



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

ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia  
Nation Religion King  
Royaume du Cambodge  
Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង  
Trial Chamber  
Chambre de première instance

**ឯកសារដើម**  
**ORIGINAL/ORIGINAL**  
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TRANSCRIPT OF TRIAL PROCEEDINGS

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Case File N° 002/19-09-2007-ECCC/TC

3 April 2012

Trial Day 46

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

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**List of Speakers:**

Language used unless specified otherwise in the transcript

<b>Speaker</b>	<b>Language</b>
MR. ANG UDOM	Khmer
MR. KAING GUEK EAV alias DUCH	Khmer
MR. KARNAVAS	English
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
MS. NGUYEN	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PESTMAN	English
MS. SIMONNEAU-FORT	French
MR. SMITH	English

1

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

2 (Court opens at 0907H)

3 MR. PRESIDENT:

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

5 [09.08.07]

6 According to our schedule and what we determined yesterday, Lead

7 Co-Lawyers for the civil party will have another hour to put

8 questions to witness Kaing Guek Eav alias Duch.

9 Without further ado, the Chamber would like to hand over to the  
10 civil party counsels to proceed with their lines of questions.

11 QUESTIONING BY MS. NGUYEN RESUMES:

12 Thank you very much, Your Honours.

13 Q. Mr. Kaing Guek Eav, yesterday, we left off at a point where  
14 you were giving evidence about the interrogation of prisoners who  
15 were foreign nationals.

16 You said that you recruited an English-speaking translator from  
17 amongst the prisoners, who attended with the interrogator to  
18 assist at the interrogation sessions. You also said that you  
19 attended the sessions to ensure that the interpreter actually  
20 understood the language that he was supposed to interpret. Do you  
21 agree that this is what you said?

22 [09.09.32]

23 MR. KAING GUEK EAV:

24 A. Yes, I do. And I still recollect this event very well without  
25 any doubt.

2

1 Q. You said also that you had received, seen, read, and  
2 remembered the confessions of the four westerners who came into  
3 S-21. And for the record, this is a reference to Kerry Hamill and  
4 John Dewhirst, who came off one boat, and to Michael Deeds and  
5 Christopher DeLance, who came off another boat. Do you confirm  
6 this?

7 A. I have not paid great attention into reading the documents,  
8 though, because Pon, my interrogator -- my people, would report  
9 to me on a regular basis regarding the interrogations.

10 And I think I do not remember the tactics in interrogating. I  
11 just -- I recollect one vivid event when we went to the bush to  
12 look for some fruits that could not be poisonous, could be eaten.  
13 So, again, I do not deny having read the confessions entirely,  
14 but I do not fully accept -- or I do not really say that I will  
15 accept the confessions entirely. And I had been with the  
16 interrogators. And I, again, remember the one main event  
17 concerning the fruit we picked up from the bush.

18 [09.12.15]

19 Q. Okay. Mr. Kaing Guek Eav, from your memory of the CIA  
20 confessions from the foreign nationals, could you inform the  
21 Court about the level of detail with which the victims provided  
22 information about their purported CIA work?

23 You mentioned that some of the confessions were quite lengthy.

24 My question is: What type of activities, operations and missions  
25 did the victims confess to?

3

1 A. Frankly, I cannot fully recollect the details, but in general  
2 these people confessed that they came to Cambodia as spies. They  
3 were on their espionage mission. That's the content of their main  
4 confessions of the four westerners.

5 Q. Did these victims write about regional affairs -- regional  
6 foreign affairs and how the political objectives of the purported  
7 CIA operations that they purportedly worked with operated in the  
8 Southeast-Asian region?

9 A. I'm afraid I don't remember this.

10 [09.14.15]

11 Q. Did these victims write about matters such as the CIA military  
12 structures, the chain of command that they purportedly followed,  
13 the salary and pay points that they were ranked as, the military  
14 promotion structures, and details about the CIA training courses  
15 and programs?

16 A. I still maintain my position that these things happened a long  
17 time ago, and my memory cannot last that long. And since these  
18 people -- only a few of them were arrested, we were convinced  
19 back then that there would not be any chain of command or more  
20 people who could have been regarded as further network of the  
21 spies. And I was convinced that these people could not have  
22 established any proper network in Cambodia because they could  
23 have -- could have been operating abroad.

24 But the only vivid event that I still recollect is the moment  
25 that we went to the bush to pick up some fruit that could be

4

1 eaten, as experiment.

2 [09.16.06]

3 Q. Mr. Kaing Guek Eav, I'll ask you again: Did these victims  
4 write about, in their confessions, American foreign policy,  
5 communism in the region, CIA intelligence missions regionally,  
6 international relations, for example relations with the Soviet  
7 Union, and the-- Your Honour, I think there might be a problem  
8 with my microphone.

9 MR. PRESIDENT:

10 Counsel Karnavas, you may proceed.

11 MR. KARNAVAS:

12 Good morning, Mr. President. Good morning, Your Honours. And good  
13 morning to everyone in and around the courtroom. I think it is  
14 becoming more of a charade at this point for the counsel to try  
15 to use what's in the content to cajole the witness into  
16 remembering.

17 [09.17.16]

18 It appears that the Trial Chamber has already allowed counsel to  
19 use the contents of the confession even though it was taken under  
20 torture. Since that is the case and since counsel has represented  
21 that the contents of the confession are not being used for the  
22 truth of the matter asserted in the confessions, but merely what  
23 is in the confession itself to show the level of detail that  
24 would have been imparted to the person being tortured by the  
25 gentleman here and his - his co-workers, it seems appropriate to

5

1 use the confession to refresh the gentleman's memory, and then we  
2 could be done with this -- charade, in a sense, where one is  
3 being told: Do you recall the details of this -- which are  
4 clearly from the report -- and the gentleman saying: I have no  
5 recollection, 35 years ago -- even though he remembers things  
6 that -- whenever he wants to remember quite vividly.

7 So let's just use the confession itself to confront the witness  
8 to refresh his memory, and I think this may expedite the  
9 proceedings. Thank you.

10 (Judges deliberate)

11 [09.19.06]

12 MR. PRESIDENT:

13 Counsels for Ieng Sary's objection is sustained.

14 Counsel for the civil parties is advised to refrain from the  
15 content of -- citing from the content of the testimonies of  
16 prisoners whose confessions was obtained under torture.

17 The accused - rather, the witness has already indicated that he  
18 has not recollected the details of the confessions of the four  
19 westerners at S-21, and he remembers very well the one vivid  
20 event concerning the fruit that could be eaten and to distinguish  
21 them between the edible fruit and the poisonous ones. So witness  
22 has already made it clear in his testimony and he reiterates time  
23 and again that he has no recollection of the content of the  
24 confessions.

25 Time has passed gradually, and if counsel feels that she wishes



6

1 to have further questions other than this, she may proceed.

2 Otherwise, we will proceed to other parties.

3 [09.20.52]

4 BY MS. NGUYEN:

5 Thank you, Your Honours. I'm not entirely sure what the  
6 fruit-picking incident goes to, but given that time is limited, I  
7 will move on.

8 Q. Mr. Kaing Guek Eav, I want to move now back to the topic of  
9 the interrogation sessions with the selected interpreter which  
10 you attended with.

11 Was the interpreter at the interrogation session the same person  
12 who wrote the English version of the confession that was  
13 ultimately received by you?

14 MR. KAING GUEK EAV:

15 A. I obtained the confession in English versions and also had  
16 them submitted to the superior.

17 [09.21.52]

18 Q. Yes, but the question was: Was the interpreter who attended at  
19 the interrogation session the same person who wrote the English  
20 version of the confession? I'm sorry. Was that person the same  
21 person who wrote down the Khmer version of the confession which  
22 you received?

23 A. According to my recollection, the interpreter had to be there  
24 from the beginning until the confessions were obtained. The  
25 English versions of the confessions were written by the victims

1 -- or prisoners, who had to write down their confessions. The  
2 Khmer version of the confessions were the handwritings of the  
3 interrogators.

4 Q. Witness, do you speak and can you understand the English  
5 language?

6 A. My English knowledge was very embryonic, but when I was at  
7 S-21, I could grasp the situation; I could understand what  
8 happened and I could see that the interpreter could use the  
9 English fluently.

10 [09.24.05]

11 I asked the prisoner who later on was interpreter, I asked him  
12 what his name and his parents, and he said he was Sarin Chhak --  
13 the son of Sarin Chhak. And Sarin Chhak himself was a popular  
14 person. And I asked him whether he could understand English  
15 genuinely and -- I apologize for using this kind of swearing word  
16 -- I asked what the (in English) "son of bitch", in English,  
17 could have been, and the guy could say "the son of a bitch" very  
18 well. And I apologize for using this phrase, but I used it there.  
19 So I could feel that the guy -- that the person could speak  
20 English at ease.

21 Q. But, Witness, was your English at a level where you could  
22 understand what the Englishmen, what the Americans were saying  
23 during the interrogation session?

24 A. I did not attend the interrogation session for long. I was  
25 there to only check the qualification of the interpreter to see

1 whether he could speak English. And later on, the rest was left  
2 to the interpreter and the interrogator to proceed with the  
3 confession sessions.

4 [09.26.02]

5 Q. Do you remember saying in evidence, yesterday, that the duty  
6 of S-21 was to counter-espionage and that was why you were  
7 required to find CIA, KGB, and "Yuon" in Cambodian territory? Is  
8 that what you said?

9 A. Yesterday, I indicated and talked about the tasks of S-21.  
10 S-21 was the counter-espionage unit -- in French,  
11 "contre-espionnage". I don't know what it was in English, but it  
12 was indeed tasked with finding the spies, intelligence agents.

13 Q. Do you remember saying in evidence, earlier, when questioned  
14 by the prosecutor: "The main purpose was to extract systematic  
15 confessions from prisoners, and we had to elicit the answers from  
16 them, that they carried out or conducted certain activities that  
17 were inter-related from the early days to date. And as for the  
18 veracity of these confessions, it was up to the upper echelons to  
19 decide"? Do you remember saying that?

20 A. I acknowledge these roles, although there could have been  
21 slight discrepancies in the languages rendered in this Court, but  
22 I fully am responsible for these roles. And I think I still  
23 maintain my position in which I emphasized clearly before the  
24 Prosecution earlier on.

25 [09.28.40]

1 Q. Thank you. Would I be correct, then, to say that it did not  
2 matter what the prisoner actually said or what the truth about  
3 their history and background actually was? The fact is that you  
4 were required to extract a confession and that the formal  
5 responses as collected by S-21 were always that the prisoner had  
6 been engaged in espionage or subversion activities as part of CIA  
7 or as part of other enemy forces; is that correct to say?

8 A. Mr. President, this question is relating to a new event  
9 regarding the case building at S-21. I would just like to say  
10 that the hearts of the cadres under my supervision, they never  
11 acknowledged the facts as facts.

12 For example, Koy Thuon's confessions; I did not acknowledge that  
13 his confession could have been truthful or not truthful. I had to  
14 have them compiled and reported to the superiors so that they  
15 make decision on the confessions.

16 [09.30.43]

17 The tasks of S-21 staff were to obtain confessions for superiors'  
18 consideration. As I indicated, we were tasked with interrogating,  
19 obtaining the confessions, and we had to interrogate prisoners,  
20 and we had to apply tactics in interrogating them. Sometimes, we  
21 had to withdraw to think before we went there again to obtain the  
22 confessions. But the ultimate goal is to extract the confessions.

23 Q. Once you extracted confessions from special prisoners such as  
24 the foreign westerners, who, in the upper echelons, did you  
25 forward these confessions to?

10

1 A. Thank you. Prisoners were brought in in two phases.

2 The first phase, Son Sen sent them to me. After the confessions  
3 were extracted, he was probably still with me. It was still  
4 before 15 August 1977 -- I'm not sure about the date, but I'm  
5 guessing it.

6 And after that, the confessions were sent to Brother Nuon -- that  
7 is, Nuon Chea.

8 Q. What did Son Sen and Nuon Chea do with the confessions after  
9 they received them?

10 [09.33.00]

11 A. Thank you. Mr. President, the Standing Committee of the Party,  
12 in which there was Son Sen and Nuon Chea, was to decide what to  
13 do with the confessions. I was not aware of that; it was beyond  
14 my competence. What I knew was that, once he received the  
15 confessions, he decided that those people was to be smashed.

16 Q. Were directives, such as the order to burn the foreign  
17 westerners, made in one broad direction or policy, or was it all  
18 decided on a case-by-case basis as the victims arrived?

19 A. Thank you. The general decision for all victims who were to be  
20 killed either at S-21 or at Choeung Ek was to make sure that  
21 those people were killed and that they were not released. That  
22 was why some prisoners were requested -- or, rather, were ordered  
23 by Brother Nuon to have their photos taken.

24 As for the four foreign nationals, I understand -- I remember  
25 clearly that two of them -- two of them were ordered to be burned

1 totally, completely, and the order was from Nuon Chea.

2 [09.35.23]

3 Q. Were the confessions of special prisoners such as the  
4 westerners also sent to other people in the upper echelon, such  
5 as Ieng Sary and Khieu Samphan?

6 A. Mr. President, I would like to refrain from answering this  
7 question.

8 Q. Were the confessions of special prisoners collected and later  
9 analyzed? And were they later used as propaganda for the Party?

10 A. Mr. President, in the Communist Party of Kampuchea, there was  
11 a movement. Some prisoners' confessions were to be read to the  
12 mass among the population, and the one who read the confessions  
13 was Brother Son Sen. As I remember, at the confession of Pich  
14 Chhorn alias Saom, the confessions of Pang, chief of the hospital  
15 -- that's Hospital 98, it was the hospital of the Secretariat.  
16 And confession on Men San, alias Ya, was to be read. And  
17 confession of Koy Thuon -- some of the confession -- was also  
18 read out.

19 [09.37.46]

20 Besides, Brother Pol said about a confession of Koy Thuon once,  
21 probably during a ceremony of the 17 April 1977. At that time,  
22 Koy Thuon wrote that he was in the Central Committee and he was  
23 the ninth member, and Ya was the 10th member. And in another  
24 confession, Koy Thuon wrote something about the order by Ya. I  
25 recall that Brother Pol said that in the Party - in the Party,

12

1 Koy Thuon was higher than Ya, but within the CIA network, Ya was  
2 higher than Thuon.

3 So, in short, the Communist Party of Kampuchea sometimes  
4 propagandized using the confessions of the prisoners. And the  
5 ones who propagandized were Son Sen and Brother Pol. I end my  
6 answers to you here.

7 MS. NGUYEN:

8 At this stage, I'd like to show the witness a document. This is  
9 document D229.1. The English ERN of this document is 00069031,  
10 the Khmer ERN is 00285361, and the French ERN is 00314947. May I  
11 please have the Court Officer pass this document to the witness?

12 [09.40.00]

13 MR. PRESIDENT:

14 The Chamber permits. Court Officer is instructed to bring the  
15 document to the witness for examination.

16 BY MS. NGUYEN:

17 Can I also have our case manager bring it up on the screen?

18 Q. Witness, have you seen this document before?

19 MR. PRESIDENT:

20 The Chamber permits.

21 The next time, counsel is advised to make the request all  
22 together at once so that the Chamber can decide onto the requests  
23 at the same time.

24 BY MS. NGUYEN:

25 Certainly, Your Honour.

13

1 Q. Witness, have you seen this document before?

2 [09.41.06]

3 MR. KAING GUEK EAV:

4 A. Thank you, Mr. President. This is truly S-21's document. The  
5 handwriting is of Comrade Pon's. This document practically -- in  
6 other words, I saw this document during the Case 001 Trial.

7 Q. Did you see the document during your time as chief of S-21?

8 A. Thank you. Mr. President, when I was chief of S-21, I never  
9 read this document.

10 Q. Can you identify for the Court the date of the document and  
11 its title?

12 A. Mr. President, the title of this document reads - actually, it  
13 was later written for it, and it reads: "The Summary Report of  
14 S-21".

15 Pon only began his writing with roman number I. That is the  
16 "Final Plan".

17 The document was written on the 11th of July 1977.

18 Q. Do you know what this document was about? Do you know why it's  
19 called "The Final Joint Plan"?

20 [09.44.02]

21 A. Mr. President, one day, during the study session in 1977,  
22 Brother Son Sen called upon me and told me to combine -- to add  
23 up all the prisoners -- the number of prisoners, in other words.  
24 When I arrived home, I asked Pon to do that and I did that  
25 myself, also. But later on, because I was busy at S-21 and Son



14

1 Sen already went to Neak Loeung from the 15 of August 1977, no  
2 one talked about that document anymore. I only finished a few  
3 page -- a few pages of that document. And Mit Pon -- rather,  
4 Comrade Pon wrote something about this document as well.

5 In other words, there was a cause for this document to be  
6 written; that was to describe the traitors' -- the enemies'  
7 networks at S-21.

8 Q. Witness, I draw your attention to part B of the document. This  
9 part is titled "Substance of the Summary" and it reads:

10 "The Soviets are the head of the treasonous machination. The  
11 Vietnamese were the executants (implementers).

12 "The US imperialists colluded with the Soviets by compelling the  
13 Thais to provide supplies to the Khmer Serei in Thailand.

14 "Inside the country, the CIA agents and particularly the  
15 Vietnamese expansionists cooperated to implement the same scheme  
16 in constant contact with the outside."

17 [09.46.22]

18 Do you see that?

19 A. Yes, I saw these phrases.

20 Q. Where does the content for this document come from?

21 MR. PRESIDENT:

22 Witness is advised not to answer this question yet; we will hear  
23 the objection from defence counsel.

24 Yes, please, Counsel.

25 MR. KARNAVAS:

15

1 Thank you, Mr. President. I apologize for interrupting, and I  
2 don't mean to be -- to stick into details, but as I recall, the  
3 gentleman indicated earlier that he had not seen the document.  
4 Now, some questions were posed; I didn't object, even though they  
5 were, in my opinion, objectionable. Now we're asking the  
6 gentleman to speculate. Unless they can lay a foundation -- and  
7 an attempt is not being made to lay one, thus far -- I would  
8 object to the gentleman being posed this question, because it  
9 calls for speculation. Thank you.

10 (Judges deliberate)

11 [09.48.07]

12 MR. PRESIDENT:

13 Counsel for civil parties, do we have the English and French  
14 version of this document?

15 MS. NGUYEN:

16 Yes, I do, Your Honour. Do you require the ERNs again?

17 Yes, the English ERN is 00069031. The French version is ERN  
18 00314947. And this is known as document D229.1 and it's also  
19 known as D288/6.5/2.29.

20 (Judges deliberate)

21 [09.50.19]

22 MR. PRESIDENT:

23 The assistant is instructed to put up the English document onto  
24 the screen.

25 (Short pause)

16

1 [09.51.49]

2 MS. NGUYEN:

3 Your Honour, would it be helpful to ask the--

4 MR. PRESIDENT:

5 Mr. Kaing Guek Eav, the document that you were shown by counsel  
6 for civil party, have you seen it before? We use the word  
7 "before", it means that -- before you are to testify before this  
8 Court -- that is during the Democratic Kampuchea regime or later  
9 than that, but before the time that you were summoned to testify  
10 before this Court. Have you ever seen and read this document  
11 before?

12 MR. KAING GUEK EAV:

13 Thank you, Mr. President. The first time I saw this document was  
14 during the Case 001 Trial. The Office of the Co-Prosecutor showed  
15 this document to me and asked me this question about this  
16 document. I was asked whose handwriting it was, and I said it was  
17 Pon's. I had a copy of this document; I read it when I went home.  
18 I read it when I was given by the Office of the Co-Prosecutors.

19 MR. PRESIDENT:

20 The Chamber now decides on the objection of the defence counsel  
21 for Mr. Ieng Sary, who rejects this document, and the decision is  
22 that the objection does not stand.

23 [09.53.53]

24 The counsel for the civil parties may continue her questioning to  
25 the witness.

1 BY MS. NGUYEN:

2 Q. Witness, from your knowledge of the contents of this document,  
3 when you have had a chance to read it, would you agree that the  
4 contents, even from the summary in part B, resemble some of the  
5 content of the confessions?

6 MR. KAING GUEK EAV:

7 A. Thank you. Mr. President, I would like to emphasise that the  
8 content -- this content -- is in line with the world-view of the  
9 Party, which determines who are the Party's enemies.

10 For example, Chhuk communicated with Be Mab, and from the  
11 confessions of Koy Thuon, the group of Khuon connected with the  
12 Vietnamese, and particularly the Thais, through Sot, secretary of  
13 Sector 106, and through the group of Say, in Northwest.

14 MR. PRESIDENT:

15 Yes, please?

16 [09.55.56]

17 MS. SIMONNEAU-FORT:

18 Mr. President, we do not head the answer to the question. There  
19 might be a problem here with the sound system. Could we just -  
20 could we just stop for a little while so we can change my  
21 colleague's device?

22 MR. PRESIDENT:

23 We will continue.

24 Counsel for civil party, you may now proceed. You continue with  
25 your question. You still have another 10 minutes -- you have

18

1 another 15 minutes -- rather, 5 minutes.

2 MS. NGUYEN:

3 Your Honours, it is now very much apparent that we would benefit  
4 from a little bit more time. The civil party's side represents a  
5 large number of clients who have suffered from a range of  
6 different experiences during the Khmer Rouge regime. We have  
7 clients from various different victim groups suffering various  
8 types of specific and targeted discrimination, persecution, and  
9 some amounting to genocide.

10 [09.57.07]

11 All victims want to know the truth more than anything else. The  
12 truth is an absolute essential part to their moving on and to  
13 them receiving justice and some accountability.

14 And we implore Your Honours for some more time to give us the  
15 opportunity to ask questions on behalf of our clients, which are  
16 pertinent to their concerns and to their experiences during the  
17 Khmer Rouge time.

18 MR. PRESIDENT:

19 You have 12 more minutes, Counsel.

20 BY MS. NGUYEN:

21 Q. Witness, given that we don't have that much more time, I'd  
22 like to move on to a different topic.

23 You mentioned in evidence that Nuon Chea had asked S-21 to record  
24 the responses of two Vietnamese prisoners of war per week for  
25 broadcasting. Do you remember saying that?

1 MR. KAING GUEK EAV:

2 A. Thank you. Mr. President, the truth is, on the 8th of January  
3 1978, Brother Nuon called upon me to work -- it means, that was  
4 after the meeting of the victory of the Revolutionary Army over  
5 the Vietnamese Army. Brother Nuon asked me to interrogate the  
6 Vietnamese war prisoners and recorded the prisoners' confessions.

7 [09.59.14]

8 I began the work. I remember that the Vietnamese prisoners who  
9 were interrogated and whose answers were tape-recorded were named  
10 Vo Dinh Hor (phonetic); he was arrested in 1978, and the work was  
11 carried out for a week.

12 Q. Are you aware of any radio broadcasts in which the senior  
13 leaders called for adverse or discriminatory treatment against  
14 the ethnic Vietnamese civilians in Cambodia?

15 A. Thank you. Mr. President, the discrimination against the  
16 Vietnamese expatriates in Cambodia began after 17 April, after  
17 Lon Nol was expelled. I'm not sure about a name of an  
18 organization, whether it was Red Cross organization or not, but  
19 an organization was expelled.

20 [10.00.56]

21 In 1973, we took the advantage where Le Duan was; expelled -- Pol  
22 Pot expelled those Vietnamese expatriates, but it was not the --  
23 the evacuation was not broadcast through radio program.

24 Q. In evidence, earlier, you mentioned that Pol Pot had ordered  
25 for the removal of the Vietnamese from Cambodia. Could you

20

1 describe the scale of the move and, if possible - and, in your  
2 knowledge and observations, how many were actually deported?

3 A. I have problem responding to question concerning exact  
4 numbers.

5 And I think in 1977, when Pol Pot conducted a session chaired by  
6 Son Sen, Son Sen said we had never expelled the Vietnamese from  
7 our country.

8 So, when it comes to the exact number of how many people  
9 expelled, I cannot remember the details.

10 Q. During your experience of those times, do you recall any  
11 policies coming from the Communist Party of Kampuchea to  
12 eliminate and exterminate the Vietnamese people in Cambodia?

13 [10.03.31]

14 A. The CPK never treated the Vietnamese immigrants as the  
15 minority group. However, the CPK treated the Chams as the  
16 minority group. That is true. That's all I can tell the Court.

17 And I perhaps forget the question by counsel. Could you please  
18 repeat, if you wish to ask me again?

19 Q. I do apologize, Your Honours, my headset is just not working,  
20 so I missed that response. I'll now change headset.

21 Witness, if you could just repeat that response briefly, if  
22 possible?

23 A. I just the Court that the CPK never treated the Vietnamese  
24 immigrants who lived in Cambodia as the minority group. They were  
25 treated as the Vietnamese expatriates. However, the CPK treated

21

1 the Chams as the minority group, which is true.

2 And when it comes to your question to me, I forget, so you can  
3 rephrase it if you wish to ask me again.

4 Q. You just mentioned that the Communist Party treated the Cham  
5 as a minority group. Was there a distinction between Khmer and  
6 non-Khmer in relation to the Cham? Were they distinct because of  
7 ethnicity or religion?

8 A. Cambodian treated the Cham as the minority group.

9 [10.06.02]

10 In Sihanouk regime, they called them "Khmer Islam"; but in Pol  
11 Pot regime, they called them "Islam People". Still, they were  
12 regarded as the minority group.

13 Q. In your knowledge, experience and observations of the time, in  
14 your personal capacity as well as in your capacity within the  
15 Party, could you speak about whether the Cham were treated with  
16 discrimination or differential treatment, whether they were  
17 singled out, and whether they were persecuted or treated  
18 differently from others?

19 A. From 1945 to 1954, the People's Communist Party gathered Cham  
20 people to join the revolution. There were Mr. Ly (phonetic) and  
21 Tang An (phonetic), who were Muslims, who were invited to join  
22 the forces. But later on, they isolated the Cham forces.

23 [10.07.45]

24 From - from 1970 to 1975, the Cham were still isolated. Some  
25 joined the Lon Nol forces and Sos Mat (phonetic), who were the



1 captain stationed between Oudong and Longveaek Base. And at  
2 Sector 25, there were young Muslim -- or Cham people who  
3 voluntarily joined the revolution.

4 And after 1975, there was a policy to evacuate all Muslim people,  
5 either the Cham or non-Cham, from the riverbanks and from the  
6 borders of Khmer Viet to the North Zones and the South - rather,  
7 the Northwest Zone.

8 The main purpose of evacuating these Cham Muslim people were to  
9 have them tempered in - there, and to make sure that they  
10 abandoned their religion. That's all.

11 Q. We see in the constitution that there is a section on religion  
12 and a mention of reactionary religions. Was the Cham religion and  
13 was the Buddhist religion considered by the Party to be  
14 reactionary?

15 [10.09.42]

16 A. Buddhism, and Islam, and even Confucian were not regarded by  
17 the CPK as the reactionary religions. They treated Christian,  
18 both Catholic and Protestants, as the reactionary religions.

19 MR. PRESIDENT:

20 Counsel for the civil parties, your time has already -- has run  
21 out.

22 International Co-Prosecutor, you may now proceed.

23 MR. SMITH:

24 Good morning, Mr. President. Good morning, Your Honours. Good  
25 morning, Counsel. Good morning, general public.

1 Your Honours, the Prosecution is just taking this moment to seek  
2 a clarification as to the procedure to put prior statements of  
3 witnesses -- and obviously we're talking about this witness in  
4 particular -- before the Chamber.

5 [10.11.23]

6 Yesterday, Your Honours gave a ruling that -- to put a prior  
7 witness statement to the Chamber, that the document would be  
8 summarized and, I assume, appropriately identified in Court. And  
9 that would be done -- I think Judge Lavergne stated that would be  
10 done whilst the witness was present before the Chamber.

11 I just would like to ask how that ruling affects the memorandum  
12 that was sent by Your Honours on the 2nd of March -- it's E172/5  
13 -- where it states how documents would be put before the Trial  
14 Chamber, and, as Your Honours had designed, a system where the  
15 documents by the parties would be put before the Chamber at  
16 special hearings. And those special hearings have been had,  
17 certainly in relation to the documents that the Prosecution would  
18 like to put before the Chamber, other than Annexes 12 and 13.  
19 Annexes 12 are the written statements of witness, and Annex 13  
20 are the complaints.

21 [10.12.38]

22 And in the decision on the 2nd of March 2012, you state that  
23 documents - "Document categories Annex 12 and 13 will be dealt  
24 with in a written decision pending before the Chamber and are  
25 consequently not at this stage scheduled for oral argument."

24

1 Also, in that -- in that decision, it further states: at paragraph  
2 7: Further directions regarding documents, where necessary,  
3 proposed by the Nuon Chea Defence and those contained in Annex 12  
4 and Annex 13 -- which is the prior witness statements, of which  
5 this accused -- sorry, this witness has his prior statements  
6 contained within that -- following the issuance of the Trial  
7 Chamber's pending decision in these areas.

8 Certainly, the Prosecution are acting on the presumption that the  
9 documents, in fact, had been put before Chamber and would be  
10 dealt with by written decision. That's why Your Honours hadn't  
11 scheduled a separate discussion on Annexes 12 and 13.

12 [10.14.03]

13 Sorry; apparently, I can't be heard.

14 So my -- the Prosecution's question is: Does -- does the  
15 Prosecution or other parties wait for that decision to come in  
16 relation to Annex 12 prior statements, or, from now on, is the  
17 procedure that, as a witness appears in Court, that those prior  
18 statements are put before the Chamber specifically?

19 Secondly, in -- just another point of clarification -- request  
20 for clarification, Your Honour. In paragraph 4 of E172/5, it  
21 states:

22 "All documents attached to the written records of interviews of  
23 witnesses or Civil Parties who have testified to date, and those  
24 witnesses, Civil Parties and experts identified in memorandum  
25 E172 for the next trial session, will be considered as having

1 been put before the Chamber [and] the testimony of that  
2 individual, unless objected to by the parties during [the]  
3 testimony."

4 [10.15.11]

5 Our next question, Your Honours, is: By that – by that paragraph,  
6 does that mean, by inference, that -- when a witness appears in  
7 Court, that their written records are automatically placed before  
8 the Chamber unless objected to, by the very fact that it states  
9 that all the attachments are presumed to be placed before the  
10 Chamber?

11 If that is the case, Your Honour, does that dispense with the  
12 requirement of the Prosecution or any party to identify those --  
13 all of the prior statements when the witness appears? It seems -  
14 it seems, in our view, to be the case.

15 Your Honours, if that is not the case, if, in relation to prior  
16 statements for Annex 12 and 13, it's necessary for the  
17 Prosecution to put those prior witness statements before the  
18 Chamber, and then not presumed to be put before the Chamber under  
19 paragraph 4, the Prosecution would seek to put these prior  
20 statements of this witness before the Chamber.

21 [10.16.28]

22 But before we do so, we would just seek clarification on that  
23 because, certainly, we are of the view that a written decision  
24 would be forthcoming in relation to Annex 12 and, secondly, that  
25 this memorandum from the Trial Chamber creates a presumption that

1 the prior statements, particularly of this witness and others,  
2 are presumed to be put before the Chamber. And, as Your Honours  
3 are aware, the Prosecution has intended to put all the prior  
4 statements of this witness before the Chamber from our filing  
5 E9/31, which was filed on the 19th of April 2011.

6 We're seeking clarification on this point. Thank you, Your  
7 Honour.

8 MR. PRESIDENT:

9 Counsel for Nuon Chea, first. You may proceed.

10 [10.17.31]

11 MR. PESTMAN:

12 Thank you very much, Mr. President. I'd like to support this  
13 request for clarification.

14 I think we urgently need a decision on these particular issues on  
15 how to put witness statements before the Chamber and whether that  
16 can be done when a witness is heard.

17 We are particularly concerned about another point which was  
18 touched upon by international counsel for Khieu Samphan  
19 yesterday, and that is: What is the value, the probative value of  
20 statements which had been put before the Chamber but which were  
21 not discussed in Court?

22 I'll try to make myself clearer.

23 We are in the first trial of many trials. We are not allowed --  
24 and we're not intending to do so -- to question this particular  
25 witness at length about topics which are not on the agenda, for

1 example S-21 or any other of the charges which are not on the  
2 agenda of the first trial.

3 [10.18.49]

4 What is the value of the statements given by this witness, which  
5 cover areas which are not covered by the first trial? Will the  
6 Trial Chamber rely upon those statements?

7 We maintain that that is not possible without the Defence having  
8 been allowed to properly cross-examine this particular witness.  
9 And I say that because this witness has said a lot about S-21,  
10 but we will not touch upon these issues, on -- we will not go  
11 into great detail when discussing S-21 because we will -- we  
12 maintain that this witness has to come back when S-21 is put on  
13 the agenda.

14 So the question is, as far as we are concerned, not necessarily:  
15 Are those -- or how are we going to put his statements before the  
16 Chamber? But the question is: Are you, Trial Chamber, going to  
17 rely upon those statements where we are not allowed or not able  
18 to cross-examine the witness? Thank you.

19 [10.20.14]

20 MR. PRESIDENT:

21 Counsel Karnavas, you may now proceed.

22 MR. KARNAVAS:

23 Thank you, Mr. President. I, too, welcome some clarification,  
24 though, as I understand, the request from the Prosecution is  
25 slightly different today than it was yesterday.

28

1 Yesterday, they were also talking about testimony of the  
2 gentleman from the previous trial. So, I guess, he -- we would  
3 need some clarification. When they say "statement", does the  
4 Prosecution also mean the entire testimony?

5 [10.20.42]

6 Now, having said that, here's the problem that I see with the  
7 Prosecution's point of view: they spend six days -- approximately  
8 six days -- questioning the gentleman on a variety of issues; and  
9 then, on top of that, they want to have some 60, or 70 -- or  
10 whatever -- statements that he's given over the period of several  
11 years, if you count also what he talked about during the trial;  
12 then it's our turn to cross-examine or to examine the witness.  
13 Now, normally, we would be examining him, (a) based on what the  
14 Prosecution and the civil parties have done, but also what may be  
15 in the statements that, we think, may be useful in order to  
16 either impeach the witness or to clarify a point, to establish a  
17 point, that may be relevant to the Defence case or cuts against  
18 the Prosecution case.

19 [10.21.39]

20 And what the Prosecution is proposing, however, makes it  
21 virtually impossible for the Defence to figure out what exactly  
22 is the evidence that they're trying to adduce. Is the evidence  
23 what comes from the -- from the witness on the stand, plus any  
24 statements that he's confronted with or shown, or everything else  
25 that may be in the file?

1 We would agree that at some point some additional statements  
2 might need to come in. However, there needs to be a showing --  
3 some sort of a showing as to why those statements could not have  
4 been shown or those documents could not have been shown to the  
5 witness when he was being examined.

6 So, for instance, if it was due to time constraints that they  
7 were not able to go to certain statements that the gentleman had  
8 made, then they can make a proper request for those statements to  
9 come in. If, on the other hand, for instance -- and I suggest  
10 that this maybe one of the tactical decisions that the  
11 Prosecution is making -- they decide to leave some statements  
12 alone, hoping that they will -- they will come in automatically  
13 and then they could rely on them in their closing brief, then it  
14 puts us at a great disadvantage. And I think that's what they're  
15 suggesting; they want to have their cake and eat it too. They  
16 can't have it both ways.

17 [10.23.19]

18 I think the Trial Chamber has to make -- has to inform the  
19 parties whether everything comes in irrespective of what we do in  
20 Court or whether only parts of the files come in, subject to  
21 leave and subject to making a proper articulation as to why those  
22 documents or statements, in this instance, could not have been  
23 used or shown to the witness at the time. Thank you.

24 MR. PRESIDENT:

25 National Counsel for Khieu Samphan, you may proceed.



1 MR. KONG SAM ONN:

2 Thank you, Mr. President, Your Honours. I support the request for  
3 the Chamber to determine on the statement of the witness.

4 Normally, witnesses – a witness has more testimonies, and Duch  
5 has more than 60 sessions of statements recorded, so the Chamber  
6 should value the testimonies and have them verified against the  
7 substance that are contradictory.

8 [10.25.11]

9 Mr. President yesterday indicated -- or referred to Rule 87,  
10 subparagraph C, regarding the rules of evidence, and you  
11 indicated very clearly that only after the summary of the  
12 evidence could be made that the evidence could be examined.

13 MR. PRESIDENT:

14 Counsel for the civil party, you may proceed.

15 MS. SIMONNEAU-FORT:

16 Mr. President, Your Honours, I must admit that I am still  
17 surprised by the manner in which the proceedings have gone with  
18 regard to statements obtained during judicial investigations  
19 concerning the parties here and as civil parties or as witnesses.

20 I believe that the Chamber has already clearly stated that all  
21 records of interviews obtained by the Co-Investigating Judges  
22 during judicial investigations should be considered as having  
23 been tendered, placed on the record, insofar as the persons  
24 concerned have been heard. And if Mr. Kaing Guek Eav's statements  
25 are part of the record, it is up to the various parties to use

1 the contents of those statements.

2 If the Prosecution doesn't want to do so, it is their choice, but  
3 the civil parties are entitled to use the statements obtained  
4 from the witness as witnesses and as civil parties.

5 [10.27.00]

6 I think, however, that it is very important for the Chamber to  
7 clearly make the distinction between those records of interviews  
8 and other written statements that may have been made by other  
9 persons, and the other statements not having the legal weight of  
10 transcripts of hearings. And the Chamber has clearly stated that  
11 these, when they are placed in the record, are part of the  
12 record.

13 And I think that it is up to the Chamber to assess the probative  
14 value of those documents, and the Chamber will assess the impact  
15 of those documents. I think they speak for themselves.

16 Regarding the records of those hearings, it is very important to  
17 clarify this matter that your -- the Chamber has already clearly  
18 stated that they are part of the record. Thank you.

19 MR. PRESIDENT:

20 Co-Prosecution, you may now proceed.

21 [10.28.15]

22 MR. SMITH:

23 Thank you, Mr. President. I think there are two points here.

24 One is: What is the procedure to place the document before the  
25 Chamber? And as we've discussed, based on your memo, we believe

32

1 that the statements are presumed to be before the Chamber. If  
2 that's not correct, we would like some clarification on that.  
3 The other issue is whether or not there are objections to the -  
4 to the statements going in.

5 The first issue is -- that we would like clarification is what is  
6 the procedure and whether or not this witness's statements are  
7 presumed to be before the Chamber by the very fact of the memo  
8 E172/5.

9 (Judges deliberate)

10 [10.31.20]

11 MR. PRESIDENT:

12 There are questions by the parties concerning the documents and  
13 the witness interviews from the previous trial and the interviews  
14 obtained before the Co-Investigating Judges.

15 The Chamber will now adjourn for 20 minutes and will resume -  
16 rather, 30 minutes and will resume after that.

17 Security guard is instructed to escort the witness to the waiting  
18 room and bring him back by 11 o'clock.

19 Yes, Counsel for Ieng Sary, you may proceed.

20 MR. ANG UDOM:

21 Good morning, Your Honours.

22 Because of the health reason, especially because of his back  
23 pains and leg pains, Mr. Ieng Sary would like to request that he  
24 waive his rights to be present in the courtroom but to follow the  
25 proceedings from the holding cells, downstairs.

1 [10.32.45]

2 MR. PRESIDENT:

3 Having heard the request by Mr. Ieng Sary through his counsel to  
4 waive his rights to be present in the courtroom and to follow the  
5 proceedings remotely from the holding cells, downstairs, for  
6 today's proceedings because of his health reason, that he could  
7 not sit and participate directly in this courtroom, the Chamber  
8 grants the request made by accused Ieng Sary, made through his  
9 counsel -- that is, to waive his rights to be present in this  
10 courtroom and to follow the proceedings remotely from the holding  
11 cells, downstairs.

12 Counsel for Ieng Sary are required to submit immediately the  
13 written waiver with the signature or thumbprint by the accused  
14 Ieng Sary.

15 AV Unit is instructed to live the proceedings to the holding  
16 cells for today's proceedings.

17 Security guards are instructed to bring the accused Ieng Sary to  
18 the holding cell, downstairs.

19 The Court is adjourned.

20 (Court recesses from 1034H to 1115H)

21 MR. PRESIDENT:

22 Please be seated. The Court is in session.

23 And before handing over to the Judges of the Bench to put some  
24 questions to this witness and before giving the floor to the  
25 defence counsels after that, the Chamber would like to inform the

1 parties that the request made by the -- regarding the request  
2 made by the parties before we broke, the Chamber is not able to  
3 decide on the matter as yet. The Chamber will consider the  
4 request and will decide on the request first thing -- first thing  
5 in the afternoon session, today.

6 [11.17.26]

7 Next, I would like to know whether any Judge of the Bench would  
8 like to put questions to witness Kaing Guek Eav, alias Duch.

9 Yes, Judge Lavergne, you may proceed.

10 QUESTIONING BY JUDGE LAVERGNE:

11 Yes. Thank you, Mr. President.

12 Q. Mr. Kaing Guek Eav, you already testified several times. You  
13 already provided a lot of information to the Chamber. However, I  
14 do have a few questions to ask you in order to clarify a certain  
15 number of issues.

16 First of all, I would like to return to the period when you were  
17 working at M-13. You said that you had been taught that they are  
18 three categories of enemies.

19 And you said -- and this was during the hearing of 20 March 2012  
20 -- that there were, first of all, enemies that had to be  
21 convinced to join the revolutionary forces. And then you said  
22 that there is a second category, the forces that needed to be  
23 neutralized, and you said that this category was made up of  
24 people who were hesitating.

25 And then you said that it was necessary to isolate the most

1 diehard enemies and to eliminate them. This was the third  
2 category.

3 And on the same day, you also said that this distinction between  
4 categories was just a matter of theory but that, in practice, you  
5 did not know if this theory could be applied. And you said the  
6 following:

7 "In 1971, the Party asked us to draw a distinction between the  
8 enemies and ourselves. It was necessary to create a clear  
9 distinction. It was just like with the situation in South  
10 Vietnam. We were in the liberated zones, whereas the enemy was  
11 outside of these liberated areas. And we were told to do nothing  
12 that may be associated with the enemy; we were told not to give  
13 in to corruption; we were told that corruption was a product of  
14 the enemy and the Party was teaching us that we had to avoid this  
15 kind of behaviour."

16 [11.20.25]

17 So my question is: How, in reality, was it possible to align a  
18 policy that, on one hand, consisted in trying to rally part of  
19 the enemies and, on the other hand, a policy that consisted in  
20 establishing a clear distinction between the enemies and those  
21 who were part of the revolution? Isn't there, here, some kind of  
22 contradiction?

23 And in reality, which policy was implemented? Was it a policy of  
24 overture or was it a policy of exclusion?

25 MR. KAING GUEK EAV:

1 A. Thank you. Mr. President, concerning the categorization of  
2 enemies, that is into the three categories. This is the tactical  
3 and strategic lines of the Party that was adopted in 1960; that  
4 was the birth of the Party. At the time, the study that I had --  
5 that was in 1977 -- I studied this policy; that's the tactical,  
6 political lines.

7 In 1971, I was tasked the chief, or the head of M-13. The idea to  
8 smash enemies was that, as long as those people were considered  
9 spies, they would be smashed. It was that time that I was  
10 reluctant. I was to maintain some people that I considered as not  
11 enemy, for them to help with production. It was the time that I  
12 faced an obstacle that a detainee was beaten. And there was a  
13 jail break at the time, and I was instructed that those who were  
14 sent to me were enemy and they were to be beaten and  
15 interrogated.

16 [11.24.07]

17 In 1973, in a study session, it was mentioned that Khmer were  
18 different from Vietnam. Vietnam implemented policies that were  
19 associated with enemies -- that was in Prey Nokor -- and for us,  
20 they made clear distinction that we had clear border between us  
21 and the enemies, the enemy that we were to smash.

22 In short, the situation told us that, after 1975, the monarchy  
23 were to be smashed as long as they were encountered; there was no  
24 discrimination. There were two royal family members that went to  
25 the liberated zones between 1972 and 1973. One was His Majesty -

1 rather, Prince Sirivudsara (sic) and his wife. They went to the  
2 liberated zone. The second person was Sisowath Phach. He also  
3 went to the liberated zone.

4 On the 27 - rather, on the -- on the 27th of September 1977, Pol  
5 Pot said that Phurissara and - and the twin princesses -- I'm not  
6 sure whether they was the royal family members or not-

7 [11.27.12]

8 So, at that time, I realized that, even though Phurissara went  
9 into the liberated zone in 1972, he was to be smashed. So, on the  
10 basis of this evidence, I believed -- I believe that the royal  
11 family members were also smashed. There were no exceptions. The  
12 feudalist landlords were also smashed.

13 Besides, in each unit, for example, at the divisions of the  
14 enemies, there could be three categories of enemies. So, in  
15 short, it was more in theory that there were three categories of  
16 enemies.

17 Q. I would-- Please give me some clarification. You were telling  
18 me about members of the royal family who were in the liberated  
19 zones; you said that this happened before 1975, I believe. But  
20 what I didn't understand very well is that you said that these  
21 members of the royal family had to be eliminated, but I didn't  
22 understand whether they had been eliminated right away, as soon  
23 as they had arrived in the liberated zones, or if this is  
24 something that happened later.

25 Can you please provide clarification on this?



1 [11.29.20]

2 A. Mr. President, Phurissara and his wife and Sisowath Phach  
3 entered the liberated zone in late 1972 or early 1973. Perhaps,  
4 in 1973, these people could have been sent to the Peam commune,  
5 Kampong Tralach Leu, for some time already by the upper echelon.  
6 They had been living there for a while before they were sent out.  
7 I learned that, upon seeing them being sent there, Vorn Vet said:  
8 Bravo, the patriotic royal family members -- rather, it was Vorn  
9 Vet, not Son Sen, who chanted this slogan.

10 I have not heard much from -- any information about Phurissara  
11 again. So I see that Phurissara could have been living at the  
12 liberated zone quite a while before the 17 of April 1975.

13 Q. Fine, so what you're telling us is that there was, in any  
14 case, a strategy that was aimed at having many people join,  
15 probably the most important people -- to have many people join  
16 the revolution.

17 [11.32.05]

18 Now, speaking about more ordinary people and, for example, about  
19 what was happening at Amleang.

20 When people came from a liberated zone and were brought to  
21 Amleang, did the simple fact of coming from a liberated zone,  
22 whereas we were in an occupied zone, did this -- was this simple  
23 fact sufficient to be considered a spy and, thus, an enemy? Was  
24 that a general policy? I'm speaking here about simple, ordinary  
25 people.

1 A. With regard to ordinary people, I would like to emphasize on  
2 the event that happened in Amleang in 1973.

3 In that year, there was an incident when the area was bombarded  
4 by the aerial bombardment of B-52. At that time, there was a  
5 young kid who was sent from the enemy zone, from Oudong, all the  
6 way to Amleang. He was arrested. He was sent to S-21 for  
7 interrogation -- rather -- my apology -- he was sent to M-13 for  
8 interrogation. After -- during the interrogation, the kid  
9 implicated in his confession a few people. At that time, since  
10 the confession was made by the kid who was a minor -- he was 12  
11 years old -- the people who were implicated in his confession  
12 were not arrested. However, there was an order to execute this  
13 boy.

14 [11.35.22]

15 Later, there was another person -- young person from a liberated  
16 zone sent to Amleang. He had also been arrested. The boy was  
17 about 18 or 20 years old; he studied at grade 3. He was about to  
18 take his junior high school exam -- rather, he was about to take  
19 his diploma exam. The boy was being questioned and he implicated  
20 other people in his confession, and those people were arrested  
21 and sent to M-13 for questioning.

22 Later on there was another middle aged person who -- or had an  
23 affair with another man's wife. He took her to Oudong.

24 Q. We will not go into all the details regarding other persons  
25 who went to Amleang.

40

1 Now, tell me, generally speaking, would you agree with me that  
2 the policy aimed at rallying the enemy. This open door policy,  
3 was it not applied to -- it was not applied to ordinary people;  
4 would you agree with me on that?

5 A. The policy to persuade or convince enemies was applied to even  
6 ordinary citizen.

7 [11.38.46]

8 Q. Now, I do not quite understand you. If this policy of reaching  
9 out to people also applied to ordinary citizens, all citizens who  
10 had crossed the boundary between the liberated zone and the enemy  
11 zone was considered as a spy. If that was the case, why is that  
12 compatible with an open door policy as you presented?

13 A. From 1971, the CPK had liberated zones. There was no such  
14 policy as open door policy between the liberated zone and the  
15 zone conquered by the enemies.

16 Q. So your explanation is that the strategic lines that had been  
17 defined in the sixties, the theory as it existed in the 1960s,  
18 concretely, in 1970-1971, when we had liberated zones, that  
19 policy was no longer applied; is that what you are saying?

20 A. According to my observation even until now, the policy to  
21 classify enemies into three categories is still a theory only.

22 Q. I would like to read out to you the excerpt of a document; and  
23 this is a document that has already been tendered into evidence,  
24 and the reference is as follows: E3/189. This is the extract of a  
25 declaration adopted at the end of the GRUNK conference held on

1 the 24th and the 25th of February 1975 under the – the  
2 chairmanship of Mr. Khieu Samphan.

3 [11.41.40]

4 On page 3 of the document, we read the following:

5 "Within the country, the FUNK and GRUNK, on behalf of the nation  
6 and the people of Kampuchea, are taking in hand the destiny of  
7 the country. They rely on the policy of a broad based nation and  
8 a broad based people, without any distinction as to social class,  
9 political leanings, religious beliefs, and without taking into  
10 account the past of each person, with the exception of the seven  
11 traitors, or the seven super-traitors."

12 Now, you, Duch, did you witness the application of a policy of  
13 national union embracing everyone without any social distinction,  
14 without any distinction based on political leanings or religious  
15 beliefs? Is this something that you witnessed with your own eyes  
16 or it is the same as the strategic lines, which are nothing but  
17 theory?

18 A. I would like to specify that.

19 Point one, it was a theory. The theory was announced in open.

20 There was no discrimination against race, political background or  
21 any past. However, in real practice, there was a movement to  
22 evacuate the population, and in that evacuation movement, there  
23 was a sub-movement to smash people.

24 [11.44.37]

25 Q. Duch, for the time being, I am not talking of the evacuation.

1 We will eventually talk about evacuation from other towns, but  
2 I'm not talking about evacuation of Phnom Penh; I am talking  
3 about those you saw in Amleang or around Amleang.

4 Did you see them implement a policy of national union?

5 Let me give you a more precise example, because in this  
6 declaration, there are other passages. It is said, for instance,  
7 that -- and this is on page 4, it would appear:

8 "Regarding all our compatriots, all classes and social classes,  
9 workers of all ranks and categories, officers and soldiers,  
10 police officers of all ranks who have abandoned the enemy one  
11 after the other to join the enemy (sic), the FUNK and the GRUNK  
12 and FUNK organizations at all levels have a policy of assistance  
13 and support. They will provide food and means of production that  
14 would enable them to lead decent lives without having recourse to  
15 the riel of the enemy.

16 "Compatriots of all social classes and ranks living in Phnom Penh  
17 and in the few remaining provincial capitals which are under the  
18 -- temporary enemy's control, officials and all -- of all ranks  
19 and categories, officers and soldiers of all ranks who are  
20 preparing to abandon the traitors' zone to join the liberated  
21 zone and the FUNK need not be concerned about their means of  
22 existence and work, which will be fully guaranteed."

23 [11.46.47]

24 Let me repeat my question: Were you able to implement a policy of  
25 assistance and support to those persons?

1 A. In a nutshell, it was none.

2 Q. Thank you.

3 Let me go into another line of questioning. Talk -- we have -- we  
4 talked about evacuated persons. You've heard what was said on  
5 that score and you talk about what happened in Oudong -- in  
6 Oudong, in 1974. That was during the hearing of the 20th of  
7 March, and this is what you said.

8 A question was put to you: "Do you know whether, at the time,  
9 people had a choice to be evacuated or transferred?"

10 And you said that: "In Oudong Market, there was no farming, so  
11 people had no pretext to stay behind; we had to be evacuated."

12 Question: "At what point were you certain that people were going  
13 to be evacuated?" Answer: "I saw it; there were trucks brought  
14 for the evacuation of people, and this was following Son Sen's  
15 orders." And you also said that: "KW30 was among the evacuees."

16 [11.48.33]

17 Now, do you confirm that this is something you witnessed with  
18 your own eyes, something you witnessed personally? Did you see  
19 trucks that had been prepared to evacuate the population of  
20 Oudong?

21 A. I did not see the trucks with my own eyes. However, the  
22 persons who operated the evacuation were from the special zone.  
23 So these people were those who tipped me off concerning this.  
24 Secondly, my superior ordered that people be sent along with the  
25 people of Oudong. So it doesn't mean that there was only KW-30;

1 there were other people involved. I mentioned KW-30 because KW-30  
2 is popular among us all already.

3 Q. Can you tell us whether there was a plan, a structured plan  
4 aimed at forcing people to evacuate Oudong Zone following the  
5 fighting?

6 A. The military commander at Oudong was the one who rendered  
7 these orders.

8 [11.51.13]

9 Q. You then explained that most of those people were evacuated to  
10 Pursat; is that correct? During that evacuation, that forcible  
11 evacuation, were there also purges, executions?

12 A. This evacuation was meant to move to Pursat, but I had no  
13 knowledge of how -- or whether people were executed along the  
14 way. However, testimonies of KW-30 indicated that people who left  
15 M-13 could still exist, a great portion of people from that place  
16 could still live.

17 Q. I would also like you to address another issue. During your  
18 prior statements, you talked of the evacuation of Kampong Thom  
19 and you stated that you were able to discuss that evacuation with  
20 one of your brothers-in-law. I will read out what you said in  
21 that regard:

22 [11.52.54]

23 "I received information regarding such -- certain evacuation such  
24 as the evacuation of the population of Kampong Thom. I heard this  
25 from my brother-in-law -- and this is Kao Ly Thong Huot. He

1 informed me that those people were evacuated to the rural areas.  
2 He also told me that the evacuation had been prepared and that  
3 the persons who were taken away in vehicles were going to be  
4 smashed and those who had trekked were going to survive; and they  
5 had survived."

6 That is what you stated. Do you confirm that?

7 And can you tell us a little more regarding the preparation of  
8 the evacuation of Kampong Thom? When did that happen?

9 A. People were evacuated from Kampong Thom town after the 17th of  
10 April.

11 Q. How was the evacuation of Kampong Thom prepared? What measures  
12 were taken to prepare for the evacuation of people from that  
13 place?

14 A. I don't know clearly but my brother-in-law was the police in  
15 Kampong Thom.

16 [11.54.48]

17 Q. Was he a member of the police force on the side of the  
18 revolution? Was he a member of the CPK? Is that what you're  
19 saying?

20 A. He was the member of the CPK and the police of the CPK.

21 Q. Did he tell you why those people were evacuated and to which  
22 zone they were evacuated?

23 A. I did not ask him to specify on this.

24 But I would like to draw your attention to a practical issue.

25 During the evacuation, there was a primary school teacher; he



1 lived - he was born in Stoung. He was made to walk but he  
2 refused, he asked that he be allowed to take the truck. Then he  
3 was smashed.

4 Q. Now, let us talk about what you were able to see regarding  
5 persons evacuated from Phnom Penh after the 17th of April 1975.  
6 While you were in Amleang, in the region of Amleang, did you see  
7 people evacuated from Phnom Penh arrive in the rural areas?  
8 [11.57.07]

9 A. I wish to specify that at Amleang, at the beginning, three  
10 days after the 17th of April, I saw a few people kept coming.  
11 Back then, I was thinking that these people could have been the  
12 volunteers who wished to go back to their hometown. However, a  
13 while later, I learned that there was an office established in  
14 Kanseng Sam village, Amleang district (sic), Kampong Speu.  
15 At that time I learned that that office was the location where  
16 people could be sent in, and a decision would be made where this  
17 -- these people could be taken to or be smashed. The graves  
18 remain at the Kanseng Sam location as the evidence for this.

19 Q. You - you said, since you spoke on this matter, you said that,  
20 when people arrived in Amleang, they were asked to say what their  
21 occupation was and even their biography, and then they left in  
22 separate groups. This is what you said. You said that some people  
23 were taken to one place, and others, to another.  
24 And were they first taken to an office, and it was in that office  
25 that it was decided whether they were going to be executed or

1 not? Is that what you stated?

2 [11.59.47]

3 A. As I indicated, the office in Kanseng Sam was the location  
4 where people could be distributed to different locations. So it  
5 was the place where decision was made on how to handle people.

6 Q. When did you hear for the first time that the 17 April People  
7 were going to be under the authority of the Base People -- that  
8 is, the Old People? When did you hear that? Were there any  
9 speeches delivered? Was there any training session on that?

10 A. I received the information from Amleang, and later there was  
11 document that specified that. It was during the 25th of June 1975  
12 study session that the document was distributed.

13 Q. So the -- during the training session, you had already arrived  
14 in Phnom Penh, or did you receive this information before you  
15 arrived in Phnom Penh?

16 Once the first evacuees from Phnom Penh had arrived in the  
17 countryside, was it already organized for them to be under the  
18 control of the Old People?

19 [12.01.39]

20 A. As I remember, I went to Phnom Penh several times. The first  
21 time, I came to study, and then I went back. It was about in July  
22 when I went back. It was then that I knew that the New People  
23 were under the control of the Old People.

24 MR. PRESIDENT:

25 It is now appropriate to adjourn for lunch break. The Chamber

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1 will recess from now until 1.30 to continue its proceedings.

2 Security guards are instructed to bring the witness to the

3 waiting room and return him to the courtroom in the afternoon, by

4 1.30.

5 I note that counsel for Nuon Chea is on his feet. Yes, Mr.

6 Pestman, you may proceed.

7 MR. PESTMAN:

8 Thank you, Mr. President. My client requests permission to follow

9 the proceedings this afternoon from the holding cell, for the

10 usual reasons.

11 [12.03.05]

12 MR. PRESIDENT:

13 Having heard the request made by Nuon Chea through his counsel to

14 continue the proceedings this afternoon from the holding cell --

15 that is, to waive his rights to be present in the courtroom --

16 the Chamber grants the request that has been made through his

17 counsel -- that is, to follow the proceedings remotely, from the

18 holding cells, downstairs, for the afternoon proceedings.

19 Defence counsel is instructed to submit a written waiver with the

20 Accused's thumbprint or signature.

21 The AV Unit is instructed to live the proceedings to the - to the

22 holding cell for this afternoon's session.

23 Security guards are instructed to bring the two accused persons

24 to the holding cells, downstairs, and return Mr. Khieu Samphan to

25 the courtroom by 1.30. Mr. Nuon Chea is to be kept in the holding

1 cells to follow the proceedings remotely.

2 The Court is now adjourned.

3 (Court recesses from 1204H to 1336H)

4 MR. PRESIDENT:

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

6 This morning, the Chamber informed parties that the Chamber would

7 be pronouncing the ruling on the observations by counsels, in

8 particular concerning the statements by the witness before the

9 Co-Investigating Judges, those statements made in Case File 001.

10 The Chamber is still deliberating on this, and the ruling will be

11 rendered in due course, during this afternoon's session.

12 [13.38.21]

13 Judge Lavergne may now proceed with the questions he wishes to

14 put to this witness.

15 BY JUDGE LAVERGNE:

16 Thank you, Mr. President.

17 Q. We shall now go into another line of questioning.

18 And I would like to present a document to the witness. It is a

19 document that has already come up; it is IS 14.3. And we'll be

20 looking specifically at the page with the ERN number, in Khmer,

21 00079896 (sic). If it is possible, I would like a copy to be

22 handed to the witness. I do not know whether it is possible to

23 have that page screened. There we are.

24 Witness, do you recognize the writing on that document? And can

25 you tell us who wrote that document?

1 MR. KAING GUEK EAV:

2 A. This document was the notebook written by Brother Mam Nai, a  
3 staff member of S-21.

4 Q. Can you tell us what that particular note corresponds to, or  
5 represents?

6 A. Brother Mam Nai took notes when he attended study sessions  
7 with superior and he also kept the same notes when he studied  
8 with me and also during other sessions. Anything relevant to him  
9 would be taken notes.

10 [13.41.52]

11 Q. Now, can you read the paragraph to the bottom right-hand  
12 corner of that document?

13 A. I would like to read this portion as follows:

14 "The sentiment ownership. Having enough passionate feeling toward  
15 spouses or children, this affects the work. If we love the Party,  
16 we should abandon this. Our Party has constantly conducted the  
17 ideological session. Brother Number Two arrested his nephew named  
18 Sat."

19 Q. Thank you. There may well be a translation problem. I will  
20 read the French version of the passage which I have received, and  
21 it reads as follows:

22 "The feelings of peasants. Bonds of affection between women,  
23 children and husbands hinders work in the service of the nation.  
24 Love should be abandoned, and such feelings should be discarded.  
25 Our Party is the spearhead of the socialist revolution. Brother

1 Number Two has arrested his nephew, Sat."

2 [13.44.29]

3 Now, this is not a new subject, the subject of relations between  
4 the Party and members of the Party and relations between members  
5 of the Party and their family members.

6 During your testimony, you stated that there was a song which was  
7 sung during the DK regime, and it said that everyone was the  
8 property of Angkar. Do you remember that song?

9 A. Yes, I do.

10 Q. This is what you stated specifically on the 20th of March:

11 "I had observed that the children of senior officials called  
12 their parents 'Uncle' or 'Aunt', and subsequently, after 1975,  
13 people were told to no longer be grateful to their parents. This  
14 ideology was translated into a song, and in this song, it was  
15 said that parents created you -- or parents created us, but it  
16 was Angkar who was going to control us. And it was also said that  
17 everyone was the property of Angkar."

18 Is that, indeed, what you stated?

19 A. I think the translation -- the rendition is deviating from its  
20 original content, although a substantial portion still  
21 maintained.

22 [13.46.34]

23 Q. From a general standpoint, can it be said that bonds of  
24 kinship or kinship ties had no value when a member of the  
25 Communist Party had to do his revolutionary duty?

1 A. To put it simply, gratitude toward parents was not regarded as  
2 important. We were asked to pay gratitude to the Party, treating  
3 the Party higher.

4 Q. You, yourself, would recall having arrested persons and having  
5 ordered the interrogation and execution of one of your  
6 brothers-in-law; do you recall that?

7 A. Yes, I do.

8 Q. In the extract which you have just read, the last sentence is  
9 as follows: "Brother Number Two has arrested his nephew, Sat."  
10 Do you remember that Nuon Chea's nephew was arrested and that  
11 person was detained at S-21?

12 A. Sat was actually Nuon Chea's nephew by marriage. At that time,  
13 the Party decided to arrest four people: two nieces of Nuon Chea  
14 and two nephews-in-law. Lach Vary and Lach Dara were the nieces.  
15 [13.50.03]

16 Q. Were those nieces working in a ministry? What were they doing?

17 A. Nuon Chea's nieces were doctors. They studied in China.

18 Q. And were they working for the Ministry of Health, and under  
19 whose authority, under whose orders?

20 A. They worked at the 17 April Hospital, currently known as the  
21 Friendship -- Cambodian-Russian Friendship Hospital.

22 Q. Who ordered those arrests?

23 A. In principle, the decision was made by only two people: Pol  
24 Pot and Nuon Chea.

25 Q. Did you report the confessions of those persons, and to whom?

1 A. The confessions of these two women were sent to upper echelon.  
2 Before the 15 of August 1977, I would have sent the reports to  
3 Son Sen. After this, the report could have been sent to Nuon Chea  
4 instead.

5 [13.52.50]

6 Q. Now, we have a document, D366/7.1.96. It is a confession by  
7 Lach Vary alias Van (sic), and it reads as follows: "Before her  
8 arrest, the person in charge of healthcare staff at the Ministry  
9 of Foreign Affairs..." Is that, indeed, Nuon Chea's niece?

10 A. Yes, she was Bong Nuon's niece.

11 Q. Did you happen to receive at S-21 other members of the  
12 immediate family of the Accused at S-1 (sic)? Did you receive  
13 prisoners at S-21, prisoners who were members of Nuon Chea's  
14 immediate family, apart from the cases you have just mentioned?  
15 Were there other occasions when you received such prisoners?

16 A. Concerning the Standing Committee members, Vorn Vet and his  
17 whole family was executed.

18 Q. Coming back to the confessions of Lach Vary, I note that the  
19 first page bears the date of the 13th of July 1978. So, taking  
20 into account that date, would you say that at the time you were  
21 reporting to Son Sen, or to Nuon Chea himself?

22 A. The date falls under the time when Brother Nuon was in  
23 supervision of S-21.

24 [13.56.12]

25 Q. Do you remember discussing that problem with Brother Number



1 Two?

2 A. No, I didn't.

3 Q. Now, let us talk about your relationship with Nuon Chea and  
4 your superiors regarding the contents of confessions.

5 You have stated that on certain occasions you were asked to  
6 delete names from confessions. Can you tell us whether that  
7 happened often and for what reasons you were asked to delete  
8 names mentioned in confessions?

9 A. In some situations, for example when a lot of people were  
10 arrested and sent then to S-21 and the unit already grasp the  
11 background of the prisoners, my superior would ask me to  
12 summarize the documents to him. After obtaining some of the  
13 confessions, I was asked to have them compared to find out who  
14 implicated whom.

15 This does -- this didn't happen very often. During Case File 001  
16 hearings, I was shown the document once.

17 [13.58.55]

18 A few days ago, the same relevant document was also shown to me.

19 And normally I would send the whole original confessions --  
20 related documents -- to the superior, who would then make his  
21 decision.

22 Q. And regarding the document you are referring to, which,  
23 indeed, was the object of questions-- And you said, during the  
24 hearing of 27 March, that:

25 "I don't remember exactly, but regarding the document that was

1 just shown to me, this document is -- reveals quite a lot because  
2 it is stated that certain -- or the names of certain people  
3 needed to be removed. Certain prisoners incriminated other  
4 people. Someone even denounced his own brother-in-law. There was  
5 also the case of a friend of mine, who was the son-in-law of Ieng  
6 Sary, who was incriminated in confessions. And I asked him if he  
7 was afraid and then I asked his name to be removed. There were  
8 confessions that also incriminated Khieu Samphan. So this is the  
9 kind of information that I would relay to Nuon Chea. And I said  
10 this already to the Co-Investigating Judges."

11 [14.00.35]

12 So did you understand what I just read? Can you confirm?

13 A. Thank you. Mr. President, the issues that I reported to the  
14 Chamber was a different issue. And the other part of my answer to  
15 you, which you have just read, is another issue. And the part  
16 that you have just read is what I said, and it reflected the  
17 truth.

18 Q. And was there a rule or a principle according to which, when  
19 one was incriminated in three different confessions, this led  
20 almost certainly to an arrest? This rule of three incriminations,  
21 was this a rule that existed? Was it a reality?

22 A. There was no such rule.

23 Q. And when, for example, you reported to Nuon Chea of  
24 confessions in which Khieu Samphan was incriminated, what was  
25 Nuon Chea's reaction?

1 A. Thank you. Allow me to indicate again about Brother Nuon's  
2 reaction towards me.

3 He said: In the whole Cambodia, all enemies -- all are enemies,  
4 except me and Brother Pol. You should be a diplomat. And because  
5 I was observed that I was against them, and so I was said to be  
6 very weak.

7 [14.03.31]

8 And I would like to correct what I have said earlier, that -- to  
9 be a diplomat we did not -- we did not have to bribe, but in the  
10 past we need to bribe in order to be a diplomat.

11 I would like to emphasize that it was not bad to be a diplomat.

12 What he said at that time -- I would like to correct what I said  
13 earlier -- that it was good to be a diplomat, because in the past  
14 we needed to bribe in order to become a diplomat.

15 Q. So are you implying here that, when you told Nuon Chea that  
16 Khieu Samphan had been incriminated in confessions, he was trying  
17 to congratulate you and to tell you that you could have been a  
18 good diplomat, or was this something more -- something more like  
19 a threat because a certain -- a certain number of diplomats ended  
20 up in places like Boeng Trabek or other such places?

21 [14.05.08]

22 A. It was not a compliment. It was not a compliment for what I  
23 did good. It was a warning because, whenever we were removed from  
24 a place where we were -- we had our own forces and were brought  
25 to be a diplomat, it means that we were to be followed.

1 Q. So, if I summarize all of this, did you then understand that  
2 the fact of mentioning an incrimination of Khieu Samphan in a  
3 confession could have dangerous consequences?

4 A. Thank you. It is correct, Your Honour.

5 Q. Thank you.

6 Now we are going to move on to another topic and we're going to  
7 backtrack a little bit. We're going to backtrack to M-13.

8 You spoke about Lon Nol's soldiers who had been arrested in a  
9 pagoda, Angkloung (phonetic) and who had been brought to M-13.

10 Were these soldiers who were captured on the battlefield or were  
11 these soldiers who had surrendered? Who were these soldiers?

12 A. First of all, the pagoda was not called Ang Proleung; it was  
13 called Ang Taleuk.

14 [14.07.10]

15 And as for the soldiers, they were in conflict with their  
16 superiors. They fired their guns. Some of them ran into the  
17 liberated zones. And so Vorn Vet separated them. The wives were  
18 taken to Thma Yong, and the husbands were brought to live with  
19 me.

20 Later on, the wives escaped. They went to the enemy zones. And as  
21 for the husbands, I ordered that they be followed. And after  
22 being followed, Vorn Vet ordered the arrest of those people.

23 Q. So these soldiers were deserters, deserters who had  
24 surrendered in the liberated zones, soldiers who had escaped to  
25 the liberated zones to escape the republican army; is that so?

1 A. Thank you. You said so; it's correct. It is correct that you  
2 said so. But before they came to the place, they fired their  
3 guns, there were conflicts.

4 [14.08.53]

5 Q. And you also spoke about prisoners who had been brought to  
6 M-13 by Ta Mok following a bombing in the Southwest Zone. And who  
7 were these people who were brought by Ta Mok? What kind of  
8 enemies were they?

9 A. This people were Chinese descendants. His name was Chhor  
10 Kimheang (phonetic). My apology; it's Chhor Keangheng (phonetic).  
11 He ordered that this person be followed a long time ago. He  
12 understood that this person was the nephew of Chhor Simheang  
13 (phonetic), chief of the intelligence of Lon Nol. And when there  
14 was bombardments, he ordered that this person be arrested because  
15 this person was followed and observed that, three days before the  
16 bombardments occurred, he rode his motorbike to some around  
17 market.

18 Q. So he was arrested because he was suspected of having  
19 information about the bombing; is that so?

20 A. Yes, it is correct.

21 Q. And you spoke about Khieu Samphan in the period running from  
22 1970 to 1975, and you said that he was running the Central  
23 Office. Can you be clear about this? Can you tell us, which  
24 Central Office are you talking about?

25 [14.11.45]

1 A. From the information received by the intellectuals, first of  
2 all, from 1971 to 1975, Brother Khieu Samphan was close to -- was  
3 attached to Brother Pol Pot; he was the secretariat of Pol Pot,  
4 of the Central Committee. He was in charge of the office of the  
5 secretariat of Pol Pot.

6 After 1975, I saw that he was in charge of a separate unit, and  
7 the evidence was what I said earlier. He was not only in charge  
8 of one unit, but he was in charge of several units. The ones that  
9 I knew for sure was the Chak Angrae Leu Unit, or Office. It was  
10 the electricity factory.

11 Q. And when you tell us that Khieu Samphan was Pol Pot's  
12 secretary, do you mean that he was the secretary of the Central  
13 Committee, or was it something else?

14 [14.13.38]

15 A. Let me indicate this point again. He was in charge of an  
16 office; it was the secretariat of Pol Pot. So he knew he was in  
17 charge of the papers.

18 Q. And when you tell us that he was in charge of documents, does  
19 that mean that he was the person who received all messages that  
20 were to be sent to Pol Pot? What do you mean exactly?

21 A. Important issues were allowed. In other words, he was allowed  
22 to know important information. Pol Pot allows him to know and  
23 help him remember the issues.

24 Q. So this office, is this Office 870?

25 A. Before 1975, I'm not sure what it was called, but after 17

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1 April 1975, there was an office called Office 870.

2 Q. So was Khieu Samphan the secretary, or the person in charge of  
3 Office 870?

4 A. Khieu Samphan, as far as I know, was not the personal  
5 assistant, or clerk. He was the one who knew about the documents,  
6 about the decisions of Pol Pot. Other issues may be taken care of  
7 by other clerks.

8 [14.16.22]

9 Q. So must we understand that there was one person who was  
10 running 870 and who was not Khieu Samphan, but that Khieu Samphan  
11 had access to all of the information that was sent to Office 870?  
12 Is that what you're trying to tell us?

13 A. Those who were above that level were two people: Nuon Chea and  
14 Pol Pot. All documents were in the hands of Khieu Samphan.

15 Q. Now, regarding Office 870, can you tell us who, among the 870  
16 staff, was arrested and sent to S-21? How many people were  
17 arrested? And when did the arrests begin? And when did they stop?

18 A. After 17 April 1975, those whose name was the attached to  
19 Office 870 were: one, Brother Yem, original name Sim Son; two,  
20 Doeun, original name Sua Vasi; and Comrade Touch, original name  
21 Chhay -- Phouk Chhay, alias Touch.

22 [14.18.48]

23 Brother Yem was tasked to be an ambassador in Korea. Sua Vasi  
24 alias Doeun, upon his own request, was to work in the Commerce  
25 Ministry, and later he was arrested. And as for Phouk Chhay, was

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1 later arrested as well. So two people were arrested: One was Sua  
2 Vasi, and another one is Phouk Chhay alias Nang (sic).

3 JUDGE LAVERGNE:

4 Thank you.

5 I have no further questions to put to the witness at present.

6 MR. PRESIDENT:

7 Thank you, Judge.

8 Does any other Judge on the Bench would like to take the floor to  
9 put questions to this witness?

10 QUESTIONING BY MR. PRESIDENT:

11 Q. Mr. Kaing Guek Eav, I have a number of questions to you,  
12 because there are unclear things.

13 [14.20.28]

14 My first question is: During Democratic Kampuchea regime, how was  
15 the State organizations organized -- the State organizations  
16 surrounding the office of the prime minister? You mentioned last  
17 time about the judiciary.

18 MR. KAING GUEK EAV:

19 A. Mr. President, the State organizations that played important  
20 roles include the office of the prime minister and office of the  
21 deputy prime minister. The deputy prime - the prime minister was  
22 Pol Pot; the deputy prime ministers were Ieng Sary, Vorn Vet, and  
23 Son Sen. The first deputy prime minister was in charge of the  
24 foreign affairs, both concerning the Party's affairs and the  
25 State's affairs. As for Son Sen, he was in charge of the general



1 staff, or what we called the national defense, and also the  
2 police.

3 [14.21.56]

4 We had other ministers, for example Minister of Education and  
5 Propaganda -- that was Mon -- Yun Yat. Ieng Thirith was the  
6 Minister of Social Affairs, and others were members of the  
7 committees. Koy Thuon was also a minister of Commerce, but later  
8 he was appointed member of a committee.

9 We also had committees of energy, committees of agriculture,  
10 committee of industry, committees of transportation by land and  
11 transportation by water, and also the railway committee. I may  
12 not include all committees during that time.

13 So the head was the deputy -- the prime minister and the three  
14 deputies.

15 Q. If I'm not mistaken, I understand that, during the Democratic  
16 Kampuchea regime, the various State organizations are of two  
17 categories: one include the ministries -- for example, the  
18 Ministry of Propaganda, the Ministry of Foreign Affairs, and the  
19 Ministry of Defense -- and the rest were committees at the level  
20 of departments, or offices, and those are offices in charge of  
21 various tasks, as what you have just mentioned; is this correct?

22 [14.24.05]

23 A. Yes, Mr. President, your analysis is correct.

24 Q. Thank you. From your experience in your capacity as the chief  
25 of S-21, from your work experience and from your personal

1 observations, did you ever receive people from various ministries  
2 or offices that were under the control of those committees or  
3 ministries that I have just described?

4 A. Thank you, Mr. President. Sometimes, the ministries and  
5 committees sent people, but it followed the decision from the  
6 upper echelon. And we, here, waited to receive from the  
7 respective ministry or units.

8 Q. When you said -- or when you used the word "committees" and  
9 "offices" with distinct roles or tasks that you listed a while  
10 ago -- for example, offices of commerce or others -- what - what  
11 are the composition of these offices, or committees? Are these  
12 committees the same as the committee at S-21? Is there any  
13 distinct characteristic of these offices?

14 [14.26.02]

15 A. Mr. President, if you talk about this in -- within the Party,  
16 the district committee is equal to the S-21 Committee. Some  
17 ministry committee -- for example, Ministry of Social Affairs,  
18 Ministry of Propaganda and Education -- were of the same level of  
19 the sector committees. The ministry was in charge within -- or  
20 throughout the country; its scope was over the country. But as  
21 for the committee, the scope of that were -- did not cover the  
22 whole country.

23 Q. What about the composition of the committee that you described  
24 a while ago?

25 A. A member Party was a secretary, and others were the deputy

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1 secretaries. And there were more than nine members in the  
2 committee.

3 Q. Thank you.

4 [14.27.28]

5 Court officer is instructed to put up document E/12 (sic) onto  
6 the screen. Display the ERN number, in Khmer, 003136 (sic), and  
7 English ERN 00182809, and French ERN 00224363. And bring this --  
8 or take this document to the witness for his examination. This  
9 document has been put before witness for examination. I will put  
10 a number of questions only concerning some other points.

11 Witness is instructed to examine the highlighted portion  
12 concerning the smashing of people inside and outside the Party,  
13 at point number 2, where it reads: "It was decided by the Central  
14 Committee."

15 [14.29.12]

16 You mentioned earlier that there was a ministry and committees  
17 and offices that surround the State's organizations and you have  
18 confirmed to me that there were two categories.

19 My question is: If all people or cadres had problem and were  
20 arrested and detained and smashed at S-21, as you mentioned  
21 earlier, who had the right to decide to smash these people?

22 A. Mr. President, "surrounding the Centre Office, to be decided  
23 by the Central Office Committee", here, it refers to Khieu  
24 Samphan, who made such a decision as set forth in this paragraph.

25 MR. PRESIDENT:

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1 I also have no further questions to put to the witness.

2 Since it is now appropriate time for adjournment, we will adjourn  
3 for 20 minutes. The next session will be resumed at 10 to 3.

4 Counsel for Nuon Chea will proceed when we resume.

5 [14.31.12]

6 Security personnel is now instructed to take the witness to his  
7 waiting room and have him return to the courtroom at 10 to 3.

8 (Court recesses from 1431H to 1453H)

9 MR. PRESIDENT:

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

11 We would like now to hand over to counsels for Nuon Chea to put  
12 questions to the witness.

13 Nuon Chea counsels will have the floor before the other two  
14 defence teams.

15 And before we proceed to the Nuon Chea team, the Chamber would  
16 like to rule on the issues raised this morning, as follows.

17 [14.55.53]

18 Decisions regarding objections to documents will be issued in due  
19 course. Nonetheless, the Trial Chamber intends to answer the  
20 request made this morning with regard to the current witness.

21 The Chamber clarifies that all written records of interviews of  
22 Kaing Guek Eav made by the Co-Investigating Judges during the  
23 investigation in Case 002 or during the investigation in Case 001  
24 and which have been placed on Case File 002 are considered put  
25 before the Chamber. Regardless of whether these written

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1 interviews or records have been discussed in Court, all of these  
2 documents are considered put before the Chamber in their  
3 entirety, and may serve as a basis for questioning the witness.  
4 With regard to transcripts from Case 001, the parties may put  
5 before the Chamber relevant portions of transcripts but must  
6 clearly identify those portions that they intend to use as the  
7 basis for questions.

8 [14.57.48]

9 Finally, the Chamber reiterates its decision in paragraph 4 of  
10 its memorandum -- document E172/5 -- which provides:

11 "All documents attached to the written record of interviews of  
12 witnesses or Civil Parties who have testified to date, and those  
13 witnesses, Civil Parties and experts identified in the memorandum  
14 E172 for the next trial session, will be considered as having  
15 been put before the Chamber with the testimony of that  
16 individual, unless objected by the parties during this  
17 testimony."

18 This is the decision by the Chamber regarding the request made by  
19 the parties this morning.

20 We would like now to hand over to counsels for Nuon Chea to put  
21 questions to witness Kaing Guek Eav alias Duch if they would wish  
22 to do so.

23 MR. PESTMAN:

24 Thank you, Mr. President, we certainly do.

25 [14.59.24]

1 Before I start, my client has indicated that he would like to  
2 comment, or respond very briefly to testimony given by the  
3 witness, and the request is whether he will be allowed five  
4 minutes tomorrow to do so, at the beginning of the morning  
5 session.

6 And as we had indicated earlier, I think we will probably need  
7 two days for our cross-examination, and I hope that we will be  
8 allowed that time to do so.

9 Then I will continue.

10 QUESTIONING BY MR. PESTMAN:

11 Q. Duch, I noticed something this morning, when you were  
12 questioned by the civil parties. When you were questioned by the  
13 prosecutor last week or the week before that, I noticed you were  
14 looking at the prosecutor while you were listening to the  
15 questions and when you answered. I noticed this morning that you  
16 did not look at counsel for the civil parties at all. Is there a  
17 particular reason for that?

18 [15.01.00]

19 MR. KAING GUEK EAV:

20 A. Looking into somebody eyes, keeping good contacts, was -- is  
21 the gesture followed by Westerners. And, indeed, it is good to  
22 look into people -- people into the eyes so that we are  
23 straightforward when speaking.

24 However, after that moment, I realized that I was addressing the  
25 Chamber, not particularly the prosecutors or the civil parties. I

1 am addressing the Bench, the Court. That's why I turned to the  
2 President instead.

3 Q. Thank you. Being a Westerner, I would appreciate it if you  
4 would also look at me when I ask questions, although I realize --  
5 and I agree with you -- that we are here to inform the Chamber.

6 May I continue?

7 [15.02.55]

8 MR. PRESIDENT:

9 Duch, you shall follow what the President of the Chamber has  
10 already ruled. The President indicated very clearly that, when  
11 you're addressing the Court, you're addressing the Bench, and  
12 that you are now giving testimonies to the Bench -- to the  
13 Chamber. So you can remain focused looking at the Bench when  
14 addressing questions. And only when you feel very uncomfortable  
15 sitting -- looking straight to the Judges of Bench when  
16 addressing party questions, then you may turn your face a little  
17 bit. But please try your best to ensure that you are here before  
18 this Chamber, telling the Chamber -- wanting the Chamber to know  
19 your testimony, and that you are addressing the Chamber.

20 BY MR. PESTMAN:

21 Thank you, Mr. President.

22 Q. On the 2nd of April -- that is, yesterday -- the last question  
23 the prosecutor asked you was whether you had spoken the truth  
24 here, in Court, while testifying as a witness. I listened to your  
25 answer and I find that answer slightly ambiguous. I'll read it

1 out to you, and maybe you can help me understand your answer.

2 [15.04.54]

3 I quote: "Mr. President, I said everything, the other day, that I  
4 upheld everything I said before the Co-Investigating Judges and  
5 everything I said during the Case 001 Trial."

6 What is it you actually mean when you said that?

7 MR. KAING GUEK EAV:

8 A. Mr. President, I think you have not fully covered what I  
9 stated; two more words were missing. I said -- before Judge  
10 Lavergne I sometimes talked briefly on certain points, sometimes  
11 I went into details of the accounts. And everyone is familiar  
12 already that I am here to tell the Court about what I witnessed,  
13 what I have seen, and what I experienced.

14 Q. You were questioned at length by the Investigating Judges,  
15 both in Case 001 and Case 002. Did you always tell them the  
16 truth?

17 A. I truly tell the truth to the Co-Investigating Judges.

18 Q. You also spoke to the prosecutor and the Investigating Judges  
19 at the Military Court. Did you always tell them the truth?

20 [15.07.27]

21 A. It is true that I always told them the truth.

22 Q. And this Trial Chamber in Case 001, did you tell them the  
23 truth?

24 A. In Case File 001 I also told the Court the truth.

25 Q. And Christophe Peschoux, in 1999, did you tell him the truth?



1 A. Yes I did; I told him the truth.

2 Q. You also spoke to journalists the same year; you spoke to Nic  
3 Dunlop and Nate Thayer. Did you tell them the truth?

4 A. These two journalists manipulated my words, and I fully reject  
5 the commentary these two people mentioned about me.

6 Q. Thank you. I will come back to that later, then.

7 Are you familiar with the expression "being economical with the  
8 truth"?

9 A. Mr. President, I don't think I understand the question; could  
10 you please be more specific?

11 Q. I will rephrase my question. When questioned by Judges,  
12 prosecutors, Christophe Peschoux, did you ever not tell relevant  
13 facts?

14 [15.10.07]

15 A. When I was asked by the Co-Investigating Judges, who  
16 represented the Court, the nation, I did tell them the truth;  
17 other than these people I am afraid I cannot answer to you  
18 whether it is the case.

19 Q. When you - when you were sworn in, here in Court, the first  
20 day you appeared before this Chamber, you had to swear that you  
21 were going to tell the truth and the whole - the whole truth.  
22 What I'm asking is: Did you always tell the whole - the whole  
23 truth or did you sometimes only tell half of the truth to any of  
24 the people I mentioned?

25 A. I think the questions is somewhere irrelevant. I don't know

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1 whether you are now trying to -- referring to ideology other than  
2 relevant issue in this courtroom. When the question is more  
3 relevant to something hypothetical, I will not respond.

4 MR. PRESIDENT:

5 Counsel, could you please be focused -- be focusing on the case  
6 file before us in the lines of questioning you wish to put to the  
7 witness?

8 [15.12.31]

9 Your reference to Mr. Christopher was not -- is not part of the  
10 judicial process here, as that exchanges was obtained outside the  
11 judicial system.

12 And your questions seem to be repetitious because almost in half  
13 an hour you seem to only have been asking just the same questions  
14 and have not yet touched upon the substance of the Indictment.

15 MR. PESTMAN:

16 Thank you, Mr. President. I will come back to this, the issue of  
17 the economy of the truth, in more detail and I will also come  
18 back to Christophe Peschoux, as I believe that I have the right  
19 to ask this particular witness about that interview he gave in  
20 1999.

21 BY MR. PESTMAN:

22 Q. I've read in the case file, Duch, that you have a very good  
23 memory. Would you agree with that statement?

24 MR. KAING GUEK EAV:

25 A. I think, whether my memory is good or not, it is up to your

1 judgement -- Mr. Pestman's judgement. I, perhaps, am not able to  
2 judge my own good memory.

3 [15.14.32]

4 Q. You have given several dates during your testimony, for  
5 example the date of 15 August 1977. Are you absolutely sure about  
6 that date, or is it possible that you're mistaken?

7 A. Some other dates maybe misquoted, I may say, but when it comes  
8 to this particular date, I never have mistaken.

9 Q. Thank you.

10 Duch, when at M-13, did you ever personally torture prisoners?

11 A. Mr. President, I may choose not to respond to this question.

12 MR. PESTMAN:

13 If I may respond, I think Duch is here as a witness and he has a  
14 duty to respond. He's been convicted by the Appeals Chamber, and  
15 that decision is irrevocable. I don't see why this witness has  
16 the right to avail of his right to remain silent.

17 [15.16.12]

18 MR. PRESIDENT:

19 Witness has the right to remain silent to any questions that are  
20 self-incriminating. The Chamber has already informed the witness  
21 regarding the rights and obligation of the witness when he is  
22 brought in.

23 MR. PESTMAN:

24 If I may respond to that, Your Honour, but only in as far as he  
25 hasn't been convicted irrevocably for those particular facts, I

1 presume.

2 MR. PRESIDENT:

3 That's your business, but the Chamber has already ruled on this.

4 From the very beginning, the witness has been informed of his

5 rights when he gives testimonies before the Chamber.

6 [15.17.52]

7 Counsel Karnavas, you may now proceed.

8 MR. KARNAVAS:

9 Thank you, Mr. President, Your Honours. I understand the ruling;

10 with all due respect, since the Prosecution likes to quote the

11 ICTI -- ICTY jurisprudence, there's ample jurisprudence to show

12 that, once an accused has been convicted and has gone through the

13 appeal process, that he can be compelled to testify, and his

14 refusal to testify would warrant sanctions.

15 And the case that you may wish to look up is the Jokic Case

16 --Prosecution vs. Jokic, who was called to testify in the

17 Srebrenica Case after he was convicted in the Blagojevic and

18 Jokic Case. He went through the appeal process, and yet, when he

19 invoked his right to remain silent, he was told that he had to

20 testify and his failure to testify, in that particular case,

21 warranted sanctions for contempt of Court.

22 [15.18.56]

23 In this particular case, since the crimes that are being-- He's

24 being asked whether he tortured at S-21. He's been convicted for

25 his activities in S-21 so that he cannot possibly, in any event,

1     incriminate himself.

2     He could possibly incriminate himself if he chooses to lie now  
3     that he's under oath; that would amount to perjury. So, unless he  
4     -- he's invoking that because he wishes to commit perjury, I see  
5     no reason why he cannot give evidence.

6     But I understand your Court -- the Court's ruling; I would  
7     respectfully request that, perhaps, the Court reconsider that  
8     ruling. Thank you.

9     MR. PRESIDENT:

10    International Co-Prosecutor, you may now proceed.

11    MR. SMITH:

12    Thank you, Your Honour. I think the international counsel for  
13    Ieng Sary are mistaken.

14    The question wasn't in relation to whether he tortured at S-21,  
15    it was in relation to whether he tortured at M-13

16    [15.20.03]

17    He certainly hasn't been convicted or tried on those offences,  
18    so that argument doesn't apply.

19    Your Honour, in relation to S-21, I mean, this witness has given  
20    significant evidence of his criminal involvement in this -- in  
21    his testimony to date, so I think it may be appropriate on those  
22    questions that he answer, but certainly, in relation to M-13,  
23    there has been no conviction for this - for this witness, and  
24    there always remains a possibility of a prosecution, however  
25    unlikely.

1 MR. PESTMAN:

2 I think, Mr. President, that the crux is exactly in those last  
3 two words. I believe Duch was in local prison for nine years and  
4 he was not prosecuted for anything he did at M-13, so it's very  
5 unlikely that he ever will be.

6 I agree that the distinction has to be made between S-21 and  
7 M-13, between the facts covered by the Indictment in Case 001 and  
8 other facts; I maintain that whatever relates to the charges in  
9 Case 001, this witness has to answer questions.

10 [15.21.28]

11 And I could drop this particular topic, and maybe we can come  
12 back to this tomorrow morning. I will continue with another topic  
13 and come back to M-13 tomorrow morning, then.

14 BY MR. PESTMAN:

15 Q. Duch, in Court, you mentioned briefly, when you discussed  
16 M-13, the American bombing. Where were you when the Americans  
17 starting bombing Cambodia?

18 MR. KAING GUEK EAV:

19 A. First, allow me to give my observation. Mr. Pestman, I don't  
20 know how your calculation was accurate or not because, between  
21 '71 and '75, I could not make it up to nine years. Could you  
22 please tell me on this?

23 MR. PRESIDENT:

24 Witness, indeed, you are not allowed to put questions directly to  
25 counsel.

1 [15.23.16]

2 You may choose not to respond, or else the duration of -- the  
3 period that discussed, perhaps, not relevant to the time when you  
4 was at M-13. You may also choose not to respond but not putting  
5 questions to the counsel who -- or party who is putting question  
6 to you. And as the witness, you should not do that.

7 BY MR. PESTMAN:

8 Q. I think there is a translation issue. My question was quite  
9 simple: Where were you when the Americans started bombing  
10 Cambodia?

11 MR. KAING GUEK EAV:

12 A. I think I made it clear I was at M-13 when the bombs were  
13 dropped by Americans. One of the bombs was dropped in the office  
14 in the Northwest Zone.

15 Q. Did you personally experience any bombing or shelling by the  
16 Americans?

17 [15.25.58]

18 A. During that time, we had to take refuge in the trenches. The  
19 head of M-13 and the prisoners had to be hiding in the trenches.  
20 When we learned that B-52 bomber was flying over, then we would  
21 prepare not to be bombed at. And when B-52 bombs were dropped,  
22 the whole ground was shaken. And there's still some big craters  
23 of the bombs left in the areas.

24 Q. Can you describe the effects of the bombing as you experienced  
25 them at the time?

1 A. There was casualty after the bomb in the Southwest Zone.  
2 However, there was no report by the CPK because Brother Pol tried  
3 to hide this information from the people; he did not want to  
4 scare them concerning the effect of the bombings.

5 Q. Did the bombing, for example, influence the supply of food in  
6 your area?

7 A. I don't know.

8 [15.27.38]

9 Q. Do you know anything about the number of casualties, the  
10 people that were hurt, injured, or died during the bombing in  
11 your area?

12 A. I may choose not to respond to this question.

13 MR. PESTMAN:

14 Mr. President, I don't think the witness has a choice not to  
15 answer a question; he has the duty to do so.

16 MR. PRESIDENT:

17 Witness, you are now advised to respond to the question according  
18 to your knowledge, your experience. If you don't know, you just  
19 say: Don't know. If you know, you can tell the Court.

20 MR. KAING GUEK EAV:

21 Mr. President, I thought that the question was repetitious, and  
22 as I indicated that the Northwest Zone office of the CPK tried to  
23 hide information concerning the casualties because the Party did  
24 not want to scare their own people. So that's why I chose not to  
25 respond. And my apologies if that was not appropriate.



1 [15.29.32]

2 MR. PRESIDENT:

3 Indeed, this event was relevant to the casualties back then. And  
4 we just -- counsel would want to know whether you, personally,  
5 seen this or knew anything about this.

6 MR. KAING GUEK EAV:

7 A. Mr. President, I was far from knowing this.

8 BY MR. PESTMAN:

9 Q. In Court, you mentioned that the bombing had -- or somehow  
10 influenced the influx of prisoners in M-13. Can you explain how  
11 that worked and why that was?

12 MR. KAING GUEK EAV:

13 A. That was because of two events: one was because of the  
14 bombardments; another one was because of the movements of people  
15 from the enemy zones to the liberated zones. Because of these  
16 events, Ta Mok decided that M-13 staff was to arrest people at  
17 the referral offices. There were about 12 people. That - that is  
18 what I still remember.

19 [15.31.10]

20 Q. Did you ever torture prisoners at S-21?

21 A. Thank you. There were a lot of stories. Only one prisoner that  
22 was not allowed to be tortured when I was a deputy director. That  
23 prisoner reacted to Kheang, and I slapped him on the face two or  
24 three times. If I did not do that, it was too much to Ma  
25 Mengkheang. At that time, Chhit Iv reacted to Ma Mengkheang and

1 he was about to hit him, but I stopped him, and I did that by  
2 myself, as a deputy.

3 Q. Apart from this incident you just described, did you hit or  
4 otherwise torture any other prisoner while you were at S-21?

5 A. No, there was not.

6 Q. Before I go to the next topic, did you ever kill anyone at  
7 S-21, personally?

8 A. Thank you. No, I never did.

9 Q. At M-13?

10 [15.33.36]

11 A. Thank you. I will not answer this question. I will not answer  
12 to the issue at M-13.

13 MR. PESTMAN:

14 Again, Mr. President, I think that the witness should answer this  
15 question, as it is very unlikely that he will ever be prosecuted  
16 for these facts.

17 MR. PRESIDENT:

18 Yes, International Co-Prosecutor, you may proceed.

19 MR. SMITH:

20 Thank you, Your Honour. I think we've dealt with this issue  
21 already.

22 It's not a question of whether it's likely or unlikely, it's a  
23 question of whether it would incriminate him and whether there's  
24 a possibility of a prosecution. There's always a possibility, no  
25 matter how unlikely.

1 And I think Your Honours ruled on this already.

2 [15.34.27]

3 MR. PESTMAN:

4 Just in response, quickly, if the possibility is nil, I don't  
5 think a witness has the right to avail of his right to remain  
6 silent. As said, I will come back to that tomorrow to give  
7 everyone the opportunity to think about this tonight.

8 MR. PRESIDENT:

9 The objection made by the Prosecution stands; the witness has the  
10 right not to respond to any questions that leads to  
11 self-incriminating, the right to -- not to answer to questions  
12 that can lead to self-incriminating.

13 And, concerning the facts-- However, concerning the facts that  
14 has been already adjudicated against the witness, the witness may  
15 answer to the question, and it is still up to witness to decide  
16 to answer or not to the questions.

17 [15.36.08]

18 And now we have two facts: some facts have not been adjudicated,  
19 while some other facts have been adjudicated. As for the latter  
20 one, the witness may answer to the questions, as already been  
21 informed to the witness. And if the witness do not know -- does  
22 not know about the facts, the witness may say so or may otherwise  
23 decide to answer the question on the basis of the witness  
24 knowledge.

25 As for the facts at M-13, we can't base on the subjective view of

1 the counsels, that they may not be prosecuted in the future. The  
2 facts may have similar magnitude as of those committed at S-21.

3 BY MR. PESTMAN:

4 Thank you, Your Honour.

5 [15.37.26]

6 Q. You spent a large and, I would say, important part of your  
7 life working in intelligence and you interrogated or had  
8 interrogated many alleged spies. According to your knowledge, the  
9 knowledge you gained while working in intelligence, what was the  
10 extent of the CIA infiltration in Cambodia during the Khmer Rouge  
11 years?

12 MR. KAING GUEK EAV:

13 A. Thank you. If we base on S-21 documents and if we base on the  
14 Party's world view, we can say that the scope CIA's work was very  
15 broad. And I would like to emphasize that we are talking about  
16 the conditions. If we base on the world view of the Party in  
17 determining the scope of CIA's work, the intervention by CIA was  
18 very broad. So I'm talking on these two conditions.

19 Q. Duch, I'm -- just to be absolutely clear, I'm talking about  
20 your own experience and your own knowledge at the time.

21 [15.39.25]

22 Maybe to be a bit more specific -- you said the involvement was  
23 very broad -- can you indicate how many CIA networks you  
24 uncovered during your work for the Communist Party?

25 A. Mr. President, when I work for the Communist Party of

1 Kampuchea, there was a world view about CIA, about the tricks of  
2 CIA. We discovered CIA, and about 10,000 and -- 12,000 hundred  
3 CIA agents who were killed.

4 Q. Just to be sure -- I did not get the translation right, maybe  
5 -- are you saying that between 10,000 and 12,000 CIA agents were  
6 killed during the Khmer Rouge period?

7 A. Mr. President, I'm talking about this by referring to the list  
8 of 12,273 people, among which there were CIA, KGB, and "Yuon"  
9 agents. And if you want to know about the total number of CIAs,  
10 we can do the calculation based on the list. So it is not that  
11 CIAs are of the 12,373 people.

12 [15.41.54]

13 Q. What was the extent of the Vietnamese infiltration in  
14 Cambodia, according to your knowledge?

15 A. The number of those arrested and smashed was mentioned in the  
16 list, and I do not know about the number of the remaining.

17 Q. When you say "I do not know about the number of remain", do  
18 you mean that you're unsure whether there were other Vietnamese  
19 spies or network you were unable to uncover?

20 A. Mr. President, there were of course remaining, because there  
21 were the -- there was some remaining if we compare to the total  
22 number of those decided by the Party to be arrested. And if we  
23 included the number of those who were implicated in the  
24 confessions, then there would be many more.

25 [15.43.47]

1 MR. PRESIDENT:

2 Yes, the International Co-Prosecutor, you may proceed.

3 MR. SMITH:

4 Your Honour, I would object to this line of questioning on the  
5 basis that defence counsel seems to be eliciting information of  
6 the truth of CIA and KGB from the confessions from which the  
7 witness gained his knowledge.

8 And if defence counsel is trying to establish that as a -- as a  
9 fact in this case, it should -- he should be stopped from asking  
10 this line of questions.

11 If he has questions that relate to his independent knowledge of  
12 CIA and KGB outside of confessions, then that's -- that's a  
13 different matter, but certainly the witness has indicated that  
14 his information has come from the documents from S-21, and  
15 defence counsel are trying to establish the truth from matters  
16 which have been illegally obtained and not -- not admissible in  
17 this Court, which is quite ironic that Defence has taken this  
18 position.

19 [15.45.11]

20 MR. PESTMAN:

21 Mr. President, to respond, if I'm allowed so, I think the  
22 prosecutor is misreading my intentions with this particular line  
23 of questioning.

24 I'm of course not trying to establish how many CIA agents were  
25 captured in Cambodia in the Khmer Rouge years; I'm trying to

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1 establish whether this particular witness believes that  
2 confessions contained the truth. And I believe that his answers  
3 so far show very little doubt about this witness' convictions.  
4 That was what I was trying to establish.  
5 I'm more than happy to continue to the next topic.

6 MR. PRESIDENT:

7 The Prosecution's objection is sustained.  
8 Counsel -- defence counsel is advised to focus on his questioning  
9 and refrain from asking the question on the basis of the  
10 confessions extracted by torture.

11 [15.46.34]

12 The Prosecution, as a party of these proceedings, always objects  
13 to the questions by other parties that the Prosecution believes  
14 that are not appropriate. Just now, the International  
15 Co-Prosecutor objects just after the witness has answered the  
16 question.

17 It has always been objections from parties in our previous  
18 proceedings, and the Chamber has determined that the witness has  
19 to wait until there is a decision by the Chamber to the objection  
20 by the party to the question being posed to the witness. This is  
21 the practice that we usually follow since Case 001 Trial. Indeed,  
22 it is the Chamber's discretion, but there are a lot of members of  
23 the Chamber which needs a lot of time to deliberate. So, from the  
24 management of the trial perspective, it is not easy to do so when  
25 it comes to dealing with the objections by the parties.

1 So, again, parties are advised to be very careful that the  
2 objections be made before the witness answers to the question so  
3 that the Chamber can decide whether the witness should or not  
4 answer the question being posed.

5 [15.48.56]

6 Defence Counsel, you may proceed.

7 BY MR. PESTMAN:

8 Thank you, Mr. President.

9 Q. Duch, would you describe your work at S-21 in the period  
10 between 1975 and 1976 as useful, maybe even crucial to the  
11 survival of the Communist Party of Kampuchea?

12 MR. KAING GUEK EAV:

13 A. Thank you, Mr. President. Before describing my work at S-21,  
14 following the question by lawyer Pestman, may I indicate that Mr.  
15 Pestman describes that the crucial work of S-21 allows the  
16 Democratic Kampuchea to live? Such a description is big. The work  
17 of S-21 is only a small part of this; it was like a drop in the  
18 ocean.

19 [15.50.38]

20 Secondly, I would like to indicate again that my work at S-21 was  
21 under the supervision -- the direct supervision of Son Sen.  
22 Initially, he instructed me to move from Amleang office to S-21.  
23 It was about in October when he asked me to interrogate people  
24 and to train people on how to interrogate others, in my capacity  
25 as a deputy, and that what -- that happened in 1975.



1 And when I became the chief of S-21, I no longer interrogated  
2 people; I sat and read documents, except one occasion. That was  
3 the case of Koy Thuon, that I went to interrogate him personally,  
4 and it was the order from my superior. Besides this, I spend days  
5 by -- day by day reading documents and annotated the documents to  
6 help the superiors to consider.

7 [15.52.12]

8 I have answered to the Chamber several times that I had  
9 conversations every day with my superior, at least one hour per  
10 day, that--

11 Q. Duch, Mr. Witness, if I may interrupt you, you have already  
12 answered my question, and my time is precious.

13 My question was whether you consider your work important or  
14 crucial to the survival of the Party, and you said, if I  
15 understood correctly, that your work "was like a drop in the  
16 ocean"; that will do.

17 Duch, was your bicycle stolen, or did you lose your bicycle?

18 (Short pause)

19 Should I repeat the question?

20 (Judges deliberate)

21 [15.54.26]

22 MR. PRESIDENT:

23 This question is not relevant to the facts alleged.

24 Witness should not answer this question.

25 MR. PESTMAN:

1 I think I should at least be allowed the possibility to explain  
2 why I think it's relevant. But I will come back to this event  
3 later, tomorrow, and then it will be -- hopefully be obvious what  
4 the reasons were for me asking this particular question.

5 MR. PRESIDENT:

6 The Chamber has the right to prohibit repetitious questions.

7 BY MR. PESTMAN:

8 Q. Duch, what was the name of your friend, your female friend  
9 that decided not to study mathematics with you?

10 [15.55.43]

11 MR. PRESIDENT:

12 Witness should not answer this question; it is not relevant to  
13 the alleged facts.

14 MR. PESTMAN:

15 I will come back to this later as well, and then, hopefully, the  
16 relevance will be clear.

17 BY MR. PESTMAN:

18 Q. Did you ever watch somebody being tortured?

19 A. Thank you, Mr. President. At S-21, I did not have any time to  
20 see people being interrogated, so I say I never saw any prisoners  
21 being tortured, except one occasion when I went to give  
22 instructions how to interrogate a foreigner, and there was no  
23 torture. I was there in order to estimate the ability of the  
24 interpreter; that's why I went there.

25 Q. Just to be sure that I understand your answer correctly, when

1 you went to see that interrogation, that prisoner was not being  
2 tortured; is that what you're saying?

3 A. Yes, it is correct.

4 Q. You answered only part of my question; I did not limit my  
5 question to S-21. What about M-13?

6 [15.58.13]

7 A. Mr. President, I will not answer to this question.

8 Q. Do you enjoy torturing?

9 MR. SMITH:

10 I object, Your Honour.

11 MR. PRESIDENT:

12 Yes, the International Co-Prosecutor, you may proceed.

13 MR. SMITH:

14 Your Honour, this witness has stated that he didn't torture at  
15 S-21, other than slapping a witness, so the question is based on  
16 a -- on the facts which the witness hasn't admitted to.

17 Secondly, I just wonder what the purpose of these questions are.

18 Perhaps, if counsel can advise the Court the path of these  
19 questions? Otherwise, it may seem as though the witness is being  
20 antagonized and unsettled for questions of no significance to  
21 this case.

22 [15.59.36]

23 MR. PESTMAN:

24 Mr. President, Your Honours, I'm here, of course, to establish  
25 the credibility of this witness and his statements and, in that

1 light, I think my questions are relevant. It is relevant to know  
2 whether this witness tortured himself and it's also relevant to  
3 know whether he did it because he thought it was his duty or  
4 whether there was some other reason to do so.

5 And I did not limit my question to S-21, it was an open question.  
6 The witness is of course free to answer for what he did in M-13  
7 as well.

8 MR. SMITH:

9 Your Honour, the question is based on the fact that the witness,  
10 in fact, tortured. He stated earlier that he didn't do that,  
11 other than slapping a witness in the face.

12 [16.00.29]

13 If the question is: Did the witness enjoy the process of  
14 torturing in S-21, that's a different question, but certainly  
15 it's misleading, the way it's being put.

16 MR. PRESIDENT:

17 The objection stands; witness should not answer to this question.

18 MR. PESTMAN:

19 I look at the clock and I notice that it's past 4 o'clock. I'm  
20 happy to continue, but maybe we should continue tomorrow morning.

21 MR. PRESIDENT:

22 Thank you for your reminder. It is now appropriate for  
23 adjournment for today proceedings. The proceeding will continue  
24 tomorrow, from 9 o'clock in the morning.

25 Security guard is instructed to escort the witness back to the

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1 detention facility and return him to this courtroom by 9 o'clock  
2 in the morning. At the same time, other security guards are  
3 instructed to bring the accused persons back to the detention  
4 facility and return them to the courtroom by 9 o'clock, tomorrow.

5 The Court is now adjourned.

6 THE GREFFIER:

7 All rise.

8 (Court adjourned at 1602H)

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