



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

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

9 June 2016
Trial Day 416

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 19-Aug-2016, 08:00
CMS/CFO: Sann Rada

Before the Judges: NIL Nonn, Presiding
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I N D E X

Mr. KAING Guek Eav alias Duch (2-TCW-916)

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Questioning by Ms. GUIRAUD..... page 68

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. DE WILDE D'ESTMAEL	French
Judge FENZ	English
The GREFFIER	Khmer
Mr. KAING Guek Eav (2-TCW-916)	Khmer
Ms. GUIRAUD	French
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. LYSAK	English
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer

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

2 (Court opens at 0900H)

3 MR. PRESIDENT:

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

5 Today, the Chamber will continue hearing the testimony of Kaing

6 Guek Eav, alias Duch.

7 Chea Sivhoang, please report the attendance of the parties and

8 other individuals to today's proceedings.

9 THE GREFFIER:

10 Mr. President, for today's proceeding, all parties to this case

11 are present except Co-Defence Counsel for Mr. Khieu Samphan, the

12 National Co-Counsel, is absent due to personal reasons.

13 Mr. Nuon Chea is present in the holding cell downstairs. He has

14 waived his rights to be present in the courtroom. The waiver has

15 been delivered to the greffier.

16 The witness who is here today is Kaing Guek Eav, alias Duch. He

17 is now already in this courtroom, Mr. President.

18 [09.01.27]

19 MR. PRESIDENT:

20 Thank you, Ms. Chea Sivhoang. The Chamber now decides on the

21 request by Nuon Chea.

22 The Chamber has received a waiver from Nuon Chea, dated 9 June

23 2016, which states that, due to his health, headache, back pain,

24 he cannot sit or concentrate for long and in order to effectively

25 participate in future hearings, he requests to waive his right

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1 participate in and be present at the 9 June 2016 hearing.

2 Having seen the medical report of Nuon Chea by the duty doctor

3 for the accused at the ECCC dated 9 June 2016, who notes that

4 Nuon Chea has back pain when he sits for long and dizziness while

5 moving, recommends that the Chamber grant him his request so that

6 he can follow the proceedings remotely from the holding cell

7 downstairs. Based on the above information and pursuant to Rule

8 81.5 of the ECCC Internal Rules, the Chamber grants Nuon Chea his

9 request to follow today's proceedings remotely from the holding

10 cell downstairs via audio-visual means.

11 AV Unit personnel are instructed to link the proceedings to the

12 room downstairs so that Nuon Chea can follow the proceedings.

13 That applies to the whole day.

14 Before giving the floor to the International Deputy Co-Prosecutor

15 to resume the questioning, the Chamber would like to remind Kaing

16 Guek Eav, the witness, <to> respond in a slower manner compared

17 to yesterday so that the interpretation team can fully interpret

18 what you say. That <will> assist our proceedings.

19 And now the floor is given to the Co-Prosecutor -- the Deputy

20 Co-Prosecutor to resume the questioning. You may proceed.

21 [09.03.46]

22 QUESTIONING BY MR. LYSAK RESUMES:

23 Thank you, Mr. President. Good morning, Your Honours, counsel.

24 Good morning, Mr. Kaing Guek Eav.

25 Q. We were talking about interrogations and some general

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1 questions about interrogations at S-21. There are a number of
2 confessions that are in evidence in this case, and many of them
3 are several hundred pages long, involving interrogations that
4 lasted many months. You've talked, yourself, about the
5 confessions being long documents.

6 Can you tell us why S-21 confessions tended to be long documents
7 that required weeks or months of interrogation?

8 [09.04.52]

9 MR. KAING GUEK EAV:

10 A. Thank you, Mr. Co-Prosecutor.

11 The longest confession, to my recollection, is -- was Koy
12 Thuon's. He was interrogated four times under the instruction of
13 the upper echelon. That was the instruction to me.

14 Later on, I was informed by Son Sen <through a telephone call>
15 that the third confession did not implicate anyone, but the
16 fourth did implicate others. So it depended on the upper echelon
17 whether or not the interrogation should be conducted for a long
18 period of time or not. <Koy Thuon's confession> was the longest
19 confession.

20 And the second one was Chan Chakrey's confession.

21 And the confessions were long because of the instruction by the
22 upper echelon, so interrogations were conducted <over> long or
23 short <periods, depending> on the upper echelon. <When I
24 mentioned of the upper echelon, I was referring to Bong Son Sen.>

25 [09.06.27]

4

1 Q. How long would it usually take to interrogate a prisoner,
2 prepare the documents, have them reviewed by you or your
3 superiors until you had a final confession? How long did that
4 process usually take?

5 A. As I told you, sometimes we needed a long time to obtain the
6 confession, but on some other -- concerning some other prisoners,
7 we did not need to spend much time.

8 There was a confession, which was not full, the confession of
9 Seun Sary <alias Brav>, so I cannot tell you how many days that
10 the interrogation needed to be conducted for -- to obtain a short
11 confession or a long confession. And I <cannot even recall the
12 duration> of Koy Thuon<'s confession>.

13 [09.07.54]

14 Q. Thank you. Referring to the period after Koy Thuon's
15 confession, in early 1977 through to the purge of the Eastern
16 Zone in mid-1978, a period in which the purges were rather
17 intense, how many prisoners were usually at S-21 on a given day
18 during that period from early 1977 to mid-1978?

19 A. Mr. Co-Prosecutor, I am now discussing about internal purges.
20 The prisoners who came in large number after the confessions of
21 Koy Thuon, Koy Thuon may have been arrested <on 25 December> 1976
22 or '77<; it could be in '76,> and then he started to confess,
23 which was recorded. And the confession we obtained from him was
24 on 29 December. And the intensified arrests of prisoners <from
25 the North> started to happen after December. That was in January

1 the next year.

2 It was when the internal purges started to happen. <The cadres
3 from the north were arrested as a group.> And this is what I told
4 the Investigating Judges as well, that I <had such> pity on those
5 people. Those <from the North> who <> regarded me as a brother
6 <and who were fighting for the revolution>, were killed at S-21
7 <as traitors of the Party>. <I was also from the North.> I
8 believe this is a bit beyond the question put to me.

9 That was the arrest of people from the North. And after the
10 <arrests in> the north, the arrest of the west <or the East>
11 happened <>, <then it happened in the West> and then Northwest,
12 <then back to the east>. And lastly, the arrests <> in the east
13 <ended> in June 1978, <including the arrests of Phim and others>.
14 <So the arrests ended in the East,> and <> I heard that the
15 <resistance> happened as well in the <East>, so <the internal>
16 purges started to happen <after the arrest of Koy Thuon>.

17 [09.11.33]

18 Q. And during this period, my question was, what was the maximum
19 capacity of S-21, the prison at Tuol Sleng at the Ponhea Yat
20 college. How many prisoners could it hold, and during that
21 intense purge period, how many prisoners were usually there on
22 any -- at any given time?

23 A. Mr. Co-Prosecutor, I cannot tell you for sure how many
24 prisoners Ponhea Yat high school could house. Hor would have
25 known about <it>, and that was <Hor's> obligation and duty. And

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1 I, myself, did not <check> the information. <I could check it,
2 but I did not. I had the right to check it and I was supposed to
3 check it, but I did not.>

4 Q. Mr. President, with your leave, I'd like to provide at this
5 time to the witness document E3/2164, E3/2164, which is --
6 contains one of the daily counting lists of prisoners for 25
7 October 1977.

8 [09.13.21]

9 MR. PRESIDENT:

10 Yes, please.

11 BY MR. LYSAK:

12 Q. Mr. Witness, to refresh your memory on this, I've handed to
13 you a -- one of the daily counting lists of prisoners, and this
14 is for the date of 25 October 1977.

15 And if you look at the totals, you'll see that, at the start of
16 the day, there were 986 prisoners. Six were taken out during the
17 day, leaving a balance of 980.

18 Does that refresh your memory at all, Mr. Witness? Was -- during
19 the period of these intense purges, were there usually 1,000
20 prisoners, or at least 1,000 prisoners, at S-21?

21 MR. KAING GUEK EAV:

22 A. Mr. Co-Prosecutor, the number could reach <more than> 1,000.

23 That was -- that is based on my estimate. But I do not have the
24 accurate figure for you. I did not concentrate on <this matter at
25 that> time. The number could not be more than 1,000, or perhaps

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1 it was a little bit more than <that>, but it did not reach up to
2 2,000.

3 And <in> the list of prisoners purged at S-21, <there> were
4 around 12,700. And that number -- that figure <of prisoners who
5 died> was depicted on the wall or board of S-21.

6 [09.15.55]

7 Q. We'll come back later to the total number of prisoners over
8 the lifetime of S-21.

9 One more question about the numbers. During the period of these
10 purges when there were 1,000 or more prisoners at S-21 at any
11 time, how many of those 1,000 prisoners could you actually
12 interrogate?

13 Did you have the ability to interrogate all of them, or did you
14 have to pick the most important prisoners to interrogate?

15 A. Thank you, Mr. Co-Prosecutor. This is a good question. As far
16 as you are concerned, Mr. Co-Prosecutor, some prisoners went
17 through a long interrogation, but some others were interrogated
18 for a shorter period of time <and some others were not
19 interrogated at all>. And <the> majority of prisoners were sent
20 to Choeung Ek to be killed without interrogation.

21 [09.17.26]

22 We kept some prisoners, because we were expecting that one day
23 the upper echelon would advise us to interrogate any particular
24 prisoners, <so keeping> prisoners at S-21 depended on the
25 <importance of the questions they might have for particular

8

1 prisoners and the> willingness of prisoners, whether they were
2 willing to confess. <And it also depended on their involvement
3 with the resistance against the revolution. Therefore,> some
4 prisoners, as I said, were not interrogated. Some <> went through
5 long interrogations, but some others were interrogated for a
6 short period of time. This is what I can tell you.

7 Q. I want to turn now to the issue of some questions about the
8 use of torture during interrogations.

9 You've testified extensively in the past on this subject, and in
10 particular about four methods of torture that were used at S-21.
11 Can you tell us, what were the methods of torture that were used
12 by the interrogators at S-21?

13 [09.19.08]

14 A. I did not go to observe or supervise the actual interrogation
15 by interrogators, but I did hold the training session for
16 interrogators. The interrogation usually started with a cold
17 method. That was to find <out the prisoners' backgrounds and to
18 find> the weaknesses of prisoners in order to obtain information
19 from the prisoners.

20 And the aggressive method, or hot method, was to inflict torture.
21 During the training sessions, during the hot method or aggressive
22 method, I instructed the interrogators not to beat the prisoners.
23 <At that time I referred to the prisoners as 'the enemies'.> <The
24 interrogators> had to review <and discuss> the confession in
25 order to try to get more information. <But I did not know how

1 much they could do according to the instruction.>

2 And as for chewing method, I observed that Seat Chhae, alias Tum,
3 was stubborn and he did not confess, so at the time, I removed
4 Pon to do other tasks. And he was busy and engaged in his job,
5 and Tuy came to continue the interrogation after him. <For me, I
6 was busy with reviewing documents and annotating on them in order
7 to send them to my superior.> And after a few days, I called my
8 superior to ask anyone to come and collect the confession, for
9 example, once every two or three days.

10 And my superiors usually <kept reviewing> the confessions that I
11 sent to them.

12 [09.21.23]

13 Q. What I wanted to focus on now was the methods, the ways in
14 which prisoners were subjected to torture.

15 You've talked -- identified before four methods. Do you remember
16 at the start of operations of S-21 having discussions with Nat
17 and your superiors about the methods of torture that would be
18 used at S-21?

19 A. I already told the Court during the investigation stage that
20 my first job or task was to hold training sessions and,
21 initially, I was instructed to interrogate workers from <the>
22 paper mill, that is, K-5 factory.

23 That factory was located at Chak Angrae.

24 Former workers from that factory were -- some of them were
25 interrogated by me and, later on, I held the training session for

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1 cadres of 703. And during that time, staff members from M-13 were
2 allowed to interrogate prisoners as well. So I held the training
3 session about the methods. <> Sometime I did <> meet
4 interrogators frequently, I always advised <the> interrogators
5 about the methods of interrogation.

6 [09.23.25]

7 And I did not <ask them to give me reports>, but I, indeed, <>
8 held the training session for interrogators <whenever I had the
9 time to do so, maybe once a week or once every two weeks>. <So,
10 regarding the interrogation, I did not actually go there and gave
11 them instructions immediately, I could only manage it as a whole.
12 Therefore, there were instructions, training sessions, and there
13 were also punishments for the interrogators.>

14 Yesterday, I talked briefly about this issue. Any <interrogator>
15 who had beaten the important prisoner to death, that <>
16 interrogator would have been arrested <with permission from the
17 upper echelon>.

18 Q. Let me read to you, Mr. Witness, an excerpt from your OCIJ
19 statement, E3/454, E3/454; Khmer, ERN 00146662; English,
20 00147604; French, 00149925. This is what you said in this
21 statement, quote:

22 [09.24.45]

23 "Since Nat's era, there were four types of torture that were used
24 with the approval of Son Sen. One, beating the detainees with a
25 stick. Number 2, electroshocks. Number 3, covering the head with

11

1 a plastic bag to suffocate. And number 4, covering the mouth and
2 nose with a towel and pouring cold water from a kettle. The
3 method that was used the most was beating with a stick because
4 other methods led to time wasting, and the electroshocks were
5 very dangerous for the victims.

6 Question: By your responses, you seem to know the detail.

7 Answer: I never participated in person, but I know through
8 reading the reports." End of quote.

9 Does this refresh your memory about the four methods of torture
10 that were used, and can you tell us -- you said in this statement
11 that these methods of torture were used with the approval of Son
12 Sen. How did you know that?

13 A. These methods had been used by me since M-13. These methods
14 were instructed by Vorn and initially, I only beat the prisoners.
15 And later on, Vorn came to tell me that he could not assist me in
16 the using of methods and I was instructed also to touch on the
17 necks of the prisoners or observe the pulse on the necks of the
18 prisoners to make sure that the prisoner were afraid or not.

19 <That was the scientific technique of the "Yuon". He used the
20 word "Yuon". He said they did not use torture; they preferred
21 using plastic to suffocate their subjects.>

22 As for Nat, he preferred using electroshocks <using> the
23 <hand-crank> telephone. And there was another method,
24 <waterboarding, which> was <the> Lon Nol <police's method to
25 torture Khmer Rouge people>.

12

1 [09.27.42]

2 Then, on later occasions, I talked about these methods with Son
3 Sen, and he agreed to those methods. But once again, as I
4 indicated to you, any <interrogator> who beat the important
5 prisoners to death would be arrested. <I would ask permission for
6 their arrest immediately.>

7 I thank you very much for reading the statement to me. I did not
8 recall the issue, only when you brought it up <so> that I could
9 recall it now.

10 Q. Another part of the same statement that I just read to you,
11 you indicated at the end that one of the reasons you knew about
12 the methods of torture was through reading reports.

13 What reports were you referring to?

14 [09.29.29]

15 A. The reports concerned the enemies' confessions, and the
16 reports usually included that -- this particular prisoner was
17 interrogated and tortured <with this or that level>.

18 Sometimes Comrade Pon -- <it was our method of interrogating> Men
19 San, alias Ya, <the tenth person in the Communist Party of
20 Kampuchea,> the second person in the general staff who later went
21 <on> to be a secretary of the Northeast <Zone. It was rather
22 difficult interrogating him.> Together with Pon, <we were> doing
23 our utmost to interrogate Ya. And in the confession, he stated
24 that he had conducted communication from time to time. And the
25 confession was included in the contemporaneous documents, as you

1 can see nowadays.

2 During the investigation stage, the report <by> Tuy was presented
3 to me by the Co-Investigating Judges that Tuy forced the
4 prisoners to eat excrement. And at the time, I told the
5 Investigating Judges that I did not like reading Tuy's reports
6 because there were many issues raising in Tuy's reports <that
7 irked me>.

8 Also, during the investigation stage, the Co-Investigating Judges
9 asked me whether or not the superior of upper echelon allowed
10 torture to be inflicted. And my response was that yes. <That was
11 why there was reports indicating that I beat this or that person
12 and this or that person only answered after I beat him or her.>
13 And that could be seen in the reports.

14 [09.31.47]

15 Q. Let me follow up on that, and you may be referring to the next
16 statement I wanted to ask you about. This is a written statement
17 from you titled "About physical torture during interrogations",
18 document E3/442, specifically paragraph 79.

19 You made the following statement, and you cited as examples
20 reports relating to the interrogations of two people, Sien Pauy
21 and Nheum Sim. And this is what you said, quote:

22 "Physical torture was mostly inevitable. It was a permitted
23 tactic. It was the" -- and it's written here "police", perhaps it
24 was intended to be policy, but -- "police well known by the
25 Party. Physical torture was employed at all Santebal offices.

14

1 Otherwise, the Party would not inform S-21 to employ such
2 techniques."

3 [09.33.13]

4 And as I mentioned, you specifically reference two confession --
5 reports on confessions in making this statement. I'd like to show
6 those to you now.

7 With your leave, Mr. President, document E3/1869 is a report
8 relating to the interrogation and confession of Nheum Sim, alias
9 Saut, who was a member of a battalion in Central Zone Division
10 174, and E3/1894 is a report or summary on the confession of Sien
11 Pauy, alias Sean, a cadre from Sector 4 of the Northwest Zone.

12 So that's E3/1869 and E3/1894. With your leave, may I submit
13 these to the witness?

14 MR. PRESIDENT:

15 Yes, you may proceed.

16 BY MR LYSAK:

17 Q. And I'd specifically like to refer you to the reports or
18 summaries that appear at the start of these documents. The report
19 for Nheum Sim appears at Khmer pages 00017252.

20 And, Your Honours, if we could display these on the screen, also,
21 with your leave.

22 [09.35.29]

23 In the report, the first report I handed to you for the cadre
24 from Division 174, this is, E3/1869; Khmer, ERN 00017252;
25 English, 00837417; French, 00769833. In a section of the report

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1 titled "Clarification on my questioning", the interrogator
2 states, and I quote:

3 "First, I asked him for his previous background and the overt
4 situation. After that, I tortured him until he confessed that he
5 worked as a spy in a CIA network."

6 And in the second -- similarly, in the second report or document
7 I've handed to you relating to the cadre from the Northwest --
8 and if we could show these on the screen. The excerpt on the
9 screen now is the one that I've just read from the Nheum Sim, the
10 Central Zone cadre.

11 [09.36.55]

12 And then if we could show the next excerpt is from the Northwest
13 Zone cadre, document E3/1894, Khmer, ERN 00005360; English,
14 00702085; French, 00747302. If we could put that on the screen.

15 In that report, it reads, quote:

16 "When we started torturing, he agreed to confess by telling about
17 his connection, activities and plans in the network from the
18 beginning until his arrest by Angkar." End of quote.

19 Were these the reports you were referring to in your testimony,
20 the summaries or reports on confessions that would refer to the
21 use of torture?

22 MR. KAING GUEK EAV:

23 A. Thank you. These documents are evidence to support my
24 testimony. The one who annotated about this torture was done
25 later. I mean <I gave instructions for> the annotation to be done

16

1 later. And it was not my idea. The idea came from, probably, Son
2 Sen, who instructed me to order the annotation <and> put down on
3 the document <whether or not it involved torture>.

4 So this is related to the torture that I already <talked about>
5 to the Investigating Judge during the investigation stage.

6 The physical torture was inevitable. There was only one case <in
7 which I did not use> physical torture. <For comrade Hor, there
8 was only one case in which he did not use torture. It was the
9 case of Yim Sambath.> <In most> of the cases during the
10 interrogation, it involved the use of physical torture. It was
11 probably the order from Son Sen, who told me, "Duch, you needed
12 to instruct the interrogators to <note down how much torture they
13 used during the interrogation>".

14 [09.39.23]

15 Q. The summary reports that appear at the start of these
16 confessions that reference the use of torture, who wrote those
17 summary reports in the two documents that I gave to you?

18 Who wrote the reports that describe the use of torture?

19 A. Pauy -- Sien Pauy, alias Sean, was interrogated by two people,
20 Comrade Horng and Comrade Seng, so the summary reports were made
21 by Comrade Horng and Comrade Seng.

22 For Nheum Sim, alias Saut, from the Central Zone, there were
23 three interrogators, Comrade Oeun, Comrade Khon and Comrade Seng.
24 There were two interrogators, Comrade Seng and Comrade <Khon, who
25 actually interrogated the prisoner>. Comrade <Oeun> <may have

17

1 been> the team leader. <He was my former combatant from Amleang.>

2 [09.42.41]

3 Q. And these summaries of the interrogations, were they part of
4 the documents that you sent to your superiors?

5 A. As far as I can remember, I sent this document together with
6 the confession report to the superior because there was
7 annotation by Brother Son Sen to Brother Nuon for a copy, so it's
8 clearly <shown that on this document there is annotation by
9 Brother Son Sen to Brother Nuon.

10 And I also sent the report of Sien Pauy, alias Sean, to the
11 superior, <that's why> there is also <an> annotation by Son Sen,
12 "Send <> to Brother Nuon<, two copies>", dated <9 November> 1977.
13 So <I sent> the <> documents <to the upper echelon; that's why
14 there is Son Sen's signature on> the document to be sent further
15 to Brother Nuon.

16 Q. I'll come back to those annotations and we'll look at them on
17 the screen. But for the moment, as -- I'm asking as a general
18 practice, when you sent confession documents to your superiors,
19 did they include these summaries from the interrogators that
20 summarized the interrogation? Were those documents usually sent
21 to the superiors as part of the documents they received?

22 [09.44.52]

23 A. At S-21, the summary of prisoners' <confessions> was practised
24 once, but it took a <long> time, so I stopped that practice and I
25 designated the work to Brother <Mam> Nai, but <he> took <even>

18

1 <longer> than I did. So I used only very short, abbreviated
2 annotations to accompany the document. <And the interrogators
3 only noted down whether or not they beat the prisoners during the
4 interrogation.>

5 Q. And that's what I'm asking you about, these short -- these
6 very short summaries like we see in these two documents. Were
7 they sent to your superiors?

8 MR. PRESIDENT:

9 Please hold on.

10 MR. KAING GUEK EAV:

11 A. Thank you. I sent all of them together <that's why there are
12 annotations on them>. Anything that contained the annotation of
13 Brother Son Sen, those documents <had to> reach the hand of
14 Brother Son Sen <and Uncle Nuon>.

15 [09.46.17]

16 MR. LYSAK:

17 Q. So let's now take a specific look at the annotations you were
18 mentioning on the cover page of these two confessions.

19 First on Nheum Sim, E3/1869, if we can show the cover page for
20 E3/1869, the annotation, on the screen. There's an annotation
21 that reads, "The Central Zone, one copy for Brother Nuon", dated
22 11 November 1977.

23 MR. PRESIDENT:

24 Co-Prosecutor, could you please specify the zone again? Could you
25 please specify the zone -- the name of the zone because I did not

19

1 receive it clearly through the interpretation.

2 BY MR. LYSAK:

3 Q. The annotation, the translation I have, it states "Central
4 Zone, one copy for Brother Nuon, 11/11/1977".

5 Who wrote -- do you recognize the handwriting of this annotation?

6 [09.48.01]

7 MR. KOPPE:

8 I object to this question, Mr. President -- good morning --
9 because it is inviting the witness to speculate. I would like to
10 draw the Chamber's attention to E3/83. That's a WRI from the
11 witness, English, page 00398164; Khmer, 00398157; in which he
12 says, and I quote:

13 "However, it is only since I have had access to the case file
14 that I have become aware of Son Sen's annotations and those of
15 his superiors." End of quote.

16 So here, very explicitly, the witness acknowledges that he has no
17 idea until he saw the actual case file of who wrote which
18 annotations and who sent which annotations to whom.

19 [09.49.09]

20 MR. LYSAK:

21 First of all, Counsel is making an argument here. Second, he's
22 completely misconstruing the evidence.

23 The witness didn't see the annotations until later because they
24 occurred after, but he was familiar with Son Sen's handwriting
25 because he worked for him for a number of years. They exchanged

20

1 documents.

2 So the issue is whether the witness is familiar with the
3 handwriting, not when it was that he saw this particular
4 document. If he's familiar with the handwriting, he's competent
5 and we are certainly entitled to ask him, does he -- did he know
6 Son Sen's handwriting, does he recognize who wrote this
7 annotation.

8 MR. PRESIDENT:

9 The Chamber overrules the objection by the Defence Counsel. And
10 the Chamber is also interested <in hearing> the answer from the
11 witness, so I instruct the witness to give the answer to the
12 question from the Co-Prosecution.

13 BY MR. LYSAK:

14 Q. So do you recognize the handwriting that appears on the cover
15 page of Nheum Sim's confession?

16 [09.50.50]

17 MR. KAING GUEAK EAV:

18 A. I have seen this handwriting for many years, but I cannot
19 recall when it was that I saw it for the first time. What I can
20 tell you is that I am familiar with this handwriting and I
21 recognize that this handwriting belong to Brother Son Sen.

22 Q. And I'm not talking about this specific document here. In
23 general, did you receive documents from Son Sen during the regime
24 so that you could see his signature, his handwriting?

25 A. I would like to separate this into two <parts>.

21

1 One, he wrote to me with some instructions, so I saw that
2 handwriting with my eyes, for example, a letter that I sent to
3 him. And then he replied to me on the 5th of October 1977, so
4 that was his own handwriting.

5 [09.52.18]

6 And then I ordered someone to typewrite in order to <instruct>
7 the interrogators not to beat the prisoners so hard during the
8 interrogation. <But this document was not shown to me> during the
9 investigation stage <>.

10 As I said earlier, the annotation or writing from Brother Son Sen
11 to me, I have seen <this> kind of <handwriting> for many years
12 <but I cannot recall when I saw it for the first time>. <On the
13 other hand, the confessions that I had sent to the Central Zone,
14 I saw Bong Son Sen's signature on them later on. I saw it when
15 Nic Dunlop and Nate Thayer came to show me> Kung Kien's
16 confession, <and I said that this was Bong Son Sen's signature,
17 that was my handwriting and the name "Kung Kien"> was the
18 handwriting of Brother Nuon.

19 So it was probably in April 1999, when I <talked in length about
20 this>. So <I did not refer only to this document but also to>
21 some of the documents I saw later on. But I would like to confirm
22 or clarify that <> those documents, I saw them before the
23 investigation stage of my case.

24 And as I said earlier, I want to confirm that I am very familiar
25 <with> or I <recognized> this handwriting <a> long, long time

22

1 ago, <but I cannot recall when I saw it for the first time or in
2 what context it was written to me>.

3 [09.54.25]

4 Q. And again, focusing on the period of the regime when you were
5 the chairman of S-21 and you would send confessions or other
6 materials to Son Sen, how often would he send you back documents
7 with handwritten instructions or comments on the confession?

8 A. <No,> the confessions <of> the enemy, which were sent to
9 Brother Son Sen, <he never sent them back to me>. Most of the
10 time, I received his feedback through phone calls, for example,
11 related to the confession by Koy Thuon. And then he called me and
12 told me that only the third confession of Koy Thuon reflected the
13 truth. <The fourth one implicated people all over the place.>
14 I remember I received only one reply in writing from him only one
15 time when I reported to him that interrogators mostly used
16 physical torture <on> prisoners. And then he wrote back by
17 instructing me to inform the interrogators that they should not
18 <inflict> too severe physical torture on the prisoners <and that
19 they should not rely too much on physical torture. So he replied
20 to me on 5 October 1977. Before that, there were letters sent to
21 me by him, but I do not recall the contents of his letters;
22 however, regarding the Santebal documents that I sent to him, I
23 saw those documents later on in 1999.>

24 [09.56.12]

25 Q. During the time you reported to Son Sen, how often would you

1 meet with him, how often would you receive documents from Son
2 Sen?

3 A. Son Sen <and I> talked to each other almost every evening <on
4 the> phone, and we talked at least for one hour every day. And as
5 I told you, phone call conversations <were> a very good strategy
6 for us to discuss because <we could maintain> our secrecy. And he
7 asked <and advised> me on many things through that phone
8 conversation.

9 And each time during our conversation, we focused on some of the
10 agendas and then I relayed his instruction to my subordinates.

11 <And we met once every three or four days.>

12 And the location that I met Son Sen, was <on> the map that I
13 presented to the Investigating Judge with the letter B. It's
14 located somewhere near Borei Keila, <to the north of Borei
15 Keila>. And when Son Sen asked me to meet him, I usually went to
16 meet him there. And each time I met him, we did not spend too
17 much time. It took just around half an hour.

18 And <I only saw> some of the documents about the confession of
19 the prisoner with the annotation <from> Brother Son Sen in 1999.

20 [09.58.35]

21 Q. Okay. We'll come back later, and I'm going to show you some of
22 the documents that have questions directed to you by Son Sen.

23 What I want to focus on now, the annotations on these two
24 confessions. The Nheum Sim confession, can you read for us the
25 annotation that's dated 11 November 1977, that appears on the

24

1 cover of this confession?

2 A. Thank you. let me read the annotation by Brother Son Sen.

3 "Central Zone. To Brother Nuon, one copy, 11/11/77."

4 So this is Son Sen's annotation to confirm that this document had
5 already been sent to Brother Nuon.

6 [09.59.57]

7 Q. And if you could look at the other -- the cover page of the
8 other confession, E3/1894. This is the confession of Sien Pauy.
9 Do you recognize the handwriting of either of the annotations
10 that appear on that page? And may we show that on the screen?

11 Do you recognize -- let's start with the annotation that appears
12 above the box. Do you recognize whose handwriting that is?

13 A. The document <displayed> to me included a box with red lines,
14 <but> the <> document <that you gave to me> was not indicated in
15 red box. And I would like to read out the <following>, "Sent to
16 Brother Nuon, two copies, 9/11/77." And in the <lower> box,
17 "Northwest". The annotation was put down by Son Sen.

18 Q. Let me just ask you, just so we're clear, the annotation that
19 appears to the left of the box, is that also Son Sen's
20 handwriting, or is that someone else's handwriting?

21 A. I could recognize it very well. Annotation on -- in the left
22 margin belong to Son Sen.

23 [10.02.10]

24 BY MR. LYSAK:

25 (Microphone not activated)

25

1 THE INTERPRETER:

2 Mic is not activated, Co-Prosecutor.

3 [10.02.20]

4 BY MR. LYSAK:

5 Thank you.

6 Q. I want to also ask you about a reference that appears in one
7 of the S-21 notebooks that's in the yellow binder we gave you
8 yesterday.

9 This is the notebook entitled "Statistics list", document
10 E3/8368, E3/8368; Khmer, ERN 00007470 through 71; French, ERN
11 00278759 through 760; English, ERN 00225395.

12 And I can read it to you, Mr. Witness, but if you're looking for
13 the Khmer page, it is, again, 00007470 to 71 -- 7471.

14 [10.03.32]

15 This is in a section of the notes, Section 4, which is titled
16 "Views and stances on the enemy's confessions", paragraph 2. And
17 describing the process of preparing the confessions, the notes
18 say this, if you can listen to me, quote:

19 "In summary, whatever we do, we do not want to surprise ourselves
20 and then when the upper echelon reads our reports, they will not
21 be surprised, either." End of quote.

22 And then continuing, at Khmer -- on Khmer, page 00007480;
23 English, 00225401; French, 00278764 to 65; the notes say on this
24 page, quote:

25 "On the documents which we have the enemy write, the names must

26

1 be clear. The day, month and year must be clear. On plans, who do
2 they receive them from? When the confession is finished, request
3 a summary response." End of quote.

4 [10.05.09]

5 So, the notes of this interrogator talk about summaries and they
6 talk about -- make reference to "when the upper echelon reads our
7 reports". Were the interrogators informed that they had to be
8 careful in preparing their confession documents because they
9 would be reviewed by the upper echelon? That's my question for
10 you.

11 And I see you're having trouble finding the pages. During the
12 next break, what we'll do is we'll take the book and we'll mark
13 the pages that I want you to look at. So if you could just put
14 the book aside for now.

15 My question is, there's references in this notebook to being
16 careful so that when the upper echelon "reads our reports,
17 they're not surprised". Were your interrogators instructed to be
18 careful in writing their reports and confessions so -- because
19 they were going to be sent to the upper echelon?

20 [10.06.42]

21 MR. KAING GUEK EAV:

22 A. Thank you, Mr. Co-Prosecutor.

23 I provided the training sessions and also, I gave general
24 instructions that we had to be responsible before the Party in
25 terms of our reports. We had to be clear about enemies and

27

1 friends <and the level of their offence>. That was my
2 instruction, so everyone was aware that the confessions of
3 prisoners would be sent up the line. That was the task performed
4 by S-21, the main task, an important one. That was -- that is one
5 issue.

6 <> The confessions <were> sent up the line, as I said,
7 interrogators, those who were <> drawing up or compiling the
8 confessions, <would> be responsible <for that>. <They had to
9 think about that.>

10 MR. PRESIDENT:

11 It is now break time.

12 The Court will take a short break from now to 10.30.

13 Court officer, please assist witness in the waiting room for this
14 witness and invite the witness back into the courtroom at 10.30.

15 The Court is now in recess.

16 (Court recesses from 1008H to 1029H)

17 MR. PRESIDENT:

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

19 And the floor is handed over to the Co-Prosecutor to resume the
20 questioning.

21 You may proceed.

22 BY MR. LYSAK:

23 Thank you, Mr. President.

24 Q. I want now, Mr. Kaing Guek Eav, to ask you some questions
25 about the four methods of torture that you have previously

1 testified were used at S-21.

2 You have said that the most common form of torture was beatings
3 of the prisoners. What types of instruments or weapons were used
4 to beat the prisoners when they were tortured at S-21?

5 [10.30.04]

6 MR. KAING GUEK EAV:

7 A. Mr. Co-Prosecutor, regarding the prisoners who were tortured,
8 I did not provide the interrogators with rattan sticks<, nor did
9 I> buy any rattan sticks to be given to interrogators. It
10 depended -- it depended on those interrogators to find the sticks
11 themselves. And during Nat's control, he preferred using
12 electroshocks or using the <hand-crank> telephone to electrocute
13 the prisoners.

14 And later on, Pon used the power provided from the electricity
15 <from the wall with 220W of power> to electrocute prisoners <>.

16 And as evidence shown at S-21, <some> instruments were used only
17 to frighten the prisoners. <These are> the statements provided by
18 the interrogator who came to testify before the Chamber.

19 <But I thought to myself, I did not see those instruments.>

20 Perhaps the instruments were <brought in> later <on>.

21 However, at the centre, some interrogators used <truncheons, to
22 beat prisoners to death>, so those interrogators were <then
23 arrested>.

24 [10.32.25]

25 <In conclusion, the instruments that were used to torture

1 prisoners varied. I allowed them to use torture up to a certain
2 point, but they seemed to go past it. However, if they beat
3 prisoners to death, they would be in trouble for sure.>

4 S-21 never went outside to buy any instruments or rattan sticks
5 to be used by interrogators. They found those sticks by
6 <themselves>. <As for> the plastic bags, <I never saw them> used
7 at S-21 <even though> that method was allowed.

8 Q. Thank you.

9 Just to clarify, you've indicated that the interrogators would
10 find rattan sticks themselves. You also mentioned that there were
11 some instruments that were only used to scare the prisoners.

12 What were the instruments that were just used to scare the
13 prisoners?

14 [10.33.42]

15 A. <> I saw them later on when I was asked to show the place, and
16 then I saw those instruments. And I remembered <a big long axe
17 with two cutting blades> among the many instruments there.

18 <So, when the person was asked to testify in the court, he said
19 that> that instrument was not used to torture people at that
20 time, it was simply shown to intimidate <> prisoners <>. <And I
21 did not see it used. But there was another case where I ordered
22 someone to draw cartoons of Ho Chi Minh and Johnson and I made
23 the prisoners worship the pictures.> It was somehow <> a form of
24 torture as well. <Ho Chi Minh was the symbol of the "Yuon" who
25 tried to swallow up our territory and that was the Communist

30

1 Party of Kampuchea's theory. And Johnson was the symbol of
2 American imperialists.>

3 [10.35.30]

4 So that's why <David Chandler wrote> that that symbol did not
5 look like the symbol of Khmer identity, <the Communist Party of
6 Kampuchea. The thing was during the coup d'état, it was Nixon's
7 time>. And then I told David Chandler that <I ordered someone to
8 draw these people because I could not find Nixon's picture so
9 these drawings belonged to> S-21. <> It was simply <another form
10 of torture>.

11 Q. And just so we're clear, the instrument that you saw, I
12 gathered, during -- when you went on the reconstruction visit to
13 the Tuol Sleng Museum, what is the instrument, can you describe
14 it more specifically, that wasn't actually used for torture but
15 was used just to scare the prisoners?

16 Can you describe that instrument for us?

17 [10.36.36]

18 A. I remembered that one most clearly. That was the axe with two
19 <cutting blades>. And it was displayed there. And there were also
20 other <artificial> instruments, for example, the container
21 containing water that prisoners were supposed to <have> their
22 heads <forced into> into. <Those instruments were artificially
23 created after the 7 January.> And also, the other instruments
24 that were supposed to be used when the prisoner's legs would be
25 <hanging> upside down with their heads pointing down. That was

31

1 the <creation> of <Vann> Nath.

2 Q. Thank you.

3 I want to ask you about a statement that appears in David
4 Chandler's book, "Voices From S-21", an interview he did of a
5 former interrogator, Ma Meang Keng, alias Rin.

6 This is at document E3/1684; Khmer, page 00191985; French,
7 00357403; English 00192 --

8 [10.38.16]

9 MR. PRESIDENT:

10 Could you please repeat the document number because the
11 interpreter could not follow it.

12 BY MR. LYSAK:

13 No problem, Mr. President.

14 Q. The document number is E3/1684, E3/1684. It's David Chandler's
15 book, "Voices From S-21";

16 Khmer, 00191985; French, 00357403; English, 00192822; and this is
17 a quote from David Chandler's interview of a former S-21
18 interrogator, quote:

19 "Noeun, Sreng and I were taking a break on the top floor of the

20 canteen at S-21. At that time, Noeun said -- Noeun said, 'In

21 interrogation group 1, all you hear everywhere is the sound of

22 beatings and people asking prisoners if they are C, CIA or not'.

23 With a question like that, what can anyone answer if some of them

24 don't even know what C stands for?" End of quote.

25 And Mr. Witness, I've marked a page from the interrogation

1 notebook; if I can provide that back to the witness, Mr.
2 President.

3 [10.40.04]

4 MR. PRESIDENT:

5 Yes, you may proceed.

6 BY MR. LYSAK:

7 Q. Related to the quote I read from David Chandler's book, if you
8 look in the Pon Tuy, S-21 notebook, this is document E3/834,
9 E3/834; Khmer, 00077493 -- I've marked that page for you with the
10 pink Post-It, Mr. Witness -- English, 00184508.

11 There are notes from the interrogators from the 11th of August
12 1978, and on that page, one of the notes reads -- states the
13 following:

14 "Political re-education has forgotten some things like the
15 problems of beatings being heard outside."

16 My question to you, Mr. Witness, do you remember there being a
17 problem at some point at S-21 with beatings that could be heard
18 from outside? And if you remember, can you tell us a little bit
19 about what led -- what you remember about the situation?

20 [10.41.58]

21 MR. KAING GUEK EAV:

22 A. Thank you for your question.

23 <As far as> the beating of prisoners and <that> it could be heard
24 outside, this was just an exaggeration. It does not reflect the
25 truth. The screams or the noise as a result from beating the

1 prisoners did not -- would not be heard outside. <In fact, no
2 prisoner dared scream.>

3 During the proceeding here, I challenged Chum Mey. He said that
4 <he could hear the screams from several metres away. I said to
5 him, "Bong Chum Mey! You said you were> interrogated for 12 days
6 and 12 nights, <but you did not dare say how you cursed the
7 Santebal staff. No... you said you would be quiet during that time.
8 So if you, yourself, did not scream, who would?" So, I confronted
9 him about that.>

10 So, I want to clarify that <regarding the facts indicated in
11 documents written by David Chandler that> the noise or the
12 screams <could be heard from a distance of seven or eight metres>
13 is not <the> truth. It's just an exaggeration.

14 [10.43.30]

15 Q. Could the screams be heard from inside the prison?

16 A. I used to sit down at the carving or sculpture area for
17 <several months>, and I never heard any <screaming>. <I even went
18 there at night watching them drawing and carving, I still did not
19 hear it.>

20 Q. Do you have any explanation or understanding as to why Pon
21 Tuy's notes from August 11, 1978, talk about the problem of
22 beatings being heard from the outside? Do you have any memory of
23 that?

24 A. My <apologies>. Could you please give me the ERN number of the
25 document?

1 Q. Yes. It's the same page that is marked with the Post-It, and
2 it's Khmer, page 00077493.

3 Why is there a reference in their notebook to the problem of
4 beatings being heard outside?

5 (Short pause)

6 [10.46.10]

7 A. My <apologies>. Can I ask a question? Is it <00077493>? Is it
8 -- it is the ERN in Khmer. Is it that page?

9 Q. Yes, I believe so. Why don't you put that aside? What we'll do
10 in the future now is we'll mark -- we'll highlight the reference
11 for you, also.

12 So let's put aside the book for now, Mr. Witness. Let me move on
13 to my next document.

14 Mr. President, if I may provide to the witness what is document
15 E3/7426, E3/7426, which is -- contains an annotation on the S-21
16 confession of a female prisoner, Danh Siyan, from January 1976.

17 MR. PRESIDENT:

18 Yes, you may proceed.

19 BY MR. LYSAK:

20 Q. And these -- the reference on the first page of this document,
21 E3/7426; Khmer, page 00172772, there is a handwritten note. Is
22 that your handwriting, Mr. Kaing Guek Eav?

23 MR. KAING GUEK EAV:

24 A. Yes, it is my handwriting.

25 Q. And for the record, can you read the note that you wrote that

1 appears on the first page?

2 [10.48.14]

3 A. Let me read as the following:

4 "Ask clearly and precisely and with the use of <moderate> torture
5 and the purpose is to search for the network."

6 And then indented to another line, "Beat <> her until she stops
7 saying that she has been to Vietnam to have herself healed of
8 <amenorrhoea> by her <grandfather">. <This is my annotation.>

9 As I remember, this document has been presented to me during the
10 investigation -- into investigation stage. And I would like to
11 stand by my statement given during the investigating stage. <If I
12 add anything now, it would be confusing.>

13 My feeling at that time and my memory at that time was different
14 from now.

15 [10.49.36]

16 JUDGE FENZ:

17 Sorry. Can I just interrupt because I have the English
18 translation in front of me, so perhaps we can clarify.

19 The witness said, if I remember correctly, at least in English,
20 "Average torture was used", while the English translation in
21 front of me appears to say "More serious torture must be used".

22 Can we clarify either by -- either can you tell us what is
23 correct or can the interpreters tell us which one is the correct
24 translation?

25 BY MR. LYSAK:

36

1 Yes, we may need to have the Khmer speakers look at that.

2 Q. But in your note -- let me ask you what the Judge has asked.

3 Does your note say "Use average torture" or does it say "Use more
4 serious torture"?

5 [10.50.36]

6 MR. KAING GUEAK EAV:

7 A. Thank you. Let me say again, it's moderate. I think in English
8 it's called "moderate".

9 Q. We'll follow up with the translators on that, Judge Fenz.

10 Was torture, in this case beatings, used on both male and female
11 prisoners at S-21?

12 A. Let me answer based on my own knowledge.

13 And in my capacity as the chief of the prison, yes, it was used

14 <on> both males and females. And there was one thing that

15 <caused> me pain until now. There was a young man who inflicted

16 torture on my <female> teacher, and then I reported to the

17 superior to remove him from the interrogation unit.

18 And then the Co-Prosecution here asked me, "Why didn't you kill

19 him?" And then I told him that <the one who had the authority to

20 smash someone was Son Sen and> my authority at that time was to

21 report and to remove him <only>. So I want to emphasize that the

22 practices were used <on> both males and females.

23 [10.52.34]

24 <That's why later on>, I used <cadres' wives as> female

25 interrogators, for example, the wives of Comrade Huy, Comrade

1 Pon, <Comrade Trov (phonetic) and Comrade Hor.> So that's my
2 answer.

3 Q. Mr. President, I'd like to next present to the witness
4 document E3/2475, E3/2475, which is a -- contains a report on the
5 interrogation of a cadre from Sector 22, Men San, alias Sie.

6 MR. PRESIDENT:

7 Yes, you may proceed.

8 BY MR. LYSAK:

9 Q. Mr. Witness, if you look at the document -- and I've also
10 marked with a Post-It, the particular part I want to ask you
11 about.

12 For the record, this, again, is E3/2475, Khmer, 00305504;
13 English, 00836681 to 82; French, 00938432. And if we could also
14 display that on the screen.

15 This is one of these reports from the interrogators that we were
16 discussing earlier. And the excerpt I want to read to you reads
17 the following, quote:

18 [10.54.22]

19 "At first, he refused to talk about his betrayal at all. When our
20 comrade tortured him really strongly, he said he was educated by
21 Ben in March 1970. In October 1970, he was inducted into the CIA.
22 When we brought him for questioning again, he denied everything
23 by saying that what he had said before, he said because the
24 comrade interrogator tortured him so strongly. Now he refuses to
25 say anything. His health is very weak."

1 And it ends saying, "Very harsh torture caused sores on his
2 back." End of quote.

3 This is a report dated 18 August 1977.

4 Who is it that prepared this report, Mr. Witness, that described
5 the use of harsh torture that caused sores on the back of this
6 prisoner?

7 [10.55.40]

8 MR. KAING GUEK EAV:

9 A. The persons who reported this were both interrogators, so it
10 was Comrade Uon and Comrade Heang who reported it. Comrade Oeun
11 was the team leader.

12 Q. Thank you. Next, I want to ask you about another method of
13 torture that you've described in your interviews, and that is the
14 use of plastic bags to suffocate prisoners.

15 Who was it that instructed you on that method of torture, the use
16 of plastic bags?

17 A. I said a little bit earlier on this aspect, it was from the
18 "Yuon" practice, <the Vietnamese cadres' practice>. It was used
19 since <during> the time I was in Sector 25. The Vietnamese did
20 not use beating in the interrogation because this would cause the
21 bruises on the body. <They used plastic to suffocate their
22 subjects until their subjects became unconscious and then they
23 removed the plastic and they threw water at their subjects to
24 wake them up.> So <I heard about this method> since <I was in
25 Sector 25 around> August or September 1970 <until December, until

1 May 1971> and then, later on, I was transferred to the Southwest
2 Zone. <In 1976, I was appointed to be chief of M-13.>

3 And one day, I met Vorn Vet, and he said to me that he <was> very
4 busy<, he did not have time to give me any instructions, but he
5 told me to use these techniques>. And he told me that the "Yuon"
6 also used this technique. <They checked their pulse, if the
7 subject was scared, that meant the person was guilty.> And he
8 told me that the "Yuon" used the plastic bag to suffocate the
9 person.

10 And he told me about this technique probably in 1972 or '73.

11 Although <> there was such a principle, I <never> implemented it.

12 [10.58.40]

13 Q. Just to make sure we're clear here, let me read to you an
14 excerpt from your testimony on the 19th of March 2012, E1/50.1,
15 testimony on that day, 19 March 2012, at 15.40 of the afternoon.

16 I quote:

17 "Vorn Vet, himself, instructed me the way to torture those
18 people. The best way he liked, the way that he liked most, was to
19 use a plastic bag to cover the heads of those people. He said,
20 'You, Comrade, need to look at their neck -- or, rather, the
21 pulse at the neck; if it was vibrating very strongly, and they
22 would be considered as spies.'" End of quote.

23 What was Vorn Vet's position at the time he provided this
24 instruction or advice to you on torturing prisoners with plastic
25 bags?

1 [11.00.02]

2 A. Thank you for your question.

3 I was designated as the chief of M-13 on 20 July 1971. Vorn Vet
4 was the spokesman assigned by the Central Committee to come to
5 promote me, and he was responsible for the overall affairs of
6 <the Special Zone, including> the <northern> <and> the <southern>
7 <parts of the Special Zone as well as> Phnom Penh<>. <The
8 northern part of the Special Zone covered four districts: Ponhea
9 Lueu, Angk Snuol, Dangkao, and another district I cannot recall.
10 And the southern part of the Special Zone covered: Leuk Daek,
11 Kien Svay, S'ang and Kaoh Thum.>

12 Brother Vorn was the secretary of that Special Zone at that time,
13 and that Special Zone was established after the fourth Party
14 congress. And he <appointed me to be chief of> M-13, and that
15 name, M-13, was also chosen by him. <So he was my superior.>
16 And then in 1973, he was assigned to take charge of the army in
17 the south, including S'ang, <Kaoh Thum,> Leuk Daek, <Kien Svay>.
18 And <> Brother Pol and Son Sen <and others> came <to take charge
19 of the north part, but all these changes in positions were still
20 in secret>. <Only> Brother Khieu, that is, <Son Sen>, he was
21 <openly taking charge>. <In conclusion, it was Von Vet who
22 designated me to be chief since 21 July 1971>, so it was him who
23 instructed me.

24 Q. And when you were at M-13, did you have plastic bags to use
25 there, or was it only later at S-21 that you had plastic bags

41

1 that you could use to implement this method of torture instructed
2 by Vorn Vet?

3 [11.03.00]

4 A. I did not have plastic bags at M-13. Specifically, I used <>
5 tree branches to beat the prisoners. And I never <dared> use <a
6 krama> or scarf to put on the prisoners' mouth <and nose> and
7 then pour -- pour the water on the scarf.

8 MR. LYSAK:

9 Mr. President, if I may now provide to the witness document
10 E3/3847, E3/3847; which contains some notes, annotations or
11 comments relating to the interrogation of a group of prisoners.

12 MR. PRESIDENT:

13 Yes, please.

14 [11.04.01]

15 BY MR. LYSAK:

16 Q. And for the record, the specific pages that I'll be
17 referencing in E3/3847 are Khmer, ERN 00173829 through 830;
18 English, 00223916; French, 00271475. And I've marked those pages
19 with Post-Its for you, Mr. Witness, to make it easy to find.
20 These -- this document contains some handwritten comments
21 relating to the interrogations of various prisoners, and if we
22 could show this on the screen. Paragraph 2.4, on these pages, are
23 notes regarding prisoner Pov Lim, alias Sith. And the notes say,
24 quote:

25 "Types of torture. Beating with electrical wire and suffocating

1 with plastic bag."

2 And then, below that, the notes relating to another prisoner, Pol
3 Pisit, paragraph 3.3, state, quote:

4 "Torture. Beating with electric wire and suffocating with plastic
5 bag. After the torture, he agreed to speak about the planning
6 meeting to be convened with Sa Phoeun." End of quote.

7 First question, Mr. Witness, do you recognize the handwriting of
8 these notes?

9 (Short pause)

10 [11.06.34]

11 MR. KAING GUEK EAV:

12 A. I do not recognize this handwriting, but I would like to give
13 my observation or impression.

14 On page 00173829 in Khmer, there is one thing in relation to the
15 handwriting that I would like to make an observation, "the
16 initial questions".

17 At the time, the word "dambong" was never used <among the> Khmer
18 <Rouge people>. That <means> "initial". The word "dam" was never
19 used.

20 The first thing I want to say here is that I do not recognize
21 this handwriting, and the word initial in Khmer was never used.

22 The word "dambong" was never used <among the Khmer Rouge people>.

23 [11.07.44]

24 Q. Mr. Witness, this document references beatings with electrical
25 wire; what -- what type of wire was used to beat? Was this -- is

1 this a reference to physically beating the detainees with
2 electric wire or -- or are they talking about electroshocks here?

3 A. In reality, I can presume that they wrapped <> electrical wire
4 together and then used it to beat the prisoners, no <>
5 electroshocks. <If they used it to shock prisoners, they would
6 use the word shock.>

7 Q. And did -- did the interrogators have electric wire at S-21?

8 A. There <> were wires at houses everywhere at the location. They
9 used the wire from those houses and <wrapped it together and
10 then> beat the prisoners <with it>.

11 Q. Let me turn to the next method of torture that you've
12 referenced which is the use of electric shocks. You testified
13 that this was a method of torture that was favoured by your
14 predecessor, Nat, your predecessor as chairman of S-21; why --
15 why did Nat favour this method of torture?

16 A. Frankly speaking, in relation to his preference, I cannot tell
17 you about <that>. He once gave the <hand-crank> US telephone to
18 the <interrogators> to use. Perhaps, at the time, there were <a
19 lot> <> of those telephones. I cannot tell you about his
20 preference.

21 [11.10.26]

22 JUDGE FENZ:

23 Witness, don't guess; don't guess. If you don't know, then say "I
24 don't know."

25 MR. KAING GUEK EAV:

1 Thank you, Judge.

2 BY MR. LYSAK:

3 Q. Did -- did you see the telephones that were used to give
4 electric shocks to prisoners?

5 MR. KAING GUEK EAV:

6 A. I saw them, the telephone server used for communication inside
7 S-21. There was a centre at <> Ponhea Yat <high school> and the
8 wire was connected to one another and the telephone was operated
9 by manual power. <> Those telephones were used for torture as
10 well.

11 [11.11.44]

12 Q. And do you know when these phones were -- were used for
13 torture, do you know how they were connected to the bodies of the
14 prisoner; how -- how were the prisoners shocked using these
15 phones?

16 A. <From what they said,> the wire was attached to each big toe.

17 Q. And -- and how do you know that?

18 A. It was said by others and perhaps Nat made mention <of> that,
19 but I cannot recall it well. I learnt from others. People said
20 about it.

21 MR. LYSAK:

22 Mr. President, at this time, I'd like to provide document
23 E3/3841, to the witness, E3/3841, which is a statement or part of
24 the confession of Oum Soeun.

25 MR. PRESIDENT:

1 You may proceed.

2 BY MR. LYSAK:

3 And for the record, the -- there are two parts that I've marked
4 for you to -- for your review, Mr. Witness. The first is an
5 annotation that appears on Khmer, ERN 00172792, 172792. We can
6 show that page on the screen. The English translation, 00234676
7 also 223142; French, 00296037.

8 Q. Do you see the annotation on that page, Mr. Kaing Guek Eav; is
9 that your handwriting?

10 [11.14.40]

11 MR. KAING GUEK EAV:

12 A. <On page> 00172792, there is an annotation, "Not confessed
13 yet!" <It's underlined> and "Use torture." The handwriting
14 belongs to me and that <> instruction was given to the
15 <interrogator to implement>.

16 Q. And if you turn to the very end of this document; this is
17 Khmer page 00172863, 172863; and if we can be ready to show that;
18 English, 00825417; French, 00955087.

19 This is a statement from this detainee, quote:

20 "I felt disappointed at being cursed, beaten, and electrocuted by
21 our comrades. Later on, I felt like committing suicide by hanging
22 because the comrades beat and electrocuted me because I refused
23 to confess my mistakes like Angkar had explained to me in the
24 beginning." End of quote.

25 Do you recognize -- Mr. Witness, first of all, are you able to

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1 tell from this document who the interrogator was who interrogated
2 this prisoner?

3 (Short pause)

4 [11.17.27]

5 A. Based on the handwriting, the interrogator was Pon, Comrade
6 Pon.

7 MR. LYSAK:

8 Next document, if I may provide to the witness, document E3/1874,
9 E3/1874, which contains a report -- a report on the interrogation
10 of a female medic, Ouk Savann, with your leave, Mr. President.

11 MR. PRESIDENT:

12 You may proceed.

13 [11.18.18]

14 BY MR. LYSAK:

15 And while the witness is looking at it, the specific ERN
16 references here are Khmer, 00084038; English, 00821432; French,
17 00819737; and if we could show that on the screen also.

18 The excerpt that I wanted to ask you about on the report of the
19 interrogation of this prisoner states, quote:

20 "She was tortured and electrocuted several times. Based upon her
21 biography, she mostly worked with traitors. In addition, she
22 joined the revolution through her brother, Tem, who is now
23 arrested." End of quote.

24 This female prisoner, who was tortured with electric shocks; the
25 interrogator here, can you tell us, was this a female

1 interrogator or a male interrogator who used torture on this
2 female prisoner?

3 [11.19.55]

4 MR. KAING GUEK EAV:

5 A. The <> interrogator's name was Phau, <male>. He was one of the
6 <> interrogators. He kicked the <ribs> of one prisoner from <a
7 battalion level under Division> 703 and that prisoner died. <So I
8 asked permission from the upper echelon to smash him.> I'm now
9 <talking> about the translation of the document.

10 "Number 3, this person was partially tortured. <> Electric wire
11 was used and <the> biography was that this person was linked to
12 traitor networks". <Here, I agree with this translation.>

13 <"The person joined the revolution through Tem, the brother. Now>
14 Tem <has been> arrested. <This person has> another brother,
15 Saroeun, who was at Office <P-98> and <he was> already arrested".

16 And the two individuals here were <> already arrested so <this>
17 is <> different from the translation I heard a while ago. <I

18 would like to clarify that I knew both Comrade Tem and Comrade
19 Saroeun.> Tem was the chief of <the general staff>

20 telecommunication committee and Saroeun was <a deputy> at <P-98>.

21 MR. LYSAK:

22 Thank you. The two more documents I would like to present to the
23 witness, I'll hand them together; the first is document E3/3844

24 -- E3/3844; and the second is E3/7437 -- E3/7437, with your

25 leave.

1 MR. PRESIDENT:

2 Yes, please.

3 [11.22.52]

4 BY MR. LYSAK:

5 And while you are taking a look at these documents, Mr. Witness,
6 let me read for the record. The first document provided to the
7 witness is from the confession of Pol Lak Pheng, E3/3844; Khmer,
8 ERN 00173598; English, 00820962; French, 00869389; and the
9 referenced pages are -- are one of these interrogator's summary
10 reports.

11 Let me start with that report first, Mr. Witness, E3/3844 and if
12 we can show this on the screen.

13 The statement in the summary report from the interrogator reads
14 as follows, quote:

15 [11.23.59]

16 "I had him put his palms together to salute the wall, the
17 electric wire, and the whip. At the same time, I wrote down words
18 for him to memorize. He was memorizing them for over one hour. I
19 showed him the picture of a human with the dog head and told him
20 to salute it simultaneously while he was memorizing the words. He
21 agreed to memorize the words and salute the picture for a long
22 while. I did not recall the time he was doing that, but it was in
23 the morning on the same day. For almost the whole morning, my
24 questions were focused on the period of his schooling and at the
25 same time, I also whipped him. He then decided to confess." End

1 of quote.

2 Q. Mr. Witness, the -- this report indicates that the
3 interrogator had the detainee salute -- I'm not sure if they mean
4 a -- "sathouk", but they had the detainee bow down or salute the
5 wall, electrical wire, and whip; can you explain what the purpose
6 was of having the prisoners do that?

7 MR. KAING GUEK EAV:

8 A. The cartoon of a human body with a dog head -- <a dog body
9 with a human head for the two individuals>, I do not know when <>
10 that practice was used. <> It may refer to Ho Chi Minh and
11 <Johnson> The prisoners were asked to salute <> the two images
12 and <pray to them> that, <> "Oh my god, <Ho Chi Minh, Oh my god,
13 Son, please help me>".

14 [11.26.37]

15 Q. I've -- I understand your testimony about the picture of the
16 dog. This -- this note, though, also indicates that the prisoner
17 saluted the electric wire and the whip; what was the reason for
18 -- for doing that? Were -- were these instruments, wire and whip,
19 kept open so the prisoners could see them when they arrived for
20 interrogation?

21 A. The images <could have been> shown for the prisoners to pay
22 homage <to> after those prisoners <had already> paid homage to
23 the dog symbol or dog image. That was <just a possibility. If I
24 talk about it, I may just make an assumption again>. <So I do not
25 know for sure what kind of> practice was used.

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1 Q. And the -- the electric wire, the whip that's referenced by
2 this interrogator, did the interrogators keep those in the open
3 so the prisoners could see them when they arrived for
4 interrogation?

5 [11.28.10]

6 A. It depended on the actual methods used by concerned
7 interrogators. I did not instruct <specifically on> the actual
8 methods.

9 Q. Let me point -- read to you the excerpt from the second
10 document I handed to you; this is E3/7437, at Khmer, 00173742
11 through 743; English, 00780892; French, 00800851. This is related
12 to the interrogation or confession of Suor -- Suor Heang and it's
13 a report, one of these summaries, titled "Clarification Report"
14 and it states, if we can show on the screen, quote:

15 "I told him to prostrate himself before the image of the two
16 dogs. At first, he did not follow my command, but after some
17 beating; he agreed to admit that he was a traitor, yet he did not
18 tell me about his traitorous networks. I then electrocuted him
19 several times and I talked about politics to confuse him. He then
20 agreed to tell me about his CIA networks." End of quote.

21 My question to you, Mr. Witness: Both of these -- the last two
22 interrogator reports -- confession reports that I provided to you
23 were from July 1978. The one I just read is dated 18 July 1978.
24 Who -- who was the superior to whom you reported in July 1978?

25 A. I lost <face to face> communication <> with Son Sen <after> 15

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1 August 1977. <From that time onward,> I sent <> reports to
2 Brother Nuon.

3 [11.31.07]

4 Q. Just to be clear then, the date -- the time of these reports
5 was the time that you were reporting to and sending documents to
6 Nuon Chea; is that correct?

7 A. That is correct.

8 MR. PRESIDENT:

9 It is now -- it is now time for the lunch break. The Court will
10 -- will take lunch break from now until 1.30 p.m.

11 Security personnel are instructed to bring Khieu Samphan and the
12 witness to their respective waiting rooms and please bring Khieu
13 Samphan into the courtroom before 1.30 p.m. And as for the
14 witness, security <personnel> please bring him into the courtroom
15 at 1.30 p.m.

16 The Court is now in recess.

17 (Court recesses from 1132H to 1331H)

18 MR. PRESIDENT:

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

20 So I would like to direct my question to the Co-Prosecution
21 whether this afternoon you will hand over the floor to the Lead
22 Co-Lawyer for civil party, because based on your request <to>
23 hand over the floor to the Lead Co-Lawyer for <the> civil
24 <parties> and you will use <the rest of> the allocated time to
25 <both> the <Co-lawyer> for civil <parties> <and the

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1 Co-Prosecutor> to finish your line of questions?

2 MR. LYSAK:

3 Yes, Mr. President, I will go till about 2 -- 2.10 this afternoon
4 and then the civil parties will question for the rest of this
5 afternoon, for the first part of the morning Monday, and then I
6 will finish my questions, yes.

7 Good afternoon, Mr. Witness. I want to go back to the S-21
8 notebook, E3/8368; that's the statistical notebook that's titled
9 "Statistical List" and this time I've marked the pages and I've
10 also put some yellow highlighting where I'm going to ask you
11 questions on four parts of this, so it should be easy for you to
12 see now. If I may provide this to the witness?

13 [13.33.58]

14 MR. PRESIDENT:

15 Court officers, please give the notebook to the witness to see.

16 BY MR. LYSAK:

17 Q. Now, the -- the part of the notebook -- interrogator's
18 notebook I'm going to refer you to is -- starts at section --
19 page -- a Khmer page, 00007465 through 7466; English, 00225392;
20 French, 00278756 through 57. It's a section of the notebook
21 that's titled "Section 3: Views and Stances Regarding
22 Interrogation."

23 And there is a discussion in here about the practice of first
24 using political pressure and after that, if necessary, using
25 torture. The quote I want to -- to ask you about specifically is

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1 at number 3 -- point number 3 which I've highlighted for you
2 which reads as follows.

3 "The enemy does not confess to us easily. When they confess when
4 we do politics, they confess at the very lowest level. Torture
5 cannot be avoided. It only differs as to whether it is a little
6 or a lot; that's all." End of quote.

7 Mr. Witness, you've previously testified that these notes were
8 from instructions or meetings you had with the S-21
9 interrogators; what was meant by the statement that when enemies
10 confess after politics, they confess only at the very lowest
11 level; what -- what was meant by that?

12 [13.36.38]

13 MR. KAING GUEK EAV:

14 A. Based on my experiences when I was interrogated <> in 1968,
15 and then I became the interrogator myself, so <> I had this
16 experience <that> the persons who <were> interrogated <would> not
17 easily <> give <answers unless we made it easy for them to, we
18 made them trust us first>; that's why I instructed the
19 interrogators <to be friendly,> to start the questioning first
20 with the biographies of the prisoners <in order to find their
21 weaknesses and strengths. That's why it's called political
22 pressure>.

23 And another story is about what I already told you about <my the>
24 interrogation of Koy Thuon. Initially, I pressured <him> during
25 the interrogation about political aspects. <So how did I do that?

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1 I could not discuss theories with him because he was way more
2 knowledgeable than me in that aspect. I respected him. He was a
3 member of the Party.> So the kind of <> questioning techniques
4 <were aimed at political pressure>. <> During the interrogation,
5 I needed to bear in mind the hierarchical order, <that I used to
6 be under his authority, that I used to be a normal Party member,
7 and that he used to be at the Party Central level.> And I also
8 thought about Pol Pot<, who was behind me,> who sat at the top of
9 the hierarchy <and whom Koy Thuon respected and on whom his life
10 depended,> and that's <the methods I used> in my interrogation.
11 So I encouraged my interrogators to hit at the political aspect,
12 at the <psychological aspect>.

13 [13.39.00]

14 Q. And if -- if you could open the notebook back up again,
15 there's four places all in that same section where I've marked
16 where -- where the letter B -- the Post-it with the letter B is.
17 In the immediate pages after the quote on torture I just read,
18 there is a list of nine forms of political pressure or propaganda
19 that have been used and the fourth of those methods of political
20 pressure, which is paragraph D, reads as follows -- this is on
21 Khmer, page 00007466; English, 00225392 through 93; French,
22 00278757.
23 Paragraph D of the political or propaganda methods of
24 interrogation states as follows, quote:
25 "Attract their feelings to revolve around family matters, the

1 lives of their wives and children, confirming that their guilt is
2 minor. Whether they have confessed or haven't confessed, it is
3 imperative to always remind them that they are not the major
4 leaders, so do not resist and make matters more serious. Do not
5 make us torture yet or do anything else serious that will impact
6 upon their health."

7 And a couple of pages later in these same notes if you -- the
8 same section on methods of interrogation, paragraph 5(c), mark
9 the letter C on that quote, Mr. Witness, quote:

10 "We must be masterful and break their ideology. Make them think
11 about something else like the lives of their parents, wives, and
12 children and their lives." End of quote.

13 My -- my question to you, Mr. Kaing Guek Eav, this method is
14 included in the political propaganda or political pressure; was
15 this considered to be part of a -- a cold method of
16 interrogation, that is, to talk about the wives and children of
17 the prisoner?

18 [13.41.57]

19 A. Yes, that is correct. At that time, I considered this tactic
20 of interrogation as the cold method.

21 Q. And Mr. Witness, if I can provide to you, with your leave, Mr.
22 President, what is document E3/1544, E31544; this is a letter to
23 you from one of your interrogators dated 26 September 1976,
24 regarding the interrogation of Ya.

25 May I provide this, Mr. President?

1 MR. PRESIDENT:

2 Yes, you may proceed.

3 BY MR. LYSAK:

4 Q. This is a -- a handwritten letter; do you recognize the
5 handwriting, first of all?

6 [13.43.20]

7 MR. KAING GUEK EAV:

8 A. This document was used to challenge me during the
9 investigation stage and that was also a long time ago. This
10 handwriting belonged to Comrade Pon who wrote it to me.

11 Q. The reference in here I wanted to ask you about is paragraph 2
12 where it says;

13 "We received an instruction from Brother Duch to recall welfare
14 of his spouse and children, his knowledge of their arrests, and
15 whether they know where he is now." End of quote.

16 Can you explain what was the purpose of raising to Ya, during his
17 interrogation, the welfare of his spouse and children?

18 A. Let <> me read, "Reminding them <> about the welfare of
19 <their> spouse and children. At this time, <> do you know <if>
20 your wife <knows> where you are located?"

21 I want to tell you that Ya's wife was pretty young, <she was 27
22 years> younger than him, so when he was brought in, <his wife had
23 just delivered a baby and> he was told that kind of statement to
24 <make> him <> think about the welfare of his spouse and children.
25 <This was the practice at that time.>

1 [13.45.34]

2 Q. And was this a tactic to pressure him to give a confession?

3 A. Yes, that is correct. It was one of the methods among the many
4 used in the cold methods.

5 Q. Thank you, Mr. Witness. I want to go back -- I read you part
6 of this statement by Nuon Chea. I'm done with that document.
7 Yesterday, I read you part of this; I want to ask -- read the
8 entire statement from Nuon Chea that is quoted by Thet Sambath in
9 his book, "Behind the Killing Fields". This is from document
10 E3/4202, E3/4202; Khmer, ERN 00858358 through 359; English,
11 00757537; French, 00849448.

12 [13.47.00]

13 And again, this is Thet Sambath quoting from his interviews of
14 Nuon Chea, quote:

15 "They normally confessed when they were beaten painfully and
16 seriously tortured, Nuon Chea said. This confession could not be
17 valid and useable, so they must be released. Some of the accused
18 were very young. Nuon Chea said that when he read these
19 confessions, he made marks on the documents with a red pen to
20 show they were invalid and that the prisoner was not guilty. He
21 said that for those cases, he asked that the authorities
22 reconsider their case and then release them, but Nuon Chea said
23 he didn't know if they were let go, in the end, since it was up
24 to Duch." End of quote.

25 I'm going to ask you about a few parts of these, so if you'll

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1 respond to my specific questions, we will cover this all.

2 You've already testified to sending to your superiors, Son Sen
3 and Nuon Chea, confession reports that describe the use of
4 torture. We looked at a number of those this morning.

5 On any occasion after you sent those documents to Nuon Chea
6 describing the use of torture, did he ever call you and instruct
7 you to stop torturing the prisoners at S-21?

8 A. No, never.

9 [13.48.45]

10 Q. Now, in this statement, Nuon Chea claims to Thet Sambath that
11 he made markings on the document -- on the documents in red if
12 the confessions were invalid, the prisoner was not guilty, and
13 they should be released. Mr. Witness, was there a single occasion
14 during the time that you were chairman of S-21, that Nuon Chea
15 asked you to release a prisoner because their confession was not
16 valid?

17 A. There was never an instruction for release. There was only one
18 single case of Brother <Dy> Phon who was a <dentist> who had
19 studied in France and who became a member of the Party in France
20 with Brother Pol.

21 [13.49.56]

22 Q. And what was the reason that Nuon Chea instructed you to keep
23 that person, Phon, alive; what was the reason he wanted him
24 alive?

25 A. The main reason that Brother Nuon told me <was> that Brother

1 Pol instructed us to release him. And he told me to immediately
2 release him because <at least he could> be useful <in> treating
3 our teeth and as for other prisoners, there <were> no cases of
4 release.

5 Q. And when you say he was released; was he actually released
6 from the S-21 premises or was he just put to work at S-21?

7 A. We released him, but we kept him to work <as a medic> within
8 the compound of S-21. <> The instruction to me was that he was
9 not <to be interrogated or to be smashed>.

10 Q. In -- in relation to the confessions, Mr. Witness, did you,
11 yourself, have doubts, at some point, about whether the
12 confessions from S-21 were true and did you ever communicate your
13 doubts about the confessions to Nuon Chea?

14 [13.52.07]

15 A. <I have thought about this issue and this will be on my mind
16 for the rest of my life.>

17 In 1964, I <studied at the pedagogical school>. At that time, my
18 <German> teacher who taught <> general cultural studies <gave me
19 a test>. <> In the writing, I said that I loved Bao Gong and you
20 know very well Bao Gong is a judge in <a> Chinese film. Bao Gong
21 did everything based on evidence <to prove who was the enemy and
22 who was not>.

23 And <> in 1971, <> I was assigned to do <that kind of task>, but
24 I rejected it at that time. <Nevertheless, my rejection was not
25 an option so I performed the task. And when I was doing my task,

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1 no matter how hard I tried to look for evidence, it did not prove
2 that any of them was the enemy. That was why I kept them for
3 re-education. In 1973, those prisoners resisted and they fled. I
4 then asked his permission to torture Bong Vorn (phonetic)> but he
5 refused to do that. <I then told him that he could reassign me to
6 work in the rice field or he could remove me from the Party, but
7 he refused> and he kept using me for that purpose. <So I said
8 that> the only way was to strengthen the interrogation
9 <techniques> and that was the time that I taught <> Pon, <myself
10 and Meas to interrogate a person named Nget Sambon (phonetic)
11 alias Rumpea (phonetic)>. And that was the experience that I
12 learned and I used that experience to teach other interrogators.
13 [13.54.15]

14 As to the question of which <> document <stated the truth>, it
15 would be impossible for me to refer to it, so you may refer to
16 various <pieces of> evidence in possession of the OCP to verify
17 with which document was correct.

18 And as in the case of Koy Thuon's confession, <I could not make
19 any judgment about it since> my knowledge <> was lower than his,
20 <even Bong Son Sen might not be able to make any judgment about
21 it;> only Pol would be able to make judgment in case of Koy
22 Thuon. And later on, <Son Sen> told me that <Koy Thuon's
23 confession reflected the truth only up to his third confession.
24 So regarding whether or not it reflected the truth, I would not
25 dare talk about that>.

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1 [13.55.14]

2 Q. Let me read to you a statement from a interview you gave in
3 June 1999. This is document E3/1560, E3/1560; at Khmer, 00320788
4 through 89; English, 00327327; French, 00327330.

5 Question -- quote:

6 "I also complained to Nuon Chea about the confessions that kept
7 spreading out of control everywhere, every time. Nuon Chea
8 convinced me not to worry and said that clearly their units knew
9 which ones were true and which ones were untrue. 'Comrade, just
10 strive to do whatever is necessary to get their responses.' So
11 nothing could be sought out to verify whether those responses
12 were true or untrue." End of quote.

13 Do you recall this conversation with Nuon Chea, Mr. Witness?

14 [13.57.04]

15 A. I recall that conversation; however, the statement that you
16 made is rather lengthy. When I was with Brother Khieu or Son Sen,
17 I made some annotations and he said that, "Duch, they know how to
18 do their work." Because, previously, I questioned one person
19 whether we should arrest everyone <> within the instruction from
20 Angkar and I was told that I should really view the cases
21 carefully <whether or not this or that individual should be
22 arrested>. <That was why it was called democratic process in
23 internal screening.>

24 However, at the lower level, whenever there was instruction from
25 the centre then we would just give everything or do everything

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1 per instructions from the centre. <That was what concerned me.>
2 That matter was raised with Nuon and Nuon <> told me that they
3 know how to do their work and that I should only focus on my work
4 and do my work thoroughly.

5 [13.58.24]

6 On one occasion I met one local cadre from the West Zone and he
7 used to work <closely with> me and I asked him whether the
8 screening and the arresting of people sent to S-21 were all based
9 on the instructions from the upper echelon. He told me in fact
10 instructions from the <upper level> were to the subordinates to
11 examine the situation, but because the lower level seemed to be
12 afraid of the <upper level>, usually everyone mentioned in
13 instructions was arrested.

14 And this is based on what we did at the time and based on what I
15 recall so that I can respond to your question.

16 Q. Let me also read to you an excerpt from your May 1999
17 interview. This is document E3/347, E3/347; English, ERN 00185036
18 to 37; Khmer, ERN 00160911; French, ERN 00160958.

19 This may be in relation to the incident near the end of 1978,
20 where a foreigner was shot in Phnom Penh. But let me read to you
21 the excerpt.

22 "They did not call me to look at the battlefield. One central
23 committee member went to look. The next morning I asked Nuon Chea
24 to go look and he criticized me. The police institution of the
25 Khmer Rouge was not complete. It only had an interrogation

1 office."

2 And continuing in the next paragraph:

3 "I remember the CPK limited my duties as to only to get
4 confessions. True or not, they did not worry about that. I asked
5 to expand my tasking to make things better, but they disagreed."

6 End of quote.

7 Do you remember asking Nuon Chea or other leaders to be able to
8 investigate matters out in the field outside of S-21 and what was
9 the response you got when you made that request?

10 [14.01.47]

11 A. Through the interpretation, it read that it was made in May
12 1999. Is that the actual date of that interview? This is what I
13 heard through the Khmer interpretation.

14 Q. That's correct.

15 A. In May 1999, I was at the military tribunal. I was not even
16 here. I was brought to the ECCC on the 31st of July 2007.

17 Q. This is not an ECCC interview. This is an interview conducted
18 before you came to the ECCC.

19 My question is, do you remember making a request to be able to
20 investigate matters outside of S-21 and what was the response you
21 got when you asked to have the authority to do that?

22 [14.03.15]

23 A. Before I made such a request, <> I was used by the upper
24 echelon in order to test my investigative ability. <> I don't
25 want to talk at length regarding this matter. And what I want to

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1 say is the following.

2 One day Son Sen told me that Comrade Norm (phonetic), the chief
3 of police office <from Sector 32>, found some CIA agents and
4 <asked> why at S-21, no CIA agent was found. I was the first
5 person that he put the question to and not Nat; <he said> they
6 found CIA agents <and it was noted down that no beating was
7 involved>.

8 And I told about this event to the Co-Prosecutors. And he gave us
9 firm instructions that we had to find CIA agents at S-21.

10 [14.04.39]

11 Later on at Sector 32 police office <of Comrade Norm (phonetic)>,
12 it was rumoured that prisoners beat the guards up and fled.

13 And I raised the matter with Son Sen that I wanted to go there to
14 conduct my investigation. When I told him that, he took off his
15 glasses and cleaned them. In fact, he actually used time in order
16 to think how to respond to my question or my proposal. <After he
17 put his glasses back on,> he blamed me and warned me just to
18 focus on my work. That's what Son Sen said. It's not what Uncle
19 Nuon said.

20 So that was a request that I made to go to do the investigation
21 in Sector 32.

22 Q. Let me read another quote to you from interview E3/347. And
23 this quote, Your Honours, appears at English, 00185030 to 31;
24 Khmer, 00160908; French, 00160953.

25 This is another statement of yours at a recorded interview in

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1 1999. Quote -- and you were talking here about having been
2 informed by Pang that of a statement by Pol Pot that the CIA and
3 KGB were the same organization. And this is what you said about
4 that in this interview:

5 [14.06.35]

6 "I reflected on this matter for a long time since I first heard
7 this sentence, but it was only in 1983, that I understood the
8 words 'Pol Pot'. I think that in China they used the words
9 'revisionism, leftist, rightist, opportunism to smash people',
10 that is, they smashed those who got in their way.

11 In Democratic Kampuchea Pol Pot used the words CIA, KGB, agent of
12 the land-grabbing 'Yvon', all without thinking, just to smash
13 those who got in his way. Whatever the facts on the CIA, the KGB,
14 the agents of the land-grabbing 'Yvon', it was just a placard
15 that they raised to smash people.

16 Furthermore, on the confessions, whether they were true or not,
17 they did not think about that. They just thought about finding
18 some reason to smash anything that blocked their path. That's why
19 they liked confessions." End of quote.

20 Why did you say, Mr. Witness, that Pol Pot, the CPK leaders
21 didn't care whether the confessions were true or not? Why did you
22 say that?

23 [14.08.15]

24 A. I believe this statement was an excerpt from a book, and I can
25 say that this statement was mine. Pang actually said that KGB and

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1 CIA agents were all the same but I did not believe that for the
2 following reasons. CIA belongs to the United States and it was
3 formed in order to destroy Communist Bloc. As for KGB, it
4 <belonged> to Soviets.

5 And when S-21 was established, I went to a house of the chief of
6 espionage, and I found a book about <KGB in French> but then I
7 didn't have a chance to read <it>, so I wrapped it <up> and then
8 I sent it to Son Sen.

9 And later on I found another book, <"Technique du Renseignement">
10 authored by Allen Dulles. I also wrapped it up and sent it to my
11 superior. So to me it's clear the two were not the same, the CIA
12 and the KGB.

13 However in Cambodia, anyone who aimed to destroy the revolution,
14 that person would be the focus.

15 [14.09.57]

16 As I said, one day Son Sen called me to have a meal with him
17 together with Nat and he said in Sector 32, they found CIA
18 agents. He didn't let me read that, the content of the letter but
19 he <> had it in his hands <>. <This was how people worked at that
20 time.>

21 So the purpose of smashing people was to aim at those who opposed
22 the revolution.

23 And later on, you and I know about a document from the Party
24 where Pol Pot said, "Do not believe those linked to the police
25 network" and that we should only rely on our own network.

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1 So, S-21 was only an <absolute> instrument of the Party and
2 nobody could make a decision to make an arrest and only the Party
3 Centre could make that decision. That is also reflected in
4 certain decision documents of the Part, that is, the Party
5 Centre, <> the Zone Standing Committee, <the General Staff> and
6 those committees surrounding the <Centre>. Besides <those four
7 listed>, no one <had> the authority to arrest anyone.

8 So, my <apologies>, that I <am going to> respond rather at length
9 to your question. <> In China, they accused people of being
10 leftist or rightist <during the time of revolution>. But in
11 Cambodia, I heard the term that they used <for those who> opposed
12 the revolution and later on they used the <term> CIA <>. Even
13 this person, <Leav Sotsophon (phonetic)>, was accused of being
14 KGB since he used to study in the former Soviet Union.
15 And later on when the Vietnamese <> were brought in, then a new
16 phrase emerged that they were the agents of the land-grabbing
17 "Yuon".

18 [14.12.35]

19 Q. Let me ask you just one more -- about one more thing before I
20 turn the floor over to the civil parties.

21 Do you remember while you were the head of S-21 did you hear --
22 ever hear a Khmer Rouge saying it is better to arrest 10 innocent
23 people by mistake than to free a single guilty person?

24 Did you ever hear that saying and, if so, who did you hear that
25 used that expression?

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1 A. I actually <learned> that expression from the document about
2 S-21; that is, from the book <> by David Chandler and actually I
3 <corrected it in> French <already>. I said that that was not the
4 <expression> used by the Khmer Rouge,
5 And what I heard from my superior, Son Sen, was that to keep is
6 no gain and to remove is no loss. That was the actual phrase used
7 during the time.

8 [14.13.57]

9 Q. And when did you hear Son Sen use that phrase and what did it
10 mean?

11 MR. PRESIDENT:

12 Duch, please wait for the microphone to be operational.

13 MR. KAING GUEK EAV:

14 A. Let me give you an example, as in my case, it <was> no gain to
15 keep if I were not to do anything or just to go and instigate
16 here or instigate there. So that is an example of "to keep is no
17 gain and to remove is no loss."

18 MR. LYSAK:

19 Thank you, Mr. Witness.

20 I am going to pass the floor to the civil party lawyers and then
21 Monday I will have some more questions for you.

22 [14.15.20]

23 QUESTIONING BY MS. GUIRAUD:

24 Thank you, Mr. President. Good afternoon, everyone. Good
25 afternoon, Witness. My name is Marie Guiraud and I represent the

1 consolidated group of civil parties in this case with my
2 Cambodian colleague, Ang Pich.

3 I will be putting a number of questions to you this afternoon and
4 then my colleague will continue on Monday morning. As part of the
5 questions I will be putting to you this afternoon, I will place
6 on the screen for you to see a number of documents and I would
7 like to give you a hard copy of these documents so that you may
8 refer to them if need be.

9 Mr. President, may I request your leave to hand to the witness a
10 file with all the documents that will be placed on the screen
11 this afternoon?

12 [14.16.13]

13 MR. PRESIDENT:

14 Yes, you may proceed.

15 BY MS. GUIRAUD:

16 Thank you. And while this document or this file is being given to
17 you, Witness, may I simply inform you that 132 civil parties
18 testified in this trial in relation to the harm they suffered at
19 S-21, 5 direct victims<, and the rest for having lost loved ones
20 at S-21,> and there were 61 new civil parties <compared> to your
21 <case>.

22 I would like to inform you that the civil parties are here
23 present today<, it> is somewhat different from the organization
24 you saw in Case 001. Today we have <one> civil party, today in
25 this courtroom. Kaun Sunthara is a victim who was admitted as a

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1 civil party for having lost her brother at S-21.

2 I will start my questions by having you react to a number of
3 specific cases of close relatives or civil parties who were
4 imprisoned at S-21. I would like you to react in relation to
5 those specific cases.

6 Let me start with a case I believe you know very well. That is
7 the case of Chau Seng. Since your judgement, the brother of Chau
8 Seng, Mr. Chau Khim, joined the case as a civil party. This is a
9 new element. That civil party -- and I quote for the reference
10 for the parties is the reference of the civil party application
11 is E3/4733.

12 [14.18.26]

13 Chau Khim <wanted to be here but he> could not come today. He
14 joined as a civil party <after> your trial and I will read out to
15 you the reason why he became a civil party, and I quote -- and
16 this is an extract of document E3/4733, ERN in French, 00794416;
17 in English, 00490618; in Khmer, 00478708.

18 Chau Seng's brother says the following in the document which he
19 attended before the Tribunal, and I quote: "The death of my elder
20 brother, Chau Seng, plunged me in deep mourning. "He was like a
21 father to me" and he says at the end, "I decided to file an
22 application before the Khmer Rouge Tribunal in the hope to seek
23 the truth and justice for my brother, Chau Seng." End of quote.

24 [14.19.51]

25 Mr. Witness, I would like you to briefly explain who was Chau

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1 Seng, and under what circumstances you saw him at S-21?

2 MR. KAING GUEK EAV:

3 A. Before I respond to your question, I would like to ask you,
4 the Lead Co-Lawyer, whether you <are referring> to Chau Khim or
5 Chau Sokhun (phonetic)? Are you referring to one person or
6 referring to two individuals?

7 Can you tell me whether Chau Khim and Chau Sokhun (phonetic)
8 refers to one individual or <were> there two people?

9 MR. PRESIDENT:

10 Actually the name is not Chau Khim but Chau Kheum (phonetic).

11 [14.21.02]

12 BY MS. GUIRAUD:

13 I will respond, and I am responding after a certain lapse of time
14 because I have to <wait for> the French translation, and that is
15 why there is <a time> lapse <between your question and my
16 answer>.

17 Q. The person I <want to ask you about today> is Chau Seng. He
18 was the founder of the pedagogical institute and <the> person
19 <about> whom I will put questions to you this afternoon.

20 I stated that Chau Khim, Chau <Seng>'s brother, <joined as> a
21 civil party in this case in order to obtain information on the
22 fate of his brother at S-21.

23 So to be very clear, the person we will be talking about in the
24 next few minutes is Chau Seng, the founder of the pedagogical
25 institute. Is that clear?

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1 May I request you to explain succinctly to the Court who was Chau
2 <Seng> and whether you saw that person at S-21?

3 [14.22.17]

4 MR. KAING GUEK EAV:

5 A. Allow me to respond to your question.

6 At the time I was waiting; rather, I have been waiting for the
7 family members of Chau Seng in case I would see his wife so that
8 I would <talk to her> in person to express my regrets that I
9 could not protect him, <the person that I respected>. That is the
10 truth.

11 For me, Chau Seng did many good things. While he was at the
12 Ministry of Education, he reformed and made a new curriculum
13 according to the <1956> French curriculum. <He was well known for
14 being honest> and progressive <>.

15 And in 1977, Brother Son Sen called me to meet him and he said
16 that the Party decided to arrest Chau Seng. But Chau Seng was so
17 famous <internationally> and for that I <could> not write his
18 real name as Chau Seng but Chen Suon. So if you look at the list
19 of people detained at S-21, you cannot find Chau Seng, but you
20 would find Chen Suon.

21 I instructed Mam Nai to interrogate him when he was detained. And
22 actually Mam Nai was a former student of Chau Seng.

23 [14.24.33]

24 I actually used him to work with Mam Nai to interrogate
25 Vietnamese prisoners but later on the upper echelon gave me

1 further instructions to smash him. <Regarding his offenses, I did
2 not know.>

3 And as I said, the instruction to arrest him came from the upper
4 echelon and that I should use an alias not his real name in the
5 list.

6 I am still waiting to meet the two women, <one> from Chau Seng's
7 family; that is, his wife and another woman, Tann Pauline. That
8 is the wife of the Dy Phon who was a former professor of my
9 <natural> science class. I actually want to meet these two women
10 to express my regret and <apologize> that I could not protect
11 their <husbands>.

12 [14.25.50]

13 Q. Thank you.

14 I would like you to react to one of your statements in Case 001.
15 I see that you are listening to me in French so I will speak up
16 in order for you to understand me.

17 In Case 001 and I am referring to the transcript, in that case
18 E3/1552, shortly before 14.31 you stated the following, and I
19 quote:

20 "Subsequently, Nuon Chea <found out> that I wanted to protect
21 Chau Seng and that is why he ordered that Chau Seng be eliminated
22 immediately and <so> Hor received the order from Nat to execute
23 Chau Seng and Chau Seng was killed." End of quote.

24 In this passage, you referred to Nuon Chea's role. Can you
25 explain to the Chamber what role Nuon Chea played in issuing

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1 orders for the execution of Chea Seng at S-21?

2 A. I would like to add that when Chau Seng was sent to S-21, it
3 was around August '77 and before Son Sen left, he gave me
4 instruction for the arrangement for Chau Seng. And when Son Sen
5 went to the front battlefield, Son -- actually Brother <Nuon>
6 Chea came to be my direct superior.

7 And I kept Chau Seng alive at the time and one day Nuon Chea
8 asked what happened to Chau Seng, <> I told him <I kept him
9 alive, and Nuon Chea said, "Smash him">.

10 [14.28.10]

11 That was the principle of the Santebal office at the time. The
12 word Santebal does not refer exactly to a prison as prisons
13 existed in France <or as prisons existed in Cambodia in the time
14 before that>. In that context, I agreed with a researcher that
15 Santebal offices in Cambodia refer to a location where people
16 <were> to be kept <before they were sent to be killed>. That was
17 the role played by Santebal offices in Cambodia at the time, that
18 is, <people> were kept there, interrogated and later on they were
19 smashed. <It was not a place like a court where people go through
20 a trial and they later are sentenced to serve a certain amount of
21 years.>

22 The legislative body at the time, we could say, <belonged> to the
23 centre and the executive or the judiciary powers also <belonged>
24 to the Party. So there was only one body, that is, the Party,
25 <which> made every decision.

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1 Q. Thank you. You said earlier that you had been summoned by Son
2 Sen and Son Sen had warned you of the arrest of Chau Seng. Can
3 you tell the Chamber where Chau Seng was located before he was
4 sent to S-21? Was he detained elsewhere? Were you aware of that
5 back then? Where was he coming from?

6 [14.30.18]

7 A. I did not know exactly where he was living before he was sent
8 to S-21. I could however conclude that he was with the Ministry
9 of Foreign Affairs before his arrest. Maybe that is where he was
10 at the time.

11 Q. Thank you for this specification. Now, I would like to move
12 onto another example, and this person is called Ros Sarin. He was
13 the former airport director, the Pochentong Airport director.
14 So does this name ring a bell, Ros Sarin, that is?

15 A. I could not get your question clearly. Please spell out his
16 name. Please spell it out.

17 Q. S-A-R-I-N. That is his first name. R-O-S <is> his last name.
18 He was the former director of Pochentong Airport.

19 A. Ros Sarin, I never knew this person. I never knew Ros Sarin.

20 [14.31.55]

21 Q. Thank you. The reason I am asking you this question is that
22 his widow, Ms. Ros, to simplify things, joined as a civil party
23 in this case.

24 This is the civil party application E3/5040 and she was admitted
25 as a civil party, owing to the suffering she felt following the

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1 death of her husband at S-21. Her husband is mentioned in the
2 list of the Co-Investigating Judges at <the end of the
3 transcript, under entry> 7,794, for the record.

4 In her civil party application whose reference number I just
5 provided, Ms. Ros explains that they had returned to Cambodia
6 from France in 1976, and that they were interned at Boeng Trabaek
7 and that her husband disappeared at Boeng Trabaek. Then she
8 discovered later on that her husband had been sent to S-21. So I
9 wanted to put to you a few questions about Boeng Trabaek and the
10 exchange of prisoners that might have taken place between Boeng
11 Trabaek and S-21.

12 Were you informed back then of the arrival of prisoners from
13 Boeng Trabaek? Was this -- did you have this kind of information
14 available to you back then?

15 [14.33.49]

16 MR. PRESIDENT:

17 Civil party -- Mr. Witness, please hold on.

18 The floor is given to Judge Lavergne.

19 JUDGE LAVERGNE:

20 Yes, thank you, Mr. President.

21 A point of clarification only, Counsel Guiraud. Are you speaking
22 about Boeng Trabae (phonetic) or Boeng Trabaek? Because I believe
23 it is rather Boeng Trabaek you are speaking about, not Boeng
24 Trabae (phonetic).

25 MS. GUIRAUD:

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1 <Isn't it the same?> For me it's Boeng Trabaek.

2 JUDGE LAVERGNE:

3 But I heard Boeng Trabae (phonetic).

4 BY MS. GUIRAUD:

5 But I am pronouncing Boeng Trabaek and my colleague says it is
6 correct. She says I am pronouncing it the way it should be
7 pronounced in Khmer but, okay, it's Boeng Trabaek.

8 Q. So getting back to my question, Witness, were you informed
9 back then of the arrival of prisoners coming from Boeng Trabaek
10 at S-21?

11 [14.34.57]

12 MR. KAING GUEK EAV:

13 A. There were many prisoners who were sent from Boeng Trabaek to
14 S-21 but I remember only one, <Professor Phung Ton>. His wife and
15 daughter also came here as civil <parties> in Case 001.
16 And for <Ros Sarin,> I did not pay attention to <him>.

17 Q. When you tell us that many prisoners were arriving from Boeng
18 Trabaek, were you informed of that ahead of time? Did you receive
19 lists or did you get this information only afterwards,
20 information that you might have read back then somewhere? Or back
21 then were you informed of this ahead of time and, if yes, how so?

22 A. Let me clarify on this matter.

23 I knew the location of Boeng Trabaek through my work. There were
24 many people sent from Boeng Trabaek and I noticed that there were
25 two separate locations in Boeng Trabaek. One was controlled by

1 <Min Minn (phonetic) alias Prum (phonetic) and the other one was
2 controlled by Uk Savorn>. So there were two <parts of> Boeng
3 Trabaek. One was to detain intellectuals <in order to investigate
4 them> and this detention facility was under the control of
5 Comrade Pang.

6 For each prisoner who was sent in, I only knew only after they
7 arrived and then when they arrived, Comrade Pang informed me
8 about their arrival. <Comrade Pang ordered Kham My to bring in
9 prisoners, first Comrade Prum (phonetic) was instructed to bring
10 in prisoners, and I was informed after they arrived. But
11 regarding Chau Seng, I was informed beforehand. >

12 Professor Phung Ton, was sent to the prison even before I became
13 chief of <S-21> and <maybe Bong Son Sent told> Nat <not to tell>
14 me about his presence in the prison. I was not aware of the
15 presence of Professor Phung Ton in the prison because the Party,
16 especially Brother Son Sen, kept it as a <secret> <from me>. Even
17 after he passed away, I was still uninformed. <Later on, only
18 when I went to check at Choeung Ek, I saw a biography in his hand
19 writing, that I knew for sure that Professor Phung Ton really
20 died at S-21.>

21 <During the hearing of the Case 001, Oeum Sonti (phonetic) came
22 with her daughter,> Pheung Gotsunnary (phonetic). <Oeum Sonti
23 (phonetic) could not say anything, only Pheung Gotsunnary> was <>
24 able to speak about what happened at that time.

25 So <I knew the locations through my work and> there were many

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1 people sent <> to the prison and I <can> not comment on every one
2 of them. Even in the case of Professor Phung Ton who was kept at
3 the prison until he passed away, I was not informed.

4 MR. PRESIDENT:

5 It is now a convenient time for a break. The Chamber will take a
6 break until now -- until 3 o'clock.

7 Court officer, please assist the witness at the waiting room
8 reserved for the witness during the break time and invite him
9 back to the courtroom at 3 o'clock.

10 The Court is now in recess.

11 (Court recesses from 1439H to 1459H)

12 MR. PRESIDENT:

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

14 The Chamber would like to hand the floor to Lead Co-Lawyers for
15 civil parties to continue putting questions to witness Kaing Guek
16 Eav, alias Duch.

17 Mr. Duch, please adjust your seat so that you can also look at
18 the Bench and not direct yourself to the Lead Co-Lawyer. You may
19 shift your position when you respond a little bit but basically
20 you should face the Bench.

21 Thank you.

22 BY MS. GUIRAUD:

23 Thank you, Mr. President.

24 Q. Witness, for purposes of clarification, I would like to place
25 on the screen the first list in the file that was given to you.

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1 It is document E3/9853. It contains the name of Ros Sarin who we
2 spoke about a while ago. That is entry number six.

3 So Witness, I am looking at document E3/9853. If you would allow
4 me, Mr. President, may I have this document placed on the screen?

5 Witness, you can look at the hard copy before you or look at the
6 screen. You will see the list with entry number six corresponding
7 to the husband of the civil party I <just> referred to. So you
8 can see the name in Khmer. Does that name <in Khmer> ring a bell
9 or <does> it still <not> mean anything to you? It is a name that
10 is circled in red on your screen.

11 (Short Pause)

12 [15.02.33]

13 BY MS. GUIRAUD:

14 Q. E3/9853.

15 MR. PRESIDENT:

16 Court officer, could you assist the witness?

17 And actually, it is rather difficult to see it on the screen
18 since it's a little bit blurred.

19 BY MS. GUIRAUD:

20 Q. I would like you to crosscheck the manner in which the name is
21 spelled in Khmer so that we <don't have any confusion regarding
22 the names. Do you have trouble finding the list?>

23 (Short pause)

24 [15.04.11]

25 MR. KAING GUEK EAV:

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1 A. Yes, I have located the relevant part. Allow me to say that I
2 do not recognize the name and on the part of this list <of S-21,
3 it> is <noted> that <> "Being interrogated" but I am not familiar
4 with this person and I do not know about his confession.

5 Q. Thank you. That is the information I wanted you to provide. We
6 will look at another case now.

7 Witness, I would like us to look at the case of two Americans who
8 were imprisoned at S-1.

9 MR. PRESIDENT:

10 Please hold on, Lead Co-Lawyer. The Chamber would like to note
11 that we noticed that Counsel Doreen Chen is here this afternoon
12 and Counsel Koppe is absent. So this is for the proper record of
13 the transcript in relation to the absence of Counsel Koppe and he
14 is replaced by Doreen Chen.

15 You may proceed, Lead Co-Lawyer.

16 [15.05.44]

17 BY MS. GUIRAUD:

18 Thank you, Mr. President.

19 Q. Witness, I would like us to look at another case. That is the
20 case of Michael Scott Deeds. I would like to have placed on the
21 screen document E3/1553.

22 Let me point out for the record that that person is mentioned in
23 <entry> 12,720 on the list of Co-Investigating Judges.

24 So with your leave, Mr. President, perhaps E3/1553 could be
25 placed on the screen? I will give the ERNs in the three

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1 languages: 00088752, in Khmer; 01187845, in French; 01236389, in
2 English.

3 [15.07.06]

4 If we can look at the document on the screen, Mr. Witness, the
5 brother of that person, <Timothy Scott Deeds,> was a civil party
6 following the death of his brother at S-21. For the parties, let
7 me quote civil party application E3/472.

8 The document, which is placed on the screen, we find that that
9 person, Michael Scott Deeds, entered S-21 on the 26th of November
10 1978, and that he came from Kampong Som and in the position
11 <column> we find it is indicated a "<Hawaii".> <He> is <entry>
12 two on the list.

13 And position number one is for the person <with whom he> was
14 arrested off the shores of Kampong Som, and that is Mr. Edward
15 Delance. These are two American nationals who were arrested at
16 Kampong Som and sent to S-21.

17 Are you familiar with this list that is being shown to you today,
18 Witness?

19 [15.08.59]

20 MR. KAING GUEK EAV:

21 A. Regarding Westerners, in fact there were four Westerners who
22 were brought into S-21. In Case 001, two applied as a civil
23 parties in relation to two Westerners and now we have a case of
24 two <other> Westerners.

25 I can say that they were interrogated and later on they were

1 smashed per instructions. To smash here means they were burned
2 with tires, car tires, <so that there was no bone left behind>.

3 Q. At the time, what did you know of these two Westerners whose
4 names are on the list? And it is stated that they arrived at S-21
5 on the 26th of November 1978, from Kampong Som and in the column
6 <labeled> position <"Hawaii"> is indicated.

7 Did you know of the existence of those detainees at the time and
8 do you know why those Westerners were sent to S-21 at the time?

9 [15.10.43]

10 A. The Americans were arrested and detained by the navy at the
11 coast of Kampong Som. Later on they were sent from Kampong Som to
12 Phnom Penh; that is, to the Central Committee. And the Central
13 Committee sent them to S-21 to be interrogated and later on
14 smashed.

15 They were arrested on the charges of trespassing the territory of
16 Kampuchea in order to obtain information. So they were
17 interrogated and then they were smashed and there was nothing
18 else to deal with.

19 Q. Thank you. I would like to read out to you an extract of one
20 of your statements before the Co-Investigating Judges, and it is
21 document E3/1570. It is one of your interviews before the
22 Co-Investigating Judges on the 29th of November 2007. The ERN in
23 French is 00154209, in English 00154194 and in Khmer 00154224.
24 You referred to the four Westerners you have just referred to and
25 this is what you stated, and I quote:

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1 "As such, the four Westerners, who were killed and then burned
2 upon the orders of Nuon Chea, were close to the intersection of
3 Mao Tse-Toung Boulevard and Street 163. At the time there was a
4 pond there. That is also where Vorn Vet, Chhay Kim Huor and Nat
5 were killed."

6 In this statement, Witness, you state clearly that those
7 Westerners were killed and burned upon the orders of Nuon Chea."
8 Can you explain to the Chamber how you know that it was Nuon Chea
9 who ordered that those four Westerners be killed and burned?

10 [15.13.31]

11 A. He called me to meet him for work purpose and that was at the
12 Buddhist school of Suramarit.

13 There he told me that the long nose people had to be smashed and
14 that they had to be burned completely <so that there was no
15 evidence left behind>. And we were not like in Cuba. In Cuba they
16 retained prisoners, American prisoners, in order to exchange
17 <them> for tractors. And that's what he told me in person when he
18 called me to a meet him for work purpose.

19 Q. At the time did you know why they had to be reduced to ashes?
20 Why did those Westerners have to be killed, to be burnt?

21 [15.14.51]

22 A. I have testified on this point before but allow me to verify
23 it again. They had to be burned to ashes so that there was no
24 evidence remained that any Westerner was arrested and smashed by
25 us.

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1 And allow me to repeat what he said, that we did not want to
2 follow Cuba because in Cuba they retained American prisoners in
3 exchange for tractors but here we had to burn them to ashes. That
4 was the strict instruction that I had to follow.

5 Q. Thank you. When you specified the place where those persons
6 were burned that is close to the Mao Tse-Toung and Street 163
7 intersection you stated that there was a pond at that location.
8 Do you confirm that there was indeed a pond at that location and
9 was that pond used for disposing of bodies or any other things?

10 A. Initially there were not many concrete houses in Phnom Penh
11 and there were bushes here and there and at that location there
12 was a rather large pond. And actually we also used the pond scene
13 to film the Vietnamese soldiers that we captured. Westerners were
14 also burned near the pond with the car tires and they were burned
15 to ashes.

16 [15.17.28]

17 Q.I have a question regarding logistics as regards that pond.
18 Were waste and excrement thrown into that pond or other ponds
19 close to S-21; is that something you recall?

20 A. Allow me to tell you that there were not many people living in
21 Phnom Penh at the time.

22 A bit to the south, there was a location where officers of the
23 Ministry of Education <of Yun Yat> resided and then the location
24 was vacant along <Monivong Blvd,> Mao Tse-Toung <Blvd>. So at
25 that time, <it was not crowded;> there was no waste, <> no

1 excrement lying around. There were only bushes where we could
2 actually hide ourselves behind the bushes to conduct certain
3 activities.

4 Q. And to wrap-up this line of questioning, was there a system
5 for collecting and transporting human wastes at S-21? To be very
6 concrete, the excrements of prisoners and other persons at S-21,
7 were such excrements transported? And if, yes, where were they
8 taken to because this is information you had at the time and you
9 should remember that?

10 [15.19.33]

11 A. As for staff, they actually had their houses to live in with
12 proper toilets.

13 Regarding the waste of prisoners, I had no idea where they
14 disposed of <it>. And from the sketch of S-21 location, <to the
15 east>, there was an open sewerage canal lying from the north to
16 the south and I had no idea whether the waste was disposed of
17 through that open sewage canal.

18 Q. Thank you. That is very clear.

19 I would like to put questions to you now regarding a number of
20 events that occurred at S-21, events that some of the witnesses
21 who came after you spoke about. I would like you to <react to>
22 those events <to see> if you are aware of them.

23 I would like to start with an event that may have involved a
24 <medic> at S-21 and I would request my colleague to pronounce the
25 name of that <medic> so that there shouldn't be any problem

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1 understanding it. And I would like to ask you, Witness, to say
2 whether you <know that medic>. My colleague will pronounce that
3 name now.

4 [15.21.45]

5 MR. PICH ANG:

6 The <medic's> name is Soeung (phonetic).

7 MR. KAING GUEK EAV:

8 Thank you. Regarding S-21 medics, there was none name Soeung
9 (phonetic). There was a military commander who <joined the Party
10 Centre> in late 1975, and he was actually a member of the Party
11 Centre already, <he became a commander in Koh Kong,> and that was
12 the only Soeung (phonetic) that I know and I do not know any
13 medic by that name.

14 [15.22.38]

15 BY MS. GUIRARD:

16 Q. I'll read out to you a passage from Lach Mean's testimony. He
17 testified before you, on the same seat, on 26 April 2016. So I am
18 quoting from the transcript, which is a draft, and the time is
19 slightly before 11.05.14, as regards the first question then I'll
20 read out an extract of what Lach Mean stated regarding an
21 incident that may have involved a <medic> called Soeung
22 (phonetic).

23 I'll start by quoting the question that was put by Honourable
24 Judge Fenz, to enable you to understand the context of Lach
25 Mean's answer. Question by Judge Fenz:

1 "Are you aware of an incident during which a guard or an
2 interrogator at S-21 sexually assaulted a <female> detainee and
3 was subsequently punished by the <prison> authorities?"

4 And Lach Mean answers as follows:

5 "People were punished. Soeung (phonetic), a <medic>, accused of
6 moral misconduct with a <female> patient, was punished."

7 The next question asked by the Judge was as follows and I quote:

8 "If I properly understood you, you witnessed two incidents of
9 sexual assault against detainees?"

10 And Lach Mean answers as follows"

11 "There were initially two cases and, in addition to that, there
12 was a case of the <medic>." End of quote.

13 Witness, having heard me read out to you an extract of Lach
14 Mean's testimony, does this refresh your memory and do you recall
15 any act of sexual assault involving the <medic named Soeung?>

16 [15.25.20]

17 MR. KAING GUEK EAV:

18 A. Allow me to speak a little bit about Lach Mean. And I don't
19 know whether <I'm speaking> about the Lach Mean that I know
20 because the Lach Mean that I know was an interrogator at S-21.
21 And he testified before this Chamber as a former S-21 staff in
22 order to incriminate me.

23 And through the end of the Co-Prosecutor's questioning, the
24 Co-Prosecutor showed a document with Lach Mean's signature on it
25 and suddenly he denied that it was <> his signature.

1 If you <are referring> to the same Lach Mean, then this is
2 something for you to consider, whether that was <the> real Lach
3 Mean who was a former staff <member> of S-21.

4 [15.26.25]

5 On the issue of rape at S-21, I only knew one case; that there
6 was a young man who actually raped my former teacher. And that
7 was related to a mistake made during the interrogation process. I
8 believe there were not many instances of sexual rape at S-21.

9 Secondly, I do not know whether Lach Mean that you <are
10 referring> to was the actual Lach Mean who was my former staff at
11 S-21 or a Lach Mean who actually came to testify before this
12 Chamber <in Case 001 in order to incriminate me>.

13 [15.27.38]

14 Q. Thank you, Witness. I was referring to a former S-21
15 interrogator who came to testify before this <Chamber> last
16 month. So we are indeed talking of one of the interrogators at
17 S-21.

18 I'll quote, or refer to, a number of other cases and I <will> ask
19 you whether you are aware of those incidents or not.

20 [15.27.57]

21 Lach Mean, in the same testimony on 26 April 2016, referred to
22 another case, and we're still talking of the draft transcript of
23 26 April 2016, slightly <after> 10.44.16, and Lach Mean states as
24 follows:

25 "I recall that a messenger had brought the <female> prisoner to

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1 the detention cell at the end of the interrogation. When they got
2 to the staircase, the messenger raped the prisoner on the
3 staircase.

4 Question: So if I understand correctly, you witnessed that
5 incident?

6 Answer: I did not witness it. I did not witness it with my own
7 eyes but the staff at the centre had issued instructions to the
8 persons working inside the detention facility not to follow the
9 example of that messenger." End of quote.

10 <At the time were> you aware of the <case of a messenger raping>
11 a prisoner <under> the staircase? Were you aware of that
12 <incident> during that period?

13 A. I do not believe it was that easy to rape a woman in the open
14 <during the Khmer Rouge regime>. If that is the case, that person
15 would <have been> beheaded.

16 [15.29.50]

17 And here in reference to a statement that a guard actually walked
18 a female prisoner back to the cell and then raped her at the
19 staircase, that is beyond my belief. And maybe that -- that's the
20 only case that this particular individual testified regarding
21 that event.

22 I actually suspected <> that person, Lach Mean, <the one> who
23 came to testify here in Case 001 in order to incriminate me <>,
24 as I said, toward the conclusion of the questioning by the
25 Co-Prosecutor, the prosecutor showed him the signature and he

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1 denied that it was his signature. So here everything is in the
2 open for your consideration.

3 Q. Thank you, Witness, for the clarification.

4 Now, I would like to continue with this list and I would like to
5 refer now to another witness who preceded you here in this very
6 same courtroom, Mr. Him Huy, who came to testify before the
7 Chamber on 4 May 2016, and we're still speaking here about a
8 draft transcript that I'll be referring to.

9 [15.31.16]

10 And Him Huy speaks about another event at 02.34.43 in the
11 afternoon, and he says:

12 "A young guard raped a female prisoner. This was a moral offence.
13 He was arrested and detained and executed."

14 So, question: "Do you remember the name of this young guard?"

15 Answer: "I didn't know this guard very well. He was working
16 inside under the supervision of Peng."

17 Question: "So then how did you learn about this incident?"

18 Answer: "The security agents from inside and Peng told me who was
19 standing guard outside. I was told that a guard had raped a
20 female prisoner and that he had been arrested and detained."

21 [15.32.22]

22 So do you have any comments to make regarding this event? Were
23 you aware of this happening back then?

24 A. Before I answer, I would like to clarify to you that Huy was
25 the secretary of <a platoon of> the <special unit of> S-21 and as

1 Peng was Huy's superior, if Peng witnessed it, Peng would report
2 it to Hor, <not to Huy> because Hor was his <immediate>
3 supervisor. <But actually, he often reported to me even though
4 Hor was his immediate supervisor.> So according to the procedure
5 at that time, the report must be made to Hor not to <Huy>.
6 So this is my observation that I would like to make, and I do not
7 wish to make any other further comment beside that.

8 Q. Thank you for these comments.

9 Him Huy, on 4 May 2016, spoke about another event. And I'm
10 referring here to the transcript again a little bit before
11 14.38.08 and he said the following, and I will quote:

12 "At S-21, based on my recollection, a member of the staff was
13 arrested and detained but the cell wasn't locked <well>. The
14 guard <was able to> escape and he <went> to Vietnam."

15 And Him Huy answered a question regarding the existence of moral
16 offences, and he said the following a little bit after 02.38.08
17 in the afternoon:

18 "The guard was arrested for having committed a moral offence with
19 a female prisoner and as regards the victim, she was also
20 arrested and killed."

21 [15.34.53]

22 And Him Huy says a little bit later on at 03.02.05 in the
23 afternoon:

24 "This person was called Chhoy (phonetic). He was a former guard
25 at S-21. He fled the prison and reached Vietnam. He left Vietnam

1 in 1979 and returned to Cambodia and became a policeman and
2 currently he is deceased."

3 So do you have any comments to make or comments to make on Him
4 Huy's testimony here?

5 A. Talking about the guard who escaped, it was <> the supervisor
6 who needed to be held responsible for such an escape of his
7 subordinate. And if there was such an escape, this incident would
8 not be hidden from the eyes of Comrade Hor because Comrade Hor
9 kept very close watch on such situation.

10 [15.36.17]

11 Q. Thank you for this clarification.

12 Now, I'd like to speak to you about the case of a civil party
13 whose history is mentioned in the Closing Order <that seizes this
14 Chamber in this case, in> paragraph 458, and I would like to
15 bring up the civil party's written record of interview, E3/5602,
16 WRI before the OCIJ.

17 But before I speak about this WRI, I would like to put to you an
18 open question as is recommended here. Did you ever hear about,
19 when you were at S-21, about a rape that allegedly was committed
20 by Chuun Phal?

21 A. It was not Chum Poy (phonetic) but it was Chuun Phal. Chuun
22 Phal was <really> my <combatant>. When I recognized Chuun Phal as
23 my combatant, and then there was a story that this Chuun Phal
24 raped a woman whose identity I did not recognize. <I never saw
25 her at S-21.>

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1 [15.38.07]

2 Chuun Phal was an innocent man. Frankly speaking in front of this
3 Court, Chuun Phal was a guy from my wife's homeland and then I
4 brought him to S-21 <in March 1976>. I talked to Son Sen that I
5 would like to bring a combatant to join S-21 from <Kampong
6 Chhnang>. <I had a good relationship with the Kampong Chhnang
7 sector secretary. But in reality, I took many people in.>
8 And then <among those people,> Chuun Phal became a witness <> to
9 talk about his capacity as a former guard, and I felt doubtful,
10 because Chuun Phal <that> I knew was an illiterate person, <his
11 wife actually answered for him in any matter,> and in this
12 courtroom <>, the President asked Chuun Phal about his superior,
13 Sae, whether Sae actually asked him to dig a pit <at Choeung Ek,
14 and Chuun Phal said yes>. And <I realized that he was my former
15 subordinate because> Sae was my former messenger and later on I
16 asked Hor to include him in a special <unit> with Chuun Phal.
17 And I asked Phal whether Phal knew me or not or <knew that I
18 loved him> or not and he said no. <That was the combatant that I
19 liked because he did not want to know or see anyone. He only
20 focused on his work -->

21 [15.39.56]

22 Q. Witness, witness. I must interrupt you because I don't have
23 much time and I simply wanted to know if you knew about this
24 event.

25 And I would like to quote an excerpt from the WRI of this civil

1 party, E3/5602, and she says the following at Answer Number 1 in
2 all languages.

3 So she speaks about a rape that she was subjected to <at S-21>:
4 "And this happened when I was detained at S-21. I was taken away
5 and I was locked up in a cell all alone. The guard who was to
6 rape me later would come from time-to-time to bring me a bit of
7 rice, and about three or four months later he raped me. He was
8 part of the S-21 staff."

9 And she provides his name at Answer 8 in all three languages of
10 the WRI.

11 So do you have any kind of reaction to this event or not?

12 A. In order to respond to your question, allow me to finish off
13 my previous response.

14 After <knowing that> Chuun Phal <really did that,> there was
15 another person, Nam Mon, who said Phal raped her and that was the
16 story. So how could I acknowledge <that> because to me that event
17 is not true, and that is not the fact; that is not what happened.
18 [15.41.57]

19 And Nam Mon herself, I do not acknowledge that she was detained
20 at S-21 at all. And such event never took place there, and the
21 story was like what I've just explained to the Chamber.

22 Q. So how do you know that things did not happen as Nam Mon tells
23 us?

24 A. Who <would> dare to engage in any rape at S-21? It was an
25 office with hundreds of prisoners and with <hundreds of> guards

1 <> and there were many guards for special prisoners. And who
2 <would> dare to engage in any rape? <It was not that easy. It was
3 not that easy>.

4 Q. Thank you for this answer, and for the purposes of the record
5 and in order to explain the situation to you as well, Ms. Nam Mon
6 was questioned in this case, Case 002, and her account was judged
7 to be sufficiently credible by the Co-OCIJ for her to be admitted
8 as a civil party as a direct victim of S-21 <in this case>. This
9 is why I'm putting questions to you again about this incident.
10 So I would like to speak to you about another event but, before
11 that, I would like to know if you knew an interrogator by the
12 name of Tuy?

13 A. Yes, I know Tuy (phonetic).

14 [15.44.17]

15 Q. Do you know what happened to Tuy when he was an interrogator
16 at S-21?

17 A. I know <it> was difficult <for him> complete a task and he
18 liked to inflict torture on prisoners in order to compete with
19 Comrade Pon.

20 Q. I would like to display on the screen a list that you also
21 have in the blue folder that we gave to you at the beginning of
22 the afternoon. This is list E3/10460. It's a prisoners' list who
23 entered on 3 March 1977, and I would like the witness and the
24 parties to refer entry number 14.

25 This is a person whose alias is Tuy who was arrested at S-21 and

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1 in the position <column>, it is indicated that he is a combatant
2 <of interrogation > at S-21.

3 So, Mr. President, if you <will>, <please> allow us to display
4 the list on the screen so that we may all view it.

5 So here you see, surrounded in red, entry number 14, and you can
6 see the name, the alias, the position of this person. Then the
7 list is called "<List of Prisoners> Who Entered on 3 March 1977".

8 So does this list ring a bell and was Tuy arrested at one point
9 in time at S-21?

10 (Short pause)

11 [15.47.04]

12 BY MS. GUIRARD:

13 Witness, to assist you, you see that there's <> a little coloured
14 tab, right next to entry 14. And this is E3/10460; that is the
15 document number. And it's also displayed on the screen if it's
16 easier for you to view it. So did you locate entry number 14?

17 MR. PRESIDENT:

18 Court Officer, please assist the witness by indicating the
19 relevant section.

20 [15.47.52]

21 BY MS. GUIRARD:

22 Q. It's on the first page of the document, Witness, and it's ERN
23 -- I should have given it to you -- 01160160. So this is the
24 first page at entry number 14.

25 Does this number 14 correspond to this Tuy you just spoke about;

1 this interrogator who had a hard time completing things?

2 MR. KAING GUEK EAV:

3 A. Tuy (phonetic) is different from Touch (phonetic). As for this
4 Touch (phonetic), I was not familiar with him. As for Tuy
5 (phonetic) <whom> I referred to, Tuy (phonetic) was never
6 arrested and when I fled, he also fled along <with me>.

7 Q. So what you're telling us is that the Tuy who is listed at
8 entry 14 in this list and who is referred to as a "Combatant of
9 interrogation in S-21" -- to tell you exactly what I have before
10 me -- you're telling me that you do not know this person. Is that
11 so?

12 A. Yes, that is correct. I do not know this individual by the
13 name of Touch (phonetic) but I know <>Tuy (phonetic). Although I
14 do not know everyone, <> I did not hear his name.

15 Q. So you do not necessarily know all the staff at S-21. Is that
16 so?

17 [15.50.20]

18 A. To my recollection, there were more than 1,000 staff at S-21
19 and I spent most of my time at the house <reviewing> those
20 documents and made annotations to my superior.

21 Even for the members of the interrogation unit, I did not know
22 everyone, let alone the guard unit.

23 Q. Thank you for this clarification.

24 I'd like to refer again to testimonies of people who preceded you
25 here before this courtroom regarding an incident that apparently

1 involved this Tuy we've been speaking about. This is an incident
2 that was also covered in your trial, in Case 001.

3 So let me begin with an excerpt from one of the transcripts in
4 your own case and this should refresh your memory because you
5 were <certainly> there present <when this was discussed>.

6 So this is transcript E3/7463 and this is therefore a transcript
7 from Case 001 and I'm going to read out an excerpt. This was at
8 03.53.50 <in the afternoon> regarding the same topic again.

9 [15.51.54]

10 The question was the following:

11 "What were aware of exactly? What happened exactly?"

12 And it is Prak Kahn who answers a question put to him by Judge
13 Lavergne. And Prak Kahn says the following:

14 "The incident took place <behind> the house where I was. Tuy, who
15 was a close associate of Chan and who lived in a house close to
16 the sewage canal and <across from> my house, well, the following
17 happened with him.

18 Tuy was interrogating a female prisoner so therefore behind my
19 house, and he raped this woman in that room. And someone saw this
20 happen and reported <it> to Chan. Chan arrested him, shackled him
21 in the house, but then Tuy jumped <from the house> onto a banana
22 tree and then onto the ground and then he was chained <up> again
23 and he ended up being transferred to the prison." So do you have
24 any specific comments to make about this event, Witness?

25 [15.53.31]

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1 A. I do not know Comrade Touch (phonetic) and that is true. Some
2 people who came to testify here said that Touch (phonetic) was a
3 messenger of Brother Mam Nai, but I never assigned any messenger
4 to Mam Nai. Only three of us had messengers, that is, myself,
5 Comrade Hor and Comrade Huy. And Mam Nai was not part of the
6 committee so he had no messenger and now Touch (phonetic)
7 <appears> as his messenger.

8 So I do not know about the accounts as told by Prak Khan,
9 regarding the moral misconduct. From what he says, <> there seem
10 to <have been> so many moral issues at S-21. And, as I said, I
11 only knew of one account of moral misconduct.

12 [15.54.39]

13 Q. Now, to close off this incident that apparently involved Tuy
14 and to speak about the case that you are aware of <before the
15 break>, <which> involved the wife of your former teacher. I would
16 like to put <one> last question in relation to this list, where
17 you saw that an S-21 interrogator was arrested at S-21.

18 You tell us that you do not know this interrogator, was it
19 necessary to obtain your approval for an S-21 interrogator or
20 staff member to be arrested? Can you tell us what would happen
21 when an S-21 staffer was arrested at S-21 itself?

22 A. An arrest <could> only be made with authorization from a
23 higher level, that is from Son Sen or Brother Nuon. We could
24 report misconduct or offences, however, the decision <to arrest>
25 was theirs.

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1 Q. <When you say - and I will quote what I heard in French>, "We
2 could make reports about moral offences but it was up to the
3 higher echelons to order the arrests" so did I understand you
4 well? Can you give us more information about this?

5 [15.56.44]

6 A. Allow me to clarify that. Yes, that is correct. That is number
7 1.

8 Any mistake or offence that happened at S-21, I had to report it,
9 and then the decision would be made from the upper level whether
10 the person involved had to be arrested or not. And if there was
11 no such decision, then I could decide to transfer that person
12 from one unit to another.

13 As for the reporting regime, everyone reported to Hor and Hor
14 reported to me, then I reported to my superior or I made a phone
15 call to my superior. And usually I met my superior in the
16 afternoon through a phone conversation, that is, with Son Sen. As
17 with Brother Nuon, I went to see him in person then I spoke to
18 him.

19 And allow me to <digress> here. During the conclusion of Case
20 001, Madam Chea Leang, the National Co-Prosecutor, said that
21 there was case of moral misconduct that was found at S-21, that
22 is when a young personnel actually mistreated a female prisoner
23 <who was my former teacher>, and I acknowledged that. But at that
24 time, I did not believe that it was rape but it was a violation
25 of discipline.

1 [15.58.32]

2 So, in conclusion, through the research by the Chamber and the
3 parties in Case 001, the National Co-Prosecutor only found one
4 case only.

5 As for the case of Nam Mon and Chuun Phal, they were also part of
6 Case 001. However, the matter was not used to incriminate me in
7 relation to sexual misconduct or to use that matter to blame the
8 CPK policies at S-21. That is based on my recollection of the
9 proceedings.

10 So let me conclude that that was the reporting regime, that
11 everyone reported to Hor, Hor to me, then I would seek
12 authorization or permission or decision from the upper echelon.
13 And only the upper echelon had the authority to decide on the
14 arrest. <Other than those>, they had no authority to arrest
15 anyone. <Whoever made an arrest would be responsible for the
16 consequences.>

17 In relation to Nat, <> there is a surviving document indicating
18 that Nat arrested people without authorization from the upper
19 level and I believe such a document exists. <There was a document
20 in Office 43, maybe about 40 people. He annotated the document
21 for Mam Nai.> And there were probably more than 10 individuals
22 that were arrested <> by his own decision.

23 So regardless of your position, you had no authority to make
24 arrests unless a decision was made by <the Party Centre for those
25 in Phnom Penh and by> the general staff <for those at S-21>. In

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1 this case, that is Son Sen <> before he was sent to the front
2 battlefield and, later on, it was Brother Nuon who had such
3 authority. And, besides, no one could make decisions on the
4 arrest.

5 And, again, as for the <case> of rape as found out by the
6 National Co-Prosecutor, Madam Chea Leang, there was only one case
7 that existed.

8 [16.01.13]

9 MR. PRESIDENT:

10 Thank you. It is now convenient to adjourn the proceedings for
11 today and we will resume it on Monday 13 June 2016, commencing
12 from 9 o'clock in the morning.

13 For next week's proceedings, the Chamber continues to hear
14 testimony of Witness Kaing Guek Eav alias Duch.

15 And, Mr. Kaing Guek Eav alias Duch, the Chamber is grateful of
16 your testimony, however, the hearing of your testimony is not yet
17 concluded, therefore, you are invited to return again on Monday
18 next week.

19 Security personnel, you are instructed to take the two accused as
20 well as witness Kaing Guek Eav back to the detention facility and
21 have the two accused and witness returned to the courtroom on
22 Monday next week at 9 o'clock. And, Mr. Kaing Guek Eav, you are
23 instructed to be brought to this courtroom by 9 o'clock on Monday
24 morning.

25 The Court is now adjourned.

1 (Court adjourns at 1602H)

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