



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS - KAING GUEK EAV "DUCH"

PUBLIC

Case File N° 001/18-07-2007-ECCC/TC

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Trial Day 34

Before the Judges:

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

Lawyers for the Civil Parties:

KIM Mengkhy
KONG Pisey
TY Srinna
HONG Kimsuon
MOCH Sovannary
Silke STUDZINSKY
Alain WERNER
Jessica FINELLE

Trial Chamber Greffiers/Legal Officers:

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

For Court Management Section:

UCH Arun

For the Office of the Co-Prosecutors:

William SMITH
YET Chakriya
PICH Sambath
Zachery LAMPEL
PAK Chanlino

The Accused:

KAING Guek Eav

Lawyers for the Accused:

KAR Savuth
Heleyn UÑAC

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. HONG KIMSUON	Khmer
MR. KAR SAVUTH	Khmer
MS. MOCH SOVANNARY	Khmer
MR. KIM MENGKHY	Khmer
MR. SMITH	English
MS. STUDZINSKY	English
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MS. TY SRINNA	Khmer
MR. WERNER	French
MR. YET CHAKRIYA	Khmer

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

2 (Judges enter courtroom)

3 [09.04.23]

4 MR. PRESIDENT:

5 Please be seated. The Trial Chamber is in session for today to
6 continue its proceeding on the establishment and the operation of
7 the security office or the re-education centre known as S-24.
8 Before giving the floor to the parties to put questions to the
9 accused on the facts just mentioned, the Trial Chamber would like
10 to inform the parties that the Trial Chamber wishes to remove
11 another witness, KW-24, because several testimonies are
12 considered sufficient and there were some other witness
13 statements that we will call for testimony, and those statements
14 have similar contents as those of the KW-24. The Trial Chamber
15 will read his statements when appropriate, as we have discussed
16 in our meeting earlier, and the parties are not allowed to make
17 comments at this moment but your remarks or your comments or any
18 suggestion to the removal of KW-24, you should raise that comment
19 or suggestion next Monday.

20 The security officer, please bring the accused to the dock.

21 Next, the floor is given to the Co-Prosecutor to put questions to
22 the accused regarding the facts for the hearing; that is the
23 establishment and operation of S-24, please.

24 MR. YET CHAKRIYA:

25 Mr. President, I have a number of questions to ask to the

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1 accused.

2 QUESTIONING BY THE CO-PROSECUTORS

3 [09.08.22]

4 BY MR. YET CHAKRIYA:

5 Q.Duch, can you explain what are the differences between S-21

6 (sic) and other local cooperatives and bases?

7 A.Mr. Co-Prosecutor, it S-24 similar to the cooperatives and
8 other bases in certain matters. First is the right to live. It
9 was the same. It was not decided by the Standing Committee or
10 the zone secretary that made that decision, but the differences
11 were S-24, they gather the people who have committed this kind of
12 offence. As for the cooperatives and the base, they collected
13 people based on the class origin.

14 And another difference is that at S-24 most of the detainees were
15 the combatants of the CPK, and at the cooperatives most of the
16 people were the persons with their family members and were all
17 together. That's all, Mr. Co-Prosecutor.

18 Q.My next question. What was the structure of S-24? Were there
19 any militia to conduct surveillance against those detainees?

20 A.Mr. Co-Prosecutor, it is a branch of S-21 who work there. At
21 night a number of people were assigned to spy or to conduct
22 espionage and to listen or monitor the detainees, but I don't
23 know for sure about the assignment: who was the chief, from what
24 time. I do not -- quite sure on that but, yes, there's that kind
25 of espionage.

3

1 Q.When the information was collected from certain detainees what
2 happens to them later on?

3 A.Mr. Co-Prosecutor, for detainees who were spied and reported,
4 and they reported up to Comrade Huy. This is one of the steps
5 when there is an incident or evidence proving that he or she will
6 flee, or they fled and then they're arrested, so based on the
7 offence, but in general, with just hearsay or other report, they
8 reported to Comrade Huy. But when there is a real incident and
9 they came to Comrade Hor, and when Hor and Huy made decisions and
10 then we can take action.

11 [09.12.18]

12 Q.Were Hor and Huy reported to you about that?

13 A.In principle it was an operational -- or the function
14 continued from the security office of Division 703. In case of
15 urgency then they reported to me.

16 Q.Can you explain about the special case? What was that?

17 A.The special case; for example, Comrade Nan, alias Sim Mel, he
18 committed a series or several of incidents and later he was
19 reported to me because he was assigned there as the commander of
20 the company there. So the people need to report to me on that.
21 Another case which we discussed yesterday from the documents,
22 it's the documents talking about Sin Dara, alias Sok, and the
23 family of May Lon, and the superior told me that before taking
24 any action against these people I needed to consult with the
25 superior. This is the special case. The family of May Lon and

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1 the family of Comrade Sok, alias Dara, he was from the elements
2 unit that's kept there for espionage. So only in that special
3 case my subordinate would report to me.

4 [09.14.24]

5 Q.You said that the re-education for the elements at Prey Sar is
6 to tempering, forced labour and to respect the discipline. In
7 order to achieve that goal did you enforce any measure or action
8 for your staff there to work on that?

9 A.Mr. Prosecutor, so to be straight on this matter, I did not
10 give any consultation or any training to those staff. It
11 continued from a little bit after the 17 April and it continued
12 in its way, but there was no special training but there were
13 annual study sessions through the Party. Yes, I did that.

14 Q.If you don't have that kind of training what can you do with
15 Huy Sre in Prey Sar that they adhere to the discipline and they
16 work very hard? Can you explain about that?

17 A.To unconditionally respect the discipline it's the condition
18 imposed by the CPK that any unit wishes to fulfil that plan by
19 the Party. It is called the ideology of the organizational
20 discipline, so ideology is the most important. Everyone had to
21 work hard and adhere to the discipline without any conditions.
22 So during the annual study session and also the criticism and
23 self-criticism we also talked about this.

24 Q.Thank you. You said that Prey Sar was a fenceless prison;
25 no-one would rebel or would flee. Did you know what are the

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1 methods they used there so that the detainees were fearful of
2 rebelling or fleeing?

3 A.Mr. Co-Prosecutor, the measure to prevent the detainees from
4 rebelling or escape, we tried to work almost always with them and
5 they knew well about those detainees, about their behaviour, and
6 in addition they had a night espionage. So monitoring is the key
7 issue, and Comrade Huy as the second step of the reporting
8 system.

9 [09.18.24]

10 First is the staff themselves worked closely with them.

11 Secondly, they conducted night espionage, so when they heard any
12 chatting or discussion between the detainees, then they keep
13 following up, and if any incident occurred they reported to
14 Comrade Huy.

15 Q.If anyone escaped or fled is there any arrest made against
16 family members or relatives?

17 A.Mr. Co-Prosecutor, the arrest could not be made without
18 consultation on the superior lines of command. That's all I can
19 tell you.

20 Q.One of your staff in charge of the radio and fled. Was he
21 reported to the superior?

22 A.Mr. Co-Prosecutor, the radio operator in Prey Sar who fled,
23 first I reported to the superior, it was Uncle Nuon at the time,
24 and then I also reported through Uncle Nuon regarding the issue
25 of Comrade Huy because when a person who was close to the cadre,

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1 then that cadre shall be reported to the superior. For example,
2 this is the case: Comrade Pon and I were close. If Comrade Pon
3 fled, automatically the Party would arrest me because I vouched
4 the biography of Pon before the Party. So then the radio
5 operator, when he fled, then his superior has to be responsible
6 for the Party too. That was Comrade Huy, and this is my
7 response.

8 [09.20.55]

9 Q.What was the measure taken in attempts to recapture the radio
10 operator?

11 A.The measure was up to the upper echelon because we had no
12 direct connection with the local units.

13 Q.Thank you. Next question.

14 During the questioning of the facts on M-13, the killing method
15 on the prisoners were used in order to threaten other prisoners.
16 Was such method used at Prey Sar, or S-24?

17 A.Personally, when I ordered a person to shoot a victim, the
18 person who did the shooting was the one who allowed his weapons
19 to be snatched away, and a few days later he was shot and left,
20 and I myself was shocked too, so I didn't talk about that event
21 any more. Concretely, after Nat's era I never heard of such
22 incident and also such incident was not heard at S-24 and I never
23 instructed my subordinates to implement such method.

24 Q.Thank you. My next question.

25 Do you believe that your staff at Prey Sar, especially Huy, might

7

1 use such method?

2 A.I do not believe they used such method.

3 Q.Thank you. Next question.

4 The elements who were sick, were they allowed to rest or were
5 they forced to work while they were sick?

6 A.Mr. Co-Prosecutor, I could not provide an answer because I was
7 not there. If the victims provide a testimony then I would wait
8 to listen and to acknowledge if that were what happened.

9 [09.23.44]

10 Q.Were you aware that when the elements were forced to do labour
11 and couldn't complete the quota, then the security staff tortured
12 them at the time. Were you aware of that?

13 A.I did not hear it directly. I only heard it in the present
14 time and, yes, I acknowledged it that it was an incident that
15 happened there.

16 Q.You said the elements at Prey Sar, if they make an offence,
17 they would be sent to S-21 or directly to Choeung Ek. What kind
18 of offences to have them sent to these two locations?

19 A.The serious offences fall into two categories. One, the plans
20 to rebel; the second, an attempt to escape. These are two
21 serious offences. And regarding an offence, for example, in not
22 having zeal to work, it was not serious and they would be
23 re-educated. And if they could not achieve the quota then they
24 would find a way to make a report to the upper echelon to request
25 for the person to be smashed.

8

1 Q.Can you specify what types of offence for them to be sent to
2 S-21 or what types of offence for them to be sent to Choeung Ek?

3 A.Mr. Co-Prosecutor, let me add to what I said yesterday.

4 The sending directly to Choeung Ek after they were considered
5 their confessions were not required, so their confessions would
6 not be long. So they would be sent to Choeung Ek. And for those
7 whose confessions were important, then they would be sent to
8 Phnom Penh for the extraction of their confessions.

9 [09.26.19]

10 Q.Based on which principle were they sent to Choeung Ek directly
11 or to S-21?

12 A.It is a combination of the biography of the persons made by
13 Comrade Hor and Huy, and based on their previous activities and
14 their backgrounds, and their background activities were already
15 part of their biography.

16 Q.The 160 children who were sent directly to Choeung Ek, before
17 they were sent how long did they stay at S-24?

18 A.I am not sure. I could only estimate that the children who
19 were sent to Choeung Ek, altogether 160 of them, they were those
20 who were kept quite a longer time. That was the total. At
21 first, probably, there were three or four of them who were kept
22 at a time, and the teenagers would go into the rice fields during
23 the rainy season to catch mice. So I am not sure how many months
24 they stayed or how many months they were used, and I think the
25 proportion of the duration of time was not equal amongst those

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1 children.

2 Q.Is it true that because they were children who did not have
3 enough strength to do labour and because S-21 did not want to
4 spend food on them, that's why they were taken and killed?

5 A.That is the second reason. The first reason is that the
6 Communist Party of Kampuchea was afraid that the children would
7 take revenge. That was the main factor, and nothing else could
8 be used to counter that main factor.

9 [09.29.11]

10 Q.Thank you. Next question.

11 What measures were taken in taking those children from S-24 to
12 Choeung Ek?

13 A.This is a technical issue and I was not aware of it as I was
14 not there. In principle, the children were not kept because they
15 were afraid of the children taking revenge based on the Party's
16 policy. So regarding this technical issue, I was not on the
17 ground and I could not answer it.

18 Q.Usually the prisoners who were taken out would be transported
19 on a vehicle and they were shackled or cuffed. Were those
20 children cuffed or shackled when they were transported in the
21 vehicle?

22 A.I did not see it and I could not estimate if that was the
23 case.

24 Q.You said the decision on the elements at S-24 was made by the
25 S-21 committee. You did not make any request to the upper

10

1 echelon for their decision. Did you report on the killing and
2 the transfer of those prisoners to the upper echelon?

3 A.I can recall that. There was a report but it was verbal.
4 There was no surviving document. Even at the Office 870 there
5 was no written report, only a verbal report.

6 Q.So did you agree that you were the person who decided the fate
7 of the elements?

8 A.Speaking directly to the point, I was like the upper echelon.
9 I only received the figure and, actually, the decision was made
10 by the subordinates who were in charge of such affair. They had
11 their authority. And I myself, of course I knew the figure and I
12 only reported that figure to the upper echelon.

13 [09.32.17]

14 MR. YET CHAKRIYA:

15 Thank you, Mr. President. I do not have any more questions. I
16 would like now to give the floor to my international colleague.

17 MR. PRESIDENT:

18 The International Co-Prosecutor, the floor is yours.

19 MR. SMITH:

20 Good morning, Mr. President, Your Honours, Counsel and Mr. Kaing
21 Guek Eav.

22 BY MR. SMITH:

23 Q.Perhaps if I can just pick up on the last point that you made,
24 stating that you didn't decide on the fate of the elements. And
25 when we talk about the elements we're talking about the large

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1 detainee population at Prey Sar. You didn't decide on whether
2 they would live or die. Is that correct?

3 A.Mr. Co-Prosecutor, in principle I was responsible for this
4 decision. Although I did not make it personally, I am still
5 responsible. However, what happened was that the decision was
6 made by other people and they were responsible before me and
7 before the Party. That was not to let the elements rebel or
8 escape. So these two people had to be responsible before me and
9 before the Party. This is my response.

10 Q.Mr. Kaing Guek Eav, what I was going to do this morning -- I
11 was going to put to you your conflicting accounts through the
12 Co-Investigating Judges file and your conflicting accounts in
13 your testimony yesterday. However, maybe it's better to jump
14 straight to the point.

15 [09.34.23]

16 In relation to people detained at S-24 at Prey Sar, and to have
17 them brought back to S-21 in Phnom Penh, are you saying that was
18 your decision or it was your subordinates' decision? Just that
19 group of people that came back from Prey Sar to Phnom Penh to the
20 compound -- was that you decision or was that your subordinates'
21 decision, Hor and Huy Sre?

22 A. Mr. Co-Prosecutor, from my recollection, before the
23 Co-Investigating Judges I said in principle they were responsible
24 before me and before the party not to allow them to escape or to
25 rebel and for the details, they would make decisions except in

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1 the case of the family of Comrade Sok and May Lon. That was what
2 I said.

3 And except those 30 people who were, with instruction from my
4 superior to be re-educated for one month and were sent for the
5 re-integration. And that was what I reported to the
6 Co-Investigating Judges and that was what I said yesterday and I
7 don't think it's too far apart.

8 Q.Thank you, Mr. Kaing Guek Eav. We do understand; we do
9 understand the difficulty of testifying at great length to the
10 Co-Investigating Judges and to this Court and being asked by --
11 numerous questions by different people so we do understand the
12 difficulty of that.

13 But, to be clear, in relation to those people that came back to
14 S-21 from Prey Sar -- those people -- you were told of that
15 decision afterwards. It was reported back to you that that was
16 in fact what happened. But that was after the fact. You weren't
17 involved in the decision making, were you?

18 [09.37.04]

19 You delegated that decision making power to Hor and Huy Sre.
20 Then you found out afterwards that those detainees were brought
21 back to Phnom Penh. Is that correct?

22 A.Mr. Co-Prosecutor, it is very hard for me to say. If there
23 is any evidence of what I said to the Co-Investigating Judges and
24 there's new evidence showing things differently, then I would
25 say, or examined, and this doesn't mean that I deny my crimes. I

13

1 am responsible for my crimes.

2 However, what I reported or testified before the Co-Investigating
3 Judges, I only have some of those statements, not all.

4 Q.Mr. Kaing Guek Eav, I think everyone appreciates your
5 admission of responsibility in these crimes as a general matter,
6 but perhaps if you can not think about what you said to the
7 Co-Investigating Judges, maybe not think about what you said
8 yesterday, but if you can tell us now from your memory now, back
9 to when you were at S-21; it's the case that you found out
10 afterwards that these people were arrested and brought back to
11 Phnom Penh. Is that correct?

12 A.Mr. Co-Prosecutor, that is correct.

13 [09.39.12]

14 Q.Perhaps in that same vein, along the same lines, is it also
15 correct that those people that were sent directly from Prey Sar
16 to Choeung Ek -- those decisions were made by Hor and Huy Sre and
17 then you found out about those decisions of those killings
18 afterwards. Is that correct as well?

19 A.Fundamentally, that is correct.

20 Q.I'm just trying to create a little clarity from yesterday.
21 Then it's fair to say, as well, is it not, that you trusted Huy
22 Sre and you trusted Hor as your fellow S-21 committee members.
23 You trusted them in depth. Is that correct?

24 Q.Mr. Co-Prosecutor, in the working environment, yes, I trusted
25 them. However, if you allow me to elaborate, I could say they

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1 never put us in danger. That is, they prevented the elements
2 from taking any rebellion activity. That's why I trusted them.
3 And they never allowed anyone to escape.

4 Q. Apart from when the radio operator of Huy Sre's escaped, apart
5 from that incident late in the Khmer Rouge period, you were proud
6 of Huy Sre, you were proud of Hor for implementing the Party line
7 in a disciplined and strong manner. Is that fair?

8 A. I believed them in principle.

9 Q. And just to finish the matter -- you had complete and
10 effective control over what Hor and Huy Sre did, and when I say
11 that I mean, if you wanted to stop Hor from doing something, or
12 stop Huy Sre from doing something, you could have quite easily
13 because of your position, your power.

14 A. Mr. Co-Prosecutor, my authority was full. If I want to know
15 anything, I can do that. I can ask anyone to report. I can stop
16 anything I want to direct anything, I can do that.

17 [09.42.40]

18 It was my true authority at the time.

19 Q. I think we can all understand why you delegated your authority
20 to Hor and Huy Sre because there were so many things to do at
21 S-21; so many things to manage, so many people to train and so
22 many confessions to annotate. And also Prey Sar was a very large
23 agricultural production establishment, and because of that, there
24 is no way in the world that you could have attended to all of the
25 tasks that needed to be done; and that would be the decisions on

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1 the killing; the decisions on the torture; the decisions on
2 maintaining the conditions.

3 That's why you delegated because you couldn't attend to it
4 completely yourself. Would that be fair?

5 A.Mr. Co-Prosecutor, in principle it is correct, but I would
6 like to add a little bit to that. So as it was their experience,
7 I allowed them to continue.

8 [09.44.19]

9 Q.And I think I also understand why, in relation to very
10 important prisoners, prisoners that perhaps had come back from
11 Prey Sar, why you would need to contact your superiors in
12 relation to them because of the threat they may have to the CPK.
13 That's why you contacted your superiors in relation to those type
14 of detainees that were brought back from S-24. Is that correct;
15 the important ones?

16 A.Mr. Co-Prosecutor, your understanding is correct for those and
17 the family of May Lon and the family of Sok, Sin Dara.

18 Q.And just going back to the reports that you received from Huy
19 Sre and from Hor in relation to the arrests of staff from Prey
20 Sar back to Phnom Penh and in relation to the killings of
21 detainees at Choeung Ek from Prey Sar, is it fair to say that
22 these activities occurred over that three-year period? People
23 were not brought back from Prey Sar to Phnom Penh, to S-21 there,
24 in one bunch. It happened over a series of months, a series of
25 weeks, over that three-year period.

16

1 And the same with Choeung Ek. People weren't taken to Choeung Ek
2 from Prey Sar on one day or two days, it was an activity that was
3 happening on an ongoing basis when those incidents arose that
4 caused Huy Sre and Hor concern. Is that correct? The reports
5 came to you as to these incidents throughout the three-year
6 period?

7 A.Mr. Co-Prosecutor, frankly, I would like to tell you that
8 because I don't understand well the English but the translation
9 also limited, I try to give you a response based on my
10 understanding and if you don't get the answer, please ask me
11 further about that.

12 [09.47.32]

13 First, the two persons, Hor and Huy who was always there, he was
14 very concerned that he needed to guarantee before the Party to
15 prevent those people from rebelling, not to escape, and to ensure
16 that the production is in progress and ensure that the detainee
17 to respect or to adhere to discipline, and the superior was also
18 very busy and the superior cannot help them. This is my answer
19 for you.

20 Q.Thank you, and I apologize for the question, it was quite
21 long, but perhaps if I can shorten it.

22 The reports of the killings at Choeung Ek and the reports of the
23 arrests from Prey Sar to S 21 and Phnom Penh, they came to you
24 from Hor, and perhaps Huy Sre, on a consistent basis throughout
25 that three and a bit years of operation of S-21?

17

1 A.Mr. Co-Prosecutor, Huy Sre was the one who reported to the
2 superior, to the committee, as he was the member of the S-21
3 committee. He made regular reports. I am not quite sure whether
4 it's a monthly or a weekly report, so I can recall it might be --
5 it's more likely a monthly report to the committee. But in
6 exceptional cases he reported more often than that if it was not
7 written, but in some cases it was an oral report.

8 Q.Thank you. So is it fair to say that you put a very large
9 responsibility onto Hor and to Huy Sre, particularly in relation
10 to Prey Sar; those 1,300 elements or detainees that were there in
11 1977, those other S-21 staff members and their families that were
12 there at S 24? You put a great deal of responsibility onto these
13 two men because they were the decision-makers, they were the
14 deciders as to whether any one of those people lived or died.
15 That was a great deal of responsibility that you authorized them
16 to have. Do you agree?

17 [09.51.12]

18 A.Mr. Co-Prosecutor, at the beginning I would like to make this
19 matter into two.
20 First, the S-21 staff at Prey Sar have better authority and
21 rights than the others who were at S-21 -- the rights to make the
22 arrest. So for those who were at S-21 with me, they needed to
23 come through me before arrests and anything. So the elements in
24 the three categories that I reported to the Chamber, it was a
25 great authority that I delegated to them.

18

1 Why it was like that? Because the Party instructed like that.
2 For those who were half prisoner, the subordinate at that place
3 can make decisions, so their authority and power regarding those
4 elements, I agree that it was a great responsibility that I
5 delegated to them.

6 Q.Thank you. And perhaps just a brief couple of questions on
7 the issue of reporting systems. I don't want to go into great
8 detail, but to the Co-Investigating Judges you have said that
9 reports were coming in from Prey Sar on a daily basis to S-21.
10 In a way, you were talking about production reports, rice
11 production reports and personnel reports, whether people were
12 sick, whether they were -- how many people were working. They
13 were coming into S-21 on a daily basis. And you have also said
14 you were getting other types of reports; reports in relation to
15 incidents that occurred at Prey Sar that would require your
16 particular involvement.

17 And you have also said today that you were getting reports of the
18 deaths, of deaths of individuals that had been sent to Choeng
19 Ek, and reports of arrests of individuals from Prey Sar to the
20 S-21 in Phnom Penh.

21 [09.54.14]

22 So it's very difficult to talk about one type of report because
23 they relate to very different topics. And so my question is, at
24 times you have said you received reports on a daily basis. At
25 times you have said you received reports on a weekly basis. And

19

1 just a moment ago, you said you received reports maybe on a
2 monthly basis.

3 Would it be fair to say, based on all of the statements you have
4 made, the Court will be able to review the transcripts in the
5 case file, that in fact you were well-informed about everything
6 that was happening at Prey Sar through your daily meetings with
7 Hor, your two to three meetings on occasion every day, your
8 constant contact with Huy Sre.

9 Wouldn't it be fair to say that you were given a lot of
10 information as to what was happening at S-24, but it's difficult
11 30 years later to remember back, particularly how much and how
12 often?

13 It's a long question, again, but perhaps if you can try and I can
14 repeat. I can abbreviate it if that's necessary.

15 A.Thank you, Mr. Co-Prosecutor who understands my recollections.

16 It was 30 years now. It diminished or it's become weak.

17 I received written reports on the paper about the number of sick
18 people, the people who can do the work in principle at the
19 battlefield. They prepare that kind of report so that the
20 Commander can make decisions.

21 [09.56.40]

22 But based on those reports, I did not make any instruction as you
23 may know. I have lots of work to do so I gave priority to the
24 annotations so as they were doing that kind of work a long time,
25 so I delegate that work for them.

20

1 In a monthly report it is a regular report and sometimes several
2 months there was one report. But some of the reports I look at
3 them and I make annotations and send to the upper echelon. And
4 some of the reports I would just receive and keep. But I'm not
5 quite sure how many reports that I received and how many of them
6 that I read and annotated. I could not recall the exact number.
7 So if you have the documents so that I can look and I can tell
8 you further if you have the documents. I think my response is
9 not giving enough information to you. If you have any further
10 questions, please.

11 Q.Thank you. I won't show you any documents because as you
12 might know, I have 10 minutes left to question you and perhaps I
13 can ask you say three last questions.

14 The first one is in relation to the killings at Prey Sar. You
15 had effective control over Hor and Huy Sre and you were told
16 about when those killings had occurred, but you did nothing. You
17 did nothing to stop those killings throughout the three-year
18 period. And if you can say yes or no, I would appreciate it.

19 A.Mr. Co-Prosecutor, your question is very clear. Yes, I did
20 not stop it.

21 Q.Thank you. Just two more questions.

22 [09.59.33]

23 In fact, you had given a standing killing order, a standing
24 killing order to Huy Sre and to Hor to implement as necessary at
25 Prey Sar; yes or No? And if I need to explain what standing

21

1 order means, I can do that.

2 A.I cannot understand the meaning of your question. My apology

3 -- can you repeat your question, please?

4 Q.I've looked across the courtroom and I think a few others

5 didn't, so perhaps it was me.

6 By giving Hor and Huy Sre the authority to decide on what

7 offences would require a killing at Choeung Ek from Prey Sar, by

8 giving them that authority, that was an order or an authority

9 that only needed to be given once. You didn't need to give it to

10 them every day for those two and a half to three years. There

11 was an understanding that they had that power to do it.

12 A.Your question is clear now. Yes, the authority was given once

13 only. I do not need to repeat the authority given to them on

14 each case.

15 Q.And my last question -- so if we look at the killings of

16 prisoners at Prey Sar that were taken to Choeung Ek, you can't

17 say -- you can't say your superior ordered you to do that, but

18 you took positive steps with Huy Sre and Hor to ensure that

19 detainees at Prey Sar were killed because you were deeply

20 committed to the criminal ideology of the CPK. Do you understand

21 that question?

22 A.Yes, I will attempt to answer your question. If it is not to

23 the point you can repeat your question.

24 [10.02.34]

25 The criminal line of the CPK -- yes, I am fully responsible for

22

1 it.

2 However, in the actual implementation, they implemented it, but I
3 am responsible before the Party so I am responsible for all these
4 crimes.

5 Q.Thank you, Mr. Kaing Guek Eav. We appreciate your honesty and
6 your clarity.

7 MR. SMITH:

8 No further questions, Your Honour.

9 MR. PRESIDENT:

10 Next, the floor is open for the civil party lawyers.

11 First, the floor is now for the lawyer for civil party group 1.

12 You can put questions to the accused. You have 15 minutes in
13 questioning the accused.

14 [10.04.01]

15 MR. WERNER:

16 Good morning, Mr. President, Your Honours.

17 I want to inform you that, yes, indeed, all the civil party
18 groups are anxious to put questions so we have divided up the
19 total speaking time by four. Each group has 15 minutes. Please
20 authorize us, as last Tuesday, to divide up our own time, and I
21 would like my colleague to take the floor first.

22 Thank you for your understanding.

23 MS. TY SRINNA:

24 Thank you, Mr. President. Because of the short time allocation,
25 let me put the questions straightaway to the accused.

23

1 QUESTIONING BY CIVIL PARTY COUNSEL

2 BY MS. TY SRINNA:

3 Q.First question. When you requested to have the Baku location,
4 as you said yesterday, was it your own initiative or not?

5 A.Ms. Lawyer, it was my own initiative.

6 Q.In relation to the Prey Sar location, were pits dug in order
7 to bury the dead bodies?

8 A.Let me respond in one word. I am unclear. However, in
9 principle, as per my instructions, there should be no burial site
10 at all at Prey Sar.

11 [10.06.13]

12 Q.Yesterday and the day before yesterday, you said you went to
13 Choeung Ek for one time and to Prey Sar for four to five times.
14 When you went there, you saw the overall view of the locations.
15 Did you ever think you committed an offence toward those
16 prisoners?

17 A.Ms. Lawyer, the lives of people, directly or indirectly, were
18 ordered by us to be killed, to be monitored or to have pressure
19 applied. Yes, I thought of that, however, what I said is not a
20 denial.

21 In order to counter that feeling, I stick to the view that the
22 government was responsible before the history. At that time, I
23 did not believe that the DK would be defeated, so I did what I
24 was asked. This is my response to the government at the time and
25 that was my thinking. Although I saw those crimes, I did not

24

1 protest.

2 Q.Thank you. And after you returned, did you ever think or
3 attempt to minimize the killing activities?

4 A.Ms. Lawyer, frankly speaking, no. I only tried my best to
5 survive. I did what I was asked.

6 Q.Thank you. Yesterday, you said on the 6th of July 1979 -- my
7 apologies, it's the 6th of January 1979 -- you fled from Phnom
8 Penh due to the attack of the Vietnamese troops. You also said
9 the surviving prisoners who fled along with you. Was that true?

10 A.Ms. Lawyer, when I fled Phnom Penh, that was correct. I fled
11 hastily. I only had the clothes on my body. I left at 2 p.m. on
12 the 7th of January '79 and from Phnom Penh there were some people
13 who fled along. However, there were some remained behind and I
14 think I only knew this after I saw the photos, the nine people
15 who remained behind, and the rest fled with me. This is my
16 response.

17 [10.09.51]

18 Q.For those who fled along with you, did they go voluntarily or
19 were they forced with weapons to go along with you?

20 A.I did not see it directly but they went along with us. The
21 situation was chaotic, so I don't think anybody forced anybody
22 else because of such chaotic situation. This is from my
23 recollection.

24 Q.Thank you. This is my last question.

25 I want to ask, when you acknowledged your responsibility for your

25

1 crimes during the Democratic Kampuchea, when did you realize of
2 your criminal responsibility? Does it occur to you now or you
3 were aware of that from that era?
4 A.Ms. Lawyer, as human beings we are not too cruel to
5 acknowledge the criminal activities we did, however, at that
6 time, in order to comfort ourselves we just pretended it was the
7 work of the police that we had to do. And I was told of my
8 responsibility and the police work when I was being assigned to
9 be the chairman. Because they gave the orders for the arrest, so
10 they were responsible before the history.
11 And later, on when I saw so many mass killings, I became so
12 shocked and my only wish was to ask for forgiveness and to pray
13 for the souls of those who lost their lives in Cambodia, in
14 general, and in S-21, in particular.
15 [10.12.04]
16 However, before the law, I am still a policeman and they, they
17 are still responsible before the history. At the Military Court,
18 I reported everything, and when I met a journalist I also
19 reported it. Also, with the Japanese, the Italian journalists I
20 told them, "I am a policeman and they were the government".
21 However, now before the ECCC, when the two different counsel
22 explained to me that I had to confess and be responsible for my
23 crimes, so whatever I can recall, I speak it out and if there are
24 any further documents, yes I would acknowledge more. And I would
25 not put the blame on the government like I did in the past. I

26

1 acknowledge I am a criminal amongst those criminals. And that
2 was my stance.

3 Q.Thank you. Thank you for answering my questions. I have no
4 more questions.

5 MS. TY SRINNA:

6 I would now like to give the floor to my international colleague.

7 MR. PRESIDENT:

8 Yes, the floor is yours, Lawyer Werner.

9 MR. WERNER:

10 Mr. President, my Swiss watch says I still have five-and-a-half
11 minutes, so I shall do my very best to ask questions on only one
12 topic in five-and-a-half minutes.

13 [10.14.03]

14 BY MR. WERNER:

15 Q.Good morning. I would like to concentrate on one particular
16 aspect that I believe has not been covered or has only been
17 covered very, very briefly yesterday and today, the transfer of
18 staff members from S-21 to Prey Sar.

19 You made a statement with the Co-Investigating Judges but I don't
20 have enough time, I think, to read it all out. Let me just
21 summarize what you said to the Co-Investigating Judges on 30th
22 April 2008. The reference is D71, page 2 and 3.

23 Fundamentally, you said that when relatives or close people of
24 S-21 cadres were arrested, the cadre would be sent to Prey Sar to
25 be closely monitored, and you mentioned the example of Sou Met

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1 who worked in S-21. His brother and sister-in-law were arrested
2 and they had committed no offence. They were sent to Prey Sar.
3 Can you confirm that this is correct?

4 A.Thank you, Mr. Lawyer. Yes, I can confirm that. There is no
5 change.

6 Q.Thank you. And, very briefly, according to you, how many
7 times would this kind of thing have happened? How many members
8 of S-21 staff were sent to Prey Sar?

9 [10.15.52]

10 A. I cannot recall, but I can raise one issue.
11 Comrade Tuy Teng, who was responsible for digging pits at Choeung
12 Ek, was a cousin of other two comrades. We sent them to dig pits
13 and they were removed from the special unit in Phnom Penh. So
14 that was one incident. That is related to the relatives.
15 So that is an example for you, and there are other cases as well.

16 Q.I would like to put the following to you. You said with the
17 Co-Investigating Judges, and I shall not read it in full, let me
18 simply summarize.

19 On the 18th February 2008 -- and from my colleague, this is
20 reference D46, page 8 and 9 -- you said to the Co-Investigating
21 Judges that the same thing happened to you, meaning that a member
22 of your family was arrested in S-21. You were referring to your
23 brother-in-law, Tun. You said that one first time you tried to
24 cover him. You wrote clandestinely a letter to Son Sen for your
25 brother-in-law not to be arrested and, finally, Nuon Chea ordered

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1 the brother-in-law to be arrested and your brother-in-law
2 consequently was transferred to S-21. Can you confirm this,
3 please?

4 A.Mr. Lawyer, what I can think as a misinterpretation is only on
5 word -- that I wrote a letter to Son Sen. I did not write a
6 letter to him. However, the principle that I wanted to defend my
7 brother, yes. And later on, Uncle Nuon ordered for his arrest,
8 yes. I would just say a little bit more in addition to my
9 response to your question. Is it possible?

10 Q.Sir, since my time is virtually over. I have two last
11 questions. I think we understand that your brother-in-law was
12 sent to S-21. My follow-up question is as follows.

13 [10.19.12]

14 There was a rule to the effect that when an employee of S-21 had
15 families, that family would be sent to S-24. Why did nothing
16 happen to you when your own brother-in-law was sent to S-21? How
17 can you explain this, sir?

18 A.Mr. Lawyer, that is the issue that I want to add to your last
19 question. Within my family, I was the main person and in the
20 Communist Party of Kampuchea, I was the main person within my
21 family. If I was arrested then everything is gone, nobody would
22 be spared. My brother was arrested. He was just an ordinary
23 member of the family.

24 MR. WERNER:

25 Mr. President, please, one minute for one last point. May I?

29

1 Thank you.

2 BY MR. WERNER:

3 Q.I would like to suggest the following, sir. We seem to be in
4 the same kind of scenario as the day before yesterday regarding
5 confessions of Ke Kim Huot and Vorn Vet that we were referring
6 to and where you were involved.

7 Our hypothesis is as follows. I would simply like to submit this
8 to you and to get your comment.

9 The idea is, whatever the purges, whatever the deportations that
10 were all around you, whatever the level of your own involvement,
11 either through confessions or through a member of your family
12 sent to S-21, nevertheless, nothing ever happened to you. You
13 were beyond being affected and you were, thus, not touchable
14 because you were protected by Son Sen and Nuon Chea because they
15 appreciated your zeal, especially in the form of the lists of
16 enemies that you provided.

17 [10.21.46]

18 This is the hypothesis that I am putting to you once again. Do
19 you agree with this?

20 A.Mr. Lawyer, thank you, Mr. Lawyer.

21 I survived because of all these matters and that is the reality.
22 However, the important thing in hindsight, that is, I was
23 absolutely loyal and honest to them and that was seen through
24 their eyes.

25 I was monitored and followed as well. They had some mistrust on

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1 me as well. So this is my response to you.

2 MR. WERNER:

3 Thank you very much for answering and thank you for your

4 indulgence, too. Thank you.

5 MR. PRESIDENT:

6 Now it's time for the lawyer for the second group of the civil

7 party.

8 Before I hand the floor to the lawyers, I would like to remind

9 the accused to try your best to use pseudonyms for the witnesses

10 who are involved in the case file, and they have not yet provided

11 their testimonies to this Chamber. So for all the witnesses or

12 those people involved in the case file, please use the pseudonyms

13 which were already given to you.

14 [10.24.06]

15 Next, the floor is for the lawyers for civil party group 2 if you

16 have questions for the accused.

17 MS. STUDZINSKY:

18 Yes. Good morning, Mr. President, Your Honours.

19 We have questions and I will represent group 2. I assume that I

20 can ask my questions before the break. Am I right? Thank you.

21 BY MS. STUDZINSKY:

22 Q. My questions are the following. You have told us that

23 "elements" was an officially used term, and you have told us as

24 well that so-called elements have lost their rights of civilians

25 and were treated like other males. Is this correct?

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1 A.Ms. Lawyer, it is correct.

2 Q.Thank you. My question is then, was this term accompanied by
3 the term "contemptible" like it was used for the enemies, or were
4 other degrading words added in the official use of elements, also
5 to add other degrading words like, for example, enemy and "A" or
6 Contemptible?

7 A.Ms. Lawyer, the term "contemptible" was used for the animals
8 and for the enemies, it is correct. But for the elements,
9 contemptible and evil thing is not used for the elements, but
10 they were not given the same rights as others. That's all I can
11 say.

12 [10.26.46]

13 Q.Thank you. My next question on this issue is, did the term
14 "elements" have a similar function like the term "enemy", and
15 there I mean with the same function to use this term for them to
16 facilitate that staff could ill treat them, beat them, torture
17 them, interrogate them, to facilitate this work for the staff?
18 Did it have the same or, let's say, similar function or role?

19 A.Ms. Lawyer, the term "elements" I explained already. It means
20 that the person is half enemy, is half friend, but it's not clear
21 whether he or she is a friend or enemy. The terms was used in
22 practice is more serious than the 17 April people. Yeah, it is
23 more serious than the 17 April people.

24 Q.But could I ask then, was it easier then for the staff in S-24
25 when they called them "element" to ill treat them, to force them

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1 to labour and so on? Was it easier than call them by name, for
2 example?

3 A.Yes, it is correct.

4 Q.Thank you. Now I can move to another issue.

5 Have you been aware at the time that group weddings were ordered
6 during the DK period? This is a general question.

7 A.Ms. Lawyer, I would like to explain a bit longer. In Phnom
8 Penh, I never saw any wedding. They just call like this man is
9 the husband of that. So it's Ta Mok's way. So, myself, I have
10 fall in love with my wife for quite a long time and then I
11 request to be married. So at S-21, there were only two couples,
12 Pon and Hor, a couple.

13 [10.30.02]

14 So for others who were married by the former unit because of the
15 men and women fell in love with each other and they were married.

16 Q.This was not really an answer, a full answer to my question.

17 I would like to repeat.

18 Have you, or were you, aware at the time -- in general. I do not
19 ask about your case or special cases. Were you aware about the
20 policy -- I would like to call it a policy, a practice of group
21 weddings in general organized by Angkar? Were you aware about
22 this practice in the country, very generally?

23 MR. PRESIDENT:

24 The lawyer, you seem to ask the question which is not related to
25 fact. So the accused may not respond.

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1 MS. STUDZINSKY:

2 So, Mr. President, this is only the introduction question for my
3 next question which is directed related to S-24 and what we have
4 already discussed, and I really would like that you allow the
5 accused to respond. It is only the introduction.

6 MR. PRESIDENT:

7 Your request is denied, and the accused is not allowed to respond
8 to any question other than those that fall in the facts for the
9 hearing.

10 BY MS. STUDZINSKY:

11 Q.My next question is then, some days ago, we have seen a
12 photograph of the meal of the wedding of Nun Huy and Khoeurn.
13 Was this marriage a group wedding?

14 A.As far as I recall, the Division 703 married the couples and I
15 invited the new couples for a party at my house so that I can
16 introduce them to other comrades. It's only one couple was
17 married by Division 703 then.

18 Q.At least in the English translation this was a contradiction.
19 First it said there were couples married and then only one
20 couple. Can you please clarify; were there one or several
21 couples and, if so, how many couples married together at the same
22 time with Nun Huy and Khoeun?

23 MR. PRESIDENT:

24 The question was outside of the facts, so the accused need not
25 respond.

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1 Lawyer, please reframe your question to follow with the facts
2 that we allow for your questioning. So repeated questions and
3 leading questions, and questions with the explanation, it is not
4 allowed to be asked. So your time has almost run out.

5 [10.34.15]

6 MS. STUDZINSKY:

7 Mr. President, I looked at this clock and I have still five
8 minutes. Thank you for this advice but of course I need
9 explanations to introduce a question. If not, it is meaningless,
10 and this question is only to explain. I will not refer again to
11 this but show, of course, living conditions of staff and which
12 show how they lived in S-24 and could demonstrate also how their
13 private life was made a life organized by Angkar.

14 BY MS. STUDZINSKY:

15 Q.Now I come to my next question. Can you give me a reason for
16 -- you explained that men and women in S-24 were separated, and
17 is this correct?

18 A.Men and women, when they were not married couples they had to
19 be separated. And if they were couples they can meet each other
20 once in every 10 days. This is the policy or principle of the
21 Party.

22 Q.And can you give, if you know for a reason -- can you give a
23 short answer with a reason for this separation?

24 A.Ms. Lawyer, the reasons, there is nothing rather than done to
25 put together the physical force and to avoid any spending time,

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1 husband and wife, enjoying together.

2 Q.Thank you. I come now to my last question, which concerns a
3 general policy at Prey Sar. If I'm right, what you have said
4 yesterday and today is successful re-education which could be
5 followed by release was impossible. Is this correct?

6 A.Ms. Lawyer, at S-24 none of them was released, it is clear.

7 [10.37.39]

8 Q.And then I would like to get an answer to my question: why
9 was S-24 necessary if they were in any case sent to be killed, be
10 it S-21 or Choeung Ek? Why was this interim -- let's call it
11 interim -- centre necessary?

12 A.I would like to tell you that it is the decision from the
13 Party in that management and organization. I can only say my
14 understanding about their policy. As far as I understand, those
15 people and the Party had no real and sufficient decision to
16 interrogate, to torture, to execute, but they decided to keep
17 them for a while so that they can make further decisions. This
18 is my understanding. It's not a written decision from the Party.

19 Q.Thank you.

20 MR. PRESIDENT:

21 And it is now time for us to take the break and we will take a
22 20-minute break until 11 o'clock, and the parties and the public
23 please come back before that time.

24 (Judges exit courtroom)

25 (Court recesses from 1040H to 1100H)

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1 (Judges enter courtroom)

2 [11.00.39]

3 MR. PRESIDENT:

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

5 I would like now to give the floor to the civil party lawyers of

6 group 3 if you have questions to be posed to the accused. The

7 floor is yours.

8 MS. MOCH SOVANNARY:

9 Thank you, Mr. President, Your Honours.

10 BY MS. MOCH SOVANNARY:

11 Q.Thank you, Mr. Accused, for answering my questions.

12 I only have two questions for you and I would then ask for my

13 President's permission for my colleague to continue to take the

14 floor.

15 [11.01.33]

16 Yesterday, you claimed the people who were arrested and sent to

17 the re-education office S-24 at Prey Sar, was that before they

18 were sent to Prey Sar they would be sent to the location marked

19 "R".

20 So the question is, when they were placed at the location marked

21 "R", how long were they kept there and what did they do to those

22 people before they were sent to Prey Sar?

23 A.Ms. Lawyer, the "R" location was on the maps that I drew for

24 the Co-Investigating Judges at 360, and that location was

25 purchased by Mr. Mam Sonangdo for his Beehive radio station. At

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1 that time, it was like a temporary location to receive those
2 people.

3 So after the people at that location received, then they were
4 sent directly to Prey Sar.

5 Q.Thank you for your information. My second and last question.

6 In your mind when you were in charge of S-21, including Prey Sar,
7 did you believe that those people who were regarded as the
8 elements were dangerous and could cause any risk or danger to the
9 Party?

10 A.Ms. Lawyer, to believe it completely, no. In simple layman
11 term is that I, of course, believed to an extent; for example, 10
12 percent.

13 Q.So I can conclude -- and can you say whether my conclusion is
14 correct -- can I conclude that you only believed 90 percent that
15 the elements would be a danger to the Party?

16 A.Let me reiterate. I only believed 10 percent, not 90 percent
17 like you said.

18 [11.04.14]

19 Q.So it means 90 percent, they would not be a danger to the
20 Party. That's one point.

21 And the second point, you had the right and authority to decide
22 on their fate because the rights to smash them halfway was on
23 you, but you chose by ignoring them and dedicate to the
24 responsibility to your subordinate. Is that correct?

25 A.Ms. Lawyer, that is correct. I dedicated the authority to

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1 them to decide.

2 Q.Thank you for your cooperation.

3 MS. SOVANNARY:

4 I would like now to give the floor to my colleague. Thank you.

5 MR. KIM MENGKHY:

6 Thank you. Mr. President, Your Honours, ladies and gentlemen,

7 let me continue the questions for group 3; the questions from our

8 victims to the accused in three cases.

9 BY MR. KIM MENGKHY:

10 Q.One, they want to know whether people were taken to be smashed

11 from Prey Sar for the reason of stealing fruit or one piece of

12 potato?

13 And in the second case, regarding the digging of canal for three

14 days without food or even a single grain of rice, and they were

15 forced to work constantly from 2 a.m. until 5 p.m.

16 And in the third case, a lighter was used to burn the elbows and

17 the knees of the female youths who were sick and could not work.

18 Were you aware of these three cases?

19 A.Mr. Lawyer, the pain and suffering of the victims, I would not

20 deny it. I accept -- I accept them all. If I did not issue an

21 order, then I would not know. But I would not deny it, all the

22 sufferings by the victims.

23 Q.Thank you. My next question. It is also the words conveyed

24 by the victims regarding the method of smashing that you said.

25 I did not hear that you ordered the smashing of people by

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1 slashing throat, by beheading the prisoners. So the questions by
2 the victims is that, did the case occur because the people were
3 taken from Prey Sar to Choeung Ek by beheading the 160 people at
4 Choeung Ek?

5 A.Mr. Lawyer, I heard this as an information but there is no
6 evidence to show whether it happened or not. So it's hard for me
7 either to accept or deny it but, yes, I have heard that incident.
8 When I was the chairman of S-21, I did not issue any order for
9 beheading any prisoner. That is number one. And, number two, I
10 did not hear any information regarding the killing and after that
11 the heads were removed from the bodies.

12 [11.08.44]

13 Q.Thank you for your explanation. I am still unclear that if
14 there is no evidence to confirm that the beheading took place.
15 Can you confirm that the beheading was a result of taking the
16 heads to show as an evidence instead of providing the report?

17 A.I would like to confirm with you that only important people
18 whom were afraid to be released by the S-21, so we were ordered
19 to photograph them. Regarding this 161 people were not amongst
20 those who were ordered to be smashed and photographed. This is
21 my clarification for you.

22 Q.Thank you. My next question.

23 You said Prey Sar was a part of S-21 in the implementation of the
24 Party's policy line, and your response to the Chamber was that
25 there were only two remaining classes, the peasant class and the

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1 worker class. How come in Prey Sar there were those people who
2 were within the peasant and the worker classes and they were also
3 smashed? Was it the intention of those people working in Prey Sar
4 to do so?

5 A.Mr. Lawyer, in theory, two classes were promoted to be the
6 main classes. However, in the implementation, if you were in the
7 peasant class and you betrayed the Party then as an individual
8 you were an enemy, but for the overall class, yes, the classes
9 were respected.

10 [11.11.26]

11 Q.So you acknowledge that what happened was in confirmation to
12 the Party line?

13 A.In implementing the Party line, it's going to be very deep and
14 long. Let me answer briefly.

15 The implementation at the time was biased. We respected the
16 peasants but not in the actual implementation. The peasants in
17 the north were easily killed. They only promoted the peasants of
18 Ta Mok. So that was a bias. That's why I drew the cartoon to
19 show the missed implementation of the line at the time, and that
20 was the implementation by the Standing Committee and it was
21 wrong.

22 Q.So this means the implementation of the CPK political line in
23 Prey Sar, or in the North Zone, like you just said, was a biased
24 implementation from the actual line of the CPK policy line. Is
25 this correct?

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1 A.Mr. Lawyer, whoever caused the least implementation of the
2 line, we didn't know who was the source. And the source was the
3 Secretary of the Party, that was Pol Pot. So we could not
4 protest, we could not object. This is my response.

5 Q.I have my last question to you, you talked about the biased
6 implementation by Pol Pot, the Party Secretary, and that it was
7 then toward Prey Sar. In your due and understanding, the sweat
8 and the blood, and the screams of the victims, and the victims'
9 relatives, at present time should there be a level of
10 responsibility for those who implemented the biased political
11 lines? Can you tell us that?

12 A.Mr. Lawyer, if we talk straight to the point, the crimes
13 committed on the Cambodian people after the 17th April '75 until
14 the 6th of January '79 were the CPK's crimes as a whole on the
15 entire Cambodian people. More than 1,000,000 people were lost.
16 I personally, I only blamed one superior. I declared when the
17 trial started that Pol Pot arrest that line because he had
18 thousands, hundreds of thousands of supporters behind him. That
19 why he dared to raise the line.

20 [11.15.37

21 So the killings of more than one million Cambodian people was the
22 responsibility of all those Party members. They had to be
23 responsible before the Party, and the nation and the world. So
24 not only the Party, but all the members had to be responsible for
25 this and had to acknowledge that it was wrong. And particularly

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1 at S-21, I am the one who committed the crimes and I am
2 responsible for the crimes, they were the superior, they arrest
3 the wrong line and on behalf of the Party, I am responsible for
4 the crimes, and I am responsible for the crimes before this ECCC
5 tribunal.

6 Q.Thank you.

7 Mr. President, group 3 do not have any more questions for the
8 accused.

9 MR. PRESIDENT:

10 Now I would like to give the floor to the lawyers for civil party
11 group 4.

12 MR. HONG KIMSUON:

13 Thank you, Mr. President. Your Honours, ladies and gentlemen. I
14 put a question directly to Mr. Kaing Guek Eav, Duch, due to time
15 restraint.

16 [11.17.21]

17 BY MR. HONG KIMSUON:

18 Q.Yesterday you spoke about the Baku Centre, and you told the
19 Chamber and the President that it was a part of 703 Division.
20 Can you say when you requested the Baku location to be under your
21 management? When was that?

22 A.I could only estimate the year. I think it was in 1978, when
23 all the soldiers went to the front battlefields.

24 Q.Thank you. You also told the President and the Chamber
25 yesterday that the Baku location or centre was later managed by

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1 S-24, or Prey Sar. Is that correct?

2 A.Mr. Lawyer, that is correct.

3 Q.Thank you. You also told the Chamber that you went to Prey
4 Sar, or the President said we could call it S-24? I am not
5 clear, can you verify, you went to Prey Sar to the Huy Sre's
6 location? How many times did you go there?

7 A.Mr. Lawyer, I went to Prey Sar for four times, and I went to
8 Baku for one time when Comrade Huy was arrested.

9 Q.Thank you. As you already told the Chamber regarding the
10 categorization of the elements into three groups: one, two,
11 three. And the third group you would talk about the prisoners.
12 They were the most serious prisoners who were to be smashed. And
13 what about in Baku? How many categories were those people
14 divided into? Or where they still called elements?

15 [11.19.54]

16 A. Mr. Lawyer, Baku was a small location. There was residence
17 of Lon Non and a few houses, and one water basin. It was only
18 reserved for the staff of S-24 to use as a residence. And, as
19 for the elements besides the times that they worked, they slept
20 elsewhere.

21 Q.Thank you. At Baku, you said that the elements were also sent
22 to work somewhere surrounding Baku?

23 A.Yes. They were sent to work there, yes.

24 Q.Thank you. My next question is who sent, I want to say, the
25 group of elements, most of them were women, children, or men?

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1 A.This is -- you are talking about a real practice that I have
2 never been in that position. I could not answer.

3 Q.Thank you. Based on the minutes of interview by the
4 Co-investigating Judge and also the same in the agreed fact, in
5 principle that you said that the Policy of the CPK and you
6 received the order and then you further ordered to your
7 subordinate, your staff, or your cadre, or your female combatants
8 and male combatants, including in S-21 Phnom Penh, and at S-24,
9 Prey Sar.

10 What was the limits of authority that you delegate to
11 subordinate, so that how many hours, how long that you order your
12 subordinate to force those people to do the work?

13 A.In principle, when there was a strong attack or offensive, we
14 enforce eight hours working day, a day. But it is 30 days, over
15 30 days a month.

16 [11.22.46]

17 Q.Thank you. Were you aware of the situation where those
18 subordinates enforced 13 hours a day for those detainees?

19 A.Yes, in the offensive season, it was unavoidable that they
20 enforced that.

21 Q.Thank you. My question is that those you refer to as
22 "elements", including the category 1, 2, and 3, are all of them
23 provided the biography and exposed with the photo on behalf of
24 S-21?

25 A.I am not sure. It is the practice at that time. I did not

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1 make any instruction like that.

2 Q.Did you ever receive a report in form of a biography of those
3 elements through Comrade Huy Sre or Comrade Hor to you?

4 [11.24.25]

5 A.Mr. Lawyer, I maintain the same position. In my capacity and
6 authority, if I need anything, I will get it, but I allow my
7 subordinate to do the job.

8 Q.You told the Chamber about S-21 or Tuol Sleng, and Prey Sar or
9 S-24. It was established since the Division 703 under Nat. It
10 means that it is a little bit after the 17th April 1975 and it
11 operated until 6th January 1976. And you also told the Chamber
12 that S-24 was a re-education centre. It was not only for the
13 staff from Tuol Sleng; the staff are from other units.

14 My question is that, what was the difference between the persons
15 or the people who were consider as the prisoners at S-21 Tuol
16 Sleng, and those who were in the elements at S-24 and that you
17 refer to as the half-prisoner? For those who transferred to
18 S-21, so anyone sent there shall be smashed. So what happened to
19 those detainees at S-24? What was the political policy toward
20 them? Was there any different decisions than you made at S-21?

21 A.Anyone who were arrested and sent to S-21 Phnom Penh, S-21 had
22 to detain at Pohnea Yat High School that we turned it into
23 prison. Secondly, we had to interrogate with torture and,
24 thirdly, we took them out for execution.

25 For those who were at Prey Sar, the question earlier you said

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1 that you called them "contemptible" or anything so, in general,
2 beating and torture for interrogation was not allowed and there
3 was no smash without any reason so they should wait until other
4 times.

5 [11.27.38]

6 So those who were in elements unit, they had to work hard to
7 respect the discipline and they had to always orders their chief.
8 So they have some possibility to survive, even though the
9 likelihood for this is small, but there is some possibility for
10 them to survive. So the difference is only that. But for those
11 who were detained in Phnom Penh were all -- end up with death.

12 Q.You said that the possibility to survive, just to continue the
13 life or in principle at the end of the day, they will be smashed?

14 A.The possibility to survive is to continue onward unless he or
15 she committed any offence or wrongdoing, so if you can follow the
16 order of the chief, you can survive.

17 Q.Thank you. Before the break, you told the Chamber about the
18 elements and on the fact -- the document D99 on the Introductory
19 Submission and the Agreed Facts -- it mentioned about the
20 prisoner who suffered punishment on the immoral offence, or the
21 prisoners pretended to be sick or late in coming to work or do
22 not perform that satisfies to the boss. They was experience
23 torture or beating.

24 My question is that, at the re-education centre at S-24, do they
25 have the right to move or to walk around at night and during the

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1 daytime without any permission?

2 A.No.

3 Q.So at night could they go out from their house or their

4 detention facility outside somewhere?

5 [11.30.21]

6 A.You come to the real practice. I am not in a position to say

7 that, but they could come out for defecate or to -- small thing

8 like that.

9 Q.In that regime, talking about S-24 or Prey Sar, it's similar

10 to a question made by Ms. Studzinsky. Was there any mass

11 marriage for the staff of S-24?

12 MR. PRESIDENT:

13 The question does not fall in the facts, so the accused need not

14 answer.

15 BY HONG KIMSUON:

16 Q.The management at Prey Sar, because I do not receive any

17 information on that, so what does the immoral offence in the

18 sexual transaction, what does it mean at Prey Sar?

19 A.It is the same for S-21 and S-24. The immoral offence in the

20 sex matter, it's a man and woman have sex without any marriage.

21 This is the definition of the immoral offence under that regime.

22 Q.I have another question as permitted by the President.

23 It is the offence which the victim should be sent to Choeung Ek

24 and to S-21; what was the offence that caused the detainee to be

25 sent to either direction?

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1 A.I mentioned already there were two offences. There's the plan
2 to rebel or any tendency to oppose against the guards. This is a
3 serious offence and the second main offence. And in addition to
4 that, the immoral offence is one of the serious offences. But
5 during the period when I was the chief of S-21 and also S-24
6 there was no incidence of immoral offence between men and women,
7 and there was none of the cases that I reported to the upper
8 echelon. That's all.

9 Q.Thank you.

10 MR. HONG KIMSUON:

11 I would like to ask your permission, Mr. President, and he said
12 that there were two offences. So what about the transfer of
13 those children directly to Choeung Ek?

14 [11.34.05]

15 MR. PRESIDENT:

16 Please, the accused, you need not answer this question because it
17 was already asked. They committed no offence but the policy then
18 was that they were fearful of revenge and there was not food
19 supply for them. So your time is running out, Mr. Lawyer.

20 And next the floor is given to the defence counsel so that you
21 can put the questions to your client on the establishment and
22 operation of the re-education centre at Prey Sar, or referred to
23 as S-24.

24 MR. KAR SAVUTH:

25 Mr. President and Your Honours.

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1 QUESTIONING BY DEFENCE COUNSEL

2 BY MR. KAR SAVUTH:

3 Q.Mr. Kaing Guek Eav, in your response to the questions made by
4 Mr. President yesterday you said that at S-24 and S-21 the right
5 of movement was limited and it was enforced against the
6 prisoners, and you said that it is also enforced against the
7 staff of S 24 and S-21, and also against you.

8 Is that true?

9 A.Mr. Lawyer, it is true; absolutely true. Let me give a short
10 description, the freedom of movement. We have to travel only on
11 the assignment, so I went to Prey Sar. It is in the framework of
12 assignment. When I went to work with the superior it is in the
13 framework of assignment. So everyone across the country had to
14 follow that framework, so for the interrogator they never went to
15 anywhere because they had to follow their assignment in that
16 location. So any travel had to follow the permits.

17 [11.36.48]

18 Q.Yesterday you said that you never restricted your mother or
19 your home village. So in practice can you explain about the
20 right of movement? Was there any restriction on that?

21 A.Mr. Lawyer, as I told you earlier, travel had to follow the
22 assignment to perform duties. It is important but the Party
23 sometimes allowed -- for example, after my marriage the Angkar
24 allowed me to send my wife to Longveaek and then later after that
25 I was allowed to accompany my mother to Stoung.

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1 So the Chamber also heard that I said I went to Brother Hok. I
2 did that. I had permission from my superior. In a very few
3 cases the Party allowed you to do that. It's not very often.

4 Q.Thank you. The next question.

5 Yesterday you gave an example about the staff of Nun Huy who
6 fled. Was it easy to fled during that regime; because his staff,
7 the radio operator, can fled successfully. Is it easy at that
8 time?

9 A.Mr. Lawyer, when you are talking about fleeing we need to look
10 into two aspects. First, someone moved out from the location,
11 from one location to another. It is okay to do so but when he or
12 she stays in any other location, so there was no destination in
13 the DK that would allow you to do so. There were some people
14 fled from the unit but they can do that by hiding in the forest,
15 but they had no food to eat and then at night they will come out
16 to look for food, and they're later arrested.

17 [11.39.43]

18 So if someone went out from the unit, you can do that, but the
19 question is that where can you stay? So they will be considered
20 as the enemy, as the -- or the bad people. So another example
21 that I can give: on the 29th of October I fled from to join the
22 revolution with the Khmer Rouge, so I can do that because there
23 was the people who support that activity.

24 So in conclusion, for those who were in the network -- but when
25 you fled away from the network you will be arrested. So I was

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1 assigned to work in the northeast but my network was cut off at
2 Kratie, and later I was sent to another place. So the secretary
3 named Suy Phal fled but he hide next to a Chinese hospital. We
4 need to think on this matter.

5 Another case, my superior survey me every day. I cannot flee.
6 If he calls, if no-one picks up the phone, they would take every
7 measure to that effect. Vorn Vet could not escape and any other
8 could not escape. That's all I can say.

9 [11.41.42]

10 Q.Thank you. Yesterday, in response to Thou Mony's question,
11 you said the word "re-education" means to re-educate and to build
12 oneself as new and become a new person.

13 What does it mean to re-educate and to build oneself as a new
14 person? And as for you yourself, you did not receive any
15 re-education because during that time you were already a new
16 person during the S-21 period.

17 Can you describe the method of re-educating oneself to be a new
18 person?

19 A.Mr. Lawyer, I had an intention to move myself, to transform
20 myself from an ordinary person to a communist person. That was
21 during the 1964 through my training and tempering. And the Party
22 recognized me that I will be able to join the Party and finally
23 would be a Party member. So I was a new Duch, who was so
24 different from Kaing Guek Eav, who was a math professor in
25 school.

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1 Q.Thank you. So when you were a professor, you were an old
2 person in the old regime and Duch, the chairman of S-21, you were
3 a new person in the Communist Party of Kampuchea. And Duch at
4 present time during these current regime, are you responsible for
5 the lives of the 160 children and how? Just to recap, those
6 children were sent directly from S-24 to Choeung Ek. What is
7 your responsibility?

8 A.Mr. Lawyer, I reported already to the Chamber whatever
9 happened, especially the development of a human being's feelings,
10 it moved steadily, and my impression on the crimes also move
11 steadily.

12 It started from 1973. I said I was shocked for the loss of
13 lives, and that was since 1973, and it progressed from there and
14 I wanted to leave. And this is not a pretence or to pretend that
15 I am suffered, but that was the progress of my feeling. And,
16 finally, to cut it short, I am willing to be responsible for the
17 souls lost by comforting my emotion by praying to them. So that
18 was one aspect.

19 And when we met together at the Military Court, from the legal
20 perspective, the blame I could place on the government because I
21 could say I was a policeman at the time and it was the
22 responsibility of that government at the time.

23 However, now we meet again, the three of us here before the ECCC.
24 We came across the questionings during the investigation phase,
25 and now it comes to the trial at the Chamber before this Court.

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1 Do you see me as another new person? I bow myself before the
2 Cambodian people. And that is my attitude.

3 Q.Thank you. Let me continue my question.

4 Before any element was taken to be smashed, was a decision made
5 at your level or was a decision -- a decision was made about you?
6 Can you clarify on that?

7 A.Mr. Lawyer, I reiterate again to the Chamber that the elements
8 who were re-educated at S-24, and based on my own analysis and
9 conclusion, I think it was for all the country. The principle
10 was, the Party gave the authority to the supervisor at the
11 locations on the issues of re-education and to stop and to
12 prevent any rebellion activity, and their fate.

13 [11.48.00]

14 So, in general case, as I reported to Mr. Co-Prosecutor Smith, I
15 was busy and dedicated the authority to my subordinates. And
16 when I said that it doesn't mean I tried to evade from the
17 responsibilities, but because of the workload I dedicated the
18 work to my subordinate. And to answer your question, I can say
19 they made the decision on all matters.

20 Q.Thank you. Now let me ask you regarding documents.

21 The word "release" -- initially I want to ask, did you see the
22 document D159/14.10 and document E47.10? Are they the same
23 documents, as I understand? What do you think?

24 A.Mr. Lawyer, these two documents is the same document with two
25 reference numbers. Actually, they are just one document.

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1 Q.Can you state that you still maintain your position that the
2 E47.10 is a smashed list?

3 A.Mr. Lawyer, document E47.10 is indeed a list of smashed.

4 Q.If so, why Hor wrote to be released? Can you verify on that?
5 [11.50.29]

6 A.Mr. Lawyer, the word "release", through my analysis and
7 conclusion, is just a shadow of the trick that Nat taught Hor and
8 it was still instilled in his brain. Probably Nat taught him we
9 could use a strategy in writing that we released but, in fact, we
10 smash them.

11 So that's why he tries to write the word "release" to me in the
12 case of actual smashing of the combatants and cadres amounting to
13 this 100 number. So it was a feeling instilled in him.

14 And how come I analyse it that way? The document B57, Annex 003,
15 is an example. This document entitled "Document of Battalion 96
16 of the Company 44", it entitled for the release, however, the
17 document is with the S-21 ecause there were TSL is another
18 evidence to show that.

19 So when the document is with S-21, it proves that Nat indeed used
20 Hor to lead Comrade Hin, the Secretary of the Battalion 96, to
21 smash people, but on the document it was written "to be
22 released". So that is the first evidence, and Hor himself
23 believed Nat.

24 And for the document E5/2.8 Comrade Hor wrote it to be released
25 on the 8th of March '76. So the feeling still instilled in him.

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1 That's why he wrote the words "to be released." It was from the
2 belief in Nat that this line was implemented by the Party.

3 Q.Thank you. Can you explain the words, "to flee or to escape"
4 in E47.21, point 22 and point 23? What is the actual definition
5 of that word?

6 A.Mr. Lawyer, in my entire life in leading the work at S-21 I
7 never heard the words "successfully escaped" except the one
8 person who was the radio operator. Particularly the cadres of
9 the company, Sim Mel, alias Nan, in the document E47.23, serial
10 number 102. I knew this person clearly. He had weaknesses; two
11 critical weaknesses. One, he did not do his work properly. He
12 couldn't accomplish anything. And another weak point, he
13 respected Nat the most and he did not listen to anybody else, and
14 toward me he did not dare.

15 [11.54.45]

16 So it's hard to use him as a guard and he could not be used to
17 interrogate. So Comrade Hor and I decided to have him to the --
18 send him to the rice field. And finally I sought permission from
19 the upper echelon to arrest him, and this Man had various
20 incidents but in this document, document E47.23 at serial number
21 102, Sim Mel, alias Nan, 24 years old male, S-21, chairman of
22 company, agriculture section, fled on the 24th of October '77;
23 captured on the 27 October '77. So that was stated in the
24 document.

25 However, from my recollection it did not happen, and relying on

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1 this document, the documents showing about the fleeing of the
2 prisoners was probably one of the tricks used or practised by
3 Nat. They had to face the serious task imposed by the Party. So
4 no-one could escape, no-one could rebel; otherwise you had to be
5 responsible before the Party. So I had to provide them with
6 these instructions and to encourage them to do their work
7 properly.

8 So in order for them to strive their best to survive they tried
9 to seek other alternative methods, and whether someone could
10 escape or not, the person would be arrested. This is my initial
11 conclusion regarding the word "fleeing" in the document E47.21,
12 point 22. And for E47.23 it was an explanation; an explanation
13 in the total summary of E47.22. If we read E47.22 on the first
14 column, it talks about a unit. The second was "removed," the
15 third "flee," and the fourth column it was "escaped." So if we
16 look at the fourth column of E47.22 we could see the writing
17 there. But on the E47.23 it stopped with this person, male.

18 [11.58.00]

19 So there were some mentionings of those who fled but I do not
20 believe it because there was no information that I received
21 regarding the escape of these people. How could they escape in
22 mass numbers like this? The base unit would definitely arrest
23 them and then the report would be sent to the upper echelon and
24 then I would be responsible before the superior.

25 So if the escape broke out and the base unit arrested them, then

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1 they would try to seek the original location where they fled, so
2 I don't believe in it. I believe this is a strategy to use in
3 order to conceal that those people were taken out and smashed.
4 This is my summary on the word "escaped"; so nobody could escape.
5 And the document E47.21, 22 and 23 would show that I still don't
6 believe that anyone could escape.

7 Let me talk about E47.21. He wrote, "TSL 4.513." That was Huy's
8 handwriting that one is missing, two is missing, 10 are missing,
9 and in details did he write, made on the 23rd of October '78,
10 Office 21 with Huy's signature. This is clearly a document of
11 S-24 under the supervision of Comrade Huy and it was sent to S-21
12 in Phnom Penh. That's why there was a reference number TSL.
13 And also in this E47.21 it said 32 escaped, 16 recaptured, and
14 the 16 people disappeared forever. If that is the case then the
15 base units would arrest those 16 people. So in summary, E47.21
16 is still showing the strategy that it has to be written that way
17 on the document but in fact they were taken out and smashed. So
18 this is just to protect themselves.

19 [12.01.02]

20 Let me continue. E47.22 also has the reference TSL 4.527 and the
21 title was about the statistics of those who lost or missing. The
22 first column it talks about the unit -- Unit 11, 12, 13, et
23 cetera -- and the second column it talks about the removal. The
24 total was 2,350 people. On the third column it talks about the
25 dead -- 2,227 dead. And on the fourth column it's 102 escaped.

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1 So these figures were extracted from E47.23 because it talked in
2 details in that document.

3 I acknowledge that these are the documents of S-24 which were
4 sent to E-21 (sic) with the reference TSL on the document, and on
5 the third column it states that the 102 people who escaped, as I
6 said, based on the Document of E47.23.

7 However, I would like to draw your attention about the number of
8 removals, 2,350, if you compare to this number to the report by
9 Comrade Huy in 1977.

10 In 1977, it's 2,350. I was surprised about that. I'm not
11 denying about my crimes but I can give you a conclusion and
12 analysis under my leadership. So the number is not true. It's
13 not 2,350. It is the statistic since the beginning of the S-24,
14 and 227 of that, it's also from that duration.

15 If it is true, the report should be known to me. I think, to be
16 clear, there may be more documents surviving from Prey Sar. This
17 is 443 at S-24. It was not sent to S-21. So we need to find out
18 when did it start. Was it from the beginning or the
19 establishment of S-21? It will include in other common lists of
20 the victims, so if it just started from 1977, we should do a
21 further search to find out the real number of victims. So we
22 need to find the truth, especially my crime against those
23 victims, so we need to work together to find out the truth.

24 [12.04.56]

25 I will not contest about my crimes, so I can make this

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1 explanation based on the existing document.

2 Q.I would like to ask another question and it is my final
3 question.

4 Why did they use this term in a tricky way to say "release"
5 instead of killing or sometimes they use the term "flee" instead
6 of the acts committed?

7 A.Mr. Lawyer, it is a trick of Nat. As far as I read the
8 documents and my analysis, but during that time I didn't see this
9 document. So the document, it's a lie to say that the detainees
10 were released. D57 Annex 003 and the document which the civil
11 parties -- E2/56 -- file a complaint that we can base on these
12 two documents and put together and report to the upper echelon
13 because Nat was weak at the time. Other documents recorded a
14 meeting of April 1976. Nat was reduced from that leadership. So
15 if that document comes to the upper echelon, Nat will be in
16 trouble.

17 So these are the documents prepared or produced under the trick
18 of Nat. Now we can see the documents to prove the tricky
19 activity of Nat and he said that, "Please, Angkar, make an effort
20 for release". So the request would be like this; please, Angkar,
21 we need to arrest this one or that one. It's like that.

22 But, in conclusion, I'm not denying my crimes. I have a tendency
23 to make this conclusion, but I need to put this before the Trial
24 Chamber and to explain to the Cambodian people on that fact.

25 Thank you.

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1 [12.07.48]

2 MR. PRESIDENT:

3 Now it is time for a break for lunch and the last question by the
4 defence counsel were all completed. And as was scheduled, we
5 will have one afternoon for the establishment and functioning of
6 S-24. And now we can complete the hearing before the expected
7 plan of hearings. So the Trial Chamber declares the adjournment
8 of the hearing for today, and we will resume on the 29th from
9 nine o'clock of Monday.

10 The parties are also advised that the hearings next week, we will
11 hear the testimony of the survivors from S-21. So the parties
12 please be informed and attend and join at the hearing as
13 scheduled.

14 The Security Officer, take him back to the detention facility and
15 bring him back to the courtroom on the 29th of June before nine
16 o'clock in the morning.

17 (Judges exit courtroom)

18 (Court adjourns at 1209H)

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