



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
 Extraordinary Chambers in the Courts of Cambodia
 Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber
 Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

20 March 2012

Trial Day 39

Before the Judges: NIL Nonn, Presiding
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MR. ANG UDOM	Khmer
JUDGE CARTWRIGHT	English
MS. GUISSÉ	French
MR. KAING GUEK EAV, alias DUCH	Khmer
MR. KARNAVAS	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. NUON CHEA	Khmer
MR. PESTMAN	English
MR. PICH ANG	Khmer
MR. SENG BUNKHEANG	Khmer
MR. SMITH	English

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

2 (Court opens at 0906H)

3 MR. PRESIDENT:

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

5 During today's session, we're going to hear testimonies from Mr.

6 Kaing Guek Eav, alias Duch.

7 Before handing over to the Co-Prosecutors, court officer is now

8 instructed to call witness Kaing Guek Eav alias Duch into the

9 courtroom.

10 (Witness Kaing Guek Eav is taken to the dock)

11 [09.08.06]

12 Good morning, Mr. Kaing Guek Eav.

13 This morning, we will proceed with the questioning by the

14 Co-Prosecutors. Questions will be put to you concerning the facts

15 relevant in Case File 001 -- rather, 002/1, concerning the

16 relevant paragraphs. Some questions have already been posed to

17 you.

18 We will now hand over to the Prosecution.

19 Mr. Kaing Guek Eav, you may now proceed.

20 MR. KAING GUEK EAV:

21 Mr. President, with your permission, I would like to report on

22 one thing to the Chamber.

23 Yesterday, I personally had an observation that if I remain

24 sitting like the posture I had yesterday, I had problem breathing

25 and that I could not fully respond to all questions in full

1 capacity, but if I am allowed to sit back a little bit, then it
2 would help me to be able to -- be able to respond to questions. I
3 know it is not appropriate to sit back against the back of the
4 seat like that in this court.

5 [09.09.51]

6 However, with your indulgence, may I request that I be allowed to
7 sit as requested?

8 MR. PRESIDENT:

9 Indeed, your request is granted. As long as you feel comfortable
10 enough to respond to questions, you may sit in the way you
11 prefer, because we would like you to be able to be articulate and
12 -- enough in your way of addressing questions. And we want you to
13 feel comfortable. And it will take a long time to respond to
14 those questions, and we understand the seating attitude. And we
15 allow you to make sure that you feel comfortable enough sitting
16 in the chair in the manner you proposed so that you can respond
17 to the questions effectively.

18 I would like to now hand over to the Prosecution.

19 QUESTIONING BY MR. SENG BUNKHEANG RESUMES:

20 Thank you, Mr. President. Good morning, Mr. Kaing Eav. Today, I
21 would like to proceed from what we left off yesterday.

22 Q. You stated information concerning prisoners at S-21 and you
23 said that soldiers were also sent in. So who were those soldiers?

24 MR. KAING GUEK EAV:

25 A. Those soldiers were Lon Nol's soldiers. They were arrested

1 from Ang Proleung Pagoda<V> because Lon Nol used that pagoda as a
2 retreat base.

3 [09.11.51]

4 Q. What order was -- or who made the order concerning the arrests
5 of those people?

6 A. Vorn Vet ordered that those people was massed.

7 Q. Could you please elaborate further on who else were regarded
8 as enemies by the CPK and sent to M-13?

9 A. I would like to talk about, first, Mr. Bizot, François Bizot,
10 and other Cambodian. He was the conservatist, the person who was
11 in charge of conducting research on the Angkor<V> related matter,
12 and he was arrested and sent. Vorn Vet asked me to interrogate
13 him without any torture being inflicted.

14 Later on, Pol Pot ordered that Mr. Bizot released and the two
15 Cambodian people remained under captivity.

16 A month later, Vorn Vet ordered me to smash Lay<V> and Son<V>,
17 the two Cambodian guys I mentioned.

18 Yesterday, I told the Co-Prosecutor that there were people who
19 entered the liberated zone who perceived as spies.

20 And in another incident, when the aerial bombardments took place
21 in the Southwest, Ta Mok arrested people and have them sent for
22 interrogation.

23 [09.13.59]

24 And the third category of people were those soldiers arrested at
25 Ang Proleung Pagoda, and also another group of people were those

1 who were sent to study in Vietnam and later on arrested. Those
2 people were sent to study there in 1973.

3 Sorry; I think there's still one more kind of people that were
4 arrested, the people who were in the rank, those people in the
5 arts group from Sector 32. There were five people from the group:
6 two men, three women.

7 They incited people and telling them that they are trying to do
8 harm to religion--

9 Q. Sorry; my question would be, again, that the people who were
10 arrested and to 13 (sic) were classified into five groups; is
11 that correct?

12 A. Well, those people were people who arrested in the liberated
13 zone, those who arrested when aerial bombardments took place. And
14 I think, all together, there were six groups of people because
15 those groups have already been mentioned earlier.

16 [09.15.54]

17 Q. To be more precise on the location of M-13 that you already
18 stated to the Chamber yesterday, we would like to know in which
19 commune or district M-13 located.

20 A. At the outset, the location was in Thma Kob<V> village,
21 Amleang<V> commune, Thpong<V> district, Kampong Speu<V> province.
22 The second location was at -- indeed, when people who were not
23 spies made to do farming, was at a field in Tuol Svay Meas<V>
24 location next to Ta Leav<V> area, at the footstep -- the foothill
25 of Leav and in Amleang commune.

1 And after the jail break, we relocated to another location,
2 Trapeang Chrab<V>, in Yihaok (phonetic) village, the old village
3 in Amleang commune, next to the Trapeang Trab<V> village.

4 [09.17.39]

5 So we have moved three times to these three locations, but M-13B
6 was in Sdok Srat<V>, in Angk Snuol<V> district.

7 Q. Was M-13 ever located to an area called Amleang?

8 A. Indeed. The M-13 was always located to the same commune;
9 different location, but in the same commune - commune of Amleang.
10 It was not closer to the populated area; it was in a more remote
11 location.

12 Q. Have you ever known B-5?

13 A. No, I have never heard of it.

14 Q. Could you please tell the Court the individuals who were your
15 superiors, including Son Sen and Vorn Vet-- My question is about
16 their working places: Where did they work?

17 A. Vorn Vet was in charge of the special zone to the north of
18 National Road Number 4 and to the south. His first location was
19 in Krang Beng<V> village, Peam commune, the south Peam commune,
20 in Sameakki Mean Chey<V> district, Kampong Chhnang. Back then, it
21 was called Kampong Tralach Leu.

22 [09.20.02]

23 And in late 1993 or early 1974 - rather, 1973 or early 1974, they
24 moved to S'ang, Kaoh Thum<V>. And Son Sen also moved there in his
25 capacity as the under-secretary -- or, rather, deputy secretary

1 of the zone. He was located to the north. He -- Son Sen himself
2 did not stay put in one place for long like Vorn Vet. He had
3 built two huts, one for his messenger and one for himself. And
4 near the bushes near the railway station of Damnak Smach<V>
5 railway station, it was his location, and he would drive to work
6 there.

7 Q. You indicated that these locations were in Kampong Chhnang,
8 but in what commune was it -- were they, or how far was it from
9 M-13?

10 A. Well, Kampong Chhnang is a province, Peam is a commune, Krang
11 Beng is a village. From Trapeang Trab to Krang Beng, well, I'm
12 afraid I can't have the good calculation, but it is about 20
13 kilometres apart. And I had to cycle to work.

14 Q. You said that Son Sen was the deputy chief of staff and also
15 member of the Standing Committee.

16 What were the other roles of Son Sen was tasked with?

17 A. Son Sen was the member of the Central Committee as -- and so
18 was Vorn Vet. In 1973, Son Sen moved from the North to the South.
19 He was in charge as the deputy secretary of the zone. Indeed, he
20 was at the same time the chief of staff. But when he went to the
21 special zone, he was the deputy secretary of that zone as well.

22 [09.23.36]

23 Vorn Vet had another portfolio position. He was the
24 under-secretary of state of the security -- Ministry of Security.
25 After 1975, this changed. The roles of these people changed.

1 Q. Yesterday, you indicated in the courtroom that you went to the
2 offices where these two people worked in 1975.

3 How often did you go there?

4 A. I went there frequently. Once a month, I would go there to
5 attend life-view meeting for the Party, and it was a regular
6 meeting. And when need be to get the confession for the superior,
7 I had to cycle to the place. So, in general, I went there
8 regularly, at least once a month. But I only met my superior when
9 Santebal work required.

10 Q. Were there any other reasons other than these that you had to
11 go there?

12 A. There was another reason. When the jail was broken, I had to
13 approach Vorn Vet in the mid of the night.

14 Q. I would like now to pose some questions concerning your
15 relationship with Vorn Vet.

16 Do you recollect the first time you met him?

17 [09.26.17]

18 A. I met him first in Phnom Penh in 1967; it was in October. I
19 met at -- we met at his special -- rather, the secret office, at
20 Angk Snuol. It was him who assigned me -- or appointed me into
21 the Party and assigned me to work at the rural location. At that
22 time, he was the deputy governor of the city.

23 Q. You said you met Vorn Vet in a secret office.

24 What was it like? And who was in charge of the office?

25 A. When I met with Vorn Vet, Vorn Vet had already been there, and

1 there was a person who was on standby at the -- on duty at the
2 office. I don't recollect who he was because I spent overnight
3 there. And Nat<V> had not yet moved; he was there.

4 [09.27.50]

5 Q. My question is that you indicated the secret office, but what
6 was its role and what was its name?

7 A. I don't know the name of that office, but I remember there was
8 a guy who was the rickshaw rider, and he earns living by running
9 this rickshaw. The location was in the paddy field. And so far as
10 I remember, there were two guys; one was one duty at the office,
11 and the other was the guy who ran the rickshaw business to
12 disguise the activity. And the office was for Vorn Vet to work.

13 Q. What about Son Sen? Do you recollect the first time you met
14 him?

15 A. I met him when I was still studying at Sisowath High School. I
16 met him on the occasion of -- no, because my friend tricked me to
17 meet him so that I could work for him. I refused to meet because
18 I would like to finish my high school because -- before we could
19 build this contact. I was playing football with Chhay Kim Huor<V>
20 and the guy who tricked me was Ho Ngea<V> -- later on, he joined
21 the revolution. And this is how we met.

22 [09.30.12]

23 Q. Do you recall when Mr. Son Sen became your immediate
24 supervisor?

25 A. He became my superior in late 1973 or early 1974.

1 Q. What about Vorn Vet?

2 A. Vorn Vet moved from me to Leuk Daek<V> sector, another sector,
3 when Son Sen moved to another sector in Sector 15.

4 Q. Do you remember when Vorn Vet became your immediate
5 supervisor?

6 A. Vorn Vet became my immediate supervisor in Phnom Penh,
7 because-- During the time when I saw him in Phnom Penh, he had
8 already been my superior because on top of Chhay Kim Huor was
9 Vorn Vet. And from July -- rather, May, June, July, when I moved
10 to the Southwest Zone, I also met with Vorn Met. In May 1971,
11 Vorn Vet started his supervising duty on me, and only in late
12 1973, early '74, that he had no authority over me because Son Sen
13 took that place.

14 [09.32.04]

15 MR. SENG BUNKHEANG:

16 I would like now to proceed to the roles of the Democratic
17 Kampuchea in the liberated zone.

18 Before I proceed, I would like to ask the Chamber permission to
19 show some documents and to ask the witness to confirm.

20 MR. PRESIDENT:

21 You may proceed.

22 MR. SENG BUNKHEANG:

23 Thank you, Mr. President. The document I would like to show is
24 E3/147. Could it be please projected on the screen or shown to
25 the witness?

1 MR. PRESIDENT:

2 Court officer is instructed to hand over the document to the
3 witness.

4 You may proceed.

5 [09.33.20]

6 MS. GUISSÉ:

7 Thank you, Mr. President. Good morning. To facilitate the work of
8 the parties with regard to identification of documents, would it
9 be possible for counsel for the Prosecution to indicate both the
10 number as well as the reference? It would facilitate our work. I
11 thank you.

12 MR. PRESIDENT:

13 The Chamber wishes to remind the parties that, whenever a
14 document is presented to the witness, then the document identity
15 should be revealed to the parties, and the reference as well.

16 MR. SENG BUNKHEANG:

17 As I indicated earlier, E3/147, with Khmer ERN 00679782 to
18 00679802, English ERN 00168465 to 70 -- these are the relevant
19 pages we wish to ask the witness; French, 0069844 to 50.

20 [09.35.24]

21 BY MR. SENG BUNKHEANG:

22 Q. Mr. Kaing Guek Eav, can you read this document and can you
23 identify this document? Relevant ERN page in Khmer, 00679792,
24 which is on page 6 of this document.

25 (Short pause)

1 [09.37.06]

2 This document entitled "Nuon Chea Has Stated During the
3 Anniversary of the Revolutionary Army of Kampuchea"; do you
4 recollect this event?

5 MR. KAING GUEK EAV:

6 A. Your Honours, if this rally did take place, I was not present.
7 But as for the substance of this statement; whether or not it
8 existed, and I believe that it did exist at that time.

9 Q. Have you ever heard that any time back then Nuon Chea was
10 named prime minister during the period of the Democratic
11 Kampuchea?

12 A. When Pol Pot was on leave, then there was an announcement in
13 the radios that Nuon Chea was the acting prime minister; that's
14 what I heard at that time. And I receive an -- informal
15 information about the fact that Pol Pot -- Brother Pol was on
16 leave in order to prepare certain documents, and Nuon Chea was
17 then appointed the acting prime minister; that's what I learn at
18 that time.

19 BY MR. SENG BUNKHEANG:

20 We move to the next document, E3/25. And I would like to ask the
21 Chamber for permission to present this document to the witness.

22 (Short pause)

23 [09.40.02]

24 Q. Can you read this document? Do you know what this document is
25 about?

1 MR. KAING GUEK EAV:

2 A. This document is the internal document of the Communist Party
3 of Kampuchea known as the "Revolutionary Flag".

4 Q. Have you ever seen this document before?

5 A. Yes, I have. I have read it carefully and thoroughly; and it
6 is the requirement by the Party that Party members read this
7 "Revolutionary Flag", which is a monthly issue magazine.

8 Q. Thank you.

9 Can you look at page 69? In Khmer ERN 006 -- again, relevant page
10 in Khmer, 0063039 (sic); relevant page of English, 00491406.

11 When you read this page or the second line from the bottom, did
12 you notice the words in Khmer which means "seize the people"?

13 Page 69 in Khmer, with ERN 0063039.

14 (Short pause)

15 [09.43.07]

16 The second line from the bottom of the page; did you see the
17 words, "seize the people"?

18 A. Yes. Yes, I did.

19 Q. What does -- what does it really mean here? Can you elaborate?

20 A. "Seize the people from the enemy", in this context, means--

21 Well, actually, it was -- it was refined later on. They --
22 earlier on, they used the terms "evacuate the people" before we
23 fought against the enemy. For example, when we fought in Oudong
24 to seize Oudong, at that time we evacuated people to Pursat
25 province. So I think that -- that meant "seize the people from

1 the enemy".

2 Q. Thank you. Can you now look at page 70, just flip over to the
3 next page? You see, here we have an example in this document with
4 the word "Banam"<V>. I would like to read it out. For example:

5 "We fought Banam in 1973, and we conquered Banam, and we took the
6 Vietnamese ethnics -- the Vietnamese as well as the Cambodian
7 people from the enemy."

8 [09.45.21]

9 Can you explain this example in this document?

10 A. I do not know where Banam is, but once again, as I said,
11 whenever there were fightings, then we evacuated people; we
12 evacuated not only Cambodian people, but the Vietnamese ethnics
13 as well (unintelligible). So we took those people so that the
14 enemies did not have -- or we undermined the enemies' strengths
15 because, once they did not have those supporters, they would be
16 weaken.

17 Q. So, before April 1975 -- no, 1974, the Communist Party of
18 Kampuchea took over Oudong; did you learn that?

19 A. As I informed the Prosecution earlier on, when we took over
20 Oudong, then they evacuated people to Pursat province. We
21 actually -- they took, actually, one potential witness here,
22 KW-30, and they -- he was evacuated along with those people.

23 Q. Thank you.

24 [09.46.56]

25 I now move on to the next question: On the 17 of April 1975,

1 where did you reside at that time?

2 MR. PRESIDENT:

3 Please hold on, Mr. Witness.

4 The defence counsel is on his feet so you may proceed.

5 MR. PESTMAN:

6 I'm -- I'm sorry to interrupt. I heard a reference to a witness,
7 "KW-30". I would like to ask for a clarification. What -- what is
8 this particular witness -- or who is this particular witness
9 referring to?

10 I can ask the question directly to the witness, but maybe the
11 Prosecution can ask a follow-up question.

12 MR. SMITH:

13 Good morning, Your Honours. Good morning, Counsel.

14 [09.47.53]

15 KW-30 refers to a witness that was in the -- the first case, Case
16 File 1, and obviously we -- we can't state the name now.

17 MR. PRESIDENT:

18 Just now, the witness mentioned the pseudonym of this witness,
19 and the Prosecution has already clarified that as well, that this
20 witness was in Case 001. So, if the counsel wishes to know this
21 particular witness, then you may do a little research in Case
22 001; that should be enough, because here we use pseudonyms. And
23 the reason why we use pseudonyms, I think you are well aware,
24 because we have to use the protective measure before the Chamber.

25 MR. PESTMAN:

1 Thank you, Mr. President.

2 I'm not sure we have access to that kind of information, but I'll
3 try to find this information. Otherwise, I will come back to this
4 later.

5 MR. PRESIDENT:

6 The Prosecution may continue the questioning.

7 BY MR. SENG BUNKHEANG:

8 Thank you, Mr. President.

9 [09.49.46]

10 Q. I would like to now repeat my question: On the 17th of April,
11 where did you reside back then?

12 MR. KAING GUEK EAV:

13 A. At that time, I resided in Amleang, in Office M-13A.

14 Q. So when did you move to Phnom Penh? Do you recollect?

15 A. I was called upon by my boss, Son Sen, to attend a training. I
16 came on the 20th of June 1975.

17 Q. It means that you arrived in Phnom Penh on the 20th of June
18 1975.

19 So, when you first arrived in Phnom Penh, where did you live?

20 A. My superior designated me to stay with the office of
21 messengers attached to his office, and it is also a guest house
22 as well. It is in the compound of the railway station, in Phnom
23 Penh.

24 Q. So who else lived with you, at that time, in that place?

25 A. My superior called me to attend a training.

1 [09.51.46]

2 I do not recollect the people who stayed there, but I remember --
3 I still remember Ho Kim Heng<V>, my superior, and Comrade
4 Meas<V>, and a few other Party members who were supposed to
5 attend political training.

6 Q. You said your superior called you to attend the training.

7 So who was your superior?

8 A. That was Son Sen.

9 Q. And after you left the railway station, where did you go?

10 A. After attending the trainings, he -- my superior transfer me
11 to Nat's office. Nat was the former chief of staff of Lon Nol.

12 Q. When did you first start working at the Security Office of the
13 Communist Party of Kampuchea with the code name S-21?

14 A. It was on the 15 of August 1975. My superior ask me to meet
15 with Nat at the railway station, on the 1st floor of the
16 building, and he introduced me and he said that we were to
17 establish the Security Office, "Santebal". And Nat wanted to name
18 it "Teo Office". And then, later on, it was named S-21.

19 [09.54.03]

20 But back then my superior wanted me to bring all my colleagues
21 from M-13, and then he asked me to search for documents from the
22 houses of former officials of the Lon Nol's regime. Then, I
23 started working as the deputy chief of S-21.

24 Q. So, when you were-- Your position as the deputy chief of S-21
25 was -- were there any changes at that time?

1 A. Well, when Nat was dismissed, then I was appointed director --
2 or chief of S-21 from March.

3 [09.55.20]

4 Q. Can you tell us the roles and responsibilities of Office S-21?

5 A. S-21 has two main functions, and it was actually determined
6 from the beginning of its inception, when we first actually
7 started M-13.

8 There was one venue somewhere around Prey Sar, and there was
9 another venue belongs to Van Nat -- it was somewhere in
10 Takhmau<V>. Then, when -- when some important official was
11 arrested, they took Sisowath Monireth's<V> residence to detain
12 those people.

13 Q. I would like to know the functions of S-21?

14 A. The - actually, the location was changed, but in terms of
15 function, it was mandated to take confessions from prisoners or
16 those who were arrested. And under Van Nat's (sic) supervisions,
17 there were officials from the countryside as well as workers as
18 well who were arrested and detained.

19 Q. Thank you. When they were interrogated, did they torture those
20 who were detained?

21 [09.57.33]

22 A. Torture was the common practice from as far back as Issarak
23 times. They beat the prisoners; they torture them in order to get
24 a confession. So, at S-21, it follows the same procedures of
25 interrogation.

1 Q. Could you please tell the Court why interrogations, tortures
2 were inflicted and that prisoners had to be smashed?

3 A. I think it is difficult to respond to the question. Could you
4 simplify it?

5 Q. The question is: People who were arrested and sent to S-21,
6 why were they destined to be smashed?

7 A. It is the Party policy.

8 [09.59.00]

9 I would not elaborate on the experience I have had, but what I am
10 telling is that everyone who was arrested had to be smashed.

11 Q. Who ordered that tortures, interrogations be carried out?

12 A. I would like to divide the two terms, the terms "order" and
13 "duty", because "duty" could be a blanket obligation, but
14 "orders" would mean different thing because "order" had to be
15 made directly, where "duty" had to be applied on a regular basis.

16 Q. Was that part of the CPK policy?

17 A. It was indeed, yes.

18 Q. What were the common offences being brought against those
19 people who were arrested and sent to S-21?

20 A. During the time when Nat was in position, intellectuals were
21 arrested, including Dr. Rath Kut<V>, Tip Mam<V>, the professor,
22 who were innocent, were arrested and sent to S-21; Thach Chea's
23 wife was also innocent and was arrested. However, this group of
24 intellectuals were targeted during the early stage of S-21
25 operation when Nat was still the chairman.

1 [10.01.28]

2 Q. Apart from the group of people you mentioned to the Court,
3 were there any other people who also were arrested and sent to
4 S-21?

5 A. During Nat's time, there were other groups of people. Kong
6 Socheat alias Soeun<V>, son of Kong Sophal alias Keu<V>, was
7 arrested without any proper reason. He was arrested and sent to
8 Nat. Son Sen asked that he be not tortured until there was any
9 order from the upper echelon, but later on the decision was made
10 that the person be interrogated and smashed. This person was the
11 chief of the regiment.

12 And when I was the chairman, there were more people -- or more
13 variety of groups of people were arrested and sent to be tortured
14 and smashed.

15 Q. Can you give us information concerning the classification of
16 detainees or people arrested at S-21?

17 A. I have never tried to classify them, but I will try to do
18 that.

19 During Nat's time, intellectuals would be arrested.

20 The second category were workers, workers at the paper factory, a
21 factory producing paper at Chak Angrae<V>. It happened after the
22 factory was on fire and people were arrested. The workers were
23 arrested, indeed.

24 [10.03.42]

25 And another group of people were the Thai fishermen. I saw the

1 list of detainees -- of all the people arrested. There were about
2 300 Thai fishermen that were arrested.

3 And then there was another list of people detained, the Muslim
4 group from Arab Village<V>. These were cattle raiser. And they
5 were arrested and sent to S-21.

6 And we noted also that the people from within the front were also
7 arrested. Huot Sambath<V> and other people in the inside also
8 were arrested.

9 Q. Were there any senior cadre of the Khmer Rouge arrested and
10 sent to S-21?

11 A. It is difficult to elaborate on this. In 1975, perhaps in
12 October, Kong Socheat alias Soeun was arrested, and he was the
13 most senior cadre of the regime.

14 [10.05.18]

15 And then Sour Sophan<V> was also arrested -- he was a senior
16 officer -- then followed by Koy Thuon, who was yet another senior
17 person in the rank.

18 Internal purges started after Yim Sambath<V> attacked with hand
19 grenade behind the royal palace. And later on Koy Thuon confessed
20 in January or December 1976 or '67 -- rather, he confessed on the
21 29th of December 1976, and the north cadres were arrested on the
22 1st of January 1977, so that's when the internal purges took
23 place in a large scale. I can say that internal purges started
24 after the grenade-attack incidents.

25 Q. Do you remember that -- do you remember how many people were

1 arrested and smashed at S-21?

2 A. I don't remember in details, but I think the list has already
3 been prepared by the Office of Co-Prosecutor; there were more
4 than 12,000 people died, and the list has never been contested by
5 me, myself.

6 [10.07.46]

7 Q. I would like now to proceed to your roles at S-21.

8 As the Chairman of S-21, how was you appointed?

9 A. My superior, Son Sen, appointed me.

10 Q. Who was your immediate supervisor back then?

11 A. I think I would like to classify this into two categories.

12 S-21 is an independent regiment of the Centre. Education,
13 military affairs, all kind of these was under the supervision of
14 the general staff.

15 However, with regard to the case files concerning the confessions
16 and how reported were filed, it was I who was in charge to report
17 directly to Son Sen; I did that until the 15 of April 1978, when
18 he was relocated at Neak Loeang<V>.

19 Then, I met Second Brother, Nuon Chea -- or Brother Number Two. I
20 met him -- I reported to him on a regular basis.

21 Q. As the Chairman of S-21, what were your roles?

22 A. My common roles included reading and summarizing the
23 confessions, and briefed the superior on the confessions
24 annotated by me. So I had already been very busy with these
25 reading and summarizing the confessions and reporting to my

1 superior.

2 Lin<V> was the one who approached Comrade Hor<V> directly
3 concerning how many people should be sent and received.

4 [10.11.21]

5 And with regard to who was in charge of bringing the prisoners to
6 Choeung Ek<V>, it was Hor who was in charge. However, Hor made a
7 mistake by sending the wrong person to be smashed, then Son Sen
8 asked that these protocol be re-examined and that people
9 concerned had to be reported to before any decision was made; and
10 this includes regular monitoring of the prisoners, regular
11 monitoring of the list of peoples to be sent to Choeung Ek, and
12 monitoring on how people should be sent in and received, and that
13 I had to be copied or consulted with every time.

14 And to ensure that the work went well, I also provided training
15 to staff, and you can refer to the documents concerning these
16 training courses.

17 Q. Apart from the task you had or were assigned, did you have any
18 other duties?

19 [10.13.10]

20 A. Each and every year, I would be called by the general staff to
21 attend training session. Sometime I went there alone, sometime
22 there were other people who went with me, and I was becoming a
23 focal person to impart the knowledge I was trained from my
24 superior to my subordinates and combatants, to educate them on
25 the Party's policies, things like that.

1 Q. Who did you teach? Did you also teach prisoners?

2 A. Prisoners had no right to be trained or attend study sessions.

3 Q. Do you recall when you stopped working for S-21?

4 A. I stopped only when the Vietnamese troop came with the tank
5 and stopped right in front of my home, in Phnom Penh. It was on
6 the 6 of January 1979.

7 Q. I would like to go back a little bit to your trainings.

8 Apart from the Party policy, what else included in your training
9 materials to be handed over to students?

10 [10.15.07]

11 A. Apart from those documents, I also offered training on
12 interrogation technique, how to obtain confession. And this
13 document can be obtained because it was written by Brother Mam
14 Nai<V>. Please refer to document KNH166<V>.

15 Q. Could you please tell us, what was your training like?

16 A. I think I can't respond to this question; please be more
17 specific.

18 Q. My question is: When you provided trainings to your
19 subordinates and staff--

20 Or, rather, I would like to another question instead: When you
21 worked at S-21, were you already married or you were still
22 single?

23 A. I got married on the 20th of December in Longveaek<V>, 1970
24 (sic).

25 Q. Could you please tell the Court concerning the circumstances

1 surrounding your marriage? How could that lead to this marriage?

2 A. I was thinking of looking for a wife in 1973, if I'm not
3 mistaken, and I fell in love with my wife in 1974. I asked <a
4 friend of mine> who was the chief of the Southwest Office, or
5 Office 201, to talk to <her. After she was asked, she said it's
6 up to Angkar. So, my friend decided to resolve the matter by
7 reporting it to Ta Mok and Ta Mok agreed. Later on, I reported
8 the matter to my superior. Subsequently, after he had married,
9 Nat organized my wedding on 20 December 1975. Hence, I chose to
10 marry my wife and Angkar did not force me to do it. I chose her
11 because I loved her. I'd also like to say that on our wedding
12 day, my mother came to give us both a blessing.>

13 Q. Did you ask for permission to get married?

14 A. As I indicated, <on the bride side, Comrade Som whose birth
15 name is Mai Sakhân, chief of the Southwest zone office informed
16 Ta Mok who authorised the wedding. Later, I informed my superior
17 SON Sen who also gave his permission. Subsequently Nat organized
18 my wedding.>

19 Q. After marriage, how many children have you had?

20 [10.19.03]

21 A. I had -- I have two children before the Vietnamese attacked.
22 My second kid was born on the 14th of December 1978.

23 Q. After you left S-21 in 1979, had you remained as the member of
24 the CPK all along?

25 A. We have -- we had no more life view meetings later on. I had

1 to take refuge with other people so that I could have something
2 to eat, and I asked that I be allowed to live in the West Zone
3 with -- under the supervision of Comrade Phal (phonetic). Then I
4 moved to the Northwest, staying with Brother Sarun, the deputy
5 secretary of the Northwest. I went there to ask for some rice.

6 [10.20.54]

7 So, interrogations, torture, confession extraction, these things
8 already ground to a halt.

9 Q. Did you attend meetings, Party's life view meeting?

10 A. No, no more meetings. No life view meetings, no Party's role.
11 However, I still attached to the Party, and on the 25th of June
12 1986, I was called by Son Sen to resume my task.

13 Q. You said Son Sen asked you to take your office back. So what
14 kind of task was then?

15 A. He asked me to teach students in China, in Beijing. It was
16 Pol, who was the top leader, who rendered this order and asked
17 that I be sent to China to teach students in China, but teaching
18 in Khmer to students in China.

19 Q. When did you return to Cambodia?

20 A. I went there in 1986. In 1988, the 30th of June or something,
21 I returned; I was there for two years.

22 Q. When you returned, what kind of work did you do?

23 A. I went to K-18, which was under the supervision of Brother At,
24 Comrade Yun Yat, Son Sen's wife, and I was tasked with writing
25 textbooks for primary education.

1 Q. Were you still under the leadership of the CPK's leadership?

2 [10.23.18]

3 A. I was still under the immediate supervision of the key person
4 of the Party.

5 Q. Do you recollect who was your superior -- or were your
6 superiors?

7 A. The immediate supervisors for -- in the writing section was
8 first At, Yun Yat, as I indicated.

9 Q. Where else did you live after 1972, for example?

10 A. (No interpretation)

11 Q. Question again -- I think perhaps there is a translation
12 problem. Indeed, the question was about 1992.

13 [10.25.03]

14 A. Pol Pot assigned me to work in the economic section in the
15 rural area.

16 Later on, there was an incident where the Khmer Rouge boycott the
17 election and that the Khmer -- the Pol Pot's bases in Kdoeb
18 Thmor<V> was dissolved. In 1992, I went to Phkoam<V> village,
19 Phkoam commune, Svay Chek<V> district, Banteay Meanchey<V>
20 province.

21 Q. How long had you remained in Phkoam Village?

22 A. I was there until July 1997. It was when there was fighting
23 between Ranariddh -- Norodom Ranariddh and Hun Sen troops. I went
24 all the way to Samlaut<V>.

25 Q. At Samlaut, what did you do?

1 A. I continued my career as a teacher, school teacher. I was
2 tasked -- or assigned as the head of the education department of
3 the district. I was not assigned -- or appointed by the Royal
4 Decree -- or sub-decree, rather.

5 Q. How long had you been there in Samlaut?

6 A. I was taken from Samlaut on the 6 of May 1999.

7 Q. During the time when you stayed in Samlaut and before the 6 of
8 May 1999, what had you done?

9 A. Perhaps in 1997, Ta Mok had conducted a riot against the
10 government, and people were evacuated to the border, and I was
11 among the evacuees. And I returned in 1998, just a little early
12 before the election. I then continued working as a school teacher
13 and the head of the education department of that district.

14 [10.28.59]

15 MR. SENG BUNKHEANG:

16 Thank you, Mr. President.

17 And, Your Honours, I note that it is now 30 past 10. Should we
18 have adjournment?

19 MR. PRESIDENT:

20 Thank you.

21 Now it is an appropriate time for the adjournment, and we will
22 adjourn for 15 minutes.

23 Court officer is now instructed to take the witness to his room
24 and bring him back to the courtroom when we resume the next
25 session.

1 Counsel for Ieng Sary, you may proceed.

2 MR. ANG UDOM:

3 Thank you, Mr. President, Your Honours. Due to health reason of
4 my client -- Mr. Ieng Sary has experienced lumbago and has a pain
5 in his legs and cannot remain seated in this room -- he asks that
6 he be excused from this courtroom and be allowed to follow the
7 proceedings from his holding cell.

8 MR. PRESIDENT:

9 The Chamber has noted request by -- of Ieng Sary through his
10 counsel.

11 The Chamber, therefore, grants such request and asks that
12 counsels for Nuon Chea (sic) produce the waiver with signature
13 and - or, rather, thumbprint by Ieng Sary.

14 And AV officers are now instructed to ensure that the holding
15 cell of Ieng Sary is well linked to the courtroom through
16 video-link so that he can observe the proceeding remotely.

17 The Court is adjourned.

18 (Court recesses from 1031H to 1051H)

19 MR. PRESIDENT:

20 The Court is now back in session.

21 Before we resume, I would like to remind the Prosecution as well
22 as other parties that Mr. Kaing Guek Eav alias Duch now is the
23 witness before this Chamber. So parties are reminded to put
24 question concerning with the relevant paragraph of the Closing
25 Order, particularly with the paragraph concerning what the

1 Chamber has already heard concerning the historical background of
2 Case 002/1. So this is the examination of this witness. If he
3 knows any other facts within the parameter of Case 002/01, then
4 parties should put questions in order, according to the facts
5 alleged in the Closing Order.

6 [10.52.45]

7 So this is the approach we should take in order to avoid
8 repetitious questions, which may not be good in the conduct of
9 the trial.

10 So the Chamber hopes that parties understand this process.

11 And questions should be put which may be useful in ascertaining
12 the truth.

13 So, I note counsel for Nuon Chea is on his feet, so you proceed.

14 MR. PESTMAN:

15 Thank you, Mr. President. That was, indeed, one of the points I
16 wanted to make.

17 I noticed, with some concern, that the prosecutor has asked for
18 five days to interrogate this particular witness, and I would
19 like to join you and ask the prosecutor to focus their
20 examination as much as possible on the facts relevant for the
21 first -- I won't call it "mini-trial", but the first trial of
22 this particular trial. And I haven't heard much which is,
23 according to me, of any relevance for the first trial in this
24 bigger trial.

25 [10.54.07]

1 There's another point I wanted to make about the witness number,
2 which was numbered -- which was named by this particular witness.
3 The witness Mr. Duch was referring to was KW-30. That is witness
4 Uch Sorn<V>, if I pronounce it correctly. That's somebody-- Uch
5 Sorn, I'm told. That's somebody who testified in the Duch Trial
6 on the 9th of April 2009. There were no protective measures
7 ordered; there's no reason to refer to this particular person
8 under a pseudonym which was given in another case. This
9 particular witness is also not on our witness list -- the witness
10 list for this case.

11 So I would like to encourage this particular witness not to use
12 pseudonyms. It's very confusing, and it saves us time if we don't
13 have to look up corresponding names in his own case file.

14 Just one final thing I would like to raise. Yesterday, I was told
15 that my conduct in this particular case raised serious ethical
16 questions and that the Chamber is considering to take appropriate
17 action against me.

18 I am a member of both the Cambodian and the Amsterdam Bar, and
19 one of the appropriate actions you could take is inform either
20 the Dutch Bar or the Bar in Cambodia.

21 [10.55.45]

22 Now, I have the professional obligation to inform you on how to
23 do that. I will send an email to the senior legal officer
24 explaining how to contact the appropriate person and how and
25 where to file the complaint, if your Trial Chamber desires to do

1 that, to file such a complaint. I would actually like to -- if I
2 can do so, I would encourage the Trial Chamber to do so, so that
3 this particular problem -- my conduct, which was deemed raising
4 serious ethical questions -- is put to somebody who can give an
5 expert opinion on that particular conduct. And I would appreciate
6 if the Trial Chamber would take that step. Thank you very much.

7 (Judges deliberate)

8 [10.57.37]

9 MR. PRESIDENT:

10 The representative of the Prosecution, you may proceed.

11 MR. SMITH:

12 Thank you, Mr. President. I won't respond to the last point, Your
13 Honours. That's a matter for you.

14 However, in relation to the first point about the length of the
15 Prosecution examination, we understand and we take note of Your
16 Honour's comments, that the examination be as efficient as
17 possible.

18 As Your Honours are aware, the examination over the five days was
19 -- is divided into a number of parts.

20 The first part, which we've just heard over the last four hours,
21 is related to the association of the witness with the CPK over -
22 over a long period, and his knowledge of policies at -- prior to
23 1975, which, as Your Honours are aware, is an important part of
24 the historical background. The policies that were put in place in
25 1975 onwards did not occur out of the air. They were in place

1 well before.

2 [10.58.44]

3 And, as Your Honours have seen, this witness is a particularly
4 articulate witness, and he's a witness that has been placed in a
5 central role in the operation of the CPK well before 1975. And,
6 as he did appear, of course, in the previous trial as an accused,
7 in this trial he appeared as a witness, and it's important that
8 his evidence be placed on the record. It's directly relevant to
9 the historical background.

10 Secondly, the next part the Prosecution will move on to is in
11 relation to the ideology and the policies of the CPK as
12 articulated -- or as outlined in paragraphs 156 to 159 of the
13 Indictment. As Your Honours would know, this witness is in a
14 particularly significant position to be able to articulate all of
15 those policies which are in this trial, because he was a --
16 associated with the regime, and he was a teacher of those
17 policies throughout that -- throughout that whole period.

18 [10.59.55]

19 Your Honours, after this part, we're moving on to the actual
20 structures that were put in place between 1975 and 1979, and then
21 dealing with those communication structures, and then dealing
22 with the role of the Accused. We planned the questioning in that
23 way.

24 We disagree, of course, with the Defence's view that the last
25 four hours has not been relevant; it's been centrally relevant to

1 be able to establish that this witness has the ability to be able
2 to talk about structures, to be able to talk about policy.

3 Otherwise, the first objection would be: Who is this person to
4 actually provide evidence on those policies?

5 Finally, in relation to the use of KW-30, out of an abundance of
6 caution, we didn't provide that name. But, obviously, the Defence
7 have checked that that person hasn't got a pseudonym, and so it's
8 appropriate that name be used. Thank you.

9 MR. PRESIDENT:

10 Thank you very much.

11 With regard to the witness, whether he or she was already heard,
12 his or her pseudonym shall be used, as required.

13 [11.01.43]

14 And thank you, Counsel, for pointing to the institutions and the
15 -- concerning the decision made by the Chamber. But please be
16 reminded that you will not have the floor now. Please be seated.

17 BY MR. SENG BUNKHEANG:

18 Thank you, Mr. President. As my colleague has already indicated,
19 I already concluded my first portion of the questioning
20 concerning the first portion.

21 I would like to proceed to the next portion concerning the
22 ideology, the relevant paragraphs in -- paragraphs 156 to 159 in
23 the Closing Order.

24 Q. Mr. Kaing Guek Eav, you said you are knowledgeable of the
25 Party ideology. You had been familiar with this ideology for --

1 since you were at school, and also you taught this to students.

2 [11.03.22]

3 Now, could you tell us what kind of documents included in the
4 part of the lessons you taught? I mean, concerning the political
5 policy of the Party.

6 MR. KAING GUEK EAV:

7 A. There were two key documents.

8 First, the strategic lines regarding the revolution in Cambodia.

9 I perhaps cannot quote the right terms for this title, but I can
10 feel that it is the substance of that text. It suggests that the
11 society -- the mankind society -- has to develop, to be
12 transformed from slavery to the feudalism, to the capitalist
13 regime, and socialist regime, and finally communist regime. It's
14 linked to -- or referred to the principle of dialectical
15 materialism. And this text helps people to transform from one
16 regime to another and how to adapt ourselves to this change. In
17 the documents-- And back then the Worker's Party was supposed to
18 struggle until the completion of the mission. And we were
19 reluctant to use the term "revisionism." And that was part of the
20 strategic lines that we learned and taught.

21 Document number 2, entitled, perhaps, "Tactical Lines to Gather
22 Forces to Win the Victories Over the Enemies During the
23 Democratic Kampuchea Regime".

24 [11.06.22]

25 The first stance is to classify enemies into three categories:

1 first, we have to convince them to become our forces; number 2,
2 we have to neutralize the forces, the forces that were not sure
3 in which side they should take; and the third is to isolate the
4 brutal enemies and have them smashed. That was part of the
5 theory, but I cannot find whether such theory could be well
6 implemented in real - in reality.

7 And in 1971 we were educated by the Party to distinguish between
8 the enemies and us. The border -- the line had to be drawn
9 clearly. It is about the comparison between the people in the
10 South of Vietnam and us, inside Cambodia, because we were in the
11 liberated zone, and enemies were on the other side of the area.
12 And we were asked not to do things that the enemies were doing,
13 for example corruption and other bad things that we were educated
14 to avoid. Party had paid great attention into educating us to
15 avoid these things.

16 [11.08.25]

17 Now, I would like to also give you another example. In marriage
18 affair, we were not asked -- or we were not prohibited from
19 getting married any -- with any person. However, we were asked to
20 be very careful to make sure that, when we get married, we can
21 have our children and to make sure that one plus one equals two.
22 This ideology, it means that we should refrain from getting
23 married with girls or women who were evacuees. And I was myself
24 bound by this ideology and principle to get married to the people
25 -- or to a woman who was trusted.

1 And also we studied the materials concerning the morality -- the
2 12 Moral Principles of the CPK.

3 First, we have to respect -- serve the people and love them
4 always.

5 Number 2 in that moral principle, it states that, wherever you
6 work, you have to do your utmost to serve the people to the best
7 and that we have to serve only workers and peasants; that's the
8 real substance of the revolution -- moral revolution.

9 [11.10.40]

10 Also, we were asked to have vengeance against the enemy, to
11 harbour anger against the enemy, because, for example, when So
12 Phim was arrested, So Phim was judged by the Party as an enemy,
13 so we had nothing but to follow what had been decided by the
14 Party, whether you like it or not. So we had to harbour this kind
15 of anger whenever -- or be in the line of the Party ideology.
16 So I think I will be brief on this because this is what I can
17 recollect.

18 Q. Could you tell the Court, according to your knowledge, what
19 kind of society the Communist Party of Kampuchea would like to
20 achieve?

21 A. Education had to be done gradually, and we -- they used the
22 term -- the "very light" terms, which means that we were poor and
23 we had to share how to live equally. In the military, the special
24 force could only be offered two cans and a half -- two and a half
25 cans of rice per meal. And the special force only offered two

1 cans of rice when the front-line force was offered less. So we
2 know that it is - it was strange, but we could not really
3 protest; we had to follow suit.

4 Q. What kind of goal the Communist Party was after with regard to
5 economic growth and other?

6 [11.13.29]

7 A. At that time, the Party tried to make money, tried to create
8 currency. However, the money was not used very well, and it was
9 more symbolic.

10 Later on, the people decided to focus on how to distribute -- how
11 to really care for each and every one through sharing of rice.

12 And people did not talk about the proper healthcare system
13 because everyone was thinking of how we could share to live in
14 this society.

15 Q. With regard to family, what was the intention of the Communist
16 Party -- the CPK? What was the policy toward marriage or family
17 matters?

18 A. When it comes to husband and wife, they want one plus one
19 equals two. They don't want one plus one equals zero. And this is
20 the policy of family and marriage. And I was doubtful -- or
21 curious because I noted that some sons and daughters of the
22 senior officials -- officers were asked to call or address their
23 fathers as uncle or aunt.

24 And later on, after 1975, the -- people were not educated on how
25 to be thankful to their parents. And I think this ideology was

1 already written in a song, and perhaps we can refer to the song.
2 They say that parents could only create you, but Angkar would be
3 the one who controlled you and who owned you.

4 [11.16.30]

5 Q. How did the CPK want the life of people in the cities to be?

6 A. I think -- and through my analysis -- I can say that people
7 who were no attachment to the rice field or who never had
8 experience in paddy fields had to be made to do farming. Teachers
9 had to be made farmers, doctors and other people had to do
10 farming. People evacuated from the city when the purges already
11 had been going on.

12 Q. You said about how life changed at -- in the urban areas; what
13 about lives in the rural areas? What were they like?

14 A. In 1972, a cooperative was set up as an experiment.

15 [11.18.14]

16 In 1973, higher level of cooperatives were created in the
17 liberated zone. They didn't say that cooperatives were part of
18 the effort to achieve the revolutionary goal, but after 1975 --
19 the 17 of April, I think there was a document which indicates
20 that, on the 20th of May 1975, cooperatives had to be established
21 all across Cambodia, outside of the liberated zone. And workers
22 who evacuated from Phnom Penh were transferred to factories, and
23 education was abolished, religion was no -- was disband, and
24 according to my research, I learned that head monks at all levels
25 were smashed when religion was abolished.

1 Muslim or the Islam People-- We can look at document on the 13th
2 of November 1975, when So Phim reported to Pol Pot and Nuon Chea
3 concerning the situation that people had to be evacuated, but it
4 was rejected by Ke Pauk. People was -- were evacuated from the
5 North to the Northwest. The Muslim people were scattered, were
6 evacuated and scattered into cooperatives so that they cannot
7 practice their religion or speak their languages. Pagodas were
8 destroyed when the enforcement -- metal bars were used for other
9 purpose.

10 All form of production was owned by the Party. Food ratio was of
11 two cans of rice per day for the people. There was no religion,
12 there was no belief, there was no gratitude to parents, and so on
13 and so forth.

14 [11.21.24]

15 These are the things I have learned.

16 MR. PRESIDENT:

17 Counsel for Ieng Sary, you may proceed.

18 MR. KARNAVAS:

19 Good morning, Mr. President. Good morning, Your Honour, and good
20 morning to everyone in and around the courtroom, and my apologies
21 for interrupting.

22 The gentleman indicated at one point that, based on his research
23 -- And I believe he just ended his lengthy answer by saying this
24 is what he learned, which begs the question: Is the answers that
25 we are receiving from the gentleman based on research -- that is,

1 material that was provided to him by his lawyers when he was
2 preparing for his file, material that was provided to him
3 afterwards, material that he read before he converted to
4 Christianity, or afterwards, or is it from his independent
5 memory? Because the word "research" means that the gentleman has
6 actually -- has gone, has read, and now he is testifying as if
7 this was knowledge to him back then, as opposed to knowledge that
8 he acquired some time thereafter.

9 And, I think, if we're going to have a clear record, we need to
10 know exactly what the gentleman knew at the time, not what he
11 learned later, which is now -- he's incorporating into his
12 answers.

13 [11.22.47]

14 So I would - I would respectfully request, Your Honours, to
15 inquire from the witness whether -- what sort of research he has
16 done and whether the answers that he is giving us today and
17 yesterday -- and perhaps what is to follow -- is based not on his
18 independent memory, but rather on material that he has read and
19 that he is now incorporating into his narrative. Thank you.

20 MR. PRESIDENT:

21 International Co-Prosecutor, you may now proceed.

22 MR. SMITH:

23 Thank you, Your Honours. That's - I mean, obviously, that's the
24 point of examination, that's the point of questioning witnesses.

25 This witness has said that he's learned some of these facts from

1 his research. We've just heard that today, and obviously my
2 colleague will be asking questions on that fact: how much -- what
3 facts he learned from his own observations and experiences.

4 [11.23.56]

5 And certainly, as you know, Your Honours, he -- his role was to
6 teach policy. And he studied CPK documents from before 1970. And
7 that's why this first part of the examination has been extremely
8 important, to establish that this witness is able to talk with
9 authority on the policies of the CPK.

10 Now, some -- he's made that very clear, he's made it clear that
11 he's learned policy through his own studies and his role at M-13
12 and S-21. He's also -- it's also very clear that he's learned
13 policies from participating in them.

14 But, thirdly, as my learned friend has said, it may be the case
15 as well that he's received other documents through, perhaps, his
16 first trial, and part of his opinion is formed by those other
17 documents as well.

18 So that is the role of the parties, to question, to find out how
19 much of that is from his own experience, how much is from the
20 policies he learned in the CPK, and how much he's learned
21 afterwards.

22 [11.25.20]

23 And my learned colleague would obviously proceed to ask those
24 questions, and if they're not fully answered, then the learned
25 Counsel, he can ask those questions as well.

1 And that's why we had to establish that he was a person that can
2 speak with a significant amount of authority. And my colleague
3 will continue with those questions to find out the source of his
4 knowledge.

5 And I'm sure other colleagues as well -- will as well, to
6 determine what his observation -- what's CPK policy and what he's
7 learned at a later date.

8 It's just part of the normal questioning process; I don't think
9 it's objecting -- a form of objection. It's just -- my colleague
10 will follow with questions, and so will my learned colleague, to
11 get to the truth. Thank you.

12 (Judges deliberate)

13 [11.26.47]

14 MR. PRESIDENT:

15 Co-Prosecutor, you may now proceed.

16 BY MR. SENG BUNKHEANG:

17 Thank you, Mr. President.

18 Q. The next question concerns your knowledge. Could you please
19 tell us, how did you acquire this knowledge of the facts?

20 MR. KAING GUEK EAV:

21 A. I would like to summarize this.

22 Some of the events were -- the actual events happened at that
23 time. And we did not fully get this information, because we were
24 at a lower level. When it came to the two cans of food ration,
25 this situation was known all across the country. But my

1 understanding was limited to S-21, although it was a widespread
2 policy across the nation. So my testimony based on the truth, but
3 my knowledge evolves.

4 However, if you really want me to only talk about what I knew
5 back then, I'm afraid I may not have anything to tell the world
6 about this because I was confined to S-21 in particular.

7 [11.28.26]

8 Now, when it comes to the destruction -- the execution of the
9 head monks from the provincial level to the lower level, we were
10 in Amleang when people were smashed in cities.

11 We -- I conducted -- gathered this information, and we learned
12 that the Office of Co-Investigating Judges went down to the
13 fields, and information was obtained that head monks was
14 disappearing, so it came to me that temples or pagodas were
15 demolished, head monks or monks were executed or disrobed. And by
16 that, I compared what I learned during that time and the
17 information acquired later on to incorporate into whether my
18 understanding back then was correct.

19 [11.29.35]

20 So we were trying to establish the facts to see we've done
21 something wrong, and we do something to apologize to the people
22 of Cambodia for our misdeeds. And we are now looking into finding
23 the truth, how Cambodians have suffered.

24 MR. PRESIDENT:

25 Counsel for Nuon Chea (sic), Mr. Karnavas, you may proceed.

1 MR. KARNAVAS:

2 Thank you, Mr. President. Again, I apologize for interrupting,
3 but based on that answer--

4 First of all, let me back up. The Prosecution talks about how
5 important the witness is. Maybe, maybe not. He talks about
6 personal knowledge. Now, what we have here is a gentleman who is
7 indicating and has admitted that he's unable to, at least,
8 distinguish what he knew back then -- and he would have learned
9 precious little because of his confines -- versus what he has
10 learned afterwards.

11 [11.30.42]

12 Assuming that he is not a witness for the Prosecution, but a
13 witness for the Trial Chamber, I think it is incumbent -- it is
14 incumbent -- for us to know clearly what exactly he knew at the
15 time. We need to lay a foundation, so then, if they want to use
16 the gentleman as an expert witness, as it would appear that's
17 what they're using him for, not just as a factual witness of what
18 he knew, but later, what he studied thereafter, and now use him
19 as if he's a Ben Kiernan or a someone -- or a Chandler or an
20 Etcheson, then, clearly, we object to that.

21 So I would suggest, Mr. President and Your Honours, that, first,
22 a clear foundation be laid as to what, exactly, the gentleman
23 knew.

24 Once we know that, then the next step would be: What did he read
25 after '79? What, exactly, he read, what information he's read

1 since he has been incarcerated, what he's been -- he's learned
2 from his lawyers, and how and -- all this information was then
3 incorporated into not just his memory, but the narrative that
4 he's giving today and he gave us a couple of days ago, where he
5 indicated that he was the author of -- or he was a researcher of
6 this 40-some page document that he's presented.

7 [11.32.09]

8 I do not mean to disrespect the gentleman, but I think, first, he
9 should be commended for noting there's a difference between what
10 he knew back then versus what he learned thereafter. And to
11 simply say: Well, he's a -- a fountain of information is simply
12 insufficient because, if that fountain of information is based on
13 what he learned, not only is it hearsay, but then it demeans
14 everything else that he's saying about what he knew at the time
15 and what existed at the time.

16 [11.32.37]

17 First, I think we should approach this witness with what he
18 actually knew; what he saw, what he heard, what he actually did
19 himself. Thank you, Mr. President.

20 MR. PRESIDENT:

21 Counsel for Nuon Chea, you may proceed.

22 MR. PESTMAN:

23 I'll be very brief. I would like to support the Ieng Sary
24 submissions, wholeheartedly.

25 What I've heard this morning was the testimony of an expert, not

1 of a witness.

2 What -- I tried to follow what the witness said, and if I
3 understood correctly, he said: If you ask me about the things I
4 knew at the time, I cannot answer anything because I was locked
5 up in S-21. In a way, there's not much we can ask this witness.
6 I think that the approach, as suggest by the Ieng Sary team, is
7 the only right one. I think the prosecutor should now proceed and
8 ask this particular witness what he actually knew or experienced
9 at the time.

10 [11.33.48]

11 And I'm not interested, contrary to what counsel for Ieng Sary
12 suggested, to know what this person read afterwards; I'm really
13 not interested in that. We will hear experts on that, to give
14 analysis of other documentary material. I would really like to
15 know what this particular witness experienced at the time. I'm
16 not interested in all the other information or knowledge he
17 gathered afterwards.

18 MR. PRESIDENT:

19 The Prosecution, you may proceed.

20 MR. SMITH:

21 Thank you, Your Honour. Firstly, I think there's a couple of
22 misstatements that have been made by the counsel for Mr. Ieng
23 Sary, firstly that the witness has stated he's unable to
24 determine what he learnt from what he observed or -- at the time
25 -- observed or experienced at the time. The witness has never

1 said that.

2 [11.34.48]

3 Secondly, the next misstatement, that the Prosecution is putting
4 this witness forward as an expert. The Prosecution has not. Of
5 course, it's a - it's a Trial Chamber's witness and it will
6 assist the whole process. We've never said that this - this
7 witness is an expert; we've said that he's a person that knows a
8 lot of information, and I think it's quite clear that he has.
9 You know -- and thirdly, perhaps a slight misrepresentation,
10 which is perhaps unfair, an unfair, sort of, turn of words
11 against the witness, that somehow or another, if he could only
12 talk about what he learnt at S-21, what he knew at the time, he
13 couldn't talk about anything outside of S-21. I mean, that's
14 clearly an understatement from the very experiences that he's had
15 prior to 1975.

16 And certainly, as Your Honours are aware, unlike what the counsel
17 for Nuon Chea has said -- that he has nothing to say about
18 anything outside of S-21 -- that's completely wrong. Obviously,
19 he was taught policy during that period. He met and he's given
20 evidence that he's met senior leaders during that period.

21 And so what he - what he can give to this Court is the policy of
22 the CPK. That was his job, and that wasn't necessarily all
23 experienced at S-21; that was taught to him by the senior
24 leaders, and that was the job that they gave him to do.

25 [11.36.35]

1 So, to say that he can't testify on policy is absolutely
2 ridiculous. This witness is probably one of the best witnesses to
3 testify on policy because he was there, that was his job, he had
4 to teach it -- he had to teach it at least for four years during
5 the CPK period.

6 So, Your Honours, as far as the suggestion that it's useful to
7 confine the witness to what he experienced and what he learnt as
8 policy during that period -- the Prosecution agrees. That's --
9 and that's obviously the next question that my learned colleague
10 would have, asking the witness to confine his answers to the
11 policy that he knew at the time and what he experienced at the
12 time.

13 And so, as far as other academic material, then we move away from
14 that danger of asking the witness to sort of read - relate
15 material that was produced in books or out of documents that were
16 obtained at a later date.

17 Of course, this witness is also in an excellent position to be
18 able to provide some authenticity to documents and policies or
19 policies contained in documents that -- that he did not see
20 because, he was there at the time and he can say whether those --
21 those words, those policies, are they consistent with what he
22 learned and taught.

23 [11.38.15]

24 So, Your Honours, it's just not - it's not that simple, but as
25 far as the Prosecution is concerned, we clearly will confine him

1 and ask that he relate what he learnt in terms of policy at the
2 time and also from his own experiences. And then it's up for the
3 parties, of course, to cross-examine further to see - to make
4 sure that's correct. Thank you.

5 (Judges deliberate)

6 [11.42.52]

7 MR. PRESIDENT:

8 I would like to hand over to Judge Silvia Cartwright to rule on
9 the discussion regarding the testimony of the witness Kaing Guek
10 Eav alias Duch, now.

11 JUDGE CARTWRIGHT:

12 Thank you, President. The Chamber has deliberated, as you have
13 seen, and has noted the objections raised.

14 The Chamber asks that the first emphasis be placed on this
15 witness' knowledge of events and documents at the time of the
16 regime and will evaluate the testimony of this witness when it
17 delivers its verdict, taking into account the later examination
18 by all the other parties.

19 I think I've clarified everything, President, that you wished me
20 to say.

21 MR. PRESIDENT:

22 There is any other comments from my fellow Judge on the Bench?

23 No.

24 [11.44.30]

25 The witness may proceed - may proceed.

1 MR. KAING GUEK EAV:

2 I would like to inform Your Honours of certain actual aspects.

3 Some commentators say Communist Party Kampuchea had the policy to

4 starve people, but in my testimony, I said that the Communist

5 Party of Kampuchea had a policy that restrict the food rations on

6 people based on the policy - written policy of document -

7 document D00677--

8 MR. PRESIDENT:

9 Please hold on. Now, you are testifying before this Chamber in

10 your capacity as a witness. As I told you earlier on, the witness

11 is - has an obligation to respond to the question put to him. So,

12 before answering each question, you should pay attention to the

13 question asked. If the question asked in closed question, for

14 example just for yes or no, then you may answer yes or no. That

15 make the trial efficient, unless if the question is of leading

16 nature; then the Chamber would not allow such question and the

17 Chamber will rule upon that - on that lines of questioning as

18 well.

19 [11.46.12]

20 So, again, as the witness, you cannot testify by providing your

21 analysis or subjective analysis of the witness on the - on the

22 events happened, but you - rather, you should answer base on your

23 own experience and observation relevant to the period at issue.

24 And you should answer to the question put by the parties and

25 respond to that question, but taking into account what I have

1 just raised, unless the questions which is of open nature, which
2 you are supposed to describe the events. Otherwise, you should
3 stay within the confines of the question; you should not dwell on
4 the issue.

5 [11.47.04]

6 And just now there were two parts of the question. The first part
7 has already been dealt with, and the second part on the
8 experience that you have come across when you were - since you
9 were incarcerated and you have been - you have had access to the
10 case file, but these are relevant to the later stage of the
11 events. But this was not the primary focus.

12 We -- the primary focus that you should try to address is based
13 on your own experience, your exposure in the Communist of
14 Kampuchea, when you join the revolution, since the 1960 or
15 seventies. That concerns the historical background of the
16 Communist Party of Kampuchea. And then, later on, we should focus
17 on the structure of the Democratic Kampuchea, and then we move on
18 to the roles of -- and responsibility of the Accused during the
19 DK period, and the last issue is the issue that we are dealing
20 with, and the last one is the communication structure of the
21 Democratic Kampuchea at both national and central levels.

22 [11.48.16]

23 And I know that your testimony has addressed part of the issue as
24 well, but we would like to ensure that you stay within the
25 confine of what we are dealing with and you would not dwell on

1 matters that may not be conducive to the hearing.

2 So we -- if the question is of descriptive nature, then you may
3 describe it accordingly, but it should not be long-winded answer.

4 For example, if you - if you try to recall the events, for
5 example from 1950s to the 1970s, then there are a lot of stories,
6 people may spend the whole - their whole life telling the story
7 of what happened during that period.

8 So we have already set the parameters for the discussions. We
9 advise the party to focus the questions on the relevant portion
10 as outlined in the relevant paragraphs of the Closing Order in
11 this first segment of trial. We have so far broken it down into
12 segment 1, stage 1, stage 2.

13 [11.49.32]

14 We - the Chamber envisage that certain witnesses who may be
15 necessary to ascertain the truth, then the Chambers would summon
16 such witness to testify in this case.

17 And I hope that you understand these proceedings. And you may
18 therefore continue answering the question as put by the parties.

19 The prosecutors, you may now proceed.

20 BY MR.SENG BUNKHEANG:

21 Thank you, Mr. President.

22 So, once again, you should answer the question based on your
23 experience and based on the Party documents or papers, other than
24 -- not any other documents.

25 Q. Once again, how did you know all of this information? Did you

1 learn it from your reading of the "Revolutionary Flags" or other
2 Party's documents? Can you enlighten the Court and parties in
3 this courtroom?

4 [11.51.13]

5 MR. PRESIDENT:

6 Mr. Nuon Chea, you may proceed.

7 MR. NUON CHEA:

8 My utmost respect to Your Honours. The people never use perished
9 wood to kraft it or to carve it into Buddha sculptures or so for
10 people to pay homage to.

11 MR. PRESIDENT:

12 Lead Co-Lawyers, you may proceed.

13 MR. PICH ANG:

14 Thank you, Mr. President. I think my intervention is rather late,
15 but I would like to inform Your Honours that Duch is now being
16 recognized as the witness, and this is recognized by the Chambers
17 and parties, so he has - or he should enjoys his right to testify
18 before this Chamber in the capacity as witness, so there should
19 not be any remarks attacking the witness in whatever way.

20 [11.52.29]

21 MR. PRESIDENT:

22 Mr. Nuon Chea, you should exercise your utmost restraint. And
23 please attend to what - what testimony made by this witness. And
24 you attempt to confront this witness, and in order to confront
25 with this witness effectively, you should listen to him

1 attentively. And once the time comes, when your defence counsel
2 is to cross-examine this witness, then the Chamber will of course
3 set aside time for you to confront this witness concerning the
4 probative value of his testimony -- of this witness.

5 And in considering and assessing the weight of the testimony of
6 any witness, it is the sole discretion of the Chamber. Duch is
7 not coming to testify before the Chamber on his own, but he is
8 coming here at the summon of the Chamber. And we, the President
9 of the Chamber, summon this witness to testify before us.

10 [11.54.13]

11 The National Co-Prosecutor, you may continue.

12 BY MR. SENG BUNKHEANG:

13 Thank you, Mr. President. I would like to continue my line of
14 questioning.

15 Q. How thoroughly did you study the policies of the Communist
16 Party of Kampuchea back then?

17 MR. KAING GUEK EAV:

18 A. This question is rather broad.

19 Q. Well, I will try to narrow it down. So how did you study the
20 policy of the Communist Party of Kampuchea? Did you study it
21 through the written policy, for example, or the "Revolutionary
22 Flag" of the CPK?

23 A. Yes, there were secret documents of the Parties and the
24 "Revolutionary Flags" of the Party, and I have read all of them.

25 Q. Concerning the "Revolutionary Flags," how many issues have you

1 read?

2 A. To be honest, "Revolutionary Flags" plays a very important
3 role in my study of the Party's line because it was prepared by
4 the Party. Before I -- I first encountered with "Revolutionary
5 Flag" when I was in Chamkar Leu. At that time, it was not called
6 "Revolutionary Flag"; it was called the "Red Flag", and there was
7 only one article in one issue entitled "The Political Struggle
8 Over 11 Years of the Cambodian People Under the Leadership of the
9 Party".

10 [11.56.44]

11 Following 1970, I was appointed the chairman of M-13. Then, this
12 magazine was published again, but in time the name was changed to
13 "Revolutionary Flag", and I read every single issue of the
14 magazine so I could broaden my understanding of the Party back
15 then.

16 And I would like to describe briefly the situation at that time.

17 "Revolutionary Flag" in 1971, there was a text about rebellion of
18 Vung Ratana<V>. This is one issue.

19 And another issue which I would also like to inform you is the
20 role of revolution. The editor in chief of "Revolutionary"
21 magazine -- the editor in chief or editors themselves should follow
22 the political and tactical lines of the Party. So they wrote
23 about the policy of the Party, and I made comparison with the
24 serie by Mao Zedong.

25 [11.58.20]

1 In 1973, Pol Pot educated his men that Vietnam, Le Duan in
2 particular, wanted to focus on one people and one army, so Pol
3 Pot at that time told us that Le Duan consider Cambodia as a
4 member of the Indo-Chinese Federation.

5 Q. When you studied the policy of the Communist Party of
6 Kampuchea, did you attend any training courses?

7 A. As I informed you earlier, I learned the Party's policy from
8 the Party's policy documents. Following 1971, there was the
9 people's warfare, and there was the militia warfare strategy, and
10 there were policy - moral policies of the Party. And once every
11 year, the secretary of the zone call me to study on the
12 conscientiousness stance and other Party's policies, so, once
13 every year, I attended such training.

14 MR. SENG BUNKHEANG:

15 Thank you.

16 [12.00.07]

17 Mr. President, I don't know whether we should now adjourn.

18 MR. PRESIDENT:

19 Yes, indeed, it is now appropriate time to take the adjournment.

20 The Court will be adjourned until 1.30 p.m.

21 Security personnels are now instructed to bring Kaing Guek Eav
22 alias Duch to his room - the waiting room and have him return to
23 the courtroom this afternoon, before the Judges take the Bench.
24 And Khieu Samphan and Nuon Chea are now instructed - rather, the
25 security personnels are instructed to bring Nuon Chea and Khieu

1 Samphan to the holding cells and have them returned to the
2 courtroom by 1.30 p.m.

3 The Court is adjourned.

4 (Court recesses from 1200H to 1333H)

5 MR. PRESIDENT:

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

7 We would like to hand over to the Prosecution to proceed to with
8 the remaining of the questions to this witness.

9 BY MR. SENG BUNKHEANG:

10 Thank you, Mr. President.

11 Q. Mr. Kaing Guek Eav, you indicated that, at M-13, you attended
12 regular training sessions on policy of the Party. So how regular
13 was the training?

14 MR. KAING GUEK EAV:

15 A. Each training was conducted for a fortnight -- so it's half a
16 month, no more than that, for each session.

17 Q. Who were the participants in those sessions?

18 A. In the special zone, under Vorn Vet, only people from the
19 ministries would be attending the sessions.

20 [13.35.35]

21 I don't recollect the details, but I seem to have never noted any
22 presence of the military in the sessions.

23 Q. You also mentioned that you met with Vorn Vet and Son Sen on a
24 regular basis to perform your tasks at M-13. Were you ever told
25 by Son Sen or Vorn Vet, with regard to the Party's policy?

1 A. We -- I did not have any discussion with them when I reported
2 on the enemy network. I just sent the report, and that's it.

3 Q. Did you have a chance -- or in any occasion discussed --
4 discuss with him on policy of the Party?

5 A. I worked, basically, on the police issue, so it's not related
6 to the policy of the Party.

7 Q. Yesterday, you said at M-13 you were also tasked with
8 educating people on the Party's policy, so that your staff could
9 be informed.

10 [13.37.26]

11 Could you tell us what was the purpose of education them? Would
12 you want them to be informed of that?

13 A. Yes, it was.

14 Q. You also mentioned that, during the time when you worked at
15 S-21, you attended annual sessions -- training sessions -- with
16 Son Sen. Could you tell us how long would each session last?

17 A. The political sessions lectured by Son Sen were conducted
18 annually, and each session would last for no more than half a
19 month. I can refer this training session to the document written
20 by Mam Nai, document "kor nor hor" 166 [KNH166].

21 Q. From 1975 onwards, did you continue to be educated or to study
22 these political sessions?

23 A. To be clear, these documents that I referred to -- the one
24 written by Mam Nai -- was written to cover events from the 25th
25 of June 1975, not before that.

1 [13.39.23]

2 It is more about the organizational arrangement and how to
3 restore morals of the staff.

4 Q. Can you please tell the Court who Mam Nai is?

5 A. Mam Nai was a senior person at S-21 as well.

6 Q. I would like to repeat -- or rephrase the question: From 1975
7 onwards, you had attended political sessions, haven't you, as
8 what you did at M-13?

9 A. Yes, I had.

10 Q. Before we broke, this morning, you referred to a document you
11 studied on the Party's policy, document -- the classified
12 document of the Party.

13 [13.40.38]

14 Could you please share with us what is that document about and
15 why it's called "Party Secret Document"?

16 A. That -- even the "Revolutionary Flag" was regarded as part of
17 the secret document of the Party. This "Revolutionary Flag"
18 magazine was issued monthly.

19 Q. How was this secret document of the Party distributed?

20 A. With regard to the "Revolutionary Flag", after 1975, only the
21 members of the Party were privileged enough to be trained using
22 these documents. And the youth for the CPK have not enjoyed using
23 them yet.

24 Q. With regard to your understanding of the Party policy, apart
25 from your experience, what are -- what were the other means you

1 acquired to obtain information concerning these policies?

2 A. Life view meetings were also part of the reflection session,
3 to compare the practice and the theory.

4 Q. With regard to the secret document of the Party, could you
5 tell us how many kinds of document were there?

6 A. As I indicated, when I attended the secret session, we learned
7 about the tactical and strategical lines, and the method to
8 gather forces, and also the Statute of the Party.

9 [13.43.50]

10 And later on we noted the documents on people's wall -- militia
11 wall and others. There were also annual sessions where we were
12 informed of the "Revolutionary Flag" -- or "Revolutionary Flags"
13 were handed over to participants.

14 Q. What are the documents in the Party's documents?

15 A. I think your question is rather broad, Mr. Prosecutor. Could
16 you please be more specific?

17 Q. I would like to know that-- In the Party documents there could
18 have been other contents, apart from Party policy and other; but
19 what are those contents included in those documents?

20 A. Indeed, the key document is the strategic and tactical lines
21 of the Party adopted in 1960, and also the strategy to build
22 forces. With regard to the Party statute, amendments had been
23 going on from -- on -- when time passed by. We had the statute of
24 1971, and also another Party statute in 1976. So the statute
25 changed or amended from one year to another.

1 [13.46.04]

2 Q. Could you tell us in a more precise way concerning the purpose
3 of the "Revolutionary Flag"?

4 A. "Revolutionary Flag" was used to educate members of the Party
5 on a monthly basis. The Secretary of the Party used these
6 documents to communicate their message to members of the Party,
7 because if the Party secretary would like to convey his message
8 to his people or members, then he would right in the "Flags" --
9 "Revolutionary Flags".

10 Q. You told the Court that you provided training to your staff at
11 S-21. Do you recollect how many staff you provided such
12 trainings?

13 A. We gathered people from Phnom Penh and cadres from Kampong
14 Som, 50 people each time.

15 [13.47.50]

16 And the sessions were conducted at a church -- Bethlehem
17 Church<V>. And when it comes to trainings for interrogators, the
18 session would be joined by a few people only, no more than 10
19 people during each session.

20 Q. How often did the study sessions take place?

21 A. Interrogators would attend trainings more often, and we talked
22 a lot about this in the document as I referred to, "kor nor hor"
23 166 [KNH166].

24 [13.48.54]

25 Q. My next question is about the ideology of the Communist Party:

1 What was the main ideology and purpose of Democratic Kampuchea?

2 A. Before 1970, there was a notion that people shall be
3 liberated, and we had to fight against the reactionary and the
4 capitalist, and the peasants shall have paddy fields to farm
5 their rice. And after 1975, there were two other lines: the line
6 to defend the country and to protect it, and to build it. I think
7 that's all I can summarize for you.

8 Q. Do you recall whether the CPK had to resort to violence to
9 obtain an objective?

10 A. I think that is the common tendency applied elsewhere in the
11 world. After the 20th General Assembly of the Party (sic), force
12 was not allowed to be used. However, those who believed in
13 Marxist-Leninist principle would resort to using force.

14 [13.51.02]

15 Q. Would there be any permission to make people divide political
16 aspects on the country?

17 A. In the Party, such things didn't happen.

18 Q. What about culture? Did the CPK support the country of
19 Cambodia, indeed, to have their own cultures and traditions?

20 A. I think they did never mention the exact terms concerning
21 Buddhism or cultures. What they did is to ensure that there was
22 solidarity, and that the country was united, and they did
23 everything to serve the peasants and worker's classes.

24 Q. Thank you.

25 Your Honours, I would like now to proceed to another topic

1 concerning the policy on the movements or relocation of the
2 population.

3 First, I would like to touch upon the issued concerning the
4 forced evacuation -- the policy to evacuate people forcefully.
5 You said, in -- before 1975, you were in the special zone. Were
6 you, back then, knowledgeable of the evacuations? Have you
7 observed that there were such evacuations?

8 A. I would like to classify this in two categories. The first --
9 it is about what I was educated, and what I saw.

10 [13.53.10]

11 I was educated through the "Revolutionary Flag" concerning the
12 evacuation of the population. People shall be evacuated when the
13 enemy attacked. It is of course meant to ensure that the enemies
14 would never have people to be on their side. So they would be
15 isolated and helpless because they would have no people to
16 support them.

17 And my superior sent a few people to Pursat, and that person
18 include one of my staff, KW-30, who was sent there. That's why I
19 knew there was evacuation of people.

20 Q. Did you learn back then that people had a choice not to be
21 evacuated or be relocated?

22 [13.54.10]

23 A. At Oudong Market, there were no farms, so people had no
24 excuses to remain in the location. They had to be evacuated.

25 Q. How sure was you that people had to be evacuated? How could

1 you confirm this?

2 A. I could see this, and that trucks would be parked to upload
3 those people -- and the orders by Son Sen. And KW-30 was among
4 the evacuees.

5 Q. Do you know what happened to those who contested the
6 evacuation?

7 A. I don't know about this and I have not tried to obtain
8 information regarding this.

9 Q. Do you know, or have you ever learned, that the policy was
10 still carried on for many years to come?

11 A. At the beginning, I saw what happened. It was immediately
12 after 1975, the 17th of April.

13 [13.55.47]

14 Because I saw people were being relocated. I then thought there
15 could have been people who volunteered to return to their home
16 towns, but then, when I came to Phnom Penh, I realized the city
17 was empty. And I also knew that people were relocated, or were
18 moving, because it was part of the purge's purposes. And people
19 were executed and buried near some pagodas.

20 Q. You mentioned the term "purges" time and again. What does that
21 mean?

22 A. "Purges" mean that people that were not trusted would be
23 arrested and executed, or smashed.

24 Q. According to your knowledge, when was this policy installed?

25 And who was behind this?

1 A. Actually, I don't know who exactly was, but there was no other
2 people at the lower level to issue such a policy, other than the
3 top levels, including the Secretary of the Party.

4 Q. When you came to Phnom Penh, in June 1975, did you have any
5 prior knowledge that Phnom Penh had to be evacuated -- people in
6 cities had to be evacuated?

7 A. I did not learn that all had to be evacuated. But when I came
8 to Phnom Penh, I learned that everyone was evacuated, saving some
9 combatants, men and women.

10 Q. Do you know anything about this evacuation plan?

11 A. No, I don't.

12 [13.58.13]

13 Q. Do you know the reason behind this evacuation plan?

14 A. I'm not sure I know this, but later on I learned that during
15 the sessions -- the training sessions or the life views meeting
16 sessions conducted for -- at S-21 for people from Division 703,
17 we learned that people were evacuated violently.

18 Q. On the basis that you used to live with the leaders of the
19 Communist Party of Kampuchea -- that was when you lived at the
20 railway station -- did you know about the evacuation of Phnom
21 Penh people?

22 A. Allow me to indicate this again, concerning my living at the
23 railway station. The railway station was not a house where my
24 superior lived or stayed for work; it was a place to receive
25 guests. It was for the Secretariat, so I did not have frequent

1 meeting with my superior. I was able to meet my superior only
2 when he asked me to meet him.

3 Q. Did you know who implemented the evacuation of the population
4 of Phnom Penh? What did you know about that?

5 A. I did not see. I did not know anything about that, but when I
6 arrived in Phnom Penh people were gone. There were however some
7 military personnel.

8 Q. So, when you arrived in Phnom Penh people had gone. That means
9 Lon Nol soldiers -- the Lon Nol officials were all gone; is this
10 correct?

11 A. Yes, it is.

12 [14.01.24]

13 And I would like to add, also, that workers were also evacuated,
14 but some of them were taken back to Phnom Penh in order to work.

15 And the evacuation ended in -- on the 31st of June 1975 --
16 rather, it was on the 31st of May 1975.

17 Q. What did you know as to what happened to the officials of the
18 Khmer Republic -- that is, after 1975 or during 1975? What did
19 you know about that?

20 A. The documents of Division 13, the documents that was the
21 heritage of S-21, mentioned that a lot of soldiers and military
22 officials were arrested. So it is clear that those people were
23 collected and smashed.

24 Q. A while ago, you informed the Court that you were told at S-21
25 that people had been forcibly evacuated. Could you describe that

1 or elaborate it?

2 A. When I joined the first session -- that is, after I finished
3 the training -- I and Comrade Sok<V> from the Phnom Penh hiding
4 -- hidden force, we led the livelihood meetings, and it was then
5 that man was found to be connected to the evacuated people.

6 [14.04.14]

7 But my 703 forces talk about the Lon Nol soldiers, that the Lon
8 Nol soldiers attacked our force, but our force attacked --
9 counter-attacked and captured some weapons. Those was the events
10 that happened at that time, but what was going on was that the
11 forces of the Communist Party of Kampuchea forcibly evacuated the
12 people, that the evacuation of the people was done forcibly.

13 Q. When you were told at S-21 that -- or what else were you told
14 with regards to the evacuation?

15 A. That was later on, probably in November, when I was in charge
16 of the chief and I led the interrogation that You Peng Kry<V>
17 told me that Mat -- Nat, rather, was a brilliant person, that
18 this monkship failed. That's what he told me.

19 [14.06.24]

20 He also told me that Professor Khieu Komar<V> was a member and he
21 was also evacuated. He was walked along National Road Number 4.
22 That's what I was told.

23 Q. Were you told about the method of the evacuation?

24 A. Som Mein alias Mun (phonetic) talked about people being
25 evacuated. They said the people were told that Americans were to

1 bombard the area and they were to be evacuated and for those who
2 refused the evacuation would be shot.

3 And I would like to add also that the evacuation of the
4 population, as already mentioned in the documents, was the plan
5 to concur victory, and the Lon Nol has also -- also has their
6 plan to concur the victory, and they are different.

7 Q. Were you told what happened to those people who refused the
8 evacuation?

9 A. No one told me. I attempted to ask people, but no one dare to
10 answer to me.

11 Q. About the evacuation, did you also know whether patients at
12 the hospital were also -- also evacuated?

13 [14.08.42]

14 A. I did not know about that. I came after people were evacuated,
15 and after I arrived, I went to the training session.

16 Q. Did you know whether those who evacuate -- were evacuated were
17 allowed to come back to Phnom Penh?

18 A. No, I was not aware of that; only, as I said, some workers
19 were taken back to the city.

20 Q. Did you know what would happen if those people came back
21 without permission?

22 A. I cannot guess, but to be truthful, I do not know about that.

23 Q. During the Democratic Kampuchea, did you know the reason of
24 the evacuation?

25 A. I did not think about that. I did not consider about that.

1 [14.10.06]

2 Even after -- after 17th January 1979, I did not even consider
3 the reason why people were evacuated.

4 Q. Did you know how long it took for the evacuation to be
5 finished?

6 A. I did not know.

7 Q. Did you know -- besides the reasons that you say America will
8 bomb on the place, did you know about any other reasons why
9 people were evacuated?

10 A. The pretext used as the reasons at the time was that America
11 was about to bombard, but I was not aware of any other reasons.

12 Q. Did you know about the real reason why?

13 A. No, I did not know. I did not know about that.

14 [14.11.26]

15 The study documents only said that this is the plan to concur the
16 victory. It was mentioned in the documents that we studied that
17 was mentioned in document "kor nor hor" [KNH]. It also said that
18 we were moving toward the socialists.

19 Q. Do you know that it was planned -- the evacuation was planned?

20 A. I did not know about that, but the documents were there. It
21 was not a coincidence; it was a plan to concur the victory.

22 Q. Concerning the evacuation of people -- the forced evacuation
23 that happened elsewhere outside the city, did you know anything
24 about the evacuations during the Democratic Kampuchea?

25 A. No, I did not. It was only after I saw a document. It was the

1 message of So Phim written to Pol Pot and Nuon Chea about the
2 evacuation of people along the river and the border.

3 Q. What else did that document discuss when you saw the document?

4 A. I saw the document during the Case 001 Trial.

5 Q. From what you knew back then, during the regime, did you know
6 where those people were evacuated to?

7 A. People were evacuated and brought to everywhere across the
8 country.

9 [14.14.13]

10 Allow me to recall one story of my friend, my schoolmate. We rode
11 our bicycles along each other. We were going to study and my
12 friend saw his wife being evacuated. They were separated.

13 Later on, I tried to search for news about Professor Khieu Komar
14 and I learned that he was evacuated and he died. He was never
15 heard again, so I can say that people were evacuated and moved to
16 every places.

17 Q. How do you know -- how did you know that people were evacuated
18 and brought to all places?

19 A. Like what I have said, I saw it with my eyes, and I also
20 searched, for example, for the information about Professor Khieu
21 Komar, and I learned that he was evacuated and brought along
22 National Number 4 -- National Road Number 4.

23 [14.15.35]

24 Q. Did you also know that people were evacuated from the Central
25 Zone to the Southwest Zone between 1975 and 1978?

1 A. No, I did not.

2 MR. KARNAVAS:

3 If I may interject for one second. Good afternoon, everyone. I
4 hate to interrupt again.

5 We've had a series of questions where it's quite clear that the
6 prosecutor is feeding the answers and asking him whether he
7 knows. It's classic cross-examination in a sense. He's taking
8 facts which are not in evidence, and rather than elicit
9 information as to what he knew, he's -- he's giving him
10 hypotheticals. And the last question was a clear example. And I
11 don't see how it benefits us in getting to the truth.

12 [14.16.29]

13 The gentleman indicated on numerous occasions he knew nothing
14 about the evacuation, and then he's asked a series of leading
15 questions with specifics, trying to, sort of, get a nod from the
16 witness.

17 I don't think this is proper questioning. I don't see that it has
18 any benefit and I simply think that the gentleman should just
19 move on. And I object to this line of questioning, in the manner
20 in which it's being conducted. They can ask a simple question.

21 This sort of -- since they're -- they're leading the witness,
22 it's who, what, where, why, how, explain, describe, did you know,
23 what did you know, when did you know it, how did you know it. But
24 to, then, go on and to give specifics: Well, did you know that
25 people were moved from this area to that area-Clearly, he's

1 feeding the witness with information. It is improper. I don't see
2 how it helps you.

3 I realize that the witness testified, or gave evidence in his
4 case, and I realize that we are before the same Bench. I also
5 realize that you all have these -- the documents and we are in a
6 civil law system. But if the purpose of this exercise is to
7 elicit information that the gentleman actually knows and has
8 experienced as opposed to what he has read thereafter, this is
9 the wrong way to go about it. And therefore I would object to
10 this method of questioning. Thank you.

11 [14.18.00]

12 BY MR. SENG BUNKHEANG:

13 Q. Mr. President, allow me to re-phrase my question: Mr. Witness,
14 can you describe the fact that people were evacuated to all
15 places?

16 MR. KAING GUEK EAV:

17 A. As I informed you, Mr. Co-Prosecutor, when I was in Amleang, I
18 saw people were evacuated and people were purged, and the purged
19 people were smashed. And here I'm talking about the events that
20 happened in Amleang, but this one instance is broad in nature;
21 that is common, it is very common.

22 I have some sentiments towards Professor Khieu -- Khieu Khomar,
23 and one of my friends -- the story that I told you a while ago.
24 When we were on the way from Amleang, we saw people were
25 evacuated. So we saw that these actions were carried out in

1 places.

2 Q. After people left Phnom Penh, did you know the evacuation of
3 peoples to other areas?

4 [14.20.10]

5 A. I received some information about the evacuation of people in
6 Kampong Thom. I got that from my brother-in-law -- his name is
7 Kao Ly Thong Huot<V> -- that people were evacuated to the
8 countryside.

9 Q. Can you tell us what he said?

10 A. He said that the evacuation was prepared. People who were
11 taken by cars were to be smashed, and people who were walked
12 would live. That's what he said.

13 [14.21.06]

14 Q. Did you know -- or what types of people were they that were
15 evacuated?

16 A. (No interpretation)

17 Q. Can you answer on the basis of your knowledge?

18 A. On the basis of my knowledge, I knew about that from the
19 documents at S-21. I knew about that from the fact that people
20 were evacuated out of Phnom Penh.

21 Q. Did you know at that time why those people were evacuated?

22 A. We were not told the reason why people were evacuated. In the
23 introduction, the documents - rather, in the study documents, we
24 learned the great leap forward, that we were moving toward the
25 revolutionary socialists.

1 Q. Did you know where those people were evacuated to?

2 A. They were evacuated to the countryside, and from the study
3 documents the New People were to be under the control of the Old
4 People. The document "kor nor hor" [KNH], as I referred to
5 earlier, also mentions that. It was entitled "The Analysis of our
6 Victory". Brother Mam Nai wrote that.

7 Q. Did you also know the way that people were evacuated?

8 [14.23.43]

9 A. People were walked; they were told to walk.

10 Q. Were there Khmer Rouge cadres walking behind them; did you
11 know that?

12 A. I was not -- I am not sure about that, but it was inevitable
13 that there were Khmer Rouge cadres, but as to whether I saw it or
14 I heard people talk about that, I would say no.

15 Q. Were you told that the evacuated people were to go to any
16 place they wanted to go?

17 A. No, I do not know about that.

18 Well, let me talk about an example of my other friend; he may be
19 dead already now. His name is Ya Sieu Heng (phonetic). He was
20 separated from his wife. He wanted to go to find his wife, but I
21 asked him not to go because we were busy with the rice famine. We
22 had to wait until we finish our famine work. So it was not up to
23 us to decide when to go.

24 [14.25.11]

25 Q. From what you said, does that mean that the evacuated people

1 were allowed to go with their family members?

2 A. No, people were separated. My friend was separated from his
3 wife. He was a professor at the lower secondary school. When he
4 arrived home, he was evacuated to the other place while his wife
5 was evacuated to the other place.

6 Q. About the evacuation, did you know that the evacuated people
7 were received by another group of people?

8 A. If we analyze the situation in Amleang, we can see that people
9 -- when people arrived in Amleang, people were asked about their
10 occupation, and then they were divided into groups -- that is,
11 some people were brought to this place, some other people were
12 brought to the other place. This is what we can understand.

13 Q. The receiving people, were they -- did they receive any
14 instruction from other people?

15 [14.26.46]

16 A. Normally, it is impossible for cadres to do -- or to take
17 action without orders from the superiors. They dare not to do
18 that by their own initiative. Otherwise, they would be breaching
19 the conduct.

20 Let me give you an example. They had the cadre who arrested
21 people without the order the superior, and he was later arrested.

22 Q. Did you know what happened to the evacuated people after they
23 arrived at their destination?

24 [14.27.36]

25 A. I already said that there was a movement of smashing people in

1 -- during the evacuation, and some people were -- that is, the
2 Old People (sic) -- were to be under the control of the Old
3 People. At that time, there was a saying -- there was a word, the
4 "17 April People". We have this phrase to refer to the New People
5 from the - the city, who would be under the control of the Old
6 People.

7 Q. At the time, did you know over the -- or how was food -- how
8 food was provided to the evacuated people?

9 A. I do not know, but that they had enough food to eat or not,
10 but when they arrived at their destination, the food ratio were
11 determined by the superiors.

12 This does not mean that I did not know anything about that at
13 that time. My mother was also evacuated from the city. In
14 Stoung<V>, people were not given food; in the first place, my
15 superior said that because we had not yet captured all the enemy
16 and the enemy prohibited the food. This was the accusation that I
17 understand; it happened to my mother.

18 And when it comes to the food ratio, I think I mentioned that in
19 my document.

20 [14.30.14]

21 Q. Did you know during the Democratic Kampuchea regime that -- or
22 what policies are there for -- when it comes to the work issue?

23 A. I do not understand the question.

24 Q. During the Democratic Kampuchea regime or before April 1975,
25 what CPK policies are there when it comes to working in

1 cooperatives?

2 A. I already mentioned about that, that workers were first to do
3 the work in Preah Vihear and that was a pilot programme, and then
4 those farmers were to work in liberated zones. Cooperatives were
5 even created a long time ago.

6 [14.31.44]

7 After the 17 April, there was a document, but I did not see that
8 document yet. It was issued in May 1975. The document talks about
9 the promotions of workers -- or farmers across the country. In
10 other words, all people across the country did work. Farmers did
11 work; people did the work; combatants, men and women, did the
12 farming also. So everyone worked.

13 Q. On the basis of this policy, did you know who was responsible
14 for the implementation of that policy in cooperative?

15 A. In each cooperative, there was the Party secretary, and the
16 secretary was responsible for that. He or she led the work in
17 that cooperative. In order to promote the work, a Party member
18 was assigned to monitor the work at a base, and the food ratio
19 were assigned -- that is, a person receives two cans of rice.

20 Q. Thank you. Can you compare if-- Besides Prey Sar, were there
21 any other cooperatives?

22 A. In Prey Sar, the cooperatives was in the form of farm
23 cultivation. People were semi-peasants and that they were not
24 supposed to be armed or promoted to become the youth of the CPK.
25 They were treated more like other evacuees.

1 [14.34.34]

2 Q. Why were they treated like that?

3 A. I think it was due to the course, the class, the stance of the
4 Party with regard to class. It was in the Statute of the Party.

5 It reads that we have to be against the capitalist and the feudal
6 class and that new -- that peasants be the one who control the
7 country.

8 Q. So what happened as you indicated was due to the class
9 objective?

10 A. Indeed, because of this, people who are -- were from the
11 workers and peasant class were empowered. They were empowered
12 through promoting the lower middle-class peasants to hold
13 important positions at the commune, district, and provincial
14 levels, and later on peasants were allowed or promoted to hold
15 the ranks in the military.

16 Q. Were you ever told by any leaders of the Khmer Rouge on this
17 policy?

18 A. This policy was no misery -- rather mysterious. It was stated
19 also in the constitution; the constitution was a public document.
20 It was known to everyone around the world. Article 1 states that
21 the state of Cambodia belongs to the workers and the peasants;
22 production -- or product -- means of production belong to
23 peasants and workers. That's what it reads in the constitution.

24 [14.37.40]

25 Q. Could you elaborate further on this? Who were assigned to work

1 in cooperatives?

2 A. As workers in the cooperatives they were assigned to the
3 production units. These include both New People and Old People,
4 but when it comes to the leading roles, they only -- those people
5 including the Party's member and the youth of the CPK who would
6 be entitled such positions.

7 Q. With regard to Prey Sar, can you tell us anything about your
8 knowledge of the purpose of the establishment of Prey Sar?

9 A. Prey Sar is the legacy left by Son Sen. It was established by
10 Son Sen for keeping people or members of the Party who had -- or
11 had done some minor offences or wrongdoings, and that they would
12 be kept there to rebuild themselves. People from the military
13 were also sent to Prey Sar to be tempered. So Prey Sar was
14 created to educate combatants who misbehaved or who had problems,
15 so that they can be re-fashioned. These people were sent there so
16 that they could re-fashioned and re-integrated back into the
17 military, but the mission was not very successful.

18 [14.40.11]

19 MR. PRESIDENT:

20 Since it is now appropriate time for adjournment, the Court will
21 adjourn for 20 minutes. The next session will be resumed by 3
22 o'clock.

23 Security personnels are now instructed to take the accused person
24 (sic) to the waiting room -- or to his room and have him returned
25 to the courtroom when we resume.

1 THE GREFFIER:

2 All rise.

3 (Judges exit courtroom)

4 (Court recesses from 1440H to 1500H)

5 (Judges enter courtroom)

6 MR. PRESIDENT:

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

8 Mr. Nuon Chea, you may now proceed.

9 MR. NUON CHEA:

10 Good afternoon, Mr. President. Mr. President, my health does not
11 allow me to proceed further this afternoon.

12 May I be excused from this courtroom? Because I have been doing
13 my best, but I can't stand no more. I would like some rest.

14 MR. PRESIDENT:

15 Where would you like to rest?

16 [15.02.05]

17 MR. NUON CHEA:

18 I would like to go to the holding cell.

19 MR. PRESIDENT:

20 Your request is granted.

21 However, counsel for Nuon Chea need to produce the waiver to the
22 President and that Nuon Chea shall sign or give thumbprint on the
23 waiver.

24 The AV officers are instructed to link -- ensure that the
25 video-link is connected to the -- his holding cell so that he can

1 observe the proceeding from that room.

2 Security personnels are now instructed to take Nuon Chea to the
3 holding cell to allow him to be able to follow the proceedings
4 remotely. Security personnels, you are now instructed to bring
5 him to the holding cell.

6 (The accused Nuon Chea exits the courtroom)

7 [15.03.32]

8 Counsel for Nuon Chea, you may now proceed.

9 MR. PESTMAN:

10 Thank you very much, Mr. President.

11 I'm afraid there's a misunderstanding. Our client has informed
12 the Court that he is unable to participate effectively in this
13 procedure, and he said that he's going to go downstairs and rest.

14 And as indicated earlier, with this particular witness, he will
15 not waive his right to effectively participate in these
16 proceedings, whether in court or from the holding cell.

17 So my request is quite simple: we would like you -- or we would
18 like to request you to adjourn this hearing until tomorrow
19 morning, and my client will be, hopefully, fit enough to again
20 participate in the proceedings.

21 (Judges deliberate)

22 [15.07.38]

23 MR. PRESIDENT:

24 The Chamber has noted the request by the accused person Nuon
25 Chea, and that decision has already been made. And we later on

1 noted the request by counsel for Nuon Chea. The latter is not
2 relevant to the one made by Nuon Chea earlier on.
3 Nuon Chea asked that he be excused from this courtroom and that
4 he observe the proceeding from the holding cell, so the -- as
5 well, counsel asked that the proceedings be adjourned, so the two
6 requests are not consistent.

7 And to be precise, we would like to inquire that the medical
8 doctor be instructed to examine the health condition of the
9 accused person and advise the Court immediately after this
10 medical check-up to see whether we can proceed or not.

11 (Counsel Pestman exits courtroom)

12 [15.09.45]

13 Mr. Ansan, could you please go and see where counsel is gone to?
14 We would like him to be back in his seat and allow the medical
15 doctor to examine the accused person independently. And report on
16 this to me immediately.

17 (Greffier exits courtroom)

18 [15.10.43]

19 Counsel Pestman, if you interfere the work of the medical doctor
20 who will examine the accused person independently and if the
21 result of the medical report tainted by your interference, then
22 you will be in trouble.

23 (Greffier enters courtroom and reports to the President)

24 [15.12.22]

25 (Judges deliberate)

1 [15.17.55]

2 (Counsel Pestman enters courtroom)

3 The Chamber has note that - has noted that international counsel,
4 Mr. Pestman, for Nuon Chea, has left the courtroom and reached
5 the room where the doctor examined the medical condition of the
6 Accused. The Chamber treats that as an interference into the work
7 of the medical doctor.

8 So, in light of that, the Chamber will not base the argument of
9 counsel as the reason for having the Accused to be excused -- or
10 to adjourn the hearing.

11 However, the Chamber has taken note of this interference; we
12 could not do anything but to adjourn the meeting.

13 The Chamber would like to inform the parties and the public that
14 the hearings of testimonies of Mr. Kaing Guek Eav alias Duch will
15 be resumed tomorrow, the 21st of March 2012.

16 [15.20.08]

17 On Thursday, there will be no hearing because the Chamber has
18 other matters to discuss.

19 Security personnels are now instructed to bring the accused
20 person to the detention facility and have them returned to the
21 courtroom tomorrow, by 9 o'clock.

22 And Mr. Kaing Guek Eav shall also be returned to detention
23 facility, and that he be returned to the courtroom by that time.

24 If he is brought earlier -- earlier than 9 o'clock, then he

25 should be kept in the waiting room, and that he shall be in the

1 courtroom before the Judges resume the Bench.

2 The Court is adjourned.

3 (Court adjourns at 1521H)

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