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Transitional Justice Dilemma: The Case of Cambodia

Virorth Doung and Sophal Ear

Abstract

The last two decades have witnessed a remarkable proliferation of efforts to seek justice that responds adequately to mass atrocity. There is a mounting debate over the desirability and effectiveness of each effort in consolidating justice and peace. This essay offers a perspective for approaching the challenges of transitional justice and assessing policy priorities to improve the responses of transitional justice mechanisms for people whose human rights have been violated. As scholars from Cambodia who lived under the Khmer Rouge regime, we use Cambodia as a case study for analysis. This essay suggests that both trials and truth commissions, simultaneously or subsequently, are fundamental during transitional periods in order to achieve better results on behalf of victims, and proposes establishing a community-based public forum for Cambodian victims and perpetrators to have a formal dialogue, in addition to the current Khmer Rouge Tribunal.

Introduction

Societies that experience chronic civil wars under authoritarian regimes seek various approaches to deal with repression, injustice, and trauma when they reach periods of “transitional justice”, i.e., processes and mechanisms used to address past abuses and ensure accountability which serve justice and achieve reconciliation (Ambos 2009:21; UN 2004). Transitional justice normally encompasses legal, moral and political considerations to uphold justice and rule of law (Bell Campbell and Aolain 2004:305; Eisikovits 2009:1). It consists primarily of two forms of justice: retributive and restorative (Ambos 2004:5). The most common approaches adopted are trial and reconciliation (through truth commission). The trial approach emphasizes the need to hold accountable those who have committed human rights violations. In Germany, for instance, successors of the Nazi regime held an international criminal tribunal, the Nuremberg International Military Tribunal, to try top war criminals (De Brito 2001:4). The reconciliation-through-truth commission approach stresses “amnesty,” based on principles of forgiveness and moving forward to restore the relationship between the victims and perpetrators. South Africa, for example, established the Truth and Reconciliation Commission in 1996 to deal with the apartheid regime by promising non-prosecution to those who confessed completely their past crimes (Kiss 2000:68; Gibson 2005).

The trial and truth commission mechanisms have become primary means of effecting reforms suggested by international organizations, donor agencies and experts for countries in transition from war or authoritarianism (Ambos 2009:21; Thoms, Ron, and Paris 2008:9). There is debate over the desirability and effectiveness of each method in consolidating justice and peace, and the tension between proponents of trials and proponents of truth commissions poses critical concerns for policy makers and practitioners. This debate emphasizes the need to redefine both theory and policy practical application in countries emerging from violent conflict or authoritarian regimes (Ambos, Large and Wierda 2009). Which transitional justice mechanisms provide more effective results remains a contentious question.

The psychological trauma brought by the Khmer Rouge regime remains desperate but inadequately addressed. In 2006, more than three decades after the fall of Phnom Penh, the government of Cambodia and the UN launched a hybrid Tribunal known as the Extraordinary Chambers in the Courts of Cambodia (ECCC) to try a handful of aging Khmer Rouge leaders. The ECCC aims to try only crimes committed in Cambodia between 17 April 1975 and 6 January 1979, which caused an estimated 1.7 million deaths. It also seeks ways toward reconciliation through its innovative Victims Unit, and is a new model for court operations in Cambodia (Menzel 2007:224). Expectations of norm penetration can only be achieved if the court functions fairly.

Since its inception, however, the ECCC has suffered myriad problems, including political interference and alleged

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of corruption through kickbacks. The ECCC was born of conflict between the Cambodian government and the UN, which caused considerable delay. The “Cambodian supermajority hybrid criminal court” raises critical concerns about the capacity independence and political interference of Cambodian judges (Stensrud 2009:8). In addition, the ECCC's effectiveness is hampered by many technical constraints, including limited financial resources, limited capacity and experience of Cambodian judges and prosecutors on the criminal cases, and corruption allegations within the ECCC, only five aging Khmer Rouge leaders have been indicted. More importantly, the participation of victims in the court process, despite the introduction of a Victim Unit, has stumbled. A recent survey by the University of California, Berkeley (Pham et al. 2009:36) shows that up to 85 percent of the population has very limited or no knowledge of the ECCC. These challenges raise doubts about whether and how justice can be served or the whole truth can be sought.

We believe the ECCC is still viable if problems are remedied instead of ignored. Because of the international nature of the crimes committed and the continuing sense of impunity in Cambodia, a tribunal is essential for the application of justice. However, a court alone is not a sufficient mechanism to ensure justice or promote the rule of law and respect for human rights, all of which are necessary to promote democratic governance. We contend that achieving transitional justice is less likely when proponents use only legal proceedings. Both trials and truth commissions, simultaneously or subsequently, are necessary during a transitional period. Both are considered prominent mechanisms of transitional justice and have become intertwined (UN 2004). Given their linkage, no element of transitional justice can be dealt with in isolation.

To unfold this argument, we divide this essay into three sections. The first section elaborates upon the history of Cambodian conflict leading to current context. We discuss the theoretical foundation of transitional justice in the second section, demonstrating that current debates on transitional justice suggest both trial and truth commission are integral to success. The final section analyzes current practices of the ECCC to see if it strengthens or weakens rule of law and respects human rights. The ECCC is constrained by technical and substantive matters causing difficulties in seeking justice for millions of Cambodian victims. We suggest that a community-based public forum in addition to the current ECCC is important to provide more space for victims and perpetrators to have formal dialogue.

The Cambodian Conflict

After decades of chronic civil war, Cambodia today enjoys relative peace and stability resulting from years of tremendous effort by the international community in concert with local actors to establish political and economic liberalization (Ear 1997, 2007). It has been argued that such efforts to restore and build up positive peace in war-shattered societies have proven less effective over time, fading gradually as in the case of Cambodia, chiefly because of limited local institutional capacity (Kim 2007:1; Paris 2004:154; Peou et al. 2004:6). This perpetuates shallow or unconsolidated democracy (Kim 2007:1; Peou et al. 2004:6) or worse, negative peace (Peou 2007).

The legacy of trauma from the Khmer Rouge regime, 1975 to 1979, and later during the Third Indochina Conflict in the 1980s (Vietnam's invasion of Cambodia and China's retaliatory attack on Vietnam) has had lasting effects on the Cambodian people and society (Lambourne 2004:5; Linton 2004:12). The contemporary dilemma started in 1975 when the Khmer Rouge leader, Pol Pot, took power and drastically transformed the whole country into “an extreme version of Maoist collectivism” (Menzel 2007:215) by evacuating all people from cities (Kiernan 2004:80; 2002:486), abolishing currency, and renaming the country Democratic Kampuchea. All social, economic, cultural, and religious identities were obliterated. As Short (2004) has argued, “Individual rights were not curtailed in favor of the collective, but extinguished altogether. Individual creativity, initiative, and originality were condemned per se. Individual consciousness was systematically demolished.” Pol Pot and comrades succeeded in creating their version of Utopia, which was little more than hell on earth for everyone else. The regime blocked international relations except with China and a few other friendly countries (Kiernan 2002:487). As a result, nearly two million people died of torture, extermination, starvation, disease and exhaustion from forced labor (Kiernan 2002:486; Menzel 2007:215).

In 1979, the Khmer Rouge were ousted, forced to the Cambodian-Thai border by Vietnamese troops. Democratic Kampuchea was renamed the People's Republic of Kampuchea (PRK) and although various economic sectors were reestablished, they remained minimally capable through 1989, when the Vietnamese withdrew. Cambodia, like Vietnam, was under a Western-imposed embargo. The civil war between the Vietnamese backed-PRK and the Khmer Rouge in alliance with two other resistance movements along the border continued to take a toll in Cambodian lives.

Despite the 1991 Paris Peace Accord and the 1993 UN-sponsored election, Khmer Rouge leaders, who boycotted the elections, continued to fight against the new coalition government, killing people sporadically. In 1998, the last of the Khmer Rouge cadres were reintegrated into government military forces and civil positions, though some hard-liners, such as Ta

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were captured. Although atrocities ended, the crimes committed by the Khmer Rouge remain unaccounted for.

Retributive Justice and Its Limitations

The demand to bring perpetrators to court and hold them accountable, via either punishment or atonement, for wrongdoings is retributive justice. [3] Restorative justice seeks to construct relationships between the victims and perpetrators in the communities [4] (Chan 2006:69-71; Estrada-Hollenbeck 2001:66; Lambourne 2002). Although transitional justice, which combines these two forms, is normally a short-term or temporary process, its result can establish an ongoing judicial reform process (Anderlini et al. 2004). Transitional justice requires political commitment from the succeeding regime and other involved players, time and resources with consideration of local cultures and religion, victim participation and scale of atrocity.

Retributive justice, as characterized by Zehr (2001:330), or legalistic justice, as labeled by Estrada-Hollenbeck (2001:66), views the crime as totally wrong (Estrada-Hollenbeck 2001:67) and against individuals and states (Daly 2002). Perpetrators deserve to be punished by judicial means through prosecution in court to avoid retaliation from the victims (2000; Lambourne 2001:313). This involves formal judicial procedures from lodging of complaints to investigation by prosecutors, with formal testimony from victims and perpetrators to gather sufficient evidence and witnesses to support accusation and the formal procedural hearing in the courts. The main focus is to seek out the perpetrators and blame them for their wrongs (Zehr 2001:331) through punishment or prosecution.

Trials have multiple goals including deterrence, punishment for the guilty and promotion of the rule of law (Minow 2000:235; Thoms, Ron and Paris 2008:21). Criminal punishment administers justice for victims, reinforces social norms, removes political threats to the new regime and deters future recurrence (Peou 2009:110). More specifically, the trial advocates hope that punishment can help end impunity (Minow 2000:236). Credible threats of punishment can boost political stability and encourage constructive political behavior (Akhavan 2001:12). Trials can serve as a model or incentive for local legal systems during transition, and they help promote the rule of law and respect for human rights by obligating governments to conduct themselves according to public and broadly applicable rules (Peou 2009:110; Thoms, Ron and Paris 2008:22). Proponents believe that the continuing legacy of impunity is a serious impediment to democracy. Thus, holding perpetrators accountable for their wrongdoings advances the rule of law.

While the result of retributive justice may prove satisfactory for the victims, the procedure itself is limited in several ways. First, prosecutions focus primarily on the perpetrators and do not give victims the attention or healing they need (2000:73; Hayner 2001:89). Second, trials can lead to re-victimization, as those giving testimony are cross-examined in a potentially hostile and humiliating proceeding (Kiss 2000:73), as happened in Argentina (of which more below). A litany of victims have already been assailed by defense lawyers in Cambodia, such as Norng Chanphal, aged 8 when he was taken to the torture center known as S-21 with his mother, and Phork Khan whose testimony contradicted his statement (Gée 2008:20). Third, criminal courts, due to the necessity for clear-cut “yes” or “no” answers, may limit information sharing, making it difficult to obtain the whole truth (Hayner 2001:92). Additionally, perpetrators have no incentive to confess, tell the whole truth or make the record public (Kiss 2000:73). Finally, retributive justice is hard to achieve if the conflict is related to inter-communal ethnicities, especially within communities where political settlement is sought between factions for the sake of ceasing war and striving for peace (Estrada-Hollenbeck 2001:69). The limitations of this approach make justice difficult to achieve in courts (Hayner 2001:88). For these reasons, retributive justice for the people of Cambodia seems inadequate.

Argentina pursued justice for victims through prosecution and attempted to hold members of the former military junta accountable for their human rights violations. The government established a Truth Commission to collect evidence against perpetrators for prosecution. Five hundred officers were listed in the commission report as having to face trial. However, the attempt failed due to the judicial chaos of testimony and the threat of a coup, which coerced the government to halt prosecution and issue a “blanket amnesty for soldiers and police” (Kiss 2000:75). Likewise, the cases of Rwanda and Timor indicate how procedural justice embodied in trials can have adverse effects on traditional justice and can fail to achieve the goal of moving forward if victims feel alienated from the process (Chan 2006:93).

Restorative Justice

Restorative justice is a process through which all those affected by an offense—victims, perpetrators and bystanders—collectively deal with its consequences (Bazemore and Schiff 2005:28). This approach emphasizes the healing of wounds and the rebuilding of relationships between victims and perpetrators within communities (Kiss 2000:69). Unlike retributive justice’s focus on punishment or atonement, restorative justice seeks to repair the damage (Lambourne 2001

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Zehr 2001). Trust building is the core focus. The parties not only earn trust and conceive the process as trustworthy but must encourage themselves to develop trust (Estrada-Hollenbeck 2001:74). Van Ness identified five main requirements of restorative justice: first, invite full participation and consensus; second, seek to heal what is broken; third, provide full and direct accountability; fourth, reunite what has been divided; and finally, strengthen the community to prevent further harm (2001:5-6; qtd. in Lambourne 2002:184).

Many developed countries have adopted this approach to deal with domestic crimes, such as youth gangs and sexual abuse in the United States, New Zealand and Australia (Daly 2002; Studds 2007; White 2003). Restorative justice involves a range of activities including Family Group Conferencing, Victim-Offender Reconciliation Programs, and Sentencing Circle (Bazemore and Schiff 2005; Daly 2002; Studds 2007; White 2003; Zehr 2001). Even though criminal trials are framed as an alternative devoid of restorative justice, the best ones can promote some reconciliatory values (Drumbl 2007), but as Da Sarkin cautions, "criminal trials are rarely at their best" (2006:174).

Kiss (2000:79) highlights four commitments entailed in restorative justice: "(1) to affirm and restore the dignity of those whose human rights have been violated; (2) to hold perpetrators accountable, emphasizing the harm that they have done to individual human beings... (3) to create social conditions in which human rights will be respected." Finally, restorative justice represents a "commitment to reconciliation" (ibid.). While the first three components also pertain to retributive justice, the last provides a clear distinction between the two mechanisms. White also incorporates reconciliation as part of restorative justice and shares the conclusion that reconciliation is part of restorative justice (2003:144).

Reconciliation

As adopted by most contemporary post-conflict countries, reconciliation is a process that aims to heal past trauma through forgiveness, public apology and restored relationships. This concept of reconciliation has earned notable recognition in international politics and has become the focus of discourse in scholarly debates (Meierhenrich 2008; Moon 2004; Santa-Barbara 2007; Schaap 2005; Veitch 2007:4).

Reconciliation has been defined in varying ways in the literature. Meierhenrich proposed a "systematized concept of reconciliation" as "accommodation of former adversaries through mutually conciliatory means, requiring both forgiveness and mercy" (2008:206). Santa-Barbara's definition is the "restoration of a state of peace to the relationship, where the entities are at least not harming each other, and can begin to be trusted not to do so in the future, which means that ... revenge is foregone as an option" (2007:174). Bloomfield gives a similar definition of reconciliation as "an over-arching process which includes the search for truth, justice, forgiveness and healing ... to find ways to live alongside with enemies" (2004:12). Schaap defines it in the first person as "what makes the revelation of truth possible and explore what I take to be the first step in anthropological sequences of reconciliation, namely, the act of constitution" (2007:10). All these definitions incorporate the central theme of relationship building based on truth, forgiveness and apology, which is incompatible with retributive justice.

Preventing the recurrence of past atrocities has to start by uncovering truth^[6] (Freeman and Hayner 2004:122; Rotberg 2000:3). The process seems simple in theory but is difficult in practice (Santa-Barbara 2007:176), especially if it involves past politics. In this context, finding truth, or evidence, is difficult through litigation or the judicial process, what Santa-Barbara refers to as the "blame-game" (2007:177; Gibson 2006:416). Gibson believes that because it triggers reconciliation, the truth plays an important role in reconciling a divided nation (2006:410-411), but his valiant attempt to prove this causal relationship empirically (2005:6-7) in South Africa following apartheid has not been definitive, as Backe (2006) carefully noted. Truth drawn from perpetrators who committed brutalities can still be useful as a historical record both present and future.

Some Cambodian people reject the notion that "Khmer killed Khmer" (Linton 2004: 27). One of the authors visited Angkor Borei in Takeo Province in 2004 and was told by villagers that the culprits for the killings were *kloun Khmer*, *kbal Youi* (Khmer body, Vietnamese head, using the common though frequently derogatory word for Vietnamese, *Youn*) for example. Surviving Khmer Rouge leaders have said it was a mistake of inexperience in governing the country (Thayer, interview of Pot, 1998, qtd. in Chandler 2000) and that most killings were committed by Vietnamese agents. The ECCC process is supposed to reveal the truth and achieve some redress for victims. Menzel asserts that "a trial will not cure them at all" but instead "might be somewhat dangerous shock therapy as trials bring memories back and force people to reflect [on] their past" (Menzel 2007:226). According to Schapp, the only way to reveal the truth of Khmer Rouge crimes would be to first and foremost assert at the national and community level the willingness to offer forgiveness. This would provide the political space for perpetrators to express repentance and reveal the full truth. This would be followed by an apology and promise of "r

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again” and the restoration of fractured relationships (Schaap 2005).

Cambodia demonstrated this during 1996-97 when the Cambodian government negotiated with former Khmer Rouge leaders and promised to give amnesty when they agreed to stop fighting and were fully reintegrated into society (Kiernan 2002:491). This happened to Khmer Rouge leader Ieng Sary (who is now among the five indicted men on the docket of the ECCC). It also led to the events of 5-6 July 1997—a coup d'état by any other name—when the First Prime Minister was deposed by the Second Prime Minister.

Toward Integrated Mechanisms

The mounting debate among transitional justice proponents centers on the desirability and effectiveness of applying either trials or truth commissions. Both approaches attempt to seek justice, promote the rule of law and advance democracy. Recent literature on effective application of both mechanisms has been unclear or limited. For example, Thoms, Ron and Paris (2008:31) indicate that transitional justice makes either a moderately positive or no contribution to pre-established goals. Another study, however, demonstrates that trials and truth commissions do not bring about the rule of law but are important symbols; the legitimacy of the domestic legal system is critical to the success of transitional justice (Fletcher, Weinstein and Rowen 2009:220). [7] The effectiveness of transitional justice is limited when both options are pursued in isolation from each other, separated by time (Valji 2009:11), as has been the case in Cambodia. There is a general assumption that these mechanisms are mutually exclusive or even at odds (Humphrey 2002).

Post-conflict recovery requires an integrated framework, developed in full partnership with national and local communities, to ensure ownership and commitment. Judicial and non-judicial approaches are equally relevant and complementary: both pay serious attention to past wrongs and take into account the interests of victims (Ambos 2009:4). “The most probable scenario is a combined application [of transitional justice mechanisms] given the fact that the mechanisms are complementary, each playing a distinctly important role” (Ambos 2009:49). Normatively, judicial and non-judicial approaches satisfy distinct legal and moral duties, so they are likely to complement but not substitute for each other if not to serve truth and justice (Ambos 2009:40; Thoms, Ron and Paris 2008:24). [8] The application of nonjudicial approaches can be considered as a mitigating factor in normal criminal proceedings. A study by Payne, Olsen and Reiter (2008:16) confirms that while countries that adopted trials and truth commissions have achieved nearly the same level of democracy, they show dramatic differences in levels of violence. Kofi Annan in his UN report (2004:9) called for a comprehensive approach for bringing satisfactory results, as the processes are complementary and cannot be implemented in isolation.

Current ECCC and Challenges

Cambodia is internationally known for the mass atrocities committed from 1975 to 1979 by the Khmer Rouge regime. Measured in terms of percentage of the population killed, it was the largest single episode of mass murder in centuries (Etcheson 2005:142). Additionally, the UN report of a Group of Experts (1999) clearly showed that crimes committed during the Khmer Rouge regime are classifiable as genocide, war crimes, and crimes against humanity under both Cambodian and international laws. A recent survey found that 93 percent of the population were victims of the Khmer Rouge (Pham et al. 2009:24). [9] Almost every Cambodian now living lost family members during that time, and 60 to 80 percent of victims suffer from disorders of extreme stress (Linton 2004:57). [10] More seriously, traumatized individuals form part of the wider community. The prevalence of dysfunctional relationships between individuals and groups has the potential to cause instability if the problems are not dealt with properly (Linton 2004:58). Domestic violence, drug addiction, and youth gangs have emerged as central problems in Cambodian communities, in addition to poverty (CDRI 2007). [11] A recent study suggests that the majority of victims who suffered trauma wish to seek revenge (Field and Chhim 2008:369). Another survey found that 71 percent of respondents wish to see the Khmer Rouge leaders suffer in some way, 37 percent wish they could take revenge and 40 percent would do so if given the opportunity (Pham et al. 2009:29).

Ironically, the Khmer Rouge were recognized by the West, notably the United States, in the Coalition Government of Democratic Kampuchea and took Cambodia's UN seat during the 1980s and early 1990s. Most analysts link this Western support of Khmer Rouge resistance to the geopolitics of the Cold War (Kiernan 2002, 2004; Chandler 2008). [12] This does, however, obviate the fact that many of the earliest apologists of the Khmer Rouge were leftist academics (Hildebrand and Porter 1976, Caldwell 1978, Kiernan 1977, Chomsky and Herman 1979). Adding insult to injury, Cambodians must suffer the further indignity of a former Chief of Public Affairs and now current head of the ECCC Victims Unit who is a devout Marxist-Leninist and a member of the Leninist Party Faction of the Democratic Socialist Perspective, an Australian political party (Jarvis et al. 2006).

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The legacy of mistrust, fear of death, lack of social cohesion and non-reciprocal relationships indoctrinated by the Khmer Rouge regime persists in Cambodian culture. During peace negotiations in 1991 and subsequently, the Khmer Rouge rather than being held accountable for crimes committed, were included; and they were fully entitled to compete in the UN-organized election of 1993. [13] The scale of tragedy committed by the Khmer Rouge is immense; immeasurable; and difficult for survivors, lawmakers, activists and scholars to deal with (Chandler 2000:67). Therefore, the ECCC is believed to be the only appropriate response.

The establishment of the ECCC [14] has been a central matter for both Cambodia and the international community. As a hybrid tribunal, the ECCC remains tenuous, as it arose following a long conflict between the Cambodian government and the UN over who would control the ECCC. In 1997 the government requested the UN's assistance in establishing a trial to prosecute the senior leaders of the Khmer Rouge. By February 2002, the UN pulled-out of negotiations convinced of the bad-faith of the Cambodian side, having dragged negotiations out half a decade. Cambodia then formed a coalition in the General Assembly that voted to force the UN's Office of Legal Affairs back to the negotiating table. An agreement for the creation of ECCC was reached in June 2003. The ECCC serves to test precedent for international law (Ambos 2003; Menz 2007:218). Proponents claim it will be able to bring justice for the victims and end impunity by punishing those most responsible for their crimes (Menzel 2007:224). [16] Cambodian judges are in the majority, but the rules require at least one international judge side with them for decisions to be carried. If it is at least somewhat successful, this supermajority hybrid court might become a relevant option elsewhere. Some political and legal analysts expect that if the ECCC ensures fair process, Cambodian people and other actors will have confidence in and observe legal proceedings that meet international standards. Furthermore, Cambodians will favor legal reforms to ensure fair and just procedures. This preference may earn strong support from civil society advocates and the donor community, who have long pushed for governance and judicial reforms within the current government with little success (Ear 2007).

It is also possible that ECCC is a political game between the Cambodian ruling elites and the international community, especially the UN. The long delays and foot-dragging in establishing the court—first proposed in 1997, first trial officially begun in 2009—certainly suggests this. If the Cambodian government and the UN care for suffering victims and intend to hold the perpetrators accountable for their misdeeds, why has it taken so long? The purposes of the ECCC can be summarized both backward-looking and forward-looking (Stensrud 2009:8). [17] The backward-looking goal is to hold five Khmer Rouge leaders accountable for mass human rights violations and have this judicial proceeding serve as a means of determining historical truth (Menzel 2007:224). The forward-looking goal is to prevent the recurrence of mass crimes by respecting the rule of law and human rights. The criminal court is meant to serve as a model for the Cambodian judicial system as well as for other countries (ICTJ 2009:2; Menzel 2007:224). Will the ECCC fulfill these goals?

Certainly, the establishment of the ECCC answered doubts about whether there would ever be a Khmer Rouge tribunal. Although there was some controversy over sovereignty and credibility, the UN and the Cambodian government agreed to set up a criminal court under Cambodian law with involvement from international judges. [18] Five former Khmer Rouge leaders were indicted and taken into custody. [19] Kaing Guek Iev, better known as Duch, the former director of Tuol Sleng (S-21) detention and torture center, is the first to be tried. The start of that process on 30 March 2009 represents a major step forward for those seeking justice. Cambodian victims and the international community applaud the trial and have strong hope that justice will be served and a culture of impunity will be replaced by a culture of accountability—and that ultimately the rule of law will be attained. [20]

In the process leading up to Duch's trial, Internal Rules for ECCC procedures were finally adopted. Specifically, the Internal Rules allow victims to participate as civil parties in the proceedings and to create a dedicated Victims Unit (McG 2009:139). [21] This is a positive development within the Cambodian legal framework and also a precedent for other internationally assisted courts (ICTJ Report 2009:4). In addition, NGOs play active roles, both encouraging victims to participate in the ECCC process and disseminating information about the prosecution to a wider audience (Pham et al. 2009:19).

Technical and substantive issues remain, particularly the lack of resources, political commitment, legal instruments to deal with criminal acts, competence, accountability and translation. Substantive issues include the ability of the court to provide justice with fairness and cohesion inherent to the rule of law, including political independence, transparency, and impartiality.

Technical Constraints

In 1979 the People's Revolutionary Tribunal in Phnom Penh, then controlled by the Vietnamese, tried Ieng Sary and

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Pot in absentia and found both guilty of the crime of genocide. Thus, when the Cambodian government and the UN negotiated the establishment of what would become the ECCC, conflicts arose over integrity, sovereignty and independence of the courts, leading the UN to withdraw from negotiations. Following shrewd maneuvers by the Cambodian government, the General Assembly of the UN voted to require the body to return to the negotiating table. Discussion resumed and an agreement was reached in 2003. Since the ECCC was established in 2007, there have been frequent delays due to conflict between Cambodian and international judges over internal rules. Lack of money is a perennial problem. Initially, the budget was estimated at around US\$56 million for a period of three years, from 2007 until 2009. Now the budget has increased almost US\$100 million within a longer time frame. In addition, soon after the ECCC began, allegations of corruption within human resources and administration departments were publicized, leading some donors to suspend funding to the Cambodian side of the ECCC. [22] This led the UN to negotiate with the Cambodian government about transparency and mechanisms to tackle corruption, but the on-and-off discussions produced no concrete measures.

Recently, Prime Minister Hun Sen announced publicly that he wished to see the court fail and prayed for it not to obtain a sufficient budget. [23] A few days later, Peter Taksoe-Jensen, UN Assistant Secretary General for Legal Affairs, met Deputy Prime Minister Sok An to seek anticorruption measures within the ECCC's human resources management and administration. The meeting failed to result in any commitment because Australia announced it would resume aid to the Cambodian side of the ECCC prior to the meeting. [24] There has been no legal action against any corrupt officials within the court. [25] This brings into question the Cambodian government's political commitment to victims of the Khmer Rouge.

While the lack of political commitment has been a long-running saga for the Cambodian side, these have sometimes been eclipsed by legal complications that would appear beyond the control of the Cambodian authorities. Some legal experts express concern over the legal applicability and admissibility of the criminal charges, which are based on domestic laws with residual application to international laws. [26] The availability and reliability of witnesses and evidence adversely affected by the passage of time are challenges (Darcy 2008:1), as is correlating the definition of genocide during the Khmer Rouge's with the definition of genocide as set out in the 1948 Genocide Convention (Darcy 2008:2; Skilbeck 2008:442). A wider interpretation of the term may seem ethically attractive, but lacks persuasiveness in light of the clear language of the Convention and recent developments in international law (Menzel 2007:222). Another concern is the ability and competence of Cambodian judges in dealing with international criminal issues. None of the recruited Cambodian judges has experience in international criminal law and some have hardly any substantial legal education (Menzel 2007:220). In addition, the qualifications and the independence of the Cambodian judges and prosecutors from political interference are in question. Etcheson (2005:172) notes, the very structure of Cambodia's legal system ensures that judicial independence and legal professionalism cannot be obtained in practice. These judges have been appointed and their tenure depends on loyalty to the regime. [27] Court logistics related to the lack of capable interpreters for legal terms and lack of witness protection facilities and programs are further technical complications.

Substantive Constraints

The court's structure, with a Cambodian majority and presiding Cambodian judges in all chambers, affords the Cambodian side legitimacy to control the process. Given that the judicial and legal system is historically dysfunctional, corrupt, incompetent, politicized and totally distrusted in Cambodia (Menzel 2007:226; Richmond and Franks 2007; Stensrud 2009:10), the Cambodian supermajority could be a liability for the ECCC. The concern is not only the incompetence of the judges but also that the government will use its control over them to influence the ECCC for political ends. [28] The recent demand for additional indictments by the international co-prosecutor, Mr. Robert Petit, who announced his resignation effective 1 September 2009 for unrelated personal and family reasons, has caused consternation on the Cambodian side. The indictment request was publicly criticized by the Prime Minister and other senior ministers. The Cambodian co-prosecutor opposed it on the grounds of political instability and limited resources. This government intervention drew a massive outcry from both civil society and international analysts. Many national and international observers see Cambodian control of the ECCC as its Achilles heel and fear that instead of providing justice for the victims and strengthening the Cambodian judicial system, the process will leave Cambodia further weakened (deGuzman 2008:338).

The long delay of the proceedings has had a serious deleterious effect. The key Khmer Rouge figures, including P. Pot, Brother Number One; Ta Mok, Commander-in-Chief; and Son Sen, the minister in charge of security, have died without indictments or independent trials. The current five detainees are also in various states of deteriorating health; four may not live to hear their verdicts. [30] The prosecution of these aging Khmer Rouge leaders who had "command responsibility" raises another question, whether this trial can satisfy millions of victims who want justice from the government and truth from the perpetrators.

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According to the ECCC internal rules, victims can participate as civil parties or as complainants to the proceeding in addition to being called as witnesses. This is an innovative development for international criminal courts, as victims are granted more participatory rights (McGonigle 2009:142). [31] In addition, the ECCC can award “moral and collective reparations” to civil parties following a conviction. [32] More than 3,000 people applied to the court as civil parties and made formal complaints; however, as of March 2009, only 45 civil parties have been accepted (including one of the authors) and 11 are in process. [33] The excuse for such delays is insufficient resources due to an overwhelming number of participants. This inefficiency risks undermining the ability of victims to participate meaningfully in the proceedings and presents a real possibility that their expectations have been raised in ways that cannot be met (ICTJ 2009:3). The moral and collective reparations have also been challenged by victims’ lawyers, demanding that reparations be individualized.

Discussion: A Quest for Justice and Truth

The ECCC was created in response to demands by the majority of Cambodians and the international community for accountability from those responsible for human rights violations during the Khmer Rouge regime. [34] The indictments of five former Khmer Rouge leaders considered most responsible for crimes against humanity were cheerfully greeted. The recent hearing of Duch’s case and subsequent hearings to reject legal requests for release from detention of the other four suspects represent a major step and real commitment of the ECCC. The ongoing Duch trial has revealed at least some truth about how the regime organized the mass murder of the Cambodian people. The trial is considered the best strategy for the ECCC to move toward accusing the other four, and is clearly the easiest given that Duch is readily confessing to his crime. Among the five indicted, he is the only real “butcher” with bloody hands; the rest held executive authority as policymakers. Thus the confession from Duch can be strong legal grounds for establishing the guilt of the others. The confession also functions as a model for the other detainees, although none is likely to follow. [35] They have expressed no remorse for their crimes and all blame the late Pol Pot. Although recent developments do not fully alleviate concerns that the Cambodian hybrid formula of the ECCC will simply compound past injustice, there is a glimmer of hope.

The ECCC, however, will not be able to meet all its goals fully. Given the immensity of the crimes, Cambodian victims deserve the primary and foremost attention. The Cambodian people suffered tremendously from the regime and were ignored for almost three decades. To implore them, as the Prime Minister did in 1998, “To dig a hole and bury the past” (Sen, qtd. in Chandler 2000) is akin to avoiding the truth. A major goal of the ECCC is to ensure partnership and participation from the victims. If the victims are the primary actors for the ECCC, will justice be sought and the whole truth attained? It seems premature to answer this question while the trial is ongoing. However, based on the above analysis, we conclude the backward-looking goal cannot be fully achieved. Justice (through punishment and reparation) and uncovering the whole truth (through the court) are far from realistic. Five detainees cannot satisfy millions of victims. Distressingly, while the ECCC aims to serve the interests of the victims, only 15 percent of the population has heard about it (Pham et al. 2009:36). There is nothing to claim from the accused except truth and life imprisonment. There is little to no prospect of additional indictments as the ECCC is constrained by politics. Political and power interests, rather than law and principle, determine the outcomes. Etcheson predicts that holding all Khmer Rouge accountable and ending impunity will not happen in the Cambodian context (2005:173). By and large—as some scholars have speculated—the ECCC can only bring “symbolic or light justice” (Menze 2007) and partial truth.

The forward-looking goal will likely also be met in only a limited way under the ECCC. There is some hope that fair and due process within a court system can be partly achieved. The Cambodian judges obtain legal training on the job, work with presiding international experts, and learn how fair and due process is implemented. The Cambodian people too can observe the outlines of a fair trial process. The commitment of the judges to apply this model when they return to work in a heavy patronage system remains to be seen. Future crime deterrence, respect of human rights and rule of law, however, seem lofty goals at this point. Given the current record of widespread institutional corruption, human rights violations, such as land-grabbing, and oppression of freedom of expression, especially of journalists and opposition parties, [36] it is unlikely that the ruling elite will reconsider their actions in the foreseeable future. Impunity continues to mar the rule of law in Cambodia.

In addition, the ECCC has been plagued by concerns about political interference, secrecy about its operations, development corruption allegations, limited competence of Cambodian judges, lack of legal means to deal with crimes and limited resources, all of which undermine the court’s credibility and legitimacy. Most donors and civil society demand judicial reform and enhancement to ensure the rule of law. However, progress has been hindered for more than a decade. The ECCC must address these concerns openly and transparently if it is to have any effect in specific cases and in society at large. So far, it has done little. The government has threatened to ban those who criticize the court in 2007 and to terminate the court under royal authority if there are additional indictments or an indictment of His Majesty King Father Sihanouk, and has openly wished

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the court to fail (*Phnom Penh Post*, April 2009).

The government and international community want to show that they care for the victims, pay attention to rule and justice, and uphold human rights. Their obligation and responsibility will be finished when the court comes to an end. However, the legacy of atrocities and the scale of current suffering among the Cambodian people are immeasurable and cannot be dealt with under the court alone. Those citizens who are familiar with the ECCC (15 percent) may already think the court is not enough, but what about the 85 percent who have no knowledge of the court? They cannot be excluded. Surveys (Linton 2004; Pham et al. 2009) clearly show that people want to see the perpetrators held to account in some way. The prevalence of problems such as domestic violence, youth gangs and drug addiction can be partly caused by social psychological trauma earlier generations endured without remedy during the Khmer Rouge period. Chronic poor living conditions such as extreme poverty and lack of access to education (Fujii and Ear 2002), health care and clean water greatly contribute to social problems. As John Paul Lederach (1997:15) notes, in a divided society where deep, long-term fear and direct experience of violence sustain an image of the enemy, people are extremely vulnerable and easily manipulated. In the Cambodian context, all the middle- and lower-level former Khmer Rouge cadres have been integrated into normal life. This means they are now living closely with the victims and sometimes have face-to-face interaction. Without any proper mechanism to address hidden anger, “latent conflict” could easily erupt into violence.

Reconciliation demands both justice and some form of truth to address these issues, and participation from the victims is indispensable to lend legitimacy to transitional justice process and make the process socially accepted (Ambos 2009:40). After three decades, the Khmer Rouge issue has not been raised for debate or even mentioned in the public school curriculum. Given that former enemies live in communities without being held to account, many young people do not believe that mass killings took place (Pham et al. 2009). The median age in Cambodia is 22, with a birth year circa 1987, nearly a decade after the Khmer Rouge were ousted from power. Organizing truth commissions or community-based public forums to create space for formal dialogue and acknowledgment of victims' grievances is important to address this social issue. When victims feel relieved when their suffering is officially heard, their dignity is respected through expression of remorse by the perpetrators, broken relationships are restored, the truth is sought and stated and younger generations are able to participate in and learn from the events. An appropriate venue for a Cambodian-style public forum (miniature truth commission) would be Buddhist pagodas, with involvement from monks who are revered. Not unlike the Gacaca in Rwanda where community justice was inspired by tradition in the wake of the 1994 Genocide that saw between 800,000 and 1,000,000 Rwandans, mostly Tutsi, slaughtered, Buddhist monks in pagodas could help facilitate a process of reconciliation that cannot possibly be satiated with only five persons indicted by the current ECCC. Of course, even the Gacaca cost millions of US dollars and required political commitment to face Rwanda's past, something that cannot be guaranteed in the context of Cambodia, many of its leaders are themselves former low-level Khmer Rouge cadres.

Conclusion

The ECCC is distinct from other international criminal courts in several important aspects. The court consists of Cambodian and international judges and administrators, with Cambodians in the majority. The ECCC Internal Rules give victims extensive rights to participate in the proceedings, and can award them moral and collective reparation following conviction. As one scholar argues, the ECCC aims to provide both retributive and restorative justice (McGonigle 2009:14). However, whether justice will truly be served for millions of victims is questionable.

The ECCC is constrained by political patronage and interference by the Cambodian authorities. The five currently indicted former Khmer Rouge leaders are considered the only and ultimate detainees for trials. All are elderly and severely in fragile health. The current delay and long time frame of the ECCC pose serious concerns as to whether these four men and one woman will be able to participate in the whole process. The ECCC is not a fully legitimate institution: popular confidence and trust have not been gained from the victims or the international community. Corruption allegations and political interference appear to be major constraints on legitimacy. Civil society and other actors, including the victims themselves, play limited roles. This essay proposes that a community-based public forum based on Buddhist principles, with involvement from Buddhist monks, could play an important role if permitted to do so. This would provide a better opportunity for both victims and perpetrators to express their suffering and remorse. Through this process, inflicted wounds and trauma can be healed, the dignity of victims can be restored, truth can be sought, and youth can participate and learn. While this article treated retributive and restorative justice processes more as alternatives than as complements, both are necessary and essential for the healing of post-conflict societies. We have argued here at the margin that, all else being equal, the case for Cambodia is more likely to benefit from restorative than retributive justice. Cambodia is slowly becoming a normal country again—with all the attendant problems of the developing world—and the process by which its people seek justice will undoubtedly set an important precedent for future post-conflict countries.

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References

Ambos, Kai. "The Legal Framework of Transitional Justice: A Systematic Study with a Special Focus on the Role of the ICC." In *Building a Future on Peace and Justice: Studies on Transitional Justice, Peace and Development: The Nuremberg Declaration on Peace and Justice*, ed. Kai Ambos, Judith Large, and Marieke Wierda. New York: Springer, 2009, 572 pages.

Anderlini, Sanam Naraghi, Camille Pampell Conaway, and Lisa Kays. "Transitional Justice and Reconciliation." In *Inclusive Security, Sustainable Peace: A Toolkit for Advocacy and Action*. USA and UK: Washington DC and London Hunt Alternatives Fund and International Alert, 2004. www.huntalternatives.org/download/49_transitional_justice.pdf.

Arendt, Hannah. *The Human Condition*. Chicago: University of Chicago Press, 1958. 370 pages

Asian Human Rights Commission. "The State of Human Rights in Cambodia 2008: A Turning Point for the Worse?" http://material.ahrchk.net/hrreport/2008/AHRC-SPR-010-2008-Cambodia_AHRR2008.pdf.

Assefa, Hizkias. "Reconciliation." In *Peace-building: A Field Guide*, ed. Luc Reyhler and Thania Peffenholz. Boulder, CO. Lynne Rienne 2001. 573 pages.

Backer, David. Review of *Overcoming Apartheid: Can Truth Reconcile a Divided Nation?*. *Comparative Political Studies* 39 (9) (2006): 1157-1161.

Barria, Lilian A. and Steven D. Roper. "Providing Justice and Reconciliation: The Criminal Tribunals for Sierra Leone and Cambodia." *Human Rights Review* 7 (1) (October 2005): 5-26.

Bazemore, Gordon and Mara Schiff. *Juvenile Justice Reform and Restorative Justice*. UK: Willan Publishing, 2005. 386 pages

Bell, Christine. "The 'New Law' of Transitional Justice." In *Building a Future on Peace and Justice: Studies on Transitional Justice, Peace and Development: The Nuremberg Declaration on Peace and Justice*, ed. Kai Ambos, Judith Large, and Marieke Wierda. New York: Springer, 2009. 572 pages.

Bell, Christine, Colim Campbell, and Fionnuala Ni Aolain. "Justice Discourses in Transition." *Social and Legal Studies* 13 (3) (2004): 305-328.

Bertodano, Sylvia de. "Problems Arising from the Mixed Composition and Structure of the Cambodian Extraordinary Chambers." *Journal of International Criminal Justice* 4 (2006): 285-293.

Bloomfield, David. "Reconciliation: an Introduction" In *Reconciliation After Violent Conflict: A Handbook* ed. Bloomfield, David, Teresa Barnes, and Luc Huyse. Stockholm, Sweden: IDEA, 2004. 178 pages. www.idea.int/publications/reconciliation/upload/reconciliation_full.pdf.

Burford, Gale and Paul Adams "Restorative Justice, Responsive Regulation and Social Work." *Journal of Sociology and Social Welfare* 31 (1) (2004): 7-26.

Caldwell, Malcolm. "Cambodia: Rationale for a Rural Policy." Paper read at seminar, "Underdevelopment and Subsistence Reproduction in Southeast Asia," Programme in Development Studies, Dept. of Sociology, University of Bielefeld, 1978.

Cambodia Development Resource Institute (CDRI) *Annual Development Review 2007-2008*. Phnom Penh: CDRI, 2008.

Cambodia Development Resource Institute (CDRI). *Moving Out of Poverty Study*. Phnom Penh: CDRI, 2007.

Chan, Isabelle. *Rethinking Transitional Justice: Cambodia, Genocide, and a Victim-Centered Model*. Honors Paper 3, International Studies Department, Macalester College, 2006. www.digitalcommons.macalester.edu/intlstudies_honors/3.

Chandler, David. "Cambodia Deals with Its Past: Collective Memory, Demonization and Induced Amnesia." *Totalitarian Movements and Political Religions* 9 (2) (2008): 355 – 369

———. "Will There be a Trial for the Khmer Rouge?" Unpublished article, 2000: 67-82.

Chea, Vannath. "Reconciliation in Cambodia: Politics, Culture and Religion." In *Reconciliation After Violent Conflict: A Handbook*, ed. David Bloomfield, Teresa Barnes, and Luc Huyse. Stockholm. Sweden: IDEA, 2004. 178 pages. www.idea.int/publications/reconciliation/upload/reconciliation_full.pdf

Chheang, Vannarith. "The Establishment of the Khmer Rouge Tribunal and the Issue of Justice." RCAPS Working Paper No 06-2. Ritsumeikan Asia Pacific University, 2006. www.apu.ac.jp/rcaps.

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- Daly, Erin and Jeremy Sarkin. *Reconciliation in Divided Societies: Finding Common Ground*. Philadelphia: University of Pennsylvania Press, 2006. 352 pages
- Daly, Kathleen. "Restorative Justice in Diverse and Unequal Societies." *Law in Context* 17 (1) (2002): 167-190.
- Darcy, Shane. "Dilemma of Delayed Justice for the Crimes of the Khmer Rouge." In *Oxford Transitional Justice Research Working Paper Series*. Oxford University Press.
- De Brito, Alexandra Barahona, Carmen Gonzalez-Enriquez, and Paloma Aguilar. *The Politics of Memory: Transitional Justice in Democratizing Societies*. New York: Oxford University Press, 2001. 413 pages
- DeGuzman, Margaret M. "Justice in Cambodia: Past, Present and Future." Review of *Bringing the Khmer Rouge to Justice: Prosecuting Mass Violence Before the Cambodian Courts*, by Java Ramji & Beth Van Schaack, eds. 2005 (441 pages) in *Criminal Law Forum* 19 (2C) 335-351.
- De la Rey, Cheryl. "Reconciliation in Divided Society." In *Peace, Conflict and Violence: Peace Psychology for the 21st Century*, ed. Dar J. Christie, Richard V. Wagner, and DuNann Deborah Winter. New York: Prentice-Hall, 2001, 438 pages.
- Digester, Peter. "Forgiveness and Politics: Dirty Hands and Imperfect Procedures." *Political Theory* 26 (5) (1998): 700-724
- Drumbl, Mark. "Book Reviews: Transitional Justice in the Twenty-First Century: Beyond Truth Versus Justice, Naomi Roht-Arriaza and Javier Mariezcurrena & Reconciliation in Divided Societies: Finding Common Ground, Erin Daly and Jeremy Sarkin." *International Journal of Transitional Justice* 1 (July 2007): 311-314.
- Ear, Sophal. "The Political Economy of Aid and Governance in Cambodia." *Asian Journal of Political Science* 15 (1) (April 2007): 68-96
- . "The Political Economy of Pro-Poor Livestock Policy in Cambodia." Working Paper 26, Pro-Poor Livestock Policy Initiative, Food and Agriculture Organization of the United Nations, August 2005. www.fao.org/ag/againfo/projects/en/pplpi/docarc/wp26.pdf.
- . "Cambodia and the Washington Consensus." *Crossroads: An Interdisciplinary Journal of Southeast Asian Studies* 11 (2) (1997) 73-97.
- Eisikovits, Nir. "Transitional Justice" *Stanford Encyclopedia of Philosophy* (2009). <http://plato.stanford.edu/entries/justice-transition>
- Estrada-Hollenbeck, Mica. "The Attainment of Justice Through Restoration, Not Litigation: The Subjective Road to Reconciliation." In *Reconciliation, Justice, and Coexistence*, ed. Mohammed Abu-Nimer. Lexington Books, 2001, 384 pages.
- Etcheson, Craig. *After the Killing Fields: Lessons from the Cambodian Genocide*. London: Praeger, 2005. 272 pages.
- Field, Nigel P. and Sotheara Chhim. "Desire for Revenge and Attitudes Toward the Khmer Rouge Tribunal Among Cambodians." *Journal of Loss and Trauma* 13 (4) (2008): 352-372.
- Fletcher, Laurel E., Harvey M. Weinstein, and Jamie Rowen. "Context, Timing and the Dynamics of Transitional Justice: A Historical Perspective." *Human Rights Quarterly* 31 (2009): 163-220.
- Freeman, Mark and Priscilla B. Hayner, Priscilla B. "Truth-Telling." In *Reconciliation After Violent Conflict: A Handbook*, ed. David Bloomfield, Teresa Barnes, and Luc Huyse. Stockholm, Sweden: IDEA, 2004. 178 pages. www.idea.int/publications/reconciliation/upload/reconciliation_full.pdf
- Fujii, Tomoki and Sophal Ear. "How Does Spousal Education Matter? Some Evidence From Cambodia." *Asian Development Review* 19 (1) (August 2002): 117-138. www.adb.org/documents/periodicals/adr/ADR_Vol19_1.pdf.
- Galtung, Johan. "After Violence, Reconstruction, Reconciliation, and Resolution: Coping with Visible and Invisible Effects of War and Violence." In *Reconciliation, Justice, and Coexistence*, ed. Mohammed Abu-Nimer. Lexington Books, 2001, 384 pages.
- Gée, Stéphanie. "Duch sheds light on one testimony, while his lawyers discredit another", *Ka-set* 10 July 2009. <http://cambodia.ka-set.info/khmer-rouge/news-duch-trial-norng-chanphal-survivors-090708.html>.
- Ghai, Yash. "Report of the Special Representative of the Secretary-General for Human Rights in Cambodia." Human Rights Council, U General Assembly, 2008. www.unhcr.org/refworld/country,,,COUNTRYREP,KHM,4562d8cf2,47e0db072,0.html.
- Gibson, James L. *Overcoming Apartheid: Can Truth Reconcile a Divided Nation?* New York: Russell Sage, 2005. 467 pages
- . "Truth, Justice and Reconciliation: Judging the Fairness of Amnesty in South Africa." *American Journal of Political Science* 46

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(2002): 540-556.

Glaspay, Padraic. "Justice Delayed? Recent Developments at the Extraordinary Chambers in the Courts of Cambodia." In *Harvard Human Rights Law Journal* 21 (2008): 143-154.

Gutman, Amy and Dennis Thompson. "The Moral Foundation of Truth Commissions." In *Truth vs. Justice*, ed. Robert I. Rotberg and Denis Thompson. Princeton: Princeton University Press, 2000, 296 pages.

Haack, Susan. "Truth and Justice, Inquiry and Advocacy, Science and Law." *Ratio Juris* 17 (1) (2004): 15-26.

Hayner, Priscilla B. *Unspeakable Truths: Confronting State Terror and Atrocity*. New York and London: Routledge, 2001. 340 pages.

Hildebrand, George and Gareth Porter. 1976. *Cambodia: Starvation and Revolution*. New York: Monthly Review Press, 1976.

Hinton, Alex. *Why Did They Kill? Cambodia in the Shadow of Genocide*. Berkeley: University of California Press, 2005. 394 pages.

Humphrey, Michael. *Politics of Atrocity and Reconciliation: From Terror to Trauma*. New York: Routledge, 2002. 175 pages.

International Center for Transitional Justice (ICTJ). "Report on Cambodia." Submitted to Universal Periodic Review of the UN Human Rights Council. New York 2009.

———. "Comment on Draft Internal Rules for the ECCC." New York 2006.

Jarvis, Helen et al. "We are not leaving the LPF!" Open letter to the Leninist Party Faction circulated at the Democratic Socialist Perspective meeting May 13-14, 2006. www.lpf.org.au/?q=node/18.

Kiernan, Ben. "Recovering History and Justice in Cambodia." *Comparativ* 14 5 (6) (2004): 76-85.

———. "Introduction: Conflict in Cambodia, 1945-2002." *Critical Asian Studies* 34 (3) (2003): 483-495.

———. "Social Cohesion in Revolutionary Cambodia." *Australian Outlook* 30 (3) (December 1976): 371-386.

Kim, Sedara. "From Peace-Keeping to Peace-Building: Cambodia Post-Conflict Democratization." Political Studies Association, 2007. www.psa.ac.uk/2007/pps/Kim1.pdf.

Kiss, Elizabeth. "The Moral Ambition Within and Beyond Political Constraints: Reflections on Restorative Justice." In *Truth vs. Justice*, ed. Robert I. Rotberg and Denis Thompson. Princeton: Princeton University Press, 2000, 296 pages.

Lambourne, Wendy. "Transitional Justice and Peace-building After Mass Violence?" *International Journal of Transitional Justice* 3 (2009): 28-48.

———. "The Khmer Rouge Tribunal: Justice for Genocide in Cambodia?" *Law and Society Association Australia and New Zealand* (2011): 1-11.

———. "Postconflict Peacebuilding: Meeting Human Needs for Justice and Reconciliation." *Peace, Conflict and Development* 4 (2004): 1-24.

———. *Justice and Reconciliation: Post-Conflict Peacebuilding in Cambodia and Rwanda*. Ph.D. thesis, University of Sydney, 2002.

———. "Justice and Reconciliation: Postconflict Peacebuilding in Cambodia and Rwanda." In *Reconciliation, Justice, and Coexistence* ed. Mohammad Abu-Nimer. Lexington Books, 2001, 384 pages.

Lamtimer, Jeff, Craig Dowden, and Danielle Muise. "The Effectiveness of Restorative Justice Practices: A Meta-Analysis." *The Prison Journal* 85 (2) (2005): 127-144.

Lederach, John Paul. *Building Peace: Sustainable Reconciliation in Divided Society*. Washington DC: United States Institute of Peace, 1997. 197 pages.

Cambodian League for the Promotion and Defence of Human Rights (Licadho), "Restriction on the Freedom of Expression of the Media." Briefing paper. May 2009.

———. "Attacks and Threats Against Human Rights Defenders in Cambodia." Briefing paper. 2008.

———. "Reading Between the Lines: How Politics, Money and Fear Control of Media." Report. 2008.

———. "Legal and Judicial Reform in Cambodia." Briefing paper. 2006.

ian

08):

- Linton, Suzannah. *Reconciliation in Cambodia*. Cambodia: Documentation Center of Cambodia, 2004. 285 pages.
- Loraux, Nicole. *The Divided City: On Memory and Forgetting in Ancient Athens*. New York: Zone, 2002. 358 pages.
- Luftglass, Scott. "Crossroads in Cambodia: The United Nations' Responsibility to Withdraw Involvement from the Establishment of a Cambodian Tribunal to Prosecute the Khmer Rouge." *The Virginia Law Review* 90 (3) (2004): 893-964.
- Maguire, Peter. *Facing Death in Cambodia*. New York: Columbia University Press, 2005. 282 pages.
- McGonigle, Brianne N. "Current Legal Developments: Two for the Price of Once: Attempts by the Extraordinary Chambers in the Courts of Cambodia to Combine Retributive and Restorative Justice Principles." *Leiden Journal of International Law* 22 (2009): 127-149.
- Meierhenrich, Jens. "Varieties of Reconciliation." *Law & Social Inquiry* 33 (1) (2008): 195-231.
- Mendeloff, David. "Truth Seeking, Truth Telling, and Post-Conflict Peacebuilding: Curb the Enthusiasm?" *International Studies Review* (3) (2004): 355-380.
- Menzel, Jorg. "Justice delayed or too late for justice? The Khmer Rouge Tribunal and the Cambodian 'genocide' 1975-79." *The Journal of Genocide Research* 9 (2) (2007): 215-233.
- Moon, Claire. "Prelapsarian State: Forgiveness and Reconciliation in Transitional Justice." *International Journal for the Semiotics of Law* 17 (2) (June 2004): 185-197 (13). Neubauer, Ian. "Book Review: Facing Death in Cambodia." *The Cambodia Daily*. WEEKEND, Saturday and Sunday, April 23-24, 2005. www.camnet.com.kh/cambodia.daily/selected_features/cd-23-04-05.htm.
- Osborne, Milton. "The Khmer Rouge Tribunal: An Ambiguous Good News Story." *Perspectives Report Lowy Institute for International Policy*. August 2007. <http://www.lowyinstitute.org/Publication.asp?pid=658>.
- Payne, Leigh, Olsen, Tricia, and Reiter, Andrew. "Does Transitional Justice Work?" Paper presented at the annual meeting of the ISA' 49th ANNUAL CONVENTION, BRIDGING MULTIPLE DIVIDES, Hilton San Francisco, SAN FRANCISCO, CA, USA Online <APPLICATION/PC 23 May 2009. www.allacademic.com/meta/p251723_index.html.
- Peou, Sorpong. 'The limits of collaborative action on international criminal court in East Asia' In *Human Security in East Asia*. Ed. Peou Sorpong. Routledge. 2009. 199 pages.
- Peou, Sorpong, Samnang Ham, Sisowath Chanto, Bophany Un, Kum Kim, and Sovirak Seng. "International Assistance for Institutional Building in Post-Conflict Cambodia." Working Paper 26. Netherlands Institute of International Relations (Clingendael) and Cambodian Institute for Cooperation and Peace, 2004.
- Peou, Sorpong. *International Democracy Assistance for Peacebuilding: The Cambodian Experience*. London: Palgrave Macmillan, 2006. 240 pages.
- Pham, Phuong, Patrick Vinck, Mychelle Balthazard, Sokhom Hean, and Eric Stover. "So We Will Never Forget: A Population-Based Survey on Attitudes About Social Reconstruction and the Extraordinary Chambers in the Courts of Cambodia." Human Rights Center, University of California, Berkeley, 2009. <http://hrc.berkeley.edu/pdfs/So-We-Will-Never-Forget.pdf>.
- Rawls, John. *A Theory of Justice*. Rev. ed. Cambridge: Harvard University Press, 1999. 538 pages.
- Rigby, Andrew. *Justice and Reconciliation: Lynne Rienner*, 2001. 207 pages.
- Rotberg, Robert I. "Truth Commissions and the Provision of Truth, Justice, and Reconciliation." In *Truth vs. Justice*, ed. Robert I. Rotberg and Denis Thompson. Princeton: Princeton University Press, 2000, 296 pages.
- Santa-Barbara, Joanna. "Reconciliation." In *Handbook of Peace and Conflict Studies*, ed. Charles Webel and Johan Galtung. London: Routledge, 2007. 424 pages.
- Schaap, Andrew. "The Time of Reconciliation and the Space of Politics." In *Law and the Politics of Reconciliation*, ed. Scott Veitch. Ashgate, 2007. 246 pages.
- . *Political Reconciliation*. London: Routledge, 2005. 176 pages.
- . "The Political Grounds for Forgiveness." *Contemporary Political Theory* 2 (1) (2003): 77-87.
- Short, Philip. *Pol Pot: Anatomy of a Nightmare*. New York: Henry Holt and Company, 2004. 560 pages.
- Skilbeck, Rupert. "Defending the Khmer Rouge." *International Criminal Law Review* 8 (2008): 423-445.

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- Stensrud, Ellen Emillie. "New Dilemma in Transitional Justice: Lessons from the Mixed Courts in Sierra Leone and Cambodia." *Journal of Peace Research* 46 (5) (2009): 5-15.
- Stubbs, Julie. "Beyond Apology? Domestic Violence and Critical Questions for Restorative Justice." *Criminology and Criminal Justice*. Vol. 7 No. 2 (2007): 169-187.
- Teitel, Ruti G. *Transitional Justice*. Oxford: Oxford University Press, 2000. 404 pages.
- Thoms, Oskar N.T, James Ron, and Roland Paris. "The Effects of Transitional Justice Mechanisms." Working Paper. Center for International Policy Studies, (2008).
- Um, Khatharya. "Cambodia: A Decade After the Coup." *South East Asian Affairs*. Volume 2008: 107-120.
- Un, Kheang. "Human Insecurity in the Midst of Economic Growth and Political Stability: A Comparative Analysis of Post-Conflict Ugar and Cambodia." Paper presented at the First Plenary Conference of the Tracking Development Research Project at The Royal Netherlands Institute of Southeast Asian and Caribbean Studies, Leiden, the Netherlands, June 25-28, 2008.
- . "Patronage Politics and Hybrid Democracy: Political Change in Cambodia, 1993-2003." *Asian Perspectives* 29 (2) (2005): 203-230.
- Un, Kheang and Judy Ledgerwood. "Cambodia in 2002: Decentralization and Its Effects on Party Politics." *Asian Survey* 43 (1) (2002): 113-119.
- UN. "Transitional Justice and Rule of Law." Report by Kofi Annan, 2004.
www.undp.org/cpr/documents/jsr/ssr/rule_of_law_and_transitional_justice.pdf.
- UN. "Report of the Group of Experts for Cambodia established pursuant to General Assembly resolution 52/135." 1999.
<http://www1.umn.edu/humanrts/cambodia-1999.html>.
- Valji, Nahla. 'Trial and Truth Commission: Seeking Accountability in the Aftermath of Violence'.
www.humansecuritygateway.info/documents/CSVN_TrialsTruthCommissions_SeekingAccountability_AftermathViolence.pdf.
- Veitch, Scott, ed. *Law and the Politics of Reconciliation*. London: Ashgate, 2007. 246 pages.
- Weyeneth, Robert R. "The Power of Apology and the Process of Historical Reconciliation." *The Public Historian* 23 (3) (2001): 9-38.
- White, Rob. "Communities, Conferences, and Restorative Social Justice." *Criminal Justice*. UK: Sage, Vol. 3, No. 2. 2003: 139-160
- Zehr, Howard. "Restorative Justice." In *Peace-building: A Field Guide*, ed. Luc Reychler and Thania Peffenholz. Boulder CO: Lynne Rienner, 2001, 573 pages.

Footnotes

[1] Transitional justice has certain defining characteristics. First, it includes the concept of justice. The second key concept is political transition, normally from one regime to another, from authoritarian or repressive rule to more democratic governance. In the transitional context, the concept of justice evolves from seeking justice for victims by holding those accountable for past human rights abuses.

[2] There are more mechanisms of transitional justice such as vetting, reparation, etc. Here we focus on only the most popular mechanisms: trials and truth commissions.

[3] The judicial approach draws from a normative argument of proponents for human rights and international law (UN Report 2004:5). Human rights activists have influenced this field by demanding that perpetrators be held accountable for their wrongs through punishment. This demand is believed to serve the interest of the people by offering justice for the victims. According to international law proponents, states undergoing transition have certain legal obligations, including halting human rights violations, investigating past crimes, identifying those responsible for human rights violations, imposing sanctions on those responsible, preventing future recurrence, providing reparations to victims, preserving and enhancing peace and stability and fostering individual and national reconciliation (UN Report 2004).

[4] The ability to deliver justice in a post-authoritarian period, however, is constrained by the scale of atrocity, limited resources, legal capacity and political commitment. In some cases, transition is complicated by negotiated political settlement resulting in a tenuous peace and fragile democracy with a judicial system that is weak, corrupt or ineffective. In addition, the number of perpetrators may be large. Reconciliation emerges from this perspective as another alternative. Details of transitional justice mechanism development can be found in: Eisikovits 2009; Valji 2009; Thoms, Ron, and Paris 2008.

[5] Trials help promote reconciliation by establishing individual accountability and cooling desires for vengeance (Thoms, Ron and Paris 2008: 22).

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[6] Seeking the truth here refers to a process of discovering the past facts of behavior and legal systems designed to oppress and violate human rights; discriminate; murder or otherwise act against individuals, groups or ethnic minorities. The facts can be used for judicial and reconciliation purposes: (Hayner 2001). Haack (2004:16-18) outlines two ways of truth seeking: legal process that trace through evidence and DNA and scientific inquiry, which social scientists use to investigate behavior. Haack (2004) suggests both ways are complementary. Mendeloff (2004:358) identifies eight claims of truth seeking: 1) ensure social healing and reconciliation; 2) promote justice; 3) allow for the establishment of a historical record; 4) serve a public education function; 5) aid institutional reform; 6) help promote democracy; 7) preempt future crimes; and 8) deter future crimes.

[7] For details on the effectiveness of transitional justice mechanisms, see for example: Thoms, Ron and Paris 2008; Fletcher, Weinstein, and Rowe 2009; Payne, Olsen and Reiter 2008; and Valji 2009.

[8] For legal justification of using both approaches, especially related to punishment and amnesty, see: Ambos 2009; Bell 2009.

[9] This figure corresponds to a previous survey by DC-CAM (2004:20): 89.49 percent claimed to have lost relatives and 57.02 percent claimed to have lost at least one parent. Other surveys include Khmer Institute for Democracy, Center for Social Development (CSD); Craig Etcheson (2005) also claimed similar figures.

[10] The lasting psychological impact is evident in the high incidence of lifetime post-traumatic stress disorder (PTSD) as well as other psychiatric disorders attributed to the Khmer Rouge period (Field and Chhim 2008:353).

[11] CDRI 2007.

[12] Supporting the Khmer Rouge was a means to fight Vietnamese invasion and communist ideology.

[13] The Khmer Rouge leaders withdrew themselves from the agreement and continued their guerrilla activities, threatening the security of both Cambodians and foreigners.

[14] For a full historical account of the ECCC's establishment, see Etcheson 2005; Menzel 2007.

[15] See David Scheffer (undated): Why the Cambodian Tribunal Matters to the International Community; extracted from website: http://www.cambodiatribunal.org/index.php?option=com_content&view=article&id=40&phpMyAdmin=ou7lpwtyV9avP1XmRZP6FzDQzg3&Itemid=1
Youk Chhang: Why ECCC matter Cambodian community? Extracted from website: <http://www.dccam.org/Tribunal/Analysis/Anthem%20Essay%20for%20website.pdf>

[16] Details on literature related to the goals of the ECCC are in Menzel 2007; Etcheson 2005; deGuzman 2008.

[17] Ghai in his report to the UN Human Rights Council (2008) summarized the ECCC principles jurisprudence as: a) provide accountability to the millions of Cambodians for the crimes of the Khmer Rouge; b) have a deterrent effect by demonstrating that there can be no impunity for violation of human rights; c) enhance people's understanding of justice and the rule of law; and d) the jurisprudence and practice of the ECCC would be absorbed by the rest of the Cambodian justice system.

[18] The agreement was entered in 2003 between the UN and Cambodia. A law on the ECCC was amended by the Cambodian National Assembly in 2004. A courthouse was selected; staff and judges were recruited. In July 2006, all Cambodian judges took an oath in front of the king. The chambers consist of three levels: pre-trial chamber, trial chamber and supreme chamber. The ECCC has two co-prosecutors, one Cambodian and one international, and each chamber has one Cambodian and one international co-investigator. There are five judges in the pre-trial and trial chambers. Each chamber is composed of three Cambodian judges and two international judges. The supreme chamber consists of seven judges of whom four are Cambodian and three are international. The decision is based on a supermajority formula plus at least one international judge in each chamber. The presiding judges are Cambodian in all chambers. This formula is called "Cambodian supermajority hybrid criminal court." The court is under Cambodian law, and the crimes and procedures are to be defined under Cambodian laws with residual relevance to international law. Maximum punishment is life imprisonment. The ECCC has jurisdiction over crimes committed between April 1975 and January 6, 1979; only senior Khmer Rouge leaders are indicted for prosecution (five so far); and the crimes to be prosecuted are enumerated and consist of genocide, crimes against humanity and war crimes. See: Law of ECCC 2004 <http://www.eccc.gov.kh/english/cabinet/law> McGonigle 2009.

[19] The five indicted are: Nuon Chea, Brother Number 2; Khiev Samphan, head of state; Ieng Sary, foreign minister; Ieng Thirith, Minister of Social Affairs; and Kaing Guek Iev, director of S-21 prison. For details on each indicted person, see Glapsy 2008.

[20] Youk Chhang, director of the Documentation Center of Cambodia (DC-Cam), a prominent NGO in Cambodia documenting the Khmer Rouge atrocities and advocating for the Tribunal, sent a letter to Prime Minister Hun Sen requesting that the day be a public holiday for the Cambodian people (www.dccam.org.kh; accessed 3 April 2009). For international coverage, see the *Phnom Penh Post* (www.phnompenhpost.com.kh; accessed 3 April 2009); the *Cambodia Daily* (31 April 2009); BBC report (www.bbc.com.uk; accessed 1 April 2009); CNN (www.cnn.com; accessed 1 April 2009); the *Guardian*, *Bangkok Post*, ABC Australia, Voice of America and other media outlets, 31 March 2009.

[21] For detailed analysis of victim participation in the ECCC, see McGonigle 2009.

[22] See Report of the Open Society for Justice Initiative (OSJI), "Recent Developments and Challenges of the ECCC" (New York: Open Society for Justice Initiative, 2007).

[23] *Phnom Penh Post*, 1 April 2009.

[24] Statement of Peter Taksoe-Jensen, UN Assistant Secretary General for Legal Affairs, *Phnom Penh Post*, 9 April 2009.

[25] Report of Center for Transitional Justice submitted to the Universal Periodic Review of the UN Human Rights Council, 14 April 2009. For more accounts of alleged graft, see Open Society Justice Initiative 2007 and "Progress and Challenges at the Extraordinary Chambers in the Courts of Cambodia" (New York: Open Society for Justice Initiative, 2008) and also John Hall, "Judging the Khmer Rouge Tribunal," 2 March 2009 and "The Trial on Trial," 10 March 2009 <http://www.feer.com/politics/2009/march53/Judging-the-Khmer-Rouge-Tribunal>. Lao Mong Hay, "Khmer Rouge Tribunal Must Have Autonomy," UPI Asia online, 18 March 2009 www.upiasia.com/human_rights/2009/03/18/Khmer_rouge_tribunal; accessed 23 March 2009); Robert Carmichael, "Cambodia: Corruption Allegation Undermine ECCC," *Inter Press Service*, 30 April 2009.

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[26] See UN Report 1999 for details of legal admissibility and applicability analysis; Menzel 2007.

[27] Recent reports of corruption within the ECCC claiming that staff and legal experts pay bribes to get recruited and pay "kickbacks" from their salaries to secure their positions pose serious questions of legal professional ethics (ICTJ 2009:2).

[28] Ghai 2008; ICTJ 2009.

[29] In late 2008, an international co-prosecutor requested to investigate several additional suspects for this proceeding. This request was opposed by his Cambodian counterpart on the grounds of fear of political instability, endangering national reconciliation, and limited resources. This was similar to what the Prime Minister and other senior ministers publicly claimed during their speeches. Thus, rather than leaving this conflict to the ECCC to solve, the government tried to dictate to the court using their judges. See Lao Mong Hay (2009). In September 2007, a government spokesperson claimed that the government has the authority to terminate the Tribunal if judges bring charges against former King Norodom Sihanouk (Glaspy 2008:154).

[30] The four detainees with serious health conditions include Ieng Sary, 83, who has allegedly suffered a heart attack and decided to waive his right to a lawyer, prompting intervention that he is of weak physical and mental capacity and unfit to stand trial. Ieng Thirith, his wife, was half carried into the courtroom by her nurse and guard. Nuon Chea, 83, suffers from a serious heart condition and high blood pressure. Khiev Samphan is the same and has suffered from a stroke. A doctor, nurse and ambulance are on permanent standby in the Tribunal's compound.

[31] At the ECCC, victims are full parties to the proceedings, meaning that victims do not need to ask for permission before exercising their participatory rights.

[32] Because of full rights of participation and victims' moral and collective reparation, McGonigle argues that the ECCC is unique among other courts and aims to serve both retributive and restorative justice (2009:145). We disagree, given that the procedures of the trial and the truth commission are distinct. The court process focuses on only individuals as witness and evidence must be related to the individual, while the truth commission seeks to record the pattern of the regime (collective rather than individual). Another distinction is that a truth commission involves the public while a trial is limited only to those who are directly involved. The purposes of the two bodies are clearly different: truth commissions tend to restore relationships and offer amnesty while trials are strictly aimed at finding fault and determining guilt for punishment, though the truth aspect may be partly attained. Reading McGonigle's article can lead to the conclusion that there is no need to set up a truth commission nor any other public forum for dialogue in order to heal trauma and the broken relationships between victims and perpetrators who are now integrated in the communities. The grounds for author's argument are based on the ECCC and the activities of some NGOs, such as DC-Cam and CSD. However, the ECCC proved itself constricted by many issues as discussed above. NGOs' work contributes a lot to this process, but to officially consider it a truth commission is too premature. First, NGOs' focus groups are randomly selected and do not represent all. Second, the NGOs' work is not officially legitimized and fully authorized by the government as official truth commission efforts; third, NGOs' work is on an individual basis for interviews, not organized in public with strong involvement from both victims and perpetrators as well as government.

[33] As of March 2009, as noted by Open Society Justice Initiative 2009.

[34] See Linton 2004; Pham et al. 2009.

[35] During the first day of the trial, Duch read his confession and took responsibility for all crimes committed when he was in charge at S-21 prison which allegedly claimed to have killed more than 14,000 innocent intellectuals and foreign people.

[36] Licadho 2009; Ghai 2008; Human Rights Watch 2009.

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