



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

18 May 2009, 0916H

Trial Day 16

Before the Judges:

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I N D E X

WITNESSES

THE ACCUSED, KAING GUEK EAV

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WITNESS: CRAIG ETCHESON

Questioning by Mr. President commences page 62

Questioning by Judge Cartwright commences page 63

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. BATES	English
JUDGE CARTWRIGHT	English
MR. KIM MENGKHY	Khmer
JUDGE LAVERGNE	French
MR. ROUX	French
MS. SE KOLVUTHY, GREFFIER	Khmer
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. WERNER	English

1

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

2 (Judges enter courtroom)

3 [09.19.10]

4 MR. PRESIDENT:

5 The Court is now in session regarding the facts on the
6 implementation of the CPK's policy at S-21.

7 The Greffier, please verify the attendance of the parties to the
8 proceedings.

9 THE GREFFIER:

10 Your Honour the President, parties to the proceedings are
11 present. Today there is a civil party lawyer, Ms. Elizabeth
12 Rabesandratana.

13 MR. PRESIDENT:

14 In order to make sure that the Internal Rules are well applied,
15 we would like to invite the civil party lawyer, group 3, to
16 request for the recognition of the Chamber for the new lawyer.

17 MR. KIM MENGKHY:

18 Thank you, Mr. President and Your Honours. I am Kim Mengkhy, the
19 lawyer representing civil party group 3 and would like to request
20 for the recognition of Mrs. Elizabeth Rabesandratana from France,
21 and she is a member of the Bar Association of International
22 Criminal Bar, and also we would like to seek recognition for her.

23 MR. PRESIDENT:

24 Mrs. Elizabeth Rabesandratana, now you are recognized as the
25 civil party lawyer representing civil party group 3. From now on

2

1 you can enjoy the right and privilege as your national co-lawyer
2 counterpart. Thank you. Be seated.

3 The security officials, please bring the accused to the dock.

4 [09.22.49]

5 MR. PRESIDENT:

6 Next the floor is given to Judge Lavergne to continue the
7 questionings regarding the facts at issue as scheduled.

8 The floor is yours.

9 JUDGE LAVERGNE:

10 Thank you, Mr. President. I'd like to recall that before we
11 adjourned it was agreed that we would try to shorten hearing
12 times, and that thus we would have the various paragraphs read
13 out. That is the document called, "Defence Position on Facts in
14 the Closing Order." Concerning the subject before us now, which
15 is the implementation of the CPK policy in S 21, accordingly we
16 read out paragraphs 58 to 66 including comments made by the
17 accused in the document.

18 I also recall that for the proper administration of justice and
19 the clarity of proceedings that, when necessary, further comments
20 may be requested of the accused or he may spontaneously provide
21 such comments himself. I also recall that the last comment made
22 by the accused was the following:

23 "The S-21 centre had a unique position by virtue of its nature
24 because S 21 was located near the Central Committee, and this
25 security centre was considered to be a tool exclusively for the

3

1 use of the Central Committee. The committee itself had the power
2 to bring prisoners from the entire national territory to S-21,
3 and therefore S-21 fell within the ambit of the Central
4 Committee's authority, but S-21 did not itself have the authority
5 to carry out such actions."

6 [09.25.43]

7 These are the last comments in the transcript. We shall continue
8 and I shall ask the Greffier to continue reading the paragraphs,
9 starting with paragraph 67, adding the comments that appear in
10 the document.

11 MR. PRESIDENT:

12 The Greffier, please continue reading the paragraphs, starting
13 from paragraph 67.

14 THE GREFFIER:

15 Paragraph 67:

16 (No interpretation)

17 MR. PRESIDENT:

18 The Greffier, could you please pause a little while before we can
19 really make sure that the reading of the facts as agreed are
20 consistent with the Khmer version.

21 [09.27.35]

22 JUDGE LAVERGNE:

23 I do not think that we heard the French translation. Was there
24 translation into English?

25 What I suggest, perhaps, is that paragraph 67 be re-read,

4

1 including the accused's comments in the document.

2 MR. PRESIDENT:

3 Ms. Se Kolvuthy, you can proceed reading paragraph 67 again.

4 Are the interpreters ready?

5 Ms. Se Kolvuthy, please continue reading paragraph 67.

6 MS. SE. KOLVUTHY:

7 Your Honours, I think the interpreter have got the wrong version
8 of the readings.

9 (Technical difficulties)

10 [09.33.40]

11 JUDGE CARTWRIGHT:

12 Yes, this is information for the interpreters. We understand
13 that the interpreters do not have the latest version of the
14 statement on agreed facts. You will shortly be supplied with the
15 ERN numbers for the French and Khmer but the English is not yet
16 on the case file, and as you don't have email we will make sure
17 you get a copy very soon because there's one available in English
18 which will be coming to you any moment now, as I understand it.

19 Is that the position from the Greffier? Yes. So we need to take
20 a short pause until that is all put together.

21 Thank you.

22 (Short pause)

23 JUDGE CARTWRIGHT:

24 This is information for the interpreters, the number of the
25 document in Khmer and in French is E5/11/6.1. The Khmer ERN is

5

1 00294679 to 0029756, and in French the ERN Number is 00294634 to
2 00294678.

3 Do you have that clearly?

4 THE INTERPRETER:

5 Yes, we do, Your Honour.

6 [09.39.33]

7 MR. PRESIDENT:

8 Ms. Se Kolvuthy, please read paragraph 67 again and the following
9 paragraphs also.

10 THE GREFFIER:

11 Paragraph 67: "As with all CPK political lines, the policy of
12 smashing enemies was global. It stood for S-21, for the entire
13 Party, the military, the state authority in the bases and the
14 police officers throughout the country."

15 Paragraph 33 of the Closing Order -- the following sentences from
16 paragraph 33 of the Closing Order should be added: "Duch stated
17 that specific decisions concerning the persons to be sent to S-21
18 were made by his superiors. While the exact role of his
19 superiors is currently the subject of a separate judicial
20 investigation, Duch has declared that S-21 was run directly by
21 the Central Committee."

22 [9.41.04]

23 BY JUDGE LAVERGNE:

24 Q.Does the accused have any extra comments concerning what was
25 just read?

6

1 A.Your Honours, I only would like paragraph 33 of the Closing
2 Order to be read out to the Court as following.

3 Q.In order to simplify things could you please simply tell us if
4 there is anything that you would like to be clarified in relation
5 to what was already said? I don't think that it is necessary to
6 read the whole paragraph again. But, however, is there anything
7 that you deem is not included in the document that the Greffier
8 just read out to us?

9 A.Your Honours, I only want to state that my superior first was
10 Son Sen; next was Nuon Chea. Although Son Sen or Nuon Chea -- I
11 used the word the Central Party to refer to these two individuals
12 during that regime. That's what I want to confirm, whether we
13 want to refer to them as Son Sen, Nuon Chea, or the Central
14 Party; they were all the same.

15 [09.44.12]

16 THE PRESIDENT:

17 The Greffier, please continue.

18 THE GREFFIER:

19 Paragraph 68:

20 "Duch primarily dealt direct with Son Sen and Nuon Chea, alias
21 Brother Number Two, the Deputy Secretary of the CPK, both of whom
22 he believed to be acting on behalf of the Standing Committee.

23 Paragraph 33 of the Closing Order."

24 JUDGE LAVERGNE:

25 Another reference to paragraph 33, which is included in paragraph

7

1 69, which we could also read out right now.

2 THE GREFFIER:

3 Paragraph 69:

4 "The Standing Committee had authority..."

5 [09.46.08]

6 THE PRESIDENT: Could you please read paragraph 33 of the Closing
7 Order instead?

8 THE GREFFIER:

9 Paragraph 33:

10 "Duch indicated that, as with all CPK political lines, the
11 policy of smashing enemies was global. It stood for S-21, for
12 the entire Party, the military, the state authority in the bases
13 and the police offices throughout the country. Duch stated that
14 specific decisions concerning the persons to be sent to S-21 were
15 made by his superiors. While the exact role of his superiors is
16 currently the subject of a separate judicial investigation, Duch
17 has declared that S-21 was run directly by the Central Committee,
18 as quoted. Duch specified, however, that he primarily dealt
19 directly with Son Sen and Nuon Chea, alias Brother Number Two,
20 the Deputy Secretary of the CPK, both of whom he believed to be
21 acting on behalf of the Standing Committee."

22 JUDGE LAVERGNE:

23 Q.Does the accused have any specific comments to make concerning
24 what was just read out?

25 A.I already stated that my superiors were Son Sen or Nuon Chea

8

1 or the Standing Committee. I do not try to evade my response.

2 THE PRESIDENT:

3 The Greffier, please continue reading the next paragraph.

4 [9.38.53]

5 THE GREFFIER:

6 Paragraph 69:

7 "The Standing Committee had authority in respect of S-21
8 operations.

9 Paragraph 33 of the Closing Order, but it should be noted that
10 the sentence does not appear in the Closing Order."

11 Paragraph 70:

12 "Although the policy of smashing enemies appears to have
13 remained in force both before and throughout the temporal
14 jurisdiction of the ECCC, the definition of those perceived to be
15 enemies of the CPK evolved and broadened over the period as a
16 result of domestic developments and the international armed
17 conflict between Cambodia and Vietnam.

18 Paragraph 34 of the Closing Order."

19 [09.49.57]

20 MR. ROUX:

21 Mr. President, I think the reading should be complete, and in the
22 document that you have here it is indicated non-disputed. So you
23 should read out, please, "non-disputed" if it is indeed indicated
24 on your document. You should therefore indicate each time when
25 there is agreement, when there is disagreement, or when the fact

9

1 is not disputed. And here at the end of this paragraph it is
2 written down "non-disputed" and I would like this to be read out.
3 Thank you.

4 BY JUDGE LAVERGNE:

5 Q. In order to clarify the proceedings, could the accused please
6 specify to us the difference between the facts that he makes that
7 are non-disputed and the facts to which he agrees?

8 A. That I said "agreed" because I know the story and I am aware
9 of it, and I saw it and I have done or I have been trained.

10 Regarding the words "not disputed" they refer to the information
11 that's already fully true or not true, but I have not been
12 trained or I did not do it directly.

13 MR. PRESIDENT:

14 Mrs. Se Kolvuthy, please continue reading further, and also take
15 note of Mr. François Roux by reading also the last wordings of
16 each paragraph.

17 THE GREFFIER:

18 Paragraph 71:

19 [09.52.33]

20 "That from late 1975 and into 1976, S-21 was significantly
21 involved in the imprisonment, re-education, torture and execution
22 of persons linked to the ousted Khmer Republic regime.

23 Paragraph 35 of the Closing Order agreed during the hearing."

24 BY JUDGE LAVERGNE:

25 Q. Well, then maybe a clarification concerning the word

10

1 "re-education." Is it -- were the people linked to the toppled
2 regime of the Khmer Republic, therefore of Lon Nol's regime --
3 were they truly the object of a re-education process or were
4 they, rather, executed?

5 A. People in Lon Nol's regime were classified into three
6 categories. First category referred to the people who were
7 smashed secretly. The second category referred to the people who
8 were detained in the re-education camp. And the third referred
9 to the people who were regarded as the new people.

10 May I take this opportunity to state to you also that the Khmer
11 terms, wordings in this paragraph, the word "re-education" means
12 -- translated in Khmer, which I believe is not really the right
13 term for the re-education. It should be the other way, by way of
14 saying that -- educate again. I, in the Party, tried to educate
15 myself and the word "re-education" referred to people who lost
16 their significant rights and were re-educated.

17 Q. In order to get back to S-21, we know that at S-21 there is
18 also S-24 included, Prey Sar, and you told us that the people who
19 were sent to S-21 were all slated to be executed, and were there
20 any people linked to Lon Nol's regime -- were any of these people
21 sent to Prey Sar? And what was the criterion that would explain
22 that certain people were sent to S-21 and other people were sent
23 to Prey Sar?

24 A. People who were in the re-education camp at Prey Sar were the
25 former combatants of the army who had problems, but they were not

11

1 yet arrested and they were only kept to be re-educated.

2 Regarding the Lon Nol soldiers and officers, some of them were
3 sent to S-21 in Phnom Penh in order to be executed.

4 So that's all I can make regarding the clarification regarding
5 your point.

6 [09.57.43]

7 Q. So therefore we do agree S-24 did not receive people linked to
8 the former Khmer Republic in order to be re-educated but only
9 received people, according to you, members of the army. But when
10 you state "members of the army" you're speaking about members of
11 the Revolutionary Khmer Army, the RAK.

12 A. When I talk about the members of the army, they were referred
13 to the Revolutionary Army of Democratic Kampuchea.

14 JUDGE LAVERGNE:

15 Okay, I think that we can continue with the reading and we will
16 move on to the following paragraph.

17 [09.59.03]

18 THE GREFFIER:

19 Paragraph 72:

20 "In 1976 the Party had eliminated the exploiting classes,
21 private property, officials of the former regime, religions, and
22 teachers.

23 Paragraph 36 of the Closing Order. Agreed."

24 BY JUDGE LAVERGNE:

25 Q. Do you have any further comments about this paragraph? Can

12

1 you tell us whether even after 1977 some people connected to the
2 definitions of exploiting classes, owners, or for religious
3 reasons continued to be sent to S-21 or was this practice
4 stopped?

5 A. Your Honour, after the 17 of April 1975 people were sent like
6 that. However, may I state again, I would like to tell you that
7 after the 17 of April 1975 people were arrested and smashed en
8 masse and some were sent to S-21, which is true but after that,
9 after 1976 they referred to the people who lived in the rural
10 areas and who had conflicts before they could be arrested and
11 sent to S-21.

12 So this is a principle, as I say, only people who had conflicts
13 that they would be arrested and sent but in reality there might
14 be something more or less different.

15 That's all my response.

16 [10.02.22]

17 MR. PRESIDENT:

18 The Greffier, please continue reading the next paragraph.

19 THE GREFFIER:

20 Paragraph 73.

21 "In March 1976 the Party had clarified authority to execute at
22 different levels within the regime and increasingly sent members
23 of the revolutionary ranks to S-21.

24 Paragraph of the Closing Order. Agree."

25 BY JUDGE LAVERGNE:

13

1 Q.Does the accused have any specific comments about this?

2 A. The description of this paragraph is seen in subparagraph 74.

3 MR. PRESIDENT:

4 Please, the Greffier, read paragraph 74.

5 [10.03.35]

6 THE GREFFIER:

7 Paragraph 74:

8 "A document dated 30th of March 1976 and attributed to the CPK
9 Central Committee reported a number of decisions, the first of
10 which provided that in order that a framework and absolute
11 implementation of our revolution and to strengthen our socialist
12 democracy, the right to decide on smashing within and outside the
13 ranks was to be bestowed as follows: If in the base framework,
14 to be decided by the Zone Standing Committee; surrounding the
15 centre office, to be decided by the Central Office Committee;
16 independent sectors to be decided by the Standing Committee; and
17 the centre military to be decided by the General Staff.

18 Paragraph 35 of the Closing Order. Agree."

19 BY JUDGE LAVERGNE:

20 Q.We have already commented on this document, are there further
21 clarifications that you would like to provide; that is
22 clarifications that were not available before?

23 A.Thank you, Your Honour, for allowing me to make some brief
24 description regarding this paragraph.

25 First, I would like to state that regarding the word "smash," the

14

1 term smash has been asked -- I was asked regarding the term smash
2 for several times. Each time I was asked about that, I tried to
3 compare the term because when -- during Vorn Vet they used the
4 word "resolve" and then when it comes to Son Sen the term
5 "smashed" was used instead.

6 I think I said that because I had not deliberately considered the
7 term smash. It's because I did not deliberately study the term
8 smash.

9 Now, I would like to add further, on top of what I told you
10 already when it comes to smash which means "arrest secretly" and
11 then people who were arrested be interrogated, with tortures
12 employed and then they were executed secretly without the
13 knowledge of their family members.

14 [10.07.08]

15 I would like to add two more terms. The word "smash" mean the
16 person was not to be released. If he was released then he would
17 not be smashed. So if he was smashed he was not to be released.

18 Number 2, this did not go through the judicial process because
19 there was no law, no court, the Standing Committee govern all the
20 three main powers. That's all my additional response concerning
21 the word "smash."

22 In our document regarding the defence position on the facts of
23 the defence counsel, you can refer to paragraphs 20 and 21. The
24 document we are reading here is the defence position on the facts
25 contained in the Closing Order.

15

1 The word "smashing the enemies" was introduced or leftover from
2 M-13. It continued afterwards. Paragraph 21, it reads that this
3 process did not go through the Court. I think I made it clear
4 regarding the term smash. Number 2, the Party's policy regarding
5 the smashing of the enemies is clear; no-one could violate it.
6 Number 3, this document, the decision on the 30th of March 1976,
7 in the first paragraph it reads, "The right to smash the enemies
8 within and outside the ranks." I would like to clarify that this
9 document is a written document which is consistent to the new
10 historical context and political context.
11 Why is this new? First, the former soldiers in the regime were
12 the soldiers of the zone, and then there were soldiers of the
13 Central Party and then we had the General Staff. Number 2, after
14 the 17th of April there were other committees surrounding the
15 Central Office.
16 Therefore, the first paragraph concerning the person who had the
17 right to smash was consistent with what we done before. Before
18 the 17th of April 1975 there was only the Standing Committee and
19 the secretaries of the zones who would be entitled to do so. The
20 soldiers belonged to the zones. That's why immediately after
21 17th of April the Standing Committee of the Centre used the
22 soldiers -- conducted this through the Zone Secretary. People
23 were evacuated by the implementation of the soldiers on the
24 orders of the Secretary of the Zone.
25 [10.13.40]

16

1 This document, the 30th of March document, included two more
2 units -- three units. First unit were surrounding the Central
3 Office, decided by the Standing Committee. So they were the
4 units surrounding the Centre. It was a new unit. The
5 independent sector was also a new unit. The centre army was also
6 the new unit of the Centre.

7 In conclusion, this document was written to match the historical
8 context in relation to the creation of these new three units.

9 Next I would like to also confirm that paragraph 1 of the
10 decision of the 30th of March is the organized line of the Party.
11 The policy to smash the enemy was the policy of the Party, but
12 the organizational line was applied by the Party to anyone who is
13 obliged to implement it, who was entitled to do it and who was
14 not. People who were not entitled to implement it would be
15 beheaded if they risked doing it.

16 Paragraph 1 of the decision on the 30th of March clearly
17 identifies who were entitled to the implementation of the policy,
18 which included only four groups. The other people could not
19 intervene regarding the smashing, otherwise they would be
20 beheaded.

21 [10.17.08]

22 Next I would like to add additional comments regarding the
23 document and whose document it was. Who does this document
24 belong to and who made such decision?

25 It was the decision by the Standing Committee in which Pol Pot

17

1 was the Secretary, and I called it Angkar and we also called it
2 the centre, and also we called it the Party, and later on the
3 people of Cambodia referred to it as the leaders of the Khmer
4 Rouge, and that the ECCC itself calls it the most responsible
5 people or the most senior leaders of the Democratic Kampuchea.
6 The Standing Committee of the centre, and through this document,
7 gives the right or delegates the power to make a decision to
8 smash, to execute people, both within and outside the ranks to
9 four groups of people.

10 The first group, as you have already been familiar, is the
11 Standing Committee of the zone. They are the secretaries of the
12 zone, in short. The second group is the Secretary of the Centre
13 Office of the Central Committee. The third one is the Standing
14 Committee in which Pol Pot was the Secretary and Nuon Chea was
15 the First Deputy Secretary. And followed by the fourth group,
16 the General Staff -- the Secretary of the General Staff.

17 [10.21.29]

18 So the power delegated to the four groups was fully exercised.
19 No-one could intervene in this affair other than the four groups.
20 So if any members of the four groups would like anyone to be
21 killed or to die, that person must be dead. And if they wanted
22 to spare anyone, then it's up to them.

23 To sum up, through the period from the 30th March 1976 to the 7th
24 January of 1979 the CPK implemented these organizational lines
25 very strictly and fully. That's all my response concerning the

18

1 lines.

2 Q.I'm referring to your explanations that you have provided
3 before. I'd like us to return to the word "smashed." You
4 explained the meaning -- the political meaning, I might say -- of
5 this word, which is to arrest, detain, interrogate, torture,
6 execute. But over and beyond this political meaning there is a
7 literal meaning. "Smash," it seems to me, means to crush, to
8 reduce to nothing. You explained that previously other terms had
9 been used, such as "resolve."

10 Do you believe that the use of the word "smashed" is really
11 neutral, or does it express something? Could you say something
12 about the literal meaning of the word, especially in particular
13 -- particularly concerning victims who were smashed?

14 A.This term has never been explained to me. But if we look at
15 the whole situation and analyze it, the meanings of the term can
16 be conveyed as literally as it is, meaning to crush or to reduce
17 to nothing. For example, like in the case of the prison in Ta
18 Khmao, the superior ordered that Ta Khmao prison was transferred
19 to the Social Affairs. I ordered the exhumation of the bones to
20 be cremated, and I already made it clear previously.

21 [10.26.58]

22 Q.I'd like to return to a particular point. In your view is
23 there or is there not a difference between the word "smash" and
24 the word "resolve," for example?

25 A.In the implementation the two terms are not different. The

19

1 only difference was that at that time I left M-13 without paying
2 attention to the remains of the dead bodies. But the terms refer
3 to the secrecy and make sure that people were got rid of in
4 reality and implementation.

5 Referring to the word "resolve," I think it is more a political
6 language in order to make sure that the word "smash" was not too
7 obvious and that the CPK was like to resort to use this term
8 "resolve" instead. It was used before mid-1973.

9 MR. PRESIDENT:

10 The Greffier, please continue reading the next two paragraphs.

11 THE GREFFIER:

12 Paragraph 75:

13 "This document, the document of the 30th of March 1976, shows a
14 turning point because it reveals the beginning of internal
15 tortures. Before that, mainly officials of the old regime was
16 smashed. From that point, executions would take place mainly
17 within the Party and military. Paragraph 36 of the Closing
18 Order. Agree."

19 [10.30.11]

20 Paragraph 76:

21 "In the following month, internal CPK documents would be filled
22 with variations on the theme of a need for heightened
23 revolutionary vigilance with a view to ensuring that the enemy is
24 unable to borrow from within the Party and the army.

25 Paragraph 36. Not disputed.

20

1 The following passage from paragraph 36 of the Closing Order
2 should be added:

3 "The decision of the 30th of March, 1976 began a new period
4 during which the internal purges were predominant.
5 Agree."

6 BY JUDGE LAVERGNE:

7 Q.Does the accused have any specific comments to make concerning
8 what was just read out?

9 A.I have no further comments at this moment.

10 MR. PRESIDENT:

11 The Greffier, please continue reading the next four paragraphs.

12 THE GREFFIER:

13 Paragraph 77:

14 "Duch's role as Chairman of S-21 was to focus the office on
15 smashing purported traitors within the ranks of the revolution
16 itself.

17 Paragraph 37 of the Closing Order. Agree."

18 Paragraph 78:

19 "Initially, S-21 was just for important prisoners or those from
20 Phnom Penh, as well as members of the Central Committee. At
21 first, low-ranking combatants only came to S-21 if arrested in
22 Phnom Penh.

23 Agree.

24 As a general rule, high-ranking enemies inside the Party, state,
25 military, or security apparatuses were sent to S-21 having been

21

1 implicated with a process which consisted of obtaining
2 confessions from others previously arrested.

3 [10.33.01]

4 Paragraph 37 of the Closing Order. Agree."

5 Paragraph 79:

6 "When a superior was arrested such as Koy Thuon, Minister of
7 Commerce and Member of the Central Committee, his or her
8 subordinates would in turn often be sent to S-21.

9 Paragraph 37 of the Closing Order. Agree."

10 Paragraph 80:

11 "The policy of smashing enemies almost always extended to their
12 families, including children.

13 Paragraph 37 of the Closing Order. Agree."

14 BY JUDGE LAVERGNE:

15 Q.Does the accused have any extra comments to make here? And of
16 course, we know that these points have already been brought up,
17 however does he have any comments to make?

18 [10.34.08]

19 A.I do not have any further comments at this moment. Thank you.

20 MR. PRESIDENT:

21 The Greffier, please continue reading the next two paragraphs.

22 THE GREFFIER:

23 Paragraph 81:

24 "When the repression intensified, S-21 also received numerous
25 people from the countryside.

22

1 Paragraph 38 of the Closing Order. Agree."

2 The following passage from paragraph 36 (sic) of the Closing
3 Order should be added:

4 "I also witnessed massive arrivals of prisoners from certain
5 zones. For instance, when the head of the West Zone security
6 office, Vi, was arrested I saw many people arriving from that
7 zone. These arrests preceded the arrest of Vi's superior, Chou
8 Chet, alias Si. This was an implementation of Ho Chi Minh's
9 doctrine; "Before cutting the bamboo one must trim the thorns."

10 Likewise, for the Northwest Zone this pattern is corroborated by
11 the prisoner leaks.

12 Agree."

13 Paragraph 82:

14 "In January 1979, S-21 had detained persons from nearly every
15 zone, every ministry and every military unit in the nation.

16 Paragraph 38 of the Closing Order. Agree."

17 [10.36.32]

18 MR. ROUX:

19 Mr. President, with your leave, a little error appears which is a
20 typographic mistake apparently. When you read paragraph 81 it is
21 indicated on the third line, "It is necessary to add the
22 following segment of paragraph 36 from the Closing Order" but in
23 reality it is paragraph 38 of the Closing Order that should be
24 read out. So this is a typographic error that I would like to
25 point out.

23

1 So therefore, it is paragraph 38 of the Closing Order that should
2 be added. Thank you for rectifying.

3 MR. PRESIDENT:

4 I think the Khmer reading is paragraph 38. I don't know whether
5 it is read out, paragraph 36, in French, but in Khmer it is
6 paragraph 38.

7 THE ACCUSED:

8 Regarding the document in Khmer, I think I myself am confused.
9 Here it reads the following passage from paragraph 36. And then
10 in Khmer version I noticed additional phrase which is surplus.
11 If we look at paragraph 38 of the Closing Order then we will see,
12 "I also witnessed massive arrivals." If you look at paragraph 38
13 of the Closing Order it reads, "I also witnessed arrivals of
14 prisoners from certain zones," but here it reads, "I saw with my
15 own eyes." So I think that the term "noticed" was used as "I saw
16 with my own eyes", which was surplus. I therefore would like
17 your leave to make sure the wording is corrected to make sure it
18 matches the paragraph of the Closing Order, paragraph 38.

19 MR. PRESIDENT:

20 The Co-Prosecutors, would you like to make any observations
21 concerning this because through my observation these paragraphs,
22 as it reads, is extracted from paragraph 36. However, in both
23 paragraphs they refer to paragraph 38 of the Closing Order
24 instead.

25 So is this a kind of confusion or errors, or would you like to

24

1 make any comment regarding this; whether paragraph 36 should be
2 read as paragraph 38 in our agreement on facts here?

3 [10.41.06]

4 MR. BATES:

5 Thank you, Mr. President.

6 In the English it is paragraph 38 and the quote comes directly
7 from document D68 which is the proces verbal of the accused on
8 the date of -- if you'd allow me a moment -- I'm sorry, we don't
9 have the date immediately to hand, we can provide it in due
10 course but the quote comes directly from the written record of
11 the accused at D68 and it appears in the closing order in
12 English, at least, at paragraph 38 and we do not seek any
13 addition.

14 The date is the 22nd of January 2008 of the written record of
15 interview.

16 MR. PRESIDENT:

17 The Greffier, please continue reading paragraph 38 of the Closing
18 Order so that we can really verify the wordings.

19 THE GREFFIER:

20 Paragraph 38:

21 "Duch further recognized that subsequently when the repression
22 intensified S-21 also received people from the countryside. I
23 also witnessed massive arrivals of prisoners from certain zones;
24 for instance, when the head of the West Zone Security Office, Vi,
25 was arrested I saw many people arriving from that zone. These

25

1 arrests proceeded the arrest of the superior Chou Chet, alias Si,
2 this was an implementation of Ho Chi Minh's doctrine; "before
3 cutting the bamboo one must trim the thorns". Likewise for the
4 Northwest Zone this pattern is corroborated by prisoner lists
5 that demonstrate clearly that by January 1979, S-21 had detained
6 persons from nearly every zone, every ministry, and every
7 military unit in the nation."

8 [10.44.13]

9 MR. PRESIDENT:

10 We can see that the wordings were extracted from paragraph 38 of
11 the Closing Order so Khmer version which reads paragraph 36
12 should also be corrected to match the English version and also in
13 the French.

14 Mr. Kaing Guek Eav?

15 THE ACCUSED:

16 Your Honour, the President, this document had errors in Khmer. I
17 did not see any problem in English and French version.

18 In the Khmer version I noticed that, "I saw with my own eyes,"
19 but in the paragraph 38 of the Closing Order it reads in Khmer
20 too that I noticed or I witnessed the massive arrivals. I think
21 the only difference is that the word "saw with my own eyes," so
22 that's the only difference but it only in Khmer version, not in
23 the English or the French.

24 [10.45.44]

25 MR. PRESIDENT:

26

1 So you only would like the Khmer version to be corrected so that
2 it matches the French and the English version of the Closing
3 Order, paragraph 38 and that the word -- the phrase "I saw with
4 my own eyes" should be changed to "I witnessed" instead, in
5 Khmer?

6 The defence counsel, do you agree with the new wordings?

7 The Co-Prosecutors, would you like to make any comment?

8 MR. BATES:

9 Just one small correction. I said it was a written record from
10 January of 2008 and in fact is the 2nd of April 2008 and I can
11 give the exact ERN Number, as well, of the paragraph. It is, in
12 English, 00178061.

13 Thank you.

14 MR. PRESIDENT:

15 We seek clarification because -- and your position concerning the
16 correction of the Khmer version that is used in paragraph 38 of
17 the Closing Order and that the wordings are extracted from that
18 paragraph 38, which reads "I saw with my own eyes" and this
19 wording should be changed to "I witnessed or noticed" and the
20 accused would like the wordings to be changed, although he agrees
21 that the French and the English versions are okay. And the
22 Greffier already said clearly in Khmer that "I witnessed" and did
23 not say "I saw with my own eyes."

24 So we only need to change the wording so that it matches the
25 extraction from paragraph 38 because extraction mean to copy

27

1 every word from that paragraph. Do you agree?

2 [10.48.32]

3 MR. BATES:

4 Yes, Mr. President.

5 MR. PRESIDENT:

6 It is now time to break for 15 minutes. So the Court is
7 adjourned for 15 minutes.

8 (Court recesses from 1048H to 1111H)

9 (Judges enter courtroom)

10 [11.11.30]

11 MR. PRESIDENT:

12 Please be seated. The Court is now in session. Judge Lavergne,
13 would you like to put further questionings to the accused
14 concerning the last two paragraphs read by the Greffier? The
15 floor is yours.

16 BY JUDGE LAVERGNE:

17 Q.Does the accused have any other comments?

18 A.I should like to add that these are facts about which
19 explanations have already been provided.

20 MR. PRESIDENT:

21 Next, the Greffier please read paragraph 83 and 84.

22 THE GREFFIER:

23 Paragraph 83:

24 "The role of S-21 further extended to executing those in the
25 revolutionary ranks who were accused of being influenced by or

28

1 under the control of Vietnam due to their former or
2 contemporaneous associations with the Vietnamese Communist
3 Party."
4 Paragraph 39 of the Closing Order. Agree."
5 Paragraph 84:
6 "During the armed conflict with Vietnam, the numbers of
7 Vietnamese civilians and soldiers arrested and sent to S-21 also
8 grew.

9 Paragraph 39 of the Closing Order. Agree."
10 [11.14.04]

11 BY JUDGE LAVERGNE:

12 Q.Concerning this last paragraph, I think we'll return to this
13 later, when we will discuss the international armed conflict.
14 However, does the accused have any comments or observations
15 regarding what has just been read?

16 A.I do not have any comment at the moment, thank you.

17 MR. PRESIDENT:

18 Next it comes to the dissemination of policy at S-21. The
19 Greffier, please continue reading paragraph 85.

20 THE GREFFIER:

21 Paragraph 85:

22 "The political line of the CPK was disseminated at S-21. The
23 extract from paragraph 40 is in the fact that follows. The
24 political line on the CPK was taught directly at S-21, including
25 the policy of extrajudicial execution.

29

1 Paragraph 40 of the Closing Order. Agree."

2 And Duch also wishes to point out that the political line of the
3 CPK was also disseminated throughout the country.

4 "(a) Duch and other S-21 cadres attended general political
5 education and agricultural production planning meetings convened
6 under the auspices of the centre General Staff.

7 Paragraph 40 of the Closing Order. Agree.

8 (b) Duch and other former S-21 cadres stated that they also
9 attended training sessions convened by Son Sen to discuss the
10 need to purge and smash enemies.

11 Paragraph 40 of the Closing Order. Agree.

12 (c) Former S-21 personnel agreed that the policy of
13 extrajudicial execution was vitally disseminated throughout S-21
14 at annual meetings of the entire unit, as well as at smaller
15 meetings of its various sub-units.

16 Paragraph 40 of Closing Order. Agree."

17 [11.17.05]

18 BY JUDGE LAVERGNE:

19 Q.This is also something we have discussed previously. Does the
20 accused have any further comment regarding what has just been
21 read?

22 A.Your Honour, I don't have any further comments.

23 JUDGE LAVERGNE:

24 So I think we can proceed.

25 MR. PRESIDENT:

30

1 The Greffier, please read the next paragraph.

2 THE GREFFIER:

3 Paragraph 86:

4 "Duch acted to further disseminate this line within S-21. For
5 example, he taught interrogators that the activity at S-21 is a
6 task of class struggle. It is aimed at smashing the oppressor
7 class.

8 Paragraph 42 of the Closing Order. It should be noted that this
9 is a summary by the Co-Prosecutors of a passage from paragraph 42
10 of the Closing Order which reads as follows:

11 [11.18.30]

12 Former S-21 personnel confirm that Duch acted to further
13 disseminate this line within the unit. In an S-21 interrogator's
14 notebook, a statement attributed to Duch noted that the work of
15 S-21 is a task of class struggle. That is, it is aimed at
16 smashing the oppressor class, digging out their trunk and roots
17 to defend the Party, defend the proletariat class, defend
18 Democratic Kampuchea and defend the line of independence and
19 mastery.

20 Partly agree. See written record of interview of Duch dated 18
21 February 2008, page 7 in Khmer and page 6 in French."

22 MR. PRESIDENT:

23 The Greffier, please read the record on page 7 in Khmer.

24 THE GREFFIER:

25 Question by Judge You Bunleng:

31

1 "Can you describe the following phrase of this document: First,
2 the point entitled the political stance concerning the enemies
3 who were arrested ERN 0007463 in French page 11, and number two,
4 the second phrase that begins with the Santebal's task which is
5 the struggle -- class struggle ERN 0007479 in English, page 20,
6 whether these match what you trained and the political line?"

7 Response:

8 "Yes, it is true that it is the general political line concerning
9 the security task and in case when there was any arrest no
10 release is made. The person must be smashed whether the
11 confession was extracted or not."

12 [11.21.30]

13 "The word 'smash until its roots' is more an exaggeration, but
14 people could combine other documents to make sure we can compare
15 to see its consistency. Regarding document Number 2 the study
16 regarding the document of ERN 0077662, the handwritten diary of
17 Comrade Chen, no one can contest the meaning of its version.

18 It's true that Mam Nai wrote that writing and I know his writing
19 very well and I could also confirm its source, and he noted all
20 the words and what I said and I also can describe the meaning of
21 it tomorrow."

22 JUDGE LAVERGNE:

23 (No interpretation)

24 THE INTERPRETER:

25 The interpreter did not hear the first part of Judge Lavergne's

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1 statement.

2 JUDGE LAVERGNE:

3 Is there a translation problem; can I continue?

4 THE INTERPRETER:

5 Yes, please, proceed.

6 JUDGE LAVERGNE:

7 I was saying that for clarity in the record of the hearing what
8 has just been read out is an excerpt of the interview of the
9 accused, which is under D46 of the case record, and this is pages
10 5 and 6 of the French.

11 [11.23.36]

12 The ERN numbers are as follows: 00164340 and the next page is
13 00164341. I do not have the English ERN Numbers, perhaps the
14 Co-Prosecutors could assist us with that.

15 MR. BATES:

16 Yes, thank you.

17 It is 00164327 to 00164335 and I think the particular passage
18 appears at -- if you'll just bear with me --

19 MR. PRESIDENT:

20 Mr. Co-Prosecutor, could you please slow down a little bit while
21 reading the ERN number so that the interpreter can follow you?

22 MR. BATES:

23 Thank you, Mr. President. In the break we've all forgotten to
24 slow down. I'm sorry.

25 So the ERN in English is 00164327 to 00164335 and the particular

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1 paragraph appears at page 00 --

2 UNIDENTIFIED SPEAKER:

3 Repeat again.

4 MR. BATES:

5 Repeat again?

6 [11.25.16]

7 MR. PRESIDENT:

8 Please try to read two digits at a time. I think it would be

9 very helpful to the interpreter. Thank you.

10 MR. BATES:

11 I'll try one more time, thank you; 00164327 to 00164335, and the

12 particular page of the reference is 00164331 and the case file

13 number is D46. And I hope the interpreters -- the translators

14 got it that time.

15 JUDGE LAVERGNE:

16 Okay, I think that we'll have the opportunity of getting back to

17 these points given the interview program of certain witnesses, so

18 I don't think it's necessary to belabour this point, however -

19 but I would like, however, the accused to provide extra comments

20 if he wishes to do so.

21 THE ACCUSED:

22 Thank you, Mr. Judge.

23 I don't have any further comments.

24 MR. PRESIDENT:

25 The Greffier please continue reading paragraphs 87 to 90.

34

1 [11.27.37]

2 THE GREFFIER:

3 Paragraph 87.

4 "Duch and other CPK members and Youth League members at S-21 were
5 also made aware of the role of their office in implementing these
6 policies through the Party journals Revolutionary Flag and
7 Revolutionary Youth.

8 Paragraph 41 of the Closing Order. Agree."

9 Paragraph 88.

10 "Allegations of treason to which S-21 prisoners had been
11 compelled to confess were presented as fact in these publications
12 and alluded to in official DK propaganda.

13 Paragraph 41 of the Closing Order. Agree."

14 Paragraph 89.

15 "Alleged traitors such as Chann Chakkrey, Men San alias Ya, Suos
16 Neou alias Chhouk and Koy Thuon were repeatedly referred to by
17 name.

18 Paragraph 41 of the Closing Order. Agree."

19 Paragraph 90.

20 "Extracts from tape recorded S-21 confessions or written text
21 were played or read out at meetings outside of S-21 to justify
22 the actions of the regime.

23 Paragraph 41 of the Closing Order. Agree."

24 JUDGE LAVERGNE:

25 Does the accused have any extra comments to provide in relation

35

1 to what was read? Can you speak to us in particular about these
2 meetings during which the certain excerpts of interrogations were
3 being disseminated?

4 A.I would like to state concerning the meetings, the meetings to
5 listen to the tapes were done by the upper echelon, or the
6 meeting in which the confessions were read out were also
7 conducted by the upper echelons.

8 [11.31.13]

9 I would like to give you a practical situation. I don't remember
10 the date. Son Sen, my superior, met at the Olympic Stadium at
11 the basketball court. It was about the dissemination of the
12 confessions of Men San alias Ya, to be read out in public
13 including the confession of Koy Thuon's and also other comrade
14 confessions was read out at that time; for example, the
15 confession of Pich Chhorn, alias Saom, the Secretary of the
16 Secretariat.

17 So the readings were not decided by me but the upper echelon took
18 the advantage of the taped confessions and written confessions
19 from S-21 to be read out. This was the task of the upper
20 echelon. It is true that these kinds of activities took place.
21 That's all. That's referred to paragraph 90, as I already made
22 my comments.

23 Q.Did the transmission of audio recordings of the interrogations
24 -- did the transmission of these to the higher authorities, were
25 they systematic or were these done only when these were

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1 requested?

2 [11.34.33]

3 A.First, the majority of the words -- mainly, only the audio
4 recordings were used just to prove that I did not really answer
5 on behalf of the prisoners. And later on Son Sen asked the
6 prisoners to write down their confessions instead because Brother
7 Nuon did not want to listen to the confessions; he preferred
8 reading them.

9 I would like to confirm that Uncle Nuon is Nuon Chea, and I was
10 made to change the approach. Later on for the important persons,
11 then the confession in the form of writing and audio recordings
12 were taken.

13 So most confessions at S-21 at a later date were written; only
14 some certain confessions that were both audio recorded and
15 written down. That's all my response.

16 Q.Who decided that such and such a confession had to not only be
17 written down but also recorded, and what was the objective of
18 these requests?

19 A.Your Honour, the aim was not revealed but we can -- we could
20 presume that they would be used for dissemination. When I worked
21 with Son Sen he told me directly by -- verbally told me or by
22 phone.

23 With Uncle Nuon -- Nuon Chea -- sometimes he told me directly.
24 Sometimes he asked Pannng to tell me. Pannng, his original name
25 was Chhim Sam-Aok. He was the chief of the committee concerning

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1 the works surrounding the Center Office -- correction, Office
2 870.

3 [11.39.29]

4 That's all my comments.

5 Q.Beyond these -- both publications that were mentioned,
6 therefore publications for the Party, therefore they were only
7 given to the Party member, so we're speaking about Revolutionary
8 Flag here and about Revolutionary Youth. Well, beyond these
9 publications were there other means, and in particular radio --
10 were other means used to broadcast the party line of the CPK, and
11 eventually, can you tell us if some confessions were also
12 broadcast by radio?

13 A.The dissemination of -- to reveal the traitors were done by
14 all means. First, the Revolutionary Flag magazine: it was
15 written in depth concerning the confidentiality in order to
16 educate members of the Party. Number 2, the Revolutionary Youth
17 magazine: the author was not Brother Pol, or Pol Pot. So far as
18 the rumour has it, it was Yun Yat, the wife of Son Sen, who was
19 the author of such magazine. The content of the Revolutionary
20 Youth magazine was not as in depth as it was in the other
21 magazine, especially when it comes to confidentiality.
22 Regarding the radio broadcast, I think there were no full
23 confessions to be broadcast fully on the radio broadcast; maybe
24 only part of the confessions were used in such radio broadcasts.
25 Therefore, education through radio means the broad educational

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1 approach. That's why such education is not much in depth. So it
2 can be concluded that when the information is broadly broadcast,
3 then it would not be much in depth.

4 That's all my comments.

5 [11.44.04]

6 Q.Were you always informed about every broadcast, even if these
7 broadcasts were partially being broadcast by radio? Were you
8 always informed of these broadcasts of confessions?

9 A.The radio broadcasts of the full confessions were only done by
10 way of using the confessions of the Vietnamese detainees for the
11 purpose of broadcasting. As for confessions of other key
12 persons, only parts of their confessions would be broadcast. So
13 only the core essence of those confessions of the key people were
14 broadcast, but for the Vietnamese confessions they were fully
15 broadcast.

16 Q.My question was more specific. Which information did you
17 receive personally about these broadcasts? Were you informed
18 about these broadcasts and were you always informed about the
19 broadcasts?

20 A.I probably did not catch your question but I'll try to answer
21 that the attempt to broadcast confessions was made by their
22 authority and power, and it was independent from my request. I
23 did not have the right to propose that such confessions be
24 broadcast. Although the confessions were to be broadcast or
25 written in the Revolutionary Flag, I did not have right to make

39

1 such a request. Only when Pol Pot noted that those confessions
2 would be advantages, that they would use, and I did not have the
3 right to make any request to do so.

4 [11.47.58]

5 When the information was broadcast I was never informed, although
6 I saw that piece of information in the Revolutionary Flag
7 magazine. So in conclusion, I had no right to propose anything.
8 I was not sought any opinion before any broadcast. After the
9 broadcasts I was not informed. I only learnt of this information
10 in the Revolutionary Flag magazine.

11 That's all my response according to my knowledge.

12 MR. PRESIDENT:

13 The Greffier, please read the following paragraphs: paragraphs
14 91 and 92.

15 THE GREFFIER:

16 Paragraph 91:

17 "From the time he became S-21 Chairman, specific instructions to
18 and from S-21 regarding security matters were conveyed
19 exclusively through him.

20 Paragraph 42 of the Closing Order. Agree."

21 Paragraph 92:

22 "Duch's training of S-21 staff was based on instructions from
23 the superiors.

24 Paragraph 42 of the Closing Order. Agree. It should be noted
25 that this passage from paragraph 42 of the Closing Order actually

40

1 reads as follows:

2 'The notebooks of Duch's assistant, the interrogator Mam Nai,
3 alias Chan, seem to further corroborate Duch's confession that
4 his detailed training of S-21 staff was based on instructions
5 from the superiors.' Agree."

6 [11.51.10]

7 BY JUDGE LAVERGNE:

8 Q.Does the accused have any specific comments about what was
9 just read?

10 A.I do not have any further comments at this moment.

11 MR. PRESIDENT:

12 Next it comes to the use of S-21 confessions. The Greffier,
13 please read the following paragraphs: paragraph 93.

14 THE GREFFIER:

15 Paragraph 93:

16 "The role of S-21 was not to determine whether detainees were
17 traitors as their guilt was already established by the fact that
18 they had been arrested and sent to S-21.

19 Paragraph 44 of the Closing Order. Agree."

20 [11.52.26]

21 BY JUDGE LAVERGNE:

22 Q.Does the accused have any specific comments to make?

23 A.I do not have any further comments.

24 MR. PRESIDENT:

25 The Greffier, read the following three paragraphs: 94, 95 and

41

1 96.

2 THE GREFFIER:

3 94:

4 "In addition to executing prisoners condemned in advance as
5 traitors, an overriding purpose of S-21 was to extract
6 confessions from prisoners in order to uncover further networks
7 of possible traitors.

8 Paragraph 43 of the Closing Order. Agree."

9 95:

10 "Confessions seem typically to have taken the form of political
11 autobiographies by the prisoners in which they were compelled to
12 denounce themselves and others as traitorous, serving the
13 intelligence agencies of foreign powers considered to be enemies
14 of the Cambodian Revolution. Those intelligence agencies
15 included the United States CIA, the Soviet KGB and organs of the
16 Vietnamese Communist Party.

17 Paragraph 43 of the Closing Order. Agree."

18 96:

19 "These confessions, some many hundreds of pages long, contain
20 detailed descriptions not simply of alleged traitorous activities
21 but also of the structure and operation of all levels of the
22 Party and of all administrative units.

23 Paragraph 43 of the Closing Order. Agree."

24 [11.54.38]

25 BY JUDGE LAVERGNE:

42

1 Q.Does the accused wish to add extra clarifications in relation
2 to what has just been read?

3 A.Your Honour, now at the moment I would not want to make any
4 further comments regarding paragraph 96. I believe that everyone
5 will see it more clearly when we study the compilation of the
6 analysis by Craig Etcheson. That's all.

7 MR. PRESIDENT:

8 The Greffier, please continue reading paragraphs 97 and 98.

9 [11.55.55]

10 THE GREFFIER:

11 Paragraph 97:

12 "The operations of S-21 were obviously not comparable with the
13 existence of the tribunals and procedural safeguards.

14 Paragraph 44 of the Closing Order. Agree."

15 Paragraph 98:

16 "It was their confessions which served the political interests
17 of those in control of the Party by justifying threats and
18 implicating the networks of those sent to S-21. They were used
19 as excuses to eliminate those who represented obstacles. The
20 aforementioned extract from paragraph 44 in fact reads as
21 follows:

22 'The confessions were used as excuses to eliminate those who
23 represented obstacles.'

24 Paragraph 44 of the Closing Order. Agree.

25 (a) Regardless of whether they contained false or fabricated

43

1 assertions, the confessions were said by Duch to have been given
2 formal weight in deciding upon the arrests of those denounced as
3 enemy agents, and very often many people were arrested as
4 implicated as enemies or traitors.

5 Paragraph 45 of the Closing Order. Agree.

6 (b) Normally implication in one confession was not sufficient
7 for a person to be arrested; it had to occur several times.

8 [11.57.47]

9 Paragraph 45 of the Closing Order. Agree.

10 (c) Names from different confessions were combined to form lists
11 of enemies.

12 Paragraph 45 of the Closing Order. Partially agree. According
13 to Duch, this was not a common practice at S-21 and, according to
14 him, he did so only twice following a specific order concerning
15 Divisions 170 and 290 which were part of the General Staff and
16 were from the East Zone."

17 BY JUDGE LAVERGNE:

18 Q.Well, first a question in order to get back to paragraph 97.

19 In a general way could you say -- and beyond the simple context
20 of S-21, was there, in Democratic Kampuchea, tribunals --
21 independent tribunals and legal safeguards that could allow the
22 citizens to defend their individual liberties? Did the notion of
23 individual liberty -- was this a notion that was understood in
24 the policies of Democratic Kampuchea?

25 A.Your Honour, the notion of individual liberty was abolished.

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1 [11.59.53]

2 All levels of court did not exist. The power was concentrated in
3 the Standing Committee. The Standing Committee governed all the
4 three powers. The Executive, the Legislative and the Judiciary
5 were all in the hands of the Standing Committee. There was no
6 law; there were political lines and its policies.
7 The political lines were the tools used or created by the
8 Secretary of the Standing Committee. The next power was
9 exercised by the zone, the sector; the co-operatives. All the
10 levels of power were taking charge of both the executive of these
11 and the courts. The term "People's Justice" and the "Courts of
12 People's Justice" were the terms used in the revolutionary in
13 China, the Cultural Revolution in China. But in China people
14 gathered and conducted a conference or meeting and then they
15 started the trials. That's what Ta Mok did when he put Pol Pot
16 on trial.

17 In Cambodia the committee of the co-operatives proposed any ideas
18 and made such proposals to the chief of the district to make a
19 decision. For the new people who frequently had a lot of
20 problems, when the co-operatives made a request to the district
21 and the district would then report to the upper echelons before
22 arrests were made. So this is my clarification concerning my
23 knowledge about the situation.

24 [12.04.12]

25 Now, when it comes to S-21, the combatants who were re-educated

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1 at Prey Sar when the Committee at Prey Sar made a request, then
2 the Committee of S-21 would make a decision and then report to
3 the upper echelon regarding those people. So in conclusion there
4 was no individual liberty. There was no court of all kinds.
5 There was no law. There were only Party lines.
6 That's all.

7 Q.Do you have any other comments about what was read out; in
8 particular on the lists of enemies that may have been drawn up
9 from other confessions obtained in S-21?

10 A.The prisoners whose names had been drawn up on the
11 denunciation and then sent to the upper echelons, there were
12 numerous of them. First, the very great time consuming was to
13 compile the confessions in which Suos Neou, alias Chhouk was
14 implicated.
15 Suos Neou, alias Chhouk, was the Secretary of Sector 24 of the
16 East Zone. He was implicated in several confessions. When the
17 Standing Committee was about to meet again, my superior ordered
18 S-21 to gather information and extract key points from the
19 document concerning Suos Neou, alias Chhouk. Based on my memory,
20 I can tell you that I gathered a lot of interrogators who knew
21 Suos Neou, alias Chhouk, including the typist. I gathered the
22 interrogators and the typists to work together for three days and
23 three nights with little sleep.
24 Finally, the Standing Committee made a decision to arrest alias
25 Chhouk and send to S-21. I already said previously I only would

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1 like to make further details, information concerning the
2 compilation of the documents regarding the matter.

3 And regarding the key person like him, I think there was another
4 case but I can't remember who, maybe Koy Thuon or any other
5 person. I just can't remember it.

6 [12.09.31]

7 Number two, it is about the documents in which people in Division
8 870 and 290 were implicated.

9 MR. BATES:

10 Mr. President, I'm sorry to interrupt the accused but I think
11 there was a mistranslation in the English. I think the English
12 said 870 and 290, and I think the Khmer was 170 and 290. Perhaps
13 the accused could be asked to repeat what he said and we can take
14 it slowly again in the translation. Thank you.

15 [12.10.35]

16 THE ACCUSED:

17 Thank you, Mr. Co-Prosecutor. When the Khmer-English translation
18 is not correct, then the French version also was affected.

19 MR. PRESIDENT:

20 The accused, could you please repeat your last comments regarding
21 the divisions, concerning the compilation of the documents of the
22 two divisions, because the numbers of the divisions themselves
23 are not precisely translated?

24 THE ACCUSED:

25 Divisions -- as the President said, Divisions 170 and 290.

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1 Division 170, as it referred to at that time, Chann Chakkrey was
2 already arrested. Chann Chakkrey and other people, some other
3 people in Division 170, implicated people in their own unit, and
4 in Division 290 the situation was the same. People implicated
5 other colleagues in the same unit.
6 Then my superior asked me to gather names who were implicated in
7 respect to units and I gathered the names of the people who were
8 implicated in Division 170 and 290. Then after I gave all those
9 documents to him he asked me to work with him.
10 The meeting like that was an open meeting of the general staff to
11 make a decision regarding the matter. This open committee
12 includes Brother 89, Son Sen; Brother 81, Siet Chhe, alias Tum
13 who were members and secretaries of the Standing Committee of the
14 General Staff. Pich Chhorn, alias Saom; In Nat, the assistant to
15 the general staff -- In Nat and Pich Chhorn, who were the
16 assistant to the general staff were also included in that
17 committee, and at that time my superior read out the names who
18 were implicated in the confessions in order for the related
19 people of the units to -- the heads of the respective units to
20 make a decision as to whether -- who to be arrested and who not
21 to be arrested.
22 After reading out such information then I was asked by my
23 superior whether I would like to make any comments. Actually he
24 only asked in a more friendly manner. In reality I was not
25 entitled to make any comments in such a meeting.

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1 And I would like to also add further that the right to arrest by
2 the Special Army of the centre was the right of the Secretary of
3 the General Staff. It was Son Sen actually. No-one else had the
4 right to arrest those people, other than Son Sen himself.

5 [12.16.13]

6 So this was the organizational line. However, in the real
7 activity line he had to ask for opinions from the respective
8 units in which the names of the colleagues or subordinates were
9 implicated. And this was the process of the activities line and
10 how it was implemented.

11 Then after the decision by them I would then be asked, and the
12 chiefs of the units would be asked, to discuss whether it would
13 be okay to arrest such numbers of people, because in some certain
14 cases more people would be arrested. Because in each unit, for
15 example, like more people would be arrested simultaneously, I
16 mean at the same time, so the chief of the unit had to make a
17 decision in order to be prepared if such en masse arrests would
18 take place in such unit.

19 [12.18.03]

20 This was a meeting on the 16th of September in 1977. However,
21 please don't quote my date. I may not make it correct. Just
22 disregard it. Only in a very few occasions that I attended such
23 meetings with them when en masse arrests would be expected.

24 And I reported to the Co-Investigating Judges and I have already
25 now frankly reported to Your Honours, the Trial Chamber Judges.

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1 MR. PRESIDENT:

2 It is time for the lunch break, so the Trial Chamber will adjourn
3 its session until 1.30. The security officials, please take the
4 accused to the waiting room and bring him back to the courtroom
5 by 1.30 this afternoon. The parties to the proceedings are also
6 advised to return to the courtroom by that time.

7 (Judges exit courtroom)

8 (Court recesses from 1220H to 1344H)

9 (Judges enter courtroom)

10 MR. PRESIDENT:

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

12 [13.50.47]

13 The following proceedings I would like to invite the Greffier,
14 Mrs. Se Kolvuthy, to read paragraph -- the following paragraphs,
15 99, 100 and 101.

16 THE GREFFIER:

17 Paragraph 99:

18 "Duch was often given instructions concerning the extraction and
19 content of specific confessions including references to CIA and
20 KGB agents.

21 Paragraph 44 of the Closing Order. Agree."

22 But it should be noted that the Co-Prosecutors have summarized
23 paragraph 44 of the Closing Order here.

24 Paragraph 100:

25 "Duch meticulously read, analyzed, annotated, and summarized the

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1 majority of these confessions for his superiors.

2 Paragraph 43 of the Closing Order. Agree."

3 Paragraph 101:

4 "Confessions were forwarded to high-ranking Party members.

5 Paragraph 45 of the Closing Order. Agree. The following

6 passages from paragraph 43 and 44 of the Closing Order should be

7 added. Paragraph 43: Duch has already confirmed this statement.

8 Paragraph 44: Duch still confirmed that he was suspicious of

9 those confessions, that they are not all true, but his superior

10 who demanded all the confessions. Duch said he believed that

11 even the Standing Committee itself did not believe the whole

12 truth of the confessions. Agree."

13 [13.53.18]

14 BY JUDGE LAVERGNE:

15 Q.Well, okay, so therefore we're dealing with the reading of the

16 last paragraphs related to the topic of the implementation of the

17 CPK policy. Can you therefore tell us if you have the feeling

18 that the confessions that you transmitted to your superiors, the

19 notes that you would add to these confessions, or even the

20 analyses that you made and the lists -- well, do you have the

21 feeling that these documents were liable to orient the political

22 line of the CPK and also to determine which measures -- to

23 determine, up to a certain extent, which people were going to be

24 purged?

25 A.Your Honour, first I would like to mention concerning the

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1 confessions of the victims. The victims' confessions, I can say
2 in short that I did not have anything to measure whether the
3 confessions were truth or not. From the beginning when I started
4 the work at Santebal from M-13 and afterwards I still could not
5 find any tools to measure whether those confessions were true or
6 not, and I did not find anything at all to measure them.
7 Some confessions were far beyond my analysis. For example, the
8 confession of Koy Thuon I did not dare annotate on it, and he
9 asked for the confession to be transmitted immediately. However,
10 these confessions made him -- no, not him, the whole Standing
11 Committee, to arrest en masse people from the north. It's a
12 massive arrest. It shocked me and if we look back I can see that
13 people were suspicious of the elements in the north, and they
14 only were waiting for just one confession before they could make
15 such a massive arrest. And I think that was it.

16 [13.58.1]

17 So whether anyone would be arrested first, they conducted such a
18 plan and the plans were initiated by the standing committee.
19 Personally, when I annotated on the documents I only wanted to
20 facilitate my superiors' time-saving in reading those annotations
21 and confessions, and I tried at the maximum to limit to reveal
22 that I subjectively was biased towards any particular individual.
23 So it is my summary of the response here. I know that it is not
24 yet at all, so Your Honours may put more questions to me.
25 Q.As set out before, that is there was a rule that a name was to

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1 be mentioned several times in confessions to lead to the arrest
2 of the person thus named, would you say that this rule was not
3 applied all the time?

4 A.The rule which reads that only when names are mentioned in
5 several times in the confessions before he or she was arrested,
6 it's true there is such a rule. However, some less important
7 people they did not need several mentions of the names in the
8 confession, just a few. It made the person -- it helped make the
9 person to be arrested already.

10 [14.02.07]

11 Some people who were the very important person like Chhouk; his
12 original name, Suos Neou. I call him the very important person
13 because Phim, Brother Phim, the Secretary of the East, was behind
14 him. So before he was arrested there must have been a clear
15 signal to do so. If Brother Sao Yann and Brother Phim did not
16 agree, then Chhouk would not be arrested.

17 This morning I told you already that it is the activities line.
18 So regarding such a matter there must have been several names,
19 several confessions or names mentioned in the confessions before
20 he could be arrested and that it had to go through several
21 meetings as well.

22 Some other people were implicated but the Standing Committee did
23 not take action. For example, Ta Mok, his name was mentioned in
24 the confessions but he was not arrested.

25 Having heard of Ta Mok, the Standing Committee remained idle and

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1 did not take any action. And Brother Koy's name or Son Sen, his
2 name was also implicated in several confessions but the Standing
3 Committee did not take any action. So this is just the examples.
4 I still remember how the confessions are sharpened. So I would
5 like to give you an example of how the confessions were framed
6 because when they wanted to arrest anyone, then they would like
7 confessions to be aimed into that direction.

8 The Standing Committee wanted people to implicate Chhim Sam-Aok,
9 alias Panng. The Standing Committee would like people to
10 implicate Panng or Chhim Sam-Aok, so one person was sent to S-21
11 to be interrogated. Then when I reported his confession Son Sen
12 asked me to work as normal. Then he asked me, "Why this guy did
13 not indicate Panng?" And then I did not dare contest him. I
14 said, "He did confess and implicated him. But before Panng was
15 also implicated and you laughed your heads off when you heard it.
16 So how could I really write his confession with the implication
17 of Panng in such confession?" Then having heard that, Son Sen
18 apologized and said, "Okay, so yes I accepted that, before I
19 laughed at you but let's deal with it."

20 [14.09.00]

21 And I would like to also give you another example. Sorry, that
22 example was raised only to prove my theory in the morning
23 concerning the cutting of the bamboo; then one must trim the
24 thorns.

25 So the ways -- how they organized people to be arrested were

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1 organized and planned by the Standing Committee. Whether there
2 are more confessions before the person was arrested it was part
3 of the work, but whether they believed it or not so it is another
4 story.

5 As Pol Pot said in the minutes of the meeting of the 9 of
6 October, 1975, he said the police was one thing but here we --
7 whether we arrested anyone it's up to us. This document is with
8 me but I don't have time to point to the right page but Pol Pot
9 did say so.

10 So in conclusion that's the number of names to be -- to appear in
11 confessions before he or she was arrested was one case. Whether
12 the confessions were truth or not is another case. They followed
13 S-21's confessions or not. It depended so much on them to build
14 forces in the Party. This is another case.
15 That's all my comments. It has been long already.

16 [14.13.18]

17 Q.At the very beginning of this trial you showed us a sketch.
18 The sketch depicted two characters and you explained that, in a
19 manner of speaking, there had been a power struggle for the total
20 control of power within the CPK. So beyond the doubts that you
21 expressed as to the belief in the veracity of the confessions by
22 the members of the Standing Committee, do you not think that the
23 confessions may also have been used for this total struggle for
24 power by some people? And if you do know who, could you please
25 tell us?

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1 A.The sketch stems from my many years living in the Communist
2 regime of Kampuchea. I could only concentrate on this matter
3 from 1983 and I acknowledge that it is true that in 1997 when Ta
4 Mok arrested Pol Pot, the confessions were used and of course in
5 the confessions it revealed the struggle, the total struggle for
6 power between these two individuals.

7 Now I would like to give you another real example: the police
8 office of the Southwest, supervised by Ta Mok. Ta Mok never sent
9 anyone to S-21, ever. Those who were his true forces who he
10 believed could implicate him, he never sent them to S-21. From
11 the establishment of S-21 since the March of 1976 when I became
12 the chairman, so far as I remember, Ta Mok only sent two people;
13 first Sek Sat, alias Prak, the Secretary of Sector 25, the member
14 of the Southwest Committee. He sent them because these people
15 originally came from the city, the string, the network of Vorn
16 Vet and my network.

17 So they were from the city. So Sek Sat, alias Prak, was not a Ta
18 Mok person or man since the very beginning. That's why he was
19 sent to S-21. And another person named Saom Chea, the Secretary
20 of Sector 25. This person was the former person of Tou Samuth.
21 Then Ta Mok also was happy to send him to S-21. So other than
22 these two people, no person was ever sent to S-21 by him.

23 So in conclusion, the question by Your Honours is correct. The
24 confessions, extraction of confessions, were related to the power
25 struggle, in the Democratic Kampuchea regime, between Ta Mok and

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1 Pol Pot. This is based on my analysis and whether it is true or
2 not, I would like Your Honours to further examine it.

3 [14.20.30]

4 JUDGE LAVERGNE:

5 I have nothing further, Your Honour Mr. President. Perhaps other
6 colleagues wish to put questions to the accused.

7 MR. PRESIDENT:

8 Judges of the Trial Chamber, would you wish to put any
9 questionings concerning the agreement on the facts to the
10 accused? The floor is yours, Judge Silvia Cartwright.

11 JUDGE CARTWRIGHT:

12 Thank you, President.

13 BY JUDGE CARTWRIGHT:

14 Q.The first question I want to put to Mr. Kaing Guek Eav is
15 whether, when a person was mentioned in a confession, did that
16 mention have to suggest that he or she was guilty of something or
17 was it sufficient to mention the person's name for that to be the
18 basis of further inquiries?

19 A.Your Honour, how S-21 writes the confessions is that they were
20 made to confess their traitorous activities. So in that
21 confession the other people's names were required to be listed
22 down. Other people who were implicated then would be arrested
23 because of the previous prisoners were implicating them, because
24 normally when a person was arrested he would have been associated
25 with other people to conduct traitorous activities so he himself

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1 or she herself could not do that activity alone. That's why more
2 names were listed down in such confessions.

3 [14.23.24]

4 Q.Yes, thank you.

5 Now, turning to paragraph 86 of the Statement of Agreed Facts, I
6 note that in your response you have set out the complete part of
7 the Closing Order referred to by the prosecutors, and at the end
8 of the additional material you have said that you partly agree.

9 Can I ask you, reading from the material that you have quoted
10 from the Closing Order, which parts you agree to and which you do
11 not?

12 I'll start by asking you whether you agree to the first sentence
13 which says:

14 "Former S-21 personnel confirm that Duch acted to further
15 disseminate this line within the unit."

16 Do you agree with that statement in the Closing Order or not?

17 [14.25.00]

18 A.Your Honour, the political, ideological and stance --
19 education regarding the enemies, it was I alone who was entitled
20 to grab a mic to educate people in the unit. It is true.

21 Q.The second sentence says:

22 "In an S-21 interrogator's notebook a statement attributed to
23 Duch noted that the work of S-21 is a task of class struggle;
24 that is, it is aimed at smashing the oppressor class, digging out
25 their trunk and roots to defend the Party, defend the proletariat

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1 class, defend Democratic Kampuchea and defend the line of
2 independence and mastery."

3 First, can I ask you if such a statement can be attributed to
4 you?

5 A. In educating people, class was in the forefront. It was about
6 the class and the class struggle that were the key elements in
7 the training and, so far as I remember, there was a word that --
8 we'll say that people who were arrested by the Party must be
9 regarded as enemies. If you did not regard them as the enemies
10 you could never interrogate that person to extract confessions.
11 So this is the stance of the Party because you did not trust the
12 Party and then you question the person who was arrested by the
13 Party, then you could never interrogate such people.

14 So to sum up, we had to presume that anyone arrested by the Party
15 must be regarded as enemy. And the term "class struggle", it is
16 true that the enemy bore within and we were in the bright place
17 -- I mean with the light -- and we exposed openly but enemies
18 were sneaking inside our ranks. That's why there was a class
19 struggle, so that we could overcome the enemies or to beat the
20 enemies.

21 And I think I would be extreme, a little bit, concerning the
22 rooting out of the plant. I think I probably was influenced from
23 the magazine but I could not agree fully that it was true because
24 I did not read the notebooks by other personnel. That's why I
25 was not yet sure to -- I'm not very sure to say that I agree

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1 fully with this.

2 [14.28.55]

3 Q. So you are saying that because you haven't read the notebook

4 you can't confirm the accuracy of the statement today?

5 A. As I have already mentioned in the record, maybe the texts

6 were compiled to make sure that they are convincing or maybe I

7 forgot about those documents concerning the lists of the

8 logistics of the security office of S-21. And I think it was

9 originally my notion but maybe the staff at S-21 would make them
10 in their own way.

11 But I do not contest the comments or the notes made by Brother

12 Mam Nai that it was not my idea, but it is true that it was my

13 idea, but the phrasing, the wordings would have been made by my

14 staff.

15 Q. Yes, thank you.

16 JUDGE CARTWRIGHT:

17 I have no further questions. Thank you, President.

18 [14.30.15]

19 MR. PRESIDENT:

20 The Greffier, verify the attendance of Craig Etcheson, the

21 expert; whether he is here at the Court this afternoon or whether

22 he is available to give his testimony now.

23 THE GREFFIER:

24 Your Honours, the expert, Mr. Craig Etcheson is available to

25 testify upon request now.

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1 MR. PRESIDENT:

2 Since this afternoon we have the expert, Mr. Craig Etcheson, the
3 Trial Chamber is inviting him to be here as an expert, and the
4 parties to the proceedings regarding the implementation of the
5 CPK's policies at S-21, whether you have questions or remarks to
6 be put to the accused, such remarks or questions could only be
7 put after the Court heard Craig Etcheson's testimony.

8 Mr. Co-Prosecutor, would you like to make any comment?

9 [14.32.43]

10 MR. BATES:

11 Thank you, Mr. President. I was merely rising to my feet to
12 confirm that we would indeed be given an opportunity to question
13 the accused on this matter. It's, of course, a matter for the
14 President as he sees fit. Thank you.

15 MR. PRESIDENT:

16 Since it is time now to hear this testimony from Mr. Craig
17 Etcheson, who is present here already, and with some
18 technicalities -- for example, like during his course of
19 testimony he is going to present some evidence, so the Chamber
20 may take a 20 minute break to make sure that the technicalities
21 are ready in place before such testimony. And we need the AV
22 officials to help facilitate the presentation of the documents to
23 be presented by the expert.
24 So the Court is adjourning for 20 minutes. The Greffier, please
25 coordinate with the expert.

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1 (Judges exit courtroom)

2 (Court recesses from 1434H to 1455H)

3 (Judges enter courtroom)

4 MR. PRESIDENT:

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

6 Next, the Court official, please invite Mr. Craig Etcheson to the

7 courtroom. The security officials, please take the accused to

8 sit behind the defence counsel.

9 Is your name Craig Etcheson?

10 MR. ETCHESON:

11 Yes, Your Honour; that's correct.

12 MR. PRESIDENT:

13 How old are you now?

14 MR. ETCHESON:

15 I am 53 years old, Your Honour.

16 MR. PRESIDENT:

17 What is your nationality?

18 MR. ETCHESON:

19 I am an American citizen.

20 [14.58.22]

21 MR. PRESIDENT:

22 Where do you live?

23 MR. ETCHESON:

24 I currently reside in Phnom Penh, Cambodia.

25 MR. PRESIDENT:

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1 What is your occupation?

2 MR. ETCHESON:

3 I am an investigator with the Office of Co-Prosecutors of this
4 Court.

5 MR. PRESIDENT:

6 According to the record of the greffiers of the Trial Chamber,
7 you have no blood relation with the parties to the proceedings.

8 Is that true?

9 MR. ETCHESON:

10 Yes, Your Honour, that's correct.

11 MR. PRESIDENT:

12 Mr. Craig Etcheson, in the name of the expert you are asked to
13 take an oath. Do you agree to do so?

14 MR. ETCHESON:

15 Yes, Your Honour.

16 [14.59.59]

17 MR. PRESIDENT:

18 The Greffier, please bring the statement of the oath to Mr. Craig
19 Etcheson so that he can take the oath.

20 (Witness Craig Etcheson, affirmed)

21 BY MR. PRESIDENT:

22 Q.Mr. Craig Etcheson, have you studied the structure of the CPK
23 by way of basing only to the documents, for example the Statute
24 of the Democratic Kampuchea? Is that correct?

25 A.Yes, Your Honour, I have studied the structure of the

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1 Communist Party of Kampuchea using documents as well as
2 statements of witnesses.

3 Q.According to the findings of your research, can you identify
4 the structure of the CPK now?

5 A.I can, Your Honour. Would the Chamber please assist me in how
6 much detail you would like to know about the structure at this
7 point?

8 [15.01.56]

9 MR. PRESIDENT:

10 I would like Judge Silvia Cartwright to try to respond to these
11 matters.

12 JUDGE CARTWRIGHT:

13 Yes, thank you, President.

14 BY JUDGE CARTWRIGHT:

15 Q.I have some questions for you, Dr. Etcheson, and before we
16 move to the structure of the Communist Party of Kampuchea and
17 Democratic Kampuchea, I want to establish your qualifications as
18 an expert.

19 A.Very well.

20 Q.Dr. Etcheson, do you hold a Master of Arts degree from the
21 University of Illinois in Political Science and a Doctorate in
22 International Relations from the University of Southern
23 California?

24 A.Yes, Your Honour, that's correct.

25 Q.And in your capacity as an investigator for this Court, did

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1 you prepare a paper entitled, "Overview of Hierarchy of
2 Democratic Kampuchea," Document D15?

3 A.Yes, Your Honour; and I believe that document is on the case
4 file.

5 Q.The ERN numbers for that document in English are 00146822 to
6 00146887, in Khmer 00314778 to 00314903, and in French 00314639
7 to 00314698.

8 The next question is this: Have you held senior academic or
9 research positions at Yale, George Washington, and Johns Hopkins
10 universities since the last 1990s, most recently as visiting
11 scholar, Johns Hopkins University, School of International
12 Studies, Foreign Policy Institute, Washington, D.C., between 2004
13 and 2007?

14 A.Yes, Your Honour, that's correct.

15 Q.And have you conducted extensive research particularly in
16 relation to southeast Asia and into genocide studies?

17 A.Yes, Your Honour.

18 Q.Have you also published widely in these fields and, in
19 particular, concerning the Khmer Rouge period in Cambodia?

20 A.That is correct, Your Honour.

21 [15.05.40]

22 Q.Have you been engaged in studying the structures of Democratic
23 Kampuchea for approximately 30 years, and was your first book on
24 this topic entitled, "The Rise and Demise of Democratic
25 Kampuchea" published 25 years ago?

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1 A.Yes, Your Honour, that's correct.

2 Q.And the reference to that book in the case file is 4.15 ERN
3 00105316 to 00105324.

4 [15.06.29]

5 In preparing the paper, "Overview of the Hierarchy of Democratic
6 Kampuchea," did you draw on your own research and on relevant
7 documents and other publications?

8 A.Yes, Your Honour, I did.

9 Q.Do you speak the Khmer language and can you read the Khmer
10 language?

11 A.No, Your Honour, I neither speak nor read Khmer.

12 Q.So by what method did you examine the Khmer language
13 materials?

14 A.In my research I examined Khmer language materials with the
15 help of translators and interpreters and I also examined Khmer
16 language materials that have been translated into languages I can
17 read, such as English, French, or German.

18 Q.Thank you.

19 Now, moving to that paper the "Overview of the Hierarchy of
20 Democratic Kampuchea," have you set out in that paper the
21 structure and responsibilities of all organs of Democratic
22 Kampuchea?

23 A.Your Honour, not all organs of Democratic Kampuchea. As is
24 suggested by the title, "Overview of the Hierarchy of Democratic
25 Kampuchea," this analysis was meant to cover major structures

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1 rather than to be comprehensive.

2 Q.Thank you.

3 [15.08.20]

4 Could you list some of the major sources used by you in the
5 preparation of this paper?

6 A.Yes, Your Honour. If it please the Court, I have brought
7 along some documents that I would like to refer to in the course
8 of my testimony, if I may refer to those materials now?

9 Q.Yes, please do.

10 A. Your Honour, one key source that I will be referring to
11 during my testimony is the 1976 Statutes of the Communist Party
12 of Kampuchea. The ERN for this document in English is 00182022
13 through 00182047. And I apologize that I do not have the French
14 and Khmer ERNs for the document.

15 A second key source is a document dated 30 March 1976 entitled,
16 "Decisions of the Central Committee Regarding a Number of
17 Matters." The ERN for this document is 00182809 through
18 001828814.

19 In addition to these two documents, in my analysis I also refer
20 to a variety of telegrams to and from the Party centre including
21 messages from zone leaders such as Ros Nhim, Sao Phim and Ke Pok
22 among others.

23 [15.11.28]

24 I also refer to a wide variety of reports that were written by
25 various organizational units of Democratic Kampuchea in the

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1 zones, sectors, districts, cooperatives, military units and other
2 units.

3 I also refer to many different kinds of minutes of meetings such
4 as minutes of the Standing Committee of the Communist Party of
5 Kampuchea, minutes of the general staff of the Revolutionary Army
6 of Kampuchea and minutes of meetings of the Council of Ministers.

7 I also refer to witness statements and suspect statements. I
8 refer to a variety of publications from the Communist Party of
9 Kampuchea, such as Revolutionary Flag and Revolutionary Youth. I
10 refer to various contemporaneous media reports during the time of
11 the Democratic Kampuchea regime; academic analyses.

12 I also refer to a variety of documents from S-21, including
13 confessions, prisoner lists and notebooks that were kept by
14 cadres who were employed at S-21. I refer to a number of United
15 Nations reports, several computer databases and a variety of
16 other sources.

17 Q.Now, drawing on that material and referring to your paper, can
18 you tell the Court what the most powerful organ of the Party and
19 of Democratic Kampuchea was?

20 A.In theory, the Central Committee of the Communist Party of
21 Kampuchea was the most powerful organ of Democratic Kampuchea.

22 Q.What were the central committee's responsibilities?

23 [15.14.41]

24 A.If I can refer, Your Honour, to the overview of the hierarchy
25 paper, the central committee's duties included implementation of

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1 the Party's lines throughout the country, giving instructions to
2 all zone, sector and municipal organizations and to the Party
3 organs, taking responsibility for various nationwide departments
4 and administering and deploying cadre and Party members within
5 the Party as a whole while maintaining a clear and constant grasp
6 on their biographies and political, ideological and
7 organizational stances and constantly indoctrinating and
8 educating them in terms of politics, ideology and organization.

9 Q.And that statement is found at 00146824, paragraph 11. Is
10 that correct?

11 A.That's correct, Your Honour.

12 Q.Where were those responsibilities recorded?

13 A.Those responsibilities are defined in Article 23 of the CPK
14 statutes.

15 [15.16.27]

16 Q.Did the CPK convene regularly?

17 A.According to Article 21 of the CPK statutes, a Party congress
18 was to be convened every four years. According to Article 25 of
19 the CPK statutes, ordinary meetings of the Party were to be held
20 every six months.

21 In practice, Your Honour, the first CPK congress was held in 1960
22 and the fifth CPK congress was held in 1978. So with five
23 congresses across the course of 18 years, it appears that the
24 requirement in Article 21 of the CPK statutes was met by the
25 Party leaders.

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1 However, while there were ordinary meetings of the Party from
2 time to time, based on my understanding of Party history, they
3 did not manage to meet as often as every six months for an
4 ordinary meeting. In some periods, particularly during the
5 periods of war, they seemed to meet rather less frequently.

6 Q.Thank you.

7 [15.18.21]

8 Now, you said before that in theory the Central Committee was the
9 most powerful organ of the Party. Did it delegate its duties to
10 any other organ or body?

11 A.Yes, Your Honour. In between Party congresses the duties of
12 the Central Committee were carried out by the Standing Committee,
13 which was an executive body of the Central Committee.

14 Q.Thank you.

15 Now, in your paper you prepared a chart showing the command
16 structure of the Communist Party of Kampuchea's Standing
17 Committee. Are you able to show that chart now?

18 A.Yes, Your Honour, with the - - -

19 Q.Assistance of AV.

20 A.- - - assistance of the AV people.

21 [15.19.28]

22 Q.Yes. The ERN number is 00146826.

23 Perhaps you would just quickly lead us through that chart which
24 is mostly self-evident, but the different names at the top of the
25 chart may be of interest.

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1 A.Yes, Your Honour. This organization chart depicts my
2 understanding of the Standing Committee of the Central Committee
3 of the Communist Party of Kampuchea. This body was also known as
4 Angkar Leu or the High Organization. It was sometimes referred
5 to as the Party Centre or sometimes referred to as the Upper
6 Brothers.

7 The standing committee consisted of Pol Pot, who was Secretary of
8 the Communist Party; Nuon Chea, who was deputy secretary and in
9 1975 at least, Ieng Sary, Vorn Vet, Sao Phim, Ta Mok and Ros Nhim
10 were members of the Standing Committee, while Son Sen and Kong
11 Sopal were alternate members of the Standing Committee.

12 Q.Now, alongside some of those names you have dates with D --
13 under Pol Pot, for example, D.1998, which I presume means that he
14 died in 1998.

15 Could you just tell us the indications under Vorn Vet, Sao Phim,
16 Ta Mok, Ros Nhim, Son Sen and Kong Sopal, please?

17 A.Yes, Your Honour. You are correct that where I have
18 indicated, for example, D.1998, this is meant to indicate that
19 Pol Pot died apparently of natural causes in 1998.

20 In the case of Vorn Vet, where it says E.1978, this is meant to
21 indicated that he was executed in 1978.

22 In the case of Sao Phim, where I have indicated S.1978, this
23 indicates that he committed suicide in 1978 after he was wounded
24 while an arrest attempt was being made upon him by the Party
25 Centre.

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1 In Ta Mok's case, he died of natural causes in 2006.

2 In Ros Nhim's case, he was executed in 1978.

3 Son Sen was executed in 1997 and Kong Sophal was executed in
4 1978.

5 [15.23.51]

6 Q.Thank you.

7 Is there any other comment you wish to make on that chart,
8 perhaps relating to Son Sen and Kong Sophal's membership as
9 alternate members?

10 A.Yes. Over the course of the regime, I believe that Son Sen
11 was eventually promoted to full membership in the Standing
12 Committee, while Kong Sophal remained an alternate member until
13 his eventual arrest and execution at S-21.

14 Q.Thank you.

15 Under the Standing Committee were there a number of further
16 organs, each with their own responsibilities?

17 A.Yes, Your Honour, there were. If it please the Court, I would
18 like to illustrate my answer with another chart that I have
19 prepared.

20 Q.Is this a chart that is already in the case file or is it new
21 material?

22 A.Yes, Your Honour, this chart is in the case file at -- if I
23 can find it -- ERN 00146854.

24 [15.25.38]

25 Q.Thank you.

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1 A.Oh, excuse me, Your Honour. This particular chart is not in
2 the case file. This chart is a summary of my understanding of
3 the structure of the Party as it is described in the Statutes of
4 the Communist Party of Kampuchea.

5 JUDGE CARTWRIGHT:

6 Well, if you just pause there for a moment.

7 Can I ask if any party has any opposition to this new material
8 being used to illustrate Dr. Etcheson's evidence? None from the
9 prosecutors? From the civil parties?

10 MR. WERNER:

11 None, Your Honour.

12 JUDGE CARTWRIGHT:

13 Thank you.

14 MR. WERNER:

15 But we would be grateful if some copies are available for the
16 civil parties.

17 JUDGE CARTWRIGHT:

18 Yes.

19 MR. WERNER:

20 If there are hard copies, I mean.

21 [15.26.46]

22 JUDGE CARTWRIGHT:

23 I don't have a hard copy, but I'm sure we can make those
24 available later.

25 From the defence?

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1 MR. ROUX:

2 Same observation, Your Honour. I would like a paper copy and an
3 ERN number so that we can find this document in the case file.

4 JUDGE CARTWRIGHT:

5 Can I just explain, Maître Roux, that this is a new chart? It is
6 not yet in the case file, but a hard copy can be made available
7 later, not immediately. Is that acceptable to you?

8 MR. ROUX:

9 It is not an ERN number that I want. I just want a number so
10 that it can be tendered into the case file, so that when we refer
11 to the document we can have a number.

12 JUDGE CARTWRIGHT:

13 Yes. Well, I'm not sure how that is done, but it will be done.

14 Thank you.

15 BY JUDGE CARTWRIGHT:

16 Q.Now, there seems to be no opposition to referring to this
17 chart now, Dr. Etcheson, so perhaps you could take us through it,
18 please?

19 A.Yes, Your Honour. At the top of this chart there is a box
20 labelled "Centre" and this indicates the previous organizational
21 chart that we were looking at -- the Party Centre or the Standing
22 Committee of the Central Committee of the Communist Party. Below
23 the level of the Standing Committee, Democratic Kampuchea was
24 divided into a number of zones. Each of these zones was governed
25 by a three-person Party committee composed of a secretary, a

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1 deputy secretary usually responsible for security, and a member
2 usually responsible for economics.

3 [15.29.13]

4 The zone secretaries were appointed by the Standing Committee and
5 other members of the Zone Committee were appointed by the zone
6 secretary with the approval of the Standing Committee.

7 Initially, in Democratic Kampuchea in 1975 there were six zones:
8 the Southwest, the West, the Northwest, the North, the Northeast
9 and the East. There were also several additional areas
10 designated as autonomous sectors, and still other areas known as
11 special municipal regions under military authority, including the
12 capital, Phnom Penh, and the nation's principal seaport, Kampong
13 Som.

14 In 1976, two of the autonomous sectors, Sectors 103 and 106, were
15 combined to form a new North Zone, while the zone that had
16 previously been known as the north was henceforth called the
17 Central Zone. Later the autonomous Sectors 105 and 505 were
18 incorporated into the existing Northeast Zone. The zones were
19 themselves further subdivided into entities known as sectors.
20 The number of sectors in each zone varied, ranging from the
21 sector with the smallest number of zones, the new North Zone,
22 which had only two sectors, to the sector that had the greatest
23 number -- to the zone that had the greatest number of sectors,
24 the Northwest, which was divided into seven sectors.

25 [15.31.45]

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1 Like the zones, the sectors were governed by three-person Party
2 committees, consisting of a Secretary, a Deputy Secretary,
3 typically responsible for security matters, and a member
4 typically responsible for economics.

5 Sector secretaries in established zones were appointed by the
6 zone Secretary, with the approval of the Standing Committee, and
7 other members of the Sector Committee were generally appointed by
8 the sector Secretary with the approval of the zone Secretary and
9 the Standing Committee. However, for autonomous sectors such as
10 103 and 106, before they were combined into the new North Zone,
11 those were controlled directly by the Standing Committee and
12 leadership within those sectors was a responsibility of the
13 Standing Committee.

14 The sectors were further subdivided into districts. As with
15 zones and sectors, districts were also governed by three-person
16 Party committees consisting of a Secretary, a Deputy Secretary
17 responsible for security, and a member responsible for economics.

18 District Secretaries were, generally speaking, appointed by the
19 sector Secretary with the approval of the zone Secretary and the
20 Standing Committee, while other members of the District Committee
21 were generally appointed by the district Secretary with the
22 approval of the zone and sector Secretaries.

23 [15.34.04]

24 Districts were a key echelon in the hierarchy of Democratic
25 Kampuchea because the districts maintained security offices which

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1 distinguished between enemies who were to be disposed of locally,
2 and enemies who would be sent up the chain of command to higher
3 level authorities. Also, with districts we have the first
4 correspondence in the DK hierarchy with pre-revolutionary and
5 post-revolutionary political geography in Cambodia. That is to
6 say, prior to Democratic Kampuchea there were districts and after
7 Democratic Kampuchea there were district administrative entities,
8 but sectors and zones were a novel administrative creation of
9 Democratic Kampuchea.

10 [15.35.18]

11 Now, districts were further subdivided into sub-districts, or
12 communes. Traditionally in Cambodia, communes were subdivided
13 into villages, but in the DK system, villages were combined into
14 larger entities known as co-operatives in which communal eating
15 and work was organized. Other units of organization existed
16 within the communes such as mobile brigades, local militia,
17 various kinds of work groups. Communes were governed by a CPK
18 branch committee, which was the lowest level of the CPK
19 hierarchy. Unlike the structure of higher-echelon Party
20 committees, branch committees typically had more than three
21 persons although all committee members remained under the
22 authority of the branch Secretary. That may well suffice for a
23 description of this organization chart, Your Honour.

24 Q.Yes, thank you very much.

25 Now I want to focus on the relationship between any of these

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1 organs and the accused, and S-21. So my questions are directed
2 accordingly from this point on. How were the Central Committee
3 and the organs under it established formally?

4 A.Your Honour, at the First Congress of the Communist Party of
5 Kampuchea in 1960, approximately 20 persons gathered in a house
6 near the Phnom Penh railway station, where they devised a
7 political program and elected a Central Committee of eight to ten
8 members. That Central Committee then elected a three-person
9 Standing Committee. After 1960, over time, the size and the
10 composition of both the Standing Committee and the Central
11 Committee gradually changed, as did the number and the functions
12 of the subsidiary organs that were established by the Party.

13 Q.The structure was of course reflected in the statute to which
14 you have already referred. Was that structure a reflection of
15 the establishment started in 1960 or were there some novel points
16 in the statute itself?

17 A.That's a very complicated question, Your Honour. We know that
18 the 1976 statute of the CPK was not the first CPK statute,
19 because we have pre-1976 CPK documents that refer to a CPK
20 statute. However, I have not seen copies of any of these
21 pre-1976 CPK statutes, so I can only make inferences about what
22 they may have contained. That said, we do have a pre-1976
23 document that specifies the organization of the Party at the
24 level of communes and districts and this document says that it is
25 based on a CPK statute. So it seems likely that the Party

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1 statutes were revised from time to time to reflect the evolving
2 situation and the gradually expanding span of territorial control
3 that the revolutionary forces enjoyed.

4 [15.41.08]

5 As for M-13 and S-21 -- oh excuse me, Your Honour.

6 Q.No, that's fine; please go on. I would like to know how they
7 were established.

8 A.I have never seen any contemporaneous documents describing the
9 establishment of either M-13 or S-21. ...

10 The accused person has testified to the Co-Investigating Judges
11 that Son Sen ordered himself and Division 703 Secretary In Lorn,
12 alias Nat, to establish S-21 in August 1975.

13 Given the principles of democratic centralism and collectivism
14 that are described in the statutes of the Communist Party, it
15 seems likely that Son Sen would not have done such a thing on his
16 own authority; much more likely he would have been acting
17 pursuant to a decision of the standing committee.

18 [15.42.43]

19 Q.In his testimony earlier today, the accused was asked about
20 his use of the statute in training at S-21. He responded saying
21 that he did not use it in his teaching. He considered it a
22 barrier to conceal the Party line and that he was aware that he
23 could not refer, I assume, directly to the statute.

24 Do you have any comment to make on that?

25 A.This is a difficult comment for me to understand, Your Honour.

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1 I should imagine that training of full members of the Party would
2 certainly need to include instruction in the statutes of the
3 Party. So perhaps I just do not understand what the accused
4 person means when he makes such a comment.

5 Q.He was saying, however, as I understood it, that he did not
6 use the statute in his training of S-21 personnel.

7 Have you any comment to make on that?

8 [15.44.21]

9 A.It may well be that some personnel at S-21 were not
10 full-rights members of the Party.

11 Q.The accused also said in his testimony earlier today that the
12 statute was an internal document and therefore confidential.

13 Is that your understanding of its status?

14 A.That's correct, Your Honour. The CPK placed a very high value
15 on secrecy and such a sensitive document as this describing the
16 Party's structure would certainly have been regarded as a highly
17 sensitive and confidential matter.

18 Q.Thank you.

19 Now, I want to ask whether the CPK Central Committee or its
20 Standing Committee played any role in the control of the
21 Government of Democratic Kampuchea?

22 A.I would refer, in reference to this question, Your Honour, to
23 a document I previously mentioned called "Decisions of the
24 Central Committee Regarding a Number of Matters" which is ERN
25 00182809 through 00182814. In this document at page 5 it says,

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1 regarding the Assembly, the Presidium of the State and the
2 government:

3 "They are the state organizations of our Party."

4 [15.46.56]

5 On the next page of this document, under a heading "The
6 Government", this document says:

7 "Must be totally an organization of the Party."

8 Thus, this document indicates to me that it was the intention of
9 the standing committee that it would have total control over the
10 government.

11 Q.In his testimony earlier today, the accused placed great
12 significance on the document to which you have just referred.

13 Can I assume from your comments that you would agree with him
14 that this was a highly significant document?

15 A.Yes, Your Honour. There are a number of things in this
16 document that, it seems to me, are crucial to an understanding of
17 the policies of Democratic Kampuchea.

18 Q.Now, I'd like to ask what part the standing committee,
19 delegated by the central committee, in effect, played? What were
20 its actual duties?

21 [15.48.37]

22 A.The standing committee devised policy for all sectors and
23 organizational units of Democratic Kampuchea and monitored the
24 implementation of that policy throughout the country.

25 Q.And we have heard testimony concerning Office 870. Can you

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1 tell us what part that office played and which organ guided its
2 activities?

3 A.Office 870 was sometimes referred to by people at lower
4 echelons as "the Centre" or as "the Organization" although this
5 may have been a slight misuse of how the Party Centre intended
6 the term "Organization" to be used. It still indicates that
7 lower echelons of the Party viewed Office 870 as the source of
8 authority for the remainder of the Party.

9 Q.Thank you.

10 [15.50.12]

11 Now, you have said that the standing committee had the duty to
12 monitor policy. Is that correct?

13 A.Yes, Your Honour. Again, referring to the -- no, excuse me, I
14 would like to refer to another document. This document is a
15 minute of a meeting of the standing committee dated 9 October
16 1975. It is ERN 00183393 through 00183408. In this document at
17 ERN 00183396 the minutes say:

18 "The Office of the Standing Committee makes contacts back and
19 forth with each section. The standing committee monitors each
20 section's implementation of the line. The office has the task of
21 monitoring implementation."

22 Thus, we can see from very early on in the regime that this
23 office was responsible for monitoring the implementation of CPK
24 policy nationwide.

25 Q.So does that mean that the zones were expected to report to

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1 Office 870?

2 A.Yes, Your Honour, that's correct. The CPK statutes required
3 each echelon to report regularly to its superior echelon.

4 Q.What control did Office 870 and/or the standing committee
5 exercise over security within the zones?

6 [15.53.21]

7 A.Referring again to the document titled, "Decision of the
8 Central Committee Regarding a Number of Matters", which we
9 previously gave the ER number for, this document made the Centre
10 Office responsible for security of the centre.

11 For nationwide security we know from numerous witness statements
12 that a subsidiary organ of the standing committee known as the
13 Centre Military Committee maintained control of security outside
14 the centre. Some of those witness statements are on the case
15 file but, unfortunately, we do not have any contemporaneous
16 documents which would corroborate those witness statements.

17 [15.54.36]

18 Q.Returning briefly to your chart that as yet does not have an
19 ERN number but sets out the relationship from the central
20 committee through to the cooperatives, can I assume that the
21 zones had certain security responsibilities in relation to
22 sectors, district parties, cadres and Party members?

23 A.Yes, Your Honour, that's correct. Article 19 of the CPK
24 statutes describes the security and responsibilities of the
25 zones. Zone committees were responsible for cadres and the

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1 sectors and the districts and were required to closely examine
2 the personal histories of all cadres.

3 Q.And were the zones expected to collate information including
4 personal biographies?

5 A.Yes, Your Honour. Every CPK cadre was required to regularly
6 update a detailed autobiography which would then be meticulously
7 checked and verified by inspectors.

8 Q.And how were those biographies used?

9 A.The biographies were used to search for and identify what were
10 known as "bad elements"; that is, Party members who had some flaw
11 in their personal history, in their life history which might
12 indicate that they could be less than fully loyal to the Party.
13 For example, if your parents had owned two cows and a buffalo in
14 the old society then that means you came from a middle peasant
15 background rather than a poor peasant background and, therefore,
16 you were not pure in the eyes of the Party.

17 [15.57.36]

18 Q.And if such information emerged from the biographies did the
19 zones have disciplinary authority in relation to those people?

20 A.Again, referring to the statutes of the CPK, Article 4 of the
21 CPK statutes concerning Party discipline requires all members of
22 the Party to enforce discipline. Article 19 of the statutes
23 concerning the tests of the zone committee specifically requires
24 the zone committee to enforce discipline in the zone framework.

25 Q.In confessions that you have examined that are derived from

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1 S-21, have you located any references to executions under zone
2 authority?

3 A.Oh, my, yes.

4 MR. ROUX:

5 Your Honour, excuse me. Could we maybe take the time so that the
6 translators may translate so that the expert can respond
7 afterwards, so that the translation can come through clearly?

8 Thank you very much.

9 JUDGE CARTWRIGHT:

10 Which aspect have we lost so far, Maître Roux, the answer to the
11 last question?

12 [15.59.30]

13 MR. ROUX:

14 Sometimes they have a problem with the gap. So if we could go a
15 little bit slower this would be a good idea. Thank you very
16 much.

17 JUDGE CARTWRIGHT:

18 Yes, I do apologize. I can't hear any other translations so I
19 don't know when it's stopped but we will try harder. Thank you.

20 BY JUDGE CARTWRIGHT:

21 Q.Now, Dr. Etcheson, could you just go back to the last question
22 which concerned disciplinary authority held by the zones?

23 A.Yes, Your Honour.

24 Article 4 of the CPK statutes concerns Party discipline generally
25 and it requires all members of the Party to actively enforce

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1 Party discipline. Article 19 of the CPK statutes concerns the
2 tasks of the zone committee and it requires the zone committee to
3 enforce discipline and security in the zone framework.

4 Q.Thank you.

5 In confessions that you have read at S-21, in confessions that
6 derived from S-21 that you have read, were there any references
7 to executions under zone authority?

8 A.Yes, Your Honour, there are many. One example is the S-21
9 confession of Chou Chet, alias Si, secretary of the West Zone.
10 That confession is dated 21 March 1978 and is ERN 00013660
11 through 00013990. In this confession the West Zone Secretary
12 describes executions in the West Zone that were carried out under
13 his own authority.

14 [16.03.29]

15 Q.Thank you. Did the zones, the sectors and districts have any
16 powers to command armed units with their own General Staffs?

17 A.Yes, Your Honour. Each zone committee commanded division- and
18 regiment-sized military units which were commanded and managed by
19 a General Staff based in each zone. Similarly, sector committees
20 commanded armed units, often of regiment size, which were also
21 generally managed by a General Staff. At the district level the
22 Party committee also commanded armed units, but these units were
23 often less formal and sometimes in the form of a militia known as
24 the chhlop, and at the district echelon ordinarily we would not
25 see a General Staff structure.

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1 Q.Thank you. Were the zones directed to take any disciplinary
2 action relating to internal security?

3 A.Yes, Your Honour. All echelons were constantly exhorted by
4 the Party Centre to take action on internal security. If I may,
5 I could cite some examples from Party publications that I
6 included in my overview paper.

7 Q.Please do.

8 A.In the Party journal Revolutionary Flag, the November 1977
9 issue which is on the case file at ERN 00000267 through 00000277,
10 it says, and I quote:

11 "We have been able to sweep cleanly away more than 99 percent of
12 the contemptible major concealed enemies boring from within.
13 Things throughout the country must be examined like this. Each
14 sector must be examined like this. Each district must be
15 examined like this. Each co-operative must be examined like
16 this. The army and ministries and offices must be examined like
17 this."

18 [16.08.18]

19 A second example, also from Revolutionary Flag, comes from the
20 May 1978 issue which is on the case file, ERN 00064551 through
21 00064585. This publication says, and I quote:

22 "We must see as key the duties of attacking the domestic enemy,
23 that this is related to every one of all our other duties. Every
24 Party level must therefore adopt the role of leading the army and
25 the people to attack all such enemies. Sweep them cleanly away.

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1 Sweep and sweep and sweep again and again, ceaselessly, so that
2 our Party forces are pure, our leading forces at every level and
3 every sphere are clean at all times."

4 Q.What was Son Sen's role in the CPK Standing Committee and in
5 government?

6 A.If I may, Your Honour, in the overview paper I have an
7 organization chart which could assist in answering this question.

8 Q.That's the chart at ERN 00146854?

9 A.That's correct, Your Honour.

10 [16.11.08]

11 Q.With the assistance of AV can we have a look at that?

12 A.Son Sen's powerful role in Democratic Kampuchea is illustrated
13 by his interlocking positions of authority in the government, the
14 military, and the Party. ...

15 In the government, as shown in this chart, he was the Deputy
16 Prime Minister for National Defence. In the Party, as shown in
17 the previous chart of the Party Centre that we saw, he was a
18 member of the standing committee. And finally, in the
19 Revolutionary Army of Kampuchea, he was Chief of Staff of the
20 General Staff. So in the army, in the Party and in the
21 government, he had a leading role.

22 [16.12.44]

23 However, his real authority flowed from his position in the
24 Communist Party of Kampuchea.

25 Q.Thank you.

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1 And from that chart, you indicate that the accused, as chair of
2 S-21, reported to Son Sen in his capacity as the deputy prime
3 minister with responsibility for national defence. Is that
4 correct?

5 A.Yes, Your Honour, with one caveat. As shown in this chart,
6 from the time that the accused became chairman of S-21 in March
7 1976 until September 1977, the accused reported directly to Son
8 Sen.

9 However, in September 1977, Son Sen was assigned to go to the
10 east to take direct command of the Revolutionary Army of
11 Kampuchea which was engaged in escalating conflict with Vietnam.
12 [16.14.36]

13 So from that time, September 1977 through January 1979, the
14 accused reported directly to Nuon Chea, the CPK deputy secretary.
15 On the case file, you can find confirmation of that fact by
16 examining the cover sheets of many different S-21 confessions
17 that were sent from S-21 to upper echelons. Prior to September
18 1977 these confessions were typically addressed to Son Sen,
19 whereas after September 1977 you can see from notations on the
20 cover sheets of the confessions that after that date they were
21 sent to Nuon Chea.

22 Q.Yes, thank you.

23 [16.15.54]

24 In his testimony the accused, as I understand him, said that
25 there were four groups whose orders had to be obeyed. The first

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1 group was the seven zone secretaries, then the chair of the
2 Committee of Office 870, then the standing committee and then the
3 general staff; namely, Son Sen.

4 Do you agree with that statement?

5 A.To a certain degree, yes, I do. However, I would also say
6 that hierarchical authority was absolute in the Communist Party
7 of Kampuchea and in the organization of Democratic Kampuchea, so
8 that anyone in that organization was required to obey the orders
9 and directives of his or her superior echelon.

10 Q.Now, you have mentioned Son Sen's role in the military. Could
11 you expand on the military's responsibilities for security, both
12 external and internal?

13 A.Yes, Your Honour. The Revolutionary Army of Kampuchea was
14 charged with protecting both internal and external security. I
15 discussed this issue in the overview paper. So if I can refer to
16 it once again -- and again, this is a citation to an issue of the
17 Party journal Revolutionary Flag, dated June 1976, which is on
18 the case file at ERN 00062836 through 00062876. In that edition
19 of Revolutionary Flag the Party leadership stresses that:

20 "The core and crucial duty of the Revolutionary Army is the
21 defence of the country and of security domestically within the
22 country."

23 [16.20.03]

24 Q.Thank you.

25 Now, is there any other comment that you want to make on the

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1 chart that is presently on our screens or shall we ask AV to turn
2 it off?

3 A.You can turn it off, Your Honour.

4 Q.Thank you.

5 Now, in any of his roles did you see any documents where Son Sen
6 gave orders concerning internal security to military commanders?

7 A.Yes, Your Honour. In my report overview of the hierarchy of
8 Democratic Kampuchea I present many examples of documents which
9 show Son Sen giving orders to military commanders regarding
10 internal security. For example, there is a document titled,
11 "Minutes of the Meeting of Secretaries and Deputy Secretaries of
12 Divisions, Secretaries and Deputy Secretaries of Regiments."
13 This document is dated 2 August 1976 and it is on the case file
14 at ERN 00183959 through 00183961.

15 [16.22.48]

16 In this document Son Sen is quoted as saying:

17 "In carrying out the duty of defending the country it is
18 imperative to think in terms of fending off enemies both external
19 and internal, but it is especially important to pay attention to
20 fending off the enemy that is boring from within. This means it
21 is imperative to pay attention to purging no good elements
22 completely from the Party, the core organizations, and our male
23 and female combatants within the revolutionary army."

24 Thus, we have evidence in this document of Son Sen ordering his
25 military commanders to carry out purges throughout the army and

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1 the Party.

2 Q.Do you have other references you wish to make in relation to
3 this question, Dr. Etcheson? Otherwise, we'll adjourn now at the
4 President's request and resume tomorrow morning.

5 A.That document should be adequate to make the point, I think,
6 Your Honour.

7 Q.Thank you, Dr. Etcheson.

8 Mr. President.

9 MR. PRESIDENT:

10 Judge Lavergne, would you like to make any comments? The floor
11 is yours.

12 [16.25.20]

13 JUDGE LAVERGNE:

14 We have a problem in that we have references with ERN numbers of
15 documents in English. I think it would be useful for us to have
16 all the reference numbers in the three languages, especially for
17 documents, most of which are in Khmer in the original. In my
18 view, it would also be useful for us to know whether the document
19 has a "D" number or whether it is attached to the introductory
20 submission, in which case it will have a reference in the
21 introductory submission which would at least enable us to find it
22 more easily. This will help us to facilitate proceedings for all
23 the parties.

24 MR. PRESIDENT:

25 Mr. François Roux, you take the floor.

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1 MR. ROUX:

2 Mr. President, in order to facilitate the work we could ask the
3 expert to cite or -- to cite the note he refers to because there
4 is a number of documents that should be included in the case file
5 based on numbers that follow his report. So if he would be so
6 kind, when he refers to a document he should give us the end note
7 number which provides information on the document. It would make
8 it easier to find it in the three languages.

9 This is what we refer to as a footnote, of which there are 335
10 which means there are 335 documents attached to the report and if
11 we use those numbers it would be easy for us to find the
12 documents.

13 [16.27.32]

14 Thank you.

15 MR. PRESIDENT:

16 Judge Cartwright, you take the floor.

17 BY JUDGE CARTWRIGHT:

18 Q.Dr. Etcheson, are you able to do that for the future and also
19 provide us with the other references for the ERN numbers you have
20 given today which refer to the English version only?

21 A.Your Honour, it would be easy for me to, in many cases, refer
22 to a footnote number in the overview report . I would add that
23 although there are however many, counsel has cited 300 and some
24 footnotes in the document, some of those individual footnotes
25 actually cite many documents rather than one. Be that as it may,

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1 I can make an effort to provide both case file document numbers
2 and ERNs for all three languages for the various documents I
3 refer to and I'll try to make that available to the Court to
4 provide to the parties.

5 Q.Thank you very much, Dr. Etcheson.

6 MR. PRESIDENT:

7 Thank you very much, Dr. Craig Etcheson. Since it is time to
8 adjourn for the afternoon session we would resume the session
9 tomorrow and we would like you to come back to the courtroom
10 tomorrow.

11 The Court is adjourned now and the session will be resumed
12 tomorrow at nine a.m. The participants and the parties to the
13 proceedings are advised to come to the courtroom by that time.

14 [16.30.34]

15 The security personnel please take the accused back to the
16 detention facility and bringing him in by that time.

17 The Court is adjourned.

18 (Court adjourns at 1630H)

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