



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

20 July 2009, 0907H

Trial Day 47

Before the Judges:

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. HIM HUY	Khmer
MR. HONG KIMSUON	Khmer
MS. JACQUIN	French
MR. KAR SAVUTH	Khmer
MR. KIM MENGKHY	Khmer
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
MR. ROUX	French
MR. SENG BUNKHEANG	Khmer
MR. SMITH	English
MS. STUDZINSKY	English
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MS. TY SRINNA	Khmer
MR. WERNER	English

1

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

2 (Judges enter courtroom)

3 [09.07.21]

4 MR. PRESIDENT:

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

6 Today, we're going to hear the testimony of the same witness, and

7 before we start our proceedings the Greffiers are advised to

8 verify the attendance of the parties to the proceedings,

9 including the witness who is summoned to testify in today's

10 session.

11 THE GREFFIER:

12 Mr. President, the parties to the proceedings and the person to

13 testify today are all present.

14 MR. PRESIDENT:

15 We note that the Co-Prosecutor is on his feet. You take the

16 floor.

17 MR. SMITH:

18 Good morning, Mr. President, Your Honours, counsel.

19 Your Honour, I would like to raise a brief matter this morning

20 relating to Rule 28(8) in relation to self-incrimination. As

21 Your Honour's aware, that Rule requires that that matter be heard

22 in camera, in closed session and we would be in Your Honour's

23 hands as to when that would be appropriate to discuss that brief

24 matter. I suggest it would only take 10 to 15 minutes.

25 MR. PRESIDENT:

2

1 The Trial Chamber will take into account the request by the
2 Co-Prosecutor during the session and this request will be granted
3 in any appropriate time after the brief beginning of the session
4 or maybe during the break.

5 The Court officer is now directed to bring the witness into the
6 courtroom, please.

7 (Witness enters courtroom)

8 MR. PRESIDENT:

9 Good morning, Mr. Him Huy. Today the Chamber is going to
10 continue hearing your testimony as a witness, and before we give
11 the floor to the prosecutors we would like to remind you of the
12 duties and rights as a witness.

13 [09.11.54]

14 In the name of a witness you can reject to respond to any
15 questions in which you believe that will self-incrimination
16 yourself. So if you feel that any testimony will incriminate
17 yourself, then you can reserve the rights.

18 And number two, regarding your duty as a witness, you are only to
19 talk about the truth, the accounts of which you have the
20 knowledge of or heard or witnessed, and you are not supposed to
21 tell the Court anything that is not true. Do you understand?

22 MR. HIM HUY:

23 I do, Mr. President.

24 MR. PRESIDENT:

25 Next we would like to give the floor to the Co-Prosecutors to put

3

1 questions to the witness. The Co-Prosecutors are reminded that
2 you have one hour to put such questions. The floor is yours.

3 MR. SENG BUNKHEANG:

4 Thank you, Mr. President.

5 QUESTIONING BY THE CO-PROSECUTORS

6 BY MR. SENG BUNKHEANG:

7 Q.Good morning, Mr. Him Huy. I have a few questions in which I
8 would like to seek the clarification from you.

9 [09.13.45]

10 You have already indicated in the hearing that regarding the
11 receiving of the prisoners and the location of which was one
12 located at the current radio station, Sambok Khmum, and that the
13 important prisoners would be sent to S-21 while the less
14 important people would be then sent to S-24, or Prey Sar.

15 So who made the decision to classify these groups of prisoners?

16 A.Regarding the prisoners who were important or not important,
17 upon arriving at our location they were made to produce their
18 names and have their names registered, then some of whom would be
19 listed as people to be sent to Prey Sar.

20 Q.Thank you. Could you please tell us who made such a decision?

21 A.S-21 was the one who made the decision under Duch's charge.

22 Q.Thank you. So this means that any prisoner who was sent to
23 the place where she or he would be received, the decision about
24 their status has already made in advance. Is that correct?

25 A.Yes, that is.

4

1 Q.Thank you. Regarding the prisoners who were sent to S-21, was
2 there anyone ever released to Prey Sar?

3 A.Anyone who was detained at Prey Sar would not be released.

4 [09.16.11]

5 Q.The question is: was there any prisoner who was detained at
6 S-21 ever released to Prey Sar?

7 A.No.

8 Q.Thank you. The accused stated that at S-21 there were kind of
9 a vehicle called Lambretta. Can you tell us whether the
10 Lambretta was ever used to carry people in Phnom Penh while they
11 were arrested?

12 A.There was a small Lambretta but it was used for carrying
13 vegetables, not for carrying people.

14 Q.Thank you. Now we would like to discuss a little bit about
15 the Vietnamese soldiers, so can you tell us how long would any
16 Vietnamese soldier be kept before he or she was interrogated?

17 A.I don't know about this. I only knew that they would be sent
18 in and then they would be detained.

19 Q.Thank you. Are you aware of anything about the confessions
20 about the Vietnamese prisoners of war? After they were
21 interrogated where would the confessions be used at or for?

22 A.The confessions obtained would be used to be on radio,
23 broadcast on radio.

24 [09.18.28]

25 Q.Thank you. Have you ever heard such broadcast of that

5

1 confession?

2 A.I turned on the radio. I could hear the Vietnamese language
3 broadcast on that radio almost every day.

4 Q.Thank you. Do you know also that the Vietnamese people who
5 were sent to S-21 were being walked on the road so that other
6 people could see them?

7 A.That was the case.

8 Q.Thank you. Do you know why were they walked on the roads like
9 that?

10 A.At that time, the Vietnamese soldiers were put to wear their
11 uniforms while they were taken photograph and that their
12 photographs were shown later.

13 Q.Thank you. Now we move to the interrogation sites or houses.
14 How many houses were used for such interrogation purposes?

15 A.The interrogation places located just right in front of the
16 prison and next to the sewer system or canal, but I don't know
17 how many there were.

18 Q.Thank you. Do you know that inside those interrogation
19 locations, were there any instruments of torture ever stored
20 there?

21 A.I have no idea regarding the instruments because we are guards
22 and we had nothing to do with the interrogators.

23 [09.20.53]

24 Q.Thank you. Regarding the process of detainees before they
25 were taken out to be executed at Choeung Ek, you mentioned that

6

1 detainees would be walked to the truck, the waiting truck. And
2 had you ever observed that there was any detainee who could not
3 walk and, if so, what happened to him or her?

4 A.For those who could not walk, they would be held or carried by
5 guards so that they could walk to the truck.

6 Q.Thank you. When detainees were being transported to the site
7 to be executed, had you ever observed Duch giving any instruction
8 during such process?

9 A.When detainees were being transported to Choeung Ek, Duch did
10 not oversee these but, actually, he was the one who made the
11 decision to have these people taken away to be executed.

12 Q.Thank you. Have you ever heard of any hospital named 98
13 Hospital?

14 A.I never reached that hospital, but the wife of Duch was the
15 head of that hospital at that time.

16 Q.Thank you. Regarding Hospital 98, do you know any relation
17 between the hospital to S-21?

18 [09.23.02]

19 A.I don't know.

20 Q.Thank you. Do you know that the wounded Khmer Rouge soldiers
21 who got injured in the battlefields, where were they sent to? I
22 mean, which hospital would be sent in?

23 A.I don't know.

24 Q.Thank you. At S-21, was there any blood drawing practice?

25 A.I don't know about this blood drawing practice because I was

7

1 guarding outside.

2 Q.Thank you. When any detainee fell ill seriously, was he or
3 she sent to be treated elsewhere?

4 A.Detainees who were very sick would be treated inside the
5 prison only.

6 Q.Thank you. On Thursday last week, you stated that the group
7 of Peng was in charge of children who came along with their
8 parents and that the Peng group would take away these children to
9 be killed.

10 Could you tell the Court if you know anything about how execution
11 was carried out?

12 A.One day, when the parents were being taken away to be executed
13 at Choeung Ek, Peng actually had taken the children ahead before
14 the parents were being taken away, but I have no idea how
15 execution would be carried out.

16 [09.25.23]

17 Q.Thank you. Have you ever learned that any member of staff at
18 S-21 ever abused or sexually abused any female detainee?

19 A.There was a guard who raped a female detainee and he was
20 detained later on.

21 Q.Thank you. You stated that the arrests of the people who
22 returned from foreign countries, including France -- and you said
23 Phorn, who was the head of the messengers, would conduct such
24 arrests. Do you know where Phorn worked and what his role was?

25 A.People who returned from France would be received by Phorn who

8

1 sent them to me, and he told us that he was the chief of the city
2 messengers.

3 Q. In which unit was Phorn in, and what was his role actually?

4 A. The only thing I learned is that he was the city messenger and
5 what role he performed, I have no idea.

6 Q. Thank you. Regarding the administration affairs at S-21, for
7 example the appraisal of staff members' performance at S-21, do
8 you know that whether there is any kind of letter to promote any
9 member of staff at S-21?

10 A. Staff members at S-21 were promoted without any proper letters
11 or documents. People would be assigned orally, or promoted
12 orally.

13 [09.28.04]

14 Q. Thank you. So this means if anyone would be promoted, then he
15 would be promoted spontaneously without any proper mechanism. Is
16 that correct?

17 A. That's correct.

18 Q. Thank you. Do you know whether Hor was entitled the right to
19 promote any staff member?

20 A. I have no idea about this, but for me when a lot of cadres had
21 been almost arrested and disappeared, then I would be promoted to
22 be the chief of Unit 100.

23 Q. Thank you. Do you also know that Duch had ever stopped or
24 warned any staff member or interrogators not to torture any
25 detainee?

9

1 A.Yes, it's correct.

2 Q.Do you mean that Duch also punished people who tortured
3 detainees?

4 A.(Microphone not activated)

5 Q.At S-21, did the S-21 really organize the wedding for the
6 staff there?

7 MR. PRESIDENT:

8 I notice the lawyer is on her feet. You may go ahead.

9 MS. STUDZINSKY:

10 Excuse me for the interruption, but could the last question and
11 answer be repeated. It did not come through the English and I
12 saw Judge Lavergne as well; it was not possible to listen. Could
13 the prosecution please repeat? Thank you.

14 [09.30.31]

15 MR. PRESIDENT:

16 Him Huy, I think you are confused. You are reminded again;
17 before you respond please wait until the red light on the
18 microphone is on before you speak, so that the interpreters and
19 the transcribers could hear your voice. Do you understand that?
20 Please continue.

21 MR. HIM HUY:

22 Yes, I do.

23 BY MR. SENG BUNKHEANG:

24 Q.Did you know that if Duch ever tried to prevent or to apply
25 discipline to his staff who committed -- or who conducted torture

10

1 on the prisoners? Do you understand my question?

2 A.Duch did not prevent the conduct of torture.

3 Q.Thank you. At S-21, were staff arranged to have been married
4 by the S-21?

5 A.At S-21, there were only a couple of people who were arranged
6 to have their marriage proceed.

7 Q.Were there marriage volunteers amongst the female and male
8 people, and who actually organized the marriage?

9 A.Duch himself organized the marriage.

10 [09.32.56]

11 Q.The couples who were arranged for their marriage, did they
12 agree to the marriage?

13 A.I did not know that. I was only allowed after they prepared
14 the reception for the marriage.

15 Q.Did you, personally, ever criticize Duch on any matter?

16 A.I did not dare criticize him; I'm afraid I would be killed.

17 Q.At S-21, did you know who ordered Duch on a permanent basis?

18 A.At S-21, nobody ordered him. It was only him who ordered
19 other people.

20 Q.Did you know if Duch wanted to release someone by himself, can
21 he do that? In contrast, if Duch wanted to arrest someone
22 without the permission from the upper echelon, do you think he
23 can do that?

24 A.He could do all these things because at that location he was
25 the top-most leader.

11

1 Q. Did you know if Duch always got a weapon on himself?

2 A. He had a pistol with him all the time.

3 Q. Did you ever see him using that weapon for any purpose?

4 A. I only knew that he always had his pistol with him for his own
5 protection.

6 [09.35.17]

7 Q. You already told the Chamber that Thai prisoners were also
8 arrested and sent to S-21, but later they were released. Did you
9 know where were those Thai prisoners were arrested, and for what
10 reasons and by which unit?

11 A. Those Thai people, I did not know the exact number and I did
12 not know which unit arrested them. They were arrested from the
13 coastal area.

14 MR. SENG BUNKHEANG:

15 Mr. President, I do not have more questions for this witness but,
16 with your leave, I would like to ask a question or more to the
17 accused.

18 MR. PRESIDENT:

19 You may proceed.

20 The accused, listen to the questions by the Co-Prosecutors and
21 respond appropriately.

22 MR. SENG BUNKHEANG:

23 Thank you, Mr. President.

24 Mr. Him Huy said Thai people were also arrested and sent to S-21
25 and, subsequently, they were released. Were you aware of this?

12

1 If there was a release, can you confirm the reason for their
2 release?

3 [09.37.26]

4 THE ACCUSED:

5 Mr. Co-Prosecutor, the Thai people, as the Muslim people, I did
6 not witness personally but their names remained on the list. The
7 Muslim people also died and the Thai people also died, according
8 to the list. Whoever came to S-21, they would be killed.

9 MR. SENG BUNKHEANG:

10 Thank you.

11 Mr. President, I no longer have questions and I would like the
12 floor to my colleague.

13 MR. PRESIDENT:

14 The international Co-Prosecutor, you may proceed.

15 MR. SMITH:

16 Thank you, Mr. President.

17 BY MR. SMITH:

18 Q.Mr. Him Huy, good morning. I would like to ask you a couple
19 of questions about how you felt when you carried out your work at
20 S-21.

21 Is it the case when you were at S-21, you wrote out your own
22 biography?

23 A.I did not know how to write and I asked Peng, who was the
24 radio operator, to write on my behalf.

25 [09.38.59]

13

1 Q.Thank you. I'd like to quote from that biography and ask you
2 to comment on it.

3 It's dated the 10th of November 1977 and the Case File document
4 number is D5; the Khmer, 00052499 to 0052506.

5 The English is 00141004 to 00141008, and the French is 00290093
6 to 00290102. And I would like to quote from the English which is
7 at 00141007 to 1008.

8 BY MR. SMITH:

9 Q.Mr. Him Huy, in your biography you state:

10 "I have recognized my personality in the revolutionary society,
11 virtues I have tried hard to fulfil without hesitation or
12 objection, tasks big and small given to me by the Party
13 regardless of how much difficulty, hardship or complexity is
14 involved in these tasks. I have tried hard to overcome them and
15 ultimately fulfill them successfully for the Party."

16 You then describe your shortcomings or your deficiencies.

17 [09.40.51]

18 "I speak impolitely to my fellow Comrades, horse around a lot, am
19 easily offended and quick in anger and fly off the handle. My
20 leadership of the masses has not been passionate. As a result of
21 which the masses doing guard duty have been negligent, as a
22 result of which enemies have been able to escape or seize weapons
23 and kill themselves.

24 My analysis and surveillance of the masses has not been

25 constantly close. I have not yet been bold in keeping track of

14

1 enemy activities. I continue to underestimate the extent of
2 enemy activities. I am still lax in the fulfilment of immediate
3 tasks and am not yet on the ball in carrying out the work.
4 I do not frequently draw lessons learned in the fulfilment of
5 tasks. I still have a problem of laxness. It has only been when
6 the upper echelons have give direction that I have a stance of
7 being on the ball in leading the masses.
8 My direction for improvement after having seen my shortcomings, I
9 would like to express my determination to improve the aspects of
10 my personality and are of a non-revolutionary character to
11 absolutely clean myself up and try hard to refreshen myself and
12 build up an absolutely solid Party proletarian revolutionary
13 stance."
14 Mr. Him Huy, do you recognize that statement as being your own in
15 your biography and was it true at the time in the way that you
16 carried out your tasks?
17 A. My biography, as well as other people's biographies, they are
18 not true. We have to put in what was required. I just needed to
19 follow what people did. That is my response.
20 [09.43.40]
21 Q.When you carried out your tasks at S-21 you said that when you
22 arrived there firstly that you were afraid. Were you passionate
23 about carrying out your tasks? Were you disciplined and did you
24 carry them out fully?
25 A.When I first arrived and saw the prison I was scared. After a

15

1 while I was assigned to be a guard and I just followed the
2 assignment. One day Son Sen came for a meeting at Duch location
3 and we were all called as well as those people from Prey Sar. I
4 raised my hand and I requested to be transferred back to the
5 military but it was rejected and I was constantly worried when I
6 worked there since I was implicated and since the staff had been
7 arrested. I only could not think of the concern, only after I
8 slept.

9 Q.Did you enjoy your work at S-21?

10 A.As I have just said, I was not satisfied with the work over
11 there. I had no choice because I already requested for a
12 transfer but it was denied.

13 Q.Were you enthusiastic in your work? Did you do more than you
14 needed to do? Or did you just do enough that you felt that you
15 had to do?

16 A.Regarding the arrest of the staff there, then everybody just
17 spied on anybody else and then reports were made and more people
18 were arrested. So we had to be straight through
19 well-disciplined.

20 [09.46.25]

21 Q.In the biography it's mentioned that there were escapes at
22 S-21. Were there some escapes at S-21 whilst you were there?

23 A.Could you please state a bit further regarding the escape?
24 Who escaped?

25 Q.Whilst you were at S-21 did you notice any escapes? Did any

16

1 prisoners escape from the facility?

2 A.I did not see and witness escape because I was the guard
3 outside but I learned that the guards who guarded the inner
4 compound allowed an escape of a prisoner.

5 Q.Was that the escape of one prisoner or more than one?

6 A.I only learned of one incident where one prisoner escaped.

7 Q.In the details in biography you state that one of the enemies
8 seized the weapon and killed themselves. Are you aware of that?

9 A.Yes, I knew that because we were outside and then we were
10 called in. The prisoner was in front of a building opposite the
11 entrance. It's near Hor's residence. I did not know who
12 interrogated him at the time but that prisoner snatched the gun
13 and shot himself and then we were called in to surround that
14 vicinity. And later the guards used an ash to spray and then the
15 prisoner was shot.

16 [09.48.58]

17 Q.Did the prisoner shoot himself or did the guard?

18 A.I did not know who shot first because the shooting was from
19 the north and the prisoner also had a gun with the full
20 cartridge. So it is my conclusion that the guard actually shot
21 the prisoner first.

22 Q.Thank you. Earlier you testified that as more S-21 guards
23 were being arrested, you were being promoted. I would like to
24 comment on a statement you made about one of your men that you
25 were ordered to arrest at S-21.

17

1 And for the record, the statement is Case File document number
2 D5/22; Khmer, 00235765 to 00235766; English, 00104913 to
3 00104940; and there's no French translation. I'd like to refer
4 to the English at 4921 to 4922.
5 Mr. Him Huy, at one stage you gave an interview previously to a
6 person called Peter Maguire, and you said this to him:
7 "In Phnom Penh at Tuol Sleng I was ordered to take one of my men
8 to put in the jail, but I didn't do that. He just had a strong
9 feeling if he wanted to do anything he would do it. If he slept,
10 he really slept. If he said he was sick, he was really sick. So
11 they accused him of being the enemy because they were all the
12 messengers of the cadre who had been arrested earlier.
13 [09.51.08]
14 That man hanged himself. He was not jailed yet. He told me,
15 'Brother, I'm going out to cut bindweed for the rabbits.' I
16 said, 'Okay. Hurry back for lunch. If you don't come at lunch
17 they will eat all the food.' I didn't know what he was thinking
18 about. He just hanged himself. They were about to pull him out
19 to jail but I told them that I would keep him for rehabilitation
20 for a while."
21 Then you discovered that he was missing. You said, "We must look
22 for him," and then you found him hanging in a big tile-roofed
23 house. Then you stated, "It's your business; I don't know." You
24 spoke to Hor -- sorry:
25 "When they came to tell me about this I was downhearted. I was

18

1 thinking that I would surely be jailed for having guaranteed him.
2 I rushed to Hor's place and I said, 'Brother Choek has hanged
3 himself and died now.'
4 'It's your business; I don't know. You're responsible for him
5 now. You go and report it yourself,' Hor said. He told me to
6 report it to Duch. I didn't go. Hor was a deputy chief after
7 Duch. I didn't even dare to look at his face.'
8 You were then asked:
9 "Would he kill you if you look into his face?"
10 [09.52.50]
11 And then you said:
12 "No, he didn't kill but I was thinking of his brother-in-law whom
13 he had jailed. What if it was me, if I had made this mistake?
14 His brother-in-law was also in prison in Tuol Sleng."
15 My question is: is that statement true? Were you ordered to
16 arrest someone, and then you refused and persuaded then for him
17 to be rehabilitated rather than being arrested?
18 A. Brother Choek was a member of my group. When Hor told me that
19 he should be removed to work in the rice fields then I told Hor
20 that, "Please do not remove him yet. I will try to re-educate
21 himself and if he cannot change then he should be transferred."
22 Then Hor told me, "So it's your responsibility to re-educate
23 him," and I said, "Yes." And next day he asked me to go and find
24 weeds and morning glory for the rabbits. He went in the morning
25 until 1 p.m. and he did not yet return, and we tried to locate

19

1 him. We could not find him and later on we found him in a house
2 near the creek. He hanged himself in that house.

3 So then a member of the group found him and then I was called,
4 and later on I reported the incident to Hor and told him that
5 Choek already hanged himself, and he blamed me that it is me who
6 should be blamed because actually Hor wanted to transfer him to
7 work in the rice fields. And I told him that I didn't know that
8 he would commit suicide.

9 [09.55.09]

10 Then I walked back to my base and Hor instructed me to personally
11 report the incident to Duch but I told him I was afraid of this.
12 This is my response.

13 Q.And why were you afraid to report it to Duch?

14 A.Because this is a complicated matter and it could implicate me
15 because my superior actually made a decision to transfer him but
16 it is my suggestion to rebuild him, and that's why he was spared
17 and not transferred. So I urged Hor not to let me report it to
18 Duch and from that day I felt very concerned of my personal
19 safety because of that incident.

20 Q.In the same statement that you made to Peter Maguire at D5/22
21 -- and I refer to the English ERN 00104923 -- you were asked a
22 question concerning the arrest and killing of S-21 staff, and
23 Peter Maguire asked you the following question. You (sic) said:
24 "When the previous bosses were promoted and then got killed, were
25 you worried?"

20

1 You said:

2 "I was also thinking about this. I was worried that I would face
3 the same thing soon because the big men, high-ranking officials
4 in the army, had been promoted and then jailed, and it was the
5 same for the people here at Tuol Sleng. After they got promoted
6 they were also jailed.

7 [09.57.21]

8 "I was thinking about this until the liberation day. Every day I
9 remembered that. Like one of my friends, who was selected from
10 the army, he proposed to get married and got a wife, and he also
11 asked me to make this proposal too. I said, 'I don't want.' It
12 was then at Tuol Sleng, it was in 1978. The Chief, Duch, told me
13 to get married but I said, 'I don't want to,' because the cadre
14 here would also get killed even if they had a wife.

15 If I got married, both the husband wife would have made a
16 mistake. That's the point; that we would die soon. If any of
17 the couples made mistakes they would kill both of them."

18 You were questioned:

19 "What did they say when you said you didn't want to get married?"

20 "They didn't say anything."

21 The question is:

22 "So this means he was not very cruel?"

23 "No. He would do what he said. He could get away from death
24 because they took me to the field. They wanted to take me back
25 several times. Maybe they wanted to test me."

21

1 The other men your age have proposed to get married, so Comrade
2 Hor also got married. You weren't afraid to say no?"

3 [09.58.54]

4 And you said:

5 "No, I was not afraid. I was thinking that if I got married I
6 would die soon."

7 My question is: did you have that conversation with Duch? Did
8 Duch tell you to get married?

9 A. On one occasion when the cadres were put to get married after
10 a meal, I had a meal with them of course during that time, and
11 then I was asked by Duch whether I would like to get married. I
12 told him that I did not want to.

13 At that time, it reminds me of the other people who were detained
14 and the en masse arrest. And from that kind of perspectives that
15 I told myself that it was not good to get married because I would
16 be arrested.

17 Because when we got married, if any one of us committed any
18 wrongdoing, then both of us would be arrested; so I could see the
19 danger. That's why I told him that I would not want to get
20 married and it is obvious that everyone who got married got
21 jailed and killed.

22 So when people were arrested, all the relations -- anyone who
23 were related to them would also be arrested.

24 [10.00.36]

25 Q. Was it your concern that if you got married you could be

22

1 implicated by your wife, or
2 was it your concern that your wife could be implicated by being
3 associated to you, or was it your concern that if you got married
4 both of you could be implicated more easily and arrested?

5 A. During that time, anyone who got married would be more
6 vulnerable to being arrested because anyone who was associated
7 with the person implicated, then that person -- the spouse of
8 that person would also be arrested. That's why, regarding the en
9 masse arrest and arrest by the network or string like that, I
10 would not want myself to be in that danger.

11 Q. Thank you. You testified that you received direct orders
12 from Duch and I quote at transcript page 24 when the judge asked
13 you a question:

14 "Did you ever receive a direct order from the accused?"

15 And you said:

16 "I also received orders from him."

17 And you (sic) said:

18 "In what circumstances?"

19 Sorry, the judge asked:

20 "In what circumstances? Can you elaborate further on the
21 situation when you received direct orders from Duch?"

22 [10.02.24]

23 You said:

24 "Sometimes he ordered me in a case to go to Svay Rieng to
25 transport those Vietnamese soldiers who were arrested. It was

23

1 his direct order."

2 My question is, that's one occasion where you said Duch
3 directly, personally, ordered you to do something. Were there
4 any other occasions where Duch ordered you to carry out any act
5 at S-21?

6 A. When I went to Svay Rieng, I was actually -- or had actually
7 been ordered by Duch to receive the arrested Vietnamese soldiers
8 at Svay Rieng and we, together with our group, went there.
9 That's all.

10 Q. In the time when you were at S-21, how often did you meet
11 Duch; how often were you in his company?

12 A. I was with him when we arrested a detainee at his house,
13 Pang.

14 Q. You mentioned that you went to study sessions, initially with
15 Hor and then Duch was conducting those study sessions. How often
16 did you have study sessions with Duch at S-21?

17 [10.04.36]

18 A. During the study sessions, Duch, Hor and Brother Huy would
19 meet a fortnightly because there was a house built next to his
20 house and cadres from various units would be called to attend the
21 study sessions, especially those from the interrogator sessions.

22 Q. So we can have an overall understanding of your knowledge of
23 Duch at S-21, about how many times over that one-and-a-half-year
24 period that you were there did you see Duch and or you were in
25 his company? On about how many occasions; was it one or five or

24

1 10 or 20 or more?

2 A.I was in his company two times when we made an arrest.

3 First, at his house and another at somewhere near Psar Thmei, but
4 the other occasions I would only be in the company of Hor instead
5 of Duch.

6 Q.At S-21 amongst your colleagues and the other staff, what was
7 Duch's reputation? What was his character viewed to be by the
8 staff?

9 A.Duch was rather gentle when he speaks, but he was very firm
10 and meticulous because whenever any detainee was arrested, then
11 he would apply a very strict rule to what those people and staff
12 member, and no one would ever be entitled to make any decision
13 regarding the arrest; only he could make it.

14 I think he was the person feared by many because even when I saw
15 him riding a bicycle towards me, then I would find a place to get
16 away from him.

17 [10.07.36]

18 Q.In Court on Thursday, you were asked to identify the accused.

19 Judge Lavergne asked you:

20 "Do you recognize this person here in the court standing up,

21 Mr. Him Huy?"

22 And you stated:

23 "Yes, I recognized him."

24 And you were asked:

25 "Who is he?"

25

1 And you said:

2 "He is my superior."

3 Do you still feel afraid of Duch now?

4 A.Frankly, when I see him, it reminds me of the moment I had
5 worked with him. I was afraid of him.

6 During the days when I worked with him, I did not dare look at
7 him into the face and even now, I'm fearful of him. Without the
8 deliberation on the 7 of January 1979, I would never see today
9 light. I would have been killed already because Duch said that
10 everyone after all would be smashed.

11 [10.09.00]

12 Q.I just have two or three last questions on some of your arrest
13 and collection missions in relation to the prisoners that were
14 picked up outside of Phnom Penh.

15 Are you able to answer these questions at the moment or do you
16 need a break?

17 Mr. Him Huy, are you able to answer some questions or do you need
18 a break now?

19 A.Please continue.

20 Q.You testified that your unit carried out some arrests at Svay
21 Rieng. You went there twice. You went to Battambang and you
22 went to Kampong Som to pick up prisoners and bring to S-21.

23 That's five missions. Were there any other missions or can you
24 tell us in the time that you were at S-21 how many missions did
25 your unit go on to pick up prisoners outside of Phnom Penh? Was

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1 it just the five or was it more? And if you know how many more
2 can you say?

3 [10.10.55]

4 A. There were not only five missions. There were more when I had
5 gone out with Peng and Hor to make such arrests.

6 Q. I assume you didn't go on every mission. I assume there were
7 missions that were undertaken whilst you stayed in Phnom Penh.

8 Is that right?

9 A. That's right.

10 Q. And my last question: to the best of your recollection can
11 you put a number whether it was 5, 10, 20 or more of how many
12 missions you were aware of your unit conducted to bring prisoners
13 from the zones back into S-21 at Phnom Penh? Can you try and
14 provide a number, please?

15 A. I don't know how many times actually there were because I did
16 not keep any record of those.

17 MR. SMITH:

18 Thank you, Your Honour. I have no further questions.

19 MR. PRESIDENT:

20 Next, we would like to give the floor to the civil party lawyers
21 to put questions to the witness.

22 The floor is yours, civil party group 1. You have 20 minutes.

23 [10.13.10]

24 MR. WERNER:

25 Thank you, Mr. President; good morning, Your Honours. I will

27

1 share my time with my national colleague, Ty Srinna.
2 QUESTIONING BY CIVIL PARTY COUNSEL:
3 BY MR. WERNER:
4 Q. Good morning, sir. My name is Alain Werner. I am
5 representing civil parties with my national colleague, Ty Srinna.
6 I have some questions for you.
7 What I would like to do basically is to read you some previous
8 statements that you made to different people and just to ask you
9 if you can confirm that indeed you made those statements and
10 those statements are accurate.
11 And I will start with the topic of the Division 703 and Hor. And
12 you said last Thursday -- you spoke a little bit about the
13 accused arresting men from the Division 703. But actually in the
14 case file, in your previous transcripts, you said a bit more.
15 And I would like to start with an interview you gave in February
16 1996, on the 29th February 1996. And in English the ERN number
17 is -- the portion I'm going to quote is 00104944, and here is
18 what you said. And again, I would just would like you to tell me
19 if that is true, you said this:
20 "Hor came from Kandal of SW..."
21 -- which is probably Southwest Zone --
22 "... and was associated with Battalion 703 which many commanders
23 were eventually arrested and sent to S-21. Because Hor was
24 connected to Battalion 703 Duch no longer trusted Hor in 1978 and
25 began to secretly investigate Hor. Hor found out about it when

28

1 he asked a prisoner from Battalion 703 who told him that Hor was
2 on the list of prisoners."

3 [10.15.22]

4 Can you confirm that what you said at the time is indeed true?

5 A.I was very concerned at that location because a lot of people
6 were arrested from 703 and detained at S-21. So people were
7 implicated in the confessions from those who were arrested from
8 703 and I asked Ta Peng without letting my comrades know about
9 this. I asked him who he implicated. He said he implicated Hor
10 or contemptible Hor and it made me so worried, actually, after
11 learning from Ta Peng who implicated Hor.

12 And then I told Hor to be careful because Ta Peng, who had been
13 arrested earlier, already implicated him. And then I realized
14 that if anyone from Division -- from 703 was arrested and that
15 they implicated in their confessions, then everyone who belonged
16 to the former 703 and worked at S-21 would all have -- would be
17 arrested after all.

18 Q.And then you said something else, and this is found in the
19 written record, an interview on the same subject, Office of the
20 Co-Investigating Judges 18 September 2007. The ERN number is
21 00161598. The question was, "Is Hor still alive?"

22 And here is what you said:

23 "Hor and Duch in 1979 they fled together after the Vietnamese
24 came in and Prak Khan said that Duch killed Hor. I do not
25 remember clearly. I don't know if it was Prak Khan or who. We

29

1 met when making the film with Rithy Panh."
2 Is it correct that Prak Kahn told you that the accused, on the
3 retreat in 1979, killed Hor?
4 [10.18.10]
5 A.Ta Hor who ran into the forest was convinced by me to get out
6 from the forest because even we tried our best to sell the
7 revolutionary, later on we would be killed anyway. And then he
8 was not convinced after all and he did not want to get out. And
9 I asked other women combatants and men to escape or run from
10 them.
11 And after 1979 when I was in the process of making the film with
12 Brother Khan he told me that Duch killed Hor in the forest. And
13 I told him that -- you see I told him already that he should have
14 ran away from that forest. Otherwise, he would be killed now.
15 It's true. He was killed.
16 Q.Thank you.
17 Now, you said something. I would like to ask you one question
18 about torture. You participated in a reconstruction, meaning
19 that you went to Tuol Sleng with many other people to the museum.
20 And there you were asked questions and there were many many
21 people there -- the Co-Prosecutors, the defence, the
22 Co-Investigating Judges. And here is what you said, and it can
23 be found at ERN 00198004 and the construction which was on the
24 27th February 2008. And here is what you said, what is recorded
25 what you said.

30

1 Witness Him Huy admitted to participating in interrogation and
2 torture adding that normally he was not supposed to do
3 interrogation and that his duty was only to stand guard outside.
4 He said that he forgotten this, but he acknowledged that it was
5 true.

6 Did you say that on that day in front of all these people in Tuol
7 Sleng Museum, sir?

8 A.I was asked to interrogate detainees. I said I was
9 illiterate; I could not obtain any confession during any
10 interrogation and, later on, I was made to only stand guard, so I
11 never conducted any interrogations.

12 [10.21.04]

13 Q.So what you said on that day was not true. Is that your
14 answer, sir?

15 A.Well, I think it is not true because, as I told you, I could
16 not write anything; how could I interrogate? So I was only put
17 to stand guard outside.

18 Q.I would like to ask you two more things and then I will give
19 the floor to my colleague.

20 The first thing, you gave an ---

21 MR. PRESIDENT:

22 We note that the defence counsel is on his feet. You take the
23 floor.

24 MR. ROUX:

25 Thank you, Mr. President.

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1 I would like to remind that my colleague, Mr. Werner, is quoting
2 a written record that was compiled by the Co-Investigating
3 Judges, indexed D48/2, and that a written record that is compiled
4 by the Co-Investigating Judges is authentic and true until it is
5 declared false.

6 [10.22.28]

7 So if my colleague, Mr Werner, wants to challenge what is stated
8 in a written record from the Co-Investigating Judges, he must
9 register it as false.

10 MR. WERNER:

11 Your Honour, the only thing I did is to -- this is in the case
12 file. I just put a portion. I didn't say it was true or not. I
13 just asked the witness to confirm or not, and that's exactly what
14 he did. That's exactly what he did.

15 Can I continue? I'm a bit worried about the time. Can I
16 continue?

17 BY MR. WERNER:

18 Q.So here is what you said to a gentleman called Ben Kiernan in
19 July 1996, and can be found at ERN 00280073 in English.

20 And. please, sir, could you just tell me if that is true or not.

21 Here is what you said:

22 "Duch killed two of his brothers-in-law by 1978 because their
23 names existed in the enemy list and they had some contacts with
24 the cadres."

25 When the Co-Prosecutor, international Co-Prosecutor, read you

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1 today, one portion was about the arrest of one of his
2 brothers-in-law, but here is a document in the case file where
3 you said that Duch killed two of his brothers-in-law in 1978. Is
4 that correct or not, sir?

5 A. During that regime, after I got married, my two
6 brothers-in-law on my wife's side died; my elder brother-in-law
7 and my younger brother-in-law. And I lost my brother, killed by
8 Duch, and I was told this by Brother Khan.

9 [10.25.12]

10 He was asked so that I could go home to visit my brothers and my
11 brother was sick, and I told brother Rin that my brother was
12 sick. How could he be cured because the base did not pay
13 attention to him and I was told by Brother Rin that I should ask
14 Brother Hor so that he could be treated by Brother Rin, and then
15 I made such request to Brother Hor.

16 Then after one week my brother was well-treated. And then I
17 asked him if I could take him home but, later on, he did not
18 allow him to be taken back to the home village.

19 And then we went into the forest and my brother still stay put
20 with Ta Hor and, later on, he was killed. And then after my
21 brother was killed, Duch asked his people to try to kill me also
22 because he accused me of convincing other men to run away.

23 That's all.

24 Q. The last thing I want to put to you, sir, and then I will give
25 the floor to my colleague.

33

1 You gave an interview in 1990, 15th of September 1990. We have
2 this document in English, ERN 00171154; and I have it in French
3 as well, 00251290; and I have it in Khmer, 00280081.

4 Now, there was a question and an answer, and I would like you
5 just to tell me if it's true or not. Here is the question.

6 "From whom did you get orders? How did you feel then?"

7 [10.27.23]

8 And here is the answer you gave at the time:

9 "All orders were from Mr. Hor and Mr. Duch. They sent in
10 prisoners in and out. I did know that there were a lot of
11 torturing and the prisoners were suffering a great deal. That
12 made me frightening. I did know that they were sending out and
13 kill in Choeung Ek."

14 And here is what you said then:

15 "In this Office S-21, I heard Mr. Duch and Mr. Hor said we should
16 kill all and kept only 4 million."

17 Did you say that in 1990 to Mr. Tim Shaw?

18 A.As I already stated, early on during the study sessions
19 lectured by Duch, he personally and directly said that everyone
20 would be smashed or killed, not only the people who were detained
21 at S-21 I believe because he said that we had to kill them all.
22 So there were prisons all across the country, so I mean everyone
23 would be killed.

24 Q.Thank you for answering my questions.

25 MS. TY SRINNA:

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1 Mr. President and Your Honours.

2 [10.29.07]

3 BY MS. TY SRINNA:

4 Good morning, Mr. Him Huy. I may now proceed some questions.

5 I would like to ask questions concerning the mass execution. You

6 said that a lot of people were sent to be smashed at Choeung Ek.

7 In which year was that?

8 A.It was toward late '77 or early '78.

9 Q.Last week you said you saw the accused; that is, Duch, who
10 walked into the painting room. Did you see him after the mass
11 killing or before that?

12 A.It was at that time, at the time that the mass killing took
13 place.

14 Q.It means the mass killing was already carried out?

15 A.It was around that time.

16 Q.So after the mass killing took place did you ever see the
17 changes in the habit or the character that whether he satisfied
18 or not satisfied with the mass killing?

19 [10.30.50]

20 A.I would like to say that he is not dissatisfied with what
21 happened because he was the one who ordered the killing.

22 Q.Regarding your role: as you stated, you used to patrol the
23 S-21 compound and the surrounding vicinity. Did you ever go to
24 those houses along the fences of S-21? Did you see people
25 detained in those houses?

35

1 A. Before there was a prison to the south at the houses and later
2 on after the buildings were organized then the people, the
3 prisoners were moved from those houses into the buildings.

4 Q. Can you verify whether it was outside the wall of S-21 or it
5 was inside the wall of S-21?

6 A. It was to the south of the building, the east-west building.

7 Q. Was it outside the wall?

8 A. At that time the prison was not yet established and those
9 houses were to the south of the wall of the east-west building.

10 [10.32.27]

11 Q. How many of those houses where the prisoners were detained?

12 A. I could not recall the exact numbers of the houses.

13 Q. What types of prisoners who were detained in those houses, can
14 you recall?

15 A. They were important prisoners who were detained in that
16 location and later on there was arrest of ordinary people.

17 Q. Regarding the children: you already stated that children were
18 sent by the S-21 staff to be killed. And how many children were
19 killed? Can you recall that?

20 A. I cannot recall it but there were roughly 100 children.

21 Q. For those children who were sent to be killed, before they
22 were sent were biographies or photographs taken from them?

23 A. I do not have knowledge of that.

24 Q. Can you confirm when you walked inside the S-21 building and
25 compound did you ever hear the screaming of the victims in that

36

1 vicinity?

2 A.The prisoners who were tortured and interrogated they felt the
3 pain and of course they would make noise or scream. However,
4 then the guards were ordered to make noise to counter the
5 screaming of the victims.

6 [10.34.40]

7 Q.Regarding the patrolling of each room or individual cells, did
8 you personally witness the detention of those victims that they
9 were shackled in rows feet to feet? Did you ever personally
10 witness that while you were on patrol?

11 A.After a mass arrest Hor sometimes asked me to carry out this
12 task but I did not want to do it because I have problem with my
13 feet and I did not want to go up and down those floors to patrol
14 each room.

15 Q.Can you please answer to the point of my question? Did you
16 personally witness the victims being shackled in long bars in
17 rows and they were shackled in a row of 10 or similar number and
18 they were shackled feet to feet? Did you witness that?

19 A.When I went up to the room I witnessed those prisoners
20 shackled and also the prisoners in the individual cells were
21 shackled. And in each bar there had to be more than 10 prisoners
22 in a row and in each room there could be three rows of those
23 prisoners.

24 MR. PRESIDENT:

25 Your time ran out. Now, it is time for a break and the Chamber

37

1 will take a 20-minute break until 5 to 11.00 when it resumes.

2 (Judges exit courtroom)

3 (Court recesses from 1036H to 1101H)

4 (Judges enter courtroom)

5 MR. PRESIDENT:

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

7 We're going to hear more from Him Huy. We would like to give the

8 floor next to the civil party lawyers group 2. The floor is

9 yours.

10 MS. STUDZINSKY:

11 Thank you, Mr. President.

12 BY MS. STUDZINSKY:

13 Q. Good morning, Mr. Him Huy. My name is Silke Studzinsky. I

14 represent civil parties; that means the victims.

15 [11.02.17]

16 Mr. Him Huy, could you -- or I wanted to tell you that here in

17 the courtroom victims are sitting and they want to know what

18 happened in S-21 and in Choeung Ek, and you could contribute if

19 you would tell the truth to them, and especially as far as they,

20 themselves, are concerned or their relatives.

21 My first question to you is, did you ever ill-treat anybody in

22 S-21?

23 A. I had never ill treated anybody at the detention facility and

24 I could not help anyone, and when I was on duty, I was under

25 duress and order.

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1 Q.Mr. Him Huy, do you know Mr. Bou Meng?

2 A.Yes, yes, I do. When I opened the door at the workshop, he
3 asked me whether I saw his wife or not, and I was not allowed to
4 communicate with any detainee. I was told that if any detainee
5 asked about their wife, then I was instructed to tell them that
6 the wife would be now working at the rice field, otherwise I
7 would be killed if I told them that the wife would be detained or
8 killed.

9 Q.So is it correct to say that you have been asked already at
10 S-21, when you were guard there, by Mr. Bou Meng where his wife
11 is. Is this right?

12 A.That is right. The rule was strict that we could not tell the
13 detainee about the whereabouts of the other person and the wife.
14 We would be in trouble.

15 [11.05.44]

16 Q.Today, here in the courtroom, could you tell today Mr. Bou
17 Meng what happened to his wife; where she was killed and where
18 she is buried?

19 A.When the detainees were taken away to be killed, of course,
20 they were executed at Choeung Ek.

21 Q.I asked not in general. I ask -- I've asked you to tell Mr.
22 Bou Meng, who is sitting here in the courtroom -- maybe you
23 might, if you have a look and turn your head left, you will see
24 him and to respond to him where -- about the fate of his wife and
25 not a general answer that people were killed in Choeung Ek. That

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1 is well-known and also Mr. Bou Meng knows this.

2 A.I don't actually know who is who or who was the wife of who
3 because, normally, if a person was -- after being interrogated
4 then he would or she would be taken away to be executed, and I
5 only can confirm that the wives of those detainees were executed
6 at Choeung Ek.

7 Q.Mr. Him Huy, you told the Chamber already that you checked the
8 lists at Choeung Ek; that means that you went through the name
9 lists of prisoners to check if everybody who should be sent to
10 Choeung Ek is present for to be killed.

11 I would like to tell you the name of Mr. Bou Meng's wife; maybe
12 that is helpful. This is Mrs. Ma Yoeun alias Thy. Could you now
13 respond to my question?

14 [11.08.19]

15 A.I was not the only person who transported detainees to Choeung
16 Ek. Pal was also in charge of transporting detainees, so how
17 could I tell whether the wife of Bou Meng actually was
18 transported during the time when I was on duty?

19 Q.This is my last attempt to get an answer to my question.

20 The accused told us some weeks ago that you had the knowledge
21 where and under which circumstances -- especially where the wife
22 of Mr. Bou Meng was killed and buried. And therefore, maybe, as
23 he was your former superior, maybe this is helpful to facilitate
24 and to give an answer for which Mr. Bou Meng is waiting already
25 for many, many years.

40

1 A.As I just stated, detainees were ordered to be smashed at
2 Choeung Ek and that's how they were transported and executed.
3 That's all.

4 Q.I come back to the ill-treatment of prisoners. You said you
5 never ill-treated prisoners.

6 Mr. Bou Meng, who was prisoner and who was tortured in Tuol Sleng
7 and S-21. said that he was tortured by Him Huy, among others who
8 tortured him.

9 Can you confirm this statement of Mr. Bou Meng; that he was
10 ill-treated and beaten by you?

11 [11.11.05]

12 A.I was not entitled the right to interrogate any detainee, so I
13 could not be in any position to torture any one of the detainees.

14 Q.I come then to the report of the re-enactment and the part
15 that my colleague already has told you. It is document D48/2 and
16 the English version, the ERN 00198004.

17 You responded already to my colleague that you never participated
18 in interrogations, although you have told it to the judges during
19 this re-enactment. What is about torture? Did you tell the
20 judges during the re-enactment that you participated in torture?

21 I would like to remind you it was the 27th of February 2008, that
22 is one-and-a-half years ago, where it was noted that you now
23 recalled this event or events.

24 A.I had no duty to interrogate or torture any detainee. I was
25 vested with the rights to receive detainees and only the

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1 interrogators who were vested with the powers, authority, to
2 interrogate detainees, and I was not. So I had no knowledge of
3 how interrogation should be carried out. How could I interrogate
4 people?

5 Q.I spoke about torture but then is my question, why did you
6 tell the Judges then this lie in February 2008? Why did you
7 admit something what you never have as you claim today, that you
8 never have done? What was the reason for this?

9 A.I told you already that I had never interrogated or tortured
10 prisoners. Because if I were -- I was not knowledgeable of how
11 interrogation could be conducted, then how could I come in to
12 torture any detainee because I could not read or write?

13 [11.14.37]

14 Q.I think it's not necessary to know how to read or to write to
15 torture, for torturing. Again, my question. Please respond to
16 the question and do not repeat again that you had no authority to
17 do so.

18 I want to know, why did you tell this lie to the Co-Investigating
19 Judges in February last year?

20 MR. PRESIDENT:

21 We note that Mr. Kong Sam Onn is on his feet. You take the
22 floor.

23 MR. KONG SAM ONN:

24 Thank you, Mr. President.

25 First of all, I would like Ms. Silke Studzinsky to actually point

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1 to the inconsistency that you have found in the testimony Him Huy
2 gave before the Co-Investigating Judges. Please quote that
3 portion of the statement Him Huy actually gave to the
4 Co-Investigating Judges before he is challenged. Thank you.

5 MS. STUDZINSKY:

6 May I continue?

7 [11.16.04]

8 BY MS. STUDZINSKY:

9 Q.I repeat my question -- and this was already quoted as a
10 response to my colleague.

11 I want to know why did you lie to the Co-Investigating Judges in
12 February 2008 when you said, "Yes, I participated in
13 interrogation and torture". Why did you tell them this lie?
14 This is my question. Please only answer to this question.

15 A.At that time when interrogators were recruited, they asked me
16 whether I could interrogate detainees, and I asked them how could
17 I interrogate or torture detainees because I could not read or
18 write.

19 And I told them that I would not be willing to become an
20 interrogator. I would be better off being a guard instead.

21 Q.Okay. I can only state that ---

22 MR. PRESIDENT:

23 The counsel for the witness, you take the floor.

24 MR. KONG SAM ONN:

25 Thank you, Mr. President.

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1 I think Ms. Studzinsky has not confirmed the statement in which
2 -- or in which part of the statement that the witness actually
3 lied to the Co-Investigating Judges. So you are now telling the
4 Court that the witness is now lying to the Court too because he
5 has failed to confirm whether the statement before the
6 Co-Investigating Judges is true of his testimony.

7 [11.18.11]

8 So that's why I would like the lawyer to please quote the portion
9 of that testimony before the Co-Investigating Judges, so that the
10 witness can confirm, because telling different story of what the
11 witness would have already given to the Investigating Judges
12 doesn't mean that he is telling the Court a lie. Only when the
13 text is verified that you can even challenge the witness further.

14 MR. PRESIDENT:

15 Ms. Studzinsky, could you please do according to what is
16 requested by the counsel for the witness to that particular
17 portion of the statement you would like to quote from the
18 Co-Investigating Judges before you ask the witness to confirm it?

19 MS. STUDZINSKY:

20 Thank you, Mr. President.

21 I am normally advised not to repeat what I have already said, but
22 I will do it again if nobody or the colleague and the President
23 did not listen to it. It is document D48/2. In the English,
24 again, the ERN which I already -- and the transcript will show
25 it, already have indicated it is 00198004, again, where the

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1 witness said to the Co-Investigating Judges, under 8.9, that he
2 admitted to participating in interrogations and torture. The
3 same quotation was already said, as I referred to, by my
4 colleague Alain Werner some minutes ago before the break, and I
5 hope that this comes in the Khmer translation in the correct
6 form, and I would like to continue now but -- even if normally my
7 time is nearly finished, but it was interrupted two times and I
8 would like to have three minutes more to finalize here my
9 questioning. Thank you.

10 And I want to come back to Mr. Him Huy, who obviously does not
11 want to answer to my questions, and I only note that either the
12 statement before the Co-Investigating Judges in February is wrong
13 or his statement today is wrong.

14 [11.20.39]

15 BY MS. STUDZINSKY:

16 Q.Now I want to come back to the ill-treatment, and I have told
17 you already that Mr. Bou Meng claims that you have beaten him,
18 you personally. Do you find that then Mr. Bou Meng -- if this is
19 not the case, that then Mr. Bou Meng tells not the truth and lies
20 when he claims that you have beaten him? Would you then tell
21 this to the Court?

22 A.I may put it this way: at that time when he was arrested, the
23 people who worked there noticed how small he was and how could he
24 get married and have a wife, and then the workers even mocked or
25 made fun of him by way of testing his strength, because he was

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1 small and how could he have a wife? And then later on, after the
2 challenge, he could prove that he was strong enough to lift big
3 stones. So that's it.

4 Q. Did he as well prove how strong he is when you forced him to
5 sit on his shoulders -- that he had to carry you? Was this also
6 proof how strong he is?

7 A. Well, of course I remember riding on his shoulder and that he
8 could lift me up, and he proved that he was strong and of course
9 he was that strong to lift me up. And even when he met me
10 recently he kept saying this to me about that event.

11 Q. I come back to my previous question. Do you think that Mr.
12 Bou Meng lies when he says that you have beaten him?

13 A. I never beaten him because I was not vested with any authority
14 to beat any detainee. If I did so, I would be accountable for my
15 misconduct because I mistreated a detainee without any authority
16 that I was entitled to do so, so only the interrogators would do
17 so, I guess.

18 [11.23.57]

19 Q. Mr. Him Huy, it would be very kind if you would answer to my
20 questions and again the last question, and really for the last
21 time I tried.

22 Do you think if you never ill-treated him and never have beaten
23 him, that Mr. Bou Meng which is the consequence -- must lie
24 and does lie?

25 A. I don't know how he can say that.

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

2 MR. PRESIDENT:

3 It is now time for the civil party lawyers, group 3, to put
4 questions to the witness.

5 MS. JACQUIN:

6 Thank you, Mr. President. Good morning, Your Honours.

7 BY MS. JACQUIN:

8 Q.Good morning, Mr. Him Huy. First of all, Mr. Him Huy, I would
9 like to thank you for being here.

10 If I have understood correctly the explanations that you provided
11 to us last week, your function was to accompany prisoners to the
12 door of S-21 and, in particular, in the whole area surrounding
13 S-21. And occasionally you replaced staff that was absent within
14 S-21 when there were too many prisoners arriving. So my question
15 will be the following.

16 [11.25.44]

17 Were all the prisoners, except for the women who were at S-21 --
18 were they all bare-chested and only wearing underpants?

19 A.The rules in the prison was clear that detainees were not
20 allowed to wear any clothes except the shorts because it was
21 believed that if the detainees were allowed to wear such clothes
22 then they would make use of them to commit suicide, or hang
23 themselves.

24 Q.When you were bringing the prisoners to be interrogated in the
25 houses, were they still in underpants or were they dressed?

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1 A. When I saw them being walked to be executed they were wearing
2 only underpants. If the detainees who were former staff members
3 of the S-21 would be walked out then they would be covered with
4 blankets to just conceal themselves from being seen by the other
5 members of the staff at S-21.

6 Q. Thank you for your answer. The question was: when you were
7 bringing people to be interrogated, were they dressed and did
8 they remain while they were being brought -- were they still in
9 their underpants while they were being brought to be
10 interrogated?

11 A. I don't remember that much but, so far as I remember, people
12 who were being walked to be interrogated would only wear the
13 underpants.

14 [11.28.29]

15 Q. When you remained before the interrogation rooms did you hear
16 cries and howls and moans often coming from the prisoners who
17 were being interrogated?

18 A. The prisoners who cried after they were taken back to the room
19 after they were interrogated, they cried, they screamed inside
20 their rooms, but I did not know whether they did that in the
21 interrogation room or not.

22 Q. When you brought the prisoners back after they were
23 interrogated were the prisoners sometimes unable to walk because
24 their toenails had been torn off?

25 A. Regarding the pulling of the toenails, I did not know, but I

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1 saw prisoners who were blindfolded and sometimes I saw the wounds
2 on their backs and bodies. And in the evening when they were
3 taken back into their rooms and sometimes when I replaced the
4 inner guards, I heard the screaming coming from those rooms.

5 Q.With respect to the children, you said that there were some
6 children between the ages of one and eight who stayed with their
7 mothers and they were in the same detention areas with their
8 mothers. Were there any children who were older, between the
9 ages of eight and 12? And if there were children, where were
10 they detained?

11 A.When they were brought in they would be detained and even if
12 for those children age eight or over or about, they would be
13 detained there too. And when the mother or the father had been
14 taken out and killed, then the children would be taken along,
15 especially by Peng's group.

16 [11.31.10]

17 Q.Yes, but was there a group of other children, young teenagers
18 who were 10, 11, 12, or perhaps 13 years old?

19 A.I did not observe exactly the age group of those children
20 because I only went there occasionally.

21 Q.You told us that at times there were so many prisoners that
22 arrived that they had to be placed directly into the detention
23 cells without being photographed.

24 To the best of your knowledge, do you know if photographs were
25 taken at a later time automatically or were some people taken

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1 away to be executed without having been photographed?

2 A.The prisoners, when they arrived they would be photographed.

3 Q.You told us that at one point after Huy's arrest you were
4 afraid of being arrested. And this is what I had noted. You
5 said because you were afraid of being accused of having wanted to
6 organize a rebellion with your weapon.

7 Can you please tell us what you meant? You stated this last
8 Thursday.

9 A.I became fearful after Duch told me during a study session
10 that Nun implicated me and that I wanted to conduct a rebellion
11 activity, and I rejected it and I laughed at him. I told him I
12 would not commit such an act, but from that day onward I was very
13 concerned and afraid and I thought one day my day would arrive.

14 [11.33.48]

15 And every time I went to work I asked Hor to change the guns that
16 I carried because he had the key to the weapons storage. Later
17 on Pang was arrested and I became even more fearful. And if I
18 was implicated then I would be arrested, so I told Hor that he
19 was also implicated by Pang. That is one account.

20 And another account regarding my guarantee for Choek -- as I
21 stated earlier I requested to Hor not to transfer him to work in
22 the rice fields and I wanted him to work with me. And after his
23 suicide I became even more burdened.

24 And later on when I was transferred to work in the rice fields
25 and after the arrest of Huy, I know that one day would become

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1 because I was part of this line of the network.

2 Q.Did you ever see people that you knew arrive and, if that was
3 the case, what did you think?

4 A.I saw people whom I knew and I was scared. They were from the
5 703 Division. Because my group was also from the 703 Division,
6 so we were from the same network and I was afraid that they would
7 implicate me.

8 Q.You knew that S-21 was a secret prison. Would you say that
9 S-21 was a political prison?

10 A.The study location was not a secret place because people were
11 also called to study from Prey Sar and other areas and I did not
12 know any other secret location.

13 [11.36.27]

14 Q.Would you say that the S-21 prison was a place where people
15 were tortured and exterminated?

16 A.It was of course a prison where torture was committed and
17 where the killings took place.

18 Q.Before I give the floor to my national co-counsel, in 1983 why
19 did they think that you were the director of S-21?

20 A.I did not know the reason. I was arrested and alleged that I
21 was the chairman of the prison and I told them if I was the
22 chairman then I would not return from the forest. And after they
23 detained me and I told them that when I worked there I was not
24 intended to work there. I requested for transfer from the prison
25 to the military unit but I was denied.

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1 So I explained to them that I did all kinds of things that were
2 assigned to me in order to survive.

3 MR. KIM MENGKHY:

4 Good morning, Your Honours.

5 BY MR. KIM MENGKHY:

6 Q.Good morning, Mr. Him Huy.

7 [11.38.17]

8 I would like to ask you regarding the strict rule that you just
9 said. And what was a strict rule and who actually regulated that
10 rule?

11 A.When I worked as a security at S-21, the rule was very strict
12 and it was only Duch who regulated such rules. Hor, even if at
13 his level, he would not be able to do it.

14 Q.What did the rule stipulate?

15 A.We're the children of Angkar, we're the children of the Party,
16 and we are not the children of our parents. So when we carry our
17 work we have to respect the Angkar in every single activity --
18 walking, standing, working, or sleeping. And whoever fails to
19 abide by the regulations, then that person would be considered an
20 enemy and would be arrested and detained.

21 Q.Thank you. Regarding the study session, which you said you
22 frequently participated, what was the ideology regarding the
23 arrest, the detention and the sending of those prisoners to be
24 killed, which was trained or given at the study sessions?

25 A.The study sessions were for both the interrogators and the

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1 guards. So for the guards we had to absolutely guard those
2 prisoners, and for the interrogators they have to extract the
3 confessions from the prisoners, otherwise we would not achieve
4 the 100 percent result required by the Party.

5 In the beginning, it was not that strict. It meant we could
6 chit-chat a little bit with one another but, later on, we were
7 imposed and we would be required to monitor each other's
8 activity. It means we were like a horse. We were only asked to
9 look straight and that we could not see any sides of our vision.

10 [11.41.08]

11 Q. Could you tell us the fate of the S-21 staff who failed to
12 abide by the disciplines and the ideology of the Party imposed on
13 them?

14 A. I knew clearly the fate of those workers. They were only
15 waiting for the day that they would be killed and that would be
16 the end of our life.

17 Q. In general, the implementation of the rules on the S-21 staff,
18 did they actually give weight to the performance or the offence
19 that would allegedly committed by those staff, or did they only
20 apply the regulations regardless of the activities or offences?

21 A. Each one of us, whether we responded or not or if we were
22 implicated by another person or not, we would be arrested at
23 their own discretion. It means if we commit just one slight
24 mistake then we would be arrested if anyone from our network was
25 arrested.

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1 Q.Can you provide a little bit further clarification on the
2 arrests by network? You mean from the upper echelon or from the
3 leader to the subordinates or only those people who were
4 implicated were arrested?

5 A.The term they used was to arrest by the network. So, for
6 example, if the 703 members were arrested and if they implicated
7 us because we were also the former 703 members, then we would be
8 arrested.

9 Q.My last question.

10 Regarding your testimony, what is your expectation in providing
11 the testimony to the Chamber today?

12 [11.44.10]

13 A.We seem to be reborn. I talk about those of us who survived.
14 We were the lucky group and we only want justice.

15 MR. PRESIDENT:

16 Next, I would like to give the floor to the civil party lawyers
17 group 4. If you have questions to be put to the witness, you
18 take the floor.

19 MR. HONG KIMSUON:

20 Thank you, Mr. President, Your Honours. Good morning, ladies and
21 gentlemen.

22 BY MR. HONG KIMSUON:

23 Q.Good morning, Mr. Him Huy. Please respond to my question
24 regarding your activities at S-21 as follows.

25 Previously, you told the President and the Chamber regarding your

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1 duties before you entered Phnom Penh; that is, before the 17
2 April 1975. My question is, on that day, on the 17 April 1975,
3 your unit -- did your unit reach Phnom Penh? If so, at which
4 location?

5 A.I arrived in Phnom Penh at the Yukunthor School. It was in
6 the afternoon around 3 p.m. We instructed the Lon Nol group to
7 gather the weapons, and in the evening around 6 p.m. I was
8 injured.

9 [11.46.24]

10 Q.Thank you. On the date that your group collected the weapons
11 from the Lon Nol group, was there an instruction in advance for
12 such activity and, if so, whose instruction was it?

13 A.Hor, the deputy of Duch, was my commander, was my regiment
14 commander, and we were in three groups. During the day, all the
15 leaders arrested those senior Lon Nol people and they drove their
16 vehicles to make an announcement for the Lon Nol group to lay
17 down their arms.

18 The situation later became quiet and then Hor instructed me to go
19 and instruct the Lon Nol group to lay down their arms. So I
20 walked alone and I told them, "Who was in charge?" and a person
21 came up and said, "I was in charge". So I instructed him to use
22 a vehicle to collect all the weapons along the National Road.

23 Then I returned and I then sat at the north corner of the
24 Yukunthor School.

25 Q.Let me rephrase my question if you are not clear.

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1 My question is, before you implemented the collection of the
2 weapons or the instructions that you gave to the Lon Nol
3 soldiers, was there any senior leaders or your commander who
4 instructed you in advance what to do; for example, to gather the
5 weapons or to force people to evacuate or to shoot them if they
6 did not follow it?

7 A. When I entered Phnom Penh, I did not ask people to leave and I
8 did not fire any shot. We only shot at each other at the Stung
9 Meanchey Bridge, but later on when the Lon Nol group was defeated
10 so we progressed further until the Pet Chen area or the Yukunthor
11 School.

12 [11.49.08]

13 Q. This means that you did not know in advance of the planning?

14 A. For example, when I seized two trucks with the 155
15 artilleries, I did not mistreat those colonel and I instructed
16 him to leave the trucks there and to return home. I did not know
17 any planning in advance. For example, at the Yukunthor School I
18 went to instruct them to collect the weapons and that was what I
19 was told to do.

20 Q. From the beginning you informed the Chamber about your duties
21 when you started working in that location. For example, you
22 worked in a vegetable farm. So the question is from the time
23 that you started working at S-21 and that you worked in a
24 location to receive the prisoners, which is now known as the
25 Beehive radio station, what duties at that Beehive radio station

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1 were involved and how many staff in your group and what was their
2 age?

3 A. There were about 10 people in my group, including the drivers
4 and the radio operator and those people -- some of them were four
5 or five years older than me and some were younger than me;
6 probably two or three years younger.

7 [11.51.11]

8 Q. You already told the President and the Chamber that the chief
9 and the one that issued orders was Duch at the S-21 Office in
10 Phnom Penh. The question is before you received the prisoners
11 who were sent to your receiving point, which is now known as the
12 Beehive radio station, you said there was a messenger who came to
13 provide the information beforehand.

14 How people were assigned or were transferred to Prey Sar was
15 different than those who were sent to S-21 Office. What about
16 the sending of people to the houses around the vicinity of Prey
17 Sar -- of S-21? Was the decision made at your location? If so,
18 who made the decision?

19 A. Before they were sent to us there was already a list of their
20 names and the important prisoners would be sent into that
21 location. For the less important prisoners they were still on
22 the truck because there was already a list of the names. Then
23 they would be sent to Prey Sar. And the only important prisoners
24 were sent to us and we would send them inside S-21 Office.

25 Q. You also said sometimes you brought the prisoners inside the

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1 S-21 compound which was known as Ponhea Yat High School at the
2 time and as acknowledged by Duch. Did you ever go towards the
3 back of the buildings in that Ponhea Yat High School and, if so,
4 were there a kitchen, a workshop?

5 A.Yes, I went to the back of the building.

6 [11.53.51]

7 Q.Thank you.

8 I'll just recall you what you said. Behind that school it was
9 the Tuol Sleng Primary School and inside that location was there
10 an interrogation location or a location where the prisoners were
11 detained?

12 A.No, it was not in that location, although I am not clear. I
13 think it was used as a medical unit.

14 Q.In S-21 Office, or the former Ponhea Yat High School, you said
15 Duch was a Chairman and he was the most senior leader and later
16 there was Hor and Huy Sre. Is this correct?

17 A.At S-21 Duch was the Chairman; next Brother Hor, the one-eyed
18 Hor, and then Huy he was a member and he in charge of the rice
19 fields at Prey Sar.

20 Q.You also provided an interview to the Co-Investigating Judges
21 on the 18th of September 2007 at 9 a.m. and the document number
22 is D19/5 on page 1 through 5. And on the last page, on page 5 in
23 the Khmer language -- let me just read it. The Co-Investigating
24 Judges asked you a question:

25 " Duch and Hor, did they work well together?"

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1 [11.56.08]

2 And you replied:

3 "Duch came first and Hor came later, and there were people
4 coming from 703. Some they had arguments on three occasions and
5 Hor told me that Duch was in favour of his group from the East
6 Zone and Hor was in favour of the 703 or the Special Zone, and
7 that Duch brought the children from the East Zone as his support
8 for the future use and that he arrested those from the 703, and
9 if the prisoners implicated the 703 then Duch would instruct them
10 to be arrested and interrogated and killed.

11 But he did not do that to the East Zone and that was with an
12 order from Duch because in that location it was only Duch who
13 made the decision. I could see that in the prison Duch only made
14 a decision and Hor did not dare to object."

15 So my question regarding your statements to the Co-Investigating
16 Judge: are you still confirming that statement?

17 A.That is correct.

18 Q.Regarding your interview with the Co-Investigating Judges,
19 document number D19/6 in the Khmer language, which you provided
20 on the 19 of September 2007 at 9 a.m., on the Khmer version on
21 page 5, in responding to a question regarding the taking of the
22 prisoners to be killed, with the President's leave I would just
23 like to read a few lines from this page.

24 [11.58.35]

25 The Co-Investigating Judges asked you regarding the taking of the

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1 prisoners to be killed and whether the Vietnamese prisoners were
2 detained for quite a long time before they were taken to be
3 killed, and you responded that they would be kept for about a
4 fortnight, interrogated and they would be killed behind the S-21
5 and that your group and Peng's group did the killing. And I did
6 not know about those who did not yet provide a confession.
7 And this is also in relation to the question raised by Alain
8 Werner and Ty Srinna regarding the mass killing and whether the
9 children were killed. Did you know that when the children were
10 taken and killed, what was the range of their ages and where were
11 they killed and whether they were killed and buried within the
12 compound of S-21?
13 A. Children who were killed were, of course, executed to the west
14 of the prison.
15 Q. Can you confirm the age range of those children who
16 were killed?
17 A. They were range -- their age ranged from one year
18 above.
19 Q. Thank you.
20 I would like to ask some question concerning the killing field of
21 Choeung Ek, killing site where detainees were exterminated. You
22 stated that you was the chief of the transportation unit who
23 carried the detainees to be executed or who were transporting
24 detainees. And you indicated that you saw Duch at the killing
25 sites.

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1 [12.00.56]

2 Do you still confirm that your previous statement is still true?

3 A. I confirm.

4 Q. Thank you.

5 The next question: on the 15 of September 1990 at 9 a.m., Him
6 Huy gave an interview or talked with the District Committee
7 during the state of Cambodia document D61/1 as a reference. In
8 Khmer text, it is referred to page 3 with ERN-00280082. On the
9 last page and the second-last line, you stated in that record
10 that:

11 "In office S-21, I heard Duch exchange conversation that we shall
12 kill everyone except the 4 million people so it means we kill all
13 people."

14 So does it mean that people would be killed across the country
15 and that only 4 million would be left? Is that what you heard
16 correctly?

17 Mr. Him Huy, if you don't understand the question, you can ask me
18 to repeat.

19 MR. PRESIDENT:

20 I note that the defence counsel is on the feet so the floor is
21 yours.

22 [12.03.04]

23 MR. ROUX:

24 Mr. President, I believe that this is a question that's very much
25 repetitive. It was put to Mr. Him Huy in the same terms so if we

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1 could avoid repeating the same question over and over again.

2 MR. PRESIDENT:

3 Thank you for your observation. Mr. Him Huy is advised not to
4 respond to Mr. Hong Kimsuon's repeated question.

5 So Mr. Hong Kimsuon, you are advised to rephrase your question.

6 MR. HONG KIMSUON:

7 I only raised this matter because I would like him to confirm
8 whether the killing would be conducted on a national scale rather
9 than confined to the S-21.

10 BY MR. PRESIDENT:

11 Q.Mr. Him Huy, do you understand the question? The question is
12 the same, but he only want you to emphasize the term which means
13 only 4 million people would be spared, so what does it mean?

14 A.First, Duch stated -- he said everyone had to be killed and
15 leaving only 4 million people and then later on he said everyone
16 shall be smashed to bits to all and the statement I still
17 remember ever since.

18 MR. HONG KIMSUON:

19 Thank you, Mr. President. I have no further questions at the
20 moment.

21 [12.05.03]

22 MR. PRESIDENT:

23 The questions put by the civil party lawyers have been completed
24 and that it is now five past 12. The Chamber will take an
25 adjournment. The session will be resumed at 1.30 p.m.

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1 The court official is now directed to coordinate with the witness
2 so that he can have a rest and enjoy his lunch. And the security
3 personnel are also instructed to take the accused back to the
4 detention facility and bring him in by 1.30 p.m.

5 The court is adjourned.

6 (Judges exit courtroom)

7 (Court recesses from 1205H to 1333H)

8 (Judges enter courtroom)

9 MR. PRESIDENT:

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

11 We continue hearing the testimony of witness Him Huy.

12 Next, the Chamber would like to give the floor to the defence
13 counsel. The floor is yours.

14 [13.34.14]

15 MR. KAR SAVUTH:

16 Thank you, Mr. President, Your Honours.

17 With Mr. President's leave, I would like that the accused make
18 his observations first before we can put questions.

19 MR. PRESIDENT:

20 The accused, do you have any observations that you would wish to
21 make regarding this witness? The floor is yours.

22 THE ACCUSED:

23 Mr. President, thank you very much for giving the opportunity to
24 me to make my observations.

25 First, I would like to confirm that Comrade Huy was the staff

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1 member of S 21. I have known him very well and I have known him
2 since I became the Chairman of S-21. A few months after I was
3 promoted to that post, I learnt that he was the deputy of the
4 special force unit.

5 Regarding the testimony, Comrade Huy already stated if he only
6 testified to the content of the truth that he -- I mean the
7 activities he had done, so I can conclude that the basic truth
8 has already been revealed but still there are shortcomings,
9 although the shortcomings are not significant.

10 As the cadre of the platoon, he already shared with the Court all
11 the duties he was assigned and I think I have mentioned a lot
12 about this already; that Him Huy was assigned to receive
13 prisoners had been arrested, and he was in charge of taking care
14 of those people, whether who would be discharged to Prey Sar and
15 who would be sent in S-21. There would have been annotations on
16 all those letters.

17 [13.37.13]

18 And another duty is that he was assigned to receive detainees,
19 both outside and inside the premises of S-21, and he also stated
20 clearly -- and I confirm -- that he was asked to transport
21 detainees to Choeung Ek. And as the cadre of the platoon, he is
22 accountable for the responsibilities and duty he was given during
23 the time at S-21; that he was to be sure that no detainee would
24 be released, and that is his duty.

25 And he may not know what happened to the children because Comrade

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1 Hor asked Comrade Peng, who would be in charge of the children.
2 He also made it clear that when the east people were sent in en
3 masse, that there would be a car or even some other vehicle would
4 be used to transport those people, so he made that account clear.
5 At one point-in-time when there was a rush assignment, when S-21
6 was in a position to seek the further confessions of some of the
7 cadres, and then Hor were asked by Huy to grab a camera and to
8 take a photo of the situation or the site, and then after having
9 those photos taken -- regarding the Vietnamese, I mean -- then we
10 reported to the Party Centre and on the second or on the third
11 when people need to be transported to Choeung Ek. At that time,
12 Hoy was so busy because he was under the orders that he had to
13 fulfill this task. And of course I was the one who put those
14 orders to him. And it is obvious.
15 So he committed these crimes of course but under my supervision
16 and orders as the Chairman of S-21. However, there have been
17 some shortcomings when he said Phorn was arrested with the
18 company of myself. I never did that. I never did anything, I
19 mean, order verbally to Him Huy.
20 I would ask Hor to actually carry this order and pass it on to
21 Huy. So when Phorn came then Huy arrested Phorn. But the reason
22 that Hor would be there, because if Phorn came and then he saw
23 Huy alone, then Huy would be afraid. That's why Hor would be in
24 his company.
25 [13.41.06]

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1 But when Huy Sry was being arrested that he did not take part or
2 he was not present; that's correct.

3 I don't want to contest or to challenge his testimony but he
4 accepts who was the main boss of S-21. It was Son Sen. And then
5 when Son Sen came to the conference there was no such agenda that
6 Him Huy was allowed to talk to him so that he could be allowed to
7 go to the military.

8 So I think in conclusion I can say that of course the shortcoming
9 of his testimony is very minimal and I confirm that all his
10 testimonies are true. But I think he should not have said
11 something about the arguments between Comrade Hor and I because
12 he said that he has heard but did not see or he did not witness
13 that. I think that is part of the shortcoming. However, I
14 confirm that his testimony is true and correct.

15 But finally I would like Him Huy to please do me a favour,
16 because among the detainees he was my professor. I did not know
17 that he came to that location. I know that you have the
18 knowledge of what happened to that professor. Please tell the
19 Court and his family where he was taken to be executed. He was
20 executed here at S-21 or at Choeung Ek. Please be honest.

21 MR. PRESIDENT:

22 The lawyer, you take the floor.

23 MR. KAR SAVUTH:

24 Thank you, Mr. President, Your Honours.

25 [13.43.58]

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1 QUESTIONING BY DEFENCE COUNSEL

2 BY MR. KAR SAVUTH:

3 Q.Mr. Him Huy, earlier on you said you went to Svay Rieng to
4 transport the Vietnamese prisoners of war. And you stated that
5 the person who ordered such transport was done through a
6 messenger of Duch and that the decision was made by Duch. And
7 you said once you were ordered verbally, directly and personally
8 from Duch to transport the Vietnamese prisoners of war in Svay
9 Rieng province.

10 Can you confirm whether you received the orders directly and
11 verbally from Duch or from his messengers instead?

12 A.I received the orders from his messengers but of course the
13 orders must have been made by him to that messengers or through
14 that messengers. And at one time, as I recalled, Son Sen came to
15 the location and I did go to him and ask him if I can be
16 transferred to the military. I could be dying in the
17 battlefields rather than ending up being executed here at the
18 prison.

19 Q.Thank you. You said people who were arrested and detained at
20 S-21 would never be released because everything ended there. Is
21 that correct?

22 A.That's correct.

23 Q.Thank you.

24 [13.46.00]

25 You said that at night, in the evening at about 8 or 9 p.m.

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1 detainees were taken to be executed to the south and to the north
2 of the prison compound. Is that correct?

3 A.That's correct.

4 Q.Can you please confirm if to the north of the prison were the
5 prisoners ever be killed at that location?

6 A.I don't think I know well about that but I know that detainees
7 were executed and buried to the south and to the west of the
8 location.

9 Q.Thank you. You confirmed already that when detainees were
10 executed they would be buried immediately and that they would not
11 leave them until the next day. Is that correct?

12 A.That's correct.

13 Q.Thank you. So people who were executed would be immediately
14 buried and that the executioner would not leave the unburied
15 corpse unattended?

16 A.Immediately after any one of the detainees was executed then
17 they would be buried.

18 Q.I thank you for that testimony because I'm afraid that someone
19 would say that they could escape from the pit because the pit was
20 not covered.

21 [13.48.05]

22 You said that there were seven medics, paramedics, and all were
23 male. Is that correct?

24 A.That's correct.

25 Q.Do you know the person named Lach Dara alias Than?

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1 A.That is correct. His name was Than.

2 Q.Do you know the person named Hak Phadet?

3 A.No, I don't.

4 Q.Do you know the person named Choem Sok?

5 A.No, I don't.

6 Q.Thank you. These people were medics but they were detainees
7 who turned medics. All died except some could escape after the
8 liberation.

9 Question number 6. When the arrest was made, Duch was never
10 present. Is that correct?

11 A.I would like to confirm that in any arrest Duch would be the
12 person who ordered such arrest. He was not present but then we
13 were ordered by him to carry out those arrests.

14 Q.Thank you. Can you also confirm for us, please, that you said
15 the detainees were executed by a blow with a metal bar to the
16 neck and that later on their throats would be slashed or cut?
17 What would have been the instruments used to slit the throats of
18 the detainees?

19 A.As I already stated yesterday, after they were struck by an ox
20 cart axle metal, then the detainee's throat would be slashed with
21 a knife used to slice the palm fruit.

22 [13.50.53]

23 Q.I said this because, according to document D48/2, you said
24 that people -- other detainees' throats were sliced with a palm
25 frond. I think palm frond and palm knife is different indeed.

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1 Is it?

2 Question number eight, this morning you stated that you went to
3 the workshop at the rear of the prison. Is that correct?

4 A.At that time that location was used to raise pigs. There were
5 a lot of pigs and I was standing guard and also was asked to
6 watch the pigs. And when we had not enough food and I could see
7 that the pigs were big, but then I left ---

8 Q.My question is whether you had ever visited that pig pen and
9 workshop.

10 A.The workshop and the pig pen was close to one another.

11 Q.So on the 1st of January to the 7th of January 1979, if you
12 went to that location had you ever seen any baby or children?

13 A.As I indicated yesterday, in mid-1978 I was removed and put to
14 work at Prey Sar and I was there until the liberation day.

15 Q.Thank you.

16 [13.53.16]

17 You told the Court that the execution at Choeung Ek, the en masse
18 execution was done in a hurry because you were afraid that the
19 dawn would come and that you did not know whether Ta Hor or Duch
20 would be present during that time. However, you talked or you
21 told Mr. Hong Kimsuon that you maintained your testimony before
22 the Co-Investigating Judges, that the testimony you gave earlier
23 is true.

24 May I ask you whether you still maintain your testimony before
25 the Co-Investigating Judges or would you wish to have it

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1 overwritten by your testimony that you gave to the Court this
2 morning? So please make it clear which one is your most
3 favourite and accurate one.

4 A. When detainees were killed en masse when there were about 100
5 detainees who were to be executed in one single night, at that
6 time it was almost dawn and everyone hurried up to finish their
7 assignments, and Hor and Duch were there and they left before us.
8 And we also left by a truck and we were so hurried because we
9 were afraid that when the dawn came then we would -- our work
10 would be compromised.

11 Q. Thank you. So it is clear that you maintain your testimony
12 here in the Court, right?

13 A. I maintain the testimony here at the Court.

14 MR. KAR SAVUTH:

15 Thank you, Mr. President. I don't have any further questions at
16 the moment. I would like my colleague to share the floor.

17 [13.55.41]

18 MR. PRESIDENT:

19 The international co-counsel, you take the floor.

20 MR. ROUX:

21 Thank you, Mr. President.

22 BY MR. ROUX:

23 Q. Good afternoon, Mr. Him Huy. My name is counsel Roux, but you
24 know me as we met at the time of the reconstruction of the events
25 as well as during the confrontation that was organized by the

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1 Co-Investigating Judges. And I had asked you questions at that
2 time.

3 I'm going to ask you a few other questions that will wrap up the
4 long testimony that you have given to the Trial Chamber. We are
5 all seeking to understand what happened and, Mr. Him Huy, you can
6 help us to understand.

7 I would like to continue on some of the things that were said by
8 counsel Kar Savuth. I would like to remind you that with respect
9 to the events that took place in Choeung Ek, that I would like to
10 go back to what you said and what the Co-Investigating Judges
11 wrote when we were all present together.

12 If we look at the document of the 26th of February -- the Trial
13 Chamber may find this document under D48/1 -- and if we refer to
14 paragraph 6.1, the Co-Investigating Judges wrote as following:

15 [13.57.47]

16 "Witness Him Huy was inconsistent in his account of the number
17 of times Duch came to this location."

18 On the 28th of February, two days later, in Document D52 you were
19 at the confrontation and the Co-Investigating Judge Marcel
20 Lemonde asked you the following question. He states as follows:

21 "You stated at the location first that Duch came to Choeung Ek
22 from time to time and then, in answer to questions that were put
23 to you, you said that he came once or twice and then in answer to
24 a question that was put to you by the defence you said that you
25 did not know whether he had come more than once."

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1 And at that point in time you answered:

2 "He came once with Hor."

3 So the question that I would like to put to you is the following
4 one: would it be correct for me to say that after giving several
5 answers that varied with respect to Duch's visits to Choeung Ek,
6 that you clearly acknowledge today that he only came once. Would
7 it be correct to say that?

8 A.I saw Duch go there on two occasions and if he said he only
9 went there for on one occasion, that is his own word.

10 Q.I apologize, Mr. Him Huy. I think we misunderstood each
11 other. It's not he who is saying this; it was you before the
12 Co-Investigating Judges.

13 A.At that time he said he went for one time with Hor, but in my
14 statement I clearly saw him on two occasions but he protested
15 that he only went there on one occasion. I still stand on my
16 statement.

17 [14.00.57]

18 Q.Yes, but since I do not know what you said and when you said
19 it, it's a bit difficult for me.

20 So, however, do you still stand by what you said before the
21 Chamber last Thursday while you were answering the questions put
22 to you by Judge Lavergne, and I will remind you of the question.
23 It is: "Was it he --" -- speaking about Duch, " -- who was at
24 the edge of the pit with you at dawn and who requested that you
25 execute a prisoner?" And you answered:

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1 "Since, as I said, we were really working with great haste, the
2 trucks were about to leave, and if the dawn broke we could have
3 been seen, and the whole secrecy of the operation would be
4 broken. So I am no longer sure if it was he or Hor. It was
5 either he or Hor because he was there as well. He was there at
6 the same time as Hor."

7 So am I right to say that today you are no longer sure if it was
8 Hor or Duch who ordered that you kill your -- am I right in
9 saying this?

10 A.At that time the situation was a bit chaotic and the dawn
11 almost broke, and there was a man lying nearby the pit, and
12 because of the confusing situation and the executioners were also
13 rushing to finish their job, that's why I said I was not sure
14 whether it was him or not, as I was rushing to finish my job.

15 Q.Thank you. So this, Mr. Him Huy, was the first time or the
16 second time, if you are telling me that Duch came twice. So this
17 scene that you're relating that happened before dawn, was it the
18 first time or the second time that he came?

19 A.That was the first time.

20 [14.04.24]

21 Q.Thank you. So, therefore, what happened the second time?
22 Because when the President questioned you, you related one time;
23 not two times. So I do remember that we are speaking about the
24 first time now, but what happened during the second time?

25 A.On the second occasion I did not pay much attention because he

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1 was still in his car and my main focus was to check the names
2 against the list that I had.

3 Q. So the problem here, Mr. Him Huy, is that when you answered
4 the investigating judge -- and I can repeat this by referring to
5 this written record of the 28th of February 2008 and your full
6 answer was the following:

7 "He came once with Hor and I do not remember exactly when. He
8 came in his car and he was accompanied by his messenger. It is
9 this time that I saw him sitting at the edge of the pit, and
10 during this time Hor was in the house. Then, that is to say
11 another day, Hor came to the edge of the pit as well and asked me
12 to kill four other people."

13 And I would like to stress did you say to the Judge that Duch and
14 Hor were not present at the same time at the edge of the pit? So
15 therefore, when I said "from time to time" what I meant was
16 twice. This is exactly what you stated to the investigating
17 judge. Do you remember this statement, Mr. Him Huy?

18 A. Yes, I can recall it. I saw him on two occasions.

19 [14.07.00]

20 Q. So therefore I remember that you saw him twice: once at dawn
21 at the edge of the pit and another time in his car. Is that what
22 you are telling us today?

23 A. Yes.

24 Q. Okay, we will stand by this and I will leave it up to the
25 Chamber to come up with its opinion.

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1 I would like, Mr. Him Huy, to return to your job, to your
2 functions. I am not an expert, of course, in military affairs so
3 I would like you to please explain to me what was known as the
4 Special Unit? What was special about this unit, this unit to
5 which you belonged?

6 A. In the Special Unit it was the word used by him. It was a
7 special unit comprised of some special messengers who had been
8 arrested and for us, our group which were to receive the
9 prisoners, we were ordered by Hor to be taught on how to make the
10 arrest. And after our study sessions we went to make the arrest
11 as instructed by him and it was called the Special Unit. This is
12 my understanding of the Special Unit.

13 Q. But before, when you were a combatant, did you receive any
14 kind of training, any kind of special training when you were a
15 combatant?

16 A. At that time it was Hor who trained us on the special fighting
17 in the Chinese style and after that we put the training into
18 practice. Actually I was beaten in my jaw once and I stopped
19 studying that Chinese-style fighting.

20 Q. So you said to the Chamber that one day, because of outside
21 circumstances and in particular the arrest of other people, you
22 had become yourself a chief. Is that so?

23 A. The cadres who were arrested, and after their arrest Hor
24 assigned me to be the deputy chief of the company because so many
25 people were already arrested and our main task was to receive the

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1 prisoners.

2 [14.11.08]

3 And sometimes when we had to make the arrest, sometimes we had to
4 borrow forces from other units.

5 Q.Thank you very much, Mr. Him Huy. Try to answer my questions
6 please and try not to repeat all the time that you were in charge
7 of receiving the prisoners. We know that already.

8 So therefore you became a deputy chief and do you wish to remind
9 the Chamber how many men were under you? How many men were under
10 your command?

11 A.I rose to be the deputy chief of the company and actually I
12 was only in charge in a group within that company as assigned by
13 Hor and with the exclusive task which was to receive the
14 prisoners. And for the defence it was under Peng's exclusive
15 task. And Sre was also in charge of another group in receiving
16 the prisoners.

17 Q.Can you please answer my question? How many men were under
18 your command?

19 A.There was only one group and which was to receive the
20 prisoners. I was only given one group by Hor.

21 Q.Thank you very much, but a group of how many people, please?

22 A.There were about 12 people in that group -- 11 or 12 people.
23 And that included the car mechanic, the drivers and a few staff.

24 [14.13.27]

25 Q.So therefore I can say that you were leading a group of about

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1 12 people, if I'm not mistaken.

2 Mr. Him Huy, were you an authoritarian leader? How would you
3 define yourself as a leader?

4 A.I and my group was not authoritarian as well as those guard
5 groups. We only implemented our tasks based on what we were
6 assigned and we did not dare oppose. Otherwise we would be dead.

7 Q.I understand perfectly well. You were indeed a soldier which
8 means indeed that you were receiving orders from your superiors,
9 but that you were also giving orders to your subordinates. Is
10 that so?

11 A.I did not personally order the people in my group. It was Hor
12 who would give the orders to our group and sometimes he led our
13 group. And then he would assign how many people would go with me
14 or with him.

15 Q.So therefore you are explaining to the Chamber that you were
16 the head of a group but that you were not giving them any orders.
17 Is that so?

18 A.Regarding the operation of the arrest, I did not make any
19 personal orders because we were under the supervision of Hor who
20 sometimes personally involved in the operations.

21 [14.16.00]

22 Q.But in military terms, as far as I know, Hor was giving you
23 orders and you were giving orders to your subordinates. Am I
24 right in saying that?

25 A.In the military terms -- and as I said, how many members from

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1 my group were assigned to go then I would organize my men to go.

2 And the names of the team members were given to me. So I only

3 received this order. Then I would organize members to proceed.

4 Q.When you were at Choeung Ek and when you were participating in

5 the executions with your group, was it you who were giving orders

6 to your men for the executions? Yes or no?

7 A.When we transported them we provided protection and then we

8 handed the prisoners to Teng's group and it was Teng's group who

9 dug the pits and who executed the prisoners. And it was clearly

10 Duch's order for Teng's group to dig the pit and to execute the

11 prisoners.

12 Q.So you are trying to tell me that your men never partook in

13 the executions?

14 A.It was Teng's group who executed the prisoners and their tasks

15 were different from us. My main task was to transport the

16 prisoners to him.

17 Q.Up until now I have understood but you did not answer my

18 question exactly. Well, since we are speaking about hierarchy,

19 can you confirm to the Chamber today the hierarchical order that

20 you presented to the Co-Investigating Judges when we were at

21 Choeung Ek on the 26th of February 2008, Index D48/1, paragraph

22 7.1.

23 [14.18.49]

24 The witness, Him Huy, describes what he understood of the

25 hierarchy from back then. Duch was Hor's supervisor. Hor was

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1 Phal's supervisor. Phal was Peng's superior. Peng was Bou's
2 supervisor. Is that so?

3 A.Hor was the one at the higher level and below him was Phal and
4 then Peng and below Peng was Tuy, Bou, and they were the chairman
5 and commanders and I, myself, was a provisional deputy chief and
6 I worked under these few people.

7 Q.Regarding Peng, were you above him or were you under his
8 orders?

9 A.Hor clearly set out our designated roles. In Phnom Penh, he
10 was within my unit under my leadership. When he was transferred
11 to Choeung Ek, he was under the supervision directly of Hor
12 because I had the exclusive task of receiving the prisoners.

13 Q.I would now like to re-visit the scene that took place with
14 the -- with Mr. Bou Meng, the victim. Can you be a bit more
15 specific and recount this scene to the Chamber where you climbed
16 on Bou Meng's shoulders? Can you tell the Chamber what happened?

17 [14.21.53]

18 A.At that time, I did not know that it was a type of torture
19 that I did on him because I was only playful. I thought how come
20 he was so small, and he was a small man and he already got a
21 wife, and we joked whether he had the strength to do anything.
22 And I wonder whether he could piggyback me and he said, yes. So
23 then I hop on him and he could carry me and I said, oh, he was
24 pretty strong. And I did not intend to do any harm or to cause
25 any injury or any damage to him.

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1 Q.And did you find this fun, Mr. Him Huy, to climb on Mr. Bou
2 Meng's shoulders? Did you find this amusing?

3 A.At that time, because we talked amongst ourselves whether he
4 was strong or not, and in order to prove the point then he -- I
5 hopped on him and he could carry me. And my intention was to
6 test his strength and that was all.

7 Q.And do you believe that he enjoyed that? Do you think that he
8 found that amusing?

9 A. At that time, he said he was strong and that he could carry
10 me. That's what was -- that what was his words and he --
11 actually, he did it and I was joking at the time. I did not
12 threaten him in any way.

13 Q.For you, it might have been a joke, but for him, probably less
14 so.

15 [14.24.34]

16 A.I think I have said enough.

17 Q.Indeed. So since we are here with Mr. Bou Meng, I am,
18 therefore, going to read out this passage that we spoke about
19 this morning. So we are, therefore, on the 27th of February 2008
20 -- that's to say a little bit over a year ago and we're at Tuol
21 Sleng with the Co-Investigating Judges and the written record and
22 it is indexed D48/2, and in paragraph 8.7, it states the
23 following:

24 "The civil party, Bou Meng, confirmed this. He described the
25 torture he underwent. He was told to lie down. He said that he

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1 was beaten by Him Huy, Peng, Tith, Mam Nai and Hor with bamboo
2 sticks and rattan sticks. He said that they showed him a number
3 of sticks and asked him to choose which ones they should use to
4 beat him. He said that they struck him in the back, but he would
5 turn around to escape the blows and they struck him on other
6 parts of his body. He showed scars on his back. He added, some
7 of them said, "Do not torture him to death. We need him to make
8 portraits of Pol Pot".

9 Paragraph 8.8:

10 "Witness Mam Nai said that he did not remember participating in
11 an interrogation with Peng, Tith or Hor. He was assigned to
12 interrogating Vietnamese nationals.

13 Paragraph 8.9:

14 "Witness Him Huy admitted to participating in interrogations and
15 torture, adding that normally he was not supposed to do
16 interrogations and that his duty was only to stand guard outside.
17 He said that --"

18 [14.27.33]

19 And here the Co-Investigating Judges put this in quotes -- that
20 is to say that they are quoting you:

21 "So he said he had forgotten this, but he acknowledged that it
22 was true."

23 So, Mr. Him Huy, was this a game when you asked Bou Meng to carry
24 you on his shoulders? Was this, as well, a game?

25 A.I keep repeating to saying this, actually. I did not mean --

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1 did not mean, actually, to hurt him. It was for fun only and I
2 was not part of any interrogation team.

3 Q.Mr. Him Huy, this morning you spoke of yourself as a victim
4 who was seeking justice and I will readily agree with you that
5 you had not chosen to be in the situation in which you found
6 yourself, but would it be correct for me to say that this
7 criminal system in which you participated was able to work
8 because at every level there was a chief, be it small or big, who
9 received, who executed and issued criminal orders?

10 A.I don't think I understand your question. Could you please
11 repeat it?

12 Q.I will try and simplify my question.

13 Duch said a few moments ago that you were a cadre with rank and
14 part of a platoon. Would you agree with me to say that each
15 person in the chain of command played his role and that each
16 person belonged to a criminal system by obeying the orders issued
17 by superiors and by executing orders issued by superiors?

18 A.I can say that everyone at that place had to listen to orders.
19 Otherwise we would be killed.

20 [14.31.46]

21 Q.Mr. Him Huy, who was responsible for S-21? Who was the
22 leader, the head of S 21; do you know?

23 A.Of course I do. Duch was the Chairman of S-21.

24 Q.And my question is who was above S-21?

25 A.It was Son Sen and I don't know who else.

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1 Q.Mr. Him Huy, you had, because of your responsibilities, the
2 possibility of moving around the country, of leaving Phnom Penh,
3 of moving close to the border with Vietnam. And you told us that
4 you did not like your job, that you were afraid. Why did you not
5 flee? Why did you not desert, as other people did, when you were
6 close to the border?

7 A.At that time the Khmer soldiers were in fighting with the
8 Vietnamese soldiers. How could I deserted my group to join the
9 other side of the border or the army? And as I already stated
10 clearly, that I asked once Son Sen that I be transferred to work
11 in the military and I was scared of being assigned a duty at
12 S-21; the request which was rejected.
13 When I was challenged whether I would dare enough to fight the
14 Vietnamese I said yes, I would be brave enough, but then I said I
15 would be dying in the battlefield rather than dying in the
16 prison.

17 [14.35.00]

18 Q.So what you're now telling the Trial Chamber is that despite
19 the fact that you had access to vehicles, to trucks that would
20 have allowed you to leave Phnom Penh, that you had access to a
21 lesse passe that would have allowed you to leave Phnom Penh --
22 that despite all of this you felt that you could not flee from
23 S-21. Is that correct?

24 A.Although I got these letters I think I was not the one who had
25 the letters. It was another person who was in charge of taking

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1 hold of those paperwork, and I knew that even if I tried to flee
2 S-21 I would be ended up being arrested, because where would I
3 go, going into the enemy's territory? And if I was arrested,
4 what would happen to my family and the rest?

5 Q.And that is why you feel that you were also a victim of that
6 system. Is that correct?

7 A.We all are victims. Although we had been working hard, I
8 could see that more and more of us would have been arrested and
9 killed after all. And if I were allowed to be in the military
10 and that I was admitted in the military, I would choose to leave
11 the prison and the duty at the prison. I knew that it's tough
12 here but I was not granted such request to the military.

13 Q.And you know that the former director of S-21, Nat, that he
14 was himself killed at S-21. Do you know that?

15 A.Could you please say again? Who are you referring to here?
16 [14.38.07]

17 Q.The former Chairman of S-21, Nat.

18 A.Nat was not detained at S-21. I have no idea where he had
19 been detained.

20 Q.I can answer. He was detained and executed at S-21 after
21 having been the Chairman of S-21.

22 Thank you, Witness. I have finished.

23 MR. PRESIDENT:

24 Do other Judges of the Bench wish to put further questions to
25 this witness? Judge Lavergne, you take the floor.

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1 JUDGE LAVERGNE:

2 I would like to ask a question, not to the witness but to the
3 accused, if I may.

4 Mr. Kaing Guek Eav, can you please confirm that the witness was
5 forced to leave the S-21 staff and had to go Prey Sar? And if
6 your answer is yes, can you tell us who decided that he should be
7 dismissed, why he was dismissed? Was it because he required re
8 education, and why did he need to be re-educated?

9 THE ACCUSED:

10 Your Honour, since I became the Chairman of S-21, I noticed that
11 Comrade Huy, this witness who is right in front of the Chamber,
12 was the deputy of the platoon of the special force, and the
13 Special Force Unit was used by three of us: I myself, Nat and
14 Comrade Hor. Even my superior, Son Sen, also used it.

15 [14.41.23]

16 And yesterday, the witness said during the war they used the term
17 to refer to this unit as the offensive or attack unit and, later
18 on, Huy was the deputy of that platoon, the platoon which I and
19 Comrade Hor trusted. And I had used this person until the 7th of
20 January 1979 when the Vietnamese came, and I already made it
21 clear earlier already. Thank you.

22 JUDGE LAVERGNE:

23 I'm not sure you fully understood my question. The witness has
24 told us that towards the middle of 1978 he left and ended up in
25 Prey Sar. What I want to know is the following.

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1 He was no longer a deputy of the special unit. Was this a
2 decision that was made that he required re-education, and who
3 decided to send him to Prey Sar?

4 THE ACCUSED:

5 Your Honour, I was answering more indirectly. It means I saw
6 this individual working with us until the 7th of January, and
7 that Hor and I myself did not send this witness to the rice field
8 or to Prey Sar.

9 JUDGE LAVERGNE:

10 So in your view he's not speaking the whole truth?

11 THE ACCUSED:

12 I still confirm that this individual was the cadre trusted by the
13 cadres of S-21. So his testimony regarding this matter is not
14 very convinced because there is no evidence.

15 [14.44.48]

16 MR. PRESIDENT:

17 We note the prosecutor is on his feet while the Judge is putting
18 questions to the accused.

19 MR. SMITH:

20 I apologize, Your Honour. I thought Judge Lavergne had finished.

21 So I will wait.

22 JUDGE LAVERGNE:

23 I would like that Mr. Him Huy -- I would like him to have the
24 opportunity to answer to what Duch has said but, at the present
25 time, I don't have any further questions to ask Mr. Duch.

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1 BY JUDGE LAVERGNE:

2 Q.Mr. Witness, Mr. Him Huy, have you heard what the accused has
3 just said; that in his view you continued to work at S-21 and you
4 continued to hold the responsibilities of deputy of the special
5 unit and this up until the 7th of January?

6 Do you believe that this is the truth or do you stand by what you
7 said earlier? And if you do stand by what you said earlier, can
8 you tell us if you were arrested and under what circumstances you
9 were taken to Prey Sar?

10 A.I was removed in mid-1978, along with the other groups of the
11 guards, to work at the rice field to build the dykes, and then we
12 requested for cows and oxen so that we could use them to help
13 plough the earth. And I was made to help irrigate water for the
14 rice field until the rice was ripe, and then the Vietnamese came.
15 Duch, Peng and Hor's clique were on running to Chamkar Dong area
16 and they told me about this, and we at that moment could not even
17 have any opportunity to eat our meals, but we had to also leave
18 in a hurry. I could only grab a hammock and then we went to Prey
19 Sar -- I mean in the location and then we left. I never been
20 again back to S-21 in Phnom Penh, and I bet my life if I will
21 ever be sent back to S-21.

22 [14.48.20]

23 Q.Mr. Him Huy, I'm trying to make sure that the Trial Chamber
24 understands clearly.

25 When you were sent to the rice field, was that Prey Sar? Were you

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1 sent there because you needed to be re-educated, and were you
2 sent there because you had been arrested or did you go there of
3 your own volition?

4 A.I was put to plant rice in Phnom Penh because I was told that
5 Comrade Nun implicated me in his confession and that, later on, I
6 was so afraid that I would one day be re-arrested and sent to be
7 executed at S-21 and because when Huy was arrested I knew that
8 it's just a matter of time that I would too be arrested.

9 Q.You still have not answered my question. You were assigned to
10 the rice fields in Prey Sar. The rice fields were in Prey Sar.
11 And so to be clear, were you arrested when you were sent to Prey
12 Sar?

13 A.No, I was not arrested. Hor did send me there.

14 Q.How did you go there and when you say "there" is that location
15 -- is the location of "there" Prey Sar?

16 A.I was sent to the location which is not at Prey Sar but to the
17 south of Choeung Ek. And I was working in the rice fields even
18 further to the other direction of Lon Non's house.

19 [14.51.15]

20 Q.Were you being monitored by anyone at the time of the rice
21 fields? Was he still in charge?

22 A.Brother Huy was still at the rice fields and I worked
23 somewhere near Choeung Ek. One day Hor, through his messenger
24 with a truck, asked me to come back and I asked the messenger why
25 I would be called back and I did not get the answer and I told

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1 myself that I would be arrested and I was so afraid that my hands
2 and legs become cool. I was asked to go into a house and I
3 realized that that's it; I would be arrested.

4 And then I was told that I had to only mind my business, that if
5 I was assigned to work in the rice field then I needed to only
6 know the things at the rice field; nothing but the rice field.
7 And I was surprised to learn that just a small thing like that I
8 would be called to go into the house. And I was so scared. I
9 thought to myself if the letter would be written that it would be
10 good, instead of having people coming to call.

11 Q.If I have understood you correctly, Huy Sre was still in
12 charge when you were at the rice field. Is that what you have
13 just said? This would mean that you no longer had
14 responsibilities at the Special Unit when Huy Sre was arrested
15 and you did not see -- participate or you were not involved in
16 Huy Sre's arrest. You weren't in the house in which he was
17 arrested.

18 A.My house was to the east of Lon Non's house in which Huy Sre
19 was arrested. I was just warned that I would be put to plant
20 rice and that I would not be taken back to Phnom Penh. And I had
21 been working there until the liberation day.

22 [14.54.50]

23 Q.Once again, Mr. Him Huy, when Huy Sre was arrested what were
24 your duties at the time? Were you still in your post at the
25 Special Unit or were you in the rice field? And if you were in

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1 the rice fields did you continue to live in your own house?

2 A. Each group had a house to live in. Brother Huy was arrested
3 just before the liberation day.

4 Q. What were your duties at the time? What did you do at the
5 time?

6 A. I was not on duty at all because only the people or forces
7 from Phnom Penh would conduct such arrest.

8 Q. So you were not involved in any way in this arrest. So how
9 did you find out about the arrest and why, and who replaced Huy
10 Sre?

11 A. I had not known when Huy Sre was arrested, only later on when
12 we could learn from one another, and then another person replaced
13 him.

14 MR. PRESIDENT:

15 The Co-Prosecutor, you take the floor.

16 [14.57.24]

17 MR. SMITH:

18 Thank you, Mr. President.

19 Mr. President, this witness has given a large amount of evidence
20 in relation to the rift between Hor and Duch and, as Your Honours
21 have heard, when the accused made observations of his testimony
22 he said, "I believe most of it is true apart from some
23 shortcomings," which he stated. Also, in the examination of this
24 witness, no challenge was put to the fact of this rift between
25 Hor and Duch.

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1 I think it would useful, Your Honours, if it's put to the accused
2 was there in fact a rift between Hor and Duch; secondly, was in
3 fact Duch investigating Hor at the time, at the end of S-21's
4 duration; and thirdly, did Duch kill Hor; and fourthly, if he
5 didn't kill Hor, who did and how did he die?
6 Those matters haven't been put to Duch and, unless they are
7 asked, I think we might be in a situation where Your Honours will
8 have less evidence than you might need to resolve that matter,
9 because it's an important matter in the case. I would ask that
10 that question be put to the accused.

11 MR. PRESIDENT:

12 I notice the presence of the defence counsel. You may proceed.

13 MR. ROUX:

14 Thank you, Mr. President.

15 [14.59.16]

16 I regret that the Co-Prosecutors had not put this question when
17 it was their turn to speak.

18 So if the Co-Prosecutors wish to speak after the defence, well,
19 the defence will ask for at least an equivalent amount of speech
20 time, but this will have to stop at one point. You had enough
21 time to put questions.

22 MR. PRESIDENT:

23 The Co-Prosecutor, you are not allowed to speak now.

24 The hearing of the testimony of the witness is considered to come
25 to an end by the Chamber now.

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1 And Mr. Him Huy, the Chamber would like to thank you for
2 participating in the hearings as summonsed by the Chamber for you
3 to provide the testimony. The Chamber acknowledges the
4 difficulty by you during the times of the testimony that you have
5 to answer several questions raised by both the Chamber and the
6 parties. In addition, the facts occurred more than 30 years ago
7 and it is difficult for you to recollect every detail. However,
8 the Chamber would like to thank you for your testimony.

9 [15.01.23]

10 The Court officer, can you provide the necessary arrangement for
11 the witness to return to his residence?

12 The Chamber would like now to take 20 minutes break until 20 past
13 3. During this time, the Chamber would like to remind the public
14 audience, according to the schedule the Chamber needs to have an
15 in-camera hearing amongst the parties of the proceedings as
16 requested by the international Co-Prosecutor this morning.

17 When the Chamber resumes, it will hold an in-camera hearing to
18 discuss the technical nature of the proceedings. So all the
19 parties to the proceedings are reminded to participate in the
20 in-camera hearing after the break.

21 (Judges exit courtroom)

22 (Court adjourns at 1502H into Closed Session)

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