



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

2 September 2009, 0903H

Trial Day 69

Before the Judges:

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INDEX

MR. HUN SMIRN

Questioning by Mr. President commences	page 4
Questioning by Mr. Seng Bunkheang commences	page 10
Questioning by Mr. de Wilde D'Estmael commences	page 12
Questioning by Mr. Kar Savuth commences	page 15
Questioning by Mr. Roux commences	page 17

MR. PENG POAN

Questioning by Mr. President commences	page 20
Questioning by Mr. Seng Bunkheang commences	page 27
Questioning by Mr. de Wilde D'Estmael commences	page 29
Questioning by Mr. Kar Savuth commences	page 34
Questioning by Mr. Roux commences	page 36

THE ACCUSED, KAING GUEK EAV

Questioning by Mr. President commences	page 40
Questioning by Judge Cartwright commences	page 57
Questioning by Judge Lavergne commences	page 84

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
JUDGE CARTWRIGHT	English
MR. DE WILDE D'ESTMAEL	French
MR. HUN SMIRN	Khmer
MR. KAR SAVUTH	Khmer
JUDGE LAVERGNE	French
MR. ROUX	French
MS. MARTINEAU	French
MR. PENG POAN	Khmer
MR. SENG BUNKHEANG	Khmer
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. WERNER	English

1

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

2 (Judges enter courtroom)

3 [09.04.25]

4 MR. PRESIDENT:

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

6 In today's session the Chamber is going to hear the testimonies
7 of witnesses, who are going to testify on the character of the
8 accused, and there are two more witnesses to be heard and we will
9 use the remaining time to hear the testimonies of these two
10 witnesses. Before the proceedings the Greffier of the Trial
11 Chamber is now instructed to report the attendance of the parties
12 to the proceedings, including the witnesses to be called.

13 THE GREFFIER:

14 Mr. President, the parties to the proceedings today are all
15 present, except the civil party lawyers, group 2 and group 4, who
16 are absent. Witnesses D5 and D6 are available and awaiting call
17 from the Chamber.

18 MR. PRESIDENT:

19 Before we proceed to hear the testimonies of the witnesses the
20 Chamber would like to enquire the civil party lawyers group 1
21 concerning the schedule; the schedule to hear the final
22 statements, the oral statements by the parties to the
23 proceedings.

24 On the 27th of August 2009 an instruction or direction on the
25 submission of the oral submission and the written statement has

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1 already been issued, and that on the 23rd of November 2009 the
2 hearing is expected -- however, the Chamber has received a
3 request by the Co-Prosecutors, who asked that the hearing to hear
4 the oral statement as scheduled be shifted to the 30th of
5 November 2009. Therefore, the Chamber would like to know the
6 position of the civil party lawyers in relation to the request
7 recently made by the Co-Prosecutors.

8 MR. WERNER:

9 First of all we are very grateful to have a date which is -- as I
10 stated a few weeks ago, a week ago -- very important for us.
11 We were a bit surprised by the prosecution motion because for all
12 of us it's going to mean quite a lot of flexibility and
13 arrangement, however, we take no position on that matter and we
14 are in your hands.

15 The only thing we would say is that we would indeed need a
16 decision on that matter one way or another, whatever the date is,
17 because again all of us will have to come back and it's quite
18 important for us to know as soon as possible.

19 But we are in your hands on that matter. Thank you.

20 [09.10.12]

21 MR. PRESIDENT:

22 The civil party lawyers group 3, would you wish to make any
23 observation in relation to the motion by the Co-Prosecutors in
24 relation to the schedule of the hearing?

25 MS. MARTINEAU:

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1 Good morning, Mr. President. Good morning, Your Honours.

2 This date change does not basically bother us. And I support
3 what my colleague Mr. Werner said. We would like, however, that
4 the date be set in a final way because we have to indeed organize
5 ourselves. Thank you, Mr. President.

6 MR. PRESIDENT:

7 The defence counsel, would you wish to make any observation in
8 relation to the request made by the Co-Prosecutors in relation to
9 the date to hear the final statement raised by the Co-Prosecutor?

10 MR. KAR SAVUTH:

11 Mr. President, as to the motion by the prosecutors to shift the
12 oral hearing from the 23rd of November to the 30th of November,
13 the defence counsel does not object such motion because we can
14 see that it is only to make it more convenient for the parties to
15 the proceedings, and it is not an intention to extend hearing
16 dates. So we are happy that as long as the proceeding is
17 expeditious.

18 MR. PRESIDENT:

19 Thank you, civil party lawyers, both groups, and the defence
20 counsel for your observations in relation to the said schedule of
21 the hearing.

22 [09.13.19]

23 The Chamber would like to inform the parties to the proceeding
24 and the public that after hearing the testimonies of these two
25 witnesses who are going to be called to give testimonies in

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1 relation to the character of the accused in a moment, the Chamber
2 then continues its proceedings to put questions to the accused
3 concerning his character.

4 The Court officer is now instructed to call witness Hun Smirn
5 into the courtroom.

6 (Witness enters courtroom)

7 Good morning, Mr. Witness.

8 QUESTIONING BY THE BENCH

9 BY MR. PRESIDENT:

10 Q. Is your name Hun Smirn?

11 A. Yes, it is, Your Honour.

12 Q. Mr. Hun Smirn, how old are you?

13 A. I am 60 years old.

14 [09.16.01]

15 Q. Mr. Hun Smirn, where do you live and what do you do for a
16 living?

17 A. I live in Stueng village, Rolous commune, Svay Chek district,
18 Banteay Meanchey province. I am a pensioner.

19 Q. According to the report of the Greffier reported to the Court
20 yesterday, that you have no relation or affiliation with any
21 parties to the proceedings and that you have already taken an
22 oath. Is the report correct?

23 A. Yes, it is.

24 Q. Now, the Chamber would like to proceed by informing you the
25 rights and obligation as a witness.

5

1 As a witness, you have the right not to self-incriminate
2 yourself. And as a witness, you shall only tell the truth,
3 nothing but the truth.

4 Mr. Hun Smirn, have you known the accused, Kaing Guek Eav alias
5 Duch?

6 A.I have not known Kaing Guek Eav, I only have known the person
7 named Hang Pin.

8 Q.Could you please look at the accused and please respond to my
9 question whether the person you called Hang Pin and the accused
10 who is present in the courtroom is the same person or is he
11 different from Hang Pin?

12 A.Your Honour, he is the same person.

13 [09.18.48]

14 Q.The accused may be seated.

15 Could you tell the Court how did you come to know him and where?

16 A.Your Honour, I knew Hang Pin in 1996.

17 It was in October of that year and I knew him in my capacity as
18 the director of Svay Chek High School, and at that time there was
19 shortages in relation to the teachers, so that's why we hired him
20 to work for our school.

21 Q.You stated that Hang Pin was recruited as a teacher, a
22 schoolteacher. What kind of subject did he teach and how long
23 had he taught at that school?

24 A.He came to work with our school and he was assigned to teach
25 French language. He started his work in 2006 and 2007, the

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1 academic year, but he started at the beginning from the 28th of
2 October 2006 and finished his teaching at our school by the end
3 of March or February, probably, because I have not got the
4 document to support this, and by then he already left the school.

5 [09.21.28]

6 Q.You said 2006-2007. Was it mistaken because you also
7 mentioned 1996 and 1997, so which would be the accurate date that
8 you refer to?

9 A.My apology, Mr. President. Actually, he started working with
10 us on the 28th of October 1996 and he was assigned to teach
11 French. And in late February or early March 1997, he already
12 quitted the assignment of the work at the school.

13 Q.Mr. Hun Smirn, could you please tell the Court by describing
14 the character of the accused you have known as Hang Pin because
15 since you had been encountered with him for some years during the
16 time you worked together with him in your capacity as the
17 director of Svay Chek High School and while he was a teacher, so
18 you may be able to tell the Court of your impression in relation
19 to his character?

20 A.Mr. Hang Pin, when he was working at our school, was a gentle
21 person. He was not the person who liked talking much. He liked
22 reading books and liked isolation.

23 When he came to school, sometimes he came by motorcycle,
24 sometimes he walked to school, because the location where he
25 stayed was not far away from the school. It was about 500

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1 metres.

2 And he seemed not to like talking or sharing conversation with
3 the colleagues at the school because after he finished his
4 teaching duty he would be sitting alone reading books.

5 And in his teaching, he was a senior teacher and he was
6 well-educated in French language, and I don't know what would be
7 his previous specialty or specialized field, but I noted that he
8 would be well-qualified to teach French since his French is very
9 good. That's why he was asked to teach French.

10 [09.25.28]

11 Q.Are you certain that when you recruited Hang Pin as a teacher,
12 in which school was he assigned to work for?

13 A.When he was employed to work at the high school,1 he had
14 worked at the educational office of Svay Chek district.

15 Q.Do you know how long had he been working at the educational
16 office of Svay Chek district?

17 A.I'm afraid I cannot really remember this, but before 1996 he
18 was seen working at this educational office of the district
19 already and that my colleague, who had been teaching French but
20 then passed away, then we had no-one to replace him and that we
21 noted Hang Pin who could help.

22 Q.What grades did he teach his French to the students?

23 A.He taught at grade 8 and grade 9.

24 Q.You indicated just now that the accused liked being isolated
25 and that he liked reading and did not like talking much. So can

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1 you tell the Court whether it is his natural character or because
2 he wanted to hide his acts by not socializing himself with the
3 colleagues at school?

4 A.I'm afraid I don't know.

5 [09.28.25]

6 Q.Could you also tell the Court about his interactions with the
7 students and the other teachers at the same school and the
8 educational staff at the school that you were the director? How
9 was his interaction with the people in the community?

10 A.It was normal. It was the normal way of contact. There would
11 be times when people could talk to one another in a normal way.

12 Q.Did he ever show any kind of inappropriate attitude that hurt
13 the mentality or the state of minds of the students or the
14 teachers at his same school?

15 A.I did not see that.

16 Q.When he went to taught at that school, where was his family?
17 Did he bring his family to live with you over there?

18 A.He only brought his children with him when he went to teach at
19 that school.

20 Q.You said during the time of his teaching -- of the time that
21 he taught there, it was not long and up to the 28th of February
22 or March, so it means he only taught for four or five months and
23 then he give up his teaching career at that school.

24 What do you mean by "giving up"? Did he quit teaching or he quit
25 temporarily and went to work somewhere else for another reason?

9

1 Can you explain to the Chamber?

2 [09.31.20]

3 A. In late February or early March, he disappeared from the
4 school and only later on we heard that he went to work at
5 Samlaut, and I did not see the assignment for him to work there;
6 I did not see anything on paper. I only heard through other
7 people.

8 Q. So you did not know anything else about him quitting the job
9 and accepted another job in Samlaut or that he was transferred
10 from that current job to work in Samlaut. Is this correct?

11 A. That is correct.

12 Q. What about his interaction with other groups besides the
13 teachers and the students at that school, did you observe his
14 interaction with other groups within the community at the
15 location of his residence?

16 A. During the time that he worked and stayed there, it was quite
17 short and I did not fully observe his way of living, and his
18 residence was far from where I stay so I could not grasp this
19 situation well.

20 Q. What about his religious observance? During his teaching
21 tenure at that school where you were the principal, during that
22 four or five months period, did you observe which religions that
23 he practiced?

24 A. It is my understanding and my observation that he was a
25 Christian.

10

1 [09.34.26]

2 Q.When he quit his teaching career from your school, did he
3 inform you as a school principal or did he inform the district
4 education department of giving up his job as a teacher?

5 A.When he quit teaching, my school and the department did not
6 know anything about that. He just simply disappeared.

7 MR. PRESIDENT:

8 Judges of the Bench, do you have questions to be put to this
9 character witness?

10 The Chamber would like now to give the floor to the
11 Co-Prosecutors to put questions to this character witness if they
12 so wish. The Co-Prosecutors have 10 minutes.

13 MR. SENG BUNKHEANG:

14 Thank you, Mr. President.

15 QUESTIONING BY THE CO-PROSECUTORS

16 BY MR. SENG BUNKHEANG:

17 Q.Good morning, Mr. Smirn.

18 Did you know Duch's performance as a teacher? Was he a
19 hard-working teacher, meticulous and always fulfilled his
20 assignment?

21 [09.36.09]

22 A.From the beginning, during the first two or three months, his
23 work performance was excellent and we, as the management
24 committee, even if sometime we forgot to ring the bell, he had
25 his eyes on his board and he did this work as well, so it meant

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1 he was very attentive to his work and very punctual.

2 Q.Thank you. Did you ever observe or see Duch slip his tongue
3 that he was the Chairman of S-21 and that he was the closest
4 associate to Son Sen or the reason for him to be a teacher at
5 your school, and it was in order to avoid being arrested by the
6 authority? Did he ever slip any of these lines to you?

7 A.No, I did not hear that.

8 Q.Thank you. Did you also know of his relationship with the
9 Khmer Rouge leadership?

10 A.No, I did not know that.

11 Q.Did you also know whether the Khmer Rouge leadership or the
12 Khmer Rouge soldiers were looking for him during the time?

13 A.No, I did not know any of these things.

14 [09.38.18]

15 Q.When he was teaching at the Svay Chek School, if someone were
16 to tell you that Duch was the chief executioner at S-21, would
17 you believe that?

18 A.If I knew or if I were told that, I would not believe it,
19 based on what I could see through him at the time.

20 Q.So you believed that he played his role very well, to be
21 observed as a sincere and honest person?

22 A.Through his activity, he was shown to be a good and friendly
23 person.

24 MR. SENG BUNKHEANG:

25 I do not have any more questions for this and I would like to

12

1 give the floor to my international Co-Prosecutor.

2 MR. PRESIDENT:

3 The international Co-Prosecutor, you take the floor.

4 BY MR. DE WILDE D'ESTMAEL:

5 Q.Mr. Witness, good morning. I would like to know whether
6 during the period where he was teaching in your school, were
7 there any rumours concerning the past of Hang Pin alias Duch,
8 under the Khmer Rouge? Did some teachers receive information
9 concerning his past? Would they have spoken about it within the
10 school and would you have paid any attention to this information?

11 A.I, myself, did not hear and did not know anything regarding
12 what you have raised in your question.

13 [09.40.50]

14 Q.When he was detained there for a very short period and you
15 were therefore able to see just a few things, you said that he
16 was quite solitary, and I just want to delve a little a bit more
17 on his character.

18 According to you, was he somebody who was comfortable in his
19 shoes? Was he happy to be alive and joie de vivre or did he look
20 tormented, worried and depressive?

21 A.During his time teaching there, I did not pay much attention
22 to his personal character. At that time, he had just suffered
23 the robbery and that his wife was killed during the course of
24 that robbery, so he fled to Svay Chek and he served as a teacher
25 in that school and, of course, he suffered because of the loss of

13

1 his wife.

2 And through his teaching activity, I would not have believed that
3 he used to be a senior person. I only thought of his
4 circumstance of his relocation due to the robbery and the loss of
5 his wife. That is all.

6 Q.So all of these are suppositions that you make because there
7 was this event, but did the accused himself talk about to you
8 about this event, the death of his spouse? Did he show any
9 feelings with regard to this event or did he hold it as a secret?

10 A.Regarding the loss of his wife, I learnt of it before he even
11 came to work at my school, and when he came to work at my school
12 I only knew well of what happened to him; that is, regarding the
13 loss of his wife.

14 [09.44.01]

15 Q.Did the accused tell you or to his other colleagues what he
16 had done under the Khmer Rouge? I know that you don't know
17 anything about his past, but did he himself talk about this
18 period to try and justify what he had done during this period;
19 and where he was, where his family was?

20 A.He never said anything about his past to me.

21 MR. DE WILDE D'ESTMAEL:

22 I have two last questions, Mr. President.

23 BY MR. DE WILDE D'ESTMAEL:

24 Q.With regard to his students, how would you qualify his
25 teaching? As a principal, you were able to attend some of his

14

1 classes. Was he authoritarian? Did he tolerate debate and
2 discussions with his students? Did he tolerate a certain amount
3 of disobedience from his students?

4 A. In his teaching performance, it was excellent, and the
5 students referred to him as Grandpa Teacher, and this signified
6 the excellence in his teaching career.

7 Q. To come back to one of the questions of my colleague, when you
8 learnt that in reality Hang Pin was Duch, responsible for so much
9 crime, did you feel afterwards that you'd been deceived by this
10 person? Were you shocked that a man responsible for so much
11 torture and execution of men, women and children had been able to
12 share with you four years of his life -- of your life -- and that
13 he had a normal attitude at that time?

14 [09.46.48]

15 After that exposed, when you learned this, did this shock you?
16 Did this scare you? And did you wonder what kind of a man could
17 act in this way and be able to dissimilate his criminal past so
18 well?

19 A. Through his teaching activities at my school, and that later
20 on, I learned of his criminal past. Even at present day it is
21 extremely hard for me to take it that he involved with so serious
22 crimes in comparison to his teaching career at my school. It was
23 a complete opposite. In his teaching career, he was so perfect.

24 MR. DE WILDE D'ESTMAEL:

25 Thank you, Mr. President. I have no more questions for the

15

1 witness, whom I'd like to thank as well.

2 MR. PRESIDENT:

3 The Chamber would like now to give the floor to the defence
4 counsel to put questions to this character witness if they so
5 wish. The defence counsel has 10 minutes.

6 MR. KAR SAVUTH:

7 Thank you, Mr. President. Good morning, Your Honours.

8 QUESTIONING BY DEFENCE COUNSEL

9 BY MR. KAR SAVUTH:

10 Q.Mr. Hun Smirn, I would like to ask you a few questions.

11 [09.49.00]

12 When Hang Pin was your staff at the Svay Chek School, did you
13 satisfied with all the tasks completed by Hang Pin?

14 A.Through his activity and his teaching performance it was the
15 most excellent work at my school.

16 Q.Thank you. So you were very happy with every aspect of his
17 work?

18 A.Yes.

19 Q.Thank you. So from what you knew, Mr. Hang Pin, can you tell
20 us about his feeling?

21 A.During his teaching tenure there he was generous, kind,
22 friendly, and he had good relationship with staff, with the
23 management committee as well as with students. There was no
24 dispute or conflict at all.

25 [09.50.33]

16

1 Q.Thank you. From the beginning you said he was observed to be
2 alone frequently. Did any of your staff or within the group of
3 teachers or students -- did any one of them ever criticize him
4 for being alone or being smug and did not want to join the group?

5 A.No.

6 Q.Thank you. So can we say all the staff and all the teachers
7 under your supervision, they all liked him very much?

8 A.Every one of us was alike, we befriended with him.

9 Q.Thank you. When teachers met, they would talk about this or
10 that. So during such meeting, sometimes they talk about
11 politics. Did you ever hear Hang Pin say anything regarding
12 politics?

13 A.It is possible that they might have talked about the politics.
14 During teachers meetings we talked on several topics and it might
15 include the politics. However, during such talking he would
16 listen to those people and he would not use any inappropriate
17 words to anyone talking about politics during such meeting.

18 Q.Thank you. Just then you told the Chamber that his family was
19 robbed. Did you know whether the robbery took place by the real
20 robbers or the situation took place because of those Khmer Rouge
21 people or group or cadres who wanted to kill him and his family?

22 A.Regarding the situation surrounding robbery, I was not really
23 sure. Maybe the next character witness would be able to shed
24 light on this issue.

25 [09.53.44]

17

1 Q.Thank you, Mr. Hun Smirn for your testimony on the accused's
2 character.

3 MR. KAR SAVUTH:

4 Mr. President, I do not have questions for this witness and if my
5 colleagues have questions, then please allow him to do so.

6 MR. PRESIDENT:

7 The international defence counsel, if you have questions you can
8 proceed.

9 MR. ROUX:

10 Thank you. Good morning, Mr. President. Good morning, Your
11 Honours.

12 BY MR. ROUX:

13 Q.Good morning, Witness.

14 You have said almost everything in answering to the different
15 questions that have been asked of you. Just one or two
16 clarifications.

17 At what time exactly, when exactly did you learn about Duch's
18 arrest -- that is what he is called at that time -- when did you
19 learn about his arrest?

20 A.I learned of his arrest on the radio broadcast and I saw it on
21 the news on the television. And when Hang Pin was arrested I
22 learned of other names, Kaing Guek Eav or Duch, but when I saw
23 his face on the television I realized it was actually Hang Pin
24 and I believe it was in late 1997.

25 [09.55.44]

18

1 Q.You are probably mixing the dates. It was in 1999, Mr.
2 Witness, just to remind you. So it was on television that you
3 discovered that your former teacher is actually Duch. Is that
4 correct?

5 A.I apologize. I think I got confused with the year.

6 Q.So you answer to the Co-Prosecutor that it was then difficult
7 for you to understand.

8 I think there may be a problem with the microphone. Does the
9 interpretation hear me? Yes.

10 So as I was saying, it was difficult, you said, for you to
11 understand how Duch could have been Director of S-21 in the past
12 but also the excellent teacher that you knew. Is that correct?

13 A.Could you please repeat your question?

14 Q.Forgive me. We were interrupted. I was saying that you
15 answered to the Co-Prosecutor that you were extremely surprised
16 upon learning this news and that it was difficult for you to
17 understand how Duch had been the former Director of S-21 in the
18 past while at the same time he had been -- at another time,
19 rather, had been an excellent teacher.

20 [09.59.14]

21 You found it difficult to understand this.

22 A.According to his activities at the workplace under my
23 supervision, I could observe that he could not have been such a
24 person because his activities when he worked with me, did not
25 reflect that he was a cruel person or a drunkard. I could not

19

1 believe that he ended up being such a person after all.

2 Q.And this is why, therefore, you came today before this Court
3 in order to explain to this Court that you had known Duch as an
4 excellent teacher? This is what you came to tell us today; an
5 excellent teacher who did a perfect job. This is what you said.

6 A.Yes, it is correct.

7 Q.Mr. Witness, thank you for having travelled all the way to
8 this Court in order to provide your statement.

9 [10.01.07]

10 MR. ROUX:

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

12 MR. PRESIDENT:

13 The Chamber is grateful to Mr. Hun Smirn for his testimony before
14 the Trial Chamber. The proceedings to hear the testimony of Mr.
15 Hun Smirn concerning the character of the accused has now come to
16 an end. The witness can join the public to observe the
17 proceedings or he may choose to go back to his residence if he
18 wishes to do so.

19 The Court officer is now instructed to make any necessary
20 arrangement so that Mr. Hun Smirn can be assisted and that
21 another witness is called into the courtroom.

22 (Witness exits courtroom)

23 (Witness enters courtroom)

24 MR. PRESIDENT:

25 Good morning, Mr. Witness.

20

1 QUESTIONING BY THE BENCH

2 BY MR. PRESIDENT:

3 Q.Is your name Peng Poan?

4 A.Yes, it is.

5 Q.How old are you?

6 A.I'm 57 years old.

7 [10.04.34]

8 Q.Where do you live and what do you do for the living?

9 A.I live in Phkoam, Svay Check, Banteay Meanchey, and I am a
10 teacher.

11 Q.According to the report by the Greffiers of the Trial Chamber,
12 you have no relationship or affiliation with any parties to the
13 proceedings and that you have already taken an oath before you
14 are called. Is it correct?

15 A.Yes, it is.

16 Q.The Chamber would like to proceed to notify you of your rights
17 and obligation as a witness. As a witness, you may decline to
18 respond to any questions that you are afraid that the testimony
19 could self-incriminate you, and that as a witness you shall tell
20 the truth, nothing but the truth.

21 Mr. Peng Poan, do you know the accused, Mr. Kaing Guek Eav alias
22 Duch?

23 A.I never know Kaing Guek Eav. I have known Hang Pin.

24 MR. PRESIDENT:

25 The accused, could you please rise?

21

1 [10.06.28]

2 BY MR. PRESIDENT:

3 Q.The witness, could you please look at the person who is on his
4 feet now. Is this the person you refer to as Hang Pin?

5 A.Yes, he is.

6 MR. PRESIDENT:

7 The accused, could you please be seated.

8 BY MR. PRESIDENT:

9 Q.Could you please tell the Court in what capacity did you know
10 that person and how did you come to know him?

11 A.I had known him because he would want to work as a teacher at
12 my school.

13 Q.Could you please tell the Court in which school did he ask you
14 that he could be teaching?

15 A.At that time because the school was new and that I am the
16 person in the local community who was promoted to oversee the
17 school temporarily and having noted that we need a teacher, so we
18 recruited him in 1993 or 1994.

19 Q.What was the name of the school you worked at and he taught?

20 A.It was Phkoam High School. It was located to the north of the
21 Phkoam village in the territory of Phkoam village, Svay Chek
22 district.

23 Q.Could you please recollect the exact date when he asked you
24 that he could become a teacher at that Phkoam High School? How
25 long had he been teaching at the school and when exactly was it?

22

1 And when did he leave Phkoam High School to work elsewhere?

2 A.He started work with me, as I already indicated, in 1993 and
3 1994. He worked with us until 1995, when he was transferred to
4 work at the educational office.

5 Q.Could you please be more precise about the date, and this date
6 is very important to be verified?

7 [10.10.33]

8 There have been some facts which are related to the accuracy of
9 the verification of the dates because the parties would put
10 questions in relation to these actual dates concerning the
11 accused's character. So could you please restate your statement?

12 A.My apology, Mr. President. I may not have made myself clear
13 but he did work with us from 1993 to 1995 when he moved to work
14 at the educational office of the district.

15 Q.Mr. Peng Poan, could you please tell the Court about the
16 character of the accused Kaing Guek Eav alias Duch, although you
17 have known him as Hang Pin? So since you had been encountered
18 with him at the Phkoam High School then you could shed light on
19 the character of the accused now.

20 A.Mr. President, when he worked with me as a teacher, he was
21 like a normal teacher, however, I have noted that he was very
22 strict to his assignment and work.

23 Q.Could you please elaborate further on his character; was he an
24 aggressive person, cruel, gentle? And how was his interactions
25 with the students, the teachers and people in the community,

23

1 based on the best of your recollection?

2 A.Having noted his performance at Phkoam High School, I noted
3 that he did not show any signs of abnormality because he taught
4 students like the way the other teachers taught students. It's
5 normal.

6 Q.What subject was he assigned to teach at Phkoam High School?

7 A.Since the school needed teachers in chemistry and physics, so
8 he were asked to teach these subjects.

9 [10.14.09]

10 Q.Which grade did he teach?

11 A.It was the new school and there were no students of higher
12 grade. There were five, six and seven grades, so he were asked
13 to teach grade 7 and grade 8 students.

14 Q.When he was recruited to teach at Phkoam High School, was he
15 the staff member of the government? If he was the employee of
16 the government, to which institution did he belong?

17 A.When he worked at our school, he did not belong to any
18 particular institution, yet -- or he was not paid so he was not a
19 government employee.

20 Q.So he worked on a voluntary basis. So was he offered some
21 kind of assistance or incentive?

22 A.He volunteered to work for us and the schools did not have any
23 reward to him, although we assured him that we would do our best
24 to help him obtain the official post and, during that time, it
25 was under the conflicts and it was difficult to get any financial

24

1 support for any teachers at the school, especially for him.

2 Q.When he volunteered to work at the Phkoam High School, where
3 did he live? Was his residence located next to the Phkoam school
4 or was it far located?

5 A.After he started working at the school, he started to build a
6 small house near the school, which was about 100 metres from the
7 school.

8 [10.17.07]

9 Q.Do you know where he came from and how he could teach -- what
10 kind of specialty or field of education he obtained at school?

11 A.I don't think I know about this but at that time people at the
12 refugee camps were repatriated. In light of that event, then he
13 also came and I could not really have a good grasp of his
14 biography.

15 Q.Did you liaise for his recruitment at the school or was he
16 introduced by another individual so that he could volunteer to
17 teach at your school?

18 A.I learned from Lat Ngat, who told me about the background of
19 Mr. Hang Pin because Ngat would tell me about his previous
20 profession as a schoolteacher, even from the Sangkum Reastr Niyum
21 from the Prince Sihanouk regime. And then I recruited him.

22 Q.You indicated that he worked at the school on a voluntary
23 basis. How long did he work at the school before he was employed
24 officially by the government?

25 A.It had been long before he was employed officially. It was in

25

1 late 1995 already and then he was employed officially by the
2 Ministry of Education.

3 Q.During the time when he assisted you at the Phkoam School,
4 could you tell the Court of his work performance and his
5 teaching? Was he a punctual person or committed person, or was
6 he at the school to only show off that he was good enough to be a
7 teacher and that you could grant him the full employment,
8 official employment so that he could become a government
9 employee?

10 A.He could be seen coming to the school regularly, only when he
11 had some personal and family problems that he would seek leave.
12 [10.21.10]

13 Q.Did you live next to the place where the accused lived at that
14 time?

15 A.My home is not far from the school. It is about 800 metres
16 only.

17 Q.Can you tell the Court why he changed from his teaching
18 position at the Phkoam School to the educational office at the
19 district, because he was promoted or because of what other
20 reasons?

21 A.Actually, he had his personal and family problem because his
22 family was robbed. His wife was killed during the incident and
23 he got injured himself. And we took him to the hospital and
24 after he was discharged from the hospital he asked whether we
25 could help him to avoid facing the same incidents. And then we

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1 proposed to the educational district office and that they agreed
2 to save him for security reason and that he was transferred to
3 that district office in late 1995 in light of that.

4 Q.After he departed from Phkoam High School and started working
5 at the educational office at the district, do you know how long
6 had he been there before he moved further?

7 A.I'm afraid I don't know because it was under the supervision
8 of the district office when it comes to his performance and
9 duration of his work. And I lost touch already when he was out
10 of my sight.

11 [10.23.50]

12 Q.Did you know that he disappeared after some time?

13 A.I have no idea because I was far from the district office
14 because it was about 30 kilometres from my home. It was so far
15 to know what happened there.

16 Q.Can we move back to the robbery, the episode in which his wife
17 was killed? Do you recall when exactly was it?

18 A.I don't remember when but I believe it could have been in 1995
19 the incident happened.

20 Q.As a colleague, what is your impression in relation to the
21 robbery and the incident that led to the execution of his wife
22 who was killed by a stabbing of the bayonet of the weapon? So
23 can you tell the Court of your impression in relation to this
24 matter?

25 A.I don't know for sure because it was at that location -- it

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1 was in the very unsecured zone and there were several villagers,
2 newcomers and it was hard to control. And instability was
3 widespread in the local community. So I may not be able to tell
4 the Court about this.

5 MR. PRESIDENT:

6 Judges of the Bench, would you wish to put questions to this
7 witness?

8 Now the Chamber would like to give the floor to the prosecutors
9 to put questions to the witness. The Prosecutors have 10 minutes
10 to do so.

11 [10.26.31]

12 Could you please be reminded to avoid using or putting
13 hypothetical questions or repetitious questions and that avoid
14 putting questions that lead to the witness to give his assumption
15 in his testimony.

16 MR. SENG BUNKHEANG:

17 Thank you, Mr. President.

18 QUESTIONING BY THE CO-PROSECUTORS

19 BY MR. SENG BUNKHEANG:

20 Q.Mr. Peng Poan, have you been close, in terms of relationship,
21 with the accused?

22 A.Having worked as colleagues for a certain period of time, it
23 can be arguably said that we had been close because we had good
24 communication.

25 Q.When he started working at your school, did you ask him to

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1 produce his biography? If you can recall this, so can you also
2 tell the Court what would be the content of the biography?

3 A.He wrote briefly in his biography. He said that he was the
4 former school teacher during the Sangkum Reastr Niyum regime.

5 Q.Do you know that during the time when he worked as a teacher
6 at your school, did he manage to keep good contact with other
7 Khmer Rouge leaders?

8 A.I don't know because I have not noted that.

9 [10.28.36]

10 Q.Thank you. You never seen it but did you know that, or did
11 you observe that some Khmer Rouge soldiers were searching for his
12 whereabouts?

13 A.No, I don't know, or I didn't observe it.

14 Q.When did you get to know that Duch, the accused, was the
15 Chairman of S-21?

16 A.I only learned of this information when he arrested and his
17 information was broadcast.

18 Q.Having learned that the accused was the Chairman of S-21, was
19 you disappointed or shocked to hear that?

20 A.Having learned that, it was interesting because I didn't
21 expect that he could have been the Chairman of S-21.

22 Q.Thank you, Mr. Witness, I have no further questions but I
23 would like to share the floor with my international colleague.

24 MR. PRESIDENT:

25 The international Co-Prosecutor, you may proceed.

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1 [10.30.00]

2 MR. DE WILDE D'ESTMAEL:

3 Thank you, President. Good morning, witness.

4 BY MR. DE WILDE D'ESTMAEL:

5 Q.Witness, we don't know much about your past because there is
6 nothing in the file concerning you, except for some indications
7 of the defence.

8 I would like to ask you one or two questions about your personal
9 past and first of all, Mr. Witness, do you know Chou Vin and Hun
10 Smirn -- the two persons who go by these names?

11 A.Yes, I know these two persons. They were the former teachers
12 since the regime of the State of Cambodia.

13 Q.Can you tell me where these two persons worked at the time
14 when you were principal of the Phkoam school?

15 A.Chou Vin was a deputy director of the district education
16 department of Thma Puok, and now he is the deputy director of the
17 Svay Chek district education department.

18 Q.And Mr. Hun; you didn't answer the question concerning Mr.
19 Hun?

20 A.I knew him, but his workplace was far away from where I
21 worked, so I cannot tell you much. He worked at the Svay Chek
22 School and I only knew him when he was provisionally promoted as
23 a deputy principal of that school.

24 [10.32.56]

25 Q.Very well. Can you then tell the Chamber whether you have met

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1 with these two persons recently and under what circumstances?

2 A.Are you talking about the meeting before I came to provide the
3 testimony or the meeting at our location at the school?

4 Q.Just asking you to answer -- tell us when you met them. Was
5 it recently, in the last few days, the last few weeks? Did you
6 have the opportunity to talk about the coming trial?

7 A.I have not met them until I was called by the representative
8 of this Court. And for Mr. Chou Vin, we work together at the
9 office, so I meet him every day, but I have not met Hun Smirn.

10 Q.Thank you very much. Mr. Witness, can you tell us in a few
11 words what you did between 1995 (sic) and 1979 under the Khmer
12 Rouge? For example, were you displaced, were you forced to work,
13 were you a soldier, or did you occupy any other function?

14 A.During the Pol Pot regime, I was a rice farmer. I was in a
15 mobile unit. I was assigned to build dams, to work in the rice
16 fields, et cetera.

17 Q.In 1994, do you remember whether the teachers from your
18 establishment, from Svay Chek, had been to Phnom Penh to undergo
19 a training session?

20 A.Could you please repeat your question?

21 [10.36.32]

22 Q.In 1994, some of the teachers who were your colleagues or
23 yourselves or members of the management of the school -- or of
24 the Svay Chek School -- did they come to Phnom Penh to undergo
25 training -- teacher training?

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1 A. In my Svay Chek School, I do not believe that we were sent for
2 teacher training in Phnom Penh, no.

3 Q. Very well. To be perfectly clear concerning Hang Pin's
4 character, at any point in time did you hear some of your
5 colleagues -- colleagues from your school or from your region --
6 talk about him as possibly having been a cadre of the Khmer Rouge
7 and having played a role in the crimes committed between 1975 and
8 1979?

9 A. From what I know the people living there, including myself,
10 did not know of his past. Only after his arrest and when it was
11 made public then we were aware of his past.

12 Q. According to you, in his years when he worked with you, the
13 accused, did he believe normally, as you said? Was he somebody
14 who was happy, made jokes? Was it fun to be in his company?

15 A. During the time that he worked there, he did not seem to joke
16 around much.

17 He was a gentle and quiet type of person and he seldom made a
18 joke.

19 Q. Can you say that at that time he wanted to please everybody,
20 he wanted to please his people, his colleagues, the management?
21 Did he do everything that he could to be considered as being well
22 integrated?

23 MR. PRESIDENT:

24 I notice the defence counsel on his feet. You may proceed.

25 MR. ROUX:

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1 President, you reminded us that we were not to ask questions of
2 the witness on his suppositions. Asking a witness whether he
3 supposes whether the attitude of the accused was to please is a
4 supposition.

5 [10.40.39]

6 So, President, may you kindly remind the prosecutor to respect
7 your indications?

8 MR. PRESIDENT:

9 The observation by the defence counsel is appropriate.
10 The witness, you do not have to answer these questions.
11 The Co-Prosecutor, you're reminded that the time for your
12 questioning is running out.

13 BY MR. DE WILDE D'ESTMAEL:

14 Q.I have one last question. My colleague asked you awhile ago
15 what was your reaction when you learned that Hang Pin, whom I
16 believe you admired and appreciated at the time, was in reality
17 Duch, responsible for a very large number of crimes, as you know
18 now. Did you feel betrayed when you learned about this? The
19 consideration that you had for Hang Pin was that affected in any
20 way? What was your reaction? What did you think when you
21 thought back about the years that you had passed with Hang Pin
22 and his attitude?

23 A.As I said earlier during his time that he was with us his work
24 was remarkable and his relationship with other people was
25 excellent. We would not have known that he was a senior leader

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1 of that regime. And upon learning the news I was shocked. I was
2 really shocked.

3 [10.43.17]

4 Q. Did you then have any nightmares about having met with
5 somebody, trusted him, knowing afterwards all the crimes that he
6 was able to commit during the Khmer Rouge period?

7 A. I had that feeling and today when I thought back of the regime
8 that a lot of Cambodian people died and that now people are
9 disgusted with him I still have the feeling of fear within me,
10 and also I am quite concerned with my personal safety. Even at
11 the present time at the location where I stay, although safety
12 seems to be ensured, I am still pretty concerned with my own
13 safety.

14 MR. PRESIDENT:

15 Mr. Co-Prosecutor, your time is running out so you are not
16 allowed to ask anymore questions to this witness.

17 The DVD for recording the proceeding is also running out,
18 therefore, the Chamber will adjourn for 20 minutes and it will
19 resume at 11 a.m. to continue our proceeding.

20 Court officer, can you provide necessary refreshment to the
21 character witness and invite him back into the Chamber before 11
22 a.m.

23 THE GREFFIER:

24 All rise.

25 (Judges exit courtroom)

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1 (Court recesses from 1045H to 1106H)

2 (Judges enter courtroom)

3 [11.06.33]

4 MR. PRESIDENT:

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

6 Next, the Chamber would like to give the floor to the defence

7 counsel to be able to put questions to the witness if they so

8 wish.

9 MR. KAR SAVUTH:

10 Mr. President. Thank you, Your Honours.

11 QUESTIONING BY DEFENCE COUNSEL

12 [11.07.06]

13 BY MR. KAR SAVUTH:

14 Q.Mr. Peng Poan, good morning. Could you please clarify for us,

15 besides being a teacher at Phkoam School, what did Mr. Hang Pin

16 do for a living? You already indicated that he volunteered to

17 teach at your school and that during 1994 and '95 there was not

18 any financial support to the teachers, and I am interested and

19 the Court is interested to know also what kind of occupation he

20 would have besides being a teacher -- just to live on?

21 A.I noted that he did farming; at the same time he taught, and

22 at his home he sold grocery.

23 Q.Thank you. You said that at that time in your area there were

24 a lot of robbers. Can you please tell the Court whether in each

25 robbery case then killing would not be avoided?

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1 A. There were some robberies previously, but only that the
2 victims were tortured or beaten but they were not killed. But in
3 this latest incident that happened to his family, his wife was
4 stabbed to death.

5 Q. My question is that normally the robbers would just beat the
6 victims and they did not kill the victims, but then when it came
7 to the family of Duch then his wife was killed and he got injured
8 by the robbers. So do you think that this kind of robbery was an
9 abnormal or very unusual robbery? Do you think that this kind of
10 robbery was contributed to the revenge started by the other Khmer
11 Rouge soldiers towards his family?

12 A. I'm sorry, I cannot really tell you about this.

13 Q. Thank you. So based on your knowledge from 1993 to 1995, Hang
14 Pin was the staff member under your supervision. Can you tell
15 the Court about his treatment toward the students and the
16 teachers and the people in the community? And if possible, can
17 you please also tell the Court of the reactions of the people in
18 the community towards him?

19 [11.11.25]

20 A. Now, I am only talking about the relationship between the
21 teachers and students. I have noted that a lot of students loved
22 him. They even called him Grandfather Teacher or Master because
23 of their appreciation of his talent and they really loved him and
24 he had a very good communication with the other teachers at
25 school.

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1 Q.Thank you for sharing this with us. I have no further
2 questions but I would like to share this floor with the
3 international co-colleague.

4 MR. PRESIDENT:

5 Mr. François Roux, you may now proceed.

6 MR. ROUX:

7 Thank you, Mr. President.

8 BY MR. ROUX:

9 Q.Good morning, Mr. Witness. I am not going to have you repeat
10 what you already said but I understand, of course, that you
11 thought that Mr. Hang Pin was doing a good job in your school and
12 that you had good relations with him. Isn't this what you said
13 to the Chamber?

14 A.Yes, it is correct. I did indicate that. I did say that he
15 did quite a good job and I did have good relations with him.

16 [11.13.16]

17 Q.And when you were answering a question that was put to you by
18 the Co-Prosecutor you said that during his arrest you were
19 completely shocked. You were completely shocked when you
20 discovered that Mr. Hang Pin was the former director of S 21. Is
21 that so?

22 A.Yes, it is correct. It's surprising and I couldn't believe
23 it.

24 Q.May I therefore say that you were disbelieving because, in
25 relation to the man that you had known previously, it seemed to

37

1 you impossible that this very same person could have been the
2 Chairman of S-21. Is this what I must understand?

3 A. Could you please repeat your question?

4 Q. Please forgive me. You were shocked, you said, because it
5 seemed to you impossible that this man that you had known as a
6 teacher had been previously the Chairman of S-21. This seemed to
7 you to be completely impossible. It seemed to you to be
8 impossible that it had been the same man who had been in these
9 two different functions. Was that the reason for your surprise,
10 for your shock?

11 A. Yes, I was shocked to learn of that news because he could not
12 have been the Chairman of S-21 because he worked as a teacher and
13 he was normal.

14 Q. And you also said to the Chamber, after having explained that
15 you had been shocked -- you also said to the Chamber that today
16 still you are still afraid when you remember this regime. Is
17 that so?

18 [11.16.40]

19 A. It is quite normal that the person the same age as me would
20 have experienced such a regime and we are still terrified.

21 Q. And am I right in saying that you were able to overcome this
22 fear in order to come today before the Chamber to provide your
23 testimony?

24 A. Yes, it is correct because although I am feeling terrified but
25 I feel compelled to ascertain the truth before the Chamber, and

38

1 I'm shocked. I still feel fear.

2 Q.Well then, Mr. Witness, I wish to thank you.

3 MR. ROUX:

4 And I have no further questions, Mr. President. Thank you.

5 Thank you for having travelled here.

6 MR. PRESIDENT:

7 Mr. Peng Poan, the Chamber is very grateful to your assistance

8 and presence in this Court as scheduled. The hearing proceedings

9 to hear your testimony has already come to an end. Therefore,

10 you now may travel back to your hometown or you may choose to

11 follow or observe the proceedings and you are allowed to sit in

12 the public gallery to do so if you so wish.

13 (Witness exits courtroom)

14 [11.19.09]

15 MR PRESIDENT:

16 The Court officer is now instructed to take him to meet the WESU

17 unit to coordinate his travelling back to his home town.

18 Next the Chamber is proceeding to put questions to the accused

19 concerning his character. The detention security personnel are

20 now instructed to take the accused to the dock.

21 Before we proceed with the questioning to the accused concerning

22 his character, the Chamber would like to give the opportunity to

23 the accused to make his observation in relation to the

24 testimonies of the witnesses who have already been called and

25 heard before the Chamber.

39

1 The accused has already been notified of this, so if the accused
2 now would wish to make such observation, you may proceed.

3 [11.21.49]

4 THE ACCUSED:

5 Mr. President, first of all I would like to just indicate that I
6 concur with the testimonies of the six previous witnesses and
7 next I would like to classify these witnesses into three groups.
8 First, there was only one person, named Sou Sath, who is the most
9 senior person who has lived through several regimes. And there
10 are the two people who were my students, in the next group, and
11 followed by the three-person group, including my colleagues who
12 are senior, who have lived in their community for a long time
13 already. They have started their work for the government since
14 1979.

15 So their statements reveal their will and their impression in
16 relation to the observation on my personality. And that's all,
17 Mr. President.

18 MR. PRESIDENT:

19 The next proceeding is about putting questions to the accused
20 concerning the character. The accused already had an opportunity
21 to tell the Court of his full account of his biography and
22 background. Since we ran out of time actually during the time
23 when the accused was given opportunity to tell the Court about
24 his biography, then it is now time to put more questions to
25 follow up.

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1 QUESTIONING BY THE BENCH

2 BY MR. PRESIDENT:

3 Q.May I ask what reasons that made you to change your name,
4 revolutionary name, from Duch to Hang Pin?

5 [11.24.37]

6 The accused can be reminded that since the proceedings will last
7 long, so you may be seated.

8 A.Mr. President, in 1985-'86 I was teaching at the primary
9 school at Samlaut. I taught students and my children. In June
10 1986 my superior advised through Sou Met to ask me whether I
11 would prefer working at Samlaut or moving to K-18 with him. If I
12 chose to go to K-18 then my superior asked that I change my name,
13 and I told Sou Met that I would prefer going to that K-18 and
14 that I passed on this message through Sou Met to my superior, Son
15 Sen, that my name Duch could be changed to Hang Pin.

16 I would like to also emphasize that previously I used the name
17 Duch to refer to a very good student, but Pin referred to a very
18 lazy student, so this time I chose a lazy one. But Pin here in
19 Khmer dictionary of the Buddhist Institute -- or people know this
20 dictionary as the Samdech Chuon Nath Dictionary -- Pin refers to
21 the top or superiority.

22 And I had to be very mindful with choosing the surname for my
23 children. I did not pick up Meah as the surname for my children.
24 That's why I chose my clan's family name, Ang, the Chinese. And
25 with different Chinese dialects, Ang can also be called Hong, but

41

1 I did not really use Hong accurately; I used Hang instead.

2 That's why Hang Pin finally became my name. And this name was

3 chosen only on the occasion when my superior asked me to teach

4 Khmer literature to the Chinese students.

5 Q.My. Next question is that other witnesses have not made it

6 clear yet in relation to the date you started work as the teacher

7 at Phkoam High School and the date when you quit your job at that

8 school, at Svay Chek district.

9 [11.28.46]

10 Since it is now time you are here before the Court, can you

11 please tell us when exactly did you start working on a voluntary

12 basis at Phkoam High School and how long had you been working

13 there before you were allowed to move to the education department

14 at Svay Chek district?

15 A.Mr. President, when I applied to be a teacher, and at first I

16 studied as a voluntary teacher without salary, from my

17 recollection it was in 1993. I can also recall that I think the

18 timeline of registering my name as a teacher was moved back to

19 August 1992. That is the first issue.

20 The second issue regarding the date, when my family was robbed --

21 we can say we were robbed -- but later on with my analysis it was

22 to the contrary, it was not actually a robbery at all. When my

23 wife was stabbed to death and that I was also stabbed, it was on

24 the 11 November 1995, and my wife passed away and I was sent to

25 the referral hospital of Thma Puok district to receive treatment.

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1 I was discharged four nights later, and with the assistance from
2 Mr. Peng Poan, from Soem Poeun, the chairman of the district
3 education office, and from Chou Vin, who testified yesterday, I
4 was assigned to the Svay Chek district to settle there.

5 [11.31.34]

6 So the movement from Prey Phkoam to Svay Chek was after the event
7 of robbery. Likely it was around the end of November 1995.

8 The date that I left the district education office to teach as a
9 French teacher at the Svay Chek School, Chou Vin and Hun Smirn
10 could recall the better date, the exact date, and I cannot recall
11 the date. And I acknowledge the dates that they provided; it was
12 the 28th of October 1996. And I left Svay Chek for Samlaut, from
13 my recollection it was in June or July.

14 So this is my confirmation of the dates of my relocation to
15 various places, Mr. President.

16 Q.Can you recall, when you became a teacher -- and you started
17 as a voluntary teacher -- the way you tried to be recruited as
18 the official of the education office, what did you tell the
19 district education office? Did you tell them of which political
20 faction you came from amongst the four political factions; that
21 is, the tripartite faction and the government force? Did you
22 ever tell the district education office regarding this issue or
23 what did you tell them when you applied to be a teacher at that
24 school, at the Prey Phkoam High School?

25 A.Mr. President, in the beginning I was assigned to Phkoam by

43

1 Son Sen in order to organize the economic base for the line. In
2 their theory, after the Paris Peace Agreement, there would be an
3 election therefore the lines would be split into two; the
4 economic line, that is for the people and to educate the people,
5 and the second economic line is to support ourselves, to support
6 the people within the line, and I was assigned to work at Phkoam.

7 [11.35.02]

8 And regarding the time that I applied to work as a teacher at the
9 Ministry of Education through the district education office of
10 the State of Cambodia regime, that was the time when the
11 reintegration was happening, and with the assistance from people
12 who were close to me, like what was raised by Peng Poan and what
13 Ngat and another person who initiated the assistance.

14 So I was encouraged to meet Touch Lun, the head of the district
15 education office. He was from the Son Sen party. So it was
16 under favourable conditions by Mr. Lun that I was recruited as a
17 teacher and, later on, after my name was approved by the
18 department then I started to receive allowance for my teacher
19 career.

20 Q. When did you give up your teaching career? After you tried
21 very hard and you started as a voluntary teacher and later on you
22 became a full-time teacher with a proper allowance and other
23 benefit, but later on you gave up all those wages and the
24 allowance and your profession that you started not long ago.

25 What was the reason behind this abandonment and when did you give

44

1 it up, and after that what did you do?

2 A.It's quite a long story, Mr. President. It is within the
3 political context of the four political parties at that time.

4 I came from the Democratic Kampuchea faction and to be stationed
5 in Phkoam in order to manage and establish an economic line for
6 the people and for ourselves after the election took place.

7 [11.37.55]

8 During my station there, and not for long, there was a
9 disagreement between the Khmer Rouge faction and the others. At
10 that time, the Khmer Rouge refused to lay down their weapons by
11 UNTAC based on the spirit of the Paris Peace Agreement.

12 My superior asked me to station at Kdoeb Thmor village in the
13 Phkoam area. It was near the Chhat Mountain. In such a remote
14 location and in such a situation, I believe the Khmer Rouge was
15 not able to recover their defeat and I was trying to seek a way
16 out.

17 However, within the political conflict amongst the four parties,
18 I needed to protect myself too and I did not want the Khmer Rouge
19 to see me as betraying them and, secondly, I did not trust
20 anybody at that stage.

21 And indeed it was my observation that as a combatant in the
22 battlefield, the State of Cambodia soldiers were well-disciplined
23 and they listened to the orders of their commanders. And those
24 people who used to serve for the People's Party, like Lay Hon,
25 Lat Ngat and Touch Lun, whom I knew later on, they were

45

1 individuals whom I trusted them and they trusted me. But above
2 them, I did not understand the political line of the Cambodian
3 People's Party and whether they would be kind to the former Khmer
4 Rouge people and that they would be kind to me as a former Khmer
5 Rouge soldier.

6 So my feeling at that time was uncertain and when I entered into
7 the education office, I tried to maintain my firm stance and not
8 to risk my life but, unfortunately, an event took place and I
9 lost my wife.

10 And when I moved to Svay Chek in 1996, it was around June. At
11 that time, I believe I was not yet injured -- oh, I apologize,
12 actually I was injured -- and Ieng Sary actually was reintegrated
13 into the government and I wanted to do so but, at that time, I
14 did not know Ieng Sary well and I could not find him in order to
15 make myself reintegrated in the process.

16 [11.41.36]

17 So this is one segment of the event and in 1997, when I was
18 teaching, my younger sibling from Samlaut, from the Sou Met
19 controlled area, they reintegrated with the government force, and
20 my younger sibling knew that Sou Met was recognized and accepted
21 by the Cambodian People's Party, so I believed now there would be
22 a way out for me through Sou Met.

23 So then my brother took me from Svay Chek to Samlaut to meet Sou
24 Met, and Sou Met accepted me and he made an arrangement for me to
25 meet with the leader of the Cambodian People's Party, but then

46

1 suddenly Ta Mok rebelled and took people from Samlaut to live at
2 the Mak Mun camp and only later on in late 1996 -- '98, I
3 returned. But when Sou Met arranged for me to meet with the
4 representative of the government, I was detained and placed at
5 the Military Court to be for the prosecution.

6 So that was the process and I firmly believe nothing can be kept
7 secretive for long. Something can be kept as a secret for a
8 period of time, but it cannot be kept for long, and that was the
9 time when I went to Samlaut to seek a way out. And this is my
10 response, Mr. President.

11 Q.Can you recall, when you gave up your work at Svay Chek and
12 moved to settle and work at Samlaut, what was the exact date of
13 this event?

14 [11.44.22]

15 A.Mr. President, I left Svay Chek for Samlaut. I cannot recall
16 the exact date, but I recall a few days after I arrived at
17 Samlaut there was an event of a coup d'état by Prince Ranariddh
18 against Hun Sen. I cannot recall the exact date of the coup
19 d'état, but probably this is a main event we can use as a base to
20 see or to adjust the date of my arrival at Samlaut.

21 Q.So you went to Samlaut after the Khmer Rouge forces started to
22 reintegrate with the government in large scale. That was the
23 first large-scale integration, which happened in June 1996. Is
24 this correct?

25 A.Mr. President, that is true. I left Svay Chek in late 1997.

47

1 Q.During the Second Detachment attempt in the Fifth Zone, as you
2 said regarding the Meah Mut's force and some former Khmer Rouge
3 cadres who created a control area in Samlaut, where were you at
4 that time? Can you recall that event? That is the Second
5 Detachment of those forces. Where were you and what did you do?

6 A.Mr. President, when I went to Samlaut, I had two places to
7 stay. I did not go and settle with my younger sibling, but I
8 went to reside with my in-law's nephew -- sorry, in-law niece as
9 her husband was a messenger of Sou Met. So that was the location
10 where I stayed. This is my response, Mr. President.

11 Q.We are not still clear when the Second Detachment of the Khmer
12 Rouge force and they created a control area in Samlaut; were you
13 in Samlaut at that time or you went to Samlaut after the event?
14 That is the event of the Second Detachment of the former Khmer
15 Rouge force to create their own zone.

16 [11.47.51]

17 A.Mr. President, when I arrived there I stayed at the house of
18 the messenger of Sou Met and the news that Ta Mok went to trap, I
19 learnt of that news, but Sou Met himself said that everything
20 would be okay and that I should just focus on my work, and I
21 believed him. And the Samlaut district chairperson told me that
22 he would go to Battambang to pick up his wife and children and
23 then that he would return and that I should not go anywhere.
24 So I stayed there, as I was instructed, but next morning the Meah
25 Mut force gathered people and moved them from Samlaut to two

48

1 refugee camps. It was at Mak Mun village and for those from Koh
2 Kong were placed at Sal Chao village. So during the Meah Mut's
3 rebellion, based on the order of Ta Mok in the Second Detachment,
4 it existed after the coup d'état attempt by Prince Sihanouk
5 against Hun Sen.

6 So I believe it was in August or September when I went to Mak Mun
7 and it was in 1997, Mr. President.

8 Q. So you left Svay Chek for Samlaut before the event of the
9 Second Detachment of the former Khmer Rouge force. Is this
10 correct?

11 A. That is correct.

12 Q. When you went to live at the refugee camp, as you was guarded
13 amongst other people after the event of the Second Detachment of
14 the former Khmer Rouge soldiers or forces, how long did you stay
15 at the refugee camp and when did you return and upon your return
16 where did you settle?

17 A. Mr. President, I arrived at the Mak Mun camp in September 1997
18 and I returned in 1998. It was between July or August; I cannot
19 recall it clearly. I think it was in July. It was the first
20 repatriation of people from Sal Chao and Mak Mun camps and I
21 cannot recall the exact date. So it was either in July or August
22 in 1998.

23 [11.51.18]

24 Q. So for the repatriation, where did you settle?

25 A. I went to stay with my younger sibling's house at the Ou

49

1 Tontim Village, Ta Sanh subdistrict, Samlaut district. It was
2 near the district's office. It was just across the creek where I
3 stayed and I did not go anywhere else. I stayed at that
4 location.

5 Q.Now let me talk about your personal religious observance from
6 your childhood until the time you joined the revolution in the
7 late 1960s until a later date. Which religion you observed and
8 practised during that period?

9 A.Mr. President, my grandfather on my mother's side was a
10 Buddhist follower who was respected -- well-respected -- by his
11 villagers. I think I might touch on the topic of superstition
12 now.

13 The abbot of the Pov Veuy Pagoda passed away in 1993 and my
14 grandfather passed away in around 1955, I suppose. When my
15 grandfather passed away, the elders in the Pov Veuy village
16 dreamed and saw at night a light at the pagoda temple and they
17 believed that was a sacred thing that the Pov Veuy Pagoda needs
18 to be protected by the spirit of my grandfather and of the abbot
19 and I was influenced by the superstition and belief.

20 [11.54.19]

21 And later on when I received education -- especially when I was
22 at a literature class -- I analyzed the Buddhist religion and I
23 saw three main core points. That is the philosophy; the Buddhist
24 philosophy, or in French l'canon Bouddhique, and when there is a
25 religion, then there would be an organization and then there

50

1 would be a summit of the religion and then there would be another
2 group, the followers. And there had to be discipline. So based
3 on this view, we can say Buddhism is a type of a religion.
4 From another perspective, the Buddha himself never said he was a
5 god, although in his background it was believed that he was a god
6 who came down to earth from heaven and to be born as a human
7 being. And when the Buddha passed away he instructed his
8 followers that they should study their bibles, the Buddhist
9 bibles, and rely on the bibles. So all the followers and the
10 researchers believe that Buddhism has a particular, interesting
11 perspective as it is scientific based.
12 On another point, other religions including the Pream (phonetic),
13 they use the Vishnu and the Buddha and another figure as the
14 three figures of their respect. And in Christianity it was the
15 father and the son and another figure as the main figures as
16 well. And the Islamic religion, Allah was the biggest god and
17 then there was another god who was only disseminate the
18 information from Allah. And that was my understanding through my
19 study of religions.
20 And when later on I decided to join the revolution because I
21 studied a book of philosophy, as I reported to the Chamber, that
22 was the preliminary philosophy book. The primary principle of
23 philosophy regarded material is the main core and it is also a
24 combination of all the philosophies around the world. And they
25 dismissed any sacred objects or belief in sacred objects or

51

1 religion.

2 [11.58.07]

3 And when I was so absorbed in this philosophy in dialectic
4 materialism, I was so absorbed in the Mao Tse Tung's doctrine.
5 His first theory was that there would be no view without class,
6 and in French that's what he said "Aucune conception sans
7 empreinte (phonetic) de classe". I was interested that this is a
8 good view and later on Mao Tse Tung also said, "True love for
9 people was to be authoritarian and the power should be granted to
10 the proletarian class." And I believe this is a good philosophy
11 in order to sustain and resuscitate the situation in Cambodia and
12 to assist the Cambodian people.

13 So I dismissed all the beliefs that I had in the past and I only
14 hang on to this philosophy. But later on I was still thinking
15 and I was pondering myself of the fact that people who were let
16 out by the Party at the same time in 1967, some of them went to
17 Ratanakiri. And why I was disconnected and only assigned to stay
18 at Chamkar Leu and later on I was arrested by the government and
19 detained.

20 And during my imprisonment, how come the prison officers could
21 not locate me and execute me and instead two people were
22 executed, including Lao San the teacher, and Chhien Hok a farmer?
23 They were led out and executed from the Prey Sar Prison without
24 any trial. And I was wondering myself why I was not executed.

25 [12.00.30]

52

1 This problem actually surprises me, the materialism concept. As
2 I already said earlier, Indonesia had a huge population of
3 Muslims but the majority of them was falling into the ruling of
4 Communism. And in 1966, Suharto took full control of the
5 country.
6 Later on I made a decision that it would not be good to really
7 follow such a revolutionary because later on I noted that other
8 peoples were also put on trial by the full clique of the cultural
9 revolution clique and that's why I changed from the Communism to
10 the idea of Christianity. And the reason I converted my religion
11 because I believed that the love to the people of the Communism
12 is to give the absolute monopoly to the proletariat class.
13 And I already reported to the Court about the Buddhism, the
14 principle. It states that everyone should not really take
15 revenge against one another in order for us to live in harmony.
16 So however, this kind of philosophy was not really convinced.
17 This kind of philosophy is in favour of the classless society.
18 However, having avowed the philosophy in Christianity, it advises
19 us to love the neighbours like our relatives.
20 However, it is contradictory when people are supposed to love
21 their enemies also. And by having this kind of new notion and
22 having observed this Christianity and its new notion, I believe
23 that it's good that I can convert to this religion because we can
24 also love our enemies. And I have compared other religion also,
25 the concept including Islam and I believe that Islam is a

53

1 religion that really advises people to love or treat one another
2 fairly.

3 But I want to make sure that I want to follow only the religion
4 that treats people equally without any class. And I believe that
5 Christianity would be the ideal religion.

6 [12.04.26]

7 And having noted that my wife was killed by the robbers, and I
8 could also see that if my children were also killed, what would
9 happen to me? So then when I converted to Christianity, I could
10 baptize my children and even I later died, then my children would
11 be under the good care of the people at the church. And none of
12 my daughters would end up being a whore.

13 So that's why I think this is the notion I picked because I
14 wanted to make sure that my children would also be taken care of
15 if I passed away. And I am not in the position to join the new
16 religion to challenge any religion including the Islam, for
17 example.

18 MR. PRESIDENT:

19 Since it is now time to take the adjournment for lunch, we will
20 now take the adjournment and resume the session at 1.30 p.m.

21 The security personnel are now instructed to take the accused to
22 the waiting room and bring him back to the courtroom by 1.30.

23 THE GREFFIER:

24 All rise.

25 (Judges exit courtroom)

54

1 (Court recesses from 1206H to 1334H)

2 (Judges enter courtroom)

3 MR. PRESIDENT:

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

5 Mr. Alain Werner, if you attempt to talk about the same matter
6 then you would not be allowed to get the floor.

7 MR. WERNER:

8 Mr. President, I just wanted to inform you that I was requested
9 by my colleagues from groups 2 and 4, in particular Mr. Hong
10 Kimsuon and Mr. Kong Pisey, and to inform you that the reason why
11 they are not here in the hearing since Monday is that they are
12 trying to obtain documents to support the cases of their civil
13 parties as this was indicated last week.

14 [13.35.24]

15 And this is why they are not here with us today. And this is
16 also the reason why they were not with us neither on Tuesday nor
17 on Monday and they asked me to let you know this.

18 Thank you.

19 MR. PRESIDENT:

20 Thank you, Mr. Alain Werner, for giving this information to the
21 Court.

22 The security personnel are now instructed to take the accused to
23 the dock.

24 BY MR. PRESIDENT:

25 Q.This morning you gave us full detail in relation to the reason

55

1 why you converted your religion and finally you chose to be the
2 follower of Christian religion. Can you tell the Court when did
3 you start to practise this new religion and where would you go to
4 the church?

5 A.I was baptized on the 6th of January 1996 at Sangkae River
6 under Mr. Christopher Lapel's supervision. Christopher D. Lapel.
7 And pastor Daniel Ellis.

8 I attended an annual workshop at the Christian Association at
9 Chumkar Samroang too. In Cambodia we would refer to this
10 location as the church, and when I approached Samlaut, my contact
11 with the church was far apart and that when I was detained at the
12 Military Court I found it difficult to continue practising the
13 religion.

14 [13.38.48]

15 However, when I came to the Court, the ECCC, Mr. Christopher D.
16 Lapel could pay a frequent visit to the detention facility and I
17 also could practise this religion with Father Robert Piche once
18 every month.

19 Q.When you returned after the Khmer Rouge forces took -- or
20 gathered all the villagers to the camps and then later on the
21 people were allowed to repatriate, can you please tell the Court
22 after the second repatriation, what kind of job did you have?

23 A.The territory committee at Samlaut and the supervision of Sou
24 Met and Sophal, the former Samlaut governor, and General
25 something Kong, and they had a discussion and made a decision to

56

1 delegate the duty as the chief of the educational department of
2 the district, and I had to prepare myself well to make sure that
3 I could be promoted to that position. However, everything was
4 compromised when Nic Dunlop found me, and later on I was arrested
5 and put onto detention at the Military Court on the 10th of May
6 1999.

7 [13.41.40]

8 Q.Do you still recall the date when the two journalists, as you
9 mentioned, Mr. Nate Thayer and Nic Dunlop, who came to discover
10 you and interview you; when was it exactly?

11 A.I don't remember the date, but I may perhaps give you some
12 brief information.

13 First, Nic Dunlop went there alone and he said that he met me by
14 accident. It was not correct. He was searching for me when I
15 was prepared to become the chief of the district educational
16 department.

17 And, later on, he obtained my photo and then he presented the
18 photo to Nate Thayer, and then the two of them came to me.

19 First, I met only one of them but then later on that both of them
20 came to me and presented me some document with the presence of
21 Nate Thayer. And having seen the photo, I just told them that it
22 was me and I was the Chairman of S-21.

23 I had been hiding this information for long because of my
24 security reason, personal security, because Pol Pot, Nuon Chea,
25 Ta Mok, they tried to tell that S-21 was established by the

57

1 Vietnamese or it was the crimes orchestrated by the Vietnamese.
2 So after that, I was rather worried and Ta Mok was already
3 arrested on the 6th of March 1999. And they interviewed me
4 without telling me that my interview would be tape recorded, and
5 the other guy who came along with them were taking the record of
6 my interview.

7 Then Mr. Christophe Peschoux took me to the Monorom Hotel in
8 Battambang where they conducted an interrogation, and on the
9 night of the 3rd of May 1999, the interview completed.

10 [13.45.12]

11 So first I met Nic Dunlop, later on Nate Thayer and Nic Dunlop
12 all together and there was another (indistinct) national who was
13 the cameraman. Then I was taken by Mr. Christophe Peschoux and
14 Heng Hamkheng and another woman. They took me to this Monorom
15 Hotel.

16 I would like to apologize for mixing this event up. Thank you.

17 MR. PRESIDENT:

18 Judges of the Bench, would you wish to put questions to the
19 accused? If so, you may now proceed.

20 Judge Silvia Cartwright, you may proceed, please.

21 JUDGE CARTWRIGHT:

22 Thank you, President.

23 BY JUDGE CARTWRIGHT:

24 Q. Kaing Guek Eav, the purpose of the questioning concerning
25 your character is to ascertain relevant information which can be

58

1 used if you are convicted of offences with which you are charged
2 at sentencing.

3 You understand that? Do you want me to repeat what I said?

4 A. Thank you, Judge Cartwright. I think that has been not
5 properly translated. I think this moment is of course for me, as
6 I understand, is the time that I can be here to have my crime or
7 sentence reduced.

8 [13.47.35]

9 Q.Yes. I need to make the point that you are not yet convicted
10 of any offences. As a consequence, this examination of your
11 character will be useful if you are convicted and for the
12 purposes of any sentence that is imposed. Is that more clear
13 now?

14 MR. PRESIDENT:

15 Judge Lavergne, you may proceed.

16 JUDGE LAVERGNE:

17 If I may, I believe -- as you see I have a dissident problem in
18 relation to the questioning here relating to the sentence. What
19 seems important to say that as far as I'm concerned the
20 questioning regarding the character of the accused is not limited
21 to the problems -- to the issue of determining the sentence, but
22 that it is destined to partake in a proceeding with the aim of
23 ascertaining the truth and also to know who the accused is. And
24 this question of knowing who the accused is must allow us to
25 understand the reasons behind the facts that are held against

59

1 him. Now, as far as I'm concerned, I am letting you know that
2 the questioning on character is not only limited to an issue of
3 determining the sentence.

4 JUDGE CARTWRIGHT:

5 Thank you, Judge Lavergne.

6 BY JUDGE CARTWRIGHT:

7 Q.I have a first question of you, Kaing Guek Eav, and it's
8 preliminary to my other questions. Last week part 3 of the
9 Closing Order was read out and this was done before the testimony
10 of the experts began and before character witnesses were called.
11 I just want to clarify now if you have any further comments in
12 relation to the summary in the Closing Order concerning your
13 character.

14 A.Your Honour, the substance of the Closing Order or the
15 indictment is not challenged by me but there is a minimal
16 technical issue probably of mistyping.

17 [13.51.19]

18 My youngest son, who was born on the 30th of July 1977 -- I'm
19 sorry, the third child was not a daughter, he is my son.
20 It is just a very minimal typing mistake but in general I concur
21 with all these statements.

22 Q.Well, in order to correct that matter, are you saying that
23 your third child was a boy born on which date?

24 A.I think the only problem is the gender issue because the date
25 of his birth is correct, except that he's a boy.

60

1 Q.Well, currently the Closing Order says that you have four
2 children: a girl born on 27 April 1977 -- is that correct?

3 A.(Microphone not activated)

4 Q.A boy born on 14 December 1978 -- is that correct?

5 A.(Microphone not activated)

6 Q.And you say a boy born on 30 June 1981?

7 A.(Microphone not activated)

8 [13.53.36]

9 Q.And your last child is another son, born on the 28th of
10 October 1985. Is that correct?

11 A.(Microphone not activated)

12 Q.So you have three sons and one daughter?

13 A.Your Honour, I got three sons and one daughter.

14 Q.Thank you.

15 Now, in addition to the Closing Order concerning your character,
16 there were comments in the Closing Order about your psychiatric
17 and psychological profile which have been greatly extended by the
18 oral testimony of the two experts, Professor Ka Sunbaunat and
19 Françoise Sironi-Guilbaud.

20 Do you have any further comments that you wish to make in
21 relation to their testimony?

22 A.The report of both experts was already commented by me in the
23 Chamber and I would stand by the statement I made earlier.

24 [13.55.39]

25 Q.In addition to those comments and the comments of the

61

1 character witnesses called over the last two days, other people
2 have made observations about your character. Many of those have
3 been in books published about the Khmer Rouge regime and are on
4 the case file. I would like to ask you some questions concerning
5 the observations about your character and personality in some of
6 those books.

7 The first is in Elizabeth Becker's book, When the War Was Over,
8 ERN in Khmer 00237694 to 00238316, and in English 0023197 to
9 00232710. At page 262 of the English text she says this:
10 "Duch oversaw a precise department of death. Duch even set aside
11 specific days for killing various types of prisoners: one day
12 the wives of the enemies, another day the children, a different
13 day the factory workers. Such attention to detail had become a
14 signature of Duch during his rise through the Party ranks."
15 Do you agree with that assessment or have any comment to make on
16 it?

17 A.S-21 is a criminal mechanism. The detainees, including the
18 male, female, young, old and children, were all victims of it and
19 these people included the workers and cadres of the Party Centre
20 and intellectuals. So to be consistent with the statement by
21 Elizabeth Becker, I hope this is the statement I can emphasize.
22 Regarding the right delegated from my superior, I have already
23 indicated at this Court that this right derived from the statute,
24 Article 8 of the Party Statute, and that the decision was made
25 based on the document dated on the 9th of October 1975.

62

1 Q.I am interested to know if you agree that part of your
2 character or personality is to pay great attention to detail, as
3 suggested by Elizabeth Becker.

4 A.I believe your question means that I respected the superior
5 and indeed I respected my superior unconditionally.

6 Q.I believe the point that Becker is attempting to make is that
7 in your work you paid great attention to detail. You were very
8 efficient at it. Do you agree with that?

9 A.Yes, I fully agree on this topic.

10 [14.01.09]

11 Q.She goes on to say:

12 "Duch ultimately became one of the half-dozen most important
13 leaders in the country as Tuol Sleng became the nerve centre of
14 the system of terror."

15 Do you have any comment to make to the suggestion that you became
16 one of the half-dozen most important leaders in the country?

17 A.It is my analysis who knew the true nature of the Party. The
18 people who had the authority would be the members of the Party
19 Centre and, as I submitted to the Chamber before, there were four
20 levels of the Party Centre; that is the Standing Committee
21 members, both full rights and candidates, and the full rights and
22 the candidates for the Party Centre members. What I say is not
23 for me to avoid the criminal responsibility but it is what's
24 stated in their statute, based on their structure.

25 Q.She goes on to explain that comment by saying this:

63

1 "Duch helped concoct --"

2 -- that means make up:

3 "-- the evidence against suspects. By controlling confessions of
4 victims, hence the evidence of crimes, he was gradually able to
5 manipulate the Party leaders and point to unsuspected enemies."

6 Do you have any comment to make on that assessment?

7 [14.03.42]

8 A.Your Honour, I reported to the Chamber already regarding the
9 crimes. First I believed the serious crime was the establishment
10 and the building of cadres. The more cadres they would make, the
11 more force they would have. And that is the core issue.

12 Regarding the crime of interrogating prisoners or annotating on
13 the confessions are indeed my personal criminal activities and I
14 acknowledge that. This is my response, Your Honour.

15 Q.You heard David Chandler's evidence and have heard portions of
16 his book Voices From S-21 read out in Court earlier. I want you
17 to comment on a statement that Professor Chandler made in Court
18 and I will summarize it.

19 He said you wanted to excel at your job at S-21, that you thought
20 you were doing an excellent job, that you wanted to excel right
21 throughout your career from the time you were a student; you
22 wanted to serve your superiors with enthusiasm and skill and you
23 wanted to be proud of your work.

24 Is that a fair assessment of your character?

25 A.Your Honour, talking about wanting to be in that role indeed,

64

1 yes. But I do not want to say the reason for my wanting to be
2 such a person at this stage.

3 [14.06.19]

4 Q.Would you agree with this summary? You are intelligent,
5 well-educated; you work hard and you work enthusiastically. You
6 would like to please your superiors. You wish to be professional
7 in everything you do. You are meticulous in your work, pay
8 attention to detail, keep very good records, and are
9 well-organized. And in general, you are proud of the work that
10 you have done.

11 Is that a fair summary or do you have any comment?

12 A.I do not object to that statement.

13 Q.The two experts emphasized that during your work at S-21 you
14 were driven by the fear of being killed. However, Chandler
15 during his evidence before the Chamber commented on the hundreds
16 of annotations on the confessions, annotations that you wrote.
17 He said you would frequently correct and criticize what the
18 prisoners had confessed.

19 You would suggest beatings and torture. You would urge
20 interrogators to unearth the buried truth and you would suggest
21 fresh lines of inquiry. Is that a fair comment by Chandler on
22 the annotations on the confessions at S-21?

23 A.The evidence is still there and nobody can deny the evidence
24 that I indeed annotated and I worked hard to annotate on those
25 confessions in order to push forward the interrogation so that

65

1 the superiors would understand the process. And the reason that
2 I did is different from the rationale provided by David Chandler.
3 It is in my opinion that I have a philosophy, trying to work is
4 for two reasons.

5 First, to try to do the work to the best ability in order to
6 survive; and second to do work to the best of ability for another
7 reason. And in my case, working to the best in order to survive
8 is in contrast to another person's view based on my actual work
9 that I did, because I was scared or fearful to be killed.

10 Q.Well, I have noted that you were afraid of being killed, but
11 both Chandler and Becker suggest that you did more than was
12 necessary to survive in your work at S-21. Do you have any
13 comment to make on that?

14 A.Your Honour, the work at S-21 was overloaded and I could not
15 complete them on time. I did not have time to annotate on
16 certain documents and for other documents of the important people
17 I contacted my superior by the telephone.

18 [14.11.34]

19 If you think this is more than necessary, it's incorrect. I
20 overworked between 10 to 14 hours a day and I even could not
21 catch up with the work that I was responsible to do.

22 Q.I don't think that the comment was intended as a criticism of
23 your work so much as suggesting that you were more enthusiastic
24 than you needed to be. In other words, you did more than you
25 needed to do to stay alive. Do you have any comment on that?

66

1 A.Your Honour, I would like to frankly respond to your question.
2 I stated earlier I tried very hard in doing my work and I still
3 could not meet the need of my work. And the question is that
4 what I work was unnecessarily more than I was required to
5 survive. What is the catalyst to measure this performance?
6 The Communist Party is a paranoia regime. They are always
7 paranoid. They suspected on everything and they have a view that
8 everybody was somebody who could be a traitor and there is no
9 catalyst to measure what is within a framework of acceptable
10 performance and what is not.
11 So this is my frank response to your question, Your Honour.
12 [14.14.24]
13 Q.My observations of you during trial, which are supported by
14 expert and other testimony, suggests that you are ready to accept
15 information or evidence only when it is in writing. Is that a
16 correct observation?
17 A.Your Honour, the statement is almost complete 100 percent but
18 for certain issues that I clearly know, I don't need evidence to
19 prove them.
20 For example, in the case of Chum Mey, previously I did not know
21 him and in February 2006 I learned of him. Chum Mey was
22 interviewed with a French international program and he talks
23 about his imprisonment that he had a glimpse of me at the
24 workshop. And I immediately knew that he was a survivor of that
25 S-21 because I went there for a short period of time and I

67

1 acknowledged his presence there during the time at S-21.

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

3 Q.When you joined S-21 as deputy chair, were the systems and
4 procedures fully developed under Nath or did you, using your
5 management skills, develop them further?

6 A.Your Honour, I entered S-21 as a deputy chair and I developed
7 the system in the interrogation area by training those
8 interrogation cadres how to interrogate. And later on while I
9 was accompanying Nath during the interrogation sessions I
10 observed the practice they used and I used that one with my
11 experience to further enhance the interrogation techniques.
12 On the second part of the development, for people whom Nath knew
13 that I knew those people, then he would send me those confessions
14 for my annotation and once he received them he would make
15 additional annotations on those confessions.

16 [14.17.08]

17 And besides these two areas everything remained the same, based
18 on the existing system which was the practice of the former
19 Division 703.

20 Q.At what point did you begin to believe seriously that S-21 was
21 a criminal organization, as you have said in the evidence? What
22 triggered that particular view in you?

23 A.My view and understanding on the crimes did not start with
24 S-21. It started when I was given the responsibility as the
25 Chairman of M-13. I knew killing people without any reason is a

68

1 crime, but I was encouraged to execute my assignment, that I had
2 to accept and implement it and that the Party requires their sons
3 and daughters to fulfill this assignment, and that I could not
4 avoid it. And because the Party Centre would be responsible
5 before the history, and M-13 was only responsible for receiving
6 the people who were arrested already by the orders of the Party
7 Centre and it was the Party Centre who would be responsible
8 before the history. And I responded the same when I met Peter
9 Leuprecht at the Military Court. With the Investigating Judges
10 of the Military Court I responded the same and when I met my two
11 lawyers, after my consultation with them I agreed that this work
12 was not a responsibility of the government, because the
13 government would not be responsible for criminal acts, and it was
14 the individual who would be responsible for his own criminal act.
15 But in my mind I was still believing that I was a policeman who
16 was carrying out the order assigned to me by the superior and
17 this is how I developed my mentality regarding the crime and
18 criminal responsibility, Your Honour.

19 [14.20.33]

20 Q.If you first began to believe that this was a criminal
21 organization while you were Chair of M-13, did you ever give any
22 thought to leaving the Party at that stage before the 17th of
23 April 1975?

24 A.Your Honour, indeed I wanted to find a way out but I could not
25 do it. The important event for me to find a way out was when the

69

1 prisoners caught or got a gun from the guard in 1973 near the Pis
2 Mountain. Thirty or forty prisoners escaped and three or four
3 guards were shot and injured, and that was an ample opportunity
4 for me to request Vorn Vet to remove myself or to demote me from
5 my rank so that I could leave that position. As I informed the
6 Chamber previously, I begged him to punish me but he turned his
7 back to me and I could not leave it.

8 And after the 17 April '75 I attempted again to leave that role.
9 As I told the Chamber, I wanted to go to the Ministry of Culture.
10 I failed, then I attempted to go to the Ministry of Energy and I
11 failed again. Cheng On would not accept it and he denied my
12 request.

13 Q.Returning to your time as Chair of S-21, did you reduce the
14 number of annotations that you made on confessions when Nuon Chea
15 became your superior, when he was less interested in your
16 analysis than Son Sen had been?

17 A.Your Honour, first I did not reduce the number of annotations.
18 Later on I noticed that Nuon Chea did not pay much attention to
19 annotations, so I reduced the number of annotations. I talked to
20 him and that I did not really -- that I was not really
21 comfortable with the documents, but he said that they knew how to
22 work with the documents. So for the S 21 document, with or
23 without my annotations it would be decided by the Party Centre.

24 [14.23.55]

25 So during the initial stage of my working there when Nuon Chea

70

1 came to replace Son Sen the work was still with Son Sen. So
2 after Son Sen returned from the battlefield he would review those
3 confessions. For example, on the 15th of August '77, I believe,
4 there was a document dated 11th of November which I attached to
5 my clarification in relation to the witness Phung Guth Sunthary
6 Son Sen annotated on the 11th of November '77. So this is my
7 response.

8 I did reduce the number of annotations but the work and the
9 decisions were still done by my superior.

10 Q. Did you ever think that if you had been less conscientious in
11 your work annotating the confessions that fewer people might have
12 died?

13 A. Some people even died without being interrogated. Therefore,
14 during this time I would like to take this opportunity to say
15 that the prisoners who were interested by the Party Centre, I
16 would be instructed to do the follow-up on those prisoners. And
17 for those the Party Centre did not pay much attention, regardless
18 of their confessions they would be executed. So the weight was
19 not on their confessions and that was the practice at the time.

20 Q. I'd like to turn briefly to your family life during this
21 period. Apart from your brother-in-law who died at S-21, did
22 your immediate and extended family remain intact?

23 A. Your Honour, first my brother-in-law who died at S-21, yes
24 indeed, there was one but at Kampong Thom there was another one
25 whom the Party Centre asked the North Zone to make a decision on

71

1 his fate without informing me. And my mother was extremely
2 shocked that if I was gone then all the family members would be
3 gone. She was very fearful that if I slipped from my position
4 then the whole family would be gone.

5 [14.27.58]

6 And the rest of the family members were also shocked and not
7 because I could not defend or protect my in-law but it was the
8 situation for all the family members.

9 Q.Your immediate family -- your wife and your first child and
10 then later, towards the end of S-21, your second child -- nothing
11 happened to them during this period, did it?

12 A.Your Honour, first I would like to say that I would talk about
13 the view of the Party Centre towards children as a whole. They
14 regarded children, or the children of the cadres or the peasants,
15 as the property of Angkar and Angkar were their parents. That's
16 the way they considered the children. And for those children
17 whose fathers or mothers were arrested, they would be taken
18 along. This is to avoid vengeance or revenge at a later stage.
19 Therefore, regardless of their status, whether they belonged to
20 my family or to the family of other cadres, they were regarded as
21 the children of Angkar.

22 A child of Huy Sre, before he was arrested, was also considered a
23 child of Angkar, and when Huy Sre was arrested the child died
24 along with him and his wife.

25 And if I were not yet arrested then my children were considered

72

1 the children of Angkar. This is the way of the perception or how
2 they thought about the children.

3 Q.However, as a family unit you were able to live together. Is
4 that correct?

5 A.It happened only ultimately. Having looked from a distance
6 then people can see that our family could live together.

7 However, after there were some implications; Son Sen removed my
8 wife from the hospital to S-21 so people could see that I could
9 live with the family happily. However, it was more like our
10 rights have been already removed because the Party did not trust
11 us.

12 [14.31.18]

13 Q.So you are saying that it appeared like a normal family on the
14 surface but it wasn't really like that; you were still under the
15 control of the Central Committee?

16 A.All levels of cadres of the CPK were under the immediate
17 supervision or the indirect supervision of the Party Centre.
18 S-21 was under the immediate supervision of the member of the
19 Party Centre, Son Sen. Later on it was under the supervision of
20 Nuon Chea. Later on it was under the surveillance of Chhim Sam
21 Uk, alias Pang, and Comrade Lin. Obviously at the beginning it
22 was under the immediate supervision of Son Sen, although at the
23 later stage there were other people who would be supervising the
24 facility.

25 Q.However, the fact that you were able to live together as a

73

1 family unit was in sharp contrast to the people, including the
2 children, who were detained at S-21; people you saw every day.

3 Is that correct?

4 A.Yes, it is, because enemies were classified differently from
5 the friends so comrades, cadres were friends while the detainees
6 were enemies.

7 Q.As you went between your home and your work did you ever think
8 about the differences between your family life and the lives of
9 the detainees at S-21?

10 A.Your Honour, it is a classic situation. It happened even at
11 M-13 and we had to implement the policy.

12 [14.34.03]

13 Q.I asked whether you ever thought about the contrast between
14 your family life and the lives of families at S-21.

15 A.I did think about this and I had the thought even when I
16 worked at M-13. However, there has been a clear explanation
17 between the term "enemies and friends", and we were indoctrinated
18 this ideology.

19 Q.Was it your decision not to list the names of children at
20 S-21?

21 A.I may have already indicated earlier on that S-21 has been
22 passed down from Division 703 and the names of the children would
23 never be included, even previously during the supervision of 703.
24 And there were only about four names of the children that were
25 registered; the children of Ta Chea. The rest of the children

74

1 were smashed without having their name registered.

2 Q.Was it part of the policy then that children were not
3 sufficiently important to be listed?

4 A.I do not grasp the complete information all across the
5 country. But what happened at S-21 it is true that this is how
6 things worked. When I started working at S-21 we have been
7 imposed the policy that the children of the enemies were also
8 enemies, so they too shall be smashed. And the problem is that
9 we failed to have their names registered in our implementation of
10 the policy.

11 [14.37.03]

12 Q.A great deal of emphasis has been placed on your love of
13 teaching, your skills as a teacher and as a student, your concern
14 for students, particularly those who were poor. Do you agree
15 with that general summary?

16 A.I do agree with that.

17 Q.I'm interested then in your views on education during the
18 period of the Khmer Rouge regime. It was obvious to me that
19 former students who came to give character evidence respected you
20 as a teacher and indeed you have made it clear that you respected
21 your teachers. Professor Ka Sunbaunat put this into a cultural
22 context when he gave his testimony.

23 Can you explain then the policy that you implemented at S-21 that
24 children would not be educated?

25 A.As to the education of the children, after 1975 children at

75

1 S-21 were not taken care of when it comes to education, and
2 children all across the country were not provided this kind of
3 education either.

4 And as I already indicated, that all teachers were taken and
5 moved to the paddy fields and the educational system was changed.

6 And books were being developed and books were developed -- one
7 book only was published at the office of teacher Yun Yat, and for
8 that reason none of the students across the country could attend
9 school or receive any education.

10 Siet Che alias Tom introduced education and for that reason he
11 was accused of being revisionist and it was heard from Son Sen
12 through telephone, because of his act the Party accused him of
13 being the revisionist.

14 And during the Khmer Rouge regime, all forms of education in the
15 previous regime was abolished and they would like to introduce
16 new educational curriculums, and that at S-21 no education was
17 ever given to any children.

18 [14.41.02]

19 Q.What did you think of the policy of sharply changing education
20 for young people during the Khmer Rouge regime?

21 A.That is the policy Pol Pot called "the great movement, the
22 great mass, the great leap forward". In education system, they
23 focussed on the very brand new imaginary educational system.

24 As to the economical system, they focussed on only two forms of
25 production -- the production that based on communism -- from each

76

1 according to his ability; to each according to his need.

2 And we worked our best, but each meal we were offered minimal
3 food with cigarette, and clothes were also given to us based on
4 the need of each individual. So this is the policy of "the great
5 forward, the great movement and great mass", while religion was
6 abolished. Culture was demolished, and so on and so forth.

7 Q.(Microphone not activated) knows what you as a skilled and
8 dedicated teacher thought of the policy that children, including
9 poor peasant children, did not need an education in the sense of
10 learning to read, write, and to do mathematical calculations?

11 A.The educational background required by the CPK was that
12 everyone had to be truthful to the Party, entirely truthful, and
13 we have to be absolutely determined to be committed, to be loyal
14 to the Party. And that we had to be qualified in the field we
15 assigned to work.

16 [14.43.53]

17 For example, if the combatant -- they had to be qualified to
18 become a soldier and those who were put to do farming then they
19 must acquire some kind of agricultural fields. And as I already
20 told you, it was part of their project.

21 Q.Did you have any views on this policy?

22 A.As to this policy, although I view as a challenge, difficult
23 to implement, I had no choice but to implement it. So I could
24 not challenge it after all.

25 Q.So you never communicated you views to Son Sen or anyone else

77

1 on the education policy of the CPK?
2 A.I would not dare do that. I would like to also refer to
3 another issue that I've never mentioned in this Court.
4 There was a song by Pol Pot. This song was that this policy was
5 the policy to save people from being exploited and to rebuild new
6 Cambodia. The policy that embedded with the Marxist-Leninist
7 schism and that we had to work our best to be rebuild ourselves
8 as the great children of the country and that we have to commit
9 ourselves truthfully, voluntarily, to assist them as they need
10 us.
11 So every cadre of the Party had to memorize this song and its
12 substance, so we had to obey or to be bound by the substance of
13 the song, and that we had no opportunity to discuss or to
14 communicate our view to them.
15 [14.47.18]
16 JUDGE CARTWRIGHT:
17 Mr. President, is this a convenient time to take an adjournment?
18 MR. PRESIDENT:
19 Since it is an appropriate time to take the adjournment, the
20 Chamber will take the adjournment and resume at five past three.
21 (Judges exit courtroom)
22 (Court recesses from 1447H to 1507H)
23 (Judges enter courtroom)
24 MR. PRESIDENT:
25 Please be seated. The Chamber is now back in session.

78

1 I notice the defence counsel, François Roux, on his feet. Please
2 proceed.

3 MR. ROUX:

4 Forgive me, Mr. President, but before we actually continue on the
5 merits I just wanted to inform the Chamber that the defence has
6 filed to the Greffier a certain number of documents which are
7 already listed with ER Number E5/9. It is a list of new
8 documents that the defence would like to file in the submissions.

9 [15.08.55]

10 We are not dealing with the question now but I just wanted to
11 indicate to the Chamber that we have already communicated these
12 documents to the civil parties, to the Co-Prosecutor's Office, as
13 well as to the Chamber so that the day we actually discuss,
14 everybody have in their possession these documents. So I just
15 wanted to inform you of this.

16 Thank you very much.

17 MR. PRESIDENT:

18 Thank you, defence counsel, for your information.

19 I would like now to provide the floor again to Judge Cartwright
20 to continue her questioning to the accused.

21 JUDGE CARTWRIGHT:

22 Thank you, President.

23 QUESTIONING BY THE BENCH

24 [15.09.58]

25 BY JUDGE CARTWRIGHT:

79

1 Q.Kaing Guek Eav, you have told the Chamber in the past that you
2 deliberately selected children to guard, interrogate and kill
3 prisoners at S-21. As a former teacher did you have any doubts
4 about implementing CPK policy by using children in this way?

5 A.Your Honour, this matter was not only about doubt but also
6 it's about disagreement. However, it had to be followed without
7 exception. It was determined that the children were the children
8 of Angkar. Whichever direction Angkar pointed them to they had
9 to follow the direction.

10 As I already told Your Honour and the Chamber previously, when
11 the Chamber was discussing about a person -- I cannot recall the
12 code for that person -- and we talked about a child I took from
13 Kampong Thom to be under my supervision and the child had to be
14 loyal and honest and had to abide by Angkar's instruction without
15 asking questions, and that individual did not even know me. That
16 was the duty assigned to me and to every cadre, to re-educate and
17 build the children.

18 So it's not only about doubt but it is about the obligation that
19 needs to be fulfilled, regardless whether we like it or not like
20 it.

21 Q.You have spoken repeatedly of your acknowledgment of guilt and
22 responsibility for your conduct between April 1975 and January
23 1979. Is there any other aspect of this acknowledgment that you
24 wish to clarify or add to?

25 [15.13.26]

80

1 A. Your Honour, the acknowledgment of guilt by me for the crimes
2 committed at S 21, I would like to say that S-21 was a mechanism
3 where several people, according to the statistics of almost
4 2,000, participated in that mechanism. However, those people
5 were to follow my orders because at S-21 I represented CPK in
6 that office. However, the obedience were through the chain of
7 command.

8 I was influential over all those staff and that they had to
9 commit those criminal acts without exception. Whatever I ordered
10 them they had to follow them and complete them. That is one
11 issue.

12 And the second issue is that the criminal acts that I personally
13 committed is my annotation on those confessions, and that is
14 important.

15 In addition to that, I taught those people, I eradicated their
16 proper vision and I indoctrinated them with criminal ideology, as
17 I informed your Honour already. My instructions to them on the
18 18th February '76 were that the people who were arrested by
19 Angkar, they had to be regarded as enemies. If you cannot do
20 that you cannot extract confessions from them.

21 They were the intellectuals. When they saw people they would
22 think whether the person would be the offenders or the people who
23 make the offence, but if we allow them to think those
24 intellectuals would form an anti-Party view and if that is the
25 case then I, who was the top person responsible, I would be

81

1 punished with no exception. So Party-wise I had to instruct
2 them.

3 And another criminal responsibility was my overall supervision of
4 the office. If I myself was loyal to the Party -- that's only
5 me, only one, but if I could reveal other people to be loyal to
6 the Party then the Party would have more strength.

7 [15.16.58]

8 And the term "meticulous, hard-working, striving" which are used
9 to describe to my character, and if we talk within the context of
10 a government that loved the country, that loves its people, that
11 would be my virtue; but on the contrary, the government was a
12 criminal mechanism, a criminal and cruel mechanism for this
13 century, so all those words that describe my character are
14 painful to me in that context.

15 This is my response, Your Honour.

16 Q.It has been suggested on the one hand that you remained a
17 loyal and committed member of the CPK for many years after
18 January 1979 and, on the other hand, you have said, in effect,
19 that you were having increasing doubts and that you were a
20 prisoner of the regime, a term used in the Closing Order. Did
21 you ever leave the CPK formally before your arrest?

22 A.Your Honour, my dissatisfaction did exist. My willing to
23 leave did exist.

24 However, as a human being, I had to weigh the paths I chose to
25 walk.

82

1 There is a Khmer saying, "You only step forward when your back
2 foot is firm". If the back foot is not firm, the step forward
3 would be crumpled. So I could only live if the situation would
4 grant me that opportunity and, for instance, when the CPK did not
5 allow UNTAC to disarm them, it was a complex situation and then,
6 as a result, UNTAC decided to attack that area and, of course,
7 they were dispersed although later on, once in a while, they were
8 conduct sporadic raids here and there.

9 So before I stepped forward, I had to make sure that my back foot
10 was firm enough for me to do so, and that was the process that I
11 outweighed and that I considered before I made my next move
12 during the process, Madam Judge.

13 [15.20.54]

14 Q.During her testimony, Françoise Sironi-Gilbaud spoke of a
15 process, a psychological process, that you have been going
16 through.

17 At the beginning of this trial, you expressed your remorse for
18 the suffering of the victims of S-21. Do you feel any
19 differently after hearing some of the people who were detainees
20 at S-21, who worked at S-21, or who were the survivors of those
21 who had died at S-21? Did you feel any different sort of remorse
22 after hearing them?

23 A.Your Honour, my remorse does exist and it has progressed.

24 When Professor Sironi could reflect on this or not, I am not
25 sure, but personally I knew it has progressed of the awareness

83

1 and acknowledgment that I committed criminal acts at S-21.
2 You personally witnessed the fact that the victims point -- they
3 could point their fingers at me, at my face, and I bowed myself
4 before them and I would not deny anything. So that's how
5 progressed or how developed my feeling of remorse was.
6 Yesterday, my former friend, Sou Sath, met me. She pointed her
7 finger at my face and she said, "You, Eav, you was overthrown
8 yourself and mad with the ideology of Mao Tse Tung". I accepted
9 her speech, but I did not point my finger at her. I used my hand
10 to pat on her knee and she continued to say that, "Mao Tse Tung
11 was wrong and you allowed him to lead you by the nose", and I
12 told her jokingly that, "How could you say that? You are not a
13 politician." I spoke to her calmly and gently and she also said
14 it is confusing to understand the attitude of the former Khmer
15 leaders, and I realized that she was really upset and angry.
16 [15.24.26]
17 So the fact that I was pointed the finger at, I could see the
18 feeling inside them then of the remorse and the regret that they
19 had on me on the wrong choice that I chose. And the remorse and
20 the regret was as a result of what had been committed. And as I
21 said earlier, whatever I am -- I will be punished by the
22 Cambodian people. I will not regret that. I will accept it.
23 If they open the door for my apology and I would do so; I would
24 apologize to them. If they want to point their fingers at me,
25 either here in the hearing before this Chamber or outside, I

84

1 would not mind at all. I would accept it.

2 And when the two psychological experts gave their testimony, I
3 appealed to them. I appealed for their advice for the human --
4 for the world to see me as a human again; if they could provide
5 me with the treatment or any path that I should follow in order
6 for people to see me as a human being again.

7 Q.Thank you.

8 JUDGE CARTWRIGHT:

9 Mr. President, I have no further questions.

10 MR. PRESIDENT:

11 Judge Lavergne, you take the floor.

12 BY JUDGE LAVERGNE:

13 Q.The facts that you are being reproached as they are alleged
14 are of an unbelievable violence, and I would like you to indicate
15 here whether in your opinion, in your life course, in your
16 childhood or later, you were confronted with situations of
17 violence that may explain your participation as it is alleged.

18 [15.27.01]

19 In your childhood, were you confronted to situations of violence?
20 How were the relations within your family? How did they take
21 place? Did you suffer violence in school? Is this something
22 that you accepted?

23 A.Your Honour, through my childhood until I was grown up, I did
24 not ever touch on this issue as it affects the gratitude by me
25 towards my teachers, as I respected my teachers a lot.

85

1 While I was at school, a teacher beat me up subjectively for a
2 mistake that I did not commit. In that case, my mother made a
3 complaint against that teacher, however, later on I had pity on
4 that teacher.

5 Later on, he was sick and passed away. And in my mind I did not
6 regard it -- regard him as anything else but as my respectful
7 teacher. That was the first matter.

8 And on the second matter, the criminal acts committed by the
9 politicians toward the country and toward the nation and the
10 Cambodian people themselves, as I already reported to the Chamber
11 that the Lon Nol forces went to Samlaut to behead the patients
12 there in '66.

13 I then form a view as it was written on a placard. When a
14 plastic bomb exploded in the Royal Palace, that grenade exploded
15 and killed a prince, Meakhavan -- the Prince Meakhavan was killed
16 in the process of the explosion of that grenade. The placard
17 read, "Spare the life of the enemy is like killing your own
18 people."

19 [15.31.41]

20 In conclusion, despite all these events and despite the song that
21 I just sang and told the Co-Investigating Judges previously
22 regarding a contemptible spy and in the CPK slogan it reads,
23 "Blood will be revenged by blood".

24 My acceptance of responsibility in the police office starting
25 from M-13 and onward was within the context that I could not

86

1 avoid it. And it was within the framework that I urged them -- I
2 appealed them -- appealed to them to leave. I was -- my appeal
3 was accepted to the extent that I would not instructed to kill
4 victims or detainees with my own hands and that I did not have to
5 request to them to make the arrest of this person or that person
6 although there were grounds to do so.

7 And despite all these agreements and acceptance, the crimes that
8 I committed was my responsibility. So all my activities between
9 the 17 April '75 to the 6th of January '79 and starting from the
10 18 of August 1975 when I was the deputy chair of that office and
11 from March 1976 when I rose to be the chair of that office, all
12 these criminal acts were done blindly and I am fully responsible
13 for them.

14 This is my response, Your Honour.

15 Q.Now, getting back to violence again. You are telling us in
16 fact that there was --
17 on the part of certain people and also because of your education,
18 there were, therefore, people who were allowed to use violence
19 even if this violence was not justified or unjust. You said that
20 your professor, who had beaten you -- that he had beaten you
21 unjustly, but that, however, you believed that what was -- the
22 most important thing was the fact that he was your professor.
23 And could the fact that he was your professor justify violence in
24 your eyes?

25 A.What I said was an old story from 1953.

87

1 [15.37.15]

2 If I think back or in hindsight, my feeling and knowledge, at
3 that time, was that I was also upset with that teacher. I was
4 offended by him. I knew that he made a mistake. I knew that he
5 was mean. However, I tried to forget all that. And later on, he
6 passed away and I could suppress the feeling of that memory.

7 If we talk about humankind -- humanitarian way, any type of
8 violence cannot be forgiven, but the CPK had one word --
9 revolutionary anger or violence, and class anger or class
10 violence. That was the philosophy of that regime which was the
11 most cruel and mean of any Communism.

12 As I stated this morning, it was contradicting the philosophy of
13 religions, contradicting the Buddhist disciplines and
14 contradicting the rules and the disciplines of Christianity or of
15 Islamic law. So I could see that in this world no violence can
16 be forgiven and like the CPK or Communism doctrine which divided
17 violence into different types -- for example, the class violence,
18 as I just stated.

19 Q. Getting back to this same subject of your confrontation with
20 violence and your personal history -- in your education and
21 within your family, was there violence or could there have been
22 violence?

23 [15.42.19]

24 And did you consider this violence as being somewhat justified?

25 Were you sometimes corrected by your parents?

88

1 A.Your Honour, my mother is still living and I actually do not
2 want to touch on this subject matter. Every time I did make a
3 mistake she would beat me or give me one or two lashes. And if I
4 did not make any mistake and without even beating me up, when she
5 blamed me for something I did not do, I would get upset with her.
6 My mother rarely beat me with anything else but usually she only
7 beat me with coconut leaf.

8 Q.If I am not mistaken, you are the eldest child in your family,
9 and did this position offer you any kind of special position in
10 your family? And were you in a position of superiority when you
11 were in charge maybe of bringing up your younger brothers and
12 sisters?

13 And in this upbringing were you also sometimes given the
14 possibility of using violence sometimes maybe to correct your
15 brothers and sisters?

16 A.Of course, yes, I was the eldest son in the family. However,
17 as witnesses already made it clear that I focused a lot on study.
18 My younger siblings were taken care of by my mother. As to
19 educating my siblings, I did feel close to my immediate sister.
20 So this is how my family's life is.

21 [15.46.29]

22 Q.When you were a teacher, in your teaching activities, did it
23 ever happen -- did you ever use violence in your teaching
24 activities at any moment?

25 A.No, I never used any kind of violence during my teaching.

89

1 Q.You spoke --

2 A.Normally at primary school teachers may resort to beating
3 students but at high school level teachers were not allowed to
4 beat any student. And it was the policy -- educational policy
5 when I was a teacher.

6 Q.And what about you personally? Did you believe that violence
7 was something that was anti-pedagogical?

8 A.When I was still a teacher I did not pay that deep attention
9 to this root matter. I have not taken this into account.
10 However, some teachers set a good role model for me. The role
11 model that without beating the students still loved the teachers.
12 At the junior high school there was only one teacher in Kampong
13 Thom who was resorting to violence against students. By violence
14 here I mean he tended to threaten the students. He used big
15 words, for example, but not beating.
16 There was only one teacher I knew who could really use strong
17 words or big words to students. But I noted that that teacher's
18 educational background was not high enough. That's why he
19 resorted to shouting at students.
20 The most majority of my teachers never used violence and students
21 liked their teaching and the students found it easy to follow
22 their instructions without such violence. So this is my
23 observation, the observation I had since I started school in
24 grade 3.

25 [15.51.27]

90

1 Q. So even if you hadn't thought about this too much, you did
2 have some kind of admiration for those who were your role models
3 and who did not need to resort to violence. Is this what I must
4 understand?

5 A. Yes, it is correct, Your Honour. Thank you.

6 Q. Now I would like to bring up another topic which is a bit
7 different in this history of violence, which is therefore
8 political violence. You said that you had been confronted to a
9 certain number of episodes of violence of this kind.
10 Can you tell us if at any moment in your personal history if
11 there was moment when you considered that political violence
12 could be justified? And as of when and for which reasons?

13 A. I talked about the political violence in Samlaut the other day
14 and I also said the political violence in Indonesia. And I once
15 indicated about the crimes of the Clique of Four, the Gang of
16 Four. I therefore personally believe that political violence is
17 vindicated, justified.

18 Q. I believe that there was a problem in the interpretation. Can
19 you please restate what you were saying? Thank you.

20 A. Both the political violence at Samlaut in 1966 and at the same
21 time there was another political violence in Indonesia, and in
22 the same year there was another political violence in China. All
23 these political violences are or were not justified, as I
24 believe, although the CPK had tried its best to indoctrinate us
25 that the political violence, the class anger, were brilliant;

91

1 perfect.

2 [15.55.38]

3 Q.I believe that in your personal history there is a moment when
4 you made a choice, when you made a commitment, the commitment to
5 the CPK. Did you accept your adherence to the CPK as being
6 justified? And did you accept a certain form of political
7 violence when you adhered to the CPK? Because there is a big
8 difference of course between the teacher who believes that
9 violence has no place in a "civilized" world in which teaching
10 has its right place.

11 And then there is a transition, there is a change, and therefore
12 I would like you to explain what were your reasons, what were
13 your choices, your personal choices.

14 A.Honestly, your question is hard to understand but I will do my
15 best to respond, based on the best recollection of my knowledge.
16 Temporally, if the response is not that correct to the question
17 you prefer then I would need to rephrase it.

18 At that time when I joined the CPK, which was in 1966 -- no, no,
19 not 1966; 1969 -- in 1969. And my understanding in relation to
20 the indoctrination of the policy of political violence was not
21 yet passed on to me and was not known to me yet. I did not learn
22 that political violence was treated by the CPK as the ordinary
23 soup and rice.

24 Later on, I learned of this policy when I was forced to become
25 the Chairman of M-13.

92

1 Since my whole life as regarding to the understanding of the
2 political violence, whether the political violence was consistent
3 in the humanitarian nature -- may I repeat my statement?
4 Although the Communist Party of Kampuchea regarded the political
5 science was excellent, righteous and perfect, I never admitted
6 that it would be that way, however, I was compelled to adhere to
7 the policy. I think I was not alone who was of such opinion.
8 Other people shared this common sense.
9 Now, I would like to give you an example of those who shared the
10 same sentiment. My wife, her brother was killed by -- was killed
11 and buried in a pit with other musicians, traditional Khmer
12 musicians. My wife was speechless. She never even mentioned
13 about this. She never even referred to the blood for blood.
14 Even the song that I referred to just recently, my wife never
15 sang it. My wife, I would like to emphasize, was good at
16 singing.
17 [16.02.27]
18 After 1979, she would say that -- she would talk with me that,
19 by-and-large, we were very sympathetic for our parents because
20 they tried to bring us up, and then when we're grown up we were
21 used by the other people, and if they were not satisfied with our
22 performance then they have us smashed arbitrarily.
23 I, therefore, believe that both my wife and I knew of the policy
24 of the CPK and this matter, but we were compelled to adhere to
25 the policy, and the CPK itself, at the later stage, erased the

93

1 slogan, the blood for blood, and this phrase had never been used
2 again.

3 So the CPK later on realized that they forced their own members
4 of the Party to admit, to recognize this philosophy or policy,
5 but then they noted that they could not win.

6 In conclusion, I was influenced by a current I call the political
7 or the violence current, and this kind of policy was so-called
8 the pure tool for the Party -- pure tool. However, I never ever
9 admitted that the political violence was in any form consistent
10 with humanitarian nature.

11 I would like to end it now, respectfully.

12 Q.You say that your commitment to joining CPK dates back to
13 1969. Now, unless I am corrected, this is a period during which
14 you were in detention, 1969. Therefore, quite obviously, I
15 believe your commitment to the CPK -- even if at that time you
16 were not a member of the CPK but your attraction to the CPK dates
17 back to well before.

18 [16.06.24]

19 And what I would like to know is that as of this attraction, did
20 you have any knowledge of violent action carried out by the CPK,
21 and I'd like to know how you judged these violent actions at that
22 time?

23 A.Thank you, Your Honour, for describing the date when I joined
24 the revolution. Actually, I initially joined the revolution in
25 1964 in October. In 1965, I became the focal candidate or focal

94

1 person for the Party. I conducted an induction ceremony in 1967.
2 On the 20th of July 1969, I was detained in jail and the branches
3 who in the jail helped me assist with my work.

4 I remember part of your question that I could respond, but I
5 forget the last part of your question. Could you please repeat
6 it?

7 Q.First of all -- well, you said that as of 1965 you are a
8 candidate member, and I suppose your preliminary activity was to
9 initiate to a communist theory, and in these theories they talk
10 about a kind of struggle. Are you interested in the struggle
11 that you could carry out within the Communist Party? Are these
12 questions that you asked yourself? Are these questions that you
13 asked yourself?

14 And, at that time, were there any actions, any specific violent
15 actions carried out by the CPK in retaliation in response to
16 other political actions against the regime?

17 A.I analyzed the CPK history and I could divide it in two parts.
18 First it should have been from the beginning when the Party was
19 established until the 1970s' coup d'état. During this period,
20 the initial period, the CPK implemented the policy to gather
21 forces. They did not dare do anything to cause any harm to the
22 life of any individual.

23 From December 1970 onwards the CPK got the Liberated Zone in its
24 control and the CPK generated more members of the Party. The CPK
25 obtained military forces and enforced at that moment that the CPK

95

1 exercised or implemented the political violence which caused harm
2 to the lives of Cambodian citizens.

3 At this end I would like to also indicate that, so far as I
4 remember, the date when I started to join the revolution and
5 became the full-rights candidate or member -- I think what I have
6 already told the Court is accurate, based on the best of my
7 knowledge and memory.

8 [16.12.44]

9 Q.You have spoken a lot about the constraint that you found
10 yourself in, forced to accept this form of violence that you said
11 you refused, rejected. Now, despite this, were you not led to
12 make personal choices? Were you always forced to or were there
13 moments where you said to yourself, "I commit myself. I make the
14 sacrifice. I accept"? What was your vision of things with
15 regard to this problem?

16 Or are we, as the experts said, in phenomena such as splitting?
17 There were things that you refused and, on the other hand, you
18 had your commitment. How do you explain this?

19 A.Your Honour, thank you for raising this issue. I would like
20 to make it clear that the aspect, as indicated by the experts and
21 based on the questions being put in this Chamber -- there has
22 been impression that I did not admit that I what I had done was
23 correct, but why I still maintained my job and keep on going --
24 kept on working with that?

25 Based on my personal analysis and based on the philosophy I was

96

1 taught, as I already indicated this morning, it is called in
2 French "on note du contraste." For example, the National Front
3 of Cambodia; there were people from the royalists, there were
4 parties from the Communist side combined, so these two parties
5 were opposing one another but they were united in one front.
6 Having hated the political violence, having hated the execution
7 or killing, was part of -- it was a part of my attitude.
8 However, the Party really educated us to understand this
9 political violence. So these two notions are contradictory
10 already.
11 [16.17.46]
12 Although we opposed the notion, but by the end of the day we were
13 compelled to follow it, and as time and again I keep saying that
14 I feel embarrassed or ashamed that I fell into this track, and I
15 indicated before the Co-Investigating Judges that I was the actor
16 of the crime of the regime. I still believe that these were the
17 two roles I played. I played two roles.
18 Number two, I was the actor of the crime, or in French, actor du
19 crime. Dr. Sironi-Gilbaud already mentioned about (no
20 interpretation) in her statement.
21 I may have to conclude my response to Your Honour now.
22 JUDGE LAVERGNE:
23 I believe we'll have to stop now. I'll probably have other
24 questions to put to you and we'll see that later, Mr. President.
25 MR. PRESIDENT:

97

1 It is already an appropriate time to take the adjournment and we
2 will take the adjournment now.

3 The hearing will resume on Monday the 14th of September 2009 at 9
4 a.m.

5 [16.20.58]

6 On Monday we're going to hear the testimonies of the experts
7 Goldstone Richard but the hearing will be conducted based on the
8 remote participation and we're going to listen to this witness.
9 And the remaining time during the week will be reserved to
10 question the character of -- the matter on the character of the
11 accused.

12 Detention facility personnel are now instructed to take the
13 accused to the detention facility and bring him back to the
14 courtroom at 9 a.m., Monday the 14th of September.

15 THE GREFFIER:

16 All rise.

17 (Judges exit courtroom)

18 (Court adjourns at 1623H)

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