



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

6 April 2009, 0910H

Trial Day 4

Before the Judges:

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

For the Civil Parties:

HONG Kimsuon
KONG Pisey
TY Srinna
MOCH Sovannary
KIM Mengkhy
Silke STUDZINSKY
Alain WERNER
Philippe Canonne

For the Trial Chamber:

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

For Court Management Section:

KAUV Keoratanak

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
Heleyn UÑAC

*Extraordinary Chambers in the Courts of Cambodia
Trial Chamber - Trial Day 4*

*Case No. 001/18-07-2007-ECCC/TC
KAING GUEK EAV
6/04/2009*

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I N D E X

THE ACCUSED, Kaing Guek Eav alias Duch

Questioning by Judge Lavergne commences page 26

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
JUDGE LAVERGNE	French
MS. MOCH SOVANNARY	Khmer
MR. PETIT	English
MR. ROUX	French
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer

1

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

2 (Court resumes at 0910H)

3 MR. PRESIDENT:

4 The Trial Chamber declares the continuing of the hearing. First,
5 the Chamber instructs the greffiers to work on the list of those
6 who are present during today's hearing.

7 THE GREFFIER:

8 Your Honour, Mr. President, the list of those participants today
9 has been checked. Today there is a civil party lawyer who is
10 present, Mr. Philippe Canonne. Thank you.

11 MR. PRESIDENT:

12 Would the greffier please make a record of the list of those who
13 are present in today's hearing in order to make it accurate in
14 the transcript? Next the Trial Chamber responds to the pending
15 issues raised by the civil parties on 31 March and 1 April 2009.
16 The Chamber wishes to answer briefly two various requests for
17 clarification presented by the parties during the hearing held
18 last week. Thereafter the Trial Chamber will issue two
19 decisions.

20 [9.12.19]

21 Firstly, the Chamber wishes to reiterate its understanding that
22 during his response to the opening statement by the
23 Co-Prosecutors, the defence lawyer did not make any formal
24 submission on the legality of the proceedings or the jurisdiction
25 of this Court.

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1 Secondly, the Chamber wishes to clarify the issue of the
2 scheduling of the trial, the questioning of the accused,
3 witnesses, and experts, as well as the hearing of civil parties.
4 The Trial Chamber wishes to reiterate the indication provided in
5 its direction on the scheduling of the trial dated 20 March 2009
6 that it will question the accused first and then, in turn, the
7 relevant civil parties, witnesses and experts in the order it
8 considers useful.

9 The Trial Chamber plans to follow the sequence of facts presented
10 in the Closing Order. The parties will be informed of the facts
11 scheduled for any given trial day approximately two weeks in
12 advance. On any given fact the Chamber will first hear the
13 accused person, then give the floor to the parties to ask
14 questions to the accused. Thereafter the Chamber will call civil
15 parties, witnesses and experts pertaining to the specific facts.
16 These will first be heard by the Chamber, then the floor will be
17 given to the parties.

18 [9.14.15]

19 As a rule of the ECCC Internal Rules, the accused should only be
20 confronted with written witness statements after the witnesses
21 have been heard, provided that these witnesses can be brought to
22 Court. As a rule of the ECCC Internal Rules, the Trial Chamber
23 will endeavour to call each witness only once. However, for
24 witnesses who are relevant to more than one fact, the Trial
25 Chamber will decide on a case-by-case basis whether they shall be

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1 heard at one time with regards to all facts, or whether they will
2 be recalled afterwards. Any additional evidence pertaining to
3 this fact will be presented, i.e. any additional documents in the
4 case file pertaining to this fact will be read or summarized in
5 accordance with the provisions of Rule 87.2.

6 The Chamber wishes to clarify that cross-examination is a manner
7 of questioning typical of common law systems. Proceedings before
8 this Court are governed by a primarily civil law system.

9 Cross-examination as a manner of questioning is not suitable for
10 a civil law system.

11 With regards to the scheduling of the hearing of civil parties at
12 trial, the Trial Chamber will hear those civil parties who have
13 knowledge of specific facts at the time when the Chamber deals
14 with these facts. All other civil parties will be heard at the
15 same time towards the end of the trial proceeding. It is
16 currently not possible to foresee the exact scheduling of the
17 hearing of these civil parties.

18 [9.16.26]

19 The Chamber will provide scheduling of the hearing of civil
20 parties, witnesses and experts two weeks in advance. However,
21 where civil parties, witnesses or experts live abroad, the
22 Chamber will endeavour to provide a schedule at least four weeks
23 in advance. It will be helpful for the scheduling of civil
24 parties, witnesses and experts who live abroad if the Trial
25 Chamber could be informed as soon as possible of any dates when

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1 they are available or unavailable.

2 Thirdly, Mr. Hong Kimsuon, the civil party lawyer for groups 2
3 and 4 indicated that the pseudonyms used in the Closing Order do
4 not correspond to those used by the Trial Chamber. The Chamber
5 wishes to clarify that during the trial the pseudonyms assigned
6 by the Trial Chamber for references to protected witnesses or
7 civil parties will be used. The difference in the use of the
8 pseudonyms raised by the civil parties' lawyers was due to the
9 fact that the public version of the Closing Order containing
10 pseudonyms assigned by the Co-Investigating Judges was read out
11 in Court.

12 Finally, the Trial Chamber issues the following two decisions.
13 Firstly, the request by the civil party lawyer for group 2 to
14 allow them to comment on the accused's response to the opening
15 statement by the Co-Prosecutor is rejected. The reason is that
16 Rule 89.2 which foresees a response by the accused to the opening
17 statements by the Co-Prosecutors, does not foresee any response
18 by the civil parties. Contrary to the submissions made by the
19 civil party lawyer, the fact that the accused responds to the
20 opening statement is foreseen by the rules.

21 Second decision: (a) the request by the civil parties' lawyers
22 to make submissions with regards to the defence request to
23 release the accused for the duration of the trial, as well as the
24 document filed by the civil parties' lawyers for group 3 on 1
25 April 2009, Document Number E39, containing submissions in

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1 response to the defence request is rejected.

2 [9.19.38]

3 Reasoning: Rule 82.3 does not foresee the possibility for such
4 intervention. This rule, which deviates from Cambodian law, is
5 the result of a conscious decision by the ECCC plenary shaping
6 civil parties' participation in proceedings before the ECCC,
7 which is dealing with mass crimes by balancing the rights of
8 civil parties with the need to a fair and expeditious trial.

9 While the Trial Chamber always notes decisions issued by the
10 Pre-Trial Chamber with great interest, it is not bound by these
11 decisions.

12 2(b) The civil parties are invited to comment on the subsidiary
13 request made by the defence that the period of detention before
14 the Military Court by the accused be taken into account for any
15 sentencing purpose and that the accused be entitled to a
16 reduction of any sentence in lieu of compensation for the breach
17 of his rights. Any comments shall be made in writing within five
18 days from today.

19 The reasoning: Civil parties will not normally be allowed to
20 comment on what sentence should be imposed. The subsidiary
21 request concerned legal issues on which their comments are
22 invited.

23 Next, before we start our proceedings, are the facts concerning
24 M-13 according to Rule 23.7 of the Internal Rules. I would like
25 to invite the civil party lawyer group 3 to request for the

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1 recognition of their international co-lawyer which was not yet
2 done during our initial hearing. Please, the international
3 lawyer for group 3.

4 [9.22.25]

5 MS. MOCH SOVANNARY:

6 Thank you. My name is Moch Sovannary of the civil lawyers, group
7 3, and my respects to the President and Your Honours. I would
8 like to present and to request for permission of my international
9 co-lawyer, Mr. Philippe Canonne, who is the President of the Bar
10 in France, and he was sworn in and permitted to practise his
11 profession before the ECCC and he abides by the laws of the
12 Government of Cambodia and he is also recognized by the Pre-Trial
13 Chamber to participate in the proceedings on behalf of the civil
14 parties group 3. Therefore, I request the Chamber to recognize
15 him to participate in the proceedings, certainly proceeding from
16 this day onward. Thank you.

17 MR. PRESIDENT:

18 Mr. Philippe Canonne please stand up. Mr. Philippe Canonne, the
19 Trial Chamber recognizes you as a lawyer representing the civil
20 party group 3 for the purpose of the proceedings before this
21 Trial Chamber. Pursuant to this recognition, you enjoy the same
22 rights and privileges as the national lawyer. Please be seated.
23 Security guard, please bring Mr. Kaing Guek Eav, the accused,
24 into the dock.

25 [9.24.30]

7

1 MR. PRESIDENT:

2 Next the Trial Chamber would like to inform that the Chamber will
3 now have the questioning proceedings regarding the facts at M-13.
4 Before questioning the accused on the facts related to the
5 security office M-13, the Trial Chamber would like to inform that
6 before the commencement of questioning of the accused related to
7 the M.13 facts, the facts committed at the security office, or
8 M-13, which was responsible by the accused is not part of the
9 facts stated in the Closing Order because the jurisdiction of the
10 Extraordinary Chambers in the Courts of Cambodia is limited from
11 17 April 1975 to 6 January 1979.

12 Secondly, the Closing Order reference to the facts related to
13 Duch, to the accused, as the deputy secretary and later the
14 secretary of S-21 only. However, in order to understand the
15 context of S-21 relating to the organizing of structures, the
16 operation and functioning of the S-21 and other reasons, and the
17 personality of the accused during this hearing, it is related and
18 necessary for the accused himself who describes to, during the
19 both the investigation phase and during his response to the
20 opening statement by the Co-Prosecutors, the Trial Chamber would
21 like to inform the parties that during the questioning of the
22 facts on M-13, questionings will also be raised regarding the
23 context, and political context in historical context during that
24 time.

25 The detention of the accused during the 1968, the 1970, and the

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1 consequence of his detentions, his duty during the establishment
2 of M-13 and his relevance to the Communist Party of Kampuchea,
3 the civil parties have also seen all the documents related to the
4 fact. One is the interview of Horm In, the DC-Cam document,
5 annex 4, B.59, the response of In Vorn DC-Cam document, annex 12.
6 B.59, the entire submission of the OCP, 1925 document, the DC-Cam
7 magazine, "Searching for the Truth", 1983, "The security system
8 of the special zone M-13" with the ERN 0080395 - 0080457 and the
9 response of the accused with the UNHCR representative, Mr.
10 Christoph Peschoux. It's Document B number 9.

11 Because the proceeding is going to take quite some time, the
12 Chamber allows Mr. Kaing Guek Eav to sit during the proceeding in
13 response to the questionings raised.

14 Before questioning on the facts, the Trial Chamber would like to
15 enquire with Mr. Kaing Guek Eav, alias Duch, can you describe
16 about the establishment of the operations of the security office,
17 M-13 which was located in Amleang, Kampong Speu province and the
18 M-13B which you used to work in, if you still can recall them?

19 Can you describe the facts related to those offices to the
20 Chamber? The floor is yours.

21 [9:29:53]

22 MR. ROUX:

23 Mr. President, with your leave, before the accused takes the
24 floor the defence would like to make some submissions with regard
25 to the document to which you have just referred which is the

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1 statement by Duch to the United Nations, specifically to Mr.
2 Peschoux.

3 This statement was filed by the Office of the Co-Prosecutors
4 under footnote 710 in the final submission. I note that when the
5 Office of the Co-Prosecutors refers to this statement, it
6 indicates rightly 'Statement by Kaing Guek Eav, alias Duch as a
7 suspect at HCDHONU which is the Human Rights Commission of the
8 United Nations, statement as a suspect.

9 My learned friends of the prosecution, I'm referring to your
10 footnote number 710 of the final submission. While it is true
11 that Duch was interviewed as a suspect, the note should have
12 contained the information that Duch was told that he had the
13 right to remain silent. This information does not appear in the
14 document.

15 [9:31:03]

16 This means that this statement was taken when Duch was a suspect
17 but he was not told that he had the right to remain silent. Most
18 important, he was not informed that this statement would one day
19 be included in the prosecutor's case file.

20 Consequently, as the defence has always said, it repeats, that
21 this document should not be used against the accused. If the
22 accused wishes to refer to the document he has the right to do so
23 but on no account can the prosecution refer to the document
24 itself. Thank you.

25 MR. PRESIDENT:

10

1 Please, the Co-Prosecutor, the floor is yours.

2 MR. PETIT:

3 Good morning, Your Honours. Quite briefly, I hope.

4 [9:33:24]

5 As this Court well knows, this Court is free to consider any
6 relevant evidence provided, among others, that such evidence is
7 not contrary to the interest of justice. Therefore, I submit,
8 obviously, that the declaration of the accused to the
9 representative of the High Commissioner of Human Rights at the
10 time is, on its face, obviously very relevant. That is the
11 criteria.

12 If there is any grounds that the defence thought would warrant
13 its exclusion, if indeed the defence thought that, for whatever
14 reason, this statement of the accused should not be part of the
15 file then it had a very clear duty, a duty to present a motion
16 before the Co-Investigative Judges to have that statement
17 withdrawn from the file. This is a very specific rule and duty
18 as articulated by the Rules.

19 The defence did not do that, and as it has been stated, that
20 document has been in the file since the very inception; was
21 specifically referred to during the investigation; the defence
22 did, at the time, state when it was raised by the
23 Co-Investigative Judges that it had concerns about the statement
24 but did not follow suit with these concerns with the appropriate
25 action which was a motion to have that statement taken out of the

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1 file. It is now in the file and it is before you to consider.
2 Again, I am somewhat puzzled by the assertion from the defence,
3 although right, to dictate to you or the parties and -- for this
4 particular document, giving the right to the accused himself, to
5 decide which document we may or may not consider.

6 If it's in the file it is open for your consideration and for
7 debate. At least that is how I interpret your previous rulings
8 and the law.

9 [9:37:03]

10 And let me say, finally, that if this document is indeed titled
11 by us in our introductory submission as suspect statement it is
12 because we identified any previous statement made by Kaing Guek
13 Eav, aka Duch, as a suspect statement to differentiate them from
14 witness statements, expert statements, et cetera.

15 So if I'm not mistaken you will see, among other things,
16 statement made by the accused to journalists referred to in our
17 introductory submission as suspect statement. This, of course,
18 does not in any way legally qualify the circumstances much less
19 the statement that was given at the time; not by judicial
20 officers, not in the context of an arrest, not in the context of
21 a possible prosecution by state agents but rather a statement
22 given freely by the accused to representative of the United
23 Nations Human Rights Commissioner who are acting within their
24 mandate to gather evidence of violations of human rights.
25 If indeed the defence can foresee any legal reasons why this

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1 statement should now, after two years, be withdrawn from your
2 consideration I would invite it so that it may assist you to make
3 legal arguments to that effect. Thank you.

4 MR. ROUX:

5 Mr. President, you will forgive me but I will respond in a few
6 words. I think my colleague did not understand what I said.

7 [9:39:38]

8 I did not say that the document should be withdrawn. I just
9 recalled that on the 21st of January 2008 we expressed the most
10 explicit reservations before the Co-Investigating Judges. You
11 will see that on page 2 of the examination before the
12 Co-Investigating Judges of the 21st of January, 2008.

13 As my learned friends of the Co-Prosecutors knows, the document
14 is indexed as D38. We expressed reservations. We did not say
15 that the document should be withdrawn. What we said, and I
16 maintain this, is that this cannot be used against the accused in
17 view of the circumstances in which the document was obtained.

18 I say that it is not normal for the United Nations Human Rights
19 representative to have taken the statement without informing the
20 person that he was considered to be a suspect, and that this
21 statement would one day be used in the file of a prosecutor. As
22 a Human Rights office, the minimum, or the least one can do, is
23 to respect human rights, and we know that this document is at
24 issue.

25 The accused may wish to use some passages of the document as he

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1 wishes, so the document cannot be used against the accused, but
2 the accused cannot in any way be prevented from using the
3 document, and this is a position it has always put to the Co
4 Investigating Judges, and up until today.

5 [09.41.50]

6 JUDGE LAVERGNE:

7 A question to the defence to elucidate the issue with regard to
8 this document.

9 Does the defence consider it possible that the Chamber refers to
10 the document as a basis to examine the accused or not? Or does
11 the defence consider that it alone has the possibility or the
12 right to refer to the document?

13 MR. ROUX:

14 Thank you, Your Honour. It is the same answer that we gave to
15 the Co-Investigating Judges. The accused, having expressed the
16 same reservations as I have, has agreed to answer the questions
17 of the Judges with regard to this document. So the accused will
18 agree to the Chamber putting questions to him on the basis of
19 this document, but the defence cannot agree that the information
20 in this document should not be used against the accused who --
21 because the accused was not granted or read his rights at the
22 time. That is our position.

23 MR. PRESIDENT:

24 The floor is yours, Co-Prosecutor.

25 [9.43.30]

14

1 MR. PETIT:

2 Thank you, Mr. President.

3 I submit that you should decide at this point whether this
4 document can be submitted for your consideration for its
5 incriminating and exculpatory information, so there should be a
6 debate and a decision to ensue since this statement, we submit,
7 contains material that could be of use to you in reaching a
8 decision, either for incriminating or exculpatory information
9 with regard to the crimes for which the accused has been brought
10 before you.

11 I fail to understand how a defence -- the accused's statement,
12 which, on the face of it, contains information that could be
13 relevant to the ascertainment of the truth and for the
14 development of your intimate conviction -- I fail to see how this
15 material can be set aside for the purposes of your judgement by
16 an opening statement made by one of the parties. If you cannot
17 take account of the material, then this should be the subject of
18 a debate and a decision. We, for our part, repeat that the
19 contents of this statement made by the accused, until such a time
20 as the statement is removed from the case file, should and must
21 be taken into account for incriminating and exonerating
22 circumstances as you judge necessary.

23 So I would request that the Chamber provide clarifications,
24 either now or later, as to the status of this statement. If
25 there is to be a discussion, then let it be organized either in

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1 writing or orally. Thank you.

2 (Deliberation between Judges)

3 [9.48.05]

4 MR. PRESIDENT:

5 After listening to the comments and the request by the defence
6 counsel and the response by the Co-Prosecutor regarding the
7 document by the UNHCR representative, the Chamber would like to
8 inform the parties that all the parties can make a written
9 submission according to your understanding to the Chamber, so
10 that the Chamber will consider and issue a decision at a later
11 stage.

12 Next, for our proceeding on the questioning -- on the facts
13 related to the accused, the Chamber would like to ask Mr. Kaing
14 Guek Eav, alias Duch, to describe the establishment and the
15 location of security office, M-13, located in Amleang, Kampong
16 Speu, and the M-13B where you used to work, according to your
17 recollection. The floor is yours.

18 [9.49.49]

19 THE ACCUSED:

20 Mr. President, I would like to express my thanks for allowing me
21 to speak on the history of M-13 to allow me to talk about M-13.
22 Also I have a request. Before I want to mention M-13, I would
23 like the President to inform all the participants about my
24 history before even litigation or M-13, if the President permits.

25 [9.50.31]

16

1 MR. PRESIDENT:

2 Yes, the Chamber permits the accused.

3 THE ACCUSED:

4 The Trial Chamber, Your Honours, my interest with politics
5 started in 1957. Until 1964, in October, I decided to join the
6 Revolution. I believed my decision was proper at the time.

7 I sacrificed everything for the Revolution, sincerely and
8 absolutely. In this context, the salary I received, which was
9 7,200 riels, which I planned before I started to work that I
10 would save that money - that I would save 4,000 to 5,000 for my
11 future. I changed that idea. I sacrificed all this for the
12 Revolution.

13 At the same time, there was an event observed by the people that
14 I used to frequently visit my mother in Stoung. I never visited
15 her again because I knew my parents understood that it was a good
16 path that I chose, however, they did not want me to do it because
17 of fearing of imprisonments or death or arrest.

18 The second -- the third observation, especially for my teachers
19 whom I taught at school, they observed my sympathy and my feeling
20 at the time. I would like to inform the President, at that time,
21 I resumed my activities within a communist party amongst the
22 half-colonial, half-dictatorship regime. I did not - I wasn't
23 afraid of being arrested or imprisonment. Mr. President, my
24 activities at the time, which was absolute with the Revolution,
25 caused the head of the Monks to adore me, to appreciate me.

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1 However, he beat me; I knew that he liked me very much so I told
2 the truths to the head of the Monks and he pardoned me.

3 At that time, he also gave me some advice that the path I took
4 was correct and that probably I'd try and be the Free Khmer at
5 the time. The Khmer Free was not positive. They would use other
6 people as shield for their own protection. So with this
7 encouragement, I continued my activities.

8 [9.54.37]

9 On the 29th of October -- my apology, I would like to talk about
10 my sacrifice of the 5,000 riel's and I only saved 1,900 for my
11 monthly living. During a vacancy in 1967, I tried to work as a
12 labourer to see how difficult it was. I gave away my teacher's
13 clothes and wore the labourer's clothes to work. In one day I
14 earned 20 riel's and I worked the whole days of the week.

15 In July - in June or July '67, I started a special secret section
16 of the Communist Party of Kampuchea. Chhay Kim Hour was the
17 instructor at the time and there were plenty of documents at that
18 time. One of the documents was a strategic view of the CPK. A
19 second document is the strategical policy for the CPK and these
20 documents no longer exist.

21 And a third is the party's statute, the 1960 party's statute.

22 And the fourth is the view and the fifth is the view also of the
23 party members.

24 In October 1967, Vorn Vet asked me to work. It was a first time
25 I met with Vorn Vet. He introduced me to the party, but then the

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1 induction has to be done in Cham Karleu . So he took me to the
2 countryside.

3 Then I went to say goodbye to my parents; let me say in details.
4 My father was shocked at the time. He gave me a lucky waistband
5 for luck. So I said goodbye to my parents, to my friends. My
6 friends gave me a watch. So I said goodbye to my friends in
7 Kampong Thom. I went to say goodbye to my head of Monk and
8 another friend in the pagoda as well. So I departed.

9 [9.55.55]

10 At that time, the party induction was done on the 25th of
11 November '67 and the inductor was those people who knew me and
12 Mr.Ke Pok. At that time, I stood before the party's flag. I
13 raised my hand to respect and to swear to be sincere to the
14 party, the class and the people of Kampuchea for my entire life
15 and to serve the party, the class and the people for my entire
16 life without being in fear and that I would sacrifice anything
17 for the party. That's the principle of party inductions that was
18 done on the 25th of December and I was arrested in January. I
19 was not afraid when I was arrested because that the path I chose.
20 On the 3rd of April, '70, before the National Assembly, after
21 three weeks I returned back from my home, I returned in order to
22 receive the duties from the parties. At that time, I was told I
23 should be aware of myself because Lon Non had their own secret
24 spies in order to arrest the people, so I was careful at the
25 time.

19

1 At the same time, I also made a report, my analysis, and I was
2 very vigilant at the time. Those who were released from prisons
3 all remained but except one, but I did not make a presumption
4 that he was arrested by Non's clique because the person was
5 female.

6 In August 1970 or '68 - I think it was '70 - August '70, I went
7 to the countryside a second time in order to conduct my
8 activities. That was when I see the complicated conflict. First
9 I only saw the conflict between the Revolution and Mr. Nol, but
10 now I saw complicated conflict between the Vietnamese Labour
11 Party in Anlong Province -- went to establish its organization in
12 Cambodia.

13 [9.58.51]

14 They shot and killed Cambodian person Pin Em in the Bassac River
15 in Prek Sdei. They killed a candidate of their own Labour Party,
16 but the person was Kampuchea, Krom origin, Mr. Chao Kem pagoda.
17 I thought that was an ordinary conflict, but then I believed it
18 is the implementation of a Chinese federal policy. At that time,
19 there was a conflict, internal conflict between the CPK in order
20 to grab power. Mr. Sisovat Batmony alias Sok Batchamreun was the
21 Deputy Secretary in charge of Sector 20 -- 25 and he was a party
22 member and a party member Huon Kheat and three party members were
23 arrested, the Secretary, Sok Batehamreun under house arrest. I,
24 myself and Comrade Pon were still in a military unit to serve -
25 - to teach morality, and until May, I had good connection with

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1 the general staff of Sector 25, then I move to southwest and
2 that's when I went for training. And on the 28th of May -- of
3 July to that I became the head of the office M-13. So that was
4 the historical background of my involvement with the revolution.

5 [10:00:37]

6 At the time that I received duty as the head of M-13 I begged
7 them that; I was so afraid because these police office had to pay
8 respects to the superior and if the superior was Botehamreun or
9 Bat Mony, the former 25 secretary sector. They would be in
10 danger; if the superior was arrested, then someone else would be
11 arrested.

12 After I heard that Mr. Jacquin who said, your opinion was right;
13 those who were arrested were responsible for the history, so do
14 not demands to make any arrest even if you report you have to be
15 careful and not biased or to -- wants to arrest this or that
16 person.

17 So the persons who were decided to be arrested were the party
18 members who decide, like Mr. Ta Mok or Um Chhoeun or Mr. Si of
19 Chou Chet or Mr. Pal or Huot Heng or Vorn, Brother Vorn and as
20 the President know, Vorn Vet they were members of the central
21 committee so they were responsible before the history. So you
22 don't have to be concerned, you just focus on your work, your
23 duty.

24 He also said the people wants their children to accomplish this
25 task in order to protect our liberated zones, to protect the

21

1 lives of the people. I did not ask, I begged them but I did not
2 ask any questions; I just wanted to teach, that's all.

3 So Hok is already dependant upon the threat -- the teaching of
4 the police related to the killings of the people in the country.

5 So the people needs to have friends and he also said he was
6 afraid. Mr. Chhay Kim Hor said it's regretful that you comrade,
7 you did not read a book. It is in French. I told him, "Oh
8 Brother, my baby could not do according to the movie that we
9 bought in Phnom Penh."

10 However he said, "Try your best. Don't forget that we liberate
11 the country, not to liberate the land without its people. It's
12 important for us to liberate the people." So I could not protest
13 against him and I told him, "I dare not to kill anyone, I dare
14 not." He said, "With the intellectuals we had to be strict."

15 [10:03:24]

16 However, we learned from the people and let the persons do it.
17 We only had a duty to tell them, so I accepted.

18 To sum up with the M-13, its historical background. Firstly, one
19 person who was arrested was name Heang, Kao Heang, I forget. I
20 asked him, I begged him but he wouldn't answer. At that time I
21 asked him at a man's resident near the road at that time.

22 [10.04.03]

23 So then people came and beat him up and Kao Hing said, "I was a
24 spy, I was assigned to come" and then ask where was the best and
25 that was the time I tried to analyse the truth. That was the

22

1 time I tried to say and analyse, so for those who cannot be freed
2 then I would ask Pom to interrogate. Yes, he tortured -- I
3 allowed him to torture, yes.
4 And for those people who I wanted to release and that I could
5 release then I would interrogate those persons by myself. I
6 released some people but at that location, as mentioned in the
7 book of (indistinct). It was dark, it was wet, and people died
8 due to the lack of light, starvation, hygiene or medicine.
9 So I moved the place from Tmor Kob, Anlong Veng to another
10 village near Pis Mountain called the Tuol Svay Meas or Taleav.
11 And the -- we went to the rice field at the time and then we
12 fought to seize the weapons because I did not want to be a police
13 and then I met Mr. -- Comrade Vorn Vet to punish me, you can
14 discipline me and Vorn Vet looked straight in my face and he turn
15 aside; he did not give me any answer and then he sent people,
16 more, for interrogation. So I thought, oh, I will not be able to
17 escape this duty.
18 [10:05:58]
19 In order to comfort myself I recite a poem, L 'amour da Rouge, I
20 just try to recite it in French.
21 [10:06:15]
22 (Accused speaks in French, No interpretation)
23 I tried to recite the poem. So in order to resolve the conflict
24 within myself, that's what I did. And at that time there was an
25 event, another event which caused me in time of the conflict. I

23

1 tried to please him, he sent Sangha Hoeun who is his clique, to
2 me for interrogation and Sam Bet was a theatre actor. He likes
3 Sangha Hoeun and Sam Bet the same.
4 So they both (indistinct) theatres. I knew that he was at
5 Chamkar Kranch so I went to ask him and he said, want meet. Yes,
6 I said, yes, I want to meet him and he wrote a letter to Sangha
7 Hoeun and then I took the letter to him and I dare not to beat
8 him. And Ta Mok are satisfied with me and he instructed me that,
9 Comrade Duch, be careful. This is the certain period and the
10 previous certain period be lost, a piece of our land successively
11 but for Sangha Hoeun I was not allowed to beat.
12 It is normal if the superior made any instructions, nobody dare
13 not to release or to do anything against it until the living
14 condition made him die.
15 [10:08:17]
16 At the same time also there is a conflict between him. One day
17 one Hanoi cadre was arrested. He was a Deputy Commander of the
18 company so I met him at the military office and he asked me --
19 you had to ask him quickly and urgently who ask him to do the
20 activity. Don't forget to read the papers that was sent.
21 It was a piece of paper torn from a book, from Comrade Chong. I
22 said, oh, that is going to be a disaster and then we wish to meet
23 Comrade Yan, a deputy commander and then I took the small
24 (indistinct) made from Comrade Yan. I think Pot shot Comrade Yan
25 or Comrade Yan shot himself but I dare not to protest, Mr. Mok,

24

1 so I went to -- I went to report to Comrade Vorn and Vorn
2 reported to Cham.

3 At that time Ta Mok said, "I would not use Duch anymore," so then
4 there was a word from the centre that we had to be political,
5 done by our position on technical. At that time there was an
6 event also in Am leang, one person's name Bot; he fled with
7 another person's wife. He ran away with that woman to Oudong and
8 met with Hang Yiv, a colonel, and a lieutenant-colonel of the Lon
9 Nol soldiers and a few days later he returned but Comrade Si
10 arrested him and sent him to me for interrogation, and when I
11 interrogated, yes, I beat him at the time and he revealed about
12 the weapons, that the weapons were brought into the liberated
13 zone in order to revolt against me and Ta Mok said, "Find those
14 weapons and the company will be given to the battalion", and Chou
15 Chet advised me at the time -- and at that time people from
16 Amleang were arrested, about 50 of them, so I could not recall
17 the names but I probably remember about 20-plus of those people's
18 names.

19 And, finally, for my own experience, I interrogated one person,
20 Mr. Nget Sambun, by myself. It took me nearly one month to
21 complete, therefore, the torture, the beating and the
22 interrogation; I did strive my best to do it.

23 To sum up, what I did at M-13, I recall them clearly. I
24 determined that I will write a document about my crimes that I
25 did unto my people at the time and to record those names

25

1 involved. Whatever the cruel activities did by myself, I would
2 reveal, and I already planned it. It might take 15 to 20
3 paragraphs. I plan to write that context in order to rise above
4 my own personal crimes that I committed on the nation and my own
5 people.

6 [10.12.00]

7 I would like to clarify that from then on Chhay Kim Hour did not
8 say anything about the revolution, about it liberates the land or
9 its people. He did not talk on that particular topic anymore.

10 Other people said, "Oh, what we did was true. We only eradicate
11 the dictatorship of the proletariat class." I said, "Oh, it's
12 going to be a disaster". That's what I wanted to avoid from the
13 Police Office, but I did not.

14 At the M-13, in summary, that's what it is, and I would like Your
15 Honours to question me as you please. Thank you.

16 MR. PRESIDENT:

17 I would like the accused to sit down and respond to questions.

18 Next, I don't know whether our judges have any questions to ask
19 the accused concerning the M-13.

20 QUESTIONING BY THE BENCH:

21 BY JUDGE LAVERGNE:

22 Q. When you spoke for the first time before this Court, you
23 answered to the accusations that were carried out against you,
24 and you said -- and I hope that I'm not going to misrepresent
25 what you said -- you said that the Cambodian people have suffered

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1 following the executions that started in 1966, in particular
2 because of the policies that were implemented by Lon Nol, and
3 then as of the coup d'etat of 1970 there was -- if I've
4 understood correctly -- there was a competition between all of
5 the parties to kill the Cambodian people. So the first thing
6 that I want to know, do you confirm this statement which seems to
7 me to be the first sentence that you pronounced?

8 [10.15.01]

9 A. Thank you, Judge Lavergne. My review concerning the
10 execution of Cambodian people, I still maintain the position, the
11 previous view, regarding that matter. My crimes in which I
12 participated at M-13, I would elaborate as the following.
13 The death toll of people at M-13 I would like to seek forgiveness
14 like the victims who died at S-21. People who died, I will
15 express my remorse and seek their forgiveness at the right time
16 when the Court allows me to do so.
17 Coming back to the execution concerning the killing of my people,
18 I think it relates to the politics and I will be elaborating
19 further if you think I may be of any assistance, but based on my
20 analysis.

21 Q. Maybe we will have the opportunity to get back to M-13 a
22 bit later. I would like now to speak about the period that was
23 before M-13 because I think it's also important to redraw the
24 historical context in which M-13 came about. You spoke about the
25 executions that started in '66. I'd like you to tell us if,

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1 personally, you were a witness to political violence and what you
2 can tell us about this.

3 A. Thanks, Judge Lavergne. I have followed the political
4 situation after the 1966 election, clearly. However, I did not
5 witness the situation by myself, although the -- what's stated by
6 Khieu Samphan in his book, I did not really clearly see that. I
7 know that the execution in Samlaut was little but everything
8 caused by General Lon Nol.

9 [10.18.28]

10 Q. Still in the political context -- of course, we will go
11 back to your detention, speak about your detention a bit later,
12 but you also spoke about the coup d'etat of 1970, so a coup
13 d'etat through which Sihanouk was deposed and a republican regime
14 that was set up by Lon Nol was installed.

15 Can you tell us, you were -- can you tell us how this was
16 perceived? In particular, how the declaration of March 1970 was
17 perceived through which Prince Sihanouk asked the Cambodian
18 people to rise up? I'd like to understand how the CPK, Communist
19 Party of Kampuchea, experienced this period and was there a real
20 union? What happened, in fact?

21 [10:19:40]

22 A. Judge Lavergne, I would like to respond to your question
23 based on my political view. Samdech Norodom Sihanouk was the
24 Head of State of Cambodia. His position was the populist to
25 preserve his throne. It was not Norodom Sihanouk. Lon Nol was

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1 affiliated with the United States, and when he grasped or
2 controlled the Assembly in 1966, he managed to -- he really
3 caused the dispute and the uprising in Samlaut at the Sihanoukist
4 side, and the other side is the Communist side which are
5 affiliated with Marxist and Leninist, and these things were mixed
6 up.

7 I think through my understanding, if Richard Nixon did not be
8 quick to allow Lon Nol to start the coup d'etat and allowing
9 Khmer Rouge to cooperate with Sihanouk, I think Khmer Rouge would
10 be demolished or otherwise they would never be able to stand up
11 again. But Mr. Kissinger and Richard Nixon weren't quick and the
12 Khmer Rouge noted the golden opportunity and King Sihanouk
13 declare from China that all Cambodian people go through the
14 Marxist jungle and then the Khmer Rouge troop will build up from
15 1970 to 1975.

16 I think this is the political context and people tried to gain --
17 to have political gain. Lon Nol tried to benefit from politics
18 and then Sihanouk also tried to gain benefit for his side.

19 [10.22.43]

20 At the time, there were a union, a union outside (indistinct),
21 also the Government of Cambodia in Beijing. It's called the
22 Mittapheap Hotel in Beijing. And for Pol Pot, he was in a jungle
23 to conduct his activities, to control the army and the people in
24 order to fight against Lon Nol. So that's the political parties
25 according to the view that I understand, but it's my personal

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1 view.

2 Q. You probably have heard about the National United Front of
3 Kampuchea and of the Popular Armed Forces for the National
4 Liberation of Kampuchea. What did these armed -- these armed
5 forces, were they composed of Khmer Rouge battalions or were they
6 battalions made up of Sihanoukist soldiers, or was it an army
7 that was entirely controlled by the Khmer Rouge?

8 A. Your Honour, my understanding on the army was limited, so
9 I'll try to explain according to what I understand. In 1968, it
10 was the year the Khmer Rouge started its war, its revolutionary
11 war. The 18th of January 1968, the Communist Party of Kampuchea
12 assigned Ros Nhoem to strike in Bay Damran. It was the 18th not
13 the 17th and that date was changed to the 17th because Pol Pot
14 saw it was overlapping with the 18th of March. 18th January was
15 the starting day.

16 In the northwest they used Veay Chap Mountain as the base. In
17 the southwest there is a zone secretary, Ma Mang, who used our
18 mountain as its base. At the Vor Mountain was Ta Mok. He used
19 the Vor Mountain as his base for his circling. And for Ke Pok
20 and Kuy Thuon they used Prey Lông and Prey Sen jungles as their
21 base, and Pol Pot in 1968 he was at the liberated zone in the
22 northeast area in Ratanakiri. That is what Lon Nol said during
23 an interview or press statement. The land was about the size of
24 the Kampong Chhnang Province, so the army created was established
25 in a militia form, and let me clarify that. The militia war was

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1 the second stage.

2 [10.26.26]

3 The first stage was the secret movement. It was since 1966 that
4 was in a document in a confession. They trained the people by
5 having their own militia group, and when the people was upset
6 with Lon Nol and to protect Sihanouk, then Pol Pot fetched up
7 those forces for his own use, and from the beginning from what I
8 can recall, there was only a company, not even a battalion.
9 And then the forces kept increasing and the victory on the Royal
10 Armed Forces of the Lol Nol region was due to Vietnam's support,
11 who based their base near Tonle Sap to fish, and at that time
12 they took the opportunity to strike and to gain power in
13 Kampuchea, as I said, in S'ang and Kaoh Thum. The Communist
14 Party of -- the Vietnam labour who would like to help the Chinese
15 federation. Therefore, the Committee for the Army, which
16 assigned Khieu Samphan as their head, was just a picture, an
17 image to show to the world. But Pot Pol, he himself controlled
18 the army from the beginning. So the creation of the armed forces
19 was started that way.

20 That's what my understanding is for Your Honours.

21 MR. PRESIDENT:

22 The Trial Chamber will adjourn for 20 minutes until a quarter to
23 11 when we will resume.

24 (Court recesses from 1028H to 1054H)

25 THE GREFFIER:

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1 Please be seated.

2 MR. PRESIDENT:

3 May the defence counsels please rise.

4 MR. ROUX:

5 A problem that I would like us to solve; the interpreters have
6 trouble translating and the French, because as well as the
7 English speakers have a hard time understanding everything that
8 is being said and I requested the accused to speak more slowly
9 and to have -- make pauses.

10 [10.55.04]

11 But I think that it would be useful that the interpreter from
12 Khmer to English also make it known when he has a problem because
13 otherwise the translation at the end of the line is not correct.
14 So therefore we are in a legal hearing and if the interpreter
15 does not understand, well, please make it known.

16 And the second request is; is there a technical system so that
17 when the accused pronounces proper nouns, either place names or
18 people names -- so that the greffier and in particular the Khmer
19 greffier can write them down immediately, that we would then be
20 able to see on our screens and we would see them, of course, in
21 Latin characters -- the Khmer nouns in Latin characters so that
22 we are sure that we understand properly what is being expressed.
23 This is my request. It shouldn't be that difficult. So please,
24 the Cambodian greffiers, could you please list on the screen the
25 proper nouns when they are pronounced and then the accused would

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1 like at that moment to speak more -- please speak a little bit
2 more slowly so that we can get the proper names properly.

3 MR. PRESIDENT:

4 The Trial Chamber acknowledged the request made by the defence
5 counsel and for the reasons concerning the greffier, the greffier
6 also took note of the request.

7 First, I would like to clarify that the accused, when responding
8 to the question raised by the parties and the Chamber itself,
9 please speak slowly. And secondly, please speak in short phrases
10 in order to facilitate the interpreting. And for other technical
11 requests, the Trial Chamber will facilitate with the IT section
12 and the CMS section in order to make these proceedings smoother.
13 Before we continue our questioning regarding the security office,
14 M-13, the Chamber would like to notify to other parties that if
15 the parties has to make a submission or brief response regarding
16 the accused by the UNHCR, Mr. Christoph Preschoux, Document B09
17 the ERN from 849748 to 788.

18 Please do your submission, not in excess of four pages in the
19 Khmer language and two pages in the Khmer (sic) or the French
20 version, and the deadline is the 4 p.m. of the 8 April 2009, if
21 you wish to do so.

22 For the next proceeding I would like to invite Judge Lavergne to
23 continue the questioning. The Co-Prosecutor, the floor is yours.
24 The submission is no more than two pages for the French or the
25 English version. For the Khmer versions the limit is four pages.

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1 For the next proceeding, please Judge Lavergne, if you have any
2 questions for the accused?

3 BY JUDGE LAVERGNE:

4 Q. So we're going to continue with the historical context of
5 the creation of M-13. You spoke to us about the coup d'etat; you
6 spoke to us about the Prince Sihanouk's call on the population.
7 You spoke about the Khmer Rouge Forces and you also specified
8 that you were not a direct witness of all -- of a certain number
9 of facts; in particular, you were not in the army back then.
10 Were you part of the Khmer Rouge Army or not?

11 A. In December 1970 there was a committee for Sectors 25. I
12 was a political instructor at a military base at the time. I was
13 not a cadre -- a leadership cadre for combat.

14 In May '71 I noticed that the environment at that time was not a
15 revolutionary one, it was a fighting amongst each other so I went
16 to the southwest.

17 In summary, I was in the army but I was a political instructor.

18 [11:02:29]

19 Q. Excuse me. Did you see any bombings, and what kind of
20 bombings did you witness?

21 A. In Sector 25 in S'ang and Kouh Thum areas I saw the
22 bombing from the airplanes. It's called Sky Raider in Khmer. It
23 was an ordinary bomb, and also a flame bomb. At that time there
24 were heavy artillery, 105, from Ta Khmao and S'ang to the
25 liberated area in Prek Toch market in S'ang to the liberated

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1 zone.

2 When I went to Am leang I did not see it. I saw ordinary bomb by
3 the Sky Raider dropping on the villages and the firing from the
4 airplanes to the ground nearby the vicinity of my birth. And the
5 B-52 I saw it in the sky when I lighted out and saw it but it did
6 not drop the bomb there, the B-52 dropped bombs near southwest
7 ones and near the special southwest ones.

8 Q. I shall now come to the time when you joined the Communist
9 Party. When did you become a full fledged member of the
10 Communist Party, where you first encountered it? Did somebody
11 introduce you to start with? How did it happen?

12 [11:05:12]

13 A. I would like to clarify that in 1965-66 I joined an
14 organization called Massed Population Movement. It's a CVK
15 language which called the focused person. I do not know what it
16 is the equivalent to the -- for foreign languages.

17 I would like to clarify that this focal organization that I
18 joined was almost equivalent to the Youth League of Cambodia, but
19 because I already earned wages I was asked to join that
20 organization.

21 Later, as I informed, Your Honours, in October, in early October
22 '67, one would told me that the party decided to let you join
23 this party but the induction person unable to do it at that place
24 but it can be -- it would be conducted in another place in a
25 remote area. In the remote area I met Ke Pok, the Secretary

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1 General of the old mass zone and then I was inducted into the
2 party as a candidate, as a candidate of the party on the 25th of
3 December '70.

4 On the 5th of January -- on the 25th of December '69. My
5 apologies, Your Honours, I got confused with the dates. Let me
6 speak again.

7 I became a party member as a candidate on the 25th of December
8 '67. It's 25th of December 1967 I was introduced as a party
9 member candidate by Mr. Ke Pok, the Secretary of the old mass
10 zone.

11 On the 5th of January '68 I was arrested and detained in a
12 prison. When I was in that big prison it was led by Brother Tep
13 Sien . Then I was introduced as a full right member on the 20 of
14 May '69 -- sorry -- on the 20 of July '69 -- introduced by Tep
15 Sien. This Brother Tep Sien changed his name to Son Sen later
16 on. Brother Son Sen was a permanent member of the National
17 Assembly. He introduced me as a full right member on the 20th of
18 July 1969.

19 Q. You told us awhile ago about your teachers. You said that
20 they played an important role in your life. Did you get to know
21 the Communist Party through your teachers? How did you get to
22 know the Communist Party?

23 [11:09:35]

24 A. I would like to clarify that first my teacher, my official
25 teacher, there were one or two of them who made me interest on

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1 the political movement, Mr. Par Khamhout and my future teacher,
2 Son Sen. But I fully joined the politics due to the fact that
3 the government arrested more than 10 progressive men, including
4 Chhay Kim Hor, and that's when I fully joined the movement,
5 together with other friends at the pedagogical institute, at the
6 National Pedagogical Institute. It was where the training was
7 conducted for the progressive men.
8 At that time I joined the movement with other friends, with Kang
9 Saran. Kang Saran was a first promotion student from Kampong
10 Thom. He was a Khmer literate teacher-trainer, together with
11 some of my old friends from my village. So we studied together
12 -- Thom.
13 So the teachers, that's one side, but the decision to join the
14 revolution movement is another side. The teachers who influenced
15 me, only these two, but the biggest one was Son Sen, who was --
16 later on became my superior. And those who joined the activities
17 together with me was Kang Saran, Hou Ngea and Lon, alias Nat, the
18 first S-21 chairman at a later stage. We conducted the
19 activities together.

20 [11.12.36]

21 Q. There is this extremely important event that is your arrest
22 and detention. If I understand you correctly, you were arrested
23 on the 5th of January 1968 and you were freed on the 3rd of April
24 1970. Would that be accurate?

25 A. The date that Your Honour described is correct. It's from

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1 what I have just spoken to you. Those who arrested me were in
2 Chamkar Leu in Chamkar Leu District, Kampong Cham Province. They
3 were police of Norodom Sihanouk. Those who arrested me were from
4 Stoung. Mr. Soeun who was one promotion before me at that
5 college, it was his duty to arrest me but I could not escape so
6 that's how it happened. They were the police force.
7 I was imprisoned in Tuol Kork, at the police station in Tuol Kork,
8 not at the National Police Headquarters in Pasteur Road. I was
9 in prison at a location in Tuol Kork area. In general the Khmer
10 Rouge will be imprisoned at the General Police Headquarters or
11 the PJ prison.
12 So I was in prison at the Norodom Sihanouk Prison in Tuol Kork.
13 Later I was released, as everybody knows. The event on the 18th
14 of March, General Lon Nol conducted a coup d'etat to overthrow
15 Lon Nol in order to boast to the world that he was not cruel as
16 the Sihanouk who arrested people to imprison them. So he
17 released those prisoners, those political prisoners including the
18 Khmer Rouge, the Free Khmer and the Viet Cong, and the Thiv Kee.
19 The words that I used, Thiv Kee, was used by the Khmer people.
20 The official name was the Republic Government of Vietnam led by
21 Nguyen Van Thieu and Nguyen Cao Ky, his deputy. So at that time
22 the political prisoners were all released, including myself.
23 [11.15.57]
24 I would like to take this opportunity to inform Your Honours, as
25 I said this morning, that I was warned to be careful at the time

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1 by Nol's younger sibling -- had secret agents to arrest and
2 execute people. And now let me continue. So it was the police
3 of Sihanouk who arrested me and Lon Nol was the one who released
4 me.

5 Q. As it appears in the Closing Order, you were arrested for a
6 breach of state security in collaboration with foreigners. Did
7 you appear before a court, were you tried, were you able to
8 present a defence, were you sentenced, and to what?

9 A. I would like to clarify that the allegations on me was
10 classic one, opposing the peace of the territory and collaborate
11 with the foreign power. That was the words accused on the Khmer
12 Rouge and the Free Khmer. I was imprisoned from the 5th of
13 January 1968 until June, when I was tried. I did never see any
14 lawyer until the hearing date. I saw Muong Lao Kam, who was my
15 lawyer. It took half a day to try me and it's finished. I was
16 imprisoned for 20 years with hard labour. I did not appeal. So
17 a fortnight after I was transferred to a big prison in Phnom
18 Penh. It was called Central Prison, at that place where I met
19 with the branches of the secretary who conducted his clandestine
20 activities.

21 [11.19.17]

22 Q. Before you were transferred to the Central Prison were you
23 detained in a prison in Prey Sar or near Prey Sar?

24 A. First, I was imprisoned in a police prison in Tuol Kork like
25 I informed Your Honour just then. Later on I was transferred to

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1 a PM prison in Phnom Penh. There were two PM prisons at the
2 time; the Phnom Penh section PM prison and the nationwide PM
3 prison. I was imprisoned in both locations and I think it was in
4 May 1968 I was transferred from the Phnom Penh prison to Prey
5 Sar. Prey Sar was an army prison of the Lon Nol. That was when
6 the prisoners were shocked and terrorized for every breath they
7 take -- they took. That was when two persons were executed
8 illegally, even when we were imprisoned in the prison.
9 One person's name Lau San he was executed and the other person
10 was a peasant, Chheang Hok, he was also executed. They were
11 caught, and I saw with my own eyes.

12 [11:21:17]

13 Therefore, I was in prison in Prey Sar Prison probably from May
14 '68 until June -- end of June or early July '69 when I was
15 transferred to the Central Prison.

16 Q. You've just told us that you were an eyewitness of illegal
17 executions or some of your co-detainees. Can you explain to us a
18 little more clearly what you meant? You referred to terror; can
19 you tell us your feelings, how you experienced this particular
20 period of your detention?

21 A. When I was in prison, at the police prison in Tuol Kork, I
22 and the police spoke on a friendly basis, as an ordinary person
23 every day. When I was at the PM prison in Srah Chok, the
24 threatening situation for me not to talk to either inmates was
25 banned, especially from the chief, from the chief of the room who

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1 was also a prisoner.

2 When I was at Prey Sar Prison, the vicious person was the chief
3 of the room who was also the prisoner. He reported, he kicked if
4 we made a mistake. As for the two friends who were let out of
5 the prison, I thought they were let out of prison but I did not
6 witness execution with my own eyes. They were let out and never
7 returned.

8 So they were take out of the room. Everybody knew and understood
9 and made the same assumption and later on I tried to find them
10 but I could not find them. This is about the execution at Prey
11 Sar. I did not talk about the killings at other prison which was
12 infamous but I did not want to talk about that.

13 Q. Were you yourself tortured? Were you subjected to
14 violence? Were any of your co-detainees tortured?

15 A. At Tuol Kork prison the interrogator was Lieutenant Giam Ho
16 (phonetic). He only verbally abused me. When I was detained
17 there were also three other persons who were detained with me.
18 These three persons, from what I knew, some of them were bitten.

19 [11:26:05]

20 When I was at the PS Prison the beater, the torturer on the Khmer
21 Rouge were Chhit Iv and another inspector, Hum or Ham . He was
22 infamous for beating up prisoners but that was their business. I
23 heard about it but I did not witness it.

24 And another person is Nguon Kheang he was an agricultural
25 inspector. The police beat him, even when he was at Prey Sar and

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1 we saw the bruises on his thighs; he showed me. I only saw the
2 marks on his side.

3 So I myself personally was not beaten. They, however, beat some
4 of the persons who were detained with me. And at the PS I saw an
5 evidence that the prisoners were beaten.

6 Q. What did you feel about these practices you have described,
7 even though you were not an eyewitness? What did you think about
8 these practices, the executions which you described as illegal,
9 first; and next the acts of torture. What did you think of them?

10 A. Before I joined the revolution I read a book on the
11 revolutionary strugglers. I read some books from China, from
12 Yuon. One book from Yuon was about the torture, the title was
13 the (indistinct) reason of (indistinct) so that's the torture
14 mentioned in there.

15 I determined that if I was in prison I would be tortured or would
16 be killed. It's only what I was thinking. Whether it was justly
17 or not we could not say but we knew that what would happen, so we
18 were ready for that. That was the truth about my revolutionary
19 life.

20 Q. I shall perhaps provide further detail. These torture
21 practices that you knew before you became detained that you faced
22 in detention, did you find them normal, acceptable, or were they
23 scandalous, in your view?

24 A. I have said I was ready to receive such torture. As a
25 revolutionary instructor I was not afraid, I knew it was coming.

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1 However, to consider it as a crime I only -- it was only in my
2 thought but there was no means to oppose it. I joined the
3 revolutionary in order to change, to transform that society, to
4 transform this sort of event; to oppose that government, to
5 oppose their torture so it would finish at the end.

6 And I even thought about a movie that I watched. It was from
7 China. Four of us watched that movie. It was spoken in Chinese
8 but there was one lady, one woman, Lao Keav who was an
9 interpreter at the time. Lao Keav was about similar to my age.
10 She interpreted for us. When the revolutionary won, then the
11 crackdown, the espionage will be in that way too.

12 So for us to make judgement whether it was acceptable or not, we
13 knew it was a crime but how could we oppose it? What means we
14 have to do it? It means we had to join the revolutionary, the
15 revolution, and we believed when we joined the Communist Party
16 will try to monitor the activities of those criminals as in that
17 movie.

18 Q. In your view, were the torture and execution crimes?

19 A. Now is different from that area. I understood at the time
20 it was criminal. However, before 1970 they were responsible for
21 the history.

22 We, the son of the motherland, had to defend the people and its
23 territory, therefore, later they said the Democratic Kampuchea
24 was a legitimate government and recognized by the United Nations.
25 So you were the police, you had no fault, but now I did not want

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1 to use those pretexts or those events to protect myself. I want
2 the Court, Your Honours, to judge me, to try me, and if I make a
3 mistake then judge me accordingly. So those were the words we
4 used in order to comfort ourselves; that's all.

5 [11.33.52]

6 Q. I am not speaking about your actions, I'm speaking about
7 torture that you say was practised at Prey Sar and I'm speaking
8 about the executions. Yes or no, did you feel that these actions
9 -- did you feel that these actions were criminal?

10 A. Maybe I did not understand Your Honour's questions well,
11 but now I try to respond. I understood that the activities by
12 the police on the Khmer Rouge members at the time was criminal.
13 It was a criminal act. In order to eradicate that criminal act
14 we have to do the revolution.

15 So let me reiterate, the activities by the police on the Khmer
16 Rouge was a criminal act.

17 Q. Still concerning your detention conditions, again, can you
18 tell us if you had enough to eat, if you had visits from your
19 family, if you had the possibility to write, if you had -- if you
20 were treated in an inhumane way? What can you tell us about
21 these detention conditions? I'm speaking about the time when you
22 were detained yourself.

23 [11.35.37]

24 A. I have informed the judges already the conditions of
25 detention, of my detention and of others' detentions are

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1 different -- were different.

2 The police prison; the food ration wasn't a variation from the
3 Central Prison. It was hard to eat but the police who guarded me
4 gave me one riel -- at that time we still used one riel -- one
5 riel each so then we could buy the sugar or the salt to add to
6 our food.

7 We slept on a mattress but it was old, dirty. When I was at Srah
8 Chau the food ration was a bit better, and at Prey Sar the food
9 was also better, but then there was also the stealing of the
10 food. So for those chiefs of prisons, they stole a lot of food
11 from the prisoners.

12 The friendships of the politicians at the Central Prison forced
13 the government to implement Krom 13; prisoners had their clear
14 food ration so nobody would dare to take it away. So the
15 detention, the detention was done according to that Krom was the
16 practice at the Central Prison.

17 And for the visit by family members, when I was at the police
18 station my mother could not come and visit at the PM prison. My
19 mother could not visit as well, but when I was at Prey Sar my
20 mother could visit me. My family members and friends could visit
21 me at will. It was every one day of the week; it was on
22 Thursday.

23 And when I was at the Central Prison the food was much better.
24 There was also a medic on standby. There was sufficient medicine
25 and families could visit at any day. They had to pay 30 riels

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1 for each visit.

2 That was the condition of detentions which was different from one
3 prison to another.

4 [11.39.00]

5 Q. You were released on April 3rd, 1970. Did certain members
6 of your family try to intervene to facilitate your release or to
7 anticipate your release?

8 A. I would like to talk about the policy of General Lon Nol.
9 After the coup d'état he conducted his policy, as I informed Your
10 Honours. He released all political prisoners, both the Khmer
11 Rouge, the Free Khmer, the Yuon Viet Cong, Viet Minh, and the
12 Yuon government officers in order to tell the world that Sihanouk
13 was vicious and that he was the proper man and did not accuse or
14 put any person in prison at will.
15 That was the political context that I would like to inform Your
16 Honours.

17 Q. I think that you did not answer my question exactly, so I
18 will ask it again. Did certain members of your family intervene
19 to make your release happen earlier, or to request your release?

20 A. I would like to tell Your Honours that I was tried already,
21 and my mother came to her cousin and her cousin was the nephew of
22 -- the nephew-in-law of Lon Nol. I was not sure whether my aunt
23 had any relation to that. When my aunt went to meet -- I'm not
24 sure which aunts, because I did not meet her. She arranged to
25 meet her father in order for my release; this was what happened.

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1 And if I signed an apology letter, I would be released, but I did
2 not sign it because I knew -- I believed that Lon Nol would be
3 defeated. But my uncle and my aunt's gratitude, I never forget
4 that. That was the gratitude. It was their gratitude when I was
5 released. My uncle and my aunt, I never forget them. When the
6 revolution would win, I would assist them in order to pay us
7 gratitude so that we could walk our own separate ways.

8 [11.43.33]

9 So the winner would have -- the loser -- however, 17 April,
10 everything was smashed into bits and pieces. Only one family
11 member of mine from Siem Reap survived, and mostly in Kampong
12 Chhnang area were gone. That was my anger with the CPK that I
13 really loved, so that's what I would like to say.

14 Q. These interventions, were they made known in your official
15 biography that you provided to the Communist Party? Was this
16 known to the Communist Party?

17 A. I never said about this biography to the CPK. At that time
18 I resolved the matter with my mother that way. I told her,
19 "Mother, I was trying to hold onto the branch of a tree of the
20 Khmer Rouge, and if I give up this branch I took hold of another
21 branch of Lon Nol. If I leave the Khmer Rouge branch, whether
22 the Khmer Rouge would trust me again." I said, "No, the Khmer
23 Rouge would not trust me, and Lon Nol all would not trust me as
24 well. Then I would just simply die," so I could not do it. And
25 then my mother asked, "So were you willing to be in prison for 20

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1 years?" I said, "No, because my armies are in the jungle.
2 Probably in five years they could come and liberate me from the
3 prison." That's what I told my mother. So Your Honours, that's
4 what I said, so this is my response to Your Honours. It was not
5 the intervention by my family, and you could ask my mother about
6 that.

7 Q. For you, personally speaking, it was possible therefore to
8 hide certain elements of your family environment, let's say, from
9 -- to hide these -- from the Communist Party? Was it possible?
10 Didn't you take an oath to be sincere and devoted?

11 [11.46.04]

12 A. The fact that when I raised my hand and swear to join the
13 party, I did devote myself to it. I did not betray. But on this
14 particular matter it was personal that I already made up my mind
15 on it. I did not betray them in order to join the enemy. If
16 later on it was revealed, then they would not mind because they
17 knew I was sincere and I did not go and join (indistinct). I did
18 not give up my line. Even if it was broke out and revealed, I
19 would have no problem. That was my position. I spoke and
20 (indistinct) to my mother. I did not protest against her, she
21 was my mother, but that's what I said to her. So this action is
22 not an action betraying the party; I committed and sworn to be
23 devoted to the party and I did not betray the party at all.

24 Q. Is it as of the moment when you took an oath that you
25 changed your name?

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1 A. The revolutionary name was a name that I was to be -- to
2 select it from some of us studying in 1967. It was on Road 163
3 at the house where I stayed while I was studying. It was south
4 of the Toul Tum Pong market. When we joined the revolution they
5 asked us to choose another name which was called the
6 revolutionary name.

7 Q. Did this name have a specific meaning?

8 A. The name or its meaning was the name used by Cambodian
9 people. It doesn't have any special meaning. But for me I chose
10 to select that name because I like it.

11 When I was young my late grandfather on my mother's side, he
12 appreciated a sculptor's name; it was Duch. He's sculptured a
13 big wooden statue, and he was very skilful in his trade. So when
14 I heard my grandfather's appreciation that person's name, Duch,
15 the sculptor, I remember that name.

16 And, when I was at the primary school there was a book said --
17 the teacher ask Duch to read the book, and there was a sketch to
18 it. Duch stands up, and his hand straight -- his head was
19 straight forward; he reads clearly and accurately. So that was
20 the first text in that book, so I was interested in that name,
21 Duch. It was a good name.

22 [11.48.29]

23 And when Brother Chhay Kim Hour said you need to choose a name
24 and I said okay, I choose Duch because I knew Kaing Eav was a
25 Chinese name and when I was in the Khmer Revolution I needs to

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1 have a Khmer name, and that's what the meaning of Duch name is.

2 I respected the stature Duch and also liked the name of Duch, the
3 student who was in the text of that book.

4 Q. So, the reference is -- the reference of a student, pupil,
5 who is particularly disciplined, particularly obedient, who is
6 always ready to answer questions asked to him, who is always
7 ready to learn, who is always willing to do what he's told. Was
8 that the reference?

9 A. Your Honour's speech is correct. I liked the name Duch
10 because I wanted to be a well -disciplined boy who respected the
11 teachers, who wanted to do good deeds.

12 Q. If we go back a bit to the reasons behind your entry and to
13 your commitments, you told us during the investigation that you
14 were seeking justice. You wanted to defend people and to
15 liberate a people that you considered was oppressed. And you
16 also said that when you joined the Khmer Rouge you wanted to
17 liberate your people and not to commit crimes. Can you confirm
18 this?

19 [11.52.40]

20 A. I acknowledge that I committed myself to liberate the
21 nation, my own people from any oppression. I did not have any
22 intention to do any criminal activities on my country.
23 That was my devotion, my conviction or my oath to the nation and
24 my people.

25 Q. You also spoke about sacrifice. You said that you were

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1 willing to make sacrifices for the revolution. Back then did you
2 have an idea of the kind of sacrifice that you were willing to do
3 for the revolution?

4 [11.54.04]

5 A. Talking about sacrifice, I sacrificed in term of money to
6 the revolution. I joined the revolution movement and activities,
7 and I strived to commit myself to the revolution. I was not
8 afraid of being imprisoned or being far away from my parents, and
9 I was not afraid of dying.

10 I would like to inform Your Honours that my trial at the time, it
11 was in June 1969, in March '69 I said if I was sentenced to be
12 executed like Preap In, if I was convicted that way, to be
13 executed like Preap In, Preap In was a free Khmer who was
14 executed by Sihanouk. Preap In was a cadre of the free Khmer who
15 was executed by Sihanouk.

16 I thought if I was convicted, to be executed like Preap In, then
17 what should I do. I rest my head and shouted, "Bravo, the
18 Communist Party of Kampuchea"; that's what I thought and then I
19 kept thinking if I was convicted to be executed and not
20 immediately, what should I do during that period? Probably I
21 will be in prison for life.

22 Therefore, my spirit to be -- to sacrifice was always constant.
23 It was constant in my memory, whatever sacrifice was I would not
24 withdraw myself.

25 Q. So you were prepared to sacrifice your own life to the

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1 cause of the Communist Revolution? I don't know whether
2 sacrifice is the appropriate term, but did you consider that your
3 sacrifice would involve killing for the revolution?

4 A. I thought to join the revolution. The only thing I loved
5 in my life was teaching. I hoped once the revolution was won
6 then they would allow me to continue teaching. This is my idea,
7 I did not even think about going and doing what I did.

8 [11.59.28]

9 Q. In your view, did the Communist Party find something
10 special about you in choosing you as the Director of a security
11 centre? What qualities, characteristics did they find in you?

12 A. The qualifications -- or the quality they looked for was
13 sincerity to the party. In my entire life my superior knew me
14 very well; Son Sen, Brother Chhay Kim Huor and later Brother
15 Vorn; that is Vorn Vet. They all knew me very well that I was a
16 sincere person who dare not to hide anything. That was the
17 quality -- the quality the Communist Party of Kampuchea required
18 from each member of the parties.

19 And another quality which was also important was to pay attention
20 to whatever I was assigned to do meticulously. In my entire life
21 if I do something, I'll do it properly. If I don't do it, I
22 would not do it.

23 MR. PRESIDENT:

24 Now, it's time to adjourn for lunch. The Chamber announces the
25 adjournment and the Chamber will resume at 1.30 p.m. The

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1 security guards take the accused back to the waiting room and
2 bring him back before 1.30 this afternoon. I also would like to
3 inform the participants and the public, please return to your
4 place before 1.30.

5 THE GREFFIER:

6 All rise.

7 (Court recesses from 1201H to 1330H)

8 MR. PRESIDENT:

9 The court is now in session.

10 This morning, the proceedings concerning the fact of M.13 was
11 already underway and the accused was asked some questions. So we
12 can now resume our session, and to begin with I would like to ask
13 the official of the detention facility to bring the accused to
14 the dock.

15 The accused is allowed to sit down. Judge Lavergne, this
16 morning you asked questions to the accused and now the next
17 proceedings do you wish to ask him further questions? You still
18 can have the floor.

19 [13.38.26]

20 JUDGE LAVERGNE:

21 I would like to continue putting questions to the accused, but
22 first I think for the proper administration of justice the
23 parties should be provided with the list of witnesses who have
24 been called to appear before the Court, while recalling that
25 while these witnesses have not yet appeared their names should

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1 remain confidential.

2 Furthermore, in order to avoid difficulties we're using
3 pseudonyms. I think that we're going to distribute a list in
4 which one column will have the names of the witnesses and the
5 second column will have the pseudonyms. I recall once more that
6 this is a confidential document which will be given to the
7 defence and the accused, the Co-Prosecutors and the civil party
8 lawyers.

9 Mr. President, if this is appropriate.

10 MR. PRESIDENT:

11 It is appropriate. You shall now resume.

12 JUDGE LAVERGNE:

13 I would like to add that unfortunately we only have an English
14 version of this list. As soon as practicable we would have a
15 list in Khmer distributed.

16 So we can proceed. This morning the accused was asked what
17 attributes caused him to be choosed to head the M-13 centre, and
18 I believe he said that it was because he was honest towards the
19 party, that he was meticulous as well.

20 [13.41.00]

21 BY JUDGE LAVERGNE:

22 Q. Does the accused wish to add anything to his answer or does
23 he find that he has said everything he had to say on the subject?

24 A. I do not think that my answer is complete yet but for the
25 time being I am trying to find any qualified material to inform

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1 to the Court, but I can't think of it yet.

2 Q. So when you came out of detention did you go back to your
3 family or did you go directly into the jungle?

4 A. I would like to also confirm that because this morning I
5 made my response very short -- once again I would like to
6 emphasize that this morning I made it short in my response.

7 On the 3rd I came home and it was dark already when I got home.
8 I stayed at home for three weeks and then I came to Phnom Penh to
9 stay in my Monastery Number 3 as I used to do. On the day I
10 conducted my revolutionary activities it was -- in the daytime I
11 conducted the revolutionary activities but at night I stayed at
12 the monastery until August, when I -- by the end of August I was
13 allowed to the liberated zone of sector -- to S'ang Koh Thom area
14 to conduct or to continue my revolutionary activities in Khsach
15 Kandal district. S'ang Koh Thom is in Kandal province.

16 Q. You mentioned that you stayed in a Buddhist monastery. Did
17 you have any particular beliefs?

18 A. I already told you in 1962, but I was not quite sure, from
19 that year I stayed at Buddhist Monastery Number 3 at Wat Ounalom.
20 I stayed at -- I had stayed at this monastery from 1962 and the
21 head of the monastery, Mr. Prach Pol, and I respected him so
22 much. He was the high monk and I liked him, and when I told him
23 of my involvement in politics he was about to beat me. When he
24 learned that I was involved in politics he was about to beat me,
25 but when I told him the details then he trusted me. This morning

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1 I briefly told you the information about this Buddhist Monastery
2 Number 3. I had a lot to talk about it. My sentiment and
3 elation at the Buddhist monastery was deep because I treated my
4 head monk as my father.

5 Q. You had -- you were drawn to this monk. You were deeply
6 attached to him because you believed -- were you drawn to him
7 because you were deeply attached to Buddhism?

8 [13.46.39]

9 A. Regarding the Buddhist belief I would like to emphasise
10 that my grandfather on my mother's side was a well-educated
11 person in Buddhism, so I was influenced by him. The Buddhist
12 theory had been well embedded in me and I know a lot.

13 Q. In your view I believe there are nine or 10 commandments or
14 precepts in Buddhism. Are these the same as those that applied
15 in the Kampuchea Communist Party? If not, what was the principal
16 difference?

17 [13.48.37]

18 A. The 10 precepts of a Buddhist is based on the main
19 principle; one principle which is about killing animals. Killing
20 an animal is a kind of sin but the Communist theory is different
21 from this. According to the Communist theory the love of the
22 people, the true love of the people -- for the people is to give
23 the absolute rights to the workers class.

24 I would like to confirm; the true Communist theory is that the
25 love for -- the true love for the people is -- the true love for

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1 the people is to provide the absolute ability to implement the
2 proletarian class.

3 THE ACCUSED (Interpreted from French):

4 Your Honour, the real love of the people is to give the
5 proletarian to realize themselves.

6 THE ACCUSED (Interpreted from Khmer):

7 Therefore, it is different from the Buddhist theory.

8 BY JUDGE LAVERGNE:

9 Q. You said that the precepts of Buddhism were based really on
10 the prohibition from killing animals. Does that apply only to
11 animals or does that extend to human beings?

12 [13.51.43]

13 THE ACCUSED (Interpreted from French):

14 You can say human beings.

15 BY JUDGE LAVERGNE:

16 Q. You tell us that you stayed with your family, after which
17 you went into the jungle, and we would place that at around April
18 or May 1970, or would it be later?

19 A. When I left my home and returned to Phnom Penh it was on
20 the 25th of April 1970. I left Phnom Penh for S'ang Koh Thom in
21 August 1970.

22 Q. Whom did you meet in the jungle? Did you meet somebody
23 that you mentioned before, that is Chhay Kim Huor? Could you
24 tell us about Chhay Kim Huor?

25 A. I was separated actually from Chhay Kim Huor in 1967 when I

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1 first went to the jungle. He also went to the jungle but to a
2 different part, to Phnom Vor, or Vor Mountain, but I was sent by
3 the Party to Chamka ley district, Kampong Cham province.

4 After being released from the prison I already was apart from
5 Chhay Kim Huor, so I was parted from Chhay Kim Huor.

6 Q. Did you meet him later?

7 A. When I came back from S'ang Koh Tum to the southwest I met
8 Brother Chhay Kim Huor there at Amleang. At that time he was the
9 chairman of the office of the southwest zone.

10 Q. What was the name of that office and what was it used for?

11 A. It was called the Office 201.

12 Q. What happened in this office?

13 [13.55.43]

14 A. It was the administrative office at the southwest, chaired
15 by Ta Mok.

16 Q. When you say it was an administrative office, did it
17 include police and security duties?

18 A. The committee is the Zone Committee for all provinces, so
19 this office is the place where documents were kept. I would like
20 to say again, the Zone Committee can manage all matters,
21 including the militaries, the police and inventories and
22 logistics, people. As for these zone office, it was for keep --
23 for storing documents.

24 Sometimes the chairman of this office would have the authority to
25 order on behalf of others. Sometimes the chairman of the zone

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1 could order the other zone but based on the order from the Zone
2 Committee.

3 Let me clarify. The zone chairman, the zone chairman himself --
4 the chairman of the zone office did not have his own personal
5 power but he conveys the order from the Zone Committee. That's
6 all.

7 Q. In Office 201, were people detained?

8 A. In Office 201, there was only an administrative office. If
9 they wanted to detain people, people were sent to M-13.

10 Q. Were you aware of the existence of security centres or
11 where people could be detained or interrogated? When did you
12 become aware of a policy -- of this particular policy of the CPK
13 back then?

14 [14:00:08]

15 A. Your Honour, could you please clarify your question?

16 Q. I wanted to know if you had received information concerning
17 the existence of security centres that were managed, that were
18 set-up to put into practice decisions from the CPK?

19 A. I have already informed Your Honour in the morning, while I
20 was at Sector 25 it was at S'Ang Koh Thom, I saw a police office
21 led by Comrade Teng. It was under the leadership of Comrade
22 Teng. And when I went to the southwest zone, I met one of my old
23 friends. His name was Teng Khet. He was responsible for a
24 police office. I cannot recall his location, or it was in
25 Trapeang Chou.

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1 So it means I saw two police offices before the establishments of
2 the M-13; one was at Koh Thom, S'ang Koh Thom, and the other one
3 was at Trepeang Chou.

4 Normally I heard from the circling armed struggle -- during the
5 1945 to 1954 there were also police offices.

6 Let me clarify that. From what I have -- I had heard and from
7 our talking within the rank of the party, therefore, for the
8 establishment of M-13, there was an historical background and I
9 witnessed and heard -- I heard about the two police offices
10 before the M-13 establishment.

11 [14:04:24]

12 Q. If you only heard about these police centres or did you
13 actually see what happened there? Because earlier on you said "I
14 saw in a police station that was managed by Comrade Fang". So if
15 you have seen, could you tell us what you saw? Could you tell us
16 what happened; what you saw of what happened?

17 A. The word was incorrect.

18 MR. PETIT:

19 The accused had the microphone opened and answered the questions
20 directly in French after they were asked. This does not -- this
21 prevents -- does not make it possible for the translation to
22 follow. So for the transcription to be clear, the accused should
23 close his microphone so that the question can be translated
24 properly and so that the transcript can be clear.

25 MR. ROUX:

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1 I'm sorry; I don't think that that's the problem. I think that
2 the accused is listening to the translation on his headset and he
3 speaks again in French when the translation was not correct.
4 This is what happens. So we do have a problem of translation, as
5 I said this morning. I think that he understands French and he
6 starts answering before the end of the translation in Khmer
7 maybe.

8 So I would just like to ask for the accused to please wait for
9 the end of the question to be translated, and this might allow
10 him to take a bit of time so that the translation can flow
11 normally.

12 [14:06:30]

13 MR. PRESIDENT:

14 For the questioning, to the accused, after you respond, please
15 switch off your microphone and then listen to the next line of
16 questioning of the Judge.

17 This morning, we noticed the request regarding the language and
18 whether the geographical names could be appeared in French or in
19 the Khmer language so that it can appear on the screen. However,
20 at this stage this cannot be implemented yet. We need to consult
21 with the relevant sections regarding the image and the visibility
22 in order to participate -- facilitate this proceeding, and we
23 will consider this matter at the end of today's hearing, and that
24 will be for the next day hearing and for the future hearings.
25 Regarding the translation, we have noticed in the past -- this is

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1 not just the first day. Regardless of the technicality and the
2 ability to translate -- because this is a translation technical
3 issue, and it's difficult, and we try to remind all the parties
4 to be accurate, to be precise in the questioning or in the
5 response, or in any other matters, to be slow and short enough
6 for the interpreters to do their job.

7 However, because this is the start of the proceedings and every
8 one of us, including the Chamber itself, is not accustomed to the
9 arrangement with the complication of translating into various
10 languages. This is our experience and we need to work through
11 these proceedings so that they continue.

12 Judge Lavergne, the floor is yours.

13 BY JUDGE LAVERGNE:

14 [14:08:17]

15 Q. So if I understood correctly what you just said, you said
16 that you knew that before M-13 there had been two police centres.
17 You also indicated that you had met at least one of your
18 comrades, called Pang or Tang -- I don't exactly know -- who was
19 running a police centre. You also spoke about one -- another
20 comrade of yours called Tang Khet. Is this information correct?

21 A. The historical events that I just described to Your Honour,
22 this event, was in -- was from 1945 to 1954. The Issarak Yiek
23 Minh Movement had already had police offices for executing
24 people. That was the history.

25 Second, from what I knew, I knew clearly Moeng Samnang alias Teng

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1 was the head of the police office in Sector 25. It was
2 established in December 1970. This is what I informed Your
3 Honours this morning.

4 When I was assigned to work as a policeman I was afraid, and then
5 I went to the superiors because the superior who manage Sector
6 25, Butmony, he violated the party's principle, arresting the
7 members, the party members, to be put in prison without seeking
8 permission from the Centre. That's what I knew, but, I, myself,
9 did not enter the office to see the handcuffs, et cetera, but I
10 knew about these organizations.

11 I fled to the southwest and met some of my old friends. Mr.
12 Khet, who was a teacher, he was the head of the police office,
13 and his office was in Trapeang Chou. It's one of the police
14 offices of the sector. I think it was Sector 32 of the Southwest
15 Zone.

16 So that was the event I raised regarding these two police
17 offices, which means there were two police offices that I knew,
18 clearly, before the establishment of M.13. So I described two
19 events. One was an historical event., and another event that I,
20 myself, heard personally.

21 Q. What was the exact mission of these police offices, and, if
22 interrogations took place there, how were these interrogations
23 conducted?

24 A. The interrogation at police offices, from what I knew,
25 would involve torture. But, myself, of instructing or

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1 interrogating at Teng's office, was documented, and remained at
2 the S-21 office because Nat himself wanted to control that office
3 and Comrade Teng.

4 When S-21 started up writing, he took documents, a pile of
5 documents, from Teng's office and asked me to keep. So that
6 documents was part of the S 21 documents, and the way of writing
7 confessions was different, but torture did involve.

8 As for Comrade Tang Khet, his position was unstable. Comrade
9 Tang Khet, he had his high status -- social class. He reported
10 to the upper echelon about the people he suspected. However,
11 there is no documentary evidence left. There was no confessions
12 from Tang Khet interrogations.

13 So to sum up with, these two police offices, used torture before
14 the establishment of M.13, and I believe torture was also used in
15 the offices since the whole era of Issarak era.

16 Q. I have understood correctly, you indicate that there was
17 documentation concerning the way that the prisoners were being
18 interrogated, that this documentation involved torture methods.
19 Is that the case? And, if yes, when did you become aware of this
20 documentation?

21 A. Police from the Issarak era left a document that my brother
22 Chhay Kim Hour he told me later, ask for the police office in
23 Sector 25 of Mr. Teng. I did not see it personally but in
24 principle. The name of Neou Phoun alias Sok, the military
25 commander of Sector 25, talks about torture method and the

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1 absolute spirit and determination of Mr. Teng. He told that to
2 me.

3 Let me emphasize that Neoy Phoun, alias Sok, was also a cadre
4 managing myself from 1965, so he did not hide anything from me,
5 and I was released from Sok Butchamroeun it's because of him. So
6 torture was inevitable at the police office of the Khmer Rouge as
7 well as at the police offices from the Issarak era. That was
8 simply -- that was a simple information known by the people and
9 the people in the revolutionary rank.

10 Q. If I've understood correctly, you indicated that you
11 heard about torture methods and that these torture methods were
12 unavoidable whether it was at the Khmer Rouge -- in the Khmer
13 Rouge period or whether in the Issarak period. Is that what you
14 are telling us? Well, in these conversations about torture, what
15 was told to you - what was told to you specifically, precisely?

16 A. What I have known about torture was, in general, they said
17 torture was inevitable. Therefore, I heard about torture; it
18 means beating with the whip on the body. That is the torture
19 method I heard before I managed the office M-13.

20 [14.19.52]

21 Q. And outside of torture, had you heard about executions?

22 A. Regarding this matter, it was clear, it was clear -- I
23 heard it clearly about the execution, but about the release, I
24 heard about some releases at some locations, but there were very
25 few releases. Most were not released.

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1 Q. Most people were released, but who would decide upon their
2 release and who would decide upon their execution and why?

3 A. Before I managed office M-13, I did not consider this
4 matter in detail on who decided to order for the arrest or who
5 decided to release those people. Before we came to the details
6 of the matter, I would like to emphasize that at that time, we
7 used the word "spy". We did not use the word "CIA" or any other
8 agents yet; "spy" was used, "enemy" was used.
9 When I managed the work at M-13 office, after I begged to -- not
10 to take up the job because I was afraid of being killed. If the
11 superior betrayed, then I would be killed too. The one who
12 decided for the arrest was the member of the Central Committee,
13 so from that day onward, I avoid not to be killed. I did not
14 decide on any arrest. I did not dare even to write a report on
15 anything of any attempt to put pressure on this person or that
16 person. That's why the report that I wrote, I rather let the
17 person himself write it, and the person who had the authority for
18 the release was not me, nor the head of any police office. It
19 was -- has to be -- it had to be decided from the upper echelon.
20 That's what I started to implement at the office M-13.
21 The arrest was done by the Central Committee at various zones,
22 for example, Vorn Vet, Ta Mok, Chou Chet alias Si, Huot Heng
23 alias Pal. For example, they would make the decision.

24 [14.23.39]

25 Q. What was exactly requested from you when you -- when they

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1 spoke to you about M-13? Who told you about M-13 and what was
2 asked of you?

3 A. Regarding this matter, it was description of the event.
4 On the 20 of July, Chhay Kim Huor took me to see him. At that
5 night, we did not help any work than with Comrade Vorn because
6 there were guests -- secret guests from Phnom Penh to meet him,
7 and he told me that tomorrow I had to work with Comrade Hok and
8 that he already told Comrade Hok about that.

9 On the 21st, next day, Kim Huor told me, as I already told Your
10 Honours in the morning, that I begged him and what his
11 instruction was, and after that the party only had the salt and
12 the rice for you so you had to manage yourself for your living;
13 for example, building a house.

14 [14.25.32]

15 Q. What was the mission of M-13? What was the specific
16 mission of M-13?

17 A. Initially, they gave the spies -- it means those poor
18 Cambodian people from the -- who came from the Lon Nol area to
19 the liberated area. For example, Kao Kimhean as I informed Your
20 Honours in the morning, they were arrested there. So they were
21 sent to M-13 for interrogation.
22 So initially, they arrested the spies to beat and interrogate and
23 smash. That was what happened to protect the territory, the
24 liberated zones, the people, and to avoid enemy from capturing
25 the liberated zone and to prevent the enemy from bombarding the

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1 area. So the obligation is to protect the liberated zones, to
2 protect the lives of the people, and that's what was done as
3 duties.

4 Q. So the mission of M-13 was only restricted to interrogation
5 and execution of people who could be deemed to be spies.

6 A. The first task I was offered at M-13 was to do that, but
7 later on there were more matters. For example, first, a female
8 was sent from the children's unit to M-13. She was accused of
9 stealing an earring. I did not put her to jail because I looked
10 at her and see her status. She belonged to a wealthy family,
11 because her husband was a soldier and this was what I was warned,
12 and we discussed about this. Later on I asked Chhay Kim Hour to
13 release her, and it was successful because with intervention from
14 upper echelon, including Ta Mok. So this was the person in the
15 liberated zone, the area. Then it comes to another matter
16 involved people from outside the liberated area, including Mr.
17 Francois Bizot, who was arrested outside that zone, that area.
18 So the situations were more complicated. The knowledge of the
19 M-13 was extended according to the circumstances involved.

20 [14.29.43]

21 Q. So you are telling us that originally M-13 was created to
22 fight against spies, to protect the free zone, and that later
23 there were people coming from other zones, and were these people
24 considered as spies? Why were they brought to M-13?

25 A. The people that I already informed you was a person from

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1 the southwest zone; the female's name Sray Malis from Koma Meas
2 village, Amleang commune, Thpong district, Kampong Speu from the
3 southwest zone. But the other people, Mr. Francois Bizot and
4 some of his associates, Comrade Lay and Son some from outside.
5 So this matter was complicated but it was beyond my capacity. It
6 was one way to fight, or fought, to seek further discussion and
7 consultation from the upper echelon. And the matter in the
8 liberated zones also increased and there were other matters
9 happened in other fronts' areas, but I may wait until when we
10 discuss the matter of the year 1973 when I talk more about this.
11 People were also sent from Kap Srov area. Kap Srov is to the
12 north of Phnom Penh. We had three -- two lines of the front who
13 confronted one another. One was shooting another and the people
14 was accused and then sent to M-13 to be interrogated. Then I
15 realized later, after interrogation, that the people had this
16 shoots among themselves. That's why I reported to Vorn Vet. I
17 told him that they were not enemies; they were having some
18 differences among themselves. After that discussion with Vorn
19 Vet, then he allowed me to release these people, but one of them
20 died of malaria before he was released. So this matter also
21 happened in the liberated zone or area itself.

22 [14.32.55]

23 Q. M-13 was established in a free zone or a liberated zone,
24 but in the record of the case there is reference to a special
25 zone. What was this special zone and what was it formed of?

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1 A. Your Honours, this is an historical event concerning the
2 CPK in concurring the land -- to seize the land to control -- to
3 seize it from Lon Nol's regime. First there was a southwest
4 zone. Ta Mok shooted, had an argument with intellectuals. He
5 dismissed four intellectuals from the southeast in 24 hours.
6 Then Pol Pot had to come in to intervene and then later on people
7 -- the special zone was created. So this special zone was
8 recently created before M-13 or maybe it made -- it maybe was
9 created simultaneously with the M-13. It's just it was a new
10 zone. There were two sectors in that special zone, Sector 15 to
11 the north of National Road Number 4, and to the north of Phnom
12 Penh there were four districts: Ang Snoul, Kandal Stoeng, Dang
13 Kor and Ponhea Leu district. The Sector 15, led by a former
14 party member called Ching Orn. To the south of Phnom Penh it was
15 Sector 25, which contained four districts including S'ang, Koh
16 Thom, Leu Dek and Kean Svay. Sector 25, led by a party member,
17 former party member called Norng Suon. These two sectors
18 combined with Phnom Penh, which was later by this man in the
19 photo he took with me called Norng Suon. Before it was led by
20 Pao than alis Hon, the nephew of Vorn Vet but he died, that's why
21 Sin Nava took charge. So these sectors, including Phnom Penh,
22 was combined to have another name called special zone and led by
23 Vorn Vet. So this special zone have several offices. We have
24 Office 315, which is called the zone office. Sorry, 305. So
25 this I feel led by Ros Cheat Tho, the intellectual, the former

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1 diplomat. So the special zone was a new zone created in 1971,
2 contained two sectors, Sector 15 and 25.

3 Q. So the Special Zone had two sectors; Zone 15 and Zone 25,
4 in addition to Phnom Penh; is that correct?

5 A. That is regions and not zones.

6 Q. The Sectors 15, Sector 25, plus the sector around Phnom
7 Penh?

8 A. No, Phnom Penh itself.

9 Q. Please wait because if you do not wait before you answer we
10 have interpretation problems.

11 [14:38:26]

12 A. The Special Zone contains Sector 15, Sector 25, and Phnom
13 Penh, with some secret forces who undertaken activities at these
14 zone.

15 Q. In this Special Zone were there several security centres or
16 was M-13 the security centre of the Special Zone?

17 A. Officially M-13 was the Special Zone Police Office.
18 However, the people who were arrested to the north -- to the
19 south of Phnom Penh were arrested at Sector 25 which was under
20 the authority of Police Office of Comrade Teng. So M-13 was in
21 charge of receiving people who were arrested from Sector 15 of
22 the Special Zone but Mit Teng's office in charge of interrogating
23 people who were arrested from Sector 25.

24 I'm very sorry; I may not make it clear myself; I may repeat.

25 M-13 was in charge of detaining and interrogating and smashing

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1 people who were arrested from Sector 15 but Comrade Teng's Police
2 Office was in charge of detaining and smashing people from Sector
3 25.

4 MR. PRESIDENT:

5 The Chamber would like to adjourn 20 minutes for a break and then
6 we will resume at 3 o'clock.

7 (Court recesses from 1441H to 1456H)

8 THE GREFFIER:

9 Please be seated.

10 MR. PRESIDENT:

11 The Court is now in session.

12 Just now Judge Lavergne proceeded with questions to the accused.

13 I would like now to give the floor to him to continue asking more
14 questions.

15 BY JUDGE LAVERGNE:

16 Q. So I would like to get back to M-13 and to the special
17 zone. Who specifically decided on the creation of the special
18 zone? Who within the Party decided to create this zone?

19 A. The decision was made; only Pol Pot who could do so. To
20 prove it that Pol Pot made such a decision because after knowing
21 that the special zone was established when Ta Mok joined the
22 study session, then when they came back we learned that the
23 special zone was established. I did not have any evidence but I
24 only can prove it by this event. Only Pol Pot himself who could
25 make such decision.

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1 [15.07.12]

2 Q. Were there zone secretaries and who was in charge of the
3 zone? Who were the individuals in charge of the zone? Who are
4 these people? What are they're specific function? Were they
5 members of specific committees within the party, for example?

6 A. The secretary of the zone -- Special Zone Committee was
7 Vorn Vet, followed by two members Cheng Orn and Norng Suon.
8 Cheng Orn was the secretary of Sector 15 and Brother Suon was the
9 secretary of Sector 25.

10 Q. Did Vorn Vet have other functions within the party?

11 [15:08:42]

12 A. Vorn Vet was the member of the Central Committee, the
13 full-fledged member. But I do not know for sure at that time
14 whether Brother One was the full tri-member already. I was not
15 sure whether Brother One was the member of the Central Committee.
16 I was not aware that Vorn Vet was already a member -- a permanent
17 member of the Central Committee or if he wasn't.

18 Q. When did you learn then that he was a member of the
19 Standing Committee?

20 A. I knew that he was a permanent member of the Standing
21 Committee up to 1975. I knew that Brother Vorn was a permanent
22 member after 1975. It means after I managed -- after I came to
23 manage S-21.

24 Q. So today you are telling us, with a certain amount of
25 conviction, that up until 1975 you did not know the exact

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1 function of Vorn Vet within the Standing Committee of the CPK.

2 Is that what you are telling us?

3 A. This matter was not told to me as he was -- whether he was
4 a permanent member or not. However, practically he was already a
5 full right member of the Central Committee.

6 Q. So you are telling us that in practice you knew that he was
7 a member of the Central Committee but you did not know that he
8 was a member of the Standing Committee. Is that what you're
9 telling us?

10 A. Yes.

11 Q. Outside of Vorn Vet and of the other key people you were
12 speaking about there were other people who were supervising who
13 were supervising the M.13 centre?

14 A. The task, the party task is every fortnight. I went to
15 attend a meeting. It's a livelihood meeting. It was a self
16 criticism meeting with the secretaries of the branches in order
17 to criticize and selfcriticize and for the task of the police.
18 No one dare to come and instruct me besides Vorn Vet and for the
19 Southwest Zone besides Ta Mok and Chou Chet.

20 [15:14:08]

21 Q. Did Son Sen have a specific role at M.13?

22 A. In order to clarify the matter I would like to inform Your
23 Honours about the history of teacher Son Sen. In 1970 teacher
24 Son Sen was a secretary of the Northwest Zone -- Northeast Zone.
25 He was a secretary of the Northeast Zone. Later he came with Pol

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1 Pot and became the co-chairman of Southwest Zone with Koy Thuon.
2 My apology; it was the North Zone. So he moved from Northeast to
3 the Northwest Zone to be the co-chairman of the North Zone
4 together with Koy Thuon.

5 And in 1973 -- in late 1973 he went to the Special Zone in charge
6 of -- as a deputy secretary of the Special Zone. In his position
7 as a deputy secretary of the Special Zone he managed Sector 15
8 and managed the Special Secret Force in Phnom Penh.

9 I also would like to emphasize that it is my observation that at
10 that time Pol Pot, Nuon Chea, and Kieu Samphan created a special
11 office, secret office in Chrok Sdech Village, that special secret
12 office in Chrok Sdech Village in pram sub-district, Kampong
13 Tralach District, Kampong Chhnang Province.

14 So to sum up, Son Sen became the deputy secretary of that zone
15 from late 1973 and there were Pol Pot behind him in Chrok Sdech
16 Village.

17 Q. This special office that you tell us was located, was it in
18 a special zone or was it outside of this special zone?

19 [15.19.32]

20 A. It was in Peam sub-district. Peam sub-district had been a
21 long revolutionary based. It was the best in the Southwest Zone.
22 However, it was given to the Special Zone to manage since 1970.
23 My apology; from 1971.

24 Q. What was the link between M-13 and this special office and
25 what was the name of this special office?

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1 A. I only heard about the news; I did not know where the
2 secret office was. I only heard people talked about that secret
3 office of Mr. Pol Pot. I never went to that location myself and
4 I only heard whispering about it; it was not official.

5 Therefore, I was very far away from that secret office of Pol
6 Pot. My superior who I went to contact with only was Son Sen.

7 Q. Where specifically was M-13 located? What is the specific
8 location -- its specific location of its units or of its -- of
9 its unit or of its units, if there were several units, depending
10 on the centre?

11 A. M-13 -- there was M-13A under my direct supervision and
12 M.13B where my deputy managed.
13 The M-13B was in Sdok Srat, In Sdok Taol sub-district. At that
14 time it was called Ang Snuol District, Sector 15. The M-13B was
15 allowed, when I permitted its creation and it remained at that
16 same location.

17 S-4, M-13, M-13A where I managed, had moved a couple of times.
18 It's initial place was in -- on Anlong Veng in Thmar Kok on
19 Amleang sub-district. That was the location where Bizot was
20 detained.

21 Later I relocated the office to a location called the Tuol
22 Svaymeas or Taleav for doing rice farming. However, after the
23 riot and the prisoners escaped I relocated it to near Trapeang
24 Chrap. Trapeang Chrap was the last location of M-13A. In
25 summary, the M-13 only had two branches or two locations. The

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1 first branch was M-13A which was my office which located three
2 times and M-13B at Sdok Srat and always remained at that
3 location.

4 Q. As of the origin, did you -- was it considered to create --
5 were you considering creating two units, a branch M-13A and a
6 branch M-13B and why two separate branches?

7 A. The first principle that I was asked to manage, M-13, it
8 was then no M-13A or M-13B. However, I noticed that some people
9 were released. So the people who were released would have been
10 taken far away from the people who were detained and smashed.
11 Having taken into account this matter, that's why I asked my
12 boss, Brother Vorn, to establish another location. Then my
13 deputy chairman, Comrade Sum, was asked to become the
14 chairperson. His first name was Ho Kim Heng.

15 Q. So if I've understood properly, at the start, there was
16 only one centre which was called M-13, a centre from which the
17 detainees were released, but if I understood correctly, it was a
18 rather special form of release because, unless I did not
19 understand properly, you said that they had to be brought far
20 from -- and then executed. Is that what I understood or is that
21 an error?

22 A. (Microphone not activated)

23 Q. But for earlier, when I asked you the question concerning
24 the existence of several -- of two centres, two distinct centres,
25 you told us that there was at the start only one single centre

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1 but certain detainees had been released, so what does this
2 release mean? Were they really released or were they simply
3 executed?

4 [15.30.25]

5 A. The people who were released was released without being
6 re-arrested and only this release could be done from the
7 permission, because I asked the chief of the zone already to have
8 these people released.

9 Q. What happened to M-13 detainees after they had been
10 interrogated?

11 A. People who were pursued that could not be released, the
12 interrogation normally took place by way of tortures and,
13 finally, they were smashed.

14 Q. Was execution the rule rather than the exception?

15 A. The smash was the main principle. Whenever the zone
16 decided then the Police Office had to implement the decision, so
17 the smash was the permanent principle and regular principle.

18 Q. You told us about two branches. You referred to M-13B,
19 which was the office in Sdok Srat. You were telling us about
20 M-13A, which was located in different places at different times.
21 Were there any other security offices under M-13? If so, in
22 particular, did you hear about an office called M-99?

23 A. M-19 was seen. I saw M-19 in the book and I did not know
24 what M-19 -- sorry, 99, was. Now, having studied the materials
25 and detail, at that time, the office was called -- after reading

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1 some documents I noticed that this office was one called Police
2 Office of Sector 32. These two units were separate and they're
3 not related.

4 [13.35.22]

5 Q. What further detail can you provide us concerning the way
6 M-13 functioned?

7 A. M-13's first task was to receive people who were arrested
8 and to be interrogated. So after interrogation those people were
9 smashed, so this was the task of M-13A. For M-13B, they received
10 only people who were sent to be re-educated for a while and then
11 released afterwards with decision.

12 Q. Can you describe the detention conditions in M-13 for us?

13 A. The detention condition was tough because there was no
14 medicine and, ultimately in 1974, people only ate -- they did not
15 even have rice to eat. Even the cadres, including me myself, had
16 no rice to eat. We ate sweet potatoes and then some poisonous
17 tubers, and the -- we -- the detainees were shackled day and
18 night, and when there were B-52 bombings, then we had to dig a
19 trench and then -- so that people could take refuge. So there
20 were three trenches in my location; one for keeping female and
21 others for keeping male detainees, but I could see that the
22 detention condition was very inhumane.

23 Q. I am going to read from a note which was attached to your
24 interview of the 3rd of October 2007. This is on Document Number
25 D21. This is on page 12 of the French version. You wrote a

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1 paragraph entitled "The Influence of Terror on Me" and you say
2 the following:

3 "In Sector 25, I hated the police work (called the Special
4 Branch) and I hated the killing, but I was told that this was due
5 to a loss of direction on the part of the party. In Office 13, I
6 came to hate excrement but I had to walk in it. Chi Kim An's
7 fighting method, that is suicide by hanging, was not good. I did
8 not wish or dare to fight openly as Hou Youn had done when faced
9 with Ta Mok and Pol Pot. I tried to resolve matters by my own
10 means.

11 This means, firstly, ensuring that I could seek and find the
12 truth of confessions, but I had no way of ascertaining the truth,
13 which terrified me when I reported the answers contained in the
14 confessions.

15 Secondly, I asked Vorn Vet to free people who had been sent by
16 other people. I was only able to release eight of those, of whom
17 I remember only six names.

18 Thirdly, I asked to share or split Office 13 into two. The first
19 would be 13K at the foot of the Pis Mountain where detainee work
20 details were sent to plant rice. There was an escape and all the
21 detainees were able to break free and escape. The second was
22 Office KH, which was in Sdok Srat village in Sdok Taol District,
23 which kept detainees for some time before they were freed.

24 [15.41.56]

25 Fourthly, as I had done so much to seek the truth, Ta Mok became

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1 annoyed with me in respect of a cadre, Prach Son, or alias Pot,
2 who came from Hanoi.

3 Fifthly, I asked for the release of somebody in the southwest
4 which turned out to be very difficult. The freed person was Ham
5 Hin."

6 Do you wish to confirm what I have just read? Do you have any
7 comment on that?

8 A. I would like to confirm with one word only. The term "13A"
9 as read by Your Honour at this time --

10 THE INTERPRETER:

11 The accused in French.

12 THE ACCUSED (Interpreted from Khmer):

13 A. So we used the "B" to refer to the offices but I already
14 told the Judges about the detail of the offices.

15 MR. PRESIDENT:

16 The prosecutor, you take the floor.

17 MR. PETIT:

18 I'm sorry, each time when the accused is speaking and he changes
19 -- switches to another language, there's always some loss in the
20 interpretation. This means that at the very least the transcript
21 will not be accurate. In the other court -- as in the other
22 courts, if a party or a witness or anyone else intends to switch
23 languages he should inform the interpreters, otherwise there will
24 necessarily be a loss in the interpreting as happened in what the
25 accused responded at least for the English.

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1 [15:44:57]

2 MR. PRESIDENT:

3 Judge Lavergne, you can still pursue it.

4 BY JUDGE LAVERGNE:

5 Q. To ensure that there is no misunderstanding, could you
6 please repeat the answer that you just gave.

7 (Microphone not activated)

8 Q. I asked you whether you had any particular comments with
9 regard to what I had just read out, in particular your despair,
10 so to speak, in regard to the work that you had to do when you
11 were in Office 13, and you made some remarks regarding the
12 existence of two centres which had been mentioned beforehand.

13 A. I do not understand the comment by the Co-Prosecutor and I
14 also do not really understand the additional questioning by Your
15 Honour. Could you please ask again?

16 [15.46.23]

17 MR. PRESIDENT:

18 May the Co-Prosecutor please state your comment again, and after
19 that Judge Lavergne will make his comment.

20 MR. PETIT:

21 Yes, thank you, Your Honour.

22 I am saying that if someone switches languages in the middle of a
23 presentation while speaking, then there is necessarily a loss in
24 translation. So, for example, if the accused starts answering a
25 question in Khmer and then switches to French, there will be a

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1 loss. The translation cannot keep up and therefore the
2 transcription -- the transcript that will be made at the end of
3 the day will not be accurate or complete.
4 So I would suggest that perhaps for this particular stage the
5 accused sticks to one language, Khmer, if possible, and if not,
6 to pause and warn the translation that he is about to switch into
7 French before doing so; therefore there will be no loss.
8 [15:46:58]
9 I remind those who need to be, that we do not have straight
10 Khmer/French translation but rather, Khmer, to English and then
11 to French. So we have to be mindful that any deviation in
12 language will cause problems.
13 I hope I'm clear this time. Thank you.
14 MR. PRESIDENT:
15 The defence counsel, Mr. Roux, the floor is yours.
16 MR. ROUX:
17 Thank you, Mr. President.
18 It's just to clarify; the accused did not change his language, he
19 just tried to correct an error in the French which was read out
20 by Judge Lavergne. In the French version read by Judge Lavergne,
21 M.13K was mentioned and the accused explained that M.13K is in
22 fact M.13A. "K" is what corresponds to A in the Latin alphabet.
23 Similarly, he afterwards indicated 13KH and the accused said it
24 is M.13B in fact.
25 So unless I'm mistaken, he did not change his language, he just

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1 wished to correct what is indicated in the French version of the
2 document that was read.

3 [15:49:51]

4 For translation purposes, when 13K is mentioned, we're referring
5 to M.13A as in English and where M.13KH is indicated this is
6 M.13B. These are the two M.13 offices that we have been
7 discussing this afternoon.

8 MR. PRESIDENT:

9 The Co-Prosecutor, do you have any further comment? The floor is
10 yours.

11 MR. PETIT:

12 Thank you, Mr. President.

13 However, during his testimony today the accused answers
14 questions, in part, in French and there was always some loss. So
15 I repeat my comment that the accused or any other person should
16 remain within one language and just one translation, the
17 translation if he wishes to make corrections in another language.

18 Thank you.

19 (Deliberation between Judges)

20 MR. PRESIDENT:

21 The Trial Chamber took note of the observation raised by the
22 Co-Prosecutor. It was appropriate and it should be corrected
23 because, at the same time, the accused uses two languages; that
24 is the Khmer and the French languages.

25 [15:53:07]

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1 The Trial Chamber would instruct the accused, Mr. Kaing Guek Eav,
2 from this point onward, please use one of the two languages
3 clearly. You use the Khmer language if you intend to respond.
4 So clarify to the question -- other questions, in the French
5 questioning then you should seek permission from the Chamber, so
6 in order to facilitate the translation team to have enough time
7 for the translation.
8 May Judge Lavergne, please continue.

9 BY JUDGE LAVERGNE:

10 Q. Can you tell us whether what I read out fits some
11 despair on your part in regard to the work that you were forced
12 to do at the M.13 Office? Were you put off by this work? Did
13 you enjoy it?

14 A. I would like to inform Your Honours that, when you read my
15 statement, my earphone was interrupted. That's what happened.

16 However, if I were to respond to you at this time whether I
17 was satisfied with that job, I was not. But it was not -- it was
18 unavoidable and I hate to do it. I had pretext to ask Vorn Vet
19 to punish me or discipline me because some of the detainees fled
20 but he did not imprison me and he kept sending more people to be
21 detained, interrogated, and smashed.

22 [15:55:42]

23 So probably that was my fate to do that job. And I recite
24 the poem just to comfort myself. That's what I informed Your
25 Honours in the morning.

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1 To sum up, I could not have anything else to do besides doing
2 that job, in that place, at that time.

3 Q. When you say you could do nothing else, did you at all
4 consider doing something else? If so, what? Did you understand
5 my question? You said you were forced to do this work; that you
6 did not have a choice. So did you consider doing something else,
7 like absconding?

8 A. I did not think of any other choice other than following
9 their order so that I could survive. Never. So I never thought
10 of any other means to avoid these. I knew that the task was
11 criminal in nature but I had to follow the order.

12 Q. Did you observe that there had been any changes in the
13 categories of people who were arrested and taken to M-13?
14 Because a while ago this morning you talked about spies; so apart
15 from spies, were there people characterized as enemies? If so,
16 who were they?

17 [15.58.37]

18 A. First, the people who came from Lon Nol territory were
19 called the spies. I believed that only in small part that these
20 people were really the spies. They were poor people and could
21 not escape. That's why they were compelled to do that, and I
22 already reported -- informed Your Honours there was a -- did
23 shoot in the village and also in the works at Kobb Srov. That's
24 why I tried my best to solve the problem as it happened.
25 However, the most shocking event was the purge of the base.

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1 Amleang is the reference zone and it was hard to tolerate -- that
2 bear that situation. Whenever I recall it, it hurts me.
3 So these are the kind of people who were brought in, and I
4 already mentioned this morning that there was a conflict inside
5 the party when Ta Mok, who sent Sang Ha Hoeurn to M-13 and there
6 was no intervention. He did not dare to intervene and he
7 arrested a cadre from Hanoi, accusing him of shooting Comrade Yan
8 and compel M-13 to interrogate him. And without following the
9 order I would be punished, so I could not find any alternatives.
10 So in conclusion, I still maintain my position that I never
11 thought of any other alternative way other than following the
12 orders, because I was afraid to be killed.

13 Q. These spies or these enemies, were they men, were they
14 women, were they children?

15 A. The internal they shoot. Of course people who were
16 regarded as spies were mixed, men and women. At that time I
17 tried to raise three children and it contradicted to their
18 instruction that I would be cautious because these children would
19 take revenge. However, to raise children I need to do my best
20 and I reported about my failure to raise the children but Son Sen
21 did not challenge it. So I had a mistake for raising such
22 children, so I did not really contest my boss, and the children
23 were arrested in 1974 but there were more of them who were sent
24 in at S-21.

25 [16.03.18]

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1 Q. Three children out of how many children who arrived at
2 M-13, and what became of these children who arrived at M-13?

3 A. Your Honours, I released one of -- a teenage boy and I also
4 had to face the challenge by Chhay Kim Huor that these kids would
5 take a revenge. But later on I noticed the three children of the
6 person named Sung Un because the children who were sent to that
7 place were the people who had no -- had the fathers but without
8 mothers. I tried to raise them but I could not succeed. I could
9 not remember whether I had any further knowledge of any children
10 other than the three, because there was no list at M-13.

11 Q. Outside of these three children were other children
12 detained at M-13 and what happened to these children who were
13 detained at M-13?

14 A. As I already told Your Honours, other than the three
15 children there was no other, except the teenage boy who came in
16 1971. In September-October I received one teenage boy, and after
17 that there would never be any other children. And when it comes
18 to the three children, the children of Sung Un I already talked
19 about this before the Co Investigating Judges.

20 [16:05:40]

21 Q. So I want to be sure that I've understood properly. You're
22 telling us that at M-13 there were only three children who were
23 detained, three children that you tried to raise, and that on top
24 of this there was a teenager that you released. Is that true?

25 A. Yes, Your Honour, that's correct. So far as I remember,

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1 that's correct.

2 Q. And can you give us more details on the organization of
3 M-13? In particular when the people were led to M-13, were they
4 registered? Was there some kind of department holding a register
5 with names?

6 A. Your Honour, during the wartime there was no papers or book
7 except at the Office 201 that provided with paper that we could
8 record on. But when people were sent and we registered them, but
9 when they were smashed those papers were also destroyed so no
10 lists of detainees were kept.

11 Q. You told us earlier on that the prisoners were chained
12 together. Can you tell us how they were chained together? Were
13 they shackled by their feet or were they chained together by
14 their hands?

15 A. Your Honour, they were not chained, they were shackled with
16 a bar, an iron bar, a long iron bar with a ring to put -- to
17 place the legs of the detainee in those rings and chain -- and
18 shackled together.

19 Q. Were the detainees classified into different categories?
20 Were some of them allowed to move about during the day or were
21 they constantly shackled?

22 A. Normally, women detainees were let out to plant some
23 eggplants but the male detainee was shackled and never been let
24 out.

25 Q. You spoke to us earlier on about the food deprivation

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1 issues, the lack of rights for example, and, therefore, were
2 there prisoners -- did normally however did the prisoners have
3 enough to eat however?

4 A. I think the cadre's like our cell did not have something to
5 eat -- enough to eat let alone those detainee, they only ate even
6 bran or rice dust.

7 Q. So the diet of the cadre's and of the prisoners was not the
8 same?

9 A. The cadre's status was higher than the combatants and the
10 combatants who were detained had different status also because
11 their food was so little that they were only let alive to only be
12 interrogated.

13 MR. PRESIDENT:

14 The accused, could you please say again because there was a
15 translation issue that I could not hear you, last part of the
16 speech.

17 [16:11:22]

18 THE ACCUSED:

19 The judge asked me about the difference of food ratio between the
20 cadre's and the combatants who were detainees. I stated that
21 cadre and the combatants were completely different. Sorry, were
22 a little bit different.

23 INTERPRETER: Correction from the interpreter.

24 THE ACCUSED: But the victims who were detained there, their food
25 ratio was very, very different from the cadre's. By the end of

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1 1974, in the months of September and October, they only ate bran
2 or rice dust.

3 So we noticed that difference food ratio so we only kept these
4 people alive to be interrogated.

5 BY JUDGE LAVERGNE

6 Q. And were you able to notice that prisoners had died of
7 starvation?

8 A. The people who were sick and died of starvation, yes, there
9 were some of them. But, in general, we did not leave these
10 people until they faced such a situation because after
11 interrogation, in principle, they were taken away and smashed.

12 Q. Did you notice that certain members of the staff had also
13 died of starvation?

14 A. So far I remember there was no staff who died of
15 starvation. No, there was none.

16 Q. What were the hygiene -- conditions of hygiene in which the
17 prisoners were living, in particular how do they go about it to
18 release -- relieve themselves? Sorry. Did they have the
19 possibility of washing as well?

20 A. Office M-13A was located next to the lake so the detainees
21 were allowed to relief themselves in that lake. 13A was located
22 near the river but the river was dirty. The detainees somehow
23 were allowed to bath in that river.

24 I would like to confirm that the water in Trapeang Chrap area was
25 dirty but that we asked the detainees to bath in the river

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1 instead.

2 Q. Where did the prisoners have -- did all the prisoners have
3 the permission to bathe, to wash, or was this a privilege?

4 A. So far as I remember, the detainee took a bath every day
5 and they were let by comrade Meas.

6 Q. Were they chained together?

7 A. The female detainees were not tied together, but male
8 detainees were tied together with a string from the hammock.

9 Q. You told us that there was no medical care this morning;
10 can you confirm this?

11 A. It was true; I cannot -- I don't contest this.

12 Q. You also spoke about pits. Can you tell us if as I -- can
13 you tell us if these pits were dug to "to shelter the prisoners"
14 or were these pits dug for any other reasons?

15 A. The pits -- that was for sheltering the detainees, to
16 protect them from being dropped the bomb on. The other kind of
17 pit was located on the other side of the river. It was the --
18 that -- to bury the deceased people. And there was another kind
19 of pit that was covered and used as a trench.

20 [16.19.38]

21 JUDGE LAVERGNE:

22 Okay, I think we're going to stop for this afternoon, Mr.
23 President.

24 MR. PRESIDENT:

25 It is time to break for this afternoon, so the Chamber would like

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1 to announce that our session is now adjourned. So tomorrow
2 session will be resumed at 9 a.m. I would like to ask the
3 security personnel to take the accused back to the detention
4 facility and bring him back before 9 a.m.
5 I would like to also inform the participants and the audience to
6 join the session tomorrow before 9 a.m.
7 (Court adjourns at 1620H)

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