



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 PROCEEDINGS - "DUCH" TRIAL

PUBLIC

Case File N° 001/18-07-2007-ECCC/TC

21 April 2009, 0902H

Trial Day 9

Before the Judges:

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

For the Civil Parties:

HONG Kimsuon
KONG Pisey
TY Srinna
YUNG Phanit
Silke STUDZINSKY
Karim KHAN
MOCH Sovannary
Philippe CANONNE
Alain Werner

For the Trial Chamber:

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

For Court Management Section:

KAUV Keoratanak

For the Office of the Co-Prosecutors:

YET Chakriya
Alexander BATES
PICH Sambath
Stuart FORD
TAN Senarong
PAK Chanlino

For the Accused Person KAING GUEK EAV

François ROUX
KAR Savuth
Heleyn UÑAC

INDEX

WITNESSES

WITNESS: KW-32 Mr. Chan Khan

Questioning by Judge Lavergne resumes	page 1
Questioning by Mr. Yet Chakriya commences	page 17
Questioning by Mr. Bates commences	page 21
Questioning by Ms. Ty Srinna commences	page 37
Questioning by Mr. Khan commences	page 41
Questioning by Ms. Studzinsky commences	page 48
Questioning by Mr. Canonne commences	page 79
Questioning by Mr. Hong Kimsuon commences	page 85
Questioning by Mr. Roux commences	page 88

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. BATES	English
MR. CANONNE	French
MR. CHAN KHAN (Witness)	Khmer
MR. HONG KIMSUON	Khmer
MR. KHAN	English
MR. KONG PISEY	Khmer
JUDGE LAVERGNE	French
MR. ROUX	French
MS. STUDZINSKY	English
THE ACCUSED	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MS. TY SRINNA	Khmer
MR. YET CHAKRIYA	Khmer

1

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

2 (Judges enter the courtroom)

3 [09.05.13]

4 MR. PRESIDENT:

5 The Chamber would like to declare the continuity of the session.

6 Next, we would like to give the floor to Judge Lavergne to

7 continue questioning the witness. The floor is yours.

8 QUESTIONING BY THE BENCH

9 BY JUDGE LAVERGNE:

10 Q.Can the witness understand me? Do you understand me, Mr. Chan

11 Khan?

12 A.Yes, I understand.

13 Q.Can you tell us under what circumstances you left M-13, and

14 for what reason?

15 A.The reason we left M-13 because we had to obey the order of --

16 we failed to respect the order of Ta Duch.

17 Q.What did Duch say to you?

18 A.Duch did not say anything to me, other than sending me to work

19 the field at Trapeang Chraok to dig there to build a canal and

20 things like that.

21 [09.07.45]

22 Q.Were there any prisoners where you went to work in the rice

23 field or was it just people like you?

24 A.There were some prisoners and guards but we were not armed.

25 We were only given hoe and farming equipment.

2

1 Q.What role did you play there? Was it to work in the rice
2 fields or was it to guard the prisoners?

3 A.When I worked there I worked like ordinary citizen and I was
4 no longer a guard. I did farming and building the dikes and
5 nobody was guarding anyone.

6 Q.If no one was guarding anyone is this consistent with what you
7 said earlier; that is to say, that there were prisoners. If
8 there are prisoners then necessarily there must be people who
9 guard the prisoners unless there are no prisoners at all.

10 A.The prisoners were like prisoners, like Grandfather Son who
11 were let out to do farming, like Grandfather In who also let out
12 to do farming to build dikes, including the guards who failed to
13 follow the orders, then were sent to work to do the farming
14 there.

15 Q.When you say "In" could you be more specific? What was the
16 full name of this person?

17 A.I heard people call to him "In" but I don't know his full
18 name, so he was called "In" and he lived and worked with us until
19 1975 when I was sent to work in the mobile unit in Udong. Then
20 we were departed.

21 [09.11.07]

22 Q.Were you asked, while you were in M-13, to prepare a
23 biography?

24 A.Duch made us prepare our brief biography. Duch ordered me to
25 prepare a brief biography.

3

1 Q.Were you told whether your biography was good or a bad one?

2 A.I was not told whether the biography was good or bad. After
3 preparing that biography then I was sent to their location.

4 Q.Was it after you wrote your biography that you left to work in
5 the rice field? That is when you left M-13; is that correct?

6 A.After preparing the biography I was sent to work in the rice
7 fields until 1975 when Phnom Penh was liberated. Then I was sent
8 to live in the mobile unit in Udong.

9 Q.Did you in your biography mention the fact that some members
10 of your family had links with Lon Nol's regime or had been
11 members of the Lon Nol army?

12 A.In my biography I wrote that my father worked as a Sihanoukist
13 soldier but I did not state how long he worked as a Sihanoukist
14 soldier. That's why he had affiliation with that regime and as
15 the son of that official then I was singled out.

16 Q.So do you think that this was the reason why you were sent to
17 the rice fields; that is, merely indicating that your father had
18 been or was a Sihanouk soldier?

19 [09.14.46]

20 A.I already mentioned earlier I followed the orders and policy
21 of Duch but I failed to follow their orders and policy and that
22 my parents had links to the officials of the former region along
23 with my failure to follow the order of Ta Duch. That's why I was
24 removed by Ta Duch from the guard unit immediately.

25 [09.15.25]

4

1 Q.Do you remember some of your fellow guards who subsequently
2 accompanied Duch to Phnom Penh?

3 A.Could you please repeat or rephrase your question so that I
4 can answer properly?

5 Q.Amongst your comrades who were guards like you in M 13, do you
6 recall whether some of them accompanied Duch to Phnom Penh?

7 A.Regarding my fellow guards who accompanied Duch to Phnom Penh,
8 I had no idea because at that time they're stationed at M 13 at
9 the prison camp but I was in the paddy fields, and when I was
10 sent I did not know anything about them. And I knew that a lot
11 of people followed me or accompanied me to the rice field.

12 Q.When you say "many", how many do you mean?

13 A.There were more than 10 people, including the guards and the
14 prisoners who were sent to go with me, but I don't remember their
15 names because many years passed by, but I remember that there are
16 more than 10 people who walked all the way from Amleang to Udong.

17 Q.Of these 10 people, how many were guards and how many were
18 prisoners?

19 A.I cannot grasp how many prisoners and guards there were
20 because I have forgotten because so many years have passed, and
21 since we have already separated and we have never met ever since,
22 and I don't know how many of them still survive and how many
23 died. When I worked at the mobile unit, we were also separated
24 to different groups.

25 Q.Have you ever heard of M 13A and M 13B?

5

1 A.Regarding this point, I have no idea. Even the term M 13 I
2 had just learned recently because at that time it was called 1313
3 and without specifying whether it's M 13A or B, and at that time
4 I was stationed -- or stayed put in one particular place and did
5 not move elsewhere. That's why I did not know much.

6 Q.When you were at the M 13 office, did you hear any
7 conversations regarding what would happen after Phnom Penh fell?
8 Was the fall of Phnom Penh discussed?

9 A.Regarding the fall of Phnom Penh, I had no idea. We only
10 learned when Phnom Penh already fell that victory was at our side
11 and that we won over -- we defeated the American imperialists.
12 And we were in the jungle and we did not know much about this,
13 and we were far away from the villages.

14 [09.20.56]

15 Q.What did the announcement of the fall of Phnom Penh change in
16 regard to yourself and in regard to the prisoners, if you know
17 anything about that?

18 A.Regarding this matter, I'm not quite sure because, well, we
19 only heard that there was an announcement that Phnom Penh fell
20 and that we defeated the American imperialists.

21 Q.Did you hear an announcement that all the prisoners should be
22 freed? And, secondly, did you witness the liberation of any
23 prisoners?

24 A.At that time, prisoners were freed and I noticed that
25 gradually prisoners were liberated, including my grandfather who

6

1 was also released at that moment. After the victory, then
2 numerous prisoners were released from the prison.

3 [09.22.45]

4 JUDGE LAVERGNE:

5 I have no further questions for the witness but I should like to
6 put some questions to the accused.

7 MR. PRESIDENT:

8 The floor is yours.

9 JUDGE LAVERGNE:

10 First, you heard the testimony of Mr. Chan Khan yesterday
11 afternoon and this morning. What are your first observations in
12 regard to what you have heard so far?

13 THE ACCUSED:

14 First, I would like to inform Your Honours that we have been far
15 away from each other for almost 36 years. When I see my former
16 guard, I am so moved. I recall his father, Brother Khom, who
17 repaid a visit to me, and also the sympathy of the villagers in
18 the three villages around that area, the Trapeang Chrap village,
19 Tumneab and Thma Kob village.

20 These villagers supported me personally and M 13 office. They
21 provided the office with their children to help M 13. When one
22 person came, then that person was not happy to work at M 13, then
23 we let him out and then bring another person in.

24 And, finally, our guards, actually they were villagers of
25 Trapeang Chrap, Thma Kup and Tumneab villages, and partially

7

1 guards from Preah Snuol village, but one person from Preah Snuol
2 alias Meas. And I also recall the gratitude of villagers at Peam
3 commune, and these villagers have supported, and I recall my
4 crimes inflicted on the deceased person named Sok.

5 At that time, I heard that Comrade Khan said his grandfathers --
6 two of his grandfathers came to M-13, but I could not recall
7 whether there were two of his grandfathers. Maybe, later on, I
8 may want to hear more from Khan and I want to know the names
9 because I know I have committed that crime, but I want to make
10 sure I remember their name.

11 And -- but after these many years, I observe that Khan's
12 testimony is so mixed up; the things that he has witnessed and
13 the things he has seen. So -- however, I stand to be corrected
14 and I wait to hear more and I really listen to your questions so
15 that there will be more confirmation.

16 [09.26.47]

17 JUDGE LAVERGNE:

18 Firstly, you have told us that you were moved by the assistance
19 provided by the villagers who supported M-13 by sending their
20 children to help you. So this is my first question; do you think
21 that the parents of these children were willing to send their own
22 children to M-13?

23 THE ACCUSED:

24 Your Honour, the villagers in this village -- we called the
25 village a referral village, the village that supported the

8

1 revolution. They had supported the revolution long ago starting
2 from -- for a long time, I can't remember when.

3 I just would like to confirm that not only the father of Comrade
4 Khan who knew me, who paid me a visit, but there were also
5 Brother Huon; the father of comrade Non, Brother Oy; the father
6 of On, and many other.

7 And we had good relationship with the villagers; a mutual
8 relationship. And I asked two senior people to become my
9 godfather and mother.

10 So in conclusion, the people in those villages tended to support
11 revolution. They were willing to send their children to help us
12 because I only recruited young people under 18 years of age.
13 People above 18 years old were not recruited, I would just leave
14 it to the battlefield to recruit them and I have no control on
15 them.

16 So I can make it short that in conclusion, the people -- the
17 villagers in those villages were willing to send their children
18 to help the revolution willingly.

19 [09.30.46]

20 JUDGE LAVERGNE:

21 Were the inhabitants of these villages, did they correspond to
22 what could have been called the "base people"? Would you qualify
23 these people as being base people?

24 THE ACCUSED;

25 These people at the referral base were regarded as the base

9

1 people; that's correct.

2 JUDGE LAVERGNE:

3 Today, you are sure -- you are convinced -- that all of the
4 children who were sent by the -- came on their own will. You do
5 not have any hesitations about this. You never asked yourself
6 the question as to another possible choice for their parents.
7 And was there another possible choice for the parents other than
8 sending the children to work at M-13?

9 THE ACCUSED:

10 I may not be able to grasp the whole context of the question.
11 Could you please rephrase it?

12 [09.32.27]

13 JUDGE LAVERGNE:

14 You told us that you were convinced that the support that the
15 villagers were providing to M-13 was a completely spontaneous
16 support; that the children went there -- and my question is the
17 following: Did these families have another possible choice or
18 were they obliged to send their children to M-13 when the
19 children would be, of course, in a position to work as guards?

20 THE ACCUSED:

21 The teenagers who were younger than 18 had two possibilities.
22 First, they could stay put in their communes to help as the
23 militia. Two, they would then be recruited to work in the
24 office; for example, the office of M-13.

25 So in conclusion, the people -- the villagers had two

10

1 possibilities; no other options. And regarding people who were
2 more than 18 years old or about, then it was -- they were obliged
3 to serve the army.

4 JUDGE LAVERGNE:

5 Did the villagers come spontaneously to offer their children to
6 work as guards at M-13 or were they requested to send their
7 children to work as guards at M-13?

8 THE ACCUSED:

9 I once explained already -- I explained this matter already
10 before. I searched for people who had good biography and trusted
11 people and then made the request to the higher authority.
12 When the higher authority agreed, then the names would be sent to
13 me and that I would appoint someone, for example, like Comrade
14 Khan.

15 JUDGE LAVERGNE:

16 You did not answer my question. My question is the following;
17 were the families obliged or not to send their children to M-13?
18 Were they requested to send their children to M-13 and who asked
19 them to send their children to M-13?

20 [09.36.45]

21 THE ACCUSED:

22 The request to the family was made unofficially. Normally the
23 upper echelon would ask the family to send their children to our
24 offices.

25 JUDGE LAVERGNE:

11

1 When you speak about the upper echelon must we imagine -- must we
2 believe that it was Vorn Vet, for example, who would go
3 personally into the villages to ask the families to send their
4 children to M-13? Who did that?

5 THE ACCUSED:

6 We requested from the southwest zone. The request was made to
7 Brother Si, Mr. Chou Chet, the Deputy Secretary of the southwest
8 zone. And then officially the names requested by me was sent
9 through Brother Pal and Soy, the Secretary of Thpong District.
10 I would like to state again, Brother Si order to Brother Pal, the
11 Secretary of Sector 32, who sent the names to Brother Soy who was
12 the Secretary of Thpong District -- Thpong District. Then the
13 Secretary of Thpong District would send the names to commune of
14 Amleang. So there was an unofficial relation -- communication
15 between our former staff.

16 [09.39.26]

17 So there was an unofficial communication from me to my former
18 staff to the parents of the potential people to be recruited.

19 JUDGE LAVERGNE:

20 Therefore, there was a request that was addressed to the parents,
21 indeed. Did you ask yourself the question -- ask yourself a
22 question if the parents could refuse this request or if the
23 parents could choose something else?

24 THE ACCUSED:

25 Regarding this matter I did not let the upper echelon ask. But I

12

1 allowed the subordinates to ask, to make such request.

2 However, sometimes two children were sent but then the children

3 were not happy to stay, then they were let back to the village.

4 For example, like Brother Huon who sent Comrade Nan and Comrade

5 Nen, then later on Comrade Nen was not happy to stay with me,

6 then we sent him back to the commune. So this is the way how

7 people were recruited.

8 So in short, normally to ask a side question, the communication

9 would be done through our former staff, my subordinates.

10 In Trapeang Troab there were a lot of people who went back home,

11 including Comrade Nan, Comrade Hin, and some lived-in guards,

12 including Comrade Un, Comrade Ser, and my most beloved messenger,

13 Comrade Chhen who also was sent back. So this is how things

14 worked.

15 [09.42.39]

16 Whether people voluntarily came to the place, it was at their

17 consent or their choice also, while we balance the rights of the

18 children at that time.

19 JUDGE LAVERGNE:

20 Therefore, you sent back quite a few young people. So which

21 young people stayed, remained; those who didn't complain, those

22 who were happy with the work they were doing? Which of the young

23 people stayed, remained at M-13?

24 THE ACCUSED:

25 (No interpretation)

13

1 So for those who stay in M-13 and most of them return back to
2 their home; those who returned it might be that they were unhappy
3 with the work.

4 I would like to say for those people from Trepeang Troab, Comrade
5 Hin had returned.

6 Comrade Hin, the younger brother of Comrade Nan, returned, and
7 for those who stay, there were a lot of them from Trapeang Troab
8 village.

9 Firstly, for those who stay, I found that they feel happy with
10 their work. And, secondly, they liked to work with me.

11 [09.45.57]

12 JUDGE LAVERGNE:

13 What did they like about this work?

14 THE ACCUSED:

15 Usually the work at that office.

16 As Comrade Khan reported to the hearing, in the morning we start
17 to guard. We saw only the prisoners. They were under shackle and
18 cuff, however, it does not improve any further.

19 However, they -- I did not went (sic) to the battlefield, in the
20 front battlefield. And they were considered as the people who
21 were in the political party line, other than those villagers at
22 the villages.

23 JUDGE LAVERGNE:

24 So if I understood correctly, these teenagers -- because this is
25 the word you used -- were happy to be at M-13 because they didn't

14

1 have to go fight, on the one hand, but you also said that -- and
2 you also said to us, however, that those who went to fight were
3 older than 18, and also they were happy because they were part of
4 the people who were following the party line. Is that correct?

5 [09.45.14]

6 THE ACCUSED:

7 Yes. The French translation was not correct. The rank of
8 political party of the revolution.

9 JUDGE LAVERGNE:

10 Duch, do you remember that you stated yourself in relation to
11 your stay at M-13, didn't you also say that you were somewhat
12 disgusted by having worked at M-13? Is that true; didn't you say
13 that you were disgusted by what you had done at M-13?

14 THE ACCUSED:

15 There were two alternatives. As I was an adult person there, and
16 others that were young at that time, I called them as the youth
17 or teenager, and they're class was from the poor peasant. And we
18 tried to educate the strict stand towards the enemy and they were
19 easy to accept, to learn, and they were easily to get trained and
20 to learn the lesson.

21 For those who stay with me, who continue to stay, were those who
22 fall in this category. For example, Comrade Meas, who was very
23 quickly to learn and for those who returned there were many of
24 them, including Comrade Khan, Comrade Nen and Hin. And,
25 therefore, the youth and myself as an adult were different at the

15

1 time.

2 JUDGE LAVERGNE:

3 Duch, I'm going to re-read an excerpt of your interview, which is
4 at Index D21, page 12.

5 In Sector 25, you say:

6 "I hated doing this police work, which was called the Special
7 Branch, and I hated the killings, but I was being told that all
8 of this was the result of a lack of direction on the part of the
9 party. In Office 13, I started hating shit but I had to walk
10 through the shit."

11 Do you remember having said that or maybe having even written it
12 down; because this is part of the notes that were added to your
13 interview? You said it. You are the one who said it.

14 So how, therefore, if you hated the work that you had to do at
15 M-13, how can you, therefore, think that some people, some
16 teenagers, were happy to be at M-13?

17 THE ACCUSED:

18 The statement Your Honour has just read, I believe that it is my
19 confirmation. However, I would like to raise one of my
20 discussion with Chhay Kim Huor, alias Hok.

21 When they assigned me to be the chief of M-13 office, they said
22 that it is an important task and "Comrade, you must do that job.
23 Comrade, you are the son of the party and now the party assign
24 you to do the job and you must do that job."

25 [09.54.32]

16

1 JUDGE LAVERGNE:

2 Duch, I'm not asking you what you're thinking yourself about
3 this, I'm asking what do you -- how do you imagine that these
4 teenagers reacted?

5 You heard the witness explain to you that he saw these two
6 grandfathers being detained at M-13 and the witness also
7 explained to us that he left M-13 because you gave him the order
8 to do so.

9 He didn't ask to leave, you said. So can you, therefore, imagine
10 that the witness was happy to be a guard at M 13? Can you
11 imagine that?

12 THE ACCUSED:

13 I would like to reaffirm that I did not understand well Your
14 Honour's questions now.

15 [09.55.50]

16 JUDGE LAVERGNE:

17 I think that I asked this question several times, so I don't have
18 to ask it again. I do not have any further questions for the
19 accused.

20 MR. PRESIDENT:

21 We would like now to give the floor to the Co-Prosecutors who
22 would wish to put some questions to the witness. The floor is
23 yours.

24 MR. YET CHAKRIYA:

25 Thank you, Your Honours. I would like to put questions to the

17

1 witness, Mr. Chan Khan.

2 QUESTIONING BY THE CO-PROSECUTORS

3 BY MR. YET CHAKRIYA:

4 Q.Chan Khan, according to your testimony before the
5 Co-Investigating Judges, you said there were several kinds of
6 prisoners, including the Khmer Rouge soldiers, the Lon Nol
7 soldiers, civilians, wives, and women and children. And
8 yesterday before us, before the judges, you said there were no
9 infants or babies. Which statement was correct?

10 A.I would like to inform to Your Honour that I forget that
11 point. From the beginning I responded that the prisoners were
12 all category, it is true, including the Lon Nol soldier;
13 including the former Khmer Rouge soldier, the civilians who were
14 accused of being spies, traitors, of immoral offence and
15 violating the discipline. I forget yesterday because I do not
16 recall everything, and the prisoners were women and females, and
17 the wives of the soldiers were also prisoners, with the pregnant
18 were also the prisoners.

19 Q.Was the infant, the baby inside the womb of the woman? How
20 did you know?

21 A.Well, she appeared pregnant.

22 [09.58.40]

23 Q.Could you please clarify; you and Chan Voeun, who were
24 recruited first at M 13?

25 A.I did not remember whether I was first recruited or I was

18

1 after Chan Voeun, but I know that I attended M 13 in 1973 during
2 the aerial bombardment, and that's when I was recruited. But I
3 did not know when Chan Voeun was there, was recruited, because
4 the events were several years back and I could not recall.

5 Q.So you state that Chan Voeun was actually the staff of M 13?

6 A.Chan Voeun was truly the staff of M 13, and Chan Voeun was
7 detained by Grandfather Duch, especially when Chan Voeun was on
8 guard and the prisoner ran away while being chained. That's why
9 at that time Chan Voeun allowed the prisoners to abscond or the
10 prisoners could manage to abscond. That's why Duch punished Chan
11 Voeun in the prison.

12 At night when it was quiet, as a guard I told to Voeun -- I said,
13 "Voeun, you have to abscond. Otherwise you would be killed."
14 Then Voeun escaped and then Duch asked me where Voeun gone, and I
15 said I did not know because I was relieving myself, then when I
16 came back I didn't see Voeun.

17 [10.00.50]

18 Q.Another question. Just now you said you did not work at M 13
19 because you could not bear the orders and the plans of Duch.

20 What kind of orders and plans you were inflicted on?

21 A.I would like to state that the plan -- there were several
22 plans. I were overloaded with the plans, as I already mentioned;
23 whether I did not make myself clear but I did make it already.
24 Every morning when I opened my eyes I saw a lot of victims who
25 were shackled, chained, not just the other people who were

19

1 chained but my relatives also were chained and detained. So how
2 could I live in such a society to just witness such crimes?

3 So I could not bear the orders, and to follow the orders by Duch
4 no longer. So I had to find an alternate option to -- you know,
5 like to make sure I failed to obey the discipline. That's why I
6 was removed.

7 Q.Another question. Besides guarding prisoners, what are the
8 tasks you were assigned with by Duch?

9 A.Apart from guarding we had to do farming, digging dirt to
10 plant cassavas, and these are the side jobs other than the
11 guarding duty.

12 [10.02.45]

13 Q.Were you asked to bury some dead bodies?

14 A.Personally I never buried prisoners. I only took the
15 prisoners to dig the graves but I never did it on my own.

16 Q.When you were asked to take the prisoners to dig the graves,
17 did you see a lot of dead body?

18 A.When people died then they were taken to bury at the graves,
19 and then prisoner would be asked to dig the grave and bury their
20 inmates who died.

21 MR. YET CHAKRIYA:

22 The Prosecutor has no more questions to the witness but I have
23 some questions to the accused.

24 MR. PRESIDENT:

25 Now, the Co-Prosecutor would like to ask the accused, so the

20

1 accused please be prepared to respond.

2 MR. YET CHAKRIYA:

3 The accused; just now you stated that the recruitment of people
4 to guard at M 13 were regarding those people who had good
5 biographies, so what were the criteria to call them people with
6 good biographies?

7 THE ACCUSED:

8 We recruited people with middle, low -- lower middle-class
9 peasants and poor peasants, and at this location at Thma Kob
10 village, Trapeang Troab village, and they were the former
11 villages for the base. And these people had no affiliation with
12 the former regime. That's why they fit the criteria.

13 MR. YET CHAKRIYA:

14 Would they have to be educated?

15 THE ACCUSED:

16 No, that was not part of the criteria.

17 [10:05:01]

18 MR. YET CHAKRIYA:

19 Was it your sole decision or a decision made by the superior?

20 THE ACCUSED:

21 This is the -- a class line implementation. As the person in
22 charge of M-13, I had to follow that policy. But for other
23 offices education was part of the criteria because people were
24 needed to write down some report.

25 [10.05.27]

21

1 MR. YET CHAKRIYA:

2 The Prosecutor has no more questions.

3 MR. PRESIDENT:

4 I would like to invite the international Co-Prosecutor to put
5 questions if he would wish to do so.

6 MR. BATES:

7 Yes, thank you, Mr. President.

8 BY MR. BATES:

9 Q.Mr. Chan Khan, yesterday you told the Court Duch had a strict
10 character and was a real workaholic. What things did you say --
11 sorry -- what things did you see him do or hear him say that
12 demonstrated to you that he had a strict character?

13 A.Regarding the characteristics of Duch, that he was of strict
14 character and that he were a workaholic because he means
15 business. Whatever he says he follows it. So everyone was
16 scared of him. For example, me myself when I fail to follow his
17 orders I had to scare-- to be afraid of him and at that time we
18 were so scared because he keeps his words and he never made any
19 joke. So wherever he went he got his pistol along with him. He
20 liked laughing out loud and we -- in particular I, myself, was
21 afraid of him. I could not even look at him in the face.

22 Q.You described that he had a pistol. Did he carry it in his
23 hand? Did he wear it in his waistband or what did you see?

24 A.Regarding the pistol, it's regularly he put it in the
25 waistband, under his armpit or in the waistband and he never went

22

1 without the pistol with him.

2 Q. Did you ever see him take the pistol from his waistband and
3 hold it in his hand?

4 A. I used to see that he discharged the pistol from the waistband
5 and put it on the table, and that's when I -- when I saw it.

6 [10:08:34]

7 Q. In what circumstances was he putting the pistol on the table?
8 What was he doing at the table? Who was he with?

9 A. He put that pistol on the desk at work or sometime when he
10 went to the kitchen then he discharged the pistol before he
11 started his meal.

12 Q. Did you ever see him put the pistol on the table when he was
13 interrogating?

14 A. Regarding this matter I haven't seen it because at the
15 interrogating place we were not allowed to be in unless there was
16 a permission from him to do so.

17 [10.09.40]

18 Q. The second thing you told the Court yesterday was that Duch
19 was "a real workaholic." Can you tell us, please, what things
20 you saw him do or heard him say that leads you to tell us he was
21 "a real workaholic"?

22 A. The reason that I presumed he was devoted to work because
23 whenever he presented about the work, then he was very meticulous
24 and he followed the plan of the Party very properly. That's why
25 I called him a very meticulous or strict person and he did not

23

1 make fun very often.

2 Q.Can I ask you again about the interrogations? Were the
3 interrogations ever conducted in the open so that everyone could
4 see or at least that it was in the open air?

5 A.Regarding the interrogating location, Duch built a hut which
6 was far apart from the prison's location. It included the north
7 of Trapeang Chrap pond under the mango tree and there was only
8 his desk and a cradle and a chair. Prisoners were put to stay on
9 the dirt floor.

10 Q.Was it possible for you to hear what was being said during the
11 interrogations, either by Duch or by the prisoner being
12 interrogated?

13 A.Regarding these I had no idea what went on with the
14 interrogation because I was far from that place. It was to the
15 north of Trapeang Chrap pond which was about 500 metres from the
16 location where I stayed or where the prisoners were detained.

17 [10.12.35]

18 Q.Did you ever hear any shouts or screams coming from the
19 interrogation location?

20 A.There was no scream from the location because after -- but
21 after that interrogation I noticed that prisoners were stained
22 with blood over their body or there was scars of bamboo sticks
23 who -- that those persons would have been beaten by the sticks.

24 Q.Yesterday you confirmed that Duch had said to you in a meeting
25 to keep the work at M-13 secret. Can you confirm that that is

24

1 what Duch said to you at the meeting?

2 A.It is true that Duch himself ordered all guards or his
3 superior to maintain secrecy and that no one was allowed to leak
4 this secret matter because it was the very important location, is
5 what he told us.

6 Q.And you personally attended that meeting at which Duch spoke?

7 A.Yes, I did because -- when Duch would talk to the guard and
8 guards were called to meet him.

9 Q.Can you tell us, please, a little bit more about that meeting?

10 Firstly, who attended; who exactly attended? How many people
11 were there?

12 A.Regarding the meetings, mostly all guards except those who
13 were on guard at the prison who had to stay put; other people who
14 were off duty of guarding the prison had to attend the meetings.

15 Q.And was it just Duch alone who spoke or did anyone else speak
16 at these meetings?

17 A.During the meetings, Duch was the chairperson who conducted
18 the meeting and the guards were to listen to him, to listen to
19 his orders and plans and how works were expected to be done.

20 In placing such orders, he said clearly that the punishment would
21 be imposed if any comrade who failed to perform the duty
22 properly, so we had to be on our own.

23 [10.16.18]

24 Q.Did Duch ever speak to you about politics in these meetings?

25 A.I did not hear anything about politics said in the meeting,

25

1 but we were told to follow the disciplines and assignments
2 assigned by the party. So we were asked to follow the orders
3 made by Duch. That's what he said -- normally said in the
4 meetings.

5 Q.Was anything ever said in the meetings about enemies, enemies
6 of the revolution?

7 A.The prisoners were regarded as the enemy by Duch's statement
8 in the meetings and that our guards were friends.

9 Q.Did Duch ever talk about building your revolutionary stance or
10 building your revolutionary standpoint at these meetings?

11 A.Could you please repeat your question so that I can respond
12 properly?

13 Q.Of course.

14 At these meetings, did Duch ever talk about -- and this is a
15 quote I'm using -- "building your revolutionary stance"?

16 A.We were not told about this.

17 [10.18.49]

18 Q.And you said these were meetings, rather than just one
19 meeting. How many times during the period in which you worked at
20 M-13 did these meetings take place? Was it once a day, once a
21 week, once a month or how frequently?

22 A.I could not grasp how many times the meetings were conducted.

23 Q.Are you able to say whether it was more than once that these
24 meetings took place because you've used the term "meetings",
25 plural, rather than meetings in the singular? I'm just wondering

26

1 if you can help us at all.

2 A. There were many meetings. I don't remember how many there
3 were. I just cannot remember how many times the meetings were
4 held, for example, once a month or once a week, but there were
5 many.

6 Q. Thank you.

7 Did you ever attend self-criticism meetings at M-13?

8 A. At that time, there were self-criticism sessions and we -- and
9 I attended such meetings when all guards guarded, to find out who
10 were good and bad friends and criticize one another and I work
11 beside from -- by other guards in our group.

12 [10.21.19]

13 Q. How often did these meetings take place, these sessions, take
14 place?

15 A. These self-criticism meetings took place several times during
16 my work at M-13.

17 Q. As well as the other guards that attended these sessions, did
18 any of the senior leadership of M-13 attend? For example, did
19 Duch in person attend these self-criticism sessions?

20 A. Regarding this, Duch ordered such meetings and he was at the
21 kitchen where the meetings took place, and he was overseeing who
22 criticized whom in such meetings.

23 Q. What would happen to those people that were criticized; can
24 you tell us a little more about the sessions operated?

25 A. These self-criticism meetings were designed to criticize one

27

1 another and I, myself, for example, Chan Khan, revealed my
2 mistakes and then received criticisms from other guards, and
3 after all then another person would be put to be criticized until
4 we run out of members in the meeting.

5 Q.Did anyone in the self-criticism sessions criticize Duch?

6 A.No, no one would dare criticize him, none, because he was the
7 most important chairperson of the place. Who would risk
8 criticizing him except his peer cadres who were senior leaders;
9 we were just guards.

10 [10.24.39]

11 Q.I'd like to move on to a question about the pits, the
12 detention pits, and how many prisoners each pit could fit.
13 With the Court's leave, I'd like to read out a section of the
14 statement taken by the investigators for the Office of the
15 Co-Investigating Judge; D78/4 that His Honour, Judge Lavergne,
16 has already referred to.
17 This is, for the translators' benefit, at ERN 00195547 of the
18 French version. This section is actually missing in the English
19 statement, and I'll read in French.

20 [10.25.29]

21 And please Mr. Chan Khan, if you can listen to what I'm going to
22 read to you from this statement that you made last year to the
23 investigators:

24 "To the north of the prison there were some pits which could take
25 between 50 and 70 prisoners."

28

1 Mr. Chan Khan, can you confirm today that that statement is
2 accurate? Does it help your memory of how many prisoners were
3 detained in the pits?

4 A.Regarding these few pits, I could not remember how many
5 prisoners were detained inside but I can recall that each pit
6 could fit in 50 to 60 prisoners. But I think some pits could
7 only accommodate 20 to 30 people.

8 Q.And when you were working as a guard at M-13, did you see
9 these pits full or half full or empty? Can you help us please
10 with how many prisoners were in the pits?

11 A.Prisoners in the pits, as I already mentioned, there were
12 about four to 10 people in each pit, but each pit was filled with
13 prisoners, all the three pits.

14 Q.I don't quite follow your answer, I'm sorry. Perhaps I can
15 ask for a clarification. You say the pits could contain between
16 50 and 60 prisoners but that they were containing -- I'm sorry;
17 if you'd allow me a moment. You said that each pit contained
18 four to 10 prisoners but then you also said that you saw these
19 pits full. If they were full and the pits contained 50 to 60
20 prisoners; can you help us please on solving this confusion?

21 A.I would like to state again that the pit could fit in 50 to 60
22 people but the prisoners at that location were not at that
23 number, 50 to 60 people. Only -- there were only 10 to 20
24 prisoners were kept in that pit -- each pit.

25 Q.And so in total how many prisoners were there if you add up

29

1 all the prisoners in each of the pits, if you can help us?

2 A.As I said yesterday, at any point in time there were more
3 prisoners but some months there were only fewer prisoners so I
4 could not calculate the total numbers of prisoners.

5 [10:29:57]

6 MR. BATES:

7 Mr. President, I notice the time. I wonder if now is a
8 convenient time to break for a pause because I'm moving onto
9 another topic?

10 MR. PRESIDENT:

11 Since it's time to break we would like to take a 20-minute break
12 and resume after that.

13 The court official, could you please help take the witness back
14 to the waiting room and take him back to the court. Thanks.

15 (Witness exits courtroom)

16 (Court recesses from 1031H to 1057H)

17 (Judges enter courtroom)

18 MR. PRESIDENT:

19 The Trial Chamber declares its continuation of the session and
20 the following. I give the floor to the International Prosecutor
21 to continue his questions to the witness, please.

22 MR BATES:

23 Thank you, Mr. President. There was one question that I didn't
24 ask concerning the meetings with Duch.

25 [10.58.19]

30

1 BY MR BATES:

2 Q. Mr. Chan Khan, you told us that Duch said if you didn't
3 follow his orders that you'd be punished or there would be
4 punishment. Did Duch ever tell -- say at these meetings what the
5 punishment would be for those who didn't follow the orders?

6 A. This matter, Duch advised us at the meeting, but for the
7 guards -- shall implement following his order. Anyone who failed
8 to do so shall receive a punishment.

9 Q. And what did you as a guard understand by what the punishment
10 would be? Did you have an idea what the punishment would be if
11 you didn't follow the orders?

12 A. As I told you, the punishment, if you committed anything wrong
13 in violation of the party line or the order, we shall be
14 punished. For those who follow his order will be free from any
15 punishment. As for me, I never received any punishment from Duch
16 but I was fearful of being executed. That's why I tried to
17 follow the order.

18 [11.00.31]

19 Q. Apart from Chan Voeun, did you know anyone else who didn't
20 follow the orders and was punished? And if you did, what was the
21 punishment they received?

22 A. In my unit in M 13, other than Chan Voeun another one was Phal
23 received the punishment because he -- imposed by Ta Duch. He was
24 imprisoned by Duch. Phal was the -- was imprisoned by Duch.

25 Q. And what happened to Phal after his imprisonment? Was he

31

1 released?

2 A.Phal was dead but I am not sure about his death was executed
3 by Duch or in any cause because I was not there any more.

4 Q.Yesterday you told us that both your grandfathers had been
5 detained at M 13, and you said your paternal grandfather was
6 killed there but your maternal grandfather was released. Can you
7 tell us the names of your two grandfathers and which one was your
8 father's father and which one your mother's father?

9 A.My maternal grandfather named Sok; was referred by Duch a
10 while ago. It was my maternal grandfather who was released but
11 now he's dead. He was very old and died. And my paternal
12 grandfather called Ta Tim. I'm not sure whether he was killed by
13 Ta Duch or whether he died of disease, but I am sure that he was
14 dead in M 13 but I did not see his corpse because I was away from
15 M 13. I went to do the farming far away from M 13. I did not --
16 I do not know.

17 [11.03.47]

18 Q.Did your own father know that his father was detained in M 13
19 and was killed there?

20 A.Could you please repeat your question because I'm not quite
21 sure of the fathers.

22 Q.You've told us the name of your father's father, your paternal
23 grandfather, was Ta Toum (phonetic), and --

24 A.Tim.

25 Q.Thank you for correcting me.

32

1 A.Tim.

2 Q.And you told us that Ta Tim was detained, was a prisoner at M
3 13, and that he was executed there. My question is did your own
4 father know that Ta Tim had been detained and executed at M 13?

5 MR. ROUX:

6 The witness said that he did not know if the grandfather had been
7 killed or if he died because of illness, and now the question
8 that is asked to him is he uses the word "executed". So is it a
9 problem of translation or is it the term that my colleague is
10 using, the term "executed"?

11 The witness said he died, but I do not know if he was killed or
12 if he died because of illness. So if we continue to answer
13 questions, I prefer saying, okay, that he is dead without
14 mentioning the word "execution". Thank you.

15 [11.06.04]

16 MR. BATES:

17 And I will refer to Ta Tom as having been just been detained at
18 M-13, for the time being.

19 BY MR. BATES:

20 Q.So does the witness require me to repeat my question?

21 A.I would like to tell you that Ta Tim, as I told you, was my
22 paternal grandfather. As I tell you again and again, I am not
23 quite sure whether he was died of illness or killed by Duch
24 because I was not there, I went to do the farming, but Tim was
25 actually die in M-13.

33

1 Q.Now, your own father is called Cham Khom. Is that correct?

2 A.My father yes, his name is Cham Khom, correct.

3 Q.And did Cham Khom know that Ta Tim had been detained in M-13

4 and never came out of there alive?

5 A.Could you please repeat your question about my father?

6 Q.Did your father know that his own father was detained at M-13?

7 A.I told you my father knew about that but he was not my

8 paternal grandfather. Ta Tim was the uncle of my father. Yeah,

9 my father knew about that detention.

10 Q.You heard the accused say that your father, Cham Khom, had a

11 good relationship with him. Do you know whether this is true or

12 not?

13 A.Regarding this matter, my father never make any relationship

14 with Ta Duch. He was always at the rice paddy. Duch's response

15 was not correct. Why I say that because my father never been

16 contacting with him when I was there.

17 Q.I'd like to read out another short passage from the statement

18 that you gave to investigators last year.

19 [11.09.58]

20 MR. BATES:

21 And for the court record, again, this is Document D78/4 taken on

22 the 31st of March 2008. The English ERN that I'm about to read

23 is 00195542.

24 BY MR. BATES:

25 Q.Mr. Chan Khan, can you just listen carefully to what you told

34

1 the investigators last year, and I'm going to read it out now.

2 "I first entered the revolution in 1973 through Kim, deceased,

3 village chief, and Pring, deceased, sub-district chief. At

4 first, Kim informed me that I would be appointed as a soldier,

5 but I was sent to work as a security guard at Office 13 where

6 many prisoners were held. There were lots of security guards

7 working in Office 13 who had been selected from various places.

8 They were introduced into the revolution like me."

9 My first question, Mr. Chan Khan, do you confirm that that

10 statement that I've just read out is accurate. Is it correct?

11 A.Regarding your statement, you're right, it is correct

12 reflecting my response in the statement.

13 [11.11.52]

14 Q.So you thought you were going to be a soldier but, in fact,

15 you were sent to work as a guard at M-13. Is that correct?

16 A.This is correct, based on my statement.

17 Q.Were you or your father ever asked whether you wanted to go to

18 M-13 to work there?

19 A.My father did not know whether I was sent there because the

20 village men told him that I was assigned to be a soldier. But

21 later I was sent there, but my father did not know about that

22 when I was away from home because at that time it depends on the

23 village head man or the commune chief who send anyone to any

24 direction we should follow. We could not refuse.

25 Q.What would happen if you had refused the orders to go from

35

1 your place to M-13 or to be a soldier, as you thought it was?

2 A. Could you please repeat your questions?

3 Q. Certainly. You said you could not refuse. What would have

4 happened if you had tried to refuse this request?

5 A. I'm not quite sure about the questions. Please ask again.

6 [11.14.18]

7 Q. You've told us that the request came from your village chief

8 to work for the revolution. Is that correct?

9 A. That's true.

10 Q. And you were told that you were going to work as a soldier.

11 Is that correct?

12 A. That's correct.

13 Q. Did you have any possibility or opportunity to refuse the

14 request to become a soldier?

15 A. At that time we could not reject the proposal. As long as we

16 were requested, then were obliged to follow that request because

17 the revolution was absolute, although we were not willing to go

18 but we were obliged to go.

19 MR. BATES:

20 Mr. President, I have no more questions for the witness; thank

21 you. But I have two more questions for the accused, if I may be

22 permitted?

23 MR. PRESIDENT:

24 You are allowed to ask those questions to the accused and we

25 would like the accused to be prepared to respond. The floor is

36

1 yours.

2 MR. BATES:

3 Thank you.

4 [11:16:12]

5 Mr. Kaing, what would happen to those families who refused the
6 requests from the Party to send their children to M-13?

7 THE ACCUSED:

8 People who had been requested from the upper echelon to send
9 their children to M-13, they had to send their children without
10 any objection.

11 And later on when the people left the area the condition was
12 different but when -- at the beginning when they were requested,
13 then people were obliged to come to M-13.

14 MR. BATES:

15 When you used the words, "obliged to come to M-13," do you mean
16 to say that there was no possibility of rejecting the request, of
17 refusing the request?

18 THE ACCUSED:

19 Normally, no one would reject such a request, like Comrade Khan
20 already stated, because they were afraid to be killed.

21 MR. BATES:

22 You heard what the witness said regarding his father's relations
23 with you. Do you maintain that this witness' father had good
24 relations with you, after what you've heard the witness say?

25 THE ACCUSED:

37

1 Brother Khom paid a visit to my location once or twice.

2 MR. BATES:

3 And you heard what the witness said regarding his father's own
4 father who was imprisoned at M-13. My question is, do you
5 maintain that Ta Khan still had a good relationship with you
6 after you had imprisoned his own father at M-13?

7 THE ACCUSED:

8 Comrade Khan left me before Brother Tim was sent in, and Brother
9 Khom came to my place before Comrade Khan was recruited. And
10 later on we never saw Brother Khom again.

11 [11.19.52]

12 MR. BATES:

13 Thank you, Mr. President. I have no further questions.

14 MR. PRESIDENT:

15 Next, we would like to invite the civil party lawyers to put
16 questions to the witness if you would wish to do so, and
17 following the order of the groups, starting from Group 1. So
18 Group 1 lawyers first.

19 MS. TY SRINNA:

20 Thank you, Mr. President. Before putting the questions I would
21 like to seek clarification from the witness concerning several
22 points.

23 [11:20:49]

24 QUESTIONING BY CIVIL PARTY COUNSEL

25 BY MS. TY SRINNA:

38

1 Q.First, Mr. Chan Khan, regarding the flood, when the flood
2 happened was it at night or in the early morning?

3 A.In the case of the flood it happened early in the morning.
4 The flood came very quickly. It kept rising until 4 or 5 a.m.
5 and the full flood occurred.

6 Q.Yesterday, you said something about the medics. You said that
7 there were medics at M-13. Could you please clarify to us
8 whether the medics were to cure or to treat the guards or the
9 prisoners?

10 A.The medics at that time did not have good possession of
11 medicine and the medics were stationed at the unit and they were
12 to cure both the prisoners who were sick and the guards who fell
13 ill. So the medics were to treat everyone, not just any single
14 individual.

15 [11:23:15]

16 Q.Were the prisoners who were detained in the pits were treated
17 by the medics?

18 A.As I said, there were very few medicines and people were sick.
19 When there was medicine they would be given to the detainees but
20 if not then they would not receive any.

21 Q.Have you noticed that -- or did you notice that the prisoners
22 in the pits were given some medicine -- treated, I mean, with
23 your own eyes?

24 A.I used to see that medicines were given but it was more like
25 rabbit droppings kind of medicine.

39

1 Q.This morning you stated that after interrogation prisoners
2 were taken out and you could see the pits -- the detainees were
3 stained with blood. Did you notice that they were treated by the
4 medics then?

5 A.No, they weren't.

6 [11:24:30]

7 Q.So where were these prisoners taken to?

8 A.They were left after that interrogation unless the -- except
9 they were sick by some kind of natural disease and then they
10 would be treated. But with interrogation and torture they would
11 not be given any medicine.

12 Q.So this means that prisoners were not treated or cured
13 although they were severely beaten.

14 A.People who were interrogated not treated, but if they fell ill
15 then they would be treated.

16 Q.Regarding the flooding, when it happened there was an effort
17 to save -- to release the prisoners from the pits to escape the
18 flood. So were prisoners unshackled or were they still chained
19 -- were still shackled?

20 A.Prisoners who were in the pits, we unshackled cuffs attached
21 to their legs but they were still chained to the necks and we
22 marched them to the upper ground.

23 Q.When the prisoners drown -- some of them were drowned, after
24 they were -- some were saved were they sick or were they fine?

25 [11.26.25]

40

1 A. Detainees who were saved from the pits later on died of
2 disease or maybe died of traumatization or died of the course of
3 the flood, but I noticed that they died gradually.

4 Q. After they escaped from the flood and they fell ill -- and you
5 said you were not sure whether they fell ill because they were so
6 panicked. My question is that whether the prisoners were treated
7 then by the medics?

8 A. There were very few medicine to help them, but the medicine
9 did not do any good and people still died.

10 Q. Thank you, the Witness. I would like to proceed to another
11 question.

12 Regarding the pits, when you worked at M-13 you noticed that
13 there were three pits. Later on, did you observe that there were
14 more pits dug up to detain prisoners?

15 A. After the flood, those pits were filled with water. and later
16 on detainees were put in a place insulated by barbwire and fence
17 and covered with leaves.

18 Q. This question has something to do with the relation with Duch.
19 When it comes to decision, for example, when a prisoner committed
20 wrongdoing or a guard commit a mistake, was Duch make a decision
21 -- making the decision immediately on his own or he had to wait
22 the order from the superior, from your observation?

23 A. I'm not sure I understand that situation because I don't know
24 whether the decision made by him or by superiors.

25 [11.29.16]

41

1 Q. Have you encountered a situation -- for example, like in the
2 case of Chan Voeun who made a mistake by letting the prisoners
3 abscond and then he received punishment. At that time, did you
4 remember that Duch really ordered the punishment on that person
5 immediately or he had to wait for the order from the superiors?

6 A. As I said, I am not sure and I have no idea whether the
7 decision was made at the level of Duch himself or he had to wait
8 from the -- order from the upper echelon.

9 MS. TY SRINNA:

10 I have no questions, and my colleague may have some questions to
11 the accused and the witness. Thank you.

12 MR. PRESIDENT:

13 The floor is yours, Mr. Khan.

14 MR. KHAN:

15 Good morning, Mr. President, Your Honours.

16 With your leave, just a few questions for the accused.

17 [11.30.43]

18 MR. PRESIDENT:

19 The floor is yours.

20 MR. KHAN:

21 Mr. Duch, you have heard over the last couple of days, and even
22 previously, that prisoners were kept in pits at M-13. That is
23 correct, isn't it?

24 THE ACCUSED:

25 That's correct.

42

1 MR. KHAN:

2 And you had previously said that the conditions at M-13, in
3 general, were dreadful. That's also right, isn't it?

4 THE ACCUSED:

5 What kind of situation did you mention that was dreadful?

6 [11.31.57]

7 MR. KHAN:

8 The conditions at M-13, you have previously said when you spoke
9 about M-13, that they were an embarrassment to you. Is that
10 right? They were very harsh, difficult conditions for people to
11 live in. That's right, isn't it?

12 THE ACCUSED:

13 M-13 was the prison for Khmer Rouge. It was not just harsh but
14 it was cruel and heinous. It is a place where humanity was
15 smashed. It's not really hard; it was the very cruel place. So
16 I would just like to make it clear, it's beyond being hard --
17 harsh, but it's very cruel.

18 MR. KHAN:

19 And if humanity was smashed at M-13, is it right that the pits
20 that you kept is where humanity was ground down?

21 THE ACCUSED:

22 I would like to repeat; today I have just noticed your
23 attendance, new face in the Court.

24 The digging of the pits had two purposes; first to protect the
25 detainees or prisoners from absconding. So the pits were two

43

1 metres deep and while they were shackled to the legs and without
2 enough food, they could not escape.

3 Number two, at the beginning we did not attempt to dig pits, but
4 only when we wanted to protect the detainees from aerial
5 bombardment that we dug the pits.

6 [11.34.24]

7 BY MR. KHAN:

8 Mr. Duch, I do apologize for interrupting. I've read the
9 transcripts, I know what your evidence is.

10 All I'm putting to you is that if the conditions in the camp, in
11 general, were cruel and difficult, it would be fair to say that
12 the conditions in the pits, dug in the ground, were particularly
13 cruel and particularly difficult. Is that right?

14 THE ACCUSED:

15 That's right. It was difficult, cruel.

16 It was not a school building. It was a Khmer Rouge prison.

17 MR. KHAN:

18 It's right, is it not, that people kept being kept in these pits
19 in 1974; you would agree with me about that wouldn't you?

20 THE ACCUSED:

21 Could you please repeat your question?

22 [11.35.40]

23 MR. KHAN:

24 Even in 1974, people were being kept in these pits; that is
25 right, isn't it?

44

1 THE ACCUSED:

2 That's correct.

3 MR. KHAN:

4 And you are fully aware, are you not, that the American aerial
5 bombardment of Cambodia finished in August 1973? That's also
6 right, isn't it?

7 THE ACCUSED:

8 '73 or '74?

9 MR. KHAN:

10 I will repeat the question. You are fully aware that the
11 American aerial bombardment of Cambodia ceased in August 1973.
12 That's the reality, is it not?

13 THE ACCUSED:

14 I'm not sure with the dates. I'm not involved in the date, but
15 it was '73 or 1974, but after the aerial bombardment in the
16 battlefields -- before that kind of aerial bombardments there
17 were also bombs dropped from the planes, and even this kind of
18 bomb dropped in villages, and until the 17th of April, 1975 that
19 aerial bombardment stopped.

20 MR. KHAN:

21 Let me be very plain, lest there be an misunderstanding, Mr.
22 Duch. You kept prisoners in these pits well after United States
23 aerial bombardment ceased, did you not?

24 THE ACCUSED:

25 After the B-52 bombardment there were some aerial bombardments --

45

1 the normal aerial bombardments.

2 [11.38.07]

3 MR. KHAN:

4 And I put it to you that the reason that you cling to this story
5 about putting prisoners in pits for their own protection is to
6 hide the fact that you placed them in these pits knowing full
7 well that they would be subjected to horrendous, cruel, miserable
8 conditions. Is that right?

9 THE ACCUSED:

10 If it is more like a consequence. In Khmer word, it is more the
11 consequence of the event.

12 We had two purposes. First, we protected the prisoners from
13 absconding, but number two, it was for protecting of their own
14 protection, so if the bomb were dropped on -- right on the pits
15 then prisoners would die, but if they were dropped elsewhere then
16 the people could escape or could be protected. Therefore,
17 whether prisoners were inflicted more cruelty and horrendous
18 situation, it was the consequence. It was not my initial
19 intention.

20 MR. KHAN:

21 And of course you've heard the testimony previously that
22 individuals in 1974 drowned in these pits when there was a flood.
23 You've heard that, haven't you?

24 MR. ROUX:

25 Mr. President, I'd like to say what I said the last time. Could

46

1 you invite my learned friend to be less aggressive and more
2 respectful when he puts his questions? This is a courtroom.
3 This is not a boxing ring. Thank you.

4 MR. KHAN:

5 Mr. President, I'm not wearing gloves.

6 Yeah, I'm very happy to put the question again if there was some
7 lack of clarity.

8 MR. ROUX:

9 Please wait, my learned colleague, for the President to deal with
10 your question. I've asked the President to ask you to be more
11 respectful, so would you be so kind as to wait for the
12 President's response. Thank you.

13 [11.41.08]

14 MR. KHAN:

15 Mr. President, with the greatest respect, no.

16 MR. PRESIDENT:

17 Mr. Khan, may we remind that your remarks are well balanced
18 between the right to put question and the right not to respond to
19 repeating questions, because we have observed that there are --
20 you seem to be new here, and that some questions were repeated,
21 and some questions were long. That's why, through translation,
22 there might be a loss in the translation that the final tuning of
23 the translation was not well understood by the person who's
24 supposed to respond.

25 So the Chamber would like to try to avoid repetitious questions

47

1 or the same questions that ones asked by other parties, because
2 we would like to make sure that there will be no delay in the
3 proceedings and that we would like the questions to be brief and
4 precise so that, through translation, it is no misunderstanding.
5 You can continue.

6 MR. KHAN:

7 Mr. President, I'm most grateful, and I fully take on board the
8 admonition about repetition. The objection, of course, is one of
9 tone, not of substance, and it is my respectful submission that
10 the proper form is that when an objection is raised, and prior to
11 a ruling, a party is allowed to respond.

12 But Your Honour, be that as it may, I will move on and ask Mr.
13 Duch, with your leave, one additional question.

14 [11.43.27]

15 Mr. Duch, I put it to you that the reason you are so wedded to
16 this story about placing people in these pits for their own
17 protection is borne out of nothing other than a very blatant
18 attempt to somehow mitigate your conduct in placing people in
19 shackles in miserable conditions in these pits. Would you agree
20 that is a fair assessment?

21 THE ACCUSED:

22 I want to be short. I have said this a hundred times already but
23 because you are just here today I may have to repeat. The people
24 in the pits were shackled, that's true; that's all.

25 MR. KHAN:

48

1 Your Honour, I have no further questions. I'm grateful.

2 MR. PRESIDENT:

3 Now the floor is for lawyer, Group 2.

4 [11.45.09]

5 MS. STUDZINSKY:

6 Thank you, Mr. President, Your Honours.

7 BY MS. STUDZINSKY:

8 Q.Good morning, Mr. Chan Khan. My name is Silke Studzinsky.

9 I'm a lawyer for victims. I could observe that during the
10 morning session you started to talk more than yesterday and that
11 you -- I hope that you feel also relieved through talking.

12 Am I right that you are feeling better today than yesterday?

13 A.I am more relieved today than yesterday because yesterday my
14 feeling was rather mixed.

15 Q.Yes, thank you. And I hope that you can contribute to the
16 search of the judges there to ascertain the truth.

17 You told us yesterday that Duch, Chan, Meas, Pon and Pol were
18 interrogators. Is this right?

19 A.It's correct.

20 Q.And did they have different sites or places where they
21 conducted the interrogations?

22 A.There were different sites where prisoners were interrogated
23 because at -- Duch had interrogated the prisoners at one
24 location, others would interrogate people at different locations.

25 Q.Could you approach these locations where interrogations were

49

1 conducted?

2 A.As I just said, Duch had a different location for
3 interrogation and Meas, Chan had used different sites to conduct
4 interrogations.

5 Q.How close could you go to these interrogation sites or places?

6 A.I never went close to that locations. I was stationed at the
7 office.

8 [11.49.33]

9 Q.Did you, or could you -- was this place where the
10 interrogations took place hidden so that you could not look
11 inside? Or was it possible to observe the situation of
12 interrogation from far?

13 A.The interrogating sites were made of small huts and they were
14 insulated and hidden, and they were far away from the detention
15 location. They were located to the north of Trapeang Chrap pond.

16 Q.I come now to another issue. You talked already about the
17 different pits and the pits where the detainees were held, and
18 then about pits with dead bodies. Can you tell us about these
19 different pits for dead bodies and for detainees? And focus on
20 the pits for the dead bodies. How many of those pits for dead
21 bodies did you see during your time in M 13?

22 A.I never seen the pits where dead bodies were held but I only
23 saw the pits where prisoners were kept.

24 [11.52.08]

25 Q.Did you ever see dead bodies in M 13?

50

1 A.People died of starvation, as I said yesterday. I saw them
2 die of -- by the cause of the flood. They drowned and I saw with
3 my own eyes.

4 Q.Did you see also executed people?

5 A.As I said earlier, the locations where people were executed
6 were secret and there was a policy to keep that location secret,
7 and we were ordered by Duch to conceal this secret. Because we
8 did not know the locations because it was part of the secrecy.

9 Q.Did you hear shooting at M 13?

10 A.I used to hear gunshots at M 13, especially when prisoners
11 escaped and when prisoners were tied to the pole and shot to
12 scare the hell out of the other prisoners, and I used to see
13 that.

14 Q.Did I understand right that you heard it and you saw it; how
15 they were shot?

16 A.Could you please repeat your question?

17 Q.Yes. I want to clarify if I understood well.

18 Am I right that you said, "I heard the shootings and I saw how
19 people were shot"?

20 A.As I mentioned, at the location there were poles where a
21 prisoner was tied to and shot at, and I heard the gunshot.

22 Q.How did you feel when you heard these, as you have said,
23 unbearable loud sounds?

24 A.I was afraid and I did not know actually who was killed
25 because, as I told you, there were my grandparents who were

51

1 detained there also. It would -- probably their fate came.

2 [11.56.29]

3 Q.Can you tell us if this happened every day; shooting in M 13?

4 A.It just happened occasionally, not daily.

5 Q.Did you see the accused in M 13 also with other arms -- like,
6 for example, an AK 47 rifle or other arms in his hands?

7 A.You said "the accused". You refer "the accused" to the
8 prisoners at M 13 or Duch?

9 Q.Duch. Sorry.

10 A.Duch had a shotgun. I don't know how many shotguns he
11 possessed but he actually had that gun.

12 Q.Did you see that he used this gun?

13 A.He carried that gun and no other guards was allowed to use his
14 gun.

15 Q.I repeat my question. Maybe there was a confusion.

16 I asked you if you saw that Duch used this gun, and what you
17 normally do with a gun is shooting. Did you see that he shot
18 with this -- shoot with this gun?

19 A.I never see him shot the gun because we were assigned with
20 different tasks and I don't know whether, when I was not at the
21 location, that he would use such a gun. I don't know, but maybe
22 he ordered some other people to fire. I don't know.

23 [12.00.00]

24 MR. PRESIDENT:

25 Mr. Roux.

52

1 MR. ROUX:

2 Mr. President, with your leave I'd like to make a remark with
3 regard to the last question that was put. Mr. Prosecutor, Alex
4 Bates, put that question a while ago. That is to say, "Did you
5 see Duch carrying a pistol in his hand?" Answer: "I saw it,
6 pull it from his belt and put it on the table or to go and eat."
7 Question -- and so on and so forth.

8 If we could please avoid putting the same questions all at the
9 same time.

10 MS. STUDZINSKY:

11 Sorry.

12 MR. ROUX:

13 It is exact repetition.

14 [12.00.544]

15 MS. STUDZINSKY:

16 I'm not talking about a pistol. I have talked about a gun, a
17 rifle, an AK-47, and as far as I am aware, there is a difference
18 of course between "gun" and "pistol". And the questions from the
19 prosecution was directed and concerned the pistol, and I
20 explicitly said -- one, I gave the example AK-47 gun rifle.
21 Well, maybe in the translation there was something wrong because
22 ---

23 MR. PRESIDENT:

24 Since the question is different, then you can continue to put
25 that question, because the use of gun and the firing of the gun

53

1 is different, so you can proceed with your questions.

2 Through our observation, you should also understand that the
3 witness is illiterate, so the language used should be simple so
4 that it is not the way you talk the legal language to your peer
5 lawyers, but it is more about the communication between a lawyer
6 to a client who is rather illiterate. So that's why he would
7 understand more clearly if you do so.

8 MS. STUDZINSKY:

9 Thank you, Mr. President. I would like to ask before maybe the
10 lunch break only one question to Mr. Chan Khan.

11 BY MS. STUDZINSKY:

12 Q.Would you feel more comfortable to answer some questions
13 without the presence of the accused -- of the accused here, Mr.
14 Khan?

15 A.I'm fine. Though the accused is present I still tell the
16 truth because that's what I can tell, as long as the question is
17 clear, precise and I can understand to respond, and whatever I
18 can answer, I answer immediately.

19 [12.03.48]

20 MS. STUDZINSKY:

21 I am about to go now to another issue and maybe, Mr. President,
22 this could be the moment for the adjournment.

23 MR. PRESIDENT:

24 There will be a proceedings -- the next proceeding. I know that
25 when we continue then we still have to finish all the questions.

54

1 So since it is now time to break for lunch we should now adjourn
2 for the lunch break and resume after this at 1.30 p.m.

3 So the security guard, could you please take the accused back to
4 his facility and bring him back. And Court Officer, take the
5 witness to his waiting room and make sure that you do not let him
6 associate with other witnesses, potential witnesses, before they
7 are to testify.

8 (Judges exit courtroom)

9 (Court recesses from 12.05H to 13.33H)

10 (Judges enter courtroom)

11 [13.33.35]

12 MR. PRESIDENT:

13 The Court is now in session.

14 Next, we would like lawyers of the civil parties group 2 to
15 proceed with remaining questions.

16 MS. STUDZINSKY:

17 Thank you, Mr. President.

18 BY MS. STUDZINSKY:

19 Q.Mr. Chan Khan, do you remember that two persons made an
20 interview with you six years ago about your experiences in Office

21 M 13?

22 A.I don't remember.

23 JUDGE LAVERGNE:

24 Would it be possible to know specifically which document you are
25 referring to?

55

1 I think that we indicated what was the Chamber's position
2 concerning documents coming from DC-Cam, so if this is the case,
3 I would like this to be clear and I would like you, please, to
4 indicate the document reference.

5 Thank you.

6 MS. STUDZINSKY:

7 Yes, it is a document from DC-Cam, but as far as I understood the
8 Chamber until now that the question -- can I finish the sentence
9 -- that the question is pending still on --

10 [13.35.46]

11 JUDGE LAVERGNE:

12 No, no, no.

13 MS. STUDZINSKY:

14 -- documents of --

15 JUDGE LAVERGNE:

16 Madame, please, please, please.

17 Before you ask your question, I think that it is clear that the
18 Chamber brought up a certain amount of difficulties regarding
19 documents coming from DC-Cam, and we clearly stated that we did
20 not wish to refer to that yet and that we would make a decision
21 at a further date. This is applied to the judges but also to all
22 of the parties.

23 So I do not believe that you can, at this stage, use the document
24 in question in order to ground your questions; I'm sorry.

25 MS. STUDZINSKY:

56

1 Can I get clarification then?

2 If I refer to a document which concerns this witness here who,
3 can clarify if he told this to --

4 (Short pause due to background noise - rain)

5 MR. PRESIDENT:

6 We should now resume our session, and we experienced the loud
7 noise of the rain that we could not proceed earlier.

8 Lawyer Ms. Studzinsky, could you please clarify the document you
9 would like to refer to? What was it about, or what is it about?

10 [13.46.40]

11 MS. STUDZINSKY:

12 Thank you, Mr. President.

13 This is a document where -- dated from 30th of April 2003 from
14 DC-Cam. The witness, Mr. Chan Khan, has been questioned and the
15 interviewers are Chhin and Rasy.

16 This interview is under Document Number 59 and, in the Khmer
17 original version, document number 00002174 to 2194. And this
18 document is the transcript of an interview with the present
19 witness here in the courtroom. And I submit that it is possible
20 to refer to a document which is, first, on the case file and,
21 second, an interview with the witness who is present in the
22 courtroom and who can be confronted with parts of this
23 transcript, and who can then confirm or not confirm with his
24 further statements.

25 And in my opinion this document is different from other documents

57

1 we -- or the Chamber already referred to some days ago, because
2 the other documents from DC-Cam were interviews of witnesses who
3 are dead now, and there of course a decision is pending. And so
4 I would like that the Chamber decides right now, because the
5 witness is here and I wanted to ask only -- confront him only
6 with one little paragraph from this document, and would like that
7 the Chamber decides now if I can do so, and maybe also invite the
8 parties to talk on this issue.

9 [13.49.50]

10 MR. PRESIDENT:

11 The Prosecutor, you may now make your observation concerning the
12 document as mentioned by the lawyer of Group 2.

13 MR BATES:

14 Thank you, Mr. President.

15 We have taken the liberty of printing out the transcript from Day
16 5 on 7th of April, and I hope his Honour Judge Lavergne will
17 forgive me for reading his words back to him, and this is a
18 direct quote from the transcript:

19 "First clarification; for the time being, the Chamber does not
20 intend to continue reading the statements collected by DC-Cam
21 insofar as In Vorn and Hâm In are concerned. It will render a
22 decision subsequently in regard to these documents. For the time
23 being, the Chamber therefore requests the parties not to refer to
24 these documents."

25 Mr. President, and Your Honour, in English it appears clear that

58

1 the prohibition of referring to DC-Cam statements mentioned by
2 Your Honour Judge Lavergne related only to In Vorn and Hâm In.
3 And it appears to the Co-Prosecutors at least that the reason for
4 that, the rationale behind that, was that the witness was dead --
5 the witnesses in both those cases are dead -- and there would be
6 no independent confirmation of the statement.

7 In the submission of the Co-Prosecutors we support what Ms.
8 Studzinsky has said. This witness, Chan Khan, is here in the
9 courtroom. He can be asked the circumstances of his interview
10 with the investigators from DC-Cam, and we would invite the
11 Chamber to allow the statement to be put to the witness.
12 Of course, what weight to be attached to these statements is
13 ultimately a matter for you, Mr. President, and your colleagues.
14 Thank you.

15 [13.52.26]

16 MR. PRESIDENT:

17 Do other lawyers of other groups have any observations concerning
18 the matter of this document to be brought up?

19 MR. KHAN:

20 Mr. President, no, other than we would support the position
21 advanced by counsel for civil party group 2 and also by the
22 Co-Prosecutor.

23 MR. PRESIDENT:

24 The defence counsel, would you like to make any observation
25 concerning the observation made by the lawyer of Group 2 about

59

1 this document?

2 MR. ROUX:

3 Yes, Mr. President. I'm hoping that everybody is able to hear me
4 with this rain, including the interpreter.

5 First observation, my colleague spoke about a DC-Cam document
6 dated April 30th, 2003 and the document that I have here with me
7 of -- dated April 30th 2003 involves Mr. Chan Voeun, regards Mr.
8 Chan Voeun and absolutely not the witness here present. The
9 witness here present has been interviewed by DC-Cam, not on the
10 30th of April 2003 but on 8th of March 2000.

11 Then Mr. President, Your Honours, of course, the observations
12 from the defence side are the same concerning these documents as
13 those that the defence presented earlier.

14 [13.55.27]

15 So I will reiterate, and I will reiterate this out loud, that no
16 matter the merits, that we all acknowledge DC-Cam -- this
17 organization is not and has never been a legal entity. We do not
18 know, therefore, if the people who asked the questions were
19 competent. This is not indicated at the beginning of each
20 interview. It is not indicated that the person who was being
21 interviewed has the right to remain silent, that the person has
22 the right not to self-incriminate.

23 So, in short, all of the procedural safeguards that we know and
24 on which we -- these procedural safeguards are not included in
25 these documents, and I'd like to add to this.

60

1 We were able to observe two serious translation difficulties in
2 previous documents, either from Khmer towards English, either
3 from Khmer towards French. And under these conditions, I would
4 like to raise and to state that it would not be fair to use such
5 documents because of these translation difficulties. You do not
6 know the people who interviewed. You do not know their
7 competence. You do not know those who translated.
8 So, therefore, I think that Your Honours -- I think that specific
9 decisions from the Chamber will have to be reached concerning
10 these issues. I would like to draw the Chamber's attention to
11 the fact that the translation team uses DC-Cam to translate
12 documents used in this Court, and I said that this is really
13 paying disservice to our proceedings.
14 I believe that it is -- that things have to be rectified, that
15 things have to be set in the right direction. These documents
16 are erroneously added to the case file. They should never have
17 been in the case file. I, therefore, request that they be
18 considered as useless.

19 MR. PRESIDENT:

20 The Co-Prosecutor, you take the floor.

21 [13.58.54]

22 MR. BATES:

23 Thank you, Mr. President.

24 My understanding of the civil law procedure -- and I'll be
25 corrected by the Chamber if I'm wrong -- is that once a document

61

1 is placed on the case file -- and there has been no objection to
2 its being placed on the case file -- it cannot be struck from the
3 case file.

4 That has appeared clear to the Co-Prosecutors throughout and I'll
5 be very grateful if the Trial Chamber considers that a mistaken
6 interpretation of the rules because it goes to the very heart of
7 what my colleague for the defence is attempting to do, mainly to
8 have documents removed that he did not object to previously that
9 have, therefore, been properly entered into the case file.

10 The Co-Prosecutors do not seek to prevent my colleague for the
11 defence making whatever observations he wishes in relation to
12 lack of judicial safeguards, lack of proper training or whatever
13 else, but in the submission of the Co-Prosecutors, these
14 documents are properly on the case file. The weight to be
15 accorded to them is to be properly decided by Your Honours as
16 professional judges, and I would invite the Tribunal to allow
17 these documents to be referred to, particularly because we have
18 the witness here who can confirm or reject any of the matters
19 that are recorded.

20 Those are my submissions.

21 MR. PRESIDENT:

22 The lawyer for the civil party, you take the floor.

23 [14.01.04]

24 MS. STUDZINSKY:

25 Thank you, Mr. President.

62

1 I only want to clarify that the document to which I refer is
2 really from this witness, Chan Khan, and not like the defence
3 counsel said, from Chan Voeun. It is dated from 13th of April
4 2003, at least in the English version, and only to clarify this
5 objection of the defence.

6 Thank you.

7 MR. PRESIDENT:

8 Judge Lavergne, you take the floor.

9 JUDGE LAVERGNE:

10 Now, with regard to this issue of dates, it would appear, at
11 least to me, that there is a difference between the French and
12 English versions.
13 The French document, that is document D59, has the ERN number
14 00242289 up to 00242304. This document is indicated as being the
15 translation of the Khmer original which is 00002174 to 00002194.
16 And then we have an English version, still on D59, whose ERN
17 number is 00231893 up to page 00231911, and the English version
18 is also the translation of a Khmer original as can be seen at the
19 end of the page, at the bottom of the page.

20 MR. ROUX:

21 What is the date?

22 [14.03.45]

23 JUDGE LAVERGNE:

24 It is true that there is a difference in the dates because it is
25 said in the French version that Chan Khan was interviewed on the

63

1 8th of March 2000, whereas in the English version, the date of
2 interview is indicated as being the 30th of April 2003.

3 I should further like to add that Chan Voeun was interviewed by
4 DC-Cam. This is also filed on that D59 Annex 2 and the ERN is
5 00295065 and the date of the interview is the 30th of April 2003.
6 So it is possible that there was a mistake in the translation. I
7 do not know what date is indicated in the Khmer original.

8 MR. PRESIDENT:

9 The defence counsel, Mr. Francois Roux, will take the floor.

10 MR. ROUX:

11 Thank you, Mr. President. I think these differences in dates and
12 translation only support what I have stated earlier on.

13 I would like to add that these witnesses were interviewed under a
14 rogatory letter of the Investigating Judges; that is, as part of
15 judicial proceedings with all the procedural safeguards of such a
16 proceeding. So it is the judicial reports, or reports of the
17 interviews, that should prevail in this case.

18 Please allow me to set to right this submission made in regard to
19 the civil law as made by my learned colleague. The fact that a
20 document is on the case file does not mean in any way that it is
21 not problematic, as is the case now, and at any time the Chamber
22 can decide not to use a document.

23 Our procedure allows us to raise the nullity of certain documents
24 before a certain date, but the problem here is that in order to
25 raise the nullity of documents, you've got to have them to hand,

64

1 and I should like to point out that for Document D59 pertaining
2 to the interview of Mr. Chan Voeun, it was distributed to the
3 defence on 6 April 2009. How can the defence ask for documents
4 to be struck off the record if doesn't have the documents?
5 [14.07.05]
6 Accordingly, the defence requests that -- the defence is not
7 requesting that the Chamber says that these documents are null
8 and void, but to set them aside in the proceedings. But in civil
9 law it is possible to set aside from the proceedings documents
10 that do not fulfil the criteria for use, and I am sorry to say
11 that these documents do not fit what we consider to be a fair
12 trial.
13 The witnesses were heard on a rogatory letter. The witnesses are
14 here. They are appearing before the Chamber. They can be
15 interviewed. They can be confronted with the accused, and I
16 think that is how a trial is conducted. A trial is not conducted
17 on the basis of documents whose provenance has not been
18 ascertained.
19 MR. BATES:
20 Mr. President, this will be my last word on the subject.
21 Let us look calmly at what is in issue. We have the witness
22 sitting before us. He is the best person possible in this
23 courtroom to tell us whether what was written in the interview in
24 2003 was accurate or not. This is what we submit on behalf of
25 the OCP should happen.

65

1 [14.08.50]

2 MR. PRESIDENT:

3 You take the floor, the lawyer.

4 MR. CANONNE:

5 Yes, forgive me. Mr. President I'd like to make some submissions
6 on behalf of civil party group 3, and I'd like to address the
7 question that was raised by my learned friend for the defence,
8 Mr. Roux.

9 Mr. President, Your Honours, I believe that we have already come
10 up against this problem that was on 6 April in regard to the
11 interview conducted by Mr. Peschoux within the auspices or under
12 the auspices of DC-Cam or of the accused.

13 I think that the civil parties were granted a time limit by this
14 Chamber to file a brief in response. The civil parties obeyed
15 the Chamber. The incident is yet to be resolved, and today, here
16 we are again facing the same problem.

17 As Mr. Roux, I am raising this as a matter of principle. I
18 respectfully submit, Mr. President, that it would be the proper
19 administration of justice that once and for all the Chamber
20 states whether the documents -- whether DC-Cam documents can be
21 used or not.

22 [14.10.44]

23 If you were to decide that the documents shouldn't be used, then
24 we shall comply with the Chamber's decision. However, if you do
25 decide that they can be used, they shall be used with all the

66

1 proper reserves that apply to a document which is not judicial in
2 nature. The last time I raised the fact that all we want is the
3 manifestation of the truth, and this concerns all existing
4 documents.

5 I'd like to place special emphasis on the need to tell us what we
6 should do now and for the future; otherwise, tomorrow or the day
7 after or in a week or three months, we might be coming up against
8 the same difficulties.

9 Thank you for your attention.

10 (Deliberation between Judges)

11 MR. PRESIDENT:

12 After hearing the observations from parties concerning the matter
13 raised by lawyer Studzinsky, finally the Chamber notes that and
14 decides that the document raised by lawyer Studzinsky, the lawyer
15 representing group 2, Document D59 ERN 002174, the Chamber
16 decides that the matter can be brought to the discussion.

17 Previously the Chamber noted the document which has relation to
18 In Vorn which was conducted by the UNHCR which was one decided,
19 and we will make a firm decision regarding that matter at a later
20 date.

21 [14.18.07]

22 However, in the future, the Chamber would like to inform the
23 parties that whenever a party would like to raise the related
24 matter, like this one, the Chamber would be grateful if it is
25 informed in advance whether the document would be contested or

67

1 brought in the discussion.

2 Mrs. Studzinsky, you can now proceed with the matter at issue.

3 MS. STUDZINSKY:

4 Thank you, Mr. President. I will refer -- to facilitate for you
5 the proceedings, I will refer in the English version to page 13
6 of the said document and 14 of the Khmer version, and the French
7 I do not know but maybe also 13.

8 BY MS. STUDZINSKY:

9 Q.Mr. Chan Khan, I continue now to ask you again, and come back
10 to my question at the beginning, after the break. I have asked
11 you if you remember contact with two persons called Chhin and
12 Rasy. I hope the pronunciation is fine -- Chhin and Rasy. And
13 these two persons are from -- or were from DC-Cam, the
14 documentation centre, and talked with you six years ago about
15 your experiences in M-13.

16 Do you remember that you have talked some years ago with two
17 persons -- two persons and where you told them your story of what
18 you experienced in M-13?

19 A.I'm sorry, I forget them all. I remember the document. I
20 don't remember the other documents because I have failed to pay
21 good attention on those documents. As a farmer I just been
22 working hard to do the farming and not paying attention to that
23 document. Only I learned this information only when you recalled
24 but I don't remember, I no recall it.

25 [14.22.46]

68

1 Q.Do you remember that two persons talked to you and made
2 something like -- I can call it interview or where you told them
3 a lot of things what happened to you in M-13? Do you recall such
4 a situation?

5 A.As I said, I don't remember. I forget it. I don't even
6 remember what I talked to those interviewers and I only remember
7 the document dated on the 2008. I'm sorry, I can't remember it.

8 Q.Therefore, I will assist you and I will tell you what has been
9 noted about this interview and I will read it, the questions that
10 they had at this time and the answers that you have given to
11 them.

12 You have been asked, first, the question was: "Did you happen to
13 witness Duch grab the rifle and shot -- shoot" -- sorry, I'll
14 start again.

15 "Did you happen to witness Duch grab the rifle and shoot anyone
16 personally?"

17 That was the question. And then it is noted that you have
18 answered:

19 "I did witness but I do not know how to explain."

20 Then the next two questions were:

21 "Did you happen to witness that? What types of people did he
22 gun down? How and why?"

23 Then you answered:

24 "Prisoners. As said, I do not know how to explain, as in our
25 current society we are easy to tell about the punishment. At

69

1 that time we did not know about the punishment."

2 Then next question:

3 "When he wanted to kill anyone --"

4 [14.26.21]

5 MR. PRESIDENT:

6 When you asked the witness he said clearly that he cannot

7 remember the interview conducted six years before. He only

8 remembered things that -- the interview conducted after 2008 and

9 I think then he forget that them all. Even if you tried your

10 best to ask him further questions concerning the matter, he might

11 not be able to respond. So I think it would be better you

12 rephrase or change the questions.

13 The Chamber notes that if you still want to insist asking the

14 question it may not be important because the witness says that he

15 forgets.

16 MS. STUDZINSKY:

17 Thank you, Mr. President. The purpose of what I'm doing here is

18 to help and assist the witness to get back to the situation when

19 he talked to the DC-Cam personnel and I only want to add two more

20 sentences.

21 [14.27.54]

22 Mr. Chan Khan --

23 MR. PRESIDENT:

24 Mrs. Studzinsky, the Chamber does not allow you to proceed with

25 the same matter and if you don't have any further questions other

70

1 than insisting on repeating it, then we will give the floor to
2 other civil party groups.

3 MS. STUDZINSKY:

4 Mr. President, Your Honours, I have understood the decision which
5 I only got of course orally that you allow the parties to refer
6 to this document and of course also to confront the witness with
7 parts of this document, and really I would like to finish two
8 more sentences and then to ask the witness again about his
9 comments today. And I would like to get the permission to
10 continue with two other sentences of this document and then to
11 continue with my question.

12 MR. ROUX:

13 Mr. President, I think the Chamber has issued a decision and I
14 would like my learned friend to respect that decision and not
15 continue the reading.

16 As you did, I heard the Chamber asking you to refrain from this
17 reading and I will ask you, dear colleague, to refrain from
18 reading the document.

19 Thank you.

20 MR. PRESIDENT:

21 The decision has already been made by the Chamber, so if you
22 would wish to ask other questions other than contesting or
23 seeking verification regarding these documents, then you are
24 allowed to do so. Otherwise, the floor will be turned to other
25 lawyers instead.

71

1 [14.30.16]

2 MS. STUDZINSKY:

3 Yes, I will continue.

4 BY MS. STUDZINSKY:

5 Q.Mr. Chan Khan, you told at this time the personnel from DC-Cam
6 -- you told them that you witnessed that Duch, the accused, shot
7 in your presence and then in front of you and that you were asked
8 to bury then the bodies.

9 MR. PRESIDENT:

10 The Chamber already told you that the matter regarding these
11 documents should not be brought up again. We would like you to
12 ask other questions other than the question that picked up from
13 the document. Otherwise, we would invite other civil party
14 lawyers to put questions.

15 MS. STUDZINSKY:

16 Again, I didn't read now, and if there was any confusion with the
17 document -- because I made a summary. And now I would like to
18 ask Mr. Chan Khan.

19 BY MS. STUDZINSKY:

20 Q.Can you confirm today what you have told some years ago to
21 these investigators?

22 [14.31.55]

23 MR. ROUX:

24 Could you please tell the witness that he should not answer the
25 question that the lawyer, civil party lawyer, should not be

72

1 asking? That's the only solution I see to solve this problem;
2 that the witness should not answer the question that the lawyer
3 should not be asking.

4 Thank you, Mr. President.

5 MS. STUDZINSKY:

6 Sorry, but --

7 MR. PRESIDENT:

8 The witness, you are instructed not to answer to the question
9 that the lawyer should not be asking.

10 Now, Mrs. Studzinsky, would you like to ask other questions other
11 than the question in relation to that particular record at issue?
12 Otherwise, we would like to invite other civil party lawyers to
13 put more questions.

14 MS. STUDZINSKY:

15 Sorry, do you declare this question that I asked the witness as
16 inadmissible -- to clarify this.

17 MR. PRESIDENT:

18 We already made it clear and we will not repeat it.

19 [14.34.26]

20 BY MS. STUDZINSKY:

21 Q.Mr. Chan Khan, I would like to know if you are interested to
22 know more about the fate of your two grandfathers who were
23 detained and one of them killed or deceased in M 13?

24 A.I have already mentioned about my grandfathers who died
25 several times. I said I don't know how they died because I was

73

1 at the paddy fields and knowing nothing about them.

2 Q.Yes. My question, I repeat, was do you want to know what
3 happened to them?

4 A.Could you please repeat your question, please?

5 [14.35.53]

6 Q.Do you want to know what happened to your two grandfathers in
7 M 13?

8 A.I don't know what you intend to ask me. What do I want to
9 know? I don't know what.

10 Q.If you want to know -- my question is if you want to know what
11 happened to them; if they were killed, if they were tortured, or
12 if they died of starvation or malnutrition?

13 A.I think when you simplify the question I find it easy to
14 respond.

15 Regarding my grandfather, as I already mentioned, I don't know
16 whether they were tortured by Ta Duch or they died of starvation,
17 because I was not at the place where they died. I was doing the
18 farming at O-Preal area, far from the premises.

19 Q.Okay. Thank you, Mr. Chan Khan.

20 MS. STUDZINSKY:

21 I would have no further questions to the witness but I would like
22 to ask the accused one question.

23 [14.37.59]

24 MR. PRESIDENT:

25 You are allowed to ask such question but we would like to warn

74

1 you that you should not repeat questions because we don't want to
2 hear the accused say that the questions are the same questions.
3 The accused, please listen to the question and be ready to
4 respond.

5 MS. STUDZINSKY:

6 Thank you, Mr. President.

7 I would like to know if you can tell us which measures you
8 inflicted on the grandfather, Mr. Sok, and you started this
9 morning already and wanted even yourself to know the names, and
10 now my questions are for clarification -- the name. Do you
11 remember the measures under which this victim was held in M 13?

12 THE ACCUSED:

13 Concerning Uncle Sok, Comrade Khan already made it clear. I
14 would just like to add, but when it comes to Uncle Tam, he was
15 like the other prisoners at Amleang when he was arrested, then
16 sent to me, then he was interrogated. So it is short. That was
17 my submission.

18 MS. STUDZINSKY:

19 Sorry, maybe I lost something in the translation. Can I clarify?

20 You had nothing to contribute concerning the survivor Mr. Sok?

21 [14.40.49]

22 THE ACCUSED:

23 Regarding Uncle Sok, you may ask Comrade Khan, who knows more
24 about that. But concerning Uncle Tam and I am ready to tell you
25 because it's my crimes and I'm responsible for the crimes.

75

1 MS. STUDZINSKY:

2 That means you refuse to answer concerning Mr. Sok?

3 THE ACCUSED:

4 You can ask this question to the witness because he is quite sure
5 and even had been in a better position than me to answer your
6 question.

7 MS. STUDZINSKY:

8 Thank you, Mr. President. I have no further questions.

9 MR. PRESIDENT:

10 The Co-Prosecutor, you take the floor.

11 MR BATES:

12 Thank you, Mr. President.

13 I anticipate that you'll be wanting to take a break very soon.

14 Can I give the Chamber advance notification of a document that
15 the Co-Prosecutors wish to have placed before the Chamber before
16 we leave the issue of M 13, so that you can consider it in the
17 adjournment?

18 It is Document Number 19.25 of Annex C of the Introductory
19 Submission. It is a report by Chhuen Sothy who was imprisoned at
20 M 13. The document is dated the 22nd of January 1975.

21 The Khmer original filed with the Introductory Submission has ERN
22 numbers 00002214 to 2217. The English has ERN 00172202 to 07 and
23 the French is 00296193 to 97.

24 I anticipate this is a document we can discuss after the
25 adjournment.

76

1 Thank you.

2 [14.43.42]

3 MR. PRESIDENT:

4 Judge Lavergne, would you like to make any observation?

5 JUDGE LAVERGNE:

6 This is rather a question I'd like to ask the Co-Prosecutor.

7 Does this document regard a person for whom additional

8 information had been asked by the Co-Investigating Judges and

9 also an interview?

10 MR BATES:

11 Yes, Your Honour. It is -- (microphone not activated)

12 JUDGE LAVERGNE:

13 And do you remember the answers of the Co-Investigating Judges

14 concerning this witness such as he had been proposed? Do you

15 remember their answers?

16 MR BATES:

17 In general terms, yes. I don't have the reference just before me

18 but -- (microphone not activated) -- recollection, the

19 Investigating Judges replied that this witness could not be

20 traced; could not be found.

21 [14.44.47]

22 JUDGE LAVERGNE:

23 I believe indeed that the Co-Investigating Judges had proceeded

24 to verifications and that it was not possible during the

25 investigation to find, indeed, the trace of this witness.

77

1 MR. PRESIDENT:

2 The Court will adjourn for 20 minutes.

3 Court Officer, please take the witness to the waiting room and

4 bring him back at 3 pm.

5 (Judges exit courtroom)

6 (Court recesses from 1445H to 1515H)

7 (Judges enter courtroom)

8 MR. PRESIDENT:

9 The Court is now in session.

10 We will continue the proceedings. And I would like the civil

11 party lawyers of other groups to put questions.

12 Before that the Chamber would like to inform that we have already

13 discussed the request made by the Co-Prosecutor regarding the

14 application of the document to be used concerning the brief

15 document about Mr. Chhoeun Sothy who did not appear during the

16 co-investigating phase. This person cannot be called here to

17 confront with the accused.

18 The situation is identical to the situation when the witness is

19 deceased. That's why the Chamber decides that the document

20 cannot be used. And the decision regarding the matter will be

21 rendered at a later date.

22 I would like to inform to the parties to also make oral

23 submission concerning the matter in tomorrow morning's session.

24 Next, the Chamber would like to give the floor to other civil

25 party lawyers who have not yet put the questions.

78

1 [15.18.00]

2 MR. KONG PISEY:

3 Your Honours, my name is Kong Pisey. I am representing Group 2
4 and Group 3.

5 I would like to make some observations concerning my colleague,
6 the international lawyer Ms. Studzinsky, for her questionings to
7 the witness. I noticed that her questions were not properly
8 translated. The questions include, one, she asked "Do you
9 remember that DC-Cam interviewed you?" The question is as simple
10 as that. But in the translation we heard that "Did you remember
11 the interview conducted by the DC-Cam?" So about the translation
12 that the witness still remember the statement that conducted by
13 the DC-Cam, that's why the witness could not respond.

14 Regarding another point, Ms. Studzinsky also asked whether the
15 witness would like to know about the fate of his grandfathers at
16 M-13, but in the translation we heard "Did you know the fate of
17 your grandfathers at M-13" that's why the witness could not
18 respond. That's why I would like the President and Your Honours
19 of the Chamber to take note of the matter.

20 [15.20.25]

21 MR. PRESIDENT:

22 The transcribers, please make sure that the notes made by the
23 lawyer are well taken.

24 I would like to -- we would like to give the floor to civil party
25 Group 3 now.

79

1 MR. CANONNE:

2 Thank you, Your President.

3 BY MR. CANONNE:

4 Q.Mr. Chan Khan, is everything okay with you? You're not too
5 tired? Everything okay with you?

6 A.I'm rather tired because I have answered a lot of questions.

7 Q.Well, I'm not going to bother you for too long, Mr. Chan Khan,
8 but I do have two questions. My first question is the following:
9 I'd like to get back to the self-criticism sessions. You said to
10 us that each one of you had to criticize your colleagues and that
11 you were also criticizing yourself for a certain number of
12 faults. So I'd like you to tell us which -- what were you being
13 criticized for or what were you criticizing yourself about?

14 A.To answer to your question, I think I once said already during
15 the Khmer Rouge Regime during each meeting there would be a
16 self-criticism session and each colleague would be put to be
17 criticized. For example, if I did something wrong, for example,
18 I did not properly follow the discipline of the high authority
19 then I would be criticized by my colleagues.

20 [15.23.19]

21 Q.Thank you. I have another question. In your statement Index
22 D76/4, which we've been referring to since this morning, in the
23 French version, page 3, you answer a question and you say the
24 following: "Duch would order also the guards to prevent the
25 prisoners from committing suicide by not leaving around pieces of

80

1 wood or steel or scarves in their reach." So can you confirm
2 this before the Chamber, Mr. Khan?

3 A.To respond to your question, I may put it this way, there
4 actually were orders by Duch that guards had to inspect in the
5 prison compound to make sure that no bamboo sticks or scarves
6 that would be used by the prisoners to commit suicide.

7 Q.If these -- if this caution had not been taken do you believe
8 that many prisoners would have preferred to commit suicide.

9 A.During the time I worked at the premises I did not notice any
10 prisoner commit suicide, and except when a higher authority in
11 the detention asked people to do so.

12 MR. CANONNE:

13 Mr. President, I'd like to ask a few -- with your leave, Mr.
14 President, I would like to ask a few quick questions to the
15 accused.

16 [15.26.07]

17 MR. PRESIDENT:

18 You are allowed to put questions to the accused.

19 And to the accused, you could please be ready to respond to the
20 questions.

21 THE INTERPRETER: The interpreter would like to correct the
22 document is D78/4, not D76/4.

23 MR. CANONNE:

24 Thank you, Mr. President.

25 BY MR. CANONNE:

81

1 Mr. Duch, please listen carefully to my question because I would
2 like to try to understand a certain number of things coming from
3 you.

4 When you saw your former -- one of your guards this morning --
5 you said that you were moved. Is that so? You said you were
6 moved to see one of your former guards. Is that so?

7 [15.27.03]

8 THE ACCUSED:

9 Yes, that's correct.

10 MR. CANONNE:

11 I have the feeling -- Mr. Duch, you may correct me if I am wrong.
12 I have the feeling that you had a certain amount of affection for
13 your young guards, that there was some kind of strong links that
14 had developed between you and your young guards. Is that so?

15 THE ACCUSED:

16 I had affection towards them and I wanted to educate them to find
17 a way which was called the revolutionary way, but the essence of
18 the education is more to make sure that these people maintain the
19 class stance but by way of using the community terms and
20 terminologies.

21 MR. CANONNE:

22 We considered that you wanted to be more than just a trainer but
23 also, let's say, their guide.

24 THE ACCUSED:

25 Could you please rephrase your question? I cannot follow it.

82

1 MR. CANONNE:

2 Of course I shall repeat it, sir.

3 [15.29.18]

4 Can it be said that you wished to be a guide to these young
5 guards?

6 THE ACCUSED:

7 The role of party cadre was to train people to have the class
8 stance, absolute stance towards the enemy. So it was the role
9 and duties of the cadres. If you look at the current situation,
10 we actually could see that we trained them to -- or trained them
11 of crimes by way of indoctrinating their mindset to understand
12 how to commit crimes.

13 MR. CANONNE:

14 I shall now put a question on the substance.

15 Of the prisoners, or most of the prisoners, we know that there
16 were men, women, children and young people. Did you consider on
17 any day saying to your organization that perhaps the prisoners
18 could be re-educated, and train them to be part of a new society
19 and instead of eliminating them? Did you say this to your
20 hierarchy or to your superiors ever?

21 THE ACCUSED:

22 I may conclude now, although I had previously mentioned something
23 about this. Concerning the education of people or the prisoners,
24 it was under the authority of M-13 at Sdok Srat. People were
25 detained to be educated but this incident only happened when

83

1 detainees were kept at M-13B but when they were transferred to
2 M-13A it means that they were to be tortured, interrogated and
3 smashed, not to release. And I would like to reiterate again
4 that I found it very difficult to release Hâm In, and before that
5 I had not been able to release someone.

6 [15.32.32]

7 So at M-13A the language of release was not in existence but it
8 would happen at M-13B.

9 So we educated people to have a firm class stance and that we
10 taught them to be strict that how they could interrogate the
11 prisoners, and also taught them to be able to smash people and to
12 protect them from absconding.

13 MR. CANONNE:

14 This is my very last question.

15 I understand what you're saying, I hear what you're saying, but I
16 don't quite understand. Why is it that in your ideology, in your
17 quest for a new society, did you eliminate or smash
18 systematically? Why did you not teach? You are intelligent.

19 You are a mathematician. You follow a certain logic. Why was it
20 that this logic was "smashing"?

21 THE ACCUSED:

22 Mr. Canonne, your question is rather long. I may not understand
23 the whole question but I will try to respond.

24 The education we received from high schools were different. The
25 education of the Communist regime was different. I already told

84

1 Judge Lavergne, Buddha advises us not to kill animals but
2 communists taught us that the true love of the people is to give
3 the possibility to the people to exercise the proletariat class.
4 So this is the way the communists taught the people at that time.
5 We were not allowed to teach logics or the Universal Declaration
6 of Human Rights to the prisoners.
7 So in conclusion, the education was aimed differently during the
8 regime, which was different from what would be expected at high
9 school. And if we did not follow such orders we would be
10 beheaded.

11 MR. CANONNE:

12 I note the effort you have made to answer my questions. I have
13 nothing further.

14 Thank you.

15 MR. PRESIDENT:

16 It's time for civil party lawyers group 4 to put questions.

17 [15.36.43]

18 MR. HONG KIMSUON:

19 Thank you, Mr. President. I have got a few questions.

20 BY MR. HONG KIMSUON:

21 Q.Mr. Chan Khan, if you don't understand my questions, please
22 say so that you are not sure what I am asking. Do you understand
23 that?

24 A.Yes, I do.

25 Q.Before the break you said that you would not respond to any

85

1 questions concerning matters six years before, and you remember
2 that you were interviewed by judges in 2008. Now I would like to
3 put the question concerning the Office of Co-Investigating
4 Judges.

5 When you worked at M 13 did you notice that there were a fence --
6 I mean the fence in the form of spikes surrounding the premises?

7 A.At M 13 there were surrounded by -- it was surrounded by a
8 fence. The compound was on a parcel of about 50 metres square of
9 land, and to the east there was -- there were small pits for --
10 where the spikes were installed to avoid prisoners from
11 absconding, and there was another hut at the other side for
12 guards to stay. And to the north there was only one exit and
13 entrance for use, both for the prisoners and for the guards.

14 [15.38.43]

15 Q.Thank you. Did you see that any prisoner absconded and then
16 die of falling into the pits with spikes?

17 A.Prisoners never fell into that pit with spikes.

18 Q.Thank you. In your statement before the Co-Investigating
19 Judges, you said -- in Document D78/4, page 4, you said you used
20 to see with your own eyes. So see -- so my question is that, did
21 you see children? Do you understand the word "children"?

22 A.Yes, I do. Children mean people as young -- people younger
23 than 18.

24 Q.What about infants or babies?

25 A.Of course baby would refer to people who were not born yet.

86

1 Q.In Trapeang Chrap pond, can you tell me the distance from that
2 Trapeang Chrap pond to the premises of the M 13? So the question
3 is, again, can you estimate how far was Trapeang Chrap to M 13
4 compound?

5 A.The fence, when I said it was surrounding the M 13 premises --
6 when I said that to the east and to the other sides where the
7 spikes were planted, it -- they were part of the fence of the
8 premises. But Trapeang Chrap was to the north, located about 20
9 metres from the location. So I can say it's more than 20 metres
10 if I am not accurate, but it's roughly 20 metres.

11 [15.41.39]

12 Q.Thank you. This morning you said the interrogation place Duch
13 used was located at -- to the north of Trapeang Chrap pond. I
14 would like to remind you whether -- I would like to ask how far
15 was it from Trapeang Chrap to the prison compound?

16 A.As I said, from Trapeang Chrap -- from the north of Trapeang
17 Chrap to the compound was about 500 metres and there was a hut
18 under a tree, a mango tree, used for interrogation.

19 Q.You said that prisoners were taken to take a bath at Trapeang
20 Chrap pond.

21 A.Prisoners were taken to take a bath at Trapeang Chrap pond.
22 That's correct.

23 Q.The river and Trapeang Chrap pond, were they close to one
24 another?

25 A.The river was to the south of the prison, about five metres

87

1 adjacent to the prison. That's why Ta Duch did not want
2 prisoners to take the bath there, because he was afraid that the
3 prisoners would abscond. That's why he asked us to take the
4 prisoners to have the bath there, so that it was easy for the
5 guards to guard on those people.

6 [15.43.45]

7 Q.Had you ever taken prisoners to have a bath at Trapeang Chrap
8 pond?

9 A.As guards everyone used to take prisoners there.

10 Q.Thank you. This morning you said -- you responded to the
11 questions by the Judges concerning the meetings which were
12 conducted by Duch. Is it correct?

13 A.Yes, it's correct.

14 Q.You said Duch instructed that prisoners were enemies while
15 guards were friends. Is it correct?

16 A.That's correct.

17 Q.I would like you to recall the term "enemies". When the term
18 "enemy" was introduced was "enemy" the -- what does it mean?

19 A.At that time, I would like to tell you that the term "enemy"
20 means people who were detained and we had the right to -- we can
21 call them enemies, although they lived with us -- stayed with us.
22 Of course, the prisoners regarded us as their enemies and at the
23 same time we regarded them as enemies to say so because we
24 chained them, we put them to shackles, that's why we were also
25 regarded as enemies to them.

88

1 [15.45.03]

2 Q.Thank you.

3 You said that there were poles to which the prisoners were tied
4 while they were shot at to scare the other prisoners. Did you
5 see that?

6 A.There were actually the poles and the poles were just around
7 the corner, so I think maybe they still are there at the
8 locations to this day.

9 Q.Thank you.

10 You said in the hearing that you were scared of Mr. Duch and
11 because you witnessed the torturing, the interrogation, so was
12 that part of the thing that you saw and that you were scared of
13 him because he did so?

14 A.Duch never tortured me or never cursed me, but he did that to
15 the prisoners. That's what I saw.

16 Q.Thanks.

17 MR. PRESIDENT:

18 Next, we would like to give the floor to civil party lawyers --
19 sorry, the defence counsel. Would you wish to make -- to put any
20 questions to the witness? The floor is yours.

21 MR. ROUX:

22 Thank you, Mr. President.

23 [15.47.16]

24 QUESTIONING BY DEFENCE COUNSEL

25 BY MR. ROUX:

89

1 Q.Good afternoon, Witness.

2 I just have a few questions. As you said, you must be quite
3 tired by now.

4 My first question is this. Why did you go back to the revolution
5 or why did you enter the revolution when you were 14 or 15? You
6 said, "I joined the revolution". Why did you do that?

7 A.It's not difficult to respond. During that regime, it was the
8 war-torn time. So the term "revolution", as you have already
9 been familiar, people who come across Pol Pot regime understand
10 the term "revolution" very well.

11 So when anyone was appointed, then that person was obliged to
12 join the revolution. That -- if rejected he would -- he would
13 betray -- he would be in trouble because at that time we had not
14 been given the right to object.

15 Q.Thank you. That's very clear.

16 At the beginning when you were posted to M-13, were you pleased
17 to be transferred there or would you have preferred to join the
18 army?

19 A.Because normally, including myself, when I saw whether they
20 are prisoner or not, they were shackled and they were skinny and
21 they were in tragedy. I had a bad feeling; I felt unhappy, but
22 if I try to flee or try to run away it may cause our life to be
23 in danger, so I had to follow the party lines.

24 [15.50.22]

25 Q.So could you perhaps tell us how many months, in your

90

1 recollection, you stayed in M-13; do you remember how many months
2 you spent there? About a year, a little less than that; perhaps
3 you could tell us?

4 A. In that regime I do not remember well, but I stayed there in
5 1973, in late 1973 -- no, maybe in early 1974, Duch send me to do
6 the farming at Ou Preal to the west of the Trapeang Preal. I am
7 not quite sure about the date.

8 Q. When you arrived in M-13, was Chan Voeun already there? Do
9 you know Chan Voeun -- if I'm pronouncing the name correctly?

10 A. I know Chan Voeun, but in that regime I forget -- I do not
11 know whether he joined the revolution earlier or arrived after
12 me. I'm not quite sure. That's all I know.

13 Q. However, could you tell us whether you stayed some time in
14 M-13 while he was there? You do not remember whether he was
15 already there, but I'd like to ask you whether you remember
16 whether you and he spent some time in M-13 together?

17 A. Could you please repeat your question again?. I do not
18 understand well your question.

19 Q. My question is this. While you yourself were in M-13, was
20 Chan Voeun a guard there?

21 A. Chan Voeun was a guard.

22 [15.53.44]

23 Q. My question is precise. Was Chan Voeun a guard when you
24 yourself were a guard?

25 A. I told you earlier that I am not quite sure. I was ahead of

91

1 Chan Voeun or Chan Voeun was behind me, I forgot that. I'm not
2 quite sure, but I know that Chan Voeun was a guard, the same as
3 me.

4 Q.Are you related to Chan Voeun?

5 A.Chan Voeun and me, we're not blood related, but we were from
6 the same village. We used to go to school together and to tend
7 the cattle together in the same village.

8 We were not related by any blood at all.

9 Q.Thank you. I'd just like to get some clarification. When you
10 were interviewed at the request of the Co-Investigating Judges
11 you mentioned these poles or posts to which the prisoners were
12 tied and you said that these posts were used to tie prisoners to
13 be dragged to death so that the other prisoners could be
14 intimidated. "Those who shot were Chan, Pon, Meas, Phal, and I
15 never saw Duch shoot." Is that correct?

16 THE INTERPRETER:

17 Correction. The word used was "shot", not "dragged".

18 A.Those -- they were the people who used to shoot the victim but
19 I'm not quite sure whether they received the order from Duch or
20 not. But those were the people who used to shoot the victim;
21 that's all.

22 Q.You also said Duch worked all the time. Can you tell us
23 exactly what he did when he worked all the time?

24 A.Could you please repeat your question?

25 [15.58.07]

92

1 Q.You said here during your testimony that Duch worked all the
2 time, he was a workaholic. So my question is this: could you
3 tell us what work he did?

4 A.I would like to tell the Chamber that Duch do anything in a
5 holistic way, very strong and very truthfully and he not
6 careless. He want to succeed at the plan. He tried a few that
7 he implemented following the theory of the communists. He dare
8 to do anything. He had to do that. That is why I said that he
9 implemented his duty very absolute and very extreme.

10 Q.Thank you. You have answered a question from one of the
11 lawyers earlier on today by saying that back then the word
12 "enemy" was used to refer to prisoners. At the same time you
13 said to Judge Lavergne, who was questioning you, "I was troubled
14 because my two grandfathers were also prisoners and I knew that
15 they were not enemies." Is that correct?

16 A.Could you please repeat your question?

17 [16.01.15]

18 Q.You knew that your two grandfathers were not enemies. Is that
19 so? Your two grandfathers were not enemies. Is that so?

20 A.I did not say that they were not enemies. As I said, people
21 who were detained were regarded as enemies and people who were
22 not detained, people like guards, were friends. Although I did
23 not call my grandfathers enemies but they were presumed enemies
24 already and I had to really call them enemies, by the way, to
25 avoid facing the consequence at that time.

93

1 So at that time, regardless of our parents or brothers or
2 sisters, everyone is on their own. So we had to be very vigilant
3 and protect ourselves at all times. So when someone was accused
4 of being an enemy there is no final option except go into the
5 pit.

6 [16.02.49]

7 MR. ROUX:

8 Mr. President, I would like to speak to the accused now.

9 Duch, you heard this gentleman, who back then was a young guard,
10 and you heard the description of the situation he was in; that is
11 to say, obliged to consider his own grandfathers as enemies. Do
12 you have anything to say about that, Duch, to him?

13 THE ACCUSED:

14 The important thing that I have to say now is that when I talked
15 to Comrade Khan it was like I talked to all victims at Amleang
16 because the location of M-13 is in Amleang. This morning I say
17 that Cambodian people who live in these villages and communes, at
18 the beginning they really had a good faith in the revolution but
19 the situation changed. In 1971 there was a harmonized; when it
20 come to 1972 their minds are split into two. It means that
21 people at these referral base already started to realize that --
22 gradually that.

23 I would like to correct the referral base to French term. In
24 1972 people at the base noticed the revolution and the
25 consequence of being faithful to the revolution, because they

94

1 experienced some kind of hardship inflicted on them by that.
2 Because in -- later people who were sent to that area were not
3 only the spies, there were people who were brought from the
4 supporting base, from Amleang area.
5 In 1973 Ta Mok tried to find -- to search for the weapon and it
6 took several people to really conduct such a search, and those
7 people I still can remember but I could only -- I can only recall
8 about 30 people out of the 50 to 60 people at Amleang. So the
9 crimes that I committed to the people at Amleang is tremendous
10 and I never forget it.

11 [16.07.09]

12 I promise -- I have promised with the Chamber that I would write
13 an article, about 20 paragraphs, to commemorate my crimes toward
14 the people at Amleang and to seek their forgiveness, and this is
15 the truth.

16 So I don't forget Uncle Tim and I don't even forget Chheang Soy,
17 but when I was accused of shooting Chheang Soy with my own eye,
18 it was not really correct. I would like to remind the
19 interpreters Chheang Soy, his name was Soy but he was a tailor,
20 so in Khmer a tailor was called "chheang". That's why he was
21 called Chheang Soy.

22 That's why I said that the crimes I committed to the people at
23 Amleang who once supported me, who sent their children to me to
24 be educated, I educated their children. I educated their
25 children to become the very honest people who's so loyal to the

95

1 Party.

2 So I can conclude that I never wanted to work this kind of job.

3 I said that I hate shit and I still step on the shit. Before I

4 thought that being a police at the Sector 25 was important.

5 (No interpretation)

6 THE INTERPRETER:

7 I could not repeat because I did not hear the French translation.

8 MR. PRESIDENT:

9 The court officer, could you please coordinate with the

10 interpreters because there was no translation?

11 Could you please continue?

12 [16.10.45]

13 THE ACCUSED:

14 Before I noticed the issue in Sector 25 I noticed that in the

15 Democratic Kampuchea internally there was a power struggle, a

16 fight for power. I would like to state again that in the

17 Communist Party of Cambodia there was a fight for power. At

18 Sector 25 there was a fight to -- for power, and that -- and I

19 vowed not to work as the policeman, because when the superior

20 betrayed then the subordinates would be beheaded.

21 Then when I came to Amleang they said the Party appealed to the

22 children to fulfil this duty: "You have to fulfil the duty. It

23 is a must." The arrests were made by them and they were

24 responsible in the eyes of the Party and that I should not be

25 worried. That's what they said. And I said I dare not kill

96

1 people because the children of the peasants were good people.
2 And they said that when I order the people to do so then people
3 would follow the order.
4 Chhay Kim Huor, the chairperson of the Southwest Zone, the
5 chairperson of the Office of the Southwest, and we went to the
6 cinema together. That was about the detective story about the
7 spies in other countries, and they said that now we started to
8 start from scratch, and gradually we will proceed further. At
9 the beginning I misunderstood it. I tried my best to find people
10 that I could release and, after all, I could manage to release 10
11 people.
12 [16.14.30]
13 In 1973 it was time to actually change. The situation changed.
14 They killed not only the spies but the class to smash the
15 exploiting class. According to Brother Si, we had to smash the
16 feudalists and the capitalists. What was feudalists? Chou Chet,
17 Brother Si said village chief, Phoeung Phal, they were the
18 feudalists.
19 So we were educated that way, so after 1973 the revolution
20 changed its course.
21 In conclusion, at this time when I have seen Comrade Khan again,
22 I am so moved, especially I am very sympathetic for the people at
23 the villages who, at the beginning, were faithful to the
24 revolution but later on were experiencing difficulties.
25 And I received the duties that I once hated, and these kinds of

97

1 duties were criminal in nature. And they're very, very criminal
2 duties, not just criminal.
3 Comrade Khan is here as a witness. So who were chained or
4 shackled? They were enemies. So Khan could not regard Uncle Tim
5 as not a -- could not disregard Uncle Tim as enemy. He could not
6 do that. And I educated them to do so.

7 [16.17.16]

8 So it was not the problem of Meas; Pon. It is my problem because
9 I educate them. I appointed them to implement the plans.
10 I am sorry, Comrade Khan. I tried to send him to the paddy
11 fields because I knew that Khan would not be trained to the level
12 like I did to Meas. So that's why I found a way to send him far
13 away.

14 So, in conclusion, I can say that at this time I may conclude
15 what happened at M-13 so that people know how much I did
16 regarding the crimes. Although it will not be part of the case
17 file, but I will try to think and find a way to confess to my
18 nation and people. I have not yet said enough.
19 I would like the people of Cambodia to listen to what I promised,
20 and that's all.

21 MR. ROUX:

22 Thank you, Mr. Witness. I no longer have any questions.

23 Thank you, Mr. President, as well.

24 [16.19.06]

25 MR. PRESIDENT:

98

1 Do you have any questions? If so, the international prosecutor,
2 please make your questions brief and short.

3 MR. BATES:

4 Sorry, I have no questions for this witness. It was merely in
5 relation to the submissions that the Court wished us to make
6 tomorrow morning, and I didn't wish to lose the opportunity
7 before the Court rose.

8 So if, Mr. President, you wish to dismiss this witness first and
9 then I can make my submission later. Thank you.

10 MR. PRESIDENT:

11 The Chamber would like to note that we would like to give the
12 opportunity to parties to make brief submissions since we ran out
13 of time. That's why we will use tomorrow's session for such
14 purpose.

15 So this is how we conduct the proceedings. That's why we would
16 like to give opportunity for parties to make observations
17 tomorrow.

18 [16.21.06]

19 Mr. Khan, The Chamber is very grateful to your testimony and now
20 we have no more questions, so you may feel free now to go back to
21 your residence.

22 Court Officer, could you please facilitate his travel back to his
23 residence?

24 (Witness exits courtroom)

25 THE PRESIDENT:

99

1 The Court is adjourned now and we will resume our session
2 tomorrow at 9 a.m.
3 The security guards, please take the accused back to the
4 detention facility, and the parties are invited to come back at 9
5 a.m.

6 (Judges exit courtroom)

7 (Court adjourns at 1622H)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25