



**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

**អង្គជំនុំជម្រះសាលាដំបូង**

Trial Chamber

Chambre de première instance

**TRANSCRIPT OF TRIAL PROCEEDINGS**

**PUBLIC**

Case File N° 002/19-09-2007-ECCC/TC

21 June 2016

Trial Day 422

**ឯកសារដើម**

**ORIGINAL/ORIGINAL**

ថ្ងៃ ខែ ឆ្នាំ (Date): 20-Oct-2016, 08:56

CMS/CFO: Sann Rada

Before the Judges: NIL Nonn, Presiding  
Claudia FENZ  
Jean-Marc LAVERGNE  
YA Sokhan  
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 Mr. KOPPE resumes.....page 2

**List of Speakers:**  
  
Language used unless specified otherwise in the transcript

Speaker	Language
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUISSSE	French
Mr. KAINING 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

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 will continue hearing the testimony of Kaing

6 Guek Eav alias Duch.

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

8 parties and other individuals at 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 except Marie Guiraud, the International Co-Lead

13 Lawyer for civil parties is absent without reasons.

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

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

16 been delivered to the greffier.

17 The witness who is to testify today, Kaing Guek Eav alias Duch,

18 is already available in this courtroom.

19 [09.02.22]

20 MR. PRESIDENT:

21 Thank you, Ms. Chea Sivhoang. The Chamber <shall> now decide on

22 the request by Nuon Chea.

23 The Chamber has received a waiver from Nuon Chea, dated 21st of

24 June 2016, which states that due to his health, headaches, <and>

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

2

1 effectively participate in future hearings, he requests to waive  
2 his right to participate in and be present at the 21st of June  
3 2016 hearing.

4 Having seen the medical report of Nuon Chea by the duty doctor  
5 for the Accused at the ECCC, dated 21st of June 2016, who notes  
6 that Nuon Chea has chronic back pain when he sits for long and  
7 recommends that the Chamber grant him his request so that he can  
8 follow the proceedings remotely from the holding cell downstairs.  
9 Based on the above information and pursuant to Rule 81.5 of the  
10 ECCC Internal Rules, the Chamber grants Nuon Chea's request to  
11 follow today's proceedings remotely from the holding cell  
12 downstairs via audio-visual means.

13 [09.03.38]

14 AV Unit personnel are instructed to link the proceedings to the  
15 room downstairs so that Nuon Chea can follow the proceedings.  
16 This applies <for> the whole day.

17 Next, the Chamber gives the floor to the defence team for Mr.  
18 Nuon Chea to put questions to the witness.

19 You may proceed.

20 [09.04.04]

21 QUESTIONING BY MR. KOPPE RESUMES:

22 Thank you, Mr. President. Good morning, Your Honours. Good  
23 morning, counsel.

24 Q. Good morning, Mr. Witness.

25 Yesterday when we broke, we were speaking about surveillance and

3

1 monitoring people who were suspected. We also spoke about people  
2 who were implicated by confessions.

3 Let me follow up on that by asking you a question as to what you  
4 meant when you gave evidence a few days ago, the 13th of June  
5 2016 at 11.10. You said, and I quote you:

6 "In terms of implementation, I was repeatedly instructed and  
7 warned not to make any arbitrary arrest of anyone."

8 What, exactly, did you mean when you said that?

9 [09.05.28]

10 MR. KAING GUEK EAV:

11 A. Thank you.

12 Mr. President, this is not my word. That is the <> Party line,  
13 and also the political line of the Party. The arrests which were  
14 not endorsed by the Party were illegal, and the one who made the  
15 arrest would be <punished>.

16 <Yesterday> I made mention about Sok <Butchamroeun> from Sector  
17 25. He killed a Party member.

18 After 17 April, Sok <Butchamroeun> was arrested and smashed.

19 Another real example, it was the case of Nat. He <arrested>  
20 people at Takhmau concerning the vehicle reversing, and the

21 individual, <Ear Kok> (phonetic), was arrested. <I secretly

22 warned Nat about this case.> Nat and I were working together

23 <since> 1966. We were in the <core> branch of the Party, and <> I

24 knew at the time that Nat made the arrest illegally. I talked to

25 him that the arrest, any arrest, <that was> not endorsed by the

4

1 Party would be considered illegal and we would be considered  
2 traitors. As a result, we would be in danger. <At the time I  
3 tried to talk to him about the Party line>.

4 [09.07.26]

5 When <> Brother Son Sen, our superior, called us to work with  
6 him, Nat, at the time, <wanted to show off his superiority> and  
7 <he raised the matter, and then>, Brother Son Sen took off his  
8 glasses and <put them back on, then started scolding Nat, that it  
9 was selfish to arrest someone for his own interest. Nat was then  
10 quiet>.

11 So what I have told you is concerning the Party line. It's not my  
12 word. <And as> I was a Party member, I had to adhere to the Party  
13 line. And I did not make any arbitrary arrests and my  
14 subordinates <> would not be allowed to make arbitrary arrests<,  
15 either>.

16 Q. Yesterday, we spoke about the arrest of Yim Sambath, the one  
17 who threw the grenades behind the Royal Palace, and the arrest of  
18 Chan Chakrey.

19 What you just said, does that mean that Yim Sambath and Chan  
20 Chakrey were not arbitrarily arrested?

21 [09.09.05]

22 MR. PRESIDENT:

23 Please hold on, Mr. Witness.

24 You may proceed, International Deputy Co-Prosecutor.

25 MR. LYSAK:

5

1 I think, in the interests of clarity, counsel should be clear in  
2 his question. "Arbitrary arrest" has one legal meaning. As we've  
3 just heard from the witness, it has a very different meaning for  
4 this witness, which is that the arrests had to be approved by the  
5 Party, so I think counsel should be clear: is he asking him were  
6 these arrests approved by the Party?

7 MR. KOPPE:

8 Well, the witness is not a lawyer, Mr. President, so I'm using  
9 that exact same word. I think this is the way I should be asking  
10 the question, so following literally his words, were the arrests  
11 of Chakrey and Yim Sambath arbitrarily(sic), so I'm just using  
12 his own words. I know there's a legal meaning to it, but still, I  
13 think I should be able to ask that question.

14 [09.10.16]

15 JUDGE FENZ:

16 Why is it so difficult to rephrase if there is no second thought  
17 behind it to clarify it?

18 BY MR. KOPPE:

19 Fine.

20 Q. Mr. Witness, was there a good reason for the arrests of Yim  
21 Sambath and Chakrey?

22 MR. KAING GUEK EAV:

23 A. Mr. President, since I have come to testify this Court, I have  
24 repeatedly made mention of the matter <>. Santebal did not have  
25 the authority to decide on the arrest <of anyone> from the time



6

1 when I was M-13 up to the time I was chief of S-21.

2 [09.11.24]

3 <First,> I was chief of M-13 and later, I became the deputy and  
4 head of S-21. I, myself, never issued any decisions to make any  
5 arrest. <To my knowledge, according to the Party principle,> the  
6 arrest of <any> Party member was to be decided by the <Party>  
7 Centre.

8 Vorn entrusted me to the task to be chief of M-13, and he warned  
9 me <again and again not to do that. However, I said that Comrade  
10 Sambath was arrested at sector 25> without the decision of the  
11 <Party> Centre. <And I asked him how we would operate at our  
12 place.>

13 <Brother Hok said that> M-13 was required to receive the arrested  
14 people only. However, sometimes they ordered M-13 to gather the  
15 forces to make the arrests; <in fact, they had made their  
16 decisions for the arrests already>.

17 So in summary, the arrests of Yim Sambath and Chan Chakrey were  
18 decided by the upper echelon and then <they were both> <> sent to  
19 S-21. <S-21 forces did not make the arrests.>

20 After the decisions for the arrests <were made> and after the  
21 individuals were arrested, they were sent to S-21.

22 So again, decision of the arrests were made by them and the  
23 <people arrested> were sent <to S-21> as well, <and sometimes  
24 people were brought in and arrested at S-21>

25 [09.12.53]

7

1 I do not understand international law. However, according to the  
2 <Principle of the CPK that I implemented at that time, the term>  
3 "arbitrary arrests" <referred to the arrests that were made by>  
4 Santebal <chiefs themselves or by their forces without> the  
5 endorsement <of> the upper echelon. <But arrests following the>  
6 Party lines would only be made after the decision or endorsement  
7 <from> the upper echelon. <I do not know about the international  
8 law regarding this issue. But regarding the arbitrary arrests, it  
9 was Santebal chiefs who decided to make the arrests>.

10 In my life, I never issued any decisions for arrests without the  
11 endorsement from the upper echelon.

12 Q. Please listen to my question, Mr. Witness, and don't repeat  
13 yourself 100 times.

14 Do you know whether the Party Centre had a good reason to arrest  
15 Yim Sambath and Chakrey? Was there a reason, suspicion of  
16 treason, for instance, for their arrests or involvement of  
17 sabotage or involvement of planning of a coup d'état?

18 Was there an actual good reason for Yim Sambath or Chakrey to be  
19 arrested?

20 [09.14.24]

21 A. Thank you, Counsel.

22 It's beyond my knowledge to respond to your question.

23 A few days ago, I made mention <of> Honoré de Balzac, a French  
24 person. He said "The political regime ended, the government also  
25 ended, but the police will be in operation." So the investigation

8

1 is dependent on the police. However, the decisions are made by  
2 the government.

3 One time, I met <Peter> Leuprecht. Do you know that guy? <Peter>  
4 Leuprecht was the <United Nations> High Commissioner <for> Human  
5 Rights. <This> individual went to see me in the detention cell.  
6 And <I told him that,> "Police officers <around the world have>  
7 to adhere to the decision of the government, so governments make  
8 the decision and the police will have to adhere to the decision  
9 by the government".

10 So the question put by you cannot be answered by me since it's  
11 beyond my understanding and I cannot answer it. Only the people  
12 in the Centre could do so.

13 [09.16.18]

14 Q. But Mr. Witness, you were involved in the interrogation of Yim  
15 Sambath. You were involved in the interrogation of Chan Chakrey.  
16 Yesterday, we discussed that he -- that Chan Chakrey was  
17 monitored for a long time. At least you should be able to answer  
18 the question what had Chan Chakrey done that led to his arrest.

19 A. Thank you <>.

20 MR. PRESIDENT:

21 Please hold on, Mr. Witness.

22 You may proceed, Co-Prosecutor.

23 MR. LYSAK:

24 Yes, Mr. President.

25 Counsel's asked the same question three times now. He seems to be

1 encouraging the witness to speculate. I think the question should  
2 be very clear that he's asking for the witness' knowledge, if he  
3 was informed and other than from confessions for the reason for  
4 Chakrey's arrest and is not being asked to speculate.

5 [09.17.38]

6 MR. KOPPE:

7 I think it's a perfectly appropriate question. I just tried to  
8 use very simple terms. That's what this witness seems to  
9 understand.

10 I know I've asked the question in other words before, but asking  
11 him in simple words does he remember what it was that Chan  
12 Chakrey had done that led to his arrest, I think, is a completely  
13 appropriate question.

14 MR. PRESIDENT:

15 The witness is allowed to answer the question. And you are  
16 instructed to respond to the limit of your knowledge in relation  
17 to the arrest.

18 [09.18.46]

19 MR. KAING GUEK EAV:

20 A. Thank you, Mr. President.

21 I made a clarification already about the reports <from> S-21. The  
22 reports from S-21 served as an element for the basis of the upper  
23 echelon decisions. The decisions by the upper echelon were based  
24 on their own reasons.

25 <If> S-21 arrested anyone <> based on <someone's confession>

10

1 without the authority <or> permission from the upper echelon,  
2 <they> would be <punished>, so arrests made by S-21 were to be  
3 endorsed by the <government>. And <when> the government<> makes  
4 <a> decision <to arrest someone>, <> the police officers <were  
5 not in any position to know the reason behind it>.

6 [09.19.54]

7 BY MR. KOPPE:

8 Q. It seems you are not capable, Mr. Witness, of answering that  
9 question. Let me move to Koy Thuon.

10 What was the reason for Koy Thuon's arrest?

11 MR. KAING GUEK EAV:

12 A. I have limited knowledge of Koy Thuon's case. When I lived  
13 with Koy Thuon at Boeng Thom <> after 29 October, I observed that  
14 Koy Thuon was a gentle man. And later on, <> Koy Thuon was  
15 notorious for having affairs with women. <Later on, I learned  
16 that what people said about him was true although there was no  
17 official report about that to me>.

18 And <first,> Koy Thuon had <an affair> with <someone else's wife>  
19 in Phnom Penh, and after <the husband learned about the> affair,  
20 Koy Thuon ordered the arrest of Long.

21 And <from what Brother Son Sen told me>, when Long was being  
22 arrested, Koy Thuon was there as well to help <with> the arrest  
23 and put him in a <sack>. <That's what I learned about Koy Thuon's  
24 case, and later on his confessions were obtained.>

25 [09.21.37]

11

1 So in the case of Koy Thuon, <it was a long story>, but I do not  
2 have full knowledge concerning Koy Thuon's case, so I have known  
3 only <five> per cent of Koy Thuon's case.

4 And as for the reasons <that the Party Centre decided to have>  
5 Koy Thuon <arrested>, I do not know.

6 So the affairs of the country at the time <were> in the hand of  
7 870. <But at S-21> I knew only a minimal part of the affairs,  
8 <and I made some reports to them>.

9 MR. PRESIDENT:

10 Duch, now, to deal with the issue, if you do not know the answer,  
11 please say so. So answer what you -- you can answer what you can,  
12 and if you do not know, please say so and you cannot respond to  
13 the question on behalf of the Angkar Leu or upper echelon.

14 BY MR. KOPPE:

15 Q. So you don't know anything about the reason of the arrest.  
16 Do you know anything about the way Koy Thuon was arrested, where  
17 he was arrested, how long it took to arrest him, by whom he was  
18 arrested? Do you know anything about that?

19 [09.23.30]

20 MR. KAING GUEK EAV:

21 A. Mr. President, <regarding> Koy Thuon's arrest,<> Pang brought  
22 Koy Thuon in, <Comrade Hor was the one who arrested him, and at  
23 the time I hid behind a curtain. After Koy Thuon was handcuffed,  
24 I revealed myself to him. That's what actually happened>. And <>  
25 Pang brought Koy Thuon in under the instruction of the Centre.

12

1 And <I was asked to receive> Koy Thuon <> under the instruction  
2 of the Centre as well.

3 Brother Son Sen <at the time> was <870's representative>. He said  
4 Koy Thuon <> was once my superior, <and I used to respect him  
5 unconditionally>, so I had to be careful. So the instructions  
6 from the Centre were clear, and S-21 was, at the time, waiting to  
7 <implement the Centre's orders>.

8 Q. Did you know how Koy Thuon ended in the power of Pang? Did you  
9 know what happened before Pang transferred Koy Thuon to you?

10 A. Koy Thuon was removed from Party membership in April. I cannot  
11 recall the date. And he was detained at the <Central Office>. So  
12 after he was removed, Koy Thuon had no authority over Pang, and  
13 Pang instead had the authority over Koy Thuon after he was  
14 removed from the membership and was detained <in a house> at the  
15 <Central Office. I knew about that clearly>.

16 [09.25.42]

17 <Actually,> after the person was removed from <Party membership,  
18 his authority in the Party Centre was also removed, and he> was  
19 also removed from being the Minister of Commerce. So after <that,  
20 he had no authority over Pang>. Before Koy Thuon was <> under  
21 house arrest, he <only> had authority over his subordinates. <He  
22 had no authority over Pang>. And as for Pang, <> 870 had  
23 authority over him.

24 After Koy Thuon's arrest, I had authority over Koy Thuon and I  
25 had to convince Koy Thuon to write the confessions for Angkar.

13

1 Q. Mr. Witness, have you ever heard of a combatant of the 704  
2 Special Forces Battalion, Meng Hak?

3 A. Mr. President, <this question is a bit strange for me>. I  
4 cannot recall the 704. <What is it?>  
5 [09.27.19]

6 Q. Well, let me read to you something, Mr. Witness. Maybe you  
7 heard of it, but I doubt it.

8 Mr. President, I will be referring to E3/2117; English page, ERN  
9 00081344; Khmer, 00192975; and there's no French translation.  
10 This is what it says:

11 "Meng Hak, a veteran of the 704th Special Forces Battalion, was  
12 assigned to arrest Koy Thuon, secretary of the North Zone, who  
13 was residing north of Wat Phnom. It took two days and a night  
14 before it was possible to arrest Koy because of the many soldiers  
15 guarding him." End of quote.

16 Is that something that you heard at the time, that it was very  
17 difficult to arrest Koy Thuon?

18 A. Thank you, Counsel.

19 Mr. President, I do not really understand after hearing the  
20 quote, and I do not <know what 704 is or was, and> I do not know  
21 Meng Hak, either.

22 And as for the difficulty in arresting Koy Thuon because he had  
23 many soldiers <defending him>, that is not true. It was not  
24 difficult at all to arrest Koy Thuon. This is what I can clarify.  
25 [09.29.25]



14

1 Q. Let me move on to the next point in regards Koy Thuon.  
2 Yesterday and other days, we discussed the fact that S-21 or the  
3 Regiment 21 was a military regiment subordinate to the general  
4 staff, and I quoted you saying that you were a military person.  
5 Now, in one of your statements, E3/65; English, ERN 00147519; and  
6 Khmer, 00146480; you talked about receiving orders not to torture  
7 Koy Thuon. But you added a word. You didn't say you received  
8 orders, you said you received "absolute" orders not to torture.  
9 Is there a difference between receiving orders from your military  
10 superior and "absolute" orders?  
11 A. S-21 had to adhere to the principles set by the Party. Torture  
12 <had to> be conducted <if it was> necessary. <I taught that> in  
13 relation to interrogation methods. And Pou Phally (phonetic)  
14 recorded the content of the study session. And the instruction  
15 from the <upper echelon> to me was <that I had> to interrogate  
16 Koy Thuon by myself.  
17 [09.31.32]  
18 And as for the methods <for> Koy Thuon's interrogation, I  
19 <mentioned them> several times. <I did not receive> the  
20 instructions <not to inflict torture on him. Actually, I was  
21 instructed> to be careful since <I used to respect him  
22 unconditionally>, and I was warned not to be <beaten>  
23 psychologically by Koy Thuon and I had to be strong in my stance.  
24 Q. But I'm asking you as a military person or as a person part of  
25 the military hierarchy, is there a difference between receiving

15

1 an order and receiving an "absolute" order?

2 JUDGE FENZ:

3 Perhaps it might help to use the Khmer words because I'm not sure  
4 he really gets the gist of your question.

5 Hear the two Khmer terms.

6 MR. KOPPE:

7 I know what I wrote down from the English transcript, but I'm  
8 happy to ask-

9 [09.33.03]

10 JUDGE FENZ:

11 I'm not saying you are doing something wrong. I just suggest if  
12 you confront him with the two Khmer terms he used, it might be  
13 easier to ask him if there is a difference.

14 MR. KOPPE:

15 One second, please.

16 (Short pause)

17 [09.33.38]

18 MR. KOPPE:

19 The Khmer -- the national counsel for the Khieu Samphan team said  
20 that there was an <accurate> translation in Khmer between  
21 "orders" and "absolute orders", so apparently in Khmer it came  
22 across. But let me, in any case, double check the original Khmer  
23 transcript.

24 (Short pause)

25 [09.34.38]

16

1 MR. KOPPE:

2 Would the co-counsel for the Khieu Samphan team be so kind to  
3 read those two words?

4 MR. KONG SAM ONN:

5 Mr. President, let me read. I will read from the text - quote --  
6 the related phrase:

7 "During the interrogation of Koy Thuon, I was ordered <>  
8 absolutely not to use torture, and <I was instructed to>  
9 interrogate him <> myself." End of quote.

10 BY MR. KOPPE:

11 Q. So again, Mr. Witness, you seem to add an extra word to being  
12 ordered. You were "absolutely" ordered. And my question is: does  
13 that mean something even stronger?

14 [09.35.55]

15 MR. KAING GUEK EAV:

16 A. Thank you, Counsel.

17 I hope that the word which has been read, was quoted from my  
18 statement to the Co-Investigating Judge. Thank you, Mr. Counsel.

19 And I <see> you nodding.

20 So the words indicating my view during the investigation stage in  
21 which I responded to the Co-Investigating Judge, talking about  
22 the interrogation of Koy Thuon, it was monitored every day by Son  
23 Sen, and he kept following the confession. It was an absolute  
24 order; no one dared <touch him>. So Koy Thuon was taken there and  
25 <he was> allowed <> to sit on a <rattan> bed; <I reiterated it

17

1 several times. I asked him to write down his confession>, and  
2 when he was very angry and he broke <his> eyeglasses<, tore off  
3 the papers> and threw away the pen, <and he shouted that he  
4 should not be treated like this because he was also part of the  
5 Angkar>, I assigned two guards from the Special Unit to guard  
6 <him>.

7 And I ordered them not to inflict any torture <on him> and <I  
8 told them to> prevent him from committing suicide. <These were  
9 the orders from me.>

10 So it was an absolute order not to <inflict> torture or not to  
11 cause any problem <with> him. <According to S-21 principle, the  
12 intention> was not to inflict any torture until it <was> the last  
13 resort. <For most of the cases, torture could not be avoided>.  
14 <But for Koy Thuon's case, he was not tortured from the beginning  
15 till end>. <That was the only exceptional case.>

16 [09.38.18]

17 Q. In order to understand exactly how the interrogation of Koy  
18 Thuon went, let me take a sidestep and try to see if I can  
19 somehow compare it.

20 In your own trial, you were accused of using violence during the  
21 interrogation of a person called Chhit Iv. And you acknowledged  
22 that you intervened in the interrogation of Chhit Iv. In your  
23 testimony on the 16th of June 2009, E3/5800, you said, and I  
24 quote:

25 "So I only slapped into the face of Chhit Iv because I knew that

18

1 he gave in to my interrogation already, that I could not beat him  
2 much."

3 And as you'll recall in your case, the Trial Chamber acquitted  
4 you of torture charges in relation to Chhit Iv because the Trial  
5 Chamber ruled that the slapping did not cause enough pain or  
6 suffering of the severity required for a finding of torture or  
7 other inhumane act.

8 Now, comparing the interrogation of Koy Thuon and Chhit Iv, is it  
9 correct to say that a certain amount of violence was used in  
10 respect of Chhit Iv, but none whatsoever in respect of Koy Thuon?

11 [09.40.25]

12 A. Thank you, Counsel.

13 Mr. President, it was my testimony during my case, in particular  
14 to the Co-Investigating Judge. I was the deputy chief of S-21  
15 when I <slapped> Chhit Iv. <Nat and I walked there>. And Ma  
16 Mengkheang alias Mon was the one who interrogated Chhit Iv, and  
17 Chhit Iv was very angry, <and he insulted Comrade Mon> during the  
18 interrogation, and Nat was about to beat <him>. <I did not want  
19 the chief to beat him. So> I slapped Chhit Iv <one or two times>  
20 because I <had> better experience <in interrogating people> and I  
21 collected <a lot of> documents related to Chhit Iv, so I did that  
22 <to overpower him>. It is the truth.

23 When it comes to Koy Thuon, in the Court proceeding in one  
24 section of my testimony, there was an effort to connect me  
25 <slapping Chhit Iv> to <> Koy Thuon<'s case, that's why I used a

19

1 word "absolute order", > it was an absolute order not to torture  
2 Koy Thuon, <Koy Thuon's interrogation was monitored very closely  
3 the whole time>, so you cannot compare Chhit Iv's case to Koy  
4 Thuon's.

5 <> In Chhit Iv's case, I used certain words and then I slapped  
6 him <one or two times>. But for Koy Thuon, I used a kind of  
7 psychological pressure on him for interrogation.

8 [09.42.40]

9 Q. I will come back to the general use of certain interrogation  
10 methods later. Let me finish my questions about Koy Thuon.

11 In your WRI, E3/1570; English, ERN 00154194; Khmer, 00154224; you  
12 said that Son Sen sent Koy Thuon to be executed.

13 My question to you is: what were the reasons Koy Thuon were  
14 executed? What had he done?

15 Had he committed treason? Had he planned a coup d'état? Had he  
16 staged a rebellion? What was the reason that Koy Thuon was  
17 ultimately executed?

18 A. Thank you, Counsel.

19 It was decided by Office 870 to arrest him, and the interrogation  
20 of Koy Thuon was pursuant to <the> 870 order, Son Sen<> was  
21 following the case very strictly. And <after> Koy Thuon <wrote  
22 down his confession for the fourth time, and he> was kept <alive>  
23 for a while and, later, it was decided by Office 870 to smash, to  
24 kill him.

25 [09.44.50]

1 Regarding the reason for his execution, <according to> the policy  
2 of the CPK during the seventies, <> any enemy of the Party <had  
3 to> be smashed, <and it was the Party Centre who identified who  
4 the enemies were>. So <it was also the Party Centre who made the  
5 decision to send arrestees to be detained at M-13. And regarding  
6 the arrest of Koy Thuon and other people, more than 12,300>, <it  
7 was also the Party Centre who decided to have them arrested or>  
8 smashed <if necessary. If anyone was arrested and sent to S-21,  
9 whether or not he or she confessed, at the end, he or she would  
10 be> smashed, except <for> one victim who was spared <since he had  
11 to work for S-21>.

12 Q. Mr. Witness, I'm not so interested in you repeating the  
13 general principles. I'm asking you about one case only.  
14 You already said that you have no idea why he was arrested, but  
15 at least you should be able to tell us what the actual reason was  
16 that, at one point in time, he was executed.

17 [09.46.30]

18 A. Thank you, Counsel.

19 Mr. President, I repeated many times, anyone who was arrested  
20 <had to> be smashed. <When it was time to smash certain  
21 individuals, for example, Koy Thuon, we would be told. But> I  
22 don't know the <actual> reason behind the execution.  
23 So <> during the DK regime, <it> was simply anyone who <was>  
24 considered as enemy was to be smashed. Before execution, the  
25 person would be sent to <S-21 or other> security offices for

21

1   interrogation and then smashed.

2   MR. PRESIDENT:

3   Thank you. The response appeared to be sufficient for this  
4   purpose.

5   [09.47.38]

6   BY MR. KOPPE:

7   Yes, I will move on, Mr. President, to my next subject, but I  
8   will return to Koy Thuon and Oeun and others later.

9   Q. Mr. Witness, you've answered many questions already in  
10   relation to interrogation methods that were used by you and Hor.  
11   When you were questioned by the Prosecution, I didn't object to  
12   that, but I will confront you with the use of the word -- the use  
13   of the Khmer word for "torture".  
14   Now, it's my understanding that in all contemporaneous documents  
15   and also in all your testimony you use the Khmer word  
16   "tearunakam". Is that correct?

17   MR. KAING GUEK EAV:

18   A. Thank you, Counsel.

19   The Khmer word "tearunakam" was used since I was in M-13 <until>  
20   the 6 of January 1979.

21   [09.49.12]

22   Q. We discussed this word "tearunakam" in a hearing a few months  
23   ago, 27th of April 2016. And at one point in time, the President  
24   intervened in a discussion of the -- or the legal discussion of  
25   that word. And I would like to read to you what the President



1 said about this word, and then I would like to ask your reaction  
2 to that word.

3 So Mr. President, I'm quoting you at 14.05 on the 27th of April  
4 2016:

5 [09.50.01]

6 "Mr. President: Counsels, you should limit yourself to other  
7 terms, probably like inhuman and degrading treatment because the  
8 word 'tearunakam' in Khmer or generic torture definition is  
9 really common in the Khmer context. For example, when a father  
10 disciplines a child, we also use the same word 'tearunakam', and  
11 that would not -- that could not be legally defined as torture.  
12 So the word has been invited within the behaviour and tradition  
13 and culture of Cambodia." End of quote.

14 Can you react, Mr. Witness, to the words of the Presiding Judge?

15 A. Thank you, Counsel.

16 Mr. President, I do not recall your statement, so when I listened  
17 to the quotes, it reflects the practice in Khmer <families>. It  
18 is part of <the> culture in <> Cambodian <families>. <I strongly  
19 agreed with the statement.>

20 Q. So trying to be a bit more legal in the hope you'll  
21 understand, Mr. Witness, does the word "tearunakam" mean both  
22 certain forms of violence being inhuman or degrading treatment  
23 and, ultimately, also what we call "torture"?

24 [09.52.18]

25 JUDGE FENZ:

23

1 Sorry, Counsel. I mean, as you, yourself, said, he is not a  
2 lawyer. Inhuman and degrading treatment, I know the President  
3 introduced it, but it's a legal term, too, as we all know.  
4 Torture is a legal term. And you are asking him to clarify if a  
5 certain Khmer word is identical to any of those two. I think this  
6 is beyond what a witness can do.

7 MR. PRESIDENT:

8 <Regarding> my intention <on> that occasion, <I clarified that  
9 term> because the parties objected to <any party who used the  
10 word> "torture" during the examination, so I was trying to avoid  
11 any controversial <issues> during the proceeding or examination  
12 because it was often objected <to> during the questioning. So I  
13 was thinking of two things: <number 1,> I think it was not  
14 legally defined when it <was> used <within> the ordinary  
15 Cambodian family, but later, I used another term. I advised the  
16 Lead Co-Lawyers for using the correct term. I advised <her to  
17 use> "mistreat" rather than "torture", <because both words carry  
18 almost the same meaning,> but "mistreat" <does not carry the  
19 legal meaning like> "torture".

20 [09.54.11]

21 It was my advice for the Lead Co-Lawyer, and based on the  
22 testimony of the witness, based on his knowledge during his  
23 experience in doing his work. So in this proceeding, you should  
24 use the proper term to avoid any controversy and any objection  
25 <during the examination>.

24

1 So we expect to hear from the witness the term that <was> used at  
2 S-21. <In fact, the term that was used at S-21 was "tearunakam",  
3 and many witnesses from S-21 used this term as well>, so you  
4 should not confront the witness with the legal terminology. <If I  
5 am not wrong, you were the one who objected the parties regarding  
6 the term and you suggested not using the term "torture" during  
7 the proceeding, and you said that the legal term should be  
8 discussed by legal officers.>

9 JUDGE FENZ:

10 I think I've said it at an earlier stage. Perhaps it easier to be  
11 more descriptive, asking him if he uses the word, what, exactly  
12 -- what kind of actions does that involve as opposed to trying to  
13 compare it to legal terms.

14 [09.55.40]

15 BY MR. KOPPE:

16 Yes. Let me try to do it very factual.

17 Q. Mr. Witness, when I read to you that excerpt from the  
18 President's intervention, you agreed.

19 Could you tell me what kinds of behaviour "tearunakam" could  
20 occur in an ordinary Khmer family in your time?

21 MR. KAING GUEK EAV:

22 A. Thank you, Counsel.

23 Mr. President, Your Honours and fellow Cambodians, my mother used  
24 to hit me when I <made> any mistakes and my father also blamed me  
25 <when I did something wrong>. <What my mother did to me was

25

1    called> "tearunakam", <> torture, because it was a discipline  
2    against any violation of the family discipline.  
3    During the CPK regime, <> the term "to implement the disciplinary  
4    rule" <was used>, so when <I let> one of the enemy <escape in  
5    1973>, I implored <Brother Vorn Vet> to punish me; <it meant that  
6    I no longer wanted to be a police officer>. I told him that he  
7    <could also> remove me from the Party membership <because I made  
8    a mistake>.  
9    [09.57.57]  
10   <But as for the term "torture",> in practice at M-13 or at S-21,  
11   it referred to the <> acts <of inflicting> physical <pain>. So I  
12   instructed my subordinates that we should <torture the enemy  
13   severely when we had the advantage, and after they admitted their  
14   mistakes,> we <could inflict> torture <on them>.  
15   In <an> ordinary Cambodian family, when a mother hit her child or  
16   the father hit the children, just a kind of small beating with a  
17   small whip or from the coconut leaf, it's a kind of <torture>. So  
18   if it is beyond that, it's a severe beating, it will be called  
19   severe torture.  
20   So in ordinary term, "tearunakam", it can be like a mother  
21   <hitting> a child or a teacher <hitting> a pupil or <even a> monk  
22   <hitting his> student <like my case,> I was hit by my professor  
23   <who was a monk>.  
24   So it was referred to as well as "tearunakam", as torture, but in  
25   the intention to improve or to correct a person, so that's all I

1 can tell.

2 [09.59.48]

3 JUDGE FENZ:

4 All the semantic excursion is very interesting, but we are a  
5 Court and interested in facts.

6 So may I suggest if it is unclear, if language is unclear -- and  
7 we are only interested in what happened at S-21, not so much what  
8 happens in Cambodian families at the moment;  
9 Counsel, why don't you, if it's unclear what actions have  
10 actually been taken when the word "torture" was used, ask? Then  
11 we get the facts which we will then evaluate.

12 BY MR. KOPPE:

13 Q. Let me move on, Mr. Witness, and follow up what the  
14 Prosecution has asked you in relation to interrogation methods.  
15 And as opposed to the Prosecution, I will not use the English  
16 word in my questions, but I will use the original Khmer word just  
17 to be very clear.

18 Let me first refer you to what you said to the Investigating  
19 Judges, E3/454; English, ERN 00147603; Khmer, 00146660; French,  
20 00149924; you literally said: "The instructions were not to rely  
21 heavily on 'tearunakam' and be patient."

22 [10.01.30]

23 Almost the exact same thing you said during this trial, the 9th  
24 of April 2012 at 9.08 in the morning. You said: "The  
25 interrogation and 'tearunakam' were the last resort. What we

27

1 actually wanted was their confession. 'Tearunakam' was the last  
2 measure."

3 Is that -- was that the case, Mr. Witness, not to rely too  
4 heavily on "tearunakam" and it was the last resort?

5 MR. KAING GUEK EAV:

6 A. Mr. President, that was my opinion <after> I had experienced  
7 M-13, <that is "not to rely too heavily on 'tearunakam'," it  
8 would be the last resort>. Pou Phally (phonetic) was recorded  
9 accordingly that torture would be the last resort, and when I  
10 testified in <1912> (sic), I also <mentioned> the fact that  
11 torture should be the last resort.

12 [10.03.10]

13 Q. Is it also correct that, as you said, with the exception of  
14 Koy Thuon and maybe Yim Sambath you, yourself, never participated  
15 in any interrogation, nor observed with your own eyes any  
16 interrogation? Correct?

17 A. Thank you, Mr. President.

18 I implore you, Counsel, not to connect Yim Sambath and Koy Thuon  
19 cases together. They were -- they underwent different  
20 experiences.

21 Koy Thuon was personally interrogated by me. I had to prepare  
22 myself before the interrogation, and I need not to speak about  
23 this again. I would like to tell the fellow Cambodians that I,  
24 myself, interrogated Koy Thuon, and torture was not used.

25 And no one used the term "contemptible" or "A" to refer to Koy

1 Thuon until the day that Party <Centre> decided to take Koy Thuon  
2 out for smashing.

3 [10.04.40]

4 For Yim Sambath, I asked another interrogator to interrogate. I  
5 asked Hor to interrogate, and the <initial stage of the>  
6 confession was <audio-recorded, and there was a written  
7 confession implicating that> Yim Sambath threw the grenade  
8 against the wall of the palace, and <> there was small  
9 destruction at that location. <I went to the location after the  
10 incident, and I saw shrapnel near the west wall of the Royal  
11 Palace>.

12 I told the Court already about the case. Later on, <it was>  
13 inevitable <that> Yim Sambath <would be tortured>.

14 Q. Mr. Witness, forget Koy Thuon, forget Yim Sambath.

15 Is it correct that you never participated, yourself, in any  
16 interrogation and you never witnessed with your own eyes what  
17 happened during interrogation? Is that correct?

18 A. Let me make a clarification. Since the time I was chief of  
19 S-21, I had never tortured or interrogated anyone. Not at all.

20 [10.06.19]

21 Q. Now let me follow up on this by reading something you said in  
22 E3/5771; English, ERN 00185500 till 01; Khmer, 00185492; French,  
23 00185509:

24 "As for the use of 'tearunakam', the situation was the following.  
25 For simple combatants, Hor controlled everything and could order

1 'tearunakam'. For important prisoners such as Ya, Son Sen gave me  
2 his orders on the use of 'tearunakam'."

3 Is that correct? Do you remember saying this?

4 A. Mr. President, I have said this from time to time. I recall  
5 the interrogation of Ya, Koy Thuon and Tum <well>. Brother Son  
6 Sen intervened in the interrogations of those individuals by  
7 phone.

8 Q. And my final question before the break, Mr. President.

9 Mr. Witness, would it be fair to say that only in the specific  
10 situations when interrogators reported on what kinds of methods  
11 were used that you would know what had happened during the  
12 interrogation?

13 [10.08.28]

14 A. That is true. I was so busy with <the> enemies' documents. I  
15 called them enemies' documents because they were <prisoners'>  
16 confessions.

17 Practically, I do not know what was happening. The Party line was  
18 clear on interrogation and torture, <and it also indicated who  
19 had the authority to decide whether or not torture should be  
20 inflicted on someone>. I did <> follow the Party lines  
21 <accordingly>.

22 MR. PRESIDENT:

23 It is now time for the break. The Chamber will take a short break  
24 from now until 10.30.

25 Court officers -- court officer, please assist the witness in the



1 break time in the waiting room and please invite him back into  
2 the courtroom at 10.30.

3 The Court is now in recess.

4 (Court recesses from 1009H to 1029H)

5 MR. PRESIDENT:

6 Please be seated.

7 The Trial Chamber is back in session and the floor is given to  
8 defence counsel for Nuon Chea to continue his questioning of the  
9 witness. You may proceed, Counsel.

10 BY MR. KOPPE:

11 Thank you, Mr. President.

12 Q. Mr. Witness, I would like to go to my next subject, and my  
13 next subject is related to the tasks and duties of Hor.

14 You've given testimony about Hor already, also, extensively in  
15 your own case, but I'm interested in specific excerpts from your  
16 own testimony in relation to Hor. And what I would like to do is  
17 read those particular excerpts to you and then ask you if that  
18 is, indeed, what you said and possibly to expand on it.

19 [10.31.07]

20 Mr. President, to speed up things, I have produced those 15 or 16  
21 excerpts from his testimony underlined so that when I read the  
22 excerpt, the witness can read along. So with your leave, I would  
23 like to present this little set in Khmer to the witness.

24 MR. PRESIDENT:

25 Counsel, your request is granted.

31

1 [10.32.00]

2 BY MR. KOPPE:

3 Q. Mr. Witness, let me start with excerpt number 1.

4 Mr. President, that is E3/5748; English, 00153568; French,  
5 00153445; Khmer, 00153459.

6 You say, and I quote: "I note that I only took personal charge of  
7 important detainees. For the others, it was Hor who took charge  
8 of the details." End of quote.

9 Is that what you said, and you still agree with that?

10 MR. KAING GUEK EAV:

11 A. Thank you, Counsel.

12 And Mr. President, I agree <with> this quote.

13 [10.33.18]

14 Q. Thank you for your short answer, Mr. Duch. Let me move to  
15 quote 2. So have a look at the second quote.

16 Mr. President, that comes from E3/1570; English, ERN 00154193;  
17 Khmer, 00154223; French, 00154208.

18 "Hor took care of the Phnom Penh sector in every field,  
19 interrogation as well as document reading. Anything that happened  
20 in the Phnom Penh sector would go through Hor before it would  
21 reach me."

22 Do you remember saying that, Mr. Witness, and do you still agree?

23 A. Thank you, Counsel.

24 And Mr. President, I agree 100 per cent with the second quote.

25 [10.34.35]

1 Q. Again, thank you for your short answer. Let me turn to quote 3  
2 now, Mr. Witness.

3 That is something you said in your testimony in the first trial,  
4 E3/5792, Mr. President, at 11.43:

5 "For Comrade Khim Vat alias Hor, his daily work -- the daily  
6 work, he managed all the daily activities at S-21. He was always  
7 occupied. That was the truth." End of quote.

8 Is that a statement you still stand by, too, Mr. Witness?

9 A. Thank you.

10 Mr. President, I still recall. Yes, it is correct.

11 Q. Let me move to the fourth excerpt.

12 Mr. President, that is E3/5772; English, ERN 00209169; Khmer,  
13 00186194; French, 00186209 to 10:

14 "Hor introduced this practice, requiring interrogators to submit  
15 daily reports to him in order to protect himself and prevent  
16 similar incidents from occurring. In this way, he could better  
17 supervise the progress of interrogation. To my knowledge, this  
18 practice remained in effect until January '79. However, it was  
19 never applied to important interrogations for which the  
20 interrogators reported directly to me." End of quote.

21 Correct?

22 A. Mr. President, this quote is correct.

23 [10.37.05]

24 Q. Thank you. Let me move to quote 5.

25 E3/1576, Mr. President; English, ERN 00160722; Khmer, 00159563;

1 and French, 00159584 till 85:

2 "Hor was relatively autonomous in his work." End of quote.

3 Correct?

4 A. Yes, this is correct.

5 Q. Quote 6, Mr. Witness.

6 Mr. President, E3/1578; English, ERN 00194549; Khmer, 00178023;

7 French, 00178035 to 36:

8 "Hor had the power to decide arrests -- that is, at the regiment

9 level, which roughly corresponded to the district level."

10 Correct?

11 [10.38.35]

12 A. Thank you.

13 This is correct, but I would like to add a bit further. This is

14 referred to the combatants who were <re>educated at Prey Sar.

15 Q. What, exactly, do you mean, Mr. Witness?

16 A. You <quoted> only part of the statement. That is why I <added>

17 further information. <Any decision regarding> the 17 April People

18 <was decided by the district level. That was similar

19 implementation at S-21, and that applied for combatants who were

20 sent for education at Prey Sar as well>. They were called

21 sub-people <later on>. So the decision <had> already been made by

22 the Centre in principle and then the <authority was given to

23 S-21, and it was also given to the> lower <levels in making

24 decisions regarding the 17 April People in the rural areas>.

25 [10.40.05]

1 Q. Thank you for that addition, Mr. Witness. Let me move to quote  
2 7, E3/5770; English, 00177609; Khmer, 00177602; French, 00177615:  
3 "Hor also had the right to decide to keep a prisoner to work at  
4 S-21, and thus not to execute him immediately. Hor was  
5 responsible to the Party for such decisions." End of quote.

6 Correct?

7 A. Thank you, Counsel.

8 Mr. President, this quote is correct.

9 Q. Let's move to quote 8, E3/5771; English, 00185500; Khmer,  
10 00185492; French, 00185509:  
11 "For simple combatants, Hor controlled everything and could order  
12 'tearunakam'." End of quote.

13 Correct?

14 A. Thank you, Counsel.

15 Mr. President, this is a correct quote.

16 [10.41.50]

17 Q. Quote 9, Mr. President, E3/5771; English, 00185502; Khmer,  
18 00185494; French, 00185511. This is about the interrogator who  
19 allegedly raped a prisoner.

20 "The interrogator guilty of the rape was simply assigned to  
21 interrogate another person. I add that he was not one of my men  
22 from M-13, but someone from Division 703, and thus Hor was  
23 responsible to the Party, and not myself. Indeed, there were  
24 three categories of men employed at S-21, those from M-13, the  
25 dozen, those from Division 703, 300 or 400, and those from

1 Kampong Chhnang province, 40 to 50."

2 And there comes an underlined quote again, Mr. Witness:

3 "I was directly responsible to the Party for the first category.

4 Hor was directly responsible for the other two categories, but I

5 was also responsible overall as head of S-21." End of quote.

6 Is that a correct quote, Mr. Witness?

7 A. Thank you.

8 Mr. President, this is a correct quote.

9 [10.43.55]

10 Q. Just following up on this, is it correct that about 95 per

11 cent of the people working at Regiment 21 originally came from

12 Division 703?

13 A. Yes, it is correct.

14 Q. Thank you, Mr. Witness.

15 Quote 10, E3/452; English, 00147567; Khmer, 00146553; French,

16 00147929:

17 "The tasks of detention and smashing had been the burden of

18 Comrade Hor ever since the creation of S-21."

19 Correct?

20 A. Yes, it is correct.

21 [10.45.16]

22 MR. PRESIDENT:

23 Duch, could you reply again because your microphone is not

24 activated when you responded.

25 MR. KAING GUEK EAV:

1 A. Thank you. It is a correct quote.

2 Yes, Mr. President. The quote by the counsel <says that> the duty  
3 of <detaining and> smashing was the responsibility of Hor since  
4 the creation of S-21. The first part is correct.

5 [10.46.08]

6 BY MR. KOPPE:

7 Q. Quote 11, E3/455; English, 00149911; Khmer, 00146672; French,  
8 00149936:

9 "Related to decision-making, initially there was the Party line.

10 All persons in detention had to be smashed. More specifically,  
11 related to S-21, Hor made the decision."

12 Correct?

13 MR. KAING GUEK EAV:

14 A. Mr. President, I would like to add a bit <of> explanation to  
15 this quote.

16 Talking about the decision, initially, the Party <line was  
17 "Anyone who was arrested must be smashed." <For the actual  
18 implementation>, the detainees who were sent <out>, <they were>  
19 destined for execution, but the decision to take <them> out was  
20 made by Hor. This is in practice.

21 [10.47.33]

22 Q. Quote 12, E3/65; English, 00147526; Khmer, 00146488; and  
23 French, 0017900 (sic):

24 "I never personally killed anyone with my own hands ever since I  
25 was chairman at Office 13. I was terrified. And at S-21, the

37

1 person who planned and gave the orders on this matter were Khim  
2 Vat alias Hor, and the implementer was chairman of my Special  
3 Unit, Him Huy." End of quote.

4 MR. LYSAK:

5 I'd simply ask counsel to repeat the document number in that.  
6 He's going a little fast for -- if he could repeat the last one,  
7 please.

8 [10.48.29]

9 BY MR. KOPPE:

10 Q. No problem. It is E3/65; English, 00147526; Khmer, 00146488;  
11 French, 00147900. Let me read it again, Mr. Witness:

12 "I never personally killed anyone with my own hands ever since I  
13 was chairman at Office 13. I was terrified. And at S-21, the  
14 person who planned and gave the orders on this matter were Khim  
15 Vat alias Hor, and the implementer was chairman of my Special  
16 Unit, Him Huy."

17 Correct?

18 A. This is <a> correct quote.

19 Q. Quote 13, E3/452; English, ERN 00147568; Khmer, 00146554;  
20 French, 00147930:

21 "So then Professor Son Sen told me to tell Comrade Hor that,  
22 starting from that time, not to decide unilaterally to take out  
23 any victims, and he, Son Sen, instructed to have Hor ask my  
24 opinion first before taking them."

25 Correct?



1 [10.50.15]

2 A. Mr. President, I would like to add a bit <of> information to  
3 be clear.

4 Since the creation of S-21, the person who <made> decisions <to  
5 take prisoners out> for smashing was Comrade Hor, but in one  
6 incident, he decided to take one of the detainees when the  
7 confession had not been completed, and then I received a phone  
8 call <from Son Sen, and he instructed Hor> that any decision on  
9 smashing should be consulted with me <first>, and <since that  
10 day, when they took prisoners out to be smashed, they gave me  
11 documents to sign so that it would not be confusing like the  
12 previous time>.

13 Q. This is actually not the next quote, but quote 15. If you look  
14 at your papers at quote 15, this is something you said, and it's  
15 about the same, but not exactly. Let me read it to you.

16 It's transcript in his trial, 9.28, he said, and I quote:

17 "The first phase -- that is, before the incident that a prisoner  
18 was killed, before the confession was completed, it was done by  
19 Comrade Hor in order not to overburden the workload. And at that  
20 time, the detainees were only in reasonable number. After that  
21 incident of Seun Sary alias Brav, and the confession was cut off,  
22 he, Hor, was warned by the superior, and that was the time that  
23 anybody who was interrogated and finished, then Hor would come to  
24 me and report it to me. I acknowledged that the interrogation was  
25 complete and it was the order from the superior that they would

1    only -- that they would be only taken after the extractions were  
2    -- after the confessions were extracted."

3    And then just immediately following up, quote 14, E3/452, English  
4    0014 --

5    [10.52.52]

6    MR. PRESIDENT:

7    Please hold on.

8    International Co-Prosecutor, you may proceed.

9    MR. LYSAK:

10   Thank you, Mr. President.

11   Before we get to 14, for 15, all that was read was a time. I  
12   didn't get a date or an E3 number.

13   MR. PRESIDENT:

14   Mr. Victor Koppe, could you please read the ERN and E number of  
15   document more slowly so that we will have a proper record of  
16   transcript?

17   [10.53.35]

18   BY MR. KOPPE:

19   It's a transcript; it is E3/5801 at 09.28. So that was quote 15.

20   Q. Following up with this, Mr. Witness, is quote 14, and then I  
21   will ask you the question -- that is, E3/452; English, 00147568;  
22   Khmer, 00146554; and French, 00147931.

23   "The word 'permission' may be used inexactly in this situation.

24   Before every killing, I had to clearly confirm that the

25   interrogations had been completed and related to the lists which

1 Hor showed me."

2 Mr. Witness, quotes 14 and 15 that I just read out to you, are  
3 they correct?

4 MR. KAING GUEK EAV:

5 A. Thank you, Counsel.

6 Mr. President, those two quotes are correct.

7 [10.55.00]

8 Q. Thank you.

9 And my last quote, quote 16, E3/358; English, 00244243; Khmer,  
10 00244236; French, 00244248; it's a quote on Lin, the deputy  
11 secretary of S-71.

12 "Later on, also under orders from Pol Pot, Lin became very  
13 powerful because he could work directly with Hor and Him Huy  
14 without going through me."

15 Correct?

16 A. Thank you.

17 Mr. President, this is a correct quote, so I would like to refer  
18 to document number 2, too. It is E3/1570.

19 Counsel, your reading of the quote in number 2, Hor was in charge  
20 of Phnom Penh in every section, including <interrogation,>  
21 reading of documents and <other tasks> before forwarding <them>  
22 to me. <But for> point number 3, <> Counsel, you are not reading  
23 from the third point, so <> I confirm <that> number 2 <is  
24 correct>, but <for> point number 3, <> I feel a bit confused on  
25 number 3, <which indicates that>, "I removed Hor from his

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1 position as my <assistant after Huy's arrest under Nuon Chea's  
2 instruction.">

3 And this is not reflected <in> practice at S-21, so if <we did  
4 not> read the whole thing, it <would be a bit confusing>.

5 So in your quote, Counsel, you did not quote point number 3 <>.

6 [10.57.34]

7 MR. PRESIDENT:

8 So please read <the> ERN on point number 3 of your transcript,  
9 Duch.

10 MR. KAING GUEK EAV:

11 A. <Regarding> point number 3 and point number 1, <first, it> has  
12 not been read by the counsel, so if you quote number 3, I cannot  
13 confirm <that> because Hor was not my assistant. He was my deputy  
14 at S-21.

15 BY MR. KOPPE:

16 Q. Thank you, Mr. Witness, for that addition.

17 Now let me move to my next subject, and I might come back to who  
18 was responsible for which tasks within Regiment 21.

19 I would like now to talk to you about the reception of prisoners,  
20 people who would come to -- okay. Sorry. Yes. Please go ahead.

21 [10.58.56]

22 MR. PRESIDENT:

23 Please hold on. You should wait until the microphone is  
24 activated.

25 MR. KAING GUEK EAV:

1 A. I just <asked the counsel> for clarification. <Did you> quote  
2 point number 3 <for my confirmation?>, if you did not quote this  
3 point number 3, it is no problem. So in E3/1570, the quote was  
4 that I removed <Hor from> the <assistant position>. So my  
5 confirmation on the quote was not included <in> number 3 because  
6 you did not quote number 3.

7 So I ask you, Counsel, did you quote point number 3 for my  
8 confirmation?

9 [11.00.04]

10 MR. KOPPE:

11 I did, but naturally, I took an excerpt. It was part of your  
12 testimony, but I did quote -- I did read to you quote 3, if  
13 that's your question.

14 But let me move to my next subject, and that is the reception of  
15 prisoners.

16 MR. PRESIDENT:

17 Mr. Koppe, could you clarify the matter because it seems that it  
18 is controversial in your examinations, <even> I could not follow  
19 this line of questioning. As far as I recall, you did not quote  
20 this part for the witness and then the witness failed to confirm.  
21 It might be that you highlighted this section and the witness  
22 <rejected> this <statement> because it does not reflect to what  
23 he did at S-21.

24 [11.01.20]

25 BY MR. KOPPE:

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1 I'm a bit confused with the answer, whether he now refers to 2 or  
2 3, but I'm happy to get back to him after the break and to see  
3 exactly what is in quote 3. The quote 3 was a part from the  
4 transcript, E3/5792, but it seems that he might have a problem  
5 with quote 2. So I'm not entirely sure if I understand.

6 Q. Mr. Witness, do you have a problem with the quote from your  
7 testimony in Court or from your testimony in quote 2 answering a  
8 question from the Investigating Judges?

9 MR. PRESIDENT:

10 Court officer, could you take the document from the witness for  
11 me?

12 MR. KONG SAM ONN:

13 May I help in providing clarification? In fact, there's a  
14 confusing here. Based on the witness, it is point number 3, but  
15 the quote by counsel for Nuon Chea was quote number 5 in document  
16 E3/1570; ERN in Khmer, 00154223; English, 00154193. I don't have  
17 the ERN in French.

18 Thank you.

19 [11.02.56]

20 MR. PRESIDENT:

21 So this point has not been quoted by the counsel, so the witness  
22 is not required to respond.

23 So the confusion <was> caused by the highlighted portion, and  
24 witness found this later and he was concerned about his  
25 confirmation on the quote <since it does not correspond to his

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1 actual practice at the time>. So we <have> now solved the  
2 misunderstanding.

3 BY MR. KOPPE:

4 Thank you, Mr. President.

5 Q. As I said, let me now turn to the matter of reception of  
6 prisoners.

7 Can you describe to us, in general terms, how would prisoners be  
8 received when they arrived in Phnom Penh? What would exactly  
9 happen? Where would they be brought in first?

10 [11.04.18]

11 MR. KAING GUEK EAV:

12 A. Thank you.

13 It's <a lot of information> to explain. I cannot answer in short.

14 I will provide you the explanation in <two or> three stages.

15 Some prisoners were important, for example, <> Koy Thuon, <Men  
16 San> alias Ya and <Seat Chhae alias Tum, they> were sent to S-21  
17 <to be arrested>, and <other cases>, <I could call> some  
18 prisoners and arrest <them> on the spot, for example, Comrade  
19 Chey Han alias <Chhan> (phonetic), was decided by the Party for  
20 the arrest and I was called at 5 a.m.

21 [11.05.27]

22 <After the decision was made by the Party, I called> Comrade  
23 <Chhan (phonetic)> to my house and he was arrested there.

24 <> There was <only one> case when I <was> called to a meeting  
25 concerning Unit 170, <when the arrest of those people was not

1 successful, they were arrested by their own unit, and they were  
2 sent to> S-21.

3 At the beginning <of S-21's operation, most of the time, the>  
4 respective units <were required to> bring their members <in> to  
5 S-21.

6 Concerning Ket Chau (phonetic) alias <Sem> (phonetic) <who was a  
7 guard> of <Uncle> Nuon, <first he brought> people <in> to S-21 to  
8 be arrested, <but eventually he> was arrested together with the  
9 people <he had> brought.

10 <It was similar to Pang's case>, Pang <> was <instructed to come>  
11 to S-21 <by> motorbike and <he> was arrested <at> S-21; <Brother  
12 Vorn conveyed Uncle Nuon's instruction to Pang>. And <sometimes  
13 Angkar instructed> S-21 <to go receive> people <who were arrested  
14 in Battambang>.

15 In summary, people arrested and sent to S-21 were decided by  
16 Office 870.

17 [11.07.16]

18 Q. Thank you for that answer, but I was actually more interested  
19 in the reception house or post on Street 360 in the building that  
20 is now known as the Beehive Radio Station.

21 What would happen when prisoners would first arrive? Would they  
22 be offloaded at Beehive Radio Station building at Street 360?  
23 What, exactly, was the procedure?

24 A. I can only answer partially the question. <Before reaching  
25 street 360,> there was a post close to S-21's gate preventing



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1 <random> vehicles from coming directly into S-21. The current  
2 radio station - Beehive Radio Station <was Huy's office>, <and he  
3 was stationed there>. And <that location had a> radio  
4 communication <that> could <communicate> to <Comrade Huy's Unit  
5 at> the rice field.

6 And as for the real arrests, it happened like what I said.

7 [11.09.10]

8 Q. In your statement, E3/5748; English, ERN 00153567; Khmer,  
9 00153459; you said that prisoners would first arrive on Street  
10 360 and would then be greeted by Him Huy and his unit at the  
11 reception post: "I only took personal charge of important  
12 detainees. For the others, it was Hor who took charge of the  
13 details."

14 Is that correct?

15 A. Mr. President, the words used by counsel are not clear to me.  
16 The methods of arrest and receiving people at the house which is  
17 currently the Beehive Radio Station were under <Huy's>  
18 management, and after they were sent in properly<>, Hor <was>  
19 responsible for <the interrogations of important prisoners. Most  
20 of the important prisoners were not brought in through that  
21 house, they were brought directly to my house, and those>  
22 important prisoners were arrested at my house and, afterwards,  
23 they were sent in to the <S-21> compound.

24 [11.11.10]

25 Q. You were also asked the question earlier about departure of

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1 prisoners. And you said in E3/5748 -- that's the same document on  
2 the same ERN pages, English 00153568; Khmer, 00153460. In  
3 relation to the departure of the detained prisoners, you say: "I  
4 have no idea. I was never present. Him Huy and the other members  
5 of the Special Unit could provide you with this type of  
6 explanation."

7 Is that correct? Is that how the situation was, that you had no  
8 idea how prisoners departed?

9 A. Mr. President, I only know the numbers of prisoners to be sent  
10 out. And in relation to <how> those prisoners <were guarded on  
11 the way> or how the processes were done <or who was responsible  
12 for taking those prisoners out>, <they knew how to do their tasks  
13 properly, so> I do not know <that process>. Usually, they asked  
14 <me for> permission <which> prisoners to be sent out to avoid the  
15 mistake in sending out prisoners. For example, there was a case  
16 <where> Hor <sent> out a prisoner by mistake.

17 [11.13.13]

18 Q. Mr. Witness, in this trial -- in this courtroom, Him Huy  
19 testified on the 3rd of May 2016. At 15.38 in the afternoon, the  
20 Prosecution asked whether there were ever people sent from S-21  
21 to Prey Sar and if so, why and then Him Huy responded: "They were  
22 from their own units and then arrived at S-21. However, they were  
23 not put directly into the compound of the prison; they were --  
24 they stopped at the main road and I was then asked to send those  
25 prisoners to Prey Sar to work the field. Those people were

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1 accused of having committed mistakes or faults." End of quote.

2 Is it correct that there were prisoners arriving at S-21 Phnom  
3 Penh and were subsequently moved to Prey Sar?

4 A. Thank you, Counsel.

5 Mr. President, all prisoners were <first> brought to the current  
6 Beehive Radio Station. For the prisoners to be sent out to Prey  
7 Sar, <they> were received at that location as well.

8 Huy did not decide who <was> to be sent to Prey Sar; the decision  
9 was made by the upper echelon. So, all prisoners were received at  
10 the current Beehive Radio Station before they were sent to Prey  
11 Sar or rice field. Huy did not have the authority to decide who's  
12 to be sent out to which locations; the decision was made by the  
13 <Party Centre>.

14 [11.15.30]

15 Q. So is it the case then that anyone who ended up in Prey Sar,  
16 at one point in time, was off -- up -- offloaded from a truck and  
17 received at the reception area in Street 360?

18 A. That is correct, Mr. President.

19 Q. Do you know the chief -- or do you remember the chief of the  
20 photography unit?

21 A. Thank you, Counsel. The photography unit was <> headed by  
22 Sreang, the actual chief.<His full name was Nim> Kimsreang. Song  
23 and Nith (phonetic) were within the photography unit, as well,  
24 and I cannot recall others' names from that unit.

25 [11.17.00]

1 Q. Sreang was also interviewed by the Investigating Judges in  
2 Case 001; Mr. President, that is E3/7639. I realize I only have  
3 the English and the French ERN, but I will provide it with you as  
4 soon as possible; English, ERN 00162736; French, 00338079. Sreang  
5 answers to a question the following:

6 The question is: "After their photos were taken, where were the  
7 prisoners sent?"

8 And then he says: "The majority of the prisoners who had been  
9 photographed were sent to farm rice, but aside from that, I don't  
10 know. Those prisoners sent to farm rice were mostly minor people.  
11 I went along and photographed that. I saw that they farmed rice."  
12 And in relation to that same subject, Mr. Witness, he talks about  
13 a sort of incident with you and my question will be whether you  
14 remember that - English, ERN 00162734; and French, 00338076; he  
15 says:

16 "One day when I was developing -- when I was developing, photos  
17 were damaged and when I requested to retake the photos, I could  
18 only find two of them and I asked Duch: 'Brother, the prisoners  
19 brought in yesterday, where have they all gone?' He, Duch, said  
20 they had all gone to the rice fields, go photograph them at the  
21 rice fields." End of quote.

22 [11.19.22]

23 So Mr. Witness, is the preceding described by Sreang and this  
24 incident correct; are you -- is that a correct description of  
25 what happened and do you recall that particular incident?

1 A. Thank you, Counsel.

2 Mr. President, first I would like to ask a question -- put a  
3 question to counsel. What is the date of the written record of  
4 the statement; when was that statement recorded before the  
5 Co-Investigating Judges?

6 Q. I'm happy to answer that question because at the same time, I  
7 can also give you the Khmer ERNS and I apologize for not giving  
8 it earlier. The first quote Khmer is 00162713 and the second is  
9 00162710.

10 And Mr. Witness, Nim Kimsreang said this to the investigators on  
11 22 October 2007 in your case.

12 [11.21.02]

13 A. Thank you. The statement by <Nim> Kimsreang is not correct; it  
14 is completely wrong.

15 Q. And why is that?

16 A. Because it is not true. It is not <a> true statement. <Nim>  
17 Kimsreang was the chief of <the> photography unit <at S-21>, and  
18 <> Kimsreang <did not come> to ask me about the disappearance of  
19 people, and prisoners from S-21 were <mostly not> sent to the  
20 rice field.

21 <Nim> Kimsreang took photographs of <incoming> prisoners at S-21,  
22 <and later on Comrade Song went to take photographs at the rice  
23 field.> And <Comrade Sry from> the special unit took the  
24 photographs of the dead prisoners, so it's not <a> true  
25 statement. It's not -- it does not reflect what happened during

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1 the time and the truth is like what I have described.

2 [11.22.45]

3 Q. Well, Mr. Witness, the reason I extensively read all those  
4 quotes from you about the tasks of Hor and who was responsible  
5 for what was to establish that you had no idea what was going on  
6 maybe for 90 per cent of the work at S-21; is that correct?

7 A. No, it does not mean I do not understand all the tasks at  
8 S-21. <I was not aware of ninety> per cent of the tasks at S-21,  
9 but the statement by <Nim> Kimsreang is not true and I could say  
10 that he told lies.

11 Q. But isn't it true, Mr. Witness, that you said yourself that  
12 you were in your house busy from 7.00 till 11.00, from 1.00 till  
13 4.00, from 6.00 till 11.00, only reading confessions and not --  
14 nothing -- not doing anything else; isn't that true?

15 A. <The head> of S-21 was not a stupid person. <The chief> of  
16 S-21 knew <the overall> work. For example, <when> Hor took a  
17 person to be smashed, it was known <to the> head of S-21 and that  
18 was <also> known to <> the Centre, <and then the Centre warned  
19 Hor. It is not true to say that the head of S-21 did not know  
20 anything>.

21 [11.24.50]

22 Yes, I agree that head of S-21 was <really> busy reading <enemy>  
23 confessions in the morning <starting at 6 a.m.> and also in the  
24 afternoon <from 1.00 to> 6.00 <pm> and <> during the night time,  
25 <the> head of S-21 <was> also reading confessions from 7.00 up to

1 12.00.

2 <There were people coming to see Duch, including> Peng, Hor,

3 Sreang, Mam Nai <> so the information would come from those

4 individuals. <But as for> Kimsreang, <he> went in and out of my

5 house on a frequent basis compared to others.

6 <All photographs related to my activities were only photographed

7 by> Sreang, <> and later on, I had my personal Olympus camera

8 with the Olympus stand <that I obtained from an enemy,> and I

9 used that camera to take photographs <of my family>. And I asked

10 Hor <as well as the upper echelon> <to keep the> camera and later

11 on, I took photographs with that camera and gave the film to

12 Sreang to develop. <The only photographer who knew me was Sreang,

13 and all of his assignments were under my instructions.>

14 Sreang was not specialized in taking photographs; he was

15 specialized in projecting <> movies. The movies <about Pol Pot's

16 visit> in China and Korea <that I requested be shown at S-21>,

17 and I gave <it> to Sreang for showing as well. Again, Sreang went

18 in and out of my house very frequently.

19 And if you said that head of S-21 knew nothing and was a stupid

20 person, it's not correct.

21 [11.26.58]

22 Q. But Mr. Witness, yesterday I confronted you with statistics of

23 armed forces and you didn't even know that Regiment 21 consisted

24 of 2,000 or 2,300 men; how is that credible testimony if you

25 don't even know how many men there were in your regiment?

1 MR. LYSAK:

2 Yes, Mr. President, thank you. Counsel's now asking the witness  
3 to comment on credibility of testimony. He's used some quotes  
4 from Hor; the witness has responded. Obviously, the witness  
5 didn't do everything himself at S-21 and relied on people, but  
6 now he's asking for comments on credibility about past testimony  
7 which I think is improper question.

8 JUDGE FENZ:

9 I suggest we stop the pleading from both sides and go back to  
10 eliciting evidence.

11 [11.28.12]

12 MR. KOPPE:

13 It's almost time, Mr. President. Let's move to my next subject.

14 MR. PRESIDENT:

15 Thank you. It is now time for lunch break and the Chamber will  
16 resume its hearing in the afternoon at 1.30.

17 Security personnel, please bring Khieu Samphan and Kaing Guek Eav  
18 alias Duch, the witness, to the waiting room downstairs -- to  
19 their separate rooms downstairs and bring in Khieu Samphan before  
20 1.30 p.m. and the witness, Kaing Guek Eav alias Duch at 1.30 p.m.  
21 The Court is now in recess.

22 (Court recesses from 1129H to 1331H)

23 MR. PRESIDENT:

24 Please be seated.

25 The Trial Chamber is back in session and the floor is now given



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1 to defence counsel for Nuon Chea to continue his line of  
2 questioning for the witness.

3 Counsel, you may proceed.

4 BY MR. KOPPE:

5 Thank you, Mr. President. Good afternoon, Your Honours, Mr.  
6 Witness.

7 Q. Before the lunch break, we were speaking about people being  
8 sent from the reception area at the Beehive Radio Station to Prey  
9 Sar. Let me follow up on that and ask you some questions about  
10 Prey Sar.

11 [13.33.16]

12 You have mentioned that already quite a bit in your evidence.

13 More particularly in E3/1570; English, ERN 00154192; and Khmer,  
14 00154222; you said the following:

15 "Prey Sar was part of S-21. It was not a place for interrogation,  
16 detention, or execution. It was a place for production and  
17 re-education. Those who were sent there were not accused  
18 prisoners, but people with disciplinary problems within their  
19 units in the Phnom Penh sector. Their situation did not differ  
20 from that of workers in cooperatives. They were not in prison."  
21 End of quote.

22 Is that correct?

23 MR. KAING GUEK EAV:

24 A. Thank you.

25 Mr. President, I confirm repeatedly that <those who were sent to>

1 Prey Sar <were> not <prisoners> and <they were> not called  
2 enemies; they were called <combatants> and their rights were  
3 equivalent to the New People at different cooperatives.

4 [13.35.05]

5 Q. In another WRI, E3/1578; English, ERN 00194547; and Khmer,  
6 00178021; you say, and I quote--

7 JUDGE LAVERGNE:

8 And the French please.

9 BY MR. KOPPE:

10 Yes, I will give you that later, Judge Lavergne.

11 "I'm not in a position to give you many details since it was Huy  
12 who was in charge of the organization."

13 Q. Is that correct; you are not in a position to give many  
14 details because it was Huy who was running the operation at Prey  
15 Sar?

16 MR. KAING GUEK EAV:

17 A. Thank you, Counsel.

18 Mr. President, the counsel's question seems very brief. The quote  
19 seems very brief, but I would like to say that I was the chief  
20 who <had> overall supervision. I know what happened at <Prey  
21 Sar>. They did not interrogate people and they did not decide to  
22 smash anyone.

23 The main <role given to the unit at the rice field was to  
24 re-educate people, of course I know that because I was the head  
25 of S-21.> But in real practice and the details, I could not grasp

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1 everything. So we have to be clear on this. So what <fell> under  
2 my supervision, I know and the details under their supervision  
3 and their responsibility would be managed by those cadres.

4 [13.37.23]

5 Q. And the French ERN of that excerpt was 00178033.

6 Mr. Witness, what do you remember about Kampong Chhnang airfield?

7 A. Thank you, Counsel.

8 Mr. President, Kampong Chhnang airfield was under the supervision  
9 of Comrade Met of Division 502. I simply learned that later. Son  
10 Sen <got instructions from Office 870 to remove> certain  
11 combatants of Division <450 and Division 310> for that  
12 construction. <> They were disarmed for that purpose. I <know  
13 about that because> my brother-in-law, who was <part of a  
14 Battalion under Division 450,> was also sent to Kampong Chhnang  
15 airfield for construction.

16 [13.39.00]

17 Q. In your last testimony, you -- in Case 003 and 004, you talked  
18 about Kampong Chhnang airfield and you said in E319/42.3.2,  
19 question-and-answer 28 that -- and I quote: "The North divisions,  
20 such as Division 310, 450, Comrade Chhin's division, were moved  
21 to construct the airport."

22 Do you know when that was when they were moved?

23 A. Thank you.

24 Mr. President, the removal people from these divisions, including  
25 my brother-in-law <as well as my younger sister>, I do not

1 remember the date of that removal, but they were actually removed  
2 and sent over there.

3 Q. Do you know who made the decision as to who would be sent to  
4 S-21 to be interrogated; people like the commander, for instance,  
5 Oeun, and who would go to Kampong Chhnang airfield to work there;  
6 who made that decision?

7 A. Thank you, Counsel.

8 Mr. President, your questions seem to be repetitive, so I would  
9 like to give my last response.

10 It was decided by Office 870 and the person who implemented the  
11 decision was Son Sen.

12 [13.41.28]

13 Q. Let me phrase it differently. Who decided upon the criteria  
14 that a certain number of Division 310 people, for instance, were  
15 sent to be interrogated by you and others were sent to work at  
16 Kampong Chhnang airfield?

17 A. Thank you, Counsel.

18 Mr. President, it seems the same question. I think it is the same  
19 question.

20 Q. Let me try it differently. I don't have the exact excerpts now  
21 with me, but let me ask if you -- or let me tell you in a general  
22 way.

23 I will be returning to his testimony later, Mr. Witness, but in  
24 this courtroom a former combatant of Division 310 testified; his  
25 name is Sem Hœurn and he gave substantial evidence about the

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1 involvement of his commander, Oeun, and Koy Thuon in attacks on  
2 Radio Phnom Penh, Pochentong airfield, etc. He talked about his  
3 role storing arms in Kampong Chhnang.

4 He was sent to Kampong Chhnang airfield to work there; although,  
5 he was involved, it seems, in this rebellion.

6 Now, taking him as an example, why was it that he was sent to  
7 Kampong Chhnang airfield and certain others within Division 310  
8 were sent to S-21?

9 A. I will give the same answer to your same question.

10 [13.44.18]

11 MR. KOPPE:

12 Let me see if I can do it again in a different way.

13 Mr. President, I would like to show the witness E3/13. I took  
14 away the binder. It's I think easier to just show him the  
15 document. These are the minutes of the meeting of secretaries and  
16 deputy secretaries of divisions. So with your leave, I would like  
17 to give the greffier this document.

18 MR. PRESIDENT:

19 Your request is granted.

20 [13.45.00]]

21 BY MR. KOPPE:

22 Mr. Witness, I'll be referring you to the green excerpt.

23 Mr. President, I will be referring to English, ERN 00940353;

24 Khmer, 00052413 and 14; and French, 00344983 (sic).

25 So it is Son Sen talking with division commanders such as Oeun,

1 Suong (phonetic), Dim. They talk about Chakrey; that's the quote  
2 that I referred to you yesterday. But on this green-highlighted  
3 excerpt, Son Sen says the following:

4 "Operational Methods:

5 "1) Continuous education is imperative.

6 "2) It is imperative to purge no-good elements absolutely in the  
7 sense of an absolute class struggle. The purge is premised on  
8 three principles:

9 "Category 1: The dangerous category: they must be absolutely  
10 purged.

11 "Category 2: The ordinary liberal category: they must be educated  
12 again and again in our education schools.

13 "Category 3: The category of those who have merely been incited  
14 by the enemy, merely believing in the enemy incitement. As a  
15 first step, they should undergo refashioning to get them to no  
16 longer believe the enemy." End of quote.

17 Q. Mr. Witness, is this division into three categories something  
18 that you remember?

19 [13.47.13]

20 MR. KAING GUEK EAV:

21 A. Thank you, Counsel.

22 Mr. President, the division <of enemies> into three categories  
23 was defined in the Party policy since its creation in 1960, but  
24 in each category, it <depended> on the person in charge who  
25 <made> decisions and <implemented> the policy.

1 Q. Now, of course, you do not know the person I just referred to,  
2 Sem Hoeurn, but whoever it was that made the decision to send him  
3 to Kampong Chhnang airfield, would he be applying those -- that  
4 principle with those three categories?

5 [13.48.30]

6 A. Thank you, Counsel. Normally, the Office 870 had actually  
7 defined these three categories of enemies <since its creation in  
8 1960>, but <> the problem <of who made such decisions remained>  
9 it developed based on the time of movement from time to time. I  
10 don't know who Sem Hoeurn was but these policies that <would> be  
11 implemented at various <divisions, regiments, provinces,>  
12 sectors, districts, and so on and <these were> the three  
13 <categories> of enemies as listed here.

14 Q. Let me follow up, Mr. Witness, on the things you said in  
15 response to a question from, I believe, Judge Lavergne in  
16 relation to a document indicating the release of prisoners of  
17 Division 920. Now, I'm not going to show you that document again  
18 because you know it and you've talked about it.

19 Let me ask you the following: Have you ever heard of an  
20 organization called DC-Cam?

21 A. Thank you. Yes, I heard of it and one document that I referred  
22 to, especially the signature and handwriting of Son Sen in his  
23 response to me, this document is at DC-Cam. You can find that  
24 document at DC-Cam <to clarify whether or not I clearly know  
25 Brother Son Sen' handwriting. That's the evidence>. Yes, I know

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1 DC-Cam.

2 [13.51.14]

3 Q. Do you also know the director of DC-Cam, Youk Chhang?

4 A. I have never met him in person or shake -- shook hand with  
5 him, but I heard of his name.

6 MR. KOPPE:

7 Mr. President, with your leave, I would like to show the witness  
8 a document. I'll put it also on the screen; it's document  
9 E3/3992; English, ERN 00548253; Khmer, 00814871 to 73; and  
10 French, 00836686 till 87. It is a newspaper article from "The  
11 Cambodia Daily" of Thursday, August 28, 2008.

12 MR. LYSAK:

13 Mr. President, I don't have any objection to the witness being  
14 asked about this article, but in fairness to the witness, I think  
15 you should have the Division 920 list that--

16 [13.52.50]

17 MR. KOPPE:

18 I will--

19 MR. LYSAK:

20 --the article is about.

21 MR. KOPPE:

22 I -- it's my cross-examination. I -- sorry to interrupt, but I'm  
23 -- I know exactly what the Prosecution is trying to do: he has  
24 his -- has had his chance, so I'm interrupting him right now. I  
25 want to show him the article; that's it.



1 MR. LYSAK:

2 I would appreciate not being interrupted. I believe it is in the  
3 interests of fairness to the witness that he not simply be shown  
4 an article, but he be shown the actual document that the article  
5 is written about.

6 [13.53.18]

7 BY MR. KOPPE:

8 That was done already by the Bench and I'm now showing the  
9 witness this article and I -- I'm entitled to do so.

10 Q. So Mr. Witness, can you read with me in that article the  
11 passages that I highlighted?

12 MR. PRESIDENT:

13 Hold on, witness.

14 (Judges deliberate)

15 [13.54.34]

16 JUDGE FENZ:

17 Just to clarify for the Bench, there was no objection because  
18 there wasn't a question yet. You had just put something on record  
19 and we are now waiting for the question, yes.

20 [13.54.46]

21 BY MR. KOPPE:

22 Let me read to you excerpts from this "Cambodia Daily" article  
23 and hopefully, it can be put on the screen and the English  
24 version as well.

25 "And a year and a half later, on or about November 26, 1977, 100

1 soldiers, including a single woman, all between the ages of 17  
2 and 38, walked out of the darkest place in Democratic Kampuchea,  
3 according to the records on file at the Documentation Centre of  
4 Cambodia.

5 "Out of the 177 prisoners DC-Cam now believes were released from  
6 S-21, researchers have so far located one, a Kandal province  
7 father of six, DC-Cam Director Youk Chhang said this week.

8 "A second person whose detention has not yet been confirmed, was  
9 being interviewed Wednesday by DC-Cam."

10 And a bit further, "However, Youk Chhang said in interviews this  
11 week that records of releases at S-21 have long been known to  
12 exist. 'These are documents sitting there for the past 30 years,'  
13 Youk Chhang revealed Tuesday. 'We've made it available all the  
14 time, but somehow it didn't get the interest,' he said." End of  
15 quote.

16 [13.56.25]

17 Mr. Witness, he's referring to prisoners from Division 920. As  
18 the article seems to suggest, he has located at least two. That  
19 seems to be in contrast with your earlier evidence that people  
20 from Division 920 were not released but executed. Can you give a  
21 reaction to what Youk Chhang is saying in that "Cambodia Daily"  
22 article?

23 MR. LYSAK:

24 Mr. President, I -- now I do have an objection because this is  
25 why the original records should be used with the witness and not

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1 an article because Counsel is now misrepresenting the evidence.  
2 The one survivor that was found was not one of the Division 920  
3 soldiers. We know that from DC-Cam's records. It was someone that  
4 was one of these 1976 individuals. The person was not released;  
5 they were sent to Prey Sar. So I think if Counsel's going to get  
6 into this, in the interests of a fair record, he should be using  
7 the actual records and not be making misrepresentations, such as  
8 that a Division 920 -- one of those 100 Division 920 soldiers has  
9 been found which is simply not true.

10 [13.57.53]

11 BY MR. KOPPE:

12 Let's not get into that detail then. Let me just look at the  
13 headline of that article and that's not tied to any division --  
14 any particular division.

15 Q. The headline or the title of that DC-Cam article says, "177  
16 Released from S-21, DC-Cam Records Show"; can you give a reaction  
17 to that?

18 MR. KAING GUEK EAV:

19 A. Thank you.

20 Mr. President, DC-Cam <is> one of the NGOs, while S-21 was an  
21 establishment of DK Government headed by the CPK, so the  
22 journalist can make any comment <he wishes>, but <at> S-21 under  
23 the absolute dictatorship policy of CPK, anyone who was arrested  
24 and sent to S-21 was smashed. So anyone can make a comment or  
25 statement, but it is based on no grounds; they can make

1 <statements> based on their discretion.

2 [13.59.49]

3 Q. Mr. Witness, last week and the week before, we briefly talked  
4 about a new prisoners list; not the one that you know, but the  
5 one that was made by investigators of the International  
6 co-invading -- Co-Investigating Judges in Case 003 and 004.  
7 That document indicates that there were about potentially 15,000  
8 plus prisoners, but in that same report or at least the name list  
9 seems to suggest that of those 15,000 or so individuals, only of  
10 -- only, of course, between quotation marks, 5,512 individuals of  
11 whom execution dates are available. So that would seem to suggest  
12 one in three. Could you give a reaction to that number?

13 MR. PRESIDENT:

14 Co-Prosecutor, you may proceed.

15 [14.01.16]

16 MR. LYSAK:

17 Sorry to be on my feet again. I'm not sure how the witness can  
18 comment on a document he hasn't been provided to look at. He's  
19 being asked to provide an observation on the new OCIJ list and on  
20 the number of prisoners in that list who have execution dates,  
21 but he hasn't been -- he hasn't seen the list, so I don't know  
22 how he can make an -- make an observation on something he hasn't  
23 seen.

24 JUDGE FENZ:

25 And I think in this case with a big list like that, it's a bit

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1 broad to say make an observation on it. I mean I would understand  
2 the question which says, "Duch, can you explain why there are  
3 only 5,512 execution dates?" But generally saying, "This is the  
4 list; comment on the numbers," perhaps a bit more precise.

5 [14.02.04]

6 BY MR. KOPPE:

7 Although, there didn't seem to be a problem when the witness was  
8 using the OCP list all the time, but let me rephrase it without  
9 using that OCIJ list.

10 Q. Mr. Witness, in your recollection, a number of 5,512  
11 individuals possibly being executed; is that something that would  
12 approximate your recollection of the total number?

13 MR. KAING GUEK EAV:

14 A. Let me clarify the matter. I am not entitled to make the  
15 estimation. I am talking of the practical situation. The lists by  
16 OCP - "kor sor por" (phonetic) <>, what is the full form of OCP  
17 <in Khmer>? <I still confirm the> list that I have confirmed.  
18 What is OCP in <its> full form, "kor sor por" (phonetic), in  
19 Khmer? And which list are you referring to? Please do not confuse  
20 things. Make it clear. We are here to find the truth for the  
21 Court and also for Cambodian people; please do not mix up things.

22 [14.03.53]

23 MR. KOPPE:

24 Well, you see, Mr. President, he is referring back to the -- to  
25 his document, so--

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1 JUDGE FENZ:

2 But perhaps to clarify, OCP means Office of the Co-Prosecutors  
3 because he didn't understand the acronym. This was one of the  
4 questions. So it is a list. There's one list provided by OCP and  
5 one list I think by the Co-Investigating Judges.

6 MR. KAING GUEK EAV:

7 A. Thank you. Yes, I have used and seen the <OCP> list and that  
8 list was used up to 10 April 2012; that is the conclusion of the  
9 first trial against my case -- my case, rather. And the list was  
10 drawn up by the Office of Co-Prosecutors and the Office of  
11 Co-Investigating Judges is aware of the list.

12 Later on, I heard over the radio broadcast that names of  
13 prisoners inscribed at <the memorial stupa> were from that list  
14 <and also included certain names from the Trial Chamber's  
15 Judgment.> So the total number of prisoners <that were inscribed  
16 at the memorial stupa is up to 12,300 something>.

17 [14.05.37]

18 And John Kerry <visited> Tuol Sleng on <the 26th> and there is  
19 another individual, a Japanese <person> working at the United  
20 Nations Office. The staff of <the> prisoner -- prison department  
21 brought a Japanese woman from <the> United Nations to see me and  
22 that Japanese woman wanted to see me at the time. So two people  
23 were present at the prison to see me; one was the Japanese woman  
24 and another one was the deputy director of the prison department.  
25 So the list is confirmed by the Court and it is widely known <by>

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1 the international arena, as well, that <> over 12,000 prisoners  
2 died at S-21.

3 [14.06.46]

4 MR. KOPPE:

5 Let me move on now, Mr. Witness, and let me show you another  
6 document.

7 With your leave, Mr. President, I would like to show the witness  
8 a document of which there's only Khmer translation available or  
9 there's only a Khmer version, rather. It's E3/8463; ERN Khmer,  
10 00015997; and maybe we can have it on the screen as well.

11 MR. PRESIDENT:

12 Yes, you may proceed.

13 (Short pause)

14 [14.07.57]

15 BY MR. KOPPE:

16 Q. Mr. Witness, can you read the very -- the line on the very  
17 top?

18 MR. KAING GUEK EAV:

19 A. Thank you, Mr. President. I'm now reading the document  
20 requested <> by the counsel to read, "The list of names of  
21 high-level cadres <> of Pol Pot."

22 Q. Do you recognize this document?

23 A. Allow me to inform <you>, Mr. President, and the Court, that  
24 this list <did> not belong to S-21 and the names in the list were  
25 not taken from the list that I used until 10 April 2012 and the

1 title of the list is "List of Names of High-Level Cadres of Pol  
2 Pot." <No one dared use the word> "Pol Pot" <> during the  
3 Democratic Kampuchea. <So this list did not belong to S-21, nor  
4 did it belong to any organ of CPK.>

5 [14.10.07]

6 Q. Do you have any idea who made up that list then?

7 A. I do not know who made up the list. They had money to spend  
8 and they had easy <lives> because they drew up the list of names  
9 and, again, this list was not drawn up by <S-21 or by any organ  
10 of CPK>.

11 Q. Let's have a look at some names on this list.

12 JUDGE FENZ:

13 Sorry, what are you implicating; who had money? Who had too much  
14 time to invent the list? Please don't speculate; just say what  
15 you know.

16 [14.11.19]

17 MR. KAING GUEK EAV:

18 A. <To say what I know, I won't refer to anyone, and> my answer  
19 is "<them or other individuals>". <The list was not drawn up by  
20 S-21 or any organ of CPK.>

21 JUDGE FENZ:

22 So whoever?

23 MR. KAING GUEK EAV:

24 A. Unknown people, but what I want to make it clear is that this  
25 list was not made by S-21 or any organs of <CPK>.



1 MR. PRESIDENT:

2 You may proceed, International Deputy Co-Prosecutor.

3 MR. LYSAK:

4 Just so the record is clear, could I ask that it be identified;  
5 what specific pages were given to the witness. This is a -- this  
6 E3/8463 consists of many different documents, many pages. What  
7 specific pages were provided to the witness, just so the record  
8 is clear?

9 [14.12.35]

10 BY MR. KOPPE:

11 I gave my copy but I believe it's the first two pages of E3/8463.

12 Yes; yes.

13 Well, let's not speculate about who "they" is or who "they" are.

14 Q. Mr. Witness, I am seeing names like who Hou Youn, Hu Nim, Tiv  
15 Ol, Men San alias Ya, Keo Meas, Suas Nau alias Chhouk; Chan  
16 Chakrey.

17 I see their names. I see their aliases. I see their positions. I  
18 see an entry date and I also see a smash date.

19 Let me go back. What is it exactly that makes you say that this  
20 is not a contemporaneous DK document? Is it the format? Is it the  
21 names? Is it the title of the document?

22 [14.14.05]

23 MR. KAING GUEK EAV:

24 A. Thank you, Counsel.

25 Mr. President, this list was not used by all of us up to 10 April

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1 2012. The format is different from the previous one. <In the  
2 previous format, the> names <of prisoners were written> in Khmer.  
3 <But in this new list, the names of prisoners were written in the  
4 Latin alphabet, and those names were listed alphabetically in the  
5 Latin alphabet>. <So, it> is different from the one that I used,  
6 and <I once examined it, and after I compared this new list with  
7 the old> list that I <have kept at Takhmau prison, I found that  
8 they had> different ERN numbers <>.

9 And I believe that this list is used after 10 April 2012. And  
10 <some of> the names <on this list> may be <> from the names that  
11 were <> <on> the previous list <and some may be from somewhere  
12 else>.

13 [14.15.41]

14 JUDGE FENZ:

15 Let me repeat. You will be confronted with documents that you  
16 haven't seen so far. This just means that you haven't seen the  
17 document so far. It doesn't say anything about the quality of the  
18 document.

19 What we want to know is, this document which you haven't seen  
20 before, is this a document which originated in the Democratic  
21 Kampuchea time or are you saying; no, it cannot be from this  
22 time, no matter whether you have seen it before or not?

23 So my question is: are you saying this is not a document from the  
24 period of Democratic Kampuchea or are you just saying, "I have  
25 never seen this document"?

1 MR. KAING GUEK EAV:

2 A. I am sure that the list that we used, the first list that we  
3 used up to 10 April 2012 was shown to me by the Co-Investigating  
4 Judges and we <verified it> afterwards.

5 [14.17.05]

6 JUDGE FENZ:

7 This is not the question. I have a very clear question. Counsel  
8 has given you a document. I understand you haven't seen it  
9 before. Can you tell me if this document was produced between '75  
10 and '79; yes or no or I don't know?

11 MR. KAING GUEK EAV:

12 A. <If you want me to answer> "Yes or no", let me tell the truth.  
13 <> This list is suspicious and I think it is not the  
14 contemporaneous list.

15 And if that list is the contemporaneous one, why the list was not  
16 shown to me or was <it> not collected into the file? <I have seen  
17 this list since the time I was detained at the military prison.  
18 Ngin Sam An (phonetic) brought a binder of documents to me -->

19 JUDGE FENZ:

20 Stop! You said the list is suspicious. You said this is because  
21 you don't know it. As we have told you before, since 2012, new  
22 evidence has been discovered. So what other reason is there, if  
23 any, for you to say this list is suspicious? Is it only because  
24 you haven't seen it before or is there any other reason why you  
25 are saying this list might not be from '75 to '79?

1 MR. KAING GUEK EAV:

2 A. I cannot explain, it is beyond my knowledge. I knew only the  
3 list and I could only answer about the list that we used up to 10  
4 April 2012 and <I could not answer about> the other list.

5 [14.19.25]

6 MR. PRESIDENT:

7 So the witness already responded to the question. I heard that in  
8 Khmer. And he said that the list here was not made by S-21 and it  
9 was not also a contemporaneous document from

10 DK. So do we want the witness to repeat the answer? The question  
11 I heard was rephrased in order to elicit the answer but in fact  
12 the answers were already given by the witness that the list was  
13 not made by S-21 or DK.

14 So then you can move on and we cannot put a question to ask the  
15 witness to <speculate>. The witness is clear already that this  
16 document was not made by S-21 <or by> DK.

17 [14.20.37]

18 BY MR. KOPPE:

19 Then I'll move onto another document, Mr. Witness, that is  
20 certainly not a DK document. There is no doubt about that.

21 I am referring, Mr. President, to E3/1993; English, ERN 00064826;  
22 and further, Khmer, 00796735; and further in French, 00795330.  
23 Maybe we can have the Khmer version on the screen so that you can  
24 read along.

25 Mr. Witness, just to be sure, this is not a DK document. It is a

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1 document from the People's Revolutionary Tribunal held in Phnom  
2 Penh, a document for the trial of the genocide crime of the Pol  
3 Pot-Ieng Sary clique. The document has as a title "Important  
4 Culprits Arrested from 1976 to April 1978".

5 So maybe with your leave, Mr. President, I can have the first  
6 page of that document in Khmer on the screen so that the witness  
7 can have a look at this?

8 MR. PRESIDENT:

9 You may proceed.

10 [14.22.24]

11 BY MR. KOPPE:

12 Q. Mr. Witness, can you see the document?

13 MR. PRESIDENT:

14 Please wait. I think it's better to have a printed copy in  
15 physical form and the witness may not be able to see it clearly  
16 on the screen that was -- the screen was projected with the  
17 document only as evidence.

18 MR. KOPPE:

19 I am a bit hesitating as to which of the two versions to show the  
20 document because the original document is English and the Khmer  
21 translation that I showed him was done here.

22 [14.23.15]

23 MR. PRESIDENT:

24 Yes, the document can be shown on the screen but I suggest a  
25 printed copy should be given to the witness for the witness to

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1 read it clearly. The document shown on the screen is not clear  
2 enough.

3 And please adhere to this practice from now on. The printed  
4 copies should be given to the witnesses since some <> documents  
5 could not be read <when they are shown on the screen>.

6 You may proceed now, Counsel.

7 BY MR. KOPPE:

8 Q. So just for you to be -- to understand what I am showing you,  
9 Mr. Witness, I am showing you a document which we, in the case  
10 file originally have only in English. What you have is a Khmer  
11 translation of that English document which presumably at one  
12 point was Khmer itself. But we are having a list of important  
13 culprits arrested from 1976 to April 9, 1978, a document that was  
14 used in the 1979 trial against Pol Pot and Ieng Sary.

15 Do you remember that document from your own case file?

16 MR. KAING GUEK EAV:

17 A. From the investigation stage up to <the end of> the trial  
18 proceedings against me <in case 001>, I did not see the document  
19 <used> and the document was not shown to me.

20 [14.25.45]

21 Q. Let me see if it would help you or assist you if I showed you  
22 the English original version or at least the first two pages and  
23 then I will also give you the second page of the Khmer  
24 translation.

25 So with your leave, Mr. President, if the Court officer could

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1 show this document to the witness?

2 MR. PRESIDENT:

3 Yes, please.

4 MR. KOPPE:

5 And then I will have the first page of the English version on the  
6 screen with your leave, Mr. President.

7 MR. PRESIDENT:

8 Yes, please.

9 (Short pause)

10 [14.27.30]

11 MR. KAING GUEK EAV:

12 A. I have read it.

13 BY MR. KOPPE:

14 Q. Do you recognize the English version from your case file?

15 MR. KAING GUEK EAV:

16 A. Thank you for asking such a question. <I did not hear>

17 "People's Revolutionary Tribunal for the trial of <the> Pol  
18 Pot-Ieng Sary clique" since the time I was detained at <the>  
19 military court and until the proceedings against me in Case 001.  
20 <These lists were> not shown to me.

21 [14.28.35]

22 Q. Let me explain to you the reason why I wanted you to have a  
23 look at both those documents, E3/8463 and E3/1993. Both documents  
24 are dealing with important prisoners or important culprits and  
25 the document that comes from the People's Revolutionary Tribunal

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1 indicates about 243 important culprits or cadres, of course from  
2 '76 to April 9, 1978. But assuming the months after, would that  
3 be accurate, a total number of, "important prisoners" between 243  
4 and, let's say, 300?

5 A. I do not understand. I do not want to predict or to estimate.

6 Q. Let me ask it differently. On many occasions you said: "Hor  
7 was responsible for the non-important prisoners. I was  
8 responsible for the important prisoners."

9 Can you give us an approximate number as to how many prisoners in  
10 total at S-21 were considered important prisoners and how many  
11 were considered non-important prisoners?

12 A. If you really want to explore that, I would ask <for> half a  
13 month to review the lists and <you should give me> the lists, and  
14 after that I can give you the answer.

15 [14.31.01]

16 Q. Well, Mr. Witness, you were there at the time. You gave lots  
17 of evidence about this distinction between important and  
18 non-important prisoners.

19 So really there is no need for you to have a look at the document  
20 first. Either you remember it or you don't remember it. So again,  
21 can you roughly estimate or tell us how many prisoners in total  
22 were considered by S-21 to be important and how many were  
23 considered to be not belonging to that group?

24 A. Thank you, counsel. I <try not to> speculate any figures. <I  
25 only want to provide the exact figures. But> I don't have any



1 other lists to <immediately> make the total amount or number of  
2 the prisoners <for you>.

3 Q. Well, that seems to be quite consistent with all your other  
4 testimony. As soon as you have a document you are able to give us  
5 an informed opinion, is that it?

6 [14.32.40]

7 MR. PRESIDENT:

8 Counsel, please move on. It appears that you want the witness to  
9 make the evaluation of his testimony. It is inappropriate. The  
10 evidence and proof <are> before the Chamber, it is the Chamber  
11 who will give you probative value of the evidence. So I don't  
12 think the witness has any obligation to make any assessment of  
13 his own testimony.

14 BY MR. KOPPE:

15 Let me then give it a last one try by asking it in a different  
16 manner.

17 Q. Mr. Witness, what was the criterion, the criterion to make a  
18 distinction? When was someone an important prisoner and when was  
19 someone a non-important prisoner? For instance, I can imagine if  
20 he was a sector chief or a division chief he would be an  
21 important prisoner. But where was the line, the border? When did  
22 the prisoner become non-important and that you had nothing to do  
23 with him anymore?

24 [14.34.21]

25 MR. KAING GUEK EAV:

1 A. Thank you, Counsel.

2 Mr. President, in the proceeding against me <> and in this

3 proceeding, important prisoners were considered based on the

4 period. <Regarding> Division 170, when Sour Sophan was arrested

5 and sent to S-21, so he was the source of information for <Office

6 870>. So he was considered <an> important prisoner. <> He

7 swallowed a <window screw, and S-21 had to try> to do surgery so

8 that we <could> keep him for <further> interrogation. <That was

9 the actual practice at S-21. Important prisoners were not

10 referred to as those who were from particular Divisions,

11 Battalions, or Regiments.> For example, Yim Sambath who <was>

12 involved in grenade explosion. <It was considered a new and

13 unusual case for S-21 and Office 870, so they wanted to

14 investigate this case in particular>.

15 So, when Chan Chakrey was arrested,<> he was the person that the

16 <Office 870> paid more attention to. <He was also the first

17 secretary Division ever brought into S-21, so he was considered

18 an important prisoner>.

19 <Regarding> Koy Thuon<'s case,> Koy Thuon was <a full rights>

20 member of the <the Party Centre, and he knew a lot of information

21 that CPK wanted to obtain from him>, so he was considered <as an>

22 important prisoner.

23 Son Sen and the upper echelon and also myself wanted to know what

24 <> the confession or the statement of this prisoner <would> be.

25 <They also wanted to know how I obtained confessions from Koy

1 Thuon. They monitored everything.>

2 [14.36.20]

3 So <> I <have> responded to various questions on this matter. So,  
4 important prisoners <were determined when the Party wanted to get  
5 information from them about any matter related to> the political  
6 context <in any particular period>. So, <initially, there was a  
7 strict instruction to interrogate deputy secretary Sophan, and  
8 later on>, Koy Thuon was considered <an> important prisoner. So,  
9 there <were> no real criteria for determining <that someone was  
10 an> important prisoner <because it kept changing from case to  
11 case>.

12 Q. Let me ask one last question about this subject and let me  
13 refer you to something you said yourself in E3/5772; English, ERN  
14 00209170; Khmer, 00186194; and French, 00186210.

15 You said, Mr. Witness: "Prisoners only came from within the  
16 Party, not from the popular masses." Do you remember saying that?  
17 And if yes, what exactly did you mean with that?

18 [14.38.10]

19 A. Thank you, Counsel.

20 Mr. President, most of the prisoners who were sent to S-21 were  
21 Party members or those who were from the Party <youth league>.  
22 <But for the arrests at the province, sector and district level,  
23 most of them were probably ordinary people.> But <it was only> in  
24 the Southwest Zone <that> the <Party members> and also the  
25 <ordinary people> who were arrested from the masses were <> kept

1 at the security office at the Southwest Zone <by Ta Mok>. This  
2 was the <actual> practice during <> the DK regime, <from 1975 to  
3 1979>.

4 Q. Do you remember I--

5 MR. LYSAK:

6 Yes, Mr. President, can I simply ask for clarification that I am  
7 looking at the page that was cited by counsel, and the quote  
8 about prisoners coming from the Party, not the popular masses,  
9 those are the words of the Investigating Judges. They are asking  
10 a question. Do we have a citation or an ERN page where the  
11 witness himself said this? I think that should be clear because  
12 the quote that was used comes from the Investigating Judges.

13 14.39.40]

14 BY MR. KOPPE:

15 Allow me to get back to that, Mr. President. I just wrote the  
16 quote down but I am happy to, if the Prosecution is correct, to  
17 reformulate the question.

18 Q. But I think you gave the answer already, Mr. Witness.

19 Is it correct that prisoners did not come from the popular  
20 masses, prisoners in S-21?

21 MR. KAING GUEK EAV:

22 A. Thank you.

23 In principle and at the beginning, yes, it was like that. But  
24 later, <I saw the list of prisoners included> bandits and other  
25 <categories as well, so we could not make a clear distinction

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1 between them>. But the main purpose of S-21 was to detain  
2 prisoners who were <> Party <members> and <revolutionary>  
3 combatants. And later <on, I saw prisoners being brought in from  
4 Sectors and Zones under the Centre's instruction, and> I found  
5 that <> bandits were also <among those who were> sent to S-21. So  
6 the real practice <> was different from the principle.

7 [14.41.08]

8 MR. PRESIDENT:

9 Thank you, Counsel.

10 Now, it is an appropriate time for a Court break so the recess  
11 will be until 3 o'clock.

12 Court officer, please assist the witness during the break and  
13 bring him back to the courtroom at 3 o'clock.

14 The Court is in recess.

15 (Court recesses from 1441H to 1459H)

16 MR. PRESIDENT:

17 Please be seated.

18 The Trial Chamber is in session and the floor is given now to  
19 Defence counsel for Nuon Chea to continue his examination for the  
20 witness.

21 [15.00.50]

22 BY MR. KOPPE:

23 Thank you, Mr. President.

24 Q. Yes, Mr. Witness; one more session with me and then all day  
25 tomorrow with my colleague from the Khieu Samphan team.

1 Before I turn to my next subject let me follow up the observation  
2 from the Prosecution in relation to my question regarding  
3 prisoners coming from the popular masses. It is indeed correct  
4 that the term comes from the Co-Investigating Judges.  
5 However, the question is in E3/5772 you have explained that S-21  
6 received only prisoners from within the Party, not from the  
7 popular masses. And it seems that the Judges are referring to  
8 something that the witness himself has said but I cannot  
9 reproduce now when it was that he used that term.  
10 Mr. Witness, let me now talk about a subject which we find very  
11 important and that is the role of Vietnam. In one of your  
12 statements, E3/451; English, ERN 00204341; Khmer, 00187652; and  
13 French, 00186171; you said that the major task of S-21 was  
14 searching for traitors, finding poison, arms and Vietnamese  
15 agents.  
16 Do you remember saying that and is that still your evidence?  
17 [15.02.56]  
18 MR. KAING GUEK EAV:  
19 Thank you.  
20 Mr. President, may I request a document from the counsel?  
21 MR. PRESIDENT:  
22 Counsel, could you please provide the witness with your document  
23 with the highlighted portions so that it takes a quick time for  
24 him to follow?  
25 MR. KOPPE:

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1 I would be happy to do that but it's coming from his own  
2 testimony.

3 MR. LYSAK:

4 Mr. President, can I ask counsel to repeat the English ERN  
5 because I am looking at that page that was cited and I don't see  
6 that quote.

7 [15.03.50]

8 MR. KOPPE:

9 I said 00204341.

10 MR. PRESIDENT:

11 Counsel, could you provide the witness with the document? Because  
12 <the witness is concerned> because the quote seems not identical  
13 to the statement on the document.

14 BY MR. KOPPE:

15 Yes, I will provide that part of the evidence that he provided  
16 himself to him; no problem.

17 So may I request my team, Khmer page 00187652?

18 But to keep moving, I am happy also to ask it in general terms.

19 Q. Mr. Witness, what was the task of S-21 when it came to  
20 Vietnam?

21 [15.05.35]

22 MR. KAING GUEK EAV:

23 Thank you, Counsel.

24 The task of S-21 defined by Office 870 was to counterspy. So it  
25 <was> the counter any espionage. Any spies <had to> be monitored

1 and report to the Angkar and the report <had to> be very clear.  
2 So the main task of S-21 was to conduct activities to counter  
3 espionage regarding any spies from <> Vietnam or <the> U.S. or  
4 any other country.

5 Q. Meanwhile, I traced your Khmer answer. Can you have a look at  
6 that document, E3/451, Mr. Witness?

7 So are you now prepared to answer that question?

8 MR. KAING GUEK EAV:

9 A. Thank you. I responded in principle. The task of S-21 <was> to  
10 counter espionage. It was not fighting <against enemy agents or  
11 invaders by using> weapons, but through its task and obligation  
12 to seek for traitors, poison, weapons and Vietnamese spies.

13 [15.08.12]

14 Q. Mr. Witness, in your testimony you've talked quite a bit about  
15 Vietnam's leadership at the time.

16 Maybe a side note for the translators, Mr. President. The witness  
17 in his testimony will be referring to Le Yun, L-E and then Y-U-N,  
18 but that's spelled in English and French as Le Duan, L-E and then  
19 D-U-A-N. So whenever I refer to Le Duan, I believe the witness  
20 speaks about Le Yun.

21 Mr. Witness, what do you remember about Le Duan, the leader of  
22 the Socialist Republic of Vietnam?

23 A. Le Duan was the General Secretary of the Centre Party of  
24 Vietnam. It was originally called Labour Party of Vietnam <and  
25 later on it was called Communist Party of Vietnam,> and Le Yun



1 was the Secretary General of the Party.

2 [15.09.55]

3 Q. Do you remember seeing him once with your own eyes in Phnom  
4 Penh?

5 A. Thank you, Counsel.

6 Mr. President, at the time I <had> just arrived in Phnom Penh,  
7 and <my superior asked me> to stay at <a place for general  
8 staff's messengers which was located at> the railway station in  
9 Phnom Penh, and Pol Pot came to receive Le Duan with a <Jeep> <at  
10 that time>, so <I knew that> Pol Pot <and> Le Duan <were in that  
11 vehicle>. So I saw him from a distance. <It wasn't just one  
12 vehicle, there were many of them. That was what I saw with my own  
13 eyes.>

14 Q. You also saw a very important military Vietnamese person Vo  
15 Nguyen Giap, spelled V-O N-G-U-Y-E-N G-I-A-P?

16 A. Thank you, Counsel and Your Honours.

17 Vo Nguyen Giap; no, I didn't see him. I didn't see him personally  
18 but I heard from my wife. She told me that he went to the orange  
19 plantation, <he was accompanied by Ta Mok>, during the visit  
20 together with Le Duan. He was the general who won the war at Dien  
21 Bien Phu against the French army. His name Nguyen Giap. So he has  
22 just died recently, <he died at the age of 103>.

23 [15.12.22]

24 Q. What can you tell us, if anything at all, about the relation  
25 between Pol Pot and Le Duan?

1 A. <Regarding the relationship between Le Duan and Pol Pot>, I  
2 would like to refer to <an> event <that happened> in 1973, Le  
3 Duan met Pol Pot and <tried to> convince him to negotiate with  
4 the US, <this is according to the document made by Brother Vorn.>  
5 <The US promised> that if Vietnam could convince Cambodia to  
6 negotiate with <them, the US> would <give> \$200 million <to  
7 Vietnam. So, Le Duan forced Pol Pot to negotiate with them>.  
8 And <Brother Vorn also addressed> that, "Zhou Enlai <said the  
9 negotiation should take place because President Mao also allowed  
10 the negotiation to take place as well>". Based on Brother Vorn's  
11 statement, "<Pol Pot said, this is such an elastic> Party line.  
12 It is based on our discretion. If we would like to do so we can  
13 negotiate. <It's a small country.">  
14 And later <on, Comrade Pang came to S-21 frequently, and he told  
15 me that> Le Duan sent a telegram to Pol Pot indicating that  
16 matter, but the telegram was not yet shown to Pol Pot. It was  
17 shown to him <when> he finished his meal. There was a long  
18 discussion <between Brother Pol and Brother Nuon.> And finally,  
19 <there was a decision to invite> Prince Norodom Sihanouk <> to  
20 visit <> a liberated zone in Cambodia. <That was why there was a  
21 visit from Prince Norodom Sihanouk to Cambodia.>  
22 And at the end, Cambodia did not negotiate but Vietnam did  
23 negotiate with the other party. And later in 1974 -- I may <be  
24 confusing> the year but it's more likely to be in 1974 <rather  
25 than '73>, Le Duan <wanted> to take all Vietnamese from Cambodia

1 to return to <the South> Vietnam for the <election.>  
2 [15.15.24]  
3 And then Pol Pot was so quick to say yes to the proposal. So the  
4 Vietnamese troops and other officers were authorized to leave and  
5 after most or all of the Vietnamese troops <as well as the  
6 Vietnamese> people left, <> Le Duan <felt> that he was not so  
7 smart that he lost the trick to Pol Pot.  
8 <I wrote on a document indicating that, "At the time, it was a  
9 Vietnamese tragedy because all of the Vietnamese were expelled  
10 from Cambodian territory." I gave this document> to the Tribunal  
11 during my case. And later I heard from Pang who told me that Pol  
12 Pot and Le Duan <made ironical statements> to one another, and  
13 Pang told me that Pol Pot <> started the rhetoric statement  
14 against Le Duan.  
15 <During Le Duan's visit, Pol Pot ordered> a dessert <be cooked  
16 that> was <made> from palm juice and palm seed. So <Pol Pot  
17 addressed that, "Initially>, no one used this kind of fruit as a  
18 dessert but when the <peasant sits on a chair, the> owner <sits  
19 on a chair,> the sugar palm <dessert was placed on a table as  
20 well". Pang told me about that, and I believe it was true>. <And  
21 Pol Pot also said that, "In the ancient time, Khmer people carved  
22 stones. We were insulted because> Cambodia is a poor country. But  
23 <now> we carved the rice paddy." It means we built so many rice  
24 paddy dikes for irrigation.  
25 [15.17.28]

1 Q. I read many of that, indeed, in your evidence before, but my  
2 question is what is the source of your knowledge that Vietnamese  
3 people were sent before 1975 to Vietnam at the request of Le  
4 Duan? Is it something you read? Is it something you heard? Is it  
5 something that you were somehow involved in?

6 A. Thank you.

7 In 1974 I was in Amleang. There was one office of the Vietnamese  
8 officers <that supervised Vietnamese troops and Vietnamese  
9 technicians.> And it was headed by <a> Zone <Secretary from>  
10 Vietnam, Wu Ti Kam (phonetic). His name was Wu Ti Kam (phonetic).  
11 So the office <was removed from there> in 1974, <that was what I  
12 witnessed with my own eyes>. And <later on, I knew from a  
13 document> that Le Duan was surprised when all the Vietnamese  
14 troops and the <Vietnamese technicians> returned to <their  
15 homeland> because he realized that he lost a trick to Pol Pot. So  
16 <no one told me about that. There were documents indicating that,  
17 and obviously,> I didn't see any existence of <the> Vietnamese  
18 office at <Prey Chrov village>, Amleang <commune> anymore.

19 [15.19.15]

20 Q. Mr. Witness, at one point in your evidence at English, ERN  
21 00209176; Khmer, 001861202(sic); French and we will follow an E3  
22 -- the number will follow right now. That's E3/5772.  
23 You said that the war between DK and Vietnam was officially  
24 declared on the 31st of December 1977. And then you say -- and I  
25 quote: "I would prefer we only speak of war crimes from that

1 date."

2 Why did you say that? What made you say that you prefer to speak  
3 of war crimes only as of 31st December 1977?

4 A. Thank you, Counsel.

5 Mr. President, may I have a document from counsel, a written  
6 document <in> which he referred to the content <when> he put  
7 question to me?

8 MR. PRESIDENT:

9 Counsel, could you provide the witness with the document so that  
10 he can refer to <it well> before he responds to your question, so  
11 it is part of our practice in this proceedings. So, it might be a  
12 difference or a problem happening with the oral quoting and the  
13 written document <> given to the witness. <>

14 [15.21.33]

15 MR. KOPPE:

16 Again, I am happy to do it as I did this morning with Hor, but I  
17 am not sure if it is a practice that the witness should read back  
18 exactly what he had said. I think he is an exception to the rule.  
19 But, having said that, let me provide him with the actual quote.

20 In Khmer, 001861202(sic).

21 (Short pause)

22 [15.22.44]

23 BY MR. KOPPE:

24 Q. Well, Mr. Witness, why do you prefer to speak only of war  
25 crimes as of 31st December '77?

1 MR. KAING GUEK EAV:

2 A. Thank you, Counsel.

3 Mr. President, the declaration of war was known to me during DK  
4 regime but I forget the date. And during the hearing, the  
5 proceedings, <were> covering war crimes. It was likely that <my  
6 defence counsel or> the Co-Investigating Judge who said that the  
7 war crimes should be the facts after the declaration of the war.  
8 <But any event that happened before that date was considered as  
9 attack and counter attack>.

10 Nayan Chanda also said that sometimes the DK attacked and  
11 advanced into Vietnamese territory and sometimes the Vietnamese  
12 troops pushed back into Cambodian territory. <So, that kind of  
13 fighting was not included in the trial segment.>

14 I am not quite sure. It might be during the hearing, during the  
15 Trial Chamber proceeding. At the time I was defended by my  
16 defence counsel.

17 So war was declared on the 21-- 31st of December <>.

18 [15.24.38]

19 Q. Mr. Witness, you are again mixing post-'79 knowledge that you  
20 acquired mostly during your trial, with your knowledge at the  
21 time. So my question is: do you know back then whether there was  
22 an armed conflict between DK and Vietnam before the 31st of  
23 December 1977?

24 A. Thank you. I think my answers earlier seemed to be very clear,  
25 and before this date there was the fighting or the military

1 incursion. And based on the testimony of Nayan Chanda, you heard  
2 that both parties <were> fighting against each other. But DK -  
3 <Pol Pot officially> declared <the war> against Vietnam on the  
4 31st December 1977.

5 So I heard of the fighting before this date, <and of course I  
6 knew about it because there was a document from Sector 25  
7 indicating that> Vietnamese civilians came into Cambodia to  
8 collect firewood and so on.

9 [15.26.28]

10 So I wrote on a document, <and that document has been shown to  
11 me>. And later there was fighting between the parties, and the  
12 meeting was held on the 15th <or 16th> of May that the Vietnamese  
13 troops fought in and there was a proposal for negotiation and  
14 <there> was fighting. <There> was <a lot of> fighting.

15 The Centre Party meeting <was held, and Pol Pot> decided on that  
16 matter and he mentioned that the most important <issue was> the  
17 internal forces, if the internal forces allowed the external  
18 enemy to enter, <of course they could then get in. So we had to  
19 do whatever we could to stop the internal forces from letting the  
20 external enemy in. The document related to that matter was shown  
21 during the proceeding stage>.

22 So it is clear. There was fighting between the parties before the  
23 declaration of war. <After the declaration of war, the fighting  
24 became extensive>, and both parties arrested prisoners of war and  
25 they extracted confessions and broadcast <it> on the radio in the

1 same -- or similar manner.

2 [15.28.30]

3 Q. In answering questions from the OCIJ in your own case, your  
4 written answers, E3/15 -- and if you want you can read them back  
5 -- English, 00251381; Khmer, 00234079; you write, Mr. Witness  
6 that: "Ho Chi Minh and Le Duan claimed that they had been the  
7 fathers of the Indochina Federation for a long time."

8 Here you have the document. Why is it that you wrote that?

9 MR. PRESIDENT:

10 Court officer, please receive the document from counsel and hand  
11 it over to the witness.

12 (Short pause)

13 [15.30.30]

14 BY MR. KOPPE:

15 Q. So Mr. Witness, why did you write that Ho Chi Minh and Le Duan  
16 claimed that they had been the fathers of the Indochina  
17 Federation for a long time? How did you know that? Who informed  
18 you of this? Is it your personal knowledge or is it something  
19 that you read?

20 MR. KAING GUEK EAV:

21 A. Thank you, Counsel.

22 The Indochina Communist Party was created in 1930 in Guangdong,  
23 China. There was discussion about the name of the party and  
24 finally it was named as Indochina Communist Party, <and the only  
25 main purpose was to rebel against the French colony>. So there



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1 was only one Indochina Communist Party <with> only one army and  
2 one government. <That was the strategy.> And <a> former  
3 resistance <fighter> in the movement, <> Uncle Ho, <whom I met at  
4 a big prison, still thought about that matter>. And <I already  
5 gave an example regarding> this document <about> the <> Geneva  
6 <conference in 1954, in which the> war in Indochina <was declared  
7 over>. <The declaration was made after> the <> Vietnamese  
8 <General>, Nguyen Giap, won the war <over the French General,  
9 Navarre>, and Prince Norodom Sihanouk <also went to attend that  
10 conference, and he> declared <that Cambodia had gained its>  
11 independence <since> 1953. And then <at> Geneva, <it was> decided  
12 that the <former Khmer Resistance should dissolve> its armed  
13 forces <and> its movement. And <at the time, Ho Chi Minh  
14 withdrew> a number of Cambodian <combatants> to study in Vietnam,  
15 including Pen Sovann, and they needed to naturalize their  
16 citizenship from Cambodian to Vietnamese.

17 Counsel, please hold on. Let me finish my testimony.

18 [15.33.28]

19 Q. If I had all the time in the world, I would be happy to finish  
20 -- to have you finish your testimony, but I don't have that much  
21 time.

22 I know everything about the history, but my question to you is:  
23 what did you know -- let me rephrase my question. What did you  
24 know about Vietnam's ambitions between '75 and '79 in relation to  
25 Kampuchea? What was Le Duan's foreign policy ambition when it

1 came to Democratic Kampuchea? Is that something you knew? Is it  
2 something that you heard about?

3 [15.34.15]

4 A. I have <mentioned> the rhetoric statement of Pol Pot toward  
5 Le Duan in the case of palm sugar sweet and counsel <interrupted>  
6 me when I <mentioned> the <Indochina Federation's plan. Now, I  
7 would like to speak briefly>, Pol Pot made mention that Le Duan  
8 had a big ambition and if Le Duan could not convince Pol Pot, the  
9 coup d'état would be conducted against Pol Pot or <his> forces  
10 would come to attack Pol Pot. That was made mention by Pol Pot.  
11 <And Nayan Chanda said> that the statement was made by Pham Van  
12 Dong. <> Pol Pot told me <that, and when I said that it was Pol  
13 Pot's statement, no one would believe it. But when the expert  
14 said that the statement was made by Pham Van Dong, everyone  
15 believed it>.

16 Q. Let me see if I can persuade you to answer by showing you a  
17 document of which there is only a Khmer version. I will give it  
18 to you momentarily.

19 It's document E3/9836A, so it has an "A" behind it. It's Khmer  
20 ERN 01202363.

21 With your leave, I will show that to the witness, Mr. President.

22 This document was shown to you, Mr. Witness, in a recent  
23 interview you had with investigator Thomas, as you call him. It  
24 was in your interview with -- in Case 003 and 004.

25 [15.36.21]

1 Please have a look at that document. It is a confession. I'm not  
2 allowed to ask you questions about the confession, but I am  
3 allowed to ask you a question about the annotation that you see  
4 on the left-upper side.

5 Can you read the annotation, Mr. Witness?

6 A. First, Mr. President, I would like to read the annotation  
7 under the order of counsel: "14.12.78 Contemptible A knew through  
8 the medic. Coup d'état plan <> happened because the inside  
9 allowed <"Yuon" to enter from the outside>."

10 Q. I've been told that in Khmer, but if I'm wrong then please  
11 correct me, it says: "Inside coup d'état plan let the 'Yuon'  
12 enter from outside."

13 Is that what it says or is that difficult to read?

14 A. Mr. President, for -- thank you, Counsel, for clarification.

15 Who told you, who told you <about this>? Could you tell me?

16 [15.39.08]

17 Q. He's sitting over there behind me, so I have to rely on him.

18 But does it say that second point "Inside coup d'état plan let  
19 the 'Yuon' enter from outside", does it say that or it doesn't  
20 say that?

21 MR. PRESIDENT:

22 Please hold on, Mr. Witness.

23 MR. KAING GUEK EAV:

24 A. Thank you, Mr. President. <First,> he wanted me to read the  
25 annotation, <but he did not ask me anything about the

1 annotation,> he said that he was told <by others>.

2 The "Yuon" <entered> from the outside because the inside allowed  
3 <it> to happen. So is it the official statement from somebody?

4 Who told you?

5 [15.40.19]

6 MR. PRESIDENT:

7 Counsel, <please reformulate the question, and> the witness  
8 already read the annotation in Khmer. Is there something wrong,  
9 something wrong, in the reading of Khmer? He has already read the  
10 annotation; do not make mention that you learned the  
11 <information> from others.

12 MR. KOPPE:

13 I was answering his question, but I will refrain from doing that,  
14 Mr. President.

15 BY MR. KOPPE:

16 Q. Is it your annotation; is it your handwriting?

17 [15.41.10]

18 MR. KAING GUEK EAV:

19 A. There was something strange when I worked with Thomas and I  
20 can still recall that.

21 If I look <at it> briefly, the handwriting seems to belong to me,  
22 <and the initial sign underneath was the format I usually used.  
23 But I am wondering if> it was written as "I have already read,  
24 <dated on 12th>", <then> the annotation that I made here was sent  
25 to whom? <If I made an annotation, I would send it to my

1 superior. So this is what I do not understand about this.> When I  
2 look at the handwriting for a brief moment, it appears to be  
3 mine. <Regarding the content of this annotation,> "14.12.78" or  
4 point - "or hor" (phonetic) here refers to "have already read"  
5 and I have never written the abbreviation "or hor" (phonetic) in  
6 Khmer. It was Nuon who usually wrote that <abbreviation>. An  
7 annotation that I made <would> to be sent to my superior, and  
8 <actually, S-21 never made any annotation without it being sent  
9 to its superior.> It is suspicious to me after reading the  
10 annotation here.

11 [15.42.37]

12 Q. The annotation itself is not terribly important to me. What  
13 is important to us, Mr. Witness, is the content of that  
14 annotation.

15 And it allows me to go to an excerpt from a book from an American  
16 academic. You've been referring earlier, two or three times  
17 already, to a journalist called Nayan Chanda who testified in  
18 your trial.

19 I would like to read an excerpt from another academic's book, and  
20 just so that you can follow, I have a Khmer translation of the  
21 relevant excerpts.

22 MR. KOPPE:

23 And with your leave, Mr. President, I would like to hand the  
24 witness the excerpts that I would like to discuss with him.

25 For the parties and the Chamber, it is document E3/7340. There is

1 no French translation. I'll be referring to Khmer pages 01113861;  
2 English, 01113861 (sic). It is a book from an American academic  
3 called William J. Duiker, D-U-I-K-E-R. It's published by  
4 University of California in Berkeley. It's called "China and  
5 Vietnam: The Roots of Conflict".

6 Mr. Witness, let me read to you what I have highlighted for you  
7 and then I will ask your reaction. It's a bit of a long excerpt,  
8 but I've given the translators a copy in Khmer so they can read  
9 along:

10 [15.44.56]

11 "If Hanoi hopes to prevent China from stabilizing its position in  
12 Phnom Penh, it must act soon. An open invasion by the Vietnamese  
13 troops would be the most decisive solution, but it could cause  
14 serious international repercussions and possibly provoke a direct  
15 confrontation with China. A general uprising led by anti-Pol Pot  
16 rebels in Cambodia and supported discreetly by the Socialist  
17 Republic of Vietnam was less risky and certainly less costly, but  
18 success would be less certain. In the end, the plenum decided to  
19 proceed with plans to provoke an internal uprising, led by So  
20 Phim, while keeping in reserve an alternative plan to topple the  
21 Phnom Penh regime through direct intervention."

22 [15.46.05]

23 A bit further:

24 "At the February Plenum [February '78 that is], the Vietnamese  
25 party leadership had approved a proposal to remove the Pol Pot

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1 regime by an internal uprising. The key to the success of this  
2 strategy lay in the emergence of a resistance movement strong  
3 enough to challenge the Pol Pot regime for power, but in May Pol  
4 Pot's forces attacked rebel headquarters and So Phim was captured  
5 and executed."

6 [15.46.42]

7 JUDGE FENZ;

8 Do we happen to have the basis, the sources for this chapter;  
9 upon which this chapter is based or this quote is based?

10 MR. KOPPE:

11 Can I at least finish my citation and then I will answer you.

12 A few lines down, Mr. Witness, he says:

13 "In mid-summer, the Vietnamese Communist Party Central Committee  
14 convened its Fifth Plenum in Hanoi. With plans for a general  
15 uprising thwarted by the death of So Phim and growing indications  
16 of Chinese involvement in the Cambodia crisis, the party  
17 leadership approved a new plan to launch an outright invasion of  
18 Cambodia to overthrow the Pol Pot regime. Rebel forces in  
19 Cambodia would take part in the attack and provide a cloak of  
20 legitimacy for the operation, but the brunt of the attack would  
21 be borne by Vietnamese regular forces." End of quote.

22 [15.47.54]

23 JUDGE FENZ:

24 I stand with my question. What are the sources, if any, for this?

25 MR. KOPPE:

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1 Interesting question; not often asked when other academic  
2 publications are cited, I might add.

3 JUDGE FENZ:

4 Can you please answer the question?

5 MR. KOPPE:

6 It's a very well respected academic scholar. Actually, Nayan  
7 Chanda's saying the same thing.

8 JUDGE FENZ:

9 I was asking if sources are provided. This is a completely  
10 neutral question.

11 [15.48.32]

12 MR. KOPPE:

13 Are you referring to the sources that Duiker is using or are you  
14 referring to the actual article because that -- or the book --  
15 because that you have admitted into evidence.

16 JUDGE FENZ:

17 Even if some -- even if something is admitted, it doesn't mean  
18 that you can't ask for sources. This is exactly what I am doing.

19 MR. KOPPE:

20 In his book he refers in his footnote 20, page 78, to a document  
21 that you know already as well. That's the Geng Biao Report, the  
22 report of the Military Commission, the Standing Committee of the  
23 Chinese Communist Party.

24 The actual quotes that I just read to -- are without a direct  
25 source. However, as I said, the Court's expert in Case 001 also



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1 spoke about a February 1978 Plenum of the Central Committee --  
2 I'm happy to look that up for you -- indicating that there was a  
3 decision of the Vietnamese Communist Party to start an internal  
4 uprising and if that didn't succeed, Vietnam will invade.

5 [15.50.08]

6 BY MR. KOPPE:

7 Q. Now, Mr. Witness, having that note, annotation, in the back  
8 of your head and having heard what this academic expert has  
9 written in his book, is that something that you remember at the  
10 time, having heard these Vietnamese plans?

11 MR. PRESIDENT:

12 You may proceed, Deputy Co-Prosecutor.

13 MR. LYSAK:

14 My only objection to the question is that the witness be advised,  
15 asked, if he has information other than obtained through  
16 confessions from S-21.

17 The annotation itself that was cited by counsel appears likely to  
18 just be a summary of what was in the confession. Certainly fair  
19 for him to be asked, but I think that the witness should be clear  
20 that he's being asked. He can't -- it's not proper for him to  
21 respond with information he obtained from confessions.

22 [15.51.24]

23 MR. KOPPE:

24 The excerpt that I read from Duiker is from a book. Duiker's a  
25 well-renowned expert on Vietnam and he hasn't read any

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1 confessions. He just simply tells what he thinks he knows about a  
2 February Plenum decision of the Vietnamese Communist Party.

3 BY MR. KOPPE:

4 Q. So my question, Mr. Witness, I'm not referring to any  
5 confessions. Is it something that you heard, that decision of  
6 Vietnam?

7 JUDGE FENZ:

8 I believe--

9 MR. PRESIDENT:

10 Please hold on. Judge Fenz, you may proceed.

11 [15.52.05]

12 JUDGE FENZ:

13 I believe there's a misunderstanding. If I understood the  
14 prosecutor correct, he wasn't alleging necessarily that the  
15 quotes you put forward were based on confessions, but he asked  
16 the Chamber to reiterate to the witness that any answer he gives  
17 should not be based on confessions.

18 So what you have learned from confessions cannot be used in this  
19 Court. I think we have clarified that.

20 [15.52.56]

21 MR. KAING GUEK EAV:

22 A. Mr. President, counsel wanted me to read document 01202363 and  
23 the question was asked whether or not I recognized the  
24 annotation, and I replied the annotation was suspicious.

25 Then he said that he learned the annotation in Khmer from another

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1 individual <in> the back.

2 Before I answer the question, I ask the Court -- I would like to  
3 inform the Court that I reject this document. I have an objection  
4 to the document 01202363.

5 Now, concerning the third document, as for its content, I think  
6 it is consistent with the facts at the time. The meeting was held  
7 among the political bureau of Communist Party of Vietnam, <the  
8 Politburo of the Communist Party of Kampuchea> and <the Politburo  
9 of the> Communist Party of China and it's beyond my knowledge.  
10 However, the statement <> is consistent with the true situation  
11 at the time.

12 BY MR. KOPPE:

13 Q. And how do you know that? Have you heard any information  
14 other than coming from interrogation that could confirm this? Did  
15 DK have spies within the Central Committee of the Vietnamese  
16 Communist Party, for instance, or have you heard that they knew  
17 this some other way?

18 [15.55.26]

19 MR. KAING GUEK EAV:

20 A. Concerning the third document, it is about the plenum, and  
21 the quotes you mentioned are consistent with the statements of  
22 Nayan Chanda and the quotes are consistent with the statement by  
23 Pol Pot as well.  
24 <Pol Pot stated that Le Duan had three objectives>, number 1, Pol  
25 Pot had to be convinced and, number 2, if convinced -- if that

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1 was not successful, <the> coup d'état plot <> would have to  
2 happen. And <number 3, if that was still not successful>, then  
3 the <outside> forces would <have to advance in and overthrow the  
4 Pol Pot regime. That was the statement I heard from Pol Pot, and  
5 I heard it frequently from Son Sen as well>.  
6 <When> Nayan Chanda testified before the Chamber, <he mentioned  
7 that statement, and I accept the fact that if I mentioned that  
8 statement, no one would believe it. But when the expert mentioned  
9 the statement made by Pham Van Dong, everyone believed it. So>  
10 the quotes you mentioned are consistent with the true situation  
11 happening in Cambodia back then.

12 [15.56.45]

13 Q. At one point, Mr. Witness, you were shown an excerpt from the  
14 notebook that belonged either to Pon or Tuy, document E3/834;  
15 English, ERN page 00184498; Khmer, 00077476. I have the document  
16 here if you want to have a look at it.

17 In the document, the smashing of So Phim's network is described  
18 as being "equal to the 17 April 1975 victory". In the notebook,  
19 one can read "It is the Great Leap of victory of A-Phim and the  
20 Yuon."

21 Is that something you said during education sessions, that the  
22 victory over So Phim's networks and the Vietnamese was just as  
23 important as the 17 April '75 victory?

24 MR. PRESIDENT:

25 Court officer, please take document from counsel and provide to

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1 the witness.

2 (Short pause)

3 [15.59.00]

4 BY MR. KOPPE:

5 Q. So, Mr. Witness, why was the victory over So Phim and the  
6 Vietnamese in June '78 equal to the victory of 17 April '75? Why  
7 did you call it the "Great Leap victory over A-Phim and the  
8 'Yuon' "?

9 MR. KAING GUEK EAV:

10 A. Mr. President, I <had> never seen this particular document  
11 from the investigation stage up to the proceeding against me in  
12 Case 001, <but I see it now>. And <the Prosecutors indicated  
13 that> this document <belonged> to Tuy. <I have clarified that Tuy  
14 never witnessed that incident. But now I think the content of>  
15 this document may reflect the speeches I made during the time  
16 that <Phim and his group> had been arrested and smashed. And Phim  
17 had links to the Vietnamese forces. <> Nhim was another  
18 individual who had links to Vietnamese forces. That was my  
19 understanding at the time.

20 Later on, I learned that people rebelled <in the Northwest zone,  
21 Brother 80 was able to flee into the forest, and in> the East,  
22 <there were> some cadres <who were able to flee> to Vietnam.  
23 So the content of the document may reflect my opinion back then.

24 [16.01.16]

25 Q. My very last question because it's already past four.

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1 Why did you compare it with the great leap victory of 17 April  
2 '75? Why was it that important to call it the great leap victory  
3 over So Phim and the Vietnamese?  
4 A. I would like to tell the Court based on my political opinion  
5 back then.  
6 We won a victory over Lon Nol in 1975. Lon Nol was considered the  
7 US puppet, <all members> within the CPK and the people who <were>  
8 involved in politics thought that way. And forces of Nhim and  
9 Phim belonged to People's Revolutionary Party of Kampuchea <that  
10 was stationed in Cambodia>. So Phim and Nhim were arrested. They  
11 were the <high-level> apparatus of that party, and <their case  
12 was similar to Lon Nol's case>. That was the political opinion --  
13 my political opinion back then, but not now.  
14 [16.03.05]  
15 MR. PRESIDENT:  
16 Judge Lavergne, you may proceed.  
17 JUDGE LAVERGNE:  
18 Mr. President, I would like to backtrack a little <to when> my  
19 colleague, Judge Fenz, asked Counsel Koppe to provide some  
20 specifications regarding the sources of the book he read <out, by  
21 Mr. Duiker.> She asked him what were the sources of what he was  
22 quoting in light of decisions taken by the plenum in Vietnam.  
23 He referred to footnote number 20.  
24 However, when we read that footnote, we find that this has  
25 absolutely nothing to do with what was read. Footnote number 20

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1 <and> the report of Geng Biao refers to military <assistance  
2 from> China <to> Democratic Kampuchea. I don't know whether this  
3 is intentional. <But it is a problem.>

4 [16.04.11]

5 MR. KOPPE:

6 I hear what you say, Judge Lavergne. Thank you.

7 MR. PRESIDENT:

8 Before the adjournment, the Chamber would like to ask the two  
9 defence teams about the time that you are going to use. So how  
10 much time the defence team for Nuon Chea will you use for  
11 questioning the witness? And what about the defence team for Mr.  
12 Khieu Samphan, so how much time you will use -- you will be using  
13 during the testimony of the witness so that the Chamber can have  
14 a proper coordination of the matter?

15 [16.04.58]

16 MS. GUISSSE:

17 Mr. President, I would like to take the floor because I will be  
18 the person examining the witness tomorrow<. As> you have pointed  
19 out to my colleague when he started his examination<,  
20 we> decided that <for two days of> the four days allotted to  
21 <the> Defence<, I would take over, for> at least a day<,  
22 depending> on how my examination of the witness will proceed.  
23 And then Mr. Koppe will take the floor <for the rest of> the time  
24 allotted to the Defence.  
25 So <a priori, we are supposed to continue until the end of the

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1 day on Thursday, and> use the four days less 45 minutes, <but I  
2 don't know if we will be able to settle for those four days -  
3 less> the 45 minutes used by the Chamber at the beginning of Mr.  
4 Koppe's examination. <In any case,> I will be the one examining  
5 the witness tomorrow <and> my colleague, Mr. Koppe<, will  
6 conclude.>

7 [16.06.23]

8 MR. PRESIDENT:

9 So now it's clear for all us. I heard Koppe <say>to the witness,  
10 Kaing Guek Eav, that he would have one day to <question> Kaing  
11 Guek Eav alias Duch together with the defence team for Khieu  
12 Samphan, but now it is clear for all us. <So we still use the  
13 same allocated time as before>.  
14 It is now time for the adjournment. The hearing will be resumed  
15 tomorrow on Wednesday, 22 June 2016 at 9 a.m.  
16 Tomorrow the Chamber will continue hearing the testimony of Kaing  
17 Guek Eav alias Duch. Please be informed and please be on time.  
18 Thank you, Mr. Kaing Guek Eav alias Duch. The hearing of your  
19 testimony as a witness has not come to an end yet. You are  
20 therefore invited to come and testify once again tomorrow.  
21 Security personnel are instructed to bring Khieu Samphan and Nuon  
22 Chea and Kaing Guek Eav back to the detention facility of the  
23 ECCC and have them returned to the courtroom before 9 a.m. That  
24 is for the Accused. And Kaing Guek Eav, please bring him into the  
25 courtroom at 9 a.m. in the morning tomorrow.



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1 The Court is now adjourned.

2 (Court adjourns at 1607H)

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