



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

29 April 2009, 0912H

Trial Day 14

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

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THE ACCUSED, KAING GUEK EAV

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. BATES	English
MR. CANONNE	French
MR. HONG KIMSUON	Khmer
MR. KIM MENGKHY	Khmer
MS. SE KOLVUTHY	Khmer
MS. STUDZINSKY	English
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MS. TY SRINNA	Khmer
MR. WERNER	French

1

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

2 (Judges enter courtroom)

3 [09.12.15]

4 MR. PRESIDENT:

5 Please be seated. The Court is now in session regarding the
6 facts concerning S-21 and Ta Kmao Prison.

7 The greffiers, please verify the attendance of the parties to the
8 proceedings today.

9 THE GREFFIER:

10 Your Honours, the parties to the proceedings are present except
11 Mr. François Roux.

12 MR. PRESIDENT:

13 The greffiers, please make sure that the attendance is well
14 recorded in the transcript.

15 The security personnel are instructed to take the accused to the
16 dock.

17 MR. PRESIDENT:

18 The Chamber would like to inform the Court that today the
19 questionings concerning the facts regarding S-21 and the Ta Kmao
20 Prison will proceed.

21 Now, we would like to give the floor to the Co-Prosecutors to put
22 further questions to the accused. Parties are reminded that
23 whenever questions are being put, then the questionings must be
24 restricted only to the establishment of S-21 and Ta Kmao Prison.

25 [09.15.26]

2

1 The Trial Chamber will reserve our right to cut or interfere in
2 the questionings which are deriving from the topics of S-21 and
3 Ta Kmao Prison; the establishment of these facts. The Chamber
4 will proceed in order with these scheduled facts, and the parties
5 have had opportunity to access to the case files, and in order to
6 make sure that there is justice and fair trial is being
7 conducted, whenever the facts are to be presented and that the
8 questionings are well maintained, the Chamber tries to make sure
9 that confusions are reduced and so that the trial is expeditious.
10 Next, we would like the Co-Prosecutor to proceed with the
11 questionings the Co-Prosecutors intend to put to the accused.
12 The floor is yours.

13 MR. BATES:

14 Good morning, Mr. President, Your Honours. Thank you very much.
15 I'm aware I've taken up a lot of Court time already. I have just
16 a few points of clarification, if I may.

17 BY MR. BATES:

18 Q.Mr. Kaing Guek Eav, yesterday we showed you a number of
19 confessions upon which you had written some words. Can I
20 understand correctly that you say that all the words you wrote on
21 the confessions were dictated to you by Nat, or were some of them
22 your own work? That's my first question.

23 A.That's correct. Should I also present you the evidence or
24 that answer is enough?

25 [09.18.02]

3

1 Q.Thank you, that evidence suffices.

2 I'm reminded just to clarify that response, Mr. Kaing Guek Eav.

3 You mean, yes, all the annotations you made were dictated by Nat

4 -- were written by you on the dictation of Nat? Is that what you

5 say, sorry, to be clear?

6 A.It's not all correct. I was given some notions and then I did

7 the writing.

8 Q.You told us yesterday about when you were asked to seize

9 documents -- I'm sorry, I think it was Monday you told us. You

10 were asked to seized documents from the Lon Nol regime. Can I

11 ask you to confirm whether the documents you seized contained the

12 names of people who were later arrested and then smashed at S-21?

13 A.Mr. Co-Prosecutor, which document you refer to? You refer to

14 the one page of CIPRA document?

15 Q.Any of the documents that you seized, you were ordered to

16 seize, after the fall of the Lon Nol regime and before the

17 operation of S-21; whether any of those documents contained the

18 names of former officials from the previous regime and those

19 people were then arrested and executed at S-21?

20 A.I would like to state that the names of the national police,

21 including the spies up to the general directors of the police,

22 but besides Euv I did not see anybody else.

23 They were sent from the countryside probably before I collected

24 one album from the national police, and the album of the Ta

25 Majore (phonetic), yes, but I did not verify the names. I only

4

1 received one album from the Majore (phonetic) from the first
2 promotion, and a lot of names from the QZRR. So in total I did
3 not verify those documents.

4 Q. Was it your understanding that the names of the people in the
5 documents were people who were to be eliminated -- executed -- as
6 enemies of the revolution?

7 A. I did not think of that matter and I cannot verify it at this
8 stage. The purges of the former regime soldiers and officers,
9 the public servants, it carry out from the 17 April forward until
10 the full co-operation of S-21 in October, so I could not grasp
11 the actual situation; I cannot tell you.

12 So they already had their directions in arresting those former
13 regime officials, and the list that we collected, we did not
14 verify it with those who were arrested.

15 [09.23.01]

16 Q. So can you help us? What was the purpose of your collecting
17 the documents from all of those former regime locations?

18 A. I would like to state to the Co-Prosecutor that the objective
19 purpose is that I did not receive any instructions. The
20 documents were collected in order to arrest the former regimes
21 and officials. I did not receive any direct instructions from
22 Son Sen, but I did not know what happened at a later stage.
23 This is my response to you.

24 MR. BATES:

25 You have told us about teenagers and adolescents that were used

5

1 to work in S-21. With, Mr. President, your leave, I would like
2 to put a response that the accused gave to the Co-Investigating
3 Judges on the screen and have my national colleague read it out
4 to him, so the accused can be asked to confirm or deny the
5 responses that he gave in the Court below.

6 May we have the Court's leave to put this document to the
7 accused?

8 MR. PRESIDENT:

9 The Chamber allows the presentation of the document, and please
10 show the greffier the sections to be read.

11 MR. BATES:

12 Thank you. The document is the answers to the Co-Investigating
13 Judges on the 1st of April 2008; Document reference D67, and in
14 Khmer the ERN number is 00177622.

15 Perhaps if the audio-visual unit could switch to Mr. Ford's
16 computer, and he can put it onto the screen.

17 Does the President wish me to invite the greffier to read this
18 document or would the President wish Mr. Tan Senarong to read the
19 document?

20 MR. PRESIDENT:

21 As instructed, the greffier will read the document. Is it the
22 one in the rectangular -- in the red box? So the greffier, you
23 can read the paragraph -- the section -- in the red box.

24 [09.26.29]

25 THE GREFFIER:

6

1 "Questions by the Co-Investigating Judge:

2 Are there any clear protocol lines related to the recruitment of
3 the children? Were they used in order to show the traitorous
4 members in their families?"

5 Response:

6 There is only one line; that is to trash the poor peasants and
7 the lower, middle-class peasants. And for the children that I
8 selected to work at S-21, they were from the cleaned source.
9 They were the children of the poor peasants that I could trust,
10 and from what I know, they never show any traitorous members in
11 their family. I only talk about my own case. I do not know
12 about other people's cases."

13 [09.27.26]

14 MR. BATES:

15 I'm sorry, Mr. President, that wasn't the passage that we had
16 intended to be read out. If you would give me a moment, I can
17 verify this with my national colleague.

18 I'm sorry, Mr. President, is it possible for the Audio-Visual
19 just to switch off the live feed from Mr. Ford's computer and we
20 will resolve it? I do apologize.

21 MR. PRESIDENT:

22 The Audio-Visual, please switch off the screens of their
23 computer, and show the screen of the courtroom instead.

24 MR. BATES:

25 Thank you, Mr. President, we've resolved the issue. I do

7

1 apologize. We were displaying the question after. Of course,
2 with Mr. Ford and myself not speaking Khmer, we have to verify it
3 with our national colleagues.

4 If I can please invite Mr. President you to direct the
5 audio-visual unit to switch again to Mr. Ford's computer and the
6 greffier can, perhaps, read the passage that is being outlined.

7 Thank you.

8 MR. PRESIDENT:

9 The audio-visual unit, please switch to the screen of the
10 Co-Prosecutor, as requested.

11 [09.30.43]

12 MR. BATES:

13 And the box that is outlined in red is the passage that we should
14 have read out the first time. Thank you.

15 THE PRESIDENT:

16 Mrs. Se Kolvuthy, can you read the text in the red box?

17 THE GREFFIER:

18 "Questions by the Co-Prosecutor:

19 The charged person said yesterday about the use of the children
20 to work. It seems that throughout the country, the young
21 children were used as guards, and they thought those children
22 were selected because they were easily to receive the influence
23 and to be indoctrinated. Does the charged person have anything
24 to say regarding this matter? At S-21, did this situation exist?

25 ...

8

1 Response:

2 It is true that young children were used to work at S-21 as at
3 any other places. They were given work, to be used to do the
4 labour work and sometimes to do -- to guard or for food
5 distribution.

6 Regarding the ability to be indoctrinated, I would like to say
7 that because they were young they were like a clean piece of
8 paper that can be easily written or painted on."

9 MR. BATES:

10 Thank you, Mr. President. If you could perhaps direct the
11 Audio-Visual Unit to transfer the screen once again back to the
12 main courtroom?

13 [09.32.53]

14 MR. PRESIDENT:

15 The Audio-Visual Unit, please switch off this screen and return
16 to the normal view of the courtroom.

17 BY MR BATES:

18 Q.My question to the accused. Having heard the question in
19 response in the Chamber of the Investigating Judges, can you
20 confirm that, in fact, some of the young children were indeed
21 used as guards at S-21? My first question.

22 A.Mr. Co-Prosecutor, this matter had been raised and I had given
23 my reply subsequently. The most important issue that I still
24 remember and I cannot forget is my response to Judge Cartwright
25 that I, myself, personally educated them but in practice where

9

1 they went, I was not clear. But it seems hard to understand
2 this. Those children who arrived at S-21 from Kampong Chhnang,
3 some of them were young so they feed the rabbits, and some were
4 used. The majority were used as guards if they could do the
5 guard work.

6 So, in conclusion, the response is the same. I educated them, I
7 trained them according to the clear ideology. Older children
8 were used as guards. The rest, the younger ones, would find
9 grass to feed the rabbits. That is my response.

10 [09.35.03]

11 Q.Thank you for that clarification.

12 MR. BATES:

13 Mr. President, I asked a question as it was not clear in the
14 English translation that I heard, that the accused said that
15 these teenagers were in fact employed as guards. Thank you.

16 BY MR BATES:

17 Q.Mr. Kaing Guek Eav, my last question on this issue. Do you
18 confirm your statement that you made to the Co-Investigating
19 Judges that these children were "like a blank piece of paper on
20 which one could write whatever one wanted"?

21 A.This is the principal idea of each politician, regardless of
22 their political tendencies towards the children. I, myself, more
23 or less was influenced by the Communist political party and I
24 regarded those children as a clean piece of paper and we can draw
25 anything, we can write anything with any political tendency or

10

1 with Communist political tendency. It can be done. And if the
2 children were from poor peasant families, they would be easily
3 aware of it. Whatever they sow they would receive the results
4 from it. So they were the children of the young peasants and
5 they were trained with the ideology.

6 [09.37.03]

7 MR. BATES:

8 My last issue, Mr. President, concerns another answer that the
9 accused gave before the Co-Investigating Judges, and this was
10 made on the 23rd of August 2007, Document D13, the Khmer
11 reference ERN 00146555 to 556, and in English the reference is
12 00147569, and can I please invite, Mr. President, you to require
13 the audio-visual team to transfer the screen again once more to
14 my colleague, Mr. Ford, so we can put up before the Chamber to
15 passage to read by the Greffier.

16 MR. PRESIDENT:

17 The Audio-Visual Unit, please switch to the screen of the
18 Co-Prosecutor as requested.

19 Mrs. Se Kolvuthy, please read the text in the red box.

20 THE GREFFIER:

21 "Question (ML):

22 We will see. Thinking about the context of the process of the
23 party at the time, do you think the party could maintain those
24 people who do not do anything?

25 Response:

11

1 "I would like to remind that previously Your Honour asked me why
2 they appointed me to be the chairman. I responded at the time
3 that I did not know anything about the appointment. This is my
4 response based on the actual situation. There was another
5 response that I did not dare to report at the time which is based
6 on my analysis and that analysis is long, but with your
7 permission I would like to report.

8 Number 1, I would like to talk about the opinions of Vorn Vet.
9 After he was arrested he said that this Brother Pol is a person
10 who used his feet to support the sky and as seeing me, Vorn Vet,
11 he is responsible for the Ministry of Industry which has
12 thousands of people. And then Brother Pol started to suspect me.
13 I, Duch, thought two or three days ago I would take this opinions
14 to inform to Nuon Chea in order to know his reaction.

15 Nuon Chea immediately answered to me that Vorn Vet could not do
16 anything because in each unit there are other people as well.
17 This opinion, I believe both are true. Therefore, I was placed
18 on top of the 703 at S-21 in order for me to work as their eyes
19 and nose, and if 703 started to equip arms in the middle of the
20 city then they would be ashamed. In fact, at S-21, there was
21 only 703 who had the ability to hold arms.

22 And as for the former M 13s, there were less than 10 combatants
23 and they were not skilful in the battle, so they would not be
24 able to start the fire -- to start firing. This is my analysis.
25 How many percent it is accurate is based on your judgement."

12

1 [09.41.01]

2 MR. BATES:

3 Thank you, Madam Greffier.

4 Mr. President, if you could invite the Audio-Visual Unit to
5 switch back the television screen?

6 MR. PRESIDENT:

7 (No interpretation)

8 MR. BATES:

9 And my question to the accused concerns his statement before the
10 Investigating Judges that he was "the eyes and the nose of the
11 party at S-21".

12 BY MR BATES:

13 Q.My question is, do you confirm that you were given specific
14 instructions by your superiors to report on any activities of
15 Division 703 that were considered treasonous or tricks or
16 tactics, as you described yesterday?

17 A.My analysis when I responded to the questions by Judge Marcel
18 Lemonde, the contents of which is the same. Recently, I told the
19 Court that I was regarded as their berger, and I maintained a
20 response as I did to the Co-Investigating Judges, Judge Marcel
21 Lemonde and Judge Lavergne.

22 In conclusion, to see what the practical implementation of it,
23 practically when I was the deputy chairman of Nat on October when
24 I started to work fully with Nat at S-21, my superior never asked
25 Nat to meet him alone so always I would be with him. This is one

13

1 event.

2 [9.43.35]

3 Another event, I thought that it was just a matter of time that I
4 could be reporting to the Court about Nat who subjectively
5 arrested people that I wanted to report, and this story is rather
6 long.

7 And, later on, after Nat had left, Hor was my deputy but he was
8 not entitled to meet my superior. So only I was called in to
9 meet my superior. And when I was working as the deputy chairman,
10 when my superior called in Nat, then he would call me. Then
11 superior never asked me to spy on the 703 as the party's
12 principle, but according to the implementation it was the way it
13 worked.

14 And as I told Judge Thou Mony I called -- I recalled what
15 happened in the past, how victims were killed were different, and
16 my superior asked me to follow up and I told Judge Thou Mony, and
17 the whole Court through Judge Thou Mony, that they did not only
18 mistrust Nat they also mistrusted 703.

19 So, in conclusion, I would just sum up in one word, they did not
20 order that I or we should spy on 703. So the party appointment
21 was different. As you worked as the deputy and with the
22 president or the chairman, then later on when we became the
23 chairman then you would be ordered to do that thing alone. So I
24 would like to make it short like that.

25 [9.45.40]

14

1 Q. So do you confirm that you were the eyes and the nose of the
2 party, as you stated before?

3 A. Thank you, Mr. Co-Prosecutor, for asking this question.
4 The word "eyes" and "nose" is just another word and it's the same
5 as the word berger or Shepherd dog. So I was not only the eyes
6 and nose, but I am -- I was their berger.

7 MR. BATES:

8 Thank you, Mr. President.

9 The Co-Prosecutors have no further questions for the accused at
10 this stage, although they would make one observation; that as the
11 accused has talked about many different other issues not
12 specifically related to the establishment of S-21, we will defer
13 our questions on those issues to that later time rather than
14 taking up any more Court time now.

15 The final matter that I wish to raise is to request the
16 President's permission to very, very briefly place on the
17 audio-visual screen the interactive presentation of Zoran Lesic
18 that we filed in document form the other day.

19 It's not the intention of the Co-Prosecutors to ask the Court to
20 place this in full, but just to illustrate to the Court how
21 useful it might be in future examinations of either the accused
22 or witnesses, and it is proposed to take less than a minute to
23 show the Court how this presentation operates. And if the
24 President would invite the audio-visual unit to transfer the
25 screen, we can do that very, very briefly.

15

1 [9.47.55]

2 MR. PRESIDENT:

3 We allow the AV to switch onto the screen of the Co-Prosecutor to
4 present that piece of document.

5 MR. BATES:

6 Thank you, Mr. President.

7 I should stress that this is not an OCP presentation. This is an
8 expert report that was commissioned by the Co-Investigating
9 Judges and produced independently by an expert who operates from
10 the ICTY.

11 So the first slide shows an aerial view of Phnom Penh and the
12 Court will see that there are two circles, one in the bottom
13 right indicating Cheung Ek, and one in the top left indicating
14 Phnom Penh, S-21. The Court will see that there is an arrow when
15 the cursor is pointed at either of those two locations.

16 And, first, if I can ask Mr. Ford to click on the Phnom Penh S-21
17 button, that zooms the camera into the location immediately
18 around S-21. The Court will notice that there are a number of
19 red numbers on the aerial photograph. Each of those aerial
20 photographs represents -- sorry -- each of those red numbers
21 represents a photograph at that particular location, locations
22 which were mentioned either by the accused or by witnesses in
23 their interrogations by the Judges. And the Court will see that
24 there is a pink section in the middle of the page which, as we
25 can see, represents S-21. The cursor can be directed to any of

16

1 those numbers or that pink box.

2 [9.50.00]

3 And if I can invite Mr. Ford to click on the central pink box
4 representing S-21, we get the following picture which, again, is
5 an aerial photograph of the five principle buildings of S-21; A,
6 B, C, D and E.

7 The Court will notice there are blue circles in various locations
8 of the photograph. If you click -- if one clicks on any of these
9 blue dots -- and Mr. Ford is now clicking just next to building A
10 -- the Court will see a side view of detention building A at
11 S-21.

12 And if the Court wishes to present this in more detail to the
13 accused or to any witness, the person operating the computer can
14 move their mouse button to a particular location on the screen,
15 and the Court will see that the location of the mouse is directly
16 in the middle of the page and it is transferred to an arrow.

17 When an arrow appears on the screen, that indicates there is a
18 photograph upon which the cursor can be clicked.

19 And can I invite Mr. Ford to click -- as he has done. That shows
20 the position in building A of one of the cells and we can, again,
21 click into the cell to show more detail of the cell itself. And,
22 again, we can click further through the window and the Court will
23 see some of the photographs -- or one of the photographs taken at
24 the reconstruction at S-21.

25 To return to the previous photograph, the cursor needs to be

17

1 placed at the top of the screen, and we will return to the
2 position from where we came.

3 [9.52.13]

4 As I said, we don't intend to present any more detail of that to
5 the Court; just to remind the Trial Chamber that that is on the
6 case file. It is an expert report created by the
7 Co-Investigating Judges, and it is there for the assistance and
8 use of all parties in these proceedings.

9 Thank you, Mr. President. I have no further questions or
10 observations.

11 MR. PRESIDENT:

12 The AV personnel, please switch to the normal mode.

13 Next, the Chamber would like to give the floor to the civil party
14 lawyers who would wish to put questionings to the accused
15 concerning the facts at issue starting from civil party lawyers
16 group 1 first, and follows you to the rest.

17 So now, civil party lawyers group 1.

18 MS. TY SRINNA:

19 Thank you, Mr. President. I am Ty Srinna, the national lawyer
20 for civil party group 1. I have a few questions to be put to the
21 accused.

22 QUESTIONING BY COUNSEL FOR CIVIL PARTIES:

23 BY MS. TY SRINNA:

24 Q.First question concerns the torture equipment. In my first
25 question, I would lilke to put to the accused that when he

18

1 started the establishment of the S-21, had he identified or
2 determined which kind of torturing tools were to be used,
3 including the shackles or the chains or whips so that they could
4 be used as torture tools during that regime. And at the outset
5 of the establishment were there any meetings to determine what
6 kind of tools to be used for torturing detainees at S-21? Could
7 the accused please elaborate on this?

8 A.Mr. President, with your leave, I would like to respond to Ms.
9 Ty Srinna as following.

10 [09.55.21]

11 S-21, I may have to repeat again; it was succeeded from police
12 office of Division 703. The way tortures were employed, the way
13 people were detained, interrogated, and smashed were unique
14 nature of theirs.

15 And I believe that Khmer Rouge police across the country could
16 not avoid torturing us in 1970; however, I would like to confirm
17 that when I started to oversee the task at S-21, we discussed
18 with Nat about torture modes. Nat like electrocution technique.
19 It was a kind of form of torture Nat was in favour of, and in
20 principle, they used a kind of mobile phone connected to the
21 electricity current to electrocute prisoners. That is true.
22 Number 2, I say that why should we find other difficult tools for
23 torturing? We only need to use the whips. And at M-13, Brother
24 One was very happy to employ the plastic-bag technique, and I
25 said that using such a plastic bag was very dangerous because any

19

1 prisoner would be suffocated to death, and we lost a confession.
2 And another technique was from the Lon Nol Police; what we call a
3 boarding technique while a scarf was covered on the face of the
4 prisoner while water were poured in. So without -- any prisoner
5 could be suffocating quickly by way of employing such a
6 technique, and we discussed this with Nat.
7 And later on during the supervision of Nat as the chairman, there
8 were two techniques; the normal beating techniques and the
9 electrocution technique by way of using the telephone.
10 And the third technique was not employed when water-boarding was
11 -- the kind of water-boarding technique was not employed, and
12 the plastic bag was not a kind of technique also.
13 And I already informed or told the Court clearly about the
14 techniques, and I would only like to share with you only the
15 techniques of torturing in response to the questioning by Ms. Ty
16 Srinna.
17 [09.5912]
18 MR. PRESIDENT:
19 I think there would be a misunderstanding. The question was more
20 about the determination on what kind of tools for torturing were
21 to be employed; for example, the pole where people would be
22 suspended or a kind of other tools to be used. The question was
23 that whether you had in mind or had any discussion how to use
24 that kind of tools, and the question is more about the
25 establishment of the S-21, and that's why she was asking you

20

1 whether you had discussion to find any particular tools for
2 torturing. I don't know whether Ty Srinna agrees with me that
3 the question was that.

4 MS. TY SRINNA:

5 My question was like the way the President is elaborating.

6 MR. PRESIDENT:

7 So now, please, respond to only how torturing tools were
8 determined in the first place.

9 THE ACCUSED:

10 Mr. President, the shackles or chains were not for torturing;
11 they were for detention, and they were employed across the
12 country. The first items to be used for torturing at the initial
13 stage were the whips and the electrical wire from the cell phone.
14 And I did not believe that there would be any pole or
15 water-boarding was introduced, so at the beginning there were
16 only the whips and electrocution by way of connecting to the
17 telephone line, and water-boarding would be introduced by Sum
18 (phonetic).

19 [10.01.21]

20 MR. PRESIDENT:

21 The lawyer, please switch on your microphone.

22 MS. TY SRINNA:

23 Thank you.

24 BY MS. TY SRINNA:

25 Q.Now, let me focus on the detaining instruments including the

21

1 chains, the shackles, and the beds as shown by the
2 Co-Prosecutors.

3 We see metal bars and beds, and other instruments for the
4 detention of the prisoners at S-21. Where were those instruments
5 selected from?

6 Was there any meetings to decide on the use of those instruments?

7 Was the meeting held between the base people and those of the
8 upper echelon, or was it only between you and Nat, or was it held
9 also with Son Sen in order to make agreement or decisions on the
10 use of those instruments? And where were those instruments from?

11 A.Your Honour, Mr. President, I would like to respond to Ms. Ty
12 Srinna's question.

13 Detention with a shackle is a form used after the 17 April. It
14 meant we had the ability to make those shackles. That is the
15 long metal bar and the rings. While we were at M 13, yes, we
16 also used that type of tool. However, the shackles at S-21
17 existed since the Ta Kmao Prison and I did not know where they
18 were made because they were additional shackles. And also at the
19 PJ Prison there were similar types of shackles. So I am not
20 clear on the source of the shackles.

21 And also Ty Srinna wanted to know whether this is a decision made
22 by the S-21 committee between me and Nat or was the decision made
23 from the upper echelon. I would like to state to the Chamber
24 that this matter was not raised to the superior. This is the
25 duty determined by the superior that we had to detain and do not

22

1 allow them to escape; do not allow them to commit suicide. And
2 once they interrogation was finished, just keep them for the
3 upper echelon to make the decision whether they were to be taken
4 out or not.

5 So to conclude this on the shackles or the chains, I and him,
6 Nat, in the S-21 committee made the decisions, and they actually
7 were made before I even entered the S-21 office. This is my
8 response.

9 [10.04.31]

10 Q.Thank you. I would like to ask the next question related to
11 the types of the prisoners. The question is: at the S-21 office
12 which was organized, were there types or categories of prisoners
13 that were to be sent to S-21 and other categories of prisoners to
14 be sent to other offices?

15 A.Ms. Ty Srinna, I'm going to give the following response.

16 First, S-21 was the police office of the Division 703. From the
17 beginning it was the purges periods of the former regime
18 officials and police and soldiers of the Lon Nol regime. During
19 that initial period, the Co-Investigating Judges already analyzed
20 and made their decision. It was the crimes committed by other
21 divisions. During that initial stage, people were evacuated and
22 then some of the senior soldiers were arrested and secretly
23 killed.

24 And later on Nat, for his own -- for two of his own benefits, he
25 went around seeking permission from the superiors under the

23

1 pretext to recruit important people for interrogation, but in
2 fact it was for his own interest to find his father-in-law, that
3 Im (phonetic), so he also went to find his girlfriend and he
4 found her at Baray. So during that time he took the opportunity
5 for his own interest by telling the superior that it was for the
6 revolutionary benefit, which has a criminal nature because it
7 meant he went around, arrested people and killed.

8 [10.06.58]

9 So Nat went around to gather those people, senior police
10 officials or military officials like Tip Mam and Dr. Rou Kut, my
11 godbrother, and there were many other people as well.

12 So it was a confusing situation at the time and that is the
13 truth. That was the initial state. It was confusing, but the
14 direction was clear. It meant the former soldiers and the former
15 police. However, at the second stage when I became -- when I
16 took charge, the main important target was the internal people,
17 so those who were sent only happened with the authorization from
18 Son Sen. And with the Southwest Zone from Ta Mok, even with the
19 request from my superior, he denied it, and this is the truth.

20 So to conclude, from the initial stage people were sent -- for
21 example, Chhit Iv was sent to the office, but then they also --
22 they also were requested, for example like Tip Mam and Rou Kut.

23 So this is what happened at the initial stage, but once I became
24 the chairman, our direction was clear. It was the purges for the
25 internal rank with the permission from the superior.

24

1 This is my response, Your Honour.

2 [10.08.56]

3 Q.Thank you. My next question relates to the report-making.

4 During the initial stage of the establishment of S-21, did you
5 have meetings to organize, to create the form of report in order
6 to make the reports to the upper echelon, or how was it done?

7 Can you shed light on this particular issue?

8 A.Your Honour, I would like to respond to Ms. Ty Srinna's
9 question.

10 When I first worked there Nat made the decisions on the form of
11 the report and later on we obviously -- the form of
12 interrogations and taking the confession, for example from Chou
13 Long Raingsy, it was different from the way of the interrogations
14 that I conducted, and later on during the interrogation of those
15 people from the Psa Tho (phonetic) electricity, we made a chart,
16 who was the superior and who were the subordinates, and then they
17 were sent to their upper -- to their superiors who arrested them.
18 So that happened before I became the chairman.

19 So -- because at that time, so the direction was not clear, the
20 only target was the former regime officials and soldiers, but
21 when I became the chairman the method of reporting was different,
22 as you can see in the surviving documents. So the way of
23 reporting also developed, also based on the ability of the
24 chairman in addition to the requirements of the purges by the
25 Communist Party of Kampuchea from one stage to the next stage.

25

1 This is my response, Your Honour.

2 [10.11.13]

3 Q.Thank you. Now my next question. This is not actually a
4 question. I would like a confirmation from you when you
5 responded yesterday and the day before yesterday. One point is
6 related to the Ta Kmao Prison. Yesterday you said the Ta Kmao
7 Prison was established on the 1st of June -- on the 17 April 1975
8 and finished on the 1st of June '76. Is this correct?

9 A.Your Honour and Ms. Ty Srinna, it is not actually clear on the
10 17 April or the 1st of June. It could be after the 17 April. It
11 could not -- it's unclear whether it's on the 1st of June or not
12 because we only analysed based on the movement of Nat to finish
13 his pending activities at Ta Kmao Prison. This is just our
14 presumption.

15 Q.Then, the next point, when the Ta Kmao office was finished
16 what was it used for or was it used for the detention?

17 A.Thank you, Mr. Ty Srinna.

18 I would like to inform Your Honour, the President, that -- I
19 would like to state it clearly, maybe what I said yesterday was
20 unclear. After Nat came to contacts of Comrade Hor, that is
21 after he left, and probably in June, so that's when he came, and
22 after that he did not come.

23 [10.13.09]

24 So Ta Kmao Prison was left unattended. Only later on at an
25 unclear date whether it was toward the end of '76 or early '77,

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1 probably it was in the first semester of '77 when the superior
2 asked me -- telephoned me to give that prison to the Ministry of
3 Social Affairs for their use, so that I order the exhumation of
4 the bones and burnt them.

5 So, in conclusion, from the time the prison was not used to
6 detain prisoners they were left unattended.

7 Q.Thank you.

8 I would like to get affirmation on the second point; yesterday
9 you mentioned when you arrived in Phnom Penh first time, you
10 received a training and you had a few days to wait for the
11 assignments and also at that time you requested through your
12 superior to transfer you to the Ministry of Industry. Was your
13 request to be transferred to the Ministry of Industry done on how
14 many occasions before your superior made that decision to
15 appointment you as a chairman of S-21?

16 [10.14.56]

17 A.Your Honour, Mr. President, and Ms. Ty Srinna, I think Ms. Ty
18 Srinna is still confused on the date of the request.

19 I request for the transfer to the Industry when Brother Cheng
20 Horn came to collect it. The workers from the countryside to
21 come to Phnom Penh. I would like to inform the entire Chamber
22 that after the 17 April the Communist people of Kampuchea
23 evacuated all the people from the cities, including the workers,
24 civil servants, the capitalists, the barbers; everyone. And
25 those who came to live in Phnom Penh after that were those of the

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1 revolutionary army.

2 In May, after the work at M-13 finished I used to travel on my
3 motorbike, as everybody knows. I had a new motorbike so I came
4 to Brother Horn's house and Brother Kaing's house in order to
5 await for any news from Angkar. And at that time everybody came
6 to Phnom Penh and it was quiet. All the people from the offices,
7 the accused people also came to Phnom Penh; other units from the
8 special zone also came to Phnom Penh, and I was perplexed at the
9 time but I was wondering why they let me there.

10 That was only my thinking but after I saw Brother Horn I begged
11 him. At that time Cheng Horn came to collect the workers. I
12 begged him that I would like to work with him at the Industry and
13 Horn said "Oh, yes, you can wait" and from my recollection the
14 day I met Horn, probably on the 23rd of May and he asked me to
15 wait for another week, that is to the 31st of May and that I
16 would meet him on the 31st of May and I was glad.

17 But when I came I did not meet him, instead I met his messenger
18 with a letter from him stating that Angkar did not allow you to
19 go to the Industry and you had to wait for the assignment from
20 Angkar.

21 [10.17.23]

22 So from the end of May that's what happened. So the actual date
23 cannot be exact but this is just -- I remember, but it was before
24 I was appointed to be the chairman of S-21.

25 And as I said yesterday, regarding the establishment of the S-21,

28

1 after the presentation, and Vorn said, okay I will be with the
2 military and you are with the police force. So this is my
3 response.

4 Q.Thank you.

5 Before I move on to the last point I would like to inform you
6 that I would like to have a short answer from you so that
7 everybody can understand it.

8 Yesterday you stated that your real purpose was to become a
9 teacher; is that correct?

10 A.I would like to inform the President that the questions raised
11 by Ty Srinna is that, yes, but I could not await to be a teacher
12 for the rest of my life already.

13 Q.Okay, I move to the next point. During the time you were in
14 Phnom Penh, after you received your training, during the period
15 over a number of days that you went around on your motorbike you
16 saw a high school, Ponhea Yat High School and another one is the
17 Sisowath High School; was it correct?

18 And at that time you had an idea that these two high schools are
19 easy for the detention and interrogation of the prisoners; is
20 that correct?

21 A.Mr. President, I think Ms. Ty Srinna is confused. On the
22 Sisowath High School, I never mentioned any Sisowath High School.
23 I used to study at the Sisowath High School for two years but the
24 location where I use as a prison was the Ponhea Yat High School.

25 [10.20.09}

29

1 I would like to state that this Ponhea Yat High School is the
2 first used during the Sangkum Reas Niyum but during the Lon Nol
3 it was called Tuol Svay Prey High School and during the Khmer
4 Rouge it was called S-21 prison.

5 Q.I would like to confirm; when you saw the Ponhea Yat High
6 School for the first time, did you immediately have an idea to
7 have it used as a detention and interrogation facility? I just
8 want a short answer to this question.

9 A.Ms. Ty Srinna, I used that location for interrogation and
10 detention, probably in April '76. I had an idea to use it after
11 I already became the chairman of the S-21. In the beginning I
12 did not think of this matter because the superior was responsible
13 for it, not me.

14 Q.When you saw Ponhea Yat High School at the beginning, were you
15 of the opinion that that school would be restored so that it
16 could be a school where you attempted to be a teacher in?

17 A.The moment to build education decided by the Party. I alone
18 could not make such a decision and the Minister of Education at
19 that time, the wife of Son Sen who worked -- I think she had
20 different task and Son Sen had to work -- mind his own business
21 so I did not have any possibility to make it to become a school.

22 Q.Did you try to -- excuse me.

23 MR. PRESIDENT:

24 Ms. Ty Srinna, could you please repeat your question because --
25 to make sure it is slow for the interpreters, and for the record,

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1 and you make sure you deactivate the mike when you stop asking
2 question, and when you start making -- putting more question,
3 then make sure the mike is activated so that interpreters could
4 interpret. So please now, repeat your question.

5 [10.23.14]

6 MS. TY SRINNA:

7 My apologies. I actually have not been used to this microphone,
8 that's why I find it rather difficult. Thank you, Your Honour,
9 for reminding me, and I would like to repeat the question now.

10 BY MS. TY SRINNA:

11 Q.The question is, when you saw Ponhea Yat High School, at the
12 beginning, did you try to make a request to the superior so that
13 that school could become a school as what you attempted long ago
14 to the superior to make sure that the Ponhea Yat High School can
15 be changed into the detention facility?

16 A.Ms. Ty Srinna, I did not have any thought of that matter
17 because the educational movement did not start yet. There were
18 the beginning of drafting the study textbooks. The plan at the
19 time for education, four years were aimed for primary, and four
20 years for secondary, and higher education for another four years.
21 So I did not attempt to change Ponhea Yat High School to become a
22 normal high school as it was before. It was my feeling that I
23 had to blend and to be able to be flexible to the situation, and
24 I never thought of changing that facility to be a school.

25 [10.25.29]

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1 MS. TY SRINNA:

2 Thank you very much for your response. And I thank you, the
3 Chamber, and the President. I have no more questions for the
4 time being, and I think my colleagues in our group may wish to
5 put more questions.

6 MR. PRESIDENT:

7 The floor is yours, the lawyer, Mr. Alain Werner.

8 MR. WERNER:

9 Thank you, Mr. President, Your Honours.

10 [10.26.10]

11 I'm going to do my best not to take up too much of the Courts
12 time. I would like to say that based on the answers I receive; I
13 hope to complete my questions in 20 to 25 minutes.

14 May I proceed? Thank you, Mr. President.

15 BY MR. WERNER:

16 Q. Good morning, sir. My name is Alain Werner. With Ty Srinna,
17 I represent the Civil Party Group 1, and I have a few questions
18 for you.

19 My first question, sir, is this; this is an agreed fact between
20 the prosecution and the defence that from March 1976, Khim Vat
21 alias Hor became your assistant in S-21, and was responsible for
22 day-to-day operations in S-21. This is point number 36 of agreed
23 facts between the prosecution, and the defence.

24 At a hearing, you were more precise, and on Monday the 27th of
25 April, you indicated that Hor was in charge -- that when you

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1 became in charge, Hor was responsible for military tasks which
2 comprised arrests, detention, executions in Choeung Ek.
3 And then the day before yesterday, in response to a question put
4 by Judge Lavergne on Tuesday, 28th of April, you said that from
5 March to June 1976 -- you indicated to Judge Lavergne that from
6 March to June 1976, Hor or Khim Vat was responsible for
7 day-to-day operations in Ta Kmao, and that during that period,
8 Nat came and went from the province.

9 [10.28.26]

10 So this is my question; how could Hor be both in charge daily of
11 S-21; arrests, detentions, executions, and be in charge daily of
12 Ta Kmao Prison from March to June 1976?

13 A.I would like to address the questioning by Mr. Werner as
14 following.

15 The work in Phnom Penh under my order from March to June, Hor was
16 assigned to order Phal to implement the task, and Hor was
17 supervising Phal; without my order, he would not order Phal
18 aimlessly.

19 And Nat did not come every day; he had to finish the work at Ta
20 Kmao Prison. Once in awhile he came, and also to clarify -- make
21 sure that the previous tasks are completed.

22 And Hor did not go to Ta Kmao himself, he may ask Huy or Phal to
23 help him.

24 So this is my response. So this task was not overlapping, and
25 then he was supervising people who could do the task for him; he

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1 could do that -- could manage it.

2 [10.30.34]

3 Q.Still again, in relation to Hor, you said to Judge Lavergne on
4 Monday the 27th of April that if Hor would make mistakes, he
5 would be punished by your superiors, and basically, you said the
6 same thing to the Investigating Judge.

7 And I would like to refer to the written record of the interview
8 for my colleague; index D20 of October 2nd, 2007, and you said
9 that if somebody would escape from S-21, well, then Hor would be
10 punished because he was the one who would be held responsible
11 before the Party. So my question is the following is that when
12 Hor committed mistakes, did this also have consequences for you?
13 A.I would like to make it short. If that mistake was severe
14 then I would be affected; for example, if Hor betrayed the party,
15 grabbed the weapon and killed me and made the prisoners abscond.
16 But if he only -- if he made such a mistake, then I would be held
17 responsible because I could not really manage him or control him
18 properly.

19 However, the mistake so far as I remember, there were three
20 occasions a mistake was committed when we walked out and then one
21 prisoner absconded, and I and Hor were not reprimanded by our
22 superior, but then we never walked out at night again altogether
23 to avoid the problem.

24 And the second mistake, a (inaudible) grabbed a weapon but our
25 superior did not tell us off, and this kind of mistake was not

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1 reprimanded by our superior and I was not affected.

2 But there was another mistake that I was affected also, when Hor

3 leaked the confession when Sao Pheum's confession was comprised

4 and the superior was informed, and then he told -- the superior

5 told me, warned me not to allow Hor to see the confession again.

6 So when I was affected it was the time that -- when there were

7 mistakes. Some mistakes were not severely affecting me, but some

8 did.

9 [10.34.10]

10 Q.You indicated yesterday during the hearing on the 19th of

11 April, therefore, that when you became in charge of S-21 you had

12 a telephone to communicate with your superior, Son Sen. My

13 question is the following, therefore.

14 When S-21 became operational in October 1975, did Nat also

15 receive a telephone in order to communicate with his superiors?

16 A.Nat was the secretary to the general staff and he supervised

17 the military communication. He was ordered from the superior to

18 give a telephone to me, but that person did not have that special

19 phone to use himself. That telephone was installed at the former

20 location as I marked as B, so Nat did not even enjoy using such a

21 special telephone as I did. However, I would like to add that

22 Nat, after leaving me, he was close to the superior at Location B

23 in the name of the assistant to the general staff.

24 [10.35.50]

25 Q.Now, in relation to the different groups that made up the

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1 staff at S-21 at the beginning, you said to Judge Lavergne on
2 Tuesday, the 28th of April, that almost all of the members of
3 Division 703 were later on purged at S-21, as well as quite a few
4 government agents from Phnom Penh. And you indicated that day,
5 Tuesday, that in the group of the people who were coming -- who
6 came from M 13, nobody had been purged.

7 So my question is the following. Is it because you were
8 protected by Son Sen and then protected by Nuon Chea that nobody
9 in your group was purged at S-21?

10 A.I would like to clarify the questioning made by Alain Werner.

11 I would like to state that in reality people from Amleang Office
12 M-13 were not affected. Second, the young children who were
13 brought in from Sector 31 were not affected either.

14 As for people from Division 703, those former subordinates of Hor
15 were not affected too because in the Communist Party rank, the
16 subordinates had to respect their superiors and superiors had to
17 protect their subordinates.

18 So this is how unusual interests were introduced. By saying
19 that, it doesn't mean I pointed the finger to the people who
20 died; that, in reality, the people who committed wrongdoing then
21 they were educated by me or by us time and again. If they still
22 not listen to us, then the party noted that keeping them would be
23 -- would bring trouble. Then we had to report to the party, to
24 the upper echelon.

25 [10.40.11]

36

1 I raised an example regarding Comrade Hat and Pol while these
2 people were -- these people could not confess because their
3 confession was cut off, and then I had to report to the superior
4 and with good reasonings in the report. And before reporting to
5 the superior, I had to be well prepared so that I could be spared
6 from being reprimanded as having been -- having hatred toward
7 those people for reporting them because I had to make sure that
8 -- I had to be sure that I did not only report to the superior
9 aimlessly or unwisely.

10 So, in conclusion, yesterday I already told Judge Lavergne that I
11 did not blame people who died that they were committing
12 wrongdoings, that they were killed or that they -- yeah, they
13 were killed. I admit that I was the secretary who educated them
14 but then I failed to pay good attention and focus to examine
15 them. That's why I had a role in the crimes inflicted on my
16 subordinates, and it is true and real, cannot be denied.

17 So by way of saying that I have -- I enjoyed the support or
18 protection from Son Sen or Nuon Chea it may be correct because,
19 as I told you, I was regarded as the German Shepherd, that's why
20 they trusted me.

21 [10.42.50]

22 MR. PRESIDENT:

23 The Chamber would like to adjourn for 20 minutes.

24 And, Mr. Alain, when you may put more questions after we resume
25 the next session.

37

1 (Court recesses from 1043H to 1116H)

2 MR. PRESIDENT:

3 Please be seated.

4 Now, the Chamber is back in session. The floor is now for the
5 lawyer, Alain Werner, the international lawyer for Civil Party
6 Group 1 to continue his line of questioning to the accused.

7 MR. WERNER:

8 Thank you, Mr. President.

9 [11.16.03]

10 BY MR. WERNER:

11 Q.Sir, my colleagues and I on this side are anxious to put
12 questions to you. We know that we have an advantage as group
13 number 1 because we can start with our questions, so in order not
14 to encroach on the time allocated for all our colleagues we shall
15 try to keep our questions as briefly as possible. We're going to
16 ask you to respond as briefly as possible to the questions that
17 we put to you.

18 I just have one more question with regard to interrogation
19 techniques. On the 22nd of April, last week, you indicated that
20 in 1975 you taught S-21 guards how to conduct interrogations and
21 today in response to the question put to you by Ty Srinna you
22 said that there had been a discussion with Nat in respect of
23 these interrogation techniques.

24 I would like to read out to you an answer that you provided on
25 the 7th of April 2009 here in this courtroom.

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1 Mr. President, this is a response concerning M-13. I think it is
2 useful for me to use it to put my question on what is being
3 discussed today. In reference to interrogation techniques in
4 M-13 you said this. This is a record of proceedings, that is a
5 transcript of the 7th of April 2009 and this is on page 68. "You
6 know," you said, "They said that I should take the pulse of the
7 detainees to see whether the person was telling the truth or not.
8 And if I could not find a pulse the person was beaten up."
9 End of quote.

10 [11.18.21]

11 "So, habitually technique -- torture techniques were designed or
12 at least improvised by myself. As I said to Judge Lavergne
13 yesterday, I never worked with the police but Chhay Kim Huor said
14 that the torture technique was secret and if we were trying to
15 protect the liberated zone we should use such techniques. These
16 techniques were not introduced by the higher echelons. I myself
17 created these techniques and I accept this type -- I accept to
18 take responsibility for these types of brutal crimes."
19 End of quote from transcript.

20 So based on what you yourself said a fortnight ago, you stated
21 that you were the creator of interrogation and torture techniques
22 in M-13. So this is my question: Is it therefore true that when
23 you talked with Nat just before S-21 was established, Nat largely
24 relied on you for the use of these interrogation techniques
25 because it is you, in fact, who had created or established these

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1 techniques in M-13?

2 A.Mr. President, I would like to respond to Mr. Alain Werner's
3 question as follows; let me separate the two parts of the
4 question, the techniques for torture and the technique for
5 interrogation.

6 The interrogation, nobody was stupid enough to do it; that is the
7 truth.

8 Another point; Nat liked the police work very much, although he
9 was the chairman of the battalion. He used to go around and
10 arrest the witches so that's what happened at the time at M-13,
11 but there is no surviving document.

12 [11.21.17]

13 So in total he had no experience like I had in interrogation but
14 because of his superiority so then of course there was
15 consultation but the person who led the role in this area is
16 myself, the teaching of the interrogation technique that is on
17 that particular part.

18 Q.Thank you for being concise in your answer.

19 On the 22nd of April in response to a question put by Judge Ya
20 Sokhan you stated that when you were teaching future S-21 guards
21 how to conduct interrogations, you prepared a report for your
22 superiors and this report was in respect of traitors.

23 [11.23.51]

24 With the Court's leave, I would like to read this segment in
25 English because the word "traitor" doesn't appear in the English.

40

1 it is not too complicated for the interpreters, there is just the
2 one sentence in English.

3 For information, this is from the transcript of last Wednesday
4 the 22nd of April 2009, page 85 in the English and page 89 in
5 French.

6 MR WERNER (Speaking in English):

7 "I taught people to interrogate and also I prepared reports to
8 the superior regarding the string of traitors."

9 BY MR. WERNER (Speaking in French):

10 Q. In order to avoid returning to the original version, can I
11 just put the question to you as follows. Is it correct that you
12 prepared a report at that time for your superiors concerning
13 traitors?

14 A. I would like to respond to Werner's question as well
15 following. When S-21 was established, at the outset I was the
16 deputy chairman and I had been assigned several tasks.
17 First, to prepare all the documents collected, make sure they are
18 kept properly. I would like to repeat, first, it was to keep
19 documents we collected from other state institutions of the Lon
20 Nol's regime.
21 Number two, extracted some related points so that they could be
22 sent to superior.
23 Third, when we started to work together we -- I started to teach
24 the interrogators.

25 Fourth, reported the confessions of the victims to the superior.

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1 So all together, those were the key tasks at the beginning of the
2 establishment of S-21.

3 I can say that one of my tasks was to teach interrogators how to
4 interrogate. My second duty was to prepare reports and have them
5 sent to the superior. So your question concerning my task was
6 correct.

7 [11.26.37]

8 Q.Just to be clear, as part of your duties which consisted in
9 writing reports, during that time you prepared a report on
10 traitors. Did I understand you correctly?

11 A.I would like to clarify regarding this matter to Mr. Werner.
12 The report to the upper echelon was about the report on traitors.
13 That's the content of the confession and of the report. It was
14 about the strings of traitors.

15 Q.Sir, who asked you to write this report?

16 A.Actually, I was captured when your mike was not activated and
17 I could only hear half of your question. Could you please
18 repeat?

19 Q.All right. Who asked you to write this particular report?

20 A.The reports I sent to superior were numerous. I reported -- I
21 started to report to the superiors then I was as the deputy
22 chairman but, at that time, I made a report to my superior, Son
23 Sen, right in front of my superior -- another superior, Mr. Nat.

24 Q.The report that you were speaking about -- and I had the
25 English translation in my headset and it was translated by a

42

1 "string of traitors". But did somebody ask you to write this
2 report or did you write it spontaneously?

3 A.Mr. Werner, could you please make it clear which report did
4 you refer to and seek my clarification? If you would like me to
5 refer to any particular report, then you should be precise in
6 your reference to that report so that the Court is well informed
7 of your intention.

8 [11.30.17]

9 Q.I believe that I didn't understand you too well. Please let
10 me be clear about this.

11 Back then when you trained the S-21 interrogators -- that is to
12 say 1975 -- well, in 1975 did you write a specific report on a
13 certain number of traitors? And I understand that, of course,
14 that afterwards in your operations at S-21 that you wrote several
15 reports on confessions. But just only at that time when you were
16 training the S-21 interrogators, in 1975, did you back then at
17 that moment write a specific report on traitors?

18 A.When I was the deputy chairman, normally as the deputy when we
19 were ordered by the superior, then we had to carry out the order.
20 The superior that I referred here was the chairman, which was
21 Nat, not Son Sen. The last word, the statement I made at the
22 last moment in the name of the deputy, if my -- the chairman of
23 -- ordered us, then we had to implement the order.

24 Q.Sorry to interrupt you, but I was thinking about moving on to
25 my next question.

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1 A.If we were asked to implement something, then we had to do.
2 They did not dictate us to do things but they gave us ideas and
3 we had to implement according to those notions.

4 [11.33.37]

5 Q.My next question, sir. During the hearings, you told us about
6 a certain number of initiatives that you took on yourself, and on
7 Thursday the 23rd of April you spoke about the fact that you had
8 asked leave to create a team of female interrogators. And the
9 day before yesterday, Tuesday the 28th, you spoke about several
10 initiatives that you took on, such as moving S-21's installations
11 from point A to point B, to change the execution sites and to
12 move them to Choeung Ek, to create individual cells at S-21, to
13 ask Son Sen to bring in teenagers with good biographies so that
14 they could work at S-21.

15 So all of these examples, of which you spoke, were your
16 initiative. That is to say that nobody gave you the order to do
17 this. You're saying it was you who decided to do this. So my
18 question is the following. If, therefore, if you did not like
19 what you were doing at S-21, if you really wanted to do something
20 else, why then did you take so much initiative?

21 A.The question of Alain Werner was rather mixed up. I cannot
22 understand it.

23 And, finally, he intends to say that I said I would not like the
24 police work but why I took a lot of initiatives? I would like
25 you to put aside the evidence that you brought forward because

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1 they are so confusing, and I would like to respond now to your
2 question.

3 It is true that I did not like that duty, but I -- whether I
4 could challenge such duties, and I could not dare do that. It
5 was not perceived as we being faithful to the party by way of
6 contesting any orders. It's perceived as the way of attacking
7 the Communist Party of Kampuchea instead. And if I we were
8 assigned with any assignments, then we had to carry out them, and
9 if we were not brave enough to carry out that assignment then we
10 had to tell so. Therefore, some of the assignments they believed
11 that I could implement and that I was sure that I could implement
12 those assignments, then I had to do them.

13 But, please, make sure that the evidence you presented is
14 organized.

15 [11.38.34]

16 MR. PRESIDENT:

17 The Chamber would like to remind the lawyer that the parties have
18 the right to put questions to the accused, and we observed that
19 you would like the accused to make it brief in his response, but
20 how you put the questions -- the questions themselves are long
21 and sometimes confusing. That makes the accused, who has already
22 been bombarded by questions from other parties, find it difficult
23 to respond.

24 So we would like the parties to be precise on which questions you
25 would like to put to the accused, and then be straightforward to

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1 the point.

2 MR. WERNER:

3 Thank you, Mr. President, I will do my best.

4 [11.39.32]

5 BY MR. WERNER:

6 Q.Sir, after having been nominated deputy secretary of S-21 on
7 the 15th of August 1975, you brought in a certain number of
8 former guards from M-13 to work at S-21, and on Wednesday the
9 22nd of April you said that it was Meas who went to go look for
10 people at Amleang. And then you also said that it was your
11 superiors who requested Meas to go look for people at M-13. Is
12 that correct?

13 A.That is correct. The force at M-13 was led by Comrade Meas at
14 M-13.

15 Q.Did you yourself request -- did you ever ask your superiors to
16 go look for former guards at M-13 so that they could work with
17 you at S-21?

18 A.Mr. Werner, your question is interrupted. Can you repeat your
19 question, please?

20 Q.Of course. Did you, yourself, ask or suggest to your
21 superiors to send Meas to go look for these people at M-13 so
22 that they could work with you later at S-21?

23 A.During the establishment of S-21 on the 15th of August '75,
24 the superior told me to ask them to bring the force from Amleang
25 into Phnom Penh. That was the order that I implemented.

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1 Q.A very simple question; I understand that this was only an
2 order that you had received, but however, did you have any
3 discussions before with your superiors in which you had suggested
4 them to act in this way?

5 A.Mr. Werner, my force at Amleang was known by my superior so
6 when he made a decision to establish S-21 he told me, "Comrade
7 Duch, assign people to go and bring the force into Phnom Penh."

8 Q.Thank you, you answered my question.

9 MR. WERNER:

10 Mr. President, I only have two topics to bring up. I hope not to
11 be longer than five minutes, if I may request your leave, please.

12 MR. PRESIDENT:

13 Yes, you can go ahead.

14 [11.43.56]

15 Please switch on your microphone and please try not to be long
16 and your first attempt you told me only for 25 minutes and now
17 it's more than that and if each party takes more than the
18 allocated time, then it is contradictory to what you attempt to
19 be short.

20 MR. WERNER:

21 I have understood, Mr. President.

22 BY MR. WERNER:

23 Q.Sir, on April 23rd you clarified the relation between S-21 and
24 the other security zones. You clearly explained that there was
25 no vertical communication but I would like simply to ask you the

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1 following: Do you accept the fact that S-21 was not at the same
2 level as the other security centres because S-21 received cadres
3 from the Central Committee that the Standing Committee had
4 decided to arrest; is that correct?

5 A.I would like to state again on this particular point to Mr.
6 Alain Werner, S-21 never communicate with the horizontal lines to
7 any other security office, never at all.

8 [11.46.06]

9 As for the people that S-21 received, they were those the
10 Standing Committee gave to S-21 through me.

11 Q.Do you therefore accept that what you just said made S-21
12 unique in relation to the other detention centres in the
13 provinces?

14 A.Now we talk about the unique. The unique in what sense? If
15 we talked about the documents, the certain decisions of the
16 Standing Committee and examined those decisions, we can see that
17 S-21 is not a unique police office because the person who has the
18 right to give order to all the security office throughout the
19 country was those in that four groups; the first group, the zone
20 secretary. There were seven zones so there were seven
21 secretaries.

22 The second group was the secretary -- the chairman of the
23 committee of Office 870 and the third group was the Standing
24 Committee and the fourth group was the General Staff, that is Son
25 Sen.

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1 So to conclude this, if it was on this document, anyone amongst
2 the four groups issue an order, every security office in Cambodia
3 had to obey and implement that order. So if they decide somebody
4 to be -- to live or to die, it's their choice, for their own
5 interest.

6 [11.49.42]

7 These four groups were the most responsible according to the
8 Cambodian law. I would like to further state that what I said --
9 the translation is not exactly what I said. The people in those
10 four groups, they are called those who are most responsible for
11 the crimes according to the Cambodian law.

12 So to conclude, if we use the line determined by Pol Pot on the
13 30 of March, S-21 is not unique. S-21 is not unique in that
14 sense but if you think because S-21 kills cadres from the Central
15 Committee -- the cadres from the Central Committee I stated to
16 the Chamber yesterday that when the S-21 smash the cadres of the
17 Central Committee, it is not the benefit to the Cambodian people.
18 It is the issue of double-cross within their own central
19 committee, therefore, if we don't think of that principle as
20 actually one is unique because it kills the cadres from the
21 central committee.

22 Let me just continue a bit further. If we give value to a life
23 of one member of the central committee to thousands of lives of
24 ordinary people, if we compare one member's life to 500 lives of
25 ordinary people -- let me talk about the innocent intellectuals.

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1 How would you consider them? How would you treat them, because
2 their hands had no stain of blood of their people?

3 So Mr. Werner, this is my response to you because of the reasons
4 that I killed the cadres from the central committee.

5 [11.54.05]

6 MR. PRESIDENT:

7 The accused, can you repeat the last sentence that you said,
8 because the voice was interrupted? So repeat your last sentence
9 so that the interpreter can interpret it.

10 THE ACCUSED:

11 Toward the end?

12 And Mr. Werner, don't regard S-21 as unique because of the
13 reasons that the cadres from the central committee were killed at
14 S-21.

15 MR. WERNER:

16 One last question, please?

17 MR. PRESIDENT:

18 Mr. Werner, if you have another question you can ask and then the
19 floor will be given to the Co-Prosecutor.

20 MR. WERNER:

21 Thank you, Mr. President.

22 [11.55.36]

23 BY MR. WERNER:

24 Q. On last Thursday, 23rd of April, you confirmed that when you
25 were in charge of S 21 that you only knew two other security

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1 centres in the country, the one in Kampong Thom and another one,
2 Security Centre 99, or M-99 in Sector 32, and you said that Son
3 Sen had requested something from you in relation to this S-99
4 centre, and that's why you knew the centre.

5 So my question: Is it true that between '75 and 1979 you did not
6 know that there existed in Siem Reap a detention centre in the
7 former colonial prison which was the largest detention centre in
8 the northern region of the country, and that was led by Ke Pok?
9 Is it true that you did not know this centre in Siem Reap?

10 A.I remember these two security offices clearly because the
11 first one I saw it with my own eyes. That is the security office
12 in Kampong Thom. And the second one, the M-99, I sent the people
13 there as I was ordered by my superior from the time I started
14 working.

15 I would like to separate into two separate sections. One is my
16 presumption. I think throughout the country there were police in
17 every zone. There were security offices in every zone. There
18 were security offices in every sector and there were security
19 offices in every district. I believe this is what I have
20 reported already to the Co-Investigating Judges.

21 And in my work I became aware of it but it's been over 30 years
22 now, but I was not sure from which security office that I have
23 learned. And now, through the investigating stage and through
24 reading the documents, I noticed that there were some security
25 offices whose documents remained at the S-21 office; for example,

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1 the security office in the West Zone of Comrade Vy. His original
2 name was Im Roeun. And the security office in Siem Reap, as
3 asked by Werner, was supervised by Comrade Young Pouv, and then
4 Brother Poch (phonetic) was about Young Pouv.

5 And in the East Zone there was Sector 21 security office, as one
6 of the confessions is still in my hand here. So I started to
7 learn more during the time that I worked at S-21, but it's been
8 over 30 years so I forget some of them.

9 [12.00.08]

10 MR. WERNER:

11 I do not have any further questions. Thank you.

12 MR. PRESIDENT:

13 We note the presence of the Co-Prosecutor. Would you wish to
14 make any observation?

15 You can take the floor.

16 MR. BATES:

17 Thank you, Mr. President, just a very brief observation.

18 The Co-Prosecutors inform the Chamber that at a later hearing we
19 intend to put questions to the accused on both the hierarchy of
20 the security offices within Democratic Kampuchea in which we, the
21 Co-Prosecutors, allege S-21 was the top of such a hierarchy; and,
22 two, we intend to put documents to the accused from people
23 arrested from right around the country -- other security offices
24 from right around the country. We don't intend to that now, but
25 just to put the Chamber on notice that we wish to revisit that

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1 issue when the time is proper.

2 Thank you.

3 [12.01.35]

4 MR. PRESIDENT:

5 Thank you, the Co-Prosecutor, for informing us in advance. It is

6 now time for lunch break, so the Chamber will adjourn for lunch

7 break and resume our session at 1.30.

8 Security officers are instructed to take the accused back to the

9 detention facility and bring him here by 1:30.

10 Parties to the proceeding also instructed to come back to the

11 hearing -- the courtroom before 1:30.

12 (Court recesses from 1202H to 1333H)

13 (Accused enters courtroom)

14 (Judges enter courtroom)

15 MR. PRESIDENT:

16 Please be seated.

17 I note the presence of the Co-Prosecutor. If you would like to

18 make any observation, you can take the floor.

19 MR. BATES:

20 Thank you, Mr. President.

21 I've been requested to make it clear for the record the document

22 number of Zoran Lesic's report, the DVD of which I presented to

23 the Chamber earlier on this morning. I'd like to confirm that

24 the written report of Zoran Lesic appears at Document D45/1 and

25 the DVD, from which I showed the Court some stills, is D45/1/1.

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1 Thank you, Mr. President.

2 MR. PRESIDENT:

3 Next, the Chamber would like to invite civil party lawyers Group

4 2 to put questions to the accused if you would wish to do so.

5 [13.35.30]

6 MS. STUDZINSKY:

7 Thank you, Mr. President. Good afternoon, Your Honours.

8 First I would like to inform you that I will use three documents;

9 first, the two charts, organizational charts, which we discussed

10 in the previous day -- days. The ERN number is 00154198 and the

11 second is 00154199. These are the same charts that we have

12 already discussed.

13 BY MS. STUDZINSKY:

14 Q.And now my questions to the accused. The first chart is --

15 has a title that this is the organizational committee of Office

16 S-21 and indicates that it is the organizational chart before the

17 arrest of Nun Huy. The second one has the title that this is the

18 organizational chart after the arrest of Nun Huy.

19 I would like to come to the first chart, and my question is, was

20 this structure in place since you started the work at S-21 as

21 chairman?

22 A.What kind of organizational structure, to be sure?

23 MS. STUDZINSKY:

24 Mr. President, could you ask the Court Officer to put those on

25 the screen?

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1 [13.3.55]

2 MR. PRESIDENT:

3 The Court Officer, you are instructed to project those pieces of
4 document to the Court.

5 BY MS. STUDZINSKY:

6 Q.And now again my question. This is the first chart. My
7 question to the accused: Was this structure in place -- was this
8 structure in place since you took the post as chairman in S-21
9 until the arrest of Nun Huy? Is this right?

10 A.I already told in details about this to the judges. The
11 organizational chart was prepared by me at a later date. As I
12 remember, when I was appointed as the chairman of S-21 I did not
13 change the former chart. And this new chart is more a supplement
14 chart to supplement the missing points in the previous chart to
15 answer to the practical needs at office. And I cannot recall how
16 many people were in each unit. There is no document to make me
17 recall it. So this organizational chart was based on how it was
18 used at that time and based on my memory.

19 MS. STUDZINSKY:

20 Can I get again the translation from the last sentences the
21 accused said?

22 BY MS. STUDZINSKY:

23 Q.Could you please repeat your last sentence? I couldn't get
24 the translation.

25 A.My conclusion regarding the first organizational chart is that

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1 the forces I appointed and employed --

2 Q.I am sorry. Could you please repeat?

3 A.I would like to state again that although I was appointed as
4 the chairman of S-21 I did not change the old organizational
5 chart. I maintained using the former chart. And we used the
6 forces we had to implement based on the chart -- existing chart,
7 but I cannot remember how many people were in each unit.

8 Q.Thank you. That means this chart that you are seeing now on
9 the screen is the organizational structure since the
10 establishment of S-21. Can you confirm this?

11 A.Yes, I confirm.

12 [13.43.50]

13 Q.Thank you. And now I would like to confront you with a
14 statement that you have made before the Co-Investigating Judges
15 on the 2nd of October 2007. This is Document D20. The Khmer ERN
16 is 00146657 to 00146667.

17 The French ERN is 00149920 to 00149931.

18 And there you told the Judges -- this is on page 5 of the English
19 version:

20 "In the final stage, there was an additional inclusion of one
21 female interrogator."

22 Can I get, again, the chart that we have shown to the accused and
23 to the public and the Judges, and point out that you indicated
24 here and confirmed that five -- because you said Ms. Pouen and
25 just to mention her -- that five female interrogators were at the

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1 beginning -- since the beginning.

2 Do you maintain that five female interrogators were employed at
3 S-21 since the beginning or if it is rather like you told the
4 Judges on 2nd of October 2007, that only at the final stage one
5 female interrogator interrogated female prisoners?

6 A.The translation seems to be rather complicated. I would like
7 to confirm that what I stated before the Co-Investigating Judges,
8 I forgot to include another female interrogator, and then when I
9 was confronted and I saw Comrade Saom Meth, whose sibling was
10 smashed, and then I started to realize that I forgot to include
11 that female interrogator. It does not mean she was added later,
12 but I just forgot to add her into the team of five.

13 [13.48.10]

14 Q.Only back to one point. I've read out one sentence of your
15 statement before the Co-Investigating Judges. I'll do it again.
16 "In the final stage, there was an additional inclusion of one
17 interrogator."

18 Can you confirm that you told the Judges this fact?

19 A.Ms. Studzinsky, could you please make sure that the President
20 can instruct the court officer to project that statement so that
21 I can hear clearly from the document itself rather than through
22 the translation?

23 MR. PRESIDENT:

24 The court official is instructed to project the statement Duch --
25 sorry, the accused, made before the Co-Investigating Judges to

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1 make sure that he clearly understands what it is.

2 The accused, you can make comment.

3 [13.50.40]

4 THE ACCUSED:

5 Mr. President, I would seek your leave to show the document in
6 the original Khmer language.

7 MR. PRESIDENT:

8 Can you zoom out a little bit further so that the whole text can
9 be seen? I think it's a bit too small. Yes, enlarge it a little
10 bit more, just to cover the text. That should be okay.

11 [13.55.25]

12 MS. STUDZINSKY:

13 And could the Court Officer then please read what is in English,
14 translation as follows: "In the final stage there was an
15 additional inclusion of one female interrogator." Could you
16 please read out this part in Khmer?

17 Mr. President, could you ask the Court ---

18 MR. PRESIDENT:

19 Ms. Se Kolvuthy, can you read both the question by Judge You
20 Bunleng and the response by the charged person?

21 MS. STUDZINSKY:

22 Sorry, I only want to have read out this sentence that I said:
23 "In the final stage there was an additional inclusion of one
24 female interrogator."

25 MR. PRESIDENT:

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1 The Greffier, read the section which is suggested by the lawyer.

2 THE GREFFIER:

3 "In the final stage there was an inclusion of a female
4 interrogator who was the wife of a cadre of S-21 in order to get
5 more confessions from my selection when my interrogator
6 mistreated a female victim. I did not pay attention to all those
7 interrogators."

8 [13.57.24]

9 MS. STUDZINSKY:

10 Okay, thank you. That was more than I requested. Now, back to
11 the accused.

12 BY MS. STUDZINSKY:

13 Q.Do you confirm that you told this fact to the Judges?

14 A.Mr. President, I would seek your leave to state the following
15 points to Ms. Studzinsky.

16 Q.We only want that you answer the question. Please, I only
17 want that you answer this question. Can you confirm that you
18 told this sentence to the Judges?

19 A.Ms. Studzinsky, please don't be too anxious. I will repeat it
20 to you; don't be too anxious, please.

21 In the final stage there was an inclusion of a female
22 interrogator. And here, because in the Khmer language there is
23 no singular or plural marker, and this is going to be problematic
24 when it's translated into English. So there is an inclusion of
25 female interrogation or interrogator, the wife of the cadre of

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1 S-21, in addition to those interrogators here. Those
2 interrogators here refer to male interrogators, and that is the
3 truth.

4 Because previously there were only male interrogators, and after
5 an incident then I included female interrogators, but then in the
6 English translation it only specify one female interrogator, and
7 that is different from the Khmer text.

8 [13.59.43]

9 Q.Do you confirm -- and I emphasize in the final -- at the
10 "final stage"?

11 A.The final stage in this Khmer context means the events that
12 took place after an incident where a male interrogator mistreated
13 or sexually abused the female victim. So I did not specify the
14 actual date of the incident.

15 Q.Do you remember the date? Do you remember the -- not the date
16 but the year when, I would like to call it "rape" instead of
17 "incident" -- do you remember when this rape was committed?

18 A.I cannot recall the date. If we have any documents or the
19 list of the prisoners probably I can calculate the approximate
20 period of time, but I do not have such document in my hand. And
21 as for this incident, nobody made a record of that incident, and
22 I stated before your questioning that I do not recall the day or
23 the month but it was probably in 1977.

24 Q.I come to another point, back to your assignment on 15th of
25 August 1975, and I would like to know if Son Sen told you on this

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1 day, the day of the assignment, what your role as deputy in S-21
2 should be.

3 MR. PRESIDENT:

4 Court Officer, can you take off the document and return the
5 screen to the normal courtroom?

6 The accused, you may answer the question of the lawyer.

7 THE ACCUSED:

8 Thank you, Mr. President. The date of the assignment we did not
9 talk much. I was told first that Comrade Nat was the chairman
10 and I was the deputy and the members were Comrade Hor and Comrade
11 Huy, and Comrade Nat had to finish the pending task and, "For
12 Duch, you have to assign people to bring the force from Amleang,
13 and the direction for you to organize the police force was at the
14 Kab Srov location and somebody will accompany you to that
15 location."

16 So that was the essence of the discussion and there was
17 mentioning of the name S-21 office. Let me repeat. The word
18 S-21 is a combination of ---

19 BY MS. STUDZINSKY:

20 Q.I want to interrupt because this was not my question. I'll
21 try to rephrase.

22 [14.04.26]

23 Included -- or was in your tasks as deputy included to replace
24 Nat in the case of his unavailability; for example, sickness,
25 absence for any other duties, tasks?

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1 MR. PRESIDENT:

2 Ms. Studzinsky, when you finish your question please switch off
3 the microphone otherwise it's going to echo and interfere in the
4 sound system. Please be reminded of this particular system
5 because this is a new experience for everybody, including myself,
6 so we try to work on this particular issue.

7 So, Mr. Kaing Guek Eav, respond to the lawyer's question.

8 THE ACCUSED:

9 Thank you, Mr. President. One person wanted a theory and another
10 person wanted the actual work on the ground and in theory there
11 is not clear assignment on what one had to do or when he -- Nat
12 would seek what I had to do, no.

13 So when we were assigned we just strive through work. Therefore,
14 I cannot satisfy the theory of the lawyer because in practice it
15 was different.

16 Q. Am I right there was, at the time, no rule that the deputy had
17 to replace in the case of unavailability of Nat, his role as
18 chairman?

19 A. I do not see any written rule. However, if he was sick or if
20 he was busy doing some other things then he told me to do certain
21 works.

22 Q. You told us on the 23rd that you did not want to know or to
23 understand the forces at the location because it was under the
24 supervision of Nat. You did not want to know anything about the
25 organizational structure. I would like to know how you, as

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1 deputy, wanted to fulfill the replacement of Nat in the case of
2 unavailability without any further knowledge.

3 A.How difficult is it, it's not difficult at all because if an
4 incident happens then the subordinate would seek permission or
5 opinion and then I would decide because I would not assign or do
6 anything new. I replaced the chairman because I was a deputy, so
7 I would make a decision.

8 [14.09.13]

9 Q.You further explained it was on the 27th that you liked to
10 continue as deputy instead of becoming the head of S-21. Do you
11 confirm that you told us, so far as I found it in the transcript
12 on the 27th?

13 A.Mr. President, I would like to respond and to add to Ms.
14 Studzinsky, on the point that I did not want -- the thing is, I
15 did not want to do the S-21 work but I could not avoid it. So at
16 the time when Nat was removed and I became the chairman, I
17 requested to have the former cadres from my old group to become
18 the chairman, and that is the fact; I requested my former cadre,
19 Chhay Kim Huor to become the chairman, and with the
20 Co-Investigating Judges I also reported on this matter.

21 Please do not interrupt me, let me finish.

22 This is the truth. So with the Co-Investigating Judges I
23 sincerely informed them and also I also informed this Chamber.

24 So when you ask the question it's repeatedly asked, and I --
25 actually I have the right not to answer to these questions; just

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1 to let you know that.

2 MS. STUDZINSKY:

3 I would like to the President to tell the accused, again, to
4 answer -- respond to questions.

5 BY MS. STUDZINSKY:

6 Q.And again, this question, if you can confirm that you have
7 said this on 27th, that means two days ago, in this Court, has
8 never been asked and it is only the question if this transcript
9 or part I got from the transcript is right or not.

10 MS. STUDZINSKY:

11 And I ask for instruction of the President.

12 [14.12.40]

13 MR. PRESIDENT:

14 The accused, can you respond to this question? If you can please
15 do so, if not, it is your right not to respond to the question
16 according to the right to remain silent and you are entitled with
17 this right at all times.

18 THE ACCUSED:

19 This question is repeating time and again so I would like to
20 remain silent; not to respond.

21 MR. PRESIDENT:

22 The lawyer, could you please put new questions? And the Chamber
23 would like to remind you that you should exercise your utmost
24 restraint not to repeat questions that have already been asked.

25 MS. STUDZINSKY:

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1 Thank you, Mr. President. However, I would like to let, at
2 least, the Chamber know that this question, if the accused can
3 confirm this sentence to be said.

4 MR. PRESIDENT:

5 The Chamber already made it clear that the lawyer ask another
6 question because the accused already exercises his right not to
7 respond to that particular question, and the Chamber would like
8 to remind that other matters that are not much of good interest,
9 this matter should not be introduced to delay the Court
10 proceedings because 15 minutes has already been spent without
11 addressing the particular facts at issue now.

12 MS. STUDZINSKY:

13 Thank you, Mr. President.

14 I hope the Chamber draws the conclusion that the accused does not
15 respond to a new question.

16 BY MS. STUDZINSKY:

17 Q.I come now to another point. You have told us that you were
18 selected replacing Nat because you were much better in
19 interrogations. My question is why did you then not interrogate
20 in S-21 yourself? Of course, except the case of Koy Thuon.

21 MR. PRESIDENT:

22 Lawyer Studzinsky, could you please make sure the mike is
23 deactivated after you have already put your question to the
24 accused. We would like to remind it again because we heard the
25 background noise; that's too annoying while it was still on.

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1 THE ACCUSED:

2 The question -- when she put the question in short that is
3 enough. She should not even refer to other matters.
4 The response is that it is true that I did not ask -- interrogate
5 other people. And I would like to draw your attention that in
6 the former police, controller was higher than commissioner and
7 inspector was subordinate to the commissioner, and I was
8 regarding myself as commissioner. And that's what I can say.

9 BY MS. STUDZINSKY:

10 Q.Thank you. But, again, this is not an answer to my question,
11 however, I follow to my next question.

12 For my next question, you said you taught the interrogators how
13 to interrogate. Did you also teach them how to torture?

14 [14.18.34]

15 A.Regarding torture, people should not be taught. We only --
16 for intellectuals who were interrogators, so people who were
17 arrested by the party then they were regarded as enemies
18 otherwise they would not be -- their confession would not be
19 extracted. But for the peasants who would like to show their
20 strong stance, then we were afraid that they would beaten the
21 prisoners until death. That's why we -- they had to be trained.
22 And I think -- and this is just my observation -- and probably
23 you say that I did not address your question directly again, you
24 may say so.

25 QYes, unfortunately this is right. It's not a direct answer to

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1 my question.

2 But I conclude when you say "they were not able" or "there was a
3 risk that they would have beaten people to death" that they need
4 to be trained. And am I right that training and torture was part
5 of your training session, not only interrogation?

6 A. Is that the question? I don't understand whether I have been
7 asked already. What is your question again then?

8 Q. I repeat, that my conclusion is -- and maybe you could confirm
9 if I get this right -- that the untrained peasants needed
10 training in torture. Can you confirm this and that you did this
11 training?

12 A. Peasants in the mountainous areas, for example from Amleang,
13 had been well trained by me already before they were transferred
14 to S-21. They were the trusted people more than the others.

15 And when we came to Phnom Penh, when they -- during the
16 establishment of S-21, then we trained peasants along the river.
17 Then we trained them all, peasants from the -- along the river
18 and intellectuals in the city and peasants from the mountainous
19 areas.

20 And I trained them, but I was not the senior trainer or leader of
21 the trainers.

22 [14.22.55]

23 Q. Did you train them how to torture?

24 A. Yes, I did. There were two kinds of -- sorry -- four kinds of
25 torturing; first, by way of beating. So if you think beating is

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1 not a kind of torture you can question yourself whether it is a
2 torturing technique or not.

3 Q.The first part of -- was already finally an answer to my
4 original question. Thank you for this. And to this section; one
5 last question.

6 Did you ever join interrogations conducted by other -- by your
7 interrogators in order to observe if your staff worked accurately
8 according to your orders?

9 A.No, I did not be involved. I allowed them to interrogate
10 exclusively and I stayed home to prepare the documents.

11 Q.Then I would like to know how were the interrogators
12 controlled if they interrogate properly in accordance with the
13 orders?

14 A.I already stated earlier, in the organizational chart there
15 were that group but it did not state clearly whether there were a
16 chewing group or not in that chart, but of course the leader of
17 their team or unit was in charge of the team and accountable or
18 had to answer to me.

19 [14.26.18]

20 Q.That means you controlled never personally how they did their
21 work?

22 A.I think Ms. Studzinsky might have not been involved in the
23 military or other senior tasks, because the cadre of the division
24 never been in the battle, because they had to use their
25 subordinates. So because as the chairman of S-21 I could not be

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1 involved in all matters. That's not possible.

2 MR. PRESIDENT:

3 The Co-Prosecutor, you take the floor.

4 MR. BATES:

5 Thank you, Mr. President.

6 I interrupt very, very reluctantly. I don't want to disrupt the
7 flow of my learned friend's questions. It's just to observe that
8 it seems we are straying into the territory of the functioning of
9 S-21. Certainly the Co-Prosecutors are wishing to explore this
10 issue in some detail with the accused with documents and at the
11 appropriate time. I also anticipate that Your Honours will have
12 many questions on the practicalities of interrogation.
13 Perhaps I can invite the President at this stage to remind all
14 parties that questions should be put at the appropriate time when
15 we're dealing with the functioning of S-21.

16 And once again I apologize for interrupting my learned friend on
17 this point.

18 [14.28.32]

19 MR. PRESIDENT:

20 Thank you, the Co-Prosecutor.

21 The Chamber keeps reminding parties, almost on a daily basis, and
22 we repeat our reminding to the parties concerning the
23 questionings which are not appropriate, and we acknowledge that
24 the questionings sometimes are wisely selected by the people who
25 intend to ask such questions.

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1 For example, the Chamber notes that the parties would like to use
2 the words "could you confirm" and by way of asking such questions
3 then it is hard to interrupt the accused, because through
4 translation the output of the response from the translation might
5 be not very clear. That's why the accused needs to elaborate
6 further.

7 That's why we can see that once again the Chamber would like to
8 remind parties that you can exercise your rights to put the
9 questions to the accused, but please make sure that you ask only
10 questions that are appropriate in relation to the facts at issue
11 and as scheduled. Please try to avoid ambivalent questions and
12 try to address the questions straightforward, clearly and
13 precisely so that the person who responds to the questions
14 understands the questions clearly before he can do so.

15 And next, I think time has been spent for lawyer Studzinsky. You
16 now have one more question to put to the accused before another
17 lawyer of another group can take the floor.

18 [14.31.20]

19 MS. STUDZINSKY:

20 Thank you, Mr. President.

21 BY MS. STUDZINSKY:

22 Q.I have only one last question. Am I right that you had the
23 power to take decisions on your own without asking your superior
24 and that you only later reported what you had decided? And
25 secondly, that you had the power to take decisions and make

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1 decisions on your own without reporting at all?

2 A.Mr. President, I would like to respond to the question raised
3 by Ms. Studzinsky.

4 The question is a theory. My power to make a decision within the
5 S-21 framework falls into two categories. One is to make a
6 decision without having to report to the upper echelon. For
7 example, I ordered Comrade Hor to construct those individual
8 cells. I did not report to my superior.

9 Second, I made a decision to select Choeung Ek as a killing field
10 and a burial site of those bodies which we killed. So after I
11 made a decision to select the site, then I made a report to my
12 superior. These are my decisions that I made under these two
13 categories and, yes, that is the truth.

14 Q.Thank you. I have no further questions.

15 MR. PRESIDENT:

16 Next I would like to invite the lawyers for civil party group 3,
17 if you have any questions to be put before the accused.

18 The floor is yours.

19 MR. CANONNE:

20 Yes, with your authorization, Mr. President, I shall have a
21 number of questions to put.

22 [14.34.51]

23 BY MR. CANONNE:

24 Q.Mr. Kaing Guek Eav, I heard the warning issued by the

25 President and that of the prosecutor. We're referring to Ta Kmao

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1 Prison. We are talking about the creation of S-21. This is all
2 I'm going to put questions about. Are you ready to follow me
3 onto this ground? Thank you.

4 Sir, on Monday morning you told us that in S-21 we had to receive
5 key prisoners. I even heard this; Comrade Hor was in charge of
6 key prisoners. What does that mean? I would like you to shed
7 some light on that for us.

8 A.Mr. President, the question by Mr. Canonne that Comrade Hor
9 was in charge of key prisoners, is it my words, key prisoners, I
10 am not sure, but let me attempt to answer to this question. I
11 believe probably Mr. Canonne did not listen to it properly. I
12 talked about Comrade Pon and Comrade Hor.

13 Comrade Pon was a cadre in charge of interrogating important
14 prisoners and that is the fact. And as for Comrade Hor, who was
15 a deputy, he managed all the day-to-day operation.

16 [14.37.47]

17 Q.I shall add to my question. I shall add very clearly. Did
18 you say -- I'm referring to the preparation here, you know. So
19 was it said that the prisoners you were to receive were not
20 ordinary prisoners? What were you told about them? Is the
21 question better phrased, do you think?

22 A.Mr. President, I seek your permission to respond to this
23 question as the following: Any important person would be told to
24 us by my superior before the arrest -- even before the arrest.

25 Q.Were you told why these people were important?

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1 A.Mr. Canonne, I worked closely with my superior and confessions
2 always implicated other people. Therefore, before any arrest of
3 an important person then a superior would tell us. So we knew
4 already about the case because other people already implicated
5 those people. This is my short answer to you.

6 Q.Briefly, you knew that these people were figures of
7 authorities in the regime?

8 A.Mr. Canonne, what you said is correct but it's very brief.
9 People were responsible at certain levels. Initially those who
10 were just a deputy, commander of a division, we considered that
11 person as a very important person already. And finally, the
12 important person was like Koy Thuon who was a full rights member,
13 and then my superior told me two or three days in advance about
14 this.

15 [14.41.22]

16 Q.I think I have understood -- I understood yesterday or the day
17 before you explained to us how the guards operated, that is
18 special guards. I am not going to go back to that; I understood
19 you perfectly.

20 This is my question: Who went to fetch the prisoners who were
21 taken to S-21? Was it the guards who were there or was it
22 someone else?

23 A.In the implementation we could not say it in one word. The
24 majority of the times the prisoners were sent to S-21 by their
25 respective units. Separately --

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1 THE PRESIDENT:

2 The accused does not have to respond to this question because it
3 is regarding to the operation of the S-21; that is the arrest,
4 the transfer, and the sending of the victims to the S-21 office.
5 So this question can be raised later on when we discuss all the
6 facts about the operation of the S-21.

7 The lawyer, you could move onto another question.

8 MR. CANONNE:

9 I would just like to say that Mr. Duch was answering my questions
10 spontaneously and it's a pity that he has been interrupted just
11 at this point but I shall make my thoughts clear. I am not
12 putting questions regarding the functioning.

13 THE INTERPRETER:

14 Mr. Canonne has lost his microphone.

15 [14.43.46]

16 MR. PRESIDENT:

17 But your questions is related to the arrest, to the transfer to
18 S-21 and that is the fact which will be presented related to the
19 facts on the operation of S-21 and that would be the first facts
20 of the operation of the S-21. And we have the right to stop you
21 -- to stop this question and to not let the accused answer the
22 question.

23 If you still want to ask the question then keep it and then you
24 can ask when we come to the fact on the operation of the S-21;
25 that is the arrest and the transfer of the people from the

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1 arresting location to S-21.

2 And please do not provide any comment to this ruling as you can
3 ask a new question. And please, for the new question that will
4 be asked, it should be related only to the establishment of S-21.

5 MR. CANONNE:

6 I have understood you, Mr. President, and I shall comply with it
7 to the full. I shall put this question at another time.

8 BY MR. CANONNE:

9 Q. So Duch, I am now going to turn to a question concerning the
10 preparation, the establishment of S-21.

11 [14.45.37]

12 You told us that a photography unit in the organization was to be
13 set up. My question is this: in the planning, not the actual
14 operation, let's be clear, in what was planned what was the
15 photography or these photos to be used for?

16 A. Mr. Canonne, if I respond to this question that it would lead
17 to the operation of the S-21 so I would not respond to this
18 question at this particular time.

19 Q. In your recent statements yesterday and the day before
20 yesterday you said -- I'm staying with the planning here. You
21 said that you would be provided with messengers to collect the
22 confessions, the most secret confessions. What would that be
23 used for, and I'm referring here to the preparation? I'm telling
24 you things as they are, clearly. We're talking about the
25 preparation.

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1 A.Oh, if you use the word "preparation", yes, let's stick with
2 that word. I would like to say that he wasn't the one who
3 extracted the confession. Only after the confession was
4 delivered to me then I would dictate it to him and then he would
5 use the typewriter.

6 Q.My question was a little bit more precise than that. We're
7 preparing to receive confessions, say -- and confessions, the
8 most secret confessions from certain people, so what is this
9 concept of the most secret confessions?

10 A.The most secret confessions means the confessions that would
11 implicate the most senior cadres.

12 [14.49.21]

13 Q.Why -- and I'm staying still with the preparation here. Why
14 is it that the confessions you hoped to obtain from the most
15 senior cadres are the most secret and precious?

16 A.This is about giving the meaning to the word. The most secret
17 means because it implicates the most senior cadres. Because if
18 it leaks out then there would be a lot of complications -- a lot
19 of complications, so you do not need to ask me further on this
20 particular point.

21 MR. PRESIDENT:

22 The Trial Chamber announces a 15-minute break and we'll adjourn
23 at five past three and the lawyer, for your remaining questions
24 you can ask when the Court resumes.

25 (Judges exit courtroom)

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1 (Court recesses from 1450H to1511H)

2 (Judges enter courtroom)

3 MR. PRESIDENT:

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

5 Before we proceed by giving the floor to the lawyers of the Civil

6 Party for Group 3 to put further questions to the accused, the

7 Chamber would like to remind the accused to exercise proper

8 gesture and attitude in responding to the questions by the

9 lawyers or exercise his right to remain silent rather than

10 laughing, which is not viewed as appropriate.

11 [15.13.16]

12 Lawyers, Group 3, if you still have some more questions to be put

13 to the accused you can still proceed with those questions.

14 MR. CANONNE:

15 Yes, thank you, Mr. President. I indeed have a few extra

16 questions.

17 BY MR. CANONNE:

18 Q.Mr. Accused, during the planning for the establishment of S-21

19 -- well, I would like to know, who told you then that once the

20 prisoners would have passed the gate that they were slated to be

21 killed, that they were going to be killed? Who told you that

22 that was going to be the case?

23 A.It is the rule applied at S-21 since its establishment,

24 whenever a prisoner is -- arrived the S-21 then he or she must be

25 interrogated and smashed.

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1 Q. So if I have understood correctly, that was the rule. This I
2 had understood in fact. But my question was who told you this
3 rule?

4 A. It is hard to say who told us about the rule because the rule
5 had been in place since M-13 -- from M-13 office. Therefore, it
6 is the Party principle and line regarding -- in relation to the
7 enemies.

8 [15.16.04]

9 Q. Mr. Duch, can we say that there was a kind of plan, a kind of
10 planning regarding the number of people that had to be -- that
11 had to disappear?

12 A. I don't know. I don't know whether there was a plan or any
13 other purpose.

14 Q. Thank you. Mr. Duch, I would like to call upon your thinking.
15 Let's say if all of this had not stopped, if this whole thing had
16 went on, so how far therefore do you think we would have gone?
17 How many Cambodians would have remained in Cambodia if this whole
18 system had not stopped?

19 A. The crime is extreme and I don't know when it would end.
20 No-one could know.

21 Q. One single question, and this will be my last question.
22 You spoke to us about Communism, you spoke to us about Socialism
23 and you spoke to us about the Party, and then two to three times
24 you spoke about Angkar. And the Cambodians back then did not
25 hear about Communism or Socialism but they did hear about Angkar.

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1 So Mr. Duch, can you help us a little bit to understand what this
2 organization was, in maybe the simplest way possible so that we
3 could at least understand a bit how everything was organized?

4 MR. KAR SAVUTH:

5 Mr. President, could the Chamber instruct the lawyer to only put
6 his questions straightforward to the establishment of S-21 and Ta
7 Kmao Prison, and make sure that the questions are not directed to
8 the functioning of S-21, which is another topic.

9 [15.19.33]

10 MR. PRESIDENT:

11 The objection by the defence lawyer is appropriate, and that we
12 would like to inform the lawyer that you, Mr. Canonne, can still
13 maintain putting these questions to the accused when the topic on
14 the policy of S-21 comes into place.

15 MR. CANONNE:

16 Well then I will ask this question at the appropriate moment.

17 But may I respectfully ask your leave to make an observation?

18 We were speaking about the organization. We were speaking about
19 planning. We were speaking about the conception of something,

20 and so therefore I would like to ask my learned friend the

21 grounds for his dispute. And how was my question ill-suited?

22 How is this question about the way Angkar was organized -- how is
23 this question not respectful? How is this question ill-suited to
24 this discussion?

25 [15.21.16]

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1 MR. PRESIDENT:

2 The Chamber already made its decision and the question ends here,
3 and I would like to remind again your question relating to Angkar
4 or the Party would be allowed on the implementation of the
5 Party's policy at the S-21 office. And the objection raised by
6 the defence counsel is appropriate and your question should be
7 used for the next fact, because the next fact is about the
8 implementation of the Party's policy at the S-21 office.

9 MR. CANONNE:

10 I have taken note of this, taken note of what you have said, and
11 therefore I do not have any further questions but I believe that
12 my Cambodian colleague has some more concrete questions.

13 MR. PRESIDENT:

14 The floor is yours, Mr. Lawyer.

15 MR. KIM MENGKHY:

16 Thank you, Mr. President. My name is Kim Mengkhy, the lawyer for
17 the Civil Party Group 3. I have some questions to be put before
18 the accused and to confirm about his role as the chairman, and
19 that he did not involve directly in the interrogations but he
20 reported to the upper echelon and that he reported as who the
21 enemies were.

22 [15.23.33]

23 BY MR. KIM MENGKHY:

24 Q. So how would he assume somebody as an enemy or an infiltrator
25 in the revolutionary rank?

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1 A.Mr. President, from what I hear it is likely related to the
2 implementations of the Party's policy at S-21 and I would respond
3 to these questions when the actual facts come before the Chamber.

4 MR. KIM MENGKHY:

5 With Your Honours' leave, my question is related to the process
6 of reporting, and the reporting is related to his role in the
7 establishment of S-21. So it is -- although it is related to the
8 Party's lines, but if he is willing to answer this question I
9 would urge him to answer it.

10 THE ACCUSED:

11 Mr. Mengkhy, I already asked permission from the President not to
12 answer your question and I would answer it at a later stage.

13 MR. PRESIDENT:

14 The lawyer, please move on and this question can be asked for the
15 following fact at the appropriate time. And you are reminded to
16 study the case file and the differences of the facts. Now we are
17 talking about the establishment and there are different various
18 facts related to this case file. But the facts are divided into
19 different topics. Now we are talking about the organization,
20 about the establishment, and then you had to consider which
21 questions are suited for the operation.

22 [15.25.37]

23 And the intention is to facilitate and expedite the proceedings
24 of our trial as we can and that it is easy to follow and to avoid
25 repeated questions.

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1 So do not ask that question. As raised by the accused, he
2 reserves his right not to answer it at this stage and that he
3 will respond when the actual facts come before the Chamber.

4 MR. KIM MENGKHY:

5 Thank you.

6 BY MR. KIM MENGKHY:

7 Q. My next question; it is related to the special unit. In a
8 document on the agreements -- and these are criminal facts --
9 E5.11, at point number 6, the role of the special unit was under
10 the responsibility of Him Huy and this special unit had specific
11 tasks; for example, receiving the prisoners who were sent to S-21
12 and then took the prisoners to the guard unit chief and to
13 intervene during any event and also on the execution. And then
14 you said you agreed to that fact.

15 Now, the question is; for this special unit did the unit have the
16 power to make a direct arrest without the authorization from the
17 superior or without having to report to the superior?

18 A. Mr. President, on the matter of the arrest I already responded
19 to the Cambodian Co-Prosecutor. He asked about the matter that
20 the S-21 didn't want to go and arrest people and I responded
21 clearly to that matter. So this is a repeated question which
22 already asked by the national Co-Prosecutor. If you read my
23 response to the Co-Prosecutor you would see it clearly.

24 [15.28.18]

25 Q. Thank you. In relation to another matter, the question about

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1 your role in the establishment of S-21, you used to state that
2 you were a trainer on ideology, you and through your
3 interrogators and staff of S-21. Can you describe what was the
4 ideology that you taught and what is its main focus?
5 A.Mr. Mengkhy, I think I already reported. It's likely that I
6 already responded to the Co-Prosecutor on the training.
7 Initially I reported to Judge Lavergne on the training session,
8 which is there was an annual training and in each year there were
9 three kinds of documents -- political, ideological and
10 organizational -- and after the study session then we would work
11 in smaller groups to understand the details of the training and
12 then we would make our biography.
13 So the documents varied from one year to another, and then when I
14 taught to my subordinates it also varied. And on the absolute
15 stance towards the enemy at S-21 I taught my subordinates as per
16 the instructions that I received frequently from my superior.
17 [15.30.13]
18 So if you look at the surviving documents it means the verbal
19 instructions probably they are still -- they still survived and
20 on the existing documents probably you can find them.
21 Mr. KIM MENGKHY:
22 Thank you, Mr. President, I do not have any further questions for
23 the accused.
24 MR. PRESIDENT:
25 Lawyers for civil party group 4, do you have any questions to ask

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1 the accused? If you have, the floor is yours.

2 The Chamber again would like to inform the lawyers of the civil
3 party group 4, and this is the last group, so maybe for the next
4 fact, maybe you are the first in line to ask the question. Now,
5 for these facts you are the last person to ask the question, so
6 if you have the questions, the floor is yours.

7 MR. HONG KIMSUON:

8 Thank you, Mr. President, for your understanding that we are the
9 fourth group and it's the last group.

10 My respects to Your Honours. I would like to ask a direct
11 question so we do not waste time.

12 BY MR. HONG KIMSUON:

13 Q.Regarding the establishment of S-21, Mr. Duch, if you do not
14 clearly understand my question please ask me to repeat or if you
15 do not want to answer it, you just say, "No, I don't want to
16 answer," so then we do not waste time.

17 [15.32.07]

18 Before you took your position at S-21 Mr. Nat, as you told the
19 Chamber, who was your chairman, was the PJ, the police office
20 during the Lon Nol regime after the 17 April '75 -- was that PJ
21 also had the name of S-21 at the time?

22 A.S-21 was located at that location and yes, the name was there
23 at that PJ location.

24 Q.Thank you. It's clear.

25 Here is my second question: the word S-21 office, as you told

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1 the Chamber, is related to the Ta Kmao Prison and the Prey Sar
2 Prison; is that correct?

3 A. In fact, Prey Sar is not called a prison; it is a re-education
4 location. So people were re-educated by way of working in the
5 farm, and for the Ta Kmao prison, initially it belongs to the
6 Division 703 and later on it belongs to S-21 and then later on it
7 became -- it belongs to the Ministry of Public Affairs -- Social
8 Affairs.

9 Q. What -- let me put a question. Prey Sar is a re-education
10 office; was the name re-education office in Steung Chrov or Ba
11 Kou area?

12 A. I am not clear. But later on we supervised Ba Kou, but I'm
13 not sure about Steung Chrov. So probably it -- it's part of Prey
14 Sar because Prey Sar area covered that part as well.

15 [15.34.30]

16 Q. Thank you.

17 Now, I focus on the compound of the S-21. My question is; within
18 the compound of the Ponhea Yat High School and the surrounding
19 locations of S-21 which extends to the surrounding areas which
20 I'm still not clear; there is 360 or 316 as shown on the map.
21 Can you describe in brief; for example, those belongs to S-21?
22 For example, from Pet Chin to Tuol Bokor; was that the compound
23 exclusively belonged to S-21?

24 A. Thank you, Mr. Kimsuon for raising this question in order for
25 the Chamber to understand the issue clearly.

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1 [15.35.48]

2 There was a tendency to draw maps of S-21 extensively. The east
3 to Monivong, and the west to 360, but to the north, up to Preah
4 Sihanouk and to the Yukunthor school, and to the south to the Mao
5 Tse Tung Boulevard. The actual location to the north is only up
6 to 310th Street, and probably it cover another street because
7 next to it, it belongs to the 502 location.

8 At one time, I moved to that area to the other side of the
9 street, but then I was told by the 502 that that area belonged to
10 them. So to the east it bordered Preah Monivong Boulevard, to
11 the west, it's to the 310, and to the south we can consider the
12 360 Street as the border, but actually my territory extend a bit
13 further to the south; probably it cover the three, four or five
14 more houses. So that area belongs to S-21, and it is not as
15 extensive as you rest.

16 [15.37.06]

17 Q.Thank you. Let me continue my questions.

18 From what you have said in the hearing, because we do not have a
19 sketch -- the map to show, we understand.

20 Also still related to the S-21 whether the building or the
21 detention area beside the Ponhea Yat High School, during the time
22 you were the chairman, was there any organization to assign a
23 particular house for Vietnamese, for Americans, or for British
24 foreigners?

25 A.I will respond briefly that the special prison was not within

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1 the compound of the Ponhea Yat High School. I maintained it
2 outside of the compound. That was a special prison where Comrade
3 Pon interrogated the Vietnamese prisoner of war. I never allow
4 Comrade Pon to interrogate them, but Brother Mam Nai interrogated
5 those prisoners.

6 So yes, for the American foreigners and the Australians, they
7 were interrogated by Comrade Pon, either two of them or four of
8 them, I am not clear, and probably we can verify this based on
9 the documents; maybe Brother Mam Nai wrote it. It was to the
10 east of the current Tuol Sleng Genocidal Museum, and as for the
11 special prison, toward the second semester of '78, it moved to
12 building A so it was only at a later stage that it was moved.
13 This is my sole response to you.

14 [15.39.11]

15 Q.Thank you. You just shed some light to the Chamber on the
16 foreign prisoners, either two or four of the American prisoners;
17 is that correct?

18 A.We talk about the Westerners so it's easier to understand so
19 there could be Americans; I cannot recall the actual number.
20 There was one British. I met him and I knew, and there was one
21 New Zealander, and I think besides there was Australians. In
22 total there were four, and amongst the four, Comrade Pon
23 interrogated one or two; could be a New Zealander.

24 Q.Thank you. What I want to know is that the categorization of
25 the foreign prisoners as special prisoners or the category of the

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1 cadres within the Party rank as a special prisoners; these two
2 categories; are they in special categories or are they further
3 divided into separate categories based on the policy of the S-21?
4 A.For the Cambodian cadres, we were instructed by the superior
5 who was special and who were not, but for the foreigner -- the
6 New Zealander, and the one British that Comrade Pon interrogated,
7 I made that decision because, at that time, Comrade Pon was free
8 and I assign him to interrogated them.

9 [15.40.49]

10 Q.Thank you. In principle, we have talked numerously on
11 numerous occasions. It's hard because there is no documents to
12 prove. Whatever is done was done based on the instructions of
13 the Party.

14 Let me ask you this question: In S-21, you have shown two
15 documents related to the 30 of October '76, and besides these two
16 main documents, you, as the Chairman of S-21, do you circulate or
17 issue any circular or instructions for your subordinates?

18 A.Mr. Kimsuon, there was a circular circulated by Comrade Hor.
19 It was for the guards. It contained about three pages entitled
20 "Circular." It was about the prisoner who swallowed the screws.
21 It was the text written by me; it's true.

22 Q.Could you please confirm whether there were two circulars or
23 just one?

24 A.There was only one circular, and other people wrote that
25 circular, and I don't want to blame them but -- because it's

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1 under their duty that they had to issue said circular to protect
2 themself from being punished by the Party.

3 [15.42.42]

4 Q.Regarding the circular, was it ordered to be circulated by the
5 superior or by you?

6 A.It was the former practice by Comrade Hor left over from
7 Division 703.

8 Q.Thank you. This morning you repeatedly said that the person
9 who made -- the people who made decisions comprised of four
10 groups that you called the most responsible persons. Apart from
11 the four groups of people -- I don't want to elaborate further --
12 at S-21 were there any other person who had the right to make a
13 decision to smash anyone?

14 A.Mr. Kimsuon, I would like to correct your wordings a little
15 bit -- one word only -- you said "four groups," and "group four;"
16 I think group four and four groups does have different meanings.
17 So the people who were most responsible were classified into two
18 groups, and apart from those four groups of people, no one would
19 be entitled to have the right to make a decision to smash.
20 That's why these people must be called the most responsible
21 people for the crimes against the laws of Cambodia.

22 [15.44.48]

23 Q.Thank you.

24 I would like to inform the President also -- and we may seek your
25 leave to ask Duch to present Document D21 in Khmer on page number

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1 5. May the President order the Court Officer to project that
2 document so that it can be seen?

3 MR. PRESIDENT:

4 The Court Officer, you are instructed to put that piece of paper
5 on the projector.

6 BY MR. HONG KIMSUON:

7 Q.This is the statement you made before the Co-Investigating
8 Judges on the 29th of November 2007. Could you please clarify or
9 explain, on the highlighted phrase, what does it mean regarding
10 the person named Hor who had the right to make a decision?

11 MR. HONG KIMSUON:

12 May the Greffier be instructed to read this line?

13 MR. PRESIDENT:

14 Mrs. Se Kolvuthy, please read out the highlighted sentence.

15 THE GREFFIER:

16 "Regarding the decision, first it was done through the political
17 line. All people who were detained must be smashed. Clearer
18 than this, regarding S-21, Hor was the person who made such
19 decisions."

20 [15.46.57]

21 THE ACCUSED:

22 May I be permitted to clarify this matter? At the first phrase
23 concerning the decision, first it was the political line, the
24 party line; everyone who was arrested must be smashed. And then
25 when it followed by another phrase, anyone who was arrested and

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1 sent to S-21 has presumed dead already. S-21 did not dare
2 release anyone, otherwise we would be beheaded. So these crimes
3 have been committed on the people who had been perceived as dead
4 people already.

5 So in order not to overcrowd the building, then prisoners had to
6 be taken out to be smashed, and Hor had to make the decision to
7 smash these people by way of knowing that these people had been
8 dead already because they had been decided by the four groups
9 that I mentioned -- people I mentioned earlier.

10 MR. HONG KIMSUON:

11 Thank you.

12 MR. PRESIDENT:

13 Court official, return the screen to the normal mode.

14 [15.48.22]

15 MR. HONG KIMSUON:

16 Thank you, Mr. President. The next question is:

17 BY MR. HONG KIMSUON:

18 Q.Duch, since you started working as the chairman of S-21, were
19 there any mistakes in arresting people or were there any released
20 from the beginning until it ended?

21 A.Thank you, Mr. Kimsuon. In principle, at S-21 when people
22 were arrested by mistake, when they entered the premises in
23 principle, they were not released. One person was mistakenly
24 arrested. Comrade Sim arrested someone from a location and
25 Comrade Lim was the close messenger of Brother Pol, and then he

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1 started that and then he said that, "Duch, you should not take
2 this person inside", and that later on the person was released
3 but, in principle, all people who were mistakenly arrested have
4 never been released except that person only, and it is true.
5 Release happened, but I could only make the decision to release
6 -- half of the decision made by me to release the sculptors and
7 the painters to keep them stay longer in the premises, including
8 Chum Mey who started working at S-21, was not decided by the
9 superior yet.

10 Q.Thank you. Regarding the cells in S-21 office, did you manage
11 or order people under your supervision or your subordinates to
12 classify who guarded inside the premises and who guarded outside
13 the premises, and who guarded on the corridors of each building
14 or cell?

15 A.I said already, but since you seek clarification, I will
16 clarify as following.

17 The normal forces worked inside to provide food or feed the
18 people inside the prison. The special force guarded -- the
19 special forces under control of Pon, and it was under -- in the
20 premises of S-21 as a whole, not in the location of Ponhea Yat
21 High School.

22 [15.51.45]

23 Q.Thank you.

24 MR. HONG KIMSUON:

25 Another question with your leave, the President. I don't know

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1 whether it is related or not. It is about Boeng Trabaek and
2 S-21, whether these are two related matters.

3 THE ACCUSED:

4 The President already allows us. I would like to respond that
5 Boeng Trabaek is different location and separated from S-21
6 because they had their own committee and we had our different
7 committee.

8 BY MR. HONG KIMSUON:

9 Q.Thank you very much. Next question.

10 During the time when you oversaw S-21, were detainees sent from
11 Boeng Trabaek to S-21?

12 A.Thank you, Mr. Kimsuon. I think it is more about the
13 operation of S-21, or should I respond?

14 [15.52.52]

15 Q.I don't ask for details. I would like to get just a brief
16 overview.

17 A.Boeng Trabaek sent people to S-21 but the decision made from
18 the upper echelon.

19 Q.Thank you.

20 MR. HONG KIMSUON:

21 With your leave, could the President instruct the Court Officer
22 to project Document D21, if it is available now, and if Duch can
23 elaborate on that document, it would be very helpful.

24 MR. PRESIDENT:

25 The Court Officer, please make sure that document is put on the

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1 projector.

2 BY MR. HONG KIMSUON:

3 Q.Mr. Duch, could you please look at the document? I don't
4 really have the Khmer version of the document.

5 A.First, I would like to look at -- to refer to the two boxes on
6 top. It's correct. The former chairman of S-21, named In Lorn,
7 alias Nat or In Nat. Next the chairman of S-21, Kaing Guek Eav,
8 alias Duch, I think my name was not properly spelled; that's all.
9 But they are -- in form they are correct.

10 The second row box -- the first box in the second row is wrong.
11 I did not appoint anyone to become a chairperson. People
12 misunderstood that I appointed Brother Mam Nai as the chairman.
13 No, that's not correct. Pon interrogated the special
14 individuals. Brother Mam Nai was used by me as my secretary -- I
15 used him as the secretary as always -- and he had to interrogate
16 the Vietnamese. And the first box in the second row is not
17 correct. The second box of the second row, the role of Hor
18 covered the -- covered all.

19 [15.56.29]

20 Yes, it's true that the third box on the top is correct. And
21 everything is correct except what I mentioned earlier which is
22 not correct.

23 The first group, hot group; group two, cold group; third group,
24 chewing group, I would like to clarify that these groups had the
25 -- were classified as they were and there were leaders of the

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1 group but I could not -- I'm not sure about them.

2 But for the hot group there was Dek Bou, Comrade Meng, and I

3 could not read the second name -- Chann Ha, I don't know who

4 Chann was it.

5 And for the cold or cool group I don't know "Chor" or "Chhor" as

6 the chairman. I'm not sure. Lach Mean, I am not aware of Lach

7 Mean.

8 And for the chewing group, which comprised of Tith, and Tith

9 appear in both hot group and chewing group as I observed. And

10 beneath it there was Prak Khan. I would like to emphasize that

11 at S-21 I never knew Prak Khan.

12 Pon interrogated important prisoners and the other three groups

13 interrogated normal prisoners. And foreign prisoners were

14 interrogated for broadcasting on air.

15 And in conclusion the diagram is not correct completely. And the

16 ---

17 [15.58.36]

18 MR. PRESIDENT:

19 The accused, could you please hold on. I note Mr. Co-Prosecutor

20 is on his feet.

21 The floor is yours.

22 MR. BATES:

23 Once again, Mr. President, I'm sorry to interrupt but can we be

24 clear exactly where this organizational chart comes from, who

25 produced it. It appears that the accused is disputing it. I

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1 have an idea where it comes from but I don't have access to the
2 computers as the password is locked so I can't check directly but
3 I have an idea where it comes from. I wonder if Mr. Kimsuon
4 knows.

5 MR. PRESIDENT:

6 Mr. Kimsuon, can you answer to that?

7 MR. HONG KIMSUON:

8 Thank you, Mr. President.

9 I do not know the source of this document, but I studied a case
10 file of the Co-Investigating Judges' office and the document is
11 the D21 started with the ERN, and this is a written record in the
12 English language. The ERN is 001499107 and the document on the
13 projector has an ERN 0014991919. This is my clarification, Your
14 Honour.

15 [16.01.44]

16 MR. PRESIDENT:

17 I think now there are some issues. Because this document only
18 exists in English in the case file, it needs to be re-examined
19 because it doesn't exist in the Khmer language, and it is an
20 issue that we discussed on the English version. And we can see
21 that the accused has attempted to respond and from what he raised
22 there is some inconsistency in these organizational chart and the
23 Chamber would like to finish this presentation at this stage.
24 And another point that the Chamber observed is that there is
25 minor discrepancy so probably the lawyer of the civil party

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1 forgot the reminder made by the Chamber that if any party wishes
2 to present a document, for example, to show on the projector,
3 please send the documents to the Greffier of the Chamber in
4 advance, if possible, so that we will be able to arrange for its
5 presentation and discussion.

6 I hope at a later stage we would achieve these goal for our
7 proper discussion.

8 MR. HONG KIMSUON:

9 Thank you, Mr. President, for your reminder, and probably because
10 of the line of questioning I forgot to think about this matter.
11 Next, with Your Honours' leave I would ask again the question
12 related to S-21.

13 BY MR. HONG KIMSUON:

14 Q.Mr. Duch, did you organize or order the person who supervised
15 the prisoners -- did you order those people who supervised the
16 prisoners separately on the food ration, on clothing; did you
17 give an order or was there any rule on this?

18 A.I did not go into detail into these types of works. But based
19 on the surviving documents there were differences in the food
20 distribution. I think there was agreement. And probably there
21 was no distinction between the types of the prisoners and the
22 food ration.

23 Q.Thank you. Regarding the female prisoners who were sent to
24 S-21, who were accompanied with children, was there any
25 instructions or advice from you whether those female prisoners

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1 should be detained separately from the female prisoners who had
2 no children?

3 A.I am not clear at all on this matter. Even at a later stage I
4 was told that female prisoners were not shackled and I responded
5 "that is the responsibility of Hor", so I did not interfere, I
6 did not think further on that matter. But it is my crimes that I
7 detained female prisoners and separated the mothers from the
8 children, based on the existing principle at the time.

9 [16.05.45]

10 MR. HONG KIMSUON:

11 Mr. President, with your leave, is it now the right time to
12 adjourn or would you wish me to continue?

13 MR. PRESIDENT:

14 How many questions do you still have?

15 MR. HONG KIMSUON:

16 I have about four or five more questions.

17 MR. PRESIDENT:

18 Then, the Chamber would not allow you to continue your questions
19 because now it's time for the adjournment.

20 So your questions can be postponed till tomorrow morning.

21 Judge Lavergne, if you have any comments, observations?

22 JUDGE LAVERGNE:

23 Thank you, Mr. President.

24 I would like to get back to the organization chart that was
25 presented earlier on in an English version in order to indicate

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1 that this organizational chart is indeed included in the case
2 file as an annex to an interview that was conducted by the
3 Co-Investigating Judges on October 3rd, 2007.
4 In this interview it is mentioned that this organizational chart
5 is included in the annex and this organizational chart had been
6 in fact prepared by the investigators for the Co-Investigating
7 Judges and it was asked during this interview -- it was asked
8 from the accused to provide his comments in relation to this
9 organization chart which had -- which had been done.
10 This was the only clarification that I wanted to add in order to
11 specify where this organization chart comes from.

12 [16.08.03]

13 MR. PRESIDENT:

14 The trial proceeding is adjourned for today. The hearing will
15 resume tomorrow.

16 We adjourned a little bit earlier because the Trial Chambers need
17 to hold a meeting to discuss on a number of matters which are
18 urgent, relating to the proceedings of the trial for next week
19 and at a later stage.

20 So the trial will resume tomorrow from 9 a.m.

21 Security guard, take the accused to the detention facility and
22 bring him back tomorrow morning before 9 a.m.

23 And for the participants, please attend the trial before 9 a.m.

24 (Court adjourns at 1609H)

25