



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS - KAING GUEK EAV "DUCH"

PUBLIC

Case File N° 001/18-07-2007-ECCC/TC

15 September 2009, 0904H

Trial Day 71

Before the Judges:

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

Lawyers for the Civil Parties:

KIM Mengkhy
TY Srinna
HONG Kimsuon
KONG Pisey
Alain WERNER
Christine MARTINEAU

Trial Chamber Greffiers/Legal Officers:

SE Kolvuthy
DUCH Phary
Natacha WEXELS-RISER
Matteo CRIPPA

For Court Management Section:

KAUV Keoratanak

For the Office of the Co-Prosecutors:

CHEA Leang
William SMITH
TAN Senarong
Anees AHMED
SENG Bunkheang
Vincent DE WILDE D'ESTMAEL

The Accused:

KAING Guek Eav

Lawyers for the Accused:

KAR Savuth
Francois ROUX
Helene UÑAC

INDEX

MR. CHRISTOPHER LAPEL

Questioning by Mr. President commences	page 1
Questioning by Judge Lavergne commences	page 5
Questioning by Ms. Chea Leang commences	page 12
Questioning by Mr. de Wilde D'Estmael commences	page 14
Questioning by Mr. Roux commences	page 22

THE ACCUSED, KAING GUEK EAV

Questioning by Judge Lavergne resumes	page 35
---	---------

MR. STEPHANE HESSEL

Questioning by Mr. President commences	page 49
Questioning by Judge Lavergne commences	page 50
Questioning by Mr. Tan Senarong commences	page 54
Questioning by Mr. de Wilde D'Estmael commences	page 56
Questioning by Ms. Martineau commences	page 58
Questioning by Mr. Hong Kimsuon commences	page 61
Questioning by Mr. Roux commences	page 65

THE ACCUSED, KAING GUEK EAV

Questioning by Judge Lavergne resumes	page 76
---	---------

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
JUDGE CARTWRIGHT	English
MS. CHEA LEANG	Khmer
MR. DE WILDE D'ESTMAEL	French
MR. STEPHANE HESSEL	French
MR. HONG KIMSUON	Khmer
MR. CHRISTOPHER LAPEL	English
JUDGE LAVERGNE	French
MR. ROUX	French
MS. MARTINEAU	French
MS. SE KOLVUTHY, GREFFIER	Khmer
MR. WILLIAM SMITH	English
MR. TAN SENARONG	Khmer
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. WERNER	French
MS. WEXELS-RISER, GREFFIER	French

1

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

2 (Judges enter courtroom)

3 [09.05.08]

4 MR. PRESIDENT:

5 Please be seated. The Chamber is now in session.

6 Per our schedule, today the Chamber will hear the testimony of a
7 character witness of the accused. Actually, there are two; one
8 in the afternoon and one in this morning's session. The
9 Greffier, can you report the attendance of the parties to the
10 proceedings?

11 THE GREFFIER:

12 Mr. President, all parties to the proceedings present and a
13 witness and an expert, who are to provide a testimony today, are
14 present. The witness, Christopher Lapel, is waiting to be
15 called. The expert, Stéphane Hessel, will be ready for
16 teleconferencing from France. Both of these two persons do not
17 have any association or affiliation with any parties to the
18 proceedings. They will be taking an oath before the Chamber.

19 MR. PRESIDENT:

20 Court officer, can you bring in the witness, Christopher Lapel,
21 into the witness box?

22 (Witness enters courtroom)

23 QUESTIONING BY THE BENCH

24 BY MR. PRESIDENT:

25 Q. Good morning, Mr. Witness. Is your name Christopher Lapel?

2

1 A. My name is Christopher Lapel.

2 Q. Mr. Christopher Lapel, how old are you this year?

3 A. I'm 51.

4 [09.08.55]

5 Q. Where is your current address, Mr. Lapel?

6 A. I live in Los Angeles, California, USA.

7 Q. What is your occupation or profession?

8 A. I'm a pastor.

9 Q. What is your nationality?

10 A. I am American.

11 Q. What religion are you a follower?

12 A. Christian.

13 Q. Mr. Christopher Lapel, as reported by the Greffier, you have
14 no relationship or affiliation to any parties to the proceedings.

15 Is this correct?

16 [09.10.29]

17 A. Could you repeat one more time?

18 Q. According to the report by the Greffier, you have no
19 relationship or affiliation to any parties to the proceedings.

20 Is this information correct?

21 A. Yes.

22 MR. PRESIDENT:

23 The international Greffier, Ms. Natacha, can you make an
24 arrangement to have Mr. Christopher Lapel sworn in according to
25 his religion?

3

1 (Witness, Christopher Lapel, sworn)

2 BY MR. PRESIDENT:

3 Q.Mr. Christopher Lapel, when did you start to know the accused,
4 Kaing Guek Eav alias Duch?

5 A.I met him in late December 1995 at Chamkar Samraong,
6 Battambang, when he come to participate; worship our Lord and
7 leadership training.

8 Q.From that time until the present time, have you kept contact
9 with the accused, Kaing Guek Eav alias Duch?

10 A.Since I met him in 1995 and then he became one of our
11 believers and then I baptized him in January 6 1996. And then
12 he's get involved in the ministry with us at his village. And
13 then 1997, after the coup, and I got a word that he get involved
14 in the ministry with refugee camp on the Thai-Cambodia border.

15 [09.14.02]

16 Q.And later on, had you any further contact with the accused?

17 And what is the nature of the contact if you have so with the
18 accused?

19 A.Lately, I met him for visiting, do worship service, take the
20 communion, as we normally met on Sunday. And I did meet him
21 several times in the past couple years.

22 Q.Based on your relationship with the accused, you are like a
23 mentor to the accused, religious mentor. Is this an appropriate
24 assumption?

25 A.Yes. As his pastor, I request to visiting him, to have

4

1 worship, to have Bible study, pray and take communion.

2 Q.Based on what you have told the Chamber, it shows that your

3 contact with the accused is regular and on several occasions.

4 Therefore, the Chamber would like you to describe to the Chamber

5 the character of the accused, Kaing Guek Eav alias Duch, through

6 your contact and observations in your previous contact with him

7 particularly. Can you do so to the Chamber?

8 A.As I met him since 1995 until up to date, I can see his

9 character as a man with serving heart; a man love the Lord; a man

10 commit his life to share our Lord Jesus Christ to others. And he

11 seems like a man that's very friendly, hospitality, and very

12 friendly.

13 [09.17.46]

14 Q.During your contact with him as his pastor and on his part as

15 a religious follower, have you noticed or observed any sign that

16 the accused has wanted to show his remorse for what he did in the

17 past, or do you know about his past during his contact with you?

18 A.I didn't know much about his past, but I knew him as a man who

19 get involved in the ministry or I recall that my disciples as a

20 man that get involved in the ministry. When I met him,

21 occasionally I just do -- to pray with him, do Bible study, and

22 encouraging him to be strong his faith in the Lord.

23 Occasionally, he shared with me about his guilt for what he done,

24 do the wrong thing -- to all people, and he feels sorry for that.

25 Q.From the first time that you knew him and until the last

5

1 contact with him, can you tell the Chamber whether his character
2 has developed, from your personal observation?

3 A.If I don't know his past, it's hard to tell for who he is, but
4 as I mentioned to Your Honour, in the past I didn't know what he
5 did, but I knew him after he gave his life to the Lord and he's
6 look a person -- I should recall a godly person, have a heart for
7 the Lord. He has peace; he have joys for what he been give his
8 life and to live for Christ. And seems like he's a nice man if I
9 don't know his past.

10 MR. PRESIDENT:

11 Judges of the Bench, do you have questions to be put to this
12 witness?

13 Judge Lavergne, you take the floor.

14 [09.21.19]

15 BY JUDGE LAVERGNE:

16 Q.Good morning, Pastor. I have a few questions.

17 If my understanding is correct, the first time you met the
18 accused was end of December 1995 and you indicated that "he" was
19 baptized on 6 January 1996. Who was baptized? Was it Kaing Guek
20 Eav or someone else? Who was baptized that day?

21 A.Honour, I met him in late 1995. I recall late December 1995.
22 After he heard the word of God he came forward and gave his life
23 to the Lord, and after that we baptized him. I have a team that
24 works along with me. I recall a Pastor Ellis, Dan Ellis, and we
25 baptized Mr. Kaing Guek Eav, called Duch, at Sangke River,

6

1 Battambang on January 6, 1996.

2 Q.In your church registry is he baptized under the name of Kaing
3 Guek Eav or under the name of Hang Pin?

4 A.I'd like to clarify the word Kaing Guek Eav. When I met him
5 in 1995 in that time I didn't know Kaing Guek Eav or Duch. I met
6 -- I knew his name called Hang Pin that time. When I baptized
7 Kaing Guek Eav in that time it's not Kaing Guek Eav; it's Hang
8 Pin. Lately in 1999, sometime in April, that I heard about Hang
9 Pin -- the real name is Kaing Guek Eav, called Duch.

10 [09.24.26]

11 Q.So you tell us that it was not the accused himself who
12 revealed his identity. This is information which you obtained
13 later. So when did you obtain that information and who gave you
14 the real name of the accused?

15 A.Honour, I recall in late or the middle of April 1999 when I
16 got a phone call from a man. He's a reporter from AP from
17 Bangkok, called me and asked me about Mr. Hang Pin. He wanted to
18 ask me did I know him; I said yeah, I did know him. And he told
19 me that his real name is not Hang Pin; his real name Kaing Guek
20 Eav, called Duch. That was surprise for me but it rejoice for me
21 to see a man that God can change his life from the killer to the
22 believer.

23 Q.Can you explain to the Chamber and to the public what a
24 baptism consists of? What is required of the person wishing to
25 be baptized and what is the meaning of that action and, according

7

1 to you, in what way was this baptism experienced by the accused?

2 A.Honour, the person that I baptize it need to be a person heard

3 good news about our Lord Jesus Christ. The person accepts the

4 good news, accepts our Lord Jesus Christ as lord and saviour.

5 And then I have to give the meaning of the baptism; what is mean

6 to baptize in Christ. After the person understood and then we

7 take that person to the river or somewhere that have good water

8 or more water, and then we baptize them in the name our Lord

9 Jesus Christ.

10 [09.27.36]

11 Q.If my understanding is correct, this is what is commonly

12 called conversion; in other words, a person adhering to a

13 religion. What I would like to know is whether such a decision

14 presupposes, from the one who makes it, total sincerity, an

15 approach that is totally clear and transparent. Or can baptism

16 be considered valid even if it is affected by a lie or at least

17 the fact that one hides part of the truth? That is on the part

18 of the person seeking to be baptized.

19 A.Honour, I recall the person that we baptized. The person have

20 to volunteer his own free will to accept our Lord Jesus Christ as

21 lord and saviour, and freely to come forward to understanding the

22 word of God, understanding the meaning of the baptism. I recall

23 about salvation to make sure that person understood and then we

24 baptize him.

25 Q.Therefore he or she who is baptized is saved. There is a

8

1 rebirth to life. How would you define this in your religion? Is
2 there any mention made of sins? What becomes of sins when you're
3 baptized?

4 A.Honour, I call a born again Christian that the person willing
5 repent and live with the new life in Christ. I remember when I
6 met Duch, or Hang Pin, in late 1995. I character his -- he's a
7 person live in a life with sadness, no peace, no joy, no purpose
8 in life. But after he got baptized I can see him completely
9 different, 180-degree person different. He came with the person
10 is a man that I can see he's come with joys, peace, have
11 understanding his purpose in life.

12 And I can see his -- I remember very clear in that day after he
13 got baptized. His appearance looked different. He dressed nice.
14 He wear glasses. He used to sit listening or preaching or
15 teaching. Moved from the back row to the front row; take a good
16 note; ask questions about God, about Jesus, about Holy Spirit,
17 about sin, about salvation.

18 After he finished the leadership training for a couple of weeks,
19 I can see him be anxious to return back to his village, and then
20 he start a new house church with 14 families that include with
21 the children -- three boys and a girl. That I call "born-again
22 Christian". It is as you can see the fruits of the person, just
23 not the person come forward and ask for baptize.

24 Q.Pastor, when you met the accused at the end of 1995 had he,
25 prior to that meeting, met with other pastors? Have he received

9

1 training? Did he tell you why he had come to see you? Did he
2 know about Christianity before he met you in December 1995?

3 [09.33.35]

4 A.Honour, I'm not sure for that, but I sure when he came to
5 participate, worship our Lord and attend our leadership training,
6 I can see he's a person that live in darkness, sadness, no joys,
7 no love, but after that, I can see him with different person.

8 Q.So you met at the end of December 1995 and his baptism on the
9 6th of January 1996; that is an extremely rapid conversion. Do
10 all the people you baptize become converted so quickly, Pastor or
11 is Duch an exceptional case?

12 A.Honour, I recall all those people that coming to attend our
13 worship and leadership training in late 1995. It's hard to
14 describe after those persons hear the word of God, but the God
15 cut to their heart and all those people that came forward and
16 accept our Lord Jesus Christ as their Saviour. And I couldn't
17 control their inside, but I can see those people that came
18 forward after they hear my invitation to come forward to accept
19 Christ as Lord and Saviour.

20 Q.So, after hearing the word of God for a number of days, after
21 the baptism, in the case of the accused, you say that he
22 underwent training for 15 days and then he becomes a minister in
23 your church in his village. Is that correct?

24 A.Yes, Honour. After he give his life to the Lord and he
25 continue training to learning the word of God, and then after

10

1 that, after those two weeks, and he returned back to his village
2 and plan a church with 14 families.

3 [09.36.56]

4 Q.When you say that he founded a church, was he vested with
5 specific responsibilities by your church? Was he on a mission to
6 convert his Cambodian brethren? What was his mission as a
7 representative of the church in his village?

8 A.Honour, after he's got training, after he learned the word of
9 God, he couldn't wait. I can see he's anxious. He want to
10 return back to his village and to share Christ with his friends
11 and families. I recall that as part of the mission, great
12 mission, that every believers need to share Christ with
13 non-believers.

14 Q.So his mission was to share his new faith in Christ amongst
15 his neighbours, the people around him. Did his mission go beyond
16 that? Could he teach them? Could he baptize them? Could he
17 celebrate a service? What did he do exactly?

18 A.Yes, Honour. He has opportunity to leading the worship
19 service. He has opportunity to teaching the word of God. He
20 have opportunity to follow up. He have opportunity to pray, to
21 take a communion with his believers as he leading the church at
22 his village.

23 Q.Aren't you a little afraid -- or weren't you a little afraid
24 that the faith of this newly-converted person would have some
25 gaps?

11

1 A.No, I'm not afraid because as long as he teaching the word of
2 God, the person can experiences with the words. That's all I can
3 answer to Your Honour.

4 Q.Who baptized the children of the accused?

5 A.Honour, I'm not sure, maybe himself, because he has a right to
6 preach, to teach and to baptize the new believers.

7 [09.40.22]

8 Q.Did you have the opportunity to talk about his family,
9 particularly his wife, with him? What did he tell you
10 specifically about his wife?

11 A.Honour, in late 1995 or early January after his give his life
12 to the Lord during the training, I heard the word, not from him
13 but from his friend, that told me about his family, specific his
14 wife that got murdered from somebody.

15 Q.So what you're saying is he himself never talked about his
16 family. He did not tell you about his wife. He did not tell you
17 that she was dead and he did not tell you the circumstances under
18 which she died.

19 A.Honour, I recall during that leadership training in late 1995
20 and early 1996, we put a lot of effort training and teaching to
21 our leaders and, during that time, we have too many pastors and
22 leaders but these paid for our leadership training. It's hard
23 for me to have fellowship to one person but, as a whole, I have
24 fellowship with our leaders as well as the two.

25 Q.What was Duch's title as a person who was responsible for the

12

1 ministry of your church in his village? Was he a pastor; what
2 was he called?

3 A.Honour, I recall him as a lay pastor because he have
4 opportunity and he have been trained to planning church in his
5 village.

6 [09.43.19]

7 Q. Can you tell us how many people have been baptized in your
8 church in Cambodia?

9 A. Honour, I lost count. I call several thousands of the new
10 believers in the past 18 or 19 years that I came to Cambodia.

11 Q.Thank you Pastor.

12 JUDGE LAVERGNE:

13 I have no further questions for this witness, Mr. President.

14 MR. PRESIDENT:

15 Judges of the Bench, would you wish to put questions to the
16 witness?

17 If not, then the Chamber would like to give the floor to the
18 prosecutors to put questions to the witness. Co-prosecutors have
19 15 minutes to put questions. The floor is yours.

20 MS. CHEA LEANG

21 Good morning Mr. President, Your Honours, and good morning, Mr.
22 Christopher Lapel, for your attendance.

23 QUESTIONING BY THE CO-PROSECUTORS

24 BY MS. CHEA LEANG:

25 Q.Your account is very beneficial to the Court to understand the

13

1 nature of one religion, and you have already been put through our
2 questions in relation to the conversion from Buddhism to
3 Christianity. The prosecutor would like to put just a few
4 questions to add on top of what Mr. Lapel has already stated to
5 the Court.

6 [09.45.40]

7 You said that you did not know the past of the accused before he
8 baptized. May I seek clarification in relation to the conversion
9 of the accused from Buddhism to Christianity? Did the accused
10 ever tell you that he was the former M-13 Chairman before he
11 became the Chairman of S-21 during that encounter?

12 A. Honour, I remember that he never tell me who is he. I
13 remember that I met him just as regular person that came to
14 participate for our worship service and leadership training, and
15 I didn't know what his faith in the past but as I met him he came
16 forward that he want to accept our Lord Jesus Christ as Lord and
17 Saviour. That's all I remember when I heard the word from him.

18 Q.This leads to the second question. As a pastor, and based on
19 your religious analysis, can you tell the Court whether the
20 accused accepted you as the genuine pastor with his genuine
21 heart? Because the accused did not have good faith in the
22 religion yet at the beginning, but by way of -- he was convinced
23 by his colleague that he can work to Christianity.

24 A.Honour, I recall that I did not convince him to change or to
25 force him to believe, but as he heard the word and he came

14

1 forward and accept for the Lord, and I'm not recall him to be a
2 pastor, but his heart want to share the word of God to his
3 friends and to his families.

4 [09.48.58]

5 MS. CHEA LEANG:

6 I have no further questions, but I believe that my co-colleague
7 would wish to put a few more questions. Thank you, Mr.
8 President.

9 MR. DE WILDE D'ESTMAEL:

10 Good morning, Mr. President, distinguished members of the Court.

11 BY MR. DE WILDE D'ESTMAEL:

12 Q.Good morning, witness. Earlier, you said that a journalist
13 from Bangkok had called you; that was in April 1996. Who was
14 that?

15 A.Honour, it's not 1996, it's 1999; sometime in April 1999. I
16 couldn't remember his name, but he told me that he worked for AP,
17 Associated Press. He looking for me for three or four days.
18 That's all I remember; I didn't remember his name.

19 Q.Witness, did you become acquainted with a book written by Mr.
20 Nic Dunlop which is called -- or entitled The Last Executioner?

21 A.Yes, I did. And I met Nic Dunlop as he came to our church in
22 Battambang and asking me all the information about Duch's
23 conversion.

24 Q.Well, if you read that book, witness, could you tell us
25 whether what you said to Nic Dunlop is accurately reflected in

15

1 the book?

2 A.Honour, could you specify the words that Nic Dunlop mentioned
3 in his book?

4 Q.Well, he speaks about you over several pages. I won't be able
5 to quote directly and fully, but I will perhaps use quotations
6 from his book from time-to-time which he attributes to you, and
7 then you will have opportunity to tell us whether the quotation
8 is accurate or not.

9 Let me begin with what you said earlier, which is also in the
10 book of Nic Dunlop, The Last Executioner, which is that during
11 the first meetings, Duch was at the back of the room and then
12 later on, he came to the front and became very active. And in
13 one of the first meetings Nic Dunlop says in his book that Hang
14 Pin, at the time, is alleged to have told you that he had sinned
15 -- that he had really sinned to such an extent that he didn't
16 think that he could be forgiven by his brothers and sisters. Is
17 this accurate?

18 A.Yes.

19 Q.Are the words used by Hang Pin at the time, are these not
20 words that pushed you to ask more questions from him prior to
21 taking the risk of welcoming him into your community to train
22 him and then to give him the mission of converting and baptizing
23 other persons in his surroundings and in his village?

24 A.Honour, after I share the good news to my peoples, when their
25 -- the word cut to their heart and then they came forward to

16

1 accept the Lord Jesus Christ as lord and saviour. It's not for
2 me to have a right to ask who is he or who is she -- what their
3 background. My responsible just to share Christ with them and to
4 lead them to the Lord and I train them and make sure that they
5 understanding about the Lord Jesus Christ for who they believe.

6 [09.53.32]

7 Q.I would like to return to two questions to which you did not
8 give an answer earlier when Judge Lavergne asked you. Firstly,
9 whether baptism removed one's sins; is that accurate in your
10 religion? Is that the truth?

11 A.Honour, I have to clarify the meaning of baptism. If the
12 person -- if the person not accept our Lord Jesus Christ as lord
13 and saviour, if they don't understanding the meaning of baptism;
14 baptism it's not meaning at all to the person who baptize. If
15 the person heard the word, accept our Lord Jesus Christ as lord
16 and saviour, and then got understanding; what is meaning of
17 baptism. That is mean baptize, clean their sin.

18 Q.Earlier Judge Lavergne asked you under what name the accused
19 had been recorded in the Registry of Baptisms in your church and
20 you replied it was under the name of Hang Pin. Is this baptism
21 still valid today when you know that he has another name and that
22 his real name is -- his name is not -- his real name is not in
23 the records apparently?

24 A.Honour, that's only name that I received from him personally
25 that he told me that his name Hang Pin. Most people that I

17

1 baptize, especially -- I mean among our people -- they use two,
2 three names sometimes. Sometime they use their real name,
3 sometime they use their nickname, or sometime they just come up
4 with names.

5 [09.55.46]

6 Q.I would like to ask a few questions concerning the motivation
7 of the accused to become Christian and perhaps you can answer
8 since you told us that many people had taken part in the
9 training, and so perhaps you have only a limited knowledge of the
10 personality of the accused. However, didn't you ask yourself if
11 it wasn't perhaps for psychological comfort, opportunity or
12 pragmatism or a deduction, to return to the words used by
13 psychology experts who testified before this Court, that Duch had
14 actually converted? I'm not saying at that moment, but later on
15 when you learned that Pin was Duch, didn't you perhaps ask
16 yourself that question? So was it out of opportunism and
17 pragmatism that Duch had converted; for instance, in order to be
18 able to immediately benefit with no conditions from the
19 forgiveness of a Christian God without having to confront the
20 Buddhist reincarnation cycle, for instance?

21 MR. PRESIDENT:

22 The defence counsel, you may now proceed.

23 MR. ROUX:

24 Thank you, Mr. President.

25 I don't believe that I've read in the experts' reports nor do I

18

1 believe that I heard experts at the Bar state that Duch had
2 converted out of opportunism and pragmatism so if you wish to ask
3 questions from the witness, please be kind enough not to mislead
4 the witness by referring to statements that are inaccurate.

5 Would you please try to repeat exactly what the experts said? I
6 don't believe that they mentioned opportunism and pragmatism.

7 [09.58.18]

8 MR. DE WILDE D'ESTMAEL:

9 I would like to ask the Court to refer to page 43 in the French
10 of the expert's report, number ERN 00177548 where the following
11 is stated -- that's in the chapter, survey of the level of
12 intelligence, ability to reason and intellectual construct.

13 MR. ROUX:

14 Which page, please?

15 MR. DE WILDE D'ESTMAEL:

16 Page 43 of the report.

17 There's a first title which is called, "Intelligence and Thought
18 and Structure" which gives three successive period; the teaching
19 period, the Communist period and the present period marked by
20 Christianity and under this last title, it is stated at line 3 of
21 page 43 of the French version:

22 "The thought process of Duch is strongly marked by pragmatism.

23 He is the organizer of his thoughts. He converted to

24 Christianity in 1996 not because of religious conviction, but out

25 of a spirit of deduction and pragmatism."

19

1 May we now ask the witness to reply to this?

2 MR. ROUX:

3 Mr. President, I would like you to remove the term "opportunism"
4 and you may ask the question from the expert, but you need to
5 remove the word "opportunism" which is not in the report.

6 [10.00.11]

7 MR. DE WILDE D'ESTMAEL:

8 Well, I asked a question --

9 MR. PRESIDENT:

10 The Co-Prosecutor, could you please use appropriate words in your
11 line of questioning? Thank you.

12 And please if you quote the text from the report, use the exact
13 words written in that expert's report. Thank you.

14 BY MR. DE WILDE D'ESTMAEL:

15 Q.Witness, let me resume.

16 When the psychology experts spoke to the Court and told us that
17 Duch was converting to Christianity not out of religious
18 conviction, but out of a spirit of conviction -- of deduction,
19 rather, and pragmatism, what can you tell us about this; both
20 with regard to the moment of the baptism and later on, when you
21 learned that it was not Hang Pin, but that it was Duch? Do you
22 have any thoughts about this? And my personal question in regard
23 to this is to ask you whether or not it may be more comfortable
24 for an accused in his position to convert to your religion in
25 order to immediately and unconditionally enjoy the forgiveness of

20

1 the Christian God, whereas in Buddhism he would have had to cope
2 with a very long cycle of reincarnation in order to make amends
3 for his sins.

4 A.Honour, that's a long question but I can summarize in two
5 words. It's hard to identify the power of our Lord Jesus Christ.
6 It's hard to define the work of the person when the power of the
7 Lord convicts to his heart, and I can tell -- I can reply that as
8 Duch conversion it's his free will that convicts by the power of
9 our Lord Jesus Christ, and he volunteered, came forward, admit
10 his guilt -- volunteered to receive the baptism, volunteered to
11 share the word of God to others.

12 Q.I have a last question, Witness. Reading Nic Dunlop's book, I
13 understand that you've lost some of your relatives in S-21,
14 unless I'm mistaken -- two members of your family or your in-laws
15 -- and in response to the question of Nic Dunlop, whether or not
16 you could forgive Duch, he quoted you as saying, "Yes. If I were
17 to meet him I would tell him, 'I love you. I hate what you have
18 done.'"

19 [10.04.17]

20 So since then you have indeed met him. What happened when you
21 did meet him? What were your feelings with regard to the
22 criminal past of the accused that touches you personally, and
23 were you not concerned that in this entire process you were
24 manipulated from the outset by a person who hid his identity and
25 his past from you and, furthermore, is responsible for the death

21

1 not only of over 12,000 persons in S-21 but this includes persons
2 who were close to you?

3 A.Honour, I have lost some close friends at S-21 and I have been
4 lost my parents, my brother, my sister during the killing fields.
5 Yes, I told Nic Dunlop, when he asked me about Duch's conversion,
6 about forgiveness. I told Nic -- I quote my word that I hate
7 sin, not sinner. When I met Duch in June 2008 I told him that I
8 love him and I forgive him for what he done to my parents, my
9 brothers, my sister and my close friend at S-21. I speak for
10 myself as a Christian, as a believer in Jesus Christ, that I
11 forgive him with face and face in that day.

12 When I told him that I forgive him for what he done for more than
13 12,000 innocent lives at S 21, in that moment I have peace, I
14 have joys. It's a healing inside of me when I told him that I
15 forgive him and I love him. I hate sin, not sinners. When you
16 are true believer, when you're understanding the word of God,
17 when you're understanding the God love, you are understanding
18 about forgiveness.

19 [10.07.29]

20 Q.If I may then summarize, when you spoke about forgiveness it
21 is as a man of God because you have that faith and that you have
22 dedicated your life to the love of God, that you were successful
23 in doing this. If you did not have that faith as a man simply,
24 not a man of God, would you have been able to forgive, and do you
25 understand the attitude of practically all of the civil parties

22

1 who are not ready to forgive?

2 A.Honour, as I mentioned, that if the person did not have faith
3 in Christ or a person not a true believer, they don't understand
4 the word of God or don't understanding the love of God, it's hard
5 to understand. It's hard to forgive. I speak just as a
6 believer. I cannot recall myself as a nonbeliever, but I'm just
7 saying that I am a believer. To understanding the word of God
8 and the love of God, that you can understanding the forgiveness.

9 MR. DE WILDE D'ESTMAEL:

10 Thank you, Mr. President. I have no further questions and I
11 thank the witness.

12 MR. PRESIDENT:

13 Next the Chamber would like to give the floor to the defence
14 counsel to put questions to the accused (sic) if they so wish.
15 You have 15 minutes for the question time.

16 MR. ROUX:

17 Thank you, Mr. President. Well, I hope that if I need such time
18 I will be allowed at least as much time as the prosecutor.

19 QUESTIONING BY DEFENCE COUNSEL

20 [10.10.07]

21 BY MR. ROUX:

22 Q.Witness, thank you for having come to us. You spoke to us as
23 a man of faith, as a man of God. Might you tell me more
24 specifically to which church you belong?

25 A.Honour, I'm a pastor at the church called Golden West

23

1 Christian Church at Los Angeles, California. I've been a pastor
2 for Cambodian-American, this my 20 years. And also I'm a leading
3 pastor for Cambodian Christian Church organization in Cambodia
4 for 18 years.

5 Q. So this is a church that belongs to the Protestant
6 denomination. Is this not the case?

7 A. Yes.

8 Q. Well, you have been questioned at length on the conversion of
9 Duch and perhaps on the speed with which that conversion was
10 effected, but at the same time, if my understanding is correct,
11 you had the feeling when Duch came to you that he was a man
12 seeking something, looking for something. Was this your
13 perception at the time?

14 A. Yes, Honour. When he came forward to accept our Lord Jesus
15 Christ as lord and saviour, because he know that his life with
16 emptiness, no peace, no joys, no love. After he received Christ
17 I recall that he's a new person with peace, with love, with joys,
18 and he understood about his purpose life.

19 Q. Would you agree with me if I said that above and beyond the
20 theological training that one may acquire, that which is
21 fundamental is the personal encounter, the intimate encounter,
22 with God and that this encounter does not necessarily require
23 lengthy study? Would you agree with me to say that?

24 A. I agree with you, yes. It not to require for length of
25 training or study. But this come from inside of the person

24

1 willing to share the word of God to others.

2 [10.14.45]

3 Q.Christians refer to the word of God on the basis of the Bible.

4 Are there no examples in the Bible of persons who had quite

5 abruptly converted and had for some of them been criminals

6 before?

7 A.Honour, according to the Holy Bible, it's a part of word of

8 God that we call a great commission, when someone gave their life

9 to the Lord and got baptized. They need to go out and share the

10 good news to others.

11 And I recall that Mr. Kaing Guek Eav or Duch or Hang Pin, he did

12 what the Bible tell him to do. It's not from me. It's not from

13 others. That's from the word of God. That's part of the great

14 commission that I can recall on Matthew 28, chapter 28, verse 18

15 to 20.

16 Q.To be more specific, is it the case that every man and every

17 woman may one day find his or her own path to Damascus?

18 A.I see -- I met a lot of believers. As they grow up in the

19 Lord and understanding the word of God, they can understanding

20 for what they done in the past, and they not rejoice for what

21 they done because they don't want to do bad things. But

22 sometimes they want to do good things, what they can do.

23 [10.17.43]

24 After they became believers, they tried to do their best, just

25 not for themselves but to glorify our Lord as they believe. And

25

1 I can see Mr. Kaing Guek Eav, Duch or Hang Pin -- I can see him
2 as a man that I can recall that a man of God, a man with serving
3 heart, a man willing to serve the Lord, to serve his community,
4 to share God's love to others.

5 Q.Well, you said in this regard that Duch later had worked in
6 refugee camps. Do you have any broader knowledge about that
7 period and would you be able to tell us something about it, after
8 his conversion?

9 A.After his conversion and I got the word that he involved in
10 different ministries such as preaching, teaching, volunteer work
11 for different organizations. And I recall in sometime in late
12 1998 when I received his letters through a missionary that sent
13 back to my office and he asked me to pray for him, to pray for
14 his family and to pray for his ministry. That only the last word
15 that I received from him before I met him again in year 2008.

16 Q.And so you met him again when you visited him here in
17 detention. You received authorization from the Co-Investigating
18 Judges to visit him. After all of these encounters from the time
19 of baptism until the visits of these last few months, can you
20 tell this Chamber that Duch's approach is a sincere one?

21 A.Yes, after I got permission from the Court to visiting him.
22 During that visiting, most time that I came just on Sunday to
23 have a worship service with him as we normally do way back in the
24 past to praising God, to share the word of God, break the
25 communion, and pray and have fellowship. On occasion that Mr.

26

1 Kaing Guek Eav, or Duch, he told me that he sorry for the crime
2 that he did in the past. And he does not rejoice for what he
3 done. And he feels sorry to me, to the people of Cambodian
4 people.

5 Well, I as myself came to visit him, to do the worship. I
6 encouraging him to be strong in the Lord and I can tell that to
7 see a man that come forward to admit his guilt, willing to
8 responsible to the crimes that he commit during the Khmer Rouge
9 or the Killing Fields.

10 And I'm proud of him for what he did, willing to accept his crime
11 and punishment. And I'm encouraging him to continue to preach,
12 to teach, to share Christ and God's love to others because Jesus
13 is only answer for us because he is the Prince of Peace. When
14 you have Jesus, you have peace. That's all I encouraging Duch,
15 to continue his ministry.

16 [10.24.35]

17 Q.I imagine that Duch must have shown you the book he was given
18 by Desmond Tutu. I imagine that he showed you the autograph that
19 Desmond Tutu wrote on the occasion of the personal meeting he had
20 with Desmond Tutu, and I imagine that you were able to read in
21 that statement that Desmond Tutu told him that he was praying for
22 him and that he encouraged him along the path of recognizing his
23 guilt.

24 A.Yes, Honour. He showed me the book, and he showed me the page
25 -- Tutu's autograph on the book for him. And at the same words

27

1 that I encouraging him and pray for him as well as a believer, in
2 Cambodia as well as around the world, to continue to be strong in
3 the Lord.

4 MR. ROUX:

5 Mr. President, I have no further questions. Thank you very much.
6 Thank you, Pastor for having come here to speak to us.

7 MR. PRESIDENT:

8 Now the Chamber would like to give the opportunity to the accused
9 to make his observation regarding this witness testimony if he
10 wishes so.

11 THE ACCUSED:

12 Mr. President, I would like to thank the Lord that guided me to
13 meet with my pastor, Christopher. And my conviction to the
14 religion is sincere and I'm ready to answer to any questions put
15 to me by the Chamber. Once again I thank the Lord for giving me
16 the opportunity.

17 [10.27.53]

18 MR. PRESIDENT:

19 The hearing of the testimony of the witness Christopher Lapel has
20 come to an end now. The Chamber is grateful to the witness for
21 his testimony.

22 Court officer, can you make necessary arrangements by working
23 with WESU to have the witness returned to his location?

24 And the Greffier, can you tell us again about the other witness,
25 Robert Piche -- if the witness is present and can provide his

28

1 testimony?

2 THE GREFFIER:

3 Mr. President, Christopher (sic) Piche is absent.

4 MR. PRESIDENT:

5 The defence counsel, Francois Roux, can you provide us some
6 information regarding the witness Robert Piche?

7 MR. ROUX:

8 Father Robert Piche is not in the Kingdom of Cambodia so he
9 cannot be here this morning. I provided this information the
10 week before.

11 Mr. President, I would also like to seize this opportunity to say
12 that the defence has asked to file as a supplemental submission
13 this book which is part of the documents that we wish to file as
14 we indicated our motion of the 27th of January 2009 under E5/9.
15 This is part of the list of our new documents. The book exists
16 in English and in French.

17 [10.30.29]

18 MR. PRESIDENT:

19 Judge Lavergne, you take the floor.

20 JUDGE LAVERGNE:

21 I just want to clarify the defence position. You said that
22 Father Robert Piche cannot -- he is not in Cambodia. Do you
23 intend to remove this witness from your list?

24 And we might wish to hear what the other parties might have to
25 say about this.

29

1 MR. ROUX:

2 The victim section asked us and I indicated that we were waiving
3 our right to call this witness. I was given to understand that
4 this would be transmitted to the Chamber. We will not be asking
5 the Chamber to call Father Piche because he is not in Cambodia at
6 this time, and since Pastor Lapel was present.

7 MR. PRESIDENT:

8 So, the Chamber is already informed that we are supposed to hear
9 Mr. Piché after Mr. Christopher Lapel; however since he is not
10 available, the Chamber will hear the testimony of the accused in
11 relation to his character after the session. Because we should
12 have heard Piché but then we can hear the accused instead.
13 Judge Lavergne, you may proceed.

14 JUDGE LAVERGNE:

15 Another question for the defence: you say that you wanted to
16 place on the record of the proceedings a book by Monsignor
17 Desmond Tutu. What is the purpose of putting this book before
18 the Chamber? Why do you want to put this book before the
19 Chamber?

20 [10.33.37]

21 MR. ROUX:

22 Thank you, Your Honour.

23 We ask to put before the Court a number of books, including the
24 book by Mr. Philip Short entitled Pol Pot. Our list includes
25 this book which is the latest publication by Monsignor Desmond

30

1 Tutu with a recent translation into French which contains several
2 passages that the defence will use in its submissions. So as a
3 matter of courtesy it is appropriate for the Chamber and my
4 learned colleagues on the other side to know that I intend to use
5 this book in my pleadings. The title of the book is God makes a
6 Dream.

7 Whilst I have the floor I wanted to ask whether we could use this
8 time to read the letter by this witness who died in the meantime,
9 that is Professor Henry King. Professor Henry King was on our
10 list of witnesses; you are aware that in the meantime he has
11 passed away.

12 Mr. Henry King was one of the prosecutors in the Nuremberg Trials
13 and as luck would have it he had drafted a letter in preparation
14 for his testimony. The defence seeks leave to be allowed to read
15 this letter in the Court. We shall use the letter in our
16 pleadings, or in our submissions and the letter is one page long
17 only.

18 MR. PRESIDENT:

19 Co-Prosecutors, would you wish to make any observations in
20 relation to the matter raised by the defence counsel in putting
21 the book before the Chamber and the letter by a witness who
22 passed away recently? At that time the letter was already
23 considered put before the Chamber and he had not contested to it.

24 [10.37.00]

25 MS. CHEA LEANG:

31

1 Mr. President, thank you.

2 On behalf of the prosecution we wish to share and make our
3 observations in relation to the request made by the defence
4 counsel to include the book into the case file. And the defence
5 counsel has already made it clear that the book is available in
6 French and English only. So should we consider the submission of
7 the defence counsel to put this book before the Court when it is
8 not available in Khmer and the majority of our judges of the
9 Chamber are Khmer nationals and we wish to understand the content
10 of the book? So we should be able to read the material in Khmer.
11 If the defence counsel wishes to include in their final statement
12 any portions of the book then they should be available in Khmer
13 version before they are allowed to be put before the Chamber
14 otherwise our judges will not be able to understand, including
15 the prosecutors, the content of the book which is only in English
16 and French. And since the book is thick, translation will take
17 time.

18 And since the witness has already passed away -- in relation to
19 the second point -- we agree that since the document is already
20 in the case file, so it is fine by the Co-Prosecutor.

21 MR. PRESIDENT:

22 Defence counsel, you may now proceed.

23 MR. ROUX:

24 Mr. President, in response to the request formulated by Madam the
25 Co-Prosecutor, I should like to state first that when I tender

32

1 the book by Philip Short, which exists only in French and has no
2 Khmer, it has no Khmer. If you really wish -- Madam Chea Leang,
3 I should like to say that I'm happy to see you today, this
4 morning. I haven't seen you for a long time.
5 If you want to start this argument then I will say that I would
6 refuse, I would challenge your putting before the Court any
7 documents that are not translated. There are more than 200
8 documents that you have sought to put before the Court. In order
9 to be courteous, the defence has not challenged any of your
10 intended filings. The defence has always been flexible with
11 regard to translation. I do not expect the co-prosecutors to do
12 any less.

13 MR. PRESIDENT:

14 Since it is an appropriate time to take the adjournment, the
15 Chamber will take the adjournment for 20 minutes. We will resume
16 at 11.00 am.

17 (Judges exits courtroom)

18 (Court recesses from 1040H to 1107H)

19 (Judges enter courtroom)

20 MR. PRESIDENT:

21 Please be seated. The Chamber is now back in session.
22 The international Co-Prosecutor, you may proceed.

23 MR. SMITH:

24 Mr. President, just one brief remark. Just prior to the break
25 there was an issue about the translation of Archbishop Desmond

33

1 Tutu's book. The concern of the national Co-Prosecutor was that
2 perhaps it may be quoted extensively in the final brief or the
3 final statement by the defence and it wasn't clear to her the
4 purpose for which that was to be done.

5 [11.07.42]

6 We've spoken to the defence and as long as the defence can
7 provide the basic page numbers that he would like to refer to in
8 his closing statement, we have no objection to it being accepted
9 just in the two languages. Of course we can communicate those
10 particular parts. So I think there was a misunderstanding rather
11 than any serious objection to the book. Thank you.

12 MR. PRESIDENT:

13 Defence counsel, François Roux, can you respond to the submission
14 by the international Co-Prosecutor?

15 MR. ROUX:

16 Well, I hear that this was simply a misunderstanding and I take
17 due note of it. We will therefore submit this book to the
18 Chamber for debate and I will communicate to my opponents the
19 excerpts which I will be using so that they may be translated
20 into the Khmer language. Thank you, Mr. President.

21 MR. PRESIDENT:

22 In order to make it really certain, according to the Rule 87(4)
23 regarding the final submissions for this 01 case, I would like to
24 give the floor to Judge Lavergne to provide clarification
25 regarding the Internal Rule 87(4) and the deadline for the

34

1 parties to submit documents that they will use in their
2 submission.

3 Judge Lavergne, you take the floor.

4 [11.10.08]

5 JUDGE LAVERGNE:

6 Yes, thank you, Mr. President. I believe that the wish of the
7 Chamber here mainly is to recall a certain number of rules with
8 regard to the production for -- the debate of new items which are
9 not in the file and recall that Rule 87(4) states that the
10 Chamber may, at the request of a party, can hear or receive any
11 new evidence which it deems conducive to entertaining the truth.
12 The parties must, therefore, motivate their submission and the
13 Chamber will examine this in regard of the criteria which are
14 found under subparagraph (3) conditions -- of course they're not
15 prohibited by law, that there not be a delaying tactic, et
16 cetera.

17 So this is simply a reminder that any new element -- the
18 production of any new element must be the result of a motivated
19 request and the Chamber would also like to be able to examine the
20 totality of the requests at once -- at the same time, rather, so
21 this is why I asked how many such documents you wanted to submit
22 and then we will be entertaining all of these documents at the
23 same time.

24 Further, a request was made by the defence that the letter of
25 Professor Henry King be read. This letter, unless I am mistaken,

35

1 was indeed filed and the Chamber is not of the opinion that the
2 letter should be read. Defence may, if it so wishes, make use of
3 the document. If it wishes to quote from it, it is perfectly
4 entitled to do so.

5 MR. PRESIDENT:

6 The Chamber will now resume its proceeding on questioning to the
7 accused regarding his character.

8 Security guard, can you bring the accused into the dock?

9 [11.13.36]

10 The Chamber started questioning the accused on his character and
11 it started by Judge Lavergne. Due to time constraints the
12 proceeding was interrupted by the hearing of the testimonies of
13 the experts and witnesses at that time.

14 The Chamber would like now to give the floor again to Judge
15 Lavergne to continue his questioning to the accused regarding his
16 character.

17 You take the floor, Judge Lavergne.

18 JUDGE LAVERGNE:

19 Yes, thank you, Mr. President.

20 BY JUDGE LAVERGNE:

21 Q. In my last questions to the accused I discussed violence and
22 more specifically political violence.

23 I would also take advantage of what Mr. Raoul Jennar told us
24 yesterday to ask you a series of questions concerning your
25 training. As you heard yesterday, there was lengthy discussion

36

1 of trials -- trials in Moscow and Prague, trials organized in the
2 framework of Communist regimes.

3 Were you informed about the existence of such trials? Did you
4 hear about them?

5 Was that a part of your training? Was this discussed by you?

6 [11.15.25]

7 A. Your Honour, during the time that I studied I did not learn of
8 the prosecution at Prague or in Moscow at all.

9 Frankly speaking, in 1977 when I was talking with Son Sen
10 regarding the name of the Party, the conversation took place over
11 the telephone. Son Sen said about the manifest of the Communist
12 Party, or Communist Party's manifest.

13 At that time Son Sen was talking about the Labour Party by the
14 Vietnamese. I raise this issue because the word "manifest", the
15 "Communist manifest" was heard only in late '77. And I only
16 heard the title and I myself did not see the text of the
17 manifest. Only later when I requested to Jennar, the expert who
18 provided the testimony, only lately I saw the content of that
19 manifest.

20 Therefore, in summary, I did not hear about the prosecution in
21 Prague or in Moscow during the time of my rebuilding into
22 Communism. I was not educated by such document during that
23 period.

24 Q. Can you tell us whether you came to read the writings of
25 Stalin, of Lenin, of the French Communist Party or the writings

37

1 of Chinese authors such as Mao Tse Tung, Liu Shao Chi or others?

2 What did you study precisely?

3 A. I would like to inform the Chamber of my readings of such

4 materials in segments, as follows.

5 [11.19.32]

6 When I threw away my math book I picked up the other book. The

7 first revolutionary book that I read was from China. The book was

8 shown in pictures -- illustrated in pictures with small subtitles

9 underneath. And the book that I was interested was the one that

10 I bought from a library, the book entitled Everything is for the

11 Party, author by Hu Yun Tu (phonetic).

12 He was a son of a worker near the mine harvested area. He joined

13 the revolution by first joining to work in the ministry. He

14 worked in the workshop to repair weapons. At the end he worked

15 and repairs the workshop from building a bayonet until building

16 bigger weapons.

17 Finally, he got injured on his eyes, his hands, and he was sent

18 for treatment in the former Soviet Union. And he was later

19 appointed a professor of industrial cartooning or caricature at a

20 university.

21 I thought if that was the way of the revolution then I would be

22 able to do it, to follow it. And finally, I returned to my

23 teaching career. Also, at that time, as I told Your Honour

24 previously, I read a book entitled The Preliminary Philosophy on

25 Communism. The title in French is Principes Elementaires de

38

1 Philosophie. It was authored by Politzer. And it was published
2 in the social edition. That is another issue.

3 And another part is that I read that book and I read another book
4 called New Democracy. It was authored by Mao Tse Tung and the
5 two theories that I was interested, I already talked about it and
6 informed Your Honour and the Chamber; that is, there is no
7 philosophy without its class. In French, "No concept without the
8 imprint of its class".

9 [11.24.53]

10 And another phrase of Mao Tse Tung which I liked it very much is
11 that the true love of the people is the sacrifice and to provide
12 total authoritarian to the proletariat class.

13 The implementation of a new dictatorship was towards the thieves,
14 towards the robbers as well as towards those who destroyed or
15 burned and those who actually made financial exploitation through
16 money lending. Therefore, I believed the theory would be able to
17 be implemented. And at that time, and when I looked back into
18 the other theory, I believed it would not be able to be
19 implemented in the context.

20 The law by Jesus Christ from what I heard -- if you are slapped
21 on the left cheek, then you give your right cheek for another
22 slap. Therefore, I believe such law cannot be done. This is my
23 response.

24 And I also read the other book of Ghandi. I thought it's not
25 possible to follow Ghandi because he's half-human, half-God. I

39

1 really respected Mohammed (sic) Ghandi and I paid my homage to
2 the statue.

3 And later on I was hooked to the theory of Mao Tse Tung. And
4 this is pre-1970, what I am talking here. And I was in prison in
5 1970. I actually bought a book and the book title is -- it's in
6 French -- Four Philosophical Writings of Mao Tse Tung -- in which
7 there were four main texts about the conflict. That is one
8 subtitle of that book. It talks about the contradiction.

9 And the second subtitle -- the title is in French -- The Correct
10 Contradiction Within the Party. I would also quote different
11 version of his book.

12 [11.31.14]

13 The fourth article is the shortest -- in French -- Where do
14 Correct Ideas Come From? In the prison I studied this book.

15 After leaving the prison I did not read Mao Tse Tung's book but
16 the documents of the Party. In 1976 I was given a book entitled
17 Leninism, authored by Stalin. This book was published in China.

18 I could only read a few pages of the book because I could not
19 manage to read the whole book.

20 Therefore, when I comes to my studies and the influence of the
21 theories from China, the majority of which I was influenced, of
22 course. It is apart or secondary to the documents of the Party,
23 the CPK. So that's all I needed to tell the Court about my
24 studies.

25 Q. I think we are able to understand your training clearly now on

40

1 the basis of what you read. I am going to move on to another
2 subject. That is your relationship with your family.

3 [11.33.58]

4 You told us that in a revolutionary family children did not
5 belong to their parents; they belonged to Angkar. I would like
6 you to tell us whether this is how you experienced it, both in
7 relation to your own parents and to your children. Did you apply
8 these principles in your family relationships? Did you change
9 the way you related to your parents, for example?

10 A. My state of mind has to be flexible to the materials because
11 the materials were -- are created first when the mindset is
12 created later. So "material" here in French is referred to as
13 "la matière". It is matter that determines state of mind.
14 So when I entered the revolution I had to regard my parents as an
15 individual or a family which belonged to the Party. Therefore, I
16 did not give any portion of my 7,000 riel salary to my parents
17 but instead I offered most of the salary to the Party. I wished
18 that my parents loved revolution and that they would also be
19 devoted to revolutionary cause. I wanted four my siblings to
20 join revolution and to show their love to the revolution.
21 However, it was not my intention to compel anyone to join the
22 revolution. They shall be voluntarily joined the revolution and
23 in regard to my children, as I already indicated to the Chamber
24 earlier on, my children were the children of Angkar so they were
25 raised to serve the revolution. It was my notion at that time.

41

1 Meanwhile, I would like to also indicate to the Chamber that when
2 people said that the children belonged to Angkar and that the
3 children had to report on the parent to Angkar, I think this kind
4 of expression was not quoted from me and I never said so.

5 In conclusion, I was part of the revolution because of the
6 material condition or circumstance, as I said. Mentally I
7 preferred that my whole family loved the revolution or be
8 involved in the revolution.

9 [11.39.32]

10 Q. You told us that you were the first of five children and you
11 added that in your family you wanted everyone to join the
12 revolution. Can you tell us how many people in your family,
13 amongst your in-laws -- that is your wife's family -- how many
14 people in your family died during the Democratic Kampuchea era or
15 in the time following that era? Can you give us a figure?

16 A. Thank you, Your Honour, for raising this matter. One of my
17 in-laws died at S-21. His name was Keoly Thong Huot. His name
18 appears in the S-21 prisoners list. Another in-law was arrested
19 secretly. His name was Siep Sakhan. So from 1975 to 1979 I lost
20 two in-laws.

21 And in respect of the siblings at my wife's side, my wife's
22 brother Chuob was killed by Lon Nol's people in 1968. He was a
23 traditional musician and Lon Nol people killed the seven
24 musicians in the divisional Khmer music team and buried them in
25 one mass grave. This is a tragedy, a small tragedy, in Peani

42

1 Commune, Kampong Tralach district, Kampong Chhnang province.
2 And after the 7 of January 1979, after we fled and, during the
3 course of our fleeing, we lost colleagues, cadres, who used to
4 work with me from 1975 to 1979; they all died. And another
5 in-laws of mine also died. So my brother-in-law died and two
6 sisters also died and six nieces -- six of my nieces and nephews
7 also died.

8 So altogether I can -- I am emotionally moved because a lot of
9 relatives of my colleagues have lost their lives, I would like
10 to conclude the tragedy that has been inflicted on the family --
11 on my family.

12 [11.44.44]

13 Q. To summarize what you said, you mentioned two brothers-in-law,
14 Keoly Thong Huot and Siep Sakhon. These are two husbands of your
15 sisters or were they the brothers of your wives?

16 A. Siep Sakhon was the husband of my sister, and she is my
17 younger sister, of course. And as to Keoly Thong Huot, he was
18 the husband of my second younger sister. So my sister whose
19 husband was Thong Huot was the third in the family.

20 And during the time we were on the run, another person named Pich
21 also died. She was the third sister of mine, so she actually
22 came fourth in the family. Brother Choub was the younger brother
23 of my wife.

24 Q. Your brothers-in-law, had they adhered to the revolutionary
25 cause; were they Khmer Rouge revolutionaries? Why were they

43

1 executed? Why was one of them sent to S-21? What problems did
2 this cause you at the time? I refer to your brothers-in-law,
3 Keoly Thong Huot and Siep Sakhan.

4 A. Both in-laws joined the revolution in 1970 after the coup
5 d'état. Later on, they joined the party.

6 [11.48.08]

7 Keoly Thong Huot worked at the Santebal office in Kampong Thom
8 province. In 1977 -- I'm not sure I remember the exact date -- I
9 saw a letter sent to me by him secretly. Having received the
10 letter, I reported on the letter to Son Sen. Three days later, I
11 saw my brother-in-law, my sister and their two sons in my home.
12 I kept them there and one day later, Son Sen gave me a letter and
13 told me that when my brother-in-law arrived, I should keep him to
14 stay with me.

15 The letter that was produced to me by Son Sen was in the name of
16 Kae Pok. Kae Pok was from the Central Zone and he wrote in the
17 letter that he just realized that Keoly Thong Huot was actually
18 the in-law of Duch. Now, I would like to give him to the party.
19 The people to be given to the party included Keoly Thong Huot,
20 his wife and the two children.

21 I kept them with me without assigning them with any tasks. A few
22 months later, Son Sen told me that Keoly Thong Huot was supposed
23 to be interrogated as in ordered by Uncle Nuon. I knew that I
24 was asked to arrest my brother-in-law, shackle him, interrogate
25 him and smash. But I did not do that. I made him write his

44

1 confession without him being shackled. I sent the confession to
2 the upper echelon through Son Sen.
3 A few days later Son Sen reprimanded me through the telephone.
4 He said, "It was dangerous, Duch, if you did that because as a
5 person what would it be if you behaved as a human being?"
6 I think in my English I would say "to consider one's self proud
7 to be a man is a very dangerous thing". That is what was said by
8 Son Sen at the time. I kept quiet and later on this Keoly Thong
9 Huot made several more mistakes and I could not stand it because
10 if I kept him alive then I would be in danger and then whole
11 family would be gone. So I had him arrested, shackled and
12 interrogated and tortured.
13 So that is the matter of Keoly Thong Huot and this is my
14 response, Your Honour.
15 [14.54.17]
16 Q. I would like to try to understand this story somewhat better.
17 Things are still not very clear for me. Your brother-in-law
18 worked for a Santebal office. What was his exact position there?
19 Was he the director of one of the security centres? Was he in
20 charge? Did he have any specific responsibilities there?
21 And also, why did he write to you? What did he write to you?
22 What did he ask you to do when he came to see you with his wife
23 and children?
24 A. Your, Honour, Keoly Thong Huot was a deputy chair of the
25 Santebal Security Office in Kampong Thom. The letter that he

45

1 wrote to me was written when he was already arrested and detained
2 at the Kampong Thom prison. He sent that letter to me initially
3 through his prison guard and it was handed to me through the
4 Ministry of Energy, through a personnel there at the Ministry of
5 the Energy.

6 Because the Ministry of Energy actually spread their personnel
7 throughout the country and that ministry -- the letter was handed
8 to the minister and I was given by that person.

9 Q. Why was your brother-in-law arrested? What was he being
10 reproached with?

11 A. Your Honour, I did not dare to find out from my superior
12 regarding this matter. Personally I did not ask him the reasons
13 for his arrest.

14 [11.57.08]

15 Q. Well then, what was your brother-in-law asking? What was he
16 telling you? What was he asking for in the letter that he sent
17 to you?

18 A. In his letter he reported to me that he was arrested and
19 detained at the police office and that he was having dysentery.
20 And this is for my information.

21 Q. So your brother-in-law was arrested, was detained in a police
22 office and, if my understanding is correct, then you saw your
23 brother-in-law come to see you with wife and two children. When
24 they came to see you were they free or were they in detention?

25 A.

46

1 Your Honour, he arrived at almost dusk time, around 6 p.m. My
2 younger sister called to me that Uncle Pauk allowed them to come.
3 And they were not tied or anything and they were happy and they
4 thought they were out of trouble already.

5 Q. So they came to your place free, thinking they would find
6 refuge, safe haven with you. And if my understanding of what you
7 said earlier is correct, from the moment that they arrived you
8 reported on that situation to Son Sen.

9 What compelled you to take such a step?

10 [11.59.33]

11 A. Your Honour, my younger sister and my younger brother-in-law
12 did not regard that area as a safe haven. They believed the
13 Party allowed them to come and stay with me. That is a matter,
14 and another matter is that within the internal affairs of the
15 Party I had to report it to my superior for resolution.

16 Therefore, I received a letter from my younger brother-in-law and
17 I made a cover letter and I sent both to my superior for his
18 information.

19 Q. By doing this, were you under the impression that you might
20 make the situation of your brother-in-law more serious, or did
21 you think that you might improve his situation? Or were you
22 indifferent to that?

23 A. Your Honour, it's not possible to separate your own blood, and
24 regarding his unclear nature of his offence I would not be able
25 to not to do anything, but the methods that I would do was

47

1 nothing else but accept to report to my superior with my cover
2 letter to send it for his information.

3 Q. You received a letter from your brother-in-law. What was it
4 to you, was it a call for help? Was he telling you, "I'm in a
5 difficult situation, I'm detained," and you didn't know why he
6 was detained and the only thing that you did which to you seemed
7 quite normal was to report on this situation to your superiors.
8 So what did you conclude? What do you conclude from this, in
9 hindsight?

10 A. Your Honour, a Party member had an authority to protest to
11 the upper echelon for the arrest of any person. That is the
12 normal norm. The hardship felt upon my family and of course I
13 had to resolve the matters. And only I was the breadwinner or
14 the core person of my family to resolve such a matter. And they
15 may have said that I could only have words to attach his letter
16 with my cover letter to my superior for his information and that
17 was the norm, the standard of operation of dealing with such an
18 issue, especially regarding to this family matter.

19 [12.03.56]

20 Q. Things are still not clear to me. I would like to know why
21 your brother-in-law was finally arrested, why he was tortured --
22 because you said that he was tortured -- and why he died. What
23 had he done in the eyes of the Party to deserve such treatment?

24 A. Your Honour, the decision of the Party was overwhelming and
25 nobody could be in its way. Brother Pok, that is Kae Pok, he was

48

1 the secretary of the central zone. He had the authority to
2 arrest anyone or to free anyone or to spare anyone or to smash
3 anyone. And the decision of the 30th of March 76 was the
4 testimony to this effect. I was an ordinary Party member I had
5 no right to protest to such matter. Son Sen even Pol Pot -- we
6 talk about Pol Pot here -- would not be allowed Kae Pok to make
7 such a decision that aids to put himself in a shameful way.
8 The authority, the manifesto that was given to Kae Pok by Pol Pot
9 was the decision made on the 30 of March 1976. The decision on
10 the 30 of March 1976 was the norm. Therefore, Kae Pok had the
11 authority to make his own decision and Pol Pot granted him such a
12 decision. Kae Pok had his authority to make decision and Pol Pot
13 would not dare to interfere because he implemented according to
14 the norm that was given to him. And that norm was of course
15 delivered by Pol Pot to those people.

16 [12.07.43]

17 JUDGE LAVERGNE:

18 All right. Well, I think Mr. President we might interrupt our
19 questions here. It's time for a break and we can resume with
20 these questions later.

21 MR. PRESIDENT:

22 It is now an appropriate time for our lunch break. The Chamber
23 will adjourn for lunch and will resume at 1.30 to continue our
24 proceedings.

25 Security guard, take the accused back to the detention centre

49

1 facility and bring him back to the Chamber before 1.30.

2 The hearing is now adjourned.

3 THE GREFFIER:

4 All rise.

5 (Judges exit courtroom)

6 (Court recesses from 1208H to 1335H)

7 (Judges enter courtroom)

8 MR. PRESIDENT:

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

10 Per our schedule this afternoon, we will hear the testimony of an
11 expert, Stéphane Hessel, via videoconferencing.

12 The AV Unit, could you now link us to the videoconferencing
13 system?

14 QUESTIONING BY THE BENCH

15 BY MR. PRESIDENT:

16 Q. Good afternoon, Mr. Expert. Is your name Stéphane Hessel?

17 [13.38.22]

18 A. Yes. Mr. President, do you hear us?

19 Q. Yes, we could hear you.

20 How old are you, Mr. Expert?

21 A. I am 91 years old and six months.

22 Q. Where is your current address, Mr. Expert?

23 A. My current address is in Paris in the 14th district; 6, rue
24 Antoine Chantin.

25 Q. Mr. Expert, are you related by blood or by affiliation to any

50

1 parties to the proceedings before this Chamber?

2 A. No, that is not the case.

3 [13.40.32]

4 Q. As an expert before the Chamber you are required to take an
5 oath before providing your testimony. Do you agree to this
6 request?

7 A. Yes.

8 MR. PRESIDENT:

9 The Greffier, Ms. Natacha, can you arrange to have Mr. Stéphane
10 Hessel take an oath before this Chamber?

11 (Witness, Stéphane Hessel, sworn)

12 MR. PRESIDENT:

13 The Chamber would like now to give the floor to Judge Lavergne to
14 put questions to these experts. Judge Lavergne, please take the
15 floor.

16 JUDGE LAVERGNE:

17 Thank you, Mr. President.

18 [13.42.55]

19 BY JUDGE LAVERGNE:

20 Q. Hello, Mr. Hessel. I am Judge Lavergne and I wish to explain
21 to you that prior to hearing your deposition, it is customary in
22 this Chamber to recall various data concerning your biography
23 which makes it possible for the Chamber to determine that you
24 have the competence to be heard by this Chamber.

25 I would like to recall that you have had a long career as a

51

1 diplomat; that you have been or that perhaps you are still an
2 ambassador.

3 A.Yes, I am still an ambassador.

4 Q.That you are a former member of the French resistance; that
5 you were arrested by the Gestapo and deported to concentration
6 camps; that you took part in the drafting of the Universal Human
7 Rights Declaration of 1948; and there you worked along with René
8 Cassin. I add that you are still active; that you have been a
9 member of the higher authority on audio-visual communication in
10 France; that you have been decorated many times.

11 Mr. Hessel, you have been called at the request of the defence as
12 an expert witness. The defence has indicated that in your
13 capacity as a former member of the resistance, having been
14 deported and having then worked toward Franco-German
15 reconciliation, you would be contributing on the issue of
16 forgiveness.

17 [13.45.25]

18 I will give you the floor. I would like you to speak to us about
19 your experience of forgiveness. If you have any experience with
20 regard to the facts that we are dealing with here in the
21 Extraordinary Chambers of the Cambodian Courts, and in what way
22 the experience that you have may prove useful to us in the
23 proceedings that we are engaged in. I now give you the floor.

24 A.Well, Your Honour, you are taking me somewhat by surprise
25 here, but I will try to reply as accurately as possible to the

52

1 question that you have put to me.

2 Indeed, I have been the witness of the activities of the

3 Nuremberg Trials, which after the end of the Second World War

4 tried the major Nazi criminals. At the time, I thought that such

5 a trial could make it possible to achieve a rebuilding of

6 relations between the countries that came out of the Second World

7 War as victors and Nazi Germany, which had suffered total defeat.

8 I thought that this was the beginning of an international

9 criminal law which, at the time, had not yet found the

10 international texts upon which it could rely in order in the

11 future to try persons guilty of war crimes, of genocide, of

12 crimes against humanity.

13 It appeared to me that the events that occurred in Cambodia,

14 which is what we are discussing today, are clearly characteristic

15 of crimes against humanity and that we need to determine whether

16 a trial, such as the one you are engaged in and a sentence such

17 as the one you are about to hand down, may have the same effects

18 toward the possible rebuilding of the Cambodian nation as was the

19 case for the activities of the Nuremberg tribunal, which

20 contributed to a rekindling of relations between Germany and the

21 victorious nations.

22 [13.49.21]

23 In this sense, the judgement which you will be handing down, in

24 total independence and based on an agreement between the United

25 Nations and the Cambodian government, may if its conduct

53

1 guarantees the defence for normal rights, may lead to the
2 necessary improvement of relations between all Cambodians.

3 Q.Thank you, Mr. Hessel. So if my understanding is correct, the
4 first condition is that this trial be a fair trial?

5 A.Perfectly right.

6 Q.Above and beyond that, since your testimony supposedly should
7 touch on the issue of forgiveness, do you think that with regard
8 to that issue there are lessons that we could draw from your own
9 experience?

10 A.Yes. I will begin by saying that the word "forgiveness" can
11 apply only to those who have been the victims of the horrific
12 acts, the trace of which remains in the history of Cambodia. It
13 is for them, the victims to undertake vis-à-vis those who are
14 guilty following the judgement that will be handed down, to have
15 an attitude which will either be to reject any type of
16 forgiveness which falls fully within their rights, or to consider
17 that the judgement that will have been handed down enables them
18 as victims to overcome their pain and to resume a friendly
19 contact with all of their compatriots in the same manner that
20 this was made possible after the Nuremberg Trial between the
21 victors and the vanquished of the Second World War.

22 Q.Thank you very much, Mr. Hessel. I personally have no further
23 questions for you. I will therefore leave the floor to my
24 colleagues and to the prosecutors.

25 MR. PRESIDENT:

54

1 Judges of the Bench, do you have any questions to be put to this
2 expert?

3 [13.53.45]

4 If not, then I would like to give the floor to the Co-Prosecutors
5 to put questions to this expert. You are reminded that you have
6 10 minutes to question this expert. The floor is yours,
7 Co-Prosecutors.

8 MR. TAN SENARONG:

9 Thank you, Mr. President.

10 QUESTIONING BY THE CO-PROSECUTORS

11 BY MR. TAN SENARONG:

12 Q.Good afternoon, Mr. Stéphane Hessel. I have some questions
13 for you.

14 A.Good day, Mr. Prosecutor.

15 Q.Thank you, sir for providing your testimony. Here is my first
16 question to you.

17 As someone who worked on the reconciliation and truth, would you
18 be able to provide us some advice, advice for the accused as well
19 as for the victims of the Khmer Rouge regime regarding that
20 matter?

21 A.I didn't quite understand. Do I have advice? Well, it seems
22 to me that what is important in proceedings such as those that
23 are in your charge is to ensure on the one hand that the
24 prosecution as well as the defence be afforded a full ability to
25 express themselves. And that the victims also be able to gather

55

1 knowledge of those facts that touched them so seriously and about
2 which the Tribunal will be handing down its findings.

3 [13.56.43]

4 Q.Thank you, Mr. Hessel. Here is my second question.

5 Through your experience of being detained during the wartime and
6 as a former negotiator, my question is whether the victims who
7 received apology from the offenders -- were these acceptable or
8 not if the accused does not want to talk about the truth and does
9 not want to accept his responsibility for such crimes?

10 A.Well, on this issue I am pleased to know that your Tribunal is
11 trying on the basis of the prosecution but also on the basis of
12 the defence, and it is for the defence to bring forth everything
13 that may lead to a judgement that will be more rigorous or less
14 rigorous with regard to the accused.

15 The fact that the accused has recognized his guilt naturally does
16 not suffice to ensure that the victims will forgive him. It may,
17 however, lead to a certain consideration being given to his
18 person, to his past and his possible future, in the reasoning of
19 the Judges.

20 Q.Thank you, Mr. Hessel. I do not have any more questions for
21 you, and I would hand the floor to my international
22 Co-Prosecutor.

23 MR. TAN SENARONG:

24 Thank you, Mr. President.

25 [14.00.39]

56

1 BY MR. DE WILDE D'ESTMAEL:

2 Q.Mr. Hessel, first of all I'd like to tell you that I am
3 honoured to put questions to the member of the Resistance and a
4 man of peace such as you. I shall have very few questions.
5 I would like to ask you what are the steps and the challenges
6 that would lead to reconciliation in a post-conflict situation
7 such as in Cambodia. You mentioned this a while ago but what is
8 the role of judicial proceedings in all these stages? Thank you.

9 A.I think that what we are witnessing is a major development in
10 international criminal law. Accordingly, we should draw on all
11 the body of experience of the past few years in order to make
12 sure that international criminal justice plays a constructive
13 role, as it should, in bringing to public knowledge the horrors
14 that occurred. This task should be without compromise and should
15 not be sparing of those who bear the responsibility for these
16 events.

17 But beyond that, judicial proceedings should have an effect that
18 might be comparable to what obtains in other countries where the
19 truth and reconciliation commissions have been set up. I will
20 use the example of South Africa. By this I mean that to enable
21 the peoples who are victims of these horrors to continue to enjoy
22 or to contemplate the prospect of a peaceful life within their
23 countries, in a context where some people have been manipulated
24 or where people have committed crimes for which they are guilty
25 and a context that also includes the victims of these acts.

57

1 [14.03.51]

2 This is an extremely difficult task but it is also extremely
3 useful. In my view the concept of forgiveness should be handled
4 as carefully as possible. It can apply and in this regard I
5 refer to the works of a major French philosopher, Paul Ricoeur,
6 as being useful to all parties concerned.

7 Q.Thank you. I have two other questions. The first is this.
8 Would you agree if I were to say that reconciliation in Cambodia
9 is a long road to travel and that it must necessarily involve the
10 end of impunity and the search for the truth as the major
11 buttresses and that it is not enough simply to forget the past?

12 A.Yes, I agree completely with your proposition. Impunity is
13 unacceptable and the process of reconciliation should not be
14 hasty and, in any event, it should involve shedding light on all
15 the harm that was done to these people.

16 Q.Thank you. This is my last question.
17 Would you agree, sir, with the fact that no-one can expect or
18 require that victims or survivors of the Khmer Rouge regime to
19 forgive their executioner and that reconciliation in the form of
20 co-existence can exist without forgiveness?

21 A.Here again I support your view. It is indeed essential not to
22 expect forgiveness from the victims and to move towards
23 reconciliation at the national level without forgetting the
24 horrors that were committed.

25 [14.07.43]

58

1 Q.Thank you very much, sir.

2 MR. DE WILDE D'ESTMAEL:

3 I have no further questions, Mr. President.

4 MR. PRESIDENT:

5 Next, the Chamber would like to give the floor to the civil party

6 lawyers to put questions to the expert. The civil party lawyers

7 will have 15 minutes altogether.

8 QUESTIONING BY CIVIL PARTY COUNSEL

9 BY MS. MARTINEAU:

10 Q.My name is Ms. Martineau. I'm a lawyer. Good afternoon, sir.

11 With my colleague Mr. Kim, we are civil party lawyers for 28

12 civil parties. I was very pleased to hear what you said. It is

13 a great thing to be able to put questions to you. The civil

14 parties my colleague and I are representing are facing very

15 difficult circumstances 30 years after the events. This is not

16 like Nuremberg, which was in the heat of the moment, if one might

17 put it that way, because what happened had happened and the

18 persons responsible were punished in various ways. And then we

19 have this country where 30 years after the event we are dealing

20 with impunity.

21 You have answered many of the questions we wished to put to you.

22 These civil parties have made the effort to come forward in

23 public and explain their concerns and the terrible lives -- the

24 terrible things they went through, either as victims -- as direct

25 or indirect victims, and today we have in this trial an accused

59

1 who is the first to be tried. Since 1999 when he was arrested he
2 acknowledged his guilt generally.

3 [14.10.40]

4 The civil parties still have questions and sometimes they're
5 accused of not being satisfied with this admission of guilt on
6 the part of the accused. Once again we must repeat that it is
7 important to know that the civil parties consider that the
8 accused has allowed about 15 percent of the facts to appear, and
9 what the civil parties want -- what the civil parties are saying
10 is very important to them because the truth, or at least the
11 understanding of what happened, will not be known.

12 So this is their situation. You have answered the question in
13 part already. That is with regard to the admission of guilt.
14 The defence counsel are relying, or at least have produced
15 evidence, one piece of which you know perfectly well, and that is
16 the situation of Albert Speer during the Nuremberg Trials when he
17 pleaded guilty; he had the good sense, I might say, or perhaps
18 even the courage, I don't know. Some people thought it was a
19 strategy, others thought that it was fact, when he admitted his
20 guilt and he much impressed the judges, the prosecution and many
21 journalists afterwards. Albert Speer had the advantage of being
22 someone who before he was arrested had taken some positive steps,
23 that is working against the regime itself.

24 Do you consider that in the current circumstances the admission
25 of guilt is in itself sufficient? If you say for instance, "I

60

1 admit the facts; I recognize some of them as being established",
2 is sufficient for the victims to do what you were referring to,
3 that is to meet towards reconciliation.

4 [14.13.25]

5 It's not a need to forget because this trial is to remember what
6 happened in Cambodia. So without complete spontaneity on the
7 part of the accused and support to those in this Court who are
8 interested in finding out what happened, do you think that the
9 civil parties can move -- if not towards forgiveness because for
10 the time being they cannot forgive, at least that is what most of
11 them have said so far -- at least, perhaps move to
12 reconciliation. I'm sorry, but my question has been a little
13 long.

14 A. Thank you for that very important question. We could write
15 volumes on this you
16 and I; volumes large enough, as large as what Antoine Garapon
17 wrote, that is "On this crimes which are neither punishable nor
18 forgivable".

19 I shall take the example of Albert Speer. This example is
20 something close to my heart because his positive action towards
21 those unhappy people, unfortunate people, in Dora Concentration
22 Camp where I ended the Second World War, Mr. Speer assured that
23 it was important to take into account the unbearable working
24 conditions of those who were deported to the camps. So, in his
25 favour, he took a stand which enabled the Nuremberg judges to be

61

1 less harsh on him than they were in regard to the other accused
2 before that court.

3 I do not think that the same shall apply to a person who has
4 admitted guilt, but who has not provided clear material to
5 support the view that he opposed the instructions that he
6 received when he committed his deadly crimes.

7 [14.17.44]

8 That said, even if the victims cannot forgive, they can take into
9 account the circumstances of an accused who pleads guilty, first
10 to request that responsibility should be clearly defined and
11 that, accordingly, the veil that you have mentioned should be
12 drawn back. After that, they may consider that it is for them to
13 decide to live together with their fellow citizens.

14 Q.Thank you, sir, I have no further questions.

15 MR. PRESIDENT:

16 Civil party lawyers of other groups, would you wish to put
17 questions to the expert? You may proceed.

18 MR. HONG KIMSUON: Thank you, Mr. President.

19 BY MR. HONG KIMSUON:

20 Q.Good afternoon, Mr. Stéphane Hessel. I am Hong Kimsuon, the
21 counsel for the civil party. I would like to put a question to
22 you.

23 You had experience in the reconciliation and in how to find way
24 to avoid any vengeance or retaliation. Here at this Court, as
25 you may have heard already, that Kaing Guek Eav alias Duch, in

62

1 many occasions stated his intention to seek forgiveness from the
2 victims. However, a lot of victims are now awaiting to see
3 whether the accused is found guilty or not by the end of the
4 Trial. So many victims are not yet in the position to grant him
5 -- or to accept his apologies yet.

6 My question is, in 1948 you took part in the drafting of the
7 Human Rights Declaration. Was it from the experience that you
8 were detained during the World War II between France and Germany,
9 that you could become part of the people who draft such
10 declaration?

11 And if we go back to the Khmer Rouge regime's matter, as you may
12 have been quite familiar already, that the senior leaders of the
13 Khmer Rouge signed agreement with the international community on
14 the prevention of genocide if we go back to the Khmer Rouge
15 regime's matter, as you may have been quite familiar already that
16 the senior leaders of the Khmer Rouge signed agreement with the
17 international community on the prevention of genocide.

18 And later on there was a massacre in Rwanda between Hutu and
19 Tutsis and there was an effort to reconcile, to heal the wound
20 of the people through trials.

21 And on behalf of civil parties, may I seek your clarification or
22 comment if there has been a lot of massacres previously carried
23 out but later on more leaders tend to resort to this massacre
24 again. And how can the principle of reconciliation be effective
25 if these leaders keep committing crimes?

63

1 [14.24.02]
2 So how can we make these declarations or national reconciliations
3 effective to those leaders?
4 A.Counsel, that is a very complicated question that you put to a
5 man who has a great deal of experience of progress made in
6 international criminal law but who still does not have sufficient
7 knowledge of the particular situation of Cambodia and the
8 misdeeds of the Khmer Rouge era so that he can, to the extent of
9 his abilities, say what he thinks ought to be done there with
10 reference to what has been done elsewhere.
11 We learn from history that each country has its specific
12 characteristics and international criminal justice should be
13 careful to take this into account. What we can say simply is
14 that the concept of reconciliation can only go hand in hand with
15 the concept of truth.
16 The South African example is that of a commission, a truth and
17 reconciliation commission. No doubt we should put an end to
18 impunity which can only worsen the situation. Once impunity is
19 removed through judgments or judicial decisions which will be
20 handed down in respect of more than one accused -- because you do
21 have others -- others should be tried.
22 So once there is an end to impunity, reconciliation, the
23 necessary reconciliation can be considered. This reconciliation
24 does not, I repeat, mean the forgiveness of the victims, but
25 instead means building up a peaceful nation.

64

1 Q.Thank you very much, Mr. Hessel. That was the only question I
2 had.

3 MR. HONG KIMSUON:

4 Thank you, Mr. President.

5 [14.29.03]

6 MR. PRESIDENT:

7 Next we would like to give the floor to the defence counsel to
8 put questions to Mr. Hessel if the counsel so wishes. You will
9 have 15 minutes to put questions.

10 MR. ROUX:

11 Thank you, Mr. President. Perhaps we should try to restore the
12 visual connection. We no longer have the image of our witness on
13 screen. So perhaps we could ask the technical services to
14 restore image. We had sound but we had a static image. Perhaps
15 we could ask the Audio-Visual team to restore the video streaming
16 and if possible a better quality image than what we had for the
17 purpose of placing this in our memory.

18 MR. PRESIDENT:

19 The AV Unit, would you be able to assist with this technical
20 issue? And please inform the Chamber how long it's going to take
21 -- a minute or two. And the defence counsel you may sit down now
22 and we will inform you when the technical issues can either be
23 resolved or not.

24 The technical issue needs to be solved and it's going to take at
25 least five minutes. This is for information to both the parties

65

1 of the proceedings and the public.

2 (Pause for technical reasons)

3 [14.35.10]

4 MR. PRESIDENT:

5 Now, we can have an image back on the screen and the Chamber
6 would like now to give the floor to the defence counsel to put
7 questions to this expert. Defence counsel, you take the floor.

8 MR. ROUX:

9 Thank you, Mr. President.

10 QUESTIONING BY DEFENCE COUNSEL

11 BY MR. ROUX:

12 Q.Good morning, Mr. Stéphane Hessel. Wish to warmly thank you
13 for being with us during this hearing. It is 2.30 in the
14 afternoon here and I can well imagine that you had to wake up
15 very early this morning to be able to reply and appear before
16 this Court.

17 [14.36.20]

18 Thank you very much.

19 A.And I thank you.

20 Q.As you've understood from the questions that were put to you
21 until now by the Office of the Prosecutors and the counsel for
22 civil parties, much has been said to you about the victims and
23 it's perfectly normal that it be so on the other side of the Bar.
24 Robert Badinter, whom you know well, had written in the daily, Le
25 Monde, that one should not confuse justice and therapy for the

66

1 victims and Robert Badinter went on to say that criminal justice
2 does not have the mission of being a therapy for the suffering of
3 victims.

4 Now, there is perhaps, indeed, a confusion which you may have
5 perceived on the part of some of the victims, at least as far as
6 their expectations with regard to this trial. I think that on
7 the other side of the Bar, Mr. Hessel, they have not sufficiently
8 insisted on the fact that today -- in Cambodia in this trial --
9 Duch is the first of the Khmer Rouge cadre to publicly admit his
10 responsibility.

11 The victims find it hard to accept what he says when he states,
12 "I was obeying orders" and yet, he always adds, "Even though I
13 obeyed orders..." -- which is in fact a constant factor as
14 confirmed by all experts, he always adds, "...this does not
15 exonerate me and I take full responsibility and the full
16 responsibility for those who were under my command."

17 [14.38.58]

18 And to make sure that things are clear before I ask you some
19 questions, I would like to share with you two paragraphs of the
20 closing order which was drafted by the Co-Investigating Judges
21 who heard Duch for over a year in the presence of the
22 Co-Prosecutors. And the Co-Investigating Judges thus concluded
23 this year of investigations:

24 "Duch has always recognized his responsibility in his capacity as
25 head of S-21 for the crimes that were committed there. Duch has

67

1 regularly expressed remorse to the victims and to their families,
2 but also to the former employees of S-21 who had been placed
3 under his command."

4 And the judges added:

5 "Furthermore, Duch voluntarily cooperated in the course of the
6 investigation, refusing to implicate any of his subordinates and
7 to exclusively state that the responsibility lay with his
8 superiors in order to try to exonerate himself. In order to
9 overcome certain inconsistencies [the judges stated] which were
10 made in front of the Investigating Judges, he indicated that
11 these inconsistencies were the result of fear and of shame which
12 he felt when he was being reminded of the extremely painful
13 history of the crimes that have been committed."

14 Therefore, Mr. Hessel, this is the man who is being defended by
15 myself and Counsel Kar Savuth -- Counsel Kar Savuth, who himself
16 is a former prisoner of the Khmer Rouge. This to enable you to
17 understand how complex all of this is, and at last I would like
18 to add that in the framework of his co-operation with justice
19 Duch has accepted to take part in a re-enactment on the very
20 location of S-21 but also in the killing areas.

21 And on that occasion he made a devastating statement for the
22 benefit of the civil parties where he said to them, "I ask you
23 for forgiveness but I do not ask you to forgive me. I ask you to
24 leave this door open."

25 And the Investigating Judges noted in the minute of that

68

1 re-enactment -- and, for the information of the Court I will say
2 this, at reference 48/2, penultimate page in French -- and the
3 judges noted that after he made that statement the civil parties
4 Chum Mey and Bou Meng expressed their satisfaction.
5 [14.43.38]
6 So please forgive me for this lengthy introduction but you very
7 rightly recalled the truth and reconciliation commissions. You
8 very accurately recalled the fact that the necessary
9 reconciliation requires that the truth be brought to light.
10 And the first proof that we owe to you is to tell you, "Yes, the
11 accused has decided to admit to his crimes". That is not enough
12 for certain civil parties and we respect that. But he decided to
13 admit to his crimes and as of today he is the first and the only
14 one to have done so.
15 My first question, Mr. Hessel -- well, the Franco-German
16 reconciliation was mentioned. I can also imagine that in Germany
17 itself it was certainly necessary for the German people to become
18 reconciled with itself. And I can imagine that it was not the
19 case that the entire German people was behind these killers. And
20 with regard to Cambodia today, might you be able to tell us that
21 there is a possibility for a people to reconcile with itself?
22 A.Counsel, I have listened with the utmost attention to the
23 words that you have just spoken. With regard to reconciliation
24 between France and Germany, it was necessary that the criminal
25 acts are committed by the Hitlerian regime.

69

1 It was necessary for these acts to be clearly recalled in the
2 course of the proceedings in Nuremberg. And to my mind that is
3 the condition, the sine qua non condition for reconciliation.

4 [14.46.49]

5 The facts, all of the facts, must be known. If the accused
6 contributed in revealing the facts then that must be taken into
7 consideration. However, an accused who admits to his guilt
8 cannot avoid being tried for the crimes that he admits he has
9 committed.

10 Is it possible then to analyze his personality and, with the help
11 of his defence -- where I can easily recognize your talent -- is
12 it possible then to bring to a conclusion this trial along lines
13 that will not be unilateral? It is for me or to my mind --
14 rather, it is for the Tribunal to weigh -- fully independently to
15 weigh the nature and the extent of the crime, not by the accused
16 alone but by the leaders of the horrific Khmer Rouge period in
17 Cambodia, with the characteristics specific to this accused in
18 order to arrive at a conclusion which will have the main effect
19 of making the indispensable reconciliation possible in a country
20 where it appears to me no-one can say determinately who was in
21 one camp or in the other; camps which were facing off 30 years
22 ago. Thank you.

23 Q.You mentioned specifically the personality of the accused and
24 I would now like to speak about the man. The experts, both
25 psychologists and psychiatrists, who spoke before this Court,

70

1 reminded us that Duch who before these tragic events was a
2 teacher who was appreciated by all, that Duch had been attracted
3 by stoicism.
4 And since the beginning of the investigation, Duch has explained
5 to the Investigating Judges that when he was in charge of prison
6 M-13, the prison where Francois Bizot was detained, he did not
7 like what he was doing. He did not like the role which had been
8 assigned to him by his superiors. And Duch said to the
9 Co-Investigating Judges, "I would recite to myself in order to be
10 able to cope, the last verses of The Death of The Wolf".
11 So please, Mr. Hessel, allow me to read these last verses from
12 your work of poetry in memory where you publish precisely this
13 poem, penned by Alfred de Vigny. The last stanza:
14 [14.54.18]
15 "Alas I thought, in spite of the great name of the man, how
16 ashamed I am of myself
17 How weak we are. How must one live life and all its ills?
18 You are in the know, magnificent animals.
19 When one sees what one was upon the earth and what one leaves
20 behind
21 Then only the silence is great. Everything else is weakness."
22 I can imagine that you were quoting it yourself because I'm sure
23 you know it by heart. I have understood you well, savage
24 traveller, says the poet to the wolf.
25 "And the last glint in your eye went straight to my heart.

71

1 And it said to me, if you can ensure that your soul through study
2 and thought may reach the high degree of stoic pride. With
3 strength and purpose and with all your thought to gain That high
4 degree of stoic pride. Weeping or praying -- all this is in
5 vain. Shoulder your long and energetic task the way that
6 destiny sees fit to ask. Then as I suffer and so die without
7 complaint."

8 Well, Mr. Hessel, these are the stanzas which the man who was to
9 become an executioner was reciting to himself, which he had
10 learned from his French teacher which enabled him to cope with
11 the task he had been assigned.

12 Mr. Hessel, you are familiar with this poem about stoicism. What
13 does it tell us, particularly in the last verses?

14 A. I am naturally very sensitive to this avocation of a beautiful
15 poem which however only expresses the aspiration of the poet,
16 Alfred de Vigny, to achieve a position which should be that of
17 men of honour in the face of events and even the most cruel
18 events that occur in life.

19 [14.57.30]

20 If the accused, for instance, feels that he is in agreement with
21 what is said in the poem, he will need to suffer through his
22 possible sentence with the same strength and the same courage as
23 the wolf, the wolf which a few stanzas before these verses had
24 held in its warm teeth the bleeding throat of the best of dogs
25 and did not let go, did not release his iron jaw, in spite of the

72

1 number of blows.

2 I don't remember exactly the text, but you can understand what

3 I'm trying to say. It would not be allowing the determination

4 expressed by the accused if one were to absolve him of the

5 responsibility which he has himself taken upon himself.

6 Q.Thank you very much.

7 And I confirm to you that the accused stated on several occasions

8 before this Chamber, "I accept in advance the judgement that you

9 will hand down".

10 And so precisely this brings another question to my mind, Mr.

11 Hessel. As you have lived through the last century and you wrote

12 a beautiful book about it, *Dancing with the Century*, and you are

13 in the process of travelling through the present century you have

14 experienced the most tragic situations.

15 It was recalled earlier you yourself were deported. And in spite

16 of all that you never ceased to struggle throughout the world in

17 favour of human rights.

18 [15.00.50]

19 Does this mean that in spite of all the horrors that you may have

20 witnessed and to which you yourself were confronted, does that

21 mean that you continue to have belief in man?

22 A.Yes, of course. I also believe that it is extremely difficult

23 to pass judgement that will be both just and serene when dealing

24 with a personality whose complex nature we find striking and I

25 have full confidence in this Tribunal which has heard both the

73

1 prosecution and the defence, and I have full confidence that this
2 trial will come to a fair conclusion and that it will therefore
3 provide a new example of the importance at the beginning of the
4 century of the progress made in the field of international
5 criminal justice.

6 Q.One last question, still about the man. A psychologist and
7 psychiatric experts who spoke before this Chamber and who
8 interviewed the accused at length in his prison over a period of
9 two years have stated that he had evolved from a situation of
10 denial to today's situation, which is one of self-accusation.
11 They stated that he asked them how one could proceed in order to
12 repair, and my question for the humanist that you are -- you said
13 in reply to my previous question that you still believe in
14 mankind, and my question therefore is this.

15 [15.04.08]

16 To your mind, is it possible for man to redeem himself? Do you
17 think that there is the possibility of redemption? Is that not
18 perhaps what justice sees is at stake?

19 A.This is a difficult question and it is an embarrassing
20 question when we give thought to the pain of the victims; victims
21 whose imagination cannot let go of the memory of what was
22 accomplished in terrible fashion by the accused. I have no doubt
23 that the accused will benefit from what will have become known
24 and said about him by those who for months now have been around
25 him.

74

1 This being said, I am not sure that a genuinely honourable and
2 stoic man may wish for anything other than fair retribution for
3 the crimes of which he knows he is guilty.

4 Q.Mr. Hessel, thank you. This perhaps is the reply he himself
5 is giving to the question that he has asked himself, which is,
6 "How can I make reparation?" He knows from the outset of the
7 trial that it is by paying his debt to society, amongst other
8 things, that he can do this and he has accepted that.

9 Mr. Hessel, I want to thank you warmly for having shared these
10 moments and these thoughts with us.

11 MR. ROUX:

12 Mr. President, I have no further questions. Thank you.

13 MR. HESSEL:

14 Please let me say one word still. I have the greatest of respect
15 for those who, as you do, Maitre François Roux, put all of their
16 talent at the service of defence and of defending a man who is
17 difficult to defend, and I congratulate you.

18 [15.08.38]

19 MR. PRESIDENT:

20 Next, the Chamber would wish to give the floor to the accused to
21 make his observation in relation to the testimony of the expert
22 if he so wishes.

23 THE ACCUSED:

24 Mr. President, thank you very much for giving me the opportunity
25 to talk to Mr. Stéphane Hessel and I would like to pay my great

75

1 homage and respect to Mr. Hessel respectfully, and I really
2 respect his conscience and his great testimony. It has served as
3 a great lesson for me.

4 And thank you, Mr. President.

5 MR. PRESIDENT:

6 Now, the proceedings to hear the testimony of the expert Mr.
7 Stéphane Hessel, has come to an end.

8 The Chamber is very grateful to Mr. Hessel for his time to give
9 his testimony to the Chamber and the Chamber is also grateful to
10 the lawyer who is now next to Mr. Hessel, who helped to
11 co-ordinate these proceedings. The Chamber would like to thank
12 you very much and you are now excused.

13 Since it is now an appropriate time to take an adjournment, the
14 Chamber will take a 20-minute adjournment. We will resume at 30
15 past 3.

16 (Judges exit courtroom)

17 (Court recesses from 1511H to 1531H)

18 (Judges enter courtroom)

19 MR. PRESIDENT:

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

21 For our next proceeding we will continue to question the accused
22 on his character. Security guard, can you bring the accused to
23 the dock?

24 I would like now to give the floor to Judge Lavergne to continue
25 his questioning to the accused. This morning he already

76

1 continued his questioning on the character of the accused.

2 So please, Judge Lavergne, you take the floor.

3 JUDGE LAVERGNE:

4 Thank you, Mr. President.

5 BY JUDGE LAVERGNE:

6 Q. This morning we were trying to shed light on what happened to

7 your brother-in-law, Keoly Thong Huot, who was detained in S-21.

8 I was trying to understand the reasons why your brother-in-law

9 was arrested, detained, tortured and executed. The only thing I

10 succeeded in understanding this morning was that his arrest had

11 been decided upon by a zone commander and that it was consistent

12 with the policy of the CPK, and so you did not challenge the

13 arrest.

14 [15.33.28]

15 Can it be said that you did not oppose the arrest; that in

16 addition to not opposing it you contributed to it by sending a

17 report to your superior? In the final analysis can we find out,

18 can we know the exact reasons why your brother-in-law was

19 arrested, or is it that there are no reasons and his arrest was

20 decided upon by the zone commander?

21 A. Your Honour, it is the discipline of the Party that each

22 member had no right to ask questions on the decision to arrest

23 anybody made by the zone secretary. And that is the fact; that

24 is the mode of operation of the Party. No-one dared to breach

25 that norm. I received a letter from my in-law and I did not ask

77

1 him for any details on the right or the wrong. In my mind,
2 whatever I could do in order to help him -- but in my mind the
3 hope was so minimal and that is the truth.
4 I would like to raise another issue but I think it is related to
5 Case 002. With Your Honour's leave I would like to talk a little
6 bit on this matter.

7 Q. I'd like us to finish with your brother-in-law's story first.
8 You said that he was tortured. I am sure you read with a great
9 deal of interest, with your usual attention to detail, the
10 details of his confessions. What did your brother-in-law confess
11 to?

12 A. I cannot recall it. I would like only to recall what I can
13 remember. He confessed that he was a member of the enemy network
14 before 1970 and that he was assigned to get married with my
15 younger sister after my imprisonment. Therefore, he came to ask
16 permission to marry my younger sister. This is from my
17 recollection.

18 [15.37.54]

19 And what he was feared of was his own sentiment, that when he was
20 arrested and handcuffed he wanted to know whether I would be
21 arrested because if I were to be arrested then the whole family
22 would be gone.

23 Q. What network was he supposed to be a member of -- the KGB, the
24 CIA, another network? Do you think that his confessions were
25 credible? Did you believe them or not?

78

1 A. Your Honour, regarding this matter, it is difficult for me to
2 respond. I believe only 30 percent of that -- could even be
3 less, could be down to 20 percent. And this is my sincere
4 response, Your Honour.

5 Q. What happened to your sister and her children?

6 A. Your Honour, my younger sister was with me. She was not a
7 Party member. She was a youth member, a Youth League member.
8 Later on I sent her to study the child care subject in order to
9 have her skilled and that she could be returned to be my staff at
10 S-21 and that I could keep her there.

11 [15.40.24]

12 Q. Are we to take it then that your sister and the children she
13 bore with your brother-in-law stayed in your home for as long as
14 S-21 was in operation?

15 A. She did not stay with me at my house. She stayed in a
16 separate house.

17 Q. How did it happen that certain principles which meant that
18 when you uproot grass you've got to take it out by the roots --
19 in this case, what happened that this principle was not applied?
20 Why were your sister and her children spared? Did you intervene?
21 Did you have the power to intervene for them or were you afraid
22 for your own personal safety.

23 A. Regarding this matter there, are actually four or five matters
24 that I need to raise.

25 First, it was my sentimental feeling towards my sister. Second,

79

1 I myself thought that if my sister were to be arrested then it
2 would be inevitable that I will be arrested rather than when I
3 could keep her. And another point is that I vouch for my younger
4 sister and that I vouch to educate her, but I could not do that
5 for my in-law. And as I was a party member, I also had duties to
6 fulfill.

7 And I vouch for somebody that I provided my guarantee that I
8 could educate that person. And for people superior than me I
9 would not be able -- in a position to defend that person, but for
10 people lower than me or for those subordinates, for example
11 Comrade Pon, I was in a position to defend him. And that was
12 the practice at the time.

13 [15.43.45]

14 Q. Was your brother in-law's rank lower than yours; was he not
15 higher than you? Did you not trust him?

16 A. Trust is a separate matter, but being related is a separate
17 matter. But within the party realm, I was not in a position to
18 educate him regarding the party theory and disciplines. And
19 another person who educated him was later arrested and sent to
20 S-21; his name was Srun, a Secretary of Stoung District. So he
21 was arrested. He was actually arrested and sent to S-21 before
22 his arrest.

23 Q. Now, let's talk about your other brother in-law, that is Siep
24 Sakhan. What were his exact duties? Why was he arrested? Why
25 was he executed and who decided that he should be executed?

80

1 A. My first in-law, Siep Sakhan was from the same village that I
2 was born. He worked with the commerce section in the zone
3 sector, in the Kampong Thom Sector as well.

4 [15.45.51]

5 It is my conclusion that his arrest was made -- he was arrested
6 and put into a sack and carried away and disappeared. My sister
7 tried to locate him but failed, and it was lucky that she was not
8 arrested. As a principle, when the husband was arrested the wife
9 would be arrested as well, but my younger sister was not arrested
10 and she's still alive today.

11 So the real nature of his arrest, I was not aware of it, and I
12 could only conclude that Brother Pok, or Kae Pok, was the one who
13 arrested him. When I heard that Kae Pok arrested him, it means
14 Ke Pok issued or made a decision to arrest him, and that he was
15 arrested secretly without allowing my sister knows, my family
16 knows, and even myself I was not aware of it, and I concluded
17 that the decision must come from the superior, either from Son
18 Sen or Pol Pot not to make me aware of his arrest. Not even
19 small information regarding these arrests was not made known to
20 me.

21 Q. In your view, the fact that none of your sisters, your
22 nephews or nieces was arrested, whereas logically it should have
23 been the opposite, was due to pure chance in your view or was it
24 due to the fact that they were your sisters, your nephews and
25 nieces, and that you held an important position in the hierarchy?

81

1 A. Regarding this matter, it is a matter of analysis and
2 conclusion. I would like to make a conclusion bases on my
3 analysis as follows.
4 The arrest of my brother-in-law, I reacted and I was not happy
5 with that, and I pretended to ignore his arrest until I was first
6 warned and until I was warned then I implanted that order.
7 Therefore, I believed, based on my analysis, that they know how
8 to work together or to compensate so that I would not be furious
9 or too angry. They gathered all the information and documents
10 surrounding myself, so if I were to be arrested then everything
11 would be gone with me, and that is based on my analysis of the
12 situation at the time.
13 During such time, I was scared. I was scared as I compared
14 myself to the situation of Lai, alias Ong, Nget You, alias Hong
15 and, secondly, as I was originally came from the North Zone and
16 there were mass arrests of those people from the North Zone.
17 And, importantly, I was so scared as the enemy implicated my
18 surperior Son Sen. I believed that he would not be quiet and
19 allow me to act arbitrarily, therefore, I was scared. And
20 therefore I concluded that they would gather all the information
21 surrounding myself.
22 And that is my response. It is only my conclusion, Your Honour.
23 Q. So could it be said that you were someone who knew a lot and
24 that there was an impulse to avoid annoying you or making you
25 angry, as you said?

82

1 [15.53.14]

2 A. It is difficult for me to respond to your question. I knew a
3 lot of events and information as I was also involved with the
4 interrogation unit. Therefore, it will be difficult not to make
5 anybody not happy with me or happy with me, and I think Son Sen
6 was aware of the fact that I allowed the enemy to implicate him.

7 Q. Did your other brothers-in-law have positions in the party;
8 did they hold positions of responsibility?

9 A. My third brother-in-law, named Pich, a little bit after 17th
10 April '75, he was a commander of a battalion in the Division 450.
11 Later on, he was sent to work in the airfield in Kampong Chhnang
12 province. When he was there at the airfield, he was subsequently
13 sent to S-21, and I was instructed not to give any assignment or
14 work to this person. That means his party membership was
15 revoked.

16 And finally my wife was also removed from the hospital and my
17 sister, who was a widow, stayed with me and my other sister,
18 whose husband was transferred from the airfield work in Kampong
19 Chhnang, was also staying with me. And I kept one of my younger
20 sisters because she was a member of the youth league and I sent
21 her to study child care.

22 Q. Could you tell us what was going on at Kampong Chhnang
23 Airport? Was it easy to work there or was it a place where
24 people did not have the right to move about freely?

25 [15.57.16]

83

1 A. Your Honour, the airfield in Kampong Chhnang was a location
2 that we could refer to it as a prison without walls. Nobody
3 could walk freely. It was the same as the other concentration
4 camps throughout the country, and the work at the airfield was
5 intensive and pure labour. Therefore, life there was extremely
6 difficult.

7 Q. What work exactly did your brother-in-law do at the airport?

8 A. He was managing the unit over there, working in that
9 airfield. Let me state again that the people who were
10 transferred into the unit at the airfield was already decided as
11 partly a prison already, so their status was like the status of
12 those who were sent to Prey Sar.

13 Q. Was your brother-in-law on the side of those who were
14 prisoners or was he one of those who watched the prisoners? And
15 what sort of unit did your brother-in-law supervise?

16 A. The Division 450 came from the North Zone. First, the
17 secretary of the zone, Suong was arrested and then Yann was
18 subsequently arrested. Yann was deputy secretary of that
19 division. And once they brought the son-in-law of Ta Mok
20 replaced them.

21 [16.00.14]

22 And then cadres, many cadres of the regiments and battalions
23 within that division were arrested. Therefore, some battalions
24 within that division were transferred to work at the airfield and
25 their status was already decided as half-prisoners already.

84

1 When my brother-in-law was sent there, he was already half a
2 prisoner, but he was assigned the role to also supervise those
3 people at the airfield. And, later on, the supervisor there did
4 not trust him and subsequently he was removed and people from the
5 Southwest replaced him.

6 Q. Wasn't there a principle according to which -- when you're
7 going to cut bamboo, you're also going to cut thorns and so isn't
8 it also due to the fact that he was close to you that he was not
9 arrested or did you intervene in his favour?

10 A. The principle that the bamboo had to be cleaned in thorns has
11 been applied to
12 Koy Thuon. After Koy Thuon was arrested then they worked on the
13 subordinates.

14 So these principles was used or applied in all units because when
15 Chan Chakkrey was arrested, Sambath was also arrested. Before
16 Koy Thuon had been arrested, Comrade Eoun was arrested. Before
17 Eoun was arrested, other people had also been arrested and then
18 later on, Koy Thuon was ultimately arrested.

19 [16.03.28]

20 And when Koy Thuon was arrested, anyone suspicious and who was
21 somebody next to Koy Thuon were all arrested. I believed that
22 your question is correct that when my brother-in-law was
23 initially arrested, he was sent to me first.

24 And before information had been later collected, then he was left
25 with me.

85

1 Q. Did you vouch for him or were you given the task of watching
2 him? Were you reporting to your superiors with regard to what
3 your brother-in-law was doing and what he was thinking?

4 A. My first brother-in-law who first came, his name was Thoeun.
5 He was sent to a location where a map was copied. It is a
6 location where he would be put to work like the others in that
7 unit.

8 The second brother-in-law was put to work with Comrade Huy and,
9 later on, Comrade Phal.

10 My sisters were placed to work in Phnom Penh.

11 Q. You haven't replied to my question. Did you vouch for these
12 brothers-in-law who were close to you, who were in S-21, but were
13 not detained?

14 A. In principle, as the person in the leadership, we must have
15 measures to stop anyone from destroying the unit. Like my first
16 brother-in-law was put to work to copy maps and he used to be the
17 police and he used to read confessions so he demanded that he
18 would read confessions so he started to behave like that.

19 [16.07.44]

20 And he was not properly behaved regarding the girls. So with the
21 warning from Son Sen, and having noted his misconduct, I made the
22 decision to have him arrested.

23 My second brother-in-law was put to work at the rice field and he
24 had not caused any problem, and then when we fled we were on the
25 run together.

86

1 Q. So if my understanding is correct, in reality, there wasn't
2 only one brother-in-law who was detained and executed in S-21;
3 there were two.

4 A. Keoly Thong Huot was the only brother-in-law who was smashed
5 at S-21.

6 Siep Sakhan was smashed by Brother Pauk in Kampong Thom.
7 Pich was demoted and left to live with me. He was on the run
8 with me, but died on the way.

9 Q. And there's one missing; Thoeun, no? The eldest of your
10 brothers-in-law, what happened to him?

11 [16.10.06]

12 The one who had indecent behaviour, you said that there was one
13 whom Son Sen thought had indecent behaviour toward women. What
14 became of him?

15 A. That's the guy, Keoly Thong Huot alias Thoeun.

16 Q. Right. Well, time is passing so we'll tackle another topic.
17 I would like you to explain to us -- you were hurt in one hand.
18 Could you explain to us what were the circumstances that led to
19 your hand being injured, and why?

20 A. I got injured on my left hand in 1980 or 1981. I'm not sure,
21 but during those years. I was living in a separate home far away
22 from the others. I like shooting birds.

23 Next to my home in Samlaut, there was a container or case which
24 contained weapons and it was buried. I found a weapon and I had
25 it cleaned. I disassembled it and I loaded the bullet into the

87

1 magazine, then I poured in some diesel. I put the cannon of the
2 weapon in the sky direction and then I used the piece of cloth to
3 clean the weapon.

4 My wife was sitting near me. She asked me how could I disassemble
5 the weapon like the way I did. And I was not yet answering to
6 her, she crawled from a distance to put her finger into the
7 trigger. Then there was a gunshot and then my left hand was
8 severed. And she was medic, then she tied my hand and she walked
9 me to the hospital nearby. She sort of bandaged my hand and
10 walked me to the hospital and then at the hospital they removed
11 that finger. The doctor who removed my finger is now still
12 working at Samlaut Hospital.

13 [16.15.23]

14 Q. How long had you been in the habit of dismantling weapons,
15 handling weapons, and when handling weapons, did you habitually
16 clean them while these weapons were loaded? Is this a normal
17 practice? Is this something that you were taught to do?

18 A. Your Honour, I had a pistol with me since 1973; I never even
19 shot a bullet. I knew how to shoot a gun in 1980 when I had a
20 rifle to shoot birds. The person who taught me how to shoot was
21 the younger in-law of Nuon Chea; he taught me how to shoot a gun.
22 And, later on, the time the incident took place, it was the
23 second time that I dismantled a weapon. The first time I
24 dismantled the weapon my wife did not see it.

25 Your Honour, my wife was the type of person who is animated and

88

1 lively so she was so quick, therefore, it's hard for me to take
2 any offence against her because it's her habit already. And from
3 that day when the gun shoot, I did not continue shooting birds
4 anymore.

5 JUDGE LAVERGNE:

6 Thank you. I have no further questions for the accused, Mr.
7 President.

8 MR. PRESIDENT:

9 When our Judges have no further questions, it also comes time
10 that we should take the adjournment, so we will now take the
11 adjournment and resume at 9.00 am tomorrow.

12 [16.18.46]

13 For tomorrow's session, we're going to continue hearing the
14 testimony of the accused concerning his character and to hear the
15 questions that will be put by the prosecutors and the parties to
16 the proceedings.

17 Security personnel are now instructed to take the accused to the
18 detention facility and return him to the courtroom by 9.00 am.

19 The Court is adjourned.

20 (Court is adjourned at 1619H)

21 (Judges exit the courtroom)

22

23

24

25