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 Extraordinary Chambers in the Courts of Cambodia
 Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
 Nation Religion King
 Royaume du Cambodge
 Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង
 Trial Chamber
 Chambre de première instance

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

30 March 2015

Trial Day 265

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

The Accused: NUON Chea
 KHIEU Samphan

Lawyers for the Accused:
 Victor KOPPE
 SUON Visal
 KONG Sam Onn
 Anta GUISSÉ

Trial Chamber Greffiers/Legal Officers:
 CHEA Sivhoang
 Roger PHILLIPS

For the Office of the Co-Prosecutors:
 SONG Chorvoin
 Dale LYSAK
 Vincent DE WILDE D'ESTMAEL

Lawyers for the Civil Parties:
 Marie GUIRAUD
 LOR Chunthy
 SIN Soworn

For Court Management Section:
 UCH Arun
 SOUR Sotheavy

I N D E X

MR. RICHARD DUDMAN (2-TCW-923)

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. JASON BARRETT	English
MR. RICHARD DUDMAN	English
JUDGE FENZ	English
MS. GUISSÉ	French
MR. KOPPE	English
MR. TODD LOWELL	English
MR. LYSAK	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. ROGER PHILLIPS	English

1 PROCEEDINGS

2 (Court opens at 0804H)

3 MR. PRESIDENT:

4 Please be seated.

5 The Court is now in session.

6 Today the Chamber will hear the testimony of Mr. Richard Dudman
7 through a video conferencing facility from the United States.

8 And Ms. Chea Sivhoang, could you report the attendance of the
9 Parties and individuals to today's proceedings.

10 THE GREFFIER:

11 Mr. President, for today's proceedings, all Parties to this case
12 are present. As for Nuon Chea, he is present in the holding cell
13 downstairs, as he requests to waive his right to be present in
14 the courtroom. The witness who is testify today -- that is, Mr.
15 Richard Dudman, from a video conference in the United States,
16 confirms that to his ability he has no relationship by blood or
17 by law to any of the two accused Nuon Chea and Khieu Samphan nor
18 to any of the civil parties admitted in this case.

19 [08.05.47]

20 The witness will take oath before the Chamber. During his
21 testimony, there is Mr. Todd Lowell who is an assistant United
22 States attorney and Mr. Jason Barrett, counsel for Mr. Dudman.
23 The AV unit informs the Chamber that the video conference has
24 been set up and ready to be used and the witness is also ready.

25 MR. PRESIDENT:

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1 Thank you, Ms. Chea Sivhoang. The Chamber now decides on the
2 request by Nuon Chea. The Chamber has received a waiver from Nuon
3 Chea, dated 31st March 2015 (sic). He confirms that due to his
4 poor health condition -- that is, headache, back pain and that he
5 cannot sit for long and in order to effectively participate in
6 the future hearings, he requests to waive his right to
7 participate in and be present at 30th March 2015 hearing. He has
8 been informed by his counsel about the consequence of this
9 waiver, that in no way it can be construed as a waiver of his
10 rights to be tried fairly or to challenge evidence presented or
11 admitted to this Court at any time during this trial.

12 [08.07.21]

13 Having seen the medical report by the duty doctor for the Accused
14 at the ECCC dated 30th March 2015, who notes that the health
15 condition of Nuon Chea, is that he has a chronic back pain and
16 dizziness and that he cannot sit for long and recommends that the
17 Chamber so grant him his request so that he can follow the
18 proceedings remotely from a holding cell downstairs.

19 Based on the above information and pursuant to Rule 81.5 of the
20 ECCC Internal Rules, the Chamber grants Nuon Chea's request to
21 follow the proceedings remotely from a holding cell downstairs
22 via audio visual means for today's proceedings as he waives his
23 direct presence in the courtroom.

24 The AV unit is instructed to link the proceedings to the room
25 downstairs so that Nuon Chea can participate in and follow

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1 today's proceedings remotely.

2 [08.09.00]

3 MR. PRESIDENT:

4 Good morning, Mr. Todd Lowell.

5 MR. TODD LOWELL:

6 Good morning.

7 MR. PRESIDENT:

8 Are you Mr. Richard Dudman, the person on the screen?

9 MR. DUDMAN:

10 I didn't understand that.

11 MR. PRESIDENT:

12 Allow the Chamber first to ask Mr. Todd Lowell, who is the
13 assistant United States attorney and then your counsel Mr. Jason
14 Barrett, so that the audience can understand about their presence
15 with you.

16 [08.10.10]

17 MR. LOWELL:

18 Good morning, this is Todd Lowell. I am an assistant United
19 States attorney with the Department of Justice for the United
20 States for the district of Maine.

21 [08.10.35]

22 MR. PRESIDENT:

23 Thank you. I would like to put questions to the other person.

24 Could you please tell the Chamber your name?

25 MR. BARRETT:

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1 My name is Jason Barrett, Richard Dudman's attorney, with the law
2 firm of Eaton Peabody in Bangor, Maine.

3 QUESTIONING BY THE PRESIDENT:

4 Thank you. The Chamber would like to inform the Parties and the
5 audience that next to Mr. Richard Dudman there are two counsels,
6 Mr. Todd Lowell, the assistant United States attorney and Mr.
7 Jason Barrett, counsel for Mr. Dudman. The two counsels will sit
8 along Mr. Dudman during his testimony before this Chamber.

9 Thank you, Mr. Todd Lowell and Mr. Jason Barrett.

10 Q. Mr. Witness, could you please tell the Chamber your full name?

11 [08.12.17]

12 MR. DUDMAN:

13 A. I am Richard Dudman.

14 Q. Thank you, Mr. Richard Dudman. Can you tell the Chamber also
15 your date of birth?

16 A. I didn't understand the question.

17 Q. When were you born?

18 A. I was born May 3rd, 1918. 96 years ago.

19 Q. Thank you Mr. Dudman. Where is your current address?

20 A. My present address is Ellsworth Maine. The street is 70, 7-0,
21 Surry Road, S-U-R-R-Y Road, in Ellsworth, E-L-L-S-W-O-R-T-H,
22 Maine, 04605.

23 [08.13.51]

24 Q. Mr. Richard Dudman, could you please repeat your present
25 address as the interpreter cannot hear it clearly.

5

1 A. I didn't understand that -- current address. My current
2 address is what I just told you. I'll tell you again. It's
3 number, 7-0 Surry Road, spelt S-U-R-R-Y Road, in the city of
4 Ellsworth, E-L-L-S-W-O-R-T-H, Maine, 04605.

5 [08.14.49]

6 Q. Thank you, Mr. Richard Dudman, and what is your current
7 occupation?

8 A. I'm a freelance writer, self-employed writer.

9 Q. Thank you, Mr. Richard Dudman. What is your nationality?

10 A. My nationality? I'm an American. United States of America
11 citizen.

12 Q. Thank you, Mr. Dudman. As a witness before this Chamber you
13 need to take an oath according to your religion or belief, can
14 you do that?

15 A. He's asking for the oath?

16 MR. LOWELL:

17 Can you take an oath?

18 MR. DUDMAN:

19 A. I can -- I can take oath. Shall I do it now?

20 [08.16.34]

21 MR. PRESIDENT:

22 Q. Thank you. Actually the Greffier will proceed with taking an
23 oath for you. Mr. Roger Phillips, could you please proceed with
24 the oath taking of this witness.

25 MR. PHILLIPS:

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1 Mr. Dudman, please repeat the entire oath after me. I solemnly
2 declare that I will speak the truth, the whole truth and nothing
3 but the truth.

4 MR. DUDMAN:

5 I solemnly declare that I will speak the truth, the whole truth
6 and nothing but the truth.

7 MR. PHILLIPS:

8 Thank you.

9 [08.17.16]

10 BY THE PRESIDENT:

11 Thank you, Mr. Dudman. The Greffier made an oral report that to
12 your best knowledge you do not have any relationship by blood or
13 by law to any of the two Accused, Nuon Chea or Khieu Samphan or
14 any of the civil parties admitted in this Court.

15 Q. Is that information correct?

16 MR. DUDMAN:

17 A. That is correct.

18 [08.17.57]

19 Q. Thank you. Now the Chamber would like to inform you of your
20 rights and obligations as a witness. Regarding your rights, as a
21 witness in the proceedings before the Chamber you may refuse to
22 respond to any question or to make any comment which may
23 incriminate you and for the obligations, as a witness in the
24 proceedings before the Chamber, you must respond to any questions
25 by the Bench or relevant Parties and you must tell you truth that

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1 you have known, heard, seen, remembered, experienced or observed
2 directly regarding events or occurrences relevant to the
3 questions that the Bench or Parties pose to you.

4 [08.19.00]

5 Mr. Dudman, have you been interviewed by investigators of the
6 Office of the Co-Investigating Judges of the ECCC?

7 A.I didn't get the question.

8 Q. Allow me to put the question to you again. Mr. Dudman, have
9 you provided any interview to the investigators of the Office of
10 the Co-Investigating Judges of the ECCC?

11 A. No.

12 Q. Thank you. Mr. Richard Dudman, during your testimony if you
13 need to take a break please feel free to inform the Chamber so
14 that we will allow you to rest. Do you understand?

15 A. Maybe -- maybe about 45 minutes from now, something like that
16 would be fine for me.

17 MR. PRESIDENT:

18 Thank you. The Chamber now hands the floor to the Nuon Chea's
19 defence to put questions to this witness before other Parties.
20 The Nuon Chea's defence has one hour and twenty minutes to put
21 questions to this witness. You have the floor.

22 [08.21.09]

23 BY MR. KOPPE:

24 Thank you, Mr. President. Good morning, Your Honours. Good
25 morning, Counsel. Mr. President, before I start I would like to

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1 tell you that the Khieu Samphan team generously allots some time
2 of theirs to us, so that I would be hoping that I could ask
3 questions to the witness for about two hours and may be a bit.

4 Good evening, Mr. Dudman.

5 MR.DUDMAN:

6 Good evening.

7 QUESTIONING BY MR. KOPPE:

8 I am -- my name is Victor Koppe, I am the International
9 Co-Counsel for Nuon Chea and I would like to ask you some
10 questions.

11 Mr. Dudman, I would like to ask you some questions. Good evening,
12 did you hear me?

13 MR. DUDMAN:

14 A. I can hear you, yes. Speak very distinctively and rather
15 slowly, if you please.

16 Q. I most certainly will, Mr. Dudman. Mr. Dudman, please allow
17 me, for reasons of time, to very briefly summarise your CV and if
18 I make a mistake please correct me. As already mentioned by you,
19 you were born in 1918. I think in a month of the year when the
20 First World War was still raging. I think, you graduated from
21 Stanford University in 1940, majoring in journalism. I believe
22 you were also a Navy officer in the Second World War. I believe
23 you started working as a journalist in 1949 and that you did that
24 for 31 consecutive years.

25 [08.24.08]

1 I believe, Mr. Dudman, that you have, for instance, covered the
2 revolution in Cuba, the assassination of President Kennedy,
3 Watergate, I believe the war in Vietnam and many other conflicts
4 in the world. In 1970, I think you spent 40 days in captivity of
5 the Viet Cong in Cambodia and in 1993 you received the George
6 Polk Lifetime Achievement Award, which I believe is a prestigious
7 American journalism award.

8 Mr. Dudman, please allow me to say that I am very impressed with
9 your credentials and I am absolutely thrilled that at the age
10 almost of 97 years old, you are still willing and able to testify
11 as a witness before this Tribunal.

12 [09.25.25]

13 Now, Mr. Dudman, in this very, very brief summary made for
14 purposes of your testimony, is this summary an adequate summary
15 or would you like to add something?

16 A. I think that covers my career. Actually I started as a reporter
17 sometime before 1949, but I -- aside from that I think you
18 accurately summarised my career.

19 Q. Thank you, Mr. Dudman. I have a few short follow up questions
20 regarding your CV. Would you be able to tell the Trial Chamber,
21 why it was that you were awarded the journalism award that I
22 mentioned earlier?

23 A. I don't know. It was their own judgement.

24 Q. I understand, but I'm sure that when you were awarded, given
25 this award, that you were told as to what the reasons were that

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1 you received this journalism award.

2 A. They said I was a good reporter.

3 Q. Thank you, Mr. Dudman. My next question would be, could you
4 describe in some detail your work as a journalist when it comes
5 to covering the US involvement in Vietnam and Cambodia, in the
6 '70s of the last century.

7 A. My editor sent me to -- repeatedly to Vietnam and Cambodia on
8 many trips and I stayed for periods of a few weeks usually and
9 wrote many articles about the various conflicts.

10 Q. Do you remember how often you were in Indochina in the '70s?

11 A. Maybe a dozen times.

12 [08.28.10]

13 Q. Mr. Dudman, could you tell us some more about your 40 days
14 captivity by members of the Viet Cong in Cambodia, and I don't
15 mean details about the 40 days, because I read your very
16 interesting book on this, but how it impacted your understanding
17 and knowledge of the civil war in Cambodia between 1970 and 1975?

18 [08.28.46]

19 A. I don't understand your question.

20 Q. You were held, as I mentioned earlier, in captivity in
21 Cambodia, 40 days, by members of the National Liberation Front of
22 South Vietnam, the Viet Cong. You wrote a book about this. Would
23 you be able to tell us some more about how these days of
24 captivity affected your views on the then raging civil war within
25 Cambodia?

11

1 A. I would summarise it by saying that I learned first-hand that
2 the Viet Cong people who held me were actually friendly and
3 helpful. I saw them as individuals rather than some kind of
4 faceless enemy.

5 Q. Did it somehow change your understanding of the civil war that
6 was going on in Cambodia itself, or is that difficult to say
7 after so many years?

8 A. I don't think I can remember how my thinking changed, if it
9 did.

10 Q. Thank you, Mr. Dudman. Following up on this question; at the
11 time, I mean in the '70s and subsequent years, did you consider
12 yourself to be an expert on Vietnam and Vietnamese foreign
13 policy?

14 A. An expert? Never really an expert, I was always learning.

15 Q. Correct. But did you have relatively more expertise when it
16 comes to speaking about Vietnamese foreign policy than other
17 journalists or would that be difficult for you to assess?

18 A. I covered the State Department. I covered policy speeches and
19 the actions and I don't know what -- how to answer you beyond
20 that.

21 [08.31.50]

22 Q. I realise it's a bit difficult question, Mr. Dudman, allow me
23 move on. Allow me to move on to the year 1990, almost or actually
24 25 years ago. I would like to go to that year, Mr. Dudman,
25 because on the 17th of August 1990, you wrote an op-ed, an

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1 article to the New York Times. Do you remember having written
2 that article in the New York Times?

3 A. I did not remember it but the document was produced for me
4 tonight and I have it before me but I have not reread it.

5 [08.32.51]

6 Q. Would it -- would it be an idea, to give you a few minutes to
7 have a look at it, or do you prefer me to ask questions about it
8 so that you can reply to it, off the cuff, so to speak?

9 A. If you want to give me a moment, I will read it right now to
10 myself, I'll do that.

11 Q. Yes, please do Mr. Dudman.

12 (Short pause)

13 [08.33.57]

14 MR. KOPPE:

15 While the witness is reading, Mr. President, I am talking about
16 document, E307/5.2.16 ERN English, 01002091; and French ERN,
17 01072646; and Khmer ERN 01077091 up until 94.

18 (Short pause)

19 [08.35.39]

20 MR. DUDMAN:

21 A. I have finished reading the article.

22 Q. Thank you very much, Mr. Dudman. I realise I'm asking you
23 something about almost 25 years ago, but do you recall what
24 prompted you to write this op-ed in the New York Times?

25 A. Do I recall writing the article?

13

1 Q. Yes, do you remember what prompted you to write that op-ed?

2 [08.37.19]

3 A. I don't, I didn't get the question.

4 Q. My question is do you recall the reason you wrote this
5 article, what prompted you to write this op-ed?

6 A. Yes, I do.

7 Q. Could you please tell us, Mr. Dudman?

8 A. I had visited Cambodia, I'd been told by many people at home
9 and elsewhere what I should think about it. As a reporter I
10 wanted to see for myself and make my own decision and not just
11 write what I was told I should look for. I looked for signs of
12 brutality. I found them. I looked for signs of mass extermination
13 of people. I heard -- I was told of some incidents but not enough
14 for me to judge -- to make a wholesale judgement about mass
15 murder. I don't know if you understand that, but a newspaperman
16 always must maintain his scepticism about what he's told and to
17 write what he sees and can learn. I did my best and I don't know
18 that I would write the same thing today, but that's the way it
19 struck me then and I, that's about all I can tell you about it.

20 Q. In general terms, would you be able to say whether today you
21 would still stand by the content of this article, this op-ed.

22 A. Since then, I have read a great deal about what went on under
23 the Pol Pot regime and I've talked to many sources about it too,
24 and I doubt if I would have written this story knowing what I
25 know today. But I must say the headline I think goes a little

14

1 further than the story, not much, but a little. I don't write my
2 own headlines and that was the way I saw it at that time.

3 [08.40.41]

4 Q. Allow me, Mr. Dudman, to read one or two excerpts from your
5 article and I would like to ask a few follow up questions on
6 exactly what you meant when you wrote it.

7 A. Yes.

8 Q. Mr. President, I think I just mentioned the ERN so I hope
9 everyone has it in front of him or her. So, the paragraph I would
10 like to read to you is in the second column, Mr. Dudman, and it
11 reads as follows: "Before we abandon the opposition coalition we
12 should take another look at the man we love to hate, at the
13 conventional wisdom..."

14 A. Yes.

15 [08.41.45]

16 Q. You have it? "...at the conventional wisdom that Pol Pot and the
17 Khmer Rouge are irrational fanatics who practiced deliberate
18 genocide, slaughtered more than one million Cambodians and
19 wrecked the Cambodian society and economy. The evidence for these
20 fixed beliefs consists mainly of poignant though statistically
21 inconclusive anecdotes and extrapolations from accounts of mass
22 execution in a few villages. It comes mostly from those with an
23 interest in blackening the name of the Khmer Rouge, from
24 Cambodian refugees, largely the middle and upper class victims of
25 the Pol Pot revolution, and from the Vietnamese who long ago

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1 annexed much of Cambodia -- Saigon was once a Cambodian city --
2 and now covet the rest. Hanoi knows the public relations game,
3 Pol Pot and his hermit-like regime on the other hand have made
4 almost no effort to tell their story."

5 I just got a sign that I should slow down a little bit for
6 translation, Mr. Dudman. My first question to you would be,
7 whether you remember what made you write that "statistically
8 inconclusive anecdotes coming mostly from those with an interest
9 in blackening the name of the Khmer Rouge". Do you remember what
10 prompted you to write this?

11 [08.43.36]

12 A. I don't recall the exact conversations I had, but I do
13 remember being told such things, and I said, as you quoted, that
14 we should take another look. I think we have taken another look
15 and the preponderance of the evidence supports the fact that
16 there was a mass murdering going on, so at the time I was writing
17 a normally sceptical reporter's view of what he could find out.
18 And I know more things now than I did then.

19 Q. One final question on this specific paragraph, Mr. Dudman.
20 What did you mean when you wrote that Hanoi knows the public
21 relations game and that Pol Pot made almost no effort to tell
22 their story?

23 A. I don't remember what I, where I got that statement. I don't
24 really recall. I can't deny I wrote it, but I don't remember why
25 I wrote that.

1 [08.45.35]

2 Q. Thank you, Mr. Dudman. Now, there is a second passage that I
3 would like to read to you and then ask you, if that's all right
4 with you, some questions. And that is a paragraph that actually
5 reflects your visit in 1978 to Democratic Kampuchea. And that is
6 in the fourth column of your article which starts with the word
7 'still.' Allow me, Mr. Dudman, if you have found this specific
8 passage, to read it to you.

9 "Still the information I had received in advance was mostly
10 misleading. Observing many hundreds of Cambodians, too many I
11 judged to have been arranged for my benefit, I saw a generally
12 healthy population, a normal demographic mix of men, women and
13 children, including babies in arms and yes, many nursing mothers.
14 I looked in vain for distended bellies and dull brownish hair.
15 Working hours, 7 a.m. to 7 p.m. were not unreasonable for the
16 harvest season. A natural rubber factory, a pharmaceutical plant
17 and a textile mill appeared to be operating efficiently. Rice
18 exports had resumed on a modest scale as confirmed later by the
19 US Department of Agriculture."

20 Mr. Dudman do you recall whether before writing this op-ed in the
21 New York Times in 1990 that you re-read your report, your 15
22 January 1979, report, on your visit in '78? Did you re-read that
23 before your op-ed?

24 A. I didn't get your question. Will you rephrase it?

25 [08.48.15]

17

1 Q. Of course, by all means. You -- I just quoted you in your
2 op-ed, writing about your visit in 78. Do you recall that before
3 you wrote this op-ed you revisited or reviewed your own earlier
4 report from 1979?

5 A. I don't recall relating this to what I had seen before. Those
6 paragraphs -- that paragraph you read, starting 'still' I can
7 remember writing that and I can remember looking for those signs
8 of abuse of the population and I wrote what I saw.

9 Q. Maybe, I'll ask a different follow up question. Do you feel
10 that at the time that you wrote your article in the New York
11 Times, that your '79 report was still an accurate reflection of
12 what you had seen and experienced during your trip to DK,
13 Democratic Kampuchea in '78?

14 A. I really don't get the point of your question.

15 Q. My question, I suppose, goes to understanding whether when you
16 wrote your article in 1990 and quoted your own experiences from
17 that visit, that that was still an accurate reflection of what
18 you had experienced yourself. In other words did you revisit your
19 1979 report when you wrote this New York Times article in 1990?

20 A. They were two separate experiences. In 1978 I was physically
21 threatened and could easily have been killed. In 1990 I was
22 walking the streets looking for evidence that would support or
23 call into question what I had been told to look for in Cambodia.
24 I wrote what I saw. In both cases I wrote what I -- what
25 happened. I don't know if that answers your question, but that's

1 my answer.

2 [08.51.39]

3 Q. I'm only trying to find out that 11 years after your trip you
4 saw things differently in relation to your trip. Whether you had
5 somehow changed your mind about your trip in 1978, or whether in
6 1990 that was still reflecting your experiences. That was the
7 reason of my question.

8 [08.52.14]

9 A. I didn't see, I didn't see a conflict between the two. I wrote
10 -- in both cases I wrote what I experienced, what I saw.

11 Q. Thank you, Mr. Dudman. Another reason I am asking you this
12 question is because I asked your companion on the trip, Elizabeth
13 Becker, also some questions on your op-ed and she had read your
14 op-ed and she gave testimony -- I'm happy to quote the literal
15 words -- which seemed to be very critical about this article,
16 basically saying that she didn't agree with what you had written.
17 And maybe if you allow me, Mr. Dudman I will read some of her
18 answers and then I would like to ask your reaction. So, I asked
19 Elizabeth Becker whether she had any -- and I'm referring Mr.
20 President to E1/260, that is her testimony of 10th February 2015,
21 between 13.51 and 2 o'clock -- and I asked her: "Do you have any
22 general comments on that op-ed that Mr. Dudman wrote?" She says:
23 "I disagree with it. By 1990 when it was published all of the
24 Tuol Sleng records had been, Tuol Sleng had been opened for years
25 the evidence was clear and Dick had retired. He'd never gone back

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1 to Cambodia since December '78, and I like and admire Dick and I
2 was sorry to see that he wrote that because the evidence was the
3 contrary." And some further in her testimony, Mr. Dudman,
4 Elizabeth Becker testified that: "His ideas are entirely out of
5 date that he doesn't even mention all of the archives that were
6 uncovered after the Vietnamese invasion, that this was, there was
7 no question, the reason we are having this trial now is that the
8 evidence is overwhelming. And as I said, I really like Dick and I
9 admire him, and I'm very sorry to see he wrote that, because the
10 evidence is, it was an incompetent murderous regime."

11 [08.55.20]

12 That is, Mr. Dudman, on one part of your testimony; on the other
13 part when you were saying the things on your visit, she testified
14 -- that is at 13.57, Mr. President, same day: "This is what we
15 call single source reporting, that when you go simply to a
16 country and you allow government officials to make your
17 itinerary, to define who you talk to and who do you not talk to
18 and do not allow you any freedom at all. That is single sourcing,
19 that is not complete journalism, and I disagree, as you know."
20 Mr. Dudman, I apologise for the long quotes, but I would simply
21 like to give you an opportunity to react to Elizabeth Becker's
22 criticism of your article in the New York Times.

23 [08.56.33]

24 A. What should I say? Who likes to be criticised? Nobody. I wrote
25 what I saw on that trip and I was writing normal journalistic

20

1 scepticism and looking for myself. And I wrote what I saw. I
2 resent it when I'm told I was doing single source reporting. I
3 don't know what single source she's talking about.

4 Q. I'm not sure either, Mr. Dudman but that's her testimony, but
5 if I would sum it up in one sentence it seems that one of her
6 main criticisms is that you had not in fact seen Cambodia before
7 and that you weren't in a position to compare what you saw with
8 earlier experiences. What would be your reaction to that?

9 [08.57.44]

10 A. I didn't get that question.

11 Q. I'm sorry, I will rephrase. It seems that Elizabeth Becker was
12 criticising you here in this Court while saying that you hadn't
13 seen Cambodia before your visit in 1978 and that you weren't in a
14 position to make any comparisons as to the food situation, the
15 general health situation, as opposed to her, who had visited
16 Cambodia before.

17 A. Well, she's been in Cambodia a lot more than I have so she has
18 a longer perspective. I had two main experiences there, well,
19 three I guess. Being captured, being threatened in '78 and
20 revisiting it and seeing for myself and I -- in each case I wrote
21 what I saw and what I experienced. I--

22 Q. Is there anything in your report of '79 Mr. Dudman that you
23 would now consider as being too positive or too uncritical as to
24 what you have seen and experienced on your trip?

25 A. Yes. For everything I have read since and everything -- and

21

1 sources I have consulted, I think there was genocide, under the
2 Pol Pot regime. So, I wouldn't -- I wouldn't now write this
3 article.

4 Q. I apologise for my unclarity (sic), but I was now referring to
5 your '79 -- I see now I have to break because of time, Mr.
6 Dudman.

7 [09.00.35]

8 MR. PRESIDENT:

9 Thank you, Mr. Richard Dudman. We have a break now for 10 minutes
10 and we will resume our session again. So we will resume at 9.10,
11 Mr. Dudman. So you can rest and we'll see you again in 10
12 minutes.

13 (Court recesses from 0901H to 0911H)

14 MR. PRESIDENT:

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

16 And again the Chamber cedes the floor to Nuon Chea's defence to
17 continue putting questions to the witness, Mr. Dudman. You have
18 the floor, Counsel.

19 [09.12.13]

20 BY MR. KOPPE:

21 Thank you, Mr. President. Good evening again, Mr. Dudman.

22 MR. DUDMAN:

23 A. Yes.

24 Q. I would, with your permission, like to move away from your
25 1990 article and focus more on your visit to Democratic Kampuchea

22

1 in 1978. Of course, we all read your report. Would you be able to
2 tell us so many years later, in general terms, what your
3 experience was during your trip in December 1978?

4 A. You are asking what my was -- I didn't get the -- what your
5 question is.

6 Q. My question, Mr. Dudman, is what you now, today, remember from
7 your trip. As I said, of course we all read your report, but
8 would you be able right now to tell us what you remember from
9 your trip in 1978?

10 [09.13.34]

11 A. Well, I remember being threatened. And I -- I can remember
12 having a conducted tour of Phnom Penh, or of the whole country
13 actually. And my description of that, I must have written at the
14 time, but that 1990 article that I wrote was based on what I saw
15 in '78. And I -- the -- actually there are two parts to my
16 recollection of the '78. One was the conducted tour which was to
17 me pretty unsatisfactory, but the other one was the physical
18 threat after the meeting with Pol Pot. And I recall that as a
19 terrible experience.

20 Q. Mr. Dudman, I would like to ask you some questions on the
21 attack against Malcolm Caldwell some later -- at a later point in
22 time. But I would like to ask you now a few questions on your
23 trip itself. You said on the one -- you said that it was, to a
24 certain extent, unsatisfactory. However, I've seen in your report
25 that you also said that you had the ability to gather significant

1 information and also plenty of opportunity for observation. Would
2 you be able, after so many years, to shed some light on what you
3 meant when you said you had an ability to gather significant
4 information, and that you had also plenty of opportunity for
5 observation?

6 [09.16.22]

7 A. I don't recall that statement, but I -- you're saying that I
8 wrote that I had plenty of chance to find -- get information?

9 Q. Yes. As a matter of fact, I have these words from your '79
10 report, that you had both an ability to gather significant
11 information and also plenty of opportunity for observation. So
12 again, my question is, would you be able now at this time to
13 expand a little bit on this?

14 A. I really have no recollection of what I meant by saying that
15 and what information I got. I wrote what I could at the time, but
16 I don't recall those -- making that statement that I had such
17 access.

18 Q. Mr. Dudman, I--

19 A. Now that's the -- that's the '79 article, I don't have that
20 right in front me. Oh, I do have it.

21 [09.18.01]

22 Q. Mr. Dudman, I realise that you haven't been able to read your
23 New York Times op-ed beforehand. Have you been able to read,
24 before your testimony, your '79 report or were you not -- were
25 you not in such a position?

1 A. I don't remember the article. I -- and I -- if you want that
2 we print it out so I can have a print. I've got it here on the
3 screen but it's hard reading.

4 Q. So, would it be correct if I said that you have not been in
5 the position to re-read your January '79 article recently?

6 A. I haven't -- I haven't seen it for many years and I don't
7 remember what the point of the article was.

8 Q. Maybe, Mr. Dudman, we're mixing up two things. I started
9 asking you about an article in the New York Times that you wrote.
10 But now, I'm referring to the report that you made in January
11 1979 relating--

12 [09.19.42]

13 A. Yes, I see it on the screen. I see it on the screen here, but
14 I have not re-read it and I don't have any recollection of what
15 was in it.

16 Q. I understand. Then if you'll allow me, I will read the
17 specific paragraph from the article to refresh your recollection.
18 Mr. President, E3/3290, English ERN, 00419207. Mr. Dudman, this
19 is the second page and I will read it to you. It says as follows:
20 "While the visit amounted to a conducted tour with strict limits
21 -- with strict limits on conversations", do you have it, Mr.
22 Dudman?

23 So I will read it to you again. It's on page 3 of this document.
24 It says, "While the visit amounted to a conducted tour with
25 strict limits on conversations with ordinary Cambodians and no

1 opportunity to speak with any but a few top government officials,
2 there was plenty of opportunity for observation in tours of the
3 11 of the 19 provinces."

4 So here you have your words that there was plenty of opportunity
5 for observation. Now, do you remember you wrote that? And would
6 you be able now to give us some more information as to why you
7 wrote that?

8 [09.22.17]

9 A. Sure, I can recall. We were very much limited and couldn't
10 speak to anybody. But I kept my eyes open and I -- on this tour
11 and I wrote what I could see. And I -- I don't know how else to
12 answer your question.

13 Q. What I suppose I'm asking for is whether despite restrictions
14 you were still able to see enough to make a full report on the
15 situation in Democratic Kampuchea.

16 A. I don't know that I ever said that was a complete full report
17 on what was going on there. The whole thing was limited as I
18 said. I wrote what I could find out, but I don't ever think that
19 I know everything, and can learn everything about what I -- where
20 I am.

21 Q. A little bit further in your article, Mr. Dudman, you wrote,
22 and allow me to quote again to refresh your memory: "Despite the
23 restrictions the Cambodians placed on our activities, we were
24 able to gather significant information about a new Cambodia for
25 the first time since the Communist victory of almost four years

1 ago." Now I'm interested in the word "significant information".

2 Would you be able now to recall what you meant when you wrote

3 "significant information"?

4 [09.24.47]

5 A. I don't recall. I don't know what significant information I

6 was thinking of.

7 Q. I'm thinking out loud now, Mr. Dudman. Would it make sense if

8 you would have the opportunity tomorrow to have a look at your

9 1979 report, refresh your memory, and that I could ask you some

10 -- or other Parties ask you some more detailed questions -- would

11 that be an idea?

12 A. I can look at it right now and answer questions I think.

13 (Short pause)

14 [09.26.34]

15 Q. Maybe, Mr. Dudman, I should interrupt you because it's --

16 actually, it's quite a long article that you wrote. I don't think

17 you would be able to fully read it within the limit of time that

18 we have. Maybe I'll just read a very small excerpt to you and

19 then ask you if that refreshes your memory.

20 On the next page, English Page 4, English ERN, 00419208; that's

21 the first paragraph up. It says and I quote you, Mr. Dudman, "At

22 the same time, the physical condition of life may well have

23 improved for many peasants and former urban workers, possibly for

24 the vast majority of the population as the regime claimed." This

25 is a quote from your report. Would you be able, Mr. Dudman, to

1 expand on this, using your recollection?

2 [09.27.47]

3 A. That was an informed guess on my part that there might have
4 been some improvement. I just wrote what I saw.

5 Q. Let me, maybe, ask a different set of questions. Do you
6 remember how you wrote your report at the time? Did you use your
7 notes that you made during your trip?

8 A. Yes.

9 Q. Do you still have your notes of that trip?

10 [09.28.44]

11 A. I didn't get that last question.

12 Q. Do you know whether you still have in your possession the
13 notes that you took during your trip?

14 A. No, I don't.

15 Q. You don't know whether you have them or you don't have them
16 anymore?

17 A. I don't have them.

18 Q. Do you remember, Mr. Dudman, taking photographs of your visit?

19 A. I'm sure I did, but I don't recall doing so.

20 Q. And I understand correctly that you wrote your report for the
21 St. Louis Dispatch, that is correct? Do you remember?

22 A. I didn't understand that.

23 Q. You wrote your report for the St. Louis Dispatch, is that
24 correct?

25 A. Yes.

1 [09.30.01]

2 Q. And do you remember whether there was any discussion with your
3 editor or other people before finalising your report?

4 A. I don't recall any -- I don't know. I sent it by telegraph, I
5 guess, from Cambodia. I don't remember where I wrote -- when I
6 wrote that. If I had returned to Washington or St. Louis or
7 whether I wrote it from the scene, I don't know. But I don't
8 recall any discussion over it. I think it appeared as I wrote it.

9 Q. I understand, Mr. Dudman. It's a very long time ago, and I
10 apologise for asking too many details. I understand it's
11 difficult remembering. Maybe let me turn now to not the details
12 of your report, but what would -- what do you remember -- my
13 question is what would you remember from one of the last nights
14 when the three of you were attacked by gun men? What do you
15 remember?

16 [09.32.11]

17 A. I can remember being awakened hearing shots. And I went
18 across, it was on a second story room, and I went across the hall
19 to Malcolm Caldwell's room and I discussed with him what we
20 thought was going on. And he -- we decided to -- we didn't know
21 and we would stay in our rooms and hope that it all blew over. I
22 started back, but then a young man came, heavily armed -- came
23 from the back of the floor, and I, at some point, I think he --
24 at one point, he pointed his gun, his pistol at me and fired a
25 shot, and missed me. But I ducked inside my room and slammed the

1 door and stood to one side. And then there were some shots that
2 came through the door. And I tried to get under the bed and it
3 was too low, but I kind of got in behind it. And after maybe two
4 hours -- I heard some other shots too -- and then after maybe two
5 hours, I -- there was a knock on the door, and the diplomat,
6 Cambodian diplomat, Thiounn Prasith was there and he said that
7 Miss Becker is all right, but I -- he asked if I was all right
8 and I said "yes". He said Miss Becker is alright too, but Mr.
9 Caldwell has been killed or is dead. And he asked me to come out
10 and take a look at the body. And I did. And he was lying
11 obviously dead with a gaping wound in his chest. And of course,
12 he was inside the room, but on a threshold of the doorway was
13 this - it appeared to be the same young man who had threatened
14 me, and he was dead too in a pool of blood. And we -- Becker and
15 I took very -- I think maybe that same day, we took off to go to
16 China and then on to the United States, taking Caldwell's body
17 with us.

18 [09.36.04]

19 Q. Thank you, Mr. Dudman, for this vivid account. Do you recall
20 more words or more conversation with Thiounn Prasith as to the
21 why and reasons of this attack on the three of you?

22 [09.36.30]

23 A. I remember that there were a lot of guesswork. I -- we didn't
24 know.

25 Q. To refresh your memory a bit, in your report from '79, you

30

1 called it, and I quote, "a terrorist attack on the three of you".

2 Do you recall why you used the words "terrorist attack"?

3 A. I don't.

4 Q. Were you somehow able to give us an educated guess as to who
5 might have been responsible for this attack?

6 A. I've heard various theories, and I really don't have an
7 opinion.

8 Q. Were these various theories that you heard at the time, or
9 much later?

10 A. At the time, even. And I've heard things since, but mostly at
11 the time.

12 Q. And do you remember whether one of those theories was more
13 convincing than the others, the ones that you heard at the time?
14 Or is that too long ago?

15 A. Actually, I don't recall which was most persuasive.

16 Q. I would like to read an excerpt from a book which you might
17 not have read, but I would like to put it before you and then ask
18 your reaction, if that is all right with you, Mr. Dudman. Mr.
19 President, this is document E3/4202. English ERN, 00757538;
20 French ERN, 00849451; and Khmer, 00858363. Mr. Dudman, this is an
21 excerpt from a book of somebody called Thet Sambath, and he
22 writes about the reaction of both Pol Pot and Nuon Chea, about
23 this event. So, I am quoting now from this book, and I would like
24 to ask your reaction. Is that ok, Mr. Dudman?

25 [09.39.58]

1 A. Yes.

2 Q. "At the end of 1978, Pol Pot decided he wanted the Khmer Rouge
3 to finally have some publicity, and he invited three westerners
4 to visit Phnom Penh. Foreign correspondents Elizabeth Becker and
5 Richard Dudman, along with lecturer Malcom Caldwell, came to
6 Phnom Penh for a 10-day, strictly supervised visit. The night
7 after their interviews with Pol Pot, Malcolm Caldwell was shot
8 dead in the middle of the night. Elizabeth Becker, who wrote
9 about that visit in her book "When the War Was Over", said the
10 murder of Caldwell was an attempt to embarrass the Khmer Rouge
11 regime. Nuon Chea said he was woken up that night by Pol Pot
12 around 3 a.m., to let him know that Caldwell had been killed."

13 [09.41.07]

14 "Nuon Chea was shocked. At the time tension was rising with
15 Vietnam, and Pol Pot worried that this was a tactic to damage
16 Cambodia's reputation. Pol Pot said this was because of
17 carelessness, but he didn't say who was at fault. Nuon Chea said,
18 'We were very sorry about this because we allowed him into the
19 country, so we had to protect him. We were not stupid enough to
20 shoot a foreigner. I saw this as an enemy tactic to give us a bad
21 name.'" End of quote, Mr. Dudman.

22 Recalling the events and the various theories, would you be able
23 to comment on this passage from this book?

24 A. Well, it's a plausible explanation, but I have no way of
25 knowing if it's true.

1 Q. Correct, Mr. Dudman, but does it somehow refresh your
2 conversation that you had at the time with Thiounn Prasith?

3 A. With whom?

4 Q. With foreign affairs official, Thiounn Prasith. Does that --
5 does this excerpt refresh your memory?

6 A. No, I don't recall any conversation with Thiounn Prasith that
7 bore on this.

8 [09.42.58]

9 Q. Thank you, Mr. Dudman. I would like now to go back during your
10 visit, a few days earlier, and that is your interview, or the
11 interview that the both -- that both of you had, Madam Elizabeth
12 Becker and you, with Pol Pot. Do you recall this interview?

13 A. I do, but I wouldn't call it an interview.

14 Q. You would rather call it a lecture or a speech?

15 A. More a lecture, yes.

16 Q. Do you remember anything specific about this lecture?

17 A. Yes.

18 [09.44.05]

19 Q. And -- and what is it that you remember?

20 A. I remember Pol Pot saying repeatedly that the -- that the
21 Vietnamese were going to invade Cambodia, and he said that again
22 and again. And I -- if I remember rightly, he said that he
23 thought that -- that with the help of the United States, they
24 would -- Cambodia would throw them back.

25 Q. Do you remember anything else? Do you remember what he said to

1 you about the objectives of Vietnam, the goals of Vietnam
2 invading Cambodia?

3 A. I don't. He spoke of an invasion.

4 Q. Do you remember any other details of this interview?

5 A. No.

6 MR. KOPPE:

7 Mr. President, a request. Maybe not now, but if I would have some
8 time tomorrow, I would actually like Mr. Dudman to listen to an
9 excerpt from this interview. It's a seven-minute excerpt, and
10 when playing this excerpt to Mr. Dudman, I was hoping this would
11 in fact refresh his memory. The relevant excerpt we have written
12 out literally, so we would have that for you. It's -- I realize a
13 bit late request, however the interview is on the interface, and
14 has been notified. I could do it now, but then we would go beyond
15 10 o'clock, so that's my -- that's my worry. So I'm at your hands
16 as to what to do with this interview.

17 [09.46.33]

18 (Judges deliberate)

19 [09.48.14]

20 JUDGE FENZ:

21 Counsel, question: if you do it now, how long will it go beyond
22 10 o'clock? Including the questions you are asking and the
23 answers?

24 MR. KOPPE:

25 The -- the excerpt itself is, I believe, around 9, 10 minutes, 9

34

1 or 10 minutes, so that would bring us to 9.55, then, of course,
2 some additional questions. So it might be safer to do it
3 tomorrow, if that's -- because the additional advantage of doing
4 it tomorrow is that I would be able to send you a literal
5 translation, or not a translation, but a literal transcription of
6 what has been said.

7 [09.49.07]

8 JUDGE FENZ:

9 And you would still be within what you discussed, about sharing
10 your time with Khieu Samphan's team?

11 MR. KOPPE:

12 I am looking very kindly to --

13 MS. GUISSÉ:

14 Judge Fenz and Mr. President, I would need 40 minutes as far as
15 the Khieu Samphan team is concerned, that is to put questions to
16 Mr. Dudman. If I understood you correctly, we have two hours
17 twenty minutes, shared -- or rather, two hours forty for both
18 defence teams. So, if Mr. Koppe uses two hours, I'll still have
19 forty minutes left.

20 MR. PRESIDENT:

21 The Deputy Co-Prosecutor, you have the floor.

22 MR. LYSAK:

23 Just a couple of points. We did receive a transcript, what was
24 described as a transcript, of this tape. My other question would
25 be, I'm assuming the tape is in Khmer. Will it be technically

35

1 feasible to play this original tape in Khmer, and for the witness
2 to hear both the tape and the translation at the same time? It
3 seems to me we've already received a transcript, and I would
4 think it would make sense to play the excerpt now if we're able
5 to do that.

6 [09.50.50]

7 MR. KOPPE:

8 It is. What you hear on the tape, Mr. President, is the voice of
9 Pol Pot in Khmer, and then it's directly translated into English
10 by, I presume, Thiounn Prasith. So, we would be able to play the
11 tape, or the excerpt, right now, because we have both languages,
12 except of course for the French language. However, I did revisit
13 the tape yesterday quite extensively and I believe that the
14 transcript is not entirely accurate. So, I would like the Court
15 and also Mr. Dudman to benefit from literal words, because
16 sometimes Mr. Thiounn Prasith is speaking with a quite heavy
17 French accent, and is difficult to understand.

18 [09.51.43]

19 Meanwhile, if I may suggest, Mr. President, I will just finish up
20 my last questions and then we -- it might be more beneficial to
21 do it tomorrow.

22 BY MR. KOPPE:

23 Q. I apologize, Mr. Dudman, for this short intermission. So, you
24 heard correctly -- you heard it that we -- that I would like to
25 -- to let you hear the interview that you took, together with

1 Elizabeth Becker, of Pol Pot, and revisit that issue tomorrow.
2 Now, I would like to ask you just some questions about the
3 preparation of your trip. Do you remember how you prepared for
4 the trip to Cambodia in December, '78?

5 MR. DUDMAN:

6 A. I didn't understand the question.

7 Q. My question, Mr. Dudman, was do you remember how you yourself
8 prepared yourself for the trip? What did you do before going to
9 Cambodia? For instance, did you speak to officials of the State
10 Department? Did you in any other way prepare yourself for your
11 trip? Do you remember?

12 A. I don't remember detail. I'm sure I spoke to a lot of
13 specialists about what I should look for.

14 Q. Do you remember that, right before your trip, the US Congress
15 was having -- was holding hearings in relation to the tensions
16 between Vietnam and Cambodia at the time?

17 A. I don't recall.

18 [09.54.00]

19 Q. Do you recall ever speaking to a State Department official who
20 goes by the name of Douglas Pike?

21 A. I know Douglas Pike. I knew him. I didn't -- I do recall
22 speaking with him, yes.

23 Q. Do you -- do you, Mr. Dudman, recall speaking to him about the
24 tensions between Vietnam and Democratic Kampuchea?

25 A. I don't.

1 Q. Do you remember reading a document called 'Black Paper' before
2 going to Cambodia?

3 A. I do not.

4 [09.55.06]

5 Q. If I refresh your memory and tell you that 'Black Paper' was a
6 document issued by the Ministry of Foreign Affairs of Democratic
7 Kampuchea, outlining what was believed to be the reasons for
8 Vietnamese aggression. Does that ring a bell?

9 A. It does not. I don't remember that.

10 Q. Do you remember, that right before your visit to Cambodia in
11 '78, that Vietnam had entered into a military agreement with the
12 Soviet Union?

13 A. I don't remember that.

14 MR. KOPPE:

15 Thank you, Mr. President. Thank you, Mr. Dudman, for answering my
16 questions and being patient with my -- my questions to you. Thank
17 you very much, sir.

18 [09.56.43]

19 MR. PRESIDENT:

20 Today's proceedings have come to an end, and we will resume it
21 tomorrow -- that is, Tuesday, 31st March 2015. And tomorrow the
22 Chamber will continue to hear the testimony of the witness, Mr.
23 Richard Dudman. Let me confirm, tomorrow testimony will commence
24 at 8 o'clock in the morning. Mr. Richard Dudman, the Chamber
25 would like to thank you for your time to testify as a witness.

1 However, your testimony is not yet concluded, and you are invited
2 to again testify tomorrow, commencing from 8 o'clock, the local
3 time in Phnom Penh.

4 [09.57.45]

5 The Chamber also would like to thank Mr. Todd Lowell and Mr.
6 Jason Barrett for your assistance provided to the witness, and
7 again we would like to invite you to attend tomorrow's
8 proceeding, while we hear the testimony of Mr. Richard Dudman,
9 commencing at 8 o'clock in the morning Cambodian time.

10 Security personnel, you are instructed to take the two Accused,
11 Mr. Nuon Chea and Khieu Samphan, back to the detention facility,
12 and have them again attend the proceeding before 8 o'clock in the
13 morning.

14 The Court is now adjourned.

15 (Court adjourns at 0958H)

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