



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
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ថ្ងៃ ខែ ឆ្នាំ (Date): 21-Jun-2016, 09:28

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. BOYLE	English
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KOPPE	English
Mr. LACH Mean (2-TCW-898)	Khmer
Judge LAVERGNE	French
The President (NIL Nonn)	Khmer
Mr. NUON Chea	Khmer

1

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

2 (Court opens at 0901H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear the remaining testimony of

6 Lach Mean and begins hearing testimony of another witness, that

7 is, 2-TCW-931.

8 Ms. Chea Sivhoang, please report the attendance of the parties

9 and other individuals to today's proceedings.

10 THE GREFFIER:

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

12 are present except National Lead Co-Lawyer for civil parties, Mr.

13 Pich Ang, who notifies the Chamber that he is absent for this

14 morning's session due to personal reasons.

15 The witness who is to conclude his testimony today, that is, Lach

16 Mean, and Mr. Duch Phary, his duty counsel, are present in the

17 courtroom.

18 We also have a reserve witness today, 2-TCW-931, who confirms

19 that, to his best knowledge, he is not related, by blood or by

20 law, to any of the two accused, that is, Nuon Chea and Khieu

21 Samphan, or to any of the civil parties admitted in this case.

22 The witness will take an oath before the Iron Club Statue this

23 morning, and the witness has Mr. Mam Rithea as his duty counsel.

24 [09.03.57]

25 MR. PRESIDENT:

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1 I notice that the accused, Nuon Chea, is present in the
2 courtroom.

3 And there are also some applications by parties, we will deal
4 with those issues before we proceed with hearing the testimony of
5 this witness. And if any other -- if parties wish to make any
6 applications, please take the floor.

7 Deputy Co-Prosecutor, we <have received emails that> parties
8 <have sent to the> senior legal officer <regarding some
9 applications>. This morning, we will deal with some applications
10 by parties before we give the floor to parties to continue
11 putting further questions to this witness. And I believe it is
12 clear for you.

13 And if there are issues that you do not understand, please take
14 the floor.

15 [09.05.15]

16 MR. BOYLE:

17 Thank you, Mr. President.

18 I had sent an email, yesterday, to, Your Honours, and to the
19 other parties, requesting that the Co-Prosecutors be able to have
20 an additional 20 minutes to question this witness this morning.
21 That would put, I believe, the combined additional time for the
22 civil parties and the Co-Prosecutors at 55 minutes from whenever
23 we begin. That is the subject matter of the request that I sent
24 yesterday.

25 MR. PRESIDENT:

3

1 Yes. Your request is granted.

2 And we notice the presence of Nuon Chea. Could you please clarify
3 your status since we received your waiver and now you are in the
4 courtroom.

5 So please, Mr. Nuon Chea, clarify the purpose of being present in
6 the courtroom this morning. Are you now attending the proceedings
7 in the courtroom every day, or what is your status?

8 [09.06.45]

9 And again, Mr. Nuon Chea, you are a former senior leader. We will
10 hear only two issues from you.

11 Number one, whether you have made your decision to be present in
12 this courtroom from now on -- that is number one.

13 <> If that is the case, why there is a waiver submitted to the
14 Chamber this morning since you are present in the courtroom.

15 And <second,> if you wish to make a statement, you need to inform
16 the Chamber the purpose or the content of that statement in
17 summary first before we decide whether we allow you to do so. And
18 that depends on the content of your statement to the facts put
19 before the Chamber at this stage.

20 If not, then we do not want any interruption to the hearing of
21 the testimony of this witness.

22 [09.08.04]

23 MR. KOPPE:

24 Mr. President. Good morning, Your Honours. If you would allow me
25 to respond on Nuon Chea's behalf; just for some background

4

1 information, about quarter to 9.00 we were informed by our client
2 that he wishes to make a statement. We understand the statement
3 to be primarily about the role of Vietnam and Vietnam's invasion,
4 and presumably also its relations to S-21.

5 We do understand that we are in the middle of the hearing of a
6 witness. Nevertheless, it's also our obligation and duty to
7 forward you or to explain to you the desire of our client to make
8 that statement.

9 If you deem that right now would not be the appropriate moment,
10 then, alternatively, I would request the Chamber to inform us
11 when our client would be able to make his statement.

12 I understand that we have to abide by certain rules and
13 procedures. However, on the other hand, it's also not that very
14 common that our client feels the need to come up and to get his
15 views on the role of Vietnam, so we are in the hands of the
16 Chamber and rely on your wisdom in this respect.

17 [09.09.45]

18 JUDGE FENZ:

19 Counsel, following up on what you said, could you please clarify
20 for us with your client two things.

21 First of all, is what he has to say relevant for this witness
22 and, secondly, is it relevant for this trial segment?

23 That's the basis for us to make a decision on when to give him
24 the floor. Not necessarily now in these two minutes, but perhaps
25 in the next break.

1 MR. KOPPE:

2 Yes, I understand your question. Preliminarily, I can say that I
3 do not believe that it is directly relevant to this very
4 particular witness. However, it is relevant to the segment as
5 such.

6 As you know, the role of Vietnam, Vietnamese prisoners, cadres
7 collaborating with Vietnam, being detained in S-21, that's, of
8 course, all inter-connected.

9 So I believe, as I understand it in those -- as I understood it
10 in those 10 or 15 minutes, it is related to the segment in
11 general, but not to the actual functioning of S-21 as an
12 institution as such.

13 [09.11.02]

14 MR. PRESIDENT:

15 Counsel Koppe, could you inform the Chamber whether your client
16 wishes to be present in the courtroom from now on during the
17 proceedings or whether he wishes to be present only this morning
18 or the whole day? Because we are seized of your client's waiver
19 as well, and a decision has been made by the Chamber regarding
20 the presence of your client. And we don't want any unusual flow
21 of the proceedings, as a decision has to be made in relation to
22 his presence in the courtroom.

23 [09.11.45]

24 MR. KOPPE:

25 Thank you, Mr. President. I understand that question.

6

1 I believe we should see his request to come up and to make that
2 statement as a temporary withdrawal of the initially-made waiver.
3 I believe it's not his intention to be sitting here all day, or
4 even all morning. I don't think his health would allow him to do
5 so.

6 So, if it would be your decision not to grant him the floor
7 immediately, then I believe it is most likely in the interests of
8 my client to go downstairs and then wait for your decision as to
9 when he would be able to make that statement.

10 MR. BOYLE:

11 Thank you, Mr. President.

12 Just to respond briefly, the Prosecutors have no objection to
13 Nuon Chea making a statement. We would like to have an answer on
14 the record as to whether he intends to subject himself to
15 questioning, and we also would request that, if he is to provide
16 his statement, the Chamber believes he should provide his
17 statement now, that the witness be asked to leave the room.

18 We don't think that the witness -- that the statement should be
19 made in the presence of the witness. Thank you.

20 (Judges deliberate)

21 [09.18.47]

22 MR. PRESIDENT:

23 The Chamber wishes to get clarification from Nuon Chea or his
24 <defence counsel> whether Nuon Chea wishes to respond to
25 questions by parties.

1 MR. KOPPE:

2 No, that is certainly not his intention.

3 MR. PRESIDENT:

4 Counsel Koppe, my <apologies> that I did not hear your -- the
5 interpretation of your speech. Please repeat it.

6 [09.19.32]

7 MR. KOPPE:

8 Mr. President, he certainly does not want to answer any questions
9 from parties or the Chamber.

10 MR. PRESIDENT:

11 We decide that Nuon Chea is allowed to be present in the
12 courtroom this morning until such time he would like to return to
13 the holding cell downstairs. And if Nuon Chea still intends to
14 make a statement, <> the Chamber will decide whether Nuon Chea is
15 allowed the floor to do so and, if that is the case, then it will
16 be done after the conclusion of this witness' testimony.

17 And Mr. Nuon Chea, actually, your counsel already informed the
18 Chamber of your intention, and if you decide not to respond to
19 questions to the parties, then the Chamber will decide later
20 whether the floor is given to you to make your statement. And if
21 you prefer to be present in the courtroom, you can do so. And if
22 you wish to return to the holding cell downstairs to follow the
23 proceedings remotely, please make an oral submission.

24 And thirdly, if you are given the floor to be -- to make your
25 statement, that will be done in the absence of this witness, that

8

1 is, after his testimony. And the Chamber will decide as to when
2 is the appropriate time for you to do so.

3 [09.22.08]

4 MR. NUON CHEA:

5 Mr. President, I'd like to return to the holding cell downstairs
6 since my health is not that favourable for me to be in the
7 courtroom.

8 MR. PRESIDENT:

9 Yes. Mr. Nuon Chea, you are granted leave to follow the
10 proceedings remotely from the holding cell downstairs.

11 The AV Unit personnel are instructed to link the proceedings to
12 the room downstairs so that Nuon Chea can follow during today's
13 proceedings.

14 And security personnel, you are instructed to take Nuon Chea to
15 the holding cell downstairs.

16 And the Chamber would like now to hand the floor again to the
17 Deputy Co-Prosecutor to continue putting further questions to
18 this witness. And your time will start at 9.25, and the remaining
19 allotted time for the two teams is 55 minutes starting from now.

20 [09.23.12]

21 QUESTIONING BY MR. BOYLE:

22 Thank you very much, Mr. President. Good morning, Your Honours.
23 Good morning, parties. Good morning, everyone in and around the
24 courtroom. And good morning to you, Mr. Witness. Thank you for
25 returning today to answer some more questions.

1 Q. When we left off yesterday, you had just informed us that
2 prisoners who were being interrogated who did not confess were
3 tortured. In the interrogation sessions done by Kak that you
4 observed as part of your training, did he ever use torture?

5 [09.24.34]

6 MR. LACH MEAN:

7 A. Please repeat your question, since I don't fully get it.

8 Q. You told us yesterday that, as part of your training to be an
9 interrogator, you had what you called on-the-job training,
10 observing Kak interrogate other prisoners.

11 My question is, when you were observing him, did you ever observe
12 him torture prisoners while he was interrogating them?

13 A. I never heard of the person name Kok (phonetic). I did not
14 know this person.

15 [09.25.28]

16 Q. I apologize. I'm sure I am mispronouncing it.

17 You informed us yesterday that you primarily observed one
18 interrogator at S-21 when you were training to be an
19 interrogator. Can you tell us again who that individual was?

20 A. His name was Kak, not Kok (phonetic). Kak was the squad
21 leader, and I observed the way he interrogated prisoners. And
22 yes, he did torture prisoners during the interrogation, as he
23 actually beat the prisoners up.

24 Q. In addition to beating them, would he use any other type of
25 torture?

10

1 [09.26.40]

2 A. I did not see any other form of torturing. I only saw him
3 beating up prisoners with wood -- with tree branches as well as
4 with electric <cables>, that is, <electricity was> generated from
5 a dynamo and he used that <electricity> to shock prisoners. And
6 the severity depended on how fast you were winding that dynamo.

7 Q. And when he would use the dynamo to electrocute prisoners,
8 where would he touch their bodies with the wires to electrocute
9 them?

10 A. Mostly, he would stick the <wires on> the <prisoners' ears>.

11 Q. Would he ever touch them with the wires anywhere else?

12 A. No. Actually, he <would> actually stick it <on> the
13 <prisoner's earlobe> and then he would wind the dynamo to
14 generate the <electricity>.

15 Q. And were you able to observe that this caused pain to the
16 individuals being interrogated?

17 A. Of course, you could see the reflexes on the face of the
18 prisoner when he was being electrocuted.

19 [09.28.50]

20 Q. Did you personally have the right to decide to use torture
21 when you were interrogating prisoners?

22 A. After a decision was made to torture that particular prisoner,
23 for example, I -- it meant that I was allowed to torture that
24 prisoner during the interrogation.

25 Q. And who had to make the decision to allow torture on an

11

1 individual prisoner?

2 A. It was Hor who made that decision.

3 Q. And what sort of torture methods would you use on prisoners
4 once you obtained permission?

5 [09.30.10]

6 MR. PRESIDENT:

7 Witness, please hold on.

8 And Counsel Koppe, you have the floor.

9 MR. KOPPE:

10 Yes, Mr. President. I apologize for rising a little bit late in
11 relation to this topic, but I need to make sure that my objection
12 was appropriate legally because it's not about the answers that
13 the witness is giving, but it is the terminology -- legal
14 terminology used by the Prosecution.

15 We believe, and I think that is also clear from one of your
16 rulings, that there are, according to the Convention Against
17 Torture, two forms of forbidden treatments. On the one hand,
18 there is torture and, on the other hand, there is inhuman and
19 degrading treatment.

20 I believe the European Court of Human Rights at Strasbourg makes
21 all kinds of considerations in relation to this distinction.

22 Beating a prisoner lightly does not necessarily, from a legal
23 perspective, amount to torture. I believe that the Prosecution,
24 being lawyers themselves, should be careful in using the exact
25 phrases when they question the witness.

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1 So, light beating is not necessarily torture. Everything needs to
2 be viewed on a case-by-case basis.

3 I know it's a delicate subject, but I believe it's now an
4 appropriate moment to raise it.

5 [09.32.08]

6 MR. BOYLE:

7 If I may respond, Mr. President, a couple of observations.

8 I don't believe that now is an appropriate time to raise this
9 point. If this is an issue that the Nuon Chea defence felt was
10 important, they obviously knew that there were a number of issues
11 regarding this matter that would be arising during testimony of
12 this segment. If they're going to be referring to decisions of
13 the European Court of Human Rights, etc., of course, they have
14 not provided to the parties and Court or to the Chamber before
15 today. They should do so through a filing and we can respond, if
16 appropriate.

17 [09.32.48]

18 Secondly, the phraseology "light beating" is a term that Nuon
19 Chea's defence counsel is using for the first time. Certainly
20 this -- this witness has not used the term "light beating". He
21 has the term "beating".

22 He has described open wounds that tortured prisoners -- he
23 observed on tortured prisoners, so it's not even clear that the
24 preferred description of the torture that took place that Nuon
25 Chea's counsel would have placed on this is the reality reflected

13

1 by this witness.

2 So I ask that I be allowed to continue questioning this witness.

3 JUDGE FENZ:

4 Just an observation. If I understood Counsel correctly, he

5 objected or he observed that the word "torture" has perhaps been

6 used too freely in Court. I've made a similar observation.

7 Perhaps it's safer in order to avoid the impression that there is

8 a qualification because we have -- before we have heard all the

9 facts to simply refer to the kind of treatment the witness

10 describes.

11 So "Have these beatings been" or "Have these severe beatings

12 been" or whatever your question is in the end, perhaps that's a

13 bit safer to avoid this lengthy debate on what constitutes

14 torture and where, etc.

15 [09.34.24]

16 BY MR. BOYLE:

17 Thank you, Judge Fenz. I'm happy to proceed in that manner.

18 Q. Mr. Witness, I believe what I was asking you, you have

19 described the use of beatings on prisoners. You have described

20 the use of electrocution on prisoners during interrogations. And

21 you have stated that once you received permission, you were

22 allowed to use such measures.

23 Are those the measures that you used on prisoners, the beatings

24 and the electrocutions, or did you use additional measures as

25 well?

14

1 MR. LACH MEAN:

2 A. For the use of torturing methods, after I was allowed to do
3 it, sometimes I used it, but <for> other methods of torturing, <I
4 have not seen or used them>.

5 [09.35.48]

6 Q. Did some interrogators have the authority to use beatings or
7 electrocution without having to seek permission from Hor or
8 anyone else?

9 A. For other interrogators, I did not know much about what was
10 going on in their team, but for people in my team, we carried out
11 only when we received the permission from the upper level. But
12 for people in the <higher ranks>, <for instance, the chief of a
13 group or a team,> they could perhaps do so.

14 Q. You have just said that perhaps people with more senior
15 experience have the right to do so. I'd like to read to you from
16 the statement that you gave to the Co-Investigating Judges. This
17 is E3/7641; English, 00363557; French, 00363680; and Khmer,
18 00162777. And quote -- you were asked, "Regarding torture, who
19 did Duch assign to do that?" And this is your response.
20 "Initially, he had cadres question about histories of betrayal of
21 the Party. As for me, the torture was assigned to Ta Hor because
22 I was a new interrogator. As for the old, more senior
23 interrogators, they had the right to torture."
24 Does that refresh your memory that, indeed, the more senior
25 investigators had the right to use these methods without seeking

15

1 permission from Ta Hor or others?

2 [09.38.12]

3 A. <Regarding> permission to interrogate -- to torture, firstly,
4 it was Ta Hor who had the authority to issue permission. For
5 others in -- for other senior interrogators, I was not much aware
6 of their role in regards to whether seeking permission first or
7 not. <But for me, I could do so only when I got permission from
8 Ta Hor.>

9 Q. Were certain teams of interrogators specially trained in the
10 use of physical coercion during interrogations?

11 A. They trained us and <about once a week, they> explained to <us
12 the> various methods needed to be used for interrogation and to
13 extract the confession from the prisoners quickly, so the
14 training course <was> about <once a> week or <once every two
15 weeks or once a> month. And in that course, it included the
16 various methods that needed to be used for interrogations and
17 also included something about politics.

18 [09.39.47]

19 Q. And who taught that course?

20 A. For the instructors, it was Ta Duch and Ta Hor, so both of
21 them were the instructors.

22 Q. You mentioned earlier that there were various teams or units
23 of interrogators. Do you know if any of them were provided with
24 specialized or extra training in the use of physical methods
25 against prisoners who were being interrogated?

16

1 A. I did not know much about the tasks assigned or work with
2 other -- in other teams. <I only know that there were Ta Pon and
3 Ta Chan who were senior leaders there. They had other specialized
4 methods, but> I did not know <about them> because I joined the
5 interrogation team at a later stage, so I was not much aware of
6 what <was> going on in other teams.

7 Q. You stated in your statement to the Co-Investigating Judges,
8 E3/7641; English, 00363559; French, 00363683; Khmer, 00162779;
9 when you were asked about the use of these methods, quote: "In
10 that era, there were special teams for torturing."
11 Does that refresh your memory that there were special teams that
12 used these physical methods?

13 [09.42.04]

14 A. I'm not so sure about this. I <did> not know much about what
15 <was> going on in other teams, but there probably <was> such a
16 so-called special team.

17 Q. Of the prisoners that you interrogated, would you say that
18 most of them were subject to some sort of physical coercion
19 during the course of their interrogation or few of them, or are
20 you able to give any sense of how many of the prisoners that you
21 interrogated or that you observed being interrogated, either as a
22 typist or during your training, were subject to these methods
23 during the course -- at some point of the course of their
24 interrogation?

25 [09.43.14]

1 A. For interrogation and torturing, there were many people who
2 were -- who <were tortured>. There were only few cases where
3 <prisoners> were not tortured during the course of their
4 interrogation.

5 Q. You just stated that there were only a few cases where such
6 methods were not used. In your statement to the organization,
7 DC-Cam at E3/7660; English, 00335287; Khmer, 00057066 to 67; and
8 French, 00338005; you were asked, quote: "Did other prisoners you
9 interrogated answer your questions?" And you answered: "Only one
10 person answered without being beaten. I interrogated a deputy
11 director of a factory. I have forgotten his name."

12 Do you recall that only one individual who you interrogated was
13 interrogated without the use of physical coercion?

14 A. Yes, there was only one prisoner who <was> interrogated
15 without any beating. Many other prisoners who were interrogated
16 <were> mostly <tortured> during the course of the interrogation.

17 Q. Were you ever instructed during your training or did you ever
18 observe an interrogator threaten the prisoner's family during the
19 course of an interrogation in an attempt to extract information?

20 A. For instructions on threatening family members, there were no
21 such instructions, but there were instructions to extract
22 information about <what they themselves did or about> the network
23 or <chain> of prisoners.

24 As I said, there were no instructions to threaten the prisoner to
25 implicate their family members. There were no such instructions.

18

1 [09.46.50]

2 Q. I'd like to read to you from document E3/1544. This is a 26
3 September 1976 report regarding the interrogation of Northeast
4 Zone secretary Ya, and it references an instruction from Duch to
5 the interrogators to talk with Ya and, quote, "recall the welfare
6 of his spouse and children and his knowledge of their arrests and
7 whether they know where he is now."

8 Does that refresh your memory of learning or being trained about
9 anything similar when you were an interrogator at S-21?

10 A. I do not understand your question clearly. Please repeat it.

11 [09.48.02]

12 Q. I just read a quote from a document from the period of
13 Democratic Kampuchea that refers to instructions that Duch
14 provided about interrogating an individual from the Northeast
15 Zone, and he had instructed them to do the following, quote;
16 "Recall the welfare of his spouse and children and his knowledge
17 of their arrests and whether they know where he is now."

18 I'm asking if that refreshes your memory that you received
19 instructions to use similar types of questions with prisoners
20 when you were interrogating them.

21 A. As for -- <as far as instructions>, yes, there were -- there
22 <were> similar <instructions to> the <ones> you just quoted from
23 the document.

24 Q. Can you tell the Chamber how long the shortest interrogation
25 that you observed or took part in, how long did it last?

19

1 A. Talking about the shortest interrogation, if the prisoner
2 agreed to cooperate and give the answers that -- the duration of
3 the interrogation would last about 10 <to 15> days. And the
4 shortest one would be one week.

5 Q. And did some interrogations last much longer than that?

6 A. For the longer <ones>, it would last up to one month.

7 Q. And would the individuals being interrogated be questioned
8 multiple times in the course of a day?

9 [09.51.04]

10 A. For each prisoner, the morning session for interrogation could
11 last between seven to -- 7 o'clock in the morning to 11.00, and
12 then the prisoner would be brought back for interrogation again
13 at 1.00 <and then it continued until 5 o'clock>. <They could be
14 interrogated twice a day.>

15 Q. And when they were brought back for interrogation at 1.00 in
16 the afternoon, when would they typically be interrogated to --
17 until?

18 A. From 1.00 to 5 o'clock. So -- and the prisoner was also
19 interrogated the third time at night from 6.00 until 10.00. <They
20 could be interrogated up to three times a day.>

21 Q. How was it determined when the interrogation of a prisoner had
22 concluded?

23 A. When the prisoner could no longer give any other <answers>,
24 that means the interrogation <had come> to a conclusion.

25 [09.52.09]

1 Q. And was that a determination that the interrogator made or --
2 for example, would that be a conclusion that you would make as
3 the interrogator or would your supervisor make it or would Duch
4 make it? Who would make that conclusion when they could not give
5 any more answers?

6 A. When the prisoners said that they could not give any more
7 answers and then we determined that it -- the interrogation <had
8 come> to an end, so the conclusion of the interrogation depended
9 on the prisoners.

10 Q. Did you ever submit a confession of a prisoner and receive
11 feedback from Duch informing you that, in fact, the interrogation
12 had not been completed and you had to ask more questions and
13 receive more answers?

14 A. For those <prisoners> who already <confessed,> <a> report was
15 sent to Duch and then Duch sometimes gave the feedback to us,
16 sometimes through <a> telephone call, that the -- that the
17 prisoners did not give all the answers yet, so that particular
18 prisoner was then brought in for questioning again.

19 Q. Did you ever receive special instructions on what to do if a
20 prisoner implicated certain individuals or senior officials in
21 the course of their interrogation?

22 A. If the prisoners implicated senior officials, for example,
23 implicated Ta Son Sen <or Ieng Sary>, his instruction <was> that
24 we let the prisoner to implicate anyone, <it was> up to the
25 prisoner. And there were cases where prisoners implicated Ta Son

21

1 Sen and Ta Vorn Vet and Ta Nuon Chea, and we allowed them to
2 answer according to their wishes.

3 [09.57.18]

4 Q. I'd like to read to you something that you stated to the
5 Co-Investigating Judges. This is E3/7641, English ERN, 00363559;
6 French, 00363684; and Khmer, 00162779.

7 Question: "Did you ever get a document back with notations by
8 Duch?"

9 Answer: "I never got any documents back. He only explained about
10 the prisoners implicating some person."

11 Question: "Did Duch ever call and question you directly?"

12 Answer: "I only telephoned to ask when a prisoner implicated Vorn
13 Vet. He had me pass over it. He did not have me write it down,
14 but later on, after he had checked, he called and had me write it
15 back in again." Close quote.

16 Does that refresh your memory that, at first, you were not sure
17 about whether you should include Vorn Vet's name in the
18 confession, and you checked with Duch?

19 [09.58.55]

20 A. I can recall it. Initially, the prisoner implicated him, and
21 then I phoned <Duch>. Initially, he instructed me to skip that
22 name, and then, later on, he instructed me to include the name.
23 So yes, I can recall it now.

24 Q. And how did you know to check with Duch before you included
25 the name?

22

1 A. For the reason that I seek -- I sought his advice when the
2 prisoners implicated senior officials because I felt afraid that
3 -- because I felt afraid that this could have serious
4 implications.

5 Q. And in the quote that you gave to the Co-Investigating Judges,
6 which I just read to you, you say,

7 "but later on, after he had checked, he called and had me write
8 it back in again."

9 What did you mean by "later on, after he had checked"?

10 [10.00.46]

11 A. Two or three days later, he would ring me to write that down,
12 though I cannot recall the details.

13 Q. Do you know who he checked with or how he checked?

14 A. I did not know who he checked it with. I did not know about
15 that.

16 MR. BOYLE:

17 Thank you for answering my questions, Mr. Witness.

18 No further questions, Mr. President.

19 MR. PRESIDENT:

20 Thank you. And I'd like to hand the floor now to the Lead
21 Co-Lawyers for civil parties.

22 [10.01.53]

23 QUESTIONING BY MS. GUIRAUD:

24 Thank you, Mr. President. And good morning, everyone. Good
25 morning, witness. My name is Marie Guiraud. I represent the

1 consolidated group of civil parties in this trial. I have a few
2 questions for you, and my colleague will also put a few questions
3 to you as well.

4 Q. Yesterday, you stated that there were women detainees at S-21.
5 And at 9.17 yesterday, you said that you heard women screaming.
6 My question is as follows. Who interrogated <female> detainees at
7 S-21?

8 MR. LACH MEAN:

9 A. For female prisoners, I only saw his bodyguards, that is, Ta
10 Pon and Ta Chan, who interrogated them.

11 Q. Were there any female interrogators who interrogated women, or
12 it was the usual interrogators who interrogated the female
13 detainees?

14 A. There were no female interrogators. There was only Pon's wife,
15 who was a woman working there. As for Duch's wife, she did not
16 live inside the compound. She lived off the compound. <Ta Chan's
17 wife lived outside the compound as well.>

18 And there was another woman, that is, Heng's wife, and only
19 Heng's and Pon's wives had access to the interrogation facility
20 within the compound. However, I cannot say whether these wives
21 interrogated female prisoners or not. <But I did not see them
22 walking any prisoners away to be interrogated.>

23 [10.04.18]

24 Q. Thank you for this clarification.

25 I'll read out to you what you told the DC-Cam, Documentation

24

1 Centre, and I'm referring here to document E3/7660; ERN in
2 French, 003380110 (sic); in Khmer, 00057072; and in English,
3 00335291 to 92. When Dara of DC-Cam put the same question to you,
4 who interrogated the women, and your answer was as follows, and I
5 quote:

6 "It was the usual interrogators. Sometimes, it depended on the
7 orders, they had to interrogate either men or women. There were
8 no specialists. There were no interrogators who interrogated only
9 the women." End of quote.

10 Do you agree with the statement you gave Dara of DC-Cam at the
11 time?

12 [10.06.08]

13 A. You asked me whether there were any female interrogators and I
14 said that there <were> no female <interrogators>. And usually,
15 Kak, that is<, the> squad leader or any interrogator who was
16 assigned would question or would interrogate female prisoners.
17 Usually it was Ta Chan and Ta Pon who interrogated <female
18 prisoners>.

19 Q. Did you, yourself, as a <typist> or <subsequently> as an
20 interrogator, witness or conduct interrogations of women?

21 A. I never interrogated female <prisoners>. However, I used to
22 type the <confessions> of female <prisoners> who <were> <>
23 interrogated by another interrogator. But personally, I never
24 interrogated female <prisoners>.

25 Q. And do you recall the names of the interrogators? When you

25

1 were present and typing the confessions of those women, do you
2 remember the names of the interrogators?

3 [10.08.01]

4 A. Yes, I do. I used to type the confessions of female prisoners,
5 from Kak and Norn.

6 Q. During the training you received <or> later on at S-21, did
7 you receive <or hear> any particular instructions given to
8 interrogators as far as the interrogation of women was concerned?

9 A. Regarding instructions to interrogate prisoners, there was no
10 specific instruction to interrogate female <prisoners>. They were
11 all considered <enemies>, and it was our job to question them, to
12 interrogate them, to ask for the enemy network and <links>.

13 Q. During the interrogations led by Kak and <Norn> that is,
14 interrogations of women you attended, did you observe that they
15 used methods or practices that were different because the
16 prisoners were women?

17 [10.09.47]

18 A. I did not know the details of interrogating female prisoners
19 since I was not allowed to go near or to observe the
20 interrogation process. During the interrogation of female
21 prisoners, the room was <> locked and we were not allowed to
22 participate. And usually only an interrogator present with the
23 female detainee during the interrogation process in the closed
24 room.

25 And I <observed> people interrogating only male prisoners, and

1 not female prisoners.

2 Q. I understood from the French interpretation that you
3 <attended> the interrogation of <female> prisoners while you were
4 typing their confessions. Now you are telling the Chamber that at
5 no point in time did you attend or witness the interrogations of
6 women when you were <a typist>.

7 Did I properly understand your testimony?

8 A. I only typed confessions of those female prisoners after a
9 copy of the confession was sent to me, that is, in relation to
10 the female prisoners and after that, that copy would be forwarded
11 to the upper echelon.

12 Q. That is very clear. I thank you for that.

13 During that period, did you ever hear of an incident involving
14 interrogators and female detainees?

15 [10.12.19]

16 A. I witnessed an incident in relation to a female detainee.
17 Actually, she <disemboweled> herself, that is, she cut open her
18 abdomen with a razor.

19 Q. Under what circumstances did that prisoner disembowel herself,
20 and what happened, exactly? Can you give us further details on
21 the incident you said you witnessed? Where did that happen, and
22 under what circumstances?

23 A. I did not witness the act of the disembowelment by the woman.
24 What I saw was that I saw her being treated by a medic already,
25 and the medic said she <disemboweled> herself. <> She was

1 arrested and sent for detention at the centre after she had an
2 affair with another -- with a man, and <then> she got pregnant.
3 <I do not know why she cut her abdomen open.>

4 [10.13.55]

5 Q. And had the affair occurred outside <of S-21> and was that the
6 reason for her arrest, or <are you> talking <about> an affair
7 that occurred within the detention centre?

8 A. She was arrested from <the> outside, as she was accused of
9 having an affair outside. And that later on, while she was being
10 detained, she disemboweled herself at the detention centre.

11 Q. Thank you. During that period, did you ever hear of any cases
12 of moral misconduct involving guards, interrogators and <female>
13 detainees at S-21?

14 A. Yes, I heard and I saw that. There was an interrogator, who
15 had a moral affair with a <female prisoner>, and that he actually
16 drugged her and she became unconscious. He then sexually raped
17 her and, actually, the person went to the top floor and jumped
18 off but then got entangled in the electric <cables> and was
19 arrested.

20 Q. Can you give the Chamber the name of the interrogator you're
21 talking <about>, if you do remember his name?

22 A. I cannot recall the name of the interrogator who raped a
23 female prisoner clearly. Likely it was Touch.

24 [10.16.39]

25 Q. That is, indeed, what you stated during the first trial, and

1 I'll read out what you said. And it is the record of the hearings
2 E3/7468. And you stated at 11.02.45, and the ERN in French is
3 00360333, and I quote:
4 "I do not know in what year that rape took place. Touch was the
5 interrogator. He interrogated a female detainee and, during the
6 meals, the interrogator took the detainee to his room. Touch did
7 not go to the canteen. He remained in his cell and raped the
8 women. After the meal, other interrogators returned and the
9 detainee told the others that she had been raped by Touch." End
10 of quote.
11 Apart from this incident you referred to during the first trial,
12 did you hear of any other incidents of rape at S-21?
13 [10.18.11]
14 A. There was an instance where a messenger of Hor or of Chan, who
15 took a prisoner to Chan or Hor for interrogation and when that
16 messenger returned the female prisoner back to the cell, he
17 actually raped her under the staircase. <I saw that.>
18 MR. PRESIDENT:
19 Your time is now expired, Lead Co-Lawyer for civil parties.
20 MS. GUIRAUD:
21 Thank you, Mr. President. I hadn't looked at the clock.
22 Would it be possible for the Chamber to grant me at least 10
23 minutes <or five> additional minutes so that I may complete my
24 line of questioning, bearing in mind that my colleague also has
25 questions?

1 I'm requesting 15 additional minutes, and I hope that the Chamber
2 will grant me the 15 minutes.

3 (Judges deliberate)

4 [10.19.50]

5 MR. PRESIDENT:

6 Due to the relevancies of the questions to the facts before the
7 Chamber, the Chamber will grant you the additional time since
8 this topic was not asked by the Co-Prosecutors.

9 It is now appropriate to have a short break. We'll take a break
10 now and resume at 20 to 11.00, to continue our proceedings.

11 Court officer, please assist the witness during the break time
12 and invite him as well as his duty counsel back into the
13 courtroom at 20 to 11.00.

14 The Court is now in recess.

15 (Court recesses from 1020H to 1042H)

16 MR. PRESIDENT:

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

18 And I would like to give the floor to the Lead Co-Lawyer for
19 civil party to continue putting <questions> to the witness. You
20 may now proceed.

21 BY MS. GUIRAUD:

22 Thank you, Mr. President, and we will be short here.

23 Q. Witness, before the break, you spoke about a rape that had
24 occurred which apparently involved the messenger -- Hor or Chan's
25 messenger. And I would -- I'd like to know if you could provide

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1 us more details about this event, if you could try to situate
2 this event in time.

3 Were you already an interrogator when this event occurred, and
4 can you provide us with more <details> regarding the
5 circumstances surrounding this event?

6 MR. LACH MEAN:

7 A. For the incident that took place, I did -- I do not remember
8 the details. I could recall that there was a messenger who took
9 the female prisoner back to the holding cell after the
10 interrogation was concluded. <It was maybe 11 pm.> And when they
11 arrived at the <stairs> and that messenger raped the female
12 prisoner <under the> staircase. <The guard upstairs saw that,> so
13 <the rapist was arrested.> I heard and saw about that incident.

14 Q. So if I understood you well, you saw -- you witnessed this
15 incident. Did I understand your testimony properly?

16 [10.45.28]

17 A. I did not witness it with my own eyes, but people who worked
18 inside instructed the people who worked in the compound not to
19 follow the example of that messenger. As I said, I did not
20 witness the incident with my own eyes.

21 Q. And were you already an interrogator when this incident
22 occurred, or were you just a typist still?

23 A. I <cannot> recall well whether, when the incident took place,
24 I was already an interrogator or I was still a guard.

25 Q. Do you remember what happened to the female detainee who was

1 raped by the messenger?

2 A. I did not know what happened to her or how she felt about
3 that.

4 Q. Aside from these two incidents you spoke about today, the one
5 involving <Touch> and the one involving the messenger, Hor or
6 Chan's messenger, did you hear or did you <personally> witness
7 other facts of this kind, other incidents of abuse against the
8 female detainees at S-21?

9 [10.48.02]

10 A. I did not witness or hear about any other incident. I heard
11 about only these two incidents.

12 Q. Thank you.

13 You said yesterday that you had seen a great number of Vietnamese
14 arrive at S-21 at <3.32.47>, in the afternoon. Can you tell the
15 Chamber if these Vietnamese were civilians or if they were
16 soldiers?

17 A. They were Vietnamese soldiers. That was in 1978, Vietnam
18 attacked into Cambodia territory and the Khmer Rouge ambushed
19 them. And some of the Vietnamese <soldiers> were captured, so
20 many of the Vietnamese brought into the <S-21> prison, <they>
21 were mostly soldiers.

22 Q. Did you receive specific orders regarding these soldiers?

23 And I might start with a question that might assist you to jog
24 your memory. It is -- do you know if -- first of all, do you know
25 if these Vietnamese soldiers were interrogated at S-21?

1 A. For Vietnamese prisoners, Pon and Chan were the interrogators,
2 and they had a <adviser> who could interpret <> Vietnamese
3 language. And they also filmed <it>, and the film was shown to
4 staff working in the compound.

5 So at that time, they made <documents> and films and showed the
6 film to S-21 staff.

7 [10.51.06]

8 Q. Can you tell us a little bit more about this film which was
9 screened for the S-21 staff?

10 A. The film screened to the staff showed the interrogations and
11 the Vietnamese prisoner <giving a> confession, so that was what I
12 can recall from watching the film.

13 So, it included two points, that was the interrogations and the
14 Vietnamese soldier confessed, and the Khmer soldiers walked the
15 Vietnamese prisoners.

16 Q. And when was this film screened for you? Was this part of a
17 training program for -- to train interrogators to interrogate
18 Vietnamese prisoners?

19 [10.52.38]

20 A. They screened the film for us after the training concluded,
21 after the conclusion of the training about politics and other
22 techniques, and then they screened the film for us to see. <I
23 only saw it once.> And that film showed the interrogations and --
24 of the Vietnamese <prisoners> and their confessions, and the
25 Khmer Rouge soldier <walking> those Vietnamese prisoners.

1 Q. And can you tell us if the rules applied to the
2 <interrogations> of Vietnamese prisoners were different from the
3 rules that were applied to <interrogations> of people who were
4 not Vietnamese?

5 Were there any differences in the rules? And if there were
6 differences, which were they? Do you remember?

7 A. For the rules for interrogators, I did not know much because
8 they interrogated in <the> Vietnamese language. I did not witness
9 the interrogation of Vietnamese as the -- as it was unfolding. I
10 only saw it on the film.

11 Q. Thank you. And this will be my last question, Mr. President. I
12 believe that my colleague has no questions either. I'm looking at
13 her, but I think that's the case.

14 Did you become aware back then of the presence of Vietnamese
15 civilians who were detained at S-21?

16 You spoke about the soldiers who arrived in 1978 in great numbers
17 by truck, but were there also Vietnamese civilians who were
18 detained at S-21 according to what you remember or -- according
19 to what you know?

20 [10.55.14]

21 A. I was not aware of the Vietnamese civilians who were detained
22 at S-21. I knew only about the Vietnamese soldiers who were
23 brought in. And we were instructed that those Vietnamese who were
24 brought into the <prison> were soldiers.

25 MS. GUIRAUD:

34

1 Thank you, Mr. President. Thank you for having given us this
2 extra time. <Thank you to the witness.> I have no further
3 questions.

4 MR. PRESIDENT:

5 The floor is given to Judge Marc Lavergne.

6 [10.56.08]

7 QUESTIONING BY JUDGE LAVERGNE:

8 Yes. Thank you, Mr. President. I simply have one follow-up
9 question in relation to the questions that were put to the
10 witness regarding the incidents of rape.

11 Q. Can you tell us, Witness, if you know, if those who committed
12 rape were punished?

13 Were these facts brought to the attention of the supervisors of
14 S-21 and did this lead to any kind of punishment? And if this was
15 the case, what kind of punishment?

16 MR. LACH MEAN:

17 A. For punishment given to the rapists, the person who committed
18 wrongdoing <was> aware of the consequences of his wrongdoing, he
19 ran up the building and tried to <jump off the building to kill
20 himself>, but he fell down on the electric wire and <got>
21 entangled in the electric wire, and he was arrested.

22 For the messenger who raped the female prisoner under the
23 staircase, later on, he disappeared. And I do not know what
24 happened to him.

25 Q. Witness, could you please explain to us, who is this person

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1 who tried to escape by trying to jump over the wall and who was
2 caught in the wire? Who was this person? Was he a guard, or was
3 this the person who had been raped?

4 [10.58.18]

5 A. It was the interrogator who raped the female prisoner, and he
6 ran up the building and tried to <jump off of it to> commit
7 suicide. But his attempt was not successful because he was caught
8 in the electric wire, and he was arrested.

9 Q. And you told us that there was a rule that any person who
10 would commit some form of moral offence would be punished. Can
11 you tell us who gave you this rule?

12 Is this a rule that you received <personally>, or was this a rule
13 addressed to all? And if that was the case, who, indeed, <made>
14 this rule?

15 [10.59.24]

16 A. The instruction came from Ta Duch. Cadres in all places were
17 educated about morality <and> avoiding committing moral offences.
18 So that was the message in the instruction, that every cadre in
19 the <entire> hierarchical order must avoid committing moral
20 offences.

21 Q. Right. So that instruction existed at the level of the entire
22 Democratic Kampuchea, or it was only meant for S-21, to your
23 knowledge?

24 A. For this matter, it happened or it <applied> throughout
25 <Democratic Kampuchea>. Moral discipline was the strictest

1 discipline applied to everyone.

2 JUDGE LAVERGNE:

3 Thank you, witness.

4 I have no further questions for the witness, Mr. President.

5 MR. PRESIDENT:

6 Thank you.

7 And Judge Fenz, you have the floor.

8 [11.01.06]

9 QUESTIONING BY JUDGE FENZ:

10 Q. I have a follow-up question on what Judge Lavergne just asked
11 you.

12 I want to know, was there any prison directive, a directive which
13 applied for S-21, which dealt with cases where guards had
14 sexually attacked detainees? Was there such a directive, rule,
15 whatever?

16 MR. LACH MEAN:

17 A. Regarding <instructions> from the upper level cadre, we were
18 instructed on a very regular basis that we should refrain from
19 committing any moral offence with the prisoners. During the
20 regime, even besides the prisoners, <even if we loved each
21 other,> we were not allowed to engage in any moral offence.

22 [11.02.30]

23 Q. I understand there was a general rule about moral offences. My
24 question was, was there a specific rule within the prison, S-21.

25 And you appeared to say yes, you were instructed not in any way

1 to sexually attack detainees. Did I understand it correctly?

2 A. We at S-21 were strictly prohibited from committing any moral
3 offence with those detainees. Otherwise, we would be treated as
4 enemy. So anyone who committed a moral offence would be treated
5 as an enemy, and that was a clear instruction from the upper
6 level cadre at S-21.

7 Q. Can you tell me the name of the people or people who told you
8 that, who gave this order, or from whom you heard the order?

9 A. The order came from the cadres. As for me, I was in the guard
10 unit and the instructions I received was from the chief of the
11 guard unit that we were not allowed to engage in any sexual
12 harassment or rape of those prisoners. <And when I was with the
13 interrogation unit, it was Duch who gave us such instructions.>

14 Q. Are you aware of any case where a guard or an interrogator in
15 S-21 who had sexually attacked a detainee has actually been
16 punished by the prison authorities?

17 [11.05.05]

18 A. There were those who committed a moral offence and were
19 punished. Namely, there was Soeung (phonetic), who was a medic,
20 who was accused of having a moral offence with a patient and was
21 punished. And Soeung (phonetic) was a messenger of Hor. He was
22 transferred to work at Prey Sar for a few months, and then he was
23 sent back to work at S-21.

24 At that time, he was a medic treating prisoners, but after he
25 committed a moral offence, he was reassigned to work in the rice

1 field at Prey Sar. And that was an instance that I can recall.

2 This person was a close confidante of Hor and I did not know if

3 somebody else <who> committed such an offence would be punished

4 severely, but because this person was close to Hor, that's why he

5 was reassigned to Prey Sar.

6 Q. So if I understand you correctly, you were aware of two such

7 incidents of sexual transgressions towards detainees; is that

8 correct? Was it three, I'm not quite sure?

9 [11.06.58]

10 A. There were two previous instances and in addition to this

11 instance of this medic, so there were three instances that I was

12 aware of, that is, an interrogator who raped a female detainee at

13 the interrogation place and a second one, that is the messenger

14 who raped a woman under the staircase and the third case involved

15 this medic.

16 Q. And do you know who ordered the punishment?

17 A. To my knowledge, it was the -- the chief, that is, Duch. And,

18 actually, Soeung (phonetic) <was with Duch since he was small.

19 He> was a close <to him and his> <> messenger and after he was

20 re-assigned from the guard unit, he was assigned as a medic, but

21 after that moral offence incident, he was re-assigned to work in

22 the rice field at Prey Sar.

23 [11.08.13]

24 Q. Just to clarify, are you aware of any such incident which went

25 unpunished -- which didn't get punished?

1 A. Besides these incidents, I was not aware of any <other>
2 incident <like that, or how> the person was <> punished <for
3 that>. I only know of these three instances and, actually, after
4 the Vietnamese troops reached the city, he fled along with me.
5 And, in fact, he was raised by Duch since he was over 10 years
6 old, so he was close to him.

7 JUDGE FENZ:

8 Thank you. I have no further questions.

9 MR. PRESIDENT:

10 Thank you and I'd like to hand the floor to the defence teams;
11 first, to the defence team for Nuon Chea to put questions to this
12 witness.

13 And before I hand <over> the floor, I'd like to inform the
14 defence team for Nuon Chea and Nuon Chea, himself, that the
15 Chamber made a decisions that Nuon Chea will be granted the
16 floor, per his request this morning, at the conclusion of the
17 testimony of this witness, that is, after this witness leaves the
18 courtroom, then Nuon Chea will be given the floor to make that
19 statement.

20 And of course when the appropriate time comes, the Chamber will
21 instruct the security personnel to bring Nuon Chea from the
22 holding cell to -- into the courtroom.

23 And Counsel Koppe, you may proceed.

24 [11.10.22]

25 MR. KOPPE:

40

1 Thank you, Mr. President. Anticipating the questions that I have
2 for this witness, I imagine that it will be tomorrow, the first
3 thing, that Nuon Chea will speak because I believe we need all
4 afternoon and to have him come up at 4 o'clock, I don't think
5 that's a wise idea. So maybe, while I'm standing, I can make the
6 request to have him make that speech the first thing tomorrow
7 before the next witness comes.

8 MR. PRESIDENT:

9 Yes, your request is granted.

10 [11.11.12]

11 QUESTIONING BY MR. KOPPE:

12 Thank you, Mr. President. Good morning, Mr. Witness. I'm the
13 International Counsel for Nuon Chea and I would like to ask you
14 some questions this morning and this afternoon.

15 Let me start by following up the questions from the Lead
16 Co-Lawyer and -- and both judges in relation to the three
17 incidents of sexual assault or -- or rape.

18 Q. You were asked the question whether there were any -- whether
19 there were any internal guidelines within S-21 in relation to
20 behaviour of male interrogators versus female detainees; are you
21 aware of the 12 principles of a revolutionary?

22 [11.12.16]

23 MR. LACH MEAN:

24 A. Regarding the 12 moral principles, at the time, I did remember
25 them, but now I cannot recall them that well. However, I recall

41

1 that moral offence was one of those 12 moral principles and it
2 was strictly forbidden by senior cadres and that is a strict
3 instruction from the upper cadre that we should not engage in
4 such an offence.

5 Q. Do you -- do you know whether there was a -- a sixth principle
6 that every cadre must respect and follow which is: Do not behave
7 in any way that violates females?

8 A. Yes, I know of the six main principles that we should not act
9 in any way to violate the -- the women either inside or outside
10 S-21. All cadres, from the lower to the upper level, should not
11 engage in such act.

12 Q. Do you know whether these 12 principles and, therefore, also
13 principle number 6, not to behave in any way that violates
14 females, was -- were already introduced in 1968? Do you know
15 whether each cadre -- let me limit myself to you, did you know
16 that these 12 principles were introduced already in 1968?

17 A. I do not know about that since I did not get into any details
18 of the Party's policy.

19 Q. You said you were not a witness -- an eyewitness to any of
20 those three incidents, but you said, I believe, that one of the
21 incidents was discussed at a meeting and that all cadres were
22 instructed not to behave like that cadre had done; do you recall
23 whether, during that meeting, Duch or anybody else referred
24 specifically and explicitly to that <sixth> principle, not to
25 violate in any way females?

1 [11.15.40]

2 MS. GUIRAUD:

3 Thank you, Mr. President. There is, perhaps, a difference in the
4 interpretation in French, but I didn't hear in French that he
5 spoke specifically of <a> meeting <where> this incident <was
6 discussed>. We should have the witness clarify whether there was
7 a meeting or not. <From what I understand>, <he did not say> that
8 there was a meeting during which that incident was discussed.

9 BY MR. KOPPE:

10 Q. I'm happy to ask that question again, but I -- I believe the
11 witness -- and maybe you could confirm, Mr. Witness, that you
12 said that one of those incidents; I believe the incident at -- at
13 the stairway, was discussed during a meeting and that during that
14 meeting, cadres were warned not to show such behaviour; did I
15 misunderstand it or is that something that you said?

16 [11.16.50]

17 MR. LACH MEAN:

18 A. Yes, they -- that incident was raised and we were instructed
19 not to commit such an act. Yes, the matter was raised during a
20 meeting.

21 Q. Let me return to my original question. Do you remember whether
22 Duch or any senior S-21 cadre referred specifically to principle
23 6, "Do not behave in any way that violates females"?

24 A. On the issue of the instruction, any cadre was instructed not
25 to engage in such act <of violating> the female and the

1 instruction came from Duch.

2 Q. And -- and do you remember, at the time, not being surprised
3 at all that those cadres were punished?

4 A. On the issue of punishing the cadres, I, myself, was not aware
5 of that.

6 Q. Maybe my question wasn't -- didn't arrive well. I -- I
7 understood that you just answered a question from Judge Fenz
8 saying that you understood all three cadres to have been punished
9 for their offences; is that correct?

10 [11.19.16]

11 A. Regarding the punishment of those perpetrators, yes,
12 punishment was imposed upon them; although I, myself, do not
13 fully get your question.

14 JUDGE FENZ:

15 And I'm not surprised because I think what Counsel wanted to ask:
16 Were you surprised, at the time, when you heard that they were
17 punished?

18 MR. KOPPE:

19 Yes, exactly that, I used too many double negatives; that's
20 exactly my question.

21 [11.19.54]

22 MR. LACH MEAN:

23 I was surprised and scared upon hearing the punishment of those
24 cadres.

25 BY MR. KOPPE:

1 Q. Was that because the punishment was harsh?

2 MR. LACH MEAN:

3 A. I was surprised to see such a punishment and as for Touch,
4 Touch was so scared of being punished; that's why he <tried to
5 kill> himself. I, myself, was scared too.

6 Q. Thank you, Mr. Witness. Let me now move to the questions,
7 first, in relation to what happened before you ended in S-21
8 which we now know as Tuol Sleng.

9 In your testimony, you referred to various places after 17 April
10 '75, that you were working at. You worked at the Takhmau Prison
11 and at the Dam Pheng Prison and at the prison at Phsar Thmei; is
12 that correct?

13 A. Yes, that is correct. Initially, I worked at Takhmau and later
14 on, I was assigned to guard the prisoners at Phsar Thmei and
15 later on, at Tuol Svay Prey, that is, Tuol Sleng Prison.

16 [11.22.03]

17 Q. And is my -- is it correct that when you were at Takhmau and
18 Phsar Thmei, you were only working as a guard; you had no
19 knowledge of the content of interrogations or whether people were
20 released after being interrogated?

21 MR. PRESIDENT:

22 Witness, please hold on and International Deputy Co-Prosecutor,
23 you have the floor.

24 MR. BOYLE:

25 Just an observation and so the form of the question, it seems to

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1 be compound. I think the first question is whether -- as to his
2 role there; the second question might be as to his knowledge, but
3 the two, to me, don't seem to be related.

4 [11.22.56]

5 BY MR. KOPPE:

6 I have no problem with that, Mr. President.

7 Q. Mr. Witness, was your duty at Takhmau and Phsar Thmei Prison
8 only a duty as a guard?

9 MR. LACH MEAN:

10 A. I was a guard at -- at Takhmau, that is, to guard prisoners
11 and, again, when I was at Phsar Thmei, I was also assigned as a
12 guard, but I <guarded> those prisoners in their rooms.
13 When I was in Takhmau, I actually guarded them when they were let
14 out to work at the vegetable rows, that is, to water those
15 vegetables. That is -- they were -- they were chained, but they
16 were allowed to work outside and to water the plants.

17 Q. And -- and do you know whether people who were detained there
18 and had been interrogated could be, sometimes, released?

19 A. Prisoners who were interrogated or released or not, I was not
20 aware about that. My main task was to guard them, but I did not
21 know what happened to them after they finished interrogating
22 them.

23 [11.24.50]

24 Q. Let me ask you a -- a very specific question as relation to
25 those prisons. It's -- it's a word that you used that I need some

1 clarification on.

2 Mr. President, I'm referring to his WRI E3/7641; Khmer ERN,
3 00162772; French, 00363674; and English, 00363552.

4 The question of the investigator is, "After 17 April, what did
5 you do?" And then you answered:

6 "After 1975, I was in a military unit farming rice until May or
7 June and then came -- then came to Boeng Tumpun in the S-21
8 network."

9 What do you mean when you use those words "in the S-21 network"?

10 [11.26.14]

11 A. After I was transferred from Kampong Chhnang to Boeng Tumpun,
12 I said the area <where> I worked there was a branch or part of
13 S-21 because Ta Chan, himself <a cadre in S-21,> actually brought
14 me from Kampong Chhnang to Boeng Tumpun and when I was at Boeng
15 Tumpun <raising> pigs, Ta Chan would come and visit the location;
16 sometimes on a weekly basis <because his wife was also at Boeng
17 Tumpun>, and for that reason, I <concluded> that it was part of
18 S-21.

19 And later on, those who came to work at Boeng Tumpun were also
20 sent for training <> and half of -- about half of them, later on,
21 ended up working at S-21.

22 Q. Do I understand it correctly when I say that Takhmau Prison,
23 Phsar Thmei Prison, maybe also Dam Pheng Prison and then,
24 subsequently, S-21, that these are all facilities belonging to,
25 what you call, the S-21 network?

1 A. I knew that Takhmau Prison, Phsar Thmei Prison, and Tuol Svay
2 Prey Prison belonged to the same entity. <I did not know of any
3 small prisons.>

4 Q. And just to be sure, when you referred to -- in the English
5 translation at least -- the PS Prison or the PJ Prison, as it is,
6 I think, called now, which prison do you exactly mean?

7 A. At the time, it was referred to as the PS Prison which was a
8 former <national> police headquarters.

9 Q. So PS Prison is the same as PG -- PJ Prison and PS Prison is
10 the same as Dam Pheng Prison; correct?

11 [11.29.08]

12 A. I am not sure whether PS and PJ refers to the same prison;
13 however, it was a former national police headquarters.

14 MR. KOPPE:

15 Mr. President, I see it's 11.30.

16 MR. PRESIDENT:

17 Thank you, Counsel. It is now appropriate for our lunch break. We
18 take a break now and resume <at> 1.30 this afternoon.

19 Court officer, please assist the witness <in> the waiting room
20 reserved for witnesses and civil parties during the break time
21 and invite him as well as his duty counsel back into the
22 courtroom at 1.30 this afternoon.

23 Security personnel, you are instructed to take Khieu Samphan to
24 the waiting room downstairs and have him returned to attend the
25 proceedings in this courtroom this afternoon before 1.30.

1 The Court is now in recess .

2 (Court recesses from 1130H to 1331H)

3 MR. PRESIDENT:

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

5 And before we continue hearing the testimony of the witness, the

6 Chamber would like to hear the opinions from the two defence

7 teams related to documents of two witnesses, <which> are

8 documents E319/46.3.1 and E319/46.3.2.

9 <The Lead Co-Lawyers for civil parties have informed the Chamber

10 that they have no objection regarding the use of both documents,

11 and seek to have the documents admitted into evidence.>

12 And the Chamber would like to get the observation or opinion from

13 the two defence <teams> regarding the request by the

14 Co-Prosecutor for the use of these two documents.

15 First, the floor is given to the defence team for Nuon Chea.

16 MS. GUISSÉ:

17 Mr. President, my colleague is giving the floor to me, so I'm

18 simply going to say that regarding previous statements of

19 witnesses, there is no issue <for the Khieu Samphan Defence>.

20 [13.32.54]

21 MR. KOPPE:

22 No objection, Mr. President.

23 MR. PRESIDENT:

24 <The> Chamber <observes> that the <Prosecution> notified the

25 Chamber that it would like to use documents E319/46.3.1 and

1 E319/46.3.2 during the hearing of the testimonies of witnesses
2 2-TCW-931 and 816.

3 The document E319/46.3.1 is the <prior> statement of 2-TCW-931,
4 and the later one, that is, 319/46.3.2 is a <prior> statement
5 <by> 2-TCW-816. For that reason and due to the urgent matters of
6 the upcoming witnesses, the Chamber grants the request so that
7 these two documents can be used to question the -- these two
8 witnesses. Reasoned decision will be issued in due course.

9 And, again, the floor is given to the defence team for Nuon Chea
10 to continue putting further questions to the witness. You may
11 proceed.

12 [13.34.46]

13 BY MR. KOPPE:

14 Thank you, Mr. President. Good afternoon, again, Mr. Witness.

15 Q. Before the lunch break, I was discussing with you your work at
16 Takhmau Prison and other prisons. Do you recall who in 1975 or
17 '76, was in charge overall of those prisons?

18 A. In 1976 and 1977, the supervisors of the prison were -- I knew
19 that Phal, <Phu and Phaul were> in charge of Takhmau Prison.
20 <Those three people were> <chiefs> of the guards.

21 Q. Have you ever heard of someone called Nat, also known as Sem?

22 A. Nat, alias Sem, I did not hear of this name.

23 Q. Did Prey Sar -- the rice fields of Prey Sar also belong to, in
24 your words, the S-21 network?

25 A. Prey Sar was S-21's network and Huy was the member of S-21 in

1 charge of Prey Sar Prison.

2 [13.36.57]

3 Q. In your WRI E3/7641; English ERN, 00363552; Khmer, 00162773;
4 and French, 00363674; you also speak about Choeung Ek and you
5 said, in your statement, "They had us dig canals at Choeung Ek."
6 I believe also in your testimony before the Chamber, you spoke
7 about Choeung Ek; what exactly do you remember of Choeung Ek?

8 A. Before I was assigned to work at Takhmau Prison, I was
9 assigned to study at the area <to the west of> Takhmau <along the
10 river> and after lunch -- lunch time, <at 12 o'clock,> I was sent
11 to dig canal near Choeung Ek.

12 Q. And did you work at Choeung Ek together with other cadres,
13 more particularly with Division 703 cadres?

14 [13.38.48]

15 A. I studied politics and <technique> at Takhmau and during that
16 study, I was with Division 703. <> It was Nao and Yem who taught
17 us the techniques <at Division 703>.

18 Q. Was -- was Division 703 in charge of the rice fields of
19 Choeung Ek?

20 A. I am not certain about who was in charge of the rice <fields>
21 at Choeung Ek. What I knew was that after lunch time then we were
22 taken to work at the rice <fields>. As for who was in charge of
23 it, I do not know.

24 Q. No problem Mr. Witness. Let me move on to your work at S-21,
25 the actual building that we now know as the Tuol Sleng Museum.

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1 But before I'm asking you, I will be asking you some questions in
2 relation to your work as guard, typist, and interrogator.

3 Let me first confront you with something that Duch has said about
4 you and the only thing I would like to do is put it before you
5 and then ask your reaction.

6 Mr. President, I'll be referring to E3/7467, Duch's testimony
7 before the Chamber in Case 001 on the 3rd of August 2009, as of
8 16.04.

9 [13.41.09]

10 Duch is being confronted with you, as a person who did
11 interrogations at S-21, with your testimony, as well, and let me
12 read to you a few things he said. So he says:

13 "So I would like to raise my observations and my suspicions
14 regarding certain points in his testimony." -- Your testimony.

15 "I did not want any militia districts to be part of my staff. I
16 only want youths who did not actually involve in any unit or
17 group yet to be recruited to be part of my staff. And this
18 person, this Lach Mean, caused me hesitation to decide what type
19 of person he was. Whether he actually came to work at S-21, I am
20 still uncertain on this matter."

21 [13.42.27]

22 A little bit further he says that you talked about telephoning
23 him to provide instructions and he says, "This is very strange.
24 When he interrogated a person named Pen Samorn and I tried to
25 research based on the list of S-21, but I could not find such a

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1 name and a combination of all these points make me hesitated to
2 confirm my position and I will try to look through the list again
3 to find his name. It is the name of the interrogators at S-21."
4 Now, it appears that Duch is having doubts in relation to you
5 being an interrogator or you, for instance, calling him asking
6 instructions. Can you react to Duch's testimony?

7 A. At that time, I -- I <had> just became a <new> interrogator
8 and that's why he was not well aware of my background. So he --
9 he did not know me well, <and he forgets a lot of things,> so
10 that is my opinion to his testimony.

11 MR. PRESIDENT:

12 The floor is given to the International Deputy Co-Prosecutor.

13 MR. BOYLE:

14 Thank you, Mr. President. On the -- the transcript of the
15 following day, Duch, the accused, states that he, indeed, did go
16 back and research and he states, -- and this is just before
17 12.11.06 -- "So in summary, yes, there was an interrogation cadre
18 of S-21 with the name Lach Mean as a result of my research on
19 this 23-page document."

20 [13.44.56]

21 BY MR. KOPPE:

22 Thank you, Mr. Prosecution, for adding that.

23 Q. Let me now turn to your work as a guard. Did I understand
24 correctly that when you were still a guard, you were only working
25 at the -- within the perimeter of Tuol Sleng; you were inside the

1 building; is that correct?

2 A. Yes, that is correct. I worked only within the compound of
3 Tuol Sleng. I was not allowed to go outside the fence. I was
4 required to be based within the compound even during meal time.

5 [13.46.02]

6 Q. Did you have -- when you were still a guard within the
7 perimeters, did you have contact with the guards who were
8 guarding the outside perimeters of S-21?

9 A. I never had any contacts or knew any guard who was in charge
10 of guarding outside the perimeters of the compound. Even people
11 who were in different groups or teams were not aware of each
12 other.

13 We knew only people in our team. For people in other teams, we
14 knew each other's face but we did not know each other's names.

15 Q. Was it because of a special rule inside the prison that the
16 guards inside were not supposed to communicate with the guards
17 outside?

18 A. Because we were not allowed to go outside, that's why we could
19 not communicate with people outside. We worked only within the
20 compound and during rest time, we rested. That was the required
21 rule at that time. We were not allowed to go for a walk outside
22 the compound. Besides our work time, we rested in the compound
23 and then we worked again, and that was it.

24 [13.48.12]

25 Q. Thank you, Mr. Witness. I would like to follow up something

1 you said in your WRI E3/7641; English ERN ,00363558; Khmer,
2 00162777; and French 00363681.

3 That is -- that's the topic about where the interrogation places
4 were. You said, "The interrogation site was outside the prison
5 walls on the way to Ta Duch's house. There were different sites.
6 There were interrogation sites in the houses in the front."
7 Am I to understand correctly that, in your recollection, all
8 places where prisoners were interrogated were outside the
9 premises of Tuol Sleng, outside the premises where the prisoners
10 were detained?

11 A. Yes, the interrogation was outside the premises of the prison.
12 <The prison: there was a part that was covered with barbed wire
13 in the building and> there was another <part with a> <corrugated
14 tin wall outside the> fence. <It was also S-21 premises. So one
15 was covered with barbed wire to hold the prisoners in the
16 building and another one with another fence to protect S-21>.
17 About 50 metres away from the prison compound, there was a
18 <corrugated tin> fence <along the road, and inside that
19 corrugated fence, it was called S-21 premises;> so we could walk
20 freely within the <area>. As for the interrogators, <they were>
21 outside the fence <in front of the prisoners' building>.

22 [13.51.13]

23 Q. Have you ever seen or did you ever participate in
24 interrogations inside the buildings where prisoners were kept or
25 even on the courtyard in front of the buildings where prisoners

1 were kept?

2 A. For people within the premises of the compound, the person in
3 charge of the list of the prisoners' names collected information
4 about the prisoners but the interrogations and the questioning
5 was not done in that building.

6 Q. So, just to make sure I understand it well, as far as you know
7 there were never ever -- there were never any interrogations in
8 the buildings where the cells or the prisoners were; correct?

9 A. They never allowed guards or staff to see the interrogation in
10 the compound because the interrogation was confidential. So
11 guards or any staff would not be allowed to hear or to see the
12 interrogation as it was unfolding. <They conducted the
13 interrogations secretly in a room. So they went outside the
14 compound to do the interrogation.>

15 Q. Following up on this, would it be fair to say that the houses
16 in which the interrogations took place were always at least 50
17 metres away from the inside perimeter?

18 [13.53.49]

19 A. Yes, that is correct. It was away from the compound. It was on
20 the way outside the compound.

21 Q. And you didn't answer that specifically yet, but I assume or
22 is it correct that there were also no prisoners interviewed or
23 mistreated or tortured in the courtyard where all the prisoners
24 could look down on; correct?

25 A. Prisoners who were interrogated, they were interrogated

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1 outside separately in order to avoid being seen by other
2 prisoners or staff. <They were not interrogated inside the prison
3 compound.>

4 [13.55.12]

5 MR. KOPPE:

6 Q. Thank you, Mr. Witness.

7 Mr. President, I would like to show the Khmer version of document
8 E3/8386. It's a document of a few pages. It's an S-21 circular
9 and I would like the witness to have a look at it and then I will
10 ask a few follow-up questions. It's ERN 00521631, in English;
11 Khmer, 00002637; French, 00532733.

12 MR. PRESIDENT:

13 Your request is granted.

14 (Short pause)

15 [13.57.02]

16 BY MR. KOPPE:

17 Q. Mr. Witness, I don't expect you to read the whole document. I
18 just have a very -- a few very specific questions. This is an
19 Office S-21 circular and it contains rules for people working at
20 S-21, particularly also for people who are guarding.

21 Let me ask you to first look at the very first page, number
22 three. It says as follows, "While on guard duty it is absolutely
23 prohibited that for a person who is not on a duty to intrude to
24 open the doors or to look at the prisoners." (sic) End of quote.

25 Are you seeing that sentence, Mr. Witness, and if yes, is that

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

1 something you recall as one of the directives to guards?

2 [13.58.31]

3 MR. LACH MEAN:

4 A. Yes, at point three it's clear, yes, that during our guard
5 duty time, we were prohibited <from opening the windows to> look
6 at other prisoners besides those prisoners who we were <assigned>
7 to guard and <we had to keep walking back and forth. We were not
8 allowed to sit in one place, and> we were prohibited <from
9 asking> any prisoners about their stories. Our duty was to guard
10 and to look at the prisoners who we were assigned to guard.

11 Q. Okay, thank you, Mr. Witness.

12 Now, I would like to ask you to look at point five, same page,
13 where it says and I will read for you. "Do not threaten or beat
14 the prisoners held at our place. If the prisoners disobey the
15 rules or ignore warnings, report immediately to those responsible
16 orally or in writing." End of quote.

17 Is that a regulation that you recall?

18 [13.59.56]

19 A. Yes, that is true. Your statement is correct. Any <enemy> who
20 did not obey us, we <needed> to report <to the upper echelon
21 immediately>. For example, any prisoner who insulted or yelled at
22 us, we needed to report to the upper echelon.

23 Q. Now, to the next page, at least in English, the Khmer page is
24 now 00002637, to Rule 12. Rule 12 is saying the following, and I
25 quote:

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1 "As for the pants and shirts of the enemies they must wear all of
2 them. They must not at all be allowed to undress themselves. If
3 they take off their clothes without permission, the clothes must
4 be confiscated so that they cannot wear them anymore." End of
5 quote.

6 Do you recall this guideline, Mr. Witness?

7 A. Yes, I recall that. Prisoners who came with their clothes on,
8 that is, shirts and pants, they were ordered to take them off and
9 remove those clothes. We were concerned that a prisoner would use
10 their clothes to hang themselves. However, mostly the prisoners
11 who were brought into the centre were shirtless. I never saw any
12 prisoner who came with a shirt on. It means that their shirts had
13 been removed before they were transported in.

14 [14.02.09]

15 Q. Just to be sure that I understand because the rule seems to
16 say something different, at least in my English translation it
17 says, "As for the pants and shirts of the enemies, they must wear
18 all of them. They must not at all be allowed to undress
19 themselves."

20 So the rule seems to imply that prisoners had to wear their pants
21 and shirts.

22 A. I think what you said is not correct. Maybe the statement or
23 the excerpt that you read out is not correct. What I stated in my
24 previous statement is that prisoners, <who> were brought in, had
25 their clothes removed already. So the excerpt that you read is

1 not consistent with what I said previously or maybe I made a
2 mistake in my earlier statement. I could confirm that none of the
3 prisoners <in any building> had any shirt on. Usually, they
4 <wore> only <> shorts, and that's what <I saw>.

5 [14.03.46]

6 Q. Thank you. It's not terribly important, Mr. Witness. In
7 Chapter 3, same page, Khmer one page further, 38 now, paragraph
8 3, Rule 3, it says something that I believe you just confirmed
9 before: "Those who have duties on the inside are absolutely not
10 permitted to walk out to the outside. They must be vigilant
11 against the enemies contacting one another or the enemies having
12 various reactions."

13 Is that a rule that you recollect as well?

14 A. Yes, that is correct. We had to make sure that enemies could
15 not contact one another or speak to one another. For that reason
16 we had to be constantly vigilant and not to walk away from where
17 we were assigned to guard.

18 Q. Now let me turn to the very last page of that document, Mr.
19 Witness. Khmer page is now, 00002640; English, 00521634; and
20 French, 00532736. You can see a few numbers of various units
21 there.

22 The first chapter says, "Guarding unit: Inside guards 127
23 persons." Is that something that is in your recollection correct,
24 that at one point during its functioning there were about 127
25 guards inside?

1 [14.06.20]

2 A. I did not know the exact number of guards who <were> posted
3 inside. I do not even know the total number of units of guards.
4 We were not allowed to know such details.

5 I could only know about <the> unit <that> worked next to our
6 unit. There were actually three teams <in a building> who worked
7 nearby. <One team was on the first floor, another one was on the
8 second floor and another one was on the third floor; they were
9 rotating with each other,> and for each squad, we rotated <guard
10 duty among ourselves>. Half the squad members would stand guard
11 during the daytime while the other half worked at night. <There
12 were> three buildings.

13 In each building, there were three teams of guards. So <there
14 were nine teams, and some teams had up to 10 members, and some
15 had seven or eight members; so> there <was> quite a large number
16 of guards working in the compound though I do not know the exact
17 number of them.

18 [14.07.32]

19 Q. Did you know that within the guarding unit there were also 14
20 persons, medical staff?

21 A. I did not know the total number of medical staff. I saw
22 medical staff walking around distributing medicine or pills to
23 those people. I only knew one medic well and it was likely that
24 the name of that medic was Neng.

25 So, allow me to say again, I do not know the exact number of

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1 medical staff.

2 Q. In that -- on that same page there is also mentioning of
3 guards inside the special rooms, 42 persons. Who were those
4 guards? Were the outside perimeter guards or was this even
5 another guard unit?

6 A. Also, I did not know about the special guard unit or which
7 locations they actually stood guard. There was a building to the
8 south where special prisoners were usually detained, <and the
9 special unit was assigned to guard those prisoners> although I
10 did not know the details.

11 JUDGE FENZ:

12 Counsel, can you just remind us what you are referencing now, the
13 document?

14 [14.09.32]

15 MR. KOPPE:

16 The same document where it says messenger unit, guards inside the
17 special rooms 42 persons; last page.

18 I will finish the subject, Mr. President, by showing another
19 document to the witness, if you will allow me. That is document
20 E3/844. It's only one page that I want to show. We used the
21 document with the witness yesterday. Khmer ERN 00 -- sorry, it's
22 E3/844; Khmer, 00040218; English, 00342738; and French, 00716260.
23 I would like to show the name of one of the guards to the witness
24 and see if he recognizes that name.

25 [14.10.52]

1 MR. PRESIDENT:

2 Yes, you may proceed.

3 BY MR. KOPPE:

4 Q. Mr. Witness, I have highlighted the name for you. Do you
5 recognize that name, Mr. Witness?

6 MR. BOYLE:

7 Sorry. Could we know which name you have highlighted?

8 MR. KOPPE:

9 Of course, Number 15, <Tuy> Teng.

10 MR. LACH MEAN:

11 A. I am not fully sure about this person, <Tuy> Teng. It's been
12 so many years. Maybe many years ago, I could recall the name. As
13 for <Oeun>, I recall the name well since we were in the same
14 team.

15 [14.12.28]

16 BY MR. KOPPE:

17 Q. It's no problem, Mr. Witness. There were quite a few guards
18 and this guard might have even worked at the outside perimeter.
19 So, let me -- let me move on, and I'll move on now to the ways
20 interrogations took place at S-21.

21 You answered some questions already on this topic as to what
22 methods of physical coercion were used during the interrogations.
23 You talked about beating; you talked about plastic bags and
24 electrocuting with wires of the ears of prisoners.

25 There is two photos that I would like to show you and ask you

1 whether you have seen any torture, forms of torture or
2 maltreatment that was -- that can be seen on those photos or,
3 rather, paintings.

4 Mr. President, I would like to show photos from document E3/9431.
5 It is -- these are two photos of paintings made by Van Math. More
6 particularly it's the photos in the annex picture number 43 and
7 picture number 37. Picture number 37 has as ERN 00198066 and
8 picture 43 has as ERN 00198072.

9 [14.14.49]

10 MR. PRESIDENT:

11 Yes, you may proceed.

12 (Short pause)

13 [14.15.25]

14 BY MR. KOPPE:

15 Q. Have you ever used, yourself, such methods portrayed at this
16 -- at these paintings? Have you ever, while interrogating any of
17 the prisoners, used any of those methods?

18 MR. DUCH PHARY:

19 Mr. President, the question by the counsel to the witness could
20 incriminate the witness and for that reason, I need to <discuss
21 this with him>.

22 (Short pause)

23 [14.17.05]

24 MR. LACH MEAN:

25 A. In relation to the last question by the counsel whether I used

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1 such torture, I must respond that I never saw such torture and I
2 myself never used such forms of torture at all.

3 BY MR. KOPPE:

4 Q. You have seen two paintings, paintings by prisoner Vann Nath.
5 One photo or one painting you can see someone hanging upside down
6 on a pole and the other painting is a bathtub used, according to
7 him, presumably for some form of waterboarding. Have you ever
8 seen any bathtub on the premises of S-21 used during
9 interrogations?

10 MR. LACH MEAN:

11 A. In relation to the water tub or the form of this tub, I
12 personally never saw it or knew where it was located. Along the
13 path that I patrolled, I never saw such a water container.

14 Q. I believe every cadre ever working at S-21 has said the same
15 thing. Mr. Witness, would it be fair to say that those two
16 paintings have come from the imagination of Vann Nath?

17 [14.19.17]

18 MR. BOYLE:

19 Mr. President, I object on the basis that it's speculation or
20 it's calling for speculation from this witness. In addition,
21 counsel is testifying as to what every other witness regarding
22 S-21 has said, so I object on two bases.

23 BY MR. KOPPE:

24 Let me try it differently.

25 Q. Mr. Witness, have you any information or any knowledge as to

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1 Vann Nath, while he was detained, having seen the things painted
2 on those two paintings?

3 JUDGE FENZ:

4 Sorry. It's the same issue, Counsel. Tell me how this cannot be
5 based on speculation? How is he supposed to know what Vann Nath
6 has seen?

7 MR. KOPPE:

8 Well, he was a guard. He was an interrogator. He was a typist. He
9 was walking --

10 JUDGE FENZ:

11 But he wasn't standing beside Vann Nath the whole time so how is
12 he -- if I understand your question correctly, it was, does he
13 know what Vann Nath has seen.

14 MR. KOPPE:

15 I know in the judgment you believed -- the Trial Chamber thought
16 the painting of those two, of this prisoner hanging upside down
17 was a credible painting. So I understand that you have a bit of
18 difficulty with the question.

19 JUDGE FENZ:

20 That's not the problem with the question. The questions you are
21 asking him, if he knows what somebody else has seen, and this
22 must be speculation provided you can't -- provided you don't
23 claim he was sitting beside him all the time.

24 [14.21.16]

25 BY MR. KOPPE:

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1 I will move on because of time.

2 Q. Mr. Witness, let me -- there is another photo of something
3 that I would like to show you. Judge Lavergne asked you already
4 questions about this during the first trial. However, you weren't
5 shown the actual nine rules.

6 Mr. President, I would like to show the witness Photo 52, the
7 Annex Photo 52, the same document. It also has these two photos
8 as an attachment.

9 MR. PRESIDENT:

10 Yes, you may proceed.

11 [14.22.18]

12 BY MR. KOPPE:

13 And just for the non -- I think -- I suppose for all parties,
14 there is an English translation of these so-called security
15 regulations.

16 You can find an English translation made, probably by Nic Dunlop
17 in his book, "The Last Executioner" (sic). That is document
18 E3/2817. The Khmer page is 00370297. They are 10, not 9, 10
19 security regulations.

20 Q. Mr. Witness, you have been confronted with the text of these
21 security regulations. Do you recall either in your capacity as
22 guard or interrogator that these regulations were hanging
23 somewhere on the compound of S-21?

24 [14.23.39]

25 MR. LACH MEAN:

1 A. Regarding the security regulations, it was announced and
2 displayed on a board and it was also displayed at the dining hall
3 <for the interrogators>. However, I am not sure whether <for the>
4 guarding unit, <there were> such regulations <> posted on board.

5 Q. Have a look, please, Mr. Witness, at Regulation 8. In the
6 translation it says, "Don't make pretext about Kampuchea Krom in
7 order to hide your job of traitor." Are you sure you ever saw
8 such regulations in S-21?

9 [14.24.49]

10 A. I used to read these regulations but I cannot recall them. But
11 I can tell you that it's very likely that I read them during the
12 time, although I cannot recall the contents.

13 Q. Let me now move on to your work as interrogator. Mr. Witness,
14 you spoke about instructions coming from Duch; sessions of
15 education. Did you also see Son Sen himself coming to S-21 to
16 teach or to instruct?

17 A. I saw Son Sen when he came to conduct a political training at
18 S-21. And to my recollection, he came rather frequently, that is,
19 about four to five times to conduct political training at S-21.

20 [14.26.24]

21 Q. In your WRI E3/7641; English ERN, 0036355 -- excuse me,
22 00363560; Khmer, 00162779; and French, 00363683; you said:

23 "Ta Son Sen came often, once every month or two."

24 Question: "What did Son Sen come to do?" You answer, "He came to
25 open political studies." Question: "Aside from Son Sen any

1 high-level leaders come?"

2 "Never saw anyone other than Son Sen."

3 Is that correct, Mr. Witness? Is that what you said, Son Sen
4 coming once every month or two?

5 [14.27.52]

6 A. Yes, that statement is correct. It is likely that Son Sen
7 would come to conduct his training every month or two and I
8 worked as an interrogator for a period of over a year and I could
9 say that he came three to four times during this period.

10 However, I only knew this when I became an interrogator and if he
11 had come when I was not yet an interrogator, I could not tell you
12 about that.

13 Q. So just to be sure, Mr. Witness, you are certain that during
14 the time that you were an interrogator, mostly in 1978, you saw
15 Son Sen at least four times?

16 [14.28.55]

17 MR. BOYLE:

18 I heard the witness say three to four times and I heard the
19 question characterize it as at least four.

20 BY MR. KOPPE:

21 I apologize. I misheard maybe.

22 Q. It wasn't the number that I was so much interested in, Mr.
23 Witness, but that it was in 1978, that you saw Son Sen three,
24 maybe four times.

25 MR. LACH MEAN:

1 A. Yes, that is correct. I saw him three or four times during the
2 period that I worked as an interrogator.

3 Q. And did you just see him or did he also instruct you and the
4 other cadres?

5 A. I attended the political study session when he came to conduct
6 such a session.

7 Q. And do you recall anything as to what he said during those
8 sessions?

9 [14.30.33]

10 A. I cannot recall <clearly> the content of the study sessions he
11 conducted. He -- what I can recall is that he spoke about
12 traitors and <said> that traitors had to be smashed.

13 Q. I will get to that. Let me ask you whether he also said --
14 whether he also talked about the way confessions were supposed to
15 be written down.

16 Mr. President, I am now going to be referring to document
17 E3/1047; Khmer ERN, 00002455; English, 00548892; French,
18 00802230.

19 It's a message from Son Sen to Duch. I don't think you are privy
20 to the document so I will just read it to you and then I would
21 like to ask you whether this is something that you also heard
22 during these sessions.

23 [14.31.57]

24 "To beloved Comrade Duch,

25 1. Paper must be saved. However, more importantly, attention must

1 be paid to the content. The confessions must be thorough and
2 responsible. Scribbling or guesswork cannot be accepted.
3 2. For the important group the method must be the following; 1.
4 ask them to write or to tape the confession and transcribe it.
5 The experience shows that taping takes less time than writing.
6 For the less important group, confession records may be
7 sufficient. Some in the less important groups simply implicate
8 anything. Must be careful with them.
9 However, each confession must be examined thoroughly as they
10 attack us in some confessions. Some of them attack us
11 intentionally. Some are scared and simply say anything.
12 Therefore, you must make extremely thorough examination. With the
13 greatest revolutionary fraternity, Khieu," -- Son Sen -- "5
14 October '77."
15 Is this something, Mr. Witness, that you heard during those
16 sessions as well?
17 A. I did not read or hear about this message and I did not know
18 when this message was written.
19 [14.34.08]
20 Q. Did the person instructing you when you were interrogating,
21 that confessions must be thorough and responsible and that
22 scribbling or guesswork cannot be accepted?
23 A. <Regarding> the instruction <from> cadres, Ta Hor <and> Ta
24 Duch instructed us to be thorough in our work and make sure that
25 we <avoided> making mistakes. And <that> we must ensure that the

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1 enemy <would> not say anything that <was> not true<,> so the
2 examination <had to> be thorough.

3 Q. And what was your way of making sure the confessions were not
4 scribbling or guesswork? What did you do to make sure of that?

5 [14.36.04]

6 A. For the thorough answer, we <had to> make sure that the
7 prisoners did not tell us lies. They <had to> tell us the truth.
8 So <those were> the principles and rules of interrogation based
9 on the <instructions>. And sometimes we have to threaten the
10 prisoners to ensure that they <gave> us the correct answers.

11 MR. KOPPE:

12 I am now moving to the matter of enemies and what Son Sen said
13 about that but, Mr. President, this might be an appropriate time
14 to break.

15 MR. PRESIDENT:

16 Thank you, Counsel.

17 It is now a convenient time for a break. The Chamber will take a
18 break from now until 3 o'clock.

19 Court officer, please assist the witness at the waiting room
20 reserved for him and please bring him back along with his duty
21 counsel at the courtroom at 3 o'clock.

22 The Court is now in recess.

23 (Court recesses from 1437H to 1459H)

24 MR. PRESIDENT:

25 Please be seated. The Court is back in session.

1 And again the floor is given to the defence team for Nuon Chea.

2 And could Counsel indicate that for this one remaining session,
3 the two defence teams actually agreed to share and to conclude
4 the testimony of this witness.

5 [15.00.20]

6 MR. KOPPE:

7 Yes, Mr. President. I believe the counsel for Khieu Samphan
8 doesn't have -- don't have any questions. I will strive to finish
9 all my questions before 4 o'clock so that the witness could go
10 home today. Thank you, Mr. President.

11 Q. Mr. Witness, let me continue my questions for the last
12 session. Before I turn to the big subject of enemies and/or
13 traitors, let me ask you a few questions about the last day that
14 you were in S-21, 7th of January 1979.

15 Do you recall that day, the day the Vietnamese entered the city?

16 [15.01.35]

17 MR. LACH MEAN:

18 A. Yes. It was 7 January when the Vietnamese troops arrived.

19 Q. And were you given a specific duty in terms of defending or
20 what do you recall specifically of that day?

21 A. On that day the Vietnamese troops arrived, <it was> after we
22 finished our work, <when> we went to the dining hall, <we heard
23 gunfire> and Duch came on a motorbike to instruct us to go and
24 take our weapons from the warehouse and that we should defend our
25 position along the sewage canal, that is, near the vicinity of

1 the prison compound.

2 By around 3 o'clock in the afternoon that day, we retreated to
3 the banana plantation near Boeng Tumpun. And in the evening, that
4 is, when the night actually fell and it was fully dark, we had to
5 swim across the river <going west>.

6 Q. Do you recall whether there was a certain state of panic when
7 you all of a sudden had to retreat? Was it unexpected do you
8 remember?

9 [15.03.42]

10 A. I was panicked since we <had> never encountered such a
11 situation. We were panicked because we heard that Vietnamese
12 troops were advancing towards Phnom Penh and we could hear the
13 sounds of armoured vehicles and military trucks along the main
14 road. We also heard gunfire along the main road.

15 Q. And was it on that same day, 7 January '79, that all S-21
16 cadres including you and Duch, left together?

17 A. It was possible that we actually withdrew together. We were
18 the last batch since we were ordered to defend the position along
19 the sewage canal. And so we retreated to hide ourselves in the
20 banana plantation <near Boeng Tumpun until dark>. I believe
21 everyone moved as a group at the same time. I was part of the
22 last group to move along.

23 [15.05.11]

24 Q. Did you receive any orders that day or in the days before to
25 destroy the administration of S-21?

1 A. There was no order for my group to destroy any documents. The
2 order was for us to defend the position along the sewage canal
3 <to prevent the Vietnamese troops from entering the area>. It was
4 possible that another group was assigned to destroy any internal
5 <documents> but for our group, as I stated, we were assigned to
6 defend along the sewage canal. <I do not know whether there was
7 an order to destroy any documents.>

8 Q. My final question on this subject, Mr. Witness, when your
9 group pulled back and left for the banana plantation, did you
10 have any documents, any administration from S-21 with you?

11 A. For me, I did not bring along any <documents>. I only had a
12 shirt and shorts. I did not even have a <long-sleeved> shirt and
13 pants. And I had a gun <and a pack of bullets> with me and, as I
14 said, a shirt and shorts that I was -- the shorts that I was
15 wearing. <I did not get to go back inside.>

16 So we were assigned to defend along the sewage canal and later on
17 we were ordered to retreat. We did not bring along any
18 <documents>.

19 [15.07.17]

20 Q. Thank you, Mr. Witness. Now, let me move to my final subject,
21 the matter of enemies.

22 Have you ever heard of a document -- and let me first refer to
23 the document I am going to be talking about, Mr. President, that
24 is E3/527; Khmer ERN, 00285361 and further; French, 00069031; and
25 English -- no, that was the English ERN. The French ERN is

1 00314947 and following.

2 Mr. President -- Mr. Witness, it's a document which is called in
3 English, "The Last Joint Plan." It's a document either written by
4 Duch or by Pon. Have you ever heard of such a document?

5 A. No, I never saw or heard about that document.

6 Q. Let me read a few very small excerpts from that document, and
7 I will ask you whether this is something that you ever heard
8 during the political education sessions that you attended. Let me
9 start by reading a few sentences from that very same page, the
10 very first page that I just mentioned under Chapter B, "Substance
11 of the Summary."

12 It says the following: "1. The Soviets are the head of the
13 treasonous machination. The Vietnamese were the implementers or
14 the executants."

15 [15.09.52]

16 MR. PRESIDENT:

17 Counsel, please hold on and, Judge Lavergne, you have the floor.

18 JUDGE LAVERGNE:

19 Yes. I need some clarifications, Mr. Koppe. In your opinion what
20 is the basis for this <analysis, this document which is
21 apparently an analysis document>? Wouldn't it be confessions
22 obtained <by torture, or obtained from> S-21 and, if that is not
23 the case, can you clarify the provenance of the information?

24 [15.10.34]

25 MR. KOPPE:

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1 It is, as I said earlier, confirmed by Duch that he or Pon,
2 presumably Pon, is the author of the document. There are excerpts
3 within the document that certainly refer to the content of some
4 confessions.

5 However, I have with me an excerpt from Case 001 (sic) where,
6 that is, trial day 46. I don't have an E3 number here. It is
7 trial day 46, at the 3rd of April 2012, during which the civil --
8 the Lead Co-Lawyers of the civil parties or one of the lawyers
9 asked questions to Duch, quite lengthy I might add, about the
10 contents of the document.

11 So I believe if the civil parties are allowed to ask questions to
12 Duch in relation to this document, I should also be able to ask
13 questions to --

14 [15.11.51]

15 JUDGE LAVERGNE:

16 Listen, Mr. Koppe. Let us be serious. <The fact that> in Case 001
17 a civil party posed questions <does not allow> you to put
18 questions to the witness in Case 002, if the basis of the
19 questions is documents that were obtained by torture.

20 What I am asking you <is whether> you know the origins of the
21 materials that you intend to use? Is it a summary drawn up based
22 on confessions obtained from S-21; yes or no?

23 [15.12.37]

24 MR. KOPPE:

25 To a certain extent it is. Whether it is completely based on

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1 confessions that is not known to me because I haven't been able
2 to ask questions in relation to this to Duch. But the notion that
3 whatever Duch or Pon wrote down is only coming from confessions
4 is, I believe, erroneous. There were many other sources of
5 information that could have led to the drafting summary in April
6 '78, presumably of this "Last Joint Plan".

7 So, just immediately dismissing using this document for
8 questioning is not correct, I think. I think I should be able to
9 read a few excerpts from "The Last Joint Plan" because obviously
10 that was at the time how functionaries within S-21 saw the enemy
11 and the treason committed. So I believe I should be able to
12 confront the witness with certain excerpts from "The Last Joint
13 Plan".

14 [15.13.52]

15 JUDGE LAVERGNE:

16 Unless I am mistaken, it appears that this witness did say that
17 he is not aware of this document.

18 MR. KOPPE:

19 But if that's the standard, Judge Lavergne, then a lot of
20 questions should not be asked.

21 JUDGE LAVERGNE:

22 Listen, don't be stupid.

23 (Judges deliberate)

24 [15.18.48]

25 MR. PRESIDENT:

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1 I would like to hand the floor to Judge Lavergne to issue an oral
2 ruling on this matter so that all parties are clear and we can
3 proceed with our session.

4 Judge Lavergne, you have the floor.

5 [15.19.03]

6 JUDGE LAVERGNE:

7 Yes, thank you, Mr. President.

8 The Chamber decides that, for the time being, Counsel Koppe and
9 the other parties are not allowed to use this document. There is
10 prima facie a possibility that it is the result of the summary of
11 information obtained through confessions by S-21 prisoners. So
12 <using them> to confront this witness with substantive elements
13 obtained through such confessions is not possible for the time
14 being.

15 When Duch will appear to testify before this Chamber he will be
16 asked to specify the methods he used to draw up the documents and
17 depending on the answers he will provide we will decide
18 definitively whether or not to use the documents that Counsel
19 Koppe wishes to rely on.

20 [15.20.12]

21 MR. KOPPE:

22 Very well. Then, I suppose, my next request will be if a specific
23 exception in relation to this document could be made to English
24 ERN 00069054, Khmer 00285388 and French 00314970 because that is
25 a page in that same document, Mr. President, that refers most

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1 likely to the confession of Koy Thuon. We have filed a motion
2 requesting the Chamber to be allowed to use Koy Thuon's
3 confessions because on multiple occasions, as we have argued in
4 that motion, Duch has said that no torture whatsoever was used
5 when interrogating Koy Thuon. And you can see on that very page
6 that I just referred to, subheading "D: The leaders of the coup
7 d'états, April '77" the leaders were Khuon, that is Koy Thuon.
8 I know the Prosecution still has an opportunity to respond and I
9 am not sure whether they will do so but now that subject is open
10 for debate. I believe that this particular part we can use
11 because, as argued, Koy Thuon -- Koy Thuon's confessions are not
12 the product of any torture.

13 [15.22.08]

14 MR. PRESIDENT:

15 Judge Lavergne, you have the floor.

16 JUDGE LAVERGNE:

17 Two remarks. The first is the following. Can you say that you
18 heard this witness say that he took part in the interrogation of
19 Koy Thuon? What is the relevance in confronting this witness with
20 statements made by Koy Thuon?

21 So there is already an issue of relevance here.

22 Furthermore, it appears that in our decision we have stated that
23 you -- not only can you <not> use documents obtained as a result
24 of torture but you cannot also use documents as a result --
25 obtained as a result of <the mistreatment> of detainees.

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1 [15.22.56]

2 BY MR. KOPPE:

3 It must be because I am stupid but I am not quite sure if I
4 understand your ruling. But for the time's sake, Mr. President, I
5 will move on because I have other documents saying the same
6 thing. No problem.

7 Let me turn to E3/7540. That is a DC-Cam statement of a Division
8 310 female cadre Thach Siek. Let me specifically turn to what she
9 said on English ERN, 00337712; French, 00364274; and Khmer,
10 00055079.

11 [15.23.55]

12 Q. Mr. Witness, this female cadre who was at one point in time
13 sent to Prey Sar, is saying the following -- and I would like to
14 read this to you, and then I would like to ask you whether this
15 is something that you knew at the time that you were an
16 interrogator in S-21.

17 Question: "You were still in the Division 1?"

18 Answer: "Yes, Division 1."

19 Question: "Were you under the leadership of Oeun in that
20 division?"

21 "Yes, Oeun."

22 Question: "After the liberation of Phnom Penh, Oeun was arrested.
23 Were you aware of that?"

24 Answer: "I knew about that at the time of the arrest but we did
25 not know what to do because we were too far away. If we had been

1 near him we would have --"

2 Question: "It would have erupted?"

3 Answer, "Yes, it erupted in 1976, but I cannot recall the month.

4 I have forgotten the month. In late 1976 we were going to erupt

5 but it was exposed. The two North Zone divisions were readied

6 from Wat Phnom northward. The East Zone in charge to the south

7 was ready to fight but it was exposed and Khuon, the Chairman of

8 the North Zone, was arrested."

9 Mr. Witness, we have quite a lot of other evidence that all say

10 the same thing. There was presumably a coup d'états staged by Koy

11 Thuon supported by forces of Division 310, Division 450 and

12 Division 920 and these divisions were preparing to attack Phnom

13 Penh airport, Pochentong, and the radio station.

14 Is that something that you knew or heard while you were an

15 interrogator?

16 [15.26.24]

17 MR. PRESIDENT:

18 Witness, please hold on. And International Deputy Co-Prosecutor,

19 you have the floor.

20 MR. BOYLE:

21 I object for two reasons. First of all, I heard no open

22 questions, regarding this subject matter, before this segment of

23 this statement was read to the witness. I believe that we should

24 proceed in that manner.

25 Second of all, I object to counsel testifying as to what other

1 evidence said without providing any citations to that other
2 evidence. So I object on those bases to this question.

3 [15.27.07]

4 MR. KOPPE:

5 The question was already asked by the Prosecution about enemies.
6 The witness gave extensive testimony as to who enemies were, so I
7 think now it would be an appropriate moment, also considering the
8 time, to go straight to detailed information.

9 The only thing that I am doing is asking the witness in his
10 position as interrogator of S-21 was he aware of this specific
11 knowledge of Division 310 supporting an alleged coups d'états by
12 Koy Thuon. I think that's -- that question should be allowed, Mr.
13 President.

14 (Judges deliberate)

15 [15.28.25]

16 JUDGE FENZ:

17 Sorry, Counsel. The last time was an open question but it's not
18 how you proceeded. But to get -- to save time, the last question
19 was an open one so you are allowed to ask it.

20 The second is; yes, please, give us references as usual, if you
21 characterize evidence.

22 BY MR. KOPPE:

23 Yes, you can find all the evidence in a request to have six
24 witnesses' summonsed, six witnesses belonging to Division 310.
25 But let me just take one and not always quote Sem Hoeurn whose

1 testimony you heard in Court. Let me just, for a change, take
2 another statement.

3 This is a statement you can find in E3/7535, as I said another
4 Division 310 cadre, English ERN, 00324168; Khmer, 00087817; and
5 French, 00324206.

6 [15.29.38]

7 Q. Mr. Witness, just for your information, this Division 310
8 soldier is saying the same thing as I just read to you but in
9 other words.

10 "Oeun was accused as the traitorous unit chief."

11 Question: "Did he really betray?"

12 "No, at that time he was linked to the 'Yuon' who wanted to
13 uprising in Phnom Penh."

14 Question: "Did he plan any plot on that?"

15 Answer: "He planned an attack plot. Unfortunately, when that plot
16 was compromised, we were transferred to farm paddy for a while."

17 Question: "Can you elaborate Ta Oeun's plot?"

18 "First, he called us for a secret meeting and instructed us that
19 he planned to attack Phnom Penh. He told to deliberate and take
20 control of Phnom Penh.

21 "Did Ta Oeun hold a meeting with his previous forces?"

22 "Yes, only 100 combatants including me were called to attend that
23 meeting."

24 Question: "Did you join with them?"

25 Answer: "I took on a full truck of weapons to meet him in Phnom

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1 Penh in the preparation to attack Phnom Penh."

2 [15.30.55]

3 And the next page: "How about Vietnam?"

4 "The Vietnamese also came until the plot was compromised. Then we
5 started to stir up trouble with Vietnam."

6 Let me limit it to those two statements of Division 310 soldiers.

7 Again, Mr. Witness, were you, while working as an interrogator,

8 were you aware of plots of failed attacks on Phnom Penh? Any

9 involvement of Oeun, Division 310 commander, conspiring together
10 with Koy Thuon and others?

11 MR. LACH MEAN:

12 A. I do not know or have no idea about this so-called plot. I

13 knew about the network of people who plotted the coup through

14 <the leaders' instructions and> the confessions extracted from

15 the interrogation and <what> they said about the coup plots.

16 Q. What was it exactly that you knew about attempts to stage a

17 coup d'états?

18 [15.32.38]

19 MR. BOYLE:

20 Mr. President, I object to the question because the witness just

21 stated that his knowledge came from the confessions. In the same

22 way that there is a presumption that the written confessions are

23 the result of torture, the confessions that the individual heard

24 as an interrogator are presumptively the result of torture as

25 well and, therefore, the evidence should not be allowed.

1 MR. KOPPE:

2 Well, that was a very effective objection because that's
3 basically shutting down any line of defence in relation to
4 anybody who ever worked in S-21, preventing us from having any
5 kind of defence when it comes to treason and rebellion, etc.
6 So if you allow this objection that will be a very, very
7 problematic ruling, Mr. President.

8 MR. PRESIDENT:

9 The objection by the International Deputy Co-Prosecutor is right
10 and based on legal grounds. Therefore, the question by the
11 Defence is not granted.

12 [15.33.54]

13 BY MR. KOPPE:

14 Yes, yes, yes. Let me try it in a third manner and see if that
15 works, Mr. President.

16 I am now referring to document E3/807; more specifically to
17 English ERN 00933839; Khmer, 00052306 and 307; French, 000323925.

18 I will be reading from minutes of meetings of secretaries and
19 deputy secretaries of divisions and independent regiments on the
20 1st of March, 1977. It is the commanders talking about treasonous
21 activities and the part that I am now going to be reading is the
22 views of Son Sen.

23 Q. Mr. Witness, for your information beforehand, I am going to
24 ask you whether this is something that Son Sen also said when he
25 was coming to S-21 and instructing cadres. It's a bit of a long

1 excerpt but I hope you will be able to follow.

2 [15.35.32]

3 So, Son Sen is saying the following:

4 "These incidents prove that the CIA, "Yuon" and revisionist
5 enemies are powerfully continuing their activities to wreck our
6 revolution with the intention of overthrowing our revolution, our
7 Party and our army and they are impeding us in our revolutionary
8 tasks.

9 CIA enemies are attacking us from outside but they are in
10 particular boring from within inside our Party and army. Now,
11 however we have attacked and basically eliminated them which
12 should be considered an enormously great victory. After we
13 eliminated the Chhouk and Ya treasonous networks, we discovered
14 another treasonous network which we have basically eliminated.
15 We correctly analyzed antagonistic and internal contradictions
16 and correctly put forward the contradictions inside the country
17 and abroad.

18 In '76, we arrested the contemptible traitors Chhouk, Ya and
19 Chakrey and the important experiences deduced made it possible
20 for us in 1977, to see more clearly the contradictions and the
21 enemy. For example, the contemptible Chhouk, Ya and Chakrey
22 traitorous networks were revisionist networks and we did not give
23 way to characterizing them as CIA networks. In fact, all these
24 contemptible guys were CIA links who had been infiltrated into
25 our Party long ago.

1 The contemptibles to the east and the contemptibles to the west
2 have gotten together to attack our revolution. Each of them
3 individually is a CIA who falls back on the revisionists outside
4 the country and the traitors inside the country to attack our
5 revolution." End of quote.

6 [15.37.36]

7 That's a long excerpt, Mr. Witness. This is something that Son
8 Sen said at a meeting that you were definitely not present, but
9 is it something that you heard, these are similar words that you
10 might have heard during one of Son Sen's sessions at S-21 in
11 1978?

12 MR. LACH MEAN:

13 A. Yes, I heard about it. Angkar instructed us about their plan
14 and about the purpose of the enemy. I did listen to such
15 statements.

16 [15.38.29]

17 Q. Do you know whether Son Sen had, as his sources for this
18 information, only confessions or did he also have other sources,
19 other information not coming from confessions to make this point?
20 For instance, did they find material doing searches of houses?
21 Did they have spies working in the units? Did they have any other
22 intelligence-gathering methods or mechanisms to come to these
23 conclusions?

24 MS GUIRAUD:

25 Mr. President, Counsel is leading the witness to speculate and to

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1 know which elements Son Sen had available back then. So, I am
2 please asking you to dismiss this question.

3 MR. KOPPE:

4 I am not asking the witness to speculate. I am asking whether --
5 when he uttered similar words during those sessions. He said that
6 he had other sources than just confessions to back up his
7 conclusions. That's not speculating.

8 JUDGE FENZ:

9 I agree, but it would have sounded less leading if you had
10 stopped at this open question. But here we are, so please answer
11 the question.

12 [15.40.17]

13 BY MR. KOPPE:

14 Q. Indeed. Mr. Witness, please answer the question.

15 MR. LACH MEAN:

16 A. He asked to where he got this information from, I do not know.
17 He told us about the plans of the enemy, but he did not mention
18 the sources where he got the information from.

19 Q. Let me refer to a very specific incident, an incident that
20 occurred outside of the premises of S-21 which, I believe, has
21 nothing to do with S-21 but started all kinds of things.

22 Have you ever heard of an incident where grenades were thrown
23 behind the Royal Palace or the Museum of Fine Arts?

24 [15.41.42]

25 A. For the grenade incident, yes, I heard from Duch. Duch said

1 that the enemy threw the grenades but I cannot recall the places
2 where the grenades were thrown. Duch <talked> about this grenade
3 incident during his instruction. <And it was Chan Chakrey who
4 threw the grenades.>

5 Q. Did Duch give any other details in relation to this grenade
6 incident? Can I ask you to think really well or try to remember
7 what he told you and others about this, these grenades being
8 thrown behind the Royal Palace and the Museum of Fine Arts?

9 A. I cannot remember the details. I only <remembered> this
10 incident after you raised the question to me. I cannot recall any
11 other details besides that.

12 Q. Have you ever heard of the name of the person who threw the
13 grenades? Do you know the name? Do you remember the name of the
14 perpetrator?

15 A. I cannot fully remember it, but at that time Duch told us that
16 Chan Chakrey was perhaps the one who threw the grenade or perhaps
17 his subordinate did it.

18 Q. Does the name Yim Sambath mean anything to you?

19 [15.44.28]

20 A. I never knew or heard of Yim Sambath.

21 Q. Have you ever heard Duch or Son Sen tell who the most
22 important leaders were of the treason of the rebellion?

23 A. After I was assigned to work in the interrogation unit, Duch
24 <and Son Sen> said that the most important traitor was So Phim
25 <from the East Zone> and the lower-ranking traitors were Chan

1 Chakrey<'s group>.

2 Q. And do you remember what Duch said when he called So Phim the
3 most important traitor?

4 A. Ta Duch told us that the chief traitor was So Phim. He came
5 from the "Yuons'" Communist Labour Party and So Phim was embedded
6 in the Angkar revolution. So, So Phim was the chief traitor <who>
7 originated from Vietnam's Labour Party.

8 [15.46.35]

9 Q. And -- and do you recall when Duch said that; did Duch say
10 that before So Phim's death on the 3rd of June 1978, or did he
11 say that after So Phim's death on the 3rd of June 1978?

12 A. I do not know when So Phim died. I only knew that Duch did say
13 that So Phim was a traitor. I did not know, at all, when So Phim
14 died.

15 Q. Yesterday, you were shown documents from S-21 that show that
16 you had been an interrogator already in February '78, and when
17 shown the document, you -- you accepted that the name was,
18 indeed, yours. Do you know whether, only one or two months after
19 February '78, Duch still had no idea about So Phim being a
20 traitor?

21 A. I do not know well whether he knew about that, but when I
22 entered the interrogation unit, he told us that So Phim was the
23 <lead> traitor of the revolution.

24 JUDGE FENZ:

25 Counsel, did I miss that or did you ever actually ask the open

1 question: When did Duch say that?

2 MR. KOPPE:

3 No, because I cannot use the source of that information or maybe
4 I can. Let me try. It is something that I have from the "Last
5 Joint Plan" and I could argue that it's the very last sentence;
6 that that is something which does not go to the content of the
7 confession.

8 [15.49.28]

9 JUDGE FENZ:

10 There's a misunderstanding. Can you answer my following question?

11 Do you remember when Duch told you about that?

12 MR. LACH MEAN:

13 I cannot recall the exact time when he told me. <I only know that
14 it was while I was in the interrogation unit that he told us
15 that.>

16 MR. KOPPE:

17 For the record, I was referring to the very last page of that,
18 "Last Joint Plan", Mr. President, where it says that people who
19 were interrogated, incriminated incoherently; such persons as
20 Bong Phim, Bong Nhim, and Bong Si and --

21 [15.50.34]

22 JUDGE FENZ:

23 Counsel, we are told -- you were told not to use this document or
24 is this the document you were told not to use or is this a
25 misunderstanding?

1 MR. KOPPE:

2 Not with the witness, but with you, certainly. It is on the -- on
3 the case file; I can refer to where the source of the question is
4 coming from or --

5 JUDGE FENZ:

6 But then you're using it.

7 MR. KOPPE:

8 Am I -- am I to, sort of, deny the existence of the document or
9 what -- what are you saying?

10 JUDGE FENZ:

11 But -- but the -- the decision --

12 [15.51.11]

13 JUDGE LAVERGNE:

14 Counsel Koppe, Counsel Koppe, moreover, unless I'm mistaken, you
15 asserted earlier that this information had nothing to do with the
16 confessions that were obtained at S-21; however, you just read
17 out the sentence which said that these are answers that were
18 provided in those confessions. So isn't it a way of
19 misrepresenting the evidence?

20 BY MR. KOPPE:

21 I'm referring to a document which is on the case file. I'm
22 referring to you, the Chamber, the Judges; I'm not asking a
23 question to the witness based on this document. I'm just saying
24 where I have this information from so that you know, but
25 obviously you don't really care.

1 Let me move on, Mr. President, to my last question because this
2 doesn't go anywhere.

3 [15.52.07]

4 Q. Mr. -- Mr. Witness, I'm referring now to a document called E3/
5 -- numbered E3/7327; English ERN -- I only have the Khmer ERN, so
6 at this -- at this stage, 00 -- 01113795. It is a People's
7 Revolutionary Tribunal document from August 1979. The document
8 refers to the Kampuchea's Workers' Party, something that you, in
9 your testimony, have also referred to. And it says:

10 "Top men of the Kampuchean Workers' Party were: 1, Phim; 2, Nhim
11 -- Ros Nhim; 3, Keo Meas; 4, Ya; 5, Son Ngoc Minh; 6, Koy Thuon."
12 There are others mentioned, but let me limit myself to these six
13 people. Have you ever heard, Mr. Witness, whether Koy Thuon was a
14 member -- high-ranking member of that labour party or workers'
15 party that you refer to?

16 MR. LACH MEAN:

17 A. For the names that you just mentioned, I cannot fully remember
18 them all because it has happened a long time ago. So I simply say
19 that I do not know.

20 Q. No problem, Mr. Witness. Let me turn away from this subject
21 because, as I said, it doesn't go anywhere. Let me show you a
22 photo. Mr. President, I would like to show a photo coming from
23 document E3/2117; English ERN, 00081403; and Khmer, 00193010.
24 It's a photo of, presumably, an S-21 cadre.

25 [15.55.04]

1 MR. PRESIDENT:

2 Could you repeat the ERN in Khmer language because the
3 interpreters could not follow it?

4 MR. KOPPE:

5 Yes, of course, it's E3/2117, Khmer, page 00193010.

6 MR. PRESIDENT:

7 Your request is granted.

8 (Short pause)

9 [15.56.05]

10 BY MR. KOPPE:

11 Q. Mr. Witness, do you recognize the woman on the photo?

12 MR. LACH MEAN:

13 A. I do not know the person in this photo. I don't know her and I
14 don't know her name.

15 Q. Does the name Tuy Kin mean anything to you?

16 A. I do not know the person by the name Tuy Kin. For female staff
17 in S-21, I knew only Rom who was <Duch's wife> and <> Mon
18 (phonetic) <who was Ta Pon's wife>. I knew only these two <women>
19 who were <at> S-21 <>.

20 Q. Answering questions from the Lead Co-Lawyers for the civil
21 parties, you said, if -- if I remember correctly, that there was
22 no special unit -- or at least that you did not know of it, a
23 special unit -- female unit for interrogation of female
24 prisoners; is that correct?

25 A. I do not know whether there was <a special> interrogation unit

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1 <for interrogation of female prisoners>. I knew that <it was
2 mostly> Ta Pon<> and Ta Chan< who interrogated female>
3 prisoners, but as for the question you asked me about the
4 existence of <a special> interrogation unit, I do not know.

5 [15.58.29]

6 Q. Duch, himself, made an organogram of S-21, document E3/1570;
7 English ERN, 00154198 and 99. Allow me to -- to give the French
8 ERN and the Khmer ERN a bit later, Mr. President.

9 But -- but Duch is saying that there were two interrogation
10 units; one for male prisoners and one for female prisoners and
11 that Mot, Hor's wife; Khoeun, Huy's wife; Ny, Pon's wife; and
12 Ran, Trov's wife, were responsible for the interrogation of
13 female prisoners; is that something that you -- that you know --
14 that you heard of?

15 [15.59.50]

16 A. I am not aware of this, but mostly Ta Chan's bodyguards and Ta
17 Pon's bodyguards took female prisoners <to them> to be
18 interrogated. I do not know whether there were <a special>
19 interrogation unit <for interrogation of female prisoners> or
20 not. As I said earlier, that Chan and Pon's bodyguards were the
21 ones <who were> responsible for taking <female> prisoners <to
22 them> to be interrogated.

23 BY MR. KOPPE:

24 For the record, Mr. President, the Khmer ERN I was referring to
25 is 00154228 and 9; French, 00154214 and 5.

1 Q. My very last question on this subject, Mr. Witness: Did you,
2 on at least one occasion, interrogate a female prisoner yourself?

3 MR. LACH MEAN:

4 A. I never interrogated female prisoners.

5 Q. There is a document, E3/2089, which is a name -- a list of
6 prisoners from the Ministry of Social Affairs; ERN English
7 00244255 and I will also follow up with the Khmer ERN and French
8 ERN.

9 A 22-year-old prisoner, Deputy Chief of the Treatment Section,
10 P-17, interrogated on the 10th of December 1978; her name is
11 Keang Lim; does that sound familiar?

12 A. Kim Lin, I -- I did not know this person.

13 [16.02.27]

14 Q. It's -- there's no French ERN, but there's a Khmer ERN
15 00040092.

16 Duch, in a transcript, is also saying that you -- or according to
17 the -- his analysis of the document, that you interrogated a
18 female prisoner, Koam Lim; it is document E3/7468, Duch's
19 testimony in 4 August 2009, at around 12.06.

20 "Lach Mean completed an interrogation of a female prisoner, Koam
21 Lim, a deputy chairman -- chairperson of Office 17."

22 But it's your testimony that you do not recall ever having
23 questioned a female prisoner; correct?

24 [16.03.50]

25 A. For Duch's testimony that I was the one who interrogated <the

1 woman>, that was wrong. I never interrogated any female
2 prisoners.

3 MR. KOPPE:

4 Thank you very much, Mr. Witness.

5 Thank you, Mr. President.

6 MR. PRESIDENT:

7 Thank you.

8 Thank you, Mr. Lach Mean. The hearing of your testimony as a
9 witness is now concluded. Your testimony may contribute to
10 ascertaining the truth in this case. Your presence in this
11 courtroom is no longer required and you may be excused. The
12 Chamber wishes you all the best.

13 Court officers, in collaboration with WESU, please make necessary
14 transport arrangement to send him to his home. And Mr. Phary, the
15 duty counsel, you may also be excused.

16 The hearing come to an adjournment to -- today at this time and
17 the Chamber will resume its hearing tomorrow at 9 o'clock to hear
18 witness 2-TCW-931. Parties, please be informed.

19 Security personnel are instructed to bring Khieu Samphan and Nuon
20 Chea back to the detention facility and have them returned to the
21 courtroom tomorrow morning before 9 a.m.

22 The Court is now adjourned.

23 (Court adjourns at 1605H)

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