

RESPECTFULLY SUBMITTED TO

The Co-Investigating Judges: YOU Bunleng and Marcel LEMONDE

Criminal Case File No. 001/18-07-2007 - ECCC/OCIJ

Subject: Submission of the Written Responses of KAING Guek Eav, *alias* Duch, in the wake of a Request of the Civil Parties

Your Honours,

We, **KAR Savuth** and **François ROUX**, Co-Lawyers for KAING Guek Eav, *alias* Duch, hereby submit to the Co-Investigating Judges a copy of the written responses of KAING Guek Eav with respect to the questions asked by Ms PHOENG Sunthary and Mr CHHUM Sirath, Civil Parties. We also hereby inform the Co-Investigating Judges that we have submitted this document to the lawyers for the Civil Parties. An unofficial translation in French of the responses mentioned above is attached to this letter.

Please, Your Honours, accept the highest assurance of our respect.

Phnom Penh, 15 July 2008

[Signature]
KAR Savuth

[Signature]
François ROUX

Cc: CHEA Leang and Robert PETIT, Co-Prosecutors

ឯកសារទទួល
DOCUMENT RECEIVED/DOCUMENT REÇU
ថ្ងៃ ខែ ឆ្នាំ (Date of receipt/Date de réception): 30, 07, 2008
ម៉ោង (Time/heure): 14:00
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: C.A. FRY

ឯកសារបានធនប្រយោជន៍ត្រឹមត្រូវតាមច្បាប់ស៊ីវិល
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME
ថ្ងៃ ខែ ឆ្នាំ ធានាបញ្ជាក់ (Certified Date/Date de certification): 30, 07, 2008
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: C.A. FRY

Original KH: 00204301-00204313

RESPECTFULLY SUBMITTED TO

**HONG Kimsuon, YONG Phanith
KONG Pisey and Silke STUDZINSKY**
Lawyers of **PHOENG Sunthary and CHHUM Sirath, Civil Parties**

Criminal Case File No. 001/18-07-2007 - ECCC/OCLI

Subject: Submission of the Written Responses of KAING Guek Eav, *alias* Duch, in the wake of a Request of the Civil Parties

Dear Co-Lawyers:

We, **KAR Savuth** and **François ROUX**, Co-Lawyers for KAING Guek Eav, *alias* Duch, hereby submit to the Co-Lawyers a copy of the written responses of KAING Guek Eav with respect to the questions asked by Ms PHOENG Sunthary and Mr CHHUM Sirath, Civil Parties. An unofficial translation in French of the responses mentioned above is attached to this letter.

Please, honoured Co-Lawyers, accept the highest assurance of our respect.

Phnom Penh, 15 July 2008

[Signature]
KAR Savuth

[Signature]
François ROUX

CLARIFICATION

on

Professor PHOENG Ton (ភីង តុន)

Previously, I absolutely rejected the premise that Professor PHOENG Ton had been at S-21. After seeing a photo of the professor at Cheung Ek and Tuol Sleng, I reconsidered this matter.

My present standpoint:

- The evidence provided by the Civil Parties is sufficient.
- I would like to acknowledge that the professor must have suffered inhumane hardship at S-21 – I acknowledge all crimes committed against the professor at S-21. In the name of the chief of S-21 – a criminal mechanism of the Communist Party of Kampuchea – I myself would like to maintain my standpoint in lowering my head to be brought to trial within the framework of S-21. I do not seek any excuse to exonerate myself.
- First, I would like to analyze a number of issues based on the request of Ms PHOENG Ghut Sunthary (ភីង ហ្គុត ស៊ុនថារី), the professor's oldest daughter and a Civil Party.

I. In the opinion of Professor KENG Vansak (កេង វ៉ាន់សាក់):

The date when illegal executions became policy is not known.

I would like to describe briefly the situation I knew and saw after 17 April 1975, because from that time the CPK alone had complete power in Cambodia. Namely, this responsibility cannot be placed on anyone else.

The forcible evacuation of the people was an openly criminal act. After this evacuation, people were executed secretly. They started to execute people from the day of the evacuation when the new people settled in remote areas; the executions continued up to 7 January 1979, the day they lost power.

Why did they execute people?

According to surviving evidence from S-21 – unforgettable information and testimonies that are in my hands – I would like to submit that first of all they killed their important enemies, including soldiers and civilians. Then they killed those whom they did not trust.

Doctors, who were intellectuals with appropriate skills and who were not enemies of any political regime, were arrested without denunciation. Dr RATH Kut (រ៉ាត គុត) was

sent to S-21 on 30 November 1975, and Professor TIP Mam (ទីព ម៉ម) was sent to S-21 on 14 December 1975¹.

II. The situation leading to the arrest of the professor

- A. ERN 00188834, ⑧ stated that the professor asked to be included in FUNK via Professor IM Saroen (អ៊ឹម សារ៉េន) and HING Un (ហ៊ីង អ៊ុន), but he was rejected. According to my analysis, POL Pot² was the one who rejected his application; and I believe that the professor's application to be included in FUNK became a reference document for POL Pot to make a decision on him.
- B. On 23 December 1975, the professor departed from Paris (his letter to Claude GOUR and HENG Vong Bunchhat ហេង វង់ ប៊ុនហាត).
- C. ERN 00188842, line 19.
When he arrived in Cambodia, first he was taken to K-15 (ក១៥); then he was taken to K-6³ (ក៦). Maybe he was kept at Boeng Trabêk only for a short period of time. That is why he could not think of "Boeng Trabêk" when MAN Nai (ម៉ម នៃ) was interrogating him.
- D. His written biography, which he submitted, was torn up. There is no doubt that the person who tore his biography up was POL Pot, because POL Pot was the one who held the highest power, both in the Party and the state. His biography was torn up, resulting in no information on the points of **Friends and Living Conditions**. Because of these events and my understanding at present, I think that POL Pot was the one

¹ RATH Kut, ERN 00171680 No. 8439, TIP Mam, ERN 00171752 No. 10823

² CPK policy concerning the inclusion of intellectuals in any organization was very strict. They did not allow feudalists and capitalists to come and take over the authority gained from their great sacrifice. For example, they did not allow KOU Run KOU Run គូ រុន គូ រុន (Samdach Sihanouk's meeting) to join FUNK and GRUNK. First, PONG Peng Cheng ប៉ុង ប៉េងចេង (PONG Chhiv Guek's ប៉ុង ឈីវហ្គេក father) was admitted, but later he was rejected. Another example is about myself: after I was released from prison (3 April 1970), I was assigned to collect the forces of FUNK in Phnom Penh. I merely collected the students of secondary schools; and the organization that had an absolute right whether or not to grant admission was the Phnom Penh Party Committee. If a poor peasant requested to be included in FUNK, the Party branch would make a decision.

³ ERN 00188842, line 19, in French ERN 00188846, line 3.

who ordered the arrest of the professor¹ when he had torn up the biography

III. Implementation of POL Pot's criminal orders on arrests

I would like to summarize this implementation, based on the facts before 17 April 1979 and the current documents that I have just seen.

The criminal act of arrests adopted by POL Pot was ordered to be implemented by SON Sen and supervised by NUON Chea. Various annotations that Khamboly DY cites in the book *A History of Democratic Kampuchea (1975-1979)*, DC-Cam, p. 78, are evidence².

SON Sen was superior to S-21. SON Sen had the power to give orders to S-71, where PONG (ឃុំ) and LIN (លីន) were chief and deputy chief.

S-71 was superior to K-15, K-6 and Boeng Trabêk.....

I believe that the professor was sent from Boeng Trabêk to S-21 by an order from the upper echelon. The word Boeng Tabêk ភ្នំ/ព្រំ was on the record of the S-21 confession and recorded as evidence.

IV. The date of sending the professor to S-21

I would like to analyze this event, based on the documents.

The professor was not sent to S-21 in January 1976, because he wrote his biography in January 1976³.

¹ Observation:

After 17 April 1975, POL Pot created a seriously controversial dispute with his people – POL Pot evacuated everybody, including the professor's family. The professor, who was a man of high ideals and responsibility towards his family, returned to the country, ERN 001888811, his biography, as evidence. POL Pot read this biography and realized that he had a dispute with the professor.

² Annotation: "in particular, Comrade Kheav contacted the East" (on the evidence which I attached). I believe undoubtedly that it was an annotation of POL Pot's, who had the power to order SON Sen to contact the East. I would like to mention that NUON Chea's name and NUON Chea's letter were not in this evidence, but in other evidence.

³ In the professor's biography, he wrote, "I have been away for ten months" – counting from 16 March 1975 (ERN 00188827, line 6) when the Professor left Cambodia; it was a full ten months by 16 January 1976. He wrote "ten months" at ERN 00188833 on the last two lines (in French ERN 00188819 in the last two lines).

Counting from the day the professor wrote his biography to the day POL Pot tore up the biography, I believe that it was the day that POL Pot gave the order to arrest the professor; it was about one month¹. So I assume that the professor was sent to S-21 in February 1976 (or early March).

I would like to confirm that the dates of entries on the S-21 list were not true for some victims that the S-21 committee needed to keep confidential – the registrar was not allowed to know the victims' names, so the registrar did not record the names and dates when those victims had just entered². Then, when there was a requirement to register, the dates were registered at random. Obviously, ERN 001888857 recorded that the professor entered on 12 December 1975 (the date of making the list was not available, the photo of the professor was taken when the professor was badly weakened) and ERN 00188853 recorded that 14 victims entered on 12 December 1976 (the date of making the list was not available, either). This shows that the date was recorded at random. It was accurate only with respect to the names and numbers of the victims, but the dates of some entries were wrong. The professor did not enter S-21 after March 1976.

In March 1976, I became chief of S-21 instead of Nath. The victims whom SON Sen (later NUON Chea) sent to S-21 had to go through me. I owe Professor PHOENG Ton a debt of gratitude – which I will never forget – just as I do to Brother RATH Kut. If I had been chief, my annotation would have been on the professor's confession, which was recorded by MAM Nai before being sent to the upper echelon.

V. Reasons I was unaware

SON Sen and perhaps other leaders of the CPK had a way of warning the lower cadres by ordering a chief secretly to deprive a deputy chief of a part of his authority. That deputy chief was not informed in advance.

Obviously, SON Sen ordered me to deprive Comrade Hor of his authority secretly without telling him – prohibiting Hor from reading the confessions, especially the important people's confessions, because Hor had leaked information.

¹ Comparing the document *A HISTORY OF DEMOCRATIC KAMPUCHEA*, p. 78, DC-Cam, on 15 October 1977, I made an annotation on the document and sent it to the upper echelon. On 11 November 1977 (namely 26 days later) SON Sen made an annotation on the same document after POL Pot had made a decision.

² Comrade Thy (SUOS Thy), a registrar of S-21, pointed this fact out clearly to a Co-Investigating Judge, Marcel LEMONDE, when the two Co-Investigating Judges were waiting for me to be interrogated at Tuol Sleng.

Having considered the matter thoroughly, I believe that it resulted from my request to keep brother RATH Kut¹, so that SON Sen ordered Nath, chief of S-21, to keep the case of Professor PHOENG Ton confidential.

VI. Interrogation

The document with ERN 00188829, paragraph 6, maintained that the interrogation was conducted at Boeng Trabêk. This claim is not correct.

The interrogation was conducted at S-21. The letter from 00188840 to 843 was written by MAM Nai – the oldest cadre at S-21. The three words – “SASALULOBA សាសាលូឡូបា”, “Conseil” កុងស៊ី and “Agrégation” អាហ្វ្រេកាស៊ីយ៉ុង stated the idea of MAM Nai². The word “Boeng Trabêk” ភ្នំ/ព, line 2, ERN 00188840, referred to the unit from which the professor was sent. The interrogation took two days and then it was over forever³.

The satisfactory confession – found in Khmer ERN 00188840 to 843, in French ERN 00188844 to 846⁴, stated that it was a preliminary interrogation. In general, no torture was used during the preliminary interrogation. On the one hand, I knew Brother MAM Nai well; he rarely tortured the prisoners. Because he got a satisfactory confession in two days of interrogation, I strongly believe that there was no torture.

VII. Crimes committed against the professor at S-21

The order to arrest the professor was made only by POL Pot, but actually it was also the role of S-21, which was their dictatorial mechanism and a place of detention, interrogation and smashing.

¹ Brother RATH Kut was a former student of Monastery 3 of Unalaom pagoda like me, but he was in the older generation. I respected him as my older brother because we both expressed our gratitude to the head of the monastery. I begged Nath to keep him alive with the excuse that there was no denunciation, he was not a former soldier and he did not have any status in LON Nol's regime.

² For Brother MAM Nai, Khmer can use a French borrowing, but a vowel system of Khmer peasants is needed. For example, *agrégation* should not be written “អាហ្វ្រេកាស៊ីយ៉ុង”. In Khmer there is no vowel sound “gu” ហ្គ or “gr” ហ្គ.

³ In 00188858 No. 34, there is Hor's annotation “2 days Stop”, in French 00188861.

⁴ Because the sentences written by MAM Nai are hard to understand and he used abbreviations, I would like to clarify in 00188846 (from line 3), entry into Cambodia: K15 and K6. There was a problem of incompatibility between the leaders and the masses.

The Essence (so-called regime), according to an interrogated person.

S-21 detained the professor in inhumane conditions for almost 20 months without any interrogation, resulting in a miserable death. I believe that there was no other prisoner who suffered for such a long time.

This happened because of Nath, who knew the facts; as a result, he was transferred. Then I became his successor. I did not know about this until now.

I regret that I did not know about the detention.

VIII. I would like to give some details about the crimes committed against the professor

The most terrible hardship the professor suffered was mental hardship – moral hardship. The professor returned from France because of his responsibility towards his family even though he was in danger of his life. This consciousness was expressed in his letter to Claude GOUR (ERN 00188811). Detaining him in a cell made him suffer mentally, and this suffering became worse and worse every day. In addition, his physical hardship was also terrible:

- Being detained day and night, his legs were shackled, a cramped cell, poor sanitation
- Malnutrition – both quantity and sanitation
- Insufficient health care, treatment and medicine
- Living in poor conditions in which he was looked down upon, etc.

I did not see these criminal acts, but I can assume that these acts existed. I recall these acts in order to beg the professor's soul for forgiveness because of my responsibility at S-21 and my conviction that I owe him a debt of gratitude.

IX. My standpoint and attitude towards the professor and his family

I should have assisted the professor out of sympathy, as I did Brother RATH Kut and H.E. CHAO Seng (ចៅ តេង). Because of this negligence, I have deep regrets.

I will never forget when I was a student of pedagogy (1964-1965). The professor was the rector of the Royal University of Khmer. He was a good man; he took care of the new graduates (including me), who were still volatile.

Perhaps it was in July 1965 when the professor presided over our graduation ceremony. He looked strong then; he stood and talked with us in the hall. Whenever I talk about him, I always see those criminal acts in front of me. When I saw his photos in S-21, I felt grief-stricken – I could not help shedding tears; I could do nothing but pay my respects to the professor's soul and beg for forgiveness. I will never forget him, and I regret so much not doing anything to express my gratitude.

However, my grief is like a drop of water in the ocean of great sorrow of his family.

~~D108/52/3~~~~D93/II~~

I really appreciate what the professor's family has done.

I humbly beg the professor's family members to accept my condolences.

I humbly beg the professor's family members to keep the door open, so that I can kneel down to beg the professor's soul for forgiveness in public.

Talking about this makes me deeply grief-stricken, because a lot of family members, including brother RATH Kut's family may have been killed.

10 July 2008

[signature]

KAING Guek Eav

The confession of LONG Muy (ឡុង មួយ), alias Chuon (ជួន)

A team leader of the Khmer-Chinese translation/interpretation pool in Office K-15

1. Can be important
2. This man is a string of the Cambodian-Chinese, interpreter/translator
3. I haven't read it yet; please, Brother, read it first.

[signature]
Khiev

**The history of the traitorous activities of
LONG Muy, alias Chuon**

Dear beloved brother,

1. The force that was reported this time was in Sector 22 – both in the revolutionary line and the network of KOK Minh Tang (old) at Pearang.
2. The highest force that he mentioned is Tum (តុំ).
3. He said that Comrade Ieng Si Pheng (អ៊ឹង ស៊ីផេង) was a revolutionist – he said in his own stance.

Regards,

[signature]
Duch
15 October 1977

This Khmer Rouge document and other surviving documents from that era contain a wide variety of information on Democratic Kampuchea. These documents give insight into how and why so many people lost their lives. In a sense, each document is symbolic of a life that the Khmer Rouge regime took away. There are over a million of these documents.

CLARIFICATION

Because it was a long time ago (about 30 years ago) and there are not enough documents, I would like to clarify from memory.

I. CHHUM Narith (ជំណាវិត), CHHUM Narith's family and I

1. Academic year 1964-1965
CHHUM Narith and I were in the same class. We were both outstanding students, but we just had a different network. However, our friendship was more than that of simple friends. When choosing the school to teach at, CHHUM Narith chose Kampong Thom High School; and I chose Skun Secondary School (Kampong Cham).
2. Academic year 1965-1966
Skun market, Chhieng Prey district, Kampong Cham province was where CHHUM Narith's family lived.

IENG Heng អៀង ហេង (older brother-in-law of CHHUM Narith) was a sport coach at Skun Secondary School. He had a good relationship with me because I was his colleague and his brother-in-law was a friend of mine.

At that time, CHHUM Sinareth ជំ ស៊ីណារ៉េត (CHHUM Narith's younger brother) came to my house very often. I knew that CHHUM Sarun ជំ សារុន (CHHUM Narith's older brother), was studying engineering in France, and had the same political tendency as CHHUM Narith and me. I knew this because CHHUM Sinareth told me.

3. 3 April 1970
At around 11 o'clock, I was walking out of the National Assembly (where the ceremony of my release had been held) with my mother. I stopped by a bookstore on Sihanouk Boulevard. Suddenly, I met CHHUM Nareth by chance. CHHUM Narith was surprised and happy; and so was I. Perhaps CHHUM Narith and I had the same feeling that I was being spied on. That is why neither of us rushed to shake hands. Then CHHUM Narith turned his face away and said, "You! Don't get confused!" I understood; and I replied, "No one gets confused." It meant that no one thought LON Nol was good.
4. 1973

D93/III

CHHUM Narith and other intellectuals, including NUON Khoeun (នួន ឃៀន), left Phnom Penh for the countryside, the liberated area of the Khmer Rouge. I got permission from VORN Vet (វ៉ែន វេត), and I chatted with him the whole night. After that, my friends and I were separated. Once in a while, one of them ended up suffering at S-21 – the criminal mechanism which was under my control.

II. My attitude towards the victims of S-21

I did not want to see the victims who were sent to S-21 because I was unable to help them at all. The policy of the Communist Party of Kampuchea was that there was no release of any prisoner who had been sent to S-21, whatever the reason for the arrest was.

For example, when S-21 was first established, SON Sen made a request to release KONG Socheat (គង់ សុផាតិ), *alias* Soeun (សៀន), (ERN 00171559 No. 4369) with the excuse of feeling sympathy for his father (KONG Sophal គង់ សុផល, *alias* Keu កី, deputy secretary of the North-western Zone), who was a member of the Central Committee, but the request was rejected by POL Pot.

Having paid attention only to reading the confessions and annotations on the confessions assigned by SON Sen – so that it would be easy for him to understand and deal with the problems – I did not have time to think about other matters. I felt deep sympathy for my old friends who came to S-21, but I pretended to be a deaf mute.

III. Regarding CHHUM Narith, his wife, his children and CHHUM Nareth

I do not know when CHHUM Narith got married or how many children he had. I believe the research of CHHUM Sirath (ជំ ស៊ីរាត), a Civil Party.

Because I did not get involved directly in the interrogations, I would like to admit honestly that I do not know what level of torture was used on the three of them (CHHUM Narith, KEM Sovannary and CHHUM Sinareth) or whether or not they confessed.

Concerning detention, I do not remember if I knew that CHHUM Narith, his wife and children were detained at S-21 during that time, but I admit that four of them (including CHHUM Sinareth) must have suffered a lot of inhumane hardship at S-21 before passing away. Therefore, I would like to lower my head to beg the souls of the four of them for forgiveness.

As the one who was responsible for S-21, I would like to lower my head and be brought to trial within the framework of S-21.

Regarding CHHUM Sinarath and another sibling

- I would like to seek your permission to apologize to both of you, who are family members of CHHUM Narith, KEM Sovannary, their children and CHHUM Sinareth.
- I would like to share your deep and everlasting grief over the loss of six siblings' lives during the POL Pot regime (two siblings at S-21, and four siblings outside S-21).

I would like to tell you honestly that the great sadness and tragedy of all the Cambodian people resulted from the Communist Party of Kampuchea. I was one of the CPK members; although I was only a middle-rank cadre, I admit my legal and moral responsibility towards my people and my country, both completely destroyed at that time.

10 July 2008

[signature]

KAING Guek Eav, *alias* Duch