



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS - KAING GUEK EAV "DUCH"

PUBLIC

Case File N° 001/18-07-2007-ECCC/TC

22 July 2009, 0905H

Trial Day 49

Before the Judges:

NIL Nonn, Presiding
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Jean-Marc LAVERGNE
THOU Mony
YOU Ottara (Reserve)
Claudia FENZ (Reserve)

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
JUDGE CARTWRIGHT	English
MR. HONG KIMSUON	Khmer
MS. JACQUIN	French
MR. KAR SAVUTH	Khmer
MR. KOK SROS	Khmer
MR. KONG PISEY	Khmer
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
MR. PRAK KHAN	Khmer
MR. ROUX	French
MR. SMITH	English
MS. STUDZINSKY	English
MR. TAN SENARONG	Khmer
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
JUDGE THOU MONY	Khmer
MR. WERNER	English

1

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

2 (Judges enter courtroom)

3 [09.05.10]

4 MR. PRESIDENT:

5 The Court is now in session.

6 We're going to hear further testimony from Prak Khan.

7 Before we give the floor to the prosecutors, the Chamber would

8 like the Greffier to verify the attendance of the parties and

9 person concerned in today's session.

10 THE GREFFIER:

11 Mr. President, the parties to the proceedings today are all

12 present. Witness Prak Khan is here in the courtroom and witness

13 KW-11 is also present and awaiting summons from the Court. The

14 later witness has no relation to the accused or to the civil

15 parties and he has already taken an oath.

16 MR. PRESIDENT:

17 Next, we would like to give the floor to the Co-Prosecutors to

18 put questions to this witness. The floor is yours.

19 The counsel for the witness, we note you're on your feet.

20 MR. KONG SAM ONN:

21 Thank you, Mr. President. I would like to raise a few comments

22 concerning the questionings put to the witness by Judge Lavergne

23 yesterday and, later on, the witness seemed to be mixed up, and I

24 would like to point out these matters again so that Judge

25 Lavergne could seek further clarification from the witness.

2

1 There are two issues. First, regarding the documents concerning
2 the testimony given to the Co-Investigating Judges, and that
3 document was not presented to the witness to prove that he did
4 make such testimony. The witness showed his position already in
5 the morning when asked by Judge Ya Sokhan concerning the
6 self-incrimination matter, and the witness exercised his right
7 not to respond to any such question.

8 [09.08.22]

9 And, later on, after he was asked by Judge Lavergne regarding the
10 testimony before the Co-Investigating Judges, the witness
11 responded although he was not quite sure whether the activities
12 as mentioned in the questions before the Co-Investigating Judges
13 related to the activities he committed personally or was the
14 activity committed on the orders of his superior.

15 That's why, if the President allows, I think this witness should
16 be asked again by Judge Lavergne to clarify whether he committed
17 the tortures by himself -- spontaneously, of course -- or upon
18 the orders from his superior. Thank you.

19 MR. PRESIDENT:

20 Before we respond to your observation, in the name of the
21 President of the Trial Chamber of the Extraordinary Chambers in
22 the Courts of Cambodia, once again remind Mr. Prak Khan, in the
23 name of the witness, you can reject to respond to any questions
24 that you are afraid that your testimony could self-incriminate
25 you.

3

1 Number two, as a witness you have the duty to talk only about the
2 truth -- something you witnessed, you have known -- and yesterday
3 the hearing of the testimony regarding that particular section
4 came to an end, and yet this morning such testimony was
5 challenged by a lawyer, your counsel.

6 So you are reminded again, Mr. Witness, that if you feel any
7 response could self-incriminate you, then you should immediately
8 consult your counsel before you could respond to such questions.
9 The counsel should also be quick enough to consult your client
10 when you note that any response to such questions would put your
11 client at risk of self-incrimination, and it is not appropriate
12 to raise this matter after the session regarding that particular
13 matter already passed. If this practice repeats itself, it makes
14 the Chamber find it difficult to proceed expeditiously, so please
15 be mindful of this matter.

16 [09.12.50]

17 (Deliberation between Judges)

18 MR. PRESIDENT:

19 After having taken into account the comments raised by the
20 counsel for the witness and having discussed with the Judges of
21 the Bench, the request is rejected.

22 So we are not going to go back to what happened yesterday as
23 suggested by the counsel and, as I already mentioned, from now on
24 what we are mindful of is to make sure that the proceedings can
25 move more expeditiously.

4

1 And now I would like to give the floor to the Co-Prosecutors.

2 MR. TAN SENARONG:

3 Mr. President, Your Honours.

4 QUESTIONING BY THE CO-PROSECUTORS

5 BY MR. TAN SENARONG:

6 Q.Mr. Prak Khan, good morning.

7 [09.14.45]

8 Yesterday, you stated about the security regulations. You
9 explained that these regulations were seen in all sections in
10 S-21.

11 Now, can you tell us who wrote such regulations and when were
12 they written and, to the best of your recollection, when did you
13 first see these regulations? Did you see them when you first
14 started work at S-21 or did you come to know these regulations
15 during any particular study session?

16 A.We were instructed on these security regulations during study
17 sessions and they were written and put in every room. And I
18 don't remember when we were instructed or told about these rules
19 and regulations but, as usual, interrogators should have a record
20 of such rules and regulations in their notebook, and at their
21 living room they would put a sticky note regarding these
22 regulations.

23 Q.Thank you. Who actually wrote those regulations, the
24 regulations we saw yesterday on the screen?

25 A.I don't know who wrote them because everyone could write it,

5

1 so I have no idea who would be the author of the writings.

2 Q.When you started working at S-21 in 1976, did you see that
3 rules and regulations already?

4 A.At the beginning, I had not seen those rules; I came to know
5 it at a later date.

6 Q.Thank you. Yesterday, you have spoken of a child who was
7 dropped from the upper floors of the building.

8 [09.17.55]

9 MR. TAN SENARONG:

10 With the President's leave, may I ask that the building -- or the
11 compound of the S-21 be put on display again so that the witness
12 can show the Court from which building in particular the child
13 was dropped -- ERN 00189137?

14 MR. PRESIDENT:

15 The AV Unit is advised to put it on the screen.

16 BY MR. TAN SENARONG:

17 Q.This is the map of the Genocidal Museum. So, Mr. Prak Khan,
18 can you please point to the picture; from which building was the
19 child dropped?

20 A.These buildings were not the building I saw the child was
21 being dropped. I saw the child was being dropped from another
22 building which is outside of the compound next to the firefighter
23 department; and there was a three-storey building there. And
24 when the detainees were brought in, they would be kept and walked
25 to the last floor of that building.

6

1 Dek Bou tried to wrest the baby from his mother and he was
2 carrying the baby and when the mother was kept and locked inside
3 the room, Dek Bou dropped him from the floor he was standing, and
4 I was on the ground floor outside of the building so I could see
5 the child being dropped. And I was ignored by Bou to remove the
6 baby and I noted that he died, so I had him buried next to the
7 theatre.

8 [09.21.08]

9 Q.Thank you. Have you also noticed any killings of other
10 children instead of this one child?

11 A.No, I had not seen any other killing of children.

12 MR. PRESIDENT:

13 The AV Unit is instructed to turn to the normal view.

14 MR. TAN SENARONG:

15 Mr. President, I would like to apologize, but I would like to
16 have the photo put on the screen again because I need to talk
17 something about the photo.

18 MR. PRESIDENT:

19 The AV Unit is instructed to put it back.

20 MR. TAN SENARONG:

21 Q.Yesterday, you talked about the detention of foreigners. So
22 in which building, if you can see in this photo, were the
23 foreigners detained?

24 A.At the staircase I noted that the foreigners were detained at
25 Building C.

7

1 Q.On which floor were they detained?

2 A.The first floor.

3 [09.22.45]

4 Q.Thank you. Next question.

5 MR. TAN SENARONG:

6 May the AV Unit be instructed to turn the screen to the normal
7 view, with the President's leave?

8 BY MR. TAN SENARONG:

9 Q.You were the interrogator at S-21. When detainees were being
10 walked to be interrogated, what would be your impression
11 concerning the physical condition of each detainee being walked
12 to be interrogated?

13 A.What would your question be -- you asking about the general
14 detainees or any particular detainee?

15 Q.The question is rather referring to general detainees and also
16 the detainees you walked to be interrogated.

17 A.I had not seen all the detainees because I was on guard
18 outside -- or I was outside and the doors, the windows were
19 closed -- but I saw detainees who were, after their
20 interrogations, sustaining some wounds on their body or back.
21 Because after they were sent to the chewing group they would be
22 beaten.

23 Q.Thank you. The next question.

24 MR. TAN SENARONG:

25 With the President's leave I would like document under ERN

8

1 00181437 be put on display, please.

2 MR. PRESIDENT:

3 The AV Unit is advised to put this document, 00181437, on the
4 screen.

5 [09.25.03]

6 BY MR. TAN SENARONG:

7 Q.If you look at this picture, you are pointing to the
8 instruments of torture. Can you please once again tell the Court
9 what were the equipments seen in the photo, from your best
10 recollection?

11 A.At that time I was pointing to the equipments. Actually they
12 were not the equipments or instruments used to beat the
13 detainees. If these kind of tools were used to beat them they
14 would have died. None could survive.

15 Q.Thank you. Next question.

16 MR. TAN SENARONG:

17 With the Chamber's leave, may I ask that another photo under ERN
18 00189137 Annex 48/1/8 be put on display.

19 MR. PRESIDENT:

20 The AV Unit is instructed to put document with ERN 00189137 be
21 put on the screen.

22 BY MR. TAN SENARONG:

23 Q.This is an aerial photograph about the museum, so you can see
24 these buildings -- Buildings A, B, C and D. And in the compound
25 you can see some buildings lying right from the front gate.

9

1 Having looked at this photo, can you tell the Court in which
2 section would the detainees be put before they're sent to each
3 respective building?

4 A. Should I also point the path or the road to that location?

5 [09.28.17]

6 Q. If you can, please do so.

7 A. Having looked at the photo I can tell you that this is the
8 place where detainees would have been walked from, so this is the
9 sewage canal.

10 MR. PRESIDENT:

11 Mr. Co-Prosecutor, how could you ask the witness to explain the
12 photo by way of understanding himself alone, and what about the
13 parties to the proceeding? We seem to have problem understanding
14 how he can point from which direction to which because we have no
15 clue.

16 BY MR. TAN SENARONG:

17 Q. Mr. Prak Khan, I would like now to tell you a little bit. If
18 you look at the lower part of the photo, it is Road 350 and the
19 first road starting from that road is Road 310. And next to the
20 building there is another road, Road 320.

21 Can you please tell the Court on which road as I mentioned
22 earlier were you taking the detainees to S-21?

23 MR. PRESIDENT:

24 We note lawyer Hong Kimsuon is on his feet.

25 [09.30.15]

10

1 MR. HONG KIMSUON:

2 I would like to apologize for interrupting the Co-Prosecutor. I
3 think by way of explaining like that, I think it is still
4 difficult to understand what we are talking about. Should there
5 be any other approach instead?

6 MR. TAN SENARONG:

7 With the President's leave it would be better if the photo be put
8 on the projector.

9 MR. PRESIDENT:

10 You are allowed to do that.

11 MR. TAN SENARONG:

12 Court Officer, could you please give the witness a pen so that he
13 can use it to indicate the locations on the map?

14 BY MR. TAN SENARONG:

15 Q.Let me restate, the street below is 350 and the top part is
16 the north and east is on your right and west is on your left and
17 below is the south. So the street adjacent to the compound is
18 350, and next 348, and in front is 330. And the street above,
19 adjacent to the compound, is 320.

20 Can you tell us which street when you took the prisoners to be
21 interrogated?

22 A.Yes, I can indicate that. On Street 320 between Tuol Sleng
23 and the sewage canal, so the location is around those houses and
24 they're all the interrogation houses, and along that street there
25 were also houses for interrogations. That is the location where

11

1 I worked.

2 [09.33.47]

3 Q.Can you use the pen to circle the location?

4 A.That is the location where I worked at that time. It's on
5 Street 320. And that location is in the middle between the
6 sewage canal and the main compound.

7 Let me say it again. On Street 320, so from the entrance going
8 towards the east and it's in the middle between the sewage canal
9 and the compound, and the house was on the right side of the
10 street.

11 There is also another passage with the house facing the east and
12 they are all interrogation houses.

13 Q.Thank you. Can you indicate the location where the blood was
14 drawn from the prisoners, and also another location where a child
15 was dropped from the upper floor? Or maybe the location is a
16 little bit further at the bottom part of the sketch?

17 [09.35.24]

18 MR. TAN SENARONG:

19 Court officer, can you assist?

20 Going a little bit further down. Yes, actually move the sketch
21 to the bottom part.

22 BY MR. TAN SENARONG:

23 Q.Please indicate the locations where the blood was drawn from
24 the prisoners and where a child was dropped from the upper floor.

25 A.Yes, I can show the locations. That is the main entrance of

12

1 the current Tuol Sleng and a little bit toward that location that
2 is the medical office. So that was the location where the blood
3 was drawn, yes.

4 And the location where a child was dropped -- actually there was
5 a street coming from the north and from the Me Pleung and at that
6 junction, at that corner, that was the location. Because there
7 was a small passage towards Tuol Tompong at that junction.

8 Q.Thank you. I do not have more questions for you. And I would
9 like to give the floor to my international Co-Prosecutor.

10 [09.37.08]

11 MR. PRESIDENT:

12 I notice the presence of François Roux. You take the floor.

13 MR. ROUX:

14 Mr. President, for the needs of the written record, I believe
15 that it would be a good idea to indicate letters on the different
16 locations that the witness has pointed out to us, for example
17 letter A, letter B, and letter C -- A being the first point that
18 he indicated where he was working; B being the place where blood
19 was being drawn according to what he is saying; and C being the
20 place where, according to what he is saying again, he saw the
21 child being thrown from the building.

22 And then we could then keep this document and include it in the
23 file and make it available to the parties if the Chamber agrees.

24 (Deliberation between Judges)

25 MR. PRESIDENT:

13

1 The Chamber agrees to the request made by the defence counsel
2 regarding the locations, the three locations indicated by the
3 witness. They are the office where he interrogated the
4 prisoners; that is indicated by A.
5 And B was for the location where the blood was being drawn from
6 the prisoners. And another location, which was to the west of
7 the fire truck station and at the corner to the east of Tuol
8 Sleng towards the south, it is the location where the witness
9 said the child of Vietnamese parents was dropped from the third
10 floor.
11 [09.39.41]
12 Now the international Co-Prosecutor can proceed with questioning.
13 MR. SMITH:
14 Thank you, Mr. President. Good morning, Your Honours.
15 BY MR. SMITH:
16 Q. Good morning, Mr. Prak Khan.
17 I just have a few questions for you this morning. I would like
18 to follow up on a couple of matters that were raised yesterday.
19 Firstly, I would like to ask you if you can look at document
20 D32/4 ERN 00174392 in the Khmer; and English, 00224127.
21 MR. SMITH:
22 Mr. President, with your permission, can that document be shown
23 by the AV, please?
24 MR. PRESIDENT:
25 The AV officer, can you project the document as requested by the

14

1 international Co-Prosecutor?

2 BY MR. SMITH:

3 Q.Mr. Prak Khan, this is one of the confessions in which you
4 were involved in writing. Your signature appears as an
5 interrogator within that document. I would ask you look.

6 [09.41.04]

7 MR. SMITH:

8 This document is in fact, Mr. President, 589 pages and it's the
9 confession of Eng Meng Heang alias Chhon. He was 32 years of
10 age. He was chief of the power station. It's an S-21
11 confession.

12 If you look at the annotation that's in the box, it's in red, and
13 perhaps if I just read it, it states:

14 "Important. Request the Ministry should conduct a prompt
15 examination in order to have the people completely removed from
16 the Ministry and to pave way for the possibility of taking the
17 control of the Ministry of Commerce and others."

18 BY MR. SMITH:

19 Q.Mr. Prak Khan, this is a confession in which you were the
20 interrogator, from the names that appear on it throughout. Do
21 you see the annotation on the screen and can you tell the Judges
22 who you believe wrote that?

23 A.This is not my handwriting. I am not sure who annotated this
24 confession in order for me to further interrogate the person.

25 Q.Thank you. Is it possible that it's the accused Duch's

15

1 handwriting? Did he always write in red?

2 A.It is hard for me to identify because it is not clearly
3 written.

4 Q.When I read that annotation out to you I stated that it states
5 that it was in order to conduct a prompt examination in order to
6 have the people completely removed from the Ministry and pave way
7 for the possibility of taking the control of Ministry of Commerce
8 and others.

9 [09.43.24]

10 As an interrogator at S-21, to you, what did that comment mean?
11 What did that request mean?

12 A.Could you please repeat your question?

13 Q.On looking at the annotation, what was the person who wrote
14 that annotation -- what were they asking someone else to do?
15 What did that annotation mean to you?

16 A.This annotation means I was required to further interrogate
17 the prisoner.

18 Q.And when it states, "To pave way for the possibility of taking
19 control of the Ministry of Commerce", what do you think that
20 meant?

21 A.I really do not understand it.

22 Q.Thank you. I will follow up with a question that was asked by
23 Judge Ya Sokhan yesterday, and he asked some questions about
24 prisoners having their blood taken and subsequently dying.

25 I'd like you to look at the following film clip, and it's a film

16

1 clip from Rithy Panh's documentary, "S-21: Killing Machine",
2 where you made a number of statements.

3 [09.45.14]

4 MR. SMITH:

5 To the AV Unit, with your consent, Mr. President, it's clip 19
6 and it's D69/V00172620 and it starts at one hour and eight
7 minutes and 42 seconds to one hour and 10 minutes and 27 seconds.
8 I would ask the AV Unit, Mr. President, with your permission,
9 that they start at the 25-second mark, and I would ask that it be
10 shown and I would ask to -- ask the witness a couple of questions
11 about that.

12 There's no protected witnesses on this video, Your Honour. It's
13 a public video.

14 MR. PRESIDENT:

15 The AV Unit, can you play the video clip on the monitor as
16 requested by the international Co-Prosecutor?

17 (Video presentation plays)

18 UNIDENTIFIED SPEAKER (Interpreted from Khmer):

19 They took the prisoners. They laid them down on beds with metal
20 springs. They chained their feet and their arms to either side
21 of the bed. They were blindfolded and gagged, hands attached to
22 the beds. Then they stuck a tube in each arm with pouches for
23 the blood and they pumped it.

24 [09.47.00]

25 I asked how many pouches they filled and I was told four pouches

17

1 per person. There was nothing left. Once the blood was taken
2 they were left against the wall. They breathed like crickets,
3 their eyes bunched.

4 VANN NATH:

5 They couldn't move?

6 PRAK KHAN:

7 Just the eyes and their breathing. They couldn't feel anything.
8 The pits were dug nearby. I could hear them and we buried the
9 corpses.

10 VANN NATH:

11 Did that happen often?

12 PRAK KHAN:

13 They drew blood depending on hospital demand when the major
14 hospitals needed blood; once every month or two.

15 VANN NATH:

16 Here are vouchers for taking blood. You said two or three
17 persons only. That was only a small part take blood; all of
18 them.

19 PRAK KHAN:

20 I saw about 20 people.

21 VANN NATH:

22 All of them for blood.

23 (Video presentation ends)

24 [09.48.12]

25 MR. SMITH:

18

1 Thank you.

2 BY MR. SMITH:

3 Q.Mr. Prak Khan, that video clip or that filming was done at

4 S-21. Is that correct?

5 A.That is correct.

6 Q.And the vouchers for blood that Vann Nath showed you, had you

7 seen them before when you were working at S-21?

8 A.The vouchers for blood remains until today and that is true.

9 Q.And those blood vouchers from prisoners, are they still at

10 S-21 today as far as you know -- or Tuol Sleng?

11 A.The documents that Vann Nath showed me in the document remains

12 at Tuol Sleng.

13 Q.Thank you. I'd just like to refer you to some questions and

14 answers that were given when Judge Lavergne was asking you some

15 questions.

16 [09.49.45]

17 And you stated that Duch told you in training that it was an

18 important rule that when torturing you didn't torture -- or the

19 interrogators didn't torture prisoners to death; that they

20 stopped short of that. You said that you saw other interrogators

21 would torture detainees when they went unconscious anyway, in

22 contravention to his rule.

23 I'd like to show you a clip from the same video, Rithy Panh's

24 "S-21: Killing Machine".

25 MR. SMITH:

19

1 And with your permission, Mr. President, it's clip number 11. It
2 starts at the nine-second mark and it's the same ERN number and
3 it's at 42 minutes 58 seconds to 43 minutes and 29 seconds; with
4 your permission.

5 MR. PRESIDENT:

6 The AV officer, could you show the video clip as requested by the
7 Co-Prosecutor, on the screen?

8 (Video presentation plays)

9 PRAK KHAN:

10 Torturing at that time was cruel. I didn't think. I was
11 arrogant. I had power over the enemy. I never thought of his
12 life. I saw him as an animal. When I raised my hand, my heart
13 never checked my brain, never stopped my hands from striking. My
14 heart and my hand worked together. Torture was like that.

15 (Video presentation ends)

16 [09.51.42]

17 BY MR. SMITH:

18 Q.Mr. Prak Khan, when you started at S-21, did you think of
19 prisoners as animals when you first started or was that something
20 that developed over time as you worked there?

21 A.I would like to exercise my right to remain silent.

22 Q.Thank you. Judge Lavergne also asked you another question in
23 relation to the interrogation of a female prisoner and you
24 testified that you integrated one, Nai Nann.

25 Now, I would like you to look at the following film clip and I

20

1 have a couple of questions to ask you.

2 MR. SMITH:

3 Mr. President, it's clip 20. It's the same video, Rithy Panh's
4 "Killing Machine". It's at one hour and 15 minutes and 13
5 seconds to 19 minutes and 30 seconds, and it's clip number 20.

6 With your permission, Your Honour.

7 MR. PRESIDENT:

8 The AV officer, could you please show the video clip as requested
9 by the Co-Prosecutor, on the screen?

10 (Video presentation plays)

11 PRAK KHAN:

12 Nai Nann was a medic at Hospital 98. I interrogated this young
13 lady for four or five days without getting a thing out of her.
14 She said she knew nothing. I insisted to what organization did
15 she belong, what was her relationship with the head of the unit?

16 (Video presentation ends)

17 BY MR. SMITH:

18 Q.Mr. Prak Khan, the person that you see on that photograph
19 there, is that Nai Nann, the person you interrogated?

20 A.That is the real photo of Nai Nann.

21 Q.Thank you.

22 MR. SMITH:

23 If the video can continue, please?

24 [09.54.22]

25 (Video presentation plays)

21

1 UNIDENTIFIED SPEAKER (Interpreted from Khmer):

2 For four or five days she refused to answer, so I asked Duch and
3 Chan what to do. They told me to use hot method to frighten her.
4 I took their advice. I insulted her; intimidated her; pounded on
5 the table. I broke off a tree branch and beat her. She pissed
6 out of fear. When I hit her, she pissed herself.

7 Then she asked to make her confession, Nai Nann's confessions. I
8 made her write it in four or five days. I got a page of it.
9 Reading it, I didn't know what network was involved or what
10 party. It contains nothing.

11 So I explained and suggested how she write it using my method.
12 She should describe the network of a party and activity of
13 sabotage, a network leader, and in the end we managed to write up
14 this document.

15 VANN NATH:

16 Here is the document. On the last page here there's a signature,
17 (inaudible) signature, the signature dated the 5th of January,
18 1977 and here is the young woman's answer:

19 "Him assigned me a mission to shit on the rice, the beans, next
20 to the toilets, in buildings and houses, in order to ruin the
21 reputation of the command post hospital because it was a modern
22 hospital. And then Chhen assigned me a mission to shit in the
23 operating room."

24 I don't understand. Did you believe that sabotage happened?

25 [09.57.15]

22

1 PRAK KHAN:

2 At that time, it was believable. When I saw sabotage, I believe
3 it. When I interrogated her I gave her three targets; one, CIA,
4 two, KGB; three the June enemy, and out of the three she chose
5 the CIA. So I then interrogated her along those lines looking
6 for her network, her chief, her accomplices, the sabotage
7 activities at the hospital. That's why I could believe her.

8 VANN NATH:

9 I did not think the CIA committed sabotage, and that woman was
10 only 19 years old according to her biography. Is this her
11 handwriting?

12 PRAK KHAN:

13 That's my handwriting. She hadn't gone to school and I couldn't
14 read her writing. She made mistakes so I wrote for her,
15 corrected her, embellished it.

16 VANN NATH:

17 I don't understand your feelings you are bringing no more than
18 those of Duch and Chan. How could you think it was true?

19 PRAK KHAN:

20 At that time, the aim was to indoctrinate us. We had to believe
21 in sabotage activities or we couldn't arrest the enemy. When
22 Duch received the document, he made no comment.

23 [09.58.04]

24 VANN NATH:

25 He agreed?

23

1 PRAK KHAN:

2 Yes.

3 (Video presentation ends)

4 BY MR. SMITH:

5 Q.Mr. Prak Kahn, you talked about -- sorry.

6 MR. PRESIDENT:

7 The defence counsel is on his feet. You may proceed.

8 MR. ROUX:

9 Just an observation. The Co-Prosecutors said that we do not see
10 any witnesses on this document but we see, indeed, one witness.

11 So please be aware, Mr. Co-Prosecutor.

12 MR. SMITH:

13 Perhaps it might have been a translation issue, Your Honour. I
14 said there were no protected witnesses on this public video
15 called "S-21: The Killing Machine". But no protected witnesses
16 are on that, You Honour.

17 So their comments slightly undermined the whole aspect of it, but
18 perhaps if I can move on?

19 BY MR. SMITH:

20 Q.Mr. Prak Khan, you talked about -- in that DVD, in that film
21 clip -- you talked about indoctrination, to treat someone as an
22 enemy. When you were at S-21 who was responsible for
23 indoctrinating you to treat prisoners as enemies?

24 [09.59.50]

25 A.At S-21, it was only Duch who indoctrinated our stance, our

24

1 absolute stance against the enemy, and that we had to take it
2 seriously and we had to consider the enemy as animals so then we
3 would be in the position to extract the confessions from the
4 enemy.

5 Q.As was explained in the video, would you ever think of
6 behaving like that before you went to S-21? Would that have been
7 your normal behaviour?

8 A.Could you please re-phrase your question, please?

9 Q.Prior to starting work at S-21, I assume you didn't treat
10 people in that way as you described in the video. Is that
11 correct? Is it only from being at S-21 that you started to act
12 in that manner?

13 A.I would not want to respond to this question.

14 Q.Mr. Prak Khan, you worked at S-21 for over two years. You've
15 given evidence that during that time the accused gave you
16 political training sessions, gave you interrogation training
17 sessions, gave you torture training sessions. He spoke to you
18 over the telephone about torture. He made annotations about how
19 to interrogate and how to torture.

20 From all of your dealings with Duch whilst you were at S-21, what
21 type of person was he? What type of personality did he have?
22 Was he lazy? Was he disciplined? Can you give us an idea of
23 what you thought of his personality at that time?

24 [10.02.28]

25 A.Brother Duch at that time was a studious person, enthusiastic

25

1 in his work and whatever he did he was -- meticulously done it.

2 Q.Mr. Prak Khan, you said he was enthusiastic. You were at S-21

3 until the end, until January 1979. Did you ever see that

4 enthusiasm change?

5 A.Through my observation, occasionally I had not noted any

6 changes in his enthusiasm, only when there was internal problems

7 that we were to have and that everyone start to feel so afraid.

8 MR. SMITH:

9 Mr. President, I just have two last questions.

10 BY MR. SMITH:

11 Q.Mr. Prak Khan, in Court today and yesterday it seems to be

12 difficult for you to admit your involvement in crimes at S-21.

13 And you have made a number of admissions of your involvement in

14 crimes through a number of documentaries that are public

15 documentaries. And there are at least four documentaries which

16 you have been very explicit to your involvement in crimes at S-21

17 and also the nature of the Khmer Rouge.

18 The documentaries are "The Cambodia Report" by Phil Reese and

19 it's D69 V00172527. And then "Inside Pol Pot's Secret Prison",

20 D69 V00172525. And as stated, Rithy Panh's "S-21: The Killing

21 Machine". And also The "Land of Silence", D69 00172520.

22 [10.05.01]

23 There are numerous accounts from you on camera talking about your

24 involvement in crimes. My question is, why did you come forward?

25 Why did you go public to your involvement in crimes at S-21,

26

1 because I assume you were silent about it for a long time?
2 Why did you decide to participate in these documentaries and
3 stating your involvement in the crimes at S-21? Can you help the
4 Court understand that?

5 A.I thought it was my duty to do that. That's why I had to
6 reveal the truth.

7 MR. SMITH:

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

9 Thank you, Mr. Prak Khan.

10 MR. PRESIDENT:

11 Now it is time we give the opportunity to the civil party
12 lawyers. And each group has 15 minutes. So we can now start
13 from group 4 first.

14 Please be reminded that you have 15 minutes to put questions to
15 this witness.

16 MR. HONG KIMSUON:

17 Thank you, Mr. President, Your Honours.

18 QUESTIONING BY CIVIL PARTY COUNSEL

19 [10.06.58]

20 BY MR. HONG KIMSUON:

21 Q.Good morning, Mr. Prak Khan.

22 I would like to put some questions to you. Yesterday you talked
23 about the time when you left Tuol Sleng prison, former S-21
24 security office. A few days before that you said that you did
25 not work.

27

1 Is it fair to say that the reason you did not work a few days
2 before the 7th of January because you were not assigned to do the
3 task or because you got orders not to perform your task any more?

4 A.Yesterday I did say so, because before the 7th of January --
5 just a few days before that, there were transportation of
6 detainees from the prison days and night, and interrogation
7 ground to a halt. And there was no more interrogation and we
8 were idle and just stayed in the houses because detainees were
9 all smashed at Choeung Ek.

10 Q.Thank you. Through the photo shown by the Co-Prosecutor you
11 pointed to the place where you had worked, located the house
12 located on a small road, and that Mr. François Roux would like
13 that location to be marked as A, for example.

14 So from the place you worked and to the down part of that
15 location, you said they were houses for interrogations. So the
16 detainees would be taken to be interrogated in those houses and
17 that they were taken from Ponhea Yat High School or the former
18 compound of S-21. Is that correct?

19 [10.09.30]

20 A.People who were taken out to be interrogated were taken from
21 the inner buildings, and the interrogations were conducted from 7
22 to 11 a.m. and after the interrogation session they would be
23 returned to the cells. And then they would be taken out again to
24 be interrogated for another session before they were returned to
25 the cell. So the detainees would not be kept in the

28

1 interrogation houses after interrogation.

2 Q.Thank you. When detainees were taken from the inner
3 buildings, were you in charge of walking those detainees or were
4 you assigned to just wait to receive them at any particular point
5 of location?

6 A.I walked to the outside of the building and asked the guards
7 to just walk or to take out the detainees and I was waiting
8 outside.

9 Q.Thank you. I would like to move back a little bit to the time
10 during the liberation day.

11 During the time that you did not work, a few days before that
12 time, did you visit the workshop?

13 A.At that time we did not move about. I, of course, walked to
14 the kitchen and then returned to the place where we had stayed.

15 Q.Thank you. Could you please verify the term "kitchen"? I
16 mean, kitchen here was located in the Tuol Sleng compound or
17 where was it located?

18 A.The kitchen situated between Street 330 and the East Road. So
19 it was located there.

20 [10.12.08]

21 Q.So that kitchen was meant to serve food for staff members or
22 interrogators, or was it the same kitchen for the other detainees
23 at S-21?

24 A.There was another kitchen to the west which is separate from
25 this kitchen, because that kitchen was for detainees and this

29

1 kitchen outside of the wall of the complex was for the staff
2 members.

3 Q.Thank you. I am clear now.

4 Regarding the interrogations, if any detainee could not write,
5 then you would be of assistance to write those confessions. So
6 in that kind of writing were you supposed to write whatever you
7 preferred rather than whatever the detainee would tell you?

8 A.Normally we wrote according to what the detainee told.

9 Sometimes we could not understand what they told us so we asked
10 them to repeat. And in writing actually we were not supposed to
11 write our own ideas, other than those of the detainees.

12 Q.Thank you. You said here that there were three options -- the
13 CIA, the KGB and the Vietnamese enemies or spies -- and then
14 detainees would be put to select among the three. So to you, do
15 you or had you ever understood those terms?

16 A.I was not well explained and detainees were not well explained
17 either because we just wanted them to say which string or network
18 they belonged to; you know, the KGB or CIA or Vietnamese enemies.

19 Q.Thank you. What about the detainees? Did they understand the
20 three terms used here?

21 A.Sometimes detainees said they were associated with CIA, KGB or
22 Vietnamese enemy, so different detainees would give different
23 accounts concerning the terms.

24 [10.15.16]

25 Q.Yesterday you indicated about the confessions which were

30

1 adjusted before they were sent to superiors. My question is:
2 were the adjustments made because interrogators would prefer the
3 confessions to be like what they preferred, or what?

4 A.The term "adjustment" here was meant in particular for -- for
5 example, the detainees hand-wrote the documents and then we would
6 like to have them typed, and then we can also correct some words
7 or structure so that they are easy to be read.

8 Q.Thank you. The same confessions. Yesterday you already
9 stated this but we would like your clarification. During
10 interrogations there were Hor, Duch who walked past and sometimes
11 came into the interrogation session, and there were some
12 annotations on documents. When you were interrogating the
13 detainees were they entering the interrogation room and then
14 annotated on those pieces of documents?

15 A.I think it was a different situation. These kind of things
16 did not happen simultaneously because after the confessions sent
17 to them, then they would annotate on the documents. But they
18 only occasionally walked past the place where we interrogated the
19 detainees.

20 Q.Thank you. You said they walked past, Duch and Hor. Were
21 they just walked past or were they also taking part in the
22 interrogation?

23 A.I think it was none of their duty to interrogate detainees but
24 it was their duty to patrol the area.

25 [10.17.57]

31

1 Q.Now, regarding the compound of the S-21 or the former Lycee
2 Ponhea Yat; now, to the south of the complex or the Tuol Sleng
3 prison were there any special prisons for special detainees?

4 A.To the south of the complex next to the road there was a
5 special prison; the place I never went to.

6 Q.Thank you. Regarding your travel from your place to the place
7 where you saw a child being dropped from upper floor, could you
8 tell the Court about your freedom of moving about? So to what
9 extent were you allowed to move about in that compound?

10 A.I was vested with the right to only walk or move about from my
11 place to the place where people were interrogated and to the
12 kitchen; that's all.

13 Q.Last question. During the training sessions on interrogations
14 led by Duch in the house located next to his house, during such
15 sessions were there any miming activities, for example how people
16 would play roles in such torture techniques? Was there any
17 incidents like that in that sessions?

18 A.No, there wasn't. Actually we were only told and we only
19 dictated what was being told and taught.

20 [10.20.27]

21 Q.Thank you, Mr. Prak Khan. I have no further questions for the
22 time being.

23 MR. PRESIDENT:

24 Next, civil party lawyers, group 2, you take the floor. Sorry,
25 group 3 next.

32

1 MS. JACQUIN:

2 Good morning, Mr. President, Your Honours. Good morning, Mr.

3 Prak Khan.

4 Mr. President, for the time that is available to me I would like

5 to put the questions that I've planned for the testimony of Mr.

6 Prak Khan if the Court will grant me leave to do so.

7 MR. PRESIDENT:

8 Could you please repeat your statement, because I don't think I

9 understand what you are saying?

10 MS. JACQUIN:

11 Thank you, Mr. President. I was asking that I be granted the 15

12 minutes to put questions to the detainee, to the accused, about

13 Mr. Prak Khan instead.

14 MR. PRESIDENT:

15 You are granted the leave to do so, but we would like to also

16 inform you that since during the session when the testimony of

17 Prak Khan is being heard, then you should put questions to the

18 witness. But questions are welcome to be put to the accused, but

19 only if the questions are related to the testimony of the witness

20 here before the Court.

21 [10.22.53]

22 The accused, please be ready to respond to the civil party

23 lawyer's questions.

24 MS. JACQUIN:

25 Thank you, Mr. President.

33

1 I am Martine Jacquin. I am a lawyer for civil party group 3. I
2 would like you to tell us whether you confirm or deny the
3 statements made by the witness when he said that you provided
4 training for interrogators, and that you provided training for
5 methods of torture as well.

6 THE ACCUSED:

7 Prak Khan, at the outset, was the staff of the special unit.
8 Later on, he was put into the interrogation group, so my
9 education to him regarding interrogations ended. And Prak Khan
10 also acknowledged that when he started interrogating detainees,
11 he was not given any instruction, he only observed other
12 interrogators during interrogation sessions.
13 Later on, he attended trainings with the other interrogators, and
14 you can find this reference in Brother Mam Nai's document. So
15 these documents can be found with -- I mean document of Brother
16 Chan. However, I would like to emphasize that he worked as the
17 interrogator in early 1977 after he left the special unit.
18 First, he was not trained but, later on, he learned how to
19 conduct interrogations, however, the four methods of
20 interrogations were not taught to him and he did not learn this.
21 And I already stated earlier, even during the investigation phase
22 about this, and made it clear already.

23 [10.25.37]

24 MS. JACQUIN:

25 Thank you, sir. I know you have said a number of things, but I

34

1 would like to hear your direct comments on the testimony of Mr.
2 Prak Khan.

3 My second question concerns the incident of the child who was
4 thrown from the balcony, as has been mentioned several times
5 before. Do you think these incidents did happen; was it true?
6 And do you think that this was an acceptable method of killing a
7 child so that his or her mother could be forced to testify or to
8 confess?

9 THE ACCUSED:

10 Thank you, the lawyer. I have been expecting to respond to this
11 question long ago and thank you for putting it before me, and I
12 would like to respond as follows.

13 I don't believe it. It's short. My observation is that there
14 were no three-storey buildings located at that location. At the
15 beginning I read Prak Khan's testimony, I thought he was
16 mentioning about the building in the compound of Ponhea Yat High
17 School, but then he stated that the location was outside so I am
18 not convinced at all that there was such building outside the
19 compound.

20 MS. JACQUIN:

21 Thank you, sir. Several times the witness also mentioned that
22 you spent some time with the interrogations and that sometimes
23 you would take time off and conduct the interrogation yourself
24 before you left. Do you confirm or deny the witness's testimony?

25 [10.28.05]

35

1 THE ACCUSED:

2 I was in the leadership of S-21. My duty was to annotate on the
3 confessions of the victims. During my whole life since I started
4 to become the Chairman of S-21, I only interrogated one detainee
5 and only once I interrogated Kuy Thuon. And that's all.

6 MS. JACQUIN:

7 But, sir, if you are a director, you would go around to make sure
8 that people are working well. Perhaps in that context as Prak
9 Khan said, you may have stepped in for a few minutes during the
10 interrogation. Is it not possible?

11 THE ACCUSED:

12 Your question is based on a very good observation. I really
13 appreciate it.

14 I would like to also indicate that at S-21 Prison, Peng was in
15 charge of his respective unit. Sometimes Phal would be in
16 charge. Regarding the interrogation sessions, they were the head
17 of the teams.

18 For example, Prak Khan's group there was Tith, who was the team
19 leader. Whatever happened during that time, Prak Khan had to
20 report to him. He could not pass through his team leader
21 straight to me.

22 [10.30.31]

23 It was also possible that Mam Nai could be used, but more
24 frequently Comrade Hor would be called to assist me regarding
25 this matter.

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1 And I would like to take this opportunity to also make it clear
2 that I really respected the organization, the assignment. If I
3 assigned them as my deputy, then I had to build trust on them and
4 to respect their performance. If I assigned them as the chief of
5 the interrogators, then they would be expected to be assigned to
6 monitor those interrogators.

7 If I discussed any matter with Prak Khan without going through
8 them, what was the point of assigning them to be the leaders of
9 the group? So they were accountable for me and they had to
10 report everything to me. Whatever committed wrong, then they had
11 to be accountable for their acts before me. So that's all.

12 MS. JACQUIN:

13 Thank you for these clarifications.

14 Would you also confirm or deny the fact that you gave elements
15 regarding the context or the situation of the person to be
16 interrogated before he was going to interrogate in order to bring
17 together these elements that you were looking for?

18 THE ACCUSED:

19 Counsel, I listened to your words in French. I still do not
20 understand it clearly. Can you re-state your question again? I
21 would like to say again.

22 I still do not understand the difference between "affirmer" and
23 "confirmer". Can you explain a little bit further?

24 [10.33.34]

25 MS. JACQUIN:

37

1 To confirm means to say that the witness said something that is
2 true and to deny means to say that the witness said something
3 that is maybe not exactly true. So what I was asking, well, Prak
4 Khan said that he had to follow instructions when he was
5 interrogating, whether they were oral or written, so I wanted to
6 know whether you agreed with that or not; whether you agreed that
7 he was receiving these instructions.

8 THE ACCUSED:

9 I did not have time to provide instructions to every single
10 interrogator, including Prak Khan. Even the expert staff of mine
11 -- that is Comrade Pon -- I did not have sufficient time to give
12 him instructions on every single aspect of the matters.

13 MS. JACQUIN:

14 Two more questions.

15 First question: would you say that the drawing of blood were
16 done without your approval?

17 [10.35.20]

18 THE ACCUSED:

19 I would like to explain the matter in two sections.

20 In his statement Prak Khan said the drawing of blood was done on
21 1,000 persons or even more than 1,000. He said every week 20
22 people had their blood drawn. I calculated the number and I
23 concluded that Prak Khan actually calculated the number 20 times
24 52 weeks equalled one year. Therefore, it adds up to
25 approximately 1,000 and when I see this figure it reminded me of

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1 the witness KW-30. That witness for M-13 said every day M-13
2 executed 20 prisoners. Therefore, within the three-year period,
3 or a little bit over three-year period M-13 executed more than
4 30,000 people. So there is the similarity between these two
5 witnesses.
6 Yesterday Prak Khan, before this Chamber, did not dare to confirm
7 that the blood was drawn from more than 1,000 people. I would
8 like to say that the documents from those people whose blood was
9 drawn still remains. From my calculation there were probably 100
10 or so people whose blood was drawn.
11 And on the second point, the person who ordered the blood to be
12 drawn was my superior. That is Son Sen. And on the third point,
13 I categorically deny the testimony of this Prak Khan, who
14 yesterday said that I provided the blood to three hospitals. I
15 only provided the blood to one hospital; that is the hospital of
16 the general staff. I did not have any contact with Hospital 17.
17 The Hospital 17 was a civilian hospital. It did not provide
18 treatments to soldiers, and the Chief of the General Staff or the
19 general staff did not have any contact with the civilian
20 hospitals at all.
21 [10.40.19]
22 Furthermore, the 703 Division Hospital, as stated by Prak Khan
23 yesterday, was at the Monivong Hospital, as he said, and this is
24 a lie. The 703 Division Hospital was originally at the Monivong
25 Hospital but in 1978 it relocated to Neak Loeung and my superior

39

1 worked there at that location, and my younger sibling also worked
2 in that hospital; my younger sister.

3 Therefore, his statement that I provided the blood to Hospital
4 98, Hospital 703, and Hospital 17 is a fabrication. I only
5 acknowledge one hospital where I sent the blood to, and I denied
6 the blood to be supplied to the other two hospitals. This is my
7 response and I thank you very much, counsel.

8 MR. PRESIDENT:

9 Your group has actually five minutes over time and now it's time
10 for the break, so the Chamber will take a 20-minute break until 5
11 to 11 when it resumes.

12 Court Officer, can you provide necessary refreshments to the
13 witness, and bring him back before 5 to 11?

14 The hearing is adjourned.

15 (Judges exit courtroom)

16 (Court recesses from 1042H to 1104H)

17 (Judges enter courtroom)

18 MR. PRESIDENT:

19 Please be seated. The Court is now back in session. We continue
20 hearing the testimony of Mr. Prak Khan. Next we would like to
21 give the floor to civil party lawyers group 2 to put questions to
22 the witness. The floor is yours.

23 MR. KONG PISEY:

24 Good morning. Thank you, Mr. President and Your Honours and the
25 parties to the proceeding.

40

1 [11.05.00]

2 -

3 BY MR. KONG PISEY:

4 Q.And good morning, Mr. Prak Khan. I'm Kong Pisey, the civil
5 party lawyer for the civil parties. I would like to put some
6 questions to you.

7 You said that the regulations for the detainees were that
8 detainees were not allowed to shout or chant slogans, and so on
9 and so forth. Have you ever heard a detainee would shout such
10 slogans?

11 A.The regulations were seen in the interrogation room but I had
12 never heard any detainee shouting any slogans.

13 Q.You said about 50 to 60 percent of detainees would be called
14 to be interrogated. What happened to the rest?

15 A.I don't know but my presumption is that they would have been
16 executed.

17 Q.Thank you. You indicated already that you witnessed a woman
18 being electrocuted. Did you see that that person were
19 electrocuted by the raw current from the voltage from the wall?

20 A.The electrical cord would be connected to the socket and that
21 part of the cord would be attached to the shackles.

22 [11.07.33]

23 Q.What was your impression regarding that detainee while being
24 electrocuted?

25 A.After a short moment the detainee passed out.

41

1 Q.Thank you. You said your leader or your chief was Man, Cham
2 Muslim. Was he arrested later on?

3 A.When I started working there Man was the chief of the group
4 but later on he was arrested at S-21.

5 Q.Thank you. You also stated that there was a woman named Than
6 who was a medic sent from China, and she was found having
7 committed some wrongdoings and arrested. What happened to her
8 and what happened to her spouse?

9 A.Than was the medic who treated me with acupuncture and Ton was
10 in charge of treating me. I did not know what happened to her
11 husband. He worked there and he was trained in China on medical
12 treatment and acupuncture. That's why later on I was treated by
13 such method. I think that her husband did not die during the
14 regime. He just was separated.

15 Q.You said the person named Soeu witnessed the foreigners who
16 were burned alive using tyres. So do you know anything about
17 that person now? Mr. Soeu, I mean.

18 A.Soeu is still alive.

19 MR. KONG PISEY:

20 Thank you for answering my questions. I would like to give the
21 floor to my colleague to share the questions to be put to the
22 witness.

23 MS. STUDZINSKY:

24 Good morning Your Honours.

25 BY MS. STUDZINSKY:

42

1 Q.Good morning, Mr. Prak Khan. My name is Silke Studzinsky. I
2 am representing civil parties, victims here in these proceedings.
3 I want to put some questions to you and first I am seeking for
4 clarification. Am I right that you were treated by nurses, by
5 female medics when you fell sick in S-21?

6 A.Yes, it is correct that that medic treated me.

7 Q.In the English translation I only heard the word medics, so my
8 question was if you were treated by nurses, by female medics.

9 A.I was treated by that female medic who treated me with
10 acupuncture.

11 [11.11.42]

12 Q.Have you been treated by other female medics in S-21?

13 A.No.

14 Q.I would like to move now to an incident that you have already
15 described. It is the case of Mr. Tuy who was in your group -- I
16 hope I pronounced it well -- who was charged with rape.

17 Who told you about this rape committed by To (phonetic)?

18 A.It was Touch not Tuy. He raped the female detainee and it's
19 true; he did that.

20 Q.My question was -- and please listen well -- who told you or
21 how did you get knowledge of this rape?

22 A.No one told me. I witnessed it. I did not see when the woman
23 was being raped but I saw her when she was being arrested.

24 Q.What did you witness? Could you describe this that you came
25 to the conclusion that she was raped?

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1 A.I did not see the rape clearly but according to the Chan's
2 close associate and close associate to Touch, he told me that
3 Touch raped that woman in that room and later on Touch was
4 arrested and detained in a building on the first floor and with
5 his legs shackled and put to sit down on the floor.

6 [11.14.39]

7 He could manage to run upstairs and commit suicide but he did not
8 die because he was supported by the wires, the electrical cords
9 and there were sparkling lights from that impact.

10 Q.Thank you, Mr. Prak Khan. Please try to listen to my question
11 and try to respond only to the question because you repeated this
12 what you have already told us yesterday in part of your response.
13 You said in your testimony before the Co-Investigating Judges,
14 this is document D19/8 and on the page with the English ERN
15 00161555. In there you said,

16 "I know only of one rape because it was adjacent to me."

17 And I emphasize "because." Therefore I come back to my question
18 that your knowledge of this rape came because -- or you get
19 knowledge of this rape because you were very close to the
20 incident, to the rape.

21 A.That's correct.

22 Q.How far away have you been?

23 A.That house he stayed in was next to my house.

24 [11.16.42]

25 Q.If you get knowledge because it was adjacent to you, did you

44

1 hear or see anything to conclude she was raped?

2 A.As I told you already that when the woman was being raped I
3 did not witness it, but later on after the incident was revealed,
4 then Touch was accused of such account and he was detained.

5 Q.Who ordered his arrest? Do you know this?

6 A.I did not know who put the order but Chan arrested Touch and
7 put him under shackles and he was placed in a house, in a
8 building.

9 Q.Do you know why he was arrested?

10 A.It was because Touch raped that woman.

11 Q.Then I want to quote what you said before the prosecutors. It
12 is document D2.7/5 and there the English ERN 00146792. And there
13 I quote, you said to the prosecutors:

14 "In my group there were Chhay, Duch, Khan, Khan. They were
15 imprisoned for what reasons I don't know for sure but maybe they
16 had been accused by others as belonging to the CIA network."

17 [11.19.15]

18 Could you again review your response? Could it be that he was
19 therefore arrested as you said to the prosecutors?

20 A.I did say that because there were Chhay, Khan, Chhun and other
21 people in my group who were arrested and walked to be
22 interrogated gradually. And later on there was no one left in
23 the group. People from 703 were arrested.

24 To the day when the Vietnamese came there was none of people from
25 703 left. I don't know whether they were implicated as CIA

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1 agents or not.

2 I was not told and the people who made the arrest was not made
3 known. I realized that they had problem only because they
4 disappeared, and I was so scared because we would eat and sleep
5 in the same house but later on they kept disappearing. I stopped
6 being scared only when Vietnamese came.

7 MR. PRESIDENT:

8 Civil party group 2, you have run out of time. So now the floor
9 is given to lawyer's group 1.

10 MS STUDZINSKY:

11 Sorry, Mr. President --

12 MR. PRESIDENT:

13 You are already informed that you have no more time left. Civil
14 party lawyer's group 1, you take the floor.

15 [11.21.26]

16 MR. WERNER:

17 Thank you, Mr. President.

18 BY MR. WERNER:

19 Q. Good morning, sir. My name is Alain Werner. I represent
20 some civil parties with my national colleague, Ty Srinna, and I
21 have some questions for you. I would be very grateful because I
22 don't have a lot of time if you could -- if it's possible if you
23 could answer with a short answer. That will put to you my
24 questions.

25 The first thing, sir, I would like to ask you coming back to a

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1 line of questioning put to you by Judge Lavergne yesterday, just
2 want to follow up on one thing, and that is the networks. You
3 said in front of the instructing judge -- and the reference ERN
4 in English is 00161577 D19/7 21 September 2007 -- you said that:
5 "Before interrogating, Duch gave instructions sometimes by
6 telephone, sometimes in person, that this one is in that network,
7 in that zone, so interrogate and get responses so we can research
8 further."

9 Do you remember saying that, sir?

10 A.Yes, I do.

11 [11.23.04]

12 Q.Just one thing about the network because you have been
13 answering questions and using this again and again, the network
14 name. Is that correct, sir, that the situation with that, the
15 prisoners when talking about the network, they had to give names,
16 names of individuals on papers. Is that the situation?

17 A.Yes, there is.

18 Q.Now, when you said that "so names could be given and get
19 responses so we can research further", what did you mean when you
20 said that?

21 A.I believe that the "research further" means to interrogate
22 thoroughly and more in-depth to find the more network
23 association, for example.

24 Q.Thank you. Now, you said something else in the same
25 interview.

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1 ERN 00161585, page 18, here is what you said. You said -- so
2 the question was:

3 "So when the prisoner implicated A, B, C, D as you recall it,
4 were those who had been implicated brought in too or were there
5 no follow-up and additional arrests?

6 And here is what you said. You said:

7 "The responses of those implicated, later I met some of them
8 brought in for interrogation for having been involved in previous
9 responses in which people had implicated them earlier."

10 Do you remember saying that?

11 [11.25.11]

12 A.Yes, I do.

13 Q.So, sir, is the situation as follows.

14 Some name, allegedly part of a network, were given by someone
15 being interrogated, a detainee, and later you yourself you saw
16 some of the people named in this confession brought themselves to
17 S-21. Is that correct?

18 A.Yes, there is.

19 Q.Thank you, sir. Now, I want to ask you something about the
20 truthfulness of all of that, of all these questions.

21 And answering a question with my colleague, you sort of touched
22 upon that this morning, but I just want to put to you something
23 that you said in the same interview, ERN 00161584. Here is what
24 you said:

25 "As for the responses that I got during the interrogation, my

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1 conclusion was that they were more false than true."

2 And next page, 00161585, you said this:

3 [11.26.27]

4 "In the responses I spoke about before and now, the responses of
5 the prisoner had to be reported. Some think they are likely
6 inappropriate. Some only 16 to 18 years old were considered to
7 be CIA. That was not proper. That's why I said they were not
8 true. That's what I said; it was only after the hearsay is
9 compiled into a story that can be said."

10 And then you said this:

11 "Some prisoners, since we had tortured them, they were in pain
12 and they answered. Some responded so I had to document it."

13 And, finally, a question which is a little bit long but the
14 answer is important, so let me put the question to you. It's the
15 same page. The question was put to you; they ask you:

16 "You have been questioned that the majority of the responses
17 were probably not true. So did you think that Duch thought the
18 same as you, that the responses were not true. So we compared
19 this with the intent of Duch saying to interrogate until it came
20 out they were enemies, until the traitor network came out. So
21 when did it not come out that many were traitors, did you think
22 that Duch thought that too or not?"

23 And here is what you said, in answer. You said:

24 "I thought that my considerations and Duch's were not different,
25 but the man was crazed with war and mistreating people. It seems

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1 he did not think much. That is my estimation."

2 Do you remember saying that to the investigating judges?

3 [11.28.30]

4 A.Yes, I do.

5 Q.What did you mean when you said, "Duch was crazed with war and
6 mistreating people"; what did you mean, sir?

7 A.Could you please repeat your question?

8 Q.Of course; of course. I read to you an answer you gave and
9 you said "The man" -- you were talking about Duch -- you said,
10 "The man was crazed with war and mistreating people". Could you
11 just elaborate on that?

12 A.I'm not quite sure if that statement is come through to me
13 because that's why I can't probably respond to you now.

14 Q.Sir, I understand that. I read you a portion in substance
15 saying that you did not believe the answers were true and that
16 you thought Duch did not believe either that the responses were
17 true. Is that correct; could you confirm that?

18 A.I did say that the truth -- the responses are not always true.
19 That's what I said.

20 Q.Thank you. Now, I want to ask you something.

21 Yesterday you answered Judge Ya Sokhan and he asked you about
22 Division 703, and he asked you if you know about the rift between
23 Division 703 and the West Force, and in substance you just said
24 that you knew and at the end it was only you left in Division
25 703.

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1 Now I would like to put to you a statement about Division 703,
2 001 -- same statement; 001 -- no, sorry, statement of 25th
3 September 2007, 00161562 and here is what you said:
4 "Those arrested and put in S-21, Tuol Sleng, those who worked
5 there in the interrogation section and defence, all of their
6 origins were from the 703 from the beginning. I estimate about
7 300, no fewer than 300, including defence and interrogation. So
8 those from the 703, as far as I know, that was almost all of
9 them. There remained only a few."
10 [11.31.45]
11 Question: "Arrested and killed?"
12 Answer: "All had been arrested and killed."
13 Could you confirm you said that?
14 A.Yes, I did say that the force from 703, although I was not 100
15 percent sure, it's my conclusion the total number was no less
16 than 300. And in the end, in the interrogation section only I
17 was remained of the 703 force, and in the defence there were only
18 five or six left.
19 Q.On the same page here's what you said:
20 Question:
21 "From your observation as an interrogator or through discussion
22 with other interrogation cadres, were the arrests of 703 because
23 of Duch's dissatisfaction or fear of the 703 would take his
24 position, or what? This according to your personal
25 understanding."

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1 And here is what you said:

2 "On this I can just say that the 703 Forces at the time were the
3 first to come to S 21, all from 703. Since he had moved from the
4 PJ to S-21 all the forces were the Special Forces of the 703 like
5 Ta Man, Peng, Trov, Bou who we had requested from the 703 Special
6 Forces to come to supervise, and the small low-level forces were
7 from the 703.

8 [11.33.30]

9 So I imagine that Duch did not want the 703 forces to supervise
10 everything, I do not know, or they were tracking down and
11 arresting 703 network. I do not know. So those who had
12 histories from the 12 Division of the 703, everyone was angry.
13 So my conclusion was he did not want the 703 to rise to power.
14 He was afraid he would not be the Chairman forever."

15 Could you confirm that you said that to the instructing Judges?

16 A.Yes, I did say that.

17 Q.Just if you can answer yes or no; is that true?

18 A.Yes, that is true.

19 Q.Now, here is what you said about the fate of one of the big
20 men of Division 703; Hor. Here's what you said -- 00161577

21 D19/7:

22 Question: "I want you to explain a little about Hor. Is he
23 alive today?"

24 Answer: "Hor, from what I know, Duch shot him to death in '79.

25 Duch ordered subordinates to shot him when they arrived at

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1 Amleang when the Vietnamese came."

2 [11.35.04]

3 Question: "What month?"

4 Answer: "I do not remember clearly but while fleeing the
5 Vietnamese I was confused then."

6 Question: "About Hor being shot, did you see this or learn this
7 through someone?"

8 Answer: "According to what I know from a friend who lived with
9 them, he said this."

10 Question: "His name?"

11 Answer: "When he told me it seems it was at Kampong Leaeng.
12 He's alive today."

13 Question: "Soeu? Chan Soeu?"

14 Answer: "I do not know which Soeu; the defence unit."

15 [11.35.47]

16 Did you say that, sir, in front of the Investigating Judges?

17 A.Yes, I did say that.

18 Q.Is that true?

19 A.Yes, that is true.

20 MR. WERNER:

21 Your Honour, I have one more question. Am I allowed? Thank you.

22 BY MR. WERNER:

23 Q.Sir, you probably know that before you Him Huy was at this
24 bar, actually seat, and was testifying. And I want to read you
25 two very, very short portions of what he said, and because you

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1 were yourself at the political training, ideological training,
2 total training session I just want to know if yes or no you can
3 confirm what he said, that's all, and it's a very, very short
4 portion. Here's the first portion when I myself asking the
5 question. Here is what he said:
6 "As I already stated early on, during the study sessions lectured
7 by Duch he, Duch, personally and directly said that everyone
8 would be smashed or killed; not only the people who were detained
9 at S-21. I believe because he said that we had to kill them all,
10 so there were prisons all across the country, so I mean everyone
11 would be killed."
12 [11.37.24]
13 And later my colleague Mr. Hong Kimsuon asked him -- came back to
14 this topic and here is what Mr. Him Huy said:
15 "First Duch stated -- he said everyone had to be killed and
16 leaving only four million people, and then later on he said
17 everyone shall be smashed to bits, to all, and the statement I
18 still remember ever since."
19 So that is my last question to you. Can you remember Duch saying
20 anything like that during the session, the training session?
21 A. That is Him Huy's statement to the question. Regarding the
22 content of what is just said, I'm not really clear on it. It's
23 been so long already, so I cannot say clearly whether it was said
24 during the training.
25 Q. Sir, I have no further questions and I would like, on behalf

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1 of the people I represent, to thank you for having come here and
2 for testifying. Thank you very much.

3 MR. PRESIDENT:

4 Next I would like to give the floor to the accused to make his
5 observations regarding this witness testimony.

6 The accused, you are reminded that besides what you have
7 responded to the civil party lawyers, group 3, you don't need to
8 raise it again. If you have any additional remarks to be made
9 you can proceed.

10 [11.39.22]

11 THE ACCUSED:

12 Mr. President, first of all I would like to make a clarification
13 on document ERN 00174392, which the Co-Prosecutor showed this
14 morning during the questioning to the witness. With the
15 President's leave I would like the documents to be shown again.

16 MR. PRESIDENT:

17 The AV Officer, could you project document 00174392 on the
18 monitor?

19 Judge Lavergne, you take the floor.

20 JUDGE LAVERGNE:

21 For the purposes of the record I would like to specify that this
22 document bears the following references: D32/4 Annex LVIII.

23 MR. PRESIDENT:

24 The AV official, are you able to project that document with the
25 ERN 00174392 on the screen again? If you cannot do it, please

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1 report it.

2 The accused, you may proceed.

3 THE ACCUSED:

4 Mr. President, the writing in black reads:

5 [11.41.47]

6 "The response of Eng Meng Heang alias Chhon from the Energy."

7 That is my handwriting. And it is not Prak Khan's handwriting.

8 And the writing beneath in red ink is my superior's handwriting,

9 that is Son Sen's.

10 So this is not to confuse with the writing and the role of S-21

11 and the person who has the authority to make the arrest. And I

12 reported this document to my superior. So this is just my

13 verification on this document.

14 MR. PRESIDENT:

15 AV official, return the screen to the normal Court view.

16 Judge Lavergne, you take the floor.

17 BY JUDGE LAVERGNE:

18 Q.Concerning this document as well, we said that this was an

19 interrogation. It had been carried out by Prak Khan. Can the

20 witness confirm to us that he was the one who conducted this

21 interrogation?

22 A.Yes, I did interrogate this person and the handwritings on the

23 cover page was as the accused, Duch, confirmed.

24 [11.43.35]

25 MR. PRESIDENT:

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1 The accused, you may proceed with your observations.

2 THE ACCUSED:

3 Mr. President, I do not want to talk more on this document.

4 And now I would like to talk about the person, this witness, Prak

5 Khan. I would like to say that up until the 7th January 1979 I

6 never saw, never heard of the name or the face of this person

7 Prak Khan. What I say is that he was a minor staff at S-21

8 office.

9 I have searched for a long time to understand the biography of

10 Prak Khan. Initially, Prak Khan was a staff of a special unit.

11 Later on I requested Hor to transfer him to be an interrogator

12 cadre. He himself also stated that he stayed in the house marked

13 letter R, which is now known as the Beehive radio station. And

14 he completed or performed his duty as a guard, posting outside.

15 That was one of his duties as a special force.

16 Later he became an interrogator. The document which verifies

17 that he was in the special unit was D25/1. It was the complaint

18 of Bou Meng whom he alleged that this Prak Khan is his witness.

19 He said his first witness was Vann Nath and second witness Prak

20 Khan, a Khmer Rouge soldier who transported the prisoners to

21 Choeung Ek.

22 And the document which confirms that he was the interrogator was

23 the document which was just shown on the screen, that he

24 interrogated a female person whose name I cannot recall.

25 [11.47.23]

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1 Therefore I can say that the testimony shows that Prak Khan is
2 faithful to his biography before this Chamber.
3 Regarding his activities in the special unit he had mentioned it
4 continuously. And he also talked about his role in the
5 interrogation unit. One point that I would like to raise for our
6 consideration at this stage is that Prak Khan said the
7 interrogators had the duty to apply pressure on the prisoners,
8 not to allow them to scream or shout.
9 This is one view in addition to the testimony of Chum Mey who
10 were interrogated for 12 days and nights; Chum Mey, that is the
11 name. He did not say that he either screamed or shouted or cried
12 before the interrogator at all. Separately, Bou Meng was the
13 same in providing his testimony before this Chamber. He never
14 said that he cried or scolded or shouted at the interrogator.
15 Therefore the three testimonies when they combine, we can form a
16 view that the accused even if they suffered they would hold and
17 not scream.
18 This is the view that was raised by Prak Khan which was a little
19 bit absurd and this is just for the Chamber's consideration.
20 I also agree with Prak Khan that it's fearful to think of the
21 time. I observed, and through my observations I believed -- I
22 believe in the testimony, wherever it might lead to. True or
23 false, it doesn't matter, it has to proceed.
24 For example, in the testimony where five or six cadres of S-21
25 interrogating a female prisoner, although he himself realized

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1 that the judges did not believe his testimony, he still continued
2 to say. And there were more examples of this type. This
3 falsified testimony, yes, there were many, but I think it came
4 out as a result of fear.

5 At that time you were afraid, you were fearful of being arrested
6 by me, but now you're afraid that you might be faced with the
7 Court, as I am facing now. I do not demand or need any of my
8 subordinates to stand with me before the Chamber. I am
9 responsible before the Court, legally and emotionally, for what
10 happened at S-21.

11 [11.52.54]

12 I would like now to talk about the female interrogators. I have
13 already confirmed regarding the organization of the female
14 interrogators to interrogate female prisoners. And Mot, Hor's
15 wife, was the chief, and Khoeurn, Huy's wife, was the deputy
16 chief; that was Nun Huy's wife. And Ny, Pon's wife, was the
17 member, and Ran was also a member.

18 And when I arrested Huy -- Nun Huy -- on the 6th December '78, I
19 also arrested Khoeurn. Therefore, the female interrogating
20 cadres, there were only three remained, Mot, Ny and Ran. And
21 you, you said that I arrested all the female interrogators and
22 that is wrong, but it's not all wrong.

23 This is just a document to show that Mot is still alive --

24 800040040 and 0092 -- let me read the ERN Number again --

25 00040092. In point 7 towards the end, Mot finished interrogating

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1 on the 10 December '78, therefore, this document shows Mot is
2 still alive.

3 This document also confirms my theory that if Hor was alive, then
4 nobody would arrest Mot, and if Pon was alive then nobody would
5 arrest Ny, and if Trov was alive then Ran would not be arrested.
6 However, Prak Khan did not make a complete, full testimony.

7 Let me look at number 10, also a female person. An interrogator
8 was male, Peng.

9 [11.57.10]

10 So this is just my remarks for Your Honours, and this witness
11 testimony is not fully right. It should have documents to
12 support what he claimed, and don't just say anything without
13 having any documentary evidence.

14 And in another document, you made your statement before the
15 Co-Investigating Judges that Chan Chakkrei was a member of the
16 Central Committee. Chan Chakkrei was the name, Chan Chakkrei,
17 alias Ming. So that was your statement. You claimed
18 subjectively without having any documentary evidence to support
19 it.

20 In fact, you were neither a member nor a youth league member, and
21 you claimed regarding the seniority of those people and that is
22 not possible. And the documents which confirms Chan Chakkrei,
23 alias Ming, was not a member of the Central Committee, on page 14
24 of document dated 9 October '75 of the meeting of the Standing
25 Committee, at ERN Number 00019019 -- so it is 00019 -- 00019121

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1 -- Pol Pot wrote:

2 "Ming's unit generally was good. Previously, he might be afraid
3 of the enemy and
4 try to survive. His previous background was not to support but
5 to evade. However, he would not give in to the enemy but he
6 actually joined Angkar. Be careful of this person."

7 On speaking:

8 "Be vigilant on speaking in order to show that he was a traitor
9 so that he would not see his future. We analyzed the situation
10 that whether it was appropriate for his evasion and do not
11 publish it."

12 [12.02.51]

13 Therefore, if we continue reading we would learn that he was
14 afraid of the enemy and he evaded, and the judgement whether true
15 or false is based on our network.

16 So this is a document to confirm that Chan Chakkrei was not a
17 member of the Central Committee.

18 And another document, it is the minutes of the meeting of the
19 Central Committee on the 19th, 20 and 21 of April 1976. Pol Pot
20 said:

21 "The Comrade Ming and Comrade Nat; that is Nat at S-21, are just
22 the cadres of the General Staff who have been mobilized to assist
23 in the general staff's affairs in the combat operation and not to
24 control any force."

25 Therefore, either Nat or Chan Chakkrei was not a member of the

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1 Central Committee because they were being suspected and you just
2 said here and there that he was a member of the Central
3 Committee. It's confusing.

4 MR. PRESIDENT:

5 The accused, in your remarks you have to only say which parts of
6 the testimony that you agree or which parts that you disagree and
7 please observe and behave properly and on intent or don't apply
8 any pressure on the witness. You can only make observations or
9 remarks regarding the testimony or parts of the testimony of the
10 witness as you consider true or false. And it is the Chamber's
11 discretion to analyze and to make conclusions on the statement,
12 so you are reminded to have proper conduct in the Chamber.
13 Alain Werner, I see you are on your feet. You go ahead.

14 MR. WERNER:

15 Yes, Your Honour. In addition, I would just request for the
16 accused not to address directly the witness. He has to address
17 Your Honours, not directly talk to the witness.

18 [12.06.42]

19 Thank you.

20 MR. PRESIDENT:

21 We already addressed your problem.

22 The accused, would you wish to proceed with further observations?

23 THE ACCUSED:

24 Thank you, Mr. President.

25 The reason I raised this evidence is to support the proof that --

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1 the testimony of Prak Khan is not true when he said that Chan
2 Chakkrei was the member of the Party centre because his argument
3 was not substantiated because there was no proof.

4 And I would like to move further. Yesterday, when he came and
5 he said that there were female medics at S-21 named Nam Mon and
6 later on he said that the one who treated her was Than instead.

7 Nam Mon was not the medic. Than was actually the medic.

8 MS STUDZINSKY:

9 (No interpretation)

10 MR. PRESIDENT:

11 -- you take the floor. Would you wish to make any other
12 observation other than from what Alain Werner already stated? If
13 so, you can proceed. Otherwise, you're not allowed to do so
14 because if the President has already decided then you should not
15 really iterate it again.

16 [12.08.40]

17 MS STUDZINSKY:

18 No, I would like to object with what the accused said that was a
19 wrong quotation from what the witness said yesterday. He did not
20 say that he recalled exactly not the name of Nam Mon as a medic,
21 female medic, but he said possibly it could be and then he added
22 he cannot recall the name or names of female medics. That is
23 what the witness said and then, please, that is only to remind
24 you to be correct in the quotation of what the witness really
25 said. If necessary I can add the transcript, which is already in

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1 the draft version -- submit it.

2 Thank you.

3 MR. PRESIDENT:

4 The objection is not granted but the accused, please be advised
5 to talk to the Chamber rather than pointing straight to the
6 witness. You have already been reminded time and again and the
7 Chamber is of full capacity to analyze all the testimony and
8 statements and information it is fed with. We finally will
9 analyze what kind of information and statements are not true or
10 not relevant. So we will objectively consider the matter. It is
11 the Trial Chamber itself who will make this final judgment.

12 THE ACCUSED:

13 Regarding the female medics at S-21, actually, there were two of
14 them, but they were not the medics produced by S-21 but they were
15 the detainees who were used by S-21. There were Lach Dara, alias
16 Than, who studied in China. She was the niece of Nuon Chea. And
17 the second medic was Hak Phadet, alias Voeun, who studied in the
18 Soviet Union and who was the detainee at the beginning; the
19 detainee who turned medics.

20 So there were only two of them: Hak Phadet and Than. So they
21 were not the medics trained at S-21, they were detainees who were
22 turned medics.

23 There was another dentist who was used by S-21 to treat people at
24 S-21. You can find this document in 00171143 with that ERN
25 number. You can find the name of Dara, Lach Dara and Hak Phadet,

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1 alias Voeun, in number 165. And the dentist I used to treat my
2 dental problem, her name appears in this document also. Thank
3 you very much.

4 [12.12.25]

5 MR. PRESIDENT:

6 It is now time to take an adjournment for lunch, so the Chamber
7 will adjourn until 1.30 p.m.

8 Mr. Prak Khan, since your testimony has not yet come to an end
9 and the defence counsel has not yet put questions to you, so
10 after lunch we would like to hear you again. So please be
11 informed that you are summoned to come back after lunch. Maybe
12 one hour after lunch, your testimony will be completed.

13 Court officer is now instructed to take him to the waiting room
14 and return him to the courtroom by 1.30.

15 The security personnel are directed to take the accused to the
16 detention facility and return him to the courtroom by 1.30.

17 (Judges exit courtroom)

18 (Court recesses from 1213H to 1335H)

19 (Judges enter courtroom)

20 MR. PRESIDENT:

21 Please be seated. The Court is now in session. We continue
22 hearing the testimony of Mr. Prak Khan.

23 We note that the Co-Prosecutor is on his feet.

24 MR. SMITH:

25 Thank you, Mr. President.

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1 [13.35.23]

2 The prosecution would just like to raise a brief submission in
3 relation to the manner and the ordering of the questioning of the
4 accused and witnesses, not in relation to what's happened this
5 morning but certainly in relation to what will happen with other
6 witnesses coming before this Court.

7 I would ask Your Honours if we could make submission on that at
8 the end of the testimony of this witness.

9 (Deliberation between Judges)

10 MR. PRESIDENT:

11 Mr. Co-Prosecutor, could you please state your request again?

12 MR. SMITH:

13 Thank you, Your Honour. The prosecution would like to make a
14 brief submission on the manner of questioning of the witness and
15 the accused. As you are aware, this morning the civil party, one
16 of the civil party lawyers asked to question the accused within
17 their time for the questioning of the witnesses and that was
18 allowed.

19 And we would just like to clarify what the rights of the parties
20 are in relation to questioning the accused in the time that's
21 being allocated for questioning of the witnesses.

22 And secondly, put forward a submission or a suggestion as to
23 perhaps the best manner in which the questioning of the witness
24 can be done in order to ascertain the truth as clearly as
25 possible throughout that witness's presence before this Court.

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1 [13.37.35]

2 MR. PRESIDENT:

3 Is that all, Mr. Co-Prosecutor? Would you like to add further?

4 No, I'm asking whether other parties to the proceeding -- because

5 I note that Studzinsky was also on her feet, whether she would

6 like to make some comments regarding this matter also.

7 (Deliberation between Judges)

8 MR. PRESIDENT:

9 The request by the Co-Prosecutor is admissible and that the
10 ruling on that matter will be made at a later stage.

11 Is there any further problem before we can give the floor to
12 other party and that we want to avoid being interrupted?

13 MR. SMITH:

14 I apologize, Your Honour. I didn't actually make this submission
15 now but I would like to make this submission later, whenever it's
16 convenient, the reasons for it.

17 JUDGE CARTWRIGHT:

18 Yes, thank you, Mr. President.

19 [13.40.21]

20 I think there has been a little difficulty with communication.

21 Your request is clearly understood and the President agrees to
22 give you the opportunity later to make a submission, at which
23 point, if necessary, other parties will be called upon and of
24 course a decision then made.

25 MR. SMITH:

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1 Thank you, Your Honours.

2 MR. PRESIDENT:

3 Lawyer Studzinsky, you take the floor.

4 MS. STUDZINSKY:

5 Thank you, Mr. President.

6 [13.40.54]

7 I also want to ask for the permission of the Chamber to submit
8 one observation and one application at a later moment, maybe
9 after the testimony of Mr. Prak Khan, and I only want to announce
10 that I would like to make one observation and one application
11 later at an appropriate time as the President and the Chamber
12 decides.

13 Thank you.

14 MR. PRESIDENT:

15 Your submission is admissible and the Trial Chamber will take
16 into account the matters.

17 Next the defence counsel, you take the floor to put questions to
18 the witness. The floor is yours.

19 MR. KAR SAVUTH:

20 Thank you, Mr. President, Your Honours and the Court.

21 QUESTIONING BY DEFENCE COUNSEL

22 BY MR. KAR SAVUTH:

23 Q.Mr. Prak Khan, can you please confirm for us to be sure,
24 because before the Co-Prosecutor under document 00145597 on page
25 14, down from the below page to the upper page -- you said

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1 yesterday that you left S-21 on the 7th of January 1979 at about
2 9 to 10 a.m. So you made different statement before the
3 Co-Prosecutor. So which statement do you think is correct?

4 A.The statement, as you said, that I left on the 5th of January
5 was not correct because I left on the 7th of January 1979.

6 [13.44.14]

7 Q.Thank you. So you stated clear that the statement that you
8 said you left on the 5th of January 1979, before the
9 Co-Prosecutor, is not correct. But here we got your thumbprint
10 on that piece of document. You stated that you left S-21 on the
11 5th of January 1979 on that document. So the reason I ask you to
12 confirm is because I want to know whether you stand by the recent
13 statement or by the previous statement given to the
14 Co-Prosecutors.

15 Question number two. Do you know two medics, Lorn and Khim?

16 A.I don't know their names but please tell me in which unit
17 these people would have worked in?

18 Q.The question is that whether you know these two medics, Lorn
19 and Khim at S-21.

20 A.I don't know them.

21 Q.Thank you. Have you known Lorn, the chief of the medics --
22 female medic?

23 A.I only know Try, who was the chief of the medics at S-21. I
24 don't know other people who were also medics.

25 [13.46.52]

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1 Q.You stated that at night you were put to guard outside and you
2 saw Pon, Bou and other interrogators interrogating a female
3 detainee, and that you saw Dek Bou carried out tortures against
4 that detainee. Is that correct?

5 A.Yes, that is.

6 Q.Thanks. You said that you did not see Duch, the accused, use
7 torture against that detainee. Is that correct?

8 A.That's correct.

9 Q.You also indicated that since you worked at S-21 you never saw
10 the accused torture any detainee. Is that correct?

11 A.That is correct.

12 Q.Thank you. So your statement with ERN 00146599 D19/8, in that
13 statement it is contradictory to what you state here in the
14 Court. So do you stand by your current statement in the Court or
15 you stand by the statement you made in that document? To be
16 clear, you said that you saw the accused use torture against any
17 detainee, but here you said you have never seen the accused
18 torture any detainee. So which statement you stand by? Do you
19 stand by the statement before this Court now or the previous one?

20 A.I saw him taking part in the process but I am not sure whether
21 he tortured the detainee, but I will stand by the current
22 statement in this hearing instead.

23 [13.49.56]

24 Q.Thank you. At S-21 do you know Him Huy, and how well do you
25 know him?

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1 A. I know him very well.

2 Q. Thank you. You said you know Him Huy very well. So after you
3 left S-21 on the 7th of January 1979 did Him Huy leave the S-21
4 along with you?

5 A. When I left S-21 at that time I did not see him. I only met
6 him at Prey Sar, the rice fields.

7 Q. Thank you.

8 MR. KAR SAVUTH:

9 Thank you, Mr. President. I have no further questions now, and I
10 would like my colleague to put some further questions to the
11 witness.

12 MR. PRESIDENT:

13 Mr. François Roux, you take the floor.

14 [13.51.11]

15 MR. ROUX:

16 Thank you, Mr. President.

17 BY MR. ROUX:

18 Q. Good afternoon, Mr. Prak Khan. We met during the re-enactment
19 and during the confrontation at Tuol Sleng. And therefore I am
20 Mr. Roux. But before I release you from this lengthy hearing I
21 do have a few questions to put to you and I would like to thank
22 you in advance for answering these and for helping us to
23 ascertain the truth.

24 The Co-Prosecutor this morning asked you why you had revealed
25 many things in the press and in films over the past years and you

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1 answered that you wanted to say the truth. So my first question:
2 you said yesterday that you knew that Nam Mon had come to testify
3 before the ECCC before you. How did you get to know this?

4 A.I learned of this through watching her testimony on TV.

5 Q.Thank you. So you saw Nam Mon testify on television. Is that
6 so?

7 A.That is correct.

8 Q.And you also saw the other witnesses testifying on television?

9 A.Yes, I did.

10 Q.Thank you. I would like now to ask for a few clarifications
11 concerning your biography. And you explained to the Chamber that
12 after April 1975 and before you went to S-21 you said that you
13 had worked at Prey Sar in the 703rd Division in the rice field.
14 Is that so?

15 [13.54.20]

16 A.That is so.

17 Q.Who was your boss back then at Prey Sar? Who was your chief?

18 A.At Prey Sar there was the head of the unit of 101 and there
19 was the person named Konn (phonetic) or something, but I don't
20 remember their names quite well.

21 Q.Was Him Huy with you back then at the rice field?

22 A.Him Huy was not with me back then. He was in the Platoon 143
23 and I worked at the platoon -- at the different platoon, so we
24 were in a different group. We only known one another when we
25 worked at S-21.

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1 Q.Again I would like to have a few clarifications regarding your
2 biography. You told the Chamber that at a certain moment you had
3 been injured, you received a bullet injury, and that you had been
4 hospitalized for several months, first in the medical unit of
5 S-21 and then in the hospital. Is that so?

6 A.During the time when I had worked at the interrogation unit I
7 had my wounds that I sustained previously reopened and I think
8 these made me sick and then I was sent to Monivong Hospital and
9 then to Preah Khmet Mealea Hospital and finally to the Soviet
10 Cambodia Friendship Hospital.

11 [13.5713]

12 Q.Thank you for this clarification. So this is when you were an
13 interrogator. So according to you, when did this incident
14 happen? In which period in your life and at what moment were you
15 brought to the hospital; do you remember?

16 A.So far as I remember, it was 1978 when I was hospitalized and
17 I had been in the hospital for a long time, I can't remember, and
18 I was off duty until I recovered. So it was almost late 1978
19 that I recovered.

20 Q.Thank you. Well, indeed you have stepped a bit ahead of what
21 I wanted to ask because I wanted to ask you a few clarifications.
22 So you said "a long time". Can you be more specific? Did this
23 mean many months? Can you be a little bit more specific about
24 this please?

25 A.Could you please repeat your question?

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1 Q.I would like you to be more specific regarding this period in
2 your life. For how many months were you invalidated? For how
3 many months -- first of all, how many months did you stay in the
4 medical unit and then in the hospital? How long did this last in
5 1978? Was this for six months, eight months? Can you tell me
6 something, if you can recall?

7 A.I don't remember how many months, but it was quite a long
8 time, and I can remember that I could hardly walk and then we
9 were on the move already that we were leaving S-21. So when I
10 was on the move I was not well recovered yet.

11 [14.00.15]

12 Q.Thank you. Mr. Prak Khan, I now would like to put a few
13 questions to you based on a document that is included in the case
14 file and that is known to be as the manual of the interrogator.
15 So the prosecutors do not know who was the interrogator in
16 question, so we do not know either, but apparently everyone
17 agrees it was one of your colleagues who took notes during the
18 training sessions organized either by Duch or by Hor.
19 And for the necessities of the written record, I would like to
20 say that this document that had been misnamed originally as
21 "Torture Manual" was then renamed following a check on the
22 translation. It is called "The Statistic List of the S-21
23 Special Branch". It is document ERN in Khmer 00007445 to 713.
24 So just a few questions regarding what seems to be the notes that
25 were taken by one of your interrogator colleagues, and I am only

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1 asking you therefore to tell me if indeed these notes mean
2 anything to you, if they remind you of anything and if you
3 believe that this is what was indeed being said during these
4 training sessions.

5 [14.02.35]

6 In the French version on page 9 I can read the following:

7 "Angkar orders us to interrogate intensively. We have followed
8 this order properly but we give more value to torture than to
9 politics and this is contrary to the order according to which we
10 must use politics."

11 A little further on, under the heading "Improvement Objectives",
12 three points are listed. The first:

13 "Use politics as a basis.

14 2. Follow the comparative answers in a detailed way before
15 resorting to torture.

16 3. Strictly follow Angkar's discipline during the interrogation."

17 And we can find the same thing, therefore I will put to you a
18 general question on this topic. So we find the same thing a few
19 pages further on page 13 in French, paragraph 3, "Point of View
20 and Stance on the Interrogation Methods", and it is indicated the
21 following:

22 "First of all, the measures for each one of us during the
23 interrogations must be of two kinds:

24 a) political pressure: we must exert political pressure in a
25 sustained way and at all moments;

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1 b) the usage of torture is a complementary measure.

2 [14.04.57]

3 "And second of all, it is indicated experiments from the past
4 that were conducted by our interrogator comrades were generally
5 focused on torture. That is to say that they gave more weight to
6 torture than to propaganda. And this is an erroneous, mistaken
7 experiment and we must understand this in a determinate way."

8 This is what I have to say concerning this point regarding the
9 interrogations. Does this remind you, therefore, what you were
10 hearing during the training sessions?

11 A.I did hear the content which was instructed by Brother Duch
12 during the training. I did hear that theory, yes.

13 Q.Thank you. Now, regarding another topic and again in the same
14 document, on page 16 of the French version, point number 4,
15 "Viewpoints and Stance Regarding the Enemies' Confessions". In
16 point 2 the following is written down.

17 "Allow them to speak and to write. They should not be
18 interrupted. Correct them immediately based on our own
19 attention..."

20 I would like to say it again, well:

21 "...based on our own attention or let's say where we want to bring
22 them to in the questioning, except for the points that the Party
23 suggests, and that we ask requests from them because the Party
24 understands the situation very well.

25 [14.07.40]

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1 But if we insist on the names and on the activities, the
2 prisoners are going to invent things to suit our objectives. But
3 in so doing we are going to lose the revolutionary forces. They
4 are going to make the revolutionary situation muddled. They are
5 going to make the content of the confessions vague and pointless.
6 In reality, this makes the entire influence of the Special Branch
7 disappear."

8 And again, regarding this point on page 17.3 regarding the method
9 to compile documents, point B, and of course we are referring to
10 the prisoners again:

11 "The best thing is that they write on their own and in their own
12 words, their own sentences, their own thoughts, while avoiding
13 dictating to them what they should write."

14 And again, regarding this topic, page 18, point 6, the title in
15 French which does not seem to me to be a perfect translation,
16 well, the title is "How to Make the Party Welcoming Regarding the
17 Enemy's Confessions":

18 "(a) what's the most important is that we must not designate the
19 names, not make them speak or not force them to speak according
20 to our intention."

21 So my question is with regard to these methods. Does this remind
22 you of anything that you heard in the training? You do not force
23 enemies, or I prefer the term prisoner -- you do not force the
24 prisoners towards the intentions of the interrogators. You let
25 them speak.

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1 [14.10.20]

2 Does this remind you of anything?

3 A. That point was taught to us because if we forced the prisoners
4 to respond or to write to the extreme, which did not involve the
5 activities, it would be of no use. So we had to explain to them
6 how to write properly to make them -- to make the text clearly
7 understandable, and that was the continuous instructions by Duch.

8 Q. Lastly, on another point, referring to page 19 of the French,
9 at point 5, viewpoint and position with regard to the spirit of
10 revolutionary vigilance and maintaining secrecy, point 2 of the
11 paragraph says:

12 "This period of secrecy is the driving force of the Special
13 Branch. Without secrecy the Special Branch has no further
14 meaning."

15 If I understand correctly, the Special Branch was in fact S-21.

16 [14.12.12]

17 And on the following page -- I'm referring to page 20 at
18 paragraph 7, which is recapitulation, the following is indicated:

19 "Interrogation work is to summarize confessions. We summarize
20 them by analyzing and extracting confessions. This is detailed
21 work on all aspects, balanced work which is carefully analyzed,
22 carefully thought out and allowing for no gaps. This is done in
23 the most absolute secrecy."

24 Do you confirm that you received this training? Do you confirm
25 that the training -- that during the training you were told that

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1 you were to work in absolute secrecy?

2 A.I used to study that. I was instructed to perform the task
3 and to make it secret and not to share amongst the work
4 colleagues or to pass on from one to another. So it was
5 secretive.

6 Q.And did secrecy extend, to your knowledge, to anyone who
7 worked in S-21 regardless of the unit in which they worked?

8 A.All of us had to maintain secrecy. At that time we were told
9 to plant a kapok tree, which means we had to be mindful of only
10 our own business and not to interfere with other people's tasks
11 or we would be reported. We were only responsible for the works
12 assigned to us.

13 [14.15.17]

14 Q.Thank you. Mr. Prak Khan, I must tell you that this is what
15 concerns me in your testimony. As the accused told you in
16 speaking in general this morning, he has no quarrel with you, but
17 on several occasions you mention matters about which it is
18 difficult to understand how you came to gain any knowledge. Now
19 I'm putting questions to you which require some clarification.
20 On several occasions you have granted interviews in the press and
21 on films. You have expressed yourself. But this is a courtroom
22 where you are today, and what you say outside is not the same as
23 what you say here in this courtroom. In a courtroom we need
24 concrete facts.

25 I'd like to come back to the drawing of blood, and let's be clear

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1 on this. Duch has acknowledged that this occurred since the
2 investigation. More specifically, since the question was put to
3 him in February 2008 in your presence, there is no problem with
4 that. My problem is that I still fail to understand how you
5 could have witnessed what you are telling us, and my questions
6 will arise from this.

7 My first question is this: you said that it was Try who told you
8 that the blood was intended for the hospitals that you named.
9 How can you explain to the Chamber that Try, who was not a member
10 of your group, was able to tell you such a secret? Can you
11 enlighten us on that?

12 A.Regarding the drawing of blood, as I have stated, I saw it
13 happen on two or three occasions, and in each occasion the number
14 of the people were between 10 to 30. And I did not say up to
15 1,000 people like Duch said this morning. I said on the few
16 occasions -- on each occasion there was only a group of 10 to 30
17 people. And I did not say it happened on a monthly basis. So
18 this is my verification on this matter.

19 [14.18.42]

20 And what the medic Try told me, after I asked him where was the
21 blood taken to, and he told me that it was taken to the hospital.
22 And from what I understood, we would have the Khmer Soviet
23 Hospital, the Monivong and the Khmet Mealea Hospital. And it is
24 my conclusion that the blood was sent to those hospitals.
25 But regarding the witness of blood drawing, I did see it on a few

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1 occasions.

2 Q.We shall return to the fact that you were a witness. For the
3 time being please answer my question. How can you explain the
4 fact that Try spoke to you and provided you with this information
5 whereas you were all bound by secrecy, and forgive me, you were
6 not a boss, you were an interrogator? How can you explain to the
7 Chamber that Try told you, in particular, such a secret?

8 A.We all had our principle of secrecy, but at that time Try
9 resided just next to where I stayed and sometimes at night after
10 the prisoners were returned -- it was not so strict at the time
11 because at that time the internal purge did not occur yet and we
12 could contact, and only at a later stage when the situation was
13 intense that we did not contact each other.

14 Q.So would you say that this happened at the beginning when you
15 arrived in S-21? Is that what we are to understand from it?

16 A.It was not at the very beginning but I cannot say the exact
17 period as it happened 30 years ago. What I can only confirm,
18 that I personally witnessed the drawing of blood of the
19 prisoners, and I did not tell a lie.

20 Q.We are going to talk about that. On two or three occasions
21 you've said that you were witness to the drawing of blood and you
22 say that it was because you were along the path that passed
23 nearby.

24 [14.22.15]

25 So, witness, how did you witness this scene? Through the door,

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1 through the window? How?

2 A.I actually walked into the location where the blood was drawn
3 as I wanted to see how it happened.

4 Q.And you were an interrogator at the time or were you still a
5 guard on the outside?

6 A.At the time that I saw it I was not a guard. It was at
7 night-time when I returned the prisoners back to the cells. It
8 was around 11 p.m., so after -- upon returning, I went into that
9 location to have a look.

10 Q.So you're telling the Chamber that an interrogator had the
11 right to enter the medical unit to take a look around. Is that
12 what you're saying?

13 A.This is not what I said. Because I used to go in that
14 location, I used to go in to ask for the medicine when I was not
15 well, so it was normal to go into that location. And when it
16 happened that the blood was drawn, so I just stood there and
17 looked.

18 Q.But that was just the once. You said two or three times a
19 while ago. Does it mean that you went there two or three times
20 at 11 p.m. to fetch medicine?

21 A.I personally went inside to witness it. That was on one
22 occasion. But on the other occasions I stood from the street
23 where I could see, and I saw the prisoners' blood was drawn. And
24 on the occasion that I went to see it I stood there and I saw
25 they put the syringe, the needle into both arms and draw the

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1 blood of the prisoner.

2 [14.25.20]

3 Q.And you told the Chamber that on one occasion you saw a
4 prisoner from whom five bags of blood were drawn. How long does
5 it take to fill one of those bags, Mr. Prak Khan? Just for one
6 sachet, how long would it take?

7 A.When I stood and watched it, it took about an hour to fill a
8 pouch. However, the blood was drawn from both arms and legs.

9 Q.This means that if there are five sachets, that's two hours.
10 If it is one hour per packet and if you have four, one on each
11 limb, then you have four for one hour and a further hour for the
12 fifth one. Let's say it's an hour. So you're telling the
13 Chamber today, "At S-21 I stayed one evening for one hour
14 watching this happening." Is that what you're telling the
15 Chamber today?

16 A.I want to clarify on this matter. I stood about an hour or so
17 to watch it, and four pouches of blood was drawn from the
18 prisoner at that time, during that hour, and I did not stay until
19 it was finished. So it is my conclusion that four or five
20 pouches of blood were drawn from one prisoner, because I think
21 that was all because all the prisoners were skinny and they
22 lacked food.

23 Q.The Co-Prosecutor asked you this morning whether you saw the
24 forms for the drawing of blood which were shown in the S-21 film,
25 but my question is a lot more precise.

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1 [14.28.06]

2 During that scene, that is when you were an interrogator -- that
3 means at the time -- did you see the forms recording the drawing
4 of blood?

5 A.The blood voucher, I did not see them at that time. I only
6 saw it during the filming, and on the vouchers the medics were
7 instructed to draw blood from the prisoner, and I saw the
8 vouchers at the time of the filming.

9 Q.Thank you for the clarification. And in the film in fact you
10 do say, "We buried the bodies after the blood was drawn from
11 them." These are your words in the film we saw this morning:
12 "We buried the bodies." So question: before this Chamber are
13 you saying that you took part in the burial of bodies from whom
14 blood -- the burial of people from whom blood had been drawn; yes
15 or no?

16 A.I would like to clarify that the burial of the dead bodies, I
17 did not participate in the burial but after the small house was
18 dismantled, the house opposite the house where I interrogated the
19 prisoners, I saw the fresh mark of the ground where the bodies
20 were buried, so I made the conclusion that the medics buried the
21 bodies there.

22 Q.Mr. Prak Khan, do you understand better when I said to you
23 earlier that what is said in a film or an interview is not the
24 same thing as what justice is expecting from you? Justice is
25 expecting concrete facts from you. So you are telling us today

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1 that contrary to what you stated in the film, you did not partake
2 in the burial of these people. Is this what you are telling us
3 today; you personally did not participate in the burial of these
4 people?

5 A.I never ever said I took part in burial of the dead bodies of
6 the people whose blood were drawn.

7 Q.Well then, we will verify whether it's an issue of translation
8 but, however, it was indicated this morning that in the film you
9 say "we buried the bodies" but we will check this. And in any
10 case, I am taking down your answer.

11 [14.31.40]

12 Mr. President, I am finished. Thank you.

13 Thank you very much, Mr. Prak Khan, as well.

14 MR. PRESIDENT:

15 The testimony of witness Prak Khan has been heard and we thank
16 you very much, Mr. Prak Khan, for spending so much of your time
17 giving the testimony before the Trial Chamber. The Chamber notes
18 that you have had a lot of difficulties in giving the testimony
19 and responding to several questions put to you from the parties
20 to the proceeding and from the Judges and that the facts which
21 happened several years ago were not easy to be recalled and that
22 human memory seems to be fading when we age.

23 So we thank you so much for your great effort to respond to
24 almost all the questions put to you. Since it comes to an end
25 already we can release you to go to your residence now.

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1 The Court Officer is now instructed to coordinate with the WESU
2 unit to make sure that Mr. Prak Khan can be accompanied or taken
3 back to his home.

4 We next are going to listen or to hear the testimony of Kok Sros,
5 another witness, and after you have taken him, Prak Khan, out,
6 then please bring in Kok Sros.

7 (Witness exits courtroom)

8 MR. ROUX:

9 Mr. President, two questions regarding the proceedings.

10 [14.34.30]

11 The defence would like to consider the document that we spoke
12 about titled "Statistics List from the Special Branch" but we'd
13 like this document as having been discussed during the
14 proceedings.

15 And the other point, the defence would like that a number be
16 given to the document to which Prak Khan provided his own
17 annotations. He would have to sign this document and that a
18 number be attributed to this document and that a copy be given to
19 each one of the parties so that we do not lose trace of this
20 document.

21 Thank you, Mr. President.

22 (Witness enters courtroom)

23 QUESTIONING BY THE BENCH

24 BY MR. PRESIDENT:

25 Q.The witness, what is your name?

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1 A.Kok Sros.

2 Q.Do you use any other names other than Kok Sros?

3 A.No, I don't.

4 Q.How old are you now?

5 [14.36.48]

6 A.I'm 59 years old.

7 Q.What is your occupation currently?

8 A.I am a farmer.

9 Q.According to the report of the Greffier, it is clear that you
10 have no blood relation to any parties in the proceedings and you
11 have taken an oath before you were brought into this courtroom.

12 Is that correct?

13 A.That is correct.

14 Q.As a witness before the Trial Chamber of the ECCC you are now
15 informed and reminded of your rights and duties as a witness.

16 Mr. Kok Sros, as a witness you can reject to respond to any
17 particular questions which you believe that can self-incriminate
18 you. So this is the right to self-incrimination. This means
19 that if you are afraid that your testimony could self-incriminate
20 you then you can exercise your rights not to respond to those
21 questions, and that as a witness you are to respond or recollect
22 the accounts in which you have witnessed, you heard and you have
23 known. So you are not to respond to any questions based on your
24 conclusions or presumptions.

25 So do you understand these matters?

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1 A. Yes, I do.

2 [14.39.09]

3 Q. Mr. Kok Sros, can you please briefly tell the Court about your
4 place of work and occupation between 1970 to 1975, until the 17th
5 of April 1975? Tell us where you lived and what kind of
6 occupation you had. Please be brief.

7 A. In late 1973 until 1975 -- by the end of 1973 I joined the
8 revolution in the local villages and later on in the local
9 villages, and later on I studied the political sessions and in
10 1975 I fought and approached -- in the battles and approached
11 Phnom Penh.

12 Q. After the 17th of April 1975 until the 7 January 1979, what
13 did you do and where?

14 A. In 1975 I worked in Platoon 138 under Division 12 and in late
15 1975 I was posted at S-21. At the beginning I worked at the Ta
16 Khmau prison, or psychiatric hospital.

17 Q. Could you please tell us more until the 1979 -- I mean the
18 liberation day?

19 A. After living in Ta Khmau for some time then we were moved to
20 work at S-21 as a guard -- inside the compound guard.

21 [14.42.57]

22 Q. When did you leave S-21?

23 A. After quite a while I was sent to work in the rice field
24 before I was transferred back, and before the 7th of January 1979
25 I was once again put to work in the rice field again until the

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1 day when the liberation day came.

2 Q.You said during the times when you were the soldier in
3 Battalion 138 of Division 12 and that division was taking part in
4 the fight to topple down Lon Nol in 1975. Is that correct?

5 A.That's correct.

6 Q.After the 17th of April 1975 you stationed at Ta Khmau and you
7 were assigned to guard at the psychiatric hospital which turned
8 the prison. Is that correct?

9 A.That is correct.

10 Q.You worked at that prison in the compound of psychiatric
11 hospital in Ta Khmau. In which year did you work there? Give us
12 the approximate -- just approximate figure of that date.

13 A.It was in late 1975, early 1976.

14 Q.What was your function or role to play in that location at
15 that Ta Khmau prison back then?

16 A.I were put to guard detainees.

17 [14.46.23]

18 Q.When you were assigned the task to guard the detainees, did
19 you notice that there were a lot of detainees, or how many were
20 they?

21 A.There were about 200 detainees.

22 Q.When you saw them, what kind of detainees were they? Were
23 they former soldiers of the former regime or they were the
24 officers from the old regime?

25 A.There were only soldiers and cadres.

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1 Q.The people who were arrested and detained at that psychiatric
2 hospital were only revolutionary cadres and soldiers. Is that
3 correct?

4 A.Yes, that is.

5 Q.What made you think that they were the soldiers and the cadres
6 of the revolution?

7 A.Because I saw them working in the leadership position.

8 Q.Who was the director of that prison, the prison at Ta Khmau,
9 and who was second in command?

10 A.I only know that there was Brother Hor and I don't know the
11 other people who were second in command.

12 [14.49.08]

13 Q.Do you know his full name, and what was the relationship
14 between Hor and Division 12, as you said you worked in Platoon
15 138 under Division 12?

16 A.I don't know, Mr. President.

17 Q.What was Hor doing before he became the chairman of the prison
18 in Ta Khmau?

19 A.I don't know either.

20 Q.Were there any other guards who were assigned to guard the
21 compound back then and, if there were, how many were they?

22 A.There were about 100 people.

23 Q.Were they mainly soldiers or civilians?

24 A.They were recruited from the soldiers.

25 Q.They were recruited from the soldiers but when they were put

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1 to work at that location were they wearing uniforms and armed, or
2 were they like normal workers?

3 A.They wore uniform and armed.

4 [14.51.28]

5 Q.To your best recollection, when were you transferred to work
6 at S-21 and in which location was S-21 located back then?

7 A.I don't remember the date but the location of S-21 was at the
8 current Tuol Sleng prison location.

9 Q.So when upper echelon transferred your workplace from Ta Khmau
10 prison to Phnom Penh you were posted at the location of S-21,
11 which is now known as the Tuol Sleng prison. Is it correct?

12 A.That is correct.

13 Q.Before you were transferred to that location what happened to
14 the approximately 200 detainees you mentioned at that Ta Khmau
15 prison? What would have been their fate?

16 A.I don't know.

17 Q.When you guarded that location did you ever see detainees were
18 being transferred outside the compound after they were arrested
19 and put into the prison?

20 A.I don't know and I did not see detainees being taken out or
21 in.

22 Q.During the last day when you were being transferred to work in
23 S-21 compound did you notice that there were still some detainees
24 during those last days?

25 [14.54.11]

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1 A.I have no idea how many detainees would be left in that prison
2 before I was transferred to S-21.

3 MR. PRESIDENT:

4 Judges of the Bench, would you wish to put questions to this
5 witness?

6 You take the floor, Judge Thou Mony.

7 BY JUDGE THOU MONY:

8 Q.Mr. Kok Sros, you stated that when you were transferred from
9 Ta Khmau prison to fulfil your task at S-21 you worked at that
10 Genocidal Museum, as known currently. Do you know who was the
11 Chairman of S-21?

12 A.When I came at the first time at S-21 I saw Duch and Hor
13 worked as the chairmen.

14 Q.Hor and Duch -- you said Hor, so was Hor the same person as
15 you mentioned earlier as the director of Ta Khmau prison or were
16 they different?

17 A.He was the same person.

18 Q.Until when you had worked at S-21 before you left?

19 A.I had been working at S-21 until almost the liberation day
20 before I was put to work at the rice field.

21 [14.56.26]

22 Q.You had stayed or worked at S-21 for quite a long time, so can
23 you please tell the Court of the accounts at S-21, the memory at
24 S-21?

25 A.I worked as a guard and I was supposed to only guard the

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1 detainees and was not allowed to interfere in other sections.

2 Q.At S-21 people or staff members were divided into groups. Do
3 you know what kind of tasks were assigned to each different
4 group?

5 A.Cadres at S-21 were divided into three sections. In my
6 section I was responsible for guarding inside but I have no idea
7 what kind of assignments were given to the other two sections.

8 Q.During the time when you were on guard inside the complex,
9 what had you experienced or seen?

10 A.I had to patrol the compound and I only was allowed to patrol
11 within the confined area.

12 Q.So which was the confined area you mentioned? To what extent
13 could you be assigned to that area?

14 A.My assignment, or the area that I could patrol, was from the
15 gate to the north building and I don't know what is the name of
16 that building given recently.

17 [14.59.00]

18 Q.Do you know the kinds of detainees who were arrested and sent
19 to S-21? What were the classification of those detainees?

20 A.They were mainly combatants and a few cadres, and ordinary
21 people.

22 Q.Besides these cadres and soldiers or combatants, were there
23 any detainees arrested from within the compound at the location
24 of Phnom Penh?

25 A.I don't know which unit conducted such arrest and because I

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1 was only known to my task as a guard.

2 Q.Did you notice the presence of foreign detainees?

3 A.I saw Indian, Vietnamese and Thai detainees.

4 Q.Had you ever seen Westerners who were detained there?

5 A.No, I hadn't.

6 Q.Do you know how people would be arrested? Were they arrested
7 by the other units outside S-21 and detainees were sent to S-21
8 to receive, or S-21 itself went out to conduct such arrests?

9 A.I have no idea about this.

10 [15.01.37]

11 Q.You indicated that you were the guard and you were guarding at
12 the north building, the east-west north building. So could you
13 move about to the detention cells or upstairs during the time
14 when you were on guard?

15 A.I could not move about from the confined location or
16 designated location as I was supposed to do.

17 Q.Did you see how the prisoners were detained at that location?

18 A.In my location, the prisoners were detained in small cells.
19 The ankles were shackled into a long metal bar which attached to
20 a hook on the floor.

21 Q.Were there common rooms where prisoners were detained together
22 at the place where you guarded?

23 A.At the place where I guarded there were only prisoners who
24 were detained in individual cells.

25 Q.Regarding the individual cells where each prisoner was

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1 detained, were prisoners allowed to sit up or stand?

2 A.The prisoners who were detained in those individual cells,
3 they could rest or sit up.

4 MR. PRESIDENT:

5 Now it is time for a break. The Chamber will take 20 minutes
6 break until twenty past three when it will resume the hearing of
7 the testimony.

8 Court officer, can you make the necessary arrangements to provide
9 refreshment to the witness and bring him back before twenty past
10 three.

11 The hearing is adjourned.

12 (Judges exit courtroom)

13 (Court recessed from 1504H to 1522H)

14 (Judges enter courtroom)

15 MR. PRESIDENT:

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

17 I notice the defence counsel on his feet. Go ahead.

18 MR. ROUX:

19 Thank you, Mr. President.

20 Just to avoid interrupting you later on, I would like to
21 apologize to the Chamber. I shall not be able to attend next

22 Monday and Tuesday as I have to go to Lebanon within the
23 framework of my work in the Lebanon Tribunal. So Mr. Kar Savuth
24 will represent the defence Monday and Tuesday next week.

25 [15.23.38]

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1 Thank you.

2 MR. PRESIDENT:

3 Thank you, defence counsel, for the information.

4 Before we continue hearing the testimony of the witness Kok Sros

5 I would like to give the floor to Judge Cartwright to inquire

6 concrete information from the Co-Prosecutor regarding their

7 tentative submission as well as the tentative submission by civil

8 party lawyer Studzinsky.

9 Judge Cartwright, you take the floor.

10 JUDGE CARTWRIGHT:

11 Thank you, Mr. President.

12 The Co-Prosecutors indicated a wish to make a brief submission

13 and the Chamber is ready to hear that submission now.

14 MR. SMITH:

15 Thank you, Your Honour.

16 [15.24.50]

17 Your Honours, the submission is basically in relation to the

18 manner and conduct of the questioning. This morning, Mr.

19 President, you granted the civil party the opportunity not to

20 question the witness in the time slot provided but go straight to

21 the accused and question the accused.

22 As Your Honours are aware, under Rule 91 and Rule 90 the basic

23 rules in relation to the questioning of the accused are that the

24 accused is questioned first in the trial, which he has done and

25 given evidence, and then the witnesses follow. And certainly,

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1 the prosecution are not in a position to say that the accused
2 should not be questioned by the parties as matters arise with the
3 witnesses.

4 But what we would say in relation to the general obligation to
5 protect victim and witnesses under Rule 29 where it states that
6 the Trial Chamber should take into account the needs of the
7 victims and witnesses; generally, we would submit that it's not
8 the best method to allow the accused to be questioned and giving
9 evidence in the middle of the witness' testimony. So for example
10 as what happened today, we had the civil parties questioning the
11 accused. The accused was disputing the testimony of the witness
12 and that was done prior to the witness finishing his evidence.
13 The effect of that, and I think we all saw the effect of that, is
14 that it is quite intimidating to a witness to be challenged
15 directly prior to you finishing your questioning. The sum total
16 effect of that is that the questioners that follow the other
17 civil parties and perhaps even the defence, they are left with
18 the witness that has been undermined by the accused before he has
19 fully finished his testimony and then obviously that leaves in
20 the mind of the witness that there is less trust in what he has
21 to say and there is less ability for him to be able to testify
22 confidently and comfortably.

23 [15.27.20]

24 Now, the prosecution, Your Honours, are not saying that the
25 witness of course shouldn't be challenged and he should be

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1 challenged where appropriate. But the challenging by the accused
2 or the questioning of the accused should be after the witness has
3 fully testified so that he is not intimidated by challenges that
4 are made by the accused.

5 Another matter that we would just like to raise is that we would
6 submit that observations of the accused --

7 JUDGE CARTWRIGHT:

8 Excuse me, Mr. Smith, would you just slow down a little because I
9 think it's a bit difficult for translation to keep up with you.
10 Thank you.

11 MR. SMITH:

12 I apologize for that.

13 The second point, Your Honours, is in relation to when the
14 accused makes observations of the witness' testimony. We would
15 submit that those observations should be made after the defence
16 counsel has questioned the witness. And the reason why we state
17 that is that we submit that it's important that the witness
18 testifies in a regulated methodical manner and all the parties,
19 the counsel, the defence counsel and the civil parties are quite
20 aware of how we should do that.

21 The accused hasn't really or isn't really bound by those rules
22 and procedures. I would submit that it's quite unregulated so
23 that by the time he is questioned by the defence there is a
24 slight undermining of his confidence in giving the testimony. So
25 we would submit that the questioning by the parties of the

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1 accused be done once the defence counsel have finished and,
2 secondly, the observations of the accused be made after the
3 defence counsel has finished his questions in order to make the
4 environment in which this witness testifies be as comfortable and
5 accommodating for him to get that testimony out.

6 [15.29.40]

7 As Your Honours are aware, it's very, very difficult for these
8 witnesses to come to court 30 years later and they come to court
9 with mixed feelings which is quite understandable. And I think
10 it's important that we create an atmosphere that encourages them
11 to talk so that Your Honours can get to the truth of the matter
12 in this case.

13 That's all the submissions I have.

14 JUDGE CARTWRIGHT:

15 Thank you.

16 Now, is there any comment on that submission from the civil
17 parties? It would be extremely helpful if perhaps one of the
18 civil party lawyers could make the response on behalf of all.

19 Ms. Jacquin?

20 MS. JACQUIN:

21 Mr. President, I will take leave to answer.

22 Insofar that the submission by the Co-Prosecutor follows the
23 questions that I've put this morning, it seems to me that the
24 practice that was retained by the President was regarding the
25 speech time for each one of the civil parties that could ask

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1 questions directly to the accused and to the witnesses, I have
2 several observations to make.

3 [15.31.38]

4 If following the questions from the civil parties well, maybe the
5 civil parties could ask for extra time to ask questions to the
6 accused. I think that would be an ideal solution. But if the
7 interpretation of this rule was going to deprive the civil
8 parties of the possibility of asking questions to the accused, I
9 think that would be restrictive and I think that each one's
10 statements following would be a bit limiting. And I think that
11 from time to time a debate and an exchange would be of interest.
12 Otherwise the statements of the accused referring to the witness
13 are a bit of a uni-personal litany, which does not allow us to
14 interrogate and question him more specifically and also provides
15 information that does not answer our questions directly.

16 So I don't have any opposition, of course, to Rule --

17 JUDGE CARTWRIGHT:

18 Can I just clarify, Ms. Jacquin? You have no objection to the
19 proposal put by the international Co-Prosecutor that the accused
20 be questioned after the defence has put its questions so long as
21 the civil parties have an opportunity to put questions preferably
22 with extra time allocated. Is that a fair summary?

23 MS. JACQUIN:

24 If we could be allowed to speak with the witness and then with
25 the accused that would be the ideal solution for us. So if we

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1 were allowed to talk on both occasions separately.

2 [15.34.37]

3 JUDGE CARTWRIGHT:

4 Thank you.

5 Does the defence wish to comment?

6 MR. ROUX:

7 Indeed. My colleague was concerned to know if the -- concerned
8 about the fact that the witness could be frightened. I believe
9 that it's rather the Co-Prosecutors that are frightened by this
10 adversarial hearing.

11 The rules that were followed this morning seem to me to be a
12 proceeding that allows for an adversarial debate. I do not see
13 who could be afraid of this. I do not at all believe -- and the
14 witness has proven this -- that he was frightened in any way
15 whatsoever by the observations of the accused when the accused
16 spoke regarding the questions that were put to him by the civil
17 parties. I believe that the procedure that was followed is an
18 interactive procedure that allows questions to be asked at the
19 right moment.

20 If now we were to decide to give extra time again to the civil
21 parties and to the prosecutors in order to put questions to the
22 accused, again then we would have to reopen the possibility for
23 the witness to answer these extra questions and then we would
24 fall again into the same confusion that we managed to get out of
25 a few weeks ago. So I suggest that we do not get to this.

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1 It seems to me that, first of all, we can allow -- or the civil
2 parties or the prosecutors to use their time to ask questions
3 directly to the accused, and therefore, to allow the witness, who
4 has not indeed finished his testimony, to allow him to answer as
5 he did. He did so. He did in the case of another question. And
6 this is what I would call an interactive questioning session.

7 [15.36.45]

8 So we can stand by this stance that was adopted this morning;
9 that is to say, to allow each party to use its time to put
10 questions to the accused. However, I would like to restate --
11 because we're speaking about speech time, I'd like to restate --
12 and I continue believing that giving the defence only the same
13 amount of time as the civil parties to put questions without
14 taking into consideration the time that was allotted to the
15 prosecutor, I do not believe that this solution is adequate and
16 satisfactory. The defence should be able to enjoy the same
17 amount of time as the totality of the parties. Here, this is a
18 very, very serious disbalance.

19 And since we are also continuing on this topic, I would like to
20 say that we would gain a lot of time and clarity if the civil
21 parties could agree among themselves so that it be each time one
22 single team putting questions, representing all of the parties
23 and that these teams rotate and represent each one -- all of the
24 parties. This way we would gain an enormous amount of time.

25 This is the defence's position.

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1 JUDGE CARTWRIGHT:

2 Maître Roux, just one point of clarification please.

3 [15.39.37]

4 Can you give a concrete example of any time when the defence has
5 not had enough time to put its full number of questions to any
6 witness, civil party, or the accused for that matter?

7 MR. ROUX:

8 Yes, indeed. I can tell you that we are getting rid of a certain
9 number of our questions, and regretfully so, in order to abide by
10 the time that is allotted to us, and very often I had to suppress
11 questions that I had planned to put -- quite often.

12 MR. PRESIDENT:

13 Judge Lavergne, you take the floor.

14 JUDGE LAVERGNE:

15 It seems to me that up until now -- well, it seemed to me that up
16 until now the defence had never fully used the time that was
17 allotted to it. So you are telling me that you are holding back
18 in your questioning, but I do not quite understand because if you
19 do not use the totality of the time that's allotted to you, how
20 can you tell us then that you would have liked to have more time
21 to put questions?

22 [15.42.23]

23 MR. ROUX:

24 Yes, yes, of course I can answer you. As long as -- that I
25 consider that several substantive questions that I'm necessarily

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1 going to put are going to go overtime, I will not put these
2 questions, and this happened the other day when we were
3 questioning the accused and it happened on other occasions.
4 So I cannot start questioning if I know that I will not be able
5 to go all the way with my questions, but if we had more time I
6 could guarantee you that we might not use the totality of the
7 time, it's true. There are moments, of course, when it's not
8 necessary to add extra questions but sometimes, yes, indeed.

9 JUDGE LAVERGNE:

10 In this case, at the end of the questions if you can say, "We do
11 not have any further questions to put", maybe you should be
12 clearer about this because what is recorded is that you no longer
13 have any questions to put, and this clarification is something
14 that's completely new to us. Do you agree with this?

15 MR. ROUX:

16 Yes, thank you, I take note of this and indeed next time, if
17 necessary, I will add, of course, "Given the amount of time that
18 is allotted to me, I have no further questions to put," and I'd
19 like to remind you it was this week when I did not have the time
20 even to say goodbye to the witness, and I had to abide because
21 that was the Chamber's decision. But if you wish so, I will
22 specify each time indeed "The defence does not have any further
23 questions to put". I will specify this if necessary.

24 [15.44.18]

25 JUDGE LAVERGNE:

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1 I believe that we have to indeed give the opportunity to the
2 Chamber to indeed examine the submission. If you do not do so,
3 the Chamber will consider that the time that is allotted to you
4 is satisfactory.

5 MR. ROUX:

6 Indeed, I had asked my assistants to write up a motion to say
7 that the defence did not have enough time, so you will be
8 receiving this written motion shortly.

9 JUDGE LAVERGNE:

10 It might not be necessary.

11 MR. ROUX:

12 Or we can, of course, waive this and I can indicate to you, as of
13 now, that the defence would like to have the same amount of
14 speech time as the prosecutors and the civil parties put
15 together. That is my submission.

16 MR. PRESIDENT:

17 The international Co-Prosecutor, you take the floor and please be
18 brief because we should address the matter in just 10 minutes,
19 but now we seem to stray away from the confined time and we are
20 now violating the rights of the witness because we're supposed to
21 send him home after we finished our testimony.

22 So we are now dealing with the request according to what the
23 Co-Prosecutors and the parties would wish to have because they
24 would prefer the expeditious proceedings and for the course of
25 justice. So please be brief.

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1 MR. SMITH:

2 Thank you, Your Honour. I think that's the problem with having
3 about 20 to 25 lawyers in a room.

4 [15.46.13]

5 Your Honour, in relation to the defence's response, the
6 prosecution's time limit is very short as well and there needs to
7 be an equality of arms at this trial. The civil parties don't
8 have the responsibility of proving the case; the prosecution
9 does. The prosecution, of course, would like more time to ask
10 questions. The prosecution had a lot more questions to ask
11 because, as you know, Your Honour, under the Rules the
12 prosecution has the responsibility of proving the case beyond
13 reasonable doubt.

14 As far as time limits are concerned, this was an agreement that
15 the defence bought into when we had the Trial Management Meeting.
16 All of the parties said that they wanted the trial to be short
17 but also ascertain the truth, and to do that all of the parties
18 have to compromise, to a certain extent, in relation to time
19 limits. So I found it strange now that the defence are asking
20 for more time when, in the beginning, they wanted the trial to be
21 finished more quickly than was envisaged.

22 And one last point. The prosecution encourages the interactivity
23 of the debate. However, it's very, very important that the
24 witness is not sitting in the dock being talked about by all of
25 the parties in cross-examinations of the accused whilst they're

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1 in the middle of their testimony. That's very, very undermining
2 of their evidence and the way they would perceive their evidence
3 before this Court. That's all, thank you.

4 (Deliberation between Judges)

5 [15.48.23]

6 JUDGE CARTWRIGHT:

7 Yes, thank you, Mr. President.

8 The President wishes me to indicate that a ruling on this matter
9 will be given probably on Monday orally, but simply we reserve
10 our decision on this point.

11 Now, Ms. Studzinsky, you had an application also?

12 MS. STUDZINSKY:

13 Yes, thank you. I have one observation and one application, as I
14 said this afternoon. First, my observation from this morning is
15 as follows.

16 The four groups of civil parties have been allocated each group
17 15 minutes for questioning a witness, and I observed that group 2
18 was interrupted already after 12 minutes. Now it seems to be
19 perhaps -- I take this word -- ridiculous to struggle for three
20 minutes, but to give you the 20 -- that is 20 percent of our
21 time, and I even could not inform the Chamber that I have this
22 clock there in the courtroom in front of me where I observe if I
23 abide by the time that was allocated to the parties.

24 And I wanted to add, Mr. President, to inform you, it is, as far
25 as I see, not -- we didn't reach the 15 minutes, but it was not

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1 possible while other parties and all parties, except the defence,
2 exceeded their time this morning. That was the prosecution and
3 the other civil party lawyers, I think, except group 4; I'm not
4 sure.

5 So I would like to ask the Chamber at least if this time is so
6 short already, then it is not possible to cut it and to deprive
7 us 20 percent of our time and without having the opportunity to
8 let the Chamber know that this time was not yet reached. That is
9 one observation from this morning, and I checked this time if I
10 want to know. Mr. Kong Pisey started at 11 and ---

11 JUDGE CARTWRIGHT:

12 Thank you. I think you have made your point really clearly and I
13 understand it clearly.

14 Could you move to your application now?

15 MS. STUDZINSKY:

16 Yes.

17 JUDGE CARTWRIGHT:

18 Thank you.

19 [15.51.30]

20 MS. STUDZINSKY:

21 The application is the following and I will explain it very
22 briefly. It happens to civil party lawyers that they could not
23 ask all questions that they wanted to ask and that they prepared
24 in the allocated time, and that concerns questions to the accused
25 and to witnesses.

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1 And I would like to make the following application, to allow us
2 to submit at least the outstanding questions to the Chamber and
3 to give the Chamber the opportunity at least to ask these
4 questions.

5 I want to give one example from the witness, Mr. Prak Khan, from
6 today, who was asked if he ever saw the accused being involved
7 personally in torture. The witness responded with, "No", but he
8 was not asked, and he could not be asked because of lack of time.

9 I have prepared these questions, but he could not be asked what
10 about the kicking against people that he has, according to
11 previous statement, observed, or blows given to prisoners that he
12 claims to have observed.

13 So, as we have learned from the witness, Mr. Vann Nath, there is
14 a very different understanding what torture is and, as Mr. Vann
15 Nath, when he testified, said that he obviously did not
16 understand kicking, for example, as torture. Therefore, only to
17 give you one brief example there.

18 It would be helpful at least the Chamber if not the parties get
19 this right -- if at least the Chamber could take such, I think,
20 important questions to put them to the witnesses or respectively
21 the accused.

22 [15.52.59]

23 And so my application is to give the parties opportunity, all
24 parties of course, to submit their questions that are not yet,
25 could not yet, be asked before the Chamber to let them know which

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1 they find still necessary to ask the witness or the accused.

2 Thank you. That is my application.

3 (Deliberation between Judges)

4 JUDGE CARTWRIGHT:

5 Assuming that all civil party lawyers support that application;

6 do the Co-Prosecutors have any comments, submission to make?

7 MR. SMITH:

8 Just the mechanics of it; I mean writing down the questions and

9 giving them to Your Honours, whether it be in three languages --

10 it may still be better that at the end of the questioning by the

11 defence that the parties actually submit them directly rather

12 than in writing. I think it might actually take less time.

13 If they just briefly perhaps announce what the topic is and have

14 Your Honours decide whether that topic or that particular

15 question is relevant -- I think it might be more time consuming

16 if it was in writing. But we support the idea in principle.

17 MS. STUDZINSKY:

18 Sorry, could I only clarify? Of course I didn't say it but I

19 meant to submit this question, to make it complete, orally of

20 course to the Chamber and not in writing.

21 [15.55.48]

22 JUDGE CARTWRIGHT:

23 Thank you. Does the defence have any comment?

24 MR. ROUX:

25 Your Honour, this is another way of asking the same question as

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1 the one that was asked by another civil party group; that is to
2 say to try to gain extra time at the end of the proceedings to
3 restart the proceedings. Therefore the defence is completely
4 against the fact that we restart the proceedings.

5 So under the reservation of what I indicated earlier on
6 regarding the time that the defence is asking for in order to
7 have equality of arms, I therefore consider that this procedure
8 that we have been following for the past weeks is a procedure
9 that has allowed us to move ahead and therefore we should not
10 backtrack and start back where -- return to where we started
11 from.

12 MR. PRESIDENT:

13 Mr. Kar Savuth, you take the floor.

14 MR. KAR SAVUTH:

15 Thank you, Mr. President, Your Honours.

16 So far as I remember, Ms. Studzinsky was the one who would like
17 the proceedings to be more expeditious and she was encouraging
18 such expedited proceedings. Now I don't understand why she keeps
19 prolonging such proceedings and I don't know when and how long
20 she would like the proceedings to last after all.

21 [15157.40]

22 So I would request the Chamber to stand by its decision and
23 practice so far.

24 (Deliberation between Judges)

25 JUDGE CARTWRIGHT:

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1 Yes, I note, Ms. Studzinsky, that you wish to take the floor
2 again. As I understand the civil law system, the defence has the
3 final right to speak, and not like the system I am accustomed to,
4 you get no right of reply. So I'm very sorry.

5 (Deliberation between Judges)

6 MR. PRESIDENT:

7 Now we have heard the submissions made by the Co-Prosecutor and
8 the two civil party counsels and we will notify the parties of
9 our decision on Monday next week; that is 27th of July 2009.
10 The Chamber regrets that the time allocated to the hearing of the
11 testimony, as well as the time allocation to hear the submissions
12 by the Co-Prosecutor and the civil party lawyer, was supposed to
13 be something like 10 minutes but it took almost an hour now, so
14 we do not have time to continue hearing the testimony of the
15 witness Kok Sros.

16 The Chamber apologizes to the witness that we decided to keep you
17 until now, and the Chamber will now adjourn. We will resume on
18 Monday next week, 27th of July 2009 from 9 a.m.

19 Court Officer, can you facilitate with the WESU to have the
20 witness returned to his residence and invite him to come back to
21 the Chamber on Monday, 27th of July at 9 a.m. in order to
22 continue to hear his testimony.

23 Security guards, take the accused back to the detention facility
24 and bring him back on Monday, 27th of July at 9 a.m.

25 The Chamber is now adjourned.

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- 1 (Judges exit courtroom)
- 2 (Court adjourns at 1601H)
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