phase for six months, then they would
20 be allowed to join the Party.

21 And for the second category, then they had to go through 12
22 months preparatory phase, and this even lasts longer; it depends
23 on how the person background was checked.

24 Q. Based on your work in the Party during the period and before
25 -- during the Democratic Kampuchea period and before, were these

1 preparatory periods respected? Did the examination of the
2 candidate occur over the full period of time?

3 A. I may emphasize that I dare not talk about the implementation
4 of the Statute of 1966, but I want to share with you my view on
5 the implementation of Statute of the Party in -- from 1971;
6 that's what the implementation was.

7 [10.02.07]

8 The 1960s Statute was a bit different because the first
9 preparatory period was of three month, and the second phase was
10 six months.

11 I was part of -- I was in that preparatory period in December
12 25th of 1977 (sic). However, I was later on imprisoned, and when
13 -- when I was imprisoned, I had to fill this period when I
14 remained in captivity. But later on, this period was extended at
15 some point to 12 months.

16 Q. Thank you. The English translation was 1977, and I think it's
17 1967.

18 At the end of -- at the end of the preparatory period, the
19 Statute states that "each individual subject, all levels of the
20 Party responsible for collectively examining, deliberating, and
21 deciding (base, office -- ministry, four levels; concentrated
22 armies, five levels) must approve before full rights are given to
23 the Party member."

24 [10.03.52]

25 According to your observations and -- of the application of the

1 Statute, is that correct that all levels of the examining
2 committee were required to agree before full-rights status was
3 given to a member?

4 A. In reality, it is the company or the cooperatives or the union
5 who would submit such application, but how decision was made
6 would be in line with this criteria. For example, people in the
7 base would be decided by the zone level – rather, at the base
8 level -- we need only four levels -- decision made at four
9 levels, when -- at the army, there would be five levels of
10 decision-making.

11 Q. Thank you.

12 Article 3B, which relates to the rights of Party members -- and
13 that's at the top of page 19 in your copy -- it states: "To
14 present one's own name as a Party member for selection and the
15 selection of other persons into the various Party [leading]
16 organizations."

17 So this article states that a full Party member has that right to
18 present his own name for selection and the selection of others
19 into various Party leadership organizations.

20 [10.06.05]

21 My question to you is: What about regular Party membership, not
22 Party membership to a leadership organization in the CPK, but
23 regular Party membership? Is a full-rights member required to
24 present an application for selection, or can an applicant simply
25 apply themselves for regular membership to the Party?

1 A. First, we are talking about the regular, or normal full-right
2 member of the Party, how application can be applied. It is the
3 branch itself who managed this because the person concerned would
4 need to only concentrate on their work, and the branch would
5 handle this for him or her. And that member can only be promoted
6 to be deputy -- member of the branch, no more than that.

7 Q. So, to be a regular member of the CPK, did you have to be
8 nominated by the branch or could you simply just apply yourself?

9 A. In reality, it was the branch who proposed such request, and
10 the request would be proposed to the upper echelon, and the
11 decision made from the top to nominate any individual for the
12 position, and decision would be made accordingly.

13 Q. You've used the word "candidate member". Is it fair to say
14 that a person becomes a candidate member from the time they are
15 initially nominated for membership until such time that they
16 receive full-rights membership, at the end of that preparation
17 period?

18 [10.08.59]

19 A. That is correct. I may wish to emphasize that a candidate
20 member had no right to be appointed as a member directly; he or
21 she shall remain under the supervision from the other.

22 Q. And a moment earlier, you referred to the expression
23 "alternate member". What does the term "alternate member" mean?

24 A. "Alternate member" refers to the core organizations -- a
25 member of the core organization, those who would be in the stage

1 where their qualification would be checked and verified before
2 they could be inducted into the Party.

3 Q. Does the term "alternate member" and "candidate member" mean
4 something different?

5 A. In - in the CPK, we do not really have different terms for
6 alternate member; I think we use only one term in Khmer which
7 mean "tream" (phonetic), so it can either be alternate or
8 candidate member.

9 [10.11.09]

10 Q. Thank you. You have just explained to the Chamber what's
11 required, what criteria a candidate must possess to be a member
12 of the CPK. You've also explained the examination and preparatory
13 period required by a group of committees to determine whether or
14 not a candidate is appropriate to be a member of the Party.

15 My next series of questions relates to members of the Party that
16 seek to apply to work in Party leadership organizations. And if
17 we look at Article 5, under Chapter II, it has 10 criteria for
18 selection into the various Party leadership organizations.

19 My first question is: What does the term "the various Party
20 leadership organizations" -- what does that mean? What
21 organizations of the Party are they referring to?

22 It should be at the bottom of page 22, on the Khmer version.

23 A. Article 5 reads:

24 "To raise the quality of Party leadership and to guarantee its
25 inherent strength and purity in terms of Party politics,

1 ideology, and organization, various criteria must be established
2 as the factors for deliberation in selecting cadres into the
3 various leadership committees of the Party."

4 [10.13.51]

5 The term "various leadership committees of the Party", it refers
6 to the other various Party-- For example, branch is the lowest
7 organization of the Party. The branch can lead the cooperatives
8 and the companies. And a higher level than that, it could have
9 been called "the committee" -- "Party committee", for the platoon
10 in the army, for example. Above that, it would be the committee
11 for the regiment, and also the committee for division in the
12 army, and also the general staff committee in the army. On top of
13 that, there would be committees, what we call "Central Committee"
14 of the Party.

15 [10.14.59]

16 I would like to emphasize that S-21 belonged to the regiment
17 committee for the army.

18 Q. Thank you. That - that helps us understand the range, or
19 levels of some organization of the Party.

20 But just if we can concentrate on the various Party leadership
21 organizations, which leadership organizations are being referred
22 to, generally, in this - in this section, Article 5? What would
23 you classify -- what would the Statute classify as leadership
24 organizations in the Party?

25 A. I may specify that, in the Communist Party of Kampuchea, it

1 was the Party who controlled everything, absolutely all parts.
2 In one company, the branch would manage or control every parts.
3 In cooperatives, then the branch would control all parts like in
4 the union. And this was the way how the leadership would be
5 applied.

6 [10.16.52]

7 I don't remember whether the regiment was equivalent to a
8 cooperative or a mobile unit; I'm not sure. However, I still
9 recall that a battalion committee was equivalent to a commune,
10 and a regiment committee was equivalent to the district
11 committee. And this is how we can see its - tell its equivalence
12 in our interpretation.

13 Q. Thank you.

14 If we look at the first criteria for selection into leadership
15 positions of the parties, it states that there must be a "strong
16 revolutionary stance on the Party political line" -- and I read:
17 "Must have a proper and tough political stance, orderly, not
18 rightist, 'not leftist', in fulfilling specific political tasks
19 of the Party which one is implementing, one after another, and
20 especially in the national defense and national construction of
21 Democratic Kampuchea."

22 [10.18.24]

23 My question is: When it states that the member must have -- must
24 be "fulfilling specific political tasks of the Party", what types
25 of tasks would be meant within this framework of the criteria?

1 A. The key issue indicated in the first principle of Article 5 is
2 the proper stance -- proper political stance, orderly, not
3 rightist, not leftist. We have to understand what is not rightist
4 and not leftist. When it is about leftist, leftist refer to our
5 view of seeing everything as an enemy.

6 For example, Hor took Son Sary to be executed as -- under his
7 duty. We could consider Comrade Hor as an enemy. Otherwise, he
8 could have been executed as well because he executed a prisoner
9 because he did not understand the case very well.

10 In another incident, Nat decided to arrest his subordinate
11 arbitrarily. And if we did not comment on this, we were regarded
12 as the rightist before -- because we colluded with the person who
13 made this arbitrary decision.

14 [10.20.22]

15 So I think it is more to understand the rightist or the leftist.
16 And our principle was that we shall not be leftist or rightist.

17 Q. Thank you. And in that article, it states that there must be
18 specific political tasks of the Party, "especially in the
19 national defense and national construction of Democratic
20 Kampuchea".

21 From your observations of the application of policy during that
22 period, was that a preoccupation of the Party, national defense
23 and national construction of Democratic Kampuchea, during that
24 time?

25 A. "National defense" refers to fending off the enemies, the

1 Vietnamese enemies, from invading us, from infiltrating in our
2 country. The American issue already finished, so here it was
3 about protecting our country from the Vietnamese.

4 [10.21.59]

5 And with regard to the "national construction" of the country, is
6 meant to build one country, according to the Great Leap Forward
7 principle, to a more socialist country, quickly, according to the
8 great revolution -- or cultural revolution principle.

9 Q. Thank you. And the term "national defense", did that include
10 the concept of defense against enemies from within the country as
11 well as outside, or was it just purely for enemies outside of the
12 country?

13 A. In my brain -- or my head, I could still not be -- or
14 distinguish these two issues very well. I have not been able to
15 do that.

16 Q. And if we look at the second criteria, it states that a
17 "strong Party revolutionary stance on proletarian ideology" is
18 required, and if we read down, it states:

19 "Have an audacious stance of active combat and endurance of
20 difficulties on all occasions in absolute class struggle in the
21 national defense and national construction of Democratic
22 Kampuchea in the direction of socialist revolution and building
23 socialism."

24 What does it mean that the member must "have an audacious stance
25 of active combat and endurance of difficulties"?

1 [10.24.26]

2 A. The term "have an audacious stance of active combat and
3 endurance of difficulties on all occasions in absolute class
4 struggle in the national defense and national construction of the
5 Democratic Kampuchea in the direction of socialist revolution and
6 building socialism" means each member of the Party shall not be
7 discouraged, they shall struggle to push forward for -- to
8 achieve the class struggle's goal to -- in the direction of
9 socialist revolution and building socialism.

10 [10.25.22]

11 This "class struggle" here referred already in the previous --
12 paragraph 2, the materialism. For example, we oppose -- or we are
13 -- we were against materialism in the forms of vehicles,
14 jewellery, gold, and also power, ownership, cursing subordinates,
15 pointing fingers to the subordinate or implicating their
16 subordinates as enemy. So this part was -- had to be abandoned.
17 So each member was supposed to rid of this, had to rid of
18 individualism, private ownership; and most importantly they shall
19 endure difficulties on all occasions. That's all, thank you.

20 Q. Thank you.

21 And if we can move to the third criteria, which is at top of page
22 24, it states that to be a member in a -- in a leadership
23 position you must have a "strong revolutionary stance on internal
24 Party solidarity and unity". And down the bottom of that section,
25 the last line, it states:

1 "Must be most vigilant towards stances, character, spirit, and
2 activities in opposition to or in attack against the Party or
3 fellow comrades because of individual, private, and group
4 ownership stances."

5 [10.27.25]

6 What do they mean by being -- "must be most vigilant towards
7 stances, character, spirit, and activities in opposition to"?

8 What did that phrase require the Party member to do?

9 A. People not wanted by the Party were those who were aggressive,
10 bad-tempered, judgemental; so these were the people not wanted by
11 the Party. And for that reason, the Party had to isolate or get
12 rid of them.

13 In the contrary, those who were gentle, who were able to lead the
14 movement, were the essence of the Party.

15 And, as I indicated earlier, the chief, or boss, had to care for
16 their own subordinates.

17 Q. And in practical terms, "must be most vigilant towards
18 stances, character, spirit, and activities", how did a Party
19 member do that at the time? How was that vigilance -- how did
20 that vigilance appear in practice? How was that principle
21 applied?

22 A. People who were not performing their task properly, the Party
23 would try to re-fashion, re-educate the persons to ensure that
24 the person posed no more danger to the Party or risk to the
25 Party. These people would be criticized in the self-criticism

1 sessions, and reports would be compiled on a regular basis to the
2 upper echelons so that each member problem could be well informed
3 to the parties, because the Party had to be able to understand,
4 or grasp the situation of each individual who was member of the
5 Party.

6 [10.30.30]

7 So this means that at one time, when the upper echelon made a
8 decision to impose sanction on any individual perceived to be
9 enemy by the upper echelon, then such sanction would be imposed
10 accordingly.

11 We can refer to the chapter on the Party discipline, and
12 Co-Prosecutor may refer to that--

13 MR. PRESIDENT:

14 Thank you.

15 Since it is now appropriate time to take the adjournment, we will
16 adjourn for 20 minutes. The next session will be resumed at 10 to
17 11.

18 And security personnels are instructed to take the witness to his
19 waiting room and have him returned to the courtroom when the next
20 session -- before the next session resumes.

21 Counsel for Ieng Sary, you may proceed.

22 MR. ANG UDOM:

23 Thank you, Mr. President, Your Honours. Due to health concern of
24 my client, his lumbago and legs problem, Mr. Ieng Sary has
25 requested to waive his right to participate in the courtroom but

34

1 asks that he be allowed to follow the proceeding from his holding
2 cell today.

3 [10.32.05]

4 MR. PRESIDENT:

5 The Chamber has noted the request of Ieng Sary through his
6 counsel, asking to be excused from this courtroom. He asks that
7 he be allowed to follow the proceeding from his holding cell
8 through the video-link for the whole day due to his health
9 concern.

10 The Chamber, therefore, grants such request.

11 The Chamber advises the counsels to hand over to the Chamber the
12 waiver signed or given thumbprint by Mr. Ieng Sary.

13 AV officials are now instructed to ensure that the video-link is
14 connected to his holding cell so that he can observe the
15 proceeding downstairs.

16 And security personnels are now instructed to bring Ieng Sary to
17 his cell -- holding cell.

18 And the Court is adjourned.

19 (Court recesses from 1033H to 1051H)

20 MR. PRESIDENT:

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

22 And I hand over to the International Co-Prosecutor to continue
23 his line of questioning.

24 BY MR. SMITH:

25 Thank you, Mr. President.

1 Q. Mr. Kaing Guek Eav, before we broke, you were explaining how
2 members -- we're looking at one of the criteria and stating that
3 -- it states that members "must be most vigilant towards stances,
4 character, spirit, and activities in opposition". And you
5 explained how individuals would be investigated or reviewed by
6 members to see whether or not they were involved in those
7 activities that were perceived to be in opposition.

8 [10.52.57]

9 In your experience, when you were at S-21, did you, yourself,
10 carry out investigations into people's background, whether they
11 be prisoners or staff or other - other individuals, ensuring that
12 you were most vigilant towards these people that may be in
13 opposition to the CPK ideologies? Did you, yourself, carry out
14 any investigations on particular individuals, outside of the
15 confession process?

16 MR. KAING GUEK EAV:

17 A. Thank you. I would like to emphasize that the condition was
18 implemented within the Party and among the combatants. And as for
19 the victims who were imprisoned in S-21, this particular Statute
20 was not applied. Groups investigate their own subordinates in the
21 groups, so they followed these lines of reporting.

22 [10.54.53]

23 The secretary of S-21 committee was supposed to receive reports
24 from the deputy secretary, and the secretary will continue to
25 report to the upper echelons. So this is the routine

1 communication. But the S-21 committee, which I actually cited two
2 examples earlier, that was the practice -- separate practice at
3 S-21.

4 Q. Thank you. And at S-21, you were initially deputy-secretary
5 under Nat, and then, in 1976, early 1976, you became secretary or
6 chairman of S-21; is that correct?

7 A. Thank you. I became the secretary of the S-21 Party committee
8 some time in March 1976.

9 Q. Thank you. And when you were deputy secretary at S-21, did you
10 provide any reports on people's background -- biographical
11 reports on their background -- to the secretary?

12 A. Thank you. Those who were involved in the operation of S-21,
13 the majority of whom were from division 703 -- and it was under
14 the supervision of Comrade Hor. And the newcomers were in two
15 groups: one from M-13 -- around 10 of them came from M-13, under
16 my supervision -- and the other group from the city committee,
17 but they were in charge of the Party affairs under Hor
18 supervision.

19 [10.57.46]

20 And as for my responsibility, when Nat was my boss, I was in
21 charge of conducting interrogation and train interrogators and
22 prepared documents and confessions by the prisoners. So these are
23 the -- these were the tasks I were responsible for, aside from my
24 duty to collect documents from the former Lon Nol officer's
25 homes--

1 Q. And-- Sorry.

2 A. And the public institutions which I went to in search of
3 documents were -- included the National Police Commission, Sonhor
4 (phonetic), and the Office of the chief of staff; and in French,
5 it reads "(in French) Quartier général de l'administration de
6 l'armée (end of intervention in French)". And then I collected
7 document from Lon Nol's house, Vansor (phonetic), and other
8 officials.

9 And then, after that, I came to S-21, and I had in my custody a
10 number of documents. And I led interrogation and I also train
11 other investigators as well. And when I turned the secretary of
12 S-21, I was in charge of all the tasks. And the Party's affair
13 was then transferred to Hor.

14 [10.59.31]

15 Q. Thank you.

16 And if we go back, now, to the 10 criteria for selection to the
17 various Party leadership organizations, looking at criteria
18 number 3, on the last -- at the bottom of page 25, it states:

19 "Must have a stance and attitude of leadership in working close
20 to the popular masses in the unions, cooperatives, and the
21 Revolutionary Army, have innovative ideas, be creative, be
22 masterful, be vigorous, and always be hotly on the offensive."

23 What does it mean, that the member should "always be hotly on the
24 offensive"? What does that term mean?

25 A. Could you please hold on? Because I need to refer to that page

1 first. Could you indicate the page in Khmer for me?

2 Q. It should be page 25, down the end.

3 [11.01.14]

4 A. In Khmer, indeed, we must be very "vigilant on principles and
5 stances and attitudes toward working in bureaucratic, feudal,
6 authoritative, militaristic, liberal, conceited, unauthorized
7 ways, not being responsible in any way to the Party, the
8 revolution, and the People". So these kind of attitudes were not
9 allowed by the Party.

10 When it comes to bureaucratic, it also shall be avoided. Rankism
11 was part of this process, because we had to avoid going
12 everywhere guarded by several entourage of bodyguards. And
13 "militarism" means that we should not resort to military
14 action against anyone quickly. And "liberalism" means that you
15 did things arbitrarily and you did not listen to you superiors.
16 Individualism was also part of the principle or attitude that was
17 not regarded as the most responsible one, in any way, to the
18 Party, to the revolution, and to the people, and they should be
19 avoided.

20 [11.03.21]

21 Q. Thank you. In fact, the phrase I was referring to was just
22 above that, in Khmer, where it states that -- it relates to the
23 member -- "always being hotly on the offensive". It should be
24 just - just above the section that you read out.

25 Can you explain what "always being hotly on the offensive" means?

1 A. "Always be hotly on the offensive" is -- means different from
2 being careless.
3 For example, we had to be very punctual. We had to go to work at
4 the supposed time. And that kind of work, for example if you work
5 on schedule, then it is only modest work. "Hotly on the
6 offensive" means you had to work overtime when need be.
7 Combatants had to be "hotly on the offensive" when their
8 superiors had to be on the stage. So we had to work harder with
9 regard to this.

10 Q. Thank you.

11 [11.04.57]

12 And if we could look at criteria number 5, where it states:

13 "Strong Party revolutionary stance on revolutionary vigilance,
14 maintaining secrecy, and defending revolutionary forces", can you
15 explain what the phrase "maintaining secrecy" means? How did that
16 relate to how a member should convey themselves, how a member
17 should apply that principle?

18 A. "Maintaining secrecy" was the core aspect of all work. As I
19 indicated, we only knew our own business.

20 You remember a witness, my subordinate, Mr. Chhun Phal. He did
21 not even want to know who I was, what my face looked like,
22 because he just minded his own business to maintain secrecy.

23 And in another aspect, the prosecutor may still recall -- I would
24 like to recall an incident where So Phim was implicated in the
25 confession, and Comrade Hor leaked that information. Later on, he

1 was suspended.

2 [11.06.50]

3 And this was the way we had to maintain our secrecy. No one could
4 come close to S-21. People could only go close to the reception
5 area, not closer. But the reception area would be now at the
6 Beehive Radio Station, as it is now.

7 And Pang, exceptionally, could go all the way deep inside S-21
8 because he was representing the upper echelon. Comrade Lin would
9 only be escorted to the area in the compound of my house, but not
10 S-21.

11 And when it comes to documents, no one could see these documents.
12 Everyone had to maintain this secrecy.

13 Q. So does the principle of secrecy mean that the Party member
14 was to keep his work secret from others?

15 A. Secrecy was the main basis.

16 The term "secrecy" is also conveyed in a slogan published in
17 1970. This secrecy comes into four terms: do not know, do not
18 see, do not hear, and one more, do not speak.

19 [11.08.48]

20 Q. Now, in relation to the organization itself, the Communist
21 Part of Kampuchea, who - who does this -- when applying this
22 principle of secrecy, who was it to keep the work secret from?
23 Who is it -- who were the people that the work should be kept
24 secret from?

25 A. First, I would like to share with you the aspect of not

1 letting anyone know.

2 The person who was entitled to report -- or to know the
3 information was confined to some people, including those who, for
4 example, could know documents about S-21's confessions. S-21
5 shall not report to any other individuals other than Son Sen on
6 these confessions, and the confession had to be delivered through
7 his messenger. And I had to be very careful because the document
8 had to be carried -- to be delivered by a car.

9 And after 1977, Comrade Toeung, Second Brother - or Brother
10 Number Two's messenger, came to take the documents. And when
11 Comrade Toeung had another prior commitment in China, Comrade
12 Pang was in place to take the documents.

13 [11.10.43]

14 And even the Committee of the General Staff shall not receive any
15 report from S-21. S-21 could not report anything to that
16 committee. Otherwise, we would be in big trouble.

17 So how we keep secret from others? We kept secret from other
18 people who were not party to the documents, so we had to keep
19 them secret.

20 Q. So, if I can gather from your answer, the principle was not to
21 keep your work from -- your work secret from your superior, it
22 was to keep work secret from others not in the chain-of-command
23 of your work; is that correct?

24 A. Thank you. I think sometimes we had to keep secret from our
25 superior. For example, we shall not know where our superior would

1 go, where he was, and the less we know about this, the better.

2 Q. However, in terms of the core function of your work -- the
3 core function of your work as a Party member was the principle of
4 secrecy, one which only allowed your superior to know the core
5 function of your work, but not other members not related to that
6 work area; is that correct?

7 [11.12.53]

8 A. I think the question is rather broad. Could you please be more
9 specific?

10 Q. In a moment, we'll discuss reporting lines, how information
11 was communicated between superior and subordinate. But the
12 question I'm asking is in relation to the core work of any Party
13 member: Was it necessary that the core work of a Party member be
14 reported to his superior? Is that correct?

15 A. Yes, it is. It is not only in the framework of S-21; it is so
16 in the Central Committee framework. S-21's documents would note
17 -- would be written on it: Attention directly to Bong Nuon -- or
18 Bong directly. So any individual other than the person whose name
19 appears on the letter or on the document would not be entitled to
20 read it.

21 Q. The Communist Party Kampuchea Statute, was that a secret
22 document, or a public document?

23 [11.14.44]

24 A. It's its definition; the Statute of the CPK was a secret
25 document. I can say that this document shall remain secret before

1 1975, and that no enemy would know anything about the Statute.

2 However, when the Party came into public after 1975, I guess the
3 document also became public.

4 Q. In -- when we look at principle or criteria number 5, it
5 states that the member must maintain secrecy, but also "defending
6 revolutionary forces at all times in all action, work, speech,
7 attitude, in life, in every way".

8 What -what does it mean by stating the member must defend
9 "revolutionary forces at all times in action, work, speech,
10 attitude, in life"? What requirement did that place on a member?

11 A. The main goal of maintaining secrecy is to maintain the
12 Party's goal, it is to keep the secret of whereabouts of our
13 superior to protect their security. To maintain secrecy of where
14 our superior would be going is to preserve -- to maintain
15 security -- or to protect the security for our superior. And also
16 to maintain secrecy concerning documents is to ensure that the
17 documents could not be destroyed by others, or the enemies. So
18 the main purpose of secrecy is to maintain the revolutionary
19 forces.

20 [11.17.29]

21 Q. Does that - does that mean that there was a requirement to
22 keep the policies of the Party, the activities of the Party, the
23 stances of the Party secret from the public, from the general
24 public?

25 A. It is correct.

1 Q. If we move from criteria number 5 of the Party members for
2 senior leadership positions, or leadership positions, I would
3 like to go to criteria number 7. And it states: "Strong
4 revolutionary stance in making and examining personal histories
5 and revolutionary life views." It should be on your page 27.
6 If you see that - if you see that criteria 7, can you read out
7 that short paragraph? And I have one or two questions about that.
8 Thank you.

9 (Short pause)

10 [11.19.28]

11 A. What question were you putting to me? I haven't heard the
12 question yet.

13 Q. Well, criteria 7 states that - that the member "must have
14 correct and strong principles and stances with a high spirit of
15 responsibility in making and examining revolutionary one's
16 personal histories, revolutionary life views, at all times. Must
17 be absolutely honest in examining one's own personal history and
18 revolutionary life views and in reforming one's faults, large and
19 small, and in pushing, building, and consolidating one's good
20 qualities to prosper quickly, one after another."

21 The question I have is: Does this criteria make a requirement for
22 a member seeking entry into a leadership position in the Party,
23 to provide a written personal history, to record their - their
24 personal history?

25 A. First, allow me to emphasize that anyone would like to have

1 the leading position. However, it was required that each member
2 of the Party has to build these seven criteria.

3 I would like to also touch upon the building of the personal
4 history. For example, my original class status was there, but
5 when I joined the revolution, I had to be re-checked. My
6 historical -- or my personal history had to be reviewed --
7 whether I joined the enemy or not, whether I was clean. So,
8 during the sessions, when we joined the revolution, our personal
9 history had to be checked time and again.

10 [11.22.25]

11 For example, each was expected to write a full personal history
12 for the whole year -- for the whole past year, to see what we had
13 done, how good -- or how well we performed out tasks, and these
14 histories would be reviewed -- would be read out first in the
15 collective meeting, and that people would comment on the personal
16 histories to build ourselves -- to be criticised by others. And
17 -- but this one had to be done only on the political sessions.

18 With regard to the political life views, these life views were
19 done in the same way. The difference is that political life view
20 was about your view concerning your livelihood: what you needed,
21 why you needed to live. You lived to serve the people and the
22 revolution, or you lived to cling on to power.

23 And this also can be used -- or read together with another
24 political world views. Political world views is about our
25 understanding and perspective toward the current situation

1 surrounding us, when life view is more about our perspective
2 concerning our goal of life and how we serve the revolution.

3 [11.24.12]

4 And these histories or life views had to be examined by others,
5 critics had to be gathered, and ourselves had to be built in the
6 sessions where we present these histories.

7 And each member had to be honest in writing their personal
8 histories. Only had we been honest that we could be refashioned
9 or built. Thank you.

10 Q. And what happened to those personal histories? Were they kept
11 by the member themselves, or were they forwarded on to their
12 superior, or did they go somewhere else?

13 A. After each session where personal history is reviewed, each
14 committee shall maintain the documents, respectively. And the
15 upper echelon would know -- or be informed of this through their
16 branch or committee member, who informed them of this situation.

17 Q. Thank you.

18 And if we move from -- we have criteria number 8, which is that
19 the member "must have a strong revolutionary stance and class",
20 then, criteria number 9, that the member "must have a "strong
21 revolutionary stance on clear life morals, and politically
22 clean"-- I think we've discussed those concepts.

23 [11.26.00]

24 So if we can move to the last criteria required for selection
25 into various Party leadership organizations, it reads

1 "[Number] 10. The capability to build oneself and be receptive to
2 future leadership."

3 Can you explain what that means, that the member must be
4 "receptive to future leadership"? Did the member have to
5 demonstrate that they desired to go into a future leadership
6 position, or was that something that was to be concluded by
7 others reviewing whether or not the member would go to that
8 higher - higher position?

9 A. I still stand by my principle that each can -- each member of
10 the Party had to perform their duties in order to gain trust from
11 the upper echelon so that they can be offered the leadership
12 position in the future. That's one point.

13 Secondly, in these 10 criteria, it is the requirement imposed by
14 the Party on each member of the Party that one was expected to
15 build oneself so that one could be seen by the Party to be able
16 to take up a future leadership position.

17 [11.28.02]

18 On the 27th of September 1977, in the speech in which CPK was
19 announced as a public party to the world, Pol Pot indicated that
20 each comrade who thought that they were the gold, pure gold --
21 and that person shall remain quiet and let the other people judge
22 them, other than acting on his own behalf.

23 Q. Thank you. You said that many members -- many people wanted --
24 members of CPK wanted to hold leadership positions.

25 Are you saying, from your observations back during 1975 to 1979,

1 that it was highly competitive to -- for people to apply and be
2 accepted into leadership positions?

3 A. Back then, they don't use the word "competition", although we
4 were supposed to try our best -- not to compete with one another,
5 but perform our tasks at our best and be judged.

6 Q. Thank you. Now, we've just discussed the 10 criteria for
7 selection into Party leadership organizations.

8 [11.30.21]

9 I would now like to finalize the discussion on the duty of the
10 Party members, which is at Article 2. Now, we won't repeat the
11 same concepts that we've discussed previously, but as the duties
12 of Party members have been placed -- worded in a slightly
13 different way to the other criteria for selection, I would like
14 to ask you a few questions just on the main duties of the Party
15 member.

16 And if we look at Article 2, "Duties of Party members", it states
17 "every [...] member has the following duties", and it divides the
18 duties into two parts: "duties among the popular masses" and
19 "internal duties".

20 And you should find that at the bottom of page 15 and at the top
21 of page 16 of the Khmer version of the Statute. Do you see the
22 provision, Article 2?

23 A. Yes, I follow it.

24 Q. And perhaps the new term that comes into the language of the
25 Statute in relation to the duty of Party members is the first

1 term relating to the "duties among the popular masses", where it
2 states, at part A: "Proselytize the popular masses on Party
3 politics, ideology, and organization, and mingle closely with the
4 popular masses."

5 [11.32.21]

6 Can you explain that they first term means -- "proselytize the
7 popular masses"?

8 A. The word "popular masses"; in military, "popular masses" refer
9 to the combatants, both male and female combatants in the army,
10 but in the cooperatives, "the popular masses" refer to members in
11 the cooperatives. The same is true for the mobile units.

12 Q. Perhaps, if I can ask you to read -- there may be a
13 translation issue -- if I can ask you to read the first two lines
14 of part A, and then if I can ask you some questions about that?

15 A. "A. Proselytize the popular masses on Party politics,
16 ideology, and organization, and mingle closely with the popular
17 masses, the worker-peasants unions and the cooperatives, and the
18 Revolutionary Army."

19 Q. Thank you. I mean -- the word "proselytize", in English, means
20 "to convert" -- "to convert to another religion"; that's one way
21 the word is used.

22 [11.34.22]

23 Is that your understanding, that the duty of a member is to
24 convert the popular masses into accepting Party ideology,
25 politics, organization?

1 A. Thank you. I would like to clarify that, the word "popular
2 masses".

3 In military, we refer to combatants. "Education" refers to the
4 education of parties in line with the Party's lines. So we
5 educate people based on the Party's lines. And as for the
6 criticism of any other religions, that was not actually in the
7 Party's lines. It is only the education of the Party's lines. And
8 as for "mingle closely with the popular masses", we actually
9 educated them with the Party's lines, and then they continue to
10 instil this knowledge with other members of their respective
11 cooperatives or so.

12 [11.35.55]

13 So, of course, it is like -- it is analogical to the conventional
14 ideas that people will have to sharpen their swords before they
15 continue to cut other stuff. So this is true for our education.
16 We continue to instil knowledge with our members.

17 Q. So, if I understand you correctly, the duty is for the Party
18 member to convert or educate the popular masses into the thinking
19 of the lines and the stance of the Party; is that correct?

20 A. That is correct, educating the mass within their area of
21 supervision.

22 Q. And the use of the term that the member must "mingle closely
23 with the popular masses", is that -- does that create an
24 obligation on the member not to remain distant from the
25 population, not to remain aloof or disconnected from the society?

1 A. That is correct. The leader of the Party branch must mingle
2 with members of the branch as well as the people around that
3 area.

4 Q. And if we look at part B, that -- it states that the duties
5 are that a Party member must "agitate the popular mass movement".
6 What -what does it mean, to "agitate the mass movement"? Can you
7 explain more clearly, in the terms of how it's used in the
8 Statute?

9 [11.38.43]

10 A. The word "agitate" means that, when our combatants become
11 fatigued after working so hard, then we encourage them -- we
12 continue to encourage them so that they become more courageous
13 and more audacious. So that's what is meant by "agitate". We want
14 them to be more active, and we wanted them to be more courageous
15 in performing their task.

16 Q. Thank you.

17 And if - now, if we can move to the internal duties of members.
18 It states, at part A, that the member must "have a life inside a
19 Party branch. Every Party member, no matter how high his duty,
20 even all the way up to the highest, must be in a Party branch".

21 [11.39.55]

22 My question is: Was this - this duty in fact applied during the
23 DK period, a duty requiring a member to be part of a Party
24 branch?

25 A. "A life inside a Party branch organization"-- I think I have

1 already told the Prosecution, those who failed to attend the
2 regular meeting were considered as not having life inside the
3 Party. So it is the requirement by the Party that members shall
4 attend life meetings so that they have opportunity to criticize
5 and self-criticize in the actual implementation of their task.
6 And following the 17th of 1975 -- 17th April of 1975, this life
7 meeting was convened less regularly; that was in reality. But as
8 for the upper authority, I was not aware of.

9 Q. And would you agree with me that the internal duties of a
10 Party member that are further described in B, C, D, E, and F are
11 a further reflection of the criteria required for membership into
12 various Party leadership organizations? Do you agree that the
13 ideas or the duties that are prescribed are similar to the ideas
14 and duties prescribed in the 10 criteria for selection for
15 various leadership positions?

16 [11.42.42]

17 A. There are eight internal duties of a Party member, from A to
18 H. These are the internal duties that must be adhered to by the
19 Party members, and they are mutually reinforcing. These internal
20 duties was meant to criticize and self-criticize members within
21 the Parties, and they were mutually reinforcing, as I said. So
22 that is all I can say about this.

23 Q. Thank you. I think you've used a good term, "mutually
24 reinforcing". Would you agree with me that the fundamental
25 principles of the Statute, the criteria for membership, the

1 criteria for selection into various Party leadership
2 organizations, and the criteria for the membership duties of the
3 Party member all mutually reinforce each other so the Party
4 member is absolutely clear about what their obligations and
5 responsibilities are under the Statute?

6 [11.44.26]

7 A. That's correct. The 10 criteria as well as other duties in
8 other provisions are the requirements for parties to apply so
9 that they can build oneself to be good and to assume a higher
10 position in the leadership. So these were the principle set by
11 the Party.

12 Q. Thank you.

13 I'd now like to ask you a few questions about Party discipline.
14 If you turn to Article 4, which is on page 19 of your Khmer copy,
15 it reads:

16 "In order to maintain and consolidate internal Party solidarity
17 and unity to be always good, the Party has designated and raise
18 the principle of respect for Party discipline and organization.
19 Party discipline is very firm, but stands on the principle of
20 awareness of each individual Party member. Each Party member,
21 regardless of position, must absolutely respect and follow Party
22 discipline.

23 "Respecting [...] discipline and organization is respecting the
24 Party political line, Party ideological principles and stances,
25 [and] Party organizational stances, and Party statutes."

1 [11.46.10]

2 My question is: Where it states, "each Party member, regardless
3 of position, must absolutely respect [...] Party discipline" -- or
4 "follow Party discipline", what does it mean by "absolutely
5 respect" Party discipline?

6 A. Party discipline was a must for Party members to adhere to, so
7 whatever the discipline is set out, everyone had to abide by.

8 Q. Thank you. And the Statute -- or the article states that any
9 person who opposes "Party political line, Party ideological
10 stances, [...] Party Statutes, causes fractures in internal Party
11 solidarity and unity, creates groups to carry out [and] destroy
12 the Party, [...] revolution, [...] the people, abandons duty of a
13 Party member, causes a break in secrecy, endangers the Party, the
14 revolution, [...] the people and Party property, acts immorally,
15 [and fails to] participate in Branch lifestyle meetings for three
16 consecutive [periods], commits Party discipline violations which
17 are punishable, lightly or severely, as follows..." And then the
18 Statute lists a range of punishments for breach of discipline.
19 And the first - the first punishment is a "criticism", a
20 "warning".

21 [11.48.32]

22 Can you--And my question is: Can you advise the Court as to what
23 types of breaches of Party discipline would attract a criticism
24 or a warning, or perhaps one of the lesser forms of punishment?

25 A. First, actually, in the Communist Party of Kampuchea, they

1 used the term "punishment". We actually simply applied the
2 discipline rules, and the lower level of sanction is reprimand or
3 criticism, and this criticism was made during the livelihood
4 meetings. And sometimes this livelihood meeting was not held in
5 the Party, but it was convened in secret.

6 For example, Nat breached the Party's discipline, and I was at
7 that time the deputy-secretary, so I could not criticize him; I
8 simply warned or reminded him. That was one of the sanctions.
9 And if I criticized him, and then he stopped committing -- or
10 breaching the discipline, then I would not say anything anymore.
11 But then, if the mistake was of more serious nature, then I would
12 take more action.

13 For example, Comrade Hor broke the secret, so Comrade Hor was not
14 allowed to read the confession made by the prisoner in S-21. That
15 was one of the sanctions of more severe nature.

16 [11.50.52]

17 And another example: Comrade Hor was tasked to take the prisoner
18 out of S-21, but before he took any prisoner out of S-21
19 compound, he had to report it to me first. So, if he failed to do
20 that, he would be sanctioned in the more severe nature as I have
21 just described.

22 Q. And in your experience during the period, was anyone removed
23 from their duty for breach of Party discipline?

24 A. Yes, there was. Comrade Huy was the second person in command
25 in S-21; he had made numerous - the third, rather, in command in

1 S-21, and he made repeated mistakes. And I reported to the upper
2 echelon to have -- to have him arrested and executed eventually.
3 Q. So that was more than just a removal from duty; he was killed
4 for that breach of Party discipline.

5 A. Yes, that's correct. Because, in applying the disciplinary
6 sanctions, sometimes we apply a more severe sanction, but it
7 varies depending on the gravity of the offence.

8 [11.52.54]

9 In Khmer, line 5 from the bottom, the person may be subject to -
10 subject to rejection from the Party. So, if the Party rejected
11 the Party membership of that person or removed the Party
12 membership from that person, then that person may be subject to
13 execution.

14 For example, Comrade Huy, he was withdrawn from being a member of
15 the Party. Koy Thuon was removed from the Party members, so he
16 was later smashed.

17 Q. And you said that you reported Huy's breaches to the upper
18 level. Who - who was the upper level? Who are you referring to?

19 A. The latter case, when Huy breached the Party discipline, I
20 reported to Brother Number Two, and Brother Number Two had the
21 final decision.

22 [11.54.17]

23 Q. And who is Brother Number Two -- or who was Brother Number
24 Two?

25 A. Brother Nuon, or formerly known as Nuon Chea.

1 Q. And you referred to Koy Thuon being removed. Can you explain
2 to the Court who Koy Thuon was?

3 A. Koy Thuon was a member, a full-rights member of the Central
4 Committee, and he was actually in charge of the North Zone until
5 the 17 of April 1975. And following the April 1975, he was
6 appointed to be the Minister of Commerce in Phnom Penh, and later
7 on the -- he was found guilty killing one of the ladies'
8 husbands, and then he was imprisoned and executed in 1976.

9 Q. And was there any -- in terms of Party discipline and
10 punishment, was there any court process put in place for Koy
11 Thuon to defend himself in relation to that allegation, or not?

12 A. Well, there was no judicial process to try the -- Koy Thuon.
13 And Kang Chap, who was back then responsible for the supreme
14 judiciary, was only nominal, and there was no activity at all.
15 [11.56.54]

16 Q. Thank you. Are you aware of any rejection from the Party of a
17 member, during this period, for a breach of discipline that
18 relates to activities opposing the Party, or part of the
19 continuous chain of such violations, or with treason against the
20 Party? Do you know of any cases where that allegation was made
21 and the member was removed from the Party but not killed? Are
22 there any cases of that?

23 A. It is beyond my knowledge, but as far as I know there was no
24 -- there was none.

25 Q. In terms of Party discipline, in your time as chairman of

1 S-21, any person found or alleged to have opposed the Party or
2 committing treason against the Party, what happened to them, from
3 your observations?

4 [11.58.37]

5 A. I think it is the same if a person commits such a wrongdoing.
6 At first level, they would be criticized or warned, and in the
7 second category they would -- their duties would be changed or
8 removed from the Party. And the third one is that they would be
9 smashed.

10 MR. SMITH:

11 Your Honours, it's now 12 o'clock; I'm wondering whether it's a
12 good time to break.

13 MR. PRESIDENT:

14 Thank you, Mr. Co-Prosecutor. And thank you, Witness.

15 Since it is now appropriate time for lunch adjournment, the
16 Chamber will adjourn. The afternoon session will be resumed by
17 1.30 p.m.

18 Security personnels are instructed to bring Mr. Kaing Guek Eav
19 alias Duch to his room and have him return to the courtroom
20 before the session resumes.

21 [12.00.05]

22 Counsel -- Mr. Nuon Chea, you may proceed.

23 MR. NUON CHEA:

24 Due to my health concern -- I have back pain and I have headache
25 -- may I ask that I be excused from this courtroom the whole

1 afternoon session?

2 MR. PRESIDENT:

3 Could you please be more specific? Please tell the Court your
4 position.

5 MR. NUON CHEA:

6 I would like to be excused but be allowed to observe the
7 proceedings downstairs, from my holding cell.

8 MR. PRESIDENT:

9 So it is understood correctly that now you waive your right to be
10 present in the courtroom but ask the Chamber to be -- to allow
11 you to follow the proceeding from downstairs.

12 [12.01.09]

13 International -- rather, International Counsel for Mr. Nuon Chea,
14 would you wish to say something on this or would you have any
15 issue to raise?

16 MR. PESTMAN:

17 No, not really, Mr. President. I understand my client, and he
18 wants to continue participating and following the tribunal -- the
19 proceedings downstairs, so I will file the appropriate waiver as
20 soon as we break up.

21 MR. PRESIDENT:

22 Thank you.

23 The Chamber has noted the request by the accused Nuon Chea,
24 asking the Chamber that he be excused from this courtroom, that
25 -- and that he be allowed to follow the proceedings from his

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1 holding cell for the entire afternoon session due to his health
2 concern. The Chamber, therefore, grants such request in which he
3 has waived his right to remain in the courtroom and that he
4 follows the proceeding from his holding cell through video-link.
5 [12.02.32]

6 The Chamber now asks counsels for Nuon Chea to produce the
7 waiver.

8 And security personnels are instructed to take Nuon Chea to his
9 holding cell, while the AV officers are instructed to ensure that
10 the video-link is connected to the holding cell so that Mr. Nuon
11 Chea can observe the proceedings from his cell, downstairs.

12 And that -- security personnels are instructed to return Mr.
13 Khieu Samphan to his holding cell and have him return to the
14 courtroom when the session resumes.

15 The Court is adjourned.

16 (Court recesses from 1203H to 1333H)

17 MR. PRESIDENT:

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

19 Counsel for Nuon Chea, you may now proceed.

20 MR. PESTMAN:

21 Thank you. Thank you very much. If I'm allowed, I would like to
22 take 10 minutes to make a request to your Trial Chamber. I'll
23 just continue, unless you object to me raising this particular
24 issue right now.

25 I wanted to raise this this morning, this issue, but I decided to

1 wait until now in order to give you, Your Honours and the
2 Prosecutions as well, the opportunity to raise it yourselves. But
3 I'll do it now, as everyone has stayed quiet so far. I'll do --
4 I'll feel forced to raised it now, and that it is of course the
5 note written by the International Co-Investigating Judge,
6 Kasper-Ansermet, on Wednesday last week.

7 [13.34.22]

8 We read his note, suitably called the "Note on the egregious
9 dysfunctions within the ECCC", with both surprise and a strong
10 déjà vu feeling.

11 Surprised, first of all, because of the blatant nature of the
12 interference described in the note, by Cambodian Court Officials
13 in the work of the International Investigating Judge, blatant and
14 unashamed, I would say.

15 And I had a strong feeling of déjà vu because that note -- very
16 eloquent note -- confirmed what we had - what we have

17 consistently said and written since the Royal Government of
18 Cambodia first prevented the hearing of the King Father, Norodom
19 Sihanouk, and the six insider witnesses -- prevented them from
20 testifying in this particular case, in Case 002, during the
21 judicial investigation.

22 [13.35.32]

23 That note reads as a 14 page litany of 10 patently dubious -- and
24 possibly even criminal -- incidents which occurred at this Court.

25 This note reads as a Closing Order, in a way, produced by the

1 International Co-Investigating Judge, and it is an indictment, in
2 that sense, of this Court as a "dysfunctional institution" --
3 that's the way he describes it.

4 In October 2011, we wrote, in an appeal against your decision not
5 to investigate government interference in this case, we wrote
6 that it was unknown, at the time, to what extent the integrity of
7 this case -- Case Number 2 -- and its file had been compromised
8 by less overt forms of obstruction by the government.

9 As an investigation into this interference has not taken place
10 yet, we still don't know the exact extent, but we do know that,
11 without this government interference in our case and in our case
12 file, this file would now contain potentially exculpatory
13 statements of at least the King Father, Norodom Sihanouk, Heng
14 Samrin, Chea Sim, and four other insiders -- witnesses. But we
15 know now -- we have very strong evidence described by the
16 International Investigating Judge, presented in his note, that
17 Cambodian Court officials go to extreme lengths to avoid an
18 outcome that would displease the government.

19 [13.37.32]

20 And no organ in this Court is immune from this disease. The
21 International Investigating Judge lists all of the organs
22 involved in this interference: first of all, the Co-Investigating
23 Judge -- National Co-Investigating Judge, You Bunleng; the
24 President of the Pre-Trial Chamber, Prak Kimsan; Tony Kranh;
25 greffiers; CMS staff; WESU staff; drivers; interpreters; and also

1 the Ministry of Interior. They are all complicit in what is still
2 a crime under Cambodian Criminal Law, interference with the
3 proper administration of justice.

4 And I would like to emphasize that this is all highly relevant
5 for Case Number 2 as well, not merely for cases 003 and 004.

6 Both You Bunleng and Prak Kimsan were instrumental in the
7 development and outcome of the judicial investigation in Case
8 002. And the integrity of our case file -- the foundation of this
9 trial -- is highly suspect. Nothing sound, we maintain, can arise
10 from such unstable groundwork.

11 [13.39.01]

12 If you read the note produced and published by the Investigating
13 Judge, you can see that no organ in this Court is immune from
14 political meddling by the government; no Cambodian official at
15 this Court seems to have the courage or the room to manoeuvre
16 independently, to go against the wishes, implicit or explicit, of
17 the Cambodian Government. And I'm afraid that this Trial Chamber
18 is no exception to this rule. And this is a very troubling
19 thought, not only for me, but also for my client.

20 I would like to quote Ou Virak, president of the Cambodia Center
21 for Human Rights, on this particular issue, last week. And he
22 says:

23 "If the government is willing to go such lengths to block cases
24 it doesn't want to go ahead, how confident can we really be that
25 it hasn't already determined the outcome in the cases that have

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1 been allowed to go ahead -- cases 001 and 002?"

2 [13.40.14]

3 Well, the answer is that we have very little confidence left. I

4 don't have you to - I don't have to remind this Court of Hun

5 Sen's public statements about our client's guilt. And there are

6 clear sign, in any way, we maintain, of where the Government of

7 Cambodia intends this case against my client to go.

8 We will file a motion -- that is what I wanted to announce today

9 -- a motion, as soon as possible this week -- we're currently

10 working on it -- calling again, for the last time, for an

11 investigation into the political interference in this case, on

12 the basis of new evidence as presented by the International

13 Co-Investigating Judge. And we will also ask for a stay of the

14 proceedings in order for you and other people who are going to

15 investigate this to carry out this investigation.

16 But sadly, I must say, we do this knowing that our motion will be

17 rejected again. With three National Judges in this Trial Chamber,

18 we will never reach the required majority, let alone

19 supermajority. We do no longer expect anything from this Court as

20 a whole. We are, all of us, working in what is now, in our

21 opinion, a flawed institution. As we said last year, already,

22 Case 002 is not terminal, but in a very critical condition. I

23 believe -- and I'm not the only one, our team -- that only the

24 International Judges in this Trial Chamber, Judge Cartwright and

25 Judge Lavergne, can save this case.

1 [13.42.12]

2 The only proper thing to do, in our opinion, is to finally
3 dissent, like the Pre-Trial Chamber Judges, show the Cambodian
4 government, but also the Cambodian people, that there are certain
5 boundaries that have to be respected in order for this trial not
6 to turn into a complete shambles.

7 Every day you fail to act, International Judges, this trial will
8 spiral further and further away from the ideals the ECCC was
9 designed to promote. And there's much at stake, I don't have to
10 remind you: not only fair trial for our client, the integrity of
11 this tribunal as a whole, but also the personal and professional
12 reputation of those internationals that preside over these
13 proceedings.

14 There comes a point where silence, inaction, and the deliberate
15 avoidance of difficult decisions evolve into complicity.

16 The questions which we will raise in our motion is whether you,
17 Judge Cartwright and Judge Lavergne, whether you, International
18 Judges, sincerely believe that this Trial Chamber will ever take
19 a decision against the wishes of the Cambodian Government.

20 [13.43.43]

21 We're looking forward to hearing your answer.

22 MR. PRESIDENT:

23 National -- International Co-Prosecutor, you may proceed.

24 MR. SMITH:

25 Thank you, Your Honours. I think, we object to the

1 appropriateness of those remarks.

2 Your Honours, in this case, you've dealt with the issues of any
3 the -- unfairness in this investigation. You've -- it's been
4 dismissed as a preliminary motion, it's been dealt with by the
5 Pre-Trial Chamber.

6 The issue that my friend is talking about is in relation to case
7 files 003 and 004, not - not this case.

8 As Your Honours are aware -- and the Prosecution has the utmost
9 of faith that this Trial Chamber will be able to preside over
10 this case to ensure the fairness of the trial.

11 [13.44.44]

12 We would submit that the process that has occurred today has
13 demonstrated that the Defence have had an opportunity to call for
14 evidence; the Defence have had an opportunity to present
15 evidence. As you know, Your Honours, in this case, the Defence
16 have presented no documentary evidence, apart from about six, six
17 documents. The Defence, when asked whether they wish to question
18 the Accused on historical background, has questioned the Accused
19 for about half an hour.

20 The submission, we submit, Your Honours, that was being put
21 forward is not relevant.

22 And secondly, if there are any issues that arise out of -- any
23 issues of unfairness that arise out of the investigation in Case
24 File 002 -- if they are present, Your Honours have the ability
25 and the power to make - to ensure that any aspect -- that

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1 they're, sort of, properly investigated.

2 So we would submit that the submission is not relevant to this
3 case, and we would ask that -- Your Honours to continue, which
4 you have been doing, to continue with presiding over this case in
5 the fair manner and -- as you have done in the past. Thank you.

6 [13.46.08]

7 MR. PRESIDENT:

8 Thank you.

9 Lead Co-Lawyer for the civil parties, you may now proceed.

10 MS. SIMONNEAU-FORT:

11 Yes, Mr. President. Your Honours, I would like to make a few
12 remarks, not with a view to giving our opinion on case files 003
13 and 004, not because I'm not in charge of those files; the
14 problems that we faced as civil parties show that any mix-up
15 between officials of this Court and any distinction between the
16 national and international components of this Court, which may be
17 systematic, appear to be regrettable, as far as we are concerned.

18 [13.47.04]

19 We had no choice to rely on the rulings of the Pre-Trial Chamber.
20 And we believe we should have confidence in all the Judges of the
21 Chamber, and we hope that our trust is well-placed and that all
22 the Judges of that Chamber will -- of this Chamber will issue the
23 right judgement in this case.

24 MR. VERCKEN:

25 Good afternoon - good afternoon, Your Honours. I would like to

1 say, on behalf of the defence of Khieu Samphan, that the defence
2 of Mr. Khieu Samphan has already signed a collective letter
3 requesting that an investigation be conducted into the
4 accusations made by the Co-Investigating Judge who wrote the note
5 which my learned colleague, on the part of -- on the defence of
6 Mr. Nuon Chea, has just said.

7 It appears to us that the facts stated by the Co-Investigating
8 Judge, who decided to make these revelations, are quite new.
9 These are revelations, which means that your Chamber was not
10 necessarily aware of them at the time when the previous decision
11 was issued on the validity of the acts carried out by the
12 investigative organs of the Chamber of the Court. And that is why
13 these revelations would justify further investigations into these
14 new facts.

15 [13.49.07]

16 So to express a wish, as the civil party has made, and to express
17 the hope that you would render justice in this case is
18 formidable, but it is only wishful thinking. And to imagine that
19 the clouds of the Chernobyl radiation will not affect other
20 countries is not realistic.

21 If the allegations made by the Co-Investigating Judge are
22 obvious, the damage will not be limited to cases 003 and 004, and
23 that is why his revelations justify further investigations at the
24 earliest opportunity, investigations into the pressure that has
25 been exercised by the Cambodian Government on our Court -- and I

1 want to insist, on our Court.

2 In this regard, the defence of Mr. Khieu Samphan obviously
3 endorses this request for further investigations. And it appears
4 quite logical that, further to the application made by my learned
5 colleague, these -- there should be a stay of proceedings pending
6 investigations.

7 [13.50.37]

8 And the pressure that has been exercised on this Court does not
9 exclude -- does not include only cases 003 and 004; it has soiled
10 the work of this Court since its establishment. And that is why
11 further investigations should be conducted.

12 MR. PRESIDENT:

13 Thank you.

14 Does any other counsel wish to have further comment?

15 We would like now to proceed, then, to the International
16 Co-Prosecutor to pose further questions to the witness, Kaing
17 Guek Eav, alias Duch.

18 BY MR. SMITH:

19 Thank you, Mr. President. Thank you, Your Honours.

20 Q. Mr. Kaing Guek Eav, before we broke for lunch, we discussed
21 the issue of discipline of Party members.

22 [13.51.42]

23 When we look at the issue in relation to discipline of Party
24 members, the obligations and the duties of Party members to
25 promote the Party line and stance, when we look at the criteria

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1 required for a Party member to join the Party and we look at the
2 monitoring role that the Party has for each and every member to
3 ensure that they have clean histories, clean biographies in the
4 eyes of Party, would it be fair to say that there was an
5 atmosphere of fear that surrounded being a member of the Party
6 during that time between 1975 and 1979?

7 MR. KAING GUEK EAV:

8 A. It is fair to say so.

9 MR. SMITH:

10 Perhaps, if we now look at a document -- and it's IS 19.157 -- if
11 that can be placed on the screen, and if we can show a hard copy
12 to the witness, please?

13 MR. PRESIDENT:

14 Court officer is now instructed to hand over the document to the
15 witness.

16 [13.53.39]

17 BY MR. SMITH:

18 Q. Thank you.

19 Witness, as you look at this document -- you referred earlier to
20 the practice of CPK members having to write down their personal
21 histories so it can be recorded and passed up through the
22 chain-of-command, as to their background, to ensure that the
23 background of each Party member was of a type or of a quality
24 that was acceptable to the Party.

25 If you look at that document -- and perhaps if I just mention the

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1 name -- at the top, you'll see Ruoh Aem - Ruoh Aem. And if you
2 look further back down the document, it states that Ruoh Aem was
3 a messenger at S-21.

4 Can you look at the document and advise the Court whether or not
5 that's the type of document that you were talking about, relating
6 to the writing of life histories of particular individuals?

7 [13.56.03]

8 And perhaps, Mr. Kaing Guek Eav, if I can draw your attention to
9 the end of the document -- and it relates to a page that says
10 "close friends and circles", and it's entitled "Affiliations
11 Outside the Revolutionary Organization", and it presents a
12 chronology of the political activity from this person's
13 childhood, and then if you look at the last two entries -- 5th of
14 July 1976 and July 1977 -- can you advise the Court whether or
15 not this person, first, is familiar to you and, secondly, if this
16 type of document is one in which you have seen before? And, also,
17 if you can advise what -- how this document was produced, if
18 you're able to do so?

19 MR. KAING GUEK EAV:

20 A. This document belongs to S-21. Comrade Aem was my combatant.

21 He worked at M-13 before.

22 This form of life history is the same to other form of life
23 history. And this was done because I would ask my combatants to
24 write their own life histories, and then keep them. And after
25 each session, annually, each -- every staff had to fill in these

1 forms and had to present it so that other people could also have
2 a say on it.

3 Q. And so we can understand the nature of the practice, how
4 widespread it was.

5 About how many staff did you have at S-21?

6 A. I don't think I fully grasp this.

7 [13.58.55]

8 In Case File 001, I guess there are some documents and the list
9 of staff members at S-21. You may refer to them, please.

10 Q. Perhaps, then, we'll ask about the practice of making these
11 biographies. Once - once they were made, where were they sent?

12 Who were they given to?

13 A. This biography belonged to Aem, who was a normal popular mass;
14 his biography would only be kept at S-21.

15 Q. And was Aem -- was he a Party member?

16 A. He was the ordinary combatant. I introduced him in early 1974
17 or late 1973, and he was first introduced to work in M-13.

18 Q. Did he become a Party member?

19 A. No, he did not until 1970.

20 Q. At the top of the biography, it states the revolutionary name
21 and it provides the same name as Ruoh Aem.

22 [14.00.55]

23 A revolutionary name, was that given only to Party members, or
24 was it given to anyone working for the Party?

25 A. Before 1975, particularly before 1970, progressive member had

1 their underground name or revolutionary name; for example,
2 myself, Kaing Guek Eav, my official name, but in -- my revolution
3 name was Duch, and I have been known as Duch ever since. And
4 following 1971, certain members use both the official name as
5 well as the revolutionary name. They do no change.

6 Q. Thank you. And as I look at this biography, we can see that
7 there's -- it's a pro forma; it's a typed-out form where, it
8 appears the - Ruoh Aem had filled out certain parts: and the
9 first part seems to relate to Ruoh Aem himself; and the second
10 part relates to details about his wife or husband, if any; and
11 the third part in relation to the biology of the children; fourth
12 part, in relation to the parents; the fifth part, in relation to
13 parents-in-law; the sixth part, in relation to biological
14 siblings; the seventh part, in relation to close friends and
15 circles, affiliations outside the revolutionary organization.

16 [14.02.59]

17 And in each of those parts -- or most of those parts, questions
18 -- such as what class were people from, and what political
19 associations did people have, and what education people did
20 people have -- appear in a number of those parts.

21 My question is: Why do these forms -- or why does this form ask
22 so many questions of a - of an individual?

23 A. You're referring to individual as parents or as biological
24 siblings? But we -- actually, in this, we refer to those who had
25 some political influence on individuals.

1 Q. Just -- the question I have is: Why is so much information
2 obtained from a staff member at S-21? What was the purpose of
3 this, of these forms? What was the purpose of asking all of these
4 questions about the political class and educational background of
5 one of the staff members of S-21? Why was it done?

6 A. To my recollection, the form was not actually established in
7 the first place by S-21, even when I was the chief of S-21, but
8 this form had been revised several times since 1971. So this was
9 not the only form, but it has gone through several rounds of
10 revisions in order to extract detailed information from
11 prisoners.

12 [14.05.40]

13 And that would amount to a friend report to the upper echelon
14 about the background of individuals.

15 Q. This form -- or this information from Ruoh Aem-- Was he a
16 prisoner or was he a staff member?

17 A. He was my combatant. I actually introduced him -- I took him
18 out of the jungle and I introduced him to M-13. Actually, the
19 prisoners had different forms when he or she was interrogated,
20 but this is for a combatant.

21 Q. And to your knowledge, were these forms distributed to other
22 units and other departments for other staff members to fill in?

23 A. S-21 did not circulate this outside S-21; we used it for
24 internal purpose. But as I said, this form was originated from
25 1971 and it had gone through several rounds of revisions in order

1 to make it complete and comprehensive.

2 Q. Do you know where you received copies of these forms from to
3 use at S-21? Do you know where they came from? Who gave them to
4 you at S-21 -- or staff at S-21?

5 [14.07.40]

6 A. When I was the chairman of M-13, I used this form as well, but
7 this form was not that comprehensive. But when I came to S-21,
8 this form was left to me from Nat. But as I said, it was a
9 working document, so it continued to develop to be more
10 comprehensive. And as for the forms left at S-21 when I came
11 there, it was left for me from Nat.

12 Q. Thank you.

13 And if I can turn your attention to another document -- it's
14 D108/7.7, and we have a hard copy which -- if I can ask the
15 greffier if he could pass to the witness? D108/7.7. Mr. Kaing
16 Guek Eav, if you could look at that document, particularly the
17 first page, and look to see who signed that first page, and the
18 date, and then if you can look again at the following pages,
19 particularly at the bottom of each block of text and the dates,
20 and then I will ask you a few questions about the document.

21 A. Thank you. But before answering the question put forward by
22 the Prosecution, I would like to make a general observation.

23 [14.10.00]

24 Mr. Prosecutor asked me why I had known that people had been
25 evacuated to different direction across the country. This is one

1 of the evidence which indicated that Nat went along National Road
2 Number 6 and then he encountered with Kiem Tort and Ngov Va
3 somewhere in Skun Market. And then, when he came back, he ordered
4 me to conduct further investigation and research in order that
5 those people be arrested.

6 So people left the city from different direction, but these
7 individuals in this document went to -- somewhere around Skun.
8 And Brother 03 was actually Nat's code number. It was actually
9 the serial number indicating Division 703, so Nat was sometimes
10 known as Sam (phonetic). People called him Nat, but his official
11 name was In Lorn.

12 [14.11.28]

13 And on this very page 458, you see the signature "Duch", and I
14 acted at the order of Nat.

15 Q. Thank you. And--

16 MR. PRESIDENT:

17 The International Counsel for Ieng Sary, you may proceed.

18 MR. KARNAVAS:

19 Good afternoon, Mr. President. Good afternoon, Your Honours. And
20 good afternoon to everyone in and around the courtroom. I would
21 most appreciate it, Your Honours, if you could instruct the
22 witness to answer the questions.

23 We have some very talented prosecutors, especially Mr. Smith,
24 conducting the examination. If Mr. Smith wishes further
25 clarification, he can do so, he's quite able.

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1 It's very difficult for me to know what the gentleman will say in
2 advance and object when he begins by saying: Well, let me offer
3 you some observations first, about something which may be
4 interesting to him, but not necessarily relevant to this
5 particular case.

6 [14.12.33]

7 So I would appreciate it if the gentleman would simply answer the
8 questions as directly as possible, and if the Prosecution or
9 anybody else questioning him wish to further inquire, they can do
10 so. Thank you.

11 MR. SMITH:

12 Thank you, Mr. President. I understand my friend's position. It
13 does happen at times that the witness will answer the question by
14 assuming that everyone understands the context of the document,
15 etc., because it's so familiar to him, and certainly there were
16 to be the follow-up questions just to clarify what the document
17 was.

18 It is sometimes difficult for witnesses to relate directly to a
19 question -- they do it in their own way -- but I certainly will
20 try and ensure that we stay as focused as possible so that the
21 evidence is clear.

22 [14.13.40]

23 BY MR. SMITH:

24 Q. Mr. Kaing Guek Eav, you have the document before you, but many
25 other people don't have it. So, if I can just summarize briefly,

1 it's a document that's signed by you, and it's sent to "Respected
2 Brother 03", who you've just testified was Nat. And you've just
3 testified it relates to an investigation of two individuals.
4 Now, the reason why this document has been put before you is
5 because you have testified earlier about -- you know, the
6 obligations of Party members to ensure that other members or
7 juniors or people subordinate to them have clean biographies,
8 have clean Party histories. And so, when you look at this
9 document -- and it's a document that relates to two individuals
10 -- Kiem Tort and Ngov Va -- it appears to the - to be in relation
11 to an investigation of these two individuals.

12 [14.14.51]

13 Why was this investigation carried out?

14 MR. KAING GUEK EAV:

15 A. The two individuals had not been arrested, but Nat indicated
16 he wanted them arrested. Why? Because these individuals falsified
17 their biographies that they were workers, and Nat found them in
18 Phdau Chum village, near Skun Market, Cheung Prey district. So he
19 learned that, and he wanted them arrested. And he order me that I
20 prepare a letter so that it form the basis for the arrest. So we
21 conducted investigation of GKC (phonetic), and we found these
22 four individuals in Phdau Chum village. And then Nat corrected it
23 on page 5. But actually it was on page 462, he made correction
24 there, and then, eventually, he decided to choose one formula,
25 page 461. And he handwrote it: "We revise documents against

1 communism, and we found those individuals", signed Sam, on the
2 31st of November. Actually, it was not on that day, but I
3 actually testify it before the Office of Co-Investigating Judges
4 already.

5 [14.16.56]

6 But these were individuals had not been arrested yet, but Nat
7 wanted them arrested. And this document, actually, was not
8 released from S-21, and I did not know what happened. I did not
9 know whether or not the arrest materialized.

10 Q. Thank you. And just so we're clear, the purpose of these
11 questions are to understand more clearly the practices of
12 investigating individuals or Party members, and how that
13 information was recorded.

14 So, in that context, how was it that Nat received the biographies
15 of these two individuals if they weren't detained at S-21? How
16 did he receive those biographies to ask you to investigate them?

17 A. First, I would like to clarify a bit.

18 When we talk about Party members, actually, these four
19 individuals were not Party members; they were civil servants.
20 Kiem Tort used to be the school director of Kampong Thom High
21 School. Nat used to be the director of the electricity station in
22 Kampong Thom province. Kiem Tort had a reactionary attitude
23 against progressive individuals, so Nat knew Kiem Tort very well.

24 [14.19.08]

25 And Tab Bundin was also there as well. That's why Nat knew

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1 additional information from this individual. Ngov Va and Sar
2 Kapun, these two names were found in the document associating
3 with the Youth Against Indochinese Communists, known as GKC
4 (phonetic). They could locate this document, and then there was
5 also report to the upper echelon as well, and that's why -- Nat
6 was supervising the city forces as well, and Nat himself found
7 these four individuals in Phdau Chum village as well, that's why
8 Nat wanted these four individuals arrested, in accordance with
9 the Party's policy, immediately after the 17th of April 1975.
10 And once again, what I would like to emphasize is that these four
11 individuals were not the Party members, but they were civil
12 servants from the Lon Nol administration.

13 [14.20.30]

14 Q. Thank you. So, so we can understand clearly, this shows -- is
15 an example of a Party member, Nat, exercising his Party
16 responsibilities to investigate anyone that he believes was
17 opposed to the Party line or opposed to the revolution; is that
18 what this document shows?

19 A. That -- that is correct. Soon after 1975, Nat had that
20 responsibility, he had to search for those individuals who were
21 suspected. And he went there himself or he assigned or designate
22 his subordinate named Mon to do that.

23 Q. Now, I have about four or five short questions to ask you
24 about the biography and about the investigation that you
25 conducted.

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1 And the first one is, you state at the top: "Kiem Tort and Ngov
2 Va falsify their biographies by stating [...] they were workers."
3 That was the conclusion you drew after your investigation as to
4 their backgrounds; is that correct?

5 A. The term "falsify their biographies by stating that they were
6 workers", I wrote it -- I wrote these words at the behest of Nat,
7 at that time, because Nat went down to that village and he found
8 Sar Kapun and his associates there.

9 [14.22.44]

10 Q. And you refer, in relation to Kiem Tort, that "his father was
11 an upper middle-class peasant" and his father-in-law "was a
12 feudal landlord". Was that a significant fact to write?

13 A. That's correct.

14 Q. And how would those facts have been viewed to Nat? Those
15 characteristics, how were they viewed, good characteristics or
16 bad characteristics?

17 A. I did not know how they view it, but I only knew that I wrote
18 this at the behest of Nat. And it was revised several times in
19 order to justify our arrest of these four individuals.

20 A. I also note that you record that "he signed a petition
21 requesting [...] Sihanouk government to destroy the three
22 progressive [individuals]. He opposed the revolutionary movement
23 [...] he started his career in Kampong Thom". Were these facts
24 true, or were they made up?

25 [14.24.52]

1 A. The biography of Kiem Tort was not secret, and Kiem Tort
2 prepared -- or signed a petition, a secret petition for the
3 arrest of Khieu Samphan.

4 Q. Also, in relation to Ngov Va, it was reported by informants
5 that he had frequently visited the houses of Lon Nol, Boret, and
6 Pan Sorhai (phonetic). Was that fact--

7 Well, firstly, who were those three people?

8 And, secondly, was that a negative fact to be placed on -- to be
9 placed against Ngov Va's personal history?

10 A. Thank you. Before answering this question, I would like to
11 correct one word. The -- there was a spelling mistake -- mistake
12 there; I think it's a typo. It was the city members, and they
13 provided secret information to Son Sen that Ngov Va had
14 frequently visited the houses of Lon Nol, Boret. And Lon Nol, I
15 think the Prosecution must have known him; he was the "Big
16 Brother" of the Khmer Republic. Long Boret was the former prime
17 minister, the -- actually, the last prime minister of Lon Nol's
18 administration.

19 [14.27.05]

20 As for Pan Sothi, he is one of the intellectuals. I did not know
21 what his portfolio was, but he visited the United Nation once and
22 he was recognized as a rhetorical -- person. He was bright, and
23 everyone knew that he was a very bright intellectual in the Lon
24 Nol administration.

25 That was the information of the underground forces of the

1 Communist Party of Kampuchea reported to Nat and Son Sen
2 respectively.

3 Q. Thank you. And this report was forwarded to Nat. And at the
4 base of the report, you recommend -- you state: "Arrest or not,
5 it depends on your analysis and decision." Is that correct?

6 A. He just asked me to dictate what he's supposed to write, so I
7 said that: Whether you wanted to arrest the persons or not, it
8 was up to you. So I was just writing what he asked me to write.
9 But when it comes to the arrest, I said it's up to him.

10 Q. And I think you said you're not sure whether these individuals
11 were ever arrested or not; is that correct?

12 [14.29.12]

13 A. I had never seen these four individuals at S-21 or had no
14 knowledge of having seen any names relevant to these people in
15 the list of the S-21 prisoners, because I had known Kiem Tort and
16 Tab Bundin, but I never happened to see them or noted their names
17 on the list at S-21.

18 Q. And one final question. In the paragraph relating to Kiem
19 Tort, it states that "he signed a petition requesting Sihanouk
20 government to destroy the three progressive individuals". Who
21 were those three progressive individuals that you were referring
22 to?

23 A. I went to the pedagogical school later than Kiem Tort, and it
24 was not a secret, because Kiem Tort wrote a petition asking that
25 Khieu Samphan be arrested. And those people -- I think Khieu

1 Samphan is here; number 2, Hou Youn; and number 3, Hu Nim.

2 Q. Thank you very much.

3 [14.31.09]

4 Now, we'll move off the document and move to another topic. It

5 relates to what we've just been discussing and it relates to the

6 idea of the reporting -- the rules of reporting within the CPK.

7 And if we look at Article 6 of the Statute, it's entitled

8 "Organizational Principles of the Party". And then, if we look at

9 Article 6.5, it states: "At the designated times, [the] lower

10 echelon must report to upper echelon on the situation and on work

11 done."

12 When we look at how communication was conducted in the Democratic

13 Kampuchea period, is it correct to say that that's how -- that

14 was one of the obligations, that the lower echelon must report to

15 the upper echelon on the situation and work done?

16 A. Could you please refer to the chapter and exact page

17 reference, please?

18 Q. Perhaps, if -- it's Article 6.5, in Chapter 3, on page 30 of

19 the Khmer copy.

20 [14.33.00]

21 But whilst you're doing that, perhaps, Mr. President, if -- it's

22 nearly five minutes to the break, and I have a -- just a brief

23 application to make.

24 Up until this -- up until today, or up until now, the

25 Prosecution, I believe, last week, has used about seven and a

1 half hours of questioning time of this witness. Although it was
2 over a two-day-and-a-bit period, in fact, the time -- the time
3 the Prosecution, I've been informed, has used has been seven and
4 a half hours up until this morning. At the end of the day, Your
5 Honours, the Prosecution will have used about five and -- another
6 five hours, which would be 12 and a half hours.

7 Your Honours, we've asked to be able to question this witness for
8 five days. He has a lot of important information.

9 Now, we're moving into a discussion on communication, how -- how
10 the CPK communicated, particularly in relation to how
11 communication occurred within S-21 and how communication occurred
12 outside of S-21, to gain an understanding of the communication
13 structures.

14 [14.34.28]

15 And then we plan to move to the particular CPK entities--
16 witnesses mentioned them, there's the Central Committee,
17 ministries.

18 And then, after that, we would proceed to discussing the roles of
19 the Accused more particularly, despite the fact much has been
20 discussed today.

21 We feel that we would use -- we would use the five days fully to
22 be able to do this. We've planned on that basis. We've been
23 advised that that's -- there's no objection to that.

24 So on the -- on the rate that we're going, Your Honours, we would
25 ask that the Prosecution be able to continue questioning at least

1 until Thursday, lunchtime and -- assuming no breaks or
2 significant debates or submissions that take away from that
3 questioning time, that the Prosecution finish around Thursday,
4 lunchtime, just so that we can plan the length of questioning on
5 each of the different topics. And we plan to move through all of
6 the topics in the Indictment, and we plan to move through them
7 efficiently.

8 But we would ask if Your Honours can provide -- I mean, some
9 indication, possibly after the break, for planning purposes,
10 whether that would be acceptable. But, certainly, to Thursday at
11 lunchtime, on our calculation, would be about the time that we
12 ask for, bearing in mind all of the breaks and large slabs of
13 time that we're caught up in other debates.

14 [14.36.05]

15 And I believe the civil parties have a short application to make
16 following mine, but it would be helpful to have Your Honours'
17 understanding on that for planning purposes, after the break, if
18 possible.

19 But perhaps, if-- Can I hand over the floor to the civil party
20 lawyers for them to just briefly make their submission? Or,
21 alternatively, I can continue questioning.

22 MR. PRESIDENT:

23 Judge Cartwright, you may proceed.

24 JUDGE CARTWRIGHT:

25 Thank you, President. Just one question by way of clarification,

1 Mr. Smith.

2 You have specified which topics you will be questioning on for,
3 you hope, the rest of -- most of the rest of this week, but you
4 also said you plan to cover all topics in the Indictment.

5 Now, I'm assuming that you don't mean that literally, that you
6 mean this trial only and the subjects that are under
7 consideration presently, which are the ones that you've
8 specified: communication, CPK entities, roles of the Accused.

9 [14.37.30]

10 MR. SMITH:

11 That's correct, Your Honours. I misspoke. I think, if the other
12 was the case, we would be asking for about two or three weeks.
13 But, yes, that's correct. Thank you.

14 MR. PRESIDENT:

15 Counsel for civil party.

16 MS. NGUYEN:

17 Yes. Good afternoon, Your Honours. If it pleases the Court, the
18 civil parties would like to take the opportunity to make a
19 similar procedural and trial management request.

20 The civil parties had previously indicated to the senior legal
21 officer, I believe, that the request for the timing in which to
22 examine Mr. Kaing Guek Eav was three hours.

23 We are now in a position to say that we would request more time
24 than three hours. This is because the witness is very clearly
25 someone who has a tendency to give a very detailed response. This

1 fact should be taken into account when considering the amount of
2 time to delegate to parties for questioning.

3 [14.38.36]

4 And it is a rare event for us to have such a witness who has the
5 internal knowledge that Mr. Kaing Guek Eav has, as well as being
6 one who is very articulate. And the civil parties would like to
7 use that opportunity and to make use of the qualities of this
8 witness to touch upon a number of topics of which the civil
9 parties are concerned.

10 We do reiterate also that, in accordance with Internal Rule 23.1,
11 the role of civil parties in these proceedings is twofold:
12 firstly, we have a mandate to participate in the criminal
13 proceedings against those responsible for crimes within the
14 jurisdiction of the ECCC by supporting the Prosecution; and,
15 secondly, it is to seek moral and collective reparations for
16 harms suffered. The topics to be examined will therefore be
17 matters upon which the civil parties are concerned and may flow
18 on for matters which the Prosecution has put to the witness
19 regarding the communication and administrative structures which,
20 in our view, might require a follow-up questioning for a more
21 complete response.

22 [14.39.45]

23 To assist Your Honours to determine whether or not to grant us
24 more time to question the witness, I can indicate the questioning
25 will revolve around a few key topics related to communication

1 channels and administrative structures that may contribute to
2 establishing:

3 1) the responsibility of Ieng Sary concerning victims at S-21 who
4 were called to return from overseas and prisoners at S-21 who
5 were taken from the Ministry of Foreign Affairs;

6 2) the capture of foreign nationals off the coast of Cambodia and
7 the communication channels related to their transfer to S-21, and
8 in particular which might draw some light on Mr. Nuon Chea's role
9 in this chain of command;

10 3) the policy and chain of command concerning the use of
11 confessions by Vietnamese nationals or individuals of Vietnamese
12 ethnicity at S-21, including the directives and policies related
13 to that; and

14 4) the communication channels through letters through the
15 division chief concerning prisoners at S-21.

16 [14.41.00]

17 The allocation of time for questioning is obviously a matter for
18 Your Honours to consider in light of trial management, and we ask
19 that you do take into account the significance of the evidence
20 that Mr. Kaing Guek Eav is able to bring light on to the civil
21 parties.

22 MR. PRESIDENT:

23 Times have already been allotted, and counsel would have three
24 hours. Now, you ask that these three hour be added; so how much
25 time would you wish to ask for?

1 MS. NGUYEN:

2 Your Honours, at this stage, I can indicate that we would ideally
3 require up to one day, but it is a matter in Your Honours
4 discretion, and we would be happy if you could allocate us
5 anything up to one day.

6 MR. PRESIDENT:

7 Thank you for the request. The Chamber will rule on this.
8 Since it is now appropriate time for the adjournment, the Court
9 will adjourn for 15 minutes. The next session will be resumed at
10 3 o'clock.

11 Security guard is now instructed to take the witness to his room
12 and have him return to the courtroom before we resume the next
13 session.

14 (Court recesses from 1442H to 1506H)

15 THE GREFFIER: Please be seated.

16 MR. PRESIDENT:

17 Please be seated. The Court is now back in session.
18 Before I hand over to the international prosecutor to continue
19 his line of questioning on the witness, the Chamber wishes to
20 respond to the requests made by the Prosecution on the time
21 allocated to a question -- to put question to the witness, Kaing
22 Guek Eav alias Duch, as well as the request by the civil party
23 Lead Co-Lawyer.

24 The Chamber grants the request.

25 Now, I hand over to the representative of the Prosecution to

1 continue putting questions to the witness.

2 BY MR. SMITH:

3 Thank you, Mr. President. Thank you, Your Honours.

4 [15.07.55]

5 Q. Mr. Kaing Guek Eav, before we went to the break, we started a
6 discussion about communication within the Communist Party of
7 Kampuchea, and I drew your mind to a provision in the Statute,
8 which is Article 6 -- Article 6.5; and it should be on your Khmer
9 page 30. Do you see that provision, Article 6.5?

10 (Short pause)

11 [15.08.36]

12 You've nodded your head, so I believe that -- I believed you
13 found it.

14 And so I would ask you to read out Article 6.5. It's short, but
15 it really is the basis of our discussion, certainly for the next
16 30 or 40 minutes. So I'd ask if you could read that out to the
17 Court, please.

18 MR. KAING GUEK EAV:

19 A. Thank you. "[Article 6.]5. At the designated times, lower
20 echelon must report to upper echelon on the situation and on work
21 done."

22 I would like to finish this part here.

23 [15.09.40]

24 Q. That will allow us to be more specific, so that's a good idea.
25 When we look at that provision that the lower echelon must report

1 to the upper echelon "on the situation and work done", what does
2 the word "echelon" mean? You may have discussed this idea
3 earlier, but in relation to reporting, what do they mean, in the
4 Statute, by "echelon"?

5 A. We simply refer to level. Then, normally, it is designated to
6 the committee - committee level, at the cooperative level, at the
7 commune level, at the sector level, and in -- at the zone level.
8 And in military, there is a committee level at company, at
9 battalion, at regiment, and division, as well as at the level of
10 chief of staff. So this "echelon" refers to the level.

11 Q. And is there a district level as well?

12 A. Yes, there was. There was a Party committee at district level.

13 Q. And above the zone level of committee, are there any other
14 levels?

15 A. Above the zone committee level, there is a Standing Committee
16 of the Party.

17 [15.12.10]

18 Q. Now, you mentioned earlier that there was Central Committee.
19 How does the Standing Committee relate to the Central Committee
20 of the Party?

21 A. The Central Committee encompasses the Standing Committee as
22 well. Then there are full-fledged members of the Central
23 Committee, the candidate members, as well as the assistant
24 members to the Central Committee.

25 Q. We will discuss the structure of these various committees at

1 some point, probably tomorrow.

2 But now I want to go back to the reporting requirement, and
3 that's the requirement of the lower echelon reporting to the
4 upper echelon. It states that they should report "on the
5 situation and [the] work done".

6 Can you explain what those two terms mean, the "situation" and
7 the "work done"? Are they talking about two different ideas when
8 using those two terms?

9 A. "Situation" is different from the "work". "Situation" refers
10 to the material characteristic that arises in the performance of
11 our duties, for example at S-21.

12 [15.14.24]

13 During a day, they send certain number of individuals into S-21;
14 that is the situation. But refer to the task or work as to how
15 many documents or how many confessions we have achieved, or what
16 we have done, so that we could report to the Party; that is
17 referred to the "work done".

18 Q. Now, this principle of reporting, does this principle apply --
19 did it apply within S-21?

20 You say that it applied between echelons, and you've said earlier
21 that S-21 was an independent regiment, and you would have to
22 report to the next-level echelon. But what about within the
23 regiment, within S-21; was that principle of the lower level
24 reporting to the upper level -- was that to apply within a unit
25 or a regiment or only between echelons?

1 A. The fifth principle in Article 6, the earlier part of this
2 sub-paragraph reflects the universal principle. In other words,
3 the lower echelons must report to the upper -- the immediate
4 upper echelon. It means that the company reports to the
5 battalion, and the battalion would continue to report to the
6 regiment, and so on and so forth. So that was a universal report
7 lines.

8 [15.16.43]

9 And at S-21, we had to follow this report line as well with Son
10 Sen. Son Sen frequently asked me to work and -- every three days,
11 but once in a while I met with him once in every four days, but
12 he follow-up the work very thoroughly, very carefully. Every day,
13 he called me on the phone and he talked to me for about one hour
14 or so, at around 4 or 5 in the afternoon. He asked me
15 particularly on individual prisoners whom he had -- he was
16 interested in. So I reported to him regularly and I wrote in my
17 reports. And I also testified this before the Co-Investigating
18 Judges.

19 As for the report to Nuon Chea, I had to report every three days,
20 or, at most, I reported to him once every five days. But Nuon
21 Chea never talked to me on the phone but he asked me to report to
22 him at the Suramarit Buddhist Training School. He sat facing
23 Doctor Em Street, and I sat opposite to him, and that was the
24 report I had to make.

25 [15.18.21]

1 At S-21, certain urgent confession, I had to report directly on
2 the phone to Son Sen; I ask his messenger to pick the confession
3 up from S-21 if that was an urgent confession, but it varies
4 depending on the content of the confession by each prisoner.

5 Q. Thank you for that answer.

6 We will be discussing how you reported from S-21 to a higher
7 level, who you reported to and how you reported, and how -- how
8 information was transferred.

9 But at the moment I just want to concentrate on within -- within
10 S-21, how communication, how information, how it worked, how it
11 travelled from the lower level in S-21 to you at the top, and how
12 you communicated information at the top to the lower level.

13 So, just to clarify, my question to you is: Within S-21-- You
14 stated it was an independent regiment. And is it the case that it
15 was divided into smaller units like companies and other military
16 units within S-21, and each of those units reported up to each
17 other and then, finally, up to you? Is that the summary of what
18 -- of your evidence?

19 [15.20.02]

20 MR. PRESIDENT:

21 The Witness, please hold on.

22 The defence counsel for Nuon Chea is on his feet. You may
23 proceed.

24 MR. PESTMAN:

25 Thank you, Mr. President.

1 This was a very detailed question, and I'm afraid of the answer.
2 I'm afraid that the answer will go far beyond the scope of the
3 first trial.

4 We know that the prosecutor is -- I wouldn't say "desperately",
5 but has tried very hard to put S-20 (sic) list of the agenda of
6 this trial -- they've asked the Trial Chamber, in January of this
7 year, to include S-21 among the charges to discuss at the first
8 trial. And as far - as far as I'm aware, the decision on that
9 particular request has not been taken yet.

10 [15.20.57]

11 I really don't see the relevance of all these very detailed
12 questions about communication within little units within S-21 for
13 the scope of the first trial.

14 The first trial, to make it clear, is supposed to deal with the
15 evacuation of Phnom Penh and the subsequent movement of the
16 population in phase 1. And that is -- that all took place before
17 S-21 was established. It's irrelevant, what the structure was in
18 S-21; it's not relevant for the evacuation of Phnom Penh or the
19 movement of people and it's also a different period.

20 I really would encourage the Trial Chamber to limit - to limit
21 this line of questioning as much as possible.

22 We're desperate for time to interview this -- or to examine this
23 witness as well.

24 MR. PRESIDENT:

25 International Co-Prosecutor, you may proceed.

1 MR. SMITH:

2 Mr. President, the purpose of leading this evidence is not to
3 bring in the case of S-21. Your Honours have made a decision. It
4 will be up to Your Honours at whatever point -- whether that --
5 you'll make that decision.

6 [15.22.22]

7 It's -- the purpose of this line of questioning is to show
8 exactly how communication worked.

9 The Prosecution will get objected to if the witness starts
10 talking about evidence he has no -- or information he has no
11 personal knowledge of, and this is the best way for the witness
12 to give reliable evidence as to the systems that operated in the
13 Communist Party of Kampuchea.

14 The -- paragraph 72 of the - of the Indictment, which is in this
15 first trial, relates to communication, and in that paragraph it
16 states that communication within S-21 -- the record-keeping was
17 meticulous. And I'd submit, the reason why it's important is
18 because the way one unit communicates will give Your Honours a
19 very good and strong understanding of the structure of how other
20 units communicated during that period.

21 It's also a misstatement by the Defence that this case only deals
22 with phase 1 evacuation. It also deals with phase 2 evacuation,
23 which moves into '76 and early '77. And the very fact that S-21
24 is operating at the same time that these crimes were occurring
25 will provide a significant indicator as to the structures that

1 were operating in Democratic Kampuchea.

2 [15.24.10]

3 The Prosecution is not trying to call witness to show the crimes
4 occurring at S-21. I think Your Honours have seen that my
5 questions have been very carefully framed to talk about
6 communication, how it worked, how information was collected, and
7 how it was communicated to outside.

8 MR. PRESIDENT:

9 International Counsel for Ieng Sary, you may proceed.

10 MR. KARNAVAS:

11 Good afternoon, Mr. President. Good afternoon, Your Honour, and
12 good afternoon to everyone, again, in and around the courtroom.
13 The gentleman can speak about how S-21 function, how he had set
14 it up, how the reporting was done. He's already indicated earlier
15 that reports would go out: they would go out by way of messenger,
16 by way of car.

17 Now, what we hear from the Prosecution is -- they want to turn
18 this gentleman into, sort of, an expert that -- through his
19 testimony and the way he ran S-21, that's how the entire country
20 was run, and that's how things were being done at the zone level,
21 or at other ministries, or what have you.

22 [15.25.31]

23 We would object. The Prosecution can elicit testimony from this
24 gentleman as to what he actually knows. Now, if he's capable of
25 giving facts about how things were going on outside S-21, then

1 they should do so step-by-step. But to suggest that here we have
2 this individual and the way that S-21 was run, and therefore,
3 from here, we know exactly how things were communicated in and
4 around the country, is absolutely false.

5 And I suggest that, if they're going to go into S-21, as to how
6 he was running it, that's fine. If he's doing it as -- by way of
7 a -- as an example, that's fine. But that example, at least
8 through this particular witness, does not translate for the rest
9 of the country; they may simply need to bring in other witnesses.
10 And the Prosecution, I suggest, is better off not trying their
11 entire case through Duch, which is what they're trying to do. The
12 gentleman may have knowledge, but it's limited. There are other
13 witnesses that can elicit testimony that will probably be much
14 more useful to Your Honours, and perhaps have even more weight.
15 Thank you.

16 MR. PRESIDENT:

17 International Co-Prosecutor, you may now proceed.

18 [15.27.21]

19 MR. SMITH:

20 Thank you, Mr. President. This witness may well be one of the
21 best witnesses in this case to give an understanding of the
22 workings and structure of Democratic Kampuchea. By the very --
23 the voluminous information that was attained from the 12,000 plus
24 prisoners that were brought in to S-21, this witness will be able
25 to give evidence on structure and how communication systems

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1 worked.

2 And I was just looking at a quote, the other day, from David
3 Chandler, about how prisons are reflective of the society at
4 large, and certainly, in the Democratic Kampuchea period, the
5 Prosecution case is that the way that policy was imparted, the
6 way that policy was communicated in S-21 was absolutely similar
7 in the way policy -- Party policy was communicated through every
8 other department.

9 And, if I can quote - and this is David Chandler--

10 MR. KARNAVAS:

11 Mr. President, I hate to interrupt, and I apologize for
12 interrupting, but--

13 [15.28.32]

14 MR. PRESIDENT:

15 Counsel Karnavas, could you please be seated and allow
16 Co-Prosecutor to finish his observation?

17 Co-Prosecutor, you may continue.

18 MR. KARNAVAS:

19 (Microphone not activated)

20 MR. PRESIDENT:

21 Co-Prosecutor, you may now proceed.

22 MR. SMITH:

23 "Discovering S-21, in other words, is a process that began in
24 January 1979 and is still underway. The mass of material now
25 available seems sufficient to support a detailed study of

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1 prisons. The Yugoslav writer, Milovan Djilas, has observed that
2 -- and I quote - 'the way prisons are run and their inmates
3 treated gives a faithful picture of society, especially ideas and
4 methods that dominate that society'."

5 [15.29.25]

6 That's exactly the point, Your Honours. This witness has a great
7 ability to explain how information was communicated. And by
8 looking at what happened within S-21, it's going to provide a
9 great indicator to what was opening in other areas.

10 I know the Defence would like this witnesses' testimony, this eye
11 into what had actually happened during that period to be shut,
12 but I think it's important, Your Honours, that that eye not be
13 shut and Your Honours understand how Democratic Kampuchea worked.
14 The Accused are not testifying, they are not telling you --
15 that's their right -- they are not telling you how and -- how
16 things happened in this period, how things were communicated or
17 the structure. We have to use the people that are available, and
18 this witness was central to that operation.

19 And we ask simply that we ask the questions which will help Your
20 Honours to decide on this case. And we will focus the cases --
21 the questions on communication; we're not trying to do anything
22 other than that. Thank you.

23 MR. PRESIDENT:

24 Counsel Karnavas, first.

25 [15.30.40]

1 MR. KARNAVAS:

2 Thank you, Mr. President. My primary objective is, first of all,
3 here, we have a witness who was fed all this information in
4 preparing his case. As you all know, he was given questions by
5 the Prosecution, and he took months to answer them with the
6 assistance of his lawyer. Now, if that's not a form of
7 confabulation, I don't know what is.

8 Now, we have the Prosecution, in the presence of the witness,
9 telegraphing to the witness what they want the witness to talk
10 about.

11 They want to claim that this witness is the only witness that can
12 talk about the structure. This witness can talk about what he
13 knows. What he read, what he analyzed, what he's researched, and
14 what he's written about since then is irrelevant.

15 [15.31.34]

16 Whether the Accused testify or don't testify -- that is their
17 right. I find it offensive -- absolutely offensive -- that the
18 Prosecution would stand here and then use that as an excuse, and
19 then say: here is this special individual; this individual can
20 talk about torturing, he can talk about killing, he can talk
21 about forcing people how to lie in their confessions, he can talk
22 about the structure of S-21, he can talk about who he was
23 reporting to. And if the Prosecution can lay a foundation, which
24 they haven't done so thus far, they may be able to get from this
25 gentleman information as to how other thing were going on during

1 that particular period. But to simply suggest that he is this
2 fountain of information and that there is no one else available
3 to testify, and then to quote Chandler, an expert who may or may
4 not appear, and say: Because Chandler says that a prison system
5 represents the whole way society was structured -- is utterly
6 nonsense and ridiculous.

7 This is not a way of answering the objection. He should stick to
8 the point.

9 And I find it extremely offensive for him to suggest that,
10 somehow, the Defence is trying to muzzle this particular witness.
11 He can talk about whatever is appropriate, as you've indicated.
12 We're not trying to restrict the Prosecution, but we are trying
13 to get them to do their job properly.

14 [15.33.10]

15 The gentleman has been leading the witness throughout the day. I
16 have sat here -- I have sat here without objecting because some
17 of the leading questions were innocuous, but nonetheless they
18 were leading. I only object when it's absolutely appropriate. We
19 are not trying to muzzle the Prosecution; we are trying to make
20 sure that they don't simply try their entire case through this
21 gentleman.

22 And they're claiming that there's no other witness available, and
23 therefore we have to tolerate listening to him. He can testify
24 about what he knows, what he actually knows.

25 And I suggest -- they can start by asking questions -- simply

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1 questions like who, what, where, why, how, explain, describe.

2 Let's take it from there.

3 (Judges deliberate)

4 [15.35.18]

5 MR. PRESIDENT:

6 The Chamber decides that the objections by both counsels are not
7 sustained. The Chamber, therefore, wishes to hear further
8 testimonies from the witness.

9 And the Co-Prosecutor may proceed, and witness is instructed to
10 respond to questions by the -- or the last question by
11 Co-Prosecutor. If witness does not recall the question posed to
12 him recently, then Co-Prosecutor may repeat the question to
13 refresh this.

14 MR. SMITH:

15 It may be difficult for you to remember the question after that
16 discussion; I certainly find it difficult to remember.

17 But, Your Honours, just for the record, the Prosecution has never
18 given this witness any questions during the judicial
19 investigation. The Investigative Judges has done that, certainly
20 not the Prosecution.

21 [15.36.35]

22 BY MR. SMITH:

23 Q. Mr. Kaing Guek Eav, these questions I'm about to ask you are
24 about communication. They're not about the crimes at S-21;
25 they're not about the tortures. It's about how communication

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1 worked. And so, to understand that, we would like to understand
2 how communication travelled from the lower units at S-21 up to
3 your level, and how communication travelled from your level to
4 the lower units. And then we will ask you questions about how you
5 communicated with upper-level, outside of S-21. So, if you can
6 channel your observations to ideas about communication, that will
7 keep the questions and answers more focused.

8 Would you say-- Firstly, when we talk about communication, we're
9 referring to information, how information travels. Can you tell
10 us what information was recorded at S-21, what type of
11 information was recorded in the conduct your -- of the operation?

12 [15.38.28]

13 MR. KAING GUEK EAV:

14 A. The two types of information, internal information at S-21
15 unit, lower echelons would keep reporting, and Hor would be the
16 person who summarized the information and report to me on it. And
17 at some point I would proceed to report to the upper echelon.
18 This is how we dealt with internal information in -- with regard
19 to the information concerning the confessions: the interrogators
20 would report upon the completion of the confession extracted from
21 each prisoner; the documents would be submitted to me, and I
22 would read and summarize the confessions and made some necessary
23 annotations to the upper echelon. I do not need to shed light on
24 who - superior, or upper echelon -- I refer to because the
25 document tells the detail already.

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1 So, when it comes to the confessions of S-21, they would be sent
2 to the upper echelon, and at some point they would also be
3 reported immediately.

4 [15.40.15]

5 And with regard to information concerning training sessions, I
6 would contact the people at the general staff, Comrade Saom, to
7 know when the sessions would start, when the documents would be
8 sent to me, so on and so forth.

9 Q. Thank you. If we can just, for the moment -- just concentrate
10 on the information that was recorded.

11 Over the -- you've testified that, over the period of operation
12 of S-21, over 12,000 people were killed there. Were lists of
13 prisoners, or detainees -- were they kept?

14 A. I think all documents -- the Office of Co-Prosecutors already
15 shown to me some documents for clarification, but some still
16 unaccounted for.

17 Q. When people arrived at S-21 after being arrested, was there
18 any information recorded as to their arrival?

19 [15.41.58]

20 And if there was, what type of information was recorded from
21 people arrested?

22 MR. KAING GUEK EAV:

23 A. There were two groups of people who were arrested.

24 First, ordinary people. My superior and I, myself, could not
25 grasp the importance of such individuals. Prosecutors may be

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1 informed already concerning letters regarding entries Comrade Hor
2 managed. There were several kinds of these letters, letters from
3 Norng Chin and Mum Yaul, the parents of Norng Chansophal
4 (phonetic). You could refer to that letter.

5 And some important people were sent in, information was not yet
6 recorded, because they avoid any leak of secrecy. They would send
7 the persons to the respective places for interrogation.

8 For example, in the case of Koy Thuon, I was -- and information
9 would be follow at every now and then because my superior would
10 be very curious to know what happened to the confession and he
11 would keep asking me every now and then whether such a confession
12 was already obtained from the person.

13 [15.44.04]

14 Q. Thank you. And perhaps, if we can just list to the question:
15 When - when prisoners arrived at S-21, were lists created of
16 those prisoners' arrival?

17 A. Normally, the person would come with a list. For example, by
18 the end of each day, the list of people who were sent in would be
19 reported and sent to me.

20 Q. You said that normally, when people were arrested, they would
21 "come with a list". Was there also a list recorded by S-21 --
22 their own list -- or was it just the list that came with the
23 particular arrestee?

24 A. Normally, there is a list of S-21. It must be a list by S-21.
25 But in some -- on some occasions, the original units would attach

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1 a list with the person who was being arrested, a brief list of
2 that person concerned.

3 Q. And can you advise the Court, what type of information was
4 usually recorded on the S-21 prisoner list? What type of details
5 from each arrestee were recorded?

6 A. I think, perhaps, I do not quite catch the question.

7 Q. On the list that was made up by S-21, I assume it had the
8 detainee's name -- the name listed; is that correct?

9 [15.46.41]

10 A. That is correct.

11 Q. What are the -- were there any other attributes listed, like
12 the sex of the person, the location from where they came from,
13 their age or any other aspects? Were there any other aspects
14 recorded to identify that person, other than their name?

15 A. Document at S-21 tell all the detail. However, I would also
16 like to shed light on this.

17 Apart from the name, there should be sex -- or gender -- title,
18 and also the place where the person was arrested. The place where
19 the person was arrested here refers to the original unit, the
20 place where the person was arrested in the first place. This is
21 what I still recollect.

22 Q. I think you said earlier that, by looking at the information
23 that came in from S-21 or where people were arrested, it helped
24 you understand the structure of the country, or the structure of
25 the CPK; is that correct?

1 A. Could you please repeat the question?

2 [15.48.36]

3 Q. When you looked at the title of the person on the list, what
4 type of titles would be there? What type of-- Yes, if you can
5 just answer that, what titles would be there, if you could
6 provide some examples.

7 A. I think the rendition is difficult to understand.

8 However, based on my experience and practice at my work-place,
9 when it - it refers to Comrade Pang. Pang would be named as the
10 head of Santebal office of S-71. That would be clear, because
11 previously I would never know what S-71 could have been.

12 And for example, Eng Meng Heang alias Chhon, who was sent from
13 the Energy, he -- his title was the deputy-chief, or secretary of
14 the Energy. So I could easily understand that Eng Meng Heang
15 could have been the deputy of that place and sent from the North.
16 And Pol Pot would need immediate confession from that person.

17 Q. Did you review all of the S-21 lists? Was that part of your
18 job, to look at the lists?

19 A. Frankly, I did not look into the lists more seriously, because
20 my task was to summarize the confessions so that they could be
21 understood quickly and easily and had them reported to my
22 superior, because I -- as I indicated, every late afternoon I
23 would have phone conversations with my superior from 1 hour or 2,
24 and then he would ask me to update him on this. And it is really
25 to dial him, because we go the quick dial number. I just press

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1 it, and then the phone rang.

2 [15.51.28]

3 Q. But even if you didn't look at the lists in depth, when you
4 did look at the lists, did it include the date that the detainees
5 were arrested?

6 A. There was dates, but we also have some discrepancy concerning
7 the dates which needs clarification as well.

8 Q. Did it include the dates when people entered S-21, when they
9 arrived?

10 A. Most like -- most often, the date could have been the date
11 when the person entered S-21, but they're also some other aspects
12 involved.

13 Q. And just so we're clear -- you mentioned that there may be
14 discrepancy with the dates -- what are you referring to when
15 you're talking about this discrepancy?

16 [15.53.05]

17 A. When ordinary prisoners came, the date on which the person
18 came would be recorded immediately.

19 However, when it comes to important prisoners, the prisoners
20 would be kept at the special prisons. The interrogators would be
21 the special interrogators. The dates regarding when these persons
22 entered would never be accurate because they would only be
23 presumed dates.

24 For example, with regard to Phung Ton, there were three different
25 dates on his entry.

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1 Q. When - when prisoners entered S-21, other than the preparation
2 of a list, was any other information recorded -- from people
3 arrested -- in document form, on their arrival?

4 A. Immediately upon arrival, each prisoner would be taken
5 photograph. And those who supposed to be sent to Prey Sar would
6 be sent. Those who supposed to be kept at S-21 then would be
7 kept. And Hor would be in charge of reporting on important
8 prisoners to me.

9 [15.54.54]

10 Q. And you said, when they arrived they were photographed. Were
11 they required to provide any information about themselves when
12 they first arrived at S-21, or not?

13 A. When they entered the premises, Comrade Hor would start
14 interrogating them.

15 Q. So, for example, when a group of, say, 20 prisoners arrived at
16 S-21, what type of information was obtained initially?

17 A. For example, in the case of 20 people from Division 7 --
18 rather, one division, then the information -- brief information
19 would be recorded, first, to establish the brief detail of each
20 arrestee. This information would help us to decide who should be
21 interrogated first and who would be questioned later.

22 Q. So this initial brief information, how was that recorded?

23 A. Normally, it was not recorded in writing; Comrade Hor would
24 just come to me and brief me orally on this, and then we would
25 decide who would interrogate this person or that person

1 immediately.

2 [15.57.27]

3 Q. Were biographies from prisoners taken at any stage, at S-21 --
4 short biographies?

5 A. Normally, these forms or biographies would never be presented
6 to each detainee or prisoner first. They would ask to just write
7 on a blank piece of paper, detailing their life history or
8 background, in particular the information concerning their
9 wrongdoing.

10 Q. Would they be asked that initially on their arrival, or at
11 some later time?

12 A. First, they would have ask each prisoner some questions to see
13 whether he or she can write a brief personal history on that
14 piece of paper. If not, then we would proceed with other
15 measures; and if so, the person would be allowed to write their
16 biography.

17 [15.59.08]

18 MR. SMITH:

19 Thank you.

20 Your Honours, it's 4 o'clock. I can continue or, if you would
21 like to take a break, I can stop.

22 MR. PRESIDENT:

23 Thank you, International Co-Prosecutor. Thank you, Mr. Witness.

24 Indeed, it is appropriate time for the day adjournment. The

25 Chamber will adjourn, and the following session will be resumed

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1 at 9 o'clock, tomorrow.

2 Security personnels are now instructed to bring Mr. Kaing Guek

3 Eav alias Duch to the detention facility and have him returned to

4 the courtroom before we resume our session. And at the same time

5 they are instructed to bring all the accused persons to the

6 detention facility and have them returned to the courtroom by 9

7 a.m.

8 The Court is adjourned.

9 (Court adjourns at 1600H)

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