



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

**ឯកសារដើម**  
**ORIGINAL/ORIGINAL**  
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

16 March 2016  
Trial Day 384

Before the Judges: NIL Nonn, Presiding  
Claudia FENZ  
Jean-Marc LAVERGNE  
YA Sokhan  
YOU Ottara  
Martin KAROPKIN (Reserve)  
THOU Mony (Reserve)

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KHIEU Samphan

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William SMITH  
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For Court Management Section:  
UCH Arun

I N D E X

Mr. Alexander HINTON (2-TCE-88)

Questioning by Mr. KOPPE resumes..... page 5

Questioning by Ms. GUISSÉ..... page 118

**List of Speakers:**

Language used unless specified otherwise in the transcript

Speaker	Language
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. HINTON (2-TCE-88)	English
Mr. KOPPE	English
Judge LAVERGNE	French
The President (NIL Nonn)	Khmer
Mr. SMITH	English

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

2 (Court opens at 0903H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear testimony of the expert

6 Hinton.

7 And before we proceed to hear his testimony, the Chamber would

8 like to inform the parties that the National Judge, Judge You

9 Ottara, is absent, as he has urgent matters to attend to. And

10 after Judges deliberated the matter, we decide to appoint Judge

11 Thou Mony, the Reserve National Judge, in his place. And it is

12 likely that Judge You Ottara is absent for the morning sessions

13 only.

14 Judge Thou Mony will replace him until the time that he is able

15 to return to the Bench, and that is pursuant to Rule 79.4 of the

16 ECCC Internal Rules.

17 And Mr. Em Hoy, please report the attendance of the parties and

18 other individuals to today's proceedings.

19 [09.05.25]

20 THE GREFFIER:

21 Mr. President, for today's proceedings, all parties to this case

22 are present.

23 Mr. Nuon Chea is present in the holding cell downstairs. He has

24 waived his right to be present in the courtroom. The waiver has

25 been delivered to the greffier.

2

1 The expert who is to continue his testimony today, that is, Mr.  
2 Hinton, is present in the courtroom.

3 Thank you.

4 [09.06.01]

5 MR. PRESIDENT:

6 Thank you. The Chamber now decides on the request by Nuon Chea.

7 The Chamber has received a waiver from Nuon Chea dated 16 March  
8 2016, which states that due to his health, that is, headache,  
9 back pain, he cannot sit or concentrate for long. And in order to  
10 effectively participate in future hearings, he requests to waive  
11 his rights to be present at the 16 March 2016 hearing.

12 Having seen the medical report of Nuon Chea by the duty doctor  
13 for the accused at ECCC, dated 16 March 2016, which notes that  
14 Nuon Chea has chronic back pain and back ache and cannot sit for  
15 long and recommends that the Chamber shall grant him his request  
16 so that he can follow the proceedings remotely from the holding  
17 cell downstairs, based on the above information and pursuant to  
18 Rule 81.5 of the ECCC Internal Rules, the Chamber grants Nuon  
19 Chea his request to follow today's proceedings remotely from the  
20 holding cell downstairs via an audio-visual means.

21 The Chamber instructs the A-V Unit personnel to link the  
22 proceedings to the room downstairs so that Nuon Chea can follow.  
23 That applies for the whole day.

24 And I'd like to hand the floor to the Defence Counsel for Nuon  
25 Chea to continue putting further questions to the expert. You may

1 proceed, Counsel.

2 Please hold on, then. Deputy Co-Prosecutor, you have the floor.

3 [09.07.47]

4 MR. SMITH:

5 Good morning, Mr. President, Your Honours.

6 Perhaps it's just a point of clarification, and I think my friend

7 will probably follow it up this morning, but when we left the

8 proceedings yesterday, he referred to a speech by the late King

9 Father Sihanouk and we asked for the ERN number or the document

10 number. And that was E3/7335.

11 And the purpose of that was to show that he used the word "Yuon"

12 in his speech.

13 I've looked through the speech last night and can't find it, so

14 I'm just wondering whether counsel can provide an ERN number of

15 the page in which the late King Father Norodom Sihanouk used that

16 word.

17 MR. KOPPE:

18 Good morning, Mr. President. Good morning, Your Honours. Good

19 morning, counsel.

20 Obviously, I will get back to late King Father's speech before

21 the Security Council. He doesn't say the word "Yuon". I never

22 implied or said that he actually used that word. I believe there

23 is audio-visual recordings available on the case file. He

24 actually speaks French. He speaks French while addressing the

25 Security Council.

4

1 So I never said yesterday that he used the word "Yvon". The  
2 reason I talked about the speech was because Mr. Hinton referred  
3 to the combination of land swallowing and "Yvon" or Vietnamese  
4 together. That will be derogatory. So that's why I was using that  
5 example. But I will get back to that.

6 Just -- so just to be clear, he doesn't use the word "Yvon"  
7 because he speaks in French.

8 Mr. President --

9 [09.09.53]

10 MR. PRESIDENT:

11 Thank you, Counsel. And I'd like to hand the floor to Judge  
12 Lavergne.

13 JUDGE LAVERGNE:

14 Yes, Mr. Koppe, you are right. The original language used by  
15 <Prince> Sihanouk in his speeches is French. And I've, indeed,  
16 asked for the ITU to obtain the French version of that document  
17 for it to be tendered into evidence because, as of now, that  
18 document is not on record.

19 [09.10.25]

20 MR. KOPPE:

21 And just to be very clear on this, in the transcript -- the draft  
22 transcript from yesterday, I'm saying, literally, if the late  
23 King Father Sihanouk, while addressing the Security Council in  
24 '79, January, talks about the land swallowing Vietnamese, is he,  
25 in your opinion, therefore, racist when it comes to his views on

5

1 Vietnamese. So I never implied that he said the word "Yuon".

2 Obviously, that would not be something to do before a Security  
3 Council.

4 Mr. President, if I may, two preliminary points.

5 I owe an apology to the Prosecution. Indeed, the Prosecution did  
6 ask for the person we both believe to be Teap. And if I'm  
7 correct, he is actually known also under a TCW number. It's  
8 2-TCW-884. So the Prosecution did ask for that person that we  
9 both believe is the Teap that Mr. Hinton spoke to.

10 My second preliminary point is -- good morning, Mr. Hinton, more  
11 directed to you. If it would be possible to speak a bit slower in  
12 answering questions, and also, if possible, a bit shorter, so  
13 that I don't lose that much time.

14 MR. SMITH:

15 Mr. President, I don't want to interrupt, but the Prosecution  
16 doesn't necessarily believe that this person, Teap, is the person  
17 in those four records of interview. The Prosecution just doesn't  
18 know. We haven't had a chance to speak to this witness before  
19 he's testified. He could be; he may not be. But we don't have a  
20 belief, just so that's clear for the record.

21 [09.12.40]

22 QUESTIONING BY MR. KOPPE RESUMES:

23 No problem. Mr. Hinton, yesterday, in the late afternoon, we  
24 spoke about the three sources for your academic work and how they  
25 would relate to certain things, statements you made in your



6

1 testimony yesterday. Before I return to the subject that we  
2 finished with yesterday, the speech of late King Father, let me  
3 ask you a few additional questions in relation to those three  
4 sources.

5 Q. First, a question which is sort of related to the matter of  
6 Teap. You speak about a certain Lor.

7 I understand that maybe also, at this point in time, you do not  
8 know who the real name of Lor is. Maybe you do because of your  
9 new book. But could Lor be either Him Huy or possibly a person  
10 that Him Huy refers to as Teng (phonetic)?

11 And I've read in Chandler that he refers to a conversation -- a  
12 transcript of a conversation that you had with a certain Khieu  
13 Lor (phonetic). I don't know if you're at liberty to answer this  
14 question, but I would appreciate if you could.

15 [09.14.44]

16 MR. HINTON:

17 A. Again, because of human subjects protocols at the university,  
18 I would need to check with my university and also with the person  
19 who I refer to as Lor.

20 I'm aware the S-21 world is a fairly small world, so it may be  
21 fairly self-evident. But I'd also say that I've also, over the  
22 years, interviewed many -- a number of people who worked at S-21.  
23 And I've looked -- with specific reference to Him Huy, who you  
24 mention, I've looked at transcripts. I've observed his testimony.  
25 And so if you have questions, I'd be happy to do my best to

1 answer those regarding him.

2 Q. No, I don't have the time to actually go into depth on that  
3 subject. But would you be willing to write on a piece of paper  
4 whether Lor is, indeed, one of those two or three people that I  
5 mentioned?

6 [09.15.45]

7 JUDGE FENZ:

8 Just to be clear, the paper would have to go in the case file.  
9 That's what I tried yesterday, but.

10 MR. KOPPE:

11 I understand, but that's a little bit less public than saying it  
12 so that everyone can hear.

13 MR. HINTON:

14 A. So thank you, Mr. Co-Defence Lawyer. So again, in order to  
15 protect the human rights of the people with whom we do research,  
16 as part of the university protocol, we go through a series of  
17 questions with them and we ask whether or not we can reveal who  
18 they are. I, again -- my notes are back in the United States. He  
19 may have said, "You can reveal my name". I don't know. I would  
20 need to go back there and look at my records.

21 So while I do know very clearly who this individual is, I'm  
22 unable to say that until I check my records in order to protect  
23 his human rights.

24 [09.16.39]

25 MR. KOPPE:

8

1 Q. Thank you. Now something that we briefly discussed yesterday  
2 as well. I said that there were about 15 people that you spoke to  
3 and you said no, there was about 100 people in that Banyan  
4 village. I went back to your book, and in the first pages of your  
5 book, there is a list of what you call "personnages". There are  
6 quite a few people that obviously you didn't speak to because  
7 they are dead or they were imprisoned so you couldn't speak to.  
8 But when you deduct the people who are dead, like Koy Thuon or  
9 Oeun, the Division 310 commander, it's only a handful of  
10 individuals, it seems, that you spoke to.

11 I count there's Chlat, there's Khel, Lor, Neari, Oum Chhan, Teap,  
12 Ung Pech, Vaen Kheuan, Vann Nath and Vong. And then there's --  
13 there are, within the book, a number of individuals which aren't  
14 really named. Let me give you a few examples.

15 [09.18.38]

16 English ERN, 00431710 till 11. There's no French or Khmer.  
17 There's a DK village head from the Banyan area. Then, English  
18 ERN, 00431711; there's a Banyan villager. And then there are head  
19 -- there's the head of the Khmer Buddhist Society, a current  
20 government official.

21 I can go on for a little bit, but it seems to me that,  
22 ultimately, more in-depth interviews were limited to between 10  
23 and 20 people. Would that be correct to say?

24 A. Thank you, Mr. Co-Defence Lawyer. So the reference you have to  
25 the sort of key people who appear in the book, that was placed

1 into the book to help the reader, and it refers to people who I  
2 talk about so if they forget who the person is in reading,  
3 they'll be able to refer back to it.

4 I should note that, in doing so, in anthropology, we often have  
5 what are called key informants who are experts who know -- have  
6 more information. And those also tend to be the people you talk  
7 to and more -- do what are called in-depth interviews, multiple  
8 interviews with.

9 [09.20.06]

10 So, within the number of informants, there are different sorts of  
11 informants. You have everyday casual conversations as part of  
12 participant observation. You have interviews such as the survey  
13 where I went and talked to 100 people in the village. So again,  
14 there are about 100 households, 95. I don't know. You can check.  
15 It's in the book.

16 I went to every single household and talked to someone there. So  
17 right off the bat, in the first month of my research, I spoke to  
18 100 people about their experiences. I talked to many people at  
19 the village.

20 As you're doing participant observation, unlike a survey  
21 research, you don't go and check off. You live and become part of  
22 the life of the village and the experience of the people.

23 [09.20.48]

24 In putting together a book, you -- and this is true for the book  
25 I just completed on the Duch trial as well. You have literally,

10

1 in the case of that book -- I don't have a number offhand, but  
2 well over 100 interviews I was pulling upon in addition to  
3 participant observation. In fact, if you take the 95 I've just  
4 talked about, that's just the beginning of the study. I can't  
5 provide an explicit number, but I can assure you it's many, many  
6 different people I interacted with.

7 And when you complete the book, you try and find representative  
8 voices or those people with whom you've done in-depth interviews  
9 who can shed light on the narrative that you're trying to convey.  
10 And the narrative, for me, was to represent the lived experience  
11 of the people of Banyan village, their experience of what  
12 happened during the DK regime while unpacking the cultural  
13 dimensions of genocide.

14 [09.21.33]

15 I should note, because it may not be clear, that there -- I have  
16 my initial study that was done from 1994 to 1995 as a graduate  
17 student doing ethnographic fieldwork in Cambodia, but I also  
18 lived in Cambodia for a little bit in 1992.

19 And as I said at the very beginning with Mr. President, I've  
20 returned to Cambodia since then repeatedly. Since then, I've  
21 interviewed hundreds of other people so the body of knowledge  
22 about which I'm speaking draws upon interviews with an enormous  
23 number of individuals, an enormous number of survivors, a smaller  
24 number, as you've pointed out, of actual DK cadres, some of whom  
25 -- as you say, at the time I was doing my 1994-1995 fieldwork, it

11

1 was difficult to find.

2 Anyway, so the number of people I've spoken to is enormous, as  
3 probably is true with a handful of other scholars who've --  
4 external scholars who've worked in this area. In terms -- and  
5 also, you know, just to recognize the work that DC-Cam has done  
6 as well, I've gone and looked at their archives and their  
7 material, and there's a massive amount of information there as  
8 well.

9 Q. I'll get back to that point just in a bit, but let me maybe  
10 rephrase my question because what we are dealing with here in  
11 this courtroom is mainly or predominantly your book. And we are  
12 trying to determine which, for us, verifiable sources you have  
13 been using for your book.

14 [09.23.11]

15 I think we are all in possession of the scholarship that you have  
16 used, all the contemporaneous documents, I believe. What I'm  
17 trying to find out is; what is the material that is uniquely  
18 coming from you? And maybe saying this; how many key informants,  
19 as you call them, did you talk to -- you, yourself -- that formed  
20 the source -- one of those three sources for this book?

21 A. Thank you, Mr. Co-Defence Lawyer. So again, the first month I  
22 arrived, I spoke to at least 95 people, many more. So within the  
23 village, I'm sure hundreds of people there. I believe the census  
24 was there were about 500 people.

25 Q. Sorry to interrupt you, but I don't imagine that those 100

12

1 people are all key informants.

2 Who are the ones that you consider key informants, how many?

3 [09.24.22]

4 A. Yes. So again, this is -- so again, Mr. Defence Co-Lawyer, it

5 -- maybe it's a bit difficult to convey ethnographic research

6 because it's different, perhaps, than historical research,

7 psychological, sociological research, research of a political

8 scientist, people working with surveys. This is done over a long

9 period in a given locality.

10 In a sense, while the -- if you want a quantitative how many

11 people did I interview multiple times, you know, something like

12 that, but it doesn't get to the heart of what anthropologists do

13 because that's a one piece of a much broader undertaking.

14 And again, to go back to my goal of trying to convey the lived

15 experience of the people from this village while unpacking the

16 cultural dimensions of genocide, that was my objective.

17 So if you talk about just key informants, in a way, everyone is

18 -- in a way, everyone's important. Their experience is important.

19 I talked to many people about their experiences.

20 [09.25.26]

21 I selected a certain number of individuals to focus upon to

22 present the narrative. There are perhaps half a dozen people I

23 interviewed more than two or three times, but I don't want to say

24 that I have four or five key. I mean, everybody's -- I have many

25 stories, reams of documentation. And it's -- I don't want to --

13

1 maybe it's difficult because of the nature of anthropological  
2 research and the methods being distinct in terms of the lived  
3 experience part of it in contrast to other disciplines.

4 But again, so one answer is many, many different key informants  
5 because I heard many stories, talked to many people. But in the  
6 book, I focus on a smaller number because it's -- this isn't a  
7 report. It's an analysis. And there are different undertakings.

8 Q. I understand what you're saying, but I do hope you understand  
9 our perspective. We need somehow to be able to be in a position  
10 to verify the veracity of your sources, human sources, the  
11 reliability of those sources, whether they are in any way  
12 representative of the region.

13 But I suppose -- would you agree with me that that would not be  
14 possible for any of the parties, really, in this courtroom? If  
15 that is a yes, then I will move on.

16 [09.27.05]

17 A. Thank you, Mr. Co-Defence Lawyer. I don't think that I would  
18 say yes to that. As I mentioned yesterday, what I've found  
19 remarkable, even since I've been here, is the fact that there --  
20 this Court has gathered an enormous amount of information,  
21 including information from the Kampong Siem district, including  
22 down to Krala commune that dovetails directly, directly mirrors  
23 the experiences that I represent in my book.

24 You have this individual who you think is Teap who conveys  
25 information that talks about the Cham being -- and another



14

1 person, who the Office of the Co-Prosecutors mentioned yesterday,  
2 talk about taking Chams out and executing them at Tuol Beng.

3 There's talk about Wat Phnom Pros-Phnom Srei.

4 [09.27.58]

5 So I think an enormous amount of what I've said, regardless of  
6 the sources, is there for you on the record through these other  
7 interviews that have taken place. It's in the Court record, in a  
8 sense.

9 So as I said before, I had to work through a method of  
10 triangulation as a graduate student. Again, this is in the period  
11 1994 to 1995, where there were no cell phones. I drove around on  
12 a moped. I tried to track people down as best I could. And I'm  
13 glad to see that the information that I present in my book seems  
14 to have been largely accurate and supported by documents that are  
15 officially in the Court record, including the destruction of the  
16 Chams, which, again, we had a segment of that read out in Court.  
17 So --

18 Q. Let -- I apologize, but let me interrupt you again. You  
19 actually touched upon another problem. You seem to be  
20 continuously mixing your post-2004 book knowledge with whatever  
21 you have observed in this courtroom while observing the Duch  
22 trial, so that makes it very difficult for us to really focus on  
23 what your sources were for your book which is, in fact, the basis  
24 of your being summonsed as an expert. But let me move on to the  
25 third --

15

1 [09.29.16]

2 JUDGE FENZ:

3 Sorry. Can I try something, actually, to assist?

4 Perhaps a matter of language. As lawyers, we have this tendency  
5 to be very precise. So, what counsel was trying to find out is,  
6 actually, a number, meaning I interviewed, don't know, 25 people  
7 in detail, but I talked to 350 more.

8 Your answer is always things like, let me see, "enormous --  
9 enormous numbers of people", "very large number of people", but  
10 this is, I guess, a different approach. "Very large" is different  
11 for me and you, probably.

12 So if it is possible, if you can -- if you can't, just say so.

13 Perhaps you could give a number of the people and then explain, I  
14 don't know, 25 with whom I did and then please explain what you  
15 did with them. And another group of, I don't know, with whom I  
16 interacted and got information. But numbers might help us a bit,  
17 if you can give them.

18 [09.30.28]

19 MR. HINTON:

20 Thank you, Your Honour. So again, the research -- and perhaps I  
21 could ask for a point of clarification as well about whether I'm  
22 only supposed to speak about my knowledge based on this book or  
23 if I'm supposed to speak more broadly about my expertise as a  
24 genocide scholar, as someone who has continued to interview and  
25 study this period of history, but I guess that would be am I

16

1 restrained to the period of 1994-1995? That's -- I'm somewhat  
2 confused.

3 JUDGE FENZ:

4 I would say we need precise questions that clarify that.

5 [09.31.01]

6 BY MR. KOPPE:

7 Q. The reason I'm -- we're here to see if we are able to somehow  
8 verify what you're saying. What we have on the case file is your  
9 book and numerous other articles. That is the basis. When you're  
10 saying "I observed this in the Duch trial", I don't know exactly  
11 what you observed or -- so we need to pinpoint you to what we  
12 have on the case file because that is the evidence which is  
13 available. And that is why I'm -- why I made that remark.

14 JUDGE FENZ:

15 I did understand you correctly to get somewhere. Your last  
16 questions were pertaining to the book, to the sources for the  
17 book, or did I misunderstand?

18 MR. KOPPE:

19 No, no. No, no. You're -- that's correct.

20 JUDGE FENZ:

21 So perhaps this is clarified. Can you give us numbers as to the  
22 sources exclusively for the book, used for the book?

23 [09.32.07]

24 MR. HINTON:

25 Thank you, Your Honour. Thank you, Mr. Co-Defence Lawyer.

17

1 So again, had I known before I came here that this information  
2 would be requested, I would have gone and systematically reviewed  
3 my records. I don't have my records with me. Some of that  
4 information is in the book.

5 So with understanding that I can't tell you for sure because I  
6 would need to check systematically, I can give you some guesses.  
7 I would say that if you talk about people who I spoke to on a --  
8 for more than one interview as sort of the beginning of it, there  
9 were probably at least 10 to 20 people who were multiple  
10 interviews.

11 If I talk about people who I interviewed once, as I said before,  
12 sat in their houses for, you know, half hour, hour, sometimes  
13 more, two hours, depends on the person, we -- so the first 95  
14 households go up and then many more after that. I'd say there's  
15 got to be 150 to 200. I had conversations with people in Kampong  
16 Cham city.

17 In other words, my research -- for example, I did research on the  
18 education sector in Kampong Cham city, and I did interviews there  
19 as well. I did a variety of other types of research.

20 [09.33.27]

21 So besides this one village, there are an enormous number of  
22 places where I did interviews and I went back to Phnom Penh and I  
23 interviewed some people who worked -- who had formerly worked at  
24 S-21. I think at the time it was Lor, a couple of other -- at  
25 least one other person. I'd have to check my records, as I did

18

1 archival research.

2 So, I don't know if that provides a bit more guidance, but if we  
3 think of pools, there's this first smaller pool where there's  
4 more extensive interviewing, and then there's a much larger,  
5 second pool where there's significant conversations that are  
6 taking place, but it's not repeated, extended interviews. And  
7 then outside of that, there's the much larger pool of everyday  
8 conversations that are taking place.

9 But I think it's important, again, to emphasize in contrast to  
10 other disciplines where sometimes people come in with a survey,  
11 do an interview for an hour, go, take off and leave, I was living  
12 amongst the people. In anthropology, participant observation is  
13 absolutely critical, as important as interviews.

14 [09.34.36]

15 BY MR. KOPPE:

16 Q. I'm not sure if we got the answer that we might be looking  
17 for, but let me quote something that you have written yourself so  
18 that maybe that might be helpful in understanding my question.

19 And in one of your writings, that is, E3/9703, on page 2, you  
20 noted that, apart from the, and I quote you:

21 "inevitable methodological, tactical and logical problems that  
22 arise at every stage of data gathering, the difficulty of  
23 verifying the reliability of sources, evaluating statistics and  
24 comparing official documents with the testimonies of  
25 eyewitnesses, genocide studies are further complicated by purely

19

1 political considerations."

2 [09.35.38]

3 Actually, I'm just -- this is not something that you said  
4 yourself. You were quoted as having said that, I believe in, by  
5 the Ukraine Weekly, so I apologize for that.

6 But that is exactly, I think, the problem that you might have  
7 signaled in relation to anthropological research, and the same  
8 problem that we have. Could you comment on that quote?

9 MR. HINTON:

10 A. Thank you, Mr. Co-Defence Lawyer. So again, I don't have the  
11 text in front of me. I haven't reviewed the text. As is the case  
12 with all of us, when we do interviews, they're sometimes  
13 selective, so again, I don't even know the year of this, so. But  
14 having said that, yesterday, I spoke that, absolutely, when I was  
15 there from 1994 to 1995, it was a completely different situation  
16 in terms of doing fieldwork. The Khmer Rouge, as I said, were  
17 active. There was a village, Romeas, actually, where Oeun was  
18 from, and I actually -- I should add, I also did research there  
19 and interviewed people there where there were a lot of former  
20 Khmer Rouge, but there also had been massive purges of the people  
21 who had lived in the village because they were connected to Koy  
22 Thuon. At the time, the Khmer Rouge were still fighting. The  
23 civil war was ongoing.

24 [09.36.58]

25 Documents had been destroyed by the elements, and so the way you

20

1 had to proceed with information is the best you can to listen and  
2 talk to people and then to confirm through the method of  
3 triangulation I mentioned where you try and talk to people and  
4 see if a narrative emerges through that, talk to the person who's  
5 been talked about, for example, in the case of Teap or the case  
6 of Khel and then, again, see if you can put together a picture  
7 that makes sense.

8 [09.37.25]

9 And you know, now, with the enormous amount of information that's  
10 available and, by and large, very much confirmation -- you cited  
11 Michael Vickery's book as well, and he actually talks about  
12 Region 41. And the account that he provides based on his  
13 interviews with refugees actually parallels the account that I'm  
14 presenting where he says the conditions there got worse in 1977,  
15 when the southwest cadre arrived.

16 So I think there's an enormous amount of data that supports the  
17 account that I'm providing, including witness interviews that are  
18 on record with this Court that very directly parallel what I  
19 found so --

20 Q. Thank you, Mr. Hinton. I'll interrupt you again. I don't think  
21 I will get the answer that I'm looking for, so let me move now to  
22 the third source, the -- your study or review of the original  
23 documents.

24 I've -- I did a search in your book, in your footnotes, and I  
25 believe, if I'm not mistaken, that I counted a total of 44

21

1 documents that you have used. There are -- they are divided into  
2 four or five categories. About eight FBIS reports, FBIS is the  
3 U.S. Foreign Broadcast Information Services; about seven  
4 confessions; about six Revolutionary Flags; about four or five DK  
5 documents, such as decisions of the Central Committee; some  
6 documents that are in the Cornell microfilm reel, confessions and  
7 some other material; and about seven or eight DC-Cam documents.  
8 Would that be an accurate count of the documents that you have  
9 used in addition to the scholarship that existed when you wrote  
10 your book, in addition to those interviews that you took?

11 [09.39.51]

12 A. Thank you, Mr. Co-Defence Lawyer. Again, without going back  
13 and looking -- I can't verify, but you seem to have done a count.  
14 You've given an interpretation of the sources. I can't -- it  
15 sounds broadly correct. I can't tell.

16 But I think more to the point is, again, as with key informants  
17 and with people you talk to in the village, when you write  
18 something, you can't put everything into the text. So the number  
19 -- for example, I think the FBIS documents were much more  
20 available. I looked at far more FBIS documents.

21 [09.40.25]

22 As is evident from earlier discussions, the documents that were  
23 presented before, there's an enormous amount of repetition in the  
24 discursive rhetoric in CPK documents, there's a lot of  
25 repetition. So you -- I think you could pull in dozens and dozens



1 of different documents. But I'm sure I reviewed more documents  
2 than ended up in the footnotes. And part of the reason I  
3 condensed it down is because, publishers are concerned about the  
4 length of a book and actually don't want you to pack too much in.  
5 And it's repetitive.

6 So I would say that, again, the number of documents I referred  
7 to, there's a broader pool, especially with the FBIS broadcasts,  
8 which were more available.

9 Q. I understand, but I believe, in your dissertation, you don't  
10 really use additional documents. Obviously, in your dissertation,  
11 you are supposed to list all the sources. But let me move on  
12 because I don't have that much time.

13 One or two additional questions in respect of the documents.

14 You are using confessions of people detained in S-21. Now, at  
15 this Court, it is strictly forbidden to use any of the content of  
16 these S-21 confessions. What is it that you did in terms of  
17 reliability to nevertheless use those S-21 confessions to come to  
18 certain conclusions?

19 [09.42.05]

20 A. Thank you, Mr. Co-Defence Lawyer. So again, at the time I was  
21 writing, I was aware that the confessions couldn't be looked at  
22 as fact in any manner. One of the primary things I wanted to do,  
23 and again, it's hard to imagine now because of the databases that  
24 exist, so in terms of finding Reap, Re Sim, I didn't have a  
25 computer I could go and punch in a number to, I had to go to the

1 Tuol Sleng museum and I asked them. They didn't know where his  
2 confession was, spent an enormous amount of time trying to find  
3 his confession. Again, there's no automated system. Finally, I  
4 found it but in this case, and this is one of the main reasons I  
5 went there, is people had talked a lot about Koy Thuon, and this  
6 being part of the Koy Thuon network, but also the experience of  
7 Reap, who had run Wat Phnom Pros-Phnom Srei, was very significant  
8 to this village, so I wanted to trace out and find the person  
9 because there was a story that he had actually tried to rebel at  
10 one point and had detonated some explosives and had failed to do  
11 so.

12 [09.43.16]

13 And I was also curious to look at his confession as part of this  
14 larger story, but the story of that detonation, as I say, came  
15 from, in part, Khel, who told it to me, and that seemed to be  
16 confirmed in some form or another by the confession. But I was  
17 also, in terms of exploring the cultural dimensions of genocide,  
18 as I said before, interested in the structure of the confessions,  
19 the way that they reflected patronage networks, relationships of  
20 dependency and, as well, the way the narratives were constructed,  
21 so that they were an inversion of revolutionary histories.  
22 And so I didn't really rely on the content of the confessions to  
23 draw a narrative. I looked at structural factors and, again, the  
24 fact that Reap confessed to having had these -- to detonating  
25 these explosives, resonated with what Khel had told me.

24

1 And so in terms of the method of triangulation, that, again, is  
2 -- to me, suggests an affirmation of what he's saying because  
3 Khel has absolutely no way of knowing what happened to Reap. And  
4 in fact, he had no idea where he went.

5 Q. And so would you -- sorry to interrupt, would you then agree  
6 with Chandler, in his turn, citing Heder that, under certain  
7 circumstances, these confessions do have a certain probative  
8 value or reliability to them?

9 A. Thank you, Mr. Co-Defence Lawyer. Again, I wouldn't want to  
10 make a broad, sweeping statement, but for my purposes, maybe I  
11 can answer, that given my objectives and what I wanted to do and  
12 understand from the confessions, it had value in terms of  
13 revealing that the structure of patronage relationships that  
14 exist and structure social relations in Cambodia on many levels  
15 were operative and were reflected by the confessions and were  
16 part of the way that the people at S-21 were thinking in terms of  
17 the way they were purging networks and the language that was used  
18 dovetailed with the language that was used by people on the  
19 ground.

20 [09.45.34]

21 So again, this is part of the process of triangulation that we're  
22 doing. But as -- again, when I'm doing -- was doing the research  
23 in 1994 and '95, it's a completely different experience. And it's  
24 hard to convey how hard it was to get things like find a  
25 confession where now you just punch in an ERN number and it

25

1 appears on the screen. It took days of work.

2 Q. Then one additional question to the use of documents. I've  
3 noted that you didn't use DC-Cam interviews of people who might  
4 have been in the position to say certain things about rebellions  
5 in the North Zone, rebellions led by Oeun you mentioned often in  
6 your book.

7 Is that a correct assessment, that you didn't use any DC-Cam  
8 statements, DC-Cam interviews of people?

9 A. Thank you, Mr. Co-Defence Lawyer. So again, at the time, 1994  
10 to 1995, I believe the Yale Cambodian genocide project had gotten  
11 under way. And I believe -- I can't remember the year that DC-Cam  
12 became an independent, non-governmental organization it may be  
13 1997. You'll have to check the record. I can't tell you for sure.  
14 So if we're talking about the period when I was doing my research  
15 from 1994 to 1995, it was very difficult to find -- even find the  
16 DC-Cam office because I think they experienced -- well, you have  
17 to check --

18 [09.47.19]

19 Q. Let me interrupt you there. Your book is -- I think the  
20 manuscript was finished in 2004. So I'm not referring to your  
21 work in 1994, but I'm referring to your work finished in 2004,  
22 2005.

23 Is it correct that you didn't use any DC-Cam statements of  
24 individuals, these DC-Cam interviews?

25 A. Thank you, Mr. Co-Defence Lawyer. So again, I was trying to

26

1 stick to the period that you wanted me to speak about, which is  
2 1994 to 1995, but maybe it would help if I elaborate on the  
3 process of writing the book and how it came to be, and the  
4 sequence, which maybe will clarify some of the confusion, okay.

5 [09.48.01]

6 So I did the initial fieldwork from 1994 to 1995. I returned to  
7 my university. In 1997, my dissertation was published. I didn't  
8 return to Cambodia until 2000.

9 In 2000, as I began the process of revising my dissertation into  
10 book form, in 2000, I did do research at DC-Cam, I believe for  
11 looking primarily, if I recall correctly, at confessions and DK  
12 documents. For example, I believe that's when I found Lor's life  
13 history, his biography that's included in my book.

14 And if I'm -- if I remember correctly, I came back in 2003.

15 But in academic books, you have a period of peer review that  
16 takes place. That peer review process can take up to a year. I  
17 can't remember how long because you get evaluations and then you  
18 revise the manuscript based on the evaluation of your peers.

19 So actually, the book manuscript was probably completed maybe in  
20 2002, began peer review. Once a book is completed, after peer  
21 review it's been accepted, it takes an entire year for it to come  
22 out. So the book, to say it's finished in 2004, isn't accurate.  
23 It actually was done earlier, and then it underwent this period  
24 of peer review.

25 [09.49.14]

27

1 I came back in 2000, I'm sure if you DC-Cam -- but you know, for  
2 example, their magazine, "Searching for the Truth", I believe,  
3 began in 2000. You may remember better than me.

4 So again, the amount of documentation that they had -- now if you  
5 go to their office, you go to the public information room, you  
6 can procure documents very quickly, but this was the early phase,  
7 and things were much harder then.

8 And again, it's hard to convey the experience of doing research  
9 was very different. So I didn't -- because of the historical  
10 moment in which I was working at DC-Cam, that documentation was  
11 not as readily available to me.

12 [09.49.48]

13 Since then, I've looked at many issues of "Searching for the  
14 Truth", and I've returned at different times to their -- to their  
15 archives as well as consulted many other sources and interviewed  
16 many other people.

17 Q. Thank you. I'll move on now, Mr. Hinton, to a subject that we  
18 left and didn't finish yesterday, and that is the qualification  
19 of the word "Yuon" or its meaning, etc.

20 Yesterday, I tried to elicit an answer from you in relation to  
21 late King Father's speech, King Father Sihanouk's speech before  
22 the UN Security Council. You declined to answer because you first  
23 wanted to read beforehand, I think, what he actually said.

24 I hope you were in a position last night or this morning to have  
25 a look at that speech, and I would like now to read a few

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1 excerpts of that speech and then ask your comments, especially in  
2 relation to Vietnam or the Vietnamese being called land  
3 swallowing aggressors.

4 Mr. President, I believe there is still no Khmer or French  
5 translation of this. I only have the English text, so I will read  
6 it very slowly. It is document, as we discussed before, E3/7335.  
7 And I'll be reading a few paragraphs from his very long speech. I  
8 will start with paragraph 75.

9 Just for Judge Lavergne, I just got a note from my team that the  
10 speech is available in French in and excerpt of video in the case  
11 file as E3/7336R.

12 [09.52.13]

13 For the background, Mr. President, I'm reading from the Security  
14 Council official records, the 2,008th meeting in January 1979.

15 So here is, originally in French, late King Father Sihanouk  
16 addressing the Security Council, paragraph 75:

17 "But, on the very morrow of the final victory, in April '75 -- a  
18 victory over imperialism -- and in the wake of the reunification  
19 of the two Vietnams, North and South, the Socialist Republic of  
20 Vietnam decided, cold-bloodedly, to embark upon a very special  
21 operation whose ultimate goal was nothing less than to swallow up  
22 little Kampuchea just as a starving boa constrictor would fling  
23 itself upon an innocent animal."

24 [09.53.33]

25 Paragraph 78:

1 "My saying what I have just said about Vietnam does not  
2 constitute interference in the internal affairs of that country;  
3 there is a necessity which makes it my duty to create a better  
4 understanding of the reasons why my country has always had to put  
5 up with acts of aggression and other armed attacks from Vietnam,  
6 which have been going on since the 15th century. From the 15th to  
7 the beginning of the 20th century, Vietnam, in spite of the  
8 bitter and indomitable resistance of the army and people of  
9 Kampuchea, succeeded in swallowing a good half of Kampuchea. That  
10 half became what is now -- what is known today as "South  
11 Vietnam". It used to be the south of Kampuchea."

12 [09.54.41]

13 Paragraph 79:

14 "Although this is inconceivable in the 1970s, when all the talk  
15 is of respect for the Charter of the United Nations and the just  
16 principles of non-alignment, the Socialist Republic of Vietnam, a  
17 member moreover of the United Nations and a full-fledged of the  
18 family of non-aligned countries, is not embarrassed by any  
19 scruples. Greatly encouraged by its multi-form alliance, in  
20 particular a de facto military alliance with the USSR, one of the  
21 two world super-powers, drawing comfort from the total and  
22 unconditional support accorded by it to the powers of the Warsaw  
23 Pact, with the exception of Romania," -- here it comes,  
24 "respecting the good old traditions of shamelessly swallowing up  
25 small neighbours whenever the opportunity presents itself, and



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1 motivated also, we must point out, by the keen appetite that it  
2 had nurtured for many years, the Socialist Republic of Vietnam  
3 came to the point of launching an all-out attack with all the  
4 power of its Hitlerite armed forces for the conquest of  
5 Kampuchea. The irresistible advance of a host of armoured tanks  
6 and cars, accompanied by a dozen infantry divisions supported by  
7 the most modern heavy artillery, preceded and protected by  
8 innumerable aircraft of all types, including MIG-21s and some  
9 MIG-23s, that advance, a veritable German-style blitzkrieg in  
10 nature, strangely reminds us of the blitzkrieg of the Hitlerite  
11 armed forces to which so many European countries -- France and  
12 Poland in particular -- fell victim at the beginning of the  
13 Second World War."

14 [09.57.06]

15 And finally, paragraphs 83, 84 and 85, small paragraphs:

16 "83. In the face of the insolent claim on the part of the  
17 Socialist Republic of Vietnam to the effect that the war that is  
18 raging in Kampuchea or Cambodia is only a civil war without any  
19 Vietnamese involvement, the Kampuchean people, through me, has  
20 the honour of asserting vigorously that this war is purely a war  
21 of aggression, annexation, colonization and regional hegemonism  
22 unilaterally, arbitrarily and unjustly unleashed by the Socialist  
23 Republic of Vietnam against little Kampuchea.

24 The so-called United Front for the National Salvation of  
25 Kampuchea and its government are, in fact, only a pitiful

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1 smoke-screen designed to hide from the outside world the criminal  
2 and repugnant anti-Kampuchean undertaking of the Socialist  
3 Republic of Vietnam, which shows its contempt of other sovereign  
4 countries and peoples of the world by feeding them such obvious  
5 lies that even a child cannot give them any credence."

6 [09.58.33]

7 And finally, Mr. Hinton, paragraph 85:

8 "Those countries which have hastened to accord de jure  
9 recognition of the government of Heng Samrin, the pitiful pocket  
10 of the Vietnamese, expose themselves as the intimate accomplices  
11 that they are of the Socialist Republic of Vietnam in its current  
12 attempt to humiliate independent, sovereign, neutral and  
13 non-aligned Kampuchea."

14 End of a very long quote. I apologize for that, Mr. Hinton.

15 In relation to our discussion yesterday, are you now able or do  
16 you now feel free to give a reaction to late King Father

17 Sihanouk's speech in terms of Vietnam as the enemy and in all the  
18 -- in relation to all the things that he talks about Vietnam.

19 [09.59.36]

20 A. Thank you, Mr. Co-Defence Lawyer. First, I'd just like to take  
21 a moment to pay my respects to the deceased late Father King. I'd  
22 also like to acknowledge his suffering and the fact that he lost  
23 many family members.

24 I remember seeing a movie about Cambodia. I believe it was the  
25 movie that came out about Cambodian rock 'n roll where he --

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1 there's a clip of him sobbing when he talks about the deaths of  
2 his family members during Democratic Kampuchea.  
3 I should recall that, I believe, you can correct me if I'm wrong,  
4 that, at this time, he has written about being under the control  
5 and being minded by Khmer Rouge as well. You know, it could be  
6 wrong, but I believe at this time, immediately afterwards, he  
7 still has written about being under the control of the Khmer  
8 Rouge and talked about it as an extremely coercive experience.  
9 Having said that, I would note first, that the late Father King  
10 -- King Father does not use the word "Yuon". In that sense, it  
11 seems -- you know, our discussion yesterday was about the racist  
12 connotations of the word "Yuon". If -- I mean, I think in terms  
13 of thinking about the process of manufacturing difference that I  
14 talked about before, there's like a first substantiation of it as  
15 the crystallization of difference where you pay attention to  
16 other groups and you sharpen what are otherwise more fluid  
17 distinctions.  
18 [10.01.04]  
19 Of course, in the context of Democratic Kampuchea, the immediate  
20 aftermath, this was very much a distinction that was in  
21 everybody's mind. This is clear from the passage you read.  
22 If we talk to the point at which we began yesterday about whether  
23 discourses using the word "Yuon" that are in a context that are  
24 much stronger and promote and incite potential violence such as  
25 the one we had many examples -- up until today, we had

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1 implemented one against 30, meaning we lose one, the "Yuon" lose  
2 30, so then our losses are 30 times fewer than those of the  
3 "Yuon". You know, this was read in Court. I don't think I need to  
4 read again, but if you -- I just -- could I please finish?

5 Q. Yes.

6 [10.01.51]

7 A. If you take the contest of a speech like that, the DK -- the  
8 speech from DK that I just read that was introduced as evidence  
9 and you take that and you compare it to the words of the late  
10 King Father that were given immediately after the fall of the DK  
11 regime while he was under the coercive pressure of the Khmer  
12 Rouge at the time, it seems to me vastly different, and so I  
13 would say that the rhetorics that are expressed, for example, in  
14 much DK discourse such as this one are of high level incitement  
15 towards violence and that it's not accurate to compare a speech  
16 given by the late King Father. To compare the two -- I mean, I  
17 could continue to read this. You could read that. And they're  
18 completely different.

19 They -- the one point of similarity, which you point out, is  
20 that, as I mentioned yesterday, there are a set of stereotypes  
21 that exist. If you go -- if you talk to people about the legend  
22 of the master's tea, people know. So, there are a set of  
23 understandings that become, at different points in time, to be  
24 mobilized in different sorts of ways. But the point that comes  
25 from our discussion of the use of the term "Yuon" in the context

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1 of DK is that this is a time where you have discourse that's  
2 vehement, it's strong and it's a form of racist incitement.  
3 And I don't think it's appropriate to try and draw a parallel  
4 between what the late King Father said and what is said in a  
5 broadcast like that.

6 [10.03.25]

7 Q. Let me move away from the word "Yuon". Is it -- are you saying  
8 that when he gave that speech before the Security Council he was  
9 pressurized -- under pressure to say these words? And if that is,  
10 indeed, your opinion, how would you then explain similar words he  
11 said in his press conference in Beijing just before this and his  
12 subsequent support of CPK and the DK regime the 10 subsequent  
13 years when DK was still holding its seat in the UN?

14 [10.04.21]

15 A. Thank you, Mr. Co-Defence Lawyer. Very briefly, I think that  
16 if you want clarification on this point, you should speak to  
17 perhaps the royal biographer of the late King Father, Julio  
18 Jeldres, who talked to him extensively. But I think the point, to  
19 me, is if you take the words that you read and you compare those  
20 to the text I read, they are completely different even if there  
21 are similarities -- small similarities in terms of the  
22 mobilization of metaphors.

23 As I said from the very beginning, even the use of the word  
24 "Yuon" can be used in a banal, everyday manner, but it's when  
25 it's --

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1 Q. I apologize. I have to interrupt you. You're circumventing, I  
2 believe, the answer to my question.

3 My question is, is it your opinion that he was somehow under  
4 pressure to utter these words, words of aggression, land  
5 swallowing, that they were put in his mouth, and if he didn't,  
6 then something would happen? Is that your testimony?

7 [10.05.23]

8 A. Thank you, Mr. Co-Defence Lawyer. And I understand your  
9 concern for clarification. Perhaps I should say that the basis of  
10 what I said comes from having read his memoirs a while ago, from  
11 some knowledge of the history, but that to be certain and to get  
12 an expert informed opinion, you should ask someone like Julio  
13 Jeldres, who is his biographer, had numerous conversations with  
14 him. But that, based on my knowledge, is the answer that I would  
15 provide, so I can't provide you with a certain answer because I  
16 never had the honour of meeting and speaking with the King  
17 Father.

18 Q. Let us move away for a while from the late King Father's  
19 speech. Are you in a position to give your opinion as to what --  
20 for instance, in the United States, an important scholar was  
21 testifying about to U.S. Congress about these ambitions that  
22 Vietnam had and referred to by late King Father.  
23 What was the scholarly view in the United States in 1978, and  
24 before, about Vietnam's ambitions toward Cambodia?

25 [10.07.02]

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1 A. Thank you, Mr. Co-Defence Lawyer. I think that in order to be  
2 specific, I would need a specific reference and text. Again, I  
3 reviewed the documents primarily relating to the DK period. I  
4 didn't -- there are many documents I was given to review, more  
5 than I could possibly read, so it's not fresh.

6 I'm not sure what you're speaking about, so if you could read  
7 from a document, I can let you know if I feel qualified to offer  
8 an opinion in that regard.

9 Q. I'm happy to be more specific to guide you a bit. I'm now  
10 referring, Mr. President, to document E3/2370. It is a report  
11 written by, I believe, at that time, one of the most eminent  
12 scholars on Vietnam's policy, Douglas Pike, a foreign State  
13 Department officer and scholar as well.

14 And on page 17 of that document, English ERN, 00187396; and  
15 French, 00344747 and 48; he says the following. And he's  
16 testifying or giving his expert opinion to U.S. Congress in, I  
17 believe, November '78 -- October '78. And he says, and I quote:  
18 "Vietnamese Communists long have regarded a federation of  
19 Indochina as the proper ultimate political configuration for the  
20 peninsula. Of necessity, this would require Cambodian and  
21 Laotians acquiescence, or at least find rulers in the two  
22 countries who are amenable to the idea. In creating a federation  
23 of Indochina, the Vietnamese are in no hurry."

24 [10.09.07]

25 A little bit further:

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1 "Cambodian behaviour in the war is not as irrational as appears.  
2 There is logic both to Cambodian strategy and rhetoric,  
3 particularly when viewed in the light of Cambodian history."  
4 I've helped you a bit. Can you react on what Douglas Pike is  
5 saying to U.S. Congress in October '78?

6 [10.09.44]

7 A. Thank you, Mr. Co-Defence Lawyer. You know, I am aware of that  
8 report. I read it many, many years ago. It's not fresh. But I can  
9 go based on what you said.

10 I think, again, I would agree that if you look at the position of  
11 the leaders of DK, and I'm -- I think I'm answering more broadly,  
12 I think that there absolutely is a logic to what they're saying,  
13 and to portray them as irrational is not accurate. Whether that  
14 logic reflects historical reality is another question, but I  
15 think it would certainly be a mistake to simply dismiss what's  
16 being said about, for example, the intentions of Vietnam.

17 At the same time, it's important to know that acknowledging that  
18 there's a logic, again, does not mean that that logic is  
19 historically accurate. And I think it's important in trying to  
20 understand DK to understand the way that the leaders felt and the  
21 way they perceived relations in terms of Vietnam. I think that's  
22 all very important. But again, to say there's a logic does not  
23 mean that it's historical truth. That needs to be evaluated.

24 Q. Now I'm a bit puzzled. I would argue that Douglas Pike was  
25 very clairvoyant because three months before Vietnam's invasion



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1 and 10-year occupation, he sort of predicted what actually  
2 happened. So isn't it -- isn't his testimony a reflection of what  
3 was about to be happening only three months later?

4 A. Thank you, Mr. Co-Defence Lawyer. You know, I don't know him,  
5 but I think probably, given the escalating conflict between  
6 Democratic Kampuchea and Vietnam at the time, the build-up of  
7 troops, and I assume there was intelligence that saw this and I  
8 think a number of people -- I would have to go back and look, for  
9 example, at Nayan Chanda's reports. He has testimony on record  
10 here that may affirm it, that I don't think it was a -- probably  
11 a surprise to that many people when the Vietnamese-backed army  
12 came in to Phnom Penh a couple -- a few months later.

13 So is it surprising? I don't think probably it's all that  
14 surprising. Probably it's just based on intelligence that was  
15 pretty evident to people at the time, given the conflict that was  
16 taking place. And I would say probably newspaper reporting as  
17 well.

18 [10.12.34]

19 Q. Well, I sincerely doubt that, Mr. Hinton, because both Richard  
20 Dudman and Elizabeth Becker were informed by the State Department  
21 that they didn't think an invasion was about to happen.

22 But leaving that aside, do you know anything about how -- not  
23 scholars, but how the United States itself viewed Vietnam's  
24 ambitions?

25 More particularly, do you know how President Ford and Secretary

1 of State Kissinger viewed Vietnamese ambitions, let's say,  
2 November '75?

3 MR. PRESIDENT:

4 Mr. Expert, please hold on.

5 And Deputy Co-Prosecutor, you have the floor.

6 MR. SMITH:

7 Thank you, Mr. President. I'm not sure whether this is within  
8 this witness' area of expertise in relation to the foreign policy  
9 of the United States at the time. I mean, he may feel comfortable  
10 in answering the question, but it seems to be moving away from  
11 his testimony. It's just an observation at this stage, Your  
12 Honours.

13 MR. KOPPE:

14 I believe Mr. Hinton has offered all kinds of expertise from the  
15 political science to history to, you name it, so maybe he does  
16 know something. Let's ask him and, if he doesn't, then we'll find  
17 out.

18 [10.14.23]

19 MR. PRESIDENT:

20 Mr. Expert, you can respond to that question. You may, if not,  
21 that is fine, because it seems to be a little bit stray out of  
22 the scope of having you as an expert on anthropology in  
23 particular.

24 MR. HINTON:

25 You know, I don't feel, at the moment -- thank you, Your Honour.

40

1 Thank you, Mr. Co-Defence Lawyer. Maybe you could elaborate a  
2 little bit on what you're thinking because I find the question  
3 still is a little bit diffuse, and I'd be interested to hear your  
4 -- what you think about this. But I can't really -- based on the  
5 question, I'm not quite sure if I can answer it, even.

6 So I think if you could provide more information about what  
7 you're thinking and maybe refer to a specific passage of some  
8 sort, I could do my best if it's within my competence.

9 [10.15.15]

10 MR. KOPPE:

11 Maybe also, Mr. President, it would be a good moment to break and  
12 allow also the other parties to review the page of a document  
13 that I'm referring to, which is on the case file, however, is not  
14 on the list.

15 It is something the Defence, big friend, Ben Kiernan, wrote, and  
16 it is -- I will give the ERN so that maybe the parties can have a  
17 look at it and then I can come back to it.

18 It's document D269/5.1, English ERN, 00488244. It is an article  
19 in Ben Kiernan's book, "Genocide and Resistant in Southeast  
20 Asia". It's page 105, from the book, and it talks about President  
21 Suharto's visit to Ford and Kissinger where they discuss  
22 Vietnam's ambitions, more particularly, in November '75.

23 [10.16.34]

24 MR. PRESIDENT:

25 Thank you, Counsel. And also, Mr. Professor, you may refer to

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1 that document during the break time so that you may respond to  
2 the Defence question later.

3 Let us have a short break now, and we will resume at 25 to 11.00.

4 Court officer, please assist the expert during the break time and  
5 invite him back into the courtroom at 25 to 11.00.

6 The Court is now in recess.

7 (Court recesses from 1017H to 1039H)

8 MR. PRESIDENT:

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

10 And before I hand the floor over to the Defence Counsel for Mr.

11 Nuon Chea to put questions to the <expert>, I would like to ask

12 Counsel, Victor Koppe, about the document that you intended to

13 use, that is, document D269/5.1. Have you included this document

14 into the case file yet?

15 [10.40.20]

16 MR. KOPPE:

17 No, we haven't, but we will.

18 JUDGE FENZ:

19 This is the wrong sequence of events.

20 MR. KOPPE:

21 I understand. I understand, but this is something when preparing

22 --

23 JUDGE FENZ:

24 Counsel, just make a request. Make an 87.4 request. We'll deal

25 with it.

1 MR. KOPPE:

2 An 87 request right now and right here. Obviously, it's a very  
3 relevant document. It's a book -- an article from a book of  
4 Kiernan. The part on East Timor obviously is less relevant, but  
5 this particular article when it comes to U.S. and Indonesian  
6 perceptions of Vietnam's ambitions, that is relevant. Especially  
7 this page from that article, we believe, is highly relevant. And  
8 therefore, we request on the basis of Rule 87.4, to have this  
9 admitted into evidence.

10 [10.41.19]

11 JUDGE FENZ:

12 At least one sentence on why not earlier, because 87.4 has this  
13 time element.

14 MR. KOPPE:

15 That's a very good question. We could have done it early, but  
16 sometimes when you re-read things, you just stumble upon it. And  
17 we could have done it earlier. I agree. But in the preparation of  
18 today's witness, I re-read it and saw it again.

19 [10.41.53]

20 MR. PRESIDENT:

21 You may now have the floor, the International Deputy  
22 Co-Prosecutor, whether you have any observations regarding the  
23 putting of document, that is, D269/5.1, as evidence in the case  
24 file so that the Defence Counsel can use it to put question to  
25 the expert.

1 MR. SMITH:

2 Your Honour, it's a large book, so we haven't had an opportunity  
3 to review the book. But my -- our concern more is with the  
4 relevance of the question, what United States and Indonesia's  
5 view of Vietnam's ambitions are, how relevant it is for this  
6 witness.

7 This witness has been asked to testify on the treatment of the  
8 Vietnamese, the treatment of the Buddhists and, to a certain  
9 extent, in relation to S-21, and the treatment of groups in  
10 Cambodia generally as an anthropologist and as a genocide expert.  
11 He hasn't just come here to talk about his book. It's about the  
12 topics and everything that he's learnt since then.

13 But I think the question, if it relates to what you just  
14 mentioned, I think it's beyond his expertise and I think it's  
15 beyond the relevance of the reason why you asked this expert to  
16 come. I mean, if the next session is going to be talking about  
17 foreign states' view of Vietnam's policy, that's not why this  
18 expert was brought here. Obviously, he has good broad knowledge,  
19 but I think it's important we stay within his expertise.

20 Otherwise, we could end up talking about anything, and there  
21 doesn't seem to be much of a relevance to the topics that he was  
22 brought here for. So that's our view.

23 [10.44.03]

24 MR. KOPPE:

25 And if I may respond, Mr. President, I was actually --

1 MR. PRESIDENT:

2 Please hold on.

3 Now I would like to give the floor to the Lead Co-Lawyer for  
4 civil party to express your observation.

5 [10.44.22]

6 MS. GUIRAUD:

7 Thank you. Thank you, Mr. President. Good morning to all of you.

8 The document, in fact, has been admitted, so I would like to  
9 provide to the Defence the number. It's E3/9686. And the problem  
10 is simply that the document has not been included in the list  
11 that should be forwarded to the expert and that it has not been  
12 included, therefore, in the interface, which has not allowed the  
13 parties to become aware of this document in a timely fashion. So,  
14 E3/9686.

15 And I completely support the observations of the Co-Prosecutor  
16 regarding the relevance of the questions that were put for the  
17 past half hour to the expert. We believe that the questions put  
18 by Counsel Koppe are completely outside of the expert's scope of  
19 expertise and outside <> the scope of <decision E3/388, by> which  
20 the Chamber proposed to have this expert testify.

21 So we're calling <on> the Chamber to be more vigilant to make  
22 sure that the questions put are relevant and <related> to the  
23 expert's expertise, who is an anthropologist. We have heard Koppe  
24 tell us for the past day and a half that the expert was an  
25 anthropologist and, therefore, that he should remain focused on

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1 his field of expertise. So we are expressing the same thing <and  
2 we will rise> each time we have the impression that the questions  
3 that <he is asking> are outside of the expertise of the expert<>.

4 [10.46.04]

5 MR. KOPPE:

6 Let me start first by thanking very much civil parties for saying  
7 that it is actually already on the case file. We hadn't noticed  
8 that, so that is -- that makes it all easier.

9 I was actually about to introduce my questions by indicating as  
10 to why I was asking my questions to Mr. Hinton. I have moved,  
11 without actually saying so, into a new chapter of my questions.

12 We believe that the perception of DK and the rest of the world of  
13 Vietnam's foreign policy or Vietnam is intrinsically linked to  
14 the treatment of the Vietnamese. You cannot understand certain  
15 things in contemporaneous documents if you do not understand the  
16 position of DK in relation to Vietnam.

17 So it's terribly important to not separate those two, something  
18 Prosecution and the civil parties have been trying all along.

19 [10.47.17]

20 The actions of Vietnam, Vietnam being the external enemy, are  
21 incredibly important to have a full understanding as to how we  
22 should see the alleged or the -- the alleged treatment of the  
23 Vietnamese. So, one cannot be seen without the other.

24 That's why I'm focusing my questions now on Vietnam as the  
25 external enemy, and then we'll move slowly into those within the



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1 CPK assisting Vietnam being perceived as the internal enemies.

2 And from that follows how the treatment of the Vietnamese should  
3 really be seen.

4 JUDGE FENZ:

5 I think we have said it before. I trust this expert is able to  
6 say if a question -- to state if a question is outside his  
7 expertise. We have all noted this kind of cross-over, which is  
8 permanent. I've also noted that you repeatedly said, "Sorry, not  
9 my field".

10 So while we would still ask, obviously, Counsel to keep in mind  
11 that this is an anthropologist.

12 [10.48.41]

13 MR. KOPPE:

14 I agree very much, Judge Fenz. I'm not sure if, at all times, Mr.  
15 Hinton kept himself to that particular expertise.

16 However, let me move to my question, but before I move to that  
17 question as to how Vietnam's foreign policy was seen, my team has  
18 just informed me that there is, in fact, a video of a speech of  
19 late King Father Sihanouk, speech probably in the early eighties,  
20 in which he literally addresses Vietnam as "A Yuon", the  
21 "contemptible Yuon", and refers to them as the crocodile.

22 Something, of course, that you are not in a position to verify,  
23 but my Khmer team members are saying that, despite what --

24 [10.49.48]

25 JUDGE FENZ:

1 What's the number? What's --

2 MR. KOPPE:

3 No, no. It's not -- it's not on the case file

4 JUDGE FENZ:

5 Then stop discussing it, Counsel. Sorry. It's not on the case  
6 file and, as you said, the Court is in no position to verify what  
7 you are saying. I don't think we should discuss it.

8 MR. KOPPE:

9 Well, if it's not on the case file --

10 MR. PRESIDENT:

11 The Chamber gives the floor to Judge Lavergne.

12 JUDGE LAVERGNE:

13 Well, I'm not going to comment about documents that are not on  
14 the case file, but I'd like to return to the document that you  
15 would like to use, Counsel Koppe. And apparently, the document  
16 indexed E3/9686 only contains six pages, and not page 105,  
17 <which> you apparently would like to use. So this document is not  
18 -- has not been placed in its entirety on the case file. So if  
19 you wish to use it, we would like to know if the parties object  
20 to it or not.

21 There are two questions. There's the question of the relevance of  
22 your question, and there's also the question of the admissibility  
23 of the document. So I don't know if the parties wish to object to  
24 the admissibility of this document.

25 [10.51.18]

1 MR. SMITH:

2 So Your Honours, I believe we're informed it was on the case  
3 file, but now you're saying only a few pages. Your Honours, I  
4 think to have these proceedings run in an orderly manner, the  
5 Defence have put forward many, many documents to put to this  
6 witness. We object to the using of this document.

7 It's not on the interface. It sounds like now it's not -- hasn't  
8 been put before the Chamber properly. It hasn't been given to the  
9 Defence. And the way it was pitched in terms of the question that  
10 was to be used, we think it's of minimal relevance.

11 If it was so important to the Defence, they should have placed  
12 the document on the case file a lot earlier, and this witness has  
13 been scheduled to testify for a long time. And I think for order  
14 in the Court in terms of predictability, I don't think the  
15 document should be admitted.

16 [10.52.19]

17 MR. KOPPE:

18 It's on the case file, Mr. President, since March 2010, probably  
19 actually placed by the Prosecution on the case file. It doesn't  
20 have an E3 number. That's all.

21 It's only a few sentences. Mr. Hinton has been able, in the  
22 break, to have a look at it. We believe it's very relevant  
23 because it confirms the position of DK in relation to Vietnam's  
24 foreign policy toward Democratic Kampuchea, that it was not  
25 something -- some paranoia on the side of DK but, rather, a

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1 fully-backed view of Vietnam and Soviet Union ambitions.  
2 So we believe it's very relevant, and I would like to remind the  
3 Court that I actually started with an open question and then Mr.  
4 Hinton asked for a confirmation of -- in a document, which I was  
5 happy to provide.

6 [10.53.30]

7 MR. PRESIDENT:

8 <Do you have any point to make?>

9 MS. GUISSÉ:

10 Thank you, Mr. President. Good morning to all of you. Simply as  
11 an observation, in the course of <your deliberations>, it's true  
12 that Rule 87.4 states that when we prepare an expert, we do not  
13 necessarily always think about it way ahead of time. I'd like to  
14 remind you that Mr. Hinton was programmed only a month ago. And  
15 since he's an expert and since this is a document that is  
16 connected with <a writer>, Ben Kiernan, who the expert says he  
17 knows well and which he used for his research, I don't think  
18 there should be a problem regarding the use of this document.

19 [10.54.27]

20 MR. PRESIDENT:

21 Counsel Victor Koppe, do you have any other points to make?  
22 But I would like to notify you that you cannot proceed with  
23 putting questions to the expert. We need to wait until the  
24 Chamber, the Bench clarify on this issue first.

25 BY MR. KOPPE:

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1 No problem at all, Mr. President, because I have plenty of other  
2 documents still that say the same thing.

3 Q. So let's move away, Mr. Hinton, as to what President Ford and  
4 Kissinger and also President Suharto are saying about Vietnam's  
5 ambitions. There is ample evidence on the case file which does  
6 indicate what neighbouring countries perceived as Vietnam's  
7 ambitions at that time.

8 Do you know who Deng Xiaoping was?

9 [10.55.41]

10 MR. PRESIDENT:

11 The floor is given to the Deputy Co-Prosecutor.

12 MR. SMITH:

13 Mr. President, I would just like to make a general point at this  
14 stage. Throughout this morning, the Counsel has been making  
15 statements about facts and then presenting another question to  
16 the expert. We are submitting that's not appropriate.  
17 Counsel should just put questions to the expert. Giving a small  
18 speech about other people's views and what's on the case file and  
19 what it proves and what it doesn't prove, I don't think it's  
20 appropriate. I think Counsel should just ask the witness the  
21 question, but not give speeches.

22 This has happened a number of times today, and I would just like  
23 to make this objection now in terms of the manner of questioning.  
24 Sometimes there needs to be background, but certainly not to make  
25 speeches about what the evidence is and what it's not and then

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1 ask the expert a different question. So that's the observation I  
2 would like to make.

3 [10.56.52]

4 BY MR. KOPPE:

5 Thank you very much for this observation.

6 Q. But my question was -- I don't hear any objection -- whether  
7 Mr. Hinton knows who Deng Xiaoping was.

8 MR. HINTON:

9 A. Thank you, Mr. Co-Defence Lawyer. Yes, I do. I just want to  
10 also add in a point of clarification in a couple of regards. In  
11 terms of the discussions that have been taking place about my  
12 research, it's -- and going back to a comment that you made, Mr.  
13 Co-Defence Lawyer, about Ben Kiernan being supportive of my work,  
14 if you open up and look at the preface of my book, I cite many  
15 scholars, David Chandler, May Ebihara, Judy Ledgerwood, John  
16 Marston. There are literally dozens of scholars I think.

17 [10.57.46]

18 And this sort of movement of saying there's sort of Ben Kiernan,  
19 myself, David Chandler really reduces the number of scholars  
20 who've worked in this area and the number of scholars, in  
21 particular, that inform my research. You know, there are many  
22 different people.

23 We've mentioned Nayan Chanda, Tuol Sleng notebooks, CPK  
24 notebooks, radio broadcasts. There's the work of people like  
25 David Hawk and Han Nung (phonetic), who worked in the 1980s on

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1 the charge of genocide. Greg Stanton, Craig Etcheson, Steve  
2 Heder, who you mentioned. Michael Vickery, who you mentioned,  
3 court transcripts. The list goes on in terms of anthropologists.  
4 May Ebihara, who worked in a village and has done work on the  
5 lived experience of DK. The list is extensive. John Marston.

6 [10.58.34]

7 So I think in terms of trying to understand the DK period and  
8 what happened, it's important in relationship to my work to  
9 understand that I've been influenced by a wide range of people, a  
10 number of documents. And I don't want it to be reduced down to  
11 this very narrow vision of who have influences on my scholarship.  
12 The other thing, people have -- there's a way of talking, oh, an  
13 anthropologist. I tried to explain that an anthropologist is  
14 concerned with lived experience, but also needs to be holistic  
15 and learns about multiple fields.

16 Nowadays, in terms of scholarship, many scholars operate in a  
17 number of different inter-disciplinary fields. And so, I'm happy  
18 with the focused question to try and see if I can answer. If you  
19 actually -- if you ask a specific focused question, that would be  
20 good.

21 So I just wanted to make those two sort of points of  
22 clarification just so we don't have these sort of reductive  
23 images of what an anthropologist is, and also, the number of  
24 scholars with whom I've interacted.

25 I think if the translation was correct, it was said that I'm a

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1 close friend of Ben Kiernan. I'm a colleague of Ben Kiernan. I  
2 think I may have had lunch with him once when I gave a talk at  
3 Yale. I don't -- I don't think I've ever talked to him on the  
4 telephone, for example.

5 [11.00.00]

6 So I think we need to be careful about making reductive  
7 statements about influences and recognize that, as a scholar,  
8 I've drawn on a number of different sources in coming to my  
9 conclusions and that, as an anthropologist, I do my best, for  
10 example, to understand foreign policy and certainly in  
11 relationship to seeking the truth, and trying to understand the  
12 relationship of U.S. foreign policy in relationship to Vietnam,  
13 and also the logic of the CPK leadership. I think for  
14 understanding the truth, that's absolutely important.

15 But I would just request that, as opposed to piecemeal sort of  
16 selective questions, a good focused question and I can tell you  
17 whether or not I can respond broadly to the point.

18 I was happy to respond to the other document, but now it's not  
19 admissible. If you have another document, I'm happy to proceed.

20 [11.00.52]

21 Q. Before I return to my Deng Xiaoping question, now that you  
22 brought it up, I'm happy to be a bit honest as to why I was  
23 focusing on Chandler and Kiernan because when I read your book,  
24 it was as if I was reading Kiernan or Chandler. Let me give you  
25 an example.



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1 In one chapter, or one or two chapters, you use the word  
2 "paranoia", paranoia with Pol Pot, paranoia with the Party  
3 Centre, paranoia in S-21, about 25 times. Real and perceived  
4 enemies, especially the word "perceived", I think about 15 times.  
5 That is a theory developed by Kiernan and Chandler predominantly.  
6 So that's where it's coming from, but that's not important.  
7 Let me move away from that, Mr. Hinton, and let me get back to  
8 Deng Xiaoping. Do you know who he is?

9 [11.02.03]

10 A. As I said before, yes, I do. But I'd like to also respond that  
11 in terms of the scholarship, I don't think that it's just Ben  
12 Kiernan and David Chandler who speak this way. It's many  
13 different people. In terms of the relationship and the use of the  
14 word "paranoia", there's some people who bandy it about, but I  
15 actually embed my discussion of paranoia in relationship to local  
16 cultural understandings and do it in a very different way, I  
17 think, and talk about building paranoia in the CPK leadership,  
18 real or perceived, is something that a large body of scholarship  
19 -- most of the scholars I read support in their conclusions.  
20 I don't -- I think it's very reductive of the scholarship to  
21 imply that it's simply two people. I also think that it's  
22 important to look, for example, at the work of Cambodians in the  
23 Documentation Centre of Cambodia, who you've mentioned before,  
24 who also have done extensive research now.

25 [11.02.55]

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1 So again, I think to try and understand the DK regime solely  
2 through these two lenses as if that's the scholarship, is a  
3 reduction and I also think that it's -- to say that they're  
4 exactly the same, earlier, you implied that there were  
5 significant differences between the two, if I understood your  
6 correctly.

7 Q. True. Maybe at one other time we should have this discussion,  
8 but I will get back to the word "paranoia" and real and perceived  
9 enemies later.

10 Again, Deng Xiaoping, who was he and do you know what he -- what  
11 China's position was on Vietnam, Vietnam's policy toward  
12 Democratic Kampuchea?

13 A. Yes. And in terms of policy, the policy of China during the DK  
14 regime was to support the CPK, largely, and to contain Vietnam.

15 Q. Deng Xiaoping once called Vietnam "the hooligans of the east".  
16 In your expert opinion, being someone who says he knows quite a  
17 bit about propaganda, is that a racist vision of Vietnam as well,  
18 Vietnam being the hooligans of the east?

19 [11.04.35]

20 A. Thank you, Mr. Co-Defence Lawyer. You know, so we don't have a  
21 context for the question. Maybe if you could provide more context  
22 and also maybe say what your opinion is and I could say whether  
23 or not I'm able to, give my affirmation if that seems reasonable  
24 or not. But I think in terms of a series of decontextualized  
25 questions, it's very hard to proceed.

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1 You, yourself, tried to say that what I was supposed to speak  
2 about was my book and the research in my book, predominantly, and  
3 my field -- ethnographic field research from 1994 to 1995. And  
4 when I spoke outside of that purview to talk about my subsequent  
5 research, I was told not to talk about it.

6 Now you seem to be telling me that I should speak about all sorts  
7 of different things that are outside of this domain.

8 [11.05.19]

9 I'm happy to try and assist the process as an expert witness and  
10 answer questions, but I -- it seems that you have a contradiction  
11 in the sorts of things that you're asking me about. And also,  
12 when I received information from the Prosecution -- Office of the  
13 Co-Prosecutors and from the civil party lawyers, they asked  
14 specific questions related to documents. I have a binder full of  
15 documents to which I referred very readily.

16 I don't have those. Instead, I'm getting fragments of information  
17 that are decontextualized, some of which I'm being shown for the  
18 first time during breaks.

19 Again, I very much want you to be able to express the views of  
20 the Defence about these issues, and I would like to assist and  
21 help in that, but I need more specific context and more order.

22 And again, I note this contradiction that, on the one hand, when  
23 it's suitable, I'm just -- quote, unquote, just an  
24 anthropologist, but then, at other times, I'm supposed to be a  
25 foreign policy expert.

1 I think the purview of my competence is inter-disciplinary as a  
2 genocide scholar, but again, I think that, you can't have it both  
3 ways.

4 Q. To that last point, I fully agree, Mr. Hinton.

5 Let me read to you a document that you actually --

6 MR. PRESIDENT:

7 Counsel, please hold on.

8 And International Deputy Co-Prosecutor, you have the floor.

9 [11.06.40]

10 MR. SMITH:

11 Your Honour, I think the witness has given the answer and that  
12 the questions by Counsel need to be very specific and relevant to  
13 the segments of this trial. And these circuitous questions are  
14 putting this expert in a very difficult position, so we'd ask  
15 that Counsel focus on treatment of the Vietnamese, treatment of  
16 the Buddhists, S-21 and any directly-related questions to that  
17 that may be broader.

18 And also, because documents are not in front of this expert, if  
19 Counsel could give a specific document and ask him to comment on  
20 it rather than a general discussion. I think the expert needs  
21 this support.

22 [11.07.29]

23 BY MR. KOPPE:

24 I was about to do that, Mr. President. That is a document that  
25 was provided to Mr. Hinton.

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1 It's E3/7325. It's a report January 1979, of the Standing  
2 Committee member of the Chinese Communist Party Politburo. It, in  
3 our view, represents China's views on Vietnam, Vietnam's foreign  
4 policy which we, again, believe is a crucial thing to understand  
5 DK's policy when it comes to Vietnam, when it comes to the matter  
6 of internal and external enemies.

7 Q. Let me read to you, Mr. Hinton, from page, ERN 01001622;  
8 Khmer, 01063797; the French I will provide a bit later with your  
9 leave, Mr. President. It says the following:

10 "In 1973, in order to remind the Cambodian leaders to maintain  
11 constant vigilance, Chairman Mao also told Sihanouk that Ho Chi  
12 Minh had talked with Chairman Mao about the establishment of an  
13 'Indochina Federation'. After 1974, Vietnamese troops coordinated  
14 with the revolutionary forces of Cambodia in various battles in  
15 Cambodia. Vietnam seized this opportunity to cultivate a group of  
16 pro-Vietnam Cambodian leaders. The seed of disaster was thus  
17 sown."

18 [11.09.34]

19 And a little bit before:

20 "As a matter of fact, as early as before the liberation of South  
21 Vietnam, Vietnam had harboured malicious intentions. The small  
22 handful of its war maniacs, at the instigation of their social  
23 imperialist behind-the-scenes boss, had wanted to encroach on  
24 Cambodia, drawing it into the so-called 'Indochina Alliance', and  
25 turning it into the springboard and base of social imperialism."

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1 This, we believe, represents the official Chinese view on  
2 Vietnam, and this, we believe, we shared by the American  
3 administration in '75.

4 Yesterday, we spoke about the word "Yuon", whether that refers to  
5 Vietnamese or whether that refers to Vietnam. In light of that  
6 word, also used in the Revolutionary Flags, the document that was  
7 shown to you yesterday or read out to you yesterday, what is your  
8 reaction to these Chinese perceptions of Vietnam's foreign policy  
9 toward Democratic Kampuchea?

10 [11.11.12]

11 MR. HINTON:

12 A. Thank you, Mr. Co-Defence Lawyer. I believe that those  
13 perceptions may well have been the perceptions of the leadership,  
14 and certainly appears to have been a fear of the CPK leadership.

15 Q. You have been called to testify specifically in relation to  
16 the treatment of Vietnamese people in DK. You've said all kinds  
17 of things yesterday about Vietnamese. They were all killed.

18 That's what you said.

19 My question to you is, if you can say something from an  
20 anthropological view, how DK's perception of Vietnam's ambitions  
21 was intertwined with its treatment of Vietnamese citizens.

22 A. Again, it would be useful to have specific documents at hand.  
23 We've seen a number introduced, so I -- the point that, indeed, I  
24 think the CPK leadership had fears about Vietnam and I think part  
25 of these fears became manifest through a discourse of incitement,

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1 strong, vehement racist, anti-Vietnamese and anti-Vietnam  
2 discourse.

3 But as I said before, the word "Yuon" is a diffuse word, right,  
4 so it can refer to ethnic Vietnamese in Cambodia as well as to  
5 people from Vietnam, to both groups, so it's a word that's used  
6 and has a double valence.

7 [11.12.58]

8 Q. Now we're actually getting to the point that I'm trying to get  
9 at. You always seem to be saying DK had fears, DK had a  
10 perception of an enemy. Enemies were perceived, sometimes real,  
11 but mostly perceived. Democratic Kampuchea was paranoia, Pol Pot  
12 was paranoia. Everybody was paranoia within the CPK.

13 My question is, isn't it true that Vietnam was a real enemy and  
14 that the fears of DK and the CPK were real and were backed by  
15 countries like China, Indonesia, United States? There was a real  
16 threat, a threat that materialized, by this blatant act of  
17 aggression, the invasion in '79.

18 [11.14.07]

19 A. Thank you, Mr. Co-Defence Lawyer. While there are elements of  
20 truth to what you're saying, it needs to be acknowledged, I  
21 think, that you can't simply make a singular statement that  
22 covers the entire DK period. As I said before, there's a temporal  
23 flow, and you, yourself, invoked the work of Michael Vickery, who  
24 has emphasized the need to think about temporal variation. So to  
25 simply take something to decontextualize it erases the nuance of

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1 the historical flow.

2 In terms of the rhetoric about Vietnam and about, as the word is  
3 used, "Yuon" that appears, as I said before, if you look at the  
4 enemies of the state, you have a change. And again, this came out  
5 if you look at the enemies that were perceived at S-21, it's very  
6 evident.

7 If you go back to M-13, as I said before, you have people who  
8 were thought to be Lon Nol spies are being brought in. There's a  
9 little bit of purging, internal purging, that's going on. It  
10 shifts. The Khmer Republic is targeted, in part, in the next  
11 phase. Then it goes on and it begins, especially after March  
12 1976, to focus much more on internal enemies. And you have the  
13 beginning of large-scale purges, as you're well aware, as you  
14 begin to have towards especially accentuated and becoming much  
15 more prevalent in the CPK discourse, a focus on Vietnam and on  
16 "Yuon", one that, as the war escalates into 1978, becomes more  
17 and more -- becomes a stronger and stronger strand.

18 [11.15.40]

19 But it's important to know that, from the very beginning, the  
20 word "Yuon", traces of it can be found, but it definitely  
21 increased in vehemence through time.

22 But as I've said before, if you look at the course of the  
23 genocide against the ethnic Cham and you look at the course of  
24 the genocide against ethnic Vietnamese, the element of racism was  
25 there from the beginning even as the public expression of it --



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1 again, if you look at the volume of it, it was stronger in 1978  
2 than it was, for example, in 1975.

3 [11.16.08]

4 Having said that, the concerns being real, I believe that the  
5 leaders of the CPK believed that the threat was real and they  
6 reacted accordingly. Whether or not to say that the fact of the  
7 January Vietnam invasion -- Vietnamese-backed invasion at that  
8 point in time, the fact of it taking place, you can't simply say,  
9 oh, the threats were reasonable the entire time. It's a  
10 historical process.

11 You mentioned again -- you know, we talked -- well, I mentioned  
12 before Nayan Chanda's work. He talks about you have Khmer Rouge  
13 -- DK forces going into Vietnam and committing all sorts of  
14 atrocities. He went to villages.

15 So there was also a provocation that played into this process,  
16 but -- so to lead up to the events of early January where the PRK  
17 regime eventually was formed, you have to look at the larger  
18 historical context. You can't look at the DK regime as passive.  
19 They are actors.

20 And there's another dimension of it, which is that to say that  
21 there's a felt threat of an external enemy is one dimension, but  
22 there's also a felt threat of internal enemies. And you  
23 constantly get that, internal enemies brewing from within that  
24 may be agents of CIA, KGB, Vietnam, what have you.

25 [11.17.34]

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1 Q. Let me stop you there. I apologize. But in your answer,  
2 although very long, I'm not quite sure if you answered my  
3 question, but again I hear you saying that, sure, they thought  
4 there was a threat or they perceived -- you didn't say perceived,  
5 but they perceived there to be a threat.

6 The reason I was putting the historical context to you before is  
7 that these fears were genuine, were real and were perceived by  
8 everybody who knew at the time that they were real, that it isn't  
9 some form of paranoia, that only in understanding Vietnam's  
10 foreign policy you can understand the Revolutionary Flag that was  
11 cited by the Prosecution.

12 So my question again is -- and that's, I think, what most  
13 scholars seem to be doing is minimizing the threat of Vietnam.  
14 Now, let me put it a bit further.

15 [11.18.50]

16 Yesterday, I think about four or five times, you made a  
17 comparison to Nazi Germany. You said yourself that you are an  
18 expert on propaganda.

19 Isn't it true there is a huge difference between, on the one  
20 hand, how Nazi Germany viewed Jews and how they were treated as  
21 opposed to how Vietnam saw -- how DK saw Vietnam and how DK  
22 ultimately treated its citizens, its Vietnamese citizens?

23 A. Thank you, Mr. Co-Defence Lawyer. And I think you raise a very  
24 interesting point, an important point, and it's one that I tried  
25 to convey in the very first session when I began to speak about

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1 Rafael Lemkin and the origins of the word "genocide".  
2 Part of what I was attempting to do at that time, now that you've  
3 raised the issue again, is to trace the evolution of the word,  
4 how it began and how it emerged in the aftermath of what is now  
5 called the Holocaust. And I say what is now called the Holocaust  
6 is because if you go back to Nuremberg, of course, that wasn't a  
7 term that was being used. It was "crimes of aggression", "crimes  
8 of peace" that were being -- "crimes against humanity". Those  
9 were things that were being talked about, even as it was being  
10 introduced.

11 What's happened is, in common discourse, and I think if I  
12 remember the testimony of Philip Short, this is a good example,  
13 that people have a discourse, a way of saying, well, genocide is  
14 what happened in the Holocaust. Well, if it looks like the  
15 Holocaust, it's genocide. If it doesn't look like the Holocaust,  
16 it's not genocide.

17 [11.20.51]

18 That perception, that common perception and that argument, is not  
19 showing an understanding of genocide studies, the field of  
20 genocide studies, and the scholarship that's been done, the ways  
21 in which the definition's been unpacked and looked at in  
22 different ways.

23 Looking at the 1946 resolution that was passed that included  
24 political groups at that point in time, was open to looking at  
25 economic group and social groups, it decontextualizes and

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1 dehistoricizes and even the nuance of the debates at the UN about  
2 the word "genocide" at this time, right, these terms, "What is a  
3 national group?", "Should we include cultural genocide as an  
4 issue?" These were all debated and emerged as a historical  
5 product at a moment in time.

6 [11.21.34]

7 But again, to think, "Oh, something is like or not like the  
8 Holocaust, therefore, it is or is not genocide", is a mis-put way  
9 of framing it even from the terms of the Genocide Convention.  
10 Having said that, I'd like to note that, as I said before, I've  
11 traced out a process of what I call genocidal priming and  
12 genocidal activation, right. So we go through a series of states.  
13 As in the DK regime, as in Nazi German, you had a state of  
14 socioeconomic upheaval. You had, again, a process by which  
15 difference was manufactured where you had pre-existing divisions  
16 that were crystallized over time. You had the marking of  
17 difference. You had the reorganization of society so that the  
18 people who were being targeted -- and the obvious example, one of  
19 those is the rounding up of Jews, placement in concentration  
20 camps, regulation, a bureaucracy of control, a targeting of these  
21 groups and then, once they're stigmatized, disempowered, and a  
22 gradual elimination of the groups that have been targeted in  
23 whole or in part.  
24 That process itself is a direct parallel and a process and a  
25 dynamic that occurs in a number of genocides. It's one that

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1 occurs during the DK regime. It's one that occurred during the  
2 Holocaust.

3 Having said that, as I mentioned before, had I been able to go  
4 into length about the origins of the word "genocide" and the way  
5 we think about it, there are other sorts of genocides that take  
6 place, for example, genocides against indigenous peoples in  
7 different places.

8 [11.23.06]

9 But again, it's important not to simply say, "Oh, you know, do we  
10 have Auschwitz?" although some people link Tuol Sleng to  
11 Auschwitz as a metaphor. It's to look at what the understanding  
12 of genocide is, what the dynamics of genocide are and then to  
13 look to see if the processes are similar.

14 Based on my research, it seems clear that this is a case of  
15 genocide both on the basis of the 1946 resolution, on the basis  
16 of the UN Genocide Convention, on the basis of a wide body of  
17 scholarship that allows attention to a wide range of groups. From  
18 all -- in all those different ways, it's a genocide.

19 [11.23.43]

20 Q. I find the comparison very unpractical, but that -- the reason  
21 that I referred to it is because you kept bringing it up  
22 yesterday.

23 But let me, now that we're on the subject, make a step to the  
24 side and ask you with one -- with two or three examples, whether  
25 you believe, as a genocide scholar, that these mass killings or

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1 mass deportations or mass confinements are also -- can also be  
2 qualified as genocide. And I'll give you four examples.  
3 The mass internment of Japanese people in 1941 subsequently in  
4 the United States, dehumanizing, I suppose, and generalizing  
5 Japanese citizens. Do you consider that to be genocide as well,  
6 or acts of genocide?

7 A. Thank you, Mr. Co-Defence Lawyer. Again, it depends on what  
8 definition you use to begin to make a determination of whether or  
9 not this would or would not be a genocide. So are you using the  
10 UN Genocide Convention? Are you using Helen Fein's definition?  
11 Are you using Israel Charny's definition? You know, it depends --  
12 first of all, the first thing you need to do is have your  
13 methodological definition and then your conclusions proceed from  
14 there.

15 [11.25.21]

16 Q. Well, let me interrupt you. The problem with -- I believe with  
17 your opinions is that the word "genocide" is all over the place.  
18 It is mass killings, political violence. It doesn't seem to  
19 matter.

20 So my question to you, you said you are a genocide scholar. The  
21 mass internment of Japanese citizens in '41, dehumanizing the  
22 context of the socioeconomic upheaval in the war, etc, was that  
23 an act of genocide in the U.S.?

24 [11.25.56]

25 MR. SMITH:

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1 Your Honour, I have no objection to the question, but the point I  
2 raised earlier, the critiquing and criticizing of the expert  
3 prior to asking a question, I think he should ask the direction  
4 question.

5 And the other aspect is, he's mischaracterizing these -- this  
6 expert's position. He states that he's all over the place, using  
7 definitions and not.

8 No, he's not. I mean, Counsel -- everyone's read his book. He's  
9 very clear about what he means when he's talking about genocide,  
10 regardless of how, Your Honours, decide.

11 So criticizing the expert, mischaracterizing his position and  
12 then asking him a question, that's just not appropriate.

13 It's a reasonable question. He should just ask the question  
14 rather than make a speech every time he proceeds with a question.

15 BY MR. KOPPE:

16 Fine. No problem. I'll just ask the question.

17 Q. In your expert opinion, the treatment of the Japanese in the  
18 U.S. in '41 and subsequently, was that a form of genocidal acts  
19 on the part of the United States government?

20 MR. HINTON:

21 A. Thank you, Mr. Co-Defence Lawyer. And you know, you raise a  
22 very interesting question, one that deserves further study. I'm  
23 not an expert on the Japanese internment, though I know something  
24 about it.

25 Again, one of the mistakes that's frequently made is people bring

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1 up a random case about which not a lot is known or they may not  
2 know a lot and they begin to make pronouncements about whether  
3 something is or is not genocide.

4 [11.27.48]

5 In the corpus of literature that exists within the field of  
6 genocide studies, you will find virtually very little or no  
7 mention of this case, which, again, does not mean that it should  
8 be taken up and considered, but you need to do in-depth research  
9 along the lines of the research I've done on the DK period and on  
10 a number of other genocides.

11 Having said that, if you look at the process of genocidal  
12 priming, as I mentioned before, where you have groups in a  
13 situation of upheaval which is taking place at the time, you have  
14 groups which begin to be marked and also organized, you see the  
15 genocidal -- the potential of a genocidal process being  
16 activated.

17 [11.28.26]

18 So if I had to give you a quick answer with the caveat that to  
19 give you a full, accurate answer, I would need to do more  
20 research and become an expert on this area, I would say that you  
21 have a situation that's lukewarm, in terms if we think of this  
22 metaphor of heat. But as I said before, there's also a process of  
23 genocidal activation.

24 That process is not -- that is not present, so we don't -- we get  
25 to a situation where you have the potential for genocide, but in



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1 fact, not a case of genocide. But again, I would put the caveat  
2 that, for all of us, we want to do in-depth research on a case.  
3 And this isn't a case that is discussed widely within the field  
4 of genocide studies. It's one that's mentioned. It's one that  
5 deserves further study.

6 Q. Let me move on and give you a second example, the deportation  
7 -- massive deportation of Vietnamese people of Chinese origin,  
8 mostly Chinese origin, by the Socialist Republic of Vietnam  
9 leading to hundreds of thousands of boat refugees, massive deaths  
10 of those people.

11 Would you consider that to be genocide?

12 [11.29.52]

13 A. Again, as opposed to doing a simple -- with not having a  
14 massive body of knowledge and doing in-depth study, as all of us  
15 should do, this, again, is not a case that's within the canon and  
16 the focus of study of the field of genocide studies.

17 So I'd like to do -- I would -- before giving a pronouncement, I  
18 would like to do lots more research, but once again, I would say,  
19 based on what I do know, that again, if you look at the process  
20 of genocidal priming, you, again, have a situation that perhaps  
21 is lukewarm, but there's not activation. But again, it -- it  
22 would be superfluous to simply throw out an, as an arbiter of  
23 truth, yes or no without in-depth study.

24 [11.30.33]

25 As I said before, with regard to DK regime, I've done extensive

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1 research -- in-depth research that it seems clear that it's a  
2 case of genocide. It's a conclusion that's supported within the  
3 field of genocide studies by many others as a case of genocide  
4 studies. So going back to the topic at hand which is DK, yes --  
5 Q. I think -- I believe Chandler and Short all say there wasn't  
6 any genocide, but let me give you a third example; an example  
7 which probably had the most effect on Cambodia, which probably  
8 had a deep impact on strategy, tactics of the CPK; an example  
9 very -- of mass killings very close to -- to Cambodia.

10 The 1965 massive killings, about half a million, in a few months,  
11 of Indonesian communists by the regime of Suharto -- apparently  
12 backed by CIA and American authorities -- was that a genocide?.

13 A. Thank you, Mr. Co-Defence Lawyer. That case is much more  
14 discussed within the field of genocide studies, especially given  
15 the intent of the 1946 Resolution, which included political  
16 groups. That case is, within the field, considered a case of  
17 genocide.

18 Q. And subsequently, using that same reasoning -- and I believe  
19 you said it yesterday -- the treatment of the Vietnamese by the  
20 Lon Nol Republic would amount to acts of genocide as well?

21 [11.32.38]

22 A. Thank you, Mr. Co-Defence Lawyer. I believe what I said is  
23 that we need to study this period much more, but that it's quite  
24 possible that this was a genocide. But again, with a need to  
25 study moments of history that are understudied -- we don't have

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1 enough knowledge about to make a -- a considered answer. We would  
2 need to study more, but I think the possibility -- that is  
3 certainly a possibility.

4 Q. And -- and the third example of mass killings are very close  
5 by, supported by, again, United States, the mass killings in East  
6 Timor in 1975. Kiernan calls it a genocide; do you too?

7 [11.33.27]

8 A. Thank you, Mr. Co-Defence Lawyer. Again, within the field of  
9 genocide studies, this is a case that's often discussed as  
10 genocide.

11 Q. Knowing -- now, a bit clearer as to what you consider  
12 genocide, I would now like to move back to the internal enemies.  
13 But I -- I see Mr. President, it is 11.30 so maybe this is a good  
14 time to break.

15 MR. PRESIDENT:

16 Thank you, Counsel.

17 And Counsel for Khieu Samphan, you have the floor.

18 MS. GUISSSE:

19 Yes, Mr. President, and very briefly speaking, I would like that  
20 we take advantage of the break to provide a folder with a few  
21 documents to the expert; these are documents that <should  
22 normally have been> provided to him before by the Chamber, but <>  
23 I will be referring to these documents when I <question> him.  
24 And these are documents E3/123, E3/221, <E3/4604>, E3/4527,  
25 E3/3995, and E3/727 and in particular, there was a document used

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1 by the <Co-Prosecutor>, but since I didn't remember the number --  
2 the index number that he had in his folder, I'm providing it to  
3 you again.

4 These are documents that <were on the list and that> are on the  
5 interface, in any case, so with your leave, Mr. President, can we  
6 use them?

7 [11.35.14]

8 MR. PRESIDENT:

9 Yes, you may do so.

10 JUDGE FENZ:

11 (Unintelligible) do you have access to these documents? Did you  
12 note that down now because I think the idea is for you to read  
13 it? Oh, I see, okay.

14 MR. PRESIDENT:

15 It's now appropriate for our lunch break. We take a break now and  
16 resumed at 1.30 this afternoon.

17 Court officer, please assist Mr. Expert during the break time and  
18 invite him back into the courtroom at 1.30 this afternoon.

19 Security personnel, you are instructed to take Khieu Samphan to  
20 the waiting room downstairs and have him returned to attend the  
21 proceedings this afternoon before 1.30.

22 The Court is now in recess.

23 (Court recesses from 1136H to 1332H)

24 MR. PRESIDENT:

25 Please be seated.

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1 The Chamber is now back in session and I would like to give the  
2 floor to the defence counsel for Mr. Nuon Chea to continue  
3 putting questions to the expert. You may now proceed.

4 [13.33.36]

5 BY MR. KOPPE:

6 Thank you, Mr. President. Good afternoon, Your Honours.

7 Q. Mr. Hinton, before the break in the morning, I have tried to  
8 -- to see if I could establish with you that as of, at least, 17  
9 April 1975, Vietnam was rightfully considered by the CPK or by  
10 Democratic Kampuchea, but also by countries like China, the US,  
11 and Indonesia as a -- as a very clear, and at that time, present  
12 danger to Cambodia's sovereignty, independence, national  
13 security. And that when DK or the CPK were speaking about  
14 "Yuong's" policy that they were not, in fact, to use your terms,  
15 dehumanizing people, but that they were clearly speaking about  
16 Vietnam's policy and Vietnam's threat. And subsequently that  
17 those who were suspected of collaborating with Vietnam, that they  
18 were understandably and possibly rightfully regarded as potential  
19 traitors. And as a matter of fact, just to remind you, the Trial  
20 Chamber, itself, in its judgment in Duch, ruled that there was,  
21 indeed, a state of war between DK and Vietnam as of 17 April '75;  
22 whether that is historically correct or not, that is something  
23 that will be discussed.

24 [13.35.45]

25 But my point is by first establishing the existence of a very

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1 clear, external enemy, the treatment of targeted groups and  
2 perception of internal enemies follows from that and that there  
3 were -- there wasn't any paranoia on the side of DK or the Party  
4 Centre or any substantial paranoia, but that it was a real threat  
5 and that Vietnam was seen as a -- as an enemy, just as today the  
6 United States or France consider ISIS or Al Qaeda as their enemy.  
7 Now, having said that, let me now turn to DK, itself, to the  
8 matter of internal enemies and subsequently, the treatment of  
9 Vietnamese. Let me start by going to a document, a "Revolutionary  
10 Flag". You have been read a "Revolutionary Flag" before by the  
11 Prosecution; that was the one talking about one in every 30  
12 soldier or 30 people.

13 [13.37.05]

14 I would like to draw your attention to another "Revolutionary  
15 Flag", in which I believe the distinction between "Vietnam/Yuon"  
16 as an enemy and Vietnamese people, on the other hand, is clearly  
17 made.

18 I would like to draw your attention to E3/215; it's a  
19 "Revolutionary Flag", September 1978. And more particularly, I  
20 would like to draw your attention to pages 12 and 13 of that  
21 document; English ERN 0 -- 00488625 and 626; Khmer, 00064599,  
22 600, and 601; and French 00524076 and 77, and also a bit on 78.  
23 Now, this document says the following -- I will be reading it to  
24 you: "During just the nearly 10 months that the 'Yuon' began to  
25 overtly commit aggression against our Kampuchea, the situation

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1 has turned upside down. The people of the world clearly see this.

2 They see that:

3 "On the one hand, independent Kampuchea is peace-loving, is  
4 non-aligned, and is a true socialist revolution.

5 "On the other hand, the 'Yuon' are aggressors who caused the war  
6 in Kampuchea and the Southeast Asia region, the pawn of the  
7 expansionist Soviets, a country aligned with the Soviets  
8 politically, economically, and militarily that has fraudulently  
9 betrayed the revolution and socialism."

10 Now, that's -- that's the intro.

11 [13.39.36]

12 And then it says, on the next page, "On this occasion"-- I have  
13 actually the Khmer copy with me; so if you want to read the  
14 original Khmer, you're more than welcome to do that. But it says:

15 "On this occasion, Democratic Kampuchea wishes to inform the  
16 Vietnamese people through the Government of Democratic Kampuchea  
17 that" -- I believe that in the original Khmer, one can read  
18 "Pracheachon Yuon, Vietnam" -- come three points and in the  
19 fourth point, that's where I'm going to.

20 As a matter, in the second point, as well; let me read that just  
21 to be complete. "Those who hold power in Hanoi are only wearing  
22 down and destroying Vietnam and the Vietnamese people after the  
23 'Yuon' have made war for 30 years."

24 [13.40.37]

25 "Fourth, in accordance with this situation, the 'Yuon' must

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1 immediately stop their aggression against Kampuchea, which is  
2 honest and holds out its hands in peace to the Vietnamese people.  
3 If those who hold power in Hanoi immediately stop their  
4 aggression toward Kampuchea and put an end to their strategy of  
5 taking Kampuchea as part of Vietnam through their old, worn-out  
6 'Indochina Federation' strategy, then friendship between our  
7 countries and peoples will immediately occur, and Democratic  
8 Kampuchea will solemnly announce that it will sign a treaty for  
9 peace and mutual non-aggression between Kampuchea and Vietnam,  
10 whether in Phnom Penh or in Hanoi or at any other location." End  
11 of quote.

12 JUDGE FENZ:

13 Sorry, Counsel, I was waiting for the end of the quote because I  
14 -- I thought perhaps the question has to do something with the  
15 summary of your understanding of what the evidence of the expert  
16 was.

17 Provided the summary, in the beginning, was - and understood that  
18 your understanding of the expert's testimony, I think it would be  
19 fair to ask the expert if this is a true summary.

20 [13.42.03]

21 BY MR. KOPPE:

22 I have no problem in asking this. I take over that question.

23 Q. First of all, have I -- had I give a -- had I given a correct  
24 summary of your -- your testimony in -- in summarizing my  
25 questions earlier and secondly, would you give a reaction,



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1 please, to these excerpts in this "Revolutionary Flag" which  
2 clearly make a distinction between "Pracheachon Yuon, Vietnam",  
3 Vietnamese people and "Yuon" Vietnam on the other -- on the other  
4 hand?

5 MR. HINTON:

6 A. Thank you, Your Honour, and thank you, Mr. Defence Co-Lawyer.  
7 So that's a lot -- several different things have been put forth  
8 at once. So when you were speaking, my understanding is that you  
9 were summarizing your understanding of events, not my  
10 understanding of events. I -- I thought that was clear, yes,  
11 which is -- I -- because if we were to take the different things  
12 that you said, I would say we'd need to go back and go over them  
13 slowly, piece by piece; there are a number of things.

14 [13.43.19]

15 I think it's also -- you referred to Michael Vickery's "Standard  
16 Total View" and I -- I don't even like to use that word because I  
17 think it refers STV to what in English is STD, which is sexually  
18 transmitted disease, and it's not really my favourite acronym.  
19 But leaving that aside for the moment, this -- his view, and as I  
20 said, there are good things about it; he stresses the importance  
21 of not making vast overgeneralizations and, as you pointed out  
22 yesterday and I think we concurred on this, it's -- you know,  
23 it's important not to say everything everywhere was the same all  
24 the time and I think we agreed that it's important to take into  
25 account temporal and spatial variation.

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1 [13.44.07]

2 And you know, you pointed again to Michael Vickery's work in  
3 Region 41 and I said, "Yes, he looks at Region 41. It concurs  
4 with my findings in terms of the temporal variation and  
5 sequence."

6 I think it's also, using the same framework, important to look at  
7 the views of the CPK in a historical manner and also if we speak  
8 about the Khmer Rouge, in the way you're talking about, to talk  
9 about, well, who thinks this; is it everybody in the Standing  
10 Committee; is that the argument? Is it to be more precise if  
11 you're trying to do this -- this unpacking?

12 So I guess with regard to the first bit of what you were saying,  
13 I would say that, again, if we're going to try and look at the  
14 nuances and the temporal variation, we need to do so and, again,  
15 with the way that the Vietnamese are talked about through time  
16 seems to change and, again, the sort of vitriol, especially as  
17 the war increases, become stronger.

18 [13.45.05]

19 With regard to the document that you just read, which I haven't  
20 read in its entirety -- these are piecemeal excerpt; I don't have  
21 it before me -- so in terms of the distinction that's being made  
22 there, I -- I'm not sure what they -- what they mean with the  
23 "Pracheachon Vietnam", if they're referring to which group  
24 exactly, what the context of the use is. It would be necessary to  
25 examine the document; (unintelligible) they're using the two

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1 terms.

2 But I think -- more broadly, I think there's agreement that the  
3 use of the word "Yuon" clearly, as you have made the point  
4 before, is used to refer to the country of Vietnam as well. The  
5 point -- the nuance that I've tried to bring in, as well, is that  
6 the word clearly -- and you can go right down to the interrogator  
7 notebooks at S-21 even. Many of my interviews -- it's clearly on  
8 record -- is a term that can be used to refer to internal enemies  
9 inside the country who became targets, right, of the regime.

10 So like the word "Angkar", which had multiple -- was a  
11 multivalent symbol, as well the word "Yuon" could be taken and  
12 deployed in different sorts of ways and that deployment, as well,  
13 could change over time.

14 [13.46.14]

15 So I -- I guess I concur with your point that this term  
16 absolutely could be used to refer to Vietnam and was. The nuances  
17 of the particular context, it's not really possible to say  
18 without having documentation.

19 Q. Well, I'm happy now that you concur in this respect.

20 My point is even that whenever -- be it in a "Revolutionary Flag"  
21 or be it Pol Pot's interview with Elizabeth Becker, for instance  
22 -- efforts are made to actually make that distinction between, on  
23 the one hand Vietnam, which is the "Yuon" in the derogatory way  
24 because they are the enemy, and those who collaborate with them  
25 are KGB or revisionist spies.

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1 So let me -- let me follow up on this by reading to you an  
2 excerpt of a Division 164 cadre. That is, Mr. President,  
3 E319/23.3.12; it's question and answer 70.

4 [13.47.51]

5 And he says -- the question is: "You said that there were two  
6 kinds of enemies, internal and external. Do you think the  
7 Vietnamese fishermen were regarded as the external enemy and were  
8 taken to be killed?"

9 And then he says: "I do not think so. The external enemy refer to  
10 the Vietnamese soldiers along the border. Regarding the seizures  
11 of the Vietnamese boats, to my knowledge, the Vietnamese  
12 fishermen were not regarded as the external enemy, but they had  
13 violated the territorial waters of Democratic Kampuchea."  
14 So here you might possibly see the result of what was said here  
15 in this "Revolutionary Flag" that there is a clear distinction  
16 between Vietnamese military, Vietnam being "Yuon", and normal  
17 fishermen being not considered enemies. What is your reaction to  
18 that?

19 MR. PRESIDENT:

20 Mr. Expert, please hold on and the floor is given to the  
21 International Deputy Co-Prosecutor.

22 [13.49.13]

23 MR. SMITH:

24 Thank you. Thank you, Your Honour. Just in terms of the excerpt,  
25 I believe you're referring to Meas Voeun that testified.

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1 MR. KOPPE:

2 I cannot say the name, but it is not Meas Voeun.

3 MR. SMITH:

4 Okay, that's what I just wanted to clarify. Thank you.

5 BY MR. KOPPE:

6 Q. I hope you still remember the question. Can you give a  
7 reaction to this Division 164 cadre's view as to who were "Yuon",  
8 who were external enemies, and who weren't?

9 MR. HINTON:

10 A. Thank you, Mr. Co-Defence Lawyer. Could you clarify what the  
11 document is once more? I became confused. I remember your  
12 question. I don't remember what exactly the context of this  
13 document is.

14 [13.50.15]

15 Q. It is a written record of an interview of a witness. As I --  
16 as I mentioned, I cannot tell his name, but he was a Division 164  
17 leading cadre, in other words, a navy person, asked questions  
18 about Vietnamese fishermen passing the territorial waters. And  
19 then he was asked a question as to who are the external enemies;  
20 were they the "Yuon"; who are the "Yuon" and this was his  
21 reaction.

22 A. Thank you, Mr. Co-Defence Lawyer. You know, it's a very  
23 interesting passage.

24 So this and the model I set out, again, which begins with  
25 upheaval, moves into the process by which difference begins to be

1 manufactured where the regime, in question, begins to mark and  
2 stigmatize certain sorts of groups, begin to re-organize society  
3 so that certain groups are found -- are put into structures  
4 whereby they can be interrogated.

5 As part of this model I put forward, I've also mentioned -- it  
6 came up in my discussion with the Deputy Co-Prosecutor, talked  
7 about the notion of ideological localization and "take", and more  
8 broadly, it's reflective of a situation. And I think, also, with  
9 Judge Lavergne, talked about this a bit when he asked about, at  
10 the end of my book, the discussion of the three cadres.

11 [13.51.48]

12 But what also happens when you have ideological pronouncements,  
13 rhetoric that are there, and sometimes if you get diffuse orders  
14 that come out on the ground, people can sometimes be confused and  
15 that's something you find in many different cases of violence  
16 where within -- I think I referred to it as, as well, you have  
17 these different envelopes, looser or tighter, in terms of the  
18 contextual constraints -- the structural restraints on the people  
19 who were acting and so you get situations like this where people  
20 are not quite sure how to interpret orders, so in a way, it seems  
21 to suggest to me some confusion, seeking clarification.

22 So if we look at comparative studies of genocide, if you look at,  
23 for example, the Hutu roadblocks where people -- Tutsi's would  
24 come or groups of people would come and they would seek to try  
25 and identify the people, you have this ambiguity that often

1 exists and people seek clarification.

2 So without further contextual information, based on what you've  
3 read, it seems to me that this is a situation -- an example of  
4 someone seeking clarity.

5 [13.52.56]

6 Q. I would argue it's the opposite. He is clearly making a  
7 distinction that the "Revolutionary Flag" is making as well. And  
8 Pol Pot, in his speech and also in his interview with Becker, is  
9 clearly making a distinction between "Yuon" and its armies and  
10 soldiers, on the one hand, or its foreign policy and on the other  
11 hand, Vietnamese citizens. And these Vietnamese fishermen  
12 apparently are perceived by this witness as such. The Vietnamese  
13 fishermen--

14 MR. PRESIDENT:

15 Counsel Victor Koppe, please hold on. The Chamber gives the floor  
16 to the Lead Co-Lawyer for civil party.

17 [13.53.41]

18 MR. GUIRAUD:

19 Thank you, Mr. President.

20 Well, until I'm proven to the contrary, the expert here is Mr.  
21 Hinton and not Counsel Koppe, so maybe Counsel Koppe should stop  
22 pleading, that would be, in fact, better for us.

23 He's speaking about documents without quoting them. Here, we're  
24 attending a discussion. Our counsel has been pleading for the  
25 past half hour, so Mr. President, I'd like you to remind our

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1 colleague that his work in this courtroom is to put questions and  
2 when he puts questions to the experts and he refers to documents,  
3 it would be a good idea for him to quote the documents so that  
4 the parties may refer to these documents.

5 He's been quoting since the beginning of this hearing the  
6 interview of Pol Pot by Elizabeth Becker, without telling us how  
7 this interview is connected with the point he's trying to  
8 demonstrate. So <again,> in order to make things clear, please  
9 remind our colleague that he has to stop pleading, <that he> has  
10 to put questions, that he engages truly in an adversarial  
11 discussion and that he tells us which documents he's relying on  
12 to put questions to the expert.

13 [13.54.53]

14 JUDGE FENZ:

15 May I add something to that because I think, to a degree,  
16 Professor Hinton, you have invited that. You have said, "Tell us  
17 what" -- "Tell me what you think and then we can have a  
18 discourse?" This might be how it works in the academic world, but  
19 that -- that's not the rules in the Court.

20 Actually, counsel should not testify meaning giving long  
21 pleadings on how he thinks evidence should be evaluated. He  
22 should provide, through questions to you, the means for us to  
23 evaluate the evidence.

24 So, as I said, to a degree, there might have been a  
25 misunderstanding on how the discourse in court actually works



1 out.

2 [13.55.34]

3 BY MR. KOPPE:

4 I will minimize my argument. But you're right; I was sometimes  
5 invited to present it.

6 Q. Let me -- let me move on to the -- my next subject and that is  
7 the question of whether there were internal enemies; yes or no?

8 I would like to read now to you an excerpt from a DC-Cam  
9 statement of someone who actually came to this courtroom and  
10 testified later. I believe, in your binder, you have his in-court  
11 testimony. It is, Mr. President, document E3/7516. It is a DC-Cam  
12 interview of a Division 310 commander.

13 And as you know, Oeun, whom you refer to quite a book in your  
14 book, was the commander of Division 310 and this Sem Hoeun, as  
15 his name is, is testifying that Oeun, the Division 310 commander,  
16 had built up forces, hid arms in the former North Zone and part  
17 of his forces -- and let me -- let me quote you his DC-Cam  
18 statement which was from 2005.

19 [13.57.35]

20 And Mr. President, just to -- for completeness sake, I'm  
21 referring to 00876520 in English ERN; French, 00892665; and  
22 French -- and in Khmer, 00020598. He's describing events  
23 presumably '76-'77:

24 "You were saying that Oeun hid you in Kampong Cham. Did you  
25 actually transport weapons there?"

1 Answer: "Yes, I did transport weapons to Kampong Cham."

2 Question: "A war was going to happen, right? What were you then  
3 ordered to do with these hidden weapons?"

4 Answer: "We were ordered to stand by for further orders; when the  
5 time came, we were to transport these weapons on to Khieu's place  
6 in Pochentong, to attack and seize Pochentong Airport, to attack  
7 and seize an artillery and armoured vehicle warehouse. Another  
8 battalion was ordered to get ready to attack the Radio Station.  
9 However, the plot was revealed and all involved leaders and their  
10 associates were arrested. The war could have started any time  
11 since 1976 should these arrangements be successful."

12 [13.59.10]

13 I won't -- I don't have the time to read to you the evidence that  
14 we have now assembled, but there are quite a bit of other Division  
15 310 cadres, Northwest Zone cadres, East Zone cadres, who are  
16 basically saying that as of '76, possibly '75, an armed rebellion  
17 was starting, followed -- to be followed by coup d'états.

18 Were you aware of this information?

19 MR. SMITH:

20 Your Honour, if I can just object. We just discussed the practice  
21 of giving evidence or pleading before the Chamber. The counsel's  
22 just given an account of the sum total of evidence, he believes,  
23 is on the case file and -- and what it intends to show.

24 We don't -- we don't -- we can't agree with that. It's -- it's a  
25 conclusion on his part. I think what counsel should do is speak

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1 to the -- the document and if the expert can comment on that;  
2 that's fine, but he shouldn't give his argument of what he  
3 believes is the evidence in this case file.

4 As my colleague has just said, he's pleading; he's not actually  
5 asking questions.

6 [14.00.34]

7 MR. KOPPE:

8 I am not pleading, Mr. President. I'm giving a very tiny bit of  
9 context. I -- I need to explain Mr. Hinton who Sem Hoeun was,  
10 that there were other people in Division 310 like Sem Hoeun, who  
11 said the same thing, that there are quite a number of cadres in  
12 the Northwest Zone. So I need to give context.

13 MR. SMITH:

14 Yes, but - Your Honour, if I can just add that it's got to be  
15 accurate; that's the problem. He says or '75-'76, lots of other  
16 people in different places. Your Honours have read the document.  
17 Each document says something quite different; there's not a  
18 uniformity of -- of evidence on this -- this type of issue, so  
19 that's the problem. It's not giving context; it's actually giving  
20 evidence as to what the sum total of the evidence is and we  
21 disagree with that.

22 [14.01.32]

23 MR. KOPPE:

24 Mr. President, I have about 20 to 25 statements, WRIs. I'm happy  
25 to read them all, but I only have -- I only have limited time. I

1 chose the one who I thought the expert could relate to most  
2 because he talks about Oeun and he talks about Koy Thuon quite a  
3 bit in his book, so rather than confronting him with all the  
4 Northwest Zone cadres, who openly speak about rebellion, or East  
5 Zone people, I concentrated on one, in particular, Sem Hoeun, and  
6 I wanted to know if he knew about this and whether he was able to  
7 give a reaction. That's all what I'm doing.

8 JUDGE FENZ:

9 I don't think there's a problem with the question. There was a  
10 problem with the characterization of the other evidence.  
11 We have heard that the prosecutor doesn't agree with it, so the  
12 suggestion to the expert is: Answer the question on the basis of  
13 the document you are getting, if you can, and discard what you  
14 heard as to what counsel thinks the other evidence might amount  
15 to because there's obviously no agreement among the parties.

16 [14.02.55]

17 MR. HINTON:

18 A. Thank you, Your Honour. Could you just, again, reread that  
19 excerpt because I've, in the midst of this, forgotten exactly? I  
20 want to be specific, sorry.

21 BY MR. KOPPE:

22 Q. No problem. Let -- let me, in order to be a bit quicker,  
23 summarize Sem Hoeun's testimony, also the testimony that he gave  
24 in Court.

25 He has given evidence which seems to suggest -- I'll be very

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1 neutral, Mr. Prosecutor; it seems to suggest that he was involved  
2 in the preparation of an armed rebellion. He was involved in a  
3 coup d'état against the Party Centre and that parts of this  
4 rebellion, certain acts were the attack of Division 310 soldiers  
5 on Pochentong Airport, the attack on Radio Phnom Penh, the moving  
6 about of weapons; everything that you need in order to overthrow  
7 the DK government and presumably have either Koy Thuon or others  
8 at its head.

9 [14.04.01]

10 MR. HINTON:

11 A. Thank you, Mr. Co-Defence Lawyer. I think the other important  
12 detail is exactly what years he -- what month and years he's  
13 speaking about.

14 Q. Seventy-six - '75, '76, '70 -- early-'77.

15 A. Thank you, Mr. Co-Defence Lawyer. I guess -- so if we go back  
16 to my back, as well, and we talk about Reap, it seems clear that  
17 Reap rebelled. His patronage networks had been cut out, so  
18 there's an example of a cadre seeking, somehow, to try and rebel  
19 against Pauk, you know, so I -- I assumed that this was something  
20 that occurred at times.

21 [14.04.52]

22 The information, I'm sure this Trial Chamber will investigate and  
23 come to a determination about the extent to which there were such  
24 actual rebellions that took place.

25 But I want to go back, again, to the point I made before invoking

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1 the work of Michael Vickery, who you mentioned about not having a  
2 standardized view, but one that looks at temporal variation as  
3 well as spatial variation and to say the document comes from  
4 1975-1976 maybe 1977 is -- removes this document from a temporal  
5 flow. It seems to me that this would have been much more likely  
6 in early-1977, maybe late-1976 if it were, in fact, the case. I  
7 think it would be doubtful in 1975, but it's something that the  
8 -- you know, it's certainly worth considering.

9 [14.05.45]

10 But again, in doing it, I -- I think it's -- it's very important  
11 to be specific about the moment, what's going on in terms of the  
12 politics of Democratic Kampuchea, because like I say, 1977, Reap  
13 tried to stage a rebellion, apparently, so that did take place,  
14 but he does not appear to have been someone who wanted to stage a  
15 rebellion from what we can tell, in mid-1976, for example.

16 So I think, again, and I know you invoke the work of Michael  
17 Vickery, this historical, temporal flow, it's important then to  
18 look at the variation.

19 Q. Just to be clear, I'm not invoking Vickery at all, when it  
20 comes to the existence of the rebellion.

21 Ben Kiernan spoke to Chea Sim and Heng Samrin, document E3/1568  
22 in which - English, ERN 00651889, in which Heng Samrin, the  
23 leader of the national -- of the PRK government, the one referred  
24 to by late King Father as Vietnam's puppet, said: "1976-'77, we  
25 had a struggle, but a secret one."

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1 Can you give a reaction to that particular excerpt?

2 [14.07.13]

3 MR. PRESIDENT:

4 Mr. Expert, please hold on and Deputy Co-Prosecutor, you have the  
5 floor.

6 MR. SMITH:

7 Your Honour, I think that's quite difficult. It's one line out of  
8 -- out -- out of this statement and if -- if Defence Counsel is  
9 referring to armed resistance in -- into the mid-1978, I think he  
10 should get straight to the point, but picking one line out and  
11 putting it to this witness, completely out of context -- without  
12 -- I'm not sure whether he's got a document before him to look at  
13 -- seems like a very arbitrary exercise.

14 If he wants to put, "Was there any resistance in mid-1978 in the  
15 East Zone," he should just put it, but this, sort of,  
16 line-by-line amorphous discussion about what -- what does he  
17 mean; is -- it -- it's very much out of context, so I think it --  
18 it's very difficult for this expert to have anything meaningful  
19 to say on one line.

20 [14.08.24]

21 BY MR. KOPPE:

22 If I do it in general terms, it's -- it's not good; if I actually  
23 use a document; it isn't any good.

24 Q. I believe that's what Heng Samrin said and it's obvious from  
25 the fact that he defected to Vietnam in '78, so it is my

1 proposition, Mr. Hinton, that this -- the rebellion or the secret  
2 struggle, as Heng Samrin calls it, started in '76. Filmmaker  
3 Lemkin actually says '75, but let's -- let's leave that aside.  
4 Was a rebellion with plans of coups d'états etc., starting in  
5 '76-'77 and is that something that you took into consideration  
6 when you wrote your book?

7 MR. SMITH:

8 I've -- I've got no objection to the question, but the -- the  
9 premise that somehow or another the statement that Heng Samrin  
10 gave is import that there was some sort of rebellion happening in  
11 '75 or '76-'77, I'll -- I'll just read further down the lines  
12 just so that Your Honours -- Your Honours can see it's out of  
13 context.

14 [14.09.47]

15 It says, "But at that time, it was tight and cramped. There was  
16 no opportunity to rise up and struggle. Even Ta Phim had to  
17 struggle. He used to say, 'We will have further bloodshed but  
18 there was no opportunity.'"

19 And -- and then he goes on about opportunity coming later in  
20 1978. So it's just not a good characterization of his evidence.

21 BY MR. KOPPE:

22 Let me bring you right up to '78 then, Mr. Prosecutor, if I can  
23 be very helpful.

24 Q. Mr. Hinton, have you heard of a plenum meeting of the Central  
25 Committee of the Vietnamese Workers' Party in February 1978 in



1 which many things were discussed but one of them was the start of  
2 an internal rebellion led by So Phim, and if that wouldn't work,  
3 then invade Kampuchea, which it subsequently did?

4 Have you ever heard of a fourth plenum of the Vietnamese Workers  
5 Party, February '78?

6 [14.11.18]

7 MR. HINTON:

8 A. I believe you may be looking at Court documents I have come  
9 across that.

10 In general, I should say that reviewing confessions, again, at  
11 which we can't look at the content, this sort of discourse comes  
12 up; looking at documents like the last plenum, these sorts of  
13 things come back. If you look at cadre notebooks and these sorts  
14 of thoughts come up. So specifically, do I remember an informant  
15 telling me about this? I don't, but certainly in documentation,  
16 things of this sort have been brought up.

17 I should mention more broadly that, you know, I think it's great  
18 if we can clarify historical understanding about the dynamics and  
19 process that took place. There were potential rebellions that, as  
20 we moved through time, took place. It's of great benefit to learn  
21 about that. But I think, nevertheless, the issue at hand in terms  
22 of genocide is an issue of people being killed.

23 [14.12.24]

24 You know, if we go down back to Region 41, Kampong Siem district,  
25 the Chams being rounded up and taken and killed, if we talk about

1 these macro-level dynamics the issue at hand, in terms of the  
2 genocide committed against ethnic Cham and ethnic Vietnamese,  
3 that reality is still ongoing.

4 So we are talking about macro-level events that relate to  
5 micro-level events but I think it's important not to create an  
6 historical narrative that glosses over the death of many people  
7 and the suffering of many people on the local level.

8 But having said that, it's important to also clarify the  
9 historical record and certainly the Defence position, the  
10 Prosecution, the civil parties, you know, our understanding of  
11 this time in history will increase greatly and I look forward to  
12 the judgment.

13 Q. Let me clarify to you that when I was speaking about the  
14 fourth plenum of the Vietnamese Workers' Party in February 1978,  
15 I wasn't referring to any confession or S-21 documents.

16 Obviously, we are forbidden to do so.

17 [14.13.23]

18 I was referring to a book by someone that you mentioned earlier  
19 today, Nayan Chanda, E3/2376; English, ERN 00192401 and 02;  
20 Khmer, 00191550; and French, 00237080.

21 I was also referring to a book of another scholar, an American  
22 scholar, who I believe is also one of the experts on Vietnamese  
23 policy. It's a man related to the University of California at  
24 Berkley, William Duiker or Duiker. His book is called "China in  
25 Vietnam: The Roots of Conflict", E3/7430. He is also referring to

1 that fourth plenum. Let me combine the two and then ask your  
2 reaction.

3 Chanda says:

4 "The Vietnamese Politburo met again in mid-February in the  
5 outskirts of Ho Chi Minh City at a secluded compound for what  
6 used to be the police training school of the fallen Thieu regime.  
7 The meeting studied the nuts and bolts of the plan for setting up  
8 a Cambodian Communist party and the resistance organization."

9 Let me now move to William Duiker. He says: "At the February  
10 plenum, the Vietnamese Party leadership had approved a proposal  
11 to remove the Pol Pot regime by an internal uprising. The key to  
12 the success of this strategy lay in the emergence of a resistant  
13 movement strong enough to challenge the Pol Pot regime for power.  
14 But in May, Pol Pot's forces attacked rebel headquarters and So  
15 Phim was captured and executed."

16 [14.15.39]

17 It goes on a bit, but, and in the interests of time, I will cut  
18 it short here.

19 This evidence from these two scholars seem to suggest that  
20 although we believe it was much earlier but at least in February  
21 '78, Vietnam actively decided to support an internal uprising and  
22 that wouldn't work. That is maybe our conclusion -- would invade  
23 and take over.

24 What is your reaction to that?

25 A. Thank you, Mr. Co-Defence Lawyer. Again, it would be valuable

1 to have these documents sort of marked so I can review them ahead  
2 of time.

3 Having said that, certainly -- at first for some reason, I  
4 thought you were in 1975. I was mistaken when you spoke before. I  
5 misheard.

6 [14.16.35]

7 But certainly by February 1978, that certainly could have been a  
8 possibility; wouldn't surprise me at all that there was some sort  
9 of discussion of trying to topple the DK regime.

10 Q. So you are not disputing that decision by the Vietnamese  
11 Workers' Party to start the internal uprising and to overthrow  
12 the Pol Pot regime, as they call it?

13 MR. SMITH:

14 Your Honour, I think counsel has gone as far as he can go with  
15 that. He said it could have been a possibility that that document  
16 existed. There is not much more he can say.

17 BY MR. KOPPE:

18 Q. I think Mr. Hinton is perfectly capable of saying "This is all  
19 I can say" and if he has additional information I am sure he can  
20 provide us with it.

21 [14.17.49]

22 MR. HINTON:

23 A. Thank you, Mr. Co-Defence Lawyer.

24 Again, I believe what I said and now I can't remember exactly  
25 what I said, but is that the possibility that Vietnam was

1 beginning to try and ferment some type of struggle against the DK  
2 regime at this period in time is certainly possible,.

3 Having - again, not having reviewed the documents, not having  
4 read the long passages from which these excerpts come from, I am  
5 basing my response on a very thin amount of material. So again, I  
6 wouldn't want to be definitively on the record one way or  
7 another.

8 But the possibility is certainly there and I think, more broadly,  
9 the point that at different moments in time, there were factions  
10 that may have decided to try and rebel and contacted Vietnam.

11 But looking at this, again, looking at the historical and  
12 temporal variation in that is critical as opposed to saying there  
13 was a singular unidimensional plot all along leading from 1975 to  
14 1979. That seems to me un-nuanced and sort of standardized view  
15 so, again, historical and temporal variation looking at the  
16 context, something like that, is a possibility.

17 [14.19.02]

18 And again, I think that -- you know, I look forward to the  
19 deepening of our understanding of this period in time by all the  
20 evidence that is introduced in this Court.

21 Q. The reason I'm asking these questions is because I mentioned  
22 that earlier, in total 25 times you used the word "paranoia"  
23 relating to the Party Centre/Pol Pot or DK dealing with internal  
24 enemies, people who they believed were betraying DK by working  
25 together with Vietnam. Fifteen times you used the word "perceived

1 enemies".

2 Can you, first of all, explain what you base yourself when you  
3 say that, 25 times when it comes to arrests, etc., the Party  
4 Centre was only led by paranoia?

5 [14.20.15]

6 A. Thank you, Mr. Co-Defence Lawyer. Thank you for counting the  
7 number of times. I have no idea. I never counted.

8 And, just to be clear, I don't think I ever said they were only  
9 driven by paranoia. I don't think I ever said only driven by  
10 paranoia, which I wouldn't say.

11 But certainly, yes, if you go to the S-21 confessions, if you go  
12 to the last plan, there is copious evidence that the regime over  
13 time increasingly is the felt of real or perceived plots and  
14 coups emerged, became increasingly paranoid. And in response to  
15 that, initiated a series of purges in which large numbers of  
16 people were killed that have ramifications that went all the way  
17 down into the local level where entire strings of people were  
18 taken away and ultimately they attempt to purify the country in  
19 general of suspect elements. And you began over the course of  
20 time to have, for example, ethnic Cham targeted, ethnic  
21 Vietnamese are being targeted, as well as groups, groups that,  
22 you know, Khmer suspect, class -- suspected class enemies,  
23 counter revolutionaries, traitors.  
24 So I think that the idea that there was an element of paranoia  
25 driving the DK regime and the CPK is fairly uncontested,

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1 non-controversial within the study of this period. To say it's  
2 the only thing that drove them would be absolutely incorrect and,  
3 again, I said real or perceived plots and coups.

4 [14.22.00]

5 But as an element that would help fuel this process, it was an  
6 element. And to go back, for example, to David Chandler's account  
7 of S-21, he is a person who puts this front and centre in his  
8 discussions to mention someone you've referred to several times.

9 Q. I will get back to that paranoia issue. Let me zoom out a bit.  
10 Have you -- do you know what happened in 1968 with the Soviet  
11 Union and Czechoslovakia?

12 A. Thank you, Mr. Co-Defence Lawyer, I do. I think what would be  
13 -- if I can make a request, again going back to what I said  
14 earlier that as opposed to beginning with a very sort of singular  
15 question if you could explain the question that you are going to  
16 ask, then I could --

17 Q. No problem. No problem.

18 A. --maybe help.

19 [14.22.55]

20 Q. I will go straight to the point. I only have 20 more minutes.  
21 I am going to Chanda again. It's a book I believe we sent to you  
22 beforehand.

23 Chanda describes on the same page, as I just mentioned, a visit  
24 in January 1978 of a Soviet general, Grigoriyevich Pavlosky, who  
25 is the commander-in-chief of the Soviet ground forces. He is

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1 arriving in Lao, says Chanda, on a special Aeroflot jetliner for  
2 a "friendly visit". And then he says, and I quote: "Vietnamese  
3 minister of defence, General Vo Nguyen Giap flew to Vieng Say in  
4 northern Laos for an unpublicized meeting with the Soviet general  
5 to review the Cambodian situation. General Pavlosky advice, a  
6 Vietnamese official told me years later, was: 'Do a  
7 Czechoslovakia'." End of quote.

8 Isn't it true that Vietnam did a Czechoslovakia in December '78?  
9 [14.24.11]

10 A. Perhaps you could elaborate on what you mean exactly by "did a  
11 Czechoslovakia"? Are you talking about troops coming in, Russian  
12 troops coming in, toppling the regime, so on and so forth?  
13 You know, you certainly could draw analogies but to say they "did  
14 a Czechoslovakia" explicitly, that seems like an overreach. But  
15 certainly, having that metaphor, the idea of toppling a  
16 government certainly could have been mentioned. I wouldn't be  
17 surprised if it was mentioned. You are reading Nayan Chanda, so  
18 it seems like a good source.

19 Q. As a matter of fact, I am not sure if we sent that to you  
20 beforehand but I believe it is, by heart, E3/13 where Son Sen is  
21 talking to all generals of his divisions, including Oeun, and  
22 after the arrest of Chan Chakrey, Chhouk, Ya, Keo Meas, he is  
23 saying that exactly that is what DK is fearing that Vietnam would  
24 invade it in Czechoslovakia/Angolan style as he says.

25 So again now returning to the word "paranoia" and "perceived



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1 enemies", are you still abiding by your position that Vietnam  
2 wasn't a real, an actual threat to its sovereignty, its national  
3 security?

4 [14.25.45]

5 MR. SMITH:

6 I don't think that was the expert's position, so I object to the  
7 question because he has mischaracterized it. But I am sure the  
8 expert will be able to answer.

9 BY MR. KOPPE:

10 Q. Are you unable -- are you in a position to answer my question  
11 or would you like me to be more concrete?

12 MR. HINTON:

13 A. Yes. Maybe if you could just repeat the question again? I'm  
14 getting--

15 Q. Let me--

16 A. --yes.

17 [14.26.28]

18 Q. --it's about the fact that Vietnam was a real enemy and that  
19 the fears were absolutely real.

20 Let me go to your book and let me give you a few examples of your  
21 use of the word "paranoia" 25 times. In English, ERN 00431538 you  
22 say the following. It's your book.

23 "While the Khmer Rouge had periodically purged its ranks in the  
24 past, Pol Pot's obsession with finding the 'sickness' that was  
25 'rotting society' marked a rapid escalation of this process. The

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1 Party Centre's paranoia quickly reached places like Region 41 of  
2 the Central Zone where suspect cadres and soldiers were purged."

3 [14.27.21]

4 Let me give you another example, English, ERN 00431606; and  
5 French, 00707453:

6 "Nevertheless, Tuol Sleng continues to uncover plots real or  
7 imagined, thus fuelling the Party Centre's paranoia." And I can  
8 give you another 23 examples of paranoia.

9 My question is: How does that word that you use, "paranoia",  
10 relate to the documents that I have confronted you with?

11 MR. HINTON:

12 A. Thank you, Mr. Co-Defence Lawyer.

13 So again, I would return to something I have said before. It goes  
14 back to something you said originally, that, I think, it's a  
15 standardized reductive manner of speaking to simply say Vietnam  
16 was a real enemy as if that existed from 1975 until 1979  
17 everywhere with all people, all members of the CPK with no  
18 nuance, no change.

19 [14.28.43]

20 If you look at Nayan Chanda's book as argument, it is precisely  
21 the opposite. He argues that actually Vietnam, it was a process,  
22 a dialogic process, a back and forth, and that Vietnam did not  
23 have a singular plot from the beginning. They had different  
24 discussions that transpired over time and their position was  
25 fluid and changing. So I think that source is not well put for

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1 this case.

2 I certainly would stand by the notion of paranoia. I believe that  
3 you can have fears that have some basis in reality but also  
4 become spun into fantasy quite readily and become paranoia. And I  
5 think especially after early 1976, as illustrated by the  
6 establishment of S-21, illustrated by the spirals and spirals of  
7 confessions that were produced as people were brought in from all  
8 over the country by the confessions that were manufactured there,  
9 I think there is abundant evidence that this regime had a  
10 paranoid element to it, but having said that it was not solely  
11 paranoia that drove everything. It was an aspect of a large  
12 process.

13 [14.29.44]

14 So again, I don't want the impression to come across that I say  
15 the reason that the violence in DK occurred was solely because of  
16 paranoia. That would be a reduction of my argument which is much  
17 more nuanced in the book.

18 And I would again reiterate the point, and I am starting to  
19 repeat it over and over again, but is one that you initially  
20 invoked by talking about Michael Vickery. It's important to look  
21 at temporal flow and spatial flow over time and not to draw  
22 standardized uniform conclusions about a situation that was more  
23 fluid, dialogic, dynamic, and varied from place to place and time  
24 to time.

25 Q. But aren't you doing the exact same thing calling everything

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1 or most of it paranoia? It's also a very reductionist view of  
2 events apart from being very simplistic in my belief. But isn't  
3 it also a very reductionist version or vision of historical  
4 events?

5 A. Thank you, Mr. Co-Defence Lawyer.

6 I believe I basically just said exactly the same thing. It's  
7 something I stressed before in relationship to the book I wrote,  
8 "Man or Monster" and the different ways we can have reductive  
9 explanations trying to attribute qualities like savagery,  
10 barbarism, sadism and so on and so forth in a singular manner to  
11 other human beings and groups.

12 [14.31.16]

13 What I said and what's apparent from a close reading of my book  
14 is that this was one amongst a number of factors. It was a factor  
15 that emerged over time as the purges began to escalate, as  
16 confessions came in from S-21. And as you know from reading the  
17 different chapters in my books, I argue that actually there are a  
18 number of factors that are involved, not just one.

19 So I think it's very -- you know again I want to emphasize that  
20 it's a multifactorial process. This is one factor. I link it into  
21 notions of patronage, understandings of power; notions of  
22 instability and patronage relationships.

23 I do this at length in my book, and so it's also a  
24 mischaracterization of my book. It's a reduction of my book.

25 [14.32.00]

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1 It's a reduction of my argument and I think it's -- you know, to  
2 say that I am arguing the paranoia drove the process when I am  
3 arguing precisely the opposite and I am careful to qualify that,  
4 I note, in the argument. And again, you need to talk about, if  
5 you raise this, the larger argument when I talk about suspicion,  
6 patronage and so forth, as well as other chapters of the book.  
7 So I think, you know, having said that, we are agreed it's  
8 important to avoid reductionist explanations, including a  
9 reductionist explanation that seeks to argue that there was a  
10 singular plot that existed on behalf of the Vietnamese government  
11 that was the same everywhere and all times, I think that's a  
12 reductionist argument as well. So we are agreed that we need to  
13 pay attention to nuance.

14 [14.32.46]

15 Q. Indeed, Mr. Hinton. Let me turn to my very last subject in  
16 which I believe also a very reductionist view is sometimes taken  
17 and that is the treatment of New People and Old People. You spoke  
18 about it yesterday.

19 Let me read to you two excerpts from DK documents. One is a  
20 "Revolutionary Flag", E3/725; English, ERN 008184320; Khmer,  
21 00064546; no French. And the other document -- I will read them  
22 together -- is the document "Pol Pot Plans for the Future". It's  
23 E3/8, and it's the top of page 206. It's 00104100.

24 Let me start with reading the excerpt in relation to New People  
25 and Old People.

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1 [14.33.55]

2 MR. PRESIDENT:

3 Defence Counsel, could you repeat the number because the  
4 interpreter cannot follow with the ERN number. So please read the  
5 number slower so that the interpreter can accurately follow the  
6 numbers.

7 BY MR. KOPPE:

8 Sure. No problem, Mr. President.

9 The first document is the "Revolutionary Flag" of December '77  
10 and January '78. It's E3/725, no French ERN; English, 00184320;  
11 Khmer, 00064545 and 6; and E3/8 is "Pol Pot Plans the Future",  
12 ERN English, 00104100; and at this point in time I don't have a  
13 Khmer and a French ERN. I will read them together, Mr. President.

14 [14.35.07]]

15 Q. So talking about New and Old People:

16 "As for the people, whether old or new, there is no problem with  
17 them. The New People are patriotic too and they have pride in the  
18 feeder canals" -- in the feeder canals -- and one part is  
19 missing. I am moving on now to the next page.

20 "The 75 per cent who are poor or lower middle class peasants have  
21 absolute faith. The middle peasants have more faith than before.

22 As for landlords and rich peasants, most of whom have been with  
23 us for a long time in the liberated zones, they also see that the  
24 revolution is good. As for the new elements, the majority of them  
25 understand and they see that staying with us is better than

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1 running away from the country."

2 And then the next document: "Some of our comrades behave --" Pol  
3 Pot speaking, "--behave as if all New People were enemies. They  
4 don't trust them to make political progress, to acquire political  
5 consciousness or to solve the problems of livelihood. This is a  
6 big misinterpretation." End of quote.

7 [14.36.30]

8 Can you give me your reaction to these two excerpts which I  
9 believe is quite more nuanced in relation to the treatment of New  
10 and Old People than shown in the documents that were read to you  
11 before?

12 MR. HINTON:

13 A. Thank you, Mr. Co-Defence Lawyer.

14 Could you please -- again, you may have said it but I lost the  
15 thread. What are the dates of the documents?

16 Q. One is 1976 and the other is a "Revolutionary Flag" of '77  
17 December and January '78.

18 A. Thank you, Mr. Co-Defence Lawyer.

19 Again, these are two documents that emerged and I think, as I  
20 said before, if you go back to Region 41 of the Central Zone, the  
21 Northern Zone eventually becomes in the Central Zone, you have  
22 temporal variation where the first conditions were good and I  
23 believe that immediately after at the beginning of the DK period,  
24 there was an attempt to sharpen the consciousness, to re-educate  
25 many people. So there was an attempt to do that.

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1 [14.37.48]

2 And I think as the purges began and there began this element of  
3 paranoia that you don't like but again the fear that there was  
4 internal subversion from within, the fear that people were  
5 betraying the revolution, as this cycle began to emerge the  
6 existing differentiations on the ground that existed at that  
7 point in particular. Again there is temporal and spatial  
8 variation as Michael Vickery, as you pointed out, has noted were  
9 commune by commune. You could have some differences.

10 But again, during that phase, especially after mid-1976 -- for  
11 this document, you said 1976 but you didn't specify the month, I  
12 believe.

13 Q. December '76, December '76.

14 A. Yes. So you may have this correct, but it's also the same  
15 time; for example, you have the microbes speech being given, that  
16 they are internal microbes that need to be rooted out.

17 [14.38.53]

18 So there is a great deal of other incitement literature that  
19 exists at this point in time, but I do believe especially once  
20 the CPK regime became aware of the number of deaths, saw that  
21 their battle with Vietnam was going badly, that later on in 1978  
22 you begin to get more discourse that it's necessary to not be as  
23 harsh on the populace. I believe closer even before the time  
24 period you just mentioned but initially, there was the idea that  
25 people could potentially be re-educated or reform many of the



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1 people.

2 And so if you look at the rhetoric that exist even as the Khmer  
3 Republic officials were being purged often but when people went  
4 out from the cities in many different locations in Cambodia, that  
5 not all people said that at first, you know, they were there and  
6 then over time things got more and more difficult. Especially as  
7 you moved into 1977, in many different places, conditions  
8 deteriorated and became worse. So again, I think, sort of the  
9 spatial and temporal variation point.

10 [14.39.55]

11 Q. Let me interrupt you because I only have a few more minutes.

12 I have read out contemporaneous DK documents talking about the  
13 New People and an overwhelming majority being good, being  
14 patriotic, read out documents in which there is a clear  
15 distinction between Vietnamese people, on the one hand, and  
16 Vietnam on the other hand.

17 You said that you are an expert in "genocidal propaganda". Can  
18 you just compare the things that I have read to you to, for  
19 instance, the vitriolic anti-Semitic propaganda in the "Struma",  
20 the Nazi propaganda newspaper or, for that matter, the radio and  
21 TV stations in Rwanda calling for the extermination of the  
22 "Inyenzi", the "cockroaches". How do these two even relate to  
23 each other?

24 A. Thank you, Mr. Co-Defence Lawyer.

25 Again, there are several responses to what issues you raised.

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1 First of all, I should note that you are shifting into what I  
2 have heard before is the problem of immediately falling into a  
3 Holocaust prototype to say that something has to be the Holocaust  
4 in order to be a genocide. That seems to be the implicit  
5 suggestion the dynamics of the Holocaust. Genocide in general are  
6 much more complicated. I have laid out the framework for  
7 understanding this.

8 [14.41.48]

9 Q. That's why I use Rwanda as an example as well.

10 A. Yes, so as I was saying, again to talk about the direct  
11 Holocaust analogy that you invoked, having said that, you know,  
12 if you go get -- there is a book. I think Henri Locard's book on  
13 the sayings of the Khmer Rouge. If you look through there, you do  
14 have like a microbe speech that is very well-known that I believe  
15 is December 1976, at the same time as the passage you read.  
16 You have all sorts of metaphors that often are more adapted to an  
17 agrarian environment where people are farming. So you get the  
18 reference to, for example, plant parasites as opposed to  
19 biological parasites. So there is a very different frame of  
20 understanding of having it shaped from the--

21 [14.42.33]

22 Q. I have to interrupt you there because the microbe speech is  
23 obviously not about the New People or the Old People. It is about  
24 people who commit treason by working together with the  
25 Vietnamese. That's a different, totally different situation. It's

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1 microbes within the Party. That's what the speech says.

2 MR. SMITH:

3 Your Honour, I think counsel is giving evidence again.

4 But I think the expert should be able to finish his answer and

5 then if there needs to be a follow-up. Otherwise, he is not

6 getting a full opportunity to respond to a significant, sort of,

7 conclusionary-type question. I think that's not--

8 MR. KOPPE:

9 I was mindful --

10 MR. SMITH:

11 --being fair to the expert.

12 [14.43.09]

13 BY MR. KOPPE:

14 --of the time I was cutting short.

15 I apologize for that, but I would direct Mr. Hinton to discussing

16 the New People, the treatment of the New People and the

17 Vietnamese people rather than microbes within the CPK.

18 Q. But again, isn't there -- and that's my last question -- isn't

19 there a very big difference between those contemporaneous DK

20 documents and, on the other hand, Nazi propaganda versus Jews or

21 versus Polish people or Bolsheviks or Rwandan Hutu propaganda in

22 relation to Tutsis, being "Inyenzi" who should be exterminated?

23 MR. HINTON:

24 A. Thank you, Mr. Co-Defence Lawyer and, again, I'd appreciate

25 not being interrupted, if I can just finish because it breaks my

1 train of thought.

2 [14.44.15]

3 As I was saying before, there are a different set of metaphors  
4 that are operative on the local level. If you also want to begin  
5 to look at the targeting of New People, people who were regarded  
6 as having reactionary subversive counter-revolutionary  
7 tendencies, those who are unable to sharpen their consciousness  
8 and purify themselves on the local level when orders come down to  
9 purify the ranks and those orders come from a wide variety of  
10 incitement discourse propaganda, sometimes explicit orders,  
11 sometimes through broadcasts which, to answer the second part of  
12 your question, to me is directly parallel to those sorts of  
13 rhetoric of hate, directly parallel.

14 So I think you are wrong about that. When those orders come down,  
15 you have those existing structural divisions on the ground where  
16 groups have been marked, identified as "other". They have been  
17 dehumanized.

18 As we - if we go down to the ledger books that were kept, the  
19 names of the people's former occupations are there. Orders come  
20 down to purify the ranks to seek out subversives. They look in  
21 the ledger books. They have the names. They have it at the  
22 sub-district level and at the village level and they take people  
23 away and they kill them.

24 [14.45.29]

25 It's something that is well-chronicled. It fits the lived

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1 experience of the people that I interviewed.

2 Again, I think there is a huge amount of information that exists  
3 mainly from scholarly account to memoires that support this as  
4 having taken place. And again, I refer you to the book of Pol  
5 Pot's proverbs; different metaphors of the Khmer Rouge, and there  
6 are all sorts of dehumanizing metaphors that are in that book.  
7 You can refer to numerous DK radio broadcasts. The same thing  
8 exists there.

9 So yes, I think that you can draw a direct parallel. And again,  
10 with this process of manufacturing difference that I have  
11 referred to, the parallels in that regard between the Holocaust  
12 and the Cambodian genocide are very clear and very direct as they  
13 are with other ideological genocides.

14 [14.46.16]

15 Q. My very last question and then I will stop.

16 Give me, Mr. Hinton, one example of a CPK document or a DK  
17 document in which it actually literally says New People should be  
18 persecuted or exterminated; Vietnamese citizens should be killed,  
19 should be exterminated.

20 Where is the document where that actually explicitly says that?

21 A. Thank you, Mr. Co-Defence Lawyer

22 I didn't realize that I was supposed to come prepared with a set  
23 of documentation to introduce into the Court on my own. But  
24 having said that --

25 Q. There isn't any.

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1 A. --no, that's not true.

2 As I have talked about in my book, I have discussed for example  
3 the lived experience of people on the ground and the categories  
4 that are invoked. We have talked before about Teap, orders that  
5 were received.

6 [14.47.12]

7 Other sub-district heads talked about receiving orders to root  
8 out New People, former Khmer Rouge officials, students,  
9 professionals; suspected subversive elements. You know, to go  
10 back, and now I'll go back to "Revolutionary Flags" sitting on  
11 the stand without any of the documentation it's -- anyways.

12 Again, there is--

13 Q. And that is my final question and remark. Just name me one,  
14 one document, one contemporaneous document in which it actually  
15 says New People should be persecuted or Vietnamese people should  
16 be killed; one document.

17 There isn't any -- I will rest, Mr. President.

18 MR. SMITH:

19 The expert, Your Honour, was answering the question. He  
20 interrupted him to answer exactly the same question. So I don't  
21 know what was meant to be achieved by that.

22 But if the expert wants to continue with his answer before he was  
23 interrupted, I think he should be allowed to, but I'll leave it  
24 to Your Honour.

25 [14.48.30]

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1 MR. PRESIDENT:

2 Mr. Expert, do you have any answers to give to the last question  
3 put to you by Counsel Victor Koppe? If you have, please.

4 MR. HINTON:

5 A. I do. Thank you, Your Honour.

6 Thank you, Mr. Co-Defence Lawyer.

7 In terms of starting with ethnic Vietnamese, I think we've talked  
8 at length and seen many instances of incitement literature,  
9 rhetoric of hate against "Yuons", which I said can be referred  
10 both to people from Vietnam and to ethnic Vietnamese. So that's  
11 already been introduced and discussed.

12 You shifted over to New People. I would argue that the different  
13 rhetoric to root out internal subversives, the way the orders  
14 were interpreted on the ground, again I would like to go back and  
15 review the literature had I known you were going to ask me that  
16 question.

17 [14.49.16]

18 But the way those orders go out and are interpreted are such that  
19 the people with those regressive tendencies, the way it's  
20 interpreted that people are taken away are New People who have  
21 qualities of belonging to the classes that are being targeted by  
22 the CPK, former people associated with capitalism.

23 So again, if you want to look at -- instead perhaps frame your  
24 question in terms of the New People to think of class categories,  
25 the notion of subversives, counter-revolutionaries, that's

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1 abundant and clear as well.

2 [14.49.53]

3 MR. KOPPE:

4 A lot of words, Mr. President, but no answer. Thank you.

5 MR. SMITH:

6 Mr. President, if I can just say something here, I think this  
7 type of criticism of the expert, I think we have heard enough of  
8 it.

9 There was an answer and we talked about reductionism and trying  
10 to reduce something to a document. The expert was giving a full  
11 explanation and I think it's not appropriate that the expert is  
12 on the tail end of these critical remarks throughout this  
13 hearing.

14 [14.50.44]

15 MR. PRESIDENT:

16 Thank you, Mr. Expert, for your full effort to answer all the  
17 questions put to you. It is now convenient time for a break.

18 The Chamber will take a break from now until 3.10.

19 Court officer, please assist the expert at the waiting room  
20 reserved for him during the break time and invite him back to the  
21 courtroom at 3.10.

22 The Court is now in recess.

23 (Court recesses from 1451H to 1512H)

24 MR. PRESIDENT:

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



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1 I would like now to hand the floor to the defence team for Khieu  
2 Samphan to put questions to the expert. You may proceed, Counsel.

3 QUESTIONING BY MS. GUISSÉ:

4 Thank you, Mr. President. Good afternoon, everyone.

5 Q. Good afternoon, Mr. Hinton. I would like to start by  
6 introducing myself. I am Anta Guisse, International Co-Counsel  
7 for Mr. Khieu Samphan.

8 In the course of your examination, I have observed that you are  
9 very keen to observe protocol. So perhaps you can quite simply  
10 call me "madam" and I'll call you simply "Mr. Hinton".

11 [15.13.49]

12 I would like to make some preliminary remarks. I am speaking in  
13 French and <you are being> translated <from> English. So may I  
14 request you to pay attention to the speed <at which you speak. I  
15 have the same problem, but it's very important> because <there  
16 will be an additional delay that you perhaps did not have with my  
17 colleague and with the Co-Prosecutor>.

18 In terms of methodology, I have understood that at certain times  
19 you are frustrated because all the <> documents <we quote from>  
20 are not disclosed to you. It is impossible to do so. <I have  
21 given you a certain number of> documents <which are perhaps the  
22 longest because of the issue of context related to the questions  
23 I will put to you>. <But> I will have to quote documents you  
24 don't have before you, which are excerpts of transcripts or other  
25 documents relating to the proceedings.

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1 And I will be happy if the Prosecution would correct me if I  
2 present the situation in a biased manner.

3 [15.15.00]

4 May I start by talking about what you have already testified  
5 about? I would like you to clarify the anthropological approach  
6 you used for your research. To paraphrase what you said, perhaps  
7 you could correct me if I'm wrong, you have stated that you did  
8 documentary research of course, but that an important aspect of  
9 your work was the fact that you delved into your subject in an  
10 in-depth manner. And you stated that contrary to <> other  
11 disciplines, you do not come with the specific questions to  
12 corroborate the facts from a historical standpoint, but that it  
13 is the manner in which events were related to you and how they  
14 were felt which you took into account as an important aspect of  
15 your work. <Did> I <properly understand, although obviously in> a  
16 simplified form, the anthropological approach you used in your  
17 research<>?

18 MR. HINTON:

19 A. Thank you, madam. And also I would like to thank your team for  
20 providing the binder of documents as well which will be helpful,  
21 I think, in facilitating the process.

22 [15.16.26]

23 In response to your question, I would like to clarify that when I  
24 went to Cambodia in 1992 as a graduate student, at that point I  
25 thought I was going to investigate local conceptions of

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1 psychology.

2 But by the time I came back in 1994 to 1995, because of those  
3 conversations I mentioned speaking with the family, to Cambodians  
4 who wondered why the Khmer killed Khmer, by that time I had  
5 formulated a question. So when I came, I was interested in a wide  
6 variety of issues, but I was focusing on the DK regime and this  
7 question of: Why did Khmer kill Khmer by that time?

8 As part of that research, I was also concerned with trying to  
9 understand the history of what had happened in this area, but  
10 again in addition to trying to understand the cultural patterning  
11 of the violence.

12 [15.17.27]

13 Q. In relation to the region you are referring to, are you  
14 talking of Region 41<>?

15 I see that you are nodding, which means you are talking of  
16 <Region> 41.

17 I would like us to talk about the various trips you made to  
18 Cambodia <to be thorough>. I understood that you came in 1992 for  
19 the first time and that you also came back in 1994 and 1995.

20 Can you tell us for how many months <that makes>? Was it the  
21 entire year of 1994 <and> 1995 that you spent in <Region> 41,  
22 apart from <"your one months" in> Phnom Penh, or it was less than  
23 two years?

24 A. Thank you, madam, for the question.

25 Also, just in relationship to my nodding before, I should note

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1 that when I came to do my fieldwork in 1994, and I was here for a  
2 year, I spent around 11 months or so in this one area of Kampong  
3 Cham/Kampong Siem district.

4 As I said before, I lived in Kampong Cham city and I would go out  
5 by motorbike to the village but I would also do a multi-set  
6 ethnography interviewing many other people in other contexts as  
7 well. And then I went back to Phnom Penh and stayed there for a  
8 year.

9 [15.18.49]

10 So I was about there for perhaps a year or so for the first stint  
11 and since then I've gone back there many times.

12 But what I wanted to mention as a point of clarification, in  
13 terms of how I ended up in Kampong Cham, initially I was  
14 considering going somewhere in the Southwest, but at the time the  
15 Khmer Rouge were still active and they actually captured some  
16 foreigners on a train and executed them. And so I changed my  
17 field site at that point to Kampong Cham, which was relatively  
18 secure. Though, as I mentioned, south of the national road, there  
19 is a village Romeak (phonetic) and in that village, the Khmer  
20 Rouge -- it's a longstanding area where Khmer Rouge have been and  
21 there were some Khmer Rouge who were still active in the area.  
22 So that's sort of a long answer to the question of how I came to  
23 do fieldwork in Kampong Siem district.

24 [15.19.38]

25 Q. That was not the thrust of my question. I know you have a lot

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1 to say but unfortunately I don't have the luxury of time. So may  
2 I request you to focus as much as possible on the questions I  
3 will put to you <because, otherwise, it will be difficult>.

4 So you spent some time in Kampong Cham and then in Phnom Penh. I  
5 understood that you took <language> lessons. When did you do so  
6 and for how long?

7 A. Thank you, madam. So there is an institution called the  
8 Southeast Asian Studies Institute and I took Khmer lessons at  
9 this institute, beginning intermediate and advanced prior to my  
10 fieldwork.

11 In addition I lived in, as I said, in 1992 I went to -- I lived  
12 for about three to four months doing language -- learning about  
13 Cambodia as a graduate student in 1992. That was prior to my  
14 arrival in Kampong Cham.

15 [15.21.06]

16 Q. So when you arrived in Kampong Cham you took three -- you had  
17 taken three or four months of Khmer lessons in 1994; is that  
18 correct?

19 A. Thank you, madam. Yes. So this institute is run during the  
20 summers. I believe it was the summer of 1991, maybe 1992, 1993.  
21 Anyway, I took three -- during three summers, every summer I  
22 would take language training. It's a well-known language training  
23 institute that they had. They offer intermediate, beginning and  
24 advanced Khmer lessons.

25 Q. And I understood from your testimony as well that at a point

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1 in time you had two research assistants but that they didn't  
2 speak any English. Did I understand your testimony correctly?

3 A. Thank you, madam. I had two primary research assistants. There  
4 was another person who did some research assistance. The two  
5 primary -- one of the two primary research assistants spoke a  
6 little bit of English. The other people spoke no English.

7 Q. You stated that after 1994 and <> 1995 you returned to  
8 Cambodia on several occasions. After 1995, what is the longest  
9 stretch of time you spent in Cambodia?

10 A. Thank you, madam. Because I have children I have come back for  
11 shorter periods of time, two -- one week, sometimes two weeks. I  
12 think three might have been the longest.

13 [15.23.20]

14 Q. And the three months in question, was that before the  
15 publication of your book or thereafter?

16 A. Thank you, madam. No, I can't recall off the top of my head. I  
17 believe it was probably in the summer of 2000. I would have to go  
18 back and check. It might be on my CV.

19 Q. I understood from your answers to questions put to you by the  
20 President and my colleague of the Nuon Chea team that you relied  
21 on several sources to obtain the information -- that is,  
22 documentary sources as part of your research.

23 Do you agree with me that the bulk of the sources you used <in  
24 your book, "Why Did They Kill?", is the time you stayed> in  
25 Kampong Cham <in Region 41>? Is that the main source that you

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1 used for your work<>?

2 A. Thank you, madam. So are we speaking specifically of the  
3 research for this book or the broader research I have taken in  
4 general?

5 [15.24.48]

6 Q. I am talking about the book because I said at the outset that  
7 I would put questions to you on your book and on what you've  
8 written in that book <according to> the information you had at  
9 your disposal at the time you wrote the book. I understood that  
10 your book was published in 2004-2005. So I am talking about what  
11 you relied on when you wrote that book.

12 A. Thank you, madam.

13 So yes, the book, the information for the book came from my  
14 research in Kampong Cham and Kampong Siem.

15 Q. I would like us to talk about the three-month period, which is  
16 the longest period you spent in Cambodia after your stay in  
17 1994-1995. Do I understand from your book and from what you have  
18 stated that <> you went <back> to Kampong Cham during that  
19 three-month period; is that correct?

20 A. Thank you, madam. I believe I may have said in 1992. I went  
21 for three, maybe three months. I can't remember. It might have  
22 been four. I can't remember exactly. I believe it was during the  
23 fall semester at my university but that was in Phnom Penh at that  
24 time. That was during the UN period, UNTAC period just as it was  
25 getting going.

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1 [15.26.30]

2 Q. So I may have misunderstood what you stated. After your stay  
3 in 1994 and 1995, you stayed in Cambodia for <> a longer period  
4 of time than two weeks. Is that correct?

5 A. Again, I believe it's on my CV, but I would come back as I  
6 said before, after that. It was from 1995. I came back in 2000,  
7 then 2003. And then I started to come more regularly especially  
8 during the course of the Duch trial.

9 Q. My question was different. I wanted to know about the duration  
10 of your stay<s> after 1994-1995; did you <ever> stay for a longer  
11 period of time than two weeks?

12 A. Thank you, madam. As I said I can't give you offhand but, as I  
13 said, I would come back sometimes for a week and a half, 10 days,  
14 whatever, two weeks, something like that. I think, on average it  
15 might have been two weeks I would try and come for, something  
16 like that. As I mentioned before, I believe it's listed in the  
17 dates broadly listed on my CV.

18 [15.27.55]

19 Q. Under those circumstances, is it correct to say that your  
20 immersion work which you described as part of your  
21 anthropological research was, in concrete terms, the period of  
22 1994 and 1995, and the other times you came, <even> to attend  
23 trials, <> you would <not> describe as being an immersion  
24 <experience> as the time you spent in Kampong Cham?

25 A. Certainly, madam, it would not be exactly the same. It was



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1 immersion. I returned to the village. I would go back out to the  
2 village in Kampong Cham.

3 But once we got into the period of the Duch trial, my repeated  
4 trips during that time, I predominantly stayed in Phnom Penh,  
5 though I did make at least one, maybe two -- at least maybe two  
6 trips out to Kampong Cham.

7 [15.28.48]

8 Q. Is it also correct to say that consequently, as a result of  
9 the research you carried out during those years, you did not have  
10 the same experience <of immersion> as you had in Kampong Cham and  
11 in <Region> 41<>?

12 A. I believe, if I understand correctly, that's correct, madam.

13 My research projects were different. I was undertaking a study of  
14 the Duch trial and the Tribunal. During the second book for the  
15 research for the book I had just completed was a very different  
16 research project from the -- I mean there were obviously, in  
17 terms of the Khmer Rouge period being involved, a connection  
18 between the two but they were separate research projects.

19 Q. Another point which I would like you to describe more in  
20 detail, in your research in Kampong Cham specifically <> that  
21 formed the base of your research for "Why Did They Kill?", do we  
22 agree that when you went there for your research you did not <do>  
23 research specifically <on> the <> Vietnamese nor <on> the Chams?  
24 These are elements that were given to you during your  
25 conversations, but that was not the object or the base of your

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1 research? Do we agree on that?

2 [15.30.50]

3 A. Thank you, madam. I believe I was aware of the genocide of the  
4 Chams at the time and so when people mentioned, I noted it, but I  
5 guess I was concerned with understanding the lived experience of  
6 the people living in the village and this was part of their lived  
7 experience and something they would relate.

8 But I did not undertake a study of the genocide of the Chams as,  
9 for example, Osman has done, Ysa Osman.

10 Q. You say, and this might be <one of> my rare questions on this  
11 topic because you understand that we are in a court of law here  
12 and we are debating the issue of characterization of genocide in  
13 the legal sense, so here I'm going to refer to one specific point  
14 regarding that issue.

15 [15.31.50]

16 You said in your book, I think it's at footnote 4 <of> the first  
17 part, where you explain the difference between genocide in a  
18 sociological point of view and genocide from a legal standpoint.  
19 So do we agree that in your work, you base yourself on genocide  
20 in the sociological meaning of that word?

21 A. Thank you, madam. It's not possible to give a sort of short  
22 answer to that question because, again, especially now when  
23 someone who's become a genocide scholar, if you look, as I  
24 mentioned before, I guess most briefly perhaps maybe they come  
25 closest to the 1946 UN Resolution on Genocide that was sort of

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1 the beginning of what became the 1948 Genocide Convention in  
2 which political groups and other groups were included. The  
3 definition was in accordance with Raphael Lemkin founded -- who  
4 coined the word "genocide" and who was the advocate who pushed  
5 for its ratification in the 1948 Genocide Convention.

6 [15.33.02]

7 In terms of, you know, so, I'm aware of the UN Genocide  
8 Convention. I understand the historical context in which it  
9 emerged, but my own understanding of genocide as I think I  
10 mentioned at the very beginning is more in accordance with the  
11 1946 Resolution and the original meaning and ideas of Raphael  
12 Lemkin.

13 Q. In order to be more specific regarding this point, I'd like to  
14 refer you to the endnote number 4 on page 301 of your book, ERN  
15 00431743. And you say when you speak about the 1948 Convention  
16 and you say, and I will quote this in English, I apologize:

17 "From an anthropological perspective, this definition is highly  
18 problematic because it privileges certain social categories --  
19 race, ethnicity, religion and nationality -- over others. While  
20 the marking of social differences is a human universal, the  
21 categories into which we parse the world are culturally  
22 constructed." End of quote.

23 So I'm reverting to my previous question. So we do agree that the  
24 use of the term "genocide" is based on your anthropological  
25 vision vis-à-vis the research you conducted?

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1 [15.35.05]

2 A. Thank you, madam. Again, to the different layers to it, I'm  
3 aware of a number of different definitions -- aware that in a  
4 court of law, such as this, the UN Genocide Convention is  
5 operative with the categories the protected groups are and the  
6 meaning of those categories is something that's still discussed.  
7 As I said before with regard, for example, to the national group:  
8 what is a national group? There's some debate about that within  
9 the field of genocide studies as for something -- anyways, it  
10 could be a broader umbrella. So there are different -- genocide  
11 scholars debate these.

12 As an anthropologist, for myself the restriction of the protected  
13 groups -- and, again, this is outside of a court of law -- but  
14 for myself is ethnocentric, and my view is that if a group of  
15 human beings is targeted for destruction because of who they are,  
16 that would be genocide.

17 [15.36.12]

18 Q. So therefore you maintain what you said in your footnote,  
19 footnote 4 which I just quoted, that is to say that in your eyes  
20 <> the UN definition of genocide is problematic. So you stand by  
21 that position; that is still your position?

22 A. Thank you, madam. I think that's my position and a position  
23 that's acknowledged by many people even as people also recognize  
24 that we have a UN Genocide Convention. It's an historic thing to  
25 have achieved this, to have it in international law and to have

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1 it as -- to have the ability to try people who potentially have  
2 committed these acts and to render verdicts.

3 So saying it's highly problematic does not mean that it should be  
4 disregarded. I very much acknowledge and recognize the importance  
5 of having the UN Genocide Convention and the way that processes  
6 unfold to render verdicts about genocide.

7 Having said that, as an anthropologist if I were to re-write it  
8 myself I would go back to the 1946 Resolution that was there at  
9 the beginning when political groups, class-based groups --

10 [15.37.32]

11 Q. I apologize, I apologize for interrupting you.

12 It was just a question. I know you have a lot to say but, once  
13 again, I don't have that much time.

14 And my question was simply, do you maintain what you indicated in  
15 your footnote 4? Then, of course, I am sure you have a lot to say  
16 but, unfortunately, I don't have that much time so we cannot  
17 spend, unfortunately, the whole afternoon talking about this.

18 So I would like now -- well, I put questions to you earlier on  
19 the research you conducted and you confirmed that you heard  
20 things about Vietnamese and about the Cham.

21 Now, regarding the Vietnamese, I noted that at yesterday's  
22 hearing you said that there were very few Vietnamese people in  
23 Region 41 and that the villagers you interviewed sometimes spoke  
24 to you -- and this was a little bit before <10.06.07> in the  
25 morning at yesterday's hearing. In English I will quote, "Maybe

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1 half a dozen to a dozen." But there was not therefore a <large>  
2 presence of people of Vietnamese origin in the region where you  
3 worked. So did I understand your testimony properly?

4 [15.39.16]

5 A. Thank you, madam. I just want to add a point of clarification,  
6 that there are points at which I need to elaborate my  
7 understanding of something. I can, as a scholar give a short,  
8 truncated reductive answer, so there are times when I will need  
9 -- I need to explain what I mean when I use a term, and so please  
10 indulge me a bit at those moments. I'll do my best to keep on  
11 track with the time.

12 But the quick answer to that is that people, based on the lived  
13 experience and the narratives when people said there were far  
14 fewer ethnic Vietnamese living there than there were ethnic Cham.

15 Q. And you explained as well that an important part of your work,  
16 given the area where you're working, consisted in conducting  
17 documentary research and research on the confessions of Koy  
18 Thuon's network.

19 So here did I understand your testimony properly? So the research  
20 work you did on the purges in Region 41, was that an important  
21 aspect of your work and an important aspect of your book "Why Did  
22 They Kill?"

23 [15.40.46]

24 A. Thank you, madam. As I have said before, I had observed what  
25 happened in this area and I sought to try and work all the way to

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1 the upper levels of DK and find out what happened to this person,  
2 Koy Thuon, who people were talking about. Of course, I knew about  
3 him beforehand.

4 So I went to the archive to find out some about him but, in  
5 particular, about this person Reap (Re Sim), who had tried to set  
6 off the explosives and I, in particular, wanted to try and find  
7 out was his confession there, had he been sent to S-21, what had  
8 he said?

9 And as I mentioned, you know, going -- doing research then took  
10 much more time than it does now to get documents like that, so to  
11 do research was a prolonged -- even to get one confession, to  
12 find Reap took several days.

13 So the bulk of my research in terms of -- you know, the lived  
14 experience and the basis of this book, was based on my interviews  
15 with the informants, but then I did go do that documentary  
16 research and then later supplemented it with the enormous  
17 secondary literature that exists. And I continued to look in  
18 particular at FBIS broadcasts which were the most readily  
19 available source at that time in the US.

20 [15.42.21]

21 Q. Regarding the FBIS broadcasts, and this allows me to return to  
22 a point that you discussed at yesterday's hearing a little bit  
23 before <3.49.48> in the afternoon, and you were answering a  
24 question that was put to you by the Nuon Chea defence and you  
25 said -- or you spoke about documents concerning the Cham, and you

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1 said -- well, let me quote you directly in English, it might be  
2 easier.

3 You said the following: "<So again, the sources of information in  
4 terms of the Cham, they're the broader ideological pronouncements  
5 on things like FBIS radio broadcasts." End of quote.

6 So I would like to know which radio broadcasts you're speaking  
7 about concerning the Cham, and I bring this question to you  
8 because recently we had a document hearing regarding the segment  
9 of the Trial on the Cham and the Vietnamese and we had -- well,  
10 we received no -- <and I'm sure the Prosecution would have  
11 mentioned it had there been any --> we were made aware of no  
12 broadcast connected to statements against the Cham that were  
13 broadcasted on the radio.

14 [15.44.00]

15 So my question is, is this something that you witnessed and  
16 where, or is this something that you term in other ways?

17 A. Thank you, madam. I might have to review the transcript. I  
18 don't remember phrasing it quite that way. I know I said that I  
19 relied upon FBIS broadcasts. I don't think I ever explicitly said  
20 that I found a FBIS broadcast that called for the genocide of the  
21 Chams. I don't think I said that. I could have been tired, it  
22 might have slipped by. It could also have been something that  
23 came across in the translation. I think I made it clear that the  
24 bulk of my findings about the experience of the people in Region  
25 41 and what happened were based on the interviews that I did



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1 there.

2 [15.45.02]

3 Q. Well, in order to make things clear -- and the reason I'm  
4 bringing this question to you is -- well, I'm just checking the  
5 English here because I'm -- of course, with my accent -- but I  
6 quoted what you said yesterday and this is something that is in  
7 the record and maybe it's something that escaped you, but I just  
8 wanted to get this detail.

9 So you therefore confirm that you never heard anything or read  
10 anything about the Cham in the radio broadcasts; is that correct?

11 A. Thank you, madam. I have no idea because I don't have the  
12 transcripts that I can review.

13 So at the time in terms of specific radio broadcasts that  
14 specified the Chams being killed, I would not have -- I did not  
15 have that time that I wrote my book.

16 What I possibly could have been referring to is the documentation  
17 that I received that I reviewed possibly, but it's impossible to  
18 say without having the transcript from the day you're talking  
19 about. The context isn't there so I can't recall it, but I don't  
20 think I would have said that when I did my research in 1994/95 I  
21 found an explicit radio broadcast that targeted the Cham, and if  
22 I had probably would be cited in the book, wouldn't it?

23 So I, anyways -- but if the transcript can be provided to me in  
24 context, I'd be happy to look it over.

25 [15.46.42]

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1 Q. Well, maybe to make things clear, the transcript I'm speaking  
2 about -- well, these are of course the draft transcripts of what  
3 was taken by the transcribers here in the courtroom yesterday.  
4 So, of course, this is also something that we heard when you  
5 spoke here before the Court. So maybe there was a mistake here,  
6 but I just wanted to get this clarification and thank you for  
7 providing it.

8 You spoke about your work on the S-21 archives and on the Duch  
9 trial, and here once again I'd like to focus specifically on your  
10 book "Why Did They Kill?" And in the context of your book, or for  
11 your book, I understand that you interviewed a few people who had  
12 worked at S-21 and you also interviewed -- I didn't quite  
13 understand but I'm going to ask you therefore to clarify this --  
14 but apparently you said that you interviewed someone who either  
15 worked at Phnom Pros security centre or who was <directly>  
16 connected with this security centre. So did I understand you  
17 properly?

18 [15.48.10]

19 A. Thank you, madam. So the point of clarification, the person  
20 who worked at Wat Phnom Pros-Phnom Srei was someone who I  
21 interviewed, met, who provided me with the document detailing the  
22 history of what had transpired, that he had written. So the  
23 document I -- I don't know if I clarified, but it was his written  
24 document that he had written to give to me, to present the  
25 history and then I interviewed him two or three times, maybe two,

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1 three, I can't remember. Anyways, he is the person I refer to in  
2 relationship to Wat Phnom Pros-Phnom Srei.

3 But the person in terms of S-21, there were a few, one person in  
4 particular, Lor, who comes out at the beginning of my book was  
5 the one S-21 cadre. There was another one; maybe it was just the  
6 two of them who had -- because again, at that time, now you can  
7 go to Tuol Sleng Museum and you have survivors and cadre are  
8 coming in, but at that time they weren't around, so they were  
9 difficult to find, and especially the person Lor had not been  
10 interviewed very extensively at all, if at all.

11 [15.49.26]

12 Q. Fine. So if I understood well, you interviewed in an in-depth  
13 way, <well,> I understood that in your work you would make <the  
14 distinction> between <> in-depth interviews and conversations  
15 that you had <during your immersion, your research>.

16 So my question is regarding Lor and the other S-21 cadre, and  
17 I'll get back to this notion of cadre later. So do we agree that  
18 you interviewed two people who had worked at S-21<,> including  
19 one person who had worked at the Phnom Pros security centre?

20 A. That's correct, madam. I don't know of any other -- if there  
21 are other people alive who had worked at that security centre.  
22 Probably there are and hopefully the Court's been able to find  
23 them.

24 Q. Another point of clarification I'd like to get from you. You  
25 <> spoke <a few times> about a demographic report and I'm not

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1 sure I understand which document you're referring to.

2 So could you be more specific about that, please?

3 A. The demographic report that was produced by the Court?

4 [15.51.11]

5 Q. I apologize, but is this a demographic report that was  
6 provided to you by the parties in the preparation of this  
7 hearing, or is this something that you had obtained beforehand?

8 A. Thank you, madam. I may have downloaded it from the website as  
9 one of the declassified documents. I don't remember at this  
10 point.

11 Q. And is this a demographic report that was produced by Ewa  
12 Tabeau? Does that somehow jog your memory?

13 A. I would need to go back and review it to know for sure, but it  
14 goes through and reviews all the different demographic reports  
15 that have been done, including Ben Kiernan's research, and  
16 reviews them and comes up with -- I'm sure you're well-aware of  
17 it.

18 [15.52.10]

19 Q. Well, in fact, my question was simply to be sure that when you  
20 wrote "Why Did They Kill?", you didn't have that document or that  
21 you did not use this document in your research. Do we agree on  
22 that?

23 A. Yes, that's correct.

24 Q. Another clarification I'd like to obtain from you regarding  
25 the way you conducted your interviews. I understood that you

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1 followed a university <> protocol to guarantee the <anonymity> of  
2 the people that you were interviewing.

3 So my question is: When you are interviewing people -- and  
4 especially in-depth interviews -- do you -- or can you use,  
5 according to your protocol, information to interview other  
6 people, saying that "this person said this about you"? Is this  
7 something that you do in your research or is this something that  
8 is prohibited by your protocol?

9 A. Thank you, madam. Yes, that's not something that would be  
10 done.

11 [15.53.57]

12 Q. I'm putting <these> question<s> to you regarding your  
13 methodology because this is something that's important for us  
14 because in a court of law, grouping together information, the  
15 possible contradictions between this information, is at the core  
16 of our work. So it's important for me to understand that this, in  
17 particular, was prohibited <in the context of your research>.

18 You spoke yesterday I believe with the Co-Prosecutor about the  
19 notion of concentration <> of a group in a specific place and you  
20 said that this could contribute or it could facilitate the  
21 control over this group, and this was something that -- is  
22 something that occurred frequently in mass crimes.

23 So did I understand your testimony properly, and is this notion  
24 of concentration <of a group> in one specific place something  
25 that corresponds to <a phase in> mass crimes?

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1 A. Thank you, madam. I prefer to perhaps stick within the terms  
2 of my book talking about the re-organization of difference of  
3 which one modality of it is concentrating people but as part of a  
4 larger process.

5 [15.55.54]

6 Q. Well, indeed, I would like to put this question to you in  
7 connection with the Cham, for example.

8 We <have> heard <witness testimonies> before this Chamber<>, and  
9 we also reviewed documents<, statements> that indicate that  
10 contrary to concentration, people were scattered in various  
11 population movements that took place at different moments in the  
12 history of Democratic Kampuchea.

13 But here let me refer to a statement by Man Sen, document  
14 E3/5205. I don't think you have it in your folder.

15 Well, this is an excerpt that I'm going to read out to you. You  
16 do not have everything as I said to you at the beginning, this is  
17 not possible.

18 And Man Sen speaks about his involvement in a rebellion  
19 <movement> and he explains -- and that's at French, ERN 00293922;  
20 Khmer, ERN 00221850; and English, 00275164; and he speaks about  
21 his <interrogation> and the following question was put to him:

22 [15.57.45]

23 "Were you the victim of abuse or torture when you were  
24 interrogated?"

25 And he answers: "I was not tortured. I was interrogated in order

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1 to see who was behind the rebellion and <those who had worked in  
2 the old society>. The villagers who were brought away first were  
3 the injured, and <later the well-respected and> wealthy  
4 families."

5 And then later -- and later - or, rather, in another interview,  
6 document E3/7675; French, ERN 00293924 (sic); English, 00221858  
7 (sic). I'm sorry, I mixed up the ERNs. Let me start again. So in  
8 French, it's 00293926; English, 00221859; and I don't believe  
9 there is a Khmer ERN.

10 Well, he's speaking about when he was released and he says:

11 "Twenty days later, the Khmer Rouge allowed us to see our <wives>  
12 and children again. I saw my wife again at the Kanhchak monastery  
13 and we were able to live together for about 10 days before the  
14 Khmer Rouge deported my family as well as others, about 200  
15 families."

16 [15.59.49]

17 And then he indicates afterwards that among those 200 families,  
18 100 of these were taken to Dambae district and therefore they had  
19 to leave their home district.

20 So my question was, because you spoke about the rebellions, and  
21 we have an example here of a witness who is explaining that he  
22 did partake in the rebellion and that he spent some time in  
23 detention, and then he was transferred elsewhere with his family.  
24 So my question is: How <does> this population transfer to  
25 different places <fit> in the context of your understanding of

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1 concentration, because it seems to contradict this notion of  
2 concentration in one single place <for better control>? <>

3 MR. SMITH:

4 Just briefly, I was wondering whether counsel could provide a  
5 date so that the expert would have a sense of when this activity  
6 was?

7 MS. GUISSÉ:

8 I have no problem with that. That was after the Krouch Chhmar  
9 rebellion that was sometime in 1975 therefore.

10 [16.01.15]

11 MR. HINTON:

12 A. Thank you, madam. So, yes, that's why when you asked before  
13 was a singular modality concentration and I replied the way I  
14 prefer to think about it as the re-organization of difference. So  
15 concentration is one modality but there are also systems of  
16 regulatory control and disciplining including, for example,  
17 careful records kept about people, their backgrounds including  
18 ethnic backgrounds that are, for example, in the ledger books,  
19 two copies of which are made. That's an example of regulatory  
20 control and this was commonplace during DK.

21 [16.02.08]

22 BY MS. GUISSÉ:

23 Q. I understood that that was one of the modalities, but my  
24 question was whether, in light of that particular case in Krouch  
25 Chhmar district and the fact that groups of Chams, like other



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1 members of the population, were moved to other places, doesn't it  
2 run counter to this point <> about concentration for purposes of  
3 better <control>?

4 A. Thank you, madam. Again, no it does not. So, again, this is  
5 one modality and as I've stressed before, you need to look at  
6 temporal and spatial variation. I brought up the term "cumulative  
7 radicalization" as well in relationship to the Cham case in  
8 contrast to the ethnic Vietnamese case which seemed to be  
9 somewhat different, where over time you sort of have a Plan A, a  
10 Plan B and a Plan C. In this case, it seems that after the  
11 rebellions, eventually Chams began to be targeted because they  
12 were Chams. Initially, there was an awareness of who they were  
13 but, again, as with other groups there's the potential to sharpen  
14 the consciousness -- to sharpen their consciousness but  
15 eventually they were viewed as being less likely to do so and  
16 began, for that reason, to disappear in greater numbers and there  
17 is illustrated by the experience of the Chams in Kampong Siem  
18 district and Region 41.

19 [16.03.51]

20 There was, as an example, of a systematic attempt to take them  
21 away and kill them because of who they are. And, again, that's  
22 not just based on the documents in my book, but as I have said  
23 repeatedly, on documents from people who worked in Kampong Siem  
24 district, interviews that have been done that confirm the details  
25 of what I reported in my book.

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1 Q. Well, I see that it is 4 p.m.

2 In light of this specific case I have just mentioned, <it> is <a  
3 person> who <at the end of> 1975 <was the> leader <> of <a>  
4 rebellion and who <was> moved somewhere else to work with other  
5 Khmers. And here we are far from the concentration <and control>  
6 because <the idea at the time was that> they were moved to go and  
7 live with other Khmers.

8 My question, and I have properly understood that that wasn't the  
9 only form of control, but here we have a counter example of a  
10 control as part of a concentration of a Cham group and, quite on  
11 the contrary, we have people who are Cham being integrated in the  
12 Khmer population.

13 I don't know whether that would elicit any particular reaction  
14 from you as regards this specific example I've just given.

15 [16.05.18]

16 A. Thank you, madam. And also I'd like to ask if you'll be  
17 referring to the documents I was provided with tomorrow, so if I  
18 should review them, as a second point of clarification?

19 But, again, which is why at the very beginning I said the  
20 re-organization of difference, their modalities of disciplinary  
21 control one modality of which can be concentration, but the key  
22 element is the control and regulation of people who have been  
23 marked as different which sets up a greater likelihood of having  
24 an ability to then target those people and execute them, such as  
25 is the case of the Kampong Siem district where their names were

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1 marked in ledgers and everyone knew exactly who the ethnic Cham  
2 were and orders came down and then they were taken away.  
3 So concentration is one modality but there are other modalities  
4 including record-keeping.

5 [16.06.12]

6 MS. GUISSÉ:

7 Yes, I do confirm that there <will be>questions on <the>  
8 documents, <and> some of the places I would like us to return to,  
9 and I will have more questions on that tomorrow.

10 MR. PRESIDENT:

11 Thank you, and thank you, Mr. Expert, again.

12 It is now a convenient time for the adjournment.

13 The Chamber will resume its hearing tomorrow, 17 March 2016, from  
14 9 o'clock. The hearing tomorrow, we continue to hear the  
15 testimony of Mr. Expert Hinton.

16 Thank you, Mr. Expert. The hearing of your testimony as an expert  
17 today has not yet concluded. You are therefore invited to come  
18 back tomorrow at 9 a.m.

19 Court Officer, in collaboration with WESU, please make necessary  
20 transport arrangement to send him to his accommodation and invite  
21 him back to the courtroom tomorrow at 9 a.m.

22 Security personnel are instructed to bring Khieu Samphan and Nuon  
23 Chea back to the detention facility and have them returned to the  
24 courtroom tomorrow morning before 9 a.m.

25 The Court now is adjourned.

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1 (Court adjourns at 1607H)

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