



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

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

**PUBLIC**

Case File N° 001/18-07-2007-ECCC/TC

23 June 2009, 0901H

Trial Day 32

Before the Judges:

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

Lawyers for the Civil Parties:

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YUNG Phanit  
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HONG Kimsuon  
MOCH Sovannary  
Silke STUDZINSKY  
Alain WERNER  
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The Accused:

KAING Guek Eav

Lawyers for the Accused:

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I N D E X

WITNESSES

THE ACCUSED, KAING GUEK EAV

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Questioning by Mr. Roux commences ..... page 50

**List of Speakers:**

Language used unless specified otherwise in the transcript

Speaker	Language
JUDGE CARTWRIGHT	English
MR. KAR SAVUTH	Khmer
MR. KIM MENGKHY	Khmer
MR. ROUX	French
MS. SE KOLVUTHY	Khmer
MS. STUDZINSKY	English
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MS. TY SRINNA	Khmer
MR. WERNER	French
MR. YET CHAKRIYA	Khmer

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

2 (Judges enter courtroom)

3 [09.01.58]

4 MR. PRESIDENT:

5 Please be seated. The Trial Chamber is now back in session to  
6 hear the facts, and the security officer please bring the accused  
7 to the dock.

8 Before giving the floor to the civil party lawyers of group 2 the  
9 Trial Chamber would like to ask the lawyer of civil party group  
10 1, based on your time estimations, how long would you like to use  
11 to put the questions to the accused for the facts that we are  
12 hearing?

13 MR. WERNER:

14 Good morning, Mr. President. Good morning, counsels.

15 We would have hoped, quite frankly -- and that was the sort of  
16 understanding among the civil parties -- to be able to use the  
17 time which was left by the other groups, and if we can have our  
18 45 minutes and on top of that use half of the time left, which  
19 means 20 minutes, we can assure that we would definitely finish  
20 by that time, which is about an hour. If that is possible, then  
21 my colleague Ms. Studzinsky could use the other 20 minutes left.  
22 What I would request as well is if we could be allowed to share  
23 within my group, between Ms. Ty Srinna and myself, and not like  
24 what my colleague said yesterday, just one person talking on  
25 behalf of my group. We would be grateful if we could be allowed

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1 to share within my group. Thank you.

2 MR. PRESIDENT:

3 Next, the floor is open for the civil party lawyers, group 2, to  
4 put questions to the accused related to the facts for our  
5 hearings. Yes, please.

6 MS. STUDZINSKY:

7 Good morning, and thank you, Mr. President. Good morning to  
8 everybody. I assume that the Chamber agrees upon what my  
9 colleague has said, that we share and can take 20 minutes from  
10 the time that was left from the other groups.

11 [09.06.11]

12 BY MS. STUDZINSKY:

13 Q.I would like to start this morning and continue where I  
14 stopped yesterday concerning the female interrogators. You  
15 explained to us yesterday that the female interrogators received  
16 the training and they attended interrogations of senior  
17 interrogators.

18 My question now is how long did these female interrogators attend  
19 at such training sessions or such interrogations to start their  
20 work as interrogators?

21 A.Ms. Lawyer, firstly, the female interrogator, they did not get  
22 any training from me. Secondly, they went to observe the  
23 interrogations by other interrogators and then they started their  
24 interrogation, and later I took them for education based on the  
25 policy of interrogations, so I used the documents as I used for

3

1 other interrogators.

2 Q.I will precise my question.

3 Before they started to interrogate, how many sessions did they  
4 attend to learn how to do it?

5 A.I would like to reiterate that, as I told you, those female  
6 interrogators did not receive any direct technique of  
7 interrogation from me.

8 [09.08.43]

9 Q.That was not my question, or that was not my -- that was not  
10 what I said.

11 You told us that they attended and observed senior interrogators  
12 to learn, and I wanted to know the time that was needed for them  
13 before they could start their own interrogations. I did not say  
14 that you trained them specially. That was not said.

15 A.Thank you. This is because of a misunderstanding due to  
16 translation. So I do not know for sure how many times that they  
17 observed the interrogation by the senior interrogator.

18 Q.Can you make a rough -- or estimate very roughly? Was it once  
19 or 10 or 50 or 100 times?

20 A.Miss Lawyer, it's about five times at the most.

21 [09.10.27]

22 Q.Thank you very much.

23 Have you been informed about any emotions or reluctance or  
24 hesitancy that appeared among these female interrogators who were  
25 called to interrogate now? Have you heard any emotions like this

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1 from senior interrogators or did they tell you something like  
2 this?

3 A.Miss Lawyer, I have no connection or relationship with those  
4 female interrogators. Those who were in charge to introduce them  
5 to the training was Comrade Hor and Comrade Mot was the one who  
6 supervised their emotions. So at that time I just managed to  
7 have those female interrogators to put into their work. That's  
8 all I needed at that time.

9 Q.I move to another issue. Do you recall an interrogator with  
10 the name -- excuse me, I hope I pronounce it well -- with the  
11 name Touch, T-o-u-c-h? Do you know this interrogator?

12 A.So could you please tell me whether Touch is a female or a  
13 male interrogator? I do not remember.

14 Q.It was a male interrogator and he was later imprisoned in  
15 S-21.

16 A.I do not know him.

17 Q.Do you about witnesses who are talking that this interrogator  
18 Touch was charged with a sexual offence and that he was therefore  
19 arrested and tried as well to suicide himself?

20 A.Miss Lawyer, I do not know Touch and the incidents in which  
21 the male interrogator commit physical abuse and suicide, I do not  
22 know about that.

23 [09.13.55]

24 Q.My next question concerns your core work; that means  
25 annotating and reading confessions. I would like to know if you

5

1 have read as well confessions of the interrogators who were  
2 detained in S-21.

3 A.Miss Lawyer, yes I did read but I completely forget the  
4 contents now.

5 Q.Then I would like to confront you with the content of some of  
6 these confessions and they are confessions of Nhou Kanda, Chea  
7 Khatt, Vout Theng, and Chea Mey. Do you know one or all of these  
8 interrogators? I hope I pronounced it well.

9 A.I do not know.

10 Q.Their confessions were analyzed by David Chandler and he  
11 reported that they confessed having committed sexual offences.

12 My question is, have you ever read in confessions of S-21  
13 interrogators the admission having committed sexual offences?

14 Have you ever read about this in confessions?

15 A.I would like to tell you that the confessions on which I  
16 annotated, it's clear that I read that. If there was no  
17 annotations by me, it might be that I never read that confession  
18 because I did not pay much attention. So please, Miss Lawyer,  
19 look at that confession to see whether or not there is my  
20 annotation on that.

21 [9.16.52]

22 MR. PRESIDENT:

23 The civil party lawyers group 2, you are reminded that the  
24 confessions obtained from the torture can not be used in this  
25 questioning except it is -- so you should not base on the



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1 confession as a result of the torture. So you should be  
2 cautioned on this matter.

3 MS. STUDZINSKY:

4 Thank you, Mr. President, but only to explain briefly; it was not  
5 to use -- my aim was not to use them but I wanted to know if he  
6 read such statements and if he believed that these statements  
7 were true or not true and if he had undertaken anything in this  
8 regard to investigate, for example, these offences or if he  
9 believed, for example that these admissions were not true as it  
10 was the case with CIA and KGB confessions, and therefore the  
11 accused already responded to such questions, to which extent he  
12 believed that confessions and their content was true. That was  
13 the idea that I had.

14 But we heard that the accused did not read all confessions and to  
15 be sure only those confessions with annotations were read and  
16 surely read by him.

17 BY MS. STUDZINSKY:

18 Q. Am I right?

19 A. Yes, that is correct.

20 [09.18.58]

21 Q. I would like to move to my next point, and I start with a  
22 general question to come then to the point that I want to know  
23 concerning the functioning of S-21.

24 The general question is, is it correct to say that any immoral  
25 offence was punished according to the Party line?

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1 A.It is correct.

2 Q.Thank you. Do you also agree that rape or sexual abuse was a  
3 serious moral offence and harshly punished during the DK period  
4 in general?

5 A.That is correct.

6 [09.20.24]

7 Q.Would you also agree that it was the Party line or the policy  
8 that inserting a stick into the vagina was such a so-called  
9 immoral -- or serious immoral offence, and that a perpetrator  
10 would have been punished severely? I'm talking about general  
11 policy.

12 A.I would like to reserve my right to remain silent on this  
13 matter.

14 MR. PRESIDENT:

15 The question is repetitive. Please move on.

16 MS. STUDZINSKY:

17 It was only to specify if inserting a stick into the vagina is  
18 also part of such offence.

19 BY MS. STUDZINSKY:

20 Q.But I move on, and I would like to recall that you told us  
21 that you did not know that inserting a stick into the vagina was  
22 a crime at that time during the DK period. You told us yesterday  
23 and last week the same; you were not informed -- not fully  
24 informed about the law and did not know that this was a crime.  
25 My question is, the reason why you did not know that this was a

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1 crime, although the policy was very strict, my question is, was  
2 the reason for this that against enemies, against prisoners who  
3 were considered as enemies, that this was not considered as a  
4 crime? Is this the reason?

5 A.I did not study any penal code of Cambodia, therefore, I did  
6 not know about this matter. I reported to the Chamber already  
7 that probably even my superior did not know it, and this is my  
8 response. Regarding the Party line, it did not stipulate any  
9 issue on this matter.

10 [09.23.35]

11 Q.Did you know that this was a wrongdoing in general or not?

12 A.I reserve my right to remain silent.

13 MS. STUDZINSKY:

14 I have no further questions so far on this issue and would  
15 transfer to my colleagues. Thank you very much.

16 MR. PRESIDENT:

17 The floor now is open for the lawyer for civil party group 1.

18 MS. TY SRINNA:

19 Thank you, Mr. President. Good morning, Your Honours, and all  
20 the participants in the proceedings. I have some questions to be  
21 posed to the accused.

22 BY MS. TY SRINNA:

23 Q.My first question is related to the smashing, the large-scale  
24 smashing, towards the end of the regime.

25 Did the smashing of the prisoners at S-21, the large-scale

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1 smashing, how many times did it occur?

2 A.The en masse smashing at the final stage was amounted to about  
3 300 or so prisoners, from my recollection.

4 [09.25.53]

5 Q.Thank you. And my second question is related also to the  
6 final phase; that is, towards the early January 1979.

7 At that stage, can you recall the remaining prisoners who had to  
8 be smashed finally; how many of them at the final stage?

9 A.I did not think of the numbers. What I did was just to make  
10 sure the orders from the upper echelon had to be fully  
11 implemented by my subordinates. It means all the remaining  
12 prisoners had to be smashed except the four people from the YO-8  
13 unit, which I requested them to be remained alive.

14 These four people from the YO-8 were the group that shot the  
15 foreigners who came with Richard Dudman, Elizabeth Becker and  
16 Caldwell, and they were arrested and I wanted to interrogate  
17 these four people. That is my recollection.

18 Q.In such situation, could you manage the S-21 regarding the  
19 prisoners who were killed in the cells? How many of them were  
20 killed in bed in each cell or room in S-21?

21 A.Thank you for raising this matter up. Only the YO-8, the four  
22 of them, were killed or smashed by the interrogators with the  
23 bayonet; so the four of them were killed.

24 Q.Thank you. My next question.

25 Also, towards the final stage of the Democratic Kampuchea, can

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1 you recall did you know in advance regarding the situation at the  
2 time?

3 [09.28.47]

4 A.When I fled I only had shorts, a short-sleeved shirt and a  
5 pair of thongs. I did not know anything regarding the situation  
6 at the time. I was not told that we had to flee.

7 Q.But did you know in advance regarding the situation through  
8 media or through radio broadcasting that the situation might be  
9 realized soon?

10 A.Thank you for raising the matter up. The radio was broadcast  
11 on the -- and proper speech was broadcast on the radio that the  
12 Yuon would go deep into the Cambodian territory, and there was an  
13 appeal for the people to resist the Yuon invasion. However, at  
14 that time I did not understand it. I did not believe that Pol  
15 Pot would flee. That's what I heard.

16 However, on the 6th of January at around 9 a.m., I was called for  
17 work assignment at the Buddhist Institute, Suramarit. When I  
18 went there I did not see Nuon Chea but I instead met Brother Hem,  
19 that is Khieu Samphan, and Brother Hem did not even speak to me,  
20 even if I sat opposite him. At that time he said, "The Yuon came  
21 deep inside the territory, but do not worry because Comrade Roeun  
22 and Comrade San's teams would resist and compel them back."  
23 However, after it happened then I was shocked of the situation.

24 [09.30.49]

25 Q.Thank you. And my next question is related also to the final

11

1 stage of the Democratic Kampuchea.

2 As you have just stated, you knew and heard the radio broadcast  
3 regarding the Vietnamese troops entering Cambodia to overthrow  
4 the Democratic Kampuchea regime. So during that time did you  
5 ever think that you wanted to release the remaining prisoners  
6 from S-21? Did you have such intention? Because the situation  
7 at the time was chaotic from the point of view that you just  
8 expressed.

9 So, again, did you have intention to release the remaining  
10 prisoners from S-21? Because, as you have just stated that all  
11 the orders from the superior to kill or smash the prisoners at  
12 S-21 you did not satisfy with the orders and the work that you  
13 carried out at S-21 was done because you were in a situation that  
14 you could not avoid it, because if you did not do it then your  
15 wife, your child, even your relatives or siblings, your parents  
16 would be killed.

17 So at the final stage did you ever think that now the Democratic  
18 Kampuchea would fall and that you would want to spare the  
19 remaining prisoners by releasing them?

20 A.I would like to reiterate that after I heard the appeal by Pol  
21 Pot I was numb. I could not believe that the Democratic  
22 Kampuchea would be defeated because I had strong beliefs that Pol  
23 Pot would be able to defend the country. So with such  
24 explanation at 9 a.m. on the 6th of January by Brother Hem, I  
25 still had strong belief, so that was number one.

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1 [09.33.38]

2 And the second point, for the remaining prisoners that I was  
3 ordered to smash, the order came on the 2nd -- and that I had to  
4 smash on the 2nd or the 3rd of January at the latest, and only  
5 four prisoners remained for the interrogation, and I think about  
6 14 or 15 prisoners were also spared for providing the service to  
7 S-21. So there were only about three of the staff who fled with  
8 me when I fled.

9 So that was the situation at the time. I did not think that the  
10 DK would be defeated and that the remaining prisoners had to be  
11 released in order to satisfy my feeling or emotion. This is my  
12 response.

13 Q.Thank you. My next question is related to a point that you  
14 raised that you became aware that after Vorn Vet's arrest and  
15 brought to S-21, you realized that the close associates of the  
16 Democratic Kampuchea were all arrested.

17 Did you have any feeling to prepare yourself in order to assist  
18 the prisoners, or did you have such a feeling? Because that  
19 would be the only opportunity to assist the prisoners at S-21  
20 regarding your idealism that you never satisfied with the  
21 killings but you were forced to carry out your duties.

22 A.Brother Vorn was arrested on the 2nd of November 1978.  
23 Therefore, after his arrest I could not do anything much, I only  
24 slept day and night, and on the 2nd or the 3rd of January I was  
25 ordered to take out all the remaining prisoners because there was

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1 a rumour that Pol Pot fled from Phnom Penh, and I could not  
2 understand that situation. I was not allowed to know and I did  
3 not even understand the message broadcast on the radio, so I had  
4 no other measures besides the hopelessness that I had.

5 [09.36.46]

6 Q.Regarding your hopelessness that you had at the final stage,  
7 that you only slept day and night, my question is why did you try  
8 to implement the orders from your superior?

9 A.I was hopeless. However, it happened at certain stages.  
10 First I felt a little bit hopeless and toward the end I felt  
11 completely hopeless. First, in January '77 when the cadres from  
12 the North Zone were arrested, as I reported to the Chamber  
13 already, I became hopeless. That was the first time. And the  
14 second time that I felt hopeless, when Brother Nget You was  
15 arrested and sent to S-21. Nget You, alias Hong, was a Chinese  
16 ethnic who supported the Democratic Kampuchea and the CPK from  
17 the beginning, and he was arrested and his name appeared in the  
18 list.

19 So I became even more hopeless at that stage. I stopped doing my  
20 work and I went just to sit at the sculptures place. And now the  
21 time, it was on the 2nd of November '78, when Brother Vorn was  
22 arrested. I felt even more desperate at the time. And the final  
23 stage that I felt so hopeless, it was the 2nd or the 3rd of  
24 January '79 when I was ordered to take out all the prisoners.  
25 When you first felt hopeless you would think that when it's going



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1 to be your turn, so you try just to stay alive and to follow the  
2 orders strictly. So that was the only measure and the process of  
3 purification in order to survive. This is my response.

4 [09.39.00]

5 Q.Thank you.

6 MS. TY SYRINNA:

7 I have no further questions, Mr. President, and I would like now  
8 to give the floor to my colleague in my group.

9 Thank you.

10 MR. PRESIDENT:

11 Please, Mr. Alan Werner. The floor is yours.

12 MR. WERNER:

13 Thank you, Mr. President.

14 BY MR. WERNER:

15 Q.Good morning, sir. Before I start off with my questions, I  
16 would like to say two things.

17 [9.39.51]

18 One is that, on behalf of my group, I would like to say that we  
19 acknowledge the fact that you have been questioned for more than  
20 four days and you have been under an avalanche of questions and  
21 you have done your very best to offer answers to all questions.

22 We acknowledge this and thank you for this.

23 Secondly, exactly as you did yesterday -- and my colleague took  
24 note of this -- we would be grateful for your continued brevity  
25 in your responses. This will make it possible for us to put to

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1 you all the questions we would like to ask on behalf of our  
2 clients. Thank you in advance.

3 The first subject I want to raise is the subject of Toy. You  
4 answered questions from the Judge saying that Toy was an  
5 interrogator at S-21 and that Toy liked to torture.

6 On Tuesday, the 16th of June, last, you said the following. This  
7 is on page 45 of the transcript -- I say this for my colleagues'  
8 benefit.

9 "Toy, through his comments, I was satisfied with his work. He  
10 was seeking to curry favour from me. He introduced the hot  
11 method or hot tortures."

12 [09.41.40]

13 And you explained in a very comprehensive way what were this hot  
14 method and hot tortures. I would like to make sure that I have  
15 understood correctly. Is it correct that Toy, who enjoyed to  
16 torture on his own initiative and to curry favour with you, is  
17 the person who introduced the toughest method of torture, the hot  
18 method? And you accepted this. Is this correct?

19 A.Mr. Lawyer, this issue we should not blame to our subordinate  
20 100 percent. The hot method of torture I have discussed with him  
21 so the hot torture -- it had to be a kind of torture, continuing  
22 torture. It was my instruction.

23 But the behaviours of the interrogator at S-21 were not the same.  
24 Comrade Toy from Division 703, he has the intention or tendency  
25 to do hot torture. Brak Nan from M-13 who also had the tendency

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1 to the hot torture, and he used mainly the hot method of torture,  
2 whereas Comrade Pon, the interrogator who received the training  
3 from me, he rarely made any decision beyond our order.

4 So another one, Brother Mam Nai, who was always followed the  
5 order and rarely committed any torture.

6 In conclusion, it's only me who can allow or authorize anyone to  
7 torture, but the characters of the interrogators are different.

8 Toy had a different character. Pon had another different and Mam  
9 Nai has another different. That's all I can tell you.

10 Q.Returning to the subject of Toy -- why would you have given  
11 Toy such prominence in S-21 when you knew that he had this  
12 sadistic tendency? Why did you give him such prominence in S-21?

13 A.Mr. Lawyer, they had no mistake or fault for removal. We do  
14 not remove him. So for other interrogators who failed to succeed  
15 in interrogation and then we sent the victim to Toy, but Toy can  
16 do that and Toy reported to me that the prisoner did confess.

17 Yes, we admitted that it's wrongdoing.

18 [9.46.00]

19 Let me give an example. The confession of Siet Chhe, alias Tum  
20 -- so after the interrogation by Toy and Siet Chhe alias Tum, he  
21 confessed that he committed a rape against his daughter. It  
22 seemed to me at that time it's too extreme. And if the torture  
23 caused the victim to death, it is a matter; it's a problem.

24 But if he failed to do that, Toy has the strong supporters; he  
25 was from Division 703. So in principle, if the torture caused

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1 the victim to die, it is a serious fault that we can remove him.  
2 Q.On Tuesday, the 16th of June -- this is page 61-62 of the  
3 transcript; I say this for the benefit of my colleagues.  
4 You said to the Judge that young interrogators could be very  
5 extreme. You said that some of them had no mastery,  
6 self-control, and you said that some of them were cruel. Sir, do  
7 you accept, do you agree that by giving prominence to a sadistic  
8 person such as Toy who, as you have admitted yourself, enjoyed  
9 torturing, you were encouraging younger interrogators in S-21 to  
10 emulate him and to inflict suffering that was beyond what was  
11 necessary?  
12 A.Mr. Lawyer, you said that I pushed them further. I never do  
13 that. But I continued to trust him and give instruction and  
14 advice to him more or less that allowed him to feel like the way  
15 of torture and to continue that torture. That is true.  
16 [09.48.37]  
17 In addition to that, those who had the tendency to torture --  
18 there were two. One is Comrade Toy from Division 703 and another  
19 one was Nan from M-13.  
20 Q.I would like to ask a question about hunger, starvation. You  
21 were questioned quite extensively on this issue and you stated  
22 last week on Monday 15th of June -- this is page 98 of the  
23 transcript -- you said that some people died of hunger in S-21  
24 because of the lack of food and you also said the following --  
25 still on the 15th -- this is page 89 of the transcript. You

18

1 said:

2 "Generally speaking, there was not enough to eat throughout the  
3 country for the whole population. It was worse for detainees."

4 So it was a real general policy of the Communist Party of  
5 Kampuchea. And the Judge was asking you whether you were aware  
6 of the implementation of such a policy and you answered:

7 "Yes, I knew and this is still a painful memory for me, but I had  
8 no other -- I could do nothing else. I had no alternative."

9 [09.50.12]

10 Now, sir, in the file there is at least one example that shows  
11 that you could have had an alternative. You stated on the 27th  
12 of March 2008, D63 -- and for my colleague, the French reference  
13 is 00178037 -- this is when you spoke to the Co-Investigating  
14 Judge. You were being asked the following by the  
15 Co-Investigating Judges:

16 "You have explained that in 1978 the surplus in rice production  
17 from Prey Sar had been handed over to the Central Committee. Why  
18 was that decision taken and how did you know that there was a  
19 surplus? More specifically, why did you decide to hand over that  
20 surplus to the Central Committee rather than to use it for normal  
21 diet for the staff since at the time rations were insufficient?"  
22 Your answer was as follows:

23 "I don't recall whether it was Phel or Huy who informed me. That  
24 particular year, there had been a flood and we were short of  
25 rice. I told Nuon Chea that I could provide rice and he appeared

19

1 surprised. I wanted to help the other units. I also wanted to  
2 promote the reputation of Prey Sar and S-21. As regards to the  
3 food regime or diet, it was decided on by superiors and I could  
4 not modify anything in this respect."  
5 So this is my question to you now, sir.  
6 Why did you hand over that rice surplus to Nuon Chea when you  
7 knew that detainees in S-21 were very literally dying of hunger?  
8 A.Mr. Lawyer, the story I told to the Co-Investigating Judge are  
9 correct. In 1978, S-  
10 21 and Prey Sar produced lots of rice and there's a lot of rice  
11 surplus. There were tons of rice in surplus, so I did send the  
12 rice to Angkar through Uncle Nuon. Uncle Nuon had someone to  
13 take those rice.  
14 However, the story that I would like to tell here is that the  
15 crimes against humanity, it's everyone falling into that  
16 situation, including myself, that I have enough rice in my hands,  
17 but I dare not take those rice to use for the prisoners who are  
18 detained in Phnom Penh. Actually, it was not a prison, it was  
19 the place to store people before killing, so I failed to use that  
20 rice to support those who were at Prey Sar in the re-education  
21 camp, and I never there to change any food rations for the  
22 prisoner.  
23 Those are the crimes that everyone of the cadres, including me,  
24 to follow the policy especially the policy regarding the food  
25 rations. This is one of the crimes that I am the one who

20

1 responsible for that in the spirit of the crime against humanity,  
2 so I admit and I accept that crime.

3 [09.54.40]

4 MR. WERNER:

5 Last week, in response to one of the Judges, you explained in  
6 detail why, according to you - and there was a lengthy dialogue  
7 between you and Judge Lavergne and you said the following - page  
8 91 of the transcript on Monday 15th:

9 "I had no alternative than to avoid having contact with the  
10 prisoners. When I saw them, when I met them, I was troubled."  
11 And the same day, a few minutes later, you said the following:  
12 "I was afraid of seeing the suffering of people under my  
13 authority. I would have been shocked if I had been to see them.  
14 I closed my eyes, I closed my ears, but I did not want to see the  
15 situation as it really was. I was not authorizing myself to see  
16 or hear anything."

17 THE INTERPRETER:

18 The Interpreter would like to ask Mr. Werner to speak somewhat  
19 more slowly for the fullness of interpretation and for the  
20 record.

21 MR. WERNER:

22 Now, consequently, you were not going into this prison where  
23 people were literally dying of hunger --

24 MR. PRESIDENT:

25 Please speak more slowly, Mr. Lawyer, for a proper records.

21

1 MR. WERNER:

2 My apologies, Your Honour. So I shall resume.

3 [09.56.43]

4 BY MR. WERNER:

5 Q. So I summarize. Basically, the reason why you were not going  
6 into the general prison -- the place where, as you yourself have  
7 explained -- the place where people were dying of hunger,  
8 torture, illness and probably fear -- the reason why you were not  
9 going there was because it would have affected you emotionally.

10 Sir, we believe that the truth resides elsewhere and I would like  
11 to explain to you briefly a different hypothesis. I would like  
12 to submit this to your consideration. After this, I shall ask a  
13 question, all of this on behalf of the civil parties, one of whom  
14 is a survivor of S-21.

15 We believe that when you were the Chairman of S-21, everything  
16 you did was done in order to satisfy your superiors, Son Sen,  
17 then Nuon Chea. You went to the artists' workshops because you  
18 wanted the sculptures to move ahead and to please Pol Pot. You  
19 followed the interrogations of the Vietnamese because you wanted  
20 the radio broadcasts to be of the right quality to satisfy the  
21 operation. And you spent lots of time, including at night,  
22 pouring over confessions in order to draw up the right lists;  
23 once again, to please your superiors.

24 And we think the reason for which you were not going often to the  
25 general prison was to go there would have been of no usefulness



22

1 for you; that the suffering of the victims was of no relevance to  
2 you; had nothing to do with your agenda of pleasing your  
3 superiors and, consequently, you were indifferent to that  
4 suffering. We believe that suffering was of no interest, of no  
5 value to you and, consequently, did not have any -- you were not  
6 touched, you were not affected emotionally by it. What would you  
7 say about this today?

8 [09.58.47]

9 A.Mr. Lawyer, your proposition towards myself, towards my  
10 emotion was fundamentally correct. I in fact tried to satisfy my  
11 superior. I pushed my subordinates to work better in order to  
12 satisfy my superior. I tried to annotate the confessions with  
13 the intention to satisfy my superior, so everything that I did  
14 was to satisfy my superior. I attempted to work to the best  
15 effort in order to reach the requirements of the superior.

16 So I acknowledge what you said and the crimes that I committed in  
17 the name of the Chairman of the S-21 Office. However, I would  
18 like to state that I did not go and see my friends who were  
19 detained there. I knew a lot of people who were detained at S-21  
20 but I did not go and meet them. Yesterday Mr. Hong Kimsuon  
21 showed me a name of a person whom I knew but I did not go and see  
22 him. And the person, Ching Chhulaing, was also my friend and I  
23 did not go there.

24 [10.00.52]

25 And another person, Tieng Kini, was also not a Party member but I

23

1 knew they interred S-21, but I did not go to see them because I  
2 didn't know what to say to them. And a number of my friends were  
3 also interred S-21, including Chhay Kim Huor. So based on the  
4 propositions and conclusions, and Alain Werner said whether I was  
5 coward, and yes, I acknowledge I was coward and even beyond that  
6 because I betrayed my friends, my teachers, in order to survive  
7 myself.

8 And here before the Chamber I am responsible for the crimes I  
9 committed, and I would like the Cambodian people to see me; that  
10 I acknowledge the crimes I committed during that time.

11 Q. We believe that indeed you were successful in pleasing your  
12 superiors, and I'd like to present you with a hypothesis that was  
13 brought up by Dr. Etcheson when he came to testify here, and he  
14 explained why one of -- one of the main reasons, according to  
15 him, and he explained why -- one of the main reasons why you were  
16 promoted to lead S-21 and to replace Nat -- and this is what he  
17 said during the hearing on the 28th of May 2009, on page 20 of  
18 the transcript. I was in fact asking him questions myself  
19 concerning these lists of enemies, and by speaking about these  
20 lists of enemies this is what he said, and I will quote -- I will  
21 read the transcript in quotes:

22 "What I understand is that it was a practice that was developed  
23 and finetuned by the accused himself, and that the accused and  
24 his superiors believed that this practice was so useful that this  
25 is a reason why the accused was promoted to the position of

24

1 Chairman of S-21."  
2 [10.03.32]  
3 So my question is the following. Is it so that you were promoted  
4 to the position of Chairman of S-21 because you were able to  
5 please your superiors so efficiently and your superiors brought  
6 you these enemy lists and they promoted you for this reason;  
7 because you were able to please your superiors so efficiently?  
8 A.Mr. Lawyer, the proposition made by Alain Werner, I would put  
9 that aside for now. I want to talk about the time that I tried  
10 to satisfy my superior, and only want to talk on this matter at  
11 the moment. I indeed tried to work day and night without feeling  
12 of exhaustion in order to satisfy my superior. My boss used me  
13 day and night and I just followed it, followed the order.  
14 And I would like to say that the word "use" in the Party line on  
15 the spirit of invention, anybody could invent things but it had  
16 to be conformed to the Party line, otherwise you would be accused  
17 of being a traitor. So that was the necessity. You can be  
18 inventive and, yes, there was invention at S-21 in order to  
19 fulfil the requirements. So I myself, including the interrogator  
20 cadres, had to do it following the spirit of fast attack, fast  
21 success. And indeed that's what I did at the time.  
22 My ability to invent things in order to -- however, it falls  
23 within the framework of the Party line. So that was my attempt  
24 to do my work. I apologize if I could not answer fully to your  
25 question.

25

1 Q.You explained before this Chamber several times that even  
2 important people were arrested and imprisoned at S-28 (sic)  
3 following what had been said in the confessions, and you yourself  
4 in fact were implicated in at least two confessions, and  
5 important confessions, and I would like to refer to what you said  
6 to the Co-Investigating Judges on the 1st of April 2008, document  
7 D6001 -- and it's document D67 and you said this on page 4 and 5.  
8 [10.06.51]  
9 You said that:  
10 "Two people incriminated me in their confessions: Ke Kim  
11 Huot..." --  
12 and I apologize for the pronunciation --  
13 "... and Vorn Vet, and each time I preferred keeping the text the  
14 way it was. If I had intervened I would have lost my face. And  
15 you're asking me why Kim Huot stated that I was interested in  
16 democratic and liberal ideas, and I believe that it is because I  
17 had been his student in primary school in 1956 and in 1957, and  
18 he gave me two books which did not follow the Party's line."  
19 And my question is the following. Why did nothing happen to you,  
20 although you had been implicated twice in confessions, as you  
21 said yourself, and by very important people? Was it because you  
22 were protected by Son Sen and by Nuon Chea, who admired your  
23 zeal?  
24 A.Mr. Lawyer, the confession of Brother Kim Huot on me was an  
25 old activity from the 1956-57, therefore the upper echelon

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1 disregarded that information and, as for Brother Vorn, everybody  
2 knew that he used to supervise me and that I used to pay respect  
3 to him. Everybody knew that. So his confession on me -- I was  
4 not sure but what I can remember is that he wrote my name in his  
5 last page of the confession, so I did not care. I think it's up  
6 to the discretion of Uncle Nuon. I did not make any changes to  
7 it because if I did, then people would notice that, oh, maybe I  
8 deleted my name because I do not want to be implicated. Because  
9 I did not make any amendments to other people, then how come I  
10 make amendments when my name was referred to? So if I were to  
11 die, yes, let it be.

12 However, the fact that I survived because I insisted that I was  
13 honest and loyal to them. If I was asked then, I would explain  
14 all the historical activities, and if you want me to say that I  
15 can say all those things in chronological order.

16 [10.10.08]

17 Q.You have answered my question. Thank you. I just would like  
18 to bring up two extra topics.

19 The first is in relation to what you stated last week here in  
20 Court. You said several times that you were collaborating  
21 tightly with Son Sen. On the 15th of June, on page 26, you  
22 explained that everything that you were doing you were doing it  
23 in tight collaboration with Son Sen and that he knew exactly what  
24 you were doing and that he was soliciting your opinion all the  
25 time.

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1 The next day, on Tuesday the 16th, you explained on page 49 of  
2 the transcript, you explained once again that Son Sen would  
3 follow your work very closely and give you instructions.  
4 Therefore, I would like to have you -- present you with a  
5 different version so that you can comment this -- a completely  
6 different version that was presented by Dr. Etcheson concerning  
7 this issue.

8 This is what Dr. Etcheson said. So page 98, therefore, of the  
9 transcript of May 27, 2009. This is, therefore, what Dr.  
10 Etcheson said:

11 "I remind that Son Sen was a member of the Standing Committee of  
12 the Party and that he was the Vice-Prime Minister of Defence and  
13 that he was the head of the General Staff of the Army of  
14 Democratic Kampuchea. Therefore, he had numerous  
15 responsibilities and, therefore, he was probably somebody who was  
16 extremely busy."

17 I would like to skip a few lines and continue further down:

18 "However, when I examined a list that was put together by the  
19 Co-Prosecutor's Office, the list of prisoners at S-21, we notice  
20 that several individuals could not be considered as important  
21 prisoners in terms of their responsibilities or in terms of their  
22 hierarchical rank."

23 [10.12.29]

24 And now if I go to 919, a very high number of these people ended  
25 up in torture chambers and ended up being executed, based on

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1 accusations stating that they were members of the CIA or the KGB.  
2 So it seems to me difficult to believe that someone who had  
3 national-level responsibilities of such importance as Son Sen  
4 would dedicate time to interrogating or to executing these kinds  
5 of prisoners. And my question is the following, therefore.  
6 Isn't it the case, as Dr. Etcheson said, that Son Sen concerning  
7 people -- that Son Sen was not at all implicated in  
8 interrogations; that he was not at all implicated in confessions;  
9 was not at all implicated in executions? In reality, it was you,  
10 the person who took the decisions, practically without any  
11 supervision concerning interrogations, concerning confessions,  
12 and concerning the treatment of those who were not important at  
13 S-21. Would you agree with that?  
14 A.Mr. Lawyer, I do not want to make my comment on the report of  
15 Dr. Craig Etcheson, however, I would like to state my  
16 point-of-view regarding the work at S-21.  
17 The S-21 work, I did it following the order of my superior, so  
18 all the lines of implementation was instructed by my superior.  
19 It did not mean that he was so busy, and I had to implement it.  
20 Of course, I acknowledge my superior had a lot of tasks because  
21 he was a member of the Central Committee.  
22 [10.15.15]  
23 He was a seventh member of the Standing Committee, and in the  
24 governmental rank he was the third Deputy Prime Minister. And in  
25 the military affairs, he was the Chief of the General Staff and

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1 also the Minister of Defence and Security. He was in charge of  
2 national security throughout the country. I have a document to  
3 prove this point.

4 My apology, I do not want to read the document. It was the  
5 minutes of the Central Committee Meeting on the 19th of October  
6 '75. It was on page 1; Son Sen was responsible for the General  
7 Staff and Security.

8 So, indeed, my superior had a lot of tasks, but who had influence  
9 on who? My superior would not allow me to act freely. He met me  
10 every day. He monitored my work on the telephone every day and  
11 gave instructions on me on every aspect.

12 And on another matter, regarding the arrests and the execution  
13 and the interrogation, it was stated in the decision of the 30th  
14 of March 1976 who had the right to decide to smash. And at the  
15 end for the Central Army, it was the General Staff who had the  
16 authority to smash. So, for the General Staff, he had the  
17 authority to decide.

18 So these four groups were clearly assigned their responsibilities  
19 and the authorities. If they made decision then their respective  
20 unit had to arrest those people and send to the police office,  
21 and for the police office upon receiving those people, they had  
22 to interrogate and torture them for confessions. So we had to  
23 follow their work otherwise we would be regarded as a traitor.  
24 So the principle was clearly stated.

25 [10.17.32]



30

1 And he met me every day in order to monitor on the line of  
2 implementation. This doesn't mean that what I did was not known  
3 by Son Sen although he had a lot of tasks on his hands. He was  
4 very clever, and he was 12 years older than me.

5 So this is my response to you. This doesn't mean that I put the  
6 blame on my superior, but this is the reality and what was my  
7 responsibility, and the process of the order and the line from my  
8 superior to me.

9 Q.I have a last question and then I will be over.

10 There was a lot of discussion with Judge Lavergne, in particular,  
11 and with the President last week concerning the six lists of  
12 people who apparently were released. and you gave us a lot of  
13 explanations of this so I do not need to go back to this, but  
14 these lists apparently proved that more than 160 people were  
15 released.

16 Your statement, despite the existence of these lists, remains  
17 that these lists do not reflect reality and that in reality  
18 nobody was released from S-21, and let me please present to you a  
19 hypothesis for you to consider, and I'm doing this on behalf of  
20 all of my clients who lost relatives at S-21. This is my  
21 hypothesis.

22 The reason why still today, and despite the presence of this  
23 list, you refuse to admit that people were released from S-21,  
24 more than 160, well, the reason is that these lists demonstrate  
25 that it was not impossible to release somebody from S-21, and

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1 this leads to an embarrassing question for you, which is why you  
2 -- why didn't you release people at S-21 who were innocent and  
3 whom you knew were innocent? Do you accept this?

4 A.Mr. Lawyer, I would like to clarify the six lists into two  
5 separate parts. One list is a list made during 1977. It was  
6 made in November 1977. At that time I was already the Secretary  
7 of S-21 and there were 100 people who were decided by the Party  
8 that these 920 Division people had to be smashed. They were  
9 combatants of Division 920. When they arrived at S-21 on the  
10 21st of March '77 and Comrade Hor, whose mind was still thinking  
11 about the release by the Party as a trickery thing, so he said  
12 the release was done on the 26th of November. That's what he  
13 wrote: 26th of November '77.

14 [10.21.29]

15 After I saw that I made my annotation in red ink, so you can  
16 refer to the document or, if you need, I could ask for permission  
17 from the President to show my annotation regarding that list.

18 Toward the end of the list Comrade Hor annotated that -- after he  
19 implemented my order from the superior he annotated that all the  
20 names were taken out, and then the date, and the list is D59/4.10  
21 or something -- or point 8. The list is D159/4.10.

22 Yes, it is clear there was no-one released under this list. It  
23 is under my direct control. I corrected Comrade Hor and these  
24 are names in the list on the second part. The second part of the  
25 list is named D57 Annex 003, or called D14.124. There were 49

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1 prisoners on that list. The list is entitled "The Prisoners Who  
2 Were Released In Division 703."

3 So why this list come to S-21? The evidence to show that it --  
4 the list at S-21 is TSL4 or 430 -- to prove that it -- the list  
5 exists at S-21 and we pay more attention to this list, and we  
6 come a bit further and we'll look to the matter and the works  
7 that I did with my superior, and there were two people who were  
8 implicated, 18 and 36, that Nat reported to the superior that  
9 these two victims planned to kill the superior, saying that they  
10 ran away when the car was driving fast and flat, so -- and he  
11 said that if you arrested anyone based on your personal security  
12 concern, it's the worst case and it's a rare case that the  
13 superior blamed the chief in front of the deputy chief. It  
14 rarely happened.

15 [10.25.17]

16 So the one on the 18 and the 36, so it is fall in the trick by  
17 Nat. It is signed on the 20th of December 1975. The 20th of  
18 December 1975, the people in the country, the farmers, were in  
19 the groups cooperative and the unit, the labourer, so where could  
20 we release them to? So anything should be done through the  
21 Angkar, so Nat was not Angkar at the time, so no-one has the  
22 right to release anybody.

23 So when it considered as enemy, never been released for the case.

24 So when Nat killed someone and he was fearful that he want to  
25 conceal his act and the lists, four of five them were also the

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1 same, that contained the names of people, and the other two lists  
2 contained five victims each. So these people on the list, based  
3 on my analysis, I understand well. The term used, that  
4 "released," I said and I told you that my crimes against 10,000  
5 people, I don't use these two foolish lists to hide. So you  
6 cannot hide an elephant in a room. So there's two lists. It's  
7 on -- a small leaf from the tree, you cannot hide the elephant  
8 with using this leaf.

9 So I don't admit it, it's a release. It was Nat who killed those  
10 people, so what should I say? So in conclusion, for the six  
11 lists, they were all killed. So the released on the other five  
12 lists, it's not true, so I said it's for removal. It is the  
13 removal but it is a false list of prisoners.

14 Q.I do not have any further questions. Thank you for accepting  
15 to answer my questions.

16 MR. PRESIDENT:

17 The Trial Chamber declares the break for 20 minutes until 10  
18 minutes to 11 and we will come back in session, and the next  
19 session will be the floor for the defence counsel to ask  
20 questions in relation to the facts for the trial.

21 (Judges exit courtroom)

22 (Court recesses from 1028H to 1051H)

23 (Judges enter courtroom)

24 MR. PRESIDENT:

25 Please be seated. The Trial Chamber is now back in session.

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1 And, please, Mr. François Roux, the floor is yours.

2 MR. ROUX:

3 Your Honour, Mr. Kar Savuth will ask questions first; however, at  
4 this juncture, I would like to officially inform the Chamber of  
5 the fact that for family-related reasons and reasons that are  
6 painful to me, I am obliged to leave tonight.

7 [10.52.10]

8 I would, consequently, ask the Chamber whether it might be  
9 possible to have the Court management meeting this afternoon once  
10 we will have completed our questioning. We believe that, jointly  
11 with Mr. Kar Savuth, the questioning, on our part, can be  
12 completed by 12 o'clock or possibly by 2 p.m. We may need a  
13 little while in the afternoon, but we would certainly have  
14 finished our questioning by 2 o'clock this afternoon.

15 This is my request to the Chamber so that -- would it be possible  
16 to have the Court management meeting brought forward so that we  
17 could hold it this afternoon?

18 Thank you.

19 MR. PRESIDENT:

20 Mr. Co-Prosecutor, do you have any comments in relation to the  
21 request by the defence counsel to the change of our agenda to  
22 move the trial management Chamber from the 25th of June to this  
23 afternoon? So based on our calculation of time, we hope that we  
24 can finish before the timeframe and he has raised about his  
25 family problem that he need to go back, so what is your comments

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1 on this, Mr. Prosecutors?

2 MR. YET CHAKRIYA:

3 Thank you, Mr. President. The Co-Prosecutors agree to that  
4 request.

5 MR. PRESIDENT:

6 The civil party lawyers, do you have any comments in response to  
7 the request by the defence counsel, Mr. François Roux, about the  
8 switch of the trial management meeting to be held this afternoon  
9 because he has a family problem that he need to go back tonight?  
10 [10.54.51]

11 MR. WERNER:

12 Of course, we could not talk among ourselves because we just  
13 learned the news so maybe it would be good to ask each team; but  
14 on behalf of my team, of course we do not object.

15 MS. STUDZINSKY:

16 I would not object, but I would like to reserve, then, our right  
17 to take the position on all these questions that were raised  
18 concerning the removal of witnesses from the witness list. We  
19 would like to reserve our right and at some point, to give a  
20 later statement on this and not this afternoon because we have  
21 not yet enough time to prepare and work on the proposition that  
22 the Chamber has given to us yesterday.

23 MR. KIM MENGKHY:

24 Mr. President, we are the civil party lawyer for group 3. We  
25 have no objection to the request by the defence counsel, but we

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1 request that the meeting should last longer -- should started  
2 from 1 or 1.30 through to at the end so rather than start at 2.  
3 So if the defence counsel try to finish your question this  
4 morning so that we have enough time for the trial management  
5 meeting this afternoon.

6 Thank you.

7 MR. KONG PISEY:

8 Mr. President, Your Honours, as the lawyers for the civil party,  
9 group 4, I have no objection to his request, but we should note  
10 that the defence counsel should try their best -- their  
11 proficiencie -- to defend his clients because he said that when  
12 the prosecution show the documents without showing to the defence  
13 counsel in advance, but in fact, the document were in the case  
14 files so it's the gap in the defence counsel that one of the  
15 requests by the defence counsel.

16 [10.57.43]

17 MR. PRESIDENT:

18 Thank you for your comments on this matter and based on what the  
19 party have just raised and there were no main objections, then  
20 the Trial Chamber decide to move the trial management meeting on  
21 Thursday the 25th to this afternoon session. And the Trial  
22 Chamber believe that the defence counsel will use their efforts  
23 to put question to their clients as soon as possible so that we  
24 can save time for the trial management meeting this afternoon in  
25 an effort to expedite our proceedings.

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1 And in addition to that, the agenda -- our tentative agendas just  
2 move from the 25th of June to this afternoon and in that  
3 afternoon we will continue our session on the fact on the  
4 security office of Prey Sar.

5 The next session, I would like to give the floor to the defence  
6 counsel to ask the question to your client. Please, Mr. Lawyer.

7 MR. KAR SAVUTH:

8 Thank you, Mr. President.

9 BY MR. KAR SAVUTH:

10 Q.Mr. Duch, is S-21 and M-13 different? If so, what is the  
11 difference between these two?

12 A.Mr. Lawyer, S-21 or the full word is the Security Office S-21  
13 has been heard by all the participants in the Chamber and the  
14 public for quite some times now. This S-21 office is a unit  
15 which they sent the Standing Committee organized and directly  
16 supervised based on the stipulation in Article 8 of the Party  
17 statutes.

18 [11.00.37]

19 The Standing Committee members who directly supervised S-21 was  
20 Son Sen, the seventh member of the Communist Party of Kampuchea.  
21 All the people at S-21 called Son Sen, "Angkar" so that is the  
22 matter related to S-21.

23 As for M-21, the name -- it emerged within the last few days at  
24 the proceedings before the Chamber, in the document E5/2.10 which  
25 I wrote based on the order of Nat to request for the arrest of



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1 Prum Duong and request Angkar to monitor Sar Sao.  
2 So M-21 only emerged lately in the hearing. This M-21 was not an  
3 independent unit organized and established by the Standing  
4 Committee. It was only a secretary of Nat and he established  
5 during the time he was the Chairman. And he himself appointed  
6 himself as Angkar. So that was the reality.  
7 I would like to seek permission to provide an evidence in the  
8 document D14/140 or TSL4479 which the E2/56 civil party used that  
9 document. In that document Nat asked Brother Mam Nai to write  
10 questions to ask Yun Loeun and Brother Mam Nai was asked by Nat  
11 to write request Angkar to release this person, dated 25th  
12 December '75, M-21.  
13 [11.03.00]  
14 And on the first page Nat wrote, "Approved for the release" with  
15 his signature, 21st December. I would seek permission from the  
16 President to show this one-page document on the screen.  
17 MR. PRESIDENT:  
18 Court Official, can you take the document from the accused and  
19 have it projected on the screen?  
20 THE ACCUSED:  
21 I would like to seek your permission to read this part to the  
22 Chamber:  
23 "Request Angkar to release this person, dated 25th December '75,  
24 M-21."  
25 This is the handwriting of Brother Mam Nai.

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1 Mr. President, I would like now to have it projected, to have the  
2 first page projected with the annotation by Nat, "Approved for  
3 the release" and that is Nat's signature. The date is the 26th  
4 of December.

5 I would like to inform the President that the M-21 was used at  
6 S-21 because Nat used that name. So this is my answer to the  
7 first part of the question of the defence counsel.

8 MR PRESIDENT:

9 Can you return the image to the normal view.

10 BY MR. KAR SAVUTH:

11 Q.My second question. Who had the authority at M-21?

12 A.Mr. Lawyer, there was only one person; that is Nat. Nobody  
13 had any authority at M-21.

14 [11.06.00]

15 Q.My third question is based on the numerous documents,  
16 especially E5/2.10. You wrote a request to arrest Aing Ly and  
17 Prum Duong and request Angkar to monitor Sar Sao (phonetic). Why  
18 did you say you have no authority?

19 A.Mr. Lawyer, during that period of time Nat asked me to  
20 summarize the confessions which were already extracted by the  
21 interrogators, so he wanted me to make a meaningful summary. And  
22 at the end he asked me to write that in the request to arrest and  
23 monitor some people, as mentioned in the E5/2.10 as in evidence.  
24 Also, there was my signature and my handwriting on the document  
25 E5/2.9 and 2.8. Also on the E5/2.3 it was still in a draft form.

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1 However, on those documents there was nowhere mentioning of M-21  
2 except on the E5/2.10 where M-21 was mentioned.

3 So Nat used me as his clerk. So this is my brief explanation.

4 So Nat used me, as I was the Deputy Chairman, as his clerk.

5 Q. So for -- the question is that you had no authority but you  
6 were used as a clerk. Now my fourth question. You're writing to  
7 request Angkar for the arrest and monitor of those individuals.

8 What happened next?

9 A. Mr. Lawyer, I did not manage any of this work and Nat was the  
10 one who managed it. So he asked the typist to type my text and  
11 then he handed the original files to Brother Mam Nai as archive.  
12 After that, the typed document was delivered to Comrade Meng to  
13 go and make the arrest .

14 [11.08.52]

15 And I would like to seek permission from the President to project  
16 some documents on the screen.

17 First, document E5/2.9, the ERN number is 000226279.

18 MR. PRESIDENT:

19 Court official, take the document from the accused at project it  
20 on the screen.

21 THE ACCUSED:

22 Mr. President, I would seek your permission to read the  
23 annotation of Comrade Chan. This is:

24 "Use this as an archive. It has been printed the 21st of June."

25 So as I stated, my document was typed and after that the original

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1 document was given to Brother Chan to keep. And also at the same  
2 time, he assigned Comrade Meas to go and make the arrest.

3 [11.11.02]

4 And I would like to seek the President's permission to present  
5 document E5/2.5 on page 00206473.

6 MR. PRESIDENT:

7 Court officer, take the document from the accused and have it  
8 projected on the screen.

9 THE ACCUSED:

10 Mr. President, I would seek your leave to read the notation of  
11 Comrade Meas:

12 "You are asked to go and find in every unit. If the person  
13 cannot be found, go and ask 11. Write the letter in the name of  
14 the chairman of the office with the date of 8 October."

15 So this is the end of my reading.

16 So this is my response to question number four:

17 Q.Thank you. Now my fifth question. Did you personally use  
18 M-21 in any other form?

19 A. Mr. Lawyer, I used M-21 in summarizing the confessions. If a  
20 confession was not clear, I wrote back to M-21 for clarification.

21 For example, on document E5/2.2, I annotated I decided to send  
22 the confession of Lay Sokha through M-21 and the reason the  
23 interrogation was mixed up. So that was my annotation to return  
24 the document back to M-21.

25 [11.14.11]

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1 I only wish to read my annotation and there is no need to have it  
2 projected on the screen. This is to reflect that I did not have  
3 any authority to supervise M-21. If the confession is not clear,  
4 I would have it returned back to M-21 for further interrogation:

5 Q. My sixth question. Did Nat use Mam Nai to write -- what  
6 did Nat ask Mam Nai to write on behalf of M-21?

7 A. Nat used Brother Mam Nai a lot in writing questions and  
8 confessions in a particular form for a release, however, it was  
9 not an actual release."

10 The documents that I show -- the E2 -- E5/2.2 was a testimonial  
11 to that. In addition, there were a number of documents written  
12 by Brother Mam Nai to request for the release and Nat was sent in  
13 through those documents as Angkar. The document E2/55, used in  
14 the annexed .2, also shows such incident.

15 Q. Now, my seventh question. Did Nat use any other name of any  
16 unit in order to request for the arrest of people?

17 A. Mr. Lawyer, based on the reading of the documents that I have  
18 in my hands, I could say that Nat used the word M-21 in order to  
19 arrest people in Sector 25; that means to arrest those people  
20 from S'ang District, Koh Thom, Leuk Daek and Kieu Svay were he  
21 had direct contact. Separately, for the Central Zone, he used  
22 the word M-03 instead of M-21."

23 [11.17.15]

24 And document D32/5 with the ERN1734582173, he used the word  
25 "M-03" to request for the arrest of the people from the Central

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1 Zone. I do not request to have the document projected, however,  
2 I would like to verify that on page 0017345462 he deleted my  
3 words and he used his words in his writing to the superior. The  
4 words that I wrote -- Brother M-03 -- that means Brother Nat --  
5 he deleted my word and he replaced the biography of Kien Pot,  
6 Ngouv Va.

7 And on third point I wrote: "Making the arrest or not, it's up  
8 to you. Made on the 27th of November '75."

9 So he deleted my -- he omitted my words and he attempted to write  
10 to Brother Khieu. As for Kien Pot, Ngouv Va, we request to have  
11 him arrested. He falsified his biography that he was a worker at  
12 Baray in Kampong Thom. So there was one incident. And towards  
13 the end for the final document he omitted and replaced. It was  
14 on page 00173461, about, it reads the biography of Kien Pot,  
15 Ngouv Va, and Toek Bundim and toward the bottom, made on the 29th  
16 of November 1975, Office M-03. So this is to show that at the  
17 Central Zone he used M-03. And his annotation was not to request  
18 any information to anybody, but it was to provide information.

19 It reads:

20 "These two persons we selected from the document of those youths  
21 or combatants who opposed the Angkar, and they were their real  
22 names. Signature, Sen, 31st November."

23 So I think he got confused. It could not be 31st of November.  
24 It could be the 1st of December.

25 [11.20.06]

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1 So the documents with the use of Office M-03, it was for the  
2 Central Zone. However, these documents survived the S-21 Office,  
3 I think, including both the first draft and the final version. I  
4 believe Nat dare not use the document to arrest people at the  
5 Central Zone without going through the superior. So Nat went to  
6 arrest people arbitrarily, and this is shown in the surviving  
7 documents.

8 That is my answer.

9 Q.Thank you. My question number eight. If Nat continued the  
10 decision to arrest anyone anyway, why Angkar, Son Sen, and Pol  
11 Pot failed to take any action against Nat?

12 A.Mr. Lawyer, based on my observation of the historical facts on  
13 Nat, there was many, but I can tell you as the following.

14 The first event in December, or late November, at the time my  
15 superior called me and Nat to work. When we were there Nat told  
16 the superior that there was someone intended to kill me. He did  
17 not even finish but the superior get an idea from anyone and he,  
18 the superior, feel furious, and said that, "If you decided to  
19 arrest the people on the ground that you were fearful of your  
20 personal security, it's very extreme and you are individualist."

21 This is the first incident.

22 The second incidents are the six pages documents that I reported,  
23 the five pages of documents I showed to the Chamber. It's showed  
24 the false release when he was aware that Angkar get knowledge of  
25 his activity, so the false releases started on the 20th of

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1 December in D57 Annex 003. And the false release exists on the  
2 document on the 20th December, and it ended in the 8th of March  
3 1976. I forget the ERN number. In document of release it's  
4 E5/2.8.  
5 [11.23.37]  
6 So now the historical incident. Nat created the false release of  
7 the victim because he made the unilateral arrest in advance.  
8 The third incident, in March 1976, Angkar removed Nat from S-21,  
9 based on the basic need for the work. He was removed in March.  
10 And the fourth incident, the most important incident, that Pol  
11 Pot approved a number of matters on the 30th of March 1976, on  
12 the first paragraph, that the Trial Chamber knew that well, and  
13 that's the right to make decisions inside and outside of the  
14 rank. In April, on the 19th, the 20th, the 21st, the Standing  
15 Committee hold three days meetings and Pol Pot tried to suspend  
16 Nat from his position.  
17 The documents stated about a decision of Pol Pot. It's on  
18 D00694. I would like to read the page which states that Pol Pot  
19 did not trust Nat. It's on page 00019145; ERN again, 00019145.  
20 The writings was, on this page, Comrade Mean and Comrade Nat were  
21 only a mobile cadre supporting the General Staff in the operation  
22 mission. They no longer had direct supervision on the force.  
23 If comparing to the document dated the 9 October 1975, from the  
24 beginning Pol Pot did not trust Chak Krei, but now Pol Pot did  
25 not trust Nat. Let me read the content from that document. From



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1 the beginning Pol Pot praised Division 12. It's the former name  
2 of Division 703. The attacking line, Division 03 was very good  
3 at that, and when he's talking about Chann Chak Krei, "If you  
4 cannot control them, we ask them to come and work at the General  
5 Staff; for example, Comrade Mean." Comrade Mean was Chann  
6 Chakkrey, came maybe from -- to work in the Politics Office -- or  
7 any of the comrades should be selected to be the secretary of the  
8 division, so on the 9th of October, 1975 Pol Pot praised very  
9 much the Nat division. And later, Nat and Chann Chak Krei were  
10 the suspects before the Party and they were no longer trusted.  
11 And some of their tasks were removed.

12 [11.28.20]

13 That's all I can say.

14 Q.Thank you. I would like to come to question number nine.  
15 Previously I listened to your explanation. There were only four  
16 groups of peoples. It was the Standing Committee, and the  
17 Secretary of the Zone, and the Secretary of the Central  
18 Committee, and the Secretary of the General Staff who have the  
19 right to smash or to arrest. Do you agree with me on that?  
20 The next question. Those who had no right to smash, like Nat and  
21 Kuy Thuon, but he made decision but later the Party take action  
22 against him subsequently. Do you agree with me?

23 A.Thank you, I agreed.

24 Q.So you have a different conclusion than me, so what is your  
25 conclusions? Please keep it brief.

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1 A.Mr. Lawyer, two of your conclusions I agree, and I would like  
2 to give my conclusion by dividing the background of the  
3 implementation of the Party line at S-21. The first was when Nat  
4 was chairman, especially the unilateral arrest of people and  
5 about the false arrest but it is not really -- the false release  
6 but it was not true. And the purge or the screening of the force  
7 to base on the honesty policy at S-21, there was the secretary  
8 and deputy secretary and then we request for the approval from  
9 the Standing Committee, for example, document ES Annex C18.81  
10 that I noted on the background or the biography of Comrade Mut  
11 Heng after approved by the Standing Committee.

12 [11.30.53]

13 Number two, in case of suspicion we have the agreement to  
14 transfer some of the combatants from the interrogator to be  
15 combatants at Prey Sar, including Chhun Thum in E5/2.4 at page  
16 ERN 0028-- 28010. When there is an implication to those who are  
17 in the unit we increase the vigilance to defend and request for  
18 decision from the Angkar when needed, for example in document  
19 E5/2.52 at page 00226779, we never make any decision to arrest  
20 anyone without the decision from the Standing Committee.

21 That's all.

22 Q.I will ask another three questions.

23 Amongst the 12,000 people that were smashed at S-21, how many of  
24 them that you smashed with your own hands?

25 A.Mr. Lawyer, I would like to confirm again that even though at

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1 M-13 or S-21 I never killed anybody -- anyone with my hands.

2 Q.Thank you. You said that you never killed anyone with your

3 own hands. Why do you accept or declare to accept the

4 responsibility for those crimes?

5 A.Mr. Lawyer, these crimes came from the Party line of the CPK.

6 I was one of the members of the Party assigned to manage S-21 and

7 it was a mechanism, a criminal mechanism that killed 12,380

8 people. Anyone who refused to implement that Party line I will

9 report and later they will end up with arrest. I was the one who

10 was the master in charge of implementing the CPK policy at S-21.

11 So if there was no-one like me who do that, the matter will go in

12 a different direction.

13 [11.34.13]

14 Q.Thank you. So you order to your subordinate to smash the

15 victims, it's the 12,380 people. So what were the orders from

16 your superior? Please explain to the Court who were your

17 superior, your upper echelon, to make orders to you, so that the

18 world and the public will know well about those criminals?

19 A.Mr. Lawyer, I explained the Chamber about the political Party

20 lines. Anyone who consider as enemy shall be smashed. Anyone

21 who was considered a friend should be supported, so all kind of

22 support will be available for the friends. These are the

23 political Party line no-one would dare to violate. So anyone

24 respect and obey to the Party line, including Pol Pot himself, so

25 no-one can violate the Party line. But those who directly order

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1 and manage directly over me from the beginning was my professor,  
2 Son Sen, and later Uncle Nuon, Nuon Chea, who was my immediate  
3 superior.

4 For example, the document D159/2.10 that order me 100 victims  
5 from Unit 920, so I have no way to go around, so there was the  
6 order from the upper echelon, so if I failed to do that, when  
7 there's a report I will be killed for that.

8 Q.Please explain again. Your superior was Nuon Chea and Son Sen  
9 who order you so that you can order your subordinate to do so.  
10 So who were the superior of Son Sen or Nuon Chea?

11 A.So the biggest -- the big boss in that time was Pol Pot.  
12 That's what I can say. As for other zones and other branches,  
13 it's different. It was like the provision stated in the document  
14 dated the 30th of March 1976.

15 [11.37.25]

16 Q.You were the Chairman of S-21. How many victims that you used  
17 the torture by your own hands again? How many of them is among  
18 the 12,380 victims?

19 A.Mr. Lawyer, I can tell you, based on my recollections, if I am  
20 not mistaken I tortured only Chhit Iv only once when I was the  
21 deputy secretary of the office. That's all I can say.

22 Q.Thank you.

23 MR. KAR SAVUTH:

24 I would like to give the floor to Mr. François Roux to continue  
25 his questions.

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1 MR. PRESIDENT:

2 Please, Mr. François Roux, the floor is yours.

3 MR. ROUX:

4 Thank you, President.

5 And I want to thank all the parties for having agreed to bring  
6 forward the trial management meeting.

7 I consequently have very few questions to ask at this point.

8 BY MR. ROUX:

9 Q.Duch, when your lawyers suggested to the Investigating Judges  
10 the organizing of a reconstitution, re-enactment, in Choeung Ek  
11 and S-21, you agreed to take part in such a re-enactment. Am I  
12 correct?

13 A.Mr. Lawyer, yes I agreed to the request voluntarily at the  
14 time.

15 [11.40.16]

16 Q.And in February 2008 on one particular morning, 30 years after  
17 the events, you went back into S-21 -- S-21 that you had left in  
18 January 1979. Is this correct?

19 A.Mr. Lawyer, I went to S-21 but before I went there I went to  
20 Choeung Ek. Previously, I only went to Choeung Ek for one time  
21 for a very short visit. So when I went to Choeung Ek I was  
22 shocked and moved because it was the place where a lot of people  
23 were killed. When I went to Choeung Ek I confessed to my people  
24 that children might be swung against the tree.

25 Also, at the same time, at a place where the photos were

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1 displayed, I saw the photo of Professor Phing Ton. Before I did  
2 not even believe that he would be at S-21. So I was speechless  
3 when I saw his photo with my own eyes. I saw his handwriting in  
4 his biography. I did not see or read his biography before but I  
5 believed it was his handwriting. So at that time, the words that  
6 I protested that Professor Phing Ton was not detained at S-21, I  
7 had to reject that because now it appeared to be true. That is  
8 the second point.

9 And for the third point, every time I recall, it was so painful  
10 that the lives lost at Choeung Ek so it required me to pray to  
11 God to forgive those souls. And when I arrived at S-21 I was  
12 shocked for the numerous things happened there. I saw the  
13 victims or the survivors, three of them, who stood before me.  
14 What happened in the past came back into my mind.

15 Another particular recollection was the photo of a female  
16 prisoner having her baby in her arms. I was so shocked and moved  
17 and I stood before the victims being moved by what happened. I  
18 made a speech for the souls of those who died. This is something  
19 that I can never forget, that is the trip to Choeung Ek and S-21  
20 in Phnom Penh.

21 There were a lot of shocking incidents happening at S-21 but this  
22 is my brief response to your question.

23 [11.45.50]

24 MR. ROUX:

25 Mr. President, at this juncture, the defence would like to

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1 request the viewing of three minutes of the film, the video of  
2 the re-enactment. I clarify immediately that there is no  
3 witness; no victim appears in this excerpt; there is only the  
4 accused.

5 I also want to make clear that this particular film was shot upon  
6 the request of the Investigating Judges. The whole re-enactment  
7 was filmed. It is all in the case file. And the excerpt that we  
8 wish to show now is the particular moment when Duch wanted to  
9 speak to the victims and he could not continue and you will see  
10 why. You will understand why when viewing this excerpt.

11 Can we ask the AV people to do the needful, please?

12 MR. PRESIDENT:

13 Do you have the reference number to such material?

14 MR. ROUX:

15 Yes, of course, Your Honour -- D48/2.

16 [11.47.42]

17 MR. PRESIDENT:

18 The audio and visual official.

19 JUDGE CARTWRIGHT:

20 Thank you, Mr. President.

21 Has the transcript of whatever is said on this excerpt on the  
22 film being made available to the interpreters? Are you able to  
23 assist us with that?

24 MR. ROUX:

25 Your Honour, very little is actually said in this excerpt -- very

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1 few words -- and whatever is said, is said in French and in  
2 Khmer.

3 JUDGE CARTWRIGHT:

4 Well, in that case, it seems that we can continue with the  
5 showing of the excerpt, but if the interpreters have any  
6 problems, then perhaps we can deal with that if and when it  
7 happens. Thank you.

8 MR. PRESIDENT:

9 The Audio and Visual Section, you can now proceed with the video  
10 clip, D48/2. Can you do that?

11 (Video recording played)

12 (No interpretation)

13 THE INTERPRETER:

14 Your Honours, there is no sound reaching the interpretation booth  
15 so whatever is -- perhaps, you are receiving some, but we are  
16 not.

17 JUDGE YOU BUNLENG (From video recording):

18 Regarding this, the lawyer for the accused asked that a statement  
19 be read out at first, since the victims and the witnesses have  
20 not yet been identified. I would only like to ask the civil  
21 party lawyers for their opinions. If there are any, they should  
22 be expressed.

23 MR. PRESIDENT:

24 I notice the presence of the defence counsel. Also, I would like  
25 the Co-Prosecutors who are the party of the case.



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1 The defence counsel, you take the floor.

2 [11.54.48]

3 MR. ROUX:

4 This is enough, I think, Your Honours. I just had one last  
5 question to put to the accused.

6 I would like to make clear that the statement of the accused was  
7 -- the reading of it was suspended during the beginning -- right  
8 at the beginning of that re-enactment, and there is another piece  
9 of footage that is much longer and which we shall submit to you  
10 later on, that took place on the evening of the re-enactment day.  
11 And, at that point, the accused spoke to the victims and the  
12 victims were in a position to answer, but this -- we will show  
13 this only once the victims will have offered testimony.

14 BY MR. ROUX:

15 Q.Duch, you have just seen this excerpt, so I have just one more  
16 question for you at

17 this point -- one last question.

18 Since the tragedy of S-21, since that time, have you made  
19 offerings for the souls of the victims?

20 A.Mr. Lawyer, in 1975, what happened then was shocking news that  
21 we all tried to

22 avoid. And in 1979, whatever happened, we could not avoid it.

23 We saw the killings, the deaths and the separations and, finally,  
24 all the people at S-21 all died so there was no longer S-21 unit.

25 Some fled to their native homes, but majority of them died,

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1 including my younger sibling, my nephew, the wife of Brother Mam  
2 Nai and the wife of Comrade Pon, so I was left alone with my wife  
3 and two children.

4 [11.57.43]

5 At that time, I became even more sorrowful. I didn't know about  
6 my wife's feeling. She told me that the last few days, she  
7 really thought of her father at the time, and I told her I also  
8 thought of the father. And my wife asked, "What could we do  
9 then?" and I said, "We could pray; make an offering for him".  
10 But then she said how could we make an offering or pray for him  
11 because we were not sure whether he's dead or not.

12 But I said we have just to do it in order to ask for forgiveness  
13 from my father who get me birth on the 17th of November 1942. He  
14 gave me life to do good deeds to the nation and the people, but I  
15 did it the other way around. So I make an offering each year.  
16 First, I ask for forgiveness to my parents; then I ask for  
17 forgiveness to my teachers and, finally, I ask for forgiveness  
18 for all the victims of the crimes. I do this all the time. I  
19 have done it until I was imprisoned, because that was the time I  
20 had no ability to make any offering.

21 However, in November each year I would not be able to do  
22 anything. I had to do something in order to calm my feeling.  
23 And another time, when I was Christian and I prayed to God I  
24 would ask for forgiveness from all the souls of the victims, and  
25 I prayed for them.

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1 This is my response to your question.

2 And finally, I would seek the President's leave to specify on one  
3 point. That is on the issue of Professor Phing Ton and because  
4 his daughter, Sun Thary, is here in the Court. So if I have the  
5 leave from the President I would say something regarding to that.

6 [12.00.50]

7 MR. PRESIDENT:

8 You still have the final opportunity to express or make your  
9 statement toward the end of the proceedings, so before the close  
10 of the trial we would give you an opportunity to have your final  
11 statement expressing to the victims, the families of the victims,  
12 the Cambodian people, as well as the world people, and then we  
13 would make our judgement. But right now you are not permitted to  
14 make your statement.

15 The defence counsel, do you have any more questions for your  
16 client?

17 MR. ROUX:

18 I am finished, thank you, Mr. President.

19 MR. PRESIDENT:

20 Thank you, defence counsel.

21 Now it is time for our lunch break. However, before the break  
22 the Chamber would like to notify the public and the parties that  
23 this afternoon the Chamber will be having a Trial Management  
24 Meeting which is in camera, so the media and the public are not  
25 permitted to attend the meeting. The meeting is aimed to find

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1 solutions to all the technical issues faced by the Chamber and  
2 the parties.

3 And we will now adjourn for lunch break and will resume this  
4 afternoon by having the Trial Management Meeting from 1.30 p.m.  
5 Security officers, take the accused back to the waiting facility  
6 and bring him back before 1.30 p.m. this afternoon.

7 (Judges exit courtroom)

8 (Court adjourns at 1202H)

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