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## Book Review: *Anthropological Witness: Lessons from the Khmer Rouge Tribunal*

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*Anthropological Witness: Lessons from the Khmer Rouge Tribunal*

Alexander Laban Hinton

Ithaca, Cornell University Press, 2022

172 Pages; Price: \$24.95 Paperback; \$125.00 Hardcover

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“From the five-hundred-seat public gallery, I have observed many people enter the court. Now I am the object of the gaze. I glance at the cameras mounted high up on the courtroom walls, wondering which is streaming my entrance, recording my every move.”<sup>1</sup>

Once the observer, now the observed. Built from his own experience as an anthropologist and expert witness, Alexander Laban Hinton’s book *Anthropological Witness: Lessons from the Khmer Rouge Tribunal* explores:

whether public scholars have a place in the courtroom and can contribute to international justice in a manner that can, even within the strict confines of legal procedure, provide important insights about major public issues like truth, justice, genocide.<sup>2</sup>

He does this by addressing his own experience as an expert witness at the Extraordinary Chambers in the Courts of Cambodia (ECCC), the research he undertook in Cambodia, and other scholarly literature on the topic. The red thread throughout the book is his testimony in Case 002 as an expert witness, which took place in March 2016. As case law explains, expert witnesses have “special knowledge in a specific field” and use this to “provide clarification, context, or additional assistance for the purpose of a Chamber’s assessment of evidence.”<sup>3</sup> For Hinton, his testimony revolved around his pre-ECCC scholarship and genocide.<sup>4</sup>

As Hinton explains in his book, the question asking him to testify confronts him with a dilemma and raises questions about his role as an anthropologist and his responsibility to bring scholarly insights into the public sphere. He argues that there is a professional risk, considering his experience with conducting research on the Cambodian genocide and the ECCC for many years. This has made him aware of the line of questioning to be expected, and how they may “pick apart” his testimony. Hinton also argues that there is an epistemological quandary, given

[the] tension between scholarly research that prioritizes context, theory, and explanation (answering the question *why?*) and the

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<sup>1</sup> Alexander Laban Hinton, *Anthropological Witness: Lessons from the Khmer Rouge Tribunal* (Ithaca: Cornell University Press, 2022), 41.

<sup>2</sup> *Ibid.*, 15.

<sup>3</sup> Extraordinary Chambers in the Courts of Cambodia (ECCC), Decision on Assignment of Experts, Case File Dossier No. 002/19-09-2007/ECCC/TC, 5 July 2012, § 16.

<sup>4</sup> In Case 002, Nuon Chea was charged with genocide, by killing members of the groups of Vietnamese and Cham.

legal need for cut-and-dried answers and facts that provide the basis for determining the guilt or innocence of the accused (answering the question *guilty?*).<sup>5</sup>

Eventually Hinton decides to testify, to offer academic explanation—helping to answer the question *why?*—in a public forum, and also because obligation, in the sense of both ethical commitments and gratitude. In addition, with his testimony he hopes to make a small return to the many Cambodians who have helped him with his field research. And it is precisely this reason that is very noticeable throughout the book; for example, when Hinton notes that he brought several images for his testimony, one being a copy of Buo Meng’s portrait of himself and his wife standing blindfolded before the gates of S-21 to remind himself of the suffering.<sup>6</sup>

Explaining *why?* and exploring whether there is a place for academic scholarship in the courtroom are two key threads that weave together the chapters of this book, and a third is its so-called public anthropology narrative style.<sup>7</sup> Similar to *Man or Monster? The Trial of a Khmer Rouge Torturer*,<sup>8</sup> this book is written in ethnodramatic form, with the structure of this book being narratively centered around his testimony. As Hinton explains:

it tells a story with a plot, suspense, and chronology, while using setting and stage (ECCC Courtroom), dialogue (courtroom exchanges), voice (first-person and present tense), and conflict and tension (both between courtroom participants and in the endeavour to provide expert testimony).<sup>9</sup>

Following this approach, the book gives insight into the crimes committed by the Khmer Rouge, the ECCC, and Hinton’s experience testifying as an expert witness. Although the main focus is on Hinton’s testimony, there is a wealth of information also for those who know less of Cambodia, its history, the Khmer Rouge tribunal, transitional justice, and anthropology. This indeed is a deliberate choice, as the book has been written for a certain audience. The book aims to be of interest to a broader readership, so not only specialists and those already familiar with the Cambodian Genocide and international justice, but also students in a range of courses (even in introductory classes). The only critical note to place here, is whether some more general information, for the purpose of this audience, is introduced too late. For example, it is not until page forty-six that Hinton in more detail explains what anthropology is, what anthropologists study, and how his own research fits into this. Considering the intended audience, such background information could have been placed more towards the introduction, to allow some readers to also follow the first pages of the book.

The chronological approach is very much noticeable, as the reader is first introduced to aspects of truth and denial, which are also the cornerstones of both the trial and Hinton’s own expert testimony at the court, and how the Khmer Rouge and Peoples Republic of Kampuchea (PRK) produced different historical narratives about DK and the events that followed (Chapter 1). Hereafter Hinton describes his path to the ECCC and the anthropological research that was the focus of his expert testimony and the book that was extensively discussed at the trial, namely *Why Did They Kill? Cambodia in the Shadow of Genocide*<sup>10</sup> (Chapter 2). The book then explores the trial itself, which starts off with the questioning by the prosecution and how his testimony fits within

<sup>5</sup> Hinton, *Anthropological Witness*, 5 (emphasis in original).

<sup>6</sup> *Ibid.*, 62.

<sup>7</sup> *Ibid.*, 11.

<sup>8</sup> Alexander Laban Hinton, *Man or Monster?: The Trial of a Khmer Rouge Torturer* (Durham NC: Duke University Press, 2016).

<sup>9</sup> Hinton, *Anthropological Witness*, 5.

<sup>10</sup> Alexander Laban Hinton, *Why Did They Kill?: Cambodia in the Shadow of Genocide* (Berkeley: University of California Press, 2005).

the larger context of the trial (Chapter 3), his questioning by civil parties and the wider transitional justice goals of the court (Chapter 4), and defense questioning (Chapter 5). A separate chapter is devoted to Hinton's exchange with Nuon Chea during his testimony, which gives fascinating insight into the dynamics at play during the trial and the personal experience of Hinton—who came face to face with the person accused of the crimes he had studied for years (Chapter 6). The last chapter is framed around the November 2018 verdict in Nuon Chea's trial, where he was convicted to life imprisonment. Here Hinton analyses how his testimony informed the verdict, and how the use of his testimony was impacted by prosecution and defense contestations about his methods, sources, and objectivity (Chapter 7). While of course his testimony can also be found in the transcripts of proceedings and (partly) in the judgment, this book contributes to a more enhanced understanding of what it means to testify as an expert and how the legal process is perceived by an expert witness. The book—in more detail than was possible during trial—explains the reasons behind Hinton's answers and how the legal process shaped his testimony.

Yet, it is also precisely his analysis of how the legal process shaped his testimony that could have benefitted from a more nuanced explanation. With respect to the roles played by the prosecution and defense during the trial, Hinton writes:

[i]n some respects, the prosecution and defense are like a construction team and wrecking crew. Following a carefully engineered plan to prove criminality, the prosecution builds its case, piece by piece, linking facts to charges. The job is the defense, in contrast, is to punch holes in this edifice by presenting alternative interpretations, deploying the strategy of “rupture” and challenging evidence, including that given by witnesses like me.<sup>11</sup>

In relation to this, Hinton more personally addresses Nuon Chea's defense counsel Victor Koppe, of whom he states “as expected, seek[s] to sledgehammer my testimony, credibility, and anthropological research.”<sup>12</sup> While it could of course be argued that this may embody Hinton's own vision or experience of the role played by both the prosecution and defense during his testimony, this section of the book lacks to a large extent the explanation that as a part of the right to a fair trial, the accused has certain rights, including the right to examine witnesses and to challenge their credibility; and this is exactly what the defense during his testimony did. The book therefore sometimes, and maybe unjustifiably so, gives the impression that the defense strategy of “rupture” is one that negatively affects the trial, while considering the right to a fair trial this is not the case. Although the right of the accused to a fair trial may indeed cause friction with the experiences of victims, who, as opposed to the accused, have not been afforded basic human rights when being severely tortured, beaten, and often killed, the courts and tribunals set up to prosecute those accused of such heinous crimes aim to ensure that justice is not revenge. This includes upholding human rights, such as the right to a fair trial. Since the book is written for a broader audience, certain nuance to the finding that the defense acts as a “wrecking crew” would thus have been welcome.

To stay within the ambit of legal proceedings, the book contains a wealth of details about trials that took place at the ECCC, as well as more witness-specific aspects and procedures. For example, Hinton explains in great detail the swearing-in ritual in front of the ECCC's tutelary spirit, the Lord of the Iron Staff. As explained, many courts in Cambodia have a tutelary spirit before which witnesses swear oaths; and Hinton, respecting the local practice, was one of the first foreign witnesses to take such an oath at the ECCC. Including and explaining such practice in this book is of such importance to maintain and further develop cultural understanding in relation to

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<sup>11</sup> Hinton, *Anthropological Witness*, 5.

<sup>12</sup> *Ibid.*, 92.

international criminal proceedings. In line with this, it is worth noting the attention devoted to how Cambodian victims have attempted to cope with trauma and distress as a result of the crimes, and how they may narrate the symptoms they experience.<sup>13</sup> Research has shown that traumatic experiences can lead to varying symptoms across cultures, which needs to be taken into account when calling victim-witnesses to testify about the crimes, both in domestic and international criminal courts.

Towards the end of the book, Hinton comes to the conclusion that, at least based on his research and experience testifying at the ECCC, there is a place for the public scholar in the courtroom. While maybe not all scholars will agree, Hinton's book does successfully show that expert witnesses indeed can provide clarification, context or additional assistance for the assessment of evidence, and can therefore contribute to the overall aim of international criminal courts and tribunals, namely answering the question *guilty?*

Hinton takes the reader along on a journey that informs them not only about the criminal trial he was involved in and his expert testimony, but also offers a broader picture of the context in which this trial took place at the ECCC, and the risks and opportunities that underlie his decision to testify. The book is a must-read for academics and practitioners, and those with abroad interest in (international) criminal law, (expert) witness testimony, transitional justice, the ECCC, and Cambodia.

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<sup>13</sup> Ibid., 86–87.