

# Working Paper

## Beyond the Khmer Rouge Tribunal:

Addressing a Lack of Reconciliation at the  
Community Level

Cambodia Working Paper Series

Sovann MAM

# Abstract

This paper examines the processes of reconciliation that have taken place in post-genocide Cambodia. In doing so, the paper follows a case study of Anlong Veng, the last stronghold of the Khmer Rouge, to examine how and to what extent the approach of the Cambodian government of the 1990s has achieved reconciliation, and how the reconciliation process between victims and former Khmer Rouge cadres can be advanced.

While the country is not currently at war and the Extraordinary Chambers in the Courts of Cambodia (ECCC) has put senior leaders and those most responsible on trial for crimes committed during the Khmer Rouge years, thousands of former Khmer Rouge cadres are among the general population and now live in the midst of victims.

This paper examines the contributions of the ECCC and of Cambodian non-governmental organizations to the reconciliation process. It also analyzes local perceptions of reconciliation. It argues that although the government and stakeholders have achieved important progress, reconciliation efforts taking place at personal and community levels remain incomplete. This paper shows that even as the tribunal is delivering retributive justice, many victims still want to hear the acknowledgments and confessions of those who have committed crimes during the Khmer Rouge period. It is based on a literature review and qualitative research interviews conducted in 2016 and 2019.

Keywords: Reconciliation; Transitional Justice; Healing; Khmer Rouge; Royal Government of Cambodia; Extraordinary Chambers in the Courts of Cambodia, Non-Governmental Organization

# Imprint

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# List of Acronyms

CPP	Cambodian People's Party
DC-Cam	Documentation Center of Cambodia
DK	Democratic Kampuchea
ECCC	Extraordinary Chambers in the Courts of Cambodia
FUNCINPEC	Front Uni National pour un Cambodge Indépendant, Neutre, Pacifique Et Coopératif
KdK	Kdei Karuna
KR	Khmer Rouge
NGO	Non-Governmental Organization
RGC	Royal Government of Cambodia
TPO	Transcultural Psychosocial Organization
UN	United Nations
YFP	Youth for Peace

# Foreword to the Working Paper Series on Cambodia

Julie Bernath and Ratana Ly, editors of the Cambodia series

The year 2019 was an important milestone for transitional justice in Cambodia. It marks both 40 years after the end of the Khmer Rouge regime in early 1979, and 15 years after the establishment in 2004 of the Extraordinary Chambers in the Courts of Cambodia (ECCC), also known as the Khmer Rouge tribunal.

On this occasion, this Working Paper series brings together a collection of papers by Cambodian early career researchers to reflect upon the transitional justice process in Cambodia. It is the result of a one-year publication project of the Center for the Study of Humanitarian Law at the Royal University of Law and Economics in Phnom Penh and swisspeace, supported by the Embassy of Switzerland in Thailand. This series aims to give more visibility to Cambodian researchers in academic writings on transitional justice. As such, it is an attempt at working against the problematic politics of knowledge production that exist in the field of transitional justice. Although transitional justice scholarship has increasingly questioned the marginalization of local voices and perspectives when it comes to policy-making and practices of transitional justice, researchers from contexts in the Global South in which transitional justice processes take place still have less visibility in, and access to, academic debates on transitional justice in comparison to their peers from the Global North.

This set of papers highlights the important achievements made in pursuing justice, accountability and reconciliation in Cambodia. It also illustrates the vast experiences that Cambodian practitioners and researchers alike have gained in the transitional justice field in the last decade and more. At the same time, the papers reflect the ways in which transitional justice inherently constitutes a long-term process. Fifteen years after the establishment of the Khmer Rouge tribunal, the authors discuss the many challenges that remain in order for the transitional justice process to truly unfold its emancipatory and transformative aspirations.

Taken together, this collection of papers speaks to key issues that, beyond the case study of Cambodia, have become central in transitional justice scholarship ever since it has taken a critical turn. The papers identify the difficulties for transitional justice processes to contribute to long-term socio-political change, at the structural level, in order to guarantee the non-recurrence of human rights violations. They highlight the need to attend to the specific socio-political contexts in which transitional justice processes unfold. The papers also point to the selectivity of formal, state-sanctioned transitional justice processes, which contrast with continuities of violence and discrimination across time that parts of the population may experience, for instance women. They shed light on the diversity of actors involved in transitional justice processes, which cannot neatly be captured by a binary distinction of international versus local, and which include not only state actors or legal professionals, but also civil society actors or donors.

Transitional Justice in Cambodia: Fifteen Years After the Establishment of the ECCC

The Khmer Rouge regime was arguably the most totalitarian of the 20th century (Bruneteau 1999). Between April 17, 1975 and January 6, 1979, the Communist Party of Kampuchea, known as the Khmer Rouge, held power over the national territory. The Khmer Rouge aimed at creating a new people and a communist agrarian utopia within the timeframe of a single generation, in a surpassing of Mao Tse Tung's policies in communist China (Ibid). Under the rule of the Khmer Rouge, an estimated 1.5 to 2.2 million people died from starvation, torture, execution, forced labour and malnutrition — at least one in five of the 1975 population (Kiernan 2003).

Given the geopolitical context of the Cold War, the involvement of foreign countries in the conflicts in Cambodia and the political interests of the regimes succeeding the Khmer Rouge, it was only in 1997 that negotiations started between the United Nations and the Royal Government of Cambodia regarding accountability for crimes committed under the Khmer Rouge regime. After protracted negotiations, the ECCC was established in 2004 with the mandate of trying the senior leaders and those most responsible for crimes committed between April 17, 1975 and January 6, 1979 in Cambodia.

Ever since its establishment, the ECCC has attracted a lot of international attention from researchers, policy-makers and practitioners. It displays unique features as a transitional justice process. First, it is a hybrid tribunal or mixed tribunal, i.e. a court of mixed staff, which applies international and Cambodian law. While several hybrid tribunals were established elsewhere, the ECCC arguably represents the most national of all (Petit 2010, 195). Second, although the scope and form of victim participation has been significantly reshaped over time at the ECCC, it grants victims the right to formally participate as parties — a first in the history of international criminal justice (Ciorciari and Heindel 2014). Victims can indeed participate at the ECCC not only as witnesses or complainants, but also as civil parties. Finally, the ECCC's mandate also includes the provision of moral and collective reparations. While the exclusion of individual and financial reparations led to frustrations from civil parties (see e.g. Williams et al. 2018, 109-120), the ECCC's provisions on reparations significantly expanded over time to include non-judicial measures developed and implemented by the ECCC's Victims Support Section with governmental and non-governmental partners.

At the time of writing, three accused persons have been tried and sentenced in separate legal proceedings at the ECCC. In Case 001, the Supreme Court Chamber sentenced Kaing Guek Eav alias Duch, the former deputy and chairman of the security centre S-21, to life imprisonment for crimes against humanity, grave violations of the Geneva Convention, murder and torture (see Soy 2016). Case 002 consists of charges against former senior Khmer Rouge leaders. In light of its complexity and the advanced age of the accused, the Case was split in two to expedite the trial proceedings. The first portion of the trial, Case 002/01, focused on a set of crimes committed during the early stages of the Khmer Rouge regime: forced transfers of the population and the

execution of soldiers of the regime preceding the Khmer Rouge. This Case was completed in November 2016, however two of the accused died prior to its completion: the former Minister of Foreign Affairs, Ieng Sary, and the former Minister of Social Affairs, Ieng Thirith. Case 002/02 examines far-ranging charges related to key policies of the Khmer Rouge, including forced labour, security centres, forced marriages and treatment of minorities. The Trial Chamber judgment handed in November 2018 is currently under appeal. One of the two remaining accused, Nuon Chea, died in August 2019 at the age of 93 before the pronouncement of the Supreme Court Chamber judgment (see Kum 2019). The former Head of State of the Khmer Rouge regime Khieu Samphan, born in 1931, is the only accused in Case 002 now still alive.

Four suspects have additionally been indicted in Cases 003 and 004. However, the national and international side of the ECCC mostly disagreed on whether these cases should move to trial, with the national side arguing that the accused do not fall under the category of 'most responsible' of the ECCC's mandate (see e.g. Naidu 2018). Since the Cambodian ruling party has repeatedly voiced their opposition to these cases (Ciorciari & Heindel 2014, 177), they have become the focus of allegations of political interference (see e.g. OSJI 2010).

Besides the ECCC, civil society actors have significantly shaped the transitional justice process in Cambodia. Their work has been complementary to the ECCC, in particular when it came to victim participation, legal services, psychosocial support and outreach, as civil society organisations provided many key services for the ECCC due to the tribunal's limited funding or mandate in this field (Ryan and McGrew 2016; Sperfeldt 2012). Civil society organisations have also been key in designing and implementing reparations and non-judicial measures. Over time, many creative and artistic initiatives have emerged. NGOs were able to make use of the attention of the international donor community on transitional justice in Cambodia that arose with the establishment of the ECCC (Un 2013), although they have now for the past few years faced significant 'donor fatigue' (Sperfeldt 2012).

The establishment of the ECCC thus initiated a diverse process of transitional justice in Cambodia focusing on the Khmer Rouge regime. This process is also characterized by a significant transnational circulation of practices, since the ECCC was established in a time during which transitional justice had become institutionalized and professionalized as a field of policy-making, research and practice (see e.g. Sharp 2013; Rubli 2012). Several cohorts of international practitioners sojourned in Cambodia, including not only international criminal justice professionals — some of whom Kent (2013) described as 'tribunal hoppers', given their high mobility across internationalized tribunals — but also practitioners from the fields of civilian peacebuilding, media, arts and memory work.

Today, a rich and increasingly diverse body of scholarship also exists on transitional justice in Cambodia, with works from various disciplinary perspectives. This includes not only the dominant field of law (e.g. Werner and Rudy 2010; McGonigle 2009) but also socio-legal studies (e.g. Killeen 2018; Ly

2017; Manning 2012), political science (e.g. Path 2017; McCargo 2015), anthropology (e.g. Hinton 2014; Kent 2013), geography (Sirik 2016; Hughes 2015), psychiatry (Chhim 2014) or history (Gidley 2019). As elsewhere in the field of transitional justice, this scholarship is also characterized by numerous publications of authors who have themselves been closely involved in the transitional justice process in various functions (e.g. Jarvis 2014, Lemonde 2013, Studzinsky 2011, Mohan 2009).

Ever since the establishment of the ECCC, the literature has discussed its relevance as a transitional justice institution. Some analysts highlighted that the tribunal was important and better than none (see e.g. OSJI 2006). Others argued that given the political context, and most importantly the political control of the national judiciary in Cambodia, a hybrid tribunal would only lead to a flawed accountability process (see e.g. Human Rights Watch 2014). The ECCC's extremely limited temporal scope has also been subject to much discussion. The tribunal's mandate only focuses on the Khmer Rouge regime, although this period is embedded in decades of political violence, war and authoritarian rule. Civil society organisations, while complementing the ECCC's limitations in diverse ways, arguably reproduced to an important extent the focus on the Khmer Rouge period in their transitional justice work.

Today, given current political developments in Cambodia, reflecting upon the transitional justice process and its long-term, transformative potential is of particular relevance. With the dissolution of Cambodia's main political opposition party in 2017 and its exclusion from the 2018 election (see e.g. KOFF 2018), the country has moved further away from its scheduled trajectory towards democracy. In an increasingly authoritarian context, civil society organisations, journalists but also researchers working on human rights advocacy face significant difficulties to conduct their work in an independent manner, free from political pressure. Debates over the impact of international interventions in Cambodia have thus re-emerged, most notably over the UN peacebuilding mission of 1992-93. But the political situation in contemporary Cambodia also raises questions regarding the legacies of the ECCC and the transitional justice process.

#### Overview on the Collection of Working Papers on Cambodia

This collection of papers contributes to these discussions. It brings together the perspectives of eight authors with various disciplinary backgrounds, including law, social sciences, development studies and international affairs. Many of these authors also draw from their previous experiences and insights as practitioners in Cambodia's transitional justice process.

A first group of authors discusses how far the transitional justice process has gone in Cambodia, and what has been achieved in terms of the goals initially set for this process.

In their paper, Kimsan Soy and Vandanet Hing examine how the ECCC has contributed to improving fair trial rights in the national judiciary. One of the main hopes associated with hybrid tribunals has been that these tribunals

would contribute to strengthening the national judiciary, as they are set in the country where the crimes have taken place and employ national staff. This was also one of the strong aspirations shared by actors involved in the establishment of the ECCC. Fifteen years later, Soy and Hing ask how defense counsels and experiences of legal representation at the ECCC have contributed to developments in the national justice system. Drawing from qualitative interviews conducted with Cambodian legal professionals, they argue that although the ECCC clearly demonstrates international fair trial standards, in particular the right to effective legal representation, the greatest challenge standing in the way of positive legacies for the domestic judicial system remains political control of the judiciary.

In her paper, Sotheary You also reflects on the impact of transitional justice on contemporary Cambodia, but with a focus on sexual and gender-based violence against women. In order to do so, she draws from the concept of guarantees of non-recurrence and from feminist scholarship on gender justice. You discusses how the ECCC has addressed sexual and gender-based violence so far, in the legal proceedings and in the reparations projects endorsed by the ECCC. She also examines measures taken by the Cambodian government to address the non-recurrence of sexual and gender-based violence. She argues that in light of the ongoing discrimination against women in Cambodia, the transitional justice process has failed to effectively address the issue. She proposes policy recommendations and the adoption of a comprehensive approach, beyond the remit of the ECCC, to ensure the non-recurrence of sexual and gender-based violence against women.

In his paper, Sovann Mam reflects on to what degree reconciliation has been achieved in Cambodia after the Khmer Rouge regime. Drawing from qualitative interviews conducted in Anlong Veng, the former Khmer Rouge stronghold in the North-West of Cambodia, he argues that reconciliation is still missing at the community level. Mam thereby questions the prevalent political narrative in Cambodia that reconciliation has been fully achieved since the end of the 1990s. He shows that while the policies of the Cambodian government in the 1990s secured stability and negative peace, they also delayed the quest for justice and the establishment of the ECCC. Based on his field research in Anlong Veng and interviews with civil society actors working on reconciliation, Mam suggests that more attention should be paid to facilitating processes of acknowledgment and empathy between victims and perpetrators.

In addition to these three papers reflecting on the achievements and limitations of the transitional justice process in Cambodia, the second group of authors focuses on the roles and views of various actors.

In her paper, Samphoas Huy reflects upon the role of intermediary organisations in facilitating, implementing and shaping victim participation at the ECCC. She conceptualizes the role of Cambodian civil society organisations as 'vernacularizers', or actors intimately involved in the translation of international transitional justice norms into the Cambodian context. She analyses this process of vernacularization in various, rich examples of outreach



and inreach that have taken place around the ECCC over the past years. Huy argues that through this process of translation and appropriation, which similarly to previous human rights work in Cambodia significantly draws upon Buddhist understandings, local actors created a transnational space that allowed for meaningful victim participation. But her paper also shows that this process was not without creating ‘frictions’: actors involved faced challenges in translation but also difficulties related to questions of representation, agency and voice in victim participation.

In her paper, Somaly Kum focuses on donors – a group of actors that is not researched enough in the field of transitional justice, although being key in shaping transitional justice interventions. She provides an overview of the various types of donors that have been funding transitional justice in Cambodia – state donors; non-state donors; multilateral donors. She asks what their role has been in shaping the transitional justice process, both directly and indirectly, through funding the ECCC and civil society projects. Kum draws from qualitative semi-structured interviews conducted with current and former donor representatives, as well as transitional justice practitioners. She discusses how donors reflect upon their roles and societal impact 15 years after the establishment of the ECCC, and shows that one of the main motivations mentioned by her respondents for funding transitional justice, besides contributing to justice and accountability, was to contribute to the rule of law and capacity building.

Finally, Boravin Tann and Khuochsopheaktra Tim discuss the perspectives of an important segment of the Cambodian population: the younger generations born after the Khmer Rouge regime. Although representing the majority of the population today, this group has been rather sidelined in transitional justice discussions in comparison to the elder generations of direct victims. Drawing from rich empirical data, including a recent quantitative survey and focus group discussion, Tann and Tim describe how their respondents, keen to learn more about the Khmer Rouge past, deplored the limitations of information on this matter. They analyse how they view the memorialization processes on the Khmer Rouge regime. They also discuss the existing scope for youth participation in Cambodia’s transitional justice process and the intersections between memorialization, the ECCC and the non-recurrence of human rights violations.

Taken together, these papers show avenues for further research and initiatives on transitional justice in Cambodia, from the perspective of Cambodian authors. They also illustrate the relevance of the Cambodian case study for the broader field of transitional justice today. Fifteen years after the establishment of the ECCC, these papers examine from various academic perspectives whether, how and to what extent the transitional justice endeavors in Cambodia have created change. They thereby speak to questions of agency, power and representation that are at the core of critical transitional justice scholarship, and to the long-term emancipatory and transformative aspirations that continue to shape the field.

# 1 Introduction

The dark era began for Cambodia when the Khmer Rouge (KR) ruled the country from April 1975 to January 1979. The KR regime, otherwise known as the Democratic Kampuchea (DK), implemented policies that destroyed infrastructure, economic and educational systems, private property, religious practices, family structures and social relations (Dy 2007). The regime took the lives of 1.7 million people who perished from malnutrition, overwork, sickness, torture and execution (Ciorciari and Chhang 2005). Most ordinary people were compelled to work for endless hours and food shortages resulted in numerous deaths (Dy 2007). Capitalists, intellectuals and officials from the preceding Lon Nol government, including soldiers, were automatically killed since they were regarded as bad figures responsible for corruption, exploitation and injustice in society (Ibid). Almost all Cambodian people who survived the KR lost at least one family member. This tragedy broke Cambodian society and especially caused unhealthy divides at the grassroots level between victims and former KR cadres. Although the brutal rule of the KR collapsed forty years ago, its legacy continues to haunt survivors.

Cambodia has achieved important steps at both local and national levels to restore peace and social harmony since the fall of the KR. For example, in 1998 the Royal Government of Cambodia (RGC) put an end to guerrilla warfare and reintegrated the KR armed forces into larger society. However, the process remains incomplete. Revenge killings were, unfortunately, reported in the aftermath of the KR regime (Chandler 2000; Gottesman 2003). In a survey conducted with 712 Cambodians (including KR survivors), a high percentage (69%) of respondents said that they do not want to take revenge against those who killed their relatives under the KR (Linton 2004, 9). Victims may relieve their emotional suffering with the passage of time or may be concerned about a never-ending cycle of reprisals from generation to generation, and Buddhist views and current laws may influence them not to take revenge (McGrew 2011). Notably, some of them began to consider the consequences of revenge killings and how seeking revenge can cause destructive and unprosperous situations in society (Ly 2014). Yet many other victims still struggle to come to terms with the loss of their loved ones and continue to feel resentment towards former cadres (Ciorciari and Ly 2009). Individual relationships between victims and former cadres remain contentious, particularly in the communities where the two live together (Pham et al. 2009; Pham et al. 2011).

Reconciliation refers to a process of restoring relationships or healing trauma. Kriesberg explained that ‘parties that have experienced an oppressive relationship or a destructive conflict with each other move to attain or restore a relationship that they believe to be minimally acceptable’ (cited in Bloomfield 2006, 8). Similarly, Chapman stated that reconciliation ‘establishes the framework for new types of relationships’ (Ibid). In the context of Cambodia, Youk Chhang, the director of the Documentation Center of Cambodia (DC-Cam), states that ‘reconciliation means reconnecting the broken pieces’, in reference to the literal meaning of the Khmer term that is used for reconciliation (phsas psa).<sup>1</sup> This definition implies that reconciliation can happen both at the macro level through national political activity and also at the micro level as a process that takes place on both individual and community levels.

<sup>1</sup> Interview with Youk Chhang (DC-Cam director), 16 June 2016, Phnom Penh. Translated from Khmer into English by the author.

Many scholars have sought to examine the processes for addressing trauma and interpersonal conflict in Cambodia under the framework of reconciliation. McGrew (2011) looks at community reconciliation by focusing on how rural Cambodian people (including victims, perpetrators and bystanders) overcome the trauma from the KR regime and manage to live side by side in their villages. She examined the community-level reconciliation, which included co-existence, trust development, rehumanization, healing, empathy, compassion, acknowledgement, apology, forgiveness and forgetting. Likewise, Ly (2014) also looks at overall reconciliation by emphasizing the roles of both state and non-state actors in rehabilitating the relationships between different Cambodian adversaries before the establishment of the Extraordinary Chambers in the Courts of Cambodia (ECCC), generally known as the KR tribunal, which was established in 2004 and became operational in 2006. In his analysis covering the period between 1979 and 2007, Ly argued that peaceful coexistence, justice-seeking, truth-telling and relationship restoration were achieved in different stages. Ly, however, did not show any findings in relation to transitional justice that is taking place at the ECCC.

This paper uses the case study of Anlong Veng to examine how the Cambodian government's past approach has achieved reconciliation in Cambodia, and how the reconciliation process between victims and former KR cadres can be advanced. While the existing literature sheds light on the reconciliation processes that have taken place in Cambodia generally, to date, there has been little direct research on reconciliation in Anlong Veng. Both Cambodian and non-Cambodian researchers such as Wood (2009), Wohlfahrt (2010), Dy and Dearing (2014) and Path (2017a) have conducted studies in Anlong Veng but they focused mainly on the preservation of the KR's heritage sites, the life histories of former civilians and cadres from post-1979 until 1998 and their resistance to transitional justice in the aftermath of the genocide. I argue that, although the government and other stakeholders have achieved important progress, reconciliation efforts taking place at personal and community levels remain incomplete.

Anlong Veng was one of the main military bases of the KR after their regime was toppled in 1979 (Dy and Dearing 2014). The KR remnants from Anlong Veng, which is close to the Thai border, fled to the Cambodian-Thai border and regrouped as a resistance movement to continue an armed struggle for nearly two decades (Ibid). In 1996, the KR remnants in the strongholds of Pailin and Malai defected to the RGC and left Anlong Veng KR remnants to struggle against the government by themselves for another two years (Ibid). However, Anlong Veng was finally integrated into the RGC by late 1998 (Ibid). Reconciliation in Anlong Veng is unique due to the fact that it is characterized by a coercive approach from the RGC, which used political compromises to coerce the KR defection. The KR that remained in Anlong Veng were former 'soldiers and cadres, and without a doubt many either participated or assisted in violent acts [between 1975 and 1979]' (Dy and Dearing 2014, 9). Also, they are living side by side with new residents, including KR survivors, who relocated from every part of Cambodia after the 1998 integration in search of economic opportunity and land.

In this paper, I analyze six in-depth interviews I conducted with villagers (victims and former KR members) in Anlong Veng and four senior officers from DC-Cam, Kdei Karuna (KdK) and Youth for Peace (YFP) in Phnom Penh in June-July 2016 and in September 2019. These Non-Governmental Organization (NGO) respondents have experience or knowledge in the field of reconciliation and had interacted with victims and former KR cadres in Anlong Veng and other communities. Furthermore, they have implemented reconciliation and peacebuilding projects to harmonize community relations by helping Cambodians to have a better understanding of what happened during the KR and why it happened. DC-Cam, for example, has played the strongest role in archiving and publicizing the crimes of the KR since 1995. Such efforts make a significant contribution to truth recovery, while Cambodia has yet to establish a truth commission. KdK and YFP have implemented participatory activities to support and encourage community-driven approaches to remembrance and memorialization.

This paper is divided into five sections. In the first and second sections, I explain ways that the RGC advanced reconciliation in relation to peace and national unity. I thereby present political compromises and the use of prosecution before the establishment of the ECCC. Third, I review the contributions by the KR tribunal and NGOs to reconciliation in Cambodia. In the fourth and the last sections, I discuss the process of rebuilding broken relationships left broken by the KR regime, drawing attention to the imperative need outside the judicial arena. In these sections, I look at the role of acknowledgement, confession and empathy in the process of rebuilding. This paper indicates that even as the ECCC is delivering retributive justice, many victims still want to hear the acknowledgements and confessions of those who have committed crimes under the KR regime.



## 2 Political Compromises in the 1990s

- 2 FUNCINPEC is the acronym for the party's name in French: Front Uni National pour un Cambodge Indépendant, Neutre, Pacifique Et Coopératif. After the UN-sponsored general election in 1993, a power-sharing management was designed with Prince Norodom Ranariddh – a son of King Norodom Sihanouk – as first prime minister and Hun Sen as second prime minister. After the CPP shared power with the FUNCINPEC, the competing power between them gradually developed into violent clashes in July 1997 (Ciorciari 2009b). A full discussion of this issue is beyond the scope of this paper.
- 3 See “Royal Decree (Preah Reach Kret) signed by King Norodom Sihanouk, 14 September 1996”, available at: [https://www.eccc.gov.kh/sites/default/files/documents/courtdoc/E51\\_8.1\\_EN.PDF](https://www.eccc.gov.kh/sites/default/files/documents/courtdoc/E51_8.1_EN.PDF) (accessed July 1, 2019).

After 1979, the KR set up redoubts to continue their military struggle for order of control Cambodia. A decade later, the KR captured a number of interior territories along the Cambodian-Thai border, pursued guerrilla warfare and caused insecurity in some parts of the country. When the RGC through Hun Sen's Cambodian People's Party (CPP) designed and implemented a national reconciliation program, the internal armed conflict came to end in 1998 after the KR agreed to be reintegrated into the government.

Reintegration was strategically endorsed by Hun Sen's 'win-win' policy from 1995 to 1998 (Nem 2012), which was a reconciliation plan initiated to encourage defections from KR insurgents. In return for their defections, three main concessions were made within this policy: KR insurgents were granted amnesty, they were also allowed to hold military or official positions within the government and to retain their private property (Ly 2014). Most of them were also given money and land to assist their integration (Ciorciari 2009a). The co-Prime Minister Hun Sen thus brought the KR leaders into his client-patron network by compromising with amnesty and their rights as citizens as well as material incentives and power in his government (Path 2017a). For example, former KR Foreign Minister Ieng Sary received amnesty in August 1996. Hun Sen granted this amnesty with the approval of his co-Prime Minister Norodom Ranariddh of the FUNCINPEC<sup>2</sup> party. In September 1996, King Norodom Sihanouk issued a royal pardon for Ieng Sary.<sup>3</sup> This aimed to encourage Ieng Sary to lead a breakaway from the KR movement. King Norodom Sihanouk, who signed the pardon for Ieng Sary, even said that he would pardon other rebel leaders including Khieu Samphan, Nuon Chea and Son Sen if the government requested it in writing (Chea and Chaumeau 1997). In October 1996, Ieng Sary led mass defections along with 3,000 troops in his jungle strongholds of Pailin and Malai to join the government side (Dy and Dearing 2014). He was the first key figure of the KR leadership to be pardoned and then allied with his former enemy Hun Sen. Before the KR tribunal began, he and his family enjoyed amnesty from prosecution, living freely among other people. Two years later, in December 1998 former KR Head of State Khieu Samphan and party ideologue Nuon Chea followed in Ieng Sary's footsteps and subsequently announced their defections to the RGC in exchange for criminal immunity from prosecution. Both senior KR leaders were the latest key defectors 'to give up the struggle' after the defection of Ieng Sary along with an enormous number of troops (Mydans 1998a). The defections of Khieu Samphan and Nuon Chea damaged the KR movement greatly.

In making these political compromises, the government's reconciliation plan succeeded in encouraging mass defections of KR cadres and ultimately ended a years-long conflict in the late 1990s. According to Prime Minister Hun Sen: 'The wars [have] destroyed our country since 1970 and the genocide did too until 1979. We liberated [the country from the genocidal regime] but there were still pockets of resistances in those days. We then had put out a win-win policy, which brought about full peace to the country' (Hun 2017). Deputy Prime Minister Sok An also explained: '[F]ormer Khmer Rouge have put down their guns and have recommenced their lives within the general community, and the former factions have taken up the challenge of working together to develop the country. In Cambodia, reconciliation has not meant amnesia' (as quoted in

Linton 2004, 81). As pro-government and current lieutenant general of the Royal Cambodian Armed Forces Nem Sowath argues that amnesty through the Hun Sen-initiated win-win policy has 'a positive, snowballing effect on other hesitant KR leaders and soldiers who wanted to integrate, but who were not yet confident enough to do so. [...] Such an amnesty also brings peace, which would facilitate tourism, socio-economic development and the rehabilitation of infrastructure' (Nem 2012, 130).

### 3 Using Prosecution for More Defections

While post-conflict countries try to provide truth and justice as an official acknowledgment for the losses of victims of past atrocities, Cambodia began to trade in justice for bringing the protracted civil war to an end (Linton 2004). Up to the 1990s, the decision to prosecute KR defectors was a low priority for the RGC (Ciorciari and Ly 2009). Instead, the RGC paid attention to luring defectors and promoting national reconciliation, as it was worried that criminal trials would discourage the KR faction from laying down arms (Ibid). All the deals were said to strive toward ending the Cambodian conflict and working together toward rebuilding the country (Ibid). Additionally, in search of reconciliation with the KR and peace for Cambodia, the government gave amnesty to those who defected and tried to welcome them and work together with them moving forward for what was called the sake of national development (Ibid).

Nevertheless, using amnesty or pardon for crimes has the effect of upholding impunity for KR defectors from prosecution and punishment (Linton 2004). It may secure peace and stability but it also interrupts justice, and justice can help victims to advance their quest for personal and societal reconciliation (Ciorciari and Ly 2009). Retributive justice is a way to challenge impunity and alleviates the propensity of victims to take revenge or attribute collective guilt to a whole community of perceived abusers (Ea 2007). DC-Cam director Youk Chhang, who has stood against impunity in Cambodia after the KR tragedy, said before the ECCC was established:

Peace requires more than the absence of armies in open combat. A peaceful society is a just society, and the Cambodian people have not yet found justice. Peace will not truly come to Cambodia until there is real justice for the crimes of the Khmer Rouge regime (as quoted in Ciorciari and Ly 2009, 314).

In June 1997, co-Prime Minister Hun Sen asked the United Nations (UN) for assistance in preparing a trial for the remaining KR leaders with charges of genocide and crimes against humanity. He proposed the establishment of a tribunal 'responding to past serious violations of Cambodian and international law as a means of bringing about national reconciliation, strengthening democracy and addressing the issue of individual accountability' (Hammarberg 2001, 46). The letter, which Prince Norodom Ranariddh agreed to sign as co-Prime Minister, mentioned the option for a tribunal in Cambodia similar to the International Criminal Tribunal for the former Yugoslavia and Rwanda, because it 'can assist the Cambodian people in establishing the truth about this period and bringing those responsible to justice' (Ibid).

However, Prime Minister Hun Sen soon reversed his position. After the 1998 defection of Khieu Samphan and Nuon Chea, Hun Sen changed his previous support for a tribunal and stressed yet again the need for national reconciliation (Ciorciari 2009b). Hun Sen told local and international reporters outside a cabinet meeting that he refused to arrest and prosecute Khieu Samphan and Nuon Chea (Mydans 1998a). He argued that the last two defectors should be welcomed 'with bouquets of flowers, not with prisons and handcuffs' (Ibid). He claimed a trial is unlikely to benefit society because it would reopen

old wounds and lead to reoccurrence of civil war, hence '[i]f a wound does not hurt, you should not poke at it with a stick to make it bleed' (Ibid). He further suggested that the Cambodian people 'should dig a hole and bury the past and look ahead to the 21st century with a clean slate' (Ibid).

In reversing his previous position for a KR tribunal, Prime Minister Hun Sen received attacks from international challengers and opposition politicians, who criticized the CPP-led government for allegedly lacking the willingness to negotiate with the UN in good faith (Ciorciari 2009b). As critics claimed, he had no intention of bringing justice and only used the threat of international tribunal to intimidate the remaining KR leaders into defecting (Ibid). That plan, they reasoned, 'would enable the CPP to claim credit for eradicating the Khmer Rouge and add to the party's ill-gotten political dominance (Ciorciari 2009b, 66). Critics further argued that until a wound is cured, even if the treatment is painful, it cannot heal. Son Chhay, a member of parliament for Sam Rainsy Party, said: 'This is wrong. Every Cambodian who lost relatives during the Pol Pot regime cannot forget and is still suffering' (Richburg 1998). Thomas Hammarberg, then UN Special Rapporteur for human rights in Cambodia, who had discussed the establishment of a KR tribunal with Hun Sen and his co-prime minister Norodom Ranariddh, viewed Hun Sen's unwillingness to deliver Khieu Samphan and Nuon Chea to justice as 'extremely sad' for the innocents who died and the individuals who suffered from painful hardships or were traumatized by mass killings during the 1975-1979 period (Ibid). Hammarberg further pointed out that 'a trial is crucial in the battle against impunity' to avoid having 'big criminals and murderers' going free (Ibid). This approach facilitates peace of mind because it provides victims with a sense of justice or offers an explanation for the loss of their family members or loved ones.

Past reconciliation efforts certainly expressed a lack of state action in social recovery. These efforts had noteworthy consequences for security and stability, but they were basically conducted between politicians, in particular rival political elites of the CPP leadership and the KR leadership. Overall, reconciliation during the 1990s 'usually referred to the goal of ending the [KR] insurgency and reintegrating guerrillas into the society' (Ciorciari and Ly 2009, 299).

By excluding a broad spectrum of Cambodian people from the reconciliation process, the abovementioned political deals were quietly made without subsequent steps to generate genuine apologies to foster public forgiveness. The government once attempted to continue its efforts to avoid public indignation. At the inception of a national reconciliation tour throughout the country in late December 1998, Hun Sen instructed Khieu Samphan and Nuon Chea to hold a news conference on KR-related issues, in which they made scanty apologies insufficient to ease the anguish of victims (Ciorciari and Ly 2009). In response to the question by a foreign journalist as to whether he would apologise for the suffering he had caused, Khieu Samphan did apologise but also suggested that Cambodian people should think about the problems of the present and 'forget the past' and 'let bygones be bygones' (Mydans 1998b). During the same news conference, Nuon Chea, rather than trying to focus on the damages of the KR rule, expressed regret for the people and 'animals suffered because of the war' (Ibid).

This overview of the RGC's approach to reconciliation thus shows that while it helped to secure the defection of KR forces and the end of the civil war, it also prevented efforts for accountability, at least initially, and limited the focus of reconciliation initiatives at the political, national level rather than the interpersonal, community level. In the next section, I turn to review the contributions of the ECCC and of Cambodian NGOs to reconciliation in Cambodia.

## 4 Contributions of the ECCC and NGOs to Reconciliation

As discussed in the above section, although Prime Minister Hun Sen had changed his mind and no longer supported the KR tribunal, the ECCC was finally established in the kingdom in 2004. The ECCC has contributed to both restorative and retributive justice. Since its inception, the ECCC has made an end to the culture of impunity by bringing former KR leaders to justice after many years (Ciorciari and Ly 2009). Kaing Guek Eav alias Duch, the chief of the S-21 security office in Phnom Penh, was a KR defendant in the first trial. Duch was found guilty and sentenced to life imprisonment. The second trial is trying former Head of State Khieu Samphan, and three other senior KR leaders were also part of this case – former Chief Ideologist Nuon Chea who died on 4 August 2019, former Foreign Minister Ieng Sary, who died on 13 March 2013, and former Social Affairs Minister Ieng Thirith, who was released from detention after being found unfit to stand trial and later died on 22 August 2015.<sup>4</sup> Although the capacity of the ECCC could only try the senior leaders and those most responsible, many Cambodians believed that it is able to provide justice. According to a nationwide survey, 65% of respondents agreed that the ECCC has brought justice for the victims of the KR and their families (Williams et al. 2018, 42).

At the ECCC, victims and other survivors can participate in the process by filing a complaint to become a complainant, witness or civil party.<sup>5</sup> The ECCC also allows civil parties to claim collective and moral reparations.<sup>6</sup> Reparations for civil parties and victims are being implemented by a small number of Cambodian NGOs, including DC-Cam, which has delivered its documents to the KR trial and assisted with victim participation in the ECCC. DC-Cam, under a memorandum of understanding with the Ministry of Education and working closely with high schools and universities, conducts genocide education as a way of helping students understand the events that happened during the KR period.<sup>7</sup> Through education on KR history, students can believe and acknowledge the suffering of the victims. This work can play a crucial role in fostering remembrance and national reconciliation.

Besides providing for victim participation and collective and moral reparations, the ECCC has constituted an important opportunity not only to confront the accused persons with their responsibility for the crimes committed under their rule, but also to provide the space for them to publicly acknowledge their responsibility. As I will argue in the next section, acknowledgement can be a very significant element for reconciliation processes. At the ECCC, the defendant Duch, who was tried in Case 001, constitutes an exception in this regard. He demonstrated some willingness to accept some responsibility for the crimes committed at the S-21 prison. In a public court hearing at the ECCC, Duch said:

No single image can illustrate my remorse and suffering. I feel so much pain. I will never forget. I always say that a bad decision can lead in the blink of an eye to a lifetime of grief and remorse. I defer to the judgment of this tribunal for the crimes that I have committed. I will not blame my superiors. I will not blame my subordinates. I will not shirk my responsibilities. Although these

<sup>4</sup> See ECCC's website: <https://www.eccc.gov.kh/en/case/topic/119>.

<sup>5</sup> See ECCC Internal Rules (Revision 9), available at: [https://www.eccc.gov.kh/sites/default/files/legal-documents/Internal\\_Rules\\_Rev\\_9\\_Eng.pdf](https://www.eccc.gov.kh/sites/default/files/legal-documents/Internal_Rules_Rev_9_Eng.pdf) (accessed Nov. 12, 2019).

<sup>6</sup> Ibid.

<sup>7</sup> For more information about Genocide Education Project, see DC-Cam's website: [http://www.dccam.org/Projects/Genocide/Genocide\\_Education.htm](http://www.dccam.org/Projects/Genocide/Genocide_Education.htm).

crimes were committed under the authority of my superiors, they fall within the purview of my own role at S-21 [security center]. On the ideological and psychological levels, I am responsible. I carried out Party policy and I regret it (as quoted in Cruvellier 2014, 128).

Duch also apologized to survivors and victims whose parents or relatives perished under his supervision and asked them to 'leave the door open for forgiveness' (Post Staff 2009). However, at the same time, many victims (including observers) criticized his public apology. They felt that the apology was only partial and incomplete, and that he did not recognize his responsibility for many of his actions under the KR regime. As a result, many civil parties were not ready to forgive him. For example, in a series of interviews conducted by Terith Chy of DC-Cam with ECCC civil parties in Case 001 in May 2009, interviewees whose family members died at S-21 said the following (Chy 2009):

Sophan, Kampong Cham: '[I] cannot forgive him in light of what victims suffered. He has to be tried and deserves the punishment imposed by the Court'.

Piseth, Svay Rieng: 'I believe people in general, including me, cannot forgive him. He will have to be judged and punished for the crimes he has committed'.

Khon, Kampong Thom: 'With the anger I have, I want Duch to be sentenced for life. ... Although we cannot physically beat him the way he did to us, I do not want him to enjoy freedom as we do'.

Sophea, Kampong Thom: 'It has been 30 years and I cannot lift myself out of poverty because I do not have a father. ... His cooperation is simply to avoid a longer sentence. ... I cannot reconcile with him'.

The acknowledgement of Duch remains, however, the only one official apology since Cambodia's dark period ended. In Case 001, one of the two reparation measures that was endorsed by the ECCC was the compilation of the public apology statements made by Duch during his trials.

No other senior KR leaders followed Duch's example. Former KR Foreign Minister Ieng Sary and his wife Ieng Thirith, former KR Social Affairs Minister, as well as former Head of State Khieu Samphan and former Chief Ideologist Nuon Chea have expressed regret during a separate testimony in the court but denied any responsibility for the tragedy that took place under their leadership. Lambourne (2014) pointed out that in this case Khieu Samphan and Nuon Chea have failed to acknowledge their responsibility. She explained that:

Both Nuon Chea and Khieu Samphan have disappointed in this regard. Whilst they apologised to the people of Cambodia during the trial proceedings in May 2013, this was not an acceptance of responsibility for the crimes of which they are accused. Rather, they apologised that the Khmer Rouge revolution was "a complete disaster" and maintained that they did not have any real power

and were unaware of the suffering of the people. ... [I]n their lengthy closing statements, the former Khmer Rouge leaders continued to distance themselves from responsibility (Lambourne 2014, 33).

The ECCC, however, is the last opportunity for survivors to receive 'formal acknowledgement and recognition of the grave injustices and losses they suffered' (Pham et al. 2009, 8).

Beside the ECCC, several local NGOs – such as KdK, YFP, and Transcultural Psychosocial Organization (TPO) – have also implemented projects with local communities to fill some gaps in the ECCC's transitional justice process. For example, KdK has recently organized through its active projects mobile exhibitions as part of the reparation projects of the ECCC in Case 002/01 and 02 to raise public awareness of the KR regime.<sup>8</sup> Civil parties and other victims are able to share their individual stories, and young people are then encouraged to engage with them in discussions.<sup>9</sup> YFP has also started memory work to produce and preserve the remembrance of the KR legacy.<sup>10</sup> In this project, YFP transformed former killing sites into peaceful places or community peace learning centers where survivors (including former KR cadres) have the opportunity to talk about their past and youth can learn and remember the crimes of the KR.<sup>11</sup> In other instances, the TPO, run by Cambodian staff, has provided mental health care and psychosocial support to trauma victims of KR torture.<sup>12</sup> During the first trial at the ECCC, about 90 civil parties and 31 witnesses received psychosocial support from the TPO (Sperfeldt 2012).

Despite these important efforts by the ECCC and NGOs, reconciliation is still missing at the interpersonal or community level in Cambodia. While this is something that I observed in my field research in Anlong Veng, studies on reconciliation and justice conducted across Cambodia revealed similar findings. For example, Pham et al. (2009) conducted a population-based survey with 1,000 Cambodians (including victims and former KR cadres) from September to October 2008. In the 2008 survey, at least one commune was selected in each of the 24 provinces of Cambodia. The Anlong Veng commune was included in this survey. In December 2010, Pham et al. (2011) continued with a second population-based survey with 1,000 Cambodians (including victims and former KR cadres), randomly selected throughout the country. Almost half of the 1,000 survey respondents, as shown in each survey, said that they would feel 'uncomfortable' living with former members of the KR (Pham et al. 2009, 28; Pham et al. 2011, 33). Confirming the negative findings of their studies, both surveys indicated that 47% in 2008 and 49% in 2010 felt 'uncomfortable' with former KR members living in the same community as them (Ibid). More importantly, the surveys reported high levels of hatred: 82.9% in 2008 and 81% in 2010 (Pham et al. 2009, 29; Pham et al. 2011, 33). A more recent survey conducted in 2018 indicated that some respondents (29.1%) have a tendency to treat people in their community who are former KR differently, while many respondents (64.5%) would feel uncomfortable if one of their children married a former member of the KR (Williams et al. 2018, 55). The survey further indicated that 75.6% of respondents felt hatred towards those KR who were responsible for violence (Ibid).

8 Interview with Tim Minea (KdK director), 6 July 2016, Phnom Penh.

9 Ibid.

10 Interview with Long Khet (YFP director), 5 July 2016, Phnom Penh.

11 Ibid.

12 See TPO's website: <https://tpocambodia.org/tpo-about/>.



If there is still a need for reconciliation at the interpersonal and community level in Cambodia, after the government's policies at the national level for political reconciliation in the 1990s and the many contributions of the ECCC and of NGOs, what could support this type of reconciliation in Cambodia today? Drawing from field research in Anlong Veng, I argue in the remainder of this paper that, on the one hand, acknowledgement and confessions by former KR cadres, and on the other hand, the expression of empathy by victims could help to further foster reconciliation.

## 4 Seeking Truth: Acknowledgement and Confession

There is a strong desire among those who suffered tremendous tragedies to hear the truth about the KR crimes. This requires acknowledgement and confession by the perpetrators who committed the crimes. 'Acknowledgement or confession can occur in many contexts, such as in trials, truth commissions, public ceremonies, or in individual conversations' (McGrew 2011, 67). Kry Suyheang, a former DC-Cam staff who had worked with civil parties at the ECCC and listened to the stories of individual victims, notes confessions as an important ingredient for restoring broken relations and promoting mutual understanding after the mass violence. She says that 'confession is an integral part of comforting the victim from the feelings of suffering. Confessions can help a person to accept the past and encourage him or her to deal with the experience encountered'.<sup>13</sup> However, the possibility that the perpetrators would confess (and acknowledge past mistakes) is unlikely.

The Cambodian government and other stakeholders, including local NGOs and the ECCC, have engaged to a great deal with promoting memory as well as facilitating general acknowledgement of victims' suffering. The government through the Ministry of Education has allowed DC-Cam to train 1,800 teachers in the teaching of KR history at secondary school level, alongside the existing activities such as victim participation facilitated by local NGOs to engage in the ECCC process (Sperfeldt 2012). However, at the same time, there has been little acknowledgement of wrongdoing by the former KR perpetrators, and therefore few confessions have been made in Cambodia. As we have seen in the previous section, the case of Duch, who was tried at the ECCC in Case 001, provided an exception in this regard: he was the only accused person to demonstrate some willingness to accept some responsibility for the crimes committed at the S-21 prison.

This lack of acknowledgement by former KR cadres can simply be linked to the unwillingness to take responsibility for one's actions. However, some researchers also explain this in relation to the broader culture of Cambodian society. They argue that it reflects dignity and that people are afraid of losing face. Hinton, for instance, argued that the Cambodian culture does not encourage its people to admit wrongdoing in public or in private: 'To do so would involve a slight loss of face' (Hinton 2001, 27). Like Hinton, McGrew argued that 'in Cambodia there is such importance put on "saving face", and public shame and embarrassment are to be avoided at all costs' (McGrew 2011, 67). These arguments suggest that in general people are hesitant to acknowledge mistakes due to fear that they may lose face.

However, in my field research in Anlong Veng, the interviewees whom I met, who were victimized under the KR regime, all expressed a strong desire for former KR cadres and direct perpetrators to take responsibility and acknowledge their actions. Villager Kim Chanty, for instance, expressed her desire to hear acknowledgement from the perpetrators who killed her father under the KR regime. She said: 'Those who are willing to acknowledge wrongdoing need to reconcile with me, I can talk about reconciliation. If any wrongdoer took responsibility for his or her past criminal acts, why could we not forgive'.<sup>14</sup> Another villager also expressed a similar explanation. Van Von said that 'the wrongdoers have to acknowledge their mistake of what they have

<sup>13</sup> Interview with Kry Suyheang (former DC-Cam staff), 4 July 2016, Phnom Penh. Translated from Khmer into English by the author.

<sup>14</sup> Interview with Kim Chanty, 29 June 2016, Anlong Veng. Translated from Khmer into English by the author.



15 Interview with Van Von, 23 June 2016, Anlong Veng. Translated from Khmer into English by the author.

16 Interview with Kim Ou, 27 June 2016, Anlong Veng. Translated from Khmer into English by the author.

17 Interview with Ouk Sao, 24 June 2016, Anlong Veng. Translated from Khmer into English by the author.

committed. Acknowledging [their] mistake is to seek out reconciliation [and] to avoid holding grudges'.<sup>15</sup> Van Von discerned that acknowledgement by former KR perpetrators can be crucial to alleviate victims' feelings of anger due to the wrongs done to them. The expression of acknowledgement then allows one to engage in confessions of transgressions.

Many interviewees deemed confessions to be an important condition of reconciliation because they thought that it is necessary for KR perpetrators to speak about what they did. Kim Ou, a victim of the KR, agreed with this idea by saying that 'if a perpetrator comes to confess ...and says that he is wrong, reconciliation will be able to bloom in the minds of victims'.<sup>16</sup> Ouk Sao, a former KR soldier who asserts that he never murdered or harmed any one, said that reconciliation is unlikely to appear without hearing confessions. Sao implied: 'He (the perpetrator) has to confess [his crimes]. Confession can facilitate reconciliation [between affected individuals]. Through hearing confessions, victims are able to know the truth [about their suffering]'.<sup>17</sup> These Cambodians believed that confessions by former perpetrators, including those who live alongside them in the community, would reveal the truth of what happened during the KR period, which is crucial in the quest for reconciliation on a personal level.

These findings from my field research in Anlong Veng echo previous studies conducted in other areas in Cambodia. For instance, Etcheson (2005) interviewed villagers to examine their attitudes toward reconciliation in three communes: Taches commune of Kampong Chhnang province, Samrong commune of Takeo province, and Trea commune of Kandal province. In his study of reconciliation in these areas, Etcheson (2005, 219) also reported that seeking the truth is still vital because the victims who suffered tremendous atrocities 'want to understand how the violence unfolded, why the crimes were perpetrated, and to hear confessions from the perpetrators, rather than to simply see punishment meted out to the authors of violence'. However, although highlighting the significance of confessions and acknowledgements from perpetrators, Etcheson (2005) did not mention any cases in which confessions were carried out in the communities he studied.

Seen in this light, retributive justice is one thing and acknowledgment of those involved in violence under the KR is another. This means that not only the punishment but also acknowledging the truth are significant for healing and reconciliation. Telling the truth is a way of inspiring victims to reduce their emotional suffering and understand the divided past. It seems that if perpetrators were willing to confess their actions and acknowledge their responsibility, they would have a higher chance of having more positive interactions with other members in their communities.

I argue in the next section that, in addition to the need for acknowledgement and confession by former KR cadres responsible for crimes under the KR regime, empathy constitutes another important element for reconciliation at the interpersonal and community levels in Cambodia.

## 5 The Shortage of Empathy for a Degree of Healing

The development of empathy is an important aspect of reconciliation, mainly reconciliation on the individual level (Huyse 2003; McGrew 2011). According to Huyse (2003, 19-21), empathy constitutes the third stage of reconciliation after a first stage of 'replacing fear by non-violent coexistence' and a second stage of 'building confidence and trust'. Empathy can also be considered 'a powerful prosocial process that helps individuals come to terms with the past' (Path 2017b). As McGrew (2011, 65) argued, empathy as well as re-humanization and compassion 'involve the process of being able to see the perspective of the "other" or to walk in someone else's shoes'. Empathy thus results in understanding one another's actions better. Having empathy for the difficulties former KR cadres faced under the KR regime helps victims to re-establish relations with those who had committed violent acts and possibly begin to forgive them. Among victim respondents from Anlong Veng whom I interviewed, there were some expressions of empathy towards former cadres.

However, direct efforts are needed to develop empathy. Empathy can develop through dialogue about the past or listening to the personal stories and experiences of former KR cadres. KdK director Tim Minea has worked on a community-level reconciliation initiative since 2010 in a community in Kampong province. He told me that his reconciliation project and its specific tools were developed after conducting an assessment of the genuine needs of the conflicting parties in this community. The project, which lasted for two years and was conducted in collaboration with TPO, focused on a participatory approach and used dialogues to mend broken relations between a victim and perpetrator. He and other KdK staff members separately recorded videos of the victim and perpetrator to create a dialogue before arranging a face-to-face meeting between the two. Based on this experience, Tim Minea observed how empathy is developed through listening and explanations:

The participatory approach that we had implemented [to restore individual relationships] is dialogue. ...We opened a discussion with the parties (perpetrator and victim). We initiated a culture of dialogue between them ... raising something that kept in mind to be resolved. ...Therefore, we provided him (the perpetrator) a chance to talk about his past, to let the victim know and to explain what he had done. Likewise, we also encouraged the victim to raise problems, what the perpetrator did to her (the victim) during that period, why she hated the perpetrator, and how disagreement should be resolved. ...Through the dialogue project, I observed she (the victim) expressed [empathy and] sympathy towards the perpetrator, after she heard explanations by the perpetrator.<sup>18</sup>

As explained by this NGO director, empathy would be developed through dialogue to establish an understanding of why ordinary people willingly participated in the atrocities. However, the NGO director also shared the numerous challenges they faced in the implementation of this victim-perpetrator dialogue. He said that the project was difficult because it took a lot of time to build trust with the local authorities and to explain participation in this project to both the victim and perpetrator, because the process of reconciliation is

18 Interview with Tim Minea (KdK director), 6 July 2016, Phnom Penh. Translated from Khmer into English by the author.

19 Update interview with Tim Minea (KdK director), 13 September 2019, Phnom Penh.

20 Interview with Kim Chanty, 29 June 2016, Anlong Veng. Translated from Khmer into English by the author.

21 Interview with Kim Ou, 27 June 2016, Anlong Veng. Translated from Khmer into English by the author.

22 Interview with Chrouch Pring, 24 June 2016, Anlong Veng.

23 Interview with Van Von, 23 June 2016, Anlong Veng.

voluntary. It was also time-consuming to get them used to speaking in front of the camera, to clarify the judicial process at the ECCC and to travel between Phnom Penh and Kampot. Finally, the NGO also faced the difficulty that not many international donors were interested in funding such a process.<sup>19</sup>

In the interviews that I conducted in Anlong Veng with respondents who suffered the loss of family members or loved ones during the KR regime, some victims expressed their understanding that former cadres were coerced into executing their superiors' orders. They were able to realize the situation former cadres faced, and then shifted the blame to the regime and its leaders. One example is the respondent Kim Chanty, a woman whose father was killed under the KR for being a soldier under the Lon Nol regime, which had preceded the KR. She expressed empathy by saying that it is hard to place blame 'if he (former cadre) is ordered to mistreat my family... If he refuses to execute the order, he will be killed'.<sup>20</sup> She also implied that individuals should not be blamed if they are only following orders. In another example, Kim Ou, who survived genocide and lost two uncles to the regime, described that: 'it was hard to put blame on them (perpetrators). It was a society that followed a regime. In this era, we have laws and a king, but there was no law or king during the KR period. We had KR leaders but they led the country in the wrong way'.<sup>21</sup> Similarly, in a survey of 439 respondents from across Cambodia conducted between January and April 2018, Williams et al. (2018, 56) found that over half of respondents 'perceive low-level cadres as less responsible for the violence of the regime than their superiors and even see them as victims of it'.

Nevertheless, in Anlong Veng, former KR cadres were not invited to show remorse, give an apology or a confession that would help genocide survivors to develop empathy. Some of my interviewees in Anlong Veng confirmed that no direct efforts had yet been made for them to develop empathy. They mentioned that the government and other stakeholders had helped to improve their poverty, their economic development continued, and their lives were positively changed. However, they did not experience any efforts to help them feel empathy for the complicity of former cadres in the atrocities. Chrouch Pring, who had worked in a mobile work unit under the KR regime, had experienced a lack of food and forced labor. When interviewed, he said to me that he had received rice and other materials from the government, and that the local authorities and other stakeholders trained him on how to cultivate his own land since he followed his fellow villagers to look for land in late 1998.<sup>22</sup> However, when I asked him whether he was engaged in a discussion of the past, he said no. In a similar vein, Van Von, who was separated from his parents to work and live with other village children in a mobile unit, said that he remembered past sufferings and hardships until these days, and that he did not know how to release such feelings.<sup>23</sup> When asked about opportunities to share his stories, he said that he only shared them with his children. These two men acknowledged that they had not received support to develop empathy and understanding of others, while 'most former KR cadres are now happy to live and raise their family in peace, choosing to earn money to support their families even if maimed during the war' (Path 2017b).

The lack of statements of empathy that directly resulted from state action was perhaps due to the fact that I only conducted very few interviews, or it may be linked to the case study I chose to conduct these interviews. However, we have seen that the victim-perpetrator dialogue project in Kampot, which was designed by the NGO KdK as an initiative for empathy and reconciliation at the individual level, has also gained little support from foreign funding agencies.<sup>24</sup>

In my in-depth interviews, some interviewees from Anlong Veng also talked about the importance of empathy as an integral part of reconciliation. For example, Ouk Sao referred to empathy as a stage that 'stimulates mediation and they (victims and former KR cadres) then reconcile with each other. In exchange for empathy, I think that wrongdoers make an apology, [and they continue to acknowledge and confess their past mistakes]'.<sup>25</sup> For him, empathy is important for reconciliation, and it can be developed when former KR members who committed the crimes apologise, acknowledge and confess. Considering this issue, I would suggest that dialogue should be used to restore broken relationships between alleged perpetrators and their direct victims. The dialogue can be conducted in person, in writing, or with third-party intervention (Ly 2014), as in the recorded videos done by KdK.

24 Update interview with Tim Minea (KdK director), 13 September 2019, Phnom Penh.

25 Interview with Ouk Sao, 24 June 2016, Anlong Veng. Translated from Khmer into English by the author.

## 6 Conclusion

Cambodia and its people face major challenges to reconciliation. The challenges remain significant, even forty years after a period of genocide. The tragedy of the KR regime was related to serious human rights abuses and victims' distrust was a consequence. The KR in particular broke relationships at the individual level. The policies imposed by the DK leaders were to create a new classless society and then they wiped out human practices such as family and social relations, cultural and traditional forms, religions, politics, economics and education. During the painful experience of the DK rule, most brutalities happened between Khmer and Khmer. And the victims of the KR regime now live with former cadres in some villages throughout the country, as in Anlong Veng, for instance.

The fall of the KR was not an ending point for problems in Cambodia's modern history. The conflict perpetuated by the warring factions stirred up political divisions and rifts for almost another two decades, and it became a barrier to development in all sectors. In the 1990s, the RGC imposed a form of reconciliation by compromising with amnesties for those who defected from the KR movement, as well as using prosecution to support its program. However, this approach tended to prioritize only reintegration and political reconciliation that put an end to the Cambodian conflict. In addition to the state action that limited reconciliation at the grassroots level, the ECCC's and NGO's work seems not to handle the large-scale crimes committed during the KR period.

Several studies found that many victims feel uncomfortable living with former KR cadres at the community level (Pham et al. 2009 and 2011; Williams et al. 2018). Therefore, I argue that reconciliation is still missing on the individual or community level in Cambodia. The findings from my exploratory field research in Anlong Veng shows that reconciliation might take place when there is a dialogue in which the perpetrator accused of committing crimes during the KR acknowledges his or her responsibility and confesses his or her actions, and when the victim listens to the perpetrator, understands explanations and feels empathy towards him/her. While my study focuses on the specific case study of Anlong Veng, voices from rural villagers quoted in research on other communities in Cambodia provide similar perceptions.

This paper suggests that dialogue is a significant approach to restoring healthy relations between victims and former KR perpetrators. Further research on the opportunities and challenges for non-state actors, in particular NGOs and community members, to facilitate such dialogues is needed. Another important topic for future research is to focus on the relationships of perpetrators and victims and their children living in the same village in Cambodia.

# Bibliography of the Foreword

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