



Objections Fly as Cross-Examination of Stephen Heder Begins
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The Extraordinary Chambers in the courts of Cambodia continued to hear the testimony of Mr. David Heder on Tuesday, July 16, 2013. All parties were present, with Nuon Chea observing from his holding cell in accordance with the decision of the trial chamber concerning his health.

Ruling on Khieu Samphan Motion Regarding Testimony

Trial Chamber President Nil Nonn began by recounting that by a motion of July 5, 2013, which had been discussed in court on July 8, 2013, the Khieu Samphan team had notified the parties that Khieu Samphan would no longer answer questions before the chamber. In response, the prosecutor had suggested a number of concessions to aid the Khieu Samphan defense team in facilitating his testimony. In the alternative, they had also requested the chamber notify Khieu Samphan of the legal implications of silence. As such, the court affirmed its ruling of April 18, 2012, on the implications of selective testimony.

Nuon Chea Defense Examines Mr. Heder

Victor Koppe, co-lawyer for Nuon Chea, began his session by telling the court that it was likely that he would be asking for an increase in his time allocation by approximately another half day. This was in light of the extension provided to the prosecution and civil parties to three days of testimony.

Ms. Anta Guissé, Co-Lawyer for Khieu Samphan, similarly felt that two days would be insufficient to cover all of the topics covered in Mr. Heder's prior testimony. She requested a full day plus another hour and a half, asking the chamber to "prepare itself psychologically for this."

¹ Cambodia Tribunal Monitor's daily blog posts on the ECCC are written according to the personal observations of the writer and do not constitute a transcript of the proceedings. Official court transcripts for the ECCC's hearings may be accessed at <http://www.eccc.gov.kh/en/case/topic/2>.

After these requests, Mr. Koppe began the cross-examination by asking why the witness why he was refusing to appear as an expert. This, he said, was a question to which many were waiting to hear the answer.

Mr. Heder explained that there were interrelated reasons. He acknowledged that the court saw him as an expert; however when he was assigned to the Office of the Co-Investigating Judges (OCIJ), he was not treated as an expert. Then Co-Investigating Judge Marcel Lemonde had once declared, “I am the expert, not you,” when he had worked there, Mr. Heder recounted.

Most academics do not expose themselves to the situation where they express themselves to the record in a question and answer session, Mr. Heder claimed as his second reason. There is a process by which academics publish, re-reading their work, running it by a friendly group of peers, and then submitting it to a peer reviewed journal. This, he said, was the right format for an academic to express him or herself, not the question and answer session he was currently being exposed to. He would rather express himself in the proper academic mode, he asserted.

Further, Mr. Heder did not wish to dedicate himself entirely to the Khmer Rouge. Around the end of 2011, he decided to move on from the area of study and not work any further on the tribunal. It was for these reasons that he had respectfully declined to be an expert.

Thanking the witness for his long reply, Mr. Koppe returned to one of the witness’s first sentences, in which he claimed to have been told by Judge Lemonde that he was not an expert. Mr. Heder explained that in the judge’s view it was not appropriate for an investigator to also be an expert, though Judge Lemonde had not given any “legal reasoning” for this decision. Similarly, Mr. Heder recalled, the former international co-prosecutor Robert Petit had also told the witness, “I’m the expert and you are not.”

Mr. Heder continued to elaborate and began a complicated explanation of different parties sitting on a spectrum analogous to the distinction between a witness and an expert. Not a second too late, President Nonn interjected to the long answer and asked the witness to stick to the question being asked. He also reminded counsel to focus on the issues before the court and the related facts.

Mr. Koppe asked a final question on this issue, highlighting that David Chandler had appeared as an expert. He asked whether Mr. Chandler’s appearance was significant in Mr. Heder’s decision not to appear as an expert. Unsurprisingly, President Nonn did not let this question slide and told the witness not to answer and Mr. Koppe to move on.

Mr. Koppe argued that he was being hindered in his testing of the very credibility of the witness. Rephrasing, he asked whether, based on all of the witness’s research and articles, Mr. Chandler was one of the leading experts on the Democratic Kampuchea period.

Senior Assistant Prosecutor Keith Raynor objected to this question, on the grounds that an opinion was being sought.

After the question was rephrased again, Mr. Heder told the court that it was the opinion of many historians and scholars that David Chandler was the “doyen” of modern historical Cambodian works.

Asked about author Ben Kiernan, the witness did not feel that he was held in the same esteem. Mr. Heder agreed that he had extensively criticized Mr. Kiernan in his own work and Mr. Kiernan had likewise criticized him. While he did not claim to have read all of Mr. Kiernan's work, he did state that he certainly had read all that covered Cambodia.

Both Mr. Chandler and Mr. Kiernan were professors, and so Mr. Koppe's next question was to why the witness was not also a professor. This question was subject to a successful objection from the prosecution on the grounds of relevance.

Moving on, Mr. Koppe asked if the witness had seen the film *One Day at Po Chrey*, which the witness had not. Based on his academic work Mr. Heder could not say much about the producers; he had met them but had not had conversations with either. He had watched their first film (*Enemies of the People*) but had not "paid much attention" to it. There were other better films at the time, he claimed, including one he had worked on with the BBC.

Turning to an article by the witness entitled "Racism, Marxism, Labeling and Genocide," Mr. Koppe highlighted that David Chandler and Laura Summers were mentioned in an acknowledgment footnote. Mr. Heder informed the court that Laura Summers was a PhD student at Cornell when he had been an undergraduate student there, who subsequently taught at various British universities. She had published a translation of Khieu Samphan's thesis and had now retired from academia.

Turning to the witness's own testimony, Mr. Koppe asked about the way the witness had received material from military attachés at the U.S. Consulate. Mr. Heder discussed "Medtech," which was a military element in the U.S. embassy. By U.S. law military involvement was restricted in Cambodia. Neither ground troops nor advisors were allowed. However, Medtech had remained to provide military aid. Similarly, a military attaché and security intelligence section remained. The witness had contacts in these offices with whom he discussed the situation in Cambodia and who occasionally provided him with documents. Compared to other journalists, he said he had an average level of contact to military attachés. On examination he explained that he did not know how much contact Sydney Schanberg had with such attachés.

The subject of the examination turned to whether or not Mr. Heder had been employed as a military intelligence officer. Mr. Heder initially said that the short answer was that he had not. Asked what the long answer was, Mr. Heder stated that between 1979 and 1984 he had undertaken research that had been funded by the Office of External Research of the Bureau of Intelligence and Research at the U.S. Department of State. For tax purposes he was not employed by the State Department, as it was grant funding that he had received, not a salary. Mr. Heder stressed that this was research in the public domain.

Citing a book proposal submitted by Mr. Heder in 2003, Mr. Koppe asked if the witness had stated, in an accompanying remark, that he had conducted research as a journalist and "intelligence officer." Mr. Heder affirmed that he might have written that he was an "intelligence analyst" as a gloss to make his proposal more attractive.

Mr. Koppe enquired as to whether the witness was aware of a text called "Bringing the Khmer Rouge to Justice" by Ben Kiernan. Judge Cartwright asked for the title of the book to be read to

the court, which was *Genocide and Resistance in South East Asia*. She repeatedly asked whether it had been put before the chamber before, which Mr. Koppe did not know.

The defense counsel rephrased the question, asking if the witness was aware that Ben Kiernan characterized him as an intelligence officer. Mr. Heder said that the matter would depend on whether he was employed by the United States, which he said he was not. In his contract he had been asked to do intelligence summary and analysis, though, which he acknowledged could be characterized as the work of an intelligence officer.

Mr. Heder testified that he had applied successfully for a position with the United Nations Assistance to the Khmer Rouge Tribunal (UNAKRT) inside the OCIJ. He had almost immediately been detached by prosecutor Robert Petit to work for the prosecution. Mr. Koppe asked whether his loan to the prosecution was long-term. In reply the witness explained how Judge Lemonde and Mr. Petit had come to different conclusions on this issue and he had been stuck between them. There had been considerations by Judge Lemonde of the prospect that he could face a conflict of interest; however this was dismissed as something “the Anglo-Saxons might think ... but they would be wrong.” Judge Lemonde had given no explanation about his rationale for this decision, Mr. Heder said.

As Mr. Koppe asked whether the witness had recommended to the prosecution whom to interview, Mr. Raynor objected on the grounds that this was moving towards questioning on the investigatory phrase, which is a topic not to be examined by the Trial Chamber. This objection was sustained.

As a result, Mr. Koppe asked if he could present his questions to the chamber, at least so that they were on the record. The president did not appear to understand this request, and asked Mr. Koppe to ask substantive questions.

Mr. Koppe’s following question was also the subject of an objection. He asked if Judge Lemonde ever asked the witness to seek inculpatory evidence rather than exculpatory evidence. Mr. Raynor objected, simply stating that he had the same objection as he had raised a moment ago, on exactly the same grounds. This was again sustained.

Mr. Koppe insisted on asking the question again, as he said it was important. Inevitably the President sustained the prosecutor’s third objection on the same grounds.

Finally turning to another issue, the defense counsel asked Mr. Heder about the original documents in his possession and whether he handed over all of the original documents in his possession to the investigating judges. The witness told the chamber that they were offered in their entirety but not all the documents were taken. On examination, he recalled offering all the copies of the *Revolutionary Flag* magazines; however, he recounted, many were declined. Mr. Heder had taken the magazines back to London, from where the Chamber later requested them. Mr. Koppe explained that his client wanted to have in his hands a copy of the magazine. As a scholar, Mr. Heder was asked how an issue of the magazine could be brought to the court.

This question was objected to by the prosecution, who said that it was not relevant, and that two copies had been put forward before the court on the previous day.

After the question had been rephrased, Mr. Heder explained that he had been shown the *Revolutionary Flag* magazines on a visit to Tuol Sleng Genocide Museum in 1980 and given duplicated issues. He was also aware of copies being in the possession of the Documentation Center of Cambodia (DC-Cam).² The last time the witness had had such documents as the *Revolutionary Flag* issues or copies of confessions in his hands had been in 2007. To his knowledge he was unaware where the confessions signed by Nuon Chea were currently located.

Clarifying, Mr. Heder said that on the case file were color scans of these documents, which he had scanned himself while working for the OCIJ in the offices of DC-Cam. At that time the originals were at DC-Cam, he stated.

Mr. Heder was asked how he could authenticate these documents. Mr. Raynor objected again on the grounds that it was a question eliciting expert opinion.

Moving on, Mr. Koppe asked about an interview with Ke Pauk, the witness had testified was to be published after Mr. Pauk had died. Mr. Heder told the court that he had tried to present this interview to the OCIJ; however they had not wanted it. As such it was currently in his filing cabinets in London. The prosecution objected to this area of examination on two grounds. First, the Chamber was not to hear evidence of what judges of OCIJ say. Second this was not relevant as the material was not on the case file.

Judge Jean-Marc Lavergne announced the ruling of the bench that while the evidence was on the file and so could be considered, questions about the prior investigation were not relevant, and so Mr. Koppe was instructed to move on.

Subsequently the witness was asked more specifically about the same interview. A quote was read out of a footnote from his book, which stated, “In an interview with the author Mr. Pauk agreed to discuss himself and others on condition the information was not released when he was alive.” In this excerpt, Mr. Pauk had also allegedly admitted that he had instigated an execution policy and followed orders from Nuon Chea.

The question put to the witness was whether this interview was the only link between Nuon Chea and a policy to kill. The prosecution objected on the grounds that the next sentence corroborated the footnote. For the question to be put properly, Mr. Raynor asserted, this sentence had to be put to the witness.

After having heard the question again, Mr. Heder said that there might be evidence elsewhere not in the footnote. Having been shown the evidence, Mr. Heder said this would have been the best available evidence that he had at the time.

After a short morning adjournment, Mr. Koppe asked the witness about his scholarly research in the 1980s and 1990s and work for the OCIJ from 2006. He enquired as to whether, in answering the questions of the prosecutor, the witness had managed to distinguish between his research as a scholar and that which he had conducted with the OCIJ. Mr. Heder testified that he had tried to make a distinction, but “naturally” it was not always possible.

² DC-Cam is a partner of Cambodia Tribunal Monitor, and DC-Cam Director Youk Chhang serves as CTM’s co-managing editor.

With regard to the period the Khmer Rouge were in power, the witness had conducted some research prior to their rise and during their regime while he was at Cornell. There was a period after January 1979 when “everyone” was focused on the post-Khmer Rouge regime, he said, and he had also had to make time to investigate the Khmer Rouge. Now this state of affairs had reversed, he explained, in that he had only produced one piece of writing about Khmer Rouge policy since he had left UNAKRT. In that work, which was based on *Revolutionary Flag* and *Youth* pieces, he had tried to elaborate on his prior work.

A crucial turning point in Mr. Heder’s work had been his time at the Center for Advance Holocaust Studies in Washington, D.C., he recounted. He had gone there in 2002 with a notion that there was a significant degree of local power and initiative in the overall structure of the Khmer Rouge. Mr. Heder was concerned that he would be seen as the “David Irving of Khmer Rouge study,” like an outsider denying the holocaust, but he had actually found himself in line with a branch of holocaust study that focused on local initiative.

His stance before and after his time there was not significantly changed, Mr. Heder explained, nor did the OCIJ employment change these views. The witness was asked to confirm that he stood by his book *Seven Candidates for Prosecution*. To this question Elisabeth Simonneau Fort, lead co-lawyer for the Civil Parties, objected, as she saw these as expert questions. The Chamber sustained the objection.

Reformulating his question, Mr. Koppe whether the views Mr. Heder purported in *Seven Candidates* were still held by him today. To this Mr. Raynor objected, claiming that this again elicited expert opinion but that “there is a way he [Mr. Koppe] could ask the question, but I am not going to tell him how.”

Eventually the witness managed to confirm that *Seven Candidates* was still representative of his current views, though if he were to republish it, he might make some qualifications and “re-situate” some of the material within it.

Next, Mr. Koppe recounted a number of accusations that Mr. Heder was said to have made about Ben Kiernan, specifically that allegations that Mr. Kiernan sometimes uses false evidence, uses selective documents, comes to baseless conclusions, was misleading on the treatment of the Cham people, was at times fundamentally wrong, was inconclusive, and used stereotypes. An objection was raised by the prosecution to the use of Mr. Heder’s opinion of Ben Kiernan’s methodology. This was supported by the Civil Parties, who also questioned the use of documents in this way without the provision of ERN numbers in each language.

Ultimately, Mr. Koppe desisted in what he said was an attempt to save time and read out titles and ERN numbers of each of the documents that supported these accusations. After a series of objections to the lack of clear ERNS being interpreted into each language, Mr. Koppe moved on without any answer to the questions he had wished to ask.

The witness was thereafter asked about the many types of document he had examined. With regards to the interview with Ieng Sary, the defense counsel wanted to know the steps that Mr. Heder had made to ensure that the answers given were not motivated by a hidden agenda. The witness stated that Mr. Sary had a right to any agenda he may possess. Guessing what was in Ieng Sary’s head, Mr. Heder considered that it might have been his motivation to prove that he

was not Brother Number Two, which had been the theory of Ben Kiernan and other academics at that time.

According to Mr. Koppe, Mr. Sary had in the past been accused of being manipulative. In response to this assertion, Mr. Heder said that like all CPK cadre, Mr. Sary had been at pains to convince his interviewer that he was not responsible for the loss of life under the regime. Mr. Koppe's question as to whether Ieng Sary was telling the truth in his interview was subject to a successful objection from the prosecution, as it called for expert opinion.

The witness was informed of the many Khmer Rouge leaders whom he had never spoken to, including, among others, Pol Pot and Nuon Chea. Being his "usual pedantic self," Mr. Heder told the court that he had spoken to many of these people but not had substantive evidence from them. He accepted that the more sources an academic spoke to the better and that the data with regard to the Khmer Rouge regime was less quantitatively or qualitatively as good as that for the Soviet Union or Nazi Germany. He was the first to accept that these gaps were significant.

In selecting which academic sources to cite, Mr. Heder told the court, he had viewed the secondary sources at the U.S. Holocaust Memorial Museum. The narrow scope of these had made him "want to cry." What had happened under Cambodia was not covered to the same extent as other mass killings, he stated, and he tended to regard those that had been on the ground as most authoritative sources.

Subsequently a brief examination ensued on the conflicts between academics on the use of refugee testimony. In his piece entitled "Reassessing," Mr. Heder had described the Khmer Rouge's official policy as being that 95 percent of people were good, with five percent being enemies. Mr. Koppe asked, if these figures had been accurate, how the witness had been sure to speak to both segments of Khmer society when he had been interviewing refugees. In other words, how did he know that he was not just talking to the five percent, which were allegedly bad?

Mr. Raynor lodged a number of objections based on a lack of documentary evidence and a "jumbled" question eliciting expert opinion. The chamber held that throughout the prior examination of the witness, the defense had asked for the witness to be a witness. Now they were asking questions of him as an expert, which could not be proper. Asking the witness how he conducted his work and selected his evidence were questions for an academic and not a witness, the president stated.

Mr. Koppe unsuccessfully requested a degree of leeway, highlighting that the prosecution had asked days of questions about footnotes and academic articles authored by the witness. Nonetheless, he agreed to move on and asked how the witness used confessions

Yet again Mr. Raynor objected, as he had made it plain on the first day examining the witness that no evidence would be based on confession material. Mr. Koppe passionately argued to the court that the defense should be held to a different standard than the prosecution with regard to confessions.

Ultimately the chamber dismissed this request, Judge Lavergne stating that this was an attempt to treat the witness as an expert.

Following the lunch break Mr. Koppe announced that he would be reading eleven passages from Mr. Heder's article "Racism, Marxism, Labeling, and Genocide," which he would then ask questions about.

The first quote was from page four of the article, in which it was written, "While challenging his theoretical categories, this article reexamines sources used by Ben Kiernan, such as interviews of people after the regime and confessions from the Tuol Sleng Genocide Museum." It went on to assert that reexamination suggests Mr. Kiernan's use of confessions was "patchy and selective" and there were problems with his translations. The reader was urged to be cautious when using Mr. Kiernan's research.

Mr. Raynor objected to questions being put to the witness on this quote, on the grounds that Mr. Heder's opinion of Mr. Kiernan's work was not relevant and, in any event, was not supported by a footnote. The court sustained this objection, and Mr. Koppe was asked to move on.

The next quote was from the same article. It was written by Mr. Heder that Mr. Kiernan had collated accounts that showed that the East Zone was less difficult a place to live than the rest of DK. This was attributed to the leadership of East Zone secretaries. However, the article asserted, in comparing the East Zone with other CPK Zones, Mr. Kiernan overdrew his case. He created a "false coherence ... putting himself through various convolutions in order to do so."

As this quote drew to a close, President Nonn angrily declared that the defense counsel's method of questioning had gone unchanged. Mr. Raynor joined this objection, asking if Mr. Koppe was missing something due to lack of experience "or what?" The court had already ruled on this matter numerous times, he remarked. "Why is the message not getting through?"

In an attempt to conclude the matter, Judge Sylvia Cartwright instructed Mr. Koppe not to ask any further questions based upon this article, sustaining the objection of the prosecution.

Apparently moving on, Mr. Koppe asked the witness if he had written an article about the East Zone. In reply the witness said this had been alluded to in this review article, but he had conducted research without publishing anything substantive on this subject. Further, he had specifically conducted research into the Security Office of the East Zone, which showed it had a similar structure to other zones, with a zone security office acting as an integral part of the security staff. This office had been known as S79 and was directly subordinate to the East Zone General Secretary. S79, like S21, had primarily dealt with military officials and cadres, he said. A link had existed between the sector army and the security office, and at the bottom of the security apparatus was the local commune militia.

The general security policy was consistent in the East Zone with that in other zones, Mr. Heder continued. It was described as "same same but better" by the witness, in that it was consistent by what was on the face of general policy. Moderation in the East Zone could be attributed to adherence to the central policy rather than deviation from it, he asserted. With that caveat, though, Mr. Heder stressed that there were still widespread executions in the East Zone for the same reasons as elsewhere.

So Phim, as Secretary of the Zone, was in overall control of the goings-on in the area, the witness explained. He had overall responsibility for "zonal security," with the caveat that it did not seem to be the case that all executions were run by him and the Standing Committee.

As the subject turned to the role of East Zone troops during the evacuation of Phnom Penh, Mr. Raynor objected on the grounds that this line of questioning was not reliant on any extract by Mr. Heder, contrary to the terms by which Mr. Heder was called as a witness. The witness was being encouraged to give broad examples and opinion - a "fishing expedition into the witness's brain," Mr. Raynor argued

"What is really happening here," Mr. Koppe replied, "is that I am entering a territory the prosecution wishes to stay away from," the things which happened in the East Zone. "I think I am perfectly entitled to ask what the witness can tell us happened in the East Zone. This question is not about technicalities, it is about things that happened in the East Zone." The public had a right to know, he claimed.

Clearly getting angry, yet speaking very slowly, Mr. Raynor retorted, "Counsels make submissions to judges, not showboat to the public."

Ruling on the issue, Judge Cartwright held for the bench:

The Chamber reiterates its many rulings on this topic. Contrary to what you indicated, Mr. Koppe, the rulings were concerned with making sure evidence was given by Mr. Heder as a witness not an expert. If you cannot follow this order the president has indicated the floor will be given to counsel for Khieu Samphan.

Moving on and turning back to Mr. Heder's article "Reassessing," the defense counsel recounted that it had been written in a footnote that evidence implicates Ho Nim in war crimes and massacres of Vietnamese civilians during raids into Vietnam. Asked to elaborate on the source of this assertion, Mr. Heder testified that this footnote had referred to interview material and potentially confession material. This material would be in the review article, he stated, and he proceeded to leaf through it in an attempt to find his sources. Eventually Mr. Heder told the court it had been ascertained from Vietnamese documents and from inadmissible citations to confessions.

As Mr. Koppe moved on to read an extract from Ben Kiernan's book, the president interjected to state that it had already been ruled that this text could not be used as the basis for questioning. He threatened that the floor would be handed over to the Khieu Samphan defense team if good use of time were not being made.

"I'm really losing it now. The prosecution has asked questions about this book!" Mr. Koppe exclaimed, going on to say that he had wished to ask factual questions based on it.

Rising to his feet, Mr. Raynor acknowledged that he had indeed made reference to Ben Kiernan's book, albeit generally where Mr. Heder had cited it. That said, he admitted that at times he had cited sections without such a citation, and so would not object to Mr. Koppe making reference to the text where a reference could be established.

Ultimately, Judge Cartwright held that questions could be asked if based on facts. She reminded counsel that he was at serious risk of losing his time if he continued asking questions subject to objections.

Returning to the book, Mr. Koppe quoted it as explaining how during a May 1975 conference secretaries came from all parts of the country to an “assembly [that] was held in the old sports center in the old part of Phnom Penh. Its purpose was to hear the plan from the center then to implement the plan. It lasted five days.”

A second quote was then read, in which a cadre recounted, “They did not say kill; they said scatter the people of the old regime.” This was distinct from the word smash, which meant to kill.

Mr. Heder said the material he had seen indicated that there was more than one meeting. His recollection was that the information he had did not come from sources at a level as high as those relied on by Ben Kiernan, who appeared to have better information than he did. He agreed that “smash” was usually used to mean “kill,” but he was troubled by the way the Khmer word “cumchat” was used here as “scatter,” which was not his interpretation. His interpretation was nearer to “eliminate,” a stronger meaning than that which was applied by Mr. Kiernan.

The witness had not seen the original interview text in Khmer, as he believed it had been written up in full by Mr. Kiernan straight into English.

Objecting once again, Mr. Raynor highlighted that this document had been objected to in the past by the defense; he also noted that the extract had unclear Khmer words. As such he objected to its use. This was affirmed by Pich Ang, co-lead lawyer for the Civil Parties, who argued that questions of Khmer interpretation were properly put to an expert, rather than a witness such as Mr. Heder.

Resolving the issue, Judge Lavergne sustained the objection.

The next topic to be discussed with Mr. Heder was whether he had factual information on the relationship between Son Rim and Nuon Chea. The witness could only remember OCIJ interviews addressing this issue, so gave an answer of no. Asked whether he had factual information suggesting that Son Rim was the messenger for Nuon Chea, the witness said any suggestion was not from him – “he did not have that date from non-court work.”

Next, a quote from the *American Marxist-Leninist Journal* was read, which said that “Heder first suggested that Son Rim was a ‘Kirby’ character who had been handing documents to the Vietnamese all along. He rose as high as he could, then fled to Vietnam just as ‘Kibble’ fled to USSR.” Mr. Ang objected to questioning on this quote, as it was not written by the witness so was out of scope. For the first time that day, an objection was not sustained, and Mr. Koppe was allowed to proceed.

Mr. Heder told the court that this was a quote of something he had said, “one of many versions of what may be a reality.” He had been in contact with this group; however, he asserted, the quote was out of context and did not accurately portray his views.

As Mr. Koppe proceeded to read the forward of Mr. Heder’s book on communism, which was written by David Chandler, Mr. Raynor lodged an objection on the grounds that putting to the witness what was said by Mr. Chandler about the witness’s own work was an invitation for opinion. Rephrasing the question, the defense counsel asked Mr. Heder if the book discussed the

“four myths.” The witness could not recall what these were and asked for the myths to be elaborated upon.

At this stage the president declared that it appeared to him that Mr. Koppe must have exhausted all of his substantive questions, given the line of questioning he was pursuing. This, of course, the defense counsel denied, and he asked the witness if he had written in his book that the CPK were not proper communists at all.

Mr. Raynor rose to his feet, and in a highly condescending tone, said “Page-Reference-Help-Please.” Controversially, Mr. Koppe refused to provide this, claiming not to be allowed to quote from the book. “Are we in a court of law or a playground” Mr. Raynor retorted. Going on, he requested that Mr. Koppe not be allowed to ask any more questions and another counsel should take over.

“Why do we have conventions of courtesy?” Mr. Raynor asked rhetorically asked the judges. “Can he still be directed? Because I can’t do it, only you can do it. And it is time for a direction now!”

Finally intervening, President Nonn instructed Mr. Koppe to provide references numbers whenever he made reference to a text.

Mr. Heder eventually came to elaborate on the thesis of his book, saying that it was written from a post-colonial position and looked at the way in which the Cambodian movement was influenced by Vietnamese communism.

A number of quotes given by leading Vietnamese from the 1960s were read to the witness, which had been included in his book. These included:

- “By deviating from the violent path the communists would allow lackeys to do away with the revolution.”
- “Revolution was an ideologically sound route for small countries and the only way to avoid imperialist lackeys.”
- “Not to proceed on one’s own would be contrary to principles of self-reliance.”
- “Revolutionary violence was an inescapable law of world history.”

As Mr. Koppe attempted to ask the witness a question about these quotes, Mr. Raynor objected, highlighting that there were no footnotes in the text from which these quotes came and, as such, they amounted to opinion. Mr. Ang supported this objection and added that this was a question for an expert. The objection was sustained.

At this point, however, Mr. Heder himself questioned President Nonn’s ruling. Defending his work, he claimed he was rephrasing here what was said and referenced earlier in the document.

President Nonn ended the proceedings as Mr. Koppe attempted to address the court and told the parties that the Nuon Chea team’s time allocation had now expired. The Khieu Samphan defense team will examine Mr. Heder on Wednesday, July 17, 2013.