



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS - KAING GUEK EAV "DUCH"

PUBLIC

Case File N° 001/18-07-2007-ECCC/TC

14 July 2009, 0912H

Trial Day 44

Before the Judges:

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YOU Ottara (Reserve)
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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
JUDGE CARTWRIGHT	English
MS. JACQUIN	French
MR. KANG SAM ONN	Khmer
JUDGE LAVERGNE	French
MR. MAM NAI	Khmer
MR. ROUX	French
MR. SMITH	English
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. WERNER	French

1

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

2 (Judges enter courtroom)

3 [09.12.05]

4 MR. PRESIDENT:

5 Please be seated. The Chamber is now in session.

6 We will hear the testimony of Witness Mam Nai, alias Chan.

7 Good morning, Mr. Mam Nai.

8 I notice the presence of the defence counsel. You can take the
9 floor.

10 MR. ROUX:

11 Thank you, Mr. President.

12 We are grateful for the presence of our learned colleague who is
13 assisting or representing Mr. Mam Nai, however, the defence would
14 like to express reservations with regard to the fact that our
15 colleague has been asked to sit on the defence bench with us.

16 This is like ruling beforehand on the prosecutors' request to
17 consider Mr. Mam Nai today as an accused.

18 If we look at the courtroom today, we see that Mr. Mam Nai has a
19 legal representative who is on the defence side; he's, therefore,
20 considered to be an accused. It does not seem appropriate to us.

21 And if Mr. Mam Nai is entitled to representation, his
22 representative should sit next to him but not with the defence
23 and Duch.

24 Thank you, Mr. President.

25 MS. JACQUIN:

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1 Mr. President.

2 MR. PRESIDENT:

3 Mrs. Jacquin, you take the floor.

4 [09.14.36]

5 MS. JACQUIN:

6 Good morning, Mr. President, Your Honours.

7 We support the submissions of our colleague, Mr. François Roux,
8 because we find it inappropriate, as civil parties, for the
9 lawyer for Mr. Mam Nai to be with the defence.

10 We consider that it would be clear that Mr. Mam Nai, who is a
11 witness even though he is an assisted witness -- that is, a
12 witness with counsel -- should have a situation where he's
13 allowed to sit next to his counsel and perhaps can offer some
14 guidance with regard to Mr. Mam Nai's situation.

15 So we support the position of the defence. Thank you.

16 MR. PRESIDENT:

17 I notice the presence of the Co-Prosecutor. You take the floor.

18 MR. SMITH:

19 Good morning, Your Honours. Good morning, counsel.

20 Your Honours, I don't know whether the witness would have been
21 aware that he was viewed in that manner until it was raised by
22 the defence counsel. There's plenty of seats in the courtroom
23 and certainly that's not the first thing that would come to my
24 mind if I was a witness in the courtroom.

25 As to where the lawyer sits, we're in Your Honours' hands. I

3

1 don't think it creates that impression whatsoever. However, now
2 that impression has been created, we're in Your Honours' hands
3 whether or not the witness's lawyer should move.

4 [09.16.31]

5 Your Honours, it just raised one other matter, and in relation to
6 the procedure yesterday where it was raised by the defence
7 counsel that this witness should be informed, or fully informed,
8 of his right against self-incrimination.

9 As Your Honours are aware, he was informed by Your Honours prior
10 to the defence raising an objection, and then there was more of a
11 concern by the defence counsel that perhaps he wasn't fully aware
12 of his right. That certainly wasn't clear to me that the witness
13 wasn't fully aware of his right.

14 However, having raised that concern, Your Honours, as you're
15 aware, under Rule 28(8) -- and if I can read that rule -- that
16 concern should not be raised in front of the witness, for obvious
17 reasons; and, secondly, that concern should be raised in advance
18 of the witness's testimony; and, thirdly, that concern should be
19 raised in camera so that any possible public alarm not be created
20 because it's a very sensitive and delicate area when dealing with
21 witnesses coming from S-21.

22 And the reason why I raise this is that this witness is not the
23 only witness that is a guard or an interrogator from S-21, and
24 this procedure needs to be applied appropriately in terms of the
25 advice that they should be given throughout these proceedings.

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1 And, hopefully, this will not occur again, raising an alarm with
2 the witness which, as Your Honours are well aware, the defence
3 support services, the defence office and the prosecution have
4 been involved in extensive negotiations trying to offer a formula
5 to suggest to the Chambers as to appropriate legal advice that
6 would be given to a witness that comes from S-21 as a guard or an
7 interrogator at S-21, to avoid exactly what happened yesterday
8 where the witness is scared-off in a situation where the
9 possibilities of prosecution are extremely remote. And that is
10 clear.

11 And that is why a proposal was put forward.

12 [09.18.58]

13 Getting back to the law, Your Honours. If we look at Rule 28(8),
14 it states:

15 "Where a party..."

16 -- and that was the defence yesterday:

17 "...is aware that the testimony of any witness may raise issues
18 with respect to self-incrimination or where the witness believes
19 that may be raised, he or she shall request in camera, not in
20 public, a hearing and advise the Co-Investigative Judges or the
21 Chambers of this in advance of the testimony of this witness."

22 Your Honours, this witness has been on the witness list for a
23 long, long time. The defence had plenty of opportunities to
24 raise this prior to the witness coming to Court, but he waited
25 and he waited and he waited until he was in the witness box to

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1 create the types of concerns that the prosecution, this Chamber,
2 all parties before the Court are trying to balance through
3 appropriate legal advice at the right time.
4 Your Honour -- and one further matter. The argument was raised
5 on the premise that -- and I will just briefly reiterate -- on
6 the premise that because joint criminal enterprise has been asked
7 and submitted to be considered by Your Honours in relation to the
8 accused's liability, because of that fact, the situation has
9 changed in relation to this witness, where assurances that were
10 given before are not longer valid now because this theory has
11 been asked by Your Honours to be considered in the final
12 judgement.
13 Your Honours, as you are aware, that's a legal nonsense. That's
14 just simply not correct. There are plenty of theories under this
15 Court, individual criminal responsibility, instigating, aiding,
16 abetting, planning, committing, and all of those theories are
17 potentially theories that any other person at S-21 possibly,
18 possibly, could be prosecuted for. But, again, that possibility
19 is remote.
20 [09.21.21]
21 And so the basis of the defence's interjection was inaccurate,
22 incorrect, and I would submit that for the future that these
23 matters be raised in camera and in the absence of the witness to
24 avoid exactly what happened yesterday.
25 Thank you, Your Honours.

6

1 THE PRESIDENT:

2 Mr. Roux.

3 MR. ROUX:

4 Thank you, Mr. President.

5 I cannot leave unanswered the submissions of the Office of the
6 Co-Prosecutors, who are pretending not to have understood,
7 whereas you have, in fact, very clearly understood. We are not
8 within the restricted context of Article 28(9) and I said this
9 clearly yesterday. We have gone beyond that scope.

10 The President informed the witness that he could avoid
11 incriminating himself, but the witness should also have been told
12 of the application that the Co-Prosecutors felt they had to file
13 in regard to joint criminal enterprise. It is a completely
14 different matter.

15 You made the choice. You are explaining to us, in fact, that the
16 choice was not necessary because there would have been other
17 possibilities for incriminating the witness.

18 [09.23.30]

19 So this is my question. Today, do you still seek joint criminal
20 enterprise to be taken into account? You have just explained
21 that it is not necessary. So the question is, do you maintain
22 your request?

23 And I think the lawyer assisting Mr. Mam Nai today would begin to
24 find out whether you're maintaining joint criminal enterprise,
25 that is to say, whether you are maintaining your position that if

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1 Duch were to be found guilty in light of joint criminal
2 enterprise, it would automatically mean that this witness would
3 be found guilty.

4 Do you wish to maintain this? If you wish to maintain this,
5 please inform the lawyer, inform the witness in the presence of
6 the lawyer.

7 That is what we want to know. Do you maintain it?

8 MR. SMITH:

9 Your Honour, I don't know how many times this has to be stated,
10 but whatever this accused is found guilty of or not, it has no
11 implications whatsoever for any possible prosecution, albeit
12 completely remote, of any other person at S-21. There is no
13 connection whatsoever that a finding on this Court can have on
14 any other potential prosecution in any other court.

15 [09.25.15]

16 The point being is that potential prosecutions are completely
17 remote, and that's the reason why these matters should be raised
18 more delicately outside of the witnesses present. I don't know
19 how many times it has to be said, Your Honours, that this theory
20 of liability is no different in terms of any implications for
21 anyone else than any of the other theories of liability.

22 Thank you.

23 MR. ROUX:

24 So withdraw your application for joint criminal enterprise to be
25 taken into account, and then we will all be the more reassured

8

1 for it.

2 MR. PRESIDENT:

3 Thank you for the observations made by the defence counsel and
4 the Co-Prosecutor.

5 First, the Chamber would like to inform the parties that the
6 Chamber has considered in detail to provide a seat to the counsel
7 for Mr. Mam Nai at his current seat. And we thank you, the
8 defence counsel and the civil party lawyer group 3, to raise the
9 issue of the possible confusion of his seating.

10 Although the Chamber made a decision for the lawyer to sit next
11 to the defence counsel, this does not mean the witness is guilty.
12 The selection of the seat is appropriate. It's wide enough for
13 him to sit and it is close to his client so that he can observe
14 his client during the proceedings of the testimony, and that he
15 would have the opportunity to raise his concerns or observations
16 or to seek to counsel his client.

17 Also, the Chamber would like to inform the parties and the public
18 regarding the selection of the seating. This is just for the
19 sake of sitting and, as you know, he's a legal counsel so we need
20 to provide him an appropriate seating location during the entire
21 proceedings of his client so that he's in an appropriate position
22 to provide his service to his client.

23 Also, in the proceedings, the rights to manage the hearing is the
24 sole discretion of the Chamber.

25 [09.29.45]

9

1 The Chamber has also observed the standing on the feet to speak
2 without the permission from the President of the Chamber shall
3 not continue. You are all reminded that you need to seek the
4 permission before you can speak in the courtroom.

5 BY MR. PRESIDENT:

6 Q.Good morning Mr. Mam Nai. Now, have you got any assistance
7 from the legal counsel, Mr. Mam Nai?

8 A.Yes, I have.

9 Q.What is the name of your lawyer?

10 A.His name is Kong Sam Onn.

11 Q.Is he present in the hearing today?

12 A.He is in the courtroom.

13 MR. PRESIDENT:

14 Mr. Kong Sam Onn, could you please rise?

15 [09.31.40]

16 This is lawyer Kong Sam Onn. He is the legal counsel for the
17 witness, Mam Nai.

18 Because of the special condition of this witness, as he has
19 requested for a legal counsel during his testimony, the WESU
20 Unit, in collaboration with other units of the ECCC, has made the
21 decision to seek the assistance of the lawyer to assist the
22 witness.

23 The public is informed that this lawyer is not defending the
24 accused. He is here to provide assistance to the special
25 witness.

10

1 Mr. Kong Sam Onn, you can now be seated.

2 BY MR. PRESIDENT:

3 Q.Mr. Mam Nai, have you consulted your lawyer?

4 A.I have consulted him.

5 Q.Now, are you able to respond to questions by the Chamber now?

6 A.I am able to do so.

7 Q.Mr. Mam Nai, could you please describe the locations where you
8 worked and lived during the period from 1975 to 1979; so what did
9 you do and where did you live?

10 A.After 1970, I worked as a professor. I taught at Neak Loeung
11 and Kantuot.

12 And later on in 1973, there was a rally in which teachers
13 protested to get pay raise. At that time, the Lon Nol soldiers
14 opened fire on the participants in that rally. In light of the
15 event, I ran away into the jungle to study political sessions in
16 Krang Kdep.

17 [09.35.47]

18 Later, Duch, who was known to me from school in the preparatory
19 course for the bachelor degree sessions and the person who was
20 accused during Sihanouk regime as the Khmer Rouge supporter and
21 who was detained at Prey Sar together, and after the session he
22 asked that I work with him in Amleang, the security office.

23 After the 1975 -- the 17 of April, I came to work in Phnom Penh.

24 Q.Now, could you please tell us more of what happened next to
25 you after 1975? Tell us about your occupations? And we want to

11

1 hear more of this consequences until the 1979, please.

2 A.I worked in the security section, first at PS. Later on, we
3 moved to Tuol Svay Prey location. We worked there until the
4 Vietnamese troops invaded Phnom Penh, then we escaped to the
5 west.

6 Q.Could you tell us about the work you were assigned at the
7 security office at Amleang and your accounts of the situation
8 back then? So what did you do in that security office? What
9 were your main roles and what else did you see, including the
10 supervisors -- your superior and other people at that location?

11 A.Comrade Duch requested me from Kraing Kdep to work with him at
12 that security office. At the outset, I had some kind of spirit
13 issue because I worked in the jungle and I was rather
14 narrow-minded at that time while working at the security office.
15 And alongside the contraction of malaria, I found it difficult to
16 work.

17 I would like to make a request to Duch so that I could work with
18 Hong and my duties were rather mixed up because, when I came in
19 the first place at that location, he was not assigning me any
20 tasks. I only were made to plant potatoes.

21 [09.40.41]

22 Sometimes, I was asked to go to Sector 31 to contact the chief of
23 Sector 31 to request for some supplies because the chief of that
24 sector had been in jail during the king's regime, and later on he
25 did not allow me to stay with Tin Kimhong and I still maintained

12

1 my current task, planting the potatoes.

2 At nights, he made me sit down to observe him interrogating
3 detainees, and then he asked me to interrogate the less important
4 people at nights.

5 There were detainees, but there were very few, and the guards
6 were in very few number and most of them were young people; very
7 young. That's all, Your Honour.

8 Q.So what was Amleang identified at the beginning? What was the
9 function of Amleang security office? And when did they close
10 this office?

11 A.I don't know when this security office was initially
12 established. When I got there the office already had existed,
13 but its operation ground to a halt after the liberation of Phnom
14 Penh.

15 Q.After the 17th of April 1975, you stated that you worked in
16 Phnom Penh at security office of S-21 until the date -- the
17 liberation day of the 7th of January 1979. What kind of tasks
18 were you assigned to do in that office and who recruited you to
19 work at Office S-21?

20 A.I came to work at S-21, along with Comrade Duch, who had
21 worked together with me at Amleang security office, and I was
22 assigned to interrogate less important detainees. That's all,
23 Mr. President.

24 [09.44.50]

25 MR. PRESIDENT:

13

1 Judges of the Bench, would you wish to put questions to this
2 witness? The floor is yours.

3 Judge Thou Mony, you take the floor.

4 JUDGE THOU MONY:

5 Thank you, Mr. President.

6 BY JUDGE THOU MONY:

7 Q.Mr. Mam Nai, you stated to the President earlier on that you
8 went into the jungle to do the revolution, so what year were you
9 in the jungle?

10 A.It was in 1973.

11 Q.Before 1973, you stated that you were detained by the Sihanouk
12 officers, and what were you charged with back then?

13 A.Before the 1970s when Prince Sihanouk ruled the country, I was
14 imprisoned because I was accused of joining the Khmer Rouge
15 revolution.

16 Q.Did you join the revolution then that led to your arrest?

17 A.I joined the revolution. When I still at school I studied the
18 revolutions of Soviet and revolution in China, so I loved
19 communism.

20 [09.47.28]

21 Q.So you studied communist theory, the communism of Soviet and
22 of China. That's why you went into the jungle to join the
23 revolution.

24 You stated that after 1973, during the time when you were in the
25 jungle, you were in Kraing Kdep and then you attended political

14

1 sessions. Could you please elaborate further about those
2 political sessions?

3 Q.After you met Duch while you were in jungle, then Duch asked
4 that you work with him in Amleang at the security office, what
5 did the security section mean during that time to you?

6 A.It was not different from the normal nature. I mean, security
7 referred to the interrogation of detainees.

8 Q.So security section means that you were asked to interrogate
9 detainees. So what kind of detainees were arrested and sent to
10 that security office?

11 A.The security guards at Amleang were not given the rights to
12 make any arrests. We were asked to only interrogate people who
13 were sent to us and mainly we got the report from the bases,
14 especially about those people who conducted activities to counter
15 revolution.

16 [09.50.11]

17 Q.Thank you. So the base people arrested those detainees and
18 accused them of counter revolutionary. So who would be regarded
19 as the people who countered the revolution?

20 A.When the base made the arrest of those people, I have no idea
21 how the base would regard those people, but through
22 interrogations we could find out that those people conducted some
23 kind of activity to deter people not to join the revolution or to
24 talk bad about revolution.

25 Q.So those people who were arrested and detained to security

15

1 office at Amleang were those who got the tendencies against the
2 revolution. Were those people the people in the revolution
3 already or were they these soldiers of Lon Nol or the spies?

4 A.I don't think I quite understand this situation, but through
5 my general observation there were people in the revolutionary
6 rank and also the ordinary citizen and also people, soldiers or
7 maybe in the spies, but the two latter kinds of people have not
8 been of my knowledge; whether they were the people who were
9 arrested and sent to the security office because they arrested
10 only the people who hated the revolution.

11 Q.Who was the chairman of Amleang security office?

12 A.Comrade Duch was the chairman.

13 [09.52.51]

14 Q.Who were superior than Duch?

15 A.I don't know.

16 Q.You indicated that at the beginning when you went to Amleang,
17 you were not assigned any specific tasks but that you were made
18 to sit next to Duch to observe interrogation and, later on, you
19 were assigned to interrogate less important people.

20 Can you tell the Court how interrogations carried out at security
21 office at Amleang?

22 A.The interrogations carried out at Amleang were mainly based on
23 the obtaining of biography and the getting to know the activities
24 of the detainees before they were arrested.

25 Q.So what were the techniques applied during interrogation, for

16

1 example, when any detainee did not respond?

2 A.To obtain biography is a task which is not very important
3 because we only made people tell us about their past activities
4 so that we can really produce a biography, and that's not
5 difficult. If the people did not want to respond, then we could
6 probe them to describe in details their activities after all.

7 Q.This is your personal experience in interrogation. What about
8 other interrogators? Were tortures applied by those
9 interrogators when the detainees did not respond? I mean, other
10 people.

11 A.I don't think I know about him.

12 [09.56.20]

13 Q.You said you did not know about them, but can you tell us
14 whether tortures were applied at Amleang towards the detainees?

15 A.Through my observation or conclusion I think, in general,
16 tortures might have been carried out or might not.

17 Q.So you are not quite sure about these tortures? So after you
18 had obtained the confessions, to whom those confessions were
19 sent?

20 A.After interrogation, the interrogator would record all the
21 details given by the detainees and make a summary of the records
22 to be sent to Duch.

23 Q.Do you know, after the confessions were obtained and then
24 after Duch had read those confessions, to who else the
25 confessions would be sent?

17

1 A.I don't know to whom he sent the confessions to, but I know
2 for sure that the confessions were sent to upper echelon.

3 Q.Who were the upper echelon you refer to here?

4 A.I don't know whether the upper echelon here referred to the
5 zone or the sector.

6 Q.After the interrogation was complete, what happened to the
7 detainees? Were the detainees released or they were taken and
8 killed?

9 A.I am unclear on this matter. After the interrogation was
10 complete, the detainee would be taken back to his holding cell.
11 I was not close to those detainees.

12 [09.59.50]

13 Q.Can you recall after the 17 April 1975, the liberation
14 soldiers took control of Phnom Penh and S-21 office was
15 established? Can you verify when was the actual time that S 21
16 was established?

17 A.I cannot verify on this matter, however, it was established
18 after 17 April 1975. At that time, I did not know the name of
19 that security office. Only later I learned the name was S-21.

20 Q.So you came from Amleang to work at S-21. When was that?

21 A.I left Amleang together with Comrade Duch and other cadres.
22 We came to work at PS location.

23 Q.When was that when you left Amleang to work at the PS
24 location?

25 A.After the liberation day of 17 April 1975; I am not really

18

1 sure. I think it could be one month after the 17 April '75.

2 Q.Who was in charge of S-21 at the time?

3 A.Your Honour, are you asking me after the announcement of the
4 establishment of S-21 or after I left Amleang immediately after
5 that?

6 [10.02.33]

7 Q.After you immediately left Amleang and came to Phnom Penh, who
8 was in charge of S-21 at the time?

9 A.After I left Amleang, as I told you, Your Honour, I did not
10 know whether S-21 had already been established. I only know that
11 Nat was in charge.

12 Q.So it means initially Nat was in charge? And what about Kaing
13 Guek Eav, alias Duch, when did he take control of S-21?

14 A.Regarding the exact date, I cannot recall, however, I only
15 know certain events. That is, after Nat left, Duch rose to
16 replace him.

17 Q.Can you describe the structure of S-21? How many units did
18 S-21 have and what were the exclusive duties of each unit?

19 A.Regarding the units at S-21, I do not have actual knowledge
20 because I had no important position. I only know that there was
21 a section at the rice fields and there was a defence section and
22 an interrogation section.

23 Q.What were the duties of each section; the one at the rice
24 fields, the defence and the interrogation section?

25 A.From what I understand, for the rice fields they worked in the

19

1 rice fields. And the defence section, actually they guarded
2 those people who were detained. And for the interrogation
3 section, their main duty was to interrogate the detainees.
4 However, I do not know the actual details of the organization.
5 [10.05.45]

6 Q.Can you describe the compound of S-21? Which areas was under
7 the supervision of S-21?

8 A.I also do not know clearly on this matter.

9 Q.You have already stated that at Amleang your role was an
10 interrogator. What about at S-21; what was your role at the
11 time?

12 A.At S-21, initially Comrade Duch assigned me to contact Sector
13 31 to request for some children and cattle in order to use in the
14 rice fields and to transport the old clothes and to gather zinc,
15 to return to the Sector 31 in order to distribute those zinc to
16 the farmers. And later on, I was assigned to interrogate not
17 important prisoners.

18 Q.How many people in your interrogation unit?

19 A.I do not have actual knowledge on this matter because I
20 personally interrogated alone. I do not know how many
21 interrogators were at S-21.

22 Q.Can you recall, for those people who were arrested and sent to
23 S-21, where were they from?

24 A.I do not know on this matter.

25 Q.We observed that you and Duch came from Amleang. What about

20

1 the security staff at Amleang, were all of them transferred to
2 work at S-21?

3 A.From what I know, all of them were transferred to S-21,
4 however, I did not know where they worked or which sections they
5 were assigned to.

6 [10.09.36]

7 Q.How many staff, in total, work at S-21?

8 A.Your Honour, my role was an interrogator. I had no privilege
9 to know the total number of staff working at S-21.

10 Q.Regarding the period that you performed your duty at S-21, did
11 you receive any political training?

12 A.Political training was provided monthly or annually, yes.

13 Q.What was the content of political training?

14 A.They taught us their view on the situation and the stance on
15 organization and on the party's stance.

16 Q.Can you describe each line that was taught to you; for
17 example, the political line or the organizational line?

18 A.Your Honour, I can only recall some parts of it. I cannot
19 recall all the details because for the political situation at the
20 time, we were taught about the socialist revolution; and for the
21 psychological line, that we had to reveal ourself in confirmation
22 with their political line. Regarding the organizational line, it
23 means the lower level had to respect and abide the upper echelon.

24 Q.You talk about the socialist, political line. What were the
25 details of this line; were you taught on that?

21

1 [10.12.51]

2 A.I cannot recall it at the moment.

3 Q.You stated you interrogated alone so you were not aware of the
4 other interrogators. What about the categories of those people
5 whom you interrogated; who were they?

6 A.It is difficult for me to tell you. Mostly, I interrogated
7 the combatants or the low-ranking cadres. Only occasionally I
8 interrogated the cadres up to the platoon level.

9 Q.You stated you interrogated only those low-level prisoners,
10 not senior-ranking prisoners. So it meant those people who were
11 arrested and taken to detain at S-21, they were those within the
12 rank of the revolution. Is this correct?

13 A.Those who were arrested and detained at S-21, they were those
14 people who were within the revolutionary rank, especially within
15 the military sector.

16 Q.Besides the prisoners who were within the military sector of
17 the revolutionary rank, did you notice any other types of
18 prisoners?

19 A.I do not have actual knowledge of that.

20 Q.At S-21, were there any foreign prisoners -- foreign prisoners
21 means Westerners -- were there any?

22 [10.15.50]

23 A.For me, I had no knowledge at all on this matter. I had no
24 right to walk freely or to interfere with other people's affairs.
25 I was only knowledgeable of the affair or duties assigned to me.

22

1 Q.Did S-21 ever receive civilian prisoners or Vietnamese
2 soldiers?

3 A.For the Vietnamese soldiers, yes, there were Vietnamese
4 soldiers, and why I say that because Comrade Duch assigned me to
5 interrogate Vietnamese prisoners.

6 Q.The Vietnamese people whom you interrogated, were they
7 civilian or soldiers?

8 A.The ones I interrogated were soldiers.

9 Q.Can you recall the exact numbers of the Vietnamese civilians
10 and soldiers who were arrested and sent to S-21; how many of
11 them?

12 A.I have no actual knowledge of this matter. I only know about
13 those who were sent to me for interrogation, and after the
14 interrogation was complete they were taken back. This is my
15 knowledge on the matter.

16 Q.So do you personally -- how many Vietnamese soldiers whom you
17 interrogated?

18 A.I cannot recall clearly the total number. It could be 10 or
19 20 of them.

20 Q.In the making of the arrest of those people and sent to S-21,
21 how was the operation of arrest carried out? Do you have
22 knowledge of that?

23 A.Your Honour, I do not have knowledge on this matter.

24 Q.What about the detention of prisoners? Do you know how
25 prisoners were detained?

23

1 A.I also do not have clear knowledge on this matter. I had no
2 right to enter the detention facilities.

3 [10.19.31]

4 Q.For those prisoners whom you interrogated, how were they
5 brought to you? Did you go to take them personally from the
6 detention or how were they handed over to you for interrogation?

7 A.I, myself, did not personally go and take any prisoner from
8 the detention. Most of the time they were brought to me and they
9 waited and guarded them while I interrogated them.

10 Q.So you yourself never went to take the prisoner from the
11 detention by yourself, and they were brought to you at the
12 interrogation location. Is this correct?

13 A.They were brought to me for interrogation.

14 Q.Regarding the interrogation method, when a prisoner was taken
15 to you for interrogation, how did you conduct your interrogation?

16 A.When a prisoner was taken to me, after the prisoner was
17 shackled and then the pants were untied, I started to interrogate
18 the person, but first I had to play politics with them; to speak,
19 to tell them, to make them understand, and that they agree to
20 make confessions. And then I started to ask about the biography,
21 and I would ask them to talk about their personal histories and
22 activities.

23 [10.21.52]

24 Q.So after you gave the prisoners an advice, and then you asked
25 them to talk about their biography and their activities. And if

24

1 a prisoner confessed, did you write down the confession or you
2 asked the prisoner to write his own confession?

3 A.The confession was written by me myself.

4 Q.You have stated that when a prisoner came in, you played
5 psychological trick to make him or her confess, and if the person
6 confessed you would write the confession. What happened to those
7 who refused to confess?

8 A.I personally -- when I asked the person about the biography
9 and their activities, it was not difficult at all. Regarding the
10 history of the activities, I would ask whom the prisoner have
11 contact with or the senior people and their involvement, and if a
12 prisoner refused to respond then I explained further. That is
13 one method.

14 And another method; I would instruct the guards to take the
15 prisoner back to the detention cell for the prisoner to think for
16 a while to reflect on their negative and positive activities.

17 Q.During the time the prisoners refused to confess, they would
18 be taken back for them to reflect on their activities. How long
19 had you to wait in order to bring them back?

20 A.It was quite a long time, sometimes two to three days.

21 Q.What would happen next if after a few days and the prisoner
22 still refused to confess?

23 A.If they refused to confess, I would examine the history and
24 the biography from the beginning and after that I would make an
25 analysis, and if they had no response to provide then I would

25

1 send the report and the confession to Comrade Duch.

2 [10.25.32]

3 Q.Were there instructions provided to you after you sent the
4 confessions and the report to Kaing Guek Eav, alias Duch? Were
5 there any instructions from Kaing Guek Eav or Duch to you how to
6 conduct or to further interrogate those prisoners?

7 A.Your Honour, I cannot recall anything related to this matter.

8 Q.What about the format of how to write the confession? Were
9 you taught how to write the confession in order to use uniformly
10 within S-21 or it's up to an individual interrogator to write the
11 confession?

12 A.From my understanding, it is up to the individual
13 interrogator, however, it should conform to the general form, for
14 example, on the biography or on the personal activities.

15 Q.So were you taught on how to write or the method of
16 interrogation through S-21 staff?

17 A.I do not have actual knowledge on this matter. I only know
18 that generally in a confession there has to be a biography and
19 the personal activities.

20 Q.For S-21 staff, were there any monthly or weekly meetings held
21 amongst the staff?

22 A.The meetings were held regarding the life view. There were no
23 meetings held amongst the interrogators to discuss on how to
24 interrogate or the method of interrogation.

25 Q.What is a "life view meeting"? What was it about?

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1 A.Life view meeting was held at each respective level. For
2 ordinary people, they would hold it amongst themselves, and for
3 the progressive mass, they would hold amongst those progressive
4 mass themselves in their own group. So for the candidate members
5 then they would have the meetings amongst themselves at their
6 level.

7 And in the life view meeting, it's to reflect on the quality and
8 the negative activities, and that we also have to self-criticize
9 or to criticize others and we determined to rebuild ourselves.
10 [10.29.27]

11 Q.So for the life view meeting, how many people in your group
12 who attended the meeting for each session?

13 A.In our group I don't remember how many there were, but there
14 were no less than four to five people in each session.

15 Q.During the course of interrogation, were there any other
16 interrogators or people involved to observe you?

17 A.When I interrogated detainees, first I interrogated Khmer
18 detainees. No-one except me, myself, who conducted the
19 interrogation, and there were guards who were on guard at the
20 location.

21 But when I started the interrogations of the Vietnamese
22 detainees, there was a person who was with me. Uncle Hor would
23 occasionally join me in the interrogation.

24 So, in general, I was by my own with just the security guards
25 and, later on, Duch asked another detainee named Chan from Hanoi

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1 to help me to translate the Vietnamese confessions. I worked
2 with Chan until the date when the Vietnamese troops approached
3 Phnom Penh.

4 MR. PRESIDENT:

5 It is now time the Chamber would take adjournment, so the Court
6 will be adjourned for 20 minutes.

7 The Court official is advised to take the witness, Mr. Mam Nai,
8 to his waiting room during the break, and please take him to the
9 courtroom at 10.50.

10 (Judges exit courtroom)

11 (Court recesses from 1032H to 1053H)

12 (Judges enter courtroom)

13 MR. PRESIDENT:

14 Please be seated. The Chamber is now back in session.

15 We continue to hear the testimony of this witness, Mam Nai, alias
16 Chan.

17 Judge Thou Mony, you take the floor to continue your questions.

18 JUDGE THOU MONY:

19 Thank you, Mr. President.

20 [10.53.30]

21 BY JUDGE THOU MONY:

22 Q.Mr. Mam Nai, before the break you stated that you only
23 interrogated less important prisoners and the Vietnamese
24 prisoners. In interrogating the Vietnamese prisoners, did you
25 know how to speak Vietnamese or you had to work with an

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1 interpreter?

2 A. Initially, I knew a little bit of Vietnamese and I
3 interrogated alone. I used gestures and sometimes I drew a
4 picture to show to the Vietnamese prisoner to respond. Later on,
5 I was assisted by an interpreter and my Vietnamese was improved.
6 So with the assistance from the Vietnamese interpreters, then my
7 Vietnamese became better.

8 When I first interrogated, Duch advised me that the upper echelon
9 needed to have the response within one month. Actually, the
10 response was not that difficult because they wanted information
11 regarding the battlefields. So I fulfilled my task, though not
12 100 percent satisfaction. I got the information from the
13 battlefield and I reported it to Duch.

14 Q. Thank you. Let me go back a little bit.

15 You also stated while in the forest you worked with Duch, and you
16 also stated that Duch instructed you to interrogate to get a
17 response within one month, and you successfully carried out the
18 assigned duty because only the information regarding the
19 battlefields was sought.

20 [10.56.20]

21 Are you talking about Duch? You mean the accused, Kaing Guek
22 Eav, alias Duch? You mean the person who is here sitting in the
23 courtroom?

24 MR. PRESIDENT:

25 Mr. Mam Nai, you have to wait. You can only speak after the red

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1 light is on so that your voice can be transmitted to the
2 interpreter, who in turn will interpret into English and French
3 for the international participants. I hope you can abide by this
4 simple instruction for the records to be clear.

5 Judge Thou Mony, can you ask the question again because there has
6 not been a response yet.

7 BY JUDGE THOU MONY:

8 Q.Mam Nai, can you confirm the person you name Duch is actually
9 the accused, Kaing Guek Eav, alias Duch, who is sitting in this
10 courtroom?

11 A.Before I respond, I apologize to Mr. President that I spoke
12 before the red light was on. I will try to make the proceedings
13 smoothly as suggested by the President.

14 Yes, it's this Comrade Duch who was my superior and instructed me
15 to interrogate the Vietnamese prisoners and to get a response
16 within one month.

17 Q.You also claimed after the liberation day of 17 April 1975 you
18 were transferred from Amleang to Phnom Penh to PS. What does PS
19 mean?

20 A.It was the former police station or police office during the
21 previous regime.

22 Q.Previously we have only heard of the PJ location. Is this the
23 same, the PJ and the PS?

24 A.From what I understand it is the same location.

25 [10.59.33]

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1 Q.You stated that in interrogating the Vietnamese prisoners Duch
2 instructed you to get the confessions within a certain period of
3 time. Did Duch himself instruct you or advise you the method of
4 interrogation or the method of torture?

5 A.When I interrogated either Cambodian prisoners or Vietnamese
6 prisoners I was not instructed on the method of torture or any
7 other method, including the method of interrogation.

8 Q.So this is about you personally. What about the other
9 interrogators? Did Duch, or Kaing Guek Eav, instruct them or
10 teach them how to do torture and interrogation?

11 A.In principle, as I have stated, I was only mindful about my
12 duties and they were mindful only about their duties. So whether
13 he instructed them on the methods or not, it's beyond my
14 knowledge.

15 Q.In conducting the arrest and those people were detained at
16 S-21, do you know the locations where those people were detained?

17 A.On this matter I also had no knowledge. I only know that at
18 the Ponhea Yat High School they were detained there.

19 Q.Regarding the detention, do you have knowledge whether they
20 were detained in a common room or they were placed in individual
21 cells?

22 A.Also I have no knowledge on this matter because I was not a
23 supervisor or have any main role. I was just a plain and simple
24 interrogating cadre.

25 [11.02.40]

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1 Q. So the location where you worked and interrogated prisoners
2 was located within the Ponhea Yat High School. Is this correct?

3 A. I interrogated prisoners in a house outside the compound. It
4 was about 200 to 300 metres away.

5 Q. Did you ever enter the compound of S-21 prison; that is, the
6 Ponhea Yat High School?

7 A. One day I asked permission from Duch to meet my former student
8 who was arrested from his base and sent for detention. Although
9 I met him there, I was not allowed to wander everywhere within
10 the compound. My former student was taken to meet me and after
11 that meeting I left.

12 Q. So you used to enter that compound. How many times did you
13 visit since you started working there until the day you fled?

14 A. I went there when I went to visit my former student.

15 Q. What about the life view meetings or major political training
16 which was held monthly or annually? Where were those meetings or
17 trainings held?

18 [11.04.50]

19 A. The political training was held at a Christian church, a
20 Catholic church outside the prison compound, and the lifestyle
21 view meetings were held at various places. Probably they could
22 be held at his house. On one occasion it was held outside to the
23 south of the railway station.

24 Q. So those prisoners who were brought to you for interrogation,
25 when they were brought to you did you observe how -- what the

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1 conditions they were in? Were they blindfolded, cuffed or
2 shackled?

3 A.They were cuffed. Their hands were cuffed to the back and
4 they were blindfolded.

5 Q.When they entered the interrogation room, what was the process
6 next?

7 A.When they arrived at the house where I would interrogate them,
8 the prisoners would be shackled on both feet. Then they would
9 remove the cuff and the blindfold and then the guards would sit
10 and wait at the exit, at the door, and I and the prisoner would
11 be alone in the room for my interrogation.

12 Q.Were you aware that when the prisoners were arrested were
13 their biographies made or were they photographed?

14 A.I do not know on this matter because it's the duties of other
15 staff and I did not dare ask people. I was afraid that I would
16 be in trouble if I did so. That is one thing. On the second
17 thing, I rarely met other staff.

18 [10.07.50]

19 Q.So when the prisoners were taken to you for interrogation did
20 they bring along any documents related to the prisoners to be
21 interrogated by you, or only the prisoners were brought to you
22 with no other attached documents?

23 A.Only the prisoners were brought to me for interrogation.

24 Q.Did you observe that the prisoners who were brought to you,
25 were there any signs of them being tortured?

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1 A.I did not see any signs or mark; that is one point. And the
2 second point is that I did not pay much attention to them. They
3 were dressed casually.

4 Q.Regarding the clothes of the prisoners, what do you mean by
5 casual clothing? Were they in the clothing from the base or the
6 unit when they were arrested, or were they changed?

7 [11.09.31]

8 A.I did not know whether the clothes they wore were from the
9 time when they were arrested or not, but they wore casual dress.
10 It's not the dress of the revolutionary people, because the
11 revolutionary people only wore black clothes and those people,
12 the prisoners, they wore coloured clothes.

13 Q.Can you tell us if those prisoners who were arrested and
14 detained at S-21 received sufficient food rations?

15 A.It's really further beyond my knowledge to acquaint with this
16 matter.

17 Q.So when the prisoners were brought to you for interrogation
18 did you observe whether they had -- they were in good health or
19 they were skinny and pale due to insufficient food?

20 A.From my observation, those prisoners were neither skinny nor
21 pale. They were in normal physical condition, neither fat nor
22 skinny.

23 Q.In the room where you interrogated the prisoners were any
24 torturing tools displayed on the wall or on the table in order to
25 threaten the emotion or the psychology of the prisoners to be

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1 interrogated?

2 A. In the room where I conducted my interrogation there was no
3 torturing tools displayed on the wall or on any table.

4 [11.12.30]

5 Q. You stated that you only interrogated the less-important
6 prisoners and the Vietnamese prisoners. What about those
7 important prisoners; which group was in charge of interrogating
8 them?

9 A. For important prisoners, from what I know, there was another
10 group of interrogators and Comrade Pon was the interrogator.

11 Q. The interrogator group where Comrade Pon belonged to, did they
12 torture the prisoners?

13 A. I do not have knowledge on this matter because the
14 interrogation conducted by Pon's group was about 500 metres away
15 from where I interrogated the prisoners.

16 Q. Besides Pon's group was there any other group of
17 interrogators?

18 A. Besides Pon's group there were other interrogators but I do
19 not know the actual number. Yes, there were, but I do not know
20 how many prisoners they interrogated or how many of them.

21 Q. Do you know if -- or how many groups of interrogators were
22 classified; for example, the cold group, the hot group or the
23 chewing group?

24 A. I do not know or have knowledge on this matter, as I only
25 interrogated the prisoners without applying any torture. It is

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1 my understanding that applying torture would lead to
2 inappropriate confessions. There would be little truth in a
3 forced confession.

4 [11.15.29]

5 Q. So did you believe if torture was applied at S-21?

6 A. As I stated earlier, it is possible that torture was used, and
7 why I said that? Because based on the previous international
8 practice and based on the practice of the former Cambodian
9 police, they practiced torture. So I cannot say whether they
10 practiced torture or not. I cannot be precise on this matter.

11 Q. After the prisoners were interrogated and after the
12 confessions were extracted, what happened to them? Were they
13 released or were they sent to be smashed?

14 A. I have no knowledge on this matter because I was an
15 interrogator, I was not a guard, nor I had a position to have
16 knowledge on this matter.

17 Q. Based on our previous observation, you were an experienced
18 interrogator since you were at the security office at Amleang and
19 until later on at the S-21. So as an experienced interrogator,
20 did you ever share your experience to the younger interrogators
21 at S-21?

22 A. I had no role in instructing the method of interrogation to
23 any other people.

24 Q. In your interrogations, did you ever interrogate female
25 prisoners?

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1 A.I cannot recall. I cannot recall clearly whether I ever
2 interrogated any female prisoner.

3 Q.Did you ever torture or did you ever witness anyone using
4 torture on any other prisoners?

5 A.I never used any torture and I did not know about the other
6 people because interrogation houses were separate from one
7 another and I did not know whether other interrogators used
8 torture or not. And in principle, we dare not to contact each
9 other. Wherever someone was, someone had to be there. We could
10 not wander around freely.

11 [11.20.05]

12 Q.Did you ever interrogate any S-21 staff?

13 A.No, I never did that.

14 Q.Do you know if any S-21 staff were arrested?

15 A.I did not know that, but another person who used to live and
16 sleep with me disappeared and I suspected that the person was
17 arrested.

18 Q.Did you know the reason for the disappearance or the reasons
19 of the person whom you suspected was arrested?

20 A.No, I did not know the reason for the arrest or the
21 disappearance.

22 Q.Besides interrogating prisoners, did you know the fate of
23 those prisoners? Where were they taken to? Were they released
24 or smashed?

25 A.I do not know whether they were released or smashed because I

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1 did not dare to ask; even Comrade Duch, I did not ask him. I was
2 afraid that I would be implicated in the treacherous network.

3 [11.22.29]

4 Q.During your employment at S-21, how many S-21 staff did you
5 know and what are their names?

6 A.During the time that I worked at S-21, I knew the Deputy,
7 Uncle Hor, and the group of the younger combatants from Amleang,
8 Comrade Pon, Comrade Huy at the rice fields and another Huy who
9 was assigned to receive the prisoners. Besides, I do not know
10 the rest or maybe I had known some, but I could not recall them.

11 Q.Did you know that at S-21 there was a female interrogation
12 team?

13 A.Regarding a female interrogation team, I knew and heard of it,
14 but I did not know how many interrogators in there. I knew that
15 the wife of Uncle Hor was in charge of that female interrogation
16 team.

17 Q.What about the female prisoners; were there any pregnant
18 female prisoners or the female prisoners whose children came
19 along?

20 A.As I stated earlier, I was not in a position to know this
21 matter as I did not have any important role and there was a
22 strict rule not to wander freely. We had to stay where we were
23 assigned to work.

24 In the previous regime, as the saying goes, we just had to plant
25 a kapok tree. It means we just pretend to be blind and deaf and

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1 not to know about other people's affairs and that is the reason
2 that I survived until today. And if I kept poking around,
3 probably I would have been arrested and gone.

4 [11.25.54]

5 Q.During the time that you interrogated prisoners, were there
6 anyone coming to observe or to supervise your interrogation?

7 A.For me, when I did the interrogation, there was no one coming
8 to supervise me; even Comrade Duch, he did not come to supervise.
9 During the time that I was interrogating, he was only waiting to
10 review the reports and the confessions.

11 As for Uncle Hor, sometimes he just came quickly to look and
12 left. So regarding the inspection or supervision of the
13 interrogation for myself, it did not happen.

14 Q.In conducting your interrogation to a prisoner, was there any
15 rule on the time limit or the number of sessions of
16 interrogation? For example, for each interrogator there shall be
17 only one or two sessions of interrogation within one week or one
18 month. Were there any such rules?

19 A.For me as an interrogator, I never received any guidelines
20 from Comrade Duch regarding the time limit of the sessions for
21 interrogating a prisoner. If there was a special requirement to
22 be considered for an interrogation, then I would be instructed,
23 for example, to get an information regarding a battlefield and
24 that I needed to get a response within one month.

25 Q.What happened to the confessions obtained from the detainees

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1 questioned? Where would they be sent to?

2 A.Regarding the transmission of the confessions, I think it is
3 out of my knowledge.

4 Q.In the conduct of the interrogations, were there only the
5 attempts to obtain biography and a string of traitors applied?
6 Or do you know that, for example, when a person implicated other
7 people in the confession and later on those people were
8 subsequently arrested to S-21?

9 [11.30.07]

10 A.I don't know about this.

11 Q.When the confessions were obtained from the detainees to you,
12 did you think that all the confessions are true?

13 A.For me, I think partially the confessions were true, but the
14 quality of the truth is very minimal.

15 Q.As a staff member of S-21, do you think you know that Prey Sar
16 was also under charge by S-21?

17 A.According to the livelihood sessions I attended, I learned
18 that S-21 (sic) was under the supervision of S-21.

19 Q.Do you know the purpose of the Prey Sar establishment?

20 A.So far as I know, it was designed for detaining people to grow
21 rice or to plant rice.

22 Q.Were there ordinary staff used to plant rice, or detainees
23 were used to grow those rice?

24 A.I don't know what kind of people were used to plant rice
25 there.

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1 [11.32.59]

2 Q.How were people at Prey Sar treated? Were they detained?

3 A.I don't know.

4 Q.Have you ever visited Prey Sar?

5 A.I went there once after the liberation, probably a few months
6 after the liberation. I went to see the gateways and the bridges
7 being built there. Later on, I never paid a visit to that
8 location because Duch assigned an engineer to draw the sketches
9 and, at that time, cement was consumed in a huge quantity. And
10 that since there was no more cement left, there was no more work,
11 and I did never go there again.

12 Q.Can you recall the situations or the sceneries of the premises
13 at Prey Sar? Were there buildings designed to detain detainees
14 or were there not?

15 A.I don't think I know anything about this because when I paid a
16 visit there I only saw the rice fields and some houses; no
17 significant buildings. That's all I know.

18 Q.During the time you paid a visit to the location, did you see
19 any detainees at Prey Sar?

20 A.I only went to visit the place where the bridge and the water
21 gate would be built, and after having seen them, I returned.

22 [11.36.21]

23 Q.Do you know anything about the location of the killing fields,
24 Choeung Ek?

25 A.I don't know. I have never known where Choeung Ek is.

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1 Q.During the time you worked at S-21 until the date when the
2 Vietnamese troops came into Cambodia, did you know that detainees
3 were killed?

4 A.I don't know.

5 Q.On the day when the Vietnamese troops were approaching Phnom
6 Penh, where were you?

7 A.I was at my house located to the east of the prison, having
8 heard the gunshots. Then we started to run to the location where
9 guards collected and we grabbed weapons to fight the Vietnamese
10 troops. And after we could not manage to fire the guns, then we
11 started to run away for our life.

12 Q.Where were you running to?

13 A.We actually prepared to counter-attack the Vietnamese but
14 Uncle Hor said that it would not be a good idea to challenge the
15 Vietnamese because there were no medics and that maybe in the
16 late afternoon we proceeded to Boeng Tumpun.

17 Q.Do you know that the last days during the 6th or 7th of
18 January 1979 -- were there any detainees left at S-21?

19 A.I don't know.

20 [11.40.02]

21 JUDGE THOU MONY:

22 Thank you, Mr. President. I have no further questions for the
23 moment.

24 MR. PRESIDENT:

25 Are there any Judges of the Bench who would wish to put further

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1 questions to the witness?

2 Judge Silvia Cartwright, you take the floor.

3 JUDGE CARTWRIGHT:

4 Thank you, Mr. President.

5 BY JUDGE CARTWRIGHT:

6 Q.Mam Nai, I want to go back to the time when you were a student

7 before you became a member of the Communist Party of Kampuchea.

8 In fact, when you were studying, you studied at the School of

9 Pedagogy in Phnom Penh. Is that correct?

10 A.That's correct, Your Honour.

11 Q.And did you study any languages other than Cambodian?

12 A.Other than Cambodian I studied French and a little English.

13 [11.42.05]

14 Q.And what was the level of your French language?

15 A.The level of my French language back then was at Grade 3 or

16 classe de troisième, in French.

17 Q.So you were reasonably fluent in French and could read it

18 reasonably well. Is that correct?

19 A.That is correct, Your Honour.

20 Q.And is it correct that you also studied general science?

21 A.I studied science. I studied both mathematics, physics and

22 natural science.

23 Q.And later you taught at Siem Reap?

24 A.That's correct, Your Honour.

25 Q.And then you were successful in gaining a place at the

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1 Pedagogy Institute in Phnom Penh. Is that correct?

2 A.Later on I took the exam to obtain the pedagogy school to
3 become professor. I passed the exam but I was a reserve
4 candidate and there was another person whose relative was the
5 Secretary of State of the Ministry of Education. Then he helped
6 me to become the professor although he was the reserve candidate.

7 [11.44.43]

8 So at the beginning I did not pass the exam to be the full-rights
9 member of the school. I was the reserve candidate.

10 Q.But once you entered the Pedagogy Institute you were very
11 successful, graduating first in your class for both years. Is
12 that correct?

13 A.That's correct, Your Honour.

14 Q.And you were number one of 200 students in the French
15 language. Is that right?

16 A.It is right, Your Honour, but it is only the result in the
17 semester exam and I scored high in the -- I think I find it
18 difficult in Khmer. I would like to say in French.

19 Q.Yes, well, please do. You wish to say it in French?

20 A.Your Honour, I could speak French.

21 THE INTERPRETER:

22 The interpreter would like to inform that Mr. Mam Nai already
23 said it in French but he was too quick that the interpreter
24 cannot really release the button.

25 BY JUDGE CARTWRIGHT:

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1 Q.Yes, thank you. So you have already said what you wanted to
2 say in French. Let me move on.

3 [11.46.38]

4 After graduating, you then began teaching in Kampong Thom. Is
5 that correct?

6 A.That's correct, Your Honour.

7 Q.And later you became the principal of the Lycee Kampong Thom.
8 Is that right?

9 A.That is not right, Your Honour. After I taught, then I became
10 the censeur, in French, in Kampong Thom Lycee and one year later
11 I became the principal of the Balang Secondary School.

12 JUDGE CARTWRIGHT:

13 Just let me go back for the moment to what you said in French
14 before. Would you repeat it slowly so that the translators can
15 translate it for us please?

16 MR. MAM NAI (Speaking in French):

17 It was my psycho-pedagogical final paper.

18 Q.Thank you.

19 Now, after becoming the director, in fact, you joined the
20 revolution and were imprisoned, and that's when your formal
21 education and teaching role stopped. Is that correct?

22 A.After I became the director of secondary school of Balang, I
23 was arrested by the Sihanouk authorities and jailed.

24 Q.So having reviewed your education, your early career and your
25 academic successes, would it be fair to say that you are a very

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1 well-educated man and a very clever one?

2 A.I am not that proud, but you may feel it is fair to say so.

3 [11.49.39]

4 Q.Thank you.

5 During the time that you spent at S-21 as an interrogator, you
6 have given us to understand that in order to protect yourself you
7 chose not to learn very much at all about what was happening
8 there. Is that a fair summary of what you said to us?

9 A.Yes, that is, Your Honour.

10 Q.And yet you were probably the best educated and one of the
11 most intelligent men at S-21. Would that be correct?

12 A.I acknowledge that I have been well educated because I passed
13 the Khmer Literature Bachelor Degree exam, but to say that I
14 would be the best or the smartest person at S-21, I'm afraid I
15 may not be in the position to say so.

16 Q.And while you were an interrogator at S-21 you studied the
17 Vietnamese language to enable you to interrogate Vietnamese
18 prisoners until a Vietnamese speaker came along to assist. Is
19 that correct?

20 A.That is correct, Your Honour.

21 Q.When you were at Amleang, having joined that security office
22 as an interrogator, were you taught the methods of interrogation?

23 A.Regarding this matter, actually, I was not trained. I was
24 made to only sit down and observe Duch interrogating detainees
25 and I could learn from their observations.

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1 [11.52.42]

2 Q.And as you studied by watching Duch, did you observe any use
3 of torture at Amleang security office?

4 A.When I was sitting to watch Duch interrogating detainees I did
5 not observe the use of any tortures. There was not even a single
6 stick next to him at that time.

7 Q.Were you familiar with the interrogation methods of other
8 interrogators at Amleang security office?

9 A.I'm not familiar with the other interrogation techniques of
10 the other guards.

11 Q.Do you recall being interviewed by Sim Surya and Fabienne
12 Luco, investigators for the ECCC?

13 A.I partially remember them.

14 Q.At English ERN number 00162818 you were asked by Fabienne
15 Luco, in relation to Amleang security officer, "Did they
16 torture?" and you answered, "They used some."

17 Do you recall that?

18 A.At that time Mr. Surya and Fabienne asked about tortures. I
19 said perhaps. I did not make it precise. I only give them my
20 estimation and they asked what kind of tortures were carried out,
21 and I told them about my experience and things I had come across
22 during the last regime. I think no other tools used other than
23 lashes or sticks.

24 [11.55.51]

25 Q.So that when you were asked, "Did you ever see torture

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1 instruments?" and you replied, "There was nothing aside from the
2 whips," that is what you are referring to. Is that correct?

3 A.As I just mentioned, it is referred to the whips in the
4 interview.

5 Q.Later on you were also asked, "Were operations at S-21 the
6 same as Amleang?" and you replied, at English ERN 00162909,
7 "There were some similarities and some differences." Is that
8 still the way you would describe it?

9 A.Yes, that is. There are some similarities and some
10 differences. The similarities were seen in the way how
11 biographies were obtained. The differences were seen in the
12 techniques other interrogators would carry out because they would
13 use different techniques; I don't know.

14 Q.By "different techniques" do you mean some might have used
15 whips as they were used at Amleang?

16 A.I don't know.

17 Q.Well, can you explain to me how you can say that they used
18 different techniques if you don't know what those techniques were
19 at S-21?

20 A.I don't know and don't understand what kind of techniques were
21 carried out.

22 Q.At S-21, did you ever participate at any education about
23 methods and techniques of interrogation?

24 A.At S-21, I cannot recall what happened there. I attended
25 several training sessions; in particular, the political sessions.

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1 [11.59.21]

2 Q.Did the accused ever instruct interrogators about how to
3 conduct interrogations?

4 A.I don't think I know about this. I don't know whether he ever
5 gave such instructions or not.

6 Q.Again, at ERN -- the English ERN -- 00162915, you were asked
7 exactly that question:

8 "Did Duch ever instruct interrogators about interrogation?"

9 And you said:

10 "In general, I saw that they never called the interrogators to
11 meetings and that the instructions to each interrogator were not
12 for the others to know about, especially having them undergo
13 chewing interrogations."

14 Do you remember making that response?

15 A.Regarding the chewing interrogation, I can recall it. He
16 often instructed me if I could not extract the confession, then I
17 should just constantly applied the chewing method and that I
18 should not give up. But whether he also provided instructions to
19 other interrogators, I have no knowledge of that.

20 Q.How did the accused describe to you the chewing interrogation
21 method?

22 A.It means to take a longer time to interrogate and to repeat
23 the same points constantly.

24 [12.02.10]

25 Q.Did he ever describe other methods of interrogation to you,

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1 such as the hot method?

2 A.It seems I do not have knowledge of this or maybe I cannot
3 recall, but I personally was not instructed to use such method.

4 Q.You have told us that when you were interrogating at S-21, you
5 always interrogated on your own. Is that right?

6 A.Yes, that is true, Your Honour.

7 Q.Was there ever a guard present in the interrogation room?

8 A.The guard stood at the door. The guard did not dare to
9 interfere with my interrogation.

10 Q.Did you ever use a whip during interrogations?

11 A.I never used any stick.

12 Q.Was there ever another person in the room typing down the
13 interrogation -- the answers to your interrogation?

14 A.Your Honour, while I was interrogating Cambodian prisoners,
15 there was no one who wrote down the confession.

16 [12.04.35]

17 Q.So there was never anyone in the room that could say how you
18 interrogated the people that you were assigned to question?

19 A.I was only aware of the guard who was posting somewhere
20 nearby.

21 JUDGE CARTWRIGHT:

22 Mr. President, I still have some -- a few questions for this
23 witness, but perhaps this is the appropriate time to adjourn?

24 MR. PRESIDENT:

25 Now, it is time for a break. The Chamber will take a break and

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1 we will resume at 1.30 p.m.

2 Court officer, can you facilitate to provide the necessary
3 refreshment and the waiting room and bring him back into the
4 courtroom before one-thirty?

5 Guards, can you take the accused to the detention facility and
6 bring him back before one-thirty?

7 The Chamber is adjourned.

8 (Judges exit courtroom)

9 (Court recesses from 1206H to 1331H)

10 (Judges enter courtroom)

11 [13.31.56]

12 MR. PRESIDENT:

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

14 We are going to hear testimony of witness Mam Nai, alias Chan.

15 This morning we stopped while Judge Sylvia Cartwright still had a
16 few more questions to be put to the witness so she can now take
17 the floor to proceed further questioning.

18 JUDGE CARTWRIGHT:

19 Thank you, President.

20 [13.32.52]

21 BY JUDGE CARTWRIGHT:

22 Q.Mam Nai, you have said that you were assigned to interrogate
23 Vietnamese detainees when they came to S-21. Can you recall when
24 you first began to interrogate Vietnamese detainees?

25 A.I cannot recall the date, the first time I interrogated the

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1 first Vietnamese detainee.

2 Q.Well, was it a year after you began as an interrogator; two
3 years after you began as an interrogator? Can you give us an
4 approximate time please?

5 A. I'm afraid I cannot recall or even approximate time.

6 Q.Who assigned you to interrogate Vietnamese?

7 A.I was assigned by Comrade Duch.

8 Q.And did you interrogate Vietnamese spies as well as Vietnamese
9 military?

10 A.I only interrogated the Vietnamese military.

11 Q.When the soldiers were brought to you for interrogation, how
12 were they dressed?

13 A.They were dressed in civilian clothes.

14 [13.35.29]

15 Q.By civilian clothing, were they wearing all the normal outer
16 garments or just shorts as other prisoners have been described as
17 wearing?

18 A.They were dressed in the civil clothing in the form of just
19 usual garments.

20 Q.So did they tell you that they were Vietnamese soldiers?

21 A. They were arrested from the battlefields. They told us that
22 they were soldiers.

23 Q.And did you interrogate them in the same way as other
24 detainees?

25 A.Those soldiers were not interrogated the same way as Khmer

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1 detainees would have been detained because we had to interrogate
2 them to get information about their functions and in which
3 battlefields they fought in.

4 Q.And did you use any form of -- did you use whips on the
5 Vietnamese soldiers or any other form of coercion?

6 A.The interrogation on these Vietnamese soldiers did not need
7 coercions or whips because we could take the confession easily
8 just to ask them about their situation and their ranks, whether
9 they were aware of where the weapons would be installed. So by
10 asking such a simple question, we found it easy to get a
11 confession.

12 Q.And after they had made their confessions, were they ever
13 broadcast -- recorded and broadcast on radio?

14 A.After the confession was completed then the confession would
15 be broadcast on the radio.

16 Q.Was that at your direction or someone else's?

17 A.I had no rights to direct anything regarding the broadcast of
18 those confessions on the radio. Duch would be in charge, and I
19 don't know from whom he was ordered to do so.

20 [13.39.31]

21 Q.Were these military detainees called prisoners of war?

22 A.If anyone was arrested in the battlefield, he would have been
23 called the prisoner of war.

24 Q.And did the accused use that term when he assigned you to
25 interrogate them?

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1 A.He did not use the term, but he said -- he asked me to
2 interrogate the Vietnamese soldiers instead.

3 Q.Did you believe the confessions that they made to you?

4 A.I believed that the soldiers made the true confession because
5 they attacked us.

6 JUDGE CARTWRIGHT:

7 Can I ask that the ERN number Khmer 0066314 to 0066316 be
8 displayed, please?

9 JUDGE CARTWRIGHT:

10 Thank you. Could you scroll down to the bottom of that document,
11 please?

12 BY JUDGE CARTWRIGHT:

13 Q.Now, is that your signature, Chan, under the date 14/12/78?

14 A.Yes, that is, Your Honour.

15 [13.42.43]

16 JUDGE CARTWRIGHT:

17 Thank you. Now, if you scroll up two paragraphs.

18 According to my English translation, the first paragraph you see
19 there says, "Currently, the first group is their voice". Have I
20 got the correct paragraph? Is that the part that's shown in
21 Khmer on the top of the screen? All right.

22 BY JUDGE CARTWRIGHT:

23 Q.Well, I'll read on in the English:

24 "Currently the first group is their voice, those who put up a
25 brave front for others to fight, but idealistically they have

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1 lost hope and no longer have faith in the Yuon party. The second
2 and third groups are almost ready to desert. They do not dare
3 fight our Kampuchean Army. When they see our troops, they throw
4 down their weapons and run off to save themselves right away."

5 Now, it appears that that confession was taken on the 14th of
6 December 1978 or less than one month before the Vietnamese
7 arrived at S-21.

8 Did you believe that statement then, that the Vietnamese were
9 ready to desert; they don't dare fight the Kampuchean Army; they
10 throw down their weapons and run off to save themselves? Did you
11 believe those statements then?

12 A.This confession is not the confession for all the Yuon
13 military units, it only reflects one small unit of the Yuon
14 military. So it only tells us about a small unit because, in
15 general, I don't think I believed the response to be true.

16 [13.45.46]

17 Q.Do you think that this person making this confession was a
18 very frightened man?

19 A.I believe that this Yuon military was not frightened.

20 Q.What happened to that soldier after his confession was
21 completed?

22 A.After the confession's completed, I have no idea what happened
23 to him. I think he would be taken back to the place where he
24 would have been detained.

25 Q.Did you know that the policy at S-21 was, as the accused has

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1 described it to the Court, that anyone who was detained was
2 guilty and everyone who was detained would be killed?

3 A.I don't know about this.

4 Q.Can you tell me when the conflict between Cambodia and Vietnam
5 started?

6 A.I don't recall the year or the actual date of when the
7 conflict between the two countries started. The conflict had
8 started long ago, before the liberation because the Vietcong
9 soldiers were removed from the country and I don't remember in
10 which year it was that I heard that Vietnamese attacked at the
11 border.

12 JUDGE CARTWRIGHT:

13 Yes, could the screen be turned to the usual view please?

14 BY JUDGE CARTWRIGHT:

15 Q.So are you saying that the conflict between Vietnam and
16 Cambodia started before the 17th of April 1975?

17 A.Before the liberation Vietcong had to withdraw to their
18 country and that's all.

19 [13.49.32]

20 Q.And you have said that the Vietnamese attacked Cambodia. Is
21 that correct?

22 A.There were conflicts at the border. Only when we learned that
23 they attacked us that we knew that we were invaded.

24 Q.So the conflicts with the border, were they around about the
25 same time as the liberation by the Democratic Party of Kampuchea

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1 of Phnom Penh?

2 A.The conflict at the border started after the liberation day.

3 Q.Was there an ongoing conflict between the two countries from
4 liberation until the Vietnamese invaded Cambodia and arrived in
5 Phnom Penh on the 6th of January 1979?

6 A.The conflicts had been taken place until the day Phnom Penh
7 was liberated.

8 Q.And how did you hear about the conflicts? Was it from your
9 education sessions, from the radio or from some other means?

10 A.I don't recall how I came to hear about the conflicts. I only
11 learned when the Vietnamese soldiers were arrested and sent to me
12 that I knew there were conflicts.

13 Q.Do you recall ever hearing the accused talk about the conflict
14 with Vietnam or did he ever discuss it with you personally?

15 A.The conflicts at border was not discussed among I, myself, and
16 Duch.

17 [13.52.32]

18 JUDGE CARTWRIGHT:

19 Thank you very much.

20 I have no other questions, President.

21 MR. PRESIDENT:

22 Judge Lavergne, you take the floor.

23 BY JUDGE LAVERGNE:

24 Good afternoon, Mr. Mam Nai. I am, therefore, Judge Lavergne and

25 I'm going to put a few questions to you to try to clarify a

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1 certain number of points in your statement.

2 First of all, can you tell us, more specifically, when you met
3 the accused for the first time? You spoke about some kind of
4 preparation training for the baccalaureate exam so was Duch your
5 student back then or were you preparing the baccalaureate
6 together?

7 A.I did not meet him before that baccalaureate preparation, but
8 later on when we started at the higher-education institution I
9 only saw him and he saw me, so this is just how we came into
10 contact. We did not meet to discuss any matters. I saw him. He
11 saw me.

12 Q.So you would see each other at the pedagogical institute or
13 was it somewhere else? Where exactly were you seeing each other?

14 A.We saw each other at that pedagogical institution.

15 [13.55.06]

16 Q.Back then you were both students or was there one teaching the
17 other?

18 A.At that time, I don't know whether he was the student or
19 professor, but I was the professor already.

20 Q.Can you remind us who was the principal of the pedagogical
21 institute back then?

22 A.First, perhaps, Mr. Keng Van Sak was. Later on, Son Sen was
23 his successor.

24 Q.Did you build up any kind of special relationship with Son
25 Sen?

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1 A.No, I didn't.

2 Q.Did you know what were his political orientations back then?

3 A.I don't know.

4 Q.You explained that you had been detained during the Sihanouk
5 regime. Can you tell me, if you had been sentenced by a Court
6 what was the sentence?

7 [13.57.24]

8 A.During that regime I was sentenced and when my family made a
9 request to Lon Nol, then Lon Nol released me. Later on, the
10 military court called me to the Court and I was informed that I
11 was not guilty. It was just during the time of political tension
12 that I was arrested.

13 Q.So you were released following a request that was addressed to
14 Lon Nol. I don't know if he was a marshal or a general back
15 then. And how long were you detained?

16 A.So far as I remember, I was detained for about two years maybe
17 -- yes, about two years.

18 Q.During your detention did you have the opportunity of meeting
19 the accused?

20 A.During the time of my detention Comrade Duch and I were
21 detained in the same room.

22 [13.59.44]

23 Q.What did you talk about during this detention? Did you talk
24 about politics?

25 A.During my detention we did not talk about politics. We talked

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1 about the fact that we tried to eat so that we could survive.

2 Q.During your detention were you maltreated or did you see
3 anyone else being maltreated during that time?

4 A.During the time of my detention I was not mistreated because I
5 had already been interrogated by the police. Immediately after
6 my arrest I was sent to the Military Court and in the prison I
7 saw the mistreatment on prisoners.

8 Q.What did this maltreatment consist of? What was it?

9 A.I did not know what happened but I saw a prisoner being beaten
10 at a location in like a building with an open space. And the
11 person was beaten by a number of people until he became
12 unconscious.

13 Q.During your imprisonment did you come to know other people who
14 worked afterwards in M-13 or S-21?

15 A.During my detention I did not know anybody else. There were
16 other people who were detained there. However, none of them had
17 come to work either at M-13 or at S-21.

18 [14.03.24]

19 Q.When you were told that you were not guilty after you were
20 freed, were you reabsorbed into the public education system?

21 A.After I was released I returned back to the school to teach.

22 Q.During your activities as a member of the Kampuchea Democratic
23 Party -- perhaps I should ask you whether you were a member of
24 that Party.

25 A.At that time I was not yet a member of the CPK Party but I was

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1 part of the Angkar of the Party. I was the focal person already
2 at the time.

3 Q.Subsequently, when you became a member of the CPK, were you
4 asked to draft biographies and did you mention these facts,
5 including the fact that you had been freed thanks to Marshal Lon
6 Nol?

7 A.I cannot recall regarding this point. I was not sure whether
8 I mentioned it or not.

9 Q.Let us now turn to M-13. You said that you arrived there in
10 1973. Is that correct?

11 A.I arrived at M-13 in 1973. That is correct.

12 Q.Did you hear about two centres, one called M-13A and another
13 called M-13B?

14 A.Your Honour, I am not really sure. I cannot recall it right
15 now. Even when I was asked by the investigators on behalf of the
16 Co-Investigating Judges, I could only recall the security office.
17 I could not recall whether they were M-13A or M-13B.

18 [14.07.33]

19 Q.Mr. Mam Nai, do you have problems with your memory?

20 A.Your Honour, it is my habit and since I was studying I could
21 not clearly recall the dates. And lately, after I fell from my
22 house -- I fell onto the ground and I fell unconscious for about
23 an hour -- since then, after the recovery, I seem to forget a
24 lot, sometimes even to call the names of my children. I could
25 not just remember their names. Two or three hours later then I

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1 could recall the names.

2 Q.And today can you tell us whether, in your recollection, you
3 had a nickname called Chan? Was it Chan you were called at the
4 time?

5 A.I was known as Chan for my revolutionary name.

6 Q.While you were at M-13 were there other people who had the
7 same alias as you?

8 A.At M-13 there was no other alias like mine.

9 [14.09.56]

10 MR. PRESIDENT:

11 I notice the presence of the lawyer.

12 MR. KONG SAM ONN:

13 I think my client did not hear the name clearly. Could you
14 repeat the question whether you want to specify that his alias is
15 Chan or other people also have alias as Chan at M-13?

16 BY JUDGE LAVERGNE:

17 Q.Mr. Mam Nai, do you have difficulty hearing?

18 A.I have some difficulties in my hearing.

19 Q.When I put questions to you can you understand me? When I put
20 the question to you regarding whether your alias was Chan did you
21 understand that the name I had mentioned was Chan?

22 A.Yes, I understand that.

23 Q.Now, could you answer this question? Were there other people
24 who used that alias in M-13 while you yourself were there?

25 A.I could not say.

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1 [14.11.53]

2 Q.You couldn't say because you heard something different in
3 relation to the first question I put, or because you have thought
4 about it?

5 A.I think I can understand your question and I think my response
6 is exactly to the point in your question.

7 Q.Mr. Mam Nai, alias Chan, when you were at M-13, were you there
8 with your wife and your children?

9 A.At M-13, later on my wife and my children, my younger
10 children, joined me. But for the other children, they went to a
11 children's office.

12 Q.How old were you at M-13 and how old were your children?

13 A.At M-13, I am not sure how old I was. I need to work on that
14 to calculate it. As for my children, I could not say their ages
15 as well. I just knew that the two elder children went to live at
16 a children's office and the younger ones stayed with me.

17 Q.Apart from growing potatoes, Mr. Mam Nai, did Duch assign any
18 special responsibilities to you? In particular, did he do that
19 when he had to go away from M-13?

20 A.When he was not in, I had no other duty to be responsible for
21 any other task, because at that time there was the later Meas who
22 was in charge when Duch was not in.

23 [14.15.21]

24 Q.Perhaps the accused can remind us of this, but it seems to me
25 that during his interviews he did say that when he had to go away

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1 from M-13 for a while he handed over responsibility for the
2 centre either to Pon or to Mam Nai.

3 Mr. Mam Nai, at the time, did you have difficulties with your
4 eyesight or was your eyesight good at the time?

5 A.Your Honour, I do not understand your question. Can you
6 rephrase it?

7 Q.When you were at M-13 did you have problems seeing things
8 clearly or did you have no difficulties?

9 A.Your Honour, my eyesight was normal.

10 Q.Could you tell us where the prisoners were? How were they
11 like? What were their detention conditions?

12 A.From what I saw, the prisoners wore shorts, and at the time
13 the prisoners were detained in the pits to avoid being bombarded
14 by B-52 of the American people.

15 Q.So they were in pits. Did the detention conditions seem
16 normal to you; did they seem satisfactory; did they seem
17 consistent with human dignity?

18 A.The condition of the detention in the pits, from what I
19 observed, the prisoners were shackled and they were topless.
20 They only had shorts on their bodies.

21 Q.Mr. Mam Nai, were you armed?

22 A.At the time I did not have a rifle. However, I had a pistol.
23 Initially when I arrived I had no weapon. Several months later I
24 had a pistol. After I had been assigned to make contact with
25 Sector 31 so I always had my gun -- my pistol to go along.

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1 [14.19.42]

2 Q.Did you ever shoot at fleeing detainees or at detainees who
3 were trying to flee?

4 A.Your Honour, I never attempted to shoot any prisoner who
5 attempted to escape. Especially, I did not have the duty to
6 guard the prisoners.

7 Q.Perhaps the accused would be so kind as to tell us what he
8 thinks about that. It seems to me that he said that this was one
9 of your duties. Did you attend witness executions in M-13? In
10 particular, did it happen that you saw several people tied to
11 posts; in particular, a group of five people, and did you see
12 that one of these people was killed with a bullet to the head?

13 A.I did not know about that or I cannot recollect the event.
14 What I could recall is that there were prisoners who attempted to
15 escape and they were shot near the stream in the forest. I heard
16 the gunshots at the time the prisoners were fleeing. I was in
17 the potato plantation, which was about 200 metres away from where
18 I heard the gunshots.

19 Q.I shall just recall that at in E1/11.1 -- and we have a
20 transcript and a witness statement. He was detained in M-13. He
21 said:

22 "There were four or five people tied to the posts. One was shot.
23 The one in the middle was shot and therefore there were two on
24 each side who were still tied and they could see the one in the
25 middle who had been shot."

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1 And he says that the person who fired the shot was Ta Chan.

2 "It was somebody who was already old. He could have been 45
3 years or more, because he had a daughter and a son who were
4 adults."

5 [14.23.27]

6 I would also like to know what you think about the accused's
7 statement about M-13. The accused said this -- this is from the
8 transcript of the hearing of the 21st of April 2009. This is
9 E1/13.1 and it is at page 46. The ERN Number is 0032121365 --
10 321365. The accused says that:

11 "M-13 was a Khmer Rouge prison. Not only were the conditions
12 difficult but they were even cruel and they were characterized by
13 hatred. This was a place where there was no humanity, so it was
14 not only a difficult place to be; it was a cruel place."

15 The accused also added:

16 "In other circumstances, that since in S-21 those who were sent
17 to M-13 and those sent to M-13B, which was a re-education camp,
18 were necessarily considered to be enemies."

19 He said the practice of "torture" was the rule and that, apart
20 from a dozen or so exceptions, all the detainees were executed.

21 Mr. Mam Nai, did you in fact stay at the same place as the
22 accused, and does what the accused say, in your view, reflect the
23 truth -- in part, in any way -- or is this just a figment of the
24 accused's imagination?

25 A.First, I would like to reject that I never shot anybody.

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1 [14.25.54]

2 Two, the detention of the prisoners was the necessary measure
3 when the country was being attacked by the American imperialists
4 and imperialists through the Lon Nol regime.

5 So the living conditions for both, for those who were prisoners
6 and for the ordinary people, we were living in miserable
7 condition. This is my understanding. And from the statement of
8 the confessions we had, it seems to make a comparison of the
9 situation at the time to the current situation.

10 So the situation is so different. At that time the situation was
11 miserable and now it's plentiful. At that time just a piece of
12 potato, I would have it to fill myself for the entire day, and
13 even if we were not detained but we received the same food more
14 or less. And of course the prisoners had to eat less and their
15 clothing had to be in a less better condition.

16 Q.Talking of food, Mr. Mam Nai, could you tell us who was in
17 charge of food for the personnel, either in M-13 or in S-21?

18 A.Your Honour, at M-13, later on after my wife joined me, my
19 wife and another older lady Nak were doing the cooking. And at
20 S-21 toward late of '98 (sic) or something, I cannot recall, but
21 because my wife just delivered a baby and she had to be at the
22 electricity unit at the hospital, three or four days later she
23 was assigned to harvest the rice in the rice fields.

24 After I heard that, I made a request to Duch to bring her to be
25 with me. And Duch approved so my wife came to live with me at

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1 S-21 and she was assigned to cook for the guards and the cadres
2 at S-21.

3 [14.29.23]

4 Q.You spoke about horrible conditions. Do you remember a
5 specific event -- do you remember flooding that was particular
6 severe flooding at M-13, heavy rains? Do you remember something
7 to that effect?

8 A.When the investigators came to me, I raised this matter. I
9 still recall that when the water rose so quickly I went to see my
10 wife and children. Just 100 metres from the prison the water
11 could be at the level of my waist already, and on the upper
12 ground I could also see that my wife and my grandparents were
13 stuck or stranded on that hillside when the water rose too high.
14 So many other people took refuge on the rooftops of the houses.
15 Even pigs died in that flooding. I don't know whether people
16 died in the flooding. I have no idea.

17 Q.Indeed at Index D22/14, page 12, in the French version the
18 question is put to you: "How many prisoners and cadres died in
19 this flood?" And you answer the following. "I do not know. I
20 only know that pigs died during this flood."
21 You had the opportunity of seeing the accused quite often when
22 you were at M-13, specifically at the end of the period preceding
23 the liberation. Did you have the opportunity of discussing, of
24 having conversations with him? Did he speak to you about
25 specific personal problems? Did he seem depressed or disgusted

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1 by what he was doing?

2 A.Your Honour, I think I cannot follow your question. Could you
3 please rephrase it?

4 Q.I apologize. I believe my question was a bit long indeed.

5 [14.33.12]

6 When you were at M-13, before April 17th 1975, did you have the
7 opportunity of having conversations with the accused or the
8 opportunity of noticing that the accused was depressed or was
9 disgusted by what he had to do at M-13?

10 A.Before the liberation I had not discussed with Duch about any
11 matter at all, and I had not observed his facial expression or
12 physical condition because I just paid great attention to my work
13 at the potato orchard. And at that time I had no time to observe
14 his behaviour and I think I did not have time to discuss other
15 matters with him either.

16 Q.Did he confide in you? Did he say to you that he hoped to be
17 assigned to another form of work than security work?

18 A.I think I was not really the person trusted by him and he did
19 not assign me any important tasks except interrogating the less
20 important detainees.

21 Q.Well, now let's get to S-21. You had the opportunity of
22 working with a certain Nat. And what can you tell us about Nat?

23 A.I came to know Nat only after the liberation day, and I don't
24 fully have the knowledge of his behaviour but I learned that he
25 was the former head of division.

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1 Q.When you get to know him, was he the chairman of S-21?

2 A.After the liberation, I got to know him when he was the normal
3 chief of division, and later on he was promoted to be the
4 chairman of S-21.

5 [14.37.21]

6 Q.Were you able to notice any difficulties in the relationship
7 between Nat and the accused?

8 A.I did not pay attention to that matter.

9 Q.Do you know why Nat resigned from his position at S-21?

10 A.I don't know about this.

11 Q.When Nat was the Chairman of S-21 were you in charge of
12 interrogating prisoners?

13 A.I was still the cadre who was in charge of interrogating the
14 less-important detainees.

15 Q.Do you remember if, when Nat was at S-21, that you requested
16 the release of certain prisoners?

17 A.I cannot recollect that event. I can't think of it.

18 [14.39.41]

19 JUDGE LAVERGNE:

20 So maybe it might be possible to display on the screen a document
21 that is included in the case file under Index E5/2.8 and, more
22 specifically, page ERN 00226566 and 67.

23 Well, I would like to specify that there is a summary of the
24 translation of this document, and this summary is in English and
25 it is indexed at the same -- has the same index, E5/2.8 and ERN

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1 00283986. So this is page 226566.

2 BY JUDGE LAVERGNE:

3 Q. So can you recognize your handwriting on this document?

4 A. I think this writing is similar to that of mine.

5 JUDGE LAVERGNE:

6 Well, this is what the English summary of the translation states:

7 JUDGE LAVERGNE (Speaking in English:

8 "Chan, an interrogator of this prisoner, asked Nat, alias Sen to
9 release this prisoner, as he truthfully confessed, and did not do
10 anything wrong willingly."

11 BY JUDGE LAVERGNE:

12 So we already gathered explanations on the part of the accused
13 concerning a certain number of documents of the same kind, and
14 the accused said to us -- and he will correct me if I'm wrong --
15 that when the word "released" was being used, this meant -- this
16 was an artifice. This simply was to not say that somebody was
17 going to be executed, and that the word "released" should be
18 interpreted as meaning "to execute". And he, in fact, explained
19 that this was a practice that had been set up by Nat in order to
20 hide from his superiors the execution of people he had arrested
21 on his own decision.

22 [14.44.42]

23 So does this correspond to what you told Mr. Kaing Guek Eav, or
24 am I mistaken?

25 A. Your Honour, the term "released" is a fabricated term by Nat.

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1 When Nat arrested people arbitrarily by his own and when he was
2 so afraid that his activity would be compromised to the upper
3 echelon, he tried to use this approach, and this is how I
4 explained earlier.

5 Q.Well, Mr. Mam Nai, so "to release", this is a lie? This is a
6 way of presenting things in an artificial manner? This is a way
7 of camouflaging reality?

8 A.I was not in charge of an important task like Duch said. If I
9 was dictated the phrase like "release" then I would just follow
10 what I was asked to write on that piece of document. So whether
11 the person would be released or not, I have no idea. So I, as
12 their subordinate, would be asked to just note down -- like, for
13 example, to be released; then I would just write it down. That's
14 it.

15 And as I told Your Honours already, I tried to read the writing.
16 First I said it was similar to my writing but later on I realized
17 that that belongs to me. Of course it's my writing. So at that
18 time I was their subordinate. I did not know the tricks of my
19 superiors, so if they dictated to me write on any piece of paper
20 that the person to be released, I just did so because I was their
21 subordinate and subordinate had to follow the order of the
22 superior. So please be informed.

23 JUDGE LAVERGNE:

24 I have other questions but I believe now it's time to adjourn for
25 a little while.

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1 MR. PRESIDENT:

2 We will take 18 minutes break. We will resume at five past
3 three.

4 The Court official is instructed to make sure that the witness
5 can have a good rest.

6 (Judges exit courtroom)

7 (Court recesses from 1448H to 1507H)

8 (Judges enter courtroom)

9 MR. PRESIDENT:

10 Please be seated. The Chamber is now back in session.

11 Before the break, Judge Lavergne was questioning the witness, so
12 I would like now to give the floor to Judge Lavergne to continue
13 his questioning.

14 BY JUDGE LAVERGNE:

15 Q.Mr. Mam Nai, were you often asked -- did you -- were you often
16 asked to write to be freed and did you often obey such orders
17 without asking any questions?

18 [15.08.06]

19 A.Your Honour, I cannot recall it clearly.

20 Q.Who asked you to make such annotations; was it the accused or
21 was it not?

22 A.From my understanding, it was only the Chairman Nat who asked
23 me to write that annotation for the release.

24 Q.I am not asking you what you understand, I'm asking you what
25 you remember. What do you remember?

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1 A.Your Honour, I cannot recall, but at that time if Nat were the
2 chairman, it was from him.

3 [15.09.37]

4 Q.In your relationship with Duch, you have indicated that he
5 didn't always trust you. Do you know whether Duch made reports
6 to his superiors in your regard?

7 A.I do not really understand your question. My apology. Can
8 you repeat your question, please?

9 Q.Nat was the director of S-21 at the start of the institution.
10 He was subsequently replaced by the accused, Duch. The accused
11 was in contact with his superiors. Are you aware whether Duch,
12 that is the accused, made reports regarding your behaviour which
13 he submitted to the superiors?

14 A.I still do not understand your question. Do you want to know
15 whether Duch reported about my behaviour? Is that what you are
16 asking?

17 Q.Yes, Mr. Mam Nai.

18 A.Your Honour, one day there was an enemy in a regiment from the
19 Division 170 named Phan. According to Duch, Duch told me that
20 Phan implicated me that I used to visit his uncle's house. To
21 make it more detailed, his uncle was my friend since we were in
22 year six until we later became teachers together.

23 His uncle, Ly Phan, before he joined the revolution, he was
24 accused by the newspapers that he was a Free Khmer. And I
25 replied to Duch that if he did not trust me, he could make an

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1 arrest; he could arrest me. However, later on Duch told me that
2 he had already reported to the upper echelon and the upper
3 echelon replied that I was an intellectual and that I should be
4 trustworthy.

5 [15.13.12]

6 From that day onward, Duch did not say anything else about me
7 personally, however, through my observation it seems that he no
8 longer trusted me and, later on, he stopped assigning me to
9 interrogate prisoners.
10 This is my personal understanding as I did not know whether he
11 trusted me or not. What I said was just my personal analysis and
12 observation, as later on I was assigned not to interrogate the
13 prisoners.

14 Q.When did this incident occur? Was it at the beginning when
15 S-21 was set up or was it at the end of the life of the
16 institution?

17 A.On this particular matter, I cannot clearly recall the date.
18 I think it was probably -- it happened within the first half of
19 the period of the establishment. I cannot clearly recall the
20 date. I can only remember the event.

21 Q.Was it before Duch assigned you the task of interrogating the
22 Vietnamese prisoners or was it after this?

23 A.It was before I was assigned to interrogate Vietnamese
24 prisoners. I think it happened after he became the Chairman of
25 S-21.

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1 Q. In your statement before the investigators and during a
2 confrontation which is registered as D54 in the case record, you
3 said amongst other things the following, and I am referring to
4 page 9 of the French.

5 [15.16.08]

6 You indicated that in S-21, all telephone conversations were
7 recorded for fear that people would contact other people in
8 regard to various matters, and you said that Duch told you about
9 this practice. And that he explained to you that the aim was to
10 prevent the interrogators from communicating with each other.
11 You also said that the telephone was near the place where Him Huy
12 used to work. Do you recall that, sir?

13 A. Your Honour, I can recall this particular point as you have
14 just stated, my statements, when I provided my interview to the
15 Co-Investigating Judges.

16 Q. Does it mean that Duch monitored everything that was said and
17 that he trusted no one?

18 A. On this particular matter I could not make a conclusion on his
19 stance. However, I knew that he prevented the contact between
20 and amongst the interrogators.

21 Q. So Duch had imposed a rule that interrogators were not to talk
22 amongst themselves. Do you confirm that or not?

23 A. Your Honour, from his instruction to me, in order to control
24 the communication amongst the interrogators, in order to prevent
25 them from communicating to each other on other matters.

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1 Q. Did Duch sometimes come to attend the interrogations you were
2 conducting? Did he come to monitor the way in which the
3 interrogations were being conducted?

4 A. On this matter, when I interrogated the prisoners, Duch never
5 came to my interrogation office to monitor it, and I did not know
6 whether Duch went to monitor other interrogators while they were
7 doing interrogations.

8 [15.20.32]

9 Q. You were interviewed by Mr. Sim Surya and Ms. Fabienne Luco,
10 who are ECCC investigators. This is in document D50/2 at page 4
11 of the interview record, and this is what is said here:

12 "While I was conducting the interrogations, sometimes Duch came
13 to see me too."

14 So what does this mean?

15 A. From what I can recall, during the time that I interrogated
16 the Vietnamese prisoners, he never came to see me, but I cannot
17 recall clearly whether he came when I interrogated the Cambodian
18 prisoners.

19 Q. Very well.

20 Apart from interrogations, did you have any other duties and did
21 it happen that you assist or to receive prisoners that were sent
22 to S-21? Do you wish me to repeat my question? Did you not hear
23 it?

24 A. I can hear your question, Your Honour.

25 I never received any prisoner.

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1 [15.22.47]

2 JUDGE LAVERGNE:

3 Perhaps it might be possible to put up a number of documents. I
4 refer, for example, to the document registered as D57, Annex 105.
5 ERN number in the French is 00333262, and the Khmer ERN is
6 00088706 to 00088708.

7 Can these documents be put up on the screen, please; that is, the
8 Khmer document. Perhaps we could scroll down to the bottom of the
9 document.

10 BY JUDGE LAVERGNE:

11 Q.Is this a document that you published or that you issued? Is
12 it a document for which you are responsible, Mr. Mam Nai?

13 A.Your Honour, I cannot recall clearly because I did not pay
14 much attention to it and there was no clear or proper assignment
15 on this task.

16 Q.If your memory were to be refreshed a little, would you -- it
17 seems to me that the name indicated at the bottom of the document
18 is yours, isn't it?

19 A.If the document is handwriting script, then it's easy for me
20 to identify. In this typed format I can see my name is typed but
21 I cannot recall whether I made it. If you have the document in
22 handwriting, probably it's going to help me to recall it. But
23 yes, it is my name, Chan; nobody else. That's my name.

24 [15.27.31]

25 Q.You were the only person who was in a position to produce such

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1 a document, weren't you?

2 A.It seems that I did not have the duty to prepare the
3 documents.

4 I still recall that I was only the interrogator, however, if I
5 was assigned to do other miscellaneous tasks, then I would just
6 simply follow it. So I cannot recall clearly on this document.

7 I just reiterate that.

8 JUDGE LAVERGNE:

9 Perhaps another document could be put up on the screen. I am
10 referring to document number 0088733 -- that is 0088733.

11 THE INTERPRETER:

12 Interpreter corrects; the ERN is 00088733.

13 JUDGE LAVERGNE:

14 That is the Khmer ERN.

15 I'm afraid I only have access to the English translation. I do
16 not know whether there is any further information regarding the
17 bottom of this document -- or the end of the document.

18 [15.30.16]

19 Perhaps we could scroll down to the end of the document. We also
20 have a typewritten document in this case.

21 BY JUDGE LAVERGNE:

22 Q.Does it remind you of anything, Mr. Mam Nai?

23 A.I still cannot recollect it. Of course, Chan is my name. I
24 am trying my best to recollect it but I can't think of it.

25 MR. PRESIDENT:

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1 The lawyer, you take the floor.

2 MR. KONG SAM ONN:

3 I have two remarks regarding the presentation of the documents.

4 The witness is not able to see the full document; only part of

5 the document is displayed. So I'm afraid that the witness may

6 not be able to review the full context because, having seen only

7 very small part of the document, the witness is not able to

8 recollect the events that happened more than 30 years ago. So I

9 think the witness should be given the full text and time to read

10 those documents.

11 [15.32.32]

12 Number two, I would like to also submit that in putting questions

13 to the witness, my request is that I don't know whether the

14 President or the Judges of the Bench are entitled to put all

15 kinds of questions to the witness or should there be any kind of

16 restrictions to those questionings? For example, whether leading

17 questions should be avoided or not.

18 If Judges put questions to a witness and all questions could be

19 put to the accused, then the parties to the proceeding may repeat

20 a lot of questions. And I have observed that the Judges have

21 repeated a lot of questions already.

22 So my suggestion is that the Chamber should adjourn right now and

23 that the Judges should also review how questions should be put by

24 the Bench and how the prosecutors and the defence counsel could

25 put questions so that I am able to object some questions, if I

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1 may. Otherwise, I would not be able to do so.

2 For example, the questions based on what we call adversarial
3 hearing system, then there should be a particular format in which
4 everyone of us should follow. And it is at the interest of the
5 witness also to be informed -- for the party of the witness to be
6 informed of how questions should be framed so that we are in the
7 position to properly defend the client. Thank you.

8 MR. PRESIDENT:

9 Thank you, Mr. Lawyer.

10 [15.35.16]

11 Regarding the first remark expressed by the lawyer, it is
12 appropriate to say so, especially when it comes to the documents
13 to be presented to the witness, The documents themselves have to
14 be fully displayed so that the witness can review the contents of
15 the documents or forms of letters so that he can recollect the
16 memory and the event, and this kind of practice should have been
17 practiced. And I appreciate the comment made by the lawyer.

18 However, in response to your remarks concerning the questions
19 prepared by the Bench, I would like to inform you that we are
20 following the procedures in Cambodia which are based on the
21 French system, and these proceedings are processed based on the
22 civil law system.

23 So the role to put questions -- or more deliberate questions --
24 is vested with the Chamber -- the Bench, so questions would be
25 prepared by the Judges to be put to the witness before the

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1 Chamber, and the parties are entitled to put further questions
2 that have not yet been asked by any Judges of the Bench.
3 And the Chamber repeatedly reminds the parties not to put
4 questions concerning the leading questions, the other kinds of
5 questions to be prohibited or repetitious questions, or kinds of
6 questions that make the civil party or witness or the experts to
7 make his or her own conclusion based on the question.
8 So I hope the parties to the proceeding have been well reminded,
9 and since you are just here today, you may have not been well
10 informed.
11 I also have such remark regarding how we can control the
12 proceedings, but it is not really easy to lead the proceedings
13 when the facts about something that happened more than 30 years
14 ago, including the armed conflicts -- it is inevitably that the
15 Chamber may be in the position that the mistake cannot be
16 avoided.
17 We have already made it clear that the parties to the proceeding
18 are advised not to ask questions that the Chamber has asked them
19 not to do, so I think we are now practising the tradition -- or
20 the judicial tradition of practices applied in the national
21 courts of Cambodia. So this principle still stands.
22 And regarding the time allocation to be allocated to the parties
23 and also to particular topics at issue have already been
24 identified, so we hope the lawyer is now informed of how the
25 proceedings are conducted.

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1 [15.39.58]

2 When it comes to the repetitious questions and how we could avoid
3 it, of course the Chamber is taking every minute of every day
4 when we retire to deliberate, to discuss how we can really
5 proceed more expeditiously and that justice is done and seen to
6 be done, and that we try our best to make sure questions are
7 straightforward and then straight to the facts at issue. So
8 please be informed.

9 I note that Mr. François Roux is on his feet. The floor is
10 yours.

11 MR. ROUX:

12 Thank you, Mr. President.

13 Just to clarify everything following our colleague's observation.

14 I believe that it is important to remind the Chamber of Article
15 28 of our Internal Rules. That is to say that a witness can
16 refuse to self-incriminate. I do not know how this is translated
17 into Khmer but this, in any case, clearly means that the witness
18 can request to remain silent concerning questions that would lead
19 him to self-incriminate.

20 And we know this Rule clearly because we have been involved in
21 this trial for many weeks, but I believe that it is good to have
22 the witness hear it again since he's only been with us for the
23 past 24 hours. So he is entitled to remain silent if the
24 question that is put to him would lead him to self-incrimination.

25 MR. PRESIDENT:

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1 Thank you, the defence counsel.

2 [15.42.12]

3 Can it be reminded that, if I am not mistaken, I have already
4 informed this witness since the very beginning of the
5 proceedings, and at this moment he still maintains -- he still
6 can exercise his rights according to that Rule if he knows that
7 any response could self-incriminate him. So he still feels free
8 to exercise the right. So if he realizes that any of his
9 responses would self-incriminate him then he can remain silent or
10 he can refuse to respond.

11 How the Rules are applied, the Chamber has been in good
12 preparation and we have had several discussions, and lengthy
13 discussions, concerning how we can deal with the situation.

14 We note that Mr. Alain Werner is on his feet. The floor is
15 yours.

16 MR. WERNER:

17 Thank you, Mr. President.

18 Well, simply to say that if the witness is to be reminded of his
19 obligations regarding Rule 28, well, I also, as a civil party
20 lawyer, believe that the obligations in Rules 35 and 36 be
21 reminded to him; that if indeed it is decided not to use the
22 possibility that it is -- to remain silent, well, he is faced
23 with very serious obligations, in particular regarding Rule 36.1
24 and in the consequences of breaching this law stated in 36.2 --
25 and I'm not sure that the lawyer has been reminded of the

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1 obligations in Rules 35 and 36, not only what is stated in Rule
2 28.

3 Thank you.

4 [15.45.31]

5 MR. PRESIDENT:

6 I think the understanding of Rule 28 is based on the circumstance
7 and the questions we face, so in which case, for example, if the
8 person refuses to respond because he is afraid that he would be
9 facing the self-incrimination testimony, so then there would be a
10 solution and this applies to other people also. That's why if
11 such things happen then an in-camera session would be requested,
12 because if he prefers to testify the part of testimony that
13 self-incriminates him, then in that proceeding he may request an
14 in-camera session and that we can respond to his request
15 accordingly.

16 So in this Rule of course we want to make sure that the Rule is
17 applied, but so far we have not encountered such incidents yet.

18 Judge Jean-Marc Lavergne, you can now take the floor to continue
19 with the questions. And that if any document is to be presented
20 or displayed so that the witness would like to see, then a copy
21 should be made available to him.

22 JUDGE LAVERGNE:

23 Thank you, Mr. President.

24 I believe that now, with all of this advice -- I do not know how
25 many lawyers should be assigned to this witness. I believe that

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1 he received quite a bit of advice today because he is able to
2 understand that if he wishes to remain silent he has the
3 possibility of doing so. I hope that this was explained to him
4 sufficiently clearly.

5 I have no objection to copy the documents that were displayed on
6 the screen so they be given to the accused so that he can read
7 them and so that he can provide any additional observations that
8 he wishes to do.

9 I simply would like to know if while he was active at S-21 -- he
10 said to us that he did not have the opportunity of wandering
11 around the compound, but however, I would like to know if he
12 heard people screaming, if he heard people howling, if he saw
13 people suffering, or if, according to him, everyone was in good
14 health at S-21.

15 MR. PRESIDENT:

16 Mam Nai, please hold on because I note that the accused is on his
17 feet.

18 THE ACCUSED:

19 Mr. President and Your Honours, this list was made available to
20 me during the investigation phase and I was surprised, but I
21 accepted that the document is a kind of form created by Comrade
22 Hor and that Brother Chan's name was put on that piece of letter.

23 [15.49.48]

24 I would like such the same form to be followed. and there was in
25 that piece of letter my annotation. That's why I admitted that

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1 this form could be the form used at S-21. I just realized that I
2 recognized the form later and I hope that -- I can see that
3 Brother Mam Nai would be taken by surprise also to see this kind
4 of form of document.

5 MR. PRESIDENT:

6 Judge Jean-Marc Lavergne, you can now please proceed with your
7 questions, but could you please repeat your question so that the
8 witness can respond?

9 JUDGE LAVERGNE:

10 I must confess that I'm a bit confused because I do not know to
11 whom I must put the question. Now I have to put a question to
12 the accused because, giving the latest clarifications that were
13 provided, I would like to know something that is important that,
14 if according to him, when he was at the head of S-21 if he was
15 aware of any forms that contained inexact annotations -- that is
16 to say forms that were supposed to have come from a certain Chan
17 and that, according to his explanations, were originating from a
18 certain Hor.

19 THE ACCUSED:

20 It is more an administrative matter. It has nothing to do with
21 the arrest of any people or the receiving of people. At the
22 beginning there was no proper document like that; so for example,
23 the format of the letter with "Dear Brother", "Beloved Brother"
24 and "with high respect", something like that. So later on I
25 asked Hor to create such format and then I asked him to put the

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1 name Chan in that letter, and I had reviewed other documents and
2 I could see my handwriting which states that this contemptible
3 was not the CIA network, for example.

4 [15.52.27]

5 And then I saw another piece of letter with the signature of
6 Brother Mam Nai, so these forms of letters are more related to
7 the administration matters. It has nothing to do with the arrest
8 of people or the receiving of people. And of course it is the
9 new format of letter created by Comrade Hor. At that time I
10 think probably he agreed with such assignment but maybe time
11 passed by and he cannot really recollect the event, and I am the
12 chairperson at that location so I could be of better knowledge of
13 how things would unfold.

14 JUDGE LAVERGNE:

15 But I would like to know if the name Chan was included under your
16 instructions, whereas you had asked Hor to complete this task.

17 THE ACCUSED:

18 When I saw the document given to me by the Co-Investigating
19 Judges, I think it's still my conclusion but I did not contest it
20 because I see my handwriting on one of the pieces of those
21 documents, so from my analysis I think I asked Hor to put the
22 name of Chan as the person who keeps the record of this
23 paperwork.

24 So it is only how we can deal with the administrative affairs,
25 and that Chan was assigned and his name appears in the piece of

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1 paper.

2 [15.54.34]

3 JUDGE LAVERGNE:

4 I apologize but I do not understand your explanations. Why did
5 you ask to put down the name Chan whereas it was Hor who was in
6 charge? What do you want to hide? Do you want to hide something
7 from us?

8 THE ACCUSED:

9 My subordinate, actually the vice-chairman of me, was Comrade
10 Hor, so he would report to me and ask me for decisions or orders.
11 So this form of piece of letter is more for the administration
12 work. That's why Chan was assigned to handle this task.
13 And perhaps Brother Mam Nai himself forgets that he was in charge
14 of that letters because Mam Nai was assigned to keep the good
15 record of this kind of documents. But he just forgets. I'm
16 surprised.

17 JUDGE LAVERGNE:

18 I believe that we will stop right here concerning his
19 explanations, which seem to be rather confusing.

20 BY JUDGE LAVERGNE:

21 Q.Now, Mr. Mam Nai, I'm going to restate the question I was
22 putting to you earlier. When you were working at S-21 did you
23 hear people scream? Did you hear people howl? Did you see
24 people suffer? Did you see people who were ill? Or according to
25 you were all the detainees in good health?

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1 A. Before I respond to you I would like to give you the brief
2 information about the location. The house where I interrogated
3 detainees was separated from others.

4 [15.57.27]

5 And number two, I was not allowed to move about, so I could never
6 hear anything because the house was in a far distance from that
7 location, the prison.

8 Regarding the condition of the detainees, I have no idea because
9 normally when the people were sent to me they were in good health
10 and through my analysis, I think those people were currently sent
11 in to me that's why they looked in good health, and they were not
12 the detainees who had been detained several months or years
13 already before they were sent to me to be interrogated.

14 Q. According to you, the prisoners who were brought to S-21, were
15 they all enemies of the revolution; did they all commit offences
16 because they had been arrested?

17 A. I would like to inform Your Honour that I first want to know,
18 are you asking about the Cambodian or the Vietnamese prisoners?
19 Can you clarify your question then I can provide my response
20 accordingly?

21 Q. Well, you can answer concerning each one of the categories
22 separately if you prefer.

23 [15.59.37]

24 A. Your Honour, the Cambodian prisoners who were detained there I
25 believe that not 100 percent of them were the enemies, however,

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1 also not 100 percent of them were the innocent. Some of them did
2 commit an offence to a certain extent. This is regarding the
3 Cambodian prisoners.

4 As the Vietnamese or Yuon prisoners, when they were sent to me to
5 be interrogated, there was only one or two of them who were
6 civilian Vietnamese, and even if they were civilian they were
7 also arrested from the battlefield, and they were sent by the
8 military units. And for the Vietnamese soldiers, I strongly
9 believed they were the invaders of the Cambodian territory. None
10 of them was innocent. They grabbed the Cambodian territory.
11 And that was my position, and this is my response to you, Your
12 Honour.

13 Q. So if I sum this up. Regarding the Vietnamese prisoners, they
14 were all arrested for good reasons. Concerning the Cambodians,
15 since none were completely innocent, they were also at S-21 for
16 good reasons, that's as far as you're saying?

17 A. Your Honour, I do not understand when you said the detention
18 of those people is for good reason. Maybe you can elaborate
19 further on the point that you said it's for good reason to detain
20 those people.

21 Q. Well, I'm going to refer to one of your statements, which is
22 indexed at D58/2. It is when you were questioned by the
23 investigators and it's on page 4 in the French version. You
24 stated the following:

25 "I believe that those who were arrested were sure of having

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1 committed heavy or minor offences."

2 [16.03.24]

3 So, according to you, all of the people who ended up at S-21, did
4 they commit offences that would justify their detention at S-21?

5 A.Your Honour, regarding the offences which led to the arrest of
6 those people from the base and sent to S-21, I did not know about
7 those offences. And when I spoke to the investigators from the
8 Office of the Co-Investigating Judges, I said they committed
9 offences, either minor or serious, and this is the reason for
10 their arrest. And how serious or how minor the offence, I did
11 not know; that's up those people at the base who arrested them.
12 So the actuality is that they committed an offence, to an extent,
13 either minor or serious offence.

14 Q.Let's go back to your explanation. Do you believe that the
15 judgment of these base people could be faulty? Was it possible
16 that they were mistakes?

17 A.I still do not understand what you are trying to get at. Are
18 you implying that those people at the base made mistakes or those
19 people who were arrested at the base made mistakes?

20 Q.You said to us that the people were sent to S-21 after having
21 been arrested by "the base people". So were these arrests
22 potentially faulty? Were there people who, according to you, who
23 could be innocent, 100 percent innocent, or 50 percent innocent,
24 let's say?

25 [16.06.51]

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1 A.Your Honour, I cannot make a presumption on this. This is my
2 response.

3 Q.Returning to this same document. When you're questioned by
4 the investigators,
5 you explained that you were not afraid of death back then and you
6 were willing to sacrifice yourself for the cause of the people
7 and of the party, and you also explained what revolution meant to
8 you.

9 You say that the revolution has three steps; democratic -- I'm
10 just quoting you -- that is to say, the struggle, the fight
11 between the imperialists and the feudalists; and the second step
12 is socialism; and the third step is communism, and you conclude,
13 in the following way, the revolution was not successful because
14 of the enemies who were boring from within and the enemies from
15 the outside as Vietnam; so can you tell us a bit more about this?
16 Does this correspond to your thoughts? Does this correspond to
17 any form of regret and if there is regret, regret of what?

18 A.I would like to state that at that time, I said the revolution
19 had undertaken three stages; the national revolution, the
20 socialist revolution and the communist revolution. On the other
21 hand, I also said the failure in making the revolution was due to
22 the internal conflict of the Cambodian people as well as the
23 invasion from Vietnam. That was what I said and that was what I
24 observed at the time because in the Cambodian society, at the
25 time, it seems -- the situation seems to deteriorating and from

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1 the historical experience, when we lose our solidarity then we
2 would be defeated. This is my response to you, Your Honour.

3 [16.10.20]

4 Q.Can you be a bit clearer about this? Can you tell us -- a bit
5 clearer about who is responsible for what happened? And also,
6 what are your regrets?

7 A.Your Honour, my regret is that our country had been invaded.
8 To speak frankly, first the American -- America invaded us and
9 then the Vietnamese people invaded us and that was my regret.

10 Q.I believe I understood that when you were at the pedagogical
11 institute that you had learned a bit of English; is that so? Did
12 you learn English, Mr. Mam Nai?

13 A.I studied English a little bit. I could speak a very little,
14 but I knew some common words and phrases for everyday usage;
15 however, to have a clear and a fluent conversation is not
16 possible for me.

17 Q.I want to ask you whether you know the meaning of two words.
18 The words in English are "no fear." Do you know what that means?

19 A.No, I do not know the meanings of these two words.

20 JUDGE LAVERGNE:

21 Well, in that case, I have no further questions to put to the
22 witness, Mr. President.

23 MR. PRESIDENT:

24 Judges of the Bench, do you have any more questions for the
25 witness? If not, I think that today, the Chamber is going to

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1 adjourn and we will resume tomorrow starting from 9 a.m.

2 I notice the presence of the Co-Prosecutor. You take the floor.

3 [16.14.09]

4 MR. SMITH:

5 Thank you, Mr. President.

6 Just a brief matter; we have a document that we would like to

7 show the accused tomorrow. It's quite a lengthy document. We

8 think it's a document that he wrote. We were wondering whether

9 or not we could provide that document to the witness, so he can

10 review it overnight and then the questioning should run more

11 smoothly tomorrow morning, with your permission.

12 MR. PRESIDENT:

13 The Chamber grants you the submission.

14 I also notice the presence of the defence counsel. You take the

15 floor.

16 MR. ROUX:

17 The defence would just like to know what it is about before the

18 Chamber decides. I hope that my learned colleague will remember

19 to follow the adversarial nature of these proceedings and inform

20 the defence. What document is this?

21 MR. SMITH:

22 Your Honour, I think I misspoke. I meant the witness, not the

23 accused. It's not to the accused.

24 [16.15.31]

25 MR. ROUX:

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1 But the defence would like to know what document the prosecution
2 wishes to give to the document (sic). It seems to me that it is
3 but normal for us to know what documents the prosecution wishes
4 to show the witness. Could you please answer us?

5 MR. SMITH:

6 Thank you, Your Honour. It's IS Annex C. It's the notebook of
7 Chan -- of the witness. It's 396 pages. We're obviously not
8 going to go through each page, but just so he can become familiar
9 with the document and we'll give the full references tomorrow.

10 MR. ROUX:

11 Mr. President, if it is, indeed, this document that is being
12 referred to, the defence has no objection, but I wanted to be
13 sure what document it was all about. So we have no objection to
14 that document.

15 MR. PRESIDENT:

16 The submission by the Co-Prosecutor to provide a document, which
17 is already part of the case file to the witness and the defence
18 counsel has no objection to that, then the Chamber grants the
19 request to the Co-Prosecutor, so they can provide the document to
20 the witness to read through the documents overnight, and that
21 would facilitate the smooth questioning tomorrow.

22 We will adjourn the hearing today and we will resume tomorrow
23 from 9 a.m.

24 [16.17.40]

25 Mr. Mam Nai, the proceedings of hearing your testimony has not

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1 yet completed. For this whole day, only the Chamber has the
2 floor and you are instructed to participate in the proceeding
3 again tomorrow. It's going to take probably another day for you.
4 Do you understand that?
5 Court officer, can you provide necessary assistance for Mam Nai
6 to return to his accommodation? You work in conjunction with
7 WESU.
8 Security guards, take the accused back to the detention
9 facilities and bring him back before 9 a.m.
10 The Court is adjourned.
11 (Judges exit courtroom)
12 (Court adjourns at 1619H)
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