



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

ឯកសារដើម

ORIGINAL/ORIGINAL

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TRANSCRIPT OF TRIAL PROCEEDINGS

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Case File N° 002/19-09-2007-ECCC/TC

23 March 2016

Trial Day 388

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

The Accused: NUON Chea
KHIEU Samphan

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SENG Leang

For Court Management Section:
UCH Arun

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KOPPE	English
Mr. KOUMJIAN	English
Judge LAVERGNE	French
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer
Mr. SENG Leang	Khmer
Mr. YSA Osman (2-TCE-95)	Khmer

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

2 (Court opens at 0904H)

3 MR. PRESIDENT:

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

5 Today, the Chamber will resume hearing testimony of the expert,

6 Ysa Osman.

7 And before we proceed to hearing his testimony, the Chamber will

8 hear oral responses from parties to the submission by Nuon Chea's

9 request for another witness to be heard. That is pursuant to Rule

10 87.4 in relation to Phnom Kraol Security Centre.

11 Mr. Em Hoy, please report the attendance of the parties and other

12 individuals to today's proceedings.

13 [09.05.21]

14 THE GREFFIER:

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

16 are present.

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

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

19 been delivered to the greffier.

20 The expert who is to testify today -- that is, Ysa Osman, as well

21 as Julie Bardèche, the legal officer of the Office of the

22 Co-Investigating Judges, are ready to be called by the Chamber.

23 Thank you.

24 [09.06.03]

25 MR. PRESIDENT:

2

1 Thank you, Mr. Em Hoy. The Chamber now decides on the request by
2 Nuon Chea.

3 The Chamber has received a waiver from Nuon Chea, dated 23rd
4 March 2016, which states that, due to his health, headache, back
5 pain, he cannot sit or concentrate for long. And in order to
6 effectively participate in future hearings, he requests to waive
7 his right to be present at the 23rd March 2016 hearing.

8 Having seen the medical report of Nuon Chea by the duty doctor
9 for the Accused at ECCC, dated 23rd March 2016, which notes that
10 Nuon Chea has a chronic back pain and cannot sit for long and the
11 pain becomes more severe when he sits for long and recommends
12 that the Chamber shall grant him his request so that he can
13 follow the proceedings remotely from the holding cell downstairs.
14 Based on the above information and pursuant to Rule 81.5 of the
15 ECCC Internal Rules, the Chamber grants Nuon Chea his request to
16 follow today's proceedings remotely from the holding cell
17 downstairs via audio-visual means.

18 The Chamber instructs the AV Unit personnel to link the
19 proceedings to the room downstairs so that Nuon Chea can follow.
20 That applies for the whole day.

21 [09.07.40]

22 Now the Chamber wishes to hear the oral responses from other
23 parties in relation to the motion filed by Nuon Chea's defence to
24 call another witness in relation to Phnom Kraol Security Centre
25 as well as the witness statement of this witness by DC-Cam, which

3

1 was done on the <27th> March 2007. <On 21 March 2016,> in
2 response to the Co-Prosecutor's request to hear two additional
3 witnesses for Phnom Kraol Security Centre in lieu of those
4 witnesses who are now deceased, the defence team for Nuon Chea
5 also informs the Chamber that they wish to request for another
6 witness as well as his interview with DC-Cam -- that is, in
7 relation -- that is, in compliance with Rule 87.4.

8 And also, on the afternoon of the 21st of March 2016, <defence
9 counsel has filed a motion in English to the Chamber and other
10 parties stating that> the relevant document <will be submitted
11 into the case file after the Khmer translation is done>.

12 [09.09.00]

13 And through the legal officer of the Chamber, an email was sent
14 to parties that the Chamber wishes to hear oral responses from
15 other parties in relation to that motion.

16 And we would like to hear now the importance of this witness's
17 testimony <in relation to Phnom Kraol Security Centre> so that
18 the Chamber may use it as the basis for our decision as to
19 whether to call that witness or not.

20 And in order to reiterate the request, I'd like to hand the floor
21 to the defence team for Nuon Chea to make a brief motion in
22 relation to that request as well as the grounds for such request.

23 You may proceed.

24 MR. KOPPE:

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

4

1 Honours. Good morning, counsel.

2 Yes, as indicated last Monday, we are going to be filing a Rule
3 87 request. I think parties are still only in the possession of a
4 courtesy copy. It is a request to hear one additional witness. We
5 feel this witness is an important witness in relation to events
6 not only in Mondolkiri, but in the whole of the Northeast Zone in
7 the period between 1975 and '79.

8 [09.10.41]

9 As the Chamber might recall, excerpts of the summary of his
10 DC-Cam statement <have> been used by us to confront most of the
11 witnesses who have now testified not only in relation to Phnom
12 Kraol, but also in relation to Au Kanseng.
13 The witness potentially could provide very interesting evidence
14 when it comes to Vietnamese incursions into the Northeast Zone as
15 of '76. He could offer evidence as to assistance by cadres and
16 801 or 920 division soldiers to Vietnamese troops.
17 He, himself, seems to have offered evidence that he was
18 instructed to fight the rebellion movement, the movement which he
19 calls the "Kham Phoun movement". So we believe that he has very
20 interesting insights into events relevant to both Phnom Kraol and
21 Au Kanseng and the general military situation in the Northeast
22 Zone.

23 [09.12.22]

24 We're not quite sure yet whether the English summary that we
25 have, which is document E3/7960, is, indeed -- indeed, it

5

1 contains an accurate summary of his DC-Cam statement.
2 As you were able to read in our courtesy copy of our motion,
3 there's only a Khmer version available of his testimony before
4 DC-Cam. I'm not quite sure when the English translation is
5 coming, if at all, but obviously, if you -- if the Trial Chamber
6 were to admit the Khmer version of the DC-Cam statement,
7 obviously we need to have a full English translation as well.
8 Then the question, of course, why now? Why not earlier?
9 Part of the reason is that our request was triggered by the
10 Prosecution's request to summon a witness -- or, rather, a civil
11 party, which we believe now has the pseudonym 2-TCCP-1017. This
12 civil party is also a 920 division combatant and, according to
13 the Prosecution, the -- one of the -- one of the surviving
14 prisoners, 920 division prisoners.

15 [09.14.10]

16 And in order to get a complete picture as to what happened,
17 exactly, to the Division 920 soldiers who were arrested and who
18 were detained, we believe it is in the interests of the
19 ascertainment of the truth that not only 2-TCCP-1017 will be
20 summonsed, but also the witness whose name I shall not mention,
21 but who we have -- whom we have requested.
22 So we believe that it is important that, in addition to the
23 witness who's coming tomorrow, also the witness that we have
24 requested will come to the courtroom and to give his testimony as
25 to the events in Northeast Zone, especially the role of Vietnam

6

1 military incursions and the support by, as he calls it, the
2 rebellion movement in '76-'77.

3 That is a very, very short summary of our request, Mr. President.

4 Thank you.

5 MR. PRESIDENT:

6 Thank you, Counsel.

7 And I'd like to hand the floor to Judge Lavergne.

8 [09.16.34]

9 JUDGE LAVERGNE:

10 Yes. Counsel Koppe, I would like you to clarify something.

11 Can you tell us exactly in <relation to which> segment of this
12 trial <you would consider this statement to be the> most
13 relevant?

14 We are <currently> examining <the segment> on the security
15 centres. I don't see the <link between> this witness <> <and> the
16 security centres. <In regards to a certain number of other
17 segments, it may be relevant, but perhaps> you should clarify
18 this point.

19 MR. KOPPE:

20 Well, he is relevant in relation to not Au Kanseng but, rather,
21 Phnom Kraol Security Centre, in the first place.

22 Secondly, we believe that there was, indeed, a geographical
23 distinction between Ratanakiri and Mondolkiri. However, the
24 Northeast Zone is usually treated as one by the DK government, so
25 his testimony is also relating to the nature of the armed

7

1 conflict with Vietnam, the matter of "internal purges", because
2 he speaks about a rebellion movement that was supporting
3 Vietnamese troops and Vietnamese incursions.

4 [09.17.08]

5 So primarily, Phnom Kraol; secondly, his knowledge in relation to
6 Division 920, which, as the Trial Chamber knows, also plays an
7 important role in relation to S-21, armed conflict in general,
8 and the purges. So all segments that we are -- will be dealing
9 with in the next few weeks, we believe that this witness is
10 important to.

11 MR. PRESIDENT:

12 Thank you, Counsel.

13 The Chamber would like now to hand the floor to the
14 Co-Prosecutors to respond to the motion by the defence team for
15 Nuon Chea.

16 You may proceed.

17 [09.18.06]

18 MR. KOUMJIAN:

19 Thank you. Good morning, Your Honours, and everyone present.

20 Your Honours, we do not have an objection to the DC-Cam statement
21 being admitted into -- onto the case file. Of course, it needs to
22 be translated, also.

23 We also would not object to the witness being summoned. We
24 obviously have a very different interpretation of the witness'
25 evidence and that statement than the Defence does.

8

1 I would just point out that my understanding, so we're clear
2 we're talking about the same DC-Cam statement, the Defence motion
3 said it was dated 2007, but what we have, I understand -- it's
4 only in Khmer -- it's dated 2001. So I don't think there has been
5 contact with this witness that we know of, since 2001. But that
6 said, we do not object to the witness.

7 JUDGE FENZ:

8 Perhaps counsel could clarify this document issue.

9 [09.19.20]

10 MR. KOPPE:

11 Maybe I could get back to that after the break. It's -- we're
12 still in the -- what we could do is address the issue when we
13 actually file the motion itself. We're still in the stage of a
14 courtesy copy.

15 I'm not quite sure whether it's a 2001 or 2007 DC-Cam statement,
16 but let me get back to you on this.

17 MR. PRESIDENT:

18 Thank you, Counsel.

19 And I'd like to hand the floor now to the Lead Co-Lawyers for
20 civil parties.

21 MR. PICH ANG:

22 Good morning, Your Honours.

23 We do not have any objection to the request for this witness and
24 his statement. Thank you.

25 [09.20.16]

1 MR. PRESIDENT:

2 And what about the defence team for Khieu Samphan? Do you wish to
3 make a response?

4 MS. GUISSÉ:

5 Thank you, Mr. President.

6 Very rapidly; obviously, we do not have any objection to the
7 tendering of this document into evidence and to the summoning of
8 the witness. I would like to point out that we, the Khieu Samphan
9 defence, have always favoured the summoning of witnesses <rather
10 than> the reading of <statements if> it <> enable<s> the parties
11 to <question> the witness.

12 MR. PRESIDENT:

13 Thank you, Counsel. And the Chamber would like to thank all the
14 parties for their oral responses to this motion.

15 And I notice that there is no objection by any of the parties to
16 the motion filed by the defence team for Nuon Chea. And the
17 Chamber will deliberate on this motion and issue our decision in
18 due course.

19 And Counsel Koppe, you have the floor.

20 [09.21.30]

21 MR. KOPPE:

22 Yes, Mr. President. Thank you.

23 An observation before the expert will come in. It's actually a
24 request for guidance from the Trial Chamber in relation to one
25 particular topic that we would like to confront Mr. Osman with,

10

1 and that is -- I shall not use names -- but that is the testimony
2 of two witnesses who testified in closed session, 2-TCW-938 and
3 2-TCW-894, respectively.

4 We're not quite sure how we should deal with confronting Mr.
5 Osman with certain excerpts from the closed session testimony of
6 these two witnesses.

7 Should, once we arrive at that subject, go into closed session as
8 well or should we just continue?

9 [09.22.56]

10 JUDGE LAVERGNE:

11 Why are you making this request now? Why are you making this
12 request now <at> the last minute?

13 You've known for weeks that we have to take Mr. Osman's
14 deposition. Why wait for the last minute?

15 MR. KOPPE:

16 We're hearing his testimony now and, before he comes in, it's a
17 subject that I will not address until the break. But I'm just --
18 as a matter of caution, I'm asking this. If you have any
19 position, I would be happy to hear it.

20 (Judges deliberate)

21 [09.25.12]

22 MR. PRESIDENT:

23 Regarding the request just made by Counsel Koppe, you should
24 leave that topic aside for now and you may refer that topic
25 toward the end of questioning the expert.

11

1 And Court officer, please usher the expert as well as the legal
2 officer of the OCIJ into the courtroom.

3 JUDGE FENZ:

4 Sorry. Just to be clear, and these questions will have to be done
5 in closed session, then.

6 I think we actually said that in a memorandum, but be that as it
7 may, to clarify, leave it to the end, we'll close the session;
8 you ask your questions then.

9 MS. GUISSSE:

10 Mr. President, <I will take advantage> of this time as we wait
11 for Mr. Osman to come into the courtroom to say something about
12 tomorrow's hearings.

13 I believe we haven't had any news on Witness <TCW-840> (sic), to
14 know whether that witness is appearing or not. So we would like
15 to know who the witness appearing after Mr. Osman will be in
16 order to prepare ourselves accordingly. I haven't seen any memo
17 from the Chamber on that subject.

18 [09.27.08]

19 MR. PRESIDENT:

20 The Chamber will inform the parties on this issue today.

21 The Chamber hands the floor to the co-defence teams, first to the
22 defence team for Nuon Chea, to put questions to the expert, Mr.
23 Ysa Osman.

24 You may proceed, Counsel.

25 QUESTIONING BY MR. KOPPE:

12

1 Thank you, Mr. President.

2 Q. Good morning, Mr. Osman. I would like to start this morning
3 with asking you a few follow-up questions in relation to the
4 methodology of your work, use for your work, matters of
5 expertise, sources and your books.

6 Let me start by asking you a very brief question in relation to
7 your books.

8 You answered a question of the Prosecution that you'd written two
9 books, and these were the books that we have been discussing at
10 length a few weeks ago. But is it correct that you wrote a third
11 book as well, a book called "Navigating the Rift"?

12 [09.29.02]

13 MR. YSA OSMAN:

14 A. Yes. That is correct, Counsel. I have authored two books, and
15 they are related to the crimes committed during the Khmer Rouge
16 regime against the Cham people.

17 And the third book, as you have said the title -- that is,
18 "Navigating the Rift", is not related to the subject matter of
19 the Khmer Rouge regime. It is about the current events in
20 Cambodia -- that is, about the good relationship between the Cham
21 people and the Khmer people.

22 Q. And was that the reason that, when asked, you didn't mention
23 that third book?

24 MR. PRESIDENT:

25 International Co-Prosecutor, you have the floor.

13

1 [09.30.04]

2 MR. KOUMJIAN:

3 I'd just request a cite of where it was that the witness was
4 asked the question that counsel believes he gave an incomplete
5 answer to, if I could just hear the citation for that.

6 BY MR. KOPPE:

7 I don't have the exact citation now, but I believe the -- Mr.
8 Osman confirms that he offered evidence that he wrote two books,
9 and he's now confirming that there is, in fact, a third book
10 called "Navigating the Rift". I shall not be asking any questions
11 about that book.

12 Q. My question is: Is it correct that when you were asked
13 questions, you didn't mention "Navigating the Rift"? And if yes,
14 why was that?

15 [09.30.49]

16 MR. KOUMJIAN:

17 Well, Your Honour, if I may, I do object. Witnesses are
18 instructed to answer the questions that they are asked. If
19 counsel has a question this witness asked -- was asked in which
20 he -- how many books did he write, I'd like to see the citation.
21 If he was asked, "Did you write 'The Cham Rebellion' and
22 'Oukoubah'?", that's a very different question. So I think, to be
23 fair to the witness, counsel should cite the question that he's
24 implying the witness gave an inaccurate answer to.

25 MR. KOPPE:

14

1 Let me read to you the excerpt. Mr. President, let me sit down or
2 else I cannot read it.

3 It's transcript of 9 February; it says:

4 "Yes, I have authored two books dealing with Democratic Kampuchea
5 regime, and on my hand is the first book entitled 'Oukoubah',
6 which translated into Khmer is justice, and I also authored a
7 second book entitled 'The Cham Rebellion'. And besides the two
8 books, I have written several articles concerning the DK regime
9 and I have published in 'Searching for the Truth' magazines as
10 well as some local newspapers."

11 So again, I think my question is relevant and is triggered by his
12 response offering evidence to suggest that he wrote two books and
13 some articles. And my question is why he didn't offer evidence
14 saying that he wrote a third book, called "Navigating the Rift".

15 [09.32.36]

16 MR. KOUMJIAN:

17 Your Honour, my question is -- my request is quite simple. Can we
18 have the question that the witness was responding to so we can
19 see whether or not the implication that he was incomplete in his
20 answer was correct or not?

21 MR. KOPPE:

22 It's really not a very important point, Mr. President, but the
23 question was:

24 "Have you written articles or books in relation to Democratic
25 Kampuchea regime?"

15

1 JUDGE FENZ:

2 And his answer always points to these are the books in relation
3 to --

4 MR. PRESIDENT:

5 Judge Fenz, you have the floor.

6 [09.33.08]

7 JUDGE FENZ:

8 It strikes me, if I understand it correctly, that the third book
9 is not about the Democratic Kampuchea regime, while this question
10 and his answers always clearly referred to books that are about
11 the Democratic Kampuchea regime.

12 BY MR. KOPPE:

13 Well, I'm not quite sure whether that is accurate, but I really
14 don't have a problem. I was asking -- well, I will rephrase. No
15 problem.

16 Q. Is it correct that you wrote a third book? It's a general
17 question.

18 MR. YSA OSMAN:

19 A. That is correct.

20 [09.33.58]

21 Q. And is it your testimony that this book has nothing to do with
22 events in relation to Democratic Kampuchea regime and that that's
23 the reason why you didn't mention; correct?

24 A. The question put to me in relation to my research on the
25 Democratic Kampuchea regime. At the time, the question was not

16

1 put to me in relation to all the books that I have authored.

2 And I replied only about my researches in relation to Democratic
3 Kampuchea regime.

4 Q. I wasn't implying that you were hiding anything at all, Mr.
5 Osman. I just wanted to know what the reason was for not
6 mentioning that book.

7 Let me now go to the issue of your education. I understand you
8 studied English for three years.

9 Is it also correct that after those three years of English at the
10 Build Bright University, you didn't do any formal education in
11 terms of universities, Master programs? Is that correct?

12 A. I studied at Build Bright University. I pursued the English
13 literature for four years and, after that, I obtained a Bachelor
14 degree in English literature. And later on, I did not pursue my
15 Master degree.

16 [09.36.26]

17 Q. Did you follow any courses or any other -- or did you take any
18 other education in the fields of history, demographics,
19 linguistics, Islam or Koran studies, ethnology, any of those
20 areas of study?

21 A. I attended short training courses, my apology. However, I
22 cannot recall all the training courses that I attended.
23 Some courses did not take place in the formal way in the school,
24 but it took place as an exchange between me and my mentor, <who
25 is a historical researcher>. And besides that, I attended

1 seminars, workshop in relation to research <and history>.

2 Q. But any of those fields, academic fields? Did you follow any
3 courses or additional study in those fields that I just
4 mentioned?

5 [09.38.13]

6 A. My apology. I have a sore throat, and I have a health issue.

7 But today, I am committed to testify before the Chamber, although
8 I have a little bit health issue.

9 As I said earlier, Counsel, I did not attend formal courses as
10 you described. I have read books. I have read books and I have
11 met researchers, professors, lecturers. I put questions in
12 relation to what I wanted to know. In particular, during the time
13 that I worked at the DC-Cam, I have met many outstanding
14 researchers <and they taught me>.

15 Q. Let me focus on one particular area of expertise because I do
16 have quite a bit of questions in relation to that topic a bit
17 later on.

18 Did you follow any course, any seminar, any whatever on the topic
19 of demographic studies, demography? Are you in any way taught
20 some elementary principles of demographics?

21 A. If you are mentioning about science, it is quite <> broad <so
22 I cannot answer that>, but <regarding> the methods -- research
23 methodologies and compiling information, I did join the courses.
24 About the research in science, namely medicines, <or> about <the
25 earth and> the universe, I did not attend such courses.

1 [09.40.42]

2 Q. Let me ask you one additional question in this respect.

3 In your book, "Oukoubah", E3/1822, on page 161, English, ERN

4 00078599, we can read the following -- quote:

5 "Given the experience levels of DC-Cam researchers, we do not

6 strictly apply the standard social science research hypothetical

7 deductive methodology. The DC-Cam field research policy is based

8 firmly upon experience that has demonstrated the importance of

9 avoiding leading questions." End of quote.

10 Do you remember writing this in your book and, if yes, what does

11 it mean?

12 A. Regarding methodologies, particularly the necessary

13 methodologies in my research, we should not ask leading questions

14 to witnesses -- that is, the questions should not be put to --

15 the multiple choice questions should not be put to witnesses, but

16 we can ask open questions for witnesses to describe whether the

17 facts are true or not.

18 [09.42.40]

19 Q. But "not applying the standard social science research

20 methodology", what does that mean?

21 A. I do not know what you are talking about, the research in

22 scientific way. As a researcher, we cannot determine what answers

23 we want to get. And in my research methodology, I am giving

24 opportunities to witnesses or to the interviewees to give the

25 responses without any pressure on them, without any threat to

1 them.

2 They can provide answers at their own will, so what they think it
3 is right or wrong. And I want them to describe their recollection
4 during the Khmer Rouge time. This is the basic principle in my
5 researches. It cannot be determined that we will get all answers
6 as we want. And usually, I provide the opportunity to the
7 interviewees to answer at their own will.

8 I do not really understand what you are talking about in relation
9 to the research in scientific way.

10 [09.44.42]

11 Q. Let me -- let me make a -- make it concrete by giving you an
12 example.

13 But before I give that example, is it correct that, in your book,
14 for instance, "The Cham Rebellion", you only use very limited
15 excerpts from the interviews that you've had and the excerpts
16 that you used do not contain questions from you and subsequent
17 answers, therefore making it difficult to verify whether you
18 asked leading questions, yes or no?

19 A. That is correct. Regarding the book entitled "<The Cham>
20 Rebellion", there is one section that I quoted the accounts of
21 the interviewees, particularly those who experienced the regime.
22 But that section was not included all the questions that I put to
23 them.

24 The purpose is to allow the readers to easily understand the
25 stories. And some stories <were> given to the interviewees to

1 verify whether those stories <were> consistent with what they
2 described. And the interviewees agreed that those stories are
3 consistent.

4 After that, those accounts and story are published in that book
5 -- that section of the book. However, that -- those accounts and
6 story does not go through the legal process, meaning that I did
7 not give -- I did not ask the interviewees to put their
8 fingerprints and to be legitimized by any legal authority.

9 Every interview is recorded in an audio means at the
10 Documentation Centre of Cambodia.

11 [09.47.35]

12 Q. Thank you for that answer.

13 Let me go back to my question on methodology and give you one
14 concrete example. And this example goes to the methods that you
15 used to verify the reliability of certain evidence that was given
16 to you.

17 I have in front of me a WRI from a woman who also testified in
18 this Court and who also spoke to you.

19 And I'm referring, Mr. President, to English, ERN 00274703;
20 French, 00224113; and Khmer, 00204445.

21 The woman's name is No Sates. She might be familiar to you
22 because you spoke to her. And she says the following to the
23 investigators. She was talking about an alleged execution of Cham
24 people, and she says:

25 [09.49.04]

21

1 "I did not witness the execution, but later I was told about the
2 execution by a person who had seen it. I do not remember that
3 person's name. I told Mr. Osman that I saw the execution, as I
4 wanted to seek justice against those murderers." End of quote.

5 Asked a question on this, No Sates confirmed this in Court.

6 So my question is: What were your methods to make sure that the
7 people that you spoke to were not giving hearsay evidence or
8 were, in general, reliable?

9 A. I observed that some witnesses that I have interviewed when
10 they were invited to testify before the Chamber gave some
11 different accounts from what they described to me. That is my
12 observation. However, as I have mentioned earlier, I gave choices
13 whatever I can to every -- each and every witness to try to
14 recall the answers or facts. More importantly, if some of those
15 witnesses had difficulty in speaking Khmer language, sometimes
16 they did not -- they could not speak Khmer well and could not
17 recall which words to describe. As a Muslim person, I allowed
18 them to speak Cham language in light of their difficulty in
19 Khmer.

20 [09.51.15]

21 Once again, the interviews that I conducted were recorded in an
22 audio means. If you have any doubts, Counsel, you can go and find
23 those audio recording and listen to it.

24 Q. I don't necessary have doubts, Mr. Osman. I just wanted to try
25 to find out how you, yourself, tried to verify the reliability of

1 the evidence that people gave to you.

2 But let me move on because I don't have that much time.

3 Last time, you were asked by the Prosecution how many individuals
4 you spoke to for your book, "The Cham Rebellion", "Oukoubah", and
5 you said that you didn't really know the exact number, so we did
6 some counting. And I'm just asking you whether that is roughly
7 accurate.

8 Would it be correct to say that you interviewed about 97 people
9 for your book, "The Cham Rebellion"?

10 [09.52.45]

11 A. Thank you for spending time and counting how many interviewees
12 I met.

13 I stand by what I said. I cannot recall the exact numbers of the
14 interviewees that I met, but if you said it is <more than 90> of
15 them, I accept that figure suggested by you. And thank you very
16 much for spending time counting them -- the numbers of
17 interviewees I met.

18 Let me declare solemnly that I believe in my research. It is
19 reliable, accurate, just, and I did not try to fool the history.

20 And the -- what happened to Cham people did not limit to the
21 stories in <one or two of> my books. There are many more
22 experiences <that cannot be all recorded; the two books are just
23 a small portion of the> stories of <> what happened to <the Cham
24 during> the regime.

25 [09.54.17]

1 Q. Just to be very sure, I was not at all implying that you were
2 fooling history. I was just trying to find out exactly what your
3 methods of work are.

4 Is it correct that, of those approximately 97 witnesses that you
5 interviewed for "The Cham Rebellion", that the vast majority of
6 those witnesses are coming from Krouch Chhmar district and the
7 immediate surroundings?

8 A. I did not spend time counting the number, but I think it's
9 about right, the number 97, as you said.

10 Most of them that I have interviewed lived in Krouch Chhmar
11 district. That is correct. Most of them were living in Krouch
12 Chhmar district.

13 Q. And then your book "Oukoubah", we counted about 115 people
14 that you spoke to. You used 17 interviews conducted by other
15 people, and it seems that 10 interviews that you held in -- and
16 that you used in "Oukoubah" were also used in your book "The Cham
17 Rebellion".

18 Would that be accurate as well?

19 And by the way, I'm very happy to give you the product of our
20 research so that, in the break, you can have a look at it.

21 But is that roughly accurate when it comes to your book, "The
22 Cham Rebellion" and "Oukoubah"?

23 [09.56.21]

24 A. In fact, < if I have written about that, it is just a portion
25 of the book "Oukoubah". Because it's the first book, > I did not

24

1 include every detail about the rebellion, but I guess there is --
2 there is a section describing about the rebellion of Cham people
3 as well in that book.

4 Q. Now, most interviews that you did are -- were taken by you in
5 2000, 2001, some a bit later.

6 Would you be able to give your estimate as to how many Cham were
7 living in Cambodia in total at the beginning of this century?

8 A. Counsel, in fact, I did not conduct any researches on numbers
9 -- number of Cham people who came to reside in the land of
10 Cambodia. I did not do the research how many of them came to
11 reside in Cambodia.

12 But it is my observation that Cambodia, the land of Cambodia, is
13 the one which received the influx of Cham victims. Back in the
14 history, there were wars between Champa country and Vietnam, and
15 in the history, it show -- the history shows that Vietnam invaded
16 Champa.

17 [09.58.37]

18 Vietnam did not <just> invade the land of Champa, but also killed
19 Cham people. So there were different stages that Cham people fled
20 <> war and came to reside in a safer ground. <And -->

21 Q. I apologize, Mr. Osman, for interrupting you, but my question
22 was very, very simple and very short.

23 Do you know, yes or no, how many Cham, roughly, lived in the
24 beginning of the century in Cambodia?

25 Let me assist you a bit. You said that post-1979, there were

25

1 about 200,000 Cham living in Cambodia. Whether that's correct or
2 not, we will get back to that.

3 But what is your estimate as to how many Chams were living when
4 you started your research?

5 Living in Cambodia.

6 [09.59.58]

7 A. Do you want to ask me about the period before 1979 -- that is,
8 the <> Khmer Rouge <period>?

9 Q. No. Beginning of the century when you did your research.

10 I'll ask -- I'll tell you why I want to know this so that you can
11 incorporate it into your answer.

12 The 100 or so, maybe 200 people that you interviewed, the Cham
13 people, how did you establish whether they were in any respect
14 representative of the Cham people that were actually living in DK
15 and were still living after '79 -- after '79, there were 200,000
16 Cham. A lot of them possibly returned as well.

17 What did you do to make sure that the people that you spoke to
18 were, indeed, representative of the Cham living in Democratic
19 Kampuchea?

20 [10.01.16]

21 A. In relation to the 200,000 of Cham, that number -- I mean
22 those 200,000 <> Cham were living in the country after 1979. I
23 have with me a document indicating the number that I quoted from.
24 I did not interview just only one or two people. I have several
25 documents -- reliable ones -- that Cham people who lived in the

1 country after the fall of Pol Pot were around 200,000.

2 Q. Mr. Osman, we've established that that's your opinion. Let me
3 try it differently.

4 You are very firm -- you were very firm in this courtroom and in
5 -- and you are very firm in other publications that there was a
6 policy of genocide in relation to the Cham.

7 There was a DK policy to destroy, in whole or in part, the Cham
8 as a group. I'll get back to that.

9 It seems that these conclusions are, at least partially, but it
10 seems predominantly, based on the interviews that you held with
11 these people.

12 My question is: What were your methods to establish that the
13 people that you spoke to were somehow representative of the
14 200,000 people who were at least living, according to you, in
15 Cambodia after '79?

16 [10.03.41]

17 A. Regarding the research or the authoring of a book, it is
18 impossible to conduct interviews of hundreds of thousands of
19 people. We had to set a certain number of people for the purpose
20 of that research, and the accounts of those, say, 100 or 200
21 interviewees are consistent with others whose accounts are also
22 similar.

23 We selected a certain categories of the subjects, namely, the
24 victims, that is the first group. And the second group, those who
25 worked during the Khmer Rouge regime. And the third criteria is

27

1 to use the contemporaneous documents. And fourth, we referred to
2 previous research conducted by other authors.

3 This is an example of a number of grounds for the basis of my
4 research. And the accounts told by the interviewees are
5 consistent with what we have.

6 [10.05.16]

7 Q. I am sure it's -- it's my questioning, but it seems that I'm
8 not making myself clear. Let me try it differently again.

9 Did you speak to Cham who had been living in DK in Siem Reap, who
10 had been living in the former Northwest Zone, Cham who had been
11 living in the Southwest Zone, Cham who had been living anywhere
12 else in order for you to be able to say that there was a
13 nationwide -- nationwide policy to kill all the Cham?

14 In other words, did you speak to any other Cham in other regions
15 -- who lived in other regions at the time?

16 MR. PRESIDENT:

17 Mr. Expert, please hold on.

18 And International Lead Co-Lawyer for civil parties, you have the
19 floor.

20 [10.06.26]

21 MS. GUIRAUD:

22 Thank you, Mr. President. Good morning, everyone.

23 <Just a small clarification, I may have missed something during
24 my colleague's questioning, and if so, I apologise. > Can he
25 give us the <specific> reference <where the expert indicates

1 that, according to him, there was a national policy of genocide
2 against the Cham?

3 It is possible that he gave us the reference, but I <missed> it.

4 It is important, Mr. President, <> because the crime of genocide
5 against the Cham <> is <extremely> limited before this Chamber,
6 and <so my colleague's questions go far beyond the crimes
7 referred to the Chamber, since it is solely about genocide by
8 killings in a few specific localities, Trea and Au Trakuon, if
9 memory serves, but I may be mistaken. <>.

10 <So> the crime of genocide by killings across <Cambodia during
11 the period of> Democratic Kampuchea <has not been referred to the
12 Chamber>. <So it's important to know> whether that is <indeed>
13 exactly what the expert declared, and if that is the case, <it
14 would be useful for us to have> the reference of that particular
15 <> document <to be able to follow our colleague's questions>.

16 [10.08.10]

17 MR. KOPPE:

18 I'm not entirely sure if I understand this objection or
19 observation, Mr. President.

20 What I do remember is you, Mr. President, asking questions to Mr.
21 Osman at the very beginning of his testimony, and one of your
22 last questions was: "In your opinion, was there a policy of
23 genocide in Democratic Kampuchea?"

24 I do not have the exact question now in front of me, but that was
25 your question.

29

1 What the scope of the genocide in this trial is another matter,
2 but he, Mr. Osman, clearly responded, "Yes, there was a genocidal
3 policy in Democratic Kampuchea." And I'm just trying to figure
4 out whether his research was representative at all to come to
5 that conclusion.

6 I don't think he made any qualification as to the -- it was only
7 geographical. I don't -- I didn't hear him say that. I believe he
8 said and he meant -- and if I'm wrong, I'm sure Mr. Osman will
9 correct me. But he meant a nationwide genocidal policy. That's
10 what I'm trying to establish.

11 [10.09.32]

12 MR. KOUMJIAN:

13 Mr. President, thank you.

14 I have a very different recollection. I recall that it was agreed
15 by all parties and, in fact, counsel made the objection that the
16 issue of whether or not genocide occurred was not one for the
17 expert to offer an opinion on. That was the ultimate legal issue
18 for the Court.

19 Counsel objected; I agreed with him, and no one has asked the
20 witness that question.

21 So now he's being cross-examined on an opinion that he was not
22 allowed to give, as far as I understand it.

23 [10.10.03]

24 MR. KOPPE:

25 I think the Prosecution is now mixing what I was asking the

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1 expert with what the Lead Civil Lawyer -- civil party lawyer is
2 saying.

3 I wasn't using the word "genocide" at all. I was just asking Mr.
4 Osman what he did to make sure that his interviews were somehow
5 representative. And then I'm at liberty to try to establish that,
6 and I was just answering the objection of the ---

7 MR. KOUMJIAN:

8 Very briefly, I'm not objecting to that. That's a fine question.
9 It was the representation that the President had asked the
10 witness his opinion about whether it was genocide. I think that's
11 incorrect. The President never did so.

12 MR. KOPPE:

13 Well, I have it now in front of me so that we are clear.
14 Mr. President, at 09.46, you asked: "Based on your research on
15 Democratic Kampuchea, can you tell the Court what are the
16 policies of DK towards the Cham people? Can you elaborate the
17 basic policy of DK regime targeting at or towards the Cham
18 people?"

19 And then you say: "Please refer or focus on your research and
20 study to give your testimony before the Chamber."

21 [10.11.36]

22 And then Mr. Osman answers: "Talking about DK policies, I could
23 not find any documents on this matter. I could not find any
24 document which is issued by the Central Committee about the Cham.
25 But I would base on the person who saw such documents and also

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.

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1 those who participated in the treatment or in the violations
2 against Cham people. And based on what I heard, what <> really
3 happened to <the> Cham people, and I found that Cham people were
4 gathered and brought for execution."

5 So no qualification -- no geographical qualification; he is, in
6 layman terms, saying there was a genocide. And as a matter of
7 fact, in all his publications, he uses the genocidal regime,
8 genocidal policies. So I don't think there's any doubt as to what
9 Mr. Hinton's (sic) opinion is.

10 What I'm trying to do is just see if I can somehow verify the way
11 of him leading up to that conclusion, which is, by the way, not
12 shared by many other experts except the one of last week.

13 [10.12.48]

14 MR. KOUMJIAN:

15 The distinction which I thought was clear to them -- the Defence
16 made this six weeks ago. The distinction is the expert, of
17 course, can give his opinion on facts on what the policies were
18 to the Cham. It then is for the Chamber, after hearing from the
19 parties, to decide whether that fits the legal definition of
20 genocide.

21 So if counsel wants to ask the witness about his statement that
22 Cham were brought for execution, of course, that's proper. But
23 he's now sending up an argument with the witness about genocide
24 when we all agreed that we couldn't ask the witness for his
25 opinion on that.

1 [10.13.27]

2 MR. KOPPE:

3 But I wasn't asking this question. I wasn't asking whether he
4 thinks there was a genocide.

5 I was asking only to -- to tell me if there are any indications
6 whatsoever that his research or that his interviews with
7 individuals <are> somehow representative. It is our opinion that
8 it is not at all representative, but I'm offering Mr. Osman the
9 possibility to say, well, this is what I did, this is what I did
10 to make sure that the people that I interviewed were, indeed,
11 representative of everyone, all the Cham living in DK. That's
12 what I'm trying to do, and if he doesn't -- if he cannot give
13 that, then I'm happy and I'll move on.

14 MR. PRESIDENT:

15 Mr. Ysa Osman, if you can recall the last question put to you by
16 Counsel Koppe, you may respond.

17 [10.14.37]

18 MR. YSA OSMAN:

19 A. Counsel, for my research, I limited the locations for my
20 research in particular in relation to Krouch Chhmar and Kang Meas
21 districts. And they were part of the East and the Central Zones.
22 And what happened in these two zones, although I could not
23 conduct research and interviews in all sectors within zones, it
24 is my opinion that the accounts are quite similar in nature. And
25 you may ask whether such accounts of people actually refer to

1 what happened in other zones.

2 I did not have the ability or the capability to conduct a
3 research throughout the country.

4 As for my book, the main focus was on the two districts, Krouch
5 Chhmar and Kang Meas, and they were part of the East and the
6 Central Zones.

7 As for it <being> representative <of> all the Cham people living
8 throughout the country during the regime, I do not have a
9 response for that. It is up to the wisdom of the Chamber to make
10 that decision.

11 MR. PRESIDENT:

12 Thank you. It is now convenient for a short break.

13 And I notice that Counsel Koppe wishes to say something.

14 [10.16.21]

15 BY MR. KOPPE:

16 Just if you allow me, Mr. President, to finish this subject
17 before we go into the break, because I have only one last
18 question.

19 Q. So Mr. Osman, when you're saying, "I found that Cham people
20 were gathered and brought for execution," when you gave that
21 answer, you limited yourself only to those two districts in the
22 East and the Central Zone. Is that correct?

23 MR. YSA OSMAN:

24 A. As I have just stated in my previous response, I relied on
25 <what happened based on> the accounts of those people for

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1 authoring the book, and they were the accounts of those who lived
2 in Kang Meas and Krouch Chhmar districts -- that is, in the East
3 and the Central Zones.

4 [10.17.25]

5 MR. PRESIDENT:

6 It is now convenient for our short break. We will break now and
7 resume at 25 to 11.00.

8 Court officer, please assist the expert during the break time and
9 invite him as well as the legal officer of OCIJ back into the
10 courtroom at 25 to 11.00.

11 The Court is now in recess.

12 (Court recesses from 1017H to 1039H)

13 MR. PRESIDENT:

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

15 Before the Chamber hands over the floor to the team defence team
16 for Mr. Nuon Chea to resume the questioning, the Chamber would
17 like to remind the defence teams for the Accused that the two
18 teams have one more day and one session to put questions to this
19 witness. Altogether, you have five sessions.

20 Tomorrow, the Chamber do -- the Chamber does not have the reserve
21 witness to come and testify, and the Chamber is now considering
22 to select and decide which witnesses to be -- to testify before
23 the Chamber, so the Chamber will work with the WESU to ensure
24 that witnesses will come to testify and to ensure that the
25 proceedings can hear as many witnesses as possible.

1 Now the Chamber hands over the floor to defence team for Mr. Nuon
2 Chea to resume the questioning.

3 You have the floor now.

4 [10.40.44]

5 BY MR. KOPPE:

6 Thank you, Mr. President.

7 Q. Hello again, Mr. Osman. Before I move into the next subject,
8 the policy of Democratic Kampuchea toward Cham, let me revisit
9 one subject of -- before the break, and this is just to give you
10 an opportunity about your book, "Navigating the Rift", not being
11 about Democratic Kampuchea. Are you really sure?

12 Just to help you, we did some checking. There are a few chapters
13 or paragraphs on DK, as a matter of fact.

14 [10.41.44]

15 MR. YSA OSMAN:

16 A. In my third book, the theme of the book is focusing on the
17 marriage -- mixed marriage between Khmer and Cham people. It
18 shows that the two nationalities or ethnicities did not
19 discriminate religion and ethnicities. They have lived peacefully
20 and in harmony together. The world should follow <their example>.
21 And I cannot recall whether the stories of Khmer Rouge time was
22 included in that third book, since that third book was -- was
23 published a long time ago.

24 Q. Again, it's not important, but there is a paragraph on the
25 Cham persecution during Democratic Kampuchea, a paragraph called

1 "The Erasing of Cham Identity". A paragraph on the elimination of
2 the Chams from Cambodia, your rebellion. So it is correct that
3 "Navigating the Rift" does address a policy toward Cham during
4 DK; correct?

5 [10.43.28]

6 A. As I told you, the purpose of that book is not to focus on the
7 experience in the Khmer Rouge time, but the people went through
8 the regime. <>

9 If you want, I can read and go through the book and tell you
10 exactly what was in that -- what is in it.

11 Q. That's not necessary, but I think we agree now. That is
12 important. At least we agree on a few things, Mr. Osman.

13 Let me move on to what you said and what I just quoted from your
14 testimony. On the 9th of February at 9.46, you said: "Talking
15 about DK policies, I could not find any documents on this
16 matter."

17 That is correct, isn't it? There isn't one single contemporaneous
18 DK government that talks about the killings or the executions of
19 Cham. Not a "Revolutionary Flag", not a telegram, not minutes of
20 Standing Committee meetings. Absolutely nothing. Correct?

21 [10.45.20]

22 A. Allow me to inform you and the Court on this particular point.
23 I do not assert that there are no supporting documents, but as of
24 now, I haven't been able to locate the -- those documents. <I
25 believe such documents,> such orders <existed, because> what

1 happened in different villages, the methods of killings, the
2 methods of arrests occurred in the same manner<>. <Also, there
3 were> survivors <who> stated that they have once seen those
4 documents. <So the documents surely existed.> However, I can say
5 that those documents may have been concealed or may have been
6 destroyed. And I cannot tell you what was going on with those
7 documents.

8 Q. Well, let's talk a little bit about those documents. We both
9 agree that there aren't any documents available now.

10 Is it correct when I say that your opinion that there was a
11 policy to execute the Cham or parts of the Cham is based not only
12 on your interviews, but also more particularly on an interview
13 that a person called Sos Kamry gave to you?

14 [10.47.14]

15 Let me read from your book to assist you, your book, "The Cham
16 Rebellion", E3/2653. It was also referenced by the Prosecution.
17 And you write the following, the interview you had with <> Sos
18 Kamry<>:

19 "One day, during 1977, according to his own account, he was
20 called to a meeting in Bos Khnaor village in Chamkar Leu
21 district. The agenda for the meeting was to specify a plan called
22 'the plan to smash the enemy'. Kamry reported that, during the
23 meeting, he heard the chairman declare the enemies of the
24 revolutions are many, but our biggest enemies are the Cham. So
25 the plan calls for the destruction of all the Cham people before

1 1980."

2 [10.48.19]

3 You also refer to something that -- a person called Saleh Ahmat
4 testified to, someone who, two weeks ago, testified in this
5 courtroom, someone who is the present bodyguard of Prime Minister
6 Hun Sen.

7 But is it fair to say that the evidence that Sos Kamry seems to
8 be giving you is your most important source for saying that there
9 might have been a DK document indicating the smashing of the
10 Cham?

11 A. In -- based on the testimony of the <witness> Sos Kamry, that
12 person told <me> that he has seen the documents, and Saleh Ahmat
13 said he attended a meeting <and heard> about the policies to
14 cleanse <the> Chams.

15 There are many other witnesses indicating that they have heard,
16 seen the documents relating to the order to cleanse Cham. Witness
17 Sos Kamry saw a document, and he recalled that Cham people had to
18 be cleansed before 1980, and that was the plan of the Democratic
19 Kampuchea.

20 [10.50.26]

21 Q. But would you agree with me that, whatever he told you is the
22 closest you think you got to saying that there might have been a
23 document in relation to what should happen to the Cham?
24 Is that the closest that you got to a possible existence of a
25 document, his testimony of something he saw in '77?

1 A. I believe there are documents available. If not, those people
2 did not have anything to talk to me, and Sos Kamry stated clearly
3 that he has seen the document or documents.

4 During the research period, I have been trying my utmost to
5 locate documents and I have seen the telegram 15 indicating about
6 the plans to evacuate Cham people out of the East. Telegrams and
7 meeting minutes also prove about the killing of Cham at
8 respective base areas.

9 Once again, as I said, I, myself, have not been able to locate
10 the document or documents stating about the purge or cleansing of
11 Cham people <all over the country>. I have not been able to
12 locate all those documents.

13 [10.52.27]

14 Q. I forgot to mention another category. You did extensive
15 research into Cham people who were detained at one point in time
16 in S-21. Have you encountered any S-21 document, a notebook, a
17 confession, internal guidelines, testimony of any person working
18 in S-21 that could confirm there was a document in relation to
19 what should happen to the Cham?

20 A. In my first book, "Oukoubah", there is one section in that
21 book on the arrest of Cham people, and they were sent to S-21
22 and, later on, were killed. Confessions, photograph and other
23 relevant documents remain<>. S-21 was a security centre to
24 cleanse the most important prisoners, namely, high-ranking
25 officials and officers in Lon Nol time, and also the former

1 cadres of the DK.

2 Q. Let me interrupt you. And I apologize for interrupting you,
3 but my question is: Are you aware of any document, any
4 contemporaneous DK government document that says Cham had to be
5 killed because of the fact that they were Cham?
6 Anything in relation to the killing of Cham as a group; any
7 document, at all, that would indicate any possible reference to
8 such a policy.

9 [10.55.08]

10 A. I have repeatedly answered that question put by you. I have
11 not been able to locate such documents.

12 Q. Okay, then, we agree.

13 Did you discuss this topic of possible contemporaneous documents
14 in relation to the Cham with Mat Ly?

15 A. I have interviewed one witness who is already deceased. His
16 name is Mat Ly.

17 Q. Is it correct that Mat Ly was a relatively high-ranking Cham
18 in the DK government? He was a member, rather, of the National
19 Assembly and he was also a district leader in the former East
20 Zone. Is that correct?

21 A. Correct. However, he sacrificed <himself> and did not hold
22 that position in 1978 since cadres from the East Zone were
23 cleansed, so he <ceased> to be <a> high-ranking cadre in 1978,
24 from my recollection.

25 [10.57.16]

41

1 Q. Well, let's see whether that is correct.

2 MR. KOPPE:

3 Mr. President, I would like to show Mr. Osman a copy of a few
4 short biographies made up by the Vietnamese authorities and
5 translated into German by the Stasi, the state security service
6 of the former German Democratic Republic.

7 It is E3/9720. And I would like to give that to Mr. Osman, and I
8 would like him to go to the very last pages of the document that
9 I have prepared for him, more particularly, English ERN 01206330,
10 and the document before that, which seems to be the same person,
11 01206360.

12 So with your leave, Mr. President, I would like to show these two
13 documents to Mr. Osman and ask him a few questions about this.

14 MR. PRESIDENT:

15 Please proceed.

16 [10.59.55]

17 BY MR. KOPPE:

18 And maybe for the benefit of Judge Fenz, the German ERN of those
19 two documents are 01002049 and 01002063.

20 Q. Mr. Osman, you've had a chance to look at these two short
21 biographies. In those two short biographies, you see that the
22 name of the persons -- the person -- or two persons are redacted.
23 However, we can see that the person whose biography is being
24 discussed or being detailed is a Cham. At the time, in 1978, 53
25 years old. Born in <Stoeng> village, Popel commune. And that he

1 was a member of district Kampong Cham -- Tboung Khmum, Kampong
2 Cham province, Sector 21, and unit of the Tboung Khmum district.

3 [11.01.12]

4 We believe that these two documents relate to the same person
5 because the text is almost identical except for two redacted --
6 or three redacted parts in the second version.

7 But my question to you is: Would you agree with me that the Stasi
8 document that I have put to you is a short biography of Mat Ly?

9 MR. YSA OSMAN:

10 A. Since the name is redacted, how could I guess which -- whose
11 biography it is?

12 Q. Well, it wasn't very difficult for us to presume that it's the
13 same person because he's a Cham and he actually refers to his
14 position in the Tboung Khmum district, so ---

15 MR. KOUMJIAN:

16 Your Honour, just one request for an observation or clarification
17 from the Defence.

18 The biography states that this person was deputy chairman of the
19 Committee of the Movement of the Christian Khmer. And is it the
20 Defence position that that was Mat Ly's position, the chairman of
21 the Christian Khmer, or is it the position that the document's
22 inaccurate -- contains inaccuracies?

23 [11.02.55]

24 MR. KOPPE:

25 We do not know. This is drafted by a Vietnamese person and

1 apparently, this person said to the interviewer that he, at one
2 point in time, was a member. But he does say, "Nationality:
3 Cham." He gave -- he gives his place of birth. He gives his
4 current place of residence. He gives his position during DK.
5 Maybe there was another Mat Ly in Bon Khmum (phonetic) -- Tboung
6 Khmum district, but I sincerely doubt that.
7 He understands the Khmer and the Cham alphabets. He says his
8 father is Sos Mak (phonetic). His mother is May Nos (phonetic)
9 and--
10 [11.03.58]
11 JUDGE FENZ:
12 Sorry, Counsel, what are you doing? You asked a question, if this
13 is the person you think it is. He says, "I can't tell you." Are
14 you now testifying and telling us why you think it is the person?
15 MR. KOPPE:
16 No. I'm -- I was reacting to the observation of the Prosecution.
17 The Prosecution picks out one little thing and, in response, I
18 was going through the whole document in which -- from which we
19 believe that it's quite clear that it is, in fact, Mat Ly.
20 JUDGE FENZ:
21 But that's the point. You have spent the last five minutes
22 testifying why you think it's Mat Ly.
23 MR. KOPPE:
24 No, I'm not testifying; I'm reading what is in the document and,
25 and by the way, it's correctly indicated by my team that it was

1 signed -- that's the second document -- on the 21st of December
2 by Mat Ly. That might be a translation issue through Vietnamese.
3 [11.04.59]

4 Q. But maybe, Mr. Osman, you can look at that second document
5 signed by Mat Ly, M-A-C-H (sic).

6 But in combination with all the other personal details, based on
7 your extensive knowledge of Mat Ly, having interviewed him at
8 length, would you be able to give your opinion as to whether the
9 redacted person in these two Stasi documents is, in fact,
10 referring to Mat Ly?

11 MR.YSA OSMAN:

12 A. I have read the document before me. What I can say is that
13 there are some similar points to the Mat Ly that I interviewed;
14 however, there are also discrepancies.
15 For example, here, they refer to Sos Mat (phonetic) as the
16 father's name, but it's not consistent with the Mat Ly that I
17 interviewed, <and I don't believe that Mat Ly would have changed
18 his father's name>. The Mat Ly that I interviewed also did not
19 have anything to do with the Christian religion. <He was a
20 Muslim.>

21 [11.06.37]

22 Q. He says he was a standing representative of the People's
23 Assembly. He says he was a second secretary of the CP -- the
24 Communist Party leadership and a liaison person for Tboung Khmum
25 district.

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1 Let me ask it differently. Do you know any Mat Lys who were
2 members of the People's Assembly, the second person in Tboung
3 Khmum district in the East Zone; do you know anyone who remotely
4 looks like this person described, other than Mat Ly?

5 A. As for each district leadership, at the time, there were three
6 people; namely, there was a secretary, a deputy, and a member.
7 And I'd like to put a question to you. Since the name is redacted
8 and, of course, you, yourself, would know the names, then what is
9 the purpose of putting the question to me to reveal the names
10 that you have redacted?

11 [11.08.08]

12 Q. Since you do not want to confirm, that's not a problem. The
13 reason I'm asking all these questions is something that can be
14 read in this short biography. Assuming, indeed, that the person
15 is Mat Ly, he says that -- and I quote from the document:

16 "On 25 May 1978, I left the reactionaries' organization and
17 worked as a member of the District Committee and a member of the
18 Progressive Committee in a jungle area of Phka Don Kro Cooc
19 Dombe."

20 And it says little -- little further down, "Until the 25th of May
21 1978, continuously active in the revolutionary movement."

22 My question to you is: When you spoke to Mat Ly, did he also say
23 he left the revolutionary movement or he left the CPK in May
24 1978?

25 A. If you ask for the background of Mat Ly, I may have some

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1 answers for that, but I cannot respond to your question when you
2 give me a document where the name is redacted. <I do not know
3 whose document it is.>

4 [11.09.45]

5 JUDGE FENZ:

6 Sorry, Counsel, just to clarify something because I think you
7 might be under a misconception. It's not counsel who has redacted
8 the document, at least, as far as I know. This document has been
9 redacted before it was presented by counsel, just to clarify that
10 for you.

11 BY MR. KOPPE:

12 Q. Otherwise my questions wouldn't -- would be a bit pointless,
13 Mr. Osman, but let me try from a different angle.

14 When you spoke to Mat Ly, yourself, or when you read any of his
15 other interviews that he gave to Heder, that he gave to Kiernan,
16 did you ever read anywhere that he knew, at the time, of the
17 existence of any document dealing with the Cham, to which he,
18 himself, belonged, and of which he was a representative in the
19 People's Assembly? Have you ever come across any remarks from him
20 in relation to the documents or the document that possibly Sos
21 Kamry is referring to?

22 A. I met Mat Ly and I interviewed him; however, he did not
23 mention any document or presented any document to me that it was
24 a contemporaneous document on the killing of Cham people. <>

25 [11.11.50]

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1 Q. And would you then agree with me, he -- if he, indeed, left
2 the CPK in May 1978, he -- considering his senior position, he
3 most likely would have known the existence of a document referred
4 to by Sos Kamry that, apparently, existed in 1977 and which,
5 apparently, was available to very low-ranking cadres?

6 MR. PRESIDENT:

7 Mr. Expert, please hold on, and International Lead Co-Lawyer for
8 civil parties, you have the floor.

9 MS. GUIRAUD:

10 Thank you, Mr. President.

11 The foundation of this question is the biography<>, <yet the
12 expert> doesn't identify the person <whose> name is redacted as
13 Mat Ly. So this question is particularly leading because the
14 expert has not confirmed that the person mentioned in the
15 biography was, indeed, Mat Ly.

16 [11.13.05]

17 BY MR. KOPPE:

18 Let me try it differently, Mr. President. I'm happy to
19 accommodate the civil parties.

20 Q. Is it correct that Mat Ly, together with people like Heng
21 Samrin and many others in the East Zone, defected the CPK in May
22 '78? There are other examples, like Prime Minister Hun Sen, who
23 left in June '77, and Ouk Bunchhoeun maybe earlier, but my
24 question is: Isn't it correct that Mat Ly left the CPK in May
25 '78?

1 MR. YSA OSMAN:

2 A. From my recollection of the interview with him, he actually
3 spoke about that.

4 Q. And taking into consideration his position as a representative
5 in the Assembly, his position as a ranking cadre number 2 in one
6 of the districts in the East Zone, particularly considering the
7 fact that he was a Cham himself, would it be fair to say that if
8 any contemporaneous document would have existed indicating the
9 destruction of the Cham, he, surely, must have known it?

10 [11.15.10]

11 A. I think your <statement, "if any contemporaneous document
12 would have existed, he must have known it,"> is your personal
13 conclusion; however, Mat Ly never told me that he did not have
14 those documents. What happened is that he did <not see> the
15 document, and maybe <because> any document related to the killing
16 of <his group of> people could be concealed from him.

17 He told me that his father, who actually worked for the Khmer
18 Rouge since 1970 or '71, was poisoned by them and as a result, he
19 died. He also acknowledged that the Cham people were purged in a
20 large scale in the East Zone.

21 Q. That wasn't my question. My question was: Any contemporaneous
22 document.

23 But isn't it also true, Mr. Osam, that Mat Ly had a high-ranking
24 position in the PRK government after '79 and that the PRK
25 government, not only in the trial against Pol Pot and Ieng Sary,

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1 but also in any -- in many other forums, tried to establish that
2 there was a genocidal policy of the DK government, that that was
3 one of the main tasks of the PRK government to try to show to the
4 world that there was a genocide in relation to the Cham and that,
5 therefore, Mat Ly surely would have used any documents that he
6 would have the possession of when trying to achieve that?

7 [11.17.25]

8 A. Yes, that is correct. He was one of the respected Cham persons
9 in Cambodia, that he represented the Cham people in the
10 government post-1979. However, I should emphasize that in
11 relation to his work post 1979, he did not focus on the research
12 on the killing of the Cham people under the Khmer Rouge regime.

13 Q. I will move on, Mr. Osman. I think my point is clear; at
14 least, I hope so.

15 Maybe now I'll go to the rebellion in the former East Zone in
16 Krouch Chhmar district, the rebellion in September-October '75
17 that you describe, at length, in your book, "The Cham Rebellion".

18 A lot of people that you spoke to give testimony to you and also
19 in this Court, by the way, about the crushing of the rebellion in
20 Krouch Chhmar district, Svay Khleang, Kaoh Phal, etc.

21 Who, in your opinion, was responsible for the crushing of the
22 rebellion in Svay Khleang, Kaoh Phal, Trea village? Which troops
23 were responsible for, apparently, the killing of many Chams in
24 October-November 1975?

25 [11.19.42]

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1 A. Regarding the killing event, I would like to first talk about
2 the confrontation <> in Kaoh Phal and Svay Khleang in around
3 September or October 1975. The first clashes <were between the
4 Cham people and> --

5 Q. I apologize for interrupting you again, but I had only limited
6 time. We have a lot of evidence already. My question is very
7 specific, very focused.

8 We know the events that happened during the rebellion. My
9 question is very specific. In your opinion, which troops were
10 responsible for the crushing of the rebellion and the killing of
11 Cham in November '75? Were these district troops; were these
12 sector forces; were these other forces? What can you tell us
13 about that?

14 [11.20.52]

15 A. There were two types or two kinds of troops: First, the <>
16 clashe<s were> with the troops from the Krouch Chhmar district,
17 and the troops from the district could not get into Svay Khleang
18 and Kaoh Phal since there were more villagers from these two
19 areas and there were less soldiers from the district. And also,
20 the soldiers did not have modern weapons to <invade the
21 villages,> and then there were two -- there was another force
22 that was sent from the sector level and they had cannons and
23 artilleries to shell <> the two villages and to defeat them.

24 Q. Is it correct that Regiment 55 was involved in the suppressing
25 of the Cham rebellion?

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1 A. Based on the accounts of witnesses whom I interviewed, they
2 did not expressly mentioned as to which regiment <or battalion>
3 conducted the attack. They only spoke about soldiers or troops
4 being mobilized from the south of <Krouch Chhmar district going>
5 through <Tuol Snuol and Chhuk commune>. So those soldiers from
6 the South were not at a district level; they were sent from the
7 sector and that was Sector 21.

8 [11.22.52]

9 Q. Is the source of your evidence mainly the evidence offered to
10 you by a person called Man Zain, who in E3/7675; on English, ERN
11 00221859; Khmer, 00221853; and French, 00293925; says the
12 following -- and I quote:

13 "At 9 o'clock, I saw an additional force of hundreds just
14 arrived, wearing uniforms different from those of the district
15 troops. They had backpacks and all types of weapons. They fired
16 heavy weapons and small arms at the rebels. Khmer Rouge boats
17 swept the riverbanks with continuous fire."

18 We have additional testimony in Court indicating that there were,
19 indeed, other troops. Is that the source of your information that
20 sector troops moved in to assist the district troops?

21 [11.24.26]

22 A. The excerpt you took from my book is correct; however, there
23 is another witness who also gave a similar account in relation to
24 the troops from the sector and the name is Sen Kop (phonetic) and
25 during the regime, he was assigned to work in a rubber plantation

1 in Tuol Snuol commune and he saw a large group of soldiers who
2 were trespassing the rubber plantation and after the situation
3 calmed down in Kaoh Phal and Svay Khleang <village> -- that is, a
4 few days later, he saw those troops return <and> trespass<> the
5 rubber plantation again.

6 [11.25.28]

7 Q. Let me read to you an excerpt from a testimony that a Regiment
8 55 combatant gave to investigators of the Co-Investigating Judge.
9 Mr. President, document E3/5261, more particularly, ERN 00274336;
10 French, 00285329; and Khmer, 00250947. It's somebody that we've
11 requested the Chamber to be summonsed -- TCW-997 (sic) -- and he
12 says the following, Mr. Osman:

13 "Yes. By that time, Sokh Saroeun had gone to become the Chairman
14 of the Zone Division, and Sokh Sath was the Commander of D55.
15 That is, Sokh Sath organized the troops to suppress the Cham
16 rebellion. That meeting was held in Sen village, Tromoung
17 district. A meeting was held in '74," he says.

18 [11.26.42]

19 And, "You said that they organized the suppression of the Cham
20 rebellion in '74. Where was it suppressed?" I presume you mean
21 '75.

22 "In Trea sub-district, Svay Khleang sub-district, and Kaoh Phal.
23 All three places were suppressed at the same time.

24 "As far as I know, Sokh Sath received orders from Yun Sophi. Yun
25 Sophi was in the Sector 21 Military Staff." End of quote.

1 Mr. Osman, does that assist you in giving me an answer; were,
2 indeed, sector troops and more particularly, Regiment 55 troops
3 involved in the crushing of the rebellion that you described so
4 extensively in your book?

5 A. Regarding the sector troops, and from what I heard through the
6 interpretation, it's 41, but that is not correct; it should be
7 Sector 21, not 41.

8 And to respond to your question as to the commander of which
9 military unit <> suppressed the Cham people in the area, allow me
10 to say and clarify that I did not have any account from any
11 witnesses whom I interviewed, who expressly stated about that. I
12 actually tried to search for surviving witnesses, who survived
13 the suppression of the rebellion, or those who actually
14 participated in the suppressing of the rebellion, but it was
15 difficult to find any <because, as we know, people who were
16 involved at that time have always tried to hide their identity>.
17 [11.28.47]

18 Q. Do you know a person named Stephen Heder?

19 A. Of course, I know him very well and I considered him as my
20 tutor on the research subject.

21 Q. Is he, in your opinion, an expert in relation to structure of
22 troops -- sector troops in the East Zone?

23 A. I acknowledge that he has a greater wealth of knowledge in
24 relation to the administrative structure and the history of
25 Democratic Kampuchea. He is one of the researchers who's

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1 well-versed in this matter and I have respect for him in this
2 regard.

3 Q. Have you ever heard of an organization called "Human Rights
4 Watch"?

5 A. Yes, it is a well-known organization and I have heard about
6 this document and I also have read some reports that <have been
7 published by this organization> in relation to Cambodia.

8 [11.30.40]

9 Q. What report are you referring to?

10 A. Reports about the events during the Democratic Kampuchea
11 regime <by this organisation> and, of course, I <am not really
12 interested in those because I know quite a lot about it. I'm
13 especially interested in> reports that focus on the current
14 situation here <in Cambodia>.

15 Q. Are you aware of a recent "Human Rights Watch" report that
16 discusses the suppression of the Cham rebellion in 1975 and if
17 yes, do you know who the author is of that report?

18 MR. PRESIDENT:

19 Mr. Expert, please hold on and the Lead Co-Lawyer, you have the
20 floor.

21 [11.31.53]

22 MS. GUIRAUD:

23 Yes, thank you, Mr. President. One observation, now, which is
24 purely procedural in nature.

25 It is clear that the report was rejected by the Chamber in a

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1 repeated way. In any case, that is what -- that is the
2 information that we received. It is decision E347/4. So all
3 questions based on this document should be <prohibited> by the
4 Chamber. In any case, that is our position.

5 [11.32.31]

6 MR. KOPPE:

7 Which is quite an astonishing position, if the civil parties are
8 here for the ascertainment of the truth, Mr. President. But I
9 believe I can ask this question, even though the report that the
10 civil party lawyers are referring to is, indeed, not on the case
11 file. However, it is in the public domain and it has been
12 discussed, so I think I am at liberty to ask Mr. Osman whether he
13 knows of the existence of a "Human Rights Watch" report.

14 [11.33.01]

15 JUDGE FENZ:

16 Can I just say something? I mean, the last question, whether he
17 knows about the existence, is not my problem, but frankly, your
18 general statement that no matter what the Chamber admits, yes,
19 whatever is in the public domain can be used, obviously goes
20 against the idea of admitting documents because then you don't
21 have to go through the process.

22 So, so far, the Chamber has made it clear you -- the substance of
23 the document cannot be used. We are not there yet, but we are
24 coming close.

25 [11.33.41]

1 BY MR. KOPPE:

2 Which, indeed, is still incomprehensible to me, however, I will
3 move delicately.

4 Q. Mr. Osman, are you aware of the existence of a "Human Rights
5 Watch" report, we believe, authored by Steve Heder, that deals
6 with who was responsible for the suppression of the Cham
7 rebellion in 1975?

8 MR. YSA OSMAN:

9 A. I have not read that report in details; however, I have read
10 newspapers which gave some synopsis about that report. I believe
11 it was either in the "Cambodian Daily" or in the "Phnom Penh
12 Post," a newspaper. It spoke about the witnesses who came to
13 testify before this Court and made mention of that report.

14 [11.34.54]

15 Q. And what else did you read in the public domain in respect of
16 the conclusions of this "Human Rights Watch" report?

17 A. I don't get your question right.

18 Q. Well, we're dancing around a little bit, Mr. Osman. My
19 question is: What is it that you read in the public domain? After
20 all, you are an expert on the Cham rebellion, so you should be
21 knowing a little bit more details. But what is it that you read
22 in the public domain about the conclusions of this "Human Rights
23 Watch" report authored, we believe, by renowned expert Steve
24 Heder?

25 A. I do not wish to make my personal conclusion; however, in

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1 reference to the report which was mentioned in the newspaper, it
2 states that the order to kill the Cham came from Sector 21 and
3 certain high-level government officials were mentioned in that
4 report.

5 [11.36.35]

6 Q. Let me move away from the report.

7 Can you give me your opinion as to my proposition to you that it
8 was, indeed, Sector 21, at the time, that was responsible and
9 that, therefore, because of his position -- because of their
10 positions, Heng Samrin, Ouk Bunchhoeun, the number 2 of Sector
11 21, and possibly also Prime Minister Hun Sen, who was the
12 Regiment 55 commander, they were responsible for the suppression
13 of the rebellion that you describe in your book?

14 (Short pause)

15 [11.37.47]

16 A. In my two books, I did not mention any name of <> government
17 officials or that they led the force to suppress and kill the
18 Cham people. I made mention of troops which were sent from Sector
19 21 to suppress <the rebellion of> the Cham people.

20 MR. PRESIDENT:

21 Thank you, Counsel. It is now appropriate for our lunch break. We
22 take a break now and resume at 1.30 this afternoon to continue
23 our proceedings.

24 Court officer, please assist the expert during the break time at
25 the waiting room reserved for witnesses and experts and invite

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1 him back, together with the OCIJ legal officer, into the
2 courtroom at 1.30.

3 Security personnel, you are instructed to take Khieu Samphan to
4 the waiting room downstairs and have him returned to attend the
5 proceeding this afternoon before 1.30.

6 The Court is now in recess.

7 (Court recesses from 1139H to 1334H)

8 MR. PRESIDENT:

9 Please be seated. The Court is back in session.

10 Before giving the floor to the -- the defence team for Mr. Nuon
11 Chea to put question to the expert witness, the Chamber would
12 like to ask a question to the defence team for Mr. Khieu Samphan.
13 Do you wish to put questions to this expert witness based on the
14 <closed session> testimonies of <the> two witnesses whom Victor
15 Koppe requested to use their documents?

16 [13.35.47]

17 MS. GUISSÉ:

18 Yes, thank you, Mr. President, for giving me the opportunity to
19 answer this question. Indeed, I had a few questions in mind
20 regarding an aspect of the testimony of both of these people, but
21 I thought that I wouldn't have to resort to an in camera session
22 because I was not going to be speaking about the duties -- <Well,
23 the way that> I <> planned my questions I was not considering an
24 in camera session, so this is what I <can> say. That's it.
25 Regarding the topics that I am considering, <> I did not think

1 that it was necessary to resort to an in camera session for that.

2 [13.36.31]

3 MR. PRESIDENT:

4 My purpose of asking that question is to allow the Chamber to
5 allocate an appropriate time so that parties, particularly Koppe,
6 can put questions to the witness -- to the expert witness in
7 camera, <which he has requested this morning>. I -- the Chamber
8 just wants to have the smooth proceedings; <if it is necessary,
9 we will choose an appropriate time for a joint closed session for
10 the defence teams questioning. By doing so, we can avoid having
11 multiple closed sessions. The Chamber will deliberate and rule on
12 this issue shortly>.

13 And now the floor is given to the defence team for Mr. Nuon Chea
14 to resume the questioning. You may now have the floor.

15 BY MR. KOPPE:

16 Thank you, Mr. President, and good afternoon, Your Honours, and
17 counsel.

18 I would -- I would like, also, to start with a request to the
19 Chamber to consider giving limited additional time to us for
20 questioning Mr. Osman. What we would have in mind, also in <>
21 light of earlier requests from the Khieu Samphan team, <is> to
22 not only question Mr. Osman tomorrow in the first session, but
23 also in the second session and then, between us, to divide the
24 appropriate time, so that rather than finishing tomorrow after
25 the first break or before the first break, we would finish

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1 questioning Mr. Osman at lunch time.

2 [13.38.09]

3 JUDGE FENZ:

4 Just to be clear, for both?

5 MR. KOPPE:

6 For both, yes.

7 MS. GUISSSE:

8 Maybe to complete what my colleague just said, I would like to
9 remind you what the Khieu Samphan defence's position is since the
10 start. Since the start, we indicated that the time that was
11 considered by the Chamber seemed a bit short to us, not because
12 we want to bother people, but because with Mr. Osman, there are
13 <a> certain number of documents that we have to read <> and that
14 takes time.

15 So I believe I said -- I don't remember <during which hearing>,
16 but I -- in any case, I believe I said that three sessions for
17 the Khieu Samphan defence team is <> a <> minimum. So I would
18 like to stand by this request because, given the time that is
19 allotted to us, we only have two and a half sessions <for the
20 Khieu Samphan defence team>. So I <> stand by my original
21 request.

22 [13.39.04]

23 I think that in an email on 29 January, I repeated the fact that
24 we were probably going to ask for extra time given that time has
25 been reduced in the meantime, <from> a day and a half <to> a day

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.

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1 and a quarter, as -- as it is now.

2 Initially, the Chamber had scheduled each one of the parties or
3 had scheduled a day and a half for the civil parties and for the
4 Prosecution, and then a day and a half for both defence teams.

5 Then the -- the Chamber considered another schedule where there
6 would be a half day given to the Bench which would reduce to a
7 day and a quarter <the> cross-examination of the defence <teams,>
8 and I indicated that that seems to be a bit problematic <in
9 relation to the number of> documents <to cover>.

10 So I would like to request, again, at least three sessions for
11 the Khieu Samphan defence team.

12 [13.40.14]

13 BY MR. KOPPE:

14 Good afternoon, again, Mr. Osman.

15 Q. Before the lunch break, we were discussing, maybe, a delicate
16 subject, sensitive subject; I asked you a question about those
17 responsible within Sector 21 for the suppression of the
18 rebellion, the rebellion that you so extensively described in
19 your book and which the Prosecution -- prosecutors deemed to be
20 crimes against humanity.

21 In your answer to my question, you said -- and I -- we wrote it
22 down and -- and correct me if it's not an accurate description.

23 You said, "In my two books, I did not mention any name of
24 government official or that they led the forces to suppress and
25 kill the Cham people." And then you said, "I made mention of

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1 troops sent from Sector 21 to suppress the Cham people."
2 If this -- if this is, indeed, what you said just before the
3 lunch break, what is the reason that you didn't mention any names
4 of people from Sector 21 or from the East Zone and who happen,
5 now, to have high-government positions, that they were
6 responsible? What was the reason to -- not -- not to do that?
7 [13.42.14]

8 MR. YSA OSMAN:

9 A. Based on my interviews with most people, most of them did not
10 make clear about names of any particular individuals. For this
11 reason, I did not include specific names. Unless the witness told
12 me their names, I would have included those peoples' name.
13 Regarding the suppression of Cham people I, in fact, have
14 referred to the interviews that I have conducted with the
15 witness. I did not include anything beyond what the witness had
16 said.

17 Q. True, I accept that. However in your book there is quite a big
18 chapter on the Sector 21 structure and the East Zone structure.
19 That is information I presume you have partially from
20 contemporaneous documents. I believe it's quite well known who
21 was the Sector 21 chief and who was the second man. It's quite
22 well known who was the chief of the military staff in the East
23 Zone. It was quite well known who was the East Zone leader.
24 [13.44.01]

25 You write extensively as to what happened, but it seems that you

1 do not wish to write down in your book or give testimony today as
2 to who are the principal -- who could be the principal
3 perpetrators of these crimes against humanity. Is that maybe
4 because you are afraid to do so?

5 A. I do not have the fear to include that information, but my
6 researches have their limits. In researching more detailed
7 information, they may have some particular individuals who are
8 now working in <> government positions and these people may have
9 related to the activities during the Khmer Rouge time. So I have
10 nothing to add besides what I have just said.

11 Let me clarify one point. While I was working at DC-Cam I used to
12 write a letter requesting to have interviews with some officials
13 in the government. The reason of that letter <was> to try to find
14 out more information, but at the time no response was
15 communicated to me.

16 [13.46.07]

17 Q. Just to be entirely sure, at one point in time during your
18 testimony we will be moving into a closed session. Would it be
19 helpful to you if I were to request the Trial Chamber to close
20 the doors and then ask these same questions?

21 A. I have my legal officer here assisting me in answering your
22 questions.

23 MR. PRESIDENT:

24 You can consult with the legal officer but you cannot ask your
25 legal officer to give the response in replacement of yours.

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1 So the issue is whether or not the question has something to do
2 with Case 003 and 004. So you can consult with her.

3 (Short pause)

4 [13.48.01]

5 MR. YSA OSMAN:

6 My apology, Mr. President. I, at first, thought she had the right
7 to give her response to questions put by Counsel. <Sorry, I was
8 confused.>

9 In relation to the question, particularly the killings of Cham
10 people by officials in the <present> government, I would like to
11 object to answer the question.

12 [13.48.34]

13 BY MR. KOPPE:

14 Q. I believe Madam Bardèche, the legal officer, is there to
15 advise you if my questions in any way would relate to the
16 investigation into Cases 003 and 004. I'm not sure how you
17 perceive my questions to have anything to do with Cases 003 and
18 004. My point is the following. Let me explain again.

19 We have touched <on> a delicate and sensitive issue and that is
20 the question whether -- let me formulate it neutrally -- present
21 government members are somehow involved in the crimes against
22 humanity alleged against the two Accused in September 1975,
23 October 1975. We all agree that you are an expert on the events.
24 My question was only, would it assist you, would it help you if I
25 were to ask the Chamber to close the doors and then ask the

1 question again?

2 [13.50.05]

3 MR. YSA OSMAN:

4 A. I would like not to answer your question particularly in
5 relation to individuals who used to be working in Sector 21,
6 whether in closed or open sessions. My apologies. I cannot expand
7 further on this particular issue besides what I have just said.

8 MR. KOPPE:

9 I understand but, Mr. President, I understand the role of the
10 expert to be that if the question is beyond the expertise then
11 obviously Mr. Osman is under no obligation to answer such a
12 question. But if it is well within his expertise and even well
13 within the exact parameters of his book and investigation, I
14 believe he is under the obligation to answer. I only try to
15 assist the expert by offering him to request you to close the
16 doors.

17 But I don't believe he is allowed to say "I don't want to answer
18 this question". Of course as long as it doesn't impede on Cases
19 003 and 004, which I believe it doesn't, because I don't believe
20 those people that we discussed are subjects of the investigation.

21 (Judges deliberate)

22 [13.56.26]

23 MR. PRESIDENT:

24 The Chamber's opinion is that the expert witness should answer
25 the relevant questions put to you in relation to your expertise.

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1 And if the questions are related to your field of expertise and
2 your knowledge and experience, you should answer the questions.
3 You can say "I do not know" to the questions that is put to you.
4 By saying "I do not know", it's also a form of <answer. This is
5 the principle that we have followed so far.>

6 So the Chamber cannot force you to give <> responses to any
7 questions beyond your realm of expertise and knowledge. Do you
8 understand, Mr. Expert Witness?

9 [13.57.27]

10 So again, if you have the basis and if it is within your field of
11 expertise, you should answer the questions. You are here as an
12 expert witness, not a simple witness. For simple witnesses, they
13 have -- they should answer what they have known. Then they cannot
14 answer the assumption of what they did not know.

15 So now, you can resume your questioning, Counsel Koppe.

16 BY MR. KOPPE:

17 Thank you, Mr. President.

18 Q. My last question was just intended to assist you and asking
19 you if you would be more comfortable if I asked the Trial Chamber
20 for a closed session. So if you say that doesn't matter then I
21 will just ask the question again to you and then hopefully you
22 will be able to answer.

23 So would you be more comfortable if I moved this subject to the
24 closed session that we will be having, I don't know, sometime,
25 probably tomorrow?

1 [13.58.33]

2 JUDGE FENZ:

3 May I just add something here because while she is not allowed to
4 give legal assistance to this subject, the Chamber obviously can
5 explain.

6 If you ask for a closed session there are legal -- there are
7 preconditions for that, so you would have to allege that you feel
8 threatened if you answer the question in open session, you or
9 your family.

10 I am handing it back to Counsel.

11 [13.59.11]

12 BY MR. KOPPE:

13 Q. I don't see any reaction on your part, Mr. Osman. Let me try
14 again and let me see if I can put the question in a broader
15 context and then see if you are willing to answer.

16 You have been testifying at length about the Cham rebellion in
17 '75 in Svay Khleang, Trea Village, Kaoh Phal. As I said, you have
18 written an entire book on this subject.

19 According to your own interview with Mat Ly, only 20 to 30
20 percent of thousands of families in Kaoh Phal survived. I'm not
21 sure if Mat Ly is correct but that's what he said.

22 In your book you are writing extensively about Sector 21
23 structure and the East Zone structure. Those three villages are
24 within Sector 21.

25 Your mentor was indeed, you said, expert Steve Heder, whom we

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1 believe is the author of that "Human Rights Watch" report I am
2 not at liberty to discuss with you.

3 I'm putting it to you that Sector 21 and/or the East Zone forces
4 were solely responsible for the brutal suppression of this
5 rebellion.

6 I am furthermore putting it to you that among others, Mr. Ouk
7 Bunchhoeun, the Number 2 of Sector 21 in 1975; Heng Samrin, the
8 chief of the East Zone Military Staff, So Phim, the East Zone
9 leader and Hun Sen, Regiment 55 commander in '75, that they were
10 all responsible for these crimes against humanity.

11 My question is, please give your expert opinion to these
12 propositions and please indicate if you agree that they were
13 among the main perpetrators of these crimes against humanity.

14 [14.01.58]

15 MR. KOUMJIAN:

16 Just one quick observation: It's a very long introduction to the
17 question where Counsel makes various assertions, one of which is
18 that the book the witness wrote extensively discusses Sector 21,
19 and I don't recall that being discussed, the structure of Sector
20 21 and the Sector 21 military in the book. I think there is a
21 list of who was the district secretaries for Krouch Chhmar but
22 not for the sector structure.

23 MR. KOPPE:

24 The same question --

25 [14.02.36]

1 MR. PRESIDENT:

2 Defence counsel, please hold on.

3 MR. SENG LEANG:

4 Mr. President, I noticed that the defence counsel mentioned some
5 government officials and that they <are alleged to have
6 committed> crimes against humanity, and I would like to have the
7 source for that reference.

8 BY MR. KOPPE:

9 Well, I'm not sure how to react to that one.

10 Mr. President, I will adjust my question as to what you describe
11 in your book as district Krouh Chhmar and Sector 21, but the
12 question remains the same.

13 I am putting this proposition to you that at least those four
14 people mentioned can be considered the main perpetrators of these
15 crimes against humanity in Krouh Chhmar district. What is your
16 expert opinion on that proposition?

17 [14.04.00]

18 MR. YSA OSMAN:

19 A. What I stated in the book was based on the available documents
20 as well as accounts of people that I interviewed. And as I
21 stated, none of the people that I interviewed expressly mentioned
22 any of those names. They made an indirect reference to those
23 people that they were part of the leadership in Sector 21 <or in
24 the East Zone>. However, they did not mention that the four
25 individuals, including Heng Samrin and Hun Sen, <> were

1 implicated in the killing of the Cham people, <I have yet to
2 receive this information>.

3 And the four individuals that you mentioned, they are survivors
4 and they are living now. And if you wish to get clarification on
5 that, you should put such a submission to the Chamber so the
6 Chamber can call them for clarification.

7 [14.05.11]

8 Q. Oh, that is my favourite hobby asking that witness be
9 summonsed, Mr. Osman. But I will move on because I don't expect
10 an answer. As a matter of fact, if I were you I wouldn't answer
11 that question either.

12 But let me move to Ouk Bunchhoeun.

13 MR. KOUMJIAN:

14 Can I just make an objection to speeches rather than questions
15 during examination of a witness? I think Counsel is using up his
16 own time by making speeches as opposed to just asking the witness
17 the questions he believes are relevant?

18 MR. KOPPE:

19 I will withdraw from speeches.

20 MR. PRESIDENT:

21 Mr. Expert, you are reminded to respond only to the limits of
22 your expertise, and you do not need to mention or interfere with
23 the authority or the discretion of the Chamber, for example, on
24 the summoning any witnesses.

25 You should respond to the limit of your knowledge and expertise

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1 and if you don't know the response to that question or fact or
2 event, you just simply say no. You don't need to make any
3 descriptive response. Otherwise, you will put yourself in the hot
4 seat.

5 [14.06.40]

6 BY MR. KOPPE:

7 Thank you, Mr. President.

8 Q. Mr. Osman, I will move on and now turn to the subject of who
9 might have been behind the '75 rebellion that we have been
10 discussing.

11 Let me turn to an interview that Ouk Bunchhoeun had with your
12 mentor, Steve Heder, document E3/387, English ERN, 00350206;
13 French 00441418 --

14 [14.07.26]

15 MR. PRESIDENT:

16 Counsel, please repeat the document number and the ERN again and
17 do it slowly this time since three working languages are used in
18 this Court.

19 BY MR. KOPPE:

20 I apologize, Mr. President. It's document E3/387, Khmer ERN,
21 00379487; English, 00350206; French, 00441418 and 19.

22 As I said, it's an interview from Steve Heder with Ouk
23 Bunchhoeun, the Number 2 of the sector. And he is saying the
24 following about the rebellion. He is talking about two movements.
25 He says:

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.

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1 "The first movement was of Cham Muslims along the Mekong river,
2 Krouch Chhmar district, Tboung Khmum district in Sector 22," --
3 he means 21 -- "which included certain districts in the provinces
4 of Prey Veng, Kampong Cham and Kandal."

5 And he says:

6 "The movement intended to create a state within the state because
7 the Cham Muslims wish to occupy Cambodian territory on the
8 eastern bank of the Mekong river to central Annam to create a
9 state. This was according to their confessions. They had an
10 organization, FULRO Champa, under the leadership of Sabuon Les
11 Kosem."

12 [14.09.13]

13 I will address the question of confessions because I know that's
14 the Prosecution's objection. Let me first ask you, do you know
15 this document?

16 MR. KOUMJIAN:

17 Your Honour, I would like to hear my -- have my objection heard
18 before Counsel proceeds. He has just read out something that he
19 acknowledges comes from a confession. My understanding of your
20 ruling is that he is not allowed to do that. He has read it out
21 and now he is putting it to the witness that the results of what
22 came from confessions, we believe from torture and now trying to
23 say that that's the evidence that he is relying upon, to put
24 before the expert witness. I think your prior rulings are that
25 it's against the dignity of the Court to put evidence that was

1 derived by torture in front of the Court or in front of the
2 witness.

3 [14.10.06]

4 MR. KOPPE:

5 As a matter of fact, I re-read because of yesterday's event, your
6 decision. And if I understand your decision correctly, we need to
7 establish if the confessions that someone might be referring to
8 are indeed coming from institutions of which we believe there
9 might be a real risk that torture was committed.

10 I agree if that were to be S-21, but I'm trying to find out
11 whether Ouk Bunchhoeun was in fact, when he was giving this
12 interview, relying not on confessions of S-21 but, rather, on
13 confessions of Krouch Chhmar Security Centre, of which we have no
14 knowledge whatsoever that people who were there were tortured.
15 So if the expert can answer this question and maybe shed light on
16 the use of confessions and if they were indeed maybe from Krouch
17 Chhmar Security Centre, which would make sense, then we have a
18 different situation.

19 [14.11.26]

20 MR. KOUMJIAN:

21 Could I suggest that we ask Counsel what his question is, because
22 I do object to him reading what he read, but I think the next
23 step is, what is his question?

24 BY MR. KOPPE:

25 I have no problem in asking my question because I would like to

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1 confront Mr. Osman with something he said when answering a
2 question from Judge Lavergne.

3 At -- it's the transcript of 10 February 2016, at 15.43. And the
4 question of Judge Lavergne was:

5 "To the extent that the objective of the FULRO was to create a
6 Cham state and to support (sic) the Champa, if I understood you
7 correctly, could the Khmer Rouge not have seen in such plans
8 something that could eventually pose a threat to the Democratic
9 Kampuchea regime or, according to them, it was in their interests
10 insofar as such a force risked turning increasingly against
11 Vietnam as opposed to (sic) Cambodia?" That's the question of
12 Judge Lavergne.

13 [14.12.37]

14 And then the answer of Mr. Osman is:

15 "The history of the FULRO movement never wanted to capture
16 Cambodian territory and created the Champa state. The FULRO
17 movement itself was supported by the Cambodian government and by
18 the Cambodian people. There was only one goal for the FULRO
19 movement. That was to regain back the territory of Champa and
20 there was only one important goal."

21 Now, he is saying something which seems to be at odds with what
22 Ouk Bunchhoeun is saying, whether he is relying on confessions or
23 not. So that's the actual ultimate goal of my question.

24 [14.13.19]

25 MR. KOUMJIAN:

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.

1 Okay. And if I could just be heard on the issue of whether the
2 burden to establish whether something is from torture or is not,
3 I understand the ruling of the Court to be that the burden is on
4 the party proposing to use that evidence to show, where there is
5 a risk that the evidence was not obtained by torture. Counsel has
6 just said he has no information about Krouch Chhmar and, again,
7 he is just speculating that maybe this evidence came from Krouch
8 Chhmar Security Centre.

9 Our view is that the evidence has shown throughout DK that
10 torture was regularly used in the security centres. Counsel has
11 basically, in our view, admitted he cannot meet the burden of
12 proof to show that the documents do not come from torture.

13 Furthermore, we know that Cham were taken to S-21 and tortured.
14 That's part of the expert's book. So we don't think the Defence
15 has met or can meet the burden of showing that the information
16 did not come from torture. Our view is it clearly did.

17 [14.14.25]

18 MR. KOPPE:

19 And why is it, Mr. President, that we cannot meet this burden?

20 Because I think six times already we have asked for Mr. Ouk

21 Bunchhoeun to be summoned to testify so that we could ask the

22 question to himself. Then we will know what the confessions were

23 that he was referring to. Now, we still don't know and now we are

24 being accused of not meeting our burden. That's a little bit of

25 an odd remark.

1 But, anyway, I think I am allowed to ask the questions.

2 JUDGE FENZ:

3 If I remember correctly when it comes to the burden of proof, the
4 first step is a real risk assessment to be done by the Trial
5 Chamber and then we get into the next steps. So this is the first
6 thing to be done.

7 MR. KOPPE:

8 Correct. But you have deleted from the scope Krouch Chhmar
9 Security Centre, so there is no information for us there. I'm not
10 allowed to question Ouk Bunchhoeun, so my hands are tied. And I
11 am asking Mr. Osman whether he knows if the confessions could be
12 coming from Krouch Chhmar. It will be speculation, I agree, but
13 still.

14 (Judges deliberate)

15 [14.18.25]

16 JUDGE FENZ:

17 Counsel, to avoid confusion, could you please re-present or
18 re-read the part which says that this is based on confessions or
19 redirect us again to the part of the document where it says that
20 this is based on confessions?

21 MR. KOPPE:

22 So that's in Ouk Bunchhoeun's interview with Heder. He is being
23 asked questions about the rebellion and then he offers
24 information on FULRO and says that the movement intended to
25 create a state within the state. And then there is the sentence,

1 "This was according to their confessions."

2 [14.19.14]

3 JUDGE FENZ:

4 Thank you.

5 MR. PRESIDENT:

6 And International Lead Co-Lawyer, you should have taken the stand
7 before the Bench deliberates the matter. Usually, you are on the
8 Prosecution's side and you should take a stand after the
9 Co-Prosecutor. I believe everyone is here or has been here for
10 many years so you should know the practice.

11 Anyway, we will allow you this time but in the future do not do
12 it that -- do not do that again.

13 MS. GUIRAUD:

14 Thank you, Mr. President. I have taken due note of your remarks,
15 and I will prepare myself accordingly.

16 I read your decision and I noticed that, if I <> read it
17 properly, the Chamber <has> already assessed the prima facie risk
18 considering that all security centres including S-21 presented a
19 risk. So we are not only talking of S-21 but all the security
20 centres. That is what I read in your decision in any case. I
21 wanted to point this out before you go into your deliberations.

22 [14.20.51]

23 JUDGE FENZ:

24 My understanding is that Counsel's objective is to show that
25 these confessions were coming from a situation when no torture

1 was applied.

2 MR. KOPPE:

3 Yes, and if I understand your decisions earlier correctly there
4 is no such real risk situation when it comes to Krouch Chhmar
5 Security Centre. I'm not sure because I don't have the evidence
6 or the decision in front of me, but there seems to be a list of
7 security centres where this is presupposed but that Krouch Chhmar
8 Security Centre is not one of them. I don't know if that is
9 correct. That's what I am being told here.

10 [14.21.40]

11 MR. PRESIDENT:

12 Judge Lavergne, you have the floor.

13 JUDGE LAVERGNE:

14 Thank you, Mr. President. For <purposes of> the <transcript, as>
15 I do not have <this> decision with me here, can Counsel Guiraud
16 give us the <exact> references of that decision? But if I
17 remember correctly, I believe this Chamber said that all the
18 security centres <which> are listed in the Closing Order <>
19 should be considered in like manner.

20 MS. GUIRAUD:

21 Mr. President and the Judges, it is decision E350/8 and in
22 English, "The TC considers confessions from S-21 and other
23 security centres to carry a real risk that they were obtained by
24 torture." So upon reading your decision it appears to be clear
25 that all the security centres are covered by the prima facie

1 assessment that you made in your decision.

2 JUDGE LAVERGNE:

3 And Ms. Guiraud, what is the paragraph? What is the paragraph of
4 that decision?

5 [14.23.04]

6 MR. KOPPE:

7 Seventy-nine. Let me read to you and, if I am allowed to say it,
8 to read better, what I believe your decision is. The Trial
9 Chamber refers explicitly to paragraphs 1408 and 1411 of the
10 Closing Order. Those are the security mentioned that allegedly
11 used torture and the security centres which fall into that
12 category are Koh Kyang, Koh Kduoch, Krang Ta Chan, the North Zone
13 Security Centre, Phnom Kraol, Prey Damrei Srot, S-21, Sang and
14 Wat Tlork. So no Krouch Chhmar Security Centre.

15 (Judges deliberate)

16 [14.29.23]

17 MR. PRESIDENT:

18 I would like to hand the floor to Judge Lavergne to make an oral
19 ruling on this matter so that we can proceed with hearing the
20 testimony of the expert.

21 Judge Lavergne, you may proceed.

22 JUDGE LAVERGNE:

23 Yes, thank you, Mr. President.

24 The Chamber considers that the practice of torture is, on first
25 sight, a practice that was generalized and applied in all

1 security centres in Democratic Kampuchea including, therefore,
2 Krouch Chhmar. Therefore, the Chamber considers that if the
3 foundation of the question involves information obtained in
4 confessions coming from Krouch Chhmar, there is a presumption
5 that these confessions were obtained under torture and therefore
6 it's up to the Defence to convince us of the contrary.
7 So if the aim of the question to the expert is to question him on
8 <> whether or not torture was practiced at Krouch Chhmar, fine,
9 <> in that case, the question would be allowed. However, if the
10 point is to put questions to him using information that is liable
11 to have been obtained under torture, in that case the question
12 would not be authorized.

13 [14.31.04]

14 BY MR. KOPPE:

15 I really do not understand this decision. Krouch Chhmar is not on
16 the scope of this trial so we cannot find out. It's not mentioned
17 in the Closing Order as a place where torture was committed. We
18 cannot ask Ouk Bunchhoeun because he is not coming.

19 Q. Maybe you, Mr. Osman, maybe -- do you know anything about
20 Krouch Chhmar Security Centre?

21 MR. YSA OSMAN:

22 A. Yes.

23 Q. What is it that you know about Krouch Chhmar Security Centre?
24 Were people sent there after the rebellion?

25 [14.32.03]

1 A. In relation to the rebellion at Kaoh Phal <village>, those who
2 were involved in that rebellion were not sent to the <district>
3 security centre. Definitely those who rebelled at Svay Khleang
4 <village> were sent to <Krouch Chhmar district security> centre.
5 The location of the centre was so small so it cannot -- it could
6 not accommodate hundreds of <prisoners>. <Some> were <> sent to
7 be detained at schools and the pagodas.

8 Q. Before I go into the details of Krouch Chhmar Security Centre
9 and those schools, do you know whether people who were involved
10 in rebellion and who subsequently had been arrested, gave
11 statements or confessions which were then subsequently sent to
12 Ouk Bunchhoeun?

13 A. Frankly speaking, I have never received even a page of
14 confessions which came from the security centre of Krouch Chhmar
15 <district>.

16 Q. Because of the time I will move on. Mr. Osman, my question was
17 about the FULRO. Do you know whether the organization, FULRO, or
18 whether General Les Kosem, who you also discussed a few weeks
19 ago, whether they were involved somehow in the 1975 rebellion?
20 [14.33.59]

21 A. I have heard the word or name FULRO before I became a
22 researcher at DC-Cam. I have heard that name from my relatives
23 and parents. FULRO was a movement <> to liberate Champa from
24 <Vietnam. If we said that FULRO was involved in the rebellion, it
25 was not>. FULRO, in fact, had a clear intention. It did not

1 intend to create a state within Cambodia and that state would
2 become the country of Cham.
3 FULRO did not support only Cham people but also the previous
4 government, the government <that> existed before 1970. There were
5 two <> FULROs<.> One FULRO intended to liberate Champa
6 <territory> and another FULRO intended to liberate <> Kampuchea
7 <Krom territory>.

8 [14.35.23]

9 Q. Let's move away a little bit from the intentions of FULRO,
10 whether that was to create a state within Cambodia or not. Do you
11 know if FULRO and General Les Kosem were closely connected to
12 American Special Forces, American foreign policy within
13 Indochina?

14 A. Les Kosem was an elite or a dignitary recognized in Sangkum
15 Reastr Niyum and later on he was a leading general in Lon Nol's
16 time. Les Kosem <> was well known by the <Cham people> and those
17 who were born a long time ago also know the name Les Kosem.
18 Les Kosem was <a leader within the> FULRO movement as well and
19 there was another ethnic Jarai, Y Bham Enuol. He was one of the
20 leaders as well in FULRO.

21 Q. We have provided you with documents in relation to General Les
22 Kosem and FULRO and, more particularly, we have provided you with
23 a cable from U.S. Secretary of State to various U.S. embassies
24 October '73. It is E3/9689, and it's a cable from Secretary of
25 State Henry Kissinger.

1 We believe the document shows the close cooperation between
2 Brigadier-General Lol Non (sic) and Kissinger reports a
3 conversation he had with Lon Nol -- Lon Non and Kissinger reports
4 having spoken about Lon Non and Les Kosem's activities with FULRO
5 as well as several aspects of the Cham.

6 [14.38.01]

7 Question, do you know anything about the active involvement or
8 secret active involvement of U.S. government with FULRO and
9 General Les Kosem's activities, and do you know whether that
10 subsequently had anything to do with the rebellion in '75?

11 A. In relation to FULRO's movement, frankly speaking, I did not
12 go deep into the research about the structure, political aspects
13 and <> the <detailed workings> of that movement. I only -- I am
14 only aware that the purpose of FULRO was to liberate Champa and
15 <> Kampuchea Krom.

16 Q. I understand, but I am just trying to see if I can get any
17 information from you as to why Sector 21 forces used so much
18 military power to suppress the rebellion. There is testimony in
19 your book about Cham having one or two guns and having sticks,
20 etc. But Sector 21 troops used real big military force to
21 suppress the rebellion, so hence my questions whether you know if
22 former troops of General Les Kosem had anything to do with that
23 rebellion.

24 [14.40.09]

25 A. I haven't -- I have not done research in relation to the

1 rebellion in the three villages, particularly the relations of
2 those three villages with Les Kosem. I have never done such
3 research.

4 Q. Very well, no problem. I will move on. I will move onto
5 another aspect of rebellion, rebellion more into '76, '77. That
6 is a rebellion organized by something called the White Khmer. You
7 were asked a few questions about that a few weeks ago.

8 But is my understanding correct that also into the existence and
9 activities of the White Khmer you have done only limited
10 research?

11 A. That is true.

12 Q. And are you able to explain as to the reasons why, because
13 there seemed to be quite a substantial number of Cham people who
14 were talking about, in one form or another, about Cham being
15 involved in the White Khmer.

16 For instance, we have sent you 21 civil party applications in
17 total. All these people, all Cham, mentioned Cham involvement in
18 the White Khmer. We had a witness here, No Sates, who talked
19 about White Khmer rebellion in '75 and '77.

20 What's the reason that you didn't go any further with your
21 research into that matter?

22 [14.42.09]

23 MR. KOUMJIAN:

24 And just to be fair to the witness and especially to No Sates,
25 her testimony was that her father was killed with the accusation

1 that he was White Khmer. She never said he was White Khmer.

2 BY MR. KOPPE:

3 Q. I don't think that is the situation, but let me withdraw No
4 Sates.

5 Question again. There seems to be a lot of discussion with civil
6 parties and other Cham of Cham involvement in the White Khmer
7 rebellion movement. What is the reason that you didn't go any
8 further into that topic?

9 [14.42.54]

10 MR. PRESIDENT:

11 Please hold on, Mr. Expert Witness.

12 You have the floor now, International Lead Co-Lawyer for Civil
13 Parties.

14 MS. GUIRAUD:

15 Thank you. Thank you, Mr. President.

16 Regarding the 21 civil parties mentioned by <our> colleague, none
17 of the documents referring to these civil parties has been
18 admitted. And when we read over these documents, only one of them
19 makes a clear connection between the Cham and the Khmer Sar, the
20 White Khmer. So when our colleague therefore generalizes and says
21 that 21 civil parties make a connection between the Cham and
22 White Khmer, well, that seems to me inaccurate, and I simply
23 wanted this to be clear on the record. Thank you.

24 MR. KOPPE:

25 Twenty-one more or less, the number isn't really important, Mr.

1 Osman.

2 [14.43.55]

3 JUDGE FENZ:

4 But counsel, generally for the record, do you really think when
5 we write a verdict and come across this part where it says 21
6 without giving any references that any of us will bother to check
7 what you sent to him? If you really want us to take you serious,
8 please give us the references.

9 BY MR. KOPPE:

10 I'm happy to give those references but I am also mindful of the
11 time. We have sent 21 civil party applications with all document
12 numbers. I am very happy to do that again. It goes away from my
13 time. Surely we will mention them in our closing brief. So for
14 that reason you have to take them into consideration.

15 Q. But let me rephrase my question. Otherwise, we don't get
16 anywhere, Mr. Osman.

17 What's the reason that you didn't do any research into Cham
18 involvement in the White Khmer?

19 [14.45.04]

20 MR. YSA OSMAN:

21 A. I <think> that it is not useful in relation to the deaths of
22 Cham people in connection with Khmer Sar or White Khmer.
23 Actually, in fact, <the term "White Khmer", based on my
24 research>, the Khmer Rouge said that Cham people were killed
25 because they were under accusation that they were Khmer Sar or

1 White Khmer. Some <> people were victims of that accusation<, and
2 they were taken to be killed; however, they did not know which
3 mistake they had committed>. Some others were accused of being
4 CIA and KGB agents or Vietnamese agents. So the same applies to
5 those who were victims of that accusation. I did not need to do
6 the research on that particular issue for the same as KGB, CIA
7 and Vietnamese agents. That was a pretext to kill Cham people.

8 MR. PRESIDENT:

9 It is now time for a short break. The Chamber will take a short
10 break from now until five past 3.00.

11 Court officer, please assist the expert witness during the break
12 time and please invite him together with the legal officer from
13 the OCIJ back to the witness stand at five past 3.00.

14 The Court is now in recess.

15 (Court recesses from 1446H to 1507H)

16 MR. PRESIDENT:

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

18 And the Chamber wishes to inform Counsel Koppe about the Written
19 Records of Interviews or the testimonies of the two witnesses
20 that you wish to refer to to put question to the expert, you will
21 be given the time to do it at the end of your questioning in
22 closed session.

23 And you may now continue with your line of questioning to the
24 expert.

25 [15.09.20]

1 MR. KOPPE:

2 A procedural matter, Mr. President, if you allow me, the Khieu
3 Samphan team really would like to use three sessions. It means
4 that they would have to start now. In light of the many
5 objections and the time passed in the previous session, I would
6 like now to adjust my request and ask the Chamber to be allowed
7 to question Mr. Osman further in the session after the lunch
8 break tomorrow.

9 I have two subjects left. The subject that has to be done in
10 closed session, and one other subject is -- it's a complicated
11 subject -- is the matter of Cham population figures and the Cham
12 casualties that Mr. Osman has earlier testified to.
13 So, there's one other point that I would like to make before them
14 handing the floor to the Khieu Samphan team. So my suggestion
15 would be that they start posing questions to Mr. Osman and
16 continue in the first two sessions tomorrow then I will resume my
17 questions -- my questioning after lunch; first part, the
18 population matter, and then we move into closed session in
19 relation to 2-TCW-938 and 894.

20 JUDGE FENZ:

21 How long -- sorry, you mentioned what you would want to cover but
22 not how much additional time because that's in effect what it is,
23 a request for additional time.

24 So how much additional time are we talking about?

25 [15.11.20]

1 MR. KOPPE:

2 The problem is that the issue of Cham population figures and
3 demographics is a complicated issue. I don't -- I expect to be
4 busy at least 30-45 minutes with questioning Mr. Osman on this
5 subject.

6 The other issue is -- that's -- I would imagine only 20 to 25
7 minutes, the closed session part.

8 So all in all, I would be done in one additional session, and it
9 would be my request to continue questioning Mr. Osman after the
10 lunch break and only use that additional session after the lunch
11 break.

12 MR. PRESIDENT:

13 International Co-Prosecutor, please hold on, and I would like to
14 hand the floor now to the defence team for Khieu Samphan.

15 [15.12.29]

16 MS. GUISSSE:

17 Yes, thank you, Mr. President. Perhaps for purposes of
18 organization on the matter of a closed session, I think that if I
19 complete my cross-examination of <> the two witnesses <> in
20 closed session, we can then continue the closed session with my
21 colleague Koppe, and then have just one closed session. <That
22 would perhaps be easier for purposes of organization.>

23 That is the proposal I will make. <The> questions relating to the
24 two witnesses <would> go <at the end of the examination such
25 that> my colleague Koppe <could take over for his part of the>

1 examination.

2 [15.13.18]

3 MR. PRESIDENT:

4 Judge Lavergne, you have the floor.

5 And I actually do not understand your latest explanation, as

6 before the break you requested for an extension of time and that

7 you need not have the closed session, and after we made our

8 ruling, <> now you decide to have a closed session as well. <This

9 shows that you just do whatever you want.>

10 And, Judge Lavergne, you have the floor.

11 JUDGE LAVERGNE:

12 As regards the closed session, let me clarify what I understood.

13 Counsel Guisse is not requesting to be allowed to <question> the

14 expert in a closed session, but she is proposing that questions

15 be put to the expert by Counsel Koppe <once> she <has> completed

16 her examination.

17 [15.14.18]

18 MS. GUISSÉ:

19 To be complete, I had understood from your decision that all

20 questions relating to the two witnesses would be asked in closed

21 session. I understood that it applied to me as well.

22 I have no problem in putting my questions to the witness in open

23 session <in the manner that I intend to put them>, but my

24 understanding of your decision was that all questions regarding

25 the two witnesses would be asked in closed session, that is why I

1 made my remarks.

2 JUDGE LAVERGNE:

3 If you would allow me, Counsel Guisse or the Khieu Samphan team,
4 do you intend to ask questions regarding the number of Cham who
5 died during the Democratic Kampuchea regime?

6 I feel that there's no coordination between the two defence teams
7 <> and I'm worried about that because today <we have a request
8 before us> for time for the two teams that is almost two days,
9 that is one day and three-quarters of a day, whereas we had given
10 one day and one session to the Prosecution and the civil parties.

11 [15.15.26]

12 MS. GUISSSE:

13 Regarding coordination between the defence teams, I don't see how
14 this should pose problems to the Chamber because thus far we have
15 been two different <defence> teams with <two> different
16 approaches. And sometimes <there are areas which overlap. And
17 when questions have already been put by Counsel Koppe, I will not
18 go over them. In the same manner that there are things that I
19 will approach, perhaps, that will reduce the time for Counsel
20 Koppe to make his point>.

21 But there have always been two defence teams with two different
22 approaches. <This> has been clear from the very outset.

23 JUDGE LAVERGNE:

24 Counsel Guisse, my sole concern is time. Each defence team is
25 free to decide <their strategy>, but what matters to me is the

1 time.

2 [15.16.11]

3 MS. GUISSÉ:

4 As regards time, I have <indicated> to the Chamber <since this

5 witness first appeared> that the time allotted to us <seemed>

6 short. <It doesn't seem that> the other parties objected to our

7 request for additional time <so> I thought that the time allotted

8 <to them by Chamber> was <seen by them as> coherent and

9 sufficient. But from the very beginning <> I have always said

10 that in the case of Mr. Osman, we would need additional time.

11 <But in any event,> I <maintain that for the Khieu Samphan team,

12 three sessions, more or less, would be> important<>.

13 And the Chamber has indicated in the exchange of emails that we

14 would have the opportunity to make supplementary applications and

15 that is what we <did earlier> and I maintain my application.

16 JUDGE LAVERGNE:

17 <That was not my question>, Counsel Guisse. I asked whether you

18 intend to put questions to the witness regarding the number of

19 Cham killed during Democratic Kampuchea.

20 MS. GUISSÉ:

21 <I intend to ask a few> questions <to that effect>, <but I'm> not

22 <sure that they will be> exactly the same questions as those put

23 by Mr. Koppe. <But this topic will be broached at some point or

24 another>.

25 [15.17.29]

1 MR. PRESIDENT:

2 International Co-Prosecutor, you have the floor.

3 MR. KOUMJIAN:

4 Very briefly, Your Honours, we understood the original order is
5 that both the Prosecution and civil parties have five sessions
6 and the defence would have the same.

7 I understand now a request is before the Bench for multiple
8 additional sessions by the Defence and we think if additional
9 significant time is granted to the Defence, additional time
10 should be granted to the Prosecution.

11 [15.18.03]

12 MR. PICH ANG:

13 Good afternoon, Mr. President. I'd like to reiterate the point
14 that as -- in terms of a standing practice for time division
15 usually, Mr. President, is very strict on time allocation for the
16 Prosecution side and the <Co-Lawyer for Civil Parties> side,
17 except for exceptional cases. And I believe the time that the
18 Chamber granted is more than sufficient for <the Defence teams>
19 to put questions to this expert. <Therefore, I think that this is
20 not appropriate.>

21 (Judges deliberate)

22 [15.26.32]

23 MR. PRESIDENT:

24 We make the following decision.

25 The Chamber decides that for the two defence teams, you will have

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1 half-a-day tomorrow, that is, the two sessions in the morning,
2 and that will be concluded by lunch break.

3 And if the Co-Prosecutors wish to question the expert, you will
4 be given one session in the afternoon.

5 And for the second session in the afternoon tomorrow, the
6 co-defence teams will have their closed session if this is what
7 the party wish to do.

8 Any other matter you wish to raise on this issue?

9 [15.28.35]

10 MS. GUISSÉ:

11 No, Mr. President, I am conscious of the time left and I would
12 like to start cross-examination of the witness immediately.

13 MR. PRESIDENT:

14 You may proceed.

15 QUESTIONING BY MS. GUISSÉ:

16 Thank you, Mr. President, and good afternoon, Mr. Ysa Osman.

17 We've been speaking a lot <about time>, so I'm going to try to
18 get to the core of our discussion.

19 My name is Anta Guisse. I am Mr. Khieu Samphan's International
20 Co-Counsel and I have a few complementary questions to put to
21 you. And with the leave of the President, I would like to provide
22 a folder in which there are a certain number of documents that
23 were placed in the interface <on> which I'd like to <> question
24 the expert. So I think it might be easier if he has these
25 documents in hand.

1 [15.28.32]

2 So the documents are the following. E3/511, E3/1822, E3/7525, and
3 E3/2649.

4 And with your leave, Mr. President, may I provide this folder to
5 the expert?

6 MR. PRESIDENT:

7 Yes, you may.

8 BY MS. GUISSÉ:

9 Q. I'm going to begin by returning to certain -- revisiting
10 certain points of methodology and, in particular, DC-Cam's
11 methodology, and you may confirm to me that when you wrote
12 "Oukoubah" and "The Cham Rebellion", we agree that you were
13 already working for DC-Cam?

14 [15.29.46]

15 MR. YSA OSMAN:

16 A. Yes, that is correct.

17 Q. In your book "Oukoubah", Document E3/1822, and for you it's at
18 Tab 6 in the folder, the ERNs I would like to concentrate on are
19 the following, only in English, 00078597 to 599. And my
20 colleague, Victor Koppe, read out to you -- I believe that this
21 didn't refresh your memory really -- but <> this part that
22 describes <> DC-Cam's research project, <> do we agree that you
23 read this excerpt -- and, first of all, are you the one who wrote
24 this excerpt? And if you did not write this excerpt, did you read
25 it when your book was published?

1 [15.30.53]

2 A. Yes, I did read it.

3 Q. So must I understand then it is not you who wrote this segment
4 on the DC-Cam research project? And if it's not you, can you tell
5 us who wrote it?

6 A. In the research project of the DC-Cam, I was not the one who
7 wrote and compiled those segments.

8 Q. And can you tell me therefore who wrote this segment?

9 A. In relation to my research, Sim Sorya, the unit chief, chose
10 the texts to show to the readers. This is to ensure and to inform
11 the readers how the methodologies <were> implemented at DC-Cam,
12 so I did not know -- I do not know whether he got the text from
13 others or he <wrote it by himself>.

14 Q. Is it true that in the drafting of your book "Oukoubah", as
15 well as "The Cham Rebellion", it is this methodology that you
16 followed?

17 A. In <the> research, <we> have different methodologies which
18 were compiled by the DC-Cam, and concerning question
19 methodologies, those methodologies were checked by the experts at
20 the DC-Cam. We were suggested to avoid any leading question to
21 the interviewees.

22 [15.33.47]

23 Q. Well, specifically speaking, regarding this topic, my
24 colleague read the excerpt that's at the <ERN ending in 97,> page
25 149 of the book in which it is clearly indicated that the level

1 of the researchers and the experience of the researchers at
2 DC-Cam did not make it possible to meet the scientific standards
3 in terms of research.

4 And in the following ERN which ends in 98, which is at page 150,
5 this is what is indicated and I will read it out in English:

6 "DC-Cam firmly believes in the 'learning-by-doing' method when it
7 comes to writing a research paper. All researchers are free to
8 write as their fancy dictates as long as they faithfully cite all
9 of their sources and produce papers free from plagiarism." End of
10 quote.

11 So therefore is it true, given what's written here, that you
12 basically in terms of your research methodology, you somehow
13 learnt on the job, as we could say?

14 [15.35.12]

15 A. That is correct. Let me clarify the point again.

16 I was not engaged in this research methodology from any
17 university. I did not pursue bachelor degree on this particular
18 methodology. It is <from my own> interest that I started to do
19 the research, <number one>.

20 And, number two, I want to document the history, and what I have
21 done is assisted by professors <and> experts <who have>
22 experience <> in researching all the information.

23 Q. Now, regarding the interviews that you conducted, you were
24 alone, weren't you? You are the one who conducted the interviews
25 on your own; you didn't have any professors with you<>?

1 A. That is correct, however, there was an interview mentioned by
2 Mr. Koppe <this morning>, the interview with Mat Ly. At the time,
3 I interviewed Mat Ly together with Sim Sorya, the unit chief of
4 research team.

5 [15.36.52]

6 Q. Another point that I'd like to discuss with you, generally
7 speaking, regarding the interviews at DC-Cam, not only those that
8 you conducted yourself for the two books that you wrote on the
9 Cham, but generally speaking, we have seen here before the
10 Chamber -- for example, this is the case with the interview you
11 have in the folder -- I believe it's document E3/7525.

12 Here we see many <> DC-Cam interviews where several people are
13 being interviewed at the same time. Or, in any case, it's not the
14 interview of one single person; there is someone, <be it a family
15 member, neighbour, etc.,> who is present during the interview and
16 who sometimes <steps in> during the interview<>.

17 And here I'm taking the example of the interview of In Yoeung,
18 who testified not so long ago, and <where> we note that it's only
19 at the end of the interview that you ask for that person's name
20 <who is additional to> the person you were considering to
21 interview at the start.

22 [15.38.12]

23 So my question is: you say that you pay attention not to put
24 questions that are leading in order <not> to contaminate or to
25 orient the person you're interviewing, but when you are

1 interviewing several people, isn't there a risk that <what> you
2 <worried about in terms of leading questions> ends up <occurring,
3 in the sense that there is an> involvement of other people
4 <beyond the person you interviewed at the start? As a result
5 it's> an interview that's not of <> that single person, but
6 <also> including information given by other people.
7 So in terms of methodology, I'd like to know <if,> in scientific
8 terms, <we don't get> the <real> content of <the experience
9 itself of the person> <> if someone else is <present at> the
10 interview <and can get involved whenever he wants>.
11 A. Thank you for putting that question. The interview you have
12 just raised is the interview with Chan Kea at Ou Chhleung
13 Village, Kampong Trach Commune, Romeas Haek District, Svay Rieng
14 Province.
15 That interview had nothing to do with the research on Cham issue.
16 Let me reiterate that at DC-Cam, besides the research <on the
17 Cham issue>, I was working in a pr oject that is "Promoting
18 Accountability". In short, it is PA. So that interview was using
19 that PA project.
20 [15.40.24]
21 Q. I'm sorry for interrupting. Yes, maybe I wasn't clear with
22 regard to my question. I <used> that example but I will get back
23 to <> interviews that are <specifically> linked to the Cham.
24 But my question was a question of <general> method<s> <> with
25 respect to DC-Cam <interviews>. So my question is, don't you

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1 think that there's an issue, scientifically speaking, to
2 interview several people at the same time, which leads to an
3 interview which is not the interview of one single person with
4 that person's memories, but to an interview with <information>
5 coming from other people who are attending, who are present, at
6 the interview?

7 So I'm not asking you to speak about the document, I'm asking you
8 to comment on the method in general terms.

9 [15.41.20]

10 JUDGE FENZ:

11 Counsel, even the English translator has trouble to translate
12 you. Please, please slow down.

13 MS. GUISSSE:

14 Well, I'm afraid because my time is counted<>.

15 BY MS. GUISSSE:

16 Q. So did you understand my question, Mr. Osman? My question was
17 based on the methodology and on these multiple interviews?

18 MR. YSA OSMAN:

19 A. I understand your question and my response to your question is
20 that I gave a priority -- I set priority on <the> individual whom
21 I would interview and they were allowed to select representatives
22 among themselves, who was the one who could recall <the most, and
23 who had seen and known> the most of the story. And that
24 individual would be the representative to speak on behalf of the
25 group.

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1 However, there were some occasions that some other <people
2 sitting around always> intervened and added the information. But
3 I would like to inform you that the additional information from
4 other <people> who were not the representatives of the group were
5 not included in my book.

6 In principle, I only included the accounts and story of the
7 interviewees that I directly <interviewed>.

8 You quoted an interview and that interview was used and included
9 in the PA or Promoting Accountability Project and everything was
10 included in that project since we did not exclude any other
11 points.

12 [15.43.50]

13 Q. I'm sorry, I'm sorry, I must interrupt you because I don't
14 want to focus on that project, I really want to focus on your
15 methodology. And I would like to move ahead because my time is
16 counted.

17 Another point in terms of -- here now I'm revisiting and
18 returning to "The Cham Rebellion" and to "Oukoubah".

19 More specifically speaking, when you gathered these accounts, did
20 you compare them, let's say between one person speaking about a
21 similar fact and another person?

22 So did you make comparisons between the testimonies and if you
23 noted differences, did you go back <and see such and such a
24 person> again? Did this ever happen <> when you were writing your
25 books?

1 [15.44.47]

2 A. I did interview one individual on different occasions, and I
3 did not ask him or her why <> he or she described a different
4 story <from others I had interviewed because, as researchers, we
5 accept what they say>.

6 <Sometimes, a> witness that I interviewed <could only> tell the
7 story and experience that <he> went through, and <another>
8 witness<> that I interviewed <could describe what he had> seen
9 <at his location>.

10 Q. So must I understand from your answer that you would not make
11 any comparisons between the different accounts from the witnesses
12 that you interviewed? Can you please answer my question
13 specifically, yes or no, did you compare the different accounts
14 before you wrote your book or did you simply just write <each
15 person's> account <> based on <their memories and> what they told
16 you <during their individual interview>?

17 [15.46.26]

18 A. In one section of my second book, "The <> Cham Rebellion", I
19 quoted a story of individuals I have interviewed. So the stories
20 may have different from one another.

21 And on other section of my book, I wrote based on the stories
22 that I have received. So those stories were placed in different
23 sections in my book.

24 Q. I understood, of course, that the stories were placed in
25 different parts of your book, but my question was different. My

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1 question was, did you make any comparisons between the accounts
2 and then did you possibly go question the people again when there
3 were contradictions<? Did> you make any comparisons or <was that
4 not at all the goal of your book>? <> I just wanted to know <if
5 you'd done> that.

6 [15.47.45]

7 A. I did not go to ask the interviewees why they had different
8 stories to describe and their stories were different from others.
9 The stories that I got from them were of different experience, of
10 their different experience. Some stories were consistent with one
11 another but some were not.

12 For instance, the killing of Cham people in 1977 and 1978,
13 evacuation of Cham people, forcing Cham people to eat pork, the
14 abolishing of Cham religion, and the stories are consistent with
15 one another from my interview.

16 Q. I apologize, I'm sorry, I'm sorry. I think that I might not
17 have been clear, so let me try use a more specific example.
18 So in your book, "Oukoubah", it's at ERN <00078454>, I don't
19 believe that this excerpt is in your folder so I'll try to read
20 it out slowly.

21 So you're speaking about facts that took place in Trea village
22 and that are based on the testimony of two people who testified
23 before this Chamber, Ahmad Sofiyah and No Sates.

24 And I'm going to read out an excerpt because it's also -- there's
25 also an issue of figures here.

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.

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1 So I'm going to read this excerpt from "Oukoubah" and then I will
2 put a question to you. It's the second paragraph on that page:

3 [15.49.29]

4 "<As one example in> late '78, the Khmer Rouge gathered all those
5 accused of crimes, both Cham and Khmer, into a house in Trea
6 village<>, Krouch Chhmar district, Kampong Cham province. All the
7 prisoners were asked one question, 'Cham or Khmer?' Those
8 answering 'Cham' were sent to one side and the Khmer to the
9 other. All of the Khmer prisoners were released. All but six of
10 the approximately 100 Cham prisoners disappeared. The six, No
11 Sates, Sleh Yan, Sleh Sarah, Mao Maisom, Tam Jouk, Ahmad Sofiyah,
12 survived because they lied and said they were Khmer." End of
13 quote.

14 So in this paragraph, you are speaking about <100> Cham people
15 who disappeared, but we heard about Ahmad Sofiyah <> as well as
16 No Sates who provided different figures, in any case before the
17 Chamber, but in the interview at least that No Sates granted you
18 when -- for your book.

19 [15.51.18]

20 And the French translation of this interview is at document
21 E3/933, French ERN, 00224115; and Khmer ERN, 00204448 onto the
22 following page<>; and in English it is, 00204453. And on that
23 page, No Sates says that she was placed in a group of about 40
24 young girls.

25 Ahmad Sofiyah said it before and said it before the Chamber as

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1 well, spoke of about 30 girls.

2 So to make things clear for you, but maybe you know this already
3 because I'm sure that you follow the proceedings, No Sates before
4 the Chamber, when she testified, changed that figure and said
5 that there were 300 girls.

6 In any case, Ahmad Sofiyah or No Sates in the interviews you had
7 with them, they both speak about 30 to 40 people, so my question
8 is how, in your book "Oukoubah", did you come up with this figure
9 of 100? What do you base yourself on to speak about 100 people?

10 A. The information that I included in my book referred to
11 specific witnesses<, who provided me with their names and
12 addresses.>

13 So, I based all information on them. And as for <when> they came
14 before the Chamber and told different story, it is their own
15 responsibility. And I believe that the memory does not remain the
16 same. The longer things happened, the weaker memory could have.

17 [15.54.05]

18 I interviewed them <in 2001 or 2002,> about ten years ago, so
19 they may have remembered not well and if you do not believe me,
20 you can <re-invite> them <in ten years> to talk to you and they
21 <might say it> differently from what they have just told this
22 Court.

23 Q. My question was different. I understood, of course, that the
24 accounts may change, and we saw that with No Sates, but my
25 question was different.

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1 My question was -- well, we have seen the interviews you
2 conducted with Ahmad Sofiyah and No Sates, and they only speak
3 about 40 people. You, in your book, "Oukoubah", you say that
4 there were about 100 prisoners, female prisoners because they
5 were women, who disappeared.

6 So my question is, <> how did you come up with this figure of
7 100?

8 In the interviews you had with <> Ahmad Sofiyah and No Sates when
9 you interviewed them back then, they were only speaking about 30
10 to 40 people. So therefore how did you come up with this figure
11 of 100 which you -- which is in your book "Oukoubah", at the page
12 I just mentioned?

13 A. Could you provide to me with the audio recording of Ahmad
14 Sofiyah and No Sates, particularly the part of the recording that
15 I interviewed them at the time and the portion <whether> they
16 said the number was <30 people or> 100?

17 Q. Well, in fact, I have before me here the excerpts of your
18 interviews, <that is to say, the> documents that <appear as
19 annexes or that were> annexed to the <written> records and that
20 indicate them as being the transcriptions of the interviews <you
21 had with these two people>.

22 And they do not say 100; it is you in your book "Oukoubah", who
23 says that there were about a 100 people. This is why I'm putting
24 that question to you. <> How did you come up with this figure of
25 100? Because I see it neither in No Sates' interview nor in Ahmad

1 Sofiyah's interview.

2 So where does this figure of 100 come from? How did you determine
3 it? And how is it that you include this figure of 100 in your
4 book?

5 [15.57.00]

6 A. Can I have the written document from you to verify -- the of
7 -- what I have written in my book?

8 Q. Well, the document -- are you speaking about the record of the
9 interview of Ahmad Sofiyah and No Sates? <I'm speaking under the
10 supervision of the Chamber and Parties;> I only quoted
11 <information> that <is> in the case file and document E3/9333 in
12 particular, which is the Annex entitled, "Interview of the Author
13 with No Sates".

14 And now regarding Ahmad Sofiyah, let me give you the reference.
15 Well, in any case, what's clear is that these figures do not come
16 out of the blue. <This is information> that <was> in the
17 interviews you conducted and this is <the basis of my question:>
18 why are there different figures in the interviews<>?

19 [15.58.24]

20 Now, regarding Ahmad Sofiyah, let me find the reference. Well, in
21 any case, I'm speaking about what was said before the Chamber and
22 what was said in -- what we saw in your book or in the interviews
23 that were annexed to the <interviews> with the OCIJ. So these
24 figures, I'm not inventing. These are figures <coming> from your
25 interviews with both of these witnesses.

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1 A. I have told the Court earlier that I need<ed> the documents
2 that you quoted, particularly the figure, the written record of
3 the interviews, <because I don't have them in my hands>. <So> you
4 <> <refer to> my <interviews in order to use them> to verify with
5 <my book>.

6 So please hand me over <the interviews and> the relevant pages
7 <and paragraphs in my book> so that <we> can <verify> that figure
8 <together>.

9 [15.59.53]

10 Q. I have <just done> it, but let me point out that I gave the
11 ERNs in Khmer and in English <so> that all the parties and the
12 Chamber may cross-check<>. <I am> not inventing anything.
13 The problem we have now is that the version I have is in French.
14 I will give you -- I have just given you the extract in Khmer,
15 but let me point out that this is something we find in your book.
16 May I request the greffier to give E3/9333, which is the Annex of
17 No Sates, and on which <it is written "about 40 persons".<>

18 <MR. PRESIDENT:

19 You may proceed.>

20 BY MS. GUISSÉ:

21 But let me point out that for the continuation of the examination
22 of the witness, I will <not be able to> give <you> all the
23 documents and all the references <but I am speaking under the
24 supervision of the Chamber and the Parties, and if I>
25 represent<ed> an erroneous version of the <official> documents<>.

Corrected transcript: Text occurring between less than (<) and greater than (>) signs has been corrected to ensure consistency among the three language versions of the transcript. The corrections are based on the audio recordings in the source language and may differ from verbatim interpretation in the relay and target languages.

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1 the Prosecution and the civil parties will object.

2 <So please be assured that I am giving you> figures that

3 correspond to the information we have on record.

4 [16.01.28]

5 MR. YSA OSMAN:

6 A. I have received the document, the page of document that you

7 gave to me. This document appears to be the text <> that I wrote

8 at the beginning in Khmer.

9 That <Khmer version> was the draft<>, but that draft was not

10 published. And <the figure that had been verified with the audio

11 records of the interviews was used as> the official information,

12 is the figure from the book that I have published <in English>.

13 If you compare that information, the information in the draft

14 Khmer version of my first manuscript, <there was not only one

15 point, but> some information were not consistent with the book

16 that was officially published in English, and that publication in

17 English was <edited and translated> by the <translators of>

18 DC-Cam.

19 Q. In that case, I will need some clarifications from you. Are

20 you telling us that the documents we have, the records of

21 interviews we have in the Annex of the statements given to the

22 Co-Investigating Judges by the witnesses <> in question, <in

23 which they confirm that it is indeed them, in which> they confirm

24 the contents of the interviews you had with them <-- are> you

25 saying that the figures are inaccurate<? For example,> in the

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1 case of No Sates <where> she mentions "about 40 persons",
2 are you telling us that that document, which was in the Annex of
3 the statement given to the Co-Investigating Judges and which
4 <she> confirm<s> <> that the contents are exact <and that it
5 corresponds to the interview you had with her, are> you telling
6 us that the figures are not accurate; the figures in that
7 statement are not accurate?

8 [16.03.52]

9 A. My apology. I don't say that the figure was inaccurate. I was
10 saying that I am recognized as a researcher, based on the
11 officially published book. The draft manuscript wasn't on the
12 official publication.

13 To my observation in relation to the figure "40" highlighted by
14 you, <in my draft>, it does not mean that the figure 40 refers to
15 those who were sent <> to be killed <at Trea village>. That 40
16 refers to <a> group of single women.

17 <>I <would like to> read that <part briefly,> "I was sent and
18 placed in <a> group of 40 single women."

19 Q. Pardon me. As I stated, everyone has before them the document
20 and I read an excerpt of it. Everyone has also heard the
21 statements of Ahmed Sofiyah and No Sates on the subject.

22 My question was different. You say that, "I rely on the official
23 publication of my book."

24 My question is as follows, regarding the figure of 100 you have
25 written in the excerpt I have just read, where did you get it

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1 from? That is my question. Because neither Ahmad Sofiyah or No
2 Sates gave that figure <of 100>.

3 So my question to you is this: how did you get that figure? How
4 did you come by that figure of 100?

5 [16.06.05]

6 A. Can you <show> me <my interview with No Sates and the
7 paragraph in which I wrote> the figure 100 <>? From my <brief>
8 reading, I cannot find that figure of 100 yet.

9 Q. It is normal. The ERN in English is 0078597 (sic), and if I
10 remember correctly, I think it's on page 6. In any case, I
11 believe it is on page 6 of your book.

12 Once more, I understand that you would like to see everything
13 before you, but this is before all the parties and <this is
14 indeed> the figure in <this> ERN <> in English <which was put> on
15 record <as official evidence>.

16 If you don't know where you got the figure <of 100>, <there is no
17 problem,> say so. But I would like to know in terms of the
18 methodology you used to obtain the figures that you provide, what
19 basis you relied on to give those figures?

20 [16.07.57]

21 A. I want to clarify that this figure was based on my interviews
22 with No Sates and Ahmad Sofiyah. The figure <in my> first <book>
23 was quoted from the interview on 5th December <2000>, and the two
24 individuals -- I mean interviewees -- made mention <of> about <>
25 100 <> people. That is why I based that figure on the interviews

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1 that I got from them.

2 MR. PRESIDENT:

3 It is now time for the adjournment.

4 The Chamber will resume its hearing tomorrow, Thursday, 24th

5 <March> 2016 at 9 a.m.

6 And tomorrow the Chamber will continue hearing the expert

7 witness, Ysa Osman. Please be informed and please be on time.

8 [16.09.10]

9 I am grateful to you, Mr. Ysa Osman. The hearing of your

10 testimony as an expert has not come to an end yet. You are

11 therefore invited to be here once again tomorrow at 9 a.m.

12 My appreciation goes to Bardèche as well, the legal officer from

13 OCIJ. You are also invited to sit close to the expert tomorrow as

14 well. You may be excused now.

15 Security personnel are instructed to bring the two accused back

16 to ECCC's detention facility and have them returned into the

17 courtroom tomorrow before 9 a.m.

18 The Court is now adjourned.

19 (Court adjourns at 1609H)

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