



អគ្គន៍មិនប្រជាពលរដ្ឋនៃព្រះរាជាណាចក្រកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា នៃ
ព្រះមហាក្សត្រ ព្រះមហាក្សត្រ

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

អគ្គន៍មិនប្រជាពលរដ្ឋនៃព្រះរាជាណាចក្រកម្ពុជា

Trial Chamber

Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS - KAING GUEK EAV "DUCH"
PUBLIC
Case File N° 001/18-07-2007-ECCC/TC

28 May 2009, 0909H
Trial Day 23

Before the Judges:

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

Lawyers for the Civil Parties:

HONG Kimsuon
TY Srinna
Silke STUDZINSKY
Elizabeth RABESANDRATANA
KONG Pisey
Alain WERNER
MOCH Sovannary
YUNG Phanit

Trial Chamber Greffiers/Legal Officers:

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

For Court Management Section:

UCH Arun

For the Office of the Co-Prosecutors:

TAN Senarong
Alexander BATES
PICH Sambath
Stuart FORD
PAK Chanlino

The Accused:

KAING Guek Eav

Lawyers for the Accused:

KAR Savuth
François ROUX
Heleyn UÑAC

*Extraordinary Chambers in the Courts of Cambodia
Trial Chamber - Trial Day 23*

*Case No. 001/18-07-2007-ECCC/TC
KAING GUEK EAV
28/5/2009*

Page i

INDEX

WITNESSES

WITNESS: CRAIG ETCHESON

Questioning by Mr. Werner resumes	page 2
Questioning by Mr. Kar Savuth commences	page 37
Questioning by Mr. Roux commences	page 51

Extraordinary Chambers in the Courts of Cambodia
Trial Chamber - Trial Day 23

Case No. 001/18-07-2007-ECCC/TC

KAING GUEK EAV

28/05/2009

Page ii

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. BATES	English
JUDGE CARTWRIGHT	English
CRAIG ETCHESON, WITNESS	English
MR. KAR SAVUTH	Khmer
JUDGE LAVERGNE	French
MR. ROUX	French
MS. SE KOLVUTHY	Khmer
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. WERNER	English

1

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

2 (Judges enter courtroom)

3 [09.09.47]

4 MR. PRESIDENT:

5 Please be seated. The Court is now in session. We are going to
6 hear the testimony of Dr. Craig Etcheson.

7 Before we start the proceedings, the greffier is invited to
8 verify the attendance of the parties to the proceedings today.

9 THE GREFFIER:

10 Mr. President, the parties to the proceedings today are all
11 present. The expert is also here in the courtroom.

12 MR. PRESIDENT:

13 Yesterday, we moved up to the stage in which the civil party
14 lawyers would put questions to the witness. The Khmer lawyers
15 have already put the questions, and we noted that the
16 international co-lawyer of the civil party attempted to put
17 questions to Mr. Craig Etcheson. So it is now the opportunity for
18 the civil party lawyer group 1, Mr. Alain Werner, to put his
19 questions to the witness -- the expert -- if he would wish to do
20 so.

21 MR. WERNER :

22 Thank you, Mr. President.

23 Good morning, Mr. Etcheson. Let me just tell you before I start
24 that on behalf of my team that we are very grateful for your
25 patience, and we are very grateful that you accepted to come, and

1 not only on behalf of the attorneys present of my team, but my
2 whole team is working very hard in order to tell you that.

3 [09.12.19]

4 BY MR. WERNER :

5 Q. Let me start with some questions on torture. The accused,
6 last week on Monday, 18th of May -- and I'm going to read the
7 exact quote from the transcript -- seemed to suggest -- answering
8 the question from Judge Lavergne -- that the notion of "smashing"
9 included more than just killing, and let me read what he said --
10 and it's transcript in English 18th of May 2009, it was last
11 Monday, page 14 -- and he said that -- he said:

12 "Now, I would like to add further -- on top of what I told you
13 already -- when it comes to smash which means arrest secretly,
14 and then people were arrested, be interrogated with torture
15 employed, and then they were executed secretly without the
16 knowledge of their family members."

17 So my question to you is this, would you agree that "smash" -- as
18 used in the DK period -- didn't mean only killing, but more than
19 that or do you think that it meant only killing?

20 A. Thank you, counsel.

21 I am certainly no Khmer language linguist, but my understanding
22 is that the Khmer word we translate in this court as smash,
23 "komtik" means a little bit more than just killing. Frequently,
24 you will see this word translated not merely as "smash", but
25 rather as "smash to bits" as in to smash into little pieces.

1 [09.14.50]

2 It seems that this process was often a lengthy one, and did
3 involve more than the mere execution with a blow to the back of
4 the skull or whatever method was used to murder. It involved not
5 merely a physical smashing, but also a psychological smashing,
6 and the regime of prisoner treatment inside S-21 was ideally
7 suited to this sort of dehumanization and debasement of the
8 individual psyche. So I would say, in short, yes; smash means
9 something more than merely kill.

10 [0915.58]

11 Q.Thank you.

12 So you may have answered my second question, but just for me to
13 be completely clear; we are trying to understand if there was --
14 you talked about, at length, policy and document on smashing, and
15 we are trying to understand if there was such an express policy
16 on torture, hence my first question.

17 Now, in your research, did you come across any detailed order or
18 directive issued by the Standing Committee on torture or do you
19 consider that because they used the word "smashing" then it was
20 de facto covering torture? Is my question clear?

21 A.Yes, counsel, your question is clear.

22 I have never seen an order or a directive from the Standing
23 Committee explicitly ordering torture, but nonetheless, it is
24 clear from various Party publications and various pronouncements,
25 by the top leadership, that they wished great ill on anyone

1 defined as an enemy.

2 Q. Now, to carry on with this question, the accused, in front of
3 the Investigating Judge, on the 7th of October 2007, page 6 -- in
4 English the reference is D/20 -- said that there were four types
5 of torture used and he said, at least in the English version,
6 they were authorized. So I believe you answered this question,
7 but just for me to be completely clear; did you ever come across
8 any document or anything which could lead you to believe that,
9 indeed, these means of torture were authorized, and if so, by
10 whom?

11 A. Thank you, counsel.

12 I have not seen any documents originating from the senior
13 leadership at the Standing Committee level which authorized
14 particular forms of torture; however, there are numerous
15 documents that we refer to as "cadre notebooks" which we believe
16 to have been written by staff members of S-21, and which appear
17 to record the substance of training sessions within S-21, and
18 which discuss various torture techniques.

19 [09.20.08]

20 Q. And based on your research, do you have any view on who
21 devised these torture techniques?

22 A. That's an interesting question, counsel, and it's one that we
23 have puzzled over at some length.
24 It appears to me that most of the torture techniques were
25 developed through practice or through learning from the

1 Vietnamese Communist Revolution, and then handed down among
2 security officials and senior Khmer Rouge political officials in
3 a sort of oral tradition. At the same time, if we are to believe
4 the testimony of various former staff members at S-21 and the few
5 surviving prisoners from S-21, quite a broad array of torture
6 techniques were employed there; some of which seem as if they may
7 be products of the inventiveness of the staff themselves.

8 Q. And just to clear, which staff are you talking about?

9 A. I refer, in this instance, to the interrogators at S-21.

10 [09.22.23]

11 Q. And according to you, who, if anyone, taught these
12 interrogators this technique -- if anyone?

13 A. I believe that Duch was the principal trainer in torture
14 techniques at S-21.

15 Q. And just to be clear, on what do you base your belief?

16 A. I base this belief on statements by the accused person, on
17 statements from former S-21 staff members, and from surviving
18 documents that were recovered at S-21.

19 Q. Thank you.

20 Now, it was not clear to me, talking about torture, if there was
21 any use of torture in the zone sector district throughout
22 Cambodia. Now, paragraph 64 of your report, you said this:
23 "Sector level security personnel also had the authority to
24 torture prisoners."

25 Now, what you just said -- to cut matters short, what you just

1 said about S-21; does it apply as well to the security centres
2 outside Phnom Penh?

3 A. It is clear to me, counsel, that torture was widely practiced
4 at security offices all around Democratic Kampuchea, although
5 most places appeared to use a much smaller range of techniques.

6 [09.24.44]

7 Q. So that was exactly my next question. Based on your research,
8 do you think there was a difference between the torture as
9 practiced in security centres throughout Cambodia, and what
10 happened at S-21 or not?

11 A. That's a difficult question, counsel.

12 In terms of the pain and terror inflicted on the victims of
13 torture, there may not have been a great deal of difference
14 between the torture practiced at S-21 and the torture practice at
15 other security offices; however, in the range of techniques, it
16 seems to me that there was a difference.

17 [09.25.59]

18 Q. Are you going to elaborate, a little bit, on that point?

19 A. Yes, counsel.

20 At zone level security offices and at security offices situated
21 in lower echelons, the range of torture techniques -- by and
22 large, although not universally -- seemed to be restricted to
23 beatings, whippings, suffocation with plastic bags, and
24 electrocution.

25 In contrast, S-21 appears to have used a wide variety of

1 additional torture techniques such as burning, piercing of
2 fingernails and toenails, ripping out fingernails and toenails,
3 flaying skin, and then pouring salt or salty water on the wounds,
4 tormenting with poisonous insects, various kinds of water
5 tortures, tying hands behind the back, and then lifting the
6 victim by the hands so as to cause dislocated shoulders, and a
7 wide variety of other torments.

8 Q. Thank you. That answers my questions on torture.

9 I have, for you, some questions on confessions, and I do bear in
10 mind the ruling which was made, and I'm not going to ask you any
11 questions about the content of some confessions, but I'm
12 interested in trying to understand more.

13 [09.28.46]

14 MR. BATES:

15 I do apologize for interrupting, Mr. President. Mr. Werner
16 refers to a ruling that the Court had made on this evidence. To
17 the understanding of the Co-Prosecutors, there has not yet been a
18 ruling on this, and I just wanted to confirm that understanding
19 with the President and the other judges.

20 MR. PRESIDENT:

21 In response to the observation made by the international
22 Co-Prosecutor, the Chamber would like to remind that the Chamber
23 ruled on the request made by the Co-Prosecutors last week as the
24 following; the Chamber would like to remind all the parties the
25 Article 15 on torture states that:

1 "The state party shall ensure that any statement which is
2 established to have been made as a result of torture shall not be
3 invoked as evidence in any proceedings except against a person
4 accused of torture as evidence that the statement was made."

5 So this is to remind all parties regarding the use of documents
6 as a result of torture that is in comparison to Article 15 of the
7 Torture Convention, also in other provisions of the Cambodian
8 laws which we are signatory of this Torture Convention.

9 [09.41.11]

10 And yesterday, there was also a discussion on this issue amongst
11 all the Judges of the Trial Chamber regarding the questioning
12 which need to be observed; however, due to other various issues
13 related to the second case, the Chamber has not yet made a formal
14 decision. So this is just information for all parties.

15 As a result of our discussion yesterday and early this morning in
16 respect to the torture convention, I would like to give the floor
17 to Judge Cartwright to inform the parties of our observations,
18 which is not yet a formal decision.

19 The floor is yours, Judge Cartwright.

20 JUDGE CARTWRIGHT:

21 Thank you, Mr. President.

22 As the President has said, the Chamber has considered this matter
23 and wishes now to give a clarification of the indication given a
24 few days ago.

25 [09.42.53]

1 The Chamber wishes to emphasize the importance of the fact that
2 this Court is bound by the provisions of Article 15 of the
3 Torture Convention which the President has just read out. This
4 provision is reflected in Article 38 of the Cambodian
5 Constitution and also in Rule 21.3 of the Internal Rules which
6 states:

7 "No form of inducement, physical coercion or threats thereof,
8 whether directed against the interviewee or others, may be used
9 in any interview. If such inducements, coercion, or threats are
10 used, the statements recorded shall not be admissible as evidence
11 before the Chambers."

12 In practice, this means that the fact that a confession has been
13 made, and that it was made under torture is an admissible fact;
14 however, the contents of a confession made under torture cannot
15 be accepted as a truthful statement.

16 If any party wishes to refer to the truthfulness or otherwise of
17 the contents of a confession, it will be necessary first to
18 establish if the confession was made under torture or the threat
19 of torture. For that reason, parties should consider whether an
20 examination of the contents of a confession is sufficiently
21 important to seek an inquiry concerning the circumstances under
22 which the confession was made.

23 And I just reiterate what the President has indicated; this is
24 made to assist the parties, and as a clarification of the earlier
25 iteration of Article 15 of the Torture Convention.

10

1 Thank you, Mr. President.

2 [09.46.19]

3 MR. PRESIDENT:

4 The floor is yours, Mr. Co-Prosecutor.

5 MR. BATES:

6 Thank you, Mr. President. And thank you, Your Honour, for those
7 clarifications.

8 We have one further observation, just so that we understand
9 clearly, the import of what has just been said by Your Honours.

10 Although there has been no ruling on the general principle, if I
11 understand the comments correctly, it will be only when and if a
12 party seeks to rely on the content of confessions that this
13 question should be ventilated in full.

14 If that is my understanding then the Co-Prosecutors will say no
15 more about it, but the Co-Prosecutors would seek to remind the
16 Chamber that this is an issue that is currently being briefed
17 before the Co-Investigating Judges in case file 2. It is an
18 extremely complicated and sensitive issue, and if there were to
19 be discussions of the general principle in this Chamber, the
20 Co-Prosecutors would request that similarly full submissions
21 could be made in writing, given the sensitivity of these issues.

22 If that is appropriate and meets with the approval of the Court,
23 that is what the Co-Prosecutors would propose on the
24 understanding that there has been no general ruling at present.

25 [09.48.27]

Extraordinary Chambers in the Courts of Cambodia
Trial Chamber - Trial Day 23

Case No. 001/18-07-2007-ECCC/TC

KAING GUEK EAV

28/05/2009

Page 11

11

1 MR. PRESIDENT:

2 Judge Cartwright, you take the floor.

3 JUDGE CARTWRIGHT:

4 Thank you, Mr. President.

5 It was for precisely that reason, namely that this matter is
6 currently before the Co-Investigating Judges in relation to case
7 2, that no ruling has been given. But it is apparent that we are
8 reaching a stage in this trial where it is necessary for a
9 clarification to be given for the benefit of the parties so that
10 on a case-by-case basis, should the need arise, the parties can
11 consider how important it is to refer to the contents of a
12 confession because it seems to the Trial Chamber that that will
13 require, on a case-by-case basis, an examination of the
14 circumstances under which that confession has been made.

15 The Trial Chamber notes your submission that full submissions on
16 the general topic may be needed at a later stage, and certainly
17 reserves that right to the parties.

18 I hope that assists.

19 MR. BATES:

20 Yes, it does; greatly. Thank you.

21 [09.50.13]

22 MR. PRESIDENT:

23 Mr. Alain Werner, you can proceed with your questions to the
24 expert.

25 MR. WERNER:

12

1 Thank you. Thank you, Mr. President, and I do apologize then for
2 the sloppiness of my language.

3 BY MR. WERNER:

4 Q.Mr. Etcheson, the same way I think you very usefully helped
5 us, this Chamber, about torture, I'm trying to understand the
6 same thing about confessions; in other words, if there were an
7 expressed policy on confession, and if so, what was the extent of
8 that policy.

9 Just to help you about a few things, which are to give you some
10 context about a few things which were said. Before you started
11 testifying last Monday on the 18th of May 2009, the agreed facts
12 were read out, and the accused was given an opportunity to
13 comment on these agreed facts. And he said this on the agreed
14 facts at paragraph 99 -- and for my learned friend, the draft
15 transcript of last Monday, 18th of May in English, page 49 and
16 50. I am going to read in full what is said. So the agreed fact
17 was as follows:

18 "Duch was often given instructions concerning the extraction and
19 content of specific confessions, including references to CIA and
20 KGB agents."

21 And then paragraph 44 of the Closing Order:

22 "The accused agreed, but he said it should be noted that the
23 Co-Prosecutors have summarized, however, 44 of the Closing
24 Order."

25 And the paragraph 44 of the Closing Order said that:

13

1 "Duch stated that in many cases he was given instructions
2 concerning the extraction and content of specific confessions.

3 In particular, he asserted that at the instigation of his
4 superiors the words "CIA" and "KGB" were initially used by the
5 interrogators themselves."

6 So here is my question; as far as you know, based on your
7 research; would you say that there were written policy or rules
8 about how to extract confessions or do you think that there were
9 only oral instructions from superiors to the accused? Is my
10 question clear?

11 A.Yes, Counsel, that's clear.

12 [09.53.28]

13 I would have to say that there were both oral instructions
14 regarding the extraction of confessions and written instructions
15 as well. Most of the written instructions, of which we are
16 aware, were internal to S-21 rather than consisting of specific
17 directives from higher authorities.

18 It also is apparent that the practice of torture at S-21 and,
19 indeed from earlier, at M-13 evolved over time in conjunction
20 with the methodology of extracting particular confessions.

21 Q.And when you said that there was written instruction internal
22 at S-21, do I understand correctly that to the accused deciding
23 on this internal instruction? Do I understand that correctly?

24 A.Yes, Counsel, that's correct.

25 Q.And what about the oral instruction then; what do you know

14

1 about the oral instruction on how to extract confessions?

2 A. The accused person has spoken, at some length, in his
3 interviews with the Co-Investigating Judges of having received
4 specific oral instructions regarding both methods of extracting
5 confessions and the content of the desired confessions.

6 [9.56.10]

7 There is also evidence on the case file of the accused person, in
8 turn, transmitting oral instructions to his own interrogation
9 staff regarding, again, both the form of conducting
10 interrogations and the content of the desired interrogation.

11 Q. Thank you.

12 Now, the same way I did for torture, I'm trying to understand if
13 these confessions were unique at S-21 or did that exist as well
14 at the local level. So here is my question; as far as you know,
15 were detailed confessions obtained as well at the zone, sector,
16 and district levels the same way they were at S-21 or not?

17 A. Yes, Counsel. Confessions were obtained at security offices
18 situated at other echelons than the Centre; that is, at zone,
19 sector, and district echelons.

20 In some instances, of which we are aware, these confessions
21 extracted at lower echelon security offices were fairly
22 elaborate, detailed, and lengthy. We have few surviving written
23 records of this activity, a small number from here and there;
24 otherwise, we rely largely on testimony of perpetrators,
25 bystanders, and a few survivors for our understanding of

15

1 operations inside the zone, sector, and district echelon security
2 offices.

3 [9.58.53]

4 But based on the totality of this evidence, it is clear to me
5 that the interrogation and confession-producing process at S-21
6 was far more elaborate, detailed, and rigorous than at any other
7 security office of which I am aware.

8 Q. Can you elaborate, a little bit, on why it was more elaborate
9 -- elaborated at S-21?

10 A. Yes, Counsel. One reason confessions were more elaborate at
11 S-21, had to do with the nature of the personnel who were being
12 interrogated. Many of these personnel were veteran
13 revolutionaries who had served the revolutionary cause for many
14 decades, who had achieved a high rank in the revolutionary
15 organization, who were personally acquainted with many other
16 individuals of significant rank in the revolutionary organization
17 or who had personally recruited many individuals into the
18 revolution, and thus, naturally, such individuals had many more
19 topics which they could discuss in a confession and which might
20 be of interest to those who were demanding that these confessions
21 be produced.

22 Consequently, there are some confessions in the S-21 archive
23 which were extracted over a period of many months, and are very
24 long; some in excess of 1,000 pages. There is nothing
25 comparable, of which I am aware, at any other security office.

1 Q. Thank you for this answer.

2 Are you aware of any annotations ---

3 [10.01.49]

4 MR. ROUX:

5 Please, we have seen in the French version -- there was a
6 translation problem in the French version in which it seemed that
7 you were -- when you stated that one of the reasons was that it
8 was linked to the nature of the people, and it was written of the
9 interrogators, but it seems that you were referring to the nature
10 of the prisoners. Are we speaking about the nature of the
11 prisoners or the nature of the interrogators?

12 And you kept on -- then you were speaking about the prisoners who
13 were veterans of the revolutionary cause. Were you -- you were
14 speaking about the prisoners? Just I want to have some
15 clarification on this, please. Is that so? Thank you.

16 So therefore, the French version should be corrected. It was
17 indeed the prisoners -- prisoners who were revolutionary veterans
18 -- who held a high rank in the revolution. Is that so, Mr.

19 Etcheson?

20 Thank you.

21 MR. WERNER:

22 I'm grateful for this remark because I'm listening in English,
23 although quite a few people told me that I should ask my question
24 in French. So I cannot help for the French translation.

25 BY MR. WERNER:

17

1 Q. Just to come back. So my question was, based on your
2 research, are you aware of any annotation the same way it was
3 done at S-21? And I'm going to come back on that topic to ask
4 you a few questions about that, but to just finish with the local
5 level, are you aware of any annotation on the confessions at
6 local levels?

7 A. Yes, Counsel; I am.

8 Q. And what can you say about these annotations?

9 [10.04.07]

10 A. Counsel, I can say that they exist; that they, as practiced,
11 occurred at lower- echelon security offices, and that the
12 annotations were not as elaborate as -- or detailed as those we
13 are familiar with in the context of the S-21 documents; however,
14 I'm afraid I cannot say much more about that because the
15 documents in question are currently the subject of a judicial
16 investigation.

17 [10.05.01]

18 Q. I understand that.

19 Now, to talk about the confessions at S-21, you said yesterday
20 and the day before -- unfortunately, we do not have any
21 transcripts so I cannot quote from a transcript, but I hope that
22 I will faithfully quote you, and if not, please tell me.

23 Yesterday and the day before, talking about what happened at
24 S-21, you spoke about the accused studying confessions, and then
25 you spoke several times about a list of Pol Pot's enemies, and

18

1 you said as well -- you used the words "looking for enemies," and
2 I was a bit confused; when you spoke about lists of Pol Pot's
3 enemies, did you talk about the annotation on the confessions or
4 is it for you something else?

5 A. It is multiple things, Counsel.

6 In the process of extracting confessions, victims at S-21 were
7 routinely required to produce lists of names of persons who had
8 supposedly conspired with them in the alleged treasonous
9 behaviour. So this is one type of list of names; one produced by
10 the person being interrogated.

11 In the archives of S-21, we also find lists of proposed traitors
12 which appear to have been created by the interrogators or other
13 S-21 staff members through a process of analyzing the confessions
14 that had been produced by a victim. So this is another type of
15 list; one produced by the staff rather than the victim.

16 Q. Now, what is your understanding on, if anyone, who ordered
17 this list of enemies written by people who were being
18 interrogated, and list of traitors written by the staff members
19 -- if I followed you correctly -- do you know anything about who,
20 if anyone, ordered such lists to be written?

21 A. Counsel, I can't immediately recall ever having seen an order,
22 per se, to produce such lists other than an order directed at a
23 specific prisoner. My understanding is that this was a practice
24 developed and refined by the accused person himself, and that the
25 accused person's superiors found this practice so helpful that

1 this was one reason he eventually was promoted to be the chief of
2 S-21.

3 [10.09.47]

4 Q. And just to be clear on -- you said that your understanding is
5 that this practice of these lists were devised by the accused
6 person. What is your basis for saying that, in broad terms?

7 A. This assertion is an analytical conclusion of mine based on
8 all that I know about these processes inside the Communist Party
9 of Kampuchea.

10 Q. Thank you.

11 Now, just to finish the last question on this list, just to give
12 us an understanding on these two categories of lists; as far as
13 you know, how many lists are we talking about, in broad terms?

14 Are we talking about 100, 1,000, 10 for each category; as far as
15 you know?

16 A. I have never counted them, Counsel, but I would say possibly
17 thousands.

18 Q. For each category?

19 A. Yes.

20 [10.11.21]

21 Q. Thank you.

22 Now, I just have one or two questions on the annotations which if
23 I understand you correctly is something different than the lists;
24 am I correct?

25 A. Yes, Counsel, that's correct.

1 Q. Now, first let me ask you this; at the time Nat was Chairman
2 of S-21, do you know if Nat annotated confessions the same way
3 the accused annotated confessions later when he became Chairman
4 of S-21?

5 A. Counsel, I cannot recall having ever seen an annotation on a
6 confession that was specifically attributed to Nat. It may be
7 that there are some, but I do not believe there are a great
8 number of such annotations.

9 Q. Now, about the annotations, I'm just trying to understand how
10 these annotations -- the system of annotations started. Are you
11 aware of any order, either written or oral order, to start
12 annotating these confessions?

13 A. No, Counsel, I am not.

14 Q. And based on your knowledge, then, and your research, how did
15 this system of annotations -- how did it start or why did it
16 start?

17 A. My surmise on that question, Counsel, is that it was a product
18 of the accused person's personal work methods. By profession,
19 the accused person was a school teacher, and thus, he was
20 accustomed to marking up the papers of his pupils. My surmise is
21 that he carried this practice over into his new profession as an
22 interrogator.

23 [10.14.20]

24 Q. And you alluded to that before when I was asking you about the
25 annotations at the local level. Shortly, can you say anything

1 about what you think the general way the accused annotated these
2 confessions? What could you say, in general terms, about these
3 annotations?

4 A. There were a variety of different types of annotations. Some
5 annotations appear to have a function similar to a routing slip
6 which would describe to whom a confession has been distributed
7 and when.

8 Some annotations appear to function as a memory aide by the
9 accused person; for example, one that might say "already read" or
10 "not finished" or something of that nature.

11 [10.15.51]

12 Other annotations would be instructions to interrogators of
13 various types. The instruction might be that the accused person
14 had decided a particular interrogation was complete or it might
15 instruct the interrogator to seek a particular type of
16 information or it might instruct the interrogator to apply
17 torture.

18 Other types of annotations are more analytical in nature; that is
19 to say, many confessions contain a type of report summarizing the
20 confession and analyzing the confession.

21 Other types of annotations discuss broader aspects of an
22 investigation that was underway by S-21, and include matters that
23 go beyond the boundaries of the contents of a particular
24 confession.

25 Still other annotations appear to be notes made by superiors such

1 as Son Sen or Nuon Chea.

2 Thus, it is difficult to generalize about annotations because
3 there are many different kinds.

4 Q.I understand. Thank you for your answer.

5 I have some questions now about the intervention on these
6 confessions by -- not by people who wrote the confession
7 themselves, the detainees, but by other people.

8 Now, the accused person said in front of the instructing judge on
9 the 29th of November 2007 -- page 15 from the English version,
10 document is D/30 -- that Son Sen spoke on the phone every day
11 with him about the confession and then he had, and I quote,
12 "successive corrections to make".

13 Now, bearing in mind what you said yesterday or the fact that you
14 believe that Son Sen was a very busy man, based on your research
15 and understanding, do you think it's correct to say that Son Sen
16 intervened, and had successive correction to make on the
17 confessions -- on the content of the confessions?

18 [10.19.23]

19 A.Counsel, I believe that this assertion by the accused person
20 is entirely plausible in the case of the interrogation of
21 particularly senior members of the Communist Party of Kampuchea.

22 For many of the ordinary soldiers and other cadres who became
23 victims of S-21, that seems much less plausible.

24 Q.Now, in court last week -- again, just before you took the
25 stand on Monday the 18th of May 2009, and that can be found in

23

1 the transcript -- the draft transcript in English, page 50 to 54
2 -- the accused said, himself, that people were intervening on the
3 confession; basically, changing the confession with a pen --
4 changing the confession. And I'm going to quote exactly what he
5 said. He said this:

6 "Some other people were implicated but the Standing Committee did
7 not take action; for example, Ta Mok, his name was mentioned in
8 the confession, but he was not arrested. Having heard of Ta Mok,
9 the Standing Committee remained idol, and did not take any
10 action. And Brother Koy's name or Son Sen, his name was also
11 implicated in several confessions, but the Standing Committee did
12 not take actions. So these are just examples. I still remember
13 how the confessions were sharpened. So I would like to give you
14 an example of how the confessions were framed because when they
15 wanted to arrest anyone then they would like confession to be
16 aimed into that direction."

17 So first of all, let me ask you this. Do you agree with that
18 statement by the accused that basically people were, I guess,
19 changing the content of the confession? Do you agree with that
20 statement, based on your research?

21 [10.21.56]

22 A. Yes, Counsel. I believe there is evidence beyond the
23 statements of the accused that this practice did occur in some
24 instances.

25 Q. And as far as you knew, who sharpened these confessions in the

1 examples we are talking about?

2 A. At this remove, Counsel, it is difficult to conclusively prove
3 that, but it would seem that the senior leaders of the
4 revolution, Son Sen, Nuon Chea, and possibly even Pol Pot may
5 have been responsible for such interventions.

6 Q. And as far as you know, did the accused himself sharpen or
7 frame any confessions, in your knowledge?

8 A. No, Counsel. I cannot think of an example of that.

9 Q. Now, the accused in front of the instructing judge on the 21st
10 of January 2008 -- page 7 in the English version, the document is
11 at D/38 -- talked about a steno-typed letter from Son Sen telling
12 the interrogator at S-21 to be careful not to accept confessions
13 which accused too many people. Now, are you aware of such a
14 letter?

15 [10.23.57]

16 A. Yes, Counsel.

17 Q. And I don't want to ask you any questions about the content,
18 but I just want to know, as far as you know, was that the only
19 instruction that you're aware of about instruction from someone
20 at the upper echelon to the staff at S-21 on what to do or not to
21 do with the confessions or are you aware of other instances of
22 interventions?

23 A. Yes, Counsel. I am aware of other instances of interventions.

24 Q. Can you elaborate on that a little bit?

25 A. On at least one occasion, Son Sen personally visited S-21 to

1 conduct training of the staff. Although we do not have clear
2 notes or minutes from that training, it is easy to imagine such
3 topics might well have arisen during that training session.

4 [10.25.22]

5 Q. Now, you said here in Court -- I believe on Tuesday -- that
6 once the accused studied the confession, proposed purges, and
7 then sent the proposal at upper echelon. When you said that he
8 proposed purges, were you talking about this list that you
9 mentioned before or is it still something else?

10 A. That's correct, Counsel. The lists of people who had been
11 identified as enemies.

12 Q. Now, when you said that he sent this list at upper echelon
13 until September 1977, is it correct to say that Son Sen was
14 involved in this upper echelon when the lists were sent; would
15 that be correct?

16 A. Yes, it would be correct to say that Son Sen was involved.

17 Q. And then just for us to understand, once Son Sen left Phnom
18 Penh, what can you say, if anything, about his involvement with
19 the list or whatever was sent from S-21 coming from the
20 confession; do you know if Son Sen was still involved in any
21 decision-making process after he left, if you know?

22 A. As the Co-Prosecutor observed yesterday, in reference to the
23 set of notes from Division 502 Secretary Sou Met to the accused
24 person, some of those notes appear to have gone through Son Sen
25 even after mid-August 1977. So, yes, it would appear that Son

1 Sen remained involved, to some extent at least, or in certain
2 cases, after he departed for the battlefield.
3 Q. Thank you for that.
4 Now, in front of the instructing Judge on the 28th of February
5 2008 -- page 8 in the English version that can be found at D/52
6 -- the accused said that in case of large arrests within the same
7 units following a decision of the Standing Committee he, the
8 accused, asked Hor to talk with the person in charge of that unit
9 in order to count down the men of that unit. Are you aware of
10 any document with such instructions?

11 [10.29.09]

12 A. No, Counsel. I am not.

13 Q. So I take it to mean that you cannot say if there was more
14 than one instruction like this? You do not know about the
15 existence of such an instruction; am I correct?

16 A. You are correct, Counsel.

17 Q. So I move on. I have one question, and then I will have
18 finished with the topic of the confession.

19 You were very, I think, clear and explicit in explaining the
20 extent of the approach, and in particular, in the Revolutionary
21 Army of Kampuchea. And to quote you last Tuesday -- and I have
22 the transcript -- you said, "There were widespread purges
23 throughout the Revolutionary Army of Kampuchea", and then you
24 said the same day, "At least 359 people were purged from the
25 General Staff itself".

1 And then on your charts -- and I'm happy to -- I have them with
2 me if you want me to show them to you, but I think you know them
3 -- on the chart book, page 5, "45.7 percent of S-21 prisoners
4 were members of the Revolutionary Army of Kampuchea". And in
5 your report, page 27, "Two Vice-Chairs of the Revolutionary Army
6 of Kampuchea were purged. Five secretaries of Division were
7 purged".

8 So I think you were very clear, and you went into great details
9 to explain the widespread way in which the Revolutionary --
10 individual purges in the Revolutionary Army of Kampuchea.

11 [10.30.54]

12 My question is this, do you see any closer link between the fact
13 that Son Sen was, at the same time, the Chairman of the General
14 Staff and the boss for over two years of the accused and
15 involved, as you mentioned, in this confession? Do you think
16 there was any causal affect?

17 Do you understand my question?

18 A.No, I'm afraid I do not, Counsel.

19 Q.You said that there were widespread purges in the
20 Revolutionary Army of Kampuchea. Do you think that the fact that
21 Son Sen was, at the same time, Chairman of the General Staff and
22 the boss of the accused for over a year; do you think that may
23 have caused the fact that there were such widespread purges, or
24 not?

25 A.Thank you, Counsel. I believe I understand your question, and

1 the answer would be no.

2 I believe the causes for the widespread purges in the
3 Revolutionary Army of Kampuchea were not directly related to the
4 fact that Son Sen was both Chief of the General Staff and the
5 direct supervisor of the accused person.

6 [10.32.33]

7 Q. And just in a nutshell, if you can, why not?

8 A. Without delving into the content of any particular confession,
9 I believe it was the contents of confessions extracted at S-21
10 which persuaded the upper leadership that there was a conspiracy
11 against them on the part of several military leaders.

12 Q. I understand.

13 You said that -- you said yesterday that about the purge in the
14 Ministry of Economy, one can say that it could have been caused
15 by the paranoia of the Standing Committee, and one can say that
16 it was caused by the -- and, again, I apologize, I do not have
17 any transcript, but I think -- just tell me if I'm misquoting you
18 -- you said that one can say that it was the system of
19 systematically looking and identifying for enemies devised by the
20 accused, and you said that you believe it was both.

21 Now, would you accept the proposition that precisely this system
22 of looking and identifying for enemies may have fed or
23 strengthened the paranoia of the Standing Committee? Would you
24 accept that proposition?

25 A. Yes, counsel. It's a good example of what systems analysts

1 call a "positive feedback loop." The system feeds on itself and
2 continually generates greater energy.

3 Q.Thank you.

4 I have one question about another policy of the CPK. Are you
5 aware of any deliberate policy of starving prisoners?

6 A.Yes, Counsel.

7 Q.And what can you say about this policy?

8 [10.35.22]

9 A.Based on my various research into these questions I would say
10 that starvation of prisoners and security offices appeared to be
11 a very widespread, in fact, nearly universal policy throughout
12 Democratic Kampuchea, and that, indeed, in some instances it
13 appeared to be used as a low-impact method of execution.

14 Q.And what, if anything, can you say about the implementation of
15 that policy at S-21?

16 A.Based on various forms of testimony and evidence that I have
17 seen, I would say that the diet provided to prisoners at S-21
18 were starvation rations that would eventually cause the death of
19 any prisoner subjected to them.

20 Q.And am I correct to understand that that was an implementation
21 of that policy?

22 A.It appears to be, counsel.

23 Q.Thank you.

24 I have one question about -- it was not clear to me, about the
25 relationship between secretaries of zone and sectors on one hand

30

1 and representative of General Staff. You said on Monday -- it's

2 in a draft transcript, page 85-86 -- and I'm quoting you:

3 [10.37.25]

4 "Each zone committee commanded division and regiment sized
5 military units which were commanded and managed by a General
6 Staff based in each zone. Similarly, sector committees commanded
7 armed unit of regiment size which were also generally managed by
8 a General Staff."

9 And I was just wondering, because it was not clear to me, at the
10 zone and sector levels, who had more power between the zone or
11 sector secretary and the representative of the General Staff,
12 who, if I understand things correctly, was in charge of the armed
13 force in that zone or sector?

14 Do you understand my question?

15 A. Yes, counsel, I believe I do understand your question. And
16 it's a very interesting question, because problems of civil
17 military relations and civilian control of military forces is a
18 general problem throughout all governments of the world, and
19 indeed, often particularly so, in political systems that are
20 based on extreme degrees of coercion.

21 In general, a fundamental principle of the Communist Party of
22 Kampuchea, enunciated in a variety of their foundational
23 documents, such as the CPK Statutes, decisions of the Standing
24 Committee and so forth, state very clearly that it is the Party
25 which is to command military forces. In most instances, this

31

1 appears to have been the way it worked at the zone echelon and at
2 the sector echelon.

3 But the power of a military commander who is headstrong and
4 confident is something that all political leaders must consider
5 very carefully.

6 Q. Thank you.

7 On Monday -- and it appears in the draft transcript 18th of May,
8 page 71, you said this:

9 "Over the course of the regime I believe Son Sen was eventually
10 promoted to full membership in the Standing Committee while Kong
11 Sophal remained an alternate member until his eventual arrest and
12 execution at S-21."

13 Could you tell us, when do you think Son Sen became a full member
14 of the Standing Committee?

15 A. I believe Son Sen became a full member of the Standing
16 Committee no later than November 1978 and possibly somewhat
17 earlier.

18 [10.41.20]

19 Q. Now, the accused, both in front of the instructing judge --
20 and the reference from my learned friend is he said that on the
21 5th of September 2007, page 6, D/16, but he said it as well in
22 court on the 30th of April in the draft transcript, page 70 to
23 75, the accused said that according to him Son Sen was number 7
24 of the regime. Do you agree with that proposal -- I mean that
25 statement? Sorry.

32

1 A. Over the course of the regime the ranking of the top members
2 evolved constantly as they jockeyed for power among themselves
3 and as the purges proceeded into the very upper ranks of the
4 revolution. So these rankings did change over time but it's
5 entirely plausible that at one point Son Sen did have the formal
6 rank of number 7.

7 Q. But I'm interested in actual power. I think you explained
8 very well to Judge Cartwright, and you went into great lengths to
9 explain that he was very powerful because he was in the same time
10 in the government, Deputy Prime Minister; in the Army, Chief of
11 Staff; in the Party, alternate member or member of the Standing
12 Committee.

13 So it would be correct that -- to say that not formally in a
14 formal structure but de facto in terms of actual power, would it
15 be correct that he was more powerful than other full member of
16 the Standing Committee like Ros Nhim, Sao Phim or even Vorn Vet?
17 Would you agree with that?

18 [10.43.32]

19 A. That's a very difficult question, counsel. Power is an
20 intangible thing and difficult to measure. Power can consist
21 simply in one's persuasiveness in small group meetings and
22 ability to influence the decision making behaviour of groups.
23 Certainly in terms of his ability to command military forces Son
24 Sen was more powerful than Vorn Vet or Ieng Sary. However, how
25 much influence Son Sen had in the policy making deliberations of

1 the Standing Committee might be another matter.

2 Q. Thank you.

3 Could you just confirm, because you went with Judge Cartwright in
4 this -- your chart of the Standing Committee in your report and
5 you explained the E and the D and the S, what that meant. Just
6 to be clear on the record, for Ros Nhim you said he was executed
7 but I didn't find anywhere in the record -- it's not clear how he
8 was executed. Is it correct that he was brought to Tuol Sleng?

9 A. Yes, Counsel, that's correct.

10 [10.45.24]

11 MR. WERNER:

12 Your Honour, I note the time. I still have some questions, not
13 too many, but some questions. Do you want me to carry on or do
14 you want to take a break?

15 MR. ROUX:

16 President, if I may come in at this point? Could it be possible
17 for the defence to have the floor at some point in time? I'm a
18 little bit worried.

19 My colleague, Mr. Werner, yesterday announced that he would be
20 having about 20 minutes worth of questions. Even if we withdraw
21 the 15 minutes to deal with the observations of the
22 Co-Prosecutors, Mr. Werner has now been speaking for over an
23 hour, asking questions for over an hour.

24 I understand that Mr. Alex Bates is to leave us this evening, I
25 would very much like to put my own questions to Mr. Etcheson

1 before Mr. Bates leaves and before I have to leave.
2 So possibly we could have some limits that we self impose upon
3 ourselves when we allocate time for the various parties in
4 relation to the time that is allocated to the defence.
5 So possibly would it be possible to ask Mr. Werner to make his
6 questions more concise in order to leave enough time for the
7 defence?

8 Thank you, President.

9 [10.47.01]

10 MR. WERNER:

11 I would be happy to do so.

12 And apparently you seem -- Judge Lavergne seems to agree that I
13 committed yesterday. If I did then I didn't intend to do so, I
14 was just trying to express the fact that I would be more than 20
15 minutes or half an hour. I knew I would be more. So if I did
16 so, then it was by mistake and I apologize for that.

17 MR. PRESIDENT:

18 Now, because it's time to change the DVD of the recording so the
19 Chamber is adjourned for 20 minutes until five past 11 when we
20 resume our proceedings.

21 Court officers, can you assist the expert with some refreshment?

22 (Judges exit courtroom)

23 (Court recesses from 1048H to 1129H)

24 (Judges enter courtroom)

25 MR. PRESIDENT:

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

2 Next, we would like to give the floor to civil party lawyer to

3 put further questions to the expert.

4 The Chamber notes the observation by the defence counsel and that

5 Mr. Alain Werner already stated that he would not take much time

6 of the Court to put a lot of questions, but for the whole morning

7 already he had used the session to put a lot of questions.

8 So the Chamber would like to remind Mr. Alain Werner to please

9 ask the questions that are straight to the point, and could you

10 please brief as much as possible. And I think you are now given

11 10 minutes to put the rest of your questions to the expert.

12 [11.31.28]

13 MR. WERNER:

14 Thank you, Mr. President. That is clear.

15 BY MR. WERNER:

16 Q.Mr. Etcheson, my first question would be -- the accused in

17 front of the Investigating Judge, on the 5th of September 2007,

18 page 6, and the quote is D/16, he said this -- the question was,

19 "How did you know about this affair because before 15 August 1977

20 you only worked with Son Sen?" And the answer was, "Son Sen

21 liked to talk with me about the speeches or talks of other

22 members of the Standing Committee."

23 Now, bearing in mind what you said on Tuesday the 19th of May,

24 transcript -- draft transcript page 52 -- about the extreme,

25 quite extreme policy on secrecy in the state of DK, would it be

1 correct to say that the fact that the accused had access to some
2 of this information through Son Sen gave him privileged access to
3 this extreme secrecy? Would you accept that proposition?

4 A.Counsel, I don't know if I would phrase it in exactly in the
5 way that you have. However, I would also say that the accused
6 person had direct personal access to some of the most senior
7 leaders in the revolution. And, therefore, it is reasonable to
8 conclude he also had access to a significant amount of highly
9 confidential information.

10 [11.33.55]

11 Q.Thank you.

12 Talking about the people in charge of the security centres
13 outside of Phnom Penh, in the countryside, let's say, is it
14 correct that -- is it correct to say that most, if not all, the
15 directors of this security offices who were in function in 1975,
16 by January 1979 most, if not all of them, would have been purged;
17 is that correct?

18 A.Yes, Counsel; certainly many, probably most.

19 Q.And is it the same applies to the personnel, the security
20 guards in security offices in the countryside?

21 A.Counsel, that seemed to have varied on a case-by-case basis.

22 In some places when there was a purge of a security office
23 leadership, all of the personnel were purged. In other instances
24 there were repeated purges of the top leadership of a security
25 office and yet some staffers survived to this day.

1 [11.35.39]

2 Q. My last question to you, Mr. Etcheson. Bearing in mind what
3 you just said about the fact that most, if not all, the people in
4 charge of security offices were purged, bearing in mind what you
5 said about the other day -- and I can give you the reference if
6 you need -- the shocking proportion of S-21 staff who itself was
7 purged, bearing in mind everything you said about these
8 widespread purges within DK what is your view; why was the
9 accused himself not purged?

10 A. In my opinion the accused himself was not purged because his
11 superiors considered him effective and loyal.

12 MR. WERNER:

13 I have no further questions. I am very grateful for your answers
14 and your time.

15 Thank you.

16 MR. PRESIDENT:

17 Next, the Chamber would like to give the floor to the defence
18 counsel to be able to put questions to Mr. Craig Etcheson if they
19 would wish to do so.

20 MR. KAR SAVUTH:

21 Thank you, Mr. President.

22 QUESTIONING BY DEFENCE COUNSEL

23 BY MR. KAR SAVUTH:

24 Q. We would like Mr. Craig Etcheson to also confirm the report on
25 the statement. In paragraph 24 of your statement you said that

1 the Standing Committee plays the role as the Central Committee.

2 I would like to repeat, the Standing Committee, again, acting in
3 the name of the Central Committee had the power to authorize
4 lower level organs of the state Party apparatus to carry out
5 extrajudicial executions as seen in the decisions of the 13th of
6 March 1976.

7 [11.38.18]

8 I would like to know whether, as in your statement on the 18th of
9 May 2009 at 4.15 you said you -- that there has been an agreement
10 between the accused -- because the accused said that the most
11 responsible people in the CPK were comprised of four groups, and
12 those four groups could make the decision whether to let anyone
13 die or leave because the Standing Committee authorized them to
14 smash people, and you also agreed with the statement. And the
15 paragraph that I just cited, was it the paragraph that you had
16 confirmed? Could you please reconfirm?

17 A.Thank you, Counsel. However, please forgive me; I'm not sure
18 I understand your question.

19 Q.Let me say it again. In the paragraphs that I just read, you
20 have heard it, and the accused responded. Before you were asked
21 by the judge and you responded that you agreed with the accused.
22 And what I want to ask whether the paragraphs that I just read
23 out was the one that you based in your agreement with the
24 accused?

25 A.Thank you, Counsel. Could I please ask you to be a bit more

1 specific on what it was the judges asked me and what it was I
2 agreed with the accused person about?
3 [11.41.15]
4 Q. At 16.15.54 you were asked by a judge and you replied that, "I
5 agreed to the statement," that is the statement of the accused
6 which states that those who were most responsible for the crimes
7 fell into the four categories that I just said, and you agreed
8 with the statement of the accused. And what I want to know is,
9 whether you relied on the paragraphs that I just read out in
10 reaching your agreement to the statement of the accused?
11 Because in the paragraph you cited the decision of the Standing
12 Committee dated the 30th of March '76. Can you confirm that?
13 A. Thank you, Counsel. I can confirm indeed that I have relied a
14 great deal in my testimony on the 30 March 1976 document,
15 "Decisions of the Standing Committee."
16 In your question you asked if I agreed that these four categories
17 mentioned by the accused person constitute those most
18 responsible. I would have to answer that for me the term "most
19 responsible" has a very complex technical meaning which I do not
20 believe is properly applicable in this situation.
21 Q. Thank you.
22 You cannot explain to me, but on that date you said you agreed to
23 the statement of the accused. So your concept is that you still
24 agreed to the statement of the accused? This is what I want to
25 know.

1 [11.44.04]

2 A.Thank you, Counsel. I'm afraid you would have to be more
3 specific about which statements of the accused person you are
4 asking if I agree with.

5 Q.Thank you, Doctor.

6 The statement of the accused is that the accused emphasized the
7 letter dated 30 March 1976 which was a decision of the Standing
8 Committee which gave the authority to those four groups to smash
9 the Cambodian people inside and outside the ranks. The accused
10 relied on that letter in his statement. And in your report, you
11 also relied on this letter; that's why I am asking you whether
12 you agreed to the accused's statement based on -- stated in your
13 paragraph as I just read out. This is my question.

14 A.Thank you, Counsel. That is clear.

15 I do agree that the first section of the document, "Decision of
16 the Central Committee" describes the Standing Committee
17 delegating authority to certain organs to smash people. I agree
18 with that.

19 [11.46.06]

20 Q.Thank you, doctor.

21 My second question; based on your research, have you found which
22 prison is the largest prison during the Democratic Kampuchea?

23 A.Thank you, Counsel.

24 There are several ways to measure size. If one measures size in
25 terms of the number of staff employed at a security office, I

1 think, unquestionably, S-21 was the largest. If, on the other
2 hand, one measures the size of a security office by the total
3 number of victims who were persecuted and/or murdered there, then
4 it is more difficult to compare because very few security offices
5 have surviving records in such detail as S-21.

6 In some cases, you can make an estimate by the number of mass
7 graves in the vicinity, and the number of remains recovered from
8 those mass graves, but it is very difficult to make a definitive
9 determination on which security centre killed the most people.

10 [11.48.21]

11 Q.Thank you, Doctor.

12 What I want to know is which security office is the largest
13 because, based on the discussions, it seems to put emphasis that
14 S-21 is the largest security office throughout Cambodia. I, as
15 the defence counsel, I would like to inform you that I disagree
16 with that.

17 S-21 office, although with thousands of staff because this S-21
18 office was divided in three separate locations; that is, S-24,
19 Prey Sar, and Choeung Ek, and S-21 itself, particularly a lot of
20 staff needs to be fed because at S-24 in Prey Sar, there were
21 hundreds or even thousands of people who were there to be
22 educated. So the re-education for those people, for those
23 hundreds of people, then it required guards, workers in order to
24 supply. So this doesn't mean that S-21 is the largest prison in
25 killing people, this is my understanding and just said for your

42

1 information.

2 Also, it is my understanding that the largest prison is to be for
3 the office that killed the most people; that will be the largest
4 prison.

5 And thank you, Doctor.

6 My third question; in the chart in your report, I examined the
7 chart, and it seems that the members -- the government members of
8 the Democratic Kampuchea were numerous; however, when I examined
9 the document dated 30 March '76 at page 6 with the ERN Number
10 00003141 at line 2, 3, 4, 5, 6 from the bottom, I see that the
11 government members -- there were only four of them; can you
12 clarify this issue on the members of the Democratic Kampuchea
13 Government, and who are they?

14 A.Thank you, Counsel.

15 This particular document, as you suggest, mentions only the top
16 four. They are Pol Pot, who was described as First Minister;
17 Comrade Van, which is an alias for Ieng Sary, is described as the
18 Deputy Prime Minister for Foreign Affairs; Comrade Vorn, which
19 refers to Vorn Vet, is described as the Deputy Prime Minister for
20 Economics and Finance; and Comrade Khieu, which was an alias for
21 Son Sen, is described as Deputy Prime Minister for National
22 Defence.

23 [11.53.02]

24 Q.Thank you, Doctor.

25 So in the Democratic Kampuchea regime, the government members

1 comprised only of these four people. Thank you.

2 My fourth question; I would like you to clarify the word

3 "Angkar." The word "Angkar," does this word referred to the

4 Standing Committee or the Government of the Democratic Kampuchea?

5 Which group of the institutions does the word "Angkar" refer to?

6 A.Thank you, Counsel. That is a very interesting question.

7 The Communist Party of Kampuchea adopted the use of the term

8 "Angkar" which is Khmer for "organization" from a similar usage

9 by the Vietnamese Communist Party. At different times to

10 different people within the Communist Party of Kampuchea, this

11 term seems to have been understood in different ways.

12 For some it referred to the entire organization of the Communist

13 Party of Kampuchea. For others it could be used to refer to any

14 individual member of the Communist Party of Kampuchea. For still

15 others it referred to the top leadership of the Communist Party,

16 perhaps including the Standing Committee and the organs

17 immediately surrounding the Standing Committee, such as Office

18 870. In other usages Angkar appears to refer only to Pol Pot or

19 sometimes to Pol Pot and Nuon Chea.

20 So it seems there were a variety of meanings to the term

21 "Angkar."

22 Q.Thank you, Doctor.

23 So the word "Angkar" from what I have heard from you means the

24 Party's organization, not the government. Is this correct?

25 Thank you.

1 [11.56.27]

2 A. Yes, Counsel; that is my understanding.

3 Q. Thank you.

4 My fifth question; at S-21 who were the most responsible for the
5 crimes?

6 I ask this question because above Duch and the person who ordered
7 Duch, including Son Sen and Nuon Chea and then Duch, the current
8 accused; so the crimes at S-21, from your understanding, who was
9 responsible, Son Sen or Duch? Can you confirm this or clarify on
10 this matter?

11 [11.57.26]

12 Thank you.

13 A. Thank you, Counsel. The terms "senior leaders" and "most
14 responsible" are the precise definition of the personal
15 jurisdiction of this tribunal and thus, not being a lawyer
16 myself, I have to be very careful in how I use those terms.

17 Moreover, it is my sense that it is the duty of this Chamber to
18 make the determination of who is most responsible for the crimes
19 at S-21. But I would certainly agree with you that Nuon Chea,
20 Son Sen, and the accused person were all involved in the
21 commission of these crimes and that they all bear responsibility
22 for those crimes.

23 MR. PRESIDENT:

24 Could you just hold on? There might be some technical issue
25 here.

1 (Deliberation between Judges)

2 [12.01.08]

3 MR. PRESIDENT:

4 The Trial Chamber observed the questions of the defence to this
5 expert, seems that first it's a direct question in order for the
6 expert to provide a precise response, which is not -- or beyond
7 his expertise. The submissions or the observations or
8 estimations of various materials and evidence from the discussion
9 during our proceedings is the competence and the rights of the
10 parties who can make their own conclusion based on the various
11 information, document, related materials, the right from the
12 discussion and the judgment, the final judgment is the competence
13 of the Chamber.

14 So the Chamber would like to remind parties regarding this
15 direct, to the point, questions that require the expert to
16 respond briefly and to the point, and the Chamber would like the
17 counsel to avoid such questions. And the Chamber also took notes
18 of such questions which are not or will not be allowed in the
19 future, and the relevant witness or expert shall not respond to
20 such questions.

21 And the defence counsel should ask the expert regarding the
22 content of his report which is general and you can make your own
23 final conclusions during the proceeding. So this is also to
24 facilitate our smooth proceedings.

25 The defence counsel, you can now continue to put questions to the

1 expert.

2 [12.03.59]

3 MR. KAR SAVUTH:

4 Thank you, Mr. President, for reminding me not to ask direct
5 questions.

6 BY MR. KAR SAVUTH:

7 Q.Mr. Craig Etcheson, could you tell us or explain to us whether
8 the Chairman of S-21 is different from the Chairman of other
9 prisons or security offices or were they all the same?

10 Thanks.

11 A.Thank you, Counsel. In my opinion, the Chairman of S-21 was
12 indeed different from the chairman of other security offices in
13 several significant respects. One was that the area of
14 operations served by S-21 was nationwide. No other security
15 office chairman had an area of operations so large.

16 A second way in which the Chairman of S-21 was different from
17 other security office chairmen was the nature of his direct
18 reporting relationship to upper echelon. The Chairman of S-21
19 reported directly to the very highest levels of leadership in the
20 Communist Party of Kampuchea on a daily and often personal basis.

21 I am not aware of any other security office chairman in
22 Democratic Kampuchea who had this type of reporting relationship
23 with the senior leaders of the revolution.

24 Thirdly, the Chairman of S-21 seems to me to be different from
25 the chairmen of other security offices because the physical size

1 of his operation was somewhere between 50 times larger and 200
2 times larger than all other security offices.

3 So for those three reasons I would say yes, the Chairman of S-21
4 was different from the chairmen of other security offices.

5 [12.07.26]

6 Q. Thank you very much, Dr. Craig Etcheson.

7 MR. KAR SAVUTH:

8 And, Mr. President, I have no further questions.

9 MR. PRESIDENT:

10 Mr. François Roux, would you like to ask a lot of questions to
11 the witness -- the expert?

12 MR. ROUX:

13 Thank you, Mr. President.

14 I obviously wish to put questions to the expert witness but not
15 now during the break.

16 However, Mr. President, maybe before we take the lunch break
17 maybe I could ask the expert to perform a little exercise that I
18 requested him to do for the Chamber. So I might maybe, as of
19 now, submit this proposal to him so that he can do it during the
20 break and then talk about it when we come back together again.

21 [12.08.44]

22 So my question concerning this specific point was relative to the
23 organization chart that you can find in paragraph 133 of your
24 report. And I would like, Mr. Etcheson, to ask you to complete
25 this organization chart by relying on the basis of paragraph 115

1 of your report.

2 And let me make myself clear; in paragraph 115 of your report you
3 indicate that according to a report that came from the General
4 Staff the Revolutionary Army included in -- had in March 1977,
5 61,000 men and they were divided into nine divisions, and you
6 mention them, Division 703, Division 310 and we also see Division
7 502, et cetera, so therefore nine divisions, three regiments,
8 three independent regiments, 152, the 488th Regiment and the
9 397th Regiment and several offices, M-63 and M-62.

10 So, therefore, I would like to ask you, please, to include in
11 your table in page 133 this information that I just mentioned so
12 that we can see more clearly than now where S-21 actually fit
13 into the general picture.

14 This is the little exercise that I would like Mr. Etcheson to do
15 for us during this lunch break. And I am sorry to make this
16 proposal right now during the lunch break.

17 [12.11.13]

18 MR. PRESIDENT:

19 Mr. Craig Etcheson, have you followed what the defence counsel
20 has proposed; that you are supposed to do some exercise during
21 lunch break? And the defence would like you to present this
22 after lunch break. And I think it is good that it can help you
23 to be prepared and it can expedite the testimony session. Have
24 you followed it?

25 JUDGE LAVERGNE:

1 Unless you can tell us, Mr. Etcheson, if you could tell us why
2 you only mentioned S-21 in your diagram and why you didn't
3 mention the other divisions and the other offices that you
4 mention in your paragraph 115?

5 DR. ETCHESON:

6 Yes, Your Honour. Thank you. I can.

7 S-21 was a special unit. As we discussed yesterday, in fact,
8 sometimes it was referred to as "Special Branch," clearly
9 indicating the special nature of this institution. It was not a
10 regular military unit, even though for purposes of logistics and
11 organization it was considered a component of the General Staff.
12 Nonetheless, its functions were quite different from the other
13 units of the General Staff insofar as it was not a combat unit
14 but an intelligence operation. Thus I felt it was appropriate to
15 include it in the chart of the government rather than in the
16 chart of the combat units of the Revolutionary Army of Kampuchea.
17 That was my reasoning, Your Honour.

18 [12.14.30]

19 MR. ROUX:

20 However, the defence would still like the expert, who is the most
21 competent person here to perform this exercise -- well, we would
22 like him to please indicate in the same table where he can
23 include the other units that I have just mentioned. I believe
24 that he is the best suited to do so and I therefore stand by my
25 request, Mr. President.

1 MR. PRESIDENT:

2 If I am not mistaken Mr. Craig Etcheson already responded to my
3 question that he could help with the exercise as proposed by the
4 defence counsel. Do I understand you correctly?

5 [12.15.30]

6 DR. ETCHESON:

7 Yes, Your Honour.

8 MR. PRESIDENT:

9 We would like now to take an adjournment for lunch. The session
10 is resumed at 1.30 p.m.

11 The detention facility personnel please take the accused to the
12 detention facility and return him to the courtroom by 1.30.
13 The parties to the proceedings, including Mr. Craig Etcheson,
14 invited to come back to the courtroom at that time.

15 Thanks.

16 (Judges exit courtroom)

17 (Court recesses from 1217H to 1350H)

18 (Judges enter courtroom)

19 MR. PRESIDENT:

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

21 I would like now to give the floor to counsel, François Roux, the
22 defence counsel, so that you can pose questions to the expert,
23 Craig Etcheson.

24 The floor is yours.

25 MR. ROUX:

1 Thank you, Your Honour.

2 I shall be trying to ask all of my questions, to put them all to
3 the expert by the end of this afternoon. It being understood
4 that I would like respectfully to apprise the Chamber of the fact
5 that on the 8th of June when the hearing is resumed I shall not
6 be in a position to be here through to the 11th of June. I shall
7 be back on the 11th of June.

8 As I already informed the Chamber, during the same period I must
9 also do the duties entrusted to me by the Secretary-General of
10 the United Nations at the Lebanon Tribunal. So Marie-Paule
11 Canizares will replace me for those three days when the hearing
12 is resumed.

13 BY MR. ROUX:

14 Q.Mr. Etcheson, good afternoon and thank you for your patience.
15 Are you prepared to answer my questions?

16 A.Yes, of course, Counsel.

17 [13.53.10]

18 Q.Dr. Etcheson, I do believe that in the past you were active,
19 you were worked at or you contributed to -- I don't really know.
20 You were active with DC-Cam, the NGO. Is this correct?

21 A.Yes, Counsel; that is correct.

22 Q.Were you an employee at DC-Cam; were you a consultant; what
23 was your status and what were your duties?

24 A.In 1995, Counsel, I was part of the team that established the
25 Documentation Centre. I proceeded to serve as Director of the

1 Documentation Centre for the subsequent two years.

2 Q. Thus it's in 1997 that you left your -- that you withdrew or
3 you left your job at DC-Cam; is that correct?

4 A. At the end of 1996 I ceased to perform the role of Director
5 and entered into an advisory capacity.

6 Q. And you were a consultant to DC-Cam for how long?

7 A. Counsel, I cannot give you exact times on that as my memory
8 fails me, but I did carry out, if I recall correctly, two
9 contracts in which my role could be described as a consultant,
10 and those periods stretched across the course of approximately
11 three years.

12 Q. And for how long have you been a part of the team on the
13 Co-Prosecutors office at ECCC?

14 A. Since the beginning of July 2006.

15 Q. As was recalled by Judge Cartwright, you have written -- you
16 have authored a great many books based upon your research and
17 this owes you the reputation of a very knowledgeable expert on
18 these issues. Is this correct?

19 A. Counsel, it is correct that I have written several books on
20 the topic of the Khmer Rouge. I will leave it for others to
21 assess my reputation.

22 Q. May I reassure you your reputation is excellent.

23 Now to my question. At the beginning of our, let's say,
24 conversation or our talk -- this is my first question, and it's a
25 very important one, as you may well imagine. As things stand, in

1 terms of your knowledge as a researcher, the state of your
2 present knowledge that is, but also bearing in mind your present
3 day duties at the Co-Prosecutors' office, in view of these two
4 factors do you believe that you are in a position to provide
5 answers to my questions in a fashion that is fully independent
6 and free, including if the answers that you were to give were
7 contrary to the strategy pursued by the Co-Prosecutors' office?

8 A.Counsel, I do.

9 [13.58.29]

10 Q.I believe you. Thank you, Dr. Etcheson.

11 Do tell me, if we were to revisit those nine letters sent by Sou
12 Met to Duch, and in those -- in your report you referred only to
13 three letters.

14 Now, I would like to pick up on the excellent comment made by my
15 colleague, Mrs. Studzinsky. When you drafted your report were
16 you apprised of the existence of all nine letters or did you only
17 know about three letters?

18 I'm talking about all the nine letters that we were talking about
19 yesterday versus only the three letters that you refer to in your
20 report.

21 A.Yes, Counsel. I understand. At the time I wrote my report I
22 believe that I was familiar with eight of the nine letters. The
23 ninth came to my attention some time after I completed that
24 report.

25 [14.00.07]

1 Q. And, therefore, having known of eight letters you selected
2 three out of those; is that so?

3 A. Yes, Counsel; that is correct.

4 Q. And in your capacity as an expert, you believed that the three
5 that you had selected were enough to demonstrate your point, I
6 suppose?

7 A. That is correct, Counsel.

8 Q. Thank you.

9 What happened to Mr. Sou Met; do you know?

10 A. I do know. He is alive and well and, as I understand it,
11 living in Battambang province.

12 [14.01.15]

13 Q. You never had the opportunity to question him on these
14 letters, did you?

15 A. No, I did not.

16 Q. Since we are speaking about other people, can you confirm to
17 me concerning the hierarchical superior -- concerning Mr. Son
18 Sen, Duch's hierarchical superior -- can you confirm for me that
19 he was still alive after the collapse of Democratic Kampuchea?

20 A. Yes, Counsel; he was alive after January 7, 1979.

21 Q. And can you confirm to the Chamber that he continued being
22 involved in politics during the following years?

23 A. Yes, Counsel; that is correct.

24 Q. Am I mistaken when I say that he was part of the delegation
25 that signed the Paris Agreement in 1991?

- 1 A.I believe that is correct, Counsel.
- 2 Q.Mr. Etcheson, you brought up occasionally while you were
- 3 speaking the word "fear" and maybe you also used the word
- 4 "terror." How would you define a regime -- a terror regime, a
- 5 regime of terror?
- 6 A.That's a very interesting question, Counsel. I would define a
- 7 terror regime as a government or similar organization that
- 8 employs methods of arbitrary violence to coerce the compliance of
- 9 its own members and populations that it wishes to control.
- 10 [14.04.37]
- 11 Q.I do not believe I am mistaken by saying that I can recognize
- 12 here the definition of Democratic Kampuchea or rather by saying
- 13 that this definition corresponds well to the regime of Democratic
- 14 Kampuchea?
- 15 A.Is that a question, Counsel?
- 16 Q.Yes. Yes, it was a question, indeed.
- 17 A.It is my personal view that the leadership of Democratic
- 18 Kampuchea explicitly employed terror as a means of control.
- 19 Q.Well, now we're going to bring up these specific issues, and I
- 20 would have liked, however, before to ask you if in your research
- 21 you had analyzed the language that was used by the leaders of
- 22 Democratic Kampuchea and if you had analyzed what this language
- 23 could mean in this system of terror?
- 24 At first a generic question and then I could be more specific.
- 25 But do you have -- concerning this issue of language; do you have

1 any observations, any general observations to make about this
2 question of language that was used in Democratic Kampuchea?
3 A. Counsel, I have not made an explicit linguistic study on this
4 subject matter. However, having been a student of Democratic
5 Kampuchea for some 30 years I have given some thought to their
6 use of language.

7 [14.07.10]

8 Q. Yes, yes, I do not have any more knowledge than you of the
9 Khmer language and I can only base myself on translations,
10 unfortunately. But in order to be more specific here, we often
11 see the term, "the subordinates must think about" -- we often see
12 this expression come up, "the subordinates must think, they must
13 pay attention to."

14 And I'll be even more precise here. In paragraph 121 of your
15 excellent report you mention Son Sen on the 2nd of August 1976 --
16 paragraph 121 -- and you say Son Sen warned his commanders to,
17 "think in terms of fending off enemies both external and
18 internal" and he ordered them to, "pay attention to purging no
19 good..." et cetera, -- we'll get back to the rest later.

20 But I am kind of surprised. He is not saying you must eliminate,
21 that's not what's stated. He is not saying you must completely
22 eliminate the bad elements in the cadre; he is just saying you
23 must think in such a way as to, you must pay attention to, et
24 cetera. And we find this kind of terminology again in other
25 documents.

1 So I just wanted to know if this really had had an impact on you,
2 as it has an impact on me?

3 A. Counsel, I don't believe I agree with your analysis. If you
4 read the entire sentence, continuing on from where you stopped,
5 it says to "pay attention to purging no good elements completely
6 from the Party," which I believe was just what you were noting it
7 did not do.

8 [14.09.55]

9 Q. Yes. What I want to say here is that it seems to me that
10 there's no direct order here but that the people are only asked
11 to think about the way to do what, to execute on their own the
12 Party's policy, or am I mistaken?

13 A. My understanding, Counsel, is that in this session, with his
14 division commanders, Son Sen was doing what was known in the
15 Party as propagating the line; that is making sure that his
16 subordinates understood the policy of the Party and their role in
17 implementing that policy.

18 Q. That's also what I understand. Their personal role in the
19 implementation of this policy; is that what you mean? The role
20 that they had to take on personally in the implementation of this
21 policy; is that what you mean?

22 A. Yes, Counsel.

23 Q. Again, referring to this question of the language used, and
24 the question that can be related to another issue that you
25 brought up, the issue of secrecy. You were present yesterday

1 morning during the questions that were put by Judge Lavergne to
2 the accused and he was asking him why the names of the superiors
3 were not mentioned and the accused answered because this is the
4 way it was.

5 [14.12.01]

6 And according to your research work, in this regime was there
7 indeed a policy of secrecy that explained that even when the
8 documents themselves were confidential, well, that the direct
9 names of Pol Pot, for example, or the direct name of Nuon Chea,
10 or the direct name of Son Sen were not mentioned; that they
11 avoided mentioning their names?

12 A. Yes, Counsel. The devotion to secrecy in the Communist Party
13 of Kampuchea was extreme. And the explanation that the accused
14 person made on that point was plausible to me.

15 Q. Well, then without wanting to be repetitive here in relation
16 to many things that have already been stated, I would just like
17 to revisit quickly with you your report by extracting from this
18 report certain topics, certain themes. One of the themes that
19 you mention is specifically the way that the CPK organized and
20 hierachicized (sic) its power. And you mention in particular,
21 Article 11 of the Statutes of the CPK -- excuse me -- Article 23
22 of the Statutes of the CPK, in your paragraph 11 in your report.
23 And I would like to reread the excerpt that you mention,
24 according to the Statutes the functions of the Central Committee,
25 and you explain to us that in reality it was the Standing

1 Committee, in fact, which took care of this, but the functions of
2 the Central Committee included the implementation of the Party's
3 instructions throughout the country, giving instructions to all
4 the zone, sector, and municipal organizations and to the Party
5 organs taking responsibility for various nationwide departments.
6 And you mention here again administering and deploying cadre and
7 Party members within the Party as a whole while maintaining --
8 and this is very important here, while maintaining a clear and
9 constant grasp on their biographies and political, ideological,
10 and organizational stances, and constantly educating and
11 indoctrinating them in terms of politics, ideology, and
12 organization.

13 [14.16.19]

14 Isn't this already a terror program, Mr. Etcheson?
15 A.To the extent, Counsel, that the focus on grasping personal
16 biographies is tied to a process of purging cadre based on those
17 biographies, I would say, yes.

18 Q.And you also specified in the hearing of May 21st that
19 following the practice that was implemented, the Party Centre was
20 the only body that knew what was happening throughout the entire
21 country. Do we agree on this?

22 A.Yes, Counsel; that is my view.

23 Q.And everything was set up; everything was hidden in secrecy in
24 such a way, in a vertical way so that, indeed, the Party Centre
25 be the only body knowing what was happening throughout the

1 country?

2 A.In general, yes, although there may have been exceptions to
3 that general rule.

4 Q.Okay. Please proceed Mr. Etcheson, if you could give us some
5 of these exceptions; let us know of some of these exceptions.

6 A.One exception that came immediately to mind is the accused
7 person. Formally, he was not a member of the Party Centre;
8 however, he had the opportunity to interrogate persons from all
9 units of organization at all echelons from all across the
10 country. In the course of that work, he gained a unique
11 perspective on what was happening within Democratic Kampuchea.

12 Q.Okay. He obtained and he had to report; to whom? Well, to
13 the Centre. Is that so? Is that so? He reported to the Centre
14 - is that so? He obtained exception and reported to the Centre -
15 is that so?

16 A.Yes, Counsel; that is correct.

17 [14.19.54]

18 Q.Well, for the moment, I would like to continue focusing on the
19 general organization.

20 In paragraph 99 of your report, you also mention the military
21 committee of the Central Committee and you indicate:
22 "....although not mentioned in the CPK's statutes, was a key organ
23 of Democratic Kampuchea whose existence is confirmed in documents
24 and statements."

25 Is that so? So therefore, there was indeed a military committee

1 of the Central Committee that you are describing in your report.

2 A. Yes, Counsel; that is correct.

3 Q. And could you please remind the Chamber Son Sen's role in this
4 military committee of the Central Committee?

5 A. Counsel, Son Sen is often described as a secretary of the
6 Committee; not secretary in the sense of the top leader, but my
7 sense is a secretary in the sense of a reporting member, a junior
8 member.

9 Q. And who was therefore the President?

10 A. Pol Pot was the Chair of the Centre military committee,
11 according to my understanding.

12 [14.22.20]

13 Q. You reminded us this morning that throughout the entire
14 country the policies had authority over the army and here we see
15 that Pol Pot who was the supreme authority also had the role of
16 Chairman of this military committee - I would say, rather almost
17 this non-declared military committee.

18 A. That is correct.

19 Q. So therefore, Pol Pot, Chairman of this military committee -
20 Son Sen was therefore Deputy and however you also indicated to us
21 during one of the previous hearings - you also said to us Son Sen
22 - I don't remember the exact words so please correct me if I am
23 wrong. Son Sen did not take any initiatives on his own, he just
24 reported to Pol Pot. Is that indeed what I understood? Is that
25 correct?

62

1 A.Counsel, if I recall correctly, I was discussing two of the
2 fundamental principles of the Party as described in the statutes
3 of the Communist Party of Kampuchea, specifically collectivism
4 and democratic centralism. These two principles, when
5 implemented as they were intended, resulted in collective
6 decision-making. This is what I was referring to, if I am not
7 mistaken.

8 [14.24.44]

9 Q.But could you tell me that Son Sen could take decisions
10 without having the approval of Pol Pot? Is that what you are
11 hinting at?

12 A.No, Counsel. Actually I am hinting at rather the opposite
13 although it's also true that responsible decision-making bodies
14 such as the Standing Committee or the Centre military committee
15 will make decisions on the broad outlines of policy. Then, in
16 many instances, the implementation details are up to the
17 responsible implementing organs to decide.

18 Q.Okay, so you are explaining to me now that these
19 organizational units such as the military committee implemented
20 the general policy that was adopted by the Party. We agree on
21 that, don't we, that in their activities they were implementing
22 that policy?

23 A.I apologize, Counsel. I seem to have given you the wrong
24 impression.

25 I would, on the contrary, say that the Central military committee

1 created policy and defined policy. Other organs were responsible
2 for implementation.

3 Q.Thank you. It is very clear indeed.

4 I would like to continue to proceed with this extremely
5 centralized organization that you were speaking about even just
6 now. I would like to draw - and you focus on one of the
7 consequences of this absolute centralization we can say. In
8 fact, that is a term that you use often - the term "absolute"
9 when describing this regime.

10 [14.27.29]

11 And one of the consequences was as you state in paragraph 186,
12 the Office 870 was submerged by reports that were addressed to
13 Khieu Samphan, bringing up very diverse issues and, of course, I
14 won't read them out to you, but indeed you give us a whole list.
15 Please, please, please.

16 A.Excuse me, Counsel. What paragraph did you say?

17 Q.Oh, 146 -- 146 if I'm not mistaken. It seems however to me -
18 I thought it was earlier on in the report but no, maybe it's a
19 mistake here.

20 Probably indeed 146, but you also mention this in paragraph 19
21 when you speak about the weekly reporting to Office 870, but you
22 also mention this again -- it's not 146, no. I apologize. It's
23 not 146. I'm sorry about this. It's our mistake.

24 But I believe that the quote is exact -- is correct. It is in --
25 this is mentioned in footnote 340. So we should just go to

1 footnote 340. So indeed this -- oh, yes, indeed, 146,
2 absolutely. It is indeed 146, Mr. Etcheson, in the chapter
3 dealing with communication, you know, towards the end of the
4 paragraph. For example, the Office 870 was flooded with reports
5 addressed to Khieu Samphan -- paragraph 146.

6 In reality, my question or in any case my request for
7 clarification focused on this. We can very well imagine, based
8 on everything that you are describing, the amount of reports that
9 indeed arrived every day at Office 870. Or am I mistaken, Mr.
10 Etcheson?

11 [14.30.25]

12 A.No, I do not believe -- I believe you are correct, Counsel.
13 There was a great deal of reporting on a daily basis that came
14 into the Centre Office.

15 Q.An incidental question: The archives of 870 -- of Office 870,
16 have these archives been found? Have you been able to set eyes
17 on archives of 870?

18 A.Presuming that 870 maintained an archive, Counsel, which one
19 would imagine that it would, this archive seems to have been
20 destroyed in its entirety at some point, presumably just prior to
21 the evacuation of Phnom Penh. Some small number of examples of
22 communications to Office 870 have been discovered in other
23 locations.

24 Q.Would you concur with me, regarding ones misgivings possibly,
25 referring to the words by yourself or some other expert in this

1 very room that up to the very last minute Pol Pot did not believe
2 in defeat; proof of this being that he left at the very last
3 minute. I'm not sure -- I for one, am not sure there really was
4 time to destroy the archive of Office 870. However, that is the
5 end of my incidental remark on the question.

6 [14.33.00]

7 I would like us now to continue on the issue of organizational
8 and policy line issues. You, yourself, quoted the decision of 30
9 March 1976, and my colleague Mr. Kar Savuth this morning recalled
10 what you said in paragraph 24. It is that decision of 30 March
11 1976 that lays down the order, so to speak, the order to execute
12 both in the ranks and outside the ranks, and thereafter to --
13 this is the order that entrusts to a number of bodies or gives a
14 number of bodies the power to take decisions to carry out
15 executions.

16 So we do agree, don't we, that it is on the 30th of March '76
17 that the Standing Committee adopts a decision on these matters
18 and thus decides an overall overarching policy of executions
19 within and without the ranks; is this correct?

20 A. Counsel, I might characterize the 30 March 1976 decision in a
21 slightly different way. It seems to me that extrajudicial
22 executions inside and outside the ranks had been going on for
23 quite some time across all of the territories controlled by the
24 Communist Party of Kampuchea.

25 So although this 30 March decision formally authorized such

1 behaviour and defined it in specific terms, one might also
2 interpret this order as simply a ratification of existing
3 practice.

4 [14.35.50]

5 Q. When you refer to "a practice" could I also say a policy and a
6 practice, an established policy and an established practice?

7 Could we phrase it in this way?

8 A. Yes, Counsel. I think that would be a reasonable way to
9 describe it.

10 Q. You have not just said very much about the decision in October
11 '75. Do you have any comments regarding the decision on 9th
12 October '75 stemming from the meeting of the Standing Committee?
13 Reference has not often been made to this decision so I should
14 possibly clarify the ERN number. In French it is 00292868 to
15 00292886. The Khmer original has the number 000019108 through
16 000019126.

17 So, first of all, could you confirm, for the benefit of the
18 Chambers, who in that meeting of the Standing Committee on 9th
19 October '75 was nominated to be in charge of General Staff on
20 security or who was appointed?

21 A. Yes, Counsel. I believe it is at the bottom of page 6 of the
22 Khmer original and the top of page 7 of the Khmer original, pages
23 4 and 5 of the English version that this document turns to
24 military affairs and the topic of setting up the General Staff.
25 The first item is described as Assignment of Tasks and it says,

1 "Policy, Comrade Khieu" which is a nom de guerre for Son Sen.

2 [14.39.56]

3 Q. On the first page, at any rate in English and French, under

4 paragraph 6, reference

5 is also made to Comrade Khieu as being in charge of General Staff

6 and security.

7 Can you tell the Chamber how he was nominated or appointed?

8 A. Counsel, I don't believe that I can tell you that in any

9 detail other than the inference that this was a collective

10 decision of the Standing Committee and/or of the Centre military

11 committee and that the Centre military committee decision was

12 simply being reported to the Standing Committee. I think we have

13 no information at present on which to determine how that process

14 unfolded.

15 Q. Perhaps there was a problem in interpretation. I was simply

16 asking you to tell us whether in this bullet 6 -- does it say

17 that Comrade Khieu is in charge of General Staff and security?

18 Is this what you have on your screen and in your document? Do

19 you have the same thing?

20 A. Yes, Counsel, I do.

21 Q. So we do know that on 9th of October 1975 --

22 MR. PRESIDENT:

23 Could the expert say it again because the interpreters could not

24 hear your response. This is also for the record.

25 DR. ETCHESON:

1 Of course, Mr. President.

2 I was confirming to counsel for the defence that under item 1 of
3 the Agenda of the meeting of the Standing Committee minutes dated
4 9 October 1975, point 6 states that Comrade Khieu is responsible
5 for General Staff and security.

6 [14.43.35]

7 BY MR. ROUX:

8 Q. So at least with this document we do have proof of the fact
9 that in October '75, Son Sen was already in charge of General
10 Staff and security; correct?

11 A. Yes, counsel, correct.

12 Q. So let us continue exploring this regime which, as your report
13 also says, and as you have also stated at the hearing, this
14 regime that also relies indoctrination. Do we also agree on this
15 point; to say that this regime relied upon indoctrination as it
16 was said in the statutes, in particular, Article 23?

17 A. Yes, counsel, very much so.

18 Q. You have a number of times dwelt upon the training sessions
19 that were regularly held, be it within units or at the grassroots
20 or at the central level. You said that any person could be
21 informed of the Party line and, specifically, the Party line in
22 force at the time. So we are referring here to a systematic
23 indoctrination that broadcasts the Party line.

24 [14.45.41]

25 Are we in agreement on this?

1 A.No, counsel. You say "any person" could be informed of the
2 Party line. I would say any member of the Party.

3 Q.That is what I was referring to. Any member of the Party, any
4 structure of the Party - we do agree on that?

5 A.(microphone not activated)

6 MR ROUX:

7 There has been much conversation - can we continue?

8 MR. PRESIDENT:

9 The court officer, can you check the microphone of the expert
10 since the interpreters could not hear it? This is the second
11 time it happened this afternoon.

12 Mr. Etcheson, can you repeat your response because the
13 interpreters could not hear your response?

14 DR. ETCHESON:

15 Yes, Counsel. This was the question regarding the Party line
16 being disseminated to all members to the Party; I agree.

17 BY MR. ROUX:

18 Q.So you have referred to these many training sessions. In
19 particular you have said that the accused himself took part in
20 such sessions as given -- as organized in military units. You
21 also said that cadre of S-21 -- staff of S-21 cadre would take
22 part in training sessions held for them either by the accused or
23 even by Son Sen, as you said this morning? Son Sen came at least
24 once to S-21 in order to speak or to hold these training
25 sessions.

1 [14.48.17]

2 So this is - following is my question.

3 If you were a member of the Party, and when one was a cadre, in
4 particular, would one have any choice to take part or to not take
5 part in such training sessions?

6 A. Well, Counsel, one always has a choice but it might not be
7 wise.

8 Q. I can accept this kind of response. So let's push it a little
9 further. What would happen to a Party cadre who would choose not
10 to go to a training session, for instance?

11 A. I would expect that this would result in some kind of
12 disciplinary action. Exactly what would depend on the situation.

13 [14.49.48]

14 Q. Do you concur with me in saying that there have been persons
15 who have been smashed -- using this tragic and bad term. People
16 have been smashed for rather minor things, minor behaviour, and
17 some persons might well have ended up being smashed merely for
18 not having gone to a training session?

19 A. I know of no such specific occurrence, counsel, but it is not
20 at all difficult to imagine that it might well have happened.

21 Q. On this same subject, and we may wish to revisit this again
22 later on, I'm talking about choice and consequently the issue of
23 obeying. One chooses to obey or not to obey. Is it wrong if I
24 say that in Democratic Kampuchea if one were to choose not to
25 obey, one had problems and these problems could go as far as

1 death?

2 A. Unquestionably, counsel.

3 Q. On the issue of this organization, after the issue of
4 indoctrination or simultaneous concurrent with indoctrination,
5 you refer to one of the channels for propaganda broadcasting,
6 specifically the Revolutionary Flag, this medium or a vector for
7 propaganda, and you say that had to be read, it was compulsory.

8 If one were to not read it one would be liable to the accusation
9 of treason. Is this correct?

10 A. I have seen instances where failure to distribute
11 Revolutionary Flag to one's subordinates was characterized as a
12 treasonous activity, yes.

13 [14.52.48]

14 Q. In paragraph 63 you quote a most enlightening segment section
15 from the Revolutionary Flag and it's also referenced in your
16 footnote number 142:

17 "We must see as key the duties of attacking the domestic enemy,
18 and this is related to each and every one of our other duties.
19 Every Party level must therefore adopt the role of leading the
20 army and the people to attack all such enemies to sweep them
21 cleanly away, sweep and sweep and sweep again and again
22 ceaselessly so that our Party forces are pure, so that our
23 leading forces at every level and in every sphere are clean at
24 all times."

25 The accused has on occasion said that the editor of the

1 Revolutionary Flag was actually Pol Pot. Would you concur with
2 this assertion of his?

3 A. Counsel, other sources have also described Pol Pot as being
4 centrally involved with the production of Revolutionary Flag.

5 Some sources assert that he wrote every word. While I find that
6 a little bit difficult to credit it is not difficult to believe
7 that he would pay very close attention to this crucial tool for
8 indoctrinating a cadre.

9 MR. PRESIDENT:

10 The Chamber would like to take an adjournment for 15 minutes
11 before we can resume the questionings to the expert.

12 The Court officials you are now instructed to take the expert to
13 his waiting room.

14 (Judges exit courtroom)

15 (Court recesses from 1456H to 1517H)

16 (Judges enter courtroom)

17 MR. PRESIDENT:

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

19 Before I hand the floor to the counsel, François Roux, the
20 Chamber would like to make an announcement of our decision as the
21 following: "Decision to amend the deadline for comments on the
22 military file".

23 For a variety of reasons, the full military Court file has not
24 yet been translated. The Trial Chamber has, however, satisfied
25 itself that those parts not yet translated are not critical to

1 its determination of the request for the release of the accused.

2 The Trial Chamber is conscious that its decision on the request
3 for release should be delivered by the 15th of June 2009.

4 The Trial Chamber acknowledges that these difficulties over
5 translation have resulted in an abbreviated period for the
6 parties to comment on the military court file. However, in order
7 to allow the Trial Chamber to issue its decision by 15th of June
8 2009, we ask the parties to make any comment on the military
9 court file by 4.00 p.m. on Monday, the 1st of June 2009.

10 [15.20.21]

11 Now I would like to give the floor to counsel François Roux so
12 that he can continue his questioning to the expert, Dr. Craig
13 Etcheson.

14 The floor is yours.

15 MR. ROUX:

16 Thank you, Mr. President.

17 [15.20.57]

18 BY MR. ROUX:

19 Q. Mr. Etcheson, I wish to continue here with my theme per theme
20 questioning, based on the reading of your report and on your
21 comments to the Chamber.

22 I am now - let me please indicate to you, to be clear, that we
23 will speak about the purges afterwards, of course. But for the
24 moment, as you have understood, I am only focusing on the general
25 policy and on the implementation of the general policy of

1 Democratic Kampuchea.

2 I would like to speak now about vertical communication, and I
3 will not speak too long about this because we have spoken about
4 this at great length up until now. But I would like to remind
5 you that in paragraph 36 of your report you specified that the
6 Standing Committee controlled all communication networks within
7 the Democratic Kampuchea regime and all communications were
8 organized in a strictly vertical hierarchy. That's what you
9 wrote.

10 I imagine that you agree with me to say that this is what you
11 have been confirming during the proceedings up until now.

12 A. That is correct, counsel.

13 Q. And you also added this interesting clarification. The zone -
14 this is in paragraph 56; the zone communications were organized
15 vertically as the chain of command and when they were horizontal,
16 it was considered as evidence of treasonous intent. I don't want
17 to go into detail, but you are providing a certain number of
18 examples of zones that, in order to communicate between each
19 other, had to go through the Centre.

20 Could you - do you have any comments to provide us with here?

21 A. Yes, counsel. I believe that this pattern of strictly
22 enforced vertical communication was the general rule, except in
23 instances explicitly authorized by the upper echelons.

24 Q. So therefore you also specified during the May 21st hearing
25 concerning, in particular, Sou Met's letters - you said,

1 therefore, that the accused had to report to the top of the CPK
2 hierarchy and then via Son Sen, he had to cooperate with the
3 different divisions to aid and proceed with what was going to
4 become a large scale purge within the military apparatus.

5 [15.25.18]

6 Yesterday morning, when we came after the morning break while the
7 accused was being questioned concerning Sou Met's letters; Mr.
8 Alex Bates questioned you and you answered, according to my notes
9 - I'm not basing myself on the transcript, here but based on my
10 notes I can see you answered that the fact that communication
11 between division leaders and S-21 had to necessarily go through a
12 vertical structure such as the accused describes it -- well, you
13 said that this pattern agrees completely with the way that I
14 understood the strict monopoly of the CPK within the Party,
15 within the organization and within the military institution.

16 Therefore, this is the conclusion that you drew at the end of our
17 morning's session and at the end of the discussion that was based
18 - the discussion regarding Sou Met's letters to S-21 via Son Sen.

19 You said that the pattern described by the accused complies
20 completely with the way that I understood the strict monopoly of
21 the CPK; is that so?

22 A.Counsel, if I'm not mistaken, I did not have the opportunity
23 to say anything
24 yesterday morning.

25 [15.27.30]

1 Q.I apologize, if this was misinterpreted. I said after we met
2 - at the beginning of
3 the afternoon when Alex Bates questioned you; at the beginning of
4 the afternoon, after the lunch break.

5 A.Yes, then that would be correct.

6 Q.Another element that you describe in your report and that also
7 transpires from discussions that took place with you here, it is
8 the policy of espionage and the policy of denouncing - I would
9 like to draw your attention to paragraphs 105 and 107, 112, 114
10 of your report.

11 And I would like to focus here on paragraph 89 first -- 89 first,
12 yes. The last sentence, "the chlop" -- and you defined "chlop"
13 previously as being militia people:

14 "The chlop also spied on citizens in order to identify potential
15 dissidents. At dusk, soldiers on patrol and spies, chlop, from
16 Cheng Kai (phonetic) came into the village to hide under the
17 houses and listen to what members of the family say to each
18 other."

19 And you add in paragraph 45, "The permanent control of the
20 biographies," and you also say that the zone committees regularly
21 collected and examined personal biographies that each Party
22 member was required to prepare, periodically update, and submit
23 to the Party.

24 [15.30.24]

25 You say again in paragraph 83:

1 "The authorities of the commune were also in charge of compiling
2 the biographies of the inhabitants in their area and to provide
3 these biographies to the district level for examination in the
4 search for the enemies."

5 Would you agree with me to call this a "police state" in the
6 truest sense of the meaning?

7 A. Yes, counsel, I would.

8 Q. And in the most tragic sense of this term, too.

9 So having had this overview, my following question is as follows.
10 I presume you will concur with me to say that, overall, this
11 policy that we have been talking about for an hour, was
12 implemented by the leaders of CPK early on, very early on - you
13 said even prior to 30 March '76 - and Duch had no role whatsoever
14 in establishing or working out this policy.

15 A. I'm not certain, Counsel, that this can be said. There are
16 periods of time between
17 the beginning of the regime on 17 April 1975 and the order to
18 establish S-21 on 15 August 1975 when I can not clearly account
19 for the whereabouts and activities of the accused person. So I
20 do not know what functions he may have been performing during
21 that time.

22 [15.33.31]

23 Q. So then, Dr. Etcheson, has the accused ever been a member of
24 the Standing
25 Committee of CPK?

1 A. I do not believe so, Counsel.

2 Q. I thought, somewhere in your report, it was the Standing

3 Committee that decided on policies.

4 A. Indeed it is, Counsel

5 Q. I thank you.

6 [15.34.30]

7 Now, I would like to move on to the issue of purges.

8 I think I can confidently say, but under your authorization

9 possibly, that a distinction could be made for the sake of

10 thinking clearly - a clear reasoning - that the general purging

11 that would be beyond any kind of control by the accused, and the

12 purges that you talked about this morning and that we shall be

13 talking about some more now - that the methodology might have

14 contributed to making those purges possible.

15 It seems to me that here we are dealing with two categories. I'm

16 not going to make you answer quickly. I'm just wanting to show

17 you the overall pattern or plan of my reasoning.

18 Now, in your report I find a description of what I would call

19 overall or general purging, e.g., in para 80, I quote:

20 "While people accused of 'not respecting the plan' in communes

21 and mobile brigades, might be identified as suspects by commune

22 leadership, their executions were generally carried out at the

23 district level. On other occasions, district chairmen would

24 order the commune level security forces, i.e. the chlop to carry

25 out executions of suspected traitors. District officials would

1 also order the arrest of commune level and cooperative level
2 cadre upon accusations, for example, of 'being Vietnamese
3 links'."
4 [15.37.21]
5 Dr. Etcheson, in your opinion, in view of the position of Duch at
6 S-21, do you believe that he took any part in this kind of purge
7 as you describe in paragraph 80 of your report?
8 A. In terms of physical participation or in terms of directly
9 ordering, no, I do not, at least insofar as we're concerned with
10 our period of temporal jurisdiction.
11 Q. Thank you. I carry on now.
12 [15.38.29]
13 I would like to recall at this stage that your paragraph 63 that
14 we referred to earlier - that is to say, the rather horrifying
15 quote from Revolutionary Flag to:
16 "...sweep, sweep, and sweep again and again, ceaselessly, so that
17 our Party forces are pure, so that our leading forces at every
18 level and in every sphere are clean at all times."
19 You also said, in relation to enemies, in paragraph 25 of your
20 report that Party policy demanded that Central Committee members
21 acquaint themselves with the reality of the situation at district
22 level and to ensure, among other things, that local cadres were
23 thorough in their elimination of counter-revolutionaries. You
24 also said that in late 1977 the Party called for a review of the
25 performance of district secretaries and the purge of those who

1 were performing badly. Bad performance included failing to be
2 vigilant about bad elements and enemies hidden among the people.
3 [15.41.00]

4 If I remember correctly, this morning you gave explanations
5 according to which, on the basis of your research, Central
6 Committee members themselves went out into the districts to do
7 monitoring of the actual implementation of what you call Party
8 policy.

9 So, a similar question to the one I already asked; regarding this
10 whole policy as you describe it across the board, do you agree
11 with me to say that this was outside the jurisdiction of Duch, or
12 outside his competence?

13 A.I do not agree, counsel. You may recall -- some time ago now
14 I'm afraid, I don't remember which day precisely - when I was
15 being examined by Judge Cartwright, she asked me if there was
16 some particular period when there was a higher than usual number
17 of arrests of district level cadres. And in response to her
18 question, I discussed in particular the purges of the Northwest
19 Zone and the East Zone when a very large number of district level
20 cadres found themselves at S-21. I believe the process of those
21 purges is directly connected to what I am discussing in the
22 paragraph to which you refer.

23 Q.We shall touch upon that issue; fear not. However, I did feel
24 that in paragraph 25 when you refer to enemies hidden amongst the
25 people, I got the feeling that you were not talking about purges

1 conducted from the Centre. However, I do take note of your
2 response.

3 Likewise, in paragraph 79, you recall - and this is somewhere
4 around the middle of the paragraph - that the Party Centre
5 encouraged the process of a continuing search for and purge of
6 suspected enemies at all levels of the organization, and you
7 quote:

8 "Therefore, carry out examinations in the cooperatives and
9 districts. Attention must be paid to examining these two levels
10 because they are side by side with the people. Other levels must
11 also be examined. These are maggots in our flesh which must be
12 dug out."

13 [15.43.10]

14 It would appear to me that this is not within the realm of Duch.
15 However, if you feel differently, perhaps you could say so and
16 then we can move on to the other question, because we need to
17 tackle this issue in a frontal fashion.

18 A.Yes, indeed. I believe that the constant exhortations by the
19 Party Centre to purify the Party organization through the purge
20 of various forms of traitors, characterized in this quote as,
21 "maggots in our flesh" - I believe that S-21 was a central axis
22 of that effort to dig out the maggots.

23 Q.This brings us now to the question or the questions -- you
24 have discussed these very expertly yesterday and, as I said, we
25 shall tackle these in a frontal fashion because they do deserve a

1 measure of explanation But as a preliminary point, I do need to
2 ask a couple of more questions.

3 [15.46.49]

4 Earlier on, Mr. Kar Sarvuth sought clarification from you about
5 the number of security centres or the other security centres in
6 Democratic Kampuchea. Could you give the Chamber any kind of
7 idea of an order of magnitude or the number of such security
8 centres under the regime of Democratic Kampuchea?

9 A.Certainly, counsel, although, unless there was a difficulty
10 with the translation, I do not believe your Co-Counsel ever asked
11 me about the number of security offices.

12 On the case file -- at ERN 00194821 through 00194829 with the
13 case file document number D92/1, and this is the English version;
14 I'm sorry I don't have the ERNs for the French or Khmer versions
15 at the tip of my tongue -- is a document dated 23 August 2006
16 entitled, "DK Prisons." It's produced by the Documentation
17 Centre of Cambodia and it is a list of Democratic Kampuchea
18 security offices that they have identified in their research. It
19 shows 195 DK security offices in various places around the
20 country. I am aware that since then, the Documentation Centre
21 has identified some number of additional security offices that
22 are not included in this list.

23 [15.50.22]]

24 In addition to that document, also on the case file at ERN
25 00087303 through 00087332, is a larger English language report

1 which is excerpted on the case file, one case file, at -- in the
2 English language version - 00217576 through 00217578. In the
3 French version it is at 00292776 through 00292802. In the Khmer
4 version, ERN 00233382 through 00233428.

5 I'm sorry but I don't have a case file document number.

6 Nonetheless, this item is a report on security offices in
7 Sisophon and Battambang that was prepared by a French scholar
8 named Henri Locard at the request of the Office of the
9 Co-Prosecutors. This excerpt is part of a much larger report,
10 most of which is not on case file 1, and it describes a number of
11 security offices that are not included in the list published by
12 the Documentation Centre.

13 Finally, in the course of the preliminary investigations by the
14 Office of the Co-Prosecutors and the judicial investigations by
15 the Office of Co-Investigating Judges, I believe that we have
16 discovered a number of security offices that were not identified
17 either in the research by the Documentation Centre of Cambodia or
18 in the research by Henri Locard. I have not had time,
19 unfortunately, in the last couple of years, to take all of this
20 material and compile it together to make a new list in order to
21 identify exactly how many security offices we now know of, but it
22 is substantially more than the 200 or so identified by the
23 Documentation Centre of Cambodia.

24 [15.55.09]

25 Q. Since you are also referring to the DC-Cam report, I presume

1 you are also aware of the classification - it's an extremely
2 morbid classification - by DC-Cam, including numbers of victims.

3 A.I am aware of that work, counsel, yes.

4 Q.Could you tell the Chamber how many people DC-Cam tentatively
5 -- computed tentatively for the Centre that is at the top of the
6 list and in this extremely gruesome accounting, what is the
7 position attributed by DC-Cam to S-21?

8 A.Counsel, I would have to preface any such discussion by noting
9 that, when the Documentation Centre of Cambodia began this work
10 it had no experience and was unable to find a precedent from
11 other countries for such a task as attempting to survey what
12 turned out to be tens of thousands of mass graves.

13 [15.57.27]

14 So there was a steep learning curve in the early years of what
15 turned out to be a more than decade-long project. As a result, I
16 consider that some of the data regarding numbers of victims in
17 the first years of this research project has to be considered
18 unreliable and indeed, to answer your question, if I can find the
19 specific instance - yes, it's a site in Kampong Cham province in
20 Krouch Chhmar district, a place called Kaoh Pir where it is
21 suggested in the Documentation Centre data that there were
22 510,000 victims. Frankly, I do not consider this data reliable
23 and if I was reworking the data, I would change that to
24 "unknown."

25 The second part of your question concerns Phnom Penh. The

1 Documentation Centre of Cambodia data for Tuol Sleng suggests
2 15,000 victims.

3 [16.00.06]

4 MR. BATES:

5 Could we have the ERN number and case file number of the document
6 to which the witness has referred?

7 Thank you.

8 DR. ETCHESON:

9 I regret to inform the Co-Prosecutor that I neglected to obtain
10 the ERN number for this document but I can provide that to the
11 Chamber at the earliest opportunity. The document in question is
12 called "Documentation Centre of Cambodia Burial" and it appears
13 to be undated.

14 BY MR. ROUX:

15 Q. Dr. Etcheson, thank you very much for your reservations
16 concerning DC-Cam's work, and I'm sure that they will go straight
17 to Mr. Youk Chhang's heart, but you did not answer my question,
18 however. My question was precise.

19 Do you know, are you aware of the table that was established by
20 DC-Cam and if so, can you tell us what is the prison that is
21 ranked number one and the number of victims in that prison, and
22 to which number in this morbid accounting DC-Cam placed S-21?
23 Where was S-21 placed in this morbid ranking? That was my
24 question.

25 A. Counsel, --

1 JUDGE LAVERGNE:

2 Since you are referring to a document, could you please give us
3 the reference number?

4 MR. ROUX:

5 No; it's just a piece of information that circulated, like many
6 others. If the expert knows of it, he says so. Otherwise, he
7 can just say that he doesn't. But I believe that there are
8 certain elements ---

9 MR. BATES:

10 Mr. President, I don't know whether the defence are attempting to
11 introduce new evidence on the case file by the back door. If
12 they are seeking to do so, there must be a proper application.
13 If this document is to be considered and put before the Chamber,
14 then let an application be made. But this appears, to the
15 Co-Prosecutors, to be an attempt to put evidence on the case file
16 that has not previously been referred to.

17 [16.03.02]

18 MR. ROUX:

19 Absolutely not. I am just questioning the expert on his
20 knowledge. Does he know of it or not? That's all. If he
21 doesn't know, he says so. If he knows, he says so. It's not
22 that difficult.

23 I'm not trying to introduce a document. I'm just questioning an
24 expert who has taken an oath. Is he aware or does he know this
25 ranking that DC-Cam has established? Yes or no?

1 A. Counsel, that would be no.

2 Q. It's very simple, then. Then in order to get to this
3 substantial question that we are dealing with here, I still would
4 like to remind what you said to us during the proceedings
5 concerning what you call "obedience". You indicated that the CPK
6 established obedience, discipline such as defined by the Party
7 line, and the cadre did their best to implement the political
8 Party line.

9 [16.04.38]

10 Is this what you said, Dr. Etcheson?

11 A. I believe I did say something to that effect, yes.

12 Q. And according to you, do you believe that Duch was part of the
13 cadres who were doing their best to implement the political line
14 of the Party?

15 A. Yes.

16 Q. You said this morning that Duch had access to important senior
17 leaders in the CPK. Could you please be more specific about
18 this?

19 A. Yes, Counsel.

20 [16.05.40]

21 Duch had access at various times to Son Sen and Nuon Chea, both
22 members of the Standing Committee. Several other members of the
23 Standing Committee and an unknown number of members of the
24 Central Committee and a wide variety of zone and sector leaders
25 were all interrogated under the supervision of the accused

1 person.

2 In the process of those interrogations, I believe that the
3 accused person would have learned a very great deal about the
4 structure, operations, and policies of the CPK on a nationwide
5 basis.

6 Q. Okay, so when you say that he had access to senior leaders,
7 you're speaking about the two people who were his superiors;
8 first of all, Son Sen and then Nuon Chea. Is that so?

9 A. Yes, and I was also referring to other senior leaders that he
10 interrogated in great detail.

11 Q. Okay, but the high level leaders that he questioned - and you
12 will agree with me that at the moment when he questioned them,
13 they no longer had much political power, no longer much political
14 influence on the political line of the CPK while he was
15 questioning them.

16 A. Oh yes. There's no question; they were nearing the end of
17 their careers.

18 Q. Another clarification. You said this morning while you were
19 answering questions from my esteemed colleague, Alain Werner,
20 that Duch had participated in the elaboration of lists, lists of
21 traitors and when he asked you for a figure, I believe that you
22 answered more than 1,000 - more than 1,000 traitors. So I
23 believe that it would be necessary to be more specific. What are
24 we speaking about here exactly?

25 Is it more than 1,000 confessions that contained lists of

1 traitors, or do you want to say that Duch himself would have
2 established 1,000 lists of traitors?
3 A.If I recall correctly, Counsel, my conversation with counsel
4 for the civil parties this morning on that subject, I described
5 two different kinds of lists of traitors. One type of list was
6 that which was written down by victims in the process of
7 preparing their confessions. Another type of list was more of an
8 analytical product created by the accused person for his
9 interrogators or other staffers under the control of the accused
10 person.

11 [16.09.58]

12 What I meant to convey is that, in total, there were a very large
13 number of such lists, perhaps numbering 1,000 or more.

14 Q.Do you remember how many lists that the accused had
15 established himself? How many lists have you seen that have been
16 established by the accused himself?

17 A.No, counsel; I have never attempted to tally up a specific
18 number.

19 Q.So, Dr. Etcheson, you indeed said yesterday at the end of your
20 interview as you were answering the question from one of the
21 civil party lawyers concerning the decision-making power of the
22 accused -- you went, in fact, even further than what you wrote in
23 your report and it was, we all understood, the object of the
24 questions that my colleague, Mr. Werner put to you this morning.
25 You said the following: "This is the core of the question that

90

1 this Chamber will have to settle on."

2 On the one hand the purges were the result of the CPK's paranoia,
3 and on the other hand, we could say that they were the result of
4 the methodology used by the accused in order to chase, we could
5 say, the enemies. I don't know if that's the proper term, but
6 that was the idea in any case.

7 And this morning, while you were answering a question from Mr.
8 Werner, you again added this clarification stating that it was --
9 concerning paranoia, that it was a phenomenon that was well known
10 from analysts of loop systems; the system feeds itself. That's
11 what you said or it self-feeds, we can say.

12 [16.12.55]

13 Dr. Etcheson, of course you are aware, I believe that you have
14 here - you are providing here a judgment, a very important
15 judgment, and that it is completely new in relation to what you
16 wrote in your report. I have two questions, therefore.

17 According to - on the basis of your research, what are the
18 elements that can support this second statement that you put in a
19 conditional form, we could say? That you were -- so we could say
20 that the purges were the result of the methodology used by the
21 accused. So what are the specific elements that could support
22 this statement?

23 In order to maybe be a bit clearer about this, we spoke about the
24 Party's policy which was, I believe, completely independent of
25 what Duch might have been doing. We also spoke about terror. We

1 also spoke about absolute obedience. And in order to illustrate
2 my question here in how the method or the methodology that was
3 used by Duch - how was this different from the line that was
4 imposed by the CPK? How was this methodology - how did this
5 methodology result from personal initiatives?

6 A. Thank you, Counsel, a very interesting question indeed.

7 [16.15.16]

8 First of all, I think I would offer one brief amendment, perhaps
9 a translation issue. What I just heard from the translation of
10 what you said was that you asserted when I was discussing this
11 issue I had referred to methods that the accused person used.
12 I believe, if I recall correctly, what I actually said was,
13 "methods that were devised and enforced by the accused person,"
14 and this begins to get at your question, I think.

15 My understanding, based on long study of Democratic Kampuchea in
16 general and the operations of S-21 in particular, as well as what
17 came before S-21 in the evolution of the organization's methods
18 of identifying and searching for enemies, my understanding is
19 that the accused person was very much an innovator, a creator, a
20 developer, and an institutionalizer of the method of making very
21 detailed confessions that are extracted over long periods of time
22 so that in some cases, it seems as if the victim is forced to
23 name every person he or she has ever met and can remember that
24 name.

25 Then those lists are used to go out and round up new batches of

1 traitors to whom this same process is applied and you see a very
2 nearly exponential growth in the number of accused traitors and
3 in the number of victims of purges. In part, it is the zeal with
4 which the accused person pursued this project that caused this
5 methodology to result in such a large number of victims. This is
6 why I proposed, in answer to that question, that on the one hand
7 the policies of the Standing Committee certainly played a role in
8 the unfolding of this tragedy while at the same time, the
9 creativity, inventiveness, and zeal of the cadre who were tasked
10 with implementing those policies also contributed substantially
11 to the magnitude of the disaster.

12 Q.Did they have the choice?

13 A.As I suggested before, counsel, one always has choices in
14 life.

15 [16.19.00]

16 Q.And you agree with me that today he is still alive?

17 A.Yes, he is.

18 MR. BATES:

19 I apologize for interrupting, Mr. Roux, but I would not wish a
20 mistaken impression to be left of the expert's testimony. It
21 appears that a number of questions from the defence have implied
22 that there are only two choices for a CPK cadre: death or duty.

23 [16.20.54]

24 Perhaps to complete the picture, the expert should be asked
25 whether he knows of a third way, namely escape.

1 MR. ROUX:

2 Mr. President, it is not time now to make these kinds of
3 submissions. Mr. Co-Prosecutor will present his submissions
4 later. Let me please continue putting my questions to the
5 expert. I do not know what allows the prosecutor to share his
6 opinion in the middle of the defence's examination of the expert.

7 I would like to proceed, please.

8 (Deliberations between Judges)

9 MR. PRESIDENT:

10 Defence counsel, you may continue with your questions.

11 [16.22.20]

12 BY MR. ROUX:

13 Q.Dr. Etcheson, you spoke to us about innovation power on the
14 part of the accused. That sounds strange to me and especially
15 within the organization that you described in such detail, the
16 organization of Democratic Kampuchea. I do not have the
17 impression that from the top to the bottom of the hierarchy that
18 a cadre could take the liberty of making such innovations without
19 this being very much strongly requested by his hierarchy.

20 So, Dr. Etcheson -- this will be my last question. Dr Etcheson,
21 I consider that the best word that we could qualify S-21 with is
22 to say that S-21 was under the absolute tutorship in order -
23 absolute, in order to restate - under the absolute control of the
24 hierarchical superiors and I'm going to ask you, please, as an
25 independent researcher to proceed with a little intellectual

1 exercise.

2 You spoke in the conditional tense. We could say that the purges

3 were the result of the methodology that was designed and

4 implemented by the accused in order to chase the enemies. And

5 now I would like to address myself to you as the researcher.

6 Well then, what would be the elements to contradict this? On the

7 basis of what you know from the internal operational mode of

8 Democratic Kampuchea, what are the elements that an independent

9 researcher would put forth - and you are an independent

10 researcher - to say that on the contrary, Duch only scrupulously

11 and with zeal, as you say, the policy that was asked of him by

12 his superiors.

13 Dr. Etcheson, please, I'm all ears.

14 A.I would refer back, Counsel, to my earlier discussion of the

15 Khmer Rouge term of art known as independence mastery. This

16 concept included the idea that cadres were supposed to be able to

17 master whatever challenge they are given using creative and

18 innovative means which are consistent with existing Party lines

19 to attain the desired policy ends.

20 [16.26.02]

21 Perhaps I would also amend the verbal construction of my earlier

22 statement from, "We could say" to, "I would say".

23 Q.You would tell me that a researcher such as you does not have

24 any doubts? I thought that researchers had doubts normally,

25 questioned things.

1 A.Oh, indeed; I always have doubts - doubts about many things
2 and probing those doubts is how we learn. And by probing such
3 doubts, that's how I came to the conclusion I am offering to you
4 today.

5 Q.This is a conclusion that was not part of your report. We do
6 agree on that, don't we?

7 A.Yes. Anyone who has examined this report will quickly see
8 that the overview of the hierarchy of Democratic Kampuchea paper
9 does not focus centrally on the issue of S-21.

10 Q.And therefore, the elements that grounded your conclusion of
11 today stem from what you learned since the establishment of your
12 report, that is to say, during the investigation phase?

13 A.Oh, no, counsel. That's an invalid logical conclusion. It's
14 simply that S-21 was not the topic of that report.

15 Q.I am happy to hear this. So before we finish, Dr. Etcheson, I
16 believe that you drew up the little diagram that I asked you to
17 do. Can you please present this to us if you have it here? Can
18 you please post this on the screen, this little diagram we asked
19 you to complete this afternoon?

20 A.Your Honours, the Court Officer has made copies of this
21 diagram, I believe. However, I would like to inform the Court
22 that I am not an artist nor am I a trained draftsperson.
23 Further, the time available for this task was short. So I
24 apologize in advance if my drawing a bit ugly.

25 [16.30.25]

1 Q. Thank you for doing this for us, Craig Etcheson.

2 I have a preliminary remark first. I find it a bit difficult to
3 understand, considering that yesterday you were very clear in
4 answering two questions that hierarchically Duch was below the
5 various divisions. Here, in this diagram, you are still keeping
6 him above these divisions. However, this is congruent with the
7 conclusions that you have just offered us, and you will allow me
8 to have my own reservations when I see this diagram of yours.

9 [16.31.12]

10 Thank you.

11 MR. PRESIDENT:

12 Court official, can you project the chart on the screen in the
13 English language?

14 Dr. Craig Etcheson, in order to respond to the question of the
15 counsel for the defence -- it can not be seen on the screen?

16 Yes, now it can be seen on the screen.

17 Dr. Craig Etcheson, the floor is yours.

18 DR. ETCHESON:

19 Thank you, Mr. President.

20 [16.33.04]

21 Before we broke for lunch, counsel for the defence asked me to
22 combine two charts that in my view do not combine very elegantly
23 or provide a particularly informative result and what you are
24 viewing on the screen is the result of that request from counsel
25 for the Defence.

1 This diagram consists of the chart of the government which we
2 have previously discussed in these hearings, with added
3 information on organizations that were subordinate to the General
4 Staff including nine military divisions, three independent
5 regiments, and two offices of the General Staff. This was what I
6 understood to be the request of counsel for the defence.

7 [16.35.01]

8 MR. ROUX:

9 Your Honour, the defence had indeed requested for this diagram to
10 be supplemented, and thank you to the expert for having done the
11 job.

12 BY MR. ROUX:

13 Q. However, what we had in mind was precisely the statements that
14 you made, Dr. Etcheson, I believe, yesterday. Somebody asked a
15 question and you said, yes all these people whom we see in this
16 frame, in this box down at the bottom - all these division
17 secretaries, including Mr. Sou Met - were hierarchically above
18 Duch.

19 I have a problem because visually I am seeing them below the box
20 of Duch here. In the same way, I would have rather liked to see
21 what is in paragraph 109 of your report, that is to say, the
22 General Staff of the Revolutionary Army of Kampuchea. We are
23 learning lots of things here.

24 [16.36.00]

25 In your graphic representation of the army, you see that Son Sen

1 is up at the top as Chairman. Siet Chhe is Vice-Chairman. He
2 was executed in '77. Ta Mok as Chief; Chan Chakkrei,
3 Vice-Chairman ,and you have a few members of the General Staff of
4 RAK. These are the people I would possibly have wanted to see on
5 your diagram.

6 There is Chhay Kim Huor, executed in '78; Sou Met, still alive;
7 So Saroeun, executed in '98; Meas Mut, still alive; Khatt Roeun,
8 still alive; Sun Ty, still alive. This is in keeping with the
9 text of your text in para 109.

10 I'm not sure I understand. You have now answered my question by
11 saying that your report, when you drafted it, was an overall
12 report that was not specifically on S-21 yet in one of the tables
13 or diagrams, you have S-21 positioned in a place that is not the
14 place of S-21 and in that same diagram you do not include a
15 certain number of persons whom we believe it would have been
16 appropriate to see precisely in such a diagram and to see them in
17 the right position, in the position that was theirs in the
18 overall chart.

19 [16.37.48]

20 I forgot to say one thing. I don't like and I never have liked
21 scapegoats.

22 MR. BATES:

23 Mr. President. That last remark -- not the last one, the
24 penultimate one by Mr. Roux; was that a question to the expert?
25 Because if it was, it should be allowed -- a response should be

1 permitted. If it wasn't, it was a comment; I would invite the
2 President to allow the expert to reply to that.

3 [16.38.24]

4 MR. ROUX:

5 And you put - did you put a question to the expert earlier? You
6 made an assertion. This was not a question to him; you made an
7 assertion to the effect that there might be a third choice.

8 Likewise, I am also making my point, by saying that I don't like
9 scape-goating.

10 [16.38.46]

11 MR. BATES:

12 I don't wish this to turn into a game of ping pong, but I was
13 inviting the President to ask a question of the expert witness
14 for his expert opinion on the methods that were available to CPK
15 cadres, and I invite the witness to be asked. If it is troubling
16 to the defence, that question; if not, I invite the President to
17 allow the witness to respond to what appeared to the
18 Co-Prosecutors to be a lengthy observation in the form of an
19 implied question.

20 MR. PRESIDENT:

21 Now the question is, in order to grant the request by the defence
22 counsel regarding the drawing of this chart, and also in relation
23 to this chart, can you confirm to your question relating to this
24 chart which was drawn by the expert. You made your question
25 clearly and precisely and if you do not have a question, or if

100

1 you have a question, you have to make it clear so that the
2 Chamber can understand and in order for us to manage the
3 proceedings in the later stage.

4 Counsel François Roux, do you have any further questions to be
5 put to the expert in relation to the chart that you earlier
6 requested this expert to make? If you have, you now put the
7 question. If you don't can you please say so, so that the
8 Chamber can manage this proceeding?

9 MR. ROUX:

10 No, thank you, Your Honour. I have no further questions.

11 Thank you.

12 [16.41.27]

13 MR. PRESIDENT:

14 Judges of the Bench, do you have any further questions for this
15 expert?

16 Now, if there is no further question, the trial for this
17 afternoon is adjourned.

18 The Chamber would like to thank you, Dr. Craig Etcheson greatly
19 for spending your valuable time in providing your testimony for
20 this number of days with patience and appreciation.

21 The Chamber declares the adjournment of the proceedings.

22 The Chamber will resume on the 8th of June, which is Monday, of
23 2009. We also would like to remind the Parties that we will
24 question the accused on both facts; that is, the implementation
25 of the CPK policy which were requested by the parties, but due to

101

1 the fact that we have to listen to the testimony of the true
2 experts and another facts, that is the armed conflict. We
3 haven't yet asked the accused on that fact.

4 Security officials, take the accused back to the detention
5 facility and bring him back on the said date.

6 (Judges exit courtroom)

7 (Court adjourns at 1643H)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25