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Outsourcing Outreach: 'Counter-translation' of Outreach Activities at the Extraordinary Chambers in the Courts of Cambodia

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Abstract

This article examines the outreach activities of the ongoing trials in the Extraordinary Chambers in the Courts of Cambodia (ECCC). The ECCC was designed to hold the leaders of Cambodia's notoriously violent Khmer Rouge regime (1975–1979) accountable. Outreach programmes have now become part of transitional justice initiatives as means to anchor their work in local and national consciousness in target countries. Using ethnographic data gathered in 2019–2020, this article explores how outreach activities have changed over time as they have become subject to new influences. I focus in particular on how some local actors have begun appropriating them in ways that represent a 'counter-translation' of the intentions originally propagated by the architects of the ECCC.

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Keywords

Cambodia, Khmer Rouge tribunal, outreach, authoritarianism, counter-translation

"They pretend to help, and we pretend to do what they want"¹

Introduction

Making use of recently gathered ethnographic data that focuses particularly on one case of contemporary activity, this article explores outreach activities of the ongoing trials in

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the Extraordinary Chambers in the Courts of Cambodia (ECCC). The ECCC is mandated to hold the leaders of Cambodia's notoriously violent Khmer Rouge regime (1975–1979) accountable. It is now over a decade and a half since these trials began. Over this extended period, the people involved in translating their meaning into the local context have changed, as have the national and international influences affecting them.

The ethnography presented here suggests that the universalist ideas underlying these trials become increasingly disaggregated and entangled with the vagaries of the local context over time. The local context should also be set against the background of shifting global geopolitical power by which it is, in turn, affected. Today, western influence in Cambodia is yielding to increasing Chinese influence. The way in which the embedding of ECCC outreach explored here is taking place is to be seen as affected both by long-standing patterns of indigenous political culture, but also by the incentives and imperatives of the changing geopolitical climate.

Outreach programmes have now become regular elements of transitional justice (TJ) initiatives as means to anchor them in the local and national consciousness in target countries. They are supposed to enhance public knowledge about the tribunal's work, make the court more responsive to victims' needs and create a legacy so the justice processes will endure after the international actors leave. The ECCC was groundbreaking in international criminal justice in the degree of both outreach as well as the victim participation it involved (Jasini and Phan, 2011).

However, as Destrooper (2018: 104) notes, these “ambitious assumptions (mostly found in the scholarly and policy literature) about what ... well-crafted outreach programs can achieve sometimes stand in stark contrast to how ... [they] ... tend to be conceptualized by practitioners on the ground”. Here, I use ethnographic material gathered in 2019–2020 to explore how some local actors are now engaging elements of the outreach programme to acquire social and economic capital in today's Cambodia. This may be seen as furthering rather than opposing Cambodia's political culture of authoritarianism and impunity and thus providing an example of ‘counter-translation’ of the ECCC architects' original “ambitious assumptions”.

The ECCC was established in 2006, following almost ten years of negotiations between the United Nations and the Cambodian government. Its mandate was to try the senior leaders and those most responsible for violations of international law and Cambodian law committed thirty years earlier, during the Khmer Rouge communist era of Democratic Kampuchea (DK) from 17 April 1975 to 6 January 1979.

It is a hybrid court, established within the Cambodian legal system but with international and Cambodian legal staff working together: co-investigating judges, co-prosecutors, co-defence lawyers and mixed benches of judges. Cambodian judges form the majority in each of the three chambers, pre-trial, trial and appeal. However, decisions made by the chambers are required to follow a supermajority voting principle, which means at least one international judge must support a decision for it to apply.

In the decade and a half since its inception, it has tried two cases. Firstly, Case 001, the trial of Kaing Guek Eav, alias ‘Duch’, who had been the Director of the Khmer Rouge detention facility in Phnom Penh known as S-21, since converted into the Tuol Sleng

Museum of Genocide. This trial began in 2009. ‘Duch’ confessed to having overseen the torture and execution of thousands of prisoners and in July 2010, he was sentenced to 35 years in prison. Following appeal, his sentence was altered to life imprisonment. ‘Duch’ died in prison in September 2020.

Case 002 began on 21 November 2011 with the substantive hearing of evidence against Khmer Rouge leaders Nuon Chea, Ieng Sary and Khieu Samphan. However, Ieng Sary died in March 2013, before the trial had been concluded. Khieu Samphan and Nuon Chea were sentenced to life imprisonment in 2014 for crimes against humanity and in 2018, also for genocide. However, Nuon Chea died on 4 August 2019 just days after appealing the verdict, meaning that technically, he died innocent.

Two further cases, 003 and 004, have been stymied by political pressure. Thus, after fifteen years and at a cost of some \$300 million, only one man remains serving a life sentence for crimes against humanity during the DK period: Khieu Samphan.

Various ideals and practices were introduced into the Cambodian context by the international legal community as part of the ECCC initiative. Underlying it was a particular cosmopolitan teleology. TJ was to give impetus to a transformation of the local situation from “barbarity” towards “civilization”, from authoritarianism and a culture of impunity towards the Rule of Law, peace and development (Hinton, 2010, 2018).

In likeness to other research (e.g. Abe, 2013; Eisenbruch, 2018; Hughes and Elander, 2016; Morris, 2016), the stories presented here suggest that early on, when foreign sponsorship was nourishing a lively NGO sector, some local actors were trying to reproduce the cosmopolitan discourse, which challenged aspects of the Cambodian status quo. Surveys (Pham et al., 2009, 2011) indicated that many Cambodians pinned some degree of hope upon the trials bringing about the promised changes.

However, by the time the materials discussed in this article were gathered, it seems that many Cambodians had lost interest and hope in the trials. The second part of the article describes how some new intermediaries have indeed begun appropriating ECCC practices in ways that reinforce long-standing and deeply rooted Khmer notions of power and authority and underscore today’s political dynamics. This all corresponds with a change in Cambodia’s relationship with other major powers, in particular, China. The article thus illustrates how ideas introduced as part of a universalist framework of ideals may become disarticulated from it, co-opted in the service of new objectives and ultimately undergo a process of ‘counter-translation’.²

The article compares two epochs. Firstly, it draws on people’s recollections and reflections upon the period when the ECCC was novel. Much of the outreach activities were then enacted by civil society actors with sponsorship from other countries promoting liberal democratic ideals. During this period, the ECCC was being fervently showcased not only throughout Cambodia but also to foreign sponsors and scholars in a format in keeping with their expectations.³ This was also a time when the media and academics enjoyed a degree of independence and a measure of political opposition was permitted. There was effectively one-party rule but with procedural elections taking place and opposition parties at least tolerated.

The second epoch is that following the completion of Case 001, after which non-governmental organizations had substantial overseas funding withdrawn. They also became subject to intensifying government oppression. Particularly since 2017, the outlawing of political opposition, harsh crackdowns on civil society and independent media, and growing Chinese influence in Cambodia⁴ have all contributed to propelling Cambodia from what Morgenbesser (2019: 1) describes as “competitive authoritarianism” to “full-blown hegemonic authoritarian rule”.

I suggest that the brief examples of ECCC outreach described here beg broader questions about the factors influencing how cosmopolitan ‘civilizing’ initiatives like this become refashioned as they become interwoven with the ever-evolving realities that locals face.

Methodology and Ethics

The fieldwork for this study was conducted between 2019 and 2020 mainly in central, western and northwestern Cambodia, in both towns and villages. A snowball method of networking with potential interlocutors was used and some of those approached were simply people who happened to be present and became involved in conversations by chance.

Two in-country Cambodian fieldworkers conducted all the fieldwork since the author was prevented from traveling. The first, whom I shall call Mr Chann, is in his early forties and holds an undergraduate degree. I had previously worked for an extended period with Mr Chann on earlier research projects. He was therefore familiar with the ethnographic method and was able to build upon some of our existing contacts from previous fieldwork. He conducted sixteen interviews in northwestern Cambodia. Since the topic of these interviews was focused on past experiences that most interviewees felt comfortable talking about, a semi-structured interview format worked well, though Mr Chann also allowed those he spoke with to guide the conversation into recollections they felt were particularly relevant.

The second was a young scholar in his late twenties whom I shall call Mr Borey.⁵ Mr Borey holds a Masters degree and had previous experience of ethnographic method and analytical approaches. He made use of both observation and participation, casual and semi-structured conversations/interviews and worked for a period of almost one year gathering data from both urban and rural settings.

Mr Borey used the relatively informal methods common to anthropology. These often involved a quick chat with one or more people in a given situation. In order to earn people’s trust and help them feel more relaxed in his company, Mr Borey avoided using structured interviews and took notes only after the conversations. By participating in activities and village life, he was able to hold conversations of varying depth with some thirty individuals and gradually developed his relations of trust with the key informants described below. Some of those he approached were more guarded, while two lower-ranking ECCC staff members soon appeared to become comfortable chatting with him and disclosing ‘unofficial’ information and their own opinions. Similarly, in the rural

setting, some of those he approached initially were wary of his motives and possible connections and were therefore cautious about speaking openly while others were keen to share their experiences with him.

The methods used in this study differ significantly from those used in surveys such as the two comparative surveys carried out by Pham et al., before and after the first trial (2009 and 2011). These surveys used structured interviews, and interviewees were deliberately selected to comprise a broadly representative sample. The outcomes of this methodology give an overall sense of the opinions that people felt comfortable expressing to teams of strangers. However, they provide little insight into the acts, gestures and choices that, to borrow Scott's (1990) terms, might be considered "infrapolitics" and "hidden transcripts".⁶

By contrast, the methods used in this study yield results that make no claim to be representative of the population at large. Instead, they provide illustrations of how particular dynamics interplay with the overarching context in which individuals' lives play out.

Given the intensification of authoritarianism in Cambodia, particularly since the 2013 crackdown on protestors following the general election, increasing influence from China and the outlawing of the opposition party in 2017, all three of us who have collaborated on this project were aware of the growing climate of fear and political sensitivities. It is now extremely risky in Cambodia to become associated with any form of opposition to the currently ruling Cambodian People's Party (CPP). Every effort was therefore made to reassure interlocutors that the fieldworkers were not investigating their political sympathies. Following considerations outlined in the ethical guidelines of the Swedish Research Council, we were concerned not to disclose the identity of any of those who shared their stories with us. The names of individuals are therefore anonymized or fictive and places have been either unspecified or only loosely described.

The Enmeshing of Universals in Shifting Lives

The ECCC Outreach programme furnishes one example of how cultural phenomena are disseminated as elements of what Travouillon and Bernath (2020) describe as the international community's universalist pretensions. This process takes place through "ongoing interactions between interveners, donors, representatives of foreign governments, the Cambodian elite, and the Cambodian population" (*ibid.* p. 232). The cases described below illustrate how such cosmopolitan imaginings may become reshaped over time in response to the changing vicissitudes of people's everyday lives.

Anna Tsing's (2004) concept of friction is fruitful for examining how translation, contestation and reformulation take place at the interfaces between global and local ideas. Here, however, I wish also to explore what happens at these interfaces over time. I am interested in the way changes in the overall context have offered some a chance to improve their own lot by disaggregating universals and then weaving them in novel ways into today's mixture of long-standing micro-political reality and new macro-political influences.

Merry (2006) and later, Levitt and Merry (2009) began applying the concept of vernacularization to track the flow of global conceptions (in their cases, human rights) through the interstices between the global realms and various local sites, taking into account both cultural underpinnings and historical change. They note (Levitt and Merry, 2016: 6–7) a “resonance dilemma”, by which they mean that the more a human rights issue is transformed to fit with existing cultural frameworks, the more readily it will be adopted but the less likely it is to challenge existing modes of thinking. This observation is borne out in the material discussed here as well.

The methods upon which this article is based also follow Merry’s (2006: 39) stress on the importance of the people in the middle. These are the people who translate discourses and practices of international law into the particular situations in which suffering and violence have taken place. Merry stresses their ambiguous roles and loyalties, and she notes how the new ideas they introduce may be simply ignored or rejected, or indeed become refashioned into something virtually unrecognizable to their global designers. Below, I shall similarly be exploring not simply the translation of ideas and messages, but also the co-optation and complete repurposing of the practices through which such ideas were meant to be disseminated.

In a similar vein to Merry, Hinton’s (2018) monograph on the ECCC critiques assumptions that the universal justice model flows downwards mono-directionally from powerful centres to bring greater homogenization or normalization of the world. He uses Sikkink’s (2011) notion of the “justice cascade” as his point of departure. Sikkink used the metaphor of a cascade to describe smooth transformations in target forums from authoritarianism, repression, violence and impunity towards the unquestioned good – liberal democracy and the Rule of Law. However, Hinton shows that the points of encounter between discordant realities are in fact highly turbulent, with more powerful models often eclipsing people’s lived experience.

Goodman⁷ too takes issue with Sikkink’s assumption, even about the direction of flow. He notes that while Sikkink concludes that “A (human rights trials) caused B (less repression) ... the truth may be that C (particular social and political conditions) cause both A and B to occur”. The material presented below is also concerned with ‘counterflow’, though in this case we do not see particular social and political conditions working to reduce repression. On the contrary, they may incentivize and indeed create opportunities for locals to exploit elements of the trials to benefit under, and even advance, the intensifying repression.

Like Hinton, Manning (2017) has written at length on dissonances between the ECCC message and the memories and lived experiences of those who suffered under the Khmer Rouge. Importantly, Hinton’s and Manning’s studies are based on fieldwork conducted prior to the “death of democracy”⁸ that took place in Cambodia in 2017, when virtually all voices critical of the CPP government were outlawed and the country exhibited “full-blown hegemonic authoritarian rule” (Morgenbesser, 2019).

This study shifts focus away from the meaning of the ECCC in relation to people’s memories and personal Khmer Rouge histories and, importantly, the ethnography was gathered after the changes of 2017. It therefore aims to illustrate how a new set of

circumstances may be playing out and how the ECCC may be opening avenues for pragmatic, non-elite actors to acquire forms of social capital and protection within Cambodia's contemporary webs of privilege. As we shall see, in doing so, they also endorse the prime minister's own authority over the narrative of the past.

The article thus explores how some mediators – knowledge brokers, who translate ideas and practices at every level – may now be finding ways to subvert the original outreach pretensions such that the trajectory of change has been effectively reversed.

The Official Transcript of Outreach

While early transitional justice trials had been criticized for being distant from ordinary people's justice needs, the hybrid ECCC was supposed to provide a new role model – a “model for” the Cambodian justice system to follow.

It included the novel initiative of internationally sponsored Civil Party representation in the courtroom. Victims would be permitted to participate in the trial proceedings as Civil Parties against the accused with representation by Civil Party Lawyers and the right to seek collective and moral reparations (see Sperfeldt 2012). However, reparations consisted only of a written apology from the defendant and the inclusion of the name of the Civil Party in the court's judgment.⁹

Secondly, and despite funding difficulties from the outset,¹⁰ the Victims' Support Section and, later also the Public Affairs Sections (PAS) of the ECCC¹¹ were to engage in outreach activities to inform the general public about the court. This was supposed to “build direct channels of communication with affected communities, in order to raise awareness of the justice process and promote understanding of the measure” (Ramírez-Barat, 2011: 7). In practice, and in keeping with Sikkink's cascade metaphor, it meant a mono-directional flow of ideas from the source of universals downwards to the target communities.

Alongside producing printed, online, radio and TV materials, outreach included village forums, public visits to the court through a Tribunal Study Tour that “might include a film screening about the ECCC in the community prior to a visit to the ECCC, Tuol Sleng Genocide Museum, and perhaps the Choeung Ek Killing Fields (time permitting)” (Ciorciari and Heindel, 2014: 241) for guided tours and briefings.

Funding for outreach was a problem from the start. One international donor explained, “We didn't properly fund outreach – we left it for civil society groups to fund piecemeal and hand to mouth.... We found it very difficult to mobilize funds at that level” (McGrew 2018: 155). The Open Society Justice Initiative (OSJI) therefore recommended that existing Cambodian NGOs reach out with information nationwide by using their already extensive networks and credit in trust among locals. Some dozen NGOs soon became primary actors in the outreach programme.¹² It was largely thanks to the efforts of NGOs to secure independent funds that busloads of visitors, largely from rural areas and including local officials, teachers and monks,¹³ began regularly attending the courtrooms.^{14, 15} However, the lack of coordination between the NGOs meant a lack of consistency and the risk that recipients came away with varying understandings.

Nevertheless, this soon resulted in an impressive reported outreach record. More than 31,000 people reportedly observed Case 001, the trial of ‘Duch’, with some 4000 of these coming specifically to hear the reading of the verdict.¹⁶

Observers were becoming enthusiastic and some scholars concluded that “the public education value of the trial of Duch has been worth the expense and difficulties faced thus far” (Un and Ledgerwood, 2010: 5). A 2010 report claimed that “Outreach activities aimed at informing people throughout the country about the existence of the ECCC have ensured that it is embedded in the conscience of the Cambodian population” (Stammel et al., 2010: 61).

By the end of 2011, more than 100,000 people were recorded as having visited the ECCC¹⁷ as visitors to public hearings or participants in the study tour programme. Ciorciari & Heindel cite an interview they held with former Public Affairs Officer Huy Vannak, who told them that villagers were proud to have been to the court and that even government ministers, who would not bother to attend domestic court hearings, visited the ECCC, adding “These things help change the attitude of [ordinary] people towards courts. It will encourage them to bring cases to court and change their perception of judges” (Ciorciari and Heindel, 2014: 241–242).

Overall, outreach was fashioned to deliver the TJ process to the public and garner public support, as reflected in the formulation of both the surveys conducted by Pham et al. (2009, 2011). Following completion of the first trial, a workshop was also held by the International Center for Transitional Justice (OCTJ) and ECCC at which it was reported that, “Now that the Duch trial is over, PAS [Public Affairs Section] is focusing on raising awareness about the benefits of public participation in the judicial process and on promoting public support for the progress in the court ... In addition to facilitating visits to the court, PAS makes trips to the provinces, visits schools, and participates in public forums, often organized by NGOs. At all events PAS distributes booklets in Khmer, as well as posters, t-shirts and stickers” (Ramírez-Barat and Karwande, 2010). Notions such as awareness, participation, support, education and dissemination capture the trajectory of intent – the public were positioned as passive observers and recipients of a downward trickle of information. This ideation is in keeping with the “cascade” metaphor that Hinton’s (2018) monograph so meticulously deconstructs.

What this normative vision failed to foresee were the highly unpredictable outcomes that might result from locals, conversely, actively appropriating the TJ initiative in the service of their own interests. Nor did it account for the way in which the influences affecting locals’ everyday lives might shift over time, thus also affecting their relationship to the ECCC and benefits they saw they might derive from it.

Overseas’ sponsorship began dwindling after 2010 (see Ciorciari and Heindel 2014: 235–238).¹⁸ This coincided with the tragic early demise in 2011 of a charismatic key figure at the ECCC, the Cambodian Chief of Public Affairs, Mr Reach Sambath. I myself witnessed Mr Reach speaking to a large group of rural visitors to the court and saw how able he was to engage with them using humour and his personal story of suffering under the Khmer Rouge. Interestingly, his position in relation to the vernacularization process was hinted at by foreign journalist Luke Hunt, who noted that Mr Reach “... once

chided Hun Sen for not giving him enough respect. They met for the first time after his return from the United States and Sambath told me within earshot of a standoffish prime minister: 'He thinks I've been tainted by foreign influences.'¹⁹

Following Mr Reach Sambath's demise, positions at the PAS were filled instead by individuals who today enjoy CPP backing and occupy key government positions.²⁰ It was also at this juncture that the proportion of Cambodian staff involved in outreach-related activities increased.

Presentations I and my research collaborators witnessed subsequent to Mr Reach Sambath's passing were delivered by other PAS members or sometimes groups of visitors were simply shown a video. These somewhat dry, impersonal presentations described the hybrid structure of the court, how it functions and included case updates. As described below, visitors often found these sessions tedious, irrelevant or incomprehensible.

Authors such as Manning (2017) noted how the outreach activities were designed to align complex individual memories with a streamlined official version of the past. However, when authors such as Manning (2017) and Hinton (2018) were conducting their studies, the official ECCC narrative was still being tailored to suit a western-endorsed institutional framing of history.

By contrast, the study presented in this article illustrates that more recently, under the protective wings of Chinese power, there are now currents in Cambodian society that are quietly enabling an inversion of this narrative through novel deployments of outreach activities. As we shall see, this positions prime minister Hun Sen as the architect of peace and prosperity in Cambodia, memorializing the so-called win-win policy by which he offered amnesty in exchange for defection of the selfsame leaders who have stood on trial at the ECCC.

Initial Enthusiasm

Outreach statistics on the ECCC website (PAS)²¹ are not available after 2017, which suggests that the incentives for publicizing them outwardly may have been weakening. Various press releases for 2018 and 2019 indicate that tours have nevertheless continued, with groups of students and their teachers or villagers arriving in batches of 300–400 per trip.

Despite the impressive numbers, when approaching possible interviewees for this study in northwestern Cambodia in 2019, it was difficult to find anyone who even knew of someone who had visited the ECCC of their own accord. Most said that although they had seen the trials on television and noticed there was an audience, they had no idea how those people had gained entry. Several people said they would not spend time and money attending even if they knew how to since they could just as well watch it on the television – something that has grown easier over time as access to television has increased.

The stories that follow put these observations into a living context, in which outreach tours seem to be acquiring new implications, rooted in today's local realities, and losing their relevance for showcasing the success of the trials to the international community.

While several of those approached in the early phase of the study agreed that the ECCC was perhaps better than nothing, few seemed to view it as relevant to their own lives. Some said they had not known much about the leadership of the Khmer Rouge regime prior to the beginning of the ECCC and it had at least provided some names. Above all, those interviewed stressed that they wanted to know why Khmer had killed Khmer – they said they wanted to know “the truth”.

The ECCC had evidently enhanced general knowledge about the country’s traumatic history. One man in his seventies explained that during the DK regime, people only knew the name Pol Pot and *Angkar* (lit. ‘The Organization’). It was not until the ECCC began, he said, that they heard names like ‘Duch’ and the top leaders of the Khmer Rouge regime, such as Khieu Samphan, Nuon Chea, Ieng Sary and Ta Mok. This man’s son, now in his forties, said that at school he had learned of Pol Pot and Khieu Samphan but learned little more than that they had killed many people.

When the ECCC began, families who had access to television were able to see for the first time the faces of those now on trial for their role in the atrocities. A man in his forties explained that he and his parents had initially been interested in watching the tribunal on TV, but “I never heard my father say he wanted to visit the ECCC. Maybe he was too busy, or it was enough for him to see it on TV, or maybe he just didn’t have any information about how to get there. For me, I was interested in the beginning. I think many people felt the same. Everyone wanted to see the result and also see more Khmer Rouge leaders punished”.

However, he continued that most of those he knew had soon lost interest, adding, “... also those cases were not related to the experiences of most listeners or victims”. Despite losing several relatives during the Khmer Rouge regime, his own father had lost interest in the trials after the first few months. “Sometimes, he didn’t understand what the tribunal staff were saying because they used technical words and anyway the cases didn’t relate to what happened to him. So, he went back to watching movies and sports and things he enjoys instead”.

Similarly, a woman in her early seventies said she had seen a bit of the tribunal on TV, but they talked about people being forced out of Phnom Penh and she was from a rural area. “I don’t know anything about that,” she said.

Some expressed cynicism. A man in his late seventies said that Cambodians know the Khmer Rouge committed crimes and were cruel and that many were pleased to hear that the leaders were going to be brought to trial, but “... at the same time, people know that powerful people have been trying to profit from the tribunal. Ordinary people feel sad because those powerful people are doing bad things like taking lots of money, cutting too many trees to sell. And some people believe the tribunal is taking a long time because the longer it goes on, the more money the powerful people can get”.

Others expressed a sense of non-ownership and hopelessness about seeing justice done. A moto-taxi driver in his late sixties said, “I’m not interested because it’s *robos kay* (‘their’ thing, referring indirectly to the government), not mine ... I have kids and every day we spend money so I try hard to support them”. And continued, “I’ve had long experience, starting from King Sihanouk, Lon Nol, Pol Pot, Republic of

Kampuchea and now. Most of the time, I've been cheated at work, cheated into serving, forced to work and then been abandoned by whichever regime ... after the Khmer Rouge time, I was arrested in 1982 and forced to be a soldier to fight against the Khmer Rouge. So many people died. Some stepped on landmines, some got malaria, some were shot ... We risked our life daily but in the end we didn't get any recognition ... What will we get from the tribunal when those Khmer Rouge leaders are sentenced? It's useless for me".

The ECCC was also seen by some as politicized and therefore dangerous. Several school teachers in the Battambang area declined to respond to any questions about the trials, saying, "we do not want to talk about politics".

An elderly monk drew a similar parallel between the trials and politics, criticizing monks who attend the ECCC thus, "Monks should learn *dhamma* and discipline but they should not be involved in politics ... If you see any monks attending the tribunal, they are political monks. If they then leave the monkhood, they have already established good connections with powerful people so they can have a better life as lay people".

Also, the binary division between victims and perpetrators that the ECCC is based upon is problematic (Ea and Sim, 2001; Sirik, 2020), and the strict time limit of the ECCC's jurisdiction (1975–1979) also fails to resonate with the complex personal histories of different individuals. A monk in his eighties said that during the civil war, in the lead up to the 1975 Khmer Rouge takeover, he had decided to side with the Khmer Rouge to defend his village from marauding government soldiers. However, during the DK era, he lost both his parents, three brothers and several nephews. After the fall of the DK regime, he advised his two sons to volunteer to become soldiers for the new People's Republic of Kampuchea government rather than risk being forcibly conscripted. He believed they may be treated better. This kind of story in which people have shifted allegiances not out of ideological loyalty but simply to try and survive makes a nonsense of the tribunal's narrative efforts to organize history. The monk used an idiom to describe how war makes everyone a victim (or perpetrator), "When it rains, everyone gets wet".

As others (e.g. Hinton, 2018; Manning, 2017; Sirik, 2020) have already observed, these stories show how the narrowly prescribed ECCC narrative may fail to resonate with the experiences of many older Cambodians. The language, scope and procedures of the ECCC did not speak to these interviewees' experiences, and while the media may – at least for those with access to it – captured an audience initially, interest has evidently faded over time.

The Role of Overseas Sponsorship

After conducting an initial set of interviews among people who had not participated in any form of outreach activities, Mr Chann established contact with the coordinator of the local branch of the NGO Youth for Peace (YfP), who kindly put him in contact with some former members. Most of these were students who had been able to visit the ECCC thanks to support from their educational institution or internationally

sponsored NGOs (Youth for Peace²² and Youth Resource Development Programme²³). Again, we see the early enthusiasm that was spurred by foreign funding flagging over time towards tedium and disengagement.²⁴

Youth For Peace

Two young women who had attended the ECCC with YfP support were keen to share their experiences with Mr Chann. Like many of those recruited at the time, they had been students at the time, though at different colleges. I shall call them Bopha and Phally.

Bopha is now in her late thirties. She said YfP had approached students from her village in 2010 to ask if any of them would be interested in attending a history course on the Khmer Rouge period offered by YfP.

Phally, who is in her early thirties, had been approached around the same time at her university, where she had been studying Business Administration.

Both young women had been invited to sit a test and, after passing, had been admitted to the YfP history course. They had both then become involved in running YfP workshops, encouraging older members of their community to share stories with the young about the hardships of the past.

Both had found the work rewarding and felt they had learned a great deal about a past that many young Cambodians find hard to believe. Bopha noted, “The people liked telling us about their bitter memories ...[but] ... we advised them to put the past behind them and not let it make problems in their present lives”.²⁵

It was after completing the course and community work that each of these young women was then invited to join a tour to Phnom Penh to visit the ECCC. They went on separate trips. Both recalled how they had been prepared in advance with information about how to behave when they attended the courts. They said they were told mainly about keeping quiet and not taking food or beverages into the audience hall.

Bopha recalled that when she attended, there were YfP groups from all over the country who had gathered to celebrate the anniversary of YfP. The celebrations consisted of a 3-day tour, including a visit to the Royal University of Phnom Penh, to the museum of Tuol Sleng Museum of Genocide, the ECCC tour and a Mekong River Cruise.

Phally’s trip had included visiting the Royal Palace, Choeung Ek Killing Fields outside Phnom Penh and Tuol Sleng Museum. “We enjoyed sharing our working experience with other YfP members ... especially related with the workshops with local people,” said Phally.

Both women said they had found the trip interesting and they had enjoyed the outings and meeting others. Though they agreed that visiting Choeung Ek or Tuol Sleng had been profoundly disturbing and the memories were etched on their minds. It was these viscerally moving, raw sites rather than the sanitized ECCC experience that had most impressed themselves upon them. In each case, they had participated in conducting *bangskol* Buddhist ceremonies to transfer merit to the dead at these sites of suffering and death.

When Bopha had visited the ECCC, the court had been in session and she and those she had travelled with were anxious to see the faces of the Khmer Rouge leaders.

However, she said it was disappointing, “We all wanted to see the leaders talk more during the tribunal, but we didn’t see much. The most important thing for me was to learn why they killed so many people. But most of the time they said they didn’t know about the killing and they said it was not their fault”.

When Phally had visited the courts, they were not in session and so the visitors had simply listened to a spokesman describing how the court worked. “We just got some information about how the court worked and saw the location ... I felt a bit sad because we wanted to see the Khmer Rouge leaders with our own eyes. We wanted to listen to the people who accused them and hear what they replied”.

Bopha recalled how, after the trip to the ECCC, YfP had arranged for her group to organize a performance in a local village. It had been a reenactment of the Khmer Rouge period and the idea was to encourage older people to share their experiences. However, she said, “People got angry with us because our play reminded them about their bitter history ... they shouted at us to stop performing and we felt afraid, but our coordinator was there so we had no problem”. Assumptions about the inherent benefits of revisiting the past clearly caused friction, and did not translate seamlessly into this context.

As with other interviewees, Bopha and Phally said that people have largely lost interest in the trials now. “The trials start and stop and only a few people in the country have visited the courts. Most people watched it at home but they don’t want to follow up any more ... It’s boring to watch ... Right now, it’s quiet about the ECCC, people don’t know what’s going on”. Bopha said she felt fortunate that she had had a chance to visit the ECCC but since then she had just seen a leader on TV being brought into the courtroom again and again and in the end, tired of it. “People want to know the final result, but it takes too long,” she said.

Two monks Mr Chann also interviewed had been on a one-day tour of the ECCC organized in 2010 (during Case 001) by the Sihanouk Raja University, where they were studying. One had been studying law and he remarked, “We noted as much as we could because we were worried that our teacher would ask lots of questions related to the tribunal ... if there was no examination, none of the students would have noted down anything”.

In likeness to others, he said he was impressed by the orderliness of the ECCC and the building itself. And he said that when the trials had started, Cambodians had high expectations of the courts and hoped they would get an answer to the question that continues to trouble so many – why did Khmer kill Khmer? However, he echoed the other interviewees in saying he too felt that most people had become disillusioned with the painstakingly slow process, “those Khmer Rouge leaders got old and died one by one, so the ECCC trials are for *khmauch* (ghosts) only!” he laughed. “If we got something significant from the ECCC, we could show the next generation that this road or school or hospital are from the Khmer Rouge compensation, but right now there is nothing to show the people ... This is nothing, just a role play,” he said.

Kheang Un (2019:14) notes how, while the Cambodian judiciary may have become more sophisticated, it has resulted in a form of “rule by law”, by which he means “For my

friends, everything; for my enemies, the law”. And this sentiment was echoed by all of those interviewed. They agreed that the ECCC had had no effect on the workings of the domestic courts, which everyone described as corrupt and that the richer could always pay more than the poorer to win their case. Several interviewees used similar idioms to describe how the local courts can turn “black to white and white to black”, or “right becomes wrong and wrong becomes right”. In likeness to observations made elsewhere (Sreang, 2006), the people in this study made statements such as “the people who practice law take advantage of it because they are smart and have big connections (*khsae thom*)”.

Overall, it seems that although the outreach efforts helped stir an initial flurry of enthusiasm about the trials, there was dissonance between local experience and the ECCC narrative of justice from the start. It is also apparent that interest has waned over time.

Donor Fatigue and the Outsourcing of Outreach

Between 2010 and 2013, the involvement of NGOs in outreach decreased considerably. “The major donors to the ECCC ... cut their complementary funding to civil society in the midst of ongoing trials and with little coordination among themselves” (Sperfeldt and Oeung, 2019: 96). Sponsors such as the Raoul Wallenberg Institute and NGOs, such as YfP, continued arranging tours when possible but even these had virtually died out by 2013.

This meant that by the time Case 002 was under way, only two NGOs were still active as major intermediaries: the Cambodian Human Rights and Development Association, ADHOC, and the Documentations Centre of Cambodia, DC-Cam. In 2015, ADHOC ceased altogether to work with outreach and civil party support due to cited lack of funding. ECCC-organized outreach activities were by now sporadic and not coordinated with NGOs.

Following the post-election protests in 2013, the government clamped down on the freedom of NGOs and funding for outreach activities also dwindled. Nevertheless, pressure upon the ECCC actors to encourage outreach activities persisted, though this pressure seems to have come from a new set of actors and for new, more ‘vernacular’ reasons.

One member of PAS staff explained to Mr Borey that the courts no longer have the financial or staff resources to be as active as they used to be. This person said that a few PAS members travel to the provinces now and then to try and persuade local officials to gather villagers, but they find many unwilling. They said local officials sometimes request a *per diem* for their efforts but that PAS has no budget for this. And so, it would seem, there has been a paradigm shift in the arrangement and purpose of ECCC tours.

Instead of ‘uplifting’ local practices and bringing them more into line with universalist pretensions, some locals are now using outreach activities to perpetuate existing everyday, domestic political and economic norms and interests.

School and university students were still reported in 2019 and 2020 to be visiting the ECCC²⁶ though the collation of visitor statistics under the Outreach tab on the ECCC website seems to have been discontinued in 2017 – which coincides with the outlawing

of the opposition party and what Beban and Schoenberger²⁷ describe as Cambodia's shift from "populist authoritarianism" into "naked authoritarianism".

When asked about these student visits, one ECCC staff member said the Union of Youth Federations of Cambodia (UYFC) is now cooperating with the ECCC in bringing the students. The UYFC was established in 1978 and, according to its website²⁸ was originally tasked with educating Cambodian youth in defending and reconstructing the country. The website claims the UYFC is a non-profit, non-governmental organization. However, its links to Cambodia's ruling CPP party are evident in the fact that it is currently presided over by Prime Minister Hun Sen's son, Hun Many.

The CPP cooptation of the tours became increasingly apparent. One ECCC staff member explained, "these days, the tour route varies. The organizers negotiate with the bus driver about where to take the visitors." Whereas the tours used to include Tuol Sleng Museum or Choeung Ek Killing Fields, this person said visitors now prefer to go to the newly inaugurated Win-Win Memorial (see below), "The UYFC normally pays the driver an extra \$10 to extend the trip to the monument, even though that has nothing to do with the ECCC".

Later, a village chief proudly showed Mr Borey a photograph of himself standing at the Win-Win monument during a tour. He explained that he had been seconded by the Commune Chief, who in turn had been sponsored by the CPP provincial authorities to organize these ECCC trips.

A tour had even been scheduled to take place just after the announcement of the COVID crisis in March 2020. When approached discreetly later on, the tour participants admitted they were frightened of the virus but were more afraid of spurning the organizers' offer of "good food and a visit to the Win-Win Memorial".

This illustrates how the trips may become dislodged from their original cosmopolitan agenda and woven into local systems of power, even exchanging the major monuments associated with the ECCC justice narrative for one associated with Prime Minister Hun Sen's own narrative of how he brought peace to Cambodia with his "Win-Win Policy" of encouraging Khmer Rouge defections in the 1980s and 1990s.

New mediator roles are also apparent. A man I shall refer to here as 'Uncle' is an older villager. In the early days of the ECCC, one of the more prominent Cambodian NGOs was performing outreach activities in his area, informing locals about their right to apply for Civil Party status. Uncle decided to apply and he was accepted for Case 001.

He soon began to demonstrate a certain charisma in his rural community. For example, some seven years ago, he and some neighbours made a collective donation for the Buddhist merit-transfer ceremony (*bangskol*) due to be carried out at four pagodas in his district during the Festival of the Dead (*Pchum Ben*). At each pagoda, Uncle took the microphone and spoke of his troubling experiences during the Khmer Rouge regime and his role in seeking justice by participating in the ECCC as a Civil Party. His speeches met with enthusiasm and people began adding to his group's donations for the *bangskol*. He and his group had soon gathered several hundred dollars. It was after this that he was approached by local authorities to gather groups of visitors to attend the ECCC.²⁹

The area in which Uncle lived had long been the subject of land disputes between powerful CPP tycoons and local farmers. Tired of the corruption and intimidation by local CPP officials, Uncle decided to become a member of the opposition party, the Cambodian National Rescue Party (CNRP).

In 2013, he was promised a certificate of acknowledgement for his services to the ECCC by a high-ranking member of the ECCC staff, but it never materialized. He soon became aware that his CNRP affiliation meant he had acquired a reputation as a rebel (*neak procheang*), and given his influence among locals and on the bus trips, he believed that he was perceived to be a problem for the CPP.

He decided to leapfrog the local officials and develop his relationships with higher-ranking officials. One of the provincial officials listened sympathetically to his grievances and offered to help. He recommended that Uncle shift allegiance and join the CPP. Uncle said he felt confident that this official would help him, so he agreed. The provincial official promptly issued Uncle with a certificate verifying that he was affiliated to the ECCC and Uncle soon became aware of the new freedoms this offered. For example, when one of his bus trips was stopped by a police road block because a protest action was taking place, “It was amazing. I gave the police my letter, and both the police and protesters immediately made way for the bus to pass through,” he said. And then, viewing the ECCC through the lens of Khmer systems of power, he added, “I realized the tribunal was powerful”.

Smiling, Uncle said, “By 2021, the CPP will have cleansed itself and transformed itself for the better. That high-ranking official who ultimately persuaded me was helpful and supportive, and he was willing to listen to the truth”.

With his new backing (*khngang*) from higher up the political echelons, Uncle began targeting people to join the tours who would not normally get the chance to enjoy a day out in the capital city. These were largely farmers in remote areas.

Although outreach tours to the ECCC were originally designed to be free of charge and to disseminate a set of universalist ideas about justice baked into a particular rendering of Cambodian history, Uncle began advertising them instead as a sort of holiday (*dtou layng*) in the city, for the small fee of 1,000R per person. He made arrangements with roadside food stops en route where the buses would pull over for breakfast and thus he secured free meals for himself and the driver, plus a few dollars for each of them in exchange for the custom.

Altogether, Uncle estimated he had escorted more than 30,000 people to the ECCC over the years, which presumably would have made him a tidy income.

Outreach Entrepreneurship and Climbing the Khmer Social Ladder

Uncle’s region is one of those that swung towards the CNRP in the 2013 elections. After this, the CPP began making efforts to regain its foothold there. It was rumoured that there had been ‘vote buying’ in the area.

The Director of a major Cambodian company and delegate minister to Hun Sen, whom I shall call Minister X was also born in this region. A person who had worked for some time in a subsidiary position at the ECCC said they believed that the CPP's Minister X had offered to sponsor another local in Uncle's region to organize 'outreach' trips. I shall call this person 'Auntie'.

Auntie was born in a house nearby Mr X, before he became a delegate minister. Unlike him, Auntie was from a poor background and had not known him personally. She had received little schooling because of the Khmer Rouge regime, and later her mother had sold desserts on the street. She could not complete her schooling because she had to help her mother.

She spoke of how precarious life was with wealthy and well-connected neighbours. At one point in her life, she had lived next to diamond traders with whom she had had a property boundary dispute. The neighbours had begun hurling verbal abuse at one another and eventually took their case to the District Office for resolution. However, it transpired that the diamond trader was a mid-ranking official. Auntie explained, "I was just an ordinary civilian (*prachea-chun*). I didn't know anyone the way I do now ... so, my legs were shaking with fear and anger when the judge simply told me to remove my fence".

When Auntie married and moved to live with her husband, who was a low-ranking civil servant, she began selling fish. As fish stocks decreased,³⁰ she turned to the sale of the meat of wild animals, which she knew was illegal. One day, she was caught by a group of armed police. She believed they had been tipped off by the person who sold the meat to her because of a disagreement. When she saw the police, she said, "my heart pounded – I was terrified because I didn't have connections (*ksae*) with any big, influential people (*neak thom*) who could help me ... whereas nowadays I would not be so afraid of doing something illegal because I have a network with powerful people".

Now, she is a divorcee who lives with one of her sons and helps take care of the grandchildren. She had known of Uncle's activities with the bus tours to the ECCC and her version of events was that it was originally he who had asked her for help, and so she joined him in 2013. She soon found she was good at mustering villagers.

She denied receiving any commission (*sa-khun*) from the ECCC or high-ranking CPP figures. She said the villagers she approaches in remote areas make a 'voluntary' contribution/reciprocity of 2–3,000R (50–75 cents) each.

However, she later added that Minister X had then offered to sponsor her if she would include a visit to his company's head office in Phnom Penh in the trip, but Auntie explained that the bus drivers were unhappy about traffic and parking problems in the city centre. And so, after the 2018 inauguration of the first Win-Win Memorial just NE of the city, it was decided that this would make an excellent alternative.

Auntie recalled that in 2018, she had gathered 6 busloads of people from a remote district where a CPP member who had also worked at the ECCC resided. I shall call him Mr Y. Auntie said she approached Mr Y for a contribution since she was making an effort to take "his people" (*prachea-chun goat*) to Phnom Penh. She said she received \$150 over

and above the usual contributions, and Mr Y also gave the bus drivers an extra \$20 each to take the villagers to see the Win-Win Memorial as well.

Since accessing Choeng Ek Killing Fields was now also becoming difficult because of construction work on the new Hun Sen boulevard and modern shopping malls south of the city, Auntie decided to exclude it altogether and take trips to the Win-Win Memorial instead. Each trip to the Win-Win Memorial secured her a donation from a local CPP figure as thanks for “making his people happy”.

Auntie said she is aware that some of the local people view her new role askance. Sometimes, she has overnights on the bus with the driver and his assistant – something she knows is likely to stir rumours about her sexual morality. But she says she does not care what people think of her. She has, it seems, become emancipated from traditional gender norms and the constraints of poverty through her new wealth, independence and, above all, connections with and services in the interests of CPP officials and ECCC staff.

A Win-Win Outing

The meaning these so-called outreach trips hold for the villagers in this case seems to depart radically from that originally envisaged by promoters of ECCC outreach. It transpired that the villagers Auntie approached often did not even know the itinerary planned for them. Mr Borey found no evidence of any talks, workshops or film screenings being conducted to prepare the villagers for their visit to the city.

The only knowledge the villagers seemed to have of the court came from what they may have seen or heard on the TV or radio over the years. A few of the villagers had been on previous trips at the bidding of the organizers, and had therefore already heard the ECCC spokespeople deliver their standard talk about the workings of the court. But others seemed to have no idea what was on the agenda apart from the fact that they would have a chance to visit Phnom Penh.

Mr Borey accompanied some villagers on a trip. Upon arriving at the court buildings, one of the villagers asked Mr Borey, “Is this Prey Sar prison?”³¹ On this occasion, the ECCC administration did not appear to have prepared for the arrival of Khmer-speaking visitors. All the villagers received their free lunch and were then herded into the main court building. As they entered the building, they were told to take one of the well-produced information booklets containing information and photographs lying on a table. Each visitor picked one up and then they laughed with each other when they saw that the booklets were in English only.

They took their seats in the viewing area. The air conditioning was so fierce that, having got up in the early hours to begin the tour and having just eaten, two of the visitors almost immediately began to fall asleep. They were sharply reprimanded by one of the court personnel patrolling the hall to check that visitors were abiding by the regulations.

Curious to get a sense of what his neighbour understood of the ECCC cases, Mr Borey opened his booklet and nudged the middle-aged man seated beside him. He pointed to a photograph of Khmer Rouge Navy Commander Meas Muth, of the controversial Case

003, and asked the man if he recognized the face. The man shook his head, then jokingly pointed to the image on the front page showing Prime Minister Hun Sen and chuckled quietly, “This is the only man I know”.

When the judges entered the courtroom behind the bullet-proof glass enclosure, a group of monks that was also in attendance was instructed to stand like everyone else and pay their respects to the judges. For rice farming villagers, monks are Venerables to whom even local officials should pay respect.³² This inversion of order was also noted by a monk Mr Chann interviewed, who said that this show of deference by the clergy to secular power figures was wrong.

When the monks stood, the man who had only recognized the image of Hun Sen nodded in the direction of one of the Cambodian judges, muttering to Mr Borey that the judge’s face looked very powerful (*mean amnaich*).

Overall, it transpired that for many of the villagers on the trip Mr Borey accompanied, the visit to the ECCC was incidental. Two village women who had been on these trips several years ago related their recollections. One woman said later that she had decided to join a trip after she had heard other villagers talking about their fun day out in Phnom Penh. “It was interesting to me. People kept on saying from mouth to mouth about it. They said that it was for fun (*dtou layng*), with free food. They didn’t mention the ECCC.... The night before the trip, I couldn’t sleep because I was so excited!” Another said, “I didn’t even know how to pronounce the [ECCC] correctly. I just went for the sake of going!”.

By contrast, the visit to Tuol Sleng made a greater impression. Both of these women had lost family members during the Khmer Rouge regime, but they did not know who the Khmer Rouge leaders were or how the regime worked. When asked how they felt the ECCC related to their experiences, they simply said they were too young to remember much in detail. One of the women said she had felt uneasy sitting in the ECCC visitors’ hall, “I felt fearful. They [the ECCC staff] wear suits and ties. The air conditioning was so cold I was afraid I’d fall asleep but I knew I must stay awake”.

Statements like this suggest that experiencing the ECCC first-hand in the way that these villagers have may indeed consolidate their broader experiences of the symbols and workings of power and menace that continue to operate in Cambodian society at large.³³

Everyone is a Winner

Of great interest in this study was the new role played by the Win-Win Memorial in the tours organized by Auntie. This monument was inaugurated by Prime Minister Hun Sen in December 2018 on an 8 hectare plot of land in the Prek Ta Sek commune of Chroy Changvar District, just northeast of Phnom Penh’s city centre. It is said to have cost some \$12 million with most of the funds being provided by Phnom Penh Municipal hall together with CPP Senator and major business tycoon Oknha Ly Yong Phat³⁴ and the government.³⁵

Importantly, the Win-Win Memorial offers a counternarrative to that of the ECCC. Instead of drawing a parallel between a TJ initiative and the transition from oppression and suffering into peace and reconciliation, the Memorial celebrates Hun Sen and his government's defection policy of the 1980s and 1990s. In direct contrast to the ECCC policy of demanding accountability, this pragmatic method had instead offered the remaining Khmer Rouge leaders amnesty if they and their followers would defect and become loyal to Hun Sen's side.

This strategy also offered defecting Khmer Rouge factional leaders access to state and natural resources in the new commodity economy, and positions in government. Hun Sen also used it in the early 1990s as a way to compete against Prince Ranariddh, with whom he had been forced into an uneasy coalition as co-prime minister following the CPP defeat in the 1993 UNTAC-supervised general elections. Prince Ranariddh, meanwhile, was using a similar defection strategy to try and win adherents to his party in the lead up to the 1998 elections.³⁶ It was Hun Sen, however, who won the jackpot when Ieng Sary and his faction defected to his side in 1996. This was promptly followed by the defeat of Prince Ranariddh's faction by Hun Sen's strengthened following in the 1997 coup.

The renowned Win-Win policy has since formed the basis of Hun Sen's narrative of bringing peace to Cambodia. In June 2015, with the doors closed to the media, the Hun Sen delivered a lecture at Phnom Penh's Norton University to give the country's youth a better understand of how this policy of showing magnanimity to erstwhile foes and allowing both sides to prosper had brought lasting peace, stability and prosperity to Cambodia.³⁷ In practice, however, this policy has seen many Cambodians instead fall victim to "slow violence" – violence that takes place gradually, out of sight, a form of "delayed destruction that is dispersed across time and space, an attritional violence that is typically not viewed as violence at all" (Nixon, 2011: 2).³⁸

One year after its inauguration, the Win-Win Memorial became the site of a ceremony to commemorate 21 years since the signing of Hun Sen's Win-Win Policy. At the ceremony, Minister of Defence Tea Banh, representing the prime minister, announced that the monument would serve as a museum that would house documents and other items that would enable future Cambodians insight into their country's "real history".

This stands in stark counterpoint to the ECCC's version of history, so graphically illustrated in the booklet produced by the Khmer Institute for Democracy that Hinton (2018) describes in his preface, and which presents the retributive justice process of the tribunal as the vehicle of peace and development.

The ultimate irony is that the Khmer Rouge leaders who have stood on trial at the ECCC in Case 002, Khieu Samphan, Ieng Sary and Nuon Chea, are the very individuals to whom amnesty and pardons were granted under Hun Sen's defection Policy.³⁹ When greeting Khieu Samphan and Nuon Chea in Phnom Penh in December 1998, Hun Sen had reportedly said, "The deal is a bouquet of flowers for this pair, not bullets or a pair of handcuffs".⁴⁰

The base of the Win-Win Memorial displays a frieze of carvings depicting scenes from Hun Sen's life – his youth as a villager, his time as a Khmer Rouge soldier, his return to Cambodia in 1978 with the Vietnamese army to 'liberate' Cambodia from the Khmer

Rouge and even recent events such as one of him taking selfies with garment workers during the 2018 elections.⁴¹

In February 2020, the government announced plans to build a further five Win-Win Memorials.⁴² Plans to construct a second such Memorial in the Southwest province of Koh Kong, considered the “personal fiefdom”⁴³ of CPP tycoon Ly Yong Phat, are already underway. A reported \$200,000 worth of support have been pledged by the President of the Cambodian Chamber of Commerce and chairman and CEO of the investment conglomerate the Royal Group Kith Meng and his wife for its construction.

The villagers that Mr Borey accompanied on their visit to the Win-Win Memorial received no briefing and understood little of the monument’s story – one woman even hit the head of a statue of a seated Hun Sen in the belief that it was supposed to represent an enemy and was ashamed when she was advised as to who it was. However, every Cambodian knows that Hun Sen is the country’s strongman who decides its fate. The expanding, modern urban landscape is itself a monument to his power.

The tours that Mr Borey focused upon illustrate a shift in the content of outreach from the ECCC, Tuol Sleng Genocide Museum and the Choeung Ek Killing Fields, with the concomitant Buddhist *bangskol* ceremonies for the dead, towards the Win-Win story and its memorials. This is matched by the physical inaccessibility of particularly Choeung Ek and the growing disillusionment and disinterest in the courts that Mr Chann noted. This suggests a transmogrification of outreach – with the universalist ECCC narrative receding in favour of the CPP’s and Hun Sen’s own version of history and truth.

Conclusions

The stories presented above suggest scholars and implementers of TJ, or indeed other efforts to transplant universalist notions into diverse local contexts, might benefit from a deep understanding of the historicization of local political culture. They illustrate how the relevance of universalist ideals such as those underlying the ECCC may change over time. Over the decade and a half since the trials began, not only have the mediators involved in translating these ideals into the local context changed, but so too have the national and international influences to which they are responding.

Outreach programmes are now regular elements of transitional justice initiatives, and are envisaged as mechanisms for enhancing public understanding and engagement in the tribunal’s work. They are largely viewed by the international community as part of the apparatus by which authoritarianism, repression and impunity will be replaced by liberal democracy, peace and accountability. However, the outreach activities that form the focus of this article appear to have largely lost their rhetorical value, while some are even now exploiting them to their own advantage.

The ethnography presented in this article was gathered following a period of intensified repression in Cambodia, with the outlawing of the opposition party in 2017 and the use of the domestic courts to silence other voices of dissent, such as NGOs and the media. This coincided with a marked expansion of Chinese influence in the country. The

embedding of ECCC outreach explored here is therefore affected both by enduring patterns of indigenous political culture, but also by the incentives and imperatives of changing geopolitical circumstances. Ironically, this has meant that the original ambitions associated with outreach contrast starkly with what now seems to be happening on the ground.

The study presented here uses ethnographic methods that explore not only what people say but also what they do and, further, what they say about what they do. This helps us delve into multiple and often hidden layers of meaning making.

It discusses how ECCC outreach has, over time, been abandoned by some mediators. Given the increasingly heavy-handed oppression of civil society and dissenting voices by the ruling CPP in the last five years, it is unsurprising that NGO actors may no longer be acting as mediators or translators of the ECCC's original message. Nevertheless, the second part of the article shows how some new mediators have entered the scene. These entrepreneurial individuals have repurposed the ECCC outreach tours in ways that help them navigate the current Cambodian infrapolitical setting and their evolving interests within it. Their agenda seems now to have less to do with memory of the DK past than it does with profiting in today's climate of unfettered authoritarianism. Rather than translating a message about opposing repression and impunity, it provides an example of 'counter-translation' of the ECCC architects' original intentions.

Instead of disseminating the ECCC narrative of making peace with the past through formal trials and accountability, this counter-translation showcases Hun Sen's Win-Win policy, which promises peace and reconciliation by digging a hole and burying the horrors of the past.⁴⁴ This notion of conciliation is well anchored in Cambodian tradition in the practice known as *somroh somruei* (see Burns and Daly, 2014; Luco 2002), which emphasizes seeking harmony, but by papering over rather than addressing the root causes of the conflict.

The case discussed here illustrates how outreach efforts may thus become both integrated into long-standing Khmer practices of power and peacemaking, while also being exploited in response to more broad-based changes in the global centres of politico-economic gravity. Outward appearances of universalized, cosmopolitan norms flowing from centre to periphery may persist, as evidenced by outreach statistics and a full auditorium at the ECCC. However, a less visible process of transformation and embedding into a shifting cultural and historical context may simultaneously be taking place.

The Win-Win rendition of outreach described here casts all participants as winners – the ECCC, CPP and its officials at every level of administration, the sub-contractors who carry out the labour of gathering groups, the bus drivers, the roadside food shop owners and finally, the villagers, who are offered a cheap day out in the city. As civil society mediators leave the stage in Cambodia, this creates opportunities for new brokers of ideas to step in. In their hands, outreach has evolved from a didactic tool for the dissemination of a set of western values about rule-based governance – including the abstract nature of the Rule of Law, equality of human rights, the right of the whole population to enhanced understanding about 'proper' judicial processes and more – into a political

and economic strategy that plays upon well-established, patronage-based forms of governance.

Extrapolating from this case, it seems that international and transitional justice interventions more generally are unlikely to permanently reconfigure entrenched patronage and institutional arrangements in target countries. As Goodman⁴⁵ notes, this may be a “spurious correlation” while causation is in fact the other way around – particular domestic social and political conditions, bolstered by broader geopolitical influences, are instead likely to determine how justice is configured and how TJ interventions become embedded into everyday local life.

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- <https://www.phnompenhpostcom/national/nec-balance-further-tips-favour-cpp>
- <https://www.eccc.gov.kh/sites/default/files/Outreach%20statestics%20as%20of%20September%202017.pdf>
- <https://www.sitesofconscience.org/en/membership/peace-institute-of-cambodia-youth-for-peace-cambodia/>
- <http://apyouthnet.ilo.org/network/youth-resource-development-program-yrdp>
- <https://www.phnompenhpostcom/national/adhoc-halts-eccc-outreach-programme%E2%80%99s-funding-dwindles>
- <https://www.eccc.gov.kh/en/articles/350-students-prey-veng-province-visited-eccc>

<https://www.eccc.gov.kh/en/articles/440-students-prey-veng-province-visited-eccc>
<https://www.eccc.gov.kh/en/articles/373-students-kampong-speu-province-visited-eccc>
<https://www.opendemocracy.net/alice-beban-laura-schoenberger/authoritarian-rule-shedding-its-populist-skin-in-rural-cambodia>
<http://www.uyfc.org/enabout-us/>
<https://www.eccc.gov.kh/en/articles/volunteer-brings-more-6000-cambodians-eccc>
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Notes

1. Quote from a Cambodian student who was joking about the way aspects of foreign aid to the ECCC have operated.
2. I am grateful for the inspiration for this concept through suggestions offered in personal communication with Dr Sina Emde and Dr Catherine Scheer.
3. <https://www.eccc.gov.kh/en/events/outreach/1477-people-including-cambodians-foreigners-media-vips-and-diplomats-attended-first-> (accessed 25 September 2021).
4. <https://www.newmandala.org/the-spirit-of-china-in-cambodia/?fbclid=IwAR1KKvLL0XTKrWa5QMb5Fh3K0MWxDq8CPKtG8IpujeFRKKfdCjJLe62yTTg> (accessed 26 September 2021).
5. After discussion with the fieldworkers, it was decided that fictive names should be used for them in publications.
6. Scott used the term “hidden transcript” to refer to a form of resistance to state power. By contrast, this article describes certain actors using discreet actions to coopt state power and subvert the international narrative.
7. See Ryan Goodman’s critique of Sikkink’s book at <https://www.justsecurity.org/books-read/books-synopsis-justice-cascade-rights-prosecutions-world-politics/> (accessed 24 June 2021).
8. <https://www.theguardian.com/world/2017/nov/16/death-of-democracy-cambodia-court-dhissolves-opposition-hun-sen> (accessed 23 September 2021).
9. See Sperfeldt (2012: 467) for details of subsequent adjustments to the reparations regulations.
10. <http://www.peacebuildingdata.org/research/cambodia/context/outreach-court> (accessed 26 September 2021).
11. See <https://www.eccc.gov.kh/en> (accessed 18 July 2020) for details of the ECCC structure.
12. These included DC-Cam, ADHOC, CHRAC, KiD, YfP, CSD, Kampuchea Krom Human Rights Association and others. See Christoph Sperfeldt and Jeudy Oeung (2019).
13. <http://dccam.org/public-outreach>; <https://www.eccc.gov.kh/en/events/outreach/30-adhoc-provincial-coordinators-different-provinces-visit-eccc-learn-about-its-work>; <https://www.adhoccambodia.org/1847/> (accessed 16 September 2021)
14. <https://www.ictj.org/sites/default/files/ICTJ-Outreach-ECCCWorkshop-Report-2010-English.pdf> (accessed 25 July 2020).
15. For example, one major NGO actor was the Documentation Center of Cambodia (DC-Cam), which by 2014 reported having reached out to 4,309 villages, 1,596 communes, 194 districts, and 25 provinces across the whole of Cambodia <http://dccam.org/public-outreach> (accessed 24 September 2021).
16. See <https://www.eccc.gov.kh/sites/default/files/Outreach%20statistics%20as%20of%20September%202017.pdf> for statistics 2009-2017 (accessed 18 June 2021).
17. ECCC Press Release 4 January 2012, <https://www.eccc.gov.kh/en/document/public-affair/eccc-surpasses-milestone-100000-visitors> (accessed 20 July 2020)
18. <http://www.peacebuildingdata.org/research/cambodia/context/outreach-court> (accessed 18 July 2020).
19. <https://thediplomat.com/2011/05/reach-sambath-1964-2011/>.
20. Mr Dim Sovannarom was put in charge of the PAS. See <https://www.phnompenhpost.com/national/nec-balance-further-tips-favour-cpp> (accessed 25 September 2021) regarding his CPP links. Mr Huy Vannak, currently Under Secretary of State at the Interior Ministry, was appointed

- Public Affairs Officer and Mr Neth Pheaktra, currently spokesman for the Environment Ministry, was appointed Press Officer.
21. <https://www.eccc.gov.kh/sites/default/files/Outreach%20statistics%20as%20of%20September%202017.pdf> (accessed 20 July 2020).
 22. <https://www.sitesofconscience.org/en/membership/peace-institute-of-cambodia-youth-for-peace-cambodia/> (accessed 25 July 2020).
 23. <http://apyouthnet.ilo.org/network/youth-resource-development-program-yrdp> (accessed 18 June 2020).
 24. See e.g. <https://www.phnompenhpost.com/national/adhoc-halts-eccc-outreach-programme%E2%80%99s-funding-dwindles> (accessed 16 September 2021).
 25. While this echoes prime minister Hun Sen's notion of burying the past, it also resonates with Khmer Buddhist reasoning about achieving peace of mind by 'not thinking too much' (*att kêt ch'raan*).
 26. e.g. <https://www.eccc.gov.kh/en/articles/350-students-prey-veng-province-visited-eccc>; <https://www.eccc.gov.kh/en/articles/440-students-prey-veng-province-visited-eccc>; <https://www.eccc.gov.kh/en/articles/373-students-kampong-speu-province-visited-eccc> (accessed 18 June 2021).
 27. <https://www.opendemocracy.net/alice-beban-laura-schoenberger/authoritarian-rule-shedding-its-populist-skin-in-rural-cambodia> (accessed 23 June 2020).
 28. <http://www.yafc.org/en/about-us/> (accessed 18 June 2021).
 29. Cf. <https://www.eccc.gov.kh/en/articles/volunteer-brings-more-6000-cambodians-eccc> (accessed 18 June 2021).
 30. Overfishing by wealthier and better equipped business people has become commonplace in Cambodia. This tends to lead to the exclusion of poorer, small-scale fish sellers.
 31. Prey Sar Prison in Phnom Penh is the largest of Cambodia's 24 prisons, with a reported capacity of 6,000 inmates but holding up to 9,000, it is no longer able to accept new prisoners, see <https://www.khmertimeskh.com/50681546/prey-sar-prison-no-longer-accepts-inmates-due-to-overcrowding/> (accessed 23 June 2021).
 32. See e.g. Monychenda (2008), Sreang (2008) on the ideal relationship between secular power and Buddhism.
 33. See e.g. <https://www.voacambodia.com/a/cambodia-needs-change-from-below-prominent-advocate-says/2598143.html> (accessed 26 September 2021).
 34. <https://www.bangkokpost.com/thailand/special-reports/334020/ly-yong-phat-the-king-of-koh-kong> (accessed 24 June 2021).
 35. <https://www.phnompenhpost.com/national-politics/win-win-monument-heirloom-generations> (accessed 24 June 2021).
 36. <https://theasiadialogue.com/2019/01/08/winning-and-losing-under-hun-sens-win-win-policy/> (accessed 24 June 2021).
 37. <https://english.cambodiadaily.com/news/hun-sen-sells-win-win-policy-to-students-85625/> (accessed 22 June 2021).
 38. See also Kent 2016, and <https://theasiadialogue.com/2017/08/10/the-price-of-progress-in-cambodia/> (accessed 20 June 2021).
 39. Ieng Sary defected in 1996, Nuon Chea and Khieu Samphan, in 1998.
 40. <https://www.latimes.com/archives/la-xpm-1998-dec-31-mn-59330-story.html> (accessed 20 July 2020).

41. See <https://www.movetocambodia.com/phnom-penh/cambodias-win-win-memorial/> for images, (accessed 20 July 2020).
42. <https://www.khmertimeskh.com/50804675/tycoon-kith-meng-contributes-200000-to-koh-kongs-win-win-monument-construction/> (accessed 20 July 2020).
43. <https://www.bangkokpost.com/thailand/special-reports/334020/ly-yong-phat-the-king-of-koh-kong> (accessed 18 July 2020).
44. <https://english.cambodiadaily.com/news/no-trial-for-defectors-hun-sen-asserts-12616/> (accessed 10 July 2020).
45. <https://www.justsecurity.org/books-read/books-synopsis-justice-cascade-rights-prosecutions-world-politics/> (accessed 27 September 2021).

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