



**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

5 August 2009, 0901H

Trial Day 54

Before the Judges:

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**List of Speakers:**

Language used unless specified otherwise in the transcript

Speaker	Language
MR. AHMED	English
JUDGE CARTWRIGHT	English
MR. CHEAM SOUR	Khmer
MR. DUCH PHARY	Khmer
MR. KAR SAVUTH	Khmer
MR. KONG PISEY	Khmer
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
MR. ROUX	French
MS. SE KOLVUTHY	Khmer
MS. STUDZINSKY	English
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MS. TRUSSES-NAPROUS	French
MR. WERNER	English
JUDGE YA SOKHAN	Khmer
MR. YET CHAKRIYA	Khmer

1

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

2 (Judges enter courtroom)

3 [09.01.58]

4 MR. PRESIDENT:

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

6 This morning, we're going to hear the testimony of another

7 witness, witness KW-22, as scheduled.

8 The Greffier is now instructed to report the attendance of the

9 parties to the proceedings.

10 THE GREFFIER:

11 Mr. President, the parties to the proceedings today are all

12 present. The witness KW-22, who is going to testify in today's

13 session, is available and awaits a call from the Chamber. He has

14 no relationship with any parties to the proceeding and he has

15 already taken an oath.

16 MR. PRESIDENT:

17 The Court official is now instructed to call witness KW-22.

18 (Witness enters courtroom)

19 QUESTIONING BY THE BENCH

20 BY MR. PRESIDENT:

21 Q.Witness, what is your name?

22 A.I'm Cheam Sour.

23 Q.Do you use other names other than Cheam Sour?

24 A.No, I don't.

25 Q.How old are you, Mr. Cheam Sour?

2

1 A. I'm 52 years old.

2 [09.05.19]

3 Q. What do you do for a living today?

4 A. I am a farmer and I collect palm juice.

5 Q. According to the report of the Greffiers of the Trial Chamber,

6 you have no relationship with the parties to the proceeding and

7 you have already taken an oath. Is that correct?

8 A. It is correct, Your Honour.

9 Q. We now proceed to inform the rights and obligations of a  
10 witness.

11 As a witness, Mr. Cheam Sour, you may decline to answer any  
12 questions that you are afraid that your testimony could  
13 self-incriminate you. So you have the right not to incriminate  
14 yourself and at the same time you shall tell the truth, nothing  
15 but the truth.

16 Mr. Cheam Sour, where did you live and what did you do during the  
17 time between 1970 to 1975, the 17th of April 1975?

18 A. I joined the Khmer Rouge army and during the time when we  
19 fought against the Lon Nol regime, and in 1975 I moved to Tuek  
20 L'ak village to plant potatoes -- sweet potatoes and cassavas.  
21 And after 1975, the person named Chan came to take me to join the  
22 training, military training at Preaek Hour in Ta Khmau. After  
23 the training, I went to work at S-21 to guard the compound. At  
24 the beginning, I did not know that I would be taken to work at  
25 S-21 and that S-21 could have been the prison.

3

1 Q. So during the time when the country was at war between 1970 to  
2 1975, you worked as a soldier to liberate the country. Is that  
3 correct?

4 Could you please listen again. Between 1970 to 1975, you had  
5 worked as a soldier to liberate the country. Is that correct?

6 A. Yes, it is correct.

7 [09.09.35]

8 Q. During that time, in which unit had you worked as a soldier  
9 and in which location was your unit positioned?

10 A. I worked as a local militia.

11 Q. In which location did you work at and in which sector?

12 A. I worked as a militia in the Kampong Chhnang sector.

13 Q. You said after the 17th of April 1975, you was taken by Chan  
14 to Phnom Penh to work at Teuk L'ak area. Is that correct?

15 A. It is not correct, Your Honour.

16 Q. You were selected to work in Phnom Penh. To the best of your  
17 recollection do you still remember when were you taken to work in  
18 Phnom Penh and who took you?

19 A. It was Chan, the Chan with ringworms.

20 Q. Can you tell us about the date when you were being taken from  
21 that location to Phnom Penh?

22 Mr. Cheam Sour, could you please be reminded that before you can  
23 respond please wait until you see the red light is on the mic,  
24 otherwise your responses would not be well communicated to the  
25 parties to the proceeding and to the Judges, and also we will

4

1 find it difficult to have your speech or testimony recorded in  
2 the transcript.

3 [09.12.02]

4 And it is also important that your message is rendered by our  
5 interpreters so that it can be heard, and be reminded that we are  
6 now using three languages at the same time: Khmer, French and  
7 English. So, once again, please be reminded that speaking before  
8 the mic is on is just useless.

9 Do you still remember that when you were taken to work in Phnom  
10 Penh, when was it?

11 A.I don't remember it.

12 Q.Were you the only person to be taken to work in Phnom Penh or  
13 did you come along with other people from your place?

14 A.There were quite a lot of people.

15 Q.When were you assigned to work at the beginning, in which  
16 location?

17 A.First I was sent to work in Ta Khmau.

18 Q.When you got to Ta Khmau, what kind of work were you assigned  
19 to do?

20 A.I was made to attend trainings how to de-mine, to plant mines,  
21 for example.

22 Q.How long had you attended such training and what was the  
23 location called?

24 A.It was called Preaek Hour.

25 [09.14.25]

5

1 Q.How long had you been in that military training sessions?

2 A.I don't remember it quite well. I don't remember the date.

3 Q.After you had finished the military trainings at Preaek Hour,

4 where were you sent to work next?

5 A.I was taken to work at S-21.

6 Q.Do you remember that when you were taken to work at S-21 --

7 just tell the date -- when exactly was it?

8 A.No, I don't remember the date.

9 Q.Do you know the location you claimed that you had worked at?

10 You said it was S 21, so to the best of your recollection can you

11 tell the Court where should it have been located?

12 A.It is at the Tuol Svay Prey location, which is the Tuol Sleng

13 Museum currently.

14 Q.When you were assigned to work at that location, what kind of

15 assignment was it and in which unit you belonged to?

16 A.I worked at the S-21 unit under the supervision of S-21, of

17 course.

18 [09.16.48]

19 Q.What kind of assignment was you given?

20 A.I was assigned to guard outside.

21 Q.You worked as a guard, guarding outside S-21. Who was the

22 chief of the team or unit or the platoon or company; so can you

23 remember any of them?

24 A.I don't remember their names.

25 Q.Do you remember the chief of the unit, or the platoon, or the

6

1 company because you worked in such a military unit, there could  
2 have been the chiefs or the commanders, for example? So we are  
3 not asking you to remember staff members or your colleagues, but  
4 we would like you to tell the Court if you remember the chiefs of  
5 the platoon or the company under which you worked.

6 A.The chief of the company was Peng, who was supervising the  
7 company back then.

8 Q.As a guard who had to guard outside, can you tell the Court  
9 what kind of tasks were you assigned and, in general, in which  
10 location did you guard?

11 A.I had been guarding to the west, at the corner to the west of  
12 S-21.

13 Q.How long had you have to work or to guard the premises on a  
14 daily basis?

15 A.We had to guard 12 hours a night.

16 [09.19.58]

17 MR. PRESIDENT:

18 Judges of the Bench, would you wish to put questions to this  
19 witness?

20 The Counsel, you take the floor.

21 MR. KONG SAM ONN:

22 Thank you, Mr. President. I would like to make a small  
23 observation in relation to the record of the interview of the  
24 witness before the Co-Investigating Judges with ERN 00162758,  
25 document D22/12. On the second page, I would like to quote the

7

1 portion.

2 In the first point, there has been contradictory messages because  
3 the witness said that he could read and write Khmer, but then in  
4 the next line he indicated that he did not go to school because  
5 he was very poor.

6 So we would like the parties to the proceedings who are going to  
7 put questions to the witness to simplify their questions to make  
8 sure that you can assist him with clear messages because he is  
9 illiterate and that he is a peasant or palm juice collector, so  
10 his educational background is very limited.

11 So please make sure that questions are brief and precise so that  
12 the witness is able to respond efficiently and accurately. Thank  
13 you.

14 [09.22.25]

15 MR. PRESIDENT:

16 Judge Ya Sokhan, you may proceed with your questions.

17 JUDGE YA SOKHAN:

18 Thank you, Mr. President.

19 BY JUDGE YA SOKHAN:

20 Q.Mr. Witness, when you were assigned to work at S-21, did you  
21 know who were the superiors at S-21?

22 A.There were three people in the superior position, Huy, Peng,  
23 Hor.

24 Q.You said Peng was the chief of the company. Now, we would  
25 like to know who would be the most responsible person at that

8

1 location?

2 A.It was Huy, Hor.

3 Q.Do you know the accused, Duch?

4 A.Could you please say again?

5 Q.Do you know the accused, Duch?

6 A.I know him. He was the most superior person at S-21.

7 JUDGE YA SOKHAN:

8 Mr. President, could you please instruct the accused to stand up

9 so that the witness can see?

10 [09.24.39]

11 BY JUDGE YA SOKHAN:

12 Q.Do you know him? The accused can be seated.

13 Q.How many units were there at S-21?

14 A.No, I don't know.

15 Q.In which unit were you assigned to?

16 A.I worked in the common unit at S-21.

17 Q.Were you assigned to work in the defence unit?

18 A.Yes, I was assigned to guard outside.

19 Q.Do you remember the chief of your unit?

20 A.No, I don't, because there have been many years already.

21 Q.Do you know the person named Hong?

22 A.He had been the chief of the unit, but he died later on.

23 [09.26.04]

24 Q.Was he your chief of the unit?

25 A.Yes, he was.

9

1 Q.While guarding the compound, were you guarding within the  
2 compound or outside?

3 A.I worked outside.

4 Q.How many layers of defence guards were deployed at that  
5 location?

6 A.There was only one unit who were assigned to guard outside.

7 There was only one layer of guards.

8 Q.Do you remember that you stated that there was three layers of  
9 defence guards outside the compound?

10 A.I did say that there was three groups of guards who were  
11 guarding at three corners but not three layers.

12 Q.In which corners were those guards assigned to work at?

13 A.I don't think I can grasp what the other people would have  
14 been assigned to work, but I think they could have been working  
15 at the south, the west, and the north corner.

16 [09.27.51]

17 Q.In which corner were you assigned to work?

18 A.I was assigned to guard at the corner to the west.

19 Q.It was at the location on the road that links to Tuol Tumpoung  
20 market?

21 A.Yes, it is correct.

22 Q.What kind of task were you assigned while being on guard?

23 A.I was assigned to plant vegetables, guard the compound.

24 Q.Did you guard the objects or detainees?

25 A.I was guarding the detainees and to make sure that no-one

10

1 could escape.

2 [09.29.14]

3 Q.Before you had been deployed to guard the compound had you  
4 received any trainings or instructions, and who would be the  
5 instructor?

6 A.It was Peng who was giving the instruction to us regarding the  
7 guarding assignment.

8 Q.What about Hong? Did Hong also instruct you?

9 A.The chief of the unit, who was Hong, also instructed us in the  
10 livelihood meetings but later on he died.

11 Q.Where did you stay at night, off duty?

12 A.We stayed in a house on the road outside the compound.

13 Q.Was the house adjacent to the place you guarded or was it far  
14 apart?

15 A.It is near the place where I guarded.

16 Q.How many metres away from the place you guard?

17 A.The place where I guarded was about 20 metres from where I  
18 stayed.

19 [09.31.04]

20 Q.The house where you stayed, did you stay altogether within  
21 your group or were there any other groups who stayed at that  
22 house as well?

23 A.Each group stayed in each house.

24 Q.How many people in your group?

25 A.There were 12 of us.

11

1 Q. In the 12-person group were you close to any of those people?

2 A. No, I was not and I cannot recall the names.

3 Q. During meal time where did you have your meal?

4 A. We had our meal at the co-operative east of the road.

5 Q. The dining hall, was it a communal dining hall for all the  
6 S-21 staff, or was it only for your group?

7 A. The dining hall, it was communal for the entire S-21 unit.

8 Q. Did you know if there was only one communal dining hall at  
9 S-21?

10 A. I only knew of one dining hall.

11 [09.33.04]

12 Q. When you went to have your meal did you see other people from  
13 other groups also going there to have their meals?

14 A. Yes, but we ate within our own unit or group.

15 Q. When you had your meal did you only have your meal within the  
16 12-person group or were there other groups also having a meal at  
17 the same time?

18 A. We ate within our own group. After my group finished then  
19 another group would come in.

20 Q. Did you know the groups that came in later? What group was  
21 it?

22 A. They were from the various guarding locations. I was not sure  
23 whether they were from the north side or not.

24 Q. Did you ever meet those guards, the inside guards?

25 A. No, I never met them.

12

1 Q. Did you know there were guards who stood guard inside the  
2 compound?

3 A. Yes, I knew, but I did not know which location they stood  
4 guard.

5 [09.34.41]

6 Q. How did you know there were guards who stood guard inside the  
7 compound?

8 A. I knew that because when the group who guarded inside came to  
9 the dining hall.

10 Q. Did the cook ever tell you about different groups who came to  
11 have meals after your group left?

12 A. Yes, the cook told me. After my group finished then another  
13 group would come in, and so on and so forth.

14 Q. Did the cook ever tell you if the accused just finished his  
15 lunch and left?

16 A. I didn't know that.

17 Q. When you stood guard outside what gun was given to you? Were  
18 all of you armed?

19 A. No, not all of us armed. There were only two guns within our  
20 group, so we took turns to hold the gun.

21 Q. During the time that you stood guarding did you ever see any  
22 vehicle passing by and going inside the compound?

23 A. I saw vehicles entering S-21 but I did not know whether the  
24 prisoners were transported in those vehicles or not.

25 [09.36.45]

13

1 Q.The vehicles that entered S-21, where did they come from or  
2 were those vehicles belonged to S-21?

3 A.I did not know about those vehicles.

4 Q.What was the condition of those vehicles? Were they  
5 fully-covered vehicles or could you see the back of the vehicles?  
6 Did you see any people there?

7 A.I only heard the sounds of the vehicles but I did not go  
8 closer to those vehicles.

9 Q.When the vehicles arrived did the vehicles have to stop at  
10 your location before they were permitted to enter the compound?

11 A.The vehicles were driving on another road, not on the road  
12 where I stood guard.

13 Q.During the time that you stood guard, could you estimate how  
14 many vehicles entering S-21 and what was the frequency of those  
15 vehicles?

16 A.I didn't know it clearly. Once in a while I heard the sound  
17 of the vehicles entering the compound. I think it was every  
18 three or four days.

19 Q.Did you only hear the sound of the vehicles or did you see the  
20 vehicles with your own eyes?

21 A.I only heard the sound of the vehicles.

22 Q.Did you ever see any vehicles leaving S-21 compound?

23 A.I did not know about the vehicle exiting S-21. It might have  
24 left at nighttime or at a different time when I did not stand  
25 guard.

14

1 [09.39.32]

2 Q.During the time that you worked as a guard outside, were you  
3 ever assigned to be with another group to make arrest of the  
4 people outside and brought them to S-21?

5 A.No.

6 Q.During the time that you stood guard, did you ever see any  
7 other people walk the prisoners?

8 A.No, I did not.

9 Q.Did you ever see any foreign prisoners; for example, white  
10 complexion with brown hair and large builds?

11 A.No, I did not see any of them. When I stood guard outside, I  
12 saw one foreign prisoner being walked. I did not know the  
13 nationality of that person.

14 Q.You saw one prisoner being walked, when was that?

15 A.I did not know when it was.

16 Q.I just want to know whether the person was being walked in the  
17 morning, at lunch, at noon time, or in the evening? Can you tell  
18 us?

19 A.It was around six p.m.

20 [09.41.49]

21 Q.How far were you when you saw that prisoner being walked?

22 A.I could not estimate; the distance was pretty far.

23 Q.How many blocks were you away?

24 A.At that time, there were no houses next to each other. There  
25 was only sporadic houses here and there.

15

1 Q.How many prisoners who were being walked when you saw them?

2 A.Three prisoners were being walked.

3 Q.How many prisoners?

4 A.There was only one prisoner.

5 Q.What happened to that prisoner?

6 A.I did not actually see the prisoner being walked in detail. I  
7 only had a glimpse while he was -- while that person was being  
8 walked.

9 Q.Was the prisoner handcuffed and blindfolded?

10 A.I did not notice that.

11 [09.43.38]

12 Q.Which direction to the prisoner was being walked?

13 A.I did not know from which direction the prisoner was being  
14 walked. I only saw him being walked while I stood guard.

15 Q.Was it to the north or south side of the location where you  
16 stood guard?

17 A.The prisoner was being walked toward the south direction from  
18 the location where I stood guard.

19 Q. At that time, were you standing on guard or did you patrol?

20 A.I was patrolling up and down.

21 Q.What happened next to that prisoner?

22 A.I did not know.

23 Q.The three people who walked that prisoner, did you see them  
24 carry any car tyres?

25 A.Only after I returned I saw them placing the car tyres onto

16

1 the body of that prisoner.

2 [09.45.20]

3 Q.You just stated that the prisoner was being walked and the  
4 question is, did the people who walked that prisoner carry any  
5 car tyres?

6 A.They did not carry any car tyres when they walked that  
7 prisoner.

8 Q.Did you see the prisoner being asked to sit?

9 A.Yes, he was asked to sit.

10 Q.What happened next, after he was asked to sit?

11 A.They put the car tyres onto his body through his head.

12 Q.So, at that time, the prisoner was still alive while he was  
13 ordered to sit. Is this correct?

14 A.Yes, the prisoner was alive.

15 Q.How many car tyres did they insert onto his body, through his  
16 head. Is that correct?

17 A.Yes.

18 [09.46.57]

19 Q.How many car tyres?

20 A.I was not sure how many of the car tyres were inserted onto  
21 the body of that prisoner.

22 Q.When the car tires were being inserted onto the body of that  
23 prisoner, were the three people who walked him present at the  
24 same time -- at that time?

25 A.Later they all left. And they burned that person.

17

1 Q.Did they carry any gun?

2 A.They did not carry any gun.

3 Q.Among the three people, who actually lit the car tyres?

4 A.All the three of them.

5 Q.What else did you observe after the car tyres were being lit  
6 and they were burning? What happened to that prisoner?

7 A.I did not look. I only saw the car tyres were burning.

8 Q.How long did it take for the car tyres to completely burn?

9 A.I was not sure because then the shift ended.

10 [09.49.25]

11 Q.How many hours did it take for those car tyres to burn off?

12 A.I did not know how many hours. I did not have a watch to look  
13 at at the time.

14 Q.What was your guarding hours at that time?

15 A.From 6 to 12.

16 Q.You mean 6 p.m. to 12 a.m.? And when you saw the prisoner was  
17 being walked, it was almost dusk. So during the six hours of  
18 your shift, did you observe the incident through the whole shift?

19 A.At that time the car tyres were still burning, but then the  
20 shift ended.

21 Q.When your shift ended, what else did you see? Did you see the  
22 prisoner was burned -- half of the body was burned off or what?

23 A.During the time that I stood guard, the body -- the car tyres  
24 were still burning. I think probably everything was burned off  
25 during the next shift.

18

1 Q.What was your next shift on the next day?

2 A.I started again from 6 p.m.

3 [09.51.17]

4 Q.Did you look at the direction where the prisoner was burned;  
5 any remnants or the leftover of the body of the prisoner?

6 A.Yes, I did saw some remaining there.

7 Q.What remainings were left?

8 A.I saw the black torso and also the black burnt legs.

9 Q.So they did not use more car tyres to burn the body  
10 completely?

11 A.No, they did not use any other tyres.

12 Q.You said there were remainings, that was the black torso and  
13 the burnt legs, and you said the body was burnt away. Was the  
14 body completely burnt to ashes or the remains were still there?

15 A.At that time, they burnt off the body but the body was not  
16 completely burnt because they did not use extra car tyres to burn  
17 the body completely off. There were some remainings of the body.

18 Q.So next day, during your shift, you still saw the remainings  
19 of the body of that prisoner. Is that correct?

20 A.Yes.

21 [09.53.18]

22 Q.So then you continued for six hours during your guard shift.  
23 Was the remains of the body removed or was it still there when  
24 your shift ended?

25 A.The remains of the body were still there. Nobody touched it.

19

1 Q.Until your shift ended at 12 a.m., the remains of the body  
2 were still there. Is this correct?

3 A.At the location where I guarded, the remains of the body were  
4 still there. Nobody took it away.

5 Q.Until when did you not see the remains; how many days after  
6 that?

7 A.I did not know. Later on, it disappeared.

8 Q.Can you estimate how many more days or how many shifts of the  
9 guard duty did you do before the body was removed?

10 A.I did not look into that location later on when I was on duty.

11 Q.You saw that incident. Did any of your work colleagues see  
12 that incident as well?

13 A.In my group, we talked to each other that a body was being  
14 burned away.

15 [09.55.29]

16 Q.Did you clearly see the three people who took that prisoner to  
17 be burned away? Did you know which group they belonged to, or  
18 did you know any of the three people?

19 A.I did not know them and I did not know which group they  
20 belonged to.

21 Q.Did you know that S-21 staff were arrested and detained at  
22 S-21?

23 A.I did not know that.

24 Q.You just said then that Hong, your group chief who already  
25 died, was he arrested or what?

20

1 A.He was arrested. He was arrested and detained at S-21.

2 Q.Hong, your group chief, did he also stay at that house where  
3 you stayed?

4 A.Yes. We stayed together.

5 Q.When your group chief was arrested, when was that and how was  
6 the arrest conducted? Did they use blankets to cover his body?

7 A.No, there was no blanket. He was arrested on the pretext that  
8 he was asked to attend a meeting to get the assignment for his  
9 duty.

10 [09.57.30]

11 Q.Did you know the reason for the arrest of Hong? What mistakes  
12 did he make?

13 A.I did not know.

14 Q.Was it not because he nod off while he was on that duty?

15 A.No, I did not know what mistake he made.

16 Q.So he was asked to attend a meeting and when was that?

17 A.I did not really know the details. I think it was in the  
18 evening. I just cannot tell you the exact time.

19 Q.Can you recall who came to call Hong to go to attend the  
20 meeting? Was the person also a member of your group or was the  
21 person coming from another group?

22 A.The person came from another group from the inside of the  
23 compound.

24 [09.58.56]

25 Q.How many people actually came?

21

1 A. There were three of them.

2 Q. What exactly did they tell Hong? For example, under whose  
3 instructions that he was required to go and attend a meeting?  
4 What did you hear?

5 A. I forget. I cannot recall what was said to him at the time.

6 Q. When the three of them came to tell Hong did Hong immediately  
7 go with them or he went in the next morning?

8 A. He left immediately.

9 Q. Did they walk him off or was he transported?

10 A. All of them walked.

11 Q. Did you see him return?

12 A. No, I didn't. I thought that he would have died.

13 Q. Who told you about this, that he died?

14 A. Hong's brother told me.

15 [10.00.50]

16 Q. What was the name of Hong's brother?

17 Could you please reminded to wait until you see the red light  
18 before you respond? Can you tell us again what was the name of  
19 Hong's brother?

20 A. He was Khieu Peou.

21 Q. Was he an inside guard?

22 A. Yes, he was. He worked with his brother.

23 Q. Did you ever ask Hong's brother whether he could be taken to  
24 be interrogated?

25 A. No, I didn't.

22

1 Q. Did you know where Hong was detained?

2 A. No, I didn't.

3 Q. Did you know where Hong would be taken to, because he  
4 disappeared?

5 A. No, I have no idea.

6 [10.03.04]

7 Q. Did you ever see any female detainee being walked by guards,  
8 from inside out or from outside in, to S-21?

9 A. No, I have never seen that.

10 Q. Had you ever been told that inside the compound there were  
11 some individual cells and that detainees would be given meals or  
12 not or whether they had a wash? You know that?

13 A. No, I don't.

14 Q. You worked outside. How long had you been assigned to guard  
15 outside before you were reassigned?

16 A. I don't remember. It was almost the time when Yuon or the  
17 Vietnamese approached, then I was sent to the rice fields.

18 Q. So you had worked as the outside guard until the day you were  
19 sent to the rice field. Is that correct?

20 A. Yes, it is.

21 Q. During the time when you worked at that location had you ever  
22 been sent to attend any trainings, political sessions for example  
23 or any other trainings in which instructions on how to guard  
24 would be lectured?

25 A. Actually, we did not attend such any formal meetings or

23

1 sessions. We were told from one another how to be a good guard.

2 [10.05.30]

3 Q.Did you attend political sessions?

4 A.No, I didn't because I did not write or read so there was no  
5 point I was invited to attend such sessions.

6 Q.Among the 12 people in your group was there anyone ever called  
7 to attend such political sessions?

8 A.I never saw anyone going to attend such political sessions.

9 None of the colleagues in my group ever attended such sessions.  
10 I don't know what happened to the other groups.

11 Q.Had you ever paid a visit into the inner part of the S-21  
12 compound?

13 A.No, I hadn't.

14 Q.Did you know back then that the Vietnamese prisoners of war  
15 were being detained inside the S-21?

16 A.No, I have no idea and I didn't know about that.

17 [10.07.12]

18 Q.Do you know that detainees were taken to be interrogated and  
19 that tortures were used? Had you ever heard any conversations  
20 among your colleagues about these issues?

21 A.No, I had never heard anyone of us who share such  
22 conversation. ...

23 Q.When exactly were you sent to the rice field?

24 A.I don't remember the date.

25 Q.Can you give us an approximate figure, for example, how many

24

1 months before the 7th of January 1979.

2 A.No, I don't. At that time we did not know the date. We were  
3 focusing only on our work, that's all.

4 Q.Did you also learn that detainees would be taken to be  
5 executed at Choeung Ek?

6 A.No.

7 [10.08.56]

8 JUDGE YA SOKHAN:

9 Mr. President, I have no further questions to put to this  
10 witness.

11 MR. PRESIDENT:

12 Judges of the Bench, would you wish to put further questions?

13 Judge Lavergne, you take the floor.

14 BY JUDGE LAVERGNE:

15 Q.Could you remind us how old you were when you arrived in S-21?

16 A.I don't remember, Your Honour.

17 Q.How long did you work as a guard in S-21?

18 A.I forget already.

19 Q.Where were you on the 7th of January 1979 when the Vietnamese  
20 arrived or entered Phnom Penh?

21 A.I ran home to my home town.

22 Q.Before you ran away, where were you? Were you in S-21 or were  
23 you somewhere else?

24 A.I was at rice fields.

25 [10.11.15]

25

1 Q.For how long had you been at the rice fields?

2 A.I don't remember.

3 Q.And what rice field was this one?

4 A.It was at Prey Sar.

5 Q.Where you there to be re-educated or were you there just to  
6 cultivate the soil? Who sent you there?

7 A.I was there to temper myself and to cultivate rice, but I  
8 don't remember who sent me there.

9 Q.Had you done anything wrong in particular that justified your  
10 being sent to Prey Sar?

11 A.The whole group was removed and sent to work at the rice  
12 fields.

13 Q.Were you interviewed by the Co-Investigating Judges? I  
14 believe you were, and I think this was the document number D22/12  
15 of the case file which we have mentioned before. And in your  
16 interview, you mention the fear that you felt on several  
17 occasions as well as the discipline under which the guards  
18 worked. I would like you to tell us a little bit more about the  
19 fear you felt. What were you afraid of exactly when you were in  
20 S-21?

21 [10.13.58]

22 A.I would not like to respond to this question, please.

23 Q.Can you tell us whether you are still afraid today; when you  
24 think of S-21 are you still frightened?

25 A.No, I'm not feeling any frightened.

26

1 Q.And today, are you afraid of the accused?

2 A.No, I'm not.

3 Q.Are you afraid of the judges?

4 A.Yes, I am a little bit afraid of the judges.

5 Q.I believe you have had the opportunity to meet with your  
6 lawyer, who explained a number of things to you, including the  
7 fact that you may not answer questions that might incriminate  
8 you. But, I would say that apart from that you must answer and  
9 contribute to the ascertainment of the truth. So what can you  
10 tell us about the discipline and the instructions that you  
11 followed?

12 [10.15.56]

13 Was it easy to be a guard in S-21 or was it difficult?

14 A.It was difficult because we were frightened and we had to work  
15 hard to guard the compound.

16 Q.Did you have any contact with the outside world, or were you  
17 completely shut in and only spent time amongst yourselves? Did  
18 you have any contact with your family and friends? Did you have  
19 any opportunity to go to Phnom Penh?

20 A.Could you please repeat your question, Your Honour?

21 Q.Did you have any contact with your family during the time when  
22 you were in S-21?

23 A.No, I didn't.

24 Q.What can you tell us about Duch? Did you participate in  
25 training sessions with him?

27

1 A.No, I did not participate in any training sessions with him.  
2 There were other people who participated in such sessions with  
3 him.

4 Q.And did you know what Duch said during these training  
5 sessions?

6 A.No, I didn't know what Duch instructed the trainees because I  
7 never attended such session.

8 Q.During your interview by the Co-Investigating Judges, that is  
9 the Co-Investigating Judges' investigators, you said this,  
10 amongst other things -- I'm referring to page 12 of the French,  
11 that is document number D22/12. ERN is 002162753. The following  
12 question is put to you:

13 "Q.Were you afraid?"

14 And you answer:

15 [10.19.14]

16 "A.I was afraid all the time. I tried to avoid falling asleep  
17 during guard duty. If we fell asleep we were sure to die.

18 Q.You say that you did not see people being killed, so why were  
19 you afraid?

20 A.I was afraid because I did not know whether I was making  
21 mistakes. I was afraid of being arrested like the others.

22 Q.Did you receive warnings or threats?

23 A.It was said that Duch had set up a plan so that if an enemy  
24 were to escape you would be arrested and imprisoned within a  
25 minute."

28

1 Do you recall saying that?

2 A.Yes, I do, although I feel like I'm not sure whether I have  
3 remembered this portion.

4 Q.How many times did you come across or run into Duch? Did you  
5 know what he did at S-21?

6 A.At S-21 he was the big boss, supervising or administering all  
7 the units at S-21.

8 [10.21.07]

9 Q.You also said that everyone was very frightened of Duch. Is  
10 that true?

11 A.Yes, it is.

12 Q.So today can you tell us why you are no longer frightened of  
13 Duch and you are more frightened of the judges instead?

14 A.I would like to also apologize that I said this because I was  
15 afraid I would make any wrong statement in the Court.

16 JUDGE LAVERGNE:

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

18 MR. PRESIDENT:

19 Next we would like to give the floor to the Co-Prosecutors to put  
20 questions to the witness. You take the floor.

21 MR. YET CHAKRIYA:

22 Thank you, Mr. President.

23 QUESTIONING BY THE CO-PROSECUTORS

24 BY MR. YET CHAKRIYA:

25 Q.Mr. Cheam Sour, you stated that before 1975 you joined the

29

1 chhlop, or militia. How old were you back then?

2 A.I was 12 years old.

3 [10.23.11]

4 Q.What was your task at that time, being the chhlop?

5 A.I was asked or assigned to ambush the Lon Nol soldiers.

6 Q.Were you armed?

7 A.Yes, I was.

8 Q.What kind of weapon were you equipped with?

9 A.It was a kind of weapon in Khmer we call pram bei nat.

10 Q.Did you ever run into the soldiers of Lon Nol or fought with  
11 them?

12 A.Yes, I did.

13 Q.So you claimed that you were 12 years old and you were  
14 equipped with arms to fight the Lon Nol soldiers. Is that  
15 correct? And you said that after 1975 you were trained on  
16 military techniques. At that time did you receive any  
17 instruction as what kind of -- why you were trained such military  
18 techniques?

19 A.Could you please repeat your question, Mr. Prosecutor?

20 [10.24.52]

21 Q.After the fall of Phnom Penh you were trained on military  
22 techniques. Were you told of any purposes of such trainings?

23 A.I was told that we had to fight the Vietnamese, or Yuon.

24 Q.Had you ever fought the Yuon, the Vietnamese?

25 A.No, I had not.

30

1 Q.When you had meals together in a group did you ever see  
2 children?

3 A.No, I didn't see any children.

4 Q.At S-21 did you participate in the self-criticism meetings in  
5 each group?

6 A.Yes, I did. We attended self-criticism meetings in order to  
7 criticize ourselves and to build up ourselves to protect the  
8 compound, not to let detainees escape.

9 Q.How often was the meeting of self-criticism convened?

10 A.Sometimes once a week, sometimes once after three days.

11 Q.Who led such meetings?

12 A.The chief of the unit was in charge but I don't remember the  
13 name of that person.

14 [10.27.04]

15 Q.When you were on guard at S-21 did you ever hear any cries or  
16 screamings from the detainees?

17 A.I heard some kind of screamings but probably not from the  
18 cries of the people. I heard some kind of cries, but I believe  
19 that it could have been the cries or the screamings of the people  
20 but I was a little bit far from the compound.

21 Q.What kind of screams do you believe would it be?

22 A.I think that would have been the screams of the people who  
23 suffered some kind of pains or tortures.

24 MR. YET CHAKRIYA:

25 Mr. President, I have no further questions. I would like to

31

1 share the floor with my co-colleague.

2 MR. AHMED:

3 Mr. President, I have a very few number of questions for this

4 witness.

5 [10.28.27]

6 BY MR. AHMED:

7 Q.Were you ever disciplined for any mistake that you committed

8 during the time that you were at S-21?

9 A.No, I was not. Sorry, could you please repeat your question?

10 The discipline here refers to the discipline among our guards or

11 discipline in relation to the detainees?

12 Q.Your chief, Hong, was arrested for a mistake that was

13 committed. Were you told that you had committed a mistake and

14 that you should not committed any further or were you ever

15 punished for any mistake that you committed yourself?

16 A.I was instructed -- so I was instructed to reconstruct myself

17 and ourselves.

18 Q.What was the mistake you had committed for which you were

19 instructed?

20 A.Actually, I did not make much mistake. Actually, we were

21 instructed that if we made a small mistake not to repeat it.

22 Q.Just as you saw one foreigner being burned to death, did you

23 see any other bodies being buried around the boundary where you

24 were guarding?

25 A.No, I did not see that.

32

1 Q.This kind of question has been asked to you before, but did  
2 you ever see the accused during the time you were at S-21 during  
3 those two and a half years that you were a guard?

4 A.Could you please repeat your question? I did not hear it  
5 properly.

6 [10.31.01]

7 Q.Did you see the accused during the time you were a guard at  
8 S-21?

9 A.No, I never saw him. I only stayed at my place.

10 MR. PRESIDENT:

11 The counsel for the witness you may proceed.

12 MR. KONG SAM ONN:

13 Thank you, Mr. President.

14 I would like the Co-Prosecutor to make it clear when you talk  
15 about "the accused" I think the witness is confused. "The  
16 accused" here probably he refers to the prisoners who were  
17 detained during that time.

18 MR. PRESIDENT:

19 The Co-Prosecutor, you may continue.

20 BY MR. AHMED:

21 Q.Did you see Duch during the time you were a guard at S-21?

22 A.Yes, I saw him. I saw him and I knew him.

23 [10.32.32]

24 Q.Where did you see him in S-21?

25 A.I saw him at the location where I worked. I did not go

33

1 inside. I only saw him outside only at the location where I  
2 worked.

3 Q.What was Duch doing when you saw him at the location where you  
4 worked?

5 A.When I saw him, he was coming out to look at the rice, at the  
6 kitchen.

7 Q.Was he instructing people to do something or not to do  
8 something?

9 A.I did not know whether he gave instructions to other people.  
10 I did not bear to stay there long.

11 MR. AHMED:

12 Mr. President, with your permission, can I request the projection  
13 of a picture, P00005247, and then I'll ask my question?

14 MR. PRESIDENT:

15 The AV official, can you project the photo with the said ERN  
16 number as requested by the Co-Prosecutor?

17 BY MR. AHMED:

18 Q.Mr. Cheam Sour, can you see this picture and can you remember  
19 if the dining hall where you had your meals was similar to this?

20 [10.34.48]

21 A.No, I did not recognize this.

22 Q.Can you see the picture of the person standing on the extreme  
23 left-hand side and can you remember that person?

24 A.It is not really very clear to me, so I cannot identify the  
25 person.

34

1 MR. AHMED:

2 Can the AV Unit please focus it on the person standing on the  
3 left-hand side corner of this picture?

4 Your Honour, it may be connected to the OCP computer which has it  
5 projected very properly?

6 BY MR. AHMED:

7 Q.Mr. Cheam Sour, can you now identify the person on the extreme  
8 left-hand side of this picture?

9 A.I could not recognize the person who look down, but the other  
10 person, that's the photo of Duch.

11 Q.And when you saw Duch, was he in the dining hall when he was  
12 instructing people about the rice?

13 A.I do not really know the location in this photo. It could be  
14 the location inside his workplace?

15 [10.37.06]

16 MR. AHMED:

17 Your Honours, just last two questions on a different matter.

18 BY MR. AHMED:

19 Q.Mr. Cheam Sour, when you were guarding were you guarding an  
20 entrance to the S-21 or was it a boundary?

21 MR. PRESIDENT:

22 The AV officer, you can remove the photo and only show the normal  
23 courtroom.

24 Mr. Witness, you can now respond to the Co-Prosecutor's question.

25 BY MR. AHMED:

35

1 Q.My question, Mr. Cheam Sour, was when you were guarding S-21,  
2 was it an entrance to S-21 or you were just guarding a boundary,  
3 a wall?

4 A.I stood guard the outside of the compound. Actually, I was  
5 guarding the outer perimeter of S-21.

6 Q.Was it a zinc wall?

7 A.I was guarding outside the zinc fence.

8 MR. AHMED:

9 Your Honours, I have no further questions for this witness.

10 MR. PRESIDENT:

11 Now it is time for a break. The Chamber will take 20 minutes  
12 break and we will resume at 11 a.m.

13 Court officer, can you provide necessary refreshment to the  
14 witness and bring him back at said time?

15 THE GREFFIER:

16 All rise.

17 (Judges exit courtroom)

18 (Court recesses from 1039H to 1101H)

19 (Judges enter courtroom)

20 MR. PRESIDENT:

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

22 We would like now to give the floor to the civil party lawyers to  
23 put questions to the witness.

24 Civil party lawyers have got 40 minutes to put questions to the  
25 witness. The floor is yours.

36

1 MS. TRUSSES-NAPROUS:

2 Thank you, Mr. President, to give us the floor, and I will speak  
3 first; first of all on behalf of group 3 and, afterwards, I will  
4 speak on behalf of the civil party lawyer of group number 4 will  
5 take the floor to continue putting questions to the witness.

6 [11.02.16]

7 QUESTIONING BY CIVIL PARTY COUNSEL

8 BY MS. TRUSSES-NAPROUS:

9 Q.So I would like as a first question to put to the witness --  
10 first of all, I would like to greet you, Mr. Cheam Sour, and I  
11 thank you for your presence here, and I know that this is  
12 probably a very difficult moment for you.  
13 You stated to the investigators that when you joined the Pol Pot  
14 army in 1973, you were forced by your teacher, apparently. So  
15 can you please give us the details about how you joined Pol Pot's  
16 army? Was this -- did you do so wilfully or were you forced to  
17 join Pol Pot's army?

18 A.I was forced to join the army.

19 Q.Can you please give us details on the way that this happened?

20 A.Could you please repeat the question?

21 Q.Can you please provide us with a few details regarding how  
22 this happened? How did your school teacher bring you to join  
23 this army? Did you leave for the army without seeing your  
24 parents again? Could you please give us a few details about all  
25 of this?

37

1 A.I was forced to join the Pol Pot army. I really missed my  
2 parents, but I did not dare escape or run home to see them  
3 because I had to work.

4 [11.05.25]

5 Q.Thank you, Mr. Cheam Sour.

6 So, later on, you underwent training, training for shooting and  
7 for removing mines, and you were told that this training was  
8 preparing you to fight against the Vietnamese. This is, again,  
9 what you said to the investigators.  
10 And can you please tell me which details they gave you about the  
11 conflict with the Vietnamese; what were you told about the  
12 Vietnamese?

13 A.During the training in which I learned how to remove mines and  
14 to shoot guns, we were instructed to be able to know how to fight  
15 the Vietnamese. But after the training we were not sent to fight  
16 the Vietnamese, but instead we were taken to work at S-21.

17 Q.Do you know if some of the people in your group went away to  
18 fight the Vietnamese?

19 A.Some of our people were segregated and they fought the  
20 Vietnamese while the other would be taken to work at S-21, like  
21 in my unit.

22 Q.There again, who was the enemy then?

23 A.We were asked to guard the Vietnamese enemies but I never saw  
24 any Vietnamese enemies. They were all Cambodians.

25 Q.Thank you very much. This is indeed what you said to the

38

1 investigators, and earlier on today you spoke about the  
2 conditions in which your work was taking place. You had to do  
3 rounds but you also were planting cassava, which was used to feed  
4 you. Was it only food for the guards or was this also food that  
5 you were planting for the prisoners as well? Do you know  
6 anything about this?

7 A.When we planted vegetables they were meant to feed the unit.  
8 [11.09.31]

9 Q.Thank you very much. Can you tell me if there was any kind of  
10 communication between the guards from the outer perimeter and  
11 with those of the inner perimeter? Can you please give us  
12 details about this?

13 A.People outside could not make any contact with the people  
14 inside.

15 Q.You said that you had seen trucks and that you knew that  
16 trucks were coming in to S-21. Did you ever wonder what was  
17 happening to the people inside these trucks? For you were they  
18 just transporting prisoners or were they transporting other  
19 things?

20 A.I saw the trucks but I don't know whether the trucks were  
21 transporting vegetables or people, but I believe that since the  
22 trucks were sealed or covered with curtains I believe there were  
23 people inside.

24 Q.So you believed that there were people inside because then you  
25 knew that you were guarding a prison. Is that so?

39

1 A.Yes, it is, because when I worked as a guard outside I was  
2 asked not to let any detainees escape from the compound.

3 Q.Thank you very much. You said earlier on today that you did  
4 not partake in any meetings with Duch, and here I have before me  
5 what you said to the investigators: Index D22/12, ERN 00162749  
6 in French, and I would please like to remind you of what you  
7 said. The following question was put to you:

8 [11.12.39]

9 "Q.When you were guarding the outside of the prison did somebody  
10 come to teach you politics?"

11 And then you answered:

12 "A.There was only Duch and Hor who would summon the guards for  
13 meetings and they were teaching us politics and they were giving  
14 us instructions regarding the enemy so that they wouldn't  
15 escape."

16 And the investigator put the following question to you:

17 "Q.Did you see Duch in person?"

18 And you answered:

19 "A.Yes, in each meeting.

20 Q.What did Duch say?

21 A.Well, he was speaking about the enemy. He said while on guard  
22 you should not fall asleep. You have to make efforts to build  
23 yourself. If you are not able to do so you would be sent to  
24 jail.

25 Q.Was anything else taught?

40

1 A.No. "

2 [11.13.39]

3 So can you confirm this statement?

4 A.I did not partake in that political sessions with Duch or Hor  
5 but Peng did instruct on us the political affairs which is  
6 related to the rule that each detainee had to be contained in the  
7 building and that if anyone could escape then we would be in  
8 place of those who escaped.

9 Q.Thank you. Now I would like to get to the facts that you  
10 witnessed regarding the foreigner whom you saw being burnt alive.  
11 So I apologize for having to get back to this point which most  
12 certainly must be extremely painful for you, but it is suited to  
13 provide a few clarifications here.

14 You said to the Co-Investigating Judges that this event took  
15 place at around 11 o'clock in the morning and you said, however,  
16 today that it happened at 6 o'clock in the afternoon. So in  
17 order to try to have you remember exactly when these events  
18 occurred, could we consider recalling the moments when you were  
19 really on patrol, because I didn't quite understand earlier on  
20 today -- I understood, of course, that there was a difference  
21 between when you were guarding and you couldn't move and when you  
22 were patrolling.

23 And then you said that you were patrolling, however, when this  
24 event occurred. So can you tell us exactly what was the exact  
25 patrolling schedule, from what time to what time?

41

1 A.As I already said earlier on, I did not know the exact time  
2 because I did not have a watch to wear and I only checked with  
3 the sky to see what time it was, and the guards had to move  
4 around and they were not supposed to sit only in one fixed  
5 position.

6 [11.17.29]

7 Q.So how many metres did you cover while you were on patrol?  
8 What was the length of your round?

9 A.I had to patrol in a significant large area because I could  
10 see that the place where I stood to the place that I walked to  
11 was about 20 metres.

12 Q.You said earlier on today that you would use the sun as a  
13 landmark to know where you were. So where was the sun at the  
14 moment when this burning event occurred?

15 A.I'm not quite sure I can answer to this but, at that time, I  
16 could not remember the road but I know for sure that the road  
17 links to Tuol Tumpoung market. It was the road I was working on.

18 Q.You said that for you the prisoner who had tyres put on him  
19 was burnt alive. So what makes you say that he was burnt alive?

20 A.I saw him being walked first before he was put to sit down,  
21 and then car tyres would be put on him and then he was burned.  
22 And then I walked back.

23 [11.20.32]

24 Q.Did you hear any screams?

25 A.No, I didn't.

42

1 Q.I would like to know now, what did you feel after seeing this  
2 happen?

3 A.I did not feel anything, but I believed at that time I was  
4 rather sympathetic for the person who was being burned alive.  
5 Maybe he had committed something wrong or maybe he did not.

6 Q.Now, what do you feel when you think about this event?

7 A.I can feel that the person committed any wrongdoing would be  
8 burned alive, and I would also see that one day if I committed  
9 any wrongdoing I would experience the same fate.

10 MS. TRUSSES-NAPROUS:

11 Thank you very much, Mr. Cheam Sour. I have no further  
12 questions. So I will let the civil party lawyer of group 4 take  
13 the floor. Thank you.

14 [11.22.55]

15 MR. PRESIDENT:

16 Civil party lawyer group 4, you take the floor.

17 MR. KONG PISEY:

18 Thank you, Mr. President.

19 I'm Kong Pisey and I have a couple of questions to be put to the  
20 witness.

21 Good morning, Your Honours and good morning, Mr. Cheam Sour.

22 BY MR. KONG PISEY:

23 Q.I only have three questions which I need to seek clarification  
24 from you. The questions have already been put to you by the  
25 Judges, but I just need clarification.

43

1 You said that Chan brought you from your place. Do you remember  
2 whether Chan has any alias other than Chan?

3 A.No, I don't. I only learned that he was called Chan.

4 Q.Do you know whether that person earned any rank or status in  
5 S-21?

6 A.I believe that Chan and Peng were lower than Duch.

7 Q.You said that the chief of your unit was Hong who was arrested  
8 and detained at S-21. You said Khieu Peou who was the brother of  
9 Hong, and that he told you that Hong was arrested. So could you  
10 tell the Court how he told you about that event?

11 [11.25.22]

12 A.I don't think I understand your question. Could you please  
13 repeat?

14 Q.You said Hong was your chief of the unit, and that Hong was  
15 arrested and detained at S-21 inside the compound. Hong had a  
16 brother named Khieu Peou, and Khieu Peou saw his brother being  
17 detained there, and Peou told you about this -- Hong told you  
18 about this. So could you please tell the Court how could you  
19 learn of this information?

20 A.Hong, who was in charge of my unit before he was arrested, he  
21 instructed us to be ourselves and not to be like him, and we had  
22 to be vigilant and firm. And after I shared my conversation with  
23 Khieu Peou, then Khieu Peou told me that Hong, who was his  
24 brother, was not taken to be re-educated but to be detained in  
25 the prison. He was jailed.

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1 Q.Thank you. The next question.

2 Do you know what happened to Khieu Peou, the brother of Hong?

3 Was he arrested?

4 A.No, he wasn't because I don't know -- because I think Peou did  
5 not tell anyone that Hong was his brother, otherwise, he would  
6 have been jailed because the Khmer Rouge slogan reads that to dig  
7 grass you have to root it out. Something like that. So I think  
8 in that time if anyone implicated then the rest would be  
9 arrested.

10 Q.Thank you. My apologies. So later on when you had meals at  
11 your place did you ever see Khieu Peou?

12 A.No, I never saw him again. It was the last time when I saw  
13 him when he told me that his brother was jailed.

14 Q.Thank you. The next question is about the tempering at Prey  
15 Sar. You said you went there in a group. So do you know what  
16 mistake had the group committed before they were sent there?

17 A.I don't know. Angkar was the one who sent us there. We were  
18 told that the whole group would be removed to work at the rice  
19 fields and no charges were ever told to us.

20 [11.29.52]

21 Q.When you worked at Prey Sar -- and the reason why you were  
22 removed, were you told of the charges?

23 A.At Prey Sar I was told that I had nothing to do but to build  
24 dikes and grow rice.

25 Q.When you worked at the rice fields were you guarded by anybody

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1 else?

2 A. Could you please repeat your question?

3 Q. When you went to work in the rice field were there any guards  
4 supervising your group?

5 A. Yes, only us. We guarded our team and nobody else guarded us.

6 Q. You said you guarded your group. Do you mean that you  
7 yourself and the members of the group took turns to guard the  
8 group?

9 A. Yes, we guarded ourselves at the place where we slept. We  
10 also guarded the tools that we use, also the kitchen utensils.

11 [11.31.53]

12 Q. When you stay at night where did you stay?

13 A. We stay in a shelter, which was made from tree leaves and  
14 branches, near the rice fields.

15 Q. So in the room where you slept were you locked from the  
16 outside and were you guarded?

17 A. Could you please repeat your question?

18 Q. At the house or the shelter where you stay at night were you  
19 locked from the outside and were there any guards?

20 A. There was no lock. Actually the house or the shelter there  
21 was no wall. We slept on the hammock under that shelter.

22 MR. KONG PISEY:

23 Mr. President, I do not have anymore questions for this witness.

24 MR. PRESIDENT:

25 Next I would like to give the floor to the defence counsel to put

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1 questions to this witness.

2 MR. KAR SAVUTH:

3 Thank you, Mr. President, Your Honours. Good morning ladies and  
4 gentlemen.

5 QUESTIONING BY DEFENCE COUNSEL

6 [11.33.24]

7 BY MR. KAR SAVUTH:

8 Q.Mr. Sour, at S-21 where you worked did you ever know any  
9 senior leadership who had the rights to issue orders to Duch or  
10 to S-21?

11 A.Regarding the top level above Duch, I didn't know. I did not  
12 know from whom he received his orders.

13 Q.Thank you. Regarding the time that you worked at S-21 did you  
14 ever see or hear that Duch tortured or killed any prisoner?

15 A.Only after they received permission from Duch, then the  
16 prisoners were killed.

17 Q.Thank you. I would like to state that you worked as a guard  
18 there. Did you ever see or hear people say Duch tortured or  
19 killed any prisoner?

20 A.The law is in the hand of Duch and he issued orders to his  
21 subordinates. I did not know from whom he received his orders.  
22 He issued orders to his subordinates to torture or kill the  
23 prisoners but I myself never saw him torture or kill any  
24 prisoner. Whenever he issued his order, day or night, it had to  
25 be implemented.

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1 Q.Thank you for saying that you never saw Duch kill any prisoner  
2 with your own eyes.

3 [11.35.48]

4 Also at S-21 you were assigned to stand guard to prevent  
5 prisoners from fleeing. Were you satisfied with your work?

6 A.I was satisfied with my work to stand guard because I had to  
7 fulfill my work to reconstruct myself in order to survive. If I  
8 did not reconstruct myself, then I would not be survived.

9 Q.Thank you. So you were happy with your work as you were  
10 assigned from the upper echelon.

11 MR. KAR SAVUTH:

12 Thank you, Mr. President. I would like my co-counsel to ask  
13 questions.

14 MR. PRESIDENT:

15 François Roux, you may proceed.

16 MR. ROUX:

17 Thank you, Mr. President.

18 BY MR. ROUX:

19 Q.Good morning, witness. I am the second lawyer for the  
20 accused, Duch, and I shall put a number of questions to you, not  
21 very many.

22 Did you know Him Huy?

23 A.I did not know Huy. Huy worked inside the compound. He was  
24 with the transportation unit. He transported those prisoners to  
25 be killed. I only met him during this regime.

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1 Q.You say that you met him afterwards. Where was this?

2 A.I met him during the interview at Tuol Sleng.

3 Q.What visit are you referring to, witness?

4 A.I met and knew Huy only later on when we were called for the  
5 interview but during that period I did not meet him or know him.

6 Only later on that during that interview then I learnt that he  
7 was the person transporting the prisoners to be killed at Wat Ek.

8 [11.39.53]

9 Q.Thank you for the clarification. I would like to return to  
10 your work in S-21 when you were on patrol.

11 A.(Microphone not activated)

12 Q.You wanted to say something but you have to have your  
13 microphone on. Please go on.

14 A.I do not wish to talk any more.

15 MR. PRESIDENT:

16 The counsel for the witness, you may proceed.

17 MR. KONG SAM ONN:

18 Mr. President, I would like to consult with my client.

19 MR. PRESIDENT:

20 You may proceed.

21 The counsel for the witness, you may proceed.

22 MR. KONG SAM ONN:

23 Thank you, Mr. President. The witness cannot actually follow the  
24 interpretation because of his feeling. Please speak slowly and

25 the question shall be short so that he can understand and can

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1 respond accordingly.

2 [11.42.55]

3 MR. PRESIDENT:

4 Mr. Witness, please compose yourself, listen clearly to the  
5 question and if you are not sure you can ask for clarification as  
6 you did this morning. So the best thing for you is to request  
7 the speaker to put the question to you again. What you know you  
8 say what you know, and if you don't know you just respond  
9 accordingly. This morning you have performed very well and I  
10 hope you can continue until the end of your testimony.

11 The defence counsel, you may proceed and please understand the  
12 limited knowledge of this witness. Try to make your questions  
13 easy to understand so that he can respond appropriately.

14 François Roux, you may continue.

15 MR. ROUX:

16 Thank you, Mr. President.

17 BY MR. ROUX:

18 Q.Witness, we are going to continue with short questions. When  
19 you were on patrol in S-21 were you alone, were you in pairs or  
20 in threes? Do you understand my question? When you were on  
21 patrol were you alone, were you with another guard near you?

22 A.Usually on patrol we worked in pair or sometimes three persons  
23 according to the shift.

24 Q.Thank you. When you saw the event during which the foreigner  
25 was burnt to death were you alone or were there other guards with

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1 you?

2 [11.46.00]

3 THE INTERPRETER:

4 The interpreter cannot listen to what the witness said.

5 MR. PRESIDENT:

6 The defence counsel, please ask your question again because he  
7 does not understand it.

8 BY MR. ROUX:

9 Q.Witness, when you saw the event that you described to us, the  
10 event involving the foreigner, were you alone on patrol or did  
11 you have one or two guards with you?

12 A.At that time I was patrolling with other guards.

13 Q.Do you remember what the other guard was called?

14 A.It has been so long already I cannot recall the name.

15 Q.You said that you were not wearing watch but I would like you  
16 to recall for us what your shift hours were, because I did not  
17 understand a while ago -- it may have been a translation problem.  
18 So the question is what time was your shift on that day; that is,  
19 from what time to what time?

20 A.My shift started from 6 p.m. until 12 a.m.

21 Q.That is very precise. Thank you very much.

22 [11.49.28]

23 You said that you did not see the end of the scene you witnessed  
24 because this was when you ended your shift. Is that correct?

25 A.That is correct because my shift ended.

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1 Q.So I might take it that this event occurred at night. Is that  
2 correct?

3 A.The burning started around 6 p.m. and, like I said, when I  
4 ended my shift the burning was still continuing.

5 Q.All right. So you witnessed this scene at the beginning of  
6 your shift. Is that correct?

7 A.That is correct. I saw the prisoner being walked and later on  
8 he was burned. That was at the beginning of my shift.

9 Q.Thank you.

10 You said a while ago that it was around the road leading to Tuol  
11 Tompong. Is that correct?

12 A.That is correct.

13 Q.Is that what is referred to as the national road?

14 A.At that time I did not know what it was referred to. It was  
15 the road leading to Tuol Tompong.

16 [11.52.42]

17 Q.And you said a while ago to the civil party lawyer that you  
18 were some 20 metres away from where the event was taking place.

19 Is that correct?

20 A.That is correct.

21 Q.You also told the civil party lawyer that you did not hear any  
22 shouting. Is that correct?

23 A.That is correct.

24 Q.Thank you, Mr. Witness.

25 MR. ROUX:

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1 I have no further questions, Mr. President.

2 MR. PRESIDENT:

3 The Chamber would like now to give the opportunity to the accused  
4 to make his observations regarding the testimony of this witness  
5 if the accused wishes to do so.

6 THE ACCUSED:

7 Mr. President, I have been waiting for this witness in order to  
8 respond to the complaint by A Mil, the civil party, because I am  
9 still not clear on certain things.

10 [11.54.59]

11 My order was for the subordinates to burn dead bodies but later  
12 on it was heard that the prisoner was burned alive. And during  
13 the questioning in the Chamber, especially in the testimony of  
14 Comrade Huy, it seems to be clearer than the rest because he and  
15 his group was responsible for smashing but he did not describe in  
16 details. Probably he was afraid of self-incriminate.

17 And regarding whether the prisoner was burned alive or not,  
18 Comrade Khan Said Soeu told him that if we want to make certain  
19 then we should go and ask Soeu -- that was what was said by Prak  
20 Khan. But Soeu during his testimony to this Chamber he said  
21 either Prak Khan or Mam Nai alias Chan were known to him only  
22 during the filming later on. And in responding to the question  
23 put by Mr. François Roux, he said he only knew Prak Khan later  
24 on.

25 So what he said regarding the burning alive of a prisoner seems

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1 to carry no weight. It is hard to believe what he said. So his  
2 testimony -- it is hard for me to believe that a prisoner was  
3 burned alive. I still believe the testimony of Comrade Huy  
4 because I still believe nobody dared to violate my order because  
5 it was absolute. They had to be killed and then they had to be  
6 burned to ashes, not to leave any remaining on that street.

7 MR. PRESIDENT:

8 The accused, you are reminded for your observations please  
9 address it to the Chamber and not address it to the witness.

10 THE ACCUSED:

11 I am speaking to the Chamber, Your Honour, although I looked into  
12 the other direction.

13 In conclusion, I still do not believe that my order was violated  
14 by Comrade Hor because as far as I know nobody dared to violate  
15 my order. The westerners, they came in pair, and at that time  
16 Nuon Chea said the long nosed prisoners should be taken out and I  
17 was ordered by him to burn them to ashes and not to leave any  
18 remaining behind. And after I received the instruction I gave my  
19 instruction to Hor and both of them were burned at the same time,  
20 they were burned to ashes not leave any remaining on that road.

21 So I still believe the testimony of Comrade Huy and I still have  
22 a firm belief that nobody dared to violate my order. This is my  
23 observation, Mr. President.

24 [11.59.27]

25 MR. PRESIDENT:

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1 Thank you, Mr. Witness Cheam Sour, for coming to provide your  
2 testimony to the Chamber as summonsed by us and the hearing of  
3 your testimony has come to an end now. And indeed the Chamber  
4 acknowledges the challenges and difficulties that you faced in  
5 providing your testimony in responding to the several questions  
6 put to you by the Chamber and the parties to the proceedings.  
7 And another matter is that what happened has been more than 30  
8 years ago and only now we try to understand what happened and  
9 this gap has been so long that the recollection by anybody would  
10 not be perfect. And it is also based on the individual knowledge  
11 of understanding of the facts of the situation that happened at  
12 that time. With a limited knowledge or understanding then it  
13 would be difficult to describe those events after a long period  
14 of time, like in your case.

15 So you are now excused.

16 (Witness exits courtroom)

17 MR. PRESIDENT:

18 And the Court officer, you need to make necessary arrangements  
19 for the witness to return to his residence by working in  
20 cooperation with the WESU Unit.

21 For this afternoon the Chamber would like to inform the parties  
22 and the public that we will continue our proceeding starting from  
23 1.30 p.m.

24 [12.01.54]

25 And based on our scheduling of the trial, actually we planned to

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1 have one day to hear the testimony of this witness, however, the  
2 testimony ended earlier, therefore this afternoon the Chamber  
3 will continue to read the statements of five witnesses whom the  
4 Chamber decides not to have them to provide verbal testimony  
5 before the Chamber, and the Greffiers will read those  
6 testimonies. Those testimonies were made before the  
7 Co-Investigating Judges. We will continue reading those  
8 statements from yesterday and two more witnesses; that is Saom  
9 Samul and Chey Sopheara.  
10 Security guard, take the accused back to the detention facility  
11 and bring him back before one thirty this afternoon.

12 MR. PRESIDENT:

13 The hearing is now adjourned.

14 THE GREFFIER:

15 All rise.

16 (Judges exit courtroom)

17 (Court recesses from 1203H to 1332H)

18 (Judges enter courtroom)

19 MR. PRESIDENT:

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

21 In the next proceeding, we're going to hear the statement being  
22 read out by Mr. Duch Phary, the Greffier of the Trial Chamber,  
23 the statement of Nhep Hau, document with ERN 00162681 through 92.

24 THE GREFFIER:

25 [13.33.50]

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1 "The Office of Co-Investigating Judges, Criminal Case File Number  
2 001, 18 of July 2007; Investigation Number 001, 18 of July 2007,  
3 the year 2007, the month of October, the 19th day at 0915 hours  
4 in the morning at the Extraordinary Chambers in the Courts of  
5 Cambodia.  
6 We, Nguon Im, Christian Baudesson, investigators of the  
7 Extraordinary Chambers, having been assigned by rogatory letter  
8 of the Co-Investigating Judges dated the 5th of October 2007;  
9 noting the Law on the Establishment of the Extraordinary Chambers  
10 dated the 27th of October 2004; noting Rules 24, 28 and 60 of the  
11 Internal Rules of the Extraordinary Chambers; in the presence of  
12 Mr. Tann Heang Davann, sworn interpreter of the Extraordinary  
13 Chambers; have recorded the statement of Nhep Hau, a witness who  
14 provided the following information regarding his personal  
15 identity.  
16 First name, Hau; revolutionary name, Nhep Sovann; born in 1953 in  
17 the village of Sampan Kraom.  
18 This person declared that he could read, write and understand the  
19 Khmer language. This person declared that he could not read and  
20 write any other languages, therefore, the original of this  
21 written record is written in the Khmer language. We have advised  
22 this person that the taking of this statement is being audio- or  
23 video-recorded. This person told us that he had no relationship  
24 with the charged persons and civil parties. This person took an  
25 oath in accordance with the provisions of Rule 24 of the Internal

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1 Rules of the Extraordinary Chambers.

2 We notified this person of the right against self-incrimination

3 in accordance with the provisions of Rule 28 of the Internal

4 Rules of the Extraordinary Chambers.

5 Question and answer:

6 [13.36.41]

7 Q.I want you to briefly describe your history prior to 1970.

8 A.Prior to 1970, I studied at the Sampan Kraom school and when I  
9 reached class 8, seeing my parents in difficulty, I stopped my  
10 studies. I then helped my parents with work until 1970.

11 Q.And after the coup, what did you do?

12 A.Then we were united into groups within a farming co-operative.

13 Q.What did you do after that?

14 A.I worked until '74. In 1974, they forced me into Pol Pot's  
15 revolution. The subdistrict militia chased and surrounded me. I  
16 had fled to the east bank. Later they arrested me and put me in  
17 prison at Prek Tauch.

18 Q.How many years did they imprison you?

19 A.They imprisoned me for five months. Then my younger sibling,  
20 who was one of Ta Nat's soldiers, came to liberate me from prison  
21 and took me to Prey Sva Village, Kandal Steung.

22 Q.Your brother, your younger brother, had joined the army before  
23 you?

24 A. Yes.

25 [13.38.30]

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1 Q. What is your younger brother's name?

2 A. Nhep Peng.

3 Q. After you went with Nhep Peng, what unit were you in?

4 A. At first I was in the economics unit, Battalion 112, Regiment  
5 73, Division 12.

6 Q. Please continue.

7 A. In the Pol Pot era I worked in the 112th in the economics  
8 unit.

9 Q. Did you ever transfer to a different unit?

10 A. No, I was only in economics in the 112th.

11 Q. In what year did you come to serve at S-21?

12 A. March 1977. Van was the one who took me to work at S-21.

13 Q. Who was Van?

14 A. He was the chairman of an economics unit of the 50.

15 [13.40.03]

16 Q. Van was chairman of economics of the 50 where?

17 A. Van was chairman of the economics unit of 50 in the Battalion  
18 112.

19 Q. When they called you to S-21 did they tell you they were  
20 taking you to that place?

21 A. Before Van took me I asked Vorn, "Comrade, where are you  
22 taking me?" Van said, "Why do you want to know? When you get  
23 there you will surely know."

24 Van took me behind him on his bicycle. I kept on asking him  
25 along the way, "Are we nearly there?" Vorn said we were almost

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1 there and it was then that Van brought me to S-21. The guard  
2 spat and said, "Come here, Comrades, you are in prison again."

3 Q.Who said that?

4 A.A guard guarding S-21.

5 Q.Did you know each other? And so was that why he said that?

6 A.I did not know him before.

7 Q.So you waited for Van outside?

8 [13.41.32]

9 A.I waited outside.

10 Q.Continue please.

11 A.Later, Van came out and said, "Comrade, you can go inside now  
12 because I have spoken with Comrade Hor." So I went inside.

13 Q.At first what tasks did they assign you to do?

14 A.I was a guard for prisoners.

15 Q.Guarding inside or outside?

16 A.Guarding inside in the upper building.

17 Q.The inside guards, how many teams were they divided into?

18 A.10 teams.

19 Q.And which building was your team in charge of guarding?

20 A.We relieved each other. Five teams guarded from six to 11 and  
21 another five teams continued in the afternoon.

22 [13.42.55]

23 Q.Where was your team responsible for guarding, regardless of  
24 the timing?

25 A.The north building on the right-hand side: Building C.

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1 Q. Each team was responsible for one building?

2 A. They divided up 10 teams, five teams at a time, relieved by  
3 five other teams. We relieved each other as we went along.

4 Q. Explain the task of guarding. What did you do?

5 A. The guards took care of the prisoners, defended, carried the  
6 food, and brought out the excrement.

7 Q. Regarding the instructions given to the guards relating to  
8 prisoners, what instructions were given?

9 A. Upper echelon instructed not to talk loudly to the prisoners,  
10 to talk quietly and not to beat the prisoners. And upper echelon  
11 instructed that when the time came to carry the gruel, the rice,  
12 for the prisoners to eat.

13 [13.44.30]

14 Q. If the prisoners wanted to go out to relieve themselves, who  
15 was responsible for that?

16 A. That was not permitted when we guarded the first floor of that  
17 building. They had a device prepared for the prisoners to  
18 relieve themselves right there.

19 Q. Please explain clearly how the prisoners relieved themselves.  
20 What did you have them do to relieve themselves?

21 A. An ammunition case was kept for the prisoners to relieve  
22 themselves.

23 Q. So for the prisoners who were shackled, how could they relieve  
24 themselves? Please explain.

25 A. The prisoners relieved themselves; they were not in shackles

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1 there. They used an ammunition case for the prisoners to  
2 defecate in and after they had relieved themselves we, the  
3 guards, shut the ammunition case and carried it out.

4 Q.You say the prisoners were not shackled. The prisoners had  
5 the right to walk freely?

6 A.In the place where I guarded upstairs, there the prisoners  
7 were not handcuffed.

8 [13.46.05]

9 Q.You only guarded the upper floors there?

10 A.I guarded the whole upper floor. The ground and second  
11 floors, that was the work of others.

12 Q.On the upper floor were the prisoners in large cells or small  
13 ones? Were there the prisoners in large cells or small ones --  
14 correction.

15 A.On the upper floor there were large cells.

16 Q.None of those prisoners were kept in shackles?

17 A.There were none, just on the ground floor and first floor.  
18 Those prisoners upstairs had already been interrogated before  
19 being placed on the upper floor. Let me explain: there was the  
20 ground, first floor, the second floor, and I was on the third  
21 floor.

22 Q.So the prisoners who had not yet been interrogated were put on  
23 the ground floor?

24 A.Placed on the first floor next to the ground floor.

25 [13.47.35]

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1 Q.Please explain: the prisoner cells which you guarded, were  
2 they for men, women, and children mixed together, or what?

3 A.The cells I guarded, there was a cell for women and children  
4 and other cells for the men. That place was for prisoners who  
5 had been interrogated. That place had three large cells.

6 Q.Tell me about the cell for women and children. Were there  
7 many children?

8 A.The cell for the mothers and children held about seven  
9 children and aside from them some women and some elderly people.

10 Q.Do you know where they took those mothers and children to  
11 later on?

12 A.The mothers and children, later on Huy's team came and took  
13 them. At 7 o'clock they brought a vehicle to take them. They  
14 did not take them all. They took prisoners from other cells too.

15 [13.49.03]

16 Q.Seven at night or in the morning?

17 A.Seven at night. Huy's team came to take them.

18 Q.As far as you know, where did they take them?

19 A.That was their law. They said Huy had come to get them.  
20 They came up to get them, Huy's team. We could not ask anything.  
21 Whenever we asked anything they said we were enemies of the  
22 revolution.

23 Q.When Huy's team came to take the prisoners how did they make  
24 contact with the guards?

25 A.Huy entered the compound. I could see that from upstairs.

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1 They mostly contacted Hor and Thy, the one who kept the lists.

2 There was only Hor below Duch.

3 Q.You were a guard, so the cell keys were all with you?

4 A.I was a guard. There were three of us on the upper floor.

5 The keys, whenever I carried the gruel I gave them to the other

6 two guards. We took turns.

7 [13.50.39]

8 Q.So your instructions depended on the team coming to take the

9 prisoners? You just had the order to unlock and lock them up?

10 A.Just to unlock and lock them up.

11 Q.In your duties as a prisoner guard what was the condition of

12 the prisoners you observed?

13 A.The prisoners I guarded on the upper floor were in weak

14 state from torture and beatings and I saw that. One prisoner

15 called out, "Brother, put ointment on my back a little for me.

16 It hurts very badly." I called a medic to clean the wounds.

17 Q.Were there other instances you saw?

18 A.When I was guarding there not much happened. I saw that

19 when they had finished interrogating them they kept them at that

20 place. But there were many skinny prisoners because the torture

21 was severe.

22 Q.How could you recognize the prisoners who had been severely

23 tortured?

24 [13.52.27]

25 A.They brought those prisoners upstairs. They had finished

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1 interrogating them. The prisoners never told me. Some prisoners  
2 told me, "Brother, they beat me hard", but I did not dare say  
3 anything because I was afraid that if they came to interrogate  
4 them again they would implicate me.

5 Q.Explain. On the upper floor there was a cell for women and  
6 children. Did you ever see them kill children in that cell?

7 A.If I talk about the moments when I was guarding that did not  
8 happen. If Huy's group had done that there would have been a  
9 reaction from the prisoners.

10 Q.Explain further. In the place where you were on guard was  
11 there ever crying and screaming?

12 A.There was wailing. It's not like there was none but when I  
13 heard the wailing I called a medic because I was afraid that if a  
14 prisoner died they would accuse me of being an enemy.

15 Q.Did you ever see a prisoner die in there?

16 A.Yes, I did. An interrogator came to take a prisoner from  
17 the upper floor and then the interrogator released the hands of  
18 that prisoner. That prisoner jumped from the building and died.  
19 I saw that with my own eyes.

20 [13.54.19]

21 Q.Did you take prisoners from the detention site to  
22 interrogation or was that another team?

23 A.I just locked and unlocked and that interrogator recognized  
24 him and took that prisoner right away. And when they were  
25 leaving when that interrogator had just released his hand a

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1 little, that prisoner then jumped from the building.

2 Q.So the interrogators came to get the prisoners themselves.

3 Can you remember the names of those interrogators who came to get  
4 prisoners?

5 A.I cannot remember the names because I did not dare ask.

6 Those who came to get them were all Duch's people.

7 Q.Regarding Duch, did you see Duch come to the detention site  
8 often?

9 A.When I was on guard Duch came often but only to meet with  
10 Hor. He did not come to the building.

11 Q.You said that Duch came to inspect the prison and only met  
12 with Hor, and Hor was your superior. In your opinion, who then  
13 was Duch's?

14 A.When I was at S-21 there was only Duch and Hor. Duch was  
15 the big Chairman and Hor was deputy. And Huy at Prey Sar was  
16 member, the tall and dark Huy.

17 [13.56.10]

18 Q.You said that you knew Duch, Hor and Huy. Aside from them  
19 whom else did you know, like the chairman of the outside guards?

20 A. Inside S-21 there I cannot remember all the names but I knew  
21 some inside like Pauch in an S-21 company; Thai, the head of an  
22 S-21 company; Phau, head of an S-21 company, and the heads of  
23 units of 50: Sreng, Eng and Sry.

24 I forget the names of three other heads of battalions. There  
25 were six in total. Those outside were Huy, Man, Srim. Those who

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1 made the arrests and took them in and out were all in that team.

2 That team was at the sewer ditch to the west. I did not know the  
3 interrogators well.

4 Q.Among those names, aside from Huy are any still alive?

5 A.All of those I named are dead aside from Huy.

6 Q.Did you have any siblings working at S-21?

7 A.At S-21 Prison my younger brother worked there too. His name  
8 was Peng.

9 Q.What did Peng do?

10 A.When Huy had arrested everyone my brother rose to company  
11 leader with Thy.

12 Q.Is Peng still alive?

13 A.Dead. Peng died at Pailin. He was with Duch. Someone came  
14 and told me he had died during the war after '79.

15 [13.58.45]

16 Q.In what year did he die?

17 A.I don't remember the year.

18 Q.Do you know Chan?

19 A.Chan, probably. If he was an interrogator I know him.

20 Q.When you were working there did you ever participate in  
21 meetings or political study sessions led by Duch?

22 A.When I was at S-21 I studied. I went to them because they  
23 changed the times for the guard shifts. Duch called the guards  
24 to that school near Duch's house and Duch gave instructions on  
25 what guards were to do to closely guard. And what anyone who let

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1 a prisoner escape would die. Duch said that we had to firmly  
2 believe in the revolution and not get reckless in guarding. Duch  
3 pointed as he spoke. He said a lot but I cannot remember it all.

4 Q.How many times did you go study?

5 A.When I was at S-21 I went to study just once at the school  
6 near Duch's house.

7 [14.00.17]

8 Q.Did you ever participate in meetings with anyone other than  
9 Duch?

10 A.At S-21 I never did with senior people, just with Huy and  
11 Thy's group, they are the only ones I knew, and with the company  
12 and unit of 50 leaders who died.

13 Q.Please explain a little regarding the names you just spoke of,  
14 those who had all been arrested. Did you ever guard any of them?

15 A.The group Huy arrested was never placed in the north building.  
16 They put them in the south building, beginning with the head of  
17 the S-21 youth group. They were never placed in the north. They  
18 were all put in the south building.

19 Q.Who supervised the south building?

20 A.I do not know their names. Because all of the guards,  
21 including me, whatever building they guarded, that was the  
22 building we knew. That was Duch's law.

23 Q.The people supervising inside, your fellow guards, they could  
24 not contact each other?

25 [14.02.00]

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1 A.Duch did not permit contact between any of the guards because  
2 the guards who remained were all from Ta Nat's network, so they  
3 restricted them and did not allow contact. If there was contact  
4 the person making contact was an enemy. If they checked and  
5 learned about it they would put you in prison.

6 Q.Those who worked at S-21, many of them were killed. What were  
7 the reasons for those killings? Was it because of Ta Nat, or  
8 what?

9 A. Inside S-21 the people in the company were all from Ta Nat's  
10 network and Duch brought in his forces in addition, so Duch  
11 prohibited contact with Ta Nat's network.

12 Q.Please explain more. Regarding the arrest of the company  
13 cadres at S-21, what arrest method did you notice?

14 A.I did not know if they were arrested or not. I was only  
15 guarding upstairs. I stood and watched the people in the  
16 company, the team chairman, as they were called at Huy's place at  
17 the sewer ditch, and they were arrested. When they came back  
18 blindfolded I just knew they had been arrested.

19 Q.Which Huy?

20 A.You Huy, alias Him Huy.

21 [14.04.00]

22 Q.Who gave the orders for them to go meet Huy?

23 A.I don't know who made the decisions.

24 Q.Among all the prisoners at S-21 did you ever see any foreign  
25 prisoners?

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1 A. There were none at my place. In other places I suspect there  
2 were. They were in different buildings.

3 Q. Regarding feeding prisoners, how many times did they eat each  
4 day and what food was there each time?

5 A. At the site I was guarding there were three loads of shoulder  
6 pole carried rice in large buckets and one load of shoulder pole  
7 carried soup. I put a food bucket in each cell and let the  
8 prisoners scoop it out themselves, and the leftovers I put  
9 outside the cell. If there was any shortage I added more  
10 afterwards. Each day I prepared food for the prisoners twice, at  
11 noon and in the afternoon.

12 Q. For how many prisoners?

13 A. The site I guarded had about 80.

14 [14.05.42]

15 Q. Regarding the distribution of food, did the prisoners have  
16 their own dishes or was it one common dish?

17 A. There were dishes for each prisoner but I prepared three  
18 dishes of soup for 20 prisoners.

19 Q. Did you think that was sufficient?

20 A. Sometimes it was not enough. As far as rice is concerned, it  
21 was little but not very little, but the drained soup was very  
22 little.

23 Q. In general, the food was not sufficient for the prisoners?

24 A. I said sometimes enough, sometimes not, because that was all  
25 they got as food rations.

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1 Q.As for the prisoners in place other than yours, was the food  
2 ration the same?

3 A.The same food ration in general, because the cooks ladled out  
4 the same food for everyone.

5 Interrupted the hearing of the statement at 11.50 hours in the  
6 morning of the same day.

7 Continued the hearing of the statement at 1.20 hours in the  
8 afternoon of the same day.

9 [14.07.17]

10 Q.Regarding the food ration for the combatants at S-21, how was  
11 it?

12 A.The food ration of the S-21 combatants was prepared by the  
13 economics team, 10 persons at each table.

14 Q.How many times a day and was it sufficient?

15 A.Food for the defence was too little sometimes, sometimes it  
16 was enough. That depended upon the S-21 economics team.

17 Q.Sufficient? How many times?

18 A.Two times, the same at noon and in the afternoon.

19 Q.How did you eat? Could you take more on your own?

20 A.There was just one pot.

21 Q.How many items of food?

22 A.One, sometimes two.

23 [14.08.40]

24 Q.When compared with the food of the prisoners which you  
25 explained this morning, how was it different?

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1 A.Food for prisoners and for guards was only a little different.  
2 The rice for the guards sometimes was not filling but with one  
3 dish of drained soup it was.

4 Q.You said most of the prisoners were skinny because of not  
5 eating enough.

6 A.The prisoners did not get enough to eat and had been tortured  
7 too, so they were skinny.

8 Q.But the people who worked at S-21 were not as skinny as the  
9 prisoners?

10 A.The people at S-21 were not very skinny because no-one had  
11 tortured them.

12 Q.So you noted that the prisoners had been tortured, or what?

13 A.I noticed that 100 percent of the prisoners had been tortured.

14 [14.10.10]

15 Q.Can you explain what torture was inflicted on the prisoners?

16 A.I did not know about the torture because we were far apart but  
17 I just said that when I guarded in the prison when prisoners  
18 returned they had whip marks.

19 Q.The living conditions of the prisoners as you saw them, did  
20 the prisoners have enough clothing?

21 A.The prisoners I guarded sometimes had enough, sometimes not.

22 Q.How would you note that prisoners did not have enough  
23 clothing?

24 A.Prisoners were short of clothing because their shirts had been  
25 torn during torture and the prisoners had no change of clothing.

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1 Q.In summary, you saw that some prisoners had no shirts?

2 A.Yes. I observed in guarding that they had been tortured until  
3 their shirts were torn, sometimes to the point the shirt had to  
4 be thrown away.

5 Q.Did you ever see medics treat prisoners right there where you  
6 were working?

7 A.There were two medics in the prison where I was.

8 [14.12.08]

9 Q.Hygiene for prisoners, washing, how was that done?

10 A.For those of us guarding the prisoners there was a pump below  
11 a hose above to wash the prisoners. They had proper soap.

12 Q.Please tell us clearly about washing prisoners.

13 A.I had the prisoners in the cells wash one at a time and there  
14 was a bag of soap. After they washed I took it to prisoners in  
15 another cell to wash.

16 Q.You hosed the prisoners down or let them wash by themselves?

17 A.I let them wash one at a time and when they finished I removed  
18 the hose for the other cells.

19 Q.So it was a sleeping place and a washing place too?

20 A.They slept there and they washed there. When they washed and  
21 dried themselves off they rested.

22 Q.How many times was each prisoner washed each week?

23 A.Prisoners were washed twice a day; noon and afternoon.

24 [14.13.57]

25 Q.Prisoners in buildings other than yours, were they washed in

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1 the same way?

2 A. In general, washing in the other buildings was the same  
3 because law was to wash the prisoners twice at every site.

4 Q. When did you leave S-21?

5 A. I left S-21 when Phnom Penh fell. We all fled together. We  
6 ran along the back of the prison and met at Prey Sar and we all  
7 fled to Amleang, Kampong Speu.

8 Q. Please explain. When you ran away, the prisoners you were  
9 guarding, how were they arranged?

10 A. The prisoners I was guarding, Huy's group, one unit of 50, had  
11 them taken away in truckloads. I don't know where they took  
12 them.

13 Q. For how many days were they transported until they were all  
14 gone?

15 A. After about 10 days the prisoners were all gone.

16 [14.15.25]

17 Q. So when the defence units fled, the S-21 prisoners were  
18 already gone?

19 A. They were all gone before the defence unit fled from the  
20 prison through the kitchens.

21 Q. Did you flee along with your younger brother?

22 A. No, I fled with the defence unit, not with my younger brother.

23 Q. Did you meet Duch when you fled?

24 A. No. There were many fleeing. I never fled with Duch. I ran  
25 with the defence unit. We all fled to Prey Sar.

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1 Q.This is a photo of prisoners who died right there at S-21 --  
2 'Night of the Khmer Rouge' page 104. Did you know about the  
3 prisoners who died at Tuol Sleng?

4 A.It was the guards in the south building, Building A, who  
5 killed prisoners before they fled.

6 Q.But not in your building?

7 A.No.

8 [14.17.00]

9 Q.In this photo a prisoner had shot himself -- 'Night of the  
10 Khmer Rouge', page 102 -- by stealing a gun to shoot himself.

11 A.That was Hor's place. Suos Thy knows about that too.

12 Q.Do you know where Hor was?

13 A.When we fled we got separated. Hor fled to Amleang and I did  
14 not go.

15 Q.You said you went to Amleang too.

16 A.I did not cross. The plan was to have everyone cross National  
17 Highway Number 4 to Amleang. The Vietnamese were firing. I ran  
18 across. Then I ran to the west to another province.

19 Q.Do you know where Hor is today?

20 A.What I know, what I just learned, is that Hor was shot and  
21 killed by Duch group.

22 Q.Do you have anything to add for us?

23 A.Everything I have said is the truth. I have said everything I  
24 know. What I have said I have seen with my own eyes or heard  
25 with my ears. I have spoken from my heart about my life inside

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1 S-21.

2 [14.18.53]

3 Q.After you left S-21 did you ever meet your younger brother  
4 again?

5 A.When S-21 fell I never saw him and I don't know where my  
6 brother is. When the government negotiated with the Khmer Rouge  
7 people in Pailin returned to the village and they told me.

8 The hearing of the witness's statement was concluded at two  
9 forty-two in the afternoon of the same day.

10 We hope that when the ECCC requires it you will continue to  
11 cooperate.

12 One copy of the written record was provided to the witness.

13 After it was read aloud the witness had no objections and agreed  
14 to sign. Witness Nhep Hau."

15 MR. PRESIDENT:

16 After hearing the Greffier reading the record of interview of  
17 witness Nhep Hau, do the Co-Prosecutors have any observations to  
18 make regarding this statement?

19 MR. YET CHAKRIYA:

20 Thank you, Mr. President.

21 Regarding the testimony of Nhep Hau as read by the Greffier, the  
22 Co-Prosecutors do not have any observations to make.

23 [14.20.57]

24 MR. PRESIDENT:

25 The civil party counsel, do you have any observations to make

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1 regarding the content of the testimony as read by the Greffier?

2 MR. WERNER:

3 None, Your Honour.

4 MR. PRESIDENT:

5 And the defence counsel, do you have any observations to make  
6 regarding the content of the testimony of this statement as read  
7 by the Greffier?

8 The witness's name is Nhep Hau.

9 MR. ROUX:

10 Thank you, Mr. President.

11 On behalf of the defence I would like to make an observation,  
12 which is perhaps of a more general nature.

13 When the Chamber decided not to call a number of witnesses to  
14 testify in person it was a wise decision. Since that decision  
15 was taken -- that is, since the 23rd of June 2009, that is more  
16 than a month ago -- since the 29th of June 2009 we have heard  
17 many witnesses before this Court.

18 [14.22.50]

19 The question that should be put today is this: in light of the  
20 total information that witnesses have provided to the Court  
21 concerning the accused's admission of facts, what is the  
22 contribution of the statements we are reading out now? What is  
23 the extra information these statements provide?

24 I would like, respectfully, to draw the attention of the Chamber  
25 to article 85 of our regulations, which says that after

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1 consultation of the other Judges, the President of the Chamber  
2 may exclude from the proceedings any material that tends to  
3 extend them unnecessarily without contributing to the  
4 ascertainment of the truth.

5 The same can be seen in Rule 87, where it is said that the  
6 Chamber can declare -- can find a piece of evidence inadmissible  
7 if it finds that a) it is irrelevant or repetitious, and  
8 therefore, this is what we are facing now. We have an accused  
9 who has admitted all the facts charged; witnesses who have come  
10 to this Court on several occasions to confirm what the accused  
11 has said. It seems to me, Mr. President, Your Honours, that at  
12 this stage in the proceedings the ideal procedure would be to  
13 request that the office of the Co-Prosecutors should set out for  
14 the benefit of the Chamber what new and relevant facts can be  
15 found in these statements that are yet to be read.

16 In the admission of facts by the accused there is a small number  
17 of points that he contested. Can we hope that the Prosecutors  
18 will henceforth focus on those points and do the witnesses whose  
19 statements they want to put before the Court provide relevant  
20 information pertaining to the points contested by the accused?

21 [14.26.49]

22 I have said before that if these were common-law proceedings with  
23 an accused who admits his responsibility, this trial would be  
24 over, but what is ironical here is that if we were in completely  
25 civil law proceeding, the trial would be over as well.

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1 Mr. President, Your Honours, I have the impression that we are  
2 repeating ourselves needlessly, and I reiterate my request: the  
3 Co-Prosecutors can point out the relevant facts that require us  
4 to suffer through these entire reading of the statements.

5 These are my submissions. Thank you.

6 MR. PRESIDENT:

7 The international Co-Prosecutor, you may proceed.

8 MR. AHMED:

9 Thank you, Your Honour, for this opportunity.

10 I think my learned friend did not get the question from Mr.  
11 President when Your Honour the President requested his  
12 observations regarding this particular witness. If my learned  
13 friend were to object only for non-inclusion of this particular  
14 witness then he should say so. This, Your Honours, is not an  
15 occasion for deciding whether a particular witness should be  
16 called live, as we call it, in this Court or not. These matters  
17 were discussed in at least two Trial Management meetings.

18 [14.28.40]

19 Now, the lists that Your Honours received were of course given by  
20 parties but ultimately the lists that Your Honour finally decided  
21 of the witnesses to be called in the Court were Your Honours'  
22 lists. Your Honours in your wisdom decided to call x number of  
23 witnesses to this Court and in your wisdom decided not to call  
24 certain witnesses. Your Honours also decided to not read the  
25 number of many witnesses in this Court.

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1 So I think Your Honours have applied your minds, Your Honours  
2 have made a decision in respect of which witnesses to be called,  
3 the witnesses whose testimony is to be read in the Court and the  
4 prosecution and the parties' observations to be taken. This  
5 matter has taken place and it is finished. At this stage so late  
6 in the proceedings is not the appropriate time to once again go  
7 back and open the entire witness list that Your Honours so very  
8 acidulously prepared in consultation with the parties.  
9 Now, clearly there shall be and will be, as it is the case in  
10 such big trials -- and my learned friend is an experienced  
11 counsel in such trials. There may be repetition. After all,  
12 it's about one accused, it's about one security centre but there  
13 are -- as Your Honours have very well seen and public has seen  
14 and parties have seen, every witness has brought in some new  
15 element to this trial and parties, with Your Honours' directions,  
16 have tried to focus on those particular elements in that  
17 witness's testimony.  
18 So I'd most respectfully submit my learned friend should clearly  
19 indicate whether he wants this witness's testimony to be admitted  
20 into evidence without calling this witness and, to Your Honours,  
21 to not permit the defence, or indeed any other party, to reopen  
22 the entire witness list which, with the consultation of the  
23 parties, was very properly created by Your Honours.  
24 [14.31.00]  
25 I would just conclude that this is not a time to debate whether

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1 these are civil law proceedings or common law proceedings. We  
2 are guided by the rules and statutes of this Court and Your  
3 Honours, in application of those rules and statutes, have called  
4 these witnesses. So we should not get into these endless debates  
5 of whether it's a civil law proceeding or a common law  
6 proceeding. Ultimately it's Your Honours' decision on the basis  
7 of rules of this Court.

8 I thank you.

9 MR. PRESIDENT:

10 Mr. François Roux, you take the floor.

11 MR. ROUX:

12 Well, Mr. President, in that case, so that we can move ahead as  
13 the Co-Prosecutor is suggesting, the defence is therefore  
14 requesting the application of Rule 85 of the Internal Rules and  
15 the defence is kindly requesting that you confer with the other  
16 Judges and that you exclude from the proceedings the statement  
17 that has just been read out, as well as all of the following  
18 statements that are planned to be read out, because the defence  
19 believes that these statements are prolonging the proceedings  
20 uselessly without contributing to the ascertainment of truth.  
21 This is clearly the submission of the defence while reminding at  
22 the same time that the Chamber has made its decision on the 29th  
23 of June, it had not yet questioned orally all of the witnesses  
24 who appeared before the Court, so today we are in a different  
25 situation from that of the 29th of June and the Chamber is much

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1 better informed than it was on the 29th of June.

2 [14.32.59]

3 So therefore we are kindly requesting the exclusion of all of  
4 these documents, noting Rule 85 of the Internal Rules as well as  
5 Rule 87, insofar that these documents are not relevant or are  
6 repetitious.

7 Thank you very much, Mr. President.

8 MR. PRESIDENT:

9 The Co-Prosecutor, you take the floor.

10 MR. AHMED:

11 Your Honours, I shall not respond to what my learned friend said,  
12 otherwise it will become endless, but just a suggestion for Your  
13 Honours' consideration.

14 May I bring to your attention Rule 87.3 and that may address the  
15 time issue that my learned friend has raised. Rule 87.3 permits  
16 Your Honours to take into evidence any matter that has been  
17 either summarized or read into evidence. It may be possible,  
18 subject to Your Honours' leave, to request your Greffiers just to  
19 read a summary of any statement and not read it in totality.

20 That may take care of the requirements that it's been brought to  
21 the attention of the public -- because it's, after all, a public  
22 trial -- but it shall also ensure an expeditious conduct of this  
23 trial. But that's only a submission. I shall leave it to Your  
24 Honours.

25 Thank you very much.

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1 [14.34.45]

2 MR. PRESIDENT:

3 Lawyer Studzinsky, you take the floor.

4 MS. STUDZINSKY:

5 Thank you, Mr. President.

6 I would like to object to the motion of the defence, or  
7 application of the defence, insofar that witness statements are  
8 concerned where we objected their removal from the witness list.

9 The Chamber announced in public, I would say after one of the  
10 Trial Management meetings that would be about the end of June --  
11 announced which witnesses we wanted to be heard in Court and at  
12 least which witnesses we want to read out their statements.

13 I don't want to repeat them or, if so, then I need five minutes  
14 to recollect these witness names and their statements but I refer  
15 to what the Chamber -- I remember Judge Cartwright told the  
16 public concerning these witnesses. And I also emphasize which  
17 parts of the testimony are of relevance and are unique and  
18 therefore these witnesses should be heard or at least their  
19 statements should be read out.

20 Thank you.

21 MR. PRESIDENT:

22 Mr. François Roux, you take the floor.

23 Please be reminded that this would be the last opportunity to  
24 respond to this matter.

25 [14.36.52]

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1 MR. ROUX:

2 Thank you, Mr. President.

3 And thank you, Mr. Co-Prosecutor, for his constructive  
4 suggestion. Summaries, yes, why not, indeed. And in order to  
5 avoid, indeed, repetition, can we maybe ask the prosecutors to  
6 tell us which is the relevant element in the statements that will  
7 provide something new to the debate. A summary, yes, but a  
8 summary of the relevant elements that offer something new to the  
9 debate so that we do not fall into repetition, such as it is  
10 noted in Articles 85 and 87. This is my submission which follows  
11 the constructive suggestions by the Co-Prosecutors.

12 Thank you, Mr. President.

13 MR. PRESIDENT:

14 We thank you very much for all the observations made by the  
15 parties to the proceeding. We note that they are all good  
16 purposes to ascertain the truth and that we would like the more  
17 expeditious proceedings and all the remarks are well noted and  
18 the Chamber will discuss and find a way to deal with the  
19 witnesses statements, those who only want to have their  
20 statements read out in the Chamber, especially those whose  
21 statements were made before the Co-Investigators. And we  
22 appreciate your comments.

23 [14.39.25]

24 We would like now to give the opportunity to the accused to make  
25 his observation in relation to the statement as read out already,

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1 the statement of witness Nhep Hau.

2 You take the floor.

3 THE ACCUSED:

4 Mr. President, I do know Comrade Nhep Hau alias Van, who worked  
5 at S-21 all together with me.

6 I would like to now tell the Court about the characteristics of  
7 Comrade Van and Hor. They were not the same. The statement,  
8 however, will show as the mirror to reflect the situations of the  
9 detainees and how detainees were treated at S-21. And that is  
10 all I would like to tell the Court.

11 Thank you.

12 MR. PRESIDENT:

13 Since it is convenient time to take an adjournment we will take  
14 the adjournment now and resume at 3 o'clock.

15 (Judges exit courtroom)

16 (Court recesses from 1441H to 1552H)

17 (Judges enter courtroom)

18 MR. PRESIDENT:

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

20 Before the Greffier is instructed to read the statement of the  
21 witness, the Chamber will make an oral decision in response to  
22 the request by the defence counsel as follows.

23 The Chamber has noted the request made by the defence counsel for  
24 the review of the list of statements to be read during the  
25 proceedings. The Chamber will review the list of the statements

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1 as it intended to be read and it will decide which statements to  
2 be read out and which need to be summarized or identified.

3 [15.23.54]

4 In the meantime, and for practical reasons, the Trial Chamber  
5 will continue to read the statement in full for the rest of this  
6 afternoon as scheduled.

7 The Greffier Se Kolvuthy is instructed to read a statement of the  
8 records of interview of witness Kung Phai, D28/1, D53, D54, and  
9 D48/2.

10 THE GREFFIER:

11 "Office of the Co-Investigating Judges, Criminal Case File Number  
12 002 dated 14 August 2006, Investigation Number 001 dated 18 July  
13 2007. Written record of interview of witness, the year 2007, the  
14 month of December, the 27th day at nine hours 30 minutes at the  
15 Extraordinary Chambers in the Courts of Cambodia.

16 I, Sim Surya, investigator of the Extraordinary Chambers,  
17 assigned by the rogatory letter of the Co-Investigating Judges  
18 dated 21st November 2007, met the witness Kung Phai on 19  
19 December 2007 at his home in Kampong Tralach district, Kampong  
20 Chhnang province. Since he was busy he requested that we  
21 interview him at the Extraordinary Chambers in the Courts of  
22 Cambodia on 27 December 2007.

23 Having seen the Law on the Establishment of the Extraordinary  
24 Chambers dated 27 October 2004, having seen Rules 24, 28 and 60  
25 of the Internal Rules of the Extraordinary Chambers, have

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1 recorded the statements of Kung Phai, a witness, who provided the  
2 following information regarding his personal identity: name,  
3 Kung Phai; revolutionary name, none; born on 4th of May 1960.

4 [15.27.05]

5 This person declared that he could read, write, and understand  
6 the Khmer language, therefore the original of this written record  
7 is written in the Khmer language. We advised this person that  
8 the taking of this statement is being audio or video recorded.

9 This person told us that he had no relationship with the charged  
10 persons and civil parties. This person took an oath in  
11 accordance with the provisions of Rule 24 of the Internal Rules  
12 of the Extraordinary Chambers.

13 We notified this person of the right against self-incrimination  
14 in accordance with the provisions of Rule 28 of the Internal  
15 Rules of the Extraordinary Chambers.

16 Question and Answer.

17 Q.On 17 April 1975, where were you and what were you doing?

18 A.I was in the Peani South District Militia, Kampong Tralach  
19 District, Kampong Chhnang Province. I transported food supplies  
20 from the subdistrict to the battlefield front at Spean. The  
21 subdistrict militia had grown that rice on its own. The leader  
22 of the subdistrict militia was Ta Poeun, also from Kampong  
23 Tralach district, and Ta Yim was the District Military Chief.

24 [15.28.53]

25 I took those supplies to subdistrict militia forces stationed

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1 there to attack and cut off communication between Lon Nol troops.

2 Q.Can you please describe your journey from Kampong Chhnang to  
3 Phnom Penh?

4 A.In early 1976, I left the subdistrict for Phnom Penh. There  
5 was three of us from the same district. One has died, the other  
6 is still alive, Set, living at Kreang Ta Ek village, Peany  
7 subdistrict, Kampong Tralach district, Kampon Chhnang province.  
8 Set started at the Ta Khmau training school, but he did not work  
9 at S-21. I don't know who transported me from the subdistrict  
10 because they came to get us at night. I studied military  
11 subjects at the Ta Khmau school for three months and 28 days.  
12 The chairman was Yem in charge of military techniques.

13 Q.When did you arrive at S-21?

14 A.I went to a huge unit along the river south of Ta Khmau for  
15 one dry season before I went to the former Prey Sar Prison in  
16 1977.

17 I was there throughout the rainy season in a children's unit with  
18 hundreds of children doing rice transplanting and coconut tree  
19 planting. I knew Try, a child medic at Prey Sar, I don't know  
20 where he is now. He had a large and tall build, a clear  
21 complexion, a slow, graceful gait, and straight hair.

22 [15.30.55]

23 Later. I went to Boeng Tumpun for one dry season to work during  
24 the dry season rice and plant Chinese radishes. The team leader  
25 was Phorn. He had one crippled arm. We separated when the

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1 Vietnamese came.

2 Later, I went to tend the crops, grow pumpkins and soybeans south  
3 of the psychiatric hospital. I saw shackles and bloodstains in  
4 the three-storey, concrete building, and saw shallowly buried  
5 bodies swelling up and cracking the ground in the compound. It  
6 looked like a prison which had just ceased operations, but I  
7 don't know who the prisoners had been.

8 I can't remember the senior chairman there. I was there  
9 throughout one wet season.

10 Q.What next?

11 A.I went to Office S-21. The same person named Pon came to take  
12 me there. In mid-1977, I arrived at S-21, first as a guard along  
13 the walls with Mau who had a disease and died in 1978, as my  
14 chairman. Hieng was a colleague who was relieved by my shifts.  
15 I don't know where he is now. He was alive in 1979.

16 The chairman above Mau was Sry. A platoon leader; I don't know  
17 where he is now. He was alive in 1979. I can't remember the  
18 other chairman. The senior chairman was Duch. I did not know  
19 Pauch.

20 [15.32.54]

21 Q.What did you see while on guard outside?

22 A.I saw them taking prisoners in and out. I opened the gate by  
23 recognizing the faces of the interrogators going in and out, one  
24 of whom was Tuy; white, tall, awkward gait. I don't know where  
25 he is now. He was alive in 1979.

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1 In 1978, I saw three Americans brought in through the entrance I  
2 was guarding, the entrance to the south of the present entrance;  
3 the place where they kept important prisoners. All three of them  
4 were held on the second floor in the different cells. I saw  
5 Duch, Hor, and Chan Samreng come to interrogate them.  
6 Then I took rice to one of the three and I saw Duch interrogating  
7 that man with long, curly, red hair down to his shoulders. He  
8 was of white complexion with chest hair, wearing shorts. Before  
9 Duch interrogated him, he was wearing a short-sleeved camouflage  
10 T-shirt. Then Hieng, who had the next shift at night, told me  
11 that they had taken all three of them away. I did not know  
12 where, and they disappeared after that.

13 [15.34.38]

14 Sometimes I guarded the cells and saw Vietnamese female prisoners  
15 arrive. I was a guard and I brought food for them. I learned  
16 from an interrogator that those women had been the prostitutes of  
17 the Vietnamese soldiers whom the Khmer Rouge soldiers had  
18 attacked, and they had been captured and brought in.

19 I guarded one male Vietnamese soldier. Later on, I went to guard  
20 the gate at the wall, and I don't know where he went to. I did  
21 not know the names of the senior prisoners. Sometimes I took  
22 prisoners who were handcuffed and blindfolded to be interrogated  
23 at other places, east of my site.

24 Q.Were you there until the end?

25 A.I was there until S-21 fell in 1979.

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1 Q.Did you ever study under or receive instructions from Duch?

2 A.I studied twice for about two or three days each time. I  
3 studied preventing prisoner escapes; the Party statute; the  
4 political situation; and the war. Duch taught this in person.  
5 He said the youth are the Party's bamboo sprouts which replace  
6 the bamboo.

7 Q.Did Duch and Hor get along personally?

8 A.I saw them work together normally. Chhen, who was Duch's  
9 messenger, his description: clear complexion, strong build,  
10 average height, thick body, he was not married at that time, his  
11 place of birth was Amleang.

12 [15.36.31]

13 Q.Did you see any of those who were with you get arrested?

14 A.I never saw that. I just know we separated in 1979.

15 Q.Did you know anyone else; in what sections?

16 A.The most senior person was Duch. Next was Hor, the deputy.  
17 Chan Samreng was the member. The guard, interrogation and arrest  
18 units, the cooks, the medical unit. Sre was chairman of my guard  
19 unit. Huy Him, or short Huy and Peng were the chairmen of the  
20 arrest unit. That unit used about four or five Soviet and  
21 Chinese trucks to go make arrests in the zones.  
22 Aside from this, I have forgotten everything.

23 Q.Did you ever see them take blood from the prisoners?

24 A.Never.

25 Q.Did you ever see interrogators torture prisoners?

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1 A.I did see that. I saw interrogators beating prisoners with  
2 whips, giving them electrical shocks. I heard the screams of the  
3 prisoners. I saw medics come to treat injured prisoners. All of  
4 the interrogators tortured prisoners. Tuy was an interrogator  
5 too.

6 Q.This principle of torture, did Duch order that?

7 A.Yes. I learned that from Duch at the school from the  
8 company chairman, the platoon chairman. They said that the  
9 prisoners were enemies and if they did not answer they could be  
10 tortured.

11 Q.When you fled in 1979 what were the orders of Duch about  
12 what was to be done with the prisoners?

13 [15.38.46]

14 A.By that time there were no prisoners at the site I gathered.  
15 Several days before 7January 1979 I was sent to guard at the big  
16 building, at the days entrance gate. Since there were so many  
17 prisoners those prisoners were killed, some at Tuol Sleng and  
18 some were transported to Choeung Ek. They were all gone before  
19 we fled. I saw this killing with my own eyes. I did not see  
20 Duch there. But if he had not arranged it no one would have  
21 dared to do it.

22 Q.Many thanks.

23 After it was read aloud the witness had no objections and agreed  
24 to sign. One copy of one of several originals of the written  
25 statement was provided to this witness. The interview was

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1 completed at 12:25 p.m. on the same date. Witness: Kong Phai."  
2 "The Office of Co-Prosecutors, criminal case file 002, dated the  
3 14th of August 2006, Interrogation Number 001, dated on the 18th  
4 of July 2007; the record of the confrontation 2008, February the  
5 28th day at 5 past 4 p.m.  
6 We, You Bunleng and Marcel Lemonde, Co-Investigating Judges of  
7 the  
8 Extraordinary Chambers with Mr. Ham Hel and Mr. Ly Chantola as  
9 greffiers, noting the law on the establishment of the  
10 Extraordinary Chambers dated on the 27th of October 2004, noting  
11 the rule, Rule 58 of the Internal Rules of the Extraordinary  
12 Chambers, with the presence of Ouch Chanlyno and Tan Heang  
13 Davann, sworn interpreters of the Extraordinary Chambers, the  
14 charged person identified below has appeared before us.  
15 [15.41.55]  
16 Kaing Guek Eav, alias Duch, male, born on the 17th of November  
17 1942, charged with crimes against humanity and grave breaches of  
18 the Geneva Conventions of the 12th of August 1949, offences  
19 defined and punishable under Articles 5, 6, 29 (new) and 39 (new)  
20 of the law on the establishment of the Extraordinary Chambers,  
21 dated on the 27th of October 2004.  
22 The Co-Prosecutors of the Extraordinary Chambers, Mr. Robert  
23 Petit and Ms. Chea Leang were duly notified of this interview by  
24 notification letter dated the 19th of February 2008. Ms. Chea  
25 Leang is present. Mr. Robert Petit is represented by his

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1 assistant Alex Bates.

2 Kar Savuth and François Roux, co-lawyers for the charged person  
3 who were duly informed of this interview by summons dated on the  
4 19th of February 2008 and have been able to examine the case file  
5 since that time, are both present.

6 The witnesses Him Huy, Prak Khan, Suos Thy, Kung Phai, Mam Nai,  
7 Vann Nath and Sao Met who have already taken an oath according to  
8 Rule 24 of the Internal Rules of the Extraordinary Chambers are  
9 present. Mr. Chum Mey and his lawyer, Mr. Hong Kimsuon, who were  
10 duly informed of this interview by summons dated 19th of February  
11 2008 and have been able to examine the case file since that time,  
12 are present.

13 [15.44.28]

14 Mr. Bou Meng and his lawyer is Mr. Yung Phanit, who were duly  
15 informed of this interview by summons dated 19th of February 2008  
16 and have been able to examine the case file since that time, are  
17 present.

18 The original of this record is written in Khmer.

19 Confrontation: question by the Co-Investigating Judge Marcel  
20 Lemonde:

21 'Q.Yesterday, you accompanied us to Tuol Sleng and provided us  
22 with certain explanations. Do you confirm that these  
23 explanations correspond to the truth?'

24 Answer by witness Kung Phai:

25 'A.Yes, I do.'

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1 The original of the audiovisual recording was sealed in front  
2 of the charged person and his lawyers and was signed by us, the  
3 Greffiers, the charged person, the Co-Prosecutors and his  
4 lawyers. A copy of the original audio-visual recording was  
5 provided to the charged person. Due to technical reasons it was  
6 not possible to give a copy of the audio-visual recording to each  
7 of the persons taking part in the confrontation and we provided  
8 the witnesses and civil parties with a copy of the written  
9 record.

10 [15.46.25]

11 At 35 past 4 p.m. we had the Greffier read aloud this written  
12 record of confrontation as recorded. The written record having  
13 been read aloud and heard, the charged person and the civil  
14 parties had no objections and agreed to sign. Witness Kung  
15 Phai."

16 "The Office of Co-Investigating Judges, criminal case file 002,  
17 dated the 14th of August 2006, Investigation Number 001, dated on  
18 the 18th of July 2007; written record of confrontation the 29th  
19 of February 2008 at 9:20 a.m.:

20 We, You Bunleng and Marcel Lemonde, Co-Investigating Judges of  
21 the

22 Extraordinary Chambers with Mr. Ham Hel and Mr. Ly Chantola as  
23 Greffiers, noting the law on the establishment of the

24 Extraordinary Chambers dated the 27th of October 2004, noting

25 Rule 58 of the Internal Rules of the Extraordinary Chambers, with

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1 Ouch Chanlyno and Tann Heang Davann, sworn interpreters of the  
2 Extraordinary Chambers, the charged person identified below has  
3 appeared before us.

4 Kaing Guek Eav, alias Duch, male, born on the 17th of November  
5 1942, charged with crimes against humanity and grave breaches of  
6 the Geneva Convention of the 12th of August 1949, offences  
7 defined and punishable under Articles 5, 6, 29 (new) and 39 (new)  
8 of the Law on the Establishment of the Extraordinary Chambers  
9 dated 27th October 2004.

10 The Co-Prosecutors of the Extraordinary Chambers, Mr. Robert  
11 Petit and Mrs. Chea Leang, were duly notified of this interview  
12 by notification letter dated 19th of February 2008. Mrs. Chea  
13 Leang is present. Mr. Robert Petit is represented by Mr. Alex  
14 Bates, senior assistant Co-Prosecutor.

15 [15.49.58]

16 Kar Savuth and François Roux, co-lawyers for the charged person  
17 who were duly informed of this interview by summons dated 19th  
18 February 2008 and have been able to examine the case file since  
19 that time, are both present.

20 The witnesses Him Huy, Prak Khan, Suos Thy, Kung Phai, Mam Nai,  
21 Vann Nath, Makk Sithim and Saom Met, who were sworn in pursuant  
22 to Rule 24 of the Internal Rules of the Extraordinary Chambers,  
23 are present.

24 Mr. Chum Mey and his lawyer, Mr. Hong Kimsuon, who were duly  
25 informed of this interview by summons dated 19th February 2008

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1 and have been able to examine the case file since that time, are  
2 both present.

3 Mr. Bou Meng and his lawyer, Mr. Yung Panith, who were duly  
4 informed of this interview by summons dated 19th February 2008  
5 and have been able to examine the case file since that time, are  
6 both present.

7 The original of this record is written in the Khmer language.

8 Confrontation: Questions by Co-Investigating Judge Marcel  
9 Lemonde to the witnesses:

10 [15.52.03]

11 Q.Did you witness the mass execution scenes in January 1979?

12 A.I confirm what I declared on 27 December 2007. I witnessed  
13 the executions a few days before 7 January 1979, but I did not  
14 take part.

15 Q.Do you confirm the declarations you made before the  
16 Co-Prosecutors on the 14th of August 2006 and before the  
17 investigators of the Office of Co-Investigating Judges on the 27  
18 of December 2007?

19 A.Yes, I confirm I told the truth. I indicated that I saw Duch  
20 interrogating prisoners but I did not see him torture them.

21 Q.During the reconstitution at Tuol Sleng you indicated that you  
22 indeed witnessed the presence and use of a bathtub such as the  
23 one in the museum and painted by Vann Nath. Do you confirm you  
24 saw this in a building outside of Tuol Sleng?

25 A.Yes, I confirm, in the special prison located outside Tuol

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1 Sleng.

2 Q.During the re-enactment at Tuol Sleng you said you recognized  
3 the blackboard on which the Santebal regulations were written.

4 Can you explain in which condition did you see that blackboard?

5 A.That blackboard was put on the ground floor of the special  
6 prison next to the pathway in order for everyone to follow.

7 [15.55.23]

8 The written original copy was sealed before the charged person  
9 and his lawyer and we, the Greffier, the prosecutors and his  
10 lawyers and the charged person have already signed on it. A copy  
11 of the original audio/visual recording was provided to the  
12 charged person. For technical reasons it was not possible to  
13 provide a copy of the audio/visual recording to each of the  
14 participants, so the civil parties and witnesses were given a  
15 copy of the written record.

16 At 5.25 p.m. we had the Greffier read aloud this written record  
17 of confrontation as recorded. After having been read aloud and  
18 heard the charged person, witnesses and the civil parties had no  
19 objections and agreed to sign. Witness, Kung Phai.

20 The office of Co-Investigating Judges, Criminal Case File 002,  
21 dated 14th of August 2006, Investigation Number 001, 18th July  
22 2007, report on reconstruction in the year 2008 on the 27th of  
23 February at 8.00 a.m., noting the judicial investigation opened  
24 against Kaing Guek Eav, alias Duch, charged with crimes against  
25 humanity and grave breaches of Geneva Conventions of the 12th of

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1 August 1949, crimes defined and punishable under Rules 5, 6, 29  
2 (new) and 39 (new) of the Law on the Establishment of the  
3 Extraordinary Chambers dated 27th October 2004, noting Rule 55.8  
4 of the Internal Rules of the Extraordinary Chambers, noting the  
5 ordinance to transport dated 21st of February 2008.  
6 We, You Bunleng and Marcel Lemonde, Co-Investigating Judges of  
7 the Extraordinary Chambers in the Courts of Cambodia, assisted by  
8 Mr. Ham Hel and Mr. Ly Chantola, Ggreffiers, and by Mr. Tan Heang  
9 Davann and Mr. Ouch Chanlyno, sworn interpreters of the  
10 Extraordinary Chambers, travelled to Tuol Sleng Genocidal Museum  
11 in Phnom Penh.  
12 At Tuol Sleng we were joined by Mrs. Chea Leang and Mr. Robert  
13 Petit, the Co-Prosecutors of the Extraordinary Chambers; Kaing  
14 Guek Eav, alias Duch, assisted by his lawyers Mr. Kar Savuth and  
15 Mr. François Roux; civil party Chum Mey, assisted by his lawyer,  
16 Mr. Hong Kimsuon; civil party Bou Meng, assisted by his lawyer  
17 Mr. Yung Panith; witness Vann Nath, Mam Nai, Suos Thy, Him Huy,  
18 Saom Met, Prak Khan, Kung Phai.  
19 [16.00.15]  
20 Expert Zoran Lesic, designated by means of the ordinance dated  
21 the 12th of February 2008 was also in attendance for the purpose  
22 of this report and took the photographs which are featured to the  
23 present report, Annex 1.  
24 The charged person said that he knows Vann Nath, Bou Meng, Chum  
25 Mey, Mam Nai, Suos Thy and Him Huy. Witness Kung Phai stated

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1 that he knows Duch, Mam Nai and Him Huy. Witness Kung Phai  
2 stated that after his stint as a guard outside he was assigned to  
3 the special prison behind Building A. He said that he saw Duch  
4 come into the special prison to interrogate prisoners. He added  
5 that the guards here could not enter the special prison but the  
6 ones from the special prison could come in here.  
7 He was assigned to guard this building very shortly before the  
8 Vietnamese arrived. He said that he did not know all the  
9 interrogators by name. He described the various forms of  
10 torture: clamps in the toenails, ducking in ice water. After  
11 being interrogated the prisoners were taken to some other  
12 locations but he does not know where.  
13 With regard to the photo of prisoners lying down in a line, Vann  
14 Nath explained that this is how he was held. See the paragraph  
15 number 9.1 below.  
16 [16.02.54]  
17 Witnesses Prak Khan and Kung Phai recognized that this type of  
18 room existed. Before the water tank, Suos Thy and Prak Khan  
19 declared that the water tank did not exist at that time. Kung  
20 Phai explained that he saw that water tank outside the prison  
21 compound and inside the special prison. He added that the drum  
22 on display near the bust was used to fill with iced water. Other  
23 witnesses provided some confirmations regarding the killing.  
24 Kung Phai still insisted that he stood by his statement that he  
25 was present during an execution at night. He indicated that the

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1 victims were buried next to the special prison inside the S-21  
2 premises, as they were at the time of the events, but outside the  
3 current premises.

4 The participants then left the room without any incident. The  
5 reconstruction was photographed and videoed and a copy of the  
6 audio-video recording was given to the accused. The original of  
7 the report was written in the Khmer and French and then  
8 translated into English. The Greffiers, Ly Chantola, Ham Hel."

9 MR. PRESIDENT:

10 After hearing the statements of the witness and the written  
11 record of the confrontation and the reconstruction as read out by  
12 the Greffier, for this witness do the Co-Prosecutors have any  
13 observations to make?

14 MR. YET CHAKRIYA:

15 Mr. President, for the testimonies of the witness Kung Phai as  
16 read out by the Greffier, on behalf of the Co-Prosecutors we do  
17 not have any objection.

18 [16.06.30]

19 MR. PRESIDENT:

20 And the civil party counsel, do you have any observations to make  
21 regarding the statements as read out by the Greffier?

22 MR. WERNER:

23 None, Your Honour, thank you.

24 MR. PRESIDENT:

25 The defence counsel, do you have any observations you wish to

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1 make regarding the statements which have just been read by the  
2 Greffier? The statement belongs to the witness Kung Phai.

3 MR. ROUX:

4 Mr. President, the defence has a problem. Could the Office of  
5 the Co-Prosecutors indicate to the Court which of its witnesses  
6 are telling the truth? This witness contradicts a number of  
7 statements that were made before this Chamber by other  
8 prosecution witnesses.

9 I am referring, for example, to the fact that this witness said  
10 that the Duch interviewed the prisoners himself, whereas other  
11 prosecution witnesses have stated the contrary. This witness  
12 says there was a bathtub, and other prosecution witnesses say the  
13 contrary. While this witness says he saw the 10 rules of  
14 discipline on the wall, this very morning another prosecution  
15 witness said the exact opposite.

16 So this is my question for the Office of the Co-Prosecutors. For  
17 the transparency of proceedings, would you be so kind as to  
18 indicate to the Chamber which of your witnesses is telling the  
19 truth in order to support the work of the defence and to  
20 ascertain the truth?

21 MR. PRESIDENT:

22 The international Co-Prosecutor, you may proceed.

23 [16.09.01]

24 MR. AHMED:

25 Your Honours, we all heard Your Honours' question to my learned

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1 friend whether he objects to the admission of this witness  
2 testimony into evidence without calling this witness to the  
3 Court. My learned friend, once again, did not respond to Your  
4 Honours' question.  
5 Responding to the matter raised by my learned friend, Your  
6 Honours, being very experienced judges, are well aware that a  
7 trial of this nature will clearly not have every witness  
8 repeating the testimony as if every witness was telling the same  
9 story. They're all humans. There are, at times, some  
10 differences in the way one witness describes an event from the  
11 way another witness describes an event.  
12 I think it's early at this stage to get into this. After all,  
13 this is what Your Honours will do at judgement and this is what  
14 we shall argue at the time of closing submissions as to the  
15 weight to be assigned to the testimony of every witness heard by  
16 Your Honours.  
17 So my most respectful submission to Your Honours is: it's  
18 premature at this stage to get into who is right, who is wrong.  
19 That's not my job. It's Your Honours business to do, to  
20 ascertain the truth. After all, we are assisting Your Honours in  
21 that matter.  
22 I would most respectfully request my learned friend respond to  
23 Your Honours question, whether he has any objection to the  
24 admission of this particular witness's testimony.  
25 Thank you.

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1 [16.10.51]

2 MR. PRESIDENT:

3 Mr. François Roux, do you have anything to respond?

4 MR. ROUX:

5 Thank you, Mr. President.

6 Obviously, the defence is not disputing the putting of this  
7 testimony before the Court. What the defence wants is for the  
8 prosecution to answer the question which was put; that is to say,  
9 which of your witnesses is telling the truth in light of two  
10 contradictory statements?

11 MR. PRESIDENT:

12 The Chamber would like to give the opportunity to the accused to  
13 make his observations regarding the statements which were read by  
14 the Greffier, if you wish to do so.

15 THE ACCUSED:

16 Mr. President, the general situation surrounding the crimes  
17 committed at S-21, the testimony by Kung Phai is minimal. It is  
18 only a minimal part to assist the Chamber and the nations as a  
19 whole to understand the truth. Some events raised by Kung Phai  
20 -- for example, regarding his allegation that I interrogated  
21 prisoners -- this type of testimony, in addition to the alleged  
22 10 regulations of Santebal on the blackboard, were extensively  
23 discussed before this Chamber. Reasons by both sides were put  
24 before the Chamber, therefore, I think it is problematic with the  
25 testimony of the witness, Kung Phai.

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1 [16.13.50]

2 There is an English proverb that one swallow doesn't make a  
3 season. So this is up to the judgment of the Chamber, as it has  
4 been discussed extensively, separately, regarding the youth whom  
5 I requested from Kampong Chhnang. I would make a summary on this  
6 topic when the facts regarding those youths have been put before  
7 the Chamber.

8 This is my response, Mr. President.

9 MR. PRESIDENT:

10 It is now time for the adjournment. The Chamber will adjourn the  
11 proceeding today and we will resume our proceeding tomorrow  
12 starting at 9 a.m.

13 And parties and the public are reminded that tomorrow the Chamber  
14 will hear the testimony of an expert witness, David Chandler.

15 Security guard, take the accused back to the detention facility  
16 and bring him back to the Chamber before 9 a.m.

17 The hearing is now adjourned.

18 THE GREFFIER:

19 All rise.

20 (Judges exit the courtroom)

21 (Court adjourns at 1616H)

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