



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

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TRANSCRIPT OF TRIAL PROCEEDINGS

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Case File N° 002/19-09-2007-ECCC/TC

16 June 2016
Trial Day 420

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

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KHIEU Samphan

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I N D E X

Mr. KAING Guek Eav alias Duch (2-TCW-916)

Questioning by Judge LAVERGNE resumes page 2

Questioning by Mr. KOPPE page 55

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KAING Guek Eav (2-TCW-916)	Khmer
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. LYSAK	English
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer

1

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

2 (Court opens at 0900H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear testimony of witness Kaing

6 Guek Eav alias Duch.

7 Ms. Se Kolvuthy, please report the attendance of the parties and

8 other individuals to today's proceedings.

9 [09.01.40]

10 THE GREFFIER:

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

12 are present.

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

14 waived his right to be present in the courtroom. The waiver has

15 been delivered to the greffier.

16 The witness who is to continue his testimony today -- that is,

17 Mr. Kaing Guek Eav alias Duch, is present in the courtroom.

18 Thank you.

19 [09.02.18]

20 MR. PRESIDENT:

21 Thank you, Ms. Se Kolvuthy. The Chamber now decides on the

22 request by Nuon Chea.

23 The Chamber has received a waiver from Nuon Chea, dated 16 June

24 2016, which states that due to his health -- that is, headache,

25 back pain, he cannot sit or concentrate for long. And in order to

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1 effectively participate in future hearings, he requests to waive
2 his rights to be present at the 16 June 2016 hearing.

3 Having seen the medical report of Nuon Chea by the duty doctor
4 for the Accused at the ECCC, dated 16 June 2016, which notes that
5 Nuon Chea has chronic back pain and it becomes severe when he
6 sits for long, he also feels dizzy and the doctor recommends that
7 the Chamber shall grant him his request so that he can follow the
8 proceedings remotely from the holding cell downstairs. Based on
9 the above information and pursuant to Rule 81.5 of the ECCC
10 Internal Rules, the Chamber grants Nuon Chea his request to
11 follow today's proceedings remotely from the holding cell
12 downstairs via an audio-visual means.

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

16 I'd like now to hand the floor to Judge Jean-Marc Lavergne to
17 continue putting further questions to the witness.

18 [09.04.05]

19 QUESTIONING BY JUDGE LAVERGNE RESUMES:

20 Thank you, Mr. President. Good morning, witness. Good morning to
21 all of you.

22 Q. Witness, yesterday, when we adjourned, I was putting questions
23 to you regarding the <experiments on humans> that had been --
24 that were <allegedly> carried out at S-21. You <have had> all
25 night <to think about this, I asked you>, a question regarding an

3

1 annotation that is on a list. And I'd like to focus on the name
2 of a young woman of the -- she is 23 years old, and you wrote,
3 "medical experiment".

4 So let me put the question to you again. Do you know why you
5 wrote "medical experiment", and what was the medical experiment
6 that this person was subjected to?

7 [09.05.12]

8 MR. KAING GUEK EAV:

9 A. Thank you, Your Honour.

10 Yes, I did think about that matter <overnight>, but I could not
11 recall anything about that. I have not seen this document either
12 during <the> proceedings or during the investigation stage.
13 <Furthermore, when I first testified here as a witness, I did not
14 see that kind of document either>.

15 And on another matter, I do not recall that S-21 ever produced
16 any medicine based on experimentation on prisoners. There was
17 only one case -- that is, about the eight pills that I <was asked
18 by Uncle Nuon to test on the prisoners. So, I would like to
19 clarify that there was no such case> at S-21.

20 Q. Fine. Thank you. Because you already spoke about the pills at
21 length, there's no point repeating this.

22 Now I'm going to screen an excerpt from a documentary by the name
23 of "<Die> Angkar" in German which was produced by East German
24 journalists in the 1980s. In this documentary, a notebook is
25 going to be shown and it is indicated that one of the <medic>

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1 cadres at S-21 was allowed to carry out medical experiments.

2 [09.06.56]

3 First, I would like the AV Unit to screen the excerpt in this
4 documentary regarding this medic. This is the image called --
5 entitled "Medic".

6 So apparently this person <was> 21 years old, according to this
7 document, and apparently this person was called Pheng Saur
8 (phonetic) -- Pheng Saur (phonetic).

9 On the case file, we have a list of medics in which we can see
10 this name, so I'd like to provide you with this list. This is
11 document E3/10120 at ERN 01014173.

12 And this is the fifth person on the page that I just indicated.

13 Do you know <this person named> Pheng Saur (phonetic), who was
14 characterized as being <a> medic combatant, and who apparently
15 entered S-21 as a prisoner on 20 July 1978? Does this name ring a
16 bell?

17 A. I do not know this person. The name does not ring a bell to
18 me.

19 [09.09.42]

20 Q. Fine. I'm now going to ask the AV Unit to screen the excerpt
21 regarding this notebook.

22 And the excerpt is entitled "Medical booklet". There are two
23 video segments we are going to screen.

24 Witness, please look at the screen.

25 [09.10.22]

5

1 (Audio-visual presentation)

2 [09.10.33]

3 JUDGE LAVERGNE:

4 The last image of course, is not at all connected to S-21. That's
5 an error. But I would like now to present the images in which we
6 can read what appears on this notebook. So <I prepared this with
7 the intention of showing it to the witness,> can we provide to
8 the witness the images and can the AV Unit screen these pages,
9 please? <I hope we-->

10 Or is it possible to play the video again, which shows this
11 notebook? And maybe to stop at the first page.

12 [09.11.30]

13 (Audio-visual presentation)

14 [09.11.45]

15 BY JUDGE LAVERGNE:

16 Q. So here, there are several pages. These pages were translated
17 by ITU, and these translations are found at E3/719, and in
18 particular at ERN in English, 01248192.

19 And the image that we see at 10.28.57 states the following in
20 English:

21 "Human experiment: A 17 year-old girl had her throat slit and her
22 abdomen pierced. She was put in the water from 7.55 p.m. to 9.20
23 p.m. The following day, her body began to emerge and kept
24 floating."

25 Then there's an illegible word, then there's another sentence: "A

6

1 17 year-old girl was beaten and put in the water from 7.55 p.m.
2 to 12.25 a.m. The girl began", and then we cannot read the rest.

3 [09.13.30]

4 On another page, we can read the following, so this is at time
5 code 10.29.24.12: "Point 9. A girl" -- followed by "illegible"
6 word "<was put in the water> from 7.55 p.m. to 3.00 a.m. and then
7 had her body emerge."

8 "Note: The girl <placed> in the water with her hands tied and her
9 body emerged on her back.

10 "The boy <placed> in the water with his hands tied also had his
11 body emerge on his back."

12 Now the last page, which reads as follows -- this is at
13 10.29.43.18:

14 "<The adult girl placed> in the water with her hands untied and
15 had her body emerge on her stomach, according to the actual
16 examination."

17 Witness, does this refresh your memory in any way? Did you ever
18 hear about such experiments?

19 MR. KAING GUEK EAV:

20 A. <For> the combatant, Pheng Saur (phonetic), <there was an
21 annotation indicating> that the arrest was on the 20 of July
22 <'78> and, of course, that was the <period> that I was in control
23 of S-21. And allow me to clarify it again.

24 There <were> no medical experiments during this period, nor
25 <were> there any human experiments <like that>. From the look of

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1 it, this does not seem like medical experiments, but seems like
2 somebody played <a torture game> with that detainee. <I do not
3 believe that kind of game existed at S-21.>

4 [09.16.14]

5 And this combatant, Pheng Saur (phonetic), from the photo that
6 <was shown to me>, I never saw him<>. So again, <around> 1978,
7 <at S-21> there <were> no medical experiments, nor any human
8 experiments or any person <who> played around with the prisoners
9 <in such a manner>.

10 Q. So you're telling us that you're not aware of such experiments
11 which, of course, can be difficultly characterized as medical.
12 However, are you telling us that such experiments could never
13 have happened without you knowing it?

14 A. This report did not mention water or about any experiments to
15 do with water or which pills or medicine was given to this
16 person. <It was not clear,> so I must say that I <deny> <> its
17 existence.

18 [09.17.51]

19 Q. There might have been a translation issue here. What I was
20 asking you is, is it possible that these experiments happened
21 without you knowing it?

22 A. I more than 50 per cent <sure> that it is not possible.

23 Q. We see that these experiments in which the bodies of dead
24 people are placed in water, at one point in time, did they
25 consider throwing bodies of S-21 prisoners in water, whether it

8

1 be in <lakes> or whether it be in the Mekong?

2 A. Regarding this matter, allow me to clarify it as follows.

3 <Around> 1977, there was a dead body floating and <it> got stuck
4 near the base of Division 920 -- <I am not sure which division it
5 was, but it was Comrade Tat's division>. And the body had <a>
6 green shirt on. Brother Son Sen said the dead body could be <a>
7 worker of Brother Vorn, but Brother Vorn denied that. And that
8 discussion happened at the Party Centre <Office>, and <at the
9 time> Son Sen <told me that> Uncle Nuon <instructed me> to
10 conduct <an> investigation <on that body, and that Angkar could
11 provide me with all kinds of support I needed> in order to find
12 out what actually happened.

13 And I went to examine the dead body. <It was Comrade Tat who
14 brought the dead body to me for examination>. The abdomen of the
15 dead body was cut open and sewn with <a two millimetre-thick>
16 wire. However, the wire broke due to the weight of the dead body.
17 Then <I ordered to have> a piece of the shirt <> cut from it so
18 that I could attach it to my report <to the upper echelon>. And I
19 had to find out from which direction the body floated.

20 [09.21.11]

21 <After I made a report to the upper echelon, I was instructed to
22 investigate the case further.> I actually threw a <gasoline
23 barrel> into the <river in front of the Royal Palace> in order to
24 observe which direction it <would flow. At the time, Brother Pin
25 took me for a boat ride>.

1 So I dropped the barrel near the station of naval unit of 152
2 <along Mekong River>, and then I had to <figure out> how many
3 days that dead body <had been> in the water <before it> actually
4 got swollen and started to float <like that>. And I asked Hor to
5 <> test <a theory that I came up with> at <a> pond that I said
6 <it was to the east of> Street 163 and <to the north of> Mao Tse
7 Tung Boulevard. <So, it was not a medical experiment, it was just
8 a way to figure out how many days it would take for a dead body
9 to float after it was dumped in the water.>

10 So at that time, <at least> two dead bodies were used for such
11 purpose in order to conduct the investigation <so that I could
12 made an accurate report to the upper echelon>, and I concluded
13 that the dead body was not that of a worker, as Son Sen said. I
14 made my conclusion that it could be a dead body of a prisoner
15 from <Preaek Pou. That document did exist at the Central Office>.

16 [09.22.54]

17 And that's what happened with <the> floating body, and then I
18 conducted the investigation into the matter and then, of course,
19 I had to find out how many days <it took for> a dead body <to
20 float after it was dumped in the water>.

21 Q. And according to you, the experiments that you conducted for
22 investigation purposes have nothing to do with the experiments
23 that are described in this notebook. These are two completely
24 different things, according to you.

25 A. Yes. They were two different things. I asked Hor to conduct

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1 the experiment in order to find out how many days the dead body
2 could stay in the water before it floated.

3 Q. Fine. You said earlier that you did not recognize the medic
4 whose biography we see in the documentary, "The Angkar", the
5 <person named> Pheng Saur (phonetic). However, do you believe
6 there never was a Pheng Saur (phonetic) at S-21, or are you
7 simply telling us that there were many medics and you couldn't
8 know all of them?

9 [09.24.40]

10 A. I only <knew> chief medics, as I mentioned their names
11 yesterday, including Set, Oeur (phonetic), and <particularly> Try
12 who frequently came to my house. As for the ordinary medics, I
13 did not see them.

14 Q. Fine. Now we are going to turn to another topic, and I would
15 like to return to statements that you made on Monday <at the
16 beginning of this week,> when you were being examined by the
17 International Co-Prosecutor.

18 So this was at the hearing of 13 June 2016 at around 3.01 in the
19 afternoon. And you were questioned by Mr. Dale Lysak, and he
20 asked you if there were many Vietnamese soldiers who had been
21 detained at S-21.

22 And you spoke about a soldier. Maybe his name is misspelled, but
23 in any case, he is known as Nor (phonetic) <in the French
24 transcript>. But then later on, you said that this was Vu Dinh
25 Ngo. So do you remember this soldier?

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1 You said that apparently he was the first soldier who was
2 interrogated, and his interrogation was recorded. Do you remember
3 this prisoner, and what was his exact name?

4 [09.26.54]

5 A. The <exact> name of that "Yuon" <soldier> who arrived on that
6 day - that is, 6 January 1978; before the arrival of <> "Yuon"
7 soldiers, Uncle Nuon told me that <"Yuon" soldiers> would be
8 brought in and that we had to interrogate <them> and tape record
9 <their confessions> so that it could be broadcast on the radio
10 and that there should be two broadcasts per day, <I cannot recall
11 which day of the week>, and each segment should last between 10
12 to 15 minutes.

13 That was his instruction.

14 So Vu Dinh Ngo actually is the name of that Vietnamese soldier.
15 Vu Dinh Ngo.

16 Q. Well, this name appears several times in the S-21 documents,
17 in particular in a list, E3/8436, at Khmer ERN 00086819.

18 Can we please provide this list to the witness?

19 (Short pause)

20 [09.29.14]

21 BY JUDGE LAVERGNE:

22 Q. Do you recognize the name of this prisoner on this list,
23 Witness?

24 MR. KAING GUEK EAV:

25 A. Yes, I do. And the age here is 48 years old, which is similar

12

1 to the appearance of the person that I saw at the time.

2 Q. This name also appears on another list, <which may be the same
3 one,> and the reference is E3/8492. And the list is titled
4 "Section <for> 'Yuons' who were spies".

5 Was that an entirely different category of detainees at S-21
6 titled "Yuons who were spies"?

7 A. At S-21, soldiers were labeled as soldiers and, of course,
8 according to their rank, too. <Vietnamese ranks were categorised
9 as Colonel and Lieutenant.> And <at the time, most of arrestees>
10 were <either Lieutenants or ordinary> soldiers. And that would
11 also <be> <mentioned> in the registry.

12 [09.31.01]

13 <Those> who <were> labeled as spies could not be the soldiers who
14 actually surrendered by raising their hands at the battlefield.

15 Usually, they disguised themselves as civilians and were
16 arrested. So these are two separate groups, soldiers and spies.

17 As for Vu Dinh Ngo, he was a "Yuong" Major, <he used to serve the
18 Thieu Ky>, and he could speak French rather fluently. His French
19 was even better than mine. And he could also speak some English,
20 though he could not speak Khmer.

21 So there were two distinct categories, those soldiers and spies.

22 Q. Do you recall the circumstances under which Vu Dinh Ngo --
23 apparently his name in Vietnamese is Vu Dinh Ngo, N-G-O.

24 Do you recall the circumstances under which he was arrested?

25 A. To my recollection, he was arrested on 6 January 1978, but the

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1 date in this document is different, the 3rd January 1978. The
2 date is different. However, I would like to clarify that the
3 interrogation of "Yuon" started from 6 January 1978 under the
4 instruction that the confession of "Yuon" should be obtained <and
5 broadcast on the radio>.

6 [09.33.10]

7 Q. Witness, my question had to do with the circumstances under
8 which that person was arrested.

9 Was he arrested at sea, on land? Was he alone? Can you provide us
10 with details regarding those circumstances<, if you have them>?

11 A. I did not partake in the interrogation of Vu Dinh Ngo. Chan
12 was the one who conducted the interrogation. And there was a
13 <Vietnamese> interpreter, Pha Tha Chan, <and there was a French
14 interpreter, Brother Sao Seng (phonetic), there as well. From
15 that time onward, Brother> Mam Nai <started to study the
16 Vietnamese language, so I did not interrogate him>. And I cannot
17 recall whether Vu Dinh Ngo had been arrested on land or at sea.
18 But what I can tell you is that Vu Dinh Ngo was a soldier.

19 [09.34.36]

20 Q. A soldier from which army?

21 A. Vu Dinh Ngo was <a> former soldier for the <Government of>
22 Southern Vietnam <called a Thieu Ky soldier or a soldier> of
23 President <Nguyen Van Thieu and the Vice President Nguyen Cao
24 Ky>.

25 And after North Vietnam captured South Vietnam <or Prey Nokor>,

14

1 he was transferred to work with the new government.

2 Q. Now, Vu Dinh Ngo's confessions were broadcast on the radio and
3 they were the subject of several publications, including a
4 document which is E3/8394. That is a pamphlet published by the
5 information service of the Democratic Kampuchea Ministry of
6 Foreign Affairs, and the pamphlet is titled, "Testimony on the
7 invasion of Cambodia by the Vietnamese" published in July 1978.
8 <We can find these confessions published on pages S00011408 to
9 412 in French.>

10 [09.36.50]

11 BY JUDGE LAVERGNE:

12 Q. We also have the document in Khmer. The ERN is 00293980. Let
13 me repeat, 00293980. And in English -- since the pamphlet was
14 also published in English -- we find this document at the
15 following ERN, S00011374.

16 The first bits of information in these confessions concern the
17 circumstances of the arrest of that soldier described as a former
18 aspirant of the <Thieu-Ky Navy>. It is said that he was arrested
19 at sea <on a boat> with 15 <adult> passengers and 25 children
20 aged under 15.

21 Does that refresh your memory, witness?

22 [09.38.16]

23 MR. PRESIDENT:

24 Please hold on, Mr. Witness.

25 You may proceed, Anta Guisse.

15

1 MS. GUISSÉ:

2 Yes, Mr. President. Thank you.

3 I <apologize but I> have some difficulty locating the passage
4 cited by Judge Lavergne, and I would like to make the same
5 remarks I've made over the past <two> days. <If I understand
6 correctly, I don't have the pages in front of me, but the>
7 contents of confessions are being expressly quoted, and the
8 witness is being asked to comment on the circumstances
9 <expressly> described in those confessions, and it is not in line
10 with the decision of the Chamber and it is contrary to the
11 Convention Against Torture.

12 MR. PRESIDENT:

13 You may proceed, Deputy Co-Prosecutor.

14 [09.39.24]

15 MR. LYSAK:

16 Thank you, Mr. President. Just an observation.

17 The broadcast of -- the fact that these confessions were
18 broadcast on the radio is a, obviously, very significant fact
19 that's not barred by the Torture Convention. In order to
20 ascertain or confirm that what was broadcast on the radio came
21 from documents from S-21, you need to correlate the two, so there
22 is a very important use of this evidence that is strictly not
23 barred by the Convention.

24 I don't think anyone is trying to use this to ascertain the truth
25 of the contents of the confessions from S-21, but more to the

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1 process that was involved here and the knowledge of the leaders
2 and the dissemination of this information obtained by torture for
3 propaganda.

4 [09.40.33]

5 MS. GUISSÉ:

6 Thank you, Mr. President. Very briefly, let me respond.

7 I do not see how the fact that the confessions were broadcast on
8 the radio would make the Convention Against Torture
9 non-applicable. Let me recall that the Chamber issued a decision
10 that is similar to the objection I'm making today since, at the
11 time, the Co-Prosecutor, Vincent De Wilde, was the person who
12 wanted to read confessions that were broadcast on the radio and
13 the Chamber refused that those confessions be used for the same
14 reasons I have made today.

15 So the broadcast of those confessions at S-21 on the radio
16 doesn't <change the fact that> these <are> confessions <and they
17 are subject to the same rules as the other confessions.> I <think
18 there are different ways to put to the questions to the witness
19 on the matter, and I would like to make this observation at this
20 point and ask> the Chamber to act coherently in light of its
21 decision.

22 (Judges deliberate)

23 [09.43.05]

24 BY JUDGE LAVERGNE:

25 Very well. The objection made by Counsel Anta Guisse is upheld

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1 <by the Chamber>. We'll move into another line of questioning
2 regarding Vietnamese prisoners.

3 Q. First of all, as regards those prisoners, you stated that it
4 was Uncle Nuon who told you that those prisoners were going to
5 arrive at S-21 <if I understood correctly>. Is that, indeed, the
6 case? Was it Uncle Nuon who told you that you were going to
7 receive those prisoners and that you had to interrogate them?

8 MR. KAING GUEK EAV:

9 A. Uncle Nuon said that in general, and he <told> to me in
10 general that "Yuons" would be sent into S-21, <and I had to
11 interrogate them>. <Their confessions would be> broadcast <on the
12 radio, and it> was <> about the intention of <the> "Yvon" <to
13 invade Cambodia and to integrate Cambodia into> the <Indochinese
14 Federation> and that "Yvon" was the aggressor. <He did not
15 mention that particular prisoner, but> he said that "Yvon"
16 <soldiers> would be sent to me.

17 [09.44.35]

18 Q. On Monday, this is what you stated at about 15.09.18:

19 "Why did we have to interrogate the 'Yvon' soldiers with regard
20 to the invasion plan and with regard to the person who issued the
21 order for the invasion?" <You said, ">I think it was a waste of
22 time to interrogate them on that point. I <settle for> following
23 the orders of the upper echelon and <doing> what I had to do to
24 push them to confess that they had been sent by their superiors
25 to invade Cambodia and to <integrate> Cambodia <into> the

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1 Indochinese federation."

2 Why did you say that it was a waste of time to interrogate them
3 on that invasion plan? <What does that mean?>

4 [09.45.40]

5 A. Thank you, Your Honour.

6 Let me clarify the matter and what I said. My intention is to
7 tell the truth.

8 <> I said it was a waste of time to interrogate "Yuon" <soldiers
9 about other matters>. The questions which were very important
10 <were the ones about> the intention of their leaders <to invade
11 Cambodia>. That <was the> information <most> important for the
12 world to be aware of, so we asked only about the invasion of
13 "Yuon" <and those confessions were broadcast on the radio>.
14 The other matters were useless, and I agreed with this principle
15 by my Party.

16 Q. So according to you, those confessions were going to
17 <irrefutably> establish the Vietnamese <secret> plan, which was
18 to invade Cambodia.

19 [09.47.10]

20 MR. KAING GUEK EAV:

21 A. Thank you.

22 I will not expand on the situation. <our intention> at the time
23 was to allow <the> "Yuon" to confess that they came into Cambodia
24 because they wanted to <invade>, swallow <Cambodia,> and annex
25 Cambodia into <the Indochinese Federation>. In the French colony,

19

1 the <small> Indochina included Tonkin, Annam, Laos, Kampuchea and
2 <Cochinchina, these five regions were combined together to become
3 a province of Republic of France>. So the <small> Indochina
4 consisted of the five regions. And <big> Indochina consisted of
5 Laos, Vietnam, <Cambodia>, Thailand and Burma.

6 So at the time, I understood that that was the intention or the
7 attempt of <the> "Yuon".

8 [09.48.34]

9 BY JUDGE LAVERGNE:

10 Q. Were those Vietnamese prisoners tortured?

11 A. Yes, but not <seriously>. And they were not seriously
12 tortured, although they were told to confess what I said. <Of
13 course, prisoners of war and spies were tortured in order to get
14 confessions>.

15 So forcing them to say what I just said was not serious torture.

16 Q. Very well. I'll return to the interrogation of those prisoners
17 subsequently.

18 I would like to show you another document, and it is E3/10521.

19 The ERN in Khmer is 01180411 <to> 417.

20 Can the document be given to the witness?

21 The English translation of this document is available under the
22 following ERN number, 01191483 till 495.

23 This is a biography of persons who appear to have been detained
24 at S-21, and it is a series of five biographies. And on the first
25 page, we read: "Arrested on the 30th of November 1975 and sent to

1 S-21 on the 6th of May 1976."

2 Do you see this annotation?

3 Look at the first page, Witness: "Arrested on the 30th of
4 November 1975 and sent to S-21 on the 6th of May 1976."

5 [09.51.56]

6 A. Thank you. I have found it.

7 The document number -- the ERN number ends at 14. <The> "Yuon"
8 who <was> sent to me <was> <Nguyen Hiu Lang> (phonetic). He
9 <crossed the sea border> 20 kilometres<, and it was near> Koh
10 <Thas> (phonetic). That person <only confessed that he crossed
11 the sea border in order to catch fish>--

12 Q. <First, do> you recognize the writing on this document. Do you
13 know who wrote that document?

14 [09.53.10]

15 A. Thank you.

16 I cannot recognize the handwriting. I do not recognize this
17 handwriting. It happened a long time ago.

18 Q. <Do these> biographies that correspond to biographies that
19 <were> collected when detainees <arrived> at S-21, since they are
20 not confessions per se.

21 A. You said this document is a biography. Yes, this is the
22 biography. Usually, <the> biography consisted of two pages. This
23 is the brief biography that we prepared at S-21, and these
24 individuals were not yet interrogated.

25 Q. When <exactly> were these biographies drawn up? Were they

21

1 drawn up when the <people> arrived at S-21?

2 A. <These biographies were drawn up immediately> when they
3 arrived at S-21. I do not know whether these individuals had
4 already been photographed, but upon their arrival, the
5 biographies were drawn up <immediately>.

6 [09.55.20]

7 Q. So those biographies <correspond with those which> were
8 written immediately upon the arrival of the prisoners. Is that
9 what I should understand from your testimony?

10 A. That is true.

11 Q. Very well. What I read in this document is that all these
12 prisoners stated that they entered Cambodia's territorial waters
13 for fishing. In what category of prisoners were such detainees
14 included? Was it <as> spies, or another category?

15 MR. PRESIDENT:

16 Please wait, Mr. Witness.

17 You may proceed, Counsel Anta Guisse.

18 [09.56.27]

19 MS. GUISSSE:

20 I am sorry to interrupt again. Quite simply, I am somewhat
21 perplexed by the <uniquely> biographical nature of this document
22 because I see the ERN in English is 01195308. The <annotation
23 "she confessed",> which appears to suggest that, at a point in
24 time, <there was an interrogation - and in any case,> this
25 information was obtained <from> interrogations.

22

1 <So> I would like to bring this to the Chamber's attention <to
2 this passage, and perhaps we can have more clarification on this
3 point, but in any case, I see "she confessed".>

4 JUDGE LAVERGNE:

5 Perhaps we should look at what is said in the Khmer version. It
6 is possible that "confessed" could also be translated as
7 "stated".

8 Where is the passage, exactly?

9 MS. GUISSÉ:

10 My colleague could perhaps indicate it in Khmer. I'm looking at
11 the ERN in English is 01195308.

12 And here we have paragraph 1 which is titled in English,
13 "Personal information". And we have the second paragraph which
14 states "Reasons for the arrest". And in that paragraph, on
15 "Reasons for the arrest", we have the note "Confessed".

16 My colleague who has the Khmer document will perhaps read it in
17 Khmer for purposes of further clarification, but I'm looking at
18 what I -- what is written in the English version.

19 [09.58.12]

20 JUDGE LAVERGNE:

21 Perhaps your colleague could give the document to an officer of
22 Court for the document to be read<, maybe by -->.

23 MR. PRESIDENT:

24 Counsel Kong Sam Onn, could you clarify the issue?

25 MR. KONG SAM ONN:

23

1 Mr. President, I would like to read it in Khmer for clarity. In
2 the last page of the document, there is red writing stating:

3 "Note, this name confessed that he or she came to fish, to cook
4 for 'Yuon', that they came to fish in the area."

5 So in the note it states that <the> individual confessed, so <it
6 means> that individual had already been interrogated. That's why
7 she or he confessed.

8 [09.59.40]

9 BY JUDGE LAVERGNE:

10 Well, nobody is going to deny that this person was interrogated
11 because or obviously, to draw up biographies <upon arrival>,
12 prisoners had to be interrogated.

13 Q. But Witness, can you provide us with your point of view
14 regarding the use of these terms?

15 <Were> these statements made <during the interrogation, or simply
16 when the> prisoner was interrogated <upon arrival>?

17 MR. KAING GUEK EAV:

18 A. <The document> ending with number 414 is a -- is the
19 production of a detainee who had just arrived.

20 As for the word "confession" was due to the limited knowledge in
21 terms of international and national laws by my staff. So for
22 Nguyen Hiu Lang (phonetic), this document was produced upon the
23 arrival of that individual.

24 [10.01.15]

25 Q. I'd like to put a last question to the witness before we

1 proceed.

2 So does that mean that <at that time> no torture was inflicted
3 upon these prisoners?

4 A. The <prisoners> who <were> interrogated and tortured <were>
5 the <prisoners> who had to be first placed in the cell and, later
6 on, the interrogators would take them for interrogation. As for
7 <newly arrived prisoners>, upon their arrival, <they were allowed
8 to sit on chairs, and> <their> biographies had to be <drawn up as
9 usual>.

10 In this particular case, <I believe>, the detainee was sitting
11 <on> a chair opposite the <interrogator> near the <photography
12 office>.

13 [10.02.33]

14 MS. GUISSÉ:

15 I apologize for getting back to this again.

16 Maybe <it's> an extra line of questioning here to clarify this
17 point, but Suos Thy said that he would draw up lists, and <we
18 asked him several times, and he> said that at no point in time
19 when this first interrogation was carried out regarding the name
20 and the prisoner's position <did he have the reason> -- he
21 <didn't say - he didn't ask about> the reason for the arrest. <So
22 that's still a problem, regarding statements made by Suos Thy.>

23 So that's a point that needs to be clarified if we want to be
24 sure that we are not using documents that are forbidden, but I
25 would like to remind <you of - and I think the Chamber remembers

25

1 --> Suos Thy's statements regarding the very basic nature of the
2 questions that were put and the fact that he, himself, never
3 mentioned the reasons for the prisoners' arrests.

4 JUDGE LAVERGNE:

5 It appears to me that Suos Thy said that in order to <question
6 the> prisoners <on their biographies>, he was assisted by an
7 interpreter. Maybe we do not have the same recollections, but <it
8 seems> it was clarified, however, that these biographies were
9 biographies were written up before the prisoners went into their
10 cells, that these were written when they arrived in Suos Thy's
11 office while they were sitting in front of Suos Thy.

12 [10.04.20]

13 MR. LYSAK:

14 Just an observation. This document is one of two things. It's
15 either a biography made at the outset or it's a report from an
16 interrogator. This is not a statement from the prisoner
17 themselves.

18 These reports that have been -- that are written by the
19 interrogators have been used repeatedly by this Court, as have
20 biographies, so this is not a confession statement from the
21 prisoner under any circumstances. It is -- I'm not sure, but it's
22 either a biography or it's a report from one of the S-21 staff.

23 [10.05.06]

24 MS. GUISSÉ:

25 Regarding the fact that this is simply a report, well, I remember

26

1 that <during this same hearing> when my colleague, Victor Koppe,
2 tried to use a report in which there were elements that were part
3 of a report but also that contained elements from confessions,
4 the Chamber said that he could not use this document, so now I'm
5 asking for the same consistency.

6 It's not because we're speaking about a report that there are no
7 elements that come from confessions, and upon reviewing this
8 report, we can see<, as the Chamber did when my colleague Mr.
9 Koppe was questioned> that there were elements of -- we can see
10 if there's a risk that there may be elements coming from a
11 confession as the Chamber did when it did not allow my colleague,
12 Koppe, to use that report.

13 JUDGE FENZ:

14 Can I just ask a question?

15 Are you -- just understand the scope of your argument. Are you
16 basically saying no bio should be used because it's a statement
17 in the wider sense?

18 MS. GUISSÉ:

19 I'm sorry. I did not understand your question. I have a problem
20 with my headset, apparently.

21 [10.06.44]

22 JUDGE FENZ:

23 Okay. I'll repeat. Does it work? Yes.

24 Are you saying no biography should be used because any biography
25 is a statement, in the wider sense?

1 MS. GUISSÉ:

2 No, that's not what I'm saying. What I'm saying is that when
3 there are elements that <we have reason to believe come from -
4 like the use of the term "confession" - that> there may be
5 elements that were obtained under torture. <And if it's just on
6 the name - and it is, in any case, elements that> that <are>
7 authorized by <- even> the Convention <-- the date, the name, a
8 priori an initial position, yes, that can be - that can be
9 authorized.> But now, regarding the substance <of why, how>, here
10 we're dealing with details that are prohibited by the Convention
11 <against> Torture.

12 So we should be clear we are not objecting to elements that are
13 authorized by the Convention.

14 [10.07.30]

15 JUDGE LAVERGNE:

16 So if a prisoner <said> that "I confessed that my name was Mr.
17 Smith", that would be forbidden?

18 MS. GUISSÉ:

19 No. But when we speak about the circumstances of why this person
20 was arrested and <what would constitute recognizing or admitting>
21 an offence <committed by that person,> then yes, then we fall
22 into prohibited territory.

23 MR. LYSÄK:

24 Let me say, I agree with that last part. To the extent there is
25 discussion in here about confessing the substance of their

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1 confession, of course that's barred. But these reports contain a
2 lot more than that. They contain the biographical information
3 that has been clearly established to not come from torture, and
4 they contain descriptions by the interrogators on the procedure,
5 whether torture was used, the procedure of interrogation. That
6 clearly is not barred by the Torture Convention.

7 So it's really a question of what use you are trying to use the
8 documents for. But I agree with the last part of that -- of what
9 counsel said.

10 [10.08.56]

11 JUDGE LAVERGNE:

12 So Co-Prosecutor, to be clear about this, in these bios, the
13 people state <upon their arrival, it seems,> that they penetrated
14 into Cambodian territorial waters to fish.

15 Do you believe that this should be forbidden, that we should not
16 use this information?

17 MR. LYSAK:

18 I think it has to be clear in order to use it that that is
19 something that's coming not from the prisoner, but from
20 information on the reason the prisoner was brought that would
21 have come from the cadres themselves at S-21. They would have had
22 some information on arrival as to why the prisoner was brought
23 there.

24 But if it's coming from the prisoner themselves as part of their
25 interrogation, then there is an issue.

29

1 (Judges deliberate)

2 [10.15.19]

3 JUDGE LAVERGNE:

4 Well, the Chamber has deliberated, and sustains Counsel Anta
5 Guisse's objection, however, specifying that I have a dissenting
6 opinion on this.

7 I don't know, Mr. President, should we continue or-

8 MR. PRESIDENT:

9 Counsel Victor Koppe, you have the floor.

10 [10.15.47]

11 MR. KOPPE:

12 Yes. Just before you break, Mr. President, I believe there is
13 still an issue of the civil parties having oral submissions on
14 the reparations on the fourth segment of today. I was wondering
15 whether that is still going to happen.

16 MR. PRESIDENT:

17 Thank you, Counsel.

18 It is now convenient to have a short break. We'll take a break
19 now and resume at 20 to 11.00.

20 Court officer, please assist the witness at the waiting room
21 reserved for witnesses and civil parties and invite him back into
22 the courtroom at 20 to 11.00.

23 The Court is now in recess.

24 (Court recesses from 1016H to 1038H)

25 MR. PRESIDENT:

1 Please be seated.

2 The Court is now back in session and the floor is given to Judge
3 Lavergne to resume the questioning. You may proceed.

4 [10.38.56]

5 BY JUDGE LAVERGNE:

6 Thank you, Mr. President.

7 Q. Witness, we have to forget about the biographies given to you.

8 I have a general question for you.

9 When you were the Director of S-21, do you remember whether there
10 were Vietnamese prisoners who were fishermen and who had been
11 sent to S-21?

12 MR. KAING GUEK EAV:

13 A. <> Vietnamese who entered into Cambodian territory <had to be>
14 arrested and sent to S-21. <If they were not soldiers and were
15 arrested before that date, they> were considered <spies> and
16 underwent interrogation.

17 [10.40.05]

18 Q. Was it only some of those who were sent to S-21 who were
19 considered as spies, or all those who were sent to S-21 were
20 considered as spies?

21 Do you understand my question?

22 Was it only some of those who were sent to S-21 who were spies or
23 it was all those who were sent to S-21 who were considered as
24 spies?

25 A. After they were sent to S-21, the decision was made by the

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1 upper echelon that they were spies. <In short>, not only "Yuon",
2 <even> the four Westerners who entered into <Cambodian territory>
3 were <also> considered spies, <and they were sent to S-21>. And
4 Thai fishermen or Siam fishermen were considered spies, <and they
5 were smashed>.

6 And I told the Court already about the issue.

7 [10.41.52]

8 Q. We're now going to talk about the interrogation of Vietnamese
9 prisoners.

10 You have stated that those interrogations were carried out by Mam
11 Nai <alias Chan>. <But Mam Nai --> I was saying that we'll go
12 into another line of questioning, which is the interrogation of
13 Vietnamese prisoners.

14 You have explained that those prisoners were interrogated by Mam
15 Nai. And if I understood you correctly, Mam Nai was called Chan.
16 But Mam Nai alias Chan, was also assisted by an interpreter whose
17 name was also Chan.

18 Can you give us the exact name of the interpreter who assisted
19 Mam Nai in interrogating prisoners?

20 A. Thank you, Your Honour.

21 I told the Court a few days ago, but in different context. Mam
22 Nai's revolution name was Chan, and the assistant to Mam Nai was
23 the prisoner who was <a> Laotian Khmer from Hanoi. His name was
24 Pha Than Chan alias Chan, and Mam Nai's alias Chan as well.

25 So the interpreter was the assistant to Mam Nai, and he was the

1 prisoner.

2 Q. So Pha Than Chan assisted during numerous interrogations of
3 Vietnamese prisoners; is that correct?

4 A. Pha Than Chan assisted <with> the interpretation <during the
5 interrogation of> Vietnamese prisoners, many of Vietnamese
6 prisoners.

7 [10.44.15]

8 Q. Pha Than Chan was himself a prisoner, and he had been spared
9 in order to work as an interpreter. That was the purpose for
10 which he was not executed. Is that correct?

11 A. Because we needed him for interpretation and he was needed to
12 teach Vietnamese to Brother Mam Nai, that is why he was not taken
13 to be killed.

14 Q. Do you know whether he survived?

15 A. I <did> not know <what happened to him> when we were fleeing.
16 However, later on, I <saw> various documents stating that Pha
17 Than Chan <mentioned> the water container, and that was mentioned
18 by Vann Nath <as well and the picture was drawn by Vann Nath>.
19 After 7 January, <Pha Than Chan survived, but> I do not know <>
20 whether <or not he is still alive now>.

21 [10.46.02]

22 Q. Very well. I <requested> the Audio-Visual Unit to screen part
23 of an interview carried out by Rithy Panh for Bophana, and it is
24 an interview of Pha Than Chan, and it's only a few minutes long.
25 After the screening, I'll ask you to react to its contents.

33

1 Let me point out that it is an <excerpt> of a video, and the
2 exhibit number is E3/2352R, E3/2352R. And the transcripts of this
3 video footage in French <are> available still under the same
4 exhibit number, E3/2352; and in Khmer, the ERN is 01239944 to
5 <01239963>; in French, 01241045 to 59.

6 MR. PRESIDENT:

7 <Judge, please give ERN number again,> the interpretation did not
8 follow you, and it's not clear. Could you repeat it?

9 JUDGE LAVERGNE:

10 The ERN in Khmer 01239944 to 963. ERN in French is 01241045 to
11 59.

12 MR. PRESIDENT:

13 There was no interpretation into Khmer a while ago. <That is
14 still a problem>.

15 JUDGE LAVERGNE:

16 Let me give you the ERN in Khmer again, 01239944 to 01239963. ERN
17 in French is 01241045.

18 Let me point out that the <excerpt> that we will watch starts at
19 00.48.21 up to 00.54.51.

20 Has everything been translated into Khmer and can we now screen
21 this video footage?

22 [10.50.00]

23 MR. PRESIDENT:

24 AV Unit, please show the video footage as requested by Judge
25 Lavergne on the screen.

1 [10.50.28]

2 (Presentation of audio-visual document)

3 "[Interpretation from Khmer to English]: <Hu Nim.> At the time, I
4 was in the prison and I was subject to interrogation sessions. I
5 had to tell them stories which had nothing to do with me. They
6 wanted me to confess. To that end, they beat me with a whip made
7 from cowhide. Look at my back. It still bears the marks of the
8 whipping. <When> I did not <confess>, they beat me with a club.
9 That part completely burst open. I bear the scars. They beat me
10 <>.

11 "<> Finally, they electrocuted me. They attached <the wires> to
12 both ears and the current went through my brain. I sometimes
13 <lost consciousness>. They sprayed me with water and <dragged> me
14 across the floor <out of the room>."

15 [10.51.32]

16 "They returned me to my cell, but if I woke up, they <would
17 bring> me back to interrogation. On the next occasion, they used
18 another <tactic>, the extraction of my nails.

19 "I was subjected to it and still bear the marks on my hands and
20 feet. They removed my nails. It was so painful. The pain was not
21 bearable. It was as if I was dead.

22 "I endured the pain and suffering. I convulsed, <and I felt like
23 I was about to die>. They interrogated me, and it wasn't going
24 anywhere. They returned me to prison.

25 "Two or three days later, when I could stand, they started again

1 and asked further questions. They interrogated me and, on this
2 occasion, they plunged my head into a bucket of water. They beat
3 me. They employed that technique.

4 "If I didn't <give them> anything, they would then proceed to
5 hang me in the air <>. <They did that, too>. They wanted me to
6 write a report on <myself>, but I said no. I told them that I had
7 waged revolution correctly and that I had never betrayed. I told
8 myself that I was going to die anyway, but told the truth
9 nonetheless and didn't lie."

10 [10.53.04]

11 "I didn't betray the people and the resistant movement. However,
12 they knew that I was not one of them. I was not a <resistance>
13 veteran. I had to be eliminated.

14 "They weren't getting anywhere with me. They had to get rid of
15 me. They interrogated me for information. They knew that I spoke
16 Vietnamese and must have signed my death warrant, but
17 <nonetheless,> they spared me so that I could work for them.

18 "When something happened, they came to fetch me so that I could
19 interpret for them during their interrogation sessions. I did it.
20 They shackled me and handcuffed me, but ordered me to translate
21 and interpret. If I said something wrong, they would also assault
22 me <and beat> me with a club. They interrogated <prisoners>."

23 [10.54.11]

24 "No problem. The other person replied. I translated the truth,
25 what the person replied. Most of the time, those guys told the

1 truth. They said that they were ordinary people and had been
2 fleeing to Thailand or that they had been arrested. They said
3 that it wasn't true. 'You are a member of the army; you have come
4 to gather intelligence. You are invading Cambodia,' that is what
5 they said. That's what they wanted. It was what they could
6 broadcast over the radio. They wanted the captives to speak about
7 the business. Those people signed <with> thumbprints and they
8 executed them. They must have killed and buried the Vietnamese at
9 Choeung Ek. Vietnamese may have been killed at that location,
10 Choeung Ek. I do not know where exactly because they were making
11 arrests across the country."

12 [10.55.11]

13 "At the time of the attack, the Vietnamese were not yet attacking
14 <in> Cambodia. The Khmer Rouge made incursions into Vietnam and
15 arrested ordinary people. Sometimes, they did not succeed in
16 capturing soldiers, so they took civilians and traders instead
17 and they classified them as invading troops to suit the
18 situation. That was how it went, through my knowledge, I asked
19 questions. Those Vietnamese were not what they said they were. I
20 am not sure, but they had made them wear the clothes and wear the
21 insignia. They made them wear it. They had collected clothing
22 from the war against the Americans."

23 [10.56.05]

24 At the beginning, the Vietnamese were there. They cooperated
25 together to wage war, so they had found clothes and put it on

1 those Vietnamese people. They distorted the truth. They said that
2 therein lies the proof of the Vietnamese <incursion>. Those were
3 Vietnamese who they kept on capturing who had come to gather
4 intelligence. In fact, it was not the Vietnamese who had
5 encroached, but the <Khmer Rouge> <attacked> 5 or 10 kilometres
6 into Vietnam. That was all done with the aim of securing
7 international assistance. They wanted <to get> international
8 sympathy by having the world believe that Vietnam had invaded
9 Cambodia and was seeking to swallow Khmer territory. <They
10 distorted the truth.> That was -- that was from what I
11 understand."

12 (End of audio-visual presentation)

13 [10.57.10]

14 BY JUDGE LAVERGNE:

15 Q. Witness, first of all, do you recognize the person who was
16 interviewed and what do you have to say in light of what you have
17 just heard?

18 A. That person is Pha Than Chan, <it was after 7 January>, I
19 recognize him very well; <this is the first point that I want to
20 clarify>. Number 2, the interview that he <gave>, that interview
21 <was> meant to shed light on politics. He wanted to alleviate
22 what had done by the Vietnamese, so he exaggerated about <all
23 kinds of methods of> torture inflicted on <him>.

24 At the time, <there was> no submersing <of> prisoners into the
25 water <containers like what is> shown in the pictures at Tuol

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1 Sleng. That kind of technique was not used. He <> does not show
2 <clear> evidence <regarding> the <technique of removing> nails
3 <>.

4 I think this is <a political tendency of> the cadres <> from
5 Hanoi, <it was to show what their concepts were like. Since they
6 were having their freedom, they had to say whatever they could>
7 in order to alleviate what had been done by their people.

8 [10.59.40]

9 Q. So if I understood properly what you said, you're telling us
10 that this witness is not telling us the truth with regard to the
11 torture he underwent. <To use a popular expression, he is
12 embellishing it, he is> saying more than what is necessary and
13 his statements are biased. They <tended to> endorse what the
14 Hanoi cadres were doing back then; is that what we must
15 understand?

16 A. Pha Than Chan <said> that he supported those cadres from Hanoi
17 and he supported Ho Chi <Minh's plan> to control Kampuchea and to
18 have Cambodia -- Kampuchea as part of the Federation.

19 First, they spoke about the same course - that is, to fight
20 against the French, and that meant one party only - that is, the
21 Indochinese Party with one government, one army. That was their
22 initial idea.

23 [11.01.18]

24 Q. Witness, is that what you heard in the video excerpt that was
25 just screened or is that what you think? Because I did not hear

1 that in the video excerpt.

2 A. The root cause was that <Political line,> and what Pha Than
3 Chan said was to fit that purpose.

4 Q. What I heard is that the statements made by Vietnamese
5 prisoners had to correspond to the statements that the Party
6 wished to hear and that's what <Pha> Than Chan seems to be
7 saying.

8 He's also saying that some prisoners were not soldiers, but were
9 civilians and that they, however, were presented as being
10 soldiers; whereas, that was not true. He also said that some
11 Vietnamese were not arrested while they were on Cambodian soil,
12 but that they were arrested during incursions by the DK <armed>
13 forces into Vietnam.

14 So what can you say to this?

15 A. Regarding the incursion by "Yuon" soldiers, indeed, it
16 happened, <they were arrested>, and the uniforms were theirs and
17 not <the> uniforms from the previous time. That is one thing that
18 I'd like to say.

19 [11.03.36]

20 Q. Witness, I was not speaking about the Vietnamese incursions
21 into Cambodia. The witness spoke about DK <armed> forces
22 attacking Vietnam and he said that during these incursions,
23 people had been captured and had been sent to S-21 and that these
24 people were not only soldiers, but also civilians.

25 A. I have stated that there were many "Yuon" soldiers who were

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1 captured and there were only a small number of "Yuon" civilians,
2 so there were more "Yuon" soldiers than "Yuon" civilians.

3 Second: Of course, during the course of the attack, sometimes,
4 the "Yuon" side incurred into our territory and sometimes, we
5 went into their territory and that's what happened.

6 Q. Witness, can you tell us if Vietnamese civilian prisoners were
7 forced to confess that they were Vietnamese soldiers?

8 [11.05.26]

9 A. "Yuon" soldiers were "Yuon" soldiers. As for "Yuon" civilians,
10 they were forced to confess that they were "Yuon" spies. Of
11 course, during the war, how could civilians engage in the war?

12 Q. Fine, the Chamber will consider all this.

13 Now, I'd like to move on to a last topic. This is something that
14 you already spoke about, in particular, last Monday when you were
15 being examined by the International Co-Prosecutor. You spoke
16 about a film that had been made and shot by one of Pol Pot's
17 nephews; do you remember this film and can you provide us with
18 more detail about this film?

19 A. The film shot by Theng, nephew of Pol Pot, was in two parts.

20 One was shot near the pond and the bushes to the north -- <sorry
21 it was to the east> of Street 163 and <to the north of> Mao Tse
22 Toung Boulevard, and the second part was shot at my house -- that
23 is, on Street 95.

24 [11.07.07]

25 The part that was shot near the pond was a scene <staged> for the

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1 arrest of the "Yuon" soldiers who were instructed to raise their
2 hands. The other part that was shot at my house on Street 95 was
3 a scene <with> "Yuon" soldiers who usually <held> their helmet
4 <in their> hand, but Theng said that that was not <the> right
5 posture; that they should hold <their> helmets in both hands and
6 bend <their bodies> a little bit. And they were instructed to
7 only say a few words -- that is, to salute the Communist Party of
8 Kampuchea. And I recall that rather well. So allow me to say
9 there were two scenes staged for the film.

10 Q. Was this film screened during training sessions and in
11 particular, training sessions for the S-21 staff?

12 A. The objective of the film was not to show <it only> in
13 Kampuchea or to <just> show during the yearly celebration <of
14 "Kampuchea stepping forward">; the ultimate objective of the film
15 was to show it at the conference held in Jakarta so that
16 participants of the conference <would> know about the incursion
17 into Kampuchea by the "Yuon".

18 [11.09.23]

19 Q. Do you remember if this film was screened during training
20 sessions which S-21 staff attended or during the celebration of
21 the Party's anniversary on 17 April 1978?

22 A. The films was not shown at S-21 and to my knowledge, it was
23 not shown anywhere in the country.

24 Q. However, several staff members at S-21 <have> said that they
25 had seen a film showing the arrest <and handling> of Vietnamese

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1 prisoners, their interrogation and Him Huy even said that you
2 could see the Vietnamese prisoners being executed and<, he even
3 added, apparently,> disemboweled.

4 <In particular,> we can find Lach Mean's statements at the
5 hearing of 26 April 2016; this was at around 10.51, and Him Huy's
6 statements at the hearing of 4 May 2016. First, he was answering
7 questions <put> by Counsel Guiraud from <2.29.20> to 2.34 and
8 then I questioned him from <3.02.55> to <3.15.53>.

9 So do you remember if, in this film, there were <also> scenes
10 where you could see Vietnamese prisoners being executed?

11 [11.11.59]

12 A. <If you want, I can describe the> film that was shown at S-21.
13 As for the scenes of any execution of "Yuon" soldiers, that was a
14 lie as it did not happen and of course, the film that was shot at
15 S-21 was never shown to S-21 staff.

16 And allow me to say this, Your Honour, Him Huy spoke about the
17 film; however, that was a <fabrication> by him.

18 And as for Lach Mean, Your Honour already heard testimony of a
19 person who claimed to be Lach Mean and toward the conclusion of
20 his testimony, the Co-Prosecutor showed <him> document; however,
21 the person who claims to be Lach Mean denies that that was his
22 signature, <and it made Co-Prosecutors laugh>. And I reiterate
23 this point because I want to say that the person who claimed to
24 be Lach Mean <> was <> not <the> real Lach Mean who worked at
25 S-21. <That's what I want to clarify. So he knew nothing.>

1 [11.13.27]

2 And I made that denial once and maybe Your Honours still recall
3 that and I made the denial in relation to a person name Chan
4 Voeun (phonetic). And at that time, toward the end of the
5 conclusion because in his testimony <he claimed> that I actually
6 executed Pon and <Phon (phonetic)>. And then I asked him, "If I
7 killed <Comrade Pon>, who else could I use to work at S-21?" And
8 he stumbled <as he spoke> and he bent his head down. Then I made
9 my conclusion to Your Honour that he was not real.

10 And <in another> similar case, <it was a person from> Au Krasa
11 (phonetic) and actually, Your Honour turned to his testimony
12 about that, <and I denied his testimony before the Chamber>. So
13 in conclusion, I say that the person who claimed to be Lach Mean
14 and who testified before Your Honour was not the Lach Mean at
15 S-21.

16 As for Him Huy, his testimony is not reliable. He <told> Rithy
17 Panh that I <taught him to> kill people with a metal bar from an
18 oxcart and that's not possible, so his testimony is rather
19 confusing and inventive.

20 [11.15.06]

21 Q. Fine, the Chamber will consider this. I believe that the
22 question of the signature of the document that was signed by Lach
23 Mean or <supposedly> Lach Mean was also brought up during this
24 particular trial and I believe we will get back to that issue.

25 Now, I'm going to ask the AV Unit to screen the excerpt from the

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1 documentary, "Cambodia-Kampuchea", and please react to it. This
2 is document E2354R (sic). So this is the video,
3 "Cambodia-Kampuchea."

4 (Short pause)

5 [11.16.18]

6 (Audio-visual presentation - video)

7 (No audio)

8 (End of Audio-visual presentation - video)

9 [11.18.10]

10 BY JUDGE LAVERGNE:

11 Q. Witness, do you recognize all or parts of this video?

12 MR. KAING GUEK EAV:

13 A. Allow me to say something <> about a scene that was shot at my
14 house. <It was a fabrication that was shot later on.> And <> the
15 scene shown in this film, in this clip, <> it's not the one that
16 Theng shot at my house. <Number 1>, you could see that the tile
17 on <my> floor <> was old, but <> here you could see a plastic
18 sheet was used to cover the floor and that's not at my house. So
19 this is not the film that was made there <by me>.

20 And <number 2>, in fact, the film was also shown during Case 001
21 and you could hear the voice of "Yuon" as well as <> the voice in
22 English. That's why I denied that video clip <based on these two
23 grounds. But during the previous proceeding stage, I did not make
24 any comments regarding my first grounds; however, I actually
25 denied it based on my second grounds>.

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.

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1 So as I said, there was a confession in <Vietnamese> and <also>
2 there was a voice <in English; I cannot recall that, but there
3 were voices in two different languages in the video clip. In
4 fact, on that day, there were no voices in either Vietnamese or
5 English>. That's why I denied the existence of that video clip
6 and it is a new fabrication and not the actual film that was shot
7 at my house.

8 [11.20.33]

9 As for the location, <the place where> Hor shot <a scene of>
10 "Yuon" soldiers <being> arrested <was> not the <location> that
11 <showed> concrete or cement houses because at the actual scene --
12 that is, <to the east> of Street 163 and <to the north of> Mao
13 Tse Toung Boulevard, there were only bushes. There <were> no
14 <concrete houses>. So <"Yuon"> soldiers were instructed to raise
15 <> their hands in the air and then there were DK soldiers who
16 were walking on the side.

17 So this scene that is shown in this video clips was a later
18 <fabrication>, not the one that was actually shot by S-21 and I
19 do not wish to make any comments on other scenes, including the
20 shot of Pol Pot.

21 [11.21.32]

22 Q. Fine, so to sum up what you're saying, you believe that none
23 of the passages in this video correspond to the film that was
24 shot by Theng, Pol Pot's nephew, and you consider that this
25 entire video is a fabrication <which> was filmed for propaganda

1 purposes. You believe that this is a complete fabrication?

2 A. This film was not shot by Comrade Theng at S-21 and I refer to
3 both segments.

4 Q. And you said that the scene in which we see the prisoners
5 being arrested could not have happened close to the intersection
6 of Street 163 and Mao Tse Toung. I didn't quite understand,
7 because there was a house that was there and normally there
8 shouldn't have been a house there; is that what you said? I
9 didn't quite understand your explanation regarding that scene <in
10 particular> where we see the arrested Vietnamese soldiers.

11 [11.23.16]

12 A. At that time, at that location, there <were> no <concrete
13 houses>; now, there are <multi->storey houses. The location was
14 to the east of Street 163.

15 And also to the west of Street 163, there <were> no proper houses
16 and actually, <Yun Yat> kept some children from the centre
17 there. And to the other side of the street, there was a Chinese
18 Embassy and in between, there were bushes.

19 Of course, Mao Tse Toung Boulevard was wide and long and allow me
20 to say that in Phnom Penh, at that point in time, only rarely
21 <did> you <see> a car travelling by and <it was> not as busy as
22 it is now. So the landscape has changed dramatically and I have
23 <given statements> to that effect.

24 [11.24.23]

25 The scene of capturing "Yuon" soldiers was shot there and also,

1 that was the location <where> I instructed Hor to drop a dead
2 body into the pond and to wait and see how many days <it took
3 for> the dead body <to> emerge. And that was <the location where
4 important people like Vorn Vet, Brother Hok, and> Nat <were>
5 executed and <photographed.> Also, it was the location where the
6 <four> Westerners were killed and later on, burned to ashes <with
7 used tires. Many incidents happened at that location>.

8 I believe, Your Honour, <probably> has a <map> of the location
9 and if you <had it, you would see that, at that time>, there were
10 only bushes within the vicinity. <So it was not like what is>
11 shown in the video clip. The clip could have been shot after 7
12 January 1979.

13 And if the film was to be shot at my house, in fact, behind the
14 "Yuon" soldiers, there would be a flag with the symbol of
15 Democratic Kampuchea -- that is, <a dam or something else>.

16 [11.26.00]

17 Q. Can you tell us why this film would have been fabricated?

18 Apparently, you described scenes that more or less correspond to
19 what we can see in the film; scenes of arrests, scenes in which
20 prisoners confess.

21 I'd like to remind you that the video was screened purposely
22 without sound because this video is part of a documentary in
23 which there are many images and in the documentary, there are,
24 indeed, Vietnamese prisoners making statements and there is an
25 English voice-over, so in order not to influence your thoughts, I

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1 preferred screening this video without sound.

2 But however, why do you believe that such a fabricated film would
3 have been made; what would have been the purpose of that?

4 [11.27.29]

5 A. They fabricated the films to fit their own purpose. As to
6 which purpose, I do not make my subjective conclusion on that.

7 Q. Fine. A very last question now: You remember telling us that
8 there was a sign that had been made that was placed above the
9 entrance to S-21 during the anniversary of the Party on 17 April
10 1978; can you tell us <again> exactly what the slogans that were
11 displayed on this signboard?

12 A. S-21 never posted a banner or a placard at the main gate. That
13 never happened. Indeed, we had about 10 or so placards or banners
14 and the purpose was to erect them on the 17 April and 30
15 September <anniversaries>. That is the day of our victory <over
16 the US-backed Lon Nol regime,> and for the 30 of September, that
17 was the day of the inception of the Party. And on the 17 April
18 anniversary, we would display the placards for three days and
19 that happened nationwide and after that, the placards would be
20 taken off and <so would> the content of the placards, including
21 "Long live the <glorious and wonderful> Communist Party of
22 Kampuchea."

23 [11.29.41]

24 And there would also <be> a placard about the absolute opposition
25 to <the> CIA, KGB, and the territory-swallowing "Yvon" agents,

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1 <but at S-21 there might not have been a slogan about the
2 commitment to get three tones' plan>. And such slogans were
3 universal -- that is, nationwide, as they were instructed by the
4 upper echelon. However, each entity had to prepare by
5 <themselves>.

6 So when you see a placard displayed over the <S-21> main gate,
7 that is a fabrication because usually, for the anniversary, <the
8 writings in the placards at the time were not like that, and>
9 there were about 10 placards displayed all over the compound,
10 <not just one>. And usually, the content was <"Long live the
11 glorious and wonderful> Communist Party of Kampuchea", <and there
12 was another slogan, "The defeat of the CIA, the KGB, and the
13 territory-swallowing "Yuon" agents" and I cannot recall the
14 contents of other placards.

15 [11.31.04]

16 JUDGE LAVERGNE:

17 Fine, thank you very much, witness, I have no further questions
18 to put to you.

19 MR. PRESIDENT:

20 Thank you, Judge. It is now convenient for our lunch break. We
21 <shall> take a break now and resume at 1.30 this afternoon to
22 continue our proceedings.

23 Security personnel, you are instructed to take Khieu Samphan as
24 well as witness, Kaing Guek Eav alias Duch, to separate waiting
25 rooms downstairs and have Mr. Khieu Samphan returned to the

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1 courtroom before 1.30.

2 As for witness, Kaing Guek Eav alias, have him returned to the
3 courtroom at 1.30.

4 The Court is now in recess.

5 (Court recesses from 1131H to 1329H)

6 MR. PRESIDENT:

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

8 Before the Chamber gives the floor to the defence teams for the
9 Accused, the Chamber would like first to hand the floor to Judge
10 Lavergne to finish a few points with the witness. You may proceed
11 first.

12 Deputy Co-Prosecutor, please wait. Judge Lavergne.

13 [13.31.02]

14 JUDGE LAVERGNE:

15 Thank you, Mr. President.

16 For the information of the parties and in order that the record
17 of these proceedings may reflect this, I would like to point out
18 two things. In the document titled "Black Paper," as it's
19 translated in English -- that is, document E3/262, contains two
20 photographs of Vietnamese prisoners. One, according to the label
21 under the photograph, corresponds to that of <Colonel> Nguyen Van
22 Chen<, or> Nguyen Binh Chin. The ERN in English is 00082553 and
23 in French 00284606.

24 [13.32.10]

25 These photographs -- these photographs appear to show major

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1 similarities with the images of Vietnamese prisoners making
2 statements in the video footage we saw this morning entitled
3 "Cambodia-Kampuchea." And the name of <Nguyen Van Chen, or Nguyen
4 Binh Chin, appears> on the S-21 list established by the
5 Co-Investigating Judges.

6 <Finally, the> Chamber observes that the dates of publication of
7 the Black Paper is September 1978.

8 <A second observation:>

9 On several occasions during the <last several> hearings, witness
10 Kaing Guek Eav has referred to a signature or a name featuring on
11 a document that was shown to witness Lach Mean and which was
12 confirmed by Lach Mean as his name and signature.

13 The Chamber recalls an incident involving the name of Lach Mean
14 occurred at the hearing of the 25th of April 2016 during <Lach
15 Mean's> testimony during this trial. <At that time, the> Chamber
16 had requested the Interpretation and Translation Unit to correct
17 document E3/2469. This issue was the subject of a Trial Chamber
18 memorandum and it is document E414 and the Chamber, in view of
19 the explanations provided by the ITU, decided not to make the
20 correction considering that the name appearing on the document
21 ought to be read as "Tach Mean" <(phonetic)>.

22 [13.34.36]

23 MR. LYSAK:

24 Thank you, Mr. President. I just wanted to make a few brief
25 observations regarding the chart of daily -- the daily prisoner

1 list chart that Judge Lavergne circulated -- the Trial Chamber
2 circulated. Should any of the parties be using this list, just a
3 couple of quick points to make.

4 First, if you are looking at what they call the daily control
5 lists for a particular date and you are looking for the
6 corresponding execution list of the prisoners who were taken out,
7 you need to look at the day before.

8 [13.35.25]

9 We have gone through this and we have been able to match. I went
10 through for the large executions that are in the chart that was
11 used and in each case I was able to match them to an execution
12 list but it's an execution list from the day before.

13 So when you are -- I know Judge Lavergne asked a number of
14 questions about the dates of execution lists and why they didn't
15 appear in the daily control list. If you are looking at an
16 execution list for, let's say, the 10th of December, that
17 execution -- those execution lists are usually not dated until
18 the following day and it wasn't until the following day that it
19 is entered into the totals of the prisoners. So to the extent you
20 are trying to match up those two different sets of documents you
21 need to follow that process.

22 [13.36.26]

23 A second point -- and I think Judge Lavergne had asked about the
24 daily control lists for 30 June 1977, document E3/9984, and
25 specifically it's referenced there to approximately 40 prisoners

1 having been taken out that day.

2 Pursuant to what I have just indicated, if you want to find the
3 corresponding execution list you need to look to the day before,
4 to the 29th of June.

5 I think what the parties should understand and what may be of
6 interest to the Bench, there are actually two execution lists for
7 the 29th of June 1977. One has 40 prisoners that corresponds to
8 the 40 prisoners who are in the -- who are in the daily control
9 list for the 30th of June. That document with the matching 40
10 prisoners -- E3/2285 and the English ERN is 873496 through 99 -
11 499. This is one of these -- E3/2285 contains multiple separate
12 execution lists.

13 There is a second execution list for that same day that has 78 or
14 76 or 78 prisoners that is not reflected in the daily control
15 list. The difference between these two lists, the 40 prisoners
16 who are recorded are prisoners identified as from Prey Sar from
17 Brother Huy Sre's unit who have dates of being sent from Prey Sar
18 first to S -- to the prison desk -- 21 prison, and then a few
19 days later being sent out for execution.

20 [13.38.35]

21 The other list which is not reflected in the totals has no
22 indication of the prisoners going to S-21 first before being sent
23 for execution. In other words, it's consistent with a practice
24 the witness has testified to of prisoners sometimes being sent
25 directly from Prey Sar to Choeung Ek. And in that case, it

1 appears they would not reflect in the totals for the prison in
2 Phnom Penh at the Tuol Sleng prison. So that's a second
3 observation relating to the numbers and how the daily control
4 list corresponds to the execution list.

5 A third and last observation, Judge Lavergne had raised the issue
6 of, in his chart, there is a gap. He pointed out that in the
7 daily--

8 MR. KOPPE:

9 Sorry to interrupt, but why is the Prosecution arguing a case
10 here already for 15 minutes?

11 [13.39.45]

12 MR. LYSAK:

13 Mr. President, these -- this is pertinent to information that was
14 presented in Court yesterday. If the Defence is going to question
15 these witnesses on these documents, I would like this to be part
16 of the record so they are on notice of this.

17 If I may, I can briefly finish?

18 Judge Lavergne raised the issue of the prisoners dropping from a
19 total of 1,700 on the 15th of October to a total of 953 on the
20 24th of October 1977. I simply want the record to reflect there
21 are several large execution orders between those two dates which,
22 for the record, you will find all of these are in E3/2285. At
23 English, 00873281 through 320; is an execution list for 418
24 people during that gap.

25 And a few days later, the 18th of October, you will find one for

1 179 people.

2 So I simply want the record to reflect this as I think it is
3 significant in terms of understanding the chart that Judge
4 Lavergne was using yesterday.

5 [13.41.17]

6 MR. PRESIDENT:

7 Thank you.

8 The floor is now given to the defence teams for the Accused,
9 starting first from Nuon Chea defence team to put questions to
10 the witness.

11 QUESTIONING BY MR. KOPPE:

12 Thank you, Mr. President. Good afternoon, Your Honours and
13 counsel. Good afternoon, Mr. Witness.

14 Before I start, Mr. President, just very, very briefly a road map
15 for the examination of the Defence -- for the Defence, if our
16 calculation is correct, in the light of the extra time the
17 Prosecution has received and in light of the submissions by the
18 civil parties after the break, it is our understanding and
19 calculation that we have all four days next week. So we will have
20 our -- we will ask our questions all the way until the very last
21 session on Thursday. That's one.

22 [13.42.25]

23 Secondly, just for your information, we are using the same
24 division as the Prosecution and civil parties. I will do the
25 examination today and Monday and Tuesday. Then the Khieu Samphan

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1 defence team will start on Wednesday, maybe we will go into the
2 Thursday and then we will finish our questioning.

3 Just so that you are aware of this, Mr. President.

4 Q. Having said that, good afternoon again, Mr. Witness. In the
5 light of the fact that today, I only have one session, and also
6 in the light of the questions by Judge Lavergne, let me start
7 with a subject that originally I wanted not to start with, but I
8 will do that now.

9 And actually that builds up on something you said last week or
10 sometime this week. You were answering questions from the
11 Prosecution in relation to methods of interrogation used at S-21.

12 One of them was the use of plastic bags over the head of
13 prisoners. You said that this was a technique that you had
14 learned through Vorn Vet from the Vietnamese.

15 Let me follow up on this and start with something you said seven
16 years ago in your own trial.

17 Mr. President, that is E3/5794, the transcript of 28 of April
18 2009.

19 [13.44.46]

20 This is what you said, Mr. Witness, and I quote:

21 "The person who taught me how to torture was the Lon Nol regime.
22 That is number one. The inspector at PJ, he beat the Khmer Rouge
23 prisoners and I knew even if the Sihanouk police at Tuol Kork did
24 not beat me up but the inspector Chhin Eav (phonetic) and
25 inspector Chieu Hom (phonetic) beat the Khmer Rouge. That

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1 happened in the Lon Nol regime and that Lon Nol regime taught me
2 and, second, it's the French regime. The French tortured members
3 of the Vietnamese Labour Party."

4 And a bit further you said again, "About the beating up, I
5 learned it from the Lon Nol and the French inspectors--"

6 Can you, Mr. Witness, expand a bit on this? What exactly did you
7 mean when you said that? How were these methods taught to you by
8 the French and by the Lon Nol officials?

9 [13.46.19]

10 MR. KAING GUEK EAV:

11 A. Thank you, Mr. President. I would like to shed light on the
12 statement quoted by the defence counsel.

13 The first point that I would like to <clarify> is about the
14 methods instructed by Brother Vorn. There were two methods
15 instructed by Vorn Vet. <As for the first method>, he instructed
16 me to observe the pulse at the neck of <a prisoner>. If the pulse
17 was pumping so quickly that <meant> the prisoner was a spy.

18 And the second method was about the suffocation <technique that
19 the "Yuon" used to torture prisoners in order to obtain their
20 confessions - that is>, putting a plastic bag <over a> prisoner's
21 head <until> the prisoner was unconscious and after that <they
22 removed the plastic bag. When the prisoner became conscious
23 again>, the interrogation would continue. <That was what Brother
24 Vorn told me regarding the techniques of torture.>

25 <Since the time> I was at M-13 <and then at M-21>, I instructed

1 my staff members about the two methods, but my staff members did
2 not use those two methods, <and even I, myself, did not use> the
3 two methods <during interrogations>. <So> Vorn Vet did not
4 <teach> us in the study session but he told me about the two
5 methods of <torture>.

6 [13.47.57]

7 Concerning PJ, <I was not detained there as a Khmer Rouge,> I had
8 been detained at Prey Sar, the military prison. <In fact, at> the
9 time when I was interrogated, I was not beaten by the inspectors.
10 But I was detained at PJ <when it was under the Lon Nol regime>,
11 the inspector Chhet Iv (phonetic) beat me up. The method that
12 <they> used at the time <was> <instructing a prisoner to lie
13 down, they put a towel on the prisoner and poured water on the
14 towel>. That was the method that they used as well. <I never used
15 that method.>

16 And another method is electrocution. That electrocution method
17 was preferred by Nat and Nat preferred the electrocution by using
18 <a dynamo from a crank> telephone. <At the time, I used only
19 beating methods, with whips and other things.>

20 And later on there was another method of <torture where> the
21 picture <of a human's> head <with a dog's body was drawn>, and I
22 asked the prisoners to pay homage to that picture. So <regarding
23 those methods, I was not taught by French colonial people, I did
24 not get any documents related to the methods of torture from
25 anyone. Also, regarding the> methods <of torture, they had to be

1 authorized or instructed for us to use them first>.

2 [13.49.44]

3 However, as I said, in principle if <someone> beat <any>
4 important prisoner to death <before getting a full confession,>
5 that <person> would be detained <in place> of the prisoner.

6 And another point--

7 Q. Mr. Witness, sorry to interrupt you but I don't have that much
8 time, although it's three days. I would appreciate it if you do
9 not repeat the things that you've said already in Court and try
10 to focus on the questions that I ask you.

11 Very specifically, you said, "The beating up, I learned it from
12 Lon Nol and the French inspectors". What was it that you learned
13 from French inspectors?

14 A. Counsel, do you have the exact excerpt that you have in the
15 transcript? If so, please show it to me. So please show me the
16 exact words that I used in the transcript.

17 [13.51.06]

18 Q. Well, I only have the English version and it says at around
19 14.38, "And about the beating up, I learned it from the Lon Nol
20 and the French inspectors, the police." End of quote.

21 So again, my question is: What did you learn from the French
22 inspectors or what did you mean with that?

23 A. I was telling you and explained <to> you on the particular
24 point that you asked <about> to avoid any confusion. I did not
25 learn any methods from <any French> inspectors or from anyone. <I

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1 learned the methods through my own experience>.

2 Q. I will get back to the French issue but before I do that let
3 me refer to something you said on the 9th of June. Just before
4 14.09, you talked about interrogation methods and intelligence
5 gathering and you mentioned a name. I think the name that we can
6 find in the English transcripts and the French transcripts are
7 not the actual person that you mean.

8 [13.52.59]

9 In English, Mr. President, the witness refers to Alain Delouvre
10 (phonetic) and in the French transcript he refers to a book "Un
11 Autre Livre de Alain Delok (phonetic)."

12 When you mentioned that name, Mr. Witness, did you in fact refer
13 to someone called Allen Dulles, the Director of the CIA who wrote
14 the book, "The Craft of Intelligence" of which you had a French
15 translation while you were at M-13 called -- a book called "La
16 technique du renseignement"?

17 And Mr. President, for the record you can find that in E3/347;
18 English, ERN 00002511; French, 00160932; Khmer, 00160896.

19 So is that the book that you referred to, the book of CIA
20 Director Allan Dulles?

21 BY MR. KOPPE:

22 Q. Indeed, and in a document it is translated as "The Craft of
23 Intelligence". I think that's the original title.

24 Dulles, D-U-L-L-E-S, Allan Dulles; is that the person you
25 referred to in your testimony a few days ago?

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1 [13.55.01]

2 MR. KAING GUEK EAV:

3 A. Thank you, Counsel. I am referring to Allen Dulles, and I do
4 not know whether the French version and the English versions of
5 the transcript are the same. And the title of the book <in
6 French> is <"Technique du renseignement", and it is translated to
7 Khmer as> "Intelligence Gathering Technique" or "Craft of
8 Intelligence". To my recollection, <he> was the first director of
9 <the> CIA. His name was Allen Dulles.

10 Q. And did you use that book as inspiration for your
11 intelligence-gathering activities at M-13 and subsequently at
12 S-21?

13 [13.55.54]

14 A. Thank you, Counsel.

15 At M-13, before that, I did not have any books on techniques.
16 <My> experience <was> the techniques used by Bao Gong (phonetic)
17 and I based <what I did> on evidence. That is the first point.
18 Later on when I went to work at S-21, I found a book named
19 "Craft" -- I found two books, "Craft of Intelligence" by Allen
20 Dulles and I sent a book to the upper echelon. And my French at
21 the time was not so good and because of my busy time, I did not
22 read the whole book.

23 And I did not use the techniques from Allen Dulles. The book that
24 he wrote was about techniques in general in terms of
25 intelligence.

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1 [13.57.10]

2 Q. Let me get back now to the matter of methods, interrogation
3 methods used by the French. And let me read to you an excerpt
4 from a book from someone who has been called to testify here as
5 an expert. His name is Philip Short.

6 I believe that in your trial, the 9th of April 2012, you were
7 asked whether you had read his book as part of the case file and
8 I think you said that you hadn't.

9 So let me now read to you an excerpt and then I will ask for your
10 reaction in the light of what I asked you before.

11 Mr. President, E3/9; English ERN 00396572. It's page 364 of the
12 book. French ERN 00639933. There is no Khmer translation but
13 because there are some difficult words I have given the excerpt
14 before to the translation unit so hopefully they can read along.

15 [13.58.52]

16 Mr. Witness, Philip Short is putting S-21 in a wider context and
17 he is comparing it to other institutions. He calls -- and he says
18 that much about S-21 is, as he calls it, depressingly familiar.
19 He says, and I quote the following: "Democratic governments have
20 also gone down that road. The French army in Algeria set up
21 torture centres where conscripts martyred suspected fedayeen
22 and then killed them 'to maintain secrecy', exactly the same
23 justification as was used in Democratic Kampuchea. Five thousand
24 Algerian prisoners were killed in this way in one interrogation
25 centre alone. In the country as a whole, the number of such

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1 deaths probably exceeded the 15,000 to 20,000 who died in S-21.

2 The factors that led young Roman Catholic Frenchmen to violate

3 every principle of justice and humanity they had learnt since

4 childhood were not essentially different from those that governed

5 the conduct of S-21 guards."

6 [14.00.28]

7 And a bit further -- and it's the final and second quote: "It may

8 be argued that for Khmers it was easier: their religion

9 cultivates indifference. However, S-21 had French carceral

10 antecedents. The shackles used in its cell were inherited from

11 French colonial times. The torture that the Khmer Rouge called

12 'stuffing prisoners with water' had been introduced to Indochina

13 by the French army, which called it 'la baignoire' (the bathtub)

14 and used it on the Viet Minh in the early 1950s." End of quote.

15 It was a long quote, Mr. Witness. Can you give a reaction to that

16 excerpt from Philip Short in his book?

17 [14.01.48]

18 A. During the proceeding of my trial in Case 001, Philip Short

19 did not come here to testify as an expert. And this is the first

20 time that I heard about that statement from you. And that is his

21 personal opinion based on his personal research.

22 For example, in terms of handcuffs, I did not see Mr. Philip

23 Short's document or a document from the French colony. The cuffs

24 and shackles were made based on the instructions from the upper

25 echelon at M-13.

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.

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1 The same shackles and cuffs were also used at "kok thum" or the
2 main prison, and I was detained there from 5 January '68 to the
3 3rd of April 1970 when I was released. While I was there, I saw
4 those shackles and cuffs. When I was released, I actually made a
5 similar copy to that. I did not read any instruction from the
6 French colony regarding how to make the cuffs or shackles; no,
7 not at all.

8 [14.03.16]

9 And, frankly speaking, what I tell you is what happened. From my
10 personal experience, I saw them. <> I have my own ideology.

11 I was educated <> by two aspects -- that is, based on the
12 principles and practice of Bao Gong (phonetic) -- that is, our
13 research was based on evidence.

14 And another Chinese movie that motivated me was a Chinese
15 counterspy movie. And I actually observed what happened in the
16 movie and actually relayed similar instructions to my lower
17 subordinates <at S-21>.

18 So <Philip Short's statement was his personal opinion, but for
19 me,> I had my own principles based on my personal observations
20 and I put them into practice.

21 Q. Let me see if I can try it differently. You have discussed at
22 length interrogation methods, techniques. Is there anything that
23 you applied at S-21 which is not originating somehow from either
24 the French or the Lon Nol military or officials?

25 [14.05.10]

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1 A. Allow me to say that it does not mean that I did not learn
2 anything from anyone. I learned some lessons but they never get
3 into my personal way of thinking.

4 Allow me to quote from <Honoré de Balzac> about "the demise of a
5 political regime and subsequently the government also <fell> into
6 a demise but the police force remained." And for that reason, the
7 technique employed by the police also remained in order to find
8 the truth.

9 For that reason, I tried my best, based on the situation at the
10 time, to find evidence although it would not be as precise as
11 <the> evidence in the case of Bao Gong (phonetic), but I tried my
12 best to gather evidence so that <no random people would> be
13 implicated <by the enemy>.

14 [14.06.20]

15 Q. Very well, Mr. Witness. I will go back to this subject of
16 interrogation techniques which are called, for your information,
17 "enhanced interrogation techniques" presently by a former US
18 administration.

19 But having said that, let me move to my next subject, Mr.
20 Witness. That is an issue that we have been discussing already
21 quite a bit and that is the subject of what is your knowledge
22 from the time you were working in DK and what is the knowledge
23 that you have subsequently acquired after '79 and, more
24 specifically, after having read extensively the case file?

25 [14.07.28]

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1 Let me start by reading something you said in your testimony in
2 this case but in 2012. That is transcript E1/51.1, 20 March 2012
3 at about 11.28.

4 You were asked questions about -- general questions about the
5 situation in DK and then you said literally the following:

6 "However, if you really want me to only talk about what I knew
7 back then, I am afraid I may not have anything to tell the world
8 about this because I was confined to S-21 in particular." End of
9 quote.

10 Do you remember saying this and what exactly did you mean when
11 you said that?

12 A. You asked me just by relying on <an incomplete> excerpt. It
13 would be better if you could provide me a full excerpt so that I
14 am able to respond to your question. You only <picked> one point
15 to put to me and it is not possible for me to respond. I
16 apologize for that.

17 [14.09.23]

18 Q. Well, let me give you a very concrete example and maybe by
19 giving you that example you would understand what I mean. It is
20 actually something you said only a few days ago. You were asked a
21 question by the Prosecution about a saying that might have been
22 used in DK: "It is better to arrest 10 innocent people by mistake
23 than to free a single guilty person."

24 And then you answered on the 9th of June 2016 at 14.13 hours. You
25 said: "I actually knew that expression from the document about

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1 S-21 -- that is, from the book of us by David Chandler and
2 actually I translated it into French."

3 So maybe I am wrong but this seems to be an example of something
4 that you only knew from having read David Chandler. Is that
5 correct what I am saying?

6 A. I heard of the saying. I heard it from Brother Khieu before 7
7 January. Brother Khieu told me at the time that to keep is no
8 gain; to remove is no loss. That's the phrase that I heard from
9 Brother Khieu and I remembered it after I heard that phrase.

10 [14.11.14]

11 At that time someone was arrested and if there was no concrete
12 evidence showing that a person was CIA, KGB or a
13 territory-swallowing "Yuon" <agent, but> the person did not do
14 thorough work <> and just kept thinking about <getting> the
15 position, then the person <had to> be removed because by
16 <removing> of this person, it <meant> that we <did> not lose
17 anything.

18 Regarding the excerpt from David Chandler's book <which> the
19 Office of the Co-Prosecutor gave to me for my comment, I actually
20 read it and I made my comment that the phrase used by David
21 Chandler was not proper and I made <an> amendment to that.

22 So the phrase <was> that it's better to arrest 10 innocent people
23 than to release someone who was guilty, or it was something along
24 that line, and I <denied> that phrase.

25 [14.12.42]

1 And then I made an amendment to that phrase because I told the
2 Co-Prosecutors that the phrase was not correct and I already made
3 my amendment in my statement <after reviewing> the book by David
4 Chandler -- that is, the <Voices> from S-21. And I actually made
5 a comparison of the actual phrase and the phrase used by David
6 Chandler.

7 Q. Let me try to give you another example because maybe this
8 wasn't a good example. This is a very concrete fact, so nothing
9 about a saying but let me read to you what you said about one
10 certain incident.

11 Mr. President, I am referring to his WRI, E3/1355 (sic); English,
12 00242878; Khmer, 00239836; and French, 00239825

13 This is a subject that the President already asked you some
14 questions about yesterday or the day before yesterday. And it
15 says -- and you say the following: "Following David Chandler's
16 book, Koy Thuon was stood down on the 8th of April 1976." End of
17 quote.

18 [14.14.25]

19 Now, I accept you knew that Koy Thuon was under house arrest
20 before he went to S-21. But the fact that he was put into house
21 arrest on the 8th of April 1976, is that something you knew then
22 or is that something you know now because you read Chandler's
23 book?

24 A. Before I respond to your question allow me to clarify the
25 matter.

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1 I was at <the> S-21 office and whether I heard about this matter
2 officially through the Party's channel or unofficially, it means
3 that I had known <about> this matter before David Chandler knew.
4 [14.15.26]

5 To my recollection, I did not speak about the detention of Koy
6 Thuon. The news that Koy Thuon was under house <arrest> was
7 before my wife was allowed to go from Longvek (phonetic) to come
8 and live with me <in Phnom Penh>. That happened <around April>
9 1976.

10 Koy Thuon was under house <arrest> by the Party for a period of
11 about eight months. So David Chandler's book only gave some dates
12 <that I cannot recall clearly> as to the date of the detention.
13 And, of course not; I did not learn of the detention from David
14 Chandler's book because I was the one who was there and not David
15 Chandler. However, maybe I recall the exact date of the detention
16 in his book.

17 Q. I understand what you're saying, Mr. Witness, but I am trying
18 to understand how your memory functions. It's a very difficult
19 thing because I cannot look inside of your head, but I am trying
20 to find out exactly how you construe things -- construct things.
21 Let me give you yet another example to see if that can somehow
22 help me understanding you.

23 [14.17.03]

24 Mr. President, E3/456 I will be referring to; English, ERN
25 00198882; Khmer, 00198873; and French, 00198890.

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1 It is an interview with the investigators of the Co-Investigating
2 Judges or the Judges themselves actually. And you have prepared
3 two charts of the organization and literally you say the
4 following, and I quote you: "I have prepared two charts summing
5 up my understanding of the organization; one on the basis of my
6 former knowledge and then on the basis of my current knowledge."
7 So it seems here that you are somehow able to distinguish between
8 those two sets of knowledge. Is that correct?

9 A. Which charts are you referring to? Please be more specific.

10 Q. It's not so much about the charts. It's about the phenomenon
11 that you have on the one hand knowledge, what we would call
12 contemporaneous knowledge and the other hand, knowledge that you
13 acquired later.

14 Are you able to distinguish between the two?

15 A. Allow me to speak about the theory of knowledge based on what
16 I studied. It was an incremental approach. It means one day you
17 learn something, next day you learn a little bit more and it's
18 incremental. And of course your knowledge is interrelated. First,
19 it was the quantity and later on it will narrow down to quality.

20 [14.19.41]

21 <Let me give you an example regarding how to be outstanding in
22 mathematics,> first, you have to start with theory and then you
23 do the exercise. Then you return to study theory again and you
24 return to doing exercise again. So today, you learn this exercise
25 and the next day you learn the theory for doing the next

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1 exercise. Then your limit will be up to a certain level based on
2 the practice. And you cannot separate the theory and the practice
3 itself.

4 Q. I am not giving up on this one, Mr. Witness. Let me give you
5 an example of something that you testified to yesterday.

6 Judge Lavergne asked you questions about what your recollection
7 was as to the total number of prisoners and at one point
8 yesterday you said 10,000 prisoners -- you saw a charge
9 containing 10,000 prisoners.

10 [14.20.54]

11 But you were also questioned by the military court in Phnom Penh
12 between 1999 and 2002. Let me quote you -- E3/65; English, ERN
13 00147525; Khmer, 00146487; and French, 00147900.

14 So you were asked that same question by the judge from the
15 military court and then you said the following: "The number" --
16 the question is, "The number imprisoned and killed at the same
17 time, how many and the total number detained at S-21, how many?"

18 Actually, this was a question of the Investigating Judge here.

19 And then you said the following: "Let me tell you straight. I do
20 not remember. There are the lists that they kept at S-21 which
21 may show that I do not remember. How many women and children? I
22 do not know."

23 So here, and you did the same thing before the military court --
24 here you do not remember anything. But now in Court, yesterday
25 you said there were 10,000 prisoners. Is that something that you

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1 are saying now because you have seen the case file or is it
2 something that you now remember?

3 [14.22.52]

4 A. Could you please show me the written record of my interview at
5 the military tribunal? I believe it exists in Khmer although I do
6 not have it in my possession. <I have destroyed it>. Please show
7 the Khmer version of that statement.

8 Q. I am happy to do that, maybe Monday.

9 Just for your information already, Mr. President, the document
10 that I was referring to the military court is E3/528; English,
11 ERN 00327319; Khmer, 00320783; and French, 00327324.

12 Let me ask you my question again. That number of 10,000
13 prisoners, is that something that you now remember or is it
14 something that you have constructed because you know of an OCP
15 prisoner list which contained 12,000 people?

16 [14.24.17]

17 A. Judge Lavergne asked me a question yesterday and, of course,
18 Your Honour is still here. I responded to his question and I
19 mentioned a certain number or figure and everybody knew about it.
20 I also <said> under which circumstances I <raised> the figure and
21 the number was not actually 10,000. It could be a bit over
22 10,000. <After he put many questions to me, I said that the first
23 figure was a total number.>

24 <But> later on I spoke about the <total number that I calculated
25 from the monthly basis lists> of prisoners, <and I made the

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1 combined list> a few days before we fled.

2 And I also told Judge Lavergne that I did not do the total number
3 of the prisoners on the 3rd of January but the figure that I,
4 myself, totalled was a bit over 10,000.

5 [14.25.08]

6 As for the Co-Investigating Judges -- that is, Judge Marcel
7 Lemonde and Judge You Bunleng, <they> showed me a list of
8 prisoners at S-21 and that I should review it overnight. And the
9 next day I was asked about that list. I said basically the list
10 was correct. However, there were some names missing including
11 those of my younger brother-in-law, <Keoly Thong Huot,> as well
12 as Brother Vorn. So the figure was later adjusted a little bit,
13 and it <was> reduced <from over 12,300 to about 12,000 since>
14 there were some <duplicate names. Those duplicate names were then
15 removed from the list>.

16 As for my statement at the military tribunal, I cannot recall it.
17 <As> you may know, it happened since 1999.

18 Q. Well, 1999 was closer to 1979 than your statement today.

19 But let me move to another subject where the same phenomenon is
20 happening, Mr. Witness, and it is an important subject. The
21 President asked you already questions about this before and that
22 is the date of 15 August 1977.

23 It seems that you are very certain that this is the day that Son
24 Sen left for the battlefield; correct?

25 [14.27.16]

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1 A. Counsel, first you asked me about a number of prisoners and
2 you wanted me to say that I knew the number because of my
3 testimony here. And allow me to say to you that I am not happy
4 with the way you questioned me.

5 In relation to your new question -- and I apologize. I cannot
6 recall it now. Please repeat it.

7 Q. You will not like many more questions to come, Mr. Witness, I
8 think.

9 15 August 1977, you seem to be very certain of that day. That is
10 the day that you said Son Sen left for the battlefield at Neak
11 Loeang; correct?

12 A. Regarding <the> 15 August date, not only I was asked by the
13 President of the Chamber, Judge Marcel Lemonde also asked me
14 about that particular date, 15 August. <> He said that I was
15 <appointed to establish S-21 on 15 August and> that Son Sen went
16 away and I told Marcel Lemonde that, yes, it was on the same date
17 although the events <happened in different years>.

18 [14.28.50]

19 And <yesterday> I reiterated a point with the President of the
20 Chamber that there were three main events that occurred on the
21 same 15 August, <I noted them down>. The first one was <15
22 August> 1970, when I left the Wat Ounalom pagoda <for> Sector 25,
23 since I no longer had to bear living in <Phnom Penh> city under
24 the grip of Lon Nol's regime. So I went to Sector 25. And I
25 <couldn't forget> that particular date. Personally, you <can't

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1 forget> certain events that happened to you in your life.

2 And, Counsel, what is happening again now? Allow me to finish it
3 first.

4 [14.29.31]

5 Q. Sorry to interrupt you, Mr. Witness, but you are -- you are
6 giving testimony that I already heard before.

7 In 1999, before you were arrested, did you know the date of 15
8 August 1977, then as well?

9 A. How could you ask me such a question? In what year are you
10 referring to, 15 August <in which year?>. In fact <I was brought
11 in> on the 6th of May 1999<, two months after Mok was brought
12 in>.

13 As for Mok, he was taken there on the 6th of March '99. For me it
14 was on the same "6th", but 6th of May 1999. And of course I
15 remember that.

16 I even remember the day Mok died. Do you want to ask me that
17 date?

18 MR. PRESIDENT:

19 Witness, please listen to the question carefully because that is
20 the duty of the defence counsel to confront you with those
21 questions and you need to understand that and please be civilized
22 in your response and concentrate on the questions instead. Please
23 respond to the limit within the question since there are two main
24 events that you made mention <of> before the military tribunal in
25 1999.

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1 [14.31.15]

2 And of course the Chamber has heard of your testimony before you
3 were sent to the ECCC. The question by the defence counsel is in
4 relation to your knowledge -- that is, contemporaneous knowledge
5 that you knew at the time rather than the knowledge that you
6 learned while you <were> here, while you <became> acquainted with
7 the documents in the case files as well as during the questioning
8 by <the> parties once you <were> before the Chamber. And that is
9 important for everyone including the defence counsel in order to
10 evaluate your evidence. The Chamber also needs to do that at the
11 end of the hearing.

12 So please concentrate and respond to the questions based on your
13 ability and knowledge. And I understand that there are very
14 difficult dates and events that happened and I understand that
15 you have been asked <ten thousands> of questions thus far, so it
16 is rather difficult for you as well.

17 [14.33.10]

18 BY MR. KOPPE:

19 Thank you, Mr. President, for your intervention.

20 Q. Let me come straight to the point, Mr. Witness. If you are so
21 certain about this date, 15 August 1977, why was it that you told
22 Nate Thayer in your interview with him that you were transferred
23 to Nuon Chea in July 1978?

24 I'm happy to give the -- it's there. I will repeat the question;
25 let me first give the ERNs. It is actually a verbatim transcript

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1 of that interview; ultimately I think to be published in the "Far
2 Eastern Economic Review". It's E3/1567; English, ERN 00002622;
3 Khmer, 001722--

4 MR. PRESIDENT:

5 Counsel Koppe, please read the identity document number, namely,
6 ERN number and the document number again.

7 [14.34.30]

8 BY MR. KOPPE:

9 Certainly. E3/1567; English, ERN 00002623; Khmer, 00172211.

10 Q. So my question again, Mr. Witness: If you are so certain
11 about you being transferred to Nuon Chea on 15 August '77, how
12 come when you talked to Nate Thayer you used the date July '78?

13 MR. KAING GUEK EAV:

14 A. Thank you, Counsel. I was not given a copy of Nate Thayer's
15 book. Nate Thayer did not <> interview me personally, it was
16 Christophe Peschoux who interviewed me on that occasion, and
17 Christophe Peschoux's book was given to the Court here. <I cannot
18 recall whether I have read this particular matter or not.> And <>
19 some of the documents <were fabricated>.

20 I am not confused with the date. The 15 August 1977, it was <>
21 the date when I went to work with Nuon Chea. And, at the time,
22 Haing Kheng Heng <was my friend, and> when I was interviewed by
23 Christophe Peschoux, Haing Kheng Heng was the interpreter. I
24 <cannot> forget that event.

25 [14.36.31]

1 Q. Is it true, Mr. Witness, that the moment that you received
2 the case file you started changing your testimony as to Son Sen
3 still reading confessions, first to October then to 11 November
4 and, finally, to the 25th November just to fit your date into
5 things that you saw or read in the case file?

6 A. What are you asking me? Which date and which document are you
7 quoting? Could you please give it to me and put on my desk?

8 Q. Well, you said on 4 April at 15.17 hours, 2012, that Son Sen
9 last signature could be seen on a confession of the 25 November
10 '77. Isn't that correct?

11 [14.37.46]

12 A. Next time, please put the full question <to me> not just <a
13 patched up> old question. Do not put trivial <questions to me>.

14 Mr. President, let me clarify the matter. Brother Son Sen went to
15 the battlefield on 15 August 1977. It is clear to me, but the
16 documents which <were> shown to me here and which I saw, <most
17 were> signed by Son Sen <on> 11 November 1977.

18 There <was only one> document shown to me when I was a witness
19 here, and the document <> dated 25 November 1977 <was the last
20 document signed by him.> And I <concluded> that although Son Sen
21 had gone to the battlefield, he was still attending the meeting
22 of the <Standing> Committee, and he <> once <replied to my letter
23 on 05 October>.

24 I saw his signatures on many documents <dated on the 11th>, and
25 one signature was seen on 25 November 1977, and I am sure that

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1 Uncle Son Sen went to the battlefield on 15 August 1977. And
2 although Son Sen had gone to battlefield, Angkar still invited
3 him to meetings, and when he came to the meetings, he <tried> to
4 finish off some work <related to the> Santebal office <with me>.
5 <So the last time that he signed the document was on the 25th.>

6 [14.39.44]

7 MR. PRESIDENT:

8 Thank you, Counsel.

9 It is now time for break. The Chamber will take a short break
10 from now until 3 p.m., and the Chamber would like to inform the
11 public and parties that the last session of today's hearing will
12 be used for the presentation on reparations in relation to Case
13 002/02 <made by Lead Co-Lawyers for civil parties>.

14 Thank you, Mr. Kaing Guek Eav alias Duch. The hearing of your
15 testimony as a witness has not come to an end yet. You are
16 invited to come and testify once again on Monday 20 June 2016 --
17 that is next week, Monday next week.

18 Security personnel is instructed to bring Kaing Guek Eav alias
19 Duch back to the ECCC detention facility and return him into the
20 courtroom on Monday 20 June 2016 <at 9 o'clock in the morning>.

21 The Court is now in recess.

22 (Court recesses from 1440H to 1504H)

23 MR. PRESIDENT:

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

25 Now, the Chamber will hear the presentation of reparations in

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1 Case 002/02. The Chamber notifies all parties via Memorandum
2 Number E352/2 dated 10 June 2016 and also the Senior Legal
3 Officer of the Trial Chamber emails the parties regarding the
4 matter.

5 The Chamber would like to give the floor now to the Lead
6 Co-Lawyers for civil parties to make <a> presentation of the
7 reparations. You may proceed.

8 MS. GUIRAUD:

9 Thank you, Mr. President. Good afternoon to all of you.

10 We are going to present to you today the <proposed> reparations
11 that are <currently being drafted> in Case 002/02 and we are
12 going to present to you nine projects that have been prioritized.
13 Eight of them are already ready to be implemented in the context
14 of this case.

15 [15.06.05]

16 Before I present the projects one by one, I would like to provide
17 you with a procedural reminder. In order to remind the
18 <Defendants> as well as the people in the courtroom as well as in
19 the public, the context in which these <proposed> reparation are
20 being implemented and then I will begin by presenting a certain
21 number of projects and my colleague, Ang Pich, will present the
22 rest <of> these projects.

23 First, I would like to provide you with as reminder so that Khieu
24 Samphan, Nuon Chea may understand what we are doing regarding
25 this issue of reparations.

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1 We are operating within the context of Rule 23 <quinquies> bis of
2 the Internal Rules that indicates that if <at least> one of the
3 <Defendants> is convicted <in this case>, moral and collective
4 reparations may be awarded to the civil parties.

5 These reparations may be at the expense of the <Defendant or,>
6 and it's in this context that <we are developing this proposal,>
7 the Chamber may decide to recognize that a specific project
8 constitutes an appropriate response to a reparation request.

9 This procedural context, which is specific to the ECCC, has two
10 consequences which <I believe> are important for the <Defendants>
11 and their counsel to understand.

12 The first being that given the indigence of the <Defendants>,
13 they will not be requested to shoulder the financial cost of
14 these projects. The implementation of the projects is financially
15 neutral for the <Defendants>. The projects are being developed
16 with NGOs or with the government and they are financed by outside
17 <donors>. The <Defendants> are not requested to contribute to the
18 financing of the projects given the fact that they are indigent.

19 [15.08.20]

20 The second thing that's important to understand is that the
21 reparation projects that are <being presented> to you today will
22 only become judicial reparations if at least one of the
23 <Defendants> is <found guilty> for at least one of the crimes for
24 which he is being tried <before this Chamber>.

25 [15.08.51]

1 So in order to be very clear about this, before a final <guilty
2 verdict>, these projects are implemented as proposals and they
3 will only become judicial reparations with a final conviction if
4 there is such a conviction.

5 And the second thing that I would like to explain is a little bit
6 what differentiates a reparation project from a classical NGO
7 project regarding the Khmer Rouge.

8 And I would like to explain here the methodology that we have
9 implemented so that these reparation <projects are> true
10 judiciary reparations. The identification process for the
11 projects is based on the civil parties' wishes, and we conducted
12 a large consultation process since 2010, since the creation of
13 the Co-Lead Lawyers unit.

14 [15.10.00]

15 The beneficiaries of the project must be the civil parties above
16 all, even if they are secondary beneficiaries to these projects,
17 and the content of these projects that are being developed have
18 to be in line with what is being said in this courtroom and in
19 line with the crimes for which the <Defendants> are being tried
20 in Case 002/02.

21 And the projects that we are developing are connected and are in
22 line with the fundamental principles of the United Nations in
23 terms of reparations, which are principles that date back to 2005
24 and that acknowledge a few major categories of reparations.

25 Let me give you a few examples which we <based our work> on to

1 develop the projects that we are presenting to you.

2 First, the guarantees of non-repetition. Which projects can we
3 imagine so that the facts that are now being tried are not
4 reproduced and projects linked to education <and>
5 inter-generational dialogue <are included in these proposals>.

6 [15.11.07]

7 And you also have satisfaction projects that include access to
8 the archives or the <dissemination> of the Judgement <to the
9 victims. And> there are also rehabilitation projects which, in
10 our case, concern support projects, medical or psychological
11 support projects offered to the civil parties.

12 So as I was saying in my introduction, what is really important
13 and what is at the heart of the definition of these projects is
14 consultation with the civil parties. <This> consultation with the
15 civil parties <has> guided us in the identification and
16 prioritization of the <proposed reparations>.

17 But <in order> for this consultation to take place, we are, of
18 course, confronting practical and financial obstacles and I would
19 like to say a few words about this so that the Chamber <is> also
20 aware of the difficulties we are facing when we organize these
21 consultations so that the civil parties, once again, <are> at the
22 heart of the identification and prioritization process.

23 First of all, we have to indicate that the Tribunal's
24 administration has no budget to organize consultations with the
25 civil parties. And you have seen that the number of teams of

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1 counsels <on this case> has been reduced and that the financing
2 of these teams has also been reduced.

3 [15.12.41]

4 And you know that the VSS has its own budget and that this
5 section is developing its own programmes and these programmes are
6 not necessarily in <line> with what the Co-Lead Lawyers are
7 doing.

8 I'm saying this so that the Chamber may understand that it is
9 sometimes difficult to organize these consultations, and I would
10 like to thank the German <Civil> Service for Peace which <very>
11 concretely allowed us, in cooperation with VSS, to organize four
12 consultations in remote provinces where it's sometimes difficult
13 to go meet the civil parties, specifically so that <we could
14 explain> these <proposals> to them and so that we can discuss
15 <the matter> with <them>.

16 So to be clear, we are obliged to do in-depth research so that
17 the consultation process may happen in the most efficient way
18 possible.

19 Thanks to the German Civil Service for Peace, we were able to
20 organize <four> consultations in Kampot, Mondolkiri, Banteay
21 Meanchey and <very soon> in July in Koh Kong with, of course, the
22 logistical and administrative support of VSS.

23 [15.14.09]

24 And the <forums> developed by VSS also allowed us to explain and
25 to discuss and to prioritize the <proposed reparations> with the

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1 civil parties, which means that in total we were able to organize
2 10 forums where we were able to discuss the projects that we are
3 going to propose to you today.

4 It is important as well to indicate that we have invited NGOs and
5 governmental organizations with which we are working <to>
6 organize consultations themselves with the civil parties at the
7 beginning of the implementation process of these projects, so
8 that these projects be completely in line with the judicial
9 reparations that we wish to request from the Chamber in this
10 case.

11 So how were things organized in this process? First, we <spoke>
12 with the civil parties and, on the other hand, we <spoke> with
13 the NGOs and with the current Cambodian government<, and my
14 colleague Ang Pich will speak about this,> so that we may see how
15 the civil <parties'> wishes could <dovetail with> the practical
16 <proposals> that are being implemented by the NGOs or by the
17 government.

18 Today we have selected nine projects; eight of these are ready to
19 be implemented. That is to say that there is sufficient financing
20 so that their implementation begins <right now,> as we are
21 speaking, and we have taken into account a certain number of
22 criteria that we will explain in the written report that we will
23 provide to the Chamber.

24 [15.15.58]

25 The link with Case 002/02 and the crimes for which the

1 <Defendants> are being tried and the benefits that are granted to
2 the consolidated group of civil parties, the benefits that are
3 granted to the specific groups of the civil parties, the Cham,
4 <ethnic> Vietnamese, minorities, the victims of forced marriage,
5 <and> Buddhists, and we have taken into account the issue of the
6 feasibility of these projects, the existence or not of budget, of
7 course, and of course the presence of necessary funds to begin
8 these projects; and general complementarity between projects that
9 we may propose to you a coherent total, of projects and avoid
10 redundancy between different projects.

11 [15.16.53]

12 And so therefore today, we have nine projects and there might be
13 others. We wish to present to you the projects that can be
14 started today so that we can show to you the progress that we
15 have made since the last temporary report that dates back a few
16 months now.

17 And <so first> we're presenting to you projects based on what we
18 call guarantees of non-repetition, which is a kind of reparation
19 that is enshrined in international statutes.

20 And, in particular, three projects linked to education and <--
21 education and learning about history of the Khmer Rouge period.
22 The> three projects that we are developing are <in concert with>
23 NGOs that have contacts with the Ministry of Education so that
24 <all of> these projects may be implemented in high schools and in
25 universities <throughout> Cambodia.

1 And we're presenting to you today as well, three projects on
2 specific groups which we spoke about -- the Cham, minorities, and
3 the victims of forced marriages. And one project on
4 rehabilitation which deals in particular with medical support to
5 certain civil parties who -- for many of them are <elderly>. And
6 three projects that we call Projects Linked to Satisfaction,
7 which is also a category of judicial reparations that is
8 acknowledged in international statutes and that revolves around
9 access to the Tribunal's archives and to the <dissemination> of
10 the Judgements <and court documents>.

11 [15.18.44]

12 And I'm going to present four projects and then I will give the
13 floor to my colleague so that he may present the five remaining
14 projects.

15 And I'm going to start with the non-repetition category,
16 therefore, the projects that concern education and learning Khmer
17 Rouge history.

18 And we wanted these three projects to be complementary, therefore
19 there is a first project which is <being> implemented by the
20 Bophana Audio-visual Center and which is focused on the
21 development of educational content and in particular the creation
22 of <a> web app, with all of the elements<, notably those>
23 contained in the case files<, I will explain a bit more in a
24 moment>.

25 [15.19.30]

1 So educational content for the first projects; training of
2 teachers for the second project, this is a project that is
3 supported by DC-Cam; and third project is an educational project
4 in the broader sense of the word and it's also an artistic
5 project that is supported by Meta House which is a young
6 Cambodian organization, <called "Khmer Action" Arts".

7 Let me start with the first project which is the project from
8 <our partner,> Bophana <Audio Visual Resource Center>. And the
9 title of the project is -- might sound a bit strange in French --
10 is "Web Application of Khmer Rouge History Education", and
11 Bophana Center is going to develop a web application that is
12 going to explore the main issues and the crimes that are at the
13 heart of Case 002/02 and that will include training <modules>,
14 and films, <notably contemporary> archival films, photographs,
15 articles, civil party testimony, images of the trial, documents
16 and audio files that are also based on what is being discussed
17 right now in Case 002/02.

18 [15.20.58]

19 Now, regarding this project, we have organized a consultation as
20 I explained at the very beginning of my presentation. On 24 June,
21 Bophana is going to come discuss with 100 civil parties to
22 explain the project and so that the civil parties <are able to
23 truly take ownership of> the project.

24 The second project that I'd like to present is the project
25 regarding the training of teachers, that <is> teachers in high

1 schools and universities. This is a project that we're developing
2 with DC-Cam and DC-Cam is proposing to organize training all over
3 Cambodia for school teachers as well as for university professors
4 with respect to Khmer Rouge history.

5 And the third educational project is a community project which is
6 proposed by <the association we know as> Meta House and which
7 developed a community play, that was written by young Cambodian
8 authors who are working for Khmer Action Arts and this is a play
9 that stresses the acts of courage and resistance and of
10 solidarity that occurred during the DK period.

11 And following this play, which will be performed in all schools,
12 in high schools throughout Cambodia, discussions will be
13 organized between young people and the civil parties, and there
14 will also be a photo <exhibit>, film screenings, a drawing
15 competition, and a multi-media tour.

16 [15.22.53]

17 The idea of these projects is to promote inter-generational
18 dialogue so that the generation that experienced DK may speak to
19 the young generation which sometimes is not very aware of what
20 happened during that period.

21 So these <three> projects are supposed to be complementary and
22 these three projects are going to be -- or can be implemented as
23 we speak now and will be implemented throughout all of Cambodia.
24 And to finish now, I'd like to present the first project which
25 concerns what we call the specific groups because the Internal

1 Rules obliges us to take into account the harm suffered by
2 specific groups, and I'm going to present here a project that
3 concerns the Cham.

4 My colleague will present then a project concerning the victims
5 of forced marriage and ethnic minorities.

6 [15.23.54]

7 The first project concerning the Cham is also presented by the
8 organization we know as Meta House and which organized workshops
9 between young Cham film-makers, and civil parties or victims or
10 people who experienced the DK regime.

11 The young film-makers are going to make films that will then be
12 produced and finalized under the supervision of professional
13 documentary film-makers. And an internet website will also be
14 developed and a DVD will be distributed.

15 Therefore I am done with the presentation of these four projects.

16 Before I give the floor now to my colleague I would like to
17 thank, of course, the NGOs with which we are working, the
18 <donors> who are providing the support <for> these judicial
19 reparations. Without these people and these organizations, it
20 would be absolutely impossible to present to you these projects
21 <today>.

22 [15.25.20]

23 And, once again, on this list, eight of these projects are right
24 now sufficiently financed so that their implementation may begin.

25 So I believe I have finished my presentation and now I will give

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1 the floor to my colleague so that he may present the remaining
2 projects, but I would like to let you know, once again, that
3 we're presenting to you today nine projects, but that it's
4 possible that other projects may be added to this list in the
5 future.

6 Thank you for your attention.

7 [15.26.07]

8 MR. PICH ANG:

9 Good afternoon, Your Honours. Good afternoon everyone in and
10 around the courtroom.

11 I <shall> now present five additional projects -- that is, to
12 continue from where my colleague left off.

13 The first project that I'd like to present is "Pka Sla Krom
14 Angkar" (phonetic). It is about forced marriages under the Khmer
15 Rouge regime.

16 And the partner for the implementation of this project is Khmer
17 Art Academy in collaboration with Kdei Karuna, TPO, as well as
18 Bophana Centre.

19 This project involved the following activities: That is, the
20 project will produce a contemporary classical dance production
21 using <the> oral history <of the civil parties> and <also> case
22 studies of survivors, and it will explore the gender impacts of
23 forced marriage under the Khmer Rouge. And the classical dance
24 will be performed in Phnom Penh or <in> other provinces. The
25 production will be accompanied by community dialogues to be

1 conducted pre- and post-performance.

2 [15.28.33]

3 The project will also collect oral history testimonies to be
4 permanently archived in relation to forced marriages under the
5 Khmer Rouge regime so that their stories of forced marriages
6 under the Khmer Rouge regime will be disseminated and understood
7 by the public. And as I stated, oral history testimonies will be
8 collected to be permanently archived.

9 [15.29.26]

10 We envisage key beneficiaries of the project will be civil
11 parties who experienced forced marriage and rape within those
12 marriages, as well as unrepresented victims, their children and
13 grandchildren and the public generally.

14 And the sixth project that I'd like to present is "voices from
15 ethnic minorities". It aims to promote public awareness about the
16 treatment of ethnic minorities during the Khmer Rouge regime.

17 The partner for the implementation of the project is Kdei Karuna.
18 Activities of the project include the following: It will use
19 innovative approaches to facilitate community dialogues and
20 conduct outreach events such as exhibitions, forum theatre,
21 public truth-telling, and oral history documentation.

22 We envisage that key beneficiaries of the project include civil
23 parties and other ethnic minority survivors of the Khmer Rouge,
24 youth, community leaders and the general public.

25 The seventh project is entitled "The Untold Stories of Civil

1 Parties Participating in Case 002/02 at the ECCC". And partner
2 for the project is C-H-R-A-C or CHRAC. The objective of the
3 project is to publish the personal accounts of civil parties, and
4 there were about 30 of them, who were admitted to participate in
5 Case 002/02, but who could not testify before the Trial Chamber.

6 [15.32.11]

7 This project will produce an illustrated book of the stories of
8 <the> civil parties that will describe the suffering that they
9 endured under the Khmer Rouge, and the book will be distributed
10 to <civil parties, victims, schools, universities,> libraries
11 <and other research centres>.

12 The key beneficiaries include civil parties, the <next generation
13 of> youth, the general public as well as national and
14 international researchers.

15 The eighth project is under the heading of "Rehabilitation" and
16 it is entitled "Improving the Health and Mental Well-being", and
17 it particularly focused on the health and mental well-being of
18 civil parties, in particular those elderly people <as well as
19 other victims> who are not civil parties.

20 <Our> partner for the implementation of the project is HelpAge
21 Cambodia.

22 Activities for the implementation of the project include the
23 following: To conduct capacity-building training activities for
24 health professionals and village health support group volunteers
25 on mental and physical healthcare issues, as well as to provide

1 mobile health camps to target communities.

2 We envisage key beneficiaries include the estimated 3,635
3 beneficiaries in 81 villages in three provinces.

4 [15.34.32]

5 And the last project is the project that has been proposed to the
6 Royal Government of Cambodia as part of the reparations. And the
7 proposal was to go through the administrative body of the ECCC.

8 And the <> project <is called> "Legal Documentation Centre
9 Related to the ECCC". And the partner for this project is the
10 Legal Documentation Centre <> as well as <Office of the> Council
11 of Ministers <>.

12 The objective of the project is to provide civil parties and
13 victims of the Khmer Rouge access to the judicial records related
14 to the Khmer Rouge trials, as well as to facilitate access and
15 dissemination of publicly available civil party documents to the
16 public and younger generations.

17 [15.35.41]

18 These are the projects that we <are presenting> to Your Honours
19 and there are nine projects <in all>.

20 And, in fact, there are four additional projects that were part
21 of the proposal to the Royal Government of Cambodia, including
22 the public memorial centre or museum for the victims of the Khmer
23 Rouge as we propose such <a> memorial centre museum <be built> at
24 Pothivong pagoda or Wat Thmey pagoda in Trapeang Seh village,
25 Kouk Chak commune, Siem Reap district, Siem Reap province.

1 Another project which was part of our proposal to the government
2 is a public ceremony <for all religious practitioners>, that we
3 aim to have such public ceremony in order to commemorate the
4 victims of the Khmer Rouge regime and that it should be
5 commemorated at <any> location <of Cambodia's tourist sites,> for
6 example, a location of significance in Siem Reap <>. And that
7 prominent religious figures from all Cambodia's religious
8 denominations, <Cambodia's high-ranking people, victims and civil
9 parties> should be <invited to> attend <this ceremony>.

10 [15.37.34]

11 And another project is the preservation of crime sites, and the
12 project<'s aim is to> place <an information board> at the crime
13 sites within the scope of Case 002.

14 And the last project that was part of the proposal to the
15 government is a symbolic <renaming> of existing infrastructure.

16 The project proposes that an existing public infrastructure, such
17 as a public road, bridge, park or garden be renamed <as "Memorial
18 Road or Memorial Bridge".

19 The last four projects have been proposed to the government and
20 we are waiting for the government's response.

21 As Marie Guiraud and I made in our presentation, we may add
22 additional projects when we have concrete information or funding
23 for the implementation of such projects.

24 And, Your Honour, I'd like to conclude my presentation now. Thank
25 you.

1 [15.38.48]

2 MR. PRESIDENT:

3 Thank you, Lead Co-Lawyers for civil parties.

4 The Chamber will adjourn the proceedings today and resume next
5 week -- that is, Monday 20 June 2016, starting from 9 o'clock in
6 the morning.

7 Next week on Monday, we will continue to hear testimony of
8 witness Kaing Guek Eav alias Duch.

9 Security personnel -- is there a problem -- is there
10 interpretation problem? Please check the French interpretation
11 channel.

12 (Short pause)

13 [15.39.47]

14 MR. PRESIDENT:

15 Once again, the Chamber will adjourn the proceeding now and
16 resume on Monday, 20 June 2016, starting from 9 o'clock in the
17 morning.

18 And on Monday next week, the Chamber continues to hear testimony
19 of witness Kaing Guek Eav alias Duch.

20 Security personnel, you are instructed to take the two
21 <defendants>, Nuon Chea and Khieu Samphan, back to the detention
22 facility and have them returned to attend the proceedings next
23 Monday before 9 o'clock in the morning.

24 The Court is now adjourned.

25 (Court adjourns at 1540H)