



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
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11 July 2013
Trial Day 209

Before the Judges: NIL Nonn, Presiding
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Jean-Marc LAVERGNE
YOU Ottara
THOU Mony (Reserve)
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MR. STEPHEN HEDER

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List of Speakers:

Language used unless specified otherwise in the transcript

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JUDGE CARTWRIGHT	English
MR. HEDER	English
MR. KONG SAM ONN	Khmer
MR. KOPPE	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. RAYNOR	English
MR. VERCKEN	French

1

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

2 (Court opens at 0902H)

3 MR. PRESIDENT:

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

5 As scheduled, the Chamber continues to hear the testimony of Mr.

6 Heder. Questions continue to be put by the Prosecution.

7 Ms. Se Kolvuthy is now directed to report to the Chamber

8 regarding the current status of the parties to the proceedings

9 today.

10 THE GREFFIER:

11 Good morning, Mr. President and Your Honours.

12 All parties to the proceedings are present, except Mr. Nuon Chea,

13 who is present but in his holding cell, due to the ruling by the

14 Trial Chamber, due to his health concerns.

15 Today, the Chamber continues to hear the testimony of Mr. Heder.

16 And Mr. Heder is right in the courtroom.

17 And we do not have a reserve witness for today.

18 [09.04.02]

19 MR. PRESIDENT:

20 Thank you, Ms. Se Kolvuthy.

21 Without further ado, we would like to now hand over to the

22 Prosecution to continue putting questions to Mr. Heder.

23 QUESTIONING BY MR. RAYNOR RESUMES:

24 Thank you, Mr. President. Good morning, Mr. President, Your

25 Honours, may it please you. Good morning to my fellow counsel,

2

1 and good morning again to you, Mr. Heder.

2 Q. I'd like to start, please, by asking some clarification
3 questions in relation to your testimony towards the end of
4 yesterday.

5 You will recall that you confirmed an extract from E3/1714, in
6 relation to the refugee interviews in 1980 and reference to the
7 interviewee Lonh, also known as Lorn, the passage of "drying up
8 the people from the enemy" being part of the longstanding plan,
9 and that being the relevant slogan. In relation to that, you said
10 that you'd heard it from many people over many years and that
11 you'd heard it before April 1975 on radio broadcasts. And it's
12 the radio broadcasts I'd like to ask some further questions
13 about.

14 [09.05.32]

15 Can you help on what - in what context this phrase, "dry up the
16 people from the enemy", was being broadcast? What I mean by that
17 is what was the subject matter, what was the context in which
18 this phrase was being used?

19 MR. HEDER:

20 A. It referred to a situation in which there was contestation for
21 control and loyalty of population, and the notion was that either
22 by military, or political, or other means, the proportion - the
23 number of - the proportion of the population under enemy control,
24 from the point of view of the Khmer Rouge, should be reduced, and
25 in practice this meant their relocating from enemy controlled

3

1 zones to - in Khmer Rouge terminology, to Khmer Rouge controlled
2 zones, liberated zones, or as they routinely put it, from areas
3 temporarily controlled by the enemy to the liberated zones.

4 [09.07.04]

5 And in general, in terms of the - at least the public propaganda,
6 this was presented as being something that was voluntary. In
7 other words, people were encouraged to flee or invited to flee
8 from those zones temporarily held by the enemy into the liberated
9 zones.

10 In interview data, again both before and after April 1975 - and
11 when I say "after", I'm talking, in fact, primarily from late '78
12 into the 1980s - it was clearly associated with this term of
13 "evacuation", the term that's conventionally translated as
14 "evacuation". And at least in some of those interviews, to my
15 recollection, it was made clear that this could be done forcibly,
16 that is - or in a compulsory manner. So it could refer either to
17 people being persuaded politically to leave enemy controlled
18 zones and join the liberated zones or it could be used to refer
19 to a situation of military seizure of certain territory and,
20 therefore, certain groups of people who would then be removed to
21 the liberated zones under this rubric of "evacuation".

22 [09.08.47]

23 MR. PRESIDENT:

24 Mr. Heder, could you please be reminded that you are summoned to
25 appear before the Chamber to give testimony to the Chamber. And

4

1 with that, when you address your responses to the Co Prosecutor,
2 it would be more appropriate if you can just turn a little bit to
3 the front so that you are now talking to the Chamber, please.

4 BY MR. RAYNOR:

5 Q. I want to ask questions now about the incidents that you had
6 direct personal knowledge of in Udong and Kampong Cham.

7 Can we take Kampong Cham first, because you set that in a
8 timeframe of September 1973.

9 In respect of the evacuation in Kampong Cham, was the information
10 you received from interviewees consistent with that being a
11 voluntary evacuation or a forced one?

12 [09.10.13]

13 MR. HEDER:

14 A. I'm trying to dredge it up - call it up from memory.

15 Elements of both. As I - and I would add, I wasn't there until
16 sometime after the event, so it wasn't, as it was in the case of
17 Udong, almost immediately after the event, some time had elapsed.
18 And - I mean, my recollection is that some people described being
19 forcibly removed or described others being forcibly removed, and
20 there were some who eventually managed to return, while others
21 described not going exactly voluntarily but being willing to go
22 under the circumstances of the time. There were some who were
23 displaced persons - "internally displaced persons" would be the
24 current terminology - who had come into the Kampong Cham town
25 area for various reasons and who were willing to go back to where

1 they had come from.

2 But my recollection is that primarily it was by compulsion.

3 Q. The same question in respect of Udong when you were there on
4 the 19th of March 1974, in terms of forced/voluntary?

5 [09.12.05]

6 A. My - off the top of my head, my recollection of those
7 specifics are less clear. I think I only went for a day or two. I
8 didn't do extensive interviewing. So I had the sense that people
9 were evacuated, as I said yesterday, to the West. But as for the
10 details, either I didn't get any or, if I did get them, without
11 checking back, I don't remember.

12 Q. But in terms of Udong, you said yesterday that Udong was
13 "deserted". Can you again just, perhaps, explain that, or give a
14 bit of colour, or paint the picture about this "deserted"?

15 A. Well, when I arrived at Udong, the town was effectively
16 deserted. As I said, there were maybe a couple of dozen people
17 who had evaded or - somehow evaded the evacuation, either hidden
18 -managed to hide themselves or separate themselves from the
19 evacuation columns who I spoke to - I think it was rather briefly
20 - but otherwise there was no one there.

21 When I went up to the pagoda, where I saw the bodies of the nuns,
22 there were no monks left, there was nobody - nobody else; there
23 were only the bodies, there were nobody alive on the pagoda
24 grounds, as far as I can recall. So, both the town and the pagoda
25 were empty - virtually empty.

6

1 [09.13.49]

2 MR. RAYNOR:

3 My final question yesterday was about the evacuation of Phnom
4 Penh, and we dealt with, if you remember, Pon's notebook. Can I
5 ask you, please, with your folders – I don't know where they are
6 – sorry, they've not been given back.

7 Mr. President, can I please give Mr. Heder the folders which
8 we've had in safe custody overnight?

9 MR. PRESIDENT:

10 Yes, you may proceed.

11 And court officer is directed to bring these documents to the
12 witness, please.

13 BY MR. RAYNOR:

14 Q. Mr. Heder, can I ask you, please, to look at file 4, tab 1?
15 You should have, I hope, "Reassessing", as I call it in its short
16 form. Can you confirm that? Yes?

17 MR. HEDER:

18 A. (Microphone not activated)

19 [09.15.26]

20 Q. And I'd like you, please, to look at page 6, and it's the
21 section leading to footnote 17. This is, to remind everyone,
22 E190.1.398.

23 And can I ask, please, that all references today, when I give a
24 document, are shown on the screen?

25 "Also to be abolished into the worker-peasants as part of this

7

1 uprooting socialist revolution were members of what the official
2 CPK class analysis designated 'separate' or 'special class types'
3 that did not fit neatly into its broader class [scheme] of
4 feudalists, bourgeoisie, petty bourgeoisie, peasants and workers.
5 In addition to intellectuals, these other class types included
6 Republican soldiers and police, Buddhist monks and 'all
7 nationalities' ('chun-cheat', i.e. 'national minorities')."
8 Footnote 17 then references two DK cadres notebooks, and
9 references are given, from the DC Cam collection, of KNH0010 and
10 KNH071.

11 So, again, can I ask, please, something about these DK cadres
12 notebooks, when you first saw them and, again, just a little bit
13 more detail?

14 [09.17.32]

15 A. This again goes back to a time before the DC Cam cataloguing
16 system was settled. DC Cam had in its possession a fairly large
17 number of notebooks, mostly old society school copy books that,
18 from the content and the style, appeared - to me at least - to be
19 CPK cadres notebooks in which they had notations on meetings they
20 had attended or Party study documents they had received, such as
21 "Revolutionary Flags" or "Revolutionary Youth". And DC Cam had
22 given them a series of temporary cataloguing numbers, which are
23 the numbers that I cite.

24 So I leafed through these notebooks, looking for things that I
25 thought might be interesting, and the material that's in the

8

1 substance of the text comes from the notebooks that are cited in
2 this particular footnote. So, the documents are in Khmer. I did
3 my own translation and worked them into my – the body of my text.

4 MR. RAYNOR:

5 Mr. Heder, I think there's a request that you sit slightly closer
6 to the microphone if possible.

7 Next I'd like to move to a document that's not in your folders.

8 This is document E3/387. And can I please hand you a copy of this
9 document?

10 [09.19.24]

11 This is an interview that you confirmed on the first day of
12 evidence that you had had with this person. I don't want you to
13 name him, I'm not going to name him, but for everyone's benefit,
14 TCW 494.

15 Mr. President, can I please hand over the record of this
16 interview that Mr. Heder had with this individual?

17 MR. PRESIDENT:

18 You may proceed, indeed.

19 And court officer is now directed to bring the hard copies of
20 these documents for the witness.

21 [09.20.06]

22 BY MR. RAYNOR:

23 Q. Is your memory refreshed by looking at the first page?

24 It's a transcript, again, of this interview.

25 Can I start by taking you to your page 4? This is English ERN

9

1 00350203; French, 00441416; and Khmer, 00379483 through 84. If we
2 look at page 4 on yours, Mr. Heder, about two thirds down the
3 page there's a sentence beginning, "In July 1975, I went to
4 liberate". Do you have that? I'm now going to read it in full:
5 "In July 1975, I went to liberate the whole territory and I was
6 assigned a new task, serving as Deputy Secretary of Sector 21 and
7 head of the Sector 21 Committee in charge of economics,
8 administration, education, and organization."
9 Again, can you confirm that that's an accurate recording of what
10 was said to you in this interview?

11 MR. HEDER:

12 A. With the caveat that this is not my translation but the
13 Court's translation, yes.

14 [09.21.42]

15 Q. Can I please take you to the next page for you, which is page
16 5? English ERN 00350204; Khmer, 00379484 through 85 - quote:
17 "Now, let's go to the second period starting from 1973 to the
18 18th of April 1975. During this period, Pol Pot reformed his
19 policy. In reforming the policy, I noticed as follows. The first
20 thing was that they raised class issues and class struggle in the
21 society. They mentioned 5 classes such as workers, farmers, petty
22 bourgeoisie, feudalists, and capitalists. Among the five classes,
23 they valued only worker and farmer class, while other classes
24 were totally ignored and oppressed. Even middle-class farmers,
25 upper-class farmers, petty bourgeoisie, monks, intellectuals were

10

1 entirely oppressed. We also noticed their dictatorship issues and
2 their peasant class."

3 Is that an accurate recording - or reflection of what was said in
4 this interview?

5 [09.23.23]

6 A. Again with the caveat that this is not my translation, I would
7 say, generally, yes.

8 I'm somewhat troubled by the use of the word "oppressed". And
9 before being confident of confirming the meaning, the sense, I'd
10 actually like to see or hear the Khmer. It doesn't quite track
11 for me. It could be correct, but it seems slightly peculiar. So,
12 with that caveat, yes.

13 Q. Mr. Heder, we're having a Khmer version printed off. Perhaps
14 if I can move on, and then we'll come back to this point.

15 Can we go to the bottom of page 5, same ERNs? The four - six
16 lines up from the bottom, this extract - just setting the time,
17 really, it's talking, the extract - I mean, you in fact get the
18 date two lines from the bottom: "...from 1973 onwards, they had
19 conflict with Vietnam." So the person is talking about 1973.

20 [09.25.16]

21 Can we go over your page, which is onto page 6? English,
22 00350205; Khmer, 00379485 through 6; and French, 00441418; top of
23 the page:

24 "So, they were concerned about the remaining forces doing other
25 activities. This time, they mainly used security position, and it

11

1 was the security position which was relevant to class struggle
2 and class dictatorship issues. This is what I would like to
3 describe briefly. We noticed another point when monks and pagodas
4 were gradually eliminated. Prisoners of war and defectors had
5 previously been told that they were allowed to live in certain
6 ways. This time, prisoners of war and defectors of Lon Nol were
7 wiped out. Belief and religion, for both Cambodians and other
8 ethnics, were prohibited. Buddhism and Khmer superstition were
9 prohibited as well."

10 Again, can you confirm that that is an accurate reflection of
11 what you were told in this interview?

12 A. Yes, but again, with the same reservation. I'd like to see - I
13 see - I can see the Khmer here, but it would be easier if I had a
14 hard copy to deal with.

15 [09.27.04]

16 MR. RAYNOR:

17 The hard - the hard copy's coming now.

18 Mr. President, can I please hand the hard copy of the Khmer
19 version?

20 MR. PRESIDENT:

21 You may proceed.

22 BY MR. RAYNOR:

23 Q. Mr. Heder, I'm going to go back to the first "oppressed",
24 because that was the first word you mentioned. The Khmer page -
25 and these are in the top left hand, in dark old type, the ERN

12

1 numbers - it's "oppressed", I think, you'll find at the very top
2 of Khmer page 00379485. The sentence was: "Even middle-class
3 farmers, upper-class farmers, petty bourgeoisie, monks,
4 intellectuals were entirely oppressed" - in the official Court
5 translation. English ERN 00350204, page 5.

6 [09.29.00]

7 MR. HEDER:

8 A. The nuance here is that one might - one could possibly misread
9 the English translation as meaning that these classes - the
10 classes mentioned were to be oppressed by the Khmer Rouge. It's
11 in fact saying that they were among the classes who were
12 oppressed by the exploiting classes of the old society.

13 Q. And the second part, the sentence I was interested in - this
14 is on English page 6, Khmer page 00379485, and it's towards the
15 bottom of that page, and the phrase I was interested in, in terms
16 of translation or - this time, "Prisoners of war and defectors of
17 Lon Nol were wiped out."

18 A. Yes. This is a phrase which I conventionally translate as
19 "swept cleanly away".

20 [09.30.40]

21 Q. Thank you. That's a phrase many of us are familiar with.
22 Can I take you back to the English now, but have the Khmer to
23 hand. It's in the middle of page 6, this is - oh, I've already
24 given the ERNs.

25 "We were ordered to fight at 1 a.m. on the 31st of December..."

13

1 It says 1974, but can you check the Khmer as to whether it's -
2 yes, 31st of December 1974.

3 "...and the war had to be over on the 30th of June 1975. So, they
4 held a meeting to realize attacks on every battlefield. At that
5 time, did they succeed? Generally speaking, gunfire was broken
6 out on all battlefields on the 1st of January 1975 at 1 a.m., as
7 planned."

8 Again, can you confirm that that's an accurate reflection of what
9 you were told in this interview?

10 A. Yes.

11 [09.32.05]

12 Q. Still on the same page, still the same ERNs:

13 "During the attacks, Pol Pot estimated that victory would be
14 achieved in February 1975, and he disseminated the information
15 down to all districts and sectors. He ordered all districts and
16 sectors to build houses for people to be evacuated from Phnom
17 Penh or provincial towns to countryside. During that time, they
18 announced that Phnom Penh dwellers were to be evacuated, so in
19 February 1975, they disseminated the information to all districts
20 and sectors to build houses for those soon-to-come deportees."

21 And I'll carry on because the next bit is also relevant: "Nearly
22 2 months later, the country was liberated. In..."

23 No, I'm going to pause there. Can you confirm that that's an
24 accurate description of what you were told?

25 [09.33.50]

14

1 A. Yes.

2 Q. I'm moving on to another general subject now. I'd like you to
3 put that statement to one side, but we are coming back to it
4 later on. The topic is Command and Authority Structure, file 4,
5 tab 3. You should have one page; is that correct? E number:
6 E131/1/13.3. This is an extract from your book, entitled "Racism,
7 Marxism, Labelling and Genocide in Ben Kiernan's 'The Pol Pot
8 Regime'". You should have page 32 in bold at the top. It's
9 talking about the concept of Party Centre, and you state that "it
10 was inherited by the CPK from the Chinese and Vietnamese
11 Communists", and the footnote 48 states:
12 "In Chinese and Vietnamese Communist parlance, 'Centre' refers to
13 the 'highest leading structures of Party organizations' and of
14 the 'country's political authority' in the state sphere,
15 including the Party Central Committee and its various
16 'departments', the central government, and other administrative
17 bodies at the 'central echelon'."

18 [09.35.53]

19 You then refer in footnote 48 - and I can't pronounce them, but
20 you refer to a 1971 document in Beijing, a Hanoi University Press
21 document from 1986, and a Hanoi document from 1978. Can you
22 confirm that you read those documents and that they were your
23 source?

24 A. Yes.

25 Q. Mr. Heder, in the documents that you have looked at in

15

1 Chinese, Vietnamese, and Cambodian, have you ever encountered the
2 term "Party Centre" as the Party Central Committee?

3 A. Oh! Sorry, I didn't see it.

4 The - I think the answer to that is that - yes, but only in the
5 sense that the Party Central Committee is one of a number of
6 bodies that could be described or could be referred to by this
7 phrase, "the Centre". The "Centre" refers to a level within the
8 Party hierarchy or structure and not necessarily to any specific
9 body of that level - either all of them, or some of them, or one
10 of them. So, the phrase, in and of itself, "Party Centre", is
11 somewhat ambiguous.

12 [09.37.53]

13 Q. Thank you.

14 File 4, tab 4 - so, your existing file, tab 4. Document number
15 E348, "Seven Candidates". Can you please go to page 46? When I
16 say page 46 - you don't have the whole of the document, but if
17 you look at the pages that you do have, they are paged in the top
18 of the document. Do you have the page 46? Thank you.

19 It's reference to the Statutes, and you say this:

20 "The Statutes declared that the Central Committee's duties
21 included 'implementation of the Party's lines ... throughout the
22 country', giving instructions to all its subordinate 'zone,
23 sector, and municipal organizations and to the Party organs
24 taking responsibility for various nation-wide departments', and
25 'administering and deploying cadre and Party members within the

16

1 Party as a whole ... while maintaining a clear and constant grasp
2 on their biographies and political, ideological, and
3 organizational stances and constantly educating and
4 indoctrinating them in terms of politics, ideology, and
5 organization."

6 We know the document very well; it has case - E3 number E3/214.

7 [09.39.47]

8 MR. PRESIDENT:

9 Mr. Prosecutor, please hold on.

10 Counsel Victor Koppe, you may proceed.

11 MR. KOPPE:

12 Thank you, Mr. President. Good morning, Your Honours. Good
13 morning, Counsel.

14 We're reaching now a topic of questioning in which we would
15 require a ruling from the Chamber.

16 I have not an objection to the way of the phrasing of the
17 question, in particular. The Prosecution is referring to a book
18 which is on the case file. The Prosecution is asking the witness,
19 presumably, about the source in the footnote.

20 [09.40.30]

21 However, this book is called "Seven Candidates for Prosecution"
22 and, obviously, has been written with a certain purpose in mind.
23 Maybe the witness at one point will elaborate on the why - on the
24 reasons why he wrote this book. But, obviously, the title of the
25 book itself, "Seven Candidates for Prosecution", suggests that

17

1 the book was written with the intent to present evidence in
2 relation to not only Khieu Samphan, but also our client.
3 So we have now here a situation that we have a witness who has
4 extensive role - who played an extensive role in the
5 investigation now being asked questions about a book which is, in
6 essence, a plaidoyer for prosecuting and, ultimately, convicting
7 our client. So, although not objecting, in a technical sense, as
8 to the way the questions were phrase, I do object that we now get
9 into a situation that this witness is basically talking about
10 this book, why these people, including our clients, should be
11 prosecuted.

12 So I would like to have a ruling of Your Chamber as to the
13 lawfulness, so to speak, in respect of questions to this witness
14 about this specific book.

15 [09.42.12]

16 MR. RAYNOR:

17 Mr. President, Your Honours, can I make it plain, as I hope I did
18 yesterday, that I will not be asking Mr. Heder any opinions based
19 on this book.

20 This book has been admitted in evidence. Objections were
21 submitted and ruled upon. It is on the case file; it has an E3
22 number. It is therefore, on the face of it, relevant and
23 reliable.

24 There may be need for a ruling if I was stressing opinion; I'm
25 not. I'm continuing the practice that I have now undertaken for a

18

1 day and an hour in accordance with the Trial Chamber's direction,
2 of reading statements from books and asking questions about
3 sources. That will continue to be my practice throughout this
4 examination, and I ask, please, to proceed in the manner that I
5 have already been conducting my examination.

6 Can I add, I've not even asked the question yet.

7 (Judges deliberate)

8 [09.45.15]

9 MR. PRESIDENT:

10 I hand over the floor to Judge Silvia Cartwright to clarify the
11 ruling of the Chamber concerning the objection by the defence
12 team for Mr. Nuon Chea in relation to the questioning by the
13 prosecutor based on the books and statements. Judge, you may
14 proceed.

15 JUDGE CARTWRIGHT:

16 Thank you, President.

17 The Chamber has decided that the objection is not sustained.

18 First, the book is on the case file and has been assigned an E3
19 number.

20 And secondly, if the objection is to the probative value of the
21 book, then that is a matter for the Chamber, ultimately, to
22 determine.

23 Thank you, President.

24 [09.46.15]

25 BY MR. RAYNOR:

1 Q. How many versions are you aware of, of these Statutes?

2 MR. HEDER:

3 A. I have a couple of originals - or what I believe are originals
4 - in my possession and a number of copies, which I have always
5 presumed were the same document, in my possession as well. I know
6 DC Cam has some originals and/or copies on file. There are other
7 originals and copies floating around in various places. Maybe -
8 David Chandler, I presume, has one, or the other, or both. There
9 are others who've studied the matter who have one, or the other,
10 or both.

11 If the question is, are there alternate versions? If so, I
12 haven't been aware of that.

13 Q. And based on your factual research - not opinion, not
14 speculation - when were these Statutes adopted?

15 [09.47.43]

16 A. I'm sure I've been told somewhere along the line, in
17 interviews, that it was January 1976, and I'm pretty sure there
18 is also a reference to that fact in "Revolutionary Flag" or
19 "Revolutionary Youth" - "Revolutionary Youth" from around this
20 period.

21 Q. And do you remember when we were - you were giving evidence in
22 Cambodian Communism about the 1960 Congress and adoption of
23 statutes? Can you confirm that statutes were featuring in 1960?

24 A. Yes, presuming we can believe what Pol Pot, Nuon Chea, and
25 others have said. They themselves have said as much.

1 Q. File 4, tab 1, page 12 – English ERN 00661466; Khmer,
2 00830775; French, 00792925. It's in reference, if it helps
3 everyone, to footnote 64. Sorry, I should say, reassessing in its
4 short form E190.1.398.

5 "To a great extent, however, the linkage between the Centre and
6 the districts was mediated via zones and sectors. Leading zone
7 and sector cadre came to Phnom Penh for regular meetings and
8 special consultations with Pol and Nuon, and there was also much
9 written communication back and forth between the Centre and the
10 zones."

11 [09.50.17]

12 Footnote 65 then references Ke Pauk interview, and you go on to
13 say – this is in fact, sorry, in footnote 14, which will be back
14 on page – on page 5. So it's – it's inserting, here also,
15 footnote 14 to give context to the Ke Pauk interview. And so you
16 say:

17 "In an interview with the author [Heder] on the 22nd of February
18 2001 in Siem Reap, Cambodia, Pauk agreed to discuss evidence
19 against himself and others, on the condition that his remarks not
20 be made public while he was alive."

21 And then in terms of what he said:

22 "He conceded that as Secretary of the CPK North (later Central)
23 Zone Committee, he had implemented a CPK policy of killing Khmer
24 Republic officials, initiated the arrest and ordered the
25 execution of alleged 'traitors' among CPK members subordinated to

1 him, and followed orders from Nuon to 'assist' in the arrest of
2 other alleged 'traitors' in the CPK ranks, whom he knew would be
3 executed after interrogation by the CPK security service
4 headquarters, S-21, in Phnom Penh.

5 "Pauk's admissions with regard to initiating arrests were
6 corroborated in an interview by the author with the former
7 third-ranked member of the North Zone Committee, Pech Chheang,
8 alias Thau, on the 14th to 15th of May 2001 in Anlong Veaeng,
9 Cambodia."

10 [09.53.38]

11 My first question is: Is what you've stated an accurate
12 reflection of what Ke Pauk told you in the interview you had with
13 him?

14 A. Yes.

15 Q. Little bit more context: Ke Pauk, Secretary of the CPK North -
16 later Central - Zone Committee, a little bit more information,
17 but not a life history?

18 A. Yes. He was from around May '75 Secretary of the North Zone
19 later re-designated the Central Zone, a member of the Central
20 Committee through the end of the period of Khmer Rouge rule, fell
21 somewhat out of favour with the top leadership after January
22 1979, and was eventually placed into a form of semi-retirement,
23 broke away from the Khmer Rouge in the late nineties - I think it
24 was '98 - and was made a general officer in the Government Army.
25 And this particular interview was, in fact, arranged for me by

22

1 General Pol Saroeun, who's currently Commander-in-Chief – Supreme
2 Commander of the Cambodian Armed Forces.

3 [09.55.34]

4 Q. Mr. President, subject to a direction or an application from
5 the Court – well, can I ask Mr. Heder the question: is the
6 interview you had with Ke Pauk recorded in anyway?

7 A. Handwritten notes only, no tape recording.

8 Q. Where are the handwritten notes? And could they be sent here
9 today or over the weekend?

10 A. I don't have them with me. They're somewhere in the U.K., I
11 suppose.

12 Q. If on a direction, if it was given by the President, that you
13 would be given any available resources here to assist in
14 obtaining that, would it be possible?

15 A. The answer to that question is, there is 45 filing cabinets
16 scattered around various places in and around London. I don't
17 know which filing cabinet they're in. It wouldn't be easy; it
18 would take time.

19 Q. All right, thank you.

20 The second interview that you mention – in other words, to use
21 your phrase, "Pauk's admissions with regards to initiating
22 arrests were corroborated in an interview with Pech Chheang,
23 alias Thau" – how was that interview organized? And how was it
24 recorded?

25 [09.57.30]

1 A. This person was – after January 1979 was Democratic Kampuchea
2 Ambassador to China, and I met him in Beijing in late 1978, so he
3 and I were acquainted. In 2001, I approached him directly – him
4 and his wife – directly in Anlong Veaeng, and he agreed to speak
5 to me. Again, no tape recording, only handwritten notes, and the
6 same situation, I'm afraid, as with those – of the interview of
7 Ke Pauk.

8 Q. And for completeness, one of the other sources that you gave
9 in the footnotes was the "Minutes of the Quorum of the Meeting on
10 Grassroots Work", 8th of March 1976; we're well familiar with
11 this document, E3/232.

12 Still in the document we're assessing, page 13, please, and it's
13 in reference to footnotes 68 and 69: "Zone secretaries provided
14 information to the Centre about the situation in their areas of
15 responsibility, demonstrating that the zones were 'keeping track
16 of all activities' right down to the district level and assessing
17 the zones' 'right and wrong experiences' in implementation of
18 Party policies."

19 [09.59.17]

20 And in support of that, there is reference to two telegrams. They
21 are, on our file, E3/952 and E3/871.

22 Now, Mr. Heder, with telegrams as a body of information-

23 MR. PRESIDENT:

24 Mr. Co-Prosecutor, could you please repeat the ERN or the
25 identification of the document again to be properly recorded?

24

1 BY MR. RAYNOR:

2 Yes. Forgive me, Mr. President. I'm going to give a little bit
3 more detail: E3/952, telegram 94 that was from Pauk to Pol, the
4 2nd of April 1976; and E3/871, which is telegram 21 of the 21st
5 of March 1976. The book is E190.3 - sorry, I'll start again:
6 E190.1.398. It's on the subject of telegrams.

7 Q. Now, can you help us as to when you first got to see - if we
8 call it broadly "CPK telegrams" that relate to the DK period?

9 MR. HEDER:

10 A. Late 1990s, at DC-Cam.

11 [10.01.05]

12 Q. Thank you. On the same book, E190.1.398 - it relates to
13 footnote 70: "According to the Party Statutes, Zone Party
14 Committees were to lead and implement policy down to the district
15 level and below."

16 And your sources are: E3/214, "The Statutes". You refer to
17 Article 19 - your translation:

18 "As Pol explained it, all problems were up to the Party in each
19 locality, but leading cadre of higher echelons must also involve
20 themselves in local work, with zone cadre helping district cadre
21 to direct it."

22 You then refer to our document E3/135, which is a report in the
23 "Revolutionary Flags" of June 1976, and E3/8, which was a
24 collection of documents authored Ben Kiernan and Chandler, "Pol
25 Pot Plans for the Future".

25

1 [10.02.45]

2 I have two questions here. This is about policy going down to the
3 district level and below. From the interviews and direct contact
4 you had with interviewees, did you gather any information that
5 this, in fact, had happened?

6 MR. PRESIDENT:

7 Mr. Heder, could you please hold on?

8 And, Counsel Koppe, you may now proceed.

9 MR. KOPPE:

10 Thank you, Mr. President.

11 The prosecutor is getting craftier and craftier in formulating
12 the questions in such a way that it is a question, in strict
13 terms, to a witness, but lift the veil of the question, and it is
14 obviously a question to the opinion of this witness. We can all
15 pretend today as we have – as we have done yesterday, that these
16 are questions to a witness, but we can all see that this question
17 is nothing less than a question soliciting the opinion of an
18 expert – well-crafted as it is, but that's in fact what we are
19 doing today, Mr. President. That's why object.

20 [10.04.17]

21 MR. RAYNOR:

22 While thank Mr. Koppe for his compliment on my crafting. It's not
23 opinion to say to somebody, "From the interview you had with a
24 person face-to-face, that you were directly involved in, did you
25 obtain factual information about this subject?" I'm not asking

26

1 for his own opinion, I'm not asking him to speculate; I'm asking
2 him - as I have, I think, on probably half a dozen occasions
3 already, without objection - to say, "From the interviews you had
4 - not what people told you, not speculating, not giving an
5 opinion - can you help the Court?"

6 This isn't expert evidence, it's not opinion, and I ask to be
7 able to proceed.

8 [10.05.30]

9 MR. KOPPE:

10 Mr. President, if I may briefly, briefly reply, if we were to
11 treat Mr. Heder as a real witness, we would ask, "What has this
12 person told you?" Full stop. Now, what we are doing is sort of
13 asking him to summarize the things that have been told by him or
14 that he has read in documents, and then invite him to give an
15 answer. That is exactly what we are doing when we are asking an
16 expert.

17 So, I mean, we can all pretend, like I said, that we are not
18 doing it, but we are doing it.

19 MR. RAYNOR:

20 Mr. President, my question was: From the interviews and direct
21 contact you had with interviewees, did you gather any information
22 that this had happened? I wasn't asking about documents and I did
23 that for a deliberate reason: interviews, direct interviews - not
24 comment on documents. My questions about documents have been to
25 authenticate or to explain the footnotes, not to give opinion

1 about documents. My question was about interviews.

2 (Judges deliberate)

3 [10.07.38]

4 MR. PRESIDENT:

5 The objection by counsel for Mr. Nuon Chea regarding the line of
6 questioning by the Co-Prosecutor is not appropriate and not
7 sustained.

8 The Witness, Mr. Heder, you may now respond to the question if
9 you still recollect the question being asked.

10 BY MR. RAYNOR:

11 Q. You confirmed an extract, "According to the Party Statutes,
12 Zone Party Committees were to lead and implement policy down to
13 the district level and below."

14 From the interviews you had and direct contract you had with
15 interviewees, did you gather any information that this had
16 happened?

17 [10.08.40]

18 MR. HEDER:

19 A. From the interviews - and indeed summarizing, in a sense - I
20 think the most precise answer to that question is that, yes, the
21 interviews generally described the formal policy as being what is
22 laid out here from the documentation, but at the same time the
23 interviews often indicated that formal policy and formal
24 structures didn't operate as they were supposed to operate on
25 paper. So, yes and no.

1 Q. Thank you. Still within the same document, which is
2 E190.1.398, moving onto footnotes 71 and 72:

3 "It was up to the zone leadership to grasp the line of the Party
4 Centre and ensure that districts and other localities followed
5 it, which meant zone secretaries had the power to give
6 instructions to all sectors and districts."

7 And in respect of that, you refer to our document E3/8, which was
8 a Pol Pot document, "Preliminary Explanation before Reading the
9 Plan by the Party Centre", 21st August 1976, and telegram 15,
10 with respect to "Beloved Brother Pol Pot". Can you confirm that
11 those were the sources to support that statement in the book?

12 [10.10.48]

13 A. Yes.

14 Q. Footnotes 73 and 74, same document, E190.1.398:

15 "In exercise of this authority, zone secretaries and other
16 leading zone cadre convened frequent meetings of cadre down to
17 the district level, regularly sent written communications to the
18 district and other local levels..."

19 Now, in respect of that, footnote 73 states:

20 "At such meetings, zone cadre reviewed districts' past work and
21 did forward planning, passing on the line from the Centre,
22 explaining Party policies and urging their implementation, giving
23 their own instructions and 'sorting out' specific problems."

24 And, here again, you refer to the Ke Pauk interview. Is that the
25 same interview that you've already discussed?

1 [10.12.16]

2 A. Yes.

3 Q. And there's another document - I'll read it in. It's not on
4 our case file. It's: 1.6, "Commander of the Standing Committee of
5 Zone 203 sends to sector, district, sub-district level Party
6 leaders", 26th of November 1975; and also 1.64, "Sector 23 sends
7 to districts and sector military headquarters", and the date of
8 that document is the 22nd of October 1975.

9 In brackets, after each of those documents, there are the letters
10 "BDN". Now, excuse me if you've already referred to "BDN", but
11 what is "BDN", in terms of these sources?

12 A. It's a - to my understanding, it's a cataloguing number from
13 the Vietnamese archives.

14 Q. And how did you have access to this information to be able to
15 rely on it in the book?

16 A. That's explained in another footnote which I don't - which is
17 - I saw a second ago. It's in - it's in the text that's in the
18 folder.

19 But, basically, the story is that I was given a set of Vietnamese
20 language documents and Vietnamese language indexes to documents
21 by Christopher Goscha, who's a scholar who works on Vietnamese,
22 Cambodian, and mainland Southeast Asian historical relations. And
23 these were copies of documents that he and a fellow scholar had
24 gotten - obtained while on research in Vietnam.

25 [10.14.41]

30

1 So, there were two kinds of - two kinds of documents: there were
2 full Vietnamese translations of what were said to be Khmer Rouge
3 documents in Vietnamese' possession, and then there was also an
4 index to other - in Vietnamese - of other documents that were
5 said to be in Vietnamese' possession.

6 And then those materials were translated for me, including the
7 index by Richard Arant, who used to work here at the Court.

8 Q. I think there may be reference to Richard Arant later, but
9 we'll see. Thank you.

10 Same document, footnote 78, this is E190.1.398: "Sectors also
11 sent documentary guidance to districts..."

12 Each of the footnotes, again, refers to a number of documents, so
13 I'll just shorthand them: 1.55, 1.6, 1.64, 1.50. And, again,
14 "BDN" - and you've now just described that collection, and you
15 confirm that it's the same collection we've just covered.

16 [10.16.07]

17 A. Yes, it's the same set of Vietnamese language documents.

18 Q. I'd like to move now to a separate topic. It's going to help
19 you to have file 2 available, and the topic is "Enemies".

20 (Short pause)

21 [10.17.00]

22 MR. PRESIDENT:

23 Court Officer, you may approach the witness if he needs help.

24 Okay, so it's fine now. So, Co-Prosecutor, you may now proceed.

25 BY MR. RAYNOR:

31

1 Thank you, Mr. President.

2 Q. File 2, tab 1, document number E31714. Can you please go to
3 page 66 – English ERN 00170757; Khmer, 00324776 through 77; and
4 French, 00649019 through 20? It's at the bottom of page 66 for
5 you, Mr. Heder, and there's reference to number 33: "March the
6 16th of 1980, Mai Rut – location. Source: ex-soldier from Angk
7 Snuol area."

8 [10.18.26]

9 If we move onto the next page – I've already given the ERNs –
10 this statement from this person: "In 1972 there were lots of Lon
11 Nol soldiers captured, about 500 of them. All were executed, none
12 were forgiven."

13 Can you confirm that that's an accurate recording of what you
14 were told in this interview?

15 MR. HEDER:

16 A. Yes.

17 Q. When we say "soldier" – the reference just says "ex-soldier
18 from Angk Snuol area", but I wonder, is – he was, we know – if I
19 can take you to page 67, ERNs already given, there's a reference
20 to "as a former Lon Nol soldier", he was kept careful track of";
21 and toward the bottom of the page: "As a former Lon Nol soldier, I
22 was under watch by 'nokorbal'. It would keep track of my
23 movements and listen to what I said."

24 Is that correct?

25 [10.20.04]

1 A. Yes. And the distinction here is that in Khmer Rouge parlance,
2 the word "soldier" was normally used to refer to Khmer Republic
3 military personnel; they referred to their own military personnel
4 as "combatants."

5 Q. In the same collection - so we're still in E3/1714, page 43-
6 Do you have interview number 23, page 43?

7 Interview number 23, March the 10th, 1980. Location: "Sa Keo.
8 Source: Um Samang, from 'Tambon' 21, Eastern Region." And he says
9 in the second paragraph-

10 Sorry; I should give the ERNs: English ERN 00170734; Khmer,
11 00324742 through 3; and French, 00648998 through 9 - for the
12 first two pages.

13 But in the second paragraph, Um Samang: "During the war period, I
14 was in the military in the Regional troops, right from 1970."

15 [10.22.00]

16 Can I take you to your page 46 - English ERN 00170737; French,
17 00649000 through 01; Khmer, 00324746:

18 "The people were perplexed and afraid. They could not understand
19 how all the cadres throughout the country could be traitors. It
20 was not only the big cadres who were arrested, but whole strings
21 of cadres all the way down to the lowest level. The people knew
22 that something was terribly wrong but they were afraid to do
23 anything for fear of being arrested themselves.

24 "The method of arrest is always to call someone in for study
25 sessions. If people refuse to come, they were told that it is

1 their duty to attend the sessions. People were not arrested in
2 their bases of power, but at the Centre, where the person to be
3 arrested is the regional committee secretary or military
4 secretary. He is called to a place to study and arrested. The
5 same method was used against Lon Nol officers in 1975. They were
6 asked to go to meet the Organization voluntarily and offered
7 forgiveness but then just taken away and executed.

8 "There was special security unit attached to the Central
9 Committee, which was responsible for all this. At the central
10 level, regular forces in Phnom Penh simply turned people over to
11 the security unit. But in fact, the specialized security unit
12 existed on all levels, from the Central Committee down through
13 the regions, the "tambons", and districts. Each was responsible
14 for security and thus for execution at its own level."

15 Can you confirm that that is what you were told in this
16 interview?

17 [10.24.55]

18 A. Yes.

19 Q. Same body of information, so E3/1714. Mr. Heder, you need to
20 turn to page 25. Do you have interview number 15? 7th of March
21 1980, Sakeo - English ERN 00170716; Khmer, 00324712; French,
22 00648981 through 82. "The source: former courier for Chey Suon,
23 also known as Non Suon."

24 Can you please explain to the Court again, just very briefly, who
25 Non Suon was?

1 A. A veteran Communist from the late forties or early fifties
2 who, after April 1975, was the Chairman of the Agriculture
3 Committee at the Centre level, the equivalent of the Minister of
4 Agriculture.

5 [10.26.41]

6 Q. Thank you. Your page 28 – English ERN 00170719; Khmer,
7 00324717; French, 00648984:

8 "In 'Tambon' 25, we were told to prepare for evacuees from Phnom
9 Penh only on the 18th of April 1975. We were instructed to
10 prepare food, water, and lodging for the evacuees, to slaughter
11 animals, to feed them, and give them co-op rice. Each district
12 was assigned a quota of a number of evacuees they should accept.
13 We were told that their presence would be temporary. We were told
14 that if the evacuees caused a burden in the co-ops, they should
15 go to the 'khum', or district committees, to ask for surplus to
16 solve the problem. Among those evacuees, the former Lon Nol
17 soldiers, especially the officers, were to be considered
18 enemies."

19 Is that an accurate record of what you were told in this
20 interview?

21 A. Yes, and in conjunction with what's in the remainder of the
22 paragraph.

23 Q. Same folder, tab 6, document number E3/390. I don't want to
24 give the name for the moment because I – it's being checked. But
25 this interview, E3/390, can you just confirm that on the front

1 page, "Interviewer: Steve Heder"?

2 A. I'm just checking to see whether there might be a mistake in
3 the attribution of the name of the interviewee. So if you give me
4 a couple of minutes?

5 (Short pause)

6 [10.30.21]

7 MR. PRESIDENT:

8 Thank you, Mr. Heder and Mr. Co-Prosecutor.

9 Since it is now appropriate moment for the adjournment, the
10 Chamber will adjourn for 20 minutes. The next session will be
11 resumed by 10 to 11.00.

12 Court officer is now directed to assist Mr. Heder during the
13 adjournment and have him return to the courtroom when the next
14 session resumes. And please have - ask him to also examine the
15 document. And we believe that he may take the best advantage of
16 this adjournment to review the document.

17 Thank you.

18 (Court recesses from 1031H to 1053H)

19 MR. PRESIDENT:

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

21 Mr. Co-Prosecutor, you may now proceed putting more questions to

22 Mr. Heder. You may proceed.

23 [10.53.50]

24 BY MR. RAYNOR:

25 Thank you, Mr. President.

36

1 Q. Mr. Heder, before I ask you questions about the document you
2 have in your hand, I want to just clear up something from the
3 last document. So it was the same file - file 2 - tab 1, page 28.
4 This is, again, E3/1714. I read out part of an extract, and you
5 said it needed to be read in the context of the whole paragraph.
6 And so, after the words "among those evacuees, the former Lon Nol
7 soldiers, especially officers, were to be considered enemies", it
8 goes on to state: "Among soldiers, only those responsible for
9 lots of killing were supposed to be considered enemies. Other
10 than ministers, civil servants were not supposed to be considered
11 enemies."

12 Can you confirm that that was what you were told in this
13 interview?

14 MR. HEDER:

15 A. Yes.

16 [10.55.13]

17 Q. I'd like now to move on to the document that you had in your
18 hand, which is the one that you were considering over the break.
19 This was document E3/390 and it's the one that, I think, you took
20 out with you. Can you confirm that you have that?

21 A. (Microphone not activated)

22 Q. And my first question is - we obviously have a name on the
23 document. This is file 2, tab 6. From reading the statement, are
24 you able to help us as to whether the name that we have on the
25 document is the correct name, or if it is somebody else?

1 A. I'm - I read - glanced through the whole document, and yes, I
2 think it's the person named at the top on the first page.

3 MR. RAYNOR:

4 Mr. President, there is no pseudonym for this person.

5 And with your permission, can I please refer to this person by
6 name?

7 (Judges deliberate)

8 [10.56.48]

9 MR. PRESIDENT:

10 You may proceed without any problem, please.

11 BY MR. RAYNOR:

12 Thank you, Mr. President. The name we have is Mat Ly.

13 Q. Now, can I take you first of all to page 30 - English ERN
14 00436875; Khmer, 00392106 through 07; I apologize, I do not
15 appear to have - oh, I do, in fact - no, I don't have a French
16 ERN, forgive me. This is, I would anticipate, on the last page of
17 the French version. In explaining, certainly, his position, at
18 some stage he says: "I was in a district committee and I was a
19 member of the Standing Committee of the Assembly too."

20 Is that correct? Is that what you were told in this interview?

21 A. Yes.

22 [10.58.03]

23 Q. Can I ask you to turn to your page 22, towards the bottom of
24 the page - or two thirds - a sentence beginning: "Domestic
25 policy..." Do you have that?

1 I'm now going to read this extract:

2 "Domestic policy. Starting from this, it was imperative to dig
3 the trunks out by the roots, dig out both trunks and roots, the
4 city people. They researched those people, and if they had even
5 been first lieutenants, second lieutenants or had worked in the
6 courts, they were killed. That was what they called ... to be able
7 to kill them. They designated them all as 'enemies': they had
8 served the three enemies. First, CIA henchmen. By CIA they meant
9 belonged to the American CIA. Second, the KGB, Soviet agents.
10 Third, the Yuon. They made these determinations to facilitate the
11 killing. So then, the arrested people: In your questions you
12 asked, 'Was there any possibility of preventing this?' They
13 arrested people. I was district committee level. I was also a
14 member of the Assembly. Just ask them why? They said CIA. Just
15 ask them why? They said Yuon major. Just ask why? They said KGB.
16 That was all pre-determined. Starting from that came the killing,
17 the continuous killings that began after the liberation in 1975
18 until we liberate the country in 1979."

19 Can you confirm that that was what you were told in this
20 interview?

21 [11.00.31]

22 A. Yes.

23 Q. It goes on, on the same page, next sentence:

24 "But I suggest that you examine the killing. If they had killed
25 just the adults and the educated and specifically people who had

1 been soldiers, and if those people actually had been spies, we
2 would not say anything. But when they learned about teachers,
3 students, veteran government officials, veteran doctors, they
4 killed them all. So, I ask, why do so many intellectuals remain?
5 From what I have learned, they all had hidden their personal
6 histories. Also, their working methods were superb. Their methods
7 of searching these people out were: 'Speak frankly. What do you
8 know? What level? What work? We will [send you] up an equal
9 position for you and send you back to work.' So then, Cambodian
10 people are very honest in what they say and write. Writing those
11 personal histories was suicide. But some people were not
12 satisfied and figured it out, they and said that they had been
13 pedicab drivers, workers; some of them were able to save
14 themselves."

15 Can you confirm that that was what you were told in this
16 interview?

17 [11.02.08]

18 A. Yes.

19 Q. Still on the same interview, page 29 - English ERN 00436874;
20 Khmer, 00392105; I have the French for this page, 00479818:

21 "I personally saw the killing beginning in 1975 when he - it's a
22 reference to Pol Pot- had full power in his hands. That was when
23 it began. Like I said earlier, ask them and they said CIA. Ask
24 them and they said lieutenant colonel, second lieutenant. And the
25 Cham brothers and sisters - I am Cham too - they led them away by

40

1 their necks. They did not let them sit. They did not let them
2 sleep. And they did not let their police and their military sit
3 either. They arrested cadres one after another, the masses, the
4 combatants."

5 Can you confirm that that was what you were told in this
6 interview?

7 A. Yes.

8 [11.04.15]

9 MR. RAYNOR:

10 I'd like you to move, please, to file 2, tab 5 - again, not to
11 give the name of this person, but the - it's the first page after
12 tab 5. The English ERN is 00352076. The document number is
13 D224.81. So this is the document.

14 Mr. President, again, no pseudonym. Can I please refer to this
15 person by name?

16 MR. PRESIDENT:

17 Yes, you may proceed.

18 BY MR. RAYNOR:

19 Q. The person is called Ream Di - R-E-A-M D-I. He states:

20 "The Northwest Zone killed a lot after 17 April 1975. The
21 evacuation of Battambang was not yet complete when the Northwest
22 Zone cadres begin killing people in the evacuation columns. They
23 killed those in the military and civil service with rank. These
24 were taken away and killed."

25 Is that what you were told in this interview?

41

1 [11.06.28]

2 MR. HEDER:

3 A. Yes.

4 Q. I'd like you to move back to a document that you had in your
5 hand, that we covered earlier. It is, for us, document number
6 E3/387. This was from TCW-494. If it helps you, the first number
7 in the top left of the page is 00350200. "TCW-494" is written on
8 the first page. Can I take you, please, to page 6 – English ERN
9 00350205; Khmer, 00379486; French, 00441418; at the bottom of
10 your page, Mr. Heder: "In April..."

11 And that's a reference to 1975 from the preceding paragraph:

12 "In April, Pol Pot issued another secret policy; that was, wiping
13 out all elements in the Lon Nol regime. With respect to civilian
14 local administrators, they would be purged from sub-district
15 level to upper echelon. Regarding soldiers, they would be swept
16 clean from second lieutenants up to generals."

17 Can you confirm that that was what you were told in this
18 interview?

19 [11.08.54]

20 A. Can I have the Khmer ERN again, please? Oh, here it is. I've
21 got it now. Thanks.

22 Q. Yes, the Khmer ERN 00379486, and I would anticipate it's
23 probably towards the bottom of that page. We have it now. It can
24 go on the screen.

25 MR. KOPPE:

1 Sorry to interrupt. We have been missing the document that we are
2 speaking about - everybody here.

3 MR. RAYNOR:

4 E3/387.

5 [11.10.46]

6 MR. HEDER:

7 A. Yes. The English is - could be slightly misread, in my view.

8 The term used is "sweeping cleanly away", here rendered as

9 "wiping out". Unless I'm missing it with my failing eyesight, the
10 Khmer doesn't actually say "all elements in the Lon Nol regime";
11 it just says "elements".

12 And the way in which it's formulated means that not everybody in
13 the Lon Nol regime is an element, but certain persons within the
14 Lon Nol regime are defined as elements, and what follows then
15 gives the definition of those within the regime, among the
16 regime's personnel who are considered elements.

17 So, with that proviso, yes.

18 BY MR. RAYNOR:

19 Q. I just want to be absolutely clear on the final sentence that
20 I put, which was: "Regarding soldiers, they would be swept clean
21 from second lieutenants up to generals."

22 Is that a correct interpretation - translation?

23 MR. HEDER:

24 A. Yes.

25 [11.12.10]

1 Q. The next page is page 7 - Khmer ERN 00379488; again, I'm
2 afraid I don't have the French - bottom of your page 7:
3 "In May 1975, Pol Pot called district level cadres and sector
4 level cadres, military cadres ranging from battalion level and
5 above throughout the country to a meeting held at
6 Kampuchea-Soviet Technology School where they announced their new
7 policy on the continuation of carrying out socialist revolution.
8 In their policy and the content of the socialist revolution, they
9 determined that we had to struggle to firmly oppose and root out
10 the previous regime, based on political conscientiousness and
11 organizational works. They announced like this because they
12 thought that as long as influences from previous regime were not
13 yet rooted out in the fields of politics, military, economics,
14 social affairs, and consciousness, socialist revolution would not
15 uphold. They further confirmed where we had to carry out
16 socialist revolution and uproot the previous regime in all
17 fields. They clarified that we had to do it on cadres, state
18 members, and militaries. This was where we did. This was the main
19 policy in the affairs of building their socialism."

20 [11.14.15]

21 I hope you have the Khmer on the screen. And, again, the same
22 question: Can you confirm that was what you were told? Is the
23 translation faithful?

24 A. Yes, with two caveats.

25 First, the word that's rendered here is "consciousness". I would

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1 translate it as "ideology" - slightly different. And to be
2 absolutely clear, the sentence that begins "they clarified", when
3 it talks about "cadres, state members, and militaries", they mean
4 cadres of the Communist Party, State members of the - of
5 Democratic Kampuchea, and militaries of the Revolutionary Army of
6 Kampuchea, not ex-Khmer Republic, but within their own ranks.

7 Q. Now, again, without giving the name - you know who the person
8 is - can you help us on what his position was in the period from
9 1975 to 1979 - short summary, not life history?

10 A. For most of that period, he was Deputy Secretary of Sector 21
11 of the East Zone and a member of the Zone Standing Committee.

12 [11.16.02]

13 Q. Thank you.

14 We've been on file 2 so far. Can I please ask you to get file 4?
15 File 4, tab 1, document E190.1.398, footnotes 20, 21, and 22 on
16 page 78, speaking here about how far this net was extended. And
17 you talk about extending "the execution net to cover most
18 Republican military and police commissioned officers and civil
19 service officials of equivalent rank (bandasak), although not
20 ordinary soldiers". And in support of that, you reference our
21 document E3/79, which is an interview that you had with Ieng Sary
22 on the 17th of December 1996.

23 And then, for footnote 21, you say:

24 "The term 'bandasak' refers literally to the armed forces' and
25 police commissioned officer corps. By extension, it was also

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1 applied to civil servants, who in the pre-Communist Cambodia wore
2 uniforms with insignia that reflected their rank within the
3 administrative hierarchy."

4 [11.18.17]

5 And also the two cadre notebooks that we've already covered, with
6 this additional comment: "This decision reflected an official
7 evaluation that of all the separate class types, Republican army
8 and police forces were - on the whole - 'absolutely reactionary',
9 although not all were."

10 And you also reference Ben Kiernan.

11 I just wanted to ask you about "bandasak". And you speak about
12 the "civil servants, who in pre-Communist Cambodia wore", I
13 think, "uniforms with insignia". Can you just explain that a
14 little bit more, please?

15 A. That's based on my recollection of what I saw when I was in
16 Cambodia during the Khmer Republic period.

17 [11.19.29]

18 Q. Thank you.

19 We're moving now to file 4 - so the same file, but tab 4. This is
20 document number E3/48, "Seven Candidates for Prosecution". If you
21 can go, please, to page 35 - I hope that's the first page you
22 have. I can give the English ERN 00393521; no French or Khmer -
23 on the list, for translation. It's actually on footnote 117 at
24 the bottom of the page:

25 "The security services and 'chhlop' operated in a social setting

1 in which the population as a whole was officially divided into
2 three categories called 'penh-set' (full-rights), "triem"
3 (candidate), and 'pannhaoe' (depositee). This system combined a
4 definition of their rights as members of cooperatives with a
5 vocabulary for labelling people in terms of their perceived or
6 potential disloyalty to the revolution. Those consigned to the
7 lowest category were subject not only to discrimination in terms
8 of political rights and economic rewards but also arbitrary
9 execution. Thus, in [the] first phases of the DK regime,
10 generally speaking:
11 "'the full rights group received the full theoretical food ration
12 (or more), had the right to join any political organization,
13 including the Party and the army, and [to] hold any political
14 position. The candidate group was second on rations [and]
15 distribution lists and had rights to hold certain low-ranking
16 political positions. The depositees were last on the distribution
17 lists, first on execution lists, and had no political rights.'" [11.22.50]
18
19 You reference a work of your own: "Steve Heder, 'Kampuchea:
20 Occupation and Resistance 2'", in 1980.
21 And then another reference is in these terms, in a commentary:
22 "In the second half of 1978, this tripartite division was
23 officially abolished, but elided into what Pol Pot referred to
24 more prosaically as a distinction between 'good, medium and weak
25 elements' among the population and within the Party."

1 And that reference is: "Pol Pot, 'Let Us Continue to Firmly Hold
2 Aloft the Banner of Victory of the Glorious Communist Party of
3 Kampuchea in Order to Defend Democratic Kampuchea, Carry on
4 Socialist Revolution and Build Up Socialism' (27th of September
5 1978)..."

6 You carry on:

7 "Informally both within Party circles and at the mass level, this
8 tripartite division tended to be reduced to a simple dichotomy
9 between 'veteran' and 'new' people that categorized the
10 population on the basis of whether they had come under Communist
11 control before or after 1975. From the beginning, although the
12 leadership made a clear distinction between being a 'depositee'
13 or one of the 'new people' and being a politically 'bad element',
14 local security services were given to understand that the 'new
15 people' contained a high proportion of 'no-good' elements."

16 [11.24.58]

17 And you also refer - our document E3/216 and our document E3/797-
18 E3/216 is a record of the Standing Committee tour of the
19 Northwest Zone, 20 to 24 August 1975. And in respect of that, or
20 explaining that document, you say: according to which, an unnamed
21 representative of the Standing Committee told the zone that every
22 type of horrible element exists among the New People."

23 And E3/737 - sorry, E3/797 is a minute of the meetings of
24 secretaries and deputy secretaries of divisions and independent
25 regiments on the 18th of August 1976.

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1 My question to you is: Ultimately, is it right that there were
2 two groups, as you say, the New People and – how would you
3 describe the other element?

4 [11.26.33]

5 MR. PRESIDENT:

6 Mr. Witness, could you please hold on?

7 And, Counsel Koppe, you may now proceed.

8 MR. KOPPE:

9 Mr. President, I would like to go on record as saying that this
10 is starting to be a travesty.

11 I mean, what are we doing? We're reading from a – a book called
12 "Seven Candidates for Prosecution: Accountability for the Crimes
13 of the Khmer Rouge". This witness started afterwards working for
14 the Prosecution and then for the Investigating Judges.

15 He's being read a whole passage from a book from a footnote and
16 then asked a question about the two groups. This has absolutely
17 nothing to do with a proper ascertaining the truth.

18 Please, let's stop this charade.

19 [11.27.20]

20 BY MR. RAYNOR:

21 Well, you've already ruled, Mr. President.

22 Q. But again, based on the interviews you've had with people
23 during this period as to the distinction between New People, Old
24 People, is this a theme that has come up directly in your
25 interviews?

1 MR. HEDER:

2 A. Yes, and not only with regard to the period from April 1975
3 and thereafter, but before that, into the early seventies,
4 because as the footnote tries to explain, this is a somewhat
5 informal categorization of the population. So, even before April
6 1975, if people were newly liberated, to use the Party
7 terminology, or newly arrived by whatever method into the
8 liberated zones, to use the Party terminology, they were referred
9 to as New People, in counterdistinction to those who had already
10 been in the liberated zones prior to that time. So that practice,
11 that informal, colloquial practice of differentiating between
12 those who were already - had already experienced the revolution
13 and those who were just arriving as a result of whatever method
14 was already in Party talk from before '75 and it continued
15 thereafter.

16 [11.29.14]

17 Q. And given the objection, can you please confirm that what
18 you've just said is based on your interviews and not some opinion
19 or some speculation?

20 A. I would describe it as a summary of what I have learned from
21 interviews and from documents.

22 Q. Now, file 4, but back to tab 1, document-

23 MR. PRESIDENT:

24 Mr. Co-Prosecutor, could you please hold on?

25 And, Counsel Vercken, you may now proceed.

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1 MR. VERCKEN:

2 Thank you, Mr. President.

3 I think that, based on the last answer that was provided by Mr.
4 Heder, we are coming close to the description that was given by
5 my colleague; that is to say, this hearing resembles the hearing
6 that we opposed recently on the key documents.

7 Mr. Heder travelled thousands of miles to come before this Court;
8 the prosecutor is reading to him segments that he is interested
9 in, of course, to state his case, and the only confirmation we
10 get is if all this confirms, generally speaking, the interviews -
11 without any further specification - that he conducted; we don't
12 know with whom, we don't know when.

13 [11.31.08]

14 So, when we will be questioning Mr. Heder, what are we going to
15 do? Are we going to stupidly ask questions that are the same to
16 Mr. Heder, asking him general - in very general terms if he
17 already heard the opposite of what he said?

18 We're working now on foundations that are so uncertain, that are
19 so vague that this whole exercise seems completely pointless. And
20 in any case, I support entirely what my colleague Victor Koppe
21 just said right now.

22 MR. RAYNOR:

23 If my learned friend wants me to give him some lessons on
24 cross-examination, I will. He's free to cross-examine on whatever
25 he wants to cross-examine. Whether he's got a strategy, I don't

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1 yet know. But he must cross-examine as he thinks best on the same
2 material, which is the books authored by Mr. Heder.

3 There's no objection - there never has been - from the defence to
4 Mr. Heder giving evidence. This has got nothing to do with
5 document hearings.

6 Can I please continue?

7 [11.32.55]

8 MR. PRESIDENT:

9 Yes, you may, please. The objection is nothing new and yet (sic)
10 is not sustained.

11 BY MR. RAYNOR:

12 Q. File 4, tab 1, document E190.1.398, page 10, footnote 44:

13 "Reassessing the Senior Leaders". In reference to the New People,
14 footnote 44, page 10:

15 "As 'types who had lived an easy life' before, they were less
16 politically dependable than the 'poor basic people' and more
17 liable to become involved in the traitorous activities of covert
18 Cambodian 'kinh' (a colloquial Khmer word of Vietnamese
19 derivation originally meaning secret police agent) who were
20 stubbornly trying to overthrow the revolution, supposedly at the
21 behest of the CIA and other foreign intelligence agencies."

22 [11.34.26]

23 And the document you reference is "Document Number Three". In
24 relation to this, this is E3/781. And in terms of the "colloquial
25 word of Vietnamese derivation", did you have to research that, or

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1 was that apparent from the wording itself?

2 MR. HEDER:

3 A. It always struck me as an odd-looking word in Khmer, so I
4 looked in Vietnamese dictionaries and discussed it with
5 Vietnamese native speakers, and they said it came from
6 Vietnamese. And, indeed, there is a term in Vietnamese, a term
7 with two elements - of which this is one - which has that
8 meaning.

9 Q. Thank you. In the same document - it's the next footnote, in
10 fact, footnote 45 - so E190.1.398, "Reassessing the Senior
11 Leaders":

12 "Indeed, because their transformation was just beginning, they
13 remained 'leading carriers of imperialist-feudalist-capitalist
14 outlooks, stances, ideologies, world views and credos,' who would
15 try to disseminate their 'remnant crud' and 'evil influences'
16 among the veteran people and the revolutionary ranks."

17 [11.36.07]

18 And you reference our document E3/729: "In the New Current Phase
19 of the Revolution, Our Youth Must Constantly Strengthen Their
20 Stance of Absolute and Seething Class Struggle", in
21 "Revolutionary Youth" (Number 10, October 1975).

22 "Remnant crud" is quite a difficult, potential English word, but
23 what is the Khmer for "remnant crud"? Or how do we get to
24 "remnant crud"?

25 [11.36.48]

1 A. I'll - I'll reveal that my claim to be fluent in Khmer is
2 completely baseless. I think the original Khmer term is
3 (?)11.37.00. And (?), to my understanding, refers to the skin in
4 which dirt is impregnated, that you have to sort of scrub off if
5 you want to get rid of the dirtiness. So that's a term that was
6 used by - in CPK parlance to refer to the dirty remnants of the
7 old society that had to be, in some sense, by some method,
8 scrubbed away.

9 Q. I'd like you to stay within the same footnote - same document,
10 rather, E190.1.398, "Reassessing senior leaders", footnote 82.
11 This is on your page 16 - the English ERN 00661470, footnote 82
12 on page 16:

13 "To kill off the tigers who were 'bandasak' was relatively
14 straightforward: the CPK's zone, sector, district, sub-district,
15 and village Party committees were tasked to continue the work
16 begun by military units in and around Phnom Penh and other towns
17 by finding and then secretly killing all fugitive 'bandasak'.
18 This assignment seems to have been pursued in most places with
19 ruthless thoroughness, if not always the required discretion."

20 [11.39.02]

21 And one of the references in support was, "for example, the
22 evidence to this effect for the North Zone in 'North Zone
23 Committee to Receive Evacuated People: Identity Card', dated 26
24 April and stamped by Sector 43". We don't have that one our case
25 file. Can you help at all with that footnote, please?

1 A. If I recall correctly, after I left Cambodia in April '75 and
2 was on the Thai-Cambodian border, I talked to some people who had
3 just come out of Cambodia, including people who had been
4 evacuated from Phnom Penh and who managed to make their way to
5 the - to the Thai border. And one of those people gave me a copy
6 - or gave me the original of that document, of which I made a
7 copy.

8 [11.40.17]

9 Q. Thank you. I'm dealing now with footnotes within the same
10 document, E190.1.398, "Reassessing the Senior Leaders". It's
11 actually two footnotes that are close. They're both on page 11.
12 It's footnote 57 and footnote 59. I'd like to read them together
13 because the sources are the same.

14 About the killings: "...justifying this position by arguing that
15 such executions were a necessary part of 'attacking the old
16 social regime'."

17 That is a reference, on footnote 57, to the Ke Pauk interview.

18 And then, if we read footnote 59, in terms of the text:

19 "Without further definition, Pol [Pot] also told the political
20 and military cadre in attendance - a meeting - that they must
21 carry out a 'dogged struggle against CIA spies belonging to
22 Americans and KGB spies belonging to the Soviets'."

23 Now, one of the references for footnote 59 is E2/2782 on our case
24 file, which is the Ke Pauk autobiography.

25 Now, you've already covered the Ke Pauk interview that you had

1 with him, but - again, from your direct knowledge - do you know
2 about the Ke Pauk autobiography? Have you seen that document?

3 [11.42.15]

4 A. I think this is another document that was put together by Khem
5 Ngun, who I talked about previously, who either had Ke Pauk write
6 this document for him or took it down as a result of an interview
7 that he did with Ke Pauk. And the - that text was then given to a
8 number of people, including, if I recall correctly, the then
9 editor of the "Phnom Penh Post", Michael Hayes, who in turn
10 passed it on to me. I think that's the chain of custody for that
11 particular document.

12 Q. Thank you. Still within "Reassessing senior leaders",
13 E190.1.398, I'm combining two footnotes. They're on page 20,
14 footnote 103 and footnote 104. Dealing with footnote 103 first:
15 "According to the formal procedure, the cooperative chairman then
16 decided whether the person was to be subjected to re-education
17 locally or be reported to the district party committee person in
18 charge of security for investigation. On the basis of the results
19 of this investigation, the district was supposed to seek a
20 decision from the sector about whether the person should be
21 executed, kept in prison or released."

22 Now, you reference here a U.S. Embassy document, "Democratic
23 Cambodia Prison System". Can you please, again, the source, how
24 you obtained it?

25 A. That one, I think, came to me from someone who was in the U.S.

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1 Embassy in Bangkok at the time that the - on - at the time the
2 document was - was drafted, or possibly from somebody in the U.S.
3 State Department who received it in Washington. There are a
4 couple of possibilities here.

5 One is Charles Twining. Another is Tim Carney. Another is Desaix
6 Anderson. I don't remember which of these people it might have
7 been, but it was probably one of those three. So it's an internal
8 - it's one of these things that used to be called an airgram.
9 It's an Embassy report that ends up in Washington.

10 [11.45.35]

11 Q. And again talking about this procedure and carrying on, you
12 say: "And formally speaking, the sector needed the approval of
13 the Zone Standing Committee to proceed with a killing."

14 And you then reference our document, E3/12, which was the 30th of
15 March 1976 meeting of the Central Committee. And you say:

16 "This was in line with the March 1976 CPK Central Committee
17 decision according to which the right to decide on smashing
18 within and outside the ranks of the Party should be exercised in
19 the grass roots by each Zone Standing Committee."

20 And my question is this - and I'm using the exact same wording
21 that I used to a previous question, and this is about the
22 procedure in terms of districts supposed to seek a decision from
23 the sector, sector needing the approval of the Zone Standing
24 Committee to proceed with a killing: From your interviews and
25 direct contact you had with interviewees, did you gather any

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1 information that this procedure had, in fact, happened?

2 [11.47.06]

3 A. Again, to summarize, my overall impression is that practice in
4 general did not follow this formal procedure, that it was
5 relatively rarely the case that the decision went as high as the
6 Zone Standing Committee, that it was often the case that the
7 decision was made lower down, sometimes as low as the district,
8 sometimes even lower than the district.

9 So there was a disjuncture between formal policy and structure on
10 the one hand, and actual practice on the other.

11 [11.48.01]

12 Q. I'm going to ask a question now about information being
13 passed. And this is footnote 105, still on E190.1.398. Footnote
14 105:

15 "New People testimonies confirm that village chairmen and their
16 immediate subordinates were responsible for collecting
17 information to identify enemy and traitorous links and real or
18 potential opponents of the revolution and then pass this
19 information up to higher levels."

20 Now, again, in terms of the passage of information upwards, from
21 your interviews and direct contact you had with interviewees, did
22 you gather information that this had happened?

23 A. I think that's another one where the answer is yes and no. In
24 other words, in some cases, this was the procedure that was, in
25 fact, followed. In other cases, it wasn't implemented according

1 to this formal procedure.

2 Q. Now, in terms of this reporting, can we please just divert for
3 one moment to file 2, tab 3?

4 This is Document Number E3/190. It is a note of your discussion
5 with Ieng Sary on the 4th of January 1999. Can you confirm that
6 that's the document that you have, first of all, please?

7 [11.50.20]

8 A. Yes.

9 Q. There is a sentence towards the top of the page, "I asked him
10 whether". Do you have that?

11 So you to Ieng Sary: "I asked him whether he had received reports
12 from the zones or sectors that mentioned executions or ill
13 treatment of prisoners."

14 Next sentence: "He, Ieng Sary, conceded receiving such reports
15 and awareness of such use of the ministry" - that's in relation
16 to another matter - "but quickly added he recalled seeing only a
17 few such reports."

18 Is that an accurate record of what he told you in this interview
19 or discussion?

20 [11.51.23]

21 A. Yes.

22 Q. We're back on file 4, tab 1. You should, I think, have that
23 open. Document Number E190.1.398, "Reassessing senior leaders".

24 You need to go to page 23, Mr. Heder, footnote 125:

25 "CPK policy vis-à-vis urban-based members of the country-wide

1 Buddhist sangha (community of monks) mirrored that toward the
2 urban population as a whole. The sangha was decapitated and all
3 other monks de-concentrated by being dispersed from pagodas in
4 Phnom Penh and towns in the countryside in such a way as to
5 preclude any collective action against the new regime. In line
6 with its elaboration of the notion that monks were one of the
7 special class types, the CPK targeted the most senior members of
8 the Buddhist clergy for immediate execution, treating them as the
9 equivalent of bandasak."

10 And your sources in connection with that or your footnotes refer
11 to the DK cadre notebooks that you've already covered. And you
12 add: "The latter notebook specified that most of the Sangha
13 officialdom was under the political influence the highest strata
14 of society."

15 Can you confirm that that was the document that you sourced in
16 order to make that statement in the book?

17 [11.53.48]

18 A. I think there may be some stretch here in the sense that I'm
19 not absolutely sure that everything that's in the sentence can be
20 found in those two notebooks. But I would have to look at the
21 notebooks to be sure.

22 Q. Again, are there any other sources - the question is about
23 Buddhist monks, senior Buddhist monks. Are you aware of any other
24 sources that can help the Court on, in particular, the CPK
25 targeted the most senior members of the Buddhist clergy for

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1 immediate execution?

2 Again, had that come up in any interviews and direct contact you
3 had with interviewees?

4 [11.54.40]

5 A. I think the sentence is another example of - of a summary of
6 what I was told by various people. But in this - in this
7 instance, I would defer to people who've done a lot more -
8 subsequently done a lot more research than I have such as Ian
9 Harris and others who've written extensively on this subject.

10 Q. That's fair.

11 The next footnote is 126, still in E190.1.398, still on the
12 subject of monks. And you talk in the book about separating them
13 out from evacuation columns for smashing. That's the senior ones:

14 "On the other hand, lower-ranking monks from the towns were
15 broadly in the same category as other urban evacuees."

16 And you quote there in support E3/1820, which is François
17 Ponchaud's book, "Cambodia Year Zero". And I think another -
18 well, the footnote says: "Chhang Song, 'Buddhism Under Pol Pot',
19 30th of November 1996."

20 It's the Chhang Song. Is that an academic book or an article, or
21 can you help?

22 [11.56.11]

23 A. I think that should be described as a DC-Cam report. And I'm
24 not sure whether it was ever published as such, but it certainly
25 should be available from DC-Cam.

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1 Q. Thank you. Same file, still in file 4, tab 4, "Seven
2 Candidates for Prosecution". You need to go to page 37, which I
3 think will be the third page into your pack – English ERN
4 00393523:
5 "Thus, from the day of liberation until the last day of
6 Democratic Kampuchea, the security services assisted by the
7 chhlop and the people, arrested, detained and executed wave after
8 wave of alleged counter-revolutionaries and spies they identified
9 in multiple population categories. Beginning in the latter half
10 of 1976, the security services received signals from Party
11 leadership that they must augment their efforts to identify
12 former Khmer Republic officials who had escaped execution because
13 'no-good' elements among the population were not merely
14 undesirable, but part of a vast anti-Communist conspiracy and
15 must, therefore, urgently be eliminated. The local security
16 forces responded by arresting, interrogating and killing people
17 who fell into these categories."
18 [11.58.17]
19 You then reference our document, E3/798, which is a minutes of
20 the meetings of secretaries and deputy secretaries of the
21 divisions and independent regiments on the 30th of August 1976.
22 And then you go on to say: "This shift is perhaps most clearly
23 signalled in Son Sen's summing up of enemy situations at a
24 meeting of senior military cadre he convened as general staff
25 chairman on the 30th of August 1976."

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1 Now, so we're clear, the minutes here, this is in relation, isn't
2 it, to a military meeting?

3 A. Yes, it's a meeting of military - if my memory serves, it's a
4 - in the context of that meeting of the military, it's a
5 statement of general Party policy applicable beyond the military.
6 The formulation, as I recall it, is such as to indicate that it's
7 not simply to be applied within the military, but is a reflection
8 of a more - of a broader Party policy.

9 MR. PRESIDENT:

10 Mr. Prosecutor, please hold on.

11 Mr. Victor Koppe, you may proceed.

12 [11.59.58]

13 MR. KOPPE:

14 My final attempt - my last and final attempt, Mr. President.

15 "The reflection of a broader policy"; I don't think I've ever
16 heard a witness who wasn't actually involved in the structure say
17 something like that. I mean, how more clear can we have it that
18 this witness is testifying as an expert?

19 So it's my last and final attempt. Please, let's stop this.

20 MR. RAYNOR:

21 Well, Mr. President, again, I don't mind you saying to Mr. Heder
22 he's not to express opinion. I think that was said at the start.
23 The question is simply going to a book and going to a footnote,
24 so I would like to proceed.

25 As I say, my questioning is about the book and the footnote, so I

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1 will try and do my best to ensure that nothing that Mr. Koppe
2 finds offensive occurs.

3 BY MR. RAYNOR:

4 Q. Now, you referred-

5 (Judges deliberate)

6 [12.04.11]

7 MR. PRESIDENT:

8 Judge Cartwright, you may now proceed, please, to address this
9 matter once and for all.

10 The objection at this juncture may be different from the previous
11 objection, so Judge Cartwright will be having the floor to
12 address this now.

13 You may now proceed, please.

14 JUDGE CARTWRIGHT:

15 Thank you, President.

16 The Trial Chamber does not fully sustain the objection. The
17 previous objections from the Nuon Chea defence team have been
18 directed more at the probative value of the testimony or the
19 documents that have been examined and, as has been indicated
20 previously, the Trial Chamber is aware of its obligations to
21 weigh the probative value of material in reaching its verdict.
22 This objection was directed more specifically at the difference
23 between a witness's testimony and that of an expert. The Chamber
24 asks the prosecutors to recall the direction that it made in
25 treating Mr. Heder as a witness and not as an expert. Thank you.

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1 [12.05.52]

2 MR. RAYNOR:

3 Thank you, Judge Cartwright.

4 Mr. President, I have two more questions to finish the enemies
5 section. I'd like to do that now, but I'm in your hands.

6 MR. PRESIDENT:

7 You may proceed.

8 BY MR. RAYNOR:

9 Q. It's "Seven Candidates for Prosecution", E3/48. That's file 4,
10 tab 4. It's page 138 and page 139. Footnote 138 and 139:

11 "Thus, according to Son Sen, all of the apparently trivial
12 phenomena that hindered the achievement of the Party's goals
13 should not be viewed as normal problems of a socialist or other
14 society, but should be dealt with by eliminating the internal
15 enemies who were always endeavouring to attack our revolution."

16 You refer to our document, E3/804, which is the minutes of the
17 meeting of secretaries and logistics of divisions and independent
18 regiments on the 15th of December 1976.

19 And you go on to say:

20 "According to Son Sen's analysis, the constant petty theft
21 plaguing DK as well as mysterious phenomena such as defecating in
22 pathways and knocking on doors at night were all part of a vast
23 counter-revolutionary plot."

24 [12.07.41]

25 You refer to two other military minutes, E3/798, a minutes of the

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1 meeting of secretaries and deputy secretaries of the divisions
2 and independent regiments on the 30th of August 1976 and the
3 minutes of the same sort of meeting on the 19th of September
4 1976.

5 Now, my question is this. Again, please don't veer into opinion,
6 and it's a very tight question. From your interviews and direct
7 contact you had with interviews, did you gather any information
8 such as people being killed, I don't know, for breaking a shovel
9 or pinching something or matters of that nature?

10 [12.08.38]

11 MR. HEDER:

12 A. Yes.

13 MR. RAYNOR:

14 Thank you.

15 Mr. President, that concludes this section, and I hope that
16 that's a convenient point at which to adjourn.

17 MR. PRESIDENT:

18 Thank you, Mr. Co-Prosecutor, and thank you, Mr. Witness.

19 It is now appropriate moment for the adjournment. The Chamber
20 will adjourn until 1.30 p.m.

21 Court officer is now directed to assist Mr. Heder during this
22 adjournment and have him return to the courtroom when the next
23 session resumes.

24 Security personnel are now directed to take Mr. Khieu Samphan to
25 his holding cell downstairs and have him return to the courtroom

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1 before the next session resumes.

2 The Court is adjourned.

3 (Court recesses from 1209H to 1333H)

4 MR. PRESIDENT:

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

6 Now we would like to hand over to the Co-Prosecutor to continue
7 putting questions for Mr. Heder. You may now proceed.

8 BY MR. RAYNOR:

9 Thank you, Mr. President. Good afternoon.

10 Q. Mr. Heder, I'd like you please to go to file 3, tab one. I
11 hope you have a document E3/3169, a 1991 publication, "Pol Pot
12 and Khieu Samphan". Can you confirm that you have that document,
13 please?

14 MR. HEDER:

15 A. I've got one, not with an E number, but with a D number. But
16 it's that document I think.

17 Q. The D number was D366/7.1.14. Now, described as a paper, but
18 can you explain what stage you were in your academic career, or
19 what was going on academically in your life when you began your
20 research which led to the publication of the book, and the
21 publication of the book time in 1991?

22 [13.35.30]

23 A. Yes, as it says in the first footnote, this was done primarily
24 while I was a research fellow at the Australian National
25 University. It included some stuff that I gathered at previous

1 points in my academic career, but the bulk of the research and
2 the writing was done while I was with the – at the Australian
3 National University.

4 Q. Thank you. I'd like to start, please, on using the pages in
5 the top right hand of each page, to page 7. This is English ERN
6 00087771; Khmer, 00711377; and French, 00722071, and it's on the
7 topic of intellectuals. And you write:

8 "Retrospectively, Michael Vickery has also reported how Cambodian
9 intellectuals were lulled into a false sense of security about
10 the Communist Party of Kampuchea's intentions by Khieu Samphan's
11 contrived prominence. He writes that one teacher he interviewed
12 after the Party's rule was overthrown on the 7th of January 1979
13 told him that up to 1975 he had sympathized with the
14 revolutionaries and, in particular, admired Khieu Samphan.

15 [13.37.44]

16 "He therefore had confidence for the moment in the rationality of
17 Communist Party of Kampuchea actions, and in particular, felt no
18 fear or apprehension about the future."

19 And you referenced there Michael Vickery, "Cambodia 1975–1982".

20 Again, just a little bit, Michael Vickery, connection with him;

21 how you got this to be a footnote in the paper?

22 A. Michael Vickery is a very – veteran historian of Cambodia
23 whose earlier – whose primary work is on pre-modern Cambodia, but
24 had also written rather extensively on contemporary politics and
25 this is just a published book by Michael.

1 Q. And reading on, on the same page, same ERNs, under a heading
2 Khieu Samphan and the "Liberation":
3 "In what appears to have been a calculated abuse of trust in
4 which he was held, Khieu Samphan actively helped, just before the
5 end of the war, to set up Lon Nol military personnel and civil
6 servants for easy execution. The esteem in which he was held
7 meant that some of them allowed themselves to become sitting
8 ducks for murder. Thus as the Communist Party of Kampuchea
9 advanced towards an all-out military victory during the first
10 four months of 1975, Khieu Samphan twice signalled those who had
11 been fighting against it, that only the seven top leaders amongst
12 them would be executed upon defeat."
13 [13.39.38]
14 And footnote 25 lists the people, and you carry on:
15 "On the 24th to 25th of February, Khieu Samphan chaired the
16 Second National Congress, a meeting of members of GRUNK who
17 resided inside the country, and 273 representatives of FUNK
18 associations and the army. The Congress declared that the seven
19 traitors must die, but that other high ranking Khmer Republic
20 personalities could join the Sihanouk side. Then on the 1st of
21 April, a little more than two weeks before Phnom Penh was
22 captured, Khieu Samphan spoke in a live broadcast over the
23 Communist Party-run radio. He attacked the seven traitors by
24 name, but appealed to the officers and men of the Khmer Republic
25 armed forces to lay down their arms and join the Sihanouk side."

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1 [13.40.41]

2 You're referencing there the chairing of the Second Congress and
3 then a broadcast on the 1st of April. Can I ask, first of all,
4 about the 1st of April broadcast? There's not a specific footnote
5 to do with that. Can you remember what source material you were
6 looking at in respect of the 1st of April 1975 broadcast, or were
7 you in Cambodia that that time? Did you hear it? How does that
8 appear in the paper?

9 A. Well, the footnote, as you see, is to a chronology done by Tim
10 Carney who was at that time, a political officer in the U.S.
11 Embassy in Phnom Penh, and I relied on that I think, for this
12 particular piece of work. Because where I was at the time, at the
13 Australian National University, they did not have a complete set
14 of the foreign broadcast information service translations of
15 public radio broadcasts.

16 [13.41.57]

17 I was in Cambodia on the 1st of April. We didn't in those days,
18 have access to the daily - the FBIS daily report, but the embassy
19 did make available a teletyped version of those broadcasts and I
20 read those every day. So I can be fairly certain I read it at
21 that time, but I didn't have that piece of paper in hand when I
22 wrote this particular piece. So instead, I relied upon Carney's
23 chronology, which was based on those FBIS translations.

24 Q. And so we're clear, what we all call the FBIS-

25 A. Yes.

1 Q. -Foreign Broadcast Information Service papers. You did read
2 those at the time, back in 1975, but they weren't available to
3 you when you were writing this paper; is that correct?

4 A. Yes, that's correct.

5 [13.43.04]

6 Q. I just want to ask a question about these FBIS broadcasts.
7 This particular broadcast is E3/118. But I just want to get a
8 picture really, about how regularly these broadcasts were coming
9 out and how you were able to be reading the FBIS material. Do you
10 understand the question?

11 A. The U.S. Government personnel who did the monitoring of these
12 broadcasts were based in Thailand and they sat and listened to
13 these broadcasts, recorded them and then did translations. And
14 what would happen then would be that the translations would be
15 transmitted to U.S. Embassies around the world in a kind of
16 teletype form, and those were - those teletype translations were
17 considered public documents within the U.S. government system.

18 [13.44.20]

19 So one could go every day as I did - not every day, but often
20 enough that I could read every day's output - to a reading room
21 in the U.S. Embassy in Phnom Penh, to see what FBIS had
22 translated. And then some but not all of those teletype
23 translations would then be compiled into the, so called, daily
24 report, which was a semi - was kind of in a magazine format and
25 which was deposited in a number of libraries around the world.

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1 Not Australian National University, but certainly Cornell had
2 them. There's also a British version, as you know, which is a
3 carbon copy as far as Cambodia is concerned, a so called summary
4 of world broadcast, which have even fewer items in it, but
5 essentially it was the same text.

6 Q. I just want to ask a question about that. I know what you're
7 speaking about, but I just want it explained for the Judges.
8 Certain documents on the case file are FBIS broadcasts, and then
9 there's a copy of the same material but with SWB in the top,
10 hence that's, I think, what you're aiming at; is that correct?

11 [13.45.44]

12 A. (Microphone not activated)

13 Q. Now, I think you said that you came to Cambodia in 1973; is
14 that correct?

15 A. Yes, first time in 1969, but only to pass through; to work, in
16 '73.

17 Q. Can I ask, was this in the capacity as a journalist, a
18 reporter, if you like, what was the reason, purpose, background
19 to you coming to Cambodia in 1973?

20 A. I had finished my Bachelor's degree at Cornell in Asian
21 Studies. I wanted to be a journalist. In fact, I went first to
22 Hong Kong and then to Bangkok to try and make my living as a
23 journalist working on China or on Thailand. In Hong Kong there
24 was too much competition, in Thailand there was no story. So a
25 kindly veteran journalist in Bangkok said, you should go to

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1 Cambodia because there's not a lot of competition and there's a
2 story there that virtually writes itself.

3 [13.46.59]

4 So I followed that advice and my recollection is that I arrived
5 in Cambodia in May of '73.

6 Q. Can you remember what the first couple of events were that you
7 reported on?

8 A. Well, the big story at that juncture was the fact that U.S.
9 Congress had passed, I guess what was a law, ordering an end to
10 U.S. bombing of Cambodia, and the cut-off date for that end was
11 15 August 1973; and there was a widespread expectation that as
12 soon as the American bombing ended the Khmer Rouge would march
13 into Phnom Penh. The Khmer Republic regime would collapse and
14 that was from my perspective, professionally speaking, both good
15 news and bad news.

16 It was bad news in the sense that a whole bunch of high powered
17 staff correspondents from big news organizations came to Phnom
18 Penh to sit around and wait for the Khmer Rouge to appear; sort
19 of blocking my entry into "Stringerdom". Stringer is a person who
20 works for a news organization, doesn't have a real job.

21 [13.48.49]

22 The good news was that with all of those people they needed help,
23 so I did stringing and I started out with a kind of assistant
24 position; a fixer position if you will. And I started out doing
25 that with "NBC", which was at that time a television and radio

1 network, and "Time Magazine", which was a weekly news magazine.
2 Then, you know, the Khmer Rouge didn't come and the big time
3 journalists left, so sort of the story fell to those of us who
4 remained behind.

5 Q. I just want you to try and paint a picture about, sort of,
6 journalism world 1973/1974. Now, what I mean by that is, what was
7 the extent of the contact between the members of the journalistic
8 reporting community in Cambodia? Can you give us a feel of, sort
9 of, how many people were regularly reporting and, sort of, who
10 was going out into the field? Do you understand what I mean by
11 into the field? Just try to paint a picture, can you please, of
12 the sort of world you were in and the sort of people you were
13 with?

14 [13.50.21]

15 A. There were kind of two tiers. There were the staff
16 correspondents for the existing news agencies, most of whom were
17 older, many of whom had been previously in Vietnam. There were
18 veteran war correspondents, if you will, and then there was a
19 group of us who were relatively younger, and I was in the
20 relatively younger group. However, one of the older journalists,
21 a guy by the name of Neil Davis, Australian cinematographer,
22 television reporter, and also print reporter, kind of took my
23 under his wing. He gave me a lot of assistance, so I spent a lot
24 of time with him. There was also a young Japanese photographer,
25 Naoki Mabuchi, now deceased - Neil Davis is also dead - with whom

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1 I spent a lot of time. I spent quite a bit of time also with a
2 Japanese journalist by the name of Koki, who worked for "Kyodo",
3 and also some time - quite a bit of time - with Elizabeth Becker
4 who was then I believe with "Washington Post".

5 [13.51.56]

6 When the story was big somebody would come from Hong Kong or
7 Saigon and we youngsters would tag along. When the story was
8 relatively quiet then we would be left on our own, and I sort of
9 gradually made my way from a very periodic stringer work to
10 pretty solid stringer work; enough to make a living on.

11 Q. I was asking about into the field. Did you become an
12 into-the-field reporter, or what you might call an office person
13 who sat in the centre? What was your modus operandi?

14 A. I wasn't as in the field as some of the most forward war
15 horses. I did spend some time in the field, in the battlefield.
16 Around the - in the perimeter area around Phnom Penh, went to
17 Udong, as I explained, went up to Battambang. I also have a -
18 having done the BA, spent a little bit of time doing research in
19 the National Library because I was interested in, sort of the
20 political, historical background of the Khmer Rouge, their
21 origins in the 1940s and the 1950s.

22 [13.53.31]

23 So, I did some archival work, I did some field work in the
24 battlefield, and I did some work in the - sort of - in the Khmer
25 Republic political scene in Phnom Penh.

1 Q. Thank you. You mentioned American bombing, 15th of August
2 1973. Did you see, did others tell you, was there information
3 coming about, continued bombing well beyond that date or just
4 beyond that date, American bombing?

5 A. No. At that point the U.S. Air Force bombing completely ended.
6 There was no more. However, the Khmer Republic armed forces air
7 force bombing continued as did the shelling done by the Khmer
8 Republic ground troops.

9 Q. I'll ask you some more questions about this later, but I can't
10 go through day by day, obviously, every day that you are here.
11 But can I ask the question this way and you tell me if it doesn't
12 help, the way I ask? You arrive in May 1973, is that correct? And
13 I think you said you left in April 1975, but I can't remember the
14 date in April; can you please clarify?

15 [13.55.11]

16 A. Yes, it was the 11th of April and Neil Davis, who I just
17 mentioned, and I flew out with the American evacuation of its
18 personnel and U.S. citizens and others who wanted to or managed
19 to go along with them.

20 Q. I want to ask you about battlefields from May 1973 to the 11th
21 of April 1975. With this specific question in mind, did you
22 yourself see, or did others tell you, or was information coming
23 to you - if you can help at all - about what was happening - if
24 it was happening - to capture Lon Nol soldiers? And what I mean
25 by that is Lon Nol soldiers who were taken into the custody of -

1 I call it broadly "Khmer Rouge forces", CPN, LAF, and so on. Can
2 you help on this, or not?

3 [13.56.28]

4 A. I think the answer has to be no, not off the top of my head.
5 There may be stuff in my notebooks, but I don't have any specific
6 recollection that I can give you now.

7 Q. You've spoken about one event, 15th of August 1973. Can I ask
8 you to try and distil what the next one or two important events
9 were that you remember reporting on? Do you understand the
10 question?

11 A. Yes. Anti-Lon Nol demonstrations in Phnom Penh, including an
12 incident in which two government ministers were killed; the big
13 offensive that was launched against Phnom Penh on the first of
14 January 1975; and all of the subsequent battles on the perimeter
15 of Phnom Penh as the Khmer Rouge closed in; and then up to and
16 including the last reports, which were on the American evacuation
17 of Phnom Penh - that is, the American evacuation of U.S.
18 personnel and others who wanted to or managed to go along.

19 [13.58.13]

20 Q. Now, in this period were you living most of the time in Phnom
21 Penh if you weren't out in the field, or were you moving around
22 the country regularly?

23 A. No. I lived in Phnom Penh. Initially, on the southwest side of
24 the city, the outskirts of Phnom Penh on the southwest side. I
25 moved out of there because we took a lot of incoming Khmer Rouge

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1 105 shelling, to the centre of town to be away from the 105
2 shelling coming from the southwest and the 107 rockets coming
3 from the east. So I set myself up smack in the middle of town to
4 avoid the incoming.

5 Q. Again, one of those paint-the-picture questions. What I mean
6 by this is: you're living in Phnom Penh; you've got shells coming
7 in. How regularly? How frightened or not? Just give us a bit of a
8 feeling. You're in a house in Phnom Penh or somewhere, and shells
9 are coming in. Just bring this to life, please.

10 [13.59.38]

11 A. You sound like my "Time Magazine" editors.

12 Yes. I mean it was certainly scary to be under shell fire when we
13 - when I lived on the southwest side of town. I had to dig a
14 bunker under my house, sometimes live in the bunker, learn how
15 many meters of dirt I needed to have on top of me to prevent the
16 105 shells from coming in. Similarly, when the rockets were
17 coming in from the east one could sit on what's now the
18 waterfront, and hear those rockets being fired, and see them
19 coming in over our heads normally, and then landing in the centre
20 of town, around Monourom, and people being killed.

21 And the city was also - you know, the socio-economic situation in
22 the city was very fraught, very tense. As everybody knows, there
23 were a lot of people who'd come in from the countryside, who were
24 in Phnom Penh.

25 [14.00.50]

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1 The political situation was primarily anti-government,
2 particularly among students. Sort of a classic revolutionary
3 situation, if you will. The students and the workers were
4 anti-government, the middle class such as it was, and it was very
5 tiny, was mostly also anti-government, and this sort of leads
6 into some of the stuff that's referred to in the document that
7 was the beginning of this discussion. And I think I refer in this
8 document, it's been a while since I looked at it, refer in this
9 document to an unpublished "Time Magazine" story I did about the
10 Khmer leadership.

11 There was another story I was asked to do which never got
12 published, maybe there weren't enough atmospheric, and that was
13 simply what people in Phnom Penh thought was going to happen when
14 the Khmer Rouge came in. And this was in the context of a time in
15 which there was an enormous debate going on in the United States
16 focussed primarily on Vietnam, to which Cambodia was of course,
17 famously, only a side show, about whether or not when the
18 Communists won, which by April '75 seemed inevitable, whether or
19 not there would be a blood bath.

20 [14.02.34]

21 So my editors asked me to write a story about whether or not -
22 well, whether Cambodians in Phnom Penh thought there would be a
23 blood bath or not; and part of the background to the thinking
24 that's in this piece is that for the most part people thought no.
25 People said no, and indeed, one of the main - or one of the

1 several reasons why people thought that was that they believed
2 that the Khmer Rouge were led by Khieu Samphan, Hu Nim, Hou Youn,
3 who many people, liberals and leftists alike, thought were good,
4 honest, patriotic people who would do well by the country and do
5 well by the population. There was a kind of general sense already
6 then that the Khmer Rouge were somehow different, and there was
7 an alternative view which was that they were different but worse
8 than other Communists.

9 And I remember one relatively sophisticated intellectual, to whom
10 I spoke about this matter, who said - you know, the question is
11 not whether the Khmer Rouge will be sort of different, but
12 whether they will be different in a kind of Yugoslavian way -
13 that is to say, relatively moderate for Communists - or an
14 Albania kind of way - that is to say, relatively radical in terms
15 of their communism. And the general opinion seemed to be the
16 former - that they would be relatively moderate. So that was the
17 widespread perception. The relatively widespread perception. The
18 story never saw the light of day.

19 Q. Two questions - may sound to you like a silly question: When
20 you're in your dugout that you've had to make, and you've got
21 rockets coming in from two different directions, who were firing
22 the rockets? And how did you find out that?

23 [14.05.23]

24 A. The artillery fire - the 105 fire - came from the special zone
25 troops commanded by Nat - In Lorn, alias Nat - and the 107s

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1 coming from the east were being fired by East Zone Division 1 or
2 maybe 2 troops. And I knew that at the time from things I was
3 told by the Japanese military attaché, who was very well informed
4 and rather free with his information, and shared his order of
5 battle information with me.

6 Q. In terms of the effect of the shelling; was it only
7 residential buildings, or were other buildings - I don't know -
8 stores, hospitals, factories - were they subject to shelling, or
9 not?

10 A. All of this shelling, whether artillery fire or rocket fire, I
11 would describe as indiscriminate, in the sense that it fell
12 primarily in residential areas. The worst resulting incident was
13 - happened because there was incoming fire into a neighbourhood
14 where there were lots of people who made their living by selling
15 gasoline in bottles along the streets, which - a practice that
16 continue in Cambodia until fairly recently.

17 [14.07.21]

18 It's now sort of - part of a historical footnote. But the
19 incoming fire that went into this neighbourhood ignited some of
20 these gasoline stores, and the whole neighbourhood went up in
21 flames.

22 Q. Which part of Phnom Penh - the gasoline going up in flames?

23 A. West side. West side.

24 Q. Now I know it's perhaps obvious, but you said that the 105s
25 came from a Special Zone commanded by In Lorn, alias Nat, and the

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1 107 mms from the east were by the East Zone Division 1. Whose
2 troops or what troops? I don't mean - overall, under what global
3 command, overall command?

4 A. These are Khmer Rouge zonal divisions operating under the
5 overall direction of the general staff, which was at this time
6 chaired by - already chaired by Son Sen - and answered to a
7 military command post headed by Pol Pot.

8 [14.08.41]

9 MR. PRESIDENT:

10 Mr. Prosecutor, please hold on.

11 Mr. Koppe, you may proceed.

12 MR. KOPPE:

13 Thank you, Mr. President.

14 It appears to me - or it might appear - that there is a mixture
15 going on of eyewitness testimony of the witness of what he saw
16 incoming in '75 and the filling in later of information as to who
17 was commanding these various troops. Now, under your ruling, both
18 are admissible. I understand that. But I think it would be good
19 to make that distinction while we have the present testimony
20 going on.

21 [14.09.35]

22 BY MR. RAYNOR:

23 I agree with my learned friend. That's absolutely right.

24 Q. Back in 1975, when it was - when the shelling was going on -

25 well, let's make that the first question to clarify this. Can you

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1 help us when you first directly became aware of shelling that was
2 affecting you or affecting Phnom Penh generally? What year? What
3 month? Or can you only be general in this respect?

4 MR. HEDER:

5 A. Probably dry season of '73/'74, but in a bigger way, initially
6 - in a bigger way in the dry season of '74-'75. That is to say,
7 starting in late '73 and running into the early part of '74, and
8 then again - starting again in late '74 and then running into
9 early '75. And then continuously from early '75 right up to
10 January - sorry, April '75.

11 Q. Now, you said something about the troops who were shelling.
12 You've mentioned a Japanese attaché, and you were saying that was
13 the source for where they were coming from. Can we clarify that,
14 first of all? Is that correct?

15 [14.11.22]

16 A. Yes. There was the order of battle information that was shared
17 with me by the Japanese military attaché, whose source was
18 undoubtedly the Khmer Republic military intelligence. There was
19 also some material, again originating with FANK, the Khmer
20 Republic military and civilian intelligence, which was early
21 organograms - organizational charts prepared on - prepared by
22 either - by Khmer Republic intelligence, either military or
23 civilian - about the structure and organization of the Khmer
24 Rouge, both political and military, which identified leaders of
25 certain political administrative areas and associated particular

1 military units with named commanders with those political
2 administrative units. So the basic, sort of, outline of the Khmer
3 Rouge structure and organization; the centre, the zones, the
4 sectors, and so on – was already known in – what turned out it
5 seems to have been reasonably accurate detail by Khmer Republic
6 military and civilian intelligence that was then passed on, not
7 only to the Japanese, and also to the Americans. And I got some
8 of that – I was leaked some of that information by people in the
9 U.S. embassy.

10 [14.13.17]

11 Q. I want to ask questions about two documents, or two nature of
12 documents. An order of battle, and an organogram. You say that
13 information was leaked to you by the U.S. embassy. You've
14 mentioned sectors, districts, and the like – but in terms of the
15 question I'd asked earlier, you were talking about a military
16 structure. And you mentioned two commanders whose names I can't
17 remember now – In Lorn, alias Nat, and then you said something
18 about Son Sen, and you mentioned another person as well.

19 Can I ask this? From the order of battle material or the
20 organogram material, can you remember whose name was at the top
21 of either or both documents, or whose name was next down, or, if
22 it helps, go upwards from the commander you mentioned?

23 A. Well, in at least some of these materials, Saloth Sar was at
24 the top. And that was something which – there was some dispute
25 within the intelligence community about who he was and how

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1 accurate that was.

2 [14.15.14]

3 But after the reporting done by Ith Sarin, who had been in the -
4 on the fringes of the Party apparatus and then defected to the
5 Khmer Republic side - did some reports for Khmer Republic
6 intelligence, and then published a book where he identified
7 Saloth Sar as the head of the Communist Movement. That was pretty
8 much accepted in the intelligence community. For Nat, as it was
9 the Special Zone, my recollection is, in those days, Vorn Vet was
10 identified as the head of the Special Zone, but by one of his
11 other aliases - I think Sok Thuok, an alias used in the
12 documents; certainly Ta Mok was mentioned; in the East, certainly
13 So Phim was mentioned as the head of the zone - I think by his -
14 one of his aliases - Vanna, So Vanna, Sao Vanna; and the other
15 zone secretaries, for the most part, were accurately identified -
16 (inaudible) in the Northeast - sorry, Northwest, and so on. So,
17 as I say, it was fairly accurate. For-

18 [14.16.54]

19 MR. PRESIDENT:

20 It appears to us that we have some technical issue regarding the
21 mic. The console is too close to Mr. Heder. Perhaps you should
22 turn it all the way to the west, a little bit further from the
23 console, so that it's not too close to Mr. Heder.

24 You may now proceed.

25 MR. HEDER:

1 A. I think that's pretty much it.

2 BY MR. RAYNOR:

3 Q. Now, in terms of – let's call it access to these orders of
4 battle, organograms – the Japanese military attaché – did you
5 have more or less access than other reporters? Were you in a
6 special position? Was this generally available? Can you help on
7 that question, please?

8 MR. HEDER:

9 A. I don't really know what the competition had. I think there
10 were – there were some people in some embassies who seemed to
11 appreciate the fact that I was a bit of an archive rat, that I
12 was looking into the background and the history and so on of
13 these movements and the movements that gave rise to the Khmer
14 Rouge.

15 [14.18.40]

16 So those in the embassies who had a kind of interest in history,
17 I think, maybe were more sympathetic to me than they might have
18 been to some of the other journalists who didn't appear to them
19 to have that sort of characteristic. But I don't know what other
20 people saw, and I didn't pass it on to my colleagues. So I don't
21 know whether they already had more than me or not.

22 Q. Now, you mentioned some broadcasts earlier in your testimony,
23 in the sense of the phrase "dry up the people from the enemy".
24 But I want to ask about broadcasts during the time from May 1973,
25 when you arrived, up to the 11th of April 1975, when you left.

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1 Now, what I mean by broadcasts is broadcasts by or on behalf of -
2 calling it as broadly as I can - the Front. Now, again, without
3 sounding like one of your news editors; can you bring this to
4 life in terms of how often these broadcasts were, what sort of
5 subjects they covered, where the radio was if you listened to
6 them, whether you listened to them on your own, or whether with
7 other journalists. But how did these broadcasts, if there were
8 broadcasts, feature in your life?

9 [14.20.13]

10 A. I listened, in some ways just as part of my language study,
11 increasingly to the Khmer broadcasts - Khmer-language broadcasts.
12 And my recollection was that there was an early-morning
13 broadcast, and there was an early-evening broadcast. And a lot of
14 this was battlefield reporting: "We have attacked here, we have
15 liberated this, we have seized that". And then occasionally there
16 was - there were policy broadcasts describing, you know, what the
17 policies were in the liberated zones and about the overall aims
18 and objectives of the revolution, which of course at this time
19 wasn't called the revolution - were going to be. But I relied -
20 in some ways it was easier - I mean, it was easier just to read
21 the FBIS, frankly. Everything was translated for you, it was all
22 there, didn't have to struggle with the dictionary or any of that
23 stuff. So, I didn't listen to it all that much. I listened to it
24 a bit.

25 [14.21.35]

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1 Q. When you listened to it a bit, can you remember - I mean, was
2 there like a radio station, or a radio - was it clear from the
3 announcer who was making these announcements, and were you able
4 to find out where the broadcast transmitter was, or locations for
5 such transmissions?

6 A. I think the answer to that is no. I mean, I do vaguely recall
7 there was a point in time where there was a second broadcast
8 system, which called itself "The Voice of FUNK for Phnom Penh",
9 and that came on air, I think, after I arrived. Prior to that, it
10 was something else. But I didn't delve into the - where the
11 broadcasts were actually coming from. Occasionally, there were
12 broadcasts that were presented as being in the voice of Khieu
13 Samphan or somebody else with a name, but a lot of it was just by
14 announcer - anonymous announcer.

15 [14.22.28[

16 Q. I want to concentrate on the broadcast by Khieu Samphan or in
17 the name of Khieu Samphan. Can you tell us - you've mentioned
18 talk of battlefields. You've mentioned talk of policy. Can you
19 remember - when there was a broadcast by Khieu Samphan or on
20 behalf of Khieu Samphan - did the subject matter differ from what
21 you've just said, or can you elaborate?

22 A. Frankly, not specifically, no. I mean, it's - and it's all
23 jumbled up in my memory with my contemporaneous reading of the
24 FBIS and my subsequent reading - re-reading, re-reading and
25 re-reading, umpteen times - of those broadcasts. I can't separate

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1 in my mind when that information got into my head.

2 Q. In respect of the broadcasts by Khieu Samphan or on behalf
3 Khieu Samphan – I mean, one, two, half a dozen, eight, ten? Can't
4 remember? What was the sort of number, just roughly, that you
5 remember of such broadcasts?

6 A. Maybe a dozen.

7 Q. I've taken on a big side route from Pol Pot and Khieu Samphan,
8 which was document number E3/3169. So, can we return to that, Mr.
9 Heder, please? Just to remind you again; file 3 index 1. And we
10 were on page 8 – same ERNs as previously given.

11 [14.24.53]

12 Now, I asked you a specific question about the 1st of April,
13 Khieu Samphan broadcast over Communist Party-run Radio. It was
14 the information about Khieu Samphan chairing the 2nd National
15 Congress. It may be a difficult question, but can you remember
16 whether that was from a broadcast or FBIS, or can't you now say?

17 A. I mean, this was a pretty big thing at that time, and I think
18 I can say that I can remember reading the blue teletype FBIS
19 version of this – reportage on this purported congress, sitting
20 there in that U.S. embassy, reading them.

21 Q. Again, on the same document still, still the same page so,
22 E3/3169. You started, in the paper, to talk about the Communist
23 Party of Kampuchea's policy vis-à-vis the officers and men of the
24 defeated army and many of the Khmer Republic civil servants.

25 [14.26.26]

1 I don't think it's fair that I read the next words, because the
2 rest of the page was based largely on confessions. But on top of
3 the next page, which is English 00087773; French 00722072; and
4 Khmer 00711379. On this topic, you said:

5 "There is also documentary evidence of the involvement in
6 executions of a military unit that entered Phnom Penh from the
7 special zone, and which after the war was designated division
8 703. This is in the form of an order signed by the division
9 secretary to execute people, mostly Khmer Republic army officers,
10 in the division's custody."

11 It's dated the 4th of June 1975, and it reads: "All these 17
12 persons have been assessed by the Party, and the Party has
13 decided they are to be exterminated. The comrades are asked to
14 implement this policy of the Party".

15 And, footnote 30 you'll see at the bottom, in the footnotes,
16 references "Pin Decision", 4th of June 1975. And then a copy of
17 this document was kindly provided to the author, you, by David
18 Hawk. Again, a little bit please about David Hawk and how you
19 came into possession of this document.

20 [14.28.16]

21 A. David Hawk was an executive director of Amnesty International,
22 United States section, who - after having left that post - came
23 to Southeast Asia. Worked, I believe, for a religious NGO based
24 out of Thailand, and developed an interest in what had happened
25 in Cambodia, and set up something called the Cambodia

1 Documentation Commission, the objective of which was to try and
2 gather evidence, if you will, in order to get a state's party to
3 the Genocide Convention to take legal action against the
4 then-still UN-recognized Democratic Kampuchea. In that - as part
5 of that endeavour, he visited Phnom Penh and visited S-21 - and
6 this would be in the early 1980s. This is the Tuol Sleng Genocide
7 Museum, and that document or a copy of that document was given to
8 him by the curators of the Tuol Sleng Genocide Museum, and then
9 he showed it to me and asked me to translate it for him. So
10 that's how I came into possession of that document.

11 [14.29.48]

12 Q. Thank you. Same page in English, Khmer has move on one, French
13 the same. Heading: "Khieu Samphan under Pol Pot in Power":
14 "In May 1975, the Communist Party of Kampuchea held a congress,
15 and it confirmed Khieu Samphan's membership in the Central
16 Committee. He remained a Central Committee member throughout the
17 period that the Communist Party held power, but it is - he is
18 believed not to have been elevated to membership in the Standing
19 Committee while the Party was still in power. Although the exact
20 composition of this seven-to-nine man body between 1975 and 1978
21 is still not known with complete certainty, Khieu Samphan has
22 never been identified as among the possible members. However,
23 minutes of Standing Committee quora held in 1975 and 1976 reveal
24 that he regularly attended them."
25 It's the footnote in support of this - footnote 53 - sorry, 33 -

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1 and you state the minutes of meetings of the Standing Committee,
2 and then you give - I'll give the dates.

3 "2nd November 1975, 22 February 1976, 11 March 1976, 17 May 1976,
4 and 30 May 1976 all list Khieu Samphan as present. These
5 documents were kindly provided to the author by David Chandler."

6 [14.31.41]

7 The point of the question here, Mr. Heder, is this; at this
8 stage, in - I think it's 1991 when you wrote this paper - you're
9 mentioning here only five records of Standing Committee minutes
10 showing attendance by Khieu Samphan. So is it right that, at this
11 stage, when you were writing the paper, you'd only seen the five
12 that you'd mentioned in the minutes - in the footnote 33?

13 A. The answer to that, I think, has to be "I guess". I suppose
14 that those were the ones that David Chandler had - had at that
15 point passed on to me. I'd add, if I may, that the earlier part
16 of that paragraph - the part about May 1975 - I would no longer
17 hold to that view. My subsequent understanding of things is that
18 what happened in May 1975 was not a congress but a Central
19 Committee meeting, and Khieu Samphan was not elevated at that May
20 '75 gathering - but no until January '76.

21 [14.33.01]

22 The footnote too - it's not very good. So, it's not surprising
23 that it turns out to be wrong.

24 Q. Okay. You then go on talking about the anomaly of him not
25 being a formal member of the Standing Committee but actually

1 attending meetings, and you say this:

2 "This anomaly must be viewed in the light of subsequent
3 developments, particularly the purge by execution of Standing
4 Committee members who were accused of being Vietnamese agents,
5 because Pol Pot knew or suspected that they opposed his policies
6 and leadership."

7 And at footnote 34 you mention the people who that refers to, is
8 that correct?

9 A. Yes.

10 Q. From your research, interviews, consideration of documents,
11 are you aware of any other persons who were members of the
12 Central Committee attending Standing Committee meetings on a
13 regular or frequent basis?

14 MR. PRESIDENT:

15 Mr. Witness, could you please hold on?

16 Counsel Kong Sam Onn, you may now proceed.

17 [14.34.58]

18 MR. KONG SAM ONN:

19 Thank you, Mr. President. I take issue with this question.

20 The confirmation from this witness regarding the presence of
21 members of the Standing Committee must be based on the research
22 and study. A normal witness is not able to give testimony or
23 confirmation regarding this document or this information that
24 needs research to find out. I really take issue with this.

25 BY MR. RAYNOR:

1 I understand my friend's objection and I'm just going to rephrase
2 the question; I hope that deals with it.

3 Q. From factual sources, factual information, does any factual
4 information indicate other persons who were members of the
5 Central Committee attending Standing Committee meetings on a
6 regular or frequent basis?

7 [14.36.21]

8 MR. HEDER:

9 A. The one who comes to mind is Sua Vasi alias Doeun. Other than
10 that, I can't immediately think of any.

11 Q. We'll come back to Doeun in a minute.

12 Same page, same ERNs; just for the record, E3/3169. Mr. Heder do
13 you have this page open? Its page 10, half way down the page:

14 "As Khieu Samphan himself later admitted the opposition to Pol

15 Pot was stronger even then in the Central Committee. In an

16 interview with the author on the 4th of August 1980 he alleged

17 that Khmer agents who were the Vietnamese infiltrated into the

18 Central Committee didn't reach half of its membership. But in the

19 Standing Committee it was almost half."

20 The first question is: Is that what you've written in the book.

21 And then I'm going to take you to another document.

22 A. Yes, that's certainly what I've written in the book.

23 Q. Same file tab 6.

24 [14.38.20]

25 MR. PRESIDENT:

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1 Mr. Co-Prosecutor, could you please hold on?

2 And Counsel Koppe, you may now proceed.

3 MR. KOPPE:

4 Thank you, Mr. President, just a - sorry request for
5 clarification, in my document it is always page 9 that quotes
6 were from. Just to prevent confusion, I have in front of me
7 E3/3169, ERN 0002754, but on the bottom it's page 9.

8 MR. RAYNOR:

9 I think it's the same document under another reference. If it
10 helps, I've got E3/3169 as the document, and then the page I'm on
11 for the English ERN is 00087774. I think my learned friend - can
12 he indicate if he is looking at one that appears in the published
13 version, which was D366/7.1.14, as there are two versions on case
14 map or the case file? There is the published version which is
15 quite black and quite grainy, and then the better copy in plain
16 black and white type script is also available under E3/3169. Does
17 that help?

18 [14.39.49]

19 MR. KOPPE:

20 Well, my ERN numbers that I have in front of me is 00002754 so
21 that's a completely different ERN number but that still wouldn't
22 explain the page 9, which seems to be part of the article itself.
23 So this would indicate or would imply that there are two versions
24 of the same article rather than two different ERN numbers, or E
25 documents.

1 MR. RAYNOR:

2 There are two documents under the case file E3/3169. I think my
3 learned friend has this version, there is also this version on
4 the case file and it's much easier to read without the black
5 graininess of this document. I'll make sure I give on every page
6 now the ERNs. I think I have been doing but I'll try and help as
7 much I can.

8 [14.41.09]

9 MR. PRESIDENT:

10 Thank you, Mr. Co-Prosecutor.

11 It is now appropriate moment for adjournment. The Chamber will
12 adjourn for 20 minutes.

13 Court officer is now directed to assist the witness during this
14 adjournment and have him return at 3 o'clock.

15 (Court recess from 1441H until 1502H)

16 MR. PRESIDENT:

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

18 Now we would like to hand over to the Prosecution to continue
19 putting questions to Mr. Heder. You may now proceed.

20 BY MR. RAYNOR:

21 Thank you, Mr. President.

22 Q. I would like to clarify that the type written version of Pol
23 Pot and Khieu Samphan is D366/7.1.14. So we have this type
24 written version and then we have the direct photocopy of the
25 published work. Now, Mr. Heder, can I ask this: The document that

1 we've been working off which is the type written version, was
2 that something that you produced or was produced at the
3 University, or do you know nothing about this type written
4 version that we are working off?

5 [15.03.31]

6 MR. HEDER:

7 A. I don't know anything about the version of which you're
8 working. I only know the ragged dark photocopy of the original as
9 published in Australia. This must have been retyped by somebody
10 in the Court. The pagination is I suppose different because this
11 version - the retyped version has the cover as page one, whereas
12 the original published version the cover page has no number. So
13 there's a one-number difference between the two.

14 Q. Thank you. I was asking a question which was about - in the
15 book you were saying in an interview with the author on the 4th
16 of August 1980 he alleged that Khmer Agents who were the
17 Vietnamese infiltrated into the Central Committee didn't reach
18 half of its membership but in the Standing Committee it was
19 almost half and you had confirmed that that was what was written
20 in the book. What I would like to do please is to take you to
21 file 3, tab 6, and this is now document number E3/203 which is
22 the transcript of the questions and answers in the interview that
23 you had with Khieu Samphan on the 4th of August 1980. Can you
24 confirm that is the document that you have?

25 [15.05.21]

1 A. Yes.

2 Q. I'd like you to go to page 19 of that document English ERN
3 00424014; Khmer, 00434233 - sorry that is the French; and Khmer,
4 00385410 through 11. And you had been speaking and Khieu Samphan
5 had been answering about the Khmer that the Vietnamese agents and
6 talking about them secretly destroying and distorting the line.
7 And that led to this question from you to Khieu Samphan: "In
8 1975, what percentage of them were in the senior ranks of the
9 party? In the Central Committee or in the Standing Committee?"

10 Answer: "There were many."

11 Question: "Half?"

12 [15.06.36]

13 Answer: "Less than half in the Central Committee but nearly half
14 in the Standing Committee." Question from you: "Nearly half, who
15 were they?"

16 Answer: "I don't want to mention about this issue here and it's
17 not the right time for us to discuss conclusively about our
18 experiences because we are busy with the war with fighting to
19 defeat the Yuon. We will deal with this question gradually."

20 Can you confirm that that's an accurate record of what was said
21 at this stage of your interview with Khieu Samphan?

22 [15.07.21]

23 A. Yes. I mean, obviously, the translation is slightly different
24 but the sense, I think, is the same.

25 Q. I'm moving back to the document which is in fact D366/7.1.14

1 for Mr. - my learned friend, Mr. Koppe, probably best that I
2 refer to some footnotes as reference to footnote 37, 39, 40. I'm
3 going to try and summarize the general theme but make specific
4 reference to material before footnote 37. And you are talking
5 generally about Khieu Samphan and GRUNK and FUNK. And you state
6 this, for your benefit, Mr. Heder, page 11 of the item:
7 "Formally speaking the destruction of GRUNK and FUNK proceeded in
8 three steps. First came the adoption of a new constitution to
9 replace the FUNK political program dating to 1970. Second came
10 the holding of what purported to be elections to a national
11 assembly to replace the FUNK sponsored congresses over which
12 Khieu Samphan had been presiding as the supposed popular policy
13 making body of the revolutionary movement. Third came the
14 establishment of a new government and other state bodies to
15 replace GRUNK itself."
16 [15.09.27]
17 I want to deal in the next part with elections and can I ask you
18 please to turn within the same file to tab 2. This is document
19 number E3/390 it is the transcript of your interview with Mat Ly.
20 We've already referred to it in Court this morning. Can I please
21 take us to its page 28 of the document? The English ERN is
22 00436873; I don't have the Khmer but I'm going to ask my
23 colleague to see if she can help with pulling this up. Can I just
24 check for one moment?
25 Mr. Heder - and for everyone it's available in Khmer and it will

1 come up on the screens in Khmer. For our purposes, Mr. Heder,
2 page 28 about a third of the way down the page after figures 250,
3 100, 50 there is a sentence that begins but the method of my
4 election. Do you have that, please? Yes.

5 So this is Mat Ly speaking:

6 "But the method of my election let me tell you. Each centre had
7 only one ballot, for instance me, Mat Ly. So they called in the
8 people to vote, saying, if they were dissatisfied, to erase it.
9 Let me tell you, no one aside from the cadres had a Bic ballpoint
10 pen in their pocket in that era. No one. Ask the brothers that
11 were evacuated from Phnom Penh-"

12 MR. PRESIDENT:

13 Mr. Co-Prosecutor, could you please hold on we appear to have
14 some technical problem in the rendition into French.

15 [15.12.39]

16 Mr. Prosecutor, you may repeat your last question to the witness
17 because just now it was not rendered into French. You may now
18 repeat.

19 BY MR. RAYNOR:

20 Q. Mr. Heder, the portion we're reading begins with the words
21 "but the method of my election". Do you have that on your page?

22 MR. HEDER:

23 A. Yes.

24 Q. "But the method of my election, let me tell you. Each centre
25 had only one ballot, for instance me, Mat Ly. So they called in

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1 the people to vote saying if they were dissatisfied to erase it.
2 Let me tell you, no one aside from the cadres had a Bic ballpoint
3 pen in their pocket in that era. No one. Ask the brothers that
4 were evacuated from Phnom Penh. If they had one, they hid it
5 because they were afraid it would be known that they were
6 literate.

7 [15.14.05]

8 "All near sited people took off their eye glasses; they were
9 afraid of being called intellectuals and being taken away and
10 killed. They said that intellectuals still had imperialists
11 influence. In particular in that election if any of the people
12 dared to strike out the name they were standing and watching. And
13 since there were no photographs on the ballot and it just said
14 Mat Ly they brought a stool for me to sit on and they had the
15 people vote. They just looked at my face, put in their ballot,
16 and turned around. No one dared strike out my name."

17 Can you confirm that that was what you were told by Mat Ly in
18 this interview?

19 A. Yes.

20 [15.15.05]

21 Q. We're moving now to the assembly and Mat Ly continues:

22 "So after the election on the 11th of May they called me to the
23 meeting and we left from the district. I was in the meeting on
24 the 12th. On the 13th I returned home. They instructed that the
25 Assembly belonged to the Party and the work had to be given to

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1 the Party to do. But our Assembly required by law and custom so
2 that the international world would know that we had laws, and
3 customs and a proper Assembly like they did. That's what they
4 told me. But the content of the meeting, I'm not talking about
5 organizing the minister's or the Council of Ministers or Council
6 of State, I'm talking about the organization of the Assembly. The
7 Assembly was 250 persons. They had a Standing Committee of ten.
8 Among those ten was the chairman, Nuon Chea. There were two
9 deputy chairmen, and other than that they were all members. I was
10 a member of the Standing Committee of the Assembly, I was member
11 number eight.

12 [15.16.37]

13 "So what did we discuss in that meeting, nothing. They just read
14 it out and we raised our hands. For example they read out the
15 organization of the Standing Committee, one, two, who was the
16 chairman, who the deputies were and we clapped our hands. And the
17 Constitution, a moment, that Constitution, just a moment. They
18 wrote that Constitution very well. For example, they wrote that
19 the people had the right to have or not have religious faiths but
20 reactionary religions were absolutely forbidden. That's what they
21 wrote but in fact in that meeting of the Assembly they eliminated
22 all religion."

23 He then says a little bit further down:

24 "Their mandarins, the Council of Ministers had Pol Pot as Prime
25 Minister and others were in there. Hou Nim was Minister of

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1 Propaganda and Culture. And they had a Court. They assigned Khieu
2 Samphan as chairman of the State Presidium. And So Phim my leader
3 was first deputy chairman. Nhim Ros was in what they called the
4 west. Is that right?"

5 You then said - question: "The Northwest?"

6 Reply: "Northwest. He was second deputy chairman and they killed
7 both. That's why I saw... no one was present. It was like when we
8 voted we just raised our hands in acceptance.

9 [15.18.26]

10 "So then the Assembly meeting last just two hours Mr. [inaudible]
11 national leadership level... Brother Chea Sim. It began at 7.30 and
12 ended at 9.30. So I wore a suit with them for two hours. A suit
13 and a necktie and we left, they had us take off the suits and
14 neck ties at the Foreign Ministry, give them back, and put on
15 black clothes to go back home. But who did they disseminate it?
16 On the 11th there was not yet any meeting, the meeting was on the
17 morning of the 12th. On the 13th we went back home. At dawn on
18 the 14th they announced on the radio that the Assembly had for
19 three days busily discussed in detail the laws and customs and
20 had organized the ministers."

21 Is that an accurate recording of what Mat Ly told you in this
22 interview?

23 A. Yes.

24 [15.19.55]

25 Q. Mr. Heder, in terms of direct factual information from direct

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1 factual sources have you obtained any other factual information
2 about the conduct of these elections? You use the word purported
3 in the report, but can you offer any other factual information as
4 to the spread of the elections, where they were held, how
5 frequently, can you assist?

6 A. On this point to my recollection not a lot. It's not something
7 I ask about very much.

8 Q. Page 12 of your and my document the material leading to
9 footnote 41, for my learned friend Mr. Koppe; English ERN
10 00087776; Khmer, 00711385; French, 00722075:

11 "Ten days after the balloting, there was a Central Committee
12 document outlying the Party's leadership decisions, about a
13 number of important issues. These included policy on executions
14 and vis-à-vis the destruction of GRUNK and FUNK."

15 And there you refer to a document that we are all familiar with,
16 a decision of the Central Committee dated the 30th of March 1976.
17 Footnote 41 states that this document - the one you were
18 referring to I think, this document has been translated in
19 extenso by Ben Kiernan and appears in the collection Pol Pot
20 plans for the future.

21 [15.22.12]

22 You then add at the end: "In some places my translation of the
23 passages quoted here are slightly different from his. The
24 original Khmer text was kindly provided to me by David Chandler."
25 Can I ask, just in terms of the translations of this document,

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1 were there any material differences on the question of the policy
2 on executions and vis-à-vis the destruction of GRUNK and FUNK?

3 A. I think there are some - there's a problem which often arises
4 in the translation of Khmer due to the frequent lack of clear
5 specification of the difference between singular and plural. So
6 sometimes it's not clear whether we're talking about an office or
7 about offices. There is also sometimes a problem in the way in
8 which modifiers follow nouns. So you can't tell whether - if
9 standing follows two mentions of committee whether it means
10 standing committees in both of the two cases or only in one of
11 the two cases. And that can only be determined if it can be
12 determined from context and from what one knows from the rest of
13 the situation. Sometimes there is no solution to that problem,
14 you just have to guess.

15 [15.23.58]

16 Q. Now, if we can stay on the same page, because you do, then,
17 explain the document certainly in terms of, I hope, your Khmer -
18 and I quote:

19 "The document began by clarifying policy with regard to 'the
20 right to decide on exterminations within and outside the ranks'
21 of the Party. It declared that 'there should be parameters within
22 which the work of implementing our revolutionary dictatorship',
23 [in other words] execution 'is carried out.' It then delineated
24 which party or other body had the authority to order an execution
25 in various contexts. For example it pronounced that 'for those

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1 appended to the offices of the Centre', i.e. the Central
2 Committee, 'the Centre Office Committee is to make the decision.'
3 It seems that 'those appended to the offices of the Centre' in at
4 least some instances covered Communist Party cadre who worked in
5 government ministries including those who were ministers but not
6 themselves of Central Committee rank."

7 Is that now a fair summary adopting your Khmer from reading the
8 document?

9 [15.25.26]

10 A. Yes, but that very problem that I flagged arises in this
11 context. So, in the - where it says - it pronounced that quote,
12 "for those appended to the offices of the centre". It might be
13 singular "office". And the "centre office committee" is to make
14 the decision. Conversely, that one could... that could be the
15 "centre office committees". So it's ambiguous or unclear, I
16 think, on the face of it in the absence of context or other
17 clarifying information whether those things should be singular or
18 plural.

19 Q. At the bottom of our page 12, which follows on from footnote
20 43, you make reference to Sua Vasi. And then, turning over our
21 page onto page 13 which becomes English, 0087777; Khmer,
22 00711386; and French, 00722076, still on Doeun, you say:

23 "Communist Party pseudonym was Doeun. Doeun was like Khieu
24 Samphan, an intellectual but not a well-known one nor one that
25 had a record of working at a higher level with the intellectual

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1 and political elite of the Sihanouk era. His post as chairman of
2 Office 870 was already a powerful one because it's previously
3 defined duty was 'to keep track of the implementation' of the
4 Standing Committee's policy decisions."

5 And that references back to the 9th of October 1975 meeting which
6 is our E3/182. And so when you're talking about the previously
7 defined duty do I have it right you're talking to what was
8 previously defined in the minutes of an earlier meeting?

9 [15.28.09]

10 A. Yes, that's correct.

11 Q. In terms of factual information from factual sources - not
12 opinion, not speculation - other than S-21 confessions, have you
13 seen factual documents that provide information's on the working
14 of office 870?

15 A. I think the answer is yes, but if I was going to deal with it
16 I would really like to look at the individual documents again. I
17 think there are other mentions of it but because this is such a
18 contentious and crucial issue and because there is so much
19 ambiguity surrounding the terminology I don't - even on factual
20 grounds without the documents in front of me I'm a little bit
21 reluctant to comment.

22 [15.29.33]

23 Q. Okay, thank you. Page 14 for us, which will be following on
24 shortly after footnote 49, English ERN 00087778; Khmer, 00711389;
25 and French, 00722077, it's the bottom of our page 14.

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1 "As of October 1975, when Khieu Samphan was still its Deputy
2 Premiere, the GRUNK cabinet comprised 20 cabinet level figures.
3 Of these nine were fellow intellectuals or elite political
4 figures with whom he had worked in pre-revolutionary Phnom Penh,
5 but were either not members of the Communist Party, held
6 significantly lower ranks in it than him or had no obvious direct
7 connection to Party leaders in the Standing Committee."

8 You then discuss other figures and about a third of the way down
9 the page you state in effect that out of his - that's Khieu
10 Samphan's - 16 former GRUNK and FUNK colleagues had eventually
11 become executed. In terms nine out of 16. Is that correct?

12 [15.31.12]

13 A. I think the answer is yes. I mean I'm trying to read through
14 and do the counting but yes.

15 Q. We end up with a nine at footnote 50 being all set out. Can
16 you confirm that the nine are set out at footnote 50?

17 A. Yes, the nine names are enumerated and specified in that
18 footnote number 50.

19 Q. I'd like to move quite some pages now to page 19 of ours. This
20 is text in relation to footnote 66 - the English ERN 00087783,
21 Khmer 00711397, and French 00722081, talk about "Democratic
22 Kampuchea's official radio broadcast, a Pol Pot speech which
23 publically revealed for the first time both the existence of the
24 Communist Party and his leadership of it. The speech given on the
25 27th of September 1977, contained a detailed exposition of Pol

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1 Pot's views on the entire history of the Communist Movement in
2 Cambodia and its successes and failures.

3 [15.33.04]

4 "It seemed to signal publically the special trust Pol Pot had in
5 the two men who had been helping him in the purge process begun
6 earlier in the year: Nuon Chea and Khieu Samphan. They were the
7 only two Party leaders who Pol Pot found the opportunity to
8 mention favourably. Pol Pot described Khieu Samphan as a
9 'distinguished intellectual' and paid him the accolade of
10 mentioning how he had suffered arrest and detention because of
11 his political activities."

12 And again that's a document we are aware of E3/144.

13 My question is: In terms of factual sources of factual
14 information are there any other instances, factually, of Pol Pot
15 identifying others for particular and similar praise?

16 A. Not to my recollection, no.

17 [15.34.17]

18 Q. I want to move on please to page 25 in our paper. This
19 references footnote 74, for my learned friend, Mr. Koppe. The
20 English ERN 00087789, the Khmer is 00711408 and French 00722087.

21 I ask the question, unless there are pending objections, on the
22 basis that this is a question going to Khieu Samphan's capacity
23 for leadership, a theme on which His Honour Judge Lavergne asked
24 questions a few weeks and upon which I asked supplemental
25 questions arising from his questions in terms of Khieu Samphan's

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1 position post-1979.

2 At the bottom of our page 25 you state – or it is stated in the
3 book:

4 "In December 1979, 11 months after the power of the Communist
5 Party of Kampuchea disintegrated in the face of a Vietnamese
6 military offensive, the government of Democratic Kampuchea was
7 'reshuffled'. Pol Pot stepped down and was replaced as prime
8 minister by Khieu Samphan."

9 Footnote 74 references: Democratic Kampuchea, "Biographies of
10 members of the government of Democratic Kampuchea."

11 And in brackets it then says "typescript document in the author's
12 possession" – so your possession.

13 Can you please explain how you came to be in possession of this
14 typescript document?

15 [15.36.26]

16 A. Yes. It was passed on to me by one or more journalists to whom
17 it was given by the Khmer Rouge for lack of a more specific term.
18 So, it's a document in English that they distributed to
19 journalists at that time and then journalists passed on to me. I
20 suspect it was somebody by the name of Jim Gerrand. I can't be
21 absolutely sure of that, it might have been somebody else.

22 Q. Thank you. Our page, the next page, which is 26 referencing
23 footnote 77 – English ERN 00087790; Khmer, 00711410; French,
24 00722088: "In addition to assuming the post of prime minister,
25 Khieu Samphan also became the provisional chairman of the

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1 Patriotic and Democratic Front of the Great National Union of
2 Kampuchea."

3 Again, you reference from "Democratic Kampuchea". This document
4 is called "Composition of the Government of Democratic Kampuchea"
5 and, again, typescript document in the possession of the author.

6 Is the chain of translation of the document similar to the
7 document we just dealt with in the previous footnote?

8 A. Yes. Again, I think the original is in English and the
9 document came to me via journalists who received it directly from
10 them, the Khmer Rouge.

11 [15.38.40]

12 Q. I'd like to move again on a number of pages to page 28 on our
13 version. If it helps in terms of footnotes, it is text in
14 relation to material between footnotes 83, 84 and onwards, but
15 you're talking about your 1980 interview with Khieu Samphan, and
16 to introduce the analysis, you say a third of the way down, page
17 28 on our version: "It's perhaps useful to quote at length from
18 remarks he" - that's Khieu Samphan - "made to the author in
19 August 1980 and from a document issued under his authority in
20 July 1987."

21 And I'm not going to deal with comments about starvation, I want
22 to start with comments about another matter.

23 [15.39.54]

24 So halfway down the page there's a sentence starting "With regard
25 to executions", and the sentence reads: "With regard to

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1 executions, he" - that's Khieu Samphan - "similarly asserted that
2 'the concrete reality is there were no such killings as a result
3 of a systematic policy or line to kill per se. Talk like like
4 this is untrue in concrete terms.'"

5 He then though, as you say a little later on, about four
6 sentences afterwards:

7 "Thus, after asking himself rhetorically and euphemistically
8 whether there had been 'things that adversely affected the lives
9 of the people', he replied, 'there were indeed, although not on
10 the scale of a massacre'. He quickly added that the existence of
11 such killings should be clarified: they existed as a result of
12 the Vietnamese agents, Khmer agents who the Vietnamese
13 infiltrated into the ranks of our state power where they
14 furthermore had quite important roles'."

15 "Evidently," you say, referring to So Phim, Ros Nhim, and Chou
16 Chet as people, "some of them were in charge of the zones."

17 You then state this, quoting from the interview: "[But] by 1977
18 to 1978 we had basically sorted them out and put proper order
19 into the situation inside the country."

20 [15.41.41]

21 Now, does that reflect both what's written on this page of the
22 book and also what Khieu Samphan told you in the interview that
23 you had with him?

24 A. I'm having a little bit of trouble sorting out what might have
25 come from which of those two sources. So the footnote is where?

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1 [15.42.13]

2 Q. I think it might be easier if I take you to the actual
3 interview. So tab 6 under your existing file, page 18. I'm now in
4 the actual interview, which is E3/203. This is English, 00424013;
5 French, 00434232; Khmer, 00385409 through 10. Now that is the
6 transcription of the actual interview. I hope it helps if you
7 look on the bottom of page 18 about "Some of them are in charge
8 of major zones and they distorted our line".

9 And then if I can read from this and if you can confirm this is
10 actually what Khieu Samphan said in the interview, and perhaps to
11 start with that sentence:

12 "Some of them were in charge of major zones and they distorted
13 our line, making some people in the areas they were in charge of
14 unhappy and affecting the lives of innocent people. What did they
15 do all these things for? They did these to isolate our Democratic
16 Kampuchean government from the people. Then it would be easy for
17 them to stage a coup. This was an attack on us from the inside
18 out. It was an attempt to attack us from the inside out.

19 Nonetheless, we fought constantly against these attempts and
20 defeated them. Until 1977-1978, we managed to deal with these
21 people completely and brought order back to the country. Thus,
22 the people were very satisfied. This is the truth."

23 Now, can I deal with it this way? Is that an accurate recording
24 of what Khieu Samphan told you in the interview?

25 [15.44.51]

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1 MR. PRESIDENT:

2 Mr. Witness, could you please on?

3 And, Counsel Koppe, you may now proceed.

4 MR. KOPPE:

5 Did my learned friend finish the whole answer when reading this

6 page 18? Also, that last sentence please?

7 MR. RAYNOR:

8 Well, its there. My learned friend can cross-examine upon it.

9 BY MR. RAYNOR:

10 Mr. Heder, can you confirm that that was what Khieu Samphan told

11 you in the interview?

12 (Short pause)

13 [15.45.36]

14 MR. PRESIDENT:

15 Mr. Witness, could you please respond?

16 MR. HEDER:

17 A. Yes, I confirm the basic content, the content of the document

18 that you most referred to just now. I think the passages in my

19 publication are taken from this same interview and the

20 differences are explained by the vagaries of translation,

21 different sensibilities about how things should be translated,

22 but the substance is if not identical then virtually identical.

23 BY MR. RAYNOR:

24 Q. Now, this interview with Khieu Samphan, 4 August 1980, again,

25 similar question to yesterday with Ieng Sary, how was this

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1 interview set up, how did you get access to Khieu Samphan, who
2 was present at the interview, a little bit of background? And I
3 apologize because I've gone against my golden rule of asking
4 three questions in one, but do you get the drift of the question?

5 [15.46.54]

6 MR. HEDER:

7 A. This interview happened while I was at the Asian Institute of
8 Chulalongkorn University in Bangkok. The interview - the setting
9 up of the interview was facilitated by the Thai academic who was
10 then, I think, the head of the Institute, Khien Teeravit, and
11 also with the help of journalists, former colleagues of mine,
12 including the folks from "Kyodo" with whom I did the interviews
13 that are in one of the other documents that we've discussed
14 extensively.

15 [15.47.58]

16 I went in the company of another - a number of journalists. Been
17 trying to - I knew this question was coming, I've been trying to
18 remember who those journalists were. I think one of them was
19 probably Gary Burns. He was a television journalist. There were a
20 couple of others. At the moment for the life of me I can't
21 remember exactly who.

22 [15.48.33]

23 We were picked-up in Bangkok by a Democratic Kampuchea vehicle
24 and taken to the Thai-Cambodian border and probably crossed over
25 to the Cambodian side. As it happens, this is the border between

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1 Cambodia and Thailand in the area of Preah Vihear which we know
2 is somewhat disputed, so I'm not exactly sure which side of the
3 border I was on.

4 The format of the encounter was initially a kind of press
5 conference. Khieu Samphan, if I recall correctly, made a prepared
6 statement to myself and the journalists present and then there
7 was - I had a separate interview with Khieu Samphan which, to my
8 recollection, was one-on-one. Journalists were not present, it
9 was me and Khieu Samphan and a tape recorder.

10 We also spent the night in this location, myself and the
11 journalists. And then, if I recall correctly, we left the next
12 morning and were transported back to Bangkok in a Democratic
13 Kampuchea vehicle.

14 Q. Just - what was the location? Are we in the middle of a town?
15 Are we on the outskirts? Are we in the jungle? Are we - where are
16 we and what was the set-up? What I mean by that was, what was the
17 - I don't know - who was with Khieu Samphan; was there an
18 entourage? Can you just describe the setting?

19 [15.50.20]

20 A. Yes. This was at the top or near the top of the Dangrek
21 Escarpment which forms the border, the disputed border, between
22 Cambodia and Thailand in that area.

23 Khieu Samphan was present. Somebody by the name of Thiounn Mumm
24 was present. Also present on that occasion was Son Sen, to whom I
25 also spoke, not in a formal interview but informally, and this

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1 was considered from the Democratic Kampuchea side of things a bit
2 of a treat because Son Sen had, according to what we were told
3 and according to what Son Sen said to me, just emerged from the
4 interior of Cambodia where he was said to have been leading the
5 opposition to the Vietnamese presence. So this was the first time
6 anyone had seen Son Sen I think, any foreigner that is to say,
7 any or - I should say any Westerner I suppose. I suppose Thai and
8 Chinese had seen him, but any Westerner, any Western journalist
9 or academic, hadn't seen Son Sen since the fall of Phnom Penh.

10 [15.51.50]

11 So - and my understanding from subsequent interviews is that this
12 was more or less the then location of the headquarters for the
13 Party Central Committee.

14 Q. Now, I'd like you just to look at the first page of our file
15 3, tab 6, and the front of the document has "Duration, 47
16 Minutes", and then it even has a counter 00 to 16 minutes. And
17 then can I take you to the final page of the document.

18 So, first of all, the front page, can you confirm it has 47
19 minutes, first of all?

20 A. Yes, that's what it says.

21 Q. And if you look at the final page of E3/203, we have "End of
22 Tape 6". Now, how was this recorded?

23 [15.53.16]

24 A. An ordinary cassette tape recorder of the era, the kinds of
25 cassettes that people used to play music off of in those days.

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1 Q. I mean, was there a tape recorder on open show? Were you
2 hiding it? Was it openly on view?

3 A. No, this wasn't secretly recorded, this was openly on view as
4 you put it.

5 Q. I'd like to go to page 20 of E3, the document itself, E3/203.
6 Sorry, in fact, I think it will be easier to go to the final
7 page, which is page 21 for you. This is English ERN 00424016;
8 Khmer, 00385414; and French, 00434236/7, and I'm quoting your
9 question:

10 Question to Khieu Samphan: "What I wanted to ask was at the time
11 was about anyone who was accused of being either CIA agents or
12 Yuon agents. I want to ask if any of them were accused of being
13 Yuon agents in order to kill them, in order to kill true
14 patriots. Did that happen among the upper echelon?"

15 Answer: "Yes, there was a comrade in West. He was an old man. He
16 was accused by the Yuon agents. They were responsible for that.
17 They accused him. However, they were not successful because we
18 investigated the case in a timely manner."

19 [15.55.55]

20 I want to pause there because on the face of it this transcript
21 shows "End of Tape 6". Is that correct on this page?

22 A. Yes.

23 Q. Now I want you to go back, please, to the same file tab 1
24 which is the book "Pol Pot and Khieu Samphan" and to page number
25 29 in the English, referencing footnote 85 and the text beneath,

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1 for my learned friend Mr. Koppe; English, 00087793; French,
2 00722090; and Khmer, 00385413314.

3 Now, if you look at the top of the page, Mr. Kiernan – Mr. Heder,
4 forgive me, it's late in the day. If you look at the – this is
5 you in the book and there's a direct, I think, translation or a
6 direct extrapolation from the interview:

7 [15.57.27]

8 "There was a comrade in the West, who's elderly now, who was
9 accused by the Vietnamese agents who were responsables (sic)
10 above him. With regard, however, to this problem, they were
11 unable to keep – unable to make their accusations stick because
12 we kept track of things and examined them."

13 It's the next part, because you say here in the book: "When the
14 matter was pursued further..." – in other words, when the comrade
15 in the West was pursued further–

16 So, to quote:

17 "When the matter was pursued further, the following exchange
18 occurred..."

19 Question: "So what about people like Hou Youn and Hu Nim and all
20 the others who were executed as a result of being accused of
21 treason? Hou Youn and Hu Nim were friends of yours, and I guess
22 you also knew many of the leading Party cadre who were killed
23 because they were accused of being CIA agents or KGB agents or
24 Vietnamese agents. What about all those zone and sector
25 secretaries and deputy secretaries and members and all those

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1 brigade secretaries and deputy secretaries and members?

2 [15.59.01]

3 "I find it very hard to believe that there were so many agents of
4 imperialism and the Vietnamese within the Party. I take it you
5 believe they were all agents, that all of those who were executed
6 at these levels were correctly accused and should have been
7 killed. You don't think it's possible some of them were wrongly
8 accused, that some of them were loyal Communists and patriots and
9 wrongly killed? As far as you know, there weren't any cases where
10 somebody innocent was accused?

11 Answer: "No."

12 Your question: "Not a single one?"

13 Answer: "No, none."

14 Your question: "So everybody who was executed was, in fact, a
15 traitor?"

16 Answer: "Yes, as far as I can grasp."

17 Question: "And no-one was wrongly accused?"

18 Answer: "As I said, there was one old man in the West who was
19 accused of being a traitor but was, in fact, loyal."

20 Now, first question, sounds obvious, is that what's written in
21 this paper, first of all?

22 A. Yes.

23 Q. Now, when you were writing the paper and referencing the
24 interview with Khieu Samphan, what record were you relying on to
25 quote verbatim questions and answers that I've just read out?

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1 [16.01.00]

2 A. Well, there are - I obviously see where this is going, what
3 the problem is. From the way it's written it would seem to me
4 that there must have been another tape which has possibly been
5 lost over the years. And it's also possible that this was done
6 after the tape ran out or over dinner or the next morning and,
7 therefore, wasn't on the tapes that were done during the formal
8 interview. But that doesn't seem - from the way it's written it
9 does indeed seem to have been - those are not the kinds of - not
10 the kind of presentation of the data that would come from
11 anything other than a tape. If the tape was lost, then the tape
12 was lost.

13 [16.01.54]

14 Q. Are you satisfied that these questions and answers reflect
15 questions that you asked Khieu Samphan and answers that he gave
16 you?

17 A. Yes, I have a pretty clear memory of this conversation because
18 of the kind of combative and confrontational, emotional nature of
19 it. It's something that I remember.

20 Q. We'll set this in context. Six tapes of 47 minutes or
21 thereabouts, roughly 50 minutes times six, roughly 300 minutes.
22 You're towards the end of the interview. Can you try and recreate
23 for us how did it feel when you're sat opposite Khieu Samphan
24 asking these questions? How did you feel inside yourself when you
25 were asking these questions about Hu Nim and Hou Youn? How did

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1 you feel?

2 A. Well, I mean, I think it was more – I mean, I knew that I had,
3 in a sense, ambushed the man. I don't think he expected or was
4 prepared for this line of questioning, particularly because the
5 line of questioning was fairly detailed and reflected the
6 knowledge that I already had at this point of the structure and
7 organization of the party and the purge process.

8 So it was – as I said, it was – it was confrontational, it was
9 emotional, I think, on both sides.

10 [16.04.08]

11 MR. RAYNOR:

12 Thank you, Mr. President. I'm conscious of the time. Can I
13 explain that I have two more pages which will constitute perhaps
14 two or three questions and I hope it would be convenient, please,
15 if I can finish this today. But I am, of course, in your hands.

16 MR. PRESIDENT:

17 You may proceed.

18 [16.04.39]

19 MR. RAYNOR:

20 Q. I'm carrying on now with the book, our version D366/7.1.14,
21 referencing around footnote 86, English ERN 00087794; Khmer,
22 00711416 through 7; French, 00722091.

23 And you state – or it's stated in the book:

24 "In response to years of questions like these," in other words,
25 the questions we've just gone through, "Khieu Samphan's Office of

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1 the Vice-President of Democratic Kampuchea for Foreign Affairs
2 issued a document."

3 Now, it says here on 15 July 1978. Can I first ask you, is that a
4 correct reference to the date of "Truth and Justice", as it's
5 called in its short form, or should it, in fact, be 1987?

6 MR. HEDER:

7 A. It should be 1987 as it is in the footnote, footnote number
8 86.

9 Q. Thank you. I'm not going to deal with it in detail but you
10 state a bit later on, two or three sentences:

11 [16.06.09]

12 "The document conceded more deaths than Khieu Samphan had been
13 willing to admit in 1980. These included deaths by starvation and
14 executions of alleged traitors and of people who had mistakenly
15 killed when they were, in fact, not agents of the Vietnamese.

16 "However, the document still vastly underestimated the true death
17 toll and attempted to shift almost all the responsibility for
18 starvation and execution to alleged enemies."

19 Now that document is on our case file as E3/703. I don't propose
20 to go through it, but in the footnote I want to deal with - well,
21 yes, I'll read on if I may on the text:

22 "Khieu Samphan thus in effect simply reiterated his unrepentant
23 support for, and his association with, Pol Pot and his failed
24 policies. He also inadvertently shed more light on his own role
25 in the conduct of criminal political murders."

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1 [16.07.28]

2 You go on to say:

3 "Khieu Samphan's document begins by rehearsing the false claim
4 that Pol Pot's policies succeeded in improving the life of the
5 peasantry. It is asserted that once the Communist Party of
6 Kampuchea took power their life began to improve, for all of them
7 had enough rice to eat and clothes. Moreover, their health was
8 constantly improving since 1976 and the situation supposedly kept
9 improving right through 1978."

10 Now, in terms of that document at footnote 86, to give its title,
11 "Office of the Vice-President of Democratic Kampuchea in Charge
12 of Foreign Affairs: What are the Truth and Justice about the
13 Accusations Against Democratic Kampuchea of Mass Killings from
14 1975 to 1978". And then, again, "Typescript Document in the
15 Author's Possession".

16 So my question, Mr. Heder, is how did this document get to be in
17 your possession?

18 A. In this particular instance, my recollection is that it was
19 given to me a Cambodian American by the name of Kem Sos, who, I
20 think, by this time was a serving U.S. State Department official.
21 If he wasn't by this time a serving U.S. State Department
22 official, he was an employee of the U.S. Embassy in Bangkok
23 working on the Thai/Cambodian border.

24 [16.09.26]

25 Q. Just to confirm that we're talking about the same document,

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1 can you please go to your tab 7? That's our document E3/703. Can
2 you confirm that this is the document that came into your
3 possession? This - I don't know whether the original document is
4 in Khmer or English, but this is obviously in English, so can you
5 just help us that?

6 A. It's the same document in the sense that it's the same
7 content. I can't be sure that this document which has Youk
8 Chhang's notation on it is the one that was given to me and then
9 I gave to him and then he annotated it, but it's the same
10 document in the sense of the same content.

11 [16.10.27]

12 And the original was in English. This is not somebody else's
13 translation from the Khmer; this is their own translation,
14 presumably into English, of something they wrote themselves in
15 Khmer.

16 MR. RAYNOR:

17 Thank you, Mr. Heder.

18 Thank you, Mr. President and Your Honours, for allowing me a
19 little additional time at this stage. Thank you, Mr. Heder.

20 MR. PRESIDENT:

21 Thank you, Mr. Co-Prosecutor, and thank you also Mr. Heder.

22 The hearing for today now comes to an end, and the Chamber will
23 adjourn now. The next hearing will be resumed on Monday next
24 week, starting from 9 a.m.

25 On Monday, the Chamber continues to hear the testimony of Mr.

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1 Heder. We hope this message is informed now to the parties to the
2 proceedings and people concerned and the public.

3 Mr. Heder, your testimony is not yet complete. The Chamber wishes
4 to also hear your testimony again on Monday next week, so please
5 return to the courtroom on Monday the 15th of July at 9 a.m.

6 Court Officer is now directed to assist Mr. Heder to ensure that
7 he is returned to his place and have him returned to the
8 courtroom at 9 a.m. on Monday.

9 [16.12.10]

10 Security personnel are now directed to take Mr. Khieu Samphan and
11 Nuon Chea back to the detention facility and have them returned
12 to the courtroom by 9 a.m. on Monday the 15th of July, 9 a.m. Mr.
13 Nuon Chea is directed only to be returned to his holding cell
14 downstairs, where he can observe the proceedings through
15 audio-visual link.

16 The Court is adjourned.

17 (Court adjourns at 1612H)

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