



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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Nation Religion King
Royaume du Cambodge
Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber
Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

5 May 2016
Trial Day 409

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| ឯកសារដើម |
| ORIGINAL/ORIGINAL |
| ថ្ងៃ ខែ ឆ្នាំ (Date): 14-July-2016, 11:40 |
| CMS/CFO: Sann Rada |

Before the Judges: NIL Nonn, Presiding
Claudia FENZ
Jean-Marc LAVERGNE
YOU Ottara
YA Sokhan
Martin KAROPKIN (Reserve)
THOU Mony (Reserve)

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:
Victor KOPPE
SON Arun
Anta GUISSSE
KONG Sam Onn

Trial Chamber Greffiers/Legal Officers:
CHEA Sivhoang
Matthew MCCARTHY

Lawyers for the Civil Parties:
CHET Vanly
Marie GUIRAUD
HONG Kimsuon
PICH Ang
VEN Pov

For the Office of the Co-Prosecutors:
Joseph Andrew BOYLE
Travis FARR
SENG Leang

For Court Management Section:
UCH Arun

I N D E X

Mr. HIM Huy (2-TCW-906)

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List of Speakers:

Language used unless specified otherwise in the transcript

| Speaker | Language |
|--------------------------|----------|
| Mr. BOYLE | English |
| Mr. FARR | English |
| Judge FENZ | English |
| The GREFFIER | Khmer |
| Ms. GUIRAUD | French |
| Ms. GUISSE | French |
| Mr. HIM Huy (2-TCW-906) | Khmer |
| Mr. KOPPE | English |
| Judge LAVERGNE | French |
| The President (NIL Nonn) | Khmer |

1

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

2 (Court opens at 0859H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear the remaining testimony of

6 Him Huy.

7 Ms. Chea Sivhoang, please report the attendance of the parties

8 and other individuals to today's proceedings.

9 THE GREFFIER:

10 Mr. President, for today's proceedings, all parties to this case

11 are present.

12 Mr. Nuon Chea is present in the holding cell downstairs. He has

13 waived his rights to be present in the courtroom. The waiver has

14 been delivered to the greffier.

15 The witness who is to conclude his testimony today, Mr. Him Huy

16 and Mr. Mam Rithea, his duty counsel, are present in the

17 courtroom. There is no reserve witness today.

18 Thank you.

19 [09.01.01]

20 MR. PRESIDENT:

21 Thank you, Ms. Chea Sivhaong. The Chamber now decides on the

22 request by Nuon Chea.

23 The Chamber has received a waiver from Nuon Chea, dated 5th May

24 2016, which states that due to his health, headache, back pain,

25 he cannot sit or concentrate for long and in order to effectively

2

1 participate in future hearings, he requests to waive his presence
2 at the 5th May 2016 hearing.

3 Having seen the medical report of Nuon Chea by the duty doctor
4 for the accused at the ECCC, dated 5th May 2016, which states
5 that Nuon Chea has severe back pain and cannot sit for long and
6 recommends that the Chamber shall grant him his request so that
7 he can follow the proceedings remotely from a holding cell
8 downstairs. Based on the above information and pursuant to Rule
9 81.5 of the ECCC Internal Rules, the Chamber grants Nuon Chea his
10 request to follow today's proceedings remotely from a holding
11 cell downstairs via an audio-visual means.

12 The Chamber instructs the AV Unit personnel to link the
13 proceedings to the room downstairs so that Nuon Chea can follow.
14 That applies to the whole day.

15 I'd like now to hand the floor to the defence team for Nuon Chea
16 to put further questions to the witness. You may proceed.

17 [09.02.46]

18 QUESTIONING BY MR. KOPPE RESUMES:

19 Thank you, Mr. President. Good morning, Your Honours. Good
20 morning, counsel. And good morning, Mr. Witness.

21 Q. I would like to start this morning with one follow-up question
22 in relation to the matter of your conviction in the early
23 eighties of the other century.

24 Mr. President, I'll be referring to a book from Craig Etcheson.

25 It's document E3/1813. There's only an English ERN. It's page

1 00078740.

2 Let me read this excerpt to you, Mr. Witness. Etcheson writes,
3 and I quote:

4 "During the early 1980s, he" -- you, Him Huy -- "surrendered to
5 the government authorities, professing his loyalty to the New
6 Order and a desire to return to the national community. He was
7 given a lenient sentence of one year of re-education and was then
8 released to return to life as a farmer."

9 My question is about one particular part of this sentence,
10 "professing his loyalty to the New Order". Did you, at any point
11 in time, before or after your release, profess your loyalty to
12 what Etcheson calls the "New Order"?

13 [09.04.42]

14 JUDGE FENZ:

15 Can I just ask a question while the witness is thinking?

16 Does Etcheson actually reference something when he alleges this
17 in his book, or is it -- does it go without reference?

18 MR. KOPPE:

19 He refers to a footnote 16, which I'm happy to provide you later,
20 but I don't have it right in front of me. But there is a footnote
21 which I presume is a source for that.

22 JUDGE FENZ:

23 Just tell us the nature of the source.

24 MR. KOPPE:

25 I think it's an end note, so I cannot see the source now, but I

1 will provide it to you shortly.

2 Mr. Witness --

3 [09.05.24]

4 MR. PRESIDENT:

5 You -- please be careful with the words you use, whether to serve
6 the sentence in a legal term is different. However, from the
7 testimony of this witness, it seems that he did not serve any
8 sentence. As for the punishment he received, <it> might possibly
9 be an administrative measure that was imposed upon him during
10 that period, that is, after the 7 January 1979, and before the
11 establishment of the People's Court, which was established in
12 February 1982. And that -- in fact, those courts were in
13 operation at a later date.

14 That is based on my observation, that those courts actually began
15 their operations in 1984. And if you refer to the conviction and
16 the serving of a sentence, you need to actually refer to a final
17 judgment. So please be precise in your questioning.

18 [09.06.52]

19 I understand that this is an important matter for the Defence
20 since you objected to the witness exercising his rights to remain
21 silent yesterday.

22 And Judge Lavergne, you have the floor.

23 JUDGE LAVERGNE:

24 Counsel Koppe, can you <just> give us <the> reference <for Craig>
25 Etcheson's book <again> because we have <reference> E3/1883, but

5

1 it doesn't seem to correspond to what you're saying.

2 MR. KOPPE:

3 Yes, Judge Lavergne. May be something went in translation; it is
4 E3/1813, 1813.

5 Answering your question, Mr. President, I'm not vague as to the
6 exact year. It's Etcheson who's referring to the early eighties.

7 I have now found the source for Etcheson's sentence. He refers to
8 an interview he conducted himself with Him Huy in February '96.

9 So that seems to be Etcheson's source.

10 [09.08.14]

11 JUDGE FENZ:

12 Just as a matter of interest, do we have the interview, to the
13 best of your knowledge?

14 BY MR. KOPPE:

15 I haven't seen that in the case file while preparing, but I will
16 have another look.

17 Q. So, Mr. Witness, returning to my original question, Etcheson,
18 who might have been speaking to you at one point in time, said
19 that you "professed your loyalty to the New Order". Is that
20 something you did? Is that something you told Etcheson?

21 MR. HIM HUY:

22 A. I cannot recall that.

23 [09.09.08]

24 Q. You cannot recall saying it to Etcheson or cannot recall doing
25 that, professing your loyalty?

6

1 A. I did not know anything about that.

2 Q. Very well. I'll move on, Mr. Witness, to something that we
3 were also discussing yesterday.

4 I was asking you a question about when you were sent --

5 MR. PRESIDENT:

6 Counsel Koppe, please hold on.

7 And Judge Lavergne, you have the floor.

8 JUDGE LAVERGNE:

9 I am reading Craig Etcheson's book. I see that he's referring to
10 a person called You Huy (phonetic), not to Him Huy. Am I wrong?

11 MR. KOPPE:

12 No, you're not wrong, but he refers to Huy, for example, a Khmer
13 Rouge cadre who was chief of guards. I don't think there's
14 another Huy who was chief of guards.

15 [09.10.33]

16 JUDGE LAVERGNE:

17 Mr. Koppe, when you say it is Him Huy<,> you <don't> say that it
18 is Him Huy who's being referred to in Craig Etcheson's book, that
19 is not correct.

20 BY MR. KOPPE:

21 Maybe you should read the footnote, Judge Lavergne. It says,
22 "Author's interview with You Huy (phonetic), alias Him". So
23 there's no doubt he was referring to Him Huy, besides the fact
24 that there was no You Huy (phonetic) who was chief of guards.

25 Q. But let me return, Mr. Witness, to my original question. You

1 leaving to Prey Sar, you said it was mid-78. Can you recall when,
2 exactly, it was in mid-78? Can you be a bit more precise as to
3 when you were sent to Prey Sar to farm rice?

4 [09.11.42]

5 MR. HIM HUY:

6 A. I cannot recall the date that I was sent there and, actually,
7 I was in fear when <Duch> said <that> I was preparing a
8 rebellious plan and, after that, I was sent to go <work in the
9 rice field>. But I can't recall the date.

10 Q. Have you ever heard of the leader of the east Zone, former
11 leader, So Phim?

12 A. I heard of the name So Phim. People spoke about him.

13 Q. So Phim died on the 3rd of June 1978, so that was around the
14 time he was defeated.

15 Was it before So Phim's defeat or after So Phim's defeat that you
16 were sent to Prey Sar?

17 A. I did not know about that.

18 Q. Very well, Mr. Witness. Does your answer that you were sent to
19 Prey Sar mid-78, mean that you were not at S-21 in January '79,
20 when the Vietnamese tanks arrived in Phnom Penh?

21 A. I was working in the rice fields. When <the> Vietnamese were
22 entering Phnom Penh, we were <> gathered <to flee at night>.

23 Q. I understand. But just to be sure, you were not, in fact,
24 around the premises of S-21. You were not close to the irrigation
25 (sic) canal, for instance. You were not there, where now is the

1 former -- or the Tuol Sleng museum. You weren't actually there.

2 Correct?

3 [09.14.37]

4 A. I was to the south of that vicinity.

5 Q. So you were in Phnom Penh and not in Prey Sar. Is that what
6 you're saying?

7 A. I was working the rice fields to the south of Choeung Ek.

8 Q. Very well. So when Duch is saying or implying that you were
9 working at S-21 until the very last day, he is incorrect. Am I
10 right?

11 A. A few days after he accused me of planning the rebellion, he
12 ordered Hor to order me to go and work in the rice fields <to the
13 south of Choeung Ek>. So I actually went there to work in the
14 rice field, to build dikes. And after the rain -- after the
15 rainfall, I actually transplanted seedlings.

16 [09.15.58]

17 Q. So was it, then, maybe not mid-78 you went to Prey Sar, but
18 the end of '78?

19 A. It was in mid-1978 because, at that time, I was assigned to
20 build dikes and to clear the forest in that area.

21 Q. Fine, Mr. Witness. Let me move on to another subject.

22 Yesterday, you briefly referred to this already. Do you know
23 whether there was a conflict or a clash between members of
24 Division 703 or former members of Division 703 and Duch's men
25 within S-21?

1 A. Ta Hor told my group that he actually argued with Duch three
2 times, since he stood by his men, and that's what we were told.
3 And from that day on, I kept quiet. I did not argue with Ta
4 Duch's men. And later on, <they used their force to stand guard
5 and> they <started> to arrest members of our group.

6 Q. Are you implying that the arrest of former Division 703
7 members was the result of the conflict between Duch on the one
8 hand and Hor on the other hand?

9 A. People who worked at S-21 who had some arguments, that is,
10 during the meetings between Hor and Duch, since they usually took
11 sides with their men, Hor told us not to argue with his men.
12 Otherwise, we would -- we would be subject to arrest. So from
13 that day onward, we did not argue.

14 [09.18.36[

15 Q. So do you know how many S-21 cadres, originally coming from
16 Division 703, were, at one point in time, sent to Prey Sar? How
17 many?

18 A. I cannot recall it. However, I saw six or seven men and,
19 together with Huy, there were about 10 <people>. And only Phal
20 survived, and the rest were detained and killed at S-21.

21 Q. But you survived, too, didn't you?

22 A. Huy was arrested in '79 -- rather, several months before the
23 regime fell in '79. Ta Hor was to be arrested, and my group, and
24 including myself, had to be arrested and killed. <If the regime
25 had not fallen in time, all of us would have been killed.>

10

1 Q. Was Brother Teng also in your group, and was he also sent to
2 Prey Sar?

3 [09.20.20]

4 A. That group remained there and was not sent to Prey Sar since
5 Ta Hor assigned them to be there.

6 Q. I will get back to Brother Teng shortly. Let me now ask you
7 some general questions about Division 703 and Regiment 21.

8 Do you have any knowledge as to the total size of Regiment 21,
9 how many men, how many cadres or combatants were there in total
10 within S-21?

11 MR. PRESIDENT:

12 Witness, please hold on.

13 And Deputy Co-Prosecutor, you have the floor.

14 MR. FARR:

15 I couldn't tell whether Counsel was asking how many members there
16 were in Regiment 21 as a whole or how many members of Regiment 21
17 ended up working at S-21.

18 BY MR. KOPPE:

19 That latter question was going to be my follow-up question.

20 Q. My first question was, Mr. Witness, do you know the total
21 number of all the men, so not only S-21, the Tuol Sleng compound,
22 but all the men within Regiment 21, how many there were?

23 [09.22.04]

24 MR. HIM HUY:

25 A. I do not recall the total number. However, there were over

1 200.

2 Q. Just to be very clear, I'm not talking about the guards and
3 the interrogators at the location which is now known as the Tuol
4 Sleng museum. I'm referring to all the members of Regiment 21,
5 including those working at Prey Sar, including those working at
6 logistics offices, etc.

7 Do you know how many men there were in total?

8 A. I do not know the total number.

9 [09.23.00]

10 Q. Referring, Mr. President, to E3/1136, English, ERN 00543743;
11 Khmer, 00160081; and French, 00548764. That's a document which
12 speaks about, as it is called, the rice consumption plan in 1976,
13 for all divisions, including Division 703.

14 And it says that, in 1976, there were about 2,048 men,
15 combatants, working in total for Regiment 21. Is that correct?

16 A. I do not recall the total number.

17 Q. Do you know who Comrade Sen was?

18 A. The name does not ring a bell.

19 Q. Who was the commander in '76, of Regiment 21, early '76? Do
20 you know?

21 A. I did not understand because, at S-21, there was no regiment.

22 Q. Do you know whether, a year later, in March '77, Regiment or
23 Office 21, had about 2,300 men or combatants working for them?

24 A. I did not understand about the number.

25 Q. Do you know who the commander was of Division 703, in early

1 '76?

2 A. The person that I knew for sure was Ta Pin, <a> divisional
3 commander. As for Pang, Pang was the commander of Division 703.
4 [09.26.10]

5 Q. Have you ever heard that Division 703 was three times bigger,
6 roughly, in size than Office 21 or Regiment 21?

7 A. Please repeat your question. I don't get it.

8 Q. Do you know whether Division 703, that you just spoke about
9 was, in '76, roughly three times bigger than Regiment 21?

10 A. No, I did not hear anything about that.

11 Q. Do you know anything of -- about the hierarchy within Division
12 703?

13 Pin was its commander. Who was number 2, who was number 3, who
14 was number 4? Do you know?

15 [09.27.30]

16 A. I do not recall that, and I did not know who the next person
17 <was> after the two.

18 Q. Do you know how high in rank Hor was when you compare him to
19 Pin?

20 A. Hor was lower in rank <than> Pin and Nat.

21 Q. I understand that. But do you know -- can you say anything
22 about Hor's position toward Pin? Was he directly below Pin or was
23 he two ranks or three ranks below Pin? Do you have any idea?

24 MR. FARR:

25 Mr. President, it might be helpful to have a particular period of

13

1 time that we're talking about here. These are things that could
2 have changed over time, so I think, to be precise, it would be
3 helpful to know what period Counsel's interested in.

4 BY MR. KOPPE:

5 Sure. I'm referring to early '76 until March '77.

6 Q. So again -- yes. Again, Mr. Witness, do you have any idea as
7 to Hor's position at one point in time relating to Pin?

8 [09.29.13]

9 MR. HIM HUY:

10 A. I did not know about that. What I knew is that Pin was at the
11 divisional level, while Hor was at the <battalion> level.

12 Q. And then finally, in relation to those 2,000 combatants
13 working for Regiment 21, you've talked extensively about Duch and
14 also Hor.

15 Can you tell us anything about the command structure of the
16 complete regiment, all 2,000 men, how they were structured?

17 A. I did not know about the structure.

18 [09.30.13]

19 Q. That's no problem, Mr. Witness. Let me move to S-21 itself.

20 And when I say S-21, I don't mean the full 2,000 force regiment,
21 but I mean the inner working of what we know -- now know as Tuol
22 Sleng.

23 MR. FARR:

24 Mr. President, I think that question conflates Regiment 21 of
25 Division 703, with Office S-21, and I just don't think that

14

1 that's what the evidence is in this case, so if Counsel provide a
2 citation that Regiment 21 is the same thing as S-21, I think it's
3 important to provide evidence of that before incorporating that
4 into a question.

5 MR. KOPPE:

6 Something went wrong with my receiver, but if I understood the
7 question correctly is the source of the evidence that Regiment 21
8 was much larger than its office at Tuol Sleng.

9 Well, that's basically coming from --

10 MR. FARR:

11 Well, it's different than that. It's that S-21 was even a part of
12 Regiment 21. I don't think the evidence shows that, so if that's
13 the premise of the question, then we'd appreciate a citation.

14 And just to be clear, we agree that there's evidence that there
15 were members of Division 703 who were lent, as the witness put it
16 yesterday, to S-21. But that's different than saying that S-21
17 was a part of Regiment 21 or a part of Division 703.

18 [09.32.08]

19 MR. KOPPE:

20 Well, the documents that I referred to, Mr. President, gives a
21 head count of all divisions and autonomous regiments. One of them
22 is 21. The other ones are, as we know, 703, 450, 310, etc.

23 JUDGE FENZ:

24 Since the question was asked, just repeat the references.

25 [09.32.38]

15

1 BY MR. KOPPE:

2 As I just referenced already, E3/1136, which is the rice
3 consumption plan in 1976. There's an overview of all divisions,
4 with a total number of combatants and with the names of, as it is
5 called here, the unit chairs, the commanders.

6 There's another document which is called the "Joint Statistics of
7 Armed Forces", which is of March '76, document E3/849. It's
8 referring to various units.

9 The French translation is a bit more accurate than the English,
10 and it says that, for instance, Division 703 has 5,369 combatants
11 and Office S-21, or centre S-21, 2,327 or 28 cadres. And then it
12 says, "Not including components" and in French, "sans compter les
13 éléments", presumably referring to the people who were detained.
14 So there's no doubt whatsoever as to the total number of people
15 working for Regiment 21, confirmed also by minutes of meetings
16 between Division 703, Regiment 21 and Son Sen, the general staff.

17 So having said that, Mr. President, may I continue?

18 Q. Mr. Witness, do you know anything about the chain of command,
19 the hierarchy structure in the total force of Regiment 21?

20 [09.34.47]

21 MR. HIM HUY:

22 A. I do not know about that.

23 Q. Fine. Like I said, no problem, Mr. Witness.

24 Let me move to something that you might be able to tell us, that
25 is, the number of men working at what is now known as the Tuol

16

1 Sleng museum, that compound.

2 How many men, how many combatants, and I mean guards,
3 interrogators, logistics people, were working in S-21 and its
4 surrounding perimeters?

5 [09.35.41]

6 A. There were around 300 soldiers.

7 Q. And is that only guards, or are you now also calculating the
8 -- or including the interrogators?

9 A. That was the total number. The number was around 300.

10 Q. Mr. President, I would like, with your leave, to show a head
11 count of staff working within S-21, presumably the compound and
12 its outer perimeters. It is -- I have it here, the Khmer version
13 I would like to show to the witness. It is document E3/8386;
14 Khmer page is 00002640; English, 00521634; and French, 00532736.

15 JUDGE FENZ:

16 Just tell us for the record which time -- the head count at what
17 time?

18 MR. KOPPE:

19 That is a good question because the document doesn't give an
20 indication as to when it was produced or which period it refers
21 to. But it is coming from or attached to something called
22 "Circular". It's an Office S-21 Phnom Penh circular, and it is
23 about guards, disciplines, etc. I referred to this document
24 earlier, I believe, in -- when I was examining Tay Teng, or
25 Brother Teng.

17

1 MR. PRESIDENT:

2 Yes, please.

3 (Short pause)

4 [09.38.40]

5 BY MR. KOPPE:

6 Q. Mr. Witness, I hope you had a chance to have a look at this
7 document. I'm interested in one or two things.

8 It says, I believe, in Khmer first the words "guarding unit", and
9 then says "inside guards, 127 persons". A little bit down on that
10 page, it says "messenger unit" and then it says "guards inside
11 the special rooms, 42 persons".

12 Let me ask you, first of all, do you recognize this handwriting?
13 Do you know who wrote this?

14 [09.39.36]

15 MR. HIM HUY:

16 A. No, I don't.

17 Q. Does -- do the words "guarding unit" or "inside guards", on
18 the very top, mean anything to you, the line that says "inside
19 guards, 127 persons"?

20 A. I do not know how many inside guards there <were> at the
21 centre. It was under the supervision of Peng.

22 Q. And a little further down, it says, "guards inside the special
23 rooms, 42 persons". Were you part of that group, guards inside
24 the special rooms?

25 A. No, I was part of another group outside.

1 Q. Is your group not mentioned in this overview?

2 A. Yes, but the number <mentioned> is wrong. Not eight of us, but
3 more than 10.

4 My <apologies., together with the drivers, the total number of my
5 group was more than 10. And after some of us <were> arrested,
6 <those were> the remaining members<. There were only around 10>
7 remaining members of that group in the centre after <some of the
8 members were arrested>.

9 [09.41.56]

10 Q. Now I think I understand. You were part of what is described
11 here, the group called "arresters". You were one of the eight
12 arresters, as it is translated into English. Is that correct?

13 A. The so-called arrester unit <was my group and it> consisted of
14 not eight members, but <>10.

15 Q. I understand. But were you, yourself, a member of what is
16 described here as the group of eight arresters?

17 A. Could you repeat your question?

18 Q. Well, earlier you said it wasn't eight, but 10, this group,
19 and then you seemed to refer to the group of arresters of eight
20 persons. My question to you is, were you a member of the group,
21 "arresters", in this overview?

22 [09.43.13]

23 A. I was the group chief of the arresters who were responsible
24 for arresting prisoners, so again I was the chief of that group.

25 Q. And in that same overview, it says "guards inside the special

1 rooms, 42 persons". Was Brother Teng a member of that particular
2 group?

3 A. Teng was at Choeung Ek.

4 Q. Or so he says, indeed. But Teng also says he was at S-21
5 before he went to Choeung Ek.

6 Was Brother Teng, when he was a guard, member of this group,
7 "guards inside the special rooms"?

8 A. He was a former inside guard, but there were three groups in
9 the compound, I mean, the inside guards. <One group consisted of
10 10 members.> And in total, there <couldn't have been up to 40>
11 members from that three groups.

12 Q. I might revisit that point a bit later, Mr. Witness.

13 Just to make sure that I fully understand the division of tasks
14 within S-21, I would like to read to you an excerpt from Duch's
15 testimony. I will go through it step by step, and then I will ask
16 you whether you agree with this, yes or no.

17 Mr. President, I will be referring to an excerpt from Duch's
18 testimony in Case 001, which is now known as E3/5793, and I'll be
19 referring to his testimony as of 10.00 -- nine minutes past
20 10.00.

21 [09.45.40]

22 MR. FARR:

23 Mr. President, we seem to be embarking on a new topic, and it is
24 the practice of this Chamber that open questions should be asked
25 before the witness has evidence, either from his own statements

1 or from other witnesses, put to him. So I'd ask that Counsel ask
2 open questions on the topic before he starts putting Duch's
3 evidence to the witness.

4 MR. KOPPE:

5 I'm a bit lost here, to be honest, Mr. President. I think we've
6 extensively been discussing the subject of his duties, Peng's
7 duties, him receiving prisoners, etc., so I think it was
8 extensively discussed and debated or questioned yesterday, so I
9 think I can go straight to the point and ask him to give a
10 reaction on Duch's testimony.

11 [09.46.32]

12 JUDGE FENZ:

13 It appears a bit premature because we don't know yet what part of
14 Duch's testimony he wants to use.

15 MR. FARR:

16 I agree, Your Honour. I'll wait to hear the question. Thank you.

17 BY MR. KOPPE:

18 Q. As I said, Mr. Witness, I'll be reading a bit from Duch's
19 testimony, and I'll be asking you questions subsequently.

20 "The normal guards under Pauch and Peng's supervision were only
21 guarding inside the premises, but for the people who guarded the
22 special prisons, which were the south of Pohnea Yat high school,
23 the prisoners were guarded by the special force. Therefore,
24 Peng's forces guarded inside, the special forces of Comrade Huy
25 guarded outside."

21

1 [09.47.38]

2 Question: "Could you please clarify the special forces? What were
3 they assigned to do?"

4 And then Duch answers as follows:

5 "The special force had the following six tasks. First, to guard
6 outside the premises. Two, to wait to receive victims who were
7 brought in. Normally, outside units sent victims to be detained
8 at S-21. First, they delivered them to a house labeled as R, or R
9 in English. Now it is the location where Beehive radio station is
10 occupied. Those people received prisoners and registered their
11 names and then delivered them to the guards and Huy would take
12 the prisoners to Comrade Peng. After that, Huy would be relieved
13 of their duty."

14 So far this excerpt, Mr. Witness, the way Duch describes the
15 various tasks of the two units, is that how it was in your
16 recollection?

17 [09.49.12]

18 MR. HIM HUY:

19 A. Let me tell you, the group which was outside at the current
20 Beehive radio station was my group. And in fact, those
21 <prisoners'> names were not registered or written down <there>, I
22 would forward those prisoners to Suos Thy, right away.

23 Q. So you do not agree with what Duch says, that whenever people
24 who were arrested, prisoners, were coming, were assembled at the
25 Beehive radio station -- the building which is now known as the

1 Beehive radio station?

2 A. That was not the building. It was simply a small house or hut.
3 Upon arrival, they were pushed inside that house and then they
4 were walked out of the house. There was a rule that the vehicles
5 arriving <were not> allowed to go inside the compound for <fear
6 of> the secret <being> broken.

7 [09.50.35]

8 Q. I will come back to the registration a bit later, Mr. Witness.
9 I'm very interested in the sentence that I just wrote (sic) to
10 you, coming from Duch's testimony. He says you would take the
11 prisoners to Comrade Peng and, after that, "Huy could be relieved
12 of their duty". Of his duty, I presume.

13 Is it correct that once you handed over the prisoners into
14 Comrade Peng's power, you were done? You could rest?

15 A. That is correct, but usually I did not hand over prisoners to
16 Peng. Most of the time, I handed over prisoners to Suos Thy. And
17 as for Peng, he was, as usual, guarding the building.

18 Q. He continues his testimony as follows. He says:

19 "So this is the duty of the guards, to receive prisoners and to
20 deliver them to the guards. Third duty; the internal
21 intervention. For example, when the enemies grabbed a weapon,
22 then the special force would intervene, under the supervision of
23 Comrade Hor, to fight fiercely to defend the unit, the office and
24 the Party at the premises."

25 [09.52.21]

1 Fourth, if there were any outside intervention, these people
2 would be ready to defend the premises from the outside
3 intervention, but there was none of such intervention from the
4 outside. "

5 And then five, number 5, he says:

6 "Sometimes this special force arrested people who were made
7 decision -- the people who were already decided by the superior
8 to arrest, for example, like in the case of Koy Thuon. And when
9 Chhim Sam Aok, alias Pang, was arrested by the special force. So
10 Hor, Comrade Hor did conduct such of the arrests. There were only
11 people and I was the commander. Hor was the arrester."

12 And a bit further down, he says, and I conclude:

13 "The guards, who were stationed at Choeung Ek, was part of the
14 special force. As far as I remember, there were four people in
15 that small unit, three to four people, who were stationed at that
16 location."

17 Mr. Witness, this is a bit longer excerpt. I hope you were able
18 to follow. But is what Duch describes as tasks as to the tasks of
19 -- as what the tasks were of the special unit, is that correct?
20 Is that your recollection as well?

21 [09.53.55]

22 A. The explanation by Ta Duch was not right. Big build members
23 from the inside, together with members from my group, joined
24 forces and addressed the issue.

25 Q. Well, let's take one example that Duch refers to, the arrest

24

1 of Koy Thuon. Were you involved? Was the group of arresters or
2 the special force, was that group involved in the arrest of Koy
3 Thuon?

4 A. My group also went. In fact, there were big build guards from
5 inside, and for my group, there was only one person with big
6 build or -- so we needed the guards from inside with big build.

7 Q. I understand. But were you, personally -- were you, yourself,
8 involved in Koy Thuon's arrest?

9 [09.55.14]

10 A. In fact, Koy Thuon <was> arrested at Ta Duch's house. Ta Hor
11 and I, together with the big build forces from inside, joined the
12 action at the time. Six or seven of us did the mission.

13 Q. Can you explain why you need -- needed to have big build
14 forces to arrest Koy Thuon? Because maybe I'm wrong, but my
15 impression was that Koy Thuon was already under house arrest.

16 A. That was the <order>, and I do not have any information
17 further on this <>.

18 Q. Mr. President, just to be sure that we're talking about Koy
19 Thuon, with your leave, I would like to show a photo to the
20 witness. And I also would like to put it on screen. It's --

21 JUDGE FENZ:

22 I have no problem with that. Just -- sorry, because, I didn't
23 understand the answer.

24 You said that was the rule. Was there one rule for the deployment
25 of what you called the big build guys, one rule for all, or was

25

1 there a specific arrangement for Koy Thuon?

2 I didn't quite get the answer.

3 MR. HIM HUY:

4 I do not really get what you said, Your Honour. Could you repeat
5 it?

6 [09.57.04]

7 JUDGE FENZ:

8 You said that -- when you were asked about the big build guys,
9 you said that was the rule. Did I understand that correctly?

10 HIM HUY:

11 I did not go and gather forces. It was Ta Hor who went inside and
12 gathered the forces.

13 JUDGE FENZ:

14 Well, then, apparently there has been a translation issue.

15 I hand back to you, Counsel, for clarification.

16 [09.57.39]

17 MR. KOPPE:

18 Yes. Thank you.

19 Mr. President, again, with your leave, I would like to show a
20 photo of Koy Thuon and I would like to ask the witness whether he
21 recognizes the person as Koy Thuon. I think, if the AV Unit can
22 also put it on the screen.

23 It's, for the record, E3/9431. It's photograph 32 -- annexed 32
24 to the re-enactment. English ERN is 00198061.

25 MR. PRESIDENT:

1 Yes. AV technician, please display on the screen the photo as
2 requested by Koppe.

3 BY MR. KOPPE:

4 Q. Mr. Witness, do you recognize the person on this photo?

5 MR. HIM HUY:

6 A. It is the photo of Koy Thuon.

7 Q. And were you involved in the actual arrest of Koy Thuon?

8 A. It was Peng, big build guys arrested him. And I was simply
9 acting as guard.

10 [09.59.35]

11 Q. My next question is; do you know, once Koy Thuon had been
12 arrested, where he subsequently was placed? Where was Koy Thuon
13 being held, being detained, which building?

14 A. The detention building was in the southern part.

15 Q. Can you be a bit -- a little bit more specific? What do you
16 mean with "southern part"?

17 A. It was the building to the south, that is, if we entered from
18 the main entrance, the building was to the south.

19 Q. Do you know whether there actually was another perimeter
20 around houses or buildings which belonged to the so-called
21 "special prison"?

22 A. That was the building.

23 [10.01.04]

24 Q. I understand. But my question was, do you know whether the
25 building in which Koy Thuon was detained was, in its turn, also

1 surrounded by fences or a perimeter? Do you know anything about
2 that?

3 A. The prison <was> surrounded by fences.

4 Q. Do you know whether these fences surrounding the special
5 prison buildings was made of zinc, z-i-n-c?

6 A. Yes, it was barbed wire.

7 Q. So just to be entirely sure, the special prison had its own
8 perimeter with its own fence with barbed wire apart from S-21 or
9 Tuol Sleng museum. Correct?

10 A. As I said, the prison <was> surrounded by fences and the
11 building was also surrounded by fences.

12 Q. And is it correct that the two outside perimeters, on the one
13 hand, the outside perimeter of the special prison and, on the
14 other hand, the outside perimeter of Tuol Sleng met at Street
15 350?

16 A. I did not know which roads you refer to, but I only knew the
17 main <road to Tuol Sleng>, and I knew the building where
18 important prisoners were detained.

19 [10.03.19]

20 Q. Do you know whether it was one building? Was it -- were there
21 few houses? Can you describe a bit the inside premises of the
22 special prison? What was inside the barbed wire?

23 A. I cannot recall the <details>. He was <led> to be imprisoned
24 in the south building, and each building was surrounded by barbed
25 wire.

1 Q. And do you remember or do you know who had the authority to
2 enter the premises of the special prison?

3 A. It was Hor and Duch.

4 [10.04.26]

5 Q. Were you allowed to enter special premises or the premises of
6 the special prison?

7 A. I was allowed occasionally to enter the building when I was
8 assigned to walk along the verandah or the open path in front of
9 each room<, particularly to monitor the guards>.

10 Q. Do you know which interrogators had the permission to enter
11 the premises of the special prison?

12 A. I <do> not know who.

13 Q. But do you know who was in the position to decide who was
14 allowed into the premises of the special prison? Was there a list
15 with names of interrogators or was there a special list that
16 guards had to use in order to enable anyone entering the premises
17 of the special prison?

18 A. It was Sry's group who could do that, and he was part of the
19 guards.

20 Q. And are you in a position to give an estimate as to the
21 maximum amount of persons that were allowed to enter the premises
22 of the special prison?

23 A. I <do> not know about that.

24 Q. Do you know how many houses there were in -- within the
25 perimeter of the special prison?

1 A. I do not know if there were houses or a number of houses. I
2 only knew about that building.

3 Q. Do you know --

4 [10.06.56]

5 MR. FARR:

6 Sorry, Mr. President. There's just one thing I think we might
7 want to clarify.

8 The witness spoke about walking along a verandah. I'm not sure
9 whether he's describing one of the buildings of the high school
10 compound itself, or one of the surrounding houses. I think that
11 could be an important clarification.

12 BY MR. KOPPE:

13 Q. Mr. Witness, I'm not sure if I heard that as well. My
14 questions are directed only to the buildings or houses within the
15 perimeter of the special prison.

16 My question was going to be, did you know or do you know which
17 house Koy Thuon was being held, which house, within the premises
18 of the special prison, Koy Thuon was sitting, presumably, I'm not
19 sure, where this photo was taken?

20 [10.08.03]

21 MR. HIM HUY:

22 A. I did not know. As for the special prison, usually, we
23 <referred> to the building on the left-hand side when we entered
24 the compound <from the east>, and usually, important prisoners
25 were detained there.

30

1 MR. PRESIDENT:

2 Thank you, Counsel. It is now appropriate for short break.

3 We'll take a break now and resume at 10.30 to continue our
4 proceedings.

5 Court officer, please assist the witness during the break time
6 and invite him as well as his duty counsel back into the
7 courtroom at 10.30.

8 The Court is now in recess.

9 (Court recesses from 1008H to 1030H)

10 MR. PRESIDENT:

11 Please be seated. The Court is back in session.

12 And the floor is handed over to the defence team for Mr. Nuon
13 Chea to resume its questioning.

14 And for interpreters, the <witness's> name is Him Huy, not Hem
15 Huy (phonetic). Yesterday, the witness confirmed that his name is
16 Him Huy, not Hem Huy (phonetic), so please use that Him Huy for
17 your interpretation.

18 BY MR. KOPPE:

19 Thank you, Mr. President.

20 We went back to our notes, and we agree with the Prosecution that
21 it is still a bit unclear as to what specific building the
22 witness was speaking about when he talked about where Koy Thuon
23 was being held.

24 Q. Mr. Witness, let me -- let us try to be very clear about what
25 you're saying. On the premises of Tuol Sleng museum, there is a

31

1 building which is on the south side of that premises, usually
2 referred to as Building A.

3 The special prison was south of the premises on which -- south of
4 the premises of the Tuol Sleng museum, so --

5 [10.32.25]

6 MR. FARR:

7 Mr. President, I'm not sure I agree with that. I think there's
8 evidence that the special prison may have included Building A,
9 and that's the reason that I brought up the issue.

10 But in any event, if the witness is here, we should ask the
11 witness rather than, Counsel and I make assertions about this.

12 BY MR. KOPPE:

13 Well, like everything, Mr. President, I'm not making up -- making
14 it up. I refer to document D108/57/1, which is an air view of
15 that particular part of Phnom Penh. And one can see the
16 perimeters of the special prison. Duch himself offered evidence
17 that the special prison prisoners were moved to Building A in the
18 second semester of 1978.

19 Q. So it -- again, going back to my original question, Mr.

20 Witness, talking about Koy Thuon, where was he held, in Building
21 A on the premises of the Tuol Sleng museum or in a house south of
22 the premises?

23 [10.34.00]

24 MR. HIM HUY:

25 A. In that time, there were several houses in the southern part,

1 I mean<, > to the south of the prison. And then Building A was
2 <used as> a special prison <instead>. Sry was in charge of guard
3 duty in the southern part, and I did not know at the time where
4 he was detained, specially.

5 Q. When did Building A on the Tuol Sleng museum premises become
6 the special prison?

7 A. I cannot recall it.

8 [10.35.00]

9 Q. Koy Thuon was arrested in January 1977. Was Koy Thuon being
10 held in one of the houses on the southern side of the Tuol Sleng
11 museum outside the premises?

12 A. Houses <on> the southern side of Tuol Sleng were special
13 prisons as well in the -- in the period before that time. And
14 later on, as I said, Building A was turned into a special prison.

15 Q. We're almost there, Mr. Witness. Now my question is, do you
16 know which house or which building Koy Thuon was being held?

17 A. The houses in the southern part were used as a special prison,
18 and I do not know which house Koy Thuon was held <in> or whether
19 Koy Thuon was held in Building A. I am not sure.

20 Q. No problem, Mr. Witness. Have you, yourself, ever been inside
21 one of those houses south of the Tuol Sleng premises? Have you
22 ever been inside the houses of the special prison?

23 A. Those houses were under the supervision of Sry's group and the
24 buildings inside <the> compound were considered special prisons.
25 I went inside to have a look as well at the time when I was on

1 guard duty.

2 [10.37.27]

3 Q. Have you actually been able to observe any of the special
4 prison prisoners other than Koy Thuon? Have you seen Chan
5 Chakrey? Have you seen Ya? Have you seen anyone in those houses?

6 A. I did not have <much> interest at the time. I was on guard
7 duty and also monitoring the task performed by my guards. And
8 usually, doors were closed, I mean, doors of those houses were
9 closed <and the guards were outside>.

10 Q. Do you know whether any special prisoners in that special
11 prison were able to hear outside noises?

12 A. No. At the time, I was on patrol duty, checking whether my
13 guards, my men<,> were asleep, and I did not know how many
14 prisoners <there were>.

15 [10.38.50]

16 Q. Let me move on to the next subject, Mr. Witness, and that's
17 when prisoners were being brought in from outside.

18 Is it correct that all potential prisoners or all future
19 prisoners were brought into the premises of the building which is
20 now known as the Beehive radio station?

21 A. Important prisoners, after they had been arrested, were sent
22 inside the compound on the vehicles. They were not kept <> at
23 that station.

24 Q. I understand. But I'm talking to the very beginning when
25 prisoners would come into the outer perimeter of S-21. Was every

1 potential future prisoner unloaded first from the truck at the
2 building which is now known as the Beehive radio station?

3 A. No, they were not sent into <the> radio station. In fact,
4 those prisoners were on vehicles, and they were driven right into
5 the compound.

6 Q. Are you saying they were driven right into the compound of
7 what is now known as the Tuol Sleng museum?

8 [10.40.55]

9 A. That is correct.

10 Q. What was the function, then, of building or the -- the
11 reservation area R or the Beehive radio station building? What
12 was its function then?

13 A. That location was to prevent vehicles from going inside the
14 perimeter of the compound. <If there were people on the vehicles,
15 they would drive directly into the compound.>

16 Q. Let me see if I can clear this up by referring to what you
17 said yourself in your testimony in Case 001, document E3/7461, at
18 around 10.59. You say that:

19 "When the prisoners were sent to Tuol Sleng, the important
20 prisoners would be detained in the prisons and, for the less
21 important prisoners, they would be sent to Prey Sar to Huy Sre's
22 section."

23 [10.42.20]

24 A little bit further, you say:

25 "When they were sent here, there were all kinds of people. There

1 were spouses and children. For those who were sent to Prey Sar,
2 they were first put in a house to the east of the road and then
3 they would be transported from that location to Prey Sar.

4 And a bit down as well:

5 "For the children and the mothers who were the less important
6 prisoners, they would be sent to Prey Sar."

7 So my question is, if a truck would come and the people would be
8 unloaded, where was the decision being made that the women and
9 the children or the less important people would go to Prey Sar
10 and others would go inside Tuol Sleng's compound?

11 A. When they were sent to that compound, in fact, those who were
12 to be sent to Prey Sar were stopped at the road to the east of
13 the compound. <There was a house for a stop there.> And I would
14 be ordered to use a large truck to transport those people <> to
15 Prey Sar <to Huy>.

16 [10.43.54]

17 Q. Okay. But people who were brought in and who were subsequently
18 driven by you to Prey Sar to work in the rice fields, were they
19 registered and photographed inside the premises of the Tuol Sleng
20 museum building or premises?

21 A. No photographs. No register of names. They were unloaded from
22 the vehicle that they were on, <we let them rest> and then put
23 <them> onto another truck, but I had to make sure how many people
24 there <were> to be sent to Prey Sar.

25 Q. I understand. But who told you, "That group goes into the Tuol

1 Sleng museum premises and that group goes to Prey Sar"? Who told
2 you that? How did you know?

3 A. Ta Hor. Ta Hor assigned me and my men to do the job, sending
4 those people to Prey Sar. And there <were other> prisoners who
5 would be sent into Tuol Sleng.

6 [10.45.39]

7 Q. I understand, but can you be a little bit more detailed? You
8 said, "Hor instructed me", but did he give you names. Did he
9 point to the people? How did that go?

10 A. There was a list of names and which names were to be sent to
11 the field <or> Tuol Sleng. The names would be called out.

12 Q. I understand. Now let me turn to the evidence that the chief
13 of the photography unit gave, Nim Kim Sreang. Mr. President,
14 E3/7639; ERN English, 00162736; French, 00338079. I will give
15 you, my apologies, the Khmer ERN a bit later.

16 Mr. Witness, this is what the chief of the photography unit said.

17 "After" -- question -- "After their photos were taken, where were
18 the prisoners sent?" And he answers:

19 "The majority of the prisoners who had been photographed were
20 sent to farm rice, but aside from that, I don't know. Those
21 prisoners sent to farm rice were mostly minor people. I went
22 along and photographed them. I saw that they farmed rice."

23 Just to be complete, Mr. Witness, asked another question by the
24 investigator on English, ERN 00162734; French, 00338076; he says

25 --

1 [10.48.10]

2 MR. PRESIDENT:

3 Please repeat ERN numbers once again because the interpreters did
4 not catch up.

5 BY MR. KOPPE:

6 I'm sorry, Mr. President. English, ERN 00162734; French,
7 00338077; and the Khmer I will give you shortly.

8 Q. Mr. Nim, the chief of the photograph unit, is describing an
9 incident, and he says the following:

10 "One day, when I was developing, photos were damaged. And when I
11 requested to retake the photos, I could only find two of them.

12 And I asked Duch, 'Brother, prisoners brought in yesterday, where
13 have they all gone?' He said, 'They all -- they had all gone to
14 the rice fields. Go photograph them at the rice fields'." End of
15 quote.

16 [10.49.13]

17 Mr. Witness, both excerpts seem to suggest that also the
18 prisoners who were sent by you to Prey Sar were photographed
19 inside the premises of Tuol Sleng museum. Is that correct?

20 JUDGE FENZ:

21 Sorry, counsel. I find your use of "Tuol Sleng museum" confusing.
22 If you want to clarify a location, then say "what is now known as
23 Tuol Sleng museum". It wasn't a museum at that time, whatever it
24 was. I think we can agree on that.

25 BY MR. KOPPE:

1 At least we can agree on that, Judge Fenz. I'm trying to make it
2 simple for the witness.

3 Q. Mr. Witness, when I refer to the premises what is now known as
4 the Tuol Sleng museum, I hope you understand what I mean. I can
5 also refer to Building E, if that makes it easier for you.

6 But again, my question is; people that Hor asked you to bring to
7 Prey Sar, had they already been photographed and had their
8 identity been already taken or written down?

9 [10.50.28]

10 MR. HIM HUY:

11 A. When I was instructed to send and transport those prisoners to
12 Prey Sar, they were not -- they had not been photographed <at the
13 prison>. <I did not know about that. If it was outside near the
14 main road, it was the road coming from Pet Chen (phonetic), from
15 Yukunthor High School, they stopped the vehicles there>, and I
16 was instructed to use another vehicle to go and transport those
17 prisoners to Prey Sar. And <I never saw them being> photographed
18 <in the prison>.

19 Q. If that's the case, Mr. Witness, can you then explain to me
20 how it was that Hor knew which prisoners would go to Prey Sar?
21 You told me he had a list of names. Where did he get that from?

22 [10.51.38]

23 A. <> In fact, for prisoners, there was a list of names
24 specifying who was to be sent to the field <or> inside. And then
25 Ta Hor would verify the names to be sent to specific direction

1 and <> he then instructed me and my group to go and <take> those
2 prisoners <on a vehicle> to <that place>.

3 Q. And do you know who had made that decision to make that
4 selection?

5 Who was it that instructed Hor to send one group of prisoners to
6 Prey Sar and the other to Tuol Sleng museum premises as it is
7 known now?

8 A. It was Ta Duch who decided that case.

9 Q. How do you know?

10 A. Because a list of names of <prisoners> <> was sent <along with
11 the prisoners> to Duch, and then Ta Hor would verify which <>
12 prisoners <were> to be sent to the field by comparing <the> list
13 of names with the prisoners' names. <It was Duch's order to Hor.>

14 Q. I heard you say "I guess". If you offer evidence, you have to
15 tell us how you know.

16 How did you know it was Duch who decided which prisoners would go
17 to Prey Sar and which prisoners would stay?

18 [10.53.58]

19 A. I do not know about the specific plan. All I know is that
20 there was a group of prisoners to be --asked to go on to a new
21 truck and then there was another group to be sent into -- inside
22 the compound.

23 Q. Very well. Thank you, Mr. Witness. Let me now go to Comrade
24 Peng. You talked extensively about Comrade Peng yesterday.

25 Can you tell us exactly how the hierarchy was? How was your group

1 related to the unit of Comrade Peng?

2 A. I do not really understand it.

3 [10.55.14]

4 Q. You're a military person, Mr. Witness. I understand that Peng
5 was commanding a 100-man unit. Was your group part of that
6 100-man unit, was it separate thereof? Did you have to report to
7 Peng?

8 Just tell us, if you will, how the exact hierarchy was within
9 those two groups and the groups in relation to each other.

10 A. Regarding the security guard unit, Peng was the chief. Phal
11 was also the chief. Sry and I were members, and <Tuy (phonetic)>
12 was one of the commanders. My unit was under Peng's. However, in
13 terms of duties and work that I had to do, I received orders from
14 Hor.

15 Q. Let me ask it very simply. Was Peng your superior?

16 A. Yes, he was my superior.

17 Q. And did Peng, in his turn, have to report to Phal? Was Phal,
18 Peng's superior?

19 A. I do not know about the reporting system, where the report
20 would go, but usually Peng also made a report to Hor, Brother
21 Hor.

22 Q. What was Phal's position? How was he in the hierarchy? Do you
23 know?

24 A. Back then, when I was working at Tuol Sleng, Phal was higher
25 than Peng in Tuol Sleng.

1 Q. But then again, in my question, do you know whether Peng in
2 the hierarchy, in his turn, had to report to Phal?

3 [10.58.10]

4 A. I do not know about that.

5 Q. Do you know whether Phal, in his turn, had to report to Hor?

6 A. When there was any issue, Phal would send a report to Hor, and
7 <sometimes> the report may have been forwarded up the line to
8 Duch.

9 Q. Can you explain to me, Mr. Witness, how it was possible for
10 you to speak directly to Hor or speak directly to Phal while your
11 superior was, in fact, Peng?

12 A. Since I was required to report to Hor in case of any issues
13 arose.

14 [10.59.23]

15 Q. I understand. But was there a special reason for Hor to go
16 outside of the command structure and ask you to report to him
17 directly?

18 A. Ta Hor was higher than Peng and Phal. He was in charge in the
19 all security guards, so anyone could make a report to Hor without
20 going through Peng or Phal.

21 Q. And what about Pauch? Or Pauch. I'm not quite sure if I
22 pronounce it well. What was his position?

23 A. Pauch was one the <chiefs> of security guards with Peng. Later
24 on, he was arrested and Phal came to replace Pauch.

25 Q. Mr. President, with your leave, I would like to show a

1 photograph to the witness. I can also have the AV Unit show it on
2 the screen.

3 It is document E3/8063.14, English ERN only, 00005254.

4 MR. PRESIDENT:

5 Yes, you may proceed.

6 (Short pause)

7 [11.01.40]

8 BY MR. KOPPE:

9 Q. Mr. Witness, do you recognize this photo?

10 MR. HIM HUY:

11 A. Yes, I recognize this photo.

12 Q. Are you on it?

13 A. Yes.

14 Q. And who are you on the photo?

15 A. I am the one who carrying a gun in the middle of the photo,
16 that is, on the front row.

17 Q. And who are the rest of the three, six, eight, 10 men? Who are
18 they? Who are the other 10 men?

19 [11.02.33]

20 A. I recall some of them. They were Tev (phonetic), Khom
21 (phonetic), Ron (phonetic), myself, Pon, and I cannot recall the
22 names of the rest.

23 Q. And was this photo taken while you were at S-21?

24 A. At that time, I <had> already entered S-21, and Ta Nat was in
25 charge. Some of the men in the photo were <his> messengers and

1 radio <operators>. And in fact, we were requested to provide
2 protection to Chinese engineers who went to visit a site in
3 Kirirom. We were part of the security force to provide the
4 security to those Chinese engineers at Kirirom.

5 Q. Are these members of what we referred to earlier this morning,
6 these members of the arresters unit, or are these men not members
7 of the arresters unit?

8 A. No. They were former 703 members, including <Ta Nat's>
9 messengers and <his> radio operator. And there were some men from
10 Ta Nat's office.

11 Q. Now, let me go back to Peng, who was your superior. Was he at
12 all times your superior?

13 A. Yes, Peng was always my superior.

14 Q. Did Peng always give you orders to do certain things?

15 A. Peng never gave me an order, the orders came from Ta Hor.

16 [11.05.30]

17 Q. So in all -- in the period that you were stationed at S-21,
18 Peng never gave you an actual order or instruction. Correct?

19 A. Yes, that is correct. I was part of the outer perimeter guard,
20 and we were under the direct supervision of Ta Hor.

21 Q. Yesterday, like I said, you spoke about Peng. You said that
22 Peng's group was responsible for killings and -- or executions at
23 the S-21 premises.

24 Can you explain why it was that Peng told you that he or his
25 group was responsible for executions on the S-21 premises?

1 [11.06.57]

2 A. Please repeat your question.

3 Q. You told us just now that Peng never gave you any orders,
4 ever. Yesterday, you said that you heard from Peng that he or his
5 group was responsible for the killings that took place at the
6 S-21 premises. My question to you is the following. Can you
7 explain why it was that Peng told you this?

8 A. Of course, it's typical since he <was> involved in the
9 executions there, and he talked about it. If Peng did not tell
10 me, <his combatants> would also <talk> about that.

11 Q. No, no. Now you have to be very precise and concise, Mr.
12 Witness. You cannot now speculate.

13 My question to you is, why was it that Peng told you that he or
14 his group was responsible for executions?

15 JUDGE FENZ:

16 But counsel, frankly, I mean, I've held back, but you have
17 mentioned about speculation now.

18 The way you've raised the question, it asks for speculation. Of
19 course, it's more pertinent to ask, "Tell us the incident in
20 which you were told about that".

21 BY MR. KOPPE:

22 I have no problem in going to it in a different way, Judge Fenz.

23 Q. Can you explain exactly where it was, when it was that Peng
24 told you he or his group were responsible for executions at the
25 S-21 premises?

1 [11.09.03]

2 A. I don't understand it as well then.

3 Q. Let's back up a bit, Mr. Witness.

4 Yesterday, answering a question from the Prosecution, you said --

5 the Prosecution asked you, "How do you know that people were

6 executed?" And you said, "Peng told me".

7 Now, I would like you to tell us when it was exactly that Peng

8 told you that he was responsible for executions at the S-21

9 premises.

10 [11.09.54]

11 A. I do not recall it.

12 Q. Where was it? Where were you when he said that?

13 A. It was likely that when I entered <Thy's> office, he said that

14 he took people to be killed at the back of the building, although

15 he did not pinpoint the exact location of the killing site.

16 Q. You're saying it was likely. What does that mean, it was

17 likely that this happened? What do you mean with that?

18 A. They took people to be killed behind the prison and they

19 didn't tell me exactly where those people were killed; they only

20 said that they killed people at the back and to the south of the

21 prison compound.

22 Q. Where was it that Peng said this; when was it that Peng said

23 this; can you be a bit more specific?

24 A. I do not recall that specific detail; maybe when <> I took

25 prisoners to <Thy's> office and maybe I met <Peng> there and he

1 spoke about it and after that I returned.

2 Q. Let's be even more specific; where was it that you knew that
3 Peng was responsible for execution of children?

4 A. I can say that there was nowhere else but the location behind
5 the prison.

6 [11.12.24]

7 Q. You're not answering my question. Mr. Witness, just try to
8 remember where it was and when it was that you received
9 information that Peng was responsible for the killing of
10 children.

11 A. When the parents were sent to Choeung Ek, the children were
12 subsequently gathered to be killed at the location behind the
13 prison.

14 Q. How did you know?

15 A. I saw them being taken away. As for me, I took those men and
16 women to be -- to have them board a vehicle and the vehicle was
17 <parked> not far from the building.

18 Q. How did you know that the children were not sent to Prey Sar?

19 [11.13.44]

20 A. I learned it from Ta Hor, who said that children shall not be
21 sent together; otherwise, the secrecy would be breached and that
22 they were sent to Peng.

23 Q. I will get back to that a bit -- a bit later. Let me try it in
24 another way, Mr. Witness. Have you seen, with your own eyes, that
25 at the S-21 premises children were killed?

1 A. No, I did not; however, everyone said they were killed behind
2 the prison.

3 Q. That's exactly what I'm now trying to establish; was it a
4 rumour or was it something that actually happened? Can you tell
5 us exactly what it was that you heard?

6 A. After the parents had been sent to Choeung Ek, the children
7 had already been sent because I was near Thy's office busy with
8 the vehicle there. I received the prisoners from them to have
9 them <get> on the vehicle and the children were sent to another
10 road; that is, there was a road or an entrance -- at the entrance
11 at the back of the compound.

12 Q. Did you follow, with your own eyes, the children who were in
13 the truck and did you follow, subsequently, the truck?

14 A. No, they were not put onto a vehicle. The <vehicles> were to
15 transport the adults. As for the children, they -- they held
16 their <hands> and walked them or they were carried by people and
17 they were taken to the back road behind the prison.

18 [11.16.20]

19 Q. Have you seen that?

20 A. I saw them at the building where they were led out from that
21 building and taken away. As for me, I only received adults and
22 transported them to Choeung Ek.

23 Q. But you haven't seen the actual execution of the children; how
24 do you know that the point where you last saw the children was
25 just before their execution; how -- how did you know that?

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1 A. It is difficult for me to tell you then because the
2 instructions from Ta Hor <were> for Peng to take the children
3 away first and Thy would go and check the names of the people on
4 the list to be transported to Choeung Ek. And when I was there, I
5 saw the -- I saw the children being taken out. As for the adults,
6 they would be <shackled> and they were walked to the vehicle.

7 [11.17.55]

8 MR. PRESIDENT:

9 The purpose of the question is that, first, you need to be
10 familiar with the proceedings in the Court that the Counsel wants
11 to elicit the express response from you in relation to this very
12 fact.

13 You stated that the children were taken away and killed behind
14 Tuol Sleng Prison and the question to you is whether you,
15 yourself, witnessed the execution. And if you said no, then the
16 question is: How did you know about the execution of those
17 children or did you only know about the order from Hor that the
18 children had to be taken first and that there was no execution
19 order for the children or whether, during this period of time,
20 the parents were separated from the children and the parents had
21 to be transported to Choeung Ek or that you or your group also
22 assisted in the separation of the children <and> their parents
23 and that <> the children were taken through the back entrance.
24 And if that is only what you saw, then why did you state that the
25 children that were separated from the parents were subsequently

1 executed because you, yourself, said you did not witness the
2 execution, then what is the base for your claim that the children
3 were executed? Who told you about that if you did not witness it
4 or whether you knew of any express order about the execution of
5 those children; otherwise, it keeps going in circle?

6 [11.19.46]

7 Can you respond to that question, about your knowledge that the
8 children were taken and executed at the back of the prison? How
9 did you know about that; by what means -- whether -- who actually
10 told you about that?

11 And actually, I have reminded you of your obligation to tell the
12 truth that you have known, heard, remembered, or experienced
13 through your observation. And that is also a form of your
14 response. Of course, we understand that these events took place
15 many, many years ago so, in fact, you have a broader scope of
16 responding to the questions.

17 Do you understand what I have just explained to you and if so,
18 please respond? And when you don't know, you say, "I don't know."
19 It is also a response. And, of course, I have reminded you not to
20 speculate or to make your personal conclusion. If you knew
21 anything in detail, at the time, for example, a cry from the
22 children for help, then you state so, but if you only heard from
23 a third or from a second or third person, it is a form of rumour.
24 So please tell the Chamber by what means, by whom that you think
25 you knew the children were killed.

1 MR. HIM HUY:

2 The -- the order is that when the children were taken out, it
3 <meant> the children were taken out to be killed. That was the
4 order.

5 BY MR. KOPPE:

6 Q. Let -- let me try it one more time and in a different way, Mr.
7 Witness. Let me read to you what you said yourself in your
8 testimony in Case 001 at around 11.47. You were asked questions
9 about the fate of children and then you said -- and I quote you
10 as follows, "Regarding the children of the mothers who were
11 detained and executed, I don't think I have any idea about them.
12 I think Peng, with his groups, conducted or carried out the
13 operation at Tuol Sleng."

14 In this answer, for this very same Chamber, Mr. Witness, you were
15 very uncertain. "I don't think I have any idea about them." What
16 makes you now say that you do have an idea?

17 [11.23.00]

18 MR. HIM HUY:

19 A. Usually, the order for the children to be taken out, it
20 <meant> the children had to be killed.

21 Q. Fine, Mr. Witness, let me move on. Let me move on to someone
22 who was also one of the guards -- it's a completely different
23 subject -- Brother Teng.

24 What was exactly Brother Teng's position when he was at S-21?

25 A. At S-21, he was a guard at the special prison and, in fact, he

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1 was a group chief of guards at the special prison.

2 Q. Do you know when Teng was the chairman of the guards at the
3 special prison?

4 [11.24.29]

5 A. He came to work in that location since he was re-assigned from
6 his unit.

7 Q. Do you know whether Brother Teng was arrested at one point in
8 time?

9 A. No, I did not know about that.

10 Q. Do you know whether Teng was, in some form or the other,
11 punished and sent to Prey Sar to work in the rice fields?

12 A. No, I did not know about that.

13 Q. Do you know when it exactly was that you saw Teng at Choeng
14 Ek?

15 A. When his group was assigned to transport wood to build the
16 house and that's when I started to know him.

17 Q. So you didn't know him when he was still at S-21 being the
18 chairman of the guards at the special prison; is that correct?

19 A. In fact, I knew him since he was a guard at the special
20 prison.

21 Q. When was it exactly that he changed functions; when did he
22 start working at Choeng Ek?

23 [11.26.32]

24 A. It was in 1977.

25 Q. Do you know exactly when in '77?

1 A. I do not know exactly when.

2 Q. You said you were at Prey Sar yourself, at one point in time;
3 earlier, you said mid-'78; did you ever see Brother Teng at Prey
4 Sar while you were there?

5 A. I did not pay attention to that because while I was there, I
6 was asked to build dykes, to carry dirt in the rice field, so we
7 worked in a group while others <were> in their respective groups
8 and when it <was> time for a meal, we would have a meal
9 <together> and during the evening, we went to sleep <in> our
10 separate sleeping quarters.

11 [11.27.48]

12 Q. Do you know whether there were any other people with the name
13 Teng within S-21?

14 A. I cannot recall if there <were> any.

15 MR. PRESIDENT:

16 It is now convenient to have our lunch break. We take a break now
17 and resume at 1.30 this afternoon.

18 Court officer, please assist the witness <in> the waiting room
19 reserved for witnesses and civil parties and invite him as well
20 as his duty counsel back into the courtroom at 1.30 this
21 afternoon.

22 Security personnel, you are instructed to take Khieu Samphan to
23 the waiting room downstairs and have him returned to attend the
24 proceedings this afternoon, before 1.30.

25 The Court is now in recess.

1 (Court recesses from 1128H to 1329H)

2 MR. PRESIDENT:

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

4 Before giving the floor to the defence team for the Accused to

5 resume the questioning, since there's a request or requests by

6 Co-Prosecutors, I am now giving the floor to the -- to Judge

7 Lavergne to put some question in relation to the request by the

8 Co-Prosecutor to -- to admit some documents <into evidence>.

9 You have the floor now Judge Lavergne.

10 JUDGE LAVERGNE:

11 Yes, thank you, Mr. President.

12 We noted, during the lunch break, that we were <notified> that

13 the Co-Prosecutors filed a request in order to have a certain

14 number of new documents admitted; apparently, these are documents

15 coming from investigations that are ongoing. And what might be an

16 issue here is that in the annexes <attached to the request>,

17 there appears to be a certain number of WRIs concerning the

18 current witness as well as the witness we had just heard

19 previously.

20 [13.31.21]

21 So, I would like, or the Chamber would like the Co-Prosecutors to

22 clarify this specific issue or, in any case, regarding this

23 witness and we would like to know which WRIs we <are> talking

24 about. Are these documents that were already forwarded to the

25 parties, or are these entirely new documents and why is the

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1 request being made now; wouldn't it have been possible to file it
2 at a more appropriate moment?

3 So, I hope I've been clear. I'm referring here to request E405
4 [E319/47] and to annex E405.1<.1> [E319/47.1] in particular.

5 MR. PRESIDENT:

6 I would like to correct what I have said. In fact, that request
7 was filed by the International Co-Prosecutor, not both
8 prosecutors.

9 Now, you can take the floor, Prosecutor.

10 MR. FARR:

11 Thank you, Mr. President.

12 Yours Honours, to be perfectly frank, I -- I'm not prepared to
13 make detailed submissions on these points at the moment. Perhaps,
14 if -- if I could give the Chamber answers following the -- the
15 next break.

16 [13.33.20]

17 MR. PRESIDENT:

18 Well then, and now the floor is given to the defence team for the
19 Accused to resume its questioning. Perhaps -- perhaps Counsel
20 Koppe may have some further question. If so, please proceed.

21 MR. KOPPE:

22 Thank you, Mr. President, and good afternoon, Your Honours and
23 counsel.

24 Yes, I do have still quite a few questions to the witness;
25 however, I fully understand that this particular prosecutor is

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1 not prepared to say something about this new disclosures.
2 However, it is extremely unfortunate that we just received these
3 47 WRIs, if I understood -- understanding it correctly, of which
4 5 are related to S-21 and 5 to the matter of internal purges and
5 I didn't even know that some of them are specifically or
6 potentially related to this very witness.

7 [13.34.33]

8 So, although I'm happy to continue, on the other hand, I find it
9 actually not acceptable that I don't have full access to these
10 WRIs. I have no idea whether that it is new evidence, whether
11 that's pertinent evidence, so while I'm on my feet, I'm -- I'm
12 thinking that the only proper cause forward is to pause right now
13 and see what we have and then continue.

14 JUDGE FENZ:

15 Counsel, we are currently all in the same situation. I don't
16 think anybody likes it, but I--

17 MR. KOPPE:

18 No, we are -- we're not in the same situation. I am questioning.

19 JUDGE FENZ:

20 I understand that and it goes without saying but should these be
21 admitted, we will have to recall; we might have to recall.

22 [13.35.25]

23 MR. KOPPE:

24 Yes, but -- but the problem is that I'm right in the middle and
25 maybe the way I formulated my questions now would have been

1 formulated differently had I known that new evidence.

2 JUDGE FENZ:

3 The same goes for the Co-Lead Lawyers.

4 MR. KOPPE:

5 You want to say something?

6 [13.35.56]

7 MS. GUISSÉ:

8 Mr. President, I understood, of course, that we are going to
9 postpone the discussion on this issue; however, I only saw that
10 there is a submission a few minutes ago and I'd like to let you
11 know that we do not have access to the documents yet. We have the
12 list of the annexes, of course, that are going to be disclosed,
13 but we do not have access to the content of these documents so,
14 obviously, this is problematic and it's very hard to discuss the
15 substance here.

16 <Now it is important--> this is an illustration of the <time
17 issues> that we experience often. That is to say, within the
18 Co-Prosecutors; they can dispatch their work which we cannot do
19 in our defence teams.

20 MS. GUIRAUD:

21 Thank you, Mr. President. A short observation because I'm also
22 discovering, right now, this document. If I understood well, this
23 is not a disclosure <per se>, but an 87.4 submission to admit
24 into evidence documents that were already disclosed which have an
25 E319 number attached to them, if I understood well, and which

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1 were accessible to the parties. But I see here, however, that
2 people are saying that this is not the case. So--

3 JUDGE FENZ:

4 My understanding from the text is -- I haven't gone into details
5 I've had it as long as everybody else -- but following the
6 submission, it says 19 of the materials were previously disclosed
7 which means that 38 or something were not. Now, I don't know
8 which one were disclosed and which weren't.

9 [13.38.00]

10 MS. GUIRAUD:

11 Well, just to let you know, the two WRIs of Him Huy that are
12 included in this request have an E319 number attached to them.

13 MR. PRESIDENT:

14 In fact, there was an issue with the equipment on the headset of
15 Judge.

16 [13.38.49]

17 MS. GUIRAUD:

18 Fine, fine, my team has just sent me a message saying to me that
19 the translation of what I said in French was not at all clear in
20 English, so I don't imagine that anyone understood what I said
21 except for the French speakers. Let me repeat what I was saying.

22 I'm saying that this is not a disclosure of <> documents, in
23 themselves, but of an 87.4 request to admit documents that were
24 already disclosed and that <all> the WRIs that regard this
25 witness already have an E319 number. So, if I understood well,

1 the parties and the Chamber had access to these documents and,
2 therefore, it was incumbent upon each party to request the
3 admission into evidence of these documents on the basis of Rule
4 87.4.

5 That is how I understood the findings that were filed by the
6 Co-Prosecutor today. We had access to these documents and,
7 therefore, it was incumbent upon each party to make a request to
8 admit into evidence on the basis of Rule 87.4 which, of course,
9 does not remove the fact that this request, of course, is coming
10 up right as this current witness is being examined.

11 MS. GUISSÉ:

12 Simply to let you know because there might have been a -- a
13 mix-up in the discussion. There's part of the documents -- I
14 don't which ones -- which were <indeed> made available to the
15 parties, but there's another part of the documents and most of
16 these documents, if I understood well, that was not made
17 available in any way whatsoever. So let's be clear about this;
18 <not all of the documents were made> available to the parties.

19 [13.40.44]

20 MR. PRESIDENT:

21 The Chamber <does> not intend to discuss <these> issues this
22 afternoon, but it is a strange practice by the International
23 Co-Prosecutor to file a request<,> and this witness has almost
24 completed his testimony and we observed that the International
25 Co-Prosecutor has just filed that request to admit documents and

1 it is a strange practice. The Chamber <does> not intend to hear
2 the arguments and responses of <the> parties this afternoon in
3 fact.

4 And now the floor is given to the defence team to resume
5 questioning if you have further questions to put to the witness.
6 And first, you <may> take the floor now International Deputy
7 Co-Prosecutor.

8 MR. FARR:

9 Mr. President, just one -- one more comment before Defence
10 resumes their examination. I -- I'm reminded by my colleagues
11 that the Chamber has instructed that exculpatory materials are to
12 be disclosed upon discovery; materials that are not exculpatory,
13 but that the Chamber -- but sorry, that the -- the Prosecution
14 wishes to have admitted into evidence are to be disclosed
15 simultaneously with the motion pursuant to 87.4.

16 Now, I know that doesn't apply to any statement by the witness on
17 the stand; it doesn't apply to any exculpatory statement, but I
18 believe that's part of the explanation for the difference between
19 the number of statements previously disclosed and the number that
20 are being tendered into evidence at this moment.

21 But following the first break, I'll get back to, Your Honours,
22 with information regarding the statements of this particular
23 witness as well as other statements relevant to S-21.

24 Thank you, Mr. President.

25 MR. PRESIDENT:

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1 And Defence Counsel, now you <may> take the floor if you have
2 further questions to put to this witness.

3 [13.43.08]

4 BY MR. KOPPE:

5 Good afternoon, Mr. Witness. I will resume my questioning.

6 I -- I finished before the lunch with asking you questions on
7 Comrade Teng. I had other questions, but you don't seem to know
8 that he was arrested, so I'll move to another topic. And that is
9 something you -- you talked about earlier and that is about the
10 killing of prisoners who were considered to be important
11 prisoners, anyway, important cadres.

12 And you said that they were killed at the vicinity near what is
13 now known as Tuol Sleng and that it was to the south and the west
14 of Tuol Sleng.

15 Q. Can you tell me, very specifically, how you knew that
16 important prisoners were killed in the vicinity of Tuol Sleng?

17 MR. HIM HUY:

18 A. Peng <talked> about that as well as Hor. Important people were
19 killed within the vicinity of Tuol Sleng, <and> not transferred
20 to Choeung Ek; that what he -- what they said.

21 Q. And, again, my same questions are applying to this matter, the
22 same questions I asked in relation to the children; when was it
23 that Peng or Phal told you this?

24 A. When I took the prisoners out of the prison, I saw the babies
25 and children <being taken away>; that is all I know.

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1 Q. Maybe something went wrong in translation. Mr. Witness, I --
2 I'm not talking any more about the children; we've covered that
3 subject. I'm talking now about the so-called important cadres,
4 the important prisoners. You said that they were killed in the
5 vicinity of Tuol Sleng; how did you know?

6 [13.45.50]

7 A. Ta Hor told me about that. Peng also <talked> about that. They
8 said important prisoners were not allowed to be killed outside
9 the compound <anywhere> beside the location within the compound.

10 Q. When did Hor or Peng say that; where were they when they said
11 that?

12 A. I cannot recall it well.

13 Q. Did Peng or Hor told you in person or was it said at some
14 group meeting; how was it conveyed to you?

15 A. At Thy's location, I met them at that location and I overheard
16 what they were saying.

17 Q. How did you know that it was that particular subject that you
18 overheard; what -- where were you standing; what did you hear
19 exactly?

20 [13.47.29]

21 A. I overheard that those important prisoners were to be killed
22 behind the prison and not to be killed at <Choeung Ek> because
23 Angkar did not trust the people who transported those important
24 <prisoners> to other locations.

25 Q. You are repeating your answer. Mr. Witness, where were you

1 standing when you overheard those cadres; what were they saying
2 exactly; how were you in a position to overhear this?

3 A. I met them at Thy's office, the registration office. When I
4 sent the prisoners to that location, I overheard part of the
5 discussion at that location.

6 Q. And who was talking to whom?

7 A. I do not remember. I noticed Hor and Peng <were present>. Peng
8 was in charge of security unit; he was usually there and Hor or
9 -- Hor's house was close to that location, as well, and he was
10 present every time prisoners were sent in.

11 Q. And who said which words; what -- what were the words,
12 exactly, that you overheard and who was saying them?

13 [13.49.21]

14 A. As I said, Ta Hor, at that time, said important prisoners were
15 not to <to be sent> out for execution at Choeng Ek <because
16 Angkar did not trust the people who transported them>, but they
17 were to be killed at -- within the facility of Tuol Sleng and he
18 also said that the regulation was to kill those prisoners within
19 the vicinity, not at Choeng Ek.

20 Q. And was this the only time that you ever heard such a thing?

21 A. <> I do not remember it well.

22 Q. Was it ever subject of a meeting where cadres of your unit
23 were instructed that you heard this or was it really only this
24 one time that you supposedly overheard a discussion?

25 [13.50.42]

1 A. This was considered a secret and not to allow anyone to be
2 aware of this kind of secret. They <> did not want to let
3 <anyone> know about the arrest <>. <Even the guards were not
4 allowed to wander around.>

5 Q. Going back to -- to the topic of children, was the alleged
6 fate of children -- was it also something you just overheard or
7 was it something that was really said to you?

8 A. I do not under -- I do not understand the question; could you
9 repeat it?

10 Q. Well, before the lunch break, we were talking about the
11 alleged fate of children; supposedly, they were killed as you
12 said. Peng, you said, told you. Was it something that you
13 overheard or was it actually something that Peng told to you
14 person to person?

15 A. Peng talked about that. He said the children had to be sent
16 out as well. The same <applied> to the parents and usually -- the
17 usual practice was that if those people were sent out, they never
18 returned.

19 Q. I'll move away from that subject, Mr. Witness.

20 Have you ever seen, inside S-21, Thai fishermen -- fishermen from
21 Thailand?

22 A. I saw they were brought in on vehicles. The -- those vehicles
23 appeared to be vans, to my recollection, and the vehicles stopped
24 close to the compound and later on, I do -- I did not know where
25 those people or prisoners were sent.

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1 [13.53.38]

2 Q. Well, let me read to you what you, yourself, said in Case 001.
3 Mr. President, document E3/7641 (sic), at about 15.26 in the
4 afternoon.

5 "What about other nationalities?" Is the question. "Did you see
6 Thai prisoners detained at S-21?"

7 And then you said: "Your Honour, I saw them detained at S-21, but
8 they were released later on."

9 And then the question is: "So are -- you are telling us that Thai
10 prisoners were detained, but were released; can you explain why
11 that would be?"

12 And then you answer: "I did not know how it happened, but they
13 were sent out."

14 Does that refresh your memory?

15 [13.54.38]

16 A. Let me tell you. The fishermen were transported in the
17 supposedly vans and they were dropped at the current Tuol Sleng
18 <Genocide> Museum and I heard people say that the vans or
19 vehicles were not allowed to go in and they were told to go back
20 and that is what I learned at the time.

21 Q. But -- but that's not necessarily the same thing as released;
22 that was your word. Was that what you meant with released, that
23 they weren't allowed in and just sent back?

24 A. I saw the vehicle or vehicles stopped close to the museum and
25 <the people were still inside the vans. Then> I heard people say

65

1 that the vehicle or vehicles were not allowed to go inside to the
2 compound under international law since they were all foreign
3 fishermen.

4 Q. Very well, thank you. Mr. Witness. Let me turn to another
5 subject in relation to events at S-21. Earlier, I believe
6 yesterday, you spoke about the rape of a female prisoner by Touch
7 and I believe you said that -- I see the Lead Co-Lawyer on her
8 feet.

9 MR. PRESIDENT:

10 Please hold on. You can take the floor now, International Lead
11 Co-Lawyer for civil parties.

12 [13.56.50]

13 MS. GUIRAUD:

14 A short observation, I haven't read the transcripts this morning,
15 but I don't have the impression that the witness spoke about
16 <Touch> yesterday. He wasn't speaking about that.

17 BY MR. KOPPE:

18 That's -- that's actually -- I'm very happy the Lead Co-Lawyer
19 brought that point up because there is a transcript from Case 001
20 which talks about the rape by Duch, but it's obviously -- it's --
21 it's very clear that the person who spoke about it means Touch
22 and something must have gone wrong in the translation because I
23 think -- at least we can all agree that the actual physical rape
24 was not done by Duch, but Touch and that's what I heard yesterday
25 and I think the other witnesses also speak not about Duch, but

1 Touch, a guard. I can ask -- I can ask the witness to clarify,
2 then we -- we all know of whom we're talking about.

3 Q. Mr. Witness, yesterday, you referred to a case of a rape of a
4 female prisoner by a S-21 guard; did you talk yesterday about
5 that guard Touch, or did you talk about someone else?

6 [13.58.24]

7 MR. HIM HUY:

8 A. Let me clarify the point. Once again, yesterday, I made it
9 once already. Those who -- the one who raped a female prisoner at
10 the prison was a -- quite a young boy, about <> 13 or 14 years
11 old; he was from the West. <I did not know his face. Peng's
12 group> was on guard duty<> at the time, <and then> the
13 information leaked out and that young guard <was> arrested. Later
14 on, a training or study session was held and the discussion was
15 about the rape of the female prisoner <saying that if anyone did
16 that again, they would be arrested and detained as well>. And
17 that young boy was not Duch.

18 MR. PRESIDENT:

19 Perhaps, there is a confusion of name. You are referring to a
20 young boy or a -- a small boy and do you know the name of that
21 boy?

22 [13.59.42]

23 MR. HIM HUY:

24 I do not know the person's name and Mr. Thy<,> or Brother Thy,
25 knew the name of that young guard because he was <in charge of

1 that place> with Peng.

2 BY MR. KOPPE:

3 Q. But to be a hundred percent certain, yesterday, you didn't
4 speak about a rape perpetrated or done by Duch, the chief of
5 S-21; correct?

6 A. That was the young boy of perhaps 14 years old; that person
7 was not <called> Duch, <but I do not know his name.> And Peng was
8 on duty, guard duty<,> and Suos Thy may have known about that
9 young boy committing the rape.

10 [14.00.49]

11 Q. Thank you, Mr. Witness. Now, I come to my questions.

12 Do you know whether this young boy was arrested and subsequently
13 punished for his act?

14 A. I didn't go and check what happened but I only heard that he
15 was arrested and detained.

16 Q. Did he try to kill himself before he was detained, or is that
17 another story?

18 A. I did not know about that.

19 Q. Let me finish by asking you one or two general questions about
20 the behaviour of male cadres versus female prisoners and in
21 general, the topic of male, female morals.

22 I have in front of me, Mr. Witness, a notebook from Chan, one of
23 the chief interrogators, E3/833, Mr. President, Khmer, page
24 00077856; and English, 00184595; no French ERN. These are notes,
25 presumably taken at one of the education sessions at S-21. It

1 says:

2 "Another thing must be vigilant in morals. Summarizing. Be
3 vigilant -- be vigilant 1) Rough work, careless work, conflict
4 with the collective. 2) Morality with females."

5 Mr. Witness was it being taught at education sessions at S-21, to
6 be vigilant in morality with females?

7 A. Yes, I recall that, in general, we were taught that principle
8 since the beginning, that we had to be vigilant, that we had to
9 have a strong stance and that if anyone violated that and had
10 <an> affair with a woman, the person would be arrested and
11 detained.

12 [14.03.42]

13 Q. You said that was something that was already known. Have you
14 ever heard of the 12 moral principles for revolutionary cadres?

15 A. Yes, I know about that. At the time we were trained on this
16 aspect all the time, regarding the 12 moral principles that for
17 every act, even when we <were> walking, we <were> working or
18 sleeping, we had to adhere to that principle and we should not
19 have many more sets of clothes; <we only had two sets of
20 clothes,> and we should eat economically, <we had to be active at
21 work, and in terms of morality, we had to speak nicely>.

22 And every staff <member> was taught that principle, including
23 <guards> and <interrogators> and if anyone violated that<, they>
24 would be arrested.

25 [14.04.44]

1 Q. Let me read to you, Mr. Witness, the first sentence of
2 principle 6 of the 12 revolutionary principles.
3 Document E3/765, Mr. President, Khmer, ERN 00376492 to 93;
4 French, 00540024 to 25; 00539994 in English.
5 Rule 6, "Do not behave in any way that violates females." That's
6 the title of Rule 6 and then it starts, and I quote,
7 "Generally speaking, do not do anything that impacts male/female
8 morality because this issue impacts our honour and our influence
9 as revolutionaries and impacts the clean and pure and dignified
10 traditions of our people." And then it continues. It also talks
11 about marriage.
12 Mr. Witness, is this something that was specifically taught
13 during those education sessions at S-21?
14 A. During each study session the matter was reiterated. Even
15 <during> our meetings, the principles were raised.
16 Despite <being> assigned several tasks, we had to adhere to the
17 principles and we had to adhere to our core tasks as well as
18 engage in supplementary tasks in order to sustain ourselves.
19 [14.06.39]
20 Q. Thank you, Mr. Witness. Let me move on now to Son Sen and his
21 teaching at political education sessions.
22 In answering a question from the Prosecution, you said you saw
23 him once, I believe. Is that correct or did you see him more than
24 once?
25 A. I saw him once when he came to teach us at the political

1 school near Duch's house, that is, within the vicinity of the
2 sewage canal.

3 Q. I understand you are very clear about this but let me,
4 nevertheless read an excerpt from a former S-21 guard who then
5 became interrogator, Lach Mean, who testified here a few days ago
6 on the 26th of April 2016.

7 At around 14.28, this witness said that while he was an
8 interrogator -- more particularly, he was referring to 1978 -- he
9 said he saw or he attended study sessions of Son Sen three to
10 four times.

11 Would it be possible that Son Sen, in 1978, came not once but
12 three to four times?

13 [14.08.40]

14 A. That statement is not correct. I only saw him once when he
15 came to teach us and that's when I stood up and made a request to
16 him to return to the army.

17 Q. I understand but you said earlier you left S-21 mid-1978. Do
18 you know whether Son Sen came to visit S-21 after mid-'78?

19 A. I <do> not know about that.

20 Q. Now, let me ask some follow-up questions as to who Brothers
21 One and Two were. Do you know when it was the first time that you
22 heard Duch say or talk about Brothers One and Two?

23 A. During the study sessions at the political school, mostly he
24 referred to Brother Number One and Brother Number Two. And then
25 we, the participants, <would wonder> who they were. We concluded

1 that they were Pol Pot and Nuon Chea, <Brothers> Number One and
2 Two respectively.

3 Q. Was it that you heard this for the first time after 30
4 September 1977?

5 [14.10.43]

6 A. It was in 1977. Duch referred to Number One and then, as for
7 Nuon Chea, he referred to Brother Nuon; that is, Brother Number
8 Two.

9 Q. But did he start talking about this after both Pol Pot and
10 Nuon Chea gave a speech to all cadres announcing the existence
11 and the power of the CPK at a very large gathering of cadres? Do
12 you remember this?

13 A. It was broadcast over a radio channel.

14 Q. And do you know whether it was only Duch who called them
15 Brother Number One and Two, or were there other people who said
16 the same thing?

17 A. It was only Duch who referred to <them like> that.

18 [14.12.11]

19 Q. Have you ever seen any document, any piece of paper, any
20 "Revolutionary Flag", anything whatsoever that said Nuon Chea and
21 Pol Pot were Brothers Two and One, respectively?

22 A. No, I did not. However as I stated, during this study session,
23 Duch consistently referred to <Brothers> Number One and Two.

24 Q. Did Son Sen ever speak about Brothers Number One and Two?

25 A. I did not hear it from him. Son Sen taught us how to protect

1 the locations <where> we worked and about the war against the
2 Vietnamese and that we should strengthen our stance and not allow
3 any <enemies> to escape.

4 Q. Do you know what the number was of Son Sen, "Brother"; how
5 many was he?

6 A. I did not know which number referred to him.

7 Q. Did you know he was called Brother 89?

8 A. I did not pay attention to that.

9 Q. Do you know who Brother Number 3 was?

10 A. I <do> not know.

11 [14.14.17]

12 Q. Do you know Division Commander of 703, Ta Nat?

13 A. I know him clearly.

14 Q. Was he called Brother Number 3?

15 A. I did not hear anybody refer to him as Brother Number 3.

16 Q. Well, Duch says he was Brother Number 3, also known as Sen.

17 Duch mistaken?

18 MR. FARR:

19 Mr. President, could we have a citation for that, please?

20 MR. KOPPE:

21 One second, please.

22 (Short pause)

23 [14.15.19]

24 MR. KOPPE:

25 It's somewhere there. I know it's there.

1 JUDGE FENZ:

2 But the question Duch mistaken doesn't work. If the witness has
3 just said "I don't know. I have never heard him referred to as
4 --"

5 BY MR. KOPPE:

6 It's not very important. I withdraw the question, but I am
7 certain it's out there.

8 Q. Mr. Witness, did you know any other people within the standing
9 committee or the Communist Party of Kampuchea, the CPK?

10 MR. HIM HUY:

11 A. I did not know.

12 Q. Let me move on, Mr. Witness, to the occasion that you brought
13 prisoners from S-21 to Prey Sar.

14 And this morning you testified that, at one point, Hor told you
15 to bring prisoners to Prey Sar. Can you tell us exactly how that
16 went? What was the procedure for you to bring prisoners from S-21
17 to Prey Sar?

18 [14.16.50]

19 A. Regarding the transportation of prisoners, prisoners were
20 ordered to get onto the vehicle and the driver would drive them
21 and they would be handed over to Huy Sre, and after that, <the
22 driver> returned.

23 Q. And where exactly would you hand over the people that you
24 brought to Prey Sar? Where exactly did you unload them? Which
25 place at Prey Sar?

1 A. I <did not go there.> Srim was the driver. There were no
2 guards to escort them since they had <committed no offence,> they
3 were told they would go there to work in the rice fields <to be
4 refashioned>.

5 Q. So the people that had been brought to S-21 and subsequently
6 brought to Prey Sar were unloaded by you, and then received. And
7 then do you know what happened next?

8 [14.18.13]

9 A. No. Srim drove them. Srim and another person drove them and
10 upon arrival they handed the people <over> to Huy Sre, then
11 <they> returned.

12 And of course they were told that they were sent there to be
13 tempered and to work in the rice fields.

14 Q. And in your testimony in Case 001, E3/7461 at about 11
15 o'clock, you said for the children and the mothers who were the
16 less important prisoners they would be sent to Prey Sar. Where
17 would the children go and where would the mothers go or how would
18 that go; do you remember?

19 A. As I just said, the mothers and the children boarded the
20 vehicle. They were transported to Prey Sar. And it was not the
21 Prey Sar prison, but <it was to the east of the road, and they
22 were> delivered to Huy at a house where Huy was and then they
23 would be allowed to stay in those houses.

24 Q. Do you know whether they were shackled or were they
25 blindfolded or were they just -- were they locked up? What can

1 you tell us about that?

2 A. When I went to patch the dam there during <a> flood, they were
3 not cuffed and they were allowed to work in the rice field as we
4 did. And later on they came to have the same meal that we had.

5 [14.20.28]

6 Q. When you were sent to Prey Sar did you ever see anyone that
7 you, yourself, had brought there earlier by truck?

8 A. I went there to carry dirt. The houses that were built for us
9 to stay <in> were located to the west of Huy's house.

10 At nighttime we had to work, that is, to carry the dirt to patch
11 the dam. The work went on through the whole night but then we
12 couldn't stop <it> and the dam collapsed. Later we were
13 instructed to return.

14 Also, on another occasion, we <were> ordered to dig <and carry
15 dirt to> build a <big> dam and everyone worked in the same
16 <conditions>, including those people.

17 [14.21.38]

18 Q. I understand, but to be very specific do you remember seeing
19 people at Prey Sar whom you, before that, had brought in a truck
20 to go there? Did you recognize any of them?

21 A. Allow me to clarify. I did not transport them. It was Srim who
22 drove them and then there was another guard who went along. They
23 did not commit any offence. <They could not be detained in
24 prison.> That's what they were told and they were told <they
25 were> sent there for tempering and to work in a rice field.

1 Q. I understand, but I thought you were taking part in putting
2 the women and the children and the lesser prisoners, the minor
3 people into the truck. So do you remember seeing any of those
4 people later when you were yourself at Prey Sar?

5 A. I cannot recall who was who. When they arrived there, they
6 were allowed to have a meal and then they had to work at the dam
7 site.

8 Q. Do you remember seeing at Prey Sar hundreds of people or
9 thousands of people working in the rice fields? Can you make an
10 estimate?

11 A. I cannot make an estimate. It could be hundreds, but it could
12 not be up to a thousand.

13 [14.23.57]

14 Q. Let me now turn to something you talked about yesterday. But
15 before I do so, Mr. President, allow me to tell you where I found
16 the citation on Brother Number 3; E3/355, English, ERN 00242875.

17 It's a WRI, a question by the Co-Investigating Judge. He is
18 asking, "We have shown you a telegram addressed to so-called
19 Brother Number 3. Who is Brother Number 3?"

20 And then Duch answers: "I drafted this document. It's not a
21 telegram but a report I prepared for Nat, pursuant to his
22 request. Nat, Sem and Brother Number 3 were all one and the same
23 person."

24 [14.25.01]

25 And I still owe you also Khmer ERN for the two quotes of the

1 chief of the photography unit, Kim Sreang, where he said that
2 everyone who was sent to Prey Sar was photographed first at S-21.
3 The first quote is Khmer, ERN 00162713, and the second quote is
4 Khmer 00162710.

5 Mr. Witness, yesterday when asked by the Prosecution you talked
6 about a one-time occasion that you brought people from Prey Sar
7 to Choeung Ek; you were destined to go to Choeung Ek but then
8 something happened to your car. What exactly happened? Can you
9 tell us a bit more about that day?

10 A. While en route to Prey Sar, the car rolled over so we could
11 not bring the prisoners and we returned.

12 The next day, we reported the incident to Hor and Hor instructed
13 us to go to Duch's house.

14 And later on, Duch sent us to the messengers' office -- to the
15 city's messengers' office <so that they could tow the car back>.

16 Q. And then what happened?

17 A. Then the car was towed back to our location. A mechanic in my
18 group then started the repair work of the vehicle.

19 Q. And then what happened?

20 A. That is all; nothing else.

21 Q. But what happened to the people in that car or that truck?

22 Were they still at Prey Sar?

23 [14.27.31]

24 A. They were at Prey Sar and we did not even reach Prey Sar when
25 the car rolled over.

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1 Q. Let me understand it. Let me see if I understand it clearly. I
2 thought the car rolled over when you were taking them from Prey
3 Sar to supposedly Choeung Ek; correct?

4 A. <En> route <the car> was empty and later on it fell into a
5 ditch and rolled over.

6 Q. So there were never any people in the car to begin with?

7 A. Yes, the car was sent to transport people from Prey Sar, but
8 the driver fell asleep and the car rolled over.

9 Q. So it's my conclusion then; correct, that you in fact never
10 sent any people from Prey Sar to Choeung Ek.

11 [14.28.57]

12 A. We didn't transport them.

13 MR. KOPPE:

14 I am finished. Thank you, Mr. President. Thank you, Mr. Witness.

15 QUESTIONING BY MS. GUISSÉ:

16 Thank you, Mr. President. Good afternoon to all of you. Good
17 afternoon to you, Witness. My name is Anta Guisse and I am the
18 Co-International Counsel of Khieu Samphan and it is in this
19 capacity that I am going to put to you a few short questions for
20 purposes of clarification.

21 Q. My first question: When you were at <> what today is the
22 Beehive radio station<,> when you were in charge of receiving the
23 prisoners in this first <perimeter> before they came into <the
24 school that held> S-21, I wanted to know if, when you were there,
25 if you had any kind of dealings with the interrogators at S-21?

1 MR. HIM HUY:

2 A. I was not allowed to communicate or to have any contact with
3 the guards or interrogators. Later on even one <on> one
4 communication was banned. The rules or regulations became
5 stricter.

6 [14.30.52]

7 Q. When you tell us that the rules were strict and that
8 communication was forbidden, can you tell the Chamber when you
9 were told that this is forbidden?

10 A. It happened in late 1977. It was stricter because the arrests
11 intensified. We were not allowed to have casual <conversations>
12 and meetings were held in the evenings and we had to focus on our
13 work. We were not allowed to play around with one another or to
14 have time <to> relax. We had to perform the work as required.

15 Q. <So in> your capacity as a guard and as a member of the arrest
16 team you were not allowed to <attend> interrogations. Did I
17 understand you correctly?

18 A. That is correct.

19 [14.32.30]

20 Q. I'm putting this question to you because earlier when you were
21 answering the questions from my colleague about the special
22 prison and about <which> people who were allowed to interrogate
23 prisoners who were considered important prisoners, you said that
24 according to you it was Hor and Duch who would interrogate these
25 important prisoners.

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1 So my question is how, if you were not allowed to discuss or to
2 speak to the interrogators and if you were not allowed to
3 <attend> the interrogations, how did you get to know that it was
4 Duch and Hor who were dealing with these important prisoners?

5 A. People were not allowed to go inside that <place>. Ta Hor and
6 Duch were the ones who conducted the <interrogations>. <> Pon
7 <was> also doing the interrogations, but not other people from
8 the outside.

9 MR. PRESIDENT:

10 The question is different. The question is what is the source of
11 your information, as you stated that Duch and Hor had the
12 authority to question and interrogate important prisoners? You
13 already told the Court that only Hor and Duch as well as Chan had
14 the authority to interrogate important prisoners. What is the
15 source of information?

16 [14.34.10]

17 MR. HIM HUY:

18 A. I noticed only that group of individuals <going> to that
19 location. I could see them go to that location from <Thy's
20 place>.

21 MR. PRESIDENT:

22 So what made you say that they went there to interrogate those
23 important prisoners? Perhaps they were there on different
24 purposes. But why did you learn that they go there to interrogate
25 important prisoners?

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1 [14.34.39]

2 MR. HIM HUY:

3 A. <I concluded that> important prisoners were not sent out to
4 any other location for interrogation, I mean the senior
5 high-ranking officers -- officials were there and they may have
6 been interrogated at that location by those individuals <because
7 those individuals were all interrogators>.

8 BY MS. GUISSÉ:

9 Q. I understand from your answer, Witness, that you are making a
10 supposition here. I would like to insist upon this because Duch
11 was heard at length in Case 001 and also in part, in Case 002,
12 and when he was examined -- <for the Chamber and Parties,> this
13 is document E3/1570; French, ERN 00154214; English, 00154198; and
14 Khmer, 00154229; and Duch drew an organization chart of S-21 and
15 described in detail the interrogators' unit, and with regard to
16 the important prisoners he did not say that it was Hor who was in
17 charge of the important prisoners but he spoke about Pon, P-O-N.
18 So, I am putting my question again. What you told us, what you
19 told the Chamber, is this something that you concluded but that
20 in reality you do not know exactly how the interrogations of the
21 important persons took place?

22 [14.36.51]

23 A. That is correct. They were interrogators< ; > they were often
24 at the location. That is why I said they <went there to
25 interrogate those important prisoners>. No other individuals were

1 allowed to go there.

2 Q. Let me put my question to you again and let me try to be a bit
3 clearer here.

4 You, yourself, you did not <take part in> any of the
5 interrogations. You were not allowed to speak to the
6 interrogators either.

7 So, is it true, that under these circumstances, you do not know
8 exactly who was allowed to interrogate the important prisoners?

9 [14.37.45]

10 A. That is correct. However, as I said, those important prisoners
11 were interrogated by the intellectual interrogators; only those
12 people <were> allowed to go to that location, as I said.

13 Q. I would like to get back to the aspects you know well, that is
14 to say -- or to the parts of S-21 that you know well, let's say
15 the entrance and the perimeter.

16 MR. PRESIDENT:

17 Because you are moving to a new topic I think it is better to
18 have a break first. It is now the appropriate time for the short
19 break.

20 The Chamber will take a short break from now until 3 p.m.

21 Court officer, please assist the witness during the break time in
22 the waiting room and please invite him, together with the duty
23 counsel, into the courtroom at 3 p.m.

24 The Court is now in recess.

25 (Court recesses from 1439H to 1500H)

1 MR. PRESIDENT:

2 Please be seated. The Court is now back in session.

3 Before giving the floor to the International Co-Counsel for Mr.

4 Khieu Samphan to resume her questioning, I would like to give the

5 floor to the Co-Prosecutor, particularly the International

6 Co-Prosecutor, to respond to the questions put by Judge Lavergne

7 in the previous session.

8 Do you have any basis for your answers?

9 [15.02.07]

10 MR. BOYLE:

11 Thank you, Mr. President. Good afternoon, Your Honours and to

12 counsel.

13 I just wanted to respond briefly to the questions raised by Judge

14 Lavergne. As I believe counsel noted before the break, this

15 filing is indeed a Rule 87.4 filing. You will see in the

16 left-hand column of the annexes that were distributed that some

17 of these documents have a Case 002 number. Those documents that

18 have a Case 002 number have been disclosed already. Those that do

19 not have a Case 002 number are being disclosed at the time of

20 this filing, this Rule 87.4 filing.

21 You will further note that all of the statements for the

22 gentleman who is currently on the stand have a Case 002 number.

23 [15.03.19]

24 You will note that there was mention made of a statement of an

25 individual who has already testified in this segment, Mr. Prak

1 Khan. His statement also has a Case 002 number.

2 There is also an additional individual who will be testifying in
3 this segment 2-TCW-816. His statement also has a Case 002 number.
4 So all of those in relation to these witnesses have been
5 disclosed already.

6 There are other statements that are included in this Rule 87.4
7 application that have some content related to S-21. In addition,
8 there are statements that have content related to future trial
9 segments and past trial segments. Those that have content related
10 to S-21 that do not have a Case 002 number at this time that we
11 are disclosing at the same time as this 87.4 application, do not
12 fall into the categories that we have been instructed to disclose
13 by this Chamber.

14 You will recall that pursuant to your Decision, E363/3, we are
15 obligated to disclose documents that are either statements by
16 proposed witnesses, statements that have potentially exculpatory
17 information and we also include documents that we have been
18 ordered to disclose pursuant to a ruling by the Supreme Court
19 Chamber following a request by the Nuon Chea defence.

20 [15.05.30]

21 So those are the categories of documents that we disclosed. This
22 Chamber, in that same ruling, instructed us to disclose all other
23 documents at the same time as our Rule 87.4 applications. And so
24 for those documents in this filing that do not have Case 002
25 numbers that is what is occurring. We are disclosing at the same

1 time as our Rule 87.4 filing.

2 So just to be absolutely clear, we are to the best of our
3 ability, following the rulings of this Trial Chamber regarding
4 our disclosure and 87.4 obligations and all parties and the Trial
5 Chamber had access to the documents of witnesses that have
6 testified in this segment, are testifying or will testify in this
7 segment that are included in this list already.

8 I am at your liberty to answer any further questions you might
9 have.

10 MR. PRESIDENT:

11 I have read the content of the request in relation to the
12 admissibility of documents into evidence. It is not a mere
13 request of disclosure. That is one point <that needs> your
14 clarification.

15 And before us, it concerns five documents, that is, the written
16 records of the interviews of witnesses in relation to the current
17 witness as well, and other witnesses who came to testify in
18 relation to S-21; that is the concern and the challenge for the
19 Chamber.

20 The Chamber did not put the question in relation to the request
21 to disclose the documents but the request had something to do
22 with the request to admit documents in the annex <into evidence
23 in Case 002/01>. So please do not respond beyond what the Chamber
24 has asked you.

25 So the question is about the request to admit the written

1 records, the five written records of the interviews of witnesses
2 who have already testified and also in relation to this witness?

3 Please clarify this point for the Chamber.

4 [15.08.17]

5 MR. BOYLE:

6 Thank you, Mr. President. Allow me to clarify, focusing
7 specifically on the five statements of witnesses relating to the
8 S-21 segment.

9 All five of those statements have already been disclosed. The
10 three statements of the gentleman who is currently testifying
11 were disclosed on 29 January 2016 and 10 March 2016;
12 respectively. You will find those disclosure filings at E319/40,
13 E319/41.

14 There are two remaining statements of witnesses that will be --
15 that have been called or will be called in this segment.

16 The first is Mr. Prak Khan who came to testify. His statement was
17 disclosed on the 26th of April 2016, that is filing E319/46 and,
18 in addition, was circulated by email on the 25th of April 2016,
19 to this Chamber and to all of the parties.

20 And the second is of a future witness, witness 2-TCW-816. His
21 statement was disclosed on 26 April 2016, and that was filing
22 E319/46.

23 [15.10.10]

24 MR. PRESIDENT:

25 I do not really understand your explanation. My question is to

1 you, why you have just made a request to admit those five
2 statements which have been long disclosed?
3 Why <did> you file <those> five statements for admission in the
4 last <few> minutes? Why <did you only> request the admissibility
5 of the five statements today?

6 MR. BOYLE:

7 I apologize for not --

8 MR. PRESIDENT:

9 I am not asking you about disclosure of the five statements. My
10 question to you is that the five statements have been disclosed
11 for quite <some> time <already,> and why <have> you just <now>
12 made a request to admit <> the five statements <into evidence>?

13 [15.11.11]

14 MR. BOYLE:

15 I apologize for misunderstanding your question, Mr. President.
16 We, as all of the parties, function under restraints of resources
17 we, in our internal processes of reviewing all of the documents
18 that are placed on Case 003 and 004, requesting disclosure from
19 OCIJ and then disclosing and/or providing justification pursuant
20 to 87.4, prioritize the disclosure of documents. We place our
21 resources primarily on the disclosure of documents so that, as
22 much as possible, the Chamber and the parties have access to
23 those documents as soon as possible.
24 As our resources allow, we then go back to those documents that
25 we would like to request to have admitted pursuant to Rule 87.4

1 and do the additional work to attempt to justify, pursuant to
2 Rule 87.4, those documents.

3 And that is why at times the Rule 87.4 application will come
4 sometime after the actual disclosure of those documents.

5 [15.12.46]

6 MR. PRESIDENT:

7 Judge Lavergne, you put the questions. So <do> you want to put
8 more questions or <ask for> clarification? If <not>, the floor is
9 given to the defence team of the Accused to resume questioning.
10 You may proceed.

11 BY MS. GUISSÉ:

12 Thank you, Mr. President.

13 I will continue with the examination of the witness. <I think
14 that, if I understand, the discussion regarding these new
15 documents is postponed, but at the outset I wish to inform you
16 that> insofar as we don't have access to <the annexes yet>, we
17 <will certainly have to request some more time>, <otherwise this>
18 means that the week you have granted us to prepare for <upcoming>
19 witnesses <would be reduced to zero>. <So I would just like to
20 indicate that we> intend to file an application in that regard.

21 [15.13.50]

22 Q. Mr. Witness, when we broke off we were talking about the place
23 where you were working which was at a certain distance from the
24 entrance on the perimeter of the school which was known as S-21.
25 And you stated that you stood guard among the external guards

1 near the Beehive radio station. We heard another witness, Prak
2 Khan, <who> also stood guard at that location, <> describe that
3 place, explaining that there was a <corrugated> fence which
4 marked the limit. <I'm referring to the hearing on 02 May 2016,
5 just before> 10.38.<58.>

6 And this is how he described the fence, and I quote: "There was
7 another <corrugated> fence. The second level of the fence was
8 covered with barbed wire. <There was a gate right across from the
9 fire station." End quote.>

10 My question is whether that <describes> the fence which was not
11 far from where you were and was the gate directly opposite the
12 fire station?

13 [15.15.48]

14 MR. HIM HUY:

15 A. Regarding the fence, <the fence> that <blocked the road was to
16 the east of the sewage canal because> the house was located to
17 the <west> of <> the sewage canal.

18 Q. So if I understand you correctly and please correct me if I am
19 wrong, when a vehicle wanted to enter the building of S-21 which
20 includes Buildings A, B, C and so on and so forth, that vehicle
21 would have had to pass through a first fence, <not far from where
22 you stood guard,> then it would pass <through> a second fence
23 which directly surrounded the buildings. Is that your testimony?

24 A. That is correct. But as usual, the vehicles would first pass
25 through the gates <to> the east and then <enter> the <prison

1 compound>. I could not tell you <> about what <happened> in the
2 north <or> in the west since the <fence was built to block all
3 the roads and no vehicles were allowed to pass through> those
4 particular locations.

5 [15.17.38]

6 Q. If the gates <were> closed at that location, does that mean
7 that there was only one possible entrance which <you had to pass
8 by> where you were stationed?

9 A. Yes, there was only one entrance for vehicles to go in with
10 the guards standing at that location. And whenever there were
11 vehicles coming in, I would be informed and then I went over to
12 receive and to welcome the vehicles.

13 Q. How could you know that <a> vehicle was authorized to enter
14 the premises?

15 A. The regulation was that drivers were not allowed to drive the
16 vehicles into the compound. It was only me and my men were
17 allowed to drive the vehicles right into the compound. <They did
18 not want others to know about the place. They were afraid the
19 secrecy would be breached.>

20 [15.19.05]

21 Q. Should I take it from your answer, that when a vehicle arrived
22 the driver that had driven the vehicle up to where you were would
23 alight from the vehicle and you would be the person who would
24 enter that vehicle and then <drive it into> the compound of S-21;
25 is that your testimony?

1 A. When a car would arrive there, was -- there were guards. I,
2 together with the other men <> were <also> drivers, so the
3 driver, who had driven the vehicle, was asked to <get> out and I
4 and my men would replace him to drive the vehicle in. And there
5 were guards protecting that vehicle as well.

6 Q. I would like to know whether you knew who had instituted that
7 procedure and who had built that security perimeter around the
8 S-21 buildings.

9 A. Duch <was the only one who> had the authority to set out the
10 procedures.

11 Q. And was Duch the person who conveyed that procedure to you or
12 it was another of your superiors who did so?

13 A. When there were <orders from Duch>, Ta Hor asked me, <my men>
14 and other <groups> to install the fence to block the road<>.

15 Usually, we used zinc or other types of wire to use as fence.

16 [15.21.32]

17 Q. Prak Khan -- still at the hearing of the 2nd of May 2016, and
18 shortly before 10.41.29 -- explains the procedure as follows:

19 "Before opening the gate to let anyone in, no official document
20 had to be shown <to me>. If I opened the gate, it was because I
21 recognized the truck and the driver." End of quote.

22 And furthermore, in his testimony he appears to say that drivers
23 were authorized to get in but they first of all had to be

24 recognized. So my question to you is as follows. When you state

25 you would sit in the place of the driver who brought the vehicle,

1 are you talking of S-21 drivers or you're talking of other
2 drivers from somewhere else?

3 A. In fact, the drivers from my group replaced the one who had
4 brought the vehicle in.

5 [15.22.55]

6 Q. However, were the vehicles not always S-21 vehicles?

7 A. As for vehicles, <> those vehicles <from other ministries>
8 could only stop at the zinc fence. The drivers would get off and
9 I and my drivers would go in together with the guards standing at
10 the back of the vehicles and then the vehicles would be driven
11 into the compound. <>

12 Q. And what did you do when you had to deal with vehicles that
13 were not S-21 vehicles?

14 A. Their vehicles together with the prisoners would drive -- in
15 fact, we would drive the vehicles of those -- the vehicles of the
16 people who had brought the vehicles to that location and after
17 we, together with other guards, would drop off the prisoners <at
18 Suos Thy's place>, we would drive the vehicles back <to the
19 owners> outside the compound.

20 Q. So if I understand your testimony correctly, what you're
21 saying is that no one who was not a member of the S-21 staff
22 could enter the premises.

23 A. That is correct. There was one day when I was off duty. I and
24 my men were busy with feeding the livestock and I was also
25 growing banana trees at the time <and leaving only one guard

1 posted there>. At the time, a vehicle arrived <at the prison
2 gate> and we were not there at the time. Hor came out and blamed
3 all of us for not standing guard at the location. Later on we
4 were instructed not to leave our work station and to be on
5 constant guard duty.

6 [15.26.03]

7 Q. I would like you to clarify another point. Did you have any
8 particularly friendly relations with <Hor> and <Peng>?

9 A. I could make a contact with Ta Hor but not Ta Peng.

10 When Ta Pang <from Division 703> was arrested <> and held <at my
11 place,> at the Beehive radio station, <there were> three of
12 <them. We> were instructed to walk the prisoners. And at the
13 time, <other members of my group walked the other prisoners and>
14 I <walked>Ta Pang <behind them>. At the time, I took the occasion
15 to ask Ta Pang who he was implicating and he said he implicated
16 Ta Hor. And at the time, I learned previously that Hor and Duch
17 had arguments. I was thinking that if Ta Pang was interrogated,
18 he would implicate Ta Hor. Then Ta Hor would be arrested and
19 <then> it <would be> my <group's> turn <to be arrested>.

20 So, after I walked Ta Pang into the compound and went back, I
21 went to talk to Ta Hor about that case. <I told Ta Hor to talk to
22 Ta Pang and shut his mouth; otherwise, Ta Pang would implicate
23 him.> I was very concerned at the time on a constant basis that I
24 would be arrested one day after the arrest of Ta Hor.

25 [15.27.58]

1 Q. I will revisit this point <in a little while>. But I would
2 like you to answer my questions that are twofold. You said that
3 you didn't have any particular relations with <Peng> but I would
4 like to know whether you <considered him as a friend or if you>
5 had any particular relations with <Peng?> Could you please answer
6 this initial question?

7 A. I did not trust Peng because Peng had -- could get along with
8 Duch. So I had to -- I had a good relationship with Hor, since Ta
9 Hor <> previously had the relations with Pang. <So to be
10 cautious, I had to make contact with him to protect myself.>

11 Q. I put this question to you because a while ago, in answer to a
12 question put to you by my colleague of the Nuon Chea team, you
13 stated that Ta Peng talked to you about these activities
14 regarding executions and you talked about that at a point in
15 time.

16 And <since> you stated <earlier> that you did not have the right
17 to talk to interrogators and that there was a notion of secrecy.
18 You referred to that on several occasions during your testimony.
19 I would like to know whether you know why Peng, with whom you
20 didn't have any particular relations, told you about details of
21 his work<,> which he was not supposed to share with you.

22 [15.29.51]

23 MR. FARR:

24 Mr. President, this has come up before in relation to the same
25 topic. Counsel is asking the witness to speculate on the

1 motivation of another person and that's not an appropriate
2 question.

3 MS. GUISSÉ:

4 I was asking the witness if he had any kind of special relations
5 and he said that he didn't trust him. He didn't trust Peng. So I
6 believe that this is a legitimate question because he himself
7 spoke to us about the notion of secrecy and the fact that he was
8 not supposed to speak to the interrogators.

9 I believe it is legitimate to ask him why Peng spoke to him. He
10 can say many things about the kind of relationship he <thought he
11 had, or that Peng thought he> had with him but I don't know.

12 <That's> why I am asking the question. <If he doesn't know, he
13 doesn't know. But> I think the question is perfectly legitimate
14 in relation to what the witness has just described to us about
15 his relationship with Peng.

16 (Judges deliberate)

17 [15.31.43]

18 MR. PRESIDENT:

19 The question is permissible and the objection by the Deputy
20 Co-Prosecutor is overruled.

21 Witness, you may respond to the question. Do you recall the last
22 question put to you? If so, please respond.

23 MR. HIM HUY:

24 Please repeat the question.

25 [15.32.14]

1 MS. GUISSÉ:

2 Q. No problem. Let me rephrase it.

3 You said to the Chamber that you did not have any kind of special
4 relationship with Peng, that you did not trust him because he was
5 close to Duch and you were rather close to Hor who did not get
6 along well with Duch.

7 So, insofar that you spoke to us about the fact that normally you
8 were not expected to speak with any of the interrogators or <in
9 any event> to speak with people who were not part of your group,
10 can you tell us why Peng confided in you even though this was
11 violating the principles of secrecy? Why did he confide in you
12 about the executions that he took part in?

13 [15.33.16]

14 MR. HIM HUY:

15 A. In 1977, the rules were not that strict and we could speak to
16 one another. However, I did not have any daily conversation with
17 him and I was very careful about Peng since he was close to Duch.
18 Later on they imposed a regulation that we were prohibited from
19 speaking to one another and that each of us had to monitor the
20 activity of another staff because that was the time that the
21 staff of the centre had been subject to the arrest.

22 Q. When in time do you place the moment when the rules <started
23 to> change?

24 A. I cannot recall the exact period. However, that was the time
25 that they started to arrest staff working inside the centre. We

1 were prohibited from having any conversation with one another and
2 that combatants had to be monitored by cadres and vice versa.
3 From that day onward we -- each of us was by ourselves. After we
4 ate meals, we would return to our sleeping quarters and we did
5 not dare to speak to one another since we were afraid of being
6 <reported> and arrested.

7 [15.35.17]

8 Q. You said that the moment when Peng was able to speak to you
9 still was in 1977. So do you remember if this was the first half
10 of '77 or during the second half of '77? Can you try to locate
11 that moment? I know this goes back a while, but can you give us a
12 <time frame, if you can't give an exact date>?

13 A. I cannot recall it, although I knew that it happened in 1977.
14 And by 1978 the situation became even more intensified as S-21
15 staff were arrested.

16 Q. Before we discuss this period, you said yesterday a little bit
17 after <9.26.49> when you were answering a question put to you by
18 the Co-Prosecutor, you said that at one point in time you were
19 selected to become an interrogator.

20 So can you tell us who selected you to do that and do you
21 remember when, during which period this happened?

22 [15.36.45]

23 A. Actually, it started since after they organized a group of
24 interrogators. That happened in 1977, when the investigator --
25 when the interrogator groups were established and I was called to

1 be part of the groups <by Ta Hor>, but I declined since I said I
2 did not know how to write letters <or how the interrogation
3 process worked> and I preferred to be a guard. <So he did not
4 pick me. In fact, I was at level 10 and only people at level 11
5 or above would be selected to be interrogators.>

6 So then I was assigned to work at the place to receive the
7 prisoners.

8 Q. I don't have much time left, so please listen to me as
9 carefully as possible because I am trying to put to you precise
10 questions. So my question was: Who proposed to you to become an
11 interrogator?

12 A. Hor, Duch's deputy, actually asked me to be an interrogator.
13 But I said I did not know how to write so I could not do that,
14 but I could stand guard.

15 So he assigned me as a member of a group to be stationed on guard
16 at the Beehive radio station.

17 Q. So when you told Hor that you would not accept that job, there
18 was no problem for you to be assigned to another one; is that
19 what I must understand from what you just said?

20 A. Yes, because he also noticed that I did not know how to write
21 the letter. That's why he assigned me to be a guard. Indeed, I
22 did not know how to write.

23 [15.39.24]

24 Q. Now, I'm turning to a period that's a little bit after. You
25 said that at one point in time you were implicated in a

1 confession and this is why you were transferred to Prey Sar.

2 Maybe I didn't note this down carefully but can you please tell
3 us again who implicated you in the confession and who announced
4 to you that you were going to be transferred to Prey Sar?

5 A. It was Duch who reassigned me to work in the rice fields at
6 Choeung Ek. Duch arrested <Nop> Nuon (phonetic) and during the
7 interrogation <Nop> Nuon (phonetic) implicated me that I planned
8 to rebel at Tuol Sleng, and during a study session Duch asked me
9 on the spot that whether I actually planned to initiate a
10 rebellion since <Nop> Nuon (phonetic) implicated me. <I laughed>
11 and I said how could I do that? That was nonsense that he
12 implicated me, that is what I said. Several days later, Duch sent
13 his messenger to relocate weapons from the warehouse to the
14 general staff office. And later on I was assigned to work in the
15 rice field.

16 [15.41.13]

17 MR. PRESIDENT:

18 Mr. Witness, please limit your response to the limit of the
19 question and don't answer much more than that as the extra
20 answers may not contribute to the ascertainment of the truth and,
21 as you have heard, your counsel has very limited time left.
22 And as for you, you have been asked several hundred questions
23 already, so please limit your response.

24 BY MS. GUISSÉ:

25 Q. So I understand that it was Duch who informed you about you

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1 being implicated in the confession and it was his messenger who
2 told you that you would be transferred to Prey Sar. So did you
3 speak about this transfer to Hor?

4 MR. HIM HUY:

5 A. Ta Hor asked me to prepare myself for the relocation to Prey
6 Sar, but I knew that that instruction came from Ta Duch, because
7 Ta Duch knew of the implication that I planned to rebel and for
8 that reason, he wanted to split the forces within our group.

9 [15.42.59]

10 Q. And did Hor tell you that he spoke about your case to Duch?

11 A. I did not know about that.

12 Q. And <was> being transferred <to Prey Sar> the only thing that
13 happened to you following your implication in the confession?

14 A. Yes.

15 Q. The last point that I would like to cover with you, you said
16 that you attended training sessions and you also spoke about the
17 conditions at the battlefield and about <some> Vietnamese
18 incursions. So my question is; at S-21 were you being apprised of
19 what was going on at the border and, more generally speaking,
20 about the situation of the fighting during the entire period you
21 were at S-21?

22 [15.44.35]

23 A. When I was assigned to go to Svay Rieng and to bring in
24 Vietnamese prisoners, the East Zone soldiers spoke to me about
25 the situation as well.

1 And on the day that I went <> to bring in the Vietnamese
2 prisoners of war, I saw about 60 new Chinese trucks. Actually,
3 those trucks <were> loaded with <our rice. They were fighting
4 against> Division 703 and <then they abandoned the trucks>.

5 And I knew that the situation <in the country was bad because the
6 fighting against the Vietnamese had already reached the border,
7 and the Vietnamese even came to transport rice in> the northern
8 part of Svay Rieng province. That's what was in my mind at the
9 time.

10 Q. And when did this event happen? What was the date?

11 A. That happened in 1977.

12 Q. Here again I would like to know if there is any way you can
13 remember exactly when in 1977, this happened. Was it whether at
14 the beginning, whether in the middle or whether towards the end
15 of 1977?

16 [15.46.18]

17 A. I do not recall that. After the Vietnamese soldiers were
18 arrested, I did not know how they communicated with Duch, maybe
19 via telephone line. Then Duch assigned us <> to go and pick them
20 up.

21 Q. Now, I'd like to turn back to the period after this event. So
22 when you were at S-21 do you remember if this context of war was
23 brought up at any point in time during your training?

24 A. When Son Sen came to teach us, he spoke about the enemy <in
25 the prison> and that we had to defend against the enemy and that

1 we had to fight against Vietnam.

2 [15.47.33]

3 Q. Did he, however, provide any details about the situation at
4 the front line or did he only speak about general issues? Did he
5 speak about any specific battles that were fought, and where?

6 A. I cannot recall that. I cannot recall the specific details. He
7 only spoke about the fighting against the Vietnamese and that we
8 actually entered into the Vietnamese territory. That's what he
9 told us at the political school.

10 MS. GUISSÉ:

11 Mr. President, I'm done with my cross-examination.

12 MR. PRESIDENT:

13 Thank you, Counsel.

14 Mr. Him Huy, the Chamber is grateful of your presence and the
15 hearing your testimony as a witness is now concluded. Your
16 testimony may contribute to the ascertainment of the truth in
17 this case.

18 You are no longer required to be present in the courtroom and you
19 may return to your residence or wherever you wish to go to. The
20 Chamber wishes you all the very best.

21 The Chamber would like to extend our thanks to Mr. Mam Rithea,
22 the duty counsel, and you are both excused.

23 Court officer, please work with WESU to arrange transportation
24 for Mr. Him Huy to return to his residence or wherever he wishes
25 to go to.

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1 The Chamber will adjourn the proceeding now and we will resume on
2 Monday, 23rd May 2016, commencing from 9 o'clock in the morning.

3 [15.49.34]

4 On that Monday the Chamber will hear testimony of a witness,
5 2-TCW-816, in relation to S-21 Security Centre. This information
6 is for the parties and the general public.

7 Security personnel, you are instructed to take the two accused,
8 Nuon Chea and Khieu Samphan back to the detention facilities and
9 have them returned to attend the proceedings on Monday, 23rd May
10 2016, before 9 o'clock in the morning.

11 The Court is now adjourned.

12 (Court adjourns at 1550H)

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