

Case No. 26/070/49

Hearing on 16 March 2027 at 8.30 am

CIVIL PARTY'S SUBMISSIONS

**FOR:**

**Mr Huynh Ut Cong, known as Nick Ut**, born on 29 March 1951 in Vietnam, a US national, residing in Monterey Park, California (United States)

**CIVIL PARTY**

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**AGAINST:**

1. **THE VII FOUNDATION**, a non-profit organisation under US law, operating under its French registered office known as THE VII ACADEMIE, situated at 49 quai de la Roquette 13200 ARLES, registered under SIREN number 853 578 342<sup>1</sup> ;
2. **Mr Gary Knight**, in his capacity as President of the US non-profit organisation THE VII FOUNDATION, operating under its French registered office known as THE VII ACADEMIE, situated at 49 quai de la Roquette, 13200 ARLES, registered under SIREN number 853 578 342;
3. **NETFLIX INTERNATIONAL BV**, a company incorporated under Dutch law as a ‘Besloten Vennootschap’ (private limited company), with a share capital of €12,500, having its registered office at Karperstraat 8-10, 1075KZ Amsterdam, registered under RSIN number 853746333, KvK 62266519 and VAT NL853746333B01<sup>2</sup> ;

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4. **Ms Margaret Ayre Price**, acting in her capacity as legal representative (with full power of attorney) of NETFLIX INTERNATIONAL BV, a company incorporated under Dutch law as a ‘Besloten Vennootschap’ (limited liability company), with a share capital of €12,500, having its registered office at Karperstraat 8-10, 1075KZ Amsterdam,

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<sup>1</sup> **Exhibit 1** – Official Journal of the French Republic, Notices No. 1176 of 9 March 2019 concerning the establishment of the association and No. 59 of 18 April 2020 concerning the change of registered office

<sup>2</sup> **Exhibit No. 2** – Extract from the Dutch Trade and Companies Register for the company NETFLIX INTERNATIONAL B.V.

registered under number RSIN 853746333, KvK 62266519 and VAT NL853746333B01<sup>3</sup> ;

5. **Mr Rob Maria Zimmerman**, in his capacity as Chairman of the Board of Directors of NETFLIX INTERNATIONAL BV, a company incorporated under Dutch law as a 'Besloten Vennootschap' (private limited company), with a share capital of €12,500, having its registered office at Karperstraat 8-10, 1075KZ Amsterdam, registered under number RSIN 853746333, KvK 62266519 and VAT NL853746333B01<sup>4</sup> ;

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6. **NETFLIX SERVICES FRANCE**, a simplified joint-stock company with a share capital of €18,020,000, having its registered office at 11, place Edouard VII, 75009 PARIS <sup>5</sup>

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<sup>3</sup> **Exhibit No. 2** – Extract from the Dutch Trade and Companies Register for the company NETFLIX INTERNATIONAL B.V.

<sup>4</sup> **Document No. 2** – Extract from the Dutch Trade and Companies Register for the company NETFLIX INTERNATIONAL B.V.

<sup>5</sup> **Document No. 3** – Kbis extract from the French Trade and Companies Register for NETFLIX SERVIS France SAS

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7. **Mr Reginald Shawn Thompson**, in his capacity as Chairman of the simplified joint-stock company NETFLIX SERVICES France, having its registered office at 11, place Edouard VII, 75009 PARIS<sup>6</sup> .

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**DEFENDANTS**

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<sup>6</sup> **Exhibit No. 3** – Kbis extract from the French Trade and Companies Register for NETFLIX SERVIS France SAS

## **THE COURT IS KINDLY REQUESTED**

In this defamation case, Nick Ut, an internationally renowned photojournalist, is asking the Court to recognise and sanction the widespread dissemination of exceptionally serious allegations that directly undermine his honour, professional integrity and reputation.

The documentary entitled *The Stringer*, produced by THE VII FOUNDATION and streamed on the NETFLIX platform, purports to call into question the authorship of the world-famous photograph known as 'the little girl with napalm', claiming that it was not taken by Nick Ut but by a third party.

In doing so, the film does not merely fuel a historical debate: it accuses Nick Ut of having wrongfully claimed authorship of this iconic work and of having, for more than fifty years, perpetuated a lie that underpinned his career.

These accusations, presented as the result of a purported journalistic investigation, are broadcast to millions of viewers in France and abroad, and enjoy heightened visibility due to their permanent availability on the Netflix platform as well as the institutional recognition conferred by the film's selection for the Emmy Awards.

In this context, the disputed statements do not constitute mere opinions or hypotheses, but allegations of specific and definite facts, damaging Nick Ut's honour and reputation within the meaning of Article 29 of the Law of 29 July 1881.

This dispute thus raises a fundamental question: that of the limits of freedom of expression and creativity when it leads to the public making serious accusations, presented as established facts, without respecting the requirements of rigour, prudence and fairness that are essential in the field of information.

It will therefore be for the Court to rule that the statements made in the Film are defamatory, to draw all the legal consequences therefrom, and to ensure full compensation for the harm suffered by Nick Ut.

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**I. SUMMARY OF THE FACTS AND PROCEEDINGS**

Nick Ut is a world-renowned Vietnamese-American photographer and photojournalist. Born on 29 March 1951 in Vietnam, he is particularly famous for taking the photograph known as ‘The Napalm Girl’ on 8 June 1972, an iconic image of the Vietnam War.

At the time, Nick Ut was employed by the Associated Press (hereinafter “AP”), for whom he had been working since the age of 15. This photograph, captured in dramatic circumstances, is one of the most powerful symbols of the horror of the Vietnam War.

The photograph depicts Kim Phuc Phan Thi, a child suffering from severe burns caused by napalm and white phosphorus, running naked along National Highway 1, near the village of Trang Bang in Vietnam. This image has become one of the most famous in the history of photojournalism. After taking this photograph, Nick Ut acted with great humanity by carrying Kim Phuc to Cu Chi Hospital to save her life.

This photograph earned Nick Ut prestigious awards, including the 1972 World Press Photo of the Year and the 1973 Pulitzer Prize for News Photography. These accolades cemented his reputation as one of the greatest photojournalists of his time and established him as a key figure in the history of war photography.

**THE VII FOUNDATION** is a non-profit organisation operating in the fields of media and education. Among its activities, it produces films that explore the hidden aspects of the history of photojournalism, including *\*The Stringer\**.

THE VII FOUNDATION’s Alexandra Boulat campus, located in Arles, is described in their annual report as the foundation’s European headquarters<sup>7</sup>. This campus is a key centre for the foundation’s activities as well as for the promotion and production of projects related to photojournalism, including *“The Stringer”*.

**Gary Knight**, who describes himself as “*CEO of THE VII FOUNDATION*”, states on his LinkedIn page that this organisation is registered in the United States, France and Bosnia and Herzegovina<sup>8</sup>.

On 25 January 2025, the documentary *“The Stringer”*, produced by THE VII FOUNDATION, was screened for the first time at the Sundance Film Festival. This documentary, directed by Bao Nguyen, presents a two-year “investigation” into the photograph of the little girl with napalm, and asserts that there is a controversy surrounding the author of this image. The film claims that the photograph was not taken by Nick Ut but by an individual named Nguyen Thanh Nghe.

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<sup>7</sup> **Exhibit No. 4** – Bailiff’s report of 24 January 2025, page No. 75

<sup>8</sup> **Exhibit No. 4** – Bailiff’s report dated 24 January 2025, page No. 106

The description of the film on THE VII FOUNDATION's website reads as follows:

*“A former Saigon photo editor reveals a secret he’s been plagued with for 52 years, setting off a gripping two-year investigation into the truth behind one of the Vietnam War’s most iconic photographs. Acclaimed war photographer Gary Knight and a small team of journalists embark on a relentless search to locate and seek justice for a man known only as ‘the stringer’”<sup>9</sup>.*

*“A former Saigon photo editor reveals a secret that has tormented him for 52 years, triggering a gripping two-year investigation into the truth behind one of the most iconic photographs of the Vietnam War. Renowned war photographer Gary Knight and a small team of journalists embark on a relentless search to locate and seek justice for a man known only as “the stringer”.*

This film claims that, following a two-year investigation, the author of the famous photograph of *‘the little girl with napalm’* is in fact Nguyen Thanh Nghe, a ‘stringer’, that is to say, a *freelance* Vietnamese cameraman working at the time for the American network NBC as a driver, who submitted his undeveloped film as a freelancer to the *Associated Press* office in Saigon.

In September 2025, Bao Nguyen, the film’s director, announced that the film had been acquired by NETFLIX for global distribution<sup>10</sup>.

On 28 November 2025, *\*The Stringer\** was released on the French Netflix platform, whose CEO is Reginald Thompson. It has been available to watch on this platform since that date in several countries, including France.

The release of *“The Stringer”* received considerable media coverage, repeating and spreading even more widely the false accusations levelled at Nick Ut. For instance, an article in *Télérama* refers to a *“documentary that discredits the photographer”*<sup>11</sup>, Radio France states that this *“documentary broadcast on Netflix claims that the photographer Nick Ut is not the author of ‘The Little Girl with Napalm’”*<sup>12</sup>, and *Le Monde* explains that the documentary *“identifies another photographer who claims to be the true author”*<sup>13</sup>.

The false allegations contained in *“The Stringer”* not only constitute a serious attack on Nick Ut’s reputation, but also amount to the offence of defamation, as provided for and punishable under Articles 29<sup>1</sup> and 32<sup>1</sup> of the Law of 29 July 1881 on freedom of the press.

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<sup>9</sup> **Exhibit No. 5** – Extract from THE VII FOUNDATION website regarding the film *The Stringer*

<sup>10</sup> **Exhibit No. 6** – Instagram post by Bao Nguyen dated 3 September 2025

<sup>11</sup> **Exhibit No. 7** – *Télérama* article dated 28 November 2025, “‘The Stringer’, the story of the documentary that discredits the photographer of ‘The Napalm Girl’”

<sup>12</sup> **Exhibit No. 8** – France Inter article on the Radio France website dated 29 November 2025, “On Netflix, a documentary questions the authorship of the photograph ‘The Little Girl with Napalm’”

<sup>13</sup> **Exhibit No. 9** – *Le Monde* article dated 28 November 2025, “‘The Stringer’, on Netflix: fifty-three years later, a film challenges the authorship of ‘The Little Girl with Napalm’”

It is for this reason that Nick Ut has served a direct summons on **THE VII FOUNDATION**, a non-profit organisation under US law, at its French registered office known as THE VII ACADEMIE, **Gary Knight**, in his capacity as President of the non-profit organisation, **NETFLIX INTERNATIONAL BV**, **Margaret Ayre Price**, in her capacity as legal representative of the company NETFLIX INTERNATIONAL BV, **Rob Maria Zimmermann**, in his capacity as Chairman of the Board of Directors of NETFLIX INTERNATIONAL BV, **NETFLIX SERVICES FRANCE**, and **Reginald Shawn Thompson**, in his capacity as Chairman of SAS NETFLIX SERVICES France, before the local Criminal Court.

On 7 April 2026, the National Academy of Television Arts & Sciences announced the films nominated for the 47<sup>th</sup> edition of the ‘News & Documentary Emmy Awards’, among which is *The Stringer*.

Specifically, the film received four Emmy Award nominations in the News and Documentary categories: Best Investigative Documentary, Best Directing, Best Writing and Best Research.

Such a selection is not merely a symbolic recognition: it is accompanied by significant media coverage, both in the general and specialist press, as well as extensive coverage on social media and digital platforms. The selected works are the subject of numerous articles, reviews, interviews and recommendations, which help to considerably expand their audience.

THE VII FOUNDATION’s website now reads:

*“We’re thrilled for this recognition of our work by the Emmy Awards. Thanks to all of you who have supported us on this journey”*

Which can be translated as:

*“We are delighted that our work has been recognised in this way by the Emmy Awards. Thank you to everyone who has supported us throughout this journey”*  
(free translation).

The use of this phrase suggests that the film has won these awards, when in fact it is merely a matter of nominations.

The damage to Nick Ut’s reputation and honour has never had such a significant impact.

These findings therefore tend to establish that the defendants committed acts of defamation to the detriment of Nick Ut.

## **II. DISCUSSION**

Having established the jurisdiction of this Court to hear the present dispute (A.), it will be demonstrated that the Court can only find that acts of defamation were committed to the detriment of Nick Ut through the Film (B.), by the defendants, who are criminally liable (C.) for the defamatory statements made in the Film.

This Film, far from being a documentary, is a biased account resulting from a profoundly biased approach, devoid of any journalistic rigour (D.).

The defamatory statements made in the Film have caused and continue to cause Nick Ut harm, for which compensation is sought from this Court (E.).

### **A. On the territorial jurisdiction of this Court**

**In law**, under Article 29 of the Act of 29 July 1881, defamation is defined as ‘*any allegation or imputation of a fact which undermines the honour or reputation of the person or body to whom the fact is imputed*’.

The same article provides that:

*“The publication, whether direct or by means of reproduction, of such an allegation or imputation is punishable, even if made in a doubtful form or if it concerns a person or body not expressly named, but whose identification is made possible by the terms of the speeches, shouts, threats, writings or printed matter, placards or posters in question”.*

Under Article 113-2, paragraph 2, of the Criminal Code, “*the offence is deemed to have been committed on the territory of the Republic where any of its constituent elements has taken place on that territory*”.

It follows that the publication of the disputed remarks, which constitutes the offence of defamation, in France, renders French criminal law applicable.

With regard to online publications, for French criminal law to apply, the Court of Cassation requires, beyond the mere accessibility of the disputed remarks from France, a “*criterion linking the incriminated remarks to the territory of the Republic*”<sup>14</sup>, in particular that the disputed remarks be “*intended for the French public*”<sup>15</sup>.

**In the present case**, beyond the accessibility of the Film in France, its publication within the territory of the Republic constitutes the offence of defamation for at least two reasons.

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<sup>14</sup> Court of Cassation, Criminal Division, 5 September 2023, No. 22-84.537

<sup>15</sup> Court of Cassation, Criminal Division, 12 July 2016, No. 15-86.645

## 1. The disputed comments are intended for the French public

**Firstly**, the disputed comments are intended for the French public.

Indeed, the film is available on the French catalogue of the Netflix platform. However, Netflix does not make its entire catalogue available indiscriminately in all countries: each piece of content is subject to a territorialised distribution policy, determined on the basis of the rights acquired and the target audience<sup>16</sup>.

Thus, the Film's presence in the French Netflix catalogue is the result of a deliberate decision to stream it in France.

Furthermore, the Film has been translated into seven languages, including French<sup>17</sup>, which clearly demonstrates the intention of its producers and distributors to target the French audience in particular.

It follows that the Film is not intended for an undifferentiated audience, but for selected audiences, among which is the French public.

Another indication of the intention for the Film to be aimed at a French audience lies in the circumstances under which the Film was presented and promoted in France prior to its release on Netflix.

Indeed, on 12 October 2025, the Film was screened in a preview showing as part of the Bayeux Calvados-Normandy War Correspondents' Award<sup>18</sup>, an event held in France, organised on French soil, and attended notably by a French audience comprising media and photography professionals.

This screening was followed by a discussion between the audience and Gary Knight, the film's executive producer, and Fiona Turner, the film's producer, during which the themes explored in the film were presented, commented on and discussed<sup>19</sup>.

It is clear that this screening took place prior to the film's release on NETFLIX FRANCE. However, far from being a trivial matter, this French preview is a particularly revealing indicator of the film's distribution strategy: it demonstrates that the film was the subject of a public screening in France, within a French institutional and media context, with the participation of members of the production team, and under conditions designed to ensure its visibility among a select and influential audience.

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<sup>16</sup> **Exhibit No. 12** – Netflix website page *'Why can't I find a TV series or film in your country?'*

<sup>17</sup> **Exhibit No. 13** – Bailiff's report dated 5 February 2026, page No. 38

<sup>18</sup> **Exhibit No. 14** – Web page of the Bayeux Calvados-Normandy Prize indicating the preview screening of the Film

<sup>19</sup> **Exhibit No. 14** – Web page of the Bayeux Calvados-Normandy Prize indicating the film's preview screening

In other words, this is not content whose availability in France results from a simple global online release without territorial targeting: distribution in France, and the French public's exposure to the allegations made by the Film, were sought and undertaken by the Film's production team.

This circumstance thus confirms the targeting of the French audience, which is evident, in any event, from the Film's availability on the French Netflix catalogue, accompanied by French subtitles and included in the offering intended for subscribers located within the national territory.

Consequently, all these converging factors establish that the Film was intended for the French public and that its distribution in France cannot be described as incidental or purely ancillary, which constitutes a sufficient connecting factor to the territory of the French Republic and justifies the application of French criminal law as well as the jurisdiction of the French courts to hear the case.

## 2. The Film has a significant physical presence in France

**Furthermore**, THE VII FOUNDATION, co-producer of the Film<sup>20</sup>, has its registered office in France and filmed part of the Film in France.

THE VII FOUNDATION's website states that it is an organisation registered in the United States as a 'US-registered 501C3 charity', with a US tax identification number (EIN 510427657)<sup>21</sup>. The tax returns published for the years 2020, 2021, 2022 and 2023 confirm its status as a US 'charity'.

However, THE VII FOUNDATION also has a presence in France, as evidenced by its own website, which lists two addresses:

- one in Arles, France<sup>22</sup>.
- And the other in Sarajevo<sup>23</sup>.

This French presence is not limited to a mere postal address.

THE VII FOUNDATION's annual report states that this presence corresponds to the "Alexandra Boulat **Campus**", identified as "*the European headquarters of THE VII FOUNDATION*"<sup>24</sup>.

Furthermore, Gary Knight, who describes himself as "*CEO of THE VII FOUNDATION*", states on his LinkedIn page that this entity is a registered organisation in the United States, France

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<sup>20</sup> **Exhibit No. 15** – IMDb webpage relating to the film *The Stringer* and the companies involved

<sup>21</sup> **Exhibit No. 4** – Bailiff's report dated 24 January 2025, page 53

<sup>22</sup> **Exhibit No. 4** – Bailiff's report of 24 January 2025, page 51

<sup>23</sup> **Exhibit No. 4** – Bailiff's report of 24 January 2025, page 57

<sup>24</sup> **Exhibit No. 4** – Bailiff's report of 24 January 2025, page 75

and Bosnia and Herzegovina, thereby confirming his intention to claim a presence on French territory<sup>25</sup>.

Furthermore, Gary Knight, in his interview with KPCW entitled “*The Stringer uncovers secrets of a famous Vietnam War photo*”<sup>26</sup>, defines THE VII FOUNDATION as “*a non-profit media organisation, a non-profit organisation based in the United States and headquartered in France*”.

The Official Journal of the French Republic of 9 March 2019 lists, in its notice no. 1176, the declaration made on 15 February 2019 to the Prefecture of the Pyrénées-Orientales regarding the creation of the association VII ACADEMIE, referring to the website: <https://theviiifoundation.org/>, which confirms that the French entity, despite its name VII ACADEMIE, corresponds to THE VII FOUNDATION<sup>27</sup>.

The same applies to the Official Journal of the French Republic of 18 April 2020, in which announcement no. 59 relates to the declaration made to the Arles Sub-Prefecture on 8 April 2020 regarding the transfer of the registered office to 49 quai de la Roquette, 13200 ARLES<sup>28</sup>, and which once again refers to the website: <https://theviiifoundation.org/>, leaving no room for doubt.

The data.asso website, the national register of French associations, lists the association VII ACADEMIE and states, in the ‘Contact details’ section, the website: <https://theviiifoundation.org/><sup>29</sup>.

The establishment of an address in France, described as *the “European headquarters”*, demonstrates a real and significant presence of THE VII FOUNDATION, co-producer of the Film, on French territory.

The Film’s connection to the national territory is all the more evident given that part of the Film was shot in France.

Indeed, several scenes from the Film were shot in France, in Arles and Paris.

More specifically, the following sequences of the Film, as broadcast on the NETFLIX platform, were filmed in France:

- **Sequence A [00:04:58 – 00:07:18]**: The scene shows Gary Knight in Arles, on his way to THE VII FOUNDATION’s office, and then shows him in that office, reading the

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<sup>25</sup> **Exhibit No. 4** – Bailiff’s report of 24 January 2025, page 106

<sup>26</sup> **Exhibit No. 16** – Bailiff’s report of 17 February 2025 – Minutes and audio recording (USB stick): ‘*a media non-profit, a US-based non-profit headquartered in France*’ (from the<sup>13<sup>th</sup></sup>minute)

<sup>27</sup> **Exhibit No. 1** – Official Journal of the French Republic, Notices No. 1176 of 9 March 2019 concerning the establishment of the association and No. 59 of 18 April 2020 concerning the change of registered office

<sup>28</sup> **Exhibit No. 1** – Official Journal of the French Republic, Notices No. 1176 of 9 March 2019 establishing the association and No. 59 of 18 April 2020 amending the registered office

<sup>29</sup> **Exhibit No. 17** – Data-Asso directory, page VII ACADEMIE

email from Carl Robinson in which he accuses Nick Ut of not being the author of the photograph<sup>30</sup> ;

- **Sequence B [01:12:13 – 01:12:47]:** This is a scene set in THE VII FOUNDATION's office in Arles: Gary Knight, Terri Lichstein and Fiona Turner discuss Nick Ut's version of events<sup>31</sup> . This scene shows that not only was part of the film shot in France, but that the production, editing and planning of the film also took place in France.
- **Sequence C [01:15:53 – 01:16:22]:** This is a scene set in Paris, at the offices of the NGO INDEX INVESTIGATION: Gary Knight and Terri Lichstein discuss with Francesco Sebregondi and Nadav Joffe of the NGO INDEX INVESTIGATION, which was engaged in France, the analysis shown in the film<sup>32</sup> .

It follows from all these elements that the defamatory statements contained in the Film have a sufficient connection with the territory of the French Republic within the meaning of the established case law of the Court of Cassation.

It follows from all these elements that the distribution of the film in France does not constitute mere incidental accessibility from French territory, but stems from its deliberate inclusion in the French catalogue of NETFLIX, intended for the French public, and forming part of a strategy of distribution and promotion within the territory of the French Republic.

Consequently, the publication of the disputed comments in France, which constitutes the offence in question, fully justifies the application of French criminal law and the jurisdiction of the French courts to hear the case, in accordance with the principles arising in particular from Article 113-2 of the Criminal Code.

As regards the court with territorial jurisdiction, Article 382 of the Code of Criminal Procedure provides that jurisdiction lies with "*the criminal court of the place where the offence was committed, that of the defendant's place of residence, or that of the place where the defendant was arrested or detained*" (emphasis added).

In this case, the French registered office of THE VII FOUNDATION, which is the place of residence of one of the defendants, is located in Arles.

Consequently, the competent criminal court on French territory is the Criminal Court of Tarascon.

**Consequently, French criminal law is applicable to the present dispute, and the Criminal Court of Tarascon has territorial jurisdiction to hear the case.**

<sup>30</sup> **Exhibit No. 18** – Audio and video recording – Sequence A (USB stick) – bailiff's report of 5 February 2026

<sup>31</sup> **Exhibit No. 19** – Audio and video recording – Sequence B (USB stick) – bailiff's report of 5 February 2026

<sup>32</sup> **Exhibit No. 20** – Audio and video recording – Sequence C (USB stick), from 1 minute – bailiff's report of 5 February 2026

**B. On the characterisation of the offence of public defamation against a private individual**

**1. The prerequisite of publicity**

As a preliminary point, the offence of defamation requires the statements to be made publicly in order to be established.

**In law**, Article 23 of the Act of 29 July 1881 provides the following definition of publicity:

*‘Those who, either through speeches, shouts or threats uttered in public places or gatherings, or through writings, printed matter, drawings, engravings, paintings, emblems, images or any other medium of writing, speech or imagery sold or distributed, offered for sale or displayed in public places or gatherings, or through placards or posters displayed in public view, or through any means of electronic communication to the public, have directly incited the perpetrator or perpetrators to commit the said act, provided that the incitement was followed by action. This provision shall also apply where the incitement was followed only by an attempt to commit an offence under Article 2 of the Criminal Code.*

**In the present case**, there is no doubt that the disputed remarks, contained in the Film, have been published, as they are freely accessible on the NETFLIX platform.

**As of the date of filing of these submissions, these remarks remain publicly and freely accessible on the NETFLIX platform.**

**Thus, the condition of publication is met for the disputed remarks to be classified as defamatory.**

**2. Regarding the allegation or imputation of a specific and definite fact, damaging the reputation and honour of an identifiable person**

**In law**, under Article 29, paragraph 1<sup>er</sup> of the Law of 29 July 1881 on freedom of the press:

*‘Any allegation or imputation of a fact that damages the honour or reputation of the person or body to whom the fact is imputed constitutes defamation. The publication, whether direct or by means of reproduction, of such an allegation or imputation is punishable, even if made in a doubtful form or if it concerns a person or body not expressly named, but whose identification is made possible by the terms of the speeches, shouts, threats, writings or printed matter, placards or posters in question.’*

**In the present case**, as will be demonstrated below, the disputed remarks contained in the Film fulfil all the constituent elements of the offence of defamation.

***a) The statements in question contain the allegation and imputation of specific and definite facts***

**Firstly**, in order to be defamatory, a statement must, first and foremost, contain the allegation or imputation of a specific and definite fact<sup>33</sup>.

**In law**, Article 29 of the Act of 29 July 1881 defines defamation as ‘*any allegation or imputation of a fact that damages the honour or reputation of the person [...] to whom the fact is attributed*’.

On this first criterion, the Criminal Chamber of the Court of Cassation held that:

*“according to Article 29 of the Act of 29 July 1881, any statement containing the imputation of a specific and definite fact, such as to undermine the honour or reputation of the person concerned, constitutes defamation, even if it is presented in a disguised or doubtful form or by way of insinuation”<sup>34</sup>.*

The term ‘*any statement*’ calls for a broad interpretation of defamatory remarks, the key element being the presence of a judgement of blame, regardless of its truthfulness or the form it takes<sup>35</sup>. Case law specifies that “*any statement containing an allegation of a specific and definite fact, such as to damage the honour or reputation of the person concerned, constitutes defamation, even if it is presented in a disguised or doubtful form or by way of insinuation*”<sup>36</sup> (emphasis added).

However, the facts alleged must, by their nature, be sufficiently specific to be capable of being the subject of an adversarial and evidential hearing, in accordance with Articles 55 and 56 of the Act of 29 July 1881<sup>37</sup>. Traditionally, case law holds that “*to be defamatory, an allegation or accusation must take the form of a precise statement of facts capable of being, without difficulty, the subject of evidence and adversarial debate*”<sup>38</sup>.

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<sup>33</sup> F. Chopin, Art. 1 – Defamation and public insults committed on the internet, Cybercrime, Directory of Criminal Law and Criminal Procedure, January 2020, para. 136; E. Raschel, Fasc. 114: Defamation. – Criminalisation, JurisClasseur Communication, 1 September 2024, para. 44.

<sup>34</sup> Court of Cassation, Criminal Division, 6 May 2025, No. 24-82.372; Court of Cassation, Criminal Division, 8 April 2025, No. 23-87.173; Court of Cassation, Criminal Division, 13 September 2005, No. 04-85.932.

<sup>35</sup> E. Dreyer, Fasc. 80: Press and Communication. – Public defamation and insults. – Defamation: general principles; defamation against a private individual, JurisClasseur Special Criminal Laws, March 2022, paras. 11 and 17;

<sup>36</sup> Court of Cassation, 1<sup>st</sup> Civil Chamber, 27 September 2005, No. 04-12.148.

<sup>37</sup> Court of Cassation, Criminal Division, 13 November 2019, No. 18-84.864; Court of Cassation, Criminal Division, 7 January 2020, No. 19-82.581.

<sup>38</sup> Court of Cassation, Criminal Division, 17 February 1981, No. 79-92.748; Court of Cassation, Criminal Division, 6 January 2015, No. 13-86.330; E. Raschel, Fasc. 114: Defamation. – Criminal liability, JurisClasseur Communication, 1 September 2024, paragraphs 47, 51.

It is generally accepted that the alleged fact need not be capable of constituting a criminal offence.

**In the present case**, the Film attributes specific facts to Nick Ut, presented as established, according to which:

- (i) Nick Ut lied about being the photographer of the world-famous photograph depicting the Vietnamese girl burned by napalm in June 1972;
- (ii) Nick Ut allegedly lied about having taken Kim Phuc, the nine-year-old girl who was a victim of napalm burns, to hospital, before returning to the AP office to develop his photographic film.

The Film thus portrays Nick Ut as a shameless liar, having skilfully cultivated over the years a narrative he knew to be false and having built his career on a stolen attribution.

It should also be noted that, where defamatory allegations are established, it is not for Nick Ut to prove the falsity of the accusations made against him. On the contrary, it is for the defendants to establish the truth of the defamatory facts they have publicly attributed to the claimant.

This distinction is of decisive importance in the present case.

The Film does not merely ask questions or present competing historical hypotheses.

It repeatedly asserts, as an established fact, that Nick Ut is not the author of the Photograph and that he has knowingly benefited from a fraudulent attribution for more than fifty years.

The defendants therefore bear the burden of proving the truth of these exceptionally serious allegations, which have been publicly broadcast to millions of viewers worldwide.

However, the passage of more than fifty years, the death of numerous witnesses, the acknowledged contradictions between the various accounts of the events, the lack of decisive contemporary evidence to support the defendants' case, and the existence of significant evidence corroborating Nick Ut's authorship make such a demonstration impossible.

The Film nevertheless presents speculations as certainties and suspicions as established historical facts.

In accordance with Article 53 of the Act of 29 July 1881, the following statements are expressly cited and challenged<sup>39</sup> :

### 1. Sequence No. 1

**[Approximate timestamps in the Film as broadcast on NETFLIX: 00:00:40 – 00:01:17]<sup>40</sup>**

From the very first seconds of the film, the viewer is immediately plunged into a misleading narrative that leaves no room for reflection but imposes ready-made conclusions.

Thus, in this sequence, at the 40-second mark, we hear Gary Knight say:

*‘When you’re photographing with film, there’s always some mystery.  
But what you do know is what you didn’t take’.*

Which are translated as follows in the French Netflix subtitles:

*“When you’re photographing on film... there’s always a bit of mystery.  
What you do know is what you didn’t take”.*

It is crucial to emphasise that this sentence ends with a visual of the photograph of the little girl with napalm, which leaves no room for doubt: from the very first seconds, the film insists on the idea that not only did Nick Ut not take this photograph, but, worse still, he must necessarily know this: he is therefore accused of having lied all these years, consciously and deliberately.

This sequence attributes a specific fact to Nick Ut: he is not the photographer, he knows it, and has been perpetuating this lie for years.

The choice of editing is neither neutral nor insignificant: it aims to suggest to the viewer, right from the opening, that Nick Ut did not take this photograph, and that he knows it, since – according to the very phrase used – a photographer knows exactly ‘what he did not take’.

Through this technique, the film does not merely call into question the authorship of a photograph: it accuses Nick Ut of deliberate deception and places him at the centre of a narrative in which he appears not as a victim of historical confusion, but as the principal actor in a sustained lie.

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<sup>39</sup> **Exhibit No. 21** – Bailiff’s report of 5 February 2026 relating to the recording of 19 audio and video clips transmitted on USB sticks

<sup>40</sup> **Exhibit No. 22** – Audio and video recording – Sequence 1 (USB stick) – bailiff’s report of 5 February 2026

The defamatory implications of this sequence are particularly serious, as it does not merely target the reality of a historical fact: it accuses Nick Ut of personal dishonesty and moral fraud, portraying him as a man who built his fame on an act of appropriation and who knowingly persists in this breach of trust.

This sequence therefore constitutes the making of specific and definite allegations that are defamatory and damaging to the honour and reputation of Nick Ut, within the meaning of section 29 of the Act of 29 July 1881.

## 2. Sequence No. 2

**[Approximate timings in the film as broadcast on NETFLIX: 00:09:12 – 00:11:40]<sup>41</sup>**

In this sequence, Carl Robinson states:

*“The full-on front picture was from a stringer, I checked his name”.*

This sentence is translated in the French subtitles provided by NETFLIX as follows:

*“The front-facing photo was from a freelancer whose name I checked”.*

Later in the same sequence, Carl Robinson states:

*“Horst Faas, who was standing right next to me, said: ‘Nick Ut. Make it Nick Ut. Make it staff. Make it Nick Ut’. Those were his exact words.”*

These lines are translated in the French subtitles provided by NETFLIX as follows:

*“Horst Faas, who was standing next to me, said: ‘Nick Ut. Credit Nick Ut. Make it a staff photo. Credit Nick Ut.’ He said it word for word.”*

There is no room for doubt here: Carl Robinson’s remarks establish as a certainty that Nick Ut did not take the front-facing photograph, that is to say, the famous photograph of the little girl with napalm.

These remarks, made in the affirmative and without any reservation, attribute to Nick Ut the specific fact that he is not the author of the disputed photograph, and attribute it to a third party described as a ‘stringer’, a ‘freelancer’, who would lend his name to the film.

The use of the phrase *“I checked his name”* lends the accusation a tone of certainty and prior verification, ruling out any hypothesis or mere questioning, and reinforcing the appearance of seriousness of the accusation made. The same applies to the remarks attributed to Horst Faas,

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<sup>41</sup> **Exhibit No. 23** – Audio and video recording – Sequence 2, from 01:20 (USB stick) – bailiff’s report of 5 February 2026

asserting the idea that the attribution was deliberately falsified, and moreover for the purpose of ‘*crediting a specific person*’.

Such an allegation, relating to a specific and definite fact capable of being proven and subject to cross-examination, directly undermines the honour and reputation of Nick Ut, by calling into question the authenticity of the work on which his career was founded and by portraying him as having unduly benefited from the attribution of an iconic photograph.

### 3. Sequence No. 3

[Approximate timings in the Film as broadcast on NETFLIX: 00:12:25 – 00:12:50]<sup>42</sup>

In this clip, Kim-Dung Robinson, Carl Robinson’s wife, says:

*“Whenever I come through the office, the Vietnamese always come and talk to me”*, translated as *“At the office, the Vietnamese always came to talk to me”* by NETFLIX.

Gary Knight asks her: *“What did they say?”*, translated as *“What did they say?”* by NETFLIX.

She replies: *“They said ‘That picture is not Nick Ut’”*, translated as *“Nick Ut didn’t take that photo”* in the NETFLIX subtitles.

Gary Knight asks her: *“Would it be fair to say it was like an open secret amongst the Vietnamese photographers?”*, translated as *“Was it an open secret amongst the Vietnamese photographers?”*, and before he has even finished his question, she answers in the affirmative.

This sequence presents a specific narrative according to which not only is Nick Ut not the author of the photograph, but he is also isolated from the rest of the Vietnamese staff, including the other photographers, who are said to be aware of the deception, and he alone, a compulsive liar, persists in this falsehood.

Before the question has even been fully formulated, Kim-Dung Robinson answers in the affirmative, immediately validating this account.

This sequence does not merely challenge the authorship of the photograph: it constructs an accusatory context that is particularly damaging to Nick Ut’s honour, by implying that this was an ‘open secret’ known to the Vietnamese staff and photographers, and that there was thus a form of informal consensus surrounding a deception from which Nick Ut was the beneficiary.

The scene consequently suggests that Nick Ut stands alone in the face of alleged collective knowledge, which has the effect of portraying him as knowingly persisting in a false version of the facts.

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<sup>42</sup> **Exhibit No. 24** – Audio and video recording – Sequence 3 (USB stick) – bailiff’s report of 5 February 2026

Such allegations, relating to specific and definite facts that are open to proof and cross-examination, damage Nick Ut's honour and reputation by calling into question his moral integrity and professional probity in the very exercise of his profession<sup>43</sup>.

#### 4. Sequence No. 4

[Approximate timings in the film as broadcast on NETFLIX: 00:19:33 – 00:20:01]<sup>44</sup>

In this sequence, Gary Knight shows a photo of Nick Ut to Ho Van Bach, Kim Phuc's cousin, and Ho Thi Hien, Kim Phuc's cousin, asking:

*“Bach, is this the man you saw taking Kim Phuc to hospital in the car?”*

Ho Van Bach replies, “No. No,” and goes on to say, “The person was just a well-dressed civilian.”

The NETFLIX subtitles provide the following translation of this exchange:

Gary Knight: *“Bach, is this the man you saw take Kim Phuc to the hospital?”*

Ho Van Bach: *“No. It was a well-dressed civilian.”*

Through this sequence, the film does not merely call into question a minor detail: it presents as factually inaccurate the account that Nick Ut took Kim Phuc into his care and drove her to hospital after the incident.

Nick Ut is thus specifically accused of not having taken Kim Phuc to hospital, contrary to what he has publicly stated, and of therefore having lied about his role in coming to the child's aid.

This accusation constitutes a particularly serious attack on Nick Ut's honour and reputation, as it targets not only his professional reputation but also his moral integrity.

Indeed, the allegation that Nick Ut did not take Kim Phuc to hospital amounts to denying him a basic act of assistance to a severely burned child, and suggests that he wrongfully claimed credit for an act of humanity in order to fuel his personal legend<sup>45</sup>.

Such an accusation portrays Nick Ut as having built part of his public image on a false narrative of compassion, which constitutes a direct attack on his dignity and moral integrity, likely to provoke public contempt and bring him into disrepute.

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<sup>43</sup> These allegations will also be refuted in these written submissions; see page 62 in particular

<sup>44</sup> **Exhibit No. 25** – Audio and video recording – Sequence 4, from 02:10 (USB stick) – bailiff's report of 5 February 2026

<sup>45</sup> This allegation is refuted by several witnesses, as demonstrated in these submissions; see page 63 in particular

## 5. Sequence No. 5

[Approximate timings in the film as broadcast on NETFLIX: 00:26:56 – 00:27:28]<sup>46</sup>

In this sequence, Tom Fox is heard saying:

*“I think I got a call from Carl, asking if I could come to the AP office to help him find someone in a hospital”.*

Carl Robinson then explains:

*“AP was demanding a follow-up story and I had to go out and find this napalm girl wherever she was, and Nick Ut wasn’t saying, ‘Hey, I’ll go with you on that.’ He didn’t tell us in the office where she was.”*

The Netflix subtitles provide the following translation of this sequence:

Tom Fox: *“I think Carl asked me to come to the office to help him find someone in a hospital.”*

Carl Robinson: *“The AP demanded a follow-up investigation; I had to find the little girl doused in napalm, wherever she was. Nick Ut didn’t say, ‘I’ll come with you’. He didn’t tell anyone where she was.”*

These remarks attribute several specific and definite facts to Nick Ut.

On the one hand, they suggest that he did not tell anyone at the AP bureau the name of the hospital to which he took Kim Phuc, even though the AP was demanding a follow-up report.

On the other hand, these same remarks accuse him of having refused to accompany Carl Robinson, whereas in reality, Nick Ut had been tasked with returning to Trang Bang with Horst Faas and Peter Arnett to follow up on the story behind the photograph.

Finally, these same statements accuse him of having deliberately kept silent about Kim Phuc’s whereabouts, something he did not do.

The film thus suggests that Nick Ut was not only absent or passive, but that he deliberately withheld information, preventing his colleagues from contacting Kim Phuc and verifying the facts, which forms part of a broader narrative of concealment.

These allegations damage Nick Ut’s honour and reputation in two respects.

On the one hand, they portray him as having failed to show the most basic human solidarity towards a child suffering from severe burns, by suggesting that he neither helped with her care nor even facilitated her access to hospital.

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<sup>46</sup> **Exhibit No. 26** – Audio and video recording – Sequence 5 (USB stick) – bailiff’s report of 5 February 2026

Secondly, they directly undermine his professional integrity by claiming that he knowingly prevented his colleagues from verifying the situation and producing a follow-up report, which amounts to portraying him as a disloyal professional, acting not out of forgetfulness or confusion, but out of a desire to conceal the truth.

Within the overall structure of the film, this sequence thus helps to construct an image of Nick Ut as not only illegitimate in his claim to the photograph, but also morally unworthy and professionally dishonest, which is objectively damaging to his honour and reputation.

## **6. Sequence No. 6**

**[Approximate timings in the Film as broadcast on NETFLIX: 00:28:28 – 00:29:06]<sup>47</sup>**

This sequence shows the ‘Old Hacks’ reunion held in 2010.

We hear Carl Robinson explain in a *voice-over* that:

*“And my wife, Kim Dung, was sitting with a war photographer from the Saigon press corps who’d heard the name.”*

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<sup>47</sup> **Exhibit No. 27** – Audio and video recording – Sequence 6 (USB stick) – bailiff’s report of 5 February 2026

The footage then shows Kim-Dung, Carl Robinson's wife, who says:

*"The reunion was quite big, a lot of catching up. In the distance, Nick Ut would show up something. Somebody else said to me: 'Did you hear this new one? We know the name of the guy now'."*

Gary Knight asks Kim-Dung: *"Could you repeat the name for me?"*

Kim-Dung replies: *"Nghe. Nghe."*

These remarks are translated in the NETFLIX subtitles as follows:

Carl Robinson: *"My wife Kim-Dung was standing next to a war photographer from Saigon, who had heard the name."*

Kim-Dung: *"It was packed; we had plenty to talk about. In the distance, we saw Nick Ut. Someone said to me: 'Have you heard the news? We know the guy's name'."*

Gary Knight: *"Can you tell me?"*

Kim-Dung: *"Nghe. Nghe."*

The comments in this sequence suggest the existence of alleged information that was already known and circulating within the circle of war photographers in Vietnam.

These remarks present as an established fact that at least one photographer already knew in 2010 that Nick Ut was not the author of the photograph and that, after searching, these people had found the name of the true author.

Nick Ut is portrayed as being outside the circle of truth shared amongst insiders, whilst the identity of the 'true' photographer is said to be known but concealed.

These statements, woven into a narrative designed to convince the viewer that Nick Ut is not the author of the Photograph, present Nick Ut as an isolated impostor in the face of a truth known to all. No alternative hypothesis is considered, no critical perspective is offered, and no room is left for the possibility that Nick Ut might legitimately be the author of the work.

The statements contained in this footage therefore allege that Nick Ut is not the author of the photograph and that he knowingly continues to benefit from its allegedly fraudulent attribution.

This results in the imputation of specific and definite facts, damaging to Nick Ut's honour and reputation.

## **7. Scene No. 7**

[Approximate timings in the Film as broadcast on NETFLIX: 00:35:51 – 00:37:50]<sup>48</sup>

This sequence shows Gary Knight reading an alleged email from Peter Arnett, sent to Carl Robinson on 5 August 2009, in the presence of the latter:

*“Dear Carl, frankly, I’m shocked by your story. You must be aware that the AP, with all its resources, and Horst, and his many friends, along with Nick Ut himself, and his Vietnamese associates, will do everything possible to discredit you and your assertions, and challenge all of what you say”.*

These remarks are translated in the Netflix subtitles as follows:

*“Dear Carl, your story astounds me. Be aware that the AP, with all its resources, along with Horst, his many friends, Nick Ut himself and his Vietnamese associates, will do everything to discredit your account and your person, and will deny everything outright.”*

These remarks, taken from an alleged private correspondence between Carl Robinson and Peter Arnett, accuse Nick Ut, on the one hand, of not being the author of the photograph and, on the other hand, of knowingly continuing to claim authorship of the photograph.

By asserting that *“Nick Ut himself and his Vietnamese associates will do everything in their power to discredit your account and your character”*, the comments in question, which form an integral part of the Film’s narrative structure designed to leave no doubt that Nick Ut is not the author of the Photograph, suggest that any challenge to Carl Robinson’s thesis by Nick Ut would be a ploy to conceal the truth rather than a disagreement in good faith.

Thus, Nick Ut is accused not only of not being the author of the photograph, but of being fully aware of this and of actively participating (‘doing everything’) in the concealment of an alleged truth.

These statements therefore constitute an allegation of specific and definite facts.

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<sup>48</sup> Exhibit No. 28 – Audio and video recording – Sequences 7 and 8 (USB stick) – bailiff’s report of 5 February 2026

## 8. Sequence No. 8

[Approximate timings in the Film as broadcast on NETFLIX: 00:37:50 – 00:39:00]<sup>49</sup>

This sequence shows Gary Knight walking, accompanied by a *voice-over* commentary by Tom Fox, stating the following:

*“Which is better, which is right? The myth that comes with the injustice? Or poking that myth for truth? There is a whole side of the story that is not being recorded, and that’s the person who took the picture. And from the day he took the picture, he was excluded from reality. And what is that like? And what is that like for his wife and children? That story deserves justice.”*

These remarks are translated in the Netflix subtitles as follows:

*“What is preferable? What is fair? The myth perpetuated at the cost of injustice? Or its dismantling to reveal the truth? There is a version of the story we refuse to hear—that of the photographer. From the day he took that photograph, he was excluded from reality. How does that feel? And what are the consequences for his wife and children?”*

The statements contained in this sequence directly and unequivocally attribute to Nick Ut the fact that he is not the author of the Photograph. The statements in question do not merely raise a question or put forward hypotheses. On the contrary, they present a supposedly established fact: the attribution of the photograph to Nick Ut is said to be a ‘myth’ perpetuated at the cost of an ‘injustice’, whilst ‘revealing the truth’ would consist of recognising Nguyen Thanh Nghe as the true author of the photograph, deliberately excluded until then.

The questions posed are in reality not questions at all; on the contrary, they are rhetorical questions whose answers are imposed on the viewer by the narrative structure and by the assertions surrounding them.

Indeed, none of the ‘options’ presented to the viewer leaves open the possibility that Nick Ut is the author of the Photograph.

If the viewer considers the first option preferable, the conclusion that follows is that Nick Ut fraudulently claimed authorship of the photograph, but that it would nevertheless be preferable to perpetuate this ‘*myth*’.

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<sup>49</sup> Exhibit No. 28 – Audio and video recording – Clips 7 and 8, from 02:10 (USB stick) – bailiff’s report of 5 February 2026

If, on the other hand, the viewer considers it preferable to *'reveal the truth'*, the conclusion is essentially the same: Nick Ut was fraudulently credited with the photograph, and it would therefore be appropriate to expose this injustice committed against the photograph's true author.

The argument that the photograph was legitimately attributed to Nick Ut is ruled out from the outset, without ever being considered a credible possibility.

Thus, the viewer is never left in any doubt: they are inevitably led to regard it as established that Nick Ut is not the author of the Photograph, the only question left open being whether or not to reveal this *'truth'*.

These remarks therefore constitute an undeniable attribution of a specific and definite fact in that they attribute to Nick Ut the fact that he is not the author of the photograph and, above all, that he fraudulently appropriated it.

## 9. Sequence No. 9

[Approximate timings in the Film as broadcast on NETFLIX: 00:40:43 – 00:41:10]<sup>50</sup>

This sequence shows an exchange of messages between members of the investigation team, presented as conclusive evidence:

Lê Vân: *"Fiona, I've found Mr Nghe. I'm on my way to meet him."*

Fiona Turner: *"You're joking!! Tell me more!! Is he alive???"*

Lê Vân: *"Yes"*

Fiona Turner: *"And he took the photo???"*

Lê Vân: *"Yes."*

These messages are translated by the NETFLIX subtitles as follows:

Lê Vân: *"Fiona, I've found Nghe. I'm going to see him."*

Fiona Turner: *"Are you joking? Tell me more! Is he alive?"*

Lê Vân: *"Yes"*

Fiona Turner: *"Was he the one who took the photo?"*

Lê Vân: *"Yes"*

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<sup>50</sup> **Exhibit No. 29** – Audio and video recording – Sequence 9 (USB stick) – bailiff's report of 5 February 2026

These exchanges, presented on screen as authentic messages between members of the investigation team, are shown as factual confirmation that Nguyen Thanh Nghe is the author of the photograph, to the exclusion of Nick Ut.

Nick Ut is thus specifically accused of having wrongfully benefited from the attribution of the photograph for over fifty years.

The allegation that a photojournalist has usurped the authorship of an iconic work amounts to an accusation of dishonest and fraudulent conduct in the course of his professional duties.

Such an allegation damages Nick Ut's reputation, but also his professional integrity, and, beyond that, the legitimacy of his entire career and the honours he has received.

This is a specific fact, capable of being proven, and not an opinion.

### **10. Sequence No. 10**

**[Approximate timings in the film as broadcast on NETFLIX: 00:43:31 – 00:43:40]<sup>51</sup>**

In this sequence, Gary Knight states:

*“We’ve got an iPhone recording of Nghe, and it is indeed him who takes the photograph”*

These comments are translated in the Netflix subtitles as follows:

*“We have a video of Nghe confirming that he took the photograph.”*

In this passage, the film once again presents as a given fact that Nick Ut is not the photographer.

This statement is phrased in the affirmative and presented as the conclusion of a serious investigation.

Nick Ut is accused of having been falsely credited with the photograph, in favour of a version presented as now certain.

The use of the expression **“it is indeed him”** (which could easily be translated as *“it is indeed him”*) excludes any caution or reservation and lends the accusation a definitive character.

The claim is presented as established, without any critical distance, which amounts to asserting that Nick Ut benefited from a false attribution.

Such an accusation constitutes the attribution of a specific and definite fact and is defamatory towards Nick Ut within the meaning of Article 29 of the Act of 29 July 1881.

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<sup>51</sup> **Exhibit No. 30** – Audio and video recording – Sequence 10 (USB stick) – bailiff's report of 5 February 2026

## 11. Sequence No. 11

[Approximate timings in the film as broadcast on NETFLIX: 00:56:05 – 00:56:21]<sup>52</sup>

In this sequence, Gary Knight visits Nguyen Thanh Nghe, the alleged author of the photograph, and his children.

Anthony, Nguyen Thanh Nghe's son, makes the following remarks:

*“A lot of people know that he's the one who took the picture. I know my uncle, my auntie, all his family who work for CBS, NBC, everybody knows”*,

Translated by the NETFLIX subtitles as follows:

*“A lot of people know that this photo is his. My uncle, my aunt, all his friends who work for CBS or NBC, everyone knows.”*

In this sequence, it is categorically stated that the photograph was taken by Nguyen Thanh Nghe. The remarks contained in this sequence do not merely dispute the attribution of the work – they assert that Nick Ut is the only one persisting in a false version of the facts.

Indeed, by contrasting Nick Ut's allegedly isolated account with that of a group of witnesses described as numerous, consistent and well-informed, these remarks amount to an allegation of a specific and definite act, namely that Nick Ut knowingly and wilfully claimed authorship of the Photograph.

## 12. Sequence No. 12

[Approximate timings in the Film as broadcast on NETFLIX: 01:03:04 – 01:03:22]<sup>53</sup>

In this sequence, Gary Knight asks Carl Robinson why Horst Faas would have 'made the decision' to attribute the photograph to Nick Ut:

Gary Knight: *“Do you know why Horst would have made the decision to add Nick Ut's name to the caption?”*

Carl Robinson: *“Horst was devastated by My's death and I thought this was his way of paying tribute to him.”*

This passage is translated in the NETFLIX subtitles as follows:

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<sup>52</sup> **Exhibit No. 31** – Audio and video recording – Sequence 11, from 01:55 (USB stick) – bailiff's report of 5 February 2026

<sup>53</sup> **Exhibit No. 32** – Audio and video recording – Sequence 12 (USB stick) – bailiff's report of 5 February 2026

Gary Knight: *“Do you know why Horst decided to credit this photo to Nick Ut?”*

Carl Robinson: *“My’s death affected him deeply; perhaps this was his way of paying tribute to him.”*

My, the person referred to by Gary Knight and Carl Robinson, is the brother of Nick Ut, a photographer with the AP agency before his death whilst on assignment for the agency.

In this sequence, it is stated categorically that Horst Faas falsely attributed the photograph to Nick Ut, even though he was not its author. This is by no means a question of whether Horst Faas attributed the photograph to Nick Ut – that is considered an established fact – but rather a question of the reasons that led him to do so. It is therefore indisputably alleged that Nick Ut is not the author of the photograph and that he benefited from the fraudulent attribution of its authorship.

### **13. Sequence No. 13**

**[Approximate timings in the Film as broadcast on NETFLIX: 01:22:13 – 01:22:54]<sup>54</sup>**

In this sequence, which takes place in the offices of the NGO INDEX INVESTIGATION (hereinafter ‘INDEX’), Gary Knight says:

*“I think what we have, though, is two people who claim to have taken the photograph. Only two. One is Nick Ut, and one is Nghe, the stringer. And what you’re telling me here is that Nick Ut wasn’t in the right place to have taken the photograph, which would mean the only person who was in the right place to take the photograph and who claims to have taken it would be the stringer.”*

To which Francesco Sebregondi replies, *“That’s correct.”*

This exchange is translated as follows by NETFLIX:

*“There are two people who claim to have taken this photo. Two, no more. One of them is Nick Ut, and the other is Nghe, the freelance photographer. What you’re telling me is that Ut wasn’t in the right place to take this photo, so that means the only person who was in the right place to take it and who claims to have taken it is the freelance photographer.”*

To which Francesco Sebregondi replies: *“That’s correct.”*

Through this exchange, the Film does not merely present a hypothesis or a doubt: it stages a line of reasoning presented as objective and quasi-deductive, intended to impose on the viewer

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<sup>54</sup> **Exhibit No. 33** – Audio and video recording – Sequence 13 (USB stick) – bailiff’s report of 5 February 2026

the conclusion that Nick Ut could not physically have been 'in the right place' to take the disputed photograph.

The result is a clear implication: if Nick Ut was not in a position to take the photograph, then the only possible author would be Nguyen Thanh Nghe, presented as 'the stringer'. The film thus asserts, implicitly but necessarily, that Nick Ut is not the author of the photograph.

The final validation ("*That's correct*") reinforces the peremptory nature of the implication, lending the conclusion the weight of technical and factual confirmation.

This sequence damages Nick Ut's honour and reputation in that it presents him as having, for decades, claimed authorship of a photograph he could not have taken, as he was not 'in the right place'.

The damage is all the more serious because the Film does not present this accusation in the form of a cross-examination: it presents it as the logical consequence of a supposedly scientific analysis, conducted by an investigative body in a professional setting, which lends the accusation an air of rigour and scientific truth.

The viewer is thus led to conclude that the attribution of the photograph to Nick Ut is not a matter of historical error or uncertainty, but of physical impossibility, which necessarily implies that Nick Ut would have knowingly benefited from a false attribution.

Such an accusation, relating to a specific and definite fact, is objectively likely to discredit Nick Ut's professional integrity, damage his international reputation, and portray him as having built his career on a fraudulent attribution.

The Film reduces a potential debate to a syllogism and substitutes an imposed conclusion for any contradictory perspective

#### **14. Sequence No. 14**

**[Approximate timings in the Film as broadcast on NETFLIX: 01:24:37 – 01:25:19]<sup>55</sup>**

In this sequence, Gary Knight asserts that to still believe Nick Ut took the photograph:

*“one must refuse to believe what Carl says, refuse to believe the freelance photographer, and refuse to believe his children. Why did Horst or another AP member give him a copy of the photo? That amounts to casting doubt on the photographic and video evidence. It amounts to doubting everything, except Nick’s word, or that of Peter Arnett, who believes Nick is the photographer because Horst told him that Nick had taken the photo”* (translation taken from the film’s subtitles on the Netflix platform).

This sequence implicitly portrays Nick Ut as a lone liar standing against a supposed collective truth.

Nick Ut is thus accused of standing alone in a version that contradicts the truth, suggesting that he knowingly persists in a false account in the face of supposedly unanimous evidence.

This statement is not merely a criticism, but a moral disqualification: to believe Nick Ut would be to reject all objective reality.

The result is a direct attack on his credibility, his intellectual honesty and his moral integrity.

#### **15. Sequence No. 15**

**[Approximate timings in the film as shown on Netflix: 01:37:55 – 01:38:19]<sup>56</sup>**

In this sequence, we see Gary Knight writing an email which is read out at the same time, and which contains the following sentence:

*“The photograph of a nine-year-old girl called Phan Thi Kim Phuc, and four other children running towards a photographer, burning and screaming, in June 1972, which became one of the most important photographs ever made, was created, I believe, by a man called Nguyen Thanh Nghe”;*

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<sup>55</sup> **Exhibit No. 34** – Audio and video recording – Sequence 14 (USB stick) – bailiff’s report of 5 February 2026

<sup>56</sup> **Exhibit No. 35** – Audio and video recording – Sequence 15 (USB stick) – bailiff’s report of 5 February 2026

Which is translated as follows in the NETFLIX subtitles:

*“The photograph of the nine-year-old girl named Phan Thi Kim Phuc and four other children running towards a photographer, burning and screaming in pain, dating from June 1972, and counted among the most important in history, was taken, it seems to me, by a man named Nguyen Thanh Nghe”.*

This wording constitutes a defamatory allegation made all the more serious by the fact that it is presented under the guise of a supposedly rigorous journalistic approach: the email is presented as a serious document, intended for publication, and purported to formalise the conclusion of an ‘investigation’ conducted over several years.

The allegation is, moreover, formulated in a particularly categorical manner: it does not refer to an abstract doubt or an open hypothesis, but specifically names a third party, Nguyen Thanh Nghe, as the author of the photograph, and this in relation to an image that is precisely described, dated, and identified as “one of the most important in history”.

Nick Ut is specifically accused of having wrongfully claimed authorship of a work of which he is not the author, to the detriment of a third party named in the text.

The use of the phrase “*I believe*” does not remove the defamatory nature of the statement: far from introducing genuine caution, this linguistic precaution forms part of an unambiguous accusatory narrative and functions as a rhetorical device intended to present an extremely serious accusation as reasonable and well-founded.

In reality, the linguistic caution here is merely a smokescreen: the allegation is presented as a truth, staged as a revelation, and presented to the audience as a fact. The translation proposed by NETFLIX (“it seems to me”) artificially lends the statement an air of caution and nuance, whereas, when considered within the film’s overall context, the phrase “*I believe*” must be understood as the expression of a firm conviction – in other words: “*I believe it*” – and not as the statement of a mere hypothesis left to the viewer’s discretion.

Thus, far from softening the accusation, this phrasing actually contributes to the film’s strategy: to present an extremely serious defamatory allegation under a veneer of moderation, whilst leading the audience to take it for granted that Nick Ut is not the author of the photograph and that he has unduly benefited from this attribution.

In other words, the film transforms a supposedly cautious allegation into a conclusion presented as credible, serious and well-founded, leading the viewer to take it for granted that Nick Ut is not the photographer and that the credit he has been given for over fifty years is based on a deception.

Such statements damage Nick Ut’s honour and reputation by explicitly portraying him as having built his reputation on a false attribution and by discrediting his entire career.

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**Thus, it is clear from all the above-mentioned evidence that the allegation that Nick Ut is not the author of the Photograph is presented as an established fact.**

This is further confirmed by the description accompanying the Film on THE VII FOUNDATION's website:

*“Acclaimed war photographer Gary Knight and a small team of journalists embark on a relentless search to locate and seek justice for a man known only as ‘the stringer’”<sup>57</sup> ,*

Which can be translated as follows:

*“Renowned war photographer Gary Knight and a small team of journalists embark on a relentless quest to find and bring justice to a man known only as ‘the stringer’” (emphasis added) (free translation).*

The use of the phrase “*seek justice*” necessarily implies the prior existence of an injustice, which is presented here as having been committed to the detriment of the freelancer and to the benefit of Nick Ut, the injustice being the attribution of the photograph's authorship to the latter.

This description is also revealing of the way in which the film's narrative was constructed: the investigative team started with a conclusion and presented all the evidence in its possession to support it, without maintaining a balance between the competing arguments.

These allegations of specific and definite facts constitute a direct attack on Nick Ut's honour, professional integrity and international reputation.

Taken in isolation, each of these statements constitutes a defamatory allegation.

Taken together, these constitute a repeated allegation, seeking to establish that Nick Ut built his reputation on fraudulently claiming authorship of the Photograph.

The repetition, scripting and widespread dissemination of these remarks exacerbate the damage to his honour and reputation.

**Such allegations contain specific and definite claims regarding Nick Ut, and thus satisfy the requirement for specific and definite allegations set out in Article 29 of the Act of 29 July 1881.**

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<sup>57</sup> **Exhibit No. 5** – Extract from THE VII FOUNDATION website regarding the film The Stringer

***b) The remarks are damaging to Nick Ut's honour and reputation***

**Secondly**, the disputed remarks must be detrimental to the honour or reputation of the person concerned<sup>58</sup>.

**In law**, Article 29<sup>1</sup> of the Act of 29 July provides that the offence of defamation is defined as *'any allegation or imputation of a fact **that damages the honour or reputation of the person concerned**'*.

An attack on a person's honour or reputation, assessed objectively, will be deemed to have occurred if it is asserted that the person in question has behaved either in a manner contrary to the law, by breaching the law or regulations, or in a manner contrary to integrity or morality.

Thus, all accusations of having committed a criminal offence shall be considered as damaging to honour<sup>59</sup>. According to the Court of Cassation, the imputation of unlawful conduct 'necessarily' damages reputation<sup>60</sup>.

Furthermore, established case law recognises that an attack on honour or reputation may result from so-called 'extrinsic' elements, that is to say, elements contained within the context of the publication, which give the statement its defamatory character<sup>61</sup>. Thus, according to the Court of Cassation, *"in order to assess the legal classification to be applied to statements presented as defamatory, judges must take into consideration not only the actual terms cited in the writ of summons, but also extrinsic elements capable of giving those statements their true meaning and characterising the offence being prosecuted"*<sup>62</sup>.

In a judgment handed down on 13 January 2005, the Second Civil Chamber of the Court of Cassation held that *"the allegation that one is not the author of an academic thesis constitutes the material element of defamation"*<sup>63</sup>.

**In the present case**, the disputed remarks constitute a clear attack on the honour and reputation of Nick Ut.

By maintaining that he was not the author of the Photograph and by asserting, either explicitly or implicitly, that he had been wrongly credited with it to the detriment of its true author, and had knowingly concealed the truth, the Film imputes to Nick Ut specific and serious acts constituting conduct contrary to professional integrity and journalistic ethics.

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<sup>58</sup> E. Dreyer, Vol. 80: Press and Communication. – Defamation and public insults. – Defamation: general principles; defamation against a private individual, *JurisClasseur Special Criminal Laws*, March 2022, para. 23.

<sup>59</sup> Court of Cassation, Criminal Division, 23 November 2004, No. 04-81.156; E. Dreyer, Fasc. 80: Press and Communication. – Public defamation and insults. – Defamation: general principles; defamation against a private individual, *JurisClasseur Special Criminal Laws*, March 2022, para. 31; N. Verly, Public defamation and insults on social media: definitions, liabilities and penalties, *AJ Collectivités Territoriales* 2014, p. 589

<sup>60</sup> Court of Cassation, Criminal Division, 30 March 2016, No. 15-80.719.

<sup>61</sup> C. Bigot, Chapter 321 Defamation, *Practice of Press Law*, Lefebvre Dalloz, 4<sup>th</sup> edition, 2023–2024, p. 227, para. 321.81.

<sup>62</sup> Court of Cassation, Criminal Division, 31 January 2012, No. 11-82.012.

<sup>63</sup> Court of Cassation, Second Civil Chamber, 13 January 2005, No. 03-13.531

Such an allegation directly accuses Nick Ut of having claimed false authorship of an iconic work and, in so doing, of having built his career and the accolades associated with it on a false attribution.

Thus, the allegations contained in the Film go far beyond the permissible scope of journalistic investigation and suggest fraudulent and dishonest behaviour on the part of Nick Ut; as such, they are likely to bring his moral and professional integrity into disrepute and to undermine the esteem in which he is held within the field of photojournalism.

Sequences 3, 6 and 11 convey the idea that Nick Ut is isolated in his belief, whilst the rest of the Vietnamese and photographic communities are aware that he is not the author of the photograph, which undermines Nick Ut's integrity.

These remarks clearly convey the idea that Nick Ut knowingly lied about his authorship of the photograph, and deliberately and knowingly appropriated another person's work.

Specifically, the disputed remarks contained in each of the fifteen sequences previously examined constitute a clear attack on Nick Ut's honour and reputation, assessed objectively, in that they publicly expose him to suspicion of dishonesty and professional misconduct, accusing him of having unduly benefited – and, in the case of certain sequences, knowingly maintained – the attribution of an iconic work.

The damage to honour and reputation is characterised not only by the very terms in question, but also by the extrinsic elements of staging and editing which give them their true meaning, by steering the viewer towards an unambiguous accusatory conclusion.

### **1. Sequence No. 1**

**[Approximate timings in the Film as broadcast on NETFLIX: 00:00:40 – 00:01:17]<sup>64</sup>**

This sequence does not merely challenge the authorship of the photograph: from the very outset, it suggests that Nick Ut knows full well that he did not take it and that he has, therefore, knowingly maintained a false attribution.

However, the accusation of a deliberate and prolonged lie, concerning the defining moment of a career, constitutes a direct attack on Nick Ut's honour and reputation: the film presents him not as the subject of a historical debate, but as a person who knowingly deceived the public and the institutions.

### **2. Sequence No. 2**

**[Approximate timings in the Film as broadcast on NETFLIX: 00:09:12 – 00:11:40]<sup>65</sup>**

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<sup>64</sup> **Exhibit No. 22** – Audio and video recording – Sequence 1 (USB stick) – bailiff's report of 5 February 2026

<sup>65</sup> **Exhibit No. 23** – Audio and video recording – Sequence 2, from 01:20 (USB stick) – bailiff's report of 5 February 2026

By claiming that the ‘front-facing photo’ came from a ‘freelance photographer’ whose name had been ‘verified’, this sequence lends the allegation an air of certainty and prior verification.

It undermines Nick Ut’s reputation by suggesting that he is not the author of the work on which his reputation is founded and that he has, consequently, unduly benefited from a prestigious attribution, which amounts to casting doubt on his professional integrity.

### **3. Sequence No. 3**

**[Approximate timings in the film as broadcast on NETFLIX: 00:12:25 – 00:12:50]<sup>66</sup>**

This sequence combines a direct accusation (“*Nick Ut did not take this photograph*”) with a particularly damning extrinsic element: the idea of an “*open secret*” amongst Vietnamese photographers.

It therefore goes beyond a mere factual disagreement: it presents Nick Ut as isolated in the face of a truth known to all, which amounts to portraying him as someone who persists in lying and to discrediting his moral and professional integrity.

### **4. Sequence No. 4**

**[Approximate timings in the film as broadcast on NETFLIX: 00:19:33 – 00:20:01]<sup>67</sup>**

By asking whether Nick Ut is “*the man who drove Kim Phuc to hospital*” and receiving a negative response (“*No. No*”), supplemented by the assertion that the person was “*a well-dressed civilian*”, the Film directly calls into question the account that Nick Ut came to Kim Phuc’s aid after the attack.

This sequence causes particularly serious damage to Nick Ut’s honour, reputation and dignity, as it does not merely target his status as a photographer: it strikes at the very core of his being, by insinuating that he took credit for an act of humanitarian assistance that he did not perform.

By presenting as false the idea that he took a severely burned child to hospital, the Film suggests that Nick Ut fabricated or perpetuated a personal legend based on feigned compassion, which constitutes a morally devastating character assassination, objectively likely to provoke public contempt.

### **5. Sequence No. 5**

**[Approximate timings in the Film as broadcast on NETFLIX: 00:26:56 – 00:27:28]<sup>68</sup>**

By asserting that the Associated Press demanded a “follow-up story”, that Carl Robinson should have found Kim Phuc in hospital, and above all that Nick Ut “did not say ‘I’m coming with

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<sup>66</sup> **Exhibit No. 24** – Audio and video recording – Sequence 3 (USB stick) – bailiff’s report of 5 February 2026

<sup>67</sup> **Exhibit No. 25** – Audio and video recording – Sequence 4, from 02:10 (USB stick) – bailiff’s report of 5 February 2026

<sup>68</sup> **Exhibit No. 26** – Audio and video recording – Sequence 5 (USB stick) – bailiff’s report of 5 February 2026

you” and “did not tell us where she was”, the Film does not merely allude to an omission or an oversight: it insinuates deliberate behaviour.

This sequence damages Nick Ut’s honour and reputation by portraying him as a man who not only failed to help locate Kim Phuc after the incident, but also knowingly withheld crucial information, preventing his colleagues from reaching the victim and establishing the sequence of events.

The accusation here is particularly damaging, as it suggests a form of concealment and disloyalty, not only in terms of journalistic ethics but also in the face of a tragic human situation, implying that Nick Ut obstructed the truth rather than facilitating it.

## **6. Sequence No. 6**

**[Approximate timings in the film as broadcast on NETFLIX: 00:28:28 – 00:29:06]<sup>69</sup>**

By depicting how the name of the photograph’s true author is passed around during a meeting of photographers (“*we know the name*”), the film suggests the existence of a truth that has already been identified and is shared “among insiders”.

This sequence damages Nick Ut’s honour and reputation by suggesting that he benefited from an attribution whose irregularity was known within the industry, reinforcing the idea of a deception.

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<sup>69</sup> **Exhibit No. 27** – Audio and video recording – Sequence 6 (USB stick) – bailiff’s report of 5 February 2026

### **7. Sequence No. 7**

**[Approximate timings in the Film as broadcast on NETFLIX: 00:35:51 – 00:37:50]**<sup>70</sup>

The reading of the email attributed to Peter Arnett, referring to a concerted effort to ‘discredit’ Carl Robinson, adds a dimension of manipulation and concealment: any challenge by Nick Ut is presented as a strategy, not as a legitimate defence.

The damage to his reputation is twofold here: the Film presents him not as the author, but above all as actively participating in a scheme to conceal the truth and discredit an opponent, thereby portraying him as dishonest.

### **8. Sequence No. 8**

**[Approximate timings in the Film as broadcast on NETFLIX: 00:37:50 – 00:39:00]**<sup>71</sup>

By contrasting ‘the myth’ with ‘the truth’ and speaking of an ‘injustice’ done to the ‘true author’, this sequence presents the attribution to Nick Ut as a morally reprehensible deception and calls for ‘justice to be done’.

It undermines Nick Ut’s honour and reputation by presenting him, not as a professional whose integrity is in question, but as the victim of an injustice—that is, of a fraudulent attribution—which implies conduct contrary to integrity.

### **9. Sequence No. 9**

**[Approximate timings in the film as broadcast on NETFLIX: 00:40:43 – 00:41:10]**<sup>72</sup>

The confirmation via messages (“*Was it him who took the photo? – Yes*”) is presented as simple, immediate and indisputable proof.

It undermines Nick Ut’s honour by denying him authorship of the photograph and exposing him to suspicion of misappropriation of an iconic work, and thus of unethical professional conduct.

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<sup>70</sup> **Exhibit No. 28** – Audio and video recording – Sequences 7 and 8 (USB stick) – bailiff’s report of 5 February 2026

<sup>71</sup> **Exhibit No. 28** – Audio and video recording – Sequences 7 and 8, from 02:10 (USB stick) – bailiff’s report of 5 February 2026

<sup>72</sup> **Exhibit No. 29** – Audio and video recording – Sequence 9 (USB stick) – bailiff’s report of 5 February 2026

### **10. Sequence No. 10**

**[Approximate timings in the film as broadcast on NETFLIX: 00:43:31 – 00:43:40]**<sup>73</sup>

The statement “*it is indeed him*” (presented by NETFLIX as confirmed) reinforces the idea of a certainty established following a thorough investigation.

The damage to his reputation stems from the fact that the claim is presented as definitively established: Nick Ut is therefore necessarily portrayed as having been falsely credited and as having benefited from a misleading attribution.

### **11. Sequence No. 11**

**[Approximate timings in the film as broadcast on NETFLIX: 00:56:05 – 00:56:21]**<sup>74</sup>

Nghe’s son’s remarks (“everybody knows”) add an extrinsic element of disqualification: the idea that the attribution to Nick Ut is contradicted by collective knowledge. This sequence damages Nick Ut’s honour and reputation by implicitly portraying him as someone who persists in a false version of events in the face of a supposedly well-known truth, reinforcing the idea of a sustained lie.

### **12. Sequence No. 12**

**[Approximate timings in the film as broadcast on NETFLIX: 01:03:04 – 01:03:22]**<sup>75</sup>

The debate is no longer “who took the photo?” but “why did Horst decide to attribute it to Nick Ut?”, which amounts to taking it for granted that Nick Ut is not the photographer. The damage to his reputation is significant: it presents the attribution to Nick Ut as the result of a decision made for convenience or as a tribute, in other words as an artificial attribution, divorced from reality, which suggests a false attribution and deeply undermines his reputation.

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<sup>73</sup> **Exhibit No. 30** – Audio and video recording – Sequence 10 (USB stick) – bailiff’s report of 5 February 2026

<sup>74</sup> **Exhibit No. 31** – Audio and video recording – Sequence 11, from 01:55 (USB stick) – bailiff’s report of 5 February 2026

<sup>75</sup> **Exhibit No. 32** – Audio and video recording – Sequence 12 (USB stick) – bailiff’s report of 5 February 2026

### **13. Sequence No. 13**

**[Approximate timestamps in the film as broadcast on NETFLIX: 01:22:13 – 01:22:54]<sup>76</sup>**

In this sequence, Gary Knight claims that there are only “two people” claiming to have taken the photograph (“only two”), then concludes, on the basis of an analysis presented as objective, that Nick Ut “*was not in the right place to have taken the photo*”, which would mean that “the only person” who could have taken it would be Nghe, “the stringer ”, a claim immediately validated by Francesco Sebregondi (“That’s correct”).

This sequence damages Nick Ut’s honour and reputation in that it does not present the opposing argument as a hypothesis: it transforms it into a logical demonstration, intended to impose on the viewer the idea that Nick Ut could not physically have been the author of the photograph.

The damage is compounded by the presentation of this conclusion within the framework of an investigation and expert analysis, which lends the accusation an air of scientific rigour and factual certainty: Nick Ut is thus necessarily portrayed as having, for decades, claimed credit for a work he could not possibly have produced.

The result is a direct discrediting of his professional integrity and, beyond that, a wholesale questioning of the legitimacy of his career, as the film leads the audience to conclude that the award was fraudulent and that he has usurped it.

### **14. Sequence No. 14**

**[Approximate timings in the Film as broadcast on NETFLIX: 01:24:37 – 01:25:19]<sup>77</sup>**

By asserting that continuing to believe Nick Ut implies ‘believing no one’, the Film does not criticise a fact: it discredits the person. This sequence damages his honour and reputation by presenting Nick Ut as a lone liar standing against ‘all the evidence’, directly undermining his moral integrity, credibility and professional integrity.

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<sup>76</sup> **Exhibit No. 33** – Audio and video recording – Sequence 13 (USB stick) – bailiff’s report of 5 February 2026

<sup>77</sup> **Exhibit No. 34** – Audio and video recording – Sequence 14 (USB stick) – bailiff’s report of 5 February 2026

### 15. Sequence No. 15

[Approximate timings in the Film as broadcast on NETFLIX: 01:37:55 – 01:38:19]<sup>78</sup>

The wording of the email naming Nghe as the author, presented as the conclusion of an investigation and supported by the entire narrative, lends particular authority to the allegation.

This sequence damages Nick Ut's honour and reputation by implying that the attribution he has enjoyed for over fifty years is based on a deception, and, consequently, that he has wrongfully claimed – or allowed others to claim – authorship of a work he did not create.

Thus, the statements in question do not merely challenge an attribution: they accuse Nick Ut of conduct contrary to integrity and professional ethics, by portraying him as having unduly benefited from a false attribution and, in several instances, as having knowingly perpetuated it.

**Such allegations are, objectively, likely to provoke public contempt or mistrust towards Nick Ut, and constitute an attack on his honour and reputation as required by Article 29 of the Law of 29 July 1881.**

*c) The person who is the subject of the defamatory remarks is very easily identifiable*

**Thirdly**, for a statement to be defamatory, the person defamed must be identifiable.

**In law**, Article 29 of the Act of 29 July 1881 provides that defamation occurs even if the allegation '*refers to a person or body not expressly named, but whose identification is made possible by the terms*' of the offending text.

**In this case**, this condition is by no means restrictive, since the disputed remarks allow the person targeted to be identified unambiguously. Nick Ut is specifically named, and photos and videos of him are featured in the film.

**Thus, this condition regarding the identification of the victim of defamation is fully met, given that the incriminating remarks expressly refer to Nick Ut by name.**

**Consequently, in view of all these factors, the material element of the offence of defamation is fully established.**

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<sup>78</sup> **Exhibit No. 35** – Audio and video recording – Sequence 15 (USB stick) – bailiff's report of 5 February 2026

*d) The mental element is necessarily established*

**Finally, in law**, with regard to the mental element, criminal intent arises from the defamatory allegation itself<sup>79</sup>.

In other words, *'defamatory allegations imply the guilty intent of their author'*<sup>80</sup>.

The most consistent case law holds that:

*“Allegations, the defamatory nature of which it is for the trial judges to assess, are by law deemed to have been made with the intention to cause harm; it is not necessary for the trial courts, and a fortiori for the investigating courts, to expressly establish the bad faith of their author”*<sup>81</sup>.

**In the present case**, as previously demonstrated, the allegations contained in the statements referred to in the fifteen sequences examined are defamatory. This characterisation carries with it a presumption of criminal intent on the part of the author.

**Consequently, the mental element of the offence is also established.**

**In view of all the above elements, this Court finds that the constituent elements of the offence of public defamation against a private individual are present, and will convict the defendants on the basis of Article 29<sup>1</sup> of the Law of 29 July 1881 on freedom of the press.**

**C. The question of the criminal liability of the representatives of NETFLIX INTERNATIONAL BV as principal perpetrators, and of the representative of THE VII FOUNDATION as an accomplice**

With regard to identifying the author of the disputed remarks, reference should be made to the specific rules applicable to press offences committed via an audiovisual medium.

**In law**, the definition of audiovisual communication is set out in Article 2 of Law No. 86-1067 of 30 September 1986 on freedom of communication (known as the Léotard Law), which defines, in particular, on-demand audiovisual media services as *'any service for communication to the public by electronic means enabling the viewing of programmes at a time chosen by the user and at their request, from a catalogue of programmes whose selection and organisation are controlled by the publisher of that service'*.

<sup>79</sup> Court of Cassation, Criminal Division, 22 March 1966, No. 65-90.914.

<sup>80</sup> Court of Cassation, Criminal Division, 17 November 2015, No. 14-81.410.

<sup>81</sup> Court of Cassation, Criminal Division, 12 June 1987, No. 86-90.410

Where the facts fall within the scope of audiovisual communication, so-called ‘cascading’ criminal liability is provided for in Article 93-3 of the Act of 29 July 1982 on audiovisual communication<sup>82</sup> :

*“Where any of the offences provided for in Chapter IV of the Act of 29 July 1881 on freedom of the press is committed by means of electronic communication to the public, the editor-in-chief or, in the case provided for in the second paragraph of Article 93-2 of this Act, the co-editor-in-chief shall be prosecuted as the principal perpetrator, where the offending message was recorded prior to its communication to the public.*

*Failing that, the author, and failing the author, the producer shall be prosecuted as the principal perpetrator.*

*Where the editor-in-chief or co-editor-in-chief is implicated, the author shall be prosecuted as an accomplice.*

*Any person to whom Article 121-7 of the Criminal Code applies may also be prosecuted as an accomplice*

*Where the offence arises from the content of a message sent by an internet user to an online public communication service and made available to the public by that service in a user-generated content area identified as such, the editor-in-chief or co-editor-in-chief cannot be held criminally liable as the principal author if it is established that they had no actual knowledge of the message prior to its publication online or if, as soon as they became aware of it, they acted promptly to remove the message.*

If a press offence is committed, the editor-in-chief will be prosecuted as the principal author, but only where the offending message was recorded prior to its communication to the public<sup>83</sup> . Otherwise, the author – and, in the absence of the author, the producer – will be prosecuted as the principal author.

Thus, the editor-in-chief is automatically liable for defamatory remarks made, provided the programme is pre-recorded<sup>84</sup> , thus excluding live broadcasts.

It follows from these provisions that, where the offending message has been recorded prior to its communication to the public – which is necessarily the case with an audiovisual ‘documentary’ – criminal liability as principal author may be incurred by the editor-in-chief of the service responsible for the broadcast.

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<sup>82</sup> E. Raschel, Press Law, Précis Dalloz, 1st edition, March 2025, p. 490, para. 654.

<sup>83</sup> E. Raschel, Press Law, Précis Dalloz, 1st edition, March 2025, p. 490, para. 654.

<sup>84</sup> Court of Cassation, Criminal Division, 13 February 2001, No. 00-84.338; Court of Cassation, Criminal Division, 7 March 2000, No. 99-86.646

This ‘cascading’ liability is explained by the classic principle that ‘publication constitutes the offence’: the primary liability lies with the person who gives their consent to the publication.

Article 93-2 of Law No. 82-652 of 29 July 1982 on audiovisual communication provides for the obligation for any service providing electronic communication to the public to appoint a publication director. This obligation, contained in this law, applies to audiovisual communication as well as to online communication to the public.

Paragraph 6 of the same article states that:

*“Where the service is provided by a legal entity, the editor-in-chief shall be the chair of the executive board or board of directors, the managing director or the legal representative, depending on the form of the legal entity”.*

Thus, case law has held that this refers to *the “chairman of the executive board or board of directors, the managing director or the legal representative”*<sup>85</sup> or, in the case of an association, its statutory representative<sup>86</sup>.

This liability of the publication director of the audiovisual communication service stems from knowledge of the contentious content and the ability to control it: this relates to the concept of prior fixation referred to in the <sup>first</sup> subparagraph of Article 93-3 of Law No. 82-652 of 29 July 1982 on audiovisual communication. Case law even establishes an obligation to control and monitor what is broadcast, provided that prior recording has taken place<sup>87</sup>.

The editor-in-chief will therefore be automatically liable for the comments made in the programme, provided that it is pre-recorded (and not live)<sup>88</sup>.

He will be considered the principal perpetrator of the offence of defamation, and the author will be an accomplice in the commission of the offence of defamation, in accordance with the terms of paragraph 3 of Article 93-3 of Law No. 82-652 of 29 July 1982 on audiovisual communication.

The author of the defamatory content is involved in the commission of the offence at an early stage, prior to the content being posted online: their role is crucial as they are involved in the publication of the disputed content.

Article 43-1 of the Law of 29 July 1881 on freedom of the press provides that the provisions of Article 121-2 of the Criminal Code, relating to the criminal liability of legal persons, do not apply to the offences set out in Articles 42 and 43 of the Law.

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<sup>85</sup> Paris Regional Court, 17th Civil Chamber, 7 September 2009; *Légipresse* 2009, I, p. 3, No. 265

<sup>86</sup> Court of Cassation, Criminal Division, 22 January 2019, No. 18-81.779; Court of Cassation, Criminal Division, 26 March 2019, No. 18-81.770

<sup>87</sup> Court of Cassation, Criminal Division, 22 October 2002, No. 01-86.908

<sup>88</sup> Court of Cassation, Criminal Division, 13 February 2001, No. 00-84.338; Court of Cassation, Criminal Division, 7 March 2000, No. 99-86.646

Similarly, with regard to the audiovisual sector and online publication, Article 93-4 of Law No. 82-652 of 29 July 1982 on audiovisual communication provides that:

*‘The provisions of Article 121-2 of the Criminal Code shall not apply to offences to which the provisions of Article 93-3 of this Act apply’ – this refers to the offences set out in Chapter IV of the Act of 29 July 1881, namely ‘crimes and offences committed through the press or by any other means of publication’.*

**In the present case,** the defamatory statements in question are contained in the Film, *\*The Stringer\**, an audiovisual work produced by THE VII FOUNDATION, which was recorded prior to its communication to the public and subsequently made available to the public in France via the NETFLIX platform.

On 3 October 2025, Nick Ut’s legal representatives sent a letter to NETFLIX explaining why the Film contained defamatory content, and requesting that NETFLIX refrain from distributing the film on its platform<sup>89</sup>. NETFLIX did not respond to the substance of the matter, but forwarded the letter to the legal team of THE VII FOUNDATION and distributed the Film. It follows from this fact that NETFLIX was necessarily aware of the Film’s contentious content, and nevertheless persisted in its intention to broadcast it on the platform.

It follows that the legal representatives of NETFLIX INTERNATIONAL B.V., in its capacity as the company “*Provider of the Netflix service and editorially responsible for audiovisual content*”<sup>90</sup>, must be regarded as the principal perpetrators of the offence of defamation.

Pursuant to Article 93-2 of the Act of 29 July 1982, the electronic public communication service NETFLIX must have a publishing director, a role which by law falls to the legal representative of the legal person operating the service; thus, Margaret Ayre Price and Rob Maria Zimmermann, in their capacity as legal representatives of NETFLIX INTERNATIONAL B.V.<sup>91</sup>, are the publication directors of the NETFLIX service for French territory.

Pursuant to Article 93-3, since the defamatory message has been previously recorded, they must be prosecuted as the principal perpetrators of the offence of defamation

It follows that Margaret Ayre Price and Rob Maria Zimmermann, in their capacity as legal representatives of NETFLIX INTERNATIONAL B.V., must be held criminally liable, as principal perpetrators, for the defamatory statements contained in the Film, whilst the companies NETFLIX SERVICES France and NETFLIX INTERNATIONAL B.V. must be held civilly liable for the criminal and civil convictions that will be handed down, in their *capacity as publishers and operators of the NETFLIX electronic public communication service.*

THE VII FOUNDATION co-produced the Film and, in that capacity, took the initiative to carry out the project, oversaw its production and distributed it to the broadcaster.

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<sup>89</sup> **Exhibit No. 36** – Letter dated 3 October 2025 from Nick Ut’s legal representatives to NETFLIX

<sup>90</sup> **Exhibit No. 37** – NETFLIX legal notice

<sup>91</sup> **Exhibit No. 2** – Extract from the Dutch Trade and Companies Register for the company NETFLIX INTERNATIONAL B.V.

Gary Knight, President of the non-profit organisation, personally took the editorial initiative for the documentary, directed its production and was directly involved in developing the content, including the sequences containing the defamatory allegations that are the subject of the proceedings, many of which were, moreover, made by him directly.

Consequently, Gary Knight must, by virtue of his direct involvement in the drafting and approval of the defamatory passages, be regarded as an accomplice to the offence of defamation, in relation to the defamatory statements attributing to Nick Ut acts likely to damage his honour and reputation.

THE VII FOUNDATION shall be held, as a legal entity, civilly liable for any criminal and civil convictions handed down against Gary Knight, an accomplice to the offence of defamation.

Finally, the company NETFLIX SERVICES France, and its legal representative Réginald Thompson, in his capacity as ‘Subcontractor and point of contact for Netflix **subscribers**’<sup>92</sup>, enable subscribers to the French NETFLIX platform to access and view the Film.

In this capacity, they will also be held civilly liable for any criminal and civil convictions arising from the offence of defamation.

#### **D. The Film is a biased account resulting from a slanted approach and devoid of any journalistic rigour**

As demonstrated above (see section B.), the Film contains numerous defamatory statements, as it claims that Nick Ut is not the true author of the Photograph and that, furthermore, he did not take Kim Phuc to hospital before returning to the Associated Press office to develop his film.

Beyond the inherently defamatory nature of these statements, it will be demonstrated that this ‘documentary’—which in reality is not one—is the product of an approach characterised by manifest bad faith, deeply biased and devoid of any journalistic rigour, and revealing a desire to impose a predetermined conclusion on viewers.

##### **1. Firstly, the film is in no way based on a serious investigation**

Firstly, it should be noted that the very identification of Nguyen Thanh Nghe is, in reality, based almost exclusively on the statements of Carl Robinson. In this regard, the Film is based on a conversation with Carl Robinson and another conversation with his wife, who reports the remarks allegedly made by a so-called war photographer who is never identified in the Film. The Film therefore requires the viewer to simply take Carl Robinson at his word regarding this

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<sup>92</sup> **Exhibit No. 37** – NETFLIX legal notices

identification, which lies at the heart of the defamatory attack on Nick Ut's honour and reputation.

This weakness is all the more significant given that the Film nevertheless presents this identification as the certain outcome of an in-depth journalistic investigation.

The film then relies on an incomplete 3D reconstruction of the scene at Trang Bang, produced by the Paris-based NGO INDEX INVESTIGATION (hereinafter 'INDEX'), to conclude, following a particularly speculative line of reasoning—which fails to warn viewers of the conjectural nature of the claims made—that Nick Ut was not in a good position to take the photograph and that “*the only person well-placed to take it, and who claims to have taken it, is the freelance photographer*”<sup>93</sup>.

Presented as an objective analysis, this reconstruction is in reality nothing more than a pseudo-scientific veneer intended to lend an air of reliability to the approach taken by the film's directors.

The NGO Index states in the Film that it based its findings on an analysis of the images sent to them in order to determine Nick Ut's position at the moment the photograph was taken.

Firstly, in order to enlighten the Tribunal regarding the bad faith that characterises the behaviour of the film's directors throughout its production, it should be noted that the analysis initially included in the film in the version screened at the Sundance Film Festival deliberately omitted footage filmed by NBC journalists which demonstrated that, due to the fragmentary nature of the images, certain individuals whose presence at the scene is indisputable were nevertheless not visible.

Indeed, the investigative report published by the Associated Press on 6 May 2025 regarding the authorship of the Photograph, having analysed the Film in the version screened at the Sundance Film Festival, states that:

*“It was only after discovering NBC news footage not included in the film that the AP was able to see for the first time a person believed to be the military photographer Huynh Cong Phuc, who sometimes sold photos to the AP and UPI, standing very close to where the famous photograph was taken”*<sup>94</sup> (free translation).

However, as the same report indicates, “*the NBC footage [...] does not appear in the [film's] 3D reconstruction, although other NBC footage from that day was used in the film*”<sup>95</sup> (our emphasis).

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<sup>93</sup> **Exhibit No. 33** – Audio and video recording – Sequence 13 (USB stick) – bailiff's report dated 5 February 2026

<sup>94</sup> **Exhibit No. 40** – Investigation report ‘Investigating claims around “The Terror of War” photograph’ published by the Associated Press on 6 May 2025, page 20

<sup>95</sup> **Exhibit No. 40** – Investigation report ‘Investigating claims around “The Terror of War” photograph’ published by the Associated Press on 6 May 2025, page 21

The NBC footage was, however, available in the French documentary film “*La Petite Fille au Napalm, Histoire d’Une Photographie*”, which explains why the Associated Press was able to access it and incorporate it into its analysis<sup>96</sup>.

The decision by the film’s directors not to rely on images that undermined the reliability of Index’s analysis can only be explained by their bad faith.

Following the publication of the Associated Press report, they were forced to include this footage filmed by NBC journalists, as well as photographs provided to the Associated Press by David Burnett, who witnessed the scene in Trang Bang.

As for the reconstruction, it is in no way reliable for several reasons.

Firstly, INDEX repeatedly provides estimates of distance, both in terms of geographical landmarks and the photographer’s position.

Indeed, the INDEX reconstruction concludes that the person seen in the distance, walking towards the children and journalists, is Nick Ut (which, as the Associated Press report states, ‘*cannot be proven beyond doubt*’<sup>97</sup>) and that, if this is the case, he was approximately 50 metres from the ITN crew’s camera (as opposed to the 60 metres claimed in the version of the film screened at the Sundance Film Festival)<sup>98</sup> and, consequently, it is impossible for him to have taken the photograph and then appeared so far behind.

However, the Associated Press’s analysis notes that:

*‘it was possible, at best, to determine a range for the distance between the blurred figure and the ITN camera. This range was estimated to be between 28.8 metres and 48 metres, with a margin of error of around 20 per cent. This distance is potentially much shorter than that indicated in the film. In contrast, the distance indicated in the film was stated with certainty as being ‘approximately 60 metres’, with no margin of error mentioned. However, the famous photograph was taken further along the road leading to the temple. The AP estimates this distance to be approximately 4 to 8 metres, but with a significant margin of error, depending on the lens used. There is no way of knowing for certain. This does not rule out Nguyen Nghe as the photographer. But the position in which we see Nguyen holding a camera – with Kim Phuc and the other children running – is some distance from where the famous image was taken’<sup>99</sup>. (free translation) (emphasis added).*

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<sup>96</sup> **Exhibit No. 40** – Investigative report ‘Investigating claims around “The Terror of War” photograph’ published by the Associated Press on 6 May 2025, page 49

<sup>97</sup> **Exhibit No. 40** – Investigative report ‘Investigating claims around “The Terror of War” photograph’ published by the Associated Press on 6 May 2025, page 73

<sup>98</sup> **Exhibit No. 40** – Investigative report ‘Investigating claims around “The Terror of War” photograph’ published by the Associated Press on 6 May 2025, page 81

<sup>99</sup> **Exhibit No. 40** – Investigative report ‘Investigating claims around “The Terror of War” photograph’ published by the Associated Press on 6 May 2025, page 81

As the Associated Press report notes, this significant uncertainty regarding distances stems from the fact that:

*“the landscape of Trang Bang in 1972 lacks many landmarks, particularly those of known dimensions. There are few buildings, fixed objects and known landmarks. The terrain is flat, the road is winding and landmarks are scarce. This particular configuration makes it difficult to estimate the distance between the people visible in the photos and videos and the camera. This means that any calculation carries a very large margin of error”<sup>100</sup> (free translation).*

Associated Press

*“calculated the distance between the spot where the second photo was taken and the blurred figure in the distance. It is this calculation that makes it possible to determine whether Nick Ut could have both taken the photo and been spotted later further down the road. The AP’s calculations show that the distance between where the second photo was taken and the figure in the distance is between 32.8 metres and 56 metres, with an overall margin of error of 20 per cent. The figure of 60 metres put forward by the film falls within the upper range of the AP’s estimate when the margin of error is taken into account, but the same would be true for a distance half that length. The analysis of the scene presented in the film, as detailed in the version screened at Sundance, appears to use an erroneous 3D rendering of the scene. It repeatedly shows people in the wrong places. If the underlying data were correct, this should not happen. As the AP’s analysis has shown, even minor differences in the data can have a significant impact on the positioning and distances involved, leading to errors in the model”<sup>101</sup> . (free translation) (emphasis added)*

Nick Ut commissioned Iman Sadeghi to analyse the 3D reconstruction featured in the film, in the version streamed on Netflix.

Iman Sadeghi is an award-winning computer scientist and software engineer, holding a PhD and a Master’s degree in Computer Science from the University of California, San Diego (UCSD), and has extensive experience in the fields of computer science and software engineering.

He has over twenty-three years of combined experience in academia and industry, in the fields of computer engineering, computer science, computer graphics and software engineering. Throughout his professional career, he has worked on projects related to software engineering, software architecture, 3D geometry, 3D reconstruction, 3D scene analysis and the parameterisation of 3D virtual cameras.

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<sup>100</sup> **Exhibit No. 40** – Investigative report ‘Investigating claims around “The Terror of War” photograph’ published by the Associated Press on 6 May 2025, page 79

<sup>101</sup> **Exhibit No. 40** – Investigative report ‘Investigating claims around “The Terror of War” photograph’ published by the Associated Press on 6 May 2025, page 82

However, on this point, it is worth noting that no information is provided regarding the professional or academic qualifications of the members of the NGO INDEX Investigation featured in the film.

The conclusions of Iman Sadeghi's report align with those of the Associated Press regarding the unreliability of the distances estimated by INDEX and the methodological flaws in the 3D reconstruction.

His report states that:

*“INDEX presents the estimated distances as single fixed values, without indicating uncertainty intervals, which runs counter to the fundamental principles of scientific practice. The presentation of estimated measurements as figures without confidence intervals or margins of error gives a false impression of precision that does not correspond to the limitations of the underlying data.*

*In photogrammetric reconstruction – particularly when working with low-resolution archive images, film grain and ambiguous control points – the quantification of uncertainty is essential and must be regarded as an indispensable component of the analysis. A meaningful analysis must incorporate and indicate parameter ranges and confidence intervals. This is particularly crucial when key assumptions (e.g., camera height, focal length, scale references) significantly influence the results.*

*These omissions suggest a level of certainty that is not supported by the limitations of the source material. The absence of these ranges misleads the viewer into accepting an approximation as a definitive geometric fact”<sup>102</sup> (our emphasis).*

However, at no point do Messrs Sebregondi and Joffe, who produced the 3D reconstruction, indicate that the analysed material has considerable limitations and that, for example, relying on other photographs taken that day to estimate distances necessarily entails a large margin of error, if only because the focal length, , among other factors, can give the impression of distance or proximity between the photographer and the subject of the photograph, and that the absence of reliable landmarks renders any estimation unreliable.

The only time such a limitation is mentioned is when Francesco Sebregondi, analysing a photograph by David Burnett, states that:

*“Nick Ut appears in the foreground. Kim Phuc is still in the field bordering the road. The long focal length compresses the perspective, giving the impression that they are close”<sup>103</sup> (translation taken from the subtitles on NETFLIX).*

INDEX is therefore aware that several factors can significantly affect distance estimates.

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<sup>102</sup> **Exhibit No. 41** – Expert report by Iman Sadeghi, page 5

<sup>103</sup> Approximate timings in the film as broadcast on NETFLIX: 1:29:45 to 1:30:08

However, these same limitations are not mentioned when it comes to pointing out that the focal length necessarily affects the margin of error that must accompany any distance estimation, or that the photograph gives the impression that the photographer was further away than he actually was.

The absence of any information or warning to the viewer on this subject is a deliberate choice, aimed at misleading the viewer regarding the reliability of the conclusions presented.

Furthermore, INDEX relies on the analysis of incomplete data. In particular, it appears that the footage filmed by the various teams of journalists present on the ground is neither continuous nor time-stamped, meaning that INDEX can only speculate on the speeds and the time elapsed between the different sections analysed.

Thus, the claims regarding time and speed estimates contained in the films are purely speculative.

As Iman Sadeghi concludes in his report:

*“ [I]ndex’s temporal inferences are fundamentally flawed due to gaps in the data. The analysis makes claims based on the time elapsed between events and the speed of movement of individuals – including Kim Phuc’s speed in discontinuous footage. These claims are not scientifically substantiated given the evidence presented, as no continuous time-stamped footage is shown or mentioned, and Index does not specify how these time intervals or speeds were estimated. Similarly, the claims regarding the likelihood of Nick Ut’s movements are based on the time elapsed between events.*

*In the absence of synchronised, uninterrupted recordings, any estimation of duration or speed is inherently speculative. Photogrammetry, based on photographs and discontinuous video sequences, cannot, on its own, provide reliable temporal information . Consequently, Index’s conclusions, which rely on a speed inferred or a lapse of time elapsed through non-overlapping sequences, are not scientifically supported by the disclosed methodology.*

*If the time gaps between the available photographs and video footage are uncertain – which Index implicitly admits by relying solely on fragmentary archives – then the pace of movement and the distances between individuals at different times cannot be used to deduce relative positions with deterministic certainty.*

*Index’s conclusions regarding time and speeds are based on assumptions that are not only unverified but also unverifiable given the available footage”<sup>104</sup> (our emphasis).*

This observation is also made by the Associated Press in its report:

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<sup>104</sup> **Exhibit No. 41** – Expert report by Iman Sadeghi, pages 5–6

*“The footage and photographs contain no indication of date or time; any estimation of the chronology and duration of the events is therefore, at best, only an approximation.”*

*Available footage is scarce, with indeterminate intervals between shots, as television crews economised on film and only filmed when necessary. The absence of landmarks or objects of known size in the footage, which might have helped to determine scale and distance, also posed a challenge*<sup>105</sup> . (free translation) (emphasis added)

It is clear that any credible and reliable reconstruction must take into account and inform viewers of these numerous difficulties, and in particular the fact that any estimation of time and distance is necessarily subject to a significant margin of error.

However, no such warning is included in the Film.

The shortcomings of the 3D reconstruction presented in the Film do not end there.

Indeed, INDEX does not specify in its analysis the simulation parameters required to verify the reliability of this analysis.

As Iman Sadeghi explains in his report:

*‘These include the camera’s intrinsic parameters (focal length, field of view and sensor size), the camera’s extrinsic parameters (lens height, pitch, roll, yaw and approximate location on the road), the lens distortion correction al (or any attempt to mitigate this distortion) and scene scale markers (for example, the width of the road, the estimated size of people or other visible objects used to scale the environment). The failure to disclose these parameters – as well as the lack of discussion as to whether they were even taken into account during the reconstruction – undermines the credibility of the results presented. In the context of a 3D photogrammetric reconstruction, dismissing other intrinsic and extrinsic parameters out of hand without analysing them is inconsistent with accepted practices for a reproducible photogrammetric reconstruction.*

*Indeed, the absence of ranges and margins of error suggests that no range of plausible values for these parameters was evaluated during the study, which further undermines the scientific validity of the estimates presented*<sup>106</sup> (free translation) (emphasis added).

Similarly, INDEX’s claims regarding geographical location are not based on any reliable evidence.

Iman Sadeghi gives two examples:

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<sup>105</sup> **Exhibit No. 40** – Investigation report ‘Investigating claims around “The Terror of War” photograph’ published by the Associated Press on 6 May 2025, page 20

<sup>106</sup> **Exhibit No. 41** – Expert report by Iman Sadeghi, pages 4–5

*“For example, the estimated distance between Nick Ut, who was standing near the barbed wire, and the spot where the famous photograph was taken is presented in a way that appears speculative given the information provided. INDEX does not specify how the location of the barbed wire on the road was estimated, which of the two barbed wire lines present was used, how its position was identified, or what historical evidence supports the chosen location. There are reportedly two locations for the barbed wire, the exact positions of which remain uncertain; consequently, any single figure is speculative and is not scientifically substantiated on the basis of the information presented.*

*Another example: the estimated distance between Kim Phúc on the dirt track and the location of the famous photograph is presented without sufficient scientific justification to validate this estimate. Index does not account for or explain the non-linear and non-direct path taken by Kim Phúc along the dirt track before reaching the tarmac road. Furthermore, apart from the estimate provided, no margin of uncertainty is indicated and no time estimate is presented. In reality, the available images, although limited in time, show that Kim Phúc’s movements along the dirt track took place in several directions across the terrain, and not in a straight line”<sup>107</sup>. (free translation) (emphasis added).*

The numerous other flaws in the analysis presented in the film, as shown at the Sundance Film Festival, which remain relevant today, are highlighted in the Associated Press report, which, incidentally, “asked the filmmakers for access to INDEX’s research, but was only able to examine the material featured in the film”<sup>108</sup>. Nick Ut’s legal reps also submitted a request for access to their data but received no response<sup>109</sup>.

Thus, regarding this 3D reconstruction of the scene at Trang Bang, intended to provide ‘scientific’ support for the allegations contained in the Film, the conclusion is simple: INDEX’s analysis does not adhere to basic scientific principles and was conducted on the basis of incomplete data; as such, it in no way supports the defamatory accusations against Nick Ut.

The deliberate omission of information from the viewer regarding the limitations of the analysis presented in the Film constitutes yet another indication of the bad faith underlying the entire approach of the Film’s directors.

## **2. Secondly, the Film is a biased account that relies on a deliberately partial and selective presentation of the evidence to the public, whilst deliberately discrediting and omitting eyewitness accounts that contradict the version of events imposed by the Film**

The Film’s producers knowingly dismissed and discredited crucial testimonies, including corroborating accounts from eyewitnesses, affirming that Nick Ut is indeed the author of the

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<sup>107</sup> **Exhibit No. 41** – Expert report by Iman Sadeghi, pages 6–7

<sup>108</sup> **Exhibit No. 40** – Investigation report entitled ‘Investigating claims around “The Terror of War” photograph’, published by the Associated Press on 6 May 2025, page 84

<sup>109</sup> **Exhibit No. 42** – Letter sent by Nick Ut’s solicitors to INDEX dated 17 February 2025

Photograph, of which they were nevertheless aware, simply because they contradicted the thesis they sought to impose.

This is the case with the testimony of Fox Butterfield<sup>110</sup>.

Fox Butterfield is a journalist who, at the time the photograph was taken, was working for The New York Times. He was present in Trang Bang and witnessed the scene when the napalm was dropped on the villagers. He published an article in *The New York Times* on the subject<sup>111</sup>.

He recalls that a large number of journalists had gathered near the bridge, behind a roll-up barbed-wire fence. He testifies that, when the bomb exploded, Nick Ut and Alex Shimkin, a freelance reporter, rushed out of the area protected by the barbed wire and ran down the road. The other journalists and photographers were slow to join them because the gunfire had not stopped and they feared that more bombs might fall. Nick Ut, meanwhile, was running back up the road at full speed to avoid the gunfire, as it continued.

Fox Butterfield states that he is certain, based on what he observed of Nick Ut taking photographs whilst running along the road, that Ut is the photographer. His certainty is reinforced by his recollection of seeing and hearing Horst Faas enthusiastically congratulating Nick Ut on his photograph at the AP office in Saigon later that day.

Such testimony clearly contradicts the claims made in this film and should have been included in it if it were a genuine investigation aimed at uncovering the truth.

However, Fox Butterfield testifies that Fiona Turner, one of the producers of *The Stringer*, contacted him to ask what he had seen. After Fox Butterfield had recounted his memories of these events in detail, she claimed he was mistaken<sup>112</sup>.

However, when Fox Butterfield asked her what evidence she could provide to support her claim, she refused to show him any evidence unless he signed a confidentiality agreement, which he naturally refused to do.

This is clearly standard practice for the film's directors, as the Associated Press writes in its investigative report on the attribution of the photograph's authorship:

*'In the film and during promotional appearances, the filmmakers present the [Associated Press] as having examined their documents and rejected their claims. In reality, [Gary] Knight told the [Associated Press] that he had already concluded that Ut had not taken the photograph, that he wished to have access to the [Associated Press]'s photographic archives [Associated Press] to prove it, and that he had insisted that the*

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<sup>110</sup> **Exhibit No. 43** – Witness statement by Fox Butterfield

<sup>111</sup> **Exhibit No. 44** – Fox Butterfield, "South Vietnamese Drop Napalm on Own Troops", *The New York Times*, 9 June 1972

<sup>112</sup> **Exhibit No. 43** – Witness statement by Fox Butterfield

[Associated Press] sign a confidentiality agreement in exchange for the [Associated Press] being provided with detailed evidence supporting these claims”<sup>113</sup> .

Needless to say, the requirement for witnesses to sign confidentiality agreements is a practice incompatible with basic journalistic standards. This practice naturally raises questions about the conditions under which the statements included in the film were gathered and presented to viewers, and confirms the dishonest and biased nature of the approach.

Fox Butterfield continues his testimony as follows:

*“I told him what I remembered, and he didn’t like it, but they decided to go ahead anyway. Having seen the film, I know they didn’t mention the fact that I had told them I was an eyewitness to Nick Ut being correctly credited for taking the photograph”<sup>114</sup> . (free translation).*

Such an omission is clearly not the result of an oversight or negligence, but of a deliberate choice, intended to deprive the viewer of a complete and balanced view of the facts and to lead them to conclude that Nick Ut is not the author of the Photograph, thereby seriously damaging his reputation and honour.

Another eyewitness places Nick Ut in a position from which he could have taken this photograph and identifies him as the photographer.

Indeed, David Burnett, a photojournalist in Vietnam at the time of the events who witnessed the moment the napalm was dropped, gives an identical account of the events, independently of Fox Butterfield’s testimony:

*“There, in the village of Trang Bang, I waited and watched, behind the corrugated barbed wire blocking the road, in the company of at least a dozen other journalists, including an NBC TV crew, a short distance away, whilst successive bursts of small-arms fire and grenades indicated an ongoing exchange of fire. I was in the process of changing the film in one of my cameras when a Vietnamese Air Force fighter jet flew in low and slow and dropped napalm on what its pilot believed to be enemy positions.*

*Moments later, as I was still fumbling with my camera, I spotted in the distance, towards the village, the blurred silhouettes of people running through the smoke. To my left, Nick Ut and Alex Shimkin, a tall, thin Newsweek correspondent, both realised what had happened and immediately started running down the road towards the village and the villagers who were arriving. Within seconds, I loaded my camera, snapped the back shut and set off myself. I saw that they were well ahead of all the film crews and the NBC and ITN reporters. By then, the moment had already passed. This photograph, which became the iconic image of the war, was in Nick Ut’s camera. From what I could*

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<sup>113</sup> **Exhibit No. 40** – Investigation report ‘Investigating claims around “The Terror of War” photograph’ published by the Associated Press on 6 May 2025, page 28

<sup>114</sup> **Exhibit No. 43** – Witness statement by Fox Butterfield

*see of those on the road that day, he was the only photographer in a position to take that photograph. I was a few hundred metres behind Nick, who was ahead of the other journalists”<sup>115</sup> (free translation) (emphasis added).*

David Burnett also states that on his return to the Associated Press office a few hours later, he went straight to the darkroom to develop his film. He then saw Yuichi Ishizaki, known as Jackson, (a technician working in the darkroom) come out of it, holding a still-wet copy of the photograph in his hands. He states that Horst Faas and Peter Arnett had returned to the office. He did not hear the conversation between Carl Robinson and Horst Faas, but understood that the photograph would be released. Subsequently, he heard Horst Faas congratulate Nick Ut on his good work, referring to the photograph.

Finally, David Burnett is certain:

*“At no point, whilst I was at the AP office on 8 June 1972, did I hear Horst Faas give Carl Robinson any instruction suggesting that the authorship of the photo should be falsified to be attributed to Nick Ut rather than to a freelancer. No one at the AP bureau that day ever expressed the slightest doubt that Nick Ut had taken that famous photograph. The photo section of the AP bureau in Saigon was quite small, and such comments would have been heard by everyone present”<sup>116</sup> . (free translation) (emphasis added)*

In the film, David Burnett’s position, as shown to viewers, is limited to an excerpt from an interview in which he states

*‘We could see people coming out of the smoke and heading towards us. Nick and another journalist rushed out onto the road. It took me 30 seconds to load my film. That’s when Nick took his photo. I remember being in the AP office’s darkroom when the technician brought in the still-wet print. Horst Faas looked at it and said: ‘Good work, Nick Ut. Go and send it off’”<sup>117</sup> .*

In an attempt to discredit this testimony from the outset—which is not included in its entirety—Gary Knight resorts to an argument that is not really an argument, stating:

*“But, by his own admission, David didn’t see who took the photo.” (translation taken from the NETFLIX subtitles)*

This is therefore enough for him in the film to dismiss David Burnett’s testimony.

But Gary Knight’s bad faith does not stop there.

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<sup>115</sup> **Exhibit No. 45** – Witness statement by David Burnett

<sup>116</sup> **Exhibit No. 45** – Witness statement by David Burnett

<sup>117</sup> Approximate timings in the film as broadcast on NETFLIX: 0:30:44 to 0:31:30

David Burnett, contacted by the film’s production team, refused to take part, fearing that his words would be distorted and already suspecting the dishonesty of their approach.

He was largely vindicated in his decision not to participate in the film since, as the AP report reveals, in the version of the film screened at the Sundance Film Festival in January 2025, Gary Knight claims that David Burnett refused to speak officially because he did not want to contradict the AP or Horst Faas, which suggests that he shared the directors’ point of view. Indeed, he states that:

*“David doesn’t want to get involved in a quarrel within his own tribe. Questioning the AP in Vietnam and questioning Horst Faas is a big deal, and their entire legacy is tied to that memory. So they don’t want to venture into that territory”*<sup>118</sup> . (free translation)

Although this statement has been removed from the version of the film as broadcast on Netflix, which now simply states that David Burnett refused to be interviewed, it highlights the manipulation to which the film’s directors are prepared to resort in order to impose their premise on the viewer, for lack of any real evidence to support their claims.

Two factors demonstrate Gary Knight’s bad faith regarding the omission of this testimony.

Firstly, there is no doubt that he was aware of David Burnett’s position.

In 2012, Burnett published an article in *The Washington Post*<sup>119</sup> , in which he recounts his memories of 8 June 1972. His account of events in that article corresponds to his testimony today, which is why he writes in his testimony that he “stands by *what [he] wrote in that article, written well before anyone publicly questioned Nick Ut’s authorship of the [Photograph]*”<sup>120</sup> .

Indeed, in this article he writes in particular:

*‘[On 8 June 1972] there, in the village of Trang Bang, I waited and watched with a dozen other journalists from a short distance away, whilst successive bursts of small-arms fire and grenades signalled an ongoing firefight. [...] As I fumbled about, a South Vietnamese Air Force fighter jet flew in low and slow and dropped napalm on what its pilot believed to be enemy positions. Moments later, whilst I was still fumbling with my camera, the journalists were captivated by vague images of people running through the smoke. AP photographer Nick Ut rushed towards the villagers who were desperately fleeing the flames. [...] Within minutes, the children had been hurriedly loaded into*

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<sup>118</sup> **Exhibit No. 40** – Investigation report ‘Investigating claims around “The Terror of War” photograph’ published by the Associated Press on 6 May 2025, page 24

<sup>119</sup> **Exhibit No. 46** – David Burnett, “Forty years after ‘napalm girl’ picture, a photographer reflects on the moment that might have been his”, *The Washington Post*, 15 June 2012

<sup>120</sup> **Exhibit No. 45** – Witness statement by David Burnett

*Nick's car and were on their way to a hospital in Saigon*"<sup>121</sup> . (free translation)  
(emphasis added)

Secondly, in its investigation report, the Associated Press states that "*David Burnett told the [Associated Press] that he had made it clear [to the film's directors] that he disputed their premise and that he had not participated in the film for that reason*"<sup>122</sup> .

In these circumstances, to imply that David Burnett shared the Film's directors' position but refused to be interviewed in order to avoid contradicting the Associated Press is a clear case of bad faith.

The omission of this statement from the Film as broadcast on NETFLIX does not prevent it from being taken into account when assessing the dishonesty of its directors.

Furthermore, the Film marginalises and downplays Kim Phuc's own testimony, whilst giving prominence to speculative theories and unsubstantiated, unverified claims in order to serve its predetermined conclusion.

Indeed, far from corroborating the accusations made in the Film, Kim Phuc's testimony directly contradicts the account put forward by the defendants<sup>123</sup> .

Whilst Kim Phuc admits to having no memory of that day, she recounts what her uncle—who was on Route 1 that day as an eyewitness—and her parents, to whom Nick Ut had indicated the following day the hospital where he had taken her, have told her on numerous occasions.

She testifies that:

*"All the eyewitnesses from that day, including my uncle, have told me over the years that it was Nick Ut who was there, who rushed towards me to take the photo and who took me to the nearest hospital, Cu Chi Hospital. Among these witnesses are my uncle, who was on the road that day carrying my little cousin in his arms, as well as foreign journalists, photographers and cameramen, notably Chris Wain and Alan Downes [...]. They all told me they had seen Nick, the only photojournalist to have rushed towards me to take the photograph. Furthermore, my uncle explicitly told me that he had seen Nick running towards me to take the photograph and explained that it was he who had begged Nick and his AP driver to take me to the nearest hospital, Cu Chi Hospital. My uncle told me over the years that no one had offered to take us—me and the other burn victims—because most wanted to get back to Saigon before nightfall, for fear of Vietcong ambushes and gunfire on the road. Nick was the only one to respond to my uncle's pleas*"<sup>124</sup> . (free translation)

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<sup>121</sup> **Article No. 46:** David Burnett, 'Forty years after the "napalm girl" photograph, a photographer reflects on the moment that might have been his', *The Washington Post*, 15 June 2012

<sup>122</sup> **Exhibit No. 40** – Investigation report "Investigating claims around 'The Terror of War' photograph" published by the Associated Press on 6 May 2025, page 25

<sup>123</sup> **Exhibit No. 47:** Witness statement by Kim Phuc Phan

<sup>124</sup> **Exhibit No. 47:** Witness statement by Kim Phuc Phan

This testimony is of central importance.

The defendants' decision to largely disregard the testimony of the very person whose suffering made this photograph world-famous further demonstrates the deeply biased nature of the so-called 'investigation' presented in the film.

Finally, other accounts that were deliberately omitted from the film offer a different version of events.

Firstly, Peter Arnett, a journalist with the Associated Press at the time of the events (now deceased), who received the prestigious Pulitzer Prize for his reporting in Vietnam, testifies that he was with Horst Faas when the latter was called back to the Associated Press office<sup>125</sup>. The two therefore returned to the office together. This information is confirmed by another account.<sup>126</sup>

Peter Arnett testifies that upon their arrival, Horst Faas went straight to the photo department, whilst he himself asked George Esper, the Saigon bureau correspondent, who was sitting at his desk, what was happening. Esper replied that Nick Ut had returned from his assignment in Trang Bang with some superb photos<sup>127</sup>.

He recalls Horst Faas congratulating Nick Ut with great enthusiasm whilst a print of the photo was being passed around the Associated Press offices. The head of the Associated Press bureau, Richard Pyle, also said: *"Fabulous. That's a Pulitzer Prize for Nick!"*

On that day, or even until he received an email from Carl Robinson decades later, Peter Arnett had never heard that anyone else had claimed to have taken that photograph.

On 8 June 1972, Horst Faas told Peter Arnett that Nick Ut had taken the children to hospital, which Nick Ut confirmed to Peter Arnett<sup>128</sup>.

Furthermore, Peter Arnett states that he never heard Horst Faas say anything along the lines of *'let's attribute the photograph to Nick'*.

Finally, Peter Arnett states that Messrs Faas, Pyle and Ishizaki (the darkroom technician), with whom Peter Arnett spoke on 8 June 1972 and subsequently, consistently expressed their enthusiasm and praise for Nick Ut's work in taking the photograph.

With the exception of Carl Robinson, he has never heard anyone present at the Associated Press's Saigon bureau offer any support for Carl Robinson's claim.

However, in the film, regarding Peter Arnett's position, Gary Knight merely states:

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<sup>125</sup> **Exhibit No. 48** – Witness statement by Peter Arnett

<sup>126</sup> **Exhibit No. 49** – Witness statement by Tu Pease

<sup>127</sup> **Exhibit No. 48** – Witness statement by Peter Arnett

<sup>128</sup> **Exhibit No. 48** – Witness statement by Peter Arnett

*“Peter Arnett claims that he was present [at the Associated Press office] and that he knows what happened, but he was not in the photo lab” and “[Peter] Arnett, who believes that Nick took the photograph because Faas told him so”.*

In doing so, Gary Knight dismisses Peter Arnett’s version outright, without even giving viewers the chance to hear it and form their own opinion. It is also clear that if, to be taken into account, a witness must have been in the photo lab at the time Horst Faas allegedly told Carl Robinson to alter the photograph’s attribution (which Gary Knight’s reasoning necessarily implies), the only person whose testimony counts is Carl Robinson, the accuser himself.

This circular and fallacious reasoning is used repeatedly throughout the film by Gary Knight to compensate for the lack of any tangible evidence to support the allegations made, and amounts to blatant intellectual dishonesty.

This dishonesty goes further.

The film does not, in fact, include another key testimony, that of Tu Pease, former secretary at the Associated Press office in Saigon, who was directly responsible for paying freelance photographers and was present when the photograph was developed. Her testimony, which confirms both the immediate attribution of the photograph to Nick Ut and the absence of any payment to a supposed freelance photographer<sup>129</sup>, should have been gathered and presented had a genuine investigation been carried out.

Indeed, Tu Pease states that no freelance photographer was paid for the photograph on 8 June 1972 or the following day, and that if that had been the case, she would have known about it, as the money was at her disposal and she was responsible for paying the freelance photographers. Having been informed of the allegations contained in the Film, she also wonders why Nghe, who now claims to be the author of the Photograph, would not have sold it to the NBC agency, for which he was employed as a driver and whose office was next to that of the Associated Press<sup>130</sup>.

Tu Pease then points out that if the Associated Press had bought the photograph from a freelancer, the latter would have been paid far more than \$20, which was the lowest amount paid by the AP for a photograph. She also states that she knew the freelancers who sold photographs to the Associated Press in Saigon and that she does not recall anyone by the name of Nghe or his brother-in-law, Tran Van Than.

Her testimony confirms that, contrary to what the Film claims, Nghe was not a freelance photographer (‘stringer’). Indeed, he never sold any other photographs to the media, possesses no photographic portfolio or negatives, nor is there any trace of any freelance activity on his part. In this sense, the Film’s title is as misleading as its content<sup>131</sup>.

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<sup>129</sup> **Exhibit No. 49** – Witness statement by Tu Pease

<sup>130</sup> **Exhibit No. 49** – Witness statement by Tu Pease

<sup>131</sup> **Exhibit No. 40** – Investigation report ‘Investigating claims around “The Terror of War” photograph’ published by the Associated Press on 6 May 2025, page 49

Finally, in complete contradiction to Kim Dung's claims that all of the AP's Vietnamese staff told him they knew Nick Ut had not taken the famous photograph, Tu Pease states that:

*"There were seven Vietnamese employees, plus Nick Ut, in the AP offices on 8 June 1972. I knew them all and spoke to them every day they were in the office. None of the Vietnamese staff ever said, in my presence or to my knowledge, that Nick Ut had not taken the photograph. In fact, all the staff spoke openly amongst ourselves about our excitement and happiness that Nick Ut had taken such a famous photograph. I never heard the slightest rumour, before this film, that anyone other than Nick Ut had taken that photograph"<sup>132</sup> .*

The reason why Tu Pease's testimony was not included seems obvious: it confronts the film's directors with their oversimplifications, their inaccuracies, and even their lies.

Finally, the film does not include another important testimony, that of Phuoc Thanh Phan, Kim Phuc's brother, who appears in the photograph alongside his sister, running along the road.

He testifies that during the evacuation of his severely burned sister to hospital, he remembers being transported by car and seeing a man in military uniform carrying several cameras but no weapons get out of the vehicle. He then testifies that

*"Recently, I saw the photograph attached to this statement, the one of the man in military uniform carrying cameras, standing next to my sister just after she had been burned at Trang Bang. I realise that this man is the one who was in the car that took my sister to hospital"*<sup>133</sup> .

The photograph attached to his statement shows Nick Ut.

This testimony, along with that of Kim Phuc recounting the memories of her parents and uncle, is clearly of such a nature as to counter the allegation contained in the Film that Nick Ut did not take Kim Phuc to hospital and should have been included if what is presented in the Film were truly an investigation.

When it includes testimonies, the Film presents them in a truncated, misleading and distorted manner, particularly those of Thi Hien Ho and Van Bach Ho, Kim Phuc's cousins, who were present at the scene on 8 June 1972 but were far from the spot where Nick Ut placed Kim Phuc in the vehicle to take her to Cu Chi Hospital.

In fact, contrary to what the Film suggests, these witnesses provide no support for the allegations put forward. On the contrary, their statements explicitly highlight the limits of their personal knowledge.

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<sup>132</sup> **Exhibit No. 49** – Witness statement by Tu Pease

<sup>133</sup> **Exhibit No. 50** – Witness statement by Phuoc Thanh Phan

Thi Hien Ho states that she was “*too far away from Kim Phuc to see who helped her get into a vehicle and be taken to hospital*”<sup>134</sup>, thereby explicitly acknowledging her inability to identify the person who intervened at that crucial moment.

Similarly, Van Bach Ho states that he was “*about 700 to 800 metres from the bridge when the napalm was dropped*” and that he “*did not see who took Kim Phuc to hospital*”<sup>135</sup>. He further adds that certain details attributed to him relate to events that occurred later, after Kim Phuc had left the scene.

These details are crucial: they demonstrate that these witnesses did not witness the key events on which the Film’s thesis is based and are unable to identify the photographer or the person who assisted Kim Phuc.

However, these fundamental limitations are not only ignored, but their omission is accompanied by a misleading presentation of these testimonies, giving the impression that they support the Film’s thesis. Such a presentation constitutes a substantial distortion of the meaning and scope of the statements made by those concerned.

The omission of these essential elements, combined with their biased presentation, reveals not only a lack of serious investigation on the part of the film’s directors, but also a deliberately biased approach, consisting of selecting, truncating and presenting the testimonies in such a way as to serve a predetermined thesis, in disregard of their actual content.

In this regard, the investigative report by the Associated Press itself highlights the manipulations carried out in the Film concerning Ho Thi Hien’s testimony. It notes in particular that, during the filmed interview, a question regarding the identification of the journalists is followed by an unrelated response (“*I don’t know who took the photo*”), revealing a clear confusion in the exchange, accentuated by editing featuring multiple cuts. Thus, during an exchange in English and Vietnamese, punctuated by numerous cuts, Gary Knight asks her: “*Did you know who these journalists were or what they were doing?*”. The AP report indicates that she appears to answer a different question: “*No, I didn’t know who took the photo*”<sup>136</sup>.

Furthermore, Ho Thi Hien expressly told the Associated Press that the presentation of her remarks in the Film was inaccurate, stating unequivocally: “*That’s a lie. They made that up. It wasn’t what I said.*”<sup>137</sup>

Thus, far from faithfully reflecting the witnesses’ statements, the Film selects, edits and rearranges them in such a way as to make them say what they did not say.

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<sup>134</sup> **Exhibit No. 51** – Witness statement by Thi Hien Ho

<sup>135</sup> **Exhibit No. 52** – Witness statement by Van Bach Ho

<sup>136</sup> **Exhibit No. 40** – Investigation report entitled ‘Investigating claims around “The Terror of War” photograph’, published by the Associated Press on 6 May 2025, page 25

<sup>137</sup> **Exhibit No. 40** – Investigation report ‘Investigating claims around “The Terror of War” photograph’, published by the Associated Press on 6 May 2025, page 25

In addition to the statements of numerous witnesses refuting the Film's defamatory allegations, numerous written statements by key witnesses, published before their deaths, also demonstrate that these allegations are manifestly false.

Furthermore, Horst Faas, undoubtedly the key witness to these events—who has since passed away—wrote in his memoir, *\*50 Years of Photojournalism\**, published in 2008:

*“Nick Ut’s photo of the little girl burned by napalm: a textbook case  
When the film arrived, I wasn’t in the office. One of the editors dealt with it. He didn’t select that photo because the little girl was naked and the rule at AP— —was not to show naked girls, especially not teenagers. He thought it was too risky and that he’d get into trouble with the New York office. Instead, he sent four or five photos, all of which were very good but merely skirted around the subject. When I got back to the office, I did what I usually did: I had a look at the films developed by the others, not out of a lack of confidence, but because I thought a second opinion was often useful. And there was no doubt that the best photo was the one that had been rejected. Richard Pyle, the bureau chief at the time, recalls that I said: ‘I think we’ve got a Pulitzer Prize winner here!’ We carefully cropped the photo to give it maximum impact. Not too tight, not too wide, just right. I printed it myself, reducing the contrast so that the shadow between the little girl’s legs didn’t look like pubic hair. There was no retouching. And we sent it off. It was, once again, a combination of strengths: Nick Ut had learnt his craft from his brother, from Henri Huet and from me. He had learnt by looking at so many excellent photos, in the darkroom and on the light table. That enabled him to produce this image. Thanks to the selection process, we were able to isolate this single photo, rather than a sequence, and we managed to get it published. It had an extraordinary impact”<sup>138</sup> . (free translation)*

There is no doubt that if Horst Faas had been alive when these accusations were made, he would have vigorously contested Carl Robinson’s account.

The same applies to Richard Pyle, who was at the Associated Press office in Saigon on 8 June 1972 when the famous print emerged from the darkroom in the hands of Jackson Ishizaki, who spoke at length about it to Nick Ut at the time. It was through Peter Arnett that Richard Pyle first learned of Carl Robinson’s accusations in 2015. He vehemently contested these accusations and assured Nick Ut of his support should Carl Robinson persist with his allegations<sup>139</sup> .

Richard Pyle also credited Nick Ut with the photograph during a discussion held on 1 April 2003 to mark the publication of the book *\*Laos: A True Story of Tragedy, Mystery and Friendship\**.<sup>140</sup>

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<sup>138</sup> **Exhibit No. 53** – Horst Faas, “50 Years of Photojournalism”, Éditions du Chêne, 2008, pages 190–191

<sup>139</sup> **Exhibit No. 48** – Witness statement by Peter Arnett

<sup>140</sup> **Exhibit No. 54** – Video recording of the press conference held by Richard Pyle and Horst Faas, 1 April 2003

Carl Robinson did not make this accusation public whilst Richard Pyle, Horst Faas and Ishizaki were still alive.

Furthermore, Hal Buell, who was head of the Associated Press's photography department, also consistently maintained that Nick Ut was the photographer.

During their lifetimes, Messrs Buell and Faas referred to this image on numerous occasions, both in public and in private, with their colleagues at the Associated Press, as well as in writing, without ever expressing the slightest doubt as to its attribution to Nick Ut<sup>141</sup>. Hal Buell, who died in 2024, published a biography in 2021 entitled 'From Hell to Hollywood: The Incredible Journey of AP Photographer Nick Ut'.

Finally, Arthur Lord, an NBC journalist present at Trang Bang who has since passed away, wrote a letter to *the Los Angeles Times* in 1989, prior to his own death and that of his cameraman, Le Phuc Dinh, in which he wrote:

*"Le Phuc Dinh, NBC News's assigned cameraman, stood alongside Nick Ut and filmed the entire scene. (I was the only television journalist present that day; Dinh was my cameraman.) When the footage arrived at the satellite transmission centre, a producer felt that the images of the naked body of a 9-year-old girl and the horror of the scene were too much for the American public to bear.*

*Nick Ut won a well-deserved Pulitzer Prize; Le Phuc Dinh received nothing for his courageous and skilful work"* (emphasis added)<sup>142</sup>.

The list of people who have consistently attributed the authorship of the photograph to Nick Ut for 50 years is thus very long and could not have been unknown to the film's directors.

The deliberate omission of these essential elements, combined with the biased presentation of those included in the film, reveals not only a lack of serious investigation on the part of the film's directors, but also a deliberately biased approach, consisting of selecting, truncating and presenting testimonies in such a way as to serve a predetermined thesis, regardless of their actual content.

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<sup>141</sup> **Exhibit No. 48** – Witness statement by Peter Arnett

<sup>142</sup> **Exhibit No. 55** – Arthur Lord, "The Girl in The Photograph", *Los Angeles Times*, 1 October 1989

**In summary, the makers of the film \*The Stringer\* deliberately omitted:**

- David Burnett's testimony;
- Fox Butterfield's testimony;
- Tu Pease's account;
- The testimony of Peter Arnett;
- The testimony of Phuoc Than Phan;
- The testimony of Arlette Salazar;
- Statements by Richard Pyle;
- Statements by Hal Buell;
- The letter from Arthur Lord;
- The oral and written statements of Horst Faas, including those in his book '50 Years of Photojournalism'.
- Evidence corroborating Nick Ut's presence and position at the time the photograph was taken;

Furthermore, the film has manipulated and presented the testimonies it contains in a truncated manner.

**3. Thirdly, the film contains numerous contradictions, lies and omissions**

***a) The film contains numerous contradictions***

Carl Robinson states in the Film that when he returned to the Associated Press office after lunch on 8 June 1972, '*Jackson had already developed the photos*'.

He then states:

*"We had a double-entry system in a notebook. There were four rolls of film: Nick Ut's, and those of two other freelancers. The front-facing photo [of Kim Phuc] was taken by a freelancer whose name I checked. There was a photo by Nick Ut, showing the girl running in profile. I preferred that shot; it was more modest. That's when Horst Faas came back from his lunch"* (translation taken from NETFLIX subtitles) (emphasis added).

This passage contains a serious contradiction, which undermines the credibility of the accusations levelled at Nick Ut.

Indeed, Carl Robinson states that he had chosen a photograph taken by Nick Ut showing Kim Phuc in profile, a photograph he considered '*more modest*'.

However, the analysis by INDEX presented in the film concludes that Nick Ut was too far away to have taken the photograph of Kim Phuc from the front. If INDEX's reconstruction is correct,

it is impossible for him to have taken a photograph of Kim Phuc in profile, and so this photograph cannot exist.

This is not the only contradiction in the film.

Nguyen Thanh Nghe, the freelance photographer whom the film identifies as the true author of the photograph, recounts his version of events in the film<sup>143</sup> :

Nguyen Thanh Nghe: *“I took [the photograph]. The AP bloke accepted the photo, gave me a print and the rest of the film. I gave the rest to a journalist in Saigon.”*

Gary Knight: *“Who did you sell it to?”*

Nguyen Thanh Nghe: *“To the boss. The next day, I went back there, he gave me a print of this size and a 20-dollar note, and said to me: ‘I’ll take this photo’”* (translation taken from NETFLIX subtitles).

Tran Van Than, Nghe’s brother-in-law, who worked as a sound engineer for NBC News and was present at Trang Bang with him, when asked by Gary Knight what happened after these events, stated:

*“On the way back, I told Nghe that the AP office was next to mine. It was Horst Faas who bought the photos. I don’t know how to spell his name, but we called him Horst Faas. After developing the film, he cut out the negative of the burnt girl, set it aside and said, ‘I’ll buy it.’ He gave me a 20 x 25-centimetre enlargement of the photo.”*<sup>144</sup> (translation taken from NETFLIX subtitles).

The inconsistency between these two versions is obvious and raises several questions about the sequence of events: are these memories altered by time, or a retrospective reconstruction influenced by the issues surrounding the authorship of the photograph?

The contradictions, lies and inconsistencies contained in the Film strongly point towards this second hypothesis.

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<sup>143</sup> Approximate timings in the Film as broadcast on NETFLIX: 00:42:00 to 00:42:35

<sup>144</sup> Approximate time references in the film as broadcast on NETFLIX: 01:00:06 to 01:00:42

**b) *The film deliberately contains several lies***

*1) Gary Knight had been aware of the allegations for years*

Gary Knight claims that in December 2022, he received an email from ‘a certain Carl Robinson’, whom he ‘was keen to meet’, and adds that although they have mutual friends, he knows Robinson only slightly.

He therefore implies that it was not until 2022 that he first heard about the allegations surrounding the authorship of the photograph.

It should be noted that the Associated Press investigation report identified, in the version of the Film screened at the Sundance Film Festival, several ‘contradictions’, particularly regarding Gary Knight’s statements concerning his acquaintance with Carl Robinson<sup>145</sup> .

The report notes that Gary Knight states in the Film, in the version screened at the Sundance Film Festival, that in December 2022 *he* received an email from “someone called Carl Robinson, with whom I’d never communicated”, adding: “I don’t know Carl”<sup>146</sup> .

However, this same report highlights that in 2013, a person identifying himself as “Gary Knight” stated that he had stayed in Hué in the company of Carl Robinson, who had then “told me many things about that photograph”.

This refers to the following comment, posted on 20 September 2013 on the *Reading the Pictures* website by a person named “Gary Knight” under an article entitled “Have You Ever Seen the Uncropped Version of the ‘Napalm Girl?’”<sup>147</sup> :

“Three years ago, I was in Hué with AP correspondent Mort Rosenblum (who was covering Vietnam for the AP from Singapore) and Carl Robinson. Carl told me a lot about this photo, including that he had developed this film as well as one or two other rolls belonging to another AP freelancer who had also photographed Kim Phuc running down the road. He told me that he had shown them to Horst, who had chosen this shot and had it sent directly by cable, bypassing the AP editors so that they would not censor it on the grounds of frontal nudity” (free translation) (emphasis added).

Whilst these details relate to an earlier version of the Film, they nonetheless reveal significant contradictions in Gary Knight’s statements regarding a central point of the narrative, namely the origin and timing of his investigation—all the more so given that in the version of the Film broadcast on NETFLIX, Gary Knight still implies that he only became aware of the allegations surrounding the photograph upon receiving Carl Robinson’s email.

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<sup>145</sup> **Exhibit No. 40** – Investigation report ‘Investigating claims around “The Terror of War” photograph’ published by the Associated Press on 6 May 2025, pages 24–28

<sup>146</sup> **Exhibit No. 40** – Investigation report “Investigating claims around ‘The Terror of War’ photograph” published by the Associated Press on 6 May 2025, page 24

<sup>147</sup> **Exhibit No. 56** – Screenshot of the comment posted by ‘Gary Knight’ on the *Reading the Pictures* blog

Furthermore, in a post on his personal blog on the Substack platform, Carl Robinson writes:

*“[Mort] Rosenblum sent me a private email, mentioning a rumour that had been circulating for years that Nick Ut hadn’t actually taken that photograph. Furthermore, during a trip to Vietnam in 2011, he had shared this information with the British photojournalist Gary Knight, who was surprised and had then considered writing an article on the subject”<sup>148</sup> (free translation).*

Subsequently, when questioned by André Liohn—a photographer who has since published several articles about the film on the *Medium* platform—Messrs Robinson, Knight and Rosenblum gave accounts that were inconsistent and contradictory with one another<sup>149</sup>.

Such inconsistencies, noted by independent sources, undermine the credibility of the approach presented and suggest that the narrative put forward is not a neutral and rigorous account of the facts, but a narrative construct open to adjustment.

They thus constitute further evidence of the biased nature of the investigation claimed and of the lack of the caution and rigour expected in dealing with such serious allegations.

2) *Gary Knight had the opportunity to speak to Nick Ut before the film was made, contrary to what he claims*

One of the key points emphasised by the Film is the directors’ inability to speak directly with Nick Ut about these allegations.

The film shows a particularly interesting scene: Gary Knight sends Nick Ut a message asking for an interview and sits in a restaurant waiting for a meeting that Nick Ut never confirmed.

The scene is filmed from several hidden angles, including a top-down view, similar to what a surveillance camera might have captured.

The film thus turns this into a staged scene that is in no way justified by the needs of the so-called investigation. It would have been sufficient simply to state that the film’s directors were unable to contact Nick Ut to question him directly about these accusations.

The intended effect of this staging is obvious: it aims to make the viewer believe that Gary Knight made every effort to hear Nick Ut’s version of events but that Ut is hiding.

In doing so, Gary Knight displays remarkable dishonesty.

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<sup>148</sup> **Exhibit No. 57** – Carl Robinson, “The real ‘Napalm Girl’ story”, *Substack*, 8 February 2025

<sup>149</sup> **Exhibit No. 58** – André Liohn, ‘*The Stringer: A Documentary That Can’t Remember Its Own Story*’, *Medium*, 5 December 2025

Indeed, in a publicly available Instagram post dated 22 March 2023, Gary Knight appears in a photo alongside Nick Ut and another photojournalist, James Nachtwey<sup>150</sup>.

Further research reveals that Gary Knight led a workshop with Nick Ut and James Nachtwey<sup>151</sup> in Vietnam in March 2023.

However, assuming that Gary Knight is telling the truth when he claims that he heard the allegations regarding the authorship of the photograph for the first time (*which he is not*), the workshop he led alongside Nick Ut took place three months after he received the email from Carl Robinson, which allegedly triggered his ‘investigation’.

Furthermore, in a post on his personal blog on the *Substack* platform dated 8 February 2025, Carl Robinson writes:

*“I decided to send an email to Gary Knight, who immediately agreed to grant me an interview and find out more. Fiona Turner, Knight’s wife, and Terri Lichstein, both Emmy Award-winning television producers, joined what would soon become a documentary project directed by the Vietnamese-American filmmaker Bao Nguyen, following the investigation conducted by Gary Knight. After granting me an initial interview, they hired Van in Saigon”*<sup>152</sup>.

He goes on to write that in April 2023, he returned to Saigon with his wife to film an interview with Gary Knight, among others, and adds

*“I was asked to keep my trip secret and to avoid the city centre, where Nick Ut might be walking around”*<sup>153</sup> (free translation).

This is enough to demonstrate the dishonesty of Gary Knight, who, in reality, had every opportunity to question Nick Ut directly about the serious allegations against him.

Instead, the film’s directors chose to actively avoid Nick Ut and resort to the staging described above, treating him as one might treat a suspect who is in hiding and whom one is trying to trap.

Taken together, these elements highlight an approach that amounts to a fabricated, accusatory narrative. By favouring suggestive staging and avoiding directly interviewing Nick Ut, the film’s directors have steered the viewer’s perception towards their predetermined conclusion, in defiance of the basic requirements of rigour, impartiality and honesty expected of a documentary.

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<sup>150</sup> **Exhibit No. 59** – Screenshot of the Instagram post by user “Phongng” dated 22 March 2025

<sup>151</sup> **Exhibit No. 60** – Gary Knight, ‘Inside the Battle over “Napalm Girl”’, *The Rolling Stone*, 1 August 2025: “*In early November 2022, I was asked to lead a workshop in Hanoi the following spring, alongside Nick Út and the renowned war photographer James Nachtwey, in memory of Tim Page, who had recently passed away*” (free translation)

<sup>152</sup> **Exhibit No. 57** – Carl Robinson, “The real ‘Napalm Girl’ story”, *Substack*, 8 February 2025

<sup>153</sup> **Exhibit No. 57** – Carl Robinson, “The real ‘Napalm Girl’ story”, *Substack*, 8 February 2025

***c) The film deliberately omits several key elements that have been glossed over, notably Nick Ut's possession of two Pentax cameras and Carl Robinson's personal animosity towards Nick Ut and the Associated Press***

As regards the argument based on the use of a Pentax camera, it seems necessary to place this within the context of the precise technical findings made by the Associated Press, which were necessarily accessible – or, at the very least, could not have been ignored – by the documentary's directors.

Indeed, the Associated Press's investigative report states, on the one hand, that it is unlikely the photograph was taken with a Leica, contrary to the historically accepted account, and, on the other hand, that it is, however, likely – though this cannot be established with certainty – that it was taken using a Pentax camera<sup>154</sup>.

However, and this is a crucial point, the same report expressly states that Nick Ut himself used Pentax cameras, alongside other equipment. In particular, the investigations reveal that Nick Ut stated he was carrying several cameras on the day in question, that he admitted to having also used Pentax cameras, and that he had, in particular, a Pentax camera that had belonged to his brother, which he regularly took with him<sup>155</sup>.

Furthermore, this report indicates that Arlette Salazar, the widow of Nick Ut's brother, with whom Nick Ut lived whilst working for the Associated Press in Vietnam, confirmed that she had given him a silver Pentax that had belonged to her late husband and that Nick Ut always carried it with him as a good-luck charm<sup>156</sup>. She confirms this today<sup>157</sup> and states that she gave Nick Ut two Pentax cameras that had belonged to her late husband.

Thus, far from being incriminating, the hypothesis that the photograph was taken using a Pentax is perfectly compatible with attributing the photograph to Nick Ut.

Consequently, the documentary's makers could not reasonably have been unaware that the probable identification of a Pentax did not rule out Nick Ut as the photographer. On the contrary, this technical detail formed part of a body of evidence that left open the possibility that he was the photographer.

In other words, omitting the fact that Nick Ut owned two Pentax cameras in order to present the use of a Pentax as evidence casting doubt on his authorship amounts to taking a technical detail out of its overall evidential context, as analysed in the report, and presenting a partial and biased interpretation of it.

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<sup>154</sup> **Exhibit No. 40** – Investigation report "*Investigating claims around 'The Terror of War' photograph*" published by the Associated Press on 6 May 2025, page 3

<sup>155</sup> **Exhibit No. 40** – Investigative report "*Investigating claims around 'The Terror of War' photograph*" published by the Associated Press on 6 May 2025, page 19

<sup>156</sup> **Exhibit No. 40** – Investigative report "*Investigating claims around 'The Terror of War' photograph*" published by the Associated Press on 6 May 2025, page 19

<sup>157</sup> **Exhibit No. 61** – Witness statement by Arlette Salazar

Finally, it should be emphasised that the entire documentary is permeated by the manifest personal animosity of Carl Robinson, the source of the initial allegations, towards Nick Ut and his former employer, the Associated Press.

Carl Robinson was in fact dismissed by the Associated Press in 1978. The report drawn up by the latter indicates that he had expressed intense anger and deep frustration at the way in which the agency had forced the families of its employees to evacuate before the fall of Saigon, before forcing him himself to leave the premises, whilst keeping in place a team he considered less competent than himself to cover the events<sup>158</sup> .

In his autobiography, Carl Robinson recounts that, whilst working for the AP in New York, he maintained an affable and good-natured demeanour, whilst concealing “*a seething anger, resentment and bitterness, particularly towards the AP*”<sup>159</sup> .

Worse still, Carl Robinson writes in his memoirs:

*“After barely a year, AP fired me. I never got a full explanation; something about ‘not performing’. Yup. Or did they know about the smack ? But I wasn’t alone. All the local hires from Saigon were gone, except for Nick Ut, with his Pulitzer Prize for ‘Napalm Girl’. I hadn’t come up properly through the AP system. Over a stiff drink at the Criterion Hotel, Peter offered me a package, reimbursed pension, and full first-class return tickets to anywhere in the United States. But I didn’t want to go back there. [...] And forget that damned AP too. ‘If I did go back, I’d bloody well frag their ass’, I muttered [...]”.*<sup>160</sup>

On this subject, Fox Butterfield stated: “*He had a sort of grudge, but I never knew what it was about*”<sup>161</sup> .

It is also worth noting that, in his memoirs, Carl Robinson writes about the photograph but makes no mention of any allegations regarding its authorship.

Furthermore, in a 2005 interview with the AP archives, Carl Robinson stated that he believed the AP had “*created a monster*” by publishing the photo of The Little Girl with Napalm, as much of the world’s sympathy had focused specifically on Kim Phuc, rather than more broadly

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<sup>158</sup> **Exhibit No. 40** – Investigation report “Investigating claims around ‘The Terror of War’ photograph” published by the Associated Press on 6 May 2025, page 11, referring to an interview with Carl Robinson by Richard Pyle, 2 May 2005, free translation.

<sup>159</sup> **Exhibit No. 62** – Carl Robinson, *The Bite of the Lotus: An intimate memoir of the Vietnam War*, Wilkinson Publishing, 2019, page 313, free translation

<sup>160</sup> **Exhibit No. 62** – Carl Robinson, *\*The Bite of the Lotus: An Intimate Memoir of the Vietnam War\**, Wilkinson Publishing, 2019, p. 315, freely translated

<sup>161</sup> **Exhibit No. 40** – Investigation report “Investigating claims around ‘The Terror of War’ photograph” published by the Associated Press on 6 May 2025, page 11, referring to an interview between the Associated Press and Fox BTERFIELD, 5 August 2024, free translation.

on all the victims of the war<sup>162</sup> , and took the opportunity to express his decades-old anger towards Nick Ut, whom he described as a *'false idol'*<sup>163</sup> .

It should be noted that in the aforementioned interview, Carl Robinson makes no mention of any allegations regarding the authorship of the photograph.

Then, in an email sent to the AP in August 2024, Peter Arnett, who was present at the Saigon bureau alongside Horst Faas at the time of the events, wrote: *"I don't really understand why Carl Robinson has engaged in these fruitless attempts to discredit two of the greatest photographers of our time, Horst Faas and Nick Ut. Perhaps it is jealousy."*

He noted that in response to a question he himself had sent him by email, Carl Robinson had indicated that he was bothered by Nick Ut's growing prominence within the AP's Los Angeles bureau, adding: *"He's become very Hollywood, and I don't like that."*

However, none of these points is mentioned in any way in the Film, depriving the viewer of essential information needed to form an objective opinion.

Finally, as is the case with several elements, the Film's directors only included certain information after the Associated Press report, which analysed the version of the Film screened at the Sundance Film Festival, highlighted their omission.

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<sup>162</sup>**Exhibit No. 40** – Investigative report *"Investigating claims around 'The Terror of War' photograph"* published by the Associated Press on 6 May 2025, page 11, referring to an interview with Carl Robinson by Richard Pyle, 2 May 2005, free translation.

<sup>163</sup> **Exhibit No. 40** – Investigative report *"Investigating claims around 'The Terror of War' photograph"* published by the Associated Press on 6 May 2025, page 11, referring to a document entitled *"And after that – Part 2: Who really shot the napalm girl picture? A 50-year cover-up"*, sent in December 2022 by Carl Robinson to the directors of the Film

That report notes, for example, that:

*‘[t]he film presents Santiago Lyon as an impartial judge regarding the origin of the photograph, who could, on the contrary, be perceived as biased towards the AP, since he was its former director of photography. The film does not specify that Lyon was a member of the advisory board of the VII Foundation, the organisation of Gary Knight who directed the film, and that he remains a member as of the date of publication of this report’* (free translation).

The version available on NETFLIX now includes this information, as the filmmakers had no choice but to include it following the publication of the report.

#### **4. Fourthly, the film glosses over numerous inconsistencies and manipulates the viewer’s emotions through its post-production choices**

Gary Knight asks Kim Dung Robinson, Carl Robinson’s wife, whether it was an “*open secret among Vietnamese photographers*” that Nick Ut did not take the photograph, to which she replies in the affirmative.

The film presents no evidence to support this claim. If it were truly an open secret, it should be no difficulty at all to find someone to confirm her statement.

On the contrary, as previously noted, Tu Pease, secretary at the Associated Press’s Saigon bureau and responsible for paying freelancers<sup>164</sup>, testifies that not only does she have no recollection of paying a Vietnamese freelancer for this photograph on 8 June 1972, nor in the days that followed, but also that she never heard anyone mention any rumour regarding the authorship of the photograph, neither among the Vietnamese staff nor among others, which is further confirmed by the testimony of Peter Arnett<sup>165</sup>.

This is not the only inconsistency in the film.

Carl Robinson states in the film that when he returned to the office after lunch on 8 June 1972, ‘*Jackson [the photo lab technician] had already developed the photos*’.

He then states:

*“We had a double-entry system in a logbook. There were four rolls of film: Nick Ut’s, and those of two other freelancers. The front-facing photo [of Kim Phuc] was by a freelancer whose name I checked. There was a photo by Nick Ut, showing the girl running in profile. I preferred that shot; it was more modest. It was at th e that Horst Faas returned from his lunch”* (translation taken from the NETFLIX subtitles).

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<sup>164</sup> As confirmed by Carl Robinson himself in the Film – see the following approximate timestamps in the Film as broadcast on NETFLIX: 0:25:00 to 0:25:20

<sup>165</sup> **Exhibit No. 48** – Witness statement by Peter Arnett

However, if Jackson had already developed the Photograph by the time Carl Robinson arrived, he would therefore have noted down, following the system described by Carl Robinson himself, the identity of the photographer at the time Carl Robinson returned to the office.

The latter has maintained from the outset that when Horst Faas allegedly ordered him to change the attribution of the photograph, no one else heard such an instruction. It follows that Jackson Ishizaki did not take part in the alleged decision to fraudulently attribute the photograph to Nick Ut and was unaware of it if such a decision had been taken.

This means that Jackson Ishizaki, who must have known the identity of the photograph's true author since he had noted it down himself, kept the alleged secret for decades, until his death.

However, not only is there no evidence of this, but Jackson Ishizaki had no reason to keep such a secret. On the contrary, being responsible for correctly noting the identity of the authors of the photographs he developed, it was in his interest to correct the error if he thought one had been made.

This version is untenable, not only because it makes no sense, but also because Peter Arnett stated that Jackson had praised Nick Ut's work for taking the photograph on 8 June 1972 and on several occasions thereafter<sup>166</sup>.

The film's bias does not stem solely from the selection and presentation of testimonies. It is also evident in the choices made regarding staging and post-production, which serve to shape the viewer's perception and artificially lend credence to the thesis being put forward.

The film systematically employs techniques designed to stir emotion and win over the audience: the use of highly emotive music, alternating shots of hospital scenes, the inclusion of images of distress, and sequences showing Nghe and his family members in tears.

Similarly, the use of black-and-white sequences purporting to show the notebook on which Nguyen Thanh Nghe's film was allegedly recorded<sup>167</sup> – a clearly fabricated archive sequence – which, incidentally, is not presented as a reconstruction, leaves little doubt as to the filmmakers' bias.

Indeed, these choices are not neutral. They form part of a narrative structure designed to dramatise the argument and present as morally self-evident a conclusion that is, in fact, disputed on factual grounds. By repeatedly linking the film's thesis to emotionally charged images and sequences, the directors create an effect of emotional engagement that serves to compensate for the lack of conclusive evidence.

The editing itself contributes to this direction. Through the selection, cutting and arrangement of sequences, the film emphasises certain elements whilst omitting others, and constructs a

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<sup>166</sup> **Exhibit No. 48** – Witness statement by Peter Arnett

<sup>167</sup> Approximate time references in the film as broadcast on Netflix: 00:09:26 to 00:09:35

narrative progression leading the viewer towards a conclusion presented as inevitable. Far from reflecting an objective investigative approach, this structure amounts to a biased narrative that tends to transform contested hypotheses into apparent certainties.

Finally, the last few minutes of the film take the form of a veritable plea, presented under the guise of ‘justice’, aimed at restoring to the Vietnamese what is claimed to have been ‘stolen’ from them. This sequence, which ends with a dedication “*to the Vietnamese photographers of the American War in Vietnam and to all the courageous freelance photographers of today’s wars*”, lends the narrative a militant and ideological dimension.

Such a conclusion, which rests on an unproven premise, reinforces the impression given to the viewer that the film’s thesis is established, whilst obscuring the fact that Nick Ut is himself Vietnamese, which makes the opposition thus suggested all the more artificial.

All these techniques – music, editing, selection of images and the final construction of the narrative – contribute to a biased and misleading presentation of the subject, designed to elicit the viewer’s agreement at the expense of a rigorous and balanced analysis of the facts.

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**In conclusion**, in an attempt to compensate for the lack of any evidence to support these allegations and to avoid having to explain these inconsistencies and contradictions, the Film, both through deliberately biased choices regarding what is included and what is excluded, and through the editing decisions made, constructs a damning narrative in which Nick Ut is necessarily a shameless liar who continues to persist in his deception.

Gary Knight himself says, in the aforementioned Sequence No. 14, that to still believe Nick Ut took the photograph, one must:

- refuse to believe what Carl Robinson himself says;
- refuse to believe the freelance photographer (the supposed author of the photograph);
- refuse to believe the freelance photographer’s children;
- [to ask oneself] why Horst Faas or another member of the Associated Press gave him a copy of the photograph (even though no evidence has been presented regarding the existence of this copy, apart from the word of the person concerned).

It follows from this assertion that continuing to believe that Nick Ut took the Photograph, whilst this necessarily implies refusing to believe Carl Robinson, the author of the allegations, the freelance photographer whom he identifies as the supposed true author of the photograph and the latter’s children, would be proof that these allegations are true (otherwise it is hard to see what this argument is supposed to establish).

This is an imaginative but fallacious conception of evidence.

Furthermore, quite apart from the fact that none of the individuals quoted is a neutral source—since they all obviously have a vested interest in making the claims they do—at no point does the film present the opposing argument or evidence contradicting the production’s version of

events, as this would lead to the opposite conclusion to the one the film seeks to impose on its audience.

Indeed, to believe Carl Robinson's allegations, one must:

- refuse to believe Nick Ut, whose professional and personal integrity have never been called into question;
- refuse to believe Messrs Butterfield and Burnett, eyewitnesses to the scene who have no personal interest in lying about what they saw and have no connection with AP or Nick Ut;
- refuse to believe Peter Arnett, who has no reason to lie about the facts;
- refuse to believe Tu Pease, who is also impartial regarding the facts;
- refusing to believe Kim Phuc's account of the testimonies of her uncle, who was present at the scene in Trang Bang, and of her parents;
- refuse to believe the testimony of Phuoc Than Phan, Kim Phuc's brother, who was with her and Nick Ut in the Associated Press van that took her to hospital;
- refusing to believe the writings and recorded statements of Arthur Lord (NBC), Horst Faas, Richard Pyle and Hal Buell, who all attribute the authorship of the photograph to Nick Ut.

Worse still, to believe Carl Robinson's allegations amounts to:

- believing that the rigorous double-entry identification system used to identify the photographer of every developed photograph failed, which would be the only known instance of such a failure;
- believing that Jackson Ishizaki also lied about the photograph's true author, even though he, on the contrary, had every interest in correcting the error if there was one;
- believing that all those present at the Associated Press office that day, who may have had doubts about the attribution of the Photograph, remained silent regarding this alleged fraudulent attribution to Nick Ut, both at the time the Photograph was printed and during the decades that followed;
- to seriously call into question, without any evidence, the professional integrity of Horst Faas, one of the most respected photojournalists of his time, who had nothing to gain and everything to lose by fraudulently claiming authorship of the photograph.

Furthermore, as the Associated Press report rightly points out, to believe Carl Robinson's allegations:

*'One would have to believe that Ut, whose photos show him running up and down all day long, stood rooted to the spot about half a football pitch away whilst all the other journalists rushed towards the injured and terrified children leaving the city – the most dramatic moment of the day. Ut is said to have remained well behind, even compared to Burnett, who was rooted to the spot changing his film. One would have to believe that none of the fiercely competitive journalists present on the scene noticed, in the days that followed, when the photo made global headlines, that Ut was so far behind that he could not have taken it. **One would have to believe that Faas, who was not at Trang Bang, knew that when he wrongly credited the photo, no one on the ground would contradict him or even question it.** One would have to believe that Faas knew that Nguyen, whose brother-in-law worked for NBC in the office next door, would not have heard of the attribution error and would not have complained. And he must have been so sure of this that he gave him a print of the famous photograph, which he could have used as proof that he had taken it. One would have to believe that the other members of the office, including Ishizaki, the respected colleague who developed the famous image and did not work for Faas, all kept the secret for decades, and that Faas knew, at the time he made his decision, that they would keep the secret. And one would have to believe not only that Faas thought all these things would happen, but also that each of them actually did happen. One would also have to believe that the only photograph Nguyen ever sold to a Western media outlet was one of the most famous of the century'*<sup>168</sup> (free translation) (emphasis and bold added).

In other words, to believe Carl Robinson's allegations, one must accept a mode of proof where the demonstration boils down to believing the author of the statements, the person he identifies as the actual author of the Photograph, and the latter's children, since the Film cannot offer any other evidence.

The Film deliberately fails to mention what this 'reasoning'—which can hardly be called such—implies: to believe Carl Robinson, one must simultaneously disbelieve a long list of neutral and objective witnesses who have provided consistent testimony and accuse several respected professionals in their fields of being shameless liars, without any evidence being provided and without understanding what interest they would have in supposedly attributing the authorship of the photograph to Nick Ut and keeping such a secret; and, finally, to believe that although this 'truth' was allegedly widely known within the Vietnamese community, no one ever chose to reveal it publicly.

And in reality, only Carl Robinson and his wife, as well as Nghe and his brother-in-law, are cited by the filmmakers to support these lies, which have remained in the shadows for 50 years.

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<sup>168</sup> **Exhibit No. 40** – Investigation report 'Investigating claims around "The Terror of War" photograph' published by the Associated Press on 6 May 2025, page 30

Such an approach cannot be described as a documentary film, which is defined as an *'educational film presenting authentic facts not fabricated for the occasion'*<sup>169</sup> .

The filmmakers' approach makes it unambiguously clear that this is by no means a documentary intended to inform or spark a debate of public importance, but rather a meticulously crafted accusatory narrative designed to serve a false conclusion that they intend to impose on viewers, to the detriment of the reputation and honour of Nick Ut, who has, on numerous occasions, risked his life to faithfully document history, particularly that of Vietnam during the war.

### **E. The harm suffered by Nick Ut**

The defamatory statements contained in the Film constitute a particularly serious attack on Nick Ut, in that they call into question the central element of his career and his international reputation, namely his authorship of the photograph of 'the little girl with napalm', an iconic image in the history of photojournalism.

By implying that Nick Ut is not the actual author of this photograph, and by accusing him of having fraudulently benefited from its attribution for over fifty years, the Film irrevocably brings shame and discredit upon him, accusing him of having built his reputation on an attribution he knew to be false.

Such allegations constitute a direct attack on his honour and reputation, both personally and professionally, as they amount to calling into question his probity and integrity in the very practice of his profession.

The photograph in question is Nick Ut's best-known work and established his global reputation. The public questioning of its attribution to Nick Ut is not merely a theoretical or historical controversy: it directly affects Nick Ut's professional credibility, the perception of his work, and the legitimacy of the honours he has received.

This film was screened to an initial audience before being shown to the French public.

Thus, on 16 May 2025, World Press Photo, which had awarded its 1973 annual prize to Nick Ut for this photograph, announced that it was suspending the attribution of authorship of the photograph, *'now seriously called into question'*<sup>170</sup> , referring explicitly to THE VII FOUNDATION in its press release:

*"A recent documentary made by THE VII FOUNDATION asserted that Nick Ut is not the author of 'The Terror of War' photo. This prompted deep reflection at World*

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<sup>169</sup> Definition of the word "documentary", Le Robert Dictionary

<sup>170</sup> **Exhibit No. 38** – Le Monde article, *"Who took the famous photo of 'the little girl in napalm'?"* World Press Photo suspends attribution amid controversy", 16 May 2025

*Press Photo and a subsequent investigation between January and May 2025 regarding the photo's authorship*"<sup>171</sup> .

Which can be translated as follows:

*"A recent documentary produced by THE VII FOUNDATION asserts that Nick Út is not the author of the photograph (...). This prompted deep reflection at World Press Photo and a subsequent investigation between January and May 2025 regarding the authorship of the photograph"* (Translation: Le Monde).

This infringement is exacerbated by the fact that the film presents itself as the result of an in-depth journalistic "investigation", which artificially reinforces the appearance of seriousness and veracity of the accusations levelled against him.

Furthermore, these allegations have already caused a significant stir in the world of photojournalism and beyond, as evidenced in particular by the suspension of prestigious awards or professional recognition linked to the controversy sparked by the Film, which amplifies the harm suffered by Nick Ut.

The broadcast of the Film on NETFLIX gives the disputed statements a reach that is incomparable to that of a limited or one-off publication.

The Film is accessible at any time, on a continuous basis, on a platform with the largest number of subscribers among all similar platforms: approximately 15 million households subscribed to the Netflix platform in France, representing a potential audience of 31 million French people<sup>172</sup>

This permanent accessibility exacerbates the seriousness of the harm, in that it exposes Nick Ut to a renewed and lasting damage to his reputation, without him being able to control its extent or effects.

This damage is all the more serious given that the Film has gained increased visibility as a result of its selection in the 'News and Documentary' category at the Emmy Awards, an international event that constitutes one of the most prestigious distinctions in the audiovisual sector.

Specifically, the Film received four Emmy Award nominations in the News and Documentary categories: Best Investigative Documentary, Best Directing, Best Writing and Best Research.

Such a selection is not merely a symbolic recognition: it is accompanied by significant media coverage, both in the general and specialist press, as well as extensive reach on social media

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<sup>171</sup> **Exhibit No. 39** – World Press Photo press release – "Authorship attribution suspended for 'The terror of war'", 26 June 2025

<sup>172</sup> **Exhibit No. 11** – 01net article dated 6 November 2025, "10 million French people watch Netflix with adverts"

and digital platforms. The selected works are the subject of numerous articles, reviews, interviews and recommendations, which help to considerably expand their audience.

THE VII FOUNDATION's website now reads:

*"We're thrilled for this recognition of our work by the Emmy Awards. Thanks to all of you who have supported us on this journey"*

Which can be translated as:

*"We are delighted that our work has been recognised in this way by the Emmy Awards. Thank you to everyone who has supported us throughout this journey"*  
(free translation).

The use of this phrase suggests that the film has won these awards, when in fact it has only been nominated.

In any event, this heightened media exposure lends the Film a particular legitimacy in the eyes of the public, in that it is perceived as having been endorsed by a recognised institution. This lends credibility to the statements made in the Film, even when they are based on disputed allegations. This is particularly detrimental to Nick Ut given that, as has been demonstrated, the numerous pieces of contrary evidence presented in these submissions were not disclosed in the Film, so that what viewers see is a biased and disparaging film presented as a documentary, a genre perceived by the public as inherently more reliable than a work of fiction.

Furthermore, the period surrounding the Emmy Awards leads to an increase in the broadcast of the selected works, notably through their prominence on streaming platforms, editorial promotion and coverage in the international media. This dynamic helps to prolong and amplify the dissemination of the disputed allegations.

Thus, far from being a one-off broadcast, the Film's availability forms part of a sustained cycle of heightened visibility, combining constant accessibility on a platform with a very wide audience and ongoing media exposure at both national and international levels.

In these circumstances, the Film's selection in the News and Documentary category at the Emmy Awards has the effect of significantly increasing the scale, scope and credibility of the defamatory allegations, thereby further aggravating the non-pecuniary damage suffered by Nick Ut.

In view of the nature of the defamatory allegations in question, their intrinsic seriousness, their widespread dissemination and their persistence over time, Nick Ut is seeking full compensation for his non-pecuniary damage.

In these circumstances, Nick Ut intends to claim the sum of €100,000 in compensation for his non-pecuniary damage, which he wishes to donate to a charity of his choice.

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Finally, as it would be unfair to leave Nick Ut to bear the costs he has incurred in defending his rights, the local Criminal Court is requested to order the defendants to pay him the sum of €20,000 pursuant to the provisions of Article 475-1 of the Code of Criminal Procedure.

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## ON THESE GROUNDS

Having regard to Articles 23, 29<sup>1</sup>, 32<sup>1</sup>, 42, 43, 43-1, 53, 55 and 65 of the Law of 29 July 1881 on freedom of the press,

Having regard to Articles 93-2, 93-3 and 93-4 of Law No. 82-652 of 29 July 1982 on audiovisual communication,

Having regard to Article 2 of Law No. 86-1067 of 30 September 1986 on freedom of communication,

Having regard to Article 113-2 of the Criminal Code,

Having regard to Articles 382, 475-1, 550 and 551 of the Code of Criminal Procedure,

Having regard to the case law,

Subject to the submissions of the Public Prosecutor, whose intervention is required,

The local Criminal Court is hereby requested to:

- **SET** such a deposit as it sees fit in accordance with established practice and case law in this matter;
- **RULING** on the submissions of the Public Prosecutor;
- **FIND** that Nick Ut has an interest in suing **THE VII FOUNDATION**, a non-profit organisation under US law, operating from its French registered office known as THE VII ACADEMIE, **Gary Knight**, in his capacity as President of the non-profit organisation, **NETFLIX INTERNATIONAL BV**, **Margaret Ayre Price** in her capacity as legal representative of the company NETFLIX INTERNATIONAL BV, **Rob Maria Zimmermann**, in his capacity as Chairman of the Board of Directors of NETFLIX INTERNATIONAL BV, **NETFLIX SERVICES FRANCE**, and **Reginald Shawn Thompson**, in his capacity as Chairman of SAS NETFLIX SERVICES France, before this Criminal Court;
- **FIND** that the defendants are guilty of the offence of public defamation against a private individual, to the detriment of Nick Ut, by making the statements referred to in the indictment against him, an offence provided for and punishable under Articles 29, paragraph 1<sup>er</sup> and 32 of the Law of 29 July 1881 on freedom of the press; specifically, that **Margaret Ayre Price**, in her capacity as legal representative of the company NETFLIX INTERNATIONAL BV, **Rob Maria Zimmermann**, in his capacity as Chairman of the Board of Directors of NETFLIX INTERNATIONAL BV, were guilty of this offence as principal perpetrators; that **Gary Knight**, in his capacity as President of the non-profit organisation THE VII FOUNDATION, was an accomplice to this offence; and that **THE VII FOUNDATION**, a non-profit organisation under US law, operating from its French registered office known as THE VII ACADEMIE, **NETFLIX SERVICES FRANCE**, and **Reginald Shawn Thompson**, in his capacity as Chairman of SAS NETFLIX SERVICES France, are civilly liable for the penalties to be imposed in respect of this offence;

- APPLY criminal law in respect of the defendants;

Consequently,

- **ORDER** the defendants, and upholding Nick Ut's claim as a civil party, to pay the sum of **100,000 euros** by way of damages for non-pecuniary loss;
- **ORDER** the defendants to pay the sum of **€20,000** pursuant to the provisions of Article 475-1 of the Code of Criminal Procedure.

**SUBJECT TO ALL RESERVATIONS.**

**DOCUMENTS SUBMITTED IN SUPPORT OF THESE SUBMISSIONS**

<b>Exhibit No.</b> <b>1</b>	Official Journal of the French Republic, Notices No. 1176 of 9 March 2019 establishing the association and No. 59 of 18 April 2020 amending the registered office
<b>Exhibit No.</b> <b>2</b>	Extract from the Dutch Trade and Companies Register for the company NETFLIX INTERNATIONAL B.V.
<b>Exhibit No.</b> <b>3</b>	Kbis extract from the French Trade and Companies Register for the company NETFLIX SERVIS France SAS
<b>Exhibit No.</b> <b>4</b>	Bailiff’s report dated 24 January 2025
<b>Exhibit No.</b> <b>5</b>	Extract from THE VII FOUNDATION website regarding the film The Stringer
<b>Exhibit No.</b> <b>6</b>	Instagram post by Bao Nguyen dated 3 September 2025
<b>Exhibit No.</b> <b>7</b>	Télérama article dated 28 November 2025, ‘The Stringer’, the story of the documentary that discredits the photographer behind the ‘Napalm Girl’ image
<b>Exhibit No.</b> <b>8</b>	France Inter article on the Radio France website dated 29 November 2025, “On Netflix, a documentary questions the photographer behind ‘The Little Girl with Napalm’”
<b>Exhibit No.</b> <b>9</b>	Le Monde article dated 28 November 2025, “‘The Stringer’, on Netflix: fifty-three years later, a film challenges the authorship of ‘The Little Girl with Napalm’”
<b>Exhibit No.</b> <b>10</b>	Screenshot from Netflix’s official YouTube channel showing the film’s trailer
<b>Exhibit No.</b> <b>11</b>	Article in 01net dated 6 November 2025, “10 million French people watch Netflix with adverts”
<b>Exhibit No.</b> <b>12</b>	Netflix platform web page: “ <i>Why can’t I find a TV series or film in your country?</i> ”
<b>Exhibit No.</b> <b>13</b>	Bailiff’s report dated 5 February 2026, page 38
<b>Exhibit No.</b> <b>14</b>	Web page of the Bayeux Calvados-Normandy Prize announcing the film’s preview screening
<b>Exhibit No.</b> <b>15</b>	IMDb webpage relating to the film The Stringer and the companies involved
<b>Exhibit No.</b> <b>16</b>	Bailiff’s report of 17 February 2025 – minutes and audio recording (USB stick)
<b>Exhibit No.</b> <b>17</b>	Data-Asso directory, page VII ACADEMIE
<b>Exhibit No.</b> <b>18</b>	Audio and video recording – Sequence A (USB stick) – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> <b>19</b>	Audio and video recording – Sequence B (USB stick) – bailiff’s report of 5 February 2026

<b>Exhibit No.</b> 20	Audio and video recording – Sequence C (USB stick), from 1 minute – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> 21	Bailiff’s report of 5 February 2026 relating to the recording of 19 audio and video sequences provided on USB sticks
<b>Exhibit No.</b> 22	Audio and video recording – Sequence 1 (USB stick) – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> 23	Audio and video recording – Sequence 2, from 01:20 (USB stick) – bailiff’s report dated 5 February 2026
<b>Exhibit No.</b> 24	Audio and video recording – Sequence 3 (USB stick) – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> 25	Audio and video recording – Sequence 4, from 02:10 (USB stick) – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> 26	Audio and video recording – Sequence 5 (USB stick) – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> 27	Audio and video recording – Sequence 6 (USB stick) – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> 28	Audio and video recording – Sequences 7 and 8 (USB stick) – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> 29	Audio and video recording – Sequence 9 (USB stick) – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> 30	Audio and video recording – Sequence 10 (USB stick) – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> 31	Audio and video recording – Sequence 11, from 01:55 (USB stick) – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> 32	Audio and video recording – Sequence 12 (USB stick) – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> 33	Audio and video recording – Sequence 13 (USB stick) – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> 34	Audio and video recording – Sequence 14 (USB stick) – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> 35	Audio and video recording – Sequence 15 (USB stick) – bailiff’s report of 5 February 2026
<b>Exhibit No.</b> 36	Letter dated 3 October 2025 from Nick Ut’s solicitors to NETFLIX
<b>Exhibit No.</b> 37	NETFLIX legal notices
<b>Exhibit No.</b> 38	Le Monde article, “ <i>Who took the famous photo of ‘the little girl in napalm’?</i> ” World Press Photo suspends its award amid controversy”, 16 May 2025
<b>Exhibit No.</b> 39	World Press Photo press release – “ <i>Authorship attribution suspended for ‘The terror of war’</i> ”
<b>Exhibit No.</b> 40	Investigation report “Investigating claims around ‘The Terror of War’ photograph” published by the Associated Press on 6 May 2025
<b>Exhibit No.</b> 41	Expert report by Iman Sadeghi

<b>Exhibit No.</b> 42	Letter sent by Nick Ut's legal representatives to INDEX dated 17 February 2025
<b>Exhibit No.</b> 43	Witness statement by Fox Butterfield
<b>Exhibit No.</b> 44	Fox Butterfield, 'South Vietnamese Drop Napalm on Own Troops', The New York Times, 9 June 1972
<b>Exhibit No.</b> 45	Witness statement by David Burnett
<b>Exhibit No.</b> 46	David Burnett, "Forty years after 'napalm girl' picture, a photographer reflects on the moment that might have been his", The Washington Post, 15 June 2012
<b>Exhibit No.</b> 47	Witness statement by Kim Phuc Phan
<b>Exhibit No.</b> 48	Witness statement by Peter Arnett
<b>Exhibit No.</b> 49	Witness statement by Tu Pease
<b>Exhibit No.</b> 50	Witness statement by Phuoc Thanh Phan
<b>Exhibit No.</b> 51	Witness statement by Thi Hien Ho
<b>Exhibit No.</b> 52	Witness statement by Van Bach Ho
<b>Exhibit No.</b> 53	Horst Faas, '50 Years of Photojournalism', Éditions du Chêne, 2008
<b>Exhibit No.</b> 54	Video recording of the press conference held by Richard Pyle and Horst Faas, 1 April 2003
<b>Exhibit No.</b> 55	Arthur Lord, 'The Girl in The Photograph', Los Angeles Times, 1 October 1989
<b>Exhibit No.</b> 56	Screenshot of the comment posted by 'Gary Knight' on the blog Reading the Pictures
<b>Exhibit No.</b> 57	Carl Robinson, "The real 'Napalm Girl' story", Substack, 8 February 2025
<b>Exhibit No.</b> 58	André Liohn, "The Stringer: A Documentary That Can't Remember Its Own Story", Medium, 5 December 2025
<b>Exhibit No.</b> 59	Screenshot of the Instagram post by user "Phongng" dated 22 March 2025
<b>Exhibit No.</b> 60	Gary Knight, "Inside the Battle over 'Napalm Girl'", The Rolling Stone, 1 August 2025
<b>Exhibit No.</b> 61	Witness statement by Arlette Salazar
<b>Exhibit No.</b> 62	Carl Robinson, 'The Bite of the Lotus: An intimate memoir of the Vietnam War', Wilkinson Publishing, 2019