



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

ឯកសារដើម

ORIGINAL/ORIGINAL

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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

14 March 2016

Trial Day 382

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

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KHIEU Samphan

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LIV Sovanna
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SENG Leang
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For Court Management Section:
UCH Arun

I N D E X

Mr. Alexander HINTON (2-TCE-88)

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List of Speakers:

Language used unless specified otherwise in the transcript

| Speaker | Language |
|--------------------------|----------|
| Judge FENZ | English |
| The GREFFIER | Khmer |
| Mr. HINTON (2-TCE-88) | English |
| Mr. KOPPE | English |
| Judge LAVERGNE | French |
| The President (NIL Nonn) | Khmer |
| Mr. SMITH | English |

1

1 P R O C E E D I N G S

2 (Court opens at 0914H)

3 MR. PRESIDENT:

4 Please be seated. The Court is now in session.

5 Today, the Chamber begins to hear testimony of an expert, that

6 is, 2-TCE-88, within the scope of the document as stated in

7 document E338.

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

9 and other individuals to today's proceedings.

10 THE GREFFIER:

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

12 are present.

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

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

15 been delivered to the greffier.

16 The expert who is to testify today, that is, 2-TCE-88, has

17 confirmed that, to the best of his knowledge, he has no

18 relationship by blood or by law, to any of the two Accused, that

19 is, Nuon Chea and Khieu Samphan, or to any of the civil parties

20 admitted in this case.

21 The witness took an oath before the Iron Club Statue this morning

22 and is ready to be called by the Chamber. Thank you.

23 [09.16.20]

24 MR. PRESIDENT:

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

1 request by Nuon Chea.

2 The Chamber has received a waiver from Nuon Chea, dated 14 March
3 2016, which states that, due to his health; that is, headache,
4 back pain, he cannot sit or concentrate for long. And in order to
5 effectively participate in future hearings, he requests to waive
6 his right to be present at the 14 March 2016 hearing.

7 He advises that his counsel advised him about the consequences of
8 this waiver, that in no way it can be construed as a waiver of
9 his rights to be tried fairly or to challenge evidence presented
10 to or admitted by this Court at any time during this trial.

11 Having seen the medical report of Nuon Chea by the duty doctor
12 for the accused at ECCC, dated 14 March 2016, which notes that
13 Nuon Chea has a chronic back pain and it becomes severe when he
14 sits for long and recommends that the Chamber shall grant him his
15 request so that he can follow the proceedings remotely from the
16 holding cell downstairs, based on the above information and
17 pursuant to Rule 81.5 of the ECCC Internal Rules, the Chamber
18 grants Nuon Chea his request to follow today's proceedings
19 remotely from the holding cell downstairs via audio-visual means.

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

23 [09.18.08]

24 And before we invite the expert into the courtroom, the Chamber
25 would like to issue an oral ruling on Nuon Chea request to admit

1 document E319/23.4.1.

2 The Chamber notes that the Defence Counsel for Nuon Chea informs
3 the Trial Chamber that they intend to use document E319/23.4.1 in
4 the course of questioning of the expert, 2-TCE-88, and requested
5 the document be admitted into evidence.

6 The Chamber heard <oral> submissions by the parties on the
7 request on 11 March 2016. Noting that the document satisfies the
8 criteria of Internal Rule 87.4 of the ECCC Internal Rules and
9 that the other parties do not object to the admission of the
10 document, the Chamber decides to admit E319/23.4.1 into evidence.

11 Court officer, please usher the expert into the courtroom.

12 (Witness enters the courtroom)

13 [09.21.11]

14 QUESTIONING BY THE PRESIDENT:

15 Q. Good morning, Mr. Expert. What is your name, that is, your
16 full name?

17 MR. HINTON:

18 A. My name is Alexander Hinton.

19 Q. Thank you, Mr. Hinton. And when were you born?

20 A. Thank you, Mr. President. I was born on October 16th, 1963.

21 Q. Thank you. And what is your nationality?

22 A. Thank you, Mr. President. I was born in the United States.

23 Q. <What is your nationality?>

24 A. Yes, I am. Thank you, Mr. President. I am. My citizenship is
25 from the United States.

1 Q. Thank you. And where is your permanent address?

2 [09.22.43]

3 A. Thank you, Mr. President. I reside in Glen Ridge, New Jersey,
4 in the United States.

5 Q. Thank you. And what is your current occupation?

6 A. Thank you, Mr. President. My current occupation is professor
7 at Rutgers University.

8 Q. And thank you, Mr. Expert. The greffier made an oral report
9 that, to your best knowledge, you are not related, by blood or by
10 law, to any of the two accused, that is, Nuon Chea or Khieu
11 Samphan, or to any of the civil parties admitted in this case. Is
12 that information correct?

13 A. Yes, it is, Mr. President.

14 [09.23.50]

15 Q. Thank you. Pursuant to Rule 31.2 of the ECCC Internal Rules,
16 in your capacity as an expert before the Chamber, you are
17 required to make an oath or affirmation before you testify. And
18 the greffier made an oral report this morning already that you
19 took an oath according to the Buddhist religion to the east of
20 the Iron Club Statue this morning.

21 However, the Chamber is also informed that you wish to make an
22 oath or affirmation in the courtroom according to your religion
23 or your custom. Do you wish to proceed with that?

24 A. I do, Mr. President. Thank you.

25 MR. PRESIDENT:

5

1 The Chamber instructs the international greffier, that is, Madam
2 Maddalena, to proceed with the swearing of the expert.

3 THE GREFFIER:

4 Professor Hinton, please stand up. Please repeat after me.

5 I solemnly swear that I will assist the Trial Chamber honestly,
6 confidentially and to the best of my ability.

7 MR. HINTON:

8 I solemnly swear that I will assist the Trial Chamber honestly,
9 confidentially and to the best of my ability.

10 [09.25.42]

11 BY THE PRESIDENT:

12 And Mr. Expert, the Chamber would like to thank you for a very
13 long journey that you made to this Court in the journey to
14 ascertain the truth in this case, in particular in relation to
15 certain matters which are of importance to this trial as well as
16 to Cambodian people. And before I hand the floor to the parties,
17 I have some initial questions to put to you.

18 Q. Mr. Hinton, please inform the Chamber of your academic
19 background.

20 MR. HINTON:

21 A. Thank you, Mr. President. I'm an anthropologist, and I am a
22 professor at Rutgers University, which is located in New Jersey
23 in the United States. In terms of background, how much -- would
24 you like me to elaborate?

25 [09.27.00]

1 Q. Thank you. And I believe that is enough for now, and the
2 Chamber may have some further questions. And the parties also
3 will have some questions in relation to your academic background.
4 Have you done <any> research <on> the Democratic Kampuchea
5 regime?

6 A. Thank you, Mr. President. I did. I -- as a graduate student, I
7 resided in Cambodia from 1994 to 1995, and I did the bulk of the
8 research then for my book, "Why Did they Kill? Cambodia in the
9 Shadow of Genocide". And that project was completed. The book
10 came out in 2004. And since then, I've continued to do research,
11 but on other topics.

12 Q. Thank you. And what were the focus of your research and your
13 book authorship?

14 A. Thank you, Mr. President. I don't want to go into too much
15 detail, perhaps, but the initial questions that I ended up being
16 concerned with, in some sense, emerged from conversations in the
17 villages and my experience in Cambodia where people would often
18 say, "Why did Khmer kill Khmer?" And in a sense, that question
19 became my question.

20 I might note that, as an anthropologist, my concerns are somewhat
21 different than those, for example, of a historian. A historian
22 would be predominantly concerned with the study of the past to
23 create a historical record, for example, where an anthropologist
24 studies -- it's the study of humans, human life, human beings,
25 and so there's more of an emphasis on lived experience.

7

1 [09.29.15]

2 So in a sense, I was very concerned as well, while trying to
3 understand the history of the time, to understand what that
4 experience was like for the people with whom I was speaking. And
5 so that my concerns are somewhat different from those of a
6 historian or a political science.

7 Political scientist, for example, would be predominantly
8 concerned with political institutions.

9 So an anthropologist is concerned with all of those things. It's
10 somewhat of a holistic approach that you try to take. A principle
11 of anthropology is to, as much as possible, to suspend your own
12 judgments and to try and understand things as they exist in the
13 local term without pre-judging. And anthropologists also
14 sometimes seek to make comparative conclusions, draw comparative
15 conclusions by looking at what other scholars, other
16 anthropologists have found about given topics.

17 [09.30.16]

18 So for example, in this case, I've studied genocide
19 comparatively. So after I finished my book, I eventually moved
20 into the area of genocide studies and became a scholar of
21 genocide studies, also looking at some other cases as well.
22 And so in terms of my path and my approach to these, these inform
23 it.

24 Q. Thank you. <> The time that you came to Cambodia <was> in 1974
25 or '75. <So, the question is, after '79>, have you made any

1 further trips to Cambodia <in order to do more research?> And if
2 so, please provide some details to the Chamber, that is, in
3 relation to your trips after the fall of Democratic Kampuchea
4 regime.

5 A. Thank you, Mr. President. So the very first time I came to
6 Cambodia as a graduate student was 1992, just as the UNTAC period
7 was beginning. I then returned for the bulk of my field work from
8 1994 to 1995.

9 I believe that my next trip was in 2000, and I've tried to come
10 -- I think the next trip after that was 2003. But as I began a
11 new research project after that, I began to make a number of
12 trips, especially during 2009 during the Duch trial. And so I
13 came much more frequently. I can't tell you the number of times
14 offhand, but I would come and stay for perhaps two weeks at a
15 time.

16 The last trip before this, I came a year ago for a week.

17 [09.32.34]

18 Q. Thank you. You came to Cambodia <often in order to do
19 research>, and <> you have been a senior researcher <of this
20 regime>. Could you read and write Khmer language when you came to
21 do research and try to understand about what happened in
22 Cambodia?

23 A. Thank you, Mr. President. I did language training before
24 coming here, and I did my research in Khmer in 1994 to 1995, so I
25 could -- I can read and write. When you go away for a long time,

1 you become rusty, so my Khmer is not as good as it was in
2 1994-1995. But I still am functional, though English remains my
3 native tongue, of course.

4 Q. Can you tell the Court why you are interested in writing about
5 the events happening in Cambodia, particularly in relation to
6 genocide, as you have just said?

7 A. Thank you, Mr. President. You know, when I first came to
8 Cambodia in 1992 as a graduate student, I thought that I would
9 study a different set of issues. In terms of my background, there
10 are four fields of anthropology; linguistic, cultural,
11 biological, physical anthropology and archaeology. And I'm a
12 cultural anthropologist. And to make matters more confusing,
13 within that division, there are a number of specialties. And some
14 of my initial training was as a psychological anthropologist,
15 though I've gone on and I have other areas of interest that I've
16 developed over time.

17 My initial concern when I came, I thought that I would study
18 Cambodian conceptions of psychology, what it means when someone
19 suffers from trauma, what it means when someone experiences
20 emotions.

21 Anyway, those remain -- have remained concerns and they, I think,
22 are evident in my book, and maybe they tie as well to the
23 question that anthropologists try to explore about what does it
24 mean to be human.

25 [09.35.21]

10

1 But there were occasions -- I mean, you think of many things that
2 took place during that time, and some of the memories that stand
3 out are going to classrooms and schools and looking up and seeing
4 what I think were bullet holes that still remained.

5 The -- I also lived with a family at that time, and I remember
6 different occasions, one in particular, but the -- at that time
7 in Phnom Penh, the lights would go out frequently, and being at
8 dinner. And I remember one time, the lights suddenly went out and
9 we were -- you know, and I was trying to learn Khmer.

10 [09.36.08]

11 So suddenly, the father and the family began to talk about his
12 experiences during the Khmer Rouge regime. And it was dark. You
13 couldn't see anything and you could just hear the voice. And I
14 think that moment had a very powerful influence on me. And I
15 always remember the question that I mentioned before, you know,
16 "Why did Khmer kill Khmer?"

17 And that -- those conversations actually occurred, as I mentioned
18 before, again and again. And that -- in a sense, that question
19 became my question that I tried to answer in my book to the best
20 of my ability.

21 Q. Thank you. In relation to your researches, particularly in
22 relation to the book "Why Did They Kill?". I have a few further
23 questions to put to you.

24 Your book is "Why Did They Kill? Cambodia in the Shadow of
25 Genocide". When was -- when did that -- when did you start

11

1 writing that book, and when was the first publication of that

2 book? And what kind of issues were there in the book?

3 Could you tell the Court also about the research methodology in

4 writing that book and what sources have you based on your book

5 and how many interviewees have you met and interviewed them?

6 [09.37.56]

7 A. Thank you, Mr. President. I assume that we will get into more

8 of the issues as we proceed, so I'm not sure how much depth you'd

9 like me to go into it.

10 But after doing my ethnographic research from 1994 to 1995, I

11 returned back to my university, Emory University in Atlanta,

12 Georgia, and I began the writing process. And I completed my

13 dissertation, which is, in some sense, the first version of this

14 book, in 1997. And then I undertook a process of a revision

15 thereafter.

16 As I mentioned sort of with the question why did they kill, in my

17 study and the book that emerged out of it in the end, really,

18 there were two aspects to it. One was, how does genocide come to

19 take place. And the second was, what motivates someone to kill

20 another human being.

21 So these are really the two issues that I grapple with in the

22 book.

23 I don't know if you would like me to elaborate more. I can, but

24 maybe I'll just briefly address the methods question.

25 [09.39.18]

12

1 In terms of methods, anthropologists live in a community, so I
2 lived in Kampong Cham province in 1994 to 1995. The Khmer Rouge
3 were still active in the area where I was doing research, so I
4 lived in a room in Kampong Cham city and would commute by moped
5 to a village located near Phnom Pros, Phnom Srei, in Kampong Siem
6 district.

7 It was a -- the village where I worked, which I call Banyan, was
8 actually -- there -- as you know, there's a large killing field
9 there. At the time, numbers I could procure said that perhaps --
10 I can't remember. You can check in the book. I think it's 12,000
11 people, at least, were killed there. Something along those lines.
12 And there were actually mass graves in the village that people
13 were farming on.

14 [09.40.22]

15 So I would spend -- I conducted what was called -- what
16 anthropologists call a multi-site ethnography in contrast to
17 having just one site, so some of my research -- much of it took
18 place in this village, Banyan, but I also conducted research in
19 Kampong Cham city. And then I returned to Phnom Penh for a month
20 at that time and undertook some archival research.

21 In terms of methods, anthropologists draw on whatever seems to be
22 relevant as best they can. So in addition to living amongst the
23 people and trying to understand how things work, what the lived
24 experience is like, anthropologists conduct interviews. We do so
25 with human subjects' protections that are required by our

13

1 university to protect the human rights and confidentiality of our
2 sources.

3 In addition, now I think pretty much all scholars have to do
4 that, at least from the United States.

5 Another method is what we call participant observation, which is
6 linked, where you, you know, live with people, you watch and see
7 what happens. You don't have a -- necessarily a directed set of
8 questions. And you sort of see what emerges, where people in
9 other disciplines sometimes have much more directed questions
10 that are sort of linked to a specific set of questions.

11 So a lot of time, we will just spend time with people and see
12 what people say without really an objective in doing so, a direct
13 objective.

14 [09.41.56]

15 We also do interviewing with key informants. So I did a number of
16 what we call in-depth interviews.

17 For example, there's one person in my book with the pseudonym
18 "Vong" who was one of the people I did an in-depth interview
19 with.

20 There's another woman named Yum, who that's, again, a pseudonym
21 who I did in-depth interviews with. But I also interviewed many
22 people for different lengths of time.

23 I also undertook what we call a sort of brief survey when I first
24 arrived in Banyan village, where I went and tried to find out,
25 you know, how people made their living. Most of them were rice

14

1 farmers. They also would plant -- you know, harvest vegetables
2 and fruit.

3 And at the time, I asked questions not as my primary
4 consideration, but as a consideration of trying to find out
5 briefly what the historical experience was of people in Banyan
6 village about the killings during the Khmer Rouge regime. And
7 that was the first sort of entry I had into that.

8 [09.43.09]

9 I should note that by 1994-95, my question was to try and
10 understand what took place in the lived experience of the
11 genocide at that time, so I did have -- many of my interviews
12 were concerned with that, but they ranged much more broadly to
13 try and understand how people viewed the world around them.
14 So those are some of the methods we use, maybe to give you a
15 sense for it. And then archival resources as well.

16 Q. Thank you. And perhaps it is my last question. Can you tell
17 the Court why you decided to choose the title of your book, "Why
18 Did They Kill?"?

19 [09.44.10]

20 A. Thank you, Mr. President. The question as an anthropologist, I
21 posed it -- I selected that title because it addresses directly
22 the concerns of the book, but it's also the question I was asked.
23 In a sense, it reflects what people in Cambodia asked me.
24 So right from the start, it was a way in which trying to connect
25 with my local experience because, again, besides those nighttime

15

1 conversations in Cambodia in 1992, I've been asked that question
2 or been around situations where people have asked that question
3 many, many times. And I think they continue to ask that question
4 until today.

5 MR. PRESIDENT:

6 Thank you. Thank you very much, Expert.

7 And now I would like to know whether Judges on the bench have
8 questions to put to the expert. If no questions, the floor is now
9 handed over to the Co-Prosecutors to put questions to this
10 witness.

11 You may now proceed.

12 [09.45.28]

13 QUESTIONING BY MR. SMITH:

14 Good morning, Mr. President. Good morning, Your Honours. Good
15 morning, counsel.

16 Good morning, Mr. Hinton. Shall I call you Mr. Hinton, Professor
17 Hinton or expert? What would you like? I might change as we go
18 through the questioning.

19 Professor Hinton, again, thank you for coming so far and thank
20 you for not going back to America when you saw the binders of
21 material that Prosecution and defence counsel and civil parties
22 asked you to review before you came here.

23 As the -- Mr. President has said, you're going to be in this
24 Court for quite a while, I think for about three, three and a
25 quarter days or so. And so I think probably at the beginning,

16

1 it's important that we start slowly. And that introduction that
2 you gave in response to Mr. President's questions, I think, was
3 very helpful in understanding your background generally and why
4 you were undertaking this research.

5 [09.]

6 However, we'll go back through some details to learn more about
7 your qualifications, learn more about your experience and more
8 about how you went about researching the book.

9 To do this -- or maybe the first question I have for you, you
10 answered Mr. President and said the book was about why did they
11 kill, and why did Khmer kill Khmer.

12 Now, when your -- if that's the main thesis of your book, did it
13 also include a thesis about why, as you say in your book, Khmer
14 kill Cham or Khmer killed Vietnamese?

15 Is your book about looking at why different groups within
16 Cambodia were killed as opposed to one particular ethnic group?

17 MR. HINTON:

18 A. Thank you, Mr. Lawyer. I'm not sure if that's an appropriate
19 way to refer to you as well.

20 But the question you asked seems like a small one, but it's a
21 very big question. And again, it gets into the heart of many
22 other questions, and I'm not sure how much detail you want me to
23 go into.

24 One links to my understanding of genocide and why I chose to use
25 word in the book because, in a way, the book takes up the issue

1 of the Chams and discusses it. It takes up the issue of ethnic
2 Vietnamese. It does so, in part -- Mr. President asked about
3 sources.

4 [09.48.53]

5 I should note that, for much of the historical detail, besides
6 the experiences in the village where I did my research in Region
7 41 of the former Northern Zone, what became the Central Zone, you
8 know, I have many primary sources, but I relied on others -- the
9 scholarship, other scholars, David Chandler, in particular, as
10 well as Ben Kiernan as two of the senior historians of that time.
11 So for -- with relationship to the data on the Chams, I drew upon
12 whatever primary sources I could find, my village level
13 informants, what they told me, as well as on what these other
14 scholars had found.

15 [09.49.36]

16 But the question of genocide and why I'm using it, again, I think
17 to understand that, you can't branch that -- you can't separate
18 off the issue of the ethnic Chams and the ethnic Vietnamese.

19 I should note that within genocide studies, people have proposed
20 -- as opposed to the legal definition that's operative in this
21 Court, people have proposed a number of different definitions, of
22 course, as I'm sure you're aware. And I tend to use a -- in
23 everyday colloquial speech, a much broader definition of genocide
24 refers to the intention to destroy a group because of who they
25 are.

18

1 As I'm sure you know, in the origins of the term "genocide", it
2 was coined by Rafael Lemkin in 1994 in his written work. He
3 actually came up with notions of the crimes of barbarity and
4 vandalism in 1933 at the Madrid Conference, where he had the sort
5 of origins of the term, the conception.

6 For him --

7 MR. PRESIDENT:

8 Please hold on, Mr. Expert.

9 You have the floor now, Victor Koppe.

10 [09.50.45]

11 MR. KOPPE:

12 Thank you, Mr. President. Good morning, Your Honours. Good
13 morning, counsel.

14 Already quite quickly, we are entering the debate as to what
15 defines genocide.

16 As we are all aware in this courtroom, genocide is, at least in
17 this courtroom, primarily a legal term which the expert, I
18 believe, should refrain from. I understand the question is being
19 asked, but I also note that when we, last week, tried to have an
20 article from scholar William Schabas entered into the discussion,
21 the Court -- the Trial Chamber refused this document.

22 The Defence has been stopped from asking questions, for instance,
23 about legal words such as "treason". We're entering right now an
24 area of discussion, I believe, we shouldn't be entering into
25 notwithstanding the abundant use of that particular word,

1 "genocide", in his book.

2 So, I'm not necessarily objecting, but more asking, I suppose,
3 for certain guidelines as to how to enter into this area of very
4 contentious legal debate. So I don't think, even considering the
5 background of this expert, he should now just freely enter into
6 what possibly could be the most contentious legal dispute within
7 the realm of the second trial.

8 [09.52.45]

9 BY MR. SMITH:

10 Mr. President, I certainly wasn't proposing to discuss the
11 definition of "genocide" with this witness.

12 The question was in relation to was the book concerned with the
13 killing of different groups, not just Khmer, and the professor
14 has answered.

15 Q. But perhaps if we can approach it this way; Professor, the
16 term "genocide" has a number of meanings, a legal meaning, maybe
17 an anthropological meaning, etc. In this Court, the Chamber has
18 said that they are -- obviously, will be the ultimate deciders as
19 to whether or not genocide occurred in Cambodia.

20 So -- and yet, at the same time, we understand you've written
21 your book using those terms and you work in genocide studies.

22 But perhaps to take away any sort of ambiguity, would it be fair
23 to say that your career, your profession and, in fact, your book
24 has been dealing with the issues of why there are mass killings
25 of various groups in society, whether they fit within the

1 genocide convention or not, why does -- why do certain countries
2 have situations where groups are targeted for any reason
3 whatsoever?

4 Is that really largely your area of research when you talk about
5 genocide studies?

6 [09.54.36]

7 MR. HINTON:

8 A. Thank you, Mr. Lawyer. That's correct. I'm also a scholar of
9 genocide studies. I'm currently teaching, at this very moment, a
10 course on genocide, so discuss -- to take up the question -- a
11 question about genocide, to me, especially given popular
12 misconceptions, requires -- and to understand why I use the term
13 in my book, requires a broader understanding. Otherwise, it's
14 decontextualized, dehistoricized.

15 [09.55.09]

16 And I should note that the legal definition has some ambiguity as
17 well that links to the origin of the term, for example, with the
18 notion of national groups, issues of translation.

19 There are a number of issues that are relevant, but I'm happy in
20 my capacity here to help in whatever way. I think -- well, if
21 people would like me to explicate on genocide as a concept, I'm
22 happy to, or not.

23 Q. No, I won't be --

24 [09.55.44]

25 MR. KOPPE:

21

1 Sorry. Sorry to interrupt, Mr. Prosecutor.

2 I understand the answer given by the expert and, of course, if
3 the expert would be now in a classroom teaching the broad term
4 "genocide", there would be no objection whatsoever as to the very
5 use. However, as we are all aware, we are in a courtroom. We are
6 in a court of law. And there, the word "genocide" has a specific
7 meaning.

8 So, if we now allow the expert to just use his understanding and
9 let it sort of mix with the legal definition of genocide, we're
10 entering an area of all kinds of problems.

11 So I think it would benefit all parties and the trial in itself
12 if the Chamber instructs the expert either to use it as he thinks
13 it should be used or refrain from it at all, or use it in
14 strictly legal sense of the word. Otherwise, it just goes all
15 over the place and I think that is something that should not be
16 happening in this courtroom.

17 [09.57.10]

18 MR. SMITH:

19 Your Honours, perhaps -- I think the solution that counsel
20 offered was a reasonable one in the sense that if we understand
21 the way that the expert is using the term "genocide", and I
22 believe he has stated that he's using the term the destruction or
23 partial destruction of any group, not any particular class of
24 group, then I think we understand that. And certainly I'll be
25 putting to the expert questions not focused on the definition of

1 genocide, but on -- focused on perhaps the key issue in his book,
2 the systematic killings of different groups of people in
3 Cambodia.

4 And as long as counsel are avoiding using the term "genocide" as
5 such and if the expert will understand that we're trying to avoid
6 using that term because of its legal connotation, a certain
7 version of that, then I think there should be no problems as we
8 go along.

9 And perhaps if there's an issue that comes up, Counsel can object
10 so that we don't have a convoluted record.

11 MR. KOPPE:

12 One very brief observation, if you allow me, Mr. President. You
13 do remember expert Philip Short, being in this courtroom. In his
14 opinion, there wasn't a genocide that had taken place in DK, but
15 he was almost stopped immediately when he used that word
16 "genocide".

17 So I'm not necessarily unhappy with the way suggested forward.
18 However, if we go that way, we are sharply going away from the
19 earlier position that the Chamber has taken in relation to
20 testimony of expert Philip Short.

21 [09.59.15]

22 JUDGE FENZ:

23 Perhaps the best ways to find a middle way actually concentrate
24 on facts, question about facts which might or might not
25 constitute genocide, but the question whether it is genocide in

1 the legal meaning of the word is obviously up for the Chamber.

2 I think, Professor, you understand the problem that has been
3 raised here.

4 So I would suggest to concentrate on facts. As far as possible
5 when it comes to facts, you should be able to avoid the word
6 "genocide" if you just describe facts.

7 If we get into the word "genocide" because, for instance, we
8 quote things from your book, well, we'll have to deal with it on
9 a question-to-question basis.

10 [10.00.02]

11 BY MR. SMITH:

12 Thank you, Your Honour.

13 Q. Professor, so perhaps we will discuss more about the issues
14 you raise in your book. This part of the trial, the Chamber have
15 asked the counsel to concentrate on the discussion of the
16 treatment of the Vietnamese and the treatment of the Buddhists,
17 but in doing so, we would like to ask you some questions that
18 relate to why the Vietnamese were treated in the way that they
19 were that you say in your book, why any of the groups in
20 Cambodian society in the Democratic Kampuchea period were treated
21 the way that they were, as you state in your book.

22 So to align ourselves with the areas that the Trial Chamber would
23 like us to concentrate on and to align ourselves with the
24 principal ideas in your book dealing with why Khmer killed Khmer,
25 why Khmer killed Cham, why Khmer killed Vietnamese, which is what

1 you state in your book, I would like to discuss your testimony in
2 perhaps three parts.

3 [10.01.32]

4 In the first part, I'd like to go back to some of the questions,
5 Mr. President, raised in relation to your experience,
6 particularly as we move towards your experience in genocide
7 studies.

8 And the second part we would like to discuss with you is why
9 individuals killed other individuals in Cambodia, whatever group
10 that they belonged to, why that happened, why those factors that
11 you say in your book are present in many countries where there's
12 mass killings of specific groups or any groups as to why those
13 factors were present in Cambodia, or were those factors present
14 in Cambodia, to lead to the killings.

15 And thirdly, I would like to focus those common factors as part
16 of this with the other factors you refer to in your book, these
17 local customs or local norms which, as you say, contributed to or
18 facilitated the mass killings in Cambodia of various groups.

19 [10.02.58]

20 So that would be the second part. Not concentrating on any
21 particular group, but the common factors that might apply to why
22 any particular group was killed.

23 And then the third part of our examination, we would like to use
24 the example of the treatment of the Vietnamese and explore that
25 example specifically.

25

1 But before we do that, we would like to go back to your
2 experience -- you've said to Mr. President, that you're a
3 professor at Rutgers University. And you're the head of the
4 Department of Sociology and Anthropology. Is that correct?

5 MR. HINTON:

6 A. Thank you, Mr. Lawyer. That's actually not quite accurate. I
7 am the Director of the Rutgers Center for the Study of Genocide
8 and Human Rights. I'm a profess of anthropology and have
9 appointments as a core faculty member in the Division of Global
10 Affairs, doctoral program, the Peace and Conflict studies
11 program, and I also hold the UNESCO Chair on Genocide Prevention.

12 [10.04.25]

13 Q. And Mr. President, before the witness, there's a series of
14 documents in relation to documents that have been admitted on the
15 case file, and they've been placed in a folder. And they have
16 been tabbed, so -- and also, a copy of his book, "Why Did We
17 Kill?" has also been placed before the witness. So I would ask
18 that he be able to refer to those documents, if helpful, during
19 the presentation.

20 And if we -- in terms of your education, you said you've got a
21 Bachelor of Arts from Wesleyan University, and that was in
22 anthropology. Is that correct?

23 A. Thank you, Mr. Lawyer. The -- my degree from Wesleyan
24 University was in social sciences. It was an inter-disciplinary
25 major.

1 [10.05.23]

2 Q. And your PhD, your dissertation was, in fact, your book, or
3 the earlier draft of your book?

4 A. Yes. Then I received my PhD as well as a Master's degree in
5 anthropology from Emory University in Atlanta. And my
6 dissertation formed the first iteration of what would become the
7 book, though it is different in some respects.

8 Q. And from your CV, and this is E387.1.1, and that appears at
9 Tab 1 of your folder -- I'm sure you know it well -- but you
10 state that your areas of specialization are sociocultural
11 anthropology, genocide and political violence, transitional
12 justice and human rights, social suffering, Southeast Asia and
13 Cambodia, and globalization and modernity.

14 Is that an accurate assessment of your specialization?

15 A. Thank you, Mr. Lawyer. It is. This is a somewhat dated version
16 of my CV. It's not quite up to date. You know, you might add in
17 peace studies or peace and conflict studies to that.

18 Q. And this version of your CV, from what period of time is that
19 up to date? It was obtained off the web site, I believe, of
20 Rutgers University.

21 A. Thank you, Mr. Lawyer. The web sites are tricky. I'm not sure
22 which one this came from. But I have three books, "Hidden
23 Genocides", "Legacies of Mass Violence", "Colonial Genocide in
24 Indigenous North America". Those are edited volumes, and all of
25 them have come out already, so I guess would this is two or three

1 years old. I'm not quite sure. And the title of my new book is
2 not -- is different as well.

3 [10.07.40]

4 Q. And when you told Mr. President that one of the areas of your
5 specialization is genocide studies, when did you start to focus
6 on the area of political violence -- genocide studies, political
7 violence?

8 A. Thank you, Mr. Lawyer. The -- when I began my doctoral
9 studies, I don't think I even knew there was a field called
10 "genocide studies". Indeed, it was in the making, so to speak.
11 It's now a much more vibrant field. But I soon came to realize
12 that to understand what took place in Cambodia -- Bosnia and
13 Rwanda were also taking place -- it was necessary to gain a
14 broader knowledge of the dynamics of these processes of genocide
15 and mass violence.

16 There was an association called the -- what became the
17 International Association of Genocide Scholars that I believe I
18 joined around 1996, maybe. I eventually became the President of
19 it. So since that time, I'm quite immersed in genocide studies.

20 [10.08.48]

21 Q. And what is the --

22 MR. PRESIDENT:

23 Mr. <Expert>, please speak rather slowly since your speech will
24 be interpreted into Khmer and French. For a proper record of the
25 transcript, please do it slowly.

1 And secondly, for the AV Unit personnel who operate the
2 microphone, please leave a pause between the question and answer
3 session so that the interpreters can interpret the question fully
4 before the phone is operational so that we can maintain a proper
5 record.

6 And Deputy Co-Prosecutor, you may continue.

7 BY MR. SMITH:

8 Q. Thank you, Mr. President. In relation to the International
9 Association of Genocide Scholars, what is the focus and goal of
10 that organization?

11 [10.10.09]

12 MR. HINTON:

13 A. It is the -- well, it's the largest association and the first
14 association devoted to the study of genocide. You know, the
15 mission statement may have changed over time, so I don't want to
16 -- you know, you can get it from the web site, but it's --
17 basically, it's to support a community of scholars that are
18 undertaking -- first and foremost, that are undertaking scholarly
19 research, though it's an association that's also -- welcomes
20 practitioners, other people who are interested in the topic. And
21 it also is one that's very open to graduate students.
22 So while it's predominantly a scholarly organization, it's one
23 that's open to the many different sorts of individuals who are
24 interested in the topic of genocide, and people from around the
25 world.

1 [10.11.01]

2 Q. And this association, is it only an association of
3 anthropologists, or does it include political scientists,
4 psychologists, sociologists, people from different disciplines?

5 A. Thank you, Mr. Lawyer. The association has almost no
6 anthropologists. I'm usually the only anthropologist sitting in
7 the room, often. There are few. I think there are far more
8 political scientists and historians in the association, though,
9 again, it's inter-disciplinary, so there are a very small number
10 of anthropologists in this association.

11 Q. In terms of the field of political violence, systematic mass
12 killings and destruction of groups, any groups, in this field
13 that's developed -- and you've referred to it as this genocide
14 studies field group, is it -- has it become a field of its own,
15 would you say, in the sense that is it drawing from different
16 disciplines, this area of genocidal studies that you refer to, or
17 is it solely -- I'm talking about the field now -- or is it
18 solely from an anthropologist perspective or a political science
19 perspective or historical perspective?

20 A. Thank you, Mr. Lawyer. The quick question is yes. The longer
21 answer is that, for example, there are journals, institutions
22 like my centre, many courses. There are even some degrees that
23 have emerged on the topic, so it's definitely a field. It is not
24 dominated by anthropologists, as I said before. Anthropologists
25 are few and far between.

1 [10.13.11]

2 Q. And is it fair to say that the different disciplines, perhaps
3 when they look at the issue of systematic killings in countries
4 and the reason why they occur, the different fields look at it
5 and look at the issue and emphasize different aspects? For
6 example, the political scientists, the role of government, the
7 anthropologists, human behaviour; and the different fields, they
8 emphasize different aspects, but still take into account relevant
9 areas from other fields.

10 A. The broader answer is yes, but I should note that it's an
11 inter-disciplinary field, so everybody draws on -- most people
12 on, you know, scholarship from people coming from other
13 disciplines. But we're all informed by our disciplinary
14 background, for sure.

15 [10.14.17]

16 Q. And Professor, can you tell us briefly about your role as the
17 Chair in -- UNESCO Chair in Genocide Prevention? What that --
18 what that Chair is, what it aims to achieve and your role in it?

19 A. So I hate to invoke Rafael Lemkin again, but Rafael Lemkin
20 taught for a year at our university in the mid-1950s, so we've
21 had a long history of interest in genocide studies continued with
22 Saul Mendlovitz, who actually took Lemkin's place at Rutgers.
23 And so after we established the Center for the Study of Genocide
24 and Human Rights, we applied for UNESCO Chair to promote
25 scholarly understanding of genocide, the dynamics, the causes as

31

1 well as the aftermaths, all of which are absolutely critical to
2 prevent genocide. But it's not an activist Chair. It's a
3 scholarly Chair, and those are predominantly our concerns.

4 Q. And in response to Mr. President --

5 MR. PRESIDENT:

6 Thank you, Deputy Co-Prosecutor. The time is convenient for our
7 short break. We'll take a break now and resume at 10.30.

8 Court officer, please assist the expert during the break time and
9 invite him back into the courtroom at 10.30.

10 The Court is now in recess.

11 (Court recesses from 1015H to 1034H)

12 MR. PRESIDENT:

13 Please be seated. The Court is back in session.

14 And the floor is given to the Deputy Co-Prosecutor to resume his
15 questioning. You have the floor now.

16 BY MR. SMITH:

17 Thank you, Mr. President.

18 Q. Professor, just to have a sense or an understanding of the
19 amount of work that you've done in the area of genocide studies
20 or studies relating to mass violence, killings of many different
21 groups, you have written the book, "Why Did They Kill?". Have you
22 been the sole author of any other book?

23 [10.35.54]

24 MR. HINTON:

25 A. Thank you, Mr. Deputy Co-Prosecutor. My first single authored

1 book is "Why Did They Kill?". I have a second single authored

2 book called "Man or Monster?" that's coming out in October.

3 Q. And what is the subject matter of that book, briefly?

4 A. Thank you, Mr. Deputy Co-Prosecutor. The focus of that book is

5 the Duch trial, succinctly. I don't know if you want me to

6 elaborate.

7 Q. I don't think that's necessary. And when you greet me, there's

8 -- I think there's no need to say, "Thank you, Mr. Prosecutor".

9 You're very polite expert, so that will be taken as a given.

10 In relation to books that you've published as an editor or

11 co-editor, how many books have you been involved with as an

12 editor or co-editor?

13 [10.37.09]

14 A. Thank you. Perhaps seven or eight. I'd have to count them up.

15 Something like that.

16 Q. And have those books primarily been dealing with the topic of

17 mass violence, genocide studies?

18 A. Yes, with the exception of one entitled "Biocultural

19 Approaches to the Emotions".

20 Q. And I also note from your curriculum vitae that you've written

21 at least 58 articles in the area of genocide and Cambodian

22 genocide, mass violence and what happened during the DK period.

23 Is that right?

24 A. I haven't counted them, but you have, so I accept that, yes.

25 [10.38.18]

1 Q. And it appears you've been invited to lecture in areas of --
2 on areas in relation to political violence, mass killing,
3 genocide, events that occurred in Democratic Kampuchea on many
4 occasions. And from your CV, it seems that you've lectured or
5 given -- been invited to give presentations at least 90 times. Is
6 that -- does that accord to your memory?

7 A. Again, I've never counted, but I take your word for it.

8 Q. And you've also received from your -- as recognized in your
9 CV, 32 honours, awards and Fellowships combined in your career.
10 Is that correct?

11 A. You're probably going to guess my response, but I've never
12 counted. But I, again, will take your word for it.

13 Q. And you were recognized as a key thinker on genocide by -- in
14 relation to one of those awards. Can you explain what that award
15 was or how you were recognized as a key thinker, one of the 50
16 key thinkers in genocide?

17 A. Yes. You know, I can't remember if it's a series, but there
18 are two editors, senior scholars in the field, and they selected
19 50 scholars to include, 50 key thinkers, and I was among them.

20 Q. And in your resume, you refer to a number of professional
21 meetings. And I've counted around 80 professional meetings in
22 your career in relation to issues dealing with political
23 violence, mass killings. Is that correct, and if that is, can you
24 tell us the nature of these types of professional meetings that
25 you would attend and the purpose of them, if you can do it in a

1 general way?

2 [10.40.48]

3 A. So again, I've never counted, but accept your count. And I'd
4 have to review, but certainly in terms of clusters of
5 conferences, there are sort of different types, ones where you're
6 invited to give lectures at universities, or another sort of
7 cluster is being invited to give keynote addresses at conferences
8 and workshops. And another cluster is being invited to
9 participate in a workshop. Another cluster is genocide studies
10 related, association related events. Another cluster is
11 anthropology, like American Anthropological Association, Society
12 for Psychological Anthropology.

13 So there are a number of different types of meetings, and many --
14 many are inter-disciplinary.

15 [10.41.42]

16 Q. And you may have answered this by Mr. President, but when did
17 your -- when did you -- do you say that your career or your area
18 of specialty in studies relating to mass violence in countries --
19 when would you say that commenced? For how long have you been in
20 this field?

21 A. I would have to guess that it began when I was doing research
22 for my book, perhaps, and when I joined the International
23 Association of Genocide Scholars, which had a different name
24 earlier -- its later name. So maybe 20 years.

25 Q. And you've explained to Mr. President, that you, in your

1 studies of mass violence in countries, you've had a comparative
2 approach. You looked at mass violence, genocide in countries
3 other than Cambodia. Has that been a significant part of your
4 study over the last 20 or so years?

5 A. Thank you. That's correct. I should note that, you know, I've
6 also begun to explore other fields like transitional justice. We
7 have a series called rethinking peace studies that's going on. So
8 the whole time, though, I -- genocide studies has been a central
9 part of my research, and comparative cases is linked to it.
10 So when I teach, you know, I don't teach just about Cambodia.
11 Usually, it's one week and then we have a number of other cases
12 or issues.

13 [10.43.29]

14 Q. And in these comparative studies of similar events occurring
15 in other countries, have you looked at the issue of -- or the
16 role of propaganda in motivating, facilitating or encouraging
17 these mass killings to occur? Have you looked at that aspect?

18 A. Yes. It's an important one.

19 Q. And just to finalize your background and experience, perhaps
20 if I can ask you to look at your resume, which is in Tab 1 of
21 that folder. And at the last page, page 24 -- Your Honour, this
22 is E387.1.1 -- it has a list of professional offices and Boards
23 that you held, certainly at the time that this CV was produced.
24 And probably that was about 2012.

25 Can you just briefly recap all of the Boards and offices that you

1 are on in relation to this area of mass violence and genocide
2 studies?

3 [10.45.12]

4 A. Thank you. To be brief, I would say there's a cluster of
5 things related to being on editorial boards of journals. Another
6 cluster has to do with the work involved in genocide studies.
7 Another cluster links to doing academic work like running book
8 series.

9 And as well, I should note that I'm an academic advisor to
10 DC-Cam, Documentation Centre of Cambodia, which is now Sleuk
11 Rith.

12 Q. Thank you. Perhaps now we'll move to some of the research that
13 you did for this book.

14 The President has asked you some questions. You've given some
15 fairly concrete answers on the issue. But particularly in
16 relation to primary documentation that you used to support your
17 conclusions in your book, "Why Did They Kill?" where did you --
18 where did that documentation come from and, generally, what was
19 it that you were looking at?

20 A. Yes. It's difficult now to sort of understand what it was like
21 to do research back in 1994-1995, especially given all of the
22 documents at the Court. None of that really existed. We had the
23 Tuol Sleng archive, and we had the Documentation Centre of
24 Cambodia was just getting going with the Cambodia genocide
25 program. That was just beginning, and there had been some work

1 done by Cornell to sort of put stuff on microfilm.

2 [10.46.54]

3 Having said that, I did -- the last month, as I mentioned, I did
4 research -- some research at Tuol Sleng to find the confession of
5 this person, Reap (Re Sim), who appears in my book, who's --
6 anyway, there's a story linked to the area where I was living.

7 And then, later, as I was revising the book for the book form, I
8 was -- even more documentation became available, and I was able
9 to get additional sources. But now when I see how many documents
10 there are, it's staggering.

11 [10.47.21]

12 Q. And also, you mentioned that you had primary interviews with
13 people from the Kampong Siem district. And also, from your book,
14 it appears that you spoke to either detainees or a guard from
15 S-21, Tuol Sleng. Is that correct?

16 A. Thank you. Yes. So for my book, I have a large number of
17 primary interviews done with people living at Banyan village and
18 also in the Kampong Cham area, including a few people who were
19 former Khmer Rouge. The -- since then, I have continued to do
20 interviews with former Khmer Rouge, even since this book was
21 published, so I've done a number of those. I can't give you a
22 figure offhand. So I've interviewed both survivors as well as
23 people who were former cadre over -- over time and into the
24 present.

25 Q. Was it difficult to get former cadre to speak to you, and if

1 -- and when they did, did they speak to you openly in the main,
2 or was -- were the interviews quite reluctant affairs?

3 A. Thank you. You know, that's an interesting question, and it's
4 one that's changed through time. I think in the 1994-1995, people
5 were a little more wary, given the historical context, about
6 speaking. I think people now speak much more freely and openly.
7 Back then, the idea of a Tribunal was not really even under
8 consideration. It had been sort of mentioned a bit.

9 [10.49.23]

10 So I guess for different people -- and I begin with posing that
11 question to something -- to this guard that you mentioned, Lor --
12 who I call Lor, often people would tell the most if you didn't
13 directly say, "Oh, what did you do?", from an anthropological
14 perspective, you would try and ask, "What was going on in this
15 context in which you worked? What did other people who were
16 involved? What sorts of things led them to do these?"

17 So culturally, it wasn't appropriate to directly sort of ask in
18 an accusatory manner, "Oh, why did you do this?" It was more
19 round-about and contextual to try and piece together information.

20 In terms of the degree of openness, it depended on the person.

21 Some people wanted to make sure nobody else was around. Some
22 people called everybody around in the village to come listen.

23 They were much more open. So really, it was a wide variation.

24 But today, people are, I think, much more open and much more
25 direct about speaking about it.

1 [10.50.23]

2 Q. And when you spoke to these former Khmer Rouge or detainees or
3 other people, did you speak in Khmer?

4 A. Yes, I did. I had a research assistant who did not speak
5 English, but sometimes the research assistant would help by --
6 with my bad accent, would sort of retranslate the questions if
7 the person didn't understand. So I did have a research assistant.
8 Well, I had two research assistants.

9 Q. Perhaps I'd like to move more to the part two of the questions
10 that we would like to ask you, and this is in relation to the
11 primary focus of your book.

12 You state in your book that there are common universal macro
13 factors that often appear in countries where there's systematic
14 mass violence and killings. And you also state in your book that
15 even with the presence of these factors that would lead towards
16 the likelihood of mass killings, these factors need to be
17 localized or somehow linked more to the culture of the particular
18 country in order to make people to kill.

19 Can you -- can you summarize or describe more clearly the thesis
20 of your book around those terms that I've just mentioned?

21 [10.52.32]

22 A. Thank you. So it's a big question. So the model that I
23 developed by looking both at the Cambodian case and comparative
24 cases is more of a cluster of genocides that fall under what's
25 called ideological genocide. You know, there are also situations

1 of colonialism in other cases, situations where the dynamics may
2 vary to some degree, so a parallel would be Nazi Germany, Rwanda.
3 Anyway, having said this, so the sort of two dynamics, to answer
4 the question, that I look at is -- are a series of what I call
5 primes as well as the process of genocidal activation.

6 [10.53.18]

7 Within the primes, one of the primes that I talk about, which you
8 find in virtually every genocide, is some sort of socioeconomic
9 upheaval. Sometimes, one frame -- one way of posing it, I've
10 thought about before, is to talk about the base, and one is the
11 background base is a process that involves the background
12 context, agency, structure, and then sort of how things play out
13 in the end. But within the background, you always have this
14 process of upheaval.

15 So in this case, certainly you would have the conflict that was
16 going on in Vietnam at the time, all the disruption and waves of
17 upheaval that were linked to that, the U.S. bombing that took
18 place, the coup that took place. There were all sorts of events
19 that sort of fell under this prime of upheaval that you find with
20 many genocides.

21 Within that context, you often find that a group of people will
22 offer a vision that -- and this context of upheaval and tumult is
23 appealing because there's human beings and situations of
24 existential angst. People tend to gravitate towards messages that
25 are clear, simple and, amidst the chaos and upheaval, a vision of

1 better world.

2 [10.54.40]

3 So one document, to me, in terms of Democratic Kampuchea has
4 always been "The National Emblem", which offers a vision, in some
5 sense, of the way things should be in an idyllic world in the
6 future.

7 There are other aspects to that National Emblem that I think are
8 interesting that I could talk about later in terms of ideology,
9 but I won't.

10 So the second thing is people offer a blueprint to which people
11 gravitate. When a genocidal regime comes to power, they tend to
12 undertake a series -- what I've called manufacturing difference.
13 Within that, you have the --

14 MR. PRESIDENT:

15 Please hold on, Mr. Expert.

16 And Counsel Koppe, you have the floor.

17 [10.55.26]

18 MR. KOPPE:

19 Thank you, Mr. President. I refer to our earlier discussion in
20 Court. Slowly but steadily, we are slipping into the -- I believe
21 a very careless use of the word "genocide", "genocidal regime".
22 I understand the ruling that if it is really referred to the book
23 that sometimes the word cannot be avoided because this is what
24 the expert is writing. However, now we're entering into an area
25 where not only this is very confusing, I believe, for, for

42

1 instance, my client downstairs, who was quite upset with things
2 that he heard from his holding cell -- as a matter of fact, he
3 wanted to come up, but he will come at a later stage.
4 But it's also very confusing, I believe, for the public. So I --
5 I really believe that we should be very restrictive when it comes
6 to the use of that word and I believe the expert is very well
7 capable of only using the word when it is really unavoidable and
8 appropriate. But now, sort of, carelessly moving to the words
9 "genocidal regime" and "genocide," I find that way outside of the
10 scope of the expertise, also, of this expert.

11 [10.57.00]

12 BY MR. SMITH:

13 Your Honours, I take -- take Counsel's point and I think this is
14 -- part of the difficulty of course is that this expert has
15 written this book with a certain use of that -- that term
16 "genocide," but by the same token, I think the expert has said
17 that he's prepared to try and neutralize the term -- that
18 genocide term and -- and have, sort of, more of a -- a factual
19 basis to it.

20 So perhaps, if -- if we can try and do this, Mr. Expert, if you
21 can try and not use the word "genocide" unless absolutely
22 necessary and perhaps we can talk about mass violence or
23 systematic killings aimed at particular groups, as -- as best we
24 can; can we agree to try and do that?

25 [10.57.58]

1 MR. HINTON:

2 A. Yes, I should note that it is somewhat difficult, if I'm
3 referring to a process of genocidal priming, not to use the word
4 that's based on comparative observations about genocide not to
5 use the word "genocide." In the process of elucidating this
6 dynamic, it's -- it's very difficult and it's somewhat odd. I
7 will do my -- my best, but it's a model that talks about how
8 genocide unfolds. So my inability to use that because, in a way,
9 I'm doing self-censorship, but I'll -- I'll do my -- I'll do my
10 best.

11 Q. And -- and I think -- I think the concern is that, in terms of
12 Cambodia, what happened during the DK period -- Democratic
13 Kampuchea period that that term not be used specifically by you,
14 but I think it's fair, in a comparative sense, that if your
15 studies have been in relation to places where you believe
16 genocide has occurred, I think that would probably be reasonable,
17 in this courtroom.

18 But, certainly, in relation to the issues related to Democratic
19 Kampuchea, we would like you to avoid using that particular term
20 as -- as much as possible.

21 [10.59.21]

22 Professor, just to -- to refocus again, I'd like to take you to
23 your book and this is at E3/3346; it's page 281 of your book. The
24 other copy has the highlighted version there, as well, if -- if
25 you care to use that, but at page 281, which is English ERN,

44

1 00431723; by and large, there's no, unfortunately, Khmer or
2 French translation of this book, you state that -- and you just
3 started to explain a number of common factors that appear to be
4 present in -- in countries where other mass violence, mass
5 killings, have occurred against -- against a number of groups and
6 if I can quote you -- just to give this conversation or this --
7 these questions some structure -- you state that:
8 "While each genocide has a distinct etiology that resists
9 reduction to a uniform pattern, many are broadly categorized by a
10 set of primes and make the social context in question
11 increasingly 'hot', including socio-economic upheaval, deep
12 structural divisions, an identifiable target group, structural
13 change, effective ideological manipulation, a breakdown in moral
14 restraints, discriminatory political changes, and an apathetic
15 response from the international community. As these and other
16 facilitating processes unfold, genocide becomes increasingly
17 possible."

18 [11.]

19 Now, again, that's a quote from your book and I'm not asking you
20 to apply that to the situation in Cambodia now; but is that -- is
21 that the -- your thesis that these factors often appear in other
22 countries where there is systematic killings of groups within --
23 within those countries?

24 A. Yes, it is.

25 Q. And is it your opinion that those factors were present in the

1 Democratic Kampuchea period to contribute or they contributed to
2 the treatment of different groups that you state were killed
3 during that period; were those factors present?

4 A. Yes, all of them.

5 Q. Thank you. I would now like to -- we'll come back to those
6 factors and --and I'll be asking you some questions about your
7 support that, in fact, those factors were present to assist in
8 the contribution of the -- the killings in Democratic Kampuchea.
9 But you also state, in your book, and perhaps, I would like to
10 take you to -- to your book again. You state that these factors
11 are not enough to activate mass killings in any particular
12 country, but they must be localized to cultural customs and norms
13 in order for any particular person to carry out those mass
14 killings; is that correct?

15 [11.04.12]

16 A. Yes, that's correct, what I referred to as ideological
17 localization and "take".

18 Q. And in relation to Cambodia, in the Democratic Kampuchea
19 period, what types of localization or what types of other factors
20 that existed in Cambodia assisted in contributing to those mass
21 killings, if you can just -- you know, a very brief summary?

22 A. Yes, thank you. So a brief example would be existing
23 structural divisions, for example, between the rural population
24 and the city population or people are aware of class differences
25 to take up local idioms of big people, little people, sort of

1 drawing on these different categories and recast it in a
2 Marxist-Leninist framework to talk about, for example, a class
3 grudge, to talk about class oppression.

4 [11.05.25]

5 So in this context, the Khmer Rouge leaders took Marxist-Leninist
6 ideology as well as a smattering of other ideological influences
7 and would think, "How do we motivate people who aren't familiar
8 with these terms," and so as always the idea was to couch it in
9 local terms. And all regimes that use ideology to help promote
10 genocide, speaking in general, undertake this process; otherwise,
11 people won't be motivated to follow them.

12 Q. And in your book, you state that there were some cultural
13 norms that existed in Democratic Kampuchea and before in relation
14 to the issue of disproportionate revenge, power, patronage, and
15 suspicion, and face and honour and those cultural practices
16 assisted or contributed to the killings that occurred in
17 Democratic Kampuchea; is that correct?

18 A. Yes, yes it is. I just should offer one point of clarification
19 that to avoid a reductionist explanation, my argument is not that
20 culture caused the violence, but that all violence, because we're
21 human beings that have internalized cultural norms, it always
22 unfolds in a cultural patterning. But, again, to motivate people,
23 it's in the interest of an ideologue to draw upon local
24 understandings to have what I call ontological resonance; to make
25 it meaningful to people, and to get people to follow them.

1 [11.07.17]

2 Q. And so, perhaps, if we can have a slightly closer look at some
3 of the common factors that you say contributed to the mass
4 killing in Cambodia, you refer to social and economic upheaval
5 and the fact that, at those times, people were attracted to
6 certain ideologies to assist in moving away from that upheaval;
7 is that correct?

8 A. If I understand correctly, so, again, in a context of
9 upheaval, when structures of meaning, those ways of life; our
10 everyday practices that give meaning to us, are torn apart,
11 people have a, sort of, existential angst; they reach out and
12 search for other forms of meaning and when people offer a
13 blueprint, a vision of a better world, they often will gravitate
14 to it.

15 [11.08.24]

16 Q. And when you say "a blueprint of a better world," you refer to
17 this attraction being greater when there's high modernist
18 government programs or -- or highly -- is it -- is that highly
19 simplistic programs or what types of programs are more attractive
20 to people within a country when they're going through social
21 upheaval?

22 A. This is a issue I take up in my more recent book, a little
23 bit, but it's in -- it's in this book, as well, quite a bit. But
24 in terms of, in general, in the world in which we live, you often
25 have people who are doing macro-level planning; they get a

1 blueprint, a design, to try and improve something. A problem that
2 often emerges -- and James Scott, in a book, has looked at this
3 in detail -- is that the local conditions on the ground don't
4 mesh up with the vision.

5 So if you look -- going back to the national emblem of Democratic
6 Kampuchea, it has a grid of paddy fields; everything's laid out
7 as if it looks perfect, and in many ways, that's the vision --
8 the sort of vision you are moving towards industry or prosperous
9 future. But if you actually go and look at photographs of what
10 life was like during Democratic Kampuchea, on the ground, or
11 listened to different accounts, it was dramatically different.

12 [11.09.52]

13 So the weakness of the vision that appeals to people is that the
14 implementation is often -- often goes off and quite often goes
15 very, very badly and then you begin to have problems; such as,
16 during DK where you had problems with agriculture. You know,
17 there's the famous trip of Ieng Thirith to Northwest; we're
18 saying the conditions are bad. In such situations, you know, what
19 do you do; do you take a look at your own blueprint, your own
20 vision, or do you try and adapt? And that's always a question
21 that emerges.

22 In the context of Democratic Kampuchea, it seems that there was
23 an attempt to stick with the -- with the blueprint, with the
24 line, so to speak.

25 Q. And --

1 [11.10.45]

2 MR. KOPPE:

3 Yes, Mr. President, an observation in relation to the last answer
4 given by the expert. We have now moved into an area which is a
5 concrete event that happened in Democratic Kampuchea, the visit
6 of Ieng Thirith to the Northwest Zone in which she observed all
7 kinds of things. We know that in the book, the expert, Mr.
8 Hinton, has given his interpretation of that event, his
9 interpretation of what happened subsequently.

10 We, from the Defence, completely disagree with that view, but
11 that's, of course, not relevant now. But what is relevant is the
12 extent to which the expert, who is an anthropologist, can make in
13 this courtroom -- I'm not telling -- I'm not talking about his
14 book, but in this courtroom, all kinds of far-reaching
15 conclusions as to political implications at the time of certain
16 events.

17 [11.11.54]

18 I'm very happy if the anthropologist, the expert, talks about
19 what he has observed while being in Boonya (phonetic) -- Banyan,
20 or whatever it's called.

21 I'm -- I'm very happy to hear what the expert has to say about
22 his conversations, also, with former Khmer Rouge cadres, but the
23 moment the expert enters into political or rather interpretation
24 of real events, in this particular case 1976, I think he's going
25 beyond his expertise and he should not be giving his expert

1 opinion on this.

2 So I'm -- this is the first situation that we have this problem
3 and I believe the expert should confine himself to what he can
4 say from an anthropological standpoint, but not whether Ieng
5 Thirith, at the time, was making things up or whether she was
6 trying to cover up mistakes from the agriculture policy and blame
7 it all on Northwest Zone cadres because that's what the expert is
8 saying. So I think we should be very careful as to what the
9 limits of the expert's expertise are.

10 [11.13.20]

11 MR. SMITH:

12 Your Honours, I think the -- the expert should be able to answer
13 a question in -- in the way -- in the way he thinks best. He is
14 an expert. An expert can give opinion. An expert can -- can give
15 facts. He's written a book on the situation in Democratic
16 Kampuchea.

17 As far as if the expert, sort of, provides an answer that
18 continues for too long and it's becoming less relevant, I'll
19 certainly be asking him questions to -- to bring him back to the
20 points that we wish to discuss.

21 But I would ask that the expert be allowed to support his
22 conclusions, as he has done so in the book, and the Defence can
23 cross-examine if they don't agree with them.

24 But, nonetheless, I will try and keep the questions and answers
25 shorter to try and keep the focus on the main aspect of his

1 expertise in relation to why groups were treated in the way they
2 did, what factors caused that and I'll continue to do that to
3 keep it more focused.

4 [11.14.33]

5 BY MR. SMITH:

6 Q. So, perhaps, if we can just talk in slightly more general
7 terms, the blueprint that you -- you said that at -- in times of
8 social upheaval, blueprints, more -- more simple ideological
9 blueprints that are less complex, become more attractive to
10 people caught in that situation. In Democratic Kampuchea was the
11 Communist Party of Kampuchea putting forward an ideological, high
12 modernist, simplistic blue -- blueprint that you believed was
13 attractive to many young Cambodians?

14 MR. KOPPE:

15 Mr. President, I -- I actually object now to this question.
16 Again, Mr. Hinton is an anthropologist; he is not a political
17 scientist; he's not a historian and as far as I know -- I know,
18 he hasn't spoken to any senior cadre. His expertise should be
19 limited to what his academic background is and he really should
20 not be saying anything about the structure of Democratic
21 Kampuchea, ideology of the CPK; all those politically relevant
22 factors.

23 I don't have an objection if it's, sort of, sometimes in generic
24 terms, but the moment the Prosecution is asking about structure
25 of DK, ideology of the CPK, I think he's overstepping the realms

1 or the -- the boundaries of his expertise and knowledge.

2 [11.16.24]

3 MR. SMITH:

4 Mr. President, Mr. Hinton is a -- an expert on mass violence

5 against particular -- against groups in different countries. He's

6 a genocide expert. We're not talking about genocide -- his

7 conclusion about genocide in Cambodia. He's an expert.

8 When you heard him provide his qualifications earlier, he said

9 that genocidal studies or -- or studies in relation to political

10 violence against particular groups in society has become a field

11 of its own where it's become inter -- interdisciplinary where

12 they take into account all fields of study; anthropology,

13 political science, history, and that's this expert's expertise.

14 [11.17.11]

15 If -- in -- in the expert's book, you can see he discusses, at

16 length, about why young Cambodians -- poor Cambodians were

17 attracted towards the ideology of the Khmer Rouge. He's an expert

18 on human behaviour; he's studied propaganda in different

19 genocides around the world or mass killings around the world.

20 He's the very person that should be able to respond to these

21 questions and to surgically dissect answers into fields of

22 discipline is becoming highly artificial and it won't be

23 beneficial, at all, to this Court.

24 So I -- I would ask that I continue. I haven't asked him

25 questions about the structure of the Khmer Rouge; I've asked him

1 about the ideology, the blueprint. So if -- if perhaps, if I can

2 --

3 MR. PRESIDENT:

4 Please hold on, Deputy Co-Prosecutor.

5 (Judges deliberate)

6 [11.18.56]

7 MR. PRESIDENT:

8 I'd like to hand the floor to Judge Claudia Fenz to make oral

9 ruling on the objection by the Defence Counsel for Nuon Chea to

10 the last question by the Deputy Co-Prosecutor and she will

11 clarify this matter, as well, rather than to have the Defence

12 Counsel interrupt the flow of the hearing of the testimony of the

13 expert.

14 And Judge Fenz, you have the floor.

15 JUDGE FENZ:

16 The objection is overruled. We note that this is an area where

17 different fields overlap. You have a crossover here; we don't

18 think that can be avoided completely, so the question is allowed.

19 And generally, we are professional judges and we will be able, in

20 the end, to assess where we think that the expertise of this

21 expert assists us because it's in his field and where we think it

22 might be outside his field of expertise.

23 But generally, having said that, Mr. Expert, this is, I think,

24 also for the sake of the interpreters; perhaps avoid words in

25 German or Latin, where you can, because I'm not sure I want to

54

1 know how this sounds in Khmer.

2 And not only for the interpreters, but also for us, short
3 sentences very much to the point, as little excursions into
4 perhaps private experiences where they are not necessarily
5 extremely important for the argument you are making. I think it
6 helps all of us to concentrate on the issue at hand and also
7 makes interpretation much, much easier.

8 Thank you.

9 [11.20.50]

10 BY MR. SMITH:

11 Thank you, Your Honours. I'll take that on board as well.
12 So perhaps in, Professor, discussing these common factors that,
13 you state in your book, lead to a situation where it's more
14 likely that mass killings will occur in a particular country,
15 perhaps, if we stick to the -- the essence of the -- of the
16 argument and that will allow us to move through and discuss these
17 localized factors, you've mentioned, that exacerbate or help
18 facilitate the mass killings and then -- perhaps, then, we can
19 move to the example of the treatment of Vietnamese to -- to
20 illustrate that.

21 Q. So briefly, what was the blueprint or this high modernist,
22 simplistic plan or goal or program that the Communist Party of
23 Kampuchea had to offer, just in brief?

24 I think you'll need to turn on your microphone.

25 MR. HINTON:

1 A. Yes, so the different levels of ideology: So some may be very
2 complex for higher-ranking cadres, so I should just note that,
3 but in terms of appealing to the masses, again, very succinctly,
4 I think that the leaders drew upon existing structural divisions
5 focusing in particular upon, for example, land, wealth
6 differences and they worked this into notions of oppression --
7 class oppression and a class grudge and they urged people to
8 struggle with a promise of a better future.

9 Q. And this blueprint or -- or program -- the simplistic program
10 you talk about, was it more attractive to a certain type of
11 Cambodian? In your book, you talk about the fact that it seemed
12 to appeal more to the young and -- and also to the extremely
13 poor; is that correct and -- and why?

14 [11.23.44]

15 A. Yes, that -- that is correct. For the most part, in terms of
16 the poor, as I mentioned before, in terms of socio-economic
17 structural divisions in society, they were the ones who
18 experienced poverty, debt, landlessness and to them, a message
19 that offers hope for moving away from that to achieving some sort
20 of social justice and the promise of a new society in which
21 everyone would prosper, but also, in some sense, they would rise
22 up in terms of their status; I think that was very appealing.
23 And for the young, as well, who often at young ages, in many
24 different societies, gravitate towards ideologies and, sort of,
25 the certainty that we all seek. If I go back to the notion of,

1 sort of, existential satisfaction, meaning the control we need
2 over our environments, and when that's torn asunder, people,
3 again, are even more inclined to gravitate towards these messages
4 that provide meaning and certainty in a new way.

5 [11.24.52]

6 Q. Thank you. And now I'm going to move to another factor, which
7 you say can contribute to mass killings, and that's one where a
8 target group is identified and, perhaps, to give this discussion
9 some focus, I'll refer you to E3/3346, your book, at page 33 at
10 00431475. And you state:

11 "Genocidal regimes construct essentialized categories of identity
12 and belonging, a process I refer to as manufacturing difference.
13 Differences manufactured as genocidal regimes construct,
14 essentialize, and propagate socio-political categories of
15 difference, crystallizing what are normally more fluid forms of
16 identity; crystallization of difference; stigmatizing victim
17 groups in accordance with the differences that are being
18 crystallized; the marking of difference; and then an initiation
19 of a series of institutional, legal, social, and political
20 changes that transform the conditions under which the targeted
21 victim group live; the organization of difference."

22 And perhaps I'll leave it there. Professor, is that in -- in
23 terms of identifying target --

24 [11.26.47]

25 MR. PRESIDENT:

1 Deputy Co-Prosecutor, please hold on. There is no French
2 interpretation. Maybe there is a technical issue.

3 JUDGE LAVERGNE:

4 Yes, Co-Prosecutor, could you, maybe, put shorter questions? I'm
5 afraid that we might lose a lot in the interpretation; in
6 particular, when you quote segments from <the> book, it's a bit
7 hard to manage.

8 BY MR. SMITH:

9 I -- I will do so, Your Honours. I -- I just wanted to put these
10 questions in context, but I will do that.

11 Q. Professor, based on your comparative studies, is identifying a
12 target group in -- in countries where mass violence has occurred,
13 is that a key factor to contributing to killings?

14 [11.27.56]

15 MR. HINTON:

16 A. Yes, it is.

17 Q. Now -- now, I'm not going to ask you whether or not that
18 existed in Democratic Kampuchea right now, but what I will ask
19 you is, in short form, what does the "crystallization of
20 difference", mean in terms of that manufacturing of difference
21 process?

22 A. The "crystallization of difference" is -- refers to the fact
23 that we live in a world in which we all encounter difference;
24 various types of divisions between us and them, and there are
25 many of them. At certain times, especially historic times of

1 tumult, if a group, for example, is blamed, as occurred, for
2 example, in the United States with Muslims and Arab Americans,
3 where people were aware of the differences with these groups,
4 suddenly, in a context and with an ideology, it becomes sharpened
5 and so what were once, sort of, fluid differences, an
6 understanding of those become much more focused upon.
7 I think at different historical periods in Cambodia, attacks on
8 Vietnamese -- ethnic Vietnamese have been linked to political
9 context of upheaval even before and after the DK period, as an
10 example, in this local context.

11 [11.29.25]

12 Q. Thank you. Thank you, Professor. And I won't ask you about the
13 Cambodian context just yet. I would like you just to, briefly,
14 explain what these processes mean and then I'll ask you to apply
15 that to the Cambodian context.

16 So the second aspect of manufacturing difference, you refer to as
17 the marking of difference or the stigmatizing of difference. What
18 is that process; what does that entail?

19 A. So, very briefly, it's linked. So after differences begin to
20 be crystallized, different traits, values, are ascribed to the
21 different groups in question and you begin a process, when linked
22 to genocide and mass violence, by which people begin to be
23 dehumanized in different sorts of ways as having negative traits
24 and that becomes incorporated into this process.

25 [11.30.33]

1 Q. Thank you. And then if we look at the third part of this
2 process of manufacturing difference, you refer to, what does the
3 organization of difference mean; what does that process or
4 sub-process entail?

5 A. So, often, as part of the marking of difference, for example,
6 the group that's being stigmatized is marked as contaminating, an
7 impurity, a threat, and the regime in question will undertake a
8 series of organizational, structural changes which can, for
9 example, lead to confining people in certain sorts of places, to
10 regulating them, for example, maybe keeping a ledger where you
11 list former occupations of different people and so you exact a
12 regime of control over them. Once this is done -- I mean another
13 example, historically, would be the Nazi racial courts that would
14 make determinations about whether someone was a Jew or not, but
15 when this process, it's a form of regulation and control, it
16 makes the likelihood of genocide and mass violence more likely.

17 [11.31.55]

18 MR. SMITH:

19 Your Honours, I was about to ask some questions about whether or
20 not that process existed in Democratic Kampuchea, but I also see
21 it's 11.30.

22 MR. PRESIDENT:

23 Thank you, Deputy Co-Prosecutor.

24 It is now convenient for our lunch break. We take a break now and
25 resumed at 1.30 this afternoon.

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1 Court Officer, please assist the expert during the lunch break at
2 the waiting room for witnesses and experts and invite him back
3 into the courtroom at 1.30 this afternoon.

4 Security personnel, you are instructed to take Khieu Samphan to
5 the waiting room downstairs and invite him back into the
6 courtroom before 1.30.

7 The Court is now in recess.

8 (Court recesses from 1132H to 1332H)

9 MR. PRESIDENT:

10 Please be seated.

11 The Chamber is now back in session and before we give the floor

12 to the International Co-Prosecutor to put question to the

13 <expert>, the Chamber would like to request to the expert,

14 Alexander Hinton, please speak slowly so that the interpreter can

15 follow what you speak and please use simple words that can be

16 understandable to the interpreter because the use of complex,

17 difficult words can be difficult to understand for interpreters.

18 And now, I would like to hand the floor to the International

19 Deputy Co-Prosecutor to continue your questions to the expert.

20 [13.33.37]

21 BY MR. SMITH:

22 Thank you, Mr. President.

23 Q. Good afternoon, Professor. I just have one last question

24 before we discuss the issue of whether target groups --

25 identifiable target groups were created in Democratic Kampuchea

61

1 by the -- by the leadership of the CPK.

2 And so the question I have is: Why, generally -- I'm not talking
3 about Cambodia now, but why, generally, does the creation of
4 identifiable target groups in a society, why does that make it
5 easier for a would-be perpetrator to kill?

6 [13.34.32]

7 MR. HINTON:

8 A. Thank you, Mr. International Deputy Co-Prosecutor. The quick
9 and simple answer -- though, again, each situation is complex on
10 its own terms -- is often this is done in order to blame the
11 problems of society on a target group -- a scapegoat and,
12 therefore, direct people's sense of upheaval, direct their search
13 for meaning on to a target and this is a classic thing that you
14 get with many different regimes that have committed genocide and
15 mass violence; again, to cast blame on the other, which then
16 becomes one of the -- one of the reasons but for which the
17 situation in which they find themselves is occurring -- the
18 situation about people.

19 [13.35.25]

20 Q. And when you discussed the process in which certain regimes
21 have manufactured target groups in other countries, you said that
22 that normally involved some sub-processes; identification of the
23 group, who they are, stigmatizing of them, and, thirdly,
24 organizing -- restructuring their living conditions; the laws,
25 the institutions, and if I -- if I have it correctly, that end up

1 discriminating -- discriminating them against others or from
2 others.

3 Just discussing this issue of these institutional changes in
4 which the target group now exists, in that situation, that part
5 of the process, why is it -- why is -- why does that make it
6 easier for a would-be perpetrator to kill when the target group
7 is being organized in a different way?

8 [13.36.54]

9 A. Right, so in terms of, I guess, what we now, instead of the
10 marking of difference, may refer to as the stigmatizing of a
11 group and set the organization of a difference, which I call my
12 book, talk about re-organizing society, maybe, to make it a
13 little more simple, as Mr. President requested that we do for
14 these purposes, again, one of -- one of the problems is that the
15 group categories are often very unstable because, again, to
16 distinguish difference -- how people are different, is a -- often
17 a very difficult thing to do. So a regime will create a series of
18 methods -- practices in order to make this task easier and people
19 will be identified. So in terms of organization -- well, do you
20 want me to speak about DK yet or no?

21 [13.37.54]

22 Q. No.

23 A. Okay.

24 Q. Generally.

25 A. So these can range from security systems to classificatory

1 systems, to surveillance systems, to regulatory systems in terms
2 of the re-organization.

3 Q. And once the individuals from those target groups, perhaps,
4 are in those security centres, you referred to, or in different
5 living conditions, does that have an impact on a would-be
6 perpetrator in their likelihood that they would be able to -- to
7 carry out a killing?

8 [13.38.35]

9 A. Yes. No, that's very true. You know, in many -- I think the
10 Holocaust is a clear example of how this unfolded through time. I
11 might -- might note, briefly, that there are, sort of, one
12 distinction that's made Holocaust studies and genocide studies
13 sometimes between intentionalist and structuralist. So did Hitler
14 have the idea of killing Jews way back when "Mein Kampf" was
15 written or is it something that emerged as the process unfolded,
16 which is the structuralist thesis; what's sometimes called
17 cumulative radicalization?

18 So it may be that at point A, the intent was not necessarily
19 there to commit genocide against a group, but it, sort of, comes
20 in as a plan C when other things go array.

21 Q. And, just more particularly, once members of a target group
22 are in a security centre, a prison, or living in a ghetto or some
23 -- some living conditions that are discriminatory, in that
24 situation, why would it be easier or why is it more likely that a
25 would-be perpetrator would kill? In terms of the status of the

1 victim, I'm referring to these ideas in your book.

2 [13.40.06]

3 A. Because you have control over them, you have contained them in
4 certain spaces and what you do with them, then, is much easier
5 than if they were dispersed.

6 Q. And placing people from these groups in these discriminatory
7 conditions, where many rights are taken away, is that what you're
8 referring to when you talk about the dehumanizing of individuals
9 from that group?

10 A. Yes, very much so and, again, in terms of the language and
11 ideology of dehumanization and the attributes that are ascribed
12 to the other, if they're living in degrading conditions, it leads
13 them to be transformed bodily, sometimes, in terms of how, for
14 example, they might smell or if you talk about Jews having lice
15 and being referred to an ideology as lice, so that they become
16 representations and look like that very thing that the ideology
17 is asserting that they are.

18 [13.41.18]

19 Q. Thank you. And in terms of your comparative studies of mass
20 killings in other countries, once a person or individual from
21 that target group is in these discriminatory, say, inhumane
22 conditions, does that make it easier for a would-be perpetrator
23 to kill, bearing in mind they're killing another human?

24 A. Yes.

25 [13.42.05]

1 Q. And why is it easier when they're -- when these victims are in
2 a dehumanized state, why is it easier for someone to kill when
3 they're in that state?

4 A. Well, I should note that this is why, what we're now calling,
5 the stigmatization and the organization go together because you
6 have a simultaneous operation or at least two flows that are
7 parallel to each other in which the group that is being
8 dehumanized is also being disempowered; they're being placed in a
9 regulatory situation in which they can be harmed, starved,
10 killed, what have you. So they're both -- different attributes
11 are ascribed to them and they're put in conditions where they
12 structurally lose their power and status. And that also there's a
13 moral legitimization (sic) that takes place using the -- the
14 ideology to decrease what might be inhibitions that are normally
15 present about harming other human beings.

16 [13.43.13]

17 Q. Thank you, Professor. Now, I'd like to move to the DK period,
18 Democratic Kampuchea, and my first question is: Did the CPK
19 leadership manufacture differences between groups living in
20 Cambodia at that time?

21 A. Yes, I -- it's omnipresent in their publications and radio
22 broadcast; it's everywhere you turn.

23 Q. And just briefly, from your research, your interviews, your
24 review of primary documentation, which groups in Cambodian
25 society were turned into identifiable target groups?

1 A. So, yes, thank you. That's a -- a question. So, again, this
2 may change over time and I think in the Duch trial, sort of, the
3 waves of killing and the targets he very much described, so you
4 began at M-13 and you had Lon Nol spies that were being targeted;
5 you had some internal purges of the Hanoi Khmer, as he referred
6 to them; you had some sort of rural-class enemies.
7 You shift to 1975, sort of, to the beginning of when 703 was in
8 operation and they're targeting, largely, Lon Nol government
9 officials, as one of the main targets, and then once you get to
10 September 30th, 1976, and you get the decision, in his rendering
11 of the account, you begin to have a shift towards internal
12 enemies and you have the purges that are taking place.
13 [13.45.14]
14 And then once you get to 1978, you have another shift and people
15 begin to be described or brought in as Vietnamese spies,
16 Vietnamese lackeys, and, literally, Vietnamese prisoners of war.
17 The differentiation that I just said are, sort of, trends so it's
18 not a one hundred per cent thing, but this emerged in his
19 testimony and is one example of how you can see the targeted
20 groups that flow through time.
21 At the very beginning, I think, in terms of radio broadcasts and
22 so on, very much class-based distinctions are being made, the
23 rich and the poor; there's a focus on class grudge. There's a
24 story, "The Red Heart of Dam Pheng," about a revolution -- an
25 ideal revolutionary who battles -- I think it was published in

1 1973 in "Revolutionary Youth", and it's a story about his
2 struggle, but at the end, he goes to -- he's taken away to be
3 tortured by the Lon Nol police and it says, "He struggled on" and
4 uses terms like us versus them, we, the revolutionary, versus,
5 they, the reactionary; pro-US imperialist uses language like
6 that.

7 [13.46.20]

8 I should say it's followed by an essay called "Class Grudge" is
9 the next essay in that -- that text.

10 Q. Thank you. And -- and the purpose of these questions, right
11 now, are not to discuss the treatment of particular groups in
12 detail. The group that we will look at, in terms of treatment,
13 will be the Vietnamese and that will come after we finish this
14 set of questions. But in terms of groups that became identifiable
15 as target groups during the DK period, at whatever time they did,
16 did that include certain groups of people from the cities?

17 A. So, of course, the cities were associated with capitalism,
18 with oppression through the Lon Nol regime and the United States
19 and, to some extent, with feudalism, so with the -- anyway, so,
20 for those reasons, the people living in the cities were targets.

21 [13.47.35]

22 They had also fought against the Khmer Rouge, so when they went
23 into the countryside, they were immediately marked through a set
24 of categories; 1975 People, New People, anyways, and
25 differentiated from the Base or the Old People.

1 And in the way Khmer Rouge ideology people were looked at as
2 having, sort of, traits, elements, essences that might or might
3 not have the ability to change and over time, some of these
4 groups that were more suspect were considered unable to change
5 and began to be purged. So, yes, the -- the short answer is yes,
6 the people in the cities were targeted, but from within the
7 framework of DK ideology.

8 Q. And you may refer to these individuals I'll talk about now,
9 but former Khmer Republic officials, military, civil servants,
10 individuals that served the Lon Nol government, did they become
11 an identifiable group during the DK period -- an identifiable
12 target group?

13 [13.48.48]

14 A. Yes, there's a great deal of, first of all, secondary
15 literature that speaks to that in the histories that have been
16 written. My own primary data, in Kampong Siem province, bears
17 that out as well. I think, there, you can also look at Khmer
18 Rouge documentation, ideology publications and you can find it in
19 there, so I think there are a number of different sources that
20 bear that out.

21 And I think in Case 002/01, as well, there was evidence presented
22 to that effect and in the Duch trial, as I said before, based on
23 the people who were coming to him immediately after the S-21 got
24 going, there's evidence as well.

25 [13.49.30]

1 Q. And just on this point, you lived in a village that you called
2 Banyan, which is near Kampong Chhnang city -- Kampong Cham city,
3 and you said that that village was in the Kampong Siem district
4 during the Khmer Rouge period. In that -- in that district or
5 near Banyan village, where you lived, you mentioned there was a
6 security centre called Phnom Bros (phonetic) or Phnom Pros; is
7 that -- is that correct?

8 A. That is correct. Do you want me to elaborate on what took
9 place there or--

10 Q. I'll -- I have a short follow-up question on that. You spoke
11 to many people from that area, as can be seen in your book; in
12 brief, what occurred at Phnom Pros and what was it during the DK
13 period?

14 [13.50.48]

15 A. So, you know, sort of, cutting a lot of the -- paring down a
16 lot of the historical background, this area was associated with
17 Koy Thuon and the purge of the Northern Zone network and his
18 associate, Sreng, who actually was in charge, at one point, of
19 Region 41 of what became the Central Zone, when the Southwest
20 cadre came in 1977, including Grandmother Yut, who testified
21 here, I believe, in Case 002/01 and gave testimony. She actually
22 came and many people talked about her.

23 But there was a garrison of soldiers that was based at Wat Phnom
24 Pros-Phnom Srei and during this time, at first, a person named
25 Reap participated in the purge of different "elements" and so

1 many people died under -- under him when he was doing this going
2 to different areas of Kampong Siem.

3 [13.51.54]

4 And then there was a second -- according to someone who worked
5 there, there was a second person, who came from Kampong Cham city
6 and was in charge of the security centre -- I believe his name
7 was Phal; I'd have to check to be sure -- who brought people from
8 the East Zone to be killed there, so that was the same place.
9 But there were also, at all the different levels, as part of the
10 organization, right there in terms of the zones had security
11 forces, security centres and it went all the way down to the
12 district level.

13 Grandmother Yut -- and then there was someone who was related to
14 her named Rom, in this area -- anyways, ran a centre and they --
15 the -- a number of people were taken away who belonged to the
16 categories that we talked about. In particular, people would talk
17 about New People, students, professionals, Lon Nol regime, people
18 associated with the Khmer Republic regime, as well as, people
19 would mention ethnic Vietnamese and especially -- well, not
20 especially, but quite often, they would mention Chams being
21 killed en masse.

22 [13.52.56]

23 Q. Just a few, short follow-up questions for you: How long did
24 that -- how was -- how long was that security centre in operation
25 for at Phnom Pros?

71

1 A. You know, I -- I would have to go back and check to see about
2 the beginning. It -- it ran all the way through the end, but it
3 certainly was in operation by the time the Southwest cadre came
4 in.

5 In the village, Banyan, which is located right up against Wat
6 Phnom Pros-Phnom Srei; it's near the Kampong Cham Airport; the
7 villagers weren't allowed to live there because they were
8 establishing the security centre. So I -- you know, what happened
9 from 1975-1976, I'm not sure and I should also note that nobody
10 knows because the villagers weren't allowed to go there. The
11 information I got was from a cadre who worked there and, well,
12 some people said they would, for different reasons, observe what
13 took place, so some people would give -- people from the village
14 said that.

15 [13.54.02]

16 Q. And you took interviews from these people firsthand; is that
17 correct? I -- I didn't hear what--

18 A. Yes.

19 Q. Yes.

20 A. Oh, I was waiting for the light. Yes, that's correct.

21 Q. So if we can -- if we can go back -- sorry, one follow-up
22 question: You mentioned the Cham and the Vietnamese being taken
23 to Phnom Pros or some elements of them; were they also an
24 identifiable target group during the DK period?

25 MR. PRESIDENT:

1 Mr. Expert, please hold on.

2 And the floor is given to Defence Counsel Victor Koppe. You may
3 now proceed.

4 [13.55.02]

5 MR. KOPPE:

6 Thank you, Mr. President. I find the questions and the evidence
7 given by the expert very problematic.

8 The evidence is -- the -- the expert is offering factual evidence
9 as to the establishment of a security centre; he's offering
10 factual evidence in relation to targeted groups in -- in that
11 sector. We have no idea what the source of his knowledge is. Is
12 it something that was told to him by people that he interviewed?
13 Was it something that he read somewhere in a document?

14 [13.55.46]

15 We're having an expert, who's an anthropologist, who spoke to
16 some people who read some documents, wrote a book, but now is
17 offering evidence that is only for the Trial Chamber to assess,
18 to evaluate and, of course, the Trial Chamber will say, "Well, we
19 will do that in due course," but I don't think it is the purpose
20 of this expert to offer factual evidence which is contentious.
21 We -- we dispute the targeting of these groups very heavily, very
22 strongly and now, without any knowledge of his sources of the
23 information that the expert is providing, I find we move in a
24 direction that we really shouldn't be moving into.

25 [13.56.46]

1 MR. SMITH:

2 Your Honours, this expert is a unique expert in the sense that he
3 not only went to Cambodia and researched and investigated and
4 spoke first-hand to people that were former Khmer Rouge cadres to
5 people that were victims and, at the same time, he also provides
6 evidence as to the review of documentation, original
7 documentation from the CPK.

8 And so with those two sources of knowledge, his review of primary
9 material and also his first-hand interviews with people that
10 witnessed these events, and he referred to just briefly the Khmer
11 Rouge guard, cadre that worked at Phnom Pros Security Centre, he
12 is in every position to provide evidence of this and he should
13 provide evidence of it.

14 [13.57.58]

15 Your Honours, in his book he talks about the targeting of
16 Vietnamese. He talks about the targeting of the Cham. He talks
17 about the targeting of these different individual groups, and
18 that's based on his personal knowledge from interviewing people
19 in that particular area and it's also based on the original Khmer
20 Rouge propaganda that he has reviewed.

21 So I don't, I don't -- obviously, counsel can cross-examine and
22 say that that opinion is not well-founded but he can give
23 evidence on this matter because this is his area of expertise.
24 He's studied propaganda, he's studied the documentation and he's
25 spoken to the people in that area that have first-hand knowledge

1 of it.

2 [13.58.56]

3 So I would ask that I be allowed to continue. We have spoken
4 about the structure of the presentation that it's not to talk
5 about groups at length. Your Honours have said let's largely
6 focus this on the treatment of the Vietnamese which is what will
7 happen. But to understand how the Vietnamese were treated, we
8 need to understand how various groups were targeted and the
9 obvious question is, "Well, at least who were they?" And Defence
10 can cross-examine on that if they feel that they need to.

11 [13.59.31]

12 MR. KOPPE:

13 If I may very briefly respond, Mr. President, at least the expert
14 should offer verifiable sources for us. I mean in this courtroom
15 Khmer Rouge cadres are coming every day, so to whom did he talk?
16 Did he talk to someone who was just a guard? Did he talk to
17 someone who was within the security centre on a higher level? Who
18 are these people?

19 So we are getting into this very vague non-transparent situation
20 where the expert is offering all kinds of highly-contentious
21 evidence and I think the Trial Chamber shouldn't allow this.

22 (Judges deliberate)

23 [14.01.05]

24 MR. PRESIDENT:

25 The Chamber makes the following decision. The last question by

1 the Deputy Co-Prosecutor to the expert is allowed to the extent
2 of his knowledge.

3 And Counsel Koppe, you are reminded that you will have your time
4 to question or to get clarification from the expert regarding the
5 information and his authorship of his book in his field as an
6 expertise.

7 And Deputy Co-Prosecutor, it's better for you to repeat your last
8 question to jog the memory of the expert.

9 [14.01.56]

10 BY MR. SMITH:

11 Thank you, Mr. President.

12 Q. Professor, based on your review of the primary documentation
13 or the propaganda from the CPK/DK period, based on your
14 conversations with - or interviews with people in Kampong Siem
15 district, based on your interviews with people in relation to
16 S-21, and I am referring to former cadres and detainees, are you
17 able to say whether the Cham and the Vietnamese -- the Cham and
18 the Vietnamese living in Cambodia were identifiable target groups
19 of the CPK leadership?

20 [14.02.58]

21 MR. HINTON:

22 A. Based on my knowledge of both primary and secondary sources,
23 that appears to have been the case. I would like to offer a point
24 of clarification.

25 At Wat Phnom Pros-Phnom Srei, the person, Khel, I believe is

1 mentioned on page 39 of my book, worked there. So he was actually
2 located there. He provided a document that summarized what he'd
3 experienced to me. That's the document I am referring to and I
4 also interviewed him.

5 In addition I interviewed some local cadre, including someone who
6 worked at Rom's office. And he is the one who in the book talks
7 about getting the order to take ethnic Vietnamese and Chams.

8 [14.03.34]

9 In terms of the sequence of events in Kampong Siem district, they
10 come from my interviews with the villagers. Many of them, as I
11 said, the Khmer Rouge came in, in '73 and many of them were sent
12 to Khmer Rouge areas and then in '75, they came back and located
13 at nearby villages/communes. They didn't really make the
14 distinction. They called them villagers.

15 And in particular, in Khum Ou Svay and Khum Krala, where Rom was,
16 right, those are two of the locations and I would go in, in my
17 research, of their lives and sort of, as I said before their rice
18 farming and so forth -- talk about the DK period.

19 And they would mention people getting killed. I would say, "How
20 many families?" and they would say, "Oh, they took all the Cham."
21 Not every single person but this was a frequent thing in the
22 interviews.

23 [14.04.25]

24 Anyway, so the information in terms of Kampong Siem comes from
25 that, those interviews. But the Chams, I do not believe -- I

1 don't know for sure -- weren't killed at Wat Phnom Pros-Phnom
2 Srei. This was done from the Krala office, perhaps Yeay Yut's
3 office, Grandmother Yut's office.

4 But the killings at Wat Phnom Pros-Phnom Srei, although I can't
5 be sure, the village -- the Chams in Kampong Siem that these
6 villagers were with, were taken by district forces.

7 [14.05.00]

8 Q. Thank you. And just if I could have a short answer on the next
9 question, you refer to purges occurring in Democratic Kampuchea.
10 Were former Khmer Rouge cadre, were they deemed suspect by the
11 leadership? Did they become an identifiable target group of the
12 leadership?

13 A. Yes, they did, both in general and in Kampong Siem district
14 where you went all the way from the village level to Koy Thuon
15 and Sreng, who are imprisoned at S-21.

16 Q. And Professor, if I can just say at this point, in terms of
17 information that you may have obtained from confessions at S-21,
18 we will not be asking you any questions about that information
19 because of a decision by the Trial Chamber as to its reliability.
20 So when I ask you questions throughout this examination, if we
21 can keep that in mind.

22 [14.06.36]

23 Professor, in relation to this idea of manufacturing difference
24 and initially crystallizing difference, in your book, and I refer
25 to -- in your book you refer to a speech and the speech was

1 entitled, "Who are we?" And that was made, you say, in 1978. And
2 you also say in your book that it seems to have come from a
3 "Revolutionary Flag" the year earlier in July 1977. I would like
4 to read you a passage of that speech and I would like you to
5 comment on it.

6 And this is from July 1977 "Revolutionary Flag". It's from an
7 article entitled "Build and Strengthen the Start of Establishing
8 Clear Boundaries". It's at Tab 14.1 in your folder. It's E3/743;
9 English, 00476163; Khmer, 00062886 to 87; and French, 00487687.

10 And I will read the passage:

11 "First, let me specify who 'us' means.

12 "'Us' means our nation, our people, our worker-peasant classes,
13 our revolution, our collective proletarian class, our
14 cooperatives and unions, our Revolutionary Army, and our
15 Communist Party of Kampuchea.

16 "And how about the 'enemy'? The enemy is the imperialist
17 aggressor and their servants of every type, the enemy that has
18 the intent to expand and swallow our country, the enemy that
19 embeds and bores holes from within our revolutionary ranks: the
20 enemy is the feudalist landowner-capitalist-classes; and the
21 enemy is the various oppressor classes; the enemy is private
22 ownership."

23 [14.09.24]

24 "Therefore, it is imperative to clearly establish the borders
25 between the people that love the nation and love the people and

1 the traitors that betray the nation and the people, to clearly
2 distinguish between the worker-peasant classes and the feudalist
3 landowner-capitalist classes and the other oppressor classes, to
4 clearly distinguish between the collective ownership regime of
5 the proletarian class of the Party and the private ownership
6 regimes of the other classes, to clearly distinguish between the
7 Communist Party of Kampuchea and the various revisionist parties,
8 and so on.

9 "Establish borders in terms of political, ideological and
10 organizational views and stances, sentiments, habits, and so on,
11 establish clearly without any ambiguity or confusion whatsoever.
12 "This is an elementary stance and is fundamental in order for the
13 revolution to reach its ultimate ends."

14 [14.10.58]

15 If I can have a short answer to a long question, what -- based on
16 your review of the propaganda and your comparative look at other
17 mass killings in other countries, in terms of manufacturing
18 difference, what does this passage do in those terms?

19 A. It lays out target groups against whom violence can
20 potentially be perpetrated; as well in this case, I think this
21 may have been broadcast in 1978 over the radio and in
22 "Revolutionary Flags". I would have to check.

23 You will recall -- I'm also, I think -- this is broken.

24 (Short pause)

25 [14.12.10)

1 MR. HINTON:

2 A. Okay, I apologize. But again, as I explicate in my book, it
3 lays out a series of categories of people who are viewed as an
4 "other" that are being targeted, you know, both the revolutionary
5 vigilantes and especially a little bit earlier, perhaps
6 re-education, but also as the war with Vietnam the conflict
7 escalated. The rhetoric became much more stronger and stronger
8 over time.

9 But these are precisely the sorts of categories that you find
10 being used by many groups; ISIS today, everywhere. You know the
11 language of finding the "other" that needs to be eliminated in
12 order to purify society.

13 BY MR. SMITH:

14 Q. Thank you. And now I would like to put to you two, sorry, four
15 short-ish passages and we'll be asking you some questions on the
16 implication of what is intended based on your review of other
17 propaganda from these particular passages.

18 And the first one is the June 1977 edition of the "Revolutionary
19 Flag". It's at Tab 13.2 and it's E3/135 at English 00142906 --

20 MR. PRESIDENT:

21 Deputy Co-Prosecutor, please repeat the ERN numbers again and do
22 it slower this time.

23 [14.13.45]

24 MR. SMITH:

25 I apologize, Your Honour.

1 Q. English, 00142906; Khmer, 00062805; French, 00487721; and I
2 quote:

3 "In certain zones, traitorous elements burrowed from within and
4 implemented systematic political, ideological and organizational
5 activities in the wrong ways. They were morally wrong in the
6 systematic manner. Shortcomings occurred one after another.

7 "There were always disputes among districts, which share the
8 borders with each other. We knew that there had to be enemies,
9 who, by our assumption, were new evacuees."

10 The next passage is from a May to June 1978 "Revolutionary Flag"
11 and it's your Tab 18.1. It's at E3/727; English, 00185327 to 28;
12 Khmer, 0006456061 -- just 261; and French, 0052445554 to 55 -
13 sorry -- and I quote:

14 [14.15.40]

15 "A measure for the future is that we must have ever increasingly
16 revolutionary vigilance, especially as regards the internal
17 enemy.

18 "What ways are there to see the enemy? Our experience is that:

19 "Problems exist where an individual is systematically putting the
20 line into practice in a 'left' manner.

21 "Problems exist where an individual is systemically putting the
22 line into practice in a 'right' manner. Measures must be taken
23 against all such individuals. Such measures include training and
24 building up, removal and higher measures than these.

25 "Problems exist in any base or unit of organization in which the

1 people have a depressed standard of living after a period of
2 three years of successively failed solutions; either they are
3 incompetent or they are enemies.

4 "If there is not yet any evidence, remove them for the time
5 being."

6 And then the passage goes on.

7 And then it finishes at: "But if they continue their activities
8 further, then their frontier is clear, and the Communist Party of
9 Kampuchea must therefore eliminate them."

10 [14.17.22]

11 The third passage is from a "Revolutionary Flag" published
12 December 1976 to January 1977 and it's your Tab 9 and it's E3/25
13 at English, 00491397; Khmer, 0063004; and French, 00504017 to 18;
14 and I quote:

15 "As a specific example, during 1976, speaking just about inside
16 the Party, by making profound socialist revolution, the disease
17 within the Party that occurred since the national democratic
18 revolution that that could not be seen was exposed, because the
19 abscesses in national democratic revolution were microbes. With
20 the level of national struggle and class struggle inside the
21 national democratic revolution framework, we could not see and
22 locate the germs inside the Party. They were able to embed. But
23 when we carried out socialist revolution profoundly and strongly
24 and broadly within the Party, the Army, and the people, we found
25 the bad germs."

1 [14.19.15]

2 And the last passage on this topic it's also from the

3 "Revolutionary Flag". It's April 1977. It's at your Tab 11 and,

4 Your Honours, E3/742 at English, 00478496; Khmer, 00062986; and

5 French, 00499754; and I quote:

6 "As for the enemies that are 'CIA', 'KGB' and 'Yuon' agents, the

7 cheap running dogs of the enemy that sneakily embedded inside our

8 revolution and our revolutionary ranks, they are in a state of

9 extreme loss of mastery because their major and intermediate

10 apparatuses have fundamentally been smashed and the forces that

11 remain have been fundamentally scattered, like rats being hit and

12 falling from their nest into the water and being chased and

13 struck by the people and annihilated."

14 There were a number of passages that I put together. My question

15 is: Do those passages, taken as a whole, do they provide evidence

16 of the stigmatization of groups or enemies that you talk about in

17 this manufacturing of difference process?

18 [14.21.15]

19 MR. HINTON:

20 A. Yes, they do.

21 Q. That language that appears in those passages like rats,

22 running dogs, germs --

23 MR. SMITH:

24 We have an objection, Your Honour.

25 MR. PRESIDENT:

1 Deputy Co-Prosecutor, please hold on.

2 Counsel Koppe, you have the floor.

3 MR. KOPPE:

4 I'm not quite sure why the prosecutor is reading these excerpts

5 when only just before he said that he would focus on the

6 treatment of Vietnamese -- Vietnamese people within DK, whereas I

7 don't think there is any dispute that these excerpts that have

8 been read are directed at DK cadres who are accused of committing

9 treason and working together with Vietnam in order to have

10 Vietnam take over Democratic Kampuchea. That's what these

11 excerpts are about. I don't think that is in dispute.

12 So I'm not quite sure how these excerpts relate to the topic that

13 the Prosecution itself says it would focus on.

14 [14.22.45]

15 MR. SMITH:

16 Your Honours, as I explained earlier, the approach taken to the

17 treatment of the Vietnamese, the Cham or any of these targeted

18 groups which the expert talks about, that process relates to

19 people being branded as enemies and stigmatized.

20 The language here is explaining how, in some examples, various

21 groups -- and they are not as clear as the Defence has said --

22 are stigmatized by the CPK leadership. The last passage I read

23 was the enemies of the CIA, KGB and "Yvon" agents.

24 [14.23.37]

25 And before I start talking about the treatment of the Vietnamese,

1 it's important that this professor gives his expertise on how
2 enemies were viewed as a category and then how that enabled --
3 how that enabled Khmer Rouge cadre and others to kill Cambodians.
4 So it's relevant in terms of the way that the Khmer Rouge were
5 using propaganda or the CPK were using propaganda to motivate
6 Cambodians to kill.
7 I have nearly finished -- in any event, I have nearly finished
8 this topic in terms of how the CPK leadership manufactured
9 difference and then we are moving on to another topic about
10 ideological manipulation which this expert says are necessary
11 components for any Cambodian to kill during that period.
12 So Your Honour, I would ask to finish this topic and move to the
13 next one. I'm not concentrating on the purges in his
14 presentation.
15 [14.25.10]
16 MR. PRESIDENT:
17 It is rather difficult to make a distinction between the target
18 groups, <Vietnamese,> and the general context. However, the
19 Chamber allows such questions to be put to the expert.
20 Counsel Koppe himself is also unclear on this issue and he
21 doesn't make any expressed objection to your line of questioning.
22 For that reason, Deputy Co-Prosecutor, you may continue.
23 BY MR. SMITH
24 Thank you, Your Honour.
25 Q. In relation to those excerpts is that the type of language

1 that you have seen in other documentation; stigmatizing enemies
2 of all different groups and classes, as a general statement?

3 MR. HINTON:

4 A. It is.

5 [14.26.30]

6 Q. And if you could, just in short answer, can you, based on your
7 research, based on your interviews during Democratic Kampuchea,
8 did the CPK leadership organize difference in terms of creating
9 different living institutional, legal conditions that
10 discriminated against and separated different target groups?

11 A. Yes, it did. You know, if you think about the different
12 layers, one layer would have been the elaborate security system
13 that existed that ran from the zones down to the district level.
14 In the communes you had the club that crept about at night
15 listening to people; there were also surveillance mechanism. You
16 had institutional mechanisms, such as giving life histories and
17 engaging in criticism and self-criticism sessions.
18 There was another way of monitoring people. You had some
19 re-education camps and also, as I talk about in my book, there
20 were ledgers that were kept all the way down on the local level
21 in which people; the village heads would know people's
22 backgrounds and occupations. And I tell one story about a village
23 head who came in and replaced another one and found a list of
24 names and sort of showed one person who was going to be targeted,
25 Luong (phonetic), who I mentioned before.

1 So there was an elaborate mechanism that went all the way from
2 places like S-21 down to ledgers that existed in the villages and
3 were -- a copy of which was kept, I believe, at the district as
4 well.

5 [14.28.25]

6 Q. Thank you. And if I can just put you some transcript from the
7 Duch trial; it's at your -- you don't actually have it, sorry.
8 It's E3/5799 and it's 15th of June 2009; English, 00341719 to 21;
9 Khmer, 00341910 to 11; and French, 00341817 to 19; and this is a
10 passage of questioning between the President and Kaing Guek Eav
11 alias Duch, the head of S-21.

12 And Duch states: "Mr. President" -- the President states, sorry
13 -- question: "Can you tell the Court regarding the overall aspect
14 of people who were detained at S-21; for example, the condition
15 of the location and the physical condition of the rooms or the
16 torturing devices applied in that location, if available?"

17 [14.29.50]

18 Duch: "Thank you, Mr. President. I would like to also emphasize
19 that the prison for S-21 was not the prison in other countries
20 with the rule of law. Even in the prisons in Cambodia, the prison
21 I was detained in Phnom Penh, there were codes to protect
22 political prisoners.

23 "At S-21, I agree with the statement written in the book of David
24 Chandler, in which he calls it a place where people were detained
25 before they were executed. So this location was reserved for

1 keeping people to be executed, so there would not be any rules to
2 safeguard -- legal safeguard to protect their rights. So any of
3 their confessions would be -- I mean, including their eating;
4 they were eating like animals. So we already treated them as dead
5 people. We only waited for the time when they would be smashed.
6 "So I think this would be applied not only in S-21. It would be
7 applied across the country, as I guess."

8 [14.31.12]

9 Now, Professor, you've answered this question more generally in
10 relation to why it's easier for people to kill in inhumane
11 conditions. Based on Duch's statement at S-21, having detainees
12 placed in those conditions, do you agree with his statement that
13 based on your research of other mass killings and the way they
14 are done, do you agree with his statement that it would be --
15 would have been easy for people to kill because they were less
16 than human; namely, animals?

17 MR. PRESIDENT:

18 Please hold on, Mr. Expert.

19 You have the floor now, Koppe.

20 MR. KOPPE:

21 Thank you, Mr. President. I object to this question first on a
22 procedural -- for procedural reasons. The Chamber has asked
23 parties to present documents to the expert a week before his
24 appearance today. This is a document that was sent around by
25 email on Friday. So I don't think that is according to the

1 proceedings (sic) that were established.

2 [14.32.45]

3 Secondly, it is a document -- it's a testimony of Duch, testimony
4 that he gave in this Trial Chamber that you have seen. The
5 parties haven't -- weren't there. It's unfair vis-à-vis our
6 client that he is now asked, the expert is now being asked to
7 give a comment on this.

8 More importantly, S-21 is not being dealt with now. We are still
9 going to be dealing with S-21.

10 And even more importantly, I don't think that this expert has any
11 specific expertise in relation to the value or the probative
12 value or reliability of Duch. I know he has been writing a book
13 about Duch, but then you have seen Duch yourself as well. Duch
14 has been called by the Supreme Court Chamber as an unreliable,
15 lying witness. So I am not quite sure what the Prosecution is
16 trying to achieve but we object on these various reasons that
17 this question be put to the expert.

18 [14.34.01]

19 MR. SMITH:

20 Your Honours, I'm sure that last comment in relation to the
21 Supreme Court was a mischaracterization by the Defence.

22 But in any event, in terms of technicalities, I mean the
23 Prosecution has always been very giving in relation to documents
24 produced late by the Defence in 87.4 applications and to argue on
25 the fact that they received notification of the document that we

1 want to use today on Friday seems quite pedantic.
2 Certainly, as of Monday, we did supply the expert all the
3 documents we thought we would use and then when we just
4 discovered we wanted to put a few more documents we notified the
5 parties last Friday.
6 He is an expert. He should be able to comment on the evidence in
7 this trial. I am asking the expert whether or not he agrees with
8 Duch's view that by having people in those terrible conditions
9 where they were treated like animals, whether in fact that made
10 it easier for guards at S-21 to kill. That's all I am asking.
11 And Your Honours -- also, Your Honours have said that we could
12 ask certain questions about S-21 within limits in any event. But
13 that's not the purpose of the question.

14 [14.35.42]

15 JUDGE FENZ:

16 Again, because now I am lost, could you distill the question for
17 us? Forget all the things around it. What is the question?

18 BY MR. SMITH:

19 Q. Professor, Duch said that the prisoners at S-21 were like
20 animals. My question to you is when people are treated like
21 animals, is it easier, based on your research, for them to be
22 killed because they are in that dehumanized form?

23 JUDGE FENZ:

24 Any objection to this question now?

25 MR. KOPPE:

1 No, that -- the answer is obvious to that question but why
2 reading Duch then? Why just not ask this question like that? I
3 mean a child would say yes to that question.

4 [14.36.46]

5 MR. SMITH:

6 Your Honours, these comments are in the expert's book. We are
7 asking him in relation to confirm whether that was -- whether
8 that in fact --

9 JUDGE FENZ:

10 I don't think there is a problem with this question or is there
11 from the Chamber?

12 No. So perhaps we can go ahead.

13 BY MR. SMITH:

14 Q. If you can briefly answer that question, Professor.

15 MR. HINTON:

16 A. Just as a point of clarification, so I have completed a book
17 that's now in press on the Duch trial. And I have two books but
18 that one is done. So I have written a book about the Duch trial.

19 [14.37.41]

20 With regard to the question, the answer is clearly: yes, I think
21 that it's important to take the broader processes that are going
22 on where you have the marking of different stigmatization as we
23 have begun to call it, we have the reorganization of society and
24 within that we have groups that are being dehumanized and
25 demeaned.

1 And so within that broad context with all those factors together,
2 very clearly those are the conditions in which it makes it much
3 easier to harm other people, to kill people and you find that in
4 a variety of situations.

5 Q. Thank you.

6 Professor, before we -- before we move to the break we have a few
7 minutes and I would like to move to the next factor that you say
8 is present in many countries when there are mass killings of
9 groups in that country, in those countries and that's the -- the
10 factor of ideological manipulation of would-be perpetrators.

11 [14.38.48]

12 You state in your book that that ideological manipulation is
13 something that increases the likelihood of mass killings to
14 occur. Is that correct?

15 A. Yes, in order to have support for a movement, revolutionary or
16 what have you, it's absolutely critical for you to have an
17 ideology that resonates with people that they ascribe to that's
18 meaningful to them, so different regimes will seek to manipulate
19 people, to get them to gravitate towards their ideological
20 messages.

21 Q. And talking generally, without that ideological manipulation,
22 in your view, is it less likely that people would kill others?

23 [14.39.45]

24 A. Again, so there are many different sorts of forms of genocide
25 and mass violence. For the cluster that I have referred to as

1 ideological genocides, that's correct. If you have other cases
2 like the destruction of indigenous peoples there is ideology, but
3 it plays sometimes a somewhat lesser role. There is more
4 devolvment down to the local level but in the cases, you know,
5 with the Holocaust standing as sort of the exemplar of that,
6 that's very much the case.

7 Q. And in relation to Democratic Kampuchea, did the CPK
8 leadership undertake ideological manipulation of their cadre and
9 followers based on your research, propaganda, the interviews?

10 A. Yes, they did.

11 Q. And in your book, you talk about the idea of a revolutionary
12 consciousness, the building -- the constructing of a
13 revolutionary consciousness within the ideology of the Communist
14 Party of Kampuchea.

15 Was the building of that revolutionary consciousness -- well,
16 firstly, did that occur in Democratic Kampuchea?

17 [14.41.25]

18 A. Yes, the metaphor of construction or building is one of the
19 central metaphors that you find in Khmer Rouge, CPK, Democratic
20 Kampuchea ideology and it is elaborate. It's omnipresent but I
21 should note that you have this term being used to refer to
22 society in general. You need to -- in some sense you can think of
23 it -- it was described almost as if you had a construction site
24 that was levelled and being rebuilt back up with the base, base
25 elements and being reconstructed.

1 But you also, on the other hand, had this process of rebuilding
2 that needed to be constantly undertaken by each and every
3 individual all the way to the top of the CPK leadership down to
4 people in the countryside. Within that, different people were
5 believed to have different compositions, elements, tendencies,
6 and so certain people, certain groups were more or less likely to
7 fall into an aggressive state.

8 And I think that's a very important concept in Khmer Rouge
9 ideology.

10 [14.42.33]

11 MR. PRESIDENT:

12 Thank you, Mr. Expert.

13 It is now time for the break. So the Chamber will take a short
14 break from now until 3 p.m.

15 Court officer, please assist the expert in the waiting room
16 during the break time and please invite him back into the
17 courtroom at 3 p.m.

18 The Court is now in recess.

19 (Court recesses from 1443H to 1502H)

20 MR. PRESIDENT:

21 Please be seated.

22 The Chamber is back in session and I would like to give the floor
23 to the International Deputy Co-Prosecutor to continue questioning
24 the expert. You may now proceed.

25 [15.03.08]

1 BY MR. SMITH:

2 Thank you, Mr. President.

3 Q. Professor, we left talking about the importance of
4 revolutionary consciousness as part of the CPK ideology. I would
5 like to quote your book at E3/3346 at English, 00431637 to 38.

6 It's 195 to 196 in the book. In that book discussing this issue
7 of revolutionary consciousness and the importance of it with the
8 Communist Party, you quote a subsection of an article in the
9 September-October 1976 "Revolutionary Flag" and it's entitled,
10 "Sharpen the Consciousness of the Proletarian Class to be as Keen
11 and Strong as Possible".

12 And in the subsection where it's titled "What Must We Struggle to
13 Eliminate and What Must We Struggle to Build On?" I'll read this
14 extract:

15 "We must rid in each party member, each cadre, everything that is
16 of the oppressor class, of private property, of stance, view,
17 sentiment, custom, literature, art ... which exists in ourselves,
18 no matter how much or how little. As for construction, it is just
19 the same: we must build a proletarian class worldview,
20 proletarian class life, build a proletarian class stand regarding
21 thinking, in living habits, in morality, in sentiment, etc.

22 So my question is: Based on your research, the documentation and
23 your interviews what was the revolutionary consciousness that the
24 CPK leadership wanted each person to have?

25 [15.05.53]

1 MR. HINTON:

2 A. Quite simply to follow the CPK line and to have an appropriate
3 revolutionary stance as evident by -- in the Party's statutes
4 which mentions stance over and over again. But again, I view this
5 as an absolutely critical aspect of DK ideology, CPK ideology.
6 And also, when I first began to talk at the very beginning in
7 terms of speaking about genocide, this is a critical factor with
8 relationship to the Chams.

9 I don't necessarily believe that there was a sort of racial
10 intent at the very beginning. There might have been animosity of
11 some sort there, but what I think happened over time is the
12 consciousness of the Cham as a group became increasingly suspect.
13 Eventually, they were viewed as a threat and targeted. So it
14 didn't stem from overt racism but, in fact, from their inability
15 to sharpen their consciousness as a group by the fact they
16 rebelled.

17 [15.06.54]

18 And to understand, I think the ethnic Vietnamese are a little bit
19 different but for the Cham, I think that's a -- this is sort of
20 at the heart of much of what was going on.

21 It's -- as an example, comparatively if you look at Mayans in
22 Guatemala, what began as a fight of army against insurgents for
23 example eventually turned against Mayan villagers who were viewed
24 as being, you know, comparable to counter-revolutionaries and
25 enemy forces and they became the target and they're -- Anyway, I

1 am sure you know the literature on the findings on them in terms
2 of genocide as well.

3 [15.07.30]

4 Q. So I won't discuss the issue of genocide per se now, but what
5 -- what I will ask you is: why is revolutionary consciousness --
6 why was it so critical in terms of what happened, the mass
7 killings in Democratic Kampuchea? Why do you say that?

8 A. Because it was the basis of the formulation of a pure
9 revolutionary citizen, what's been called revolutionary man in
10 some of the literature, but the pure revolutionary is one who
11 followed the line. I mentioned Dam Pheng before, the Red Heart.
12 It was an example that was actually promoted. There were, I have
13 heard, performances in the countryside after 1975 of someone who
14 had a correct line, who had a correct stance who struggled
15 without fail all the way to the point of dying and writing a poem
16 in blood with his own blood in his jail cell at the end. He was
17 an ideal revolutionary and he was actually, I believe, mentioned
18 at one point in the Duch trial when Duch said, "I always wanted
19 to struggle as hard as Dam Pheng ". But you would have to check
20 the record.

21 [15.08.49]

22 Q. This demand, we can see certainly in the piece that I read to
23 you from the "Revolutionary Flag" and you say is being repeated
24 in the CPK statute in terms of stance, this demand that CPK cadre
25 think that way, are you saying that this is ideological

1 manipulation in a form of brainwashing, how they think?

2 A. So in one sense the answer is yes. I should just add that
3 brainwashing in some sense the way it's been used historically
4 suggests that those who are doing the brainwashing don't believe
5 what they are doing and are solely out to manipulate people. It
6 falls into sort of the monster, perpetrators' monster.

7 [15.09.52]

8 That's, I think, inaccurate. I think those things we call
9 brainwashing often come from people who believe in what they are
10 doing and have a strong belief and they try and get others to
11 follow them and they try and convince others to believe in what
12 they say.

13 More than that, they may try and almost in some sense force them
14 to through ideological channels, through re-education, if you
15 have the state apparatus behind you.

16 But I think it would be -- it's important to -- you know I think
17 the top leaders believed in the line and stance at least at the
18 very top of the Standing Committee.

19 Q. From your research, from your interviews, did the CPK
20 organization, shall we say, did it force Khmer Rouge cadres and
21 others to build this revolutionary consciousness? Did they force
22 that to happen? And if they did, what tools did they use to do
23 that?

24 MR. KOPPE:

25 I object, Mr. President, to this question. The Prosecution is now

1 broadening the scope of the expertise of the expert dramatically.
2 As far as we know, the expert has spoken to a few people whom we
3 consider Khmer Rouge cadres. He hasn't spoken to anyone, I
4 believe, in any leading position.

5 [15.11.24]

6 Apart from the fact that the expert just said that, I think,
7 basically every Marxist-Leninist is per definition a genocidaire
8 in spe, I find that the question is going way beyond the
9 expertise of this expert. He is not a political scientist. He is
10 not an expert on Communism or Marxism, Leninism. He has not
11 spoken to anyone of any substantial position within DK. So the
12 question should be forbidden. The expert shouldn't answer this
13 question.

14 MR. SMITH:

15 Your Honours, the expert has studied the use of propaganda in
16 mass killings of various groups in many countries around the
17 world. He has studied the CPK documentation in relation to
18 "Revolutionary Flags" and other material. He is well in a
19 position to be able to answer this question and also, as a
20 witness, as counsel has just said, he's had interviews with Khmer
21 Rouge cadres about this very topic.

22 He is an expert in authoritarian regimes. That's the point. So I
23 think he is well within his expertise to be able to discuss this.

24 [15.12.55]

25 MR. KOPPE:

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1 Very, very briefly, Mr. President, I don't think Mr. Hinton is an
2 expert in authoritarian regimes. He is an anthropologist.

3 MR. SMITH:

4 Your Honour, I think we are getting back to hair-splitting yet
5 again. I would ask that I be allowed to answer (sic) this
6 question. His specialty is in genocide and political violence and
7 he is -- when you read his book, he talks about authoritarian
8 regimes being responsible for those killings in a comparative
9 sense. So I would ask that I be allowed to continue.

10 [15.13.35]

11 MR. PRESIDENT:

12 The objection by the defence counsel is overruled. From my -- our
13 listening, hearing in the morning, the testimony by the expert
14 falls within the scope of what we would like to listen to.

15 Therefore, the expert is allowed to answer the questions from the
16 Co-Prosecutor.

17 And if you cannot remember the last question, the International
18 Co-Prosecutor can ask the question again.

19 BY MR. SMITH:

20 Thank you, Mr. President.

21 Q. From your research, did the CPK organization create a system
22 in which CPK cadre were forced to build their revolutionary
23 consciousness, and if there was a system can you explain the
24 tools in which they did that?

25 [15.15.14]

1 MR. HINTON:

2 A. Yes, thank you for the question. I think that the CPK, the DK
3 regime sought to establish a society and to reorganize society in
4 such a manner that every single person would refashion, sharpen
5 their consciousness and turn into a pure revolutionary citizen. I
6 think it was -- you can see it in the attempt to rusticate the
7 population, they have people go out, anyway to perform agrarian
8 labour to get rid of the soft hands as the city people were told,
9 through the constant radio broadcasts that were played, through
10 hard labour, through writing life histories, through the
11 mechanism of criticism and self-criticism sessions, through
12 re-education itself. So, almost everywhere you turn, you find it.
13 It was, to use a concept from Althusser, part of the ideological
14 state apparatus.

15 Q. And just in short answer, you talked about self-criticism
16 sessions. You talked about biographies.

17 Those two practices, can you tell us briefly what that practice
18 was and how they tried to achieve building that revolutionary
19 consciousness through those two practices; in short form if you
20 can?

21 [15.16.55]

22 A. Yes, I discussed it at one point in the book in the context of
23 the law at S-21. Also during Duch's trial he discussed it. I'm
24 sure it's been discussed many times.

25 But very briefly, the idea of criticism and self-criticism

1 sessions came from the notion that revolutionary consciousness
2 was in some sense unstable. It constantly had to be fashioned and
3 re-fashioned and people had to get together and talk and look at
4 their weaknesses, how they had been led astray. So it was an
5 ongoing constant struggle.

6 So when -- on one level, criticism and self-criticism sessions
7 were about helping to sharpen the consciousness itself. On
8 another level they were also a modality of monitoring because
9 what people said was listened to and people were very cautious
10 about what they said because they could be accused of being
11 counter-revolutionary, having revisionist tendencies, so on and
12 so forth.

13 [15.17.50]

14 The practice of writing biographies was the same as an exercise
15 and also looking and talking about potential weak points and
16 strong points and, again, people had to be very careful in the
17 way they couched their life histories.

18 But, again, so if you come back to the notion that everybody,
19 there were different groups of people, right, demarcations within
20 society, these different groups had different sort of
21 compositions, to use one term, different elements, different
22 essences, and they had more or less likelihood of being able to
23 re-form themselves, re-fashion themselves, sharpen their
24 consciousness to be a pure revolutionary.

25 So, again, different people were better or worse at it, but, you

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1 know, like Duch said, he performed this. I'm sure, oh I don't
2 know, I would guess that this went all the way up to the top of
3 the CPK leadership.

4 It seemed to be, you know, from the different ranks I've heard
5 about, it's all the way there.

6 I believe there's a -- Ieng Sary, there's a notebook with Yale
7 that was from a session that he participated in.

8 [15.18.50]

9 Q. From the research that you have undertaken, from the
10 interviews that you have had, were those -- for those that were
11 required to participate -- sorry, for those that you're aware of
12 that did participate in self-criticism sessions or did
13 participate in writing their autobiographies, was that a choice
14 to participate or not participate?

15 A. It was not a choice; it had to be done, though to be fair, I
16 should note that again, in some sense, it was almost in a way a
17 form of education, right, a practice to sharpen the
18 consciousness. But people didn't have a choice. They were called
19 in. They had to do this regularly.

20 Q. We just talked about how the CPK organization, shall we say,
21 forced these self-criticism sessions and the constructing of
22 biographies, what -- were CPK cadre, were they required to
23 demonstrate their revolutionary consciousness? Was that a
24 requirement in the DK period from what you have seen and read?

25 [15.20.45]

1 A. Yes, the fashioning an appropriate line, an appropriate
2 revolutionary stance, having an appropriate revolutionary mindful
3 consciousness was absolutely critical for everyone. It was, in
4 some sense -- you know, I always go back to the national emblem
5 and you see the waterway from the factory that's a line, you
6 know, that was -- the way forward to the pure revolutionary
7 society was by following the line, having a stance, having an
8 appropriate revolutionary consciousness.

9 And if everybody worked together to do this, perhaps it could be
10 accomplished was the way things were thought about and you could
11 get a super "Great Leap Forward".

12 Q. From your interviews and your research, if people failed to
13 demonstrate their revolutionary consciousness, how would that
14 impact on them?

15 [15.21.47]

16 A. Yes, that's a complicated question. It would be a mistake to
17 simply say that there was a direct singular order that went to
18 every single person throughout the country that said anyone who
19 doesn't have an appropriate revolutionary consciousness needs to
20 be killed, that's far too simplistic.

21 There were, again, as you've read before, different radio
22 broadcasts. There were letters; there were orders that went to
23 the countryside. They were implemented frequently especially when
24 they said, when anyone said, oh, we've got to take a certain
25 percentage of people away but, you know, if you think about

1 constraints you might think about it as an envelope that's
2 looser, tighter and more closed.

3 So if you think of S-21, it's a very tight, closed envelope in
4 terms of the decision-making on the ground. In some contexts they
5 would be looser and there would be more latitude for the
6 interpretation of the letters that were received of the way
7 things were interpreted.

8 [15.22.44]

9 So I think it was on the present -- it was everywhere, but the
10 decision about taking people to kill, sometimes I think there
11 were -- well, based on a number of documents, there were explicit
12 orders to take people and kill these classes and groups of
13 people.

14 And other things, as I said before, where you had one village
15 head who was there. He had a list of 30 people who were ready to
16 be killed when the orders came down. The next village head came
17 in and he took the names away. So there -- you know, in that
18 situation, the envelope of constraint was looser.

19 [15.23.16]

20 Q. So, in general, looking at the research that you have carried
21 out, the greater someone's revolutionary consciousness in the DK
22 period, would that increase their likelihood of survival? And the
23 lesser or the -- their revolutionary consciousness, would that
24 increase their chances of being in more danger of being killed?
25 Is that a good summation of what you've just said in terms of

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1 variances?

2 A. So, yes, as a general rule, absolutely, that's true. And I
3 should also note, as I said before, that again I think in the
4 case of the Cham, once the idea came up that this group -- the
5 revolutionary consciousness and loyalty of this group was
6 suspect, they then became targeted.

7 Q. You've discussed with us ways in which people demonstrated
8 their revolutionary consciousness or perhaps loyalty to the
9 party, were there other ways in Democratic Kampuchea where cadre
10 would demonstrate -- or followers would demonstrate their loyalty
11 to the party other than self-criticism sessions, the biographies,
12 but also in what they did?

13 A. Yes -- no, absolutely. So in terms of -- I assume I may refer
14 to the documents that I read or no?

15 [15.25.15]

16 Q. I think that would be okay as long as you let us know which
17 doc -- I mean the documents generally that you read.

18 A. Yes, the document from Grandmother Yut?

19 Q. I think that's fine.

20 A. Okay.

21 Q. It's not a document from -- that we've given the witness.

22 (Judges deliberate)

23 [15.25.55]

24 JUDGE FENZ:

25 Can you clarify what document this is?

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1 BY MR. SMITH:

2 Sorry, I was slightly confused myself.

3 Q. Do you have a document in front of you that you would like to
4 refer to and what is it?

5 MR. HINTON:

6 A. Yes. So it's an interview with Grandmother Yut, that was in
7 the materials that were provided to me to review.

8 I had heard stories about her--

9 JUDGE FENZ:

10 Sorry for interrupting. Just to clarify the document.

11 So it is on the list of the documents you got from the Court. Can
12 you -- I'm not sure, does the list have ERN numbers?

13 Can somebody please look -- can you have a look at the document
14 and tell us if it shows the ERN number?

15 [15.27.17]

16 MR. SMITH:

17 Your Honours --

18 JUDGE FENZ:

19 I understand you don't have the document in front of you, so we
20 can't check the ERN number.

21 MR. SMITH:

22 Your Honours, I'm happy to -- if we can continue and if that
23 becomes necessary later we would deal with that then. Thank you.

24 [15.27.51]

25 BY MR. SMITH:

1 Q. Without referring to a document, from your research generally,
2 were there other ways in which Khmer Rouge cadre or others in the
3 Khmer Rouge during that period, would demonstrate their
4 revolutionary consciousness? I mean, you refer to it in your
5 book.

6 MR. HINTON:

7 A. Right. So I don't need to refer to the document, but when
8 people spoke about -- to me in the village story about
9 Grandmother Yut, they mentioned her killing her husband, but this
10 was given as an example of renunciation for the Party.

11 So killing itself, showing that you are willing to renounce
12 anything and everything, even a loved one, was one sign that you
13 had sacrificed, given everything for the Party; that you didn't
14 have aggressive tendencies, attachments, and could focus your
15 consciousness and be a pure revolutionary.

16 [15.28.49]

17 So that was from my interviews that was mentioned by interviewees
18 with Grandmother Yut and people, you know, that was something
19 that was commented upon.

20 Q. And if I can briefly refer you to that passage in your book
21 where you say that you talked to Teap from Kralla commune who
22 worked with Rom at the district -- sub-district office during the
23 DK period. And it's at E3/3346; ERN 00431704 to 05; and it's at
24 page 262 to 263 in English. And there is no, unfortunately, Khmer
25 or French translation yet. And I quote, and you state this is

1 Teap speaking to you in an interview:

2 "They sent us to be indoctrinated with their ideology, saying
3 that whatever we did, we had to always be dispassionate and
4 resolute. They didn't allow sentiment between a child and his or
5 her mother and father. They didn't let us know them. If we
6 expressed feelings for our parents, they'd say we are building
7 the garden of the individual and were at fault. Their ideology
8 was the hardest and strictest of all. They didn't allow us to
9 recognize our siblings. Their slogan was 'Anything for the
10 Party!'... They asked us, 'Comrade, if your mother or father were
11 such a traitor, would you dare to kill them? Could you cut off
12 your feeling toward them? Would you act with firm determination?'
13 None of us could say no. We had to answer that we would dare to
14 do so without hesitation."

15 [15.31.00]

16 Is that an accurate account of the conversational part of the
17 conversation you had with Teap, which is a pseudonym, from the
18 Banyan village where you went when you did your research?

19 A. This individual was not from Banyan and then if you continue
20 on, it says:

21 "For Teap, Grandmother Yut exemplified this attitude because she
22 lacked compassion and supposedly executed her husband."

23 So it refers to the -- what I was just talking about. So, yes.

24 Q. And Teap was Khmer Rouge cadre?

25 A. He worked at the office where Rom was. He was a cadre.

1 [15.31.45]

2 Q. So from your research, in terms of the ideological
3 manipulation of Khmer Rouge cadre and other Khmer Rouge, that
4 factor, that aspect of manipulating their minds with this
5 ideology, did that, in your opinion, increase the likelihood that
6 Khmer would kill Khmer or Khmer would kill other different
7 groups; that manipulation?

8 A. Yes, and I should note that as well if you look at the context
9 of S-21, there's lots of evidence of this including the
10 interrogator notebooks which also emphasize the need to cut off
11 your attachment as well.

12 Q. Thank you, Professor.

13 I think if we can move to the last sub-topic in relation to the
14 universal factors that you say exist in many regimes that commit
15 mass killings against certain groups of their society, one other
16 factor that you say can contribute to that, contribute to the
17 likelihood of mass killing, is the breakdown of moral restraint
18 within that particular country.

19 [15.33.58]

20 When you're talking about the breakdown of moral restraint --
21 this is from your book -- can you explain what you're referring
22 to? Is it looking at this issue from another angle or is it a
23 different issue?

24 A. I think it's a related issue, if I understand the question
25 correctly. You face a -- most people, especially I think most

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1 perpetrators who kill, individuals who kill another human being,
2 everyone -- most people internalized moral inhibitions, whether
3 it comes from, you know, Buddhist, first principle of Buddhism,
4 from religion, through law, what have you, and genocide and mass
5 violence, you know, if the killing's taking place it's always an
6 issue especially when someone kills for the first time before
7 they become potentially desensitized, how do you sort of break
8 that down.

9 So in the context of genocide, you tend to have a sort of moral
10 restructuring that takes place where those who you're killing are
11 dehumanized. The moral rules that would normally be applicable
12 are suspended, taken away, reversed or replaced by an entirely
13 different set of moral rules.

14 And I think that was very much the case in DK, and as I said
15 before, you can see it taking place all over, ISIS now, many
16 different contexts.

17 [15.35.25]

18 Q. I only have a couple of follow-up questions for this issue.
19 And you refer in your book to a decision, and it's on the 30th
20 March 1976 and it's a decision from the CPK Central Committee
21 that's entitled, "Decision of the Central Committee Regarding a
22 Number of Matters". And it's at your Tab 6 and it's E3/12;
23 English, ERN 00182809; Khmer, 00000758; and French, 00224363. If
24 I read a portion of that decision, and it states:
25 "The right to smash, inside and outside the ranks:

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1 "Objective:

2 "1. That there is a framework in absolute implementation of the
3 revolution,

4 "2. To strengthen our social democracy,

5 "All this to strengthen our state authority.

6 "If in the base framework, to be decided by the Zone Standing
7 Committee.

8 "Surrounding the Centre Office, to be decided by the Central
9 Office Committee.

10 "Independent Sectors, to be decided by the Standing Committee.

11 "The Centre Military, to be decided by the General Staff."

12 Have you seen this decision before?

13 [15.37.20]

14 A. So it was mentioned repeatedly during the Duch trial, so it's
15 -- no, that's a well-known document. Might be in "Pol Pot Plans
16 the Future", I can't remember, but anyways. But it was -- I heard
17 it many, many times during the Duch trial.

18 Q. This decision, this delegation of authority to smash, firstly,
19 can you tell us what the word "to smash" means; do you know?

20 A. So, yes, I know. I think Duch was asked the same question and
21 talked about to crush something, to erase it, to crush to bits.
22 It's like a hammer smashing something.

23 [15.38.12]

24 Q. Based on your research and based on the interviews you've
25 done, does the word "smash" mean to kill or is that -- is it more

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1 ambiguous?

2 A. It was one of the more explicit euphemisms. I think Duch also
3 mentioned another word "to resolve" and I think it was Vorn Vet
4 used to use. So there were a number of different words that would
5 be euphemisms for killing, but "smash" was pretty direct.

6 Q. My question is, this delegation of authority to smash to the
7 zones and other units in Democratic Kampuchea, is that a
8 demonstration of the breakdown of moral restraint that you
9 discuss or you refer to as a common factor that occurs in other
10 countries where mass killings have occurred?

11 A. So, yes, but again I want to emphasize that killing, it's not
12 quite right to say is a moral practice because it's immoral in
13 the common sense of the word, but there is a system of morality
14 that's behind it that legitimates it, and that's always important
15 to keep in mind otherwise we reduce people who commit violent
16 acts to -- back to the monster trope again and we don't
17 understand why. So the question is, you know: Why do people do
18 the things that they did?

19 [15.39.58]

20 So, again, there's moral inhibitions are reduced, the situation,
21 the structural situation, has changed. People are marked and
22 dehumanized, and within that context it becomes easier to kill
23 and, of course, you have to pay attention to -- for many cadre to
24 a civil war that had been going on for many years. That was
25 violent; where people died and, again, some cadre during that,

1 the inhibitions changed.

2 And I think, you know, in all war the enemy other when it's
3 viewed in this frame is a battle against someone else, is
4 dehumanized and legitimated within that ideological framework as
5 a legitimate target. And that's the sort of moral aspect to it.

6 [15.40.44]

7 Q. And perhaps now if we move to these other factors, these local
8 customs or norms that you say in your book are required for any
9 regime that wants to commit mass killings against various groups
10 in their population, you say that these local customs or norms or
11 practices need to be in synchronization with these other factors
12 that lead to mass killings, which we've discussed.

13 And so in Cambodia, in Democratic Kampuchea, you stated that the
14 practice of disproportionate revenge or this norm of
15 disproportionate revenge, this norm of how power is structured,
16 how the patronage system works and suspicion that arises out of
17 that, and the norm of having face, or saving face, and having
18 honour.

19 Is it right that you say those factors were present in the
20 Democratic Kampuchea period which assisted and aided and
21 facilitated the likelihood that mass killings would have occurred
22 during that period?

23 [15.42.28]

24 A. So the short answer is yes. It's -- of course a considerable
25 amount of the book is devoted to that issue, so I think I can

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1 speak far too long on that.

2 You know, I just might make one small aside that one of the
3 paradoxes is that because many people in the countryside had been
4 educated in pagodas, went to the pagoda. The Khmer Rouge also
5 drew upon Buddhist ideas.

6 For example, I mentioned before the notion of renunciation, so
7 you have Buddhist renunciation, renunciation for the revolution
8 or again even with consciousness you need to focus your
9 consciousness in the way that you need to focus your mind in
10 Buddhism and not be distracted by different attachments and
11 desires.

12 So that provides greater resonance for the ideology and makes it
13 potentially more appealing to the followers.

14 [15.43.20]

15 Q. So that's perhaps a fourth factor or idea that made, on your
16 opinion, this killing programme more acceptable to those required
17 to carry it out. Is that correct?

18 A. Yes, that's acceptable and even desirable.

19 Q. If we can deal with these three other helpful norms. I know
20 it's a main part of your book, but if we can deal with them in
21 essence.

22 You state that there was a practice of disproportional revenge or
23 a norm of disproportional revenge before Democratic Kampuchea.

24 How were you able to discern that and what was the practice?

25 A. May be hard to be too brief, but I guess very briefly the

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1 notion of revenge exists in all societies in some sense, but in
2 each place it's different and has different dynamics.
3 Revenge is obviously operative in many different domains of life,
4 but it also is a key word, a key term, that was used. I mentioned
5 "The Red Heart of Dam Pheng" but, as I said, in the
6 "Revolutionary Youth" the next essay is "Class Grudge". So this
7 was a word that was taken and was used by the leaders of the CPK,
8 the people who published those issues of the Party publications,
9 and also you have broadcasts.

10 [15.45.15]

11 But, again, because of conditions in the countryside, the notion
12 that there were structural differences, the rich people look down
13 upon the poor people. There was one saying, that you had the
14 fruit in the countryside and it goes to the towns. I can't
15 remember the exact phrasing of it but, again, the notion that
16 people in the countryside suffered while those in the cities had
17 a good life and enjoyed themselves, had wealth.

18 The notion of class suppression very much resonates with the
19 structural situation and the Khmer Rouge took it, modified it,
20 and talked about a class grudge. In their terminology they talked
21 about class anger, the national anthem of course, the central
22 metaphor is blood, the colour red, and it talks about changing
23 into anger.

24 So, again, this notion of anger was there, class suppression,
25 class grudge, to take vengeance upon those people who had done

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1 bad things to you in the past.

2 And there are other aspects to this that I could go into but

3 perhaps you don't want me to speak at length.

4 [15.46.20]

5 Q. Well, perhaps we can move through a couple of key points and

6 then we may come back to this.

7 But if I perhaps can read to you three short passages and ask for

8 your comments, your opinion, on them in light of this issue of

9 the utilization of disproportionate revenge as you talked about
10 in the Khmer Rouge period.

11 The first is a passage from your book, E3/3346; at English,

12 0431516 at page 74, and this is where Khel states, and I think

13 Khel was the Khmer Rouge cadre that worked at Phnom Pros

14 execution security centre.

15 And he stated to you that: "Their political education consisted

16 of telling us to be seized with painful anger against the

17 oppressor class. They spoke about this all the time."

18 Now, if I could put to you a second document and this is at your

19 Tab 14.2. It's July 1977 "Revolutionary Flag" and it's E3/743;

20 English, 00476167 to 68; Khmer, 00062892; and French, 00487692;

21 it states:

22 [15.48.12]

23 "For example, there must be a profound rage towards the class

24 enemy that is embedded and is boring holes from within, and there

25 must be a high spirit of patriotism and love for the class before

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1 we can go all-out to search out and detect the enemy and sweep
2 clean the enemies in the cooperatives, unions, units, and so on,
3 before we can go all out to sort out the livelihood of the people
4 and before we can go all out to go on the offensive to attack and
5 achieve three tons and six tons following the instructions of the
6 Party. This means hot, constant combat in every mission that the
7 Party delegates. According to experience, there is no firm
8 foundation for the fighting spirit to fulfill missions whether
9 small or large, nothing can be guaranteed for the long-term."

10 [15.49.21]

11 And the last passage I would refer to is "The Red Flag" song that
12 you refer in your book, and that's at E3/3346; 0431526, at page
13 84, and you state this, you state the words of "The Red Flag"
14 song. I quote:

15 "'The Red Flag' which was often sung in unison before meetings:

16 "Glittering red blood blankets the earth-

17 "Blood given up to liberate the people;

18 "Blood of workers, peasants, and intellectuals;

19 "Blood of young men, Buddhist monks, and girls.

20 "The blood swirls away, and flows upward, gently, into the sky,

21 turning into a red, revolutionary flag. "Red flag! Red flag!

22 Flying now! Flying now!

23 "Beloved friends, pursue, strike and hit the enemy.

24 "Red flag! Red flag! Flying now! Flying now!

25 "Don't leave a single reactionary imperialist (alive).

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1 "Seething with anger, let us wipe out all enemies of Kampuchea.

2 "Let us strike and take victory! Victory! Victory!"

3 Before I ask you about the previous two documents, that "Red

4 Flag" song that you quote, was that used during Democratic

5 Kampuchea?

6 [15.51.12]

7 A. I would not want to give a definitive opinion on that because

8 I haven't systematically researched that. The national anthem,

9 though, there's clear evidence that that was played all the time

10 and it's very similar in terms of the rhetorics (sic) of blood

11 and anger.

12 But the "Red Flag", I'd like to do more research upon. I do have

13 citations in there, but --

14 Q. And really that's the main point of this question. You've

15 talked about this issue of disproportional -- disproportionate

16 revenge. By looking at those documents, by looking at the

17 language that was used, particularly in those first documents, of

18 having anger and rage, in your opinion, that type of language in

19 the CPK propaganda, is that more likely to increase the chances

20 of mass killing or reduce them?

21 A. More likely to increase the chances, and I should also note

22 that, you know, you need to take account of the civil war I think

23 as well and the great deal of anger that must have existed at the

24 end of the civil war after fighting for so many years. And so I

25 think in the midst besides class oppression, class anger, the

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1 fighting itself was also a factor in leading to the situation
2 where there's a great deal of anger.

3 [15.52.53]

4 Q. And from your review of the primary documents from the DK
5 period, is it your opinion -- or what is your opinion as to
6 whether or not the CPK leadership encouraged this anger or
7 discouraged it?

8 A. I think it's clear that they encouraged it but, again, it goes
9 back to the civil war, even the US bombing, different sources to
10 motivate anger and talk about things that had happened to people
11 to make them angry. But it's every -- you know, it's in a great
12 deal of CPK, DK documentation.

13 Q. So perhaps now if we go to the -- one of the other factors you
14 talked about in the book and that's the way power was structured
15 and the patronage system that was in place before Democratic
16 Kampuchea and, in a sense, how that influenced behaviour or what
17 happened during the period.

18 [15.54.24]

19 You entitled one of your chapters as "Power, Patronage and
20 Suspicion" and you state that by understanding this, that's the
21 way you can only really fully understand why the purges took
22 place in Democratic Kampuchea.

23 Can you explain that cultural norm that you say existed and what
24 it was, and then how it affected the way purges were carried out?

25 A. So, again, the notion of relationships, of dependency,

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1 personalized relationships -- there are a number of different
2 names for it -- but this is something that's omnipresent in
3 Cambodia and certainly at the time I was doing my research, but
4 it's also clear that the same notion that there are strings, that
5 people are connected, there are groups of people that have
6 relationships that are a faction.

7 Again, you know, during the trial you've been hearing all sorts
8 of testimony, but -- and I don't want to characterize the Defence
9 argument -- but part of it is, again, this notion that there were
10 factions of people who were somehow betraying the Party Centre,
11 the Standing Committee, one of whom was Koy Thuon.

12 [15.55.54]

13 And, again, not looking at the content of the confessions but if
14 you look at the structure of confessions, you see that what used
15 to be a practice, what we spoke before about writing life
16 histories, the confessions are an inversion of that where they're
17 written almost as a life history of treason.

18 So instead of joining the Party, right, you join the CIA or a
19 traitorous network and they trace like a life history would trace
20 a path of revolutionary -- the purity of one's revolutionary
21 consciousness.

22 The confession's written in such a way to show the impurity, but
23 at the very end, as you know all too well and has emerged
24 clearly, lots of documentation in the Duch trial everybody would
25 finish and do literally what your string of your connections and

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1 this would become the basis for further research.

2 And if you look at the confessions of -- in the area where I was,
3 of Koy Thuon and Sreng were at the top and were sent to S-21. Not
4 to comment on the veracity of any of those, but they list
5 connections that go all the way down to Region 41, all the way
6 down to the district where I was doing my field work and after
7 they were taken in, they swept out, to use the language, all the
8 people beneath were gradually taken and purged.

9 [15.57.10]

10 Q. Okay. Thank you. And if I could stop you there because
11 certainly, as you say, we don't want to be discussing the content
12 of the confessions, but as you say, you're talking about the
13 structure of them.

14 This idea of strings, this idea of patronage, does your research
15 show that power was structured to a certain extent in that way
16 before Democratic Kampuchea commenced in terms of -- perhaps if I
17 can explain -- was power spread equally or you talk -- in your
18 book you talk about "potent centres of power".

19 How was power structured and the patronage system working before
20 Democratic Kampuchea period, as far as you know?

21 A. Yes. I believe it existed before, it existed during, and it
22 existed afterwards, including relationships of patronage,
23 personal dependency that were operative during the time I was
24 doing my field work in the 1990s. It's an aspect of social
25 organization.

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1 [15.58.30]

2 Q. And so perhaps if I can just read to you a few -- two short
3 documents. And this is a report from the Sector 5 Committee,
4 M-560, dated 21st May 1977. It's Tab 23. It's E3/178; English,
5 00342709; Khmer, 00275558; and French, 00623305 to 06; and I
6 quote:

7 "The 17th of April elements from Phnom Penh who were Cham
8 nationals conducted a protest in the common kitchen of the
9 cooperative concerning their belief in what they eat according to
10 their religion by pointing at and referring to Article 10 of the
11 Constitution; for this situation, we have taken special measures,
12 that is, look for their string, look for the head of their
13 movement in order to sweep clean."

14 The next document I'd like to refer to is a "Revolutionary Flag"
15 published in June 1977. That's Tab 13.4. It's E3/135; English,
16 00142912; no Khmer translation -- sorry, Khmer document. I
17 haven't got the Khmer number, I apologize, Your Honours.

18 [16.00.20]

19 MR. KOPPE:

20 Mr. President, I know there's not any question being asked yet,
21 but the Prosecution is asking the expert to comment on documents
22 that are contentious, that are part of this very trial. The
23 Defence has position about; the prosecution has a position about;
24 I really do not see how this expert, again being an
25 anthropologist, can enlighten the Court or parties as to the

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1 relevance of the documents, the reliability of the document, who
2 was the recipient, who was the sender.

3 This is a contentious document and I don't know believe that the
4 expert is in any position to answer this question.

5 JUDGE FENZ:

6 Which question, Counsel? We haven't heard the question yet.

7 MR. KOPPE:

8 To give a reaction to this document, I am sure that is going to
9 be the question.

10 [16.01.18]

11 MR. SMITH:

12 It will be part of the question but, Your Honours, I will be
13 asking the witness to comment on the use of searching for strings
14 and how that relates to this issue of patronage and the custom of
15 how power was organizing in Cambodia.

16 So it's not to actually talk about the specific subject matter of
17 the Cham or other aspects which my friend raised.

18 [16.02.03]

19 So the next document is the "Revolutionary Flag" published in
20 June 1977. I've just given the numbers apart from the French,
21 00487736; and it states:

22 "In the first half of 1977, we manage to sweep clean networking
23 enemies burrowing within. Drawing from this experience, we do not
24 just see movement; their biographies are also our target; who
25 contacts who, with introductions from who. By this way, we know

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1 their circles, sources, where we can conduct our search. Thus [...]
2 biographies are in a firm grasp and we will be confident in the
3 quality of our cadres and party candidates."

4 [16.02.53]

5 BY MR. SMITH:

6 Q. I think this may end up being the last question, Professor.
7 Looking at those two documents and hearing them in terms of
8 looking for strings of their -- in relation to the Cham and also
9 looking at biographies in trying to find out circles of people
10 and associates, was that type of practice, was that partly
11 informed by that cultural practice of understanding how power and
12 patronage works and how people are connected by association? Does
13 that demonstrate that use of that cultural practice in which you
14 say power is structured?

15 MR. HINTON:

16 A. Yes, it appears to, and I should also note that it might be
17 also appropriate to say form of social organization; not just
18 cultural practice. As anthropologists, we sometimes talk about
19 the socio-cultural, but it's a form of organization as well
20 political organization to an extent, so they all intersect.

21 [16.04.17]

22 MR. SMITH:

23 Thank you, Your Honour.

24 MR. PRESIDENT:

25 Thank you, Mr. Expert.

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1 Now it is time for the adjournment. The hearing will be -- the
2 Chamber will resume its hearing tomorrow on 15 March 2016,
3 starting from 9 a.m. And the Chamber continues hearing Alexander
4 Hinton.

5 [16.04.51]

6 Thank you once again, Mr. Expert, the hearing of your testimony
7 as an expert has not come to end yet. You are therefore invited
8 to come here once again tomorrow.

9 Court officers, please work with the WESU to send the expert to
10 the place where he is staying at the moment and please invite him
11 back into the courtroom tomorrow at 9 a.m.

12 Security personnel are instructed to bring the two accused, Nuon
13 Chea and Khieu Samphan, back to the detention facility of the
14 ECCC and have them returned tomorrow before 9 a.m.

15 The Court is now adjourned.

16 (Court adjourns at 1605H)

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