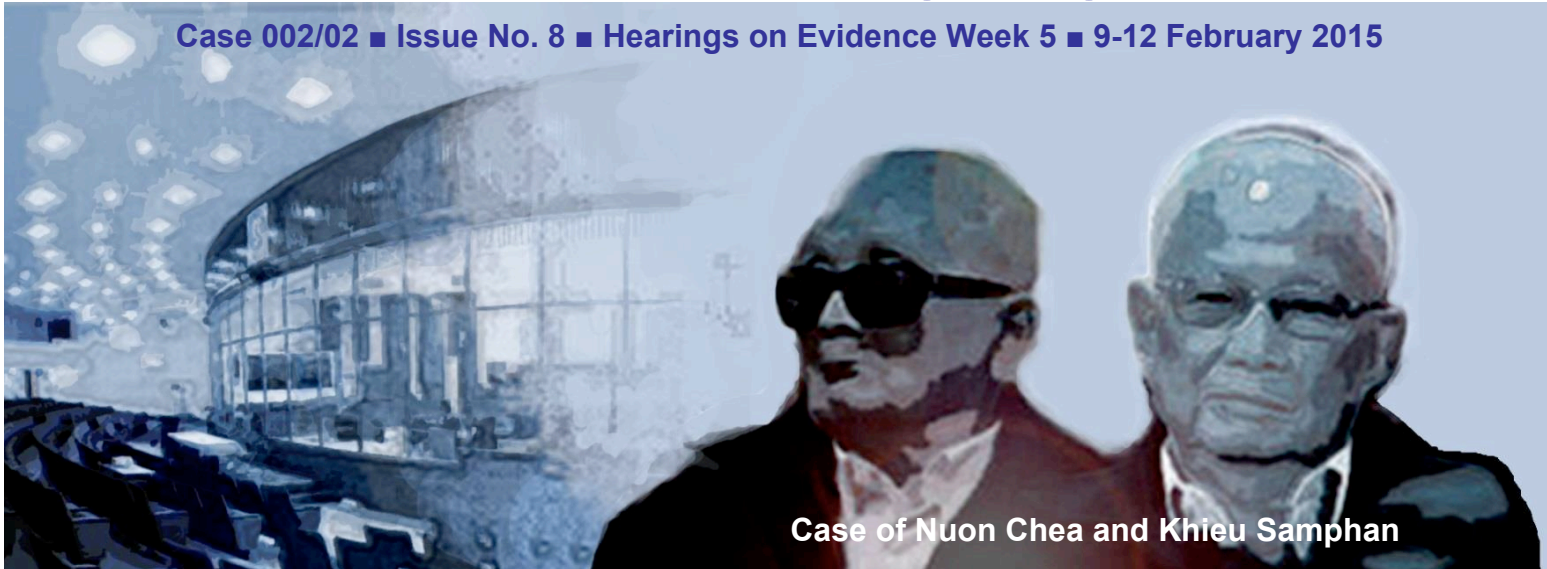


KRT TRIAL MONITOR

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Case of Nuon Chea and Khieu Samphan

Asian International Justice Initiative (AIJI), a project of East-West Center and the WSD Handa Center for Human Rights and International Justice at Stanford University (previously known as the UC Berkeley War Crimes Studies Center)

What made my stomach drop was what I didn't see. I kept thinking I'd turn a corner and I'd see real life. You know, I'd run into some kids playing a game, or some women, you know, talking, or maybe, you know, anything that resembled, you know – Cambodians are, as you know, lively people. There was nothing. That's what started to make me pause.

That, no matter where I went, it was empty, regimented.

- Expert Witness Elizabeth Becker¹

I. OVERVIEW

Case 002/02 proceeded beyond the confines of the first trial segment on Tram Kak District cooperatives and Kraing Ta Chan Security Center this week as the Trial Chamber heard the testimony of the case's first Expert Witness, Elizabeth Becker. The Expert testified for three days on the geopolitical context for the rise and fall of Democratic Kampuchea, the country's tensions with Vietnam, the internal purges of cadre and officials across the Zones, and her own visit to DK in December 1978. The testimony dealt with major themes relevant to the Prosecution's cases, victims' experiences, and key Defense arguments raised by the Co-Accused, so it often became contentious. Parties raised many procedural issues this week concerning phrasing of questions, the selective appearance of Nuon Chea in the trial, and the scope of Case 002/02. In addition, the Chamber heard the testimony of a Civil Party, Ry Pov, who described his experiences working in a Tram Kak District mobile unit after returning to his homeland of Takeo Province from a refugee camp in Vietnam in 1976. This report analyzes testimony from the two witnesses who appeared this week, discusses the legal issues raised during their testimony, and continues to track the progress of the Chamber's overall management of the trial.

II. SUMMARY OF EXPERT WITNESS AND CIVIL PARTY TESTIMONY

This week, the Chamber heard the testimony of Ms. Elizabeth Becker, the first Expert Witness to appear in Case 002/02, over the course of three days. She provided insight into the geopolitical context of DK's rise and fall, and she also described her research findings after the 1979 Liberation of the country. Although Ms. Becker was treated as a fact witness with regard to her observations and experiences visiting the country in late 1978, she appeared before the

Chamber officially as an expert.² On Thursday the 12th, a Civil Party, Mr. Ry Pov, appeared and testified on his treatment in Tram Kak District after returning from Vietnam in early 1976.

A. Summary of Testimony by Expert Witness Elizabeth Becker

Elizabeth Becker, a 67-year-old American journalist from Washington, DC, United States, is the author of multiple books on Cambodia, which have been used as reference in the OCIJ's Closing Order for Case 002.³ During her examination, the Judges and the parties used passages from these books for their questions on topics within Case 002/02.⁴ She testified on the geopolitical context of DK's formation, as well as its demise less than four years later. She also was treated as a Fact Witness with regard to her visit to DK in December 1978 on the invitation of Foreign Minister Ieng Sary. Under examination from the Defense Teams, she provided a great deal of testimony on the role of Vietnam in DK, internal purges of the CPK hierarchy, and also her findings subsequent to the Vietnamese invasion of 1978-79.

1. Testimony on Diplomatic and Geopolitical Context for her 1978 Visit

Elizabeth Becker explained the geopolitical context of Cambodia prior to the Khmer Rouge takeover in 1975, drawing a picture of both the local and global forces that aided the rise of the DK regime. During her examination, Ms. Becker discussed the political situation within Cambodia, and the country's relationships with Vietnam and the United States based upon her time living in Cambodia from 1972 to 1974, and from her later research.

a. Vietnamese Support for the Khmer Rouge before 1975

All of the parties questioned Ms. Becker on the fraying relationship between Cambodia and Vietnam, which set the stage for both the Khmer Rouge revolution of 1975 and the Vietnamese invasion of 1979. From 1970 to 1975, North Vietnamese Communist troops entered Cambodia to supply Southern Vietnamese forces and also to support the Khmer Rouge-GRUNK insurgency against the US-backed Khmer Republic under Lon Nol. This, Ms. Becker claimed, was the biggest change, which occurred in the relationship between Vietnam and Cambodia before 1975. She also testified that the Soviet Union foresaw the formation of an Indochinese Federation of Communists across Vietnam, Cambodia, and Laos, even though Ho Chi Minh himself preferred the growth of national communist parties. During this period, Lon Nol's forces established detention camps for Vietnamese citizens and ethnic Vietnamese Cambodians, in which the government admitted to placing 30,000 people, deporting them, and killing many. Ms. Becker called this campaign a "pogrom," and she testified that it grew out of the government's strategic desire to remove supporters of the Vietnamese communist insurgents, but also reflected Cambodians' "simple racism" against their "traditional enemy."

b. American Involvement in Cambodia and Indochina

During the same period, the United States placed great strategic importance on its relationship with the Lon Nol regime. Ms. Becker testified that the Nixon Administration sought to begin withdrawing troops from Vietnam, but feared its allies in Cambodia – the forces it backed in the 1970 coup against Prince Sihanouk – would fail in the face of the growing Khmer Rouge insurgency. The United States also sought to create an anti-communist alliance between the Khmer Republic in Phnom Penh with the South Vietnamese government in Saigon, although Ms. Becker noted that officials in Saigon were immensely angry about the Lon Nol government's deportation and killings of ethnic Vietnamese in Cambodia. In response to two questions put directly from Nuon Chea himself, Ms. Becker provided her opinion as to the two principal reasons for American interventions within Cambodia. She explained that the United States was bombing supply lines that ran from North Vietnam through Laos and Cambodia to Vietcong Communist forces in South Vietnam, and that the U.S. was also hoping to force the Khmer Rouge to the negotiation table in order to begin moving troops out of the region.

However, she recognized the Nixon Administration had no legal justification for its actions, and for that reason, the United States Congress halted any further aerial bombardment of Cambodia in 1973.

c. Population Movements into Phnom Penh

Ms. Becker spent the first years of her journalistic career as a correspondent in Phnom Penh from 1972 to 1974. During this time, she saw the population of Phnom Penh nearly triple. This movement of people, she explained, was the result of both the internal and external conflicts affecting rural Cambodia. She attributed the first wave of refugees to the U.S. bombing, which destroyed villages and led many people to seek safety in the capital. After the bombing ceased in 1973, Ms. Becker told the Court that the population of Phnom Penh continued to grow, as people began to flee from Khmer Rouge 'Liberated Zones'. The Expert also testified that she regularly heard appeals broadcast in the name of Prince Sihanouk across the city. These broadcasts asked people to support the GRUNK insurgency against the Lon Nol regime. Ms. Becker told the Court that they were effective in maintaining support of the public, especially in the provinces.

d. United Nations Meetings and Initial Contact with DK Foreign Minister Ieng Sary

Elizabeth Becker explained that most of her personal contact with DK officials took place at annual delegation visits to the United Nations in New York City. Her first interview with Foreign Minister Ieng Sary occurred at the UN General Assembly (UNGA) a few months after the May 1975 *Mayaguez* incident.⁵ In a 22 October 1977 *Washington Post* article entitled, "Wait Until I Move," Becker wrote about the propaganda that formed the substance of Ieng Sary's yearly UN addresses. Judge Lavergne quoted the article as stating the Foreign Minister attributed the "poor image" of DK to poor information and boasted of Cambodia's achievements, such as building reservoirs, reducing the illiteracy rate, and "practically" eradicating malaria.⁶ Chuckling, Ms. Becker told the Chamber this address mirrored what Sary would later tell her she would see on her December 1978 visit to Cambodia. Becker testified that, at the same time, however, the UN Human Rights Commission in Geneva was compiling documentation of mass human rights violations in DK, mostly through interviews with Khmer refugees in Thailand and with the support of the Carter Administration in the U.S. Becker described the period around the DK's 1978 UNGA delegation as "one of those perfect storms," as "the question of human rights with more and more evidence to back up the accusation was rising in Geneva as the threat of war was building between Vietnam and Cambodia."⁷

She also regularly encountered Thiounn Prasith and Keat Chhon, both of whom would help to oversee her 1978 visit.⁸ Concerning the positions of other senior DK leaders in international diplomacy, Ms. Becker explained that, during the 1970-75 civil war, the public leaders of the Khmer Rouge-GRUNK forces were Prince Sihanouk and Khieu Samphan. She identified Khieu Samphan along with Hou Nim and Hou Youn as the 'Three Ghosts,' who she explained were increasingly popular public intellectuals of the Left that disappeared after the 1970 coup d'état and were widely presumed to be dead. Instead, they reappeared within the Khmer Rouge communist insurgency and became key figures in the DK hierarchical structure.

2. Testimony on December 1978 Visit to Democratic Kampuchea

Elizabeth Becker was one of the few foreign correspondents permitted to enter Democratic Kampuchea and report critically on the state of the nation at the time. Ms. Becker recalled that, at the 1978 UNGA, following increasing border conflict with Vietnam, Ieng Sary invited UN Secretary General Kurt Waldheim to visit DK, but he declined due to a Soviet request. The DK foreign minister therefore decided to invite Becker, Richard Dudman, an experienced American journalist, and Malcolm Caldwell a leftist British professor and DK sympathizer, to visit the country in Waldheim's stead. Ms. Becker told the Chamber that many "friendly delegations"

had visited prior, but most only reported “what they were told.”⁹ During her two-week visit to DK, Ms. Becker interviewed senior leaders including Pol Pot, Ieng Sary, and Ieng Thirith. Under strict supervision and the direction of Thiounn Prasith, she viewed the conditions of selected cooperatives, the military situation along the Eastern Zone’s border with Vietnam, fishing production along the Tonlé Sap, and shipping at the Port of Sihanoukville.

The quality of Ms. Becker’s sources and independence of the information she gathered during the trip was an area she repeatedly had to explain. She often offered a personal assessment of the reliability of what she had been told. She described the heavily supervised nature of her visit as the equivalent to “house arrest” and admitted to the national Prosecutor that what she had hoped to see in Cambodia was very different from what she saw, or was shown.¹⁰ She also explained how she filled in the blanks of what she did not see, based largely on comparison to what Cambodia was like in 1972-74. For example, the Expert testified that she managed to walk around Phnom Penh either on her own or with fellow journalists Richard Dudman and Malcolm Caldwell on only three occasions. When their minders discovered they left the guesthouse unattended, they locked the doors. Ms. Becker recalled that, more than anything, the emptiness of the once bustling capital stood out to her on these brief, unaccompanied trips. The central marketplace, schools, and parks were “empty of life,” she said, and the abandoned streets displayed a decrepitness “beneath this lovely façade.”¹¹ She told the Chamber: “What was missing was almost profoundly more upsetting to me than what was there.”¹²

a. Travel around Democratic Kampuchea

Ms. Becker confirmed many details illuminated in her book and largely described the story of her visit to a version of Cambodia “as [Thiounn] Prasith would imagine it.”¹³ The visiting trio was only brought to selected cooperatives and worksites, which she recognized as the same sites visited by the prior delegations whose reports she had studied, and they were only allowed to speak to selected representative locals with Prasith as interpreter. She testified that the trio visited an engineering “institute” in Phnom Penh run by Prasith’s brother, Thiounn Mumm. She noted, however, that the brothers pretended not to recognize each other, and that there was a clear divide between the two intellectual brothers and the young peasant children they were now training to somehow become “the future engineers of the country.”¹⁴ The delegation then visited Commander Pin who was overseeing border skirmishes and exchanges of artillery fire on the Eastern Front with Vietnam, at Memot District in Kampong Cham Province. Ms. Becker testified that she saw very young soldiers here; she said it was hard to find out their exact ages, but some of them did not even look like teenagers. The trio then went to “Golden Deer” cooperative in Kampong Thom Province, which the Expert described in her book and her testimony as a “Potemkin village,” a community of happy, productive villagers hiding the troubles behind the façade.¹⁵ Even here, however, she stated her observation, through comparison to the Cambodia she knew in 1972-74, the changes in family dynamics in DK. The Khmer Rouge eliminated “the family as any meaningful unit of the society,” divided children against parents, and replaced “responsibilities that used to be parental [with] the state.”¹⁶

When they were brought to Battambang town, Ms. Becker’s requests to see the Province’s cooperatives were denied and she was “very disappointed.” She explained that the country’s “second city” represented “the last refuge of the Khmer Republic,” and that many of the refugees reporting human rights abuses had come from the Battambang area in the Northwest Zone.¹⁷ Elizabeth Becker explained that she regularly asked Thiounn Prasith about the reports of human rights violations coming out of refugee camps in Thailand, and that he viewed such questions as “bourgeois” and “not concerned enough with the peasantry.”¹⁸ She testified that he grew angry at her consistent line of questioning and refused to speak to her for a few days. International Co-Prosecutor Nicholas Koumjian cited Internal DK documents that referred to a visiting American female journalist as difficult and identified her as serving the American government and the CIA. The evening after the fight over the Battambang visit, Elizabeth

Becker dined with Ieng Sary and Thiounn Prasith. She confirmed that the foreign minister called her questions on human rights “irrelevant” in the face of imminent war with Vietnam. Ieng Sary also told her that, “with regard to supposed massacres, we could not prevent the situation,” but the CPK had “avoided further slaughters.” She said that Ieng Sary instead preferred to discuss Vietnamese “scheming.”¹⁹

b. Interview with Pol Pot

On their last day in Cambodia, Ms. Becker and fellow journalist Richard Dudman were unexpectedly granted an interview with Pol Pot. Having requested the interview at the outset of the visit, they were required to submit two questions each, but the interview instead became a two-hour “lecture” from Pol Pot himself,²⁰ and the questions were returned with prepared written responses immediately after the meeting completed. Ms. Becker described the meeting with Pol Pot as “bizarre,” especially with regard to his opinions on the main topic of discussion, the impending conflict with Vietnam.²¹ According to Ms. Becker, Pol Pot believed Vietnam would invade Cambodia with the support and ground forces of the Soviet Union and the Warsaw Pact countries of the Eastern Bloc, but that, in the end, his nation would win the war, with the support and ground forces of NATO. Although the Expert dismissed this view as the “model” of the DK leader’s “irrationality” on foreign policy,²² the Defense Teams tried to clarify the details of Pol Pot’s point. Mr. Koppe noted, for example, that the Soviets and East Germans maintained intelligence connections with the Vietnamese while the United States backed Chinese support for the Khmer Rouge. According to Mr. Koppe’s suggestions, Pol Pot’s notion of a proxy war was not so “bizarre,” but Ms. Becker maintained that the notion of a battle between NATO and Warsaw Pact ground forces on Cambodian soil was truly unlikely, and that the divergent factional support stemmed from a Sino-Soviet split in the Communist World rather than any rivalry between NATO and the Warsaw Pact.

c. The Murder of Malcolm Caldwell

In her earlier testimony, Elizabeth Becker described Malcolm Caldwell, a Scottish Professor thoroughly opposed to the capitalist system, as a “friend of Cambodia.” The enduring trauma of the visiting trio’s final night in Phnom Penh was conveyed through Becker’s struggle to maintain her composure as she heavily detailed the event first to Judge Lavergne and again later to Defense Counsel. Woken during the night by “strange noises,” which she soon realized were gunshots, she recalled walking into the foyer where a young Khmer man dressed in dark clothes and armed with bandoliers pointed a gun at her. She ran back into her room and hid in the bathtub that was located under the stairs, a tactic she was taught as a war correspondent. She remembered thinking it must be an invasion, a coup, or uprising. The front door of the guesthouse shattered, and she said she heard someone being dragged downstairs. She noted that the two men were sleeping on the upper floor while she was housed downstairs on the main floor. Someone shouted “*mouy, bpi, bey*” (“one, two, three,” in Khmer), and then there was silence for a few hours. She testified that Thiounn Prasith later came to get her and informed her that Dudman was fine but that Caldwell had been killed.²³

There were no questions regarding the accuracy of her memory relating to this event. Questions focused on the reasons why Mr. Caldwell was targeted and her opinion was sought on the various theories that had been posited in the aftermath. The morning after the murder, Ieng Sary presided over a secular ceremony for Mr. Caldwell and blamed the Vietnamese. Although Mr. Koppe asked about this possibility, Ms. Becker called it “a huge stretch,” noting there were far better targets in Phnom Penh.²⁴ Suon Visal confronted Ms. Becker with Richard Dudman’s reports after the event, in which he opined that the murder was intended to embarrass the DK government. Ms. Becker reiterated the irrationality of finding a rationale for this murder, calling it “the same as finding a rationality for the millions of Cambodians who died. During the Khmer Rouge.”²⁵ She explained, “It makes no sense why the friend would be killed and not the journalists, unless you imagine that we were saved in order to write the story.”²⁶

Judge Lavergne closed his questioning with reference to records indicating that, before she had been flown out of Cambodia that day, four guards who had taken care of them during their visit were arrested. He further noted their executions were recorded at Tuol Sleng Security Center.

3. Testimony on the Role of Vietnam and Internal Purges in DK

Elizabeth Becker explained on multiple occasions how DK's impending war with Vietnam contextualized Ieng Sary's visits to the United Nations as well as Becker's own visit to Cambodia. The parties, but especially the Defense Team for Nuon Chea, sought to understand the role of Vietnam in DK's internal and external relations. Ms. Becker testified that, prior to her December 1978 trip, American military officials had expressed uncertainty to her about whether the border skirmishes between DK and Vietnam would erupt into war. If it did, they believed that Vietnam would only invade as far as the Eastern Bank of the Mekong River. Ms. Becker also explained the geopolitical context of a "Sino-Soviet split" within the Communist Bloc, as Vietnam signed a friendship treaty with the USSR while China continued to heavily support DK. Mr. Koppe continued to refer to the same documents to suggest that in fact Vietnam sought to take control of Cambodia to form an Indochinese Federation.²⁷ Ms. Becker consistently refuted his extrapolations and suggestions, brushing off some references as common knowledge and unsurprising and other references as inadequately researched in comparison to other sources.²⁸

Ms. Becker characterized Vietnam's 1979 invasion and occupation of Cambodia as "the last major piece of the Cold War to be resolved,"²⁹ as the Sino-Soviet split complicated the former bipolarity of global politics and brought the United States onto the side of China and, thus, the Khmer Rouge. Ms. Becker noted that the U.S. and Europe formed "the most severe embargo in the world" against the new Vietnamese-installed government of Cambodia, the People's Republic of Kampuchea, so that, just as the country was recovering from the Khmer Rouge, it could not receive much-needed humanitarian supplies.³⁰ When Mr. Koppe compared the Vietnamese invasion of Cambodia to the 1968 Soviet invasion of Czechoslovakia, Ms. Becker explained she had "never seen that comparison before," and she strongly resisted his description of Vietnam as "a Soviet satellite in the Stalinist tradition."³¹

Through his questions to Ms. Becker, Mr. Victor Koppe raised the theory that a "split" had formed in the DK Standing Committee as Ruos Nhim, Sao Phim, and Vorn Vet, with the covert support of Vietnam, began to sabotage the regime from within. This premise forms a fundamental argument of both Nuon Chea's appeal of the Case 002/01 Judgment and his defense in Case 002/02.³² Ms. Becker consistently rejected this view, based on her research and the research of others, and she explained that what Mr. Koppe understood as a "split" or "rebellion" was, in fact, an "internal purge," which spread out "from the top" to the Zones and began in 1977.³³ She said that this date is determined through examination of confessions from DK security centers, where "they see the enemy no longer necessarily as CIA or KGB, but they now see it as Vietnam."³⁴ The back-and-forth grew somewhat cyclical, however: evidence that Mr. Koppe relied upon for references to Vietnamese saboteurs utilized the same terminology as the false confessions and anti-Vietnamese condemnations that Ms. Becker noted as clear evidence of the CPK's "purge." Confessions referred to plots to sabotage, bomb, or assassinate key figures or landmarks in DK, but Ms. Becker emphasized the difficulty in verifying the truthfulness of forced confessions whose uniformity in style and content indicated a more centralized plan. When Counsel referred to the work of Khmer journalist, Mr. Thet Sambath, Ms. Becker acknowledged her admiration of his work, but she also suggested that two interviews with cadres alleging Ruos Nhim's conspiracy ought to be followed up further.

Both Mr. Koumjian and Mr. Koppe cited an October 1980 interview that Ms. Becker held with former DK minister of social affairs Ieng Thirith, who noted a trip to Battambang Province, where she saw people, young and old, toiling in rice fields even when ill and homeless. Speaking in English, Ieng Thirith had said that "there was something queer in some

provinces.”³⁵ She claimed she reported the incident to the Prime Minister [Pol Pot], but that Ruos Nhim was in the Northwest Zone at the time and was working with covert Vietnamese support. Mr. Koumjian raised another statement from the same interview, when Ieng Thirith claimed the Vietnamese “worked by proxy” to covertly support American bombardment of Cambodia prior to 1975.³⁶ Ms. Becker called such statements “irrational” yet emblematic of DK’s scapegoating of Vietnam for a range of its problems.³⁷ The Expert also stressed that, at times, the Center did not have control over the Zones, but she related this to “the sheer incompetence” of confused or illiterate cadre in DK, not to a Vietnamese plot. Mr. Koumjian also referred to Ms. Becker’s 1981 interview with Ieng Sary and other documents that illuminated the fate of Hou Nim, DK minister of information and one of the “three ghosts” of the GRUNK era. Ms. Becker confirmed that Ieng Sary had discussed the purging of Hou Nim and had alleged his involvement in a plot to overthrow the government. She described the way these purges “snowballed,” as the network system of informants “exploded,” as more arrests led to more confessions, which then led to more false allegations against “traitors.” Additionally, in the latter years of DK, internal security policies changed so that entire families of the alleged “traitors” were detained and subsequently executed.³⁸

5. Expert Witness Demeanor and Credibility

Throughout her three-day testimony, the quality of Elizabeth Becker’s testimony varied. She often responded simply “yes” or “no” without expanding on her answers even when it was clear that the follow-up question would ask her to explain her opinion further. For example, in response to Counsel Anta Guissé’s question about the effective power of Zone secretaries like Sao Phim and Ta Mok in comparison to the Center’s power, Ms. Becker agreed simply that they did have some autonomy, without any further explanation. This subject directly relates to the matter of the Co-Accused’s involvement in a joint criminal enterprise involved in the alleged crimes. It would have been helpful for an appearing Expert to provide a more comprehensive response, as other scholars like Stephen Heder have shown that entire bodies of work can be developed on this topic of lower-level criminal liability. As her examination neared its end in the final session of February 11th, the Expert Witness grew visibly tired of questions from Counsel Kong Sam Onn. In the final ten minutes of her testimony, Ms. Becker mostly claimed that she could not remember the details, or that there was not enough time left to provide a complete response. Although this demeanor may have stemmed from fatigue after three days of intense testimony, it gave the appearance of a lack of interest in the questions of the Defense Teams.

Nonetheless, Ms. Becker was arduous in providing clear responses about her own knowledge and she often pushed back on questions that were either too hypothetical or too general. She repeatedly told the Prosecutor and Defense lawyers alike if she felt uncomfortable speculating, or if she required a more concrete question. This engagement with the parties’ questions signaled an interest in the subject matter and a desire to aid in the Chamber’s ascertainment of the truth. Ms. Becker often recognized when she herself did not recall a detail, and she instead suggested the Parties rely on her book for key details. Throughout her testimony, she searched her book to provide answers on specific interview statements, anecdotal evidence, or her sources. She defended her own credibility as a source of knowledge when Counsel Anta Guissé, at one point on February 11th, confronted her with a critique from David Chandler. Ms. Becker confirmed she is a journalist, not an academic, but pointed to other positive reviews from Mr. Chandler and other critics, and she also noted that Mr. Chandler has wholly supported the works of other male journalist-cum-scholars, who are mostly male; she closed her personal defense succinctly: “Might I note that I am the only woman, that is me.”

B. Summary of Testimony by Civil Party Ry Pov

Mr. Ry Pov is a rice farmer from Ta Saom Commune, Kiri Vong District, in Southern Takeo Province near the border with Vietnam. Questioning focused on his treatment as a refugee who returned to DK through a 1976 exchange between DK and Vietnam. Instead of returning to his

home however, he was taken to work in a mobile unit in Tram Kak District, where he dug canals and built dams. Ry Pov testified on his treatment as a returning refugee there, and he received the opportunity to make a statement of suffering and put questions to the Co-Accused.

1. Exchange from Vietnam and Ensuing Treatment as a Returning Refugee

According to the Civil Party, his family was among 1000 to 1500 Cambodian families who fled his area to Vietnam in order to escape the civil war between the Khmer Rouge and the Khmer Republic. In 1976, he and his family, missing their homeland, returned to Cambodia through an exchange program, through which Vietnamese people living in Democratic Kampuchea were swapped with Khmer refugees and Khmer Krom living in Vietnam. He was brought by truck in the first “phase” of returnees to the border crossing at Phnom Den, where they were told to spend the night and wait for the arrival of ‘Upper Angkar’. On return to Cambodia, Mr. Ry Pov told the Chamber, the Khmer Rouge took all their money, belongings, and identification papers and told the returning refugees that ‘Angkar’ would feed and look after them. He testified that his family was not returned to its old home in Ta Saom Commune, but instead split up, and he was immediately taken to work in a mobile unit in Tram Kak district.

2. Experiences in Tram Kak District Cooperative

The Civil Party testified that people in Tram Kak were divided into three categories: ‘17 April people’, ‘base people’, and ‘Aa Yuon’ viewed as Vietnamese spies.³⁹ He confirmed that the phrase, “Khmer bodies with Vietnamese heads,” was used to describe him and his fellow returnees. He testified that the ‘base’ people were allowed to “torment” and “hit” the alleged Vietnamese agents. The Civil Party testified that no one dared to disobey orders or walk freely, and that laborers had to get permission even to “relieve themselves.” He noted the lack of medicine and food, but he also explained that he would never have complained to higher authorities for fear of punishment. He also denied ever seeing a mass marriage ceremony, as described in his OCIJ interview, instead clarifying to Defense Counsel Suon Visal that he only knew there had been one in his cooperative.

Regarding violence and arrests at Tram Kak, the Civil Party explained to Ms. Guiraud that the Khmer Rouge never used the word “arrested,” preferring instead to take people for “re-education by Angkar,” a term Mr. Ry Pov clarified they all knew meant the equivalent of arrest. He recalled that, one day, while plowing fields not far from Kraing Ta Chan, he heard moaning and found his friend Chan bloodied and lying in a pit, near death. He said he initially thought a ghost was calling him, but when he heard his name, he recognized it was his friend. The Civil Party clarified that he left quickly to avoid any militia, so he therefore could not detail how many bodies were in the pit alongside Chan. According to the Civil Party, only six of all the refugees who returned to Cambodia and were placed in his area survived after January 1979.

3. Civil Party Statement of Suffering, Demeanor, and Credibility

The Civil Party was given the opportunity to make his statement of suffering and put questions to the Co-Accused. Mr. Ry Pov asked Khieu Samphan why he does not admit he was a Khmer Rouge leader and sought clarification as to how the Accused could not have known about killings in DK at the time. In his statement, the Civil Party stated he did not want anything, but he wanted to note he had “remorse” for his family, for the “misery” that they went through during the DK period. He asked that the UN and the ECCC prevent “the recurrence of the atrocity,” and he closed by asking for the Court to try the leaders of the Khmer Rouge.

Ry Pov’s concise statement paralleled his demeanor throughout the day, as he consistently provided brief yet sufficient responses. When necessary, he clarified details that were misunderstood by the parties with regard to his testimony or his previous OCIJ interviews. As a

result of this clear and concise testimony, there was little for the Defense Teams to raise in their examination of the Civil Party, so his examination ended before the day's afternoon break.

III. LEGAL AND PROCEDURAL ISSUES

This week, a number of legal and procedural issues arose, especially in relation to questions asked and objections raised by Defense Counsel Victor Koppe. During his questioning of Elizabeth Becker, other parties and the Bench accused Mr. Koppe of misrepresenting evidence and expressing his own opinions. Mr. Koppe also sought clarification related to the scope of Case 002/02 and the current trial segment of Tram Kak and Kraing Ta Chan. Nuon Chea himself broke his silence and directly asked Ms. Becker two questions, prompting the international CPLCL to take issue with the Accused's selective participation in the trial and lack of response to victims who have appeared.

A. Misrepresentation of Evidence and Expression of Opinion in Questioning

During his examination of Elizabeth Becker, the questions of international counsel for Nuon Chea, Mr. Victor Koppe, prompted objections from parties or interruptions from the Bench. International Co-Prosecutor Nicholas Koumjian asked that Mr. Koppe cease expressing his own opinions, and Mr. Koumjian and Judge Fenz also intervened to ask Counsel not to misrepresent evidence or prior testimony. The Expert herself noted on multiple occasions that her statements were being misconstrued or incorrectly summarized. On 10 February, Mr. Koppe attempted to generalize American, Soviet, and Chinese foreign policies through reference to individual officials' statements, Ms. Becker pushed back, and Judge Fenz warned him on this line of questioning multiple times. She first told him, "We generally appreciate if you don't testify but ask questions."⁴⁰ When he continued to refer to the findings of one American researcher, Douglas Pike, as the general opinion of the U.S. Government, Judge Fenz told him, "Counsel, you are doing it again. Presenting the opinion of one person as the opinion of the country...please, stop it."⁴¹ When Mr. Koppe continued with similar questions by replying, "I'm not sure if I understand,"⁴² Judge Fenz threw up her hands and then ordered Counsel to alter his language. On two other occasions when he resumed this line of questioning the following day, international reserve Judge Martin Karopkin also threw up his hands in apparent frustration at Mr. Koppe's repetitive phrasing. On another occasion, as Ms. Becker began to respond to one of Mr. Koppe's comments, international Co-Prosecutor Nicholas Koumjian interrupted her, stating "Excuse me, there was no question." When Mr. Koppe asked to hear her complete comment, Mr. Koumjian responded that Counsel had only stated his opinion without putting any question to the Expert. The Co-Prosecutor tersely explained, "There's a procedure in courts that I've been in, in the last 35 years, where questions are asked and answers are given."⁴³

B. Nuon Chea Breaks Silence to Question Becker and Civil Parties Respond

At the start of the hearing on Wednesday the 11th, Nuon Chea himself put two questions to Expert Witness Elizabeth Becker, both concerning the American bombing of Cambodia in the years before 1975 (see II.A.1.b). This was the first appearance of Mr. Nuon Chea in the courtroom since Wednesday, 21 January 2015. In the interim days of trial, the Chamber has accepted his recurring daily waiver of his right to be present in the courtroom, complaining of backache and fatigue and asking to follow proceedings remotely from the holding cell downstairs. At the start of the second morning session on Wednesday, 11 February, Nuon Chea was no longer present in the courtroom, and the President announced that the Chamber had received and accepted his waiver to follow proceedings from the holding cell. In response, international CPLCL Marie Guiraud noted that, "Whilst Nuon Chea has chosen to be absent from the trial when witnesses and Civil Parties came to talk about crimes they witnessed in DK," he chose to attend the full first session of the day's hearing. Recognizing Ms. Becker's status as "a quote-unquote VIP," Ms. Guiraud characterized Nuon Chea's appearance and questioning as a decision "to break his silence" after having refused to engage in the

testimonies or questions of Civil Parties. Ms. Guiraud referred to her comment as an attempt to note this “on the record,” and President Nil Nonn responded by telling her that she did not need to emphasize that, as “everything is on the record.” The President and other parties offered no response to the CPLCL’s other comments.

C. Matters Related to Scope of Case 002/02 and Ongoing Trial Segment

During the testimonies of both Expert Elizabeth Becker and Civil Party Ry Pov, Defense Counsel for Nuon Chea raised questions concerning the scope of both the ongoing trial segment of Tram Kak District cooperatives and Kraing Ta Chan Security Center and the scope of Case 002/02, in general. When International Co-Prosecutor Nicholas Koumjian asked Ms. Becker about her observations of Cham Muslims during her December 1978 visit, Mr. Koppe objected that this subject lay outside the specific trial segment and was not listed among the specific issues which the Trial Chamber’s senior legal officer had asked that parties focus on for the Expert’s appearance. Mr. Koumjian noted that he only had five minutes of questions on this topic, and Judge Fenz acknowledged the treatment of Chams was “undeniably” within the scope of Case 002/02.⁴⁴ The International CPLCL, however, asked questions about the Chams, asserting that the email from the senior legal officer included discussion of “treatment of targeted groups,” which she had understood to include the Chams. Mr. Koppe did not take issue with Ms. Guiraud’s questions.

On Thursday the 12th, Mr. Koppe objected to questions concerning Civil Party Ry Pov’s treatment as a Khmer Krom. Mr. Koppe asserted that the treatment of Khmer Krom is not included in the Case 002 Closing Order and outside the scope of the trial; he also noted that treatment of Vietnamese is reserved for a later trial segment. Ms. Guiraud responded that the Civil Party’s testimony clearly stated that Khmer Krom were “likened” to Vietnamese and treated as such. It also later became clear that Mr. Ry Pov did not identify as Khmer Krom but a Khmer refugee in Southern Vietnam (Kampuchea Krom), yet he testified he was still persecuted as Khmer Krom or Vietnamese in Tram Kak District. Assistant prosecutor Dale Lysak also added that the Closing Order’s sections on Tram Kak cooperatives refer to the treatment of Vietnamese and specifically note that Khmer Krom were treated similarly to Vietnamese, so “there can be no issue at all that the testimony of this Witness is within the Closing Order.”⁴⁵ The Bench agreed with the OCP and CPLCL and overruled the objection. Judge Lavergne noted that the Civil Party was testifying on living conditions at a Tram Kak cooperative, and he agreed that the Closing Order refers to “certain facts regarding the Khmer Krom.”

IV. TRIAL MANAGEMENT

A. Attendance

Due to backache, Nuon Chea waived his right to be present in the main courtroom and observed proceedings from the holding cell this week, with the exception of his direct questioning of Expert Elizabeth Becker during the first session of Wednesday’s hearing. Khieu Samphan was present in the courtroom during all sessions throughout the week.

Civil Parties Attendance: There were approximately ten Civil Parties observing the proceedings each day this week inside the courtroom.

Parties: All the Parties were present in the courtroom. Civil Party Lawyer Ven Pov was designated to replace Mr. Pich Ang, Civil Party Lead Co-Lawyer, due to his personal business until Khmer New Year. On February 11th, Mr. Ven was absent in the morning sessions.

Attendance by the public:

DATE	MORNING	AFTERNOON
Monday 09/02/2015	<ul style="list-style-type: none">▪ Approximately 250 students and 10 teachers from different sites of Beltei International School, Phnom Penh▪ 37 international students and 3 teachers from International School of Phnom Penh▪ 11 foreign observers	<ul style="list-style-type: none">▪ Approximately 50 students from different sites of Beltei International School, Phnom Penh▪ 5 foreign observers
Tuesday 10/02/2015	<ul style="list-style-type: none">▪ Approximately 250 students and 10 teachers from different sites of Beltei International School, Phnom Penh▪ 23 student officers from Ministry of Environment, Phnom Penh▪ 4 foreign observers	<ul style="list-style-type: none">▪ Approximately 200 students and 5 teachers from different sites of Beltei international School, Phnom Penh▪ 4 foreign observers
Wednesday 11/02/2015	<ul style="list-style-type: none">▪ Approximately 198 students from Hun Sen Chak Angre High School, Phnom Penh▪ 6 foreign observers	<ul style="list-style-type: none">▪ Approximately 210 students from Hun Sen Chak Angre High School, Phnom Penh▪ 8 foreign observers
Thursday 12/02/2015	<ul style="list-style-type: none">▪ Approximately 113 students and 5 teachers from Chhbar Ampov High School, Phnom Penh▪ 10 foreign observers	<ul style="list-style-type: none">▪ 8 foreign observers

B. Time Management

This week, the Trial Chamber succeeded in implementing its schedule to hear the testimonies of Expert Witness Elizabeth Becker and Civil Party Ry Pov. Ms. Elizabeth Becker completed her expert testimony within three days as scheduled. The examination of Civil Party Ry Pov only required three sessions of the 12 February hearing to complete his testimony and statement of suffering, prompting an earlier adjournment than normal, as no additional witnesses were present on reserve.

C. Courtroom Etiquette

Interactions between Defense Counsel Victor Koppe and other Parties in the courtroom were markedly tense on a number of occasions this week. As noted above, Judges threw up their hands in frustration, the Witness pushed back on his questions, and the Co-Prosecutor interrupted him (see III.A). When CPLCL Marie Guiraud objected and asked Mr. Koppe to provide documentation for his reference to an assertion of scholar Ben Kiernan, Mr. Koppe retorted, "It would be really helpful if the Civil Party Lawyer knows a bit about this case." Ms. Guiraud responded, "I would simply like my colleague to be courteous. This is something normal in a trial."

D. Translation and Technical Issues

This week saw several translation and technical issues recur as usual throughout the proceeding, prompting complaints from all the parties on the accuracy of communication. For instance, a brief power cut during Defense Counsel Anta Guissé’s questioning of Elizabeth Becker resulted in translation errors from French to English, causing several objections from the OCP seeking clearer phrasing from the Counsel. During the testimony of Civil Party Ry Pov, he stated that he was a Cambodian refugee living in Southern Vietnam and did not identify as a Khmer Krom, however, the translation was unclear on this matter, and many parties were left with the idea that he was Khmer Krom. Judge Lavergne resolved this matter when he sought clarification in a subsequent hearing session. There were also several technical interruptions during the proceedings. For example, on the morning of February 10th, there were technical issues with audio function and translation to English and French as the Greffier reported attendance to the Chamber, prompting a short pause of the proceedings in order to allow the ITU unit to check audio systems.

E. Time Table

DATE	START	MORNING BREAK	LUNCH	AFTERNOON BREAK	RECESS	TOTAL HOURS
Monday 09/02/2015	9:03	10:14 – 10:36	11:36 – 13:32	14:46 – 15:03	16:04	4 hours and 26 minutes
Tuesday 10/02/2015	9:01	10:19 – 10:37	11:34 – 13:33	14:42 – 15:02	16:07	4 hours and 29 minutes
Wednesday 11/02/2015	9:03	10:15 – 10:36	11:32 – 13:33	14:44 – 15:02	16:02	4 hours and 19 minutes
Thursday 12/02/2015	9:04	10:17 – 10:30	11:35 – 13:30	--	14:26	3 hours and 14 minutes
Average number of hours in session				4 hours and 7 minutes		
Total number of hours this week				16 hours and 28 minutes		
Total number of hours, day, weeks at trial				65 hours and 10 minutes		
19 TRIAL DAYS OVER EIGHT WEEKS						

*This report was authored by Sambor Huy, Nget Lonh, Daniel Mattes, Claire McMullen, Lina Tay, Lucy Sullivan, Penelope Van Tuyl, and Oudom Vong as part of AIJI’s KRT Trial Monitoring and Community Outreach Program. AIJI is a collaborative project between the East-West Center, in Honolulu, and the WSD Handa Center for Human Rights and International Justice at Stanford University (previously known as the UC Berkeley War Crimes Studies Center). Since 2003, the two Centers have been collaborating on projects relating to the establishment of justice initiatives and capacity-building programs in the human rights sector in Southeast Asia.



Unless specified otherwise,

- § the documents cited in this report pertain to *The Case of Nuon Chea and Khieu Samphan* before the ECCC;
- § the quotes are based on the personal notes of the trial monitors during the proceedings;
- § the figures in the *Public Attendance* section of the report are only approximations made by AIJI staff; and
- § photos are courtesy of the ECCC.

Glossary of Terms

Case 001	<i>The Case of Kaing Guek Eav alias “Duch”</i> (Case No. 001/18-07-2007-ECCC)
Case 002	<i>The Case of Nuon Chea, Ieng Sary, Ieng Thirith, and Khieu Samphan</i> (Case No. 002/19-09-2007-ECCC)
CPC	Code of Criminal Procedure of the Kingdom of Cambodia (2007)
CPK	Communist Party of Kampuchea
CPLCL	Civil Party Lead Co-Lawyer
DK	Democratic Kampuchea
ECCC	Extraordinary Chambers in the Courts of Cambodia (also referred to as the Khmer Rouge Tribunal or “KRT”)
ECCC Law	Law on the Establishment of the ECCC, as amended (2004)
ERN	Evidence Reference Number (the page number of each piece of documentary evidence in the Case File)
FUNK	National United Front of Kampuchea
GRUNK	Royal Government of National Union of Kampuchea
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IR	Internal Rules of the ECCC Rev. 8 (2011)
KR	Khmer Rouge
OCIJ	Office of the Co-Investigating Judges
OCP	Office of the Co-Prosecutors of the ECCC
RAK	Royal Army of Kampuchea
VSS	Victims Support Section
WESU	Witness and Expert Support Unit

¹ Trial Chamber, Transcript of Trial Proceedings (9 February 2015), E1/259.1 [hereinafter **9 FEBRUARY TRANSCRIPT**], lines 5-11, p. 36.

² Expert Witnesses are sought to provide insight and clarification on specific issues of a technical nature deemed necessary to the proceedings (see Internal Rule 31). The Chamber has decided that Fact Witnesses testify about the crimes with which the Accused is charged, and that Fact Witnesses’ opinions should be limited to their personal experience (see Trial Chamber, “Decision on Assignment of Experts” (5 July 2012), E215). The Decision determined that the role of Expert Witnesses is to enlighten the Chamber on specific issues of a technical nature, requiring special knowledge in a specific field. Fact Witnesses are also not allowed to speculate, whereas Experts are entitled to provide their opinions and may give speculative answers insofar as they are informed by the Expert’s broader knowledge about a topic. However, the Decision also establishes that “Expert Witnesses may not express opinions on ultimate issues of fact, as only the Chamber is competent to make a judicial determination on the issues in the case.” The July 2012 Decision relied on international jurisprudence (for one example, see Trial Chamber, *Prosecutor v. Karemera*, Decision on Joseph Nzirorera’s motion to limit the scope of testimony of expert witnesses Alison Des Forges and Andrew Guichaoua (21 August 2007), ICTR-98-44-T, para. 3). For more on matters of Expert testimony, see CASE 002 KRT TRIAL MONITOR, Highlights of Legal Procedural Issues Related to Persons Testifying Before the Trial Chamber in Case 002/01 (12 October 2013).

³ Ms. Becker (2-TCE-97) graduated with a Bachelors Degree in South Asian Studies from University of Washington, Seattle. She attended Kendriya Hindi Sansthaan in Agra, India, for language training, and then she received a Masters degree at University of Washington. From 1972 to 1974, she lived in Phnom Penh, Cambodia, working as a journalist for the *Far Eastern Economic Review* and then the *Washington Post*. She returned to Washington, DC in late 1974 as a correspondent for the *Washington Post*, a position she continued to hold when she visited Democratic Kampuchea in December 1978. She spoke conversational Khmer during her time living in the country, but she was never able to read or write. She later became senior foreign editor in charge of all foreign correspondence at National Public Radio, then joined the *New York Times* as a correspondent. Ms. Becker is the author of *When the War Was Over (WTWWO)*, published in 1986 by Simon and Schuster and translated into Khmer and French, and *Bophana*, a small book published only in Cambodia, to expand on Khmer filmmaker Rithy Panh’s short documentary film of the same name based on an excerpt from *WTWWO*. She noted that her works relied on

her own personal observations, firsthand research, interviews with DK figures (primarily Ieng Sary, Ieng Thirith, Pol Pot, and Thioung Prasith), and materials provided from Ben Kiernan, Steven Heder, David Hock, and David Chandler. She has also published *America's Vietnam War: A Narrative History for Young Adults* in 1992 with Clarion Books, and *Overbooked: The Exploding Business of Travel and Tourism* in 2013 with Simon and Schuster.

⁴ Ms. BECKER was questioned in the following order: President NIL Nonn; international Judge Jean-Marc LAVERGNE; international Co-Prosecutor Nicholas KOUMJIAN; international Civil Party Lead Co-Lawyer Marie GUIRAUD; international Co-Lawyer for Nuon Chea, Victor KOPPE; national legal consultant to Nuon Chea, SUON Visal; international Co-Lawyer for Khieu Samphan, Anta GUISSÉ; national Co-Lawyer for Khieu Samphan, KONG Sam Onn.

⁵ The “*Mayaguez Incident*” has been viewed as the final United States military intervention in Indochina, and it was the only known engagement between American ground troops and Khmer Rouge forces. It took place from 12-15 May, 1975, soon after the takeover of the country by the Khmer Rouge, when the U.S. merchant marine ship *Mayaguez* was boarded and seized at sea off the Southern coast of Cambodia. The crew was held hostage, and President Gerald Ford ordered U.S. Marines to assault Koh Tang, where the *Mayaguez* crew were thought to be held. As the Marines attacked the Khmer Rouge forces there, however, the Khmer Rouge separately released the crew without incident. Marines, however, were already battling Khmer Rouge on Koh Tang, and many were killed or wounded. U.S. air forces bombed the oil depot at Kampong Som and armed forces at Ream airfield and naval base. Only after extracting surviving Marines from Koh Tang did U.S. forces realize three Marines were left behind, marked Missing in Action (M.I.A.) and presumed dead. For the Expert’s discussion of the Incident, see Elizabeth Becker, *When the War Was Over* (1986), pp. 196-198. Ms. Becker writes, “When the fighting was over, thirty-eight American servicemen lost their lives to save thirty-nine crew members of the *Mayaguez*, and most of them died after the crew members had been released...as the last American casualties in the U.S. war in Indochina.”

⁶ 9 FEBRUARY TRANSCRIPT, p. 15.

⁷ 9 FEBRUARY TRANSCRIPT, lines 11-14, p. 17.

⁸ Thioung Prasith served as DK’s Ambassador to the United Nations and worked closely with Foreign Minister Ieng Sary. Keat Chhon served as an aide and interpreter to Pol Pot and Ieng Sary and also as a member of DK’s 1977 delegation to the UN (See Justin Corfield and Laura Summers, *Historical Dictionary of Cambodia*, 2003). Today, he belongs to the Cambodian People’s Party and is Deputy Prime Minister in the Royal Government of Cambodia; he formerly served as Minister for Economy and Finance from 1994 to 2013.

⁹ 9 FEBRUARY TRANSCRIPT, lines 2, 4-5, p. 20.

¹⁰ 9 FEBRUARY TRANSCRIPT, p. 34.

¹¹ 9 FEBRUARY TRANSCRIPT, lines 5-6, p. 35.

¹² 9 FEBRUARY TRANSCRIPT, lines 13-14, p. 36.

¹³ 9 FEBRUARY TRANSCRIPT, lines 7-18, p. 38.

¹⁴ 9 FEBRUARY TRANSCRIPT, lines 12-13, p. 43.

¹⁵ 9 FEBRUARY TRANSCRIPT, lines 15-16, p. 46; lines 19-25, p. 74; lines 1-5, p. 75.

¹⁶ Trial Chamber, Transcript of Trial Proceedings (10 February 2015), E1/260.1 [hereinafter **10 FEBRUARY TRANSCRIPT**], lines 6-7, 24-25, p. 33.

¹⁷ 9 FEBRUARY TRANSCRIPT, lines 9-20, p. 48.

¹⁸ 9 FEBRUARY TRANSCRIPT, lines 20-22, p. 37.

¹⁹ 9 FEBRUARY TRANSCRIPT, lines 16-18, p. 50; lines 1-11, p. 51.

²⁰ 9 FEBRUARY TRANSCRIPT, line 25, p. 57.

²¹ 9 FEBRUARY TRANSCRIPT, line 13, p. 58.

²² 10 FEBRUARY TRANSCRIPT, lines 5-6, p. 78.

²³ 9 FEBRUARY TRANSCRIPT, lines 9-25, p. 62; lines 1-25, p. 63.

²⁴ 10 FEBRUARY TRANSCRIPT, lines 22-23, p. 108.

²⁵ 10 FEBRUARY TRANSCRIPT, lines 2-4, p. 108.

²⁶ 9 FEBRUARY TRANSCRIPT, lines 17-19, p. 65.

²⁷ Mr. Koppe repeatedly cited a 1976 report by Douglas Pike prepared for the Congressional Research Service in Washington, DC; a 1990 book by Dutch academic Roel Burgler called “The Eyes of the Pineapple”; a series of statements from Geng Biao, a senior Chinese official; and, Soviet statements found through recent research work by Stephen Morris in former Soviet archives for his book, *Why Vietnam Invaded Cambodia*.

²⁸ Ms. Becker noted that Pike was a Vietnam expert more than a Cambodia expert and certainly could not represent the opinions of the U.S. Congress or the State Department. She explained that Burgler’s reliance on Richard Dudman’s reporting after their 1978 trip to DK was flawed, as Dudman had no point of comparison to Cambodia before 1975 as she did, and he reported based on the single source of what he was shown by the Khmer Rouge. Instead, she referred Mr. Koppe to *Embers of War*, a Pulitzer-Prize winning book by Fredrik Logevall, for greater discussion on Indochinese relations and with superior reference to Soviet archives. In response to the statements cited from the Soviet ambassador to North Vietnam, she stated, “I’m not surprised at all,” and regarding the statements of Geng Biao on the Chinese view of the DK-Vietnam split, she said, “That totally reflects the public view.”

²⁹ 10 FEBRUARY TRANSCRIPT, lines 17-18, p. 40.

³⁰ 10 FEBRUARY TRANSCRIPT, lines 6-7, p. 41.

³¹ 10 FEBRUARY TRANSCRIPT, line 23, p. 92; line 1, p. 94.

³² At the opening hearings in Case 002/02, Nuon Chea criticized the Trial Chamber for its failure to examine the “traitorous faction” of these individuals within the Standing Committee and for its decision not to summon Heng

Samrin as a witness with knowledge of the faction's involvement in the East Zone, where he was an official alongside Sao Phim. See CASE 002/02 KRT TRIAL MONITOR, Issue 2, Opening Statements (17 October 2014), p. 5. The Defense Team addresses this theory in their appeal of the Case 002/01 Judgment. See Nuon Chea Defense Team, Nuon Chea's Appeal Against the Judgment in Case 002/01 (29 December 2014), F16, sections VIII-X, XXIII.

³³ 10 FEBRUARY TRANSCRIPT, lines 17-21, p. 99.

³⁴ 10 FEBRUARY TRANSCRIPT, lines 21-22, p. 100.

³⁵ 9 FEBRUARY TRANSCRIPT, line 20, p. 87.

³⁶ 9 FEBRUARY TRANSCRIPT, line 10, p. 91.

³⁷ 9 FEBRUARY TRANSCRIPT, line 3, p. 92; lines 20-24, p. 93.

³⁸ 10 FEBRUARY TRANSCRIPT, lines 13-18, p. 36.

³⁹ The word "Yuong" is a derogatory racial slur in Khmer language for "Vietnam" or "Vietnamese," and it was utilized in a variety of DK documents and speeches. The term continues to be used in Cambodia today by members of the public and political leaders alike. The title "Aa" is a derogatory title in colloquial Khmer, rendering the phrase "Aa Yuong" an especially harsh title of classification.

⁴⁰ 10 FEBRUARY TRANSCRIPT, line 16, p. 77.

⁴¹ 10 FEBRUARY TRANSCRIPT, lines 13-15, p. 85.

⁴² 10 FEBRUARY TRANSCRIPT, line 18, p. 85.

⁴³ 10 FEBRUARY TRANSCRIPT, line 22, p. 104; lines 7-9, p. 105.

⁴⁴ 10 FEBRUARY TRANSCRIPT, lines 10-15, p. 30.

⁴⁵ Mr. Lysak referred specifically to para. 320 of the Case 002 Closing Order, which, he said, contains "allegations about registration of Khmer Krom people in Tram Kak District and also regarding exchanges of Khmer Krom with Vietnam."