



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

TRANSCRIPT OF PROCEEDINGS - "DUCH" TRIAL

PUBLIC

Case File N° 001/18-07-2007-ECCC/TC

30 March 2009, 1000H

Trial Day 1

Before the Judges:

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

For the Civil Parties:

HONG Kimsuon
KONG Pisey
TY Srinna
MOCH Sovannary
KIM Mengkhy
Silke STUDZINSKY
Martine JACQUIN
Alain WERNER
Pierre-Olivier SUR

For the Trial Chamber:

DUCH Phary
SE Kolvuthy
LIM Suy-Hong
Matteo CRIPPA
Natacha WEXELS-RISER

For Court Management Section:

SANN Rada

For the Office of the Co-Prosecutors:

CHEA Leang
Robert PETIT
YET Chakriya
William SMITH
TAN Senarong
Alexander BATES
Jurgen ASSMANN
PAK Chanlino

For the Accused Person KAING GUEK EAV

KAR Savuth
François ROUX

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. DUCH PHARY	Khmer
MR. ROUX	French
MS. SE KOLVUTHY	Khmer
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer

1

1 PROCEEDINGS

2 (Judges enter the Courtroom)

3 MR. PRESIDENT:

4 The members of the media are requested to leave the room now
5 please, so that we can commence our substantive hearing.

6 (Photographers leave the Courtroom)

7 MR. PRESIDENT:

8 Today, In the name of the Cambodian people, and the United
9 Nations, and pursuant to the Law on the Establishment of
10 Extraordinary Chambers in the Courts of Cambodia for the
11 prosecution of crimes committed during the period of Democratic
12 Kampuchea, promulgated by Royal Kram NSRKM 1004/006 dated on the
13 27th October 2004, the Trial Chamber of the Extraordinary
14 Chambers in the Courts of Cambodia declares open the Substantive
15 Hearing on Case File 001, relating to the accused Kaing Guek Eav
16 alias Duch, aged 66, who has been charged with crimes against
17 humanity, grave breaches of the Geneva Conventions of the 12th of
18 August 1949, and violation of the 1956 Cambodian Penal Code,
19 which consists of premeditated murder, Articles 501 and 506, and
20 torture, Article 500, offences defined and punishable under
21 Article 3new, 5, 6, 29new and 39new of the Law of the
22 Establishment of the Extraordinary Chambers in the Courts of
23 Cambodia related to S21 in Phnom Penh.

24 [10.06.05]

25 The bench is composed of judges: Nil Nonn, President, Silvia

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1 Cartwright, three, Judge Ya Sokhan, four, Judge Jean-Marc
2 Lavergne, five, Judge Thou Mony, and two reserve Judges: one,
3 Judge You Ottara, two, Judge Claudia Fenz.

4 In this Case File 001 there are 93 civil parties, all of whom
5 have been divided into four groups, and also there are 15 civil
6 party lawyers, in which six is national and nine is
7 international.

8 The greffier, have you already examined the identity of the
9 parties this morning?

10 MR. DUCH PHARY:

11 Your Honours, I have already verified the attendance and the
12 identity of parties in the proceedings. Five civil parties'
13 representatives are represented. Today we have 44 civil parties
14 in attendance. Thank you.

15 MR. PRESIDENT:

16 The greffier, please make sure that this attendance sheet will be
17 recorded in the transcript.

18 [10.08.05]

19 The detention facility guard please bring the charged person to
20 the dock.

21 Mr. Kaing Guek Eav, please stand up. The next proceedings in
22 relating to the questions that the Chamber may ask the accused to
23 state identity. What is your name?

24 THE ACCUSED:

25 My name is Kaing Guek Eav alias Duch.

3

1 MR. PRESIDENT:

2 Could you please spell your name, Guek Eav, how is it spelled?

3 THE ACCUSED:

4 In Latin, Guek Eav should be spelled as G-u-e-k, space, E-a-v.

5 MR. PRESIDENT:

6 Besides these names, have you used other names?

7 THE ACCUSED:

8 The President, when I was born my father gave me the name of Yun
9 Chheav and this name was given to me after three months, when I
10 was born, and my name was registered. My original name was Kaing
11 Chheav. Then later there was a teacher who pretended to be a
12 fortune teller, gave me the name of Yin Keav, and then I attended
13 school, I used the name Kaing Keav. In 1957 I took the exam of
14 the primary school exam, then I changed from Kaing Keav to Kaing
15 Guek Eav as agreed by my father.

16 [10.11.35]

17 Then when I came to enter the revolution, I used Kaing Guek Eav
18 alias Duch, and Duch is my revolutionary name at that time. In
19 1986 I went to China, I used the name Hong Pin. In China I
20 worked until 1988, and I came back, and I still used the name
21 Hong Pin.

22 MR. PRESIDENT:

23 Where were you born?

24 THE ACCUSED:

25 Your Honours, my real birth place was in Poevveuy village, Peam

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1 Bang commune, Stong district, Kompong Thom province.

2 MR. PRESIDENT:

3 What is your occupation before you were arrested?

4 THE ACCUSED:

5 Recently, before I was arrested by the military court, I was a
6 teacher in Samlot district, Battambang province.

7 MR. PRESIDENT:

8 What is your father's name? Is he still alive or deceased?

9 The court official, could you please help facilitate the
10 microphone for the accused.

11 THE ACCUSED:

12 The President, Your Honours, my father's name is Kaing Ky. Was
13 born in 1915. He died in 1990.

14 MR. PRESIDENT:

15 What is your mother's name? Is she still alive or deceased?

16 THE ACCUSED:

17 She was born in 1923. Now she is still alive.

18 MR. PRESIDENT:

19 Do you have any wife? What is her name and is she still alive or
20 deceased?

21 THE ACCUSED:

22 Yes. I got a wife, I got married on the 20th of December 1975,
23 but she was deceased on the 11th of November 1995.

24 MR. PRESIDENT:

25 How many children have you got?

5

1 THE INTERPRETER:

2 The interpreter regrets that he cannot hear. The interpreter
3 regrets that we did not receive any sound from the Accused.

4 THE ACCUSED:

5 The second child is a boy, his name is Hang Siev Pheng. He lives
6 in Samlot, and he works as a teacher. The third child is Hang
7 Siev Meng, a boy, now lives in Samlot and works as a teacher.
8 The fourth child, named Hang Thai An, lives in Samlot and is a
9 teacher.

10 MR. PRESIDENT:

11 Mr. Kaing Guek Eav, since you are the accused person in this
12 case, during this hearing and these sequential hearings, you have
13 the following rights. The right to be defended by a lawyer of
14 your course. Regarding this right, the Chamber observes that
15 from the investigation phase, up until now, you have two lawyers:
16 one national, Mr. Kar Savuth, and one international, Mr. Francois
17 Roux. At every stage of the proceeding you have the right to
18 remain silent, the right against self-incrimination, the right to
19 be informed of charges against you.

20 [10.16.45]

21 Mr. Kaing Guek Eav, did you receive the notification of the
22 charges against you?

23 THE ACCUSED:

24 The President, I have already been notified of the charges
25 against me.

6

1 MR. PRESIDENT:

2 When did you receive that notification?

3 THE ACCUSED:

4 Soon as I arrived at the ECCC.

5 MR. PRESIDENT:

6 In addition to the notification of charges and in compliance with
7 Rule 89bis of the Internal Rules, the Trial Chamber assigns two
8 greffiers, Ms. Se Kolvuthy and Mr. Duch Phary to read the factual
9 analysis and the indictment and the accounts against you from the
10 Co-Investigating Judges' Closing Order paragraph 10 to 162,
11 together with the Pre-Trial Chamber's decision on appeal against
12 the Closing Order paragraphs 152 to 153.

13 The Chamber would like to inform that names of the people
14 involved shall be used with the pseudonym unless there will be
15 any protective measure issued. I would like to give the floor to
16 Ms. Se Kolvuthy to read the first part of the factual analysis.

17 MS. SE KOLVUTHY:

18 (No interpretation)

19 MR. ROUX:

20 (No interpretation)

21 MR. PRESIDENT:

22 I would like the lawyer for accused to speak again.

23 THE INTERPRETER:

24 Okay, the accused's lawyer asked whether the accused would be
25 allowed to sit down for the duration.

7

1 MR. PRESIDENT:

2 The Chamber will accept the request, but the Chamber would like
3 to request that the Chamber has its own proceeding within the
4 time frames where the listening to the charges and accounts until
5 a certain paragraph where the Chamber will allow, by its own
6 discretion, for the accused to sit. But it is not yet the time.

7 [10.21.25]

8 May the greffier continue.

9 MS. SE KOLVUTHY:

10 Who was detained in the ECCC since the 30th of July 2007, and was
11 charged with crimes against humanity Grave Breaches of the Geneva
12 Conventions of 12 August 1949 and Violations of the 1956
13 Cambodian Penal Code, offences defined and punishable under
14 Articles 3 new, 5, 6, 29new, and 39new of the Law on the
15 establishment of the Extraordinary Chambers in the Courts of
16 Cambodia for the Prosecution of Crimes Committed during the
17 Period of Democratic Kampuchea.

18 MR. PRESIDENT:

19 Because the reading of the accounts is going to take a long time,
20 I permit the accused to sit and listen to the accounts and
21 factual analysis.

22 MS. SE KOLVUTHY:

23 The investigation has revealed the following facts. Part one,
24 Summary of Facts. Historical and political context. On 17 April
25 1975, the army of the Communist Party of Kampuchea, CPK, the

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1 Kampuchea People's National Liberation Armed Forces, KPNLAF,
2 entered Phnom Penh and seized national power. With the end of the
3 civil war against Lon Nol's Khmer Republic, the CPK's stated
4 policy was to pass to "the next phase of making socialist
5 revolution".
6 [10.23.10]
7 During the three years, eight months, and twenty days that
8 followed, the CPK exercised effective authority over Democratic
9 Kampuchea, and pursued a policy of "completely disintegrating"
10 the economic and political structures of the Khmer Republics and
11 creating a "new, revolutionary State power".
12 Historians and observers agree that this programme was
13 implemented through a number of means including the forced
14 transfer of residents of Phnom Penh and other former Khmer
15 Republic strongholds to the countryside; the creation of
16 Party-controlled agricultural production cooperatives where
17 people were made to work under extremely difficult conditions to
18 increase food production; and the elimination of officials and
19 supporters of the previous regime.
20 Many of these CPK policies required the transformation of "new
21 people" into peasants. These individuals were broadly made up of
22 evacuated city dwellers and peasants living under Lon Nol control
23 until April 1975, as distinct from "old" or "base" people who
24 were essentially peasants from areas already under the authority
25 of the CPK during the Khmer Republic period.

9

1 Politically motivated extra-judicial executions were committed
2 from the outset by military units. They continued thereafter in
3 security centres throughout the country. The CPK foreshadowed
4 these events by organizing, in February 1975, a Popular National
5 Congress of the National United Front of Kampuchea, at which it
6 publicly announced that seven so-called Khmer Republic
7 "super-traitors" were to be summarily killed for treason,
8 post-liberation. The Congress also declared that lower-level
9 Khmer Republic personnel would be welcomed by the revolutionary
10 forces "provided they immediately cease their service to the
11 seven traitors and stop cooperating with them".
12 This implied that any such personnel who did not immediately
13 defect to the Communist side were vulnerable to summary
14 execution. In fact, it appears that from the early 1970s, CPK
15 security organs such as M13, chaired by Duch, had been tasked
16 with executions, indicating that a policy of physically
17 eliminating persons deemed "enemies" of the revolution was
18 already institutionalized prior to 17 April 1975.
19 The CPK destroyed the legal and judicial structures of the Khmer
20 Republic. While it is true that Democratic Kampuchea adopted a
21 Constitution in January 1976, its Chapter 7, concerning
22 "Justice", showed the CPK's priority was to protect the State
23 from subversion. Article 10 provided for an unspecified "highest
24 level of punitive sanction" for "opposition and wrecking
25 activities of a systematic character that endanger the State",

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1 while declaring that other "crimes" must be dealt with through
2 "re-education and refashioning within the context of State or
3 popular organs".
4 Although Article 9 promised that "courts constituted as People's
5 Courts belonging to the people" would "embody the people's
6 justice and defend the people's rights and democratic freedoms,"
7 there is no evidence that they were ever created. Moreover,
8 while the first, and apparently only meeting of what was said to
9 be a popularly elected People's Representative Assembly mandated
10 the formation of a Judicial Committee in April 1976, no evidence
11 exists of any implementation of Article 9. This left the
12 punishments set forth in Article 10 to be applied arbitrarily.
13 Furthermore, there is no evidence that the CPK established
14 appropriate facilities for captured enemy combatants or
15 civilians, or mechanisms to challenge the legality of their
16 arrest, detention or punishment.
17 The old legal structures were replaced by re-education,
18 interrogation and security centres where former Khmer Republic
19 officials and supporters, as well as others accused of offences
20 against the CPK, were detained and executed. This network of
21 security centres was supplemented by a programme of surveillance
22 at all levels of the regime which aimed to identify, report, and
23 eliminate potential enemies of those in control of the Party.
24 Thus, numerous persons, rightly or wrongly linked to the Khmer
25 Republic or its purported social class foundations, were punished

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1 or summarily executed by the CPK in the days and weeks
2 immediately following the "liberation" of Phnom Penh, through to
3 the end of the regime.
4 Almost immediately following the KPNLAF's entry into Phnom Penh
5 on 17 April 1975, international armed conflict broke out between
6 Vietnam and Cambodia. Protracted hostilities continued until at
7 least 6 January 1979. Although Democratic Kampuchea and the
8 Socialist Republic of Vietnam only officially recognized the
9 existence of international armed conflict on 31 December 1977,
10 there is evidence that, from mid-April 1975, with the exception
11 of several respites during peace negotiations or diplomatic and
12 cultural visits, there was escalating and increasingly frequent
13 armed violence between the two States. In particular, the former
14 KPNLAF, renamed the Revolutionary Army of Kampuchea, RAK, fought
15 the Vietnam People's Army at various times in the Cambodian
16 territories of Ratanakiri, Mondulakiri, Kratie, Kompong Cham, Prey
17 Veng, Svay Rieng, Kandal, Takeo, Kampot; and some islands
18 including of Palau Wai, Koh Ach, Koh Tral, Koh Ses, Koh Thmei,
19 Koh Sampoch, Koh Rong, and Koh Muk Ream.
20 At the end of 1977, the conflict escalated into a full-scale war
21 which reached deep into Democratic Kampuchea, and led the DK to
22 seize the United Nations Security Council of the matter on 31
23 December 1978. By 7 January 1979, the RAK had been forced to
24 flee Phnom Penh and, from that point forward, the regime rapidly
25 lost effective control of the greater part of Cambodian

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1 territory. It was against the backdrop of the creation of a
2 radical new Cambodia and the war with Vietnam that S21 was
3 established.

4 B, Establishment of S21. On 15 August 1975, Son Sen called Duch
5 to a meeting at the Phnom Penh train station together with B from
6 Division 703 of the RAK. The purpose of the meeting was to plan
7 the establishment of S21, which for the purpose of this closing
8 order includes the detention centre and surrounding area (Tuol
9 Sleng), as well as its execution and re-education camp branches
10 on the outskirts of Phnom Penh, named Choeng Ek and Prey Sâr, or
11 S24, respectively. S21 was unique in the network of security
12 centres given its direct link to the Central Committee and its
13 role in the detention and execution of CPK cadre.

14 Son Sen appointed B as Chairman of S21 and Committee Secretary,
15 with Duch as his deputy in charge of the interrogation unit.

16 Following the meeting, Duch brought a number of his former M13
17 staff to Phnom Penh to join forces with the Division 703
18 personnel already conducting security operations against former
19 Lon Nol regime members in Phnom Penh. S21 became fully
20 operational in October 1975.

21 In March 1976, B was transferred to the General Staff, and Duch
22 replaced him as Chairman and Secretary of S21. Duch confirmed C,
23 a former Division 703 cadre, as his deputy, responsible for the
24 day-to-day operation of the office. However, Duch admitted he
25 continued personally to oversee the interrogation of the most

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1 important prisoners, and to be ultimately responsible for S21.
2 The third member of the S21 Committee, and head of S24 was D.
3 Duch stated that he was reluctant to accept his original
4 appointment at S21 and that he tried to apply for an assignment
5 with the Ministry of Industry. He further stated that, upon his
6 promotion to Chairman and Secretary of S21, he asked that the
7 appointment be given to someone else. In any event, Duch took
8 command of S21, and, by his own admission, understood, based on
9 his experience at M13, that he was capable of performing this
10 work better than his predecessor.

11 Under Duch's command, S21 was divided into distinct units, each
12 with its own function. The defence section was administered by C
13 and his subordinate E. The interrogation section was directly
14 overseen by Duch, and was generally managed by F and by G. H was
15 responsible for maintaining the document unit, and he reported to
16 Duch through C. I was the head of the Special Unit which had a
17 number of duties. It received those sent to S21; brought them to
18 the Chairman of the Defence Unit; intervened in emergencies; and
19 carried out executions. There were also a number of other units
20 which included photography, medicine, cooking, and logistics.

21 Duch ran S21 along hierarchical lines and established reporting
22 systems at all levels to ensure that his orders were carried out
23 immediately and precisely.

24 Several witnesses said Duch was feared by everyone at S21. He
25 enforced both the general rules of the Party in relation to the

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1 work of the secret security police, as well as strict rules which
2 he devised for the operation of S21. Duch selected his staff
3 personally, initially from amongst his most trusted subordinates
4 at M-13, and later by recruiting children and adolescents as
5 guards who, he said, were "like a blank piece of paper" and could
6 be easily indoctrinated.

7 The original S21 complex was located in Phnom Penh in Boeng Keng
8 Kang 3 sub-district, Chamkar Mon district. The detention and
9 interrogation facilities were originally located in a block of
10 houses on the corner of streets 163 and 360. In late November
11 1975, S21 moved to the National Police Headquarters on Street 51,
12 Rue Pasteur, near Central Market, Phsar Thmei, yet in January
13 1976, it moved back to its original location.

14 Finally, in April 1976, upon Duch's decision, the prisoners were
15 moved to the premises of the Pohnea Yat Lycée, a high school
16 located between streets 113, 131, 320, and 350. S21 operated at
17 this location, which is now the site of the Tuol Sleng Genocide
18 Museum, until 6 January 1979. The central building, referred to
19 as Building E, was used to receive, register and photograph
20 prisoners, and a room was devoted to creating paintings and
21 sculptures that glorified the regime. Four other buildings, A,
22 B, C, and D, were used for detention. Buildings B, C and D held
23 the general prisoner population in a mixture of large mass
24 detention cells and small brick or wooden individual detention
25 cells. Building A, together with the block of houses located

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1 south of the former Lycée called the "special prison," housed
2 important prisoners.
3 [10.37.35]
4 The former school and the special prison were the heart of the
5 most secure and secret part of the S21 complex. They were
6 surrounded by fences and the interior and exterior were protected
7 by armed guards. Many other buildings from the surrounding
8 neighbourhood were also part of S21. These included
9 interrogation houses, execution sites and mass graves, mess
10 halls, a medical centre, houses for the staff, various offices
11 and houses for Duch and a house for the reception of prisoners.
12 These buildings were all situated within a second outer perimeter
13 that was also protected by armed guards.
14 Initially, prisoners were executed and buried in and around the
15 S21 complex. At some time between 1976 and mid 1977, partly in
16 order to avoid the risk of epidemic, Duch decided to relocate the
17 execution site to Choeng Ek, located approximately 15 km
18 Southwest of Phnom Penh in Kandal province, and now the site of a
19 memorial. The execution site consisted of a wooden house where
20 prisoners were held until just before their execution, and a
21 large area that consisted of pits for executions. However, even
22 after Choeng Ek became the main killing site, certain executions
23 and burials took place at or near S21.
24 Duch recognized that S24 was part of S21. In principle, S24 was
25 tasked with reforming and re-educating combatants and farming

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1 rice to supply Office S21 and its branches. It was located
2 outside of Phnom Penh near the execution site of Choeng Ek in the
3 area of Wat Kdol, in the Dangkao district of Kandal province.
4 Although witnesses state that the main structures and activities
5 extended from the Prey Sâr prison to Chek Village, it appears the
6 total area of S24 was larger.

7 C. Implementation of CPK policy at S12. 1, The policy of
8 "smashing" enemies. The primary role of S21 was to implement
9 "[t]he Party political line regarding the enemy" according to
10 which prisoners "absolutely had to be smashed". The term "smash"
11 was used and widely understood at the relevant time to mean
12 "kill". Every prisoner who arrived at S21 was destined for
13 execution. Although one witness claimed he was able to leave
14 S21, the vast majority of evidence demonstrates that the policy
15 at S21 was that no prisoner could be released. This is confirmed
16 by testimony that prisoners brought to S21 by mistake were
17 executed in order to ensure secrecy and security. Duch also
18 claimed he tried to release prisoners on several occasions but
19 was unsuccessful. Moreover, other prisoners pleaded with Duch for
20 their lives or wrote letters through him to senior leaders, but
21 to no avail.

22 [10.41.00]

23 The CPK governed Democratic Kampuchea primarily through DK State
24 organizations, CPK administrative bodies and the RAK. The 1976
25 Constitution of Democratic Kampuchea, and the Party's own

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1 Statutes, gave the CPK Central Committee wide powers, including
2 the ability to formulate party-wide policy and the authority to
3 issue orders to subordinate zones and sectors. In practice,
4 however, a sub-committee of the Central Committee, known as the
5 Standing Committee, acted as the highest and most authoritative
6 unit in DK. A Standing Committee decision from 9 October 1975
7 gave Pol Pot general responsibility over the military, and Son
8 Sen responsibility for the General Staff and Security. Duch has
9 repeatedly portrayed S21 as an integral part of the
10 politico-military structure of the CPK at the Centre level,
11 referred to variously by Duch as "Angkar", the "Organization",
12 the "Party Centre", the "Central Committee" or the "Standing
13 Committee".
14 Duch indicated that, as with all CPK political lines, the policy
15 of smashing enemies was global. It stood "for S21, for the
16 entire Party, the military, the State authority in the bases, and
17 the Police Offices throughout the country." Duch stated that
18 specific decisions concerning the persons to be sent to S21 were
19 made by his "superiors". While the exact role of his "superiors"
20 is currently the subject of a separate judicial investigation,
21 Duch has declared that S21 "was run directly by the Central
22 Committee". Duch specified, however, that he primarily dealt
23 directly with Son Sen and J, both of whom he believed to be
24 acting on behalf of the Standing Committee.
25 Although the policy of smashing enemies appears to have remained

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1 in force both before and throughout the temporal jurisdiction of
2 the ECCC, the definition of those perceived to be enemies of the
3 CPK evolved and broadened over the period as a result of domestic
4 developments and the international armed conflict between
5 Cambodia and Vietnam. Thus, from late 1975 and into 1976, S21 was
6 significantly involved in the imprisonment, re-education, torture
7 and execution of persons linked to the ousted Khmer Republic
8 regime.

9 [10.44.00]

10 However, by the time Duch became Chairman of S21, the Party had
11 clarified authorities to execute at different levels within the
12 regime, and increasingly sent members of the revolutionary ranks
13 to S21. A document dated 30 March 1976, and attributed to the CPK
14 Central Committee, reported a number of "decisions", the first of
15 which provided that, in order "that there is a framework in
16 absolute implementation of our revolution", and "to strengthen
17 our socialist democracy", the right to "decide on smashing within
18 and outside the ranks" was to be bestowed as follows: "If in the
19 base framework, to be decided by the Zone Standing Committee.
20 Surrounding the Centre Office, to be decided by the Central
21 Office Committee. Independent Sectors, to be decided by the
22 Standing Committee. The Centre Military, to be decided by the
23 General Staff".

24 Shown this text by the Co-Investigating Judges, Duch commented
25 that it was "a historical document. It shows a turning point,

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1 because it reveals the beginning of internal purges. Before that,
2 mainly officials of the old regime were smashed. From that point,
3 executions would take place mainly within the Party". Duch adds
4 that "in 1976 Pol Pot had eliminated the exploiting classes,
5 private property, officials of the former regime, religions and
6 teaching, teachers were sent to rice fields. The decision of 30
7 March 1976 began a new period, during which the internal purges
8 were predominant". In the following months, internal CPK
9 documents would be filled with variations on the theme of a need
10 for heightened "revolutionary vigilance" with a view to "ensuring
11 that the enemy is unable to bore from within" the Party and the
12 Army.

13 Duch recognized that his role as Chairman of S21 was to focus the
14 office on smashing purported traitors within the ranks of the
15 revolution itself. In this regard, Duch said: "Initially, S21 was
16 just for important prisoners, or those from Phnom Penh, as well
17 as members of the Central Committee. At first, low ranking
18 combatants only came to S21 if arrested in Phnom Penh". As a
19 general rule, high ranking enemies inside the Party, State,
20 military or security apparatuses were sent to S21 having been
21 implicated via a process which consisted of obtaining confessions
22 from others previously arrested. When a superior was arrested,
23 such as K, Minister of Commerce and member of the Central
24 Committee, his or her subordinates would in turn, often be sent
25 to S21. Moreover, Duch recognized that the policy of smashing

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1 enemies almost always extended to their families, including
2 children.

3 [10.47.15]

4 Duch further recognized that "Subsequently, when the repression
5 intensified, S21 also received people from the countryside. I
6 also witnessed massive arrivals of prisoners from certain zones:
7 for instance, when the head of the West Zone Security Office, L,
8 was arrested, I saw many people arriving from that Zone. These
9 arrests preceded the arrest of L's superior, M. This was an
10 implementation of Ho Chi Minh's doctrine: 'before cutting the
11 bamboo, one must trim the thorns.' Likewise for the Northwest
12 Zone". This pattern is corroborated by prisoner lists that
13 demonstrate clearly that by January 1979, S21 had detained
14 persons from nearly every zone, every ministry, and every
15 military unit in the nation.

16 The role of S21 further extended to executing those in the
17 revolutionary ranks who were accused of being influenced by or
18 under the control of Vietnam due to their former or
19 contemporaneous associations with the Vietnamese Communist Party.
20 This rationale for arrest appears to have increased in direct
21 correlation with the escalation of the international armed
22 conflict. Similarly, as the conflict intensified, the numbers of
23 Vietnamese civilians and soldiers arrested and sent to S21 also
24 grew.

25 2, Dissemination of Policy at S21 The political line of the CPK

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1 was disseminated at S21. Duch and other S21 cadre attended
2 general political education and agricultural production planning
3 meetings convened under the auspices of the Centre General Staff.
4 Duch and other former S21 cadre stated that they also attended
5 training sessions convened by Son Sen to discuss the need to
6 purge and smash enemies. Former S21 personnel agreed that the
7 policy of extra-judicial execution was widely disseminated
8 throughout S21 at annual meetings of the entire unit, as well as
9 at smaller meetings of its various subunits.

10 Duch and other CPK members and Youth League members at S21 were
11 also made aware of the role of their office in implementing these
12 policies through the Party journals Revolutionary Flag and
13 Revolutionary Youth. Allegations of treason, to which S21
14 prisoners had been compelled to confess, were presented as fact
15 in these publications and alluded to in official DK propaganda.
16 Alleged traitors such as N, O, P and K were repeatedly referred
17 to by name. According to Duch, extracts from tape-recorded S21
18 confessions or written texts were played or read out at meetings
19 outside of S21 to justify the actions of the regime.

20 Duch conceded that from the time he became S21 Chairman, specific
21 instructions to and from S21 regarding security matters were
22 conveyed exclusively through him. Former S21 personnel confirm
23 that Duch acted to further disseminate this line within the unit.
24 In an S21 interrogator's notebook, a statement attributed to Duch
25 noted that the work of S21 "is a task of class struggle. That is,

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1 it is aimed at smashing the oppressor class, digging out their
2 trunk and roots to defend the Party, defend the proletariat
3 class, defend Democratic Kampuchea, and defend the line of
4 independence and mastery". The notebooks of Duch's assistant, the
5 interrogator F, seem to further corroborate Duch's contention
6 that his detailed training of S21 staff was based on
7 "instructions from the superiors".
8 [10.52.05]

9 3, The use of S21 confessions. Confessions and related documents
10 authenticated by Duch, reveal the extent to which S21 played an
11 active part in the process of "attacking" and "eliminating"
12 enemies "boring from within". In addition to executing prisoners
13 condemned in advance as traitors, an overriding purpose of S21
14 was to extract confessions from prisoners in order to uncover
15 further networks of possible traitors. Duch stated that "the
16 content of the confessions was the most important work of S21".
17 Confessions seem typically to have taken the form of political
18 autobiographies by the prisoners in which they were compelled to
19 denounce themselves and others as traitorously serving the
20 intelligence agencies of foreign powers considered to be enemies
21 of the Cambodian revolution.

22 Those intelligence agencies included the United States CIA, the
23 Soviet KGB and organs of the Vietnamese Communist Party. These
24 confessions, some many hundreds of pages long, contain detailed
25 descriptions not simply of alleged traitorous activities, but

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1 also of the structure and operation of all levels of the Party
2 and of all administrative units. Duch meticulously read,
3 analyzed, annotated and summarized the majority of these
4 confessions for his superiors. He was therefore in a unique
5 position to understand the DK-wide context of the CPK policies
6 applied at S21.

7 Duch said that the role of S21 was not to determine whether
8 detainees were traitors, as their guilt was already established
9 by the fact that they had been arrested and sent to S21. It was
10 their confessions which served the political interests of those
11 in control the Party by justifying arrests, and implicating the
12 networks of those sent to S21. Duch now maintains that he was,
13 from an early time, skeptical of the veracity of the confessions,
14 claiming that they were demanded from above. He explained that
15 the contents of the confessions were used as "excuses to
16 eliminate those who represented obstacles", adding that "even the
17 Standing Committee, in my opinion, did not really believe in it".
18 He also recognized that the operations of S21 were "obviously not
19 compatible with the existence of tribunals and procedural
20 safeguards". Duch stated that in many cases, he was given
21 instructions concerning the extraction and content of specific
22 confessions. In particular, he asserted that, at the instigation
23 of his superiors, "The words CIA and KGB were initially used by
24 the interrogators themselves".
25 Regardless of whether they contained false or fabricated

1 assertions, the confessions are said by Duch to have been given
2 formal weight in deciding upon the arrests of those denounced as
3 enemy agents. He explained that "normally, implication in one
4 confession was not sufficient for a person to be arrested. It
5 had to occur several times". Confessions obtained from one person
6 often led to the arrest of many others they implicated as
7 traitors. It also appears that names from different confessions
8 were combined to form lists of enemies. Evidence of confessions
9 annotated by Duch support his contention that they were forwarded
10 to high-ranking party members.

11 D, Functioning of S12. The following sections describe and
12 analyze the acts committed on a day-to-day basis at Tuol Sleng,
13 Prey Sâr, and Choeng Ek, by Duch and his subordinates in
14 furtherance of CPK policy. They set out the general manner in
15 which detainees were processed at S21, from arrest and detention,
16 through to interrogation and ultimately execution.

17 1, Arrest and detention. A, Composition of the detainee
18 population. Surviving documents help clarify the number and
19 identity of detainees held at S21. Much of this evidence was
20 compiled by the OCP by combining the prisoner lists and execution
21 logs to form a single master list of S21 prisoners, named the
22 'Combined S21 Prisoner list'. This list indicates that at least
23 12,380 men, women and children were detained at Tuol Sleng. This
24 compilation is not exhaustive as some prisoners were not
25 registered and some records have no doubt been lost. This fact is

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1 supported by Duch, who identified a number of detainees whose
2 names are missing from the compilation.
3 The prisoners were predominantly Cambodian. The largest group was
4 composed of cadre, workers, and combatants as well as their
5 relatives who came from virtually every office and unit in the
6 country and from all existing zones and autonomous sectors. The
7 list provides an approximate overview which shows that more than
8 5,000 prisoners came from DK government offices and over 4,500
9 came from DK military units. DK cadre represented by far the
10 largest group and included a number of members of the Central and
11 Standing Committees such as A, K, O, N and P. There is also
12 evidence that approximately 200 former S21 staff became prisoners
13 at Tuol Sleng. In addition, it appears that S24 staff were sent
14 to Tuol Sleng, however it is difficult to establish the precise
15 number with any accuracy. Tuol Sleng also held other Cambodians
16 including former Khmer Republic soldiers and officials. There is
17 also evidence that a number of Cambodian minority groups
18 including Cham were also detained.

19 [10.59.35]

20 A number of foreign nationals were also imprisoned at S21
21 including Vietnamese, Thais, Laotians, Indians, and "Westerners".
22 The largest group of foreigners detained was Vietnamese. The
23 list records at least 400 Vietnamese, of which approximately 150
24 were recorded as "Prisoners of War" and at least 100 were clearly
25 civilians. Their presence is also confirmed by other evidence

1 including: photos, witness interviews, written confessions and
2 transcripts of radio broadcasts. The first recorded arrest of
3 someone described as "Vietnamese" was on 7 February 1976, and
4 their number increased as the conflict with Vietnam escalated.
5 Duch admitted he was aware of the existence of armed hostilities
6 with Vietnam from mid April 1975 to at least 6 January 1979. He
7 acknowledged that Vietnamese civilians and soldiers were detained
8 at S21 and estimated that they numbered in the hundreds.
9 Regarding S24, too few records have been found to precisely
10 determine the total number of people sent there. Nevertheless,
11 it appears that there were several hundred people working at any
12 one time, an estimate which Duch confirmed. Several witnesses
13 state that men, women and children were all held there. According
14 to Duch, there were two main categories of persons at Prey Sâr:
15 persons whose relatives were considered suspect, and subordinates
16 of arrested cadre. There were also combatants from various units
17 and personnel from numerous ministries and offices around Phnom
18 Penh together with members of their families. Despite some
19 evidence to the contrary, Duch stated that no foreigners were
20 sent to Prey Sâr.
21 B, Arrest and transfer to S21. According to Duch, no one could
22 be sent to S21 without a decision of the Party. Duch explained
23 that for the arrest of members of the Central Committee, the
24 decision had to be made by its Standing Committee. For others,
25 Duch claimed that his superior, Person J, called the head of the

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1 relevant unit for discussion and a joint decision on arrest. Duch
2 declared, and Witness A assumed, that for people coming from
3 other regions, the decision to arrest was always made by the
4 Central Committee, which contacted the relevant zones, sectors or
5 districts in order to remove persons implicated by confessions.
6 Duch specified that, with the exception of important prisoners,
7 he generally had no grasp of the specific rationale behind the
8 imprisonment of persons at S21.

9 Moreover, Duch insisted "S21 had no right to arrest anyone",
10 adding that, in general, he was merely informed by the "upper
11 echelon" of the arrest of prisoners so as to be ready to receive
12 them. In fact, it did appear that prisoners were most often
13 brought in by their units. Nevertheless, there is evidence that
14 S21 personnel did carry out arrests. When S21 arrested persons
15 outside the security office perimeter, but still within Phnom
16 Penh, Witness B explained that, in some cases, the unit arrested
17 the person, but in other instances, the persons were already
18 arrested and the unit was responsible solely for their transfer
19 to S21.

20 [11.04.25]

21 Witness B explained that he was sent outside of Phnom Penh to
22 bring prisoners to S21 several times, and each time he received a
23 list of persons to arrest from Duch. Witness C confirmed that he
24 also transported persons from Battambang with Person I in 1977.
25 He further noted that he once drove two prisoners from the

28

1 Independence Monument to the entrance of S21. According to
2 Witness B, Duch provided the names of those persons to be
3 arrested, where the arrest would take place, and how many forces
4 were required to effect the arrest and transfer of cadre brought
5 to S21.

6 Witness B further maintained that, "during arrests, Ta DUCH was
7 the one who told us the plans and the names, and Person C made
8 the arrangements along with the messenger of Duch".

9 Duch has admitted that, where necessary, the S21 special unit
10 left Phnom Penh with an order of the Central Committee, and
11 carried a special "laissez passer" signed by Son Sen, which
12 authorized them to bring prisoners back to Tuol Sleng. However,
13 Duch specified that this system was later abandoned, and the role
14 of S21 was simply to "receive prisoners, not to arrest them".

15 Even so, as the only cadre at S21 authorized to communicate with
16 the "upper echelon", it was necessarily Duch's role to implement
17 and disseminate orders to arrest.

18 Vietnamese prisoners of war were generally arrested in or near
19 the main conflict zone on the border with Vietnam, and Duch
20 declared he was informed of their arrival by means of a list
21 transmitted by either Person J or Person Q, his direct
22 subordinate, and former chief bodyguard of Pol Pot. He further
23 stated that S21 was never in charge of the transportation of
24 Vietnamese from the battlefield, as this was undertaken by the
25 unit that arrested them. On the contrary, Witness B declared

29

1 that Duch twice sent him to the battlefield at Svay Rieng, in
2 1977 and 1978, to transport Vietnamese soldiers to S21. In
3 addition, Witness D was sent to work at the border in 1977 and
4 declared that he saw Vietnamese prisoners of war taken from the
5 battlefield by S21 personnel in S21 trucks.

6 C, Duch's role in arrests. Some sources suggest DUCH personally
7 played a role in a number of decisions to arrest. For example, at
8 times, he received direct reports from outside military and
9 administrative units concerning arrests. There are also records
10 of numerous written communications between Duch and Division 502
11 Secretary, Person R, concerning the transfer of prisoners. Yet,
12 when questioned on this point, Duch explained that instructing
13 Person R to address letters to him in this manner was a "tactic
14 used by Son Sen and Person J to avoid revealing their names".

15 Duch explained that on 16 September 1976, he attended a military
16 meeting of divisions 290 and 170, the purpose of which was to
17 plan arrests. Those present included Son Sen, and Person S.

18 According to Duch this meeting was called because there were an
19 exceptional number of arrests to be carried out within a single
20 unit. He admits to attending two such meetings, adding that the
21 "upper echelon" would occasionally consult him before arresting
22 people, especially for important Party members. Duch explained
23 how decisions concerning arrests took account of the need for
24 secrecy and subterfuge to avoid leaks and ensure that there was
25 no possibility of resistance, especially when large numbers of

30

1 persons were to be arrested from one place. In such cases, Duch
2 declared that he tasked Person C to talk with the person in
3 charge of the unit to calm the personnel and facilitate orderly
4 arrests.

5 [11.09.30]

6 Duch explained that the decision to arrest people was often based
7 on S21 confessions which implicated them as traitors. He has
8 admitted aiding Son Sen, and later Person J, in the arrest of
9 perceived enemies by providing them with summarized confessions
10 detailing those persons who had been implicated. Duch not only
11 reported the details of the confessions to Son Sen, but also
12 discussed strategies and targets for arrest. Duch stated that as
13 a result of his reports, the important persons mentioned in
14 confessions were sent to S21 almost without exception, although
15 many less important persons were not arrested.

16 Witness A alleged that Duch's power to propose arrests by
17 reporting to the upper level extended to other cases as well. He
18 gave the example of Person T, the then chairman of the Energy
19 Committee, who was arrested following a report by Duch. Duch
20 recognized that Person T was arrested, but stated that this was
21 not a result of his report.

22 Finally, Duch was occasionally present at arrests. For example,
23 Person K was arrested in Duch's house. Similar arrests occurred
24 on more than one occasion. Duch said that, "they sent people in
25 from afar to be arrested at my place. In the case of the arrest

31

1 of Person P, there were three people involved - me, Person C, and
2 Person P. I was in command of the arrest". Witness B and former
3 interrogator Witness E claimed that Duch sometimes led arrests in
4 Phnom Penh. Although Duch denied ever personally arresting
5 anyone, he admitted sometimes taking "personal charge" of
6 important prisoners.

7 D, Arrest of S21 personnel. S21 personnel were also arrested and
8 either sent to Prey Sâr for re-education or detained at Tuol
9 Sleng. Cadre could be sent to Prey Sâr for minor mistakes or
10 simply to be monitored, especially when someone they knew arrived
11 as a prisoner at S21. For more serious mistakes, such as
12 allowing a prisoner to escape, commit suicide, or otherwise die
13 before the completion of an interrogation, the person responsible
14 could be designated as a traitor to the revolution and detained.

15 Some witnesses suggest, however, that for the majority of S21
16 personnel arrested, especially those from Division 703, arrests
17 occurred without any indication of a serious mistake.

18 Witness B declared that only Duch could give orders to arrest S21
19 personnel. He stated, "If prisoners implicated people from the
20 703rd, Duch had them arrested, interrogated, and killed. These
21 were orders from Duch. At this place, there was only Duch who
22 made the decisions". The witness provided specific examples of
23 S21 cadre who were arrested at the orders of Duch. They included
24 Person U, Chairman of a defence company; Person V, a company
25 chairman who later moved to interrogation; Person W, from company

1 level; and later, Person X from interrogation. Witness B
2 specified that, "all of these people are dead. I do not know what
3 they were charged with". Duch countered that, although "the S21
4 Committee was competent for the first form of purge" whereby
5 personnel were sent to S24, only "Son Sen, and later Person J,
6 were competent for the second form of purge," whereby personnel
7 were sent to S21.

8 [11.14.15]

9 However, he did acknowledge that he was the only person who could
10 report mistakes to the upper level, and that he did so whenever a
11 report came to him from Person C. He claimed that he did this to
12 avoid being implicated himself, since "everyone, fearing for
13 their lives, surveyed everyone else". When asked whether those he
14 reported were always arrested, Duch replied, "If I remember well,
15 there never were any exceptions: I always reported to the
16 superiors and they always ordered the arrest of the persons
17 implicated".

18 E, Conditions of Detention at Tuol Sleng. The Reconstruction
19 conducted at Tuol Sleng on 27 February 2008 allowed further
20 clarification of the detention conditions. Prisoners entered S21
21 on nearly a daily basis. They were then brought inside the
22 prison, generally blindfolded and handcuffed. Prisoners were
23 registered and lists of their names were compiled by former S21
24 cadre Person H. Prisoners were required to provide information
25 regarding their biographies, which were then summarized. They

33

1 were typically not informed of the reason for their arrest.
2 Photos were taken of the newly arrived prisoners, which generally
3 included a number, and sometimes their name and date of arrest.
4 According to Duch, these photos were taken on instructions from
5 Son Sen, to aid in the recapture of any escapees. Guards then
6 took the prisoners to their cells.
7 Prisoners were kept in restraints nearly twenty-four hours a day.
8 The S21 detention facility had both small individual cells and
9 larger, collective cells where prisoners were chained side by
10 side with their legs shackled. Witness F explained that he could
11 not stand up. Female prisoners generally remained unshackled
12 unless they created problems. Prisoners were kept under permanent
13 armed guard. Guards both inside and outside the detention
14 facilities were instructed to be vigilant in preventing escape
15 attempts. However, it appears that a few detainees may have
16 successfully escaped.
17 Stringent rules governed the lives of prisoners and deprived them
18 of the most basic human needs. They were not permitted to speak
19 to each other or to the guards. When prisoners first arrived at
20 S21 they were often stripped of their clothes, leaving just their
21 underwear. They were not permitted to exercise or leave their
22 cells. No bedding was provided to the detainees. While some
23 privileged prisoners were allowed old mats or mattresses to sleep
24 on, the majority of inmates slept on the concrete floor. Many
25 detainees were badly bitten by mosquitoes.

34

1 Although a number of guards questioned said that they were not
2 allowed to hit the prisoners, this rule was not always obeyed.
3 Former detainee Witness F recalled that guards punished some
4 conduct by giving prisoners up to 200 strikes of the cane.
5 There were no washing facilities and prisoners remained shackled
6 when "bathed". Several witnesses explained that bathing consisted
7 of spraying the room with a hose from the doorway. Former S21
8 guard Witness G said that inmates were never interrogated and
9 killed, there was only Duch who made the decisions. The witness
10 provided specific example of S21 cadre who were arrested at the
11 orders of Duch, they included Person U, chairman of the defence
12 company. Prisoners were not permitted to leave their cells to
13 use the toilet, and were forced to urinate in jerry cans and
14 defecate in ammunition boxes.
15 Prisoners typically received food of poor quality twice a day
16 which almost always consisted of gruel. Though some of the
17 guards declared that rice was also served to the prisoners,
18 evidence suggests that detainees were fed starvation rations. As
19 a result of this, many of them suffered substantial weight loss
20 and physical deterioration, which occasionally resulted in their
21 deaths.
22 Duch declared that the food regime was decided by the "superiors"
23 and that he could not modify rations. He believed that starving
24 the prisoners was a deliberate policy of the CPK. In any case,
25 it is clear that guards and important prisoners received better

35

1 nutrition than ordinary prisoners.

2 Many detainees suffered from illness or injury. A basic medical
3 service was provided by a team of three to five 'medics' who had
4 not studied medicine and were responsible for treating the entire
5 family (sic). Some were children, and they worked without the
6 supervision of medical doctors. Former S21 detainee, Witness H,
7 witnessed prisoners receiving intravenous fluids in the evening,
8 and found them dead the following morning. Many in need of urgent
9 medical attention were left unattended or given insufficient
10 treatment. Medicine was in very short supply. Even when
11 available, the medicine was locally produced by unskilled
12 workers. Former S21 medic Witness I understood that the purpose
13 of medical treatment for prisoners was to keep them alive so that
14 their interrogations could be completed.

15 Evidence suggests that S21 personnel performed medical
16 experimentation on prisoners. Duch explained that "research for
17 poisons was carried out upon the orders of the Central Committee,
18 more precisely upon those of Person J". He declared: "I know now
19 that regarding medical matters, there were three forms of crimes
20 against humanity in S21. Autopsies practiced on living persons,
21 blood taking and medicine testing". One confession contains an
22 annotation from Duch which reads, "medical experiments". Duch
23 explained that this annotation referred to "new medicines
24 prepared within the unit: from 1971, the manufacture of medicines
25 based on ancestral formulas started."

36

1 The living conditions described above, combined with detention,
2 interrogation and the disappearance of prisoners, severely
3 impaired the physical and psychological health of many of the
4 detainees, and in many instances caused their deaths. Witness H
5 reported that eight or nine prisoners died during one month in
6 his cell. Some prisoners also attempted to commit suicide.
7 F, Detention conditions at Prey Sâr. At S24, people were sent for
8 re-education through punitive hard labour, or "tempering". It was
9 staffed by S21 cadre and combatants. Duch stated that these
10 people were not in "prison" in the same sense as those imprisoned
11 at Tuol Sleng, a view shared by Witness J, who was himself sent
12 to S24 for re-education. Duch added that detainees and staff at
13 Prey Sâr could not move around freely without authorization, and
14 claimed this rule also applied to him - a fact which other
15 witnesses corroborated.
16 However, it is clear that those who were sent to S24 were
17 deprived of their liberty. They were strictly guarded, both at
18 work and at night. Witnesses indicated that persons sent to Prey
19 Sâr were separated into three levels: one, for light tempering;
20 two, an intermediate level; and three, which was for the most
21 serious cases. Deprivation of liberty was more severe for people
22 in level three as they were kept shackled at night and were not
23 permitted to live in ordinary houses. For others, who were lodged
24 in houses, it appears that only some of them were locked up at
25 night.

37

1 Former detainees stated that there were two meals a day, one at
2 noon and one in the evening. With only a few exceptions,
3 prisoners claimed that the food at Prey Sâr was insufficient.
4 Despite this, Duch acknowledged delivering surplus rice to the
5 Central Committee. Again, persons in level 3 received lower
6 rations than others. DUCH declares that he could not modify the
7 food regime and believed that starving the prisoners was a
8 deliberate policy at S24.

9 Detainees, including women and children, were forced to work in
10 the rice fields, fish, grow vegetables, transplant rice, build
11 paddy dikes, dig canals and carry soil to make ponds. Several
12 witnesses said they worked day and night, seven days a week and
13 were not permitted to rest during working hours. A typical day
14 working at Prey Sâr started at dawn, between 4 a.m. and 7 a.m.,
15 and finished between 10 p.m. and 12 midnight, with two hours to
16 rest and eat.

17 The work was carried out under the supervision of guards who
18 required detainees to be efficient and berated them if they
19 worked slowly. When detainees were sick or late, or when their
20 work was considered unsatisfactory, they were beaten and
21 insulted. Prisoners were also punished for 'sexual
22 misconduct,' 'illness,' or 'stealing', and former inmate Witness
23 K said he was beaten two or three times. He also stated that,
24 sometimes, the guards punished detainees by starvation. Former
25 S21 staff member Witness C, who was sent to S24 for re-education,

38

1 explained that he worked as hard as he could to improve himself,
2 knowing, without being told, that if he did not, he would end up
3 dead.

4 Regular re-education meetings were held at Prey Sâr at which
5 detainees were instructed to work quickly and efficiently; given
6 political training and were indoctrination, and were required to
7 partake in self-criticism sessions where they were forced to
8 concede their faults and those of others. The fear of being
9 transferred, killed or beaten was ever-present. Disappearances
10 during the night were common, and those persons taken away never
11 returned. Duch did not deny that some Prey Sâr detainees may
12 have been transferred to Choeng Ek for execution, and evidence
13 suggests that it was people from level 3 who were most likely to
14 have been executed in this way. Some prisoners were also
15 transferred to Tuol Sleng. The Combined S21 Prisoner list names
16 at least 571 persons transferred from S24 to Tuol Sleng, although
17 this clearly includes S24 personnel as well as inmates.

18 MR. PRESIDENT:

19 I would like Mr. Duch Phary to take over from Ms. Kolvuthy.

20 [11.27.45]

21 2, Interrogation. The majority of prisoners detained at S21 were
22 systematically interrogated. Interrogations were conducted by S21
23 personnel who were organized by Duch and his deputy into various
24 teams.

25 Evidence indicates that interrogators could not choose the

39

1 prisoners they would question. Once tasked, interrogators took
2 prisoners out of their cells handcuffed and blindfolded, and
3 relocated them into the interrogation rooms. Prisoners would then
4 typically have their legs shackled to the table and only then
5 were their handcuffs removed to allow questioning and confession
6 writing.. The interrogators questioned the prisoners on their
7 biographies and on the activities which led to their arrest. Not
8 all of the interrogations led to a written confession.
9 Interrogations took place every day from 7.00 to 11.00 a.m., from
10 2.00 to 5.00 p.m. and then from 7.00 to 11.00 p.m. There was no
11 general principle regarding the number of times a prisoner was
12 interrogated or how long an interrogation would last. The end
13 came only when the confessions were considered completed.
14 Prisoners could be interrogated repeatedly and forced to redraft
15 their confessions numerous times.
16 A number of witnesses observed Duch interrogating prisoners at
17 S21. Witness E said that interrogations conducted by Duch was
18 commonplace. For example, the confession of Person Y is
19 annotated "First interrogator: Duch; second interrogator: Person
20 G". With respect to this confession, Duch admitted that he wrote
21 the annotation but maintained he did not interrogate him. In
22 fact, Duch insisted that Person K was the only prisoner he
23 interrogated at S21, which he said he did on the order of Son
24 Sen.
25 Duch explained that he introduced three methods of interrogation:

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1 the "cold", "hot" and "chewing methods". The cold method was
2 interrogation through the use of propaganda without relying on
3 torture or insults. The hot method expressly included "insults,
4 beatings and other torture authorized by the regulations". The
5 chewing method was an intermediate form which consisted of
6 "gentle explanations in order to establish confidence followed by
7 prayers to the interrogated person, continually inviting her or
8 him to write." Torture would also be used. Witness E, who was on
9 the chewing team, noted that torture was not necessarily used for
10 the very beginning, but that if the results were not satisfactory
11 within two or three days, torture was used.

12 Duch said that S21 borrowed heavily from security centre M13 with
13 respect to interrogation techniques, while recognizing that M13
14 did not provide confessions which reflected the truth. This was
15 confirmed by Witness A. Witnesses reported that M13 Duch
16 personally controlled, and often personally participated in the
17 interrogation process. Evidence suggests that interrogators at
18 M13 in the early 1970s frequently engaged in torture to extract
19 confessions from prisoners. Several witnesses have said that
20 Duch would personally torture prisoners at M13. In particular,
21 it is alleged that Duch burned prisoners, beat them with bamboo,
22 and submerged them in water.

23 Systematic use of torture during interrogation. Duch confirmed
24 that the use of torture within S21 was systematic and noted that
25 "anyone taken for interrogation mostly could not avoid torture".

41

1 The use of torture appears to have applied uniformly to all
2 detainees without regard to the reason for the arrest. With the
3 sole exception of Witness A, torture was conceded by every other
4 interrogator. Furthermore, considerable documentation from S21
5 revealed annotations relating directly to the use of torture.
6 Duch explained, "the situation was the following: for simple
7 combatants, Person C controlled everything and could order
8 torture. For important prisoners such as Person O, Son Sen gave
9 me his orders and decided on the use of torture".
10 Three notebooks belonging to S21 interrogators: the "Statistical
11 List of Security Office S21, Politics, Ideology, and
12 Organization", Statistical List; "The Person F Notebook",
13 attributed to Person F; and "The Person G, Person Z Notebook"
14 detail the regime of interrogation and torture at S21. The
15 Statistical List, incorrectly labeled the "torture manual" by
16 some sources, and reputedly containing the notes of an
17 interrogator, included political and interrogation instructions
18 which taught interrogators to "break prisoner by propaganda or
19 break him by torture". The manual also instructed interrogators
20 "if Angkar instructs not to beat, absolutely do not beat. If the
21 party orders us to beat, then we beat with mastery, beat them to
22 talk, not to die, to escape, not to become so weak and feeble
23 that they fall ill and we lose them". Duch confirmed that the
24 instructions and political ideologies contained in The Person F
25 Notebook and in the "Statistical List" accurately reflected his

42

1 teachings and instructions and were primarily his "thoughts".
2 The use of torture was well known by staff throughout S21. A
3 guard, Witness L, stated that he learned the principle of
4 torture, "from Duch at the school, from the company chairmen, the
5 platoon chairmen. They said that the prisoners were enemies, and
6 if they did not answer, they could be tortured".
7 [11.36.15]
8 The physical consequences of torture, for example, lacerations,
9 bleeding, bruises, unconsciousness and missing finger or toe
10 nails, were visible to the extent that nearly all of the former
11 S21 personnel interviewed conceded that they were aware that
12 torture was being carried out even without having personally
13 witnessed specific acts. For example, Witness M reported that
14 most of the prisoners detained at S21 "had injuries and their
15 faces were swollen and there were burns around their ears from
16 electric shocks". Certain guards also declared that they
17 personally saw or heard torture being carried out.
18 The purpose of interrogations was to obtain a "complete" answer
19 which included the prisoner's alleged crimes and identified other
20 purported enemies of the regime. In respect to Vietnamese
21 prisoners, Duch indicated that the purpose behind their
22 interrogation was to obtain confessions showing "that Vietnam had
23 invaded Cambodia with a view to integrating it into an
24 Indochinese federation". Unlike Cambodians, Vietnamese prisoners
25 were often tape recorded, and some of their confessions were then

43

1 broadcast on the Radio for propaganda purposes. These are more
2 than 50 extant transcripts of radio broadcasts of Vietnamese
3 confessions on the case file. According to Duch, the purpose was
4 not to interrogate prisoners of war on Vietnamese military plans.
5 However, Witness A stated that they were routinely interrogated
6 on the battlefield and combat situation. This statement, in
7 connection with other remaining documents from S21, indicated
8 that the interrogation of prisoners of war had a dual purpose,
9 namely propaganda and intelligence gathering.

10 [11.38.55]

11 B, Duch's personal participation in torture. In his interviews
12 before the Co-Investigating Judges, Duch consistently denied ever
13 torturing prisoners at S21. However, he admitted that while
14 Deputy Secretary, he would sometimes "intervene" during
15 interrogation sessions being carried out by S21 staff. In these
16 instances he would occasionally give the prisoners a "few slaps."
17 He added that this might have continued for one or two months
18 after he was appointed Chairman.

19 In interviews prior to his arrest, Duch appeared to admit
20 torturing prisoners, and in particular Person K, however, it is
21 not entirely clear. During the judicial investigation, Duch
22 admitted interrogating Person K but stated that Son Sen ordered
23 him not to use torture. Several witnesses declared that they saw
24 Duch beating prisoners, including kicking prisoners, beating a
25 man with a piece of rattan, and striking blows. One witness

44

1 claimed to have observed him beating a prisoner in front of S21.
2 Witness E also said he saw Duch electrocuting a woman during an
3 interrogation. He told investigators that Duch, together with
4 five or six interrogators, including Person F, Person AA, Person
5 BB, Person CC, and Person G, tortured her from nine at night
6 until three in the morning and, since the woman did not confess,
7 they continued until she lost consciousness. Witness E added
8 that he saw Duch beat, electrocute and undress the woman, leaving
9 her wearing only her panties. Duch beat her until he got tired,
10 whereupon someone else would interrogate while he listened for
11 the responses. He said the interrogators were laughing and
12 joking while they administered the torture. Duch denied this
13 incident and said that Witness E was concealing his own activity
14 and making up stories. Witness A also denies the electrocution
15 incident took place.

16 However, Duch confirmed the veracity of a separate incident
17 between prisoners. Witness N declared that one day in the
18 painters room, Duch ordered him to exchange blows with a
19 sculptor, Person DD, by hitting each other with a rubber hose.
20 Duch conceded that he ordered this scene, but could not remember
21 any particular reason for so doing.

22 [11.43.05]

23 Numerous witnesses, among them former interrogators, explained
24 that Duch, as Chairman, ordered the torture of prisoners. Duch
25 did not contest this, stating that "if the prisoner was less

45

1 important, I assigned Person Z because this Person Z liked to use
2 torture very much. When a prisoner refused to answer, I told
3 Person G to send the prisoner to Person Z". Witness E
4 acknowledged that Duch personally taught the use of torture to
5 the interrogators. He continued, "in torturing prisoners, he,
6 Duch, gave instructions; electric shock, beatings, putting their
7 heads in plastic bags, pulling out finger/toe nails, but he
8 prohibited letting them die".
9 Witness E further acknowledged that the interrogators had the
10 right to torture if a prisoner did not respond. He stated that
11 the decision to torture was given by Duch verbally, either in
12 person or by telephone. Witness E said that whenever he was
13 unable to make a prisoner talk, he asked for advice from Duch,
14 who would respond by saying, "so use torture".
15 Another interrogator, Witness G, stated that he frequently
16 received instructions from Duch who provided training on how to
17 interrogate prisoners pointing out weak points. Witness G added,
18 "as for me, the torture was assigned to Person C, because I was a
19 new interrogator. As for the old, more senior interrogators, they
20 had the right to torture".
21 For his part, Duch admitted, to differing degrees, that he
22 ordered the torture of prisoners. He claimed to have taught
23 interrogation techniques only once, while he was still the Deputy
24 Secretary under Person B. He continued, "the training was for
25 about one week, and two hours per day. After that I called

46

1 Comrades individually to provide advice or to correct mistakes.

2 The instructions were not to rely heavily on torture and be

3 patient". Moreover, Duch admitted that he set the rules

4 concerning interrogation.

5 MR. PRESIDENT:

6 Please we adjourn for a moment for the IT to transfer the system.

7 Please be seated. Please Mr. Duch Phary, continue with the

8 reading.

9 MR. DUCH PHARY:

10 When confronted by the Co-Investigating Judges with annotated

11 confessions, Please continue recognized three written orders to

12 conduct torture. He stated that it was he who had written, "not

13 yet confessed. To be tortured", and later, "interrogate

14 meticulously, serious but moderate torture in order to find the

15 networks. Hit until she stops saying she went to Vietnam with her

16 grandfather to cure his cancer and the problem of menstruation".

17 In these two instances, Duch claimed he had not yet become

18 Chairman of S21, and that he was relaying orders from his

19 superiors, Person B and Son Sen.

20 [11.48.50]

21 In the final instance, DUCH acknowledged that when Chairman of

22 S21, he wrote to his subordinate, interrogator Person G,

23 instructing him to use torture, and that in the event this

24 torture resulted in the death of the detainee, that Person G

25 would not be punished. Duch stated that, on this occasion, he

47

1 received instructions from Son Sen by telephone.
2 C, Torture techniques. Interrogators used several forms of
3 torture in order to extract confessions from prisoners.
4 According to Duch, only four methods of torture were allowed:
5 beating, electrocution, placing a plastic bag over the head and
6 pouring water into the nose. Duch specified that the method most
7 used was beating with a stick because other methods wasted time.
8 It appears that the severity of torture would increase if the
9 detainee did not properly confess. A confession was improper if
10 it was deemed insufficiently detailed or it failed to name other
11 traitors.
12 Duch stated that he was unaware of the use of other forms of
13 torture, some of which he said were prohibited at S21. Despite
14 this, Duch later acknowledged that he knew about the practice of
15 puncturing or removing finger and toe-nails. He added that he
16 reacted to this knowledge by writing a report, but there is no
17 other evidence that he ever disciplined interrogators for using
18 this and other unauthorized techniques. In fact, Witness E
19 stated that this form of torture was used under instructions from
20 Duch himself. There is also evidence that at least one prisoner
21 was force-fed excrement. Duch said in this respect that he tended
22 to refuse the idea that he was aware of these practices, but that
23 he could not rely on his memory for such specific points, as he
24 was primarily interested in the content of the confessions and
25 did not pay close attention to the manner in which prisoners were

48

1 treated. He also recognized that cold water and fans were a
2 method used at S21, admitting that he did not react to this
3 practice.

4 According to Witness J, some other practices, such as removing
5 the clothes of prisoners and then using electrical equipment to
6 shock the genitals or ears of prisoners were used during
7 interrogations. At the reconstruction, the possibility that
8 prisoners had been tortured using a bath-tub, now exhibited at
9 the Tuol Sleng Museum, was discussed. S21 guard, Witness L,
10 stated he had seen it, and Witness H explained that a Vietnamese
11 detainee claimed he had been tortured in one. However, Duch
12 maintained that he had never ordered that a bath-tub be used to
13 torture prisoners, and nor was he aware that one had been used.

14 The investigation also revealed the occurrence of practices such
15 as forcing the detainees to pay homage to images of dogs. Duch
16 admitted to the Co-Investigating Judges that he was aware of this
17 practice, insisting initially that he did not support it, but
18 later acknowledging he did in fact encourage it at an
19 interrogators training session on 28 May 1978. Moreover, Witness
20 H recalled seeing a guard take a detainee to a portico, suspend
21 him with a cord, and plunge his head into a full water jar.

22 Witness H watched this scene from the window of the painters'
23 room.

24 [11.54.35]

25 Two former S21 prisoners told investigators about their

49

1 experiences of being tortured. Witness F stated that he was
2 repeatedly beaten on the back with a piece of wood. Later, an
3 interrogator pulled out the toenails from both of his feet. He
4 also said he received electric shocks on his earlobes, and on the
5 third day he fell unconscious twice. He specified that he was
6 subjected to this treatment for 12 days and 12 nights. Witness N,
7 for his part, said that upon being taken to the interrogation
8 room, the interrogators showed him the torture equipment and
9 asked him to choose which implements would be used against him.
10 He was then beaten on the back with a whip, a rattan stick and
11 electrical cables while handcuffed and forced to lie face-down on
12 the ground. He said his back was cut and bleeding all over the
13 floor and that he was also electrocuted. He added that he was
14 tortured twice a day over a consecutive two week period.
15 The gravity of the physical abuse described above led to death in
16 certain cases. Duch acknowledged this to be the case, and stated
17 that he organized a study session to remedy this situation.
18 However, he also conceded that on 1 October 1976 he wrote a
19 letter to a subordinate, Person G, in which he instructed him to
20 use torture. He said that if the torture resulted in the death
21 of the detained person, Person G would not be considered
22 responsible.
23 There is evidence of rape being committed at S21, however,
24 recollections differ, and it is not clear how many instances
25 occurred. Duch stated that there was only one incident,

50

1 involving his former school teacher, Person EE, where an
2 interrogator, originally from Division 703, inserted a stick into
3 her genitals. After the rape was reported, Duch said that he
4 discussed the incident with Person C, who was responsible for the
5 men of Division 703. He recalled that he told Person C to
6 criticize the perpetrator. Duch said he reported the incident to
7 his superior, who "did not say anything." Consequently, he did
8 not punish the perpetrator, who was simply assigned to
9 interrogate another person. He also suggested that in the
10 future, wives of cadre were to interrogate female prisoners, a
11 change which was implemented.

12 However, Witness E stated that these female interrogators were
13 all eventually arrested, and from at least 1977, female prisoners
14 were again interrogated by male guards. Duch finally stated that
15 he now admits "that he failed to punish serious crimes that
16 violated human dignity integrity".

17 MR. PRESIDENT:

18 Now it's time for the Chamber to adjourn for lunch. The reading
19 is going to take some time, and I would like to declare the
20 adjournment of the hearing until 1.30 when the Chamber will
21 resume. Please participants come to occupy your seats before
22 1.30 this afternoon for the proceedings to continue. It's 1.30
23 pm.

24 I instruct the detention officers to take Kaing Guek Eav back to
25 his detention room and bring him back before 1.30 pm this

51

1 afternoon.

2 MR. PRESIDENT:

3 The Chamber declares the continuing of the proceeding. I would
4 like Mr. Duch Phary to continue the reading of the counts and the
5 factual analysis please.

6 MR. DUCH PHARY:

7 D. Prey Sâr. Duch said that Prey Sâr was not a place for
8 interrogation or torture. While he is corroborated by some
9 witnesses on this point, others stated that guards beat or
10 insulted prisoners when they were sick or unable to work
11 properly. Former S24 detainee Witness O mentioned the existence
12 of a room where men and women were interrogated by electrocution,
13 although she never physically witnessed these acts of torture.
14 Another witness, Witness P, described how colleagues who were
15 sent to Prey Sâr would return with their head shaved and their
16 skin flayed from the application of electric shocks, beatings and
17 whippings during interrogation.

18 3. Executions. Authority over executions. Over 12,380 detainees
19 were executed at S21. Duch said that he initially delegated
20 responsibility for executions to Person C, who made all the
21 necessary preparations upon his own initiative. However,
22 following an incident where a prisoner was killed before the
23 completion of his interrogation, Son Sen required Duch to sign
24 off on every execution. Thereafter, Duch necessarily decided how
25 long a prisoner would live, since he ordered their execution

52

1 based on a personal determination of whether a prisoner had fully
2 confessed. As there was no right to release, there was an
3 implicit standing order from Duch, as Chairman, to kill prisoners
4 according to the system created at S21.

5 [1.37.55]

6 Witness Q stated that no one could be removed from S21 without
7 authorization from Duch. He claimed that Duch planned and
8 ordered the execution of prisoners by annotating the removal
9 lists with instructions such as "kâm", a short form of "kâmtech",
10 which means "to smash".

11 Witness B said Duch and Person C gave the orders to carry out
12 executions within the S21 complex. More specifically, he stated
13 that Duch personally ordered him to kill a person at Choeng Ek
14 and that, as Duch looked on, he took an iron bar and killed a
15 prisoner. Duch denies this incident took place.

16 Duch stated that killing could be carried out on instructions he
17 received and conveyed to his subordinates or, as he stated in
18 interviews prior to his arrest, upon his unilateral decision
19 after taking into account considerations such as over-crowding,
20 lack of food, contagious illnesses or the fear of escapes. Beyond
21 specifically authorizing the execution of prisoners, Duch
22 allegedly taught execution techniques. Witness B specifically
23 recollected a meeting where Duch instructed that "hitting their
24 necks with the steel would not kill them, so their throat had to
25 be cut too".

1 Generally, prisoners were killed shortly after completing their
2 confessions. However, DUCH said he had the authority to delay
3 the execution of certain skilled prisoners. He described this as
4 a "certain margin granted by the superiors" whereby Person C and
5 Duch could keep some prisoners to work within the S21 complex.
6 He added, however, that they were all destined to be executed
7 eventually.

8 B. Executions at Choeng Ek. Due to the circumstances directly
9 following the collapse of the Khmer Rouge, it is extremely
10 difficult, considering the passage of time, to estimate with any
11 accuracy the number of persons killed at Choeng Ek. However,
12 with the testimony surrounding the system of executions at S21,
13 in combination with execution logs, prisoner lists, and a
14 preliminary forensic survey, it is clear that many thousands of
15 persons, including men, women and children, were executed and
16 buried at Choeng Ek.

17 [1.41.10]

18 Although some witnesses denied ever seeing children there, at
19 least one grave was described as containing the remains of
20 children. An S21 execution log recorded that on a single day in
21 July 1977, 160 children were killed at Choeng Ek. During the
22 Reconstruction conducted at Choeng Ek on 26 February 2008, Duch
23 said he did not know how children were executed there, but he did
24 not deny they were executed at this site. Witness B confirmed he
25 saw Duch at Choeng Ek. Duch said that he went there only once in

54

1 1977, at the request of Son Sen, and that he stayed only ten to
2 fifteen minutes.

3 Prisoners were transported to Choeng Ek in trucks two to three
4 times a month. Witness B said they were transported in two
5 vehicles, each containing approximately 30 to 40 prisoners. He
6 said prisoners were told they were being transferred to a new
7 home so that they would not scream during transport. They were
8 then taken to the waiting trucks, handcuffed and blindfolded.

9 During transportation, two guards were positioned in the rear of
10 the truck so prisoners could not jump from the vehicles.

11 According to Duch, three to four guards were stationed at Choeng
12 Ek. When joined by the transport guards, there were as many as
13 ten guards present at an execution. There were three teams: the
14 special unit, Person FF's team, and Person GG's team. Duch said
15 the methods of execution employed had existed since his time as
16 Secretary of M13. Beyond knowing that prisoners were blindfolded
17 and had their arms tied behind them, Duch said he was not aware
18 of the technical "details" of the executions.

19 After arriving at Choeng Ek, a generator was switched on, and the
20 prisoners were led to a house. The guards then took prisoners
21 outside one at a time, telling them they were being transferred
22 to a different house. Person I stood outside and recorded the
23 names of prisoners before taking them to the pits to be killed.

24 [1.44.42]

25 Several witnesses said that prisoners were killed using steel

55

1 clubs, cart axles, and water pipes to hit the base of their
2 necks. Prisoners were then kicked into the pits, where their
3 handcuffs were removed. Finally the guards either cut open their
4 bellies or their throats. After the executions were complete,
5 the guards covered the pits.

6 Several large-scale executions also seem to have taken place at
7 Choeng Ek. Duch declared that on four separate occasions Son Sen
8 and Person J ordered him to send the majority of prisoners
9 detained at S21 to Choeng Ek to be executed. The purpose of
10 these executions was to make room for a large influx of prisoners
11 following mass arrests. Duch admitted specifically ordering and
12 implementing two mass executions. According to Duch, numerous
13 mass executions occurred in which he received and conveyed orders
14 to execute without interrogation. Duch confirmed his handwriting
15 on a number of prisoner lists. On one list he annotated "to the
16 attention of Person FF, kill them all, 30 May 1978". Duch said
17 this was an exceptional mass execution, though he could not
18 remember the number of victims. On another, containing the names
19 of 29 prisoners, he wrote "interrogate four persons, kill the
20 rest".

21 Duch declared that later, in December 1978, about 300 prisoners
22 from the East Zone, who had allegedly rebelled, were sent
23 directly to Choeng Ek and executed. He also stated that on 2 or
24 3 January 1979, Person J ordered him to smash all prisoners at
25 S21. Around 200 persons were transported to Choeng Ek and

56

1 killed. According to Duch, it was the last time a mass execution
2 was ordered. Witness L was an eye witness to this mass killing,
3 and other S21 personnel were aware of the event. Duch expressly
4 admitted that there were two categories of persons sent to this
5 last mass execution: Cambodian Nationals and Vietnamese soldiers.

6 C. Executions at Tuol Sleng. Duch and other witnesses declared
7 that while Choeng Ek became the main killing site, certain
8 important persons, like Person K, Person A, Person T, and Person
9 B, and foreigners, continued to be executed within S21's grounds
10 or nearby. Evidence on the case-file demonstrates the presence of
11 mass graves within and around S21.

12 [13.48.55]

13 Duch, upon the request of his superiors, had pictures taken of
14 important prisoners after they had been executed and buried.
15 These pictures provided evidence that certain prisoners had not
16 been released or escaped. According to Duch, he specifically
17 remembered photographing three dead prisoners, namely Person Y,
18 Person A and Person T.

19 In 1978, four foreigners were burned to ashes using vehicle tires
20 between Mao Tse Tong Boulevard and Boeng Tumpun. Person J
21 allegedly ordered Duch to make sure the bodies could not be
22 found. Witness E heard about this event but did not witness it.
23 Witness R, a guard at S21, stated that in 1977 or 1978 he saw a
24 foreign prisoner being burned alive using vehicle tires at the
25 crossroad of Toul Tumpoung Pagoda.

57

1 Some prisoners were killed by having large quantities of blood
2 withdrawn by medics. Witness E told investigators that no fewer
3 than a thousand persons were killed in this manner, indicating
4 that this occurred to 20 to 30 prisoners, every four or five
5 days. Witness Q reported that Person C ordered him to write
6 lists of those detainees who had their blood drawn on two
7 occasions, the first time for two prisoners, and the second time
8 for four to five prisoners. The case file contains another list
9 of prisoners who died in this manner. Former S21 medic, Witness
10 S, noted that on one occasion he saw approximately 30 or 40 blood
11 bags.

12 [13.51.30]

13 Witness E recounted that four to five bags of blood were
14 extracted in a process which left the prisoner "unconscious and
15 gasping". He added that, "when I saw this I was strongly
16 disturbed; when I tortured I was not that disturbed. But when
17 they took the blood it was so terrifying. I have never forgotten
18 it." The prisoners would die sometime thereafter and a vehicle
19 would transport the bodies to Choeng Ek for disposal.

20 Evidence indicates that once blood was taken from a prisoner, it
21 was subsequently sent to hospitals. Witness E told investigators
22 that the doctors told him blood bags "were sent to Monivong
23 Hospital or to 17 April Hospital". Witness I was notified by
24 other medics that "blood was taken from prisoners and given to a
25 hospital outside S21". Former S21 guard Witness T was told that

58

1 "there was a place for preserving blood called Srak Srorong to the
2 east of Tuol Sleng prison".
3 Duch denied any role in the taking of blood from prisoners.
4 However, he "would not dare to deny" that blood was drawn from
5 detainees held at S21. He stated that, if there was a policy of
6 blood extraction at S21, it must have been "a continuation from
7 when Person B was Chairman". In subsequent interviews, Duch
8 reiterated his position that he could not deny that bloodletting
9 may have occurred at S21, but he said that he had no knowledge of
10 the practice.
11 Finally, a number of S21 personnel also affirmed that children
12 were killed within the compound. Statements indicated that the
13 children of prisoners were removed from their parents, killed and
14 buried north of the prison. One alleged method of killing
15 involved dropping the children from the third floor of the
16 complex in order to break their necks.
17 Four combatants from a military unit that Duch recalled was
18 designated Y08 were also killed independently after the last mass
19 execution on the 2nd or 3rd January 1979. Duch said that on 7
20 January 1979 interrogator Person HH killed these men using a
21 bayonet, and that these were the bodies that remained left on the
22 beds in S21 when the Vietnamese soldiers arrived.
23 Part 2, Legal Characterization. The judicial investigation
24 demonstrated that, while Duch was not a senior leader of
25 Democratic Kampuchea, he may be considered in the category of

59

1 most responsible for crimes and serious violations committed
2 between 17 April 1975 and 6 January 1979, due both to his formal
3 and effective hierarchical authority and his personal
4 participation as Deputy Secretary, then Secretary, of S21, a
5 security centre which was directly controlled by the Central
6 Committee.

7 [1.56.25]

8 In view of the facts set out above in paragraphs 10 through 108,
9 the Co-Investigating Judges consider there is sufficient evidence
10 to indict Kaing Guek Eav alias Duch and send him for trial for
11 the following offences defined in the ECCC Law, and based on
12 applicable law in 1975.

13 A. Crimes against humanity. Common Elements. S21 was
14 specifically designed and authorized to detain and either reform
15 or eliminate real or perceived political opponents of those in
16 control of the Communist Party of Kampuchea. The large number of
17 individual crimes committed repeatedly at S21 also served to
18 perpetuate and widen this attack based upon a constantly evolving
19 notion of those persons considered a threat to the Party. S21
20 operated as a political and military unit which reported directly
21 to the highest levels of the Party and detained a population
22 composed primarily of civilians, as defined by international law,
23 taken from every geographical zone, and from virtually every
24 administrative and military unit in Cambodia.

25 [1.58.10]

60

1 Due to this position of authority at S21, Duch knew the purpose
2 that S21 served and intended his actions to contribute to that
3 purpose. Even if there were a requirement that the crimes
4 committed at S21 have a correlation to an international armed
5 conflict, it is clear that the attack proliferated as the
6 conflict with Vietnam intensified.

7 Notwithstanding an attack which may be characterized as against
8 the civilian population of Cambodia in general, the crimes
9 committed at S21 themselves constituted a discreet widespread or
10 systematic attack against the civilian population detained
11 herein.

12 Accordingly, the underlying criminal acts listed in Article 5 of
13 the ECCC Law, characterized below with respect to S21, were
14 committed as part of a widespread or systematic attack at S21
15 directed against a civilian population on political grounds, with
16 knowledge of the attack, under the customary definition of Crimes
17 Against Humanity in 1975.

18 Imprisonment. There were no reasonable grounds and no legal
19 basis justifying the arrest of the large number of individuals
20 intentionally imprisoned at S21. Moreover, prisoners were clearly
21 deprived of basic rights such as being informed of the reason for
22 their arrest. There is no evidence that any legal or judicial
23 system was established or functioned in Cambodia between 1975,
24 April 17, and 6th of January 1979. There were no procedural
25 safeguards, whether judicial or administrative, whereby detainees

61

1 could challenge their imprisonment.

2 Enslavement. Certain detainees at S21 and Prey Sâr were forced
3 to work. Strict control and constructive ownership was exercised
4 over all aspects of their lives by: limiting their movement and
5 physical environment; taking measures to prevent and deter their
6 escape; and subjecting them to cruel treatment and abuse. As a
7 result of these acts, detainees were stripped of their free will.

8 [2.01.45]

9 Torture. The vast majority of persons interrogated at S21 were
10 repeatedly and intentionally subjected to severe interrogation
11 methods, which often resulted in serious physical injuries and
12 severe mental harm. These methods were designed for the specific
13 purpose of obtaining information or extracting confessions from
14 the prisoners. Even if there were a requirement that
15 perpetrators act in an official capacity, it is clear that in
16 this case they acted in accordance with their defined roles
17 within a clear command structure.

18 Rape. There is evidence of at least one coercive sexual
19 penetration committed at S21, when an interrogator inserted a
20 stick into a female prisoner's genitals.

21 Murder. At S21, personnel, both directly and indirectly, caused
22 the death of a large number of detainees. In many instances
23 prisoners were deliberately killed through a variety of means.

24 In other instances the perpetrators may not have intended to
25 kill, but were aware that death could occur as a result of their

62

1 conduct, for example when they beat or tortured prisoners.
2 Extermination. The living conditions imposed at S21 were
3 calculated to bring about the deaths of detainees. These
4 conditions included but were not limited to the deprivation of
5 access to adequate food and medical care.
6 The unlawful deaths of over 12,380 detainees which occurred as a
7 result of murder or the imposition of living conditions
8 calculated to bring about death, constituted the mass killing of
9 members of a civilian population, evidenced by documentary
10 records, eye-witness accounts and the discovery of large numbers
11 of bodies in mass graves.
12 Persecution. The judicial investigation demonstrated that
13 detainees at S21 were denied fundamental rights including life,
14 liberty, security of person, due process, and freedom of
15 movement. These fundamental rights were denied or infringed from
16 the moment of their arrest and throughout the detention,
17 interrogation, re-education or execution. Detainees were denied
18 these fundamental rights based upon their real or perceived
19 political beliefs or political opposition to those in power in
20 the CPK. Detainees were subject to arbitrary and unlawful
21 detention, torture, enslavement, murder, and other inhumane acts.
22 Duch was aware of these discriminatory policies by which S21
23 operated, and his intent to discriminate in accordance with these
24 policies can be inferred from his actions, his positions at S21,
25 his status as a CPK Party member, and his relationships with the

1 CPK leadership.

2 Other Inhumane Acts. Prisoners at S21 suffered seriously bodily
3 and mental harm from inhumane acts which included deliberate
4 deprivation of adequate food, sanitation and medical treatment.
5 Prisoners were beaten and subjected to stringent restrictions
6 during detention. These severe conditions, individually or
7 collectively, depressed, degraded and dehumanized detainees,
8 ensuring that they were always afraid.

9 B. Graves Breaches of the Geneva Conventions of the 12th of
10 August 1949. Common Elements. Protracted armed violence between
11 the regularly constituted armed forces of Democratic Kampuchea
12 and Vietnam began in April 1975, and increased in intensity until
13 at least the 6th of January 1979. During this time period,
14 hundreds of Vietnamese prisoners of war and civilians were
15 arrested and sent to S21. Additionally, many other persons
16 characterized by the DK as Vietnamese "spies" or of Vietnamese
17 descent were detained. The vast majority of these prisoners were
18 removed directly from combat areas. Many written and recorded
19 confessions of these persons, obtained under torture, contained
20 military intelligence or were broadcast and published by official
21 CPK organs as part of the military propaganda strategy.

22 [2.08.25]

23 Due to his position of authority at S21, which put him in
24 repeated contact with military and political leaders, Duch was
25 acutely aware that crimes committed at S21 took place both, in

64

1 the context of the international armed conflict with Vietnam and
2 against persons who either owed no allegiance to the DK or
3 belonged to the adverse party of the conflict.

4 Accordingly, the underlying criminal acts listed in Article 6 of
5 the ECCC Law, characterized below, constitute grave breaches of
6 the Geneva Conventions of 1949 because they were associated with
7 and committed in the context of an international armed conflict
8 against protected persons in full awareness of the factual
9 circumstances that established the conflict and the protected
10 status of the prisoners.

11 Unlawful Confinement of a Civilian. More than a hundred
12 Vietnamese civilians were detained at S21. There was no
13 difference in treatment between Vietnamese civilians and other
14 individuals subjected to imprisonment at S21; all were
15 arbitrarily deprived of their liberty.

16 Willfully Depriving Rights to Fair Trial. At least 400 protected
17 persons were willfully denied their right to be judged by an
18 independent and impartial court as defined by the Geneva
19 Conventions of 1949. In particular, the right to be promptly
20 informed of their offences, to be protected from collective
21 penalty, to be protected by the principle of legality, or to be
22 sentenced by a competent court.

23 [2.10.55]

24 Willfully Causing Great Suffering. These protected persons were
25 willfully subjected to serious mental and physical suffering due

65

1 to inhumane acts which included deliberate deprivation of
2 adequate food, sanitation and medical treatment. Prisoners were
3 beaten and subjected to stringent restrictions during detention.
4 These severe conditions individually or collectively depressed,
5 degraded, and dehumanized detainees ensuring that they were
6 always afraid.

7 Torture and Inhumane Treatment. S21 personnel willfully caused
8 severe pain or suffering, whether physical or mental, to
9 protected persons during interrogation. The purpose of using
10 such methods within the course of the interrogation was to
11 extract confessions aimed at obtaining military information and
12 supporting CPK propaganda. S21 personnel willfully caused
13 serious mental harm or physical suffering or injury, or submitted
14 them to conditions which amounted to a serious attack upon the
15 human dignity of the prisoners at S21.

16 Willful Killing. S21 personnel willfully caused the death of at
17 least 400 protected persons both directly and indirectly, through
18 a variety of means.

19 C. National Crimes. As amended by the Pre-Trial Chamber
20 decision: Certain acts characterized by the judicial
21 investigation also constitute the domestic offences of inflicting
22 acts of torture to obtain, under pain, information for the
23 commission of a felony or misdemeanor and premeditated murder.
24 These offences are defined under Articles 500, 501 and 506 of
25 the 1956 Cambodia Penal Code.

66

1 D. Forms of Responsibility. Commission. As amended by the
2 Pre-Trial Chamber decision: Duch is not indicted for the mode of
3 liability of "commission" for the domestic crime of torture.
4 Ordering. Duch held a position of authority at S21 throughout
5 the temporal jurisdiction of the court. From this position of
6 authority, Duch had the ability to direct, instruct or order his
7 subordinates to perform any task associated with the functioning
8 of the S21 complex. The chain of command at S21 was clearly
9 delineated and the roles of its staff members were rigorously
10 defined and enforced.
11 Orders and instructions, whether originating from Duch or his
12 alleged superiors, were given or passed with the intent and
13 awareness that they would be achieved and institutionalized.
14 Orders at S21 could be implicit, explicit, broad or specific, and
15 could be received directly or indirectly by the perpetrator.
16 [2.15.35]
17 The direction provided by DUCH contributed substantially to the
18 events which took place at S21, and much of the conduct which was
19 attempted or occurred can be described as criminal under the ECCC
20 Law and Agreement.
21 Command Responsibility. As Deputy Secretary and later Secretary
22 of S21, Duch exercised effective de jure and de facto command and
23 control over the entire staff of S21. This authority included
24 the capacity to issue orders concerning all operations conducted
25 at the security complex.

67

1 Throughout his tenure at S21 Duch either knew, should have known,
2 or consciously disregarded information that demonstrated that his
3 subordinates committed, or were about to commit, the acts
4 described in this Closing Order. These acts can be qualified as
5 crimes within the jurisdiction of the ECCC. By failing to take
6 all necessary and reasonable measures to prevent or punish the
7 acts described, Duch failed to exercise proper control over his
8 subordinates.

9 Planning. Duch was substantially involved in formulating or
10 endorsing the plan to establish S21 with the knowledge that its
11 function would be criminal in nature. Further, following S21's
12 formation, DUCH planned the specific crimes committed here, with
13 the intention that they be carried out.

14 Instigation. As Deputy Chairman and Chairman of S21, and also as
15 an active CPK Party member, Duch induced, encouraged and prompted
16 the staff at S21 to commit the crimes described in this Closing
17 Order by instructing and teaching Party doctrine and practice,
18 assigning tasks, and through his presence and participation in
19 all aspects of the security complex. His leadership and
20 participation were clear contributing factors to the overall
21 functioning of S21 and demonstrated an intention that the staff
22 of S21 carry out these crimes.

23 Aiding and Abetting. Duch's subordinates respected his
24 authority, and that at nearly every level of S21's operation, he
25 gave them practical assistance, encouragement or moral support.

68

1 This substantially contributed to the crimes described in this
2 Closing Order. Further, Duch appreciated his behaviour would
3 assist in the commission of these crimes; knew their essential
4 elements; and was aware of the intention of the perpetrators.

5 [2.20.20]

6 Duch was brought before the ECCC and was charged according to his
7 active and passive actions in Phnom Penh and in the territory of
8 Cambodia from the 18th of April 1975 to the 6th of January 1979,
9 in his capacity as Deputy Secretary or the Secretary of S21,
10 planned, instigated, ordered and committed the following crimes,
11 aiding and abetting the perpetrators in this crime commission and
12 other person who are responsible as the superior: crimes against
13 humanity, enslavement, imprisonment, torture, sexual abuse and
14 other inhuman acts, offences defined and punishable under
15 Articles --

16 MR. PRESIDENT:

17 We should take a break because there is a technical glitch in the
18 interpreting booth.

19 THE INTERPRETER:

20 Mr. President, may the greffier continue the reading.

21 MR. DUCH PHARY:

22 The crimes specified and punishable under Articles 5, 29new and
23 39new of the Law on the Establishment of the Extraordinary
24 Chambers in the Courts of Cambodia for the prosecution of crimes
25 committed during the period of Democratic Kampuchea. 2. The

69

1 breaches of the Geneva Conventions of 1949: willful killing,
2 torture or inhumane treatment will fully causing great suffering
3 or serious injury through body of health; willfully providing a
4 prisoner of war or civilian the rights of fair and regular trial;
5 unlawful confinement of civilian; offences defined and punishable
6 under Articles 6, 29new and 39new of the Law on the Establishment
7 of the Extraordinary Chambers in the Courts of Cambodia for the
8 prosecution of crimes committed during the period of Democratic
9 Kampuchea.

10 [2.24.35]

11 3. Violations of the 1956 Penal Code. Premeditated murder,
12 Articles 501 and 506. Torture, Article 500. Offences defined
13 and punishable under Articles 3new, 29new and 39new of the Law on
14 the Establishment of the Extraordinary Chambers in the Courts of
15 Cambodia for the prosecution of crimes committed during the
16 period of Democratic Kampuchea.

17 MR. ROUX:

18 Mr. President, I would like to address the Court on behalf of the
19 defence. I base on rule 85 of the Internal Rules. The President
20 will ensure that the defence can freely exercise its rights. We
21 have just heard 150 paragraphs being read out from the Closing
22 Order, and so the defence would like that the 10 paragraphs which
23 appear as exculpatory information pertaining to the accused be
24 read out, otherwise this reading will be purely inculpatory, and
25 this would not constitute a fair trial.

70

1 Accordingly, we request that paragraphs 162 to 171 of the Closing
2 Order be read out. Thank you, Mr. President.

3 MR. PRESIDENT:

4 The Trial Chamber accepts the request. Due to the time limit,
5 and it's a break time, the Chamber declares an adjournment for 15
6 minutes, and at 2.40 the Chamber will resume. And I would like
7 to invite all the participants and concerned parties to attend at
8 that time. And the request submitted by the defence lawyer will
9 be considered during the break by the Bench. Thank you.

10 (Court adjourns from 1427H to 1500H)

11 MR. PRESIDENT:

12 Now the Court is back in session. Before our next proceedings,
13 the Trial Chamber made a decision to reject the request made by
14 lawyer Francois Roux -- in his request he asked ten paragraphs be
15 read out, the paragraphs which are concerned with the character
16 of the charged person -- because there are four main reasons
17 here. In Rule 89bis state that "the Trial Chamber declares the
18 opening of the substantive hearing and that the President shall
19 read the counts against the accused and may order the greffier to
20 read the factual analysis in the indictment."

21 In the second paragraph, it reads that "Before any accused is
22 called for questioning, the Co-Prosecutors may make a brief."

23 The second reason is that concerning the character and the
24 analysis of the psychology of the charged person is not part of
25 the factual analysis of charges. In the decision on the

71

1 Direction of the Hearing, from point 9.1, the Trial Chamber has
2 prepared the facts and events to be put in the trial, and the
3 Trial Chamber indicated that the matter concerning the character
4 of the accused person is an event to be conducted separately and
5 ultimately during the hearings. That's why the Trial Chamber
6 tries its best to find the justice and appropriateness for
7 conducting such proceedings.

8 Before we continue, we would like to move to the opening
9 statements made by the Co-Prosecutors. According to the time
10 constraints, the Trial Chamber would like to inquire to the
11 Co-Prosecutors whether you would like to make a brief opening
12 statement on charges in relation to Rule 89bis, subparagraph 2,
13 at this moment. You have the floor.

14 MS. CHEA LEANG:

15 Thank you, the President, Your Honours. The time is over 3 p.m.
16 now, and according to Rule 89, and with Your Honours permission,
17 we do have two hours. However, if we proceed with our opening
18 statement it's going to take probably 'til 5 p.m., and I would
19 like to request with Your Honours' permission that we can do it
20 tomorrow morning. Thank you.

21 MR. PRESIDENT:

22 After hearing the request by the Co-Prosecutor concerning the
23 time for their brief opening statement on the charges, and
24 second, for the smooth proceeding of the Trial Chamber, the Trial
25 Chamber grants the permission and the Trial Chamber decides the

72

1 proceedings today is adjourned, and it will resume tomorrow
2 again.

3 And I would like the security guard to take the accused back to
4 the detention, and bring him back to the courtroom before 9 a.m.
5 and all the concerned parties and the public to have to attend
6 the hearing please come before 9 a.m. for the hearing and the
7 proceeding. Thank you.

8 (Court adjourns at 1507H)

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