

អត្ថិខំសុំបំទ្រះចិសាមញ្ញតូខតុលាការកម្ពុបា

Extraordinary Chambers in the Courts of Cambodia Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ព្រះរាស់ឈាចគ្រងគំ ស សូឌូ សាសខា រយៈឧសាអវិនិ

Kingdom of Cambodia Nation Religion King Royaume du Cambodge Nation Religion Roi

អចិន្ទមុំស្រិះមារបន្តតិច

Trial Chamber Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS - KAING GUEK EAV "DUCH" **PUBLIC**

Case File No 001/18-07-2007-ECCC/TC

15 June 2009, 0913H Trial Day 28

Before the Judges: NIL Nonn, Presiding

Silvia CARTWRIGHT

YA Sokhan **HONG Kimsuon** Jean-Marc LAVERGNE KIM Mengkhy **KONG Pisey THOU Mony** YOU Ottara (Reserve) TY Srinna

Claudia FENZ (Reserve)

Elizabeth RABESANDRATANA

Silke STUDZINSKY Alain WERNER

Trial Chamber Greffiers/Legal Officers:

DUCH Phary SE Kolvuthy

LIM Suy-Hong

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KAUV Keoratanak

For the Office of the Co-Prosecutors:

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The Accused: KAING Guek Eav

Lawyers for the Accused:

KAR Savuth François ROUX Heleyn UÑAC

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
JUDGE CARTWRIGHT	English
MR. HONG KIMSUON	Khmer
JUDGE LAVERGNE	French
MR. ROUX	French
MR. SMITH	English
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. WERNER	English

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- 1 PROCEEDINGS
- 2 [9.13.30]
- 3 (Judges enter courtroom)
- 4 MR. PRESIDENT:
- 5 Please be seated. The Court is now in session.
- 6 The fact is on the functioning of S-21 and Choeung Ek.
- 7 Before we proceed with the session, we would like to inform to
- 8 the parties that we have been 10 minutes late to start our
- 9 session this morning because we have had some technical glitches
- 10 concerning the A/V Unit. That's why we have been 10 minutes
- 11 late.
- 12 The Greffier, please verify the attendance of the parties to the
- 13 proceedings today.
- 14 THE GREFFIER:
- 15 Mr. President, the parties to the proceedings today are all
- 16 present.
- 17 MR. PRESIDENT:
- 18 The security personnel, please bring the accused to the dock.
- 19 Before we start the proceedings concerning the fact on the
- 20 functioning of S-21, including Choeung Ek, the Trial Chamber
- 21 would like to take this opportunity to pronounce the decision on
- 22 request for release by the defence counsel.
- 23 And, number two, we will inform the result of the Trial
- 24 Management Meeting conducted on the 11th of June 2009.
- 25 [9.17.05]

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1 The Trial Chamber would like to pronounce the specificity of the 2 decision on the request for release. The decision is already 3 included in the case file, and the public and the parties to the 4 proceeding will obtain the written decision in due course, and 5 the decision can be found on the ECCC's website. However, in the 6 interests of justice, the Chamber would like to pronounce the 7 specificity of the decision as follows: "The Trial Chamber: denies the request for release; orders that 8 the accused shall remain in provisional detention for the 9 duration of the trial; finds that the detention of the accused by 10 11 the Military Court was an error of application of procedural law, 12 a violation of his rights and that, therefore, the detention was 13 unlawful; declares that the accused, under international law and the law of the Kingdom of Cambodia, is entitled to a remedy for 14 15 the time spent in detention under the authority of the Military 16 Court and the violation of his rights; notes that the accused, in 17 the event of acquittal, may seek appropriate remedies for time spent in detention at the Military Court and for the violation of 18 19 his rights before the National Courts of Cambodia; declares that 20 in the event of conviction before the ECCC and applying Article 503 of the Cambodian Code of Criminal Procedure, the accused is 21 entitled to credit for the time served in detention under the 22 23 authority of the ECCC, namely, since the 31st of July 2007; 24 declares that in the event of conviction before the ECCC, the

accused is entitled to the remedy of credit for the time spent in

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- 1 detention under the authority of the Military Court, namely, from
- 2 the 10th of May 1999 to the 30th of July 2007; reserves the
- 3 question of the nature and extent of the additional remedy and
- 4 the consequence of the violation of his rights to the Chamber's
- 5 determination of sentence, if applicable.
- 6 Phnom Penh, 15 June 2009. The President of the Trial Chamber,
- 7 signature and seal, Nil Nonn."
- 8 Next, the Trial Chamber would like to pronounce the result of the
- 9 Trial Management Meeting conducted on the 11th of June 2009 and
- 10 which the Trial Chamber would wish to share with the parties and
- 11 the public.
- 12 So I would like to give the floor to Judge Silvia Cartwright to
- 13 proceed with the pronouncement of the results of the Trial
- 14 Management Meeting to the parties to the proceedings and the
- 15 public.
- 16 The floor is yours.
- 17 [9.21.40]
- 18 JUDGE CARTWRIGHT:
- 19 Thank you, Mr. President.
- 20 As the President has said, there was a Trial Management Meeting
- 21 on the 11th of June 2009, and the Chamber wishes to inform the
- 22 public and the parties to the proceedings of the following.
- 23 There maybe further information given at a later stage.
- 24 First, the Chamber has noted that all parties are concerned about
- 25 the time that will be needed to complete the presentation of

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- 1 evidence in the Trial. The Chamber has noted that there are wide
- 2 variations in parties' estimates of the time needed to complete
- 3 the evidence. These range from August to December of 2009.
- 4 The Chamber is, therefore, reviewing its current tentative
- 5 schedule to address these concerns so that the hearing can be
- 6 completed as soon as possible while maintaining the fairness of
- 7 the proceedings.
- 8 The Chamber cannot yet announce an end date for the presentation
- 9 of evidence, but it wishes to announce that it will adopt the
- 10 practice of assigning speaking times to the parties. So far in
- 11 the trial, the Chamber has permitted the parties to give their
- 12 own estimates of time but this has not been altogether
- 13 successful.
- 14 [9.23.55]
- 15 The Chamber will assess the time it thinks appropriate for the
- 16 hearing of each witness on a case-by-case basis, but it wishes
- 17 now to give an indication of the time it considers generally
- 18 appropriate for the questioning of witnesses and for the
- 19 presentation of submissions so that the parties can prepare.
- 20 First the questioning of witnesses; generally, this will be 30
- 21 minutes for the prosecutors, 40 minutes for all civil parties
- 22 combined, and 40 minutes for the defence.
- 23 Secondly, submissions; the Chamber will permit between five and
- 24 10 minutes for the raising of questions and objections, and five
- 25 minutes for responses.

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- 1 The Trial Chamber will not permit lengthy dispute by the parties
- 2 to these time estimates.
- 3 The distribution of the 40-minutes speaking time among the civil
- 4 parties lawyers is for them to decide; however, the Chamber
- 5 suggests, as a possible method, that the four civil party groups
- 6 assign one Cambodian and one international lawyer with the
- 7 responsibility for the questioning of each witness on behalf of
- 8 all civil parties. The Chamber emphasizes, however, that this is
- 9 a suggestion only for the efficient use of the 40-minutes time
- 10 allocation.
- 11 [9.26.30]
- 12 The Chamber wishes to modify its sitting days to allow an
- 13 additional day each month when the trial will not be proceeding.
- 14 At this point, the Chamber wishes to explain to the public, and
- 15 emphasize, that a large proportion of its work is done outside of
- 16 the courtroom. This involves preparation for the trial,
- 17 deliberations, drafting and translation of decisions, discussion
- 18 of trial-management issues and other matters. These cannot be
- 19 satisfactorily attended to in the time left before, during, and
- 20 after hearings.
- 21 Finally, the Chamber notes that civil party lawyers have raised
- 22 concerns about poor working conditions, lack of financial
- 23 support, and the availability of some from August 2009 onwards.
- 24 A representative of the Office of Administration was present at
- 25 the trial management meeting, and took note of the first two

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- 1 concerns which are obviously outside the jurisdiction of the
- 2 Chamber. So far as the third concern, that of availability of
- 3 civil party lawyers from August onwards, the Chamber will liaise
- 4 with the Victims Unit to ensure that any possible unavailability
- 5 of lawyers does not jeopardize the smooth continuity of the
- 6 proceedings.
- 7 Thank you, Mr. President.
- 8 MR. PRESIDENT:
- 9 I notice the presence of lawyer for civil party group 1; go
- 10 ahead.
- 11 MR. WERNER:
- 12 Your Honours, are you going to announce now or later about the
- 13 change of sitting hours of
- 14 the day? Are you going to announce soon exactly what that means
- 15 in the weeks ahead or when are we going to know exactly for the
- 16 schedule? We would be grateful.
- 17 JUDGE CARTWRIGHT:
- 18 Yes, thank you, Mr. Werner.
- 19 The Trial Chamber still has some calculations to make and these
- 20 affect the schedule which will be produced and distributed as
- 21 soon as possible; hopefully, towards the end of this week.
- 22 MR. PRESIDENT:
- 23 Next, we will now proceed with a discussion on the operation of
- 24 S-21 including the operation at Choeung Ek. We emphasize on S-21
- 25 that currently it is called the Tuol Sleng prison.

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- 1 And for the other facts; namely, the re-education camp at Prey
- 2 Sar will be dealt next.
- 3 [9.31.40]
- 4 QUESTIONING BY THE BENCH
- 5 BY MR. PRESIDENT:
- 6 Q.Mr. Kaing Guek Eav, can you describe to the Chamber, the
- 7 composition of people who were arrested and sent to S-21? What
- 8 types of people were they?
- 9 A.Mr. President, the people who entered S-21 could be divided
- 10 into major phases. The first phase when I was a deputy and the
- 11 second phase when I became the Chairman.
- 12 During the time that I was the Deputy Chairman, the people who
- 13 entered S-21 were mostly the former officers, the former
- 14 technicians who used to work at the Democratic Kampuchea regime.
- 15 This is according to the surviving list at S-21, that is, from
- 16 March 1976.
- 17 When I became the Chairman, the former officers came in less
- 18 frequency from the countryside, who were arrested and sent. So
- 19 majority of those for the second phase were the people inside the
- 20 ranks of the Revolutionary Party of Kampuchea. This is my
- 21 summary.
- 22 Q.Amongst those people, what was your observations regarding
- 23 male, female, and children proportion? Can you tell us the
- 24 proportions and the age of those people who were sent to S-21?
- 25 A.Mr. President, those who were sent to S-21, for S-21 to

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- 1 torture and interrogate, they were in various proportions in
- 2 terms of age. They were young children, older children,
- 3 teenagers, male and female, and senior people.
- 4 This is my summary to you, Mr. President.
- 5 [9.34.25]
- 6 Q.According to your observation, what type of people was in the
- 7 majority who were sent -- who were arrested and sent to S-21?
- 8 Were they the former officials or were they the cadres of the
- 9 Democratic Kampuchea, or were they soldiers or they were various
- 10 types of other groups?
- 11 A.Mr. President, in total the people who entered S-21, as I
- 12 observed, I can say that the majority of them were the combatants
- 13 and cadres inside the revolutionary ranks of Democratic Kampuchea
- 14 and the Communist Party of Kampuchea.
- 15 Q. Thank you. Did you also observe that amongst the individuals
- 16 who were arrested and sent to S-21, did they also include the
- 17 staff of S-21 or the re-education camp at Prey Sar as designated
- 18 as S-24 by Nat?
- 19 A.Mr. President, the staff at Prey Sar were the staff of S-21 as
- 20 well. They have the same right and authority as the staff in
- 21 Phnom Penh. So this is one side. And regarding the numbers, I
- 22 would estimate there were more than 100. And for the people who
- 23 were to be re-educated, I would not regard them as the full staff
- 24 of S-21, and they were also brought to Phnom Penh to be tortured
- 25 for confessions, and sometimes they were sent from Prey Sar to

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- 1 Choeung Ek but I would not know the exact number. But they were,
- 2 yes, some of them. Thank you.
- 3 [9.37.10]
- 4 Q.Did you also observe that amongst those people who were sent
- 5 by the Party to S 21 included the ethnic minority living on the
- 6 territory of Democratic Kampuchea?
- 7 A.Mr. President, it is in my opinion that the ethnic minority
- 8 should be divided from the immigrants. The immigrants, I refer
- 9 to the Chinese and the Vietnamese. As for the ethnic minority, I
- 10 would refer to the Cham or Muslim and other minorities including
- 11 Jarai and Phnong. These people, according to the surviving lists
- 12 that I observed, there were some of them. The ethnic minority,
- 13 the Muslim, were mentioned in the list before I became the
- 14 Chairman. They were Cham, they were Arabs and some Pakistanian
- 15 (sic). The total number were roughly 40. This is from my vague
- 16 recollection, and for the concrete number we should check against
- 17 the S-21 documents.
- 18 For other ethnic minorities I have already reported to the
- 19 Chamber. They were FULRO. There were five of them. And when
- 20 Pol Pot regarded them as friends I was ordered to release three
- 21 of them immediately, and I could not grasp the rest. For the
- 22 rest of the ethnic minorities I could not grasp the number,
- 23 because some of them were most trusted by the Angkar. And for
- 24 the Chinese or Vietnamese immigrants, they were not arrested
- 25 because they were immigrants but because they committed an

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- 1 offence considered by the Democratic Kampuchea.
- 2 [9.39.35]
- 3 Q.According to your observation, have you noticed that among the
- 4 people who were sent to S-21, identified now as Tuol Sleng as
- 5 commonly known, were there any foreigners? And if there were,
- 6 well, where were they from?
- 7 A. The people who were sent to S-21 included -- the majority of
- 8 foreigners were the Vietnamese. As we have already seen on the
- 9 list presented by Judge Silvia Cartwright, that this number goes
- 10 up to 345 Vietnamese, and we have a few ethnic Chinese people who
- 11 were immigrants in Cambodia, and we had four foreigners from
- 12 western countries. I only saw the face of one British man but I
- 13 did not see the other three, although I noticed that there were
- 14 four of them.
- 15 Q.Thank you. The overall numbers of the victims in the
- 16 indictment, it states that there were 12,380 people who were sent
- 17 to S-21 since the beginning of the security office until the 6th
- 18 of January 1979. This is the information we obtained from the
- 19 indictment.
- 20 Do you accept that at least this number of people were sent to
- 21 S-21?
- 22 A. Thank you, Mr. President. I have seen the list. I have never
- 23 changed my statement and I acknowledge all the names appeared in
- 24 the list. I never changed it. And I would like to also
- 25 emphasize that there are six new lists that I have just obtained

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- 1 recently that we also call them as the released lists. Actually
- 2 they are not the lists of people to be released, but the lists
- 3 naming people to be smashed.
- 4 Whether it is the right time for me to mention about the six new
- 5 lists, that people called them the lists for the release, or
- 6 maybe at a later date?
- 7 Q. Thank you. The Trial Chamber would like to know also about
- 8 the new six lists and what are they about concerning the people
- 9 who were sent to S-21?
- 10 So to be clear, please tell the court whether they are the lists
- 11 for the people to be released or to be smashed?
- 12 A.Mr. President, the lists, the new six lists, are about the
- 13 lists of people to be smashed, including these six new lists I
- 14 have already calculated. There are 161 people. The first list
- is D159/4.10. This list prepared and came across to me on the
- 16 26th of November, 1977.
- 17 When I saw the list, immediately I asked the Chairman as having
- 18 received orders. I grabbed a pen and then annotated on the right
- 19 of the list to extract. I used the word -- this word, and
- 20 emphasized that they were smashed or executed. And also at the
- 21 end of the list, Hor wrote that these people were taken away or
- 22 removed, and then the date was the 2nd of December, 1977.
- 23 So, in conclusion, these people were combatants and the cadres of
- 24 the regiment of Division 920 and were sent to S-21 in 1977. So
- 25 these people actually were ordered to smash by the superior. So

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- 1 I would like the President to also regard this list as the call
- 2 lists of the S-21 and have it included as the common list.
- 3 [9.45.35]
- 4 The second list, List D-57. If you look at the appearance of the
- 5 list, at least the list of Division 703 in which the Regiment 44
- 6 prepared in the cheating slogan ordered by Nat that they were
- 7 released but, actually, they were not because there were 49
- 8 people including the combatants and ordinary people. And these
- 9 lists were signed by Comrade Hin, the Secretary of the battalion
- 10 of Division 703 and signed on the 20th of December, 1975.
- 11 The reason I claim that these lists are the lists for people to
- 12 be smashed because this list did not stay at Division 703. The
- 13 committee -- I don't know how the committee was called -- that
- 14 committee for the genocidal museum of Tuol Sleng, they saw this
- 15 list at S-21 with the label as TSL. Although they belong to 703
- 16 Division, but the lists were found at S-21 and we can concede
- 17 lists.
- 18 Number two, the signature on the 20th of December, 1975 which was
- 19 about the release to me, I think it was not true because no one
- 20 could release anyone, otherwise we would be compromised because
- 21 the union of the labourers and even the co-operatives were
- 22 classified in groups and organized in groups and teams.
- 23 The division also were organized into units, and how could we
- 24 bring these 49 people without letting the upper echelon know it?
- 25 So the superiors were of the opinion that when any subordinate

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- 1 compromised any information concerning these people, then they
- 2 would be in big trouble.
- 3 Reason number three, the victims in order numbers 18 and 36 were
- 4 the victims who were involved in the matter that I am quite
- 5 familiar with, and Son Sen also discussed about this with me.
- 6 And I recollect Mr. Mon, who also told me about this, and when
- 7 Nat reported to the superior concerning the arrest without asking
- 8 any permissions or idea from the upper echelon or superior, I can
- 9 conclude that this list is a fake released list decided by Nat,
- 10 subjectively to arrest these 49 people. And when he was
- 11 frustrated, he tried to create such a list to cover his story.
- 12 So I think these 49 people were the 49 people who were to be
- 13 released by Nat, but I think so far there has not been any civil
- 14 party who claimed anything and then no one among the 49 people in
- 15 the list has been claimed as their relatives or loved ones. So I
- 16 think this is about the list D57.
- 17 [9.50.15]
- 18 I would like to now mention about other four main lists all
- 19 together. The first is E2/2.8. This list is the report of
- 20 confessions. Brother Mam Nai, according to Nat's order,
- 21 requested to the armed guards to release them and without any
- 22 particular date, and Comrade Hor stated release on the 8th of
- 23 March 1976. I think it was also a fake release. It was just
- 24 manipulated by Nat and this is another list.
- 25 For the other list, there are three lists in the book of Brother

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- 1 Mam Nai, the notebook of Brother Mam Nai, and I would like to
- 2 also emphasize that the book has ERN 00007761 through 00078056
- 3 and this is on page ERN 00077976. There was one person Nat
- 4 requested Mam Nai to release but on page 00077978 there were four
- 5 people that Nat requested to Mam Nai to release them. On the
- 6 25th of December, Nat did write down that the people were
- 7 released.
- 8 On page ERN 00077979, there were other four people that Brother
- 9 Mam Nai that -- according to the order of Nat, Nat asked Mam Nai
- 10 to release them too. And I think the record on Brother Mam Nai
- 11 was not really a real record of the release. It's just a fake
- 12 one. And in the civil complaint of civil parties, E2/56, there
- 13 is a complaint of that person and his complaint is obvious, but
- 14 when you look at E2/56.2 it is only the record of the
- 15 interrogation by Brother Mam Nai, who asked the Angkar to kindly
- 16 release that individual. And he signed with the name of M-21.
- 17 Actually M-21 is the secretariat of Nat, so Nat actually signed
- 18 and agreed to release.
- 19 [9.54.20]
- 20 So in conclusion, altogether with all of the complaints of civil
- 21 parties, E2/56.1 and E2/56.2 reveal that these four lists of
- 22 release are the fake lists of release, including the other two
- 23 lists also which are not true. And Comrade Hor wrote in the list
- 24 named the 159/4.10 as the release list. So I would like to
- 25 confirm that the word "release" is not true, so this term did not

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- 1 exist at S-21. Altogether these 169 people should also be deemed
- 2 included in the list of the S-21 lists as the people who have
- 3 been smashed.
- 4 Q.Thank you. In the process of arresting people to be detained
- 5 at S-21, in general what would be the practice?
- 6 A.Mr. President, now I'm talking about the arrests. The right
- 7 to arrest was vested with the people who had the right to smash.
- 8 So if the people made such a decision then the subordinates had
- 9 to arrest them, and also arrest them in order not to allow them
- 10 to fight back and also to keep the arrests secret and then send
- 11 them to S-21. So this is a principle in our implementation of
- 12 such arrests.
- 13 The majority of people who were arrested would be sent to S-21,
- 14 and S-21 had to be ready to receive them. And another practice
- 15 is that, for example, when Koy Thuon was arrested Pong, Chhim
- 16 Sam-Aok, sent him to be arrested by S-21. So this is an activity
- 17 to arrest people, not to be able to escape or to know in advance
- 18 of his expected arrest. Then I already stated how I interacted
- 19 with Koy Thuon.
- 20 [9.57.30]
- 21 And also the other practices that the Standing Committee made the
- 22 decision to arrest. And then, for example, Vorn Vet was asked to
- 23 inform me to arrest Pang so to avoid being compromised, Pang
- 24 actually used to come to S-21. He saw me, saw Hor, and normally
- 25 he saw me. So then when he saw me and Comrade Hor he was not

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- 1 surprised, and then I pointed to him and then Pang was shouting
- 2 and then Hor put him on handcuffs.
- 3 So the key people who were arrested were decided by the Standing
- 4 Committee and S-21 had to arrest them. But in the document, the
- 5 negotiation on the 16th of September -- sorry, I don't remember
- 6 the date exactly -- the negotiation between Comrade Sokh and I
- 7 and Comrade Tat concerning the arrest of 40 people from Division
- 8 170 and 290. And of course they involved people from S-21 to go
- 9 out and arrest them.
- 10 So in conclusion, all the arrests were made by the Standing
- 11 Committee, decided by the Standing Committee. Number 2, if the
- 12 Standing Committee already made such decision, anyone who failed
- 13 to respect such order would be in big trouble, and the arrest
- 14 must be made in secret, and that people who would be arrested
- 15 must not be informed or otherwise the people who were in charge
- 16 of arresting those people would be accountable for their act.
- 17 Q.Thank you. Talking about the cadres and staff at S-21, did
- 18 they go outside of S-21 to make the arrest besides the arrest
- 19 that you made regarding the Division 170 and 290? So this is a
- 20 separate question, and probably I will ask you further on the
- 21 arrests of the Division 170 and 290. And besides these two
- 22 divisions, where the meeting was held on the 16th in 1976, as you
- 23 have just said, were there any cadres or forces of S-21 go to
- 24 conduct the operations to make arrest of other people outside?
- 25 And if so, in what cases and what is the practice? What was the

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- 1 practice?
- 2 [10.00.45]
- 3 A.Mr. President, I would like to talk just from the March 1976
- 4 when I became the Chairman of S-21. The sending of people
- 5 outside were in two ways. One is on National Road 5 to Pursat
- 6 and Battambang, and National Road 1 to Prey Veng and Svay Rieng,
- 7 or the closest was Neak Loeung. The sending of cadres of the
- 8 special force of S-21 to go outside, to which direction I could
- 9 not recall the exact numbers because I did not pay much attention
- 10 on this issue at the time.
- 11 Q.Could you listen carefully to the question? The question is
- 12 were there any cases, besides the discussion that you
- 13 participated with the Division 170 and 290, with the
- 14 participation from the leadership, including Son Sen and Brother
- 15 81, and the discussion was for the arrest, the mass arrest, up to
- 16 40 people from these two divisions. So that was one special
- 17 case.
- 18 But what I want to ask is were there any other cases where S-21
- 19 forces went to make the operations to arrest, for example, at the
- 20 various ministries and offices in Phnom Penh? It's different
- 21 between the arrest operations and the transportation of those who
- 22 were already arrested. So these are two separate questions.
- 23 [10.02.40]
- 24 A. Thank you, Mr. President. In Phnom Penh, from what I can
- 25 recall -- I would not object to any surviving documents. I would

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- 1 accept it if it's mentioned in S-21 document, but from what I can
- 2 recall, I did not allow any special forces or combatants from
- 3 S-21 to conduct the arrest because it's going to reveal the
- 4 secrecy of the S-21, but for going outside of Phnom Penh to make
- 5 the arrest, that is a separate matter.
- 6 Q.You just said about the arrests of two persons; that is, Koy
- 7 Thuon and Chhim Sam-Aok, alias Pang, but the question is, in the
- 8 arrest of an individual with an important role inside a party and
- 9 a government from various ministries and other zones throughout
- 10 the country, how was the process done besides Koy Thuon and Pang?
- 11 Were they -- upper echelon decided to send them to meet them at
- 12 your office and then you, in co-operation with Hor, to conduct an
- 13 arrest of these two people, but I talked about others like Kang
- 14 Chap and Vorn Vet. What was the operation like, or conducted?
- 15 A. Thank you, Mr. President. The arrest of Koy Thuon, there were
- 16 many people involved, but for the arrest of Pang there were only
- 17 two of us of, Hor and myself. But for Koy Chap I was not -- know
- 18 when he was arrested; he was sent. But for Vorn Vet and Chap,
- 19 they were arrested -- that makes three and they were sent to us
- 20 in the afternoon.
- 21 Q.So, in general, the form of arrest to be sent to S-21, it was
- 22 the original unit who would make the arrest and send to S-21 and
- 23 the S-21 duty was to receive them. Is that correct?
- 24 [10.05.25]
- 25 A.Yes, Mr. President. This is from my recollection.

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- 1 Q.What about the arrest of the S-21 staff and their re-education
- 2 camp at Prey Sar? Who made such decisions -- this arrest, I
- 3 mean? Is the arrest of those to be sent to S-21 for the purpose
- 4 of being tortured, interrogated and smashed?
- 5 A.First, I would like to inform Mr. President on the
- 6 decision-making.
- 7 The person who makes the decision was the Standing Committee.
- 8 Before April '77, Son Sen made the decision and later on Uncle
- 9 Nuon would make a decision and nobody dared to make any moves
- 10 without a decision. And I would like to report on the actions
- 11 before reading through the decision-making.
- 12 There were many incidents, and Comrade Hor reported to me
- 13 constantly and, at one point, when Hor said we should report it
- 14 to the upper echelon, and in the cases that I approved then I
- 15 would report it to the upper echelon requesting the upper
- 16 echelon's decision. With their decision, then I asked Comrade
- 17 Hor to implement. So for the arrest and the techniques, then the
- 18 process involved in the arrest it was under the responsibility of
- 19 Comrade Hor and his subordinates. I, myself, was responsible for
- 20 not allowing them to protest or to evade.
- 21 So this is what happened, and this is my report to you, Mr.
- 22 President.
- 23 [10.07.30]
- 24 Q.Did you observe and can you recall the level of incidents or
- 25 the offences which relate to them being observed and made to

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- 1 report and which was later on reported to the upper echelon?
- 2 What types of offences that led them to being arrested, tortured,
- 3 interrogated and smashed as other people who were sent to S-21 as
- 4 they were the S-21 start? Can you explain it further on this?
- 5 A.Mr. President, what I can recall is regarding Nun Huy.
- 6 Comrade Huy was a member of the S-21 Committee. The incident
- 7 happened constantly and I constantly reported to my upper echelon
- 8 within our agreement -- with the agreement between I and Comrade
- 9 Hor.
- 10 And in the end, there was an incident that he allows the radio
- 11 operator to escape. In general, a cadre who was responsible for
- 12 one comrade and when that comrade had an incident he had to be
- 13 punished, so I reported to Uncle Nuon and Nuon ordered for his
- 14 arrest. So I ordered Comrade Hor to arrest. At that time, I
- 15 also went with Comrade Hor because without me Comrade Huy would
- 16 be suspicious, so I went along.
- 17 So that was one incident that I can recall. And let me talk
- 18 about the reasons -- I am very vague on it, but the most
- 19 important reason for him was that he allowed his radio operator
- 20 to escape.
- 21 Q. The question is: for the S-21 staff; we now call the Tuol
- 22 Sleng prison and it's a branch there, the re-education camp at
- 23 Prey Sar, and those staff when they were arrested and sent to
- 24 S-21 to be smashed, and you were the one who made a report
- 25 regarding the incidents of those staff under your supervision at

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- 1 that office. Is that correct?
- 2 A.Mr. President, it is me who reported to the upper echelon but
- 3 it was not in writing. It was done verbally.
- 4 Q.And the question is: for every staff of whom you made the
- 5 reports to the upper echelon from these two locations that I just
- 6 mentioned, that is S-21 that is now called Tuol Sleng prison, and
- 7 at the re-education office at Prey Sar.
- 8 [10.11.25]
- 9 Was there any of them spared? It means the upper echelon did not
- 10 make a decision to arrest them, or for every person of your staff
- 11 that you may have reported to the upper echelon and the upper
- 12 echelon decided to smash them all?
- 13 A.Mr. President, those people that Comrade Hor and I had made
- 14 agreement, I reported to the upper echelon. I cannot recall that
- 15 there was anyone who survived, or that the upper echelon decided
- 16 to not arrest them or not to approve all the reports that I made
- 17 to them.
- 18 Q.You responded amongst the foreigners who were arrested and
- 19 sent to S-21, including the westerners, and there were four of
- 20 them. The four westerners who were sent to S-21, where were they
- 21 arrested?
- 22 A.Mr. President, they were arrested by the navy officers of
- 23 Division 164, and they were sent through Kampong Som through the
- 24 Standing Committee to S-21. And they were sent on two occasions.
- 25 Each -- there were two of them and they were arrested by Division

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- 1 164 and sent to S-21 through the general staff or through the
- 2 Standing Committee.
- 3 Thank you.
- 4 Q.When people were arrested and sent to S-21, what was the
- 5 procedure that was implemented regularly? For example, when they
- 6 were sent from the arresting place to S-21 were both of their
- 7 hands had to be handcuffed to their back or their both legs were
- 8 shackled; blindfolded, for instance, until they were brought into
- 9 S-21?
- 10 What was the procedure for the implementation of these arrests
- 11 before they were divided and sent to each individual cell?
- 12 [10.14.20]
- 13 A. The procedure or the activity line, that it was called at the
- 14 time, I was not sure. The operators were responsible before me.
- 15 Their duty was not to allow them to escape, not to allow them to
- 16 protest, and if there was any such incident, it has to be
- 17 reported to me immediately, and they had to be responsible before
- 18 the parties.
- 19 In general, it's possible that they might be handcuffed, shackled
- 20 and blindfolded, but for those who were arrested around Phnom
- 21 Penh, they might be only handcuffed and blindfolded. However,
- 22 there were some of them; for instance, when those people -- one
- 23 person from the Ministry of Foreign Affairs, called Ve'n, when he
- 24 came in he saw me and he waved and the person was not
- 25 blindfolded. I don't know if there were many of these instances

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- 1 or not.
- 2 In general that was my responsibility; not to allow them to
- 3 protest or to escape.
- 4 This is my report to you, Mr. President.
- 5 Q.The blindfolding -- when the blindfold was taken off from the
- 6 people who were arrested?
- 7 A.Mr. President, I am not sure. Probably it was after the
- 8 photograph was taken or when they were sent to the cells or
- 9 probably it was after the photograph being taken, or maybe when
- 10 they were sent to the room in shackles and then the blindfold was
- 11 taken off. This is just my conclusion.
- 12 Q.What is the criteria for the people who were put in the
- 13 general room and who
- 14 was put in individual cells as can be seen at the photos
- 15 displayed at S-21? We have a general room which was large and
- 16 then there was each individual cell; so what is the criteria for
- 17 people to be classed in the common room and for those who had to
- 18 be put in the individual cell as can be seen from the photos?
- 19 A.Mr. President, let me put three types of response to you.
- 20 One is the most important people that the Party wanted the
- 21 confessions from them. It's hard to regards their position; it
- 22 was both their position and the times they were serving the
- 23 Party. For example, Suos Sophann; he was the deputy commander of
- 24 the division, but when he was arrested, he was the most important
- 25 person so he was not put in the common room that was used at

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- 1 Ponhea Yat High School. He was detained outside at a place
- 2 called special prison and for the interrogator, I assigned
- 3 Comrade Pon whom I trusted the most. So that's for the special
- 4 types of prisoners.
- 5 [10.18.40]
- 6 And the second important prisoners would be placed in individual
- 7 cells as can be seen on the three floors of those buildings so
- 8 that they would not communicate with each other, and only after
- 9 they were interrogated, they were placed in the common room.
- 10 And for others, who were less important, then they would be
- 11 placed in the common room. For example, those people whose names
- 12 were mentioned in the document D159/4.10, they were not placed in
- 13 the individual cells.
- 14 So these were three types of prisoners when they entered: the
- 15 most important prisoners who were placed outside, and the
- 16 important prisoners who were placed in the individual cells, and
- 17 the less important prisoners who were placed in the common room.
- 18 Q. Thank you.
- 19 We discussed this matter already at the earlier date, but now it
- 20 is about the individual cell. When were the cells established
- 21 and who indicated such the idea to have individual cells?
- 22 A. The prisoners who were put into the Ponhea Yat High School was
- 23 agreed by my
- 24 superior, and when we had the Ponhea Yat High School as the
- 25 prisoner, I initiated and asked Hor to create individual cells

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- 1 without requesting to my superior for any advice.
- 2 [10.20.50]
- 3 Q. Thank you.
- 4 Regarding the arrests in which the people were arrested, of
- 5 course, by the implication by others; so could you please tell me
- 6 about it a little bit?
- 7 A.The people who were arrested based on the implication in the
- 8 confessions by
- 9 the others, based on the surviving documents, I would like to
- 10 brief it as follows.
- 11 First, the most important person; for example, Suos Neou alias
- 12 Chhouk; the secretary of Sector 24, then the Standing Committee
- 13 paid good attention until Brother Phim agreed, and there had been
- 14 a lot of documents and meetings of the Standing Committee before
- 15 such an arrest was made.
- 16 But for other people, based on the surviving documents, there was
- 17 a list summarized by S-21 to see -- we compared nine confessions
- 18 and names implicated in those confessions before the upper
- 19 echelon could make the further arrests.
- 20 And as for the meeting that I attended with 170 and Division 290,
- 21 we presented the document and already summarized the confessions,
- 22 then we asked the secretary of the unit, "Comrade Sokh, do you
- 23 think that these people -- the evidence were enough to prove that
- 24 this person should be arrested?" And if the head of the unit
- 25 suggested that it was not yet time to arrest, then we would then

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- 1 wait.
- 2 And also we -- for example, after the secretariat reviewed the
- 3 document then, for example, the secretary of that office made
- 4 such decision, then we could make the arrest. I could also here
- 5 reveal the information based on the surviving documents only.
- 6 [10.24.05]
- 7 Q.Were you asked by the superior to discuss how people would be
- 8 arrested?
- 9 A.Mr. President, my superior, Son Sen, was close to me and he
- 10 followed my work deliberately, and he waited to hear my opinion
- 11 regarding the update of the event. For example, when Koy Thuon
- 12 was sent to S-21 then I would then talk to my boss about how he
- 13 would be put, and then at what time Koy Thuon would be sent by
- 14 Pang, for example, to S-21. And we discussed this with the
- 15 superior in order that we could take full control of S-21.
- 16 Q.When people were transferred from Battambang to S-21 how many
- 17 times were they taken from that location, and in each time how
- 18 many trucks were used? And how was the arrangement made from
- 19 that long-distance location?
- 20 A.Mr. President, the people who went out to receive prisoners
- 21 were not many. I think there were not more than 10 people. So
- 22 they brought with them some shackles or handcuffs and pieces of
- 23 cloth to blindfold the prisoners. So the trucks were the 4
- 24 multiplied by 4, so the Chinese trucks covered with curtains.
- 25 This was the kind of truck to transport the prisoners.

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- 1 [01.26.35]
- 2 Q.I understand that there would be more trucks to transport
- 3 those people, but how many times do you remember the trucks took
- 4 those people from Battambang?
- 5 A.Mr. President, I cannot remember how many times people were
- 6 uploaded on the trucks and sent to S-21, but I remember that the
- 7 special forces of S-21 operated in two directions, on National
- 8 Road 1 and National Road 5 but I could not remember how many
- 9 times they would discharge their duty on those directions.
- 10 Q.I think you had briefly mentioned about this point but I think
- 11 it is very important to ask further questions concerning the
- 12 arrests of other people, for example the members of the Standing
- 13 Committee or the Central Party's Committee, so who made such
- 14 decisions and what -- or how was the operation conducted?
- 15 You said already about the case of Koy Thuon and Pang. We would
- 16 not want to hear more about this but we want to know if important
- 17 people like this to be arrested, then it was part of the general
- 18 policy. However, in the actual operation to arrest such key
- 19 people, in the case of Vorn Vet, who was also the key person in
- 20 the Party, how was the operation conducted?
- 21 A.In the case of the arrest of Vorn Vet, before the arrest I
- 22 think there were the follow-up of documents sent from S-21 in a
- 23 period of one year before such arrest, but I do not remember
- 24 whether there was any full session at the Standing Committee
- 25 before the arrest was made. I only knew that Vorn Vet was

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- 1 arrested at the Central Party's office in the late afternoon,
- 2 maybe at 6 p.m.
- 3 [10.29.32]
- 4 Lin called me and said, "Duch, be ready to receive three
- 5 packages, three big packages." Of course it included Brother
- 6 Vorn, Kong Sophal, the Secretary of the Northwest, and Brother
- 7 Cheng An. Then they were unloaded and these people were not
- 8 handcuffed, and they used the string, a kind of nylon string, to
- 9 tie their hands behind their backs. Then when I helped sit up
- 10 Vorn Vet I could see that string.
- 11 So it was the special case that those people were arrested at
- 12 Office 870. And later on I could prove that they were obviously
- 13 arrested at the Office 870. I did not know anything about the
- 14 decision to arrest them, and S-21 was asked to arrange any
- 15 documents -- the implications regarding those people. I remember
- 16 that I did not sleep for three days and three nights, collecting
- 17 all those informations concerning the people, the key people.
- 18 However, I did not spend so much time collecting information
- 19 before Vorn Vet was arrested.
- 20 S-21 was not notified before the person was arrested. We only
- 21 knew that he was arrested when we received a call that we had to
- 22 be ready to receive those people. In general, all the
- 23 secretaries of the zones would be sent to S-21 and then S-21
- 24 would be notified immediately before they were to be sent. So
- 25 any unit that made the decision, I do not have any idea but I

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- 1 know that the main body to make such decision is the Full Session
- 2 of the Standing Committee.
- 3 Q.When the prisoners of war and Vietnamese civilians were sent
- 4 from border points to S-21, were there any operations by S-21 to
- 5 take them by trucks to S-21, or was that the sole responsibility
- 6 of the unit concerned to take them and send to S-21?
- 7 A.So far I cannot recall whether I appointed any cadre to
- 8 receive people in Svay Rieng or Neak Loeung, but maybe I am not
- 9 sure. That's why I am rather reluctant to say it clear, because
- 10 I don't know whether I sent people there or whether I sent them
- 11 in only '77 but not in 1978. I would like to leave this matter
- 12 to the Chamber to seek clarification from Comrade Huy, and with
- 13 supporting documents then I will be in the position to accept it.
- 14 But I do not recall how people would be arrested. I only wanted
- 15 them to make sure that the arrest would be made without any
- 16 fightback from the prison -- of the potential prisoners or any
- 17 abscond.
- 18 MR. PRESIDENT:
- 19 I think it is time to take an adjournment, so the Chamber will
- 20 take a 20-minute adjournment and resume afterwards.
- 21 (Judges exit courtroom)
- 22 (Court recesses from 1035H to 1106H)
- 23 (Judges enter courtroom)
- 24 [11.06.08]
- 25 MR. PRESIDENT:

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- 1 Please be seated. The Chamber is now back in session.
- 2 BY MR. PRESIDENT:
- 3 Q.Mr. Kaing Guek Eav, in your name as the Chairman of S-21, did
- 4 you directly receive reports from the civilian or the military
- 5 units on the arrest of those people to be sent to S-21?
- 6 A.Mr. President, all the reports from outside units had to go
- 7 through the Chairman and through the superior, Son Sen. I did
- 8 not have any direct communication with those outside units.
- 9 Thank you.
- 10 Q. There was a question which I already asked you based on the
- 11 confessions, but in the case files a lot of documents show the
- 12 confirmation of the response, so I want to clarify it on the
- 13 decisions to arrest based on the confessions which implicated
- 14 them as traitors. Is that true?
- 15 A.Mr. President, for the arrest of the people to be sent to
- 16 S-21, based on the confessions and the decisions made by the
- 17 Standing Committee or the General Staff; one, after they analyzed
- 18 various confessions, and with the agreement of the Secretary of
- 19 the General Staff and the division secretary, then it proceeded.
- 20 But in that it means the division secretary also thought about
- 21 their authority to defend or to follow up their respective units
- 22 and the biographies of their subordinates.
- 23 So, in conclusion, based on the S-21 documents, that is correct,
- 24 but then it meant that a lot of confessions were analyzed before
- 25 such a decision was made, and they were also with the agreement

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- 1 from the division secretary.
- 2 Q.Another question regarding the arrest, however, it has a
- 3 special characteristic. You have responded that some of the S-21
- 4 staff was arrested and sent to Prey Sar re-education office.
- 5 What offences did they make which were determined as the criteria
- 6 for them to be arrested and sent for re-education at Prey Sar?
- 7 Can you elaborate on this for the Chamber?
- 8 A.The people whom the S-21 Committee sent from the Phnom Penh
- 9 office to Prey Sar, I can recall that there were two cases.
- 10 One was the close relative who was arrested by S-21 or the
- 11 distant unit arrested them and sent them to S-21, and S-21 sent
- 12 them to Prey Sar. What I can clearly recall is Comrade Met, who
- 13 was a witness here, so automatically the S-21 Committee had to
- 14 implement the lines of the Party that the relatives of the
- 15 traitor, of the enemy, had to be placed at the re-education
- 16 office to be monitored. So that was in the case of Comrade Met.
- 17 [11.11.45]
- 18 And in the second case, when the person himself committed an
- 19 offence and if he could not be educated, then the S-21 Committee
- 20 would send them to Prey Sar for re-education, and for that case I
- 21 could not recall any particular names.
- 22 This is my response to you, Mr. President.
- 23 Q.So this means the decision to send the S-21 staff to the
- 24 re-education office at Prey Sar was not decided by the upper
- 25 echelon, it was decided by the S-21 Committee. Is that right?

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- 1 A.Mr. President, that is correct.
- 2 Q.Thank you. And what about their families; the families of
- 3 those who were arrested and sent to re-education office at Prey
- 4 Sar? What action did the S-21 Committee take on their families?
- 5 A.If the husband was arrested, then the wife had to go too. It
- 6 was unavoidable -- and the children too.
- 7 Q.What about those who committed serious offences? Like you
- 8 said, there were arrests of those who were sent to S-21 including
- 9 the S-21 staff and the staff who worked at Prey Sar. What about
- 10 the families and relatives who lived with the people to be
- 11 arrested? What actions were taken on them?
- 12 A.Mr. President, for the people who were to be arrested and
- 13 detained and tortured for interrogations and later on smashed,
- 14 they were considered to be enemies. So the wives, the children
- 15 of the enemy were also regarded as the enemy. That was the
- 16 reality at the time.
- 17 This is my response to you, Mr. President.
- 18 [11.14.19]
- 19 Q.In general, we can observe that the arrest of those to be sent
- 20 to S-21 had to go through various stages; for example, the
- 21 detention, the interrogation, the torture, and then to be taken
- 22 to be smashed if they did not die after torture.
- 23 The question is, besides these people who were sent to S-21, any
- 24 one of them had to -- not to go through these processes; that
- 25 means they were not interrogated or detained. Were there any

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- 1 such cases?
- 2 A.Mr. President, yes, yes. The list that I reported to the
- 3 President just then, that is the 159/4.10, they only stayed for
- 4 10 days at S-21 and that 10 days were for Comrade Hor to prepare
- 5 the list, but the Standing Committee already made the decision
- 6 for them to be smashed. And as I have reported so far, the
- 7 eastern group, there were more than 300 of them so they were not
- 8 interrogated because they were ordered to be smashed.
- 9 So it is true that there were cases when they were sent to S-21
- 10 and they were not interrogated and they were smashed. And in
- 11 some other cases, when they were not important, then a decision
- 12 was made to send them to be smashed. So that was the reality at
- 13 S-21.
- 14 Q. The people who were arrested and sent to S-21, which is now
- 15 called Tuol Sleng prison, the sending to S-21 occurred almost on
- 16 a daily basis. Is that correct?
- 17 A.It's not on a daily basis, there were some gaps, but it's hard
- 18 to say. We can look at the list and make a decision from there.
- 19 I cannot recall.
- 20 [11.17.07]
- 21 Q.When people were sent to S-21 by their respective units, which
- 22 is the majority of cases where people were sent to S-21, what was
- 23 the process done by S-21 for organizing to receive them and to
- 24 place them in the common rooms or in the individual cells?
- 25 A.Mr. President, the people who were transported in from

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- 1 outside, they were sent to S-21 through Street 360. There was a
- 2 location to receive them and on the map I already pinpointed the
- 3 location with letter R, which represents the reception area, and
- 4 I think the current location is now the Beehive radio station.
- 5 And usually Comrade Huy was present there or Comrade Peng, but
- 6 usually it was Comrade Huy, however, sometimes Comrade Hor was
- 7 there too to inspect and to examine the list.
- 8 And once it was done, then they were sent to inside to Comrade
- 9 Peng for them to be photographed. I think I cannot recall
- 10 clearly the process but, like I stated, the first reception area
- 11 was the letter R marked on the map.
- 12 Q.What about the forces? That is, from the point marked with R
- 13 to the inside of S 21, which force took them from the R location
- 14 to the inside of S-21?
- 15 A.Mr. President, the force that took them from the R location to
- 16 the inside was the Special Unit. The military unit or the
- 17 intervention unit who were armed were in two groups. One was the
- 18 Special Unit and one was the guards to guard the prisoners, not
- 19 to allow them to escape, so they were in two different groups.
- 20 So those people who took them from the R location to the inside
- 21 of S-21 were the Special Unit.
- 22 [11.20.07]
- 23 Q. When people were sent immediately, what would be the initial
- 24 operation before they were classified into the individual cells
- 25 or into the common room?

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- 1 So could you please elaborate further the interval of time when
- 2 they were sent and then before they were allocated to each
- 3 individual cell?
- 4 A.Mr. President, I'm not quite sure regarding this matter. I
- 5 don't know whether people were detained at the detention facility
- 6 before they were taken and photographed. I think only the person
- 7 who took control of the register would be well aware of that, and
- 8 Comrade Hor is more informative than I am concerning that matter.
- 9 Q. The reason we seek verification concerning this matter is
- 10 because we have observed the surviving photos of the prisoners at
- 11 S-21 because those people were not blindfolded and they were
- 12 attached with numbers. And that's why we are asking about the
- 13 procedures of how people were processed before they were
- 14 allocated to the rooms. So thank you for your response.
- 15 [11.22.00]
- 16 When people were at S-21, were they wearing normal clothing or
- 17 were they stripped of their clothes and leaving just their
- 18 underwear? Because in the records of the photos, footage of S-21
- 19 reveals about the stack of rag clothes at the location.
- 20 A.Although I am not precisely in good control of this matter,
- 21 but I know for sure that everyone who were sent to S-21 was
- 22 immediately stripped of their clothes, leaving only underwear.
- 23 Correction; only applied to the male prisoners.
- 24 Q.Regarding the detention, or imprisonment in many other
- 25 documents, can you tell the Court regarding the overall aspect of

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- 1 people who were detained at S-21; for example, the condition of
- 2 the location and the physical condition of the rooms or the
- 3 torturing devices applied in that location, if available?
- 4 A.Thank you, Mr. President. I would like to also emphasize that
- 5 the prison for S-21 was not the prison in other countries with
- 6 the rule of law. Even in the prisons in Cambodia, the prison I
- 7 was detained in Phnom Penh, there were codes to protect political
- 8 prisoners.
- 9 At S-21, I agree with the statement written in the book of David
- 10 Chandler, in which he calls it a place where people were detained
- 11 before they were executed. So this location was reserved for
- 12 keeping people to be executed, so there would not be any rules to
- 13 safeguard -- legal safeguard to protect their rights. So any of
- 14 their confessions would be -- I mean, including their eating;
- 15 they were eating like animals. So we already treated them as
- 16 dead people. We only waited for the time when they would be
- 17 smashed.
- 18 So I think this would be applied not only in S-21. It would be
- 19 applied across the country, as I guess.
- 20 [11.25.54]
- 21 MR. PRESIDENT:
- 22 The Chamber would like to enquire of the Co-Prosecutors whether
- 23 they can put the video clip, V00172621, on the screen.
- 24 MR. SMITH:
- 25 We're endeavouring to do that now, Your Honour.

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- 1 MR. PRESIDENT:
- 2 The A/V Unit, please convert to the monitor of the Co-Prosecutors
- 3 so that the video footage could be projected.
- 4 MR. SMITH:
- 5 Your Honour, if we could have the ERN number again, and also just
- 6 a brief description as to what the video is and whether it, in
- 7 fact, needs sound or not. We can't produce sound from our
- 8 location but we can obviously produce the visual.
- 9 MR. PRESIDENT:
- 10 We actually do not need the sound. We only want to see the
- 11 picture, and there has been a description concerning the list --
- 12 the DVD list prepared by the Co-Prosecutors; a list -- a DVD
- 13 Number 1, describing the torturing tools, and the ERN is
- 14 00172621, and this document is related to the establishment of
- 15 S-21.
- 16 [11.27.54]
- 17 We only would like to see the footage concerning the detention
- 18 cells and also the place where people would be received.
- 19 MR. SMITH:
- 20 Thank you, Your Honours. We have the video on our screen, so I'd
- 21 ask that the computers be switched to the prosecution desk.
- 22 Thank you.
- 23 MR. PRESIDENT:
- 24 The A/V Unit, please link to the computer of the Co-Prosecutors.
- 25 (Video recording played)

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- 1 MR. PRESIDENT:
- 2 I think it is not the video footage we would like to see. We are
- 3 looking for the video footage about the building and the
- 4 detention cells.
- 5 MR. SMITH:
- 6 Thank you, Your Honour. Apparently, that clip comes from the
- 7 same video as the Vietnamese prisoners. So I think it would take
- 8 a little bit of time to find it, to find the appropriate part, so
- 9 I'm just wondering whether -- if we could move on and then we
- 10 would call it up once we've found it.
- 11 MR. PRESIDENT:
- 12 I think we would like to give some time to the prosecutor to help
- 13 locate that particular video footage. I would like to proceed
- 14 further until the prosecutor can find the right -- and then
- 15 inform us.
- 16 BY MR. PRESIDENT:
- 17 Q.In general, the detention of the people took place from the
- 18 time when they were
- 19 sent to the location and they remained in the facility until they
- 20 were smashed, and they never were let out. Is that correct?
- 21 A.It is true.
- 22 MR. SMITH:
- 23 Thank you, Your Honours. I believe we found the clip now, if
- 24 you'd like to play it.
- 25 MR. PRESIDENT:

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- 1 The A/V Unit, please link to the Co-Prosecutor's monitor.
- 2 (Video recording played)
- 3 The A/V Unit, please turn to the normal view.
- 4 [11.34.15]
- 5 This video footage has connection with the following questions.
- 6 BY MR. PRESIDENT:
- 7 Q.In general, people had to be detained in this small individual
- 8 cell with the
- 9 door locked, and that male prisoners had to be cuffed or
- 10 shackled, or only when people were handcuffed when they were
- 11 taken to be interrogated?
- 12 A. The detention at S-21, people were put shackles to their both
- 13 legs or to one leg,
- 14 but I'm not quite sure, but they were shackled to their legs 24
- 15 hours -- over 24 hours, except when they were taken or walked to
- 16 be interrogated. And when they were being interrogated, they
- 17 would be then shackled again. It is true.
- 18 Q.When the victims or detainees got sick, were they released to
- 19 be treated?
- 20 A.So far as I remember, the treatment could only take place to
- 21 delay time for
- 22 interrogation; I mean, to make people live longer, enough to be
- 23 interrogated. So this was the principle of detention at that
- 24 time, and I'm frankly submitted.
- 25 [11.36.34]

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- 1 Q.So the reason why detainees were detained 24 hours -- over 24
- 2 hours was still
- 3 applied, and even while they were being treated, the shackles
- 4 remained with them. Is that correct?
- 5 A. Your Honour, I do not contest this matter whether I have
- 6 witnessed it or not, but I
- 7 obviously acknowledge that the crime is that severe.
- 8 Q.When people had to relieve themselves or eat their meals,
- 9 where they remained
- 10 shackled like 24 hours out of 24 hours as what you mentioned?
- 11 A.Mr. President, I think it is true that those crimes did
- 12 happen. It is obvious that
- 13 people were subjected to such crimes.
- 14 Q.If the people were thirsty, what would they do?
- 15 A. Through my analysis and understanding, I think they would
- 16 shout to the guards
- 17 nearby to bring in the water to them.
- 18 Q. The detainees in the condition as you mentioned, that shackles
- 19 were attached to
- 20 their legs for the whole 24 hours -- over 24 hours, so how did
- 21 they have a bath?
- 22 A.I have never witnessed such a condition, but in February 2008,
- 23 it revealed that I
- 24 knew for sure people were not released -- their handcuffs -- to
- 25 let them have a bath. The guards would then use a water hose to

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- 1 pour water from the outside onto the detainees and, of course, it
- 2 is a kind of crime that I never contest, and it is true that
- 3 prisoners experienced that.
- 4 [11.39.28]
- 5 Q.So when they had the shower by way of having the water from
- 6 the water hose, how could they change their dress -- their
- 7 clothes, and if they did so, how could they make it?
- 8 A.Based on my analysis and assumptions, those people would have
- 9 only their underwear and they remained with them, although when
- 10 they were wet they had to wear it until they got dry and I think
- 11 no-one cared for their wellbeing, I guess, so that's all.
- 12 Q.Can we say if the condition happened, the hosing down of the
- 13 prisoners inside the cells or the rooms, rather than -- it was
- 14 for the cleaning of the cells, not for the bedding of the
- 15 prisoners, if that was what happened? Is that correct?
- 16 A. This assumption is true.
- 17 Q. Thank you. What about the shackles? How were they shackled
- 18 inside the common room, and the shackles -- how were the shackles
- 19 made; by wood or iron? And how were they shackled, in those long
- 20 rows of bars or were they shackled individually? We talk about
- 21 the common room for now; so the condition of shackling the
- 22 prisoners inside the common room.
- 23 A.Mr. President, the condition of the shackling of the prisoners
- 24 in the common room, they were shackled in a row. They lied down
- on the floor and their legs were shackled.

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- 1 [11.41.55]
- 2 Q. There was only one type of shackle. Was it made of metal or
- 3 were any chains used to lock the legs of the prisoners?
- 4 A.As for the chain, I am not sure. From what I can recall, the
- 5 chain was not used. I was not sure. I cannot make any
- 6 presumption on this but, yes, the shackles were used.
- 7 Q.From the conditions you just described in general, how would
- 8 they defecate if they were shackled 24 hours? Were they
- 9 temporarily released for defecation or they had to defecate at
- 10 the spot where they were shackled?
- 11 A.Mr. President, for the defecation it was done on the spot
- 12 where the prisoners lied down, stay or slept. For defecation I
- 13 think an M-16 box was used, the case was used, and for the urine
- 14 a plastic container was used.
- 15 Q.We can say, therefore, the prisoners who were in the condition
- 16 that you described, when one prisoner died amongst those
- 17 prisoners who were stacked together in the long row and who were
- 18 shackled together, what was done by the S-21 staff when somebody
- 19 died, especially during the night when the person was still
- 20 shackled together amongst other prisoners?
- 21 A.Mr. President, because I was not close to the situation I did
- 22 not follow up on the situation because I did not pay attention.
- 23 I would not be able to describe, although this is part of the
- 24 crimes I am responsible for. However, it is my presumption if a
- 25 prisoner died during the night no action was taken until the

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- 1 morning. This is my response.
- 2 [11.45.15]
- 3 Q.What about the prisoners who were held in the individual
- 4 cells? Did they take a bath and, if so, how it happened? I'm
- 5 talking about an individual-cell prisoner, not the prisoners who
- 6 were held commonly in the common room. So how was the bath done?
- 7 A.Mr. President, I was not there to see the situation directly.
- 8 Probably they only took a bath once a week or once a month.
- 9 Q.Thank you. In the situation of those prisoners who were
- 10 shackled on one leg or both legs, could they stand up?
- 11 A. They could stand up when the guard there permitted the person
- 12 to stand up. Without their permission the prisoner could not
- 13 stand up. This is my response. Thank you.
- 14 Q.During the detention in general the prisoners were detained 24
- 15 hours a day. Was there any principle for them to be let outside
- 16 for exercise under the direct daylight or sunlight?
- 17 A. From what I could say, no, except those who were allowed to
- 18 work outside to provide a service to the prison. Besides those
- 19 people nobody was allowed.
- 20 [11.47.30]
- 21 Q.And the female prisoners were detained separately from the
- 22 male prisoners. Were the female prisoners also cut or shackled,
- 23 and how was their bath done, and was there any change of clothes?
- 24 A.When I was the Chairman of S-21 I did not pay much attention
- 25 to that. However, according to the surviving documents and the

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- 1 statements at Choeung Ek, I believe the female prisoners were
- 2 held separately from the male prisoners and they were not
- 3 shackled, and sometimes they were allowed to work outside. This
- 4 is my response.
- 5 Q.Were there any changes of clothes, or they only had one
- 6 clothes that they wore on their bodies, like the male prisoner
- 7 who only wore shorts and a shirt? Or if they have any -- more
- 8 than one set of clothes?
- 9 A.Mr. President, regarding this matter, I can say only through
- 10 my analysis and conclusion that they might have two sets of
- 11 clothes for them to change, because this principle, honestly I
- 12 did not think about it. It was Comrade Hor who paid attention
- 13 and it was his responsibility and experience regarding the female
- 14 prisoners.
- 15 Q.During the detention there all the prisoners were under strict
- 16 guard from the armed guards, inside and outside the office, who
- 17 received strict restrictions to prevent them from escape. Is
- 18 this statement correct?
- 19 A.Mr. President, this is the truth.
- 20 Q. For the guards outside we refer to the Special Unit, right,
- 21 and for the inside guards refer to those as prisoners' guards.
- 22 Is that correct?
- 23 A.Mr. President, the outside guards were the Special Forces and
- 24 for the inside guards, we referred to those as prisoners' guards.
- 25 Q.From the establishment of S-21, those people who were sent to

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- 1 S-21 and detained there, was there any opportunity for any
- 2 prisoner to escape from S-21?
- 3 A.Mr. President, there was only one case of escape and the
- 4 person went back to the unit and the unit sent back to S-21; that
- 5 was from the 170th Unit. That only happened once. In another
- 6 case, a prisoner took a weapon from the guard and, in another
- 7 case, a prisoner stole a weapon from the guards. So there were
- 8 only three incidents regarding this matter.
- 9 [11.51.46]
- 10 Q.According to the situation you just described, it shows that
- 11 the majority of the prisoners slept directly on the floor with no
- 12 mat, no pillow or no mosquito tape -- mosquito net, and when they
- 13 were hosed down they still wore the wet shorts. Is that correct
- 14 for the male prisoners?
- 15 A.Mr. President, on this matter my presumption is that it is
- 16 correct 100 percent.
- 17 Q. What about the detention of the important people like Koy
- 18 Thuon, Vorn Vet and Kang Chap; what was the practice by the S-21
- 19 staff towards those people? Was it the same as the general
- 20 prisoners and all were -- did they receive better rations than
- 21 the ordinary prisoners?
- 22 A.Mr. President, for the people who were in the special prison,
- 23 they had better living conditions. I myself went to interrogate
- 24 Koy Thuon. I saw personally and the photos show that Koy Thuon
- 25 was shackled to a rattan bed where he slept on and I still

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- 1 remember the house.
- 2 So, in conclusion, the special prisoners had better living
- 3 conditions. They were more comfortable and the communication was
- 4 better and the treatment by the interrogators were also better
- 5 and more polite, and when they were sick, they will be treated
- 6 appropriately.
- 7 [11.54.09]
- 8 For example, in the case of Suos Sopha, when he was detained
- 9 there, the guard was careless so then he picked up a screw and
- 10 swallowed it. And I ordered a medic from the general staff to
- 11 operate on him, and when he recovered then we continued the
- 12 interrogation. So all this was done in order to get the
- 13 confessions. Whatever that happened was for the sake of getting
- 14 the confessions from those important prisoners.
- 15 So the image was the same. It was the crimes that was hard to
- 16 believe, and psychologically the people at the present time find
- it very hard to believe what happened at the time.
- 18 Q.Did you ever observe the general condition of the physical
- 19 body of the prisoners at S-21; for example, their outside skin,
- 20 what was the condition of the skin? This is because you just
- 21 responded that the mask or the mosquito net or the pillow was not
- 22 provided to the prisoners. Even the cleaning of the room by
- 23 hosing down was also done on the prisoners so the prisoners slept
- 24 with their wet shorts until it dried.
- 25 So this is to show that the condition of their body will receive

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- 1 some mosquito bites, for instance, and in general this is -- it
- 2 was in Phnom Penh and there were a lot of bushes around the area.
- 3 Did you observe the condition of the skin or the mosquito bites
- 4 on the prisoners?
- 5 A.Mr. President, I honestly confess that the prisoners who were
- 6 detained there, I was not close to them except a few people whom
- 7 I was close -- I was in close contact with.
- 8 Number one was Brother Phoeun, and after the interrogation was
- 9 done and after the torture marks was recovered, I saw him -- and
- 10 the second prisoner, Dr. Roath Kut, after he recovered from the
- 11 torture I met him. And the third one, Chao Seng, he lived longer
- 12 and I left him with Brother Mam Nai for him to have a chit-chat.
- 13 And as for Koy Thuon, I met him on a number of occasions when I
- 14 interrogated him.
- 15 [11.57.43]
- 16 So Koy Thuon, when I first met him, I interrogated him and when
- 17 he did not receive any torture, however, he did not have mosquito
- 18 nets to sleep in. And at that time at S-21, frankly speaking of
- 19 the real situation, I myself did not even sleep in the mosquito
- 20 nets but the mosquitoes at that time did not carry any malaria
- 21 virus.
- 22 So because I was not in close contact with those prisoners when
- 23 they received torture, I could not say whether they received any,
- 24 like, biting marks or mosquito bites on their skin. And I only
- 25 met those few people after they were beaten and tortured and

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- 1 after the marks were fully recovered.
- 2 As for Brother Vorn Vet, when he came in the evening, I met him
- 3 on that evening and later on I did not go and see him.
- 4 So, in conclusion, the health and the physical condition and the
- 5 skin of the prisoners I did not observe and I did not see
- 6 directly, except those few people whom I met after they already
- 7 received the torture and after the wounds recovered.
- 8 Q.What about the condition of the detention of the westerners,
- 9 the foreigners, the four people you mentioned? How were they
- 10 treated? Were there the same conditions applied to the
- 11 foreigners like other detainees?
- 12 A.I would like to conclude that the four foreigners arrived on
- 13 two occasions and I met only one of them, the British man. He
- 14 was at Kok Pises and interrogated by Comrade Pon, and Pon
- 15 reported to me that this British guy was very polite, "You should
- 16 see him", and then I went to see him. At that time he was not
- 17 yet tortured, because his physical appearance was normal, but I
- 18 did not know whether a mattress -- sorry, a mat or mosquito net
- 19 were given to him or not. That's all.
- 20 Q.Can we say, then, that the detention of the westerners -- were
- 21 detained specifically apart from the other detainees, as we
- 22 already mentioned earlier? Do I understand that correctly then?
- 23 A. From the first encounter with the prisoner I can conclude that
- 24 the four westerners lived in a separate condition apart from the
- 25 normal, ordinary victims -- Cambodian victims.

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- 1 [12.01.43]
- 2 Q.What about the condition of the detention of the Vietnamese
- 3 civilians or Vietnamese prisoners of war, whether they were
- 4 subjected to the same conditions as the other detainees or was
- 5 there any different condition?
- 6 A.Both civilian and Vietnamese military were detained the same
- 7 way as the Khmer detainees. They were interrogated and tortured.
- 8 But the Vietnamese people were not as severely tortured as the
- 9 tortures that were inflicted on the Cambodian prisoners because
- 10 we only needed their confession.
- 11 Q.Since it is now time to take an adjournment for lunch, the
- 12 Trial Chamber would like to take the adjournment and resume the
- 13 session at 1.30 p.m.
- 14 The security guards, please take the accused to the waiting room
- 15 and return him by 1.30. The parties to the proceedings are also
- 16 advised to return to the courtroom this afternoon by 1.30 p.m.
- 17 (Judges exit courtroom)
- 18 (Court recesses from 1203H to 1333H)
- 19 (Judges enter courtroom)
- 20 MR. PRESIDENT:
- 21 Please be seated. The Court is now in session.
- 22 Before we proceed further with the questioning, we would like the
- 23 technician at the Office of the Co-Prosecutor to help project the
- 24 footage with reference number in Khmer ERN-00195373 through
- 25 00195377. In English, ER Number 00189128 through 00189130.

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- 1 Can the Co-Prosecutor please connect these to the link?
- 2 MR. SMITH:
- 3 Thank you, Your Honour. We have those photographs, and we just
- 4 ask that the AV place the switch on the prosecution's screen.
- 5 [13.36.12]
- 6 MR. PRESIDENT:
- 7 The AV Unit, we only would like photos from 39 to 50 only be
- 8 shown. So the AV Unit, please switch on to the Co-Prosecutor's
- 9 monitor so that the photos can be projected concerning the
- 10 detention facility at S-21.
- 11 Next, please. Next, please. Next, please. Next, please. Next,
- 12 please. Next, please. Next, please; please not this picture.
- 13 Next, please. Next, please. Next, please. Next, please. Next,
- 14 please.
- 15 Thank you. The AV Unit, please switch to the normal mode.
- 16 BY MR. PRESIDENT:
- 17 Q.Just now, we have seen the photos of the detention cells; the
- 18 common cell and the
- 19 individual cell, in some rooms we see the beds. So what is your
- 20 impression concerning the photos, and do you accept that such
- 21 photos have been taken from S-21?
- 22 A. Your Honour, the President, these photos, all -- most of them
- 23 are the true pictures
- 24 of the detention facility of S-21 in Phnom Penh except the big
- 25 building with the bed because when I met Brother Vorn, there was

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- 1 no bed. So I believe that the photo in which the bed is inside;
- 2 I think probably after the 3rd of January 1979 that some
- 3 prisoners were put in those rooms.
- 4 Q. Thank you.
- 5 MR. PRESIDENT:
- 6 Does any Judges of the Bench who wish to actually put
- 7 questionings to the accused concerning the arrest and people who
- 8 were sent to S-21; if you would wish to do so, the floor is
- 9 yours.
- 10 Judge Silvia Cartwright, you take the floor.
- 11 [13.41.00]
- 12 JUDGE CARTWRIGHT:
- 13 Thank you, Mr. President.
- 14 BY JUDGE CARTWRIGHT:
- 15 Q.Last week, we focused on the numbers of Vietnamese prisoners
- 16 who were
- 17 arrested and detained at S-21, and you agreed with the numbers in
- 18 the list that was shown to you on that occasion. I want to ask
- 19 you now about other foreigners who were arrested and detained at
- 20 S-21.
- 21 According to ERN English 00320844 to 00320845, there were
- 22 approximately 78 foreigners detained at S-21. This document does
- 23 not appear to have been translated into Khmer or French; however,
- 24 it is not accurate because the number of Vietnamese on the list
- is far fewer than the numbers acknowledged last week.

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- 1 I want to ask you about these other nationalities. According to
- 2 the list to which I am now referring, there was one Arabian man;
- 3 five Indians, both male and female; 29 Thai; one Javanese; three
- 4 from the United States of America; three from France; two from
- 5 Australia; one from Britain; one Laotian; one from New Zealand;
- 6 and one French Indian.
- 7 Do you accept that this range of foreigners were arrested and
- 8 detained at S-21?
- 9 A. Your Honour, the western prisoners, so far as I remember and
- 10 during the period when I became the Chairman of S-21, there were
- 11 only four of them, one British, and in the recent cases
- 12 concerning the civil party in relation to the civil party, Mr.
- 13 Hamill, the New Zealander, who fell victim and died at S-21; it
- 14 is true. But the other people, the other two prisoners, I have
- 15 not read their civil party applications and complaints. That's
- 16 why I have no idea.
- 17 Regarding the other prisoners, for example Asian people, Laotians
- 18 or Thais, they may have come through the border with Cambodia
- 19 from Thailand, or maybe from sea.
- 20 [13.45.43]
- 21 Regarding Arabian and Khmer Islam that I called Muslim Khmer, I
- 22 think these people had lived in a cattle-raising farm somewhere
- 23 near Phnom Penh, and later on they were evacuated and eventually
- 24 they were arrested and kept at Sector 15 before they had been
- 25 sent to Ta Khmau Prison, and later on the last pit stop at S-21.

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- 1 So they were all Cambodian already.
- 2 So I think these people did exist in the list and, so far as I
- 3 remember, I read a list and these people were from the Arabian
- 4 village. However, I have no information or not in good control
- 5 of the other information concerning the other foreigners, and I
- 6 would like to apologize that I cannot really give you any further
- 7 detail at the moment regarding this matter.
- 8 Q.Am I right in saying, however, that you do not dispute that
- 9 range of foreigners being arrested and detained at S-21?
- 10 A. Your Honour, the reason I say that I am not yet in the
- 11 position to dispute or to agree regarding the westerners,
- 12 however, for Laotians, the Thais, I believe that they were --
- 13 some of them were victims of S-21 because they came through
- 14 Cambodia and Thailand border. But for the other people,
- 15 Arabians, I call them the people who lived and worked peacefully
- 16 in the Arabian village -- I call it -- and I don't have any
- 17 further information regarding other westerners.
- 18 JUDGE CARTWRIGHT:
- 19 Thank you. Just to clarify, in relation to all foreigners -- I'm
- 20 sorry -- Maître Roux?
- 21 MR. ROUX:
- 22 Apologies, Your Honour; could you repeat the ERN number of this
- 23 document, please, or the reference number of the file?
- 24 [13.48.37]
- 25 JUDGE CARTWRIGHT:

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- 1 It's E52/4.62, ERN 00320844 to 00320845.
- 2 Do you have any further questions?
- 3 BY JUDGE CARTWRIGHT:
- 4 Q.Yes, well, returning then, for clarification can you confirm
- 5 that all foreigners who were arrested and detained at S-21 were
- 6 treated in the same way as Cambodian prisoners; that is,
- 7 generally they were shackled or handcuffed, blindfolded, and
- 8 detained in cells or common cells at S-21?
- 9 A. Your Honour, either Cambodians or not, for the detention in
- 10 the room or whether they were shackled only to one foot or to
- 11 both feet, they were shackled and they were not handcuffed or
- 12 blindfolded. That is the daily routine.
- 13 And for the foreigners who were the westerners, the four
- 14 westerners I mean, from what I can recall the condition of their
- 15 arrest and interrogation was done at the special prison. They
- 16 had -- there might be a mat for them to sleep on and their food
- 17 ration was better and also I had a special interrogator for them.
- 18 Of course, the torture was not avoidable.
- 19 Separately, for other nationals whom I called the Muslim Khmer,
- 20 they were treated the same way as the Cambodian prisoners. And
- 21 for the Muslim Khmers who lived at the other village, they were
- 22 not interrogated because it was not reported about their
- 23 confessions to the upper echelon. I only saw the list of their
- 24 names.
- 25 [13.51.45]

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- 1 So, in conclusion, those who were not Cambodians were only the
- 2 westerners, as I reported to Your Honour earlier -- the four of
- 3 them -- and the rest, they were like Cambodians because they were
- 4 from the Arabian village. They were Muslim Khmer in the village;
- 5 they were not interrogated. So when they were arrived they were
- 6 just a bit later on smashed because, from what I can recall, I
- 7 did not report it about their confessions to the upper echelon.
- 8 That is my response, Your Honour.
- 9 Q.Thank you. And apart from that, were the conditions also the
- 10 same for these foreigners, namely, that there was very limited
- 11 medical treatment, the food was poor, they had inadequate
- 12 clothing, and the same conditions for relieving themselves. Is
- 13 that correct?
- 14 A. Your Honour, that is correct, expect for the four westerners
- 15 who were treated differently. Thank you.
- 16 Q. Thank you. I want to turn now to another category of those
- 17 who were arrested and detained at S-21, that is the category of
- 18 women and children.
- 19 According to the document E68.8, English ERN 00331261 the
- 20 percentage of children identified as detained at S-21; that is,
- 21 the percentage of the total prisoners was 1.1 percent. And the
- 22 percentage of women was 21.8 percent.
- 23 Have you had an opportunity of seeing that chart?
- 24 A. Your Honour, I haven't seen the chart, but I can recall there
- 25 is a document stating that 160 children were taken out. So I

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- 1 think 160 is more than 1 percent of the total prisoners detained
- 2 at Tuol Sleng. That is from the documents that I have seen.
- 3 [13.55.17]
- 4 Q.Yes, I think you are right in that calculation because the
- 5 chart is based on children whose names have been listed as being
- 6 detained at S-21. So I'll look at those first; that is, the
- 7 children whose names were listed and they are to be found at
- 8 E68.7, English ERN 00331257 to 00331260.
- 9 Maitre Roux?
- 10 MR. ROUX:
- 11 Your Honour, I apologize. Would it be possible for the accused
- 12 to have the document in front of him every time a document is
- 13 referred to for questioning? Perhaps it would be possible for
- 14 the Greffier to give a copy. We have access to these in our
- 15 computers, but he doesn't know what we are talking about.
- 16 JUDGE CARTWRIGHT:
- 17 Yes, thank you, Mr. Roux. It seemed unnecessary for the chart,
- 18 but I was about to ask for this list to be placed on the screen.
- 19 Can the Greffier put this list on the screen; alternatively, the
- 20 Co-Prosecutors'?
- 21 MR. SMITH:
- 22 Your Honours, if the Greffier is unable to, we have it on the
- 23 screen at the moment.
- 24 JUDGE CARTWRIGHT:
- 25 Well, in that case, could I ask the A/V Unit to transfer to the

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- 1 Co-Prosecutors' screen?
- 2 [13.57.45]
- 3 BY JUDGE CARTWRIGHT:
- 4 Q.I want you first to look down the pages at the ages -- where
- 5 they are listed -- of these children, please. Say when you want
- 6 to turn to the next page.
- 7 Have you had enough time to consider the ages -- oh yes, end of
- 8 the document here?
- 9 A. One more page?
- 10 Q.One more page.
- 11 Now, is it correct to say that the majority of the children,
- 12 whose ages are listed, are aged between 15 and 18 years?
- 13 A. Your Honour, that is correct.
- 14 Q. And that some of these are listed, for example, as a spy, a
- 15 secret agent, child bandit. Is that correct? Have you had a
- 16 chance to look at those? But most of the children are referred
- 17 to as workers of some description, combatants, medics and
- 18 similar. Is that true?
- 19 A. Your Honour, that is correct.
- 20 Q.Now, you referred earlier to a document which mentioned a
- 21 number of 161 children. I don't want to look at that document at
- 22 the present time, but can I assume that most -- that there were
- 23 many more children of a much younger age who were arrested and
- 24 detained at S-21; many more children than those listed on the
- 25 document that we are looking at at the moment?

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- 1 A. Your Honour, the 160 children whom I've mentioned were not
- 2 properly listed. From what I can recall, they were taken from
- 3 Prey Sar. So for the children who were removed from Prey Sar,
- 4 they range in age from three and four years old up, and they were
- 5 not in a similar type that are listed in this list. So I
- 6 believe, yes, there were more children. This is for your
- 7 information, Your Honour.
- 8 [14.03.00]
- 9 Q.Thank you. So it does seem, doesn't it, that the children on
- 10 this list are those who have been arrested for some offence or
- 11 other, rather than simply for being children. Is that correct?
- 12 A.Your Honour, your statement is correct because the names who
- 13 were listed on this list here they must have committed an
- 14 offence, because for the children who are accompanying the
- 15 mothers, their names would not be listed.
- 16 Q.And just for clarification, why did you not bother to list the
- 17 names of the children who accompanied their mothers?
- 18 A. Your Honour, in naming the children who accompanied their
- 19 mothers or fathers, it
- 20 was part of the operation which was practiced before I took
- 21 control of S-21. So it was a previous practice that I'd
- 22 followed. And I personally, as I mentioned repeatedly, for the
- $\,$ 23 $\,$ children, I gave myself in to the revolutionary view because I $\,$
- 24 did not want to defend the children and try to arrest them, and
- 25 they did not survived. So I took and advised that if I paid my

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- 1 attention to them, they might revenge me later on. So there are
- 2 two parts here, they're not listing the names of the children
- 3 were they practiced by the Office 703 and I just followed the
- 4 practice, and I also approved of this practice.
- 5 Q. Thank you.
- 6 And you have, of course, explained previously how you tried to
- 7 save three children unsuccessfully, but you have also spoken to
- 8 the Co-Investigating Judges about your regret that you did not
- 9 try harder; is that correct?
- 10 A. Your Honour, that is correct. I did not use the pretext to
- 11 conceal my crimes on the
- 12 children. I gave in to their view; that is a different thing.
- 13 [14.05.55]
- 14 Q.And a clarification for the Co-Investigating Judges, document
- 15 D42/1/4 ERN 00197738 you spoke of observing other Khmer Rouge
- 16 people who managed to keep children alive, but you regretted not
- 17 having done the same yourself; is that correct?
- 18 A. Your Honour, the regret, the shamefulness that I have
- 19 constantly stays with me.
- 20 Q.Now, the list that is still up on the screen is of children
- 21 who were arrested and
- 22 detained for some perceived offence. Can you tell me if they
- 23 were arrested and detained in shackles, in common cells, with the
- 24 same conditions as other prisoners?
- 25 A. Your Honour, that is correct. It was in the same condition,

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- 1 although I did not
- 2 physically go and observe the situation, but I believe they were
- 3 detained in the same condition.
- 4 Q.I'd like to turn to another category, and bearing in mind
- 5 we're speaking, at this
- 6 stage, only of arrest and detention at S-21 -- not about
- 7 confessions or torture or anything like that -- I want to refer
- 8 you to document E68.6, ERN 00331192 to ERN 00331256.
- 9 JUDGE CARTWRIGHT:
- 10 Perhaps the Co-Prosecutors could put that schedule up on the
- 11 screen, please. It's a very lengthy one.
- 12 [14.08.29]
- 13 MR. SMITH:
- 14 Yes, Your Honours, we're just locating that now.
- 15 JUDGE CARTWRIGHT:
- 16 Thank you.
- 17 Could you turn to the last page, please? Thank you.
- 18 BY JUDGE CARTWRIGHT:
- 19 Q.Now, this document is one with the title, "Prisoners
- 20 Identified as Women, " and you
- 21 will see on the last number of the last page that 1,698 women
- 22 were identified as having been arrested and detained at S-21.
- 23 Do you have any comment to make on that number?
- 24 MR. ROUX:
- 25 Madame? Madame?

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- 1 JUDGE CARTWRIGHT:
- 2 Yes?
- 3 [14.11.08]
- 4 MR. ROUX:
- 5 Your Honour, I apologize. It would be necessary to specify that
- 6 the title that you've mentioned is a title that was provided by
- 7 the Co-Prosecutor; it's not a title that was provided by S-21.
- 8 This list is a compilation that was established by the Office of
- 9 the Co-Prosecutors, and I think this should be specified for the
- 10 record, and therefore the titles provided are provided by the
- 11 Office of the Co-Prosecutors.
- 12 These, therefore, are not original documents coming from S-21.
- 13 Thank you.
- 14 JUDGE CARTWRIGHT:
- 15 Yes, thank you Maître Roux.
- 16 This document, along with the two others I have referred to
- 17 today, and the lists and charts concerning Vietnamese arrested
- 18 and detained at S-21, are all taken from the overall list of
- 19 prisoners and broken down into categories, and this was done by
- 20 the Office of the Co-Prosecutors.
- 21 BY JUSTICE CARTWRIGHT:
- 22 Q.Returning to this document, Kaing Guek Eav, do you see the
- 23 number 1,698 as being the total?
- 24 A. Your Honour, I have already seen it on the first column.
- 25 [14.12.41]

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- 1 Q.Now, just staying with that last page, if we look at the
- 2 position that these women held, some are described as being wives
- 3 of other people; there is a daughter -- a few daughters of other
- 4 people, a woman combatant, a mother, a journalist from a Japanese
- 5 newspaper, and someone from Logistics. So the range of women who
- 6 were held at S-21, did they fall into two broad groups; relations
- 7 of other prisoners and women arrested and detained in their own
- 8 right, shall I say?
- 9 A. Your Honour, most of the women who were detained at S-21 were
- 10 detained because of their husbands. For example, the wife of
- 11 Khva Leang, the wife of Thuon, or Khuon. So these women only
- 12 were arrested because their husbands who were also arrested. And
- 13 the others were arrested because they were the daughters of the
- 14 people who were arrested.
- 15 On the same page in front of me, the people on the fourth column,
- 16 the title is Yong Eng and then number 5, women combatants from
- 17 M-17, and also the woman on the 10th line, You Touch from the
- 18 Logistics, and also the reporter, the Japanese reporter. So the
- 19 others were just wives and daughters.
- 20 [14.15.35]
- 21 So, in general, the women who were detained at S-21 were because
- 22 they were the mothers -- sorry, the wives or the daughters of the
- 23 people who were arrested, or they had affiliation with the former
- 24 enemies and the former regime.
- 25 Q.In fact, there were very few high-ranking or important women

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- 1 who were arrested and detained at S-21. Is that right?
- 2 A. Your Honour, it is correct.
- 3 Q.So the vast majority were arrested and had committed no
- 4 offences at all so far as you, the Chairman of S-21, was aware.
- 5 Is that correct?
- 6 A.That's correct. I think more than 50 percent of the women who
- 7 were arrested did not have committed any offences.
- 8 Q.You've described the conditions at S-21 for men and you have
- 9 said that the women were allowed to keep their full clothing and
- 10 sometimes worked outside. Did they receive adequate food while
- 11 they were at S-21?
- 12 A. Your Honour, I would like to give my assumption regarding the
- 13 food ration, and I can conclude that they were not given adequate
- 14 food as the people who enjoyed liberty and freedom. Even people
- 15 who were not detained still did not have adequate food to eat,
- 16 let alone people who were detained. So I can conclude that
- 17 prisoners at S-21, regardless of whomever he or she was, was not
- 18 given any adequate food.
- 19 [14.18.22]
- 20 Q.Were they shackled, handcuffed or blindfolded at any time
- 21 during their arrest and detention?
- 22 A. Your Honour, I have just learned about this later on. The
- 23 people were not shackled or handcuffed, even days or night, so
- 24 they were not blindfolded either.
- 25 Q.I know that many -- or at least some of the women -- had young

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- 1 children with them when they were arrested. Is that correct?
- 2 A. That is correct, Your Honour.
- 3 Q.And these young children would presumably be up to the age of
- 4 about 10 or 12 years. Would that be right?
- 5 A.It is right, and some were even younger than that. Some
- 6 children were as young as 12 months.
- 7 Q. These very young children, were they kept with their mothers
- 8 in their mothers' cells?
- 9 A.I'm not quite sure, but later on I heard that the children
- 10 were separated from the mothers and those children were smashed.
- 11 Because they needed that the mother be kept to be interrogated,
- 12 they had to separate the children to be smashed.
- 13 [14.20.22]
- 14 Q.Did you make a round of the prison most days?
- 15 A. Your Honour, to be precise, I had visited a few times at the
- 16 special prison, but at the general prison I never visited the
- 17 premises. But I did spend some time at the interrogation
- 18 location.
- 19 Q.As you walked around the prison on your day to day business,
- 20 did you hear any children in distress?
- 21 A.As I already mentioned, I did not walk around the prison
- 22 compound. In the whole life of operation of S-21, I only visited
- 23 the special prison for five to 10 times and I never entered the
- 24 general prison. I only visited the workshops and I never saw any
- 25 children running or playing, or maybe the children had already

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- 1 been taken away to be smashed or separated, taken away to Prey
- 2 Sar. I have no idea.
- 3 Q.Can I ask if the women and children had medical treatment,
- 4 even if they were not to be interrogated?
- 5 A.I can say that any women or children who needed to be used by
- 6 S-21, then their medical treatment would be taken care of better
- 7 than the other -- compared to the other prisoners. Otherwise,
- 8 they would be taken to Choeung Ek to be smashed.
- 9 Q.And did they have the same facilities for relieving themselves
- 10 as the male prisoners?
- 11 A. Your Honour, I'm not quite sure about this. I think they
- 12 might have lost the rights or the nature of being women, I mean
- 13 when it comes to relieving themselves. I think there would
- 14 probably be a room reserved for them to relieve themselves, but
- 15 I'm not really quite sure.
- 16 [14.23.47]
- 17 O. Were there any arrangements made for the special hygiene needs
- 18 of women and children?
- 19 A. The women and children were not very special than the other
- 20 people or ordinary detainees. As I told you already, the young
- 21 children and the other children were separated from their mothers
- 22 and there was no proper arrangements. And for women who they
- 23 thought that there would be interrogation needed, then they would
- 24 leave her for some time. Otherwise, they would be smashed.
- 25 [14.24.46]

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- 1 Q.We know that for a period female guards or interrogators were
- 2 employed, but most of the time male guards guarded the women and
- 3 children. Is that correct?
- 4 A. Your Honour, the female interrogators and interrogated female
- 5 detainees were installed, but I don't remember when they were
- 6 installed, but I did assign them to do so. But there were no
- 7 female guards, so there were only male guards who guarded female
- 8 detainees.
- 9 Q.So their care and their privacy was not a matter of any
- 10 concern for you as the Chair of S-21. Is that correct?
- 11 A.It is correct. I left this work to my subordinates to manage
- 12 it because it was part of their direct control. They, of course,
- 13 were responsible to me, but they were assigned to be under their
- 14 control and they had to master the situation by not allowing any
- 15 detainee to fight against them or to abscond.
- 16 JUDGE CARTWRIGHT:
- 17 Yes, thank you, Mr. President. I have no further questions at
- 18 this time.
- 19 That chart can be removed from the screen now. Thank you.
- 20 MR. PRESIDENT:
- 21 Are there any other judges of the Bench who would wish to put
- 22 further questions to the accused concerning the current fact?
- 23 Judge Lavergne, you take the floor.
- 24 [14.27.24]
- 25 BY JUDGE LAVERGNE:

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- 1 Q.Reference has just been made to the composition of the
- 2 population of S-21, in particular, foreign prisoners. I would
- 3 like to return to a particular point and that is to say Chinese
- 4 prisoners; you have said there were Chinese prisoners. Could you
- 5 explain why Chinese prisoners were detained at S-21?
- 6 A.Regarding the Chinese prisoners, I still remember that, first,
- 7 there were the Chinese immigrants. They were among the Cambodian
- 8 people. They were part of the Cambodian people and population.
- 9 So they were arrested because they committed wrongdoing in the
- 10 Kampuchean authority.
- 11 And, number two, there were some Chinese immigrants who served
- 12 the Communist Party of Kampuchea before they entered the party,
- 13 but still they were arrested because they had some problems
- 14 during their work, including the implications found in the S-21
- 15 confessions that led to the arrest of those people.
- 16 For example, one Chinese immigrant, his name was Nget You, alias
- 17 Hong. It's already a Cambodian name, Nget You, N-G-E-T Y-O-U.
- 18 Brother Nget You was arrested along with So Chea and So Yok, also
- 19 the Chinese immigrants; So Chea, S-O C-H-E-A and So Yok S-O
- 20 Y-O-K. These three Chinese immigrants were within the ranks of
- 21 the Communist Party of Kampuchea revolution, so this is my
- 22 response. First, the people; second, those within the inside
- 23 rank of the Party.
- 24 Q.Were they treated in -- was there special treatment for this
- 25 category for the population living in Cambodia, or were they

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- 1 treated exactly in the same fashion as the others, or the fact of
- 2 them being of Chinese origin, did this already lead them to be
- 3 considered as enemies a priori, you could say?
- 4 A.In the general operation, the ethnic -- the Chinese immigrants
- 5 were regarded as the Cambodian people. There was no
- 6 differentiation between the Chinese immigrants and the Khmer
- 7 people regarding the types of offence.
- 8 Q.This morning, you talked about a number of persons arrested
- 9 and detained in S-21. Reference was made to the number of people
- 10 in the indictment order and you referred to explanations in
- 11 relation to the lists which, if I understood you correctly, state
- 12 the notion of persons released. And if I understood you
- 13 correctly, this morning you said that such indications on such
- 14 documents were false indications, false information. Have I
- 15 correctly understood what you stated this morning?
- 16 A. Your Honour, what I have said is fully grasped by you, Your
- 17 Honour.
- 18 Q.You referred to several documents. I'm not sure we have all
- 19 the ERNs for all the documents, but I do believe you have
- 20 referred to notebooks and, in particular, the notebook of a
- 21 particular interrogator. I'm not too clear, I must say, as to
- 22 why in such notebooks such a person would have made false
- 23 allegations as to the release of prisoners. Could you provide
- 24 some kind of explanation, please?
- 25 A.First I would like to clarify the notebook. The notebook

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- 1 belongs to Brother Mam Nai, alias Chan. Initially Nat assigned
- 2 Brother Mam Nai as his secretary, his assistant, as a clerk. He
- 3 also assigned Brother Mam Nai as the Chairman of Office M-21,
- 4 which was not recognized by the upper echelon.
- 5 On the third page of the notebook there were a list of -- on
- 6 three pages of the notebook there was a list of 11 persons which
- 7 were annotated to be released. Later on Nat approved their
- 8 release. In order to verify this matter I would like Your
- 9 Honours' leave to show the three pages on the screen.
- 10 Q.Do you have the reference numbers? I'm not sure we should go
- 11 to this kind of length since there is a chance that we shall be
- 12 hearing one of these persons as a witness.
- 13 [14.35.49]
- 14 However, I would like to continue on Nat. You referred to Nat.
- 15 Why would written documents bear the statement to the effect that
- 16 these persons had been released? Was this a coded expression?
- 17 Was it a covert way of saying that actually these people had been
- 18 executed? Would "release" in this case mean "execute"?
- 19 A. Thank you, Your Honour. The word used by Nat as released is a
- 20 façade to conceal his offences; that he violated the
- 21 organizational line of the Party. This is my response to you,
- 22 Your Honour.
- 23 Q.So this means that those persons had been executed without
- 24 having been questioned. Is this the way in which Nat violated
- 25 the line? How did he violate the line?

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- 1 A.From the practice that I have heard at the M-13, nobody had
- 2 the authority to arrest anyone except when the upper echelon made
- 3 a decision, and then the Police Office would only just receive
- 4 them. However, Nat himself made a decision to arrest people, so
- 5 he subjectively decided to arrest and then, later on, he was
- 6 scared of his action and he used the word for the release to
- 7 conceal his activity.
- 8 Q. How did you find out about this lie or this deception on the
- 9 part of Nat? How did you find out?
- 10 A.First, when I was his deputy I heard You Peng Kry when he told
- 11 me -- he told me that Nat was very clever. Anyone who attempted
- 12 to assassinate him was arrested by him on time. And You Peng
- 13 Kry, alias Mon, said he drove his car to crash into the Angkar's
- 14 car, and the words that You Peng Kry referred to, Angkar, he
- 15 meant Nat. So this is the first incident.
- 16 [14.40.43]
- 17 Secondly, when I heard that I was not contented. I thought the
- 18 arrest of the people in violation of the principle would one day
- 19 learn by Angkar, and after Angkar learned it then Nat would be
- 20 arrested and I would also be arrested for collusion. Therefore,
- 21 when it was quiet I talked to Nat to give him some advice. I
- 22 told him, "Brother, we made decisions executively and it was
- 23 dangerous."
- 24 Nat responded to me, "They wanted to assassinate me, so this is a
- 25 serious offence." Two or three days later Son Sen called both of

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- 1 us for work assignment, and toward the end of the agenda Nat
- 2 reported to the superior. He reported that the people attempted
- 3 to assassinate him, and when he saw it while he was driving he
- 4 put more pressure on the accelerator, and he went turned on the
- 5 light he saw three or four people moving in various directions
- 6 from the direction of the car he was driving. So he did not
- 7 finish his report yet.
- 8 Then Son Sen, my superior and also Nat's superior, blamed him.
- 9 It seems that he knew something in advance. He said, "When you
- 10 made a decision to arrest them for your own safety, it's very
- 11 individualism, " and Nat was quiet and did not respond, and I was
- 12 quiet too. From that day onward I did not talk much because I
- 13 knew that this matter was known by the superiors so I was no
- 14 longer afraid of what happened next. It would be known by the
- 15 superiors that I did not collude with him.
- 16 Thirty years later, when I was interviewed, the Co-Investigating
- 17 Judges asked me first, from December to March, there was a
- 18 chairman named Sen. I told the Co-Investigating Judges that Sen
- 19 was Nat. And secondly, they asked me, during the Siem's time,
- 20 about 18 people were released, "What happened?" "What is the
- 21 story?" "Eighteen people" -- and I reported to the
- 22 Co-Investigating Judges that I did not know what documents that
- 23 (inaudible) Nat based on.
- 24 [14.45.40]
- 25 So when Your Honour asked me on these points, I did not have any

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- 1 other documents to report to Your Honour, to the Co-Investigating
- 2 Judges at the time so I was quiet. And, later on, I think it was
- 3 also in the record of interview, the Co-Investigating Judges gave
- 4 me notebooks of Brother Mam Nai.
- 5 After I looked at the pages, then I found those information as I
- 6 just described. It was on page 00077. It is the ERN 00077978.
- 7 There was a list of five persons with Nat's signature clearly.
- 8 So I said, "Oh, now I find the evidence".
- 9 And later on, recently, I received a copy of the civil parties'
- 10 complaint. It's the E2/47, the civil party complainant, and
- 11 E2/55 and E2/56. They said that their younger sibling -- they
- 12 said about their children -- they said the child, Min Kan, was
- 13 released on the list but how come he disappeared and there was no
- 14 new about him -- no news about him?
- 15 And E2/55 said his brother Beng Pum was missing and how come it
- 16 was so because he was released according to the list? And for
- 17 E2/56, Yun Loeun, the nephew was also named as to be released but
- 18 the person was missing.
- 19 So now, we have a document and civil party complainants whom I
- 20 regard as the witnesses. So they used the words "released" but
- 21 were missing.
- 22 So in conclusion, for this overview, I can't presume that the
- 23 release was fake and, in fact, they were all killed. Nobody
- 24 could be released when they were already sent to security office
- 25 and presumed enemies.

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- 1 MR. PRESIDENT:
- 2 Thank you.
- 3 I think the Chamber would like to take an adjournment for 20
- 4 minutes. We will resume at three p.m.
- 5 (Judges exit courtroom)
- 6 (Court recesses from 1450H to 1514H)
- 7 (Judges enter courtroom)
- 8 MR. PRESIDENT:
- 9 Please be seated. The Court is now in session.
- 10 Mr. Co-Prosecutor, I note your presence.
- 11 MR. SMITH:
- 12 Thank you, Mr. President. Good afternoon.
- 13 Just a brief matter just in relation to the planning for the
- 14 questioning of the accused from the parties' perspective; I
- 15 would ask whether or not Your Honours intend to question the
- 16 accused on S-21 and Choeung Ek together or whether or not those
- 17 topics will be dealt with separately so we can plan for our
- 18 questioning?
- 19 [15.14.59]
- 20 Additionally, I would also ask that, if the questioning will be
- 21 separate and the accused will only be questioned on S-21 before
- 22 talking about Choeung Ek, I would ask that at the end of the
- 23 Trial Chamber's questions that the parties be able to make a
- 24 brief submission to Your Honour as to what time limit it thinks
- 25 it may require in order to pick up any extra questions that they

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- 1 felt was relevant to ascertain the truth.
- 2 And perhaps, just one last matter, bearing in mind the central
- 3 importance of this topic -- the day-to-day functioning of S-21 --
- 4 the prosecution would also ask that, if possible, when Your
- 5 Honours have finished questioning, that it takes the rest of the
- 6 day in order to review all of the questions asked by the Trial
- 7 Chamber so that it can present its questions to the accused in
- 8 the most effective way possible. And I think that would have the
- 9 effect of limiting the time despite the fact there would be a few
- 10 hours break in order to review everything that has been asked.
- 11 (Deliberation between Judges)
- 12 MR. PRESIDENT:
- 13 Thank you for the -- to the Co-Prosecutor for raising the
- 14 question. This is one of the issues that we have attempted for
- 15 discussion during our trial management meeting on the 11th of
- 16 June 2009; however, because of the time limit, we did not cover
- 17 this issue.
- 18 Secondly, the Trial Chamber, taking account into (sic) the
- 19 current proceedings and a huge number of questions for
- 20 clarification of the fact as now has been raised by the
- 21 Co-Prosecutor, it is also in conjunction with the Chamber to try
- 22 and find the better solution leading to justice and expedition.
- 23 [15.22.00]
- 24 However, because of the complexity of the matter, it is very hard
- 25 to regulate the regulations for the proceedings, and the Chamber

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- 1 would request that by the end of today's hearing, we will hold
- 2 another internal meeting to discuss, and we will inform the
- 3 parties and the public on the method to proceed for the two
- 4 facts; that is, the fact related to S-21 and Choeung Ek or S-24.
- 5 And the second matter as raised by you, if the Chamber proceeds
- 6 with the predetermined facts without any amendment so the time
- 7 and location for its party, how it can be allocated. From the
- 8 view of the Chamber, the proceeding will continue until each fact
- 9 is finished, and then the opportunity will be given to each party
- 10 to put questions to the accused. We think this is expeditious
- 11 because, during the Chambers questions, you would have noted the
- 12 questions and to seek appropriate documents for the times that
- 13 you would ask the question when the time comes.
- 14 As advised this morning it is for the purpose of listening to the
- 15 testimony of the witnesses, not regarding the questionings of the
- 16 facts to the accused. So what was raised this morning is not
- 17 appropriate for the types of questionings we pose to the accused.
- 18 So the Chamber accepts the question, and we would discuss and
- 19 inform the parties of the decision.
- 20 Mr. Alain Werner, I notice your presence.
- 21 MR. WERNER:
- 22 Just very briefly, Your Honour, just to inform your Bench from
- 23 the bench of the civil parties -- and I'm talking on behalf of
- 24 the four groups of civil parties -- Judge Cartwright on Thursday,
- 25 in Closed Session, asked us a question and whether we could come

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- 1 back with some indication. We met and we have some answers. I'm
- 2 afraid it's not a complete yes, but I think we did give some way
- 3 and we would be happy to inform your Bench whenever.
- 4 [15.25.09]
- 5 It was raised in Closed Session, so I'm not sure how you want to
- 6 proceed, but just for Your Honours to know that we are in a
- 7 position to give some indication.
- 8 (Deliberation between Judges)
- 9 MR. PRESIDENT:
- 10 Judge Cartwright, you take the floor.
- 11 JUDGE CARTWRIGHT:
- 12 Thank you very much for that indication, that you have met to
- 13 discuss the rather closed question I put to you during the Trial
- 14 Management Meeting.
- 15 It would be very helpful if you could give an indication of how
- 16 far you have reached in agreement thus far, and I also indicate
- 17 that I know the Co-Prosecutors and the defence will have
- 18 information for the Chamber arising out of that meeting but, as I
- 19 understand it, they're not quite ready yet to give us this
- 20 information but, in the meantime, we can hear from the civil
- 21 parties, Mr. Werner. Thank you.
- 22 MR. WERNER:
- 23 Thank you, Your Honour. So as you told us, and you referred to
- 24 your decision dated 30th of April 2009, excluding basically what
- 25 are the survivors, we the four groups intend to call 20 civil

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- 1 parties, and I should note that one application from group 4 is
- 2 outstanding still in front of your Chamber pending a decision.
- 3 But we have -- for our meeting we have considered that we have
- 4 21, then, civil parties and, once again, excluding the survivors,
- 5 five for the group 1, nine for the group 2, and four and six for
- 6 the group 3.
- 7 [15.27.53]
- 8 Now, the indication, which had been given before your order when
- 9 we filed in February our estimates, we at that time -- we went
- 10 back to the filings. We were estimating 60 hours; 17 hours for
- 11 group 1, 28 hours for group 2 and 4, and 15 hours for group 3.
- 12 And we understand, considering the fact that we are sitting about
- 13 five hours a day I would say -- so if you say five days it means
- 14 25 hours. That's what you told us.
- 15 So all of us over the weekend went back to our clients and to our
- 16 lists to try to reduce as much as we could, and we -- the
- 17 situation -- and again I'm talking on behalf of all groups -- the
- 18 situation is now from 60 hours altogether, we are down to 37
- 19 hours; 11 hours for the group 1, 15 hours for group 2 and 4, and
- 20 11 hours for group 3, which is about 40 percent reduction.
- 21 And we do not think we can do much better considering the fact
- 22 that these civil parties on talking on behalf of our 93 almost
- 23 civil parties and that many of our clients for the group 3 --
- 24 many are coming from France. All groups are coming, as you know,
- 25 from overseas as well, and we really do not believe that we can

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- 1 do much more than that.
- 2 So it's not quite a yes, but we feel that it's significant
- 3 progress and we would inform Your Honours, and we are ready to
- 4 elaborate or file or give you any detailed indication based on
- 5 those figures.
- 6 JUDGE CARTWRIGHT:
- 7 Thank you, Mr. Werner. I think on behalf of the Chamber, I can
- 8 probably say that we will consider this information and advise
- 9 you of the Trial Chamber's views as soon as possible, but thank
- 10 you for making the effort -- all civil party groups -- to achieve
- 11 what you have already done. Thank you.
- 12 [15.30.25]
- 13 MR. PRESIDENT:
- 14 Before we continue our questioning, the Trial Chamber would like
- 15 to inform the parties that the Chamber accepts the request by the
- 16 lawyer Pierre-Olivier Sur for his assistant to sit and listen in
- 17 the courtroom, and the Chamber approves this request from this
- 18 day onward.
- 19 So the civil party group which is represented by Pierre-Olivier
- 20 Sur can arrange for his assistant to sit in the courtroom and
- 21 take note of the proceedings in order to be notified to
- 22 Pierre-Olivier Sur, as he requested.
- 23 Next, the Chamber will now continue to put the questions to the
- 24 accused, and I now would like to -- is the lawyer present?
- 25 MR. HONG KIMSUON:

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- 1 Mr. President, he sits in the public gallery and from tomorrow he
- 2 will sit in the courtroom.
- 3 MR. PRESIDENT:
- 4 I would like now to give the floor to Judge Lavergne to continue
- 5 his questioning to the accused regarding the current facts.
- 6 BY JUDGE LAVERGNE:
- 7 Q.So back to the question of arrests. When we were talking
- 8 about the policies of CPK, a lot of reference was made to the
- 9 principle of secrecy. You said that the decisions to make
- 10 arrests always took place in advance; this was never improvised.
- 11 [15.32.53]
- 12 I would like to ask you what particular arrangements were made to
- 13 guarantee that arresting people was performed in a very secret
- 14 fashion. Was erroneous information given to potential arrestees?
- 15 Were they trapped, so to speak? Were they called in a misleading
- 16 way, not giving them any indication that they were, in fact,
- 17 being arrested? Thank you.
- 18 A.Mr. President, Your Honour, I cannot fully understand your
- 19 question, however, I will try to explain to Your Honour that the
- 20 main principle is not to break the secrecy. And as for the
- 21 individuals to be arrested, they were not aware that they would
- 22 be arrested.
- 23 And as for the decisions, all the decisions were made by the
- 24 upper echelon. The lower level, once the decision was made from
- 25 the upper level, would have to implement the decision strictly;

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- 1 that is, not to break the secrecy, not to let them protest and
- 2 not to let them escape.
- 3 I would like to further clarify that anyone who had no authority
- 4 to smash and make a decision to arrest would be in trouble.
- 5 Therefore, when Nat made a decision to arrest the people without
- 6 seeking approval from the upper echelon he had to conceal that
- 7 activity. And also, as a historical document, this document was
- 8 shown that he was noticed by the upper echelon. But if I inform
- 9 the Chamber on this matter now I think it would -- I would stray
- 10 off the facts so probably this is not the right time for me to
- 11 report to Your Honours.
- 12 [15.36.19]
- 13 And I would like to conclude my response to you now. So if my
- 14 response is not clear you can put more questions.
- 15 Q.A considerable number of persons were arrested. There were
- 16 people who were arrested in an individual capacity, high up
- 17 people or people with high duties and you have your said self
- 18 (sic) that some of these arrests took place at your residence and
- 19 they were also cases when many people were arrested at the same
- 20 time. I'm referring to people being arrested within regiments,
- 21 army divisions where large groups of people were arrested at the
- 22 same time.
- 23 So could you possibly give us some examples and clarify for us
- 24 whether specific arrangements were made to make sure that
- 25 information concerning these arrests -- to make sure that such

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- 1 information would not be circulated amongst, let's say, family
- 2 members or army ranks?
- 3 Thank you.
- 4 [15.38.03]
- 5 A.I think your question targets the general detention. For the
- 6 general detention it had to be done within the framework of
- 7 authority. Within the Central Army the General Staff would make
- 8 the decision. After the decision was made then the lower level
- 9 would try their best not to break the secrecy.
- 10 For example, the decision to receive people from the 170 and 290
- 11 Divisions, when they were transported out then their respective
- 12 units had to organize among themselves. So then the most
- 13 important thing is they kept silent. So you see the secrecy they
- 14 maintained within their respective units.
- 15 And as for S-21, to keep our secrecy means not to allow the
- 16 guards or the interrogators to communicate with other units. So
- 17 any communication within units, especially from S-21 to other
- 18 units, was prohibited. Anybody who went outside to communicate
- 19 with an outsider was suspicious. So this is my clarification on
- 20 this matter.
- 21 Q.Were there misleading pretexts that were put across to people
- 22 to arrest them; for instance, you are to go to a training session
- 23 or you are to meet such and such a person, these pretexts being
- 24 knowingly misleading? Would this have been a common practice?
- 25 A. The term "misleading pretexts" I think it is true it is called

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- 1 a strategy or a tactic and they had used these tactics all the
- 2 way from the very beginning. In the case of Chhim Sam-Aok, alias
- 3 Pong, he walked to S-21 to be arrested according to the order
- 4 from Nuon Chea. He asked that Pong bring with him the confession
- 5 to seek clarification with me and then I knew that whenever Pong
- 6 came then he would be arrested immediately.
- 7 When Koy Thuon came he was escorted by Pong but at that time I
- 8 did not know what kind of slogan was used. When Koy Thuon
- 9 arrived S-21 people arrested him immediately. In general they
- 10 used a kind of pretext that people would be sent to be educated.
- 11 Sometimes they would be told that they would be going to start at
- 12 work.
- 13 So in conclusion, normally before people were arrested such a
- 14 misleading pretext was used.
- 15 [15.43.51]
- 16 Q.So generally speaking people were arrested and taken by
- 17 surprise and once they were arrested were they told why they were
- 18 arrested? Were they told why they were arrested?
- 19 A. Your Honour, people were not told, so the interrogators who
- 20 interrogated the prisoners were never told to tell the prisoners
- 21 about this. Some people who studied these cases would have
- 22 knowledge of them.
- 23 Q.And, generally speaking, the transferring of prisoners from
- 24 the place of arrest to S-21, would such transport take place at
- 25 the times of day when there were few people around; like more in

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- 1 the nighttime than in the daytime for the same purpose of
- 2 maintaining secrecy?
- 3 A. Your Honour, I think I cannot recall, and I cannot answer in
- 4 one sentence, but it may have been during the time when there
- 5 were fewer people around.
- 6 I would like to also emphasize that Phnom Penh, at that time, was
- 7 very quiet. There were not many people on the streets.
- 8 [15.46.01]
- 9 Q.We're moving on to another subject; conditions of detention.
- 10 You have stated that once detainees arrived in S-21, they were
- 11 told to take off their clothes; at any rate as far as the men
- 12 were concerned, and then they just stayed in their underwear.
- 13 What was done with all that clothing; where did all that clothing
- 14 go?
- 15 A.I'm not sure regarding this, however, the remainings of the
- 16 stacks of those clothes still left at the location. I don't know
- 17 what were done with the clothes because normally they would not
- 18 be used by others.
- 19 I would also like to recall the event that I had forgotten, but
- 20 now I can recall, especially when it comes to the people who
- 21 entered S-21. If they wore black clothes -- the revolutionary
- 22 uniform -- the uniform would then be removed, but then they would
- 23 be given other clothes; for example, checked shirt or pants.
- 24 However, I don't know how many people were given such clothes.
- 25 I remember the person Nhem Soeun. When he was made to change his

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- 1 clothes, he did not want to have it removed; he said he would
- 2 like the black clothes instead. So I'm talking here as a person
- 3 who remembers the situation slightly, but I don't know much about
- 4 the purpose of how the clothes would be used then.
- 5 [15.49.00]
- 6 Q.Regarding food, you said earlier on, if I understood you
- 7 correctly, that the food was inadequate. This is what you said;
- 8 correct? And you also said that on the outside generally, in the
- 9 country, it was difficult to get food.
- 10 So I'd like to ask you whether, in your opinion, the fact that
- 11 prisoners did not have enough to eat, whether this fact was due
- 12 to a specific practice or policy that would be deliberate? Was
- 13 it intentional or was it due to the fact -- to a mere
- 14 organizational problem?
- 15 A. Your Honour, regarding food, I already just mentioned it is
- 16 very general that there was not enough food all across the
- 17 country for people across the country. It is worse for the
- 18 prisoners, therefore, this is a general policy of the CPK.
- 19 But recently I have come across a document about the forces that
- 20 were strong; that in one day, 10 people versus 23 cans of rice.
- 21 So it was determined that -- so 23 cans of rice is to feed 10
- 22 combatants for a day, so I don't remember how many cans of rice
- 23 would be given to the prisoners.
- 24 Q. Were you aware that you were enforcing a policy that meant
- 25 insufficient, inadequate food was given to the prisoners? Were

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- 1 you aware of the fact that you were implementing such a policy of
- 2 scarce diet for the prisoners?
- 3 A.I am aware -- I was aware and it's painful and I was
- 4 disappointed, but I could not do anything at all. It's true.
- 5 Q.At any point in time might you, yourself, have suffered
- 6 inadequate -- from having an inadequate fool supply?
- 7 A.Personally, at S-21, I ate only a small bowl of rice per meal
- 8 and I was allowed to have two dishes and it's very exceptional,
- 9 only I who could get two dishes a meal. There was not much food.
- 10 At that time, I weighed 49 kilograms.
- 11 [15.53.59]
- 12 Q. Would you say that that policy had an advantage also, meaning
- 13 the advantage of making the detainee population weaker? A
- 14 malnourished population might be easier to control. Is this
- 15 right?
- 16 A.I think the consequence from the inadequate food ration would
- 17 lead to the weaker or malnourished detainees and of course they
- 18 became very weak. So it would be easier to control them,
- 19 partially, but people who were hungry and who did not have enough
- 20 food and did not protest, it would be just a coincidence. It's
- 21 true. That's why there was a regulation by Comrade Hor regarding
- 22 the detainees.
- 23 Q.Regarding these regulations now, did detainees have any right
- 24 to talk when they were shackled?
- 25 A. Actually people who were detained did not have the right to

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- 1 talk to one another. However, sometimes the guards who were
- 2 good-hearted allowed them to communicate with one another.
- 3 [15.56.48]
- 4 Q.Did detainees have the right to move, to stand up, or where
- 5 they supposed to remain completely motionless?
- 6 A.The detainees who were shackled had to remain lying on their
- 7 back. If they would like to sit up they had to ask for
- 8 permission to do so. Whether they would be allowed to sit up or
- 9 not, then they would be told, and it was a practice.
- 10 Q. Earlier on you said that the detainees at S-21 were treated
- 11 like animals. I think you used that phrase, "animals".
- 12 Were you aware that that kind of conditions could lead to very
- 13 deep distress, moral hardship, and did you take any -- did you
- 14 make any particular arrangements to be able to manage that, to
- 15 find some kind of way of managing the depth of such moral
- 16 hardship?
- 17 A. Your Honour, the reason that people were regarded as animals,
- 18 we could see this in all aspects, especially the terms used to
- 19 communicate to the detainees, the victims who were detainees at
- 20 the premises. Young people addressed the senior people as the
- 21 contemptible, "A", in Khmer. So by and large, whenever I recall
- 22 this situation, I am shameful.
- 23 [15.59.40]
- 24 Personally I could only think of how to avoid being close to that
- 25 location, I could manage to do that, but there was no plan to

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- 1 eliminate such a practice or to try to relieve the moral
- 2 hardship. I think there was none. Because if I tried to do so I
- 3 would be in the situation that I could not make a clear
- 4 distinction between enemies and friends, otherwise I would be
- 5 perceived as regarding the enemies as friends.
- 6 If I regarded the enemies as friends then I would fail to
- 7 maintain my stance, the class stance, so I had no class stance --
- 8 as I would be viewed. So I was a member of the Party, or was I
- 9 not? Then by way of challenging me with such terms, I had no
- 10 choice but to avoid being close to those people; the detainees, I
- 11 mean. Because when I saw them or met them I would be very
- 12 emotional and I could never solve any problems, so why should I
- 13 meet them anyway?
- 14 In conclusion, I could tell that I had not prepared any plan or
- 15 made any arrangement to change the situation. It is, of course,
- 16 the class line.
- 17 O.Well, not only you took no measures to change the situation,
- 18 but did you take any measures to avoid that this distress would
- 19 lead to dramatic consequences and, in particular, that detainees
- 20 could commit suicide as a result of this?
- 21 A.I have thought about that but in order to respond to some
- 22 important detainees and to prevent their attempts to suicide, I
- 23 used a measure of implementing the force. I relied on the force
- 24 as the major factor. For example, the detention and the
- 25 interrogation of Koy Thuon.

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- 1 In the room where Koy Thuon was held there were two special
- 2 guards from the special unit who were stationed there
- 3 permanently. And I also put a telephone line so if there were
- 4 any reaction they should ring me immediately.
- 5 And when he stopped reacting for one hour or two hours then I
- 6 would go and meet him. Therefore, the measure to prevent Koy
- 7 Thuon from suicide attempt and for him to confess I used all
- 8 types of means. I let him sleep comfortably and his food was as
- 9 good as mine and when I went to meet with him I talked with him
- 10 alone and I even called him "Brother", and to assure him that I
- 11 would be the person who sent the report to the upper echelon.
- 12 But actually, importantly, I relied on the two close protection
- 13 guards. That was the only measure within the systems of S-21
- 14 that I implemented. Therefore, yes, at S-21 there were people
- 15 who committed suicide because we could not manage them all.
- 16 [16.06.36]
- 17 O.You said earlier on that at times entire families would be
- 18 detained at S-21; the father, the wife on the other side, the
- 19 sister or the daughter even could also be detained at S-21. And
- 20 did it happen that information would be exchanged and that
- 21 contact would be established between members of a same family?
- 22 A.In such a case we were extra careful; that is, including
- 23 myself and the guards we were very careful on this matter not to
- 24 allow them to contact one another, especially the contact between
- 25 a wife and her husband.

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- 1 Q.Would you agree to say that generally speaking there was a
- 2 permanent climate of fear and absolute terror that was imposed
- 3 upon all the detainees?
- 4 A.Absolutely. Frankly speaking, yes.
- 5 Q. You said that you visited quite rarely the detention centre
- 6 and did you hear sometimes people screaming?
- 7 A. Your Honour, the common detention centre I did not go there.
- 8 Like at the Ponhea Yat College I did not enter that location at
- 9 all. It means that I did not enter the detention centre but
- 10 within the compound of the Ponhea Yat College I went to the
- 11 workshop where the sculpture was made. And as for the special
- 12 prison I entered frequently when I interrogated Koy Thuon.
- 13 [16.10.30]
- 14 I entered Comrade Pon's interrogation office to meet Comrade
- 15 Touch Phoeun as I reported this morning. Touch Phoeun and I went
- 16 for a quick meeting with the British detainee, and as for the
- 17 Vietnamese interrogation office where Brother Mam Nai took
- 18 charge, I went there frequently. I went there to give him
- 19 instructions on the stance of interrogation in order to get the
- 20 confessions for radio broadcasts. I repeat again, I went to see
- 21 the face of (inaudible).
- 22 So to conclude, I only interviewed special areas of the special
- 23 prison so whether I heard the screaming from the detainees; I did
- 24 not. I went there when the situation was quiet. This is my
- 25 response, Your Honour.

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- 1 Q.Did it happen to you occasionally that you were disturbed by
- 2 smells due to the terrible health conditions in which the
- 3 detainees were kept and also due to the heat, and were you
- 4 sometimes disturbed by this?
- 5 A. Your Honours, the smells, the stink, yes, it existed. I was
- 6 not sure whether the smell would affect the general smell and the
- 7 health being, but of course there was a bad smell but because I
- 8 did not enter that area so the smell was not that bad.
- 9 The reason I did not enter there, it's not because of the smell.
- 10 The important thing is for those who stay there constantly whom I
- 11 knew most of them and how would I express my facial expression
- 12 when I go and meet them there? So how could I try to comfort my
- 13 feeling if I went there? That was the way I tried to avoid those
- 14 people whom I know and I did not want them to see my face when
- 15 they were being in such condition.
- 16 So this is my response, Your Honour.
- 17 Q. You were afraid of seeing all of the suffering, of seeing the
- 18 suffering of those who were placed under your authority?
- 19 A. That is correct. Those people who were there and were
- 20 mistreated were the people whom I knew before so I was shocked if
- 21 I were to go and see them.
- 22 [16.16.09]
- 23 Q. And how would you qualify -- how would you characterize your
- 24 attitude?
- 25 A.I do not know how to describe but I can inform you that I

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- 1 closed my eyes, closed my ears and did not want to see the real
- 2 situation because the reality really discomforted my feelings so
- 3 I just ignored the reality by not allowing myself to have heard
- 4 or have seen.
- 5 Q.Can we term this as cowardice?
- 6 A.I think it is beyond cowardice. I would accept cowardice but
- 7 I think it was beyond cowardice. Betraying friends, yes, I did.
- 8 You could even say that I even betrayed my friends. That was
- 9 beyond cowardice.
- 10 Q.So generally speaking, do you acknowledge that the detainees
- 11 at S-21 suffered from grave violations to their mental and
- 12 physical state due to the inhumane acts that were inflicted upon
- 13 them, inhumane acts that included intentional deprivation of
- 14 food, deprivation of medical care and deprivation of sanitary
- 15 installations.
- 16 Do you acknowledge that during their detention the prisoners were
- 17 subjected to violence and to severe hardship? Do you acknowledge
- 18 that the harassing conditions that were imposed upon them,
- 19 whether individually or on a collective basis, were set up to
- 20 break their morale, to degrade them and to dehumanize them in
- 21 such a way so that they be kept in a state of constant fear?
- 22 A. Your Honour, all the crimes you just stated I accept without
- 23 rejecting any of it at all.
- 24 [16.19.49]
- 25 JUDGE LAVERGNE:

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- 1 Well, I no longer have any further questions. Thank you, Mr.
- 2 President.
- 3 BY MR. PRESIDENT:
- 4 Q. I have just a few questions. The first question is easy.
- 5 Were the detainees deprived of their food for the reason that
- 6 they failed to respect the regulations during the time when they
- 7 were detained? I mean they were deprived of their food like
- 8 without food for one full meal or because they broke the
- 9 regulations set by Comrade Hor? Was there any case like that at
- 10 S-21?
- 11 A.Mr. President, though I have never seen it with my own eyes I
- 12 believe that such things existed and I don't want to point my
- 13 finger to Hor entirely.
- 14 Q. Thank you.
- 15 The food ratio, as asked already by Judge Cartwright and Judge
- 16 Lavergne, that it was not adequate. That's why the detainees
- 17 were starved to death. A significant number of detainees died of
- 18 starvation. Do you think it is correct that people died of
- 19 starvation?
- 20 A.Mr. President, it is true and I do accept that such cases did
- 21 exist.
- 22 [16.22.17]
- 23 Q. Thank you.
- 24 Were there any medical services provided at S-21 or were there
- 25 any specific medical treatments to be offered to any particular

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- 1 detainee?
- 2 A.Regarding the medical services, they existed but only they
- 3 were for the purpose to keep people alive long enough to be
- 4 interrogated. Later on even the medics themselves were arrested
- 5 gradually and then the medical service became loose and the
- 6 cadres of S-21 relied heavily on the detainees who were doctors.
- 7 First, we used Brother Roat Kut but later on he was smashed. Then
- 8 we relied on the nephew of Nuon Chea, named Lach alias Than and
- 9 another person named Hak Phadeth who were doctors. So there were
- 10 Hak Phadeth and Lach Phary who could prescribe some medicines,
- 11 and when I was sick I could also seek such medical services from
- 12 them, and there was no other alternative medical services.
- 13 And for the prisoners, as I already mentioned, they were
- 14 subjected to be treated for -- to live long enough to be
- 15 interrogated. So the medical services was not adequately
- 16 provided.
- 17 MR. PRESIDENT:
- 18 Thank you. It's time to take the adjournment.
- 19 So the Trial Chamber is now -- the session is now adjourned and
- 20 the session is resumed tomorrow at 9 a.m. The parties to the
- 21 proceedings are also advised to come back to the morning session
- 22 at 9 a.m.
- 23 The security guards, please take the accused back to the
- 24 detention facility and return him by 9 a.m.
- 25 The Court is adjourned.

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1	(Judges exit courtroom)
2	(Court adjourns at 1625H)
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