



**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**

ថ្ងៃ ខែ ឆ្នាំ (Date): 26-Apr-2016, 13:35

CMS/CFO: Sann Rada

**TRANSCRIPT OF TRIAL PROCEEDINGS**

**PUBLIC**

Case File N° 002/19-09-2007-ECCC/TC

24 March 2016

Trial Day 389

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

The Accused: NUON Chea  
KHIEU Samphan

Lawyers for the Accused:  
Victor KOPPE  
SON Arun  
LIV Sovanna  
Anta GUISSSE

Trial Chamber Greffiers/Legal Officers:  
CHEA Sivhoang  
Niccolo PONS

For the Office of the Co-Prosecutors:  
Nicholas KOUMJIAN  
SONG Chorvoin

Lawyers for the Civil Parties:  
CHET Vanly  
Marie GUIRAUD  
HONG Kimsuon  
LOR Chunthy  
PICH Ang  
SIN Soworn  
TY Srinna  
VEN Pov

For Court Management Section:  
UCH Arun

INDEX

Mr. YSA Osman (2-TCE-95)

Questioning by Ms. GUISSÉ resumes ..... page 3

Questioning by Mr. KOUMJIAN resumes..... page 56

Questioning by Mr. KOPPE resumes..... page 65

Questioning by Ms. GUISSÉ resumes ..... page 80

**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. YSA Osman (2-TCE-95)	Khmer

1

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 continues to hear testimony of the expert, Mr.

6 Ysa Osman.

7 Ms. Chea Sivhoang, please report the attendance of the parties

8 and other individuals to today's proceedings.

9 THE GREFFIER:

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

11 are present except Mr. Kong Sam Onn, the National Counsel for

12 Khieu Samphan, who informs the Chamber that he is absent for

13 personal reasons.

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

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

16 been delivered to the greffier.

17 The witness who is to conclude his testimony today, that is, Mr.

18 Ysa Osman, and Ms. Julie Bardeche, the OCIJ legal officer, are

19 present in the courtroom.

20 [09.06.15]

21 MR. PRESIDENT:

22 Thank you, Ms. Chea Sivhoang. The Chamber now decides on the

23 request by Nuon Chea.

24 The Chamber has received a waiver from Nuon Chea, dated 24 March

25 2016, which states that, due to his health, that is, headache,

2

1 back pain, he cannot sit or concentrate for long. And in order to  
2 effectively participate in future hearings, he requests to waive  
3 his right to be present at the 24 March 2016 hearing.

4 Having seen the medical report of Nuon Chea by the duty doctor  
5 for the accused at ECCC, dated 24 March 2016, which notes that,  
6 today, Nuon Chea has back pain when he sits for long and  
7 recommends that the Chamber shall grant him his request so that  
8 he can follow the proceedings remotely from the holding cell  
9 downstairs, based on the above information and pursuant to Rule  
10 81.5 of the ECCC Internal Rules, the Chamber grants Nuon Chea his  
11 request to follow today's proceedings remotely from the holding  
12 cell downstairs via an audio-visual means.

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

16 [09.07.51]

17 And before I hand the floor over to the defence team for Khieu  
18 Samphan to put further questions to the expert, the Chamber will  
19 issue its oral ruling on Co-Prosecutor's request to call  
20 additional witnesses during the Phnom Kraol security centre trial  
21 segment, that is, E390.

22 The Trial Chamber is seized of a request by the Co-Prosecutors to  
23 call and hear the testimony from two additional individuals,  
24 2-TCW-1017 and 2-TCCP-1016 for the Phnom Kraol trial topic in  
25 Case 002/02 pursuant to Internal Rule 87.4, document E390. The

3

1 Co-Prosecutors argue that, because three of the <five> witnesses  
2 and civil parties proposed for this trial topic are now deceased,  
3 it is in the interests of justice to hear them.

4 [09.09.10]

5 Having heard submissions of the parties on this request on  
6 Monday, 21st March 2016, and noting the requirements of Internal  
7 Rule 87.3 and 4, the Chamber decides to hear 2-TCCP-1016. This  
8 civil party will be heard next week for one day after 2-TCW-1012.  
9 Written reasons will follow in due course.

10 A decision in relation to 2-TCW-1017, will be rendered as soon as  
11 possible.

12 And I'd like now to hand the floor to the International Counsel  
13 for Khieu Samphan to put further questions to the expert, Mr. Ysa  
14 Osman.

15 You may proceed, Counsel.

16 QUESTIONING BY MS. GUISSÉ RESUMES:

17 Thank you, Mr. President. Good morning.

18 Good morning, Mr. Ysa Osman. I would like to continue and pick up  
19 where we stopped yesterday, and with the leave of the President,  
20 I would like to provide a second folder to Mr. Ysa Osman in order  
21 to allow him <to follow and> avoid the problems that we faced  
22 yesterday. It's not going to cover all of the documents I'm going  
23 to mention, but at least it will cover some.

24 And for the parties, the documents in question are E3/2653,

25 E3/9323, E3/9500, E3/162, E3/7821 and E3/9307. I would like to

*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.*

4

1 specify for the parties that the documents E3/9500 and E3/162 are  
2 only the first pages of the statements of both of these witnesses  
3 <such that I don't have to> say their names publicly <and> to  
4 allow Mr. Osman to refer to the pseudonyms that will be listed on  
5 the first page of these statements only. So with your leave, Mr.  
6 President, may I give this binder to the expert?

7 [09.11.52]

8 MR. PRESIDENT:

9 Yes, you may.

10 BY MS. GUISSÉ:

11 Q. Mr. Osman, yesterday, we were speaking about two witnesses,  
12 Ahmad Sofiyah and No Sates, whom you interviewed. <You> mentioned  
13 them in "Oukoubah", however, their accounts are in "The Cham  
14 Rebellion". So one question regarding Ahmad Sofiyah and No Sates.  
15 Did you meet them once or several times when you were drafting  
16 your books?

17 [09.12.51]

18 MR. YSA OSMAN:

19 A. Good morning, Madam Counsel. From my recollection, I saw them  
20 more than one time. However, a detailed interview was conducted  
21 for one time only.  
22 And I'd like to clarify the last question you put to me  
23 yesterday. After I went home, I checked my book, and now I have a  
24 clearer response for you.  
25 You asked me why No Sates was with the number 40 rather than 100

5

1 and, if you'd like, I can make that response.

2 MR. PRESIDENT:

3 Yes, if you have a better reference, then you may respond to the  
4 last question put to you by the Defence Counsel for Khieu  
5 Samphan.

6 [09.14.08]

7 MR. YSA OSMAN:

8 Thank you, Mr. President.

9 In reference to my first book, that is, "Oukoubah", at page 6, I  
10 wrote that there are six people out of about 100 Cham people who  
11 survived. And as for the rest, they disappeared. It means that  
12 they were all dead. In reference to Madam No Sates as raised by  
13 the Defence Counsel that she was one of those about 40 unmarried  
14 women. However, these 40 women were not the number of those women  
15 who were killed in Trea village, that is, before they were  
16 <killed, they were interrogated>, detained and killed. That was  
17 not the figure.

18 The number 40 here referred to women who were gathered at Khsach  
19 Prachheh pagoda in Krouch Chhmar district. So that group of 40  
20 women were gathered there.

21 As for Ahmad Sofiyah that I referred to her that she was one  
22 among those 100 who disappeared, I read her interview again, and  
23 she said that she was among the 35 women who were sent out of Wat  
24 Prachheh pagoda.

25 [09.16.18]



6

1    However, in relation to the 100 or so women who died, I received  
2    that information through various interviews, namely, from Mao  
3    Maisam, who told me that before the execution, that was not <the  
4    time> they were sent to Khsach Prachheh <pagoda>, but she was  
5    sent to a house located in Trea village.  
6    And they actually counted <the people before the execution>, and  
7    there were a total of 240. <That's from Mao Maisam.>  
8    On the account of another woman that I also used as a reference,  
9    that is, San Saros, she did not recall the exact number. And  
10   there is also another woman whom I referred to is Saleh Saros,  
11   who said that the number of people among those in the group that  
12   she made the journey with was about 200. So you can see the  
13   discrepancies in the number.  
14   Tam Jouk actually is an alias for <the> woman <named Tam  
15   Rahimah>, and she said that she was among the 50 who were sent  
16   out from <Khsach> Prachheh pagoda.  
17   So we have different figures. <No Sates talked about 40. Ahmad  
18   Sofiyah talked about 35, and <Tam Rahimah> talked about the 50  
19   people> who were sent out of Ksach Prachheh pagoda. As for the  
20   other figures, they refer to those people who were sent, that is,  
21   a separate group, to another location, for example, out of the  
22   market at Krouch Chhmar district.  
23   So <when> they <were gathered together, it was not 40 people. It  
24   should be more than 40 people because just for one group, there  
25   were 40 people, and the witnesses stated that there were more

*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.*

7

1    than 200 people.> I made <an estimation in my book that there  
2    were> of about 100 <people>, which is in between 40 and over 200.

3    [09.18.54]

4    MR. PRESIDENT:

5    And Mr. Expert, if you recall the new question that was last put  
6    to you, you may respond.

7    MR. YSA OSMAN:

8    Thank you, Mr. President. I was asked by the Defence Counsel how  
9    many times that I met Ahmad Sofiyah.

10   Informally, I met her on several occasions, although I cannot  
11   recall the exact number. She lived in a village not far from my  
12   native village. However, for the purpose of my research for  
13   writing the book, I made a detailed interview with her and, later  
14   on I met her again to verify the record of that interview. And I  
15   recall that, on another later occasion, I went to see her again  
16   because she does not live far from my native village.

17   [09.20.18]

18   BY MS. GUISSÉ:

19   Q. So if I understood you well, with respect to No Sates, you had  
20   one in-depth interview, and with Ahmad Sofiyah, you had one  
21   in-depth interview and another interview to confirm all of these  
22   statements. Am I correct?

23   MR. YSA OSMAN:

24   A. Yes. And I'd like to add that after I came to work for the  
25   Khmer Rouge Tribunal, in my capacity as an analyst for the Office

8

1 of the Co-Investigating Judges, I went to see her again. And I  
2 went with an investigator, Mike Dixon. And actually, Mike Dixon  
3 had an excerpt from my book read out to her and requested her to  
4 make any changes. And later on, she provided her fingerprint on a  
5 copy from that book that she confirms that was her statement.  
6 Q. So to finish off with this issue of figures as you mentioned  
7 them in "Oukoubah", what you're saying is that you, yourself,  
8 came up with an average of the figures that were provided to you.  
9 But to be clear about this <?> because you spoke to me about  
10 people in the pagoda, people in the market <?> in the excerpt  
11 that I read out to you yesterday, that is to say, document  
12 E3/1822, ERN in English 00078454, when you speak about these 100  
13 people, you're saying at the beginning of the paragraph, and I  
14 will quote in English:  
15 [09.22.32]  
16 "As one example in late '78, the Khmer Rouge gathered all those  
17 accused of crimes, both Cham and Khmer, into a house in Trea  
18 village."  
19 So in this context, you're not speaking about the pagoda. You're  
20 not speaking about the market. You're speaking about the house in  
21 Trea village.  
22 So my question is, the approximate figure and the average you  
23 came up of 100 Cham, you are the one who came up with this  
24 figure, but do we agree that this figure is connected to the  
25 house in Trea village?

1 [09.23.24]

2 A. In reference to the figure of 100 that is used in my book, I  
3 actually did not use the figure 100 in the <quotation marks>. For  
4 the professional work in the research, when the words are put in  
5 <quotation marks>, it means they refer to the actual words of a  
6 witness without any modification by the researcher. However, the  
7 figure 100 in my book is not put in the <quotation marks>, so it  
8 is not the exact word of a witness.

9 And there is -- the figure is based on my research with the five  
10 witnesses, including No Sates, <Saleh Saros, Mao Maisam, Tam Jouk  
11 and> Ahmad Sofiyah <>. And that is due to the different figures  
12 given to me by various witnesses.

13 Q. Please forgive me for interrupting, but I did understand. I  
14 believe that I mentioned this in my question, but my question was  
15 different. So do we agree that <you cite> this figure <in  
16 relation> to the house in Trea village? Is that -- that is my  
17 question. Is this figure connected to the house in Trea village?

18 A. That figure of 100 is in reference to an event of unmarried  
19 women who were sent -- who were arrested and sent to Trea village  
20 and that, later on, they were purged.

21 Those women were interrogated before they were killed. They were  
22 asked whether they were Cham or Khmer. However, there were other  
23 instances of the events that I referred to.

24 [09.25.47]

25 Q. I apologize. I apologize, but I'm really trying to put to you

10

1 specific questions given the short amount of time that is given

2 to me, so please try to answer as precisely as possible.

3 So you confirmed yes, that, indeed, that figure was connected to

4 that house in Trea where there were unmarried women, so thank you

5 for this clarification.

6 In your interviews with No Sates, we know that when she was

7 interviewed on 10 June 2000, which <> resulted in a DC-Cam

8 record, document E3/9307, we know that No Sates explained to you

9 that she personally attended an execution, and <> before the

10 Co-Investigating Judges -- and I believe you were there -- she

11 said that <she> was not an eyewitness of this execution. And to

12 explain why she had lied regarding the fact of having <been an

13 eyewitness>, she said that she wanted justice <to be rendered to

14 her>.

15 [09.27.05]

16 So my question is going to focus more generally speaking on <>

17 when you interview people who have experienced traumatizing

18 events <or> who are requesting justice, so psychologically

19 speaking, isn't there a risk that sometimes the statements or the

20 accounts that you gather <?> and I'm speaking here specifically

21 about "Oukoubah" and "The Cham Rebellion" <?> isn't there a risk

22 that sometimes the information that you gather is not accurate

23 and does not correspond to the totality of the facts or maybe

24 what is said might be mixed up with what other <people's

25 experiences>?

*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.*

11

1 So is this something that you thought about when you were writing  
2 your books?

3 [09.28.10]

4 A. I acknowledge that, for some witnesses, when I first  
5 interviewed them, they spoke on one account and, later on, they  
6 spoke rather differently on a separate account, although they are  
7 not completely different, but there are some differences in the  
8 accounts. And I believe that is due to the passage of time and  
9 their recollection of what happened.

10 As I stated yesterday, if No Sates is to be interviewed in 10  
11 years' time, the account that she recalls might be different from  
12 what she told me during my interview with her. And of course,  
13 when an investigator from OCIJ interviewed her, I was present  
14 there. And that is the purpose that we asked her to verify her  
15 account that I used in my book.

16 And of course, we preserve the actual statement or interview of  
17 witnesses and that we do not make any alteration <as we wish, and  
18 we do not force witnesses to say what we want them to say>.

19 [09.29.33]

20 Q. My question was somewhat different. I do understand that, with  
21 time, statements may change.

22 But regarding the explanation No Sates gave, I'm referring you to  
23 <her> statement before the OCIJ, E3/5193, the ERN in French,  
24 00224113; ERN in English, 00274704; and ERN in Khmer, 00204445  
25 and it continues on the next page. And this is what is stated in

*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.*

12

1 that statement:

2 "I told Mr. Osman that I had seen those executions because I  
3 wanted to make sure that justice was rendered to me in the wake  
4 of what those murderers had done."

5 <So, she does not say that she> gave <you> erroneous information  
6 <because of the time passed>. She said that she <deliberately>  
7 said things that she hadn't witnessed with her own eyes because  
8 she needed to have justice delivered.

9 My question to you is as follows. As part of your interviews, did  
10 you have the impression that people like No Sates could provide  
11 information on events that they hadn't witnessed with their own  
12 eyes or erroneous information because they needed to have justice  
13 done?

14 Is that something you took into account as part of your research,  
15 or not?

16 [09.31.30]

17 A. As a victim, they feel the pain for the loss of their parents  
18 or family members, in particular if they witness the execution of  
19 their parents or family members. <For instance, the case of No  
20 Sates whose mother was taken away to be killed.> And of course, I  
21 believed there might be some extra words used by witnesses. And  
22 of course, I preserved the integrity of the statement of the  
23 interview.

24 If a witness says that she witnessed an event that is what I  
25 would write in the record. I will not add or remove any part of

13

1 the interview or the statement.

2 And of course, I had the same feeling as you just put to me, a  
3 victim would want to see justice being done. And sometimes the  
4 words that they use would be a little bit more than what actually  
5 happened. And witnesses refer to the killings and, of course, the  
6 killings did take place. That's why they lost their family  
7 members and parents, and that's why hundreds of thousands of Cham  
8 people perished during the regime.

9 [09.33.05]

10 Q. As regards the question concerning Trea village, did you <do  
11 research on> who were the local <heads> at the time, <and>  
12 particularly, who was the district <chief>?

13 We have heard a number of witnesses testify before this Chamber,  
14 and I must say that the issue of the Krouch Chhmar district head  
15 is still a mystery to me. Did you carry out any research on that  
16 subject?

17 A. Trea village was under the control of Krouch Chhmar district.  
18 The first committee of that district from 1975 was Ta Pha. Ta Pha  
19 came from Dambae district. He was reassigned to be in charge of  
20 Krouch Chhmar district.

21 However, later on, he was killed, perhaps in early 1977, when the  
22 purge started to happen in the East Zone. Ta Pha and other cadres  
23 were purged in Krouch Chhmar district.

24 And after Ta Pha, there was another individual, the close  
25 associate of Ke Pauk. And that person was also related to Ke



14

1 Pauk. That individual was transferred from Chamkar Leu, the  
2 Central Zone, to be in charge of Krouch Chhmar district. That  
3 individual's name was Ta Ho (phonetic).

4 In the interviews that I got in relation to the killings of Cham  
5 people in 1977 and '78, interviewees knew well Ta Ho (phonetic).  
6 Now, Ta Ho (phonetic) changed -- changes his name. He was trying  
7 to conceal his background, his actual activities in relation to  
8 the killings and, also, he wanted to conceal his responsibility.  
9 I am working in the OCIJ. I have -- I had <the> chance to see  
10 him. And I could say that he <lied> 100 percent of what he knew.  
11 <He did not acknowledge the killing.>

12 [09.35.55]

13 Q. I put this question to you also because at a point in time you  
14 referred to Sales Ahmat's account in your book. And you talk  
15 about a trip on which he went on a motorbike with the district  
16 head to attend a meeting. And when he is questioned on the  
17 district head, he said that the district head is <now> deceased.  
18 My question to you is as follows. Are we talking of the same  
19 district head as the infamous Ho <(phonetic)>? <Is it the same Ho  
20 <(phonetic)> or is it rather that> at the time you referred to  
21 Sales Ahmat's account, there was another district head in office?  
22 A. Those who could recollect, <were mostly confused of the word>,  
23 particularly in relation to the <word> "district committee".  
24 <During the Khmer Rouge regime,> the district committee consisted  
25 of three people.

15

1 The first one was the secretary and the second was the deputy  
2 secretary, and the last one was member. Some people may have  
3 confused by saying that the deputy secretary was the district  
4 chief. And this also happens to the third individual in that  
5 committee. The member might have been confused that he or she was  
6 the chief of the district. <Nevertheless, you asked about the  
7 district chief who died, or the district secretary who died,  
8 maybe that was> Ta Pha <or> perhaps <that referred to the other  
9 two members in Krouch Chhmar district committee, because> Ta Pha  
10 <as well as other cadres were> killed after the Central Zone and  
11 the Southwest Zone entered that place.

12 [09.38.35]

13 Q. I <might> revisit that point later. I'm going to press on and  
14 talk about your work.

15 Yesterday -- it appears that you stated yesterday that you had  
16 observed that things were said by persons you interviewed and  
17 that<, following that, these> changes <could vary and that was  
18 their responsibility>.

19 As part of your work and as part of your <books>, did you  
20 systematically meet people <several times> or was it <generally>  
21 only <one> in-depth interview<, given the time you had,> that you  
22 <led> with <these different people>?

23 A. For those who did not live far away from my birth village,  
24 most of the -- frequently, I passed those people's villages and I  
25 went to <chitchat with them; however, for the interviews with>

*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.*

16

1    them, <I only conducted them> on a few occasions and that -- the  
2    interviews that I conducted happened in <2000 and it's 2016 now>,  
3    so <it's been 16> years <already>.

4    For interviewees who were living in farther places, I met them  
5    only on one occasion. And I cannot tell you whom I met on several  
6    occasion and whom I met only on one occasion.

7    [09.40.38]

8    Q. I would <now> like to talk about the documentary research you  
9    carried out on the <> documents at the time and the documents  
10   prior to the Democratic Kampuchea period.

11   In answer to questions put to you by the Co-Prosecutor, you  
12   stated that, as regards the number of Cham in 1974, in  
13   <Cambodia>, you had chosen not to carry out any research on the  
14   census that was carried out by the French in the previous period.  
15   If I properly understood your testimony, and I stand corrected if  
16   I am wrong, you said that you were of the view that, generally  
17   speaking, that census was not reliable because you had met a  
18   witness who had worked in a plantation run by the French and  
19   that, one day, some people came to interview people working at  
20   that plantation and that they hadn't made any distinction between  
21   Khmer and Cham workers.

22   Did I properly understand that that was the reason why you were  
23   of the view that the census conducted by the French was not  
24   reliable?

25   [09.42.11]

17

1 And for purposes of completeness, in the interests of the Chamber  
2 and the parties, I'm referring to an article in Phnom Penh Post,  
3 document E3/9680, which only exists in English. The ERN is  
4 01199557.

5 A. Madam Counsel, I believe in what Cham people I interviewed  
6 told me. They said they have never seen <the> actual <counting of  
7 Cham people> conducted. I did not -- I do not need to go back  
8 into the past, <even> after I was born and, after 1979, the  
9 government did not conduct any census in relation to Cham people.  
10 To know how many people <are> living in a village, they need --  
11 the government needs to conduct a survey in that entire village  
12 without discriminating Khmer people from other ethnicities. And  
13 in the <ID card> that I hold, it says only Cambodian nationality.  
14 It does not state Cham, Muslim in that ID card.

15 So it -- so this is what <is> happening in this period, and that  
16 is true also in the past regime. If you want to make sure whether  
17 I am saying is true or not, you can go to ask the government  
18 officials about that. <Currently, there is no actual figure.>

19 [09.44.32]

20 Q. You stated that you did not carry out any research on the  
21 census. My question to you is as follows.

22 Without having carried out any research on the French census,  
23 <could> you know what methods were used at the time <to conduct  
24 these> research? For instance, did you go to libraries, and did  
25 you consult archives to look at documents relating to that census

18

1 as Ben Kiernan was able to do?

2 Did you, yourself, carry out such research?

3 I understand that you considered that that census was not  
4 reliable, but did you, yourself, do anything, carry out any  
5 research to know how the census was carried out, <where it was  
6 carried out,> under what circumstances and so on and so forth?

7 [09.45.26]

8 A. I stand by what I said. The interviews that I got from the  
9 interviewees did not make mention about the <census> conducted or  
10 carried out in the past regimes. <Those people were of very old  
11 age.> For this reason, I did not <believe that there were any  
12 census that could be used officially, and that was why I did not>  
13 focus on carrying <out> the research on <census>.

14 The figure that I had, <it> was quoted from one individual <whom>  
15 I trust. That individual worked with those who were in charge of  
16 managing the entire Cham people in Sangkum Reastr Niyum <until  
17 the Lon Nol> regime. His name was Res <Loh>.

18 The top leader of Cham community was known as "changvang"  
19 (phonetic) or chief. And they had <networks with> hakims, as I  
20 testified before this Chamber about the roles and functions of  
21 hakim. Hakim was in charge of Cham people <and religion> in  
22 villages.

23 In one village, there was -- there is a hakim, and hakim makes  
24 the reports to the superior of how many Cham people is living in  
25 particular village. So the reports from those hakims in

19

1    respective villages, after the addition of that statistic, we got  
2    the number.

3    <But> Res <Loh> <was killed during the Khmer Rouge regime>, <and>  
4    I have met <a witness named Sakriya Adam (phonetic) who has  
5    confirmed that s/he was working> closely with Res Los (phonetic)  
6    <in counting the Cham people before the Khmer Rouge regime.>  
7    [09.47.42]

8    Q. You referred to statistics that were drawn up during the  
9    previous regime and reports produced during that previous regime.  
10   Are these documents you consulted, or these are things that were  
11   told <to you> by the people you interviewed <and whom you  
12   trusted>? Did you consult <> documents <on this subject or are  
13   they simply> oral interviews you <collected>?

14   A. The figure that you mention came from the assertion of  
15   interviewees I met. <It was not from any document.> Whether that  
16   figure was within the documents from the past, I believe that  
17   figure was from those documents based on scientific research.  
18   Those documents may have <been> destroyed and burned by the Khmer  
19   Rouge, and when the question is put to me where <> those  
20   documents were <>, I cannot <answer that>. <It was all  
21   destroyed.> And I can put this question back. <It is the> Khmer  
22   Rouge <who> destroy<ed> those documents<, so why are you>  
23   put<ing> this question to me?

24   [09.49.28]

25   Q. I am <not here> to answer <> question<s; I'm here to ask

1   them>. When you talked of statistics and reports, I wanted to be  
2   sure that your information stemmed from what you were told  
3   orally<; you just confirmed that point and it's clear. S>o my  
4   question to you is as follows.

5   I have, indeed, understood that you interviewed persons you  
6   trusted. Now I would like to know in terms of your scientific  
7   research methodologies. <Even if there were documents that you  
8   could contest or compare with other points, isn't> it logical as  
9   part of <rigorous scientific> research, <> to consult all  
10   documents that existed on the subject, including the French  
11   census that was carried out at the time? <If only to be able to  
12   say yourself why> they were unreliable <or> what was missing in  
13   those documents<. Isn't only relying> on the <simple> testimonies  
14   given by your interviewees <a shortcut> in terms of <> scientific  
15   research<>?

16   A. If you do not believe in what my witnesses or interviewees  
17   told and relied on French census, I want you to show me the  
18   specific figure, particularly the population of Cham people in  
19   <the country at> that time.

20   [09.51.14]

21   MR. PRESIDENT:

22   You are an expert -- expert witness. You are obliged to respond  
23   to the questions put to you based on your realm of knowledge and  
24   expertise. And by answering the questions, it can reflect how the  
25   in-depth analysis you have done in your research and then

21

1 published in your book <so that it could be the base for the  
2 Chamber to ascertain the truth in this case>.

3 If you do not know the answer, you can say so.

4 Secondly, you cannot provide any information based on the  
5 activities that you have done while working <as an analyst> in  
6 the OCIJ. You are here to testify as an expert witness <in  
7 relation to the case of the Cham people>. <Do you understand  
8 that?>

9 You cannot direct the Chamber or any <party> to find other  
10 evidence, so you are here to testify your research and field of  
11 expertise.

12 [09.52.43]

13 And questions are now put by the defence team for the Accused.  
14 They have different styles of questioning methods. They may have  
15 questions to cross-exam you so that that information you testify  
16 is reliable.

17 So you will have to answer about your expertise and your  
18 knowledge <in authoring the books>, so please do not go beyond  
19 what it is not within your expertise. If you expand beyond -- out  
20 of your expertise, it is not useful for the Chamber <in this  
21 case>. And <second,> I can say that some of your answers may, in  
22 turn, <> put weight on you or put pressure on you and then may  
23 lead to extensive time of questioning.

24 Do you understand that, Mr. Expert Witness?

25 MR. YSA OSMAN:

*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.*



22

1 Thank you, Mr. President. I understand it.  
2 I apologize when I expand beyond my expertise. However, I am  
3 repeatedly testifying before this Chamber, and counsel may not  
4 have believed what I said. That is why I am forced to <talk  
5 back>, for instance, about the French census. <If that's what she  
6 believes, then show me the document, because> I cannot find any  
7 other answers <beyond my research> to respond to the question put  
8 by counsel.

9 [09.54.48]

10 MR. PRESIDENT:

11 Whether parties believe it or not, is not the matter, but you are  
12 here to tell the Chamber and, later on, the Chamber will assess  
13 -- will analyze the value of your testimony. <It is the parties'  
14 rights to examine your works as to whether or not they are  
15 reliable in this case. The Chamber is listening and relying on  
16 the line of questionings that have been recorded. And these  
17 records are what we base our decision on.>

18 You are now telling the Chamber, not the party. You are answering  
19 questions of the party, but you are here to tell the Chamber.

20 <And after that, the Chamber will analyze the value of your  
21 testimony.>

22 <Counsel, you may proceed.>

23 [09.55.57]

24 BY MS. GUISSÉ:

25 Q. I may have to repeat my question so that you <can> understand

1 correctly.

2 As part of the case file, we have <different> publications <by>

3 different writers and authors. I'm interested in your scientific

4 approach in <terms of the writing of your book>. And in that

5 regard, my question to you is as follows.

6 Don't you find that it is a shortcut which adversely affects your

7 reflection not <to> look at all the documents that existed on the

8 census<es> that <were> carried out<, if only to have an objective

9 critique of this information>?

10 <I have understood that you referred on what some witnesses told

11 you, but you>, yourself, chose not to carry out any research on

12 that issue. And my question, once again, is as follows. Is it not

13 something that impedes your reflections<>?

14 MR. YSA OSMAN:

15 A. My research was done based on my capacity and my ability. I

16 have met survivors, witnesses, and I did not meet the deceased

17 witnesses.

18 I do not have the ability to spend -- to fly abroad to France to

19 ask about the statistic or census in France.

20 [09.57.56]

21 Q. As part of your research at DC-Cam, did you sometimes <happen>

22 to write to resource persons, not necessarily those in Cambodia,

23 to ask them to provide information on what they knew?

24 You said that you were able to speak to some authors who worked

25 on <other> documents. As part of your research, was the exchange

24

1 of documentation <common?> -- I understand that you were not able  
2 to go to France to obtain <these> documents -- didn't you have  
3 other means while you were <researching> at DC-Cam to obtain  
4 documents from other persons who worked on those subjects, for  
5 instance?

6 [09.59.01]

7 A. I have known authors of books in relation to Khmer Rouge, and  
8 I have communicated with them via emails. And I do not completely  
9 refer or base on -- based on the information from those authors'  
10 books. <I am not bragging, but> I mean, <the capacity of> the  
11 author of those books from America, from other <countries in  
12 meeting> the witnesses <were not more than mine.> They cannot  
13 speak Cham language <like me and they do not know Cham history  
14 more than me. This refers to the living conditions of Cham  
15 people, not the Cham history that happened thousands of years  
16 ago>.

17 Q. Well, then, I'm going to turn to another point. So regarding  
18 this discussion on the census and the number of Cham who were  
19 present in Cambodia in 1974, at least, and regarding the work  
20 that was done on this issue and that formed the subject of  
21 various reports <or articles> before this Chamber, did you ever,  
22 for example, see Ewa Tabeau demographic expert report, document  
23 E3/2413?

24 <Have you read> this document, and especially, do you have the  
25 technical knowledge to understand the demographic formula that

25

1 are explained in detail in this <demographic> report?

2 You don't have to provide me with a long answer, but simply, are  
3 you aware of this document and are you able to analyze this  
4 document<, yes or no>? If not, well, then, we will just proceed.

5 A. I have never read that document.

6 [10.01.28]

7 Q. You worked specifically on the Cham under the DK regime, so  
8 when you started your work, did you start doing generic research  
9 on the DK policies in general terms based on documents from the  
10 period? Did you do this prior to your field research with your  
11 interviews that you conducted with the witnesses that you  
12 interviewed?

13 So is this kind of research you did prior to your interviews, or  
14 did you do <it later,> when you were writing your book?

15 A. In reference to my first book, I read documents from Tuol  
16 Sleng, namely, confessions reports and telegrams. These documents  
17 were maintained at DC-Cam office.

18 I also read those documents in relation to the Cham people who  
19 were arrested and sent to S-21.

20 I also went to see the surviving family members of those who were  
21 arrested and sent to S-21, and they confirmed about the loss of  
22 their family members. This is my process dealing with the first  
23 book.

24 [10.03.22]

25 As for the second book, I did not have many written resources to

1    rely upon. However, I relied on the telegram <15> about the  
2    evacuation of Cham people from the East Zone in late '75, as it  
3    is related to the evacuation of the Cham people after the  
4    suppression of the rebellion.

5    I relied rather heavily for my second book on the interviews I  
6    conducted with victims, some of whom participated in the  
7    rebellious activities and survived as well as interviews with a  
8    few of the perpetrators who used to work at the Krouch Chhmar  
9    district security centre.

10   Q. In particular, you spoke about the <movements of Cham in some>  
11   places. So in the context of that research, did you focus on  
12   <movements of> population in general?

13   Because this is what we saw in Case 002/01, and a little bit as  
14   well in this case, there were various population transfers that  
15   involved the entire population in Democratic Kampuchea, and not  
16   only the Cham.

17   So my question is, were you able to conduct research on these  
18   population <movements> in general terms to see if the Cham were  
19   involved in this general <population movement> or not?

20   [10.05.24]

21   A. I interviewed people who were evacuated, and that evacuation  
22   did not take place in 1975, based on the accounts of those  
23   people. Some of them were actually evacuated in 1973, that is,  
24   during the clashes between the Khmer Rouge troops and the Lon Nol  
25   troops as Khmer Rouge actually relocated them from the clashes

1 area to another location.

2 And the second evacuation happened after the fall of Phnom Penh  
3 as well as the fall of other <provinces and> cities, that is, on  
4 the 17 April 1975.

5 They were evacuated out of the cities, and they were considered  
6 New People and that they did not support their policies from the  
7 beginning, so those peoples were evacuated from Phnom Penh to  
8 <rural areas>, including the Cham people <living in the city>.

9 [10.06.38]

10 And another evacuation took place in around November or December  
11 1975, and that was particularly for the Cham people in Krouch  
12 Chhmar district, Kang Meas, <Kampong Siem,> Tboung Khmum  
13 <district>. And that happened in the East Zone as well as the old  
14 North Zone.

15 And through my research, only the Cham people were evacuated at  
16 that stage, as they were involved in the rebellion. So the Khmer  
17 Rouge would not allow the Cham people to live in a -- as a  
18 community in order to avoid any further rebellion. For that  
19 reason, they were evacuated.

20 And this does not mean that they were evacuated to an area where  
21 Cham people were living. In fact, they were evacuated and  
22 dispersed to various villages to live mingled with Khmer people.  
23 For example, two or three Cham families were evacuated to live in  
24 a village with the Khmer people, and the plan was to disperse  
25 them, <to abolish their identities> or not to allow them to live

1 in a community so that they would be the subject of monitors.

2 [10.08.26]

3 MR. PRESIDENT:

4 Thank you. And Mr. Expert, you are reminded to respond rather

5 precisely to the questions. In particular, the last question,

6 that is, in terms of your research, whether your research focused

7 only on the evacuation of the Cham people or on the evacuation of

8 other people, including the Cham, the Khmer and the Chinese.

9 And that is the nature of that question, so you should actually

10 limit your response to that.

11 And if you expand your response, it might overlap with the

12 subsequent questions that the counsel may put to you.

13 And Counsel, you may continue.

14 [10.09.23]

15 BY MS. GUISSÉ:

16 Q. Thank you. Now, in response to your last lengthy response, you

17 said that you noted in your interviews that the population

18 <movements> only involved the Cham in the third phase of

19 <movements> that you spoke about. But in your interviews, did you

20 interview other people than Cham people, that is to say, Khmer

21 people from the same place, in order to see if they were also

22 <displaced> during that same period? Did you speak to other

23 people, other than Cham people?

24 MR. YSA OSMAN:

25 A. Yes, I did. And they confirmed that the Cham people who were

1 living in the next village were being evacuated.

2 Q. Can you give us <> a range of the number of people you spoke  
3 to?

4 So you're telling me about the Cham people from the next-door  
5 village, so in which village did you interview these people?

6 A. I cannot provide you the figure based on my recollection since  
7 it happened several years ago. And those people that I  
8 interviewed <were not far from Svay Khleang village. They> were  
9 living within the same commune, <but in Khmer> village. And I  
10 recall one name, Chhum Kea, whom I interviewed.

11 I also recall another name, Din Paet. And there were also other  
12 people whom I interviewed.

13 [10.11.33]

14 MS. GUISSSE:

15 Mr. President, maybe it's a good time to have the break.

16 MR. PRESIDENT:

17 Thank you, Counsel.

18 It is now convenient for a short break. We'll take a break now  
19 and resume at 10.30.

20 Court officer, please assist the expert during the break time,  
21 and invite him as well as the OCIJ legal officer, back into the  
22 courtroom at 10.30.

23 The Court is now in recess.

24 (Court recesses from 1012H to 1033H)

25 MR. PRESIDENT:



30

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

2 Again, I'd like to hand the floor to the International Counsel

3 for Khieu Samphan to put further questions to the expert. You may  
4 proceed.

5 MS. GUISSÉ:

6 Thank you, Mr. President.

7 Q. Mr. Ysa Osman, we have referred to your research methodology a

8 number of times as well as the methodology used at DC-Cam. I

9 <will> refer specifically to some passage<s> in your book, but I

10 would like you to react to part of a report by Henri Locard, who

11 refers to the issue of the methods used by DC-Cam, particularly

12 as regards figures. And it is document E3/2649, ERN in French,

13 00614111; ERN in English, 00208395 and it continues on the next

14 page; ERN in Khmer, 00660598.

15 To be complete, let me say that this is a report that was drawn

16 up on the former northern region of Kampong Cham in Zones in

17 Sectors 41 and 42, and <they are investigations that cover> the

18 period from <> <1993> to 2005. <It's on the first page of the

19 document.>

20 [10.36.04]

21 The passage I would like to quote is as follows, and here Locard

22 refers to the figures given to him as regards the number of

23 deaths and pits that existed in the region. And this is what he

24 states, and I quote:

25 "When I asked whether the figures given by DC-Cam were reliable

*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.*

31

1 -- (<32,690> victims <and> <467> pits) and he said the figures he  
2 <verified> were <> 39,007 <plus one, because he witnessed the  
3 last person> executed, so the total was then 39,008. <He> <does>  
4 not know why so many people were killed."

5 And Locard gives this comment:

6 "Obviously, those are extravagant PRK figures decreed by the  
7 authorities in the early <regime>. <They> could never have been  
8 that accurate since we were <> told that all the archives had  
9 been destroyed and lost, mainly by ignorance and negligence, as  
10 the authorities are said to have had no responsibility in their  
11 disappearance. Typical of the research by DC-Cam; <their>  
12 inexperienced young researchers just noted the figures from the  
13 PRK period and perhaps never carried out independent  
14 investigations<>." End of quote.

15 [10.38.08]

16 BY MS. GUISSÉ:

17 <I would like to ask you to react to this> comment by Henri  
18 Locard, who is criticizing the manner in which some <members> of  
19 DC-Cam carried out research. <Were> you aware of these  
20 criticisms, and did some authors and researchers also criticize  
21 the research methods of DC-Cam and the manner in which they  
22 obtained their sources?

23 MR. PRESIDENT:

24 Please hold on, Mr. Osman.

25 Judge Laverne, you have the floor.

1 JUDGE LAVERGNE:

2 Yes, Mr. President. <Counsel Guissé will correct me if I am  
3 wrong, but> I <think> that these figures <directly relate to> the  
4 security centre which was <at the pagoda of> Wat Au Trakuon. I  
5 don't know whether <> it was said, but it is important to clarify  
6 that point.

7 [10.39.20]

8 BY MS. GUISSÉ:

9 No problem. My question is not so much on figures as on the  
10 methods of research following the comment by Mr. Locard, Henri  
11 Locard. <I am more interested in> Locard's criticism of <the>  
12 research methodology<>.

13 MR. YSA OSMAN:

14 A. The question is rather general. My research is focusing on  
15 <the> Cham issue, and I am invited to testify before the Chamber  
16 about the Cham people issue.

17 Your question has something to do with the criticism of Henri  
18 Locard, in particular the research methodology used by the  
19 DC-Cam. That question should be referred to the director of the  
20 DC-Cam. That is more appropriate <than> to <ask> me.

21 [10.40.52]

22 MR. PRESIDENT:

23 The question is directed to you as an expert witness about the  
24 weaknesses and also the carelessness of the research authority.

25 <They want to say that the figures, set in the research that has

1    been submitted in the case file from DC-Cam, are not correct.> So  
2    they want to know about your reaction, particularly in relation  
3    to the figures criticized by Henri Locard.  
4    And the Counsel for the Accused want to know your reaction  
5    whether <the> figure<s are> accurate or not accurate, <or whether  
6    the figures are accurate in which instances.>  
7    So please give your response. If you do not know, you can say so.  
8    You cannot suggest Counsel to put the question to other  
9    witnesses. This question is considered the question to  
10   cross-examine the witness, and <many> questioning methods are  
11   being used in this Court and may be used by the domestic Courts  
12   in the future because they might be considered as the model of --  
13   the model of questioning methods.  
14   [10.42.25]  
15   BY MS. GUISSÉ:  
16   Q. Mr. Ysa Osman, before responding, let me clarify the point by  
17   saying that at the beginning of my examination, I put questions  
18   to you regarding methodology and I referred <you> to a DC-Cam  
19   document, which is cited at the end of your book, "Oukoubah", in  
20   which reference is made to DC-Cam.  
21   You, yourself, stated that you <learned on the job, in  
22   particular, in relying> on the methodology laid down by DC-Cam<>.  
23   When I referred to criticisms made in general terms by Henri  
24   Locard against the methods used as regards the figures, I would  
25   like you to react <to know> whether you heard such criticisms,

1 and what <> you <would> have to say <in response. Because I also  
2 asked you> questions regarding your research choices which could  
3 <> impede your <approach. Here,> Henri Locard makes a criticism  
4 saying that there's a lack of verification of certain figures  
5 because certain figures were <> taken for granted.

6 And my question to you is whether you have any particular  
7 reactions as regards your work <as> a researcher at DC-Cam.

8 [10.44.10]

9 MR. YSA OSMAN:

10 A. I have heard about the criticism not only by Henri Locard, but  
11 by other researchers as well, the history researchers.

12 Some researchers may have found different figures, and they have  
13 criticized that certain figures used by the DC-Cam are not  
14 accurate. However, the DC-Cam is still in the position that the  
15 research or figures they have found are based on what the  
16 witnesses told.

17 If witnesses made mention <of a> clearly specific figure, we had  
18 to follow that figure. We cannot overstate or put in the document  
19 the figure which is less than what a witness just told.

20 Besides testimonies, interviews of witnesses, we <> based on  
21 other contemporaneous documents or documents from <Sangkum Reastr  
22 Niyum or from> Lon Nol's time, so if the information in those  
23 documents are not accurate, so it is the matter of those  
24 documents. <That is also applied to witnesses' statements. It's  
25 the matter of the witnesses, not the DC-Cam.>

1 [10.45.54]

2 Q. And on the specific issue of figures and documents or  
3 information <provided by> the <People's Republic of> Kampuchea,  
4 do you have any particular reaction, bearing in mind that after  
5 the fall of Democratic Kampuchea, a new political regime was  
6 established? There <> are discussions regarding <communication in  
7 terms of what happened in Kampuchea and> official documents on <>  
8 that were published during that period.

9 Did you, yourself, consult documents of the <People's Republic of  
10 Kampuchea> in writing <any of> your books?

11 A. Perhaps there are two documents used by me. That documents --  
12 those documents were compiled in Khmer Republic regime. They were  
13 about -- they're about the death of Cham people and the death of  
14 the leaders of Cham people.

15 [10.47.38]

16 Q. Do you remember the date on which those documents were  
17 written?

18 A. Unless I go back to those documents, I may have recalled. And  
19 perhaps that is included in the first book that I have authored.  
20 So do you allow me and give me time to go to my book so that I  
21 can find the date for you?

22 Q. No problem. I can cross-check that myself. Another question  
23 regarding the <> People's Republic of Kampuchea, you talked of  
24 Mat Ly in answer to a question put to you by <Counsel Koppe  
25 yesterday>. And you talked about his background, and you also

1    stated that you interviewed him as part of the interviews <for>  
2    DC-Cam.

3    Do you remember the different duties and responsibilities he held  
4    during Democratic Kampuchea?

5    A. Mat Ly was one of the cadres. He was among the leaders of  
6    Tboung Khmum <district>.

7    Previously, it was in Kampong Cham province. The committee -- the  
8    district committee at the time consisted of three individuals  
9    and, among the three, he was in that group.

10   Q. In answer to a question put to you<, I believe,> by Judge  
11   Lavergne, you said that <you were unsure as to whether> he was  
12   district secretary.

13   Do you know whether, in 1978, before he left the regime, do you  
14   recall whether he held the position of deputy chief of Tboung  
15   Khmum district?

16   [10.50.34]

17   A. He was the second person among the three. He was the deputy  
18   secretary of Tboung Khmum district.

19   Q. Can you also remind the Chamber of the position he held  
20   subsequently after the fall of the regime within the People's  
21   Republic of Kampuchea?

22   A. I can recall that he was the deputy minister in the  
23   government, but I did not do the research specifically on his  
24   role and function.

25   However, <both Khmer and> Cham people knew very well that he was

1 a dignitary in the <People> Republic of Kampuchea. He was one of  
2 the leading persons of Cham community <in the country>.

3 [10.52.24]

4 Q. In a document we have on record, E3/3555, which I believe only  
5 exists in English and is titled "Ethnic Groups in Cambodia", the  
6 ERN in English is 00489348. And it is stated therein that Mat Ly  
7 also played a role, and I'll quote the sentence in English in  
8 order not to distort what is stated:

9 "As noted above, this gentleman had been a Khmer Rouge defector  
10 and an important figure in the PRK as a prosecutor in the  
11 tribunal which tried Pol Pot and Ieng Sary in absentia." End of  
12 quote.

13 Does that refresh your memory as to the position he held as  
14 prosecutor in that trial <in absentia>?

15 A. Yes. His name was in the case file <for the trial of> Pol  
16 Pot's, Ieng Sary's clique <after> 1979. However, I can tell you  
17 -- I cannot tell you what function he was -- he was playing <>.

18 [10.54.18]

19 Q. I will return to Mat Ly and another figure of the Cham  
20 community subsequently.

21 For the time being, I would like us to talk about part of your  
22 book, specifically, "The Cham Rebellion". And I'll talk about a  
23 passage on which you have already made comments in answer to  
24 questions put to you by Judge Lavergne.

25 And the passage of interest to me is in the folder I've given to



1 you, and I believe it is the first folder, Exhibit Number 5. The  
2 document in question is E3/2653. The ERN in English is 00219176.  
3 <> It's a reference to a telegram. <Its> number is E3/511. And in  
4 answer to a question put to you by Judge Lavergne, you stated  
5 that there was, indeed, an error in your book. And I will quote  
6 the <relevant> passage in question in English.  
7 You are talking of a telegram, and this is what you say:  
8 "Copies of the report were also addressed to Nuon Chea and Khieu  
9 Samphan. The report specifies these enemies as being the  
10 following: former Lon Nol soldiers, some former chairmen of  
11 cooperatives who had served under the older smaller-scale system,  
12 and the entire Cham race." End of quote.  
13 [10.56.35]  
14 As regards the first error you acknowledged, that is, the fact  
15 that you mixed up Khieu Samphan with Comrade Khieu, <which> was  
16 the revolutionary alias of Son Sen, and you said <anyone could  
17 have erred> on that matter. And the second point on this telegram  
18 which you <have> before you has to do with the following  
19 question.  
20 Do you agree that when you look at -- when you consult telegrams  
21 <or> documents of that era, you consult them in Khmer? Isn't that  
22 correct?  
23 A. Concerning my research and the start of writing of my book,  
24 first I wrote it in Khmer.  
25 Q. Very well. We may have translation problems before this

1 tribunal, but you wouldn't have any problems <> consulting <the>  
2 telegram<>.

3 Again, this might be an issue of methodology. You <made an error>  
4 on the name of <a> leader of Democratic Kampuchea <which was  
5 mentioned in this> document.

6 As part of your work, your research and consultation of  
7 documents, did you do any background research on <who was whom  
8 and what were> the revolutionary aliases of <each> person<>?

9 And <above all, generally speaking, do you remember> that during  
10 the Democratic Kampuchea period, they relied a lot on aliases and  
11 codes <as regards the different offices?>

12 [10.58.55]

13 A. As I have told the Court already, I acknowledged that I have  
14 some weaknesses <>. At the time when I started to write my book,  
15 I did not have a large amount of documents to consult, and I did  
16 not have chance to meet <a lot of> the interviewees. And after  
17 the publication of the book, I concluded <comrade> Khieu <> was  
18 <> Khieu Samphan but, in fact, it was <a presumption>. So I would  
19 like to make <a> correction on this point.

20 Q. Of course, that might correspond to <a> lack of knowledge of  
21 the revolutionary aliases of the leaders of Democratic Kampuchea.  
22 But now regarding the inclusion of the mention "the entire Cham  
23 race" which corresponds to your position which I will not discuss  
24 here because it's up to the Chamber to determine the issue of  
25 genocide or not, but this error which is not a translation error

40

1 because you're working on the Khmer <document>, well, this is an  
2 important issue -- an important aspect of your argument in your  
3 book.

4 [11.00.48]

5 So the fact of distorting the documents that you reviewed, which  
6 completely changed their meaning, isn't that an error linked to  
7 the fact that you are Cham and that you also <could have needed>  
8 justice? <Incidentally, you explained> that your book, "Oukoubah"  
9 could be related to that: justice <and punishment>? Doesn't that  
10 -- didn't that prevent you from having an objective <and  
11 rigorous> analysis <> of the documents that you reviewed when you  
12 wrote your book?

13 MR. KOUMJIAN:

14 Mr. President, I would just ask for some clarification of the  
15 question it was a very long question.

16 But it seems to be predicated -- Counsel has the -- has stated  
17 that the witness grossly distorted what's written on the  
18 telegram. I think what she's referring to is that the telegram  
19 talks about the enemies being former soldiers in combination with  
20 the Cham. And the -- in the book written by the witness, it talks  
21 about the entire Cham race.

22 So her -- there's no qualification of "the Cham", that it's  
23 referring to any particular parts of the Cham race or  
24 individuals, so I just think the question includes an assumption.  
25 She could ask the witness how he understands the words "the

41

1 Cham". And it's -- furthermore, it's very argumentative, the  
2 question, as phrased.

3 BY MS. GUISSÉ:

4 I must say that I'm very surprised by the Co-Prosecutor's  
5 observation <or objection>. Maybe I should start here.

6 Q. Let me read out the famous document E3/511<>.

7 In this specific excerpt, Ysa Osman comments a document which a  
8 priori, <is> telegram E3/511, and which is referred to as a  
9 footnote, a footnote to the excerpt that I'm going to quote.

10 <And> he says, in English:

11 [11.03.58]

12 "<The report specifies> these enemies as being the following:  
13 former Lon Nol soldiers, some former chairmen of cooperatives who  
14 had served under the older smaller-scale system, and the entire  
15 Cham race."

16 And now I'm going to read out the excerpt E3/511 of this  
17 document, which is therefore referred to as a footnote, and that  
18 corresponds to the comments of Ysa Osman in his book. And this is  
19 what is said.

20 First, mention is specifically made of the North Zone, and this  
21 is what is said at point 1. I will read slowly, but I believe,  
22 Ysa Osman, you have the document before you<.>

23 "The general situation of the enemies in the North Zone in its  
24 entirety, the enemies have not carried out full scale action that  
25 have an effect on the population or the general production

1 <movement>. In brief, the situation seems to be stable. However,  
2 at the same time, they propagated rumours to make us believe that  
3 the revolution was <tense> to discredit the cooperatives and the  
4 building of the new dyke system and to make us believe that there  
5 was a famine."

6 [11.05.28]

7 And here, I will continue with my quote but, more specifically,  
8 they're speaking about Chamkar Leu district:

9 "In reality, there were problems in Chamkar Leu district. The  
10 enemies were former soldiers as well as Cham and former  
11 cooperative leaders, and they posted photographs and the release  
12 of 18 March 1970, of this Nol, on the tree trunks close to  
13 Trapeang Krabau village, Chamkar Leu district." End of quote.

14 So in this excerpt -- and this allows me to react<>, Ysa Osman.

15 In this passage, mention is made of facts that happened in the  
16 North Zone and mention is specifically made of Chamkar Leu  
17 district. And in Chamkar Leu district, mention is made of former  
18 soldiers, of Cham, and of former cooperative chiefs who posted  
19 pictures and a release from 18 March 1970.

20 So my question is, how were you able to conclude from this  
21 passage from this document that speaks specifically about certain  
22 Chams<, about certain former soldiers,> and about former  
23 cooperative chiefs who did a certain number of things that are  
24 held against the author of the telegram -- how do you go from  
25 that to the entire Cham race?<>

1 [11.07.26]

2 MR. YSA OSMAN:

3 A. I am now reading the original Khmer document, in particular on  
4 the point highlighting the word "Cham". It reads that, "the  
5 enemies are former soldiers together with the Cham people", but  
6 it did not specify if the -- the type of the Cham people. And  
7 probably that is the reason that led to mistranslation.

8 As stated in my book, that is "the entire Cham race". In my view,  
9 it is not really a mistranslation because the focus is on the  
10 Cham -- the entire Cham people living in Chamkar Leu <district>.  
11 And if you refer to the original Khmer document, it refers to  
12 those Cham people in Chamkar Leu district, which means the entire  
13 Cham people or Cham people community in Chamkar Leu <district,  
14 not any Cham group in particular>.

15 [11.08.48]

16 Q. So the entire Cham community of Chamkar Leu, if that was your  
17 interpretation, which is your own, of course, but <in any event,>  
18 here we're not speaking about the entire Cham race. And I'd like  
19 to get back to the document once again, E3/511.

20 When the enemies are specified, mention is not made of the  
21 majority of the former Lon Nol soldiers or of the Cham <as a>  
22 whole or of the cooperative leaders <as a whole>. What is  
23 stated<, and I will quote the document, "The> enemies were former  
24 soldiers as well as Cham and former cooperative <chiefs", there  
25 is a translation error, "who posted pictures and a release from

1 18 March 1970> of Lon Nol, <> on tree trunks near Trapeang  
2 <Krabau> village in Chamkar Leu district" .  
3 So when we read out this -- the totality of <this document, and  
4 this excerpt in particular>, it is clear that mention is made of  
5 people who committed certain acts such as posting photographs and  
6 a release from 1970, and mention is not made of the totality of  
7 the Cham race. So telling me that this may be a problem of  
8 translation, you who worked directly from the original in Khmer,  
9 didn't you<, not only in taking this part about the Cham out of  
10 the context, didn't you> extrapolate in relation to what is said  
11 in this telegram?

12 [11.10.46]

13 A. In fact, the question is beyond my ability to respond, as  
14 English is not my native language.

15 If you ask me to cross-check the translation to the original of  
16 the Khmer text, I cannot provide you an accurate response.

17 And also, the English text is not put in a <quotation marks>. As  
18 I indicated this morning, when words are used in the <quotation  
19 marks>, it means that it is an original quotation on the account  
20 or on the interview of people. And for example, if I <would> like  
21 to quote this document, then the wordings will be put in the  
22 <quotation marks>.

23 However, in my book, it is part of my analysis that the word  
24 "Cham" there was used to mean <the> entire Cham population living  
25 in Chamkar Leu <district>.

45

1 So as I said, I do not have the ability to verify with you  
2 whether the English translation is proper.

3 [11.12.22]

4 Q. Well, in reality, we have a translation unit in this tribunal,  
5 <who has already reviewed> this document<, so we have the  
6 document in all three languages>. So my question was a little bit  
7 more specific than that.

8 I read out the excerpt which is at the base of your analysis, so  
9 I understand from your answer that, based on the excerpt that I  
10 read out which specifically speaks about former soldiers, Cham,  
11 former cooperative leaders who committed certain acts which they  
12 are criticized for in this telegram, you deemed that you could  
13 <indicate> <> -- <and didn't indicate the entirety of the Cham of  
14 Chamkar Leu in your book; you said <> "the entire Cham race"<>.  
15 So this does not even correspond to the analysis that you're  
16 providing us today.

17 So my question is the following. Don't you think that when you  
18 read documents from the period, you read them under the influence  
19 of what you might want to demonstrate and not based on the  
20 objective information in these documents?

21 [11.13.58]

22 A. No, that is not the case. You can say whatever you want. For  
23 me, I authored the book based on the documents, based on the  
24 accounts of people I interviewed, and my analysis based on my  
25 professional ability.



1 Q. Well, since I don't have much time left, I would like to move  
2 on to another point.

3 We heard Sales Ahmat before this Chamber. And in your book, "The  
4 Cham Rebellion", you spoke about his testimony.

5 And on the case file, we have an excerpt from your book, "The  
6 Cham Rebellion", document E3/9323, French ERN, 00286658; Khmer  
7 ERN, 00275387; English ERN, 00218542; and I believe that you may  
8 find the excerpt in question at Tab 4, in <> binder <2> -- in the  
9 binder that I just gave you today. And this is what is stated in  
10 this excerpt, and you speak about Sales Ahmet, and he says -- he  
11 says that:

12 "At the end of 1978, he drove a motorcycle for the district  
13 secretary, who did not know how to ride a motorcycle, to bring  
14 him to a meeting in Sandan district in Kampong Thom.

15 So given that Sales was not supposed to participate in this  
16 meeting, he waited outside, and he stated that while he was  
17 waiting outside, he could see the district secretaries from the  
18 East and Central Zones in the meeting room, and he could also  
19 hear what was being said during that meeting because they were  
20 using loudspeakers inside. And, at one point in time during the  
21 meeting, Ke Pauk, who was the Secretary of the Central Zone,  
22 whose representatives had just taken the East Zone in a violent  
23 conquest of power, asked the Krouch Chhmar district secretary,  
24 'Which percentage of the Party objectives have we achieved?' And  
25 Sales just declared that Ke Pauk then specified, 'You must first

1 destroy the Cham in the mobile units because they are all  
2 traitors.'" End of quote.

3 [11.17.07]

4 So when Sales appeared before the Chamber, a certain number of  
5 questions were put to him and this was the question that was put  
6 to him on 9 March 2016, a little bit after or a little bit before  
7 1.36 in the afternoon.

8 So, Judge Lavergne putting the question:

9 "So, were the Vietnamese specifically targeted, as far as you  
10 remember; if you don't remember, just tell us that you don't  
11 remember?"

12 And <his> answer was the following:

13 "In fact, he said that the cadres of the East Zone <were supposed  
14 to have> a Vietnamese mind and Khmer bodies and other people were  
15 accused of being bandits."

16 [11.18.12]

17 Judge Lavergne continued then:

18 "So, at one point during the meeting, did they specifically  
19 discuss the Cham and what was said in relation to the Cham?"

20 And Sales Ahmat's answer was:

21 "No, back then, we didn't speak about the Cham because the Cham  
22 had been deported. They only spoke about the cadres of the East  
23 Zone back then."

24 Then he continues, a little bit after 1.40, this is, and the  
25 question that was put to him was the following:

1 "So the plan was to eliminate all of the members of the mobile  
2 units or all of the Cham who were part of the mobile units?"

3 [11.19.03]

4 And the answer was the following: "All of the members of the  
5 mobile units had to be purged, had to be eliminated."

6 Then following question: "And, at one point in time during the  
7 meeting, were any questions put specifically regarding the Cham?"

8 The answer was: "Questions were put regarding the Cham, the  
9 Khmer, <and> the plan consisted in purging cadres from the East  
10 Zone."

11 Question: "So there was no mention of a plan specifically geared  
12 at the Cham more than other categories of people who were  
13 considered traitors; is that what we must understand?"

14 And the answer was the following: "Yes, that's true. All traitors  
15 had to be executed."

16 [11.19.59]

17 And then, to <be thorough>, there was a certain number of  
18 comments <during my examination> regarding what he might have  
19 seen or not seen, so this defers a little bit from the <account>  
20 that you related, but this is not very, very important. However,  
21 the question, after having quoted the excerpt from your book, <my  
22 question> was the following <> on 9 March 2016, a little bit  
23 before <4.02.25> in the afternoon.

24 "So my question is, Witness, did you discuss this point; did you  
25 say this to Mr. Ysa Osman when he questioned you; that is to say,

1 that everyone was going to be smashed regardless of his or her  
2 race, Khmer, Cham, or Chinese?"

3 And this was the answer, "I don't remember the answer that I gave  
4 back then. No one was spared back then. Everyone's life was  
5 threatened. If we betrayed Angkar, we risked being executed  
6 whether we be Cham or Khmer. Those who had betrayed Angkar, in  
7 particular, those from the East Zone were executed." End of  
8 quote.

9 So this -- I'm quoting this so that you can have in mind what  
10 Sales Ahmat said before the Chamber and to understand if that is  
11 what he'd said to you when you interviewed him, because when he  
12 testified before the Chamber, he said that there was no -- or he  
13 did not hear, during this meeting, anything specific connected to  
14 the Cham, but generic <things> regarding all people who had  
15 betrayed the Angkar.

16 So can you -- can you comment <on> this; do you have any specific  
17 reaction to what Sales Ahmat said before the Chamber?

18 [11.22.12]

19 A. Your question is very long, although I seem to get the gist of  
20 it. I interviewed Sales Ahmat and the audio record of that  
21 interview is available at DC-Cam office. And after the interview,  
22 his account has been included in my book.

23 Mike Dixon, <> the OI -- OCIJ investigator, actually went,  
24 together, with me to meet this person, Sales Ahmat, and to verify  
25 <> his account that I published in my book. He checked it and he

50

1 also provided a thumbprint on that piece of document  
2 <acknowledging that he did give the statement to Ysa Osman> as  
3 shown in this document.

4 However, during his testimony before this Chamber, he did not  
5 mention this or he did not recollect that account and that is a  
6 matter of his recollection and not a matter that I wrote his  
7 account differently in my book.

8 [11.24.03]

9 Q. Well, regarding the excerpt when he says he didn't remember,  
10 what he's really saying is that he doesn't remember what he said  
11 to you, but as you noted, the question --

12 MR. KOUMJIAN:

13 I apologize. Your Honour, I think, since Counsel is putting, I  
14 believe she's saying, a fair reading of Sales Ahmat's testimony,  
15 I think it would be important to include the following answer  
16 which he gave to the Court and this is at 10.43.15 on the same  
17 day.

18 "I heard from the loudspeaker that the new chiefs assigned to the  
19 East Zone needed to implement the policy of the Angkar regarding  
20 the smashing of the Cham and some of them answered that they had  
21 implemented 50 percent of the policies, some said they had  
22 implemented 80 percent of the policy because Angkar gave the  
23 instruction to smash 100 percent of the Cham and the group that  
24 needed to be smashed needed to be the ones who betrayed the  
25 Angkar, regardless of their ethnicity, whether Cham or Khmer."

*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.*

51

1 So I think that is important to include in a fair reading of  
2 Sales Ahmat's testimony.

3 [11.25.25]

4 BY MS. GUISSÉ:

5 No problem regarding the excerpt that was read out by the  
6 Co-Prosecutor because the conclusion is the same as the  
7 conclusion I provided to you earlier, that is to say, that the  
8 witness said that the issue was not whether they were Cham or  
9 Khmer, but it was whether they had betrayed Angkar or not.

10 Q. So I'm -- let me get back to my original question which is --  
11 and -- of course, you answered that --and you said that is what  
12 he said back then, but my question is: when you questioned him --  
13 when you interviewed him, did you interview him only about the  
14 Cham or did you interview him about everything that might have  
15 been said regarding all ethnic components of Democratic  
16 Kampuchea?

17 [11.26.35]

18 MR. YSA OSMAN:

19 A. My interview was about his general knowledge; however, he  
20 actually told me more about the Cham people.

21 Q. So, therefore, I return to the question that I was putting to  
22 you before, <that is> you processed the information <and the  
23 angle at which you conducted your research>, doesn't that hinder  
24 you -- hinder you in your thinking? Which means if you're only  
25 asking questions about the Cham only without knowing what

1 happened outside of the Cham community and regarding <other  
2 communities or> people, <in general,> <> who betrayed the Angkar,  
3 doesn't this have an influence on your conclusions regarding the  
4 fact that there was one <specific> policy targeted against the  
5 Cham; whereas, this -- whereas, the Cham might have simply been  
6 included among all those who were betraying Angkar and who were  
7 being tracked down because they were considered enemies, just as  
8 the Khmer or anyone else who was betraying Angkar, as the witness  
9 said before the Chamber?

10 [11.28.13]

11 A. As I have stated, during the interview, he spoke more about  
12 the stories of the Cham people; although the account he gave  
13 during his testimony in this court might be different from what  
14 he told me <> and the excerpt in my book relied on what he  
15 actually told me during that interview.

16 Q. Well, that's specifically -- that is the issue, in fact. The  
17 fact that he's speaking more generically before the Chamber, <>  
18 isn't this linked to the way you put questions and <the angle you  
19 took> during your interview with him?

20 [11.29.25]

21 A. I think the -- the <witnesses> will respond to the questions  
22 <in accordance to the questioners also>. And, for my part, I did  
23 not ask him how the Cham people were killed.  
24 <For instance,> in relation to the facts that he actually rode a  
25 motorcycle to <take> the district <chief> to the meeting, <> I

1 asked him <what he heard during the meeting. I did not ask him  
2 whether he heard them talking about the Cham issue or whether he  
3 overheard during that meeting about the killing of the Cham  
4 people. I asked him what he did hear> and then he elaborated  
5 further on what he overheard during that meeting about the  
6 killing of the Cham people and that is exactly the excerpt from  
7 his interview <>.

8 And I am maintaining my position that I do not exaggerate or  
9 remove any part from the account of the interview. I maintain its  
10 integrity in its inclusion in my book.

11 BY MS. GUISSÉ:

12 Mr. President, I see that we're running out of time and I'm  
13 pressing on with my cross-examination and I'll try to do as much  
14 as I can.

15 Q. You also interviewed Mr. Sos <Kamri> on several occasions. You  
16 even stated in your book, "Oukoubah", document E3/1822. The ERN  
17 in English is, 00078562. You stated therein that you had an  
18 interview with Mr. Sos <Kamri> from <1999> to <2002>. You state  
19 in <the Acknowledgments of> the two books you published, both in  
20 "Oukoubah", the ERN is 00078441 and the ERN in -- that is, for  
21 "The Cham Rebellion" is document E3/2653. The ERN is, 00219059;  
22 and you state specifically -- and I'm quoting in English and this  
23 is the <second-to-last> paragraph, "<Moreover,> I would like to  
24 acknowledge the support of Oknha Sos <Kamri>, Chairman of the  
25 Highest Council for Islamic Religious Affairs in Cambodia and His



1 Excellency Mat Ly, a representative of Kampong Cham and Supreme  
2 Personal Advisor to the King. He passed away in 2004. Their  
3 introductions helped me gain the trust of many Cham Muslim  
4 communities." End of quote.

5 My question is as follows: Should I take it that your interviews  
6 with various members of the community were facilitated by those  
7 two persons?

8 [11.33.29]

9 MR. YSA OSMAN:

10 A. Yes, that is correct within that context. In Cambodia, during  
11 the time that I conducted the interviews, people did not exercise  
12 their full freedom and it was also the same for researchers. If  
13 we were to wish to speak to people in the village, we had to go  
14 first to see the village chief and within the Cham context, we  
15 had to go and see a hakim.

16 <And Mat Ly and> Sos <Kamri are> well-respected and <especially  
17 for Sos Kamri,> he is a senior religious Islamic leader within  
18 the community. He actually wrote me a letter and the content of  
19 that letter is to actually invite the local Cham community  
20 leaders to cooperate fully with my research <in order to provide  
21 real information>. And this is what I did; I went to see the  
22 village chief or hakim to introduce the letter to them <and they  
23 were happy to cooperate with me because I had support from Sos  
24 Kamri and Mat Ly>.

25 MS. GUISSÉ:

1 Mr. President, I have not completed my cross-examination and that  
2 is exactly what I said yesterday. We would have needed at least  
3 three sessions. With two and a half sessions and taking into  
4 account the discussions we had yesterday, I've not been able to  
5 complete my cross-examination; that's why I'm asking for  
6 additional time, bearing in mind that I have omitted several  
7 subjects that I would have liked to raise with this expert.

8 [11.35.39]

9 MR. PRESIDENT:

10 Thank you; however, you will not be granted any additional time.

11 The Chamber has actually granted more than ample time for both  
12 sides to put questions to this expert.

13 <It is now appropriate for a break; however,> the defence team  
14 for Nuon Chea would like to make their <submission> in relation  
15 to next week and the following weeks of the proceedings <in which  
16 the Chamber has planned to hear civil parties' testimonies and  
17 the facts>. The Chamber intends to hear the oral submissions from  
18 parties to the <motion filed by> the defence team for Nuon Chea  
19 so that we can actually conclude the session for the expert this  
20 afternoon.

21 [11.36.37]

22 The Chamber decides to give 50 minutes to the Co-Prosecutors and  
23 the Lead Co-Lawyers and also 50 minutes to put to the Co-Defence  
24 teams, that is, to put to Ysa Osman. And after that, the Chamber  
25 will hear oral responses from parties to the motion filed by Nuon

1 Chea's defence.

2 We will have an adjournment now for lunch and resume this  
3 afternoon.

4 Court officer, please assist the expert during the -- the lunch  
5 break and invite him, as well as the OCIJ Legal officer, back  
6 into the courtroom this afternoon.

7 And this afternoon, the floor will be given, first, to the  
8 Co-Prosecutors, as well as the Lead Co-Lawyers for civil parties.  
9 Security personnel, you are instructed to take Khieu Samphan to  
10 the waiting room downstairs and have him returned to attend the  
11 proceedings this afternoon before 1.30.

12 The Court is now in recess.

13 (Court recesses from 1137H to 1333H)

14 (Court recesses from 1137H to 1333H)

15 MR. PRESIDENT:

16 Please be seated.

17 The Court is now back in session and the floor is given to the  
18 Co-Prosecutors to have the last chance to put questions to the  
19 expert witness, Ysa Osman. The Chamber reminds the Co-Prosecutor,  
20 together with the Lead Co-Lawyers for civil party, that the  
21 maximum time you have is 50 minutes. You may now have the floor.

22 [13.34.26]

23 QUESTIONING BY MR. KOUMJIAN:

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

25 Q. Mr. Witness, sir, I want to just ask you a few questions about

1 Chamkar Leu. If you recall, you were -- you were discussing with  
2 defence counsel this morning, a telegram concerning Chamkar Leu  
3 district. Do you know who were -- do you know the name of the  
4 secretary of the Chamkar Leu district in the 1977-'78 period?

5 MR. YSA OSMAN:

6 A. I know her; she was Ke Pauk's wife. Her name was Sou Soeun.

7 Q. Thank you. And do you know who was the deputy secretary, at  
8 that time, particularly in 1977, before moving to another area?

9 If you don't know, just say you don't recall?

10 <A. I don't-->

11 Q. Thank you. Did we get the answer? Did we get the  
12 interpretation of the answer?

13 A. No, I do not know.

14 [13.35.53]

15 Q. Thank you. Now, a name did come up, I believe today, in --  
16 earlier in your testimony, or a nickname, Ho, the gentleman -- I  
17 use that term -- the individual who was in the house where the  
18 Cham girls were brought to Trea and he was identified as the  
19 district secretary, at that time, in that district. Do you know  
20 where Ho, otherwise known as Ban Seak, where he had come from  
21 before going to Krouch Chhmar district?

22 A. Before he went to work at Krouch Chhmar <district>, he was one  
23 of the cadres at Chamkar Leu <district>.

24 Q. Now, you wrote something about Chamkar Leu in your book,  
25 "Oukoubah"; that's E31822, in one of the back pages. There's not

1 a ERN in Khmer. It's page 120 in the English version of the book  
2 and the French ERN is 00758331. You said that 1,100 Cham families  
3 had lived in Spueu or Akmok (phonetic) village in Chamkar Leu  
4 district and only 100 of whom survived the DK regime. Is that  
5 based on your research in talking to people from Spueu village in  
6 Chamkar Leu district?

7 [13.37.50]

8 A. That is correct. That was the interview I conducted with Oknha  
9 or Tycoon Sos <> Kamry<>.

10 Q. Ben Kiernan, in his book "The Pol Pot Regime", E3/1593, also  
11 discusses you and the Cham at page 278 and the Khmer ERN begins  
12 on page 00637792 to the next page; and the French is 00639051 and  
13 on to the next page. He talks about a person named Ibrahim and  
14 how he'd been told of the second roundup of Cham from both sides  
15 of the river. They were boarded on trucks. He was not. They were  
16 taken to Chamkar Andoung plantation, which is in Chamkar Leu  
17 district. He said that the whole district was smelling. And  
18 Kiernan writes: "Of the 150 Cham families who arrived in Spueu in  
19 1975, 43 decimated families survived in 1979."

20 [13.39.24]

21 He also, on page 430, refers -- discusses an interview with a  
22 fisherman, Samah Ni, from Cheung Prey district, who says, "105  
23 Muslim families from <Tumnob> village were massacred in 1978."  
24 Kiernan quotes him as saying, "No one survived. My cousins, who  
25 had made the hajji, my aunts, were all rounded up, they were put

1 on ox carts and taken to Chamkar Leu, killed, and dropped into  
2 ditches."

3 So is what Kiernan has found, in his research, consistent with  
4 what you found about the treatment of the Cham race in Chamkar  
5 Leu district?

6 A. I want to clarify the point that there was a big Cham village  
7 name Akmok (phonetic) or Spueu in Chamkar Leu district; however,  
8 during the Khmer Rouge time, Cham did not live only in that  
9 particular village <because> a large number of Cham people had  
10 been transferred out of the East Zone. After <the> Cham stood up  
11 and rebelled, some of them were <evacuated to> Stueng Trang and  
12 some were sent to Chamkar Leu <and> up to Baray district, Kampong  
13 Thom province.

14 So the research of Ben Kiernan was involving <> those who had  
15 knowledge of those facts and they may have been from other  
16 regions. In short, the finding of Kiernan about <the> killings  
17 <of the Cham> at Chamkar Leu was consistent with my research  
18 about that issue.

19 [13.42.10]

20 Q. From your research for these two books, "Oukoubah" and "The  
21 Cham Rebellion", did you reach any conclusion as to whether the  
22 Cham race in Chamkar Leu was or was not treated as an enemy of  
23 the Khmer Rouge regime?

24 A. That is correct. In 1977 -- from the beginning of 1977,  
25 specific target was noted. Cham people, although they <followed

1 the revolution and> stopped believing or practising their  
2 religion and living in different parts <from their families,  
3 communities, all Cham people were gathered up and taken away to  
4 be killed because> they were accused of being <the> enemies<>.

5 [13.43.13]

6 Q. We've also discussed, in the last two days, again, we've  
7 discussed the events of the resistance in Kaoh Phal and Svay  
8 Khleang and the suppression -- the disproportionate suppression  
9 by Khmer Rouge forces of that -- those rebellions. In your  
10 research, have you ever cross -- come across anything to indicate  
11 that the people responsible for crimes committed against the  
12 people of Kaoh Phal or Svay Khleang were ever punished by the DK  
13 authorities -- higher authorities or in any other way, the higher  
14 authorities indicated any disagreement with the treatment of the  
15 Cham by the local forces?

16 A. To my observation, the crackdown on Cham's rebellion movements  
17 <as well as> the transfer and the selection of those who were  
18 <still alive after> the rebellion and then were <taken away to  
19 be> killed <subsequently>, that decision was agreed and was  
20 decided by those who were in the upper level. In this regard,  
21 soldiers from Region 21 were involved in that crackdown.

22 Q. Now, you've indicated, back when you testified in February,  
23 that following these rebellions, there was a wide -- large-scale  
24 transfer of the population -- forced transfer of Chams from  
25 Krouch Chhmar and other parts, I believe, of Sector 21 to other

61

1 sectors and even other zones; is that correct? Just answer yes or  
2 no.

3 A. <Yes,> that is correct.

4 [13.45.40]

5 Q. So my question about that is, sir: How were the Cham treated  
6 once they were transferred to other sectors, other zones; did  
7 their treatment improve?

8 A. Upon their arrival at the new locations, they were dispersed  
9 out of the communities. Two or three families were sent to live  
10 in different <villages; at the time, there were no more> Cham  
11 communities. Some Cham people were separated from their parents,  
12 their children; they were living in separate location. That  
13 applies to the young babies and children, as well. This  
14 dispersion was to observe and scrutinize the Cham people, whether  
15 or not they <let go of their identities as Cham>.

16 [13.46.56]

17 Q. And, in particular, for those who were transferred across the  
18 river from the East Zone to Ke Pauk's zone; I think, at that  
19 time, called the Centre Zone, how were they treated; how were the  
20 Cham people treated in 1977-'78 in the Central Zone?

21 A. The transfer of Cham people out of the East Zone happened in  
22 late-1975<, but> the situation <became> worse <over time> in <>  
23 1977. That happened in the Central Zone and in the East Zone.  
24 Those who were considered Cham people were taken away and killed  
25 and those who were to be <in> the suspicious group of Cham people



1 would be sent to be interrogated and <ultimately>  
2 for those who said that they were Cham, they were sent away and  
3 killed and <those who> said they were Khmer, they -- their lives  
4 <were> spared and a few Cham female -- five or six -- survived  
5 the regime because they lied to them -- to those cadres that they  
6 were Khmer.

7 [13.48.33]

8 Q. There are also -- I believe it's undisputed, I believe, in the  
9 evidence in this case, that in 1978, at least by the middle, the  
10 latter half of 1978, cadre from the Central Zone and Southwest  
11 Zone were sent to the Eastern Zone following purges and put in  
12 charge of various districts and administrative -- given  
13 administrative functions.

14 From your research, how were the Cham people who remained -- and  
15 I believe you said some Cham people were sent back to Krouh  
16 Chhmar late in the regime -- how did they fare under these  
17 Central Zone and Southwest Zone cadre who were sent into Sector  
18 21 late in the DK regime?

19 A. After they learned that they would be sent to their birth  
20 villages to gather up with their family members, everyone was so  
21 delighted and in the hope that they would meet their family  
22 members, but that was the pretext to gather -- gather up Cham  
23 people to be killed.

24 In reality, those who returned to their birth villages and were  
25 later found that they were from Svay Khleang village <or> Kaoh

1   Phal village, some were killed before they arrived at their birth  
2   villages.

3   [13.50.42]

4   Q. So sir, my question, I'll just try it one more time to be more  
5   specific. In your research, tell me whether you can or cannot,  
6   could or could not reach any conclusion about whether Cham people  
7   in the East Zone -- whether their situation improved, remained  
8   the same, or changed in any other way when Central Zone and  
9   Southwest Zone cadre replaced East Zone cadre?

10  A. The situation became worse and even <worse> in 1977 and '78  
11  when hundreds of Cham people died.

12  [13.51.37]

13  MR. KOUMJIAN:

14  Thank you, Mr. President. I don't have any further questions at  
15  this time.

16  MR. PRESIDENT:

17  Thank you. What about Lead Co-Lawyers for civil parties, do you  
18  have remaining questions to put to this expert witness? If so,  
19  please proceed.

20  MS. GUIRAUD:

21  Thank you, Mr. President, we don't have any questions.

22  [13.52.13]

23  MR. PRESIDENT:

24  So now the Chamber passes the floor to the defence teams for the  
25  Accused starting first from the defence team for Mr. Nuon Chea to

64

1 have a chance to put last questions to the expert witness. This  
2 is the last chance for you.

3 MR. KOPPE:

4 Thank you.

5 MR. KOUMJIAN:

6 Just a clarification, is this the closed session?

7 MR. KOPPE:

8 I can -- I can respond to that, Mr. President. I only have 25  
9 minutes. I had two remaining subjects. I made a decision that my  
10 questioning on the demographics and statistics, I find more  
11 important than going into a closed session, so we will stay in an  
12 open session. I will use my 25 minutes solely on the issue of  
13 Cham population figures.

14 [13.53.15]

15 MR. PRESIDENT:

16 Please proceed, unless you want to use the documents that need to  
17 be examined in the closed session. So if it does not need to  
18 guarantee the confidentiality of the investigation, we can hold  
19 this hearing in public sessions and please, inform the Chamber if  
20 you wish to use those relevant documents, then the Chamber will  
21 proceed to closed session.

22 And Mr. Co-Prosecutor, the Chamber has decided already that this  
23 expert witness -- the testimony of this expert witness will be  
24 concluded by this afternoon. I have repeatedly reminded the  
25 parties and we need to conclude hearing the testimony of this

65

1 expert witness. We do not want to delay much of the time. And in  
2 our practice, usually we have never heard the expert witness in  
3 more than four days and for this expert witness, now, it almost  
4 four days or it's over four days already hearing him.

5 [13.54.37]

6 QUESTIONING BY MR. KOPPE RESUMES:

7 Thank you, Mr. President.

8 Q. As said, Mr. Osman, I will only focus on the Cham population  
9 before '75 and after '79 and what you have said. It's a very  
10 complicated topic, so I will guide you, a bit, through certain  
11 figures.

12 It is your position, your expert opinion, that before '75, there  
13 were 700,000 Cham living in Cambodia and that after '79, only  
14 200,000 Cham survived.

15 Now, let me ask you first: Do you know who Jacques Migozzi is,  
16 M-I-G-O-Z-Z-I?

17 MR. YSA OSMAN:

18 A. I have not known this particular individual.

19 I would like to request for the correction. I did it through the  
20 Khmer channel. I heard 2,000 Cham people.

21 In fact, it was 200,000 <people in> '79 and <before '75,> it was  
22 <700,000 people> not 7,000 <families>.

23 [13.56.16]

24 Q. That's a mistranslation. I said 700,000 and you said 200,000  
25 surviving. My question is: Do I understand correctly you do not

1 know who Jacques Migozzi is?

2 A. Frankly speaking, I have not known this particular individual.

3 Q. You are citing him in your own work, in "Oukoubah", E3/1822;

4 English, ERN 00078450. In footnote 6 you refer to the work of

5 Migozzi "Cambodge: faits et problemes de population" --"Facts and  
6 Population Problems".

7 Let me introduce Migozzi to you. He was a French geographer and

8 Kiernan, Chandler, and also Ewa Tabeau consider him to be the

9 leading demographer of Cambodia. For reference, "Pol Pot Regime"

10 by Kiernan, E3/1593; English, ERN 00678730.

11 Ewa Tabeau says he was the leading analyst of the '62 Census,

12 that is E3/2413 at ERN 00385243. And Vickery describes him as the

13 most thorough demographer working in Cambodia before the war.

14 So Migozzi is a very important person when it comes to population

15 of Cambodia and, more particularly, the population of the Cham.

16 [13.58.55]

17 Now, all scholars agree that it was his estimate of the total

18 Cham population in 1970 that it was about 150,000 Cham living in

19 Cambodia. Vickery is saying that Migozzi came up with this

20 150,000 total as a new higher estimate than was normally done.

21 I refer Mr. President to document E3/9382.

22 So the leading demographer says that there were about 150,000

23 Cham in Cambodia living in 1970.

24 Subsequently there has been an academic debate between on the one

25 hand, Michael Vickery, and on the other hand Ben Kiernan. Are you

1 aware of that academic debate between those two scholars?

2 [14.00.15]

3 A. No, I was not. However, I read his book -- that is, the book  
4 of each: Vickery and Ben Kiernan. As for the individual named  
5 Migozzi, as what I heard, I do not know him and I used his words,  
6 his name "Migozzi" in my book. That is in reference to the names  
7 that Ben Kiernan used in his book.

8 Q. I understand. Presuming that you do not know the content of  
9 the academic debate between Vickery and Kiernan, allow me to lead  
10 you quickly through it.

11 Vickery is heavily criticizing Kiernan. He is saying that he --  
12 that Kiernan has been tinkering or fiddling with statistics in a  
13 -- what he calls tendentious manner in order to prove, as he  
14 calls it, a particular political case. Now, of course, the  
15 Defence would agree with that position.

16 However, what is more important is that the critique that Vickery  
17 has on Kiernan is about Kiernan going from 150,000 Cham in 1970  
18 to 250,000 Cham in 1975. Vickery is saying if you are using the  
19 normal population growth you will never reach that figure. Plus,  
20 there was a wartime situation and the Cham were hit in terms of  
21 casualties particularly hard. So he is arriving not at a figure  
22 of 250,000 Cham in 1975 but around 190,000.

23 [14.02.44]

24 The next real count of Cham people was in 1982. They both agree  
25 on this.

68

1 And then through certain calculation methods they both come on  
2 completely different figures. Vickery is saying that the maximum  
3 casualties of Cham people was 10,170 and Kiernan is saying a total  
4 amount of 77,000 casualties.

5 For reasons which are not relevant here now, we are not sure if  
6 we entirely agree with Vickery on 10,000. We will argue at one  
7 point that it might be less than that.

8 My question to you is, maybe not knowing the particulars of this  
9 academic debate, are you aware that Vickery has argued with, we  
10 believe strong arguments, that the amount of victims was not  
11 200,000 as you said but a maximum of 10,170?

12 [14.04.20]

13 MR. PRESIDENT:

14 Mr. Expert, please hold on. And International Lead Co-Lawyer, you  
15 have the floor.

16 MS. GUIRAUD:

17 Thank you, Mr. President.

18 I didn't note the reference that was given by my colleague  
19 properly, I believe. I believe that he provided reference E3/9382  
20 which was the document <containing> the figure of 150,000 Cham in  
21 the 1970s, which is the beginning of the demonstration. And  
22 document E3/9382 corresponds to no document that may contain that  
23 figure. So, please, could you please give us again the document  
24 number in which you say that the figure of 150,000 Cham is  
25 present because we didn't understand that, clearly?

1 [14.05.20]

2 BY MR. KOPPE:

3 Q. Certainly. As I said, Kiernan doesn't dispute the number of  
4 150,000. But let's step away from Kiernan and Vickery. Let's  
5 refer to Ewa Tabeau. She describes in her report the same figure,  
6 150,000 Cham, maybe 153,000 but let's keep it 150,000 Cham in  
7 1970.

8 So again my question: As I said, all scholars and experts agree  
9 on this number of 150,000 roughly in 1970. You do not know the  
10 exact nature of the academic debate between Vickery and Kiernan,  
11 but are you aware at least of the number offered by Vickery as  
12 10,170 casualties or victims on the Cham side?

13 [14.06.38]

14 MS. GUIRAUD:

15 Thank you. Thank you, Mr. President.

16 I would like to insist because I still did not obtain the  
17 reference when you were speaking about Tabeau who speaks about  
18 150,000 Cham before 1970. Are you referring to ERN 00385243 in  
19 document E3/2413? Is that the document we should refer to or not?  
20 So could we please have a specific, precise reference; that is to  
21 say the document number and the ERNs where you see this figure of  
22 150,000 Cham <> so that we may follow your explanations properly?

23 [14.07.22]

24 MR. KOPPE:

25 It's in the demographic expert report E3/2413. It is in Kiernan's



1 article. It is in Ben Kiernan's E3/1593; English, ERN <01149993>.  
2 The number is referenced in other articles.  
3 Again, I would appreciate it if there is no continuous  
4 interruptions, Mr. President. Help me.  
5 MR. KOUMJIAN:  
6 Your Honour, perhaps I could be of assistance to counsel. I  
7 believe he has misstated what Tabeau says and what Kiernan says.  
8 If you look at page 49 of the demographic report, that's E3/2413  
9 at 00385311. There is a paragraph that begins with the heading  
10 "Chams". Kiernan estimates the Cambodian population in April 1975  
11 was 249,450.  
12 So that's the correct figure for Kiernan's estimate, according to  
13 Tabeau. I haven't had a chance to look up the references counsel  
14 gave to Kiernan, and I am sure all of us can make this mistake.  
15 [14.08.57]  
16 But I believe the Defence is using a different version of Kiernan  
17 than we have. So the ERN number you are citing I don't have. I  
18 know that there was a correction on that.  
19 I would also ask because counsel is giving quite a bit of  
20 information that he is representing as accurate as to the  
21 demographic evidence, I may have missed something. But I  
22 understood him to say that there was a count of the Cham in 1982.  
23 I don't believe that is correct, but I stand to be corrected. If  
24 he could give a site, I don't believe there was any count of the  
25 Cham in 1982. If he could give a site to that I would appreciate

1 it.

2 MR. KOPPE:

3 I am happy to read it all, Mr. President, but it says -- to  
4 address the last point, there is Michael Vickery's article,  
5 E3/9382. There is a People Republic of Kampuchea's count of 180  
6 --

7 [14.10.08]

8 MR. PRESIDENT:

9 Counsel Koppe, please slow down when you make reference to a  
10 document number and the ERN numbers. It is rather confusing also  
11 for the Chamber. Please do it again and slowly this time.

12 MR. KOPPE:

13 I apologize. It's just it's the 25 minutes which -- and  
14 interruptions which make me nervous.

15 Mr. President, I am referring to E3/9382, Vickery's article. He  
16 refers to a Cham population count in 1982 of 182,200 Cham. In  
17 that same paragraph Vickery says that "Migozzi's own estimate of  
18 the Cham population" that is on page 42 of Migozzi's book "gave  
19 the Islamic minority" as Migozzi calls it "only 150,000 in 1970."  
20 And he gives the reason as to why Migozzi comes to 150,000.  
21 Furthermore, he says the figure of 150,000 occurs in a context in  
22 which Migozzi was criticizing official Cambodian figures for  
23 minorities as too low and he seems to have considered his own  
24 150,000 total as a new higher estimate presented along with his  
25 revised higher estimates for Chinese and Vietnamese. So Migozzi

1 --

2 Let's stick to Vickery and he is calculating the Cham population  
3 in 1970 at approximately 150,000.

4 [14.12.18]

5 BY MR. KOPPE:

6 Q. My question again, Mr. Osman: Are you aware of Vickery's count  
7 of a figure which of course is still high? There is no doubt  
8 about that about -- of 10,170 Chams who likely lost their lives  
9 in the DK regime?

10 MR. KOUMJIAN:

11 Your Honour, I'm sorry, but we think in fairness we ought to be  
12 able to follow along; 9382, E3/9382 is not an article by Michael  
13 Vickery. It's labelled "Radio Comment on National Effort Against  
14 Vietnamese". So we would like to follow that along, follow along  
15 with that.

16 I see counsel is no longer saying that Kiernan estimated the  
17 population in '75 as 150,000. And this is a very complex topic  
18 and it's very difficult, I think, for any of us to summarize all  
19 of the academics accurately, but I think we ought to be able to  
20 challenge whether it's being summarized accurately.

21 I also don't think counsel is telling the witness that  
22 undoubtedly Vickery's estimate is too high. Vickery has the  
23 lowest estimate of Cham of any demographer. That's not evident;  
24 that's his opinion and it doesn't belong in the examination of  
25 the witness and there is nothing to support his opinion.

1 [14.13.59]

2 BY MR. KOPPE:

3 Again, 25 minutes. I was trying to summarize but I just read from  
4 a document which is also known as E367/4.1.7. I have as an E3  
5 number but maybe that is incorrect because it's written with a  
6 pen, E3/9382. It's an article of Michael Vickery in the "Bulletin  
7 of Concerned Asian Scholars" cited actually by Ewa Tabeau and it  
8 deals with this discussion.

9 So I will drop everything on what Kiernan says. Let me just focus  
10 on what Vickery writes.

11 Q. In any event, Mr. Osman, coming back to my question, Vickery  
12 is coming to a completely different count; not only than Kiernan,  
13 but also than you, of the total amount of potential Cham victims  
14 of 10,170 as opposed to 77,000 with Kiernan and 200,000 of you.  
15 Can you give a reaction to this? Did you know this? And if, yes,  
16 what is your expert opinion on Vickery?

17 [14.15.38]

18 MR. YSA OSMAN:

19 A. As I stated earlier, I read books by Ben Kiernan and Vickery.  
20 I also re-read the point that is on the population of the Cham  
21 people. They cited the sources that they had. However, for my  
22 research, I did not rely on their documents or sources, nor did I  
23 rely on the figure that the two gave in their respective books.  
24 And for that reason, I relied on the accounts of witnesses and  
25 the documents that I could find. And I came to a conclusion that

1 my figure is much higher than <their figures>.

2 The population of Cham people before 1975 was much higher than  
3 their figures. However, the figure of a Cham population after  
4 1979 was similar. So after the <calculation>, then the standing  
5 figure of mine is much higher.

6 [14.17.25]

7 <We have actually observed the Cham population who have been  
8 living> in various districts; namely, Kang Meas, Kampong Siem and  
9 my native village of Svay Khleang, although a number of Cham  
10 children have been born since <1979 up to now>, the total  
11 population at present is much, much less than the figure of the  
12 population <prior to the Khmer Rouge regime>.

13 Q. Moving away from the academic debate between Kiernan and  
14 Vickery, you are, in your book, citing Migozzi. You actually  
15 quite extensively refer to him in a footnote. What are your  
16 arguments? What is your expert opinion as to why Migozzi was  
17 wrong when he calculated the Cham population in 1970 as counting  
18 150,000? It seems that everyone agrees that he was the leading  
19 demographer, the leading specialist in Cambodia at the time as to  
20 the total amount of populations of other origins than the Khmer  
21 or, generally speaking the expert demographer. Why do you not  
22 dismiss his counting? Why do you not give any arguments in your  
23 book to discount his expertise or discredit his expertise, even?

24 [14.19.30]

25 A. In my book, the content was based on my research. However,

75

1 there is no way in my book that I mentioned any of them  
2 <erroneously>; <I just found out that amount>. And to be frank, I  
3 cannot put my trust in a person who<se works I have not yet  
4 seen>.

5 If I met Migozzi and if he presents me his sources, all those  
6 documents, then I might reconsider the issue. However, as I have  
7 stated, I only <saw> Migozzi as his name was in the reference  
8 made by <Ben Kiernan. He referred to Migozzi, but he did not  
9 write in details about that>.

10 And of course I would refer to any work that is available in  
11 Cambodia as a result of the research by Migozzi, but at that  
12 time, I could find nothing. <As I said, I could not take a flight  
13 to France in order to find those documents>.

14 Q. Well, that's interesting because in your footnote you actually  
15 refer to his book, "Cambodge: faits et <problèmes> de  
16 population".

17 Using his book in your footnotes one would assume that you read  
18 his book. Otherwise why put it in a footnote?

19 [14.21.12]

20 But let me ask it differently. The number of 700,000, if I  
21 understand you correctly, in your book "Oukoubah" you based  
22 yourself upon interviews with Zakariya Adam, Van Mat and Mat Ly,  
23 and Van Mat in his turn refers to announcements done by General  
24 Les Kosem.

25 What did you do to make sure that these numbers were not highly

76

1 inflated by people who had a very strong political interest in  
2 raising the number of Cham as high as they could in order to  
3 convince the world that the "genocide" was indeed as big as they  
4 thought it was?

5 In other words, isn't it true that the three people that you  
6 mentioned had a very strong ideological and political interest in  
7 inflating this number of the Cham population?

8 [14.23.00]

9 A. I'd like to add to what you have said regarding the interviews  
10 with Zakariya Adam, Van Mat and Mat Ly and, and actually, in  
11 addition to that I relied on another document issued by <the  
12 Ethnic Minority Department of> the Ministry of Cult and Religion  
13 and I actually used their figure as well. And I also referred to  
14 a book published by Ney Pena, who brought in the figure of the  
15 Cham population before 1979. I also interviewed Sos <Kamri> and  
16 he provided a similar figure.

17 So in conclusion, I have several accounts of those people who  
18 confirmed a similar figure <that there were 700,000 Cham people  
19 before '75> as well as the two documents that I relied upon as my  
20 sources.

21 I do not believe there is any interest to inflate the number of  
22 the Cham people who were killed during the regime. Everyone wants  
23 justice. And their accounts are based on the experience during  
24 the regime. There is no gain for them to inflate the number of  
25 Cham people.

*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.*

77

1 And of course, if there were no Cham people died then I would say  
2 so. But as a result, you could say most of the Cham people were  
3 almost exterminated during the regime.

4 [14.24.35]

5 Q. Well, I have to disagree with you, Mr. Osman. But let me now  
6 ask you a last question.

7 Are you in possession of documents -- have you done interviews  
8 that Vickery or Kiernan or Ewa Tabeau didn't possess? In other  
9 words, do you have more information than they have? Did you use  
10 information that they couldn't?

11 A. I referred to the figure by previous researchers and I  
12 actually highlighted the figure asserted by Ben Kiernan, by  
13 Vickery and the figure that I myself relied upon as a result of  
14 my research, and that is open for rigorous interpretation and  
15 consideration. And that is a fair approach. I presented all the  
16 figures by other researcher as well as my figures so that they  
17 can make their own decision.

18 MR. KOPPE:

19 Thank you. Thank you very much, Mr. Osman.

20 Thank you, Mr. President.

21 [14.26.13]

22 MR. PRESIDENT:

23 I would like to hand the floor now to Judge Lavergne.

24 JUDGE LAVERGNE:

25 Yes, just a point of clarification for the record. The document



78

1 Counsel Koppe was referring to as being the article published by  
2 Michael Vickery is not at E3/9382 but at E3/9682.

3 MR. KOPPE:

4 That is indeed what I had originally but then I changed it. But  
5 it's correct. It's E3/9682. Thank you.

6 [14.27.00]

7 MS. GUIRAUD:

8 Thank you, Mr. President.

9 Just a comment also for the transcript, for the record, because  
10 reading over this document again, and our interpretation of this  
11 document is that the figure provided by Migozzi is of 216,000 and  
12 not 150,000. So either I didn't read properly or maybe our  
13 colleague did not explain things clearly but I wanted to provide  
14 the proper reference to the Chamber so that it can verify this  
15 when it deliberates. So it is document E3/9682 that we just spoke  
16 about and I am at ERN 01199597.

17 And for me the figure is of 216,000 in 1975. That was the simple  
18 observation I wanted to make, but of course I rely on the  
19 Chamber's wisdom.

20 [14.27.58]

21 MR. KOPPE:

22 It is simply incorrect what Lead Co-Lawyer is saying. The last  
23 estimate of Migozzi was in 1970 and he put that figure of 150,000  
24 then or 153,000, rather. So there is no -- Migozzi left the  
25 country when the war broke out and he didn't come back to this

1 anymore.

2 So what the Lead Co-Lawyer is saying is incorrect.

3 [14.28.38]

4 MR. PRESIDENT:

5 Hold on, Lead Co-Lawyer.

6 I think one refers to the figure of 1970 while the other refers

7 to the figure of 1975. You cannot do a cross-reference of these

8 two figures since they were meant for a different period of time.

9 Through the interpretation, the Lead Co-Lawyer quoted a figure of

10 1975 while Counsel Koppe referred to a figure in 1970, which is a

11 five-year passage of time and you cannot crosscheck or compare

12 these two figures.

13 JUDGE LAVERGNE:

14 It would perhaps be simpler to read paragraph 2 whose ERN is

15 01199597, "Thus honest use of Migozzi's data would not raise

16 88,000 to 250,000, but to 185,300 in 1970, the last year of

17 Migozzi's own observation, and to 216,000 by 1975."

18 [14.30.35]

19 MR. KOPPE:

20 But the discussion is this is Vickery, and the question how you

21 should read it that doesn't change the fact that Migozzi has

22 himself used the rough figure of 150,000. The discussion is what

23 you should do with the figure in 1975. Kiernan is highly

24 inflating it, says Vickery. There was a war going on and the

25 discussion really is how -- what figure you should end up with in

1 1975. That is the discussion and I am very happy to have this  
2 discussion with demographer Ewa Tabeau if she would ever come.  
3 But I skipped that discussion in order to get to the result,  
4 Judge Lavergne.

5 MR. PRESIDENT:

6 Thank you. And I would like now to hand the floor to the  
7 International Counsel for Khieu Samphan.

8 [14.31.42]

9 QUESTIONING BY MS. GUISSÉ RESUMES:

10 Thank you, Mr. President.

11 Q. Good afternoon again, Mr. Ysa Osman. I would like to put some  
12 questions to you for clarification purposes.

13 First, at yesterday's hearings, that's 23rd of March at about  
14 10.14.41 you answered a question put to you by my colleague Koppe  
15 and you said the following, and I quote, "Counsel, as part of my  
16 research, I <limited> the research places to Krouch Chhmar and  
17 the Kang Meas district, which <were> part<s> of the East Zone and  
18 the Central Zone." End of quote.

19 Do you confirm that you carried out your research in those two  
20 districts at Krouch Chhmar and Kang Meas?

21 [14.32.50]

22 MR. YSA OSMAN:

23 A. Yes, that is correct. However, I would like to add more info  
24 because it is additional info besides the two districts, since I  
25 also spent time doing research in Kampong Siem, <Stueng Trang>

1 and Chamkar Leu <districts>.

2 Q. In looking at the interviews you conducted, we, in our team,  
3 found out that <there is> only one interview corresponding to a  
4 person who lived in Chamkar Leu, and that person is Sos <Kamri>.

5 Is it indeed correct that you interviewed Sos <Kamri> and that he  
6 was in that district of Chamkar Leu?

7 A. That is correct. If <you> allow me to <open> my book. There  
8 may have been more than one individual at Chamkar Leu <district>.

9 There is another individual, Soh Rosat, and also another  
10 individual whom I cannot recall his or her name.

11 [14.34.20]

12 Q. So if I understand correctly, you interviewed three persons  
13 from Chamkar Leu. Can you tell us <based> on which book <> you  
14 <carried> out such research?

15 A. I have interviewed Mr. Soh Rosat at Chamkar Leu and <> Sos  
16 <Kamri>, to my recollection, <there were two individuals>. I may  
17 have confused but I can recall that there <were other>  
18 individuals that I have interviewed <for the writing of my  
19 books>. And after I have worked with OCIJ, I have <been involved  
20 in the> interview<s of> so many individuals. So I cannot recall  
21 how many interviewees specifically I have interviewed and at  
22 which locations.

23 [14.35.50]

24 Q. I would like to focus specifically on the research you carried  
25 out for the purpose of publishing your <two> books<,> "Oukoubah"

1 and "The Cham Rebellion".

2 And my question to you is as follows: Did you carry out any  
3 research on Chamkar Leu at the time you were writing those books?  
4 And if yes, in respect of which of the books? If it is for both  
5 books, would you please specify that?

6 A. Regarding the information I got from Sos <Kamri>, I included  
7 it in both of my <books>.

8 Q. And since you have stated that you also interviewed two other  
9 persons from Chamkar Leu, can you tell us in which of your books  
10 you included those interviews?

11 A. Soh Rosat, that name, to my recollection, was in my -- is in  
12 my first publication. Another individual you have just mentioned  
13 -- that is, the third individual cannot be recalled. I mean his  
14 name cannot be recalled by me.

15 Q. Is it correct to say that Soh Rosat and Sos <Kamri> both held  
16 important positions in associations that were in charge of  
17 religious affairs?

18 A. Sos <Kamri> was a leader or chief in one <unit> that is the  
19 senior committee of <Islamic religion> in Kampuchea. And Soh  
20 Rosat was the associate of Sos <Kamri> and he was also working at  
21 that <unit>.

22 [14.39.15]

23 Q. Did you meet Soh Rosat through the intermediary of Sos <Kamri>  
24 or you met that person under different circumstances?

25 A. It was not because of the fact that Sos <Kamri> introduced him

1 to me. In fact, I wanted to know about the livelihood of the Cham  
2 people in <> Spueu <village> during the Khmer Rouge time. I met  
3 villagers in that village and they referred me to see Soh Rosat.  
4 Soh Rosat <was> arrested and later on was released and survived  
5 the regime. Other inmates that were detained with him at the time  
6 died and perished.

7 Because <I was interested in his story and> I wanted to know  
8 about the livelihood of people in Spueu, that's why I decided to  
9 go and see him, Mr. Rosat.

10 [14.40.45]

11 Q. Can you be more precise? I say so because we found a reference  
12 to Soh Rosat in your book, "Oukoubah", document E3/1822 on page  
13 114. And this is how you described him, if that is indeed him.

14 <Tuon Soh Rosat,...> I will continue in English: "A <former>  
15 villager at Trapeang Chhouk, Boeng sub-district, Baray district,  
16 Kampong Thom province, now a member of Highest Council for  
17 Islamic Religion Affairs in Cambodia, at <Kilometer> 8" etc.,  
18 etc., <for his> address.

19 So my question is as follows:

20 Q: Was it his experience at Trapeang Chhouk or at Chamkar Leu  
21 that stood out from his interview with him?

22 <>

23 [14.42.10]

24 MR. YSA OSMAN:

25 A. To my recollection, he was originally from Trapeang Chhouk

84

1 <village>, Baray district, Kampong Thom province, <but> prior to  
2 Khmer Rouge time, he resided in Akmok village or Speu in Chamkar  
3 Leu <district>.

4 Q. Under those conditions, if I understood correctly, during the  
5 period of Democratic Kampuchea he was no longer in Chamkar Leu;  
6 is that correct?

7 [14.43.01]

8 A. I cannot remember all the accounts he told me. Considering the  
9 period between <2000> and 2016, <it has been 16 years>, I may  
10 have not recalled everything. I have not only interviewed <him>  
11 but <up to now, there are> many hundreds of them, <it might be up  
12 to a thousand people whom I have interviewed and who participated  
13 in the interviews>. So I cannot recall all the details of their  
14 stories.

15 MS. GUISSSE:

16 Mr. President, I think we can take the break here.

17 [14.43.53]

18 MR. PRESIDENT:

19 Thank you.

20 So how much more time you need to put further questions to this  
21 expert witness?

22 MS. GUISSSE:

23 I do not -- I must say that I am not keeping track of my 25  
24 minutes, but I <will try> to respect the time allotted to the  
25 parties. <I have to consult with my team who is keeping track of

85

1 time, but I hope to be able to use the time allotted to the  
2 Defence teams.>

3 I'm being told that I still have about 10 minutes.

4 [14.44.46]

5 MR. PRESIDENT:

6 Thank you. It is now break time. The Chamber will take a short  
7 break from now until 3 o'clock.

8 Court officer, please assist the expert witness during the break  
9 time and please invite him back together with the legal officer  
10 from the OCIJ back into the witness stand at 3 p.m.

11 The Court is now in recess.

12 (Court recesses from 1445H to 1503H)

13 MR. PRESIDENT:

14 Please be seated.

15 The Court is now back in session and I would like to hand the  
16 floor the International Counsel for Khieu Samphan to continue  
17 putting further questions to the expert. You may proceed.

18 [15.04.15]

19 BY MS. GUISSÉ:

20 Yes, thank you, Mr. President.

21 Q. One question that might be connected with your religious  
22 knowledge, Mr. Ysa Osman: Is there a text that allows certain  
23 religious leaders to waive their obligation to take an oath when  
24 they testify before a tribunal?

25 MR. YSA OSMAN:

*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 A. Are you asking me about the Islamic religion and the practice?

2 Q. Yes. Yes, I should have been more specific. Indeed, I am  
3 speaking about the Muslim religion.

4 [15.05.16]

5 JUDGE LAVERGNE:

6 Counsel Guisse, could you please repeat the question?

7 BY MS. GUISSSE:

8 Yes, I will repeat the question and I will try to be more  
9 complete about it.

10 Q. So in Islam, is there a text or a religious practice that  
11 allows people who hold certain religious functions to waive the  
12 obligation to take an oath before a court?

13 MR. YSA OSMAN:

14 A. Frankly speaking, I haven't done deeper study into the Koran  
15 on this practice. So I cannot give you my response.

16 [15.06.19]

17 MS. GUISSSE:

18 Now, for the parties and for the Chamber, I was referring to the  
19 interview of witness TCW-827 <(sic)>, document E3/5216 at ERN  
20 French, 00234568; English, 00225495; and Khmer, 00223891; where  
21 the witness indicates that in his capacity as an -- and I cannot  
22 say <it> because this -- I cannot mention <his position> because  
23 <the witness is> still <on the list; I will not say his  
24 position>. But he says that in his capacity as a leader<,> he is  
25 not obliged to take an oath before he testifies and, as he says

1 that this is in conformity with Islamic religious practice, I  
2 wanted to get clarification about this. I am simply saying this  
3 for the record now.

4 [15.07.32]

5 BY MS. GUISSÉ:

6 Q. Mr. Ysa Osman, in your second binder, you have the first pages  
7 of the testimony of two witnesses. In the first pages, I listed  
8 their pseudonyms<>, so this is TCW-894 <(sic)> and TCW-938  
9 <(sic)>, so please of course <> don't say their names.

10 This is at Tabs 5 and 6 in the second binder, so document E3/9500  
11 for <2-TCW-894> and document E3/162 for <2-TCW-938>.

12 Can I proceed? Yes.

13 So at the hearing of 18 January 2016, 2-TCW-894 testified and she  
14 said -- well, I will quote exactly what she said. It was at  
15 10.49.33 that day --

16 [15.09.33]

17 MR. KOUMJIAN:

18 Your Honour, I'm just trying to be helpful. I apologize for the  
19 interruption; but are we in open session now? My understanding is  
20 while we didn't ask, the prosecution (sic) of Khieu Samphan  
21 objected to closed session of this testimony the witness -- well,  
22 I won't say any more.

23 MS. GUISSÉ:

24 Well, maybe to reassure you, Co-Prosecutor, as I said to the  
25 Chamber yesterday, the topics that I would like to discuss are

1 generic in nature so there is no mention of anyone's duties or  
2 position and as Ysa Osman <> has the names of these people before  
3 his eyes, I am not going to mention the location. I am just going  
4 to put general questions on <> marriage, in fact, that I would  
5 like to put.

6 I'm speaking under the supervision of the Chamber if there is a  
7 concern. <However > the way that I have designed my questions  
8 <should> not <go into detail, nor identify the people spoken  
9 about>.

10 [15.10.56]

11 MR. PRESIDENT:

12 Yes, you may proceed.

13 BY MS. GUISSÉ:

14 Q. So this witness, 2-TCW-894 speaks about marriages that took  
15 place in her village in 1978 and she says that -- and this was  
16 after 10.49.33. The question that was put to her was the  
17 following: "These Cham people who got married and you attended  
18 their marriage, so these Chams were not slated to die. Is that  
19 correct?" And her answer was the following, "Yes, that's true.  
20 They were not slated to die because they had a good background."  
21 End of quote.

22 [15.11.38]

23 So my question is going to be connected to the question I put to  
24 you a little earlier when we were discussing the enemies in  
25 general and about -- and when we were discussing that people who

1 were considered enemies was not determined by race <or their  
2 ethnicity,> but it was determined by the fact that they may have  
3 been considered as having betrayed Angkar.

4 In this excerpt this witness, <2-TCW-894>, makes a distinction  
5 between the Cham who have a good background and the Cham who do  
6 not have a good background. So my question is: Is this a lead you  
7 followed in your research when you wrote your books or when you  
8 conducted your research before the books were published?

9 [15.12.56]

10 MR. YSA OSMAN:

11 A. Through my studies and research, I found that some Cham people  
12 were given positions during the Democratic Kampuchea regime  
13 ranging from village chief to cooperative chief and up to the  
14 district level in some instances. However, such a provision does  
15 not necessarily mean the Khmer Rouge loved and promoted the Cham  
16 people. Their aim was to monitor what the Cham people did so that  
17 they would take measures to suppress them. And in order to do  
18 that, they had to have Cham people to be on their side. And for  
19 that reason, they promoted certain Cham to certain positions and  
20 usually those Cham people were illiterate. They were used to kill  
21 other Cham people ultimately. So they were promoted to certain  
22 positions and when they were there, they would point out some  
23 Cham people and they were taken away and killed. <Maybe because  
24 there were such cases, that's why the witness said good Cham.>

25 [15.14.19]

1 Q. So in your answer you are basing yourself on the idea that  
2 Chams who were promoted were most often illiterate. But in your  
3 research, did you see a difference between the kind of promotion  
4 that was based on a person's background, in view of the issue of  
5 the class struggle, etc., in Democratic Kampuchea <--> <?> Did  
6 you see a difference between the promotion of Chams or the  
7 <potential> promotion of Khmers to certain positions?

8 And another question, you speak about people who were promoted  
9 and who were illiterate or who had not gone to school, for  
10 example Mat Ly. That is a counter example, isn't it?

11 [15.15.18]

12 A. Allow me to <clarify> that not every Cham who was promoted to  
13 a certain position was illiterate, <but> there were <most> of  
14 them, and of course there were exceptions as in the case of Mat  
15 Ly who was an educated person <and who was given a position. But  
16 there was another case of> Ta <Yoak> (phonetic), was a former  
17 Khmer Rouge cadre in Krouch Chhmar district and the Cham  
18 community actually hated him because they knew that he had the  
19 idea of disliking other Cham people <even before the Khmer Rouge  
20 regime,> and he himself was from a poor peasant family and <> was  
21 illiterate. And the Khmer Rouge found him through his background  
22 and he was put in a position, <as cadre>, in Krouch Chhmar  
23 district in order to purge the Cham people.

24 Q. That is exactly where I wanted to get to, Mr. Ysa Osman, which  
25 is, with regard to the Khmer Rouge policy and with regard to the

1 fact of favouring people who were of a humble background.  
2 We see a clear illustration of this in the example you <gave>,  
3 but this was not something that regarded the Cham typically; this  
4 was something that regarded everyone. <At least based on what we  
5 heard before this Chamber, this> was probably the case for  
6 everyone all throughout the country.

7 [15.17.28]

8 A. Yes, that is correct and that is the reason that millions of  
9 Khmer people and Cham people died.

10 During the regime, they used those people who were uneducated  
11 and, in certain instances, young children were used at security  
12 centres and the children even killed their parents. They selected  
13 people who came from poor peasants and uneducated backgrounds to  
14 serve them.

15 Q. So, once again, my question is: Under these conditions, what  
16 you considered as <a> specific treatment <of> the Cham might be  
17 something that did not <equates with> a policy that was  
18 specifically targeted at the Cham? Maybe these were just the side  
19 effects caused by certain people who were placed in different  
20 places in Cambodia, but this was not related to any kind of  
21 policy that was specifically directed at the Cham.

22 So reacting again to the example of 2-TCW-894, which was  
23 confirmed by 2-TCW-938 when this witness testified at the hearing  
24 of 21 January 2016 a little bit after 14.05.12, <> she also  
25 remembered that in 1978 there were still marriages between Cham.

1 So doesn't this somehow contradict <> a will to exterminate the  
2 Cham people if marriages were still allowed until 1978?

3 [15.20.05]

4 A. I used to attend the interview of these two witnesses -- that  
5 is, 894 and 938. They, themselves, were witnesses <involved> in  
6 those events since they were former senior cadres <during> the  
7 regime, and if you relied on their statements, that is your  
8 choice. But for me, my preference would go to the accounts told  
9 by the victims.

10 <In fact,> Cham people died, and if not, <why have some> Cham <>  
11 villages <vanished from> Kampong Siem <district? There are no  
12 more Cham villages>.

13 And, of course, I cannot elaborate further on this point as it  
14 may be -- it may have an impact on the integrity of the  
15 investigations in Case 003 and 004. <I hope that I will have  
16 another chance to give testimony in the future.>

17 [15.21.30]

18 Q. Since I know that I'm running out time now, <> I'd like to  
19 <ask a last question in relation to> what you just said<. We>  
20 know that <you work> for the OCIJ and normally an investigation  
21 has to reveal inculpatory as well as exculpatory evidence, so  
22 based on the information that you provided to us, may we fear  
23 that you lack impartiality and that in the investigations <you  
24 carried out or that> you're carrying out now, aren't you maybe --  
25 are you really conducting investigations <including> exculpatory

1 as well as inculpatory evidence?

2 A. Yes, that is the principle of our investigation, although I  
3 cannot make any further comment on this. The investigation is  
4 ongoing so I cannot make further comment.

5 Q. I was not asking, in fact, questions on the investigations  
6 that are in <> pro<gress>; I was speaking more about <> your  
7 state of mind <and> what might be considered a lack of  
8 impartiality.

9 And, here again, don't you have any issues, being a Cham <who  
10 has> a certain status <in the community, given your work,> isn't  
11 there here an issue of impartiality linked to that?

12 [15.23.18]

13 A. I am here to testify as an expert witness in relation to my  
14 research and subsequent publication of my books when I was still  
15 working for DC-Cam.

16 And during the process of conducting my research and later on  
17 authoring the books, I did not rely on my feeling or sentiment;  
18 everything was based on the accounts of the witnesses whom I  
19 interviewed, as well as the available resources of documents.

20 As for those subjects that are interviewed, they were both  
21 victims and perpetrators and, of course, I was aware that  
22 perpetrators never acknowledged or admitted that they were  
23 perpetrators as in the case of Ho, who was a district chief. He  
24 always denied his position, but surviving witnesses confirmed his  
25 position in the regime.



1 For me as a researcher, I had to maintain my neutral position and  
2 I had to have accounts from both the victims and the  
3 perpetrators.

4 [15.25.00]

5 MS. GUISSÉ:

6 Mr. President, I know that I have <exhausted> the time given to  
7 me, but I would like it to be however clear that since September  
8 2015, I have <> explained that <the> time allotted to Mr. Ysa  
9 Osman has been very short because the reading of the documents is  
10 lengthy and fastidious, so I regret that I was not given extra  
11 time like the other parties, whereas the Khieu Samphan team was  
12 the only one to make a request for extra time and as of September  
13 2015.

14 MR. PRESIDENT:

15 Thank you, Counsel.

16 And the hearing of testimony of the expert witness, Ysa Osman, is  
17 now concluded. And, Mr. Expert, the Chamber would like to thank  
18 you for your time and patience to testify before this Chamber.

19 And the Chamber would like to thank Ms. Julie Bardeche as well  
20 who is the OCIJ legal officer and who is present during the  
21 entire testimony of the expert, Ysa Osman.

22 Your presence is no longer required and you may return to  
23 wherever you wish to go to. And we wish you both all the very  
24 best. You are now excused and you may leave the court.

25 (Witness exits courtroom)

1 [15.27.00]

2 MR. PRESIDENT:

3 The Chamber intends to hear oral responses from parties to the  
4 motion filed by Nuon Chea's defence on the scheduling of the  
5 hearings for next week and the subsequent weeks.

6 The Chamber also notes that yesterday, after having received the  
7 scheduling order for next week's hearings sent by email by the  
8 Senior Legal Officer of the Trial Chamber, Nuon Chea defence  
9 notifies the Chamber and parties via their senior advisor that  
10 the defence counsel for Nuon Chea would like to make an oral  
11 submission on the scheduling orders by the Trial Chamber, that  
12 they <stated> that, <1).> the Trial Chamber shall not commence on  
13 the proceedings <> in <relation> to Security Centre S-21 <before>  
14 the conclusion of the proceedings for Au Kanseng and Phnom Kraol,  
15 <and also before hearing the additional witnesses that might be  
16 admitted by the Chamber>.

17 [15.28.26]

18 The second point is that, in any case, the defence team for Nuon  
19 Chea states that <the Trial Chamber shall not commence on> the  
20 proceedings for Security Centre S-21 <before> the Khmer New Year  
21 holidays.

22 And in order to have the basis for our deliberation on this  
23 matter, I'd like to hear responses from all the parties.

24 First, I'd like to hand the floor to the defence team for Nuon  
25 Chea to reiterate the point in their motion and, later on,

1 parties will be given an opportunity to respond to that.

2 Counsel Koppe, you have the floor.

3 [15.29.10]

4 MR. KOPPE:

5 Thank you, Mr. President. It was not a motion that we filed, it  
6 was an email we sent yesterday to the Senior Legal Officer.

7 I suppose it's sort of a request for a mini management -- trial  
8 management, sort of session.

9 We fully understand that it is the discretion of the Chamber to  
10 plan and organize the various witnesses who are coming. We have,  
11 up until now, never made any problem if witnesses were coming  
12 from one segment and then the next day from another segment, but  
13 in this particular case we would like to make some submissions in  
14 this respect.

15 We propose that, indeed, we finish testimony on the current  
16 security centres -- Au Kanseng and Phnom Kraol -- before  
17 beginning hearing testimony on S-21 Security Centre.

18 [15.30.25]

19 We have experienced quite some difficulty with switching back and  
20 forth between the various trial segments. It's -- it's -- has  
21 been proven quite disruptive to our preparations, Mr. President,  
22 as we have to continuously shift in terms of facts,  
23 personalities, characters, different events etc. We are in a  
24 different position than the Prosecution who, for every segment,  
25 is in a position to send another prosecutor to do the

1 examination.

2 [15.31.06]

3 But as I said, up until now we have been able to manage. However,  
4 S-21 and the matter of so-called internal purges is, as you are  
5 aware now I'm sure, a very important topic for our defence.

6 So we would like to request that while being in the planning of  
7 coming witnesses, to finish hearing the witnesses in relation to  
8 Phnom Kraol and Au Kanseng, and if for some logistical reasons  
9 you will not be able to fill all the days up until Khmer New  
10 Year, then not to schedule just to fill the time with witnesses  
11 from S-21.

12 So this is basically a request to make an exception to the  
13 practice so far.

14 Following from that, at least we would request not to hear any  
15 witnesses in relation to S-21 or the internal purges before,  
16 indeed, Khmer New Year. That would give us more time to prepare.

17 [15.32.27]

18 Let me, Mr. President, also take the opportunity to announce that  
19 we are going to be filing requests for additional witnesses in  
20 relation to the segment of the internal purges and S-21. As a  
21 matter of fact, we've just filed a request today, more requests  
22 are coming. We anticipate that we will be filing requests to  
23 expedite certain witnesses but also requests to summon new  
24 witnesses.

25 All in all --

1 JUDGE FENZ:

2 Sorry, when can we expect these requests?

3 MR. KOPPE:

4 One came today. I hope we'll be able to file all of the requests  
5 sometime mid-next week. Yes, that's a fair estimate.

6 [15.33.29]

7 So we will -- we're almost done, so I -- and if the Trial Chamber  
8 prefers this, of course, we will be happy to send courtesy copies  
9 as well so that you have an idea of what we will be asking.

10 In addition, we have a very strong preference not to summons --

11 or have summoned the most important witness of S-21 -- in

12 relation to S-21. For formality reasons, I will call him

13 2-TCW-916 but, of course, we all know who he is.

14 We will propose that although he is the most important witness in

15 relation to S-21, that we would --

16 MR. PRESIDENT:

17 Counsel Koppe, please provide the pseudonym of the witness again,

18 since you were pretty fast and the interpreter could not get it

19 properly.

20 MR. KOPPE:

21 It's 2-TCW-916 and it's someone that you are very familiar with,

22 Mr. President, but we would like to suggest that we do not (sic)

23 hear this particular person once all witnesses have been

24 interviewed, not only -- or examined -- not only in relation to

25 the security centres but also in relation to internal purges.

1 These are roughly our requests and we hope that you will be able  
2 to take our points into consideration. Thank you, Mr. President.

3 [15.35.35]

4 MR. PRESIDENT:

5 Thank you.

6 Now, the Chamber passes the floor to the Co-Prosecutors to submit  
7 their responses to the submissions made by the defence team for  
8 Mr. Nuon Chea, Koppe.

9 So you have the floor now, Co-Prosecutors.

10 [15.36.01]

11 MS. GUISSÉ:

12 Mr. President, if you would allow me I would like to say a few  
13 words. As such, the Co-Prosecutor would respond to the two  
14 defence teams at the same time, if you would allow me.

15 I just wish to say that I cannot but align myself with the  
16 application that we not start examining witnesses on S-21 before  
17 the Khmer New Year. It is true that<, on the side of the  
18 defence,> we are really struggling to prepare for hearings, aside  
19 from <everything else. But> I must say that since the beginning  
20 of the year, between the hearings in the various segments, the  
21 appeals and the key documents hearings, and the two security  
22 centres at the same time, ultimately it becomes very difficult,  
23 very complicated, for us to manage our preparations<, given> the  
24 manner in which the two defence teams are structured. If we  
25 <could avoid having to> deal with <three> security centres at the

100

1 same time, it will be easier for us to prepare ourselves, and it  
2 would be smoother in the manner in which we <question> our <>  
3 witnesses.  
4 <So I can only join in this request>; <the rest are requests>  
5 made by the Nuon Chea defence team. <Obviously, for the> <>  
6 witness, whose pseudonym <> I don't remember exactly<, but who is  
7 an> important <> witness<, it would be logical for him> to be  
8 called <at the end of the segment>.

9 [15.37.54]

10 MR. PRESIDENT:

11 You have the floor now, Co-Prosecutor.

12 MR. KOUMJIAN:

13 Thank you.

14 Mr. President, Your Honours, we don't have a problem with trying  
15 to finish other security centres before the ones we're currently  
16 doing -- Phnom Kraol and Au Kanseng -- before S-21, but it is our  
17 position that we want the trial to proceed as expeditiously as  
18 possible and we shouldn't waste days.

19 So if witnesses are not available, it's our position, we submit  
20 to Your Honours, to decide that the witnesses from S-21, the more  
21 simple witnesses, can be called even if it's out of order.

22 I mean, some of the witnesses that -- for example, a witness that  
23 the defence for Nuon Chea recently requested -- I don't think  
24 Your Honours have ruled yet -- but this is a witness, as far as  
25 we know the last contact with that witness was 2001, so it's

101

1 unclear how much time would be necessary to obtain that  
2 testimony.

3 [15.38.57]

4 As for TCW-916 and the order in which he testifies, again, we  
5 leave that to Your Honours because I can imagine very many  
6 considerations about when he would be most effective to do that  
7 testimony. We think, obviously, it's very important that that  
8 witness does testify and, of course, as long as you aren't  
9 calling someone there's always a risk that something happens.

10 [15.39.27]

11 So, again, our position is that to try to accommodate the parties  
12 for their preferences, however, for the trial to proceed as  
13 expeditiously as possible without dead days.

14 MR. PRESIDENT:

15 Lead Co-Lawyer for civil parties, you have the floor now.

16 MS. GUIRAUD:

17 Thank you, Mr. President. Very quickly, we align ourselves with  
18 the remarks made by the Co-Prosecutor and we will rely on the  
19 discretion of the Chamber. Thank you.

20 [15.40.12]

21 MR. KOPPE:

22 Just a very brief remark in response, Mr. President. We also  
23 believe that the trial should proceed expeditiously. We have no  
24 problem at all with that observation.

25 However, as scheduled now, we are talking about probably three or



102

1 four days that are still potentially open. There is, of course,  
2 the option of calling civil parties on harm in relation to Au  
3 Kanseng and Phnom Kraol maybe.

4 But, ultimately, if you were to follow our requests, I don't  
5 believe that the delay is very substantial; maybe one or two  
6 days. But it would be very, very helpful to the Defence if we  
7 would really not start with S-21 before the Khmer New Year.

8 [15.41.18]

9 JUDGE FENZ:

10 Can I just ask one related question? Out of interest, I remember  
11 we discussed at one time a couple of months ago the issue of  
12 resources for the defence teams which is obviously at stake here  
13 too.

14 Is there any news on this front at this point?

15 MR. KOPPE:

16 We're in full force now, so we're dealing, I believe, quite well  
17 with all the new disclosures. But one of the problems is that,  
18 ultimately, everything has to go through me, so I and my  
19 colleague, Anta Guisse, of course are the ones who actually do  
20 most of the cross-examination, and that is an additional problem.  
21 But resources are fine now.

22 MR. PRESIDENT:

23 The Chamber is grateful to all parties for their submissions and  
24 responses, and the Chamber will take all the submissions and  
25 responses into consideration and will issue the decision in due

103

1 course.

2 [15.42.42]

3 It is now time for the adjournment, and the Chamber will resume  
4 its hearing on Monday 28 March 2016 at 9 a.m.

5 Next week, the Chamber will start to hear 2-TCW-838 in relation  
6 to Phnom Kraol Security Centre. Please be informed and please be  
7 on time.

8 Security personnel are instructed to bring the accused -- two  
9 accused, Nuon Chea and Khieu Samphan, back to the ECCC's detention  
10 facility and have them returned into the courtroom on Monday, 28  
11 March 2016, before 9 a.m.

12 The Court is now adjourned.

13 (Court adjourns at 1543H)

14

15

16

17

18

19

20

21

22

23

24

25

*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.*