



**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

**អង្គជំនុំជម្រះសាលាដំបូង**

Trial Chamber

Chambre de première instance

**TRANSCRIPT OF TRIAL PROCEEDINGS - KAING GUEK EAV "DUCH"**

**PUBLIC**

Case File N° 001/18-07-2007-ECCC/TC

7 July 2009, 0902H

Trial Day 40

Before the Judges:

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KAING Guek Eav

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**List of Speakers:**

Language used unless specified otherwise in the transcript

Speaker	Language
MR. AHMED	English
MS. CANIZARES	French
JUDGE CARTWRIGHT	English
MR. HONG KIMSUON	Khmer
MS. JACQUIN	French
MR. KAR SAVUTH	Khmer
MR. KIM MENGKHY	Khmer
MR. KONG PISEY	Khmer
JUDGE LAVERGNE	French
MR. LAY CHAN	Khmer
MS. SE KOLVUTHY, GREFFIER	Khmer
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THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
JUDGE THOU MONY	Khmer
MR. YET CHAKRIYA	Khmer

1

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

2 (Judges enter courtroom)

3 [09.01.32]

4 MR. PRESIDENT:

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

6 The Greffier, can you report on the attendance of the parties to  
7 the proceedings, and all those who have to participate in the  
8 proceeding as well.

9 THE GREFFIER:

10 Mr. President, all the parties to the proceeding are all present,  
11 and the person to testify is also present waiting for the  
12 invitation to appear before the Chamber.

13 [09.02.38]

14 MR. PRESIDENT:

15 Before I invite the civil party to provide her testimony before  
16 the Chamber, the Chamber will make an announcement on the  
17 decision requested by Studzinsky for civil party group 2. The  
18 request was made yesterday morning.

19 The decision is as follows.

20 The Trial Chamber accepted the request by the lawyer Studzinsky,  
21 representative of civil party group 2, yesterday morning for an  
22 additional half a day to hear the testimony of a civil party  
23 E2/32 by taking into account for a fair and expedite trial, and  
24 also the time allocation and the scheduling of the proceedings.

25 The Chamber already notified all parties.

2

1 Therefore, the Chamber rejects the request by Studzinsky, lawyer  
2 for the civil party group 2, which requested for an additional  
3 half a day to hear the testimony of E2/32.

4 Court officer, can you invite the civil party into the courtroom?  
5 (Witness enters courtroom)

6 QUESTIONING BY THE BENCH

7 BY MR. PRESIDENT:

8 Q.What is your name, Mr. civil party?

9 A.Good morning, Mr. President. My name is Lay Chan.

10 [09.05.57]

11 Q.Do you have another name besides Chan?

12 A.Mr. President, during the revolutionary period I was called  
13 Lay Phôn However, my unit chief usually called me A Mok.

14 Q.How old are you this year?

15 A.Mr. President, at present I am 55 years old.

16 Q.What is your current address and occupation?

17 A.Currently? Or if you talk about my native village, I was born  
18 at Sala Kamraeuk commune, Siem Reap district, Siem Reap province.

19 Q.What is your current address and your current occupation?

20 A.At present, I live in Kouk Mon village, Dam Daek commune,  
21 Soutr Nikom district, and I am a rice farmer.

22 Q.In this criminal case trial, there is an accused named Kaing  
23 Guek Eav, alias Duch, and you applied to be a civil party in this  
24 case. Are you seeking reparation by yourself or you authorized  
25 your lawyer to act on your behalf for reparation?

3

1 A.I myself do not want to seek for any reparation, but I give  
2 this right to my lawyer to act on my behalf.

3 [09.09.02]

4 Q.So it means you authorize your lawyer to act on your behalf  
5 regarding reparations. Is that right?

6 A.That is correct.

7 MR. PRESIDENT:

8 I notice the presence of the defence counsel.

9 Take the floor.

10 MS. CANIZARES:

11 I am sorry to interrupt, Mr. President.

12 I think it is useful that at this stage I should indicate to the  
13 Court that the accused is expressing doubts with regard to the  
14 fact that the person appearing here as a civil party was detained  
15 in S-21.

16 MR. PRESIDENT:

17 That is the right exercised by the accused, however, the  
18 proceedings of the Chamber in whatever cases it might be, we will  
19 proceed with our questioning to the civil party and their  
20 involvement to the present fact, and also to respect their rights  
21 to participate in the proceedings. Only then the Chamber would  
22 consider whether the person is the actual victim or not.

23 [09.10.49]

24 BY MR. PRESIDENT:

25 Q.Mr. Lay Chan, when you applied to become a civil party to this

4

1 case, are you by any means related to any facts or crimes alleged  
2 to be committed by the accused; for example, regarding the facts  
3 committed by the accused which also related to you personally?

4 A.Mr. President, when I lodged my application to be a civil  
5 party to this Chamber, I was a victim either by mistake or  
6 otherwise; I would not know. In 1976, I lived in the 705 Unit.

7 Q.I would like you to answer my previous question; if you are  
8 related directly to any fact or crimes alleged to be committed by  
9 the accused. And after we hear your response then the Chamber  
10 will proceed with the questions.

11 A.I suffered during 1976 by being tortured and the suffering I  
12 received has been kept in my mind, my emotions, until the time I  
13 heard about this Chamber. That's when I lodged my application.

14 Q.You stated that you were tortured in 1976. Where were you  
15 tortured and when?

16 A.Mr. President, when I was arrested I didn't know where I was.  
17 I was blindfolded and put into a vehicle.

18 Q.You said you were tortured, and my question is, where was the  
19 location where you was tortured, so that's number one.

20 And, number two; during the time that you were tortured, can you  
21 recall the period? If you cannot recall the exact date, can you  
22 recall the month or the year, and the duration of the torture;  
23 for instance, three days, five days or 10 days? Can you state  
24 that to the Chamber?

25 These are the foundations regarding to the facts and your

5

1 involvement in this case.

2 A.When I was tortured, I didn't know the location where I was  
3 tortured. After I was blindfolded, I was walked with my hands  
4 tied, and at the interrogation location the blindfold was not  
5 removed and I was tortured during the interrogation. I was asked  
6 that I used to live in the unit and whether I steal any rice for  
7 the enemy. And I said I never stole any rice for the enemy and  
8 that I never provide any service to the enemy at all.

9 [09.15.55]

10 After I gave the same response each time, they hit me twice near  
11 my ear and I became unconscious. So this is the first fact of my  
12 suffering that I still feel the pain until the present time.

13 Q.You stated that you were arrested. Where you arrested and  
14 what were you doing just before you were arrested, and when?

15 A.Not only I alone was arrested, but other people were arrested  
16 as well. Let me state from the beginning.

17 In 1976, although I can not recall the exact date, I myself was  
18 working at the Kilometre Number 6 Port. Comrade Yim and Comrade  
19 Loeun and Comrade Naan -- and they were the company cadres --  
20 were the senior people there. And I was just a messenger to  
21 these senior people although I was older than them.

22 I was called A Map, A Map. So while I was carrying rice at that  
23 Kilometre Number 6 Port, a person from the warehouse called me  
24 that the Comrade Loeun and Yim requested me to go with them, so I  
25 packed my belonging to go with them.



6

1 There was a Lambretta which was fully covered parked in the  
2 warehouse and I boarded that Lambretta. There were four of us;  
3 Comrade Yim, Comrade Loeun, and Naan and myself. I sat towards  
4 the rear of the Lambretta.  
5 [09.19.16]  
6 While we reached the Chroy Changvar Bridge, the Lambretta  
7 stopped, and they opened the rear of the Lambretta and they  
8 pointed the guns at me and I was blindfolded. Then my clothes  
9 were stripped off and I was asked to stand on one side. A while  
10 later, the Lambretta left.  
11 I could not see anything after they blindfolded me with my krama  
12 and then I was thrown into another car. I felt terrible at the  
13 time and terrified. The other two or three people were also  
14 thrown into that vehicle. I was very worried at the time, and  
15 about half an hour later the vehicle stopped for about three or  
16 four minutes and then it continued for another 10 minutes.  
17 The car stopped and I was thrown out of the vehicle. At that  
18 time, my arms were still tied to the back and I was still being  
19 blindfolded. After that, we were separated and I didn't know  
20 where I was.  
21 When I arrived at a location where I would be detained, I was  
22 shackled and I could not recall the location of that detention.  
23 I was so horrified at the time and I could not recall the  
24 location at all.  
25 Later on, the blindfold was removed and I still could not

7

1 recognize the location where I was. This is my response, Mr.  
2 President.

3 Q.You were arrested and you cannot recall the date of your  
4 arrest. Is that right?

5 A.Mr. President, I can only recall the year. It was 1976.

6 [09.22.39]

7 Q.You were arrested and detained. How long were you detained at  
8 that location?

9 A. Mr. President, when I was arrested and detained at that  
10 location, I can recall that on the second day I was taken for  
11 interrogation, and I was seriously tortured during the  
12 interrogation because I protested that I did not steal the rice  
13 which were to be used for the supply to the unit. They alleged  
14 that I colluded with the other three people to take the rice and  
15 to give the rice to the enemy, and I responded that I was a  
16 messenger and I did not know anything about this.

17 I gave the same response each time I was asked and I was beaten.  
18 I became unconscious. At that time, I was blindfolded so I  
19 didn't know whether they hit me or beat me up with any torturing  
20 tool. Later on, I was taken back to the detention cell.

21 Q.We want to know when you were arrested and detained at that  
22 location and that you were tortured during the interrogation.  
23 From that day until you were released, what was the duration of  
24 your detention? Can you answer directly to my question?

25 A.Mr. President, when I was detained at that location and when I

8

1 was tortured during the interrogation, I think the total period  
2 of my detention was three months or less.

3 Q.During the time of your detention at that location, did the  
4 staff at that location remove your blindfold or had you been  
5 blindfolded during that three months, day and night?

6 A.Mr. President, when I was taken back into my cell then the  
7 blindfold removed and I was shackled. When I was ordered to  
8 discard my own waste, then they removed my shackle and that I  
9 carried my own waste to discard it, and I was blindfolded when I  
10 was led out.

11 [09.26.39]

12 After that, the guard ordered me to dig some pits the size of  
13 between 60 to 70 centimetres or to one metre wide, and after that  
14 I was taken back into my cell.

15 Q.Can you recall the location where you was detained; whether  
16 you were detained in an individual cell or in a bigger room?

17 A.Mr. President, I cannot recall what the building was made of.  
18 However, I can recall that the cell where I was detained, I was  
19 detained alone and towards the back of my cell it was a wooden  
20 wall, however, the other two walls on the side were concrete  
21 walls.

22 Q.How big was your cell? Was it a newly structured room or was  
23 it an old one?

24 A.The cell where I was detained was not bigger than one metre  
25 wide and, about my head I could hear the footsteps of people

9

1 walking.

2 Q.During the time when you were detained, have you noticed how  
3 many other detainees were kept along with you?

4 A.The detention of other detainees was not of my knowledge. I  
5 only learned that there would be screamings, and I was not  
6 allowed to stand up or to peek out to see whether there were  
7 other detainees.

8 Q.Were you detained on the ground floor or on the first floor?

9 [09.29.58]

10 A.So far as I can recollect, I was detained probably on the  
11 ground floor because at night when my blindfold was removed I  
12 learned that I -- after I walked on the steps, like after three  
13 steps and I fell to the ground, so I could tell that I would be  
14 detained on the ground floor.

15 Q.You stated just now that after being interrogated you were led  
16 to dig some pits -- some pits, small or bigger pits -- and in  
17 your complaint you said you were asked to dig the pits to plant  
18 banana trees; three pits every night.

19 So which would be the best testimony? Were you asked to dig  
20 three pits for planting banana trees or were you asked to dig the  
21 pits with different sizes and that you did not know the main  
22 purposes of the pits?

23 A.When I was asked to dig the pits, the guards told me that  
24 these pits would be used for planting banana trees, but I did not  
25 plant those banana trees. I was only asked to dig those pits.

10

1 And the work done at night, not during the daytime.

2 Q.At night when you were asked to dig those pits, to which  
3 destination or from your location where you were detained, were  
4 you asked to dig these pits?

5 A.When I was taken to dig the pits, I had no idea where I was  
6 taken to because I was blindfolded when I was being walked, but  
7 it took me a little while before we reached that location. It  
8 took us about 15 to 20 minutes to reach to the location where the  
9 pits would be dug, and then they turned me to the left, and  
10 sometimes they turned me to the right-hand side before we could  
11 walk to that location.

12 [09.33.17]

13 And, in conclusion, the trip to that location took about 15  
14 minutes to 20 minutes.

15 Q.So you were let out at night and that you were being  
16 blindfolded while being walked, and it took up to 20 minutes to  
17 reach that location. Is it correct?

18 A.That's correct, Your Honour.

19 Q.During the time you were detained in the location for a period  
20 of about three months, what had you observed? Did you see any  
21 landmark of importance, for example, the buildings or anything  
22 else?

23 A.During the day times, I could not see anything other than the  
24 cell location so I did not know anything else. I only learned  
25 that on top of me there was a concrete ceiling and the walls were

11

1 covered with wooden or timber.

2 Q.So the ceiling was close to your head or the ceiling was close  
3 to your head only when you stood up? So, please, tell us  
4 something about that concrete ceiling and its condition.

5 A.When I stood up, of course, I could not stand to the full  
6 length of my body; then my head would be attached to the ceiling  
7 already.

8 [09.35.49]

9 Q.So your detention room is small and that the ceiling is very  
10 low, so it was designed to fit the tall of one person. Even when  
11 you stood up, then your head would already hit the ceiling. Is  
12 it correct?

13 A.That is correct, Your Honour.

14 Q.So the roof is made of concrete or wood?

15 A.It was made of concrete, Mr. President.

16 Q.My question again, do you know the place? And what was it  
17 called during the time of your captivity; do you know what is it  
18 called?

19 A.I did not know it previously, but later on the guards, who  
20 were guarding the premises, two of them were talking to one  
21 another and I learned from them that it was Tuol Sleng School.  
22 And I learned from a guard -- of course, I did not know him -- he  
23 was talking outside. He said that last night a truckload of  
24 prisoners were taken and I could not sleep at all.

25 And then the other guy responded, "You know, this place, this

12

1 Tuol Sleng location was normal to experience such a thing, so you  
2 would experience this hardship like the way I would do". And  
3 later on, I learned from their conversation that it was Tuol  
4 Sleng location.

5 Q.After 1979, did you pay a visit to Tuol Sleng -- I mean, Tuol  
6 Sleng prison?

7 A.After the liberation in 1979 and until the ECCC was  
8 established, I had paid just one visit to the location and the  
9 location was already reformed. It did not look exactly the same  
10 as what it would have been like previously at the outset.

11 [09.39.15]

12 Q.So you did pay a visit to the location after 1979, but you  
13 cannot remember the place where you were once detained because of  
14 the reform of the location. Is it correct?

15 A.It's correct, Your Honour.

16 Q.We would like to go back a little bit to the time when you  
17 were arrested and sent at the outset to that detention facility.  
18 How were you treated back then before you were put into the  
19 building?

20 A. When I entered the location, during the first night I was not  
21 interrogated or asked any questions. They only walked me to the  
22 place where I would be detained.

23 Q.Were you interrogated or asked about your biography, your  
24 background or your parents, so on and so forth, when you  
25 immediately were sent there or were you sent to be detained

13

1 immediately upon arriving?

2 A.When I reached the location, I was not asked, neither did they  
3 interrogate me other than sending me to be detained.

4 Q.Were you taken photograph?

5 A.At that time I did not know whether I would be photographed  
6 because I was being blindfolded. I could not see anything.

7 [09.42.09]

8 Q.What happened to your clothes? What kind of clothes were you  
9 wearing when you were being detained?

10 A.When I was sent from the unit, I wore black clothes and I had  
11 a krama surrounding my neck.

12 Q.So then where were the krama and the clothes taken, I mean  
13 after you were detained? Or were you allowed to have them all?

14 A.I was arrested beneath the Chroy Changvar Bridge, and they  
15 blindfolded me and they stripped my clothes and the krama also  
16 was removed.

17 Q.So when you were sent to the detention facility, you were  
18 already stripped to your underwear. Is it correct?

19 A.That is correct, Your Honour. I only was stripped to my  
20 underwear and the T-shirt.

21 Q.You said you were taken to be interrogated. How often were  
22 you interrogated and how were you treated during such  
23 interrogation?

24 A.As I already stated earlier, first they asked me whether I  
25 worked with Comrade Yin and Loeun.



14

1 Q.My question is, how often were you interrogated during your  
2 captivity?

3 A.They interrogated me twice.

4 Q.Were you interrogated at the place where you were detained or  
5 interrogation took place elsewhere?

6 A.When I was interrogated, I was blindfolded and walked me out  
7 while I remained shackled and my hand was tied to a knot, and  
8 then they asked me to carry shackles, and I could estimate that  
9 the interrogation location would be about 30 steps. I mean, I  
10 measure by my footsteps, so it's about 30 steps from my location  
11 and then they would interrogate me. And I was unconscious after  
12 the beating.

13 [09.46.09]

14 Q.Were you shackled -- I mean, you said that the shackle was  
15 removed partially and your handcuffs were partially removed.  
16 Were you handcuffed and then shackled along with the blindfold  
17 during being interrogated?

18 A.When the interrogation was carried out, I was not shackled but  
19 they tied both of my hands to my -- behind. And I was holding  
20 the shackles while I received a kick from them when I collapsed,  
21 but I was not removed from the blindfold.

22 Q.How many interrogators interrogated you?

23 A.I think I could estimate the number of interrogators through  
24 my ears. I could tell that there were at least two of them; one  
25 in front, one behind me.

15

1 Q.Did you know that there were any torture devices or tools in  
2 that location?

3 A.I could not see those tools, so I could not tell you about the  
4 devices.

5 Q.You said you were beaten up, so how were you beaten up, or  
6 with which?

7 A.Mr. President, when I was beaten up I think they punched me  
8 right to my ear, but later on I collapsed and fainted already. I  
9 did not know whether I had some further blows by clubs.  
10 [09.48.50]

11 Q.During the time of your captivity, were you shackled and then  
12 handcuffed or were you removed from being handcuffed while the  
13 shackles remain -- I mean, not removed; and that you were tied to  
14 your hands while you were being detained?

15 A.In the detention room they did not untie my hands, although  
16 they made it loose, but my legs remained shackled.

17 Q.So during the period you were detained, then you would be  
18 shackled and both of your hands were tied behind your back and  
19 that you would not be removed entirely from those things. Is  
20 that correct?

21 A.It is correct, Your Honour.

22 Q.What was the food rations like?

23 A.I was given gruel, sometimes with fewer grains, sometimes with  
24 more grains.

25 Q.So you were given gruel, sometimes thick gruel and sometimes

16

1 thin gruel. Is that correct, or were you given rice too?

2 A.I think I rarely had rice, except the thick gruel sometimes.

3 Q.Were you given some soup to serve with rice or gruel?

4 A.No, no soups. I was only given the gruel, but sometimes we  
5 had a very small fish in the dish.

6 [09.52.38]

7 Q.Were you given enough eating -- or could you tell us about the  
8 food ration again?

9 A.Frankly, the eating was no more than a small bowl of gruel, so  
10 if it was a thick gruel then it would be in the form of small  
11 bowl; if it was thin gruel then it would be more.

12 Q.Why you said that the thin gruel would be put in a mug? Were  
13 you given the food in a plate or in a kind of mug?

14 A.When I said it's a thin gruel, we have more than one small  
15 bowl because it would be put in a mug.

16 Q.My question is about the mug. You know, normally the mug is  
17 used for putting water, so can you tell us whether a mug of gruel  
18 is equivalent to a small bowl of gruel or is it more?

19 A.The mug is big but the gruel would not be filled in that mug.

20 Q.Now, I would like to ask you a question about having a bath.  
21 Were you allowed to have a bath and how often did you have such a  
22 bath?

23 A.Mr. President, in general, I did not very often have a bath.  
24 I had a bath twice because when we went out to work outside then  
25 I could take advantage of having the water from a broken jar.

17

1 Q. So during your captivity you were not allowed to have a bath,  
2 whether it is inside the detention facility or outside, you were  
3 not allowed to do that. Is that correct?

4 A. It's correct, Your Honour.

5 [09.55.45]

6 Q. I may go back a little bit.

7 Do you recall when you were sent into the detention facility in  
8 which -- from which destination were you sent in, or which gate?

9 A. At that time, I don't know in which gate I was sent in because  
10 I was blindfolded and the car that took us covered with curtains.

11 Q. When you left the location, how did you manage to leave that  
12 area and what was the reason behind it?

13 A. When I left that location, I did not know why I was allowed to  
14 leave and I think it was like a routine, like what I would be  
15 asked to work and they only removed the shackles from my legs,  
16 and my hands were still tied and I was still being blindfolded.  
17 So the only unique circumstance is that my shackles were removed  
18 at that time and then I would be thrown on to a truck, and that's  
19 it.

20 Q. Were you blindfolded when you were thrown into the truck upon  
21 leaving the location?

22 A. At that time, I was blindfolded, like the routine when they  
23 asked me to dispose of the human waste.

24 [09.58.12]

25 Q. Were it at night or during the day time?

18

1 A.It happened at night.

2 Q.Where were you taken to?

3 A.I could not clearly recall the location where I was dropped  
4 off. After I was dropped off, it was dark and after the  
5 blindfold was removed I was kicked out of the vehicle. I was  
6 actually kicked out of the vehicle while the vehicle was in  
7 motion and it just came to a halt. I was kicked out and the car  
8 left.

9 Q.What happened to your tied?

10 A.My hand tie was loosened. I could make some little movement  
11 and, later on, two people on a motorbike arrived and I was picked  
12 up and I continued my journey on that motorbike.

13 Q.Where were you taken to?

14 A.After the two men arrived, they untied my hands and I was put  
15 on to that motorbike. I didn't know who they were and I did not  
16 know them before. They were older than me. After I was taken on  
17 that motorbike riding around the Phnom Penh city, I came across a  
18 location which looked familiar and I thought it was the old  
19 stadium near the Chroy Changvar Bridge.

20 [10.01.05]

21 And then I think I saw Comrade Iem, who was the unit chief taking  
22 over from Comrade Chim Yim, and he ordered the people on the  
23 motorbike to take me to the railway station in Samraong and the  
24 trip was done at night time.

25 After I arrived at the Samraong railway station, I didn't know

19

1 what he did at that location, but to me it seems that the  
2 situation was that people who used sugar canes worked there. So  
3 I was left there. At that time, I only had my underwear on me  
4 and, incidentally, I recognized a comrade and that person gave me  
5 a pair of clothes so I could wear it at night.

6 That is my recollection, Mr. President.

7 Q.And after that, which direction did you go to or where did you  
8 live?

9 A.After I have lived in that palm sugar production section, on  
10 the first night I did not dare to say anything, although I slept  
11 in the same shelter but I slept a bit further from the rest.

12 And in the morning, Comrade Iem came to provide me some  
13 instructions that now I am here for my re-education and I have to  
14 reveal myself, and do not follow the advice of those three people  
15 who were the enemy. "And now you are here, just try to work",  
16 and he also threatened me. I should only take care of myself.

17 "Whatever you are told by Angkar, do not leak out or tell other  
18 people."

19 So from that day I received the instructions and that warning, I  
20 did not dare to say anything at all about my past experience,  
21 although sometimes people asked me. I only concentrated on the  
22 work I was given to accomplish.

23 [10.04.20]

24 I had worked there for about one year. I was assigned to find  
25 firewood in order to cook the sugar juice, the palm juice, for

20

1 palm sugar. So two of us had to find the firewood in order to  
2 cook six big pans of palm juice and I would be responsible before  
3 Angkar if I could not find enough firewood.

4 Therefore, I had to try my best to accomplish my quota, and then  
5 Comrade Iem called me to go back to work at that port in  
6 Kilometre Number 6. I was not integrated into that unit but, I  
7 was assigned to grow vegetables at Mephleung near the vicinity of  
8 Majap Lake.

9 So I grew vegetables there and I did some rice farming, so the  
10 vegetables that I grew was in order to supply to the people  
11 living in the unit. I was the only worker from the port who was  
12 assigned to grow vegetables and, besides, I was asked to do the  
13 rice farming, and all the production from what I did was to  
14 supply to the unit.

15 [10.06.31]

16 Q.On the 7 January 1979, where were you and what were you doing?

17 A.While I lived at that Majap Lake near at Mephleung, it was --  
18 and on the 6th of January 1979, although I was not aware of the  
19 surrounding situation as I was only focussing on working hard,  
20 there were some people who came to get the vegetables from me and  
21 they said that the situation in Phnom Penh was not good and the  
22 workers already packed their belongings.

23 I actually did not pay much attention at the time to what they  
24 said. I only focused on rebuilding myself by trying to work  
25 hard, and in late afternoon at 5 p.m. I was asked why I did not

21

1 go. I said, "How could I go because here my vegetables and my  
2 belongings were still here?"

3 But later on at 5.30 p.m., I walked up to the railway and at that  
4 time I saw a lot of vehicles in motion, so I went back to pack up  
5 my belongings and I made my trip to my unit. Upon arrival at my  
6 unit, everybody had left, so I ran to the factory, to the rice  
7 bran factory, in Crang Chamreh and I asked to be picked up by a  
8 vehicle, and I was driven to a ferry port but there was no ferry  
9 at the time, so we all disembarked from that vehicle and we  
10 started walking and the vehicle continued its journey on National  
11 Road Number 5.

12 MR. PRESIDENT:

13 The civil party lawyers for group 3 -- that is for this civil  
14 party, Mr. Lay Chan -- do you have any document to attach to the  
15 Application for Reparation by this civil party? Because the  
16 current documents that we have are minimal in support of his  
17 application.

18 [10.10.05]

19 MR. KIM MENGKHY:

20 Mr. President, Your Honours, on behalf of the victim, who is a  
21 civil party from group 3, we would like to state that we do not  
22 have the ability to find relevant documents for the victim.  
23 However, we do have some questions that could shed light for the  
24 Chamber to understand the real situation experienced by the civil  
25 party as claimed in his application, but we do not have any other



22

1 documents. Thank you.

2 MR. PRESIDENT:

3 Judges of the Bench, do you have any questions to be put to this  
4 civil party? If you have, the floor is yours.

5 Thou Mony, you take the floor.

6 JUDGE THOU MONY:

7 Thank you, Mr. President.

8 BY JUDGE THOU MONY:

9 Q.Mr. Lay Chan, you stated that initially you didn't know the  
10 location where you was detained, however, later on you heard the  
11 guards speaking amongst themselves and that it was the Tuol Sleng  
12 School.

13 What did you exactly hear, "Tuol Sleng School" or "Tuol Sleng  
14 prison"?

15 A.I heard them talking amongst themselves and they used the  
16 words "Tuol Sleng School". I did not hear the words "Tuol Sleng  
17 prison".

18 [10.11.57]

19 Q.Besides hearing the two guards talking, did you have any other  
20 information in order to show that the place that you were  
21 detained was actually the current Tuol Sleng Museum or S-21  
22 prison?

23 A.I noticed that it was a detention centre because I could hear  
24 the screaming and the crying of -- from several people, although  
25 I could not see them.

23

1 Q.You also stated that you heard the screaming and the crying,  
2 however, during the three months' detention; did you ever meet or  
3 come across any other detainee or prisoner?

4 A.During that period, I had no rights to walk freely or look at  
5 any other detainee or prisoner.

6 JUDGE THOU MONY:

7 Thank you, Mr. President. I do not have any further question.

8 MR. PRESIDENT:

9 Any other Judges of the Bench, do you have questions for the  
10 civil party?

11 BY MR. PRESIDENT:

12 Q.Mr. Lay Chan, when you were interrogated, was it done during  
13 the day or night-time?

14 A.Mr. President, I was interrogated two times and for both times  
15 it was done at night.

16 [10.14.09]

17 Q.When you were interrogated at night, what time was it and how  
18 long did each interrogation take?

19 A.When I was interrogated, every time I responded to the  
20 questions with the same response, then they beat me up and I  
21 became unconscious. So during that period it was like 15 minutes  
22 before I became unconscious.

23 Q.Was the interrogation room lit?

24 A.At that time I did not know anything because to me it was  
25 dark. I was blindfolded. When I was taken out of my cell, they

24

1 blindfolded me.

2 Q. Did you hear any other noise while you were being  
3 interrogated? I mean, before you became unconscious, what noise  
4 did you hear?

5 A. Before I became unconscious, I heard the creaking noise of the  
6 wood floor, the wood, and the screaming of other people. I could  
7 only conclude that the screaming came from about 5 or 6 metres  
8 away from where I was.

9 [10.16.04]

10 Q. Did you hear the noise of a generator while you were being  
11 taken for interrogation, before you became unconscious?

12 A. I actually heard a noise but I was not sure whether it was the  
13 generator's noise or noise from a vehicle.

14 MR. PRESIDENT:

15 In your complaint, you wrote that while you were being  
16 interrogated, "I was blindfolded so that I could not see them and  
17 they turned on the generator so that the screaming from the  
18 torture would not be heard by the outsider".

19 That is what is written in your complaint. That is why I ask you  
20 the question.

21 I would like now to give the floor to the Co-Prosecutors if you  
22 have questions to be put to this civil party.

23 MR. YET CHAKRIYA:

24 Thank you, Mr. President.

25 QUESTIONING BY THE CO-PROSECUTORS

25

1 BY MR. YET CHAKRIYA:

2 Q.Mr. Lay Chan, can you confirm whether you knew Phnom Penh city  
3 before you were arrested?

4 [10.18.04]

5 A.I knew Phnom Penh as a city but I did not know the details or  
6 the roads in the city. And when I came to work as a staff of the  
7 commerce ministry, I had just returned from the battlefield after  
8 I was wounded and I came to live in Tuol Kork for quite a while.  
9 And then I was assigned by my unit to work at the warehouse in  
10 kilometre number 6 port.

11 While I was living in Tuol Kok, I could only remember the big  
12 antenna in that location, the big antenna tower there.

13 Q.Thank you.

14 You stated that you and other people were driven on a Lambretta  
15 and stopped at the Chroy Changvar Bridge. You were disembarked  
16 and then your hands were tied and you were blindfolded and you  
17 were thrown into another vehicle.

18 How long did it take you from the location where you were  
19 arrested and to Chroy Changvar Bridge?

20 A.The trip took about 15 to 20 minutes. During that time, the  
21 city was very quiet.

22 Q.Was the car approaching the city or leaving the city?

23 A.I did not know the direction the car was driven. I could only  
24 remember that I was blindfolded and tied and thrown into a  
25 covered vehicle.

26

1 [10.20.22]

2 Q.So which direction was the car facing?

3 A.After my hands were tied and I was blindfolded, I did not know  
4 which direction the car was facing. Only after I was blindfolded  
5 that I heard the Lambretta was leaving from my right and then I  
6 was thrown into another vehicle which just arrived.

7 Q.Thank you.

8 Can you confirm when you said that during your detention you were  
9 interrogated two times? For the first time, you were hit into  
10 your ears and you were kicked and you became unconscious.

11 What torture was done on you during the second interrogation?

12 A.The second torture was no different to the first torture.  
13 However, the interrogation line was a bit different. I was asked  
14 whether I colluded with the other Comrades to steal rice from  
15 Angkar. That was the first time.

16 And for the second interrogation, I was asked whether I colluded  
17 with Comrades Yoeun and An to join the CIA network, and I  
18 responded that I did not know anything about that, although I  
19 worked as a messenger at the time. That was my response. After  
20 that I was tortured and became unconscious.

21 [10.22.30]

22 Q.Can you state clearly for the second torture, how was it done  
23 on you?

24 A.After I was interrogated, I was kicked once in my chest and I  
25 was punched once, and after I was ordered to stand up. I was

27

1 asked again when I joined the CIA and I responded that I did not  
2 know anything about the CIA.

3 And then I was punched again to my left ear. I fell and became  
4 unconscious. I was dragged and taken back to my cell. And they  
5 threw the water at me and I became conscious when I was already  
6 in my cell.

7 Q.Can you confirm again, when you were detained, how many times  
8 you were given food?

9 A.The food ration at the time was irregular. Sometimes I was  
10 given food at lunch time. Sometimes it was until late evening  
11 when I was given another meal.

12 Q.When you were ordered to dig pits in order to plant bananas,  
13 were you still in blindfold?

14 A.When I was taken from my cell, I was blindfolded and I was  
15 walked to the location where I had to dig the pits, and then the  
16 people who took me there removed the blindfold and indicated the  
17 location where I had to dig the pits. Although the blindfold was  
18 removed, I did not know where I was. Sometimes I was taken to  
19 this direction or that direction.

20 Q.While you were digging the pits, were there any other  
21 prisoners digging the pits as well?

22 A.While I was digging the pits, I looked around and there were  
23 no other prisoners except the guards.

24 Q.When you were arrested, you said your clothes were stripped  
25 off to your underwear and your krama was used to blindfold you.

28

1 So were you given clothes when you were released?

2 [10.25.55]

3 A. When I was released, they did not give me any clothes. I was  
4 blindfolded and I was thrown into a vehicle and I was driven by  
5 that vehicle. After a while, they kicked me out of the vehicle  
6 but, at that time, my hand ties were a bit loosened and I didn't  
7 know where the vehicle going to. I saw the car was driving away  
8 but I did not know which direction or where it was going to.

9 Q. Can you verify if you were provided with any clothes besides  
10 the underwear?

11 A. The clothes that were given to me were the same clothes that  
12 were stripped off me when I was taken into the detention centre.  
13 And only when I arrived at the Samraong Railway Station I was  
14 given food -- given clothes by the person whom I know.

15 MR. AHMAD:

16 (Microphone not activated) examination by the Chamber and my  
17 learned friends.

18 I have no further questions, except to submit that we may have  
19 certain submissions regarding the weight that Your Honours should  
20 assign to the testimony of this civil party at the time of final  
21 arguments. Thank you.

22 MR. PRESIDENT:

23 The Chamber takes an adjournment for 20 minutes.

24 The Court officer, please make sure that the civil party can have  
25 a good rest.

29

1 [10.28.15]

2 (Judges exit courtroom)

3 (Court recesses from 1028H to 1048H)

4 (Judges enter courtroom)

5 MR. PRESIDENT:

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

7 Next, we would like to give the floor to the civil party lawyers

8 to put questions to the civil party.

9 We don't know yet which civil party lawyers start first, although  
10 we know that this civil party belongs to civil party group 3. So  
11 could you tell us your time allocation, please?

12 [10.49.47]

13 MR. KIM MENGKHY:

14 Mr. President and the Court, and good morning, Mr. Lay Chan.

15 In putting questions to Mr. Lay Chan, the civil party group 3  
16 will put -- will take up most of the time while the rest of the  
17 lawyers will make use of the remaining times.

18 QUESTIONING BY CIVIL PARTY COUNSEL

19 BY MR. KIM MENGKHY:

20 Q.Uncle Lay Chan, the first question to ask you regarding your  
21 observation that you told the President that you did not know the  
22 location of the prison because you were detained at that time and  
23 the modification to the location would be different. Could you  
24 please elaborate further on this?

25 A.I could see the difference when I paid the visit to that



30

1 location at a later date. I could see that the location was in  
2 much better condition compared to the place when I once was  
3 detained. And a lot of adjustment has been made to that current  
4 location because it was smelly and there was some kind of holes  
5 in the ground and now the holes were filled.

6 Q. Could you please verify for us, you said you noticed the holes  
7 in the grounds and that the grounds have already been filled with  
8 soil these days, so can you please tell in which location are you  
9 referring to now?

10 A. It is different now because during the last visit to that  
11 location, I could feel the levels and smooth ground and it would  
12 have been bumpy at that time when I was being walked to dig the  
13 pits.

14 [10.52.55]

15 Q. Besides the ground, have you noted any significant change in  
16 the compound?

17 A. I don't think I have noticed any other difference except the  
18 parts that I am familiar with, especially the pathway through  
19 which I was walked to be interrogated.

20 Q. My next question is about the room where you were detained.  
21 You already stated the physical condition of the room. So during  
22 the last visit, did you also see that room and, if you did see it  
23 again, what is it like now and what was it like back then? Was  
24 it stuffy inside or else?

25 Inside the room I once was detained, so far as I can recall, the

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1 room was more like a horseshoe. It's like a half-circle. And I  
2 could feel the ceiling when I was standing up, so the room was  
3 rather small. The room could maintain its original feature.  
4 It was a stuffy room and behind my back, the wall was made of  
5 wood and I could not see anything through the wood as it was very  
6 insulated. That's all.

7 Q.What about the sides of the room? You said the room would be  
8 attached to other rooms. Is that correct, or was it an isolated  
9 one?

10 A.I'm not quite sure, but when I was being walked during the  
11 first day, I was put to turn left and then I was asked to walk  
12 straight about a few steps and then I was put into that location,  
13 but I did not feel anything on the right-hand side, although I  
14 could hear some screams and cries from several people to the  
15 right-hand side.

16 [10.57.01]

17 Q.Did you often hear the screams and the cries? Were the cries  
18 and screams coming from the persons being tortured or what?

19 A.When I heard the sounds, I heard people were crying for water  
20 and asking that they would like -- asked for permission that they  
21 would want to relieve themselves. And I would hear the  
22 threatening words from the guards, cursing those detainees for  
23 asking too much about relieving themselves.

24 Q.Thank you.

25 Next, I would like to ask you concerning the shackles and that

32

1 you were shackled by your legs.

2 Are there still any scars left on your both legs from the result  
3 of being shackled?

4 A.At present, I can show the scars on my ankles, on my left  
5 ankle and a slight mark on my right ankle as a result from the  
6 shackles 30 years ago.

7 Q.Thank you.

8 Regarding the scars on your body, that is physical, and regarding  
9 your emotional feeling, are you still feeling scared of Angkar or  
10 your feeling of being scared subsided when the regime fell?

11 A.The feeling of being scared after my returning to the unit at  
12 the Samraong railway station, that I had to only take care of  
13 myself and that I should not talk to anybody else, in my mind,  
14 from that day onward, I remembered his words.

15 [11.00.28]

16 Even for my children at present time, I never tell them anything  
17 related to my past emotional experience or talking to anybody  
18 else regarding that experience. I never talk about my past  
19 experience. And it has been kept in my mind for so long, and  
20 every time it bursts out, I feel stuck. I feel emotional. I  
21 still feel that I was still being strengthened by those words.  
22 From the past experience until today, my physical damage is still  
23 present. I have problems with my left ear. It was damaged as a  
24 result of that beating. Sometimes I've got pus coming out of my  
25 left ear.

33

1 MR. KIM MENGKHY:

2 Thank you.

3 I have no further questions, my international colleague, Madame  
4 Jacquin, will ask you some questions. Thank you.

5 MS. JACQUIN:

6 Hello, Mr. President. Hello, Your Honours.

7 BY MS. JACQUIN:

8 Q.Hello, Mr. Lay Chan.

9 [11.02.26]

10 I would like you to bring up before the Court the incident that  
11 happened when you arrived at the detention centre in the  
12 photography room where you were supposed to be photographed, this  
13 discussion that you had with the guards.

14 A.When I entered that detention centre, the blindfold was not  
15 removed, nor were my hand ties. I was not sure whether I was  
16 photographed or not. Even during the interrogation, I was not  
17 asked about my personal history. The only questions they asked  
18 was that whether I colluded with Comrade Chin and Youen or any  
19 secrets that I had with these two people.

20 Q.But can you tell us what was said next to you when you arrived  
21 in the centre because you did not see, of course but you could  
22 hear. And can you tell us what the guards were saying?

23 A.When they spoke to each other and I also could hear the guards  
24 speaking to each other, what was said was that those people who  
25 were photographed would be in a lighter condition than those who

34

1 would not be photographed. However, at that time I did not know  
2 whether my photograph was taken already.

3 Q.When you went to work, that was at night. You were  
4 blindfolded and you had to walk for about 15 minutes. And when  
5 you were working, the blindfold was removed from you, but were  
6 you working in the dark?

7 A.As you just said, the blindfold was only removed after I was  
8 taken to the place that I was supposed to work.

9 [11.06.25]

10 Q.And was this place lit?

11 A.At that time, I believe there was a floodlight, although I did  
12 not know where it was coming from.

13 Q.You spoke about the width of the pits that you dug, but could  
14 you tell us also about the length and about the depth of these  
15 pits?

16 A.The pits had different sizes and lengths. Sometimes the width  
17 was 60 centimetres and the depth was 40 to 50 centimetres and  
18 sometimes the width was one metre and the depth was in a similar  
19 length.

20 Q.And you were being watched by how many guards while you were  
21 digging the pits?

22 A.I cannot recall how many guards there were. However, when I  
23 glimpsed around, they were at every direction.

24 Q.If we go back to your detention conditions, when you wanted to  
25 drink, were you given water?

35

1 A.When I was thirsty, I did not dare ask for water.

2 [11.09.33]

3 Q.You said earlier on that you had to empty, on your own, the  
4 boxes that you were using to relieve yourself. So can you tell  
5 us in which conditions you had to empty these boxes?

6 A.When I was asked to dispose of my own waste, the blindfold was  
7 not removed. So I could not see what was going on the left or on  
8 the right side. At that time, I was asked to hold a cuff on one  
9 hand and to hold the box of the waste on the other hand, and they  
10 walked me -- it was quite a long distance from where I was  
11 detained. It was like 100 steps. However, it was short steps  
12 due to the wounds on my legs.

13 Q.Finally, could you specify to us how much you weighed when you  
14 arrived in the detention centre and how much you weighed three  
15 months later when you left the detention centre?

16 A.Before I was detained in that location, my weight was between  
17 42 to 45 kilograms. And after the three-month detention, I did  
18 not weigh myself and it's hard for me to estimate. Roughly I was  
19 35 kilograms or less.

20 Q.And concerning your ear that was beaten, do you still have  
21 problems with that ear or has your ear healed since?

22 A.My ear is not healed because when I sit right now listening to  
23 the headphones; I can only hear it from my right ear. I could  
24 not hear any sound from my left ear.

25 MS. JACQUIN:

36

1 Thank you, Mr. Lay Chan.

2 Thank you, President. I will now give the floor to the other  
3 civil party lawyers.

4 [11.13.37]

5 MR. PRESIDENT:

6 The lawyer, you take the floor.

7 MR. KONG PISEY:

8 Thank you, Mr. President. Good morning, Your Honours. I have  
9 some questions for the civil parties' clarification.

10 BY MR. KONG PISEY:

11 Q.When you arrived at the detention centre and two days later  
12 you were interrogated on the first night after your arrival, were  
13 you given any food?

14 A.On the first night I was not given any food.

15 Q. So how many days had you been detained before you were given  
16 any food?

17 A.On the second day in the evening I was given a bowl of thin  
18 gruel. And after that I was taken for my first interrogation.

19 Q.You stated to the Chamber that you were given a jug of gruel  
20 and later on you were only given half a jug of gruel. Could you  
21 specify how big is the jug or the mug and what was it made of?

22 A.I was not clear. I think it was the American type of mug, so  
23 it was below the half indicator mark of that mug when I was given  
24 the gruel.

25 [11.16.34]

37

1 Q.Thank you.

2 So in equivalent, if you pour the half-mug gruel into a bowl,  
3 would it be a full bowl?

4 A.It was about an equivalent of a small bowl.

5 Q.Thank you.

6 I know about the taste of the food. Can you tell us the taste of  
7 the food that you were given? What was it like?

8 A.The taste of the gruel that was given to me was hard to  
9 describe. It's hard to say whether it was delicious or not.  
10 Frankly speaking, the gruel was like the food that was given to  
11 birds or animals.

12 Q.Thank you.

13 You also stated from the beginning that even if you were thirsty  
14 you did not dare ask for water. How could you survive because  
15 you did not ask for water for the entire day or night? And when  
16 were you given any water?

17 A.I cannot respond to the question. When I was thirsty or when  
18 I needed to relieve myself ---

19 [11.19.34]

20 MR. PRESIDENT:

21 Mr. Lay Chan, please try to collect yourself. Do you need some  
22 time to re-compose yourself or are you able to continue?

23 THE WITNESS:

24 When I was thirsty and I did not dare ask for water or when I  
25 needed to relieve myself I had to collect my urine and drink it.



38

1 MR. KONG PISEY:

2 Q.Thank you.

3 My apology that my question has an impact on your emotion. If  
4 you are able to continue I would like to ask my next question.  
5 Regarding your detention cell, you already told us the size. So  
6 when you were in that cell, what was the smell like?

7 A.In this cell where I was detained when I entered the cell, the  
8 smell was horrible. It was stinking and it was smelled like  
9 fish.

10 Q.Thank you.

11 And at night, was the cell lit?

12 A.At that place, no, it was not lit. I did not know about the  
13 outside condition, whether it was lit or not.

14 Q.Thank you.

15 So at night time, it was not lit. What about during the daytime;  
16 was the sunlight able to go through?

17 A.There was sunlight during the day time, but it was faint, dim.  
18 It was just dim sunlight going through into the cell. I could  
19 not feel the heat from the sunlight at all at the time. However,  
20 it was dimly lit so I could vaguely see the situation around our  
21 quarters. I could see my pan (phonetic) though not clearly.

22 [11.23.40]

23 Q.Thank you.

24 Can you verify a little bit further regarding the types of the  
25 light coming through into the cell?

39

1 A.The light was not sufficient enough to read a book, for  
2 example. I could see the shadow of my pan (phonetic) before me  
3 but it was not enough to read any letters.

4 Q.Thank you.

5 When you were interrogated, you told the Chamber that the  
6 blindfold was not removed. Is this correct?

7 A.That is correct.

8 MR. KONG PISEY:

9 Thank you, Mr. President. I no longer have a question for the  
10 civil party.

11 MR. PRESIDENT:

12 Mr. Hong Kimsuon, you have four minutes.

13 MR. HONG KIMSUON:

14 Thank you, Mr. President. I only have three questions.

15 Good morning, the President. Good morning, Your Honours.

16 [11.25.16}

17 BY MR. HONG KIMSUON:

18 Q.Mr. Lay Chan, my question is, your statements to the President  
19 that you knew Phnom Penh city, did you know Phnom Penh before the  
20 17 of April 1975 or after?

21 A.I knew Phnom Penh city only in 1975 when I left my unit and  
22 came to live in Phnom Penh.

23 Q.My next question. After 7 January 1975, that is after the  
24 fall of the Khmer Rouge regime, did you ever go and try to find  
25 the place where you were detained at the Tuol Sleng prison

40

1 compound?

2 A.From 1979 to 2007, I have visited the Tuol Sleng Museum for  
3 one time only.

4 Q.Thank you. My next question related to your detention for  
5 three months. Were you ever ordered to do any other work besides  
6 digging the pits?

7 A.Besides digging the pits, sometimes, from what I can recall, I  
8 was asked to work outside for two times although it was within  
9 the same detention compound. I was walked to work outside, first  
10 to work in a house, however, it was during the night-time and I  
11 did not know where I was.

12 [11.28.19]

13 Q.Thank you. My last question. When you were working during  
14 the night-time, did you -- could you not see anything at all or  
15 you could see something vaguely or in shadow?

16 A.When I was taken to work, I looked at the building and the  
17 building was not taller than two stories.

18 Q.Can you provide your response briefly?

19 When you see the Tuol Sleng buildings, was it in a similar former  
20 building where you were detained?

21 (No interpretation)

22 MR. PRESIDENT:

23 Next, it is time for the different counsel to put questions to  
24 the civil party.

25 Before that, we would like to give the opportunity to the accused

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1 to make brief observations.

2 JUDGE LAVERGNE:

3 Just for the transcript and for the Chamber's information, we did  
4 not hear what the civil party responded to the question put by  
5 Mr. Hong Kimsuon; that is the last question.

6 Can the civil party please repeat his response to the last  
7 question that was put to him?

8 [11.30.33]

9 THE PRESIDENT:

10 Mr. Lawyer, can you repeat your question?

11 MR. HONG KIMSUON:

12 Thank you, Your Honour.

13 BY MR. HONG KIMSUON:

14 Q.The question is, the place where you vaguely see the two  
15 storey building and when you went to visit Tuol Sleng after the  
16 fall of the Khmer Rouge regime, could you identify the building  
17 in Tuol Sleng; was it in a similar form to the building where you  
18 were detained?

19 A.I cannot give you any estimation because it has been a long  
20 time ago. I'm sorry for that.

21 MR. PRESIDENT:

22 Now it is time for the defence counsel and especially the  
23 accused, who would like to make any brief observation concerning  
24 this civil party.

25 The accused, the floor is yours.

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1 [11.31.49]

2 THE ACCUSED:

3 Mr. President, the complaint of Comrade Chan came to me long ago.  
4 I read and reviewed it, and I was interested in his words that he  
5 said he would not want to set foot in Phnom Penh and I was  
6 shocked to hear the words. I noted that his education, without  
7 his suffering he would not be able to recollect such account, so  
8 he must have been under severe suffering. That's why he vowed  
9 not to set foot in Phnom Penh.

10 So but the problem is that I don't know how he could be released.

11 If he was captured and arrested and detained at S-21, he would  
12 not be able to be released because all detainees were under the  
13 control of me, and that through the order I had to really smash  
14 them all. And then I also checked the other list, the list of  
15 S-21 prisoners. I could not locate Lay Chan's name.

16 I accept that Lay Chan could have suffered from the regime, but I  
17 cannot have any trace to prove that he was detained at S-21.

18 That's all, Your Honours.

19 MR. PRESIDENT:

20 Next, we would like to give the floor to the defence counsel, the  
21 lawyers, to be able to put questions to the civil party if they  
22 would wish to do so. The floor is yours.

23 MR. KAR SAVUTH:

24 Thank you, Mr. President, Your Honours and the Court.

25 QUESTIONING BY DEFENCE COUNSEL

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1 [11.34.02]

2 BY MR. KAR SAVUTH:

3 Q.Mr. Lay Chan, when you entered S-21, you stated that you don't  
4 remember being photographed or being given any number for such  
5 photography purpose.

6 If you don't remember that, when the interrogators approached you  
7 and walked you to be interrogated, how were you called? I mean  
8 what was the name called by the interrogators back then,  
9 referring to you?

10 A.Mr. Lawyer, at the time when I was called to be interrogated,  
11 they did not call me "contemptible Chan" or Than; they called me  
12 A Map. And then they blindfolded me and walked me out. At the  
13 interrogation room, they said -- they asked me whether I knew  
14 anything about the story of alias Yoeun or other, and I said I  
15 had no idea. And as a messenger I would not know more about the  
16 inside of the story.

17 Q.Thank you. Could you please confirm or clarify for us -- you  
18 said you are Lay Chan, or Lay Phan, and that the name Map was  
19 given by your unit chief. But now you said the interrogator  
20 addressed you as Map. Can you clarify this a little bit?

21 [11.36.24]

22 A.At that time I was rather short and healthy and, you know,  
23 with more flesh. Like that's why I was called Map, meaning a fat  
24 person.

25 Q.So then they only noted your appearance and then they called

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1 you A Map? Is that correct?

2 A.That is correct.

3 Q.Thank you. Could you please clarify for us again; you said  
4 the guards in their conversation said that the location was Tuol  
5 Sleng, but at that time during the Khmer Rouge Regime that  
6 location was S-21. It was not called other names instead of  
7 S-21.

8 So during the Sihanouk regime, that location was Ponhea Yat High  
9 School. In Lon Nol, the name of the school was Tuol Svay Prey  
10 High School. After 1979 and until the present day, because there  
11 has not been any label to prove that it is the Kuk Tuol Sleng  
12 prison or S-21, but after 1979 there remains a Tuol Sleng Primary  
13 School and with its label, the primary school of Tuol Sleng.  
14 So after 1979, everyone, the whole population of Cambodia who  
15 visited the location, would give the name Kuk Tuol Sleng, or Tuol  
16 Sleng prison. It was not the S-21 prison. So how could the  
17 interrogators actually say that it was Tuol Sleng prison back  
18 then?

19 A.I don't know what kind of school it was. So far as I know, I  
20 remember that the two guards exchanged in their conversation.  
21 They were not much older than me and they were very young, and I  
22 could hear those words from them

23 [11.39.36]

24 Q.Thank you. Could you once again clarify for us another point?  
25 Just now, the President asked you about the food ration and you

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1 said you were given gruel and rice, but after being asked again  
2 by the President, you said that you were given only gruel; you  
3 know, thin gruel and thick gruel, no rice.

4 Could you please tell us, during the period of three months you  
5 were detained at S-21, were you ever given rice?

6 A.Regarding the rice issue, they did give me some rice but it  
7 was only one meal and never again, but only just very little like  
8 a small bowl of rice.

9 Q.Thank you. So during the three-month period you were  
10 detained, you were given only once the rice; is that correct?

11 A.That is correct.

12 Q.Thank you very much.

13 Could you please clarify for us further? You said the detention  
14 cell was small. It's about one metre wide, and the ceiling was  
15 made of concrete and that when you stood then your head already  
16 touched the ceiling.

17 [11.41.28]

18 So I think you could have mistaken other location for S 21  
19 because at S-21, although the cell was small, the height of the  
20 cell was higher because it was -- the individual cells were  
21 created within the classroom. So the ceiling would be the normal  
22 ceiling of the school. So even if you hop or jump then your head  
23 would never touch the building -- sorry, touch the ceiling.

24 So could you please tell us more about that room?

25 A.I cannot remember quite well. When I was being detained at



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1 that location, I could remember that on top of my head was the  
2 concrete ceiling, and the walls were made of timber or wood.  
3 That's all. I don't know whether the location belongs to any  
4 particular prison. As a detainee, I was not allowed to walk or  
5 to move about or to peek out to see anything in the premises.

6 Q.Thank you. The reason I asked this question, because I  
7 thought that you would have mistaken this prison for other  
8 prisons because during the Khmer Rouge Regime, there had been  
9 many prisons.

10 That's why I would like you to clarify this individual cell,  
11 because at Tuol Sleng there was no room, individual cell that you  
12 could see the ceiling was so low that it could touch somebody's  
13 head. So that's why I would like you to recall it.

14 The next question. Inside the same room you said you were  
15 shackled, your hands were tied to your back and that you were  
16 blindfolded at all times. Is that correct?

17 A.During the time when I was detained, when I was walked to be  
18 interrogated and to work, that was the moment that I would be  
19 removed from blindfold and the shackles were removed while the  
20 ties or the knot, the rope that they used to tie my hands, were  
21 not completely removed. They only lifted a little bit.

22 Q.So you said that rope were just relieved a little bit, not  
23 entirely removed. What happened to the time when you had your  
24 meal or relieved yourself? How could you relieve or eat if your  
25 both hands were still tied to the rope? Please tell us about

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1 this. Thank you.

2 A.My hands were tied up and that they only relieved the rope;  
3 they did not fully untie the rope. They only let me to relieve  
4 myself or eat food. Of course, we could eat when the ties were  
5 still on, so by doing so, they already made it possible for me to  
6 take advantage of the loose rope to eat and to relieve myself.

7 [11.46.14]

8 Q.Thank you. I would like to ask you another question.

9 What evidence in your possession that could be used as a proof  
10 that you were detained at S-21 and that you were released from  
11 S-21? Because, so far, everyone who entered S-21 would have a  
12 biography and no one would be released, although Duch said that  
13 he would always accept that the person suffered from the torture  
14 at S-21 if there was any biography or document to prove that he  
15 was once detained.

16 Now, you said you were not taken any photograph. You said you  
17 were interrogated twice, but there was no record at S-21 at all.  
18 So can you tell us how could you authenticate your assertion that  
19 you were once detained at S-21? I think that S-21 would never,  
20 ever, release anyone while he or she was detained.

21 The Khmer Rouge says clearly that it is better to arrest people  
22 by mistake rather than releasing them without any reason. So  
23 please elaborate further.

24 A.Regarding the evidence, the documentary evidence, I think I am  
25 not in the possession of them because I cannot access to them,

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1 but the evidence is obvious on my body now.

2 If you check my left leg, you could see the scar. The scar is  
3 still there. It never vanishes.

4 Q.Thank you. I am the defence lawyer. I don't really contest  
5 your suffering during the Khmer Rouge regime. I never object  
6 such suffering.

7 However, all the questions I am asking you about the room,  
8 including the very small room, because I want to check whether  
9 you have mistaken this location for another prison because you  
10 said you were blindfolded and you could not remember anything,  
11 and that you were always blindfolded and could not remember any  
12 accounts, and that you were trucked and then you were kicked from  
13 the truck while being blindfolded.

14 [11.49.19]

15 So you have no idea what S-21 was, so that's why I asked this  
16 question because you said you had the scars as the evidence to  
17 prove your suffering. Of course, I do accept that, but to prove  
18 that you were detained at S-21 would be difficult for us with  
19 just a little scar there. Thank you.

20 MR. PRESIDENT:

21 The international co-lawyer, would you wish to put any questions  
22 to the witness, the civil party? The floor is yours.

23 MS. CANIZARES:

24 Mr. President, I have no questions to put to the civil party as  
25 Mr. Kar Savuth has already put these questions.

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1 MR. PRESIDENT:

2 So the proceedings, in which testimony of the civil party is  
3 heard, comes to an end already. So the Chamber would like to  
4 thank you, Mr. Lay Chan, for your time to give your testimony to  
5 the Court as summoned.

6 The Chamber understands the difficulties and hardship in  
7 responding to several questions by the Chamber and by the  
8 parties, and that you also find it very difficult to recall the  
9 memories of the past during the Khmer Rouge regime, of course,  
10 which it kind of reopened the old wound.

11 Since we are running out of time for the morning session, so it  
12 is time to take an adjournment for lunch, and we resume the  
13 session at one-thirty to hear testimony or the statement of  
14 another civil party, E2/33, who has already been summoned. So  
15 the testimony of this witness will be heard this afternoon at  
16 1.30 p.m.

17 The Court officials are now instructed to make sure that Mr. Lay  
18 Chan can be sent back to his home town and it can be done or  
19 coordinated with the WESU Unit.

20 The security guards please take the accused back to his detention  
21 facility and return him to the Court by 1.30 p.m.

22 (Judges exit courtroom)

23 (Court recesses from 1152H to 1331H)

24 (Judges enter courtroom)

25 MR. PRESIDENT:

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1 Please be seated. The Court is now back in session. Another  
2 civil party is called to testify during this afternoon's session.  
3 The Court Officer, you are now advised to bring in the civil  
4 party named Phaok Khan into the courtroom.

5 [13.33.16]

6 MR. KIM MENGKHY:

7 Mr. President, may I be allowed to talk a little bit on behalf of  
8 civil party group 3. We have a suggestion regarding the  
9 documents to be submitted here for the Court to consider them.  
10 On the 20th of January 2009, the civil party group 3 responded to  
11 the notification of the Chamber and also regarding the submission  
12 of new documents or additional documents.

13 This document relates to E5/7/1.3 and the original language is in  
14 Khmer, and so far it has already been translated into English,  
15 although the French version of the translation is not yet done.

16 And having noted that the defence counsel needs the three  
17 languages and our team have unofficially made the document  
18 available in French, and if with your leave we can attach the  
19 unofficial translated version of the document for the Court for  
20 consideration.

21 Thank you.

22 (Deliberation between Judges)

23 MR. PRESIDENT:

24 The Chamber would like to inquire to all the parties whether they  
25 would like to make any observations concerning the request by the

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1 civil party lawyers, group 3, who have just made recently  
2 concerning the unofficial translation of the French version to be  
3 put before the Court. If you would wish to make any comments  
4 concerning these requests, especially concerning the unofficial  
5 translation in French, then the floor is yours.

6 Judge Lavergne, you take the floor.

7 [13.37.36]

8 JUDGE LAVERGNE:

9 I'm not sure that the translation was understandable, but the  
10 Chamber would like to know if the parties have any observations  
11 to make concerning the production of an unofficial translation in  
12 order to facilitate these proceedings or if you reject this idea  
13 completely, knowing that it is not an official translation,  
14 knowing that it is only a translation for the purposes of  
15 information.

16 MR. KAR SAVUTH:

17 Mr. President, for me, I think the inclusion of this document  
18 into the case file officially cannot be accepted now because the  
19 document has to be officially translated before it can be  
20 included in the case file, otherwise the document remains  
21 unofficial. So for me, the defence counsel, in general, cannot  
22 accept it.

23 MR. PRESIDENT:

24 According to the defence counsel, it is noted that the documents  
25 are available already in two languages, in Khmer and English,

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1 except that the French version has not been officially  
2 translated. So the working language here are two languages,  
3 whether Khmer or another language of the Court.  
4 So I don't know whether I understand your motion clearly about  
5 your intention to bring in the production of the French version  
6 of the document for the purpose of information.

7 [13.40.01]

8 MR. KIM MENGKHY:

9 It is correct, Your Honour. Actually the documents are already  
10 available in Khmer and English, and our team only made effort to  
11 make sure that the French version is ready just for assisting the  
12 Court. And if the parties accept the unofficial translation in  
13 French, then we are pleased to give these translations to the  
14 Court, and if they reject them, then of course we can withdraw  
15 it.

16 (Deliberation between Judges)

17 MR. PRESIDENT:

18 Regarding the document raised by civil party lawyer group 3, and  
19 since the document is available in Khmer and English and are now  
20 in the case file, the Chamber believes that the available  
21 documents in both languages can be used to be discussed in the  
22 Court and that the defence counsel has already objected to any  
23 production of the French version of the document -- I mean  
24 unofficial translation -- in the Court, so the Chamber also  
25 supports the defence counsel.

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1 QUESTIONING BY THE BENCH

2 BY MR. PRESIDENT:

3 Q.What is your name, the civil party?

4 A.My name is Phaok Khan.

5 Q.Mr. Phaok Khan, do you have any other names other than Phaok  
6 Khan?

7 A.No, I don't have any other names.

8 Q.The Court Official has already co-ordinated with you regarding  
9 how you should respond to questions; especially the moment that  
10 you could respond is that when you see the red light is on the  
11 microphone. Otherwise, your response cannot be communicated and  
12 I hope you understand this and that you have already been  
13 instructed. So please stay put to that practice.

14 So how old are you this year?

15 A.I am 57 years old.

16 Q.Before the 17th of April 1975, where did you live and what was  
17 your occupation?

18 A.Before 1975, I lived in Preaek Kdam. I worked as a Khmer  
19 Rouge soldier.

20 [13.45.44]

21 Q.In which unit were you in? Can you tell the Court about the  
22 military unit you served in at Preaek Kdam, please?

23 A.It was the Battalion 308.

24 Q.Which division?

25 A.I don't remember which division it was. I remembered only the



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1 battalion.

2 Q.In this case file, you joined as a civil party. Would you  
3 like to seek reparation on your own or would you leave it to your  
4 lawyers to act on your behalf to claim reparation?

5 A.I have joined as a civil party to seek clarification; however,  
6 I will allow my lawyers to act on my behalf regarding this  
7 matter.

8 Q.Of course, you are reminded that you have the right to seek  
9 clarification, but now you waive your right to the lawyers to act  
10 on your behalf. Do I understand you correctly, what you have  
11 just said?

12 A.That's correct, Your Honour.

13 Q.Can you tell us about the damage that has been inflicted onto  
14 you based on the actions during the Khmer Rouge; and physically  
15 and mentally how have you been suffered until the present day?

16 A.Mr. President, you are asking me about 1975?

17 [13.48.39]

18 Q.We are asking you about the damages sustained resulting from  
19 the previous regime, I mean, during the time you had experienced  
20 in the Democratic Kampuchea regime until the present day.

21 A.Mr. President, since I started work with the military, I had  
22 come across a lot of suffering physically and because in the army  
23 I was deprived of my freedom. And after the war, we had more  
24 hardship and I have suffered physical problems ever since.

25 Q.The question is that, what is your relationship or the

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1 connection between your case to the matter of Kaing Guek Eav,  
2 alias Duch, who is the accused in this case? Have you been  
3 directly involved in the damages resulted from the actions  
4 committed by the accused or you are here on behalf of your  
5 relatives?

6 A.Mr. President, regarding this matter, my cousin and my family  
7 directly suffered, especially my wife suffered directly from the  
8 crimes committed during the regime.

9 Q.You said about the family. Were you saying that it was only  
10 your wife or the whole family?

11 A.My brother and my wife who were suffered from the regime.

12 [13.51.20]

13 Q.What is your brother's name and how had he suffered from the  
14 fact here at issue? Please talk about your brother first, or  
15 cousin.

16 A. Mr. President, his name was Chhoeung Phoam and his  
17 revolutionary names were Tin Neth. He was in the Battalion 317.

18 Q.Could you please repeat the name? Chhoeung Phoam what?

19 A.His name was Chhoeung Phoam. His revolutionary name was Tin  
20 Net.

21 Q.What is the relation of this person to the fact, and what  
22 happened to him and in which location?

23 A.During 1976, Chhoeung Phoam or Tin Neth worked in Battalion  
24 317 in the Disciplinary Unit. He worked in Khmuonh location. He  
25 was arrested in 1977. I don't know whether he was arrested and

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1 sent to S-21, but he has disappeared ever since. And having  
2 searched for his biography later on, we found out that he was  
3 sent to S-21.

4 Q. Have you obtained any evidence to prove that this person, Tin  
5 Neth or Chhoeung Phoam, was detained at S-21?

6 A. I have obtained his direct biography, personal biography.

7 [13.54.07]

8 Q. Have you brought the document along with you?

9 A. I have brought it along, Your Honour.

10 MR. PRESIDENT:

11 The Court Official is instructed to project the document on the  
12 projector.

13 Could you please make sure that the document is in a normal  
14 format so that we can see it all?

15 MR. KIM MENGKHY:

16 Mr. President, with your leave, in order to facilitate how the  
17 document could be displayed properly, may I refer to the document  
18 in the case file with ERN 00282314 in Khmer; in English being  
19 00345917 through 00345918. Thank you, Mr. President.

20 MR. PRESIDENT:

21 Please remove it from the projector.

22 [13.57.03]

23 BY MR. PRESIDENT:

24 Q. You said your cousin was Chhoeung Phoam. Is that pronounced  
25 correctly? Because in the Khmer writing the name would not be

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1 Phoam as what you said.

2 A.His name was Chhoeung Phoam.

3 Q.So his name is Chhoeung Phoam, not Choeung Jum . Is that  
4 correct? He was your cousin, so what was he called in the home  
5 village?

6 A.His name was Chhoeung Phoam He lived in Kouk Ruessei Tboung in  
7 Soutr Nikom district, Siem Reap province. His name Chhoeung  
8 Phoam.

9 Q.So you said he was your cousin. Was he related to your mother  
10 or to your father?

11 A.He's the cousin on my mother's side.

12 Q.The document which has just been shown, where did you obtain  
13 that document?

14 A.I obtained that document from my lawyer, who did the research  
15 and got it from S 21, or Tuol Sleng prison.

16 [13.59.19]

17 Q.What about your wife; what is your wife's name?

18 A.My wife's name is Pin Lin. Her revolutionary name is Pin  
19 Leab.

20 Q.What's Pin Leab's involvement in relation to the facts or the  
21 facts alleged? Is she alive at present?

22 A.From what I learned, she was arrested, but I was not with her  
23 at the time because I went to Svay Rieng. I learnt that she was  
24 arrested. However, I was not sure whether she was sent to S-21.  
25 However, it is my belief that she was sent to S-21 or Prey Sar.

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1 Q.Do you know whether she's still alive or she's deceased?

2 A.The separation has been very long time already and although I  
3 have tried to research for her biography and her photograph, I  
4 could not find it. I presume that she is deceased because it's  
5 been so long and I haven't found her yet.

6 Q.So you have tried to find documents at S-21 regarding her  
7 biography, and you have tried for some time. Is this correct?

8 A.Yes.

9 Q.What about yourself; are you related to the S-21 Security  
10 Office or the facts alleged on the accused?

11 A.During the time that my wife disappeared, upon my return from  
12 Svay Rieng to live at Division 310, as a statistics recorder in  
13 that division with Tuy as my superior ---

14 [14.02.31]

15 Q.Can you stop there? I would like to know your involvement in  
16 the security office, S-21, or any facts alleged on the accused;  
17 for example, the facts regarding S-21 Office in Phnom Penh or at  
18 Prey Sar, or what was called the re-education office, S-24, which  
19 was a branch of S-21. That is my question: what is your  
20 involvement? That is, the treatments upon yourself and that you  
21 are related to the facts alleged.

22 A.I was involved with the facts as I was arrested in 1978. I  
23 was arrested at the railway station in Tuol Kok and I was sent to  
24 the detention centre and I was not sure whether it was S-21 or  
25 not at the time, as I was blindfolded.

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1 Q.Can you describe your accounts during the time you lived  
2 through the Democratic Kampuchea Regime from the 17 April 1975  
3 until the time you were arrested, and later on your accounts  
4 until the liberation day -- that is the 7th of January 1979 when  
5 the DK Regime was defeated -- what were your experiences? Can you  
6 describe them to the Chamber?

7 A.Your Honours, from 1975 I entered Phnom Penh to liberate Phnom  
8 Penh on the 17th April 1975. I participated in the cleansing and  
9 the -- cleansing the city and the evacuation of people from Phnom  
10 Penh.

11 At that time, after the people from Phnom Penh had left, we  
12 organized a new structure of the soldiers. It was done under the  
13 supervision of the North Zone, and Kuy Thuon was the secretary of  
14 the North Zone. So the soldiers were arranged into various  
15 structures, the Division 310, for example.

16 [14.06.08]

17 I was stationed in Khmounh Village in Boeng Prayap. I lived with  
18 Teu, Kim and Heng. Heng was in charge of the handicapped unit,  
19 K-4. I was in charge of statistics and I was also an assistant  
20 to the chief of the battalion.

21 In 1976, there was an arrest of Koy Thuon and Oeun, the Chairman  
22 of Division 310, and Voeun, the Deputy Commander, was also  
23 arrested. Then Tuy from southwest came to replace the Commander  
24 in Division 310.

25 So I stayed at K-4 for quite a while and later on I was

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1 transferred to the division office and still in charge of the  
2 biographies and statistics, and Comrade Chheang was my superior.  
3 Later on, I cannot really recall clearly, but I was then  
4 transferred to Korpp Srov. I stayed there for a short period of  
5 time, for about 20 days. I was in charge of a small unit. There  
6 was no designated number for that unit yet. It was called Ta Ta  
7 Unit or Grandparents Unit for rice farming.  
8 After about 20 days then I was transferred back to the division  
9 unit, and Tuy assigned me to 317. Then I met my cousin Chhoeung  
10 Phoam or Ti Net. He was the commander of the regiment and Hom  
11 Huon was the deputy.  
12 At that time the 317 was still a new unit. It was -- 317 was a  
13 disciplinary unit, and if people were to be transferred out of  
14 317 they would be either sent to S-21 or Prey Sar.  
15 After a while when I was there then Chhoeung Phoam was arrested  
16 in 1977 and Hom Po (phonetic) was also arrested in that same  
17 year.  
18 [14.09.39]  
19 After my cousin was arrested, I remained there temporarily to  
20 take charge of his unit. Later on I was transferred to Kampong  
21 Chhnang to work at the airfield. I worked as surveillance for  
22 the ground at the airport in Kampong Chhnang.  
23 From what I can recall, though I cannot recall 100 percent due to  
24 the long period of time and due to my poor health, after that I  
25 was transferred back to the unit to work under Tuy and he

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1 organized me to have a wife. That was in late 1977. So I was  
2 married near Wat Phnom. So I was with my wife for about three  
3 months and then we were separated. She went to her unit and I  
4 went back to my unit. At that time there was a limit on when a  
5 couple could see each other; that is every fortnight or month.  
6 And for which time we had three days to see each other.  
7 Later on I was transferred to Svay Rieng by my superior Tuy. So  
8 some of the forces of 310 were transferred to Svay Rieng to the  
9 border because there had been conflicts along the border at the  
10 time. At that time I did not go to the front of the field and I  
11 was in charge of the radio operation at the back, at the rear of  
12 the battlefield.  
13 At that time I did not know that my wife had been arrested in  
14 early 1978, and when I returned I learned that she was arrested.  
15 So it means she was arrested after three months -- three months  
16 after our marriage. At the time of her arrest, my wife was about  
17 one month pregnant. So I was told by my wife during my last  
18 meeting with her that she was pregnant, and she disappeared  
19 since.  
20 [14.12.48]  
21 So they transferred me back in 1978 and I lived in the same unit  
22 and I went for my work assignment in the vicinity of Toul Kork.  
23 After my wife -- after having not seen my wife for a long time, I  
24 went to her unit. She was in the tellers unit in Division 310.  
25 So I did not see my wife and I saw a woman from the Southwest



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1 Zone in charge of that unit. At that time I didn't know who she  
2 was. And another woman who knew me, her name was Chap, she came  
3 to tell me that my wife was requested by the upper echelon to go  
4 for a study. And only after I was arrested then I realized that  
5 my wife had been arrested earlier.

6 After I was arrested at the railway station at Toul Kork while I  
7 was performing my duty, it was towards almost the end of my work  
8 day, at about 5.30 or 6 p.m.

9 There was a Lambretta approaching and three of them stepped out  
10 of the Lambretta and pointed the gun at me. So there was a  
11 driver and two passengers

12 At that time, I did not know what mistakes I made. I was  
13 arrested and put into that Lambretta and they tied me up though  
14 it's not really tight. I could move a little bit. And actually,  
15 that Lambretta was fully covered. I could not see anything. The  
16 front glass was also sealed. I could not see it.

17 So I was in the middle and two people sat on both sides. I did  
18 not know where I was taken because I could not see from the  
19 inside. The Lambretta took me to a location and I didn't know  
20 where it was. I think it was about 100 metres away from where I  
21 was arrested. Then, I was blindfolded at that location.

22 [14.15.50]

23 Then, the Lambretta went ahead for about another hundred metres.  
24 It stopped and I heard the opening of a house door and I was  
25 pushed into that house and then the door was closed. Then, at

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1 that time, they tightened the ties on my hands, I was still being  
2 blindfolded.

3 Then, later on, they put the chains on my legs and I was walked.  
4 From the footsteps I could hear, there were two people walking  
5 me. So I followed them. Actually, they had a rope around my  
6 neck and they pulled the rope so I just followed them.

7 Later on, I was put into a detention cell. I think I was not  
8 photographed at the time. They did not do anything else. They  
9 just placed me directly into a detention cell. They untied my  
10 hands and the blindfold was removed and then they shackled my  
11 leg. I looked around. I saw Yim Yav. He was also from 317. He  
12 was detained there as well. So he was on one side. I could see  
13 him but we could not talk to each other.

14 Yim Yav was in a very bad shape. He was very skinny, so I felt  
15 shock at the time. I had been detained there for three days. I  
16 did not have my shirt or pants at the time. I only wore my  
17 shorts at the time.

18 So they did not do anything to me for the first three days and,  
19 the next day, the guard let me out. They unshackled and they put  
20 a chain on my legs. They tied my hands and I was blindfolded and  
21 I was walked out.

22 I believed that building was on the ground floor because when I  
23 walked the ground was level. They took me to the interrogation  
24 room, although I did not know where it was because I was  
25 blindfolded.

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1 [14.19.6]  
2 They put me in and the door was shut. And I believe there were  
3 two interrogators at the time. From what they said to each  
4 other, there was one named Hor and another one named Seng.  
5 I did not see their faces. I only learned their names through  
6 their talk. After they tied my hands to the back, then they tied  
7 my legs and they ordered me to lie down with my face to the  
8 floor. I was threatened that I had to answer truthfully to  
9 Angkar and, if I answered truthfully, I would be released.  
10 I didn't know what answers I should respond because I was not  
11 involved with anybody. I only tried my best to work for Angkar,  
12 even before 1975 and after 1975. I was not involved with  
13 anybody. So I was wondering what offence I had committed.  
14 Then another Comrade, although I did not see the face, I heard  
15 him whispering to another person, asking him to give him a whip.  
16 I was scared because I lied on the floor with my face towards the  
17 ground. So they whipped me, whipped my back. It was so painful.  
18 So after the two interrogators exhausted, they sat on the chair  
19 and then Comrade Hor asked Comrade Seng to continue whipping me.  
20 So Seng took the whip and continued whipping me until the whip  
21 broke. And then Hor said: "Seng, Brother East arrived." I didn't  
22 know who was Brother East because I was still lying on the floor  
23 with my face down.  
24 He came inside. He didn't do anything. He came and sat on the  
25 chair. I didn't know who was Brother East.

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1 [14.21.48]

2 After I was interrogated extensively, Seng continued whipping me  
3 and I became so weak I seemed to have lost my mind. I could not  
4 respond. I was conscious but I just could not feel anything.

5 After they exhausted whipping me up and got no result, Brother  
6 East sat for about 15 to 20 minutes in that room. He just made a  
7 sniffing sound -- hmph -- and he left.

8 At that time, my memory was so low I could not really remember  
9 everything clearly, so he left.

10 After they were tired in whipping me up, I was taken not into  
11 that same room but they took me to an individual cell. I only  
12 learned that I was in the individual cell after the blindfold was  
13 removed. That individual cell was about one times two metres in  
14 dimension and I was chained to the feet but my hands were not  
15 cuffed.

16 In the individual cell, there was plastic container for urine and  
17 an ammunition box for me to relieve myself. I was detained in  
18 that individual cell. I was given food two times a day. One was  
19 at 11 or 12 o'clock. And for each meal I received a very thin  
20 bowl of very thin gruel. That's all, even if I was still hungry.

21 I lived in that isolation in the individual cell for one week.

22 Then I was taken again to be interrogated, so they placed the  
23 chain on my feet and I was blindfolded, and for the second  
24 interrogation I became unconscious. I was interrogated by the  
25 same interrogators, Hor and Seng.

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1 At that time, Brother East did not come into the room. He only  
2 came for the first interrogation. So from then on I remembered  
3 that Brother East was the big person there in charge of that  
4 location. At that time, I didn't know that location was called  
5 Tuol Sleng prison or S-21 at all.

6 So during my second interrogation I was unconscious and I only  
7 became conscious in that individual cell, and I did not know when  
8 I was taken back into that cell.

9 [14.25.53]

10 Let me continue. In 1978 when I was detained, after they  
11 tortured for two times, I received no further mistreatment or  
12 torture until at a later time -- and I cannot recall the date --  
13 I was taken out. I could not recall the month or the year  
14 because I was in the cell for quite some time. I was so skinny  
15 at the time.

16 I was taken outside the cell and actually there was a truck  
17 waiting, so all the remaining prisoners were taken out into the  
18 open. They put the chains on the feet and the arms were tied to  
19 the back and we were all blindfolded and we were put into a  
20 truck. I'm not sure if it's a GMC Chinese truck or not.

21 So we were thrown into the truck like pigs. We were transported  
22 out and I didn't know where I was taken. I lost my sense of  
23 direction after quite some time on the truck, for about an hour.

24 So we were taken on that truck in the late afternoon, at about 6  
25 or 7 p.m., so actually there were a lot of prisoners on that

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1 truck. There were about 30 of us.  
2 When we arrived at a location, I didn't know where it was but  
3 there was a house there, and from when I stepped into the house,  
4 I felt that it was a wooden house. So we were put into that  
5 wooden house and the door was closed. Later on at about 10 p.m.,  
6 two of us was led out at a time, two or four or five sometimes,  
7 so gradually they led a number of prisoners out. I believe there  
8 was no light in that house because it was pretty dark and dim.  
9 So a number of prisoners were taken out and a while back they  
10 returned to take other prisoners. I was the last prisoner in  
11 that house, and probably it was during the night of the 6th of  
12 January at that time. This is just my presumption because I had  
13 been in the prison for so long, I had not seen the daylight for  
14 quite some time. What I saw while I was detained was only the  
15 heads of the guards walking up and down.  
16 [14.29.57]  
17 Finally, there were six people left, and then I told myself the  
18 time came because I could feel like the light on the lamp, the  
19 kerosene in that lamp, is almost running out and there was a dim  
20 light.  
21 And when we were there we could hardly see because we were  
22 blindfolded, and then the rope would be attached to our neck  
23 while we would be led, and I could feel the steps of the people  
24 who walked us. There would be -- and I could feel the steps of  
25 other detainees, like three people, and I was put at the edge of

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1 the pits and I knew that it would be the last day, but luckily  
2 when they were beating the other people then I was the third one  
3 to be beaten up.

4 Then I kneeled down on the edge of the pit. Then after a blow,  
5 then I bent down and then the blow hit my ribs and then I fell  
6 into the pit. Then they beaten up other three people who packed  
7 on me, lying under them in the pit, and I was unconscious the  
8 whole day, the whole night.

9 I think at about 2 a.m. I recovered from being unconscious and I  
10 could not know where direction it was. I could not even locate  
11 the direction because after being unconscious I was dizzy, and my  
12 hands were tied but I tried to move, crawling on top of the  
13 corpses, and I was so weak and skinny and I could not even stand  
14 up or walk properly.

15 [14.32.14]

16 Then I sat and stretched my legs a little bit and then I could  
17 relieve the ties on my both hands. I could see the bloodstains  
18 all over my body and it smelled so bad. Then because of the  
19 smells, I was about to fall unconscious again, and then I got out  
20 of the pit and I could not see any other guards there. Then I  
21 heard the sound of the guns. I could think the guns would have  
22 been fired at somewhere at the Monivong Bridge. Then I left the  
23 pit and there was a big tree.

24 I did not know it was Choeung Ek, although I could see. Only I  
25 learnt at a later date that it was Choeung Ek, the area where

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1 people would be executed, because when I was in Phnom Penh I  
2 never paid a visit to Choeung Ek before I was arrested even  
3 later. And then about 200 metres from Choeung Ek, I could stop  
4 and I smelled the corpses.  
5 I would like to go back a little bit. While I was walking from  
6 the pit I was still tied and it took me almost an hour or more  
7 before I could control my stance that I could stand up and lean  
8 against a tree and there were a lot of corpses all around the  
9 location and I was struggling to walk. Then I tried to use the  
10 tree branch help untie the string attached to my hands. And I  
11 went to a banana plantation and there was no-one left in the  
12 area. I knew that there were banana trees; a lot of banana  
13 trees.  
14 I could not know where it was and I was so hungry I tried to chew  
15 the trunk of the banana tree. And I think God is great. I  
16 walked until I reached the river and I told myself that I could  
17 live and then I found a kind of timber, and then I floated the  
18 timber and swim with the timber. And I did not know where I  
19 would be led to. I just let it be and the water current could  
20 carry me until I reached Japanese Bridge, or Chroy Changvar.  
21 After about two kilometres then from the bridge I met some  
22 soldiers and those soldiers spotted me because at the beginning  
23 they thought that I would have passed away already but when I put  
24 up my hand, then it was a signal that they could see me and they  
25 rescued me.



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1 [14.36.25]

2 And then the bombardments were still intensified and I was sick  
3 but then I was left with a person who had a boat and that person  
4 taken care of me. His name was Chou. He was 65 years old. He  
5 gave me some medicine until I could recover from the injury and  
6 the scars I suffered earlier.

7 I lived with that person for two months and I was gaining weight,  
8 and then I left Uncle Chou and went to my hometown through  
9 National Road Number 5 all the way to Battambang province.

10 Q.Uncle Phaok Khan, could you please tell the Court -- again, I  
11 think your story is really moving us, so we want to go back a  
12 little bit to the time when you were arrested and sent to the  
13 detention facility. You said that you heard the door open and  
14 that the door was shut behind when you were inside.

15 The question is: was it the house in which you were sent in, or  
16 was it a kind of villa or an apartment?

17 A.Mr. President, when I was sent in I did not see the location  
18 but I think, hearing the sound of the door opened, it was a  
19 wooden house; not a concrete building.

20 Q.From the gate to the location where you were detained, how far  
21 was it? How many steps, based on the steps you walked? Could  
22 you calculate it?

23 A.After I was blindfolded and sent in, I think it took us about  
24 20 to 20 (sic) minutes before we got to the detention place.

25 [14.39.36]

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1 Q. So it is about 20 to 25 minutes walking from the gate to that  
2 location. Did you stop for a break before you reached the  
3 location, or you walked all the way without any stopping?

4 A. We stopped a short while because I would collapse, and then I  
5 stood up and then continued walking. So I can estimate that it  
6 took me at least 20 to 25 minutes to reach the detention  
7 location.

8 Q. You said that you were not photographed or your biography was  
9 not obtained upon arriving. Is that correct?

10 A. It is correct, Your Honour, because I was not questioned or  
11 photographed. They sent me directly to the room.

12 Q. Were you sent at night or in the daytime?

13 A. It was at night.

14 Q. What happened to your clothes? Were you allowed to wear your  
15 clothes or were you stripped?

16 A. At that time when we went into the wooden room, we were  
17 stripped to the shorts only.

18 [14.41.26]

19 Q. So when you were detained, how did you -- I mean, what kind of  
20 clothes did you wear?

21 A. I was only given the shorts; no pants.

22 Q. You said your detention room was on the ground floor and a  
23 small room. The question is did you see any other rooms or cells  
24 next to the place where you were detained?

25 A. In that detention room I was blindfolded, of course, when I

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1 was being walked into that room. Only when I was shackled that I  
2 was removed from blindfold and I could see another detainee, a  
3 familiar person, Yim Yav. And I know it was a common room.  
4 There were about 15 people in one line of metal bar, and other  
5 people also.

6 Q. So the common room was a larger room, not the small individual  
7 room for each detainee; is that correct?

8 A. That's correct.

9 Q. When you were being interrogated, how were you treated? Tell  
10 us about the process of how you were being interrogated.

11 [14.43.41]

12 A. When I was interrogated the guards would come to remove the  
13 shackles but before they removed such shackles they had to tie  
14 the other detainees on the same metal bar, used to attach all  
15 detainees, and then I would be put on the chain and walked to the  
16 interrogation room while I were being blindfolded and my hands  
17 were tied to the back.

18 Q. How could you walk if you were chained?

19 A. The chain was long enough for us to be able to walk, so the  
20 width is actually about six to seven centimetres.

21 Q. So you had to drag the chains on the floor while walking?

22 A. That's correct. The chains would be dragged on the ground.

23 Q. Where were you taken to be interrogated? Do you still  
24 remember?

25 A. They interrogated me at a location, but I did not remember

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1 because I was chained, my hands were tied, I was blindfolded. So  
2 with all this, I could not see anything.

3 [14.45.36]

4 But when I was put inside the room while I -- when the door was  
5 shut, the doors were above me that I could only see the top of  
6 the trees, but I could not see any lower grounds. And then I was  
7 removed my blindfold.

8 Q.How far was it from the place you're detained and the place  
9 you were interrogated?

10 A.It was not far because I walked only briefly. It would be  
11 about five minutes only that we could reach that interrogation  
12 room.

13 Q.How many steps could you estimate?

14 A.If steps would be counted, I can say that it would be about  
15 100 steps.

16 Q.Were you interrogated on the ground floor or on the first or  
17 the second floor?

18 A.I was interrogated on the ground floor.

19 MR. PRESIDENT:

20 Since it is time for an adjournment, the Trial Chamber will take  
21 a 15-minute adjournment and we resume our session at 3 p.m.

22 [14.47.28]

23 The Court Officer is instructed to take the civil party to have a  
24 rest before he can return to the Court.

25 (Judges exit courtroom)

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1 (Court recesses from 1447H to 1504H)

2 (Judges enter courtroom)

3 [15.04.36]

4 MR. PRESIDENT:

5 Please be seated. The Chamber is now back in session. We will  
6 continue our hearing of the testimony of Phaok Khan.

7 BY MR. PRESIDENT:

8 Q.Mr. Phaok Khan, you have described to the Chamber your  
9 accounts that the staff at the detention centre mistreated you  
10 and tortured you until you became unconscious for two times. Is  
11 this correct?

12 A.Yes, that is correct.

13 Q.There were two interrogators for your first interrogation and  
14 there was the presence of another person, Brother East. Is this  
15 correct?

16 A.Yes that is correct, Mr. President.

17 Q.During the time that you were interrogated what type of  
18 violence was committed on you?

19 A.I was whipped. It was one whip and they took turns to whip me  
20 until I became unconscious.

21 Q.What about the second interrogation? What type of violence  
22 was used upon you and by what means?

23 A.For the second interrogation the violence was the same.

24 Q.That is you were whipped; right?

25 A.Yes, that is correct.

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1 [15.07.15]

2 Q.While you were whipped were you lying down on the floor or  
3 were you sitting up?

4 A.While I was being tortured by a whip my hands were tied to the  
5 back, my legs were tied and I was lying down with my face down.

6 Q.During the time of your interrogation were you blindfolded?

7 A.No, I was not.

8 Q.The cuffs or the chain you were put, when they were taking you  
9 from your detention cell to the interrogation room, did they use  
10 another cuff or chain while you were at the interrogation room?

11 A.While I was walked they put the chain on my feet and I was  
12 blindfolded. While I entered the interrogation room they took  
13 the chains off, then they shackled me and then they tied my  
14 wrists to the back and they tied my legs with a rope.

15 Q.So your feet were tied with a rope? Only one foot or two feet  
16 were tied? And what about the other end of the rope; where was  
17 it attached to?

18 A.Both feet were tied with a hammock string, and my wrists, and  
19 the end of that hammock string was used to tie my wrists.

20 Q.During your interrogation was there a third person? Or, as  
21 you said, a third person was there -- Brother East; did he  
22 personally interrogate you?

23 A.During my first interrogation I only heard the name of Hor and  
24 Seng who also whipped me up, and Hor told Seng that Brother East  
25 will be coming, and he entered.

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1 [15.09.54]

2 He walked past my head and he sat on a chair. I had a glimpse at  
3 him but I didn't know who he was or I did not know that it was  
4 Duch. I didn't know him at all at the time.

5 Q.Did Brother East personally interrogate you?

6 A.From my recollection, he did not interrogate me.

7 Q.Did he order his subordinates to mistreat you?

8 A.I knew that Brother East sat on a chair in the room but he did  
9 not say anything or interrogated me anything regarding the CIA or  
10 other topics at all. He only sat there, and Hor and Seng whipped  
11 me up. Later on he stood up and walked out. I heard a kick on  
12 my head and I was not sure whether Brother East kicked my head or  
13 either Seng or Hor kicked my head.

14 Q.Besides the violence upon yourself during the two  
15 interrogations, did any staff at the detention centre mistreat  
16 you in any other form, or there were only the two interrogations  
17 where you were mistreated?

18 A.Violence was used upon me for only the two occasions when I  
19 was interrogated.

20 [15.11.56]

21 Q.You have described that you were taken to be killed and you  
22 were the third person in a row, and that when a blow was struck  
23 it hit your knees, it hit your ribs and you fell into the pit.  
24 You fell unconscious, then you tried to get out of the pit and  
25 later on you left the place. And you also stated that it was the

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1 6th of January because at dawn when you crawled out of the pit  
2 you heard the gunfire from the east. That was from the Rik Sat  
3 (phonetic) or the Monivong Bridge. That was what you stated  
4 before the break.

5 Is that the true account?

6 A.Yes, Mr. President. That is true.

7 Q.The question is: you said you left Choeung Ek where you were  
8 taken to be killed. So you crawled out of that mass grave, you  
9 walked -- you struggled to walk because of the exhaustions and  
10 because of the wounds, and then you reached a river. The  
11 question is how did you walk from that killing site to the river?  
12 And what was the name of the river? Because you told us you knew  
13 clearly that that was the place where you realized that you would  
14 be survived.

15 A.Mr. President, at that time I -- it took me quite a long time  
16 to go from Choeung Ek. I lost my direction from the beginning.  
17 However, when I reached the river I noticed the direction of the  
18 river flow, because when the river flow from the Tonlé Sap or the  
19 Tonlé Mekong, if it flows to the west then I knew it's the west,  
20 and that if I go to the direction of the flow then I would reach  
21 the Kampong Chhnang and would meet my relatives. And then, I  
22 would think that I would be able to float following the stream --  
23 the direction of the stream.

24 Q.Can you try to recall whether it was the river where the  
25 Monivong Bridge was?



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1 Because Choeung Ek's location was near Ta Khmau, near Prey Sar.  
2 It's about 10 kilometres away from Phnom Penh. And the question  
3 is: When you reached the river, was it the Bassac River or the  
4 Tonlé Sap or Mekong River?

5 A.I walked and crawled until I reached the river and I think I  
6 reached the river, the tributary where the rivers met, and I  
7 presume it was the Tonlé Sap Lake.

8 [15.15.45]

9 Q.So you talk about where the river met. You meant before the  
10 Royal Palace and that's where the office 870 was and, during the  
11 Khmer Rouge Regime, that was a very prohibited area because there  
12 was the top machinery leadership was. How could you be able to  
13 reach that location safely?

14 A.At that time, the situation was chaotic and confusing and they  
15 all fled.

16 When I reached that location, there was nobody, there were only  
17 boats and the presence of the Vietnamese and the Cambodian  
18 soldiers. The Khmer Rouge fled Phnom Penh at the time. I only  
19 heard the boats and the sounds of the motorboats of the arriving  
20 soldiers.

21 Q.Why don't you go by land? Why you decide to take the river?  
22 Because it was dangerous during that period of time. It was the  
23 time that the water flows out from Tonlé Sap. The water flows  
24 into Tonlé Sap only during September or October but, during the  
25 low season, it flows out. How could you float against the

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1 stream?

2 A.Mr. President, let me clearly clarify that. From my  
3 recollection, there was a wooden plank. I did not swim by myself  
4 in the middle of a river. I floated on that wooden plank. It  
5 took me two or three days until I saw the Chroy Changvar Bridge  
6 then I realized I almost reached the location where my former  
7 unit was. And then, I made a decision whether I go to Tonlé Sap  
8 or to Kampong Chhnang.

9 Q.In your complaint, when you described the facts, you said,  
10 "In October, 1978, Mr. Kaing Guek Eav, alias Duch, ordered his  
11 soldiers to interrogate me for one time. I could not walk so  
12 they carried me in a hammock to meet Duch."

13 [15.18.39]

14 Did this incident happen? Because what you have said does not  
15 reveal this fact and I have asked you on several occasions  
16 whether you had met him.

17 A.It has been so many years already. I agree there have been  
18 some confusion or mistakes.

19 At that time, I did not know Kaing Guek Eav, alias Duch. But  
20 during my interrogation there were only two interrogators for the  
21 first interrogation and Brother East came during the first  
22 interrogation.

23 Regarding that I was carried in a hammock, I could not recall.

24 Q.You also continued that:

25 "Duch threatened me whether I wanted to die in the same way as my

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1 wife. "

2 And later on:

3 "Duch ordered Comrade Lach and Leach to pour water into me until

4 I could not breath anymore then I was taken back into my cell."

5 That is the facts you described in the complaint which leads to

6 you being testified in the Chamber. And I have asked you

7 repeatedly whether the fact exists. Does it exist or not?

8 A.From what I can recall, no, it does not.

9 [15.20.31]

10 Q.Let me continue reading your complaint regarding the facts:

11 "In November 1978, the situation was confusing and at 6 p.m.

12 Duch gathered all the prisoners to line up to be killed. The

13 first one in the row was taken first to be killed and I was the

14 last person in the queue. Because of the darkness, I slipped and

15 then I went into the pond and I hid myself in the pond and nobody

16 took notice of it.

17 At about 1 a.m. I climbed the fence with my hands still tied and

18 I went across the banana plantation until I reached the river

19 bank. There was a wooden plank going towards the east and I

20 stayed at Prey Khmer with an uncle named Chou. During the day he

21 hid myself in the forest and he brought me into the house during

22 the night until the 7 January, 1979 when I returned to my native

23 village."

24 This is a stark contrast to what you have stated regarding the

25 facts before this Chamber. You talk about the 6 of January and

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1 that you heard the gun explosion from the east and that you  
2 reached the front Royal Palace and that they had all fled.

3 I myself also do not understand that when you reached the river  
4 that you took a wooden plank to cross to Prey Khmer and Prey  
5 Khmer is located actually in Kampong Chhnang. How can you  
6 explain the facts that I've just read out to you? Can you  
7 clarify which two facts that I read is the clear fact?

8 A.Mr. President, the fact is what I have stated in this Chamber.

9 Q.Can you read or are you literate?

10 A.Yes, I am literate.

11 Q.What is described in your complaint, did you write it yourself  
12 or were you assisted by someone else?

13 A.Mr. President, the writing of the facts was done in my  
14 village. It was assisted by the ADHOC representative. I was  
15 interviewed by this organization and I believe I do not state the  
16 facts that you just read to me. What I described before this  
17 Chamber is my true account on the day that I was taken to be  
18 killed. It was on the night of the 6th of January, 1979. I was  
19 uncertain on the exact hours because it was night time.

20 I did not know whether it was written down clearly into the  
21 record. I, myself, did not read the facts clearly because of my  
22 difficult and hard living condition. I just take the statement  
23 aside and until today. My apology for not being thorough.

24 Q.You talk about a wooden plank. What type of wooden plank did  
25 you use to cross the river? Was it a plank or was it a boat?

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1 A.It was a plank.

2 Q.What's the size and the length of the plank?

3 [15.25.36]

4 A.It was 30 centimetres wide and there were three pieces which  
5 were attached to each other so the width was about one metre and  
6 I use it to float myself and swim across the river.

7 Q.Now, are you still insisting that you were detained at S-21  
8 which is now known as "Tuol Sleng prison" or are you uncertain of  
9 the location where you were detained?

10 A.I was arrested and put into a detention centre. I was not  
11 aware at the time it was called "S-21" or "Tuol Sleng" because I  
12 was blindfolded and put into the cell.

13 However, I presumed it was a security office but, only in 2008,  
14 when I went with that organization to search for my cousin's and  
15 my wife's biographies that I learned of the name. I could only  
16 find the biography of my cousin. I could not find the biography  
17 of my wife.

18 Q.What about the physical resemblance? For example, when you  
19 were taken to be interrogated, would you remember any resemblance  
20 of the structure or any surrounding building at the time? Or  
21 there were only trees?

22 And what about the interrogation room, was it a concrete building  
23 or a wooden building? How many floors was it?

24 A.When I was taken for the interrogation, it was a wooden  
25 building and it was on the ground floor. From what I looked

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1 around, there were some trees in the vicinity. I could not see  
2 clearly though because the door was shut and I could not really  
3 see clearly as I was tied and first lied down on the floor.

4 [15.28.26]

5 Q.What was your food ration while you were detained there?

6 A.It was difficult regarding the food ration. It was  
7 insufficient. I was only given a thin gruel. It was also  
8 irregular. It was just one ladle of thin gruel per each  
9 prisoner. They actually had the thin gruel in one large pot and  
10 each prisoner was given a ladle of gruel, of thin gruel, which  
11 equalled to just one small bowl of thin gruel with a couple of  
12 grain of salt.

13 Q.What about having a bath? Were you often given a bath?

14 A.It was not regular when it comes to having a bath. So far as  
15 I remember, once a week, we would be allowed to have a bath and,  
16 during each bath, a guard, a young guard would be deployed to  
17 guard on us. They were young guards.

18 They would drag a water hose to spray the water on us. Some  
19 would get some water, some would not. Some had missed the water  
20 and many developed skin rashes and we had to be put to sleep on  
21 the bare floor.

22 Q.Now, we come to talk about your wife. What is her real name?

23 A.Her name was Pin Leap but her revolutionary name was Pin Leap.

24 Q.What was her occupation? What was her role in the Democratic  
25 Kampuchea Regime?

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1 [15.31.3]

2 A.She was a woman in the sewing unit in the Division.

3 Q.Who was Tuy Leap?

4 A.Tuy Leap was actually Pin Leap. But, actually, Pin Leap  
5 alias Pin Leap, not Tuy Leap.

6 Q.She worked at Division 310. Where was that Division? The  
7 location of that office?

8 A.It was near the former TV tower at Tuol Kork.

9 Q.In your complaint, you said the victim Tuy Leap, female aged  
10 19, your wife, she was the chief of sewing unit in Meanchey. She  
11 was the chief of the textile factory, correction.

12 Can you emphasize or verify the role and the position of your  
13 wife?

14 A.Actually, she worked in the sewing unit of Division 310. It  
15 is true.

16 Q.Are you sure that your wife named Tuy Liep and that you said  
17 she was Pin Leap and her revolutionary name was Pin Leap and that  
18 she was arrested and executed at S-21? Are you sure or are you  
19 not sure?

20 A.She was arrested and disappeared and I did not know whether  
21 she would have been taken to S-21 or other location and my  
22 presumption was that she would never been detained elsewhere  
23 other than Prey Sar, the correction camp.

24 [15.34.0]

25 But I never knew that there was S-21 because I just heard about

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1 Prey Sar and I did not know where she would be detained. She  
2 just disappeared.

3 Q.The AV Unit is now instructed to display on the monitors  
4 document ERN 00282314.

5 The AV unit is now instructed to display on the monitors document  
6 with ERN 00282314.

7 Can the accused review the document?

8 Could you please roll down further please? Stop.

9 MR. PRESIDENT:

10 The accused, what is your observation concerning these documents?

11 THE ACCUSED:

12 Mr. President, it is strange with the E letter and then with  
13 numbers because this is the first time I can notice E. And I can  
14 tell you that this is not the form the biography would be written  
15 by S-21 people.

16 [15.36.25]

17 But I would like to state that Chhoeung Phoam -- we checked  
18 through ZyLAB system, I found out that he was detained there in  
19 the list of the prisoners of S-21 on page ERN 00171475, Order  
20 1213. And you can find his name, Chhoeung Phoam who was arrested  
21 on the 3rd of November 1977 and smashed on the 7th of November  
22 the same year.

23 So this is the document that I recognize. This document could be  
24 attached or could come with the detainee through his pocket.

25 However, I could not locate the E letter here. I don't know what



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1 E stands for.

2 Thank you, Mr. President.

3 MR. PRESIDENT:

4 Thank you, the accused.

5 Do any Judges of the Bench wish to put questions to Phaok Khan?

6 The floor is yours.

7 Judge Silvia Cartwright, you take the floor.

8 JUDGE CARTWRIGHT:

9 Yes, thank you, Mr. President.

10 BY JUDGE CARTWRIGHT:

11 Q.I would just like to ask you a few questions about the dates

12 or approximate dates when you say that you were arrested and

13 taken to S-21.

14 [15.38.41]

15 Can you tell me when it was, to your recollection, that you were

16 arrested and arrived at S 21, as you have told us today?

17 A.I was arrested, although I cannot recollect very well, in 1978

18 at the train station. The arrest was made in the evening at

19 about 5 or 6 p.m.

20 Q.Can you remember what time of the year it was? Do you

21 remember the season of the year?

22 A.It was probably -- and I can be wrong, however. I may not be

23 able to say what season it was; I'm sorry.

24 Q.After you were arrested and taken to S-21, can you give me any

25 estimate of the time that you spent there?

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1 A.I don't remember the estimate of the time but it would have  
2 been rather long; maybe three to four months.

3 Q.You told us earlier that when you were put into a cell, you  
4 were put in with another person whom you recognized. Are you  
5 able to tell me again who that person was?

6 A.The person whom I knew was Yim Yav. That person worked in  
7 Division 317 and he was arrested in 1977 because I still was  
8 working in that division in 1977 when he was arrested. He was a  
9 chief of the platoon.

10 [15.42.18]

11 Q.Did you talk to him at all when you were in the cell with him?

12 A.At that time I did not talk to him at all. I could only look  
13 at him but we were not allowed to talk anything, and I was rather  
14 far from him.

15 Q.Were there other people in the cell with you?

16 A.Only next to me there were about 15 people and another line of  
17 people, about 10 of them, also were seen inside the room.

18 JUDGE CARTWRIGHT:

19 In the revised S-21 prisoner list at 00330119 there is a Prisoner  
20 Number 12047. Could the AV unit put that page on the screen  
21 please?

22 I'm sorry, my reference was incorrect. It is 12048, the one  
23 below that.

24 BY JUDGE CARTWRIGHT:

25 Q.Now, I'm wondering if you can read that reference.

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1 A.I can read it, Your Honour: "Yim Yav, the chief of the  
2 security unit of the Southwest Zone." I think this would not be  
3 the same Yim Yav, because Yim Yao I was talking about is at  
4 Division 317. This one was at the Southwest Zone.

5 Q.Thank you. Well, that clears up that mystery for me, because  
6 this Yim Yav appears to have been killed in May of 1978 and that  
7 would be before you were at Tuol Sleng, as you say. Is that  
8 correct?

9 A.That's correct, Your Honour.

10 [15.46.15]

11 JUDGE CARTWRIGHT:

12 Thank you. The AV unit can return the screen to the normal view  
13 please.

14 BY JUDGE CARTWRIGHT:

15 Q.You say that you were taken to Choeung Ek on the 6th of  
16 January 1979. Is that correct?

17 A.That is correct.

18 Q.Sometimes translation is a little difficult when I don't fully  
19 understand Khmer, so could you tell me again why you knew it was  
20 Choeung Ek?

21 A.I knew it later, because when I was being taken away to be  
22 executed I did not know that it was Choeung Ek because I was  
23 blindfolded, and I noticed a wooden house in which we would be  
24 put, and because I was blindfolded I could tell that it was a  
25 wooden house because I could feel the steps in the house, but I

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1 did not know it was Choeung Ek at the very beginning.

2 Q.So how did you find out later that it was Choeung Ek?

3 A.I learned that it was Choeung Ek very recently when I paid a  
4 visit to S-21, and through that visit I knew that Choeung Ek  
5 would be the last destination in which detainees would be smashed  
6 there.

7 [15.48.48]

8 Q.So you haven't been back to Choeung Ek since you ran away from  
9 it in early January 1979. Is that correct?

10 A.That's correct, because I have never paid any visit to Choeung  
11 Ek. I only went to S-21 in 2008 and never ever seen Choeung Ek  
12 after that event.

13 Q.And can you tell me if you knew that it was early January when  
14 you arrived at that place; if you knew that at the time?

15 A.Through my brief recollection, the truck would be parked a  
16 little bit further from the wooden house. We had to walk and  
17 there were a lot of prisoners, and prisoners would have been very  
18 thin because we had to stop during our walk and we were led by a  
19 rope, and then about 15 minutes, I guess, we would reach the  
20 house from the truck.

21 A.How did you know that it was the 6th of January 1979 when you  
22 went to Choeung Ek?

23 A.I knew it because in the evening at about 6 p.m., when I was  
24 being taken away -- I did not know it would be the 6th of January  
25 the next day, but because I heard the noise of the guns on the

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1 second day when -- I mean the next day that I was taken to that  
2 location. So I learned that it would have been the 7th of  
3 January that I heard the guns, the sound of the guns, and then  
4 the 6th of January would be the day that I would be sent there.

5 [15.51.50]

6 JUDGE CARTWRIGHT:

7 Thank you very much, and thank you for coming to tell us what  
8 happened to you all those years ago.

9 Mr. President, I have no further questions of this civil party.

10 MR. PRESIDENT:

11 Judge Lavergne, you take the floor.

12 BY JUDGE LAVERGNE:

13 Q.Good afternoon. I would like to put a number of questions to  
14 you relating to documents which apparently were submitted in  
15 support of your civil party application. I would like to know,  
16 first of all, whether you had a job in the railway service. Did  
17 you work for the railway service?

18 A.When I worked at the railway station I got some roles, apart  
19 from my roles at Division 310 because I stayed at the train  
20 station very briefly and during that short period of time I did  
21 stay at the railway station.

22 Q.What sort of work exactly did you do at the station?

23 A.I was assigned to monitor the workers who were working with  
24 steel.

25 Q.Were you employed as a mechanic or to do any work involving

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1 mechanics?

2 A.At that time I was not a mechanic. I was just asked to  
3 supervise the workers temporarily.

4 Q.If I understood you at the start when the President was  
5 putting questions to you, you answered that your name was Phaok  
6 Khan and that you have borne no other names. Do you know  
7 anything about the name Phaok Sarun?

8 A.I would like to also state a little bit about this. At that  
9 time, I had another name. Phaok Khan is the outset name and I  
10 would be called Phaok Sarun.

11 JUDGE LAVERGNE:

12 Would it be possible for the audio/video unit to display on the  
13 screen the document which is E5/7/1.3 at the ERN number 00282312?

14 [15.56.52]

15 BY JUDGE LAVERGNE:

16 Q.Have you seen this document before?

17 A.I think that this document contains the same family name as  
18 mine although the last name is different. The last name here is  
19 Sokhun.

20 Q.Has this document been shown to you before? Have you seen it  
21 before this hearing today?

22 A.My lawyer showed this document to me several times, but it was  
23 not my name because my name was Phaok Sarun not Sokhon.

24 Q.So what are you telling us today? Is this document about you  
25 or is it not?

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1 A.From what I can say, this document does not describe about  
2 myself. I do not recognize this person. I only recognize the  
3 people whose names were crossed. I do not know Sok Nann. I only  
4 recognize the seven people below.

5 They are Say Sarun, Ti Sowattha, Kre Yakung, Chin Sunleng, Neth  
6 Sochul, Miss To Si Kim, Miss Mok Sok Lim.

7 [15.59.48]

8 They are just my acquaintances, I do not know them very well, but  
9 I met the two females on a number of occasions although I was not  
10 close to them.

11 Q.I am going to try to summarize this document such as I  
12 understood it through the English translation.

13 I believe that I understood that this document was an analysis of  
14 confessions from a certain Sok Nann who was working in Phnom Penh  
15 in the T4 textile factory.

16 So it is a confession that would have incriminated a certain  
17 Phaok Sokhon, who worked in the past as an employee for the  
18 railroad service and who was in charge of mechanical issues, and  
19 who back then was still employed by the railroad service.

20 So this explains my questions. I would like to specify as well  
21 that it seems to me that in the list of the prisoners who were  
22 arrested, the prisoners list that was given to the  
23 Co-Prosecutors, that is under index E61/1, there is a certain Sok  
24 Nann, who was an employee of factory T4 and I believe it's the  
25 same person, and who would have been arrested in 1976 and

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1 executed on the 27th of May, 1976 and this prisoner carried the  
2 following number, 9638.

3 So did you know a certain Suk Nann?

4 A.I do not know the person named Suk Nann.

5 Q.Do you know, therefore, how this document arrived here and how  
6 this document arrived in the hands of your counsels? Maybe they  
7 would be able to shed some light on this.

8 [16.03.00]

9 MR. KIM MENGKHY:

10 Mr. President, Your Honours, as the lawyer for the civil party, I  
11 would like to enlighten the Chamber regarding this document.

12 We have conducted our research on the website of a non-government  
13 organization which we call the Documentation Centre of Cambodia.

14 In relation to the names of the civil party, Phaok Sarun, what we  
15 have noticed regarding the name and the relevant document, we  
16 have provided him some documents for examination.

17 For example, there is an unclear handwriting of the name Sarun or  
18 Sakkon (phonetic), however, what is related through him is his  
19 position as a railway worker at the time. Also, in addition, the  
20 names of some people mentioned in the list, in the document, were  
21 those people whom he knows.

22 That's why I would like to show the document and then I also made  
23 a request to the DC-Cam for a complete copy of the document as it  
24 is attached, with a typed letter which mentions the name Phaok  
25 Sarun. However, in the handwriting it's unclear whether Phaok



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1 Sarun or Phaok Sarun But the victim, or this civil party, claims  
2 that is his name -- Phaok Sarun. Thank you.

3 MS. JACQUIN:

4 I'd like to specify and I'd like to make a general observation.  
5 You noticed that between -- that today, as well as yesterday,  
6 that the witnesses before you had statements that were less  
7 precise, and I think that we should be able to place each one of  
8 these situations in their proper context.

9 [16.5.28]

10 And this witness was questioned by the Co-Investigating Judges  
11 and the investigation services were able to specify the  
12 documents, which is what allowed us to get a very complete  
13 testimony. And, as you know, we never intervened in the  
14 gathering of the statements of the survivors. We only worked  
15 with these cases when these people applied to join as civil  
16 parties.

17 And we noticed, by discovering these different cases and by  
18 taking the trouble to meet the civil parties that the  
19 investigation work that had been done was sound and it was also  
20 questionable on certain points.

21 But, however, this does not diminish the fact that these  
22 statements are very interesting, and in this context we tried to  
23 gather as many elements as possible, and by going to DC-Cam as  
24 well.

25 And today, you noticed these modifications in the statements, and

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1 what I think is important is what this man is telling us about  
2 his experience. And, indeed, there were mistakes possibly but we  
3 have to put this back in its context.  
4 These statements were gathered by the defenders of human rights  
5 or by non-experienced investigators who crossed a certain number  
6 of all villages throughout Cambodia and gathered these  
7 statements. So it was something that was maybe "amateurish" at  
8 the beginning, with whatever means were available, but which  
9 however allowed us to reconstitute some of their stories and  
10 allowed them to complete their civil party applications.

11 [16.7.46]

12 So indeed their statements might not be that precise and, in our  
13 civil law system, we may be used to not preparing a witness to  
14 state and to have them state spontaneously, which can also lead  
15 to certain problems and these are the certain amount of  
16 observations that I wanted to make concerning the issues at hand.

17 MR. PRESIDENT:

18 Judge Lavergne, you take the floor.

19 BY JUDGE LAVERGNE:

20 Q.Well, concerning this document that was also produced in --  
21 which was also included in a civil party application and which  
22 concerns, I believe, your cousin Chhoeung -- I don't really  
23 remember his first name - Tin Net; yes, Tin Net. Or at least  
24 that was his revolutionary name.

25 Can you tell us if you recall having been arrested long after he

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1 was or just a few months after the arrest of your cousin?

2 A.My cousin was arrested in 1977. He was arrested before my  
3 arrest, although I cannot recall the exact date of his arrest.

4 Q.When you were questioned, when you were interrogated, when you  
5 were detained, did they say anything to you about your cousin?

6 Did they ask you if you were part of the same network?

7 A.On the day of my interrogation, that is the second  
8 interrogation, Hor and Seng asked me a question which I forgot  
9 to mention in my early testimony. I was asked, "Comrade, do you  
10 know where your wife died?" And I responded, "My wife was  
11 arrested."

12 [16.11.7]

13 And then, I was asked whether I wanted to die the same way as my  
14 wife died or as my cousin died. So that was the questions I was  
15 asked and I could not recall it earlier.

16 Q.So they referred to your cousin. And did they also mention  
17 the name of this cousin?

18 A.Your Honour, they didn't mention his name at the time. They  
19 only mentioned that if I wanted to die the way my wife or my  
20 cousin died; that was all.

21 Q.I don't know if you will be able to answer this question or if  
22 your counsels would be able to shed some light on this, but do  
23 you know how this document was obtained; this document regarding  
24 your cousin's biography? Is it a document that also comes from  
25 DC-Cam's archives or does it come from another source? Can you

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1 inform us about this a bit?

2 A.Your Honour, I received this document through my lawyer, who  
3 obtained it on my behalf.

4 Q.Have you visited Tuol Sleng with your lawyers or with a  
5 representative from an NGO?

6 Because, earlier on, you said to us that it is when you had  
7 visited Tuol Sleng that you were able to obtain your cousin's  
8 biography but, however, you weren't able to obtain your wife's  
9 biography.

10 [16.13.55]

11 A.When I went to S-21, or Tuol Sleng, it was in 2008. I went  
12 together with the NGO called "Avocats sans Frontières", together  
13 with some other people.

14 I was there only for a short period of time. I did not have  
15 enough time to look through all the archives. I tried to look  
16 for the biography and photograph of my wife.

17 Then I asked for assistance of my lawyers to look for those  
18 documents and he found the biography of my cousin, Chhoeung Phoam  
19 alias Tin Net, and the biography of my wife and her photograph  
20 have not been found.

21 And since then, I have not returned to look for the documents  
22 because my residence is far away and I also have a difficult  
23 living condition.

24 JUDGE LAVERGNE:

25 Thank you very much for all of these clarifications, even if it

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1 was difficult. I do not have any further questions.

2 MR. PRESIDENT:

3 Thank you, Mr. Phaok Khan. The Chamber acknowledges your  
4 difficulty in responding to the many questions regarding the  
5 facts which have happened 30 years ago. Also, this is the  
6 situation that you have to recall all the sufferings you have  
7 experienced.

8 The Chamber would like to state that the hearing of your  
9 testimony and your accounts and experience through the DK regime  
10 has not yet completed, as other parties have yet to question you  
11 regarding the facts of your testimony. Therefore, the Chamber  
12 would like to invite you to continue your testimony tomorrow  
13 morning starting from 9 a.m.

14 And before I adjourn the hearing today, the Chamber would like to  
15 inform the parties to the proceedings and the public that the  
16 Trial Chamber has issued an order for the scheduling of the  
17 hearing of the testimonies of witnesses and experts starting from  
18 the 13th of July until the 26th of August 2009. The scheduling  
19 and the order of the experts have also been mentioned in that  
20 order. The order is available on the ECCC website.

21 And today, the hearing is adjourned. It will resume tomorrow  
22 morning from 9 a.m.

23 Court official, can you assist Mr. Phaok Khan for his  
24 accommodation and invite him to the Chamber again tomorrow  
25 morning before 9 a.m.

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1 Security guard, take the accused back to the detention facility  
2 and bring him back before 9 a.m. tomorrow.

3 The Court is adjourned.

4 (Judges exit courtroom)

5 (Court adjourns at 1618H)

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