



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

28 April 2009, 0930H

Trial Day 13

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
TY Srinna
YUNG Phanit
KIM Mengkhy
Silke STUDZINSKY
Philippe CANONNE
KONG Pisey
Alain WERNER

For the Trial Chamber:

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

For Court Management Section:

UCH Arun

For the Office of the Co-Prosecutors:

TAN Senarong
Alexander BATES
PICH Sambath
Stuart FORD
PAK Chanlino

For the Accused Person KAING GUEK EAV

KAR Savuth
Heleyn UÑAC

I N D E X

WITNESSES

THE ACCUSED, KAING GUEK EAV

Questioning by Judge Lavergne resumes page 2

Questioning by Judge Thou Mony commences..... page 18

Questioning by Mr. Tan Senarong commences..... page 30

Questioning by Mr. Bates commences page 40

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. BATES	English
MR. CANONNE	French
MR. KONG PISEY	Khmer
JUDGE LAVERGNE	French
MR. ROUX	French
MR. TAN SENARONG	Khmer
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
JUDGE THOU MONY	Khmer
MR. WERNER	English

1

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

2 (Judges enter courtroom)

3 [09.10.20]

4 MR. PRESIDENT:

5 The Trial Chamber is now back in session and continues to hear
6 the facts in relation to the establishment of S 21 and Ta Kmao
7 Prison. The Greffier, please report the attendance and absence
8 of the parties in this hearing today.

9 THE GREFFIER:

10 Your Honours, the parties attending this hearing were all present
11 this morning. Thank you.

12 MR. PRESIDENT:

13 The Greffier, put on record the attendance for today for the
14 transcripts.

15 Next, the Trial Chamber hereby declares its decision on the
16 request by the Civil Party Group 1 yesterday.

17 The Trial Chamber rejects the request by the civil party group
18 number 1 to restrict the right of the lawyer for the defence from
19 intervening to correct the accused's testimony during the trial.
20 The reasons. The Internal Rules do not prohibit the lawyer for
21 the accused from giving the accused advice or consulting with him
22 at any time.

23 The Security Officer, please bring the accused to the dock.

24 MR. PRESIDENT:

25 Before the hearing of the facts, the Trial Chamber reminds the

2

1 parties that the questioning and hearings was forecast today on
2 the establishment of S-21, and the matter related to the
3 psychiatric hospital and prison, and on only the matter in
4 relation to S-21.

5 As for other facts, we will hear, following our agenda until to
6 the conclusion of the agenda, that we have seven facts
7 altogether, so the parties are reminded to follow this agenda so
8 that we can avoid any confusion that we will have the repeated
9 question for other facts. So, please, the parties, take note of
10 all these instructions.

11 To move on, Your Honour, Judges, do you have any questions to
12 make to the accused in relation to the facts for the hearing
13 today? If you do -- please Judge Lavergne.

14 [09.14.20]

15 JUDGE LAVERGNE:

16 Thank you, Mr. President.

17 QUESTIONING BY THE BENCH

18 BY JUDGE LAVERGNE:

19 Q.I would like the accused to provide a few clarifications
20 concerning his activities before S-21 became operational. He
21 stated yesterday -- or you stated yesterday that you came to
22 Phnom Penh in June 1975 to follow a training program with one of
23 your collaborators, and you stated also that you remained in
24 Phnom Penh after this training.

25 Can you tell us if, as of that moment, you were offered to take

3

1 on responsibilities to manage a security centre in Phnom Penh or
2 were there other reasons for you to stay in Phnom Penh?

3 A.Your Honour, when I arrived in Phnom Penh it was on the
4 morning of the 21st, and on the 24th I attended the political
5 training session. Let me confirm that the political training
6 session, the superior would present the political documents for
7 four days; 24th, 25th, 26th and 27th. And after that, we
8 discussed those documents in groups in order to understand the
9 political details in those documents.

10 And after that, each participant had to write a revolutionary
11 biography and their their revolutionary view, and their own
12 revolutionary view. For the interpreter, the French said it's
13 the political life view of the revolution. We had to prepare a
14 life view of the revolution -- I apologize -- our life view of
15 the revolution and our biography. We prepared these two
16 documents for about three days before we hand it over. That is,
17 we read our own biography to all the comrades in the group to
18 listen to, and then those comrades would pose questions and we
19 would have to respond to those questions.

20 [09.19:07]

21 In conclusion, during each training, it took between 10 to 12
22 days. This is to give you a view on the training session during
23 the Communist regime.

24 So there were four of us; we were all members. Not only two but
25 four of us; I, myself, Brother Mam Nai, Comrade Sum, and Comrade

4

1 Meas. We were all members.

2 After the study session, Comrade Sum asked for permission to find
3 his wife and the children in Siem Reap. I asked Comrade Meas to
4 return to Amleang, and I was not sure at the time whether Brother
5 Mam Nai was with me at Phnom Penh at the time. Let me confirm,
6 the person who was with me, I was not sure whether it was Brother
7 Mam Nai or whether Brother Mam Nai went to Amleang with Comrade
8 Meas.

9 I stayed there and I had no duty assigned to me yet, and I was
10 waiting for the assignment. Later on, I saw Nat and he called me
11 to leave the train station and to stay at the former headquarters
12 -- (inaudible) headquarters.

13 [09.21.39]

14 Q.At this level, I would like to have a specifications
15 clarification concerning the content of your biography and of
16 your revolutionary opinions.

17 You told us that when you left M-13, you were disgusted by your
18 police work there. You told us, as well, that you were aware
19 that the confessions that were obtained at M-13 did not mirror --
20 or only mirrored very partially the truth, and I'd like to remind
21 you that you said previously that you have, in your family,
22 alliances with Lon Nol's family.

23 And did these elements appear in your revolutionary opinions or
24 in your biography?

25 A.Thank you, Your Honour, for raising these questions for me to

5

1 report to you.

2 The large view of the revolution and the revolutionary biography
3 were done after the training session.

4 [09.23.48]

5 And the large view -- in the large view of the revolution, they
6 are not right. My boredom or that I was fed up with the
7 revolutionary work, I only wrote according to what was provided
8 to me. From my recollection, the content of those training was
9 about the congratulations of the 17 April anniversary. So that
10 was my impression on the contents; it's about the great victory
11 of the 17 April.

12 And the second point is for us to sacrifice ourselves for the
13 collectivity.

14 And the third point is about our commitment to rebuild the
15 socialist country and to continue our revolutionary work.

16 Therefore, in my biography, regarding to my uncle who's wife was
17 the niece of Lon Nol, I did not write about this matter. I did
18 not report this matter in my biography because in that biography
19 they talk about only the direct blood relatives and about the
20 parents, the mother-in-law, the father-in-law and the wife. And
21 as for the uncle whose wife was the niece of Lon Nol, he was a
22 distant relative of my mother.

23 I already reported to Your Honour that I did not write this
24 matter down officially in my biography, but for some of the
25 party's members, I mentioned this matter to them in order to tell

6

1 them that I rather be imprisoned rather than to make alliance
2 with the Lon Nol group.

3 So to conclude this; that I was fed up, that I was shocked with
4 the police work, and I did not write these matters into my life
5 view of the revolution.

6 [09.27.42]

7 And regarding my communication with my uncle, I did not write
8 this matter in my revolutionary biography. And for my close
9 friends, even if when I was fed up with the revolutionary work, I
10 did not even dare to tell them.

11 That is my conclusion, Your Honour.

12 Q.So, if I understood correctly, between June and August 1975
13 when this meeting took place in which the creation of S-21 was
14 decided, you had had no specific activities outside of the
15 training program and outside of the writing of your biography --
16 or did you start undertaking a police activity as well or did you
17 start undertaking any kind of information activities as well?

18 A.Let me continue my report to you, Your Honour.

19 During that period, as I informed earlier, whether I was in Phnom
20 Penh alone or I was with Brother Mam Nai, I was not clear on this
21 point.

22 I was pretty pitiful for three or four years, so when I was in
23 Phnom Penh at that headquarters I had plenty of food, so I took
24 the advantage of eating the food there, but one day I made a
25 visit to Amleang.

7

1 From my recollection, there was no police work or any specific
2 training at the time. I only went around looking at the
3 buildings and at this place from those old Lon Nol regimes; how
4 they organized their attacking strategies; the underground floor
5 of the building.

6 Q.You explained, unless I'm mistaken, that you were looking for
7 information; that you went to the staff headquarters of Lon Nol,
8 but I also believe at Lon Nol's villa too, but maybe I
9 misunderstood.

10 [09.31.20]

11 In your research, what were you looking for exactly and did you
12 find, in particular, documentation regarding torture? Did you
13 find books on torture? Did you find documentation on torture?

14 A.After the 17 of August 1975 -- the 15th of August, correction
15 -- and then Comrade Sum married to his wife and the superior send
16 him back to the Ministry of Industry at the request of Comrade
17 Sum, as from me.

18 THE INTERPRETER:

19 Excuse me; the interpreter did not hear. Could you please
20 repeat?

21 THE ACCUSED:

22 Comrade Sum returned and then he was sent to the Ministry of
23 Industry at his request by the superior. As for myself, I
24 assigned Comrade Meas to take the people from Amleang to work in
25 Phnom Penh.

8

1 As for myself and Brother Mam Nai, we walked around to search for
2 documents at the house and residence and public institutions.
3 The private houses of the senior people of the former Lon Nol
4 regime, I spent two days searching for documents.
5 As for the sustained (inaudible) general staff, I saw documents
6 there but I did not take any document, and Nat collected and kept
7 those documents. As for Chan Sokhom's house or the Ministry of
8 Foreign Affairs, the superior collected and gave them to me to
9 keep. I went to the public institutions, including the Police
10 Inspectorate Office, the General Police Inspectorate, and the
11 QGAA and CIPRA, the third location, and Azikashi (phonetic) as
12 the fourth location I went to.
13 [09.35.36]
14 For those documents on torture that Your Honour asked me I took
15 them from, I took them from the General Police Inspectorate,
16 police inspectorate, which is known as PJ.
17 Q.I would also like to obtain some clarification with regard to
18 the personal role you played in the choice of the premises of S
19 21. We have seen that various premises were used but the final
20 location, it appears to me, has two characteristics. First, the
21 use of school buildings; and second, the size.
22 Is it you who proposed this location? Was this a decision of
23 your superiors or did you just seek the approval of your
24 superiors?
25 A.Your Honours, the location of S 21, the final location first

9

1 was located by Nat because the superior ordered him to move from
2 PJ, and therefore we are talking about the size of the compound.
3 It was existing from Nat was there. It means that the north
4 connects to Road 310, and to the south a bit further than 360,
5 and in the east it's at Monivong Boulevard. To the west, it's
6 not beyond Street 163. And the fourth location was remaining
7 from Nat and it is approved by the superior because to keep them
8 hiding from the Chinese experts and advisors.

9 As for my initiative, I proposed approval from the superior to
10 move the detention to the location of Ponhea Yat High School.
11 This is my initiative and it is approved by the upper echelon.
12 [09.40.21]

13 As for Choeung Ek, I decided -- it was decided by me. I did not
14 request for any consultation or views from the superior, and
15 later I reported to him for his information. And individual
16 cells, I decided to do that and I did not even report it to my
17 superior regarding that.

18 And, finally, I would like to tell Your Honour that I did not yet
19 report in this hearing. On the 15th of August 1975, the superior
20 directed me to organize the police office at Kab Srov in the
21 north of Phnom Penh. I did not know where Kab Srov was. I could
22 not find the place then. He told me that, "You need to ask Chan,
23 Comrade Chan to take you there", and Chan was so very difficult
24 and he did not take me there.

25 I would like to say that Comrade Chan was the messenger of the

10

1 superior who was stationed at the railway station. And at the
2 end, Nat selected the place which I marked as Location B at --
3 around Tuol Sleng for -- it's Location A, it's not B, sorry. I
4 made a mistake.

5 At the end in 1968, the Khieu say, "Comrade, you need to move to
6 Kab Srov". Let me say it again. In 1978, Uncle Nuon asked me to
7 work -- it was Nuon Chea -- called me to work and he reminded me
8 that, "Comrade, should move to Kab Srov". It was the place where
9 Angkar required you to be there. I denied at that time, "No, how
10 can I go there?" At Choeung Ek, there were a lot of ash and
11 graves. It might be the case that people may dig it out who take
12 care of them. It's the ashes, the skeletons.

13 [09.44.55]

14 I would like to say it again. It's not correct in translation.
15 I insisted to be at -- to work at Choeung Ek because there were a
16 lot of corpses and bones and bodies at Choeung Ek. There were
17 many of them there and, therefore, how can I leave the place for
18 another location? Uncle Nuon was silent at the time and at the
19 next meeting he told me that, "Angkar consented to your request".
20 That's all to Your Honour's question at this point in time.

21 Q. Did the fact that school premises were used as places of
22 detention and interrogation raise any questions on your part?
23 Did you feel anything? Did you feel that it was just a place
24 like any other?

25 A. Your Honours, my political views at that time; I saw Sisowath

11

1 High School and Tuol Sleng Primary School. They were the
2 buildings simply as other buildings, and the building that
3 facilitated detention. However now, I did not see. My view is
4 not the same -- the use of school or high school to be detention
5 and interrogation. It is kind of affection and a denial, the
6 culture and humanity as a whole.

7 [09.48.10]

8 Q.Concerning the 703rd Police Office and the psychiatric
9 hospital in Ta Kmao, perhaps I didn't understand you correctly
10 yesterday, but I believe you stated that the activities of this
11 office came to an end on the 15th of August 1976, or do you mean
12 that this is when this building was handed over to the Ministry
13 of Social Affairs? I didn't understand you very clearly.

14 A.The psychiatric hospital was used by Nat since the 17th April.
15 As far as my observation, the prisons were used until the 6th of
16 January -- sorry, the 6th of June 1976 -- and handed over to the
17 Ministry of Social Affairs. It occurred in early 1977 or late
18 1976 but, based on my recollections, it's the first semester of
19 1977.

20 So that's all for the response to Ta Kmao Prison.

21 Q.There's something I don't quite understand. Was this prison
22 part of the S 21 complex or not at all? And who ran the office,
23 that is 03, after Nat's departure?

24 A.Your Honour, officially the Office 03 finished on the 15th of
25 August 1975, however, Nat was not clear but -- I was not sure

12

1 when he started to use the S 21 name from the 15th of August
2 1975. The surviving documents, one of them indicated that until
3 the 30th or the 1st -- the 30th of November. On the 1st of
4 December, Nat still signed it with the Office 03, therefore, he
5 used that name unofficially. However, the official name started
6 from the 15th of August 1975.

7 So the Ta Kmao Prison, he supervised it from the 15th of August
8 until his departure and then he completed his remaining task for
9 the other three months. His departure date was around March
10 1976.

11 That is my conclusion, Your Honour.

12 Q.It's still fairly vague to me because you said that it
13 continued operation until June or August '76, I think. So who
14 was managing Office 03 from March '76? You said Nat left, so who
15 had the responsibility for this office and who was asked to clean
16 up the area, the premises, exhume the bodies and hand over the
17 premises to the Minister of Social Affairs, was it you?

18 [09.54.14]

19 A.The office 03 was supervised by Nat. So the person on the
20 ground who managed the daily work was Comrade Hor. Hor managed
21 all those daily activities; he was used for those daily
22 activities.

23 When Nat left in March, as I reported to Your Honour he told me
24 to maintain the Ta Kmao Prisons for our own use. I did not think
25 any further on that matter and I believe at that time Hor was

13

1 still managing those person -- those people who were detained in
2 that Ta Kmao Prison at the time.

3 And when Nat left, later he returned with his superior
4 permission. He came to meet Hor and to finish his remaining
5 task. Let me confirm that his superior was also my superior,
6 that is Son Sen.

7 So Nat came up and down until June 12th, '76 when he stopped
8 coming back. So the Ta Kmao Prison was still operational; it was
9 in operation from 17 April until June 1976. The person who
10 supervised the daily activity was Hor, Comrade Hor, and Nat was
11 the supervisor who gave orders.

12 This is the background -- it's a bit complicated. So that was
13 the background of the named office 03 and S-21.

14 MR. PRESIDENT:

15 The Chamber would like to remind the accused that the questioning
16 was -- is done in French and because you listened to the French
17 channel and you started to answer immediately and there was no
18 room for the interpreter to do the interpretation.

19 [09.57.23]

20 So, please, leave some room for the interpreter to interpret and
21 when you finish your response please switch off your microphone.
22 The floor is yours, Judge Lavergne.

23 JUDGE LAVERGNE:

24 Thank you, Mr. President.

25 BY JUDGE LAVERGNE:

14

1 Q.I still don't quite understand. Who decided to send people to
2 S-21 or to Office 03? Was there a difference between the two
3 institutions? Was Office 03 a place of execution rather than a
4 place of interrogation? Could you please enlighten us?

5 A.Let me report on the person who made decision to send people
6 to Office 03. The person who made decision, from what I can
7 observe, importantly it was the superior but Nat rose to ask
8 people from the countryside was also part of his job.

9 So about the people coming to the Office 03 was rather confusing.
10 Let it state it to Your Honour that even I myself, when I was the
11 deputy in that office, Nat still makes decisions to arrest people
12 from the Division 12. He made that decision by himself.

13 So the arrest of these people, to bring them to Office 03, when
14 Nat was there, was confusing. I didn't know who made decisions.
15 I did not know who or who -- the superiors who made the decision.

16 [10.00.06]

17 Let me state that that period were the time they screened the
18 former regime officers and the former military officers of the
19 old regime. Therefore, so the person who arrested the people at
20 that time did not have many people to arrest.

21 After I became the chairman of S-21, nobody dare to send anyone
22 to S-21 without asking for my permission. So everything had to
23 go through my superior and from my superior to me. So it was
24 clear that it started from the time I became the chairman of that
25 office. From that time onwards nobody dare to send people to me

15

1 directly; they were sent through my superior, Son Sen.

2 So that is the real situation of the time and probably my
3 previous description was rather confusing but my later statement
4 here is clear.

5 So I only received those people only from my superior and nobody
6 dared to send those people directly to me, to S-21.

7 So to conclude this, the situation of 17 April was rather
8 confusing, the arrest and the killing was carried out easily but
9 from March '76 onward only the -- when the superior sent them,
10 then S-21 would receive them.

11 [10.02.46]

12 Q.I think we will get back to the organization of S-21.

13 You mentioned a few -- a certain number of installations that I
14 believe existed at S-21 but that did not exist at M-13. In
15 particular, the telephone communication facilities that were
16 there, the typing services. Were there typing services at M-13,
17 for example? Were there photographers at M-13? Were there also
18 recording instruments at M-13 because we know that certain
19 confessions were recorded?

20 I would like to know, therefore, who was at the start of these
21 innovations, we could say. Was it you or was it something that
22 existed in other centres? How did all of this take place? How
23 were these instruments implemented?

24 [10.04.15]

25 A.These instruments did not exist during the M-13 period. Even

16

1 at the times, the writing paper was scarce. We had to use the
2 newspapers sometimes to write.

3 At S-21, it was the war's fault when Phnom Penh fell. It was the
4 legacy of the Division 703. The comrades, the photographers, and
5 the photographic instruments were all the legacy of the Division
6 703. The photographers also came from the Division 703, and the
7 typewriters also came from Division 703; also writing papers,
8 books, medications, envelopes. And also -- we also had one
9 photocopy machine and also a cinema projector -- two cinema
10 projectors. We have many equipments. We also have one
11 instrument -- electronic stencil which was the legacy that we
12 obtained.

13 So we only use those existing equipments from Phnom Penh, and
14 only had one thing that was given to me by my superior; that was
15 the telephone which dialled rings that was given to me to
16 communicate with my superior.

17 [10.07.21]

18 Q.Well, last question then; last question concerning Prey Sar .
19 Which share did you have in the -- what was your participation
20 level in the organization of Prey Sar? Did you decide to use
21 certain buildings? Did you decide on the internal organization
22 of Prey Sar? What did you do exactly at that level -- at the
23 organization level of Prey Sar?

24 A.Your Honour, Prey Sar was under my complete supervision. It's
25 only that I did not have enough time to manage, so I assigned

17

1 Comrade Hor and Huy to work over there except in special
2 circumstances where I had to intervene.
3 For instance, one day my superior asked me to bring about 30
4 people from the east for the re-education. After one month of
5 re-education, they would be sent to the tank division that was
6 newly established -- the tank unit which was recently
7 established. These 30 people or so came from the East Division.
8 They were sent for the re-education, and after that they would be
9 included into a tank unit that will be established shortly. So
10 only in a special case like this that I had to participate.
11 Separately, if people were to be arrested for re-education, they
12 consented amongst themselves -- the two of them -- and then they
13 would come to seek my opinion. I had a decision to decide on
14 these matters. I do not need to seek permission from my
15 superior, but I had to report the matter to my superior.
16 However, in certain cases, I needed to seek permission from my
17 superior. For instance, I think there is one surviving document
18 regarding the ability of Comrade Sok and, in that particular
19 case, I needed to seek permission from my superior because that
20 what he ordered me to do before I made a decision on that matter.
21 This is about the people that needed to be re-educations, so
22 those people were categorized as half-detainees, half-peasants,
23 but the S-21 staff at Prey Sar before any arrests to be made on
24 those staff, a decision had to be made.
25 And for the production planning about the organization of the

18

1 forces, they would organize those on the ground. But they also
2 had to be responsible before the Party for any mishap.

3 So if they beat -- they're forced in that place, they had to be
4 responsible before the party. In a case that a person revolted
5 and escaped -- so if a person -- a group of people who revolted
6 and escaped, then those who supervised the areas had to be
7 responsible before the party.

8 [10.13.55]

9 JUDGE LAVERGNE:

10 I do not have any further questions, Mr. President.

11 Thank you.

12 MR. PRESIDENT:

13 Your Honours, do you have any other questions to question the
14 accused?

15 Jude Thou Mony, please take your floor to ask the question.

16 BY JUDGE THOU MONY:

17 Q.You said -- you indicated yesterday that S-21 used to receive
18 the prisoner from Ta Kmao for interrogation in S-21. Can you
19 explain -- do you have the interrogation location at Ta Kmao, Ta
20 Kmao Prison?

21 A.I know a little, a very few about Ta Kmao Prison. Nat took me
22 there once and I came across Comrade Chea and I withdraw myself.
23 As I was a deputy, I did not want to know much. As I told the
24 Trial Chamber many times, I did not want to be a security person
25 then.

19

1 This is the truth and I do not know well, but I can assume that
2 when the victim was interrogated at location A -- in fact, most
3 of the prisoners were detained in Ta Kmao and some of them were
4 brought for interrogation in location A and later interrogations
5 were done at PJ. And most of the prisoners were brought from Ta
6 Kmao and Comrade Hor do that transportation at the order of Nat.
7 And S-21 moved from PJ to other location A. Most of the
8 prisoners, based on my assumption, they were from Ta Kmao Prison.
9 It was the former psychiatric hospital. It detained the prisoner.
10 As I assume, they had no interrogation place because the cadre
11 interrogators interrogated the prisoner at location A, and later
12 I collected all of the prisoners to detain in Ponhea Yat High
13 School.

14 And, Your Honour, based on my assumption today, there was no
15 interrogation place at Ta Kmao Prison.

16 [10.17.27]

17 Q.You indicated that Ta Kmao Prison may be created two or three
18 days after this event of April 1975 but the unit of S-21 was
19 established about the 15th of August 1975. So Ta Kmao Prison was
20 established before S-21, before the establishment of S-21. Can
21 you explain, during the operation or the functioning of Ta Kmao
22 Prison, was there any interrogation before the establishment of
23 S-21 so that the prisoners could be brought to S-21 for
24 interrogation?

25 A.Your Honours, the interrogation at Ta Kmao Prison, I don't

20

1 know that, but in the meantime or a little bit before the
2 establishment before when I participate in S-21, Nat brought me
3 one time to the special prison. At that special prison, the
4 first impression for me, Comrade Hor, who sit on a chair reading
5 a confession. Hor and me were always most of the time all
6 together. We used to be in prison in 1968 under Lon Nol regime.
7 I saw him there.

8 And then Nat took me further to the interrogation location. I
9 saw the victim sitting on -- Nat told me that Sao Pheum was the
10 victim who was sitting in a chair with the ankle shackle. Based
11 on what I saw, I can assume that there was no interrogation at Ta
12 Kmao and the victim was interrogated at Monireth resident. And
13 when S-21 come into operation, 61 Monireth resident was not
14 longer used but it moved to location A.

15 Ta Kmao Prison remained to be the detention and -- from the 17th
16 of April until June 1976. And the interrogation location, based
17 on my analysis and assumption, it was in Sisowath Monireth
18 resident, and later location A, and later PJ, and finally to A,
19 and a later stage it is at location B where Ponhea Yat High
20 School was.

21 That's all for this question.

22 [10.21.07]

23 Q. After S-21 was established, the prisoners were brought from Ta
24 Kmao for interrogation at location A as you indicate, as a part
25 of S-21. After the interrogation, were the prisoners smashed

21

1 inside S-21?

2 A.Your Honour, the smashing, I did not pay much attention to the
3 smashing. I mentioned this. It doesn't mean that the one who
4 did the smashing was a criminal, but it is the obligation
5 assigned by the party to do so. If they fail to do that, they
6 will be responsible before me and before the party. This is
7 based on the practical problem. There might be the victims who
8 were executed at location A. There might be some.

9 I would like to talk about one story.

10 When we started to work from -- we cooperated in the work with
11 Division 703 and we tried to work together. One day we received
12 an order from the superior, maybe Nat was not there, and the
13 superior told me that, "Comrade Duch, had someone to smash Meas,
14 alias Chuk (phonetic) to be about 5 a.m. in the morning and,
15 Comrade, you have to be there."

16 This passed for a long time but I did not want to see that. But
17 the smashing by 703 is different from S 21. They were proud of
18 the smashing. They stabbed by the knife to the neck here, like
19 here, to ensure the victim was completely dead. At that time I
20 went to see it under the order of the superior. I could not deny
21 Comrade Hor, who arranged that, and he used the flashlight.
22 There were two victims, Mom Suon and Suos. I did not remember
23 the date.

24 [10.24.26]

25 That activity indicated that there were a number of victims

22

1 smashed at Location R inside as part of S 21 at that time. And
2 Ly Phel, alias Phen was also smashed, and three days -- and then
3 Brother Khieu, Son Sen: "Duch, you have to exhume the corpse of
4 contemptible Phen and report it to the superior," and I was so
5 angry at that time but I dare not complain. And I did the
6 exhumation and the victim was buried in S 21, and the corpses
7 were buried for just three days. It was not really completely
8 decomposed but I needed to use some kind of fluid to clean.
9 And later the superior ordered me three times to inspect at
10 Choeung Ek, so I talk it about that many times, so let me finish
11 Choeung Ek here. So when I recall these kind of criminal acts,
12 they make me to make an assumption and analyse this as the
13 following.

14 The superior trusted me. The superior did not trust Nat. It's
15 not only Nat but the other subordinates, so I look at the whole
16 story and something was completely changed. I would like to
17 mention that at Location A at S-21 of Phnom Penh people were
18 killed there but I am not quite sure how many, other than what I
19 saw.

20 MR. PRESIDENT:

21 The Trial Chamber adjourns for 20 minutes and will resume at 20
22 minutes to 11 and then we will resume our session. Thank you.

23 (Judges exit courtroom)

24 (Court recesses from 1027H to 1059H)

25 (Judges enter courtroom)

23

1 MR. PRESIDENT:

2 Please be seated.

3 The lawyer, do you have any observations to make?

4 [11.00.03]

5 MR. WERNER:

6 Your Honour, can I have your leave to address very briefly --

7 very briefly, Your Honours, on a scheduling matter?

8 MR. PRESIDENT:

9 Yes, the Chamber permits you.

10 MR. WERNER:

11 I'm grateful, Your Honours.

12 Your Honours, you gave an order on 23 February 2009 about the

13 scheduling of the trial, and on this order you indicated that you

14 would inform the parties at a later stage of the date of sitting

15 days in the week of the 1st to the 5th of June. Can I request,

16 we would be grateful to Your Honours if we could have some

17 indication about that week, if you intend to sit or not during

18 that week and, if it's possible, if you could give this

19 indication before the two weeks' break.

20 And similarly, we would be grateful if we could receive -- before

21 we take this two weeks' break, if we could receive some

22 indication for the summer, for July and August, simply if you

23 intend to take some recess or not. It will really help us to

24 organize ourselves and try to plan; I'm grateful.

25 MR. PRESIDENT:

24

1 Thank you for raising the question, the issue. The Chamber would
2 like to inform the parties on the rescheduling of the hearing and
3 we will ensure the dates for the hearing on a weekly basis as
4 well as on a monthly basis. We will at least arrange a fortnight
5 or three weeks before the actual hearing date in order to ensure
6 that all parties could attend and could do their research before
7 the actual hearing date to facilitate the discussions during the
8 hearing.

9 For this week's hearing the schedule which was planned for this
10 week was not correct. For example, the M 13 was planned for one
11 week, but then some witnesses had to move to the following week,
12 at the time for the discussion on the facts of the establishment
13 of S-21.

14 At the moment, we are trying to develop our scheduling so that by
15 Thursday morning or afternoon this Thursday, we will issue the
16 rescheduling for the end of May, as we're asked, for the month of
17 June, and subsequently, the Chamber will insure the sitting
18 dates, and the scheduling for each fact.

19 Also for the listening for the testimonies of the witnesses, we
20 will issue those accordingly, but we cannot provide an actual
21 total scheduling of the hearing. And actually the last few days,
22 we have been working on this matter; whether we can keep or
23 maintain our scheduling or whether there's only some remaining
24 issues that needs to be pushed further into the following week or
25 the third week of May in order not to make it -- not in order to

25

1 justify the scheduling.

2 [11.03.54]

3 MR. WERNER:

4 Mr. President, I'm grateful for that, and the only thing I could
5 add is if in principle -- if in principle, you can tell us for
6 the summer -- of course I'm not asking for a detailed schedule, I
7 perfectly understand your point, but if in principle you can tell
8 us if you intend to take any recess or not for July and August,
9 that would just help us, give us some indication, but I perfectly
10 understand that you will give a detailed schedule only two weeks
11 or so in advance. I do -- I do understand this point. I'm
12 grateful.

13 MR. PRESIDENT:

14 Thank you for your questions. We will also inform you on this
15 matter, but in principle we have already informed you the
16 scheduling of the hearing. We -- at the moment, we sit on four
17 days and we leave one day for the judges to discuss on the
18 remaining issues so that is one day off, and if it falls on a
19 public holiday then the Court will not sit. So in general, we
20 will have one day of a week -- in a week to discuss, and we will
21 not sit.

22 And this is for us to experiment, and based on the last few
23 weeks, we have come across certain issues. Sometime we had to
24 adjourn in order to discuss on the pending issues to find proper
25 solutions to those requests raised by concerned parties. So we

26

1 can't foresee in the future if there are numerous issues, as what
2 we have come across so far, then we -- there would be amendments
3 or changes to the scheduling or probably to cut down the sitting
4 days to only three days per week.

5 But in general, the Court will notify on the scheduling of the
6 hearing, and we will inform all the parties whether the Court
7 will sit on a particular day or not as we have done previously;
8 for example, that the Court will not sit from the 1st to the 15th
9 of May next month.

10 Next, the Chamber will give the floor to the Co-Prosecutors. Mr.
11 François Roux, the floor is yours.

12 [11.06.35]

13 MR. ROUX:

14 Since we are talking about scheduling, before we continue the
15 substantive hearing, I wish to respectfully inform the Chamber
16 that I must leave Phnom Penh this evening, and that therefore, I
17 shall not be attending Court tomorrow and the day after tomorrow.

18 Yesterday evening, I spoke on the telephone with the Pre-Trial
19 Judge for the Special Tribunal for Lebanon. Pursuant to Rule 17
20 of the special statute of that Court, the Pre-Trial Judge will
21 hold the first hearing of this tribunal tomorrow in The Hague in
22 the Netherlands to decide on the extension of detention or
23 release of the four generals who are currently in detention. I
24 recall, for the Chambers benefit, that these detainees are
25 challenging the regularity of their detention, and the Pre-Trial

27

1 Judge has decided to hold this hearing without further delay, and
2 in my capacity as head of the defence office, I am required to
3 attend.

4 I ask you to forgive my absence. In view of the short time frame
5 I had, I was not able to provide for a replacement, but my
6 learned friend Mr. Kar Savuth has indicated to me that he's
7 prepared to represent the client for these two days. I shall be
8 back in May.

9 Thank you, Mr. President.

10 [11.08.59]

11 MR. PRESIDENT:

12 The lawyer for Civil Party Group 3, the floor is yours.

13 MR. CANONNE:

14 Mr. President, thank you for giving me the floor. I shall be
15 very brief.

16 I have two things to raise. First, I want to express my complete
17 support for what my colleague, Mr. Alain Werner has said. You
18 have responded to his concern; however, I should like to add that
19 when we make such a request of the Chamber, it is not merely for
20 convenience; it is obviously so that we can prepare our case, and
21 have the necessary time to examine the materials according to the
22 scheduling of the hearings so that we can keep up with the
23 matters being brought up.

24 Mr. President, I have a second question. When we parted on
25 Thursday the 23rd, this Chamber announced that the afternoon

28

1 session had been cancelled because you said you were supposed to
2 meet to come to a decision on the use or otherwise of DC-Cam
3 documents. You indicated that your decision would be made known
4 to us on Monday the 27th; that was yesterday. We shall be
5 parting on Thursday for awhile; it is therefore -- it therefore
6 appears indispensable to me for the proper organization of our
7 work, both the civil parties and the defence -- you see, I always
8 ask my questions to elicit a yes or no answer so would like to
9 know whether we should expect this document or whether we should
10 wait for a decision subsequently.

11 This is the thrust of my submission. Thank you.

12 [11.12.12]

13 MR. PRESIDENT:

14 Thank you for raising the issues. I would like to inform you
15 that the Chamber in our discussion and decision, and probably
16 there is a mistake in my speech or in the translation regarding
17 our decision that needs to be rendered on Monday -- yesterday.
18 Because the issue is complicated and long which requires a long
19 written decision referring to various rules and orders and some
20 international jurisprudence, that's why it requires a detailed
21 discussion, and after that we need to calculate the translation
22 and the time for the translation.

23 [11.13.14]

24 So the purpose of such discussion is to have an opportunity to
25 discuss other principles which are the basis for our decision

29

1 and, secondly, so after that we would work on that document and
2 then it requires to be translated. Therefore, the decision will
3 be announced after our return from the recess; that is, in the
4 third week of May. This is according to the scheduling and the
5 timetable; that it requires the document to be properly
6 translated.

7 On a separate issue, because of our urgent arrangement during the
8 hearing and discussion on the other facts, which are complicated,
9 we need to work on this particular matter first so that parties
10 can raise other relevant documents based on the Chamber's
11 decision. So there might be a misunderstanding on this topic.
12 For example, when you said that it needs to be rendered and
13 announced on Monday, yesterday, it was not.

14 MR. CANNONE:

15 Thank you very much for your response. I admit that my question
16 is complex and I thank you for your answer.

17 I'd like to raise another difficulty. That is, what is your
18 answer to the question raised with regard to interpretation or
19 translation? Am I to take it that your decision will be rendered
20 at the same time?

21 [11.15.34]

22 MR. PRESIDENT:

23 That was a request by a party and the Chamber took note of it,
24 and we will make our decision. It depends on the discretion of
25 the Chamber whether the Chamber used the right properly in

30

1 dealing with the administration part of the Court, so whether the
2 Chamber has its discretion and power to order the administration,
3 and we will make a decision on that.

4 In principle, we agreed on this issue and that we will be ready
5 to make letters, to sign it and send to the administration and
6 then make a copy to all concerned parties.

7 MR. CANNONE:

8 I have no further questions.

9 MR. PRESIDENT:

10 Next, I would like to give the floor to the Co-Prosecutors. The
11 Co-Prosecutors, do you have any questions to ask the accused
12 regarding our current facts? If you have, the floor is yours.

13 MR. TAN SENARONG:

14 Thank you, Mr. President. The representative of the Prosecution
15 Office has the following questions for Mr. Kaing Guek Eav, alias
16 Duch.

17 QUESTIONING BY THE CO-PROSECUTORS

18 BY MR. TAN SENARONG:

19 Q.As you have known, the Communist Party of Kampuchea decided
20 and made their decision on the establishment of the S-21 office.

21 In March 1976, you became the chairman of the S 21 office.

22 During that time and at the subsequent time when Son Sen was
23 your superior and he was also a party member of the Communist

24 Party of Kampuchea, did he inform you the purpose and the

25 directions on the establishment of the S 21 office?

31

1 A.Thank you, Co-Prosecutor. I would like to provide the
2 following response.

3 S-21 -- when I became the chairman of S-21 it was in March 1976.
4 That is the fact. My superior was Son Sen. In the party rank he
5 was not an ordinary party member. He was a candidate member of
6 the standing committee. He was the seventh person in the party
7 rank. In the document dated the 9 October 1975, Pol Pot assigned
8 him as the general staff -- responsible for the general staff and
9 he was also in charge of the security.

10 In the execution of the work at the S-21, my superiors always
11 said the S-21 duty is not the duties to conduct espionage but
12 it's the anti-espionage duty. So that is the duty of the S 21,
13 and this is for you, Mr. Co-Prosecutor.

14 [11.20.07]

15 Q.What about the following or the subsequent works during your
16 role as the chairman of S-21? Do you clearly understand the role
17 or the purpose, the actual -- or the characteristic of the S-21
18 office? What is the characteristic for the establishment of the
19 S 21 office? Do you really understand the characteristic of that
20 office?

21 A.Thank you, Mr. Co-Prosecutor. I would like to provide the
22 following response.

23 The history of the S-21 is divided into two parts. The first
24 part is when I was a deputy and before I came to that office, it
25 was the history of the purges of the old former regime officers

32

1 and military personnel, and from the time I took control as the
2 chairman -- I believe the Co-Prosecutor has an important document
3 already. It is the decision made on the 30th of March '76. It's
4 about the internal and external purges which was assigned to
5 the four important groups or cadres who have the right to make
6 such a decision. That is amongst the four groups.

7 When a decision was made to smash, then other security offices or
8 units had to make the arrest and to send to the security office
9 to arrest, to detain, to torture and to smash. It had to happen
10 and nobody dared to object the decision of these four groups. If
11 somebody opposed, somebody would be punished. So let me recall
12 that.

13 S-21, when I became the chairman of that office I -- the upper
14 echelon issued that document and from that date then the S-21 had
15 a duty to combat the internal purges, and amongst the four
16 groups let me tell you one is the secretary of the zone
17 committees; there were seven zones.

18 Second, the chairman of the office -- of the Central Office, that
19 is the Office 870 and third is the standing -- the Central
20 Standing Committee which needs to be -- which for the purpose of
21 the committee and the fourth one is for the smashing within the
22 internal party's rank of a general zone.

23 [11.23.33]

24 So those documents and also the surviving documents show from the
25 day I became the chairman of the S-21, it had no further duty of

33

1 purges of the former Republic regime officials but it was the
2 internal purges that has to be conducted.

3 Q.My question, as the following; during the investigation stage
4 you denied that S-21 never make any arrest, but in the hearing
5 stage it seemed to me that you recognized that there was arrests
6 made at S-21. For example, the arrest of Chhim Sam-Aok, alias
7 Panng that made in your house, is it true? Who were the victim
8 -- who's the key victim of the arrest at your house at that time?

9 A.Thank you, Mr. Prosecutors that you asked this question to me.
10 So far we have a discussion during the investigation stage
11 because of the concept of the arrest is not the same, it's the
12 prohibition; the conception of the arrest was not the same.
13 The office of the Co-Prosecutor, you said that the arrest -- the
14 decision made by S-21 and did the arrest. This is the point that
15 I denied. If you are talking about the four groups who made
16 decision, and S-21 was just the one who implemented the decision
17 to keep it secret so that we can control. And so the victim must
18 be detained, this is true. Van Kuythoun, second, was Chhim
19 Sam-Aok, alias Panng.

20 S-21 was the same as other security office that they perform
21 their duty following the decision made by the four groups.
22 So to conclusion, that we do not understand one another about the
23 concepts of the term used.

24 [11.26.26]

25 Q.Thank you.

34

1 The following questions; when you became the chairman of S-21 you
2 replied that no one was sent to S-21 without any agreement or
3 authorization from Son Sen. So it means that you knew everything
4 about all the victim who were sent to S-21. Among other things,
5 you denied that you know anything about the arrest of the
6 professor from France, named Phing Ton. You denied that you know
7 that; is that true?

8 A.Mr. Co-Prosecutor, I would like to keep this matter when we
9 are talking about Professor Phing Ton with the civil party who
10 were the youngest -- the oldest daughter of the professor.

11 Q.I just would like to know, did you know it or not?

12 A.Yes, I agree. I wrote in the books in relation to Phing
13 Sokhuntry (?ph), that's the matter I did not know. He was my
14 teacher. I did not know.

15 I would like to keep this for a detailed discussion when we come
16 to that matter.

17 MR. PRESIDENT:

18 Mr. Prosecutor, please try to make your question more specific so
19 that the facts we are hearing was the establishment of S-21 and
20 Ta Kmao Prison and we have no limitation on Ta Kmao because we
21 are not hearing further about the operation of Ta Kmao Prison and
22 we would like to know which one existed first in comparing to
23 S-21. Because Ta Kmao Prison was the legacy of Division 703 and
24 the establishment -- after the establishment of S-21, the
25 detainee and prisoner were transferred from that prison to S-21.

35

1 [11.29.18]

2 So the hearing of these facts were connected with the
3 establishment of S-21 and Ta Kmao prison. So if the
4 Co-Prosecutor do not remember that while it may be you come to
5 the policy or the operation of the security office, and it is the
6 complicate and the tremendous facts and we have another arrest,
7 the transportation, the detention and the smash. These are the
8 facts during the operation of S-21.

9 BY MR. TAN SENARONG:

10 Q.Thank you, the Trial Chamber, who reminded me about that.
11 Another question in relation to the training which the Trial
12 Chamber questioned you and your responded to those questions.
13 The Co-Prosecutor just would like to know the nature of that
14 training. So what were the training used in that training
15 session? We would like to talk about what is the nature or the
16 characteristic, the content of the material, was it about the
17 security? Who were the trainer when you were in Phnom Penh for
18 the training on the date that you questioned by the Chamber and
19 you provide the respond to the Chamber?

20 A.I would like to tell the Co-Prosecutor as the following; in
21 relation to the training I was trained by my superior every year.
22 In the political training sessions -- in each session there were
23 three types of documents presented. It was the political
24 documents, the psychological documents and the assignment
25 documents. And after the presentation, as I told Your Honour,

36

1 Judge Lavergne, there were discussion in the group so that we can
2 understand well the content of the document and then we produced
3 a revolutionary biography and the revolutionary lifestyle so that
4 we can learn.

5 [11.32.16]

6 This session conducted once a year and after that training, after
7 a number of cadre were sent to -- for training at the General
8 Staff. It was not with Son Sen but with Comrade Som. He was the
9 assistant to the General Staff.

10 And as for me, we conducted a training to those cadres who were
11 not sent to the general staff. Those training sessions were
12 conducted every year. It is called political training session
13 for every year.

14 In addition to that, I conducted a training on how to
15 interrogate. At the beginning of the establishment of S-21, I
16 had the former combatant and the combatant from Division 703 on
17 interrogation. I saw one of the comrade who took note; it is the
18 book of statistics of security matter of S-21. But actually it
19 was my -- the document that I presented about the politics and
20 how to interrogate. The book was binding in a proper manner but
21 the comrade was deceased. Now it's maybe it's in the (inaudible)
22 of S-21.

23 And later I conducted a short session -- a short session
24 training, and the one who took all the note was Brother Mam Nai.
25 And those document provided to me by the Co-Investigating Judges,

37

1 at the end those were the contents that I taught to those cadre
2 interrogators. Those presentations were based on my frequent
3 meetings with the senior. The superior gave me advice and
4 recommendation and I followed that.

5 And to sum up, these documents it focused mainly on the
6 proletarian class and the dictatorship class and the proletarian
7 class of the revolution, and these are the criminal kind of
8 document teaching people to do a certain way of the crime.

9 [11.35.10]

10 Q.Thank you, Mr. Kaing Guek Eav.

11 As you are well aware, that S-21, containing building A, B, C, D,
12 you indicated on the map on the slide and there was one of the --
13 two of the buildings, B and C, individual cells were constructed.

14 So when were those individual cells built and who did that
15 building or construction of the cell and who made the decision or
16 authorized the construction of those individual cells? And you
17 said that there were the big hall to detain many prisoners and
18 there was a building where detainee kept in the individual cells.

19 A.Your Honour and Mr. Prosecutor, when the superior decided to
20 order me to use Ponhea Yat High School to be the detention
21 facility I was a bit proud at that time, and then I order Comrade
22 Hor to build the individual cells. And then Mr. Prosecutor know
23 that Comrade Hor used to be a prisoner and he knew well about the
24 individual cell. And Comrade Hor agreed to me, he said yes. I
25 decided -- I made that decision and I order Comrade Hor to build

38

1 those. And I did not report to the upper echelon. It was my
2 independent authority to make decision on my day-to-day work.
3 Yes, that's all.

4 [11.37.43]

5 Q.You often indicated to the Trial Chamber about the
6 interrogation. When S-21 was established there were a cold
7 group, there's a hard group and a chewing group and a female
8 group interrogators. Can you tell us about the structure and the
9 formula for interrogation? What were they -- what were the step
10 for interrogating the prisoners?
11 You also mention in document D20 -- that's the minutes of record
12 of interview. You said in details in that -- before the
13 Co-Investigating Judges. At this time can you tell to the Trial
14 Chamber about the formula or the methods of interrogation of the
15 prisoner at the moment when you were working there?

16 MR. PRESIDENT:

17 Mr. François Roux, do you have anything to raise at this point in
18 time?

19 [11.39.16]

20 MR. ROUX:

21 Mr. President, I believe that Mr. Prosecutor is a bit ahead of
22 time concerning -- for the moment the Chamber has not gone into
23 the detail of the torture methods, and we were just only looking
24 at the organizational chart so far. And here Mr. Co-Prosecutor
25 is asking questions that are not -- should not be included in

39

1 today's proceedings.

2 Thank you, Mr. President.

3 MR. PRESIDENT:

4 The observation made by the defence counsel is appropriate. The
5 accused doesn't have to answer the questions by the
6 Co-Prosecutor.

7 And the Co-Prosecutor is reminded that the questions can only be
8 raised regarding the establishment of the S-21 office and the Ta
9 Kmao Prison, the former psychiatry hospital. So please bear that
10 in mind. And I have already reminded this matter during the
11 early morning, so please stick to this line of questioning for
12 the relevant facts. And the Chamber will not allow questions on
13 other facts.

14 MR. TAN SENARONG:

15 Thank you, Your Honours, for reminding us. The prosecution only
16 would like to inquire about the establishment and -- the
17 establishment of the interrogation team. This is what we all
18 want to ask about. We do not want to ask details on the torture,
19 for instance.

20 BY MR. TAN SENARONG:

21 Q.At the S-21 office there was a photographers team, as you have
22 mentioned to the Chamber. And you also stated that photographs
23 -- the photographers were those from the Region 703 and the
24 photography equipment were the -- was borrowed from the Lon Nol
25 regime and you used those equipment. And the question is

40

1 subsequently those photographer team, were they trained or
2 received any further or additional training during the
3 establishment and the operation of the S-21?

4 [11.42.04]

5 A.Mr. Co-Prosecutor, I would like to make the following
6 response. Regarding the camera or the photography equipment,
7 there were many photography equipment that was made so the
8 Division 703 got many of them and distributed to S-21 through
9 Nat, both the cameras and the films.

10 And about the photographers of S-21, Comrade Sreang went for a
11 training with the photographer from the Division 703, and later
12 on they trained amongst themselves. They did not receive any
13 other additional trainings elsewhere.

14 That is my short response to you, Mr. Co-Prosecutor.

15 Q.Thank you, Mr. Kaing Guek Eav, and I would like to give the
16 floor to my colleague to ask you some further questions.

17 Thank you, Mr. President.

18 MR. PRESIDENT:

19 The Co-Prosecutor, the floor is yours.

20 MR. BATES:

21 Thank you, Mr. President.

22 [11.43.32]

23 BY MR. BATES:

24 Q.I'm going to try, Mr. Kaing Guek Eav, to ask you some very
25 short questions, and I hope it would be of great assistance to

41

1 the Trial Chamber if you listened to my questions and responded
2 as briefly as you can to only those questions. Thank you.
3 Firstly, I'd like to ask you about your request in May 1975 to be
4 transferred away from security and into industry. You have told
5 us you made your request to Cheng An, the secretary of Sector 15.
6 That is correct so far; yes?

7 A.Mr. Co-Prosecutor, I would like to state that what you have
8 raised is completely appropriate and correct. The fact of the
9 matter at the time is that I wanted to go away from the security
10 work. First, I reported that I wanted to go away from the
11 security work in '73 when the prisoners revolted and took the
12 guns. I, under the pretext of that, asked Brother Vorn that I be
13 released from such work and, later on, on the 30th of April, I
14 sent the rest to Sector 32 as I was ordered to do so, and when I
15 was free I came to wait for the assignments and I met Brother
16 Cheng An at the time.

17 At that time, I really wanted to be away from the security
18 office. I wanted to be with the industry with Brother Cheng An.
19 That is the fact. I made a request, but the superior did not
20 agree or approve.

21 I would like to state that on the date of the presentation on the
22 establishment of S-21, Son Sen said -- probably to consolidate
23 me, "You stay with the security and then I stay with the
24 military", and that was the end of it. That's what the superior
25 said and I did not dare to protest. It was extremely difficult.

42

1 So, in conclusion, I thank you, the Co-Prosecutor -- that I
2 honestly wanted to run away and go to the industry. That is it.
3 Thank you.

4 [11.46.40]

5 Q. So let me understand exactly what you said to Cheng An, who
6 was your superior in the party. Did you say to him, "I don't
7 want to work in security. I don't like it"? Or did you say to
8 him, "I don't like having to give orders to kill people"? Tell
9 us what you told Mr. Cheng An.

10 A. Mr. Co-Prosecutor, in the Khmer language there is a proverb:
11 "Is it necessary for somebody to peel the crap to show the shit
12 of the crap?" I dare not to report to Brother Cheng An that I
13 hated the security work. I said that, "I wanted to really work
14 with you at the industry". I and Cheng An had our mutual
15 understanding. I trusted him and he trusted me back. As I
16 reported to Judge Lavergne yesterday, he trusted me, he had the
17 confidence of me, as I was a sincere dog to him.

18 So, in response, when I talked to my superior, I did not dare to
19 open the crap and show the shit inside the crap. Even with
20 Brother Vorn, I did not dare to say that I hated the security
21 work. I told him that, "I made a mistake, so you can punish me
22 and you can get me away from the security office".

23 This is my clarification to you, Mr. Co-Prosecutor.

24 [11.48.53]

25 Q. Yes, thank you. So, as I understand it, it was more by way of

43

1 a suggestion to be transferred to industry than a request to be
2 transferred out of security because you didn't like it. That's
3 -- I've understood it correctly, have I?

4 A.Mr. Co-Prosecutor, I do not clearly understand the detail of
5 your questions, but what I said was honestly from my heart. The
6 industry of Brother Cheng An was under the supervision of Vorn
7 Vet, and as for the security work, at that time it was not fully
8 in shape yet but it was partly under the supervision of Son Sen.
9 Before the 17 April, especially before the 30th of April, I was
10 under the supervision of Son Sen, however, Brother Cheng An also
11 had a duty as the secretary of the branch, of my branch.
12 Therefore, I requested to him to work for him. It was my request
13 to him and it did not particularly say that I hated the security
14 work. I only said that I would like to work for you at industry
15 when the ministry was newly created.

16 And this is my response to you, Mr. Co-Prosecutor.

17 [11.51.00]

18 Q.But what you tell us in Court is that, in fact, you were very
19 reluctant to perform your duties as a security cadre. My
20 question is, did your direct superior, Son Sen, know about your
21 reluctance to work in security?

22 A.I would like to inform the Co-Prosecutor that in some duties
23 my superior understood it, had a grasp about it, so he had a
24 skill in his pedagogy and he understood emotions very well. So
25 most of the time I did not hide anything from him, but I believed

44

1 my superior understood the weak points that I had. He knew my
2 weak points; for instance, that I was afraid to kill people, that
3 I dare not to torture people. But he also knew my strong points,
4 so I did not dare to report to him on this matter, Mr.
5 Co-Prosecutor. They are not to open up a crap in order to show
6 it's shit.

7 Q.Let me put it another way one final time.

8 Can you confirm that you didn't tell anybody, directly, that you
9 hated security work and you were reluctant to do it? I've
10 understood that correctly, have I?

11 A.Mr. Co-Prosecutor, even if Brother Pon or Comrade -- Brother
12 Mam Nai, I did not dare to tell them. So these are two separate
13 things; they are, well, is there work -- my duty is my duty.

14 [11.53.50]

15 Q.So now we have established that you hated your work but you
16 did not specifically tell anyone that you hated your work.

17 And my next question; did you have any interest in security work
18 at all? Did it fascinate you, for example?

19 A.This is a very broad question. Let me attempt to respond, as
20 following.

21 The security work, as I am aware of it, is dealing in justice in
22 the arrest and the detention of people as I have repeatedly said.
23 The interrogation -- for example, if it has to be conducted in
24 details, properly, then the truth in the confession is probably
25 only 50 percent; that is the most, 50 percent is the truth. This

45

1 is based on my experience that I tried to interrogate Nget Sambun
2 for over one month, but there were a lot of lies. For instance,
3 Nget Sambun alias Rumpe told me that his superior was Bannh San.
4 I did not believe him. I knew Rumpe went to study but his
5 superior was not Bannh San.
6 And talking about the names, the name was completely different.
7 Lam Siek Minh, Lam Peng Siek, some of them are still alive but
8 based on the response they were sent to Amleang.
9 So, in conclusion, I observed that the confession was not correct
10 and I repeatedly said about a Chinese film, it was an
11 anti-espionage filmed by China, and as for the interrogation
12 cadre to consider it. But Cambodia did not take into
13 consideration the political side -- the scientific science in
14 doing their work and they were forced to work. They knew the
15 confession was not correct and the people who were implicated,
16 there were many of them.

17 [11.56.55]

18 This is what we knew but we could not avoid not doing it. And
19 after we talk about that then Uncle Nuon said they knew how to do
20 their work, therefore, the surviving documents, especially the
21 document dated the 9 October '75, the standing -- it was the
22 decision of the standing committee that I raised yesterday. When
23 Brother Pol -- that is Pol Pot -- talked about Comrade Mean,
24 Chann Chakkrey, do not believe the security, we talk about only
25 the party rank; that's what he said. So then the prosecutor -- I

46

1 see the problem here.

2 In conclusion, the security work or the Santebal work spread.

3 For example, the illegal arrest is an issue that I came to

4 receive the punishment, here before the Chamber; that is the

5 illegal arrest. Either illegal or legal arrest.

6 Let me return back to my response to you. S-21 smash members of

7 the standing committee, of the full rice committee, for example,

8 Brother Vorn, the standing committee member and the standing

9 committee member of Chou Cheat, I did not think this is the

10 gratitude of the S-21 to the nation. This is the problem of

11 double-cross.

12 So it's different from when the S-21 arrested the innocent

13 people, for example, Brother Rou Kot, the doctor, or Chao Seng;

14 this is different. So S-21 is in a confusing stage because it's

15 just an instrument of the proletarian class of the party.

16 I am just the absolute dictatorial instrument of the party and

17 this is why I bow myself before the Chamber and before the

18 nation, to accept my guilt.

19 [11.59.25]

20 Q. Let me put my question very simply. Did you or did you not

21 find security work interesting? Simple question.

22 A. Mr. Co-Prosecutor, I was not interested in the security work.

23 I aimed to be a teacher. I came to Phnom Penh to collect those

24 books, the teacher training books. I also collected some

25 instruments and then my superior laughed.

47

1 So my interest was in teaching but not with this work -- this
2 line of work. This is my response to you.

3 Q. In the summer of 1975, let's say June, July, August 1975, have
4 you heard of a man by the name of Allen Dulles?

5 A. I never heard of that name. Please describe the background of
6 that man, please?

7 Q. He was the former director of the American CIA; Allen Dulles.

8 A. Yes, I understand. I read the books Allen Dulles.

9 Q. My next question. Are you aware that he wrote a book, which
10 in English is called "The Craft of Intelligence" but in French
11 the translation is -- and I'll speak in French -- "Les techniques
12 du renseignement". My question is, did you have or read a copy of
13 this book before you started work at S-21?

14 [12.02.06]

15 A. Mr. Co-Prosecutor, the book of technical of teaching, I
16 collected two books. One, I gave it to my superior, Son Sen, but
17 I keep one copy but I do not have time to read. In the meantime,
18 I found in a book but at once a resident, maybe.

19 It was about KGB. I did not keep it. Only one copy but I gave
20 it to the superior. Yes, we did have books but I did not read
21 those books.

22 Q. So you were collecting books before you started work at S 21.
23 One of those books was on the CIA and one of those books was on
24 the KGB, and you are telling us that you didn't read either of
25 them; they weren't interesting to you. Is that correct? Have I

48

1 understood it correctly?

2 A.Yes, it is true I was not interested. Allen Dulles wrote
3 about the one who takes the information, if you fail, you will be
4 cursed from everywhere. This is one of the points. When I read
5 that I did not interested, even though the President Eisenhower
6 who even -- Eisenhower, the President, tried to find the office
7 of CIA of Allen Dulles. I don't think it is helpful for me, but
8 the KGB book is the technical for teaching by Allen Dulles, and I
9 reported to the superior and I sent them the book there. And the
10 work I did there did not allow me to read any book or any
11 information.

12 [12.04.38]

13 Q.That answer is a little confusing for me. If you say you
14 didn't read the book by Allen Dulles, how are you able to give us
15 a quote from the book about what he said concerning President
16 Eisenhower? I didn't understand that.

17 A.I said earlier it's on the beginning of the book in the
18 introduction of the book. I did not finish the book and I was
19 not interested. Allen Dulles used these words, yes, I remember.
20 So when anyone who's a failure in collecting information, the
21 people will climb onto the roof and then curse you from the roof.

22 Q.You've told us earlier this morning that you found torture
23 books at the old Police Judiciaire. Can you tell us what those
24 books contained?

25 A.I did not even read that book. I just read a bit in the book

49

1 at the beginning and then another part. It was about the Pope,
2 and the Pope said that -- in that book -- if you beat one victim
3 and he implicates another person, if you make the full arrest who
4 will be responsible for that full arrest? And then I keep the
5 book away. To be honest, I don't have the time to read at the
6 time.

7 And I would like to tell you that I like to collect books, even
8 though they were from China, written by Lenin. I did not finish
9 my reading about the Communism theory. Yes, there were books
10 there. I read a little bit on the book about Leninism. It's the
11 works of Stalin. I remember only that phrase. Yes, I did read
12 that. Because I had no time, I spent most of the day to work, I
13 don't have any time -- I didn't have any time to read.

14 MR. PRESIDENT:

15 Now it is time for us to break for lunch and the Trial Chamber
16 adjourns for lunch until 1.30 in the afternoon. And the security
17 shall take the accused to the detention facility and bring him
18 back before 1.30 this afternoon.

19 (Judges exit courtroom)

20 (Court recesses from 1207H to 1336H)

21 THE GREFFIER:

22 Please stand up.

23 (Judges enter courtroom)

24 [13.36.58]

25 MR. PRESIDENT:

50

1 The hearing on the facts which has been scheduled, and before I
2 give the floor -- before the Trial Chamber gives the floor to the
3 Co-Prosecutor to ask a question to the accused, the Trial Chamber
4 announces a decision as the following.

5 The Trial Chamber grants the request by the civil party group
6 number 1 to direct the parties to clarify on whose behalf a
7 request is being made on the documents filed by them.

8 The reasons. The civil party group number 2 filed a request on
9 the 26th of March 2009 seeking a ruling instructing the counsel
10 for the accused to tell the accused to refrain from gesture
11 towards them. They stated that this request was made after a
12 meeting of the 23 civil parties who had expressed their
13 discomfort at certain gestures made by the accused, which they
14 interpreted as being made in order to seek the sympathy of the
15 civil parties.

16 The lawyers for the civil party group number 1 asked not to be
17 associated with this request, noting that it appeared to have
18 been filed on behalf of all civil parties. The Trial Chamber
19 heard orally the expression from civil party group number 2 on
20 the 27th April 2009. No other parties asked to be heard.

21 Decider. It was not clear from the request filed by civil party
22 group number 2 that the request was filed on behalf of a limited
23 group of the civil parties. The request should clearly state on
24 whose behalf they are made for the benefit both of the Court and
25 the public generally.

51

1 Point number 2, the Trial Chamber announced that it will hold
2 where the hearing conducted this morning. The Trial Chamber will
3 not sit from the 1st to the 15th of June, due to the fact that
4 the Pre-Trial Chamber has scheduled its hearing on that date,
5 which is scheduled by the Pre-Trial Chamber -- correction, from
6 the 1st to the 5th of June.

7 Once again, the Trial Chamber informed the party that the Trial
8 Chamber will not conduct its hearing from the 1st and the 5th of
9 June because the Pre-Trial Chamber need to conduct its hearing in
10 the Hearings Hall where it's planned by the Pre-Trial Chamber,
11 and the Trial Chamber will not plan to conduct its hearing in
12 July and August, on July -- or the Pre-Trial Chamber will take
13 from the 27 July through 31st, and the Trial Chamber and the
14 Pre-Trial Chamber will discuss this matter, and after its
15 discussion the Trial Chamber will notify the parties on that
16 matter.

17 Please, Your Honour Cartwright.

18 [13.42.30]

19 JUDGE CARTWRIGHT:

20 Just to clarify in English the second part of that ruling,
21 because it was not clear, the Trial Chamber does not plan to have
22 any recess in July and August of this year; however, the
23 Pre-Trial Chamber has noted that it intends to sit between the
24 27th of July and the 31st of July, and so the Presidents will
25 discuss whether that can be clarified or not.

52

1 Thank you.

2 MR. PRESIDENT:

3 Please, Counsel François Roux?

4 [13.43.34]

5 MR. ROUX:

6 Just to draw the Chamber's attention to our interpretation
7 problems which sometimes lead to complete opposites being
8 translated, I have just understood that the Chamber does not have
9 the intention of adjourning in July and August, whereas first it
10 was said that the Chamber will not be holding hearings in July
11 and August.

12 I would like once more to draw the Chamber's attention to this.
13 This is a judicial proceeding. Do you realize the disastrous
14 consequences that we might have in respect of some of the
15 statements made by the accused or witnesses when, after an
16 interpretation is provided, you have a meaning that is completely
17 opposite to what was intended? I just wish respectfully to draw
18 the attention of everyone concerned to this issue. Thank you.

19 MR. PRESIDENT:

20 Please, Judge Cartwright?

21 JUDGE CARTWRIGHT:

22 Thank you, Mr. President.

23 Maître Roux, that was precisely why I corrected the English
24 immediately. And I'm sure that all of my colleagues in the Trial
25 Chamber would agree that if lawyers for any party see a similar

53

1 error they should advise us immediately.

2 Thank you.

3 MR. PRESIDENT:

4 Next, please prosecutors, continue your question to the accused
5 please.

6 [13.45.53]

7 MR. BATES:

8 Thank you, Mr. President. Once again I shall try to make my
9 questions as short as possible and speak as clearly as I can so
10 that the interpreters can do their best to interpret faithfully.
11 They are doing a very difficult job in difficult circumstances
12 and I hope all parties can accommodate them by speaking in this
13 way.

14 BY MR. BATES:

15 Q.Before lunch, Mr. Kaing Guek Eav, we were talking about the
16 books you had gathered before S-21 became operational in October
17 1975. Just so that I'm completely clear, your evidence is before
18 S-21 started its operations you had personally collected one, a
19 book by the former director of the CIA, Mr. Allen Dulles; two, a
20 book on the KGB; and three, a book or books on torture in the
21 previous Lon Nol regime and you never read any of them. Have I
22 understood that correctly?

23 A.Your understanding is correct based on my statement. I wanted
24 to read but I don't have time. But some of the book was not -- I
25 was not interested in some of the books.

54

1 Q.After S-21 became operational from October 1975 onwards, is it
2 your evidence that you didn't read any of those books from then
3 on either? At no stage during the time you were director of
4 deputy director did you read any of those three books? Is that
5 correct?

6 [13.48.13]

7 A.I would like to confirm that the readings of books, for
8 example the teaching techniques of the French order, but my
9 friend was not -- but I asked someone to do the translation but I
10 did not read those translations. I want to read the book on the
11 Communist theories, the book of Stalin. It's on Leninism. I
12 kept that apart because I was so busy with my work, but I have
13 some problem with my language ability. But I liked to read the
14 Communist theory, but based on my linguistic ability I could not
15 read that. I had no time to read.

16 Q.Perhaps it is my mistake. Was that a simple yes to my
17 question, you didn't read any of those three books that I
18 mentioned? Is that -- you can confirm that, can you?

19 A.I would like to tell you that I have a skim on that, but the
20 book on the KGB I did not read it at all. So about the technique
21 of teaching by Laurence, I read only a few pages about the
22 torture. I read the last part of the statement by Pope -- I
23 forget the number of the Pope.

24 MR. PRESIDENT:

25 Judge Lavergne, the floor is yours.

55

1 JUDGE LAVERGNE:

2 For appropriate interpretation would it be possible to have the
3 exact name of the author on interrogation techniques? Because
4 the way it is interpreted he seems to be French and I am somewhat
5 concerned that this is not true. I do not think it was Alain
6 Deleuve (phonetic) and I do not think Alain Deleuve was ever the
7 director of the CIA.

8 [13.51.34]

9 MR. BATES:

10 Thank you, Your Honour.

11 Can I spell the name? The first name is A-L-L-E-N, initial W,
12 surname D-U-L-L-E-S. It's certainly not French, to my
13 understanding.

14 JUDGE CARTWRIGHT:

15 And the same goes for a book said to be written by the Pope?

16 MR. BATES:

17 That, I'm afraid, Your Honour, I know nothing about. The accused
18 would have to be asked specifically about that.

19 I should say that I have the book by Allen Dulles, if the Court
20 wishes it, but I wasn't intending putting it before the Trial
21 Chamber as this is a -- just one point. Thank you.

22 BY MR. BATES:

23 Q.I'm moving on to my next topic, Mr. Kaing Guek Eav, and that
24 is your suitability for the work at S-21. Before the meeting, or
25 should I say by the time of the meeting with Son Sen in August

56

1 1975 it is correct to say that you were a dedicated member of the
2 Communist Party of Kampuchea; that's correct?

3 A.Yes, that is correct. I joined the party member -- I became
4 the full rights member on the 20 of July '76 in Kampong Thom.
5 That's why I said my superior was not an ordinary party member.
6 He was a member of the -- he was a candidate member of the
7 standing committee. I myself was just an ordinary full rights
8 member of the party.

9 Let me restate it clearly again. I was a member of the party, a
10 full rights member of the party, and my superior was of the upper
11 echelon. He was a member of the standing committee of the
12 centre. He was a candidate member of the standing committee of
13 the centre. That is different.

14 [13.54.28]

15 Q.And as you've told us, you were considered by the party and by
16 your superiors as a loyal and trustworthy cadre. You can confirm
17 that, can't you?

18 A.From the works that I did under his supervision and now when I
19 consider the circumstances at the time, I believed he trusted me;
20 also that he had my trust for the party.

21 Q.It's also correct to say that you had a proven record in
22 interrogating enemies. You'd had four years at M 13. That is
23 correct, isn't it?

24 A.I apologize, Mr. Co-Prosecutor. Can you repeat your questions
25 because I had difficulty to understand the translation?

57

1 Q.It is correct to say that by August 1975 you had had at least
2 four years' experience in working with interrogation procedures.
3 Isn't that correct?

4 A.Yes, I had experience -- right or wrong experience from what I
5 learnt at M 13.

6 [13.56.43]

7 Q.And it's also right to say, Mr. Kaing Guek Eav, that you had
8 -- and you still have -- an extremely good memory for names,
9 places and dates. Would you accept that?

10 A.I have a lot of memories. I have good memory but I am not
11 sure whether it is a 100 percent accurate or what is the
12 percentage of my memory but I myself, in comparison to other
13 people, I can remember more than them.

14 Q.Can we say then that as far as the party was concerned in
15 August 1975, you were the perfect candidate to control
16 interrogations at S 21?

17 MR. ROUX:

18 Mr. President, excuse me. Could you ask the prosecutor to avoid
19 closed questions, as it were? These are questions that contain
20 the response that the prosecutor is expecting: "Is it true to
21 say, is it right to say, do you agree with me that". It tends to
22 close off the accused in what one might describe as a closed
23 question, and I thought that this is not common in common law,
24 but perhaps my memory betrays me.

25 MR. BATES:

58

1 Mr. President, I am seeking to put very simple, very
2 straightforward questions to the accused. As we have all had
3 experience in the manner in which he gives his answers, we have
4 remarked that the longer the question, the longer the answer, and
5 I am attempting on behalf of the Co-Prosecutors to elicit
6 information as simply and as clearly as I can. I make no apology
7 for the way I ask my questions, and I think the defence remarks
8 are inappropriate. I submit, I'm sorry, the defence remarks are
9 inappropriate.

10 (Deliberation between Judges)

11 [14.00.58]

12 MR. PRESIDENT:

13 The Trial Chamber took note of the objection by the defence
14 counsel and we consider it inappropriate. So the Co-Prosecutor
15 can continue his line of questioning in its existing form, or in
16 another form as you wish.

17 MR. BATES:

18 Thank you, Mr. President. I'll return to my last question, and
19 perhaps I can give a number of alternatives for the accused to
20 respond, and let him select which alternative he wishes.

21 BY MR. BATES:

22 Q. So we have established you've accepted that you were a
23 dedicated member of the Communist Party of Kampuchea. You were
24 considered by the party as loyal. You have previous considerable
25 experience in interrogation and you have or had then an extremely

59

1 good memory for names, dates and places.

2 My question was: can we say that for the party you were the
3 perfect candidate to work at S 21? Feel free to answer how you
4 wish: "No, I don't agree"; "Yes, I do agree"; or however you
5 choose. But please help us with that.

6 A.First, I would like to state that my true nature as a party
7 member -- and of course I am a party member -- but I am an
8 ordinary party member, and the quality that you read that I am a
9 dedicated party member, I will put that issue to be judged by
10 other people.

11 Now, let me talk about myself, my own quality and I cannot judge
12 myself, this is one thing. The other thing, yes, I remember a
13 lot but the question is, do I remember everything? I cannot
14 guarantee that.

15 [14.04.00]

16 Third, when I was selected it's because of my experience in
17 interrogation if it's compared to other people. Did they have
18 this comparison between myself and other people? I would not
19 know about that; this is their business.

20 But for the S-21, I could compare by making judgement from what
21 happened in the past between Nat and myself and whether they
22 trusted me or not. So the qualification that I -- that they gave
23 it to me then I would consider it. In what position they chose
24 me as the chairman after Nat? So that's only happen after it
25 already happened; when they looked back in the past we could see

60

1 how they thought.

2 So it is -- so it comes to the discussion on an analysis on the
3 opinions at the time but it is -- it is hard for us to say
4 actually what they thought at the time, this is just only our
5 analysis. This is my response to you.

6 The way the leader thought might be different and the way I judge
7 the situation might not be the same as way other people judge.

8 Q.Yesterday, you told the Court that you would rather die than
9 lie to anyone. Is that what you wished to say; you are happy
10 that that is a correct summary of what you said to the Court
11 yesterday?

12 A.That is true. I never dare to lie. I never dare to lie to my
13 superior. For example -- I give you a very simple example.
14 Before I had children, I never left the place, but when I had a
15 children at 4 or 5 p.m. went to the hospital, but before I
16 rushed to the hospital, I telephoned. So then the phone operator
17 would inform the brother that if he looked for me I would be at
18 the hospital, or if I went to dine at a Brother Huor's house or
19 Chhay Kim Hour's, then I would report. So I never lied. I never
20 kept it -- also, the discussion between myself and Brother Kim
21 Huor on the spirit of Ta Ching, so I think if I go into detail it
22 will be very long.

23 [14.06.56]

24 This Ta Ching is about the raw petroleum from China and they said
25 that Ta Ching spirit was high and appropriate at the time, but

61

1 Brother Hor said, "Oh, the Chinese petroleum had a lot of lead in
2 it, and the American petroleum -- it's much better quality."
3 But one day on the telephone I slipped on this matter and then my
4 superior reminded me on this particular matter. So even for
5 minor things I did not hold back, but now that it comes to this
6 point and the Co-Prosecutor can ask me if I talk or say about
7 anything or why don't you -- why don't you tell on the facts that
8 you don't want to work for the security. That's what I said in
9 the past. It's not necessary to look at a shit to know what it
10 is made of.

11 So I have to find in my own means to leave and I would not be
12 able to say, okay, I hate the security work because it involve my
13 relative or something, then you would have your head roll off
14 your neck. That's what happened during the regime.

15 So we talk about life and death at the time. That is my response
16 to you.

17 Q.At the beginning of that long answer you gave, you said that
18 you never lied to your superiors whilst you were working at S-21.
19 Did I understand that correctly?

20 A. The security work at the S-21, I never lied to him. Never
21 lied to him at all. Whatever I knew I reported immediately
22 because if I can't there could be a risk for me in the future.

23 [14.08.58]

24 Q.Telling -- I'm sorry; I'll start again. Do you recall telling
25 the Co-Investigating Judges that you didn't really believe that

62

1 the confessions taken from victims were true?

2 I'll read out the passage from the interview dated the 1st of
3 April 2008. Document D67; in English the ERN, 00177634. And the
4 question by the Co-Investigating Judges:

5 "This leads to the question of the value you accorded to the
6 content of the confessions. Did you think they reflected the
7 truth? Did your ideas on this evolve over the years?"

8 And your answer:

9 "In fact, I did not believe them. In Koy Thuon's case, for
10 instance, ..."

11 K-O-Y T-H-U-O-N; spelling for the record.

12 "In Koy Thuon's case, for instance, I was sure it did not
13 correspond to the truth but I have no evidence to demonstrate it.
14 Even the standing committee, in my opinion, did not really
15 believe in it. It was about finding excuses to eliminate those
16 who represented obstacles."

17 And a little bit further on in your response, you say:

18 "In reality, already back at M-13 I knew that the confessions did
19 not reflect the truth."

20 [14.10.57]

21 So, first point, you accept today that that is what you want to
22 say to the Court? That is your evidence on the truth of the
23 confessions, is that correct, or do you want to tell us something
24 different?

25 A.The Co-Prosecutor, I don't understand your question and what

63

1 is your question? Please state it clearly.

2 Q.I read out a passage from your responses to the
3 Co-Investigating Judges. First of all, I merely want to ask, do
4 you accept what you said then? Is there anything that you wish
5 to change from what I've read out? It's a yes or no answer.

6 A.Let me point out one-by-one. Let's say the confession of Koy
7 Thuon so that we can make it clear.

8 Q.I'm asking the general point about whether the accused
9 accepted that the confessions were true or were not true. I
10 don't wish to get into the examples; we will be here for an
11 extremely long time.

12 MR. PRESIDENT:

13 To make it more easier, please take the record of interview to
14 show to the accused and point -- specify the point that the
15 Co-Prosecutor would like to ask for clarification. The greffier,
16 please take the record of interview so that the accused can
17 indicate which part in D68 which the Co-Prosecutor intended for
18 the clarification from the accused.

19 THE ACCUSED:

20 Do you understand my explanation? Mr. President, with your
21 leave, if you want to hear my response during the investigation
22 stages, please do not show on the screen. Could the National
23 Co-Prosecutor read that passage which I responded to the
24 Co-Investigating Judges? And the question should be made by Mr.
25 Alex or by the National Co-Prosecutor regarding the statement I

64

1 made to the Co-Investigating Judges.

2 [14.14.42]

3 MR. PRESIDENT:

4 Can we do like this, because we found that the question was not
5 well understood by the accused. Can the prosecutor reframe or
6 make your question easier so that the accused can understand and
7 respond?

8 MR. BATES:

9 Mr. President, I can make this much, much simpler, and I can ask
10 him -- ask the accused now, today, sitting in the box in front of
11 the Court whether he believed at the time he worked at S-21 that
12 the confessions were true or whether he believed they were false.

13 BY MR BATES:

14 Q. That is the point I wish to make.

15 A. Those confessions I reported to the hearings many times, and I
16 indicated to the Investigating Judges many times, they did not
17 reflect the truth. This is my statement. They did not reflect
18 the truth.

19 MR. ROUX:

20 Mr. President, sorry for interrupting once again. You asked the
21 parties to try to ask questions that not had been asked
22 previously, and indeed, concerning the question of the
23 confessions, the accused said very often, and this morning again,
24 that he did not believe in the confessions or at least did not
25 believe that they were 50 percent true, so must we waste time

65

1 going back to the same questions -- to these same questions?
2 [14.17.25]
3 Mr. President, Your Honours, maybe the time has come to ask a
4 question -- to put a question to the Chamber and to the
5 Co-Prosecutors. The Co-Prosecutors transmitted to the accused a
6 very long document called "Acknowledgement of the Facts" --
7 recognition of the facts. The accused spent hours and hours
8 analyzing this document and addressing this document. It is the
9 prosecutor's document concerning the segment concerning the
10 creation of S-21. It is a segment that contains 28 paragraphs,
11 and for only one, single paragraph, the accused answered that he
12 did not agree, and for two paragraphs, the accused said, "I agree
13 partially", and for three paragraphs he said, "non-disputed", and
14 for all of the other paragraphs he said he agrees.
15 So therefore, it seems to me that if we really want to make this
16 trial move ahead after the -- and since many relevant questions
17 have already been asked by the parties in this Chamber, the
18 questions -- the Co-Prosecutor's questions should have been based
19 on the paragraphs that the accused disputed, and eventually the
20 two paragraphs which the accused agreed to partially; otherwise
21 we're going to spend weeks and months working in a completely
22 useless way on this document -- this document that has been
23 presented by the prosecutors. So it might be time, since we are
24 running out of time, to figure out what we are going to do with
25 this document. Thank you, Mr. President.

66

1 MR. BATES:

2 I'm grateful to Maître Roux to bring us all back to the agreed
3 facts, and perhaps it was a rather inelegant way of putting a
4 simple question on my part, but the Co-Prosecutors still
5 understand that we bear the burden of proving the case. And the
6 status of the agreed facts do not remove that burden from the
7 Co-Prosecutors, but I take my learned friend's point. I don't
8 wish us to take more time on this particular issue and with your
9 leave, Mr. President, I would like to move on to the next point
10 of this issue.

11 [14.21.06]

12 MR. PRESIDENT:

13 The Trial Chamber notes that the objection made by the defence
14 lawyer on the questioning of repeating questions, it is correct.
15 And so the prosecutor, please be cautious to avoid any repeating
16 question, and the repeated questions, it's not only other facts
17 -- this fact, but other facts under M-13, and the accused's
18 response, so if you asked that again it would be a repeated
19 question. The Trial Chamber reminds you to try to ask the
20 questions based on the facts listed for the hearing so that we
21 can hear every fact.
22 And the remark by the defence counsel regarding the agreed facts,
23 the non-contested facts, and the facts that are agreed partially,
24 and the Trial Chamber has discussed this matter, and we cannot
25 avoid any hearing -- any discussion because it is a criminal

67

1 case, but we need to limit the technical of the hearing. We need
2 to find a better way to conduct the hearing, so if there's no
3 objection the hearing will use lesser time than usual.

4 And to move on, please, Mr. Co-Prosecutor, continue your
5 question.

6 MR. BATES:

7 Thank you, Mr. President.

8 BY MR. BATES:

9 Q.Regarding the confessions that you did not believe were true
10 or what you told us this morning -- 50 percent -- did you ever
11 tell your superiors or anyone with whom you worked at S-21 that
12 you did not believe the content of the confessions was true?

13 A.In relating to telling to the staff, I think that the lesson
14 that I taught to my subordinates, who took notes of that lesson,
15 it can show everyone should pay more attention. This is the term
16 that I taught to the subordinates. So it shows that the
17 confession was not true.

18 Number two, there was evidence and proof. Please, Co-Prosecutor,
19 look to the notebook of Brother Mam Nai. I describe about a
20 Chinese film and you read -- it's the bullet and the button I
21 described about that.

22 So the interrogation lesson, I told them it was difficult, so I
23 did not tell anything about the confession to my subordinates,
24 whether it is true -- 50 percent true. I did not tell them that.
25 But I need to tell them to be careful, to work on and on.

68

1 [14.25.06]

2 And regarding a report to the senior, I never told this to the
3 superior that the confessions are true or not. So when an arrest
4 is made against someone I try to complain to the senior. I told
5 him that it seemed not to be true and the superior told me, "What
6 happened to you, Duch? This is the confession by Khuon. This is
7 the statement to me and to the superior." But both of us knew
8 that a certain number of confessions were not true.

9 I told him that maybe the victim was not true and he told me that
10 it was the conversation of contemptible Kuon. And this is the
11 real situation that I would like to bring up for analysis. But
12 if you want me to confirm that I tell this to the superior, I
13 dare not tell the subordinate in open, otherwise I will be
14 beheaded.

15 So in my capacity as the chairman I had to do the job, whether or
16 not I like it. I need to tell them everyone should try to work
17 hard so that you can get the truth to the maximum. And if you
18 want me to confirm just one part of it on all confession, I
19 cannot do that.

20 [14.27.00]

21 Q.I'd like to move on to the committee of S-21 when you were
22 deputy. To establish S-21 is it correct that a committee was
23 created which followed the same format as other Communist units?
24 What I mean is there's a chairman, a deputy chairman and a
25 member. The chairman was Nat, the deputy was yourself and the

69

1 member was Hor.

2 My question is how often did this committee of S-21 meet whilst
3 you were deputy in the early days?

4 A.Mr. Co-Prosecutor, when I was deputy the meeting among the
5 three of us, there was no -- one at the most. But I was always
6 with Nat. Nat asked me to do the technical matter from one step
7 to another. So if the Co-Prosecutor would like to know, I can
8 explain about that.

9 Q.I'm interested in asking you, the one meeting of the S-21
10 committee, when was it and what was discussed?

11 A.Mr. Co-Prosecutor, the only one meeting that we intended is
12 the annual assembly of the S-21, and I reported to the
13 Co-Investigating Judge everybody attended that assembly. Nat was
14 the chairman but the one who chaired the meeting with the
15 doctrines of the Communist Party theory, Nat allowed me to do
16 that, to preside -- to chair the meeting.

17 At that time we discussed and we needed to continue the socialist
18 revolution and to build up the socialisms. When there's a matter
19 arise what should we do? And we continued our discussion till
20 late at night and then we could understand the matter. This is
21 the meetings among the four -- the four of us. It's open widely
22 to all party members at S-21 can attend it and listen to that
23 discussion.

24 After that most of the time Nat asked me to do certain technical
25 matters. So it is the meeting of the party committee of S-21 in

70

1 late 1975, early 1976.

2 [14.30.53]

3 MR. BATES:

4 Mr. President, I'm moving on to a new topic. Do you wish me to
5 continue this topic now or do you wish the Chamber to rise for a
6 break?

7 MR. PRESIDENT:

8 You can continue. It's not yet time for a break.

9 MR. BATES:

10 Thank you, Mr. President.

11 BY MR. BATES:

12 Q.I want to ask a little bit more about your own training and
13 the people from whom you learnt your skills in interrogation and
14 torture. You've told us that Vorn Vet taught you at M-13 about
15 the method of plastic bags over the head and to look for the
16 throbbing vein at the side of the neck of prisoners to determine
17 whether they were telling the truth or not. I don't understand
18 where you learnt other forms of interrogation or torture. From
19 whom did you learn them; which books did you use? Perhaps you
20 can help us.

21 [14.32.40]

22 A.I would like to state to the Co-Prosecutor that the learning
23 of how to torture from him, there's only two types. First it's
24 the use of the plastic bag over the head. And as I already
25 reported this to the Chamber, I myself I did not have any plastic

71

1 bag while I was at M-13. And when I was at S-21, yes, we had the
2 plastic bag but we had -- we still maintain the principle. It
3 means we -- if it's not necessary we did not have to use the
4 plastic bag myself.

5 And, on finding the pulse on the side of the neck, if the pulse
6 is strong it means the person was aware or if in the legal term
7 it means the person was guilty because he was excited.

8 So from my experience maybe these observation was not effective.
9 [14.33.50]

10 Q. I'm sorry, I'll repeat my question more simply; apart from
11 Von Vet who else taught you personally the techniques of
12 interrogation and torture? I'm not talking about the types but
13 I'm talking about the person who taught you.

14 A. The person who taught me how to torture was the Lon Nol
15 regime; that is number one. The inspector at PJ, he beat the
16 Khmer Rouge prisoners and I knew, even if the Sihanouk police at
17 Tuol Kork did not beat me up but the inspector Chhin Iv and
18 Inspector Cheu Hom beat the Khmer Rouge. That happened in the
19 Lon Nol regime and that Lon Nol regime taught me.

20 And second, it's the French regime, the French tortured members
21 of the Vietnamese Labour Party and in the Khmer translation it
22 was from prison to Koh Tralaeh.

23 That's -- that what describe the types of torture; that's how --
24 that's about the forms of torture and that's what I knew and
25 that's what I learned.

72

1 So, in total, in M-13, the interrogation -- let me tell you, Mr.
2 Co-Prosecutor, in the end when I saw the failure of finding the
3 weapons toward the end of '73 the best people at Amleang, about
4 50 or 60 of them, I was so upset, so I had to think of a proper
5 interrogation method.
6 So I looked at the theory of Mao Tse Tung that he wrote in his
7 book. The theory was from Sun Tzu the warlord -- the great
8 warlord of China. You have to know yourself clearly and know
9 your enemy clearly. If you know yourself and enemy clearly in
10 100 battles you will never be defeated once.
11 So that is the theory I used in my experiment. So I drew
12 experiment from that. So during interrogation on Nat Son Bon
13 (phonetic) I learned from that experience and that's the truth,
14 might be up to 50 percent, the substance.
15 [14.37.11]
16 And the teacher who taught I did not believe much of it, maybe 30
17 percent of it, but for those who were sent to the countryside, I
18 think for those probably their confession was zero percent true.
19 So my experience from the interrogations was a combination from
20 all this and I learned it by myself. But the younger generation
21 did not -- cannot do that. But for Comrade Pon, I trained him in
22 this criminal activity and he was skilful but he was not as
23 competent as me.
24 So this is what I would like to tell you, the Co-Prosecutor,
25 nobody taught me; I self-taught and I did not go to learn it from

73

1 Chinese trainer or from American trainer. And about the beating
2 up, I learned it from the Lon Nol and the French inspectors, the
3 police.

4 Q. Earlier this morning in response to questions from my
5 colleague, Mr. Tan Senarong, you described how there were three
6 types of documents that were used to train you in the months just
7 before S-21.

8 And the three documents were political, psychological and
9 assignment -- at least that was the translation I heard. Can you
10 tell us what you mean by political, psychological and assignment
11 documents and perhaps give us some examples of what those
12 documents actually were?

13 [14.39.18]

14 A. It is not difficult for me to repeat again and I would like to
15 state it again as well. Because the study measured at the
16 communities is a bit strange. From what I learned from 1971 I
17 did not talk about the secret sessions that I studied at another
18 house in 3160 -- 163, but from 1971 the documents fall into these
19 three categories; one is the political document and what is a
20 political document; it's a view on the situation. For example,
21 this year, what is the situation of the enemy and what is our
22 situation.

23 For instance, in 1971, in that year that enemy was Lon Nol and
24 then the coup d'etat was successful but the people did not
25 support it and we have only a small percentage of the liberated

74

1 zone. And then the King Sihanouk was the opportunity for us.
2 That was in the political document.
3 And what is the ideological document; the ideological document is
4 about self. Us, as a party member we have to work harder than
5 the masses but we have to receive the product after the masses;
6 that is the training.
7 On another point which is -- you can call it the ideological
8 document. For example, the war spoils of the party, it's not
9 your property, it belongs to the party. So if the party requires
10 it then the party take it; if not, you just keep it for the
11 party. So this is a type of document on ideology.
12 And let me continue; when we have a conflict or disagreement we
13 want to win. That is wrong. It means we serve ourself more than
14 the interests of the party. We have to facilitate, to
15 compromise, to listen to the party and then we have to join hands
16 to find the enemy. That is the type of the document on ideology.
17 [14.42.02]
18 And what about the organizational document; in 1973 there was a
19 line -- and I talk about that line frequently because it has its
20 criminal nature.
21 So whatever the class is, the line is for that class. For
22 example, for the proletarian class then the law is for that
23 proletarian class, and the cadre, if they are proletarians they
24 will be dropped.
25 So if you are not proletarian in the proletarian class you had to

75

1 strive to be in that proletarian class and don't just think about
2 your own promotion and don't just to be easy and comfortable by
3 yourself without looking at the difficulty of the masses, then
4 that is wrong.

5 So what is your class origin, whatever it is, you had to learn to
6 be proletarian, otherwise you would be dismissed. So that is the
7 type of the documents on the organization and every year the
8 documents fell into these three categories: political,
9 ideological and organizational, and that was up to the day of
10 this -- that was up to the study session in 1973 when it
11 finished. There was no longer such document.

12 MR. PRESIDENT:

13 Now it's time for a break. The Chamber declares a 20-minute
14 break until 3.00. Please return at 3.00 to continue our
15 proceeding.

16 (Judges exit courtroom)

17 (Court recesses from 1443H to 1520H)

18 THE GREFFIER:

19 All rise.

20 (Judges enter courtroom)

21 MR. PRESIDENT:

22 Please be seated.

23 The Chamber is now back in session. Before our adjournment, the
24 floor was taken by the Co-Prosecutor, and they haven't yet
25 finished their questioning so now the Co-Prosecutor, you may

76

1 continue your questioning. Thank you.

2 MR. BATES:

3 Thank you, Mr. President. Last week, the accused mentioned a
4 person called Sar Phorn, S-a-r P-h-o-r-n, and described him as
5 the Deputy Governor of Phnom Penh in the Lon Nol regime.

6 Mr. President, can I seek your leave to put a document on the
7 screen for all parties to view? This is the first of the
8 documents on the list that I circulated yesterday morning.

9 [15.21.22]

10 MR. PRESIDENT:

11 Yes, the Trial Chamber agrees. Will you do your own slide?

12 MR. BATES:

13 Yes, my associate, Mr. Ford, is ready with a computer.

14 If I can also ask the Audio-Visual Unit to switch the Court
15 monitor to the computer of Mr. Ford. Thank you.

16 And the document that I wish to show to the accused in Khmer has
17 the ERN number of 00227634, and there are both English and French
18 translations of this page, and I'll come on to that in a moment.

19 So if I can ask the accused to look at 00227634.

20 [15.22.41]

21 BY MR BATES:

22 Q.Mr. Kaing Guek Eav, can you look at this writing on the screen
23 that you see before you? And first off all, can you tell us,
24 please, whose writing that is, if you recognize it?

25 A.Mr. Co-Prosecutor, this is my handwriting.

77

1 [15.23.28]

2 Q.And perhaps if you could please read out, slowly, what you
3 have written on that particular note.

4 A.Our intention that we want is, one, the actual location of the
5 group. So the word "one" here is what I included, just for
6 clarification. So our purpose is we want the actual location of
7 the group, their names, their physical descriptions and their
8 plan, full stop.

9 This confession is misleading because we instructed them the way
10 to write it clearly; require the Brother to be masterly, to press
11 them firmly and the basic torture. However, to constantly follow
12 their confession, to show them the right direction on time but do
13 not let him die.

14 MR. BATES:

15 Can I ask Mr. Ford to please move to the page immediately before
16 that.

17 BY MR BATES:

18 Q.We don't have a translation of this in English or Khmer, but I
19 wonder if the accused can please confirm whether any name appears
20 on that page at the top, and also help us with the date; tell us
21 what the date is.

22 A.I believe, although there is no English translation, the
23 National Co-Prosecutor and the Co-Prosecutor can identify that
24 the name is Sar Phorn on the top of the page, and the date is 9
25 September '75.

78

1 MR. BATES:

2 Can I ask Mr. Ford to show the next page we wish to show to the
3 accused, which is 00227723, and there are two parts to this page.

4 [15.26.47]

5 Q.Firstly, can I ask the accused to tell us whose handwriting is
6 in the upper part of the page, the one that is being currently
7 displayed on the screen.

8 A.This is my handwriting. This is my actual handwriting.

9 Q.And please, Mr. Kaing Guek Eav, if you could read out what you
10 have written once again.

11 A.This is not actually a letter but it is my note to the victim
12 who was being investigated.

13 MR. PRESIDENT:

14 I notice the defence counsel.

15 MR. ROUX:

16 Mr. President, I would like -- on behalf of the defence I wish
17 not that we request the accused to read what is written down on
18 this document. He may comment what he wrote more than 30 years,
19 but making him read today something that he wrote more than 30
20 years ago is not something that is satisfactory. He may comment
21 it but I do not wish that he read it himself.

22 So if someone wants to read it and translate it, I have no
23 problems with that, but I have a problem that he reads it
24 himself, therefore that he gives the impression that he is taking
25 it on for himself 30 years later.

79

1 [15.29.07]

2 MR. BATES:

3 Mr. President, I'm very happy to read the translation that we
4 have been provided by the translation services. It was felt by
5 the Co-Prosecutors that the best person to give the best
6 translation of this was the accused. If the President directs me
7 otherwise I'm, of course, quite happy to read the English
8 translation that I have, and perhaps the accused can correct it
9 if it's wrong. We're in your hands, Mr. President.

10 MR. ROUX:

11 I would like the Greffier to do the reading and then we will ask
12 all the questions that we wish. We will put all the questions
13 that we wish to the accused but I do not wish that he read the
14 document himself. Thank you.

15 MR. PRESIDENT:

16 The objection raised by François Roux is appropriate on the issue
17 of the requirement for the accused to read his writing. It is
18 enough or sufficient for the accused to acknowledge that it is
19 his handwriting, and the Chamber notes that. On the reading of
20 the document, the Chamber has a Greffier to read all relevant
21 documents in order to manage a smooth proceeding during the
22 hearing.

23 So for the Co-Prosecutor or for any other parties who wish a
24 document to be read, please raise the issue to the Chamber and
25 the Chamber will assign a Greffier to read that particular

80

1 document from now until the end of the proceedings of the trial.
2 The Greffier, Mr. Duch Phary, you can read the document that the
3 Co-Prosecutor attempts to note its content which -- and the
4 document is already acknowledged by the accused.

5 [15.31.42]

6 MR. BATES:

7 Mr. President, just for the assistance of the Greffier, we just
8 wish the Greffier to read out the first half of the page. So you
9 will see, Mr. Greffier, there is some text; there are points 1,
10 2, 3 and 4; there are two more lines and then there is an
11 underlining mark. It's only those lines that we wish you to
12 read. Thank you.

13 THE GREFFIER:

14 "He sent the people to Amleang. He answered he gave more people
15 than those in his previous statement: Neou Mardy, Nop Son, Chey
16 Narith and another person. The name is forgotten.

17 Point number 3. He said he used to be involved with Nuon in
18 1970 to lead the artist group in Phnom Penh. Later on Nuon left
19 to Sector 25. He was not sent there."

20 MR. BATES:

21 I'm afraid the greffier read the wrong section. It would be of
22 assistance to all parties if the document could be displayed on
23 the screen at the time the greffier is reading it so that we're
24 all clear that it's the same document that's being referred to.
25 So if we can please put up the document again on the screens.

81

1 Thank you.

2 THE GREFFIER:

3 "Request to provide detailed information as follows: One, is
4 there any JKACI office? If there is, where is it? State street,
5 location, floor, as clearly as possible.

6 Two, the re-education camp in Boeng Trabaek also needs to give
7 the location as clearly as you, Pon, know.

8 Three, for the seven people, how many of them go abroad and how
9 many are still in the country and who are they?

10 Four, clearly state each person's parents, home address as
11 clearly as possible. For those who have husbands and wives, give
12 the home address of their parents in-law."

13 [15.35.30]

14 MR. BATES:

15 Thank you, Mr. President.

16 And the final section of this confession of Sar Phorn that we
17 wish to be read out.

18 BY MR. BATES:

19 Q.First of all, can I ask the accused to look at this page,
20 which is 00227729, and the box that has been highlighted, the top
21 box that's been highlighted. Could the accused please tell us
22 whose handwriting this is?

23 A.This is not my handwriting. This is possible this is Brother
24 Mam Nai's handwriting.

25 Q.Thank you. And can I ask you to look at the next box below on

82

1 the same page and ask you again, do you recognize that
2 handwriting?

3 A.I still think this is Mam Nai's handwriting.

4 [15.37.07]

5 MR. BATES:

6 So Mr. Greffier, please, you could read out those two boxes that
7 we've just referred to, starting with the top one -- if we can
8 move to the top one first. And again, just the portion which is
9 outlined in blue, Mr. Greffier, if you could read that. Thank
10 you.

11 THE GREFFIER:

12 The abbreviation is TT and "Thapp Nan Ngin, CIA through
13 contemptible Ngin."

14 MR. BATES:

15 Thank you, Mr. Greffier. And please if you could read the bottom
16 annotation as well. Thank you.

17 [15.38.10]

18 THE GREFFIER:

19 "Activity. Sent the children to USA in order for Run (phonetic)
20 to become CIA".

21 BY MR. BATES:

22 Q.My question to the accused. In relation to the date of this
23 document, we have seen already on page 1, the 9th of September
24 1975. Can you confirm that you were, together with your
25 colleagues and subordinates, interrogating Sar Phorn and

83

1 annotating his confessions?

2 A.Mr. Co-Prosecutor, I hope you have read the documents of Sar
3 Phorn on each page and make your judgment. But I would like to
4 state that perhaps you can have more understanding on the case of
5 Sar Phorn.

6 In 1973 or in '74 -- I am not clear on the year -- this person
7 Sar Phorn was not the deputy governor of Phnom Penh City, he was
8 the deputy governor of Doun Penh District. This Sar Phorn is the
9 deputy governor of the Doun Penh District. He sent one child to
10 Amleang and the name of the child was Nao Mardy. In his
11 confession returned by Brother Mam Nai the name of the child was
12 Nao Mardy.

13 When the southwest group arrested a person and sent it to M-13 I
14 assigned Comrade Pon to interrogate and he said Sar Phorn, the
15 deputy governor of Doun Penh District , sent him to work in the
16 countryside because he had his relatives living in Amleang.

17 [15.41.32]

18 MR. BATES:

19 Mr. President, I don't wish to stop the accused from talking, but
20 on this occasion the question was simple: was he involved with
21 his subordinates in interrogating? Unless the Trial Chamber
22 finds it interesting for the whole history to be discussed, the
23 point I was seeking to make was that at that early time he indeed
24 was the interrogator or annotator of this confession. I don't
25 wish to explore the detail of this confession with the accused

84

1 and I'd be grateful if the accused could be directed not to
2 discuss in detail this confession.

3 MR. PRESIDENT:

4 The accused, do you understand the question? If you don't
5 understand you can ask for clarification and then the
6 Co-Prosecutor can reframe his question.

7 THE ACCUSED:

8 Mr. President, I understand the question but my intention was to
9 have a better understanding so that the audience in this hearing
10 -- do Mr. President allow me to do so or just to give a short
11 answer?

12 MR. PRESIDENT:

13 Please answer in short answer.

14 THE ACCUSED:

15 When he arrived on the 1st of September 1975 Sar Phorn was
16 detained in the Monireth resident.

17 My superior, Son Sen, wanted me to interrogate but I don't have
18 time to interrogate because I was busy with collecting the
19 documents from various resident and then not like to use Mam Nai
20 to interrogate Sar Phorn and advise me to help in the
21 interrogation. So I was the one who order to Mam Nai and this
22 document was prepared by Mam Nai, and Mam Nai was the one who
23 interrogate. And S-21 was not established then and Nat ask Mam
24 Nai to -- for help in that case.

25 [15.44.23]

85

1 BY MR. BATES:

2 Q.Thank you. Can I move on to the next document to which we
3 seek to put before the Trial Chamber of Um Soeun. And is it
4 possible, please, for the Audio/Visual Unit to transfer to the
5 link.

6 I'm sorry, Mr. President, I didn't seek your leave. Can I seek
7 your leave to display this next document before the Court?

8 MR. PRESIDENT:

9 Yes, the Chamber allows it.

10 MR. BATES:

11 Thank you. And I -- can I please ask the audio/visual team to
12 direct the screen to my colleague's Mr. Ford's computer so that
13 we can display the document?

14 BY MR. BATES:

15 Q.So can we please look at ERN in the Khmer original -- or
16 should I say the photocopy of the original, 00172792 and my first
17 question to the accused, can you look at the annotation in red
18 and can you please tell us whose handwriting this is?

19 A.My handwriting.

20 [15.46.12]

21 MR. BATES:

22 And if the Greffier could please read what is written in red.

23 MR. PRESIDENT:

24 Please, Duch Phary, read the handwriting.

25 THE GREFFIER:

86

1 "Did not confess torture."

2 BY MR. BATES:

3 Q.Thank you. And moving on to the second excerpt from Um
4 Soeun's confession, ERN in the Khmer original, 00172799. It
5 might be a little difficult to see but we'll highlight it here.

6 Could the accused please tell us if he recognizes that
7 handwriting and if so, whose it is?

8 A.Yes, I know; my handwriting.

9 MR. BATES:

10 And please, Mr. Greffier, if you may read, with the President's
11 leave, that inscription, if it's possible.

12 MR. PRESIDENT:

13 Duch Phary, please read the handwritings.

14 [15.47.59]

15 THE GREFFIER:

16 "It was about the name of Meas Keng, if it's really Meas Keng's
17 name, please Comrade Chhory under the effort of the leadership of
18 Pol it's like to disclose or to beat -- to get a cut on the face,
19 to confirm, this female is like those Oum Soeun -- like those of
20 Oum Soeun."

21 MR. BATES:

22 Mr. President, for the record, if we may read out what we have
23 translated in English which is:

24 "Maybe it was Meas Keng, if it was Meas Keng under the leadership
25 of So Teng hit him on the face. For this lady, ChankriTheary it

87

1 is the same as Oum Soeun's people."

2 And those translations are available in English and French.

3 BY MR. BATES:

4 Q.And the third portion of Um Soeun's confession that I wish to
5 call on the screen is 00172800. And again, if the accused could
6 please look at the annotations, all three, on the side, whose
7 handwriting that is, if he's able to tell us?

8 A.These three annotation were mine.

9 MR. BATES:

10 And again, if the Greffier is able to read, if not we can read
11 out the translations that we have, both in English and French.
12 But if you are able to, Mr. Greffier, that would be helpful. If
13 you could read out all three.

14 [15.50.46]

15 MR. PRESIDENT:

16 Please, Duch Phary, read clearly the annotation.

17 THE GREFFIER:

18 "Please specify clearly to follow the stands and the activity
19 proposed request. It is assignment measure. The teacher of this
20 contemptible if he did not know his family name, please ask the
21 identity, including teacher Chea Heang including Ouk Yeun, and we
22 should press, absolutely."

23 MR. PRESIDENT:

24 Judge Lavergne, do you want to make any observations? Please do
25 so if you have.

88

1 JUDGE LAVERGNE:

2 Just a question; for the record and to clarify matters. I
3 understand that there were translations in French and English,
4 would it be possible to have the reference numbers for these
5 translations?

6 MR. BATES:

7 Certainly, Your Honour.

8 For Um Soeun the English ERN is 00223147 and 00234676; and in
9 French, 00296037 to 38.

10 MR. PRESIDENT:

11 Please, Mr. François Roux.

12 [15.53.15]

13 MR. ROUX:

14 Mr. President, I note that the translations that we have in
15 French are different from the translations that we have just
16 heard here in Court. I would be interested to know who
17 translated these documents. Perhaps the prosecutor can enlighten
18 us because, obviously, they are not the same translations as those
19 we have just heard read.

20 MR. PRESIDENT:

21 The Co-Prosecutor, can you respond to the request made by the
22 defence counsel?

23 MR. BATES:

24 The defence are aware that these translations were conducted --
25 performed by our office, the Office of the Co-Prosecutors. If

89

1 the defence have any difficulties with any of the translations,
2 they need only raise them. Like us, they too have native Khmer
3 speakers and readers. And in fact, on the correction of the
4 Khmer that was translated, the English that I received through my
5 headphones was not the same as the English that I have read on
6 the page from our translation, and had confirmed by my national
7 colleague. In particular, the last phrase, which was, "Kru Ea,
8 Chey Horn and Ouk Yuen all will have to be crushed into pieces."
9 If there is a difficulty on the translation or any dispute into
10 the translation, then the defence need only raise it.

11 (Deliberation between Judges)

12 [15.58.01]

13 MR. PRESIDENT:

14 Next, the translation issue might cause a problem, but the
15 difference was not material; maybe the problem in reading of the
16 handwriting, and it is not very clear, and the greffier could not
17 read it very well. And it might be the case that please, the
18 greffier, read clearly based on what you see on the annotation.
19 So Se Kolvuthy can help with that, to read the annotation
20 correctly.

21 And in case of urgency, the greffier could sit and read so that
22 when you stand and read, the position may cause you difficulty to
23 read so you are not right in front of the screen of the monitor.

24 So in the future, we may get it better.

25 Please, Mr. Co-Prosecutor.

90

1 MR. ROUX:

2 Thank you, Mr. President, and I apologize for interrupting again,
3 but my problem is more a problem of method. I understand that
4 these documents have been translated by the Co-Prosecutors
5 Office, is that -- but if I'm not mistaken these are documents
6 that normally come from the Co-Investigating Judges Office. So
7 therefore, these documents should not be translated by the
8 Co-Prosecutors Office, which once again is a party to this trial
9 which is not an objective party.
10 So the answer kind of concerns me. Were these documents
11 therefore translated by the Co-Prosecutors Office? And if that
12 is the case, by whom? And was this done in-house or was this
13 outsourced? We know that these documents are sent to DC-Cam for
14 translation purposes, so you may understand why the defence is
15 concerned. These are documents that come from the
16 Co-Investigating Judges Office, and that are translated by we
17 don't know who at the Co-Prosecutors Office. I apologize but
18 this does concern me.

19 [16.00.58]

20 MR. BATES:

21 Mr. President, I think we are dealing with a non-issue here.
22 Earlier on today, the defence, through the accused, raised
23 documents that had not been translated. He was permitted to rely
24 on those documents, to bring them to the Court's attention, and
25 to have them verbally translated by the interpretation team in

91

1 this courtroom.

2 How is it proposed that the Co-Prosecutors put documents before
3 the Trial Chamber, unless it can raise them in the Trial Chamber
4 as we are doing? My learned friend is mistaken when he raises
5 this as an issue. We are intending to put documents before the
6 Trial Chamber, we are doing so, and we are assisting the Trial
7 Chamber in providing the languages of -- all three languages of
8 this Court. I do not see a problem with that whatsoever.

9 MR. PRESIDENT:

10 Judge Lavergne, you can make a comment.

11 JUDGE LAVERGNE:

12 I would like to have clarifications on what the Co-Prosecutors
13 are trying to prove. Do you intend, sir, only to prove that
14 there exist documents that are confessions that have been written
15 up at a specific date and on which exist annotations from the
16 accused? Or do you wish having more specific details on the
17 content of these annotations? Because I would like to have
18 clarifications on this because if we're only speaking about the
19 existence of these annotations at a specific date I think in that
20 case that maybe this would simplify things.

21 MR. BATES:

22 Thank you, Your Honour.

23 The Co-Prosecutors were raising it, not only to show that Duch at
24 the time was ordering -- was annotating the confessions, but also
25 that as we have read out he was ordering torture, and he was

92

1 ordering that certain enemies be crushed into bits at the very
2 early stage in the establishment of S-21. It's twofold,
3 therefore. One, that he was there and annotating and, two, the
4 content of those annotations describe his role.

5 [16.03.55]

6 MR. ROUX:

7 Thank you, Your Honour, Judge Lavergne, for your question, and
8 thank you to the Co-Prosecutor for his answer which, indeed,
9 justifies my comments.

10 The prosecutor is telling us that we're trying to prove that the
11 accused was saying that "we have to crush to pieces". This is
12 the translation that has been provided by the Co-Prosecutor's
13 office, and earlier on when the Greffier read the same text, he
14 said, "We have to pursue without end". Therefore, it is not
15 exactly the same thing.

16 But I would like to add following Judge Lavergne's question, that
17 there are about 10,000 confessions maybe that have been annotated
18 by the accused. So if the prosecutor is trying to demonstrate
19 that the accused annotated confessions, well, we're not going to
20 spend three months on this, and he always acknowledged this. He
21 always acknowledged that he annotated confessions and he
22 presented his excuses to the victims specifically for that
23 reason.

24 MR. BATES:

25 Once again, Mr. President, the Co-Prosecutors have a duty of

93

1 proving this case against the accused. We have no intention of
2 going through each and every one of the confessions annotated by
3 the accused, but at this early stage when we are discussing the
4 issue of the establishment of S-21 -- and these confessions
5 clearly date from that period, specifically August, September,
6 October 1975 -- it was the intention of the Co-Prosecutors to
7 raise these documents, to have them confirmed by the accused to
8 show that, indeed, from those early days, this is what he was
9 doing.

10 And with, Mr. President, your leave, I will move on to the next
11 point.

12 The final confession from this early period that I wish to put
13 before the Chamber, again, with the leave of the President,
14 relates to a confession of Bunn Narak. And, please, if the
15 audiovisual unit can display on the screen from the computer of
16 Mr. Ford -- if you'll bear with us a moment. Thank you.

17 [16.07.17]

18 BY MR. BATES:

19 Q.This one is a confession from Bunn Narak -- this document --
20 and can I invite the accused to look at the following page,
21 00226280. I'm sorry, starts with a 226279 and going over the
22 page to 80.

23 And if the accused could please look at that handwriting and
24 confirm whose handwriting it is?

25 A.This is my handwriting.

94

1 Q.We have filed translations on the case file. In English, in
2 relation to the particular piece, I will request the Greffier to
3 read at 00283991, and in French, 00294491, and if please, Mr.
4 Greffier, you could read the points -- point number Roman four
5 onwards at page 00226280; the passage in the red box.

6 MR. PRESIDENT:

7 Kolvuthy, can you read the document?

8 [16.09.22]

9 THE GREFFIER:

10 "IV: Request:

11 1: Request to arrest Cham Sam-Oeun, former Secretary of the
12 National Bank, member of the Democratic Party, in Ksom, Banteay
13 Dek subdistrict, District 16.

14 Number 2: Request to follow Houl Hour and Lim Sarom whose names
15 Bunn Narak appointed, and to follow up Vuon Heang, the wife's
16 name was Bun Nunnary who were the elder sister-in-law and the
17 brother-in-law of the confessor, who used to be the forest
18 official and currently living in Lek Pi village, Dei Eth
19 subdistrict, District 16.

20 Number 3: Request M-15 to search for member of the democratic --
21 of the other -- of the other members of the democratic committees
22 who changed their stance to oppose us. Dated 27 October '75."

23 BY MR. BATES:

24 Q.My question to the accused is -- thank you to the Greffier --
25 is at point 3 of the request that has just been read out.

95

1 Did you, in October of 1975 -- in the early phase of S-21 -- have
2 the authority to request to other units to search for traitors
3 and enemies?

4 A. Your Honour, Mr. President, the documents that have just been
5 read, I would put a conclusion on those documents before the
6 Chamber. First, I would like to confirm that I participated in
7 the activities of S-21 in probably October, and for the Sar Phorn
8 case, I would like to give details into their case, but now
9 everybody seems to understand it.

10 I just would like to state that I admit annotated as requested by
11 Nat to annotate on the documents of Brother Mam Nai. During that
12 period, we were not fully into the S-21 with the full cooperation
13 between Nat and myself yet.

14 And for the document which has just been read by the Greffier, on
15 the word "smash", there was no wording of the word "smash" at all
16 in my handwriting.

17 [16.13.09]

18 This document, I wrote it on the 27th of October 1975. At that
19 time my role was the deputy. I was the deputy, so whatever the
20 chairman asked me to write, I just wrote it. That is number one.

21 For example here, "One, request to arrest Cham Sam-Ouen at the
22 Banteay Dek subdistrict." That's District 16. Now it's called
23 Banteay Dek district. It's no longer District 16.

24 Point number 3, "Request M-15." Let me say M-15 is a security
25 office of Sector 15 supervised by Comrade Peng. Let me state

96

1 that I would like to say about the communication between Nat and
2 M-15. Nat wanted to take control of M-15. That was the fact. I
3 also would like to state that the surviving documents at S 21,
4 they were the methods of interrogation from M-15 kept by Nat. If
5 you search into those documents you would find them.

6 So in conclusion, these are my handwritings as I was ordered by
7 my superior, Nat.

8 [16.15.28]

9 MR. BATES:

10 Mr. President, I have one last question, and perhaps if I can
11 invite the audiovisual unit to switch back to the main view.

12 MR. PRESIDENT:

13 The audiovisual unit, please can you facilitate the request by
14 the Co-Prosecutor?

15 MR. ROUX:

16 Mr. President, we have just been hearing -- the accused says that
17 in the documents that were produced he never used the word
18 "smash". However, we have seen that in the translation that was
19 provided to us by the Co-Prosecutors this word exists.

20 Therefore, the defence wishes that an answer be provided to its
21 question: who translated these documents for the Co-Prosecutors?
22 And I'd like to state again in a more specific way, was it DC-Cam
23 that provided this translation?

24 [16.17.30]

25 MR. PRESIDENT:

97

1 The lawyer, I notice your observations. Would you like to make a
2 comment?

3 MR. KONG PISEY:

4 I would like to respond to these particular matters. At that
5 time the Greffier, we heard the word "chilat" (phonetic), the
6 request to M-15 to search for it. And then the accused heard a
7 word "com tet" (phonetic) and then said that the Greffier wrongly
8 read the word "com tet" (phonetic) or "smash". So I just would
9 like to raise this point to your attention, Your Honour.

10 MR. PRESIDENT:

11 Thank you.

12 BY MR. PRESIDENT:

13 Q. And in order to verify this matter, the accused, do you have
14 any comments to make?

15 A. I would like to inform the President that when I talk about
16 "smash," it's related to the document of Oum Soeun, the one that
17 was read by Mr. Duch Phary. I did not write the word "smash" in
18 that particular document and in the later document, yes, it has
19 the word "chhleech" or "to search for", but the word "kamtec" or
20 "smash" was in the previous document and I did not write in that
21 document. If you referred to the Oum Soeun document you would
22 see it.

23 [16.19.09]

24 MR. PRESIDENT:

25 The audiovisual unit, can you link to the computer screen of the

98

1 Co-Prosecutor to show the document of Oum Soeun in order to
2 verify this matter clearly; whether it is the mistake of the
3 reader or whether it is a mistake in the translation? Please
4 display that document before you move on to another document.

5 MR. TAN SENARONG:

6 Mr. President, the Co-Prosecutor would like to inform the
7 President that the translation from the Khmer into the English
8 language of this document of the Co-Prosecutor is correct.
9 However, probably the translation from the reading of the
10 Greffier may be incorrect, but the translation in the document
11 provided by the Co-Prosecutors Office is correct. And the
12 translation from the slide, if to be read by the Greffier, may
13 prove this point, Mr. President.

14 MR. PRESIDENT:

15 Court Officer, please place this document under the projector so
16 it can be shown on the screen.

17 MR. BATES:

18 Mr. President, one final clarification. To our understanding,
19 the best of our understanding, this document was translated by
20 one of our support staff within the OCP, the Office of the
21 Co-Prosecutors, not DC-Cam.

22 [16.22.40]

23 MR. PRESIDENT:

24 Where does it show the word "smash"? Because in the Khmer
25 handwriting there is no script showing "com tet" or "smash" or

99

1 similar, so where the "smash" comes from, or was it from another
2 document?
3 MR. ROUX:
4 Thank you, Mr. President.
5 We notice, therefore, that in the original Khmer document the
6 word "smash" does not exist and we are just learning that the
7 translation has been done by the Co-Prosecutor's office and that
8 the one who translated this document translated the word into
9 smash. And now we are given a document, and I thought that this
10 document came from CMS -- that is to say from the official
11 translation services -- and in this document which is indexed at
12 ERN00296038, in this document we see again the word smash.
13 May I please, therefore, suggest that one of the parties
14 translates on its own the documents? May this party please warn
15 the Chamber and indicate "free translation"?
16 I'm explaining this because we have encountered in the -- during
17 the investigation several times. And as you see this is not
18 neutral, this has consequences, changing one word for another.
19 So therefore I have taken note that a priori, as my colleague
20 just said, this poor translation has been done, a priori, I am
21 being told. But I would be grateful, a posteriori, to verify who
22 translated this document and to please inform us about this. Who
23 originally translated these documents that the Co-Prosecutors are
24 presenting or putting to us and maybe we will be able to move
25 ahead in our quest for the truth.

100

1 [16.26.06]

2 MR. PRESIDENT:

3 The Co-Prosecutors, can you understand and can you do that?

4 So this is an issue of the translation on your part and it's
5 raised by the defence counsel and the purpose is to identify the
6 individuals who did the translation of that document at the
7 Co-Prosecutors office and to raise this point in the courtroom.

8 MR. BATES:

9 The Co-Prosecutors can certainly advise the Chamber of, as far as
10 it is aware, who translated the documents when these documents
11 are presented to the Chamber.

12 Before I do that, it's noted everywhere in these Chambers that
13 there is a mountain of paperwork to translate; that all parties
14 must do the best they can realistically with the resources they
15 have and with the available documents to translate.

16 And certain documents have indeed been translated in house by the
17 Co-Prosecutors where CMS was too busy or overloaded. I'm of
18 course content and happy to say to the defence that these are
19 free translations, traduction libre. We can certainly say that
20 for this translation.

21 [16.27.54]

22 In relation to the precise identify of the people who -- or
23 person that translated this document, does this Court wish me to
24 spell it out in Court or is that what the defence are wishing?

25 MR. PRESIDENT:

101

1 The defence counsel, please state clearly because this discussion
2 has a lot of technical issues repeatedly relating to the issue of
3 the translations and other issues related to the examination of
4 documents which could delay state proceedings. Please state
5 clearly in order to find the appropriate solution in order to
6 avoid these repeated type of issues.

7 MR. ROUX:

8 Thank you, Mr. President.

9 I am not asking for the name of the person to be stated publicly.
10 This would not be suited. I'm only requesting, first of all,
11 that the prosecutors tell us when we are facing a free
12 translation rather than a translation done by the official
13 translation services. And when we are dealing with a free
14 translation I would like them to tell us if this translation was
15 done in-house or if this translation was done by DC-Cam. I do
16 not need the names. Either it has been done in-house; either it
17 has been done by DC-Cam. I just want to know that and then we
18 will be transparent.

19 [16.29.50]

20 MR. BATES:

21 In-house, Mr. President.

22 MR. PRESIDENT:

23 The Co-Prosecutors, do you have a number of questions or you only
24 have one more question to ask? So please state clearly whether
25 you have just one or you have more questions to ask.

102

1 MR. BATES:

2 The next question will involve the presentation of a document and
3 I wonder if it might be an appropriate time to break now and
4 present that first thing tomorrow. I cannot guarantee, of
5 course, how long the answer will take.

6 MR. PRESIDENT:

7 Now it is time to adjourn for today's session. The Chamber will
8 now adjourn.

9 And I note the presence of the lawyer for the civil party.

10 [16.30.55]

11 MR. WERNER:

12 Your Honour, can I just say very -- it will take 10 seconds about
13 translation and DC-Cam. Can I say one word, please?

14 MR. PRESIDENT:

15 Since you already stood up, yes, be quick.

16 MR. WERNER:

17 Just to end, of course my colleague know that and I'm not saying
18 he said it before, but it's not in-house or outside the house in
19 DC-Cam because as you know there was an agreement between DC-Cam
20 and this Court, including an agreement confidentially and
21 accuracy between DC-Cam and this tribunal. And I know and -- I
22 absolutely know that my colleague, the defence, has been
23 contesting this agreement but this agreement exists, and if an
24 office is asking DC-Cam under this agreement then it has to be
25 considered as in-house.

103

1 So I just wanted to put on the record that any translation by
2 DC-Cam should not be considered as being done outside because
3 there is an agreement between the CMS and DC-Cam for the
4 translation of these documents.

5 It's the only thing I wanted to put on the record. I'm grateful.

6 MR. PRESIDENT:

7 Now it's time to adjourn. The Chamber declares the adjournment
8 for today's session. And the Chamber will resume tomorrow
9 morning on the 29th of April from 9:00 a.m.

10 Security guards, bring the accused, Kaing Guek Eav, back to the
11 detention facility and bring him back to the courtroom before
12 9:00 a.m. tomorrow morning.

13 The Chamber also would like to inform the participants to attend
14 tomorrow's session and please to come before 9:00 a.m.

15 The Court is now adjourned.

16 (Court adjourns at 1633H)

17

18

19

20

21

22

23

24

25