

**Justice and transition in Cambodia 1979-2014: process,  
meaning and narrative**

**Tallyn Gray**

Westminster Law School

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# **Justice and Transition in Cambodia 1979-2014: Process, Meaning and Narrative**

**Tallyn Gray**

**A thesis submitted in partial fulfilment of the requirements of the University of Westminster for the degree of Doctor of Philosophy.**

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## **Abstract**

The Cambodian genocide and its aftermath are unique in that key leaders are on trial thirty years after their regime fell. This creates particular problems : the UN-backed trials (ECCC) assume the normative aims of the transitional justice paradigm, but exist in context of multiple ‘transitions’ preceding or running concurrent to them, creating complex competing and complementary ideas about what constitutes ‘justice.’ Over the previous thirty years transition was a social process; alongside legalistic input it included (and still includes) religious discourse, ceremony, ritual and modes of expression not employed or recognised in courts. This thesis concerns the many and dynamic ways in which the concept of justice is discussed, narrated and manifested both inside and outside formal mechanisms.

The thesis concludes that the meaning of justice resides in a nexus of memory, time and imagination emergent from the act of telling the story, in a way that effectively lodges it within intergenerational cultural memory. Justice is a process without fixed ends.

Justice necessarily involves narrative; the way the past is narrated is key to the application and realisation of justice. Expanding on Lyotard’s theory of Grand Narratives, I contend that justice narrates itself through ‘phrase regimes’ which I explore within three legalistic processes : the People’s Revolutionary Tribunal , the trial of Pol Pot , and the narrative streams emerging from the hybrid United Nations/ Royal Government of Cambodia Extraordinary Chambers in the Courts of Cambodia (ECCC) . I contend each of these demands narrative conformity to ideological and political templates (Marxism, Liberalism). I further contend that these grand narratives collapse in Cambodia. Their limitations are exposed on encounter with what Ricœur calls ‘the small voices of history.’ In ‘small’ narrations, via socio-cultural processes such as religious ritual, legalistic narratives of justice may overlap, but the individual voices often transgress, or are marginalised by, the grand narratives.

The latter part of the thesis goes on to explore transition and justice from ‘outside’ legalistic mechanisms, and discusses ideas of justice arising from within the society in whose interests these mechanisms allegedly act. Through observing and attending numerous religious ceremonies and personally collecting 59 ethnographic interviews with monks, former KR cadres, witnesses, civil parties, historical and cultural figures from multiple communities in 10 provinces in the country I have established some basis for situating individual voices into a specifically Cambodian intellectual context.

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I am especially grateful to my mother for her constant support over the thesis writing.

## **Declaration**

I declare that all the material contained in this thesis is my own work.

Tallyn Gray

## **List of Abbreviations**

001	Case 001 at the ECCC of Kaing Guek Eav (alias Comrade Duch)
002	Case 002 at the ECCC of Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan
002/01	The first part of Case 002 at the ECCC of Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan following the ‘severance order’ that segmented the indictment
003 and 004	Cases under investigation (at time of writing) of officially undisclosed persons
CPK	Communist Party of Kampuchea
CPP	Cambodian Peoples Party
CNRP	Cambodia National Rescue Party
DC-Cam	The Documentation Centre of Cambodia
DK	Democratic Kampuchea
ECCC	The Extraordinary Chambers in the Courts of Cambodia
FANK	Forces Armées Nationales Khmères
FUNCINPEC	Front Uni National pour un Cambodge Indépendant, Neutre, Pacifique, et Coopératif, (trans: National United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia)
GLF	Great Leap Forward
HRP	Human Rights Party
ICFC	International Centre for Conciliation
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for former Yugoslavia
KPRP	Kampuchean People's Revolutionary Party
KR	Khmer Rouge
LANGO	Law on Associations and Non-Governmental Organisations Bill
NUFK	Front Uni National du Kampuchea
NGO	Non Government Organization
PRK	Peoples Republic of Kampuchea
PRT	Peoples Revolutionary Tribunal
RCAF	Royal Cambodian Armed Forces
RGC	Royal Government of Cambodia
S-21	Security Centre 21

TPO	Transcultural Psycho-social Organization
UN	United Nations
UNAKRT	United Nations Assistance to the Khmer Rouge Trials
UNCPPCG	UN Convention on the Prevention and Punishment of the Crime of Genocide
US	United States
VFKRDP	Victim-Former Khmer Rouge Dialogue Project

### A NOTE ON THE TEXT

There is extensive use of original interview material in this thesis. It is shown throughout in italics for ease of reference. It is taken verbatim from my interpreter .



## **Introduction**

This thesis is about a court, and about justice, but not necessarily justice in the court. The Extraordinary Chambers in the Courts of Cambodia (ECCC) is a unique institution and its operational difficulties are also unique; so too is its cultural impact, as much a response to its past absence as to its current presence. It was created as a hybrid domestic / international (UN) legal institution to try the ‘most responsible’ perpetrators of atrocities under Pol Pot’s Democratic Kampuchean Regime (DK) (1974-1979). The first trial (Case 001) began on 17 February 2009 - thirty years after the Vietnamese invasion of Phnom Penh ended the DK regime. So far only one has been concluded, that of Kaing Guek Eav, aka Comrade Duch, head of Tuol Sleng Prison. Of the four senior leaders whose trial has ensued, (Case 002) Ieng Sary has died and his wife Ieng Thirith is declared unfit. It is unlikely others will come to trial, although officially two further cases are pending (003 and 004). As Anne Heindel observes, by normative standards of international law and procedure, ‘The tribunal has - rightly - been heavily criticized from the start. It has ended up as the black sheep of war crimes tribunals.’<sup>1</sup> Meanwhile, ordinary Cambodians grapple with the legacy of mass atrocity – be it living in close proximity to a former torturer or securing identification of the bones of a relative dying under DK. They may do so directly or indirectly through the court; or they may participate in other processes, evolved over those three decades before it convened: grassroots mediation between former Khmer Rouge cadres and those who suffered, memorialisations and ceremonies originating in Buddhism, Cham Islam, or spirit and ancestor based religion.

## **Original contribution to the literature**

The court (and its predecessors) is a subject of my analysis, but also a point of departure for a hermeneutical reading of the multiple, fluid ways justice has been considered, discussed and performed in Cambodia since 1979. Rather than limiting discussion to how it is represented or instrumentalised in legal mechanisms, I am concerned with the many ways justice is *told*.

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<sup>1</sup> Anne Heindel, quoting Anya Palm, ‘En lærestreg i retsopgør’ (‘A lesson in transitional justice’), *Information*, 22 February 2014

The fundamental contention of this thesis is that there can be no justice without narrative. I aim to interpret the modern experience of a nation grappling with justice, undergoing variously-characterised ‘transitions,’ simultaneously attempting to rediscover a philosophical tradition destroyed under Pol Pot, and to narrate that experience for posterity. Hence I explore how narratives are situated in, emerge from, and create the historical /social/cultural context, and try to evaluate whatever meanings of justice they make. This involves crossing disciplinary boundaries. I draw on political studies, cultural studies, sociology, history - including the sociology and history of law - philosophy and theology. I use ethnographic, anthropological and discourse analysis methodologies, and theory from literary criticism, history, politics and international relations. Although the individual lexicons of these disciplines vary, all are underpinned by the notion of narrative.

Thus the thesis forms part of what could be termed the ‘second wave’ of scholarship on the court. It stands in contrast to Ciorciari and Heindel’s *Hybrid Justice*, a more traditional analysis of the normative approach of what is termed Transitional Justice.<sup>2</sup> My original contribution lies in a concern with the court’s constituents rather than legal, human rights or political science perspectives. This involves a new approach to Transitional Justice (TJ).<sup>3</sup> While my work is situated in some ways within TJ praxis and literatures, it locates itself ‘outside’ the Transitional Justice institution (ECCC), examining Transition and Justice from the perspective of the society for which the ECCC allegedly exists. I problematize these concepts of ‘transition’ and ‘justice’, taking each separately, and analyse how they have been thought about in Cambodia across that thirty-year gap and beyond. I have collected and analysed original source material, comprising 59 formal in-depth interviews, ethnographic field notes, and personal observation over three fieldwork trips in 2010, 2012 and 2013 (totalling 20 months).

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<sup>2</sup> John D Ciorciari and Anne Heindel, *Hybrid Justice: The Extraordinary Chambers in the Courts of Cambodia* (Ann Arbor: University of Michigan Press, 2014)

<sup>3</sup> Throughout when referring to the academic praxis of Transitional Justice I abbreviate it to TJ. If I am referring to the institutionalized process of Transitional Justice (i.e. the ECCC as a Transitional Justice institution) I refer to Transitional Justice

## Premises

It is important to define the core terms on which the work is predicated, as both are controversial: the word for the crime, Genocide, and the word for the desired outcome, Justice.

Genocide is a topic vigorously debated in academic literature.<sup>4</sup> Fawthrop and Jarvis entitled their intervention *Getting Away with Genocide?* but are careful to note they use the term 'in a generic or sociological sense, fully aware of its legal constraints.'<sup>5</sup> As defined by the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide (UNCPPCG), genocide is an attempt to destroy ethnic and religious groups and / or a 'people', in part or whole. The KR did target groups for their ethnicity/religion, such as the Cham and Vietnamese ethnic groups. Thus the CPK was carrying out a calculated policy of genocide against ethnic minorities within DK, and falls explicitly within the remit of the UNCPPCG.<sup>6</sup> Where controversy arises is in applying the term in relation to the majority Khmer ethnic group. The CPK never intended to eliminate their own ethnic group. Debate exists about their exact intentions - for example whether they intended to destroy all Khmers in urban areas: as such they would be targeting a minority within their own ethnicity. The UNCPPCG does not address such a situation. The guiding event in the minds of those framing it was the Holocaust.<sup>7</sup>

However, the use of the term is beyond semantics or legal taxonomies. 'Genocide' carries the 'weight' of a particular kind of atrocity. It is a crime apart from other international human rights standards and norms.<sup>8</sup> The international community has an obligation to prosecute genocide. The official Cambodian narrative - in government pronouncements, the school curriculum, the presentation of DK in national monuments such as S-21 and the killing fields -

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<sup>4</sup> Anson Rabinbach, 'Raphael Lemkin's Concept of Genocide: Fifty Years Later, the First Conviction Was Handed Down', *IP Journal Transatlantic Edition*, Spring 2005, 70-75

<sup>5</sup> Tom Fawthrop and Helen Jarvis, *Getting Away With Genocide?: Elusive Justice and The Khmer Rouge Tribunal* (London: Pluto Press, 2004) 5

<sup>6</sup> Jason S. Abrams, James L. Bischoff and Steven R. Ratner, *Accountability For Human Rights Atrocities In International Law: Beyond The Nuremberg Legacy*, Third Edition (Oxford : Oxford University Press, 2009) 320-325

<sup>7</sup> *ibid.* 322-323

<sup>8</sup> Jack Donnelly, *International Human Rights*, Third Edition (Boulder: Westview Press, 2007)

presents the crimes of the KR as ‘genocide.’<sup>9</sup> No other word carries the same gravitas, nor is there another to convey the crimes of the KR with appropriate impact. To dispute - even technically correctly - whether all KR policies resulting in the death of millions were ‘genocide’ troubles those who wish to stress to Cambodia, and the world, the severity of the crimes. Non-use of the term also aids forces wishing to downplay the scale of atrocities. The governments of China, the USA, the UK and Thailand, amongst others, supported the KR during the 1980s.<sup>10</sup> They maintained that ‘mass murder’ or ‘policide’ was only carried out by renegade KR factions.<sup>11</sup> They gain an obvious advantage in removing the term from international discourse over Cambodia. No nation wishes to appear supportive of a regime guilty of ‘genocide.’ That is perhaps the best argument to retain the word, and I choose to do so throughout this thesis.<sup>12</sup> Indeed I consider what happened in Cambodia a genocide.

The death toll, as Fawthrop and Jarvis note, has been subject to controversy. Serious estimates range from the early conservative figure of 740,000 to 3.5 million.<sup>13</sup> Most studies are now converging around 1.6 million-2.2 million, around a third of the 1975 population. In addition to the difficulty over number is the question of how many died as a result of killing and torture or as a result of starvation and disease wrought by Communist party policy.<sup>14</sup> Several scholars have worked on this issue. It is important in face of the troubling historiographies of Cambodian holocaust denial currently emerging from ideologically zealous ‘revisionists’ such as Israel Shamir.<sup>15</sup> A precise number is impossible.<sup>16</sup> However we know that there was a contrived policy of mass killing and wilful ignorance of the suffering resulting from other policies. Witness after witness testifies to

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<sup>9</sup> Ben Kiernan, ‘Bringing The Khmer Rouge To Justice’, *Human Rights Review*: Vol 1 No 3, 2000 , 92-108, 102-104

<sup>10</sup> Fawthrop and Jarvis, *Getting Away with Genocide?* 53-58

<sup>11</sup> Ben Kiernan, ‘Bringing The Khmer Rouge To Justice’ 94

<sup>12</sup> For clarity , when I refer to genocide in this thesis I use the word in the sense that Raphael Lemkin ( who coined the term) defined it in 1944 in his book *Axis Rule in Occupied Europe: Laws of Occupation - Analysis of Government - Proposals for Redress* (Washington, D.C : Carnegie Endowment for International Peace, 1944) 79 - 95

<sup>13</sup> Bruce Sharp, *Counting Hell*, Mekong Net, 2005  
<http://www.mekong.net/cambodia/deaths.htm>.<Accessed, 28 February, 2013>

<sup>14</sup> Fawthrop and Jarvis, *Getting Away with Genocide?* 3-5

<sup>15</sup> Israel Shamir, ‘ Dispatch From Cambodia : Pol Pot Revisited’, *Counter Punch* , September 18 , 2012

<<http://www.counterpunch.org/2012/09/18/pol-pot-revisited/>><Accessed 28 February, 2012>

<sup>16</sup> Craig Etcheson, ‘ "The Number" Quantifying Crimes Against Humanity in Cambodia’, Mapping Project 1999:*The Analysis*, Phnom Penh, Documentation Center of Cambodia<  
<http://www.mekong.net/cambodia/toll.htm>?<Accessed 28 February 2013>

torture (experienced or seen), murder, family breakup and famine; mass graves exist all over the country; people live with long-term psychological health problems. All confirm the 'systematic and massive scale' of the regime's policies of killing and destruction.<sup>17</sup> Hence I proceed on the assumption that there was indeed genocide in Cambodia resulting from the policies of the Communist Party of Kampuchea. I agree with Fawthrop and Jarvis that for many years this genocide has been 'forgotten'.<sup>18</sup> The local and global amnesia took some effort to contrive, as I go on to show.

A reckoning, in the shape of the ECCC, is now occurring after a perceived thirty-year gap. However this should not be understood as the only way the DK era is being resolved or as the only agent of justice. Rather, it is a point from which the entire DK story and its aftermath can be hermeneutically read. This thesis is chiefly concerned to explore those other discourses and ideas employed in the pursuit of transition and justice in Cambodia since 1979. This means my working definition of the next core term, Justice, is relative rather than definitive: a fluid, complex, ongoing process narrated in multiple ways, without fixed ends. The thesis contains a collection of 'small' depictions of people and communities from across the nation. To organise these and contextualise the thesis I adopt Amartya Sen's concept of a continuum of justice.<sup>19</sup> Sen argues that problems arise when there is focus on institutions rather than the lives people lead; this bears on how political and moral philosophy should be understood. Sen observes the concentration of the great moral philosophers (Rawls, Kant, Rousseau) on transcendental ideals of 'perfect justice'.<sup>20</sup> They measure institutions in terms of how closely they realize these, rather than making comparisons of justice as realisable in human society. Perfect justice is a fiction. What is realisable is posing questions of justice in terms of the impact of social institutions on the lives people actually live. Sen cites slavery as an example: abolition would make the world less unjust. A society without slavery will not become totally just, but in a slave-owning society there cannot be justice. To argue that justice is open, without fixed ends, means the thesis cannot reach a neat conclusion. Even if the ECCC process ended at the time of writing and I could look on it as a whole, such

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<sup>17</sup> Craig Etcheson, "The Number"

<sup>18</sup> Fawthrop and Jarvis, *Getting Away with Genocide?* 53

<sup>19</sup> Amartya Sen, *The Idea of Justice*, (London: Penguin Books, 2010)

<sup>20</sup> *ibid.* 10

conclusions depend on clear yardsticks, and I do not set out with any illusions that this is possible.

Finally, I work on the premise that Justice cannot exist without narrative. Justice is not concerned simply with punishing crime. It is something told, spoken of, articulated, a way to discuss, frame and conceptualize events. The variety of voices in the narratives I examine – including those from that perceived thirty-year gap - in which justice is articulated, makes it clear that any claim to possess a single way to wrap up the story – Marxism, Liberalism - excludes someone's narrative and denies them justice.

### **My approach**

Through participant observation, documentary analysis and the collection of oral histories I have studied both 'formal' processes such as the ECCC or the 1979 People's Revolutionary Tribunal and the 'informal' processes described above. I explore Cambodia's experience in dealing with post- atrocity justice within its own local intellectual traditions, and how this relates to western-dominated narratives of Transitional Justice. My study is focused on 'living' and 'on-going events' and as such needs to be flexible. Theory is part of the process - not its goal or starting point , but a response to the empirical data at the centre of my research.

<sup>21</sup> I focus on the themes of Meaning, Process and Narrative. How do processes, narratives, and meanings interact? What can these interactions tell us about justice in post-KR Cambodia? What can they tell us about Justice as a concept in the wake of mass atrocity? These broad research questions have been under a constant process of refinement as my work progresses.

My theoretical framework is designed to unify my methodological and disciplinary diversity, as I make clear in the 'breakdown of chapters.' Throughout, I illustrate a relationship between macro and micro readings of the same period, moving from discussion of institutions to the experience of individuals. However, in moving from macro to micro readings I am not ascribing hierarchical positions. Both are of equal importance in building the narrative of justice in Cambodia. My aims and objectives are listed below:

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<sup>21</sup> John Flood, , 'Socio-Legal Ethnography', *Theory and Method in Socio- Legal Research*, eds. Reza Bankar and Max Travers, (Oxford: Hart Publishing, 2005) 33-48

## **Aims**

- To understand the socio-cultural meaning of transition and justice and processes undertaken in the development of that meaning
- To find out how people narrate their stories, to institutions or to one other
- To ask why they tell these stories as they do
- To learn what processes—official or unofficial - have been used to deposit cultural memories and why
- To see if there is a Cambodian ‘transitional justice’ beyond the praxis of TJ

## **Objectives**

- To ask what Cambodians think of justice, in relation to the official processes
- To ask what Cambodians think of justice, in relation to the unofficial processes (those within religion, for instance)
- To gather oral histories that situate people in their social, cultural and political contexts in order to learn from individuals about the larger world in which they live

## **Chapter outlines**

Chapter One provides an explanatory historical /political background and introduces key figures. It does so by critically engaging with seminal works about modern Cambodian history, particularly DK and its aftermath. Thus it is not simply a chronological outline of events but a backdrop to the historiography of modern Cambodia. It highlights core schools of thought and theoretical approaches and demonstrates some key debates. It is included chiefly for readers unfamiliar with the last sixty years of Cambodian history, but also introduces the issue of multiple narratives that figures across the whole thesis.

Chapter Two is both a methodological and theoretical section. I discuss my initial methodological concern to undertake a ‘listening methodology’ and a Boltanskian *en situation* methodology, which takes social actors and their critical frames seriously in scrutinizing dominant narratives. I expound the theoretical frame emerging from these goals - that of ‘narrative’. I introduce Lyotard’s idea of ‘grand narratives’, his analysis of language games and the organization of the

basic units of expression - phrases - into phrase regimes and genres of discourse, through which justice is, or fails to be, articulated.<sup>22</sup> I also employ the structuralist device of the distinction between *fabula* and *sjuzhet* in constructing narrative, particularly as used by Todorov. Together, these approaches provide a tool set to identify and analyze the ‘*Differend*’, the crisis of justice, which emerges from multiple tellings of the atrocities in Cambodia’s post-independence history. I also discuss how memory studies allow me to understand the meaning of my ‘narrators’ stories in discussing the events of their lives.

Chapter Three is a lengthy and complex section examining the ‘big’ narratives of justice, ‘told’ in three different trials of members of the Communist Party of Kampuchea (CPK) executive: the People’s Revolutionary Tribunal, (PRT) in 1979; the trial of Pol Pot by his own movement in 1997; and the on-going ECCC. Each system of justice has its discourse parameters, and each trial has an underlying narrative it performs to various audiences. I attempt to disentangle the complex set of narrative threads emergent from these three processes, and explore the flaws of each, as well as enquiring about the relevance (if any) of the courts’ ‘big’ narratives to those ‘outside’ them - especially in relation to their personal narratives.

Chapter Four acts as a ‘bridging chapter’ by analysing a restorative justice process, neither exclusively religious (its religious elements were elected by the participants) nor exclusively secular: the Victim Former Khmer Rouge Dialogue Project (VFKRDP), run by an NGO, the International Centre for Conciliation (ICFC). It raises some fundamental issues around genres of discourse and phrase regimes, the expression of small personal narratives, still-existing community divisions and the importance of narrative in the functioning of justice. In this chapter, not only are the limits of TJ exposed, but, for the first time in this thesis, the limitation of Buddhist discourses also. Buddhism is as much a narrative as political narrations. While Buddhist semiotics and discourse entered the ICFC’s phrase regime, they did so as part of a non-Buddhist-specific discourse. Especially, I indicate where elements of Buddhist teaching (in particular the idea of ‘living in the moment’) seem to suppress anger rather than deal with it. It is

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<sup>22</sup> Ian Storey, ‘China’s Tightening Relationship with Cambodia’, *China Brief*, The Jamestown Foundation, Volume: 6 Issue: 9, 2006



also worth noting that the concept of Karma can be used to justify impunity. In this chapter I also explore Eugen Ehrlich's concept of 'Living Law' as a social process that 'does' the work of justice; such social processes have considerably more flexible phrase regimes than formal ones.

Chapter Five discusses alternative ways to narrate the DK period in relation to justice, through different phrase regimes and genres of discourse. In particular, it examines transition and justice through Buddhist discourses and semiotics. It begins with the problem of articulating and representing the atrocities of DK and examines public articulations of the personal within ceremonies and testimonial therapy. It then moves to more activist narratives, such as the Buddhist Peace Walks. The chapter contends that the narratives of (inter) national institutions and NGOs appropriate even intimate and religious moments into dominant political discourse. Such appropriations have the effect of constraining emergent narratives. I explore the relationship between the political context and alternative public narratives that must be placed within it. These are contained by 'official' discourses, and not in conflict with them - yet this does not mean that they are 'in' the official narratives.

Chapter Six continues the theme of 'telling the story'. It also discusses some specific Khmer cultural discourses linked to Cambodian Buddhism. I discuss particularly how Phchum Ben (the festival of the dead) and the concept of Neak Tas have aided the 'transitioning' of communities from the DK period (and beyond). I go on to discuss narratives that are not contained, which conflict with the official narrative, and as such are silenced, marginalised or forgotten. I argue that the official vessel for depositing memory (the ECCC) fails to offer a way for groups outside its jurisdiction to express their narratives. I discuss the experience of some former KR cadres in one of the movement's last strongholds, Anlong Veng, who remember with some nostalgia being part of the KR, and are thus utterly transgressive of the state narrative. I explore David Chandler's concept of 'induced amnesia' as a way used to control, contain and produce history and memory.<sup>23</sup> I also talk about KR cadres who consider themselves victims, yet are excluded from being defined as such. Finally, I look at the narratives of those

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<sup>23</sup> David Chandler, 'Cambodia Deals with its Past: Collective Memory, Demonisation and Induced Amnesia', *Totalitarian Movements and Political Religions* Vol. 9, Issue 2-3, 2008

involved in the construction of one of the case 004 crime sites. I link these survivors of KR slave labour to state narratives that render them part of a blanket survivor/victim narrative, in which they are unable to express their personal or group experience beyond the official telling that categorises them.

Chapter Seven helps to tie up the preceding chapters as it asks *why* my narrators want to tell their stories rather than *how*. It brings together the previous tellings to address themes they raise in the praxes of Time, Imagination and Memory. These are particularly significant, as one of the overriding themes, throughout the thesis and in this final chapter, is the desperation of survivors to communicate the experience of DK to their (grand) children and the wider world, and to be believed when they tell the story.

### **Reflexivity**

In 2010, I carried out research on Cambodian monks and how they thought about the ECCC. Indeed I initially became interested in Cambodia after reading the autobiography of Vann Nath, a civil party.<sup>24</sup> The Duch trial had not yet delivered a verdict and my work, while critical of the ECCC, was still optimistic about the process. Since then I have developed a more cynical attitude towards the ECCC. While I do not write off the process as a disaster, I feel that at this stage (early 2014) the legacy and impact of the tribunal hangs in the balance. I contend that in some ways the ECCC has been detrimental to Cambodia, arguably entrenching a culture of impunity and strengthening the executive's influence over the judiciary. This thesis is not about the ECCC alone, and my scope is wider than just one, albeit large, institution. However, the ECCC will be the last large institution to deal with the DK period and will have a powerful impact in terms of how future historians read about it. I do not claim objectivity in this research. It is essentially constructivist and qualitative and the reading of the 'texts' is subjective. I do not claim to know what all Cambodians think about justice; but those of whom I have directly asked the question should be heard.

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<sup>24</sup> Vann Nath, *A Cambodian Prison Portrait: One Year in the Khmer Rouge's S-21* (Bangkok: White Lotus, 1998)

## **Chapter One: Historical Literature Review**

### **Introduction**

This chapter attempts two tasks. Firstly, it provides historical context some readers may find helpful. Secondly, my discussion of a living, ongoing event is grounded in readings of a regime. Hence it is important to address critically the variety of ways major Cambodian political historians narrate its story. My thesis is situated ‘at the end’ of their narratives, with the regime firmly in the past and being reckoned with at the ECCC. Rather than offering another history, my work shows how the regime has been and is being addressed. It is about how people look back on a time, and in what political, cultural, philosophical and normative climate they do it. I focus extensively on people remembering and reflecting. Hence some knowledge of historical developments is vital; but while I draw on the historical canon in this chapter, I address different issues. I am not asking, for example, what factors were important in bringing the KR to power, or what White House decisions brought about specific outcomes. While this is self-evidently important, my concern is with how people convey stories and draw upon them.

No contemporary historian would assume it is possible to narrate a stream of ‘pure’ fact untouched by ideology, preconception or personal circumstance. The historiography of modern Cambodia, however, is particularly noteworthy in that so many of its leading scholars are personally intertwined in its history. They saw the rise of DK first hand and/or have been involved in dealing with its legacy. David Chandler, Elizabeth Becker and Craig Etcheson, have been trial witnesses. Stephen Heder (also a trial witness) worked for Amnesty International on Cambodian issues. Helen Jarvis (a government supporter) headed the Public Affairs Section of the ECCC. Craig Etcheson and Michel Vickery worked for some period at the ECCC. Sophal Ear, a Khmer-American scholar, lived through the regime - his father was killed and he escaped with his mother. Becker and Malcolm Caldwell both visited Phnom Penh during DK : Becker heard the gunshot when Caldwell was murdered a few feet away. A discussion of the often ideologically bitter conflicts among historians in the field enhances contextual

understanding of the way this story is narrated. In reviewing this literature I seek to read it from the perspective of the people that I have interviewed .

### **‘Can you see the King’s face in the moon?’**

I start with an event that encapsulates the conflicting cultural, political and personal layers in narratives of Cambodia. It is the end of a personal story, and also of the embodiment of a national narrative still resonating, as I show in Chapter Three : the death of the ‘Father King’ Norodom Sihanouk on 15 October 2012. Ideas of monarchy and nation are crucial to the past and the present I examine here .

#### **Fieldwork journal: 23 October 2012 - end of the period of mourning**

*Everyone has been in white (the Buddhist mourning colour) all week. Two major scandals have erupted. One Thai TV journalist has had to publicly apologise for the picture of the king on the floor in shot during her report; and a Chinese factory overseer has been deported for taking down a picture of the King she said was too distracting for workers. This caused a near riot; before her deportation the courts made her pay homage to the King on national TV.*

*I have been chatting to a couple of Cambodian intellectuals about rumours going around about the King’s face appearing in the moon. This is circulating among the mourners around the palace, and on social networking sites. You can see people coming out of their homes or leaning over their balconies, staring up at the sky in the early evening as the moon comes into view. The rumour is that the king’s face is visible in the moon, smiling on his people.*

*‘Westernized Cambodians feel torn discussing this. When we talk to westerners we get embarrassed. You all must think how gullible and superstitious our culture is, ha-ha – saying we can see the king’s face in the moon! I can’t see it, but if you were Khmer I would tell you I could. Why? Because if I say to a westerner I can see it, you will say we are foolish and superstitious. If I say to a Khmer I cannot see it, he will say, “It’s because you’re not a real Khmer.” I think people, especially in the village sometimes, think that of us who live in Phnom Penh. When I go back home to my village everyone is a farmer. And my family and friends tease me, for I dress like a foreigner, I’m complaining about the government, I don’t like the smell of the cows ... You see Sihanouk was the last of the god kings – god faces can appear in the moon, I guess.’*

#### **From Independence to the end of the Republic: Cambodia 1953-1975**

In 1953 Sihanouk's deft handling of the French secured Cambodia's independence without the bloodshed marking the process in other French colonies, including Vietnam. His own flamboyant account terms this a 'Royal Crusade.'<sup>1</sup> A national hero, he stepped down as monarch two years later, in favour of his father, to stand successfully for office. On his father's death he created for himself a double role, head of government and head of state, without the title 'King'. Egotistical and sometimes violently repressive, he used his movement, the *Sangkum Reastr Niyum* (Popular Socialist Community) for personal power.<sup>2</sup> Characteristically, it combined left and right factions, a hallmark of 'Sihanouk-ist' politics. His guiding domestic ideology was 'Buddhist Socialism.' As he informed Mao Zedong, 'In our country we practice our own brand of socialism ...the rich give their money to the poor.' (Mao muttered, 'Socialism is very complicated', and changed the subject).<sup>3</sup> As Chandler notes, Sihanouk was not well-versed in socialism but realised modernisation demanded a modern ideological label. The social structures of Cambodia remained relatively unchanged. 'Buddhist socialism' upheld the ancient order: the rich provide for the poor, motivated not by desire to improve social mobility but for good 'merit' and good Karma; the ill-defined concept rests on the requirement that there must *be* a rich.<sup>4</sup> Sihanouk did achieve genuine improvements, particularly in education.<sup>5</sup> However, Cambodian socio-political structures were heavily grounded in a patron-client relationship. Vickery notes the division between urbanites and peasants aware they would never move beyond the social status of their birth.<sup>6</sup> This division predated the KR's categorisation of the population into 'old / base people' (the peasantry, revolutionaries, those who lived in KR-controlled areas during the civil war preceding the KR takeover) and 'new' / April 17 people (urban professionals, *ancien regime*, people 'new' to the revolution from the areas controlled by the Republican Government).<sup>7</sup> And, as my journal indicates, there is still a divide; even today a rice farmer may perceive himself, and be perceived, as more

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<sup>1</sup> Norodom Sihanouk and Wilfred Burchett, *My War with the C.I.A.*, (London: Pelican, 1973) 156

<sup>2</sup> David P. Chandler, *The Tragedy of Cambodian History: Politics, War, and Revolution since 1945* (Chang Mai: Silkworm Books, 1991)

<sup>3</sup> Ibid.87

<sup>4</sup> Michael Vickery, *Cambodia 1975-1982* (Chiang Mai: Silkworm Books, 1984) 13-14

<sup>5</sup> David. P. Chandler, *A History of Cambodia*, Fourth Edition (Philadelphia: Westview Press, 2004) 242 243

<sup>6</sup> Michael Vickery, *Cambodia 1975-1982*, 5

<sup>7</sup> Elizabeth Becker, *When the War Was Over: Cambodia and the Khmer Rouge Revolution* (New York: Public Affairs Edition, 1998) 226

‘authentically’ Khmer than one of his countrymen in a western suit talking into a smartphone, while the latter winces at his lack of sophistication.

Sihanouk, a feudal King, not a democrat, was genuinely loved by a large majority of his people. In the Cambodian Monarchic tradition he was quasi-divine, *sui generis*. Sihanouk envisaged his relationship to his people as that of father, protecting an ‘oasis of peace’ for his subjects.<sup>8</sup> Seeing the effects of industrialization in Thailand or Malaysia, Sihanouk eschewed their development model. His education policies aimed to create an intelligentsia to pursue knowledge and the arts (as well as making useful civil servants). However, this fostered a disgruntled generation of men and women, with no outlet for their skills and critical of the stasis shaped by Sihanouk’s feudal views. (Many of them were executed under DK.) Simultaneously, pro-capitalists were concerned at Cambodia’s lack of development as other nations advanced.<sup>9</sup>

Pursuing independence through neutrality, Sihanouk played off France, Vietnam, China (who, he believed, would become the dominant power of Southeast Asia), the USSR and the USA (with whom he severed ties in 1963), giving and taking a little at a time. Arguably, his objective was to keep Cambodia out of the Vietnamese conflicts on his border. For a small, poor, militarily weak nation this was exceptionally difficult in context of the Sino-Soviet split, *détente*, and the Vietnam War - a convergence of Cold War politics on Cambodia’s border. In 1965, Sihanouk permitted North Vietnamese bases near the border, allowing military supplies from China to reach Vietnam via Cambodia – much to the irritation of the Kennedy/ Johnson administration. By this stage his domestic policy was unravelling. His increasingly repressive line alienated the left. Simultaneously his control of the right waned as defence Minister ‘Marshal’ Lon Nol, (appointed Prime Minister by Sihanouk in 1966), gathered credibility among conservatives disgruntled by economic failures, the presence of the Vietnamese, student uprisings and food shortages after bad harvests. In response Sihanouk (bizarrely for a head of government) formed a ‘counter government’ of the left. This included Khieu Samphan, who, however, fled after being threatened by

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<sup>8</sup> David. P. Chandler, *A History of Cambodia*, Fourth Edition (Philadelphia: Westview Press, 2004) 242-44

<sup>9</sup> Elizabeth Becker, *When the War Was Over*, 6-7

Sihanouk for protesting the violent repression of a leftist student uprising in Battambang in 1967.

Sihanouk blamed this uprising on local 'red' Khmers, *Khmers Rouges* - a nickname that stuck.<sup>10</sup> Indeed this is a good place to note that the term 'Khmer Rouge' is slippery, implying a single coherent political party : not an apt description of the multifaceted elements of Cambodian Communism.<sup>11</sup> When I employ the term I copy the way my sources use it, and when relevant I indicate the meaning of the term to a particular individual. I also present the very different ways that writers, sources and institutions employ it. 'Khmer Rouge' has multiple meanings; these meanings pertain to the meanings of justice I also write about.

Sihanouk's foreign policy of relying on China to keep the Vietnamese from Cambodia's borders was crumbling. China was absorbed in its own Cultural Revolution and cultivating a relationship with the Communist Party of Kampuchea (CPK). The North Vietnamese also supported the CPK. What they lacked in terms of popular domestic support was compensated by the support of North Vietnamese military forces. Once the KR became hostile to Vietnamese forces, they coerced villages into joining them instead.<sup>12</sup> Sihanouk tried rebuilding relations with the USA, hosting a visit from Jacqueline Kennedy, which opened the way for a visit by the US ambassador from India, Chester Bowles. During their meeting Sihanouk admitted he knew the Vietnamese were crossing into Cambodian territory, indicating he would not object if US forces crossed the border to pursue the Viet Cong. This was the basis on which Nixon's administration later justified carpet-bombing.<sup>13</sup> The illegal US bombing of Cambodia resulted in a major humanitarian crisis and over 100,000 mostly civilian deaths (a conservative estimate).<sup>14</sup> The US dropped 2,756,941 tons of bombs over Cambodia over the 1960s and 1970s. (To put this in perspective: the Allies dropped just over 2 million tons of bombs during the whole of World War II, including those at Hiroshima and Nagasaki, 15,000 and 20,000 tons,

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<sup>10</sup> Milton Osborne, *Sihanouk: Prince of Light and Darkness*, (Chiang Mai: Silkworm Books, 1994) 167

<sup>11</sup> Stephen Heder, *Cambodian Communism and the Vietnamese Model*, Vol 1: *Imitation and Independence, 1930-1975*, (Bangkok: White Lotus Press, 2004) 11

<sup>12</sup> *ibid.* 168-169

<sup>13</sup> Osborne, *Sihanouk: Prince of Light and Darkness*, 195-196

<sup>14</sup> Ozag Mahmet, 'Development in a War Torn Society: What Next For Cambodia?', *Third World Quarterly*, December 1997, 304

respectively).<sup>15</sup> During this assault, Sihanouk remained silent. Later Lon Nol actively requested 'assistance' from President Nixon.<sup>16</sup> Despite this new US-Cambodia relationship, the US gave little of the military aid Sihanouk's generals anticipated; he was unable to keep his domestic and geo-political balancing act together. In March 1970, Lon Nol usurped Sihanouk's position as head of state/government. The 'Khmer Republic' came into being later that year. Sihanouk claims the CIA conspired with pro-US players in Cambodia to get rid of him.<sup>17</sup> There is little evidence of this, although his suspicion is not groundless: the CIA funded the right-wing guerilla group *Khmer Serei* in the late 1950s/early 1960s.

Sihanouk's country was in dire economic straits. Throughout 1969 he spent much of his time pursuing his hobby of moviemaking while the Phnom Penh elite lost faith in his capacity to govern. Osborne's biography comments on the tendency to look on the Sihanouk era with a sentimentality prompted by the awful nature of what followed, noting that this diminishes the violent, corrupt, exploitative and chaotic nature of Sihanouk's regime.<sup>18</sup> On the other hand, Sihanouk was trying to retain his nation's neutrality and independence in face of massive international pressures and an impossibly complex political situation. In his own words, 'the humble people of Cambodia are the most wonderful in the world... their great misfortune is that they have always had terrible leaders who make them suffer. I am not sure that I was much better myself, but perhaps I was the least bad.'<sup>19</sup>

The ensuing Lon Nol Regime was violent, corrupt and disastrous. Famine hit. The economy collapsed as Cambodia entered a protracted civil war between the Khmer Republican army, the North Vietnamese leftist guerrillas (KR), and Sihanouk's own guerrilla force, Front Uni National du Kampuchea (NUFK) all pitted against Lon Nol's republican army, Forces Armées Nationales Khmères (FANK) backed by US money and bombs. Lon Nol ran on an ideological mix of

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<sup>15</sup> Owen Taylor and Ben Kiernan, 'Bombs Over Cambodia: New Information Reveals That Cambodia Was Bombed Far More Heavily Than Previously Believed', *The Walrus*, 2006, <<http://www.walrusmagazine.com/print/history-bombs-over-cambodia/>><Accessed 24 Jan 2012>

<sup>16</sup> David. P. Chandler, *A History of Cambodia*, 252

<sup>17</sup> Sihanouk, *My War With The C.I.A.*, passim

<sup>18</sup> Osborne, *Sihanouk: Prince of Light and Darkness*, 214-215

<sup>19</sup> Sihanouk, quoted William Shawcross, *Sideshow: Kissinger, Nixon and the Destruction of Cambodia* (London : Hogarth Press, 1986) 392



ethnic nationalism and local mysticism (neo-Khmerism).<sup>20</sup> His army was ill equipped and badly trained. He became erratic, sending his soldiers (many of them children) on ‘holy wars’ against the *Thmils* (infidels) to recapture holy sites rather than enemy positions, protected by little more than ‘magic’ scarves.<sup>21</sup> By the end of the Republic, millions of refugees were pouring into Phnom Penh (one of the few places Lon Nol still controlled) as the KR advanced; indeed while the ‘official’ start of the regime was the fall of Phnom Penh, the KR had been controlling and killing swathes of the nation for months. American bombing had ceased, Watergate destroyed Nixon, Lon Nols’s most powerful supporter, and Gerald Ford failed to convince Congress to provide military aid to the Lon Nol government.<sup>22</sup>

On April 17, 1975, Saloth Sar (Pol Pot) stormed the capital. The earliest accounts of the ensuing disasters allot blame in simplistic binary fashion. Nixon and Kissinger contended that the North Vietnamese were to blame for crossing over into Cambodia and supporting the communist movement inside the country :

American military action taken in defence against totalitarian aggressors did not cause those aggressors to be totalitarian. If war had anything to do with the brutalization of the Khmer Rouge, it was a war instigated and relentlessly pursued by the North Vietnamese.<sup>23</sup>

The left attributed the rise of the Khmer Rouge to the illicit and extensive US bombing. Both views have elements of truth, and at the same time fail to encompass a complex picture.

### **The closed country: unfolding awareness and the Standard Total Academic View 1975-1979.**

At the start of this chapter I noted the detectable animosity between some scholars . It emerges from the politics of the late 1960s and early 1970s, and indeed the 1980s. I start with the best-known western academic controversy of the DK era . As with North Korea today, the outside world knew little of DK in the 1970s. The country was sealed off and evidence emerged piecemeal. The

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<sup>20</sup> Ben Kiernan, *How Pol Pot Came to Power: A History of Communism in Kampuchea, 1930-1975* (London: Verso, 1987) 348

<sup>21</sup> Elizabeth Becker, *When the War Was Over*, 123-124

<sup>22</sup> David P. Chandler, *The Tragedy of Cambodian History*, (Chang Mai: Silkworm Books, 1991) 234

<sup>23</sup> Richard Nixon, *The Real War*, (London: Sidgwick and Jackson, 1980) 121-122

ways in which narratives about the regime are constructed expose the ideological conflicts of the period and the relationship between scholars, their ideology, and their sources.

The earliest document readers may have encountered in this debate is a review article by Noam Chomsky and Edward S. Herman for the *Nation* in 1977.<sup>24</sup> It concerns three books: *Murder of a Gentle Land: the Untold Story of a Communist Genocide in Cambodia*;<sup>25</sup> *Cambodia: Year Zero*;<sup>26</sup> and *Cambodia: Starvation and Revolution*.<sup>27</sup> All three concerned the new Communist government of 'Democratic Kampuchea' (DK), the name the triumphant group had given their country, and *Angkar* (Khmer for 'the Organization'), the pseudonym the Communist Party of Kampuchea (CPK) gave itself. By the vast majority of accounts, its own people knew little of their new leaders.<sup>28</sup> It is symptomatic of the lack of empirical knowledge in the west that Pol Pot is never mentioned in these three texts as leader of the CPK; he was unknown. I begin with these texts, and this controversy, not only because they are rare contemporary accounts of the regime, but also to illustrate my approach to narrative in the rest of the thesis.

Chomsky and Herman conclude, 'Barron and Paul's work is a third-rate propaganda tract, but its exclusive focus on Communist terror assures it a huge audience.' Ponchaud's work they consider 'far more substantial' despite the 'anti-Communist bias and message', noting dismissively, 'It has attained stardom only via the extreme anti-Khmer Rouge distortions added to it in the article in the *New York Review of Books*.' Finally, they state that Hildebrand and Porter's book

present[s] a carefully documented study of the destructive American impact on Cambodia and the success of the Cambodian revolutionaries in overcoming it, giving a very favorable picture of their programs and policies, based on a wide range of sources.

They expect it will be ignored by the mass media 'because the message is unpalatable.' This 'unpalatable message' from Hildebrand and Porter was that US saturation bombing ('Operation Menu') between 8 March 1969 and 26 May 1970

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<sup>24</sup> Noam Chomsky and Edward S. Herman, 'Distortions at Fourth Hand', *The Nation*, 6 June 1977

<sup>25</sup> John Barron and Anthony Paul, *Murder Of A Gentle Land: The Untold Story Of A Communist Genocide In Cambodia* (New York: Reader's Digest Press, 1977)

<sup>26</sup> François Ponchaud *Cambodia: Year Zero*, translated by Nancy Amphoux (New York: Holt, Rinehart and Winston, 1978)

<sup>27</sup> George Hildebrand and Gareth Porter, *Cambodia: Starvation and Revolution*: (New York: Monthly Review Press, 1976) 97

<sup>28</sup> Martin Stuart-Fox and Bunheang Ung, *The Murderous Revolution: Life and Death in Pol Pot's Kampuchea*, (Bangkok: Orchid Press, 1998) 2-4

was a principal source of economic disaster in Cambodia and that the communist takeover was a 'response to real human needs which the existing social and economic structure was incapable of meeting'.<sup>29</sup> Rather than investigating the substantive allegations of genocide made by the authors they criticize, Chomsky and Herman use their review to discuss the perceived ideological bias of western media against communist/socialist regimes. Indeed Hildebrand and Porter's conclusion :

Cambodia is only the latest victim of the enforcement of an ideology that demands that all social revolutions be portrayed as negatively as possible rather than as responses to real human needs which the existing social and economic structure was incapable of meeting. In Cambodia as in Vietnam and Laos the systemic process of mythmaking must be seen as an attempt to justify the massive death machine which turned against a defenceless population in a vain effort to crush their revolution

chimes with the view Chomsky and Herman reiterate in *Manufacturing Consent: The Political Economy of the Mass Media* - that anti-communist bias in the western media manipulates, distorts and suppresses information to suit capitalist interests.<sup>30</sup> To that end, tales of communist atrocities serve to discredit leftist ideas. Chomsky and Herman state they do 'not pretend to know where the truth lies amidst these sharply conflicting assessments.' However, they denigrate Barron and Paul without independently verifying the facts, and are critical of the 'extreme unreliability of refugee reports' and the interviews with KR survivors by Ponchaud, Barron and Paul.<sup>31</sup> The fact that Hildebrand and Porter are entirely uncritical of the DK regime appears to escape their notice.

In hindsight it is obvious Ponchaud and Barron and Paul offer a more accurate (and morally acceptable) reflection of life in DK than Hildebrand and Porter's apologia for KR policy. Today this at best appears naïve, at worse morally obscene. Asked at a hearing of the US House of Representatives Subcommittee on International Organizations of the Committee on International Relations on Human Rights in Cambodia about the sources for his conclusion that reports of mass murder in DK were untrue, Porter cited the following: a letter to the *Economist* by W.J. Simpson (never contacted directly by Hildebrand and Porter)

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<sup>29</sup> Hildebrand and Porter, *Cambodia: Starvation and Revolution*, 96

<sup>30</sup> Noam Chomsky and Edward S Herman, *Manufacturing Consent: The Political Economy of the Mass Media* (New York: Pantheon Books, 1988)

<sup>31</sup> Chomsky and Herman, 'Distortions at Fourth Hand'

who claimed to have talked to Cambodian refugees and concluded that a few thousand people had been killed by the KR; an out-of-context quotation from Ben Kiernan citing irregularities in refugee testimony ; and the ‘scholarly debate’ surrounding Ponchaud’s work.<sup>32</sup> The footnotes to *Cambodia: Starvation and Revolution* cite a number of sources which were DK propaganda sheets. In 1978 Porter distanced himself from his previous writings.<sup>33 34</sup>

Hildebrand and Porter and Chomsky and Herman were , along with Laura Summers, Malcolm Caldwell and Ben Kiernan ( who later changed his mind) , part of a group committed ideologically to pro-revolutionary narratives focused on anti-colonialism, anti-imperialism and the superiority of communism/ socialism . DK survivor Sophal Ear states, ‘They were so caught-up in the idea of a peasant revolution that they did not stop and ask the peasants themselves how they liked the ride.’<sup>35</sup> Developing a term coined by Michael Vickery , Sophal Ear refers to this group’s narrative as the ‘Standard Total Academic View’. They are ‘standard’ in the sense of mainstream in their generation of scholars or journalists in reputable left-leaning publications. (More seasoned scholars such as David Chandler were of the previous generation, not part of STAV.) Historians are rightly critical of the way pre-KR Cambodia was popularly portrayed as ‘ a gentle land’ of peaceful Buddhists,<sup>36</sup> ‘paradise,’<sup>37</sup> ‘a fairy tale kingdom’ of happy peasants - an image Sihanouk deliberately cultivated.<sup>38</sup> Yet the STAV scholars created an equally simplistic fiction, constructing the KR in ‘romantic’<sup>39</sup> terms as brave 1789-style revolutionaries battling the encroachment of American imperialism.<sup>40</sup>

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<sup>32</sup> Hearing Before the Subcommittee on International Organizations of the Committee on International Relations, House of Representatives, Ninety-fifth Congress, First Session, on Human Rights in Cambodia, 03 May 1977, Folder 02, Box 12, Douglas Pike Collection: Unit 11 - Monographs, The Vietnam Center and Archive, Texas Tech University. Accessed 16 January 2013. <<http://www.vietnam.ttu.edu/virtualarchive/items.php?item=2391202002>>.

<sup>33</sup> Larry Clinton Thompson, *Refugee Workers in the Indochina Exodus, 1975-1982*, (Jackson: McFarland, 2010) 135

<sup>34</sup> An Exchange on Cambodia, Gareth Porter, reply by William Shawcross, July 20, 1978 <<http://www.nybooks.com/articles/archives/1978/jul/20/an-exchange-on-cambodia/?pagination=false>> <Accessed : 13 January 2013>

<sup>35</sup> Sophal Ear, *The Khmer Rouge Canon 1975-1979: The Standard Total Academic View on Cambodia*, Political Science Honors Thesis, UC Berkeley: May 1995

<sup>36</sup> Michael Vickery, *Cambodia 1975-1982*, 1

<sup>37</sup> Elizabeth Becker, *When the War Was Over*, 4

<sup>38</sup> Osborne, *Sihanouk: Prince of Light and Darkness*, 123

<sup>39</sup> Sophal Ear, ‘Romanticizing the Khmer Revolution’, *Searching for the Truth*, April 2001

<sup>40</sup> Chomsky and Herman, ‘Distortions at Fourth Hand’

The works of KR apologists and their later perfunctory retractions and/or silence over the KR genocide show how metanarratives blinker interpretation, and how theory and ideology fill gaps in empirical knowledge. A similar kind of theoretical / ideological literalism arguably allowed an academic theory (dependency theory) to cause the deaths of millions via the PhD thesis of Khieu Samphan.<sup>41</sup> While I deal with this in a later section, it is worth noting here that Khieu was an important intellectual connection point for Caldwell and Summers. Summers translated part of his thesis and it was in light of his work that they wrote in defence of the regime.<sup>42</sup> To develop my point I will discuss how the three authors reviewed by Chomsky and Herman present the same event : the evacuation of Phnom Penh, the prime focus of the trial in 2012. (The indictments faced by the accused at the ECCC were split into different trials, controversially described as ‘mini-trials’, covering parts of the indictments. Since November 2011 the focus has been on such forced movement of the population from Phnom Penh and other urban areas.<sup>43</sup>) Barron and Paul utilized the widest sample - over 300 eyewitness refugees.<sup>44</sup> Ponchaud based his book on testimonies of about 56 refugees.<sup>45</sup> Hildebrand and Porter, like Chomsky and Herman, spoke to none.

Barron and Paul narrate the story of the evacuation after an initially cheerful welcome by the citizens to KR soldiers apparently coming to end the war. Yet within days citizens were told by men with guns that *Angkar* would provide, but they must evacuate the city. No one knew who, what or where *Angkar* was. On the march the elderly, the infirm and young children died and were left at the sides of the ‘National Roads’ (motorways) leading out of the city. It lasted days. People had only the food and water they had the foresight to bring. The KR (many of them scared teenagers) screamed for people to move on. Those who lagged were shot. On this march of three million in a heat of 100°F (38 °C) in dry-season Cambodia people witnessed atrocities: ‘counter-revolutionary’ babies’ heads were smashed over tree trunks (a practice committed to instil terror and

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<sup>41</sup> Karl. D. Jackson, ‘The Khmer Rouge in Context’, *Cambodia 1975-1978: Rendezvous With Death*, ed. Karl. D Jackson, (Princeton: Princeton University Press, 1989)

<sup>42</sup> Khieu Samphan, ‘Underdevelopment in Cambodia’ (completed in 1959), partial translation by Laura Summers for *Indochina Chronicle*, Indochina Resource Center, Berkeley, Issue No: 51-52 September- November 1976

<sup>43</sup> Trial Chamber - 15 March 2012 Trial Day 37 (Case 002) Doc. n° E1/49.1, 2-5

<sup>44</sup> Barron and Paul, *Murder of a Gentle Land*, 106-127

<sup>45</sup> Ponchaud, *Cambodia: Year Zero*, xv

witnessed in many other places by many others). Many killed themselves. Soldiers confiscated items that would be banned throughout the regime (watches, western clothes, cigarettes, pens, baby food, medicine and some spectacles). Evacuees were told to work in the rice paddies from now on - contradicting the reason they were given to evacuate (air raids) and the promise they could return in a few days. This, according to Barron and Paul, was when some of the worst trauma set in. People separated from their families now realised even if they survived the march, they would not soon be reunited. The book details what is today confirmed as an accurate account. Like Ponchaud, Barron and Paul's stated desire in publishing was to bring global attention to what they saw as genocide, estimating that by 1977 the KR had killed 1,200,000.<sup>46</sup> Their narrative is written (or re-written) in the standardised anti-communist rhetoric of their publisher, the *Reader's Digest*. They mention no event prior to 17 April 1975, other than stating in vague terms that there had been civil war. There is no mention of the US bombings. However, their evidence is meticulously documented and confirmed, unlike that contained within Hildebrand and Porter's equally mannered leftist prose.

Ponchaud, a Catholic missionary who lived in Phnom Penh from 1965 to May 1975, states at the outset his desire to see change come to Cambodia and his intent to avoid blind infatuation with the revolution while not being too critical.<sup>47</sup> His narrative is mediated through the testimonies of 56 refugees. It acknowledges the problems of his method and the difficulty in verifying facts.<sup>48</sup> He clearly condemns the damage prior to the KR takeover, especially the US bombings, but argues that 'the self-slaughter taking place at the moment must be denounced no less vehemently.'<sup>49</sup> This was the first book to draw the world's attention to what in his review of the book Jean Lacouture termed 'auto-genocide'.<sup>50</sup> In Ponchaud's narrative, the KR announce on entering the city that the Americans were preparing to bomb and every person must leave. Ponchaud saw hospitals emptied before he was delayed in the French embassy (where almost all foreigners were sent). There he witnessed and tried to help Cambodians desperate

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<sup>46</sup> Barron and Paul, *Murder of a Gentle Land*, 206

<sup>47</sup> Ponchaud, *Cambodia: Year Zero*, x

<sup>48</sup> Ibid. xv

<sup>49</sup> Ibid. xvi

<sup>50</sup> Jean Lacouture, The Bloodiest Revolution, *The New York Review of Books*, 31 March 1977

to seek asylum. He, like the others, saw an exodus of people forced to abandon their homes and families to march to some unknown destination; for the sick, old, infants, and starving, who were offered no assistance, this was a death sentence – the city of two million was cleared of people in the space of a few days. Ponchaud reports utter confusion as to why the KR was doing this. However, he quotes an exchange with a KR official: ‘In Phnom Penh you eat rice but you don’t grow it.... go to the country and eat the rice you have grown.’<sup>51</sup> Ponchaud describes his sense of watching an attempt to prove a theory, regardless of the human cost. He speculates that the reason for evacuation was because

everyone knows that cities afford ideal hiding places for opponents of any regime, especially for one getting started . Emptying the town was a means of shattering traditional frameworks, mixing the entire population together indiscriminately and thereby cutting off any possibility of structured opposition.<sup>52</sup>

(This opinion was confirmed later by others.) By quoting at length, Ponchaud lets the refugees he interviewed explain the violence of the evacuation , and cites witness after witness to the piles of bodies on the roads. What is now known is that the killing of former regime leaders and intellectuals started early.<sup>53</sup> Ponchaud also recounts the stories of those in other cities such as Battambang undergoing a similar experience .

Hildebrand and Porter’s narrative of the same event is radically different. They depict the KR as justified in their evacuation of Phnom Penh and do not mention that the KR were carrying out evacuations in all cities. It is described as required , not forced . refugees who had poured into the city *wanted* to go back as the war was over and the overpopulation meant epidemics and lack of food. They trust Ieng Sary’s claim, ‘By going to the countryside, our peasants have potatoes, bananas, and all kinds of foods.’<sup>54</sup> In this narration the evacuation was justified, carried out at a ‘comfortable pace’ with the sick and elderly assisted in the process - at least according to their source, ‘a high-ranking Cambodian diplomat’ interviewed in November 1975.<sup>55</sup> In addition, the revolution was attempting to

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<sup>51</sup> *ibid.* 21-22

<sup>52</sup> *Ibid.* 19

<sup>53</sup> Stuart-Fox and Bunheang,, *The Murderous Revolution*, 5

<sup>54</sup> Hildebrand and Porter, *Cambodia: Starvation and Revolution* , 42-48

<sup>55</sup> *Ibid.* 49

make the unproductive productive : a justifiable and necessary social reordering was taking place.

STAV academics were critical of the western media's habitual narrative against communist regimes. Importantly, they highlighted the atrocity of the US bombing, which they identified as the centrepiece of contemporary Cambodian suffering. Yet, so concerned were they to promote a guilt-based western narrative that they now seem blinkered. Critical of the hegemonic capitalist narrative through which socialist regimes are portrayed, they impose another hegemonic narrative, creating an artificial binary to steamroller nuance. Their own narrative of mythmaking by western anti-communism leads them to dismiss narratives of refugees they have never met as overblown or unreliable, and to disparage reports by urban evacuees from the comfort of their studies:

What the urban dwellers consider 'hard' labour may not be punishment or community service beyond human endurance ... Such associations take what is happening in Cambodia out of its historical and cultural context.<sup>56</sup>

### **Interpreting DK after 1979**

William Shawcross's *Sideshow* (1979) squarely blamed US policy for the rise of the KR, focusing on Nixon's hatred of Sihanouk and assistance to the Lon Nol government.<sup>57</sup> Shawcross is mainly concerned with the actions of Nixon and Kissinger, their contempt for US process and law of war, and their lack of understanding about Cambodia, Vietnam and the war on the ground. In Shawcross's narrative, 'Operation Menu' pursued a strategic goal without regard for the human cost; as it hit deeper into Cambodia killing scores of civilians, the carpet bombing drove people to extremities of political resistance, boosting the capacity of the Khmer Rouge. Shawcross contends the KR was an almost inevitable product of the US action. He shares this narrative not only with the STAV academics but, oddly, with Nixon. Both sides contend that the rise of the KR is attributable to externals impacting on Cambodia (American/Vietnamese infringement on Cambodia's independence). Yet as Ponchaud argues, one atrocity

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<sup>56</sup> Laura Summers quoted Sophal Ear, *The Khmer Rouge Canon 1975-1979: The Standard Total Academic View*, 6

<sup>57</sup> William Shawcross, *Sideshow: Kissinger, Nixon and the Destruction of Cambodia* (London: Hogarth Press, 1986)



does not excuse or explain another. Most scholars now look on the KR not as a popular communist /nationalist movement, but as a small group getting lucky through extraordinary circumstances : Vietnamese desire to destabilize Lon Nol ; the support of Sihanouk as a rallying figure ; the US bombs that turned people against the Phnom Penh government; sudden withdrawal of US military assistance, leaving the Lon Nol government defenceless.

Ben Kiernan seeks more internal explanations behind one of history's most violent regimes.<sup>58</sup> Kiernan was originally a STAV academic favourable to the KR, who changed his mind after talking with refugees on the Kampuchean/Thai border in the late 1970s.<sup>59</sup> His narrative, *The Pol Pot Regime: Race, Power, and Genocide in Cambodia under the Khmer Rouge, 1975–79*, based on interviews and documentary research, locates racial politics at the heart of the violence. Kiernan suggests the regime, which 'extend[ed] more power over its citizens than any other in history', was not Maoist ; rather, it used Maoism as a tool because Maoism stresses the capacity of human will over material life.<sup>60</sup> Orthodox Marxism, by contrast, is a narrative of progression and thus had little place in an ideology regressing society to 'year Zero'.<sup>61</sup> DK presented itself as 'leaping' from feudalism to socialism with no stages between ; with socialism achieved through societal restructuring, the question would be how to progress from that point. Kiernan shows this 'instant socialism' achieved by the creation of what he terms 'the indentured agrarian state'.<sup>62</sup> The KR forced almost the entire population to work in the rice fields; everything was redirected to creating an agricultural society. Everyone was enslaved ; there was no leisure ; under military discipline people lived and ate communally in barracks, separated from their families.

In Kiernan's analysis, this was done less to create a socialist society than to benefit a conception of 'real ethnic Khmers' (a definition made by the small ruling clique of the CPK). Central to the label 'old person/base person' was one's

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<sup>58</sup> Ben Kiernan, *The Pol Pot Regime: Race, Power, and Genocide in Cambodia under the Khmer Rouge, 1975-1979*, (New Haven: Yale University Press, 1996) 16

<sup>59</sup> Ben Kiernan, 'Vietnam and the Governments and People of Kampuchea', *Bulletin of Concerned Asian Scholars*, October-December 1979

<sup>60</sup> Kiernan, *The Pol Pot Regime*, 464

<sup>61</sup> *ibid.* 26-27

<sup>62</sup> *ibid.* 159

perceived 'Khmer-ness.' The aim of the revolution was to create a self-sufficient, ethnically pure Khmer society. Kiernan's narrative focuses on the CPK inner-circle. Through this totally centralized control, the party could direct policies for ethnically cleansing Cambodian society. Kiernan concludes this narrative by arguing that, while ethnic nationalism had some success (particularly the anti-Vietnamese sentiment), the mass killings resulted in resistance from those living inside Cambodia, and eventually persuaded Vietnam to invade in 1979. Kiernan presents the killings of other races (Cham, Thai, Laotian, Chinese, Vietnamese) as occurring alongside the purges of the increasingly paranoid party - the hunting down and killing of the Lon Nol era officials, their families and friends, the murder of intellectuals, and the starvation, overwork, disease, and day-to-day cruelty springing from the disastrous KR rice production policy, affecting vast numbers.

Kiernan demonstrates active discrimination and killing of the Cham Muslim minority, and through statistical data shows that the 'new people' killed were disproportionately of non-Khmer ethnicity (Chinese, Vietnamese, Thai, Cham). Even among those defined by the regime as 'base people,' the greatest percentage of killings were of non-Khmer ethnic minorities (for example Chams).<sup>63</sup> Kiernan switched his support to Heng Samrin, whose puppet government was installed after the Vietnamese seizure of Phnom Penh on 7 January 1979. He found in his race-based theory a way to analyse the actions of the regime, showing it as a movement of ethnic nationalism rather than communism. He rightly contends that there were strong racist elements. However, to contend that the KR were centred solely on race politics does not adequately explain the KR government's violence. Testimonies of refugees in Barron and Paul, or Ponchaud, or the many survivor autobiographies, demonstrate atrocity at an early stage, not apparently motivated by race-hate but by class-hate.

Kiernan's work contrasts with Michael Vickery's 1984 narrative of a 'peasants' revenge', *Cambodia:1975-1982*. Vickery argues that a state calling itself 'communist' or 'democratic' is not necessarily either. While DK's degeneration into genocide is not an opening for anti-Communists to say 'I told you so,' the question of communism's ideological role in extreme violence cannot be written

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<sup>63</sup> *ibid.* 458

off by Marxists as ‘fascist’.<sup>64</sup> Vickery’s narrative shows the regime taking an exceptionally violent turn in 1977, when Pol Pot instigated party purges and was preparing for war with Vietnam. Before 1977, Vickery argues, there were regional differences in terms of both living conditions and the application of violence and killing. Initially city (new) peoples’ complaints about conditions were not understood by ‘base’ people; the peasants had such awful lives prior to the KR that seeing city folk live like the rest had an element of *Schadenfreude*.<sup>65</sup> In this narrative the central CPK had less control than Kiernan claims. Indeed the leadership (‘petit-bourgeois radicals overcome with peasant romanticism’) could not control what it had set in motion: a peasant revolution, with revenge exacted in deep-ingrained anger against urban elites for a history of feudalistic oppression against the agrarian poor.<sup>66</sup> CPK leaders were ‘pulled’ along by the peasants.<sup>67</sup> Vickery argues that the chief characteristic of DK was that ‘nationalism, populism, and peasantism really won out over communism.’<sup>68</sup> Unlike Kiernan, Heder and Tittmore<sup>69</sup> and Jackson,<sup>70</sup> Vickery does not see the KR leadership and command capacity as heavily centralized.

It is important to note that both Kiernan and Vickery were writing in the mid 1980s. NATO was supporting Pol Pot’s KR as the ‘legitimate government’ in exile, against the Heng Samrin pro-Soviet People’s Republic of Kampuchea (PRK), the puppet government installed by the Vietnamese. Even the CIA backed Pol Pot. Both Kiernan and Vickery describe this hypocrisy and both write in relatively supportive terms regarding the PRK - which they certainly see as preferable to the return of Pol Pot.

### **Theory and Execution: Marxist-Leninism/ Maoism, Dependency Theory and the implosion of DK.**

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<sup>64</sup> Vickery, *Cambodia 1975-1982*. 273

<sup>65</sup> Vickery, *Cambodia 1975-1982*, 5

<sup>66</sup> *ibid.* 306

<sup>67</sup> *ibid.* 309

<sup>68</sup> *ibid.* 309

<sup>69</sup> Stephen Heder, and Brian. D. Tittmore, *Seven Candidates for Prosecution: Accountability for the Crimes of the Khmer Rouge*, 2004 edition, (Phnom Penh: Documentation Center of Cambodia, 2004)

<sup>70</sup> Karl D. Jackson, ‘The Ideology of Total Revolution’, *Cambodia 1975-1978: Rendezvous with Death*, ed. Karl D. Jackson (Princeton: Princeton Academic Press 1989)

A contrast to these analyses, which see the regime as failing because it was not Marxist enough, is that of David Chandler. Chandler regards the way the KR adopted and applied ideology as ‘standard operating procedure’ for Communist states (the USSR, the People’s Republic of China, the Democratic People’s Republic of Korea).<sup>71</sup> The difference was that in Cambodia ideology was taken to its logical and literal conclusions. This difference between Chandler’s view and those of Vickery and Kiernan demonstrates the academic debate around the extent of Marxist-Leninism’s influence over the KR’s policies and actions.

However, Chandler identifies a specific strand of KR ideology, one he likens to the DPRK’s concept of *Juche*.<sup>72</sup> Khieu Samphan’s PhD thesis offers insight into the regime’s chief narrative. Khieu postulated that the development theory of Samir Amin should be applied to Cambodia. He argues that (neo)colonial exploitation integrates the labour and resources of Third World countries into the global economy only to take from them. A small elite in the Third World consume the products of the second and first. The exploited of the Third World are not consumers, but live on subsistence while their labour and national resources are used by richer countries. Hence there is no domestic consumer market, which keeps the worker’s wage minimal. As long as the Third World remains part of the global economy it will be exploited. The remedy is withdrawal from the system and readjustment of the economy for domestic proletarian/peasant interests. Once a country has achieved domestic restructuring and attained a level of wealth, it can re-enter the global economy on a more equitable plane. Such withdrawal/restructuring is only achievable through ‘revolutionary means.’<sup>73</sup> One can see how if this thesis were taken to its logical extreme, it would result in total global withdrawal: at its most isolated and withdrawn DK even refused food and medical aid from China, its closest ally.<sup>74</sup>

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<sup>71</sup> David Chandler, *Brother Number One: A Political Biography of Pol Pot*: (Boulder: Westview Press, 1992) 4

<sup>72</sup> David P. Chandler, *The Tragedy of Cambodian History*, 237

<sup>73</sup> Khieu Samphan, ‘Cambodia’s Economy and Problems of Industrialization: Underdevelopment in Cambodia,’ translated by Laura Summers, *Indo-China Chronicle* Sept-Nov 1976, Issue 51-52, Berkeley, Indochina Resource Center

<sup>74</sup> Becker, *When the War Was Over*, 170

In *The Rise and Demise of Democratic Kampuchea*, Craig Etcheson characterises the KR as ideologically mixed, without a consistent party platform.<sup>75</sup> In his narrative he perceives and labels factions with different ideological orientations and reasons for involvement with the KR. For example, Sihanouk had merged his guerrilla group with the KR, and thus some KR ‘communists’ joined up to fight for King and Buddhism.<sup>76</sup> Among other factions were Stalinists/ Pol Pot loyalists, Maoists, Internationalists (pro-Hanoi) *Pracheachonists* (leftists inclined to overt and democratic action) and Issarakists (anti-Vietnamese and anti-monarchist). Ta Mok was a prominent member of the latter and in light of his later actions, Etcheson’s analysis looks prophetic: Ta Mok put Pol Pot on trial in 1997. Each faction brought another element into a complex ideological mix: socialism-in-one-country, Great Leap Forward, anti-imperialism, ‘stage leaping’, ‘democratic centrism.’<sup>77</sup> To this can be added the ultra-nationalism, racism and chauvinism almost all Cambodia historians recognize as vital to the KR’s make-up. In Etcheson’s narrative these aspects bleed into each other over each phase of KR history, from its origins as a component of the Indochinese communist party in the 1930s onwards. He identifies four phases within which parts of the ideological mix vied in turn for power: the ‘*Pracheachon*’ phase of active participation, until the late 1960s, when Sihanouk cracked down on dissent; the guerilla phase, up to 1975; the regime phase (DK) - the building of the utopia and war with Vietnam; and finally the slow withering of the movement over the years after it lost power. In Etcheson’s narrative, DK was the triumph of the Stalinist faction (Pol Pot, Ieng Sary, Khieu Samphan, Son Sen) - the most committed to party discipline via regular rustications, anti-Vietnamese, vengeful and anti-monarchist.<sup>78</sup> They prioritized internal security using purges (KR killing KR) to secure the party line of the central committee and purify the party of opposition. This resulted in the deaths of hundreds of thousands accused of working for Lon Nol, the CIA, the KGB. As the regime wore on and the threat of war with Vietnam heightened, purges ranged wider; there was full-scale class extermination by 1978. This ironically led to the weakening of the party as more died in internal purges.<sup>79</sup>

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<sup>75</sup> Craig Etcheson, *The Rise and Demise of Democratic Kampuchea*, (Boulder: Westview Press, 1984) 28

<sup>76</sup> Etcheson, *The Rise and Demise of Democratic Kampuchea*, 133

<sup>77</sup> Ibid. 164

<sup>78</sup> Ibid. 164

<sup>79</sup> Ibid. 164-180

Etcheson highlights issues within Khmer culture formulaic of the way the regime emerged and acted, which I discuss below.

Karl Jackson's edited volume *Cambodia, 1975-1978: Rendezvous with Death* has a strong focus on ideological input.<sup>80</sup> Several authors are former US State Department employees - Carney and Quinn, whose troubling reports on the rise of the KR and the regime throughout the 1970s were ignored, and Twining, who was working with DK refugees in Thailand. Jackson and Quinn in particular focus on the makeup of the regime as a motivating factor in policy, arguing that KR ideology combined elements of Marxist-Leninism, Stalinism, Maoism, nationalism and post-colonial theory.<sup>81</sup> The KR leadership educated in Paris - including Pol Pot, Khieu Samphan, Ieng Sary and Ieng Thirith - were influenced by the Stalinist/democratic centralism promoted by the French Communist Party of the 1950s.<sup>82</sup> Quinn characterizes the KR as a small group of leftist intellectuals enraged by the corruption of their country, seeking to emulate the Maoist programme of massive agrarian work to produce a surplus of rice, achieving self-reliance as discussed in Khieu's thesis.<sup>83</sup> The collectivization of agriculture resulted in nationwide famine. As a group the KR preyed on the poorest, especially children and teens, training them on Stalinist lines to bring down traditions of Khmer civilization they saw as the source of corruption in Cambodian society.<sup>84</sup> They operated with total ideological literalism regardless of the consequences for the population.<sup>85</sup> Jackson identifies four components to KR ideology: self-reliance, dictatorship of the proletariat, supremacy of the party and immediate economic and cultural revolution, imitating China's 'Great Leap Forward' (GLF).<sup>86</sup> The GLF aimed to skip transitional phases and achieve immediate communist society.

Jackson recounts a story from Sihanouk's book *My War with the CIA* where Chinese Premier Zhou Enlai privately counseled Khieu Samphan and Ieng

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<sup>80</sup> Karl D. Jackson (ed.) *Cambodia, 1975-1978: Rendezvous with Death*, Princeton, Princeton University Press, 1989

<sup>81</sup> Jackson, 'Intellectual Origins of the Khmer Rouge'. 241-243

<sup>82</sup> Jackson, 'The Ideology of Total Revolution'. 38

<sup>83</sup> *ibid.* 42-48

<sup>84</sup> Kenneth M. Quinn, 'Explaining the Terror', *Cambodia, 1975-1978: Rendezvous with Death*, ed. Karl D. Jackson, (Princeton: Princeton University Press, 1989). 215-240

<sup>85</sup> Jackson, 'The Ideology of Total Revolution'. 44

<sup>86</sup> Jackson, 'Intellectual Origins of the Khmer Rouge'. 42

Thirith not to follow ‘the bad example of our “great leap forward”’.<sup>87</sup> The KR did not learn from the Chinese experience, instead believing they had identified two reasons for GLF failure (opposition from within the Chinese Communist Party and China’s size as an obstacle to policy implementation).<sup>88</sup> The KR killed all opposition in the party through a series of purges. Ideological purification of party and state was the priority. Minor ‘offenders’ (complaining about lack of food, sluggish performance at work, having sex outside marriage) were executed.<sup>89</sup> The narrative of both Jackson and Quinn, then, is about a regime where party ideology was at once cause and justification for extreme violence.

Stephen Heder offers a different narrative.<sup>90</sup> He documents a detailed history of Communism across Indochina, in particular the origins of Indochinese Communism through the Indochinese Communist Party of the 1930s, which sought to make revolution throughout Vietnam, Laos and Cambodia. Heder argues that the Khmer Workers’ Party (KWP- later the CPK) was influenced and stewarded by the communist Vietnamese Workers’ Party (VWP). The KWP/CPK sought to implement the Vietnamese socialist/revolutionary model in Cambodia. Later, however, the CPK obfuscated the role of the VWP. Heder’s narrative thus challenges the notion that the French-educated KR leaders were as influential as Jackson, Quinn and the 1970s STAVs imply. He argues that the KR leadership, in particular Pol Pot, wanted a ‘perfected version’ of the Vietnamese revolution.<sup>91</sup> This, he states, made them increasingly anti-Vietnamese as they sought autonomy from a Hanoi insistent that the Cambodian revolution should reflect its socio-political-economic context, very different from that of Vietnam - which meant that Cambodia should adopt a secondary role in Indochinese revolutionary politics, following Hanoi’s instructions and example. More important, the VWP privately took the position that while it supported armed Cambodian revolution, it should wait for the defeat of the USA in Vietnam, not least because they did not want the Chinese weapons Sihanouk’s government allowed to pass through Cambodia to be diverted by local insurrection from reaching Hanoi. Later on the KWP/CPK distanced itself from Vietnam. Meanwhile, Hanoi was eager to

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<sup>87</sup> Jackson, ‘The Ideology of Total Revolution’, 63

<sup>88</sup> Jackson, ‘The Ideology of Total Revolution’, 63

<sup>89</sup> Quinn, ‘Explaining the Terror’, 243

<sup>90</sup> Stephen Heder, *Cambodian Communism and the Vietnamese Model*, Vol 1. *Imitation and Independence, 1930-1975* (Bangkok: White Lotus Press, 2004)

<sup>91</sup> *ibid.* 9

distance itself from the genocidal regime next door as Cambodian revolutionaries stuck to formulaic ideology and its attendant violence despite all the evidence of failure. Heder has an important discussion of violence by the Southern Vietnamese Communists in 1960. Doctrinally, the rationale was that because the enemy was inherently violent, revolutionary violence was justifiable, and political and armed movements were on an equal footing. With this idea endorsed by the Politburo, Hanoi instigated terror campaigns against local officials and organized peasant insurrections against police and army, resulting in the overthrow of the anti-communist government of South Vietnam.<sup>92</sup> The KR's ideological justification for violent action emerged from this policy, mutating into the 'revolutionary Violence' they utilized whenever they encountered disjunction between ideology and implementation.<sup>93</sup> Heder's narrative shows the KWP/CPK leadership influenced by theoretical Marxism, versed in its intellectual developments and connected to international communism, particularly through their allies in Vietnam. As a party the KWP/CPK was welcomed as Marxist by communists across the world (witness the STAV scholars). Only later were their policies dismissed as Fascist by Marxists eager to divorce the evils of DK from Marxist theory.<sup>94</sup>

Another illuminating and stylistically different narrative showing how ideology was used is the collection of propaganda slogans and songs in Henri Locard's *Pol Pot's Little Red Book: The Sayings of Angkar*.<sup>95</sup> Its hundreds of slogans denounce as counterrevolutionary such features of life as religion, consumerism, money, education, the past, property, the CIA, the KGB, the Vietnamese, 'April 17 people' (New People), the sick, people who complain of hunger, the monarchy, sex, selfhood, family, parents, traditional customs, medicine. They glorify war, labour and the party, whilst reminding people of the quasi-supernatural omnipresence the party claimed. Locard points out that in a society with such a strong oral tradition as Cambodia, where the internal party newssheet *The Revolutionary Flag* was only for those in senior roles and not mass consumption, people's knowledge of party ideology came from slogans blared through tannoy

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<sup>92</sup> *ibid.* 52

<sup>93</sup> *ibid.* 12

<sup>94</sup> David Chandler, Foreword to Stephen Heder, *Cambodian Communism and the Vietnamese Model*, Vol 1. vii-x

<sup>95</sup> Henri Locard, *Pol Pot's Little Red Book: The Sayings of Angkar* (Chang Mai: Silkworm Books, 2004)



or painted on banners. Locard argues that the method fits traditional educational methods - making people memorize slogans and parrot them back.<sup>96</sup>

The problem with keeping ideology central to the narrative is that behavior can be misinterpreted. It is worth asking the extent ideology actually impacted the day-to-day killings, tortures and cruelty. It seems possible there is a point where paranoia overcomes ideological design as primary motivator. Did lower cadres have any idea what the revolution was? Other kinds of analysis - cultural analysis, or psychological investigation such as the Milgram experiment - offer insight into the behavior of cadres with minimal knowledge of theoretical Marxism.<sup>97</sup> As Hinton points out, complex studies of ideology and policy strip the complexity of motivation and agency from the majority of the population.<sup>98</sup> It is to these other kinds of narrative I now turn.

### **Narratives of Culture**

Vickery considers that seeking explanation of the Cambodian holocaust in the 'Khmer Personality' is fruitless, arguing that political /social/economic analysis provides more 'objective' explanations than 'nebulous psychologizing.'<sup>99</sup> He is scathing about the 'arrant nonsense' of western writers on Southeast Asian Buddhism. Heder's research also suggests Cambodians view the DK period in class terms. However, understanding a spectrum of frames of reference, mentality and worldview provides insight not only into the regime but how it is interpreted after the fact (my main focus in this thesis). One of the most significant interventions into the literature about Cambodia was David Chandler's *Songs at the Edge of the Forest: Perceptions of Order in Three Cambodian Texts* in 1978, identified as a seminal text by many academics for its use of 'thick description'.<sup>100</sup> Chandler analyses the ancient, early modern and colonial periods and uses cultural sources such as poems, songs, rituals and stories to contextualise his narrative and create a template for his subsequent work on Cambodian history.

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<sup>96</sup> *ibid* .1-5

<sup>97</sup> Stanley Milgram, *Obedience to Authority: An Experimental View*, 2009 edition (London: Harper Perennial Modern Classic, 2009)

<sup>98</sup> Alexander Laban Hinton, *Why Did They Kill? Cambodia in the Shadow of Genocide*, (Berkeley: University of California Press, 2005),23

<sup>99</sup> Vickery, *Cambodia 1975-1982*,8

<sup>100</sup> David Chandler, 'Songs at the Edge of the Forest: Perceptions of Order in Three Cambodian Texts', (1978) *At the Edge of The Forest: Essays on Cambodia, History , and Narrative in Honour of David Chandler* (Ithaca: South East Asian Studies Program Publications , 2008)

His *History of Cambodia* argues that far from being, as some characterise it, unchanging for thousands of years, Cambodia has been subject to major historical shifts. He explores a pattern in Cambodian history describable as ‘tragedy’ in the Aristotelian sense, presenting history in terms of individual leaders with personal flaws and tyrannical tendencies; this individualism is however set against a study of insurmountable external geo-political circumstances, which play the role allotted to ‘fate’ in classical tragedy in its narrative of the interplay between man and circumstance.<sup>101</sup> In *The Tragedy of Cambodian History* Chandler again explicitly adopts the approach of narrative as this

has the virtue of staying close to the way that many people who experienced this portion of Cambodian history prefer to remember it and close to the unfolding, overlapping narratives of their lives.<sup>102</sup>

Chandler defines ‘tragedy’ as comprising bad leaders (Sihanouk, Lon Nol and Pol Pot) within a nation vulnerable to geopolitical pressure (exacerbated by a geography rendering it easily invaded), a culture influenced by perceptions of a militaristic Cambodian past and ancient societal power dynamics. He shows Cambodia as a country where the personality of its leaders colours its trajectory. This is clear in Chandler’s analysis of Pol Pot as a man asserting national sovereignty in the face of Cambodia’s history of patronage and weakness. Chandler contends that the irony of the French colonial period is that it was they who affirmed Cambodia as a nation state. Throughout the nineteenth century, Thailand and Vietnam encroached on Cambodia and hence both ‘have difficulty perceiving Cambodia as a free and sovereign state.’<sup>103</sup> In addition, Chandler argues, the small country is constantly at the mercy of larger regional and international powers. Between the legacies of the French, the Americans, the Vietnamese and the United Nations, many Cambodians favour protection over independence; indeed Chandler suggests anti-colonialism is not strong in Cambodia, and while the French enjoyed Cambodia in unashamedly orientalist fashion the colonial experience of Cambodians was not unpleasant.

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<sup>101</sup> David Chandler, *Facing the Cambodian Past: Selected Essays 1971-1994* (Chiang Mai: Silkworm Books, 1996)

<sup>102</sup> David Chandler, *The Tragedy of Cambodian History: Politics, War and Revolution since 1945* (Chiang Mai: Silkworm Books, 1991) 316

<sup>103</sup> Chandler, *Facing the Cambodian Past*, 315

Chandler's book narrates a revolution from above, exploiting traditional power dynamics dominating domestic politics – a patron-client, student-teacher order. This was compounded by the Buddhist notion that power is aligned to merit. Reviewing *The Tragedy of Cambodian History* in 1996, Chandler presented a pessimistic vision of the future - Hun Sen, corruption, and foreign domination again. He reinforces this by narrating the distant past and the legacy of Angkor.<sup>104</sup> Angkorian temples became a focal point of Khmer Nationalism in the nineteenth century after French scholars /historians/archaeologists took pains to restore them.<sup>105</sup> Indeed it is symptomatic of the nature of the revolution that, rather than the Star or Hammer and Sickle, the symbol on the red flag of DK was a yellow silhouette of the Angkor temples. As Chandler argues, Angkor Wat can be read not as the accomplishment of a great civilization, but as a symbol of domination and power.<sup>106</sup> The structure would have taken thousands of slaves to build for the glory of one man. Chandler also points out that the modern image of the Angkorian Empire and its decline was a story the French told their colony after the 19th century excavations/restorations. Their narrative was of a Cambodia falling from domination in the ninth and fourteenth centuries to present weakness - highlighting that, without the French, Cambodia would have been absorbed into neighbouring countries. Reaction to this French narrative, Chandler argues, awoke nationalism and created the grandiose nostalgic vision of the past and future shared by Sihanouk, Lon Nol and Pol Pot.<sup>107</sup>

Like Chandler, Elizabeth Becker takes a post-colonial approach, preoccupied with 'thick description' and attaching importance to the history of Cambodia's distant past. A journalist from the *Washington Post*, Becker was one of the few westerners to interview Pol Pot during his time in office. Unlike other writers she does not blame the US bombing or Vietnamese interference for the KR rise to power and later atrocities, nor does she focus heavily on ideological explanations – although she acknowledges that both of these were significant factors. Rather, she looks into the cultural and historical elements of Cambodia to argue that the KR was a product of their own history, but not an inevitable consequence of it. The KR, in Becker's narrative, were lucky to attain power; they could not do so of

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<sup>104</sup> *ibid* .310-325

<sup>105</sup> Becker, *When the War Was Over*, 29-38

<sup>106</sup> Chandler, *Facing the Cambodian Past*, 319-321

<sup>107</sup> *ibid* . 316

their own volition but the combined actions of Cambodia's Machiavellian leaders, the US and the Vietnamese, enabled them to gain control. Becker presents an extraordinarily complex and messy history in which Cold War politics, ideology and culture mix. Becker directly links the KR to the ancient culture brought to Cambodia by Indian Brahmans in the second century C.E. The Khmers adapted Indian cosmologies, gods, institutions and political structures (all powerful god-kings). The cultural impact of this subsequent Angkor era was so powerful as to impact on twentieth century politics, including the communist movement. Becker characterizes DK as akin to life under Jayavarman VII 1181-1218 C.E.). Under this God-King Angkor became the Khmer Empire's new capital. Becker quotes George Coedes's description of Jayavarman VII as a megalomaniac :

...one must visualise the armies of carriers slaving on the slopes, of porters dragging those enormous blocks of sandstone, of masons filling the stones together... these human ants, not inspired by collective faith...but recruited by conscription to erect mausoleums for the glory of their princes...<sup>108</sup>

Becker sees this is an image of DK also : slaves living in barracks, minute rations, vast labour- intensive projects such as the Trapeng Tham Dam. *Angkar* is the successor to the Angkorian Empire, the Communist Party taking the place of the god-kings; indeed Cambodians had never known any other form of government apart from the sham democracy of Sihanouk and the disaster of Lon Nol. Chandler even suggests Pol Pot consciously took the Angkor era as its model of government.<sup>109</sup>

Becker contends that the KR took their ideological lead from China and, like Heder, sees Vietnam as a major influence ( although not to the extent Heder does). She argues that when Cambodians took these foreign ideologies they interpreted them in the Khmer political tradition of god-kings. Sovereignty was interpreted as authority, independence and self sufficiency seen as synonymous and the method of 'revolutionary violence' discussed previously reformulated by the KR as violence and murder to eliminate all class enemies. One can see the traditional idea of Justice enforced with extreme violence for defiance of the

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<sup>108</sup> Elizabeth Becker, *When the War Was Over*, 187

<sup>109</sup> Chandler, *Facing the Cambodian Past*, 301

King's Rule in the almost universally known story *Tum Teav*.<sup>110</sup> Here infractions against the king's commands are punished by having an individual's entire family (seven generations) boiled alive and the neighbouring townspeople told that they are now hereditary slaves. Becker finally identifies the roles of Buddhism and the religious tradition. While the KR sought to destroy Buddhism, banning it and forcing monks to disrobe immediately, everyone involved in the movement was versed in it. Becker contends that despite the ban, Buddhism was still one of the foremost ways of conceiving the world. Buddhism teaches that in this world life is suffering. She also cites Khmer prophecies about the coming of hell on earth, such as the era that ends the Kali Yuga 'age of Vice' (a concept from Hindu cosmology) theorising that Cambodians were less inclined to rise against DK if they saw the world in terms of Buddhist fatalism.<sup>111</sup>

### **Intimate Narratives – Torture, the Body and the Psyche**

Unlike Becker, Peg LeVine links the response of the people to the DK regime to other traditional beliefs such as animism. The KR made little effort to assert the validity of their politics via mass propaganda like other Communist countries.<sup>112</sup> There was no personality cult surrounding Pol Pot; few people even saw a picture of the Prime Minister. The CPK used only 'revolutionary violence': state terrorism with arbitrary killings, tortures, disappearances and marriages.<sup>113</sup> Le Vine contends that this convinced Cambodians they existed in a panoptic society. '*Angkar has the Eyes of a pineapple*.'<sup>114</sup> The CPK presented itself in language deifying *Angkar* – tapping into culturally embedded spiritual sentiments as a terror tactic to convince people of a massive level of surveillance akin to divine omnipresence. Le Vine notes that her interview subjects still conceive *Angkar* metaphysically and are afflicted by a profound angst towards DK even after its fall.<sup>115</sup> She argues that unlike, say, Papa Doc in Haiti, the KR did not deliberately exploit the cultural propensity for animistic perception, but certainly benefitted

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<sup>110</sup> George Chigas, *Tum Teav: A Translation and Analysis of a Cambodian Literary Classic*, (Phnom Penh : Documentation Center of Cambodia, 2005)

<sup>111</sup> Becker, *When The War Was Over*, 186-19

<sup>112</sup> Jackson, 'The Ideology of Total Revolution', 243

<sup>113</sup> Becker, *When The War Was Over*

<sup>114</sup> Jo Boyden and Sara Gibbs, *Children Of War: Responses to Psychosocial Distress in Cambodia* (Geneva: The United Nations Research Institute for Social Development (UNRISD) 1997)

<sup>115</sup> Peg Le Vine, *Love and Dread in Cambodia: Weddings, Births, and Ritual Harm Under the Khmer Rouge* (Singapore: National University of Singapore Press, 2010) 157-158

from it.<sup>116</sup> Locard suggests that the KR's rabid anti-religious sentiment springs from an idea of God as the Party's competitor.<sup>117</sup>

The narratives of Chandler, Becker, Levine and Hinton take pains to discuss cultural factors, not in order to explain the KR, but to indicate a range of factors characterising the DK period in a wider cultural, and historical context and to understand how the regime is perceived by the population. Chandler's *Voices from S-21* is a study of DK's best-known security centre (S-21) where approximately 20,000 perceived enemies of the revolution or those with 'bourgeois tendencies' were sent to have confessions taken under torture and dispatched to Choeung Ek to be murdered.<sup>118</sup> Chandler discusses how torture ('doing torture') and Marxism ('doing politics') were fused. He argues that 'total institutions' - places of work/residence where large groups live cut off from wider society, where life is governed by rules and formal administration, as if the whole of society were a monastery or a boarding school - are a feature of all dictatorships, however different their culture. The explanation lies not in culture but in aspects of the human condition: the capacity to obey, groups bonding against strangers, yearning for approval. Chandler describes how ordinary men and women, uneducated peasants (KR made a virtue of ignorance), mostly under 25 and some as young as 13, were manipulated and seduced by revolution. Most of the S21 staff came from similar backgrounds to the prisoners. They were processed through the structured mechanisms of the regime, conditioned into accepting extreme violence as a norm of professional life and the prisoners they were abusing as sub-human. It is disturbingly easy to make people into monsters, as the Zimbardo prison experiment and the Milgram experiment suggest. Chandler's narrative is in keeping with these conclusions.

Alexander Hinton simply asks *Why Did They Kill?*<sup>119</sup> He spoke to those who did. Hinton, an anthropologist, makes a social constructivist argument. People are 'meaning-makers who draw on a repertoire of personal and cultural knowledge to

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<sup>116</sup> *ibid.* 161

<sup>117</sup> Locard, *Pol Pot's Little Red Book*, 175

<sup>118</sup> David Chandler, *Voices From S-21: Terror and History in Pol Pot's Secret Prison* (Berkeley: University of California Press, 2000)

<sup>119</sup> Alexander Laban Hinton, *Why Did They Kill? Cambodia in the Shadow of Genocide* (Berkeley: University of California Press, 2005)

comprehend and construct meaning out their social lives.’<sup>120</sup> Culture, in Hinton’s narrative, does have significance and the KR was able to tap into violent aspects of Khmer culture – in particular the notion of ‘disproportionate revenge,’ or ‘a head for an eye’.<sup>121</sup> Again he cites the extremities of the King’s actions in *Tum Teav* as indicative of this mentality. Like Vickery, Hinton highlights the element of ‘getting back’ at the ‘new’ people. However the ‘disproportionate revenge’ concept is of greater importance to his argument. Khmer culture is concerned with ‘face’ and honour. Perceived humiliation legitimises disproportionate revenge.<sup>122</sup> The KR ‘revamped the cultural model of disproportionate revenge in accordance with Marxist-Leninist views of class’- allowing the poor to take revenge on the rich.<sup>123</sup> Thus in Hinton’s narrative, social divisions were exacerbated or manufactured by the KR. This can explain the massive death toll of the DK regime: hundreds of thousands died in the early 1970s from the bombings and the Lon Nol regime - thus millions died when the KR took power.

This cultural argument is controversial, but should not be dismissed out of hand. It is reasonable to describe a violent ideology as exploiting the most violent aspects of a specific culture to serve its agenda. (Fascism is not inherently Germanic, but the Nazi party is a uniquely German expression of Fascism.) Indeed there are some universals that can be drawn on in Hinton’s argument. The KR put the men of S-21 through a process of what he calls ‘genocidal priming.’<sup>124</sup> He argues that all genocidal regimes require some kind of ‘historical process that generates a genocidal context in which orders are given and obeyed’.<sup>125</sup> To ‘heat up’ the situation and prepare people to kill, all genocidal regimes ‘manufacture difference’ (create scapegoats and sub-humans) to facilitate the extermination of those elements of society they want to dispose of (Jews, Tutsis, intellectuals, the bourgeoisie ). This process creates a subjective inner dialectic that pumps the individual killer with genocidal enthusiasm combined with the moral ‘legitimation’ of killing.

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<sup>120</sup> *ibid.* 28

<sup>121</sup> *ibid.* 26

<sup>122</sup> *ibid.* 59-70

<sup>123</sup> *ibid.* 25

<sup>124</sup> *ibid.* 280

<sup>125</sup> *ibid.* 279

Perhaps the main flaw of Hinton's approach is that he has generalised a concept (disproportionate revenge) and given it disproportionate weight. The strength of this work lies in individual narratives. He shows how individuals connect at a subjective level to a wider narrative - the high modernism of the KR ideology. He shows how the men at S-21 were saturated in Khmer Rouge ideology until they believed they acted for the revolution - their hatred culturally primed by the regime, but their actions motivated by concern to prove they were not 'the enemy.' In this telling of events, torture and killing are not about mindless obedience, personal evil or brainwashing. These men interpreted the orders and made sense of DK through a subjective understanding; cultural context, ideological understanding and simple fear and paranoia all contributed to the meaning-making individual's subjective response. Genocide is complex, both subjectively and culturally understood and enacted. It occurs at the intersection between micro and macro, external and internal, in relation to the self and the other.

*Voices of S21* and *Why Did They Kill?* share a strong sense that the line between victim and perpetrator is not clear. Arendt's book *Eichmann in Jerusalem: A Report on the Banality of Evil* shows evil can become part of the everyday.<sup>126</sup> Hinton is more postmodern, focusing on the multiplicity of truths, subjectivities and agency interacting with culture and meanings in a complex dialectical process. Both contrast to the narrative of Seanglim Bit. As the first Cambodian social-psychologist he advances an argument a non-Cambodian scholar would perhaps not dare : that there are elements of Khmer culture prone to violence, and aspects of the 'national psyche' needing reformation so the problems that led to the KR and post-DK developments can be addressed to save a culture. He asserts, 'Generations have been brutalized and [ are] content to live within their traditions without carefully examining their meaning.'<sup>127</sup> He contends that Angkor's legacy permeates the national psyche , with its baggage of god-kings, aggressive Brahman gods glorifying conquest, politics intertwined with religion and the legitimisation of subjection and hierarchy. He complains of a glorification of warrior heritage. The deference to authority and power means deviation is severely punished to ensure order, and society is inherently conservative and

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<sup>126</sup> Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York: Penguin Books, 1994)

<sup>127</sup> Seanglim Bit, *The Warrior Heritage: A Psychological Perspective of Cambodian Trauma* (El Cerrito: Hayward, 1991) 151



unwilling to listen to new ideas (for example on gender relations). There is excessive reliance on mythical/superstitious explanations, people preferring fortune tellers over common sense. The belief system prohibits expression of anger, creating a 'volcano effect' when suppressed emotion finally erupts. Violence is often collectivized. Seanglim Bit's book is wide-ranging, presenting Cambodian culture in crisis. He wrote in the early 1990s, with liberalism and democratization about to enter the Khmer narrative, and recommended the embrace of such ideas and a reformulation of aspects of Khmer Culture.

### **After DK - The People's Republic of Kampuchea 1979-89**

The Vietnamese entered Phnom Penh on 7 January 1979, having commenced their invasion on 25 December 1978. This could be seen as the decisive launch of the war. Certainly, DK had been fighting during its entire existence. Ethnic cleansing of Vietnamese living in DK had intensified and DK forces repeatedly crossed the border to attack and raid Vietnamese villages - actions prompted by a prevailing view in Phnom Penh that Vietnamese imperialism across Indochina must be pre-empted. Their most significant attack was the Ba Chúc Massacre, in which over 3000 civilians were murdered.<sup>128</sup> However, the Vietnamese invasion arose not from benevolent interventionism but Cold War politics. Ousting Pol Pot damaged the USSR's rival China.<sup>129</sup>

On 3 December 1978 *Front d'Union Nationale pour le Salut du Kampuchéa* (Kampuchean United Front for National Salvation /FUNSK) - also known as the Salvation Front - led by KR defector Heng Samrin, was founded inside a 'liberated area' of Cambodia (backed by and favouring Hanoi). Its mandate was to 'overthrow the reactionary Pol Pot- Ieng Sary Clique' and install a regime 'tending towards genuine socialism'.<sup>130</sup> It was largely comprised of KR defectors and later served to legitimise the subsequent Vietnamese invasion.<sup>131</sup>

On liberating the city the Vietnamese were left with the corpse of a country.

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<sup>128</sup>Stephen J. Morris, *Why Vietnam Invaded Cambodia: Political Culture and Causes of War* (Chicago: Stanford University Press, 1999)

<sup>129</sup> MacAlister Brown and Joseph Zasloff, *Cambodia Confounds the Peacemakers, 1979-1998* (Ithaca: Cornell University Press, 1998) 5

<sup>130</sup> Margaret Slocomb, *The People's Republic of Kampuchea 1979-1989: the Revolution After Pol Pot* (Chiang Mai: Silkwood Books, 2003) 336

<sup>131</sup> *ibid.* 335-336

Collectivization had ruined agriculture . Schools and hospitals were destroyed . Of 20,000 teachers in 1975, 7,000 remained. Of 450 doctors only 45 were still alive.<sup>132</sup> Of the 500 pre-1975 legal officials , less than 20% were still alive.<sup>133</sup> 90% of classical ballet dancers had been murdered as an ‘ideological threat’.<sup>134</sup> Of approximately 80,00 monks ( traditionally the keepers of Khmer culture, literacy and the facilitators of social services) alive in 1975, approximately 3000 survived in 1979.<sup>135</sup> No academics remained ; universities could not reopen until 1988.<sup>136</sup> The country was lobotomized.<sup>137</sup> Infrastructure (electricity, roads, sanitation, communications) was irreparable; there was no industry; hundreds of thousands of children were orphans.<sup>138</sup> The greatest scar was the effect of almost four years of famine, mass killing, torture, family breakup, cultural destruction, and genocide – the destruction of self-identity.<sup>139</sup> The overwhelming majority of Cambodians in their thirties and forties have witnessed such events.<sup>140</sup> Approximately two million people currently suffer from Post-Traumatic Stress Disorder (PTSD).<sup>141</sup>

Two books published in 2003 provide contrasting narratives of the regime the Vietnamese installed, backed and ran, the ‘People’s Republic of Kampuchea’(PRK). Margaret Slocomb, who spent the 1980s as an aid worker, takes a sympathetic (indeed sycophantic) line towards the PRK, describing it as ‘although far from liberal, a generally benevolent regime’.<sup>142</sup> She describes it as governed by ‘three fine prime ministers, Pen Sovann, Chan Si and Hun Sen and

<sup>132</sup> Caroline Hughes, *The Political Economy of Cambodia's Transition 1991-2001* (London: Routledge, 2005)230

<sup>133</sup> Siphana Sok and Denora Sarin, *The Legal System of Cambodia*, (Phnom Penh: Cambodian Legal Resources Development Center, 2008) 20

<sup>134</sup> Sophiline Cheam Shapiro and Socheata Heng, *Classical Cambodian Dance*, Alliance for California Traditional Arts 1999, <[http://web.archive.org/web/20070708150335/http://www.actaonline.org/grants\\_and\\_programs/apprenticeships/1999/shapiro.htm](http://web.archive.org/web/20070708150335/http://www.actaonline.org/grants_and_programs/apprenticeships/1999/shapiro.htm)><Accessed: 24 February 2013

<sup>135</sup> Ian Harris, ‘Sangha Groupings in Cambodia’, *Buddhist Studies Review*, 18 (I), Aug. 2001) 65–72

<sup>136</sup> Ben Kiernan, *Recovering History and Justice in Cambodia*, Genocide Studies Programme, Cambodian Genocide Programme Resources ,Yale University Website, <http://www.yale.edu/cgp/resources.html><Accessed 24 February 2013>

<sup>137</sup> Simon Leys, ‘The Cambodian Genocide: Francis Deron’s “The Trial of the Khmer Rouge”’, *The Monthly*, September 2009

<sup>138</sup> Caroline Hughes, *The Political Economy of Cambodia's Transition 1991-2001*.

<sup>139</sup> Seanglim Bit: *The Warrior Heritage* ,81

<sup>140</sup> Jo Boyden and Sara Gibbs, *Children Of War*,32

<sup>141</sup> Heleyn Unac, ‘The Tribunal’s Broader Role Fostering Reconciliation, Peace and Security’, *The Khmer Rouge Tribunal*, ed. John. D. Ciorciari (Phnom Penh: Documentation Center of Cambodia,2006)158

<sup>142</sup> Slocomb, *The People’s Republic of Kampuchea 1979-1989*, 260

[fortunate] to have had Heng Samrin , party leader and head of state, a practical “man of the people” devoid of personal ambition and motivated primarily by the needs of the people.’<sup>143</sup> In Slocomb’s narrative the Vietnamese faced vast problems in building a post-DK state , while the USA, UK, China, and various ASEAN member states funded and supplied KR guerrilla fighters attacking the regime. Slocomb shows Cambodians as distrusting the new ‘Vietnamese backed’ regime (for Slocomb, never an ‘occupation’), which proclaimed its revolution to be ‘pure’ and ‘genuine’ and based on ‘proper Marxist-Leninist principles’.<sup>144</sup> This contrasts with Pol Pot’s ‘inherently conservative’ revolution.<sup>145</sup> Slocomb analyses the DK regime in Marxist terms to identify reasons for the KR failure ; she argues, for example, that because Kampuchea was a pre-capitalist / agrarian society, the objective structural conditions (the means of industrialised production and hence an industrial proletariat ) did not exist to permit the development of a revolution on properly Marxist lines.<sup>146</sup> Utilizing Gramscian theory, she goes on to accuse the Pol Pot regime of failing to understand that revolution must spring from humankind’s own conscious reality of the world : people must see themselves as agents of change before a communist party can establish a new hegemony.<sup>147</sup> She argues that it is within this Gramscian framework we must understand the failure of socialism to take hold under the PRK.

One can understand Slocomb’s admiration for the work of the PRK in trying to rebuild infrastructure , culture, an economy, healthcare, food, education, with only the backing of the ( declining) Soviet states. She argues that it was the PRK who rebuilt Cambodia and transitioned it before the UN intervention in the 1990s. To an extent this is true : the UN recognised the genocidal Pol Potists as ‘legitimate’ while the PRK was trying to re-establish a working society. While unpopular, the PRK to some extent ‘gave Cambodians back their lives’.<sup>148</sup> However, Slocomb’s assumption that those lives were ‘not vastly dissimilar from what they had been prior to the outbreak of the war in 1970 which preceded the revolution’ is contentious.<sup>149</sup> She provides little criticism of a regime abusive of human rights and her generalisation about life returning to normal is overstated. Her overall

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<sup>143</sup> *ibid.* .268

<sup>144</sup> *ibid.* 260

<sup>145</sup> *ibid.* .257

<sup>146</sup> *ibid.* 253-254

<sup>147</sup> *ibid.* 255-266

<sup>148</sup> *ibid.* 262

<sup>149</sup> *ibid.* xi

narrative - that the PRK did, in its way, transition Cambodia out of the darkness of DK - is a strong stand-alone thesis. However, the overlay of Gramscian theory is a distraction. The failure of socialism to take hold of a population in the post-DK nightmare does not seem to demand diagnosis. Socialism's failure in Cambodia is a function of lack of commitment among the populace, famine taking precedence in peoples' minds over ideology and the population's mistrust of the entire discourse of communism/Marxism/ socialism after DK.

Evan Gottesman's *Cambodia after the Khmer Rouge: Inside the Politics of Nation Building* discusses this transitional phase in very different terms.<sup>150</sup> Gottesman worked in the American Bar Association's Cambodia Law and Democracy project. He paints a less favourable but more balanced narrative of the period than Slocomb's, describing a blank slate of a country, with no institutions, no legal system, no hospital, no schools, no army, no civil service, no religions :

Millions of ragged, malnourished Cambodians wandered around a bewildering void, a fragmented landscape of violence, grief, anger and uncertainty ... Cambodia's new leaders, put to work in an empty capital overgrown with weeds, kept calling what they were doing a "revolution." But there was nothing to overturn, just emptiness to fill.<sup>151</sup>

Although the PRK did make minimal headway, in Gottesman's account they came nowhere near rebuilding a pre1970s level of life, as Slocombe avers. Gottesman suggests that the 'popularity' of the governing occupying force was relative, the new communist government being preferable to the previous genocidal one. He presents the regime as 'more tolerant ... relative to Democratic Kampuchea in that it freed Cambodians from virtual slavery and permitted some internal debate'.<sup>152</sup> However, he shows the PRK following the Vietnamese model very closely. He demonstrates that PRK supporters defined their regime – effectively made a pariah state by anti-Soviet global powers like the US and China - in relation to DK, emphasising achievement. Their opponents highlight its human rights abuses, corruption and the 'puppet -mastery' of Hanoi over Cambodia's new 'leaders'.

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<sup>150</sup> Evan Gottesman, *Cambodia after the Khmer Rouge: Inside the Politics of Nation Building* (Chiang Mai: Silkworm Books, 2003)

<sup>151</sup> *ibid.* 79

<sup>152</sup> *ibid.* 356

Gottesman concludes that Cambodia lacked ideological clarity about socialism or communism, to the extent that he questions whether it ever really existed or whether it just fizzled out. In sharp contrast to Slocumb's policy-based analysis, he sees individuals as holding greater sway over grand narratives than philosophy ever did, claiming that while the leaders were adept at adjusting to new discourses (from Marxist-Leninist to liberal-democratic, for instance), as time shifted and the global political mood changed, their politics, though becoming more liberal, remained fundamentally the same. He carries this narrative up to the signing of the Paris Peace Agreements in 1991. These resulted in UN Transitional Authority for Cambodia (UNTAC) and Cambodia's democratization under the constitutional monarchy. The PRK officially ended in 1989 and was replaced by the State of Cambodia (SOC) – although in practice the difference between the two was only cosmetic.

Gottesman introduces a 'cast of characters' at the beginning of his book. Notably, one of his 'cast' is Hun Sen, Cambodia's current long-serving Prime Minister, initially appointed as Foreign Affairs Minister before becoming Prime Minister in 1985. By focusing on individuals in the government, Gottesman can trace the careers of those who were part of the PRK regime and show them morphing from the Kampuchean People's Revolutionary Party (KPRP) to the currently ruling Cambodian People's Party (CPP): indeed, his narrative shows that the same people and politics exist today despite the change in the party logo and the abandonment of the Marxist lexicon.

### **UNTAC and beyond – 1992/93 -**

At this stage in the literature, historical accounts turn towards the discipline of political science, concerning issues such as liberalism, democratization, and transitional justice mechanisms. The big narrative of the 1990s was about liberalism and transitional justice, which I explore in the next chapter; and much of the literature concerns the success or failure of this narrative in Cambodia.

The United Nations Transitional Authority (UNTAC) was the UN protectorate state governing Cambodia between 1992 and 1993, the first ever UN body charged to run a civilian government, police and armed forces. It was mandated to oversee the implementation of the 1991 Paris Peace Agreements, to implement

a new democratic constitutional monarchy, foster a human-rights-positive environment, repatriate refugees, carry out mine clearance and disarm the factions still fighting (with regard to the KR it failed). UNTAC ended the conflict in Cambodia and transitioned it from the 'State of Cambodia' (1989-1992) (the same government structure of the PR, renamed following the collapse of the USSR) to a fully realised pluralist liberal democracy.<sup>153</sup> It was a period when liberal narrative arrived in Cambodia with the idea that it was bringing about an 'end of history' in Fukuyama's sense, giving democracy/pluralism/liberalism/ peace to the people.<sup>154</sup> Or, as Oliver Richmond puts it, bringing a western-led epistemology and an institutional set-up to replicate western political/ economic systems in a global hegemony that has created a post-cold-war mainstream.<sup>155</sup> The failure of this model globally is that it has ignored local intellectual traditions and discourses.

In 1993 the first election was won by the Royalist FUNCINPEC, led by Sihanouk's brother-in-law, Norodom Ranariddh. Hun Sen's Cambodian People's Party. (The re-branded PRK, which had governed following the Vietnamese takeover came second.) Hun Sen, Prime Minister since 1985, inveigled himself into coalition government with FUNCINPEC, with himself as 'Second Prime Minister.' In 1997, in very unclear circumstances, there was a firefight on Norodom Boulevard in central Phnom Penh, between troops supporting Ranariddh and those supporting Hun Sen. The United Nations Special Representative on Human Rights in Cambodia and Human Rights Watch refers to this incident as a military coup.<sup>156</sup> Others contend that there was a much more complex background.<sup>157</sup> Hun Sen defends his actions, claiming that Ranariddh was bringing the Khmer Rouge into Phnom Penh to stage a coup, and that he had made a pre-emptive strike. Whatever the truth, the CPP has won every subsequent election, after campaigns involving the murder or vicious beating of anti-CPP

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<sup>153</sup> UN: Department of Public Information (DPI), *Cambodia: UNTAC: Background: Completed Peacekeeping Operations* :

<<http://www.un.org/en/peacekeeping/missions/past/untac.htm>><Accessed 25 February 2013>

<sup>154</sup> Francis Fukuyama, *The End of History and the Last Man*, (New York: Free Press 1992)

<sup>155</sup> Oliver. P Richmond, *A Post-liberal Peace* (Basingstoke, Routledge, 2011) 1

<sup>156</sup> Brad Adams, 'Cambodia: July 1997: Shock and Aftermath', *Phnom Penh Post*, 28 July 2007

<sup>157</sup> Tony Kevin, Lecture at Cambodian Institute for Cooperation and Peace, Phnom Penh 22 July 1999, 'Cambodia and Southeast Asia' <Accessed 25 February 2012>

candidates and activists, and with various opponents being exiled, put on trial or imprisoned.<sup>158</sup>

Joel Brinkley's *Cambodia's Curse* is an extensive historical account of Cambodia's post-1993 history. In Brinkley's narrative 'the curse' seemingly refers, firstly, to the political legacy of the God-Kings of Angkor where 'hierarchy was everything'.<sup>159</sup> Brinkley contends that the majority of Cambodians 'are a product of customs and practices set in stone a millennium ago'.<sup>160</sup> The second aspect of the 'curse' he identifies is the cultural impact of Theravada Buddhism on the national psyche. He alleges that monks have impressed upon generations that they should be 'pleased with the lives they had and not aspire for more'.<sup>161</sup> In Brinkley's view these factors account for centuries of meek acquiescence in bad governance, corruption and brutality. I would dispute both of these charges. Brinkley seems to have read little (none of the seminal works on Cambodian or Theravada Buddhism are included in his anorexic bibliography). Nor does he appear to have interviewed any monks among his 200 interview subjects. This thesis is under-researched, given its centrality to his overall narrative. In using the term 'curse' Brinkley is not skilfully expounding a narrative pattern using ancient and indigenous material, as Chandler does, but simply deploys the term as rhetorical flourish.

It is in Brinkley's empirical evidence and research that the strength of his work lies. Hun Sen emerges as the principal domestic protagonist and fountainhead of many national problems, running a 'murderous kleptocracy'.<sup>162</sup> He is shown as 'carrying himself as if he is a direct descendant of Cambodia's great kings. All that's lacking is the elephants'.<sup>163</sup> Brinkley hypothesizes Cambodians' inherent deference, fear of change and lack of aspiration ensure acceptance of his appalling administration. Sam Rainsy, leader of today's main opposition party (the Sam

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<sup>158</sup> Joel Brinkley, *Cambodia's Curse: The Modern History of a Troubled Land*, (New York: Public Affairs, 2011)

<sup>159</sup> *ibid.* 20

<sup>160</sup> *ibid.* 15

<sup>161</sup> *ibid.* 24

<sup>162</sup> Stephen Long, Interview with Joel Brinkley: 'Cambodia's Leaders are Murderous Kleptocrats' 14 July 2011: *PM: With Mark Colvin*: ABC News Programme available at: <http://www.abc.net.au/pm/content/2011/s3269723.htm> <Accessed: 2 July 2012 >

<sup>163</sup> Brinkley, *Cambodia's Curse*, 15

Rainsy Party), is portrayed as a slippery self-publicizer more comfortable abroad, even derailing the FBI investigation of a grenade attack, which killed sixteen of his own supporters, to score quick political points against Hun Sen. Sam Rainsy emerges as a faintly ludicrous figure. The thread running through Brinkley's anecdotes from his interviewees is what the rampant corruption of Hun Sen's Cambodia means to people on the ground: teachers demanding bribes for better grades, reducing education to learning 'how to bribe people'; doctors letting people die for lack of \$150 bribes; judges releasing paedophiles for cash. In Brinkley's view, the donor community is equally to blame for the plight of Cambodia. Year on year, Hun Sen promised international donors to halt corruption with effective legislation. Brinkley suggests the CCP's grip would loosen on the nation if its members had less access to the foreign money that keeps them loyal to the regime. The effectiveness of this notion is undermined by a fact Brinkley himself briefly mentions: it is China (not primarily concerned with the struggle for human rights and development) who is now Cambodia's largest benefactor. This effectively releases Hun Sen from pressure to be more liberal.

When concerned with the 'curse' of historical legacies, Brinkley makes a more defensible point: that the legacy of the Khmer Rouge underlies the poverty of expectation, both domestically and internationally. If the yardstick is how much better things are today than under Pol Pot, then Hun Sen has brought stability and some economic growth. Though implicated in killing, corruption, and human rights abuses, he has not presided over genocide and most Cambodians understandably believe that the country is on a better track. The international community seems to share this ambivalence. To quote Sam Rainsy, 'The World seem[s] to be saying, "If you continue living like you did a thousand years ago ...you are still better off than you were during the Khmer Rouge."'”<sup>164</sup> Brinkley's penultimate chapter discusses the trials, including claims of interference and corruption widely discussed elsewhere. He describes the culture of impunity created by former KR leadership and cadres living in society. Brinkley also denigrates the outreach of the Documentation Centre of Cambodia (DC-CAM) - the principal archiving organization headed by Youk Chhang, which has provided the court with a great deal of its evidence, and has for years meticulously engaged

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<sup>164</sup> *ibid.* 268



in preserving Cambodia's history, advocated justice, and educated the next generation. He argues that it is only re-traumatizing victims to show them DVDs of court proceedings and highly distressing testimonies, 'like poking a stick in a hornets' nest.'<sup>165</sup> Pointing out that they have been living side by side with their persecutors for years, Brinkley concludes that most Cambodians are 'barely aware' of proceedings, a point I dispute throughout the rest of this thesis.<sup>166</sup> For decades Buddhist monks have engaged in unofficial reconciliatory exercises: Brinkley makes no mention of this. Nor is the ECCC the only public body to have discussed the KR era in 30 years: there are two annual public holidays, the Day of Remembrance (20 May) and Victory Day (7 January) to do just that.

David Roberts's *Political Transition in Cambodia* discusses the problems encountered with the liberal narrative in Cambodia. Quoting Heder, he argues that the main political culture and personalities - Hun Sen, Sihanouk, and Ranariddh - are 'deeply illiberal, anti-democratic and anti-pluralist' and that an elite has always dominated politics.<sup>167</sup> He states that it is not the fault of Hun Sen's government democracy has failed to be successfully implemented, but rather that the discourse of democratization has been thrust on a state by foreigners via theories unsuited to the circumstances. Roberts argues the ruling CPP is acting consistently with Cambodian political tradition. When Hun Sen's CPP lost the 1993 election to FUNCINPEC and he manipulated himself into the office of 'Second Prime Minister', he was acting exactly as one would given the elite's assumptions: that with political power come benefits for one's 'clients', whether family or faction. To lack power is to be denied these essential components; what is good for the leadership/party is good for the clients. In such a context oppositional politics are useless.<sup>168</sup> Legitimacy derives from what patrons offer their clients (high-paid jobs for their friends and relatives, hospitals and schools for their constituents and good investment conditions/ easy contracts for their foreign funders).<sup>169</sup> Roberts concludes that in the Cambodian political tradition nobody could expect otherwise; when critics say differently they hold the country to unrealistic standards outside the expectations of the local population.

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<sup>165</sup> *ibid.* 327

<sup>166</sup> *ibid.* 335

<sup>167</sup> David W. Roberts, *Political Transition in Cambodia 1991-99: Power, Elitism and Democracy*, (Padstow : Curzon, 2001) 164

<sup>168</sup> *ibid.* 206

<sup>169</sup> *ibid.* 165-206

A problem with this idea is that it seems to justify the CPP and Hun Sen's actions. Arguing that there are flaws in the 'liberal project's' assumptions about how it will work in Cambodia is reasonable; however, at what point is a line crossed between discussing cultural difficulties in the democratization narrative, and providing crudely essentialist, culturally relative, explanations for a homicidal megalomaniac exercising naked power? Roberts fails to offer a clear definition of such a line.

Increasingly Khmer scholarship in English has entered the most recent narratives. The theme of how the 'Big Bang' democratization of the early 1990s landed in a country not institutionally equipped for it runs throughout *Beyond Democracy in Cambodia*, a series of essays by both western and Khmer scholars.<sup>170</sup> Rather than sharing the culturalist assumptions of Brinkley and Roberts, it focuses on the difficulty in establishing democracy in conjunction with economic and social reconstruction. The Khmer scholars in this volume are understandably less tolerant of the view that some cultural essence inhibits democratization. Rather, they suggest Cambodia's problem is its 'on paper' status as democracy coupled with a resource poverty inhibiting its implementation. As they explain, Hun Sen may be following an autocratic political tradition, but people do not follow him because they acquiesce in that tradition. They do so because they are too frightened to fight in the face of his demonstrable readiness to secure his will with extreme violence.<sup>171</sup> Cambodia lacks the resources required to build democratic capacity. Kheang Un describes a judiciary filled with legal officials inadequately educated to run a properly independent organisation; as he points out, what fills this resource vacuum is Hun Sen's executive.<sup>172</sup> Mona Lilja points out that globalization and liberalism have been accepted where the chance for such ideas has been allowed - notably in the area of gender relations, where traditional

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<sup>170</sup> Kim Sadara and Joakim Ojendal, 'Decentralization as a Strategy for State Reconstruction in Cambodia', *Beyond Democracy in Cambodia: Political Reconstruction in a Post-Conflict Society*, eds. Joakim Ojendal and Mona Lilja (Copenhagen : NIAS Press, 2009)

<sup>171</sup> Caroline Hughes, 'Reconstructing Legitimate Political Authority through Elections?', *Beyond Democracy in Cambodia: Political Reconstruction in a Post-Conflict Society*, eds. Joakim Ojendal and Mona Lilja (Copenhagen : NIAS Press, 2009), 60-64

<sup>172</sup> Kheang Un, 'The Judicial System and Democratization in Post Conflict Cambodia', *Beyond Democracy in Cambodia: Political Reconstruction in a Post-Conflict Society*, eds. Joakim Ojendal and Mona Lilja (Copenhagen : NIAS Press, 2009) 70-101

gender roles are being challenged.<sup>173</sup> The overall narrative of this book of essays is that liberalism and democracy are desired in Cambodia and that they are discourses that can be brought into the Cambodian worldview on its own cultural terms; the problem with implementation lies in the autocratic government and in a poverty that disempowers, making it difficult for such notions to advance.

Recent studies have also pushed out from the post-colonial studies of Chandler and Becker to connect post-1993 Cambodia to its deep past via a discussion of Buddhism. I will discuss these in more detail later; here I seek only to give the reader some sense of the existing thematic literatures. The important feature of these works is the central place they give to religion. One historical monograph on Buddhism in Cambodia discusses how Buddhism has adapted and developed.<sup>174</sup> So do two volumes of essays mostly by anthropologists. *People of Virtue* focuses explicitly on how moral order has been reconstructed in Cambodia following the DK atrocities, and how myth, symbol, and ritual facilitate the recovery of culture and a cosmological sense.<sup>175</sup> The essays in *History, Buddhism and New Religious Movements in Cambodia* explore power relations and focus on how contemporary Cambodian identity and Khmer nationhood are constructed through religion as a means to connect to a mythico-historical past, particularly in light of the catastrophic events of the DK period, civil wars and Vietnamese occupation.<sup>176</sup> Both these texts point to a period of liberalization as vital to the development of religion; for it was only after the end of SOC that the constitutional bars on religious institutions ended (for example the Vietnamese armed forces tried to stop young men from ordination). Liberalization released a wave of religious revival currently shaping moral discourse, national identity, society and politics in a way impossible in the 1980s. Both books examine how this liberalization has affected the regime's development in Cambodia.

### **Towards the ECCC**

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<sup>173</sup> Mona Lilja, Globalization, 'Women's Political Participation and Politics of Legitimacy and Reconstruction in Cambodia', *Beyond Democracy in Cambodia: Political Reconstruction in a Post-Conflict Society*, eds. Joakim Ojendal and Mona Lilja (Copenhagen : NIAS Press, 2009)148

<sup>174</sup> Ian Harris, *Cambodian Buddhism: History and Practice* (Honolulu: University of Hawai'i Press 2008)

<sup>175</sup> Alexandra Kent and David Chandler (eds) : *People of Virtue: Reconfiguring Religion, Power and Morality in Cambodia Today*( Copenhagen : NIAS Press, 2008)

<sup>176</sup> John Marston and Elizabeth Guthrie, *History, Buddhism and New Religious Movements in Cambodia* (Honolulu: University of Hawai'i Press ,2004)

The only historical narrative to explore the establishment of the ECCC is Fawthrop and Jarvis's *Getting Away with Genocide?*<sup>177</sup> This explicitly focuses on efforts to obtain justice throughout the intrigues of post-1979 politics. Stressing the total lack of domestic resources such as lawyers, intellectuals and teachers (targeted by the CPK) it deals in some detail with the 1979 People's Revolutionary Tribunal and portrays it in a positive way, suggesting that it deserves attention rather than being dismissed as a show trial. Fawthrop and Jarvis argue that an international trial, decades after the end of the regime, is not the desire of the international community pushing an institution onto the country, but expresses an aching need for justice in the nation, and that a proper tribunal is important. Indeed they make the case that it is the powerful international actors with their embarrassing history of assisting the KR (the Chinese, the USA, the Thais) who have thrown up obstacles to the idea of a trial.

It is important to note that Jarvis works for the Cambodian government. She does not misrepresent herself as an impartial analyst. She defends the tribunal set-up. However, she leaves Hun Sen and the ruling CPP criticism-free while the UN is heavily criticized. Fawthrop and Jarvis explain how the *realpolitik* of the NATO powers led to the grotesque position of the UN recognising Pol Pot's CPK as the legitimate government of Cambodia throughout the 1980s - thus cutting off the nation from aid and much-needed developmental assistance. However their concern to provide a favourable portrayal of the Cambodian government means a one-sided discussion of the very protracted negotiations to establish a court. The UN pull-out from negotiations in 2002 is shown as a 'bombshell', a stab in the back causing substantial loss of faith in the UN among the population. Serious concerns raised by the UN and NGOs regarding the Cambodian judiciary, impartiality, the roles of currently serving government ministers who may have been involved with KR atrocities (and thus have an interest in leaning on the ECCC) are not seriously analysed. Indeed in this narrative Hun Sen, the man who argues that Cambodia should 'dig a hole and bury the past' comes across as the man who not only secured peace, but also fights for justice.<sup>178</sup> The narrative

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<sup>177</sup> Tom Fawthrop and Helen Jarvis, *Getting Away with Genocide? Elusive Justice and the Khmer Rouge Tribunal*, (London: Pluto Press 2004)

<sup>178</sup> Hun Sen quoted Laura McGrew, 'Re-establishing Legitimacy Through the Extraordinary Chambers in the Courts of Cambodia', *Beyond Democracy in Cambodia: Political Reconstruction*

legitimises a fiction he promotes - that wider prosecutions would be destabilizing to the nation (begging the question ‘Who, other than Hun Sen, is capable of starting a civil war?’).<sup>179</sup> Sam Rainsy is portrayed as a lackey of Washington rightists. Human Rights Watch, Amnesty International and scholars with differing opinions are portrayed as ill informed, ignorant or flaky: for example, the authors acerbically dismiss (and misrepresent) Heder’s suggestion that prosecutions should encompass more than the highest echelons of the CPK.<sup>180</sup> Heder did not, as they claim, suggest that there should be thousands of investigations, but rather that the structure of the ECCC is too limited, largely because the RGC and the CPP have senior members who may themselves be guilty of atrocities; these ‘small fish’ may warrant some investigation into their roles.<sup>181</sup> Read in 2013, as the process enters its seventh troubled year of operations, with so many concerns raised by the UN and NGOs during the negotiations apparently justified, Fawthrop and Jarvis’s account reads like an elegantly argued piece of government publicity, or at best a defence of the mixed system far too strong in light of such statements from the Cambodian government as ‘If they want to go into cases 003 and 004, they should just pack their bags and leave.’<sup>182</sup>

### **The present**

The primary source material in the subsequent chapters was assembled as the ECCC was in session. Much of the available literature around the ECCC is legal in nature; it discusses jurisprudential issues, procedure, TJ mechanism design, legal history, or the contributions the ECCC makes to law domestically and internationally. This thesis takes a different approach. It juxtaposes what takes place in the court with stories told by Cambodians who may never enter it, although affected by the issues that it raises. It is about meanings assigned via narrative (and vice-versa) through processes – macro- micro- and meta-

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*in a Post-Conflict Society*, eds. Joakim Ojendal and Mona Lilja (Copenhagen : NIAS Press, 2009)

<sup>179</sup> Fawthrop and Jarvis, *Getting Away with Genocide?* 149

<sup>180</sup> *ibid.* 272-273

<sup>181</sup> Stephen Heder, ‘Reassessing The Role Of Senior Leaders And Local Officials In Democratic Kampuchea Crimes: Cambodian Accountability In Comparative Perspective,’ *Bringing The Khmer Rouge To Justice: Prosecuting Mass Violence Before The Cambodian Courts*, eds. Jaya Ramji and Beth Van Schaack , (Queenstown: Edwin Mellen Press, 2005) 410

<sup>182</sup> Press Release by the International Co-Investigating Judge, The Extraordinary Chambers in the Courts of Cambodia, 10 October 2011

narratives. Hence it takes the ECCC, not as a subject for legal analysis, but as a social artefact, viewed through a particular ‘interpretive community.’<sup>183</sup> The proceedings of the Extraordinary Chambers are not the centre of interest here and there is no detailed analysis of cases. Nor am I focusing on ‘peace building’; due to the narrative nature of my study I am problematizing the concepts of transition and justice. Rather my concern is with how the court is seen as a social-cultural-historical subject, what narrative it produces and how others feel incorporated or excluded from its narrative structures. But before I can present the legal macro-narratives or the small stories against which I contend those narratives must be read, it is necessary to explain how and why these particular stories were gathered, and how various theories concerning narrative offer a framework through which to make sense of them.

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<sup>183</sup> Stanley Fish, *Is There A Text in This Class?* (Cambridge Mass: Harvard University Press, 1980) 147–1

## **Chapter Two : Methodology and Theory**

### **Introduction**

Some core themes emerge from the foregoing chapter. The first is the unimaginable injustice inflicted on the Cambodian people. Second is the process of rebuilding culture in the face of near-total annihilation, a process presenting a unique set of circumstances for observation. Third is the rapid succession of changes in regime types (monarchy, republic, two strands of Communism, ‘democracy’) resulting in what can be described as nothing short of paradigm shifts. The result is that the dominant theme in speaking of post-DK Cambodia is that of transition.

It is obligatory for a thesis to contain a chapter on ‘theory and method,’ and the convention is that research questions are shown to emerge out of the theoretical literature before methodological issues are discussed. I think this would be an oversimplification in a thesis grounding itself in ‘subaltern’ epistemologies.<sup>1</sup> There is a risk that paradigms conceived in the Western academy may be brought prematurely to the field site and marginalize local voices. How one comes to the field informs the theoretical approach.<sup>2</sup> The risk is compounded by the thirty-year gap between DK and the ECCC. For example, in his conclusion Kjetil Grødum’s PhD thesis on Ricœur and Cambodia asks, ‘Suppose a former Khmer Rouge cadre is not welcomed in the village by a family living there who suffered great losses due to his actions in the past. This form of sanction or punishment would be legitimate. But would this punishment qualify as justice?’<sup>3</sup> But this question can be addressed empirically. Those three decades did not suspend history or justice in aspic. Cambodians have found their own ways to discuss and deal with their situation, including issues like this, and I seek to give priority to their voices. My aim is to explore the dialectic between the big narratives of states, institutions and global actors and the small narratives of individuals. I hope

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<sup>1</sup> Margaret Kovach, ‘Emerging From the Margins: Indigenous Methodologies’, *Research As Resistance : Critical, Indigenous and Anti-oppressive Approaches*, eds. Leslie Brown and Susan Strega (Toronto: Canadian Scholars’ Press/ Women’s Press, 2005) 28

<sup>2</sup> Reza Bankar, and Max Travers, ‘Method versus Methodology’, *Theory and Method in Socio-Legal Research*, eds. Reza Bankar and Max Travers (Oxford : Hart Publishing, 2005) 1

<sup>3</sup> Kjetil Grødum, *Narrative Justice: A Study of Transitional Justice in Cambodia Discussed on the Basis of Elements from Paul Ricœur’s Philosophy*, (PhD diss., University of Agder 2012) 250

to create a platform of intellectual equality on which dialogue and argument is possible between theories, concepts and processes derived from both Eastern and Western epistemological and ontological traditions. I seek to listen to the voices of the country and then to theorise through them.

Hence at times I intertwine theoretical and methodological material. On the whole, however, I progress from method through methodology finally to develop a theoretical frame that enables this prioritizing of local voices. I begin with method, with my need as an ethnographic researcher to achieve ‘best practice’ in hearing and framing the experiences of my ‘narrators.’ First I discuss Clifford Geertz’s approach to ethnography.<sup>4</sup> Then I situate my own approach through post-colonial method, using vocabulary developed by Linda Tuhiwai Smith, Kathy Absolon and Cam Willett.<sup>5 6</sup> I then turn to the sociologist Luc Boltanski to articulate an overall methodological framework.<sup>7</sup> Boltanski stresses the need to take social actors seriously rather than imposing metatheories /metacritiques/metanarratives. I introduce his ‘pragmatic’ sociology, focused upon social actors in their world, and their own sense of justice and morality ‘at the expense of a cartographic description of the world already there’.<sup>8</sup> I then move to the complex relationship between my thesis and the (sub) discipline and praxis of Transitional Justice. At this point I proceed to set out the theoretical framework through which I organise my material.

Essentially this is a framework grounded in narrative. Narrative is the means by which what Berger and Luckmann call ‘the social stock of knowledge’ is passed through the generations. It is one of Boltanski’s ‘core institutions’ through which social reality is constructed. Given my resistance to the imposition of metatheories, I could hardly confine myself to a single theoretical approach to

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<sup>4</sup> Clifford Geertz, *The Interpretation of Cultures* (London: Fontana Press 1973)

Clifford Geertz, *Islam Observed: Religions Developments in Morocco and Indonesia*, (Chicago: University of Chicago Press, 1971)

<sup>5</sup> Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, Second Edition (London: Zed Books, 2012)

<sup>6</sup> Kathy Absolon and Cam Willett, ‘Putting Ourselves Forward: Location in Aboriginal Research’, *Research As Resistance: Critical, Indigenous and Anti-oppressive Approaches*, eds. Leslie Brown and Susan Strega, (Toronto: Canadian Scholars’ Press/ Women’s Press, 2005)

<sup>7</sup> Luc Boltanski, *On Critique: A Sociology of Emancipation*, translated by Gregory Elliott, (Cambridge: Polity Press, 2013)5

<sup>8</sup> *ibid.* 24



marshal the variety of voices I explore. Rather, I use a number of theories about narrative, which complement one another and at times overlap; each, however, has greater relevance to certain parts of my material. Hence I turn briefly to literary theory, particularly the work of Tzvetan Todorov, to explore *how* stories are told. I look at Lyotard's theory concerning *what* stories are told: the 'grand narratives' which underpin the approaches of the UN and CPP to the present court and its predecessors, and the 'small stories' against which these grand narratives must be read and judged. Finally, I look at the work of Paul Ricœur on memory to show *why* those 'small stories' are told, and who is listening.

### **Method and My Approach to Ethnography**

John Flood argues that in inductive research, based upon 'grounded theory', theorization emerges from ethnographic data in a rolling process. I follow this model. The function of small-scale ethnographic interaction is to generate understanding of the low-level realities of large/macro issues. Such research is not concerned with theory, ideology and law in their idealized form, but their lived form.<sup>9</sup> I went to the field with the intention of using what Sriram calls a 'listening' methodology, one that seeks to listen to subaltern voices and then relate them to theory.<sup>10</sup> This prioritizes a difference-centered approach, which seeks out those who do not conform to the standard praxes offered in western-derived theories of society.<sup>11</sup> This is particularly important when I consider issues of reflexivity.<sup>12</sup> I am a western, Caucasian, male, in many cases at least twenty years younger than my interviewees. This means I have to come to the field site open to knowledge, culture and understandings not my own. The core of ethnography requires that one be sensitive to context, and above all to how members of the group studied look at their world, not to build theories about the world to present as 'superior' to the everyday knowledge of a community.<sup>13</sup> It

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<sup>9</sup> John Flood, 'Socio-Legal Ethnography', *Theory and Method in Socio- Legal Research*, eds. Reza Bankar and Max Travers (Oxford: Hart Publishing, 2005) 33-37

<sup>10</sup> Chanara Sriram, 'Resolving Conflicts and Pursuing Accountability: Beyond Justice versus Peace', *Critical Advances in Peace-building Developments and Approaches*, ed. Oliver P. Richmond (Basingstoke: Macmillan, 2010)

<sup>11</sup> Mehmoona Moosa-Mitha 'Situating Anti-Oppressive Theories Within Difference-Centered Approaches', *Research As Resistance, Critical, Indigenous and Anti-Oppressive Approaches*, eds. Lesley Brown and Susan Strega (Toronto: Canadian Scholars' Press/Women's Press, 2005) 64-67

<sup>12</sup> Clive Seale, 'Reflexivity and Representation', *Social Research Methods: A Reader*, ed. Clive Seale (London: Routledge, 2004) 377-8

<sup>13</sup> Reza Bankar and Max Travers, discussing John Flood in 'Method versus Methodology,' 29

also means that people interact with me as a foreigner and that I should be aware of this . One example of this occurs in Chapter Seven , when my interpreter tells me that talking to high school students about the KR would not be a good idea as they would be trying perhaps to impress me with their knowledge rather than expressing their actual indifference.<sup>14</sup>

### **Thick description**

By situating myself with Cambodian social actors I place myself as the primary tool of data gathering - the 'I am a camera' perspective.<sup>15</sup> Geertz discusses how symbolic meaning is communicated via artefacts and symbols, cultural concepts and texts; it is through 'thick description' - an understanding of the layers of meaning making up what can be immediately observed - that scholars penetrate the highly interactive dimensions of a symbol in context of a wider set of ideas.<sup>16</sup> 'Thick description' juxtaposes the specific with the general 'to find the little that eludes us in the large'.<sup>17</sup> Geertz describes a process of seeing the whole through its parts, hopping back and forth from small scale to larger context.<sup>18</sup> This usefully allows, firstly, for putting the smaller stories and events into context of the wider process of justice at the ongoing ECCC, and secondly, for hermeneutic analysis over a long period (1979-2013). Context is vital in the Cambodian case. This is partly owing to the time scale of political and social change, but also the complex webs of meaning people establish. One of the premises of ethnographic research is that it seeks to understand the 'ethos' or 'world view' in a culture, to grasp cultural and social meanings of events and objects.<sup>19</sup> I will be using Geertzian method linked to interpretivism and phenomenology, asking, How do people see themselves? What meaning do they attribute to events? Why do they do what they do? How do they interpret their own behaviours and attitudes? Geertz's principal point in *The Interpretation of Cultures* is that symbols/ signs indicate, express and formulate the construction of social meaning. To 'read' the 'acted document'

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<sup>14</sup> From my field journal – 7 August 2012

<sup>15</sup> Jonathan Moses and Torbjorn L. Knutsen, *Ways of Knowing: Competing Methodologies in Social and Political Research* (New York: Palgrave, 2007) 155

<sup>16</sup> Clifford Geertz, *The Interpretation of Cultures* (London: Fontana Press Edition 1973) 9

<sup>17</sup> Clifford Geertz, *Islam Observed: Religions Developments in Morocco and Indonesia*, (Chicago: University of Chicago Press, 1971) 4

<sup>18</sup> Clifford Geertz, *The Interpretation of Cultures*, 30

<sup>19</sup> Clifford Geertz, *Local Knowledge: Further Essays In Interpretive Anthropology* (London: Fontana Press 1993) 27

of a culture is to understand it. 'Doing ethnography' is attempting to read the 'manuscript' of culture.<sup>20</sup>

The Geertzian approach precludes generalizable statements. Thick description only allows the ethnographer to write about a group *representing* the culture: a representation of a representation.<sup>21</sup> This is not to assume that ethnographers 'blend in'. One goes to the field to understand a society, not as, in Geertz's trenchant phrase, 'a walking miracle of empathy'.<sup>22</sup> An ethnographer can claim to make an account of other peoples' subjectivities through understanding the 'rules of their game.' In Geertz's analogy one can manage 'grasping a proverb or ...seeing a joke', rather than 'achieving communion'.<sup>23</sup>

### **Post-colonial developments in ethnographic research - the 'Re- s'.**

Ethnographic research is inevitably 'third order'. Only someone native to a culture could claim first order knowledge.<sup>24</sup> However, the ethnographer should attempt *Verstehen* - an empathetic approach to produce a more authentic understanding of how a society thinks than survey data could reveal.<sup>25</sup> I aim to provide 'thick description'- layers of cultural concepts and their meanings - from which understanding can be reasonably drawn.<sup>26</sup> Specifically, I wanted a research method that treated the values and behaviors of the people I talked to as integral.<sup>27</sup> Hence I draw on post-colonial scholars, especially the 'Re-s' research agenda originally devised by Linda Tuhiwai Smith and developed by Kathy Absolon and Cam Willett.<sup>28</sup> That is, to 're-do' or 're-visit' events and ideas the 'west' (especially its academy and policy-making bodies) has conceptualized

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<sup>20</sup> Clifford Geertz, *The Interpretation of Cultures*, 73

<sup>21</sup> Carolyn Gallaher, 'Researching Repellent Groups: Some Methodological Considerations on How To Represent Militants, Radicals, and Other Belligerents', *Surviving Field Research: Working In Violent And Difficult Situations*, eds. Chandra Lekha Sriram, John C. King, Julie A. Merthus, Olga Martin-Ortega, Johanna Herman (London: Routledge, 2009) 132

<sup>22</sup> Geertz, Clifford, *Local Knowledge: Further Essays In Interpretive Anthropology* (London: Fontana Press 1993) 56

<sup>23</sup> Geertz, *Local Knowledge*, 70

<sup>24</sup> Clifford Geertz, *The Interpretation of Cultures*, 14

<sup>25</sup> Jonathan Moses and Torbjorn L. Knutsen, *Ways of Knowing: Competing Methodologies in Social and Political Research* (New York: Palgrave, 2007) 183

<sup>26</sup> *Ibid.* 202-204

<sup>27</sup> Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, Second Edition, (London: Zed Books, 2012) 9-15

<sup>28</sup> Kathy Absolon and Cam Willett, 'Putting Ourselves Forward: Location in Aboriginal Research', *Research As Resistance, Critical, Indigenous and Anti-Oppressive Approaches*, eds. Lesley Brown and Susan Strega (Toronto: Canadian Scholars' Press/Women's Press, 2005) 108

categorized, and operationalized on its own terms. Absolon and Willett expect research to ‘re-visit’ these from the perspective of the subjects. Their vocabulary informs my approach :

*Respectful Representation* is central.<sup>29</sup> I cannot make broad generalizations but I can *represent* those I listen to and provide an emancipatory space for their voices. I must avoid ‘extracting’ knowledge from people. It is theirs and they retain ownership. This approach confirmed a decision I had already made not to carry out quantitative data surveys. I felt that gathering statistical data would not convey the experience discussed here. (Though studies of this kind have been done previously.)<sup>30</sup> A particular issue I faced was that of ‘Coding’. Initially I looked into data software packages (Atlas.ti, NVivo). Immediately I disliked the way the software highlighted and grouped key words to create categorizations. This is particularly problematic when discussing something as complex as mass atrocity. Categorizing, labeling and finding trends felt as if I was pushing my work into predetermined frames rather than reflecting adequately what I was told. Arranging life stories in categories felt less like narrating than mimicking the quantitative methodological style I had rejected. I resolved this by deciding not to code but to bring people in and out of my narrative of the field. I am self-consciously engaged in creating a narrative myself, simultaneously representing something through my own eyes, and trying to understand other peoples’ view of one of the most violent times of the last century.

*Re-Visiting* demands that histories be deconstructed to expose their political biases.<sup>31</sup> It insists on the recontextualization of experience, conscious of the legacy of cultural aggression from colonial ideologies.

*Re-claiming* involves reclamation of local intellectual traditions to place them on a par with (neo)colonialist ideologies.<sup>32</sup> (In the case of Cambodia : Vietnamese/ Soviet Communism and Western liberal democracy). In this context

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<sup>29</sup> *ibid.* 108-122

<sup>30</sup> Harvard Humanitarian Initiative and Cambodian Human Rights and Development Association, *Victims’ Participation Before The Extraordinary Chambers In The Courts Of Cambodia: Baseline Study Of The Cambodian Human Rights And Development Association’s Civil Party Scheme For Case 002*, by Nadine Kirchenbauer, Mychelle Balthazard, Latt Ky, Patrick Vinck, Phuong Pham. (Phnom Penh : ADHOC January 2013)

<sup>31</sup> Absolon and Willett, ‘Putting Ourselves Forward’, 111

<sup>32</sup> *ibid.* 112

Tuhiwai Smith argues for a broader definition of testimony. Testimony is important not only for use in court, but as a conduit through which a younger generation access the culture of their ancestors after attack. She discusses how narratives tap into a culture's literary and oral traditions. It is through such testimonial acts that heritage is reclaimed.

Remembrance situates research within recollection and reconnection with the past.<sup>33</sup> Following genocide and mass cultural extermination, there is a need to forge such links. It is through research focused on local voices and intellectual traditions that recovery is best explored. Tuhiwai Smith argues that scholarly presentation of remembrance after trauma, cultural destruction and oppression must emerge directly from those who suffered.<sup>34</sup> I aim to use peoples' own stories as the core knowledge on which I proceed.

#### **Articulating methodology: Boltanski and social actors.**

Boltanski offers a broader methodological frame in which to locate the practices I describe. He attempts to reconcile 'critical sociology' (which exposes the mechanisms of power passively endured and not always recognized by the oppressed) with the idea of a 'pragmatic sociology' (sociology based on the perspectives of social actors). He envisions an interdependent relationship between critical sociology and a more interpretivist perspective grounded in social actors. Boltanski notes that, 'Critical theory has to grasp the discontents of actors and explicitly consider them in the labour of theorization' - that is, the theorist should theorize through social actors, not make them subjects of theory.<sup>35</sup> It is important to explore power relations in terms of the experience and judgement of the oppressed, to 'enable the disclosure of aspects of reality in the immediate relationship with the preoccupations of actors- that is also with ordinary critiques.'<sup>36</sup> 'Progressive' theoreticians in pursuit of their research agenda effectively ventriloquize their subjects, for example by arguing that they are caught up in 'false consciousness' and speaking on their behalf. Boltanski focuses on the abilities of social actors to critique in their own way and in

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<sup>33</sup> *ibid* 115

<sup>34</sup> Tuhiwai Smith, *Decolonizing Methodologies*, 143-162

<sup>35</sup> Boltanski, *On Critique*, 5

<sup>36</sup> *ibid.* p 5

response to their own situations, and stresses the need for social researchers to recognize this, not treat actors as passively acquiescent to hegemonic domination. An example of this is the Herman and Chomsky/ Hildebrand and Porter debacle discussed the previous chapter . These scholars prioritized their own metacritiques , then claimed to speak for the oppressed by ‘exposing’ what *they* perceived as the underlying cause of that oppression . This illustrates Boltanski’s point about failure to take seriously social actors in their context , or, to re-iterate Sophal Ear’s trenchant phrase, ‘to stop and ask the peasants themselves how they liked the ride.’<sup>37</sup>

Indeed Boltanski seems sceptical of a sociology of critique that undertakes to ‘describe the world as the scene of a trial’.<sup>38</sup> He notes a concomitant nihilistic ‘dizzily exciting’ suspicion of everything’.<sup>39</sup> He contends that people do not need an ‘emancipatory theoretical enlightenment’ conceived ‘above’ them but rather a ‘pragmatic sociology of critique’, which takes the lived experience of actors to its heart and works ‘on the ground’.<sup>40</sup> This refocuses ‘the sociologist’s attention on actors *en situation* as the main agencies of performance of the social’ and brings to bear a variety of disciplines ‘to account for the capacity of actors to produce acceptable critiques and/or justifications *en situation*’ - in contrast to those theorists and philosophers who only create metacritiques/metatheories about society.<sup>41</sup>

I will revisit Boltanski later on in discussing theory. However , Boltanski’s project to take social actors seriously underpins the platform between my interviewees and those macro-institutions that have the ‘loudest voices’ in narrativising the DK era. His approach heavily stresses difference, which is key to my project. In a difference-oriented approach the method must account for the ‘difference’ within the stories of the participants. This study includes former members of the Khmer Rouge, anti-communists, democrats, pro- and anti- government voices , civil parties, defence attorneys, monks, Imams, old people, young people, and international judges. Inevitably there is contention over the ‘facts’. I bring my

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<sup>37</sup> Sophal Ear, *The Khmer Rouge Canon 1975-1979: The Standard Total Academic View on Cambodia*, Political Science Honors Thesis : May 1995

<sup>38</sup> Boltanski, *On Critique*, 25

<sup>39</sup> *ibid.* 114

<sup>40</sup> *ibid.* 23-29

<sup>41</sup> *ibid.* 26

methodology to this discussion. I do not seek to question the facts of the stories told to me ; my purpose is not to establish historical fact about places and events, or seek a purely photographic kind of truth through the accounts of eye witnesses, but rather to discuss the ‘meaning’ of what is told to me.<sup>42</sup>

### **Practical questions : a summary of the field work**

With method and methodology outlined , it may be useful to provide a description of what I did during the field work portion of my research . The original material in this thesis was acquired through interviews, observations and oral histories, applying the ethnographic method to both the ECCC and the more intimate sites outside it. I spent eleven months in Cambodia in 2012. Five were spent as an intern at the ECCC in the Public Affairs Section (PAS). This gave me the opportunity to observe the workings the institution at very close quarters and follow proceedings at court daily . ( The contract for that internship precludes my disclosing some confidential information. In this work I have disclosed nothing about the ECCC not already in the public domain , publicly observable or specifically permitted.) The remainder of my fieldwork was spent interviewing and observing. I stayed in ten provinces in the country, spending several weeks in each and had in-depth interviews with 49 people . When invited I stayed with families, at other times in Wats or guesthouses. I have gathered observational material in the form of videos, photos, logbooks, field diaries, and notes from ceremonies, procedures and places of historical significance as well as day-to-day life in Phnom Penh and villages in the provinces. This is further supplemented by material collected while writing my Master’s thesis on Cambodian Buddhism and the Khmer Rouge in 2010 (eleven interviews and more observations).<sup>43</sup> In 2013 I made a return visit for six months and watched the closing arguments of Case 002/01.

### **Language and Limitations**

I worked with my interpreter, Sina Thor, for interviews that could not be

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<sup>42</sup> Catherine Kohler Riessman, *Narrative Analysis* (Newbury Park : Sage,1993) 4-5

<sup>43</sup> Tallyn Gray, *Justice and The Khmer Rouge: Concepts of Just Response to the Crimes of the Democratic Kampuchean Regime in Buddhism and the Extraordinary Chambers in the Courts of Cambodia at the Time of the Khmer Rouge Tribunal* (Lund: Centre for East and Southeast Asian Studies, 2011)

conducted in English. (My Khmer is ‘small talk’ standard.) French, although used by the ECCC, is effectively redundant in Cambodia. The majority of those I spoke to with a second language knew English. It is obvious that language fluency has considerable advantages. Yet it should be noted that Geertz’s warning that anthropological knowledge obtained by outsiders is ‘third order’ nevertheless applies. Fluency does not grant the ‘chameleon-like’ status mythologised by anthropologists prior to a more reflective turn in the 1980s.<sup>44</sup> The notion of ‘blending in’ was then challenged to the point of crisis and there was a felt need for reform.<sup>45</sup> Axel Borchgrevink argues that many engaged with anthropological research make use of interpreters. This is seldom discussed – perhaps because of this myth that ‘true’ research can only be obtained by those with near-native fluency. He also asserts that many anthropologists actively obscure interpreters behind words such as ‘field assistant’, wary of accusations of not doing the anthropological method properly.

An honest way to deal with the issue of the interpreter’s role within my understanding of the relationship between narrators and stories is to analyse the role of my own interpreter.<sup>46</sup> I worked closely with Sina Thor, discussing each project and its purpose in detail. I clarified the importance of informed consent and at the start of every interview he read out my participant information sheet in Khmer and provided written copy if desired. We transcribed together so I could ask for clarification, and he could check the accuracy of my perception about what I thought I was being told. The principal problems of translation concern lost nuance and we tried to counter this: Sina would explain the subtleties of the language as spoken and always read my subsequent transcription. During interviews he would translate ‘blocks’ of text, enabling me to react to what had just been said, sometimes giving the gist for speed, but returning to recordings to produce more nuanced translation.

### **The Interviewees**

Participants were sought using ‘snowball’ sampling.<sup>47</sup> This was the easiest

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<sup>44</sup> Geertz, Clifford, *Local Knowledge*, 56

<sup>45</sup> Axel Borchgrevink, ‘Silencing Language of Anthropologists and Interpreters’, *Ethnography*, Vol 4(1) 2003, 101

<sup>46</sup> *ibid.* 98

<sup>47</sup> Alan Bryman, *Social Research Methods* (Oxford: Oxford University Press, 2001) 98-99



method for me to gain access, but it also underlines the idea of ‘ownership’ by giving them a clear context, as being ‘passed on’ by someone already interviewed offered a basis of knowledge on which to opt to participate. It was important to give those directly approached a chance to refuse without embarrassment (or meeting me), despite the difficulty of contacting rural people in their 50s and 60s with only cell phones, or none. In the event, only one person refused an interview. Most were one-to-one, although there were some group interviews. A few, including long sessions, were ‘entirely private’, carried out at the participant’s home. Some interviewees asked for privacy- generally at a location they chose, or in one case in my apartment.

### **Oral History and interviews**

I tried to allow the telling of life stories to be only semi structured, with thematic guidelines. My aim was for storytellers to have power over their own stories. Oral histories allow a researcher to learn about a way of life by focusing on people and their experience, stripping away agendas to afford the subjects space to express what they feel is important.<sup>48</sup> Most interviewees were contacted because they had a special or unique knowledge of an event, place or institution, or on the advice of DC-CAM ; so while the sample was snowballing, it was not entirely random. It is important to note here a matter I later discuss in detail: the victim /perpetrator line is difficult to distinguish. However, I did not seek out victims of the regime specifically to address their victimization and /or personally traumatic events. I sought out people with knowledge of Buddhism, people who had published historical accounts of the regime, monks, *achars*, NGO workers, heritage site curators, and witnesses to events of historical significance who had given their names to DC-CAM indicating their willingness to be interviewed or directed to me through the networks of other interviewees.

### **Ethical issues and the act of naming**

The formulation of a code of ethics for this kind of work is complex. Inevitably difficulties arise when a project meets a code developed by an institution for

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<sup>48</sup> Qwul’shi’yah’maht and Robina Anne Thomas, ‘Honouring the Oral Traditions of My Ancestors Through Storytelling’, *Research As Resistance, Critical, Indigenous and Anti-Oppressive Approaches*, eds. Lesley Brown and Susan Strega (Toronto: Canadian Scholars’ Press/Women’s Press, 2005) 244-248

general use, a ‘one-size-fits-all’ formulation.<sup>49</sup> Here issues clustered around the issue of protection for participants. Underlying the spirit of research ethics is a concern for the protection of the confidence, physical, mental and social wellbeing of the people who participate. My ‘default’ practice was to keep my informants anonymous. Some - not all - made this a condition. I have used titles – ‘Cadre’, ‘Imam’, ‘Ven.’ (for Buddhist monks) with a number relating the date of the relevant interview and the order in which I met them. Those for whom anonymity is pointless I name - for example an international judge at the ECCC who gave me an interview did so in full knowledge that his identity would be evident from what he said. However there are also instances where to keep names out of the stories would be unethical in that the respondents have a profound desire to bear witness. Tuhiwai Smith considers stripping people of their names to be a hallmark of colonial oppression.<sup>50</sup> As Absolon and Willett argue, to treat them as data fodder is tantamount to cultural plundering. The Pol Pot regime stole identities. Under DK one was part of a class – the often-quoted KR slogan ‘To keep you is no gain, to lose you is no loss’ expresses this attitude. The notion of anonymising people once dehumanised as merely a ‘class’ by yet again making them a number, a statistic or a pseudonym is stealing part of them. Those who lent me their stories and chose to keep their names did so for a reason – that of voice. Sum Rithy, Bou Meng and Chum Mei and others find anonymisation offensive, although they have had to accept it as academic practice in some institutions.

Qwul’shi’yah’maht and Robina Anne Thomas discuss naming alongside researchers’ dangerous power to make stories into the ‘shape’ they want. It is the duty of the researcher to represent as honestly as possible the stories they have

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<sup>49</sup> Although I sought and obtained ethical approval for this study from the University of Westminster’s own code and committee, I found the process deeply flawed. For example, I was asked by a university official to ensure that I always asked the ‘line manager’ of my subject to sign off on an interview. This would be a bizarre request to most of my subjects. In some cases it would have been actively unethical if I had interpreted it literally. Asked who might be the ‘line manager’ of, say, a Buddhist monk in a rural location, the official suggested ‘the equivalent of a Bishop.’ But given the seriousness with which hierarchy and deference to age is regarded, this would create serious problems. To ask a senior abbot or senior monk to provide me with a signature would undeniably give me much stronger access to many monks. With a signed bit of paper bearing such a person’s name on it, I would effectively be able to cajole junior monks into participating - even if they did not want to. I did not do this. Although bureaucratically acceptable, I contend it would be deeply unethical. This illustrates the complex dilemmas that research can pose, especially when the code that determines its ethics is drawn up by a culture unaware of the context.

<sup>50</sup> Tuhiwai Smith, *Decolonizing Methodologies*, 143-162

been lent, and to indicate clearly the places where the researcher's analysis starts from the story provided. In writing up, a problem emerged in editing and cutting material so that it still represents what my interviewees say. In some cases I could do this directly with the subjects, but once I left the site it was difficult. I employ extensive quotation to preserve as much original content as possible. I believe that in doing this there is a basic honesty. A précis would not give readers the chance to scrutinize the original source and would effectively mean that they would have to 'take my word for it'.<sup>51</sup> I want the reader to see each story I was told standing alone outside my analysis.

### **Constructing Questions**

My questions were crafted as abstract and generalized, so the respondents need make no personal reference - for example, 'What is your view of the ECCC? Can you tell me about the history of the country in the 1970s?' However, many people did draw on their own experience to illustrate their points. Some of this information is harrowing but it was given unprompted. Indeed I found that people would volunteer information I would never enquire about (torture, the loss of family). Similarly some people did discuss their personal violent behavior. Again I did not ask. The information was volunteered.

It is impossible to find any person alive between 1970 and the mid 1980s not affected by the DK era. While no one I interviewed for the thesis falls under the court's jurisdiction, readers may well ask how I know the narrators are telling the truth, a particular issue when talking to former cadres. I analyse what I am told, necessarily working on the principle that interviews are the best way to ask. Fetterman describes this as 'cognitive theory' - the ethnographer can understand what people think by what they say they think. Generally speaking one has to work on the premise that they believe what they are saying.<sup>52</sup> However, to address this concern I situate the individual within the 'meta data'. I can put a narrative in context of other research and local knowledge - also in the context of silences, denial and the points at which people choose to set their own

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<sup>51</sup> Qwul'shi'yah'maht and Robina Anne Thomas, 'Honouring The Oral Traditions of My Ancestors Through Storytelling', *Research As Resistance, Critical, Indigenous and Anti-Oppressive Approaches*, eds. Lesley Brown and Susan Strega (Toronto: Canadian Scholars' Press/Women's Press, 2005) 248-249

<sup>52</sup> David Fetterman, *Ethnography: Step-by-Step* (London: Sage, 1998) 7

boundaries. At times too I was observing public events (religious ritual, law courts), and was able to see narratives unfolding within them. Such observations enable context to be further established. What matters is to understand meaning. As a researcher it is incumbent on me to understand why the narrator framed their story in such a way - not to dispute the information given. I am not cross-examining my narrators or asking questions that would require them to reveal criminal acts.<sup>53</sup>

E. Valentine Daniel discusses a phenomenon he faced as a anthropologist in Sri Lanka : an eagerness on the part of victims or participants in grotesque crimes to talk to the outside world - and western journalists /academics/ aid workers offer this outlet.<sup>54</sup> It places on the researcher a particular responsibility: to understand why someone would open up their story to a stranger. Valentine Daniel argues - and I have also found - that one reason is a wish to see their story disseminated to wider audiences. This means it is vital to preserve the integrity of the story. Daniel feels theory 'flattens' down narratives, for the ease of the academic; squeezing narratives of violence is easy in the study, but betrays the narrators.<sup>55</sup> Their willingness to talk does not spring from a desire to impact upon western critical theory or to bolster alien political agendas .

A final (sobering) point : part of ethnography is highlighting modes of expression that do not fall into standardized academic and/ theoretical discourses.<sup>56</sup> Cavellsays that it has proven an impossible task for the social sciences to find a language in which to discuss pain.<sup>57</sup>

### **'Transitional Justice' and its limits.**

Before moving from methodology and practice to 'pure' theory, it is important to address a concept which bridges them and with which my thesis has a complex

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<sup>53</sup> Lee Ann Fujii,, 'Interpreting Truth and Lies In Stories of Conflict and Violence', *Surviving Field Research: Working In Violent and Difficult Situations*, eds. Chandra Lekha Sriram, John C. King, Julie A. Merthus, Olga Martin-Ortega, Johanna Herman, (London: Routledge, 2009)

<sup>54</sup> E. Valentine Daniel, *Charred Lullabies: Chapters in an Anthropography of Violence*(Princeton: Princeton University Press , 1996)

<sup>55</sup> *ibid.* 3

<sup>56</sup> Talal Asad, 'On Torture, or Cruel, Inhuman, and Degrading Treatment', *Social Suffering*, eds. Arthur Kleinman, Veena Das, Margaret Lock (Los Angeles: University of California Press,1997) 286

<sup>57</sup> Stanley Cavell, 'Comments on Veena Das's Essay "Language and Body: Transactions in the Construction of Pain"', *Social Suffering*, eds. Arthur Kleinman, Veena Das, Margaret Lock (Los Angeles: University of California Press, 1997) 93-94

relationship - which indeed was originally intended to form its theoretical spine : Transitional Justice. The central theme of Transitional Justice (TJ) is ‘How do societies deal with horrific histories?’<sup>58</sup> It is a subfield of legal studies combining the disciplines of political science and theory with jurisprudence. The academic literature on the topic is still theoretically underdeveloped – the phrase itself was only coined in 1995 by Neil Kritz.<sup>59</sup> In the introduction to his three-volume collection contributors engage with the question of how new democracies contend with the authoritarian former regimes preceding them. Ruti Teitel expounds the concept in her seminal work, defining the term ‘Transitional Justice’ as applicable to countries undergoing paradigm shift political change, whereby the understanding of ‘justice’ at the time of transition is seen as contextual to its location and always relative to the character of the previous regime.<sup>60</sup> The term applies to a series of judicial and non-judicial measures - trials, truth commissions, reparations, institutional reforms, and memorization initiatives – which address massive human rights abuses.<sup>61</sup> Olick and Coughlin, I think correctly, situate the notions of Universal Human Rights and TJ in the Liberal paradigm, as taking a linear view of time, which sees progress from atrocity to humanity’s self-realization.<sup>62</sup> They argue that accounts of history are a product of the meeting of the diachronic and synchronic axes of history to ‘create a framework for further historical understanding.’<sup>63</sup> As though to illustrate how squarely TJ is situated in a Liberal narrative Teitel specifically describes transition’s place in bridging society from authoritarianism to liberalism (i.e. Liberal Democracy).<sup>64</sup>

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<sup>58</sup> Ruti Teitel, *Transitional Justice* (Oxford: Oxford University Press, 2000) 3

<sup>59</sup> Neil Kritz, ‘The Dilemmas of Transitional Justice’, *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*, Volume I: *General Considerations*, ed. Neil J Kritz, (Washington DC: United States Institute of Peace, 1995) xvi

<sup>60</sup> Ruti Teitel, *Transitional Justice* 6

<sup>61</sup> ‘What is Transitional Justice?’ International Center for Transitional Justice. Accessed 17 October 2013

<sup>62</sup> Jeffrey K Olick and Brenda Coughlin, ‘The Politics of Regret: Analytical Frames’, *Politics and the Past: on Repairing Historical Injustices*, ed. John Torpey (Lanham: Rowman and Littlefield 2003) 42-4

<sup>63</sup> Teitel, *Transitional Justice*. 72-75

<sup>64</sup> *ibid.* 5

In short, Transitional Justice is a *narrative*, one which tells ‘the story’ of events within the parameters of democratization.<sup>65</sup> The institutional bodies operationalizing it are mandated for many tasks: restoring dignity to victims, promoting psychological healing, creating collective memory, forging a new liberal democratic order, identifying and making perpetrators of mass atrocity account for their crimes and punishing them, legitimizing the new regime, promoting reconciliation, educating the population about the past, deterring potential future atrocities.<sup>66</sup> Internationalized judicial institutions construct historiographies of atrocity, editing, prioritizing and presenting histories within the limits of the methods of the TJ institution, such as tribunals. The kind of history which TJ mechanisms present as their final ‘product’ depends on how information is ‘extracted’, and under what conditions.<sup>67</sup> Trials and the records they produce make narratives foundational to historical national political identity. Past and present are linked in a narrative format.<sup>68</sup> Its shape is ‘how far we have come since the bad old days.’<sup>69</sup> Teitel discusses TJ in direct relation to western narrative frames shaped by the Abrahamic narrative. Redemption and reconciliation narratives (Moses’s journey to the Promised Land, Jacob and Esau, the life of Christ) are structurally replicated in western literary texts (Teitel uses Shakespeare’s *Tempest* as her example) all of which follow a linear format. Stories of redemption contain ‘transitional’ events (Moses crossing the desert, the Crucifixion) and suffering progresses via self-knowledge to transformation. This pattern emerges in the way modern official reports are constructed by drawing on history as the means by which self-knowledge can be obtained: the ‘lessons’ of history are learned and through this knowledge, society is able to progress to a liberal future.<sup>70</sup> Kjetil Grødum sums up the ECCC’s own reading of TJ: ‘By

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<sup>65</sup> Alexander Mayer-Riech and Roger Duthie, ‘Enhancing Justice and Development Through Justice-Sensitive Security Sector Reform’ *Transitional Justice and Development* eds. Pablo de Greiff and Roger Duthie, (New York: Social Science Research Council, June 2009) 249

<sup>66</sup> Hugo Van der Merwe, Victoria Baxter and Audrey R. Chapman, Introduction, *Assessing the Impact of Transitional Justice: Challenges for Empirical Research*, eds. Hugo Van der Merwe, Victoria Baxter and Audrey R. Chapman (Washington DC: United States Institute of Peace, 2009)3

<sup>67</sup> Audrey R. Chapman, ‘Truth Finding in the Transitional Justice Process’, *Assessing the Impact of Transitional Justice: Challenges for Empirical Research*, eds. Hugo Van der Merwe, Victoria Baxter, and Audrey R. Chapman (Washington DC: United States Institute of Peace, 2009)100

<sup>69</sup> Teitel, *Transitional Justice*, 7

<sup>69</sup> Shawn Rowe,, James Wertsch and Tatyana Kosyaeva, ‘Linking Little Narratives to Big Ones: Narrative and Public Memory in History Museums’, *Culture and Psychology*: Vol 8, No. 9 2002

accepting the followability of the transitional justice narrative, the victims are empowered to re-interpret memories of the conflicting past and orient themselves towards a better future.<sup>71</sup>

Given that I have laid out ethnographic, post-colonial and sociological reasons for a situational analysis taking Cambodians outside the ECCC as serious social actors, it is inevitable that I cannot work wholly within a paradigm which brings to the field concepts prioritised over the narratives of the people who live in the country. TJ is a potentially oppressive research agenda. When most TJ political scientists /researchers approach research on justice in post-atrocity countries, they seek empirical data to measure how far the normative standards set by international law/ democratization/ constitutionalism have been achieved – or to what extent TJ mechanisms have worked to facilitate such ends, thus proving their impact. Hence they validate their premises - if not always the mechanism. To put it more crudely, the narrative has been written before the research is done and the research aims to measure transition and justice by its own normative standards.

Another problem of TJ in this specific context is the thirty-year gap between DK and the ECCC; it is vital to address this. My contention is that transition, and ways of seeing and understanding justice, have developed over these decades but have been largely ignored by TJ institutions. For example, I attended a conference run in Cambodia by an international NGO, Impunity Watch, entitled ‘Breaking the Silence’. It sought to address questions of memorialisation, TJ, and ways of discussing the past. While the conference was interesting, its title unquestioningly assumed the existence of a ‘silence’ to ‘break’. While I discuss this in greater detail later, I would here argue that this assumption is common among NGOs working in the normative TJ paradigm. The premise of the conference about ‘silence’ arose from an inability to conceive any other mode of discussing DK before a normative TJ mechanism arrived in the country with the ECCC. Yet both transition and justice exist outside the TJ paradigm. Cambodian social actors, including those I interviewed, have their own methods and group-specific discourses; they establish collective memories, away from institutional

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<sup>70</sup> Teitel, *Transitional Justice*, 109-113

<sup>71</sup> Grørdum, *Narrative Justice*, 254

restrictions, official discourse and political control.<sup>72</sup>

My decision not to ground the thesis in Transitional Justice crystallised when I began to think of the people with whom I had discussed the nature of justice and the atrocities of DK as my ‘Narrators’. At first this title simply seemed to be more respectful to people with difficult and personal stories than ‘informants,’ ‘interviewees’ or ‘subjects’. But as their stories often diverged from what was articulated in the ECCC, from what TJ acknowledges as being a narrative, the term acquired a central importance. I wanted to develop a theoretical frame which would recognise the importance of TJ - given that the ECCC is a TJ mechanism it could do no other - while clearly identifying it as a single narrative running alongside others. This would allow me at different points to employ TJ scholarship and the way it traverses disciplines to be a social, political, legal, historical, philosophical and even theological discourse, without always referring back to social/political/ legal narrative origins which leave it stuck in a redemption narrative alien to my ‘Narrators.’<sup>73</sup> There is a wider scope for transition and justice analysis outside official institutions, and a need to explore all the above-mentioned dynamics working in relation to the official mechanisms and/or autonomously. It is part of the project of this thesis, then, to clarify the need for transition and justice; and to place TJ itself within broader theories of narrative equally capable of encompassing the stories I have been told.

### **A Narrative Framework**

The word narrative derives from the Sanskrit word *gna*, a root term that means ‘know’. It comes into the western world through the Latin for ‘knowing.’<sup>74</sup> Thus at an epistemological level the word for narrative is the same as knowledge. Indeed Lyotard calls narrative ‘the quintessential form of customary

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<sup>72</sup> Susanne Karstedt, ‘Introduction: The Legacy of Maurice Halbwachs’, *Legal Institutions and Collective Memories*, ed. Susanne Karstedt (Oxford: Hart Publishing, 2009) 5

<sup>73</sup> Juan Mendez, ‘An Emerging “Right to Truth” : Latin-American Contributions’ *Legal Institutions and Collective Memories*, ed. Suzanne Karstedt, (Oxford: Hart Publishing, 2009) 39-41

<sup>74</sup> H. Porter Abbott, *The Cambridge Introduction to Narrative* (Cambridge: Cambridge University Press, 2002)193



Knowledge.<sup>75</sup> Virtually all contemporary investigations of narrative theory start from Roland Barthes's assertion that narrative is ubiquitous - 'the narratives of the world are numberless' - and mediated by an enormous variety of sign systems - 'articulated language, spoken or written, fixed or moving images, gestures and the ordered mixture of all these substances.'<sup>76</sup> This leads me at times to place as much importance on a laugh, a badge worn by a lawyer, or the condition of a house occupied by a Khmer Rouge official as on the words of an interview or the transcript of a trial. Narrative is a permanent feature of what societies do ; there are different means of doing it, but storytelling is a permanent feature of social interaction.<sup>77</sup> Narrative is the means by which the generations are linked.<sup>78 79 80 81</sup> Through it society's knowledge is stored, transmitted and legitimized.<sup>82</sup> We tell stories. Stories also tell us.<sup>83</sup> Narrative is how people know what they know and how to teach it. Lyotard cites the example of an Amazonian tribe (the Cashinahua) to illustrate the use of narratives in communication.<sup>84</sup> He describes how each time a story is narrated a specific phrase is used: 'Here ends the Story of (whoever the story was about) and the name of the man who told it to you was (whoever just told you the story).'<sup>85</sup> The narrator links himself to the story, just as Trin Min-Ha describes herself listening to the stories of 'grandmothers' in her own community. 'In this chain. . . . I am but one link.'<sup>86</sup>

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<sup>75</sup> Jean-Francois Lyotard, *The Postmodern Condition: A Report on Knowledge*, translated by Geoff Bennington and Brian Massumi (Minneapolis: University of Minnesota, 1990) 19

<sup>76</sup> Roland Barthes, 'Introduction to the Structural Analysis of Narrative,' translated by Stephen Heath, *A Roland Barthes Reader*, ed. Susan Sontag (London: Vintage 1994) 252

<sup>77</sup> Paul Ricœur *Time and Narrative*, Vol. 1 translated by Kathleen Blamey and David Pellauer, (Chicago: University of Chicago Press, 1990)

<sup>78</sup> Jan Assmann, 'Collective Memory and Cultural Identity', translated by John Czaplika, *New German Critique*: 65, 1995

<sup>79</sup> Peter L. Berger and Thomas Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (London, Penguin Books, 1966)

<sup>79</sup> Benedict Anderson, *Imagined Communities* (London and New York :Verso, 1991)1-7

<sup>80</sup> Lyotard, *The Postmodern Condition*, 19

<sup>81</sup> Trin Minh-Ha, *Woman, Native, Other: Writing, Postcoloniality and Feminism* (Bloomington: Indiana University Press, 1989) 122

<sup>82</sup> Jean-Francois Lyotard, *The Postmodern Condition*, 21-23

<sup>83</sup> See Andrew Bennett and Nicholas Royle, *An Introduction to Literature, Criticism and Theory: Key Critical Concepts* ( London: Prentice Hall 1995) 41

<sup>84</sup> Lyotard, *The Postmodern Condition*, 19

<sup>85</sup> *ibid.*

<sup>86</sup> Trin Min-Ha, *Woman, Native, Other*, 122

Berger and Luckmann famously described the ‘social stock of knowledge’ as “‘what everybody knows” about a social world, an assemblage of maxims, morals, proverbial nuggets of wisdom, values and beliefs, myths, and so forth’.<sup>87</sup> This is in large part transmitted through narratives and with this in mind I would like to develop Berger and Luckmann’s theory throughout my own thesis in terms of Cambodia’s unique situation. The processes through which knowledge is created, preserved, institutionalized and transmitted were rendered impossible during DK. Social interaction could only occur within the language and forms approved by the KR. One could therefore characterize the entire DK period as an inversion of the process of cultural transmission, in which all these elements were closed down by KR policy. Knowledge itself was their target. Human carriers of knowledge - teachers, academics, and religious leaders - were murdered. One could also describe the KR period as a perverted attempt at a new social construction of reality. In this process, Wats and Mosques became torture chambers, prisons, pigsties, transforming these sites into places of misery and fear,<sup>88</sup> and changing the meaning of the institutions from which people individually and communally drew the narratives of their own social reality. Peg LeVine coined the term *Ritualcide* to describe this policy of cutting off the Khmer majority from their perception of personal connection to the cosmic order, in turn forcing people to disengage from, and thus betray, their connection with the spirits and ancestors.<sup>89</sup> Children were separated from their parents on a massive scale, removing them from the transmission of history and indoctrinating them with the new reality and narrative of *Angkar*, so they were not ‘tainted’ with too much knowledge of what came before the revolution. Ysa Osman points out that, as these children grew up, a new generation would be brought in to kill them, further ‘purifying’ the regime’s social stock of knowledge from any pre-Year Zero influence.<sup>90</sup> The ‘symbolic Universe’ which legitimizes social intuitions through ‘conceptual machineries’ such as religion, myth, folklore and

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<sup>87</sup> Berger and Luckmann, *The Social Construction of Reality*, 43

<sup>88</sup> Mohammad Zain Musa, *The Cham Community Through The Ages* (Bangi: Association of Malaysian Archaeologists, 2006)

<sup>89</sup> Peg LeVine, *Love and Dread in Cambodia: Weddings, Births and Ritual Harm under the Khmer Rouge* (Singapore : NUS Press, 2010 )

<sup>90</sup> Ysa Osman, *Oukoubah: Justice for the Cham Muslims under the Democratic Kampuchea Regime* (Phnom Penh: DC-Cam, 2002 )

philosophy, underwent the process known as smashing.<sup>91</sup> This policy was described by the head of the S-21 prison as ‘not just a physical smashing but also a psychological smashing, dehumanization and debasement of the individual psyche ... Smash means something more than merely kill.’<sup>92</sup> It is no coincidence that as I spoke to people working to help the traumatized they told me, again and again, the same traditional stories. These narratives, as I outline in Chapter Five, are gradually being woven back into the social fabric to counter the effects of ritualcide.

Through narratives, ideas, histories and cultures are transmitted. And a principal feature of narrative is that it is informative of *events* rather than simply descriptive. (Abbott succinctly differentiates: ‘My dog has fleas’ is a description of a dog. ‘My dog was bitten by a flea’ is a description of an event and thus a narrative.<sup>93</sup>) Events involve interaction, which almost invariably means some kind of shift, however slight, in the power between the actors. Hence narrative too is bound up with power. Transmission, and the nature of what is transmitted, both become problematic when stories claim universality – particularly when, as the example of the Communist Party of Kampuchea demonstrates, one narrative is allowed and all others excluded.

### **Grand Narratives and their Collapse**

Hence one of the major axes on which this thesis turns is Lyotard’s theory of the collapse of the Grand Narratives of Modernity- the modern, western narratives of human progress.<sup>94</sup> He argues that the Cashinahua style of linking stories of the past to the present via the articulation of the narrative has been replaced, in the West at least, by narratives that point towards a future when the problems of ‘humanity’ will be solved. For the post-Enlightenment West the Grand Narrative is primarily a story of emancipation from superstition and dogma; for Marxist societies it is one of workers’ emancipation from alienation and control over their lives. Changes in knowledge and its circulation since the Second World War have thrown these narratives into doubt. For instance, the market-led global

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<sup>91</sup> Berger and Luckmann, *The Social Construction of Reality*, 92-104

<sup>92</sup> ‘Trial Chamber 26 July 2010, Judgment, (Case 001), Doc. n° E188, 37

<sup>93</sup> H. Porter Abbott, *The Cambridge Introduction to Narrative*, 12

<sup>94</sup> Lyotard, *The Postmodern Condition*. xxiii-xxv

economy values knowledge in terms of its market value and utility, not its role in 'progress'. It is also clear that these 'grand narratives' fail to contain or represent the narratives all people - they are the polar opposite of Buddhist narratives, which are cyclic rather than linear, for example.

The Transitional Justice institution in Cambodia works on grand narrative assumptions. The UN component of the ECCC seems to situate itself in a Liberal narrative of international law with a linear view of time, charting a progress from atrocity to humanity's self-realization.<sup>95</sup> It is also worth noting that the thirty-year gap between DK and the ECCC saw the collapse of the Soviet Union. However, as I show in the next chapter, the ruling CPP still clings to Soviet-style politics, manifest in the domestic component of the ECCC. Thus the courts are effectively trying to shore up two collapsing narratives, often in the interests of masking their own shortcomings. Sometimes the narratives clash, leading to disputes about procedure; sometimes they co-operate to produce a result; both of them, however, shape the macro-narrative of the trials. The situation in the ECCC mirrors the nation's suffering over the last thirty years. As the previous chapter has shown, Cambodia has been subject to externally imposed grand narratives with disastrous effect. Indeed I would contend that Cambodia is a site on which the grand narratives of the later half of the twentieth century collapse. Sophal Ear's critique of the consistent failure of outsiders to 'ask the peasants themselves how they liked the ride' is the fundamental research challenge I try to address.<sup>96</sup>

### **Constructing reality**

To find a language to discuss the impact of the collapse upon the lives of my narrators, whose stories relate in many different ways to the narratives of the court, I return to Boltanski. He draws a distinction between 'reality' and 'the world'.<sup>97</sup> 'The world' is 'an unknown portion of uncertainty ... the flux of life'.<sup>98</sup> There is an inevitable disparity between this and 'reality' - Boltanski's term for

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<sup>95</sup> Jeffrey K Olick, and Brenda Coughlin, 'The Politics of Regret: Analytical Frames', *Politics and the Past: On Repairing Historical Injustices*, ed. John Torpey, (Lanham: Rowman and Littlefield 2003)42-44

<sup>96</sup> Sophal Ear, *The Khmer Rouge Canon 1975-1979: The Standard Total Academic View on Cambodia*: Political Science Honors Thesis, Berkeley: May 1995

<sup>97</sup> Boltanski, *On Critique* 57

<sup>98</sup> *ibid.*57-58

the work of institutions in ‘saying and confirming what matters. This operation assumes the establishment of types which must be fixed and memorized in one way or another (memory of elders, written legal codes, narratives, tales, examples, images, rituals, etc)’ to which institutions ascribe names and definitions.<sup>99</sup> Thus they construct ‘social reality’, order , coordinate , control and justify behaviour. This constructed ‘reality’ exists despite ‘the world’. Institutions survive through discourse and sign systems . Actors adhere to institutional codes and narratives , speaking them and being spoken by them , and thereby create the boundaries of that ‘reality’, what Boltanski calls the ‘*whatness of what is*’.<sup>100</sup> ‘Reality’ appears coherent because it ‘succeeds in getting actors to believe in its solidity and internalize their powerlessness to change test formats.’<sup>101</sup> Institutions ‘succeed in providing descriptions of what happens and ...*what might occur*.’<sup>102</sup> (An example of this latter is the government’s increasingly weak insistence that only the current regime can prevent the return of the KR).

Institutions provide ‘confirmation’ of what reality is, and attempt to justify and legitimize themselves through ‘truth tests’ - visible demonstrations of the standards they wish to show as norms.<sup>103</sup> This is achieved through ceremonies embodying and demonstrating ‘the relationship between the order of symbolic propositions and the order of the state of affairs’. As Boltanski shows, such ‘tests’ are often tautological , existing to assert that ‘the king is the monarch’ . As such they do not hold up well to critique; but their role is crucial , because of their power when they succeed. Then ‘their effect is not only to make “reality” accepted. It is to make it loved.’<sup>104</sup>

On the other hand ‘existential tests’ open up the constructed social order to ‘the world’ through critiques. By ‘existential tests’ Boltanski means tests not emanating from institutions. He locates radical critique in the creative processes , ‘whose aesthetic orientation makes it possible to bypass the constraints of consistence and legal or moral justification imposed by argumentative discourse’.<sup>105</sup> In the case of the social actors with whom I situate myself, such

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<sup>99</sup> *ibid* . 75

<sup>100</sup> *ibid* .55

<sup>101</sup> *ibid* .34

<sup>102</sup> *ibid* .34 , my italics.

<sup>103</sup> *ibid* . 83

<sup>104</sup> *ibid* .105

<sup>105</sup> *ibid* .108

tests might involve ceremonies, poems, dreams and stories, conveyed in variously chosen media, as I show in the following chapters. Even where they are less ‘creative’, my narrators demonstrate ‘the capacity of actors to produce acceptable critiques and/or justifications *en situation*... their sense of justice or their moral sense.’<sup>106</sup> Although multiple Cambodian regimes have constructed ‘realities’, and ensured that, if not always ‘loved’, they are accepted, my narrators are not blithely unaware of their own social realities and do not inhabit institutions as if they were fish unaware of the water in which they swim. This is notably evident in the case of former KR cadres in their current dealings with the government, as I will show in Chapter Six. I attempt throughout to answer Boltanski’s methodological call to ‘grasp the discontents of actors and explicitly consider them in the labour of theorization’ by asking those watching the grand narratives unfolding in their nation about what they think.<sup>107</sup>

### **The narrator’s toolkit - how a story is told**

Early work on the theory of narrative began with Structuralism, that is, an attempt to find the underlying common features of, for example, variants of the Oedipus myth, to uncover a ‘structural law’ which makes sense of them.<sup>108</sup> The Russian Formalists developed a key distinction between the *fabula* – the constituent events in a story – and the *sjuzhet*, the *arrangement* of that story in terms of time sequence, point of view, duration etc. The possibility of doing this, however, has always been highly contestable and it is the complexity of the relationship between the two that is the focus of most post-modern narrative theory. Barbara Herrnstein Smith, for instance, argues that the construct of the *fabula* and the *sjuzhet* is dualistic and uncontextualized.<sup>109</sup> If a reader is able to provide a summary of the ‘story’ (*fabula*) this is not indicative of his ability to draw out an essentialized narrative, but demonstrative of one reader’s reading of that story, which will be different from another’s. What the reading will demonstrate is a particular reader’s priorities, culture and biases. There is *no* basic story, but rather an unlimited multiplicity, constructed, responded to and perceived by each

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<sup>106</sup> *ibid.* 24

<sup>107</sup> *ibid.* 5

<sup>108</sup> Claude Levi-Strauss, *Structural Anthropology*, translated by Claire Jacobson and Brook Shoenberger, (New York: Basic Books, 1974) 218

<sup>109</sup> Barbara Herrnstein Smith, from Martin McQuillan, ‘Aporias of Writing: Narrative and Subjectivity’, *The Narrative Reader*, ed. Martin McQuillan (London: Routledge, 2000) 5

reader differently. This as is true for non-fictional stories as for folk tales or novels; it is never possible to say *everything* about ‘what really happened.’ It is possible to piece together an account that offers a basis on which to administer justice, just as it is possible to betray justice by irresponsible narrative arrangement. A court could not exist without the assumption that what will emerge from the telling of different narratives across a trial will yield some sort of baseline narrative of ‘what really happened.’ However, this is never without problems. I illustrate these by borrowing the work of the literary theorist and historian Tzvetan Todorov on detective fiction as a tool to dissect by analogy the trial process. I believe this to be helpful for two reasons. Firstly, the *format* of detective fiction is, to use Todorov’s phrase, a ‘narrative of narratives.’<sup>110</sup> The working assumption of the ECCC and the CPP is that the trial will yield a yet untold history of the DK era, created out of the evidentiary narrative streams that compete and collide during the process, to arrive at coherent conclusion and attribution of responsibility, conforming to the international norm on justice, accountability, procedure and trial rights.

Secondly, although there is no conscious attempt to create a fiction on the part of the UN or domestic judges, the Grand Narratives have a role similar to that of the author of the detective story. Todorov argues that although in a tale of detection the *fabula* - ‘what really happened’ is uncovered through the *sjuzhet* - how it is told - the Author already knows the *fabula* and uncovers it through the *sjuzhet*.<sup>111</sup> Grand Narratives, never themselves articulated in court, nevertheless shape the stories that emerge like a detective novelist’s *fabula*. A resultant problem lies in the individual stories of people who fail to fit the grand narratives. Their experience may fall outside the relevant time frame, or the specific locations of atrocities under investigation; it may involve information which undermines the credibility of one or more institutions conducting the trial. How do those outside the scope of the discourses employed by institutions situated in progressive/linear narratives - whether PRT /Marxist or ECCC /Liberal - deal with their encounter with those overpowering grand narratives? Lyotard

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<sup>110</sup> Tzvetan Todorov, ‘The Typology of Detective Fiction’, *The Poetics of Prose*, (Oxford : Blackwell, 1978)70

<sup>111</sup> Todorov, ‘The Typology of Detective Fiction’, 70-71

outlines their situation in his arguments about the nature of injustice and the *Differend*.

### **Just Gaming and the Differend**

In *Just Gaming* Lyotard considers what constitutes 'justice', given his earlier contention that grand narratives have collapsed.<sup>112</sup> He concludes that an ethical justice must be based on the principle that people must be able to employ their own discourses and language.<sup>113</sup> Language games set a 'contract', which frames the particular dialectic between interlocutors, that is, what sort of utterances the interlocutors acknowledge as legitimate or not in a particular frame of knowledge or understanding. Every utterance in the 'game' is a 'move' - the analogy here being a chess game - each move subject to a set of rules. Lyotard argues that the rules of the 'game' are agreed in the 'contract' between the players (though this is not to say that the players devised the contract). Without the rules, there is no game. Despite the terminology of games and rules, this is not to say that games are entered into so that someone can 'win', or that the 'rules' are oppressive impositions; nor is it to say that the game is not subject to other games, or cannot be changed.<sup>114</sup> Language games make up wider social bonds. Society is made up of statements setting up the rules of the language games. As with the multiplicity of language games, there is also a multiplicity of societies, with different forms of legitimizing the language games and setting their rules.

Lyotard argues that there are significant differences in language games. Hence universalising systems (grand narratives) as the sole means for framing communication should be resisted. This is a call for the recognition of multiple language games and narrative ways to organize discourse. An ethical form of justice requires a recognition of the rights of others to use their own language games and modes of thought, without being silenced and/or marginalised by a hegemonic discourse. An additional injustice occurs when this is not allowed to happen. Indeed, exclusion from the discourse of the just is a further act of injustice. The postmodern condition is one where, in face of the collapse of the

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<sup>112</sup> Jean-Francois Lyotard and Jean-Loup Thébaud, *Just Gaming*, translated by Wlad Godzich (Minneapolis: University of Minnesota, 1985) 66-67

<sup>113</sup> Lyotard, *The Postmodern Condition*, 9-11

<sup>114</sup> *ibid* .10



grand narratives, we are left with a massive multiplicity of language games, which a just and ethical world must recognise and listen to on the terms in which they are articulated. Justice in this sense is not based on consensus (unified narration or conceptualization of the idea) alone, but the practice of justice must be one that enables the small narratives to have their space.<sup>115</sup>

Lyotard moves on to explore this in *The Differend*.<sup>116</sup> This concept hinges on what he terms 'phrase regimes and genres of discourse'. 'Phrases' are communicative acts, words, and gestures, images that carry information to the addressee. These can be categorized into 'regimes', that is, into whatever the 'phrase' attempts to 'perform' (ordering, questioning, threatening, describing). Phrases can be non-verbal (silence is a phrase), or incoherent (a scream performs the communicator's intention).<sup>117</sup> Phrases exist in phrase 'universes'.<sup>118</sup> These are constructed when four elements of language come together: the person presenting the phrase (the addressor), the person it is communicated to (the addressee), the thing to which the person communicating is referring (the referent) and the way (the sense) in which the referent is being referred to.<sup>119</sup>

'Genres of discourse' are ways discourse can be categorized (e.g. legal, scientific, political, artistic, religious, Marxist). They determine the utility of phrases towards the particular end the genre is seeking. They organize the phrase regimes, 'fix the rules of linkage...determine the stakes, [and] submit phrases from different regimens to a single finality.'<sup>120</sup> Hence if a genre's framework does not permit the entry of certain phrase regimes, regime and genre become incompatible. The genre shuts out phrases that it will not permit to link. To illustrate this point I will employ a specific discussion at the ECCC. Saloth Ban is Saloth Sar's (Pol Pot's) nephew. Called as witness to the ECCC, he was questioned by one of the prosecutors, Vincent de Wilde d'Estmael:

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<sup>115</sup> *ibid* .66

<sup>116</sup> Jean-Francois Lyotard, *The Differend: Phrases in Dispute*, translated by Georges Van Den Abbeele (Minneapolis: University of Minnesota, 1988)

<sup>117</sup> Lyotard, *The Differend* , xi

<sup>118</sup> *ibid*. 14

<sup>119</sup> *ibid*. 48

<sup>120</sup> *ibid*.29

**d'Estmael:** Witness, let me put the same question to you again. Yesterday, you said that you went to K-1, from time to time, to see your wife. How many times did you go there? And how frequently?

**Saloth Ban:** I came to testify before this Court and I took an oath before I testified. I took an oath before the Iron God - [*lokta dambong daek*, in Khmer] -- and yesterday I was told by the Iron God that I should not ... I should speak very carefully, I should choose the word Khmer carefully, I should consider the word "happiness"; and if the questions put to me do not make me happy, then I should not respond to the questions. These are the words told to me by the Iron God last night.... The Iron God also told me that this Court is unjust; it is not a hundred per cent just. ... The God told me last night. And when I asked him why he said that this Court is unjust, the response was that... because this Court does not prosecute the Case 000.

**President:** Mr. Witness, can you show clearly your position? Are you refusing to respond to the questions from now on? What is your position? In the oath that you took and the laws that require you to do so, you have to testify to the truth that you have known, have heard, and have remembered. Did you use all these words yesterday during your oath?

**Saloth Ban:** Yes, I took an oath. However, as I just stated, in my... what I stated earlier was what I was told by the God.

**President:** Your dream is a superstition and it cannot be used in law. We have heard your statement regarding your dream. This is purely a dream of yours, and the Court cannot use that.<sup>121</sup>

Regardless of what one may think about Saloth Ban's dream, the example demonstrates the working of genres of discourse on phrase regimes. Saloth Ban describes a dream visitation from a god and says the Iron God believes that the ECCC is unjust. The president of the court explains that the ECCC genre of discourse does not admit a dream discourse. Even though the phrase concerned a point about the nature of justice (and could be said to have a degree of overlap with the work of the ECCC) it did not fit the genre of the court's discourse, and was not permitted to link.

The *Differend* is that point where the addressor is unable to phrase their grievance in a way acceptable to the addressee, who may be working within a totally different genre of discourse, one unable/unwilling to allow phrases to link. If injustice is to be avoided, it must be possible for the addressor's grievance to be presented to an addressee confident that they will understand the phrase regime in

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<sup>121</sup> Trial Chamber -24 April 2012 Trial Day 55 (Case 002) Doc. n° E1/67.1pp.5-8

which it is spoken. Lyotard is concerned with the point where the genre disallows the link that would enable someone to present their grievance in their own choice of phrasing. The *Differend* occurs in a case where at least two interlocutors cannot resolve their issue in a way that satisfies both, as there is no mutually agreed rule by which judgment can be rendered.<sup>122</sup> One party is thus excluded. 'The victim is deprived of life, the freedom to make his or her ideas or opinions public'.<sup>123</sup> A person with a grievance is powerless to present it through the only channel available if their ability to phrase the referent (injustice) is excluded from the genre of discourse. The victim of the injustice is silenced by inability to convey their story in the discourse prescribed for their use, or the discourse parameters laid out in the 'rule of judgment'.<sup>124</sup> There is no 'meta-language' through which all persons can relate their stories and in which all are equal.<sup>125</sup> This picks up on Herrnstein Smith's challenge to the *fabula/ sjuzhet* dichotomy when she refers to the necessity of dealing with the unlimited multiplicity of narratives, which are constructed, responded to and perceived by each reader.<sup>126</sup>

### **Small stories**

For Lyotard, the Holocaust is a rock upon which the grand narratives crash and founder. 'With Auschwitz, something new has happened in history' - the systematic imposition of a *Differend* upon a whole people, killing not only the Jews but the possibility of their bearing witness to what was happening to them.<sup>127</sup> When we contemplate the Holocaust we contemplate the unthinkable, the thing that lies beyond the rules of knowledge. The *Differend* of Auschwitz is an ethical obligation upon us to analyse and consider. In rejecting the narrative of progress Lyotard also rejects the idea that there should be some kind of modernist re-working of history as outlined by Jameson or Habermas. For Jameson this is an explicitly Marxist project, undoing the fragmentation of events and resituating

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<sup>122</sup> Lyotard *The Differend*, xi

<sup>123</sup> *ibid.* 5

<sup>124</sup> *ibid.* 10

<sup>125</sup> Jean-Francois Lyotard, *The Postmodern Condition*.

<sup>126</sup> Barbara Herrnstein Smith, quoted Martin McQuillan, 'Aporias of Writing: Narrative and Subjectivity', *The Narrative Reader*, ed. Martin McQuillan, (London: Routledge, 2000) 5

<sup>127</sup> Jean-Francois Lyotard, *The Postmodern Explained : Correspondence 1982-1985*, translated by Don Barry (Minneapolis: University of Minnesota Press 1988) 57

them as ‘vital episodes in a single vast unfinished plot.’<sup>128</sup> Rather, Lyotard contends that we cannot return to the disrupted narratives of modernism, but must reconfigure history and justice in terms of seeking a new historiographical project based on the ‘universality of cultural differences,’ utilizing the whole range of genres of discourse and phrases to interrogate one other.<sup>129</sup> People have to ‘know-how-to-speak’ and ‘know-how-to hear’.<sup>130</sup>

In face of the collapse of the grand narratives, historiography has become so fragmented, discourse so infinitely plural, that the only way in justice to hear this plurality is to free our understanding from the contested genres of discourse and abandon the pretence of a final end to the story. Reading history must be open to the fact that the potential to achieve finality has ended.<sup>131</sup> This is not a smug post-modern irony which forgets the past and inhabits an eternal now in which there is no such thing as society. Lyotard is clear that ‘it is not exactly advisable to resist the plenum of instituted narratives by taking a stand on the void of a universal principle of discourse.’<sup>132</sup> Rather, he has a more optimistic project. He envisages our obligation to attend to those points on which the Grand Narratives crash and to hear the voices of those silenced and crushed by the *Differend*. ‘Little stories’ are vital currency precisely because they do not fit into great histories.<sup>133</sup> As he points out with reference to Solzhenitsyn’s *The Gulag Archipelago*, collections of ‘uncomfortable little stories’ not only offer eye-witness accounts of injustice, but ‘breathe new life’ into the stories of those ignored in the past, as well as interrogating the present. Rather than contending that grand narratives forcibly speak us, Lyotard takes a more optimistic stance which reflects the vitality of Boltanski’s conscious ‘social actors’. He suggests that actions are also stories, a way for small acts of resistance can be articulated:

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<sup>128</sup> Fredric Jameson, *The Political Unconscious: Narrative as a Socially Symbolic Act* (London: Routledge, 1991) 19

<sup>129</sup> Jean-Francois Lyotard, ‘Universal History and Cultural Differences’, *The Lyotard Reader*, ed. Andrew Benjamin, (Oxford: Blackwell 1998) 319

<sup>130</sup> Lyotard, *The Postmodern Condition*, 21

<sup>131</sup> Jean-Francois Lyotard, ‘The Sign of History’, *The Lyotard Reader*, ed. Andrew Benjamin, (Oxford: Blackwells 1998) 409

<sup>132</sup> Jean-Francois Lyotard, ‘Lessons in Paganism’, *The Lyotard Reader*, ed. Andrew Benjamin, (Oxford: Blackwell 1998) 133

<sup>133</sup> *Ibid.* 127

‘Are you saying that a runner in the ten thousand metres, or a resistance fighter who slips under the arch of a bridge with a packet of explosives – that these bodies in action are recounting something?’

‘I would say they are acting out scenarios that are running through their heads...they become bullets, or events, and they adopt positions by referring to what is being said, has been said, or will be said. And they become witnesses to the fact that the stories they are acting out are the best stories, simply because they testify to their accuracy.’<sup>134</sup>

In other words a ritual of healing, a ceremony at a grave, a peace walk, can be a narrative, a telling of a story that will never be spoken in a court.

### **Narrative and time**

This leads me to another axis on which this thesis turns. Paul Ricœur articulates Lyotard’s project as achievable by abandoning sweeping histories, inevitably written by the most powerful, to write alongside them the story of the powerless, the dispossessed, the history of the vanquished - the small people omitted in top-heavy accounts (for example those provided by courts). This counterweight of small narratives drives my thesis. Those whose voices are powerless, marginalized, vanquished, cry out in history for justice through recognition. A theory of justice must account for these voices. Ricœur, discussing Arendt, considered how one meaning of being human is to be remembered and recollected in narrative discourse – ‘to be memorable’.<sup>135</sup> What is deemed important to be preserved? The implications of this are considerable for narrativity, as it is in ‘the determination of whose voices are preserved and how they are narrated, that justice, culture and identity are established’.<sup>136 137</sup>

There is a potential critique that would contend the terms of narrative theory are ‘inextricably linked’ to structuralist discourse.<sup>138</sup> Structuralist terminology dominates what narrative theory does. This perhaps is due to the timebound nature of narration and how humanity structures narrations within constructed ‘realities’.

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<sup>134</sup> *ibid.* p. 126-7

<sup>135</sup> Paul Ricœur, interview with Richard F. Kearney, *On Paul Ricœur: the Owl of Minerva*, (Aldershot: Ashgate Publishing, 2004)127

<sup>136</sup> Ricœur, interview with Kearney: *On Paul Ricœur*, 127-128

<sup>137</sup> Paul Ricœur, *Figuring the Sacred: Religion, Narrative and Imagination*: translated by David Pellauer (Minneapolis: Fortress Press, 1995)

<sup>138</sup> Barbara Herrnstein Smith; taken from Martin McQuillan, ‘Aporias of Writing: Narrative and Subjectivity’, *The Narrative Reader*, ed Martin McQuillan, (London: Routledge, 2000) .6-7

Ricœur argues that narrative constructs a sense of temporality, that it is a mechanism for the organization of time.<sup>139</sup> He postulates the present as the point where understandings are rearranged, in context of what has been, and what is expected to come. Historical time becomes ‘human time’.<sup>140</sup> That is, as human beings we are bound by our ability to express in the means available to us – we are stuck with constructions, frameworks, and to some extent the structuralist discourse, which order our stories in relation to time. I use his work to expound in my final chapter what is happening in Cambodia between generations. My principal aim there differs from the previous chapters, in that I am not concerned to address *how* people express their stories, but *why*.

Ricœur lays out the relationship between time and narrative in his Mimesis model. Mimesis 1 (M1) is the stage of ‘prefiguration’ /pre –understanding - a preliminary notion of what comprises human action. The reader has a practical understanding of this. Personal experience develops a semantic, symbolic and temporal understanding of persons and events.<sup>141</sup> M2 is the ‘emplotment stage’ - how events are ordered and their relationship to one other. Emplotment arranges narrative into an ‘intelligible whole,’ showing how events, actors, and agencies relate to one other and to the end point.<sup>142</sup> M3 is the ‘configuration, reconfiguration and reading’ stage.<sup>143</sup> This is done through the act of reading, whereby the reader can grasp the whole, see what sense it makes of the text, and consider the possible implications. This is the point at which the reader establishes a hermeneutic understanding. Meaning can then be ascribed to the entire narrative. Without M3, M1 and M2 would be purposeless, as only the reader can provide M3.

In his discussion of the temporality of narratives, Ricœur argues that there must be an end to narratives to facilitate hermeneutic understanding. ‘Narrative time’

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<sup>139</sup> Paul Ricœur, ‘Narrative Time’, *Critical Inquiry*, Vol. 7, No. 1 (1980), pp. 169-190

<sup>140</sup> Paul Ricœur, *Time and Narrative*, Vol. 1, translated by Kathleen Blamey and David Pellauer, (Chicago: The University of Chicago Press, 1990) .3

<sup>141</sup> Ricœur, *Time and Narrative*, Vol.54

<sup>142</sup> Ricœur *Time and Narrative*, Vol. 1. 65

<sup>143</sup> *ibid.* 76

must lead to a place when it can be read in its hermeneutic circle. It attains significance and meaning because it emanates from temporality. The timebound nature of human existence is what allows us to read it hermeneutically and interpret ourselves in temporality.<sup>144</sup> Emplotment sequences a story by establishing networks of causality.<sup>145</sup> Time is not a linear series of events, but a subjective concept, whereby events are highlighted according to the significance a particular narrator gives them – hence networks may operate differently for different narrators.

The present, in which stories are told, is the space of reconfiguration of ‘readings,’ which change according to the ‘present’ we occupy.<sup>146</sup> Narration is an action of reading phenomena/history hermeneutically through semiotic infrastructure and discourse, enabling meaning to be deposited and negotiated through religion, art, language. Narrative establishes human actions in what is subjectively understood as time, within memory and in contrast to histories.<sup>147</sup> It is performed through its telling in time, through the unfolding and speaking of words, and at the same time creates a structural framework.<sup>148</sup> Narratives relate to the past, the present and the expected future.<sup>149</sup> An example from recent Cambodian experience may clarify this rather abstract discussion. On August 10 2012, the *Phnom Penh Post* printed a story about a DK era mass grave excavated that week :

Lat Ngi struggled to explain to her daughter the significance of what she was holding. ‘This is your grandfather,’ she told the little girl, holding a 15-centimetre jawbone segment out to the incredulous child. ‘I know it is my father’s bone because he had platinum covering his three teeth here,’ the 40-year-old said, pointing to three decaying teeth pockets along the jaw. ‘I knew he was brought here but never imagined I would actually find him- I can’t find words to say.’<sup>150</sup>

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<sup>144</sup> *ibid.* 52

<sup>145</sup> *ibid.* 31

<sup>146</sup> Ricœur, Paul, *Time and Narrative*, Vol. 3, translated by Kathleen Blamey and David Pellauer (Chicago: University of Chicago Press 1985)

<sup>147</sup> *Ibid.*

<sup>148</sup> Ricœur, Paul, ‘Narrative Time’

<sup>149</sup> Ricœur, Paul, *Time and Narrative*, Vol. 1, translated by Kathleen Blamey and David Pellauer, (Chicago: University of Chicago Press, 1990) 52

<sup>150</sup> May Titthara and Bridget Di Certo, ‘Field Yields a Harvest of Sorrow’, *Phnom Penh Post*, 10 August 2010

The story goes on to cover the ceremonies and the plans for the building of a *stupa* taking place since the excavation, at the instigation of the people who had come up to see the site. It ends with the words of an 83-year-old woman: ‘ “ I try to tell my grandchildren the stories, but they don’t believe” she said, struggling to smile. “ How can you believe what happened?”’

In assembling a narrative for her child, Lat Ngi understood herself to be in possession of all the aspects of the mimesis model. She knew about the DK era, as she was a child at the time ; she knew how people acted and the context of that action; she knew that millions died, and were buried in mass graves (M1). She knew what happened and the order in which it happened ; she knew her father had those teeth implants, that he was brought here, and that all these years later they had unearthed a set of bones that fitted with her knowledge. She then was able to complete the order of events by reading the bones in light of M2 and M2. The young daughter, struggling to believe, is not in possession of the pre-configurative stage. Like the woman who explained that her grandchildren do not believe her stories, Lat Ngi’s child can’t perform the hermeneutic understanding required for the story to make sense. As I discuss throughout, especially in the final chapter, this lack of belief on the part of younger people comes from lack of context. They cannot believe their country ever resembled the accounts given them by the old. Their understanding of what comprises human action (such as Khmer killing Khmer in vast numbers) makes it impossible for them to understand the stories, so they dismiss them as exaggerated, or invented. A problem here is that narrative, intergenerational communication, and memory require imagination. I go on to explore the links between memory and imagination below.

### **Collective/ Collected Memory?**

Benedict Anderson describes how people are socialized into ‘imagined communities’ by constructing narratives of collective identity - the ‘biography’ of the community.<sup>151</sup> In this process of socialization two kinds of memory are at work, distinguished by Jan Assmann: ‘communicative memory’, operating between generations in daily discourse, and ‘cultural memory’, linking generations

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<sup>151</sup>Benedict Anderson, *Imagined Communities*, (London and New York : Verso, 1991) 1-7



long dead to the present.<sup>152</sup> As the eldest of a society die away, there comes a turning point at which communicative memory becomes cultural memory. Once this has happened, those memories have to be deliberately maintained within the culture by generations of people who were not themselves alive to witness the events and do not know anyone who was. As these memories become ever more distant until no one is around to contest them, later generations interpret the distant past in the light of the present context. The distant past is constructed as the foundation of contemporary identity. The three years, eight months and twenty days of DK were the period of rupture in the nation's capacity to construct reality, carry out 'communicative memory' between generations and interpret 'cultural memory' of a fixed point in light of the present. While they were not '*long dead*', the sheer *number* of dead, coupled with the physical destruction of artefacts and literature and the regime's total immobilization of the process of the social construction of knowledge, meant that the 'communicative' and 'cultural' processes were forced to overlap and occur at a greatly accelerated pace.

Both Anderson and Assmann presume, firstly, that socialization can occur and secondly, that the binding chronological sequence of events making up a community's history/biography can be 'emplotted' into a linear narrative nourished by personal and public memories with sources – writings, buildings, photographs, letters and all kinds of meaningful texts and artefacts that contribute to the narrative - which provide meaning to that sequence and make it into a coherent story to be told. While hegemonizing mechanisms supposedly enable those who have suffered to come to a sanctioned site and project their subjective experience into the official narrative, they do not necessarily deal adequately with the specificity of that experience. Individuals have to find the context into which their story fits, sharing and owning the narrative the official mnemonic device promotes. 'Collective memory' offer individuals a 'touchpoint' in the wider canon, a conduit through which to contribute to the wider process of national narrative making and transmission of experience to the next generation. Collective memories are the core of group identity.<sup>153</sup> Young asserts that several individual

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<sup>152</sup> Jan Assmann, 'Collective Memory and Cultural Identity', translated by John Czaplika, *New German Critique*: 65, 1995

<sup>153</sup> Maurice Halbwachs, quoted Susanne Karstedt, 'Introduction: The Legacy of Maurice Halbwachs', *Legal Institutions and Collective Memories*, ed. Susanne Karstedt (Oxford: Hart Publishing, 2009).5

memories together form 'collected memory' rather than 'collective memory'.<sup>154</sup> Like Lyotard's 'uncomfortable little stories', they form the 'ghost of a civil society', an entity which does not set up a battle to the death with the institutionalized state apparatus, but nevertheless questions it, and achieves small victories.<sup>155</sup> The historian's approach of 'micro-history' could be used to seek understanding of broad historical/cultural phenomena by intense scrutiny of an individual/event/location - particularly if used in conjunction with the methodology of oral history.<sup>156</sup> This is a process actively engaged in at the Documentary Centre of Cambodia; their archive is the principal store of memories in Cambodia and offers researchers a way to study the collected memories.

Physical sites (such as museums or memorials) and artefacts shape memory, narrative identity and national canon.<sup>157</sup> The ways sites and artefacts of genocide are preserved and presented demonstrate political, historical and religious messages. There is a major divergence of views as to what to do with them. Tribunals see them as evidence; victims, educators and religious leaders all have different ideas about how to curate the artefacts of genocide - if they wish to at all. Such disputes expose how historical identity is made in a post-genocidal society.<sup>158</sup> For example, the use of bodily remains for forensic evidence at the ECCC (a highly politicized institution with a top-heavy focus on historical narrative), the display of bones in *stupas* and the treatment of mass graves constitute a point of contention where the requirements of law, religion, culture, and personal feelings collide.<sup>159</sup> All these constitute the 'technologies of heritage.'<sup>160</sup> These are sanctioned narratives with political agendas that shape them. Individual memory is too disconnected from collective memory – an individual's experiences are

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<sup>154</sup> James Young 'The Texture of Memory: Holocaust Memorials and Meaning' (New Haven: Yale University Press, 1993) xi

<sup>155</sup> Lyotard, 'Lessons in Paganism'. 132

<sup>156</sup> Lynn Abrams, *Oral History Theory* (London: Routledge, 2010) .107-108

<sup>157</sup> Young 'The Texture of Memory'. xi

<sup>158</sup> Susan E. Cook, 'The Politics of Preservation in Rwanda', *Genocide In Cambodia and Rwanda*, ed. Susan E/ Cook, (New Brunswick: Transaction Publications, 2006) 293-94

<sup>159</sup> Melanie Klinkner, 'Forensic Science for Cambodian Justice', *The International Journal of Transitional Justice*, Vol. 2, 2008 242

<sup>160</sup> Michael Rowlands and Ferdinand de Jong, 'Reconsidering Heritage and Memory', *Reclaiming Heritage: Alternative Imaginaries of Memory in West Africa*, eds. Michael Rowlands and Ferdinand de Jong (Walnut Creek: Left Coast Press Inc. 2007) 13

always unique and there are as many collective memories as groups in a society. For instance, the group memory of the Chams will be different from the experiences of other sections of the population. However, when what Young defines as ‘the national canon’ finally evolves, these disparate memories need to find their place there.<sup>161</sup>

### **Conclusion –Framing the thesis.**

‘There’s always an element of piety in a concern for theory, even critical theory.’ (Lyotard, *Lessons in Paganism*)<sup>162</sup>

This study’s relationship with the idea of Transitional Justice is a complex and not uncritical one. The literature in this field emerges out of the liberal grand narrative; however when extricated from its liberal origins TJ spills out conceptual notions that can be fruitfully explored. My concern is to explore the narrative threads entwined in Cambodia, an entangled *aporia* in and between narratives concerning the telling of the DK period, what process in justice deals with it, and what meaning such processes have for the telling of the story.<sup>163</sup> Disentangling the narratives, and especially looking into the grand (meta) narratives and discourse, is relatively straightforward. Indeed I contend that the more ‘official’ (state bound) the processes, the more embedded they are into the grand narratives, and the more they can be analyzed in old-fashioned structuralist terms. The notions of *fabula*, and *sjuzhet* have applicability in the process of creating a narrative of DK to impose a just response to it in Law, within these grand narrative formulations. The complexity of the task arises in identifying the *Differend*. As more narrators come forth to tell about the same people and events, the more difficult it becomes to extract any narratological frame. My task here is not to attempt to create a grand frame, but to identify how the grand narratives collapse in the face of mass killing and the fragmentation into an unmanageable plurality, to discover some of the phrases that crash against the meta-languages.<sup>164</sup>

On encountering *Differend*-rooted problems of dealing with justice deficits through narrative, we encounter the question : why narrate? (Or, sometimes, why

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<sup>161</sup> Young ‘*The Texture of Memory*. xi

<sup>162</sup> Lyotard, ‘*Lessons in Paganism*’, 134

<sup>163</sup> Paul Ricœur, *Memory, History and Forgetting* ( Chicago: University of Chicago Press, 2006)136

<sup>164</sup> Lyotard, *The Differend* , 29

narrate when the meta-language has articulated an overarching schema?) The answer to this is to look into narration as both a mechanism of knowledge and an act of memory transmission.<sup>165 166 167</sup> This is particularly pertinent in a nation where the regime pursued a policy of deliberate inversion/ perversion of the process of the socialization and construction of social reality.

Given the plurality of narratives, and the rejection of metalanguage as an appropriate frame, it is difficult to find a means to explore how people narrate without contradicting the premises on which the study is resting (infinite plurality and re-interpretation of story). This is not to say that there is a singular structure, but rather a singular restriction (time) into which narrative is spoken, interpreted and absorbed. This sequencing allows for hermeneutic reading in the frame world of the three mimeses . Put differently, history, self, identity, memory and narrative over the past 40 years and the perceived future are made into a intelligible whole.<sup>168</sup> From that intelligible whole some kind of meaning of justice can be posited, not out of Assmann's *collective* memory, but rather from Young's '*collected* memory', described above.<sup>169 170</sup> Young contends that any public memorialization initiatives or memory-making objects depend on the viewer's subjective readings rather than the object/event 'broadcasting' a singular memory. Viewers themselves come to the memorial and from them, through their 'reading', meanings are derived from the object . Put simply, 'viewers make meaning.' In themselves memorializations are inert. The memories they 'make' are viewer-dependent . The memorial site creates the illusion of a collective memory. In practice however , a multiplicity and diversity of memories collect around such sites. Memories develop and readings of events change over time. The object or memorial site becomes a sign of history which instigates a dialectic in the minds of the viewer /groups of viewers. Memories collect together at such sites , but are

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<sup>165</sup> Assmann, 'Collective Memory and Cultural Identity'

<sup>166</sup> Berger and Luckmann, *The Social Construction of Reality*, 207-211

<sup>166</sup> Benedict Anderson, *Imagined Communities*, 1-7

<sup>167</sup> Lyotard, *The Postmodern Condition*, 19

<sup>168</sup> Ricœur *Time and Narrative*, Vol. 1., 65

<sup>169</sup> Maurice Halbwachs quoted Susanne Karstedt , 'Introduction: The Legacy of Maurice Halbwachs , ' *Legal Institutions and Collective Memories*, ed . Susanne Karstedt (Oxford: Hart Publishing , 2009)5

<sup>170</sup> Young, *The Texture of Memory* xi-6

not inscribed for eternity. Viewers will read in the context they themselves inhabit, with their own interpretation, their own (in)ability to project themselves into the narrative. Young is specifically discussing memorial sites. However, I contend that his notion is applicable to a court room, a ritual, or even an unmarked place. Young's approach of *collecting* rather than *collectivizing* memories has two functions ; first, it addresses the history of the vanquished, the small voices; second, it answers Arendt's point that one meaning of being human is the need to be remembered and recollected in narrative discourse –'to be memorable'.<sup>171</sup> <sup>172</sup> Throughout the thesis I will be shifting between micro-and macro-history, between the grand narratives of international institutions and regimes and the voices of the small, quiet and orderly drowned in comparison; in other words, to look into the gaps between narrative explanations and historical explanation.<sup>173</sup>

### **Justice?**

Sen argues that institutions can be compared in terms of how they dispense justice without the need to refer to a transcendental ideal of justice, but rather by placing institutions on a comparative continuum.<sup>174</sup> By situating itself outside TJ, this thesis is asserting that justice is not a process with fixed ends, but a fluid idea which can only be discussed relative to what is available to those who have endured injustice. Sen is specifically discussing John Rawls's idea of justice as fairness and social justice.<sup>175</sup> I adapt this to discuss the narrative of Cambodians who lived under DK, and their ability to narrate or have narrated their stories within the means available to them.

Placed within a narrative framework, this means that justice acquires its meaning not from transcendental ideals an institution has/has not fulfilled, but from the extent those who have suffered feel able to express their stories, and how those stories are represented in the modes established to deal with suffering and injustice. To take a small example from the following chapter, I spoke to people

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<sup>171</sup> Paul Ricœur , interview with Kearney in *On Paul Ricœur*. 127-128

<sup>172</sup> Paul Ricœur, *Figuring the Sacred: Religion, Narrative and Imagination*, translated by David Pellauer (Minneapolis: Fortress Press, 1995)

<sup>173</sup> Ricœur *Time and Narrative*, Vol. 1. 179

<sup>174</sup> Amartya Sen *The Idea of Justice*, (London: Penguin Books,2010) 409

<sup>175</sup> *ibid* p xi

about the 1997 trial of Pol Pot and the ECCC. They believed the ECCC was comparatively better than the trial of Pol Pot. However, this did not mean that the ECCC was seen as a perfect institution - simply that it was better in evolving a narrative of events and developing a narration of history to be shared by a wider community. None of my narrators see justice as a question of sending individuals to prison, but rather as a process of finding out the truth, conveying a story, trying to make sense of the past, trying to explain it to their (grand) children. These are far more complex demands than the TJ focus on democratization, accountability, and procedure can cope with alone. TJ's normative standards are unobtainable (transition from atrocity to peace, democracy, reconciliation). A better way to work with transitional justice is to escape from its own normative measures and resituate it in society.

## **Chapter Three: Trials and Narratives: Performing Ideologies?**

### **The elephant in the room**

**Andrew Ianuzzi:** - I'm only trying, in my own boorish way, to suggest that if the Trial Chamber continues to work from a script, with cues and stage directions, these proceedings take on all the dignity of a very bad 'Gilbert and Sullivan'<sup>1</sup>

**Michiel Pestman:** I think this court needs a jester. Maybe that is why I am still here.<sup>2</sup>

What underlies these comments is the concern voiced by Pestman in his response to the opening statement by the Prosecutor in 2011, a concern he labelled the 'elephant in the room' : that the ECCC might '[turn] into a mere re-run of the 1979 show trial'. In which case, Pestman added, 'I will take off my gown and join Nuon Chea in his holding cell, where I will follow and probably intensely enjoy this drama on "telly".'<sup>3</sup> Both Pestman and Ianuzzi eventually resigned in December 2012, stating the whole institution was a 'farce'.<sup>4</sup> Theatricality has been something of a theme in the ECCC as these comments from Nuon Chea's legal team indicate. Over 2012 Ianuzzi played several 'stunts' apparently designed to satirise the trial process from within. For example, he came into court wearing an 'I Love Dada' badge on his robe, commenting:

For the record... 'Dada' refers to Dadaism, and that, of course, is the early twentieth century movement that rejected logic and reason in favour of nonsense, irrationality, and chaos. It is not, as was suggested to me over the break .... it does not refer to "don't ask, don't answer," although I would say that that seems to encapsulate this Chamber's approach to our defence team quite well.<sup>5</sup>

Ianuzzi also quoted the rapper Dr. Dre with reference to what he saw as one of the international judge's offensive 'gesticulations'.<sup>6</sup> This strategy was designed to evoke a question, which would in turn permit him to get into the court record his

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<sup>1</sup> Trial Chamber 13 December 2012 Trial Day 140 (Case 002) Doc. n° E1/153.1, 64

<sup>2</sup> Michiel Pestman, Co-Lawyer for Nuon Chea: Nuon Chea Defence Team response to opening statement by the Prosecutor, Document Number: E146.1, Case 002, November 23 2011

<sup>3</sup> *ibid.*

<sup>4</sup> Joe Freeman 'Pauw, Pestman and Ianuzzi leave Khmer Rouge Court "Farce" Behind', *Phnom Penh Post*, 21 December 2012

<sup>5</sup> Quoted from Andrew Ianuzzi from Trial Chamber -19 June 2012 Trial Day 96 (Case 002) Doc. n° E1/88.1, 57

<sup>6</sup> Trial Chamber 2 May 2012 Trial Day 59 (Case 002) Doc. n° E1/71.1, 3

allegation that when his colleague, Michiel Pestman, was discussing possible political interference at the ECCC, she shook her head and silently mouthed the words ‘blah, blah, blah, blah’.

The ECCC is the third ‘trial’ process concerning the Khmer Rouge executive. All three processes have at some point been subject to the same ‘show’ analogy. When I interviewed witnesses and/or participants in the People’s Revolutionary Tribunal or the ‘trial of Pol Pot,’ they described the proceedings as ‘like a show’,<sup>7</sup> ‘not a proper court’,<sup>8</sup> ‘scripted’ or<sup>9</sup> ‘a drama’.<sup>10</sup> The term is now being employed for a third time in a process that will undoubtedly be the last trial of the leadership, a trial Michael Karnavas, lead international co-lawyer for Ieng Sary, identifies as the final curtain: ‘the exquisite moment for Cambodia ...the first time in its history to see how an independent tribunal functions... I would say this is “IT,” at least for those alive today in Cambodia.’<sup>11</sup> If the trial fails to provide a process seen as legitimate, there will be no fourth chance to deal with the DK period in a judicial institution.

It is important to clarify the role of ‘show’ in trials. Ever since Stalin, the term ‘show trial’ has been synonymous with an illegitimate process. Yet, as De Nike argues, all trials are in one sense ‘shows’.<sup>12</sup> They are - must be - events with their own Lyotardian language games. As with stage plays, ‘phrases’ used in a court – including the furniture and the clothing – are organised into regimes. Some indicate the roles of the participants – the accused, the judge, the public; utterances such as ‘he is guilty’ or ‘I sentence you’ are, in the court’s phrase regime, explicitly performative, rather than simply descriptive as they might be in conversation. Trials are expected to take place before an audience - often several audiences: those responsible for reaching a verdict, the members of the public who may be attending, and in the case of a high profile trial, the world at large.

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<sup>7</sup> Former KR Cadre 8(Male) , Anlong Veng, , interview with Tallyn Gray, 14 October 2012

<sup>8</sup> Former KR Cadre Wife 1 interview with Tallyn Gray, 14 October 2012

<sup>9</sup> Prof. John Quigley, in USA(via Skype) , interview with Tallyn Gray 23 August 2012

<sup>10</sup> Sum Rithy, Phnom Penh, Chhum interview Tallyn Gray, 24 July 2012

<sup>11</sup> Michael Karnavas, lead international Co- Lawyer for Ieng Sary, Phnom Penh, Interview with Tallyn Gray, 6 June 2012

<sup>12</sup> Howard J, De Nike, ‘Reflections of a Legal Anthropologist on the Trial of Pol Pot and Ieng Sary’, *Genocide In Cambodia.: Documents from the Trial of Pol Pot and Ieng Sary*, eds. Howard J. De Nike, John Quigley and Kenneth J Robinson, (Philadelphia: University of Pennsylvania Press, 2000) 20



All trials involve narratives within narratives like a Russian doll. The overarching narrative is always ‘Here is a process, and its outcome is justice.’ Shaping the structure through which that narrative is organised are the ‘grand narratives’ of Liberalism and Marxism; both claim that their ideologies alone facilitate justice. These in turn generate specific related metanarratives - nationalism, TJ, legal liberalism - which protect, support or modify the grand narrative. The narrative of the actual events these metanarratives shape may then emerge as a clear account on which to base a just verdict; alternatively it may be actively orchestrated in order to obscure the process or mask information. As Awoi Allo contends, ‘What counts is not that a trial is labeled a 'show trial'; it is, rather, the end that the 'show' serves.’<sup>13</sup> My objective to understand the socio-cultural meaning of the three processes discussed here and how they are understood. Hence I lay them side by side - to the best of my knowledge, for the first time – asking very basic questions in order to identify the large number of competing narrative strands often entangling to the point of aporia :

- How does this court present itself? What narrative is imparted through the venue, the people present, and the clothes they wear? Who is watching? Who is absent?
- What kinds of (grand?) narratives frame the trial?
- What narratives are unspoken? Who selects what is told and what is not? How are they authorized to do so?
- Who is able to tell their story within this framework? Who is not?
- Is it possible for stories to find a way to be told despite the framework?

I follow this chapter with an ‘interquel’, or bridging chapter, analyzing what I define as an ‘alternative’ mechanism: a small-scale Mediation Process between a family who lost a relative during DK and the former KR cadre involved in that person’s arrest. In juxtaposing this small-scale narrative with the ‘hegemonic mechanisms’ discussed below, I hope to interrogate those mechanisms by

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<sup>13</sup> Awoi K. Allo, ‘The “Show” In the Show Trial : Contextualizing the Politicization of the Courtroom’, *Barry Law Review*, Fall 2010

indicating significant gaps in their operation. Hegemonic mechanisms create and implement a hegemony in discourse and an understanding of history through large-scale presentation of narrative, backed by powerful actors marshalling considerable resources with the intention of presenting ‘the truth’/ ‘the official narrative’. The (meta/grand) narratives demand that individuals situate themselves in relation to them and aid the creation of a politically appropriate ‘hegemonic social memory’.<sup>14</sup> However, ‘vernacular narratives’ - memories at individual level<sup>15</sup> - too often encounter the *Differend*, and voices that fail to resonate with the official interpretation of events are silenced, a process I show occurring in different ways in all three of the processes described below.<sup>16</sup>

### **3.1 THE PEOPLE’S REVOLUTIONARY TRIBUNAL, 1979**

#### **Staging**

Following the invasion that ended DK, the People’s Revolutionary Tribunal (PRT) was convened by the new government to try Pol Pot and Ieng Sary *in absentia* for genocide. Located in Chaktomouk Hall, Phnom Penh (still a performance space) this five-day trial was the first in the world to use the Convention on the Prevention and Punishment of the Crime of Genocide.<sup>17</sup> Thus it marked itself as an event with significance for the wider world. Lawyers were present from Algeria, Cuba, Japan, Syria, the USSR, the USA, India, Vietnam and Laos, addressing the court in their own languages. Their presence implicitly declared the crimes on trial to be an affront to global human values and endorsed the justice and fairness of the process. (Indeed Hun Sen is quoted by John Quigley as saying ‘We had international lawyers join the trial in 1979. You cannot do better than that.’<sup>18</sup>)

Some trouble was taken to secure a Cambodian audience. Few of my own narrators, scattered across the nation, knew the trial was happening. One former cadre told me that after he had fled with other KR:

<sup>14</sup> Emiliios Christoulidis and Scott Veitch, ‘Reflections on Law and Memory’, *Legal Institutions and Collective Memories*, ed. Susanne Karstedt (Oxford: Hart Publishing, 2003) .76

<sup>15</sup> Shawn Rowe, James Wertsch and Tatyana Kosyaeva, ‘Linking Little Narratives to Big Ones: Narrative and Public Memory in History Museums’, *Culture and Psychology*( Vol 8, No9 2002

<sup>16</sup> Homi K. Bhabha, ‘Introduction: Narrating the Nation’ , *Nation and Narration*, ed. Homi K. Bhabha (London: Routledge, 1990) 1-8

<sup>17</sup> Fawthrop and Jarvis, *Getting Away With Genocide* ? 50-51

<sup>18</sup> Quoted Quigley, Introduction, *Genocide In Cambodia* , 17

*I used to hear in 1979 they were doing a trial of the KR leaders, but I don't know about it very well. We heard on the radio. In the whole country it was broadcast over the radio. I heard it was small stuff, I only heard it from the radio.*<sup>19</sup>

There were in fact very few people left in Phnom Penh available to watch the trial. However, a Cambodian audience was specially bussed into the empty city to fill the seats. John Quigley, a legal scholar enlisted in 1979 to determine whether what had occurred qualified as genocide, and one of the few to have seen Phnom Penh just months after the end of the regime, describes it as a ghost town:

*... empty, there was no population in the city. I'd never been in a city like that ... you know this beautiful major city, ... and there just wasn't any population, no shops, nothing going on. They put us in what I think had been a hotel, that was not functioning as a hotel, but they fixed it up so that those of us who were coming in for the trial could stay there. It was only the people coming in for the trial that could stay there. They didn't have regular food, I think they flew some sandwiches in from Vietnam.*<sup>20</sup>

### **Double narrative**

Bogdan Szajkowski has pithily summed up the key dynamic to keep in mind when analyzing the PRT: Cambodia is the only country where the Marxist regime was overthrown by another Marxist government with the help of a Marxist neighbor(Vietnam).<sup>21</sup> This is the clue to the complex meta-narrative shaping the trial's idiosyncratic genre of discourse. Essentially it was a Vietnamese-run operation with a Cambodian face. It had a Cambodian (PRK) and international staff, selected by the pro-Vietnamese Heng Samrin government, comprising Cambodian defectors from DK backed by a Vietnamese military presence and with Vietnamese officials. The choice to use the Convention devised in the wake of the Holocaust showed the new regime presenting a narrative about its concern with 'universal' humanitarian issues, on which justice would be done. However, this narrative had to interact with another - the story of how a small group under the influence of Peking betrayed Marxism.

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<sup>19</sup> Former KR Cadre 1 (male ), Takeo Province, interview with Tallyn Gray, 27 July 2012

<sup>20</sup> Prof. John Quigley, in USA (via Skype) , interview with Tallyn Gray 23 August 2012

<sup>21</sup> Bogdan Szajkowski 'Introduction' , Michael Vickery, *Kampuchea: Politics, Economics and Society* (Boulder: Lynne Rienner Publishers, 1986) v

On the domestic front three strategic goals were linked to this latter narrative. Firstly, to detoxify the Marxist ‘brand’ of the genocidal connotations accrued under the KR. Communism originally had little intellectual foothold in the Cambodian population.<sup>22</sup> However, *Angkar* used terms like ‘great leap forward’ during its time in government, identifying itself as a communist party in 1977.<sup>23</sup> However, the use of the term ‘communist’ and its associated lexicon by both the former Maoist and the new Marxist regimes was obviously problematic for the government. For most people the term(inology) connoted a hated regime. The policy of the PRK was to enable a (limited and controlled) degree of cultural revival in order to distinguish itself from KR hostility to traditional culture.<sup>24</sup>

Secondly, the focus on only two individuals dealt with the problem of figures from the old regime that had taken up arms and relocated to the jungle. Chandler cites a figure of around 30,000 KR cadres (along with 100,000 villagers) active throughout 1979.<sup>25</sup> The tribunal’s limited narrative placed the weight of genocide squarely on the shoulders of a ‘Pol Pot - Ieng Sary clique’, implicitly inviting other ex-KR - even senior figures such as Nuon Chea and Khieu Samphan - to come in from the cold. This would also help to end divisions impeding reconstruction. Not only was the KR running rampant in places, but also people angry in the wake of the regime’s fall were taking revenge on KR. Judge Downing of the ECCC noted:

*I suspect, but don’t know, there may have been some KR cadres who lost their lives in some unsavoury manner. If there is no formal legal structure and someone has behaved in the most aberrant manner, they are probably going to be dealt with by those who have suffered under them; and I think that the realization of that sort of thing maybe demonstrated that... People like Duch and others fled to areas where they were not otherwise known; they took on assumed names; there must have been some fear that they were going to be dealt with in a summary manner.*<sup>26</sup>

This anxiety was experienced by a KR cadre I interviewed:

*I didn’t want villagers to know me as Khmer Rouge. Later on I confess everything to one villager and he was very kind and took me to stay in his homeland in Kompong Thom Province. And later on I go to the commune chief and I confess everything, and he give me a right to stay as a local*

<sup>22</sup> Margaret Slocomb, *The People’s Republic of Kampuchea* , 255-266

<sup>23</sup> Locard, *Pol Pot’s Little Red Book*, 61

<sup>24</sup> Gottesman, *Cambodia after the Khmer Rouge* ,13

<sup>25</sup> David Chandler, *Brother Number One*.,157

<sup>26</sup> Judge Rowan Downing QC, International Judge at the PreTrial Chamber in the ECCC, Chaom Chao, interview with Tallyn Gray, 29 July 2012

*people in his village, and let me stay as a normal villager same as the other villagers, and informed me of my right to come back to my homeland as well. And to tell me that no one arrest me if I go back to my homeland.*<sup>27</sup>

Thirdly, the Vietnamese invading Cambodia needed to deal with the baggage in their relationship - both the recent past and the ancient enmity between the two nations. As Stuart-Fox and Ung note:

Considering that almost every Kampuchean had learned to see the Vietnamese as the nation's historic enemy, the warmth with which the Vietnamese forces were welcomed came as something of a surprise, even to the Vietnamese. The risk was, of course, that there had been no genuine shift in the relationship between the two countries. Rather, it was a product of the depth of hatred felt for the Khmer Rouge...so long as there was even the remotest possibility that Pol Pot and his minions might reimpose their rule on Kampuchea the Vietnamese would be welcome. Longer than that and they would not be seen as liberators, but would become an occupying army. <sup>28</sup>

On the international front, the Convention was central to the PRT's self-presentation to the world. The government seized the chance to demonstrate the legitimacy of the Vietnamese invasion. Vietnam never overtly cited humanitarian reasons for it, claiming self-defence under Article 51 of the UN Charter. <sup>29</sup> However, mounting evidence about mass graves and torture centres, and lines of people attesting to horrific atrocities, dramatized the need for their presence when China and the USA were still condemning it as Soviet imperialism. The Sino-Vietnamese war (third Indo-China War) lasted until March 1979, with skirmishes between Vietnam and China occurring as late as the 1990s. The chance to show China supporting mass murder was of great propaganda value to Moscow and Hanoi, giving both the excuse to occupy a nation till the end of the Cold War.

Using the Convention to try the two absent defendants was also a direct and timely challenge to one section of the global audience: the 71 nations, including the USA, China, and the UK, who recognized the Pol Pot government as the rightful government of Cambodia and the KR as having a rightful place in Cambodia's seat at the UN. The 71 would now have to justify supporting the leadership of a pair on trial for genocide. Ieng Sary's absence from the 'cast' of

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<sup>27</sup> Former KR Cadre 1 (male ),Takeo Province, interview with Tallyn Gray, 27 July 2012

<sup>28</sup> Stuart-Fox and Ung, *The Murderous Revolution*, 173

<sup>29</sup> John Baylis and Steve Smith, *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press 2001) 476-9

the show was thus a phrase of considerable eloquence: rather than confronting his accusers at the PRT, he was heading the delegation to maintain the government-in-exile's place at the UN, the vote scheduled to take place in just one month's time.

### **Phrases in dispute?**

The 71 dismissed the PRT as a 'show trial'- a remark inevitable in the circumstances.<sup>30</sup> Nevertheless, they might have supported their case by calling attention to the presence of an undeniable 'script'.<sup>31</sup> The entire procedure was scheduled for only five days. Before anyone entered the court they knew from the printed agenda how it would play out: on the fifth day the closing statements of the lawyers would be made in the morning; the judges would 'deliberate'; they would read their judgment and pronounce sentence (death) in the afternoon; the court would be dismissed in time for a 'cocktail party in honour of foreign guests' at 7pm that evening.<sup>32</sup>

The PRT lexicon also befitted a Soviet-backed country using the tribunal to align itself on the USSR side of the Sino-Soviet split.<sup>33</sup> The closing statement of the chief prosecutor crucially identifies Pol Pot and Ieng Sary as 'men loyal to Peking'.<sup>34</sup> Defence attorney Yuos Por argued that 'the hegemonist expansionists of Peking' should have appeared alongside the defendants.<sup>35</sup> The narrative is framed to foreground the 'Maoist' nature of DK and its association with 'Peking reactionaries'<sup>36</sup> subverting the genuinely revolutionary /Marxist communist movement stretching across Indochina. Gottesman argues that the decision to drop charges of 'betraying the revolution and fatherland' and 'creating war by invading Vietnam' was an attempt to avoid drawing attention to the government's

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<sup>30</sup> Fawthrop and Jarvis, *Getting Away With Genocide?* 24-29

<sup>31</sup> Procedural Documents : Number 1.18 'Working Schedule for the Peoples Revolutionary Tribunal During its Present Session', *Genocide In Cambodia, : Documents from the Trial of Pol Pot and Ieng Sary*, eds. Howard J. De Nike, John Quigley and Kenneth J. Robinson( Philadelphia: University of Pennsylvania Press, 2000) 67

<sup>32</sup> Ibid . 67

<sup>33</sup> Gottesman, *Cambodia after the Khmer Rouge*, 6-7

<sup>34</sup> Closing Statements : Number 3.02 'Closing Argument of Mat Ly, Prosecutor of the Tribunal', *Genocide In Cambodia*, 489-504

<sup>35</sup> Closing Statements : Number 3.03b 'Closing Argument of Attorney Yuos Por for Pol Pot and Ieng Sary, Accused of Crimes of Genocide ', *Genocide In Cambodia* 509

<sup>36</sup> Closing Statements Number 1.18, 'Judgment of the Tribunal August 19, 1979,' *Genocide In Cambodia* ,545

struggle for legitimacy and the visible occupation by the Vietnamese.<sup>37</sup> The PRT's genre of discourse involved the exclusion of any phrases critical of Marxism, or of Vietnamese involvement in the history of Pol Pot's party beyond a few elements of the CPK; it was also deeply infused with phrase regimes geared to praising the Marxists.

### **A lawyer speaks – 1.**

One of the most striking performances in the court was the closing statement of the American Lawyer and Defence Counsel Hope Stevens. Stevens discusses his own status as a member of an ethnic minority and the responsibility to ensure a defence, placing him within the international Convention-driven narrative. Within the same speech he employs a completely different phrase regime supporting the anti-Maoist narrative linking Pol Pot to China in the crudest of terms. With reference to his clients, Pol Pot and Ieng Sary, he states that it was not his duty as defence:

...to give approval to monstrous crime or to ask mercy for the criminals. No! A thousand times No! Not at all!....It is clear to all that Pol Pot and Ieng Sary were criminally insane monsters carrying out a program the script of which was written elsewhere for them. So that if it were left to me and the other lawyers of the world who are present here you would not only have Pol Pot and Ieng Sary and their agents and willing vassals standing judgment here, in fairness to them we would have beside them as fellow accused the manipulators of world imperialism, the profiteers of neo-colonialism, the fascist philosophers, the hegemonists who are supporting Zionism, racism, apartheid and the reactionary regimes of the world, all of these would be standing here with the false socialist leaders of fascist China...in the mean time I hope that soon, very soon, a wind of change will blow across the Gobi desert to where once a land were a thousand flowers once invited to bloom, that land where the flowers have dried up ,where only one ugly, spindly cactus has survived to be nurtured not only by a gang of four but also it seems by a group of despots of the kind of the former celestial emperors who have for the moment grasped and hold unscrupulous power for their own selfish ambition to extend regional and global hegemony by violence and force , ready to sacrifice hundreds and millions of their own and other people to achieve their goals, to use the accused with success as their willing agents in perpetrating this awful crime of genocide against their own people of Cambodia and who used this poisoned cactus of fascism masquerading under the false cover of socialism...<sup>38</sup>

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<sup>37</sup> Gottesman, *Cambodia after the Khmer Rouge*, 62

<sup>38</sup> Closing Statements : Number 3.03b 'Closing Argument Hope R. Stevens, Defence Counsel (Attorney and Counsellor at Law, Member of the Bar of the United States Supreme Court, Co-

I am not arguing that Stevens should have argued for the innocence of his clients or dissociated himself from the judgement to be read out later that day. Rather I am looking at the consequences of that disjunction between phrase regimes. Stevens's rhetorical excesses link him so closely to the government narrative that he is effectively undermining his role as international lawyer, reducing himself to a handy visual symbol of the humanist/ universalist grand narrative while keeping the dialectic relentlessly on the anti-Maoist track.

### **Witnesses speak**

The prevailing phrase regime of the PRT anti-Maoist narrative was in perpetual tension with the sheer weight of the evidence. The field reports making up its investigative phase are notably less infused with rhetorical flourishes.<sup>39</sup> In most parts the phrase regime is purely denotative: numbers of bodies found in mass graves, locations of such sites, identities of victims (if possible), descriptions of the physical conditions of buildings, census data placed in comparison with 1979 and excerpts from documents captured at the sites and witness statements giving accounts of what they saw there. Written witness statements, however, conformed to party phrase regimes, often expressing gratitude to the new government and pledging loyalty. Former KR cadres end like this:

After acknowledging my misdeeds and after gaining understanding of the just political position of the United Front for the Salvation of Kampuchea I promise to respect the National United Front for the Salvation of Kampuchea.<sup>40</sup>

Testimonies of victims also conclude with sentiments such as:

Having seen the flagrant violations of human rights, I was filled with hatred against the inhumane regime of Pol Pot and Ieng Sary that is guilty of these bloodthirsty crimes as they were subservient to Peking's expansionism. I joined and served those who liberated us. Long live the liberation of January 7, 1979 which gave us a new life under a new sun! Long live the Peoples Revolutionary Council of Kampuchea! Long Live the Peoples Republic of Kampuchea!<sup>41</sup>

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Chairperson of the National Conference of Black Lawyers of the United States and Canada)' *Genocide In Cambodia*, 504-508

<sup>39</sup> Reports of Field investigations , *Genocide In Cambodia*, 227-286

<sup>40</sup> Statements of Former Agents of Pol Pot and Ieng Sary : Number 2.2.01 Mr. Men Khoeun : *Genocide In Cambodia*, 219-220

<sup>41</sup> Witness Statements: Number 2.1.1.10 Mr Chea Ponlok: *Genocide In Cambodia*, 111-113



These expressions sit uncomfortably in their context. Few people describing the deaths of their own children are naturally inclined to punctuate their testimony with ideological slogans. Throughout the written witness statements there is liberal use of such phrases as ‘Pol Pot Ieng Sary Clique’. Their sometimes odd position in an otherwise simple syntax describing traumatic and violent personal experience, and the way slogans frequently round off a testimony, may well indicate they were prompted or added. Quigley suggests it was the secretaries taking down the statements who added such phrases; producing numerous statements, they would have turned to standardized phrases rather than producing verbatim transcripts.<sup>42</sup> In some cases one could argue that permission to add such phrases might have been willingly given out of hatred for the previous regime.

Arguably the Tribunal’s overall genre of discourse permitted the phrase regimes of witnesses to link, albeit awkwardly, with its own. Grievance was expressed, as shown by photographs of the Cambodian audience, shock and sorrow written on their faces. But it is all too evident that carefully researched evidence denoting mass graves, torture centres, evidence of people subjected to torture, the destruction of the intelligentsia, the persecution of religions and the criminal acts of DK, was forcibly linked to phrase regimes denouncing China. The blatant propaganda grafted on the facts played into the hands of the 71. They could employ their term ‘show trial’ with enough conviction to evade embarrassing questions about their own moral position and their endorsement of the KR as the legitimate government in exile.<sup>43</sup>

### **A lawyer speaks – 2**

Even the tightly sewn up ideological narrative, however, occasionally opened up space for other voices. Surprisingly, one of these was American. Like Hope Stevens, John Quigley, as international law expert to the court, provided in his own person a tangible image of an international presence at the trial, giving it credibility.<sup>44</sup> However, in his closing statement Quigley became one of the few to mention the US bombing and its significance. Within the PRT narrative this

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<sup>42</sup> Quigley, ‘Introduction,’ *Genocide In Cambodia*, 15

<sup>43</sup> Fawthrop and Jarvis, *Getting Away With Genocide?* 24-29

<sup>44</sup> Closing Statements : Number 3.03e Statement of John Quigley ( Professor of Law; Ohio State University) *Genocide In Cambodia*. 518-519

had almost disappeared in the anxiety to blame the Chinese. As he states, Quigley had little knowledge of Chinese involvement.<sup>45</sup> He speaks of the bombing to contextualise the KR's eviction of the cities. In unadorned and simple language he also describes personal shame at his nation's aiding of the KR. His voice stands out sharply from the anti-Chinese narrative to imply that there are other ways of telling this complex story. As Otto Kirchheimer notes, as long as it is possible to speak at all within the framework of a virtually pre-scripted 'show', it is possible to take the 'stage' and present a narrative of resistance.<sup>46</sup> Although not excluded, however, Quigley's phrase regime never links to the point of achieving discussion or development.

### **Outside the courtroom**

I now move outside the Chaktomouk Hall to quote my interview with John Quigley on his interactions with Cambodians not in the audience:

*There were other people who would just, you know, come up, and would want to talk about what happened to their families, um, just outside the building when I'd be coming in or going out ... They were people that were very anxious to talk to a foreigner, to let a foreigner know what had happened in their village or to their family. So people would say something like, 'My brother or my sister were killed' and that sort of thing.<sup>47</sup>*

No particular attitude is expressed here toward the Tribunal process. But this small anecdote shows a clear desire to narrate, to testify to someone from the outside world (a foreigner) to get a story heard, and I use it to transition to the narratives of those whose experience gave them cause to feel sceptical about the PRT.

### **Resistant narratives?**

I begin with two survivors of S-21 prison: Bou Meng and Chum Mei.

*Bou Meng .. Under communism there was no law, only the most powerful had the most say. So there is no justice, accusations could be made without proof ...*

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<sup>45</sup> Quigley, 'Introduction', *Genocide In Cambodia*, 7

<sup>46</sup> Otto Kirchheimer, quoted Awol K. Allo, "'The 'Show'" in the "Show Trial": Contextualizing the Politicization of the Courtroom', *Barry Law Review*, Fall 2010

<sup>47</sup> Prof. John Quigley, in USA (via Skype) , interview with Tallyn Gray 23 August 2012

*I heard a little about the tribunal at the time... I didn't know if anyone supported it; but at the time I didn't believe the court, because the country was in chaos. The court meant nothing to me at the time. The PRT was the same as the example I just mentioned [about the unjust legal system]. For example, in my life at the time someone - a soldier - said I owed him or her money. They had no proof. But I didn't owe any money. So they went to the commune chief to be 'the judge,' who was chosen by the high-ranking soldier or important family, and he decided to fine me. And this was not fair on me. And you know the PRT worked in the same way: so it didn't make any sense for me.<sup>48</sup>*

*Chum Mei: In the 1980s Cambodia's situation was that there were many Vietnamese troops to help fight against Pol Pot's troops, but the KR was still very much in control in many places in Cambodia. At the time the Government was talking to the Vietnamese also about when they would leave the country. There was still a lot of fighting along the Thai border and other places in the north. We cannot compare the 1980s to today. At the time nearly all the schools, the temples, were broken from years of fighting. Everywhere was broken - houses and schools, dirt roads, and the country in some places was very quiet –especially in Phnom Penh.*

*I don't remember much about the PRT. I know they sentenced Pol Pot and Ieng Sary to death. I know it wasn't an international court.<sup>49</sup>*

### **Sum Rithy – a life story.**

At this stage I introduce a figure who reappears several times in this thesis: Sum Rithy, who has given his own story in a variety of different contexts and media. He provided a witness statement for the field report into the investigation team for the PRT, and is currently a civil party at the ECCC.<sup>50</sup> Here I cite his interview with me, his statements to the PRT and DC-Cam, and the life story he gave to another scholar.<sup>51 52 53</sup> He believes himself to be one of only two surviving former prisoners to present testimony to the PRT. His experience illustrates the suffering of many designated as 'new people,' though, as he says, as

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<sup>48</sup> Bou Meng, Artist, S-21 Survivor, Phnom Penh interview with Tallyn Gray, 23 July 2012

<sup>49</sup> Chum Mei, Survivor at the S-21 Prison, witness at the ECCC, Phnom Penh, interview with Tallyn Gray, July 23 2012,

<sup>50</sup> Sum Rithy, Motorbike mechanic, Civil Party at ECCC, Survivor of Siem Reap Prison, Phnom Penh, interview with Tallyn Gray, July 29 2012,

<sup>51</sup> Reports of Field Investigations: Number:2.3.3.02, Mr Chum Rithy (It should be noted that Sum Rithy's name is misspelled here) *Genocide in Cambodia*. 242-244

<sup>52</sup> Sum Rithy, DC-Cam Archive<

<[http://www.d.dccam.org/Archives/Protographs/Sum\\_Rithy.htm](http://www.d.dccam.org/Archives/Protographs/Sum_Rithy.htm)><Accessed 28 March 2013>

<sup>53</sup> Alexandra Kent, *The Story of Sum Rithy- Survivor of a Khmer Rouge Prison*. This is his life story told to and translated by Alexandra Kent

one of the few prison survivors he has a greater knowledge of what underlay the whole experience.

*I was arrested at the end of 1976 and stayed in the prison at Siem Reap until January 7 1979. The Khmer Rouge tried to kill each other many times( village and commune chief etc.) [during the internal purges]. It was a trick of the KR leaders; they wanted to eliminate each other, as they were always paranoid. I still remember when the new leaders were appointed in 1977. At the time they killed each other and lots of prisoners and citizens. The monks were mostly charged with being '17 April People' [New people]. I guess it was a good trick of the leaders to exercise total control: one kills one, then another comes to replace him, before he is killed and replaced too.... You know they regard me as a victim, but I am a direct victim, different from the normal victim. You know when you were sent to the prisons, mostly they would die of starvation or be taken to be killed. If you are a normal victim, you worked in the fields. But those of us who stayed in the prisons know more than most of the normal victims. We know how torture was used, how people were forced. And actually I was one of the first people to be seen as an enemy of the KR. I was seen as a '17 April Person' – a 'new person'. Other victims of the KR were not seen as this, not regarded as automatically an enemy like me. You know the people taken to the prison were decided by the KR to be enemies. They singled us out – but we were normal citizens of the 'April 17 People' category. We didn't know anything about politics at all. As for me, I was a moto fixer [motorbike mechanic] and knew nothing. You know, at the time they arrested me – if I didn't have skill as a moto fixer, and if I didn't use this skill I would not have stayed alive. But I used my skill to work for them.*

*I once witnessed a guard beating a boy. 'Why did you run?' he asked. 'I miss my parents so much,' answered the boy. The guard savagely hit him on his back and said, 'Your mother was killed, you son of traitor!' The boy, too, was murdered the following night.*

*... In addition to repairing motorbikes, I carried pots, distributed helmets the prisoners used as food containers, collected human waste for making fertilizer, and buried dead prisoners. Because I worked near the detention center, I saw the trucks bringing new prisoners and taking the old ones out. On average, 200-300 new prisoners came in every day, and about the same number were taken away. Sometimes the Khmer Rouge took the prisoners out twice a day. They were beaten by the guards each time they were interrogated.*

*Some prisoners died in their bad-smelling cells, and others committed suicide by biting off their tongues, suffocating themselves, plunging into deep wells, and cutting their veins. Not a single day passed without prisoners committing suicide.<sup>54</sup>*

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<sup>54</sup> Sum Rithy, DC-Cam Archive

Sum Rithy describes his motivation to tell the story to anyone who will listen, either publicly or on a one-to-one level, as with me.

*The most important [thing is] telling this story to the world. It is a significant story: Khmer killed Khmer. This is very strange. What I want to tell the world is that this should never happen again. It's a savage and brutal story. You know, you see, Gunnar Bergstrom came to Cambodia in 1978 to talk about Pol Pot, and wanted to take this regime as a model for his own country ...<sup>55</sup> At the beginning he was talking good things about the KR regime. In 2009 he came back and saw the evidences of the DK atrocities and apologised. But when he was there in 1970s he praised the regime.<sup>56</sup>*

In the act of telling the story Sum Rithy believes there is a way to enact justice by offering a warning to history. But when he told his story to the PRT he was cynical about the process:

*The tribunal in 1979 was just a fixture of the government. It was a way for the government to let the international countries understand the former government is on trial, so no need for another court again. But it was a show trial, a drama.*

*They were prosecuted, but the defendants were not there - just only the name [i.e. in absentia]. I had never heard of a process of a tribunal like this in the world. There is always the defendant, the criminal, the lawyers- you need all of this to have a proper prosecution.*

*At the time I did not join the court. But I did file a complaint; because of the trial of Ieng Sary they wanted someone with a long background with the Pol Pot. My friend went to the courtroom, but I did not.*

*But it was still part of the drama of the Vietnam government that they wanted the international community to see the Vietnamese government as having a legal system. You know, last time in the ECCC I wanted to be a civil party.<sup>57</sup>*

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<sup>55</sup> Gunnar Bergstrom of the Swedish-Kampuchea Friendship Association was a Swedish communist and as the first chapter discusses, there were a significant number of western leftists who gave support to the KR regime. Bergstrom took a very carefully controlled tour of the country in 1978 and returned to the west to give lectures favorable to the regime. He returned in 2009 to apologise to men like Sum Rithy and publicly recant his views. (BBC News: Repentant Khmer Rouge Fan Returns: 18 November 2008: <http://news.bbc.co.uk/1/hi/world/asia-pacific/7734749.stm>)

<sup>56</sup> Sum Rithy, interview with Tallyn Gray, 29 July 2012,

<sup>57</sup> Sum Rithy, interview with Tallyn Gray, 29 July 2012,

I have quoted this interview at length so that it can be laid alongside Sum Rithy's witness report and his other published tellings.<sup>58</sup> Notably absent from all of them, even his PRT statement, is the Marxist phraseology that peppers some of the others. His language does not transgress the PRT phrase regime, but does not endorse it. For Sum Rithy, the vessel through which the story is to be transmitted is less important than the act of telling – even if it risks painting a favourable /legitimising view of the PRK. However, he did not trust the process any more than Bou Meng and Chum Mei did. Like them he was well able to read signals including the absence of the defendants even as he offered testimony. He expresses that afterwards he felt hopeless, that no one really wanted to hear it.<sup>59</sup>

If we theorise through these three social actors, it is clear that they are asserting the existence of a *Differend*, considering themselves 'divested of the means to argue' by the primacy of a narrative Sum Rithy explicitly calls the '*drama of the Vietnam government*,' to the point where they did not choose to appear.<sup>60</sup> Sum Rithy's sense that no-one wanted to hear his story may reflect the feelings of others who came to testify. I have suggested on the basis of written texts that on the one hand, the testimonies show grievance articulated and the audience visibly affected, but on the other hand, phrases of victims in uneasy relationship with the hegemonic discourse. However, only those still available to speak, like Sum Rithy, can say exactly how far they felt undermined by the clash. Sum Rithy is a special case in his determination to find ways of telling his story in the new century so it can be heard, be understood on its terms and be represented in a history where it can educate.

It is important not to underestimate the PRT. Jarvis and Fawthrop rightly note that its characterisation as a 'show trial' by the west and the 71 chose to ignore the power and value of the evidence and testimonies it collected.<sup>61</sup> The experience of people like Sum Rithy, however, leads me to conclude that the PRT missed an opportunity. The goodwill which welcomed the Vietnamese forces as liberators, the powerful evidence and the willingness of people to testify, even, I would

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<sup>58</sup> Reports of Field Investigations: Number:2.3.3.02, Mr Chum Rithy (*sic*) : *Documents from the Trial of Pol Pot and Ieng Sary*, eds. Howard J. De Nike, John Quigley and Kenneth J Robinson (Philadelphia : University of Pennsylvania Press, 2000) 242-244

<sup>59</sup> Alexandra Kent , *The Story of Sum Rithy*

<sup>60</sup> Lyotard, *The Differend*,9

<sup>61</sup> Fawthrop and Jarvis, *Getting Away With Genocide?* 46-47

argue, the chance to seize the moral high ground over those nations condemning the invasion for geo-political reasons, were all sacrificed to protecting the primacy of the PRT's pro-Soviet narrative. Its refusal to let the evidence stand alone without linking to phrase regimes praising the government was a callous usurpation of memory; the 'small stories' looking for justice did not really find it.

### **3.2 THE TRIAL OF POL POT 1997**

#### **Staging**

Pol Pot, ill and old, was apprehended and placed on trial on July 25 1997. His presence was captured on news footage.<sup>62</sup> However, the news of his arrest was received with doubt and the West was puzzled as to what this image of a frail old man might mean.<sup>63</sup> The KR was notoriously unreliable at communicating accurate information about them to the outside world. The trial was brought to western attention by journalist Nate Thayer.<sup>64</sup> He claims to have persuaded the KR that some independent presence at the trial was necessary for the world to believe it.<sup>65</sup> I would speculate that the KR needed less persuasion than Thayer suggests.<sup>66</sup> In particular, the architect of the trial, Chhit Choeun, better known as Ta Mok, was well aware that an (inter)national TV audience for a spectacle in which he fully intended to emerge as victor would advance his interests.

The only available footage of the trial shows the 'courtroom' as a kind of barn with open walls in an L-shape, along which the audience is grouped; it suggests a space communal and informal, familiar to the audience.<sup>67</sup> One side consists mostly of women in brightly coloured clothes, like women in the Cambodian countryside wear today, many holding babies. There are some men on the other side of the 'L'; they wear uniforms, but informally; some wear caps, kramas and combat trousers with colourful polo neck t-shirts. This presents a careful visual

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<sup>62</sup> Associated Press, 'Albright Skeptical About Pol Pot Trial', *Albany Times Union*, July 30 1997

<sup>63</sup> Ted Koppel : The Trial Of Pol Pot : *ABC Nightline*, July 28, 1997<  
<http://www.youtube.com/watch?v=ktaOAye63A0>> <Accessed 1 April 2013>

<sup>64</sup> Nate Thayer, 'Pol Pot: The End', *Far Eastern Economic Review*, 7 August 1997

<sup>65</sup> Adrian Maben , *Pol Pot and the Khmer Rouge*, 3 part documentary 2001  
<<http://docsonline.tv/?search=Pol%20Pot%and%20the%20Khmer%Rouge&type=title&docinfo=3>>< Accessed 1 April 2013>

<sup>66</sup> Thayer, appearing Adrian Maben ,ibid.

<sup>67</sup> Ted Koppel : The Trial Of Pol Pot : *ABC Nightline*, 28 July 1997<  
<http://www.youtube.com/watch?v=ktaOAye63A0>> <Accessed 1 April 2013>

contrast to footage of DK showing everyone in black pyjamas, with the same haircut - a uniform society with everyone in uniform.<sup>68</sup> The austere communist society now visibly permits choices. The gender imbalance in the film is a clue that fighting still continues; as some of the cadres I interviewed attest, men were away for long periods leaving the women and children behind. In the middle of the 'room' sit Pol Pot and two other men, his co-accused; opposite them is a folding table with a microphone. The meeting goes on for around two hours; the 'chairman' continually shouts accusations into the microphone. The audience occasionally chant in unison phrases such as 'Crush the Pol Pot-ists,' pumping their fists in the air. Most look bored. My eyewitness narrators confirm this view; my field notes about meetings with attendees record

*These people understand that the event I am discussing is of interest to foreigners, but I am not so sure it is of much interest to them. While they are doing their best to remember what they can of the event, it strikes me that to them it is not all that important.*

Indeed it was not in any real sense about them, as I hope to show.

### **The author of the narrative**

The charges against Pol Pot did not relate to 'genocide' events between 1975 and 1979. They were a mixed bag of crimes: the murder of Son Sen, property damage and prolonging a war.<sup>69</sup> This selection was the product of complex political shifts out of which Ta Mok rose to power. I will examine his rise in some detail. This is partly to clarify how he staged the trial and orchestrated a narrative, which skirted the true horrors of DK but structured his own bid to consolidate his power as the face of the new KR. However, it will also provide a context for the 'transgressive' narratives from Anlong Veng in Chapter Six.

The Communist Party of Kampuchea dissolved itself in 1981 in favour of a 'movement of Nationalists'.<sup>70</sup> This was Pol Pot's strategy to make the movement more appealing. Out of power, the KR needed not only to divorce itself from the horrors of DK but also to attract people not previously associated with it. So Pol Pot's 'new KR' relaxed some rules: personal property was permitted;

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<sup>68</sup> Cambodia: The Khmer Rouge National Anthem[KH]<http://www.youtube.com/watch?v=UTeGfSkQPCA><Accessed 21 April 2013>

<sup>69</sup> Chandler, *Brother Number One*, 181

<sup>70</sup> Philip Short, *Pol Pot: The History of a Nightmare*, (London: John Murray 2005) 416-419



collectivised meals were abolished; people could live in their own homes; they could marry partners of their choosing, not the party's.<sup>71</sup> Mass killing all but disappeared.<sup>72</sup> The propaganda radio station broadcast traditional music.<sup>73</sup> At this point China, Thailand and the USA all opposed the Vietnamese puppet state. The Thai government gave shelter to KR; the Chinese sent weapons/ supplies. The West offered active support.<sup>74</sup> Throughout the 1980s the KR could realistically aim to be a viable alternative government. Many who had survived DK feared just that. However, after the departure of the Vietnamese, the Paris Peace Accords and UNTAC (described in Chapter One) the KR was shut out of the national discourse, partly of its own volition. Sihanouk returned with fanfares, embracing Hun Sen as 'his son'.<sup>75</sup> Although the KR still controlled large areas and continued to fight with the Kingdom's army, the mid 1990s marked a terminal decline. The uneasy Prime Ministers' coalition of Hun Sen's CPP and Norodom Ranariddh's FUNCINPEC attempted to demobilize the KR. Each party vied to attract defectors as the KR haemorrhaged members. Ieng Sary's defection was especially damaging; in exchange for a full royal pardon and retaining a demesne in Palin he brought with him 4000 KR troops (almost half of them) who swapped their uniforms for those of the Royal Cambodian Army.<sup>76</sup> Ieng went on a charm offensive to rewrite his role in the DK era. Nuon Chea and Khieu Samphan were pushed aside for younger men. As the KR movement disintegrated, Pol Pot became paranoid about his closest comrade's relationship with the coalition. Son Sen had been a key player in Pol Pot's movement since they met as students in Paris; he became DK Defence Minister and head of the *Santebal*.<sup>77</sup> Now, suspecting him of colluding with Hun Sen, Pol Pot ordered his death and those of his wife and small children. Khieu Samphan was arrested.

This greatly alarmed Ta Mok, who had been a leading CPK figure in the 70s, 80s and 90s with the nickname 'Grandfather Mok.' During DK he was head of the Southwest zone, a vital figure in orchestrating internal party purges and mass

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<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> Chandler, *Brother Number One*. 159

<sup>74</sup> John Pilger, 'How Thatcher Gave Pol Pot a Hand', *New Statesman*, 17 April 2000  
<http://www.newstatesman.com/node/137397> <Accessed 31 March 2013>

<sup>75</sup> Short, *Pol Pot: The History of a Nightmare*. 428

<sup>76</sup> Ibid. 437

<sup>77</sup> Khmer term meaning "keeper of the peace". The *Santebal* were the secret police

killings, earning his other nickname, ‘the butcher.’<sup>78</sup> Assuming that if Son Sen could be killed anyone could be next, Ta Mok moved his forces against Pol Pot in Anlong Veng, aided by FUNCINPEC, with whom he was negotiating.<sup>79</sup> As his interviews with Thayer show, these negotiations with FUNCINPEC were informed by Ta Mok’s ultra-nationalism, undermining Vietnamese influence in Cambodia by further re-branding the KR. In Ta Mok’s nationalist narrative, the CPP was synonymous with Vietnam. His argument essentially goes: anything bad in the nation is Vietnamese: communism is Vietnamese: thus Ta Mok is not a communist. Rather than denying personal responsibility for mass murder outright to Thayer, he adopts different stances, adamantly denying involvement in sending Cambodians to die at S-21, but taking a more nonchalant attitude to the killing of Vietnamese in the Southwest during DK.<sup>80</sup> In many ways Ta Mok was well placed to show himself fit for high office in a new democratic Cambodia. Anlong Veng (the area under his control) was not a bad advertisement for life under the ‘new KR’. Conditions were no worse than other poor countries. He had improved the infrastructure and those former KR who lived in the area under his control have fond memories of him:

*People who stayed with him, who worked with him, do not regard him as a bad person. They see him as a good and a kind person. He may have blamed and cursed a lot but always gave back good feedback. If he got angry with us, five minutes later he would bring us something to make up for it. Many people around here love and trust him... Ta Mok has left an infrastructure legacy - streets, hospitals, roads for Cambodia’s future and the younger generation.<sup>81</sup>*

If Ta Mok’s ally Norodom Ranariddh was to market himself and FUNCINPEC domestically and internationally as preferable to Hun Sen and the CPP, he had to bring the new KR into the fold clean of its past. With the departure of UNTAC only a few years earlier and the ‘end of history’ /liberal democratic statebuilding experiment of the new democratic Cambodia an apparent failure after the coup, it is unlikely the international community would want Pol Pot involved with the new Cambodia. Getting rid of Pol Pot was good for the image of a movement whose new slogans included ‘Long Live the Emerging Democracy’,

<sup>78</sup> Stephen Heder and Brian D. Tittmore: *Seven Candidates for Prosecution*, 100-101

<sup>79</sup> Chandler, *Brother Number One*, 180-181

<sup>80</sup> Nate Thayer, ‘Forbidden City: New Strongman Ta Mok Reaches out of Isolation,’ *Far Eastern Economic Review*, 30 October 1999

<sup>81</sup> Former KR Cadre 7 (Female), interview with Tallyn Gray, 13 October 2012

‘Cambodians Don't Kill Cambodians’ and ‘Long Live the New Strategy’.<sup>82 83</sup> Hence Ta Mok’s trial narrative offered an excellent way for the new KR to dramatize their rejection of their past by condemning its personification, Pol Pot. Killing him in the jungle would not have yielded such helpful footage to press this point.

### **The subject of the narrative – local readings**

Nate Thayer’s understanding of his footage and its significance is interesting in that it is very different from that of my Cambodian narrators. For Thayer it was the scoop of his career; he had provided the world with an iconic image, the hitherto unknown face of Pol Pot, which his footage could construct as the very face of genocide. But Ta Mok’s narrative had been tightly organised to exclude such meanings. It was important the trial did not relate to DK events between 1975 and 1979, crimes in which Ta Mok and others around Anlong Veng were implicated. So although Thayer’s footage might be understood in the West as a ‘genocide’ trial, it was no such thing. For the local people who watched it, it had a different significance. It was the first time they had seen Pol Pot, the man they considered responsible for very specific grievances under one of the charges – prolonging the war. They hoped these grievances would be addressed at the trial. I spoke to two eyewitnesses, a former cadre and the wife of a cadre then living in Anlong Veng, about what they felt the trial meant. Both read it as a power demonstration by Ta Mok over Pol Pot :

*I didn’t know the specific name of that mass meeting, only that it was referred to as the Pol Pot Trial. At the time I was in charge of the military families, like the soldiers’ families. I led the people to go to listen to the ‘court’. At the time Ta Mok collected all the KR families, like the wife and kids of the KR soldiers, to go to hear the court. All the Khmer Rouge villagers went to participate in that mass meeting. It was orders from Ta Mok. My role was to gather people and to hear the result of the court.*

*At the time in this area it was divided into two groups. One was the Pol Pot group; the second was the Ta Mok group. They had a conflict with each other and then they fought with each other, but Pol Pot lost the fighting to Ta Mok’s force .So the reason they prosecuted Pol Pot at the time was because he was the enemy of Ta Mok. Ta Mok wanted to show the power of his group. Ta Mok arrested Pol Pot as a high enemy – wanting to show that he was the man who won the conflict. At the beginning they were friendly and worked together, they stayed with each*

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<sup>82</sup> Nate Thayer, ‘Forbidden City’, October 30, 1997

<sup>83</sup> Nate Thayer, ‘Pol Pot, I Presume’, *Wall Street Journal*, 1 August 1997

*other for a while. No one really knew why there was a conflict between them.*<sup>84</sup>

None of the spectators was under any illusion that the trial was more than a spectacle to demonstrate Ta Mok's superiority locally . They were unaware of any kind of international dimension. They were clear, however, what they felt about the prolongation of the war and Pol Pot's role in it. I asked the wife of one cadre what people talked about among themselves before the meeting:

*The citizens were chatting with each other about Pol Pot and they cursed him and talked badly of him, and were cursing him, like saying, 'Fucking guy,' and things like that, because it was him that made the regime. It was because the regime lost the war with Vietnam [meaning Hun Sen].*

One of my narrators described what she had hoped the trial would achieve and how it failed to do so:

*I was just in the audience to hear the court. Many villagers volunteered to go, because most of them thought Pol Pot was guilty because he was the biggest leader in the regime, and they blamed him for the war [over the 1980s], the separation of families, and loss of their relatives, so they volunteered to go. I was thinking about when my family was separated from each other because of the Pol Pot regime. I was still very angry with this, and with Pol Pot, because he led the regime and made everything like the war, and he forced us to do all of the things he wanted and would not let us reject his idea. He was the powerful man of that regime. After we heard that he was going to be taken to be prosecuted, we wanted the court to take him or kill him. We were powerless in that court, we could not make any requests of it...The court process was not the same as the one now. There were no witnesses, no judge – just Ta Mok's staff announcing over the microphone that Pol Pot was a traitor and that the KR had lost fighting with the Hun Sen government because of him [Pol Pot]. It was a court like the one in the Pol Pot regime.*

*I lost two of my sisters and two brothers between 1975-1979. In the KR regime [she refers here not to DK but rather to the KR-controlled areas of the country in the 1980s and 1990s] I lost my husband and my son in the wars [i.e. civil wars of the 1980s/1990s].*

*We were all citizens under a communist regime and all communist party people, but only because Ta Mok took our husbands to be his military soldiers. But Ta Mok did give food to the wives. But we did not eat and live together. We lived separately, not collectively like under the KR. In 1990s up to nearly two hundred people here lived individually [had their own houses] but our husbands were collected by Ta Mok to be his soldiers, and only came back maybe one or two times in the space of three*

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<sup>84</sup> Former Cadre 8 (Male) , interview with Tallyn Gray, 14 October 2012

*or four years. And the wives and children lived in individual houses but we had to collect rice, salt, sugar or clothes from the centre of Anlong Veng town, to get everything from Ta Mok's donations. This regime ran for a couple of years. So no-one could dare reject the order of Ta Mok in the 1990s. I have never heard of anyone making a rejection of his orders, because that family would create a problem. And I delivered two babies in this time; my husband couldn't come to look after me at all for the first child I had. I delivered the baby in my house with help from my neighbour, and by the time my husband saw it, it could walk and sit. It's so sad he only saw his children one time. But no one ever said 'No' to Ta Mok.*<sup>85</sup>

This lady is expressing a grievance that has never been addressed in any of the courts and probably will never be. After DK thousands of people devoted their lives to Pol Pot's movement. She, like thousands of others, lived in the KR controlled zones. The male members of her family were sent to fight and die - against other Cambodians, and for nothing. Hun Sen was winning. Thayer refers to the cadres at the meeting as those who wasted their lives and lost limbs for Pol Pot's cause, which had achieved nothing but the prolongation of a war.

*Justice is fairness, I saw Pol Pot being carried to the truck with his hands tied. This is justice, and all the people who saw this meeting think it's justice. Karma is in a Buddhist proverb, 'Do good you get good, do bad you get bad.' So that was Pol Pot's Karma; this is why this court happened in 1997, the year before his death -because he was bad and killed many people, killed his staff, used his power badly. This is his Karma.*<sup>86</sup>

*The trial of Pol Pot was a show trial, all a drama - no judges, no lawyers, no witnesses, no questions, and no answers. Only one or two people talking - so it's still communist. So I don't know if that is justice or not justice. As for the victims and the families, hmm.... Maybe this is justice for Pol Pot himself? As for Karma, Pol Pot is the guy who was the leader of the regime. So it's fair, it should be to prosecute him because he was the leader of the regime. But the problem is that the court was not legitimate.*<sup>87</sup>

These two statements are revealing. Both the former cadre and the wife of a former cadre read the trial of Pol Pot in terms of Karma. However, such a reading does not demonstrate a competing idea of justice that for them negates the principle of a trial. The wife of the former cadre expressed her frustration with the Pol Pot trial as marginalizing her grievances in pursuit of its narrative. The two narrators are not saying that because Pol Pot's Karma returns to him they consider

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<sup>85</sup> Former Cadre wife 1, interview with Tallyn Gray, 14 October 2012

<sup>86</sup> Former Cadre wife 1, interview with Tallyn Gray, 14 October 2012

<sup>87</sup> Former KR Cadre 8 (Male), interview with Tallyn Gray, 14 October 2012

the court a just institution. Indeed the former cadre refers to the trial as illegitimate because it lacked all those elements that constitute what he regards as a legitimate court: lawyers and judges, not party apparatchiks.

### **The subject of the narrative – (inter)national readings**

A single image was all that mattered to Ta Mok . He wanted everyone around his power base Anlong Veng to see Pol Pot in captivity. This is the sole image he wanted to project to the nation and the world. There was no need for a coherent narrative about the experience of people like my narrators related to the activities of Pol Pot. What mattered was a few seconds of newsfilm establishing him as fallen : old, weak, ill and surrounded by people denouncing him. Thayer and ABC News both compared this process and its ‘robotic’ chanting by the audience to images of Chinese mass meetings during the Cultural Revolution.<sup>88</sup> Patronisingly, they suggest that while the KR were attempting to show themselves breaking with the past, the style in which they chose to do so undermined their aim. But while their Cultural Revolution analogy allows the western media to trot out the usual phrase ‘show trial’, their judgement here misses an important point. I would contend that Ta Mok never cared about the procedural character or visual impression of the trial. The point was to show a few seconds of Pol Pot looking miserable and under Ta Mok’s control . Ta Mok needed to demonstrate the KR had changed, to make him an acceptable partner for FUNCINPEC.<sup>89</sup> He needed to demonstrate to cadres and their families that he was the new person to lead them. These political points were successfully established in seconds. Meanwhile, the victims of one of the crimes being tried - the prolongation of the war - sat in the same space as Pol Pot with no chance to bear witness . They did not even have the opportunities available to the PRT witnesses, whose stories could at least find a place in the pro-Vietnam grand narrative. My narrator identifies a clear *Differend* when she says, *We were powerless in that court.*<sup>90</sup>

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<sup>88</sup> *ibid.*

<sup>89</sup> Chandler, *Brother Number One*, 181

<sup>90</sup> Former Cadre wife 1 , interview with Tallyn Gray, 14 October 2012

### **3.3 THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA 2006-**

The trial in the jungle was the only one Pol Pot would ever receive ; he died in 1998 . Ta Mok commented , ‘ Now he’s finished . He has no power, he has no rights, he is no more than cow shit.’<sup>91</sup> Ta Mok was arrested a year later and in February 2002 charged with crimes against humanity; he died before he could face the ECCC. As the ECCC proceedings carry on, narrative strands entangle and impede each other and there is an increasing awareness that the deaths of the remaining elderly defendants could forestall any final outcome at all . Karnavas’s ‘IT’ moment will be stillborn.

#### **Staging a moment in the life of the ECCC.**

February 3 2012 saw the conclusion of the appeal arising from the first case (001) – that of Kaing Guek Eav , Comrade Duch . Duch was chairman of Tuol Sleng prison, Security Center 21 (S-21) where at least 12,000 ‘enemies of the revolution’ were sent to be ‘smashed’. His appeal was rejected; the sentence was extended from 35 years - with 19 left to serve - to full life imprisonment (the maximum sentence).<sup>92</sup> As the final process of Case 001 this moment marks the first real outcome since operations began six years before. The occasion is carefully orchestrated as an ECCC showcase. While journalists are generally present, this is one day the global media will be offering coverage of the ECCC to the world . Diplomats and VIPs are escorted into the trial chamber , greeted by women in traditional Khmer costumes . The American and Japanese ambassadors have prime seats for the reading of an inevitably long verdict. Outside, elderly women who lived through DK sit on plastic chairs or the floor. As the verdict booms out through tannoys it prompts the immediate question: ‘For whom, exactly, is this day?’ Arguably, the ‘show’ is staged for a particular audience : for VIPs ensuring their donor money was well spent ; for the international community , who will report that the ECCC (as a TJ institution) delivers ‘justice’ - just as the PRT participants could go to their cocktail party with the sense that justice had been served .

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<sup>91</sup> Philip Short , *Pol Pot: The History of a Nightmare* , 442

<sup>92</sup> Supreme Court Chamber, Kiang Guek Eav alias Duch, Appeal Judgment 3 February 2012, (Case 001), Doc. n° F28

The physical structure of the ECCC speaks of tensions which this performance glosses over. It is easily missed. Several kilometres out of Phnom Penh on 'National Road 4' - a major motorway - and about ten minutes' drive past the airport, it is sited in the Army HQ. The symbolism of locating a court towards which the government has expressed such hostility in the heart of its power source has not escaped ECCC staff. A rusting sign points visitors up a dirt road behind tall trees, a further indication of the government's lack of enthusiasm for one of the most significant trials in legal history, and their desire to obscure it. The court makes great play of the thousands of people it busses in to watch.<sup>93</sup> However, it does not pay for the civil parties to attend.

*I go to court many many times and I lose business. I have to spend for my own transportation, and the court does not pay.*<sup>94</sup>

This is not a trivial complaint. Even for Phnom Penh locals, the cheapest rate for a moto-taxi (there is no public transport) is \$3-4. Cambodia's average per capita income is \$944 a year.<sup>95</sup>

The courtroom itself is behind a curved glass wall; before this is a curtain, which opens when proceedings begin. The TV cameras' angle can only catch the front rows. Today these are occupied by a bank of monks in their orange robes. While this position might suggest respect for their status and vocation, the best view is from the back. The monks present today are mostly students, too young to have lived through DK. The Public Affairs Section, though, is well aware of the power of the monks.

*It's important we contact monks, because monks in Cambodian society are superior to all other people and normal villagers will listen to them. This is why when we do work, we try to work with the monks.*<sup>96</sup>

Use of the orange robe assists the ECCC in its presentations; the homepage of the UNAKRT website includes a picture of a monk between two UN jeeps.<sup>97</sup> Robes provide a cultural signifier to the TV cameras for both international and

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<sup>93</sup> ECCC, ECCC Surpasses 100,000 Visitors Milestone, ECCC Website Posted 4 January 2012<<http://www.eccc.gov.kh/en/articles/eccc-surpasses-100000-visitors-milestone>><Accessed 15 April 2013.

<sup>94</sup> Sum Rithy, Civil party, Phnom Penh, Interview with Tallyn Gray, 24 July 2012

<sup>95</sup> The World Bank website, Data, GDP per capita (current US\$) <<http://data.worldbank.org/indicator/NY.GDP.PCAP.CD>> <Accessed 22 March 2014 >

<sup>96</sup> Mr. Neth Pheaktra, ECCC Press Officer, Phnom Penh, interview with Tallyn Gray 4 June 2012

<sup>97</sup> [http://www.unakrt-online.org/01\\_home.htm](http://www.unakrt-online.org/01_home.htm)



local audiences . For the international community and international donors the figure of the monk conveys local legitimacy combined with the exotic and unfamiliar, a classic Orientalist image . The presence of robed men in the auditorium taps into the national motto which heads all legal and state documents ( including my own tenancy agreement): *Nation, Religion, King*. It implies the ECCC has a kind of moral authority within Buddhism. The Buddhist community does not wholeheartedly assent to this, any more than it would have done to the PRT's public use of Tep Vong, ( who eventually became Supreme Patriarch). Some are hostile:

*We have had a Buddhist abbot who turned up once and said, 'Look all of this is useless, these people[the accused] are going to rot in Hell for all eternity . It's all a big waste of money, go and spend it on something else.'*<sup>98</sup>

### **Grand Narrative 1 – Liberalism ?**

Like the angry theatrical interventions by Ianuzzi and Piestman cited earlier , such comments undercut the smooth impression created by the VIPs, the monks and the energy generated by such a significant event . The BBC News quoted Andrew Caley in June 2011 : 'There hasn't been a case as large and complex as this since Nuremberg.'<sup>99</sup> In fact the hybrid status of the ECCC makes it far more complex than Nuremberg , so complex that at the time of writing it is bordering on impasse. The ECCC is not a Huntingtonesque binary 'clash of civilizations' but a tangled battle for primacy between narratives .<sup>100</sup> Here I attempt to pull out the competing narrative strands and examine the direct conflicts between them. I then go on to identify those points where 'grand narratives,' and the meta-narratives they generate to protect themselves, collapse and contaminate one another.

The first strand is produced by Lyotard's Grand Narrative of human progress through the acquisition of knowledge.<sup>101</sup> It may be termed Legal Liberalism. Legal Liberalism is based on a constitutionalist view that there should be a separation of powers - executive, legislative and judiciary. It holds that there is a

<sup>98</sup> Judge Rowan Downing QC, International Judge at the Pre Trial Chamber of the ECCC, Phnom Penh, Interview with Tallyn Gray, 1 June 2012

<sup>99</sup> BBC News: Cambodia: First hearing ex-Khmer Rouge leaders' trial, 27 June

11<<http://www.bbc.co.uk/news/mobile/world-asia-pacific-13922564>><Accessed 11 April 2012>

<sup>100</sup> Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order*, (London: Free Press 2002)

<sup>101</sup> Lyotard, *The Postmodern Condition*, xxiii-xxv

body of law to be drawn on , and a right and a wrong interpretation of that body . If one comes before a court, its role in the liberal legal system is to determine whether the law as codified has been transgressed or not. Thus decisions are made on the basis that there is a right interpretation of a law; that law is mostly comprised of interpretative decisions made ‘within’ what is already codified. Uncertain cases where courts must ‘make’ law are supposed to be rare. Judges and courts make their decisions on the basis of the law alone.

Without such separation of power or interpretative frames within law, legal liberals contend, interpretation and application of rules would emerge from another source . For example, the executive branch might push for an outcome it finds politically expedient. In a system where rule of law is supreme the executive is unable to influence the courts ( and is indeed subject to them ), and the courts are constrained to act only within law.<sup>102 103</sup> This concept infuses the TJ narrative. As Teitel says , ‘The justice-seeking phenomena discussed here are intimately tied to the fashioning of a liberal political identity...the turn to legalism...is emblematic of the liberal state, with transitional justice reconstructing the political identity on a judicial basis by deploying the discourse of rights and responsibilities.’<sup>104</sup> Thus legal liberalism is both the means and the ends of transitional justice. In the ECCC’s self-proclaimed ‘new role model for court operations’ the TJ narrative , and the means by which that narrative is told, are both component stories within the grand narrative of liberal democracy.<sup>105</sup>

Conforming to the international norm on justice, accountability, procedure and trial rights, both the government and the UN parties involved in the ECCC have signed up to this narrative:<sup>106</sup> and hence to the assumption that the trial will yield as Karnavas puts it, a yet untold ‘historical truth’.<sup>107</sup> To use Todorov’s term for the legal liberal trial’s literary cousin, the detective story, they will create a

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<sup>102</sup> Mark Burton, ‘Determinacy, Indeterminacy and Rhetoric in a Pluralist World,’ *Melbourne University Law Review*, Vol .21, 1997 , 545-6

<sup>103</sup> Robert. A. Dahl, *On Democracy*, (New Haven: Yale University Press, 2000)121-122

<sup>104</sup> Teitel, *Transitional Justice*, 225

<sup>105</sup> ECCC website , ‘About ECCC’ Accessed 5 February 2014, <<http://www.eccc.gov.kh/en/about-eccc> >

<sup>106</sup> Duncan McCargo, ‘Politics by other means? The Virtual Trials of then Khmer Rouge Tribunal’, *International Affairs*, 87 , 3, 2011, 613-627

<sup>107</sup> Michael Karnavas, Lead International Co-Lawyer for Ieng Sary, Phnom Penh, interview with Tallyn Gray, 6 June 2012

‘narrative of narratives’ from the stories told by witnesses on all sides, arriving at a conclusion which attributes responsibility. I find this analogy helpful not simply because it is a tool for the imagination to order and remember complex narratives, but because it is a reminder that caution is needed. As Todorov notes, in a detective story the *fabula* - ‘what really happened’ - is uncovered through the *sjuzhet* - the presentation of events in a particular order, style, and set of viewpoints.<sup>108</sup> In a detective story the *fabula* is also the author’s creation – it only exists for the sake of the *sjuzhet*. It is important to bear in mind that the ‘historical truth’ which emerges will be the product of certain political assumptions and priorities. A true *fabula* is impossible. As Barbara Herrnstein Smith notes, ‘For any given narrative there are always *multiple* basic stories that can be constructed in response to it, because basic-ness is always arrived at by some set of operations, in accord with some set of principles, that reflect some set of interests.’<sup>109</sup> Nor could any court, archive, or art form ever show ‘what really happened’ in Cambodia; but as bodies continue to be uncovered and identified it is worth measuring what the court achieves by the standards it has set itself. The ECCC has to work on the assumption that *enough* of a *fabula*, enough evidence of ‘what really happened’ can be made to emerge through a narrative process allowing for a charge to be proven or not proven, and that this cannot be prescribed. It is an act of faith in the Liberal narrative, even when its imperfections are clear. At the political level the trial structure articulates the classic TJ narrative arc of redemption, moving the state towards a more liberal political order by a demarked shift via the criminal trial to a point where the illiberal past is rejected; this end point is liberal democracy.<sup>110</sup>

It would be a mistake to see this as a purely Western narrative. All my Cambodian narrators, while not blind to its imperfections, regard the ECCC as having greater legitimacy than the domestic legal system. Many Cambodians at the ECCC are reasonably content to work within this trial narrative because it fits the framework of the Cambodian Constitution established under UNTAC in the 1990s, rooted in Enlightenment ideals, the democratic peace thesis and the ‘good governance’ paradigm they wish to see successfully applied throughout

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<sup>108</sup> Todorov, ‘The Typology of Detective Fiction’, 70-78

<sup>109</sup> Barbara Herrnstein Smith, ‘Narrative Version, Narrative Theories’, *Critical Inquiry*, 7, (1980). 209-18

<sup>110</sup> Teitel, *Transitional Justice*, 7

Cambodia.<sup>111</sup> Their faith in the Liberal narrative is fully aware, however, that it has to negotiate with another. One of my Cambodian narrators from a Human Rights and Good Governance NGO described the institution as being ‘*like a three legged race. Both have to work together. One fails, the other fails.*’<sup>112</sup>

### **Grand Narrative 2 – Marxism ?**

Judge Rowan Downing QC International Judge at the ECCC’s ‘Pre-Trial Chamber told me :

*[Cambodia is a ]country with French-based laws. So they have adopted those and they have chosen to continue to adopt them. Post-independence , post-shattered state , they have still got those laws, but with a Soviet overlay. Because all of the upper echelons of their legal sector here are Soviet-trained - Moscow, East Germany or one of the Soviet satellites. That presents a challenge . Now, in the thirty year period and the legal vacuum there was an initial 10-12 year period where there was a complete collapse in the legal system. The judiciary was not functional. The judiciary, insofar as it was there at all, was a direct arm of the government . There was no pretence that it was separate from government; it was a Soviet system.*<sup>113</sup>

Ieng Sary’s International Lawyer Michael Karnavas describes the post-DK Vietnamese-installed judiciary as ‘*party members...I can only assume they were there to watch the judges.*’<sup>114</sup> He says that his experience of Legal Capacity Building in Cambodia showed that this new judiciary had no experience of courts abroad with which to compare itself. Despite signing up to the ECCC’s legal liberal narrative, Cambodia remains a country in which the judiciary is basically an arm of the executive .

### **Marxist or Democrat or Sdech ? Hun Sen as controller of the narrative**

However, while the RGC may currently express commitment to the liberal democratic principles of the constitution, it maintains a Soviet structure. It is

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<sup>111</sup> Richmond, *A Post-liberal Peace*. 4

<sup>112</sup> Ven.15 Kompong Cham, Interview with Tallyn Gray, 3 October 2012

<sup>113</sup> Judge Rowan Downing QC, International Judge at the PreTrial Chamber of the ECCC, Phnom Penh, Interview with Tallyn Gray, 1 June 2012

<sup>114</sup> Michael Karnavas, Lead international Co-Lawyer for Ieng Sary, Phnom Penh, interview with Tallyn Gray 6 June 2012.

extremely difficult to disentangle Government or Party from the figure who heads both, Hun Sen. This is as much a mystical story about a prince and his power as it is about ideology. I turn now to the author and self-appointed hero of that narrative, a complex product of a hybrid political culture. A former guerrilla fighter and Khmer Rouge cadre who claims to have joined to fight for the King, Hun Sen served for over a decade (first as Foreign Minister and then Prime Minister) in the Soviet-style government backed by the Vietnamese.<sup>115</sup> Post-UNTAC, he and his Kampuchean People's Revolutionary Party (KPRP) emerged into the 1990s with a change of party name to the Cambodian People's Party (CPP), a redesigned logo and quick abandonment of the lexicon of Marxist-Leninism. The one man and party that governed the People's Republic of Kampuchea became the dominant person and party of the Royal Government of Cambodia, to dominate Cambodian politics through the 1990s to the present. My contention here is that the narrative in relation to the DK era did not significantly change character with the change of lexicon and look - the party narrative stayed the same. The CPP is a party of Soviet-style government with a self-devised lexicon. It is not appropriate to call this strain of narrative 'Marxist', in that the KPRP/CPP was always primarily concerned with the preservation of itself over ideology. Nevertheless, phrase regimes were carefully re-calibrated to fit their respective eras. With the Vietnamese pullout in 1989 the KPRP became the more pro-democratic CPP, and as the UN pulled out, Hun Sen's CPP and its commitment to Liberal democracy also waned. Both grand narratives of human progress (Marxism / Liberal Democracy) collapse in the face of a superficial commitment where power is the end and ideology the means.

As the traditional Cambodian monarchical governance of the autocratic kind practiced by Norodom Sihanouk in the 1960s grew steadily weaker, space opened up for a different kind of narrative and the power that went with it. As Astrid Noren Nilsson points out, Hun Sen actively links himself to Sdech Kân, the sixteenth-century monarch of powerful cultural legend.<sup>116</sup> By awarding himself the title *Sdech* (prince) he taps into concepts of authority by linking himself to traditional Buddhist cosmological notions of moral order. The

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<sup>115</sup> Harish C Mehta and Julie B. Mehta, *Hun Sen: Strong Man of Cambodia* (Singapore: Graham Brash Pte Ltd 1999) xxii

<sup>116</sup> Astrid Norén Nilsson, 'Performance as (re)Incarnation: The Sdech Kân Narrative', *Journal of Southeast Asian Studies*, Vol 44, Issue 01 February 2013, 4 -23

authority of the monarch in the Khmer tradition emerges from the notion that he has accrued enough merit over previous existences to permit his birth into such an exalted position. (The King rules because of his accumulated good deeds.) Hun Sen wraps himself in Khmer mysticism to exhibit himself as a strong ruler who can create a new 'tiger economy' - one, moreover, engaged in prolonged struggle for peace in the face of American and UN intransigence.<sup>117</sup>

America, along with the others ... once gave support to the Khmer Rouge. It's not me who has changed, but those who supported the Khmer Rouge 10 or 20 years ago. It took me 20 years to destroy the political and military organization of the Khmer Rouge.<sup>118</sup>

When considering Hun Sen's impact on the court it is important to note that many Cambodians who lived under the KR would share this evaluation - although many of those born in the 1980s are baffled by it, as one of my narrators commented:

*They [the older generation] say, 'I vote this guy because I don't want to see the war.' And I say, 'No, no this guy is bad'. And they say, 'Ah, you never lived or had past experience like me, and I was in the Pol Pot regime. It was very difficult'. So now it is enough for them, even if there is no... they are not rich, but they have food to eat, something like that. They may have no rights but they can vote. So they say it's better than Pol Pot regime. So they say, 'I like this guy.' They trust this guy because there is the absence of war and now there is food. They are scared to change, because they are afraid the war is coming back. They know this guy is very bad, but he is better than Pol Pot. So that's why it is difficult for the Cambodians to vote or select the good, because they feel it is better than Pol Pot already. So they just compare like that. They don't compare to other countries and say, 'No, we are poor, we need to change a bit, to find a good leader.' They don't care; they just keep ...because they are afraid of the war and killing again.*

*So they don't want to say... they never talk, they keep silent, just very short ...If you ask why they vote for this guy, they will give you short answer, like say, 'You never experienced Pol Pot. I have. So I don't want to change.'*<sup>119</sup>

### **Closing the narrative**

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<sup>117</sup> Hun Sen, quoted Mehta and Mehta, *Hun Sen: Strong Man of Cambodia*, 268

<sup>118</sup> Terry McCarthy Interview with Hun Sen, 'Hun Sen: Cambodia's Mr. Justice?', *Time Asia*, Monday, 22, March 1999

<sup>119</sup> Ven 15, Kompong Cham, Interview with Tallyn, Gray 3 October 2012

Hun Sen has already stated that ‘ the accused are guilty.’<sup>120</sup> For him the court’s legacy and scope have been decided . In place of the liberal project of bringing evidence to bear in order to (re)construct a *fabula*, the approach is one of reverse engineering . The completed narrative is taken apart through the process and the sum of its parts are examined using a liberal legal format, but there is a preconstructed narrative serving as both *sjuzhet* and *fabula* - one in many ways similar to that of the PRT . Hun Sen makes frequent references to the PRT, and other Government officials have stated that no further trial was needed.<sup>121 122 123</sup> There will be no attempt to revise the *sjuzhet* to produce a different narrative - despite the fact that the PRT investigations were only the start of the process of amassing evidence of genocide ; with the best will in the world the PRT could not have been aware of the magnitude of the impossible *fabula* . The most obvious feature of the CPP’s present-day *sjuzhet* is its small number of characters. Only a few of the most senior figures will ever appear as defendants. Along with Case 001, now resolved, and Case 002, still being tried , two further cases are supposedly under investigation (003 and 004). Hun Sen has explicitly stated that he will not allow these to proceed.<sup>124</sup> His information minister declared, ‘If they [the ECCC] want to go into Case 003 and 004, they should just pack their bags and leave.’<sup>125</sup> Despite officially ‘inviting’ the UN to help the state prosecute the atrocities, the trial narrative is closed . It runs, ‘ We have faced evil times, here are those who are responsible, we condemn them, and afterwards we move on.’ The story pushes with all possible speed towards the point Hun Sen envisages when Cambodia can ‘dig a hole and bury the past’.<sup>126</sup>

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<sup>120</sup> Quoted from Supreme Court Chamber Decision on Nuon Chea’s Appeal Against the Trial Chamber’s Decision on Rule 35 Applications for Summary Action 6 , 14 September 2011, Case 002, *Doc. n° F28, E176/2/1/4*,

<sup>121</sup> Craig Etcheson, *After the Killing Fields: Lessons from the Cambodian Genocide* (Lubbock: Texas Tech University Press 2006) 17

<sup>122</sup> Laura McGrew, ‘Re-establishing Legitimacy’, 253

<sup>123</sup> It is interesting in this context to note that Ieng Sary, convicted by the PRT, was ‘pardoned’ in 1996 . Implicit in the action of pardoning someone for a crime is that the conviction is sound. See David Scheffer, *All the Missing Souls: A Personal History of the War Crimes Tribunals*, (Princeton: Princeton University Press 2012) 491

<sup>124</sup> Cheang Sokha, ‘Hun Sen to Ban Ki-Moon: Case 002 last trial at ECCC’, *Phnom Penh Post*, Wednesday, 27 October 2010

<sup>125</sup> Quoted from Press Release by the International Co-Investigating Judge, The Extraordinary Chambers in the Courts of Cambodia, 10 October 2011

<sup>126</sup> Hun Sen quoted Laura McGrew, ‘Re-establishing Legitimacy Through the Extraordinary Chambers in the Courts of Cambodia’, 253

A sovereign state is of course allowed to say that it no longer wants to have an independent international court . However, the ECCC was officially invited to pursue independently all that falls under its jurisdiction and to withdraw that invitation would immediately raise questions. But the reason for Hun Sen's reluctance is clear. Many serving government officials and senior CPP members had close ties and/or direct involvement with the KR.<sup>127</sup> His position is not without support. Low-level former KR are responsive to such a narrative because whatever they may have done as KR they did not do willingly:

*I joined the Khmer Rouge in 1973.... Soldiers just came to the village and took the men. We couldn't say no as they would kill us. So they forced us to be soldiers. Everywhere in this country when soldiers [of whatever group] came to the village to 'recruit,' no one ever had a choice. They just had to join. Every time soldiers came, they came as a large group, carrying guns, and they picked up the men of the right age.*<sup>128</sup>

But it is senior figures in the ruling party who have most to fear from revelations that may emerge if matters are pursued beyond Case 002 - because they are connected with defendants or would themselves *become* defendants. If Cases 003 and 004 do proceed, it will theoretically open the way for the ECCC to prosecute similar crimes involving, perhaps, the 15-20 individuals apparently envisaged by David Scheffer and Stephen Heder during the negotiations phase.<sup>129</sup> Heder has remarked that the extremely limited jurisdiction of the ECCC works to exclude Hun Sen himself.<sup>130 131</sup>

This tightly restricted selection of cases is reinforced with an underlying threat to the public who might want further prosecutions. As discussed previously, the PRK and the RGC were concerned not to alienate lower cadres as they demobilized. Hun Sen still warns that prosecutions beyond Case 002 could lead to civil war - despite the fact most cadres are beyond the age where they could

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<sup>127</sup> Jacques Follorou, 'Special Report: An ex-KR Claims the Right to be Forgotten' *Le Monde*, 29 September 2009

<sup>128</sup> Former KR Cadre 4 and also former Monk , Kompong Thom Province, Interview with Tallyn Gray, 18 September 2012

<sup>129</sup> Stéphanie Giry , 'Necessary Scapegoats? The Making of the Khmer Rouge Tribunal', *New York Review of Books*, 23 July 2012

<sup>130</sup> Stephen Heder, 'Reassessing The Role Of Senior Leaders And Local Officials In Democratic Kampuchea Crimes: Cambodian Accountability In Comparative Perspective', *Bringing The Khmer Rouge To Justice: Prosecuting Mass Violence Before The Cambodian Courts*, eds. Jaya Ramji and Beth Van Schaack , (Queenstown: Edwin Mellen Press, 2005) 410

<sup>131</sup> Here it must be noted that no allegations made against Hun Sen about any wrongdoings in DK have ever been sustained



take to the jungles again.<sup>132</sup> One of my Cambodian narrators in the Human Rights field considers that only the government now has the power to stir up this kind of conflict, but that it exploits a fear of civil war inherent in a society that has endured so much:

*One: the government do not want to lose power. My thinking is that the government knows the people want peace, and say that the court is not important: the peace is important. Second: if we call for 003/004 etc., then they [the RGC/CPP] threaten [the possibility of] war. So people will be frightened if they think Case 003 and 004 will cause war. All the time the government says to the people, 'Peace is most important, and court is not as important as peace.'*<sup>133</sup>

This threat of a war is an illusion. There is no threat of a KR return to power, or civil war. As the speaker is aware, what drives this view is not a concern to keep the peace but to keep the CPP in power. In Chapter Five I discuss how the CPP used the threat of a KR ideology returning civil war and an interstate war with Vietnam as election tools in 2013.<sup>134 135</sup>

### **Hybrid style?**

It is necessary for the Hun Sen narrative to retain at least some of the outward forms of legal liberalism. Adapting Homi Bhabha's concept of 'mimicry,' I would argue that the RGC mimics the liberal system to 'look' legitimate in global society, quashing discussions in the international community about the 'culture of impunity' and consigning the legacy of the KR to history.<sup>136</sup> A court system like the ECCC provides the means to this. However, the RGC has shown no political will for the process.<sup>137</sup> My modified version of Bhabha's term 'Mimicry' denotes 'a performance that outwardly copies the lexicon and style of the liberal democratic ideal, but only for the benefit of the international community'.<sup>138</sup> By having the process at all, the RGC is demonstrates its fluency in the discourse of

<sup>132</sup> Giry, 'Necessary Scapegoats?'

<sup>133</sup> Ven 15 Kompong Cham, Interview with Tallyn Gray, 3 October 2012

<sup>134</sup> Radio Free Asia, 'Hun Sen Warns of 'War' if He Loses Election' *Radio Free Asia*, 19 April 2013. Accessed 6 June 2013 < <http://www.rfa.org/english/news/cambodia/hun-sen-04192013173854.html> >

<sup>135</sup> Cheang Sopheng, 'Cambodia PM Seeks Law to Punish Khmer Rouge Denial' *Hawaii News Now*, 28 May 2013

<sup>136</sup> Laura McGrew, 'Re-establishing Legitimacy through the Extraordinary Chambers in the Courts of Cambodia'

<sup>137</sup> Michael Karnavas, lead international Co- Lawyer for Ieng Sary, Phnom Penh, Interview with Tallyn Gray, 6 June 2012

<sup>138</sup> Homi K. Bhabha, *The Location of Culture* (London :Routledge 2004) Chapter 4

legal liberalism and ‘normalises’ itself for the global community, showing that the once war-torn state can now be a fully engaged political and economic player under the rule of law.<sup>139</sup>

It is clear, however, that there are grounds for pessimism both within the trial and the associated *reportage*. For example, Khmer Language versions of newspapers available in both English and Khmer contain different ‘facts’ about the same stories, while the English language versions read by the NGO/UN/ international workers appear to enjoy the right of a free press.<sup>140</sup> Within the ECCC itself co-investigating judges have discovered that even the physical processes through which they present evidence are impeded. Judge Laurent Kasper-Ansermet resigned in 2012, claiming the Office of the Co-investigating Judges was dysfunctional and rife with irregularities.<sup>141</sup> His domestic counterpart, Judge You Bunleng, was sabotaging his ability to investigate Case 003 by: not allowing him to place documents in the case files; withdrawing the official seal; refusing to acknowledge his legal validity to investigate; denying access to basic services, such as interpreters and drivers to go out on investigation missions. The relationship between the two judges visibly degenerated, as evidenced by hot-tempered press releases (especially Judge You’s).<sup>142</sup>

This weakness of the legal liberal narrative of the court is precisely that it is in the process of being assembled. A *fabula* that has been fully pre-written like a detective novel does not need the way to be smoothed for it, especially when one has allies working from within to steward the *sjuzhet* as it advances through the dialectical process of the trial. The ‘liberal side’ has to battle against those inside the institutions ‘pulling the strings’ to block any component of the narrative they

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<sup>139</sup> William W. Burke-White, ‘Preferences Matter: Conversations With Cambodians On The Prosecution Of The Khmer Rouge Leadership,’ *Bringing The Khmer Rouge To Justice: Prosecuting Mass Violence Before the Cambodian Courts*, eds. Jaya Ramji and Beth Van Schaack (Queenstown: Edwin Mellen Press 2005) 111

<sup>140</sup> Richmond, *A Post-liberal Peace*, 66-69

<sup>141</sup> Office of the Co-Investigating Judges: Note of the International Reserve Co-Investigating Judge to the parties on the egregious dysfunctions within the ECCC impeding the proper conduct of investigations in cases 003 and 004: Extraordinary Chambers in the Courts of Cambodia: Document No: D114, 21<sup>st</sup> March, 2012

<sup>142</sup> Julia Wallace, ‘You Bunleng Fights Back Against Swiss Judge’s Accusations’, *The Cambodia Daily*, 27 March 2012

do not desire to be incorporated.<sup>143</sup> The experiences of the investigative offices have shown that, when combatting defensive techniques ranging from the petty to the ‘possibly even criminal,’ it is the liberals who lose.<sup>144</sup>

Almost all my Cambodian narrators (unless they have a particular criticism of the ECCC), express the assumption that the task of the ECCC is to exhume some kind of historical account, a *fabula* of sorts with lasting value. As one of them put it:

*I think that the tribunal itself provides tools. With all the questions from the judge is finally some truth out of this tribunal. If they take [what they found] and they publish a report at the end, this can be placed in a museum. This can be an official book about the KR regime, and this can be soothing related to facts.*<sup>145</sup>

### **Mingled narratives: holes in the stories**

However, it is important not to over-simplify the complex relationship between the narratives. For instance, another way to think about the behaviour of the RGC is to ask, as Alexandra Kent does, ‘Why should the RGC trust the international community?’<sup>146</sup> The USA saturation-bombed their nation, arguably allowing Pol Pot to ascend to power; western Marxist academics provided the KR with intellectual ‘cover’ as the regime slaughtered millions; the UN recognised DK as the legitimate government throughout the 1980s, setting back national reconstruction for years; then the UN came with peacekeepers and NGOs, creating a boom in the sex industry.<sup>147</sup> It is wholly inadequate to characterize the struggle for narrative primacy as a binary between east/west, domestic /international, ‘Asian Values’ / ‘Western values’. This would imply that all the Cambodian elements of the court collude with the RGC-approved narrative, while all the international elements remain ‘pure.’ I would argue that within both

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<sup>143</sup> From Marcel Lemonde and Jean Reynaud: *Un Juge Face aux Khmers Rouges*, Paris, Editions Du Seuil, 2013, 32- Translation From Nuon Chea Defence Team: Request To Consider Additional Evidence 14 March 2012 Case 002, Doc. n° E189/3/1/7

<sup>144</sup> Quote from Michiel Pestman, Co-Lawyer for Nuon Chea: Trial Chamber -26 March 2012 Trial Day 41 (Case 002) Doc. n° E1/53.1 .61

<sup>145</sup> Therapist at the Transcultural Psychosocial Organization(TPO),Phnom Penh, Interview with Tallyn Gray, 12 March 2010

<sup>146</sup> Alexandra Kent, Conference Paper, ‘Trying to Get it ‘Just’ Right: Friction and Security at the Khmer Rouge Tribunal in Cambodia,’ National Conference on Peace and Conflict Research, School of Global Studies, Gothenburg University, 2012

<sup>147</sup> Human Rights Watch, ‘Off the Streets: Arbitrary Detention and Other Abuses against Sex Workers in Cambodia’, New York, Human Rights Watch, 2010, 19-20

‘sides’ there are degrees of both compliancy and subversion, emerging from the ‘egregious dysfunctions’ produced by this very struggle.<sup>148</sup>

The selective *sjuzhet* is by no means a monopoly of Cambodian politicians. International actors also have an interest in the obliteration of nuance, which leads to significant gaps in the story. Their legal model is designed to place on public record what happened, within the framework of a constitution enshrining the concept that someone must be held responsible for an outcome.<sup>149</sup> Steven Heder, however, argues that this ‘Nuremberg’ model encourages a ‘top down’ view of history, which concentrates the narrative on a few individuals to exclude context and episodes vital to understanding the whole situation.<sup>150</sup> Michael Karnavas echoed this, with particular reference to the way the timeframe of the ECCC *sjuzhet* has obliterated the American bombing from the *fabula*, or as he terms it, the ‘historical truth’:

*In this particular place [ECCC] they have plucked two magical dates – the fall of Phnom Penh [1975] and the fall of Phnom Penh [1979]- as if nothing happened before and nothing happened after. So the biggies - China, the United States, and the UN - are not in the scope.*<sup>151</sup>

The *sjuzhet* of ‘magical dates’ (Ta Mok’s *sjuzhet* also used these) had particularly poignant application on the day I interviewed Michael Karnavas. A former cadre had testified about his experience of fleeing from the American bombing at Mondul Kiri and how he was forced to evacuate. Karnavas observed that his testimony received little attention:

*Like, today you had a witness. He was talking about the bombing, and people evacuating [from Mondul Kiri]. Of course, he and everyone else had to leave of their own accord. It may not be what the Prosecution want to hear. But it’s part of the narrative. Because we are not searching for the historical truth we are discarding that. I think the court is going to*

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<sup>148</sup> Office of the Co-Investigating Judges: Note of the International Reserve Co-Investigating Judge to the parties on the egregious dysfunctions within the ECCC impeding the proper conduct of investigations in cases 003 and 004: Extraordinary Chambers in the Courts of Cambodia: Document No: D114, 21 March, 2012

<sup>149</sup> Abrams, Bischoff and Ratner, *Accountability for Human Rights Atrocities in International Law*, 3-26

<sup>150</sup> Heder, ‘Reassessing the Role of Senior Leaders and Local Officials In Democratic Kampuchea Crimes’

<sup>151</sup> The Witness, Mr. Lysak, was a KR cadre describing how Mondul Kiri was extensively bombed by the Americans and how everyone in the area had to flee : Trial Chamber 6 June 2012 Trial Day 70 (Case 002) Doc. n° E1/82.1 .48

*allow a certain amount of contextual facts to come in, but it is not going to be the historical truth. When a civil party comes in they want to know the historical truth, but the court doesn't have time for that. You know, one piece of information is all they need to assist them to fill in a blank.*<sup>152</sup>

The limited narrative and jurisdiction of the ECCC not only exempts currently serving government officials from scrutiny but also all those in the international community who helped the Khmer Rouge to power and supported their terrorist guerrilla movement of the 1980s. The official position of China, announced by the Ambassador in Phnom Penh, Zhang Jin Feng, is: 'The Chinese government never took part in or intervened into the politics of Democratic Kampuchea...the Chinese did not support the wrongful policies of the regime, but instead tried to provide assistance through food, hoes and scythes.'<sup>153</sup> This is an outright lie. China had thousands of 'advisors' in Phnom Penh at the time.<sup>154</sup> Along with the US, UK and the rest of the 71, China stood shoulder- to-shoulder with their 'KR' allies throughout the 1980s. The Chinese actively tried to block the creation of a court in the negotiation phase.<sup>155</sup> This is in stark contrast to 1979, when the President Heng Samrin (former head of the government in PRK and current chairman of the National Assembly of Cambodia) implored the world to help the new government to 'stay the criminal hands of the Peking reactionaries and other reactionary forces who are strenuously trying to sabotage the Kampuchean people's just cause and to undermine peace and stability in Southeast Asia.'<sup>156</sup> As the CPP has strengthened its power through brute force and western donors become squeamish, it is to China that Hun Sen has turned to bankroll his increasingly authoritarian state. Hun Sen in 2006 declared that China is Cambodia's 'most trustworthy friend'.<sup>157</sup> The Chinese do not attach 'human rights' issues, political or judicial reform to aid, of which they are now providing

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<sup>152</sup> Michel Karnavas, lead international Co- Lawyer for Ieng Sary, Phnom Penh, Interview with Tallyn Gray, 6 June 2012

<sup>153</sup> Kong Sothananarith, 'China Played No Role in Khmer Rouge Politics: Ambassador,' *CAAI, News Media*, 23 January 2010, <<http://khemernz.blogspot.co.uk/2010/01/china-played-no-role-in-khmer-rouge.html>> <accessed 11 April 2013>

<sup>154</sup> Andrew Mertha, 'Surrealpolitik: The Experience of Chinese Experts in Democratic Kampuchea 1975-1979', *East Asian History and Culture Review*, No. 4, September 2012, 65-88

<sup>155</sup> Laura McGrew, 'Re-establishing Legitimacy', 268

<sup>156</sup> Number 3.05 'Speech by President Heng Samrin at a Reception in Honor of Foreign Guests, August 19, 1979', *Genocide In Cambodia, Documents from the Trial of Pol Pot and Ieng Sary*, eds. Howard J. De Nike, John Quigley and Kenneth J. Robinson (Philadelphia: University of Pennsylvania Press, 2000) 550

<sup>157</sup> BBC News: China Gives Cambodia \$600m in Aid, 8 April 2006 <<http://news.bbc.co.uk/1/hi/world/asiapacific/4890400.stm>> <Accessed 11 April 2013>

vast sums. The Chinese denial that they assisted the KR means that the RGC *sjuzhet* is narrowed to exclude yet another part of the story<sup>158</sup>.

### **Speaking (?) silences in the narrative**

There are subtle varieties of international complicity with the RGC narrative. Karnavas suggests that the Internationals have painted themselves into a corner by too much acquiescence. From the outset there were systemic failures, which become more apparent as time goes on:

*The UN, very early on, for whatever reason, was willing to give and give and give and give, and they out-negotiated themselves and put themselves in a position where they had very little leverage. And now when there's massive political interference, very little can be said from the court, because well, you know, the local judges were appointed by Hun Sen and the international judges are not coming out saying, 'This is reprehensible behaviour, the Prime Minister should stop doing that'. Because the minute they do, their colleagues on the bench are going to get upset. I think the International Judges have been... in a sense been co-opted by not taking on a lot of the issues at the very beginning. You know, when it became known that the national staff had to give kick-backs – massive corruption- here you have an entire institution, a judicial institution, where you have these very corrupt practices. The UN does not investigate. The UN says it cannot come out with a report because the Cambodian government requested it.*

*I think some take a very pragmatic view and say something like, 'Well, you know, something is better than nothing. There may be flaws, but at least it's not nothing. But why spend \$150, 000,000 on something to prosecute a bunch of octogenarians?' It has been a very rough trial.*<sup>159</sup>

Co-Investigating Judge Marcel Lemonde resigned from the ECCC in 2010. In 2013 he published a book describing his experiences.<sup>160</sup> He mentioned discussions with another Cambodian judge in which he was told directly that all Cambodian judges are so fearful of, or so intertwined with, the Party that there is not a single Cambodian magistrate who could be trusted. The same judge told Lemonde that the international judges on the investigative team would never be trusted by their Cambodian counterparts. Lemonde concludes that the entire Cambodian side is

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<sup>158</sup> Ian Storey, 'China's Tightening Relationship with Cambodia', *China Brief*, Jamestown Foundation, Volume 6 Issue 9, December 2006

<sup>159</sup> Michel Karnavas, lead international Co- Lawyer for Ieng Sary, Phnom Penh, Interview with Tallyn Gray, 6 June 2012

<sup>160</sup> Marcel Lemonde and Jean Reynaud: *Un Juge Face aux Khmers Rouges* (Paris: Editions du Seuil) 2013

prepared to obstruct any potential proceeding that would prove politically embarrassing. He considers that the Party was not so much conspiring to destroy the ECCC as assuming that Judges exist only to carry out the executive's orders.<sup>161</sup> Lemonde's replacement, Siegfried Blunk, resigned in 2011, mired in scandal. Members of his own office alleged that, along with You Bunleng, he had closed down investigations into 003 and 004 with barely any inquiry. International NGOs Human Rights Watch and Amnesty called for his resignation (implying as they did so that Blunk was being leaned on). He was replaced by Kasper-Ansermet.<sup>162</sup> The Blunk fiasco was a particular humiliation for the UN; the stories surrounding the investigative offices were farcical. Open Society Justice Initiative reported that the staff of the Office of Co-Investigating Judges had stuffed Case File 003 with random papers to give the impression of a genuine investigation.<sup>163</sup> There have also been criticisms of other staff members, for example Helen Jarvis, former head of the Victims Unit, due to her close long-term relationship with the Hun Sen government.<sup>164</sup>

Michiel Pestman put it bluntly when he asked the Trial Chamber Judges Cartwright and Lavergne whether they believe the Trial Chamber will ever take a decision against the wishes of the Cambodian Government.<sup>165</sup> This is a significant question. While a trial of the CPK leaders is symbolically important, at what point does a process of a standard unacceptable at The Hague imply a UN seal of approval on corruption and political molestation of the judiciary? Given the serious nature of the allegations, particularly those from Kasper-Ansermet, the absence of an official international investigation is surprising. The question hovering over the internationals, in particular the two international judges in the Trial Chamber, Cartwright and Lavergne, is whether their silence is complicit with interference.

### **Hybridisations**

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<sup>161</sup> Ibid. 32, Translation from Nuon Chea Defence Team: Request To Consider Additional Evidence 14 March 2012 Case 002, Doc. n° E189/3/1/7

<sup>162</sup> Human Rights Watch *Cambodia: Judges Investigating Khmer Rouge Crimes Should Resign*, 03 October 2011 <http://www.hrw.org/node/102105> accessed 13 April 2012

<sup>163</sup> John A. Hall, 'A UN Fiasco in Cambodia', *Wall Street Journal* 5 October 2011.

<sup>164</sup> Cambodian Center For Human Rights: Press Release : Conflicts Of Interest - Serious Concerns Arising From The Appointment Of H.E Dr. Helen Jarvis As The New Head Of The Victims Unit At The ECCC, Phnom Penh, 10 June 2009

<sup>165</sup> Michiel Pestman, Co-Lawyer for Nuon Chea: Trial Chamber 26 March 2012 Trial Day 41 (Case 002) Doc. n° E1/53.1.65

In 2008 a story appeared in a Khmer newspaper about the Neak Ta statue outside the ECCC.<sup>166</sup> Such statues exist outside every Cambodian court, on which witnesses swear to tell the truth. This one represents Ta Dombong Dek, a representative of justice from the Angkorian Era; it was specifically designed by the sculptor to symbolise the hybrid nature of the court, with a ‘curved moustache and silver eyes like those of Europeans’. Soon after the statue was established, a live-in guard at the ECCC described a disturbing dream, in which the Ta Dombong Dek spirit threatened him and complained about its western moustache. A ceremony was held in which it was explained to Ta Dombong Dek, ‘You are not an ordinary Ta Dombong Dek, but a Cambodian UN hybrid.’ This vividly encapsulates local anxieties circulating around the notion of hybridity and the investment many people have in the court. Like Ianuzzi’s Dada badge and Pestman’s jokes, the dream is a piece of political performance art. It is a graphic warning to the internationals of the danger in becoming the western face of an RGC narrative. This is no small issue in a nation where, for Cambodians with little faith in their own judiciary, like Sum Rithy, the presence of foreigners gives the court legitimacy :

*Currently we have many foreigners( judges, prosecutors etc. ) from overseas. So I am hopeful. Also I had wished for their [the internationals] presence here, as these from overseas have more knowledge, more expertise, more skill and ability to act independently than Khmer Judges.*<sup>167</sup>

This contrasts with the view of the PRT he and two of my other narrators expressed earlier, in which the presence of foreigners made no difference and the Vietnamese presence at its head probably diminished its credibility. As Chum Mei comments :

*The citizens couldn’t accept the PRT’s legitimacy. At this time there was nothing. Mostly now people believe in ECCC, because it’s an*

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<sup>166</sup>Rasmei Kampuchea ‘UN styled Moustache and Eyes, but Cambodian Body “Neak Ta Dombong Dek” Statue at ECCC’, *Rasmei Kampuchea*, 16 January 2008, Accessed 2 July 2013  
<<http://khmernews.wordpress.com/2008/02/01/un-styled-moustache-and-eyes-but-cambodian-body-“neak-ta-dombong-dek”-statue-at-eccc/>>

<sup>167</sup> Sum Rithy, Civil party, Phnom Penh, Interview with Tallyn Gray, 24 July 2012



*international court. The judges are wise people, from USA, Korea Japan etc.*<sup>168</sup>

However, those Cambodians who desire liberal democracy to work in their country are despondent at the possibility of the ECCC compromising its legacy by the way the liberal legal narrative has hybridised with that of the RGC as one monk argues :

*If this ECCC is a success it would be a good model of best practice for the government, to learn as a case study. But it is not a success. It's a bad experience. It's corruption again, it's international corruption, because they use a lot of money and the result is bad. The International side has joined with the corruption here in Cambodia.*<sup>169</sup>

It is more encouraging to look at the hybridization of domestic and international ideas in the actions of local NGOs, and even in the *Sangha*, through monks such as Ven. Sovath Loun :

*In my interpretation of Buddhist rules and the life of Buddha, I see him as a human rights defender . But also a natural rights defender. Whenever the Buddha preached, he taught respect for one another, respect life, don't kill, respect each other. The precepts of the Buddha - do not steal ( same as property rights) , do not killing (same as the human rights) - this is the first law of the human rights and democracy. The Buddha is not a communist! The Buddha is a democrat!*<sup>170</sup>

Ven. Sovath Loun is very much a product of the post-1989 liberalisation. He was born after DK and became politically aware in the 1990s as the country was undergoing liberalisation. He, like many engaged monks of this time, regards the Hun Sen government as a continuation of the communism of the 1980s and views the UNTAC legacy as vital to advance.<sup>171</sup> For him Karnavas's 'IT' moment rings true. Ven.Sovath was arrested for campaigning for land rights a few weeks before we spoke ; the failure of the liberal discourse to take hold and the triumph of Hun

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<sup>168</sup> Chum Mei, S-21 Survivor , civil party and witness at ECCC , Phnom Penh, Interview with Tallyn Gray 24 July 2012

<sup>169</sup> Ven 15, Kompong Cham, Interview with Tallyn Gray, 3 October 2012

<sup>170</sup> Ven. Sovath Loun, , Interview with Tallyn Gray 14 July 2012

<sup>171</sup> Peter Clarke, *New Religions In Global Perspective: A Study of Religious Change in the Modern World* (New York: Routledge 2006) 9

Sen's Soviet style government became personal experience for him as he was manhandled into government trucks.<sup>172</sup>

### **Keeping the liberal narrative afloat**

Perhaps the strongest expression of faith in liberal international justice at the ECCC is that of Michael Karnavas. Unlike the Pestman/Ianuzzi 'court jesters' who use parody to foreground the court's failure to adhere to international standards, Karnavas engages in his work in the court on the basis of its own rules while insisting that its narrative is emergent, not scripted. One of his major complaints is that the court keeps shifting the rules of its own proceedings mid-trial.

*I'm an advocate. And if you make the rules I adjust to the rules. The rules don't adjust to me. You may not like the rules - well, tough. These are the rules, and if it is to your advantage to stall or whatever, OK. Because that is my role, I'm playing my role. Now I'm pretty aggressive in my representations of the client, because I'm not here to pass judgment on what he did, who he is. I work for him the same way I work for any of my other clients. But we insist that we have a transparent process, and in that this court is in a unique position to.... this entire ECCC experiment is in a unique situation. This is perhaps the first time that Cambodian people have been able to see an adversarial procedure where the defence lawyers are actually sitting at the same level as the prosecutor, and have an equal voice in court and challenge the judge openly. So the ECCC is in a unique situation to demonstrate to the Cambodian people that this is what a court looks like.*<sup>173</sup>

Karnavas is extremely aware of his capacity building role in the court (probably because he has been involved with it since 1994) and considers that the ECCC should be showing a country with a corrupt and dysfunctional legal system how a fair court in context of a liberal democratic and legal liberal system is supposed to work:

*These are the roles of the parties, and we each play our role. If you are represented by somebody, that person will not just be there as a 'potted plant' but actually has power to make arguments. The Judge should not always be ruling for the prosecution, but is supposed to rule on behalf of the defence. In other words they are seeing the application of the rule of*

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<sup>172</sup> For video footage of his arrest : <http://www.youtube.com/watch?v=0sG6iLwj95o>< accessed 15 April, 2012>

<sup>173</sup> Michael Karnavas, lead international Co- Lawyer for Ieng Sary, Phnom Penh, Interview with Tallyn Gray, 6 June 2012

*law – ruling by the law and the law applying to everyone equally, irrespective of race, region, position in society. It applies equality every day of the week. And to some extent they [the Cambodian people] are seeing that here [the ECCC]. The fact that they have an outreach programme is.... even though it sometimes gives the appearance of it being sort of a show trial, that they are bussing people in.... you have to keep in mind that effectively the entire country was a crime scene. Based on the indictment, which means that the events that are covered in the closing order touched upon everyone in Cambodia. So seeing people over there sometimes seem surreal - that you have monks, or nuns or what have you. On the other hand it is exposing them to due process. They are not watching it on the telly; they are actually there in the room. Much of it they may not understand, like when we get into hyper-technical arguments about the law. And it's OK if they don't understand it.*<sup>174</sup>

### **The unsaid**

Ianuzzi's elephant is still in the room. The liberal legal narrative is controlled as tightly as possible by the RGC's exclusion of all foreign participants in it, especially those who currently bankroll the state, and through the exclusion of any other characters in the cast outside the top CPK leadership of the 1970s (especially those in the present government) in aid of 'ensuring public safety' and preventing civil war. Hence the case of Duch (001) will probably be the only one in the 'most responsible' (as opposed to 'senior leader') category to be tried, giving him a unique status as lone defendant in his category (unless Cases 003 and 004 ever make any headway). Duch is a 'necessary scapegoat'.<sup>175</sup> His prosecution is heavily symbolic. Since the Vietnamese invasion, S-21 has served as a symbol of the criminality and sadism of the CPK. The site of Duch's crimes (S-21) is now the Tuol Sleng Genocide Museum; as such it is part of the established KR history in the heart of the capital, and part of the tourist trail. This makes his sentence look like the end of a narrative. But there are 'other Duchs': men and women who ran prisons, torture chambers, supervised mass murder and used slave labour. The narrative is no more complete than a history of the Holocaust presented solely through an account of Auschwitz. There are crime scenes far less visible, with no memorial, no plaque, and no acknowledgement that they are as much part of the story as S-21. What remains unsaid, what fails to make it into the official narrative, is not given a forum; the multiple narrations the country contains live within individuals, who must find (if they are inclined to

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<sup>174</sup> *ibid.*

<sup>175</sup> Stéphanie Giry. 'Necessary Scapegoats?'

do so) a place in which to deposit them, another institution and frame. This is especially important as documentation of these other centres is missing or simply does not exist. Not all the KR were as apt at record keeping as Duch.

### **The Civil Party Mechanism - opening up the narrative?**

The ECCC is the first internationalized process of its kind to include a 'civil party' element ; this facilitates victim participation in the proceedings. People who believe that they have been subject to physical, psychological or material harm as a result of crimes under investigation by the court can apply to be a civil party and be represented by one of the lead co-lawyers at the court.<sup>176</sup> Civil parties provide testimonies to be used in court , incorporate individual narratives and experience into the court's considerations and allow a forum for the expression of grievance at a procedural level. Civil parties offer victims the chance of 'moral and collective reparations'.<sup>177</sup> These are defined as measures which:

- a) acknowledge the harm suffered by Civil Parties as a result of the commission of the crimes for which an Accused is convicted and
- b) provide benefits to the Civil Parties which address this harm. These benefits shall not take the form of monetary payments to Civil Parties.<sup>178</sup>

However, given that the accused persons are indigent, what can be offered is minimal. In Case 001 the Trial Chamber included in the judgment the names of all Civil Parties and the names of their deceased relatives and compiled a booklet containing all of Duch's statements of apology or acknowledgement of responsibility; this was also placed on the ECCC website.<sup>179</sup>

*Reparations commissions would have been impossible here, because by their very nature shattered states don't have any resources. And where you have no external combatants against whom you can claim reparations - this was internal - you have to look to the state for the reparations. Well, what sort of reparations can you give? Well, the answer is nil. And the*

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<sup>176</sup> Extraordinary Chambers in the Courts of Cambodia (ECCC), *An Introduction to the Khmer Rouge Trials*, Second Edition (Phnom Penh, University Of Oslo/ Australian Government/ Office Of Public Affairs ECCC, 2009)

<sup>177</sup> John. D Ciorciari, and Sok Kheang Ly 'The ECCC's Role In Reconciliation', *On Trial: The Khmer Rouge Accountability Process*, eds. John D. Ciorciari and Anne Heindel, (Phnom Penh : Documentation Center of Cambodia , 2009) 319

<sup>178</sup> *ibid.*

<sup>179</sup> ECCC Website: Moral and Collective Reparation,  
<<http://www.eccc.gov.kh/en/topic/477>><Accessed 16 April 2013>

*reason the answer is nil is because everyone is a victim. You can't give monetary compensation when everyone is a victim in one way or the other. Everyone, perhaps a small group of people.... The system has an additional internal problem. We have 4000 people who have been clever enough or well connected enough – that is, that they have been approached by an NGO and have been able to make application to be a victim, and were admitted in first instance or on appeal. But there were 4000 out of a potential 6,000,000 victims. Is it just or fair?*<sup>180</sup>

As Judge Rowan Downing notes here, the civil party mechanism is deeply flawed and only represents a few persons. There is not even a pretence that a whole *fabula* can ever emerge. However, of the civil parties I have spoken to most (not all) do not seek individual reparations: they take on a role as ‘representative’ of a group and their stories stand for a mass of unspoken narratives. Ven. 9 for instance, who lost his uncle, is young and educated enough to feel that as a civil party he can represent a wider community within himself. Someone with education and energy is important in this regard. The Civil Party process has been criticised for making complex bureaucratic demands on applicants and these alienate many.<sup>181</sup>

*This is why I became a civil party – I want justice for all people. I do not want compensation for myself. If I receive any I will distribute it to all the victims. I do not expect it though, in financial terms. My place as a civil party is symbolic. I see that through me as an individual I can be a representative of many.*<sup>182</sup>

Sum Rithy too sees his role as representing thousands who died at the Siem Reap prison. The dead are on his shoulders as he personifies their story:

*It's good the court was supported by the UN. Even though the process is bad I still have confidence in the UN. It was the NGOs that pushed me to be a civil party. My daughter said to me before, 'No need to file a complaint, father, it may be more trouble for you.' But because of the NGO's involvement and then the UN I felt confident to do this.*

*You know, I think that if I did not become a civil party then the Siem Reap prison would have been vanished [i.e. from the historical record- the site of the prison, which he showed me on a map, has literally been obliterated from the landscape; a series of hotels and spa resorts have been built on*

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<sup>180</sup> Judge Rowan Downing QC, International Judge at the Pre – Trial Chamber of the ECCC, Phnom Penh, Interview with Tallyn Gray, 1 June 2012

<sup>181</sup> Sarah Thomas and Thrith Chy, 'Including the Survivors in the Tribunal Process', *On Trial: The Khmer Rouge Accountability Process*, eds. John D. Ciorciari and Anne Heindel, (Phnom Penh : Documentation Center of Cambodia , 2009) 244-254

<sup>182</sup> Ven. 9 , Phnom Penh, Interview with Tallyn Gray, July 22nd 2012

top of the mass graves]. *I wanted people to know the Siem Reap. I should show it to the world. The Siem Reap prison is a very big story, the most important in telling this story to the world. It is a significant story: Khmer killed Khmer.*<sup>183</sup>

One of the International Co-Lawyers for the Cham civil parties in court, Maître Olivier Bahougne, states:

*This definition [of ‘moral and collective’] is made by the court for me. It is new to me. From my point of view ‘moral reparations’ means the most important thing is to show that the active participation as civil parties in the court is moral reparations. And that the participants will know that we explain to the court their lives, their way of life during this period [DK]. This is the moral participation for them.*<sup>184</sup>

Acknowledgement of their experience, getting it recorded, is significant to civil parties. However, expectation often fails to match reality. Karnavas goes on to explain:

*You know like all these civil parties, when they come here, leave very disappointed. They have very very high expectations. A lot of them come and they want their story to be heard; but the point is, it’s not a forum to establish historical truth, OK ? ...You had victims coming in to give evidence, and you see very often they get very frustrated when they are told, ‘Well, we don’t want to hear this part of your story’. But they have been waiting 10 or 15 years to actually come into court and be heard.*<sup>185</sup>

Karnavas here discusses the problem with legal mechanisms where phrase regimes from a vernacular narrative meet those of the institutional framework and the narrative comes out differently from the teller’s true desire. All of my respondents who are civil parties have expressed exasperation at not having their stories told in court. Civil parties of Case 001 said they felt that too much time was given to Duch’s statements at the expense of theirs. The problem at the heart of this is that the two interlocutors (the court process and the civil party) do not share a knowledge base, and have divergent views of what is and is not relevant.

Chum Mei was one of the very few survivors of S-21; he was kept alive by Comrade Duch when he found out Chum Mei was able to repair typewriters- a required skill as many ‘confessions’ following the torture sessions were typed.

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<sup>183</sup> Sum Rithy, Civil party, Phnom Penh, Interview with Tallyn Gray, 24 July 2012

<sup>184</sup> Maître Olivier Bahougne., Interview with Tallyn Gray. Phnom Penh 25 July, 2012.

<sup>185</sup> Michael Karnavas, lead international Co- Lawyer for Ieng Sary, Phnom Penh, Interview with Tallyn Gray, 6 June 2012

Chum Mei acknowledges the limitations of the mechanism but argues that the moral reparation he seeks is the process itself:

*At the ECCC, it cannot bring 100%, justice. But its results, and the background, and the very action of prosecuting the KR, is moral and collective reparations. If we didn't have this court, the story would still be secret and no one would know about it. So it's a good thing.*

*The most important is to tell everybody about the Khmer Rouge story. I am 82 years old now. If I don't tell people, it will be finished, lost. That's why, if people are interested, if they want to know, I'm not stingy to tell them. Chinese people, Japanese people, any people if they have a translator, I will tell them, because I want to tell everybody. I want everybody to know this story and I don't want to see it again. This is important to me and I'm trying to write a book.<sup>186</sup>*

As it is for many, the act of *telling* the story is the most significant aspect. Chum Mei sits almost every day inside S-21. The guides there introduce tourists to him: he will tell his story to anyone who will listen.

As Karnavas argues, no legal /court /transitional justice mechanism facilitates this. However, for groups desperate to tell their story by whatever means, the ECCC, for all its flaws, is a repository for stories and a conduit from which future generations will access part of the narrative of their history. Despite all the controls exerted by Grand Narratives as they intertwine and collapse, and the regimentation of the stories on all sides, for some a degree of justice is achieved not as a result of the telling, but in the telling itself.

Legal liberalism is the globally legitimate narrative generator. However the limiting of a jurisdiction is in the interests of the CPP and those in the international community with a sullied history of engagement with Cambodia. Meanwhile the process of legal liberalism is struggling, as many of those at work in the court are pushing a predetermined account, which is top-heavy and focused on only a few individuals. The primacy of the Party is a tool of power legal liberalism is structurally incapable of combating at the ECCC. The experiences of Lemonde and Ansermet exemplify the struggle between the RGC's pre-constructed narrative and the liberal desire to uncover the (impossible) *fabula* of Cambodia. The ECCC is in many ways a useful conduit, but in others it is highly

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<sup>186</sup> Chum Mei, Phnom Penh, Interview with Tallyn Gray, 23 July 2012

restrictive. As with the PRT and the trial of Pol Pot, there is a disconnect between interlocutors.<sup>187</sup> All are engaged with processes with no shared ground rules between the narrative they wish to provide and the institutional restrictions of the process. All three trials have batted on individuals like these to nourish the narrative core of a 'show', which both reveals and conceals.

## **Conclusion**

Throughout this chapter I have demonstrated that in each case there has been a highly political narrative that has to some extent prioritized itself over the story of the DK era - and what came before and after. Each trial is a genre of discourse in which some victims failed to find linkage. Each trial was 'showing' something to different audiences: that the CPK were not a 'real' communist party; or that Pol Pot was a failed nationalist leader; or the values of liberal legalism.

My contention here is that the prominence of Marxist/Liberal grand narratives and metanarratives such as those adopted by Cambodian politicians Ta Mok and Hun Sen exclude the possibility of participation by smaller narrators on their own terms. In addition, the trials have all been constructed to exclude specific foreign and domestic actors. All these systems of 'justice' have been imposed from above. This has meant that the interlocutors have only been able to tell some (if any) of their story.

It may be useful here to return to Sen's idea of a continuum of justice: a comparative assessment on the basis of the available options.<sup>188</sup> If I combine this with Lyotard's argument that an ethical justice system is one that provides space for people to present their narrative, I can ask whether these bodies facilitate for such a space. It should then be possible to place them in relative comparison. It is not for me to prescribe where these institutions fit on the continuum of justice for Cambodians. And I am clearly not arguing that all the processes laid out here are 'all the same'. However, I can hypothesize on the basis of the narratives I have curated that the institutions discussed in this chapter allow for the voices of DK survivors in varying degrees and use these narratives to place the processes along Sen's continuum. From my own perspective I would suggest, for example, that in

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<sup>187</sup> Charlotte Linde, 'Narrative in Institutions', *The Handbook of Discourse Analysis*, eds. Deborah Schiffrin and Heidi E. Hamilton, (Oxford: Blackwell 2001) 518-537

<sup>188</sup> Amartya Sen, *The Idea of Justice*, (London: Penguin Books 2010) 409



comparison with the trial of Pol Pot, an occasion on which no-one other than its organisers had a chance to bear witness, the PRT at least collected and heard the testimonies of some survivors and exercised the more ethical justice discussed by Lyotard. Then again I would suggest that the ECCC, allowing a greater number of persons to speak - albeit in a limited way – might be more ethical than the PRT, in that it does not add rhetorical appendages to witness statements as the PRT did.

Each process, however, has its own genre of discourse to which people have brought their narratives and found that their phrase regime is disallowed. The story of a dream, of the experience of the US bombing, cannot find a place. Sum Rithy at the PRT and the ECCC, Chum Mei and Bou Meng at the ECCC, the woman angry at her lack of voice at the trial of Pol Pot, the people outside Chaktomouk Hall, are all anxious to tell their stories; all have found themselves in an uneasy relationship with the process; some have found gaps in the narrative edifices that allow a limited space for expression; some can only attest to the *Differend*.

One theme that emerges out of this study of trials to carry through the thesis is that ‘viewers make meaning.’<sup>189</sup> That is to say, meaning is drawn from an event or object by those viewing the spectacle and drawing from it a meaning that those who set it up did not necessarily intend to be read from it. These institutions are active in creating a subaltern group whose narrative is not allowed in the hegemonic narrative. As Todorov points out, the trials are not simply about ‘old men no longer a threat to anyone’ but about what they ‘inscrib[e] in collective memory’.<sup>190</sup> I turn now from the large-scale processes and hegemonic narratives to look at the ‘small voices’ and the way they construct other kinds of narrative, their own part of the impossible *fabula*.

First I will examine a different kind of process: the next section is a bridging chapter in which I examine a small-scale, participant-driven narrative process with a more accommodating phrase regime. It is not concerned with making,

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<sup>189</sup> Young, James, *The Texture of Memory: Holocaust Memorials and Meaning* (New Haven: Yale University Press, 1993) xi-6

<sup>190</sup> Tzvetan Todorov, *Memory as a Remedy for Evil*, translated by Gila Walker (London: Seagull Books 2010) 42

advocating or protecting a hegemonic grand narrative, but with prioritising and establishing a sense of justice for the participants.

## **Chapter Four: Between Trials and Ceremonies: A Bridging Chapter**

### **Introduction**

This is a bridging chapter. The event I discuss occupies a space between the legal and trial genres of the previous chapter and the religious ceremonies of the next. It offers a link between the discourse of the trials and the other discourses in which narratives of DK are articulated and acted upon.

The ‘knowledges’ gap between the justice-administering institutions and their supposed constituents (*Differend*) were articulated early in the last century by Ehrlich as a tension between law, justice and society. Confining the ‘science of law’ to ‘black-letter’ institutions such as courts and tribunals ignores what Ehrlich calls the ‘life of law’ outside the legal institutions of the state. The PRT and the ECCC can both be seen as adopting too narrow a focus in terms of the scope of their discourses, procedures and jurisdiction, and in their ‘knowledge’ base. As Ehrlich argues, there is a set of social norms and structures with ‘life’ outside statutes and trials, to which people ascribe meanings and authority.<sup>1</sup> Such ‘laws’ determine social relationships and sometimes ‘govern’ individuals in a society more than the codified laws of the state. Transgressions against such laws have consequences, equally well known to transgressor, transgressed-against and witnesses to that transgression.

Because of the enormity of the Cambodian genocide and the complexity of its narrative threads, there have been, and are, on-going mechanisms to deal with it outside formal legal mechanisms. This idea takes on particular resonance in a society in which there was a long-term legal vacuum, in which the judiciary is generally regarded with suspicion, and where there is already a system of alternative mechanisms for grievance redress.<sup>2 3</sup> For example, people will ask the

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<sup>1</sup> Mark Hertogh, ‘From “Men of Files” to “Men of the Senses” : A Brief Characterisation of Eugen Ehrlich’s Sociology of Law’, ed. Mark Hertogh *Living Law: Reconsidering Eugen Ehrlich* (Oxford: Hart Publishing, 2009) 3-5

<sup>2</sup> Siphana Sok and Denora Sarin, *The Legal System of Cambodia* (Phnom Penh : Cambodian Legal Resource Development Centre, 1998) 20

<sup>3</sup> Michael Karnavas, lead international Co- Lawyer for Ieng Sary, Phnom Penh, Interview with Tallyn Gray, 6 June 2012

village chief, community leader, or a monk to preside over property and family issues at a local level rather than using the court system.

I here describe a mediation process, a Victim/Former Khmer Rouge Dialogue Project (VFKRDP) run by the peacebuilding NGO, the International Centre for Conciliation (ICFC).<sup>4</sup> This works in collaboration with a group of psychiatrists focusing on post-traumatic stress disorder, the Transcultural Psycho-social Organization (TPO).<sup>5</sup>

It is a restorative justice project, whose stated aim is to enable dialogue between those who lived under DK, and to achieve reconciliation between former lower cadres and those targeted by CPK policy in DK. It also aims to develop community cohesion and defuse intergenerational resentments consequent on the present fragmentation of the community. It encourages the full telling of a story; out of this comes acknowledgement of wrongdoing and the pain caused by the actions of KR cadres, followed by an apology between former cadres and victims. The project necessarily assumes a more sophisticated understanding of the ambiguity of the Victim/Perpetrator Binary than the ECCC.<sup>6</sup>

Indeed one former cadre who had been a witness at the ECCC told me:

*We are all living in a suffering situation in the Pol Pot time. It's good to have the court in Cambodia, but I am a KR survivor as well. Whenever I go to any Wat, I dedicate food or money to those spirits and confess to the Buddha statue, 'Forgive me because I was ordered to by someone else. I did this but I have no willingness to do.' But even so I still did wrong. I hit the people, I kick the people. I still have a mistake. I was forced to work [as a KR]. They found out I had ninth grade education. On my first day I followed the others ... to watch how to do the torture and ask the questions. The first day I was very fearful in [the place where I worked].<sup>7</sup>*

A major objective of the project is to aid the development of a full and nuanced narrative at grassroots level, one that encompasses the forced nature of what many cadres did in deeply fearful circumstances. This is particularly important since the

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<sup>4</sup> A video of this event is available at

<<http://www.kdei-karuna.org/VFKR/vfkracad.html>><Accessed 21 April 2013>

<sup>5</sup> Rothany Srun, Tim Minea, Judith Stasser, Muny Sothara, Chhay Marideth, Yourn Sarath, *Victim-Former Khmer Rouge Dialogue Project: Lessons Learned* (Phnom Penh: International Centre for Conciliation and Transcultural Psychosocial Organization) December 2011

<sup>6</sup> Srun, Tim, Stasser, Muny, Chhay, Sarath, *Victim-Former Khmer Rouge Dialogue Project.*,

<sup>7</sup> Former KR 1, Interview with Tallyn Gray 27 July 2012

ECCC focuses only on ‘top leaders’. It ignores those who have committed violence without addressing its effect on the society in which the perpetrators still live. Many former cadres returned to their villages in the 1980s but were never re-integrated. With no system in place to deal with the anger and resentments felt by victims, hatred has persisted through the decades. For example, during my interviews I heard alarming stories from more than one source about two ‘Khmer Rouge families’ seeing their children in conflict with other students.<sup>8</sup>

*There was conflict in school between the former KRs’ children and the victims’ children, fights breaking out, because the parents told them of the bad things the KR parents did to their family.*<sup>9</sup>

### **The Structure of the Process**

After initial assessment the project is explained and offered to those involved. The first phase involves video rather than face-to-face confrontation. Typically, one video is shown to the other party, and then their reaction to watching that video is filmed to show to the first party. Victim and former KR cadre are both filmed in the presence of counsellors, giving testimony about what they hope to achieve through their dialogue, about their personal recollection of the event under discussion, and about its impact on their own lives. These initial videos are shown to each party and video exchanges go back and forth until a face-to-face mediation, in which the parties would be able to accept each other, seems possible. There follows a process whereby the community can work together performing some action to help the reconciliation and peace building process. Facilitators are trained in conflict mediation to deal with future issues and conflicts arising from the process.<sup>10</sup> I interviewed the mediator of one such process (put on video) and the local facilitator left to carry out follow-up work.<sup>11</sup>

In this process the three parties have pseudonyms: the former KR Cadre is referred to as ‘Grandpa’; one survivor is a woman referred to as ‘Grandma’, whose husband was arrested by ‘Grandpa’ and taken to be killed; there is another

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<sup>8</sup> Ven. 10, Phnom Penh, Interview with Tallyn Gray, 16 August 2012

<sup>9</sup> Tim Mine, ICFC, Interview with Tallyn Gray 8 August 2012,

<sup>10</sup> Srun, Tim, Stasser, Muny, Chhay, Sarath, *Victim-Former Khmer Rouge Dialogue Project.3*

<sup>11</sup> <http://www.kdei-karuna.org/VFKR/vfkrcad.html> Accessed 21 April 2013

woman, referred to as 'Aunt' (very young during DK), whose father was also taken away by 'Grandpa'.

There were four video exchanges .

EXCHANGE ONE. Grandpa states he doesn't want the two victims to be angry with him. He says he has difficulty remembering the night that he arrested the two men the women have lost .

Grandma and Aunt want Grandpa to acknowledge what he did and apologise.

Grandpa says that he is now isolated from the rest of the community as a result of his past, and that he feels great regret for what happened : 'They forced me to do that work. I didn't want to do it, I only did it because they pushed me to do it. They used me.'

EXCHANGE TWO. Grandma and Aunt are not happy with this reply and feel that Grandpa has not properly expressed his sorrow for what he had done. Grandma states , 'I worked hard to build up my Buddhist merit, so in the next life, I will not experience separation again.' She adds, 'I'm a person who has good Buddhist merit. I do not have any bad feelings towards him.' However, as she expresses this her manner is angry. 'He could not even say sorry. Just one word, and we did not see it.' Aunt in particular is upset at this video exchange as Grandpa said he cannot remember arresting her father.

The ICFC team carried out some investigations and took other witness testimonies to establish Grandpa's involvement .

EXCHANGE THREE Grandpa takes responsibility and apologises.

In his video reply he says he can understand the women's concerns: 'I feel a lot of regret over what happened to Grandma. And I am sorry for what happened to her. I am not educated. It was easy for the Khmer Rouge leaders to use me.'

Aunt and Grandma decide after hearing the apology that they want to forgive Grandpa. They understand that he was a low-ranking official, and that he too has suffered because of the KR. Grandpa expresses a desire to carry out a Buddhist

ritual for those who died. Grandma and Aunt agree. They elect to meet face to face at the Wat, which was turned into a torture centre under the KR .

EXCHANGE FOUR : In the final face-to-face meeting the participants meet in the Wat in a structured event. The videos are watched and reflected upon. What has been learned is affirmed. A future course of action is decided. All those involved decide that, since the dead are so significant in their story, there must be a response inclusive of the spirits of the dead. They decide this can be best done by building a *stupa* . The monk blesses the end of the event. Later a village committee was established to oversee the fundraising and the *stupa's* construction .

The outcome of this process was a community was much more at ease with itself. The *achar* (Buddhist lay minister), trained as a facilitator by ICFC, says :

*Before, in the villages, mostly the Khmer Rouge victims and the cadres didn't have good ...communication, because their mind still have rancour, and then they were unhappy with each other . Especially the Cadre family : they did not go to the other community because they worried [for] their children , or that the victim's family would do something bad to them . But after the mediation process, the victims understand more. They told their story, and the cadres as well confessed what they did in the past. They [both the Cadres and the victims] understood the reason that they should not hide these stories or feelings. The mediation helped them deal with these issues.<sup>12</sup>*

### **Discourse and narrative blocks**

In the process described, the role and discourse of Buddhism are not emphasised by the ICFC, but by the community itself . They have elected to employ Buddhist discourse and phrases to facilitate the aim of this particular project, just as they have chosen the site on which the exchanges take place, rather than having a 'staging' imposed on them. The genre of discourse was chosen by the participants and it has clearly provided them with a way to articulate a narrative beyond the remit of the ECCC.

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<sup>12</sup> Achar 1, ICFC facilitator, Interview with Tallyn Gray 17 August 2012

It is important not see this as replacing the Liberal Grand Narrative with a Buddhist Grand Narrative invariably better equipped to deal with the aftermath of DK. Some at the ICFC identify Buddhism as an obstacle to discussion.<sup>13</sup> The problem is that Karma is supposed to deal with justice deficits. Buddhism demands that one let go of anger. However, within Buddhism's transcendental philosophical ideal no actual *process* is prescribed which might make this letting-go possible in a political context like the one outlined here. Meditation and prayer are meant to lead the individual internally to let negative feelings go. However, viewing the video responses, it is obvious that while 'Grandma' voices her lack of anger, she is clearly angry. Acceptance of the past, reconciliation and letting go require a process to transition the subject from A to point B. The VFKRDP offers this kind of linking point. It fills in some of the gaps left open by the ECCC narrative while at the same time facilitating for the notion that the victim must let go and leave things to Karma.

However, the VFKRDP has another function, in that it contributes to the development of Buddhist discourse and practice in post-KR Cambodia. As stated previously, and as I show in Chapter Seven, Cambodia has had to draw heavily on external influences in the wake of the cultural destruction of the KR. This in turn means that the development of a culture to deal with the KR legacy is often hybridised. NGOs and foreign money use their resources to develop frameworks which respond to the historical context by hybridising with the local. In short, various modes of phrase regime and genres of discourse are being created in parallel in response to an event (the DK period). The VFKRDP is part of that process; as such, like all these new and intertwining discourses, it has to negotiate with what I term a 'triple lock' on speech concerning the KR period.

The first part of this lock is the PRK government's utter domination of the discourse surrounding the Dk period in the 1980s. While discussion did occur, it was heavily restricted by KPRP discourse parameters and lexicon. For example, the Day of Anger was a state /communist party endorsed commemoration event, obligatory for state employees and focused principally on the justification of the Vietnamese invasion and occupation of Cambodia. The PRK state was encouraging defectors from the KR throughout the 1980s. As such, KPRP policy

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<sup>13</sup> Rothany Srun, ICFC, Interview with Tallyn Gray 8 August 2012



effectively quashed discussion around DK .<sup>14</sup> The pursuit of this policy effectively cut off all non-sanctioned dialogue about DK.<sup>15</sup> The CPP continued with this attitude as Cambodia ‘transitioned’ in the 1990s.

The second part is the way the Buddhist command to ‘let go’ of anger and leave justice to Karma operates in concert with the political suppression of discussion. Since the Vietnamese occupation, Cambodian religion has remained under the control of the Minister of Cults and Religious Affairs. The government has considerable control over religious discourse in the nation and often funnels its interests through monks supportive of the CPP’s interests, such as Tep Vong, the Great Supreme Patriarch .

The third lock is the presence of the ECCC. Cadres who might make use of the VFKRDP process are reportedly scared that the videos will be taken to the ECCC and used as evidence against them.<sup>16</sup>

### **Discourse and emerging narratives**

The combination of these forces has served to shut down discussions that might ease the co-existence of victims and former KR. However, if we examine the outcome of the specific VFKRDP process described earlier, it is clear that some space is nevertheless opened up for participants to articulate and accommodate their situation. The *stupa* represents a means by which to round off a narrative of the events that emerged out of the VFKRDP. It serves both the function of commemoration, and also of the integration of the former KR cadre back into the community. All are involved in a project, all work on it together, and even the dead are included; it is hoped that the spirits of those who died will come to inhabit the *Stupa*.<sup>17</sup>

*Here we have one Stupa, but it is not finished yet, it is under construction. It comes from the request of the victim and cadre. They requested to build this Stupa because they wanted a good memory with each other. The problem of rancour with each other was already solved, so they want to*

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<sup>14</sup> Impunity Watch, ‘Pacifying Vindictiveness By Not Being Vindictive’: Do Memory Initiatives In Cambodia Have a Role in Addressing Questions of Impunity? Kristina Chhim , Utrecht, Impunity Watch (2012) 27-28

<sup>15</sup> Rothany Srun, ICFC, Interview with Tallyn Gray 8 August 2012

<sup>16</sup> Achar 1, ICFC facilitator, Interview with Tallyn Gray August 17, 2012

<sup>17</sup> *ibid*

*focus on good memory. Before the focus was on rancour or mental problems or unhappy problems of this time [the past]. So this is that they want to have a good memory together. This is why they chose to build the stupa. Mostly the cadre and the victim when they come together they always pray, or they invite the monk for blessing, or pray in order to dedicate good things for those who die in Pol Pot time. Also it's important they can do good things together, the victim and the cadre. They can do it here.*<sup>18</sup>

The *Achar* trained by the ICFC defines the space created by the process as one where personal narratives intersect with the national:

*They will produce their own story if we make them understand clearly in their mind.*

*Also, fate, destiny - sometimes I explain that it's our national destiny. We live in the country, and if the country has this event we will all suffer, the victim and the cadre. If the country has a problem like this [the Khmer Rouge legacy] we will all have problems.*<sup>19</sup>

In this process a culture is being produced: a frame is being constructed in which to tell the story of the KR legacy and a collective audience is being constructed to hear it. It is a version of the tradition of narrative pragmatics outlined by Lyotard: 'know-how', 'knowing-how-to-speak' and 'knowing-how-to hear'.<sup>20</sup>

### **Living Law?**

Out of processes such as this something is created to fill the space between law and normative social values. It is useful here to turn back to Ehrlich's work on living law. Although he never envisaged the complex intersubjective dynamics of post-genocide international law in a predominantly Buddhist nation, the concept usefully describes the situation occurring in this small example.<sup>21</sup> 'Living law' can govern social life more than the codified law of courts, or the statutes of the state. Ehrlich contends that people do not act in a particular way or perceive transgression of norms purely because of the codified law. 'Living law' frames social relations between actors, and places social pressures on them even when the state law does not. 'Grandpa' may not fall under the jurisdiction of the ECCC,

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<sup>18</sup> Achar 1, ICFC facilitator, Interview with Tallyn Gray August 17, 2012

<sup>19</sup> Achar 1, ICFC facilitator, Interview with Tallyn Gray 17 August 2012

<sup>20</sup> Lyotard, *The Postmodern Condition*, 21

<sup>21</sup> Franz and Keebet Von Benda-Beckmann, 'The Social Life of Living Law in Indonesia', *Living Law : Reconsidering Eugen Ehrlich* ed. Mark Hertogh (Oxford : Hart Publishing , 2009)3-9

but his ostracization from the community is because of his actions during DK. Within 'living law', 'social norms' are differentiated from morals or customs by the feelings of repulsion generated if they are transgressed, because the wider society sees these 'laws' as universal and primary.<sup>22 23</sup>

The VFKRDP process is filling a gap in justice the ECCC does not address, that of the lower cadres. Their violent acts remain unremarked by the law, yet as is clear from the situation described in this chapter, there is a definite sense that a norm has been transgressed and that there has to be a way of dealing with the transgression. Hence the VFKRDP is not simply about memorialisation. The decision here to construct a *stupa* was made by the participants; it was a chosen outcome, not the aim of the project. They could have chosen some other activity, but decided themselves to place the dialogue within a Buddhist ceremonial genre of discourse. By doing so they also created the phrase regime themselves. The aim of the project is to answer a justice deficit within a structured process, drawing on social norms with this local relevance. As Engel and Engel point out, in Buddhist countries, Buddhism is the formative ontology of most people's 'legal consciousness'.<sup>24</sup> In the instance narrated here Buddhism is at the heart of the participants' concept of justice, the basis of this society's 'living law'.

Faced with widespread distrust of the state judiciary and the failure at the ECCC of both legal liberalism and the CPP-sanctioned narrative to address the concerns of social actors like Grandpa, Aunt and Grandma, it is to Buddhism, the formative ontology of many, that they are likely to turn.<sup>25</sup> Increasingly visible in Cambodia through events such as the VFKRDP process is what could be described as a Buddhist way to deal with questions of Justice after mass atrocity, in institutions and discourses recognised locally as having authority, which assume many of the roles of a court system in resolving conflict and dispute. An emerging body of literature addresses what can be labelled 'Buddhist Jurisprudence'. Rebecca French, Andrew Huxley and David and Jaruwan Engel all discuss how systems

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<sup>22</sup> Werner Menski, *Comparative Law in a Global Context: The Legal Systems of Asia and Africa*, Second Edition (Cambridge: Cambridge University Press, 2006) 92-98

<sup>23</sup> Mark Hertogh, 'From "Men of Files" to "Men of the Senses": A Brief Characterisation of Eugen Ehrlich's Sociology of Law', *Living Law : Reconsidering Eugen Ehrlich*, ed. Mark Hertogh (Oxford : Hart Publishing , 2009) 3-9

<sup>24</sup> David Engel and Jaruwan Engel, *Tort, Custom and Karma: Globalization and Legal Consciousness in Thailand*, Kindle Edition (Stanford: Stanford University Press, 2010) Chapter 1

<sup>25</sup> Ibid.

rooted in Buddhist philosophy, discourse and semiotics answer questions of justice that would be seen as ‘legal issues’ in European societies.<sup>26 27 28</sup>

This is particularly apt given that the ‘facilitator’ left by the ICFC takes on the role of solving civil disputes on non-KR related legal issues:

*The NGO taught us two kinds of lesson. The first is the conflict inside human beings; the second is the outer conflict. Mostly they focused on the Khmer Rouge, but now they focus on the people who have the problem in their heart, are unhappy in their mind, or keep the spirit of anger.*

*The second, outer conflict is like a normal conflict happening outside the body, like a property conflict or something like that, and we take the good way or technique to solve it.*

*I use this strategy to solve conflicts between two families. For example, in my community they had a land dispute. But justice’s real meaning is it is right and acceptable, and people understand it this way: acceptable agreement between two parties. Acceptable between the two parties who have conflict with each other, and if we work as facilitator both sides accept what we explain to them why.*

*One family wanted the other family’s land; so I explained to them how to stop their conflict. It took a long time, even as a normal conflict facilitator. Mostly when working on Khmer Rouge Victim and Cadre, we focus on mind with each other. But in normal conflict we won’t use this technique all the time. For example, we have used it with domestic violence and fighting. But with some criminal acts ... such as stealing or destroying another’s property, we may try to use the facilitation, but mostly we will use the National Law .We will use the normal law in criminal cases, but using the facilitation as well. For example, in domestic violence, those peoples’ minds are still cruel, and I will take the Buddhist strategies to stop them; but for the actual crime I will call on the law, to warn that person not to do the crime again.<sup>29</sup>*

This is an example of the central point of ‘Buddhist jurisprudence’: that a case is never resolved until both parties are at peace with its decision. French argues that ultimately the departure of both parties in a calm state of mind is the true ‘end point’ of the process - not shutting down the case to the point where there is no

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<sup>26</sup> Rebecca Redwood French, *The Golden Yoke: The Legal Cosmology of Buddhist Tibet*, Second Edition (Ithaca: Snowlion Publications, 2002)

French, Rebecca R. French, ‘The Case of the Missing discipline: Finding Buddhist Legal Studies’ *Buffalo Law Review*: vol 52, 2004, 679-699

<sup>27</sup> Andrew Huxley, ‘Introduction’ ed . Andrew Huxley, *Thai Law: Buddhist Law: Essays on the Legal History of Thailand, Laos and Burma*, (Bangkok: White Orchid Press, 1996)

<sup>28</sup> Engel and Engel, *Tort, Custom and Karma*

<sup>29</sup> Achar 1, ICFC facilitator, Interview with Tallyn Gray 17 August 2012

further avenue of appeal (such as a supreme court).<sup>30</sup> Rather, the process sees itself as part of a Karmic cycle: letting go of anger releases the plaintiff from the cycle of revenge, which would otherwise continue.

The notion of a local means of dealing with such issues can make jurists at the ECCC uncomfortable:

*Karma presents a challenge of total impunity for any form of criminal act that may be carried out. Now that is abhorrent to us involved in international law; it is inconsistent with the interest of the international community as a whole, and it's also abhorrent to the interest of Human Rights and the assertion of human rights, and the rights and protection of the Geneva Conventions. Whilst this may be a Buddhist country, it has entered into numerous treaties, which may or may not be consistent with Buddhist concepts, but they [politicians] have determined to be bound by them.*

*I have worked in customary law with 'elders.' It will often be an accepted manner of resolution, if you have got a chiefly system. They know their community, they know what's going on, and if they can resolve the matter in a suitable way then it's a recognised way, in formalistic legal systems, in respect to civil disputes. In respect of criminal matters it is not. This is about the justice that you can afford. If you are going to apply humanitarian law to humanity, then it must be done in an equal manner. It is not appropriate to say, 'We in the west are more civilised so we will deal with it this way, but sorry, you're in Asia or Africa, we are not going to assist you, so we have a western standard which we apply to ourselves and then we have a standard which we apply to everyone else.' Although here there is nothing stopping the state in dealing with matters ... yet in the wake of mass atrocity crimes, the states are shattered or failed states. If it is an internal conflict it's going to be worse, as animosities will continue to exist - so they can't do it themselves. There may be lack of political will or just no funding and no ability.'<sup>31</sup>*

Judge Downing is correct in saying the ECCC was a compromise. The widespread impunity it permits is a compromise, dictated by lack of both funds and political will. It is *'the justice that you can afford'*. But the VFKRDP process, while it can deal with some of the justice deficits created, is not suitable for cases of mass killings (Cases 003 and 004 for example). It is also important not to romanticise legal liberalism or Buddhist jurisprudence. The ECCC's gaps are vast and problematic. Buddhist discourse is also inadequate by itself to deal

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<sup>30</sup> Rebecca R. French, 'The Case of the Missing Discipline', 684

<sup>31</sup> Judge Rowan Downing QC, International Judge at the PreTrial Chamber of the ECCC, Phnom Penh, Interview with Tallyn Gray, 1 June 2012

with mass killing; the moral demands it makes on its subjects can result in the repression of anger, rather than calming the mind.

The VFKRDP process does address these problems: it fills the ECCC gaps, answers Lyotard's concerns and provides an ethical system of justice whereby those silenced / excluded by the dominant discourses and processes (ECCC) find a language to narrate their story and have their concerns addressed in a discourse of their choosing.<sup>32</sup> It also provides a secular framework within which individual participants can relate the transcendental imperative of Buddhism to let go of anger to negotiation with former enemies in a specific context.

This process is much more 'of' the society, than 'of' an institutional imposition from international actors. This small chapter has shown one example of 'justice' radically differently viewed and enacted. While clearly an inappropriate forum to deal with figures such as Nuon Chea, the VFKRDP highlights a discursive need among survivors of the regime to discuss it in a genre of discourse /phrase regime that the legal institutions cannot (or perhaps do not care to) offer. I move in the next chapter from 'living law' narratives to representation and ceremonial discourse – different genres of discourse and different phrase regimes, in which justice is nevertheless narrated.

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<sup>32</sup> Lyotard and Thébaud, *Just Gaming*, 66-67

## **Chapter Five: Contained narrations**

### **Introduction**

The previous chapter focused on one process through which the KR past can be discussed in a genre of discourse less restricting than formal legal mechanisms. However, the issues in the VFKRDP were specific to one community and one group of people. In the next two chapters I examine streams of narration ‘alternative’ to those generated in the legal process, and how they express the experience and history of DK in the broader context of the Cambodian intellectual tradition.

The structure of this chapter could be described as moving from internal to external experience, or from private to public. It begins with the problem survivors have in *finding* language to articulate the experience of DK and goes on to explore both populist and academic readings of Cambodian Buddhism (which contains some highly localized elements, not found in other Buddhist nations. I indicate when this is relevant). Its phrases, lexicon and mythos offer a context in which both victims and KR can situate their narratives to achieve a measure of healing and reconciliation. The chapter moves on to more publicly articulated narratives of justice and transition – testimonial therapy, ceremonies of remembrance. This progresses to a study of activist and socially engaged narratives, such as the Buddhist Peace walks. These interact with others - narratives of NGOs and funding, and, ultimately, with the dominant political discourse. I show Buddhist processes and discourse appropriated by the narrative frames of political and economic actors, both domestic and foreign.

Appropriations have the effect of constraining the narratives, as distinct from cultural interaction, in which multiple cultures, ideas, philosophies fluidly encounter in dynamic dialectic. In appropriations, one culture has power over another. For example, an international organisation can utilize a local Buddhist discourse while still maintaining a framework whereby the local voice is subject to constraints. These constraints, more obvious in these public narratives, must be read against a wider backdrop. For while this chapter begins with internal convictions about representation and narratives which site the individual in

relation to the sacred, every narrative here has a political dimension. What distinguishes those in this chapter from those in the next is that they are contained within the 'official' discourses of the court and the RGC, rather than being in direct conflict with them.

### **Expressing the inexpressible**

The work of Holocaust scholar Lawrence Langer is marked by deep pessimism. After studying hours of archived footage of Jewish Holocaust survivor testimony, he concludes that, despite what comes after (family, children and 'normal life') victims are forever bound to the 'deep, anguished, humiliated, tainted, unheroic memory' of that period of their lives. Langer identifies a major problem in survivors' capacity to recount their stories, one I see in Cambodia today. How can a person ultimately express what they saw? How do words encapsulate watching one's entire family killed? Langer discusses the struggles of one woman to verbalise her experience:

'My entire family were killed', was totally inadequate because "killed" ... was a word for ordinary forms of dying. 'My mother and brother, and two sisters were gassed', seemed equally unsatisfactory, because the plain faculty could not convey the enormity of the event. She was reluctant to reduce her family's disappearance to a mere statistic because she was sure that was how her audience wanted to hear about it.<sup>1</sup>

The experience is unshareable; the individual's capacity to testify is exasperated to the point of silence; because words fail, the teller gives up.<sup>2</sup>

A parallel problem is the concern that the person(s) to whom the testimony is recounted will not believe or understand. Indeed survivors of atrocity themselves say they would find it hard to believe such stories. 'The seeds of anguished memory are sown in the barren belief that the very story you try to tell drives off the audience you seek to capture.'<sup>3</sup> In the words of one survivor:

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<sup>1</sup> Lawrence Langer, *Holocaust Testimonies: The Ruins of Memory* (New Haven: Yale University Press, 1991) 61

<sup>2</sup> Ibid

<sup>3</sup> Ibid



‘If somebody would tell *me* this story, I would say, “She’s lying.” Because this can’t be true . . . . Because to understand us, somebody has to go through with it. Because nobody, but nobody fully understands us.’<sup>4</sup>

One senior Cambodian monk/ academic I interviewed described encounters with foreigners curious about DK:

*Cambodia is a very special case; foreigners find it very hard to understand. However much you hear , how much you read, it’s still not like you ever experienced the situation. It was completely different, and there has never been perhaps anything like this in the history of humanity. To foreigners now it [the situation of stability in the country] seems normal , but ten years back , when foreigners come and meet , they always have questions to us, and they will never understand, no matter how much we try to explain. I have come across this situation quite a lot in my stays abroad for my studies . They ask, ‘ Who are the Khmer Rouge?’ We say, ‘They were Cambodians.’ ‘But how can Buddhists kill Cambodian people and destroy Buddhism?’*

*You see , you can’t explain. One thing... it was so shameful in a sense, it’s shameful for Cambodian people themselves, and at the same time it has much intricacy and mysterious things , so it is difficult for foreigners to understand , and these aspects that are unique , that have never really existed in the history of humanity.*

*Cambodian Buddhists suffered so much . In the words of Preah Maha Ghosananda [Peace Walks Monk], ‘The suffering of the Cambodian people is deep, very deep and deep. And from this deep suffering springs their compassion and from compassion springs the reconciliation and peace.’<sup>5</sup>*

Langer and the narrator quoted above identify a *Differend* in the sense of ‘the unstable state of language wherein something which must be able to be put into phrases cannot yet be’ - a point at which Lyotard considers it politically vital to search for ways of shaping and linking phrases.<sup>6</sup> In exploring how the challenge is addressed, I start with the concept of *anthroposemiosis* outlined in E. Valentine Daniel’s essay ‘Mood, Moment and Mind’.<sup>7</sup> Daniel defines *anthroposemiosis* as an entirely selfconscious process of communication through signs - as distinct from the way beasts communicate, unaware of a process at work (*zoosemiosis*). We do not simply know that we are *communicating*, we

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<sup>4</sup> *ibid* 14

<sup>5</sup> Ven. 14, Phnom Penh, Interview with Tallyn Gray, 25 September 2012

<sup>6</sup> Lyotard, *The Differend*, 13

<sup>7</sup> E. Valentine Daniel, ‘Mood, Moment and Mind’, *Violence and Subjectivity*, eds., Arthur Kleinman, Veena Das, Margaret Lock, Pamela Reynolds (Los Angeles: University of California Press, 2000)

are conscious and aware of being *communicative* . This defines us as human. Participation in any language event ( spoken, physical or performed action) means one enters into a discursive community.

Lyotard notes that silence is a ‘negative phrase’.<sup>8</sup> But I suggest that in an anthroposemiotic context, silence is flexible and expressive, performing several possible meanings . It can be a means of withholding knowledge ; however , it can also call attention to an inadequacy in language and assert the *Differend*; or enact a drastic withdrawal from the anthroposemiotic process , a refusal to be human or acknowledge the humanity of others. There are a series of ways by which people can engage in anthroposemiotic communication and I would push Lyotard’s analysis further to contend that anthroposemiosis is in itself a genre of discourse, in which the chief criterion for the linkage of phrases is the empowerment of a performative assertion of the speaker’s humanity. This is especially important when confronting Langer’s challenge , the difficulty people have expressing horrific memories. If words fail to express what the communicator desires to say, other forms of language become vital. Taking his cue from C.S. Peirce’s key work on semiotics distinguishing icon ,index and symbol, Daniel devises the following categories through which anthroposemiotic communication occurs.<sup>9</sup> I would argue that all of these are phrase regimes, falling within Lyotard’s model . They offer useful subdivisions that provide me with a method of framing some of the ways DK is narrated.

Representational language - language literally re-presenting what it describes - is the denotative phrase regime courts require : descriptive testimony supposed to account verbally for what was said/seen . At the other end of Valentine Daniel’s scale is Genealogical communication, which recognizes other forms of verbal and non- verbal expression( for example, ritual, storytelling, song, prayer, metaphor). Such discourses are often quashed by institutions if they do not fit their genres of discourse , in favour of written/spoken accounts that fit more easily within their parameters. Representational language relegates ‘subaltern’ narratives to the margin because their phrases do not link into the genres of law, academia, or politics. But those discursive parameters are inadequate for

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<sup>8</sup> Lyotard, *The Differend* , 13

<sup>9</sup> E. Valentine Daniel , *Charred Lullabies: Chapters in an Anthropography of Violence*(Princeton: Princeton University Press , 1996)128-129

discussing issues beyond the realms of normal comprehension exemplified by Langer's witness, the territory of the *Differend*.<sup>10</sup> Genealogical language permits a 'choice of voice' by the individual:<sup>11</sup> a voice which facilitates the speaker's agency rather than being infused by meta-narratives, a voice which might perform a task such as addressing a dead relative even if it does not fit the dominant paradigm.<sup>12</sup>

Between these forms at either end of the scale lie two others: one Daniel labels *Constitutive language*, which acknowledges that language can represent, but not entirely, and that meaning must be tacitly negotiated within a specific genre of discourse. The other, *Expressive language*, attempts to harmonize representational and constitutive language to convey both ontological reality and epistemological thought. This admits cultural nuance and acknowledges that to express one's story is to recall and transmit from 'the ruins of memory'.

### **Realism and representation**

The importance of care in negotiating such borderlines is shown through the paintings of Vann Nath and the narratives of Sum Rithy. Like Bou Meng, Vann Nath was a professional artist imprisoned at S-21.<sup>13</sup> He survived because of his skill. Duch needed artists to produce giant pictures of Pol Pot. In S-21 Vann Nath worked at replicating hundreds of times the photograph of this man, whose identity was then unknown to him. Upon leaving S-21 years later, Vann Nath produced graphically realistic pictures of the tortures he had witnessed at first hand.

Sum Rithy, like Vann Nath, feels a need and desire to tell the story to the world. He views documentation as vital, so those who hear his story can believe it really happened; he has commissioned pictures to augment his verbal narrative. Sum Rithy and Vann Nath have both discussed the purpose of the pictures showing their experience.<sup>14</sup> It is not 'Art': they are not designed to act as an expression

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<sup>10</sup> E. Valentine Daniel, 'Mood, Moment and Mind', 350

<sup>11</sup> Daniel, *Charred Lullabies*, 128-131

<sup>12</sup> *ibid.*

<sup>13</sup> Bou Meng. Artist, Survivor of S-21 Prison Interview with Tallyn Gray 23 July 2012,

<sup>14</sup> Vann Nath, *A Cambodian Prison Portrait: One Year in the Khmer Rouge's S-21* (Bangkok,: White Lotus,1998)

of a mood, or an impression of an event; indeed I feel that they would be insulted if these works were described as ‘artistic’. Vann Nath does produce pictures intended as art; but his paintings of torture and murder, like those commissioned by Sum Rithy, are iconic, not symbolic, representations. They take the place of photos or live footage of the events. Sum Rithy says the point of the pictures he commissioned is to document the crime for posterity. In some ways there is a disjunction between the desire to represent as literally as possible (a photograph or film would be ideal) and a form like painting.<sup>15</sup> Both men would prefer to show their addressee a photograph, to say, ‘Look, see, here is the proof of what I tell you.’ A photo would be in this sense more ‘real’.

The *stupa* in the village had a painted mural, which the *Achar*, trained by the ICFC as a facilitator, discussed with me (see plates: 1-5):

**Tallyn Gray:** *Who decided on the design and mural on the back?*

**Achar 1:** *The community. The picture is the real activity of the people in the Khmer Rouge time and is happening in this location. The place they killed the people was in the temple [Points to the temple behind us] in the middle of the picture. After Pol Pot the temple still had many scars and bruises inside, but now they fix everything so you can't see [bullet holes shown on the depiction of the temple on the mural]. Everything [in the mural] is a hundred per cent the same to the Pol Pot time. Many location, like grave, like monastery, the activity, the trees and everything, is exactly the same.*

**TG:** *Is this picture then what people have remembered and asked to be put on the mural?*

**AI:** *Yes. People from the community, they remembered it.*<sup>16</sup>

In a country without mass circulation of photographs and videos, painted forms have to traverse representational and genealogical forms of communication – sometimes to the frustration of survivors who would prefer to show a movie or a photo. There is a very evident desire to express in literal, representational phrases – even, as here, on a site of memorialization. Many of my narrators were concerned with the need for representational ‘proof’, in particular those engaged in discussing the DK period with the generation born after 1979, who do not

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<sup>15</sup> The pictures can be seen at the DC Cam Web site  
([http://www.dccam.org/Archives/Protographs/Sum\\_Rithy.htm](http://www.dccam.org/Archives/Protographs/Sum_Rithy.htm))

<sup>16</sup> Achar 1, ICFC facilitator, Interview with Tallyn Gray 17 August 2012

believe it was as bad as their elders say. (I discuss this more fully in Chapter Seven. ) The stress they place on 'exactness' or 'one-hundred per cent' accuracy emphasizes that the pictures have a function analogous to that of a photofit (E-fit), where the concern is for accuracy in the service of criminal evidence.

This is by no means to discount the genealogical . A poem/ picture/ ceremony is useful. It is clear that images conveying an impressionistic, poetic or creative reading of the time are not unwelcome. Their absence would be a huge gap . But the desire is for a double discourse whereby literal, representational phrases can act and link with genealogical ones – a fluid dialectic somewhere within Daniel's phrase regimes. Thus there is a desire for a complex variety of means by which to convey the unspeakable - including means that are inadequate to the task by themselves. For example, to return briefly to the structuralist view of narrative, one can define a paradox in how people wish to narrate their own stories. From the VFKDP it can be seen that between Grandma and Grandpa a negotiation was in process over events during DK, which established a baseline (*fabula*) of events on which they could both agree. Engaging in a process of *fabula* (re)construction, they were also engaging in a process of re-telling - a *sjuzhet* - in genealogical and representational phrases helpful to them both : Buddhist ritual and the construction of a *stupa*.

Thus it would be false to dismiss the literalist/ representational phrases favoured by the ECCC and NGOs as 'western' and unable to link with those of Cambodia at any point . Over numerous interviews it was an emergent theme that it is the 'officialness' of the ECCC process that makes it more legitimate. It would be false (and patronizing) to argue that the Cambodian mode of communication is rooted solely in one tradition and that they are unable to comprehend or work within another (or have no desire to do so). The representational language sought by Cambodians , the desire to show pictures '*a hundred per cent the same*' ,makes this plain.

The need for representational forms is perhaps a product of the thirty-year gap before any institution with the scope, capacity, (inter)national visibility and money of the ECCC. Langer's source, who stated that she could not express what happened, spoke despite the vast quantity of documentation about the

Holocaust.<sup>17</sup> After the Holocaust many Jews had reserves to evidence their suffering which Cambodians lacked, and perhaps feel they lack still. While there are detailed and complex records at S-21, it was only one of hundreds of killing sites considerably less well documented, some no longer even visible. Sum Rithy's prison in Siem Reap is now a site of shopping centres, malls and spas in a tourist town.<sup>18</sup> The Nuremberg trials ensued soon after the end of the Nazi regime. Following this memories of the *Shoah* could be deposited in cultural institutions - especially after the creation of the State of Israel in 1948. Cambodia's ongoing war, the Soviet-backed Vietnamese government, and genuine fear of a KR return to power, afforded no space to deposit memory or cultural and historical knowledge. Alternative narration was shut down if it failed to fit the narrative restrictions of the Soviet/Vietnamese state version of events, and has subsequently been restricted by the CPP's desire to limit the story. The attempt of survivors to represent what they endured is an attempt to reinscribe themselves and their experience on their nation's history, especially as younger people forget, and the physicality of it literally decays or is built over. I now turn to those modes by which the story of this era is narrated and interpreted specifically informed by the Cambodian intellectual tradition.

### **Buddhist narratives : subjectivity and justice**

Most of my monk-narrators say they employ Buddhist stories with people with concerns about KR issues, making direct links between experiences under DK and these 'genealogical' Buddhist stories. Three were mentioned as frequently told to link the personal narratives of lay people who come to them to a Buddhist ideal. I will look at each in turn.

Ven. 14 explains how stories are used :

*The young monks we ordained in the late 1980s and early 1990s have contributed quite a lot to the rebuilding process and the reconciliation in many ways. Buddhist temples were still centres for the widows and orphans of the war, especially the children whose parents were killed during the Khmer Rouge and the civil war.*

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<sup>17</sup> Langer, *Holocaust Testimonies*, 61

<sup>18</sup> He drew on my 'tourist map' the sites of the mass graves and the various sites of the Siem Reap prison

*These bereft women found solace in the temples, and shelter in the temples, and asked for guidance from the monks. If you are a grieving widow or suffering, if you can speak out, that's one way to find relief. These women found the most sympathetic ears at the monasteries. So they expressed their suffering and their deprivation of their loved ones and parents and their husbands, children, brothers and sisters. So we are ... the monks were lending them sympathetic ears and provided consultation, guidance, counselling (not in the western sense though). But in general, we take the example from the Buddhist texts, epics and teachings to comfort them. Mostly we take the story of Patacara.<sup>19</sup>*

#### The story of Princess Patacara;

*Patacara eloped with a servant in the household and bore his children. She wanted to return to her parents to show them her children. She and her husband and children journeyed through a forest back to Patacara's parents' house. On the journey her husband was bitten by a snake and died.*

*Thus with the new baby and her older child she carried on, wanting to reach her parents. She had to cross a river and could not in her weakened state carry the children across; she put the oldest on one bank and carried the new one across. As she was coming back over to get the other (leaving the one on the other side) an eagle came and took the baby. The older son, thinking his mother was calling him, fell in the river and drowned. She carried on to her parents' house desperately, but on her arrival discovered that her parents and siblings had died in a storm during her absence.*

*After the loss of her husband and children she went mad with grief, running from village to village, naked and deranged. She was brought to the Buddha. Buddha explained to her the nature of impermanence. She became a nun and attained Arhat (enlightenment and Nirvana) She became free. This was her last life.*

#### Ven.14 continues:

*We used to cite this story, the point being that so much suffering like Patacara's could still find relief and freedom in the noble teaching of the Buddha. So we use these stories to comfort the Cambodian women, to assist them to gain the strength to move on. Some women here in Cambodia also lost everything, and had no family. Almost every family lost a member but some lost everyone - no husband, children, relative, just alone. Patacara was mad – so we tried to comfort them, gave them shelter in temple. So reconciliation is not just about dealing with armed conflicts.*

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<sup>19</sup> Ven. 14, Phnom Penh, Interview with Tallyn Gray, 25 September 2012

*The armed conflicts finished in 1998. In 1993 there was a UN sponsored election, but even at that time the war was not ended. Some KR factions didn't join; then there was fighting in 1997 in Phnom Penh and some factions went to the forest again to take up arms. And there was fighting for some months, and they joined forces with the KR again. And finally and thankfully the armed conflicts came to a complete end in 1998. But still the consequences of the KR and the civil war were blatant everywhere. Now you travel in Cambodia and you hardly see this, but it's there in the memory of the people, and deep in the society there still. Institutions and traditions were destroyed- so when we re-established these things, they still feel the effect; and the biggest felt impact is what happened with Buddhism and the institutions.*<sup>20</sup>

The use of such stories can be compared to the practice of Bruno Bettelheim in using European folk stories to assist disturbed children.<sup>21</sup> Bettelheim argued that traditional stories allowed his subjects to project into the role of protagonist; they helped them come to terms with subconscious drives concerning their place in the family or their emerging sexuality, within the grotesque and violent frames of stories that nevertheless turn out well for the central figure. By contrast the use of Buddhist stories of the kind Ven. 14 tells helps victims make sense of individual and collective trauma by applying their own experiences to the Buddhist cosmological ordering of the universe and the Dharma cycle. Stories of violence transform into order and peace of mind. The act of listening is anthroposemiotic, a participation in meaningful dialogue between moral ideals and moral order in face of moral collapse and widespread violence; it reclaims and reasserts the humanity of the victim. In these narratives one relates not to an idealized world where things turn out well for the vulnerable, but to the world as it is. This feature Chandler identifies in Khmer folk stories in general.<sup>22</sup> Here, with Buddhist worldviews at their ontological heart, the juxtaposition of the stories with the reality of victims' experience constitutes a linkage between Daniel's 'expressive' phrase regime and the discourse of Buddhism. The link is possible because there is no attempt by the larger genre of discourse to prescribe a course of action that burdens the sufferer. Patacara has a miserable life but nevertheless finds the

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<sup>20</sup> Ven. 14, Phnom Penh, Interview with Tallyn Gray, 25 September 2012

<sup>21</sup> Bruno Bettelheim, *The Uses of Enchantment: The Meaning and Importance of Fairy Tales* (New York: Vintage Books, 2010)

<sup>22</sup> David Chandler, 'Songs at the Edge of the Forest: Perceptions of Order in Three Cambodian Texts' (1978) *At the Edge of The Forest: Essays on Cambodia, History, and Narrative in Honor of David Chandler* (Ithaca: South East Asian Studies Program Publications, 2008)



means to escape the cycle of misery; her story reflects the catastrophic loss most of the population have encountered; in the realm of the expressive they find a link.

In terms of justice this story says little . Patacara's catastrophes were not a result of something done to her , or the result of her doing something . Ven 14's telling even plays down any causal link between defying her parents and her fate. The snake, eagles, river, and storm are not manifestations of Karma or divine design, but show that life is suffering. In placing experience into a narratological frame, the story lays a foundation to deal with the effects of injustice. However, it does not address the question of responsibility. As many of my narrators stated, there were persons who made a conscious decision to kill, to torture, to inflict suffering. To deal with that dynamic monks tell other stories, about justice and the desire for revenge - frequently this:

#### The Lady and the Ogress<sup>23</sup>

*A man greatly desired a baby, but his wife was barren. Fearing that he would leave her, the wife decided that her husband should have a child by another woman. However, she again grew fearful of the consequence of this. So each time the husband's mistress became pregnant the wife would drug her food, so that the mistress would miscarry. After several times the mistress figured out what was happening; but by this point the wife had administered so much poison to her that the mistress died. On her deathbed, the mistress swore vengeance on the wife in another life. Throughout many incarnations as animals (a cat and a hen, a tiger and a deer etc.) the women perpetually sought out the other so as to kill each other's children. Eventually they were reborn, one as an aristocratic lady, the other as an ogress. The ogress went to eat the lady's baby. The lady ran to the Buddha and begged him to protect her child. The Buddha explained to both the lady and the ogress that they had been chasing each other for centuries, doing the same thing again and again. The suffering they inflicted on each other would continue unless they renounced this now, and forgave each other, thus breaking the cycle of perpetual vengeance and killing.*

This story relates to the past and the future, as one monk explained:

*Prisoners such as those at Tuol Sleng, even though they have done nothing bad in this life, still received torture and bad things in this life. When discussing justice for those people, we should explain to them that these actions could be due to actions in the previous life done to those wrongdoers [who recently tortured them]. And also we have to look at our*

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<sup>23</sup> This story was told to me by Ven.9 during our interview on 22 July 2012, and also by Ven. 7 at our interview on 13 July 2012

*families: maybe our fathers and mother have done wrong things to those wrongdoers, and those wrongdoers do bad back. So if we keep thinking, 'I have done nothing wrong, but you hit me, you torture me', we will have anger with the person torturing us, and if we stay thinking like this we need to forgive and forget about the wrongdoer doing a wrong thing to us.*<sup>24</sup>

This appears on the surface to blame individuals for abuses against them - grim, but not without 'meaning,' in that suffering is placed in a context which makes it comprehensible; this is an inference opposite to that drawn from Langer's 'unheroic memory.'<sup>25</sup> He argues that those who never experienced it inscribe the Holocaust with meanings; no happy endings or 'closure' can or should be drawn. Doing so makes the Holocaust a 'feel-good' Hollywood story of 'the triumph of the human spirit', de-emphasising the mindlessness of its violence, the hopelessness of its victims and the sadism of its perpetrators. There is no heroism in the stories of mass violence, simply an exposure of the failure of humanity and the human condition. Buddhism's narrative of Karma is not a source of therapeutic notions of 'comfort' but a frame in which to articulate a story to configure one's identity and locate oneself in a cosmological order. It does not attribute a phoney 'meaning' to suffering but enables one to avoid being trapped /disabled by the past. Langer points out that survivors will never be truly freed from their experience (or wish to be - this would risk forgetting it). However, he too distinguishes between forgetting experience and being permanently disabled by it; dealing with the latter is both feasible and necessary.<sup>26</sup>

Ven. 6, who lived in Paris at the time of DK, explains the concept of living in the moment and not being bound into the past:

*The past is past; looking to the future, we must learn, but we do not need revenge, to add more and more suffering. We cannot do well with hatred and anger; we need to do better... why attach to one, to possess something? Attachment is a cause of suffering. Craving and attachment, clinging, we should liberate from these things. Anger, if it presents itself in the mind, we take only mental notice, only arising and then falling away without participation or attachment. We just observe and notice, stop and let go. This is the method to finish with everything in the mind - just make mental notice of each instance where this feeling arises, and falls away-*

<sup>24</sup> Ven. 7, Phnom Penh, Interview with Tallyn Gray, 13 July 2012

<sup>25</sup> Langer, *Holocaust Testimonies*, 165

<sup>26</sup> Lawrence Langer, 'The Alarmed Vision: Social Suffering and Holocaust Atrocity', *Social Suffering*: eds. Arthur Kleinman, Veena Das, Margaret Lock ( Los Angeles: University of California Press, 1997)53-63

*usually immediately. When we are a neutral observer, we can notice and see impartially as a neutral observer of these emotions – to live in the present moment, live here, now, this: in the present moment/action. To cope with their suffering they should know what is suffering. What's its cause? When Buddha reached enlightenment he discovered four noble truths: suffering, cause of suffering, the cessation of suffering, the way leading to the cessation of suffering. This is the principal essence of Buddha's teaching.*<sup>27</sup>

Karma is a narratological device by which people situate themselves in time – unreality and impermanence, and the eventual attainment of Nirvana; in this frame they can develop the ability to see the past as past and not to dwell in it. In this context Nirvana can be seen as providing 'closure' in both forms of mental/textual process and as an 'end' of the Buddhist master 'text'. Unlike Abrahamic religions, Buddhist thought does not provide mythic explanations for existence. There are no creation myths or prophecies of end times. The 'universe', time and Karma are narratological constructs through which timelessness is made accessible. Nirvana does not depend on the existence of the universe: the universe, time, existence, are narrative frameworks which contain the idea of Nirvana. Stories such as *The Lady and the Ogress* are not literal descriptions of reality, but simple ways to grasp Buddhist concepts through the use of chronological and classificatory systems to emplot existence in a sequential narrative.<sup>28</sup> *The Lady and the Ogress* is not readable as a heroic tale about the redemption of the human spirit. It can be seen as story of Karma manifesting itself in an extremely violent way. However there is another way to read it: that by taking revenge, you become like the one inflicting it on you, and that by breaking the cycle of violence the individual releases both self and enemy from a perpetual cycle of destruction.

This returns to the 'Buddhist jurisprudence' discussed in the previous chapter.<sup>29</sup> Its 'end point' of 'justice' is a calmed mind – not retribution or exoneration – and a past no longer plaguing the present. Attachment to that pain is over for the individual, who aims to be liberated from all attachments that hinder enlightenment. Buddhist jurisprudence in this sense creates a metaphorical

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<sup>27</sup> Ven 6, Phnom Penh, Interview with Tallyn Gray, 14 March 2010

<sup>28</sup> Steven Collins, *Nirvana: Concept, Imagery, Narrative* (Cambridge: Cambridge University Press 2010) 16-20

<sup>29</sup> French, 'The Case of the Missing Discipline', 684

narrative framework and a process to understand non-temporal concepts of a higher order.

### **Conceptions of Karma**

To understand reconciliation in Cambodia awareness of Karma is vital. The concept of Karma has kept the aspiration of justice alive in many people's minds, especially those who have found the 'legal' processes alien, aloof, politicised, failed, farcical or unsatisfactory. Sophal Ear, who is critical of the ECCC , describes its meaning for his mother:

As an observant Buddhist, my mother probably had the last word. She always said that, no matter what happened to the Khmer Rouge leadership in their current lifetime, Karmic justice would prevail in the next. They would be reborn as cockroaches. I am certain that this belief has helped millions of survivors cope ... after more than three decades since the fall of the Khmer Rouge.<sup>30</sup>

Despite the failings of earthly justice, many Cambodians trust there will not be eternal impunity for the crimes committed against them. This is not to say that the Buddhist answer to impunity is 'eye for an eye' retribution . Rather, it recognises that experience does not happen in a vacuum . In Khmer folk stories , villains often end up enjoying the profits of their crimes, while their victims remain miserable ; this highlights the point that while present existence may be fraught with injustice and unfairness, in the wider context of Karma and merit both parties harvest the fruits of their actions ; immediate punishment is less important.<sup>31</sup> This idea is particularly resonant for people seeing former cadres lead affluent, successful lives - even occupying senior posts in the current government - while their victims cannot discuss this situation for fear of repercussions . As TPO therapist Taing Hum says, '*The victim cannot say something, but is kept silent*'.<sup>32</sup>

Again, I stress I am discussing popular ideas within the framework of Khmer Buddhist thought, not making theological arguments. Rather, I am exploring the deep roots of a religious orientation in the cultural life of the community I study,

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<sup>30</sup> Sophal Ear, 'Khmer Rouge Tribunal vs. Karmic Justice', *New York Times*: 17 March 2010  
< <http://www.nytimes.com/2010/03/18/opinion/18iht-edear.html>>Accessed 18 May 2013

<sup>31</sup> Ven. Kong Chhean , *Cambodian Folk Stories From the Gatiloke*, retold by Muriel Paskin Carrison,(Vermont: Charles E Tuttle Company,1987)15

<sup>32</sup> Taing Hum , Therapist at TPO, Interview with Tallyn Gray, 12 March 2010

and how some of my narrators understand the concepts in light of their lived reality. Some Buddhist scholars may feel this analysis is more social and cultural than theological or philosophical – yet this thesis explicitly sets out to theorize through social actors not religious texts. I look at Buddhism here to understand how people come to the notion of justice in their own critical, cultural and imaginative frameworks. It is also important to note that though philosophy may state something to be the case, human beings are not singleminded in their outlook. Other factors and ideas (such as a belief in legal liberalism) impact equally on the critical frames they employ to analyse their situation:

*Of course the Monks and Buddhism helped to educate the people and the families of the victims of the Pol Pot time . But for me, whenever I go to the temple or the ceremony, I will make a contribution to the beggars to relieve their suffering, I will give them food. I am a painter at the Buddhist Monastery . I paint the murals of the Buddha stories – so I know all the stories. Buddhist religion is believed by many of the Khmer people . But for me, I believe in what I do more than the Buddhist teachings . But I will always go to the ceremonies and rituals . I believe that when you die you die. I don't believe you can come back or will be born again – the natural law , but ...People will not be the same spirit again . For example I do not think people will be reborn. I only believe in one life, not past or future lives.*

*But I'm Khmer. Buddhism is part of my culture , as my mother and father were Buddhist, like a Khmer . But I don't believe in rebirth.*

*...I gave all to the ECCC. I was a witness in front of Judge Nil Nonn [President of the ECCC trial chamber] and my expectation was there would be justice. The court should put them ... for their whole life in the jail.<sup>33</sup>*

This statement is revealing. For Bou Meng Karma is not a reality, although he still values the tradition of Buddhism. Conversely he feels the framework of the ECCC offers potential for justice ; his expectations lie within the operations of earthly justice and legal liberalism .

A more nuanced story about crime , punishment and a violent killer , *Angulimala*, is cited again and again by the monks .

### Angulimala's Story

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<sup>33</sup>Bou Meng , Phnom Penh, Interview with Tallyn Gray, 23 July 2012

*Angulimala had killed 999 people; he was told that if he killed 1,000 people he would be the most prolific killer in history. Angulimala decided to kill his mother as his thousandth victim, but upon coming across Buddha changed his mind and decided to kill Buddha instead. Angulimala frantically ran after Buddha. Yet despite Angulimala running as fast as he could, he was unable to catch up with Buddha, who was walking at normal speed. Buddha had willed a mental power over Angulimala. Angulimala called after Buddha, demanding that he stop. Buddha explained that he had already stopped and told Angulimala to do the same. This statement confused Angulimala. Buddha explained that by renouncing the killing of all living things he had stopped, unlike Angulimala who was obsessed with killing and thus would never be able to stop.*

*Angulimala became a monk and a good man, yet people were still afraid of him. Part of a monk's life is the collection of alms - in this way they get the food they need. Yet when Angulimala went out to collect alms people fled in fear when they saw him approach, knowing his reputation as a killer. Angulimala acknowledged to Buddha that this was inevitable given his past actions. Buddha told Angulimala that he had created so much suffering, and that people shunning him was part of the fruits of his karma he was now reaping for his past actions.*

*Every day, Angulimala went out to collect alms. Every day he was shunned and not given food and people attacked him, as in his present position as a monk they realized he would not retaliate. The King came to Buddha to seek his blessing to kill Angulimala. Buddha asked the king, 'Would you kill him if he were dressed as a monk?' The King said yes. 'But', reasoned the Buddha, 'if someone is a monk they are a peaceful person. Would you kill a peaceful person?' The king said no. Buddha explained that the king had to see Angulimala in the present moment. Buddhism is a way of changing and improving from moment to moment.<sup>34</sup>*

This story is applicable to former cadres, some of whom are deeply concerned about their own Karma, like the cadre quoted earlier :

*Before I feel very, very fear [about his Karma], but I also do good things. Whenever I go to any Wat, I dedicate food or money to those spirits and confess to the Buddha statue, 'Forgive me because I was ordered to by someone else.' I do this because I have no willingness to do- but even so I still do wrong - I hit the people, I kick the people. I still have a mistake, but for now I'm not so much afraid of this. I was forced to work [doing human rights abuses].<sup>35</sup>*

The *Angulimala* story places former KR into a cosmological and narratological framework which allows them to construe their own behaviour : that while they

<sup>34</sup> Ven.1 21 February 2010: Bangkok time: interview on Skype. Studying in Iowa USA.

<sup>35</sup> Former Cadre 1 (Male), Tekeo Province, Interview with Tallyn Gray, 27 July 2012

will face punishment for their crimes, punishment is not the end of their personal narrative.

The concept of Karma, in populist or more developed form, can raise highly problematic issues for universalist notions of justice and human rights. Not only, as Judge Downing notes, does the possibility of resolution later in the Karmic cycle imply *'total impunity for any form of criminal act that may be carried out'* on earth, but it could also be seen as a reason for victims not pressing for justice in the secular legal system as they see their sufferings as Karma.<sup>36</sup> There is no word for 'rights' in the Khmer Theravada Buddhist lexicon.<sup>37</sup> Karma as the source of personal suffering is stressed over any external source, such as the failure of government policy.<sup>38</sup>

### **Ceremony as Performed Narrative**

Ceremony and ritual provide a means by which testimonies can be recounted, ECCC gaps filled and memorialization initiatives enabled. The previous chapter bridged the section on 'trials/legal processes' and the participants' chosen way to involve religious discourse into the Victim-Former Khmer Rouge Dialogue Project. The VKRDP's achievement placed itself within gaps, not only in the legal and political processes of the ECCC, but also gaps at an ontological level – the failings of any legal system in addressing the abominations of mass atrocity events. The VFKRDP attempts something more complex than a formal court can achieve, in that, aside from the truth-telling function it shares with the trial process, it must, as part of its restorative function, go beyond blame and punishment. What was unique about the VFKRDP, as discussed previously, was its inclusion of former cadres. While I have met former KR willing to engage with younger people, or even appear in documentary films to discuss their roles in the regime, it is still unusual to see such direct face-to-face communication between two parties (former KR and non-KR) in a structured process aiming at reconciliation.

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<sup>36</sup> Judge Rowan Downing QC, International Judge at the Pre – Trial Chamber of the ECCC, Phnom Penh, Interview with Tallyn Gray, 1 June 2012

<sup>37</sup> Judy Ledgerwood and Un Kheang, 'Global Concepts and Local Meaning: Human Rights and Buddhism in Cambodia', *Journal of Human Rights* Vol. 2, No.4, December 2003, 540

<sup>38</sup> Ian Harris, *Cambodian Buddhism*, 220-221

As the *Achar* facilitator trained by the NGO running the VFKRDP says:

*Of course it takes a long time to get victim and cadre together in the programme. For victim it's OK, it doesn't take a long time. The cadres take a longer time than the victims. Before we get them involved in the programme, we take a long time. We use many of the techniques to talk to them, to tell them the advantage or the result of the programme, or the future meaning of the programme. Takes long time, because the cadre does not want to get nervous, because he feels nervous or want to keep his dignity. At the beginning, he thought if he get involved talking about the story, it will break his dignity.<sup>39</sup>*

While the victim-cadre encounter described earlier clearly fills a gap in the ECCC process, there are ceremonies entirely without the involvement of KR. Indeed most events do not include KR; as the *Achar* argues, and other organisations have found, former cadres are uncomfortable with such events.<sup>40</sup>

#### Field Journal 3 May 2012

*Choeung Ek (approximately 15 KM outside Phnom Penh) is the best-known 'killing field,' in that it is the one that tour groups most frequently visit. It is where most of the victims of S-21 were sent to be killed. It is however one of approximately 309 killing fields/mass gravesites around the country (more than 1.3 million victims of execution have been thus far found.)<sup>41</sup>*

*At the centre of the site is a very large stupa, which contains several thousands of the skulls found at the site. Parts of the walls of the stupa are made of glass so people can look through and see the skulls inside. On this day some civil parties have been brought to the site; some of their legal team and members of the Victim Support Section (VSS) of the ECCC are here. All the civil parties (10 of them) are women, dressed in mourning clothes (white). Also there are the monks who lead the blessing ceremony, one of whom (Ven 9) I interviewed later. He is also a civil party, although at this event he did not speak about his experience but carried out the ritual. In addition to these people are some staff from the Transcultural Psychosocial Organization (TPO). TPO is a Netherlands-based mental health NGO utilizing the 'testimonial therapy' method brought into Cambodia by Inger Agger of the Research Department, Rehabilitation and Research Centre for Torture Victims, Copenhagen. The technique, which has also been utilized in different cultural contexts (the Philippines, Chile), uses local spiritual ceremonies within the process of testimonial therapy for survivors in countries where mental health services*

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<sup>39</sup> Achar 1, ICFC facilitator, Interview with Tallyn Gray 17 August, 2012,

<sup>40</sup> Youth For Peace, *Healing through Buddhism Project Voice of Former Khmer Rouge Project Narrative Report*, Phnom Penh 2010

<sup>41</sup> 'Cambodian Genocide Program, Introduction to the Cambodian Genocide Databases', Yale University, Accessed 9 May 2013, <http://www.yale.edu/cgp/cgdbintro.html>



*are chronically under- resourced.<sup>42</sup> Personal participation, in the sense of giving testimony, is a personal investment, as the preparation time for those who testify requires them to spend time over this project rather than just attending a one-day-only event to which they are bussed in.*

*At the ceremony, all the participants (including myself) sit in front of the large stupa. The participants hold flowers and incense as we listen. Two of the women told their stories, while their friends supported them. The monk is handed their testimony and ties a red string bracelet to each victim's wrist, gives them a blessing, and hands back the testimony. (A version of this ceremony has been committed to DVD. Sum Rithy appears in this as one of the ceremony participants.<sup>43</sup>) The Monks then bless the crowd, sprinkling water over them, and throw flower petals and sweets over us. They chant and pray.*

*Two things stand out from what was said. One woman states that she does not know the people behind her (i.e. the skulls in the stupa) and is not related to them. She wishes them blessings, but separates her story and the atrocities her family suffered from them.*

*The monk thanks the UN/ECCC officials at the site today; the UN staff wear their blue badges (court security/ID cards). The Monks spoke directly about the ECCC as offering justice. The fact that the UN was here gave this ceremony an international audience, something that the women and the monks at the ceremony desired. There is a desire that the story be heard.*

*The group then was driven to a nearby Wat where there were more testimonies and blessing following this pattern inside. During the testimonies the ECCC is mentioned multiple times, often at the end of harrowing testimonies. The ECCC is viewed as a symbol of truth-telling and justice. An outstanding factor of this is that the women providing the testimonies say they are happy their testimony (told to the civil party legal teams) is aiding in the prosecution. Finally the Monks again acknowledge and thank the ECCC for its presence, before the civil parties offer them food.*

Such a ceremony fills several gaps the legal process cannot. Firstly, it is explicitly therapeutic. The ceremony offers a place to testify less clinical than the ECCC. Given that the mental health services in Cambodia are wholly inadequate to deal with the estimated 2 million people suffering from Post-Traumatic Stress Disorder, events such as this offer means to deal with abuse, torture, rape and

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<sup>42</sup> Inger Agger, Victor Igreja, Rachel Kiehle, Peter Polatin, 'Testimony Ceremonies in Asia: Integrating Spirituality in Testimonial Therapy for Torture Survivors in India, Sri Lanka, Cambodia and the Philippines', *Transcultural Psychiatry* 6 May 2011, 4-38

<sup>43</sup> Bophana Audiovisual Resource Center and the Transcultural Psychosocial Organization, *Testimonial Therapy: Path Towards Justice and Healing: A film by Germain Piour*: Bophana Production/TPO-2010

witnessing the murder of friends, family, strangers and children.<sup>44</sup> Even if the ECCC was functioning as it should, with none of the political, legal and narrative problems, as a legal institution it operates a genre of discourse alien to the lived experience of those who suffered, providing no way of linking to more ‘genealogical’ phrases.

*We cannot forget this whole story. Everyone in their 30s, 40s, 50s, 60s, 70s knows this time [DK]. The next generation also need to know. In the TPO ceremony we use Buddhism to help people let go of their anger and help them deal with it. This anger can then go to the court and it can deal with the anger. By telling your story to ECCC you can give your anger a place to be where it can do good and become used as court evidence. The people can let their story go to the court and Buddhism can look after the victims and help them to let go.*<sup>45</sup>

In Buddhist terms Ven. 9 is describing the ECCC as a funnel through which people can pour their rage and pain in the process of ‘letting go of anger’. However, the women at this particular ceremony have also managed to become civil parties. Thousands have not. They can only turn to private religion to express their stories. This is painful if they are alone with their thoughts, memories and dreams/ nightmares/ flashbacks. By engaging in a discursive community, /interpretive community<sup>46</sup> - in this case Buddhism - individuals also engage in a process of reclaiming their own stories and knowledges.<sup>47</sup> These have not only been stolen from them by the KR, but may also have been narrowed to fit the discursive frames of legal liberalism.

The woman who related her own experiences to that of the skulls behind her brings in a means by which the living and the dead are connected within the same narrative. Her own genealogical phrases link to Buddhist discourse via an artefact (the *stupa*, the remains of those in it) - a linkage that not only permits her grievance to be spoken but also brings her into a discursive community.<sup>48</sup> This

<sup>44</sup> Heleyn Unac, ‘The Tribunal’s Broader Role Fostering Reconciliation, Peace and Security’: *The Khmer Rouge Tribunal*, ed John. D. Ciorciari (Phnom Penh: Documentation Center of Cambodia, 2006) 158

<sup>45</sup> Ven 9, near Phnom Penh, Interview with Tallyn Gray, 22 July 2012

<sup>46</sup> Fish, Stanley, *Doing What Comes Naturally: Change, Rhetoric, and the Practice of Theory in Literary and Legal Studies*, (Oxford: Oxford University Press, 1989) 141-142

<sup>47</sup> Kathy Absolon and Cam Willett, ‘Putting Ourselves Forward: Location in Aboriginal Research,’ *Research As Resistance : Critical, Indigenous and Anti-Oppressive Approaches*, eds .Lesley Brown and Susan Strega (Toronto: Canadian Scholars’ Press/Women’s Press 2005) 97-126

<sup>48</sup> John Swales, *Genre Analysis: English in Academic and Research Settings* (Cambridge: Cambridge University Press, 1990) 21-29

directly addresses the ‘ritualcide’ described by Peg LeVine, the KR policy of severing people from their perceived place in a cosmic order and thus from their ancestors.<sup>49</sup> Indeed Buddhist regeneration through ritual has enabled people to formulate and relate their collective stories of DK via symbolism that recalls a shared culture.<sup>50</sup> Cultural identity is affirmed through narratives into which the individual can project personal experience, but also identify with the cultural history from which his or her story emerges. Buddhist stories taken from the Pali canons are deeply engrained into Cambodian culture. The following section provides an example of how individuals connect to Buddhist stories to air their own narratives and find wider cultural connection.

### **Containing Narratives through Hybridisations: Transnational/hybrid/ mixed priorities**

#### **The Dhammayatra Peace Walks.**

Here I briefly discuss one of the most famous Buddhist acted narratives of reconciliation in Cambodia. In the early 1990s, as religious restrictions imposed by the PRK were lifting, Ven. Maha Ghosananda (former Supreme Patriarch in Cambodia and Nobel Peace Prize nominee) led the *Dhammayatra* Peace Walks. These were initially a symbolic act of escorting Cambodian refugees back home from the Thai border. They were dangerous. Neither the Thai nor Cambodian governments approved.<sup>51</sup> The civil war was ongoing. *Dhammayatra* required walkers to pass through KR-controlled zones and minefields. Monks were attacked and even killed. The Walks were a form of meditation: part of the purpose was to meet with the KR and ‘walk until our enemies became our friends.’<sup>52</sup> Linked to this was the Buddhist concept of *Metta* (Loving Kindness).

I do not question that loving one's oppressors ... Cambodians loving the Khmer Rouge... may be the most difficult attitude to achieve...but it is the

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<sup>49</sup> Peg LeVine, *Love and Dread in Cambodia: Weddings, Births and Ritual Harm under the Khmer Rouge* (Singapore : NIS Press, 2010)

<sup>50</sup> Alexandra Kent and David Chandler ‘Introduction’, Alexandra Kent and David Chandler eds. *People of Virtue: Reconfiguring Religion, Power and Morality in Cambodia Today* (Copenhagen: NIAS Press, 2008) 2

<sup>51</sup> Ian Harris, *Cambodian Buddhism: History and Practice*: (Honolulu : University of Hawaii Press, 2005) 208

<sup>52</sup> Kathryn Poethig, ‘Locating the Transnational in Cambodia’s Dhammayatra’, *History, Buddhism and New Religious Movements In Cambodia*, eds. John Marston and Elizabeth Guthrie (Honolulu : University of Hawaii Press, 2004) 203-210

law of the universe that retaliation, hatred, and revenge only continue the cycle and never stop it. Reconciliation does not mean that we surrender rights and conditions, but rather that we use love in all our negotiations.<sup>53</sup>

The narrative enacted in the walk is of taking the country back from war and division ‘one step at a time’. The idea arises from the concept of ‘socio-centric engaged Buddhism’ - using Buddhist philosophy in the pursuit of social (and even political) goals, such as peace activism or environmental activism.<sup>54</sup> It is characterised by transnational networks which it both draws on and promulgates. Poethig argues that Ghosananda imported this concept from other parts of Southeast Asia (for example the environmentalist monks in Thailand) and integrated it into the Cambodian setting.<sup>55</sup> His project was to ‘glocalize’ ‘engaged Buddhism’ (i.e. articulating its global ideas/concepts through localized discourse) so it could take root in the nation after undergoing ‘Khmer-isation’, focussing initially on Cambodia-specific issues: peacebuilding, repatriation of refugees, landmines.<sup>56</sup> The accomplishments of the *Dhammayatra* were, firstly, an activism formula unique to one nation but philosophically rooted in transnational ideas, and secondly, a concept that has spawned other ‘engaged’ movements. Poethig identifies this as a major strength.<sup>57</sup> Such flexibility contrasts with processes of ‘deculturalisation’ within Cham Islam explored in Chapter Seven.

The early walks were financed by Japanese and German backers. As the movement progressed year on year, it expanded and linked with multifaith groups across the world, in context of more generalised walks for peace. Eventually the peace walks struggled to carry on as donor funds dwindled.<sup>58</sup> This transnational movement incorporating old KR into a wider nationbuilding narrative was cut short.

### **Placing Memorial ceremonies**

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<sup>53</sup> Maha Ghosananda, *Meditations on Wisdom and Compassion: Step By Step*, eds. Jane Sharada Mahoney and Philip Edmonds (Berkeley: Parallax Press, 1992)

<sup>54</sup> Peter B. Clarke, *New Religions in Global Perspective* (New York: Routledge, 2006).4

<sup>55</sup> Kathryn Poethig, ‘Locating the Transnational in Cambodia’s Dhammayatra’ 210-211

<sup>56</sup> Peter Clarke, *New Religions In Global* . 4

<sup>57</sup> Kathryn Poethig, ‘Locating the Transnational in Cambodia’s Dhammayatra’. 210-211

<sup>58</sup> Sasse, 1999 quoted from Kathryn Poethig, ‘Locating the Transnational in Cambodia’s Dhammayatra’,208

*I was trying to find some prayer events around the festival of the dead to see if there were any ceremonies. Sina called up S21 and Choeung Ek victims' associations to see if there were any prayer ceremonies during the Phchum Ben festival or any other time we may be able to attend. We found out that the people who had family die in those places are not planning on visiting unless 'the NGOs are willing to pay for their expenses-otherwise people will probably stay at home.'*

*This raises a host of questions. Do these memorial ceremonies matter to their participants? Are they just being laid on by NGOs who have misjudged the mood of the people they are hosting them for? Would people prefer to forget? Are people attending to be polite, but with no real interest?*

Most DK-specific ceremonial events exist only through the foreign money which arrived once the ECCC came. NGOs work in a highly politicized environment; though less rigid than in the 1980s and early 1990s, it still restrains them from carrying out much work beyond supporting survivors.<sup>59</sup> NGOs and donors are constrained domestically by what the government permits. It is also noteworthy that the passage of the Law on Associations and Non-Governmental Organisations (LANGO) Bill (requiring NGOs to register with the government) will impinge even further upon potential to explore alternative narratives with which the RGC/PPP might feel uncomfortable.<sup>60</sup>

NGOs have built new memorial sites; however, the ceremonies clustering around them are incorporated into pre-existing ritual events (Banskol ceremonies prior to Khmer New Year and during Phchum Ben.) Local memorialization initiatives have also been in place since the 1980s.

*Monks were involved in gathering bones and taking them to temples at mass killing sites. And many also did fundraising to build Stupas to keep bones in.*<sup>61</sup>

Caroline Bennett, a forensic anthropologist specializing in mass graves in Cambodia, argues that there is an integration and normalization process around the sites of mass graves in rural Cambodia. She suggests people living around

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<sup>59</sup> Kristina Chhim "Pacifying vindictiveness by not being vindictive": Do memory initiatives in Cambodia have a role in addressing questions of impunity? Utrecht : Impunity Watch., 2012

<sup>60</sup> The Royal Government of Cambodia, Law on Associations and Non-Governmental Organizations, Unofficial Translation by UNOHCHR Accessed 11 June 2013. < <http://licadho-cambodia.org/delusion2011/laws/NGOAssociationLaw-3rdDraft-English.pdf> >.

<sup>61</sup> NGO worker 1, Phnom Penh, Interview with Tallyn Gray, 25 October 2012

these graves ( which is common, given their sheer number) are less concerned with memorial processes , and take a pragmatic view of the presence of bodies. Indeed mass graves are good for soil : blood and bone are good for fertilizer.

*They mostly comment that they need to live, and the grave was so big, plus, most of the dead are now believed to have been reborn by now, so it's not a problem anyway. This includes monks. I've spoken to various monks around Cambodia who tell me most people are reborn now.*<sup>62</sup>

In some places bones were excavated a year or more before being housed in bone houses or *stupas* ; generally no Buddhist ceremonies have yet been undertaken.

### **Justice, narrative and money**

Youth For Peace (YFP) is one of the NGOs using Buddhist ritual to discuss the past. Funded by Deutsche Gesellschaft für Internationale Zusammenarbeit (German Society for International Cooperation) (GIZ), it declares the explicit aim:

Healing through Buddhism Project was designed to train the monks about the Khmer Rouge history, transitional justice, monks in peace building movements in different Asian countries, roles of monks in peace building in Cambodia and other facilitation skills.<sup>63</sup>

This programme had former KR cadres on radio (providing them with some degree of anonymity) to discuss their experiences as child soldiers. The conclusion of the YFP report states:

during the training workshop conducted by monks less perpetrators appeared. Most of the participants were youth and villagers who claimed themselves as victims. We can conclude that the former Khmer Rouge try to hide their story because of security reasons.<sup>64</sup>

In an interview the project leader stated :

*We encourage the monastic community to work at reconciliation, as we see Buddhism as having a key social role in the Cambodian context. So we train monks and operated the programme in 4 provinces. Funding for this project dried up.*<sup>65</sup>

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<sup>62</sup> Caroline Bennett, e-mail to author, 18 May , 2013.

<sup>63</sup> Youth For Peace, *Healing through Buddhism Project*, 3

<sup>64</sup> *ibid.*

<sup>65</sup> NGO worker 1, Phnom Penh, Interview with Tallyn Gray, 25 October 2012

*Almost every NGO worker I speak to is mindful of 'the donors', those governments or charities that give money to projects and on which the lifeblood of NGOs, development charities and many other things depend. The problem with donors is that NGOs constantly have to spend their time appealing to these bodies in grant applications. The ideal one of these is a page of A4 with pithy bullet points, and the incorporation of whatever buzzword is in vogue at this time amongst the middle management set ('donor liaison,' 'interfacing with stakeholders,' 'inclusivity,' etc.)*

*The effect of this is to reduce complex situations to the point of misrepresentation and simplistic distinction. The line between victim and perpetrator is very fine when one thinks that most of the KR in the 1970s were scared, family-less, young teenage boys with guns at their backs. Were these boys victims or perpetrators?*

An NGO worker at Youth for Peace is clear about the danger of binary distinctions when discussing the KR legacy in Pailin:

*People say, 'Oh, this is "former KR," this one is "survivor."' No. In this kind of situation you cannot do that. If we did that we would be classifying the people : how many survivors in Cambodia, how many former Khmer Rouge. My parents are also former Khmer Rouge; they didn't kill anyone at that time, but they are the Khmer Rouge. But how do people know they don't kill? In Cambodia we define three parts: a) under Khmer b) middle Khmer c) over Khmer (centre, semi-periphery and periphery). In the 1990s people from Battambang would be scared of the people from Pailin because Pailin was a KR zone...*

*We do not classify who is a survivor and who is Khmer Rouge; we also know who is the former. We know that most of the former KR does not want to say or to speak out about that. So just let the monk motivate them to say something that maybe they do in the past. I think the KR leaders will feel able to say because the monk can help them to tell.*

*We explain to the monks the difference between the survivor and the former Khmer Rouge and tell them that the KR can be seen as victims also. We explain the concept of high responsibility (e.g. most responsible category at the ECCC and Khmer Rouge leaders.) But we explain to the Monks to see that all [both former KR and non-KR] people in the forums are both victim. So that the Monk does not say, 'This one is the former Khmer Rouge.' If the Monk say like that, then the former KR will not say anything, but if the monk say, 'OK, you are a survivor....' Most of the former KR at that time were ordered and forced to kill.*

*The children of former KR in Pailin feel angry, if it is asked them, 'What do you think if they call you a child of a former Khmer Rouge?' They feel anger, because this classification is still existing. 'Even though my parents*

*may have been in the Khmer Rouge I am not.' It's a way to alienate and exclude.*<sup>66</sup>

This difficult and nuanced narrative acknowledges that one can forget, speaking to a middle-aged man about his time as a KR, that he was a child. The way the story above is narrated, with careful discussion of labels, is almost opposite to the narrative of GIZ. This is highly structured: as the project ends in 2014, it is also time-bound, people allocated roles to a specific end:

The country has not adequately confronted and come to terms with its past.... The ECCC has created opportunities to advance the rule of law and promote human rights in Cambodian society. Thanks to the tribunal, the people are now closer to coming to terms with the horrors of the civil war and genocide. .... Outreach activities are conducted to inform the population about the Khmer Rouge regime and about the tribunal and its role in rebuilding society. These activities help to bring the message of justice and reconciliation. Through dialogue between victims and perpetrators, survivors of the regime are involved in the process of coming to terms with the past. Former members of the Khmer Rouge, along with people who resisted the regime or helped victims, are now speaking publicly about their experiences. Memorial committees have been set up at places where crimes were carried out. They raise awareness of the past through the arts, visual representations and specially constructed libraries.<sup>67</sup>

In this narration GIZ work to complement/ compliment the ECCC (indeed GIZ spend money in areas of the ECCC such as the victims' unit). The narrative creates the 'victims and perpetrators' binary, even though those on the ground say that this is unhelpful and divisive. With the binary laid out from the start, NGOs must acquiesce in it - and its consequent narrative - on funding application forms.

The format of all GIZ's Cambodia project reports follows the same narrative pattern, be it 'Social Health Protection', 'Justice and Reconciliation in the Context of the ECCC', or 'Stone Conservation in Angkor'.<sup>68</sup> This pattern, a lived-out version of Lyotard's Grand Liberal Narrative of Progress, runs from 'Context', in which some socio- cultural information is laid out like the exposition of a play, to 'Objective', or climax, the point one can identify the narratological end of the project, when a tangible goal will have been achieved – for example,

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<sup>66</sup> NGO worker 1, Phnom Penh, Interview with Tallyn Gray, 25 October 2012

<sup>67</sup> 'Reconciliation and justice in the context of the Khmer Rouge Tribunal Project description', GIZ, Deutsche Gesellschaft für Internationale Zusammenarbeit. Accessed 10 June 2013  
< <http://www.giz.de/themen/en/37139.htm> >

<sup>68</sup> Cambodia, GIZ website, <http://www.giz.de/en/worldwide/383.html>



Cambodian experts conserving and restoring the Angkor temples, or state and civil society acknowledging shared responsibility for maintaining national and international peace and stability. The ‘Approach’ section then attempts to answer the issues laid out under ‘Context’ and ‘Objective.’ The format concludes with ‘Results achieved so far’ , listing a set of ‘tangible results’ - points on the way to full closure of the objectives. The narrative is prescribed ; solutions exist only to fit its framework. Results are, if not quantifiable, at least listable under bullet points.<sup>69</sup>

### **Simplifying the Narrative – quantitative academia and the ‘reconciliation industry’.**

Lawyers and academic studies simplify narrative. Lawyers tend to doctrinal/black letter approaches, which provide normative standards for justice. Some political ‘scientists’ attempt to measure the ‘success’ of these, substantiating the foundational claims of transitional justice. Such approaches represent a desire for a fixed yardstick of justice, producing reductive statistics such as: ‘7 out of 10 genocide survivors feel transitional justice mechanism X is satisfactory in dealing with their justice concerns.’<sup>70</sup> This is the kind of research undertaken by large institutions embedded in what Claire Moon calls ‘the reconciliation industry’ whose theory and praxis dominate post-conflict/atrocity societies.<sup>71</sup> Statistical results legitimize them. The Public Affairs section of the ECCC lists such research on its ‘blog’ as proof of the civil parties’ ‘largely favorable impression of the ECCC’.<sup>72</sup>

<sup>69</sup> This is in marked contrast to Testimonial Therapy ,conceived after long-term research before prescribing any solutions. Rather than setting out with an ‘aims and objectives’ box to tick , the policy was based on detailed psychological empirical evidence, rather than the interests, ideologies, narratives and pet projects of the donor community. See Inger Agger, ‘On Testimonial Therapy and the Life Project: What Testimonial Therapy Does Is Try and Bring Private Suffering Into Public and Political Spheres.’ Interview with Basil Fernando. *Torture* , Vol 2, No. 1 February-April, 2013

<sup>70</sup> ‘74.5% say they feel the ECCC is doing enough for the victims of the Khmer Rouge Regime’ Harvard Humanitarian Initiative and Cambodian Human Rights and Development Association , *Victims’ Participation Before The Extraordinary Chambers In The Courts Of Cambodia: Baseline Study Of The Cambodian Human Rights And Development Association’s Civil Party Scheme For Case 002*, by Nadine Kirchenbauer, Mychelle Balthazard, Latt Ky Patrick Vinck ,Phuong Pham. (Phnom Penh : ADHOC January 2013),

<sup>71</sup> Claire Moon, *Narrating Political Reconciliation: South Africa’s Truth and Reconciliation Commission* (Plymouth : Lexington Books,2008)2

<sup>72</sup> ‘Civil Party survey: 74.5% says ECCC is doing enough for victims ‘ ECCC Website, Accessed 4 June 2013, <<http://www.eccc.gov.kh/en/blog/2013/04/26/civil-party-survey-745-says-eccc-doing-enough-victims>>

Complex situations reduced to statistics for the benefit of middle management is a favourite narrative structure of donors/governments /corporations. It is powerful, because of the money associated with their genres of discourse, despite drowning alternative stories which use the phrase regimes described by Daniel, less driven by measurable results. The narrative seeks a value-for-money climax to the project: X % of genocide survivors expressing satisfaction with justice. A high poll number here is a success, without the need to delve into deeper questions. Similarly narrative-building projects designed around grant/funding application forms preclude locally pertinent material – for example, Sum Rithy’s project described earlier, combining personal experience and commissioned paintings to narrate the story of Siem Reap prison.<sup>73</sup> The problem in the ‘donor-focused’ frames is that there is no clearly defined ‘end point’ /statistic/ ‘result’. No lawyer could see it in terms of doctrinal law and a qualitative researcher would struggle to find anything to measure.

### **Privileged Narrative?**

Christian Oesterheld refers to an ‘elite’ of victims whose suffering is publicly acknowledged by the ECCC (civil parties), in contrast to an amorphous ‘mass’ of traumatised others, their stories untold, who must be content with a more generalised justice.<sup>74</sup> The ‘elite’ comprises victims and concomitant victims of the 158 prisons of Pol Pot, including S21, and the 309 mass graves, including Choeung Ek.<sup>75</sup> Both S21 and Choeung Ek have the status of metonyms of the regime. A further complication in the case of S-21 – or possibly the reason for that status - is that many of those sent to die there were themselves perpetrators of atrocity, sent to be tortured and killed during the height of the regime’s paranoia. (However, again one must be mindful of the victim/predator binary.) Upon entering Phnom Penh in 1979, the Vietnamese force discovered S-21, and immediately employed it as a tool for propaganda and self-legitimation to the local and international communities, a ‘Museum of the Cambodian Nightmare’. In

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<sup>73</sup> Sum Rithy, *The Story of Sum Rithy- Survivor of a Khmer Rouge Prison*.

<sup>74</sup> Christian Oesterheld, ‘Exploring the Limits of Catharsis in Transitional Justice: The Khmer Rouge Tribunal, Victim Elitism, and the Reconfiguration of Cambodian Memoryscapes’, paper presented ASEAS-UK Conference at Magdalene College, Cambridge, 9-11 Sep, 2011.

<sup>75</sup> Cambodian Genocide Program, Yale University database

1979 it was a showpiece for the PRK regime.<sup>76</sup> Such places were always state-run until their recent privatization.<sup>77</sup> New memorial sites have emerged recently (in the mid 2000s), such as the Krang Tachann memorial site, a killing field where approximately 15,000 people were executed.<sup>78</sup> It was funded by GIZ, via YFP. At Krang Tachann there is a library, a dialogue room where old people tell their story to the younger generation, and a museum. Unlike many other sites this has become a learning and education centre.

There have always been privileged points of the narrative, determined by the money NGOs can access and the political uses of those points. While other sites of atrocity have faded into obscurity, S-21 and Choueng Ek will always have a significant place, in terms of what is preserved, who is prosecuted, and what is written about. I do not dispute their huge significance, but note that other significant sites of atrocity get nowhere near the attention. There is a process of choice involved in discussing atrocities committed in Cambodia. DC-Cam's mapping of mass graves excludes those made before 1975, though there are several sites where the Khmer Rouge killed their 'enemies' in their strongholds before that date.<sup>79</sup> <sup>80</sup> DC-Cam does not consider gravesites of Vietnamese victims of the KR in Vietnam relevant. When one asks why these choices are made, the answer will be, in some cases, political and financial support.

### **Buddhism, remembering genocide and Election 2013**

#### **Field Journal Spring 2013**

*It is general election season, and the Khmer Rouge genocide is an election issue. Sam Rainsy, leader of the Opposition Cambodian National Rescue Party (CNRP) (an alliance between the Sam Rainsy Party (SRP) and the Human Rights party (HRP) is in self-imposed exile, campaigning via video link. This leaves the CNRP 'acting president' Kem Sokha to head up the*

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<sup>76</sup> Chandler, *Voices from S-21*, 5

<sup>77</sup> Puy Kea, "'Privatized' Killing Fields Site Tries to Quiet Critics', *Japan Times*, 13 January 2006. Accessed 10 June, 2013, < <http://www.japantimes.co.jp/news/2006/01/13/national/privatized-killing-fields-site-tries-to-quiet-critics/> >

<sup>78</sup> Nou Boren and Touch Sokha, *Krang Tachann Memorial Site* (Phnom Penh: Youth For Peace, 2012)

<sup>79</sup> See Kenneth Quinn, 'The Khmer Krahom Program to Create a Communist Society in Southern Cambodia,' US State Department of State Airgram, 19 February 1974

<sup>80</sup> Francois Ponchaud's account of hearing about civilian killings by the KR prior to 1975 taken from Samantha Power, *A Problem from Hell: America and the Age of Genocide* (New York: Basic Books, 2002) 100

*campaign. On the 18<sup>th</sup> of May Kem Sokha allegedly made a speech in which he called into question the history of S-21; he was 'recorded' saying, 'The Vietnamese created this place with pictures [of the victims]. If this place is truly Khmer Rouge, they would have knocked it down before they left.'*<sup>81</sup> *The Council of Ministers' 'press and quick reaction unit' also released a 'recording' of him saying, 'Why would the Khmer Rouge be so stupid as to keep Tuol Sleng after killing many people, and keep it as a museum to show tourists? This is just staged. I believe it is staged, isn't it?'*<sup>82</sup> *Sokha alleges that the recording has been doctored and taken out of context by the CPP.*<sup>83</sup> *The comments prompted reaction. Chum Mei called for a mass demonstration against Sokha to demand a public apology: approximately 10,000 attended.*<sup>84</sup> *Hun Sen has slammed the comments and demanded a hastily drawn up 'Law on the Denial of Crimes Committed During the Period of Democratic Kampuchea,' rushed through the National Assembly.*<sup>85</sup> *'Anyone who says there was no Khmer Rouge genocidal regime in Cambodia has to be punished,' Hun Sen said, and explained that similar laws have been implemented in Europe with regard to discussion over the Nazi holocaust.*<sup>86</sup>

An individual falling foul of this law could face two years in prison. The politically charged context in which it was passed and the extreme speed it was written and voted on in the National Assembly (less than three weeks from conception to legislation) raise concern. It is not seemingly directed at negations and illegitimate Iringesque historical revision<sup>87</sup> such as the work of Israel Shamir, who claims 'Cambodians have no bad memories of that period', describing 'the dreadful stories of Communist Holocaust as a western invention'.<sup>88</sup> Few question the historical veracity of the Khmer Rouge genocide; not even former cadres deny it. Human rights organizations and DC Cam are vocal in their opposition to the new law, afraid it will be a bar to reconciliation.<sup>89</sup> It appears to be solely a reaction to an alleged statement by a CPP opponent, not

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<sup>81</sup> Eang Mengleng and Peter Zsombor, 'Kem Sokha Says S-21 Was Vietnamese Conspiracy,' *Cambodia Daily*, 27 May 2013

<sup>82</sup> *ibid.*

<sup>83</sup> David Boyle and Joe Freeman, 'Opposition Slow to Bite Back in Crisis', *Phnom Penh Post*, 9 May 2013

<sup>84</sup> Vong Sokheng and Shane Worrell, 'A Protest Like Few Others' *Phnom Penh Post*, 10 June 2013

<sup>85</sup> Faine Greenwood, 'Cambodia Passes Law Banning Genocide Denial', *Global Post*, 7 June 2013

<sup>86</sup> Sopheng Cheang, 'Cambodia PM Seeks Law To Punish Khmer Rouge Denial' *Hawaii News Now*, 28 May 2013, <http://www.hawaiinewsnow.com/story/22432619/cambodia-pm-seeks-law-to-punish-khmer-rouge-denial><Accessed 5 June 2013>

<sup>87</sup> See, Deborah Lipstadt, *Denying the Holocaust; The Growing Assault on Truth and Memory* (New York: Free Press, 1993) Kindle Edition

<sup>88</sup> Israel Shamir, Pol Pot Revisited, *Counterpunch*, 18 September 2012

<sup>89</sup> ABC News, Cambodia outlaws denial of atrocities committed by brutal Khmer Rouge regime, Australian Broadcasting corporation, 7 June 2013, Accessed 8 June 2013. <<http://www.abc.net.au/news/2013-06-07/cambodia-outlaws-denial-of-khmer-rouge-atrocities/4741136>>

an attempt to address a genuine problem. In a broader perspective, it ringfences the narrative. A question arises as to whether any interpretation/telling of the Cambodian genocide not approved by the official government line is now closed for discussion.

Rwanda's ruling party introduced anti-genocide denial legislation effectively criminalizing discussion of atrocity inconsistent with the ruling party's version of the story. (Such non-authorized accounts may challenge the legitimacy of the governing Rwandan Patriotic Front.) It has been used against Human Rights Watch, members of the opposition party such as Dr Leonard Hitimana, and government critic Paul Rusesabagina who challenges the 'official' history promoted by the RPF.<sup>90</sup> The Law on the Denial of Crimes Committed During the Period of Democratic Kampuchea risks doing the same.

This chapter has so far argued that there are multiple modes of expressing narratives of DK, alternative readings contained in the big meta-narratives, but subject to constraints on how they are told. The following discussion deals with explicitly political tellings of the story. As to be expected, both political parties are creating their own narratives. But what is interesting in the Cambodian case is how the history of DK is currently playing a role in party discussion. In election year there have been two important 'memorial ceremonies:' one convened by the CNRP on the April 17 Anniversary 2013, another on 20 May 2013, National Remembrance Day, by the CPP at Choeung Ek.

At the first, Sam Rainsy addressed a crowd of his CNRP members at a rally at the mass grave, via a video link. He vowed to prosecute more cases at the ECCC and punish those who have interfered with its operations.<sup>91</sup> At the second, at Choeung Ek, the CPP was visibly present. Students re-enacted scenes from DK.<sup>92</sup> There were statements such as, 'We want to thank the CPP for saving our people' from a Cham representative. An *Achar* repeatedly mentioned the CPP and reminded

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<sup>90</sup> Lars Waldorf, 'Revisiting Hotel Rwanda: Genocide Ideology, Reconciliation, and Rescuers,' *Journal of Genocide Research*, Vol 11, Issue 1, 2009, 112-117

<sup>91</sup> Meas Sokchea 'CNRP Urges More KR cases,' *Phnom Penh Post*, 18 April 2013

<sup>92</sup> Asia Report, 'Cambodian "Day of Anger" Ceremony Honours Victims of Khmer Rouge' *Straits Times*, 20 May 2013

people not to forget to vote.<sup>93</sup> Hun Sen has been warning that an opposition win would result in civil war and interstate war with Vietnam.<sup>94</sup> He states that the CNRP share an ideology with the Khmer Rouge.<sup>95</sup> Similar displays across the nation have been going on over the course of the election period, many at memorials paid for directly by the deputy PMs.

The sites become eloquent phrases in the political narratives of the election. The CPP stand on a mass grave and tell voters this is their future if the CPP fail to win; alternatively, the CNRP stand on gravesites and call for justice, the cessation of political interference at the ECCC and the extension of prosecution. Buddhist elements serve the function of signifying moral and cultural legitimacy for rallies on both sides, like the orange robes at the ECCC. For a nation where religion was almost obliterated by the KR, using monks at CPP rallies shows attendees it is the CPP they must thank for the re-establishment of their religion.<sup>96</sup> It is also the case that many of the Cham Muslim minority feel Hun Sen and the CPP are directly responsible for the re-establishment of their religion. One leading Imam told me:

*The Muslim religion has a four hundred year year history in Cambodia, but it was very affected by the Pol Pot regime, as were all the religions from thirty years ago. But on behalf of the Muslim community, I want to thank Hun Sen who has stopped discrimination .Hun Sen has allowed us freedom. We owe a lot to Hun Sen..... Pol Pot threatened and abused everyone, every day people were worried they may die. If we compare the prison [he uses this word as a metaphor for the whole nation] of the Pol Pot regime, all are happy now all have freedom. Pol Pot killed people just by accusing them of being a spy. ... Today the Prime Minister always tries to look after us. Hun Sen leads the country well; but under the Pol Pot regime they would not help us. That's why the current government is better than the past. So again we can behave as Muslims, we can have freedom to practice our religion, to do business, and also I would like to bless Hun Sen and his family.<sup>97</sup>*

My interviews reveal markedly greater respect for the CPP on the part of those who lived under DK. Visual reminders in their rallies of religions subject to

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<sup>93</sup> Caroline Bennett, e-mail message to author, 18 May, 2013.

<sup>94</sup> Radio Free Asia, 'Hun Sen Warns of 'War' if He Loses Election' *Radio Free Asia*, 19 April 2013. Accessed June 6<sup>th</sup> 2013 < <http://www.rfa.org/english/news/cambodia/hun-sen-04192013173854.html> >

<sup>95</sup> Cheang Sopheng, 'Cambodia PM Seeks Law to Punish Khmer Rouge Denial' *Hawaii News Now*, May 28, 2013

<sup>96</sup> Harris, *Cambodian Buddhism*, 229

<sup>97</sup> Imam3, Phnom Penh, Interview with Tallyn Gray, 7 August 2012

destruction under DK signify that the CPP has restored religion to Cambodia. This reinforces the point made in Chapter Three, noting that Hun Sen can gain votes on a platform of ‘not being Pol Pot’. The CPP emphasize that they saved the nation from the KR.

### **The context of the Sangha**

The fact that both parties draw on religious officials demonstrates that even private, intimate moments of prayer have a political framework. The presence of monks between both crowds demonstrates a clear division in the *Sangha* and different modes by which the parties are using Buddhist frames to legitimize and promote their narrations.

It is useful here to use Berger’s concept of the ‘sacred canopy’.<sup>98</sup> Berger argues that individuals seek order and meaning (*nomos*) to avoid a sense of anomie. Theodicy is used to counter those elements of the world (pain, destruction, death) that generate a sense of meaninglessness. *Nomos* and theodicy are the moral and spiritual order of human society, the ‘sacred canopy’. Into this other themes and concepts are injected. When religion was re-established under the auspices of the KPRP, pictures of Marx were placed alongside Buddha statues in Wats.<sup>99</sup> The state has injected the Marxist-Leninist narrative into that of Buddhist cosmology. It has created, institutionalised and placed itself under the sacred canopy. Buddhism was explicitly identified as the state religion in the 1993 constitution. Religious belief is protected under the constitution with the caveat that it does not impinge on ‘public order, other people’s right to religious belief and the security of the state’ - an echo of the PRK era’s desire to control and define the sacred canopy.

There are two broad groups in Cambodian Buddhism: ‘Traditionalists’ who favour subjective spirituality - spiritual development within the self – as opposed to the socio-centric engaged Buddhism of the ‘Modernizers’, favouring engaged spirituality active outside the Wats.<sup>100</sup> <sup>101</sup> The traditionalist approach, whilst

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<sup>98</sup> Peter L. Berger, *The Sacred Canopy: Elements of a Sociological Theory of Religion* (Toronto: Anchor Books, 1990)

<sup>99</sup> Harris, *Cambodian Buddhism*, 193

<sup>100</sup> Peter Clarke, *New Religions In Global Perspective* (New York : Routledge, 2006) 4-9

<sup>101</sup> Poethig, ‘Locating the Transnational in Cambodia’s Dhammayatra’, 202

claiming lack of ‘engagement’, is deeply political and intertwined with the CPP. In the minds of traditionalists, the post-1993 ‘sacred canopy’ is defined by the *sangha*. Politicians seek approval by associating with the monks who have defined this moral and religious order. An important factor in the success of the traditionalist wings in securing the patronage of the political elite and advancement of their cause in society has been the commodification of merit making, and of the ritual and supernatural powers attributed to monks at some traditionalist Wats.<sup>102 103</sup> Yet whilst claiming to be above the political fray, traditionalists are intensely politicized, if not ‘engaged’.<sup>104</sup> The ruling CPP administration blatantly favours the traditionalist wing of the *Sangha*, while traditionalists openly disparage the modernists.<sup>105</sup> Perhaps the most famous traditionalist is Ven.Tep Vong, who described HIV/AIDS as ‘overhyped’ by the CPP’s political opponents to destabilize the government; he also stated that AIDS was a Karmic punishment monks have no obligation to prevent. Modernists, however, conceive their monastic duty to engage, among other issues, with HIV/AIDS, its prevention (safe sex education) and the people it afflicts.<sup>106</sup> Ven. Tep Vong's position can also be read in party political terms. Sam Rainsy has frequently appealed to voters to stop putting faith in Karma. The ‘traditionalist’ interpretation of the Karma doctrine identifies personal suffering as the consequences of one’s own actions. Such thinking conveniently obscures the failure of CPP policy to deal with social problems. Thus the government has contrived to institutionalize religion in a way favourable to the CPP, without needing to outline a framework of the spiritual order as explicitly as the PRK.<sup>107</sup>

In contrast to the financial patronage received by the domestic political/business elite in the traditionalist wing, the modernist wing of the *Sangha* relies on funds from the Khmer diaspora and from NGOs supportive of their activities in environmental issues, human rights and development.<sup>108</sup> Reliance on international

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<sup>102</sup> Pattana Kitiarsa, ‘Introduction: Asia’s Commodified Sacred Canopies,’ *Religious Commodifications In Asia: Marketing Gods* (New York: Routledge, 2008)8-9

<sup>103</sup> Ian Harris, ‘Entrepreneurialism and Charisma: Two Modes of Doing Business in Post Pol Pot Cambodian Buddhism’, *Expressions Of Cambodia: The Politics of Tradition, Identity and Change*, eds. Leakthina Chau-Pech Ollier and Tim Winter (New York : Routledge,2006)173

<sup>104</sup> Harris, *Cambodian Buddhism*. 197

<sup>105</sup> *ibid.*205-224

<sup>106</sup> *ibid.* 15-216.

<sup>107</sup> *ibid.* 220-221

<sup>108</sup> Katheryn Poethig, ‘Locating the Transnational in Cambodia’s Dhammayatra’, 199



funding makes them vulnerable to the charge that they serve the international community rather than devoting themselves to the revival of Khmer Buddhism. Traditionalists emphasize their ‘patriotism’ and Khmer-centrism. (Monks’ supernatural powers are seen as emanating from their ‘Khmer-ness’.) The patriotism argument has also been applied to criticise modernist practices, which traditionalists claim have been imported from other Theravada traditions, rather than the ‘ancient’ meditation practice devised in Cambodia, emphasizing its indigenous rather than its global character.<sup>109</sup>

The universal suffrage proclaimed in the 1993 constitution included monks, and hence drew them directly into party politics. The 1993 election exposed the division between traditionalist and modernist approaches to political action. Traditionalists urged monks not to vote, or to use their influence to persuade others to favour political parties.<sup>110</sup> However, twenty years later, the presence of monks at rallies emphasizes this political division. One pro-CPP monk commented to me:

*In Cambodia we have two sectors - that is, Buddhism and the state; the nation cannot act without both. It is like two wheels of a cart.*<sup>111</sup>

However other monks are less inclined to this attitude, and look back:

*Before the Pol Pot Regime there was no ‘Ministry of Cults and Religions.’ But after the Pol Pot regime the government, even though they allowed religion in the country, they still controlled it [i.e. through the Ministry]. They still have the power to control it now. Now they engage Buddhism or religion to be part of their political game.*<sup>112</sup>

Ven. Sovath Loun was very publicly arrested after speaking up for the interests of thirteen women imprisoned for protesting land seizures.<sup>113</sup> He is closely linked with international human rights groups:

*Now the court has accused me of incitement, and the Sangha has accused me of breaking the national law. We know the law –the national law- it’s like this but they [the authorities] say no law is like this. HAHA. And me*

<sup>109</sup> Ian Harris, ‘Entrepreneurialism and Charisma,’ 176-177

<sup>110</sup> Harris, *Cambodian Buddhism*, 204

<sup>111</sup> Ven. 7, Phnom Penh, Interview with Tallyn Gray, 13 July 2012

<sup>112</sup> Ven 15, Kompong Cham, Interview with Tallyn Gray 3 October 2012

<sup>113</sup> ‘Forcible Arrest of Venerable Loun Sovath While Supporting 13 Detained Land Activists’, Cambodian League for the Promotion and Defense of Human Rights (LICADHO) website 24 May 2012. Accessed 11 June 2013. < <http://licadho-cambodia.org/video.php?perm=32> >

*talking with the monks, they also say different. Why is it different? Because the politics control it...*

*In Buddhism law is peaceful, non-violent, educates for peace and justice and stopping fighting, campaigning for justice and ending suffering. Buddhism can help end the suffering. This is the reality of the Buddhism rules. But right now new laws around Buddhism control the Buddhist monks and Buddhism in Cambodia. They write a new law to work with the authorities - to solve a problem like me!<sup>114</sup>*

The accusation here is that not only are the authorities manipulating or even effectively rewriting the law to fit with political agendas, but that the *Sangha* authorities are complicit.

Contained in all of these are elements of truth recovery. All my respondents tell me they want to know the ‘truth’ of the story as well as to be given an outlet to express their experiences - ‘truth’ is an element of ‘Transitional Justice’ frequently held up as significant by TJ scholars.<sup>115</sup>

## **Conclusion**

This Chapter has dealt with a different set of phrase regimes and genres of discourse, which while dealing with issues of concern to TJ scholars (justice, reconciliation) express stories and experiences outside the scope of legal processes. Such modes of articulation and comprehension are perhaps able to connect to people better than legalistic discourse. They are more flexible, culturally relevant, less alien. However they are, as I stated at the outset, contained. Buddhism is contained in the Ministry of Cults; activities run by NGOs are contained in ‘results driven’ narrative frameworks, which expect value for money.

The pattern emerging from this chapter is that while there are alternative means, specifically Buddhism, by which the experiences/narratives of DK era can be placed in a ‘justice narrative’, it is clear that when government, international donors and political parties hijack Buddhism as a genre of discourse, they impose their own phrase regimes. The discourse is not only manipulated to suit

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<sup>114</sup> Ven Sovath Loun, Phnom Penh , Interview with Tallyn Gray, 14 July 2012

<sup>115</sup> Daniel Philpott, ‘When Faith Meets History: The Influence of Religion on Transitional Justice’, *The Religious in Responses to Mass Atrocity: Interdisciplinary Perspectives*, eds. Thomas Brudholm and Thomas Cushman (Cambridge: Cambridge University Press, 2009) 199

the official story but can go as far as the party political. The official narrative, promoted in the ECCC, and the alternative streams of narrative offered by religion and the NGOs, are pushed closer to that of the CPP's own history. At best, the alternative streams are contained; at worst they are actively constrained.

The effect of a constrained narrative is that if a person cannot speak of their experience within the permitted frames of the legal and the sanctioned they are constantly at risk of becoming marginalised, silenced or frustrated: explicitly, in case of the ECCC, in terms of the highly specific parameters of the court; financially, by the agendas of NGOs; or in more subtle ways by the prioritisation of particular kinds of Buddhism in using the Buddhist genre of discourse.

The next chapter deals with another, more 'messy', series of alternative narratives. These stories transgress, or fail to fit, the powerful official narratives, histories and social and political understandings and norms surrounding the DK era and the KR. Unless such narratives are able to find expression, the silence that surrounds them may become permanent and they will be forgotten.

## **Chapter Six: The Transgressive/ Forgotten / Silenced /Marginalized .**

### **Introduction**

I begin this Chapter with gestures, not words - a tap on the arm, a whisper and a nervous laugh. My contact was a former KR cadre who was telling me their story. During the interview the former cadre (I will not provide any identifying information) was tapped on the arm by their spouse. There was some hushed discussion between the two. I re-stated I would not name names, would even destroy the tape of the interview if they wanted, and that we could stop at any time. Despite this it was good humoured:

*'Ah don't worry about that. We will just talk of something else.'*<sup>1</sup>

My informant had let slip something that contradicts the lie perpetrated by the Chinese government: that 'the Chinese government never took part in or intervened into the politics of Democratic Kampuchea...the Chinese did not support the wrongful policies of the regime, but instead tried to provide assistance through food, hoes and scythes.'<sup>2</sup> <sup>3</sup> They had been discussing at length a Chinese official they claimed had some role over them. However, the Chinese advisors of whom they spoke never officially existed. Even in this remote location, my narrators knew what was not to be spoken of. This incident encapsulates the subject of this chapter: narratives that cannot be spoken, or which are silenced (often through self- rather than explicitly state- imposed silence).

What differentiates these narratives from those in the previous chapter is that they cannot be contained within the dominant discourses but are actively marginalised, forgotten or silenced. While not all transgressive in the sense of running counter to the state-sanctioned narrative, none fit well with the official narrative pursued at the PRT and ECCC: that there are very few people responsible for DK, and that

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<sup>1</sup> Former KR Cadre , Interview with Tallyn Gray 2012

<sup>2</sup> Kong Sothanarith, 'China Played No Role in Khmer Rouge Politics: Ambassador,' *CAAI, News Media*, 23 January 2010, <<http://khmernz.blogspot.co.uk/2010/01/china-played-no-role-in-khmer-rouge.html>> <Accessed 11 April 2013>

<sup>3</sup> Andrew Mertha, 'Surrealpolitik: The Experience of Chinese Experts in Democratic Kampuchea, 1975-1979', *East Asian History and Culture Review*, No. 4 , September 2012, 65-88

only atrocities between 17 April 1975 and 7 January 1979 can be discussed. While the previous section discussed alternative genres of discourse and phrase regimes available to discuss DK outside the court, this section opens the question of those whose stories will not fit the confines these structures offer.

It is useful to start with Chandler's characterisation of the policies that have contained the discussion of DK since its demise. Chandler identifies three distinct policies, reflecting whatever 'ism' the state employed to frame its discourse at the time.<sup>4</sup> The first, under the PRK, was one of outright hostility towards the KR, exemplified by the Day of Anger in the 1980s. The second was that of 'induced amnesia' in the 1990s. Hun Sen attempted KR demobilisation and integration and was not eager to foreground memories of atrocity and trauma. Discussion of that time had to be 'forgotten' for the policy to work. The third involved renewed popular interest in DK in the 2000s, as the ECCC began operations, although the 'policy of "induced amnesia"...remain[ed] partially in force.'<sup>5</sup> Chandler was writing in 2008. I argue that now we have seen the operations of the ECCC, some reassessment is necessary. I suggest the policy of 'induced amnesia' has not only remained 'partially in force', but has been strengthened. The ECCC allows expansion on a top-heavy narrative while driving further back into obscurity memories that are 'non - canonical'. It is boxing memories, then sealing them, so that nothing additional may enter.

The narratives in this chapter are mediated through words, through gestures, through private ceremonies and through silences. Some are grounded in religion, some in culture, some in politics; some are specific to place, some to events; they reflect different experiences and operate within different discourses. Hence it is necessarily fragmented; these narratives cannot be shaped into a coherent structure or perceived as an account of organised resistance. However, all of them interrogate the grand narratives at the epistemological centre of the court or the government by their inability to fit into their discourses. Like small grains of sand in a machine, they challenge the smooth running of the ideological process. These readings of culture and society emerge from the critical frames of the social actors *en situation* as the main agents of and producers of critiques about their

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<sup>4</sup> David Chandler, 'Cambodia Deals with its Past: Collective Memory, Demonisation and Induced Amnesia', *Totalitarian Movements and Political Religions* Vol 9, Issue :2-3. 2008, 357

<sup>5</sup> *ibid* .357

own society, culture, history and politics.<sup>6</sup>

### **Narratives of the dead : Phchum Ben and Neak Ta**

I begin with my fieldwork over the Phchum Ben festival in 2012. I will first provide some context. Phchum Ben is a 15-day long festival (forbidden under DK) in which people pay ritual attention to the dead of the past seven generations, in particular to the recently dead. Those performing the rituals hope to transfer their merit and positive Karma to their dead relatives, to ease their suffering in the *dukkha* cycle.<sup>7</sup> It is one of the most significant festivals in the Khmer calendar, which Clifford Holt compares to Christmas in the west in religious and cultural significance. In the aftermath of DK, Phchum Ben was quickly reestablished; it generated family cohesion after years of separation, allowing the Karma transfer process between survivors and the millions who perished.<sup>8</sup> Anne Yvonne Guillou and Holt both discuss how Phchum Ben and beliefs about the dead relate to the atrocities.<sup>9 10</sup> Their emphases are different, Guillou attaching greater importance to ‘Neak Tas’ (examined in Chapter Two in relation to Saloth Ban’s dream). However, rather than tracking two lines of argument I find it more useful to explore the intertwining of concepts around Phchum Ben and some Neak Ta-esque spirits.

Guillou notes that Phchum Ben and other spirit festivals are used for commemoration, healing and memory-making for all the dead of DK. She argues that they fall in different ways outside the prevailing discourses about the dead. As Chapter Five noted, the CPP utilize the dead to convey a political narrative of national salvation from the KR, while the legal discourse of the ECCC presents

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<sup>6</sup> Boltanski, *On Critique*, 26

<sup>7</sup> John Clifford Holt, ‘Caring for the Dead Ritually in Cambodia’, *Southeast Asian Studies*, Vol 1. No.1. April 2012, 4

<sup>8</sup> *ibid.* 29

<sup>9</sup> Anne Yvonne Guillou, ‘An Alternative Memory of the Khmer Rouge Genocide: the Dead of the Mass Graves and the Land Guardian Spirits [Neak Ta]’, *South East Asia Research*, Vol .20, No. 2 2012, 207–226

<sup>10</sup> Irritatingly Holt’s and Guillou’s accounts of dates do not seem match up; Guillou states, “When the annual festival of the dead was re-established in the early 1990s, it became easier to pay tribute to them . I myself witnessed a huge relief among the population in the days following the first festival, as if the atmosphere was suddenly lighter and quieter.” (218) This omits what meaning Phchum Ben would have had in the 1980s even under strict state restrictions . Holt does provide that analysis (28). It is difficult to determine whether Guillou has omitted information or is working from different assumptions .

itself as the sole institution ‘breaking the silence’ to address DK; in the words of Lars Olson of the Public Affairs Department:

*This was a taboo for 30 years. Even only last year was the history of the KR introduced into the school curriculum. This has not been a topic of discussion. People would just not talk about it, would try to forget it.*<sup>11</sup>

Or Judge Downing:

*You’re assuming that they [Cambodians] talk about it. I don’t know if that is a valid assumption, I would have to be convinced of that assumption. I think a lot of people form the opinion of outreach that they have only since the tribunal started ...been talking about the past.*<sup>12</sup>

Guillou, by contrast, asserts that the dead are thought about and incorporated into pre-existing local Khmer religious frameworks. The DK era is not unaddressed, taboo or not talked about, but dealt with in a discursive framework far removed from the discourse parameters of the ECCC. Holt argues a similar point: that the strength of Phchum Ben’s revival is due to the atrocities and the wars of the 1980s and the consequent many ‘Bad Deaths’ in Cambodia. In the Buddhist narrative, those undergoing Bad Deaths (by murder, accidents or violence) find transition between lives difficult. The conditions of one’s death should be filled with *metta* (Loving Kindness) In addition, because of the CPK’s banning of religion and ritual engagement, not only were people unable to engage with their ancestors and recent dead at a ritual level, they were prevented from burying their dead in accordance with customs. People were forced to betray their spiritual duties.<sup>13</sup> Hence within the *Pali imaginaire*, defined by Collins<sup>14</sup> as ‘the imaginative world created by texts, art, literature - not identical to the material world but not ‘imaginary’ in the sense of false’, those who have suffered bad deaths are likely to exist between incarnations in spirit form. Often people encounter such entities in dreams. Bou Meng has reported being visited by such spirits, including his wife, with other prisoners at S-21 telling him, ‘Only you, Bou Meng, can find justice

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<sup>11</sup> Lars Olsen, Legal Affairs Spokesman at the ECCC, Interview with Tallyn Gray 18 March 2010

<sup>12</sup> Judge Rowan Downing QC, International Judge at the PreTrial Chamber in the ECCC, interview with Tallyn Gray, 29 July 2012

<sup>13</sup> Peg LeVine, *Love and Dread in Cambodia: Weddings, Births and Ritual Harm under the Khmer Rouge* (Singapore: NIS Press, 2010) 14-50

<sup>14</sup> Steven Collins, *Nirvana: Concept, Imagery, Narrative* (Cambridge: Cambridge University Press, 2010) 2

for us.’<sup>15</sup>

Guillou describes how mass grave sites and mass bereavement become integrated into the land guardian (Neak Ta) cults. Neak Tas are spirits protecting areas of land ; they can have a positive, neutral or negative effect - depending on the individual spirit’s temperament and power - on those who live on / enter their territory. The discourse of the Neak Ta is present in the ECCC in the form of the Ta Dombong Dek statue, described by Karnavas:

*It’s no lady justice! It’s frightening as an object, it’s standing with a club, a “Tell the truth or I’m going to smash you” kind of pose .*<sup>16</sup>

There are a set of beliefs and interactions around this Neak Ta to which most international staff are oblivious; some are confused about the meanings drawn by Cambodians.<sup>17</sup> Guillou describes how Neak Ta spirits and people in their vicinity enter a dialectic, via a medium or dreams. There are two reported incidents at the ECCC of communication between a Neak Ta and people entering his domain (the court), including the dream discussed in Chapter Two.<sup>18 19</sup> In narratives concerning Neak Tas, the spirits of DK victims in mass grave sites become manifest. Those killed by Pol Pot’s regime are expressed as spirits with associated legends, stories and backgrounds conveying the history of the era . Those who died ‘bad deaths’ can become ‘elected’ Neak Ta. It is important to note that Neak Tas are not necessarily persons of virtue. They can be the spirits of angry, violent, and dangerous individuals. The relationship between interlocutors - spirits and human beings - can be one-sided; mortals placate the Neak Ta rather than hoping to attain any particular blessing . Nor is the manner of death necessarily preserved with historical accuracy. It involves a process described as a ‘vernacular’ mode of remembering.<sup>20</sup> Vernacular memories situate

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<sup>15</sup> Bou Meng quoted Seth Mydans, ‘Survivors Shed Light on Dark Days of Khmer Rouge’, *New York Times*, 16 May 2009

<sup>16</sup> Michael Karnavas, interview with Tallyn Gray 6 June 2012.

<sup>17</sup> Trial Chamber - 30 May 2012) Trial Day 66 (Case 002) Doc. n° E1/78.1 pp26-32

<sup>18</sup> Rasmei Kampuchea ‘UN styled Moustache and Eyes, but Cambodian Body: “Neak Ta Dombong Dek” Statue at ECCC’, *Rasmei Kampuchea*, 16 January 2008  
<http://khmernews.wordpress.com/2008/02/01/un-styled-moustache-and-eyes-but-cambodian-body-“neak-ta-dombong-dek”-statue-at-eccc/>, Accessed 2 July 2013 >

<sup>19</sup> Trial Chamber - (24 April 2012) Trial Day 55 (Case 002) Doc. n° E1/67.1 5-9

<sup>20</sup> This was the case in one example from the West - the 1941 Jedwabne massacre of the Jewish population . Official and vernacular versions of events were radically different, a difference which opened up a vacuum opposing political ideologies rushed to fill. There were



themselves in local cultural variables including myth, folklore, and religion. Quasi-mythologized persons become representative of an entire massacre site ; through them discussion is framed. Often these vernacular forms of memory deviate considerably from historical facts such as locations, or numbers of people involved.

Holt more generally identifies Phchum Ben as the principal cultural repository for DK era traumatic memory. He points out that that the period represents a space where the dead and the living can be brought into the same space for interaction. The living offer food, prayers and so on . He stresses that Phchum Ben differs from Vietnamese tradition (influenced by Chinese Confucianism), and from Mahayana Buddhism where ritual interaction with one's ancestors is almost a day-to-day event, with shrines dedicated to a family's personal lineage. Khmers' interaction with the dead is timebound, occurring very soon after death, or within the window of the Phchum Ben festival, when living and dead can interact.<sup>21</sup> A point that should be made is that spirit religions are not, according to most metropolitan, Phnom Penh-based monks, 'properly Buddhist'.

*This is just a ...we can say kind of belief, but not really according to Lord Buddha . When people's parents pass away badly, or not properly prepared for the ceremony or the funeral... but according to the teaching of the Buddha it's not like that . But to be born in good or bad state is not dependent on the funerals - not on ceremony, but on the deeds of that person. So the Buddhist Monks teach the people not to worry about that; but we still have... every country and culture has some kind of superstition... this kind of belief in this ... It's OK - you don't need so high attachment with that.... they just come and offer to the monks to dedicate to the dead.*<sup>22</sup>

However, while such a view is expressed by highly educated metropolitan elites, practice, in both countryside and city, is more fluid. Another monk in Phnom

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sites in Jedwabne where local cultural myths about Jewish persecution grew up (morality tales about a single Jew who was persecuted, followed by his persecutors receiving divine retribution); but the site of the actual massacre (a barn where the town's Jews were burned alive) did not figure in these 'vernacular' myths at all. Only mythologized Jews were commemorated in the vernacular discourses about anti-Semitism, not the real people with real names who died in the barn. The process is discussed in: Ewa Wolentarska-Ochman, 'Collective Remembrance in Jedwabne: Unsettled Memory after World War Two', *History and Memory*: Vol 18, No1 2006 and Slawomir Kapralski, 'The Jedwabne Village Green? Memory and Counter Memory of the Crime', *History and Memory*: Vol 18, No1, 2006

<sup>21</sup> John Clifford Holt, 'Caring for the Dead Ritually in Cambodia', 10

<sup>22</sup> Ven. 10, Phnom Penh, interview with Tallyn Gray 16 August 2012

Penh, famed (and indeed patronised by senior cabinet level politicians) for his ability as a ‘spirit healer’, exorcist, fortuneteller and dream interpreter, as well as traditional healer, says:

*When people die, in the first few one or two days they do not know that they are dead. They will know that they have died after 7 days. Then those spirits will be kept for 40 days and nights waiting for trial and judgment. Those spirits will be waiting for food (like fruit) from their relatives as they wait for judgment.*

*When Spirits leave the body they cannot bring anything with them, only their Karma they acquired during their lives, not property, gold, diamonds, anything like that. In the first day of death, the spirits will walk through a ‘forest’ that is filled with wild beasts. This frightens the spirits. They must walk through this forest on their journey to the ‘judge.’ As for the spirits, those who committed bad actions in life will be subject to angry attacks by wild animals. The spirits that have good Karma in life will be assisted by those same animals - for example they will act as their guide in their journey to see the judge.<sup>23</sup>*

### **Vernacular narratives : Neak Tas and transgressive nationalism in Anlong Veng**

#### **Field Journal 5 October 2012**

*I spent the Phchum Ben festival in the North of the country in several places in the Oddar Meanchey province, next to the border with Thailand, starting in Anlong Veng District (145 KM from the Thai border) and moving to Trapeang Prasat District, staying with two families.*

*Anlong Veng was the last KR stronghold in the late 1990s . It was here that the ‘Trial of Pol Pot’ occurred under the direction of Ta Mok .It is still an area whose population is mostly former KR and their families. This is important to remember, as the stories collected from this part of the country will be very different in tone and sentiment towards the former KR leadership than in many other places in the nation.*

Here I discuss the practices described by Guillou and Holt relating to Phchum Ben and the Neak Ta, to demonstrate how such discourses operate to form an alternative narrative of the KR. I went to Pol Pot’s gravesite (plates 6, 7, 8) twice - once before the climax of Phchum Ben, and on the final day of the festival when it is customary for people to visit family graves . I spoke to the woman tasked by the government to tend the grave of Pol Pot :

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<sup>23</sup> Ven .16. Phnom Penh, interview with Tallyn Gray 23 November 2012

*I got this job from the district government and the provincial administration, as they needed staff to take care of the Pol Pot grave...Before I worked to look after this grave, it was not nice and covered in long grass and overgrown trees, it looked very bad. [It is cleared and tended now.] I get a salary of 500,000 Riel (\$125.00) a month to look after this place, from the government.<sup>24</sup>*

The grave is halfway up a mountain, in a currently developing area . Within thirty metres of the gravesite is a new luxury Casino/hotel (see plates 9 and 10). The choice of location is probably not coincidental. Since his death Pol Pot has re-emerged as a 'Neak Ta-esque ' figure. King-father Norodom Sihanouk noted with disgust in 2006:

Pol Pot (who died quietly in his bed) has become, in his grave in Anlong Veng, a 'saint.' In front of this grave, his compatriots queue every day, lighting candles and incense sticks. Thus, the worshippers of 'Saint' Pol Pot can win the Lottery and other gambling games (in casinos or elsewhere).<sup>25</sup>

I returned a day after meeting the gravekeeper and met the staff of the Casino, sent by its owner to burn 'hell's money' and incense at the grave. This is part of their job - ensuring Pol Pot's spirit is kept happy.

Guillou hypothesizes that the more powerful a person was in life, the more powerful they are understood to be in death. Pol Pot had power of life and death over millions ; such power is now with him as a spirit. This hypothesis is borne out talking to his gravekeeper .<sup>26</sup>

*The day of his death, people took his ash and his bones. People wanted to cut his hair to keep it. And people wanted the bones - they wanted to steal his bones and his teeth. People thought that it would be helpful or protective. Keeping his bones would perhaps ward off future conflicts. Also, all of the people keep his bones and ash - but his nephew came to gather up the bones.*

*You know Excellency Lun Heng [the Casino owner].<sup>27</sup> They made a big party when they inaugurated the Casino . The staff came here to pray to his [Pol Pot's] grave. Nowadays the Casino staff still come and pray every*

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<sup>24</sup> Pol Pots Grave Keeper, Anlong Veng, interview with Tallyn Gray 13 October 2012.

<sup>25</sup> King-father Norodom Sihanouk quoted Guillou, *An Alternative Memory of the Khmer Rouge Genocide*, 224

<sup>26</sup> Guillou, *An Alternative Memory of the Khmer Rouge Genocide*, 224

<sup>27</sup> 'Excellency' is a way to refer to wealthy people in Cambodia.

*full moon day regularly, to pray for good luck or success. The casino owner still sends them here regularly. Some local residents come here from around the bottom of the mountain ...People know that Pol Pot was a powerful person. Mostly they want to gain a benefit from him, like good luck or success in business. Also, people pray for protection of the country from war with neighbouring countries such as Thailand. This is what we heard from peoples' prayers.*

*You know praying is like the culture of Cambodian people, especially people who follow Buddhist practice; so they always do prayer to any powerful spirit, because they want to get good luck and success. They believe that the spirits can bring them good luck and success. Even high-up people believe this, like Excellency Lung Heng; they still believe it and want to get good business. He spends a lot of money for praying for this – so everyone believes that the spirits of powerful people like Pol Pot can give them good luck and success. ...This is a Buddhist place, all Cambodian people pray. When his Excellency Lun Heng came here to pray, he invited the monks to come pray with musical instruments.<sup>28</sup>*

This clearly places Pol Pot in a narrative of spirit beliefs and the idea that after death a person is reincarnated - in this case as a spirit that can provide luck. Ven 16, the 'spirit healer', rejects such a narrative as 'non-Buddhist':

*Citizens that go to pray at Pol Pot or Ta Mok's grave are maybe members of his family or his friends. In Buddhism we do not believe in praying or blessing from dead people. We believe in Karma; if you need help it's up to you, you cannot get help from the spirit world. Gods and spirits can offer only temporary assistance.<sup>29</sup>*

The religious narrative accumulating around Pol Pot's grave situates him in a wider narrative of existence(s). It positions the presence/legacy/being of Pol Pot on a plane traversing the *Pali imaginaire* and the Khmer mythos. In doing so it actively transgresses the RGC/CPP political narrative.

One former KR who lived in the area told me :

*These days, Thais are taking Cambodian land and parts of the mountain. When Ta Mok and Pol Pot were still alive the Thais would not dare to do this.<sup>30</sup>*

This was a recurring theme among my narrators in Anlong Veng. Several border dwellers complain that Thailand has effectively extended its border since the late 1990s. They point out Thai houses built along the mountains which did not exist

<sup>28</sup> Pol Pot's Grave Keeper, Anlong Veng, interview with Tallyn Gray 13 October 2012.

<sup>29</sup> Ven 16. Phnom Penh, interview with Tallyn Gray 23 November 2012

<sup>30</sup> Former KR Cadre 6 (male), Anlong Veng, interview with Tallyn Gray 13 October 2012

several years ago. It is also worth noting that it is illegal for Cambodians to gamble in their own country. The Casino is exclusively for the use of foreigners – mainly Thais, given its proximity to Thailand, where gambling is illegal.

As a former KR stronghold, Anlong Veng reflects a nationalism conflicting with that of the RGC. Hun Sen made efforts to re-integrate former Khmer Rouge into the Cambodian body politic with a ‘win-win’ policy, a combination of amnesties, promised development to a better standard of living, and integration into the national economy.<sup>31</sup> One former cadre explained to me how he saw the policy :

*I don't remember the year. It may have been in 1998 that we joined the Hun Sen government. The government announced there was no Red Khmer, no Blue Khmer, no White Khmer: everyone can now live the same as the rest of the nation. Most of my family defected around 1998 - not all; some escaped to live in the mountain in Anlong Veng.*<sup>32</sup>

The era also saw a concerted effort to integrate former KR into a national narrative.<sup>33</sup> However, I would argue that former KR are not convinced Hun Sen's narrative is in the national interest. They see themselves as a defeated movement and acquiesce in the prevailing political mood for the economic benefits it brings their (grand) children. They still regard the Hun Sen government as virtually Vietnamese stooges. To many in Anlong Veng, the CPP/KPRP, Hun Sen and Vietnamese imperialism are synonymous. Astrid Noren-Nilsson argues this is because many former KR and their children spent years cut off from the national narrative, as they existed in ever-diminishing KR-controlled zones, even spending large amounts of time in Thailand. Thus their imagined notion of Khmer Nationalism stands apart from the rest of the country.<sup>34</sup>

One former KR from the area told me :

*Pol Pot also had a house in Thailand and then the border was limited from there [points to a place on the mountain]; but when he died they took 500 kilometres.<sup>35</sup> The Thais build houses along the border for their*

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<sup>31</sup> An Sokkhoeurn, 'Conflict Resolution in Cambodia' (Phnom Penh: Cambodian Institute for Cooperation and Peace, working paper No.35, 2010, 1-15)

<sup>32</sup> Former KR Cadre 8, Anlong Veng, interview with Tallyn Gray, 14 October 2012

<sup>33</sup> An Sokkhoeurn, 'Conflict Resolution in Cambodia' (Phnom Penh, Cambodian Institute for Cooperation and Peace, working paper No.35, 2010)

<sup>34</sup> Astrid Noren-Nilsson, 'Children of Former Khmer Rouge Cadres', *Peace Review: A Journal of Social Justice*, 23:4 2011, 465

<sup>35</sup> This interview cites two different figures (see next page), but the allegation is essentially the same.

*people, but Khmer families are not allowed to . Thais can build there but Khmer cannot. That casino is running with Thais, but cooperating with Khmer.*

*Thais are more powerful than Cambodians . Last year during the Khmer New Year, Khmers put up the national flag on top of the mountain and this offended the Thais . The Thais told the Cambodian government that they would shut off the border. That would mean that Khmer people would be unable to cross it to go work or to buy things (like goods) – unless the Cambodian authority takes the flag off the top of the mountain. In the future, I think that the Thais may take more of the mountain . The Thais can do everything, no one tells them not to . But if Khmer do something in our own land we can be stopped.*<sup>36</sup>

In keeping with the notion that a man with powers of life and death in life can retain them after death, Pol Pot can be seen here as a nationalist symbol in a community traditionally suspicious of the CPP and Hun Sen.

*We never hated Pol Pot, we love him and regard him as a person who tried to protect our territory and our land. The officials said to us, ‘You should often do prayers to the spirits, as often as you can in order to rely on his spirit to protect the country.’ When Pol Pot died the Thais took 100km from Cambodian land, but when Pol Pot was still alive the Thais would not have dared to do that.*<sup>37</sup>

Pol Pot’s gravekeeper told me :

*Praying here is mostly from businesspeople praying for luck and success in their business; or we get people involved with politics coming to pray here and come pray to the spirit [Pol Pot] to protect the country.*<sup>38</sup>

These local politicians would probably have been officials when the KR controlled the area. If Pol Pot is perceived as having powerful Neak Ta-esque qualities , then a permanent caretaker to tend the gravesite could be viewed as a means to combat foreign influences and protect the nation. The fact that Pol Pot is turned to, rather than the Phnom Penh government , indicates a perception here that the Hun Sen government is weak and failing to act in the national interests: and that true nationalism resides here, amongst the former KR.

Yet , as Pol Pot’s gravekeeper says:

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<sup>36</sup> Former KR Cadre 6 (male), Anlong Veng, interview with Tallyn Gray 13 October 2012

<sup>37</sup> Former KR Cadre 6 (male), Anlong Veng, interview with Tallyn Gray 13 October 2012

<sup>38</sup> Pol Pot’s Grave Keeper, Anlong Veng, interview with Tallyn Gray 13 October 2012

*Pol Pot is a sad spirit, because people do not come and see him very often compared to Ta Mok's spirit and stupa . Lots of people go see him, and from all over the country and from Thailand too, and he has many relatives who pray to him very often. Pol Pot is a sad spirit , and a sort of lesser spirit than Ta Mok .*<sup>39</sup>

While Ta Mok only led the KR for a short period after ousting Pol Pot, he was more visible locally, and a popular politician. Indeed my narrators present at the trial of Pol Pot said neither they nor their friends had seen Pol Pot before his trial.

### **Field Journal 13 October 2012**

*As one descends the mountain towards Ta Mok's Stupa and house, another sign of the shift from Khmer Rouge to Neak Ta is obvious in the form of a former war memorial built by the KR (see plate 11). One can make out the soldiers' uniforms carved on the stone , which mark it out as a KR memorial. This is now less easy to make out, as the stone is damaged and it has been adorned with spirit houses and flags, and the figure of the soldier is now decorated as a Neak Ta. At the bottom of the mountain is a Wat; inside there is an elaborate stupa to Ta Mok, ('Brother Number Six'). This is in marked contrast to Pol Pot's grave, which is a mound of earth with a rusting corrugated iron roof , a few flowers planted around it by the state-appointed gravekeeper .*

I was staying with a family who let me share part of the Phchum Ben festivities. The female (head of the family, mother of six, grandmother of six) explained the ceremonies. She was rather flattered when I asked for her life story. We talked about her family, her businesses, her farming. I went with them to Ta Mok's stupa ( plate 12) and watched the Phchum Ben events around the Wat and even some prayers at Ta Mok's stupa.

*I used to be a Khmer Rouge soldier since thirteen years old. When I was thirteen years old I was a waitress in Battambang province, and then in 1979 the Khmer Rouge taught me to shoot a gun.*<sup>40</sup>

She and her family go to pray at Ta Mok's grave every year at Pchum Ben :

*I go up for Phchum Ben, maybe with 30 others. We bring bananas, flowers , candles, food, 'hell money' to go to pray. We pray for good luck and successes, and protection from problems , specifically with Thailand ; and also I dedicated to his spirit that he has a good rebirth or lives in heaven and not going to hell. I pray for success, and a healthy and rich family for him in his new life... Because we regard him as a good person,*

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<sup>39</sup> Pol Pot's Grave Keeper, Anlong Veng, interview with Tallyn Gray 13 October 2012.

<sup>40</sup> Former KR cadre 7 (Female), Anlong Veng, interview with Tallyn Gray, 13 October 2012

*and hopefully he will be able to bring us good luck and success and help people with getting a good job and a good future. Because we believe his spirit still stays. And especially with the Thailand border conflicts - so many people want peace and don't want to see the wars again and worry about the Thais. When Ta Mok was still alive here, the Thais dared not do anything like fighting or wars along the border. That is why a lot of people come to pray with him. Some media spread odd rumours about his food being made of gold. Or that he faked his death to escape the ECCC, or that he was poisoned. This is all nonsense. He can be seen publicly here. You know, a lot of people from the government also came to the funeral, like the district governor or the commune chief. Before, they were his staff. They went back to work with the government - but they still came to join. He was 84 years old when he died.<sup>41</sup>*

I asked her to tell me about Ta Mok. What he was like?

*Ta Mok was a leader of many different places in Cambodia .... His personality was like ... well, if he got angry he would react quickly, but not hold grudges in his mind. He would get angry, but it would subside quickly, if there were some people he had problems with. He did love to help the people and his staff - this was his attitude.*

*The day he was buried at the Wat, it was raining heavily the whole day. I think it was July 2000-something - can't remember the precise year. On that day many people came to help bury him and join the funeral party. Maybe like 1000-2000, from all over, especially those who stayed with him.*

*So this is why the people still highly regard him and pray at his grave every year in this Wat [points to the nearby Wat]. As for what people in other countries think about him, I have no idea what people think of him- but here we pray, love and trust him a lot.*

*Also, Ta Mok has left a good legacy here - streets, roads, the hospital, and the school. For example, this road and the hospital they have only just recently changed the name. [The schools, hospitals and roads Ta Mok built were named after him until recently.] Everything came from him when he was in control and had power -all places he worked, he built road, streets, hospitals and everything good to his people; so this is why people love him.*

*Politically Ta Mok focused on economics, and always said to all of his people, 'All of you - it may be fifteen years more and Vietnam will take your land.' He hated Vietnam and Vietnamese people so much and always stated so in public.<sup>42</sup>*

Ta Mok's house is preserved in the centre of town. It's large and pleasant, with a few KR era artefacts dotted around, including the cages in his garden in which he

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<sup>41</sup> Former KR cadre 7 (Female), Anlong Veng interview with Tallyn Gray, 13 October 2012

<sup>42</sup> Former KR cadre 7 (Female), Anlong Veng interview with Tallyn Gray, 13 October 2012



kept his enemies/those he was punishing. The house (like Pol Pot's) is administered by the Ministry of Tourism. However, Pol Pot's is dilapidated and highly inaccessible, is not signposted and has no caretaker. Ta Mok's, by contrast, is a well-kept heritage site; one must pay \$1 for admission, there are gatekeepers, cleaners, and information boards. Within the context of so much local veneration of Ta Mok (and comparatively little of Pol Pot) the official stance is that Anlong Veng should be an 'historical site of visit and learning' (*sic*).<sup>43</sup>

I imagine that to an international audience and most of the domestic one, Pol Pot is of greater interest. I would also hypothesise that the reason for keeping Ta Mok's house better preserved is to provide nostalgic tokens of the past to keep the people of Anlong Veng happy in their new life. A locally unpopular national government thus maintains heritage sites as a concession to former KR who resent the Phnom Penh government, seeing their country 'sold out' to Thailand by Vietnamese-appointed politicians, and require a site on which to project their nostalgic vision.

By engaging with these forms of vernacular memory construction/expression through the discourses surrounding Neak Ta and Phchum Ben, former KR are not - as Guillou hypothesizes - simply paying respect to a person powerful at the time, whose power is transferred onto the spiritual plane. Sihanouk's disgust is shared by many other Cambodians, (as those with family killed by Ta Mok when he acquired his 'butcher' nickname would attest). To elect Ta Mok/Pol Pot as Neak Ta-esque figures is to choose to venerate not some ancient warrior or prince to whom modern meanings can be ascribed, but someone in living memory, who despised, and violently opposed with a guerrilla army, the current Prime Minister, and someone who, as a designated defendant at the ECCC, was identified by the international community as having a case to answer for violating international norms. Choosing such figures even transgresses the narrative interpretation of the King - the ultimate embodiment of the official national narrative. All this reflects a particular brand of nationalism, rejecting the new Cambodia. Local former KR cadres, politicians and businessmen choose to pray at these graves, drawing on the power of the two men as patriots. Eng Kok-Thay's study of former cadres in Anlong Veng concurs with my interviews, that the

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<sup>43</sup> Eng Kok-Thay, 'Anlong Veng Then and Now: A Story of Its People', *Searching for the Truth*, 9 July 2012

overriding sentiment of most former KR is fond memory of Ta Mok, but also contentment with the more free and prosperous society they currently live in. <sup>44</sup>

I found that the general estimate of the ECCC in Anlong Veng lies between ambivalence, disinterest and grudging acceptance that this is how things are now. Most of my narrators had heard of the ECCC, but said they were uninterested in it. Some did express sentiments similar to this former cadre's :

*I accept to have the ECCC in Cambodia, because in Cambodia especially during Democratic Kampuchea, those who were high responsible were in charge and they did a mistake. ... So they are in charge of this. So they should face the Law – it is fair and good to have it.*  
<sup>45</sup>

However this is not a widely expressed sentiment . Most were ambivalent . There was no desire to return to guerrilla warfare, or DK , nor did anyone express disbelief that mass killings took place, or imply that no one from the CPK should be held to account for the deaths during that time. This community has certainly transitioned from one regime to another. But it is a transition whose narrative falls outside the TJ praxis of 'from authoritarianism to liberal democracy'.

### **The whatness of what is**

The nature of this transition into grudging acquiescence is best explored via Boltanski's 'sociology of emancipation'. <sup>46</sup> This allows me to frame, through the understanding of social actors like my narrators, an analysis of the process of socialising former KR, like those of Anlong Veng, into the social institutional realities of the RGC, parallel to the policy of 'inducing amnesia' among the general population. <sup>47</sup> Boltanski argues that through 'saying and confirming' themselves, 'institutions' such as national narratives take up the task of socializing people into constructed /imagined 'social realities', which order, coordinate , control and justify behavior. <sup>48</sup> Institutional survival is dependent on social actors becoming subject to the narratives the state projects to them as

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<sup>44</sup> Eng Kok-Thay, 'Anlong Veng Then and Now: A Story of Its People', *Searching for the Truth*, 9 July 2012

<sup>45</sup> Former Cadre 8 (Male) Anlong Veng, interview with Tallyn Gray, 14 October 2012

<sup>46</sup> Luc Boltanski, *On Critique: A Sociology of Emancipation*, translated by Gregory Elliott, (Cambridge: Polity Press, 2013)

<sup>47</sup> David Chandler, 'Cambodia Deals with its Past', 357

<sup>48</sup> Luc Boltanski, *On Critique*, 55-75

‘reality’ – a reality which ‘hangs together’ because it ‘succeeds in getting actors to believe in its solidity and internalize their powerlessness to change ... formats.’<sup>49</sup>

Former KR acceding to what Boltanski terms the ‘*whatness of what is*’ of the Hun Sen government explicitly recognise their own subjection.<sup>50</sup> The former cadres of Anlong Veng are fully aware of their acquiescence to the Phnom Penh government and its institutional infrastructures. As their own movement became defunct over the 1990s RGC institutional realities overwhelmed them. The RGC’s institutions provide ‘confirmation’ of the new realities, justifying and legitimizing itself in a process of ‘making visible the fact that there is a norm’.<sup>51</sup> Boltanski’s term for the way this is done is ‘ceremonies’. These make visible ‘the relationship between the order of symbolic propositions and the order of the state of affairs’.<sup>52</sup> The process can be illustrated by a literal ‘ceremony’ described in a newspaper story from 1999 : a ceremony undergone by ‘the last of the KR hardliners’ in Anlong Veng who defected to the RGC:

Four anti-aircraft artillery pieces were hauled out and lined up as props for Tuesday’s ceremony, as were dozens of Chinese and Russian assault rifles, some bearing bayonets.... officials [*top level defence officials from Phnom Penh*] handed the defecting troops green nylon backpacks containing new RCAF uniforms.

‘The Khmer Rouge is dead,’ noted one former guerrilla. But he said he would keep his old uniform ‘just in case.’ One KR comments , ‘I trust the government, I defected to the government, I believe in the government. Now it’s time for the government to help develop my home.’

Rebel representative Sang Kong, in his address to Phnom Penh officials, said troops would change their rallying cry from the communist-inspired ‘*pdach-nha!*’ meaning ‘promise,’ to ‘*Chaiyo!*’ commonly used today in political rallies to mean ‘long live.’<sup>53</sup>

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<sup>49</sup> *ibid.* 34-35

<sup>50</sup> *ibid.* 55

<sup>51</sup> *ibid.* 83

<sup>52</sup> *ibid.* 104

<sup>53</sup> Marc Levy and Phann Ana, ‘Last Anlong Veng Hard-Liners Join Gov’t’, *Cambodia Daily*, 10 February 1999

This can be characterised as a tautological ‘truth test’.<sup>54</sup> The state demonstrates itself and demands participants prove the ‘reality’ of the RGC institutional infrastructure by engaging in the ‘ceremony’ of donning new uniforms. What reveals the weakness of the ‘reality’ tested here is the soldier keeping his old KR uniform ‘just in case’ and the statement ‘Now it’s time for the government to help develop my home.’ Both men cite clear reasons for their actions which demonstrate that the ‘reality’ of the institutions constructed by the RGC is precariously foundationed in ‘the world’.<sup>55</sup> Both are aware of the process of acquiescence to the RGC.

In contrast to the state’s self-affirming ‘truth tests’ are ‘existential tests’, external to institutions, in which social actors can critique those institutions.<sup>56</sup> The CPP has a political and national history to promote. It needs ‘induced amnesia’ for that. It sets up truth tests to affirm these former KR as part of the modern Cambodian body politic. Former cadres in Anlong Veng recognize themselves as social subjects by the law, and also as subjugated to the law. They do not openly defy the CPP by expressing desire to return to the old nationalism as understood by Ta Mok or Pol Pot. (And it should be noted that none of my narrators expressed any interest in communism.) However, through their actions they favour the previous nationalist discourse. Commemorating Ta Mok or Pol Pot, visiting their graves, or appealing to them to protect the nation against foreign incursions (Thais moving across the border, Vietnamese influence over the CPP) creates an implied narrative transgressive to that of the CPP, an ‘existential test’. My former KR narrators thus site themselves on the margins of the ‘reality’ of the RGC narrative institution. Their chosen mode of expression is one where Boltanski notes ‘critique is frequently based ... expressions used in forms of creation – such as poetry, the plastic arts or the novel - where it is socially more or less permissible....to confine to the public personal experiences and feelings and whose aesthetic orientation makes it possible to bypass the constraints of consistency and legal or moral justification imposed by argumentative discourse’.

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<sup>54</sup> Boltanski, *On Critique*, 83

<sup>55</sup> *ibid.* 57

<sup>56</sup> *ibid.* 108

<sup>57</sup> *ibid.* 108

These former KR simultaneously enact their incorporation into the structures of the state with a change of uniform, while projecting their idea of nationalism, divergent from that of the government, into religious phrase regimes, re-imagining the very figures who violently opposed the Hun Sen government into spiritual discourses. Such a critique of the national state narrative - an outright offence to the King – is, I contend, a specifically regional interpretation. (Other regions where many former KR live, such as Pailin, may have similar outlooks.) The KR of Anlong Veng not only interrogate the smooth running of the narratives of the state and of TJ, but can also be read as a community on the reverse side of the ‘induced amnesia’ promoted by the RGC in the 1990s. These are the people the nation was asked to forget as the KR were demobilised and shown as ‘integrated’ into the Cambodian body politic.

### **Silence and Forgetting.**

#### **The KR and the temporal borders of narrative – ‘magic dates’.**

Im Chem (also from Anlong Veng), a former mid-level cadre and a suspect in Case 004, argues:

The responsibility of the death of the Cambodians does not lie on the Khmer Rouge alone. Why does nobody recall the fact that soldiers of the pro-US Lon Nol military regime [1970-1975], as well as the US bombings between 1973 and 1974, led to numerous civilian victims?<sup>58</sup>

This is a not unreasonable question : if Henry Kissinger is responsible for orchestrating a bombing campaign that killed over 100,000 Cambodians, why should Im Chem be tried for alleged responsibility for the deaths of 10,000? At least, should Kissinger not be tried with her? And what of other former KR in her community who may have committed similar atrocities in the 1980s? Some are prominent people who built up successful businesses with war profits made in the 1980s. Why should she be singled out? Sum Rithy makes a different point, but it poses a similar question. He told me how KR guerrillas ruined his life a second time in the 1980s:

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<sup>58</sup> Im Chem quoted from: Jacques Follorou, ‘Cambodge: Une Ex-Khmère Rouge Veut le Droit à l’Oubli,’ *Le Monde* 29 September 2009. English Translation is available at < <http://ki-media.blogspot.com/2009/10/comrades-sar-kheng-hor-5-hong-and-hun.html> > < Accessed 6 July 2013 >

*In 1983, the Khmer Rouge burned my house in Siem Reap. I thought I was going to die; they wanted to shoot me and I had to run away. At that time I lost everything again. They came to my house and then I kneeled down and begged to them, and say, 'If you search my house you will not find a military uniform.' But they still burned down my house when they came out.... I remember there was a friend of mine who did business with the Khmer Rouge. He would transport cows or buffalos to the Khmer Rouge. The Khmer Rouge shoot him to death. No one tried to arrest the KR or take them to court. My friend was killed in Pou District. He was my close friend, before he... When he did business with the Khmer Rouge, I told him it was dangerous, he said he still want to do it and later on he was shot by them. This was before, errm, maybe 1983.*<sup>59</sup>

The point both Im Chem and Sum Rithy make is that stories have been expunged - the first, about the Lon Nol regime and the American bombing, following its exclusion from the ECCC's jurisdiction, and the latter, concerning the 1980s, in the 'induced amnesia' of CPP policy. As Karnavas says of the ECCC, it '*plucked two magical dates – the fall of Phnom Penh [1975] and the fall of Phnom Penh [1979] as if nothing happened before and nothing happened after – so the biggies, China, the United States, the UN are not in the scope.*'<sup>60</sup> This prompts a question. At what cost does such a jurisdiction come?

I now discuss how the joint process of 'inducing amnesia' and 'bringing the former KR into the RGC's 'reality' has wider conceptual applicability in terms of domestic narrative formulation and internationally.

### **Former cadres : forgotten victims?**

A former Cadre in Kompong Thom province explained to me why he joined the KR at around fifteen or sixteen years old. He went to fight in Preah Vihear :

*I was a Khmer Rouge soldier ...at that time, 1981 or 1982, I was still young. At the time the country was still divided and we were collected to be Khmer Rouge soldiers because of this situation. I was a KR soldier because of my family situation. We were poor, and there was no work at home [in his home village in Kompong Thom] so I became a KR soldier...*

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<sup>59</sup> Sum Rithy, interview with Tallyn Gray, 29 July 2012

<sup>60</sup> Michael Karnavas, Lead international Co-Lawyer for Ieng Sary, Phnom Penh, interview with Tallyn Gray 6 June 2012.

*I was also in conflict with one of our neighbours; someone cursed at my family and I intended to kill him but I did not, I hit him.*<sup>61</sup>

To this cadre the idea of a period of Khmer Rouge rule over 3 years, 8 months, 20 days does not reflect his experience. He, like millions of others, lived under KR rule for significant portions of time preceding and following Democratic Kampuchea.

*I'm not sure what it was like in the other parts of the country, but here we were always under KR for a long time, not just the length of what is termed Democratic Kampuchea.*<sup>62</sup>

His experience can be read in Ricœur's three-stage Mimesis model discussed in Chapter Two. To recap:

- Mimesis 1 (M1) preconfigures our understanding of human action which colours our understanding of narrative.<sup>63</sup>
- M2, emplotment, orders relations between events into an 'intelligible whole' so the story can be seen as heading to an end point.<sup>64</sup>
- M3, 'configuration, reconfiguration and reading' enables the 'reader' to see the whole, establish a hermeneutic understanding and ascribe meaning to the narrative.<sup>65</sup>

When the CPP induces amnesia or endorses/writes a historical narrative excluding certain parts, it prevents individuals like this former cadre from establishing hermeneutic understanding - at least in terms of finding a wider set of reference points onto which his narrative of being KR in the 1980s can attach itself.<sup>66</sup> While those in his position (or Im Chem's, or Sum Rithy's) can read back the events, the scope of their own narrative of the KR era stretches beyond the cut-off dates of the ECCC and CPP narratives. Configuration, reconfiguration and reading have been performed by another reader - the state, a 'reader' whose version is imposed on all.

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<sup>61</sup> Former KR Cadre 5 (male) and former Head Monk, Kompong Thom Province, interview with Tallyn Gray, 18 September 2012

<sup>62</sup> Ibid.

<sup>63</sup> Paul Ricœur *Time and Narrative*, Vol. 1, 54

<sup>64</sup> Ibid, 65

<sup>65</sup> Ibid. 76

<sup>66</sup> Lynn Abrams, *Oral History Theory*, 122-124

Discussing temporality, Ricœur argues there must be an end to narratives to facilitate hermeneutic understanding. Emplotment (M1 and M2) requires this end point. 'Narrative time' must lead to a place where it can be read in its hermeneutic circle. This cadre has a personal (although not uncommon) narrative which does not fit the official narrative. The temporal limits of his story as he conceives it (the mid 1970s to mid 1980s) do not fit the temporal narrative limits of the RGC or ECCC (1975-1979). His story is out of time. Within the CPP 'induced amnesia' and the ECCC *sjuzhet* of 'magic dates' there is no place to deposit his narrative within a historical context.

There is, of course, the possibility of doing so in personal, reflective terms within a locally relevant genre of discourse, that of Buddhism. However, as described in Chapter Four with the experience of 'Grandma', it is difficult to deal alone with its complex demands. Though a person understands a general principle or text, without any kind of process it is difficult to conceptualise one's situation in a helpful way. The cadre above became a monk. However, the knowledge applicable to his situation was not available :

*I spent two years as a Monk....In our Wat we didn't have that many monks, especially in the countryside. So....I was head of the monks after I was appointed by the villages to do this. As I said, there were few monks, and the rest of the monks were very old, so they could not be the head monk in this Wat... When I was a monk I stayed in the Wat. We didn't really study Buddhist teaching much. Most of our time was on trying to build the temple with the achars and people. The Wat was poor. As for the teachings of the Buddha, we did not go deep into it. But it was good to teach people about no killing and no stealing. I do not remember much more of the teachings.*<sup>67</sup>

The value of processes like 'testimonial therapy' or VFKRDP mediation described in the previous chapters is in bridging the gap between personal memories and narratives. They employ the familiar genre of discourse, that of Buddhism, while recognising that participants needed help to find their voice and have it affirmed within a process. Former KR of the 1980s, who were cajoled into the movement and need to deal with issues running counter to government narratives, do not have this opportunity. Like the narrator above, labouring rather

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<sup>67</sup> Former KR Cadre 5 (male) and former Head Monk, Kompong Thom Province, interview with Tallyn Gray, 18 September 2012



than learning a discourse that might help him, they manage with ( to paraphrase Karnavas) ‘the transition they can afford’.

It is useful to return here to Lyotard’s view. If justice is to be ethical there must be a recognition of the rights of others to use their own language games and modes of thought . If hegemonic discourse silences or marginalises, an additional injustice occurs . Exclusion from the discourse of the just is a further injustice or, even, an act of further violence <sup>68</sup>. Iris Chang’s *The Rape of Nanking* exemplifies this, narrating atrocities by the invading Japanese army against 300,000 Chinese civilians and military in the Second World War. <sup>69</sup> The final part of Chang’s book deals with what she terms the ‘Second Rape’ : that the Japanese government (and even academics ) ignore it, alter it, lie about it, and never acknowledge it, and that Cold War politics contributed to a similar neglect in mainland China also across years of communist suppression of information . <sup>70</sup> Chang argues that this attitude is an act of violence in denying victims their rightful voice in history.<sup>71</sup> Many of those discussed in this chapter are losing their chance for historical voice to the state narrative - they are on their own.

The previous narrator – the ex-cadre and former head monk – is aware of how this impinges on a community:

*The villagers here are nearly all ex- Khmer Rouge; many will not talk about the Communist party, or the leaders etc. Because ...in some villages around 80% were KR and now some of their children, their sons, are [government] soldiers also. So people never say bad things about the cadres or the staff. About 20% are government soldiers now.*<sup>72</sup>

Thus experience is silenced. The local villagers cannot talk about the events . This silence means that history fails to be intergenerationally communicated . There are many possible reasons, including shame at involvement in a movement many forcibly recruited KR always resented. My narrator himself stressed, ‘ *I just want to let you know that while I was a Khmer Rouge soldier, I*

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<sup>68</sup> Lyotard, *The Postmodern Condition*, 66

<sup>69</sup> Iris Chang, *The Rape of Nanking: The Forgotten Holocaust of World War II*, (London: Penguin Books, 1997)

<sup>70</sup> Ibid. 11

<sup>71</sup> Ibid. 199-225

<sup>72</sup> Former KR Cadre 5 (male) and former Head Monk, Kompong Thom Province, interview with Tallyn Gray, 18 September 2012

was so only after 1979' - specifically to detach himself from the grotesqueness of DK.<sup>73</sup> Sabine Reichel, of the first post-war German generation, declared: 'I hated Germany...I hated being German...Can anyone understand the experience of growing up among a people with such a gruesome past? Referring to my age never relieved me from the burden of my father's generation.'<sup>74</sup> Wanting to spare your children the burden of guilt is one motive to keep quiet. Noren-Nilsson noted a former cadre asking his son, 'Why are you interested in those old stories?' She points out from her ethnographic findings that former cadres often stay silent as they want their children to be integrated into the new Cambodia without problems.<sup>75</sup> I explore this intergenerational dynamic in the next chapter. The issue here is that a lengthy, violent and traumatic history of civil war outside the 'magic dates' is ignored by the ECCC, which provides the only official narratives counter to the CPP's claim to have saved the nation from civil war.

As previously discussed, silence can be disturbing. It can indicate semiotic paralysis. In a world riddled with signs, silence may signal deliberate withdrawal.<sup>76</sup> Silence is difficult to read as it has many meanings. However, one can discuss its effect. Lee Ann Fujii shows how social taboos on topics leads to their eradication in history - notably how lack of discussion on sexual violence during the Rwanda genocide has led some communities to believe it never happened, because no-one has heard about it. The climate is such that discussion is off-limits. This cycle of silence and increasing taboo leads to the disappearance of the fact from histories.<sup>77</sup>

The alternative mechanisms of commemoration, memorialisation and justice discussed in the previous chapters are contained, and favour a particular telling of the story which employs the victim-perpetrator binary. This cannot work here. The counterhegemonic, transgressive memorialisation process and its implied

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<sup>73</sup> Former KR Cadre 5 (male) and former Head Monk, Kompong Thom Province, interview with Tallyn Gray, 18 September 2012

<sup>74</sup> Sabine Reichel, quoted Gabriele Schwab, *Haunting Legacies: Violent Histories and Transgenerational Trauma* (New York: Columbia University Press, 2010) 94

<sup>75</sup> Astrid Noren-Nilsson, 'Children of Former Khmer Rouge Cadres', 465

<sup>76</sup> E. Valentine Daniel, *Charred Lullabies*, 122

<sup>77</sup> Lee Ann Fujii, 'Interpreting truth and lies in stories of conflict and violence', *Surviving Field Research: Working in Violent and Difficult Situations*, Eds. Chandra Lekha Sriram, John C. King, Julie A. Merthus, Olga Martin-Ortega, Johanna Herman, (London: Routledge, 2009) Kindle edition

pro-KR narrative in Anlong Veng is also unsuitable in the case of these lower cadres; they despise the regime and have no desire to venerate the graves of the KR leadership. In a way these cadres are most susceptible to falling through narrative gaps, as they are unaccounted for in the historical telling of the story at either an official or an alternative level. They exist both in the category of victim (I was abused by the KR and they forced me to do things I did not want to) and perpetrator (I carried out atrocities under the KR that I regret). The previous narrator, and another former cadre I interviewed both expressed loathing for the regime. Both became monks after their experience with the KR:

*I wanted to be a Monk because I wanted to make good Karma after joining the Khmer Rouge - because it was a group that worked on the basis of 'an eye for an eye.' It was a bad group.*<sup>78</sup>

The other, who eventually became a farmer, told me:

*Sometimes I think about the past during the Khmer Rouge ; it is very difficult and especially because they forced us to labour; we had no place to stay, just in the forest fighting, fighting, fighting. Now we have freedom.*<sup>79</sup>

These are people the Angulimala story in the previous chapter might situate in a relevant narrative framework. However, they have no access to monks with the education to tell them.

Most of the narrators in this chapter were teenagers or children at the time. The KR routinely used children, took them from their parents or encouraged them to spy on them, or made them watch their executions. Children went to indoctrination school at twelve, to keep them free of previous cultural influence. They were taught to enjoy killing, learning how to torture animals to ensure prolonged agony.<sup>80</sup> A woman who was a KR staff member (rather than a soldier) told me:

*In 1976 I was in the 'Children's Group.' I was about fourteen years old at that time ... The children lived in a group, maybe 100-150 of us. We had*

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<sup>78</sup> Former KR Cadre 5 (male) and former Head Monk, Kompong Thom Province, interview with Tallyn Gray, 18 September 2012

<sup>79</sup> Former KR cadre 4 (Male), Former Monk, Kompong Thom, interview with Tallyn Gray, 18 September 2012

<sup>80</sup> Kenneth. M Quinn, 'Explaining The Terror,' *Cambodia 1975-1978: Rendezvous With Death*, ed. Karl D. Jackson (Princeton: Princeton University Press, 1989) .237-238

*to get up early every morning to work the land; we slept and ate as a group, we were not allowed to see our parents at all. There were three old men in charge of our group; maybe they were , forty, forty-five years old, they took care of the children. ...I really hate the Khmer Rouge leaders and hopefully the court will work well. I don't have time to watch or follow the ECCC process.*<sup>81</sup>

As I have noted previously, Sum Rithy distinguishes between types of victim. I repeat his words here in this context :

*You know they regard me as a victim, but I am a direct victim, different from the normal victim . You know when you were sent to the prisons, mostly they would die of starvation or be taken to be killed. If you are a normal victim you worked in the fields; but those of us who stayed in the prisons know more than most of the normal victims. We know how torture was used ... I was seen as a '17 April Person' – a 'new person' – other victims of the KR were not seen as this.*<sup>82</sup>

Sum Rithy, a direct torture victim, distinguishes between victims who were not even KR cadres. The notion of a cadre being a victim is not, however, completely alien . One monk outlines here the commonest answer to my question about the use of children by the KR.

*They know nothing; they kill because they receive instruction/indoctrination; they do not have capacity to understand –they do not have responsibility.*<sup>83</sup>

The complex relationship between being a victim of the regime and one of its enforcers is discussed by Meng-Try Ea and Sorya Sims ; their study of this dual identity concludes that former cadres are both.<sup>84</sup> However, I argue that the ability of such people to construct their own narratives, or feel part of one, is restricted. The notion of the 'cadre as victim' is not widely addressed by the ECCC, the CPP/RGC or in the NGOs. There is no outlet for those in the conceptual gap between 'magic dates' 'induced amnesia' and the 'reality' of the RGC, except for the few who can access mediation processes such as the VFKDP – due to budget constraints a very small percentage . The result for many is silence and a lost set of incomplete narratives . Their experience and stories are lost.

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<sup>81</sup> Former KR Cade 2(Female), Tekeo Province, interview with Tallyn Gray, 5 September 2012,

<sup>82</sup> Sum Rithy, Phnom Penh, interview with Tallyn Gray, 29 July 2012

<sup>83</sup> Ven.6, Phnom Penh, Interview with Tallyn Gray 14 March 2010

<sup>84</sup> Meng-Try Ea and Sorya Sim, *Victims and Perpetrators? Testimony of Young Khmer Rouge Comrades* (Phnom Penh: Documentation Center of Cambodia, 2001)

**China: a silent history of events that never happened and people that did not exist**

To return to the silent gestures at the beginning of this chapter : that cadre worked with a Chinese technical advisor in DK, and was thus a direct example of former KR fully aware of their acquiescence in ‘the whatness of what is.’ Cadre and spouse situated themselves as subjects in a much larger structure, one of Chinese power in modern Cambodia. However, doing so literally brought their narrative to a halt and necessitated some re-framing. Some scholarship around the Chinese in DK is now emerging.<sup>85 86 87</sup> Liu, Mertha and Ciorciari examine the experience of Chinese and Cambodians working on projects such as the Trapeang Thma Dam, Kompong Chhanang Airport, Kompong Som Oil refinery, to provide a more person-focused social history rather than a study of bilateral international relations. In doing so they uncover narratives and social histories previously unaddressed. The emerging consensus is that the Chinese state may have been complicit in the atrocities by ignoring humanitarian concerns (as it does in places such as Sudan).<sup>88</sup> Chinese ‘technical advisers’ and officials on the ground were stuck, helpless to act against the cruelties of DK and themselves under a regime which killed dissenters.<sup>89</sup> Liu quotes a Chinese intelligence worker who describes his experience of ‘a group of insane people soaked in extreme leftist ideology, drenched in blood, who treat people like animals’.<sup>90</sup>

Yet narratives of the Chinese are far from being included in official accounts. Just as the ECCC ignores the US bombing, it ignores Chinese compliancy and technical support for the genocidal DK state. On 30 March 2012 Chinese President Hu Jintao made a state visit to Cambodia. His pictures were on government-sponsored billboards all over the city, Chinese flags waved alongside

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<sup>85</sup> Michael Yiqiang Liu, ‘Seeing the Khmer Rouge from a Retired Chinese Spy “On the Wave of Mekong” by Huang Shiming’, *Searching for the Truth*, August 2012

<sup>86</sup> Andrew Mertha, ‘Surrealpolitik: The Experience of Chinese Experts in Democratic Kampuchea 1975-1979,’ *Cross-Currents: East Asian History and Culture Review*, E-Journal, No.4 September 2012

<sup>87</sup> John D., Ciorciari, ‘China and the Pol Pot Regime,’ *Cold War History*, 24 June 2013, 405–50. Accessed 26 June 2013. DOI:10.1080/14682745.2013.808624

<sup>88</sup> Ciorciari, ‘China and the Pol Pot Regime’, 21

<sup>89</sup> Mertha, ‘Surrealpolitik’, 86

<sup>90</sup> Huang Shiming, quoted Liu, ‘Seeing the Khmer Rouge from a Retired Chinese Spy’, 5

Cambodian ones on every lamppost from Phnom Penh international airport to the city center. Banners proclaimed, 'Long Live China-Cambodia Solidarity and Friendship.' The Chinese Foreign Affairs website narrates events I also witnessed:

Along the road from the airport to the downtown, the local teenagers and people were waving national flags of China and Cambodia and flowers, to warmly welcome distinguished guests from China and express their friendly feelings toward the Chinese people and their best wishes for Cambodia-China relations.<sup>91</sup>

Events were well choreographed; there were indeed school children lining the street waving flags. The discourse surrounding US President Obama's visit the same year, as part of an ASEAN summit, is a contrast. Eight people living near Phnom Penh airport put a picture of Obama on their roofs with 'SOS' painted underneath, so that as Air Force One came in to land the President would see the plea. The 'SOS' was a call to address Human Rights abuses by the Hun Sen government. The pictures were taken down by security forces and the persons who put them up arrested.<sup>92</sup> The meeting between the two heads was described as 'tense'.<sup>93</sup> In China, the Hun Sen government accesses a regional and global power providing huge sums of aid, protection and patronage without demands concerning human rights.<sup>94</sup> Obama's human rights lectures can be dismissed more blatantly as the liberal-democratic narrative forged by the West/US becomes less dominant, and China's power/influence/money takes a central role in the Cambodian state.

China was against the ECCC in the first place.<sup>95</sup> Alexandra Kent discusses the developmental impact of China's power on domestic political actors.<sup>96</sup> In a personal communication Kent hypothesized that the court is the site of a proxy

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<sup>91</sup> 'President Hu Jintao Starts His State Visit to Cambodia from Phnom Penh,' Ministry of Foreign Affairs of The People's Republic of China Website, 30 March 2012, Accessed 14 July 2013<  
<http://www.fmprc.gov.cn/eng/wjdt/wshd/t919459.htm>>

<sup>92</sup> Associated Press: 'Cambodia Arrests 8 Villagers For 'SOS' Messages To Barack Obama' *Daily Telegraph*, 15 November 2012 Accessed 15 July 2013<  
<http://www.telegraph.co.uk/news/worldnews/asia/cambodia/9679696/Cambodia-arrests-8-villagers-for-SOS-messages-to-Barack-Obama.html>>

<sup>93</sup> 'Human Rights Main Focus of Obama Meeting With Hun Sen, US Says' Voice OF America, Accessed 14 July 2013 <<http://www.voacambodia.com/content/human-rights-main-focus-of-obama-meeting-with-hun-sen-us-says/1549843.html>>

<sup>94</sup> Pheakdey Heng, 'Cambodia-China Relations: A Positive-Sum Game?' *Journal of Current Southeast Asian Affairs*, 31, 2, 2012, 57-85.

<sup>95</sup> Fawthrop and Jarvis, *Getting Away With Genocide?* 178-179

<sup>96</sup> Alexandra Kent, 'Friction and Security at the Khmer Rouge Tribunal,' *SOJOURN: Journal of Social Issues in Southeast Asia*, Vol 28, No.2 2013, 308-312

fight for influence between the legal liberalism of the 1990s and the political realities of a state attempting to please its patron by keeping the Chinese out the narrative. Expunging China's role means the Chinese state can lavish aid, trade and military equipment, freeing the CPP/Hun Sen government from the constraints of the liberal democratic/ anti-corruption discourse of the 1990s – incidentally providing China with a malleable ally to do its bidding : for example, recognizing the 'one China policy', and providing access to Cambodia's natural resources.<sup>97</sup> Certainly discussion of Chinese support for the genocidal regime would create a hostile environment for Chinese investment and interfere with the process of making Cambodia a Chinese client state.

My narrators, uncomfortable discussing their contact with the Chinese as cadres, situated themselves in the knowledge of Hun Sen's pro-China narrative of development. Kent's informants also recognize China's power, opining, 'Hun Sen has become the puppet serving the interests of Chinese businessmen in Cambodia,' and describing China as 'the real strong man of today'.<sup>98</sup> Such voices suggest legal liberalism / liberal democratic values are losing narrative impact on the ground. Even former cadres in the countryside know the narrative excluding China from the DK story is the most powerful in Cambodia today. With China ruled out as an avenue for discussion, an aspect of history is silenced, and narrations never spoken of fade away.

In the final section of this chapter I address a third category, which I define as marginalized , a group whose story is in the contested Case 004.<sup>99</sup>

### **The Trapeang Thma Dam**

#### **Adapted from my Field Journal 15 October 2012**

The Trapeang Thma Dam is a vast concrete irrigation system built by the Khmer Rouge using the slave labour of thousands , and costing thousands of lives. I expected to interview two men ; eight turned up. I quickly changed the discussion to a focus group. The men drew me a map of the place before the dam's construction. One took me around the lake, pointing out items of interest; our

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<sup>97</sup> Ian Storey, 'China's Tightening Relationship with Cambodia', *China Brief*, The Jamestown Foundation ,Volume: 6 Issue: 9, 2006

<sup>98</sup> Kent, 'Friction and Security at the Khmer Rouge Tribunal', 332

<sup>99</sup> Case 004 ECCC Website, Accessed 16 July 2013, <<http://www.eccc.gov.kh/en/case/topic/98>>

interview is my major source here , as it explored issues in most depth. All the men worked on the dam's construction. Plastic chairs were set up next to the reservoir at the head of the dam and the men talked about working on it . Thousands died making it. It is staggering in scale. Today its construction would cost millions of dollars and take years.<sup>100</sup> It is still in use, integral to contemporary livelihoods, as it irrigates huge swathes of farmland.

*Around the Khmer Rouge time I was a farmer around here, like a mobile farmer in a group. At that time I was about 14, 14 or 16 but I'm not sure; and one of my jobs was to carry the soil. In about 1975 I was not that useful as a farmer, because I was still a boy. All of the people were here at this dam. The dam started to get built in about 1976, and also many of the people were working as part of the youth groups, but every type of person built this dam. This dam was built January 1976. It took six months to build under the order of the KR leaders - you know, because the way the water flows is too high, too dangerous for the low lands. The reason Pol Pot wanted to make this dam was to flood the rice paddies on the lowlands, two or three times a year. So this place was deemed a good place to carry out this irrigation. So this is why they ordered the farmers to build this. In 1975 Pol Pot built all these water channels; in 1976 this thing started to be built to protect the water for the low land.... People came from four districts around here to come build this, so it may have been a million people who came to build this dam. [The actual number is around tens of thousands – however, he is trying to get across that this place was a hive of activity teeming with people.] They needed it in a hurry, to get it done in six months, so they transferred farmers from other places to build it. I don't know how many people died to make this, but many died of starvation, overwork. Some were not thought to be working hard enough, so Pol Pot killed them or beat them to death. But the specific number who died I do not know. We were forced to work very hard from 6AM to 12PM and then 1PM to 7PM no break [except for that one hour]. They divided us into two groups; some had a problem with their eyes. We had to work daytime and night time... You know after the regime, we collected many of the skulls and the bones of the victims, the people who died making the dam, to put it all together in the Wat to commemorate them. But now they are all destroyed because there was no one to preserve them.*

*The farmers at the time in Pol Pot were taken to be killed, but not seen directly; they were maybe sick or not hard workers, so they were taken for 'treatment' or 're-education.' We heard that 're-education' meant being taken to be killed . We never saw those people again.*

*They were taken to the forest behind the Wat; this is what we heard ; after the Pol Pot regime we found all the skulls there.*<sup>101</sup>

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<sup>100</sup> May Titthara and Bridget Di Certo, 'Latest Tourist Attraction Has 'Bloody' Past', *Phnom Penh Post* 20 August 2012

<sup>101</sup> Former worker on the Trapeang Thma Dam, Banteay Meanchey Province, Interview with Tallyn Gray 14 March 2012



In Chapter Three I discussed the obstacles and blatant interference by the RGC to cases 003/004 . In Chapter Five I also discussed Christian Oesterheld's 'elite' category, who have their suffering publicly acknowledged by the ECCC, in contrast to a 'mass' of other traumatised victims.<sup>102</sup> The men at Trapeang Thma Dam embody a gap between these two . The International Co-investigating Judge Mark Harmon (the fourth, following the resignations of the previous three) is still investigating cases with which the men at Trapeang Thma Dam could have direct involvement, in that they would be eligible to file as civil parties.<sup>103</sup> Yet given the vocal hostility towards the case expressed by the RGC and Hun Sen, and the opposition of Hun Sen's appointed national counterpart to the internationals, Judge You Bunleng, it is unlikely further cases will proceed. Despite the right of civil parties to file for Cases 003/004, You Bunleng is not co-signing their admission.<sup>104</sup> The narrative of the Dam is a site of contestation between 'wings'/factions of the court discussed in Chapter Three , a clash between the narratives of the CPP and legal liberalism.<sup>105</sup> The contradiction for the men who were enslaved is that their government's selective *sjuzhet* of DK, restricting the actors to the top CPK leadership, frustrates bringing their direct persecutors to account, according to the desires of the international community. As long as Case 004 is contested between local and international elements at the ECCC ( and will probably not go ahead) the small narratives of these men fall into the RCG's generalized narrative of national suffering, Oesterheld's 'mass' of victims.

The dam – and the presence of those personally involved, with their mixed attitude towards it - is both a reminder of atrocity, and a means of sustaining a livelihood for the next generation. I visited the day after the end of Phchum Ben. On my way to the Dam the night before, I met several people returning home after spending the day around the dam to pray .

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<sup>102</sup> Christian Oesterheld, 'Exploring the Limits of Catharsis in Transitional Justice: The Khmer Rouge Tribunal, Victim Elitism, and the Reconfiguration of Cambodian Memoryscapes ' (paper presented ASEAS-UK Conference at Magdalene College, Cambridge, UK, 9-11 September 2011)

<sup>103</sup> Those who believe they have been subject to physical, psychological or material harm as a result of the crimes under investigation can apply to be a civil party and be represented by one of the co-lawyers. (Extraordinary Chambers in the Courts of Cambodia (ECCC), *An Introduction to the Khmer Rouge Trials*, Second Edition, (University Of Oslo/ Australian Government/ Office of Public Affairs ECCC, 2009))

<sup>104</sup> Office of the Co-Investigating Judges: Lawyer's Recognition Decision Concerning All Civil Party Applications on Case File No.004, Extraordinary Chambers in the Courts of Cambodia: Document No: D126, 1 April, 2013

<sup>105</sup> Ian Storey, 'China's Tightening Relationship with Cambodia', *China Brief*, The Jamestown Foundation ,Volume: 6 Issue: 9, 2006

*They do it almost every year, especially during the Phchum Ben festival, but mostly the local people here dedicate, like, food, or pray, to the spirits of those who died in this place.*<sup>106</sup>

Despite this there is no official memorial plaque, no indication this is a place where the bodies of hundreds, even thousands, worked to death were discarded in the reservoir. There is one sign telling people this is ‘Thapang Thmar Irrigation Rehabilitation Project. Under the Japanese Non-Project Grant, Ministry of Water Resources and Metrology, August 2004’ (see plate 13). Thus the Japanese government’s contribution to restoration work /upkeep is acknowledged; the deaths of the thousands who built it are not. The ECCC is not perceived as the agent of justice here, at least according to my narrators (who, it should be noted, are CPP supporters).

*We do not know the processes of the ECCC court very well, but the ECCC should not be taking a very very long time to prosecute the Khmer Rouge leaders. We are not happy or supportive of the prosecutors of the court, because it’s taking too long, and the money that is being spent on this court process is so much, so the longer it takes the less happy we are.*<sup>107</sup>

Whatever the political allegiance of the narrator, this is not an uncommon sentiment: the length of the process is a source of constant concern. The failure to acknowledge the dam as a site of KR atrocity perturbs people:

*In order to bring justice to survivors here, the government or NGOs that work on the Khmer Rouge story should build a stupa or a monastery, like a memorial site, to allow the people here to have a day to pray, or a specific holiday to allow the next generation to pray. This place is a memorial site; lots of people died working in this place, and this would be justice.*<sup>108</sup>

If this were a site of contestation at the ECCC, would a memorial bring to attention a narrative the pro-RGC narrative of the KR era is trying to suppress? Would it at least thwart an attempt to imply that this site is only one of many? People who come for Phchum Ben do so on their own initiative, an organic process. Even without official recognition to commemorate the dead, people

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<sup>106</sup> Former worker on the Trapeang Thma Dam, Banteay Meanchey Province, Interview with Tallyn Gray 14 March 2012

<sup>107</sup> Former worker on the Trapeang Thma Dam, Banteay Meanchey Province, Interview with Tallyn Gray 14 March 2012

<sup>108</sup> Former worker on the Trapeang Thma Dam, Banteay Meanchey Province, Interview with Tallyn Gray 14 March 2012

come to offer prayers, though they say them around the lake rather than at a formal memorial. By indicating his awareness that NGOs carry out memorialization projects in other sites, and suggesting something similar, or implying that the government should memorialise the dead here, this narrator identifies an injustice. He asserts a lack of recognition that thousands died in the construction of a facility still used to benefit the nation. Even the sign attesting to Japanese aid explicitly reworks the narrative origin of the dam. The site is part of the DK atrocity narrative, yet its origins have been obscured by reworking its existence into a 'development' narrative. My narrators' notion of justice locates itself in opposition to the way the RGC narrates justice through the ECCC. To repeat Lyotard: exclusion from the discourse of the just is a further injustice.<sup>109</sup> The story of the dam is undeniable, but marginalized in the overarching RGC narrative. If Case 004 proceeded, the ECCC would develop a narrative around this site breaking those parameters set by the RGC for the official history of DK.<sup>110</sup> The image of the figures standing around the lake to pray, rather than a *stupa* memorializing the dead, is a silent comment on that official history and its actors.

## **Conclusion**

This chapter has been about people who do not fit. I identified at the beginning the two concepts of state control, 'induced amnesia' and bringing former KR into the RGCs 'reality'.<sup>111</sup> Both of these control, contain and produce history and memory. The chapter discussed further models of anthroposemiotic expression transgressing the official history through culturally specific discourses and symbols narrativizing an interpretation of history counter to the official narrative. I discussed how the 'induced amnesia' policy obscures the roles of cadres and other staff whose stories fall outside ECCC jurisdiction and are disabled in their capacity to hermeneutically read their story, as the state overrides it with its own. The designated vessel for depositing memory (the ECCC) fails to provide freedom for multiple kinds of narrative, and offers no inclusive space for the complex narrations of the history of the KR and modern Cambodian history.

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<sup>109</sup> Lyotard, *The Postmodern Condition*, 66

<sup>110</sup> Ian Storey, 'China's Tightening Relationship with Cambodia', *China Brief*, The Jamestown Foundation, Volume: 6 Issue: 9, 2006

<sup>111</sup> Boltanski, *On Critique*, 55

While in many cases alternative narratives are enabled in their expression ( by the means discussed in Chapters Four and Five for example), for others, particularly former cadres, history outside the immediate DK period is not for discussion . DK in this narrative sits isolated in history, divorced from its context. This has the effect of silencing some stories. Political power (in particular China's) works to silence a narrative for some as modern political realities saturate the nation's discourse.

Within the official discourse, it is possible to identify as part of the amorphous 'mass' of victims the RGC narrative permits. One may situate oneself in this loose 'victim' category, but few get the chance to bring their narrative directly to the ECCC. The example of the Trapeang Thma Dam demonstrates that the government narrative cannot necessarily find a place for individual persons and locations, even at atrocity sites with vast numbers of dead. If the RGC is unwilling to engage, only anthroposemiotic communication, or linking to a very unspecific national narration, is possible.

To link to the next chapter, it is useful to recall the discussion in Chapter Two of Assmann's distinction between 'communicative memory' in daily discourse, and 'cultural memory', linking generations long dead to the present.<sup>112</sup> As the eldest of a society die away, there comes a turning point, at which communicative memory becomes cultural memory. Once this happens, those memories have to be deliberately maintained within the culture. If people do not discuss, and pass the story to the next generation, then the story will be lost. If the communicative ability is shut down/silenced, it cannot function. As people let their stories slip into enforced or self-imposed silence they will be forgotten.

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<sup>112</sup> Jan Assmann, 'Collective Memory And Cultural Identity' translated by John Czaplika, *New German Critique*: 65, 1995

## **Chapter Seven: Memory and Inter-generationality**

### **Introduction**

Ricœur, discussing Arendt's view that one meaning of being human is to be remembered and recollected in narrative discourse – 'to be memorable' - links the power of making memory to justice. 'The history of the vanquished dead crying out for justice demands to be told.'<sup>1</sup> This final chapter stands apart from the previous sections in that it addresses the material they cover from a broader perspective. It discusses not how narrations are communicated, nor the process and narrative frame in which this is done, but rather why the narratives are communicated and what meaning the act of communication has. I discuss this meaning using the themes of Time, Imagination and Memory. I use these as they address the issues raised most often by my narrators.

### **'The Big Surprise'**

Time is significant in that it presents a particular set of conceptual problems in the Cambodian context. The thirty-year gap between the end of DK and the establishment of the ECCC has created problems around memory, communication and the ability to re-envision events from thirty years ago and instil a sense of historical continuity between the generations, through the process of getting the younger generation to imagine their communities/nation and develop a cultural/social memory. Discussing this gap one of the Court spokespersons told me:

*It is a big surprise for people to see such a process in Cambodia. Because in the 1980s and 1990s no one thought there would be a court in the country ... Some Cambodians come to the trial today and say that they never thought that there would be a court at all. And they are very happy to see the process and think it's good. This is the new hope for them. Thirty years after, we have the trial, and the past can be learned. It is something good for them but also surprising. If you talk to the provincial villagers, tell them about the trial, they will want to come. Like a Cambodian proverb goes, 'To hear a thousand times is not to see once.' I*

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<sup>1</sup> Paul Ricœur, interview with Richard F. Kearney, *On Paul Ricœur: the Owl of Minerva*, (Aldershot: Ashgate Publishing, 2004) 127

*think you will see in the website that the University of California survey of the people shows over 80% support the trial; they believe it to be fair and in reconciliation and brings justice.*<sup>2 3</sup>

This is the self-image the ECCC tries to promote: that after thirty years waiting for ‘the big surprise’, society can begin again and learn from the past. This typifies the ‘transitional justice’ narrative. Exponents of this view point to quantitative academic studies (the inadequacies of which I discussed in Chapter Five)<sup>4</sup> to provide a justification of the ‘good’ done by the institution. This view of the ECCC highlights a problem. Several interviewees noted that their own attempts to redevelop cultural memory and re-imagine their community had perforce to do without any kind of large-scale external assistance throughout the 1980s and 90s. Two of my narrators from the Cham Muslim community described the process of reconstructing their culture and community at that time:

*We have had to do this internally, from ourselves ...in terms of identity and culture; it is on us that we have to reaffirm this.*<sup>5</sup>

*We had to do everything ourselves. People donated rope or wood or some money to rebuilding. The UN did not help. Buddhists and Muslims worked together at the time. Many countries recognised Pol Pot’s government as the real government of Cambodia; this is why they gave us nothing.*<sup>6</sup>

Life had to carry on in the 1980s. Society had to rebuild with minimal resources in the context of war, food shortages and global political isolation. Hence the ability to create and pass on the social knowledge enabling continuity of cultural identity from the pre-1979 period was impeded.

The story of the DK period is one of ‘rupture’. I explore this term later, but it is worth noting here that this ‘rupture’ has moved, as Gottlieb puts it, ‘toward the

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<sup>2</sup> Phuong Pham, S. Hean, Mychelle Balthazard, Patrick Vinck, *After the First Trial: A Population-Based Survey on Knowledge and Perceptions of Justice and the Extraordinary Chambers in the Courts of Cambodia* (Berkeley: Human Rights Center, University of California, 2011)

<sup>3</sup> Neth Pheaktra, Press Officer at the ECCC, interview with Tallyn Gray 4 June 2012

<sup>4</sup> Harvard Humanitarian Initiative, and Cambodian Human Rights and Development Association, *Victims Participation Before The Extraordinary Chambers In The Courts Of Cambodia: Baseline Study Of The Cambodian Human Rights And Development Association’s Civil Party Scheme For Case 002*, by Nadine Kirchenbauer, Mychelle Balthazard, Latt Ky, Patrick Vinck, Phuong Pham. (Phnom Penh: ADHOC January 2013)

<sup>5</sup> Imam 5, Kompong Cham, interview with Tallyn Gray 3 October 2012

<sup>6</sup> Imam 3, Phnom Penh, interview with Tallyn Gray 7 August 2012

stream-bed of cultural memory'<sup>7</sup> in a particular way, which it is important to evaluate. The struggles of the 1980s marginalized not only the process of reassembling pre-1975 culture, but also the experience of the older generation who lived through DK. They were unable to find any vessel in which they could deposit their memories of the DK periods - their versions of the story so intrinsic to understanding modern Cambodian society. As one monk told me in relation to Buddhist culture:

*As for their ideology, what was it Karl Marx said? 'Religion is the opium of the people.' And they [the KR] said that monks were like parasites - and once such a parasite is perched on anything, it can kill what it is attached to. This is what they believed ... Buddhism [was the] main obstacle for the KR. So that's why the first thing they targeted were Buddhist monks, and forced them to disrobe, and in some cases they just killed them. And many learned scholar monks were killed, including some sangha leaders - the scholars, the PhDs, those who had just returned from education abroad. Tou Ann was one of the brightest scholars at the time; he had a PhD in Sanskrit; he was killed. Ban Kat was one of the erudite scholars of the previous regime, before the KR time - he was also killed. There were over about 23,000 monks killed, excluding those who were forcibly disrobed. In most cases these monks were disrobed at gunpoint. Justice is important for Buddhism as well. Not just for Cambodian society and the victims, but for Buddhism itself, as now we are still feeling the repercussions of the regime - even now, thirty years plus after.<sup>8</sup>*

This monk (Ven.14) is mourning the immense loss to the Cambodian intellectual Buddhist tradition, and making the point that even today the impact of DK on the nation's intellectual development is still felt. Knowledge was irrevocably lost. The problem emerging from this near-wipeout of an intellectual tradition is to find a way to link the pre-1975 lifeworld of a generation, one third of whom died, to the generations of those born after the regime.

Hence I situate the reconstructive experience of the nation from January 7 1979 to the late 1980s/early 1990s within the praxes of Time, Memory, and Imagination. Survivors of DK and the post-DK generations occupy a common 'present' while on different planes of experienced time. The 'present' of the DK survivors' generation and the 'present' of the post-79 generation are completely different. This would be true, up to a point, for any mix of generations; however, the DK

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<sup>7</sup>David Gottlieb, 'Repair Beyond Rupture: David Weiss Halvini, Karl Löwith and the Meaning of Repentance after the Shoah', *Journal of Jewish Thought*, Issue 2, 2011

<sup>8</sup> Ven. 14, Phnom Penh, Interview with Tallyn Gray, 25 September 2012

period has, I argue, had a more profound effect on continuity between generations than would be the case in a society not ruptured by mass atrocity.

### **Justice as narrative practice**

Chum Mei stated to me:

*For me, the court doesn't have any meaning to me, nor for some of my friends who were victims of the Khmer Rouge, because the court will only reveal a small portion of our story. But it is very important for the young generation. But not for the old generation.*<sup>9</sup>

Bou Meng also argues:

*The Khmer Rouge story is important to tell to the young generation, because we want them to learn from this, to think to the law and the mistakes of the past. We want to show them the great mistakes of the past, so that those in power can learn. For my own story, the KR arrested me for no reason.*<sup>10</sup>

Of my narrators alive during DK, the youngest was then twelve; thus my youngest narrators are middle-aged and some are in their 80s. Chum Mei, Bou Meng, even some of the cadres who committed acts of violence, shared the narrative focus Bou Meng describes here:

*Mostly if I tell to the young generation, I start at the beginning of the story. Like how they [the KR] collected the youth, or they make the promotion that they were to be soldiers. I tell the whole story - like the torturing, the way of doing, the leaders, and how people have no rights. If I was to sum up the most important part of the story, I want them to understand the whole story as well. The young generation doesn't believe you so much: even my son doesn't believe.*<sup>11</sup>

Bou Meng also stated:

*I do not think ECCC can bring me justice ... The situation for me in the Pol Pot time and the situation in the ECCC prison is different: so where is justice for me? Justice is like, when I was imprisoned in Pol Pot time I slept on the ground, and now Khmer Rouge leaders should also sleep on the ground. This is justice. The Khmer Rouge leaders now are the prisoners, but they have everything - nice clothes, nice room, and nice*

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<sup>9</sup> Chum Mei, , Phnom Penh, Interview with Tallyn Gray, 23 July 2012

<sup>10</sup> Bou Meng, Artist, S-21 Survivor, Phnom Penh interview with Tallyn Gray, 23 July 2012,

<sup>11</sup> Former KR Cadre 1 (Male) , Takeo Province, interview with Tallyn Gray, 27 July 2012



*healthcare. But for me during the Pol Pot time, I had not many nice clothes, not nice healthcare compared to the Khmer Rouge leaders now.*<sup>12</sup>

In these statements three things are apparent. First, a perceived lack of meaning in the ECCC in itself, in terms of offering justice directly to the survivors. Secondly, any concept of justice for the speakers must develop out of the process of communicating the narrative to a younger audience. Thirdly, a conviction about the importance of the story and its assertion - and the special need for such assertion in the face of disbelief. Such statements seemingly echo the maxim ‘people who do not learn from the past doomed to repeat it.’ Langer dismisses this as a ‘tiresome cliché’ in relation to the Holocaust, arguing that meaning cannot and should not be drawn.<sup>13</sup> To ascribe ‘meaning’ to the Holocaust (or any genocide) detracts from the horror of the experience and denies the utter barbarism of mass murder. ‘Heroic’ / ‘romantic’ stories lead to situating survivor narratives in a grand narrative of ‘human progress’ – experience learned from and overcome.<sup>14</sup>

Langer is (in my view correctly) concerned with the problem that lies in attaching meanings to atrocities, and the possible ideological underpinnings of such an exercise. It is important to question the motives of anyone attempting to draw a ‘positive’ lesson from atrocity. He warns against lazy thinking about learning from history’s mistakes and falling into the progressive optimistic narratives, which dull the senses to humanity’s brutal and cruel nature towards itself. However, Langer is even critical of Holocaust survivors who attempt to do this, and I would not want to echo this rather judgmental stance towards my narrators. Rather, I contend that narrators maintain an ownership over their story scholars cannot claim. This does not undermine Langer’s contention rejecting ‘grand narratives’ of progress as infused with mindless optimism. His concern is with how the events of atrocity are to be represented, returning us to the points raised in Chapter Six about how people communicate the incommunicable. As Chum Mei says, ‘*the court will only reveal a small portion of our story.*’ Facts alone are not enough: details of who died where, on what date, do not convey an experience. Langer is not deriding his narrators, but is anxious to force theory to abandon its misleading optimistic idealism. We are brought to the point of a classic crisis of representation and the failure of the grand narratives to provide a

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<sup>12</sup> Bou Meng, Artist, S-21 Survivor, Phnom Penh interview with Tallyn Gray, 23 July 2012

<sup>13</sup> Langer *Holocaust Testimonies*, 59

<sup>14</sup> *Ibid.* 165

discourse adequate to contain the story. The PRT (Communism/Marxism), the ECCC (Liberalism/Transitional Justice) even the ('contained') activities of the Buddhist remembrance ceremonies, all imply some form of wider grand discourse. Ricœur, on the other hand, lays stress on the importance of the small voices of history, 'the powerless and dispossessed. The history of the vanquished dead crying out for justice demand[ing] to be told'.<sup>15</sup> These, he suggests, should be the driving force of any representation.

Discussing genocide in terms of a grand narrative, or considering such experience as if it were possible for a culture to 'adapt' to it, as it might 'adapt' to phenomena like new technologies, is effectively to normalise it. Uniquely aberrant, genocide cannot be placed within the normal discourses of cultural encounter. Langer contends the only viable outlook following 'the death of hope' inevitably produced by events such as the Holocaust is to assume they will inevitably recur.<sup>16</sup> Thus the only viable mentality is that of an 'alarmed vision' alert to this certainty; and the only viable act is to prepare for a response.<sup>17</sup> While Langer uses this term in a general theoretical sense (we as a society must move forward in the state of alarmed vision), it can be employed to describe some DK era survivors who maintain a state of alertness to the perceived inevitable return of the KR. Indeed such a mood was prevalent in the period after DK, despite the KR being a defunct group. One of my narrators works for an NGO, which trained Buddhist monks to facilitate reconciliation between former KR and others in the community. He describes how survivors of DK moved into the 1980s with a strong fear (one that exists even to this day) that the KR will come back:

*It's an indication of trauma, when the survivors, you know, like the old ladies, they still worry and don't want to talk. We have to motivate them to talk. Because during the Khmer Rouge they suppressed what they knew. For example, in Khmer Rouge if you revealed parts of yourself [such as various forms of knowledge] this would mark you for death. This culture still exists.*

*You know, like my mother told me, 'Don't speak about the politics - it's not good for you, my child.' My mother said like that; all the people I've*

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<sup>15</sup> <sup>15</sup> Paul Ricœur interview with Richard F. Kearney, *On Paul Ricœur: the Owl of Minerva*, (Aldershot: Ashgate Publishing, 2004) 127

<sup>16</sup> Lawrence Langer, *Admitting The Holocaust: Collected Essays* (Oxford: Oxford University Press, 1995)3

<sup>17</sup> Lawrence Langer, 'The Alarmed Vision: Social Suffering and Holocaust Atrocity', *Social Suffering*, eds . Arthur Kleinman, Veena Das, Margaret Lock ( Los Angeles: University of California Press, 1997)58-63

*provided training to have been told the same. And they told me, 'My parents told me not to talk about that, or about Khmer Rouge.' Because some of the former Khmer Rouge are currently ministers, or officials in the government. You can see why this is not a good situation. But we don't encourage people to name names, but rather just talk about the time, so as to prevent a genocide again, so that regime does not come back. But they still worry about that, because after the Khmer Rouge finished we had civil wars in 1979, 1995, 1997. Most people who saw that think that genocide will come again. So they say, 'Don't speak about that.' They see officials in the government who have to power to do that.*<sup>18</sup>

### **Varieties of Time**

Langer argues that for genocide survivors time ceases to have normal temporality; time for survivors of massive atrocities exists on two planes. Firstly, there is 'Chronological Time' (temporal) time, which represents the normal flow of time. Bruce Mazlish describes the 'chronologicalizing tendency' of some historians to 'draw a smooth line through the past' as the dominant mode of conceiving time. Eras are segmented and brought to neat ends.<sup>19</sup> This way of envisioning time is not shared by individuals caught up in the events subject to that segmentation. In this 'chronological' narrative frame the Holocaust would be said to have finished in 1945, with the liberation of the camps and the Nuremberg trials as the end of the event for the survivors. Whatever the flaws in his argument, Langer does highlight that the Holocaust did not end so neatly for those who lived through it. Rather, they inhabit the second kind of time, 'Durational Time', which refers to the duration of the atrocity as it is experienced. For Langer, survivors never leave the event they have lived through, but rather continue to exist within its bounds. Chronological Time is an historical 'flow' of events. Durational time may have its events situated 'in the past', but there is no closure. The mentality adopted during atrocity fails to fade away. If you believe for over three years that your death will occur shortly, shaking off such a feeling becomes impossible, even as the external possibility of its realization diminishes. Individuals inhabiting this mentality often have a sense of 'missed destiny'. As they see family and friends murdered around them, they enter a mindset which assumes that the same will eventually happen to them - that the Camp is where they will die. Sum Rithy told me:

*It's only me who remembers where the bodies were buried, as the KR made me dig the graves. The Khmer Rouge, at the end of the war, took the*

<sup>18</sup> NGO worker 1 Phnom Penh, Interview with Tallyn Gray, 25 October 2012

<sup>19</sup> Bruce Mazlish, 'Ruptures In History', *Historically Speaking*, Volume 12, Number 3 2011, 32-33

*last of the prisoners in the cell and took them to kill, and buried the bodies behind the Wat. I left ten days before the KR left the prison. I was lucky. If I was still there I .... I 'should' be dead.*<sup>20</sup>

Indeed several Holocaust survivors have asked to be buried at the camps, so strong is the sense that this is where they were 'meant' to have died. For Langer's narrators, though they have gone on to have families and a life outside, their experience of the camps has never ceased.<sup>21</sup> As Lyotard states, they are in a state 'where the present is the past and the past is always present'.<sup>22</sup> This is illustrated vividly by the way that both Chum Mei and Bou Meng spend day after day in the place where their wives and children were killed. Bou Meng sometimes even sleeps at S-21.<sup>23</sup> Chronological time is irrelevant; people will always carry the fears of the past with them.<sup>24</sup>

Peg LeVine argues that the perception of Angkar as quasi-supernatural means that, for some of the generation who lived through DK, it remains a present lurking threat.<sup>25</sup> The discourse of *Angkar's* omniscience and the panoptic society the CPK projected into the minds of its people still affects them today. For LeVine's respondents, *Angkar* could make Khmer people commit unimaginable cruelties on other Khmers, to do things they would normally find evil, (almost as if they were possessed by something) and was thus felt to be omnipresent. LeVine's respondents felt even their own minds were read by *Angkar*. Thus Angkar is perceived, not as a defunct political movement, an ideology, or an ageing group of leaders, but as a phenomenon, something dwelling beneath the surface that can return. LeVine concludes that *Angkar* is an 'it', an underlying elusive entity alive in the collective psyche. No court can put an entity on trial. Within the ECCC genre of discourse, or indeed any discourse of the secular legal world, there is no way to convey this. LeVine finally reports that her narrators, while able to be happy even while they endure this lifelong fear, perceive their happiness is a 'trick' - an illusory mental state which distracts from the inevitable return of

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<sup>20</sup> .Sum Rithy, interview with Tallyn Gray, 29 July 2012

<sup>21</sup> Lawrence Langer, *Admitting The Holocaust : Collected Essays* (Oxford : Oxford University Press, 1995) 15

<sup>22</sup> Jean-Francois Lyotard, *Heidegger and "the Jews"*, translated by Andreas Michel and Mark S. Roberts (Minneapolis: University of Minnesota, 1990)16

<sup>23</sup> Bou Meng, Artist, S-21 Survivor, Phnom Penh interview with Tallyn Gray, 23 July 2012

<sup>24</sup> Peg Le Vine, *Love and Dread in Cambodia: Weddings, Births and Ritual Harm under the Khmer Rouge* (Singapore: NIS Press, 2010)151-161

<sup>25</sup> *ibid.*

*Angkar*. *Angkar* clouds all moments of joy with the anguish of the past and has a continued existence in ‘Durational Time’ through the anxiety of a people who also feel the obligation to maintain an ‘alarmed vision’ of the future for their children.

Ricœur conceptualized the present as the point where understandings are rearranged in context of what has been, and what is expected to come. Historical Time becomes a ‘human time’ (rather than an existential concept) when and as it is understood through narratives. Narrativity and temporality interact; indeed the limitations of language constrain discourse to temporality.<sup>26</sup> Narrative attains its significance and meaning because it emanates from temporality. The timebound nature of human existence is what allows us to read it hermeneutically and interpret ourselves in temporality.<sup>27</sup> Emplotment is a sequencing device whereby causality can be established between events.<sup>28</sup> Time is not a linear series of events, but rather a subjective concept, whereby events are highlighted according to the significance a particular narrator attributes to them. The present, in which stories are told, is the space of reconfiguration of ‘readings’, which change according to the ‘present’ we occupy.<sup>29</sup> Narration is an act of reading phenomena/history hermeneutically through semiotic infrastructure and discourse, thus enabling meaning to be deposited and negotiated through religion, art, language and so on. Narrative establishes human actions in what is subjectively understood as time, within memory and in contrast to histories.<sup>30 31</sup> Narrative is performed through its telling in time, through the unfolding and speaking of words, and simultaneously creates a structural framework. Narratives relate to the past, the present and the expected future.<sup>32</sup>

As discussed in Chapter Seven, within Buddhist soteriological narratives time is a construct, a framework enabling one to understand the Buddhist cosmology as a set of concepts, rather than as literally understood entity. Time is a metaphor. Buddhism has no creation myth, no explanation as to how *dukkha* originated, nor

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<sup>26</sup> Ricœur, Paul, ‘Narrative Time’, *Critical Inquiry*, Vol. 7, No. 1. 1980, 169-190

<sup>27</sup> Ricœur, Paul, *Time and Narrative*, Vol. 1, 52

<sup>28</sup> *ibid.* 31

<sup>29</sup> Ricœur, Paul, *Time and Narrative*, Vol. 3 translated by Kathleen Blamey and David Pellauer (Chicago: University of Chicago Press 1985)

<sup>30</sup> Ricœur, Paul, *Time and Narrative*, Vol. 3

<sup>31</sup> Ricœur, Paul, ‘Narrative Time’

<sup>32</sup> Ricœur, Paul, *Time and Narrative*, Vol. 52

is there a collective end like the Christian *parousia* . Collins argues that in Buddhism there can be no end of history.<sup>33</sup> Attaining *Nirvana* is an individual experience. The performance of texts (literally the reading of them) is only the ‘end’ insofar as the reader has stopped.<sup>34</sup> The structural mechanism of emplotment imposes ‘the ending’.<sup>35</sup> Thus time is configured in the *Pali imaginaire* as a device to enable understanding, rather than as the underpinning of a *fabula*.<sup>36</sup> Indeed Collins argues that in Buddhism there can be no end of history, since there is no beginning to it; time in Buddhism is both non-repetitive (linear, unfolding) and repetitive (like a pulse or the ticking of a clock across eons). Collins stresses these metaphors must be seen as complementary.<sup>37</sup>

Before addressing this issue of Buddhism and the way it narrates time, it is necessary to consider its relevance for Cambodians. As seen in the previous chapter, there are other religious concepts and practices, which may be described as animistic rather than Buddhist. I would contend that there is some fluidity between the two. One senior monk expressed a view I have heard repeatedly:

*Cambodians need to learn these things [Buddhist principles]. Most of them never learn it properly, or only very little.*<sup>38</sup>

While I will not go into what a definition of ‘proper Buddhism’ would constitute, the concern expressed by this narrator is that textual knowledge of Buddhism is not widespread. Indeed whatever traction the Buddhist philosophical outlook has in Cambodia is a function of what is orally communicated through the schools, which are run by monks, and of the rituals, ceremonies and events intertwining Buddhist discourse into daily life - even if Buddhist scholars and senior monks in Phnom Penh are concerned that this discourse is ‘not properly’ transmitted.

Lyotard’s description of how knowledge is transmitted demonstrates that it is communicated through narrative, without the recipients of that knowledge (the audience of the narrative) necessarily being aware of the narrative as transmitter. What is carried in narrations are the concepts, characters and place of the

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<sup>33</sup> Steven Collins, *Nirvana*, 106

<sup>34</sup> *ibid.* 111-112

<sup>35</sup> Ricoeur, Paul, *Time and Narrative*, Vol. 1 , 60

<sup>36</sup> Steven Collins, *Nirvana*, 2

<sup>37</sup> *ibid.* 122-138

<sup>38</sup> Ven. 6, Senior Monk, Phnom Penh interview with Tallyn Gray, 14 March 2010

narrative.<sup>39</sup> From this framework understanding of Time, we can move into a discussion of Memory and Imagination.

### **Memory and Imagination**

I went to speak to a ‘smot’ poet. *Smot* is a traditional form of poetry sung mostly (but not exclusively) at Buddhist events. It is a traditional type of singing. The *smot* poet I spoke to does not compose the songs, but memorises old texts and ways of singing. She learned the skill from her father, Initially she had little interest, but decided after her father died when she was a child to learn it ‘*as a kind of way to pay tribute to my father*’. Learning is based on repetition, reciting and singing over and over until it is learned by ear; the melody is not written down. She does less work these days and concentrates on teaching *smot* poetry to younger people. She is also blind, so prefers not to leave her village too often.

*I’m old - so I just want to keep to smot heritage... Mr Ieng Sithol, another Khmer Traditional singer, who is famous for singing at wedding parties, he introduced me to Cambodian Living Arts [an NGO that is trying to preserve the traditional Khmer arts] and they asked that I teach this to younger generations about ten years ago... They wanted me to teach because they wanted to keep the ancient Khmer music and arts etc. alive. There were few smot singers left in Cambodia – so it’s a good idea to keep the smot. So I have students who are now more famous than me! They are young and have a chance to sing overseas in England, Australia or the USA and I also have a former student who works in Phnom Penh as a Smot teacher.*<sup>40</sup>

The *smot* poet was imprisoned by the KR during DK, but is not sure why. Now, as well as singing at events like weddings, she has been asked several times to sing at events commemorating KR victims. She explained to me the meaning of the poems:

*Often they are discussing natural Karma: once born you are bound to die, and there will be suffering in life, sickness etc. Sometimes when we do this at funerals, they think that the ghosts listen – but it’s not sung for them. It’s sung for the living to help them consider life, to reduce their bad actions in life, to understand Karma and understand the meaning of each verse, and to teach people about Buddhist ideas. ...*

*I studied the books of the Buddha, and never took new poetry for recitation- mostly songs from the ancient texts. There are songs about all*

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<sup>39</sup> Lyotard, *The Postmodern Condition*, 21-23

<sup>40</sup> Smot Poet, Kompong Speu, interview with Tallyn Gray, 21 August 2012

*sorts of subjects, mothers, fathers, suffering, everyday life, different meanings ... I used to join with the gatherings that NGOs organised to sing at S-21 and the Killing Fields [Choeung Ek]. I chose this song. It relates to the suffering of life and karma, it's called 'The suffering life.' It's about...it's a song to describe life and Karma. The other is called 'Sad life.' The meaning in this song is that there is no guilt of those who suffered in this life, but that they may be having Karma from a previous life. It was a song that made many cry, and they saw the skulls of the victims, and they compared their life now. It is talking about how people did not do anything wrong, but they receive the Karma from their previous life.*

*The reason I chose this song was because it was a sad song and I thought it had a good meaning for the living and the spirits. We already know they died unjustly, so this song relates to this.<sup>41</sup>*

This song can loosely and unpoetically be translated as

*Life always changes, to be sad, happy, unhappy, upset - joy and misery for all human beings, and there is nothing at the end of it. Life absolutely changes for all, even kings, and beggars, animals, birds. All will die; consequently, no one can avoid dying, it is a natural Karma. Life always has suffering; tragedy, terror, sickness, age all apply to everyone. So please, human beings should be ready to realize this. Don't be scared, afraid, satisfied or unsatisfied when it happens to you.*

I use this poem/song as a micro-example. My narrator here is directly making the point that those who attended the ceremonies at S-21 and Choeung Ek where she sang were able to reconfigure memory/ narrative and experience hermeneutically. To briefly return to the ceremonial theme of Chapter Five, the use of the *Smot* discourse is an anthroposemiotic mode of expression. The issue this particular instance raises is how Time, Memory and Imagination function. The *Smot* poet is describing a multi-layered process, in which those who listen to her song project themselves into the song's narrative to situate their experience of Durational Time in the present.

The poem she sings situates the survivors in the present. Indeed the explicit function of the singing is to benefit the living, not to commemorate the dead. According to the *smot* poet the survivors are 'looking back' on their past in the present space (the ceremony). They are thus existing in Durational Time and reading it in terms of Chronological Time (temporality). This discourse of sung Buddhist funeral poems situates the entire story within the Karmic time narrative.

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<sup>41</sup> Smot Poet, Kompong Speu, interview with Tallyn Gray, 21 August 2012



Once again, the notion that one is receiving the Karma of the past life in DK is raised, as it was in Chapter Five in discussing the notion of 'blame'. However in this case the *smot* poet shows that this is not a notion which needs to tie the survivor into further feelings of self-blame. Victims receiving back their Karma are, in this incarnation, innocent. It is not a question of blaming oneself, but of situating oneself in a wider narration of *karma /dukkha*, whereby specific incarnations of existence are not responsible for their situation - in a way releasing them from guilt for what happened to them. Karma is externalized and placed in *dukkha*. This chimes with Langer's description of the guilt experienced by survivors about events they could not control. They feel guilty even though they lacked any agency to effect change ; the choice had already been made by the Nazi high command.<sup>42</sup> In the same way, for DK survivors in the context of the *smot* poem, they are shown to be a product of uncontrollable circumstances in a cosmology of suffering. One can put this differently by adapting Ricœur's concept of forgiveness, the notion of separating the act (sin) from the person (sinner).<sup>43</sup> The argument within the poem that 'life is unavoidable suffering' is compounded with the notion that you (in your present incarnation) are separated from the Karma accrued in previous existences. Karma is not a cosmic punishment for sins but a rebalancing. The Buddhist narrative is about escaping this *dukkha/karmic* time. Thus through the recitation of the song, the *smot* poet facilitates the placing of DK survivors within Chronological and Durational Time, allowing a hermeneutic reading of their experience in a reconfigured present.

She is also establishing an imaginative space in which survivors can orient themselves chronologically and durationally; at the same time she is facilitating intergenerational knowledge transmission through use of the poetic discourse. That is to say that the song's meanings, and the readings of those meanings, can be seen by the post-1979 generation.

### **Memory, community and the next generation**

Imagination is described by Ricœur as located at 'the lowest rung of the ladder

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<sup>42</sup> Langer, *Holocaust Testimonies*, 32-33

<sup>43</sup> Ricœur, *Memory, History, Forgetting*, 489

of knowledge'.<sup>44</sup> Memory and imagination overlap as recollection, which is an attempt to remember a prior reality. However, since we are unable literally to move through time, imagination is the principal tool by which the mind re-experiences an event.<sup>45</sup> In a sense, making a remembrance of 'objective' recollection is extremely difficult. Yet there is nothing better than memory that historiography can access.<sup>46</sup> History relies on the memories of those who lived through it, how they tell it and how they write it. Ricœur argues that the memories of individuals are fallible; collective memory is not the same as history. Collective memory should be understood as a set of processes of collective reconstruction and interpretation based on events in the past. Collective memory should be studied in relation to how individuals and societies try to represent the past in the present through memory and history.<sup>47</sup>

Imagination is also the core element of what carries memory through the generations via cultural, collective and collected memory. As well as 'a province of imagination', memory is the means by which the new generation can connect to their community's past.<sup>48</sup> I characterise the three years, eight months and 20 days of DK as a period of rupture in the nation's capacity to construct reality. David Gottlieb first developed the idea of 'rupture' in relation to the Shoah, exploring it in terms of the 'intersection of the mystical and the socio-theoretical' on a vertical (mystical/religious) axis and a horizontal axis (the 'line' of history).<sup>49</sup> For him, the effects of rupture on a culture are profound and irrevocable. 'Rupture most often can be seen as a spike of "vertical" energy into the flow of "horizontal" history, where it initiates a cascade of ruptures and begins its flow toward the stream-bed of cultural memory', with which it interacts.<sup>50</sup> Gottlieb argues that, following the Shoah, the Holocaust became an intrinsic part of Jewish cultural memory.

I have discussed both Anderson's idea of 'imagined communities' constructing narratives of collective identity - the 'biography' of the community - and the two

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<sup>44</sup> Ibid. 466

<sup>45</sup> Ibid. 6

<sup>46</sup> Ibid. 5

<sup>47</sup> Ricœur, Paul, *History and Truth* (Evanston: Northwestern University Press, 1965)

<sup>48</sup> Ricœur: *Memory, History Forgetting*, 5

<sup>49</sup> David Gottlieb, 'Repair Beyond Rupture: David Weiss Halvini, Karl Löwith and the Meaning of Repentance after the Shoah', *Journal of Jewish Thought*, Issue 2, 2011, 3

<sup>50</sup> David Gottlieb, *ibid.*

kinds of memory distinguished by Assmann in this process : ‘communicative memory’ between generations, and ‘cultural memory’ linking the long dead to the present.<sup>51 52</sup> As generations die, there is a turning point when communicative memory becomes cultural memory in an organic process, and memories are maintained by the new generation to interpret the distant past - the foundation of contemporary identity - in light of the present. The ‘rupture’ of DK was a near-fatal assault on the imagination of a country, forcing ‘communicative’ and ‘cultural’ processes to overlap and accelerate intolerably. Anderson and Assmann assume the possibility of socialization, that the binding chronological sequence of events in a community’s history can be ‘emplotted’ into a linear narrative nourished by personal and public memories. This, however, was effectively frozen by DK, not only by 1.4-2.2 million deaths, but by the way it consciously operated to replace the social stock of knowledge’ with the ‘reality’ of *Angkar*.<sup>53</sup> Neither socialisation nor binding could take place. As Ven. 14 says, too much was lost. The post-DK period was also too chaotic for communication about recent traumatic events to occur. Unlike the period following the Nazi Holocaust, when memories of the Shoah could be deposited in cultural institutions - especially following the creation of the State of Israel in 1948 – initial attempts at reconstructing Cambodian culture took place in context of an ongoing war, famine, a Soviet-backed Vietnamese government, and fear of a KR return to power.

At this point it is useful to present a case example of one community of whom I have some experience, the Cham, as a microcosm of the near wipe out of traditional culture and its re-construction, also exploring the issues specific to them. A predominantly Muslim group, the Cham do not exist in a cultural vacuum from the Khmer Majority. Indeed as a community they are very proud of being fully integrated into the whole of Khmer society, many expressing admiration for Hun Sen. All the Imams I met were CPP supporters, one, as I quoted earlier, stating explicitly, *‘We can have freedom to practice our religion, to do business,*

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<sup>51</sup> Benedict Anderson, *Imagined Communities* , 7

<sup>52</sup> Jan Assmann, ‘Collective Memory And Cultural Identity’ , translated by John Czaplika, *New German Critique* 1995, 65

<sup>53</sup> Craig Etcheson, ‘ “The Number” Quantifying Crimes Against Humanity in Cambodia’ , Mapping Project 1999: *The Analysis*, Phnom Penh, Documentation Center of Cambodia<  
<http://www.mekong.net/cambodia/toll.htm?><Accessed 28 February 2013>

and also I would like to bless Hun Sen and his family.' Community leaders also express pride in their ecumenical co-operation with the Buddhist *Sangha*. Buddhist/Muslim cooperation after DK was a necessity, but also part of the long history of the community in the nation:

*Buddhist and Muslims worked together at the time.... I remember when King Sihanouk (this was a long time ago) regarded Cham Muslims as Cambodians. We will sacrifice to our country the same as every other. We live well with the Buddhists and there is no animosity. For instance, in 2011 we had a border dispute with Thailand. Many Muslims signed up to army to fight for their country this is our country.*<sup>54</sup>

The Cham majority practice Sunni Islam. Broadly speaking one can identify two forms of Islamic practice among them, within three groups tracing their origins in Cambodia separately.<sup>55</sup> The majority practice an 'orthodox' Islam, praying five times a day and adhering to the five pillars of Islam, like the majority of Muslims in Malaysia, Thailand and the Gulf States.<sup>56</sup> There is also a 'Traditionalist Cambodian' Islam, with distinctive practices - for example, once-weekly rather than daily prayer, circumcision for boys at approximately fifteen, no obligation to make pilgrimage to Mecca and retention of some ancestral Hindu and Buddhist traditions. Such variations exist across Southeast Asia.<sup>57 58</sup>

I preface my discussion by stating that I am not drawing this thesis into the debate surrounding the question of whether the Cham were targeted because of their ethnicity. (This is a point of contention among scholars and one of the charges against the accused currently on trial.) I would rather simply direct the reader to the Co-investigating Judges at the ECCC who accept the figure of 36% of Cham who died in DK (as opposed to 18.7% ethnic Khmer).<sup>59</sup> My concern in discussing this community is that as a small minority they had even fewer resources after DK than the majority. I also contend that, whether or not one argues that the

<sup>54</sup> Imam 3, near Phnom Penh, interview with Tallyn Gray, 7 August 2012

<sup>55</sup> Allen Stoddard, 'The Cham Muslims of Cambodia: Defining Islam Today and the Validity of the Discourse of Syncretism', *Living on the Margins: Minorities and Borderlines in Cambodia and Southeast Asia* (Siem Reap: Center for Khmer Studies Publishing Department, 2008) 239

<sup>56</sup> Agnès De Féo, 'The Syncretic World of the 'Pure Cham'', *The Post*, Volume 14, Number 19, September 23 – October 6, 2005, 8-9

<sup>57</sup> Tom McKenna, 'Saints, Scholars, and the Idealized Past in Philippine Muslim Separatism', *The Pacific Review*, Vol 15, (2002) 539-53

<sup>58</sup> Farish A. Noor, ' "Kaum Muda": Pre-Net Reformists', *Malaysiakini*, March 22, 2001

<sup>59</sup> Office of Co-Investigating Judges, Closing Order (Case 002/19-09-2007) Extraordinary Chambers in the Courts of Cambodia:15 September 2010, Doc. n° D427, ¶¶ 747

Cham were subjected to a policy of ethnic cleansing, any minority community swept up in a general policy of traditional cultural eliminationism will proportionally suffer greater cultural haemorrhage.<sup>60</sup> If all one minority are concentrated in one location, and their mosques are destroyed, the experience of cultural destruction will inevitably be proportionately greater than in the rest of the society where there is more to destroy.

The 'social stock of knowledge' within this community was brought to the brink of annihilation for the Chams, who traditionally lived as a group rather than scattered among the wider community.<sup>61</sup> The process of memory production, the transmission of knowledge and cultural memory, and the ability to construct personal and communal reality had to begin with the most basic element – a community of people have to be together in the first place. Following this immediate need just to be together again, the question 'what makes us Cham?' had to be affirmed.

*The religion was almost totally destroyed by the Pol Pot regime. Not many Muslims with a high education were left alive. In some villages they had some older people who would try to pass on their knowledge to the younger generation. For women they explained about the hijab. They explained what they knew of the religious teachings. At the time we didn't have a mosque. We had to do this all in each other's homes, or maybe build a small house that acted as a kind of mosque in the village. We had to update and develop from day to day, year to year. After 1979 there were no written records left in the country; mostly everything had to occur from one person passing it on orally to another. This included the Koran; people had to pass on what they could remember from the past to the young generation.*<sup>62</sup>

*Only a few places in Cambodia still had any documents or Korans ... we tried to copy it by hand.*<sup>63</sup>

Cham identity is complex and constitutes more than simply practicing a different religion from the majority; however, after genocide the Cham reached out to their religion as the most significant factor in rebuilding their sense of themselves.

The Cham had to recoup as much of their pre-DK cultural knowledge as they could. Often this meant identifying elements of that could be recalled out of the

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<sup>60</sup> Daniel Jonah Goldhagen, *Worse Than War: Genocide, Eliminationism and the Ongoing Assault on Humanity* (London: Little, Brown, 2009)

<sup>61</sup> Berger and Luckmann, *The Social Construction of Reality*

<sup>62</sup> Imam 6, Kompong Cham, interview with Tallyn Gray 3 October 2012

<sup>63</sup> Imam 5, Kompong Cham, interview with Tallyn Gray 3 October 2012

‘ruins of memory’.<sup>64</sup> This comprised small scraps out of context, personal memories, and an imagined version of their pre-genocide culture. A scrap of knowledge is a starting place. In a context where few Imams had survived to explain details of practice, the community had to find the most basic elements of their culture; diet and clothing were the first available ways to demonstrate faith and reclaim culture, especially as no mosques and very few copies of the Koran remained to reinforce them.

Some scholars contend that Cham culture, particularly among ‘traditionalist’ adherents, has latterly been subjected to an influx of foreign Islamic practice, undermining Cham tradition.<sup>65</sup> Agnès De Féo, for example, argues that the influx of foreign proselytisers treat cultural variants of Islam with disdain in their quest to bring ‘true’ Islam.<sup>66</sup> Islamologist Oliver Roy also argues that the globalisation of Islam promoted by foreign proselytizers actively seeks to ‘de-culturalize’ Islam, advocating a non-territorially bound universal Islam, which advocates for a ‘delinking of Islamic religiosity from ethnic cultural identity’.<sup>67 68</sup> While it is a source of pride that the young receive such knowledge, and the Imams I interviewed were pleased to feel part of the global *Ummah* in a way they had not in the pre-DK era, there was, as the above quotation illustrates, some anxiety about practicing Islam ‘properly’. There is even a sense the foreigners do this ‘better’ than the local population, a welcoming of foreign influences because older domestic actors do not feel so well qualified to teach Islam. The older generation were perhaps anxious to embrace the universalising form of Islam offered by proselytisers as the most readily available connection to the *Ummah*. Chams were able to find some manifestation of their religion, without necessarily making a conscious choice to override local tradition. Given the cultural destruction of the KR, foreign proselytisers were able to fill a vacuum without the necessity of contending with local cultural forms to the extent they may have experienced in other locations. The younger generation have been educated in this newer mode, which does not conceive religion as something one is culturally born into, but as

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<sup>64</sup> Langer, *Holocaust Testimonies*

<sup>65</sup> Stoddard, *The Cham Muslims of Cambodia*, p 242

<sup>66</sup> Agnès De Féo, *Transnational Islamic Movement in Cambodia*, Conference Paper presented at Dynamics of Contemporary Islam and Economic Development in Asia From the Caucasus to China, India International Centre (IIC), New Delhi, April 16 – 17, 2007

<sup>67</sup> Oliver Roy, *Globalized Islam: The Search for a New Ummah*, (London, Hurst and Co. 2004) 108

<sup>68</sup> *ibid.* 2

an abstract, deculturalised philosophy/ practice de-linked from ethnicity. This has consequences for the way they understand their Cham identity.

This example illustrates the case of cultural destruction and reconstruction in a globalized context, an example of how culture can be broken down and what fills the vacuum can significantly differ from what existed previously.

### **Narrative and Belief**

The problem for the younger generation is that such a radical rupture in the continuity of the social construction of knowledge can mean issues of believability. Amongst the post-1979 generation there is a widespread ignorance of the Cambodian holocaust. There may be disbelief, or the assumption the older generation are exaggerating. Two Cham Muslim DK survivors gave similar accounts of this:

*Sometimes some families have told this story as they think it's important for the young generation to know, to understand. But for the young generation, I do not think they are so interested.... Because they have never themselves encountered such an experience, some of the experiences that they are told they find unbelievable: like for people to eat trees, or eat one corn for two people over a day. To eat pig ... the grandparents will say, 'I eat the pig meat.' The younger generation don't believe it. For now they do not eat it. They say that, 'Pork is not for us.' The young never see this themselves, so they can't believe.<sup>69</sup>*

*Often I tell the younger generation in my village, and also I have taken them to S-21.<sup>70</sup> Before, they do not believe, but afterwards, when I took them to see, they believe the story. Also, in Pol Pot there was no mosques, no religion at all. So sometimes when I'm talking to young people they can't believe me: but after showing them they believe.<sup>71</sup>*

**TG:** *Why do you think that it is difficult for young people to believe it happened?*

**Imam:** *Kids who are teenagers or twenty-somethings just only hear [about what happened]. They have never seen this kind of thing, so are reluctant to believe. But if they see some evidence, it builds up their ability to believe.<sup>72</sup>*

The young are unable to reconcile what they see today with the past described to them by their (grand) parents. In their lifetime they have never experienced or

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<sup>69</sup> Imam 2, Kandal Province, interview with Tallyn Gray 6 August 2012

<sup>70</sup> Former DK era prison and torture centre and now the site of the Tuol Sleng Genocide Museum

<sup>71</sup> Imam 1, Kandal Province, interview with Tallyn Gray, 6 August 2012

<sup>72</sup> Ibid.

seen Cambodia as it was in the late 1970s- mid 1980s. It is difficult to imagine their nation in such a state. One Cham Imam told me:

*We listen to the court mostly from the TV. Mostly they talk about all the killings in the court, [the criminal charges of murder, genocide] but not much about the religious persecution or the destruction of traditions.... The young generation know that the Khmer Rouge killed, but they do not know the experience of that time ... the way the practice and tradition was attacked.*<sup>73</sup>

This expresses the difference between simply knowing the body count and discussing the impact of so many deaths. Langer argues that numbers and concepts (the six million, the ‘final solution’) are remote from what needs to be put across to educate the next generation about genocide. Graphic and detailed narratives must be presented about the murder, torture and obliteration of an entire people; their culture and its loss must be conveyed to make ‘...an indelible and subversive impression on their moral, political, philosophical and psychological assumptions about individual behavior and the nature of reality’.<sup>74</sup>

I had planned to talk to young people about their opinions of the KR time.

My interpreter Sina Thor, a 26-year-old former monk, now a freelance journalist, told me:

*Young people will tell **you** as a ‘barang’<sup>75</sup> that they care about the Khmer Rouge time, of course they will. But the interest is in fact minimal. We can talk to students if you like but whether or not you will get the real answer from them [as opposed to the answer they think I want] is going to be a problem. Let’s face it; most of Cambodia’s youth are more concerned with Apple’s latest product than talking about genocide.*<sup>76</sup>

I asked two NGO workers dealing with ECCC and Khmer Rouge related issues about the reasons for this apparent lack of interest, or even lack of belief that the atrocities of DK took place:

*I think the parents say things like, ‘ You know, in Khmer Rouge time we were worked very hard, or we had no food, no rice, only one bowl of porridge a day,’ or, ‘I saw many people shot.’ It’s completely different from right now in contrast. They cannot imagine their parents’ past. I*

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<sup>73</sup> Imam 6, Kompong Cham, interview with Tallyn Gray, 3 October, 2012

<sup>74</sup> Langer, 180

<sup>75</sup> Khmer word meaning ‘Frenchman’ (a hangover from the colonial era) now a term universally applied to all foreigners regardless of race or gender.

<sup>76</sup> From my field journal – 7 August 2012



*myself - my parents told me that during that time they walked from Phnom Penh to Preh Ven. This is over 100km. I asked, 'Why you not use the bicycle?' I almost did not believe them too. But based on my readings and other knowledge, I have ways to know their story is a true one.*<sup>77</sup>

Rothany Srun argues that Pol Pot attained a 'bogey man' status in the minds of younger people, an almost mythical figure used to threaten children who do not eat up their vegetables:

*When parents talk to their children about KR the younger generation don't believe. Parents will say things like, 'Eat up all your food, during Pol Pot we had none,' or, 'You're being lazy, under Pol Pot if you were lazy you would be shot.' The young don't take the older people seriously ... many of the kids want actual evidence, rather than old people complaining about how hard life was in the old days.*<sup>78</sup>

While I have previously discussed problems with the cliché 'those who do not learn from history are doomed to repeat it,' the question of how violence is carried through the generations is important to any discussion of memory and intergenerational communication. Approximately two million people in Cambodia suffer from Post-Traumatic Stress Disorder (PTSD). PTSD is related to drug addiction, alcoholism, suicide, domestic and child abuse, in a country with almost non-existent mental health services.<sup>79</sup> According to numerous reports to the NGOs, PTSD appears to be passing through from one generation to another. Rothany Srun of the ICFC is convinced that 'trauma is going through the generations.'<sup>80</sup> Ven. 10, a senior monk and academic at a Buddhist University describes how this happens:

*What happened in communist society [DK], right now has the impact from the past, right now with violence so when – even with domestic violence, I always observe about that. The parents always do something not so good upon their children, because the parents used to suffer from the brutality of the past. So they have passed on that violence to the next generation. This is why I lead the youth to ask about this, to ask their parents about what they faced in the Pol Pot regime. Why our family has domestic violence - is it because of the past? Or not because of the past? So according to our research and observation, most of the people at that time*

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<sup>77</sup> NGO worker, Penh, Interview with Tallyn Gray, 25 October 2012

<sup>78</sup> Rothany Srun, ICFC, Interview with Tallyn Gray 8 August 2012

<sup>79</sup> Heleyn Unac, 'The Tribunal's Broader Role Fostering Reconciliation, Peace and Security': *The Khmer Rouge Tribunal*, ed John. D. Ciorciari (Phnom Penh: Documentation Center of Cambodia, 2006) 158-159

<sup>80</sup> Rothany Srun, ICFC, Interview with Tallyn Gray 8 August 2012

*saw violence and all the brutal acts people committed on each other, killing of each other, and this impacts on the young generation.*

*I used to say in the youth workshop – I would use this example: one boy's parents committed violence on him. He was around 14-15. Every day the parent would always commit violence on him. He hated his parents very much. And one day they asked him to take his sister to go for a walk, and when they went and she was in the playground at the school and his sister went on the swings, he let his sister do it alone. Suddenly, his sister fell from the swing to the ground and he ran over to take his sister up and punched her, yelling, 'Why are you so stupid? Why you don't hold the swing not to fall?' It was a kind of instinct of his because of the past, because of the violence from his parents. Actually he does not want to do that; but the impact of the violence ... He can stop that. He must have a strong commitment that he must not do this kind of violence to anyone. 'It must stop from me,' [he must resolve to say to himself]. 'When I have children I will never commit this violence on my children. I will not commit this kind of violence on other people.'*

*So I tell these youths from different communities, 'If you want to stop violence in our society it is the same. You must learn from this past and stop from now on.'*<sup>81</sup>

Another disturbing trend is that of intergenerational factionalising:

*Children of former KR and the children of victims saw the problem carries over. Victims told their children they could not be friends with the children of former KR.*<sup>82</sup>

*There are conflicts in school between the former KR's children and the victims' children - fights breaking out because the parents told them of the bad things the KR parents did their family.*<sup>83</sup>

I asked Ven. 10 if he had heard of this phenomenon:

*Oh yeah, this has been a problem. Yes, the impact of the violence has led not just to Khmer Rouge families seeing their children in conflict with other students...*<sup>84</sup>

Communicative and cultural memory have had to develop simultaneously with the social 're-construction' of reality, following the period during DK in which the processes described by Assmann and Berger and Luckmann were radically inverted and collapsed. Cultural memory and communicative memory processes, the assemblage of the 'social stock of knowledge', have crashed into each other,

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<sup>81</sup> Ven.10, Phnom Penh, Interview with Tallyn Gray, 16 August 2012

<sup>82</sup> Rothany Srun, ICFC, Interview with Tallyn Gray 8 August, 2012

<sup>83</sup> Chak Sophy, ICFC, Interview with Tallyn Gray 8 August 2012

<sup>84</sup> Ven.10, Phnom Penh, Interview with Tallyn Gray, 16 August 2012

and neither has been granted the space or time to operationalize in the way the theorists who devised the models proposed. Cultural memory has been impressed on the next generation without significant focus on the ‘rupture in the process of the construction of reality’ that was DK. The next generation are having parts of the history communicated to them, but not in a way that enables them to imagine themselves in the ‘biography’ of the community.

The post-1979 generation share a present with the generation that lived through DK. Yet if members of that surviving generation exist in durational time they inscribe that ‘durational’ period onto that present they share with the younger generation, drawing them too into durational time. Yet the post-1979 generation lack knowledge of the DK period, as it was never effectively communicated to them. Hence what is communicated is a set of emotions, traumas and fears. Traumatized parents are bringing up children and impressing their trauma on them, telling them not to associate with the families of their enemies, to fear a group of people (the KR) of whom younger generations know little. Younger people see violence in their lives and do not know from whence it stems in their (grand) parents.

Inadequate narrativisation has occurred for the post-1979 generation, because the generation that lived through DK have in many ways been unable to hermeneutically reassemble the present they occupy. This is compounded by the fact that the ‘expected future’ is an ‘alarmed vision’. Major nationwide memory assemblage initiatives have been so obscured by the political message hammered across that imaginative space is shut down. For example, the National Day of Remembrance (20 May) in Cambodia was only brought into existence in 1983 by the Vietnamese occupying government as ‘Day of Maintaining Rage Against the Genocidal Pol Pot-Ieng Sary-Khieu Samphan Clique and the Sihanouk-Son Sen Reactionary Groups (also against the Americans, and Chinese).’ The focus of this holiday (only named ‘Day of Remembrance’ in the mid-1990s) was on legitimising the government, not on commemorating the events of DK. The nation was too preoccupied by war and famine in the 1980s for effective narrative to take place. The 1990s saw the period of ‘induced amnesia’. Thus only in the recent period have the post-1979 generation been told about this history in such a way as

to impact significantly on their moral, political, philosophical and psychological assumptions; in the present, history, memory and imagination are enabled.

While I contend that religious discourse has discussed this at length, such a means of vernacular remembrance is too abstruse when there is a need for graphic representation of that time. Just as the survivors described in Chapter Five discussed their frustration with artistic media when trying to represent what happened in DK, Langer's call to provide an 'indelible and subversive impression on their moral, political, philosophical and psychological assumptions about individual behavior and the nature of reality' is too difficult in face of the politically controlled narrations of DK.<sup>85</sup> This is an academic hypothesis about the nature of narrativization following atrocity. However, the difficulty of communicating the story has been diagnosed as a problem by monks and NGOs working upon the difficulties of intergenerational communication. One of my interviewees was a young Khmer NGO worker (NGO worker 1); his NGO, along with the other NGOs, is attempting to fill the gaps:

*I think the first thing we can do is memorialization. The second is really education and integrating memories into the education and history at schools. We should gather testimonies of survivors and perpetrators. And also we can do various activities. Like the water ceremony - we can bring former KR and a survivor together and with the monks. The young generation do the water ceremony to the survivor, meaning they clean the killing by washing it away. Next year, we want to do something with children of the perpetrators and children of the survivors, to sit and talk together, to help the next generation- even though their parents will not deal with this.*<sup>86</sup>

However, budget problems and lack of domestic political will effectively close down activities like this.

*We encourage the monastic community to work at reconciliation, as we see Buddhism as having a key social role in the Cambodian context. So we train monks and operated the program in 4 provinces. Funding for this project dried up.*<sup>87</sup>

Attention to believability is key. The younger generation do not believe, or at least struggle to understand. Between generations there is a gap, across which the older

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<sup>85</sup> Langer, 180

<sup>86</sup> NGO Worker 1, Youth For Peace Phnom Penh, Interview with Tallyn Gray, 25 October 2012

<sup>87</sup> NGO Worker 1, Youth For Peace Phnom Penh, Interview with Tallyn Gray, 25 October 2012

surviving DK generation feel the need to communicate the narrative of the DK time to the next generation, for the story to enter the cultural memory. The telling of the story is the meaning of justice. As I noted at the start of this chapter, Arendt and Ricœur assert that the core justice need is 'to be memorable'.<sup>88</sup> Sen's continuum of justice, along which one can plot in evaluative comparison the state of justice towards an ultimately unachievable transcendental ideal, is useful in making an assessment of what is and what is not seen to be just.<sup>89</sup> While 'perfect' justice in relation to mass atrocity is unobtainable, what is to a degree achievable, and possible to plot on Sen's scale, is believability in communication that will fulfill the need to be 'memorable'.

Throughout this study, justice in the Cambodian context is communication to the younger generation: the struggle to get them to believe, to remember the story. What is significant to the narrators is the mode by which the story is communicated and the satisfaction it has been adequately transmitted. This is especially important in a country where books are not read as widely as they are in neighbouring countries.<sup>90</sup> While survivors of the DK regime acknowledge that there will never be a full story and representation of experience which could be adequately conveyed, there is the possibility that enough can be conveyed for the story to be installed into cultural memory. The meaning of Justice emerges from the way the story is expressed. Inevitably, limitations will be imposed, but some modes of expression are nevertheless more satisfying than others. The more constraints placed on the ability to tell the story, the greater restriction the grand narratives impose, the more exclusive the genres of discourse and their phrase regimes, the slighter the 'space' for the small narratives to speak, the more the injustice of exclusion becomes apparent.<sup>91</sup> Justice in this sense is not based on consensus and or communitarian values alone, but on the practical ability of the small narratives to have space on their own terms.<sup>92</sup>

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<sup>88</sup> Paul Ricœur interview with Richard F. Kearney, *On Paul Ricœur: the Owl of Minerva*, (Aldershot: Ashgate Publishing, 2004) 127

<sup>89</sup> Sen, *The Idea of Justice*, 409

<sup>90</sup> CIA World Fact Book : Literacy rates 73.9% Cambodia, 93.5%Thailand, 92.7% Burma, 93.4% Vietnam <<https://www.cia.gov/library/publications/the-world-factbook/>><Accessed 29 July 2014>

<sup>91</sup> Lyotard, *The Postmodern Condition* , 66

<sup>92</sup> *ibid* . 66

There will never be a completely satisfactory way to narrate this story. However, we can place the ability to tell the story and the satisfaction derivable from its telling on a continuum where ways and means of telling can be compared. Although the highest end of the continuum (the ideal) is unobtainable, ways which allow greater room for ‘those whose voices are powerless, marginalized, vanquished, cry[ing] out in history for justice, through recognition’ may compare more favorably than the ways that narrate the idea and story of justice in phrase regimes and genres of discourse shaped by the imposition of powerful, hegemonizing grand narrations.<sup>93</sup>

### **Conclusion**

The telling of the story requires that both the survivors and the post-DK generation enact a threefold process, which Ricœur describes thus:

The future, which [the mind] expects, passes through the present, to which it attends, into the past, which it remembers...yet expectation and memory are ‘in’ the soul as impression-images and as sign-images ...it is in the soul, hence as an impression, the expectation and memory possess extension. But the impression is in the soul only inasmuch as the mind acts, that is, expects, attends and remembers.<sup>94</sup>

For DK survivors the mind needs to exist at the present moment in both a remembered past and an imagined future ; for the post-DK generation their minds must exist in the imagined past, the present, and an imagined future. Yet one thing that has emerged throughout this chapter is the frustration of my narrators, their awareness that they will never be able to ‘tell the full story’.

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<sup>93</sup> Paul Ricœur interview with Richard F. Kearney ,*On Paul Ricœur: the Owl of Minerva*, (Aldershot: Ashgate Publishing, 2004), 127

<sup>94</sup> Ricœur, *Time and Narrative*, Vol. 1 , 19

## **Concluding Chapter**

This thesis has not taken a normative comparative approach, but began with an open-ended set of aims, which sought to understand the socio-cultural meanings of transition and justice, how these two concepts are narrated in official and unofficial processes, what meaning the process of narrative has in terms of justice, and what can be said about processes as means to deposit cultural memory. This offers a way to determine the Cambodian experience of transition and justice outside the normative TJ paradigm.

The thesis thus argues that **there is no justice or transition without narrative**. It is narrative that performs both of these functions; it is also narrative that inhibits them, should a single narrative overpower all other tellings.

The previous chapter concluded that Justice is not containable (although it is often contained) in any single representation or narrative institution, but rather is always plural and fluid. Different ideas overlap, converge, even contradict, in an ongoing process of narrating justice. Indeed the chapter reads in part like a conclusion. However, to end at this point would be to have wrapped up a narrative much too neatly. This thesis is underpinned by the notion that justice and transition are liquid and multiple, without clear beginnings or ends. Indeed the principal issue I have tried to demonstrate is that the many official (and unofficial) ways in which the DK period has been narrated have all been performed within narrative parameters that limit how justice can be articulated. To end with a normative, neatly wrapped view would be contradictory. I instead conclude that we are still seeing narratives unfolding, that this is a process without a fixed end point.

Throughout I have explored how official and unofficial, communal and individual narratives are related. The emergent narrative of the thesis is thus inevitably 'messy.' Hence the conclusion will not tie up as if the thesis were utilizing normative theoretical frames (Liberalism, Marxism or Transitional Justice). However it is useful to describe in theoretical terms what the thesis has done.

Throughout, I have curated and arranged some of ‘the ubiquitous numberless narratives’ making up the ‘quintessential customary knowledge’ that links the generations.<sup>1 2 3 4 5 6 7</sup> I have explored narratives as ‘institutional infrastructures’ (such as national narratives, TJ, Marxism, Buddhism, mythology, nationalism), which take up the task of configuring a narrative of justice in a process of emplotment within the variously designated ‘phrase regimes and genres of discourse’ of the institutions.<sup>8 9 10</sup> I have shown that in doing so social actors are variously in/ex/cluded, exposing a *Differend* or a process of narrowing the narrative so as to exclude parts of the ‘whole’.<sup>11</sup> I have throughout demonstrated that social actors, while possibly acquiescing to the domination of the hegemonic narrative, are nonetheless aware of this, and are able *en situation* to produce critiques about their own society, culture, history and politics within their own critical frames, not just passively blown about by powerful discourses.<sup>12</sup> I have attempted to grasp the discontents of actors and carry out theorization through them, by asking those watching the grand narratives unfolding in their nation about what they think.<sup>13</sup> In short the *Differend* is attested to through the voices of social actors *en situation*.<sup>14</sup> Such critiques interrogate official narratives and / or are usurped by the powerful metanarratives that interfere with the capacity for hermeneutic readings.<sup>15</sup>

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<sup>1</sup> Roland Barthes ‘Introduction to the Structural Analysis of Narrative’, translated by Stephen Heath, *A Roland Barthes Reader*, ed. Susan Sontag, (London: Vintage 1994) 251.

<sup>2</sup> Ibid. 251.

<sup>3</sup> Lyotard, *The Postmodern Condition*, 19

<sup>4</sup> Assmann, ‘Collective Memory and Cultural Identity’

<sup>5</sup> Berger and Luckmann, *The Social Construction of Reality*

<sup>5</sup> Benedict Anderson, *Imagined Communities*, 1-7

<sup>6</sup> Lyotard, *The Postmodern Condition*, 19

<sup>7</sup> Trin, *Woman, Native, Other*, 122

<sup>8</sup> Boltanski, *On Critique*, 75

<sup>9</sup> Ricœur, Paul, *Time and Narrative*, Vol. 1 .31

<sup>10</sup> Lyotard, *The Differend*, 48

<sup>11</sup> Ibid.

<sup>12</sup> Luc Boltanski, *On Critique: A Sociology of Emancipation*, translated by Gregory Elliott, (Cambridge: Polity Press, 2013) 26

<sup>13</sup> Ibid. 5

<sup>14</sup> Ibid. 24

<sup>15</sup> Ibid. 76



One can also think about the processes discussed in terms of how fully a narrative is, or is not, able to be expressed by a social actor, or how feasible a narrative makes entry into itself, by placing it on a comparative continuum.<sup>16</sup> This might appear to be making a normative claim about narrative - as though to say that the telling of the story will have an end. It will not. But this does not mean that the attempt to tell the story is meaningless or that all tellings will be the same. While *fabula* and *sjuzhet* may be a structuralist/ modernist conceit, they are useful in that they provide a toolset for the dissection of narrative.<sup>17</sup> Post-structuralist narrative theory operations are, as McQuillan argues, haunted by structuralist practice; the usefulness of the terms is as academic shorthand which aids in the conceptualization of heterogeneous ideas.<sup>18</sup> Through such shorthand a resolution can be obtained – even if that resolution is in itself artificial/temporary /constructed. Put shortly, it is a way to order chaos – even if the ‘order’ is imaginary.

The telling is an endless process. Grand Narratives - Marxism, Liberal Democracy/Transitional Justice, and even the narrative metaphors of Buddhism - establish normative measures that will forever create some kind of ‘*Differend*’. Put starkly – there is no universal story of justice. The infinite plurality of speaking history and phrases must and will not be finally ended.<sup>19</sup> What I hope this thesis has done is to demonstrate that actors do stand up to the hegemonic domination of singular narrative.<sup>20</sup> And in passing the story to another generation they forge another ‘link in the chain’ that connects generations.<sup>21</sup>

Lyotard was an obvious theoretical starting place for this thesis, in that the story of the collapse of the grand narratives has an obvious case example in the history of Cambodia.<sup>22</sup> Cambodian history clearly attests to the way that the western grand narratives have collapsed in the country. Marxism, liberal democracy,

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<sup>16</sup> Sen, *The Idea of Justice*, 409

<sup>17</sup> Todorov, ‘The Typology of Detective Fiction,’ 70

<sup>18</sup> McQuillan, ‘Aporias of Writing: Narrative and Subjectivity’, 6-7

<sup>19</sup> Jean-Francois Lyotard, ‘The Sign of History’, *The Lyotard Reader*, ed. Andrew Benjamin, (Oxford: Blackwell 1998) 409

<sup>20</sup> Boltanski, *On Critique*, 5

<sup>21</sup> Trin, *Woman, Native, Other*, 122-130

<sup>22</sup> Lyotard, *The Postmodern Condition*, 66

nationalism have all variously and with differing degrees of disaster fallen apart on encounter with Cambodia - perhaps because all such ideas have been imported and imposed on the nation.

This use of Lyotard has also enabled me to move between the macro- and the micro-, to oscillate between the grand tellings (for example the PRT, the ECCC) and the smaller narratives of individuals. This is important as it is to these grand narratives that smaller ones are usually set in relation, in the sense that many people are aware of their own story's inclusion/exclusion from the grand narrative that creates a dominant narrative. Lyotard envisages a postmodernist justice as attention to those points on which the Grand Narratives crash, and hearing the voices of those silenced and crushed by the *Differend*. 'Little stories' are vital precisely because they do not fit into great histories.<sup>23</sup> It is in these little stories that 'the history of the vanquished dead crying out for justice' can be told.<sup>24</sup> The meaning for the telling of small stories lies in the need for one generation to communicate to another. This answers Arendt's point that one meaning of being human is the need to be remembered and recollected in narrative discourse – 'to be memorable'.<sup>25</sup> <sup>26</sup> Indeed this is the nature of both transition and justice. One cannot let the past slip into memory if it is felt to be in danger of being forgotten.

My adaptation of Sen's 'continuum of justice' has two roles here.<sup>27</sup> Firstly, it allows me not to place a transcendental and/or normative goal against which to measure the empirical material, instead allowing me to keep the idea of justice as something open-ended. Secondly, it is a useful tool to make comparisons of the processes discussed: trials, rituals, and memorials. Comparison here is a subjective exercise; but it lets me make the conceptual point that not all tellings are the same, and that some people may place greater value on some tellings than others. As a demonstration (it is not my place to do this, but I make it to enable the reader to see how such a comparative assessment may work) I would arrange

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<sup>23</sup> Jean-Francois Lyotard, 'Lessons in Paganism', *The Lyotard Reader*, ed. Andrew Benjamin, (Oxford: Oxford University Press, 1993)127

<sup>24</sup> Paul Ricœur, interview with Richard F. Kearney, *On Paul Ricœur: the Owl of Minerva*, (Aldershot: Ashgate Publishing, 2004)127

<sup>25</sup> *ibid.*127-128

<sup>26</sup> Paul Ricœur, *Figuring the Sacred: Religion, Narrative and Imagination*, translated by David Pellauer (Minneapolis: Fortress Press, 1995)

<sup>27</sup> Sen, *The Idea of Justice*, 409

my own assessment of the different processes used in discussing the DK period along a continuum like this:



I contend that the most discernable meaning for the generation that survived DK is to be ‘memorable’ (in Arendt’s sense of the term).<sup>28</sup> Hence I have placed the rituals of memorialization ahead of all the trial processes - others will have different views.

This way of conceptualizing narrative, justice and transition allows us to think about what these processes did, and how they enabled a narrative to the satisfaction of the narrators. Since I am stressing that there is no justice without narrative, the emergence of such a narrative is vital.

### **Getting away with Genocide? ‘Don’t bother talking to Cambodians, they will only confuse you’**

Fawthrop and Jarvis’s 2004 book argued that the USA, Thailand and China put pressure on the UN and thus the CPK leaders were ‘Getting away with Genocide’ for many years.<sup>29</sup> Several years into the ECCC process, with only one conviction, only two of the original four Case 002 accused still standing trial (thus far) and Cases 003 and 004 in limbo, former mid-level KR (responsible for the deaths of many) are currently serving as officials. No American, British, Chinese or other decision makers complicit in or liable for the deaths of hundreds of thousands of Cambodians are likely ever to be held to account for their atrocities under international law.<sup>30</sup> The question at this stage that arises is, ‘Is “the forgotten genocide” still being “gotten away” with?’ In the strict legal sense, the genocide

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<sup>28</sup> Ricœur interview with Kearney, *On Paul Ricœur*, 127

<sup>29</sup> Fawthrop, and Jarvis, *Getting Away With Genocide?*

<sup>30</sup> John Pilger, ‘How Thatcher Gave Pol Pot a Hand,’ *New Statesman*, 17 April 2000<  
<http://www.newstatesman.com/node/137397>> <Accessed 31 March 2013>

charge will not be addressed until the next section of Case 002(002/02) - whenever that will be.<sup>31</sup>

Peter Maguire discusses a conversation with a UN official while researching his book in the early 1990s:

When I described my current interest in Khmer Rouge War Crimes...she grew defensive and dismissive. 'Well, nobody is really interested in those questions anymore.'...When I politely reminded her that ...the war crimes impunity in Cambodia raised serious questions about war crime accountability in the late twentieth century, she sharply rebuked me for using the word 'genocide' as the official term was now 'autogenocide' ...Her final piece of advice to me: 'Don't bother talking to Cambodians, they will only confuse you.'<sup>32</sup>

The last sentence epitomizes the attitude of the global community towards Cambodia – the confusion that the Cambodians 'cause' is that they do not align neatly in ways that institutions, politicians, some academics and all those pushing a grand narrative understand or prefer. For anyone seeking to fit the telling of this history into a grand narrative, talking to Cambodians would be confusing. Politically, Liberal and Marxist academics want the history to fit into their telling. When individuals tell their stories that do not fit, the political frame of the authors' narratives becomes askew. Trials try to perform their ideologies/narratives, but non-canonical stories disrupt the flow of the narrative and are necessarily marginalized. Alternative tellings, in locally more accessible phrase regimes and genres of discourse, can exist along side the official tellings, but only if they fit with the constraints imposed. Those who have no place can only transgress, become marginalized or silenced.

What is left are the 'confusing' Cambodians battling to deposit their own memories into cultural memory. This, to many of my narrators, is the most important meaning of transition and justice: transition is being believed by the

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<sup>31</sup> ECCC : Trial Chamber Outlines Way Forward in Case 002/02, ECCC website< <http://www.eccc.gov.kh/en/articles/trial-chamber-outlines-way-forward-case-00202>> <Accessed >11 March 2014> See also Trial Chamber Severance Order Pursuant to Internal Rule 89 *TER* Extraordinary Chambers in the Courts of Cambodia: doc. No. E124 22 Sept. 2011 . The Trial Chamber separated proceedings of Case002 into segments .

<sup>32</sup> Peter H. Maguire, *Facing Death in Cambodia* (New York: Columbia University Press, 2005)17-18

succeeding generation and the wider world in order to make a ‘move’ out of the former time; and justice is the ability to narrate and not be ignored.

### **Today- contemporary developments in telling the story of Justice and Transition.**

Concurrent to the final arguments at the ECCC in case 002/01, a modern political crisis of immediate relevance was playing out. On 28 July Cambodia held its fifth general election since the installation of the 1993 Constitution. The results of the election have been resolutely contested by the opposition Cambodian National Rescue Party (CNRP), led by Sam Rainsy, since the announcement made by the National Election Commission (NEC) on the same day. The ‘preliminary result’ declared Hun Sen’s Cambodian People’s Party (CPP) narrowly the victors with a small majority in the national assembly, a result the NEC would later confirm.<sup>33</sup>

Human Rights Watch (HRW) has accused the ruling party of orchestrating a huge electoral fraud.<sup>34</sup> Complaints of election fraud have been widespread, even on polling day itself. At a polling station, I personally saw people deeply unhappy with the behaviour of the election overseers, telling anyone who would listen (me included) that they felt the process was a joke.

The most significant domestic election monitoring group was comprised of the many NGOs gathered at the offices of the Committee for Free and Fair Elections in Cambodia (COMFREL) in the ‘situation room’; they established themselves there to receive results and for the NGOs to make comments on/ to the media. COMFREL monitors observed more than 10,000 irregularities at polling stations,<sup>35</sup> including duplication, the non-appearance of names on voter lists, and people being turned away from the polls, amongst other serious allegations. The

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<sup>33</sup> National Election Committee website: Election Results  
[http://www.ncelect.org.kh/nec\\_khmer/index.php?option=com\\_content&view=article&id=1158&Itemid=348](http://www.ncelect.org.kh/nec_khmer/index.php?option=com_content&view=article&id=1158&Itemid=348)><Accessed 13 March 2014>

<sup>34</sup> Human Rights Watch Website: Cambodia: Ruling Party Orchestrated Vote Fraud Donors Should Demand Independent Investigation of Election Irregularities  
<<http://www.hrw.org/news/2013/07/31/cambodia-ruling-party-orchestrated-vote-fraud>>><Accessed 13 March 2014>

<sup>35</sup> Colin Meyn, ‘Comfrel Reports Spike in Election Irregularities’ *The Cambodia Daily*, (Phnom Penh, Friday, 16th August, 2013)

CNRP has rejected the official results and boycotted parliament, refusing to take up their seats in the national assembly and have demanded an independent commission to investigate alleged fraud.<sup>36 37</sup> The Royal Government Cambodia (RGC) has rejected this demand.<sup>38</sup> The NEC has maintained that following

thorough examination and verification, the reported irregularities could really happen, disturb, and have an effect on voters, on polling and ballot counting only at some extend level, (*sic*) but there was no serious impact.<sup>39</sup>

The NEC however, lacks credibility. The CNRP do not accept it as a neutral body, while HRW dismisses it as failing to address serious allegations.<sup>40 41</sup> Following the disputed result, the CNRP has called many popular protests (upwards of 15,000 attending each time) and mass gatherings (including three-day consecutive ‘sit-in’ demonstrations), which I have regularly seen since the contested election result in July.

In response to this Hun Sen has brought thousands of troops into the capital.<sup>42</sup> The RGC/ CPP has banned (then unbanned) protests, violently broken up protests and shot protesters dead.<sup>43 44</sup> The opposition leaders have been hauled in for questioning for ‘disrupt[ing] social order’.<sup>45</sup>

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<sup>36</sup>Prak Chan Thul, ‘Cambodia Election Crisis Deepens As Opposition Rejects Results’ *Reuters* (Monday 12 August 2013) <<http://uk.reuters.com/article/2013/08/12/uk-cambodia-election-count-idUKBRE97B02G20130812>>< Accessed 13 March 2014>

<sup>37</sup>CNA website, ‘Cambodian Opposition Boycotts Parliament’ <<http://www.channelnewsasia.com/news/asiapacific/cambodian-opposition/823628.html>>< Accessed 13 March 2014>

<sup>38</sup>Prak Chan Thul, ‘Cambodia government rejects opposition call for poll inquiry’ *Reuters* <<http://uk.reuters.com/article/2013/07/30/uk-cambodia-election-idUKBRE96T09J20130730>>< Accessed 13 March 2014>

<sup>39</sup>National Election Committee : Examination and Verification of the Irregularities reports of National Assembly election , 5<sup>th</sup> Mandate < [http://www.ncelect.org.kh/nec\\_english/index.php?option=com\\_content&view=article&id=414&Itemid=277](http://www.ncelect.org.kh/nec_english/index.php?option=com_content&view=article&id=414&Itemid=277)> < Accessed 13 March 2014>

<sup>40</sup>Kuch Naren, ‘CNRP Denounces NEC’s Probe Into Election Irregularities’, *Cambodia Daily*, (Phnom Penh, Saturday, 17th August 2013),

<sup>41</sup>Human Rights Watch Website: Cambodia: Independent Election Inquiry Needed :Donors Should Press for Genuine Dispute Resolution Process, Posted 10 September 2013 < <http://www.hrw.org/news/2013/09/10/cambodia-independent-election-inquiry-needed> >< Accessed 13 March 2014>

<sup>42</sup>*Straits Times* Website, ‘Cambodia Deploys Armoured Vehicles, Troops in Capital’<<http://www.straitstimes.com/breaking-news/se-asia/story/cambodia-deploys-armoured-vehicles-troops-capital-20130809>>< Accessed 13 March 2014>

<sup>43</sup>VOA Khmer, ‘Cambodia Authorities Raid Protest Camp, Ban Further Demonstrations’, (Posted January 14 2014)< <http://www.voacambodia.com/content/cambodia-authorities-raid-protest-camp-ban-further-demonstrations/1823392.html>>< Accessed 13 March 2014>

Concurrent with the election-related protest have been protests by garment workers demanding a minimum wage of \$160.00 a month, and ongoing protests about government-backed land grabs.<sup>46</sup> The overriding images of image of Hun Sen's 'democracy' since his 'victory' in last year's election are those in the Phnom Penh based English language papers of unarmed protesters shot dead, or bloodied bodies, or a young man caught in barbed wire being blasted with water cannon.<sup>47</sup> There has been a tangible change in Cambodian politics. Demonstrations on this scale have not been seen before.

Elizabeth Becker discusses the impact of the ECCC on the changing political mood of the nation, arguing that despite the ECCC's problems it has had the effect of putting the Khmer Rouge firmly in the past.<sup>48</sup> Hun Sen's Party exploit the deep seated fear of a KR return to power, and indeed in 2013 he invoked the spectre of the KR with the threat that his losing the election would end in renewed civil wars.<sup>49</sup> It is a powerful strategy, a product of the quasi-divine self-presentation of *Angkar* deeply engrained into peoples' psyches. As LeVine argues, under DK people were conditioned to think of *Angkar* as almost supernatural, an 'entity rather than a political party that lurks ominously almost within the soil of the nation, ready to re-emerge in the souls of its people'.<sup>50</sup> If Becker's premise is correct, the trials may have gone some way to de-mythologize the Khmer Rouge for the new generation even if *Angkar* haunts their elders. The CPP's attempts to invoke the KR to scare up support have not worked.<sup>51</sup>

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<sup>44</sup> Mech Dara and Kevin Doyle, 'Police Kill 5 During Clash With Demonstrators' *Cambodia Daily* 6 January 2014

<sup>45</sup> Stuart White and Meas Sokchea, 'Leadership of CNRP digging in', *Phnom Penh Post*, 6 January 2014

<sup>46</sup> Mom Kunthear, 'Exodus follows violent clash', *Phnom Penh Post*, 6 January 2014

<sup>47</sup> Thomas Christofolletti, Clashes between CNRP supporters and police (posted 15 September 2013) <http://www.demotix.com/news/2684092/clashes-between-cnrp-supporters-and-police#media-2683836> <Accessed March 1 2014>

<sup>48</sup> Elizabeth Becker, 'Cambodians Refuse to Accept Rigged Elections', *Yale Global Online* <<http://yaleglobal.yale.edu/content/cambodians-refuse-accept-rigged-elections>> <Accessed 24 October 2013>

<sup>49</sup> Cheang Sopheng, 'Cambodia PM Seeks Law to Punish Khmer Rouge Denial', *Hawaii News Now*, 28 May 2013

<sup>50</sup> Peg LeVine, *Love and Dread in Cambodia*, 153-172

<sup>51</sup> Elizabeth Becker, 'Cambodians Refuse to Accept Rigged Elections'

This is a centrally important transition in Cambodia: the way *Angkar* is losing its grip on imaginations, especially on the generation born after DK. For a government basing its narrative on the role of saviour of the nation from KR tyranny, this is an obvious problem. I would argue that the RGC / CPP has now lost control of the narrative it has maintained for so long. And that a new narrative is being written by a younger generation. If the election results are a clear indication, they are doing so with the participation of a disgruntled older generation too, one no longer convinced of the relevance of the CPP national narrative.

The discourse of liberal democracy promised by UNTAC has been ringing in the ears of the generation born after the KR for their entire adult lives. Betrayal of those promises is a focus of the demonstrators' anger. The KR has broken its hold on the mind of one generation and an uncertain future lies behind the barbed wire barricades put up by the army. The KR are, as former cadres attest, a spent force. This is not to argue that the idea of liberal democracy has overtaken the popular sentiment of the nation. However, there has been a change, a transition from one mentality to another between the generations.

One NGO worker working to promote greater media freedom told me what he had seen in the provinces concerning alternative and social media as ways for Cambodians to access information the state-run and controlled media do not provide. A young man watched the election results come in with his grandfather on his smartphone (which could access non-state-run media). The memories of war, atrocity and genocide must be transmitted to the next generation, but must not disable them. This picture of grandfather and grandson huddled over a small screen scrutinizing the future shows the generations in an act of joint imaging. It is from here that narratives of the past, the present and the future can be read. I do not end by saying what those narratives will be, but simply by stating that the process of narrating transition and justice is continuing into an uncertain future.

### **Final assessment**

From this point other work must build. The ECCC process is not finished. It is an important part of the narrative of the DK period. Any future work done on



transition and justice in Cambodia will need to look back on the role played by the entire institution, and the thousands of documents it has generated (an invaluable resource to future historians). It will always impact significantly on how that era is narrated.

In a way this thesis would be radically changed, and the views of my narrators would also change significantly, if, for example, the two remaining defendants in case 002 were to die before the case ends. There would also be significant issues if the UN were to pull out. I can predict at the time of writing that there will be a difficult end to the ECCC. It is an institution which will leave a precarious legacy by its own normative standards, let alone in terms of its cultural and historical significance to the nation it serves.

The thesis also has clearly shown something about the notions of transition and justice: that there is a view from outside those international institutions dominating the narratives of transition and justice even to the point of marginalizing other voices. This idea has implications beyond Cambodia. Indeed the very task of finding a method to discuss cultural contexts is important in order to have an idea of what transition and justice mean. I have set out how the big narratives of the past as told in dominant narratives interact with Cambodians' own views of transition and justice. I have also shown that there is a wider and more complex idea of transition and justice in the Cambodian context than is presented by the PRK, RGC, and ECCC, an idea that interrogates these narratives.



Plate 1: The Stupa constructed in the village near the VFKRDP





Plate 2: The picture painted inside the stupa, depicting the events that occurred in the village during DK





Plate 3: Detail of the picture/ mural . The temple with bullet holes being used as a torture centre and place of killing . Mass graves can be seen behind





Plate 4: Detail of the picture/ mural. KR cadres use villagers as slave labourers





Plate 5: Detail of the picture/ mural. KR cadres kill villagers and bones pile up.





Plate 6: The Grave of Pol Pot.





Plate 7: The Grave of Pol Pot , the day before Phchum Ben





Plate 8: The Grave of Pol Pot on last day of Phchum Ben. Offerings of fruit, candy, flowers and a cooked chicken have been placed





Plate 9: The Hotel and Casino built opposite the grave of Pol Pot



Plate 10: The hotel and across the road, a blue sign pointing to 'Pol Pot's Cremation Site' a few meters away





Plate 11: A former KR-built war memorial , now Neak Ta





Plate 12: Ta Mok's stupa and grave site





Plate 13: The plaque at the Trapeng Thma dam, which highlights the Japanese contribution

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