



**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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**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:

3

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

6

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

7

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

8

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

11

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

26

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

28

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.

29

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

30

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:

32

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

33

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)

34

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?

35

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.

36

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

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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.

40

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

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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

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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

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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

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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.

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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

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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

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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

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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

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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]

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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

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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)

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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

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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

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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

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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

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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

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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.

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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

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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.

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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:

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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,

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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

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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?

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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.

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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:

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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]

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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

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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.

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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

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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

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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.

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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

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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.

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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?

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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.

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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]

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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;

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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.

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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

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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

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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

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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

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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:

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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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