

ANNEXURE A

1. Complete Summary of M-13 Evidence

A. Kaing Guek Eav, alias 'Duch'

Questioning of Duch on issues relating to M-13: Duch's testimony on the establishment and functioning of M-13 largely dominated the first three days of proceedings. Although the functioning of M-13 lies outside the jurisdiction of the Chamber, President Nil Nonn termed Duch's testimony on this issue as "related and necessary" to foster an understanding of the context, organizational structure and operational functions of S-21.

Historical Context of M-13: During his testimony about M-13, Duch clarified the historical circumstances that motivated him to participate in the CPK. After detailing his early life and the influence that Buddhism had upon him, he turned to detail his early involvement with the communist movement in Cambodia. He made his final decision to participate in the communist party when ten people from the movement were arrested by the Sihanouk government. He was "introduced" by Met Kep Pah as a candidate on 25 November 1967. After joining the movement, Duch was arrested by the Sihanouk government on 5 January, 1968. In June 1968 Duch was sentenced to 20 years prison with hard labour for breaches against state security. His trial took half a day and Duch saw his lawyer for the first time at the trial. Lon Nol released him, like many other political prisoners, in April 1970. During Duch's detention, he was not tortured although he stated that other detainees were beaten.

Command Structure and Purpose: Duch devoted parts of his testimony to elaborating on the various physical locations occupied by M-13. He explained that M-13¹ had been subdivided into two separate and distinct branches – namely, 'M-13a' and 'M-13b.' Duch stated that M-13a, which had been relocated several times, functioned under his direct supervision. M-13b, on the other hand, remained at the Anlong district, and was supervised by his deputy, Comrade Sum.²

Turning to the intended purpose of M-13, Duch revealed that his principal mission was to "beat, interrogate [and] smash" perceived "spies" from what he referred to as the "Lon Nol area". He accepted that "the smash was the main principle [at M13a]," and unflinchingly explained that the dutiful performance of his mission at M-13 was a means of defending what he termed as the "liberated zone [and its] people." Expounding upon this issue, Duch pointed out that the purpose of M-13 morphed to accommodate the requirements of the revolution. Specifically, he mentioned that M-13 began receiving detainees from outside the "liberated zone," such as from the Kop Sreu areas.

When presented with the opportunity to question Duch, International Co-Prosecutor Robert Petit seemed adamant on substantiating his earlier assertion that "M-13 was the training ground [in which] Duch honed his skills as prison chief."³ In particular, Petit's questions were designed to elicit information about Duch's recruitment strategies, and the inception of an alleged "system of recording confessions" at M-13.

When questioned by Judge Lavergne and National Defense lawyer, Ka Savuth, on the scope of his authority at M-13, Duch steadfastly maintained that exclusively the "upper echelon" made decisions pertaining to the arrest and execution of detainees.⁴ Based on his testimony,

¹ Pursuant to a question posed by Mr Alain Werner, Duch explained that 'M-13' is an abbreviation for 'Mah – 13' in Khmer, which means 'Office 13' in English.

² Specifically, M-13a occupied 3 different locations over the course of its existence. From the point of its establishment until February 1972, it was located at Anlong District. Following which, it was relocated to "Tha Lieu", where it remained until approximately April 1973. Finally, it was relocated to "Tray Pong Chap", where it remained from June 1973 until its dissolution on 30 April 1975.

³ See Opening Statement of Co-Prosecutors, delivered on 31 March 2009. See also KRT Trial Monitor Report Issue No. 2 at pages 2-3.

⁴ This assertion is in accord with the position articulated by the Defence lawyers in the previous week's proceedings. See KRT Trial Monitor Report, Issue No.2 at pages 3-4.

it appears reasonable to surmise that prior to 1975, the “upper echelon” encompassed individuals such as Ta Mok, Von Vet and Chou Cheat alias ‘Brother C’. Duch also indicated that Son Sen and Hout Hey were prominent members of the CPK, who apparently held command positions.⁵ Duch later testified that his exhortations to the “upper echelon” had secured the release of 10 detainees, over the course of the existence of M-13. Having detailed the efforts he had expended to secure their release, he stressed that this fact should not enure to his benefit. He opined that the release of 10 people was insignificant in light of the scale of crimes that had occurred, and likened it to a “drop of water in a large amount of water in a pond.”

Turning to the context in which Duch served as head of M-13, International Defense lawyer Francois Roux attempted to lead evidence in support of his earlier submission that the DK regime was sustained by the “twin pillars of terror and secrecy.”⁶ In response to Roux’s question, Duch agreed that “in [the] Party, everyone obeyed orders, and if you disobey orders, you run the risk of losing your life.” In a further attempt to reveal the endemic terror within the Khmer Rouge, Duch alluded to Pol Pot’s supreme paranoia, and explained that the desire to please one’s superiors, at every link in the chain of command, was motivated primarily by fear. With regard to the pervasive secrecy of the regime, Duch unambiguously stated, “We kept everything a secret. All tasks remained confidential.” Enumerating the four golden rules that prevailed among revolutionary ranks,⁷ he affirmed that everyone in the chain of command observed the principle of secrecy, because “everyone knew that if they breached this [principle], their life would be in danger.” Duch also spoke of his attendance at regular “Party Livelihood Meeting[s].” He explained that these meetings served a dual purpose of constructing the Party’s “collective political, psychological and organizational stance,” whilst simultaneously demanding a jettisoning of its members’ “personal stance.”

Duch’s testimony throughout the week evidenced his distaste and dissatisfaction with his assigned role at M-13. However, he portrayed himself as a hostage of the regime, forcefully saying, “At that time, in that regime, I saw no alternative other than to respect Party Discipline.” Significantly, Duch appeared to choke with emotion when confronted with an interview he had given to the Office of Co-Investigating Judges on 3 October 2007. Judge Lavergne’s recitation of the interview, which evinces Duch’s ‘despair’ with his role at M-13, prompted the latter to explain that he sought comfort through his recital of a French poem entitled [OOO]. Notably, Duch intermittently drew sharp breaths throughout the proceedings, revealing his anxiety and discomfort when faced with the gravity of crimes that routinely occurred under his supervision.

Detainee Population and Detention Conditions: Duch recounted that the detainee population of M-13 consisted predominantly of indigent people from the “Lon Nol area,” who had been categorized as ‘spies’ because they did not have the means to escape. However, he added that the demographics of the detainee population at M-13 gradually evolved, and eventually comprised of former cadre and people residing close to what he characterized as “enemy zones.”

Duch acknowledged that detainees at M-13 were subjected to ‘very inhumane’ conditions, explaining that they were deprived of adequate food, hygiene and medical care. Detailed questions from the Chamber and Civil Party lawyers also revealed that detainees were deprived of washing facilities,⁸ shackled for extended periods at a time and forced to provide manual labour.

Methods & Means of Interrogation: Duch betrayed no visible emotion as he admitted to acquiescing and participating in the use of torture, as the head of M-13. His unflappable demeanour remained unaltered as he related the litany of torture techniques that he personally devised in order to extract confessions – namely, repeated beatings, hanging of

⁵ These individuals were the Deputy Secretary of the Special Zone and Chairperson of the Special zone respectively.

⁶ See Defense Response to Opening Statement of Co-Prosecutors, delivered on 31 March 2009.

⁷ According to Duch, these four rules were: “Neither speak nor know, neither see nor hear.”

⁸ However, based on testimonies given Duch and two other witnesses, it appears that this concern only existed during the initial phase of M-13’s existence, when it was located at Along until February 1972.

detainees by their wrists⁹ and exposure to cold temperatures.¹⁰ Significantly, his description of the torture techniques employed at M-13 served to elucidate unmistakable parallels between S-21 and its predecessor.

In response to questions from Judge Lavergne and Civil Party Lawyer Silke Studzinsky, Duch categorically denied that mock suffocations, 'water-boarding' and the removal of fingernails were ever carried out at M-13. In particular, questions from Francois Roux revealed Duch's aversion to employing sexual violence as a torture technique. His disinclination to acquiesce in or order the debasement of female detainees was explicitly conveyed when he said, "I did not order stripping. I did not want to see sexual parts of [a] victim at all."

Francois Bizot

On Wednesday afternoon, the Trial Chamber summoned its first witness, 69-year-old researcher Francois Bizot.¹¹ Bizot, who currently resides in Northern Thailand, had been arrested by Khmer Rouge soldiers in October 1971 and subsequently detained at M-13 for three months. In 2003, Bizot published *The Gate*, a book that recounts his impressions and experiences at M-13. Notably, the Chamber and Parties periodically read out excerpts from *The Gate* over the course of his testimony.

Testifying in the "name of his fellow detainees] who perished at M-13, Bizot recounted the detention conditions and interrogation techniques that had allegedly been employed at the security centre. Accused of being a CIA spy, Bizot endured daily interrogation sessions conducted by Duch himself, "in [an] ever polite way." Bizot acknowledged that his daily encounters with Duch bred "familiarity" and "created humanity between [them]." Although he had neither seen nor personally experienced any beatings, Bizot acknowledged his cognizance of the fact that guards used such techniques to "get people to talk." Turning to the detention conditions at M-13, Bizot stressed that disease, particularly malaria, was rampant. Acknowledging his special status amongst detainees, Bizot testified that he was afforded privileges that were not bestowed on the others – namely, the ability to consume as much rice as he wanted, and to take daily baths in the nearby river.

More pertinently, Bizot's testimony provided profound insight into the duality of Duch. Describing Duch as a "tireless worker" who had been "willing to surrender his life for the revolution," Bizot spoke of his realization that a "double reality" existed. Bizot described this as "the reality of a man who was a vector of state-institutionalized massive killing on the one hand, and on the other hand, a young man who had committed his life to a cause, to a purpose, based on the idea that crime was not only legitimate, it was deserved." Referring to the humanity of Duch, Bizot espoused the need to "distinguish between what humans do and what humans are," which prompted his realization that his jailor was "endowed with human characteristics."

For his part, International Co-Prosecutor Robert Petit questioned the basis of Bizot's conclusion that Duch found his work "repulsive." In line with his earlier assertion, which pertained to the questionable nature of Duch's contrition,¹² Petit suggested that Bizot's recollection of any apparent discomfort was based on an impression, as opposed to material facts. However, Bizot firmly maintained that "in a spontaneous, sincere moment," Duch had indeed displayed "extreme embarrassment" when he spoke of beating prisoners. In addition, Petit sought to lead evidence that Bizot had been the victim of what he labeled as "psychological torture."

When questioned by International Defense lawyer Francois Roux, Bizot affirmed that Duch had been locked in a "regime of terror," in which his "margin of maneuver [had been] absolutely nil." Alluding to Duch's "passionate quest for moral righteousness," Bizot described

⁹ Duch explained that he implemented the use of this technique upon the specific instructions of 'Brother C.'

¹⁰ Duch clarified that he 'experimented' with this technique only once on a female detainee. However, in light of its failure to produce the required result, he proscribed its implementation at M-13.

¹¹ François Bizot was previously referred to by the Chamber as 'TC-1'.

¹² Refer to Opening Statement of Co-Prosecutors, delivered on 31 March 2009.

how Duch himself lived in constant fear of his superiors. Significantly, Francois Roux expressed his appreciation for the “major contribution [Bizot has] offered to the work of justice,” by acknowledging the “deep sense of humanity in respect of Duch.”

Uch Sorn

On Thursday morning, the Chamber summoned 72-year-old Uch Sorn,¹³ who had been imprisoned at M-13 from March 1974 to 1974. The Chamber experienced some initial confusion about Sorn’s identity, but this confusion was promptly resolved and questioning proceeded as scheduled.

Sorn’s testimony related primarily to the detention conditions and interrogation techniques employed at M-13, where he apparently witnessed, “torture [and] ill-treatment of prisoners in all forms.” Accused of being a “spy,” he testified to the total stripping of prisoners, being kept shackled in a pit and the constant deprivation of food. Additionally, Sorn affirmed Bizot’s testimony that illness was rampant at M-13. Further, he provided accounts of two summary executions he had witnessed at M-13. In particular, he recalled that on one occasion, four people had been attached to poles and forced to witness a co-detainee middle being shot in the head. Sorn also recounted an incident where Duch had apparently derived pleasure from watching a woman experience a fit of seizure, after he had severely beaten her.

Notably, his testimony differed significantly from Duch’s testimony with regard to the interrogation techniques employed at M-13. Sorn unambiguously testified that the immersion of detainees in water and the removal of fingernails were techniques that were regularly inflicted upon detainees. However, as soon as he was afforded the opportunity to do so, Duch questioned the veracity of such allegations, and reiterated his position that such practices were non-existent at M-13. Nevertheless, Duch accepted that Sorn’s testimony was “fundamentally” true.

With regard to detainee composition, Sorn mentioned that detainees comprised of men, women, several children and even former Khmer Rouge soldiers. However, when asked to provide specific figures on the number of detainees, Sorn’s testimony contained significant internal inconsistencies.

Expressing his sentiments towards the Pol Pot regime, Sorn stated his inability to comprehend how “Khmer people could bring themselves to kill Khmer people.” When Judge Lavergne confronted Duch with this statement, he explained that the killings were a by-product of “a class struggle in a liberated zone,” which entailed the need to eliminate “enemy spies.” When asked by Judge Lavergne if he still harboured any fear of Duch, Sorn answered in the negative, adding, “he is now a tiger without teeth”.

¹³ Uch Sorn was previously referred to by the Chamber as ‘KW-30’.