



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

ឯកសារដើម

ORIGINAL/ORIGINAL

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TRANSCRIPT OF TRIAL PROCEEDINGS

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Case File N° 002/19-09-2007-ECCC/TC

2 May 2016

Trial Day 406

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

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. DE WILDE D'ESTMAEL	French
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. LYSAK	English
Mr. MAKK Thim (2-TCW-808)	Khmer
Mr. MAM Rithea	Khmer
The President (NIL Nonn)	Khmer
Mr. PRAK Khan (2-TCW-931)	Khmer
Ms. SONG Chorvoin	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 witness Prak Khan and begins hearing testimony of another witness
7 -- that is, 2-TCW-808. However, before we proceed with hearing
8 the testimony of the upcoming witness, we will hold a proceeding
9 to hear responses from parties to Nuon Chea's request to postpone
10 the trial proceedings for a period of four weeks. And that is in
11 relation to the updated list of S-21 prisoners by Office of the
12 Co-Investigating Judges <, which is being used as the evidence
13 during the cross-examination in the relevant case>.

14 Ms. Chea Sivhoang, please report the attendance of the parties
15 and other individuals to today's proceedings.

16 [09.03.58]

17 THE GREFFIER:

18 Mr. President, for today's proceedings, all parties to this case
19 are present.

20 Mr. Nuon Chea is present in the holding cell downstairs. He has
21 waived his rights to be present in the courtroom. The waiver has
22 been delivered to the greffier.

23 The witness who is to conclude his testimony today -- that is,
24 Mr. Prak Khan, as well as Mr. Mam Rithea, his duty counsel, are
25 present in the courtroom.

2

1 We have a reserve witness today, namely, 2-TCW-808, who confirms
2 that, to his best knowledge, he has no relationship, by blood or
3 by law, to any of the two accused -- that is, Nuon Chea or Khieu
4 Samphan, or to any of the civil parties admitted in this case.

5 The witness will take an oath this morning before the Iron Club
6 Statue.

7 And Mr. Moeurn Sovann is his duty counsel.

8 Thank you.

9 MR. PRESIDENT:

10 Thank you. The Chamber now decides on the request by Nuon Chea.

11 The Chamber has received a waiver from Nuon Chea dated 2nd May
12 2016 which states that, due to his health, headache and back
13 pain, he cannot sit or concentrate for long. And in order to
14 effectively participate in future hearings, he requests to waive
15 his <presence> at the 2nd May 2016 hearing.

16 [09.05.36]

17 He advises that his counsel advised him about the consequences of
18 this waiver, that in no way <may> it be construed as a waiver of
19 his rights to be tried fairly or to challenge evidence presented
20 to or admitted by this Court at any time during the trial.

21 Having seen the medical report of Nuon Chea by the duty doctor
22 for the Accused at the ECCC, dated 2nd May 2016, which notes that
23 Nuon Chea has a chronic back pain when he sits for long and
24 recommends that the Chamber grant him his request so that he can
25 follow the proceedings remotely from the holding cell downstairs.

1 Based on the above information and pursuant to Rule 81.5 of the
2 ECCC Internal Rules, the Chamber grants Nuon Chea his request to
3 follow the proceedings remotely from a holding cell downstairs
4 via an audio-visual means.

5 [09.06.38]

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

9 And the Chamber now hands the floor to the defence teams and the
10 defence teams are reminded that you have <until> 11 o'clock this
11 morning to put questions to this witness, and that applies to
12 both defence teams.

13 You may proceed.

14 QUESTIONING BY MR. KOPPE RESUMES:

15 Thank you, Mr. President. Good morning, Your Honours. Good
16 morning, counsel.

17 Q. And good morning, Mr. Witness. Let me start my questions with
18 -- following up something you said last week, and that is in
19 relation to the interrogation of Chhon.

20 At 14.12, 28 April 2016, you said: "Regarding Chhon, whom I
21 personally interrogated, torture was inflicted upon him, although
22 it was at a minimum."

23 Further down a bit, at 14.19, you said: "The way that I beat him,
24 that was a form of torture, and it is the hot method."

25 [09.08.12]

4

1 I checked also the Khmer transcripts of what you said, and in
2 both instances, you used the word "tearunakam". That word
3 "tearunakam", was that used -- was that word generally used
4 within S-21?

5 MR. PRESIDENT:

6 Mr. Prak Khan, have you listened to the question? If so, please
7 respond.

8 The counsel stated that you used the word "tearunakam", in Khmer,
9 or torture, which is a legal term, and whether the word
10 "tearunakam" or torture was commonly used at S-21, or whether
11 there was an order from the upper echelon to mistreat prisoners
12 to confess, or whether there were "tearunakam" or torture was
13 ordered during your work at S-21 prison.

14 [09.09.54]

15 MR. PRAK KHAN:

16 A. I apologize, Mr. President. Just then I could not see the red
17 light on the tip of the microphone.

18 In fact, the word "tearunakam<,>" or torture<,> was commonly used
19 at S-21.

20 BY MR. KOPPE:

21 Q. Regarding this word, "tearunakam", at that -- at 27 April,
22 last week, at around 14.05, the President of the Trial Chamber
23 made a general remark about the use of that word, and he said the
24 following, and I will quote him literally:

25 "That could be a discrepancy in the use of the language -- that

5

1 is, in Khmer and English, and for that reason, counsels, you
2 should be -- limit yourself to other terms probably like inhuman
3 and degrading treatment because the word 'tearunakam' in Khmer or
4 generic torture definition is really common in the Khmer context.
5 For example, when a father disciplines a child, we also the same
6 word, 'tearunakam', and that could not be legally defined as
7 torture, so the word has been invited within the behaviour and
8 tradition and culture of Cambodia." End of quote.

9 [09.11.35]

10 Mr. Witness, I would like you to react to the words of the
11 President, more particularly, to the example that he gave, "when
12 a father disciplines a child, we also use the word 'tearunakam'."

13 MR. PRAK KHAN:

14 A. For my personal understanding, that term is a common term, and
15 in the Khmer context, we use two words -- that is "thverbab"
16 (phonetic) -- that is, ill treatment, and "tearunakam" -- that
17 is, torture.

18 Q. But do you remember in those years between '75 and '79 the
19 word "tearunakam" could also be used for disciplining a child who
20 did not obey the orders of the father?

21 A. I do not have a thorough understanding in term of comparing
22 the word "tearunakam" to the beating of a child by the father.
23 However, if that is the case, then we <would> say <to> the father
24 <"Do not "thver tearunakam" (phonetic)> or torture <> the child",
25 which is a common term <-- the term "Do not mistreat or

1 "thverbab" (phonetic) the child".

2 [09.13.26]

3 JUDGE FENZ:

4 Counsel, just a second. I appreciate the discussion. It's
5 important. But obviously, this is -- we need to be careful not to
6 get lost in translation now.

7 If you make a point of it's used for disciplining a child, I
8 think the next question should be how to discipline a child. You
9 can discipline a child by doing this and by beating it half dead.

10 BY MR. KOPPE:

11 I agree, Judge Fenz, and I'll follow up.

12 Q. If this word "tearunakam" can be used also for disciplining a
13 child, what, exactly, would that disciplining mean? What kind of
14 acts would fall under that word, acts done by the father?

15 MR. PRAK KHAN:

16 A. The act by the father to the child, to my understanding --
17 that is, when a child <is disciplined> -- when a father
18 disciplines a child or tortures a child, <that is it> to my
19 understanding, <other than that> I cannot tell you much more than
20 that.

21 [09.14.56]

22 Q. I understand. Let me move on.

23 Let me move on to the interrogation of Chhon. I asked you quite a
24 bit of questions about his interrogation already last week. Let
25 me follow up on this, Mr. Witness.

1 You said at 14.12 "tearunakam" was inflicted upon him, although
2 it was at a minimum, and that you said, and I quote at 14.12:
3 "I used nearby tree branches to beat him, to beat his hand, legs
4 and back." End of quote.

5 Do you remember whether Chhon was in severe pain after you beat
6 him?

7 A. I can recall that I took tree branches to beat Chhon. Of
8 course, it was painful for him since I was beating him. And it is
9 typical when somebody is beaten, the person is in pain.

10 [09.16.16]

11 Q. Let me be more precise in my questioning, Mr. Witness.

12 Did Chhon start bleeding after you beat him?

13 A. When he was beaten with small tree branches, he was not
14 bleeding. However, we could see the marks from the beating on
15 <his> skin.

16 Q. When you beat him, did he break his hands, his feet? Did he
17 break any limbs of his body?

18 A. Allow me to clarify again. There were only marks <from> the
19 tree branch beating.

20 Q. I understand, but just to make sure there is no
21 misunderstanding, did he faint or did he become unconscious after
22 you beat him?

23 A. No, he did not become unconscious.

24 Q. Was it at any point in time necessary <for you> to stop the
25 interrogation and to call a medic to treat Chhon?

1 A. No.

2 [09.18.18]

3 Q. Those marks from you -- from you hitting him with tree
4 branches, did that leave permanent scars?

5 A. The marks would disappear within a day or two, and allow me to
6 confirm that, at S-21, medics only would treat the prisoners if
7 there were open wounds from the beating. But if there were only
8 rashes or red marks <>, the prisoners would not be treated by
9 medical staff.

10 Q. Thank you, Mr. Witness.

11 Now, let me follow up these questions with showing you a
12 document.

13 Mr. President, I would like to show document E3/8368 to the
14 witness -- that is, in English, translated as a document called
15 "Statistics List of Special Branch S-21". The ERN numbers are
16 zero -- in Khmer, 00007445 and following; English, 00225379 and
17 following; French, 00278744 and following.

18 MR. PRESIDENT:

19 Yes, you may proceed.

20 (Short pause)

21 [09.20.44]

22 BY MR. KOPPE:

23 Q. Mr. Witness, you have been quite extensively asked questions
24 about this very document. The lawyer of Duch asked you all kinds
25 of questions, and I will follow up with -- on those questions.

1 But if you have a look at the orange underlining, marking in the
2 document, these are the excerpts that were read out to you in
3 full by the lawyer of Duch.

4 So if you could have a look at the orange excerpts.

5 MR. PRESIDENT:

6 Duty counsel, Mam Rithea, please assist the witness to see the
7 relevant segment so that he can understand it and respond to the
8 question.

9 Judge Lavergne, you have the floor.

10 [09.22.15]

11 JUDGE LAVERGNE:

12 Yes. We do not have the excerpt underlined, so I'd like to see
13 how the Chamber or the parties could identify the segment in
14 question.

15 MR. KOPPE:

16 Yes, I was anticipating that question, Judge Lavergne, I'll --
17 the excerpts that I highlighted are coming from E3/7464. That's
18 the transcript of 22 July 2009. And it starts at around 1400
19 where Duch's lawyer, François Roux, starts asking questions about
20 this very document.

21 And it goes on all the way until 14.18, 14.15.

22 [09.23.50]

23 MR. PRAK KHAN:

24 A. Regarding your question, I can say that there is the opinion
25 and the instructions from Duch. While I was there, I actually

10

1 applied all the instructions from Duch. And <those are the>
2 instructions that <were taught> to us<> during <every> study
3 session <in the political school>. And he also instructed us on
4 how to interrogate, how to make a summary -- that is, a one or
5 two-page summary of the confessions and only mention the
6 important points on the summary so that he <could> review it.

7 BY MR. KOPPE:

8 Q. Mr. Witness, because of time, I will not repeat all the
9 excerpts that were read out to you by Counsel Roux. Whatever he
10 read out to you, as I just said, you agreed to.

11 One general question first, I don't believe he actually showed
12 you the document, so now you have it in front of you.

13 Do you recognize the handwriting of that document as belonging to
14 presumably one of your colleagues?

15 MR. PRAK KHAN:

16 A. To my recollection, the handwriting belongs to Mam Nai alias
17 Chan.

18 Q. And why is it that you say that? What makes you recognize his
19 handwriting?

20 A. I used to see this handwriting, and Kaing Guek <Eav's
21 handwriting> is more complicated and difficult to read. But Mam
22 Nai's handwriting is neat and easy to read.

23 [09.26.25]

24 Q. Now let me go to something that I would like to ask you
25 specifically, and maybe the standby counsel can assist in finding

11

1 the exact page in Khmer.

2 Mr. President, I'll be referring to Khmer, ERN 00007458; English,
3 00225388; and French, 00278752. For standby counsel, I believe it
4 is highlighted in orange or yellow.

5 So the Khmer page is -- ends on 58, if I'm correct.

6 (Short pause)

7 [09.28.01]

8 MR. KOPPE:

9 Mr. Standby Counsel, it's one of those orange tabs.

10 (Short pause)

11 [09.28.30]

12 MR. PRESIDENT:

13 Duty counsel, please refer to the ERN number ending with 58. And
14 please, you should also notice the tab, the yellow <or the
15 orange> tab at the side of the paper.

16 MR. MAM RITHEA:

17 Mr. President, I cannot find page 58. I saw highlights on other
18 pages.

19 MR. PRESIDENT:

20 Court officer, please take the document to the defence counsel
21 and show whether that relevant page is highlighted. If not,
22 inform the Chamber.

23 [09.29.55]

24 BY MR. KOPPE:

25 Well, I'm not able to read Khmer, but it -- I'll read it to the

12

1 witness, if that goes faster.

2 Q. Mr. Witness, it says on that page, directions -- it's a

3 chapter called "Directions in Improving Work". It says:

4 "1. Use politics as the basis. 2. Examine and compare the

5 responses conscientiously before", in English, "torturing." And

6 point 3 -- and that is the question that I would like to ask you

7 about -- "Respect organizational discipline when interrogating,

8 for example, do not beat if not instructed to do so, and must

9 consider the health issue before beating. Do not do anything

10 other than what was instructed."

11 My question is in relation to -- go in to relation to point 3,

12 Mr. Witness. When interrogating Chhon, did you consider the

13 health issue before you beat him with a tree trench?

14 MR. PRAK KHAN:

15 A. The <Chhon's health> at the time was good. However, at the

16 time, there was a rule or regulation <from> Duch, unless we had

17 the permission or regulation from Duch, I could <not> beat the

18 prisoner.

19 [09.32.16]

20 Q. A little further down in that same document, Mr. Witness, in

21 Khmer page 65 at the end, 0007465; French, 00278756; and English,

22 00225391; it says on the chapter, "Views and Stances on the

23 Enemies Whom the Party Have Arrested", it says:

24 "Confess to the Party in order to live and not die in place of

25 the leaders. Make them think of their wives and children." End of

13

1 quote.

2 When you interrogated Chhon, did you make him think of his wife
3 and children?

4 A. That was the method of interrogators that they used the
5 political pressure. That was the technique and also was -- the
6 technique was also to allow the prisoners to think of the wife
7 and the children of them so that they could give the confession.

8 [09.33.52]

9 MR. KOPPE:

10 Mr. President, in light of the answers just provided for by the
11 witness, also in light of your considerations in the judgment,
12 more particularly, 2.441, paragraph 241, and chapter 2, 2.7.1.2,
13 paragraph 484 -- in light of those considerations, we are arguing
14 -- will be arguing right now that the confession produced by
15 Chhon was not a product of torture. The beating that the witness
16 describes was such that it might fall under inhuman and degrading
17 treatment, but even that is unclear.

18 In light of the answers that he gave in respect of the document
19 that I just showed him, taking also into consideration Supreme
20 Court Chamber's ruling as to probabilities of someone being
21 tortured, I think now we have reached the stage that I can use
22 Chhon's confession and ask a few particular questions relating to
23 what's in the document, the document of Chhon's confession, which
24 is E3/1549.

25 [09.35.47]

14

1 MR. DE WILDE D'ESTMAEL:

2 Good morning, Mr. President, Your Honours. Good morning to all
3 the parties.

4 Here again we have another attempt to revisit this debate that
5 has not yet been clinched. Today, the Chamber will receive the
6 submissions of the various parties, including our response to the
7 motion made by the Nuon Chea defence regarding other confessions.
8 I would like to simply say very rapidly that there is a
9 presumption that torture was used. The Supreme Court Chamber has
10 already ruled on that.

11 This witness, having worked as a member of the chewing group,
12 told us that, most of the time, persons referred to him for
13 torture had already been interrogated by the cool or hot groups,
14 which means, Mr. President, that <it is not at all clear that>
15 psychological <or> physical <means of pressure> had <not> already
16 been used <on> Chhon, <even> before the witness could have
17 interrogated him.>

18 All the questions asked by the Defence focus on the first day of
19 interrogation of Chhon, and these questions do not cover the
20 entire interrogation<. And we know that in the case file, there
21 are> 600 pages of interrogation notes for that person. <So> I
22 don't think we can conclude on the basis of the answers provided
23 by the witness that he was not treated in such a manner that
24 would <fall into the> definition under the Convention <Against
25 Torture, which we remember, was not only>

15

1 [09.37.46]
2 physical torture, but also mental <or> psychological torture. And
3 it is, by the way, on this point that we argue, and we do so in
4 our pleadings today, that <this kind of> interrogation, given the
5 detention conditions under which the detainees were held -- and
6 we've said so very clearly<, whether they> were held <in>
7 individual cells<, their feet> were shackled<,> they were not
8 able to sleep properly<,> they <slept> on the floor<, and>
9 received very little food<, or if they were held> in collective
10 cells, the conditions of detention were <always> very, very
11 severe, <and of course they feared that they could die> at any
12 time<.>
13 And given the fact that they could hear the screams of people who
14 were subjected to hot treatment and bearing in mind the <mere>
15 fact that they were detained in S-21 under those conditions and
16 <as> we have <just> heard <again about> the psychological
17 pressure brought to bear on all the detainees, they <made them>
18 think of their wives and children, <what would become of them,
19 their suffering, etc.>
20 [09.38.58]
21 And for all these reasons, <we are of the view that it is clear,
22 including in this case, there was a> risk <of> torture. The
23 Defence hasn't demonstrated that torture <did not take place>,
24 and <therefore> we cannot use the content of <Chhon's>
25 confessions during these proceedings <or> later <on>. <Thank

16

1 you.>

2 MS. GUIRAUD:

3 Thank you, Mr. President. I want to make some brief remarks

4 <because> the Co-Prosecutor has <essentially> said what I had to
5 say.

6 We object to the use of these confessions because <we believe>
7 the Defence has not shown proof that the risks of torture did not
8 <take place here>. We insist on the <matter of moral torture and
9 on the fact that> the Supreme Court Chamber, in its ruling
10 regarding the use of S-21 confessions, recalled that there was a
11 climate of extreme fear that was prevalent at S-21 and that <you>
12 must take <that element> into account when <ruling on> the
13 existence of torture at S-21.

14 <This torture> goes well beyond physical torture, as the
15 Co-Prosecutor has pointed out. <It extends to torture> that
16 caused moral suffering. <We are of the view that evidence of> the
17 absence of risk has not been shown by the Defence.

18 [09.40.33]

19 We are tendering before this Chamber our response to <our
20 colleague's> Rule 92 motion on the <use of the three confessions
21 he wishes to use.>

22 For all these reasons, the Defence should not be authorized to
23 use <this> confession <at the hearing today.>

24 MR. KOPPE:

25 If I may respond briefly, Mr. President.

17

1 The conditions or the criteria or the requirements for the
2 definition of torture as laid down in the Torture Conventions --
3 Torture Convention have not been met at all. It's a very wide and
4 broad definition that both the Prosecution and the civil party
5 lawyers offer. Its conditions in the prison, the climate of fear
6 is simply not a part of the definition, part of the criterion.

7 [09.41.39]

8 And let me -- I refer to you already to your own paragraph 484,
9 and let me read to you what it actually says. It is about Duch
10 himself being involved in maltreatment, and it says the
11 following:

12 "The Chamber notes that some of the Accused's statements at trial
13 regarding his involvement in torture were unclear or
14 contradictory. The Chamber is not satisfied however, that kicking
15 or beatings by the Accused have been proven to the required
16 standard, nor that the slapping of Chhit Iv caused pain or
17 suffering of the severity required for a finding of torture or
18 other inhumane acts."

19 That's a very clear ruling, very clear example as to how we
20 should interpret certain behaviour in this particular case of
21 Duch.

22 It is our argument that Chhon's treatment didn't even come close
23 to what is being described in paragraph 484. Again, the
24 requirements have not been met. Therefore, I think I'm entitled
25 now to ask the specific question on Koy Thuon and the 1977 coup

1 d'état plans that I can read in Chhon's confession and which was
2 made and drafted by the witness.

3 [09.43.10]

4 QUESTIONING BY JUDGE FENZ:

5 I have a couple of additional factual questions. I'm not entering
6 into the legal debate at the moment.

7 Q. Can you remind us how often Chhon was interrogated?

8 MR. PRAK KHAN:

9 A. Regarding the interrogation of Chhon, I cannot recall how many
10 times I interrogated him, but I recall that I completed the
11 interrogation of him.

12 Q. But if I understood you correctly, it was more than once. Did
13 I misunderstand?

14 A. That is true. More than one, but I cannot recall how many
15 times I interrogated him <because it happened a long time ago>.

16 [09.44.20]

17 Q. I remember you told us that he wrote down a confession, you
18 didn't like it, so he had to be re-interrogated again to write
19 down the next confession. Do I remember that correctly?

20 A. That is true. What he was writing in the confession, <I was
21 not dissatisfied>, but the upper echelon or my superior was not
22 satisfied with the confession after I sent <it> to Duch and Chan
23 above me. And after <they were dissatisfied>, after they were not
24 satisfied with the confession, they put <in> an annotation and,
25 after that, the older confession document was burned.

19

1 And later on, I had to re-interrogate that person.

2 Q. How did you know what would satisfy your superiors?

3 You said the original confession didn't satisfy them. They sent
4 it back. How did you know what they wanted to hear, basically?

5 A. I know about it because, after I sent the document and then
6 there was no news <and the> document <was not returned> to me, I
7 knew that it was well done; <this means that my superiors were
8 satisfied with those confessions.> But if it -- a document was
9 referred back to me, I had to interrogate the prisoner again. <I
10 prepared documents even before I knew how to use the typewriter
11 until I could type.> But I cannot tell you for sure how many
12 times I did the interrogation on that person.

13 [09.46.36]

14 Q. I understand. What I want to know is, in Chhon's case, you got
15 the confession back, the first one, because your superiors didn't
16 like it. How did you know what they wanted for the second
17 confession or third or fourth?

18 A. I know that the confession that I compiled was to their
19 satisfaction since they kept the confession and I received a
20 letter <to interrogate> other people rather than Chhon after
21 that.

22 Q. Somehow I don't get my question through. Let me be more
23 specific.

24 You sent Chhon's interrogation to the superiors, they sent it
25 back and said interrogate again.

1 Did they give you guidelines for what questions to ask? Did they
2 tell you, "We want specifically to know whether he was", don't
3 know, CIA or whatever?

4 A. They sent me a written note on the suspicious points. For
5 instance, they may have asked me about the networks that the
6 person was engaged in and that point needed to go further in the
7 interrogation.

8 [09.48.48]

9 Q. So to be clear, if a -- if you remember Chhon, but generally,
10 if a person hadn't talked about networks originally, it could
11 come back -- the confession could come back from the top saying,
12 "Ask them about networks". Is that true? Did I understand it
13 correctly?

14 A. Tracking down the network in an absolute manner, actually,
15 that was not the point of the questions they wanted me to ask,
16 but I was required to ask about <their names>, where they were,
17 <and whether they were a C.I.A network.>

18 Q. So you were required to ask these questions by your superiors.
19 Is that true?

20 A. Yes, that was the question.

21 Q. Do you ever remember a case where a person did not talk about
22 networks after he had been interrogated again and again? Do you
23 remember such case?

24 A. I do not remember it. I cannot recall <the notes or the
25 questions during the interrogation.>

1 [09.50.55]

2 Q. More easy: Was there ever a person who didn't confess after
3 having been interrogated repeatedly and, to be clear, I'm talking
4 about your experience?

5 A. Some prisoners confessed, and some did not. I did not -- I was
6 not able to get the confessions from all the prisoners, and some
7 prisoners said that they did not know about what I asked, so it
8 depended on the prisoners.

9 Q. What happened to those who didn't remember or who didn't
10 confess?

11 A. Regarding the interrogation of prisoners after they did not
12 confess, they would be <subjected to> <ill-treatment> and
13 tortured.

14 [09.52.25]

15 Q. Again, give us an example what would happen to them in order
16 to avoid the loaded terms "ill-treatment and torture". Tell us
17 what you did to them.

18 A. For those who did not confess, I would write only the
19 confession that the prisoners made. After inquiry or after
20 further interrogation, <if> they did not confess, <> I would
21 write the same thing as the previous -- as in the previous
22 confession.

23 Q. I understand that. But you said, "If they didn't confess, we
24 went on torturing and ill-treating", so give us -- so tell us
25 what you did to them. Don't use the word "torture and

1 ill-treatment". Tell us what acts you did.

2 You talked about beatings. What else?

3 MR. KOPPE:

4 Judge Fenz, he already testified that he didn't use--

5 JUDGE FENZ:

6 You don't -- you're not interrupting me, counsel. I know I'm
7 repeating it, but I think we should be in context.

8 [09.53.52]

9 MR. KOPPE:

10 But he said it already.

11 MR. PRAK KHAN:

12 A. Whenever the prisoners did not confess, I would further
13 interrogate those prisoners by inflicting -- by imposing further
14 questions. And if the prisoners <still did not confess>, I would
15 use torture.

16 BY JUDGE FENZ:

17 Q. Again, what did you do to them?

18 Don't say "torture". Describe what you did.

19 MR. PRAK KHAN:

20 A. The acts or torture I meant here are the same.

21 [09.55.02]

22 MR. PRESIDENT:

23 Mr. Khan, in fact, it is now controversial <to> use the word
24 "torture". Torture is the legal term. And the word "torture" is
25 defined in the international convention, and the question from

1 Judge Fenz is about the acts that you used against the specific
2 prisoners, <for instance, the act of beating etc.>

3 So could you describe the specific acts that you used in order to
4 obtain or extract the confession from the prisoners, what type of
5 acts you used at the time?

6 MR. PRAK KHAN:

7 A. The acts were beating and put the plastic bag on the head of
8 the prisoners so that the prisoners were terrified and, after
9 that, <would> provide the confession. But sometimes those kinds
10 of acts were not successful in extracting the confessions.

11 BY JUDGE FENZ:

12 Q. So the idea was to terrify, to use your words, the prisoner?

13 MR. PRAK KHAN:

14 A. That is true.

15 [09.56.32]

16 Q. Two more questions. These relate to Chhon now.

17 One is very minor, but you were talking about branches all the
18 time. What kind of branches are we talking about, something this
19 size like a pencil or something this size, which is basically six
20 to seven centimetres?

21 Can you give me an idea of what kind of branches we are talking
22 about?

23 A. It <was> equal to the size of <a> pen <or the size of a little
24 finger>, and if it <was> equal as to the size of <a> wrist, I
25 <would> say that it is a club, not a branch. <Using a club could

1 be risky.> And usually, the <small> branch could not lead to
2 severe wound or open wound or bleeding. <I used a small stick at
3 the time.>

4 [09.57.36]

5 Q. My last question, you said you had order to tell prisoners to
6 think of their family.

7 Can you give me an example on how you did that? What did you tell
8 the prisoner? What did you say?

9 A. During the interrogation, I would use the reasons that the
10 wife and children were awaiting them at their houses or home and
11 if the -- and I would tell the prisoner that if they did not
12 confess, when will they have a chance to go back home to visit
13 their family members. So the method was to deceive the prisoners
14 <into giving a> confession.

15 Q. Can you give me an example a sentence you would have said at
16 that time?

17 A. I cannot recall the sentence that I used since it happened a
18 long time ago. I cannot recall it well. But the method was to use
19 the psychological pressure and bringing up family members and
20 reminding the prisoners that wife and their children are waiting
21 them at home, so the method and the technique was to deceive the
22 prisoners so that they provided the confession. So it was the
23 deceitful act used at the time.

24 [09.59.42]

25 Q. And my last question, only if you can answer it: Do you know

1 if other prisoners knew what happened to prisoners who didn't
2 confess? Was that well known among the prisoners' population, if
3 you know?

4 A. On this particular point, prisoners were detained in different
5 cells and far away from one another, so they did not <know> what
6 kind of confession one prisoner gave. They <were> not aware --
7 they were not aware of other confessions by other prisoners.

8 Q. I understand that they didn't listen to the confessions. But
9 did they know what kind of treatment - that's if you know -- did
10 they know what kind of treatment was handed out to people who
11 didn't confess?

12 If you don't know, tell me you don't know.

13 A. I don't know.

14 (Judges deliberate)

15 [10.02.22]

16 MR. PRESIDENT:

17 The Chamber decides that <regarding> the confession of Chhon,
18 which is a document in Case 002/02, <parties are not allowed> to
19 use it as the basis to question this witness <at this time>.

20 <First,> the Chamber needs to view that document <in detail> as
21 well as responses from parties to the submissions by the defence
22 counsel.

23 <Second,> we need to review that document in detail in comparison
24 to the International Conventional Against Torture. For that
25 reason, counsel, you are prohibited from using that document to

1 question this witness.

2 JUDGE FENZ:

3 Perhaps to add, if, following the submissions which we'll get
4 today and the decision by the Chamber, we decide that the
5 document is allowed, we'll recall.

6 MR. KOPPE:

7 I understand. The only thing I would like to have on the record
8 is the two particular questions I wanted to ask so that it is
9 clear which specific reference I'm talking about. It's fine if
10 the witness puts off his headphones. He doesn't have to hear it.
11 But I think it's important for the discussion which particular
12 excerpt from the confession I would like to confront the witness
13 with.

14 [10.04.10]

15 JUDGE FENZ:

16 We are not discussing in any way and thereby putting it before
17 the Chamber contents of the confession before we've made a
18 decision whether this is in line with the torture decision.

19 MR. KOPPE:

20 I understand, but it -- I'm not talking about networks. I'm
21 talking about something very specific, and I think it is
22 important that the Chamber understands what it is that I'm
23 specifically asking questions about.

24 [10.04.51]

25 MR. DE WILDE D'ESTMAEL:

1 Well, just to signal to the Chamber because you <will be
2 reviewing> these confessions <in addition to the> three documents
3 <relating> to these confessions that are already on the case
4 file, that's E3/3680, there's E3/1549<,> and E3/4280. Beyond
5 that, if the Chamber is <patient or brave enough> to read <1,759>
6 other pages of confessions by the same person, they are available
7 in Khmer at 00261079 and -- to 00262831. <These> pages are <not
8 currently> on the case file.

9 However, I note that the three documents on the case file cover a
10 period between February '77 to May '77, so that's a period of
11 more than three months. <Thank you.>

12 MR. PRESIDENT:

13 Allow me to reiterate that the document is prohibited from being
14 used as a basis to put question to this witness <at this time>.

15 It is now appropriate to have a short break. We'll take a break
16 now and resume at 10.30.

17 And Court officer, please assist the witness during the break
18 time and invite him as well as the duty counsel back into the
19 courtroom at 10.30.

20 The Court now is in recess.

21 (Court recesses from 1006H to 1028H)

22 MR. PRESIDENT:

23 Please be seated.

24 The Court is now back in session and the floor is given to the
25 defence team for the Accused to resume the questioning. You may

1 proceed.

2 MR. KOPPE

3 Thank you, Mr. President. Excluding my questions in relation to
4 Chhon's statement and the statements of Koy Thuon, I have another
5 seven subjects that I would like to ask questions on to the
6 witness. As you said this morning, we only have until 11.00, so I
7 would now like to cede the floor to the Khieu Samphan team and
8 then resume afterwards. I believe I need at least two full
9 additional sessions, Mr. President.

10 Pre-empting the response of the Prosecution, allow me to say that
11 Prosecution doesn't deserve equal time in this -- in respect of
12 this witness because the Prosecution has already interviewed this
13 witness in 2006 and one time extensively during the hearing in
14 Case 001.

15 [10.30.15]

16 So in this particular case, the argument of equal time both --
17 for both the Prosecution and the Defence doesn't apply.

18 MR. DE WILDE D'ESTMAEL:

19 Thank you, Mr. President. I think the Defence is quite aware of
20 what happened this morning.

21 Since last week, a decision had already been handed down by the
22 Chamber to the effect that the Defence should not be allowed to
23 use the content of <the> confessions <we discussed again> this
24 morning<.> <I think> in doing so, the Defence has <taken the risk
25 of opening> a long debate on the subject and <wasting> time in so

1 doing. And I think it is a deliberate choice<.>

2 [10.31.00]

3 Regarding time sharing, the fact that we could have examined the
4 witness in 2009 -- the rules in force at the time were different,
5 and it was <for the most part> the Chamber that asked questions.
6 <I think that at that time we> had 40 minutes to put questions to
7 the witness<, to give you an idea of the level>. It <was> not a
8 whole day <like in this case>.

9 <In order to> share the time equally, <I think we> should
10 <simply> give more time to the Khieu Samphan team and not <give
11 any more> to the Nuon Chea team because they've already used up
12 their time.

13 [10.31.45]

14 QUESTIONING BY MS. GUISSÉ:

15 Good morning, Mr. President. Good morning, everyone.

16 Q. Good morning, witness. My name is Anta Guisse. I am
17 International Co-Counsel for Mr. Khieu Samphan, and it is in this
18 capacity that I would like to put a few follow-up questions to
19 you.

20 First of all, I would like to put questions to you regarding the
21 period during which you worked as a guard, and I would like you
22 to confirm this<:>

23 When you were a guard outside of the S-21 premises, did you not
24 have any contact with staff working within the buildings and who
25 were conducting interrogations at the time?

1 MR. PRAK KHAN:

2 A. When I was guarding at the outer perimeter, I did not have
3 <contact> with the guards inside. <Sometimes> the guards inside
4 would walk out of the compound and we would have a <conversation>
5 or chitchat about other matters, but not about what <was>
6 happening -- what was happening inside the compound.

7 [10.33.11]

8 Q. When you were a guard standing guard outside, do you recall
9 meeting a person called Lach Mean who testified before this
10 Chamber?

11 A. That person's name is Lach Mean. It was almost at the end of
12 the regime -- that is, <almost on> 7 January 1979, that I started
13 to <get to> know him. <He was among the forces that Duch took
14 from the West Zone>. After members of <Division> 703, <who worked
15 at S-21>, were arrested <and killed>, the people from the West
16 <Zone>, including Lach Mean, were sent to replace those people
17 who had been sent away <and killed>.

18 Q. So if I understand your testimony, what you are saying is that
19 you did not work with him when you stood guard outside of the
20 S-21 premises guarding the gate of S-21.

21 To be more specific, as regards your standing guarding outside
22 S-21, do you recall how many of you worked as guards outside of
23 the S-21 premises?

24 A. There was a group of guards, 12 of us, and we stayed at <what
25 is now the> Beehive radio station.

31

1 [10.35.08]

2 Q. I'll try to understand how the premises of S-21 were guarded.

3 With the President's leave, I will show you a photograph we have

4 on record, and this is document E3/9431. And I would like to know

5 whether you can see on this photograph the place where you stood

6 guard.

7 The ERN in French is 00181450; in English, 00198029; and in

8 Khmer, 00181396. And with your leave, Mr. President, may I

9 request the court clerk to show the photograph to this witness?

10 MR. PRESIDENT:

11 Yes, please.

12 [10.36.15]

13 BY MS. GUISSÉ:

14 Q. I would like to know whether you can see the place where you

15 stood guard with your colleagues who work as guards on this

16 photograph.

17 Can you see that place, or it was further on from what you can

18 see on this photograph somewhere else?

19 MR. PRAK KHAN:

20 A. That photo was not taken close to a location where I stood

21 guard. <This was inside the compound.>

22 Q. Should I take it that the place where you stood guard was a

23 bit further on from the external premises -- the exterior of the

24 premises you can see on this photograph?

25 A. It was outside the prison compound, <far> away from <the

1 prison building>.

2 [10.37.28]

3 Q. My question is, therefore, as follows: During that period, was
4 there another gate that was <especially set up, in addition to
5 the outer wall that> you can see on this <photo>? Because when
6 you were examined <before this Chamber>, you said you stood guard
7 in front of a gate. And when <I hear about> a gate, I understand
8 that there was a wall.

9 Was there another wall <separate from> the <outer wall> that you
10 see on this photograph?

11 A. There was another <big> fence, and that is the zinc fence
12 <surrounding the whole area leaving a gap for the gate only>. And
13 the <gate was covered with> barbed wire <and always closed except
14 when there were vehicles coming in>. And <it was east of Monivong
15 Boulevard and> the gate's named Srah Srang (phonetic); <so, it
16 was on the way from Srah Srang (phonetic)> to the fire station
17 department.

18 [10.38.52]

19 Q. Witness, can you please repeat the name you gave in describing
20 the place near the <fire station> because the French interpreter
21 didn't quite hear what you stated?

22 A. That gate was in the west of <what is now the> Beehive radio
23 station. And right now, that location was -- turned into the fire
24 department.

25 Q. You talked of a <corrugated tin> fence mounted with barbed

1 wire. Do you know when that fence was built -- that is, the fence
2 outside of which you were stationed?

3 A. After I was on -- I was at the place, the fence was -- had
4 already been there. Perhaps it <was> built before I was there.

5 [10.40.25]

6 Q. You have stated that you were a guard <at a gate>. My question
7 to you is as follows: How did you check whether the persons who
8 were entering S-21 were duly authorized to do so?

9 Did you have any documents <you checked>, and how did you go
10 about it?

11 A. Before I opened the gate for them to enter, there was no
12 specific or official document presented to me. The reason that I
13 opened the gate was that I recognized the truck, the vehicles,
14 and the drivers.

15 Q. So if I understand your answer correctly, what you're saying
16 is that a vehicle that was not an S-21 vehicle was never
17 authorized to enter the premises of S-21.

18 A. If the vehicles did not belong to S-21, those vehicles were
19 not authorized to go into S-21. Only S-21 trucks or vehicles were
20 allowed to go inside.

21 [10.42.02]

22 Q. I'd like to focus on the time you worked as an interrogator,
23 but before I do so, I have one last point to deal with.

24 We have on record a document E3/8386. It is a circular directed
25 to S-21 staff in principle, and it consists of a number of rules.

1 And rule number 8, ERN in French is 00532733 and the ERN in
2 English is 00521631 and the ERN in Khmer is 00002637. And it is
3 rule number 8, and this is what is stated in the rule:

4 "During the patrols, the cadres of the group -- the cadres of
5 <the unit> of 50 have to be present at the guard post of each
6 sector <in the particular location they> are responsible for
7 guarding." <End of quote.>

8 First question: <Was> the unit of 50 indeed the unit that was in
9 charge of guarding the exterior of S-21? <That is, the outer wall
10 and the gate.>

11 A. <Yes, that's> the 50-<man> unit at the time,<and> this unit
12 was in charge of three groups, in fact, and <the 50-<man> unit
13 assigned those groups> to stand guard <at specific places>. And
14 at nighttime, <once or twice per night>, the 50-<man> unit
15 members would go around and monitor the guards under their
16 responsibility whether or not those guards were really standing
17 guard at nighttime.

18 [10.44.40]

19 Q. In the <passage> of the circular I just read out to you, <it
20 mentions> various sectors that had to be watched over. My
21 question is as follows: Were the different sectors <within> S-21
22 or they were sectors that were related to the gate and the fence
23 around S-21?

24 A. As for the guards, they were the guards for S-21. However,
25 they had different duty stations to guard. And those guards were

1 all under supervision of S-21.

2 Q. Let me be more specific in my question. Were there sectors
3 that had to do with the exterior of S-21, including the S-21 gate
4 -- that is, <in the> sectors mentioned in this article?

5 A. And for guards who were required to stand guard outside S-21
6 would stand guard outside the compound, but not inside. However,
7 as I said, they were all under supervision of S-21.

8 [10.46.30]

9 Q. I would now like to talk about the time when you were an
10 interrogator.

11 You have stated that when you had to interrogate anyone, all you
12 received from the outside were the person's name, province of
13 origin and cell number. Can you please confirm to me that, as
14 part of your interrogations, you never got into contact with the
15 persons who had <arrested> the persons you had to interrogate
16 before you started your interrogations?

17 A. <I never had any contact with> prisoners <before or after they
18 were brought into the prison, because we never knew each other.>

19 Q. Perhaps I wasn't clear enough. Let me ask my question again.
20 When you had to interrogate a particular prisoner, you, yourself,
21 were never in touch with the persons who had arrested those
22 persons to bring them to S-21. Did I properly understand your
23 testimony?

24 A. <I> did not have <contact> with <the persons> who arrested
25 those people. Actually, they -- those who arrested the prisoners

1 <carried out their duties, and after that, it was the duty of
2 those who worked inside the prison so I did not know them. I
3 never knew the faces of those who arrested people>.

4 [10.48.52]

5 Q. You said at the hearing of the 27th of April sometime after
6 <13.56.22> -- you said that it was Duch, Tith -- that is, your
7 superiors who could attend your interrogations.

8 Were there any other persons who could attend such
9 interrogations?

10 A. For my superiors, only Tith, my direct superior in the group,
11 did the interrogation as well. He was <my> group chief, and he
12 had the authority to go in and out of the interrogation room.

13 Q. How about Duch?

14 A. Duch would come to my location once in a while, and he would
15 come across -- he came across to my location once in a while and
16 he went into the interrogation room <to see what kinds of results
17 I got>. It was not his daily duty to come and monitor us <because
18 he worked in a bureau>.

19 Q. So apart from your superiors, no other person was authorized
20 to enter the interrogation room in which you interrogated
21 prisoners. Did I properly understand your testimony?

22 A. That is correct.

23 [10.51.02]

24 Q. And I, therefore, conclude that under those circumstances,
25 you, yourself, were not allowed to enter the interrogation rooms

1 <while> your colleagues were interrogating other prisoners?

2 A. For other rooms, I had no authority to go into their rooms

3 unless <they allowed me to do so>. I would go inside those rooms

4 <to observe them only, but I had no authority to interrogate

5 prisoners>.

6 Q. I have understood that there were several units of

7 interrogators. Were you allowed to discuss the contents of your

8 interrogations and your work between the different units?

9 A. The right to discuss our work and contents of -- and

10 interrogation, no. We were obliged to report how the work was

11 going to the group chief, but we were not allowed to discuss

12 among <ourselves> in relation to our work and interrogation.

13 [10.52.45]

14 Q. I would like us to now focus on the training sessions you

15 attended which you referred to. These are sessions at S-21.

16 The first question is as follows regarding training sessions and

17 meetings with Duch. How regularly did you attend such meetings?

18 A. The training was a -- was an ordinary training session.

19 Sometimes it happened once a week or once <every two weeks.

20 That's an ordinary meeting> at the political training school

21 <near his house>.

22 Q. During those political training sessions and in the course of

23 the various months you spent at S-21, were you informed of the

24 situation on the battlefield or whenever there were incursions of

25 Vietnamese troops inside Cambodian territory?

1 A. They never announced <anything> about the war happening
2 outside.

3 [10.54.25]

4 Q. I ask this question because in a document that has been used
5 at length by the Co-Prosecutor, document E3/833, that is the
6 famous <Chan's> notebook. The ERN in French is 00282536 and the
7 ERN in Khmer is 00077729. There is no ERN for the English. This
8 is what is stated in the notebook:

9 "In April 1977" -- they are talking of Vietnamese. Let me
10 specify.

11 "In April 1977, they wanted to attack us at Phnum Lok, Kampot. We
12 smashed all of them. On the <25th> of October 1977, they wanted
13 to cut Road Number 13. We smashed all of them. And in December
14 1977, they even went as far as Svay Rieng. The Vietnamese
15 launched a general offensive. They succeeded. Up till October
16 1977, we <had> killed 10,000 people in their group. We, <are at>
17 war <with the Vietnamese>." End of quote.

18 I would like you to state whether this refreshes your memory as
19 to what you were able to hear, whether as part of training
20 sessions or discussions of an informal nature that you had with
21 other members of S-21. When you were working at S-21, did you
22 ever hear of an offensive launched in December 1977 at Svay
23 Rieng?

24 A. I used to hear that issue frequently, but it was just a
25 rumour. It was not the official topic or subject of a training

1 session. That was only the rumour.

2 Sometime I learned that rumour from the <prisoners' statements>.

3 [10.57.20]

4 Q. Still with regard to those attacks on the border that you

5 heard of <over a> number of months, we have some press articles

6 <referring to it>, whether <the> Cambodian press or the press in

7 neighbouring countries regarding <a number of attacks or>

8 incursions.

9 I'm referring to document E3/7315, and it is a <FBIS> document.

10 The ERN in Khmer is S01137156 and it continues up to 62. And in

11 English, S00013209, and it continues up to the ERN that ends with

12 11, and I'm referring specifically to an article of the "Bangkok

13 Post" of the 24th of October 1978 in which reference is made --

14 that is, October 1978, they're referring to <an> incursion by

15 <several> Vietnamese divisions into Cambodian territory.

16 My question to you is as follows: Did you ever hear of that in

17 S-21; around late October 1978 <and afterward, about such a>

18 Vietnamese incursion? Did you hear about that, be it during

19 training sessions or <like you just said,> in the course of

20 discussions or rumours that you may have heard?

21 [10.59.08]

22 MR. PRAK KHAN:

23 A. I heard of it. They, in fact, did not discuss the offensive by

24 the Vietnamese; however, the discussion was about the Khmer Rouge

25 <offensive> into Vietnam which happened at Svay Rieng, <Kandal>

1 and Takeo <provinces and areas along the border as well>. And
2 <sometimes>, it was said that the Khmer Rouge were able to go
3 deep in until -- and they could reach Prey Nokor. <But they did
4 not discuss Vietnamese incursions in Cambodia, even up to 7
5 January, no one talked about it>.

6 [11.00.14]

7 BY MS. GUISSÉ:

8 Q. Now, regarding the same document again, <E3/73115 (sic)>, here
9 I will be focusing on <what seems to be> a Vietnamese article
10 called "Quan Doi Nhan Dan <Report of Uprisings in Cambodia>" --
11 so 23 October 1978 is the date -- where a priori speaking,
12 there's a press article describing rebellions, Cambodian
13 rebellions, against the Ieng Sary-Pol Pot clique in October 1978.
14 And what I wanted to know is if you ever heard at S-21 about this
15 kind of rebellion that took place in October 1978 and if you
16 noted then that there was an arrival of new prisoners around that
17 period.

18 MR. PRAK KHAN:

19 A. I cannot recall that as this matter happened many years ago.

20 Q. Another point I'd like to discuss with you regarding the end
21 of 1978 again; before this Chamber, several witnesses spoke about
22 the visit of two foreign journalists and of a professor,
23 Professor Caldwell, who died during that visit, who was
24 assassinated. So my question is: Did you ever hear or do you
25 remember if this issue was discussed at S-21 -- that is to say,

41

1 the assassination of this foreign professor and if this had any
2 effects on your work at S-21?

3 A. I did not hear or know anything regarding this Mr. Caldwell; I
4 only heard about it just <now>.

5 [11.02.55]

6 Q. Do you remember, even if you might not have heard about <the
7 death of> Professor Caldwell, <do you remember if you heard about
8 foreign journalists visiting> around that period?

9 A. No, I did not hear anything about that.

10 Q. Now, I'd like to speak about a specific point regarding Duch.
11 In your statement, E3/79; French, ERN <00164585>; Khmer, ERN
12 00146594; English, ERN 00161554; you spoke about <the method for>
13 pulling out nails of certain prisoners <as a violent measure>
14 saying that the idea of such a method came from Duch.

15 So my question is the following: When did you hear Duch speak
16 about this; was this during a training session or is it someone
17 else who told you about this torture method as having been
18 recommended by Duch?

19 [11.04.45]

20 A. Regarding the mistreatment of prisoners by pulling out their
21 nails, at the political school, Duch gave us his instructions on
22 this matter -- that is, to use a round-head needle to insert it
23 under the nail and that the method he taught us and that was the
24 first time that I heard about this kind of method and it was
25 taught to us by Duch.

1 Q. I'm putting this question to you, witness, because at the
2 hearing of 16 June 2009, document E3/5800, a little bit after
3 3.15<.55> in the afternoon, Duch said that he heard about this
4 method, but this is what he said regarding this method and I
5 quote "Then I warned the interrogators that they should not
6 continue; otherwise, I would report that to my superiors. Hor
7 said that he had not pulled out any nails and that he had not
8 gone so far as pulling out nails with pliers. Based on this
9 warning, this practice was discontinued." End of quote.
10 So Duch, therefore, said that not only he did not give such
11 instructions, but especially that he was against the use of such
12 a method and that he asked that such a method be discontinued, so
13 does that correspond to what you remember or not?
14 [11.06.50]
15 A. Duch never told us to stop pulling out nails because it was
16 him who instructed us to do that. Maybe <he made> that statement
17 in order to avoid himself being in trouble.
18 Q. You said -- when you were examined last week -- that you saw
19 Son Sen only once during a training session that was a political
20 training session. And <witness> Lach Mean testified <in this
21 trial> as well, and he said -- at the hearing of 26 April 2016 at
22 2.24.57 in the afternoon, he said the following -- and I quote:
23 "I saw Son Sen who came to give political training sessions at
24 S-21. Based on my recollections, he came quite often. He came
25 four to five times to conduct these political training sessions

1 at S-21." End of quote.

2 So my question is: Is this something that refreshes your memory?

3 Did Son Sen come often to S-21, as Lach Mean said, or do you

4 stand by what you just said; that -- that is to say that you only

5 saw him once?

6 [11.08.37]

7 A. As for Son Sen coming to S-21, I previously stated that, to my

8 recollection, I saw him coming to S-21, but I cannot recall for

9 sure whether he came for one time or twice <because it happened a

10 long time ago>. And when Son Sen came to S-21, he never came to

11 the prison buildings; he was only at the political school <near

12 Duch's house>.

13 Q. Now, regarding this point specifically, the Co-Prosecutor put

14 to you the question of the possible existence of a hierarchical

15 link between Son Sen and Duch, but you did not really answer that

16 question, so I'm putting that question to you again. So do you

17 know if there was any kind of hierarchical relationship between

18 both of these individuals?

19 A. Duch and Son Sen had their communication and it was like they

20 -- it was communication between the leadership level to the

21 leader of S-21.

22 Q. So I understand from your answer, therefore, that Son Sen --

23 or based on what you noted, that you considered that Son Sen was

24 Duch's superior; is that what I must understand?

25 A. Yes, that is correct.

1 [11.10.42]

2 Q. In the last point regarding your training, you said that there
3 were issues of confidentiality, <secrecy,> that everybody had to
4 conduct their interrogations without sharing information <with
5 each other>, but <generally speaking,> do you remember if the
6 principle of secrecy, which we spoke about quite often in this
7 trial, was also passed on to you during the training sessions?

8 A. During each study session, we were repeatedly reminded to
9 remain confidential and to maintain secrecy and that we should
10 plant <a> kapok tree -- that is, to keep <quiet> and not spread
11 information from one person to the next.

12 MS. GUISSSE:

13 I'm done with my cross-examination, Mr. President.

14 [11.12.13]

15 MR. KOPPE:

16 Like I said before, Mr. President, I hope I could conclude my
17 questions in two sessions, but I'm not sure, but I will strive
18 to, so my request, again, is to be allowed to continue
19 questioning the witness.

20 If you are interested, I'm happy also to tell you the topics that
21 I would ask -- I'd like to ask some additional questions about
22 the whole blood-drawing incident or incidents that he speaks
23 about, the matter of the Vietnamese baby that he talked about,
24 the arrest of spouses and children, in general, his last day in
25 S-21, 7 January '79, some follow-up questions, the questions of

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1 my colleague, questions about Khmer Serei, Khmer Sar, question
2 about annotations on confessions. So there are quite some topics
3 that I haven't addressed yet that I would like to address with
4 the witness.

5 MR. DE WILDE D'ESTMAEL:

6 Mr. President, we presented our position earlier and our position
7 remains unchanged.

8 [11.13.40]

9 MR. PRESIDENT:

10 And what about the Lead Co-Lawyers for civil parties?

11 MS. GUIRAUD:

12 We will rely on the Chamber's <discretion>.

13 MR. PRESIDENT:

14 The Chamber will not grant the request of <> counsel for Nuon
15 Chea. And due to the discussion this morning, the Chamber will
16 grant additional 15 minutes <> -- that is, the time that we used
17 to discuss the matter in relation to the confession.

18 So counsel, you have 15 minutes -- that is, from now until
19 <11.30>.

20 [11.14.44]

21 QUESTIONING BY MR. KOPPE RESUMES:

22 For the record, Mr. President, we consider that to be a flagrant
23 violation of the fair trial rights of Nuon Chea.

24 Q. Having said that, let me start, Mr. Witness, by following up
25 something you said in response to questions Khieu Samphan counsel

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1 and it was about the method of putting needles underneath the
2 nail of a prisoner. You said that you didn't hear this -- you
3 said you didn't hear Duch say anything about this.

4 But is it true that you were gone from S-21 for a long period in
5 1978?

6 MR. PRESIDENT:

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

9 [11.15.52]

10 MR. DE WILDE D'ESTMAEL:

11 Just an issue of translation because in French we heard that the
12 question was that you did not hear Duch speak about the method of
13 inserting needles under the nails; I think it should be
14 formulated in the positive mode<, given how the witness spoke
15 about that>. <I do not know if it was an issue with the
16 interpreting, but> I really did not understand the question, so
17 could the question please be put again to the witness?

18 BY MR. KOPPE:

19 Let me rephrase to be clear.

20 Q. Mr. Witness, is it correct that you were gone from a -- for a
21 long time from S-21 in 1978 because of your battlefield injuries?

22 MR. PRAK KHAN:

23 A. During 1978, there was a relapse of my injuries since I was
24 wounded in the battlefield -- that is, I had problem with my
25 lung, at the time, and for that reason, <I> needed long treatment

1 during that year, so I did not work and I was treated.
2 There was a female medic, Phon (phonetic), who was also a
3 prisoner at S-21, <she was from China. She> treated me with
4 acupuncture needles <for several months> and later on, I
5 recovered and I resumed my work <in late 1978>.

6 [11.17.36]

7 Q. When you came back after your recovery, were you, somehow,
8 brought up to speed either by Duch or by the chief of your group
9 as to what, at that time, the policy was within S-21?

10 A. Please repeat your question.

11 Q. You were brought to the hospital; you were treated for a long
12 time, you said, in 1978; when you came back to S-21 and started
13 interrogating again, did someone tell you what the policy was
14 toward the prisoners who were interrogated and what methods could
15 be used, what was decided about this in the months that you had
16 been gone?

17 A. After I resumed my work, there <were> no new instructions
18 given to me; I simply resumed my line of work.

19 Q. And in relation to the times that you saw Son Sen; you said
20 you saw him once, maybe twice, at the political school, did you
21 see him before you went back to the hospital to be treated or
22 afterwards?

23 A. To my recollection, I saw him before my treatment.

24 [11.19.35]

25 Q. You were not able to give an estimate when asked this question

1 in -- during the time that you were questioned in this courtroom;

2 I'm asking you it again today.

3 Can you give us an estimate as to how long you were away from

4 S-21; was it months; was it weeks; was it maybe a full year? You

5 talked about a long time; what does -- what does that mean, a

6 long time?

7 A. I cannot recall the period that I was hospitalized; it could

8 be between four <and> five months.

9 Q. Thank you, Mr. Witness. Now, let me move on to the procedures
10 of the confessions itself.

11 Once you typed a definite version of a confession, how many

12 copies were made in total? I presume you used the old-fashioned

13 carbon paper as it is called. How many copies did you make from

14 the original typewritten document?

15 A. At that time, there was no photocopy machine. I used <a

16 typewriter and> carbon papers and I made six copies.

17 [11.21.35]

18 Q. For every confession, there were six copies, so going to

19 Chhon's confession, to be more specific, you made six copies of

20 Chhon's confessions; is that correct?

21 A. Yes, that is correct. There <were> six copies.

22 Q. And do you know where each of those six copies would go to? I

23 presume one would go to the archive, but where did the other

24 copies go to; do you know?

25 A. I didn't keep any of the six copies. I gave <them> all to Duch

1 and I did not know who he gave copies to.

2 Q. Do you know whether Duch, in his turn, sent clean copies to
3 others or did he send copies with his annotations to others?

4 A. I did not know which copies he sent to upper echelon. I only
5 knew that I gave them to Duch and if he needed to make an
6 amendment, he would return them to me.

7 [11.23.22]

8 Q. But is it fair to say that when you were completely done with
9 a -- interrogating a prisoner; when you were, for instance,
10 completely done with Chhon, there were six clean copies of his
11 statement; correct?

12 A. Yes, that is correct.

13 Q. Let me move on now to some questions on the final days that
14 you were at S-21. You gave quite a bit of testimony already about
15 tanks approaching and the decision to hastily leave the premises
16 of S-21 on the 7th of January '79. I have a questions -- I have a
17 few questions about, let's say, the week -- the two weeks before
18 7 January 1979.

19 Did you get an order or did your group get an order from Duch or
20 anyone to destroy the administration of S-21; to burn, for
21 instance, the confessions, to burn the prisoner records, to burn
22 the photos; did you ever get such an order?

23 [11.25.11]

24 A. Toward the end of the regime and about two weeks before 7
25 January 1979, there was no instruction to bring in prisoners for

1 interrogation; it means the interrogation ceased and we only
2 stayed at the house <where> we stayed.

3 As for the remaining documents or the documents that we threw in
4 the rubbish bins<, it> had to be destroyed and that is related to
5 our interrogation team, but I did not know <what> Duch <did to
6 people in the buildings> or about what he did to other teams or
7 units.

8 Q. But were you, yourself, involved in the actual destruction of
9 any piece of paper of S-21?

10 A. As for documents, besides documents within my <workplace>, no,
11 I did not <touch them>. <I> only burned away the wasted documents
12 <or the draft documents>.

13 Q. Did you or anyone working at S-21 take with you, when you were
14 escaping, documents or administration from S-21?

15 A. I cannot tell you about the other people. As for me, I did not
16 bring any <documents>; I only <had> a backpack with some of my
17 clothes.

18 [11.27.15]

19 Q. Just returning, a bit, to those last two weeks, did you see
20 any fires of houses where interrogations took place? Did you see
21 a fire, for instance, in the house where prisoners were received,
22 the Beehive radio station; did you see any clear attempts of
23 destruction?

24 A. There was no burning down of the interrogation office; the
25 table, the shackle, <and> the shelf remained intact and later on,

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1 even when I returned, those materials were still there.

2 Q. I will leave the bigger subjects, Mr. President. One last
3 follow-up question in relation to something that the Khieu
4 Samphan counsel just asked: you said that only trucks would enter
5 the premise of S-21, trucks with prisoners; do you know whether
6 there were also other cars with prisoners coming into the
7 premises of S-21 and its outer perimeter?

8 A. <Of> all the vehicles, I did not see any other vehicles except
9 the S-21 vehicles, since S-21 <had> this means of transport to
10 bring prisoners in and besides S-21 vehicles, I did not see any
11 other vehicle.

12 [11.29.30]

13 Q. Have you ever -- have you ever heard of a prisoner called Ung
14 Pech?

15 A. No, the name does not ring a bell.

16 Q. He was one of the prisoners that survived that was -- at least
17 so that's how it's presented, but he was in S-21 working,
18 presumably, as some sort of mechanic, Ung Pech.

19 A. I know Ta Pech.

20 Q. Ta Pech, we'll call him Ta Pech. He told interviewers that he
21 wasn't brought into S-21 in a truck, but in a Peugeot 404; do you
22 know whether normal cars were also used to bring prisoners?

23 A. I didn't know about his account; I only knew that Ta Pech was
24 a mechanic and we actually were fleeing together on the 7 January
25 1979 and we reached Amleang together; however, later on, we

1 separated.

2 [11.31.19]

3 MR. KOPPE:

4 It's 11.30, Mr. President, and as I said, I have a few important
5 subjects to cover.

6 MR. PRESIDENT:

7 Thank you.

8 And Mr. Prak Khan, the Chamber would like to thank you and the
9 hearing of your testimony as witness can now be concluded. Your
10 testimony may contribute to the ascertainment of the truth in
11 this case and you are no longer required to be in the courtroom
12 and you may return to wherever you wish to and the Chamber wishes
13 you all the very best.

14 [11.32.03]

15 And Mr. Mam Rithea, the Chamber would also like to thank you and
16 you are also excused.

17 Court officer, please work with WESU to make transport
18 arrangement for Mr. Prak Khan to return to his residence or
19 wherever he wishes to go to.

20 This afternoon the Chamber will commence hearing testimony of
21 another witness -- that is, 2-TCW-808, in relation to S-21.

22 It is now time for our lunch adjournment. We take a break now and
23 resume at 1.30.

24 Security personnel, you are instructed to take Khieu Samphan to
25 the waiting room downstairs and have him returned to attend the

1 proceedings this afternoon before 1.30.

2 The Court is now in recess.

3 (Court recesses from 1132H to 1330H)

4 MR. PRESIDENT:

5 Please be seated.

6 This afternoon the Chamber will start to hear a witness,

7 2-TCW-808; however, before proceeding to hear this witness, the

8 Chamber wishes to hear <the parties'oral> submissions,

9 particularly in relation to the request of defence team for Nuon

10 Chea for the adjournment of hearings of witnesses in relation to

11 S-21 at document E402.

12 [13.31.51]

13 On Friday, 29 April 2016, the Chamber sent an email through

14 Senior Legal Officer informing parties that the Chamber <intends>

15 to hear oral <submissions> <from the> parties on two issues:

16 1) Should the Chamber adjourn this hearing and <if so,> how many
17 days is proper for the adjournment, and;

18 2) Do parties have any objections to the admissibility of

19 documents that were used for the basis of <> the revised list of

20 S-21 prisoners <prepared by the Office of Co-Investigating

21 Judges?>

22 [13.32.49]

23 <Because this request might affect the schedule of the hearings

24 that the Chamber has already set,> the Chamber is now hearing the

25 submissions and responses of parties so that the Chamber can have

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1 the basis for deliberation and a decision on the issues.

2 First, the floor is given to the Co-Prosecutors to register their
3 oral arguments in relation to the request by the defence team for
4 Nuon Chea. You can take the floor now, Co-Prosecutor.

5 MR. LYSAK:

6 Thank you, Mr. President.

7 Let me say that first, the Co-Prosecutors are opposed to the
8 lengthy four-week adjournment that is sought by the Defence. Let
9 me make a few observations on the basis of the request.

10 The argument that the new OCIJ S-21 prisoner list makes --
11 suddenly makes an adjournment necessary, we believe is not valid.

12 The underlying records, the S-21 prisoner records, which
13 establish the numbers of prisoners and the identities of
14 prisoners who were at S-21 and who were executed, have been
15 around a long time. They've been at DC-Cam and Tuol Sleng for
16 many years; many, many years. They've been on the case file
17 almost since these investigations first began back seven years
18 ago, eight years ago.

19 [13.34.40]

20 If the Defence felt it was necessary to do what they are talking
21 about in this request -- that is, to go through and examine,
22 document-by-document, every S-21 prisoner record, they should
23 have begun this a long time ago. So we simply don't feel that
24 there is any legitimate reason to have a four-week adjournment in
25 these proceedings.

1 Certainly, the Defence has a fundamental right, a fair trial
2 right, to adequately prepare. These allegations relating to S-21
3 are part of a Closing Order that was issued back six years ago,
4 so the Defence certainly has had adequately -- adequate time to
5 prepare on these issues.

6 That said, so, while we are very much opposed to a four-week
7 adjournment, noting that there is a public interest in these
8 proceedings moving and moving to completion. While we -- the
9 Court needs to ensure, obviously, that the Defence -- the
10 Defence's rights are protected, it also has to have in mind the
11 interests of civil parties and others who have been waiting many,
12 many years for these -- for this case to come to completion.

13 [13.36.26]

14 That said, we feel there's a different -- possibly a different
15 avenue in which the Court could give some more time to the
16 Defence to prepare for at least two of these witnesses but, at
17 the same time, keep the trial moving so that we don't lose
18 valuable trial days and stay -- stay continuing to make use of --
19 of this -- of the Court days.

20 What we have in mind is that we have three remaining S-21
21 witnesses that the Defence has asked to be postponed. One of
22 these -- I should say there are four, including the witness
23 who'll be heard next, but they're -- the three witnesses after
24 that are the witnesses the Defence would like to postpone. One of
25 them, in our view, 2-TCW-906, is not a witness who is so much

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1 connected to the S-21 prisoner lists which is the core basis of
2 the Defence saying, "We need more time." This is a witness who
3 will primarily testify to general events that went on at Choeung
4 Ek and other sites and not so much a person for whom specific
5 prisoner records are pertinent. So we certainly believe that the
6 Court should continue and hear 2-TCW-906 this week.

7 [13.38.17]

8 The next two witnesses, 2-TCW-816 and 916, we do recognize that
9 these are very complex witnesses who have a lot of -- not only a
10 lot of past interviews, but do have a lot of relevant S-21
11 documents. So there is a way for this Court to give the Defence
12 more time for these two witnesses, but keep the trial moving
13 forward and that would be to complete the next witness and 906
14 (sic), the following witness, this week and we would suggest, as
15 an alternative to adjourning, that next week, the Court could
16 call a few of the internal purge witnesses.

17 There are a number of those witnesses, which are very much
18 connected to the S-21 section, who are relatively easier
19 witnesses to prepare for; witnesses who have one interview or in
20 one case, one civil party application and just so we have a clear
21 record, the purge witnesses that we think it would be feasible --
22 if, of course -- subject to availability and the Court's ability
23 to bring them here -- civil party 2-TCCP-236 is someone whose, to
24 my knowledge, only available statement is their civil party
25 application; 2-TCW-917, 2-TCW-812, 2-TCW-976, these are all

1 witnesses that have, to my knowledge, one or perhaps two
2 statements.

3 [13.40.18]

4 So, one alternative that would allow the Court to continue the
5 trial moving forward, but give the Defence time to prepare for
6 these two more complex witnesses would be to first hear some of
7 the internal purge witnesses. We then have the week -- planned
8 week adjournment for the King's birthday. When we return from
9 that, the Court could either hear a few more purge witnesses or,
10 at that point, return to these two complex S-21 witnesses.

11 So we think that is an avenue by which the Court can give the
12 Defence more time to prepare, but keep this trial moving along.

13 [13.41.05]

14 I would note the Defence has had a number of adjournments or
15 breaks this year already. We just came off of April where there
16 was a week adjournment for Khmer New Year and in February, there
17 was a lengthy adjournment while we had the Supreme Court
18 hearings. While that was not a break for the Khieu Samphan team
19 and the Co-Prosecutors, the Nuon Chea defence did not
20 participate, so they had that time off. So they've had a number
21 of breaks this year already and we simply think a request for
22 four weeks is unreasonable.

23 Thank you, Your Honours.

24 JUDGE FENZ:

25 I have one question for the prosecutor; actually two, but they're

1 related.

2 You are aware there is an alternative request by the Nuon Chea
3 defence to basically let the Co-Prosecutors and the Co-Lead
4 Lawyers start and proceed with -- with those three witnesses on
5 the Defence side at a later stage.

6 Two questions in this context; first of all, your reaction to it
7 and secondly, should the Chamber decide to do that, would the
8 Prosecution be ready to comply?

9 [13.42.33]

10 MR. LYSAK:

11 I don't think we are -- we'd view very favourably the idea of
12 having three witnesses in a row who only are examined by the
13 Co-Prosecutors and then weeks later, we come back for them to be
14 cross-examined. I don't think that is the most efficient way to
15 proceed.

16 I would note in the case of the last of the witnesses, it's going
17 to be a lengthy proceeding. We're going to have several days, so
18 the Defence is going to have substantial time to prepare while
19 that is going on, in any event, so it certainly would not be our
20 view that it is an ideal way to proceed to split up three
21 witnesses in a row like that.

22 [13.43.27]

23 In answer to your question, we are certainly ready to prepare for
24 -- proceed with the next two witnesses if that would involve the
25 Defence not examining and, therefore, the dates moving up, we'd

1 have to step things -- in other words, if you're saying that
2 instead of us having two days with these witnesses, we'd only be
3 spending one day; therefore, they would be coming a lot quicker
4 than we're expecting, if you understand me.

5 JUDGE FENZ:

6 I do, but--

7 MR. LYSAK:

8 Yes.

9 JUDGE FENZ:

10 --you have to answer--

11 MR. LYSAK:

12 Yes.

13 [13.44.08]

14 JUDGE FENZ:

15 --my question in the end. Should we decide to do that, would that
16 be a preparation problem for the Prosecution?

17 MR. LYSAK:

18 That's what I'm trying to say. Only if it meant, for example,
19 that we were starting 2-TCW-916, for example, at the end of this
20 week. Because we're only doing one-day examinations now, we
21 certainly do need until next week to be ready for that individual
22 and there are, obviously, other considerations there, but we will
23 move and do our best under whatever you decide. There's obviously
24 always more time one can use with witnesses of this nature, but
25 we will be ready to proceed, as best we can, whenever.

1 [13.44.58]

2 I realize I didn't answer one of your other questions, too, which
3 was, obviously, we have no objection to the underlying records
4 being admitted. Any party, in our view, that finds records that
5 are cited in the OCIJ list which aren't admitted now, we have no
6 objection to anyone putting those into evidence should they wish.

7 I do want to make one remark. There's an indication here that
8 it's problematic that the OCIJ list cites DC-Cam numbers instead
9 of other case file numbers. I'll note that in ZyLAB, there is a
10 field for the DC-Cam document numbers so you can search in ZyLAB
11 by the DC-Cam numbers, so that shouldn't be -- shouldn't be a
12 problem in terms of searching for these records to the extent
13 parties wish to follow up on individual prisoners.

14 [13.46.04]

15 MR. PRESIDENT:

16 And now the Chamber gives the floor to the Lead Co-Lawyers for
17 civil party. You may proceed.

18 MS. GUIRAUD:

19 Thank you, Mr. President. I would like to make a few brief
20 remarks.

21 For a start, I would like to say what I say practically whenever
22 such discussions come up; notably, that the civil parties have a
23 direct interest in ensuring that the trials move forward and
24 close rapidly. But, of course, the rights of the civil <parties>
25 to an expeditious trial cannot be ensured at the expense of the

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1 <rights of the> Defence and that is why I would rely on the
2 discretion of the Chamber <so that> the balance between the
3 rights of all the parties to an expeditious trial and the rights
4 of the Defence <may> be ensured by the Chamber satisfactorily.

5 [13.47.04]

6 To respond to the questions raised by the Chamber in its email
7 dated <last> 29th of April, I would like to, first of all,
8 respond to the second question because it appears to have an
9 impact on the first question.

10 As regards the second question as regarding whether we have
11 objections to the admissibility into evidence of documents that
12 the basis <of> the list of the OCIJ, my response is that we do
13 not object to the admission of those documents but, on the
14 contrary, would wish that those documents be admitted and if we
15 understand the meaning of the Chamber's email, it would be up to
16 the Chamber to identify those documents and to include them in --
17 on the trial record at its own behest. That is how I understand
18 the email.

19 [13.48.06]

20 As regards to the <number of> new documents that could be
21 admitted into evidence, we are of the view that the Chamber
22 should be able to answer the first question -- that is, the
23 question regarding the adjournment. On that point, once more, we
24 will rely on the discretion of the Chamber. Our interest, once
25 more, is to ensure that the trial moves forward, but that it

1 moves forward while respecting the rights of all the parties.
2 As regards the proposals made by the Nuon Chea defence team in
3 Document E402 and, in particular, the proposals in paragraphs
4 32(b) and (c), we do not see the interest in having a trial
5 management meeting. We believe that the discussions we are having
6 today would suffice to resolve that issue.

7 [13.49.06]

8 We are also firmly opposed to the proposal made in paragraph
9 32(c) and we urge the Chamber to find a solution that would
10 enable the Chamber to respect the rights of all the parties so
11 that we do not find ourselves in the situation in which we would
12 have to split the testimonies of some witnesses and civil parties
13 who appear before the Chamber.

14 And we hope that the Chamber will find a means of hearing the
15 testimonies of witnesses in a continuous manner so that all the
16 parties can put questions to the witnesses and civil parties one
17 after the other.

18 As for the proposals that have just been made orally by the
19 Co-Prosecutor, that is to say that some of the witnesses who are
20 called to testify on internal purges should be called before
21 certain important witnesses who are due to testify on S-21, we
22 will endeavour to prepare ourselves accordingly if the Chamber
23 were to adopt that proposal.

24 And we rely on the Chamber to balance the rights of the parties
25 in a fair manner.

1 [13.50.32]

2 MR. PRESIDENT:

3 Thank you.

4 And now the floor is given to the defence team for Mr. Khieu
5 Samphan to <make> any arguments or observations and also to
6 respond to the questions put by the Bench a while ago. You may
7 proceed now.

8 MS. GUISSSE:

9 Thank you, Mr. President. I would like to start by saying that on
10 behalf of the Khieu Samphan team, I <can only> say that we
11 endorse the request for an adjournment of the proceedings made by
12 the Nuon Chea team for obvious reasons.

13 And I must say that the discussions we are having now are very
14 revealing of the kinds of problems in terms of preparation that
15 the Defence may have in this segment and in terms of the
16 sequencing of witnesses.

17 [13.51.30]

18 First of all, as regards the first point, we support the Nuon
19 Chea defence team application <and I will go into that in a bit,>
20 and we also support what he says regarding the admissibility of
21 documents, <that served> as a basis for the OCIJ's list of
22 witnesses. And <it goes without saying that if the> Chamber
23 <admitted that list> into evidence<,> all documents that have
24 helped in laying the foundation for the establishment of that
25 list are relevant issues for the <debates>.

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1 <That is to answer the Chamber's questions. Now, about
2 preparation.> I find it very revealing that the Co-Prosecutors in
3 answer to the question whether -- if they had to hear certain
4 witnesses before others, and if they were to grant the Defence
5 application<, at least partially>, explaining that they need time
6 to prepare for themselves and that it is necessary to adjust the
7 schedule of the Chamber. I'm not saying <this> for the first
8 time<, but I'll say it again.>
9 [13.52.47]
10 When you look <at things head on, from> the other side -- that
11 is, <from the other side of the bar>, we have a number of
12 Co-Prosecutors who work in a rotation. We have the International
13 Co-Prosecutor who is here present today<, who> was not here when
14 the previous witness testified and, I suppose, that in terms of
15 preparation that also means that the way the Prosecution operates
16 is different <from the Defence,> in terms of time management.
17 And <that is why> -- to say <today> that for us to be able to
18 resolve the times required by the Defence to prepare themselves,
19 the solution proposed by the Co-Prosecutors to have certain
20 witnesses testify on the purges before others, that wouldn't help
21 us at all. It would pose more problems, in fact, because we are
22 stretched beyond limit and we have an agenda that has been
23 scheduled by the Chamber. <So, to have certain witnesses testify
24 before others, that just means that the work, for which> we
25 envisaged using a <certain> number of days <and a certain

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1 division of work within the team would be shaken up, and would
2 not permit us to correctly exercise our rights as the Defence.>
3 And in the face of such a situation -- we are talking of equality
4 of arms -- and we have all admitted that it is equality in
5 principle. <Even if> it is not real.

6 [13.54.06]

7 <But in> this particular context -- and when we talk about an
8 important segment and we talk of rescheduling the appearance of
9 witnesses, it wouldn't solve any problem to us.
10 So <that is why -- it's true, we always have> the impression that
11 the Defence is asking for time and we are <trying to waste> time.
12 That is not the case. <We do not want to waste time, we> are
13 actually trying to <make up time we wouldn't get otherwise>.
14 The time we spend in the courtroom is not the same as the time we
15 spend in our offices preparing to take <witness> depositions.
16 <When we are at the hearings, we attend the hearings, we> prepare
17 for examination of witnesses<, we see if we should ask this
18 question or that, or if we shouldn't ask it, but> we are always
19 present here in the courtroom and we are not able to do anything
20 else, which means that <even when> we have <teams> preparing for
21 future proceedings, we do not have the <means, while we are in
22 the hearing,> to work on other things.

23 [13.55.04]

24 This is something very important and that is why we are of the
25 view that if the Court were to give the Defence the <means to do

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1 its essential work effectively, and not a job where, in general,
2 we do what we can, and let the chips fall where they may...> But
3 what we are asking for is to <have some time> to work when there
4 are no hearings and so that we can <-- the same way that the
5 Co-Prosecution does when they are on rotation, so we can
6 dedicate> ourselves <fully to> the depositions of <this or that>
7 witness<.>
8 <That is why we cannot work the same way as the Co-Prosecution,
9 and say, "bring> forward certain witnesses who <were> supposed to
10 testify <in> a week or two<," because in> concrete terms, we do
11 not have the means in terms of human resources and time. <Because
12 at some point, there are only 24 hours in a day, and at some
13 point, sometimes> we -- and our teams<,> should <have reasonable
14 working hours>. I am not saying "normal working hours," but just
15 "reasonable hours" because no one can do <the> impossible. That
16 is what I would like to say in response to the first remarks by
17 the Co-Prosecutors.
18 [13.55.59]
19 I believe that if we really want to allow the Defence to prepare
20 themselves appropriately, particularly on this <matter
21 specifically, given the huge amount of> materials we use, we
22 don't have any choice other than to adjourn for a <few> days.
23 If the Chamber were not to grant the Nuon Chea defence
24 application which we support, the only other solution that would
25 be less likely to prejudice the rights of the Defence <and our>

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1 preparation <would be --> since everyone says <it's always easier
2 to be> ready, so the only solution would <simply> be
3 <examinations of scheduled witnesses by> the Co-Prosecutor <and
4 possibly the civil parties,> and that we be allowed to use the
5 next recess<, the next hearing adjournment...> to try to <make up
6 lost> time<, given the difference in terms of organization
7 between the Defence and Co-Prosecution>.
8 <That is what I wanted to say, but once again>, yes, in principle
9 there is equality, but in concrete terms given the fact that we,
10 the defence counsels, are in Court <every day>, there are things
11 that we <simply> cannot do<, as we are only human>.

12 [13.57.35]

13 JUDGE FENZ:

14 Just one question: Would you be willing to quantify the term
15 "several days" because you talked about "we might need some time"
16 and you also said -- well, I think you tried to say several days?

17 MS. GUISSSE:

18 I thought that my answer was obvious in the sense that I said
19 that I support the Nuon Chea application. In principle we believe
20 that four weeks should be enough to enable us to come up to speed
21 in terms of our preparations.

22 [13.58.14]

23 MR. PRESIDENT:

24 Thank you.

25 And lastly, the floor is given to the defence team for Mr. Nuon

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1 Chea to respond -- or to reply to the responses of parties.

2 MR. KOPPE:

3 Yes, thank you, Mr. President.

4 Let me start by first fully endorsing the words of Khieu
5 Samphan's counsel so I do not have to repeat them. But what
6 counsel for Khieu Samphan is saying is exactly applicable to our
7 resources.

8 And what the Prosecution is saying shows that it really doesn't
9 have any idea as to how incredibly difficult it is right now for
10 the Defence to keep up.

11 [13.59.08]

12 I will get back to that but let me first start by saying
13 something in general, Mr. President. I think we need to put the
14 request for four weeks a bit into perspective.

15 Let me start by saying -- again, I have said that many times --
16 the right to an expeditious or speedy trial is the right of the
17 Accused; primarily foremost, the right of the Accused. If the
18 Accused thinks and with him his lawyers that he doesn't have
19 enough time and that, therefore, the trial will prolong with, in
20 this case, four weeks, then that is -- then so be it. It's his
21 right. It is not something that you should balance with the civil
22 parties.

23 It is primarily and predominantly a fair trial right.

24 [14.00.04]

25 Putting it in perspective, it's been now, I believe, eight years

1 and seven months since Nuon Chea was arrested and put in
2 pre-trial detention. Adding now, at this stage, a mere four weeks
3 to proceedings that have been going on since his first criminal
4 charge in September 2007 is of course completely reasonable and
5 not at all out of perspective. Four weeks when you compare it
6 with the total amount of time that we are now spending is
7 certainly not unreasonable at all.

8 Having said that, let me now address a few points the Prosecution
9 has raised. I will not repeat the arguments that we have made in
10 our motion E402. But let me say the following:

11 The Prosecution is saying when it comes to the new list of the
12 OCIJ that a lot of underlying documents have been available to
13 the Defence since we first got all of the case files. Of course
14 that is true. However, when the Office of the Co-Investigating
15 Judges started doing this research starting -- started doing this
16 -- making this complete new list, they apparently thought there
17 was a good reason to do so.

18 [14.01.42]

19 Just to mention one detail, there is -- one detail. It's not all
20 the detail -- there is a discrepancy of about 2,000 or even 3,000
21 persons, two and a half thousand persons, former prisoners
22 between the lists of the Prosecution and the OCIJ. Who are these
23 people that were not apparently noted in the lists of the
24 Prosecution and also, for that matter, in the judgment that the
25 Trial Chamber issued against Duch?

1 We don't really know which documents -- at least not in detail
2 which documents the OCIJ have been using, how the selection
3 process was.

4 As you can see in paragraph 12 of our motion, the OCIJ reviewed a
5 new 13,383 documents and these documents include S-21 prisoner
6 entry logs, biographies, S-21 staff logs, interrogation lists,
7 execution logs. So they went through all those documents and then
8 apparently relied when making that OCIJ list on 871 documents.

9 Does the Prosecution know which documents were already known to
10 the Chamber, to the other parties? I am sure they don't.

11 [14.03.21]

12 The reality is that we now have a list which at least prima
13 facie, seems to be more reliable than the list that was used by
14 the parties in Case 001 and the Trial Chamber. That new OCIJ list
15 is a reality. We haven't asked for it but you, Mr. President, and
16 the Chamber in its own motion, had that document, that list
17 added. So now it is part of our case file or soon to be. So just
18 pretending that that OCIJ list is not there and just, sort of,
19 assuming that we can just go quickly through it and then
20 everything will be fine, that is really not the case.

21 So -- and of course, in paragraph 13 and 14 we also describe
22 difficulties in analyzing the documents, the ERN numbers that
23 they are using, the DC-Cam is very difficult. But it is our task,
24 our job as defence lawyers, to really make sure that we
25 understand the methodology of that list; which documents were

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1 used.

2 [14.04.42]

3 And to just give you one example, when we used that OCIJ list,
4 ones with -- one of the witnesses who has testified here, we
5 discovered in the document on which the OCIJ relied and which is
6 not on the case file but on the shared DSS drive that there were
7 all kinds of interpretation issues.

8 So we believe that this OCIJ prisoner list is a fundamental new
9 element to this trial and the fact that it is overlapping to a
10 certain extent is irrelevant when it comes to deciding whether we
11 should have an appropriate time to review it. That is the first
12 general point.

13 The second general point, Mr. President, is actually equally
14 important and it goes to what the Prosecution said in relation to
15 one witness, the witness 906 who isn't really related to the
16 prisoner list, etc., and who has a different role. We really beg
17 to differ with the Prosecution in relation to that witness.

18 [14.06.08]

19 And then we actually - we come to our -- the second important
20 point of our request and that's something which I touched upon a
21 bit with the last witness before the lunch break but which is an
22 overriding very important issue.

23 In this very segment, the Prosecution and, for that matter, most
24 if not all Judges except for the reserve Judge, have all been
25 involved in Case 001. You've all prepared the examination of most

1 witnesses years ago.

2 The trial in Case 001 lasted 77 days. You were all involved
3 except for the present civil party lawyers. You were all involved
4 in those proceedings.

5 It is correct and what the Supreme Court has said that we have to
6 establish everything anew but sometimes, Mr. President, I get the
7 feeling that that is not something that is the reality of the
8 Court proceedings here today.

9 [14.07.28]

10 Talking about 906, there are literally thousands of documents
11 that we need to study and we need to read in order to be able to
12 fully examine that witness. And the very -- and the fact that
13 that witness or his testimony was long time on the case file is
14 not really so relevant because whatever a counsel has read two
15 years ago, by the time that the witness is actually coming up,
16 you have forgotten most -- part of it. And so that also applies
17 to new members in our Defence team. They weren't -- a lot of them
18 weren't there two years ago or three years ago or six years ago,
19 seven years ago.

20 So it's very important that the Chamber understands that
21 everything that is coming in this particular segment is new to us
22 but it's not new to the Chamber. It's not new to the Prosecution
23 and that is -- that is what makes this fundamentally different
24 from other segments. With other segments -- Phnom Kraol or the
25 Trapeang Thma Dam -- we had the feeling that we were all on the

1 same level in terms of knowledge, in terms of preparation.

2 But the Prosecution can just continue asking the questions that
3 it wants to ask now that it didn't have the time to ask in Case
4 001.

5 [14.08.58]

6 So it isn't only this OCIJ list which is indeed a new and very
7 important element. It is also the fact that the upcoming three
8 witnesses are so important and the evidence involving them is so
9 huge that a request to have a mere four weeks in order to be able
10 to properly prepare is a very reasonable request in the light of
11 the fact that we are already busy with this case for eight and a
12 half years.

13 MR. PRESIDENT:

14 Thank you, counsel.

15 And Judge Lavergne, you have the floor.

16 JUDGE LAVERGNE:

17 Thank you.

18 Just a point of clarification, Counsel Koppe. I'm not sure that
19 you answered the question. Do you have any objection if the
20 Chamber declares admissible all of the documents that support the
21 new list from the OCIJ?

22 [14.10.12]

23 MR. KOPPE:

24 Judge Lavergne, yes, I forgot to mention that.

25 We actually support the idea that all documents should be

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1 admitted to the case file. So our request is to have all
2 underlying documents.

3 Presumably, the number that I just mentioned, 871 documents, not
4 entirely sure what the other twelve and a half thousand documents
5 are that the OCIJ investigated, but I think we should at least
6 start with those 871 documents that it relied upon while drafting
7 the OCIJ list. So yes, at least to the 871 underlying documents;
8 possibly, but I cannot give you the answer now; also in relation
9 to the remaining -- what is it -- twelve and a half thousand
10 documents that the OCIJ list refers to.

11 [14.11.17]

12 MR. LYSAK:

13 Mr. President, we hear the issue of equality of arms all the
14 time, if I can just say something briefly on that.

15 First, I must take issue with the notion that the Prosecution has
16 a lot more resources. We added up the numbers earlier this year
17 or late last year. There are now four defence teams in Cases 003
18 and 004. When you add up the total size of the defence teams in
19 Cases 003 and 004 and the two defence teams here, when we last
20 checked they had more or the same number of lawyers and resources
21 as the Co-Prosecutors.

22 [14.12.02]

23 We don't just work on this case. The reason we rotate is a choice
24 for the way we want to manage our resources but all the lawyers
25 have responsibilities on other cases and, contrary to what some

1 people may hear, these other cases are extremely active right
2 now. So put to bed this notion that we have some advantage over
3 the Defence or that we don't understand how difficult this is.
4 Believe me, we've been in trial now for two years. You can
5 probably see the bags under my eyes some days when I walk into
6 this courtroom. It is extremely difficult and no question about
7 it.

8 We simply think that the proposal of four weeks is far excessive.
9 I don't think it's equal if the Prosecution have to examine three
10 difficult complex witnesses by itself back to back to back and
11 the Defence then have four weeks off to prepare to cross-examine.
12 That's not equality of arms.

13 [14.13.06]

14 We obviously like to have as much time as we can too and we have
15 to work weekends and nights. What I -- the point I am making is
16 four weeks is excessive. There is a different way to do this that
17 doesn't involve splitting witnesses and giving the Defence four
18 weeks to prepare.

19 You are probably going to have to look at moving forward some of
20 the purged witnesses anyway if the last S-21 witness, 916, can't
21 testify consecutively nine days in a row. We are looking in any
22 event at either moving forward some of the purged witnesses,
23 splitting up half days of that witness.

24 So in response to the Khieu Samphan's team, I think we have to be
25 ready for some of those purged witnesses, not all of them, and

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1 some of the easier ones to possibly be moved forward in any
2 event.

3 But mostly, I take issue with the notion that we have some
4 advantage here. We don't. I didn't work on Case 001. We are all
5 equal in this courtroom.

6 [14.14.21]

7 JUDGE FENZ:

8 I have just one question because there appears to be a difference
9 between the two defence teams counsel when it comes to the
10 alternative request which was if you can't give us time to
11 prepare then let the other parties start with the witnesses and
12 we will do it when we are prepared.

13 Counsel Guisse said, "It doesn't help me because I am sitting in
14 the courtroom anyway, no matter who is questioning."

15 Do I understand you correctly, Counsel Koppe, that you were
16 saying that those are the witnesses for whom the list is most
17 important? Is this the reason for the alternative request as a
18 possible option?

19 [14.15.03]

20 MR. KOPPE:

21 The alternative request is really an alternative and not so much
22 something that we really want because what Counsel Guisse has
23 observed is really applicable to us as well.

24 The fact remains that if we were to pursue the alternative I
25 would be sitting here listening because I need to object to

1 whatever the witness might be saying to certain questions. So I
2 need to pay attention.

3 So when I am here, obviously I cannot do anything else. So it is
4 really a distant alternative to what we ask primarily.

5 JUDGE FENZ:

6 But you make the request so how--

7 MR. KOPPE:

8 We try to see what is usual at the other tribunals. The
9 alternative that we suggested is something that you see often at
10 the ICTY and the ICTR, so that's why we presented this option as
11 well.

12 (Short pause)

13 [14.16.28]

14 MS. GUISSÉ:

15 Maybe a last observation regarding the issue of equality of arms,
16 I didn't quite understand the <International> Co-Prosecutor's
17 argument regarding the teams assigned to Cases 003 and 004
18 because, contrary to the Co-Prosecutors' office<,> which cannot
19 be divided <and which can interact with each other>, we in our
20 teams we do not have the possibility of working with the teams in
21 Cases 003 and 004. Nobody from the Cases 003 and 004 <from the
22 Defence> come<s> to help us and provide us with documents to help
23 us prepare our examinations. That's an important point.
24 And when also regarding preparation, I didn't say the Prosecution
25 doesn't work but I <noted> that when I am working on a witness

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1 sometimes I receive emails from other Co-Prosecutors who explain
2 or that they are going to use such and such document which I
3 suppose means that they are working on the future coming
4 witnesses whereas I am in the courtroom working with other
5 witnesses.

6 So these are small elements that allow us to note that the
7 <equality> of arms in terms of preparation for the witnesses of
8 this trial is not exactly a fact. So I would like the Chamber to
9 take note of these extremely <concrete and pragmatic> elements.
10 Maybe it's small potatoes here but this is our daily reality.

11 [14.17.58]

12 MR. PRESIDENT:

13 The Chamber would like to thank all parties in relation to their
14 responses and submissions and the Chamber will use them as the
15 basis for our decision so that it can be rendered in due course.
16 It is now appropriate to have a short break. We will take a break
17 now and resume at a quarter to 3.00.

18 The Court is now in recess.

19 (Court recesses from 1418H to 1438H)

20 MR. PRESIDENT:

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

22 Before inviting the witness to come to testify before the
23 Chamber, after hearing this witness, we'll start <hearing>
24 2-TCW-906.

25 And in relation to the request by the defence team for Nuon Chea

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1 and after hearing the submission responses and also replies of
2 parties, the Chamber will issue <an oral> ruling <> tomorrow.
3 Court officer, please invite the witness, <2-TCW-808 and the duty
4 counsel> into the courtroom.

5 (Short pause)

6 (Witness enters courtroom)

7 [14.41.45]

8 QUESTIONING BY THE PRESIDENT:

9 Q. Good afternoon, Mr. Witness. What is your name?

10 MR. MAK THIM:

11 A. My name is Mak Thim.

12 Q. Thank you, Mr. Mak Thim.

13 The written records of the interview, your name is written as
14 Makk Sithim. Have you ever used the name Makk Sithim?

15 A. That name was used in Pol Pot's time, Makk Sithim, and
16 currently I am also using the name Mak Thim. I use two names>.

17 Q. I am clarifying the name, your name Makk Sithim or Mak Thim.
18 You stated a while ago that your name is Mak Thim. Are the two
19 names referring to the same person or different people?

20 And my <following> question <> is: Did you <ever> work in S-21
21 during the <Democratic Kampuchea regime>?

22 A. I was working in S-21.

23 [14.43.12]

24 Q. And what, which name did you use during the time?

25 A. I used the name Makk Sithim.

1 Q. What about your current official name in your village or
2 locality? Is your official name Makk Sithim or Mak Thim? For
3 instance, which name do you use in the official identity card of
4 Cambodia?

5 A. I use the name Mak Thim.

6 Q. Thank you. So the Chamber notes that your official name is Mak
7 Thim and you used to be referred to as Makk Sithim as well in the
8 past.

9 And when were you born, Mr. Mak Thim?

10 A. I was born in 1962. I was born on the <> 4th April 1962.

11 Q. On the 5th or on the 4th? <In your statement, the date of
12 birth was 5th April 1962, is it correct?>

13 A. On the 5th of April 1962, Mr. President.

14 Q. And where were you born?

15 A. I was born in Ta Sokh village, Saeb commune, Kampong Tralach
16 district, Kampong Chhnang province.

17 [14.45.10]

18 Q. What about your current address, where you are living?

19 A. I am living in Saeb commune, Kampong Tralach district, Kampong
20 Chhnang province.

21 Q. And what is your current occupation?

22 A. I am a farmer.

23 Q. What are your parents' names?

24 A. Mak Teu, Toep Yan.

25 Q. And what about your wife? What is her name and how many

1 children do you have?

2 A. My wife's name is Sieng Im. I have six children. All of them
3 are sons.

4 Q. Thank you, Mr. Mak Thim.

5 Based on the report of the greffier, to the best of your
6 knowledge, you have no relationship by blood or by law to any of
7 the two accused, Nuon Chea and Khieu Samphan or to any of the
8 civil parties admitted in this case. Is the report correct?

9 A. That is correct, Mr. President.

10 [14.46.30]

11 Q. Mr. Mak Thim, before your appearance, have you already taken
12 an oath before the Iron Club Statue to the east of this Court
13 building?

14 A. I took an oath already, Mr. President.

15 Q. Mr. Mak Thim, I am now informing you of your rights and
16 obligations.

17 Your rights: As a witness in the proceedings before the Chamber,
18 you may refuse to respond to any question or to make any comment
19 which may incriminate you: the right against self-incrimination.

20 Your obligations: Mr. Makk Thim, as a witness you must respond to
21 any questions by the Bench or relevant parties except where your
22 response or comments to those questions may incriminate you as
23 the Chamber had just informed you of your rights as a witness.

24 [14.47.38]

25 As a witness, you must tell the truth that you have known, heard,

1 seen, remembered, experienced or observed directly about an event
2 or occurrence relevant to the questions that the Bench or parties
3 spoke to you.

4 Mr. Mak Thim, have you ever provided interviews or have you ever
5 <been> interviewed by the investigators of the OCIJ so far? If
6 so, how many times did they take place and where?

7 A. It happened -- they happened a long time ago. I cannot recall
8 the date that -- the exact date when I was interviewed. <However,
9 I was interviewed once>. It happened during the time that my
10 parents were alive at the time.

11 Q. So in total, did you provide only one interview to the
12 investigators of the OCIJ <of the ECCC> or did it happen several
13 times? Do you recall that?

14 A. They went to my house on one occasion to interview me at the
15 time when it was in my village.

16 [14.49.19]

17 Q. Thank you. Before your appearance, <did> you read and reviewed
18 the written record of the interview that you stated you provided
19 once <at your house> to the investigators of the OCIJ?

20 A. I can recall some but not all.

21 Q. Have you reviewed the written record of the interview?

22 A. I have reviewed some parts of it.

23 Q. To your recollection, does that written record of the
24 interview you read correspond to the testimonies or statements
25 you provided to the investigator once at your house?

1 A. It is consistent, some of it.

2 Q. Some of it? What about other parts of your written record of
3 interview? Is the other part of the interview consistent and
4 which part is not consistent with your previous statement? Can
5 you tell the Chamber?

6 A. Perhaps I may have overstated in the written record of the
7 interview and I cannot recall what I said at the time since that
8 interview happened several years ago.

9 [14.51.20]

10 MR. PRESIDENT:

11 Thank you. And now you have the duty counsel that the Chamber
12 provided to you to assist you. His name is Moeurn Sovann.

13 And on the basis of Internal Rule 91bis of the ECCC, the floor is
14 given first to the Co-Prosecutors. The combined time for
15 Co-Prosecutors and Lead Co-Lawyers for civil parties is two
16 sessions.

17 You can proceed now.

18 [14.51.35]

19 QUESTIONING BY MS. SONG CHORVOIN:

20 Thank you, Mr. President. Thank you, Your Honours. Good
21 afternoon, everyone in and around the courtroom.

22 Q. Good afternoon, Mr. Witness. I am Song Chorvoin. I am the
23 National Deputy Co-Prosecutor. I have several questions to put to
24 you, Mr. Witness.

25 Mr. Witness, you provided the interview to the investigators of

1 the OCIJ several years <ago> and you <gave> that to the
2 President. <Before> I ask you <further> about your experience at
3 S-21, <I want to ask you a few questions> in relation to your
4 background before you went to work at S-21.

5 Can you tell the Chamber what you <did> -- what did you do before
6 you were sent to work at S-21? Which school did you join before
7 you went to work at S-21?

8 MR. MAK THIM:

9 A. Before I was sent to work at S-21; in fact, <Ta Chan went to
10 take us> and at the time <there were six> truckloads of people,
11 <who were from my district, they> were sent to <Sala Lekh Pram
12 in> Phnom Penh and I was sent to Takhmau <> to grow vegetables
13 and to learn the techniques of using weapons. <I was there for
14 eight months.>

15 And after that, I went to Prey Sar to grow radishes.

16 [14.53.33]

17 Q. Thank you, Mr. Witness. I will go further when I ask you about
18 S-21.

19 You stated that you joined the military strategies training
20 session and, at the time, which unit were you part of and where
21 was the headquarters of your unit or your division?

22 A. After the conclusion of the training session on military
23 strategies, I was assigned <> to <different> locations and at the
24 time I did not know who my superiors were since I was about 16
25 <or 17> years old. I was quite young. And 50 of us attended the

1 training session and at the conclusion of the training session we
2 were sent into different locations. <>In fact I was reassigned to
3 several locations to work before I was transferred to <work at>
4 S-21.

5 [14.54.43]

6 Q. Mr. Witness, you stated that you attended the military
7 strategies in the training session. Can you tell the Chamber
8 which unit or division you <were> part of at the time when you
9 attended the training session <in Takhmau>?

10 A. I cannot recall which unit or division. Actually, we were
11 <transferred to different locations; for instance 10 people were
12 sent to this location or 20 people were sent to that location. I
13 did not know which units some of us were sent to, some of us were
14 assigned to work in various ministries instead.> We were not put
15 into specific units or divisions to be ready for the battlefield.
16 However, we were <simply> told to attend the military strategies.
17 At the time, <during the training session,> we also were required
18 to <> grow vegetables. And after the conclusion of the training
19 sessions, we were transferred into different targets. For
20 example, at some locations <> 10 <> of us were sent to one
21 location. Another group was sent to -- and other groups were sent
22 to other locations. <At that time, I did not know much since I
23 was quite young.>

24 [14.55.54]

25 Q. <Did you ever study medicine, and if so,> where<>?

1 A. Then I was assigned to join the medical training session close
2 to Sorya <cinema> in the area of Phsar Thmei.
3 I was in that training session, medical training session for two
4 or three months at the time. I was taught how to inject medicine.
5 And 10 of us were in the training session at the time but I
6 cannot recall the specific participants at the time.
7 And after that training I was transferred to S-21. And at the
8 time, albeit the training, I did not know much about
9 medication<>. I had only the basic training from <the chief of>
10 medics and when I was sent to S-21, I was required to go and
11 administer or deliver medicines at S-21.

12 [14.57.10]

13 Q. You stated that you attended the three-month training session
14 on medicines at Phsar Thmei and what topics or what subjects
15 specifically were you trained at Phsar Thmei?

16 A. The medic -- the male medic trained me and there was a board
17 that he used at the time, writing the names of the medicines <in
18 French> and specific illnesses were required to administer some
19 medicines. And at the time, we were taught also how to give
20 injections.

21 Q. In the record, E3/7673, you stated that after <the three
22 month> training session -- medical training session, you were
23 sent back to Takhmau for another training session for a period of
24 eight and nine months, <is that correct?> So what subjects did
25 you study when you were at Takhmau<>?

1 A. After medical training sessions, I cannot recall well.
2 And before I was sent to S-21, I learned how to make the tablets
3 -- that is, the tablets of medicines. And I, at that place,
4 <Takhmau>, studied with Dam.

5 [14.59.00]

6 Q. Which unit were you in when you were at Takhmau to learn how
7 to produce or make tablets of medicine?

8 A. I did not know which unit I was in, but that unit was part of
9 S-21 since the medicine or the pills were sent from Takhmau to
10 S-21. After I left <the> Takhmau location for S-21, I recognized
11 those pills. The pills at Takhmau were <produced> by me and at
12 the time I learned how to produce them <from a medic called Dam>.

13 Q.<What type of medicines did you produce? Were they traditional
14 medicines>? What were those medicines used for?

15 A. I can recall that I made the medicines from sweet potato
16 <flour> with sugar and vinegar. <The medicines for treating
17 dysentery were made from green areca nuts.> And also I used the
18 <bark of Sleng (phonetic) or strychnos plant mixed with other
19 barks> to produce quinine. There were two older males going
20 around <looking> for herbs or for leaves and there was a machine
21 to produce the pills. <I was not the one who produced the
22 medicines. I only assisted them in making the pills.>
23 A few older males were going around <collecting> the leaves or
24 roots of trees so that <they could> be <ground> in the machine -
25 ground in the machine and after that the pills could be produced.

1 <We produced medicines for malaria and diarrhea, and we used
2 vitamin C <to> treat fatigue.>

3 [15.01.20]

4 Q. After the three months' medical training at Phsar Thmei and
5 later on to produce pills for about <seven> or <eight> months in
6 Takhmau, <did you attend any other medical training> before you
7 were assigned to S-21?

8 A. I did not attend any other session. I was then sent there.

9 And maybe I was the last batch to -- sent to S-21, because S-21
10 had been established much earlier and my group <probably> needed
11 to be there to supplement those medical staff already <there> at
12 S-21 since our group was pretty young, <at the time, I was about
13 16 or 17 years old>.

14 Q. And do you recall when you were assigned to work at S-21?

15 A. I cannot recall the year. I didn't stay there for long and I
16 probably stayed there for <less than> a year or probably a bit
17 over a year. And if I stayed there <more than a year>, maybe I
18 could not survive because when I was there providing treatment to
19 the prisoners, it <seemed> that myself might be perceived as one
20 of those prisoners. <But I was punctual.>

21 And although I had -- I was assigned to work specific to each
22 building and to each floor--

23 [15.03.13]

24 Q. Mr. Witness, please limit your response to what I asked you.

25 And you said you studied for <seven> or <eight> months in Takhmau

1 and was it upon your completion that you were immediately sent to
2 work at S-21?

3 A. After that, I was sent, although I cannot recall the year. It
4 happened many years ago. It's almost 40 years ago.

5 Q. Let me talk about your role at S-21. After you were assigned
6 to work there, what were your specific daily roles or routines?
7 Can you describe them to the Chamber?

8 A. I was assigned to work there as a medic. In the morning, I had
9 pills and cleaning tools as well as some medicines and I put them
10 in a bag. Together there were -- with other bandages, for
11 example. And I usually cleaned the wounds of the prisoners around
12 6 or 7 o'clock in the morning and gave them pills.

13 [15.04.52]

14 Q. Did you also work in the <afternoon> and at nighttime and, if
15 so, what did you do?

16 A. At nighttime I slept in a house and sometimes I was also on
17 standby during the night at the medical office.

18 Q. You said you started working at around 6 or the 7 in the
19 morning and until what time did you stop and at what time did you
20 resume your work?

21 A. In the morning I distributed pills to prisoners, cleaned their
22 wounds, and after that, then I had to wash the bandages that I
23 used to wrap around the wounds. <And then, there was> about two
24 hours <left before> it was lunchtime. Then I resumed working
25 again at around 1 or 2 o'clock in the afternoon and I resumed the

1 same work -- that is, <cleaning> the wounds and <giving> pills
2 <until 3 or 4 o'clock. And then, I soaked the bandages in the
3 water, and I> washed <them in the morning>.

4 And at that time we did not have any proper bandages. Sometimes
5 we had to use pieces of cloth or pieces of mosquito nets to apply
6 as a bandage for prisoners.

7 [15.06.37]

8 Q. And where did you actually work -- that is, where you cleaned
9 the wounds or applied the bandages to prisoners, was it within
10 the internal compound of S-21?

11 A. There were many medics so we were assigned to a different
12 floor of each building and pills <would> be distributed to
13 prisoners in <each> room<>.

14 So sometimes I entered a big room where prisoners were shackled
15 in a row and I gave them pills. Other medics were assigned to
16 <work in different floors; the first floor,> the second or the
17 third floor.

18 So we were assigned to different floors and there were three
19 detention buildings there.

20 Q. Does it mean that your tasks <at S-21> were to <treat
21 prisoners in> the different rooms within the buildings?

22 And where <was> your medical office <actually located>? Did you
23 actually have a permanent medical office where prisoners were
24 sent for treatment or did you have to go and treat prisoners in
25 their cell <rooms>?

1 A. Prisoners were not brought outside for treatment. They would
2 be treated in their <rooms> or in their <cells>. As for
3 light-offence prisoners, they would be treated in their common
4 room. They were not allowed to be treated outside and they had to
5 be treated while they were still in shackles in the room.

6 [15.08.50]

7 Q. It is not clear to me, in particular in relation to your
8 previous statement with OCIJ -- that is, E3/7673 at Khmer, ERN
9 00163711; English, 00401871; and French, 00305212. You were asked
10 by an interrogator and you said that, "The medical house was
11 located opposite S-21."

12 Can you tell the Chamber what house was it that you referred to
13 as a medical house?

14 A. Maybe I cannot recall that in my previous response. In fact,
15 there was a medical house opposite the main entrance to S-21,
16 <and there was a Cainito tree there>. It was a wooden house.
17 However, it was a concrete house on the ground floor and a wooden
18 house on the top floor.

19 [15.09.50]

20 Q. Can you also clarify whether that medical house was located
21 within the perimeter of S-21 or was it located outside?

22 A. In fact, the actual compound of S-21 was pretty large and of
23 course it was located within the perimeter of S-21. It was
24 located opposite the main entrance -- that is, it's about 10
25 metres away from the main entrance.

1 Q. <>Was that house located <inside> the barbed wire fence <of
2 S-21 or was it located outside that fence>?

3 A. It was located outside the fence and of course that's where we
4 stayed and we were not allowed to <stay> inside.

5 [15.11.11]

6 Q. What was that medical house used for then?

7 A. In short, of course it was not comparable to the current
8 medical office because after the liberation, <there were old
9 houses> there and <one of them was made the medical house and> we
10 mainly slept in that medical house. We did not even have a mat to
11 sleep on. We had to find whatever we could in the nearby vicinity
12 for a mosquito net or an old mat. And <the chief medic gave us>
13 plastic boxes <or Sakod (phonetic)> to store pills. It was not a
14 proper hygienic medical house. <That was like a poor peasant's
15 house.>

16 Q. Was that medical house used for the treatment of prisoners? I
17 mean, were prisoners sent to be treated in that medical house?

18 A. The chief of the centre would not allow prisoners to be taken
19 outside for treatment. This is my observation when I distributed
20 those pills to prisoners. Despite the seriousness of their
21 condition, they would not be allowed to go outside.

22 And if a prisoner's condition was not better after the pills I
23 gave them, then there would be another medic chief who <would>
24 treat that particular prisoner, although I did not know the
25 details about the medicine provided by that chief medic since my

1 medicinal knowledge was limited to the training that I received.

2 [15.13.27]

3 Q. Let me put it this way. Regarding prisoners that needed
4 treatment, did you actually have to go to their room or cell to
5 provide them the pills or <did> they <have> to be sent to a
6 particular room for the treatment?

7 A. Since I started working as a medic there, prisoners were not
8 taken anywhere. They would be treated on spot in the room where
9 they were detained. They were never unshackled and sent anywhere.
10 And if their condition became more severe then I reported that to
11 the chief of the medics and they would be treated by that chief
12 medic.

13 Q. This is also a point that I need a further clarification from
14 you. In your written record of interviews -- that is the same
15 document I referred to previously -- you were asked whether you
16 provided a treatment to a prisoner who was being interrogated and
17 you said that; no, usually that prisoner would be put on a
18 stretcher and brought to you for treatment.

19 Can you tell the Chamber the location for that particular
20 treatment?

21 [15.15.02]

22 A. Although that other prisoner was put on a stretcher, actually
23 the prisoner was taken to be treated still inside the <building>,
24 although they were treated outside the room. But it was along the
25 veranda or along the walk path just outside their detention room.

1 Q. Let me ask you about the method of treatment that you used for
2 the treatment of prisoners who had been interrogated and <whose>
3 interrogation was not yet concluded. Were there any cases <in
4 which> you were required to provide treatment to prisoners whose
5 interrogations had not yet concluded?

6 A. There were <many> medics. Sometimes I had to examine other
7 prisoners who were -- whose condition was not that severe. And
8 there was a chief medic who provided treatment to those prisoners
9 with severe conditions. And if a prisoner could not be treated
10 after they were brought back from interrogation, then I had to
11 report it to the chief medic.

12 [15.16.35]

13 Q. I would like to refer to your written record of interview,
14 that is the same document E3/7673; Khmer, ERN 00163711; and
15 English, 00401871; French, 00305212. When you were asked the
16 question you said that the interrogator said, "You, comrade,
17 <have> to treat that prisoner because I haven't yet concluded my
18 interrogation with that prisoner."

19 Can you tell the Chamber if you actually provided treatment to
20 any prisoner whose interrogation was not yet concluded?

21 A. Let me ask you for clarification. For important prisoners, the
22 interrogator would want us to be careful with the treatment with
23 their medical condition or wounds because their confessions or
24 their interrogations were not yet concluded. That's what we were
25 warned.

1 [15.1810]

2 Q. And those who sent the prisoner to you for your treatment --
3 that is, those important prisoners, did the people who brought
4 the prisoners to you tell you why you had to be careful and had
5 to treat that prisoner so that that prisoner would recover fully?

6 A. I did not ask many questions. If I was assigned to be careful
7 and to be vigilant in providing treatment to a particular
8 prisoner in Room A or Room B, for instance, then I had to be very
9 careful. I never used violence or any cruel words towards
10 prisoners.

11 Q. Do you recall the person who told you that you had to be --
12 that you had to fully treat that particular prisoner? Do you
13 recall his name?

14 A. They never made such a direct order to me, only my direct
15 superior who told me about that that I had to be extra careful in
16 my treatment of this individual in Room A or Room B. Of course,
17 the interrogator did not tell me in person but they would speak
18 to my <medic> chief and my chief would further instruct me how to
19 treat a particular prisoner; for example, after their nails had
20 been removed and, of course, some of them actually recovered.

21 [15.20.05]

22 Q. Do you recall anyone of those who actually sent prisoners for
23 treatment by you? Do you recall any of their names?

24 A. I only recall two chiefs: one was from my native village. The
25 one <who> was <named> Huor, and -- in fact, there were two

1 <Huors>. One was a group chief and one was the big chief -- or
2 rather, one was Hor and the other one was Huor. And I received
3 instructions from these two superiors.

4 There were others but later on, I separated from them -- that is,
5 after the arrival of the Vietnamese.

6 Q. My question is rather different -- that is, in your written
7 record of interview, you said Huor and Try, <one was a medic
8 chief, and another one was a deputy chief>, but my question is in
9 relation to those who actually carried the prisoners to you for
10 your treatment. Who actually carried the prisoners to you for
11 treatment?

12 [15.21.50]

13 A. In S-21 prison, I only knew about the time that I had to give
14 pills to prisoners. I would be told by Huor <in> which room I had
15 to go to give the treatment to the prisoners, and <I did> not go
16 through any interrogation room. And I never went outside to bring
17 any prisoners for treatment.

18 And I did not receive -- I was not required to provide treatment
19 to any prisoner who was on a stretcher -- that is, after that
20 person was interrogated.

21 Q. I am a bit confused. Previously, you said that prisoners were
22 brought in on a stretcher to you for treatment -- that is,
23 outside the room that they were detained. And my question focused
24 on the people who carried that prisoner, if you recall their
25 names and their positions?

1 A. I did not know any of them at all because I did not have
2 anything to do with or to interfere with the interrogators. We,
3 the medical unit staff, had to be separate from the interrogation
4 unit staff. Even during our mealtime, we did not sit at the same
5 table although we <were> in the same <cooperative>.

6 [15.23.55]

7 Q. And allow me to get further clarification from you. During the
8 time that you worked as a medic at S-21, did you ever receive
9 prisoners who were sent to you for treatment by an interrogator
10 or by a guard after they were interrogated?

11 A. I did not know much about that. Prisoners were carried by
12 other people for treatment. And usually, it was the interrogators
13 who carried prisoners for treatment.

14 Q. And besides S-21 prisoners, were you ever assigned to provide
15 treatment to other people outside the compound of S-21?

16 A. Personally, no. I was never assigned to provide any treatment
17 to anyone outside the compound.

18 Q. Again, in your same interview, at the same ERN number that I
19 referred to previously, you were asked whether you provided
20 treatment to people outside the fence of the prison and you said
21 that you provided treatment to the commanders and the wives of
22 the commanders of a battalion or regiment. Does that jog your
23 memory?

24 [15.25.58]

25 A. I know about the treatment of the battalion commanders <and

1 wives of commanders> and that happened -- that is, just at the
2 front of the building. And I did not treat them regularly. There
3 were other medics who provided better treatment.

4 For example, when a medic could not insert a needle into the
5 vein, then I would help hold hands of that individual battalion
6 <or regiment> commander. And from my recollection, I did that
7 only for one time. And generally, I would only provide treatment
8 to prisoners.

9 Q. And besides the regiment or battalion commander or their wife,
10 did you provide treatments to staff or cadres of S-21?

11 A. No. There was a separate medical unit to provide treatment to
12 staff or to a guard or to the interrogation team. I was not
13 allowed to be on mobile to provide treatment to interrogators or
14 to give them pills. My main task was to provide treatment to
15 prisoners. I was one of the <15> medics who were assigned to do
16 that. <I did not have time to provide the treatment outside the
17 compound.>

18 [15.27.45]

19 Q. Did you ever provide treatment to Prak Khan<, > who had
20 problems with his ears?

21 A. I cannot recall that at all. I cannot recall it. Even the
22 name, that name does not ring a bell to me. I forget all those
23 names as happened many years ago.

24 Q. You have just stated that you provided a treatment to
25 prisoners who were beaten or that their nails had been removed.

1 And can you tell the Chamber after your treatment where were
2 those prisoners taken to?

3 A. My main task was to treat them and if the prisoner was of
4 important status, then I would be -- I would be warned to take
5 extra care for a complete recovery of that particular prisoner
6 <whom they needed for further interrogation>. That's all I was
7 told at the time.

8 [15.29.29]

9 Q. You told an OCIJ investigator that a prisoner was sent to you
10 for treatment and you were then told that one of the
11 interrogators told you that, "You, comrade, have to treat that
12 prisoner" so that the prisoner would recover since the
13 interrogation was not yet concluded. And can you recall whether
14 you actually treated that prisoner and did he recover? And if so,
15 later on, where was he taken?

16 A. As a medic at the time, I could not do a close follow-up of
17 any prisoner because I was not in the same position as a guard or
18 as my chief. My task was to work to treat the prisoners during
19 the working hours and at the end of my shift, I would not know
20 what happened.

21 And as I said, sometimes I was told that this prisoner was of
22 important status so that I had to be extra careful in providing
23 the treatment. But I was never told whether the prisoner was
24 taken elsewhere after full recovery. <I was told that the
25 interrogation was not yet concluded. My task was to provide the

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1 treatment for a complete recovery>

2 Q. Did you know Duch?

3 A. While I was working at S-21, I met him on one or two
4 occasions. He rarely came to the prison buildings or to the
5 medical house and he usually stayed within the vicinity of the
6 kitchen hall. So again, I saw him once<>.

7 [15.31.37]

8 Q. In your statement, you said that Duch was S-21's chief. Do you
9 recall that statement?

10 A. I could recognize S-21 and Duch was actually working at S-21.

11 Q. In the Court proceeding on 27 April 2009, <document E3/5793>,
12 between 10.26.05 to 10.28.25, Duch stated in the -- before the
13 Chamber that -- let me quote: "The medic unit first had a duty to
14 treat cadres" and then Duch further stated, "So from that time
15 onwards, cadres within the office went <outside,> to Hospital 98
16 and lastly the medics were responsible for treating prisoners for
17 full recovery <so that they could be sent away after the
18 conclusion of the interrogation. In short, they were kept alive
19 for the purpose of the interrogation>." Duch stated that, "Medics
20 within S-21 had a duty to treat the prisoners to their full
21 recovery and after the interrogation, they would be sent <>
22 away."

23 So from what Duch stated, is <this> reflected <in> the experience
24 that you <had> at S-21, does this -- was this consistent with the
25 work that you did at S-21?

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1 A. Let me clarify the point once again. I do not know whether the
2 prisoners were sent away after they were treated. <They> were
3 under the responsibility of other people. My main role and duties
4 were to treat prisoners. It was not my responsibility to send or
5 bring prisoners to any other locations. I do not know about that.

6 [15.34.26]

7 Q. Thank you. At S-21, how many medical houses or how many
8 hospitals <were> under the supervision of S-21? Can you clarify
9 that point?

10 A. There were two types of medical houses. One type was to treat
11 the medics. Those who were stressed with work <or got a fever>
12 could go to that medical house. One was in the south and another
13 one was in <front of the buildings. There were two medical
14 houses>.

15 Q. Now, I am asking you about <> the medical house outside. Do
16 you know whether there was a hospital or medical house
17 established for treating cadres <or soldiers> who were wounded or
18 injured within Phnom Penh City?

19 [15.35.59]

20 A. From my experience at S-21, I never <knew> about the existence
21 of a big or main hospital or small hospitals. In fact, I <had> to
22 resort to my own medication when I fell sick. There were <two
23 groups, and in the groups, there were about three> medics working
24 in the medical house outside. That was the simple house. It was
25 not like the modern clinic equipped with medical equipment. There

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1 were <medical bags>, mosquito nets and <mats> for medics. And
2 usually in that medical house, there were rabbit drop pills.

3 Q. You told the Court earlier and I want your clarification on
4 that point, so I put the question again. You were a medic at S-21
5 and during the time of your work, what were the conditions of the
6 prisoners? Usually, what kind of injuries they sustained and what
7 was the result of injuries from your observation?

8 A. Illnesses -- regarding illnesses of prisoners, they did not
9 have rice, cooked rice to eat. They had only gruel with morning
10 glory to eat. They were <detained> there for days, for months <or
11 for years>. Although medics provided treatment on a daily basis,
12 they did not have rice to eat, <and they did not have water to
13 drink>. They would be not healthy. They could not have the proper
14 latrines or toilets to relieve themselves and the atmosphere
15 within the room <was dark>. <The medicines were not effective>.
16 They <became> emaciated. So the conditions of prisoners were not
17 good.

18 [15.38.25]

19 Q. To make that point clearly, you stated that some of the
20 prisoners had the back injuries because of beatings. So can you
21 describe the conditions of the prisoners and what were the
22 conditions of that injured prisoner?

23 A. I treated that prisoner after that prisoner <was brought from
24 the interrogation room>. I had no alcohol at the time. I had only
25 saltwater to apply on the wound and usually, I had the red liquid

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1 to apply it on the wound. However, at the time, I ran out of <the
2 red liquid>, so <I cleaned the wound with saltwater and> I used
3 the powder from the medicine to apply. And after that I wrapped
4 the wound with the bandage <>. So I cleaned the wound for that
5 prisoner on a daily basis, once per day. <If it was necessary, I
6 would clean the wound twice per day.>

7 [15.39.41]

8 Q. Regarding that prisoner, did you pour the salt water onto that
9 open wound after that prisoner was sent to you for treatment?

10 A. No. We had the methods, medical methods to clean the wound. We
11 had the proper methods to apply. I was not cruel. I had a <human>
12 heart. So I had used proper medical methodology or techniques.
13 If I had committed any wrongdoings in my work, I would have been
14 disciplined or punished. So I used proper techniques or skills,
15 <and they recovered>.

16 Q. You stated that that prisoner had been brought from the
17 interrogation room. So what happened to his back that led to an
18 open wound as a result of a beating?

19 A. The prisoners that I treated told me that they were beaten up
20 on their backs.

21 Q. Did that specific prisoner tell you what kind of equipment
22 they were beaten up -- that were used to beat them?

23 A. I did not ask the further question in relation to that matter.
24 That prisoner told me that he was beaten up during the
25 interrogation and was not my responsibility to inquire the

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1 prisoners for any kind of information. I was not allowed to spend
2 much time < talking > with the prisoners. I was required to < only >
3 treat the prisoners as quickly as possible.

4 [15.42.12]

5 Q. What about the prisoner whose nails were pulled off? Were
6 < fingernails, toenails, or both > pulled off < > ?

7 A. I did not ask that prisoner. That prisoner told me that the
8 interrogator used the pliers to pull out < his fingernails and
9 toenails > . I asked < how > and that prisoner told me that they used
10 -- the interrogator used the pliers to pull off the nails.

11 Q. Do you recall what the name < was > of the interrogator < who >
12 used pliers to pull off the nails of that prisoner?

13 A. I did not go to observe the interrogation at the time and I
14 was not allowed to go close to the interrogation room. My
15 responsibility was to treat a prisoner. Medics were not allowed
16 to go close to chit-chat with the interrogators and vice versa.
17 They were working in different < houses > , and < they brought
18 prisoners in and out according to their plans > .

19 [15.43.59]

20 Q. Regarding the prisoners whose nails were pulled off, what kind
21 of techniques, skills or proper treatment did you use?

22 A. I had to clean the wound with the saltwater and the red
23 liquid. After that, the bandages were used to wrap the wound. And
24 when the time came, I had to clean again and wrap with the
25 bandages. If I did not clean the wound, I would be accused of not

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1 treating the prisoners well, <and then I would be punished>.

2 Q. Did you use any kind of antibiotics to clean the wound and to
3 treat the wound?

4 A. At the time we had some antibiotics. The red liquid -- that
5 is, the type or Pe Hu Le (phonetic) antibiotic and that can <be
6 mixed> with the red liquid and <then> applied <to> the wound with
7 the bandage. And at the time, as I said, there were no proper
8 bandages. We used the cloth, a piece of cloth or pieces of
9 mosquito nets to wrap the wounds for a prisoner. And we <had> the
10 steaming pots to sterilize the nets -- the mosquito nets and the
11 piece of cloth after we cleaned them.

12 [15.45.55]

13 Q. Have you ever treated the prisoners who had been electrocuted
14 <during the interrogation>?

15 A. I never saw the prisoner <who> had been electrocuted or any
16 prisoners <who> had fainted or become unconscious <inside or
17 outside the prison. That's my personal observation, frankly
18 speaking>. Usually the prisoners <whom I had treated had> minor
19 illnesses; for example, <wounds> from the <beatings> and also
20 wounds from <their> nails <being pulled out>. <However, as I
21 said, I never saw any prisoner who had been electrocuted until
22 they became unconscious,> there were other medics who provided
23 <that> treatment.

24 Q. In the same document; <Khmer>, 00163713; English, 00401872;
25 and French, <00305214>; you stated that, "I used to see the

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1 prisoner who had been electrocuted. That prisoner told me about
2 the electrocution. I used vitamins B12 and B1"

3 Did you remember that -- do you recall that you provided this
4 statement to the investigator?

5 [15.47.33]

6 A. The interview <was> several years ago. I may have forgotten
7 some of my -- some of the work that I did at the time. Yes,
8 prisoners <were> electrocuted. Actually, perhaps those prisoners
9 may have been -- fainted at the interrogation room and those
10 prisoners were walked to the room where I treated <them>. <There
11 were no unconscious prisoners who were put on a stretcher and
12 brought to me for treatment.>

13 Q. Why <did> you provide -- why <did> you administer vitamins B12
14 and B1 to the prisoners who had been electrocuted? Was this the
15 proper medication for prisoners who received electrocution?

16 A. The work that I did at the time, I did that work 40 -- almost
17 40 years ago. I may have forgotten the proper medication at the
18 time. Yes, in fact, I used B12 and B1 <for energy recovery and to
19 treat numbness or swelling>. I gave injections of B12 and B1 to
20 those prisoners.

21 Q. Did you have the authority to decide which type of medicines
22 you administered or was there a clear regulation that you had to
23 use B12 and B1 <to treat prisoners who had been electrocuted>?

24 A. I asked my chief medic after I <was not> successful in
25 <treating> the prisoners and after that he told me -- he ordered

1 me to use specific types of medication.

2 [15.49.48]

3 Q. Did you -- can you -- could you make your own decision to
4 apply or administer specific medicines or did you have to seek
5 the order or instruction from your <group> chief <or from the
6 deputy chief>?

7 A. Generally speaking, I rarely treated <prisoners> with serious
8 illnesses. Usually, those prisoners with serious illnesses were
9 treated by my <group chief>. After my report to my <group chief>
10 that <a> specific prisoner was seriously ill, usually he would
11 come to treat that prisoner, <he did that alone>, and I would be
12 asked to go and treat another prisoner.

13 Q. During the time that you treated the injured prisoners, did
14 you have to treat those prisoners until they <recovered> before
15 they could be sent back to -- for interrogation?

16 A. I was a medic and <I provided the treatment, but> I did not go
17 to observe and monitor the interrogation process. <Sometimes they
18 were brought back to the interrogation room, but I cannot recall
19 them all; it happened a long time ago.> I treated hundreds of
20 prisoners. <I treated prisoners whenever they were brought to me
21 for treatment. However, I could not follow up on the schedule of
22 the interrogation>.

23 And as for the disappearance of those prisoners, I did not know
24 when they were sent away and when they disappeared <or> if they
25 were killed or executed.

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1 And whenever, as I said, the prisoners <had serious illness> and
2 I could not provide complete treatment, I would go to my <>chief
3 to seek instruction and help. <I just delivered the medicines and
4 cleaned the wounds; I do not know where they were taken to.>

5 [15.52.15]

6 Q. During the treatment of prisoners, the prisoners <injured due
7 to being beaten> on their <backs>, prisoner with <their> nails
8 pulled off<,> and prisoners who were electrocuted, what was the
9 psychological condition of those prisoners during the time that
10 you treated them?

11 A. I was a medic and we were the same human beings. So I am
12 seeking your consideration on this point.

13 At the time I considered myself a supposedly prisoner as well. So
14 we were in the same situation. They were <prisoners> <with
15 shackles> and I considered myself a prisoner as well. We do not
16 think of any other matter besides the fact that we would end up
17 in the centre. So we encouraged one another to have the strength.
18 <Those prisoners told me that they were hopeless, they knew that
19 they would be dead after the interrogation was concluded.>

20 And sometimes prisoners disappeared and I do not know where they
21 were sent to. Trucks <came> in <and out of> the centre but I do
22 not know what happened. I was simply a medic. Interrogators,
23 guards and any other people did not come to chit-chat with me
24 although we were -- some of us were from the same village.

25 [15.54.12]

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1 Q. I want you to tell about your experience during the time that
2 you treated prisoners, particularly those prisoners who were sent
3 <to you> for treatment. Were they afraid of what condition,
4 psychological condition they were in?

5 A. You are asking about me?

6 Q. I am asking about the prisoners you treated.

7 A. To my observation, each and every one of them had a sad face.
8 In each room that I go to -- that I went to provide the
9 treatment, they were not happy <in the individual cells>. And for
10 those who were in the same room, <they were shackled in a row
11 together, and> they appeared to look happy. However, they had no
12 hope in their face. There were newcomers and there were <also
13 prisoners who've been in that room for a long time>.

14 [15.55.36]

15 Q. Mr. Witness, you are now telling the Court that the prisoners
16 who were sent to you for treatment looked seemingly happy and
17 they were not afraid of -- is that true what you are saying?

18 A. The prisoners <for whom> I provided treatment -- and at the
19 time I did not mistreat prisoners -- from my observation during
20 the time that I went around to deliver medicines, their faces --
21 they had a sad face and they did not look very happy. And I told
22 them that I was simply a medic. I would, as I told them, end up
23 in the centre. I had to work and serve the regime as an
24 obligation. And <we were not happy at all>.

25 Q. Let me ask you a specific question concerning the prisoners

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1 who were sent to you for treatment and those prisoners' nails
2 were pulled off. So what was their suffering, to your
3 observation?

4 A. They underwent great suffering. Nothing could be compared to
5 the treatment of pulling off their nails. They were beaten up.
6 Their nails had been removed and no matter what happened, I had
7 to treat them. They did not look very happy.

8 [15.57.37]

9 MS. SONG CHORVOIN:

10 Mr. President, I have to move on to a new topic. Do you want me
11 to continue?

12 MR. PRESIDENT:

13 Thank you, Co-Prosecutor.

14 Now it is time for the adjournment. The Chamber will resume its
15 hearing on Tuesday, 3rd May 2016 at 9 a.m.

16 Tomorrow, the Chamber will continue hearing witness Mak Thim, and
17 start to hear witness 2-TCW-906. Please be informed and please be
18 on time.

19 [15.58.21]

20 Thank you, Mr. Mak Thim. The hearing of your testimony as a
21 witness has now come to an end <for> today. You are therefore
22 invited to come and testify once again tomorrow at 9 a.m.

23 I am grateful to you as well, Mr. Moeurn Sovann, the duty
24 counsel. You are also invited to assist the witness as well
25 tomorrow.

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1 Court officers, please work with the WESU unit to send the
2 witness back to the place where he is staying at the moment and
3 please invite him back into the courtroom tomorrow.

4 And please ask the witness and the duty counsel to wait in the
5 waiting room because the Chamber has to hold the swearing-in of
6 an international lawyer before the Chamber.

7 Security personnel are instructed to bring the two accused back
8 to the detention facility of ECCC and have them returned to the
9 courtroom before 9 a.m.

10 The Court is now adjourned.

11 (Court adjourns at 1559H)

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