



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

16 June 2009, 0913H

Trial Day 29

Before the Judges:

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

Lawyers for the Civil Parties:

MOCH Sovannary
KONG Pisey
TY Srinna
Elizabeth RABESANDRATANA
Silke STUDZINSKY
Alain WERNER
Jessica FINELLE

Trial Chamber Greffiers/Legal Officers:

DUCH Phary
SE Kolvuthy
LIM Suy-Hong
Natacha WEXELS-RISER
Matteo CRIPPA

For Court Management Section:

KAUV Keoratanak

For the Office of the Co-Prosecutors:

William SMITH
YET Chakriya
PICH Sambath
Zachery LAMPEL
PAK Chanlino

The Accused:

KAING Guek Eav

Lawyers for the Accused:

KAR Savuth
François ROUX
Marie-Paule CANIZARES
Heleyn UÑAC

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
JUDGE CARTWRIGHT	English
MR. HONG KIMSUON	Khmer
MR. KONG PISEY	Khmer
JUDGE LAVERGNE	French
MS. RABESANDRATANA	French
MR. ROUX	French
MS. SE KOLVUTHY	Khmer
MR. SMITH	English
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer

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

2 (Judges enter courtroom)

3 [09.05.00]

4 MR. PRESIDENT:

5 Please be seated. The Court is now in session. The Chamber will
6 conduct a hearing on the facts regarding the torture and the
7 methods of torture at S-21. Before we proceed with the
8 proceedings we would like the Greffier to verify the attendance
9 of the parties to the proceedings in today's session.

10 THE GREFFIER:

11 Mr. President, the parties to the proceedings today are all
12 present except the defence lawyer, Mr. Kar Savuth, who is absent.

13 MR. PRESIDENT:

14 Thank you, Greffier.

15 Mr. Hong Kimsuon, we note your presence. The floor is yours.

16 MR. HONG KIMSUON:

17 Thank you, Mr. President. I would like to introduce the member
18 of our group 4, Ms. Jessica, who is in place of Mr.
19 Pierre-Olivier Sur. Thank you.

20 MR. PRESIDENT:

21 The security guards, please bring the accused to the dock.
22 The Chamber would like to respond to the request to seek
23 clarification from the Co-Prosecutor raised yesterday concerning
24 the plan or the purpose of the hearings of the Trial Chamber and
25 how it would be conducted in the future concerning the

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1 functioning of S-21 and Choeung Ek, and the Prey Sar Security
2 Office.

3 The Chamber would like to inform the Co-Prosecutors and the
4 parties to the proceedings that the Chamber still maintains its
5 position as decided in the previous ruling concerning the
6 scheduling of the hearings by way of separating the functionings
7 of S-21 and the functioning of S-24 -- or we can call it the
8 re-correction camp of Prey Sar.

9 Number two, the functioning of S-21 and Choeung Ek would follow
10 the same order, by first starting with the arrest, the transfer
11 of the people arrested, and the detention of the prisoners. So
12 we have already conducted this. And also it is followed by
13 tortures, and after questionings on the tortures then there are
14 sub-topics listed in the indictment of the Co-Investigating
15 Judges; for example the enslavement, the sexual abuse and
16 persecution and other inhumane acts or treatments found by the
17 Co-Investigating Judges, and they form the basis for charges in
18 the indictment.

19 [09.10.21]

20 And, number three, about the killing. So we divide this topic
21 into two; the killing at S-21 Office and surrounding the S-21
22 Office and, number two, the killing at Choeung Ek.

23 The Chamber would like to also notify the parties that the
24 Chamber has determined times for each party to put questions
25 regarding the above-mentioned facts to the accused; three hours

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1 for the prosecutors, three hours for the civil parties, four
2 hours for the defence counsel. So, please, follow the timeframes
3 as mentioned.

4 We note your presence, the Co-Prosecutor. You take the floor.

5 MR. SMITH:

6 Good morning, Mr. President, Your Honours and counsel.

7 Thank you for that guidance. Just so that I am clear, is it the
8 case that in relation to the full topic of the functioning of
9 S-21, the prosecution would receive certainly a guiding term of
10 three hours? And if that's correct, Your Honours, I would ask
11 that the questioning from the Co-Prosecutors -- if that could
12 commence, bearing in mind we have today's hearing and tomorrow --
13 that would commence on Monday, first thing on Monday morning, the
14 22nd.

15 The reason why I say that, Your Honour, is that obviously time is
16 precious and it's very important that all parties put forward
17 effective questions that are not duplicative of what Your Honours
18 have requested. Particularly, the prosecution would like to have
19 that extra time if, in fact, Your Honours are finished by
20 tomorrow afternoon because we would like to put a number of
21 documents to the accused, and the documents I'm referring to are
22 documents with the accused's annotations on them that help
23 support and confirm allegations that have been made in the
24 indictment. Also, the prosecution would like to put forward a
25 number of photographs that are particularly relevant to the

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1 activities of this accused.

2 [09.13.23]

3 As Your Honour is aware, with the handling of documents in the
4 courtroom, it's very important that all parties, including the
5 prosecution, are very efficient with that. To date, it has been,
6 in some instances, a complicated exercise, and what the
7 prosecution would like to do is to be able to provide the accused
8 and the defence copies of those documents they would like to
9 refer to, which was requested in the trial management meeting.

10 We think by doing that, that will enable -- there's a familiarity
11 with the documents, bearing in mind the case file is so large.

12 And, secondly, hopefully that would do away with a number of
13 concerns that are raised in terms of objections.

14 And we would also ask, Your Honour, that in relation to the time
15 period, Your Honours consider if, for example, the prosecution or
16 other parties are dealing with a topic that's getting to the core
17 truth of the matter, an important point, that be taken into
18 consideration in looking at the time limits, bearing in mind that
19 this is the central part of the case and this may well be the
20 first or the last most significant time that the prosecution may
21 be able to question the accused on the facts that support or
22 undermine the mitigating circumstances that have been put forward
23 by the defendant in this case. And I think we all know what they
24 are.

25 So, Your Honours, for that questioning to go very smoothly, I

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1 would ask that we be allowed to review transcripts and provide
2 documents so that it's as effective as possible.

3 [09.15.26]

4 (Deliberation between Judges)

5 MR. PRESIDENT:

6 What has been raised by the international Co-Prosecutor is that
7 it is actually an issue because of our proceeding which needs the
8 documents or evidence or exhibits to be presented before the
9 Chamber in the form of a documentary or a video film which takes
10 longer time than normal questioning, and this reflects the
11 general view of the cast more completely than just ordinary
12 questioning without showing the video or images. However, we are
13 confident that during the proceeding, the Trial Chamber will
14 endeavour to speed up the process of questioning by tomorrow by
15 the Chamber. So for the remaining days, the Chamber considers
16 the parties have adequate time for their research and determines
17 the line of questioning to ensure they are not repetitive to the
18 questions already raised by the Chamber.

19 The second issue they would have the opportunity to prepare the
20 documents tentatively to be submitted before the Chamber during
21 the questioning.

22 [09.22.19]

23 And the third issue; the time and location is just a basis for us
24 to try to expedite the proceeding. In cases where the Chamber
25 considers the ability and the necessity to present the documents

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1 beyond the time allocation determined by the Chamber, the Chamber
2 will set further time according to the situation so that the
3 party has the ability to present the documents.

4 So this is the practice instruction from the Chamber and I'm
5 wondering whether the Co-Prosecutor thinks it is suitable.

6 I would like now to give the floor now to Judge Cartwright first.

7 JUDGE CARTWRIGHT :

8 Thank you, Mr. President.

9 I'm not sure if it came through in the Khmer or not, but I think
10 the Trial Chamber would be very grateful if any documents that
11 are to be distributed are prepared and made available to the
12 relevant parties, and to the Trial Chamber over the next two or
13 three days rather than receiving them as you produce them in
14 court.

15 And secondly, I think that we'll see how the questioning goes
16 tomorrow and decide whether to give you until Monday to begin
17 your questioning.

18 Is that acceptable, President?

19 MR. PRESIDENT:

20 I agree with your proposal.

21 [09.24.39]

22 MR. SMITH:

23 Thank you, Your Honours. That is clear.

24 In relation to the time limit, even taking into account the use
25 of documents, I think with that extra time to prepare, the

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1 prosecution will be able to predict reasonably well the amount of
2 time required including the presentation of the documents. So I
3 would ask, in light of Your Honours' discipline in terms of the
4 timeline, but also flexibility in terms of the issues, that at
5 the end of Your Honours' questioning that we briefly -- the
6 parties briefly be able to submit the length of time they think
7 would be appropriate, and if Your Honours could review that.
8 Also, Your Honours, in terms of planning; in terms of
9 presentation of documents to the Chamber, to the parties; in
10 terms of reviewing, et cetera; I would just ask that Your Honours
11 throughout the day, depending on how the proceedings progress,
12 reconsider providing an answer as to whether or not the
13 prosecution would question tomorrow or Monday because, as Your
14 Honours are aware, it makes a significant difference in terms of
15 the workload and disclosure to the parties, bearing in mind we'll
16 be in Court during the day.

17 MR. PRESIDENT :

18 I noticed the presence of François Roux. You take the floor.

19 MR. ROUX:

20 Thank you, Your Honour.

21 [09.26.42]

22 I have two comments. Firstly, Your Honours, as far as I'm
23 concerned, I must voice my surprise at the fact that the
24 Co-Prosecutors' office, but also the civil parties seem to show
25 rather little trust in respect of the Chamber to such an extent

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1 that they seem to wish to take the floor at length to put
2 questions to the accused after the Chamber will have conducted
3 its own questioning in a very thorough fashion. And so this is
4 something that I do not understand.

5 In my understanding of our rules, once the Chamber has conducted
6 a very thorough, in-depth questioning of the accused, it would
7 appear to me that the parties would have merely a few
8 supplementary or complimentary questions to ask, and would not
9 need to -- so to speak -- redo the work already conducted by the
10 Chamber itself. That's my first comment.

11 My second remark is as follows.

12 It is not in my habit to criticize the decisions handed down by
13 you. Consequently, I shall abstain from such criticism. I
14 would, however, like it to be noted that in my opinion, there is
15 a misunderstanding.

16 I don't think I can understand that if the Co-Prosecutors and the
17 civil parties have six hours to question, in turn, the accused,
18 why then the defence would have only four hours, that is to say,
19 slightly more than half of the overall time allotted to the
20 Co-Prosecutors and civil parties. The defence should at the very
21 least, and by way of principle, have the same speaking time as
22 all its opponents together.

23 [9.29.30]

24 You will have noted that in respect of witnesses the defence has
25 consistently said that it would only use four days for witness

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1 testimony. We're far beyond that for the Co-Prosecutors.
2 Everybody will have noticed the membership or the makeup of teams
3 of the Co-Prosecutors office and civil parties and the makeup of
4 the defence team. There is a difference -- perceptibly so.
5 In this trial I think it would be worthwhile remembering that
6 even when you are accused, when you are charged with the worst
7 crimes, you are entitled to a fair defence and a fair defence at
8 the very least requires a fair and balanced allocation of time,
9 vis-à-vis the prosecution and civil parties.
10 The decision that you have made has already been made, so I'm not
11 challenging it and I'm not criticizing it. However, I would like
12 it to be noted in our records that the defence has explicit
13 reservations in respect of this imbalance and consequently
14 possibly in the framework of an appeal, we may wish to refer to
15 this.
16 Thank you.
17 MR. SMITH:
18 Thank you, Your Honour. If I can just briefly respond to those
19 remarks?
20 Firstly, I think it should be made absolutely clear that the
21 prosecution has complete trust in this Chamber in the way the
22 proceedings have been conducted. The prosecution takes absolute
23 exception to those remarks. We find them highly objectionable
24 and we make it very clear we disassociate ourselves from those
25 remarks, absolutely.

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1 [9.31.40]

2 My friend is well aware that different parties to these
3 proceedings have different roles. We are all aware of the Trial
4 Chamber's role and the prosecution has a role and a duty under
5 the statute and under the rules to ensure that the charges in the
6 Closing Order are proved beyond reasonable doubt. That's an
7 independent duty of Your Honour's duty to make a finding beyond
8 reasonable doubt.

9 If we don't vigorously explore and further the evidence to the
10 level that the prosecution believe it's required to prove all
11 aspects beyond its reasonable doubt, the prosecution is not doing
12 its duty. It's not doing its duty to the Cambodian people, nor
13 to this Court, nor to the Chamber.

14 The fact that parties have questions above and beyond or
15 different to the Trial Chamber has got nothing at all to do with
16 the lack of trust of the Trial Chamber. It's got to do with the
17 amount of evidence in this case; the complexity, the
18 intricateness of the issues. I think it's fair to say that
19 anyone dealing with a case of this size cannot think of every
20 single aspect that's required. That's human nature. That's
21 logical.

22 Your Honours, the prosecution have made a commitment and
23 supported all of the trial management decisions that Your Honours
24 have made in relation to time limits, the questioning of
25 witnesses, particularly. In fact, at the trial management

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1 meeting last Thursday, it was the prosecution that proposed those
2 time limits in order that the trial could be finished in a
3 reasonable period of time.

4 So it is not a prosecutor or a prosecution office that wants to
5 question for the sake of it. The prosecution just want to assist
6 the Chamber in ascertaining the truth of the matter. And I
7 repeat, we take great exception to those remarks by the defence.

8 [9.34.05]

9 Secondly, and I will just be brief, the prosecutors and the civil
10 parties have a very different role. The civil parties and their
11 representation don't have a duty to prove the charges beyond
12 reasonable doubt, but the prosecution does. So to equate, to say
13 that the civil parties and the prosecutor are in some way one
14 super-prosecution office and the defence have to have the exact
15 amount of time -- as a general rule, I don't think that should be
16 found because the prosecution have a duty under the rules and the
17 statute which is quite independent of the civil parties.

18 Thank you.

19 MR. PRESIDENT:

20 I give the floor now to the civil party lawyer.

21 MS. RABESANDRATANA:

22 Mr. President, thank you.

23 I would like to clarify that as a civil party lawyer, we are not
24 the duplication of the prosecution. We have a specific role
25 which is independent and our role is to explain and to emphasize

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1 the victims' point of view which is completely different indeed
2 from the role of the prosecutor. We are not a substitute and we
3 do not wish to substitute ourselves for the prosecution.
4 However, I believe that we provide information coming from the
5 field which is an extra that can enrich the analyses of experts
6 or historians. We provide another truth. This is what I wanted
7 to explain to you regarding the civil party lawyers' role which
8 of course should not be confused with the role of the
9 prosecutors.

10 [9.36.32]

11 MR. PRESIDENT:

12 I note the presence of a civil party lawyer.

13 MR. KONG PISEY:

14 Thank you, Mr. President, Your Honours. Thank you for allowing
15 me to give my opinions.

16 I have two important points concerning the rights of the parties.
17 The defence lawyer has said about the rights of his client, that
18 he has his full rights to defend himself, but for us, the lawyers
19 of the civil party, we also have to think of the rights of our
20 civil parties, and he can not combine the time allocation between
21 the Co-Prosecutors and the civil party lawyers and to compare to
22 his time allocation.

23 The defence is a defence for the accused. It's one party. And
24 the Co-Prosecutors, as he said, is a separate entity. We, the
25 civil party lawyers is a separate independent party to represent

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1 the views of our clients. So, these are three separate distinct
2 parties and the time allocation can not be combined between the
3 civil party lawyers and the Co-Prosecutors and actually, if we
4 compare each party, it means the defence counsel has one more
5 hour than the civil parties lawyers' time allocation.

6 MR. PRESIDENT:

7 Thank you for your remark. Now the Chamber will not allow any
8 further discussion on this particular issue.

9 Now it is time to proceed with the questionings on the facts
10 regarding the torture at S-21.

11 QUESTIONING BY THE BENCH

12 BY MR. PRESIDENT:

13 Q.Mr. Kaing Guek Eav, can you describe the methods applied by
14 you and your deputies at S-21 regarding the tortures,
15 interrogating a lot of prisoners who were detained because the
16 number reached more than 10,000? So, please, elaborate about the
17 methods and how you managed such interrogation.

18 [09.39.38]

19 A.Mr. President, S-21 was the combination of two units. It was
20 first the police office of Division 703, sometimes Nat called it
21 Office 03, and it operated in Ta Khmau Prison and another special
22 prison at Samdech Krom Preah Sisowath Monireth.

23 On the 10th, then we combined the units together and at that time
24 Nat asked me to teach cadres of Division 703 on how to
25 interrogate, and I worked together with other people. And later

14

1 on, the operation moved smoothly alongside with one another, and
2 who was assigned to interrogate prisoners was the responsibility
3 of Nat.
4 When Nat left, I managed the work by assigning Comrade Hor to
5 handle the task. For the special people who were trusted by the
6 superior, Pon was assigned to handle the duty. So when Nat was
7 the Chairman, I was the one in charge of educating people, cadres
8 from Division 703, and reviewed documents regarding the key
9 person, Mr. Sar Phorn. And later on, the interrogations had to
10 be fully managed by me. If I did not satisfy with some documents
11 then I had to transfer those documents to the units. When Nat
12 left, then the full operation was under my control.
13 So now I would like to elaborate on how people were interrogated.
14 Before tortures were subjected to be inflicted on any prisoner, I
15 educated interrogators to use politics and to study the
16 prisoner's background by way of asking other questionings rather
17 than resorting to tortures.
18 In short, I did allow people to torture people in four ways.
19 First, by beating with lashes or whip or other kind of beating.
20 Number two, I allowed them to electrocute the prisoner by using
21 the electric telephone. And, number three, I allowed the
22 interrogators to pour water into nostrils of the prisoners, but I
23 have forgotten the fourth method.
24 [09.43.49]
25 Q.Please listen again to the questions. The question is about

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1 the management, administering of the interrogators at S-21 to
2 interrogate a huge number of prisoners who were sent to S-21
3 because yesterday you said at least 12,380 people were sent to
4 S-21, although the number could be higher because there would be
5 more people included if there were enough surviving documents to
6 support.

7 So the question is how you managed the interrogators to
8 interrogate such a high number of prisoners, so it is more about
9 the interrogation rather than the torturing.

10 A.Thank you, Mr. President, for your correction.

11 The interrogation team divided into three groups even when Nat
12 was still there. Number one, the cold group, the hot group and
13 the chewing group.

14 For the cold group, tortures were not applied. For the hot
15 group, their hands were hot, so they would beat the prisoners
16 immediately if the confession were not extracted as they wanted.

17 For the chewing team, they needed more time to interrogate the
18 prisoners and it took long term. Some prisoners were subjected
19 to long-term torturing and interrogation before we could get the
20 confession.

21 And when Nat left, I added the special group to interrogate
22 people who were very important and that the upper echelon would
23 like to know more about those people, so I educated Comrade Pon
24 to be able to interrogate such people. I only used Brother Mam
25 Nai as assistant in interrogation, so he was not -- he did not

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1 belong to any particular interrogation team.

2 So the normal interrogation group comprised of three main groups.

3 [09.46.46]

4 Q.You said there were three groups. How many people were in
5 each group? For example, people in the cold group or hot group
6 or chewing group, were there any sub-groups within each group?

7 A.Mr. President, when Nat was still in charge, I was not fully
8 aware or grasped the detail of how many people were in each
9 group, and I was only prepared to just review the documents to be
10 ready to receive more prisoners.

11 Q.In general, in the cold group, for example, how many people
12 were there in the group, and how many people were there in the
13 hot group? Because during the passage of time, the number of
14 people in each group might vary.

15 A.Mr. President, it is difficult to estimate how many people
16 were in each group because I focused mainly on the essence of the
17 confession; whether further confessions are needed. So I am not
18 in control of how many people were there in each group, but in
19 the cold group, I guess there were about five to six people, and
20 there were also a few people in the hot group; maybe four to
21 five.

22 I remember the hottest person in the group was Comrade Toy, and
23 for the chewing group, Comrade Tit was the team leader.

24 Q.You also stated earlier, or maybe on several occasions
25 already, and since it was not yet related to the fact, I may have

17

1 to ask you again concerning the security office of S-21.

2 Were there any arrangements to form a female interrogators group,
3 and if they did exist, when was the group formed?

4 A.Mr. President, the female interrogators were formed because
5 there was abuse on a female detainee by a male interrogator and,
6 at that time, I asked for permission from my superior to include
7 the wife of the cadres of S-21 to form an interrogation group.

8 [09.50.14]

9 At the beginning, there were five people. We have the wives of
10 Comrade Hor as the chief of the leader, and Comrade Mut's wife.
11 And Comrade Mut himself was the Secretary of the Battalion of the
12 chewing section. So my superior agreed.

13 Then when the superior wanted to arrest one of the cadre, then
14 the wife of that cadre was also arrested. Then later on, Non
15 Huy, the member of the S-21 Committee in charge of S-21 and S-24,
16 then his wife and his child also were arrested. And the other
17 three interrogators still remained -- Ly, Rorn and they lived
18 until we departed on the 7 of January 1979. So only three
19 interrogators remained with us until 7 January.

20 Q.Thank you. You always stated about the method of
21 interrogating the detainees which include the three main tactics;
22 the cold, the hot and the chewing approach. So these approaches
23 had been allocated to only the interrogators. Do I understand
24 that correctly?

25 A.The allocation of groups and torturing methods are

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1 interrelated. The groups were formed according to the methods of
2 torture as what you just mentioned.

3 Q.You often said -- and today it is time to clarify the three
4 methods of torture.

5 Can you tell the Court the details of how each method was
6 applied? For example, the cold method and in which situation was
7 it applied? And when was the hot method employed and in which
8 case?

9 [09.53.05]

10 A.The three methods operated according to the activity line
11 which was approved. In general, it started with the beginning
12 with just soft questioning by way of understanding -- trying to
13 understanding the people who would be answering to us.
14 Then after understanding the situation, then they would start
15 further questions. Then later on, if they could not really solve
16 the problems through way of cool method, the hot method would be
17 introduced. A surviving book compiled by our interrogator really
18 clarifies this matter.

19 In conclusion, only I exercised of -- used one single cold method
20 to interrogate Koy Thuon, and I don't believe that other people
21 maintained the cold method like I did. They needed to use the
22 chewing method and Toy when chewing method was not -- you know,
23 was not the case in extracting confession, then Toy would seek
24 hot method. And if the other two groups could not really solve
25 any problem, then they would refer to Toy to the last and

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1 ultimate method by way of chewing method.

2 Q.When you and your deputy assigned different groups of
3 interrogators and assigned a particular task to them, my question
4 is, can I say that it is a systematic way of interrogating each
5 prisoner at S-21?

6 A.It is fair to say that the interrogation at S-21 was done
7 systematically because when Comrade Hor started to help me with
8 the interrogation, then they classified people who would be taken
9 away immediately or people who would be kept long enough with the
10 assistance of the upper echelon. Then these were consistent with
11 the operation within S-21 and the advice from the upper echelon,
12 so I could say that it is more a systematic way of doing things.
13 [09.56.44]

14 Q.You said that the interrogators were classified into three
15 groups and in each group there were about five to six people. So
16 how could the prisoners were organized? For example, after
17 prisoners were sent to S-21, then each team would be rotated to
18 question or interrogate the prisoners on a regular basis, or what
19 would be the operation at the S-21 to interrogate those
20 prisoners?

21 A.Mr. President, interrogation at S-21 took place by the -- what
22 I can call the preliminary interrogation team. This team would
23 only ask questions to grasp the core essence of the confession,
24 and then Hor would make a decision with consultation with me or
25 made a decision alone whether those people would be sent to a

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1 respective group, for example, the cold group or the hot or the
2 chewing. And, again, if any prisoner was sent to the cold group
3 and then the cold group could not handle the task, then the group
4 would refer to another two groups.

5 For the key people -- the key prisoners would be managed by the
6 team, managed by Comrade Pon. So the upper echelon said that
7 these people were special, then I would assign Pon to just
8 monitor them.

9 [09.59.20]

10 Q.Can you tell the Chamber about the situation of the
11 interrogators in bringing the prisoners for the interrogations
12 from the holding place to the interrogation area? Was it done at
13 S-21?

14 A.Mr. President, I did not see the process personally, however,
15 through my presumption based on my experience at M-13, the
16 prisoners' hands were tied to the back and they were walked to
17 the interrogation place. Then they will be shackled and the arms
18 would be untied.

19 This is the common practice that used to be -- that is used to
20 order people to do at M-13 and I think a similar practice was
21 done at S-21, although the practice had been done before I took
22 control of S-21. This is based on the analysis of the situation.

23 Q.Yesterday, you stated that the operation at S-21 was clearly
24 designated between the Special Force for the outer defence and
25 the prisoners' guards inside. So they guarded the prisoners in

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1 the cells or in the common rooms.

2 And the question is, in the procedure of interrogating the
3 prisoners and the taking of the prisoner from the cell to the
4 interrogation, did the interrogator go inside the room to take
5 the prisoner to be interrogated or this job was done by the guard
6 and the interrogator did not have to enter the room of the
7 prisoner.

8 What is the mechanism for this? Was it the guard who unshackled
9 the prisoner and handed the prisoner to the interrogator who was
10 waiting outside or whether the interrogator went inside the room
11 to get the prisoner?

12 A.Mr. President, I am still unclear on this matter because I did
13 not witness it personally. However, through my analysis I can
14 conclude that the interrogator would go to the front door and
15 wait at the front door because inside the room it was the
16 authority of the guards, and the prisoner would be handed to the
17 interrogator at the front door and then the interrogator would
18 walk the prisoner to the interrogation room.

19 [10.02.56]

20 Q.You have stated, but probably too quick, and I want to verify
21 on this.

22 So when the prisoners needed to be taken to the interrogation
23 room, what was the arrangement before the interrogation took
24 place?

25 A.Mr. President, in principle, whatever was necessary in order

22

1 to ensure that prisoners did not protest and could not escape.
2 So I could presume that when they arrived at the interrogation
3 place, they would be shackled and then the arms will be untied.
4 And if the prisoners agreed to confess and to write their
5 confession, then they would be allowed to sit on the chair and
6 then their legs will be shackled to the chair and then they would
7 write their confession.

8 If they did not confess to write, then they would be seated on
9 the floor with their legs shackled.

10 Q. In general, at the interrogation locations there were -- were
11 there any torturing tools already prepared; for example, a clamp
12 or electrocution wire? Were those tools -- were prepared on the
13 table ready for the torture or it could be a deterrence for the
14 prisoner to confess?

15 A. On this matter, it was apparent when I was shown on the 28th
16 of February, 2008 during the re-enactment, some interrogators
17 said these were the deterrents.

18 So I believed the clamps or the sticks were already prepared for
19 the torture and, regarding the hand-held telephone, I think every
20 interrogator would have it. And about the plastic bags, I think
21 it was rarely used by the interrogators. And pouring water was
22 also seldom used.

23 So, in general, a clamp was frequently used and also the
24 hand-held telephone for electrocution and some tools; big or
25 short knives was only displayed as deterrents.

23

1 [10.05.52]

2 Q.What was your observation on the practice and the handling of
3 the prisoner from the holding cell to the interrogation location;
4 and that they were tied or shackled at the interrogation room,
5 and the process of the interrogator walking them to the
6 interrogation location, and that before they were interrogated
7 their legs will be shackled to the table, and before their
8 handcuffs or hands were untied?

9 So who taught the interrogators the process of doing this or
10 whether it was initiated by themselves without receiving any
11 training or instructions from anybody?

12 A.Mr. President, I would respond in the general case. And I did
13 not want to say that I also talk about special prison.

14 Generally, this practice was carried on from the M-13. That's
15 from my experience. And from the -- for the Division 703, it was
16 also a practice since its establishment and they just followed it
17 as a common practice from one another. So saying whether there
18 were lessons or instructions, it's hard to say because there was
19 no written document to practice. But the practice was customary
20 from the beginning and it happened in all the police offices
21 including the M-13 office.

22 And the upper echelon also approved and I myself, the Chairman of
23 the Unit, I also approve of the practice.

24 Q.Mr. Kaing Guek Eav, were you alone to teach the interrogation
25 techniques to the interrogators at S-21? Is that correct?

24

1 A.Mr. President, from the day I became the Deputy, I was the
2 only one who taught the interrogation techniques to the
3 interrogators.

4 Q>Your teaching on the techniques, was it done frequently since
5 the establishment of the S-21 until the 6th of January 1979?

6 A.Mr. President, talking about the interrogation techniques, I
7 taught for about a month or two to three weeks, and about two
8 hours per day. Then I walked around inspecting them,
9 interrogating the prisoners. So later on I did not train,
10 however, in the end I taught them the direction for
11 interrogation. They were all in the record as in the notebook of
12 Brother Mam Nai, as he wrote during his training.

13 [10.09.51]

14 So, initially, I taught the interrogators and later on when I
15 taught the politics, also the directions in searching out the
16 enemies, it was written in the book notes of Brother Mam Nai. So
17 the teaching was constant with these two particular points.

18 Q.You taught the interrogation techniques to the S-21
19 interrogators. From what you stated in the previous hearings,
20 you also stated that you were the only one who examined, analyzed
21 the confessions, and reported to the upper echelon.

22 Can you tell the Chamber the form of interrogation? Was the
23 interrogation categorized in separate forms based on the
24 biography or the rank or the activities of the prisoners or based
25 on the lines of traitors of those prisoners? Did you think about

25

1 this or did you instruct your interrogators on the techniques for
2 these particular types of prisoners?

3 A.Mr. President, first, in instructing the interrogators to
4 interrogate, it was a key factor that the interrogators had to
5 have an absolute stance. The people who were arrested had to be
6 regarded as the enemy, otherwise their confessions could not be
7 extracted. This is another main factor.

8 [10.12.13]

9 The second factor; once the prisoners agreed to confess, then the
10 interrogation cadres had to ask them to write their biography
11 from the time of their involvement in the traitorous activities,
12 the date, the detailed activities, for instance. So when they
13 talked about their traitorous activities, then they would extract
14 the names of those who were implicated in the confessions.

15 So usually the comrades knew how to extract and write, and if
16 they did not know how to write then I would ask them to tape the
17 confession and I ask somebody else to transcribe it. So that was
18 a method of interrogation. First, on their traitorous activities
19 and on their personal involvement in the traitorous activities,
20 and on the people who were implicated in that confession. So
21 these are the forms of the confessions implemented at S-21.

22 Q.In interrogating a prisoner during one time, how many
23 interrogators were involved? Was there only one interrogator,
24 two, or more?

25 A.Mr. President, in principle, there was no more than one

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1 interrogator for each interrogation, however, it was possible
2 that one interrogator could interrogate more than one prisoner.
3 So he could interrogate a prisoner and when the confession could
4 not be extracted, he sent the prisoner back and then another
5 prisoner was brought in to be interrogated with the approval from
6 Comrade Hor. So usually only one interrogator at one time.

7 Q.You just stated the interrogation, if the prisoner agreed to
8 confess to write the confessions, then the interrogator would ask
9 the prisoner to write the confessions by himself or herself. For
10 such process, did it require the interrogator to instruct the
11 prisoner to write on their confessions according to the form; for
12 example about the traitorous activities, about their personal
13 involvement, and about the persons who were to be implicated?

14 [10.15.14]

15 A.Mr. President, the traitorous activities that a prisoner had
16 to confess had to be in chronological order before, at present,
17 and after. So there was no exact form, it was just a chronology
18 of their traitorous activity.

19 Q.Were there any cases where the prisoners who were interrogated
20 and were illiterate and could not write their confessions? If
21 there were such cases, what was the process?

22 A.On this matter, yes, it happened constantly. From what I can
23 recall, when such a case happened, then the confessor would have
24 to speak and the voice would be taped. Then the cadre would
25 transcribe from the tape and to send it to the upper echelon.

27

1 Q.What about timing for the interrogations that was done at
2 S-21? How was the schedule like, the time allocation, for
3 interrogation of those prisoners? How did the interrogators
4 arrange the time?

5 A.Mr. President, it was their daily routine of the interrogation
6 cadres. They started from 7.00 a.m. until 11.00 a.m. This is
7 from what I can recall. In the afternoon, from 2.00 to 4.00 or
8 5.00 p.m. and at night, from 7.00 to 10.00 p.m. They were busy
9 during these three shifts. That was the daily routine of the
10 interrogation cadres.

11 Q.Normally, to interrogate one prisoner, did the interrogator
12 have to allocate the time or the frequency of each prisoner? For
13 example, for each prisoner, he or she would be interrogated twice
14 or three times, or was it based on the outcomes of the
15 interrogation or based on the confession?

16 [10.18.13]

17 A.Mr. President, the frequency of interrogation and the time
18 required was based on the confession. If a confession that I
19 deemed was adequate then the interrogation would finish.
20 However, for some important or very important prisoners such as
21 Koy Thuon, the interrogation was done five times. I did it two
22 times and then the upper echelon assigned Comrade Pon to continue
23 questioning again. So it's all based on their confessions,
24 whether we were satisfied with the confession and whether the
25 upper echelon was satisfied with the confessions. So that was

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1 the process.

2 Q. So can we conclude that the people who were assigned to
3 interrogate prisoners were based on the key prisoners and there
4 would not be any actual timeframe for asking any particular
5 prisoner; it depends on when you review the confession and that
6 more interrogations would be needed? Do I understand that
7 correctly then?

8 A. Your Honour, it is true.

9 [10.20.22]

10 Q. Were there any repetitious interrogations to a particular
11 prisoner and that prisoner was subjected to write several
12 repetitious confessions before the confession would be used?

13 A. Your Honour, this kind of thing took place continuously and
14 sometimes the confession would only go through Comrade Hor and
15 then they would go to me, and of course it's under our
16 supervision to make sure the confession would be certified before
17 they would be used.

18 Q. In your observation at that time were the confessions obtained
19 reflecting the truth?

20 A. All interrogations and the confessions I never considered them
21 as the truth because even when I was once detained in the jail I
22 never confessed the whole truth. I could conclude that the
23 confession would only constitute to like, the most, 50 percent
24 truth. And the people who were implicated, the content, the
25 essence of the truth would be much less than that. Maybe it was

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1 only 20 percent as I can guess.

2 And the upper echelon would feel the same thing like I felt. For

3 example, like they did not believe fully in those confessions

4 extracted. For example, when Koy Thuon implicated a cadre known

5 well to me and I asked for the exemption for the release -- or

6 for an exception that the person should not be arrested, but my

7 superior said, "Look, Duch, this was in the confession of A

8 Khuon," or "the contemptible Khuon", and you had to be careful

9 because anyone implicated in any confession would be another

10 case, but when Koy Thuon implicated any person's name in his

11 confession, that implication was very convinced.

12 [10.23.39]

13 That's why I personally, although I did not believe that the

14 confession was not really genuine but some certain confessions

15 were truth -- I mean for the key people. However, Pol Pot at one

16 point did not even believe that the confessions were of true

17 information.

18 Q.Mr. Kaing Guek Eav, regarding the functioning of S-21, in

19 which situation or cases that you yourself had to be involved in

20 interrogating the detainees personally, and how many cases where

21 there if there were?

22 A.Mr. President, when I was the Deputy Chairman I worked and

23 went with Nat. At that time there was a reaction from Chhit Iv

24 and I was -- I could not stand but I had to interrogate Ma

25 Mengkheang and I had to interrogate him personally and directly,

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1 and later on Chhit Iv gave in to my interrogation and then he
2 walked away. But I noticed that Nat would like to fight or to
3 beat that person, but I noticed also that he had a high rank in
4 the police. So I only slapped into the face of Chhit Iv because
5 I knew that he gave in to my interrogation already, that I would
6 not beat him much.

7 Of course when the person did not admit that they made mistakes,
8 then it would not be good to beat them because they would react
9 immediately. And when I interrogated Koy Thuon I interrogated
10 him two times, the first and the second, but after these two
11 interrogations Pon was assigned to interrogate him because I did
12 not want to be involved in interrogating him any more, although I
13 annotated on the annotations -- on the confessions of Men Sann,
14 alias Ya, and Siet Chhe, alias Tum. And my superior also noted
15 through the letters to pay attention to these two people.

16 [10.26.56]

17 I did not interrogate directly these people. I only interrogated
18 Koy Thuon personally but I also once interrogated Chhit Iv once.
19 And when it comes to the interrogation of Men Sann, alias Ya, and
20 alias Tum, I was also involved.

21 Q.What was the significance or importance of the confession from
22 Koy Thuon that you needed to be personally and directly involved
23 in interrogating him? So what was his role in the Democratic
24 Kampuchea and in the CPK regime in particular?

25 A.The role of Koy Thuon in the Party, I think he already

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1 confessed in his confession or maybe from the confession of Men
2 Sann, he was the ninth person in the CPK. He was the full rights
3 member of the Party and the ninth person. At the beginning
4 before the 17th of April 1975 he was the Secretary of the North
5 Zone and later on he was the Secretary of the --
6 Q.Mr. Kaing Guek Eav, could you please repeat the last statement
7 because Interpreter found it rather fast to interpret properly?
8 A.Mr. President, Koy Thuon in his role in the Party was the full
9 tri-member of the Party Centre. So from Pol Pot to Koy Thuon --
10 of course Koy Thuon was number nine. Before the 17th of April,
11 Koy Thuon was the Secretary of the Party in the old North Zone.
12 After the 17th of April, the Party presented him or appointed him
13 as the Secretary of the state commerce committee. So this was
14 the significance of his role.
15 [10.30.06]
16 But the reason why he humiliated the Party in the eyes of the
17 world and the Party because he killed a person named Long and
18 Long's wife worked with him and he threatened the other people in
19 his office and the Party decided to suspend him.
20 His activities had been tracked down long ago. That's why on the
21 25th of December 1976 Koy Thuon was arrested and sent to S-21.
22 My superior was prepared and prepared me to be ready to question
23 the person, Koy Thuon. He prepared my position and stance to be
24 strong enough to challenge that person.
25 And the confession of Koy Thuon, I would like to repeat also that

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1 he wrote for about five pages. I made a copy of such confession
2 immediately and then asked Comrade Pon, the messenger of Son Sen,
3 to bring them to Son Sen. So I did not review the paper but my
4 superior was quick to call to get the material.

5 So I think that's all my submission.

6 Q.What about the other two people, Siet Chhe alias Tum and
7 another person, until you were required by the upper echelon to
8 closely interrogate these people? You you don't need to talk
9 about the activities. You only elaborate about their roles why
10 were they important that you were ordered by the superior to
11 closely monitor the interrogators who were interrogating these
12 two people?

13 A.Mr. President, Men Sann alias Ya was the member -- the full
14 rights member of the Party Centre. He was the tenth person, so
15 after Koy Thuon. Before the 17th April 1975 he was the member of
16 the ammunition transport team crossing to Vietnam, and later on
17 he was the Deputy Secretary of the General Staff. And later on
18 he was appointed as the Secretary of the Northeast Zone.

19 [10.33.16]

20 That's why the superior paid good attention to Ya because they
21 were suspicious that these people had any connection with the
22 Vietnam Communist Party. And Siet Chhe alias Tum was the member
23 of -- the candidate member of the Party Centre even during the
24 previous congress.

25 In 1976 there was another congress. He was not yet appointed as

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1 the full rights member because he had affiliation with the
2 Vietnamese but he was appointed to monitor the logistics and
3 later on he was appointed as the member of the General Staff.

4 Q.Thank you.

5 Mr. Kaing Guek Eav, what do you think about the identification in
6 a document regarding the records of confession of Ly Phel? In
7 that record it states that the first interrogator was Duch.

8 In Ly Phel's confession in ERN, in Khmer 00172688 through
9 00172771; in English, ERN 00223138 through 00223141; in French,
10 ERN 00296036 through 0029 -- I think we have the same ERN number.
11 Yes, 00296036 -- we only focus on one page, ERN number 000172738.

12 [10.36.45]

13 MR. PRESIDENT:

14 The Greffier, do you have the copied version of this document to
15 be distributed to the accused regarding the last page 00172738?
16 The Co-Prosecutors, are you able to project this document on the
17 screen?

18 BY MR. PRESIDENT:

19 Q.The accused, can you explain again that when you became the
20 Chairman of S-21 were you involved in interrogating the prisoners
21 because you said that when you were the Deputy Chairman you
22 interrogated Chhit Iv who was interrogated by Nat but Nat failed
23 to interrogate him. That's why you took charge.

24 But you said later that you only interrogated Koy Thuon. Then
25 you said that the superior asked you to closely monitor two other

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1 people, alias Ya and alias Tum. On the 17th of September 1976,
2 in the statement it states clearly that first interrogator was
3 Duch and the second interrogator was Thun(phonetic). Could you
4 please elaborate further on your roles here as interrogator?

5 A.Mr. President, this document, if it is projected on the
6 monitor in Khmer writing, it would be good because the Khmer
7 writing will reveal whether the writing belonged to me,
8 obviously.

9 So the President, the Co-Prosecutor, could you please put the ERN
10 in Khmer 00172738 on the monitor regarding the confession of Ly
11 Phel.

12 MR. SMITH:

13 Yes, Your Honour, we have it on our screens. We just ask that
14 the AV switch to the prosecution desk. Thank you.

15 MR. PRESIDENT:

16 The Audio and Video Unit, can you link the Co-Prosecutor's
17 computer to be projected on the screen? The accused, you can
18 read the two letters on the screen; this is the last page of the
19 document?

20 [10.40.35]

21 As I have said, based on your response, there were only a few
22 people that you interrogated, but in this record of the interview
23 it was clearly stated that a first interrogator was you, Duch.
24 How would you explain to the Chamber on this particular document?

25 A.Mr. President, my annotation was on the typed document and I

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1 still maintain that my annotation was done under the order of my
2 superior; the superior wanted more than one interrogator. For
3 example, interrogators of Ly Phel at Sector 21, before the
4 individual was transferred to S-21, there were nine interrogators
5 who interrogated Ly Phel and I only saw that document during the
6 interrogation period.

7 Let me return to this document. Comrade Pon interrogated the
8 person and when I had the document then the superior said, "Now
9 you also put your name on this document and put the date as the
10 17th of September '76", and the interrogators -- first
11 interrogator was me. I sign with my name, and for the second
12 interrogator because I could not sign for Pon. I only wrote his
13 name. This is purely my annotation not Pon's handwriting.

14 [10.42.50]

15 If Pon was the second interrogator then Pon would also have
16 signed the document. Because I was the senior, then it would be
17 Pon who would write or annotate on the document. I only made
18 annotation on this document with instructions from my superior in
19 order for this document to be sent to the East Zone. So I can
20 confirm that this is my handwriting and I did it based on
21 instructions from the superior.

22 The third one is to reflect that we also used more than one
23 interrogator to interrogate as it was the practice in the East
24 Zone.

25 This is my report to you, Your Honour.

36

1 Q.Thank you. Now it is time for a break.

2 It is also time to change the DVD for the recording. The Chamber
3 will adjourn for 20 minutes until 11.00 a.m. when the Chamber
4 will resume.

5 (Judges exit courtroom)

6 (Court recesses from 1044H to 1105H)

7 (Judges enter courtroom)

8 [11.05.25]

9 MR. PRESIDENT:

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

11 BY MR. PRESIDENT:

12 Q.Mr. Kaing Guek Eav, the practice at S-21 on the interrogation
13 of the prisoners; did all the interrogation involve the use of
14 tortures all the time or there were exceptions?

15 A.Mr. President, the majority of the time the torturers were
16 used during the interrogation, except when I clearly knew and
17 that I mentioned before the Chamber -- that is the case of Koy
18 Thuon -- torture was not used. According to the surviving
19 documents, it is my conclusion that all the confessions that --
20 when Nat asked Mam Nai to conduct the interrogation, I think all
21 the confessions involved the use of torture.

22 Specifically, I am sure in the case of Professor Phung Ton the
23 torture was not used, and for that confession there was no
24 torture involved. I would like to clarify that to you, Mr.
25 President.

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1 Q.The accused, collect your emotion, and be in a ready state to
2 answer the question.

3 The torture on the ordinary prisoners and the torture on the
4 important people inside the Party rank of the Democratic
5 Kampuchea; was there any difference between these two groups
6 regarding torture?

7 A.Mr. President, in general the torture was similar except in
8 some cases; for
9 example, in the case of Vorn Vet. For Vorn Vet, Comrade Pon knew
10 of my feelings so he chose types of torture by submerging him in
11 the cold water and using a fan to make him fever, so that was the
12 only limit of torture done on Vorn Vet.

13 [11.10.53]

14 Q.From what we have heard, you read the three notebooks of the
15 interrogators at S 21; namely, the book of statistics, the list
16 and the books on the organization. And for the Mam Nai's
17 notebook -- Mam Nai, alias Chan -- and Pon's notebook and Toy's
18 notebook, which recorded the instructions they received regarding
19 the interrogation and the torture at S-21, the list of statistics
20 instructed politically the interrogation techniques taught by
21 you; for example, to psychologically defeat the prisoners by
22 using torture and if Angkar asked not to beat, then do not beat.
23 And if the Party orders you to beat, you have to beat with
24 mastery -- to beat them until they speak, no exception, but avoid
25 their death. Do not make them too exhausted and die.

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1 The instructions and the psychology written in Chan's notebook
2 and the list of statistics that we extracted, do they reflect the
3 reality of training instructions by you on those interrogators at
4 S-21?

5 A.Mr. President, that is true. It is the content of what I
6 taught them. If it is a handwritten note of Brother Mam Nai, he
7 made a lot of notes of my speech. And regarding the book of
8 summary of Comrade Pool Phally, he summarized what I taught
9 appropriately. These two documents do reflect my training.

10 Q.The purpose of conducting torture at S-21 was to get the
11 confessions, including the allegations on those prisoners and the
12 names of people who were considered enemy. Is this statement
13 correct?

14 A.Mr. President, that is correct.

15 Q.The real intention of interrogating the Vietnamese civilians
16 and the Vietnamese prisoners of war, what was the intention?

17 A.From the 6th January 1978, the interrogation of the Vietnamese
18 prisoners of war, as well as the Vietnamese civilians, were to
19 have their voice to be broadcast on the radio. That was the main
20 purpose of interrogation.

21 [11.14.43]

22 Q.During the interrogation of the detainees by the S-21
23 interrogators, did you personally intervene or use violence or
24 torture on any of those prisoners who were being interrogated?

25 A.Mr. President, I did not even enter the interrogation place,

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1 so I did not know if there was violence in there except in the
2 case of Chhit Iv that I slapped him.

3 Q. There are some witnesses and some supporting documents which
4 show that you committed some violence; namely, kicking a
5 prisoner, using a rattan stick to beat on a prisoner, and beat
6 with your hands on a prisoner. Do these statements ring any
7 truth?

8 A. Mr. President, they are not correct.

9 Q. There was a remarkable incident taking place at S-21. There
10 were five or six interrogators who tortured a female prisoner
11 from 9 p.m. until 3 a.m. and continued torturing the female
12 prisoner until she became unconscious. She was electrocuted and
13 her clothes were stripped off, only the underwear was on, and she
14 was beaten until she became exhausted. During that time it was
15 indicated that you participated in the group in committing
16 torturing on the female prisoner. Is that true?

17 A. Mr. President, that is not true.

18 [11.17.43]

19 Q. Is it not true in the case that you did not participate in
20 torturing that female prisoner or is it not true because that
21 incident did not happen?

22 A. Mr. President, I did not believe that incident took place;
23 that five interrogators gathered together to interrogate one
24 female prisoner, whether she was important politically or in the
25 line of spy. I did not believe it. I did not think it happened.

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1 I did not know which female prisoner, but the majority of the
2 female prisoners they were not important, so I did not pay much
3 attention to the female prisoners entering S-21.

4 Q.One day in the workshop you asked Bou Meng to beat another
5 person named Chang, to exchange fights. Do you remember this
6 event, and can you tell anything about it to the Court?

7 A.Frankly, I have forgotten it, but I could recollect that event
8 when Bou Meng said about this, but maybe I just would like to
9 entertain by way of asking them to exchange fights; I'm not sure.
10 [11.19.48]

11 Q.In your capacity as the Chairman of S-21, did you order your
12 subordinates to torture the detainees? How did you order them to
13 torture the detainees and by which methods would the torture be
14 employed?

15 A.Mr. President, I have already stated the methods of tortures.
16 There were four. In general, people would be beaten. I did not
17 determine --

18 Q.I do not want to hear about that. In general, have you
19 ordered your subordinates to beat -- to torture any particular
20 detainee? If it existed, how was your order circulated to them;
21 by way of telephone or by telling the interrogators directly?
22 Because there have been some reasons that prove that people who
23 were tortured would be tortured by the interrogators directly
24 through orders from you, or upon the orders from the upper
25 echelon, in order to extract any particular confession to satisfy

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1 the interrogators or the people who needed them.

2 A.The surviving documents are numerous concerning this matter.

3 There was interference from my superior and when Men Sann was

4 interrogated and when Siet Chhe was interrogated, I wrote a long

5 letter to warn, to threaten them because there was a piece of

6 advice from the superior. At least I annotated to beat these

7 people, and also in another incident I ordered to beat another

8 female detainee to say exactly, to confess the truth, but I can't

9 recall the details.

10 Sometimes I would say that if they did not confess then medium

11 tortures would need to be inflicted, and I annotated on the

12 instruction regarding other documents about medium tortures and

13 other forms of tortures, but I did not instruct them to beat any

14 prisoner through telephone because my telephone within S-21 was

15 linked only to Comrade Hor, not other people, so that I could ask

16 him to discuss matters on a daily basis.

17 [11.23.53]

18 And other staff of S-21 could not initiate any phone call to me,

19 so they would meet me personally instead of making any phone

20 call.

21 So, in conclusion, there was no instruction made through

22 telephone and there was no instruction sought through telephone

23 when tortures would be needed, but I did annotate on some

24 documents regarding what kind of tortures should be applied.

25 Q.You referred very often to Toy, the interrogator, and you said

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1 that this person liked torturing the prisoners, and if the cold
2 torturing method failed then prisoners would be referred to
3 Comrade Toy to interrogate them.

4 So who made the decision to refer people to different groups or
5 it was a general principle? For example, when any prisoner did
6 not confess in a particular group then that group would refer him
7 or her to Toy immediately; so was that the general principle?

8 A.Mr. President, people who were difficult to be interrogated
9 and sent to Toy, such incidents only decided by me and by Hor;
10 two people only who could make such a decision.

11 Q.You allowed Toy to carry out the tortures by inflicting the
12 hot method of tortures, but how was such torture inflicted onto
13 the detainee, and how could you know such practice was carried
14 out at S-21 because you said you never had contacted these people
15 through telephone? And you also stated that the implementation
16 of torturing, the hot torturing method, was assigned solely to
17 Toy by you. So how could you order Toy to carry out such a
18 practice?

19 [11.26.54]

20 A.Toy, his nature was to resort to torture. I would like to say
21 clearly that these two people died already. Toy probably died
22 and Pon also died, I guess. Toy saw Pon torture and I was
23 satisfied with Toy through his observation, that he tried to
24 compete to gain my favour by way of introducing the hot torturing
25 techniques initiatives. So when I wanted Toy to interrogate

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1 anyone, then Comrade Hor would manage, although I had the
2 authority to make such decisions, but Hor would be in good
3 assistance when it comes to forwarding anyone to Toy.

4 Q. We would like to know whether you ordered that Toy -- how did
5 you order Toy to carry out torturing techniques?

6 A. Normally, when people were referred to any respective person
7 then the person would handle the task spontaneously, and they
8 were well informed already any prisoner would not be beaten until
9 they died and that the confession was cut off. So they were well
10 informed and in full control.

11 [11.28.50]

12 Q. So do I understand correctly that those people would come to
13 seek your instructions and to receive your orders personally, or
14 how were the orders delivered?

15 A. Mr. President, in referring people to any particular
16 interrogator such a practice was done through Comrade Hor. So
17 for example, if one particular group failed to interrogate any
18 particular prisoner then they would refer to other people and
19 other interrogators. So this is the way how we operated our
20 daily business.

21 Q. On the 1st of October 1976 on a document you wrote to Pon to
22 -- you say that if you torture that prisoner until the prisoner
23 died then you would not be implicated or would not be punished by
24 the Angkar. So what is your opinion about this?

25 A. I think it is the old story and I can recall the events during

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1 the investigation phase. I did write this letter to Pon to deter
2 the prisoner's brother Men Sann, alias Ya. So I asked him to
3 beat that prisoner and I even asserted that although you beat
4 that person until that person died, you would not be punished by
5 me. And we agreed with my superior that we should use such a
6 letter to assist our operation when it comes to torturing the
7 prisoners.

8 Q.This morning you stated that you taught interrogating
9 techniques to staff at S-21. At the beginning you said that the
10 session could commence once every four weeks but later on you
11 changed to once every three weeks. So in such sessions did you
12 teach the interrogators how tortures should be employed?

13 [11.32.20]

14 A.How tortures were carried out were not taught in those
15 sessions. However, we taught in details the importance of
16 tortures to the interrogators. We only noted the importance of
17 tortures, and how tortures would be carried out, they had been
18 agreed between I and Nat and that the four methods were used.
19 Nat liked the electrocution and I reminded Nat of the plastic bag
20 tactic that Brother Vorn introduced. And also, we agreed that
21 beating would be the general method for torturing.
22 And regarding the waterboarding, it was passed down from the
23 authority in the Norodom Sihanouk regime and Lon Nol regime
24 because we were familiar with such tactics, but we did not really
25 make any written notes concerning such practice or allowing our

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1 people to introduce such tactics.

2 Q.In the sessions regarding the torturing methods to be
3 inflicted on the prisoners, did you remind or confirm the
4 torturing methods to the interrogators or did you remind them not
5 to torture any prisoner until they died? Did you ever warn any
6 interrogator about this?

7 A.I'm not quite sure if I can remember that. However, I think I
8 may have spoken about this. In reality, in the practice, when
9 they beat anyone until the prisoners died I tried to report to my
10 superior and to make him understand that the interrogators should
11 be spared from being punished because I would say that
12 interrogators would not want to beat anyone to death.

13 And regarding the case of Poeng Kimsie or Poeng Kimsu (phonetic)
14 I don't remember that prisoner. I advised the interrogator
15 repeatedly not to beat the prisoner until he died. But if
16 sometimes the torture led to the death of any prisoner I would
17 then cover the mistake and report on the matter to the superior,
18 and asking him for favour.

19 [11.36.10]

20 Q.Just now we asked the question concerning the orders, which is
21 the general order from you to the interrogators. And also, you
22 mentioned about the orders from the superiors.

23 So had you received any orders from Nat and from Son Sen to
24 torture any particular prisoner? Was there a case? I mean when
25 there were any requests to torture, to employ any particular

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1 torture methods to any particular prisoner -- I mean the request
2 made to the upper echelon or to the superior from Nat or from Son
3 Sen?

4 A. When Nat was the chairman I think -- I'm not quite sure I can
5 remember it. I think if it existed it would be the orders from
6 him to the subordinate cadres and for me, if I was not satisfied
7 with any confessions, then I would ask or refer the case to the
8 people who interrogated the prisoners to clarify the confessions
9 with Son Sen, my superior, he closely monitored my work and I
10 received such orders from the superior. It's true.

11 Q. You exercised these orders and then imparted the orders to
12 your subordinates who were interrogators, or did you apply the
13 orders personally and directly?

14 A. When I interrogated Koy Thuon, at the beginning I reported
15 immediately to superior and he would advise me to conduct further
16 activities but later on I referred it to Comrade Pon to conduct
17 the interrogation on Koy Thuon.

18 There was a case when there was a letter written to Siet Chhe
19 alias Tum and the when it comes to writing a letter, he asked me
20 whether how we could address Tum -- "A" or the contemptible Tum
21 or just Tum?

22 [11.39.41]

23 Then he discussed it with me. He wrote to me that I should
24 present this letter to Tum so that he was convinced that Angkar
25 would read his confession. This is how it was operated. There

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1 was a letter from Brother Khieu to me concerning the
2 interrogation of alias Tum. I received such comments from him
3 although there was some kind of threatening message done by me,
4 but with instruction from the superior.

5 Q.What about the interrogation of the foreigners? I do not mean
6 to the Vietnamese civilians. I mean the westerners. How did the
7 interrogators conduct their interrogation because of the language
8 barrier? How was it organized?

9 A.Mr. President, the interrogation for the foreigners was
10 conducted by two interrogators. I was not sure if there was one
11 interpreter or two interpreters, but the interpreter, when I went
12 to inspect the interrogation, name Chhorn. I cannot recall his
13 surname.

14 So he was an interpreter for Comrade Pon because Pon could not
15 speak English and I myself did not speak English. Comrade Hor
16 went to look for the person from the prison. His name was Khen
17 Vanchhorn and he worked as an interpreter for the interrogator.
18 So for the English language we used Khen Vanchhorn as the
19 interpreter and for the Vietnamese prisoners we used Phas Tha
20 Chann.

21 Q.What about the other foreigners? From the list there were
22 more than 70 -- actually there were 78 foreign prisoners as shown
23 by Judge Cartwright last week. Amongst them, there were other
24 nationalities, including Thai, Laotian, and Japanese journalists.

25 [11.42.47]

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1 So was there anyone who spoke Thai? So if no one spoke Thai, how
2 the interrogation was conducted?

3 A.For the Thai nationalities, I only saw the names on the list.

4 So I did not know where those people were or who interrogated
5 them. I concluded that initially might be the list from 164
6 reported it to the General Staff. However, I can only say that I
7 did not see anyone interrogating the Thai people and I did not
8 assign anyone to interpret, to interrogate the Thai people.

9 I think it might happen during the time Nat was the Chairman.

10 For the person who worked for Japanese newspapers, I was not sure
11 as well.

12 Q.Thank you.

13 The purpose of interrogation; in general what was it for? Can
14 you elaborate this for the Chamber?

15 A.Mr. President, the interrogation at S-21 was conducted as a
16 strategical direction for the individuals to confess about their
17 traitorous activity. This is the main foundation. However, as a
18 consequence, the way the interrogators used it, then the
19 confession would be examined by the upper echelon and the people
20 implicated in the confession would be examined and monitored. As
21 a consequence of this, I could not say it is lawful, but I could
22 say that the upper echelon was clever. They rightly arrested the
23 KGB agents or the CIA agents.

24 [11.45.21]

25 In the case of Koy Thuon, if Koy Thuon did not confess during the

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1 interrogation at S-21, then the upper echelon would be shameful
2 in their making decision to arrest him. So first, to confirm
3 that the arrest was done right and the second, that the
4 confession was used to investigate on other indicated people.
5 Q.This morning you stated about the groups of interrogators at
6 S-21 and there was a female interrogation team to interrogate the
7 female detainees. However, the female interrogator who was
8 appointed was later on detained and arrested, tortured,
9 interrogated and smashed. Based on our recollection and
10 recollection until 1977, the issue was finished.
11 What we want to know is that the female prisoners who were
12 assigned to interrogate and later on they themselves became the
13 prisoners, what types of mistakes or offences they made because
14 there were only a few female cadres of staff in the interrogation
15 team. So how was the process done?
16 A.Mr. President, the five male cadres whom I assigned with the
17 approval from the upper echelons to become the interrogation
18 cadres for female prisoners, I think it was done in 1977. After
19 the incident when a male interrogator sexually abused the female
20 prisoner, Doem Saroeun, so the five female interrogators
21 continued their interrogation activities.
22 [11.48.11]
23 Let me report it again.
24 These female interrogators did not commit any offence. Comrade
25 Poeun, when they were arrested, based on the decision of the

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1 upper echelons, so one female interrogator was arrested and later
2 on, on the 6th of December 1978, from what I can recall, Comrade
3 Huy was arrested because I received an order from the upper
4 echelon.

5 So the wife of Comrade Khoeun was subsequently arrested as well.
6 Comrade Khoeun did not make any mistake or offence, but because
7 her husband was arrested that's why automatically she had to be
8 arrested as well.

9 [11.49.00]

10 So until the 6th of December '78 another female interrogator was
11 arrested, only Comrade Hor's wife there, and another Comrade Ny
12 was there and another female interrogator. So there were only
13 three of them left, and the two female cadres who were arrested,
14 not because they commit any offence but because they were the
15 wives of those who were arrested.

16 MR. PRESIDENT:

17 Judges of the Bench, do you have any questions to be put to the
18 accused?

19 Judge Lavergne, you take the floor.

20 BY JUDGE LAVERGNE:

21 Q.Can you tell us what, according to you, could characterize
22 torture? What is torture? What does torture mean for you?

23 A.Your Honour, it is difficult to respond. I think it involves
24 a philosophy. It is hard for me to answer. Could you ask me
25 differently so I can respond?

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1 Q.Well, what is the main characteristic of torture? Is its main
2 characteristic -- isn't it to inflict extreme suffering on
3 someone? Is this only physical suffering?

4 A.It is the infliction of suffering, of additional suffering, to
5 the victims to force them to confess. Therefore, it was both the
6 force physically, the physical pain, and with the scolding, with
7 the verbal abuse, it contributed to the psychological suffering
8 upon the confessors so that they would give in to confession.

9 [11.53.08]

10 In principle, in my teaching they had to win the prisoners
11 verbally first before they resorted to torture. But nobody
12 seldom followed the practice because they focused more on the
13 torture and it became the practice.

14 Therefore, it was both the infliction of physical and
15 psychological suffering, so it involved these types of
16 sufferings.

17 Q.We spoke this morning about different ways the prisoners were
18 tortured and do you have -- did you imagine what -- have you ever
19 imagined what these prisoners could have felt? For example,
20 we'll take the case of water because you said that from time to
21 time water would be poured into the nostrils of the prisoners.
22 And what kind of effect does this produce, according to you?

23 A.Through the experience from the former police work, when the
24 stomach was filled with water the prisoner would be sickened so
25 that the prisoner would throw up the water from the stomach.

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1 And for a number of occasions the prisoner would become
2 unconscious. And when a prisoner became conscious then the
3 interrogation continued. That was the practice. At S 21 it was
4 only done on one person. The name was Kheang Chuon. This Kheang
5 Chuon was famous within the internal rank as it was known that
6 the former police, when they poured the water through his
7 nostrils, the water could not go or get through his nostrils. So
8 the water would not get inside his body or reach his lungs.
9 And when he arrived at S-21 all sorts of interrogation techniques
10 were used but the confession was not coming out. And because of
11 that I consulted with Comrade Hor to try another method because
12 we knew that -- we knew that he was famous, that the enemy poured
13 the water through his nostrils but the water did not get through.
14 Therefore, I ordered them to experiment the process and, indeed,
15 the water did not get through his nostrils. So as a consequence
16 of pouring the water into the nostrils was the result of the
17 former practice by the former regime police, and it was also not
18 successful in the use at S-21, so we only experimented only on
19 this one person and we stopped. This is my response to you.
20 Q. Therefore, according to you, it was an inefficient method that
21 was not continued, however, it is a technique that seems to be
22 relatively old, as you said. You also said that the water did
23 not go into the lungs, but don't you think that the person
24 receiving water in such a way might have the feeling -- might not
25 have the feeling of suffocating or of drowning, or this person

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1 might even have the feeling that he will die? Do you believe
2 that this is something that is just inefficient and without any
3 consequence?

4 [11.59.41]

5 A.Your Honour, this kind of torture made the detainees -- the
6 victims felt that they were drowning and suffocating, and it is
7 the practice that we tried to inflict on the prisoner, and I do
8 accept that we did apply such tactics.

9 However, regarding the individual Kheang Chuon, we failed to pour
10 any -- to make the water get through to his lung. His tactic was
11 smarter than the techniques we applied because he was prepared
12 well already before he was arrested by the enemies in the former
13 regime.

14 In conclusion, I do not contest the trial of such practice and it
15 is very offensive, and the -- it was not efficient, and there was
16 no good effect at all after such a technique was applied on that
17 individual. That's all.

18 Q.Have you ever imagined what would be felt by a person whose
19 head was placed in a plastic bag? What do you think such a
20 person might have felt?

21 A.A person whose head was covered with plastic bag while their
22 nostrils and mouth were shut, and they would feel like they were
23 dying and suffocating, so I knew that they would felt that way.

24 Q.Have you been present at such episodes of suffocation?

25 A.Your Honour, I never were present during such episodes, and

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1 people who were suffering from such techniques were very few.

2 The photos -- the surviving photos at S-21 prove that such

3 techniques are introduced until one prisoner died.

4 [12.03.11]

5 Q. In reports to you, were you told how the torture developed?

6 Were you told how much torture the persons suffered, the degree

7 of suffering? Were you told about -- were you informed about the

8 progress of such torture since you were not there in person?

9 A. The degree of tortures would be stated as medium, minimal. So
10 far as I remember, there was a report from Pon which detailed how
11 many lashes would be inflicted on the prisoner. In such a

12 report, I would see those and then I would annotate on such a

13 report by asking them to conduct further tortures, for example.

14 So after the tortures, I have not obtained any documents to prove

15 that I educated them politically regarding the development of the

16 torture techniques, but a document proved that I asked them to

17 torture more.

18 MR. PRESIDENT:

19 It is time to take an adjournment, so the Chamber would like to

20 take the adjournment and resume the session at 1.30 p.m.

21 The parties to the proceeding are advised to attend this

22 afternoon's session as mentioned.

23 The security guards, please take the accused to the waiting room

24 and bring him into the courtroom by 1.30 p.m.

25 (Judges exit courtroom)

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1 (Court recesses from 1205H to 1335H)

2 (Judges enter courtroom)

3 MR. PRESIDENT:

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

5 (Recording malfunction)

6 BY JUDGE LAVERGNE:

7 Q.If I understood correctly, there were also two other
8 modalities that you recognized as having been used in S-21; the
9 perhaps somewhat conventional form, which is beating with sticks,
10 whipping, beating-up.

11 If I understood correctly -- but please confirm this to me -- the
12 only limit that was imposed for such beating-up would have been
13 the time when -- the threshold beyond which you would not allow a
14 prisoner to die. Was that the only limit imposed or were there
15 other limits, restrictions that you would have specified to the
16 interrogators, or any other form of limitation that you would
17 have sought to impose upon them?

18 A.Your Honour, all modes of tortures were aimed to extract
19 confessions. As you have been familiar already, the classic mode
20 was beating-up.

21 THE INTERPRETER:

22 The interpreter could not interpret for the accused because there
23 was an electricity cut-off. Could you please remind the accused
24 to repeat.

25 BY JUDGE LAVERGNE:

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1 Q.We could not hear what you said. There was a problem of
2 something in the wiring.

3 A.The beating-up was a form of the most classic mode, and the
4 only suggestion to the interrogators was that they did not beat
5 the detainees until the confessions were cut off. So this is the
6 basic aspect that we suggested to the interrogators, however,
7 there was another kind of aspect; for example, when the detainees
8 were beaten until they were too weak to respond. So we had to
9 avoid beating any detainee until they were too exhausted because
10 it could prolong our interrogation.

11 [13.39.40]

12 So, in conclusion, there were two suggestions, but the main
13 suggestions to be expected from the interrogators was not to beat
14 the detainee until they died and the confession was cut off.

15 Q.Consequently, the kind of advice that you gave had to do with
16 making the method efficient. Your purpose was to seek maximum
17 efficiency of the method.

18 Now, you have stated that in M-13 you had yourself practiced this
19 kind of interrogation, this kind of torture. Is this correct?

20 A.At M-13 I practiced the interrogations by applying a chewing
21 method on a man named Nget Sambon.

22 Q.You personally have never beaten up a person?

23 A.When I interrogated Nget Sambon, I beaten him up with my own
24 hands.

25 Q.Is it easy to know, to feel when you should stop?

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1 A. For me, frankly, before I beat up any person I had to use my
2 words to convince them, and if the words were failed then I would
3 beat. So I could control my emotion and I could control my
4 action. I know when I should stop beating any prisoner, but the
5 young interrogators were not in the same situation. They would
6 be extreme.

7 Tortures, in conclusion, were forms of the crimes that could not
8 be remedied, and I do accept having committed such tortures. And
9 the more I think about them, about the tortures, the more I am
10 moved, and I don't want to point the finger to any upper echelon
11 all across the country. I am responsible for the crimes; solely,
12 individually.

13 [13.44.20]

14 My response is as brief as this and I would be ready to respond
15 to you more.

16 Q. So if I have understood correctly what you have just told us,
17 you have just said that you could control yourself, you knew how
18 to control yourself, how to keep your violence within a certain
19 threshold so that your beating would be efficient without
20 exceeding a certain limit.

21 Would you have been teaching the same thing to the younger people
22 under your orders or would you control violence that they might
23 apply under such circumstances?

24 A. Regarding M-13, I taught Comrade Pon. That person was in good
25 control of his violence against any detainee. But other young

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1 people, they were not in good control of themselves. It depends
2 on the nature of each individual. Some people were cruel and
3 some were less cruel.

4 Q.Do you think there are more or less cruel ways of applying
5 torture?

6 A.Your Honour, how people would be beating up is cruel and
7 heinous. At that time I thought that it would be more cruel when
8 electrocution was applied, when plastic bags and water were
9 poured into the nostrils of the detainees -- were applied,
10 because those modes could easily put any detainee to death much
11 easier than beating them up.

12 [13.49.15]

13 That's why when I saw the introduction of the respect, the paying
14 of the homage to the pictures of dogs, so I would seek to
15 introduce such a mode also. So although it's the picture of the
16 dog, when people were made to pay homage to such picture I think
17 emotionally the person would have been severely affected by such
18 practice.

19 So in conclusion, all forms of torture, they're all criminal acts
20 that I allowed the interrogators to interrogate, according to the
21 instructions and approval from the upper echelon, without taking
22 any counter measure to do it. I am responsible for these
23 criminal acts.

24 Q.Perhaps there was a slight problem with the translation
25 because you said that you introduced, as a form of psychological

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1 torture, the obligation to pay homage to the image of a duck, but
2 I think you were referring to a dog.

3 A.I asked them to pay homage to the dog -- one dog with the Ho
4 Chi Minh head on top and the other dog with the head of Johnson.

5 Q.So you have explained that this was less painful than, let's
6 say, electrocution. Have you been present at sessions of
7 electrocution? Do you know the kind of pain that one can feel
8 when electricity is applied to one's body like that? Do you have
9 any idea how painful it can be?

10 A. I did not personally go and see or observe a prisoner when
11 one was being electrocuted. And I did not hear any report on any
12 prisoner who was being electrocuted and died. However, there was
13 a form of torture that I already reported to the Chamber, that
14 is the electrocution on the genital and that made the person
15 impotent.

16 Q.Was it only the genitals that were electrocuted or were
17 electrodes also applied on
18 the ears, on the breasts, on the nipples?

19 A.I did not hear about them. I only heard about an
20 electrocution on a male prisoner
21 and make his genitals impotent.

22 Q.According to you, was this system applied only once or several
23 times?

24 A.The torture by electrocution was reported to me at a later
25 stage when we fled; that is, after the 6th of January 1979. So

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1 in the matter of the electrocution I cannot say whether it
2 happened once, and I was not sure whether the interrogators had
3 any other instance involving this form or method, but I was only
4 reported once on this method of torture.

5 [13.56.38]

6 Q.Were you in any way interested in knowing what types of
7 torture were used by interrogators or were you interested only in
8 the securing of confessions?

9 A.Your Honour, I did not think about the intention of the
10 interrogators, rather than to get the confessions. There was
11 only one thing that the interrogators might think differently,
12 and that one thing was that the interrogator sexually raped the
13 female prisoner, the teacher Doem Saroeun.

14 Q.Do you consider that the ways and means applied were not
15 significant? What was significant was the end -- the finality
16 that was pursued?

17 A.Your Honour, what you have said was interrupted so I could not
18 hear it clearly. Could you repeat your question, please?

19 Q.I was asking whether, from your point of view, the ways and
20 means that were used were not significant, were not important;
21 they were just ancillary. What was important was the goal, the
22 object, and the object was to secure confessions. Is this a way
23 of expressing your -- the way you considered this at the time?

24 A.That is correct, Your Honour.

25 [13.59.30]

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1 Q.Well, I'd like to get back, therefore, to our question which I
2 already put to you on the 27th of April last, and the question
3 was the following. I was trying to understand why you had been
4 selected, why you had been asked to lead S-21, and during this
5 hearing you answered the following by quoting an answer that you
6 had already provided to the Co-Investigating Judges. You said
7 the following:

8 "It was because I was the best in the practice of interrogations.
9 I was better than Nat."

10 And you even said this:

11 "I'm better than Nat in terms of interrogating and I even taught
12 that I was better when I had to train people to interrogation
13 methods. That is the truth. It is something that I do not
14 question and I was selected because the Party trusted me. I was
15 honest and I would tell them the truth."

16 So my question is very simple; what does that mean? What does it
17 mean for you, "I was better"? What is it to be better under
18 these conditions?

19 A.During the times that I responded that I was better than Nat
20 because I knew how to teach them to interrogate -- to interrogate
21 with clear consideration. The important thing is not to lead any
22 questions. Especially I, myself, knew how to teach them not to
23 ask leading questions. It means they did not show the direction
24 for the accused to answer to what we want. I thought about my
25 capability in this area in comparison to Nat's ability, and I was

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1 better in this area.

2 Q.So if I have understood you well, you were the best in what
3 you termed as police work. That is to say, when you said that
4 you were the best; did this mean that you were the best in pure
5 police work? That is to say, in the obtaining of information,
6 and what -- which was -- what defined the quality of the
7 confessions for you were their content? It wasn't necessarily
8 the way that people were being interrogated, but it was the
9 content of the confessions that determined their quality. Is
10 that true?

11 A.Your Honour, your conclusion is correct. I acknowledge it.

12 Q.So maybe we could revisit the document that was presented to
13 us this morning, involving Ly Phel's confessions, if I'm not
14 mistaken, on which there are annotations because I do not know if
15 there is a translation problem here, but I'm not sure that the
16 international judges or the international parties here were able
17 to understand what was written behind these confessions.

18 So Mr. Smith, would it be possible to see on the screen, to see
19 this document on the screen please; to have it projected?

20 MR. SMITH:

21 Do you have the ERN number of that document again, please?

22 [14.05.24]

23 JUDGE CARTWRIGHT:

24 I have the English, if that's a help: 00223138 to 00223141.

25 MR. ROUX:

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1 Mr. President, while the prosecutors are looking for the
2 document, may I please with your leave say to the Chamber that
3 the defence would prefer, as far as it is possible, to have the
4 document presented by the Greffier and not by the Co-Prosecutor's
5 Office. I find this a bit troublesome. I find it a bit
6 problematic that it is to have the Co-Prosecutor's Office present
7 the documents each time when so requested by the Chamber. So if
8 it is possible, could this please be done by the Greffier? Thank
9 you, Mr. President.

10 (Deliberation between Judges)

11 MR. SMITH:

12 Thank you, your Honours. Obviously the prosecution office is
13 happy to assist in the presenting of any document. There's a lot
14 of new technology in the courtroom and we're all learning how to
15 use this technology, but we're more than happy not to show the
16 documents. Of course it's an increased workload for the
17 prosecution office, but by the same token we're officers of the
18 court and if you need us to assist, we will assist.

19 [14.09.01]

20 MR. PRESIDENT:

21 Thank you for the remarks by the defence counsel and the
22 observations by the international Co-Prosecutor. I would like to
23 inform the parties and the public that the Chamber also concerns
24 on this matter, but due to the technicality in the presentation
25 of documents, the ability by the Chamber is limited technically.

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1 Therefore, we continue to use the existing system whereby the
2 link is connected to the Co-Prosecutor's computer, and we will
3 revisit this matter to improvise it as raised by the defence
4 counsel with his appropriate suggestions.
5 But for the current proceeding we still need the assistance of
6 the Office of the Co-Prosecutors with their current ability. And
7 at a certain point, when we are able to connect it to the
8 Greffier's computer or the Court Official's computer, then we
9 will proceed. That is the reason, and this doesn't mean that we
10 do not pay attention to this matter.
11 Okay, now, let's show the document, and the audio-visual
12 official, can you link the Co-Prosecutor's computer to the main
13 screen?
14 The AV unit, could you please zoom in? We haven't seen the clear
15 picture.
16 Can the Co-Prosecutor help to highlight the section to be shown
17 on the screen? Can you do that?
18 MR. SMITH:
19 Yes, your Honours. Which particular section would you like
20 highlighted?
21 JUDGE LAVERGNE:
22 Would it be possible to have a close-up on the annotations? That
23 is to say on the upper left-hand corner, as was done this
24 morning.
25 [14.12.51]

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1 BY JUDGE LAVERGNE:

2 Q.So concerning this passage here, I see a date. It might be
3 September 17th or April 17th 1976. I'm not really able to read
4 clearly. Who wrote down this date? What did you write down here
5 in this -- on this page here in the corner? Is it what was
6 written in violet? Or is it rather what was written in light
7 grey? Or, is it both?

8 A.The grey writing actually were originally dark ink writing
9 copied by the typist, Comrade Houy. The writing on the left-hand
10 side, here we could see one, two, three, four, five lines, they
11 belong to me. The purple writing -- actually so far as I
12 remember, originally the writing was in red. So the five lines
13 of writing belong to me. It reads, "Interrogated on the 17th of
14 September 1976." Interrogator's first person signature, Duch;
15 second person, Pon, without any signature. These writings belong
16 to me; no other person's writing."

17 Q.So in grey it seems that there is also a date. I can see some
18 figures there. What do these figures correspond to? If you
19 don't know, just tell me that you don't know.

20 A.I wrote that interrogated on the 17th of September 1976 --
21 interrogated on the 17th of September 1976 and the person who
22 copied the writing stated that "copied on the 19th of September"
23 -- yeah. So I could see the problem also because the dates were
24 not consistent.

25 [14.16.15]

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1 Q.I'd like to get back to the explanations that you provided to
2 us. Maybe I didn't understand them well this morning, but you
3 said that if your name was on this document it was to satisfy a
4 request from your superiors in order to make clear that there
5 were several interrogators and that you were one of these
6 interrogators. Is that what you said to us this morning?

7 A.I think Your Honour has understood correctly. Actually there
8 was only one interrogator but, in order to satisfy the request of
9 the superior, I put two names.

10 Q.Therefore it is a lie.

11 A.The superior asked me to lie like that to send this document
12 to the east because to convince them that there were more people
13 involved in interrogating. So the document used by the east to
14 interrogate Ly Phel, nine people were involved in the
15 interrogation. So to be consistent with what they did when Ly
16 Phel was initially interrogated, my superior asked me to do the
17 same.

18 Q.So the usual practice at S-21 was to have only one single
19 interrogator dealing with one single prisoner?

20 A.At S-21 one interrogator sometimes asked -- interrogated a few
21 prisoners and they took turns. I would like to give you an
22 example in the case of Comrade Pon. Sometimes he asked -- he
23 interrogated Brother Men Sann, alias Ya, and asked him to write
24 down the confessions. And when Brother Men Sann, alias Ya,
25 already in the process of writing confession, he proceeded to ask

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1 or to interrogate other detainees. This was how interrogation
2 was carried out, so no two interrogators interrogating one
3 prisoner at a time.

4 [14.19.50]

5 Q.The fact that there is only one single interrogator, well, was
6 this due to reasons of efficiency, you would say, or was it
7 because there were not enough interrogators or because it was too
8 difficult to train good interrogators?

9 A.There was a possibility. I think efficiency was not playing
10 an important part. The other two possibilities were primary
11 aspects for the interrogation, while we did not have enough
12 experienced interrogators.

13 Q.Were there accidents that happened often? Were there
14 prisoners who died during the interrogations?

15 A.Yes, there were. Some detainees died because of the beating
16 up.

17 JUDGE LAVERGNE:

18 Well, I think now we can remove from the screen this document.

19 Thank you, Mr. Smith.

20 BY JUDGE LAVERGNE:

21 Q.What was your position, what was your stance when such
22 incidents occurred or what were the consequences of the sexual
23 violence that was imposed on the female prisoner who was
24 interrogated? You said that as a result a group of female
25 interrogators was created which did not exist before. But what

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1 happened to the interrogators themselves? Did they have to
2 account for what they had done? Did you ask them to explain why
3 they had done what they had done? Were they punished?
4 [14.22.56]
5 A.Regarding the male interrogator who sexually abused a teacher,
6 I was shocked but at that time I thought that it was the
7 violation of the regulations in torturing the detainees.
8 Therefore, I reported on this matter to my superior and waited
9 for his decision. I did not propose for any arrest of that
10 person. The reason I did not propose such arrest, because I did
11 not want my superior as well as my subordinates to regard me as
12 the very individualistic person.
13 Because my former teacher was detained and I could not even
14 release him, so that's why I reported on this matter to my
15 superior. When my superior did not say anything, I did not
16 propose any further but I just asked that the interrogator be
17 removed from interrogating female detainees and we formed the
18 male (sic) interrogators team instead.
19 This is what I can recall of what happened back then and I think
20 it is consistent to what I understand now.
21 Q.This morning you also said that from time to time you would
22 cover -- that's the word you used, I believe -- to cover your
23 subordinates when the result of the torture led to the prisoner's
24 death. Is that also so? So therefore, you did cover up these
25 deaths and therefore you also covered up, as you said, this

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1 sexual violence?

2 [14.26.46]

3 A.I think it is not different to see how it happened. However

4 --

5 Q.We didn't get any translation. I don't know if there is a

6 problem but I did not hear anything. Well, maybe you could

7 please repeat -- maybe there was a technical issue here which

8 explains that your answer was not translated into French, at

9 least. I believe it was translated into English, but not into

10 French.

11 A.Your Honour, the mistakes of both interrogators, if we look at

12 the overview of the mistakes, they were not much different. But

13 if you look at my emotion, I was moved at that time. I was more

14 emotional towards the female teacher than to the interrogators

15 but I did not take any serious action. I only removed those

16 interrogators from interrogating the female teacher, a detainee.

17 I only told to the male interrogator to explain about the event

18 and I reported -- I made a report on this matter and reported to

19 the superior.

20 So the incidents in which the prisoner was beaten until they died

21 and the confession was cut off, I did show my leniency to them.

22 But the interrogator who sexually abused the female detainee who

23 was a teacher, I was very angry but I tried to hold back my

24 emotion in order not for my superior or subordinates to degrade

25 my performance.

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1 Q.You are talking about anger, shock. At the very beginning of
2 the trial you talked about regret. This kind of regret has come
3 in what form? Were you feeling regret when you experienced
4 anger? Did the regret come later? Why did it only come later,
5 if it only came later?

6 [14.31.29]

7 A.Talking about my discontent, when I heard about it I became
8 angry straightaway. As for my regret, it happened at a later
9 stage. This is my response to you in reflection of my emotion at
10 the time.

11 JUDGE LAVERGNE:

12 President, I have no further questions to put to the accused.
13 Thank you.

14 MR. PRESIDENT:

15 Judges of the Bench, do you have questions to be posed to the
16 accused?

17 Judge Cartwright, you take the floor.

18 JUDGE CARTWRIGHT:

19 Thank you, Mr. President.

20 BY JUDGE CARTWRIGHT:

21 Q.Kaing Guek Eav, you have told us that you taught the
22 interrogators how to interrogate and obtain confessions. In many
23 of the confessions there are references to being members of the
24 KGB or the CIA and other organizations. Did you teach the
25 interrogators how to obtain confessions that prisoners were

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1 members of such organizations?

2 [14.34.00]

3 A.Your Honour, the word "CIA" -- you could say I told them the
4 word "CIA". During the initial period, I heard the prisoners
5 confess about counter the revolution and other activities and at
6 one time my superior, Son Sen, called me and Nat for work
7 assignment.

8 At that time Nat, was the Chairman. And when we met him he
9 showed us a piece of paper that at Sector 32 they found the CIA
10 agent, and it was written in handwriting, and that the confession
11 said the person was a CIA agent. And why at S-21 we could not
12 find any CIA agents? And he asked us to explain to him. I was
13 speechless at the time. He did not properly show us the document
14 and he said CIA agents were not like us. If they were the CIA,
15 they had to be the CIA for life. How long they split from each
16 other, they are still the CIA agents, not like us. If we are
17 away from the Party ranks for six months, then we are
18 disconnected.

19 [14.35.52]

20 So now it is required for us to seek out the CIA agents; so that
21 was the requirement. So when I returned I disseminated the
22 information to the interrogators on the instructions from the
23 superior and, as a result, many CIA agents were mentioned in the
24 confessions, like the CIA from the Mekong and CIA from other
25 organizations.

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1 And later on, a victim named Leav Sothsophontha, Hak Seang Layny
2 -- my apology, he was an engineer -- and he said that he was a
3 CIA agent introduced by Sou Met, so I reported to the upper
4 echelon. Then he said, "How come there was a CIA in the Soviet?"
5 and then Hak Seang Layny said the Soviet called the KGB and in
6 French it's called -- so I remember the acronyms. And those, for
7 those people who went to study in the Soviet, they would be
8 suspected of being in the KGB.

9 And also talking about the Vietnamese people, they were called
10 the Vietnamese aggressors. So the question of a CIA or KGB was
11 the questions that the interrogators at S-21 directed the
12 prisoners to say to that direction.

13 Q.Thank you. So you confirm that part of your instruction to
14 the interrogators was to suggest that prisoners were members of
15 one of these organizations or perhaps Vietnamese aggressors; it
16 was suggested to the prisoners. Is that correct?

17 A.Your Honour, the types of method was that way, yes, but the
18 instruction from me is just to show them the method, the
19 technicality, but it is up to the interrogators to ask these
20 types of questions to the prisoners. I just show them the
21 instruction and the direction.

22 [14.38.56]

23 Q.And is it correct that a surprising number of prisoners
24 confessed to being members of the KGB and the CIA, for example?

25 A.Talking about a surprise, if we analyze the facts, yes, it

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1 would be a surprise because those, the so-called CIA agents, they
2 had to be the real CIA agents managed by the CIA office in
3 America. But when they confessed that they were CIA agents then
4 they would be treated as CIA agents, and that was the reality of
5 what happened at the time. Of course, for the educated people it
6 would be a surprise, but for us it was just a practice we did.
7 And for me, who managed this affair, I understood it but I had to
8 follow the trend.

9 Q.And you have said previously that you did not believe a lot of
10 the information in the confessions. Did you believe that so many
11 of the prisoners were members of the KGB or the CIA?

12 A.All the prisoners, from what I could conclude, like Suong
13 Kaset, Sothsophontha, who claimed they were CIA agents, or
14 Choulong Raingsy, no, they were not. The questions were directed
15 at them and they just responded, so the true nature was different
16 and probably they were forced to say so.

17 Q.And when you say they were forced to say so, they said so
18 because it was suggested to them by the interrogators and they
19 were tortured. Would that be correct?

20 A.Your Honour, that is true, but the direction toward the CIA
21 agents was not only at me but it was instructions from the
22 superior.

23 Q.Thank you.

24 [14.41.53]

25 JUDGE CARTWRIGHT:

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1 Mr. President, I have a few more questions but this may be a
2 convenient time to take the break.

3 MR. PRESIDENT:

4 Thank you, Judge Cartwright.

5 Now it is time to have a break, so the Chamber will adjourn for
6 20 minutes and will resume at 3 p.m.

7 (Judges exit courtroom)

8 (Court recesses from 1442H to 1504H)

9 (Judges enter courtroom)

10 [15.04.05]

11 MR. PRESIDENT:

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

13 Next we would like to give the floor to Judge Silvia Cartwright
14 to proceed putting questions to the accused.

15 The floor is yours.

16 JUDGE CARTWRIGHT:

17 Thank you, Mr. President.

18 BY JUDGE CARTWRIGHT:

19 Q.Kaing Geuk Eav, yesterday we discussed the list of children
20 who were identified as having been arrested and detained at S-21.
21 That is the list E68.700331257 and you agreed that a significant
22 number of these children were aged between 15 and 18 years. Do
23 you recall that?

24 A.Yes, I do. Thank you.

25 Q.And you also told me that at least some of this list of

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1 children had been arrested because of offences they had
2 committed. Is that correct?

3 A.Yes, it's correct.

4 Q.So would it be right for me to conclude that they were also
5 tortured in order to obtain confessions from them?

6 A.It is true very few could escape from being tortured.

7 Q.And you had no policy in place as the chair of S-21 to prevent
8 children being tortured; is that right?

9 A.Yes, Your Honour, I had no policy in place to prevent them
10 from being tortured.

11 Q.Yesterday we also reviewed briefly the list of women who had
12 been detained at S 21, totalling 1,698 women. That is document
13 E68.6 starting at 00331192. And you told me that the majority of
14 those women had been arrested because of their relationships with
15 men who had themselves been arrested and detained, and that they
16 in fact had committed no offences. Is that right?

17 [15.08.26]

18 A.Yes, it's right.

19 Q.Based on what you have just said, would it be correct that
20 these women who had committed no offences would also be tortured
21 in order to obtain a confession?

22 A.I think things have already passed. I have been very
23 regretful and I know that I am responsible for the crimes
24 inflicted on those people at S-21, the more than 10,000 people.

25 Q.So you agree with my question, do you, that they too were

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1 tortured in order to obtain a confession?

2 A.It is true, especially the women who had the duties in the
3 rank of the CPK. Some were spared from being tortured or were
4 spared from being tortured but later on were smashed.

5 Thank you.

6 Q.The school teacher to whom we have already referred, Doem
7 Sarouen, was she someone suspected of having committed an
8 offence?

9 [15.10.30]

10 A.So far as I remember, my teacher was a Party member and it is
11 true but I don't remember much. I can presume that she was
12 accused separately from another teacher, Mr. Ke Kim Huot.

13 Q.You said earlier today that generally one interrogator only
14 interrogated and tortured prisoners. Is that correct?

15 A.It's correct.

16 Q.So can you explain to me how you would know what sort of
17 methods were being used by a single interrogator to obtain a
18 confession?

19 A.Your Honour, I did not go to the interrogation place but the
20 management was conducted through the organizational line. I had
21 the control power but I had my subordinates to assist me and I
22 relied too heavily on Comrade Hor that I could walk outside -- I
23 mean went out of the facility and leaving Hor to help me with the
24 tasks.

25 Q.If there was only one interrogator in the room with the person

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1 being questioned, how would Hor know what methods were being
2 used?

3 A. There was a principle that interrogator was allowed to use
4 tortures but the tortures had to be limited to not beat any
5 prisoner until they die. And Hor would patrol the location or
6 meet those interrogators to discuss the matter. So each
7 interrogator had to be responsible individually for their
8 performance. Somehow they were under control of the people, the
9 superiors.

10 [15.13.55]

11 Q. So neither you nor Hor would know precisely what forms of
12 torture were being used unless the interrogator explained to Hor
13 or to you; is that correct?

14 A. In conclusion, I could understand how the tortures were
15 inflicted on the detainees and we can really conclude from the
16 way -- the nature of each interrogator and we could conclude what
17 kind of tortures they would have used.

18 Q. In the agreed facts you acknowledged that you knew about the
19 practice of puncturing or removing finger and toenails. So was
20 this an added form of torture over and above the four general
21 methods that you instructed the interrogators to use?

22 A. You Honour, the four modes of torturings would not just be the
23 four main practices at that location. Actually the interrogator
24 exercised further and I heard about puncturing or removing of
25 toenails when the pliers were used to pull the nail from the

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1 fingers. And Hor reported this to me and I warned them not to do
2 that again, otherwise I would report to the superior.

3 [15.16.31]

4 Hor only defended himself by saying that he did not pull the
5 toenails. He just used the pliers to draw the nail, not actually
6 pull it from the finger. With my warning, they stopped
7 practising such things.

8 The other practice was allowed by me and enforced by me to make
9 any detainee to pay homage to a dog.

10 Q.Thank you. In the agreed facts at paragraph 231 you partly
11 agreed with the statement that rapes were committed at S-21,
12 explaining that there was only one case of rape. Do you recall
13 that section of the agreed facts?

14 A.I don't remember, Your Honour. Could you please clarify the
15 matter concerning the rape that was committed? What kind of
16 rape?

17 Q.The statement made in the Closing Order was, "Rapes were
18 committed at S-21."

19 Your response was that you partly agree and you went on to
20 explain that, according to you, there was only one case of rape.

21 Is that clear to you now?

22 A.Your Honour, I think this case related to the schoolteacher
23 Doem Sarouen and we use the terms differently. Mr. Kar Savuth
24 used the different term. It's not sexual abuse because the
25 person only inserted the stick into the genital of that detainee,

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1 so I would not like to elaborate further, but there was only one
2 single case concerning the rape, when the interrogator inserted a
3 stick into teacher Doem Sarouen. It was only a single incident.
4 [15.19.36]

5 Q.Thank you. And you have explained that your superiors did not
6 discipline the interrogator or order that the interrogator be
7 disciplined for this. Indeed, interrogators were very rarely
8 disciplined, if at all, for using different forms of torture. Is
9 that correct?

10 A.Your Honour, in general cases, it is correct. However, in the
11 case of teacher Dem Sarouen, if I understood the law properly
12 that the act was a sexual abuse, I would not spare. I would
13 request to my superior to arrest the interrogator. But at that
14 time I did not fully understand the law.

15 Q.If there was only one interrogator in the room with the person
16 being questioned, and if an interrogator was unlikely to be
17 punished for committing torture that you did not approve of, how
18 can you be sure that there were no other incidents of rape or
19 other sexual abuse?

20 A.Your Honour, allowing one interrogator to interrogate one
21 prisoner was done by me and I did not consider the consequence of
22 it. Everybody was afraid and only thought about his or her own
23 life. So in the end I had to find an appropriate measure, and
24 the appropriate measure I took at the time was to remove him from
25 interrogating any further female prisoners. And then they were

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1 replaced, he was replaced, by the female interrogators and I
2 thought that was the appropriate measure that I took at the time.
3 [15.22.28]

4 Q.But that was not my question. My question was, how can you be
5 sure that no other rapes or incidents of sexual abuse occurred?

6 A.Your Honour, I believed in the education of self-awareness
7 that if they committed it they would be dead. That's what I
8 believed in. For other people, if they made any such offence, I
9 would have been reported. So I believed that was the only one
10 case that happened.

11 Q.Today, in this courtroom, you appear to me to be deeply
12 ashamed and regretful of your part in the obtaining of
13 confessions using torture. Is that correct?

14 A.Your Honour, that is correct. I do not deny it.

15 Q.But at the time when these confessions that you have said were
16 often incorrect, were being obtained by torture, you were not
17 concerned, you were not regretful and you were not ashamed. You
18 were simply trying to do your job. Is that correct?

19 A.Your Honour, from the outset, that is correct, but if we look
20 further in details like I reported to Judge Lavergne this morning
21 or yesterday, my story was not simply about being a coward. It
22 is beyond cowardice because I betrayed my friends, because I was
23 afraid of being killed. If I did not follow them I would be
24 dead, so I had to betray my friends and I did not provide
25 assistance to anybody or to resolve any matter. So I betrayed --

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1 the fact I betrayed my friends and that was the reality because I
2 was afraid of being dead.

3 [15.25.44]

4 JUDGE CARTWRIGHT:

5 Thank you, Mr. President. I have no other questions on this
6 topic.

7 MR. PRESIDENT:

8 Thank you, Judge Cartwright.

9 Now, I have some questions related to the current fact. Let me
10 go back.

11 BY MR. PRESIDENT:

12 Q.Mr. Kaing Guek Eav, during the time of the detention were you
13 aware of the activities and the experiments conducted by the S-21
14 staff on the prisoners? If there were any medical experiments
15 conducted at S-21 on the prisoners, were you aware of it? If so,
16 how was it done?

17 A.Mr. President, yes, I was aware of it. First, the live
18 prisoner was used for the surgical study and training. Second,
19 the blood drawing was also done and it became a practice until my
20 time, and there are some S-21 surviving documents that I
21 instructed them to do, based on the instructions from the upper
22 echelon regarding the blood drawing in order to protect those
23 people who need blood transfusions. So it happened since before
24 I became the Chairman. So, as a result, there were about 100
25 victims who died due to blood drawing. That is the second case.

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1 For the third case, the medicine which was prepared, normally
2 they would use to experiment on the prisoners because if they
3 used the experiment -- if they used the drugs on themselves that
4 would not be the method, but they used the newly composed
5 medicine to trial on the prisoners.

6 [15.28.52]

7 The fourth case, Uncle Nuon gave me some medicine to use and test
8 on the prisoners, although I was sure that the powder was used in
9 exchange of the paracetamol, but anyway it was used to test on
10 the prisoners, although the medicine was not poisonous -- but the
11 prisoners knew that the medicine was an experimental one.

12 So these are the four cases of medical experiments conducted at
13 S-21.

14 Q.Thank you. Can you elaborate further on the issue of blood
15 drawing?

16 How much blood was drawn from each prisoner; one litre, two
17 litres or five litres? As you said, the blood drawing was done
18 sometimes until the prisoner died, and there were 100 prisoners
19 died because of the blood drawing.

20 A.Mr. President, the blood drawing, from what I recall, was done
21 not on many prisoner but some of them the blood was drawn until
22 there was no blood in their body and they died, however, the
23 practice of blood drawing was not systematic. Only when the 98
24 Unit required blood they would come to contact S-21 and with
25 their superior's authorization, then S-21 medics had to provide

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1 them the solution. And this is my response.

2 Q.Thank you. In a document, there is a case where some
3 detainees became sick and got treatment by injection in the
4 evening and, later on, the detainees were seen to be dead. Were
5 you aware of this case? Does this case relate to the blood
6 drawing or medical experiments as you just stated?

7 A.Mr. President, I was not aware of this incident. However,
8 from my analysis at present, I don't believe it was a medical
9 experiment but it was a shortage of medicine or treatment. This
10 is just my analysis of the situation.

11 [15.31.54]

12 Q.You just stated -- however I want to clarify whether you
13 participated in the medical experiments on the detainees. Did
14 you participate and, if so, how did you participate in the
15 medical experiments conducted at S-21?

16 A.Mr. President, I personally did it. Nobody knew and only two
17 people were aware of this. That was I, myself, and Uncle Nuon.
18 I did it personally. Each day I gave them two pills and next day
19 I gave them two more pills for three days in a row. The rest saw
20 me taking these three people and letting them stay at the
21 photography and the painting section. In the afternoon I took
22 the pills, by myself, to give them to take.

23 So I did this by myself and people would know that this is a
24 medical experiment, and the victims themselves knew it was a
25 medical experiment. This is another type of criminal act that I

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1 committed.

2 Q.Returning to another point, let me just fill in some gaps
3 about the interrogation of the Vietnamese prisoners of war.
4 Was the information sought for the intelligence and information
5 at the battlefield in order to prepare for the attacks on the
6 Vietnamese territory or is it just to show to the domestic and
7 international views that Vietnam invaded Cambodia?

8 A. Regarding this matter, I would like to repeat, again, there
9 were two stages. The event before they opened war and during the
10 time of the skirmishes; like I said, the attacks and the
11 counterattacks. During that time, I can't recall the incidents.
12 There was only one important incident.

13 [15.34.56]

14 When I was Deputy and I was recently appointed the Chairman,
15 there was a planned -- after the interrogator gave me the
16 confession and I examined the confession, there was a plan that
17 in certain months they would attack and control this province of
18 Cambodia, and I believed the plan and I reported it to the upper
19 echelon. But the upper echelon, especially Son Sen, did not
20 believe it. What happen if the Yuon followed their plan, it
21 means maybe we will lose all our territory.

22 So I thought probably my superior was suspecting that I did not
23 have a clear stance and just followed and believed in the
24 psychological method of the enemy. So from what I can recall,
25 the interrogators did not pay much attention to the military

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1 affairs because most of those were only minor soldiers; not even
2 up to major-lieutenant.

3 Once in a while during the lifetime of S-21 we only saw a few
4 majors or lieutenant-colonels, and the rest they are just the
5 file and rank soldiers. So I did not really pay much attention
6 on the attacking or invasion plan. This is from what I can
7 recall. However, if there are surviving documents showing
8 differently from my understanding and recollection, I would not
9 deny it and I would acknowledge the documents.

10 Q. The interrogation of the Vietnamese civilians and Vietnamese
11 prisoners of war, was torture used?

12 A. Mr. President, the tortures was minimal because we wanted to
13 ask for them to confess that they invaded Cambodia, and I believe
14 there might not even to be a torture. This -- objective,
15 instructed by the party, was that the Vietnamese people did not
16 have any food to eat, so they had to eat rice bran. So that was
17 the objectivity of the interrogation of the time.

18 [15.38.02]

19 Q. In cases where the prisoners did not confess or they did not
20 -- or they confess but not to the satisfaction of the
21 interrogator, what type of torture was used?

22 A. Mr. President, let me -- it's clear, let me talk about the
23 Cambodian prisoners. If the prisoners did not give satisfactory
24 confessions, then I would annotate on the confession that they
25 had to use more torture in order to get the confession, and I was

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1 the one to decide to order the interrogators to torture more.
2 For the Vietnamese confessions, there was no major tortures just
3 a threat or similar, then would confess.

4 Q.In the agreed fact, Paragraph 228, a detainee named Chum Mey
5 was beaten on his back and both of his nails -- toenails were
6 removed and he also received a electrocution onto his earlobes.
7 And three days of tortures he went unconscious and the torture
8 took place for 12 days and 12 nights, and you said that you did
9 not contest the fact. Do you accept that the fact is true?

10 A.Mr. President, I never contested the fact regarding Chum Mey.
11 I believe that such a thing happened and he talked about Comrade
12 Seng who sat on his top, and in Khmer it is not acceptable at all
13 when someone had to sit on somebody's head.

14 Q.There is another fact. Paragraph 229. The detainee, Bou
15 Meng, was shown the torture devices in the interrogation room and
16 he was asked to select any torture devices he would prefer, and
17 he was beaten with a whip and rattan, and his back was
18 electrocuted and while handcuffed and forced to lie facedown on
19 the ground. He said his back was cut and bleeding all over the
20 floor and that he was also electrocuted. He added that he was
21 tortured twice a day over a consecutive two-week period.
22 And you said you don't repute the fact. Do you accept that it
23 existed?

24 A.I do accept the fact, and I never contest such fact because
25 the victims at S-21 have suffered a great deal, and I do accept

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1 those facts.

2 [15.42.22]

3 Q.Now, we would like to focus on the form of tortures. Again,
4 you have already mentioned the foremost tortures allowed at S-21.
5 This is another form of torture when a detainee was forced to eat
6 excrement. So was this a practice at S-21?

7 A.There was a case related to this matter in relation to teacher
8 Ke Kim Huot and I think, although I don't remember, but having
9 read the annotation of Comrade Toy, I knew that such practice was
10 inflicted on my former school teacher. And I still gave my
11 leniency to the person who committed such torture; I know that it
12 existed.

13 Q.There are other forms of torture, do you accept that there is
14 torture by way of forcing to drink urine?

15 A.Although I don't know much about it but I believe that such
16 practice existed.

17 Q.Just now, you already told Judge Silvia Cartwright concerning
18 the torture mode when a detainee was forced to pay homage to the
19 picture of a dog but the documents proved that there are other
20 forms of torture; for example, the detainee would be made to
21 kneel down to pay homage to the table or other objects. Was it a
22 practice?

23 [15.45.08]

24 A.Your Honour, I think these practices existed because I
25 educated them, the interrogator. I did not talk about when I was

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1 educated from the upper echelon. I would like to -- I educated
2 them to distinguish the position of the enemies and friends. So
3 they were told not to regard any detainee as friend by addressing
4 like grand-uncle, the term that should never be used to address
5 the detainee. They had to be identified clearly by addressing
6 them as the contemptible X and Y and so on.

7 So like Chum Mey who was regarded or who was addressed by the
8 very young interrogator as "A" or the contemptible Mey, and I
9 think it was very humiliating although --
10 I think by way of making the detainees to pay homage to a picture
11 of dog, it was severe than making them pay homage to objects,
12 other objects.

13 However, it was the practice that interrogators were trained to
14 distinguish clearly between the enemies and friends. And they
15 were educated to do so.

16 Thank you.

17 MR. PRESIDENT:

18 The Co-Prosecutor, could you please ask the assistant of the
19 Co-Prosecution to put the document in Khmer with ERN 00195373
20 through 00195377? Please put it on the screen. Can you do that?

21 MR. PRESIDENT:

22 This document was shown yesterday already about the locations of
23 S-21.

24 [15.48.06]

25 MR. SMITH:

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1 Sir, that was the photographs, was it, Your Honour?

2 MR. PRESIDENT:

3 That's correct.

4 The AV unit, please switch to the monitor of the Co-Prosecutor.

5 MR. SMITH:

6 Thank you, Your Honour. We have the photographs.

7 This is the expert Zoran Lesic and it's an aerial photograph of

8 the S-21 area and then particular rooms and photos with inside

9 the compound.

10 MR. PRESIDENT:

11 That's correct because the Co-Prosecutor already prepared the

12 photos in the form of a book. That's why the Chamber would like

13 the pictures 36 to 38 to be projected on the screen, please.

14 BY MR. PRESIDENT:

15 Q. Could the accused please look at the photo and look at the

16 metal frame and two water jars?

17 Could you please move to the next picture, picture 37? This is

18 the closer look to the picture.

19 Please move to picture 38.

20 [15.51.50]

21 BY MR. PRESIDENT:

22 Q. This is the form of two additional tortures as shown in the

23 case file. So you have already seen the photos.

24 The basin was used for torture by way of submerging the detainee

25 into the field with water jar and when a detainee would -- the

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1 hands of detainee would be tied and then would be hoisted into
2 the air flying.

3 So the photos 36 to 38 have already been viewed. Would you like
4 to make any comment concerning the forms of latest two tortures?

5 A.Mr. President, I think the photos have never been agreed by me
6 even during the confrontation time. The reason is that it was
7 deriving far from my instructions to the interrogators.

8 So if any practice was introduced from what I have ordered then I
9 would realize. For example, in the case of a child was allegedly
10 dropped from the third floor, for example, it would not be the
11 practice.

12 That's why I contest it, Mr. President. Thank you.

13 MR. PRESIDENT:

14 I have no further questions. I don't know whether other judges
15 of the Bench would wish to put further questions regarding these
16 facts to the accused?

17 The floor is yours, Judge Lavergne.

18 [15.53.53]

19 JUDGE LAVERGNE:

20 I have no questions regarding these last facts that have just
21 been mentioned. I have questions in relation to what was
22 referred to a little bit earlier regarding the drawing of blood.
23 Could we perhaps take away these pictures from the screen? Can
24 these pictures be removed?

25 MR. PRESIDENT:

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1 The A/V Unit is instructed to switch to the normal mode.

2 You take the floor, Judge Lavergne.

3 BY JUDGE LAVERGNE:

4 Q. So reference was made to medical experimentation and, in
5 particular, the drawing of blood. I would like for us to see
6 this very clearly. Does the accused today recognize that he was
7 aware of such practices or has his position changed in relation
8 to the position that he had during the investigation?

9 [15.55.16]

10 A. Your Honour, my position has changed regarding the drawing of
11 blood.

12 During the investigation phase, I accepted that if it existed it
13 would have been passed down from Nat, and that I did not know and
14 I did mention it clearly during the investigation phase.

15 However, after my recollection, I recall when my superior phoned
16 me and told me -- and I remember for sure that the blood which
17 was drawn and injected into the combatants, that caused rash on
18 the skin -- and that's why I ordered that people would be well
19 selected before their blood would be drawn and injected into any
20 combatant, to avoid any disease or infection.

21 Q. For how long was that practice maintained and who initiated
22 that practice?

23 A. Because it happened during Nat's time and it was passed down
24 to my time, it was my superior, Son Sen, who demanded that this
25 practice was introduced.

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1 Q.And for how long did it last? Until when was this practice
2 applied?

3 A.So far as I can guess, it lasted when Try, the head of the
4 medics at S 21, was arrested by me, and also the committee of
5 Hospital 98. The head of Hospital 98, Moeng Sam Noeb, alias Tai,
6 was also arrested by the superior. So after these two people
7 were arrested, the drawing of blood ended there.

8 Q.So if I understand correctly what you're explaining, this
9 practice was discontinued in relation to the effect of purges
10 whereby there no longer was the personnel who had the skills,
11 basically, to do the drawing of blood?

12 [15.59.42]

13 A.On the matter of a technicality that is only one issue, but on
14 the people whom I trusted that was a separate matter. The matter
15 that the superior trusted Comrade Tai on the technicality and
16 later on the committee -- the Chairman of the committee of 98
17 Hospital -- was replaced by a female, and that woman did not have
18 any close contact with me than Comrade Tai.

19 And on a matter of technicality when Comrade Tai was gone, then
20 nobody could replace him in the blood drawing, so combining the
21 technical issues and the trust.

22 Q.So it is because of technical as well as human resource
23 problems that this practice was no longer continued. I don't
24 know if you understand exactly the words "human resources", but
25 what I meant was because you didn't have the staff that you could

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1 rely on to do this. Is that the reason?

2 A.That is correct, Your Honour.

3 Q.I also saw that there was also question of a surgical
4 operation that had been carried out on a live prisoner at S-21.
5 Who authorized this operation and for which reason? Which kind
6 of operation was it?

7 A.Your Honour, the matter of conducting surgery on the live
8 prisoner was done from the early stage. When I was the Deputy I
9 did not dare to tackle the problem. When I was aware that the
10 wife of Thach Chea was used for the training, I asked and urged
11 Nat -- who was close to me -- so I asked Nat to replace Thach
12 Chea's wife with another person, and I saw it was done according
13 to my suggestion. But when we went to see the superior, he
14 boasted about taking Thach Chea's wife away for that purpose and
15 that was the time the superior said it was not appropriate to do
16 so.

17 But then, at that time, I understood the intention that it was
18 the instruction from the superiors to use live prisoners for the
19 training of surgery.

20 And the initiative to take Thach Chea's wife, first, by Nat and,
21 later on, I did not know any more about these issues.

22 Q.Well, I have a bit of a hard time understanding.

23 You're speaking about Thach Chea's wife. Is this a person who
24 was detained and who was used for these operations? Or was this
25 the person who was actually conducting the surgical operation?

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1 What happened to the one who was subjected to the surgical
2 operation? Did he die? Did he survive? What happened?

3 A.Your Honour, Thach Chea was a State Secretary of the Education
4 Ministry during

5 Lon Nol's regime. He died together with Keo Sang Kim because of
6 the student strike. His wife survived with four children and
7 they were arrested during the evacuation.

8 [16.06.41]

9 Because Thach Chea was famous, I did not want the crime to be
10 opened. I tried to conceal it but it was too late. After Thach
11 Chea's wife was taken for the operation, the four children were
12 left behind at S-21 and their names were on the list at S-21.

13 Later on, they were smashed according to the principle that even
14 the children would not be spared.

15 This is my summary for you, Your Honour. I would explain more if
16 you ask.

17 Q.Who specifically conducted the surgical operation and to which
18 end?

19 What was the result, what was the consequence for this female
20 prisoner?

21 A.Your Honour, although I did not see it personally, I could
22 conclude it as follows.

23 I was not sure whether she was killed before she was used for the
24 operation training, for the anatomy study, or otherwise. The
25 important thing is for the study of anatomy. So the subject

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1 might be already dead. This is just my assumption.

2 This is my response, Your Honour.

3 Q. So can you please tell me why you chose somebody who was alive
4 and to kill this person just before an operation destined to show
5 anatomy, whereas every day there were people who were dying on
6 which such operations could be conducted?

7 A. Your Honour, the purpose of anatomy study was for just that
8 exact purpose -- to study the anatomy.

9 [16.10.58]

10 Live subjects were used and for the new medics or trainees, from
11 what I know, the experienced medical medic like Dr. Thiounn
12 Thioeunn, they shared and collected the money to buy the floating
13 corpse in order to study the anatomy and to conduct the surgery.
14 So to use the floating corpse for the purpose of surgery was
15 already prohibited by the law. It was illegal in the state of
16 law.

17 Democratic Kampuchea, once it had its full authority, they
18 started to train people in anatomy. The blood drawing, in the
19 state of law, it was done as well. However, it was done to a
20 minimum standard and with the approval or the agreement from the
21 subject. Also, special food ration was provided to the subject
22 after the blood drawing. But, in our case, the blood was
23 completely drawn until the subject died.

24 In conclusion, the people whose blood was drawn died and the
25 prisoners who were used for the anatomy study purpose also died.

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1 And these are overt operations and are overt crimes and they are
2 cruellest.

3 At that time, I did see it happen. I did not deny that I did not
4 see it, but I couldn't do anything. If I spoke about it, I would
5 be accused of having no class stands and that I considered, and
6 paid more value to the lives of the enemy than the lives of the
7 revolution.

8 So this is my response to you, Your Honour.

9 Q.You also spoke about medical operations, about the
10 administering of medicine or
11 of drugs that were given by Uncle Nuon and that you had, on your
12 own, distributed these drugs to a certain number of prisoners
13 during several days.

14 What was the effect of these drugs? Did the prisoners become
15 ill? Did they die? What happened?

16 [16.16.30]

17 A.Your Honour, at that time, I swapped the flower pills and I
18 used the paracetamol pills instead because the pill was in the
19 capsule form; so I pull it out. I threw away the flower inside
20 -- the powder inside, and then I cleaned inside the capsule with
21 a cotton bud and I replace it with paracetamol powder. So I did
22 this quietly without letting anybody know. Even Comrade Pon was
23 not aware of this or even my wife; my wife was not even aware of
24 what I did.

25 So there was no effects or danger from these pills or capsules,

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1 but from the outset the people knew that I experiment or tested
2 the pills or the capsules with those prisoners.

3 And even if the victims themselves -- and there were three or
4 four of them -- they were aware that I test the capsules on them.
5 So they were scared because they would not know when their life
6 would be finished.

7 And my staff at S-21 said that, "Oh, now you test the drug -- the
8 capsule on your own prisoners with your own hands". So the crime
9 was there. Everybody saw what I did but, in fact, they did not
10 die from taking those capsules.

11 This is my response to you, Your Honour.

12 Q.What did Uncle Nuon say to you? What was the purpose of these
13 drugs? Were

14 you afraid that the prisoners would die? What did he say? Did
15 he say that this was poison? What did he say to you?

16 [16.19.48] A.Your Honour, before he gave the drug to
17 me, there was a confession from S-21 to
18 him and the confession said that the confessor himself had
19 poisoned with the attempts to poison Brother Pol; that is Pol
20 Pot. So Uncle Nuon ordered his subordinate to take the medicine.
21 I did not see that he ordered his subordinate to take the
22 medicine, but this is my conclusion.

23 And when he called me for the assignment, he wrapped the
24 medicine in a piece of paper -- I think there were about 12
25 capsules he gave me -- and told me that, "You have to do it by

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1 yourself and do not let anybody know about it". And that's the
2 -- the medicine was the result of the confession from that
3 person, therefore, my superior and I were still in suspicion
4 whether the drug were poisonous or not.

5 And when I took the drug, I eliminate the ability of the drug of
6 being poisonous or not by throwing the powder away. And later on
7 when I went to see him he asked me about the drug and its effect,
8 and I told him there was nothing -- there was no effect -- and he
9 had a straight face. So that was the story of that incident.

10 Q. So if I have understood correctly, you are saving the lives of
11 prisoners who
12 normally should have been tested -- would have tested drugs which
13 we could even call poison because this is how it was presented to
14 you a priori. So you saved their lives and you say they didn't
15 die, so what happened to them afterwards? Did they remain alive
16 or were they smashed?

17 A. Your Honour, no one who entered S-21 could survive, but they
18 died of the process
19 at S-21 but not died of poison.

20 [16.23.49]

21 Q. Well then, I don't understand very well. That means that the
22 crime is less serious, so that means being smashed according to
23 the regular procedure means that the crime was less serious than
24 being the victim of an attempt to poison? I don't really
25 understand the nuance here. What were you -- tried to even --

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1 without anybody knowing it because you said that your wife was
2 not even aware of this.

3 So could you give me a logical explanation why you were trying to
4 save these people? What happened to you that day? What made you
5 feel so emotional?

6 A.Your Honour, I think if I gave the true medicine given to me
7 by Uncle Nuon to the victims, if they died then they would die
8 under my act with my own hands, who gave them the medicine; the
9 poison. That's why I tried not to be involved in the killing of
10 those people directly.

11 [16.25.41]

12 JUDGE LAVERGNE:

13 Well, I no longer have any further questions.

14 MR. PRESIDENT:

15 We note the presence of Mr. Co-Prosecutor. You take the floor.

16 MR. SMITH:

17 Thank you, Mr. President.

18 In light of today's proceedings and the earlier application this
19 morning as to whether the questioning by the Co-Prosecutors and
20 the civil parties could start after tomorrow, the first Court
21 sitting day after tomorrow, I was wondering whether Your Honours
22 could provide a decision on that today.

23 It would make a significant difference to preparation and the
24 approach so that we can fit in with the time management
25 scheduling that you've raised earlier today. We would appreciate

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1 it if you could.

2 (Deliberation between Judges)

3 MR. PRESIDENT:

4 I already told the parties this morning that we maintained our
5 position regarding the operation, the functioning of S-21. We
6 would inclusively focus on this fact, while the fact regarding
7 S-24 would be conducted differently. And regarding Choeung Ek,
8 in fact, the Trial Chamber will try its best to finish the
9 questionings by tomorrow.

10 So for the schedule of the questionings concerning the fact to be
11 started from the Co-Prosecutor would begin Monday next week. I
12 think there has nothing changed so far. I hope you are now
13 informed.

14 (Deliberation between Judges)

15 [16.28.47]

16 I think we would like to remind that on Thursday we are not
17 sitting because it falls on the public holiday, so we are
18 conducting only three sessions -- three days session until
19 Wednesday tomorrow, and after that we will resume the session to
20 Monday next week, and the Co-Prosecutors will take turns putting
21 questions to the accused and the civil parties will put questions
22 next after the Co-Prosecutors.

23 The Court is now adjourned and the session will be resumed
24 tomorrow at 9 a.m.

25 The parties to the proceedings are advised to come to the Courts

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1 tomorrow by 9 a.m.

2 The security guards are advised to take the accused to the
3 detention facility and bring him back by 9 a.m.

4 The Court is adjourned.

5 (Judges exit courtroom)

6 (Court adjourns at 1630H)

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