MEDIATING DIFFERENCE? NGOS’ ROLE IN THE TRANSITIONAL JUSTICE PROCESS IN CAMBODIA

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Abstract

Transitional Justice norms have become increasingly influential in promoting a range of options for societies newly emerging from conflict. In order to examine why and how such international norms spread, an important question of agency that identifies actors and their motivations in joining Transitional Justice needs to be addressed. While some studies in Transitional Justice literature echo norms diffusion literature in their emphasis on the important role of non-state actors, the local context these actors operate in needs closer examination. Through the incorporation of literatures going beyond that of Transitional Justice (including international aid, local cultural and historical context, and norms diffusion), supplemented with interview data with 14 NGO workers and field notes, this study endeavors to assess the state of Cambodian NGO’s work in the country’s Transitional Justice process and identify potential challenges they face. Based on a constructivist approach to international norms that highlights the power of norms, this study pays particular attention to 1) the establishment of the hybrid court (the ECCC) and the favorable condition the hybrid nature of the court gives for the participation of the NGOs as the agents of the ECCC, 2) NGO outreach activities as the sites for reconciling potential difference in international norms and domestic dynamics, 3) the various relationships between the NGOs and the ECCC, and 4) memorialization practices in Cambodia. In this way, this study demonstrates the critical role NGOs play as a local context-bound but potentially autonomous agent in the Transitional Justice processes. It also has broader implications in the study of norms diffusion and civil society.
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List of abbreviations

ADHOC: Cambodian Human Rights and Development Association
ASEAN: The Association of Southeast Asian Nations
CGDK: Coalition Government of Democratic Kampuchea
CHRAC: Cambodian Human Rights Action Committee
CJI: Cambodia Justice Initiative
CJR: Center for Justice and Reconciliation
CSD: the Center for Social Development
CDP: Cambodian Defenders Project
CPP: The Cambodian Peoples’ Party
DC-Cam: Documentation Center of Cambodia
ECCC: Extraordinary Chambers in the Courts of Cambodia
FUNCINPEC : French acronym for Front Uni National pour un Cambodge Indépendant, Neutre, Pacifique, et Coopératif
ICC: International Criminal Court
ICTJ: International Center for Transitional Justice
ICTR: International Criminal Tribunal for Rwanda
ICTY: International Criminal Tribunal for the former Yugoslavia
IOs: International Organizations
KID: Khmer Institute of Democracy
KRT: Khmer Rouge Trial
LAC: Legal Aid of Cambodia
NGO : Non-Governmental Organizations
OSJI: Open Society Justice Initiative
PAS: Public Affairs Section (of the ECCC)
PRK: People’s Republic of Kampuchea
STV: the Standard Total View
TJ: Transitional Justice
TPO: Transcultural Psychosocial Organization
UN: The United Nations
UNTAC: The United Nations Transitional Authority in Cambodia
VU: Victims Unit (of the ECCC)
VSS: Victims Support Section (of the ECCC)
YfP: Youth for Peace
YJR: Youth for Justice and Reconciliation
INTRODUCTION

"It’s an insult to the survivors. Effectively, he should have been receiving many life sentences. It makes light of the crime and suffering" -- Cambodian-American Theary Seng, chairwoman of the Center for Justice and Reconciliation

“In order to encourage and empower such demand, the positive demonstration effect of the KRT must be maximised. This can only happen if it is viewed as a credible, independent institution and, further, if it implements legacy initiatives focused on sending clear messages to the Cambodian people about what real justice looks like.” -- Ou Virak, President of Cambodian Centre for Human Rights

Introduction to this project

The verdict in the first case examined at the Extraordinary Chambers in the Courts of Cambodia (ECCC) on July 26th, 2010 sentenced the accused Kaing Guek Eav (Comrade Duch) to effectively 19 years in prison after the original 35 year-sentence was reduced in consideration of mitigating factors. It received widespread press coverage within Cambodia and beyond. While there was an apparent (though not entirely clear-cut) trend in the reactions from the international commentators (support for the verdict as a milestone for international justice) and from ordinary Cambodian people (frustration at the verdict as too lenient), what seemed puzzling was that the reaction from Cambodian Non-Governmental Organizations (NGOs) was also somewhat mixed (as can be seen from above quotes). Given their close involvement with the ECCC process

4 See Leitsinger in note 1.
5 In this study, I use the term “Cambodian NGOs” to refer mostly to Cambodian domestic NGOs managed with international funding, but also include some Cambodian branch offices of international NGOs. In so doing, the term does not, unless specifically mentioned, include international NGOs operating outside of Cambodia.
(notwithstanding the difference between the background of each organization and worker), the fact that conflicting reactions about the verdict were expressed attracted my attention. In the field of Transitional Justice (TJ), which is often described as an emerging domain of study that endeavors to answer questions about how a society deals with massive human rights violations in the past, practitioners and scholars alike acknowledge contributions from NGOs/civil society. However, although some works in TJ literature focus on the role of NGOs in more or less a positive and somewhat uncritically congratulatory light (examples include Backer 2003, Baxter 2005), the nature of the NGO participation in the TJ process has been understudied in TJ literature. My research project is a close examination of the Cambodian NGOs in the country’s TJ process with broader implications for understanding the interaction between international norms and local dynamics.

While the proponents of TJ often stress that there is no single formula for dealing with the past and that each society should—indeed must—choose its own path, investigation of the experience of various societies and the “basic approaches” identified by studies in TJ have become increasingly influential in promoting a range of options for other societies newly emerging from conflict. In the case of Cambodia, the establishment of the ECCC after three decades following the end of the Khmer Rouge regime (1975-79) was a result of long negotiations between the Cambodian government and the United Nations. During the negotiation process, choosing the best approach from TJ initiatives/institutions—ranging from options such as the establishment of a purely international ad-hoc tribunal to and/or a truth commission—was arguably the central focus. Considering the fact that the field of TJ was originally conceptualized from experiences of South American countries, the ways in which potentially “foreign” ideas spread across territorial as well as cultural boundaries poses an important question of

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6 I use the term “Transitional Justice literature” to indicate texts that touch on Transitional Justice-related themes such as truth, justice, memory in the context of post-conflict societies. However, there is no clear boundary that defines the literature.

7 “Transitional justice is not a special form of justice but justice adapted to societies transforming themselves after a period of pervasive human rights abuse.” International Center for Transitional Justice (ICTJ) homepage: http://www.ictj.org/en/tj/
agency in norms diffusion—who has a say to decide and influence the implementation of TJ initiatives, and why or why not do domestic agencies cooperate with international advocators of such initiatives? And what are the roles of domestic agencies in the ECCC process, and what is their relationship with each other?

Another important question closely related to that of agency in examination of norms diffusion concerns the local context: treating the TJ initiatives in Cambodia merely as one case among the various cases that collectively constitute the development of TJ may risk overlooking the particular context in which TJ actors operate. As Alagappa (2004) points out in regard to civil society in Asia,

> Although civil society is conceptually distinct, in practice it is not completely autonomous. Its structure and function are heavily influenced by its material base and its relations with the state and market. Civil society’s boundary, especially in relation to the state and political society, is porous, at times highly contested, and subject to redefinition through struggle (39).

As Alagappa suggests, the study of civil society shows how each country’s context matters. Furthermore, this study contends that the particularity of local contexts, such as culture and religion, may also mean that understandings of core concepts used in international justice discourse are context-specific. Given the fact that very little research have been done about civil society in mainland Southeast Asia (Thailand being an exception) (Weiss 2008), my research has the potential to contribute to filling this gap, and may also have broader implications for TJ literature.

Existing material available on the ECCC is written from different and often conflicting perspectives. However, it is nevertheless worth mentioning that the bulk of this material can be classified as TJ literature. For the most part, it shares specific expectations and understanding of justice, such as the belief that combating impunity through a fair criminal tribunal in a court of law is necessary for the future development of rule of law in a post-conflict society (Ashley 1998, Linton 2004, Ramji-Nogales and Van Schaack 2005, Heder 2009). While studies that have implications for key concepts in Cambodian context also exist within non-TJ literature (ex. rule of law discussed within the context of development assistance), there are relatively few works in TJ literature that
refer to non-TJ literature, despite its relevance to the issues with which TJ deals. In practice, this lack of “conversation” between relevant literatures may well work to the detriment of TJ initiatives. Thus, I argue that studies on the TJ process need to be informed by a closer examination of the local context and the relationship between the actors involved in the process. Based on the constructivist approach to the power of norms and institutions, I intend to show how NGOs take crucial role in the diffusion of the TJ norms by fulfilling the indispensable tasks for the working of the TJ institutions on the ground, but how, at the same time, they are constrained by context-specific factors. With this aim in mind, I will incorporate literatures that tend to be considered as distinct “fields”, and consequently tend to be overlooked between each other as irrelevant. This literature will be supplemented with interview data and notes from the observation of NGO outreach activities that I undertook during preliminary research in Cambodia in the summers of 2009 and 2010.

Background
A “field” of Transitional Justice

Since the coinage of the term Transitional Justice in the 1980s, TJ practice can be characterized by expansion regarding the geographical area covered and the kind of TJ initiatives implemented in each locality. Similarly, as the number of TJ cases increases, the scope of scholarly debate has also expanded: while early debates on TJ tended to be shaped by questions of “justice (criminal accountability) or peace (amnesty and/or truth commissions)” facing new democracies (Mendez 1997, Orentlicher 2007), recent TJ literature often emphasizes its interdisciplinarity. For those who are in favor of interdisciplinarity, this expansion in scope is a welcome if not belated development that would remedy TJ’s previous tendency to pay undue attention to legal initiatives at the cost of excluding local agency (Lundy and McGovern 2008, Shaw, Waldorf and Hazan 2010). By contrast, other specialists advocate upholding international legal norms of accountability as the field’s central focus for fear of losing the negotiating power of such legal norms (Orentlicher 2007) or obscuring the field’s focus (Bell 2009). While this

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9 Kheang Un and Judy Ledgerwood. “Lessons from the Trial of Kaing Guek Eav, a.k.a. Duch.” The AsiaPacific Issues 95 (June 2010), is one of the few exceptions.
debate shows the ambiguous boundary that constitutes the field of TJ, it is nevertheless worth mentioning that the existing TJ literature—including that on Cambodia—tends to apply core concepts of terms such as justice as they are typically used in the literature, namely criminal accountability in a court of law.

**Transitional justice and the role of the state**

Within the TJ literature, many studies have tried to identify the kind of state that implements TJ initiatives and their reasons for doing so. Bass (2000) tries to answer the question by looking at the type of government and domestic political norms: liberal states support war crimes tribunals because they believe in legalism. Backer (2003) attempts to predict the kind of initiatives and outcome of TJ by looking at the interaction between the state’s policy and civil society’s activities as ‘demand’ and ‘supply’ factors that support or impede non-state actors’ contributions. However, while Backer’s use of the capacity and political will of the state as a demand condition that defines the space for civil society engagement may be useful, he nevertheless overlooks the state’s interest in making decisions to implement TJ initiatives.

Recent studies identify the importance of the state’s interest that influences its decision to implement TJ initiatives as well as outcomes that might arise. Nalepa (2010) argues that fears of exposing the opposition’s own “skeletons”—the infiltration by secret police collaborators within them—explains why some ongoing Eastern European communist regimes stepped down and why the opposition kept its promise to refrain from instigating any TJ reprisals. Similarly, other studies show that the state is not a passive actor in deciding the implementation of TJ initiatives: While international pressure to implement such initiatives could work as a strong coercion that compels states to fulfill institutional requirements, they may still ‘hijack’ or co-opt the process with domestic misuse of TJ norms (Subotic 2009). Likewise, TJ initiatives may be initiated even by new or old repressive elites, depending on the “presence of internally or externally based incentives (e.g., foreign aid) and the level of political control enjoyed by old elites in the new system” (Grodsky 2008). These studies collectively show the importance of examining the state’s role in any study of how TJ initiatives transpire on the ground.
Norms diffusion and the role of NGOs

As some studies demonstrate, the experiences of the process of democratization in Eastern European countries had a significant influence on how TJ was first conceptualized (Arthur 2009). Similarly, conferences where experts of TJ meet and make influential decisions have also played an important role in determining the scope and later development of TJ initiatives (Leebow 2008, Arthur 2009). However, in his examination of Senegalese local understandings of the concept of democracy (translated into demokaraasi), Shaffer (1998) reveals significant differences with the American counterpart. In other words, different cultural contexts may imbue similar institutional arrangements with quite different meaning; as able players of demokaraasi, “Senegalese voters are playing a different game with different aims and rules” (115, emphasis added). Then, what would core concepts of TJ such as “justice” mean to Cambodian people?

While conducting an extensive language-centered conceptual analysis like that by Shaffer is beyond the scope of the present study, it will nevertheless suggest the important role of the intermediaries at work within the process of norms diffusion (or “norms cascade”). For example, Merry’s (2006) anthropological study of the spread of international human rights norms identifies a crucial role of NGOs working as a translator between international actors and local people in order to situate international norms within local contexts of power and meaning. Similarly, Lutz and Sikkink (2001) identify the role of “transitional justice network”, or activist lawyers who facilitate the use of foreign or international judicial processes to promote accountability. While these studies make a convincing case in showing the indispensable role of non-state intermediary actors in norms diffusion process, the normative changes these studies propose implicitly rely on “domestic-norm true believers” (Subotic 2009). In addition, the issue of “global inequalities in wealth and power” that always channel the circulation of international norms (Merry 177) is not sufficiently explored.

Context and international intervention

Another aspect that needs to be considered in the study of norms diffusion is the local context. First, while the fact that the ECCC was established and is being supported
by local NGOs may appear as signifying the compatibility of the international justice initiative with the local context, the review of texts from within and beyond TJ literature shows a more nuanced picture. Some TJ literature tends to suggest that the particular understanding of justice at the ECCC (criminal accountability at a court of law) is compatible with the Cambodian local context (Linton 2004, Ramji-Nogales and Van Schaack 2005). However, texts with no particular TJ focus show the complex interaction of the understanding of justice with Cambodian culture, religion (Theravada Buddhism, practiced by the majority of the population) and tradition (Welaratna 1993, Kent and Chandler 2008, Ear 2010). One interesting finding in this regard is that a sizable minority (42.5 %) in a majority Buddhist country believe that the trials go against the teaching of Buddha (Sonis et al. 2009). This directly contradicts other studies that argue for the appropriateness of seeking accountability through criminal justice. The conflicting results presented above suggest that the current debate on justice (primarily expected to be achieved through the ECCC process) may have been conducted without agreement on the very meaning of justice among different actors. Likewise, the question of how the NGOs deal with such potential gaps in the understanding of justice—which perhaps originate from the “clear difference of Cambodian worldview” (Hansen and Ledgerwood 2008) —remains understudied.

In addition to its unique worldview, another aspect that characterizes Cambodia is the heavy international aid it has received since the time of the United Nations Transitional Authority in Cambodia (UNTAC). While the aims of international intervention range from peacebuilding to the promotion of the rule of law, the fact that one of the premises of TJ initiatives is the achievement of the rule of law through the conduct of fair trials provides a useful nexus between two areas—the examination of TJ initiatives in Cambodia and the arguments made regarding other cases of international intervention (especially those intended to help establish rule of law).

In societies that have experienced severe conflict, mutual trust is lacking between previously warring parties. In this context, reconciliation, institutional trustworthiness and forgiveness facilitated by rule of institutions are crucial factor in creating such trust (Verkoren 2005, emphasis added). However, current practices of international support for the rule of law have received criticisms as well. Specifically there have been criticisms of
the international community’s perceived over-emphasis on formal institutions (Golb 2007), its approach to reforms in the rule of law as merely a technical matter (Hurwitz and Studdard 2005), its use of the rule of law to evade political intervention (Rajagopal 2008), and the teleological view of institution building among donor communities that hinders perceptions of realities in the receiving society and impedes the formulation of viable alternatives (Henke and Chhim 2006). Consequently, due to such donor-driven nature of intervention, the participation of civil society (NGOs) is regulated by conditions set by the donor agency (Hughes 2003, Weilenmann 2009). Furthermore, the power structure in Cambodia, which Un (2006) describes as “interlocking pyramids of patron-client networks” as well as the inclusion of politicians in the Bar association (Peou 2007) suggest that focusing on technical engagement with state would yield only a limited result.

Memorialization practices in Cambodia

The last theme on which I would like to focus in my examination of the role of Cambodian NGOs working with the ECCC is their outreach as well as memorialization practices. The survey of literature on memory in various locations provides a useful background for that purpose.

“Truth is not only the basic condition for overcoming the past but also the basic condition for developing a nonviolent perspective for the future (qtd. in Borer, 18)” As this sentence suggests, the contribution of truth-telling for democratization and sustainable peace has been widely argued in TJ literature from the early stage of its development. Likewise, as a hybrid-tribunal established to try those most responsible for the atrocities during 1975-79, the ECCC strives for accountability and reconstruction of the society—through fair trials of the senior leaders of the regime and “setting the historical record straight (the ECCC homepage, emphasis added)”1. However, many have criticized the ambitious ideals of TJ institutions because of their homogenizing aspect in favor of nation-building discourses (Hamber and Wilson 2002); because truth-telling by the victims/survivors is often unsuitable due to various reasons, including limited time and resource (Unac and Liang 2006); and because of the narrow disclosure of truth (Burgess 2004, Roht-Arriaza 2006, Clark 2008). On a more positive note, Payne’s (2008)
study of perpetrators’ confessions or “unsettling accounts” highlights their crucial role in “amplify[ing] existing political views in society” and “provok[e]ing] new ways of thinking about politics among newly engaged sectors (283)”, although she argues there is no guarantee that they will bring a change.

While the above-mentioned studies suggest a mixed view regarding the potential of TJ initiatives to bring “truth” to the society, it is equally important to consider TJ’s apparent cultural bias in favor of “truth telling” (Bräuchler 2009). Despite claims by some TJ theorists and practitioners that the truth sets one free and settles accounts with the past (Payne 281), other studies also identified why such idealistic beliefs in truth telling overlook the reasons that people (survivors) choose to be silent: Dwyer’s (2009) ethnographical approach shows that the complex social and political factors of the present (ex. tourism that constructs the image of peaceful Balinese people) may explain the silence of Balinese survivors in regard to the violence in 1965. Similarly, Ross (2010) explains women’s silence about their own suffering at South Africa’s Truth and Reconciliation Commission as “a courage act, one that sets aside personal well-being in the interests of the greater community (89).”

In this context, studies that explore alternative way of expressing their views—or “loci of enunciation (Shapiro 2004)”—provide a useful counterpoint to situate NGO works within a myriad of memory initiatives currently found in Cambodia. For example, such loci include artworks that enable effective expressions of unspeakable pain and trauma (Ly 2003) and creation of a basis for empathy (Bennett 2005). Similarly, it can include the visual environment (such as architecture) that is not made for memorialization purposes but nevertheless plays an equally significant role in mediating politics and histories and in registering public memories (Kusno 2010), and film (Boyle 2010).

Finally, some studies focus on the negotiation of memory: Till (2005) describes how the practices and politics of place making in the city of Berlin “mediate and construct social memory and identity by localizing personal emotions and defining social relations to the past (8)”. Moreover, memorialization practices implicate the need for a mnemonic community that enables and sanction remembrance (Coombes 2003, Galam 2008). Therefore, with the context of state control on history and memory (Chandler 2008) and interest in development through tourism (Wood 2006) that exist as a
background of the TJ process in Cambodia, it is necessary to analyze how the NGOs engage in the negotiation of memories.

The argument in brief
As this brief survey of literature suggests, in order to provide an answer to the question concerning the diffusion process of the TJ norms, looking into the role of Cambodian NGOs in the ECCC process will give important insights as to how the local intermediary actors approach the potential gap between international TJ norms and domestic counterparts of those concepts.

One point that needs attention in studying the diffusion process of the TJ norms is the two levels of analysis it requires: institutional level and people’s understandings of the norms. While the establishment and functioning of TJ institutions may suggest that the TJ norms successfully spread to a particular locality of concern, it may not necessarily mean that the understandings of the TJ norms among the local people ensued.

I argue that the Cambodian NGOs have played a significant role for the diffusion of TJ norms at the national, institutional level with their contribution to the ECCC process as agents of the ECCC, as the functioning of the ECCC in Cambodian context indicates. However, analysis at the level of the people’s understandings presents a more nuanced picture.

In addition to fulfilling indispensable tasks within the ECCC process, the NGOs also show potential autonomy. Motivated to join the process for their belief in the TJ norms and the opportunities they get from their participation, the NGOs attempt to promote the participation of the Cambodian people by acting as intermediaries that translate the international norms to make it resonate with Cambodian cultural and religious context.

Despite their crucial role in the ECCC process as the implementer of various essential tasks for the working of the ECCC, they are nevertheless local context-bound agents that partly contribute to the dysfunctions, or pathologies, of the TJ institution. It is largely because of the role of the NGOs as agents, which requires them to work within the parameter of justice—what justice means and how it is achieved—that the ECCC defines. Similarly, this thesis also identifies the aid-dependent nature and contentious
relationship with the Cambodian government as other factors that condition the NGOs. Consequently, due to such constraints, examination of the role of NGOs in the ECCC process identifies various dilemmas and tensions manifested in different ways.

The arguments presented in this thesis differ from the common, somewhat idealistic and take-it-for-granted treatment of the civil society participation that the TJ literature typically takes. Instead, this study points to the need for the careful examination of the local context that conditions the NGOs. I also intend to demonstrate that paying due attention to the power of norms and its embodiment as an institution facilitates our understanding of the workings and challenges of the TJ institutions, and its implications for the norms diffusion on the ground.

As for implications for norms diffusion process, the ECCC process in Cambodia suggests the significant impact top-down nature of the institutions have on the process. In specific, due to the expert authority TJ institutions have, the possibility of placing local norms in an unequal relationship relative to international norms needs to be taken seriously. As for implications for the TJ, the Cambodian case suggests that the establishment of TJ institutions does not automatically guarantee that they function well at different contexts where they are implemented. To a significant degree, the case shows the crucial role of the agents which makes the process work through their fulfillment of indispensable tasks.

Methodology

The findings of this study derive from three qualitative methodological strands: (1) text-based analysis of relevant literature and outreach materials of the Cambodian NGOs that I obtained during my fieldwork as well as from online; (2) interviews with individuals working for the Cambodian NGOs active in the ECCC process; and (3) participant observation.

In terms of theoretical approach, the treatment of TJ norms and institutions in this study is significantly influenced by constructivist approach to the unique power of norms and institutions that embody them. In specific, this study extensively applies Barnett and Finnemore’s theory on the power of international organizations (IOs) and on the origins of IOs’ dysfunctions, or pathologies. As I describe more closely with specific examples
from Cambodian case in the later chapters, Barnett and Finnemore’s central argument—that the source of the IOs’ power can become the cause for their dysfunctions—gives a useful analytical tool for this study.

In addition, another theory that I extensively apply in this thesis is principal-agent theory that examines the “contractual relationship” between principals and agents. In the case of Cambodian NGOs in the ECCC process, their contextual knowledge and expertise working on the ground not only make them crucial agents indispensable to the functioning of the ECCC (principal) but also give them certain autonomy to adapt the TJ initiative to make it suitable for the Cambodian context. However, a closer look suggests the diversity among the NGOs (agents) and their need to deal with multiple principals in addition to the ECCC (i.e., international donors).

Applying these two theories enables to highlight the various manifestations of the dilemmas and tensions the NGOs face in fulfilling their role for the ECCC process.

Data from fieldwork in Cambodia, summers of 2009 and 2010

In summer 2009, working as an intern for the East-West Center’s research project Asian International Justice Initiative, I became acquainted with various actors working within and around the ECCC (including NGO staff, court officials as well as donors). I also attended several meetings in Phnom Penh, the capital city of Cambodia (including outreach harmonization meeting between NGOs and ECCC’s Victims Unit10, and Monthly meeting among NGOs). Moreover, I was fortunate enough to have opportunities to accompany and observe outreach activities conducted in Pursat province (where many victims of KR spoke about their suffering) by the Center for Social Development (CSD) and in Pailin city (a former KR stronghold: positive account of the KR emerged) by Youth for Peace (YfP).

In summer 2010, I was again in Cambodia. While the main objective of this stay was to improve my Khmer language skills, I was nevertheless able to conduct preliminary field research consisting of interviews (with approval from the Committee on

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10 Victims Unit (VU) later renamed itself as Victims Support Section (VSS). In this thesis, I will use Victims Unit (VU) to refer to both.
Human Studies) with NGO staff as well as participant observation of a range of their activities both in Phnom Penh and other provinces.

The timing of my fieldwork is worth mentioning here: the summer of 2009 was in the middle of the trial proceedings of the case 001 (after the initial hearing on 17 and 18 February 2009, substantial proceedings started on 30 March 2009 and concluded on 27 November 2009). As for the summer of 2010, the time of my fieldwork coincided with the time before and after the announcement of the verdict in the case 001 (on 26 July 2010).

The interviews I conducted with NGO workers were semi-structured; in total I interviewed 14 NGO workers representing 8 organizations. Each interview took approximately 1 to 2 hours. Since there are at least 15 NGOs working closely with the ECCC, the interview results should not be viewed as representing the views of the entire NGO community. Many of them are the members of Cambodian Human Rights Action Committee (CHRAC), some work without affiliating with CHRAC. However, due to the structure of the interview that allowed interviewees to elaborate on their views as well as the interviewees’ generally cooperative attitude, I could occasionally obtain interesting insights that could supplement other references used for this study. In addition, while I did not conduct interviews with ECCC officials, I could nevertheless become familiar with the viewpoint of some key officials (such as co-prosecutor Andrew Cayley) from the public statements they made at various occasions.

Interviews were conducted in English. I was not proficient in Khmer language (the local language in Cambodia) enough to understand the spoken or written content at the interviews and other activities I observed. Fortunately, activities of relatively bigger scale with non-Khmer speaking participants/audience usually provided simultaneous English interpretation, and at some (though not all) smaller activities, NGO staff kindly interpreted for me. However, during the interview, the fact that both interviewees and I were not native English speakers might have posed challenges for some of the interviewees to express their opinion freely.

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11 One interview was a group interview with 5 NGO workers working for the same organization. Due to the difficulty differentiating each worker during the transcribing process, I treated them as “interviewee 3” in this thesis, to refer to the 5 workers.
In this thesis, I supplement the field notes with outreach materials that I brought back from those activities. The materials include English, Khmer, and bilingual materials. At the moment of writing this thesis, I can understand Khmer-only materials with the help of a dictionary.

**Chapter overview**

1. **Formation and development of the TJ field and its power**

In this chapter, I will review the relevant literature to introduce the basic background of the Cambodian case. Paying due attention to the local context (including historical treatment of accountability issues as well as domestic political situation) and international context (including growing recognition and increase of TJ initiatives), I will explain why international and domestic interest in TJ initiatives converged in the timing it did, and in the form it took (i.e. hybrid court comprised of domestic and international actors). As Barnett and Finnemore argue, due to International Organizations’ power—which enables them to classify and organize information and knowledge, fix meanings that establish the parameter of acceptable action, and articulate and diffuse new norms and actors, the establishment of the ECCC gives different incentives for each domestic actor to participate in the process.

2. **Norms diffusion in practice? NGOs’ outreach activities in Cambodia**

In this chapter, I will focus on the outreach activities Cambodian NGOs conduct in cooperation with the ECCC. Considering the risk of IOs’ potential dysfunctional behavior (or pathologies) stemming from their *bureaucratic universalism* and other mechanisms (Barnett and Finnemore 1999), outreach activities are the sites where the NGOs often—here, working as intermediaries—not only encounter different understandings of justice that fall outside of the meaning of justice established by the ECCC (embodying TJ norms), but also need to take measures to reconcile the difference. Using notes from observation of activities at various locations in the country as well as from information I obtained from interviews with NGO workers who have worked for those activities, I will try to answer some of the important issues surrounding the norms diffusion process: how do NGOs deal with different understandings of justice expressed during their activities?
What are the challenges facing NGOs working as intermediaries? How much room is there for the NGOs to shape their activities? Through these inquiries, I intend to show the role of the NGOs as crucial agents which ensures the workings of the ECCC process, but which simultaneously conditions the way they deal with the multiple understandings of justice among the survivors of the Khmer Rouge regime.

3. **Fragile coalition? Momentary expression of voice**

   In this chapter, I will examine the nature of the coalition between the international actors and the NGOs in the TJ process and propose another aspect of the NGOs as constrained agents. Looking at the triangular relationship among “international community”, Cambodian government and NGOs that conditions the role NGOs could play, I will try to explain the momentary dissatisfaction expressed by some NGOs after the Duch verdict by contextualizing this event. While the absence of ‘exit’ options for the NGOs (due to challenges such as aid dependency on international donors) would probably let them maintain their cooperation with the ECCC, the nature of the coalition between the international actors and the NGOs does not seem to be perfectly solid, reflecting the diverse organizations making up the TJ field. This chapter then discusses two examples of pathologies emerged during the court proceedings: dissatisfaction over the verdict among the survivors; and rejections of civil party applications. While the NGOs and the ECCC recognize the two pathologies as coordination issues and attempt to solve them with improved communication, such rather top-down measures may be inadequate.

4. **Situating NGO activities in a wider context: memorialization practices in Cambodia**

   While preceding chapters mainly focus on the political context, this chapter introduces another equally central kind of activities undertaken by NGOs: memorialization practices. In contrast with the changing policies on Khmer Rouge by previous and current government that have effectively set parameter on acceptable accounts of the past, the ECCC process has served as a window of opportunities for some NGOs to conduct memorialization activities that enable alternative perspectives and
memories to emerge. Focusing on the case study of one NGO that exemplifies such practices, I will identify NGOs’ potential to be autonomous agents in TJ process, but argue that being agents simultaneously conditions them as well. Lastly, by situating memorialization works by NGOs in a context of various memorialization practices at play in Cambodia, I conclude with the contribution of the NGOs in the ECCC process that is not limited in the trial proceedings proper.

Conclusion

Despite the proliferation of TJ initiatives in various places of the contemporary world, the question of how such international norms spread across geographical as well as cultural borders is not sufficiently explored. By focusing on the role of NGOs working as intermediaries during the process of TJ implementation in Cambodia, I hope that my study will contribute not only to the development of relevant fields but also make a case for the necessity of collaboration.
CHAPTER 1
FORMATION AND DEVELOPMENT OF THE TJ FIELD AND ITS POWER

Introduction
The agreement to establish a TJ institution in Cambodia—the ECCC—was finally reached in 2003, almost 25 years after the end of the rule under the Khmer Rouge regime in 1979. Despite the uniqueness of the Cambodian case, including the long lapse of time before the establishment, it is firmly situated within the development of the TJ field as the first case in which the idea of a hybrid tribunal emerged.

In order to explain why the ECCC emerged in the timing it did and in the form it took, it is indispensable to examine both the local as well as international contexts. To this aim, this chapter first looks into the formation of the TJ field, and TJ norms’ development into a global agenda. Second, the historical process behind the establishment of the ECCC suggests that the hybrid option seems to have emerged as a trade-off between the international TJ norms and domestic political constraints rather than being a promising alternative for ad-hoc international tribunals. Drawing from a constructivist approach to the power of International Organizations (IOs) which traces the power of IOs to its bureaucratic structure and normative authority, this chapter then briefly introduces the kinds of power TJ institutions enjoy. Lastly, together with the expansive characteristics of the TJ field, this chapter argues that the power of TJ institutions may have served as an incentive for the Cambodian NGOs to participate in the ECCC process as agents.

1. Making a field of Transitional Justice
How does a society deal with systemic and/or wide-scale violations of human rights? There are numerous possible responses to this question—such as to forget, to retaliate against perpetrators with violence, or to prosecute them—and it could be up to the society to choose an option. However, as we can see from the establishment of ad-hoc International Tribunals, namely International Criminal Tribunal for Rwanda (ICTR) and International Criminal Tribunal for the former Yugoslavia (ICTY) in the early 1990s, and
Truth Commissions in various locations of the world, increasing number of societies have taken measures that are currently identified as “basic approaches” to deal with the massive-scale human rights violations of the past. The current-day existence of the field of TJ and its “basic approaches” poses us a question on the formation of the TJ field: how societies’ certain responses to their respective past came to be identified as a distinct issue, and as “basic approaches”?

A “field” with an unsettled point of beginning?

Given today’s increasing number of initiatives and publications in the field of TJ, one would assume that the field of TJ—as a distinctive issue and a field—has the definite beginning. In fact, review of relevant literature shows to the contrary: Different authors have identified a different point of beginning. This points to the fact that the field of TJ came into being through a conscious creation as a field over other potential boundaries.

Teitel, a law professor who has published a number of publications on TJ, traces the origin of modern TJ to World War I. She argues that the first phase of TJ (among the three phases which she classifies her conceptual history into)—when TJ’s extraordinary and international nature was understood with war crimes trials, sanctions and international cooperation—began with the most recognized Allied-run Nuremberg Trials in the post-World War II period. Due to the exceptional political condition of the period and the beginning of the Cold War, however, the Phase I shortly came to an end. Then the Phase II, characterized with a “third wave” of accelerated democratization, did not begin until the end of the Cold War.\(^{12}\)

In contrast, Elster takes a distinct approach from Teitel’s. Characterizing TJ as being comprised of “the processes of trials, purges, and reparations that took place after the transition from one political regime to another,” Elster traces back the historical cases of TJ into ancient history—up until Athens in 411 and 403 B.C.

While acknowledging that Elster does not claim to have written a history of TJ, Arthur, Deputy Director of the Research Unit at an international NGO the International Center for Transitional Justice (ICTJ), criticized both Elster and Teitel for their

anachronistic approaches: “imputing ideas about “transitional justice” to actors who, presumably, were unlikely to have held them”. In order to avoid anachronism, what Arthur focuses on is the invention of a term “transitional justice” itself as well as the emergence of its contents. Following the first instances of the term’s usage in conferences and academic publications that discussed the pressing issues which faced human rights activists at newly democratizing countries in the late 1980s, Arthur argues that the field of TJ—“an international web of individuals and institutions whose internal coherence is held together by common concepts, practical aims, and distinctive claims for legitimacy”—heavily reflects the shared understanding of the meaning of political transition, namely “transitions to democracy”. The measures taken during a supposed period of transition to democracy in order to deal with the issues of human rights violations by military regimes have since been passed on as “the legitimate transitional justice measures” despite the diverse political and practical issues they were subsequently applied to. The effect of the formation of a field—the identification of an issue and certain measures as legitimate measures to be taken—is evident here, and it has had strong influence on how the field has developed with a number of future TJ initiatives.

**TJ becomes a global agenda**

Once identified, issues in the field of TJ were gradually taken up by IOs and incorporated into their agenda. For example, research on the obligation under international law to prosecute the perpetrators of human rights violation was conducted by a participant of the Aspen seminar (one among a number of conferences and seminars that took place during the late 1980s and early 1990s with overlapping participants and similar topics on TJ) and later solidified as UN principles (“Joinet Principles”) for the rights to know, to justice, and to reparations. Similarly, another example of TJ’s incorporation in global agenda is then-United Nations Secretary-General Kofi Annan’s 2004 report *The rule of law and transitional justice in conflict and post-conflict*

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15 Arthur, 324.
17 Arthur, 353.
societies\textsuperscript{18}, which placed TJ and rule of law in the center of UN activity in conflict and post-conflict societies.

The “Hybrid option”—an alternative TJ approach

Considered as one of the “basic approaches” of the TJ mechanism today, hybrid tribunals—which “involve the combined effort of the international community and the national institutions of the country where they [sic] crimes are committed,” and which “typically employ both national and international judicial actors and incorporate both domestic and international law in their statutes\textsuperscript{19}”—have been established in many different parts of the world, namely Sierra Leone, Timor-Leste, Kosovo, Bosnia, Lebanon and Cambodia. In fact, despite the apparent prevalence of hybrid tribunals, they were not in the original TJ “approaches”. Looking into the establishment process of the hybrid tribunal in Cambodia—where the concept of hybrid tribunals first emerged in 1999 during negotiations between the UN and Cambodian government\textsuperscript{20}—is helpful to understand how the field of TJ has expanded. Moreover, it also enhances our understanding as to how the incorporation of the “hybrid tribunal” option in TJ mechanism has arguably given legitimacy to the option itself, despite the fact that the concerns anticipated in the establishment process remain largely unresolved.

2. Background for the hybrid option

The ECCC was established when the negotiation between the Cambodian government and the UN reached an agreement in July 2003, which detailed the


participation and assistance from the international community\textsuperscript{21}. The ECCC homepage suggests that it was the Cambodian government’s initiative to begin the process:

The Khmer Rouge regime took power on 17 April 1975 and was overthrown on 7 January 1979. Perhaps up to three million people perished during this period of 3 years, 8 months and 20 days. The end of Khmer Rouge period was followed by a civil war. That war finally ended in 1998, when the Khmer Rouge political and military structures were dismantled.

In 1997 the government requested the United Nations (UN) to assist in establishing a trial to prosecute the senior leaders of the Khmer Rouge\textsuperscript{22}.

What this “brief summary” section of “the introduction to the ECCC” page does not fully answer are questions as to why the ECCC, more than twenty years since the end of the Khmer Rouge regime in 1979, came into being in the timing it did, and in the form it took. This question seems especially important, given the fact that the ECCC is not the first accountability-seeking initiative in Cambodia. The first instance of accountability-seeking initiative against the Khmer Rouge in 1979 does not enjoy recognition as legitimate from most of the international observers, due to its failure of compliance to the international fair trial standard.

\textit{The Pre-ECCC accountability-seeking initiative in Cambodia}

The Khmer Rouge regime collapsed in early January 1979, when Cambodian rebels and Vietnamese armed forces ended escalating conflict on both sides of the Vietnam-Cambodian border with the occupation of most of Cambodia and the installation of the People’s Republic of Kampuchea (PRK)\textsuperscript{23}. While the survivors who experienced severe sufferings under the Khmer Rouge regime welcomed the PRK government (despite their resentment at the presence of Vietnamese troops)\textsuperscript{24}, there were many who were suspicious of the PRK regime, including high-ranking officials and regional cadres who were largely content under the Khmer Rouge regime and some educated Cambodians

\textsuperscript{22} “Introduction to the ECCC”, ECCC homepage.
\textsuperscript{24} Ciorciari, 39.
who were alarmed to see the continuity between the successive socialist regimes. Instead of distancing themselves from the Khmer Rouge regime by abandoning Marxism-Leninism or one-party rule, the PRK officials chose to demonize the “genocidal Pol Pot-Ieng Sary clique” for the atrocity happened during 1975-79 under the Khmer Rouge regime. It was against this background that the PRK government established a “People’s Revolutionary Tribunal” in August 1979.

The “People’s Revolutionary Tribunal Held in Phnom Penh for the Trial of the Genocide Crime of the Pol Pot-Ieng Sary Clique” was, while recognized as “the first judicial attempts to promote justice and reconciliation in Cambodia after the Khmer Rouge tragedy” and “marked the first effort to hold individuals accountable for the crime of genocide since the creation of the 1948 Genocide Convention”, nevertheless widely discredited as a travesty of justice for its procedural flaws, including the failure to respect the defendants’ right. The trial proceedings lasted for four days without the presence of the accused, Pol Pot and Ieng Sary. The verdict sentenced the two accused persons to death, characterizing the crimes of the Khmer Rouge regime arising not from extreme communist ideology but from “fascist methods” and “extremely reactionary” policies. In addition, because the former Khmer Rouge cadres’ administrative and military skills they gained under the Khmer Rouge regime were deemed useful, they gained an informal amnesty and realigned themselves with the new socialist regime. In so doing, following the issuance of the “Circular on Punishment for Those Who Committed Offenses Against the People During the Pol Pot-Ieng Sary Regime” that formalized the regime’s co-optation policy towards Khmer Rouge cadres, the PRK regime utilized the 1979 trial to define its enemies and reassure the population.

Due to the 1979 trial’s limited impact stemming from its politically charged nature

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26 Chandler, 280.
27 Ciorciari, 39-40.
29 Evan Gottesman, *Cambodia After the Khmer Rouge: Inside the Politics of Nation Building*, (New Haven: Yale University Press, 2003), 60-6. Gottesman also gives detailed description of the preparation and proceedings of the trial. Some authors, including Chandler and Ciorciari, mention that the trial lasted for five days.
and the ongoing Cold War, the rivalry between the PRK and Khmer Rouge continued, both at the domestic as well as international arenas. Within Cambodia, the Khmer Rouge forces received covert support from anti-Soviet governments in China, the member states of the Association of Southeast Asian Nations (ASEAN) and the West, and continued warfare against PRK and Vietnamese forces despite their inferior military strength. At the international arena, the Khmer Rouge, incorporated within a “coalition Government of Democratic Kampuchea (CGDK)” which the West and ASEAN states set up to isolate the PRK, continued to represent Cambodia at the UN General Assembly. In consequence, there was no other accountability-seeking initiatives in the 1980s, when there were better conditions for holding the perpetrators accountable with fresh memories of the Khmer Rouge regime and easiness to identify perpetrators. It was the end of Cold War and the following series of dynamic political changes in Cambodia that constituted the background for another accountability-seeking initiative.

The end of the Khmer Rouge movement and the negotiation for the establishment of the ECCC

The context in which the Cambodian government requested UN assistance to hold the Khmer Rouge leaders accountable in 1997 significantly differs from that of the 1979 trial. In Cambodia, after the Vietnamese withdrawal in 1989 and the national election under the UNTAC in 1993, a coalition government—comprised of the Cambodian Peoples’ Party (CPP) led Hun Sen who has secured his political prominence since becoming prime minister of the PRK in 1985, and FUNCINPEC (French acronym for Front Uni National pour un Cambodge Indépendant, Neutre, Pacifique, et Coopératif) led by Norodom Sihanouk’s eldest son Norodom Rannaridh—were in power. Whereas the Khmer Rouge, which boycotted the national election and was subsequently outlawed in 1994, drastically lost its influence. While the Khmer Rouge leaders went in hiding and still kept its armed force of over five thousand in the mid-1990s, increasing number of defections to the coalition government weakened the Khmer Rouge movement. In order to deal with the remaining Khmer Rouge who have not surrendered to the

30 Ciorciari, 40-41.
31 Chandler, Will there be a trial for the Khmer Rouge?, 75.
government, Hun Sen promoted a policy of “national reconciliation”—rewarding surrendered Khmer Rouge with amnesty from prosecution under the 1994 law—which was remindful of the PRK’s prioritization of political necessity in dealing with former Khmer Rouge cadres. In 1996, Ieng Sary defected to the Cambodian government, taking Hun Sen’s offer to grant him political rights as ordinary citizen without discrimination and to forget his “past, whatever it is”. Though controversial and unpopular among many members of CPP and FUNCINPEC, the deal gave a critical blow to the Khmer Rouge movement, which soon led to the movement’s disintegration and the house arrest and death of Pol Pot, the leader of the movement, in 1998.

In reaction to the disintegration of the Khmer Rouge, the UN began to show stronger commitment to the need for Khmer Rouge accountability. In April 1997, the UN Commission on Human Rights requested the UN Secretary General to “examine any request by Cambodia for assistance in responding to past serious violations of Cambodian and international law as means of...addressing the issue of individual accountability.”

Two months later, two then-co-prime ministers (Hun Sen and Norodom Rannaridh) sent a letter to the UN in order to “ask for the assistance of the United Nations and the international community in bringing to justice those persons responsible for the genocide and crimes against humanity during the rule of the Khmer Rouge from 1975 to 1979”, noting their awareness of “similar efforts to respond to the genocide and crimes against humanity in Rwanda and the former Yugoslavia”.

While it is uncertain as to why the Co-Prime Ministers requested the UN for

32 With detailed historical accounts of French colonial and Vietnamese Communist practices, Heder argues that such selective use of justice for political expediency is, instead of being uniquely Cambodian, attitude that Hun Sen and previous Cambodian political leaders internalized over time. Steve Heder, “Hun Sen and Genocide Trials in Cambodia: International Impacts, Impunity, and Justice.” in Cambodia Emerges from the Past: Eight Essays, ed. Judy Ledgerwood. ([Monograph series on Southeast Asia, no. 3]. DeKalb, IL: Southeast Asia Publications, Center for Southeast Asian Studies, Northern Illinois University, 2002), 176-223.

33 Heder, 196.
34 Ciocciari, 64.
35 Quoted in Heder, 196-7.
assistance, changing political situation again shifted Hun Sen’s approach. In July 1997, Hun Sen attempted to arrest Norodom Ranariddh, whose FUNCINPEC party was expected to win an upper hand at the upcoming 1998 national elections, and the armed forces loyal to Hun Sen carried out a coup d’etat against FUNCINPEC over suspicion of conspiracy between FUNCINPEC and Khmer Rouge. Norodom Ranariddh fled the country, and CPP consolidated power with the victory in the 1998 elections. Moreover, Hun Sen made further successes in persuading Khmer Rouge leaders to defect: In March 1998, Hun Sen welcomed Ke Pok, who had “broken away from” the weakening Khmer Rouge; and in December, Nuon Chea and Khieu Samphan who made unconditional surrender in order “to live as ordinary citizen(s)” in both occasions, Hun Sen stressed the need for “national reconciliation” and rewarded Ke Pok with a position in the government army, and upon welcoming Nuon Chea and Khieu Samphan, made a rather infamous statement that they should be welcomed “with bouquets of flowers, not with prisons and handcuffs” and that Cambodia “should dig a hole and bury the past and look ahead to the 21st century with a clean slate.” As Hun Sen’s lack of commitment to his request for UN assistance became clear, opposition parties and international critiques severely denounced him for his seeming lack of interest in justice and utilizing the request simply to facilitate Khmer Rouge defections.

Despite the unclear motive behind the co-prime ministers’ request in the hindsight, the UN acted upon the request and dispatched a Group of Experts to evaluate the existing evidence to determine the nature of the crime under the Khmer Rouge regime, to assess the feasibility of arresting those responsible and to hold them accountable before an international or national jurisdiction. The Experts recommended that the UN should establish an ad hoc international tribunal (under the Security Council or the General Assembly) after assessing the options in comparison with other alternatives (namely a domestic tribunal, a domestic tribunal under UN administration, and an international tribunal established by a multilateral treaty and trials in third States), and after determining that it is the only option that “can be effectively insulated from the stresses

37 Ciorciari, 65.
38 Heder, 198-9.
39 Qtd. In Ciorciari, 66.
40 Ciorciari, 66.
of Cambodian politics.\(^{41}\)

When Hun Sen became aware of the UN Experts’ recommendation for an ad-hoc international tribunal, he promptly countered it, stating that the trials of Khmer Rouge leaders would bring civil war back to Cambodia. Hun Sen and other government officials maintained that they no longer need the help they requested in 1997, since the situation had significantly changed with the defection of Nuon Chea and Khieu Samphan, and with the arrest of the last politically active Khmer Rouge leader Ta Mok just days after Hun Sen expressed his disagreement with the Experts’ recommendation\(^ {42}\). In his view, the trial ought to be a domestic one, though he still sought technical or financial assistance from the international community.

Subsequently, a long negotiation process in order to fill a gap between the two sides followed until they reached the Framework agreement in June 2003. In a series of mutual concessions, the idea of a “hybrid” or “mixed” trial emerged as a potential model\(^ {43}\). While the name “mixed” tribunal already appeared in the UN Experts’ report as an option of “a tribunal established under Cambodian law, but subject to the control and operation of the United Nations\(^{44}\), the “mixed” option which emerged from the negotiation process and was eventually adopted in the Framework agreement differs from the one in the Experts’ report, due to its composition allowing participation from both international and Cambodian sides in a majority Cambodian court. Despite the adoption of a super-majority decision system at the court—an effective veto for the international side that requires at least one affirmative vote from the international judges\(^ {45}\)—some sources of concern identified early on, including the possible political interference in the process remained unresolved.


\(^{42}\) Heder, 206.

\(^{43}\) Scholars apparently suggest different origins of the latter option: Heder argues that the “mixed” tribunal option that allows the participation of international judges and prosecutors was proposed by a CPP legislator in March 1999 after the government reportedly received pledge for legal assistance from some foreign countries, and set the tone for the Cambodian side’s later attempt to dismiss an ad-hoc international tribunal in favor of the “mixed” tribunal option (207). Ciorciari, in contrast, presents the option as the international community’s act to break the impasse, presented in April 1999 by U.S. Senator John Kerry during his meeting with Hun Sen (69).


\(^{45}\) Ciorciari, 77.
Adoption of a hybrid option: high expectation as a new alternative to an ad-hoc international court

Why did the UN side agree to the hybrid option, given its persisting concerns? One common explanation is that the establishment of another ad-hoc international tribunal would have been difficult, if not impossible, due to the expected veto by China and Russia.\(^{46}\) Moreover, there was growing criticism against existing ad-hoc international tribunals (i.e. ICTY and ICTR) for their limitations—which an author succinctly expressed as “elusive, time-consuming, and expensive”\(^{47}\).

Due to such obstacles against another establishment of an ad-hoc international tribunal, the establishment of Cambodia’s ECCC inevitably involved compromises. However, once the idea of hybrid tribunals came into being in Cambodia and began to be implemented elsewhere as the model\(^{48}\), an interesting trend, or a flip of the argument, apparently came to grow within the TJ field in tandem: high expectation for hybrid tribunals as a promising alternative for ad-hoc international tribunals.

In her article published in 2001, when the negotiation between the UN and the Cambodian government was still underway, Linton, a human rights attorney and a law professor at the University of Hong Kong who has made many publications on Cambodia and on TJ, situates hybrid tribunals (or “internationalised tribunals” in her words) as an initiative emerged “in a radical move away from the earlier prevailing wisdom that the non-inclusion in any position of nationals of the country most affected would preserve impartiality, objectivity and neutrality”\(^{49}\). Linton then cautions that the UN should not engage in “failed experiments in international justice”\(^{50}\) because such initiatives, including the ECCC which was “born of compromise on fundamental issues” would be unlikely to succeed in complying to international standards\(^{51}\).

Despite her overall cautious note, Linton also mentions the positive potential of the hybrid tribunals, such as the involvement in “an internationally sanctioned judicial

\(\text{\footnote{46}}\) Ciorciari, 69.
\(\text{\footnote{48}}\) Linton, 186.
\(\text{\footnote{49}}\) Linton, 185.
\(\text{\footnote{50}}\) Linton, 242.
\(\text{\footnote{51}}\) Linton, 245-6.
process delivering justice to its own people” and “disseminate international standards of justice and demonstrate the highest levels of professionalism to local judges, prosecutors and lawyers, as well as the general public”52. It is apparently such high expectations that set the tone for the mainstream debate on hybrid tribunals. While criticisms for the potential disadvantages of hybrid tribunals still appear in more recent articles on hybrid tribunals, the hybrid option has become a standard reference as a promising alternative for an ad-hoc international tribunals53. Proponents of hybrid tribunals expected that such institutions would hopefully “combine the independence, impartiality and resources of an international institution with grounding in national law, realities and culture, reduced costs, and the continuity and sustainability of a national effort54”. They also hoped that hybrid institutions would help build sustainable justice systems and establish the rule of law55.

What this seems to suggest is that hybrid tribunals have achieved increasing recognition as a TJ option. One thing that is indicative of this is the apparent change in the way different TJ resources introduce of hybrid tribunals. At the publication of Linton’s 2001 article, she apparently makes conscious effort to situate hybrid tribunals within the field of TJ by stating that “for internationalised tribunals to be correctly understood, they must first be recognised as being one of a range of transitional justice options, from those of a judicial nature to non-judicial truth seeking mechanisms, available to nations seeking to address a legacy of violence56.” In contrast, nowadays, many organizations, including ICTJ, introduce hybrid tribunals as “a part of international justice efforts” and that experience from former and existing hybrid tribunals would “offer an important model for bolstering national capacity with adherence to international

52 Linton, 245.
56 Linton, 185.
standards while ensuring that the proceedings have relevance for affected communities”\textsuperscript{57}.

As a result of the expansion of the TJ options—the incorporation of hybrid tribunals as a model to be used in order to address what is identified as TJ needs elsewhere, along with the credibility which UN involvement gives to the process, hybrid tribunals arguably came to enjoy legitimacy, or power as its effect. Unpacking the power may be helpful in order to facilitate our understanding of the work of hybrid tribunals on the ground.

3. The power of TJ institutions

In today’s globalizing world with growing complexity of cross-national interactions, IOs manage an array of tasks all over the world, ranging from promotion of economic growth to human rights protection. While conventional treatment of IOs—the functionalist treatment that focuses on technical achievement of the IOs’ mission as well as the statist treatment that considers IOs as sheer tools of states—tends to overlook IOs’ political nature of their work and character as well as their role as an autonomous actor, Barnett and Finnemore’s alternative framework for the role of IOs in global governance suggests two sources of their authority/power: their form as rational-legal bureaucracies and their liberal goals. Established in a historical process where global cultural strands of rationalization and liberalism converged, IOs take bureaucratic form perceived to embody its perceived qualities (including rationality and efficiency) suitable to govern the world, and are esteemed for their role in achieving liberal vision of “progress” for states and their constituencies\textsuperscript{58}.

As international institutions established to deal with TJ issues with an application of international standard—and thereby promoting norms essential for a liberal state, TJ institutions share the kinds of authority IOs have, and exercise power they derive from their authority in particular ways as IOs do. Similarly, Barnett and Finnemore’s critical observation that the bureaucratic structure that the IOs derive their power from can be


simultaneously the very source of their dysfunction, or pathology\textsuperscript{59}—with its five dominant sources of bureaucratic culture: “the irrationality of rationalization, universalism, normalization of deviance, organizational insulation, and cultural contestation”\textsuperscript{60}—is potentially useful in assessing TJ institutions’ work as well.

\textit{The authority of TJ institutions}

According to Barnett and Finnemore, IOs possess four types of authorities each of which distinctively contributes to make IOs autonomous actors, namely rational-legal, delegated, moral, and expert authority\textsuperscript{61}. In the case of TJ institutions, they enjoy rational-legal authority through their performance of their tasks at office and implementation of “rationally established norms”\textsuperscript{62}, such as “international fair trial standard”; they have delegated authority bestowed from states to deal with certain tasks, such as holding those responsible for massive human rights violations accountable in a court of law; they enjoy moral authority by embodying, serving or protecting shared principles, such as victims’ rights and by emphasizing their neutrality; and they have expert authority attributed to their advanced knowledge in relevant fields, such as international law.

\textit{The power of TJ institutions}

Being conscious of the different kinds of authority TJ institutions have facilitates our understanding as to how their power works. For the purpose of this study (examination of norms diffusion process), Barnett and Finnemore’s application of three kinds of power exercised by IOs—namely compulsory, institutional and productive power—is particularly helpful by suggesting why the TJ norms are powerful and how they strengthen and are strengthened by TJ institutions.

Barnett and Finnemore argue that IOs, with compulsory power derived from their material and normative resources as well as various tools for this purpose, directly shape

\textsuperscript{60} Barnett and Finnemore “Pathologies of International Organizations,” 719.
\textsuperscript{61} Barnett and Finnemore, “The power of liberal international organizations,” 174.
\textsuperscript{62} Barnett and Finnemore, “The power of liberal international organizations,” 171.
behavior of states as well as non-state actors. In this respect, it is necessary to examine both material resources TJ institutions have—which reinforce TJ norms—and other techniques TJ institutions use, such as strategic use of information.

The institutional power of IOs, or the power to “guide behavior in ways that are both indirect and unintended” through their policies, precedents, agenda-setting and classificatory practices is relevant for TJ institutions as well. The influence of various societies’ experiences as “lessons learned” or “best practices” in shaping future TJ practices is case in point. Equally relevant is the fact that the UN, which plays a pivotal role setting up TJ institutions, incorporated TJ norms in its agenda with the above-mentioned 2004 Secretary General report to assist the needs of societies that it classifies as “post-conflict societies”.

Last but not least, with their expert authority that legitimizes their decision, TJ institutions exercise productive power of IOs, or the use of rules to “define problems, craft solutions, and assign responsibilities for action.” In this way, it is important to note that the expertise of TJ institutions inevitably influence the way they identify problems to be solved, the measures to be taken and the actors suitable to take the task. Here, their expert authority could work in favor of them, even if their rules are contested or if other rules exist.

In considering the case of Cambodia with the ECCC, these unique kinds of power that IOs (and TJ institutions with international participation) possess help us understand different incentives that different actors have for their participation in the ECCC process. As for the Cambodian government, for example, several authors explain its incentive with the potential legitimacy it could gain from its participation with the ECCC process.

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64 Barnett and Finnemore, “The power of liberal international organizations,” 177.
**TJ as a field in dispute?**

While Barnett and Finnemore’s theory on the power-authority nexus that IOs embody appears to be applicable to TJ institutions, a unique contemporary state of the TJ field is worth mentioning here: its rather contested boundary as a field.

Although originally TJ was associated with a particular measure to take (i.e., criminal prosecution), the development of the field with different societies’ different approaches to deal with the past resulted in current conception of the field as a “praxis-based interdisciplinary field”\(^{67}\). This “interdisciplinary” characterization of the field arguably enabled the expansion of the field by incorporating various ideas associated with transition and justice (ex. human rights, conflict resolution) and actors working on the topic. However, from a viewpoint of Bell, a scholar of public international law, under the seemingly coherent development of the field that connects different experiences from different locality together was a “range of particularized bargains of the past”\(^{68}\). Bell thus argues that labeling Transitional Justice as a distinctive, interdisciplinary field needs to be taken with precaution because it is “the political project of attempting to decolonize law’s hold on the discourse, and even colonize Transitional Justice within other disciplines, for example, political science”\(^{69}\). Such decolonization of law’s hold on the field runs the risk of a “dilution of law’s normative pull and the justice dimension of transitional justice”\(^{70}\).

While Bell’s apparently favorable view towards law as a basis for otherwise disintegrated field of transitional justice is an interesting one, what is perhaps more interesting for the purpose of this study is Bell’s description of TJ as a field with a contested boundary. In this view, various actors sharing the basic question of “how to deal with the past”—even if they do not necessarily agree on their goals and how to achieve them—could join. In this way, seemingly elusive goals such as reconciliation, finding truth, and rule of law were thought to follow justice and accountability, and it

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\(^{68}\) Bell, 15.

\(^{69}\) Bell, 21.

\(^{70}\) Bell, 26.
enabled the participation of different organizations which champion such objectives. Then, how does this ambivalence would play out on the ground, and how does it facilitate our understanding about the diffusion process of TJ norms? Looking into the role of Cambodian NGOs in the ECCC process provides us an answer for this question.

**NGOs as agents of the ECCC**

Compared with the nature of NGO participation at ad-hoc international tribunals, what is the possible effects that the hybrid nature of the ECCC has had on the role of NGOs in the process? One important effect is a much greater role that the NGOs play in the ECCC process as the agents of the ECCC, because of a more favorable environment that the ECCC provides for them. This is significantly different from apparently more limited, and rather being an external critique role that NGOs have played at ad-hoc international tribunals. At the ICTR, for example, while there is a formal mechanism (i.e., submission of *amicus curiae* briefs) that allows NGO participation at the court proceedings, the impact of the briefs is legalistic and rather unclear. Due to the limited opening at the formal structure of the ICTR, NGOs instead resorted to “informal ‘procedures’” to voice their concerns and challenge the status quo. Moreover, in addition to the physical remoteness of the ad-hoc international tribunals from the societies they intend to serve—for example, the ICTR is located in Tanzania, about two days’ drive from Rwanda, and the ICTY is in The Hague, far away from the Balkans, another apparent challenge for the NGO participation was the fact that there was little thinking within the ad-hoc international tribunals to connect with the affected societies. For example, many observers mention that the outreach activities at these ad-hoc tribunals were largely an “afterthought” that was too little and too late. As a result, the NGO role was largely limited to be external actors of the TJ process in the respective country (Rwanda and countries of former Yugoslavia).

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72 “It can be argued that the ICTY could and should have done far more work with victims and local communities in the former Yugoslavia, in particular to explain to them why some defendants have received extremely light sentences.” Clark, Janine Natalya. “Judging the ICTY: Has it achieved its objectives?.” *Southeast European and Black Sea Studies* 9, no. 1 (3, 2009), 130.
In contrast, arguably the ECCC provides far more favorable conditions for—or rather, its broader mandate in relation to victim participation necessitates—the wider NGO participation as agents of the ECCC. Moreover, as briefly introduced above, TJ institutions (therefore the ECCC) possess power that they derive from their authority as experts of particular issue areas (i.e., the TJ field). This power which the ECCC enjoys might have given NGOs incentives to participate in the process as agents of the ECCC as well.

As I describe in the following chapters, being in the position of agents, NGOs perform the tasks indispensable for the TJ process, including outreach activities in which they work as intermediaries between their principal (the ECCC) and Cambodian people. While NGOs enjoy benefits from their status as agents, they simultaneously maintain some degree of autonomy to tailor their activities for the local Cambodian context. However, they nevertheless face challenges, or pathologies, stemming from the bureaucratic structure they have become part of. In addition, they also face issues anticipated even during the negotiation process for the establishment of the ECCC such as, for example, from the general lack of trust to the national judicial system among Cambodian people.

**Conclusion**

Looking into the formation of the TJ field and how hybrid tribunals—even though apparently came out as a compromise between international and domestic condition—became a new and legitimate TJ option indicates that the ECCC is an institution equipped with distinctive kinds of power common to IOs. In addition, its hybrid nature similarly provided more favorable conditions for an active participation by the NGOs than at ad-hoc international tribunals. The works of Cambodian NGOs in the ECCC process, then, need to be examined with due attention to the relationship between the ECCC and the NGOs—as the following chapters discuss in more details, it is a relationship that simultaneously empowers and constrains the NGOs as the agents of the ECCC.
CHAPTER 2
NORMS DIFFUSION IN PRACTICE? NGOS’ OUTREACH ACTIVITIES IN CAMBODIA

Introduction

When the TJ norms are implemented as an institution, how does the receiving community ensure the functioning of the institution? How do international, potentially foreign norms spread in a receiving community? These are only a few of the questions that arise in the process of norms diffusion. In the case of Cambodia, looking into the role of NGOs working in the ECCC process as intermediaries between the ECCC and Cambodian people gives us possible answers.

To that end, this chapter first describes how the participation of Cambodian NGOs began, and then provides overview of the contribution that Cambodian NGOs bring to the ECCC process as its crucial agents that assist the functioning of the ECCC. As I introduced briefly in the introductory chapter, the application of principal-agent theory to the relationship between the ECCC and NGOs—the ECCC as principal that delegates tasks indispensable to its process and the NGOs as agents equipped with contextual knowledge and expertise that give them some degree of autonomy—is especially useful.

The following section then focuses on outreach activities and understandings of justice that the NGO workers encounter during those activities. While the NGOs present the TJ norms and the ECCC process by framing it in simple language and with Buddhist terms so that they would resonate with Cambodian context, being agents of the ECCC process also conditions the way they deal with the complexity on the ground.

1. Beginning of NGO participation in the ECCC process

The previous chapter suggested that the ambiguous boundaries as well as the power of the TJ institutions might encourage the Cambodian NGOs to join the ECCC process as its agents. There are about 15 NGOs that have been directly involved in the ECCC
process. While some studies in the TJ literature apparently treat local NGOs as if they were monolithic actor and thereby presume the belief in the TJ norms among the NGOs, the relatively small number of NGOs which made a conscious decision to participate in the ECCC process—among several thousands of NGOs working in Cambodia—suggests that the NGOs that join the ECCC process might have their own incentives to do so. This gives us questions as to why those NGOs decided to join the ECCC process, and what tasks they fulfill as agents of the ECCC.

Why did NGOs join in the ECCC process?

A small number of Cambodian NGOs began to conduct ECCC-related activities that preceded or paralleled the negotiation between the Cambodian government and the UN for the establishment of the ECCC. The Documentation Center of Cambodia (DC-Cam), whose establishment in 1995 reflects the high interest the US had on the issues of genocide, started conducting various documentation and research. The materials preserved in its archive later greatly helped the ECCC in providing crucial evidence for prosecution. Meanwhile, in 1997, another Cambodian NGO, Cambodian Human Rights and Development Association (ADHOC) advocated for a creation of an ad-hoc international tribunal and collected 85,000 petitions from Cambodian people to submit to the UN Secretary General. In 2000, Center for Social Development (CSD) conducted a series of town hall meetings in three provinces (namely Battambang, Sihanoukville and Phnom Penh), or “Public Forum” in reaction to the perceived marginalization of the voice of Cambodian people for the negotiation process.

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74 “The U.S. Congress passed the Cambodian Genocide Justice Act, established a special Office of Cambodian Genocide Investigation at the State Department, and provided funds for the collection of documentary and other potential evidence against Khmer Rouge officials. With support from the State Department, Yale University’s Cambodian Genocide Program established the Documentation Center of Cambodia (DC-Cam) as a field office and began to lay the groundwork for possible trials.” DC-Cam then became an independent Cambodian NGO in 1997 and continues its work “with the support of the Cambodian government and funding from a wide range of international sources.” Ciorciari, 63 and 83.
75 Buntheng Penh, National Reconciliation after the Khmer Rouge, (Phnom Penh: Center for Advanced Study, 2006), 7, 26.
Since the draft agreement on the establishment of the ECCC in 2003, the involvement of other NGOs gradually increased. One typical approach that several NGOs took in initiating their engagement with the ECCC process was to conduct surveys on the ECCC-related issues with ordinary Cambodian people. For example, one NGO, Khmer Institute of Democracy (KID), carried out a survey in 2004 as a way to give voice to the needs and desires of the ordinary Cambodian people, also as a part of preparation for its outreach project on the ECCC that would familiarize its six young Program Officers with the experiences, feelings and needs of survivors of the Khmer Rouge regime as well as with the survivors’ hopes and expectations for the upcoming Khmer Rouge trial. 

Typically the surveys conducted by the NGOs during this early phase of the ECCC process suggest positive support for the ECCC among Cambodian people. While it should be noted that many of these survey mention their limitations (ex. potential bias in the results due to sample selection) and cross-reference each other, they became a common reference for scholars and practitioners of the TJ as an evidence of support from Cambodian people and in a way contributed to reinforce the legitimacy of the ECCC.

As more and more NGOs became aware of the ECCC process, their interest in participating in the process increased as well and they began to think in terms of what each of them could do for the process. Cambodian Human Rights Action Committee (CHRAC), which is a coordinating body of its member Cambodian human rights NGOs, set up its ECCC-related activities (initial planned activities included outreach, court monitoring and advocacy) and sub-committee of Khmer Rouge Trial in mid-2005. The members of the KRT sub-committee held discussions among them regarding the potential focus of their activities in order to create projects and develop proposals for funding.

"Khmer Rouge and National Reconciliation." Peace Review 14, no. 3 (September 2002), 305. CSD resumes its public forums in 2006, when a new executive director Seng Theary stepped in. Due to the internal conflict within CSD in 2009, Seng establishes another NGO, Center for Justice and Reconciliation (CJR) and since then CJR has conducted public forums.


78 For example, see the results of surveys from public forums by CSD in Chea. "Khmer Rouge and National Reconciliation." (cited above). As well as a survey result by DC-Cam: Linton, Suzannah. Reconciliation in Cambodia. Phnom Penh: Documentation Center of Cambodia, 2004.

79 Interviewee 10.
One apparently decisive factor for the participation of NGOs was the availability of external funding\textsuperscript{80}. While the exact number is unknown, there were NGOs which withdrew from the participation in the ECCC process because they were unable to find international donors for their projects\textsuperscript{81}. As for the NGOs which secured funding for their projects, with the financial and technical assistance in place, most of their activities in the early phase of their involvement focused on providing latest information on the ECCC. It reflected the perceived information gap existed partly due to the fact that the ECCC was just been established and was “young and inexperienced...like a baby who learn[s] to walk\textsuperscript{82}.”

For some NGOs, once they initiated their ECCC-related projects, their involvement also gradually expanded as they responded the needs of the ECCC as they arise. Good examples of this are their activities related to victim participation and outreach, which I will discuss in more detail in the section below.

2. NGO activities in the ECCC process

*NGOs fulfill crucial tasks of the ECCC*

As the ECCC process proceeded, NGO activities also diversified into ones ranging from publication of newsletters to psychosocial support for the witnesses and civil parties at the court. Those focusing on outreach and victim participation became the two (though somewhat overlapping) major activities of the NGOs, and both the ECCC as well as TJ scholars recognized the crucial nature of these tasks\textsuperscript{83}. Putting these activities into context helps us to understand their importance for the functioning of the ECCC process.

One reason has to do with the set-up of the ECCC. Contrary to the ad-hoc international tribunals established in third countries, the advantages from the proximity of the court facility to the population affected by the conflict and their “ownership” of the

\textsuperscript{80} All the 10 NGOs listed in Penh, “National Reconciliation after the Khmer Rouge” (see note 3) has international donors to fund their projects, and so do other organizations participated later in the ECCC process.

\textsuperscript{81} Interviewee 8 informed me about an organization which planned to collaborate with the interviewee’s organization but was unable to find a donor.

\textsuperscript{82} Interviewee 2.

\textsuperscript{83} Helen Jarvis, Comment made at outreach coordination meeting, Phnom Penh, Friday 7 August, 2009. Jarvis was the then head of the VU.
The process is one of the important premises of the hybrid court options widely discussed within TJ literature. The inclusion of victims into the court proceedings as civil parties\(^{84}\) as well as the establishment of the Victims Unit (VU) at the ECCC was therefore widely regarded as a welcoming development in the TJ field.

However, despite the innovative development for the prospect of wider participation of survivors in the ECCC process, the VU, which was established in late 2007, largely remained inactive due to the lack of funding as well as human resources until 2009, when it received additional funding from the German government.

Concerned about the slow development of activities for victim participation at the VU, many NGOs stepped in to ensure victim participation in the ECCC process. In 2008, CHRAC created “Victim Support Scheme”, responding to the proposal from its member organizations to have internal guidelines to organize their activities for victim participation among themselves. 4 member organizations then worked on the collection of complaint forms, and 2 for legal support\(^{85}\). At the point of March-April 2010, NGOs collected 84% of the victim information forms for complaints and civil parties. They have also followed up with most civil parties in Case 001 and created a network of civil parties representatives in Case 002\(^{86}\), reflecting the larger number of civil parties in Case 002 (while the number of civil party applicants for the case 001 was 94 in total, the number was 3,982 for case 002 at the point of March 2010\(^{87}\). At the interviews for this study, some of the respondents shared their belief that NGOs are better suited for the task of working with survivors in remote provinces than the VU, because NGOs are used to work at rural communities\(^{88}\). Many of them are motivated by their belief for the need of

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\(^{84}\) The ECCC website explains Civil Parties as “formal participants in the proceedings against those allegedly responsible for the crimes under investigation by the ECCC, and they enjoy rights broadly similar to the prosecution and the defence. Becoming a Civil Party not only gives Victims the right to actively participate in the proceedings, but it also allows Victims to ask the court for collective and moral reparations from the convicted persons.” Though not entitled to request reparation from the ECCC or participate in the hearings as parties, another way survivors/victims can participate in the ECCC proceedings is to file a complaint to the VU by filling out the Victim Information Form and submit it to the VU. The Extraordinary Chambers in the Courts of Cambodia, “Victim’s rights,” ECCC, [http://www.eccc.gov.kh/english/victims_rights.aspx](http://www.eccc.gov.kh/english/victims_rights.aspx) (accessed January 20, 2011).

\(^{85}\) Interviewee 10.

\(^{86}\) ICTJ “Outreach strategies”, 11-12.

\(^{87}\) ICTJ “Outreach strategies”, 13.

\(^{88}\) Interviewee 2.
survivor participation. As one of the respondents put it: “For me, justice from the court alone could not reach without the participation of the victims. Without the participations from the survivors, justice could not exist.”

Another major (though there is certain overlap with those for victim participation) activity conducted in support of the ECCC is victim outreach. Aiming to ensure that the Cambodian people will “own” the ECCC process, many NGOs conducted outreach activities throughout the country. From the viewpoint of the NGOs, conducting outreach activities enable Cambodian people to have access to information on the ECCC, express their view about the court, and get their concern on justice addressed. While one nationwide survey conducted in September to October 2008 shows the limited knowledge of the ECCC among the Cambodian people, another nationwide survey conducted in July to August 2009 suggests significant improvement with regard to public awareness of the ECCC. This apparently positive development is often regarded as a testimony about the work of the NGOs, and for the purpose of this study, it is important to mention the widely held view among the respondents of my interviews regarding their supplemental roles for the work of the ECCC. The NGOs have been, as their activities on victim participation and outreach amply suggest, carrying out the crucial tasks of the ECCC as its agents.

89 Interviewee 5.
90 At the ECCC, two units are in charge of outreach activities. The VU conducts “micro” side of their outreach, focusing on fulfilling the needs of complainants and civil parties by providing one-to-one support to them, telling them the status of their file, legal information and rights. The Public Affairs Section (PAS), on the other hand, is in charge of “macro” side of the ECCC’s outreach, in order to provide information about the ECCC to the general public, including media, diplomatic corps and donors. ICTJ “Outreach strategies”, 5.
91 Interviewee 10.
92 “Thirty-nine percent of the respondents in our survey had no knowledge of the ECCC, and nearly half (46%) had only limited knowledge. Among those who had some level of knowledge about the ECCC, 53 percent adequately described it as a hybrid court comprising national and international judges and staff.” Phuong Pham, So We Will Never Forget A Population-Based Survey on Attitudes About Social Reconstruction and the Extraordinary Chambers in the Courts of Cambodia (Berkeley: Human Rights Center, University of California Berkeley, 2009). http://hrc.berkeley.edu/pdfs/So-We-Will-Never-Forget.pdf (accessed May 15th, 2009), 3.
Additional components in outreach activities

While the implementation of crucial tasks of the ECCC process is without doubt one important contribution of the NGOs as the agents working for the ECCC (principal), their another significant contribution as the agents is the incorporation of additional components in their activities from the expertise and objectives of each organization. For example, some NGOs incorporate educational program on human rights and fair trial process for rural population, while others encourage people to share their experience under the Khmer Rouge regime—through outreach activities in the form of open forums, or art classes.

Typically those outreach activities are inclusive of people from different social background (including monks, farmers, elders and students), and thereby intended to provide a venue for an exchange of ideas. Some of the respondents for this study maintained that the empowerment that the participants of their activities experienced was equally important as the original objectives of their activities. For example, although the verdict for the case 001 caused intense reactions among the civil parties for the case, the meetings that a NGO held regularly enabled a group of civil parties organized by the NGO to have “an experience of solidarity among victims, hav[e] acknowledgement from diverse actors not only from the lawyers but also NGO people, international journalists…[and] was really a very open platform where they could express their concern and their feelings."

Moreover, many Cambodian NGOs incorporate cultural as well as religious aspects in their activities, in an effort to tailor them so that they are appropriate for the Cambodian context. For example, inviting Buddhist monks in some activities, especially ones that intend to provide a forum for people, appeared to be a common practice among the NGOs working in the ECCC process (ex. Public forums by CJR). In contemporary Cambodia, which Chandler describes as “a country that has been scarred by its recent

94 “public forums also aim to collect people to meet together to know each other, to open the door for them to speak to each other, especially for those who have never talked about KR experience”. The interviewee also mentioned that small group discussions during the preparation phase of their activity also provide similar opportunities for empowerment, where “We [the NGO staff] do not speak for them [the participants of their activities], but they speak with their voice”. Interviewee 5.

95 Interviewee 8.
past and identifies itself closely with more distant periods,\textsuperscript{96} incorporation of cultural and religious aspects may be not only effective, but also necessary\textsuperscript{97}.

The “Testimonial Therapy” by Transcultural Psychosocial Organization (TPO), a NGO which has been actively participating in the ECCC process as a provider of psychological support at the court and beyond (at outreach activities of their partner organizations), is an interesting example in this regard. TPO invites Khmer Rouge survivors to “Testimonial Therapy” to discuss their traumatic experiences and the counselors (TPO staff) cooperate with the survivors to restore and convert their memories into a written document (“a testimony”). TPO then holds a Buddhist ceremony at a pagoda in order to read aloud and deliver the testimonies to the survivors where other survivors and community members are also present. In this way, the activity “allows victims to express and process traumatic experiences, to honor the spirits of the dead and document human rights violations.” At one of their testimony ceremony that I attended at one day in summer 2010, TPO staff took a group of survivors from a rural province to Choeung Ek stupa (also known as the “killing field” at the outskirt of Phnom Penh) for the first Buddhist ceremony on the day and then to a nearby pagoda for the testimony delivery. While both of the ceremonies were emotional event where many of the participating survivors cried, it was impressive to observe an apparent positive change in their facial expressions and lively conversations among them and TPO staff after the ceremony\textsuperscript{99}.

3. Norms translator? NGOs and understandings of justice in Cambodia

\textsuperscript{96} Chandler, A History of Cambodia, 11.
\textsuperscript{97} While not directly about issues related to the ECCC, an article of interest (written by two mental health practitioners), describes the rationale and implementation of the community-oriented aspects of TPO’s intervention in Cambodia. The authors stress the remaining relevance of traditional culture in Cambodian communities and argue that effective intervention schemes could be designed by paying due attention to the local culture and practice. Willem A.C.M. Van de Put, and Maurice Eisenbruch. “Internally displaced Cambodians: healing trauma in communities.” In The Mental Health of Refugees: Ecological Approaches to Healing and Adaptation, edited by Miller, Kenneth E., and Lisa M. Rasco, 133-59. Mahwah, NJ: Lawrence Erlbaum, 2004.
\textsuperscript{99} Field note taken on July 21, 2010.
As the previous section describes, the role of NGOs as agents of the ECCC ensures the function of the ECCC as a TJ institution. However, does it mean that the TJ norms have successfully spread to the societal level, across geographical and cultural boundaries? As I briefly mentioned in the introductory chapter of this thesis, previous studies on norms diffusion suggest the importance of intermediary organizations to “translate” international norms into local terms and situate it in the local context. Moreover, in TJ literature, there is an implicit assumption that they are “domestic-norm true believers” that lead a normative change.

Looking at the Cambodian NGOs working for the ECCC process might, then, give us better grasp of the process taking place on the ground. To this end, this section focuses on the outreach activities as potential sites where NGOs encounter different understandings of justice. As I describe in more detail below, while NGO workers acknowledge the multiple understandings of justice existing in Cambodia, the context the NGOs are in—being agents of an institution that has power to define what justice means—apparently conditions the approach the workers deal with the multiplicity.

Complex understandings of justice in Cambodia

While TJ literature largely holds relatively clear and specific notion of justice (including, namely, the contribution of combating impunity in a fair criminal tribunal for a future development of rule of law), various studies on Cambodia suggest complex understandings of justice. It is against this background that considering the potential multiplicity of justice in Cambodia (and measures NGOs take to deal with it) has its significance.

As I briefly reviewed in the introductory chapter, Transitional Justice literature on Cambodia tends to suggest the compatibility of justice (as a criminal tribunal) with local context. For example, Harris, an expert on Cambodian Buddhism, explores the compatibility of Theravada Buddhist notions of justice with the ECCC. Harris argues that the Cambodian Buddhist context should be paid due attention in order to understand the

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Cambodian attitude regarding the applicability of the Western notion of criminal justice. Intending perhaps to argue against fatalistic image about Theravada Buddhism, Harris dismisses the assumption that Buddhism has regarded human attempts at justice as entirely unnecessary as a serious misreading of the tradition. Through the analysis of Buddhist texts, Harris identifies Theravada canonical concepts relevant to deciding individual accountability for the crimes committed under the Khmer Rouge Regime\(^\text{102}\).

In contrast with Harris’s argument about the compatibility of criminal justice in Buddhist context, some scholars pose an opposite argument similarly from Buddhist perspective. Hinton, for example, explains how Buddhism offers a kind of ontological justice for survivors because of the suffering those who committed misdeeds will face in the cycles of birth and rebirth—a concept of karmic justice. Hinton then argues that Buddhist discourses, such as the importance of cleansing oneself of anger exemplified by a well-known Cambodian monk Maha Ghosananda’s Peace Marches may come in tension with the global human rights discourses that attempt to deal with the past in another way: criminal tribunals linked to Western juridical models\(^\text{103}\).

Alternatively, Jacobsen’s argument suggests that justice at the ECCC, or secular justice, coexists with karmic justice. Jacobsen argues that Cambodian people are ambivalent—they are in favor and at the same time indifferent towards the ECCC—due to their view on punishment that happens twice, “once in a secular sense and again in the cosmic plane.”\(^\text{104}\)


\(^{104}\) Trudy Jacobsen, “‘Punishing’ the perpetrators of the Cambodian genocide,” in *Asia Insights*, ed. Gerald Jackson (Copenhagen, Nordic Institute of Asian Studies, 2006), 7.
It is also important to note the result of one nationwide, population-wide survey which the Human Rights Center at University of California, Berkeley and its Initiative for Vulnerable Populations in Cambodia conducted from September 9th to October 1st, 2008, which found relatively low priority Cambodian people give to justice and issues of accountability. Most of the respondents give priorities to jobs and services to meet basic needs more than to justice\textsuperscript{105}.

If such contested understandings of justice exist in Cambodia, and if the need for justice receives low priority, how do the NGOs, as intermediaries between the ECCC and Cambodian people, deal with this situation? Also, how do they explain the ECCC and the kind of justice it promotes? As mentioned above, often created as a venue for an exchange of ideas among different actors, outreach activities offer an important insight to answer these questions\textsuperscript{106}.

How NGOs present justice

Do the NGOs conduct activities because they are “true believers\textsuperscript{107}” of TJ norms? Data from the interviews suggest that many of the interviewees do indeed have high expectations and trust towards the ECCC for its international nature which is associated with fairness (which I will discuss in more details in the following chapter). And a close look at how they present justice gives an impression that they are passing on the words closely aligned with the TJ norms. A good example is one of the explanatory booklets, written as a 34-page long bilingual (Khmer and English) picture book, that KID distributed for its “citizen advisors\textsuperscript{108}” to use during citizen advisors’ meetings. It

\textsuperscript{105} Pham, 34.
\textsuperscript{106} In this section, I focus on outreach activities that involve face-to-face contact among different actors including NGO workers, ordinary Cambodian people, and (though not always) ECCC officials. I exclude outreach through other measures, such as radio and website: though studies acknowledge the importance of radio in terms of its superior accessibility for the people in the rural area (see Penh 31), examining interaction between the producer and the audience goes beyond the scope of this study.
\textsuperscript{107} Subotic uses this term to suggest the role of domestic actors that brings normative shifts. Subotic, 7.
\textsuperscript{108} A network of KID-trained 120 volunteers in seven provinces (Kampong Cham, Kampong Thom, Kompong Thom, Battambang, Prey Veng, Selay Rieng and Kratie) in order to carry out outreach activities, “disseminate information about witness protection, reparation and victims' participation. Furthermore, the citizen advisors will give the rural population a regular update on the Tribunal's activities and proceedings.” The Khmer Institute of Democracy, “Victim and Witness Protection Standards for the Khmer Rouge Tribunal and Beyond,” http://www.bigpond.com.kh/users/kid/program_11.htm (Accessed April 7, 2010).
explains basic information about the ECCC as well as how survivors can participate in the ECCC process with an imaginary story of “Uncle San, Aunty Yan, and the KRT [Khmer Rouge Trial]”. Besides the easy writing style of the booklet that seems to be helpful for the understandings of the readers, what is equally interesting about this booklet is how KID presents the ECCC (KRT). At the end of the story, after the visit to the ECCC compound and getting briefing about victim participation from the head of the VU, Uncle San narrates,

“The next day Aunty Yan, myself, and a few other villager met for tea. We talked for a long time about the KRT and the future of Cambodia. We agreed that the establishment of the KRT is very good to seek justice for victims. The trials can find truth and give us relief from the past.109"

Here, justice is primarily understood as criminal accountability at a court of law, and the narrative also makes an apparent link between criminal accountability and certain expectations (“find truth” and “relief from the past”) that are common in TJ literature.

Similarly, ADHOC, another Cambodian human rights NGO which has also been taking a major role in outreach and victim participation in cooperation with CHRAC, discusses the benefits from justice and accountability for a society in their brochure on the ECCC and the International Criminal Court (ICC) as follows:

*Kâmmphâl* and justice share a similar meaning. The principle of *kâmmphâl* means that someone who has done bad receives bad result, whereas someone who has made merits receives merit. Whereas in terms of justice, someone who has done bad always has to be punished. Justice is not revenge; justice leads the society to peace and continuity... Justice has a strong positive message in order to guarantee peace and stability within a sustainable society, especially to prevent those who have committed wrong from escaping punishment for a crime110.

The word *Kâmmphâl*, which the brochure uses in its analogy with accountability, is a Buddhist principle that means the result or fruit of an action, and it is interesting to see

109 The Khmer Institute of Democracy, *Uncle San, Aunty Yan, and the KRT*, A booklet used at the Citizen Advisors’ meetings organized by KID, 32.
110 Cambodian Human Rights and Development Association, “Yual doeng pi Ongko chum num chomreah visamonh knong toalak kâmpuchea reu sala kdey khmaer krâm [Understanding the ECCC/Khmer Rouge Tribunal and ICC].” (Phnom Penh: 2009), 7. Translated by the author. See Appendix A for the original text.
the conscious linkage the brochure makes between justice and other expected outcomes (i.e., peace and stability) similar to the preceding example.

*Justice from survivors’ perspectives*

The examples from the outreach materials provide interesting examples that suggest certain conformity of the NGOs towards the TJ norms (i.e., accountability and its positive impact to the society). However, what would NGO workers themselves, who have worked for the survivors from the preparation phases of outreach activities, have to say about the understandings of justice among Cambodian people?

From their experiences working with survivors, some of the interviewees for this study mentioned the emphasis on punishment in the understanding of justice in the Cambodian context.

So we need to accept that we did something wrong in previous life and…in general, the concept of justice in Buddhist term that I can understand is that people did something wrong so they need to be punished. ~ So in Buddhism we believe in cause and effect. Cause and effect, in Khmer we call *Kâmmphâl*. *Kâmmphâl* is the concept for justice.111

[Regarding justice] we have the word *yuttethom* for a long time. It means honesty. For example, if a person did a wrongdoing, you have to sentence them legally.112

If you ask me only [with] regard to the ECCC, I can say still many Cambodian people believe in Buddhism, and they may say “Ok, you committed a crime, and now you receive as a result.” But if you ask some other people who are also Buddhist but they were the ones victimized of the crime, they may say this is not justice at all. Because they may consider the gravity of the crime by the accused. He or she needs to be punished more seriously than he or she should be awarded by them.113

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111 Interviewee 1.
112 Interviewee 3.
113 Interviewee 10.
In addition, another common answer from the interviews was multiple, and apparently conflicting, understandings of justice existing among the survivors.

We see different things. For the ECCC they see trial, top leader, justice before the law, political situation blah blah, but for many people in Cambodia they do not think [it is] justice; how can you try only a few people and say [it is] for justice for 2 or 3 million people died?  

Usually Cambodian people believe in Buddhism. Most of the old people always think and said like this Buddhist teaching, “pie rumdap daoy kar min châng pie”, to forgive. But some people are not the same like this. For some people, [their] families are killed, so they want punishment [against Khmer Rouge leaders] for many years.

Actually justice has very broad meaning, so it depends on how people find the meaning of justice. For some, filing complaints is justice for them already. For some, whenever they express their feelings. Or they think that they get justice when the court compensates them.

Reflecting the strong influence from cultural and religious context of Cambodia, understandings of justice that the NGO staff encounter during their interaction with the survivors are complex and apparently conflicting. At the same time, they suggest the context-specific nature of the understandings of justice.

Considering the particular kind of justice that the ECCC is equipped to achieve, namely to conduct fair trials in a court of law, a question arises as to whether or not the ECCC process accommodates the different understandings of justice that exist among the survivors.

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114 Interviewee 1.
115 Interviewee 5 mentioned this phrase as well, as one “dilemma” the interviewee feels towards the conflicting answers (desire for Duch to receive life sentence and their agreement towards a Buddhist teaching to refrain from seeking revenge) from the survivors to the questionnaire to the organization’s activity.
116 Interviewee 7.
117 Interviewee 3.
As briefly introduced in the first chapter, the ECCC, as an IO, exercises *productive power* that defines the issue, measures to be taken and assign responsibilities for action. As a criminal tribunal set up to deal with the issue of impunity, the ECCC endeavors to achieve justice by holding a trial which abides by international fair trial standards. Manning’s observation at a public forum by CSD points to the powerful effect of the productive power through the description of how the establishment of the ECCC—and thereby defining the issue in certain manner (setting its mandate to determine who can be held accountable)—effectively sets a parameter of legitimate measures to deal with it:

Today, whilst the forums retain a strong emphasis on ‘facilitating dialogue on issues of justice and reconciliation’ within a ‘safe environment’, the creation of the ECCC in 2006 has meant that the forums are now less able to accommodate debate about whether justice is or is not *necessary*, as they did in 2000. ‘Justice’ at the ECCC is now the dominant discourse that lends itself to the delimitation of what can and cannot now be said about the KR [Khmer Rouge] period. Here, it is important to be reminded that the authorities of the IOs are “viewed as eminently qualified to render a judgment” on issues because authorities are often defined by their expertise and knowledge. Because the ECCC effectively defines justice in this manner, the ECCC process may not be suitable to accommodate different understandings of justice that the NGO workers observe.

If the kind of justice the ECCC defines and provides is not conducive to accommodate such multiplicity of justice, what explains the participation of the NGOs in the process? The above interview data and examples of outreach materials suggest that some NGOs do appear to be domestic believers of TJ norms, mainly because their organizational goals resonate with TJ goals. In addition, by being agents of the ECCC, NGOs also gain tangible benefit, such as securing funding for their projects from international donors. Therefore, while those NGOs are aware of the complexity regarding the understandings of justice that the kind of justice in TJ norms may not easily satisfy,

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they still need to present justice by preserving the basic tenets of the TJ norms—although they do “translate” the TJ norms in order to make them resonate with the local religious and cultural context. This closely resembles Merry’s observation of the diffusion process of international human rights norms, where activists adopt the human rights language for its political possibilities of generating wider (national and international) support. Merry cautions, however, against the possibility of alienating the experiences of the very people the activists adopt the human rights language for, since the translation process occurred in a way “international perspectives are translated ‘down’ more than grassroots perspectives are translated ‘up.’”

Manning’s description about a similar effect on the NGO activities from the establishment of the ECCC resonates with Merry’s insight. Manning observes the changes in the nature of public forums by CSD, which originally intended to ask the necessity of holding the former Khmer Rouge leaders, came to focus more on the dissemination of information “about the ECCC mechanism and how ‘justice’ and ‘reconciliation’ follow from this”. Manning further notes apparent constraint which the “authoritative” voice from the attending court officials placed on the discussion at the forum, making it more “a question and answer session” than an open dialogue.

This format (formal presentations by invited speakers followed by a question and answer session) seemed common at various outreach activities held in different time and by different organizations during my fieldwork as well. At some outreach activities, although there were occasional expressions of frustration by some Cambodian participants over the slow court proceedings or things that fall outside of the mandate of the ECCC, court officials responded by explaining the time-consuming nature of the fair trial process or the importance of accountability. While ensuring the understandings of the court process among the Cambodian people is certainly necessary, occasionally some

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120 Merry, 215-6.
121 Manning, 2.
122 “Without justice, there will be no peace in the society. You need justice to feel safe and to feel something has been done and that the government has done something.” Then-international-Co-Prosecutor Robert Petit. Field notes from CSD Public Forum “Justice and National Reconciliation” on 10 July 2009, Pursat province. “Legal process establishes facts in a fair way…unless having a legal process, there will be no end to discussion,” International Co-Prosecutor Andrew Cayley. Field notes from a meeting organized by DC-Cam in Pursat province, 13 June 2010.
questions or expressions of frustration were left unanswered in the hurried pace of the session.

These comments suggest the institutional power of the ECCC on its agents. While the NGO staff encounter the dissatisfaction expressed by the survivors, the parameter of justice and acceptable actions to achieve it inevitably conditions how Cambodian NGOs deal with the multiplicity of justice among the survivors. In this way, the institutional power of the ECCC creates conditions favorable to rather top-down approaches for the diffusion of TJ norms. It is important to emphasize here that such conditions are at work despite the apparent sincere belief of the NGOs to make the ECCC process work and to achieve the goals of each organization, and of the ECCC to “bring justice” (in the way it aims to achieve it) to Cambodia. However, the pathology created through the process—the apparent limit placed on expressions of certain understandings of justice in the justice debate—may come as detrimental to the pursuit of the ECCC’s stated goal of achieving justice for Cambodian people.

Conclusion

Examining the development of NGO participation in the ECCC process suggests how Cambodian NGOs whose organizational goals resonate with the TJ norms have actively sought opportunities for participation and played a pivotal role in ensuring the functioning of the ECCC. While their incorporation of cultural and religious aspects in conducting indispensable tasks for the ECCC (i.e. outreach activities and promotion of victim participation) appears to show the potential autonomy they enjoy within the ECCC process, their role as agents of the ECCC practically sets parameters within which the NGOs need to operate as well. Accordingly, the case of TJ norms diffusion in Cambodia gives a rather top-down appearance that stems partly from the power of the ECCC as an institution equipped with authority to set a boundary of its justice agenda.

In consequence, while the NGOs are aware of the diverse understandings of justice among the Cambodian people, it is uncertain if the NGOs could adapt the ECCC process enough to accommodate such diversity on the ground. In this way, examining the NGO role in TJ norms diffusion process highlights the dilemma the NGOs face on the ground.
CHAPTER 3
FRAGILE COALITION? MOMENTARY EXPRESSION OF VOICE

Introduction

As I briefly mentioned in the introductory chapter of this thesis, Cambodian NGOs responded to the verdict for the first case of the ECCC with somewhat conflicting manner: some praised it as a model for justice based on rule of law, whereas some expressed dissatisfaction over the perceived leniency of the verdict. However, the expression of dissatisfaction was momentary, and NGOs have been continuing their work with the ECCC to prepare for the second case before the court.

This brief moment in the ECCC process gives us a number of questions about the nature of NGO participation in TJ process. The previous chapters argue that Cambodian NGOs have incentives to join the ECCC process as agents, but what is the nature of the coalition, or the relationship among the ECCC and the NGOs? Are they working for a common cause? If so/not, what may be the factors behind it?

In order to examine the relationship between the ECCC and the NGOs, this chapter begins with description of the views toward the ECCC among the interviewees. In addition to their high expectations for positive spillovers from the ECCC process, situating the NGOs within historical and political context suggests that the NGOs need to continue their cooperation with the ECCC. However, due to reasons such as their potential conflict over funding, the ECCC-NGOs coalition appears to be rather fragile. Lastly, through the examples of “coordination issues” that emerged during the trial process and the description of the way the ECCC and the NGOs have perceived and acted on the issues, I will describe how the context NGOs are in conditions the way they work, and partly contributed to the dysfunctions, or pathologies, in the ECCC process. In this way, this chapter illustrates the various kinds of relationships between the ECCC and the NGOs—the NGOs are constrained by their dependence on funding, they at times provide critical voice to the process, and they are also occasionally complicit with the dysfunctions of the ECCC process.

1. Views on the relationship with the ECCC among the interviewees
What characterizes the nature of the ECCC-NGO coalition—do they share a view that they work together? And if they do, do they think it is an equal relationship? Answers from the interviewees on their relationship with the ECCC show a nuanced picture with their self-understanding as crucial agents in the ECCC process and their feeling of their contribution not always being reciprocated.

The role of the NGOs in the ECCC process

The previous chapter discussed the crucial tasks the NGOs have fulfilled for the outreach and victims participation since the beginning phase of the ECCC process. Reflecting this point, one of the most common views from the interviewee regarding their relationship with the ECCC is their indispensable role for the functioning of the ECCC. While each interviewee’s wording has slight difference, they overall agreed that the ECCC needs NGOs to maintain its connection with the Cambodian people123.

Another common view found among some of the interviewees is a perceived lack of acknowledgement from the ECCC for the works they have done124. For example, one interviewee shared his disappointment about the lack of official recognition from the ECCC for their work in the process125. Similarly, another interviewee also mentioned a sense of disappointment when the ECCC officials whom her organization had invited could not attend the NGO’s outreach activity as they used to have been, although the organization worked for the ECCC and the information it provided at the outreach activity was about the ECCC.

Despite their feelings that their contribution is not reciprocated with adequate recognition from the ECCC, the interviewees maintain willingness to work with the ECCC, through various ways of engagement. For example, one interviewee described the

123 “We support each other. Civil society support ECCC in terms of civil party participation, engage the community or raise awareness about the ECCC among different people and community to be a link between, to connect the community with the court (interviewee 1).” “We basically want to make sure that the ECCC is open in terms of public access and voice can be heard that people can involve… for us the court belongs to the people, we want to make sure people own the process. (interviewee 4).” “I cannot say ECCC cannot function without the NGOs, but…[they are] interdependent, I could say (interviewee 5).”

124 Despite the perceived lack of official acknowledgement, it is worth mentioning here that the ECCC officials occasionally acknowledged the contribution from the NGOs in formal and informal settings.

125 “There is no official recognition saying that you have done a good job in this justice seeking mechanism! I don’t think, I never heard about it.” Interviewee 10. The interviewee believes official recognition is important because of the encouragement NGOs get from it.

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organization’s role as a critique of the court that provided the court the understandings of the people at the community level\textsuperscript{126}. Another described the role of NGOs as being both supporters and advocates—making “a lot of noise” to contribute for the change\textsuperscript{127}.

Arguably, one of the crucial factors for the willingness to participate in the ECCC process among many Cambodian NGOs is their high expectations for the ECCC:

I think at the end of the process, people feel that the ECCC did something a kind of long-awaited justice more than 30 years are now closed because of the ECCC fulfilled its mandate, to prosecute the most responsible, and see not only the result, judgment...so I think the result [of the ECCC process] is that people understand the process and they can see that this is very important and somehow close the chapter in our history, and again reach some kind of reconciliation among themselves, other part of society, you know\textsuperscript{128}.

The ECCC will contribute a lot for the rule of law in Cambodia, especially to conduct fair trial\textsuperscript{129}.

I strongly believe in the ECCC because foreigner staff join the Cambodian staff...
The ECCC can reform the justice process in Cambodia\textsuperscript{130}.

People think that the ECCC will have justice, [because] only international co-prosecutor, judges, and lawyers are neutral, independent person. They can think about their reputation, and for themselves and for the justice for the victims. They think about the sufferings of the victims, so they need to find justice for the victims. And for the local judges, they seem not fair or neutral or independent. Because they still have the corruption culture, and nepotism...among them\textsuperscript{131}.

\textsuperscript{126} Interviewee 1.
\textsuperscript{127} Interviewee 10.
\textsuperscript{128} Interviewee 10.
\textsuperscript{129} Interviewee 2.
\textsuperscript{130} Interviewee 6.
\textsuperscript{131} Interviewee 9.
Regarding the verdict for Case 001] I would explain that this is a fair judgment. Because the ECCC is backed by the UN, it has national and international judge. So I think the judgment is fair…[The ECCC is more credible than a national court] Because I think that the ECCC is a high court [that] follows both international and national law.132

Such high expectations appear to explain the apparent loyalty towards the ECCC among some of the interviewees. For example, one argues that NGOs “share responsibility” with the ECCC in terms of informing the public about the ECCC process.133 While the loyalty many NGO workers show helps us to understand their commitment to the ECCC process, the dissatisfaction expressed after the verdict appeared to have been different kind of voice—a disagreement at a deeper level over whether the ECCC could serve justice for the victims of the Khmer Rouge or not. However, the expression was only momentary and the verdict appears to have had no significant impact on the relationship between NGOs and the ECCC, even though the verdict was unsatisfactory for some NGO workers. As I discuss in more detail below, contextualizing the Cambodian NGOs suggests that NGOs may be motivated to continue their cooperation due to their lack of alternative option.

2. Lack of “exit” option? Putting NGOs in context—NGOs as constrained

Why was the expression of fundamental disagreement from some NGO workers after the verdict for the case 001 only momentary? Hirschman’s discussion of “exit (to opt-out)” and “voice (‘any attempt at all to change, rather than to escape from, an objectionable state of affairs…through various types of actions and protests’)” as options for social actors to take in order to deal with lapses (or dysfunctions) in a system or institution helps us to find possible explanation for the question. According to Hirschman, a threat of “exit” is typically made by actors who has “loyalty”, or member

132 Interviewee 7.
133 Interviewee 10. This is especially important, considering the fact that the interview was conducted relatively soon after the verdict for the case 001.
who cares, and the possibility to exit strengthens the effectiveness of the “voice” option\textsuperscript{135}. Then, given the crucial tasks NGOs have been undertaking as the agents of the ECCC, their expression of “voice”—backed by their potential “exit” from the ECCC process—could have been effective measure to take, if they try to influence the working of the ECCC. However, looking at the context in which the NGOs operate suggests that their “voice (i.e., expression of dissatisfaction)” was momentary because they practically lack the “exit” option.

\textit{NGOs and international aid}

One reason that suggests the lack of “exit” option for the NGOs—in other words, their practical need to work with the ECCC besides their loyalty and belief in the TJ norms—is their heavy reliance on international aid. This dependency on international funding reflects the historical establishment of NGOs in the early 1990s, facilitated by international assistance during the UNTAC period\textsuperscript{136}. The Human Rights Component of UNTAC provided direct support and protection for the establishment of Cambodian human rights NGOs, as a part of their objective to develop ‘civil society’ that would strengthen pluralist liberal democratic values\textsuperscript{137}. Their establishment as ‘the children of the UN’ rather than emerging as development of grassroots interests distinguishes Cambodian human rights NGOs from their Southeast Asian counterpart\textsuperscript{138}, and they have continued to play a role of “non-governmental conduit through which international engagement could continue”\textsuperscript{139} after the completion of UNTAC.

In contemporary Cambodia, TJ initiative can be situated within the continuing history of international involvement in the country since the UNTAC era\textsuperscript{140}, and as a
matter of fact, apparently all the NGOs active in the ECCC process rely on international funding for their projects. Therefore, due to the fact that NGOs are financially dependent on international donors, opting out from the ECCC process would risk losing one significant potential funding opportunities for them. As I describe in detail later in this chapter, international donors constitute an influential parameter within which the NGOs act.

Contentious relationship with the Cambodian government

Another reason that suggests the lack of exit option for the NGOs is their contentious relationship with the Cambodian government. As Weiss argues in her study of civil society organizations (which she refers to using the term civil society agent to emphasize her concept of civil society as a realm and its diversity of organizational forms, strategies and perspectives) and their role in the processes of political change in Malaysia, the nature of their engagement is substantially conditioned by the nature of the regime. Reflecting the intention of the donors to make the Cambodian NGOs promoters of pluralist, liberal democratic value against the intolerant nature of the Cambodian government for civil contention, the relationship between the government and NGOs has been filled with confrontations, especially in issues concerning human rights. As Un mentions, one source of the Cambodian government’s suspicion and rationale to set tight political control against the Cambodian NGOs is their close affiliation with foreign donors. In a similar vein, because Cambodian NGOs often advocate for change through the adherence to international norms (ex. international human rights standard), it necessitates their affiliation with international actors.

Likewise, it is worth mentioning here that, the interviewees quoted in the previous section present their high expectations for the ECCC in a stark contrast with their concerns with the conditions of local judicial system. This seems to reflect their

141 Meredith Weiss, Protest and Possibilities: Civil Society and Coalitions for Political Change in Malaysia (Stanford, Calif: Stanford University Press, 2006), 33.
contentious relationship with the government and that the NGOs consider, to a large extent, such international engagement is necessary to deal with domestic concerns\(^{143}\).

**How power works in Cambodia: the position of the NGOs in Cambodian society**

Another point closely related to the above two points is the limited influence the NGOs have outside of Phnom Penh, due to an especially strong influence of entrenched network of power in the rural area. Often described as a network of patronage or patron-clientelism or as Khmer term *khsae* (string of relationship), strong political control and hierarchies has historically pervaded in “Cambodian thinking, politics, and social relations\(^{144}\).” Gottesman traces the source of power for current Prime Minister Hun Sen and the ruling party (CPP) to the PRK era, when complex “network of ministers, agencies, and provincial and local administrations whose members adhered to the rules of patronage\(^{145}\)” was created inside the state bureaucracy.

The patronage network today operates beyond the state institutions and caused widespread corruption, violence and natural resource exploitation\(^{146}\). NGOs meet significant challenge in their operation especially at the rural level, Hughes argues, due to the fact that they “intrude in a sphere characterized by a temple-based hierarchy of officials and elders, whose power is based upon their moral authority and community building activities, and a local-authority comprising CPP-aligned village, commune, and district officials, with associated militias and partisan ‘clienteles’.\(^{147}\)

While this perceived weak position of the NGOs in the rural Cambodia directly contradicts with the viewpoint of the NGO workers that their strength derives from their knowledge and experience working throughout the country (as I discussed in the previous chapter), this also relates back to the fact that the NGOs operate in the provinces partly

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\(^{143}\) Interviewee 4 dissented from the largely negative view about the relationship between the government and the NGOs, and argued that engagement is necessary in order to make difference.

\(^{144}\) Chandler, A history of Cambodia, 2.

\(^{145}\) Gottesman, 211.

\(^{146}\) Un, State, Society and Democratic Consolidation, 229.

\(^{147}\) Hughes, political economy, 168. For a similarly critical view on the weak position of NGOs in the rural area of Cambodia vis-à-vis traditional leaders (who are increasingly coopted into politics “via participating in local administration or via party support and financing”), see Vimealea Thon, *Leadership in local politics of Cambodia: a study of leaders in three communes of three provinces*, Phnom Penh, Cambodia: Cambodia Development Resource Institute, 2009.
owing to the authority of the international community due to the rural population’s
general mistrust towards the national judicial system:

It’s like our hybrid court. It’s about international and nationals so it can be more
effective. [Khmer] people trust international more than national ones. Especially
villagers. More say “I trust international court”. That’s how they say, the
villagers.¹⁴⁸

Thus, while deciding on the influence NGOs enjoy in the rural area goes beyond the
scope of this study, it seems safe to say that, without the support and the legitimacy the
NGOs borrow from the international actors—such as the legitimacy as agents of a fair
tribunal (the ECCC), they would face significant difficulty in their operation.

3. Fragile Nature of coalition—NGOs as critical

Above discussion suggests that the NGOs have reasons to stay committed for the
ECCC process. Then, what characterizes the relationships among the NGOs as well as
among the ECCC and NGOs as a whole? Answers from the interviewees of this study
suggest that some of them think there is good cooperation among the NGOs. However,
when looked closely, the nature of their relationship, or apparent coalition, seems to be
somewhat fragile.

During the interviews, some interviewees expressed strongly favorable view
regarding the degree of coordination among the different NGO activities, because NGOs
actively participate in meetings to share information and materials, and occasionally
invite each other to their workshops.¹⁴⁹ Moreover, some maintained that participating in a
NGO coalition (i.e. CHRAC with regard to the ECCC process) enables member NGOs to
build voice (political space) to strengthen their advocacy effort and protect smaller NGOs
and NGOs working on sensitive issues.¹⁵⁰

¹⁴⁸ Interviewee 5.
¹⁴⁹ Interviewee 6,7,9.
¹⁵⁰ Interviewee 4, 9, 10. For example, one project “Access to justice ethnic minority” within Legal Aid of
Cambodia (LAC) which focuses on minorities in Cambodia (namely Khmer Kampuchea Krom and
Vietnamese) seems to benefit from its association with CHRAC. This project focused on advocating for
these minority groups and encouraged the ECCC to pay attention to them. Since it is a “hot issue with the
government”, many NGOs were reluctant to support these groups until the project was created.
As the ECCC process continues, there have been an increasing number of collaborative efforts among different NGOs and the ECCC. One occasion when their collaboration appeared especially active was the time immediately before and after the verdict for the case 001. For example, there was a meeting among the Public Affairs Section (PAS) of the ECCC with NGOs in which they discussed in detail regarding the plans each organization (the ECCC and NGOs) has for the broadcast of the verdict, distribution of the copies of the verdict and related activities (ex. public forums). Another example of collaborative effort was an exhibition and forums that was co-organized by 5 NGOs, an association of the civil parties for Case 001 and the VU, in order to highlight the “significance of victim participation in Case 001”.

Despite such information sharing and occasional collaborations, some interviewees agreed that there is still ample room for the Cambodian NGOs in the ECCC process to improve their collaboration. For example, although cooperating experience among member NGOs of CHRAC resulted in an informal division of labor among them with each organization’s “target group”, there are a number of NGOs which have activities relevant to the ECCC but have chosen not to participate in CHRAC due to the different focus each of them has.

There are another regular meeting (“NGO update meeting”) that a Cambodian branch of an international NGO Open Society Justice Initiative, or Cambodia Justice Initiative (OSJI/CJI) invites all NGOs conducting ECCC-related activities (including non-CHRAC members). However, these meetings tend to focus on reporting rather than

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151 Field note taken on July 1, 2010 at the CHRAC office in Phnom Penh. In addition to a couple of PAS officials, there were at least representatives from 6 NGOs.
152 This exhibition succeeded another meeting earlier on the same day to prepare the civil parties for Case 001 for the verdict (before the verdict, NGOs anticipated that the verdict will not be satisfactory for the victims). Field note taken on July 12, 2010.
153 Examples of “target groups” include a group of victims who suffered gender-based violence by Cambodian Defenders Project (CDP), Cham Muslims by DC-Cam, and orphans by CSD (later by CJR). “We [CHRAC members] had discussion among each other, so we knew each other’s plan, but… we didn’t have concrete plan as to which organization should do what, when. But actually we share in advance already, in terms of planning among CHRAC members.” Interviewee 10.
154 Interviewee 4 shared his opinion in an interview that he would prefer not to join the coalition because it would unnecessarily complicate the situation. Consequently, while his organization has been quite active in the process, the organization does not work with other NGOs so often.
155 Perhaps reflecting the reliance of each organization on donors, interviewee 10 said that coordination of NGO activity poses a big issue because they “have their own planning, own activity, their own proposal.”
Planning and it is unclear how much communication exists among the NGOs which host these regular meetings, and how much opportunities and incentives for active collaboration these meetings would provide.

Similarly, another viewpoint in conflict with the positive view on NGO collaboration mentioned above suggests a potential constraint to make a strong NGO coalition: protective attitude of each NGO not to give too much information to others and existence of severe competition for funding. Another interviewee also viewed collaboration more of an exception than a norm. Due to the difficulty in networking among the NGOs, one factor that may have significantly remedied the difficulty is, one interviewee maintains, the connections through the presence of international advisors, each of whom is assigned to virtually every CHRAC member NGOs.

What these conflicting views suggest is the difficulty in reconciling the advantage and disadvantage of the participation by diverse organizations in the ECCC process which, on one hand, provides critical input to the process by bringing diverse issue of focus and experience to it but also, on the other hand, potential conflict and competition among the NGOs over limited resource from donors.

4. Dealing with pathologies? “Coordination issues” in the work of the ECCC and NGOs—NGOs as complicit

As a hybrid court established relatively recently in the historical development of the TJ, the ECCC has provisions that enables enhanced participation and consideration of the rights of the victims. For example, the inclusion of victims into the court proceedings as civil parties is considered as one of the promising features of the ECCC that could have broader impact not only on future cases at the ECCC but also at the International Criminal Court (ICC) as well as other international tribunals. As I discussed in the previous chapter, Cambodian NGOs have played a crucial role to promote victim

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156 ICTJ, outreach strategies, 12.
157 Interviewee 4 and 8.
158 “We do not cooperate with other NGOs. Each work independently. Each try to achieve their own project only. And other NGOs have their own project and have their own goal too.” Interviewee 2.
159 Interviewee 8.
participation through their outreach activities where they promote discussions on the topic, as well as through collection of the victim information forms (for both filing complaints and applying to become civil parties). However, perhaps due partly to the nature of the criminal tribunal that does not allow premature sharing of information among its actors, promotion of victim participation by the NGOs ironically resulted in the disappointment of some of the victims.

This section first briefly describes two examples of the disappointment among the victims. It then discusses that the NGOs and the ECCC perceived this issue as a “coordination failure” and considered improved coordination as a necessary measure in order to deal with it. However, looking into the issue more closely suggests that its origin may lie at a deeper level.

Example 1: The verdict for the case 001 left survivors unsatisfied

As I briefly mentioned in the introductory chapter, many ordinary Cambodian people expressed their frustration at the verdict of the case 001 examined at the ECCC on July 26th, 2010 which sentenced the accused Kaing Guek Eav (Comrade Duch) to effectively 19 years in prison. One of the reasons that many gave for their dissatisfaction was concerning reparation in the verdict. Cambodian NGOs have raised awareness about the mandate of the ECCC to order a payment of collective and moral reparations and facilitated discussions about it (ex. what people want for reparations) among Cambodian people through their outreach activities. Despite their effort, the reparation the ECCC awarded on the day of the verdict for the first case was significantly limited in its scope (i.e., “to publish the names of the victims in the verdict and to compile a record of Duch’s statements of confession and contrition161”), and left many Cambodian people, especially civil parties for the case, unsatisfied162.

162 The reparation delivered by the verdict needs to be examined in view of what the civil parties for the case formally requested on September 17, 2009, which included “(1) compilation and dissemination of apologetic statements made by Duch, (2) access to free medical and psychological care, (3) funding of educational programs to inform the public about crimes that took place during the Khmer Rouge regime, (4) erection of memorials to commemorate victims, and (6) [sic] publication of the names of all the civil parties in the final judgment. Under the Internal Rules, all of the reparations are to be borne by the accused. However, in their pleading, the civil parties argued that if the accused cannot bear the costs of the
Example 2: The rejection of civil party applications

On 14 January 2010, Co-investigating judges of the ECCC announced the scope of investigation for the case 002 that defined the kind of violations and locations (specific provinces) to be included in the case. According to an interviewee, the announcement was rather belatedly made, as Cambodian NGOs already finished the collection of civil party applications. As a result, many civil party applicants (including those who had been formerly admitted) were rejected, because their situation during the Khmer Rouge regime did not meet the criteria in the scope (or the information they submitted were insufficient to prove). 163

One group of victims that the scope of investigation significantly affected was the Khmer Krom, ethnic Khmer people from the Mekong Delta region of Vietnam. By ruling that investigative requests which prosecutors and civil parties made in December 2009 and January 2010 in relation to the Khmer Krom fell outside the scope, the co-investigating judges of the ECCC decided that there would be no genocide charges of Khmer Krom as a group. It was because the prosecution’s introductory or supplementary submissions did not formally name the Khmer Krom. While Heindel, a legal adviser for DC-Cam, validated the prosecution’s initial omission as understandable due to the sheer scale of the case, “the arbitrariness” of the situation, as a civil party lawyer put it, posed a significant challenge as to how to explain to the Khmer Krom. 164

While the NGOs continued to work in order to collect supplementary information that would help the readmission of the rejected civil party applicants, the scope disappointed the civil party applicants greatly, and some of them even withdrew their participation from the ECCC process. 165

Perception of the issue as “coordination issues”

163 Interviewee 9 informed me that 16 civil party applicants who the interviewee’s organization had helped to submit forms got rejected despite their previous admission.


165 Interviewee 9.
How do the NGOs perceive the issue and possible solutions for it? For both issues briefly described above, a common answer from NGO workers is that it is a coordination issue, and that clarifying the information with the ECCC to deliver it to Cambodian people is necessary to solve the issue 166.

Similarly, actors who frame the issue as coordination failure are not limited to the NGOs. A report about a meeting on outreach strategies published by ICTJ suggests that the ECCC officials share the view as well. During the meeting, the attendants (i.e. ECCC officials, ICTJ staff and consultants, and two NGO staff) discussed the need to seek for possibilities for coordination between the ECCC and NGOs in order to get the most of the resources and prevent overlap in activities 167.

Improved coordination was also regarded as vital to solve the issue with the “development of messages about the court”. The report takes issue with the fact that NGO workers often “produce their own messages, because of a lack of consistent leadership from the court, specifically around issues of civil party applicants and protective measures” and in some cases create expectations among Cambodian people that cannot be met when NGOs conduct their outreach activities 168. In order to deal with this issue, the report argues, “more sophisticated information” is necessary to ensure the management of expectation among Cambodian people to a realistic level 169.

At one level, these issues do appear to stem from lack of coordination among NGOs and the ECCC. For example, one reason behind the rejection of civil party applicants was that the ECCC “never adequately explained 170, the issue on the limitation of the scope of investigation. If the ECCC and NGOs had been more successful in sharing information on the “scope” of the investigation for the case 002 before the NGOs began their activities for information collection, the disappointment among some civil party applicants might have been prevented.

166 Interviewees 5, 10, 11.
However, Paris’s discussion about the “coordination issues” in postwar peacebuilding activities has striking resonance with the issue facing the TJ actors in Cambodia, and suggests that the issue in Cambodia may not simply concern coordination. Paris cautions that the perceived issue of coordination failures—superficially manifested as “disorderliness or ineffectiveness in the field”—in fact indicates issues arising from frustrations and disagreements at a deeper level among the actors in the statebuilding enterprise. Paris takes issue with the tendency to propose enhanced coordination without a careful consideration of its challenges and risks. The lack of agreement over the measures to be taken for the issue, their sequence, and priorities to create environment conducive for sustainable peace in post-war societies reflects the different approaches and interests among the actors in the international statebuilding enterprise. Similarly, it also reflects the uncertainty, complexity and politically sensitive nature of the enterprise.

What does Paris’s argument suggest for the Cambodian situation? Looking into the origin of the issues and the uniqueness of the TJ field suggests that dealing with the issues by framing them as merely technical, communication failure will probably be insufficient.

**Context conditions how the NGOs work**

First of all, it is necessary to recognize the fact that the implementation of the outreach works for the ECCC process is largely, with the exception of outreach works conducted by the ECCC itself, a collection of smaller international projects by different NGOs. As grantees of international aid, they have responsibility to report the result of its own project to the donors. This might have conditioned their work by giving an incentive to produce tangible results that they can show to the donors. One interviewee’s comment illustrates this point:

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171 Roland Paris, “Understanding the “coordination problem” in postwar statebuilding,” in The Dilemmas of Statebuilding: Confronting the contradictions of postwar peace operations, ed. Roland Paris and Timothy D. Sisk. (New York: Routledge, 2009), 54. In this thesis, the term “coordination problem” follows Paris’s use of the term to describe “a lack of coordination among the myriad of international actors involved (53)”, and the way such issues are often redefined in “procedural-technocratic terms (59)” that overlooks substantial disagreements among the actors.

172 Paris, 75.
Fulfilling victim implementation form is something tangible...[the NGO wants to have tangible result] because we can show those results to people who are interested in [the NGO’s] work. It is also because [tangible results] satisfy donors. Because at the end of the project... we have to show the output of the results. If we show intangible result, they would think that implementation of the project has a problem. While collection of victim information is itself a significant contribution, this seems to show how aid dependency conditions the way NGOs work.

Secondly, it is not clear whether enhanced coordination—that relies on the delivery of “sophisticated information” from the court by the NGOs—can be achieved easily, due to the potential of “competing perspectives” existing within the actors that constitute ECCC process. As briefly mentioned in the first chapter, what characterizes the field of TJ is its contested boundary that enables diverse actors to join, even if they do not necessarily share their goals and measures to take to achieve them. In the ECCC process, different actors with different ideals—to bring rule of law, to find truth, to achieve reconciliation, to give just a few—all participate to comprise an ostensibly coherent coalition. While the ECCC itself appears to reflect such expansive nature of the field (for example, the VU has expanded its mandate to include non-legal measures to better address the needs of the victims), the “unimaginative” interpretation of the reparation mandate in the verdict for the case 001 exhibited apparent limits on the potential of achieving wide range of objectives different actors expected the ECCC to fulfill. As a result, even among the actors within the ECCC process, disagreement exists over what the ECCC can achieve. Unless there is serious effort to address such disagreement, similar issues—or pathologies—may continue to plague the future proceedings.

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173 Interviewee 2.
174 According to the internal rule of the ECCC (Rev 5 made on February 9, 2010), VU “Shall be entrusted with the development and implementation of programs and measures other than of a legal nature addressing the broader interests of victims. Such Program may, where appropriate, be developed and implemented in collaboration with governmental and non-governmental entities external to the ECCC” Quoted in ICTJ, outreach strategies, 5.
175 For example, while interviewee 8 believes that the ECCC would work better if they narrow down their mandate to retributive justice and investigation instead of trying to achieve symbolic aspect through reparation, interviewee 10 argues the need for restorative justice through measures such as symbolic reparation.
Moreover, framing the issue in terms of technical, communication failure and dealing with it by the delivery of “sophisticated information” reflects rather top-down view among TJ actors. Such top-down approaches need to be taken carefully, as many observers suggested the inadequacy of similarly top-down measures taken to achieve rule of law. As the term “culture of impunity” which both outside observers as well as some Cambodians often apply to contemporary Cambodian society amply suggests, various types of contemporary inefficacy (including, for example, impunity for the perpetrators of violent act as well as rampant practices of corruption) were perceived to stem from historical legacy of violence and lack of accountability. By framing the issue as cultural (or at least engrained to Cambodian cultural practices), various practices of international intervention were premised on the resultant lack of capacity to adequately deal with it in Cambodian counterpart.

While the focus on institution building and capacity building characterized such international intervention for judicial reform activities and other objectives, unsatisfactory results of these initiatives suggest that the assumption on the lack of capacity and knowledge may be misleading. On the contrary, Gottesman’s archival research on the PRK and SOC period suggests that Cambodian leaders were clearly familiar with the concepts of human rights and the rule of law.

Having thought through their political and legal options and having already made

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176 “Cambodia is a society that has lost any sense of morality, riven by violence and injustice” Kong Boncheoun, Quoted in Penny Edwards, “The Moral Geology of the Present: structuring morality, menace and merit,” in People of Virtue: Reconfiguring Religion, Power and Morality in Cambodia Today, ed. Alexandra Kent, and David P. Chandler (Copenhagen: NIAS Press, 2008), 213.

“We surely would not want to defer to cultural relativist arguments counseling against accountability when the culture in itself is one of wholesale impunity. A key aim of trials following sweeping violations of personal integrity is to help dispel the culture of impunity that enabled the crimes to occur. In some respects, then, the demands of universal justice may in fact require some measures of meddling with patterns of national culture.” Diane F. Orentlicher, “International Criminal Law and the Cambodian Killing Fields,” ILSA Journal of International and Comparative Law, 3 (1996-1997), 707.


what they felt were informed policy choices, they were unlikely to alter the way they governed the country merely in response to Western advisors.\textsuperscript{178}

What hinders any potential spillovers to take root from the ECCC is therefore not the government’s lack of knowledge on the rule of law, but the government’s tight hold on its power, to which such positive spillovers may pose challenge.\textsuperscript{179} Similarly, Edwards’s article on the visions and expectations of moral behavior in contemporary Cambodia effectively shows that Cambodia’s “culture of impunity” is an intricate phenomena involving complex codes of morality: mutilation or killing of alleged subverter of desired moral order (ex. a teenage adulterer) is justified by various stakeholders, ranging from state officials to senior members of the sangha (monastic community).\textsuperscript{180}

Likewise, considering the complexity of Cambodian local context where diverse understandings of justice and expectations exist, there are ample reasons why resorting to improved communication from the ECCC may not be an adequate solution for the issues emerged during the course of ECCC process.

Last but not least, it is important to realize that both of the “coordination issues” are pathologies of the ECCC, which came into being from the same source (the ECCC as an institution equipped with expertise to conduct a trial) the ECCC derives its power. One of the main aspects of the verdict for the first case that left many civil parties unsatisfied was the narrow interpretation of the mandate to award collective and moral reparations to the civil parties. While the lack of the asset of the accused (which the ECCC designates to finance the reparation mandate) does appear to have put a significant limit on the ranges of measures the ECCC could take, interpreting the mandate narrowly—despite the fact that the productive power of the ECCC enabled it to create the mandate to deal with the issues in the first place—worked to the detriment of the purpose of having reparation mandate. Similarly, while the classification of victims into different categories (i.e., complaint and civil parties) is a manifestation of the institutional power of the ECCC that intends to empower them through their participation in the trial proceedings, the

\textsuperscript{178} Gottesman, xiii.
\textsuperscript{180} Edwards, The Moral Geology of the Present.
dissatisfaction expressed by the rejected civil party applicants suggests the drawback of the victim participation procedures developed in the ECCC process. In Cambodia, where one population-based survey result shows that most of the population consider themselves as victims\textsuperscript{181}, is it just to classify victims into arbitrary categories? Perhaps, what the perceived coordination issues suggest is the need to address such fundamental questions that remain unresolved.

Conclusion

What explains the continued cooperation of the NGOs with the ECCC, despite their somewhat mixed reactions to the verdict for the first case at the ECCC? As I described in this chapter, contextualizing the NGOs within the local power relations and their historical background suggests their lack of exit option from the ECCC process. In addition, perhaps reflecting the contested nature of the TJ field that enables diverse actors to join, the NGOs bring critical concerns to the process but simultaneously bring fragility in their coalition with the ECCC. In this manner, this case exemplifies the dilemmas the NGOs face: while their role as agents gives them opportunities to advance their organizational goals, they need to deal with, or may even play a part in creating, pathologies. Consequently, the rather top-down approach to the issues (through the communication of authoritative message from the ECCC) the coalition currently takes for the pathologies surfaced ostensibly as “coordination issues” may fail to address the needs and values of the survivors of the Khmer Rouge regime.

\textsuperscript{181} “Eighty percent of respondents in our survey considered themselves to be victims of the Khmer Rouge. Nearly all those who lived under the Khmer Rouge regime identified themselves as victims (93%), while half (51%) of those who did not live under the regime said they were victims.” Pham, 2.
“This is a bowl of Samlar Kakor, the name of one of the Cambodian delicious dishes. To make this soup delicious, we need many kinds of ingredients...At the end, if we follow the steps and we have all the ingredients, we can have a super dish.

As I tried to understand the history of Cambodia during the Khmer Rouge regime, I find it more complicated than cooking delicious Samlar Kakor. As I realized there were a lot of elements that contributed to Cambodia’s fall into chaos...It is so complicated that I cannot understand clearly.” 182

Introduction

In August 2009, at the exhibition of paintings following the art workshop which a Cambodian NGO Youth for Peace (YfP) organized for the youth in Pailin city (in the Western part of Cambodia, a former Khmer Rouge stronghold until late 1990s), I encountered this intriguing painting of a soup bowl. Among the 24 paintings at the exhibition, it stood out from the rest because its meaning was not as evident as that of others. While most of the paintings were about such themes as “suffering under the Khmer Rouge” and “development (bright future of the country)”, as for this painting of a

182 Excerpt from the description of picture named “Chaotic Ingredients.” Youth For Peace, Eyes on Darkness: Paintings of Memory, (Phnom Penh: 2010), 207.
soup bowl, I needed to wait until the painter (a 17-year old female student) herself explained what she wanted to express with it. She explained her feeling of confusion between two conflicting accounts about the Khmer Rouge regime—the one which she learned at a young age, a very bad regime that had forced many people to die, and the other which she learned from her parents, a regime that protected Cambodia from the potential invasion by Vietnam.

What this example seems to illustrate well is the affective impact of artworks that let the viewers think and engage into a search for their meaning. Expressed as an artwork, the painting did not seem to have become a source of contention among the students. Instead, it is likely that the painting will serve as the first step for many viewers within and beyond Cambodia to get to know the multiplicity of Cambodian people’s experience under the Khmer Rouge regime. It is such potential contribution of memory works that this chapter focuses on.

This chapter begins with a discussion of dominant, state-managed narrative on the Khmer Rouge period that effectively marginalizes narratives that do not fit within it. It then examines the influence that the establishment of the ECCC and participation of NGOs has had on the country’s memorialization practice. This chapter then concludes with a brief discussion of two memory works in contemporary Cambodia in order to situate the ECCC and NGO-initiated memorialization practices in a wider context.

1. **State management on memories of Khmer Rouge**

*Construction of the national (dominant) narrative*

In considering how people remember their experiences under the Khmer Rouge regime, it is necessary to recognize the influential role that successive governments of the post-Khmer Rouge Cambodia have played. As Terdiman describes, institutions, especially the state, can enforce uniform practices according to their own interests, and their authority invested in their language also legitimizes such practices.183 Similarly, in Cambodia, changing official policies on the Khmer Rouge regime effectively sets parameters on what and how people should remember. Looking at specific examples also shows how the government pursued each policy to legitimize itself.

After the fall of the Khmer Rouge regime, the continuing confrontation between the PRK government and the Khmer Rouge motivated the government to pursue policies that demonized the Khmer Rouge and encouraged “hostile recollections en masse” in the 1980s\textsuperscript{184}. S-21, a former secret prison, preserved and presented to the public as the Toul Sleng Museum of Genocidal Crimes, reflected the PRK government’s need at the time to “provide a ‘monologic historical explanation’ to events and to evoke specific responses,” namely to “rally an exhausted and stricken population to the new government [PRK]” with the feeling of “kamheng Chheu chap (rage born of agony)\textsuperscript{185}.” In addition, as a museum designed and set up by Vietnamese advisers (with Cambodian staff), the Toul Sleng Museum also intended to serve as an evidence of the crimes under the Khmer Rouge regime for both domestic and international audiences to see\textsuperscript{186}. Along with similar state efforts, the PRK state narrative served as one of the most comprehensive and influential accounts of the Khmer Rouge regime among the numerous and overlapping explanations\textsuperscript{187}.

In the late 1990s, the collapse of the Khmer Rouge as a movement then drastically shifted the state policy: the government under Prime Minister Hun Sen took a policy of collective amnesia. It was designed to work hand in hand with the government policy of “national reconciliation [which I described in the first chapter]” that encouraged the defection of the Khmer Rouge leaders and cadres.

With the beginning of the ECCC process, the policy concerning the legacy of the Khmer Rouge regime shifted yet again. A recent governmental agenda that parallels the ECCC process is the developmental policy through tourism. Toul Sleng museum and Choeung Ek (also commonly known as “killing field”, where many of the prisoners at Toul Sleng were executed and where remains of 6,000 victims were excavated in the 1980s) became two of the main tourist destinations for the visitors to Phnom Penh. With the issue of a directive to make all mass graves in the country into memorials and to furnish current memorials with information and environment necessary for both

\begin{enumerate}
\item David Chandler, “Cambodia Deals with its Past: Collective Memory, Demonisation and Induced Amnesia,” \textit{Totalitarian Movements and Political Religions} 9 (2008), 357.
\item Ledgerwood, 89.
\item Ledgerwood, 94.
\end{enumerate}
Cambodians and tourists in December 2001 by Prime Minister Hun Sen, tourism and the expected economic gain it would bring to the country have become arguably one of the most powerful forces that influences the management of places with historical legacy of the Khmer Rouge regime.

The Anlong Veng Historical-Tourist Area project, which was initiated by the above-mentioned 2001 circular, is another example that shows the connection between the government policy and its influence on the way Khmer Rouge regime is remembered. Wood describes how, through the presentation of historical narrative supported with historical facts, the Ministry of Tourism facilitates the circulation of the specific interpretation of the past: implicit demonization of the former Khmer Rouge leaders who kept their resistance against the government until late 1990s. Through the circulation of this particular narrative and premise of commercial success of the site, Wood predicts, the government will succeed in reintegration of the former Khmer Rouge members.

Marginalized (counter) narratives

How have Cambodian people reacted to the changing policies and the national narrative that effectively put a limit on what could be expressed about the Khmer Rouge regime? The scholarly debate disputing Vickery’s argument about the Standard Total View (STV) suggests that Cambodian people are generally in agreement with the national narrative, regarding the extent of suffering under the Khmer Rouge regime. However, though they do not question the incompleteness of the STV to accommodate variance in experience among Cambodian people, the view that emerged from the painting that I

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188 Paul Williams, “Witnessing Genocide: Vigilance and Remembrance at Tuol Sleng and Choeung Ek,” Holocaust and Genocide Studies, 18, No.2 (Fall 2004), 249.
189 Timothy Dylan Wood, “Tracing the last breath: Movements in Anlong Veng” (PhD. diss., Rice University, 2009), 232.
190 Wood, Tracing the last breath, 266.
191 Ledgerwood, 93. While Vickery argues that the STV, “a widespread common method of describing the DK [Democratic Kampuchea] period (Ledgerwood 93)” is a creation by the refugees to justify their decision to flee as well as by anti-communist Western governments and media, Ledgerwood argues that Cambodian people generally accept the national narrative (narrative found at the museum) as truth. Uimonen also argues against Vickery’s argument with the similarity she finds between the STV and the recollections of Cambodian peasants in Pursat province. Uimonen, Paula. "Responses to Revolutionary Change: A Study of Social Memory in a Khmer Village " Folk: Journal of the Danish Ethnographic Society 38 (1996): 31-51.
briefly described in the introduction of this chapter—that Khmer Rouge is not necessarily “bad”—is of interest here, due to its clear difference from the national narrative. Considering the fact that the majority of the population view themselves as victim of the Khmer Rouge, such a positive view about the Khmer Rouge would represent only a minority view. However, the painting nevertheless suggests the existence of memories that are marginalized by the national narrative.

There are other memories that are likely to be marginalized by the national narrative as well. For example, by regarding the Khmer Rouge as the enemy, the fact that many former Khmer Rouge soldiers were also victimized through their forced conscription, in many cases to become child soldiers tends to be marginalized\textsuperscript{192}.

Considering the existence of such marginalized narratives, how has the establishment of the ECCC and the involvement of Cambodian NGOs in the process influenced memory practices?

\section*{2. Facilitation of truth-telling by the ECCC and Cambodian NGOs?}

\textit{Truth emerging from the ECCC?}

According to Borer, the contribution of truth telling for democratization and sustainable peace has been widely argued, and the imperative for finding the truth about the past human rights violation enjoys almost unanimous consensus among both human rights practitioners and scholars\textsuperscript{193}. Consequently, as briefly discussed in the introductory chapter of this thesis, in the field of TJ, there is high expectation for the contribution to peace in post-conflict societies by “truth-telling” institutions. While many observers similarly expect ranges of positive contributions from the ECCC (including, for example, achieving reconciliation), others also argue that criminal tribunals are not suitable for truth-telling purposes for the reasons I briefly discussed in the introductory chapter.

For the purpose of this thesis, it is especially important to be aware of the arbitrary nature of the mandate that is typical to TJ institutions. While setting the mandate

\begin{footnotesize}
\textsuperscript{192} For the in-depth study of former Khmer Rouge cadres who worked at S-21, see Ea, Meng-Try and Sorya Sim. “Victims and Perpetrator? Testimony of Young Khmer Rouge Comrades,” \textit{Documentation Center of Cambodia}, 2001.

\textsuperscript{193} Tristan Anne Borer, \textit{Telling the Truths: Truth Telling and Peace Building in Post-Conflict Societies}: (University of Notre Dame Press, 2006), 2-3.
\end{footnotesize}
of a TJ institution is often a result of a difficult compromise without which the institution might not have even existed, issues arising from the limited mandate have plagued many TJ institutions\textsuperscript{194}. Unfortunately, with the mandate limited to trying those most responsible for the atrocities during 1975-79, the ECCC is not an exception.

While some observers mention the potential limitation on the finding of truth in the courtroom, some observers of the ECCC argue that the contribution of the ECCC process lies in its potential to encourage discussion among Cambodian people who used to be deprived of opportunities and information necessary to do so\textsuperscript{195}. It is especially important, Hamber and Wilson argue, to provide ongoing space that enables survivors to express their complaints and oppositions—whether a public or private space. Acknowledgement of their oppositions at a national level is necessary because, as a site of struggle, the past should not be a fixed object that all members of the society should identify with\textsuperscript{196}. As I introduced in the second chapter, some activities that Cambodian NGOs carry out for the ECCC process aim to make similar contributions by providing space for various accounts of the past to emerge. In this regard, public forums, which invite people from different corners of the society for open discussion, are a good example of conscious effort by NGOs.

Despite the potential contributions in facilitating discussions which NGOs can make for the ECCC process, their role as agents of the ECCC again—as I made the case regarding other aspects of their activities in other chapters—constrains them as well. One interviewee, whose organization conducts activities that encourage people to discuss their views and experience during the Khmer Rouge regime, mentioned that they face difficulties encouraging people to talk when they do not trust the ECCC\textsuperscript{197}.

\textsuperscript{194} For example, in the case of East Timor, the mandate of the Serious Crimes process (a hybrid court system established in the capital city Dili) was limited to the events in 1999. Thus, crimes at other times which impacted East Timorese society were beyond the mandate of the Serious Crimes process. Human rights activists in East Timor therefore appealed for some complementary measures. Comissão de Acolhimento, Verdade, e Reconciliação Timor Leste. Chega!: The Report of the Commission for Reception, Truth and Reconciliation in Timor-Leste: Executive Summary. (Dili: Commission for Reception, Truth and Reconciliation in Timor-Leste, 2005), 10.
\textsuperscript{195} For example, see Un and Ledgerwood, Lessons from the Trial, 4-5.
\textsuperscript{196} Brandon Hamber and Richard A. Wilson, “Symbolic closure through memory, reparation and revenge in post-conflict societies,” Journal of Human Rights 1, No. 1 (March 2002), 49.
\textsuperscript{197} Interviewee 11.
Can truth-telling initiatives ensure truth to be told?

Although the existence of space created for open discussion does appear to encourage more people to share their view, it is necessary to be aware of an implicit assumption in the argument which calls for the creation of truth-telling mechanisms: would providing space really ensure truth to be told?

Similarly, another question concerns actors who can participate in such discussions: who can participate (whose voice is heard), and whose voice is considered legitimate? The question is closely relevant here, given the rather top-down diffusion of TJ norms described in the second chapter. The ECCC is an institution with a specific mandate—to try those most responsible for the human rights violations during 1975-1979, it effectively sets the parameter on what can be discussed (including truth and views on justice).

With the parameter already in place, this may influence the way expressions of dissatisfaction are perceived. Fraser’s discussion on “normal justice” illustrates this point. The public-sphere conflicts over justice retains an appearance of “normal” shape because of the implicit assumption over a number of factors that constitute the justice debate: for example, the participants (who are entitled to make claims for justice); and how they make such claims (intelligibility of claims). However, in a contemporary globalizing world, justice debates may not always take place between contestants who share such assumptions. Consequently, such appearance of normality may rest on the “suppression or marginalization of those who dissent from the reigning consensus”. Or, apparent expressions of private feelings or anomalies may in fact indicate dissent over the parameter of justice at work.

Possible inability and/or unwillingness to speak

Another point that needs careful attention in considering the appropriateness of truth-telling initiatives is the possibility that the survivors may not be able to, or willing to, speak about their experience and needs. There are several different reasons why it may

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be the case. For example, the argument of Shaw and Waldorf suggests potential unwillingness of the survivors to speak, because they continue to live in a chronic insecurity and “do not necessarily share the priorities, memory projects, and speech practices of TJ mechanisms that developed to address the aftermath of political repression in other places.”

Similarly, what perhaps needs to be taken with precaution is a typical assumption in TJ initiatives that considers the act of speech as a privileged way of expression. Luckhurst’s discussion on the traumatized subject’s inability to speak seems to be relevant for survivors of conflict:

One of the central ways in which contemporary trauma has been conceived is around the symptom of the intrusive or recurrent image, the unbidden flashback that abolishes time and reimmerses you in the visual field of the inaugurating traumatic instant. There is a profound disjunction implied: the visual intrusion recurs because linguistic and memorial machineries completely fail to integrate or process the traumatic image. Perhaps, then, it is in the image that the psychic registration of trauma truly resides.

Hamera’s study on a family of Cambodian refugees who engaged with the past through continued practice of Khmer traditional dance resonates with Luckhurst’s point. For the family, memory was rather a wound than “equal information retrieval or expressive force,” and they had no way to tell some stories of their experience.

What these studies collectively suggest is the necessity to be attentive to the alternative ways one’s viewpoint or experience is expressed. In the next section, focusing on the memorialization practices by a Cambodian NGO Youth for Peace (YfP), I will present an example of positive contribution that NGOs make in providing space for such viewpoints to emerge.

3. Memorialization works by Youth for Peace (YfP)

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YfP, a Cambodian NGO established in 1999, has been working in order to empower Cambodian youth population for social change. After it conducted a research on the perception and understanding about the Khmer Rouge regime among the youth population\textsuperscript{202}, YfP began its participation in the ECCC process in 2007. Among the four projects which YfP conducts, two of them focus specifically on Khmer Rouge-related themes. For the purpose of this thesis, a project “Youth for Justice and Reconciliation (YJR)\textsuperscript{203}” is of special interest for its various approaches to memory. The project includes inter-generational dialogue between elders and the youth in a community, visits of local memorial sites (former mass killing sites), and art workshops and exhibitions\textsuperscript{204}.

\textit{YfP activity in Pailin city}

I observed YfP’s activities in Pailin city during August 8-12 in 2009, during the eleven-day-long workshop of YJR Project. The activity I observed in Pailin is probably not representative case of the reception of their activities by the people in the community, since Pailin is unique with its history as one of the last Khmer Rouge strongholds. Accordingly, YfP staff implemented their project carefully: they did not bring banners of artworks by Cambodian artists on the Khmer Rouge period to exhibit besides the artworks of the participants, as they had done in other provinces in collaboration with \textit{Meta House} (an art center located in Phnom Penh). It was because, according to one of the YfP staff I talked to, artworks on Khmer Rouge period typically depict the period as terrible, whereas for people in Pailin that may not necessarily be the case.

While about fifty people from a community (participants chosen based on gender equity, with monks an local members of the community council\textsuperscript{205}) usually attend their workshop, there were significantly smaller number of adult participants (eight adults as

\textsuperscript{202} The result of this research was later published as an article: Munyas, Burcu. “Genocide in the minds of Cambodian youth: transmitting (hi)stories of genocide to second and third generations in Cambodia.” \textit{Journal of Genocide Research} 10, no. 3 (September 2008): 413-439.

\textsuperscript{203} The other project, “Voice of Former Khmer Rouge”, also involves outreach program which aims to introduce Cambodian people about the experiences of the former Khmer Rouge, especially their child soldiers. Although I was very much interested in the content and potential impact of this project, my Khmer language skill at the time of my field research was not sufficient enough to fully understand the content of the program (ex. its radio program).

\textsuperscript{204} \textit{Youth for Peace, Stories from the Ground: Memorial Sites in Cambodia} (Phnom Penh).

\textsuperscript{205} \textit{Youth for Peace, Eyes on Darkness}, 66.
opposed to around thirty students) in the Pailin workshop. While a YfP staff suspected that villagers were too busy with farming to attend, another possible factor was their potential mistrust about the ECCC as well. During the Village Dialogue (which preceded the art workshop), some of the adult participants openly expressed their viewpoints that clearly diverged from the perspectives commonly held among Cambodian people elsewhere (same as the national narrative discussed in the previous section of this chapter)\textsuperscript{206}.

Conducting an open, inter-generational dialogue on Khmer Rouge-related topics (i.e., the ECCC and history, and brainstorming on the participants’ vision on moral and collective reparations) in Pailin apparently posed a real challenge on YfP staff. First of all, there was conflicting perspectives and unequal power balance among the adult participants of the dialogue, reflecting different experiences they have had during the Khmer Rouge regime. For example, while some male adult participants expressed emotionally that the Khmer Rouge leaders were most responsible for what happened, because “they just stayed in one place and read reports….and didn’t care what happened\textsuperscript{207}”. However, once the village chief (who was, according to a YfP staff, former high rank Khmer Rouge) later appeared to the workshop and shared his view—which directly countered the male participants’ view\textsuperscript{208}, most of the adults participants clearly fell silent for the rest of the dialogue on the Khmer Rouge and history.

Moreover, another challenge that apparently put YfP staff in a difficult position was to answer “difficult” questions which fell outside of the mandate of the ECCC: the responsibility of foreign countries which were, in the adult participants’ view, equally to blame for the sufferings of the farmers by assisting the Lon Nol government. The YfP staff answered them by mentioning that the ECCC was a result of negotiations and therefore it is difficult to prosecute foreign countries.

\textit{Affective effect of the artwork}

\textsuperscript{206} For example, a villager (probably former Khmer Rouge soldier) answered a recurring question from students “Why Khmer killed Khmer?” by saying that “it was not Khmer people killed Khmer, but classist, (the rich) killed the lower class (such as farmers).” Field note taken on August 9, 2009.

\textsuperscript{207} Field note taken on August 9, 2009.

\textsuperscript{208} “Because the leaders just prepared documents to help improve the lives of lower class (by eliminating classists), it’s possible that they don’t know about the killings.” Field note taken on August 9, 2009.
YfP’s art workshop, which is part of the YJR project, is arguably one good example of Cambodian NGOs’ potential role to enable multiple accounts of the past to emerge. Indeed, YfP clearly states that art facilitates and helps people to “develop a voice for the expression of different viewpoints” and serves as the “space where many people with different cultures and viewpoints can exchange in a peaceful way and promote non-violent action.” While YfP is not a member of CHRAC (therefore in a way not as involved with the ECCC as the members of CHRAC typically are) and their organizational focus is not necessarily on justice (i.e. retributive justice achieved through criminal justice process), it nevertheless reflects typical TJ discourse (ex. emphasis on truth-telling and reconciliation) and makes an interesting connection between art and [restorative] justice: paintings can not only pass knowledge and history on to young generation but also “promote the process of finding justice in post-conflict countries like Cambodia” as the “uncovered true evidence as a bridge from unknown history to the path of justice.”

As the description of the Village Dialogue suggests, there were several difficulties that appeared to have affected the exchange of ideas among the participants. Similarly, although usually YfP invites both youths and adults to participate in the art workshop in other provinces, only students (24 students) participated in the workshop and exhibition held on the following day. In this regard, the YfP activity in Pailin city may appear to have been less successful than in other provinces. However, though the actual discussion took place in the Pailin workshop appear to be limited, what is perhaps more far-reaching and potentially influential that came out of the workshop was the affective impact of the paintings: “the violent effect of a sign” that force the viewers to seek its meaning.

In the aftermath of the conflict, where the experiences among the affected population cannot necessarily be subsumed in a single narrative, what kind of contributions can artworks make? Bennett’s study on the “trauma art”—artworks that

209 Youth for Peace, *Eyes on Darkness*, 58.
210 Youth for Peace, *Eyes on Darkness*, 62.
211 Youth for Peace, *Eyes on Darkness*, 64.
213 For example, see note 178.
place the “enduring experience of traumatic memory and grief” within a visible domain to make a basis for empathy—facilitates our understanding on this regard. By showing the traumatic memory and grief as an enduring effect in the present, Bennett suggests that artworks have potential to highlight the need for “a renegotiation of relationship over time”, for which singular, temporary engagement (such as a monument) may not be sufficient. This brings us back to the painting that I introduced at the beginning of this chapter. By inviting the viewers to an inquiry of the current situation of “the other (i.e., the former Khmer Rouge cadres and their family)”, it poses them a question as to what the society needs to do in order to repair relationships among the members of the society.

Another important result from this workshop is the publication of a book that compiles selected paintings from different localities where YfP conducted their art workshops. The painters of the 38 paintings in the book include both those who lived through the Khmer Rouge regime and those who were born after. Besides the different stories behind each painting that would be of interest for many, the book includes some stories that appear to show quite different viewpoints, through the narratives by the youth. In this regard, the achievement of the book is also the presentation of complexity—rather than coherent whole that subsumes differences—that exists within Cambodian society.

Therefore, YfP’s art workshop discussed in this section suggests the possibility of a positive NGO role that complements the ECCC with their activities that might open up a space for multiple accounts of the past. While the establishment of the ECCC stimulated the civil society’s effort to launch activities they implement in parallel with the ECCC, their role as the agents of the ECCC constrained the NGOs to some degree as well.

4. Memory works in Cambodia

Coming back to the questions I raised above: Where do memories reside? How can various memories and views on justice be reflected on in Cambodia’s ongoing process to deal with the past, when one cannot or choose not to speak—or if one’s voice is not

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215 Bennett 102. Emphasis by the author.
considered as a part of public discussion on matters of justice? The ECCC and related projects carried out by NGOs surely contribute to the process, however, they have their own constraints, such as typical consideration of speech as a privileged way of expression. In the following two sections, I briefly introduce two cases of memory practices in contemporary Cambodian society. Focusing on the alternative loci from which different memories emerge, I argue that the ECCC process is a part of—and not necessarily the whole picture of—the myriad of memorialization practices in Cambodian society.

“The body remembers”—aesthetic encounter in Rithy Panh’s film “S-21”

Figure 2. Former Khmer Rouge cadres recollect their role as prison guards of the S-21.

Former Khmer Rouge cadres’ enactment of their past—more than their verbal account—in Rithy Panh’s film “S-21: La machine de mort Khmère Rouge” can be considered as a powerful way a person could express his or her view. In this way, the film suggests the need to be mindful of the various ways—especially in a way of an aesthetic encounter—people can express their views.

Rithy Panh, who fled from the Khmer Rouge regime to France as a refugee, shot the film at “S-21”, current-day Toul Sleng Genocide museum. In the film, Panh let the survivors and former security guards (then Khmer Rouge cadres) discuss their experience at S-21 as well as “summon traumatic memory by repeatedly exposing both perpetrators

and victims to the site of trauma. While the former cadres appear not particularly eager to talk about their past, they nevertheless enact their past routines at the prison in a surprising appearance of “reality”. As Boyle describes this film, the guard Ches “slips out of the present into the past: he repeats his actions and verbal harangues as though time had reversed and the past was alive again.”

Despite the fact that many of the former Khmer Rouge soldiers were forcefully recruited as child soldiers, discussion on them tends to focus on a difficult question of whether they are victims or perpetrators. Panh rejects the “confusion” to regard the former guards as both a perpetrator and a victim. However, for the purpose of this thesis, perhaps deciding if the former guards are perpetrator or victim (or both) is less important than the way Panh’s film suggests the different locations the memories of the Khmer Rouge period reside. Even though the guards had “difficulty speaking of the past”, the memory of their body enabled to re-enact their duties as someone trained them to do so. Panh intends to provide such experience of listening in his work, through the creation of situations that invite the Khmer Rouge to reflect on their actions, and survivors to tell what they went through. And such encounter with their past may lead viewers of the film to an inquiry—for example, regarding the fact that someone trained and brainwashed them so thoroughly, to the extent that the body of the guards still remembers. In this way, the film serves as a potential basis for empathy.

*Leang Seckon’s “Heavy Skirt”*

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218 Boyle, 158.
Lastly, another example of memory work that serves as an alternative venue to communicate one’s viewpoint is Leang Seckon’s series of artworks titled “Heavy Skirt”. Leang, a Cambodian artist whose works have gained growing international recognition, expresses his willingness to overcome memories of his childhood fears through his solo performance in which he acts as a baby coming out from a heavily-patched skirt. The model of the artwork was the skirt his mother wore when she was pregnant with him during the Vietnam War, when his home province of Svay Rieng was heavily bombed by the United States\textsuperscript{221}. Due to the dire scarcity of the wartime, she kept mending the skirt until it became too fragile to wear or mend.

One thing that needs to be kept in mind is the fact that the artwork refers to the period (the time of the bombings) outside of the mandate of the ECCC. In the ECCC process, the experience of the people during this period tends to get less attention than events occurred during the Khmer Rouge period. What this artwork does is therefore to give such memories a place. The beautiful colors and patterns Leang uses to recreate his mother’s skirt make a striking contrast with other materials he assembled—such as reminders of the war ranging from “French rifles to U.S. Army helmets and Khmer

\textsuperscript{220} Leang Seckon, \textit{Heavy Skirt}, 2009. \url{http://www.bbc.co.uk/worldservice/arts/2010/04/100428_strand_leang_seckon.shtml}

Rouge shoes made from tires". Presented in an interesting, not overly shock-inducing manner, his artworks invite viewers’ search for the meaning.

**Conclusion**

Considering the history of state-level control on the meaning of the past, the increasing interest to discuss and learn on the Khmer Rouge period is an important contribution that the ECCC and NGOs make. However, the typical assumption on the necessity of truth to be told in TJ initiatives needs to be recognized.

With examples of various memories expressed not only through memorialization activities by a NGO but also through other alternative ways not limited to what is considered as memorialization activities, this chapter situate the ECCC and NGO effort in a wider context. While the relative impact of different memorialization practices requires further study, an awareness to multiple viewpoints and experiences within a society and potential engagement that affective encounters facilitate can serve as a crucial step for the society’s endeavor to deal with the past.

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222 Turnbull.
CONCLUSION

This thesis has examined the process of international justice in Cambodia with a focus on the role of NGOs as intermediary actors. Despite some tangible outcomes of the TJ initiative in the country—for example the delivery of the verdict for the first case at the ECCC, a close examination of the context it took place, especially through four facets of the initiative (namely the negotiation process for the establishment of the ECCC, outreach activities, relationship between the NGOs and the ECCC, and memorialization activities), has revealed the various dilemmas and tensions that the NGOs faced in their participation for the ECCC process. The normative assumption for TJ norms prevalent in the TJ literature typically results in the description of domestic intermediary actors merely as somewhat monolithic “norms true believers” for international norms to travel across cultural and geographical boundaries. While the interview data with Cambodian NGO workers partially supports this point, viewing domestic intermediary actors simply in that way is nevertheless insufficient to explain the variety among these actors. Instead, conceptualizing the power of TJ norms being embodied as an institution (i.e., the ECCC) enables a more nuanced understanding of the power. Moreover, it also enables us to describe the NGOs as a group of agents whose individual organizational interests and constraints determine their participation in the process. While the unique context of the Cambodian case requires further studies as to examining how extensive the findings of this thesis may be applicable to other localities, it has larger implications for the study on the role of civil society organizations in the intersection of domestic and international politics. It helps us to understand what the potential challenges domestic intermediary organizations face in their negotiation between the two realms and how a careful attention to the local context enables an assessment of their relative impact and options available for them.

Creation of the “field” of TJ and its powerful effect

One of the common issues within the TJ literature which this thesis has attempted to address is the lack of “conversation” with other non-TJ literature that deals with issues of close relevance to the TJ field. While the incorporation of different literature has
enabled a closer examination of Cambodian context in which the ECCC process has transpired, looking at the Cambodian case with a close attention to the establishment of the TJ field has also articulated a larger issue at stake, namely the powerful effect of creating a field. The incorporation of hybrid courts as a legitimate TJ option and its consequential appeal as a promising TJ initiative is a case in point.

Examining the formation of TJ field and its growing recognition as a global norm, as well as the negotiation between the UN and Cambodian government suggests that the hybrid option was rather a compromising result of the negotiation: the Cambodian government opposed to the establishment of an ad-hoc international tribunal since it would not allow the Cambodian government to have control on the trial process; the UN, on the other hand, advocated for the international option to ensure that the tribunal would abide by international fair trial standard. As a result, the potential issues that the UN and some observers already identified during the negotiation process continued to plague the ECCC, the resultant hybrid court. Importantly, however, due to the shortcomings of ad-hoc international tribunal widely criticized at the time of the negotiation between the UN and the Cambodian government, many experts within the TJ field came to consider the hybrid option as a potential solution to remedy the defects of the ad-hoc option. Arguably, it was this recognition of the hybrid option as a TJ option that might have not only had a legitimizing effect for the ECCC but also produced its power as an authoritative TJ institution.

The participation in the ECCC process by different Cambodian NGOs that champion various goals—such as strengthening the rule of law that TJ initiatives are expected to bring to the implementing society—is another example that shows the power of field making. However, while on one hand it has benefited the ECCC process in order to bring in different organizations with various expertise to contribute, on the other hand, it has also become a potential source of conflict among those organizations over funding.

Moreover, another apparent effect of the field making is that, in addition to creating a set of expectations that it is expected to bring, it has also effectively designated appropriate actions to be taken. The memorialization practices in Cambodia is a case in point. Due to the history of state control on the way Cambodian people should remember the past, the establishment of the ECCC and the activities NGOs conduct in cooperation
with the ECCC has potential to serve as a window of opportunity for previously marginalized narratives to emerge. However, common emphasis of such memorialization initiatives on truth-telling as a way to find the truth might overlook other potential ways of expressing one’s viewpoint or memory. Situating the memorialization works conducted through the ECCC process within a wider memorialization practices in contemporary Cambodia therefore demonstrates the fact that the ECCC process is a part of, and not necessarily the whole picture of, Cambodia’s ongoing process of dealing with the past.

_Incentives for the participation of domestic intermediary actors_

From the examination of the role of Cambodian NGOs in the country’s TJ process, this thesis has identified several points on the role of domestic intermediary organizations.

First of all, the Cambodian case suggests the indispensable role of the NGOs as willing participants—or the agents—of the ECCC and their potential autonomy they could enjoy within the process. Since the beginning of the ECCC process, the participating Cambodian NGOs ensured not only the fulfillment of indispensable tasks for the ECCC to function as an institution, but also helped with adaptation of the ECCC to the local Cambodian context by the incorporation of religious and cultural aspects in their outreach activities they conducted throughout the country. Without their participation, the ECCC would have faced significant difficulty in informing the Cambodian people about the international justice process that it endeavors to implement.

In addition to participating the ECCC process in order to achieve their organizational goals and to make the process more relevant to the Cambodian people, examining the Cambodian context that they operate has shown other important incentives for their participation, such as their dependency on foreign funding and their contentious relationship with the government. These constraints suggest why the NGOs need to continue their work with the ECCC, even though the momentary expression of dissatisfaction from some Cambodian NGO workers over the verdict for the first case of the ECCC seems to show the potential source of disagreement with the justice at the ECCC even among the NGO workers. This explains way, while TJ literature tends to treat NGOs as if they are a monolithic actor that cooperates with TJ initiatives as an
advocate for the international TJ norms, the relationship between the ECCC and the participating NGOs is somewhat fragile.

The power of the ECCC

As briefly mentioned above, conceptualizing the ECCC as an IO that embodies the TJ norms facilitates our understandings of the various facets of its power and its dysfunctions, or pathologies. Although the power of the ECCC—derived partly from its authority as a neutral, international organization—does appear to empower the NGOs by enhancing trust from the Cambodian people who generally have low confidence in the domestic judicial system, there are several instances where the power of the ECCC has manifested itself in negative ways.

For example, the analysis of the outreach activities by the NGOs suggests that the role of the NGOs as the agents of the ECCC constraints the NGOs, even though their contextual knowledge gives them certain autonomy. Due to the productive power of the ECCC as an IO, the ECCC has authority to define what justice means and how it should be achieved. Partly due to the belief in the TJ norms among the NGO workers themselves, the NGO activities largely focus on the dissemination of information about the ECCC process that would presumably bring justice and achieve other relevant goals (such as finding the truth and achieving reconciliation) for the Cambodian society. As a result, despite the “translation” of the TJ norms into local terms (through the incorporation of local cultural and religious aspects) as well as the fact that the NGO workers encounter multiple understandings of justice among the Cambodian people during their activities in Cambodian communities, the NGO activities in general have an appearance of top-down delivery of TJ norms that does not appear to be facilitative of a justice debate that is inclusive of multiple, if potentially conflicting, understandings of justice.

In addition, analysis of two issues that the ECCC and the NGOs have encountered through the trial process suggests that they may not merely be issues of coordination, contrary to the perception the NGOs and the ECCC themselves have. Instead, this thesis has argued that the issues appear to go deeper, and that they are pathologies of the ECCC as an IO. It is because both issues, namely general dissatisfaction of Cambodian people over the verdict for the case 001 and rejection of civil parties for the case 002, stem from
the power of the ECCC as an IO: productive power that created specific reparation mandate and institutional power that classify victims into different categories for participation. These examples of pathologies follow Barnett and Finnemore’s argument that the source of IOs’ power can be at the same time that of their dysfunctions. They illustrate the ironic situation that, despite the original intention of the ECCC and NGOs to empower the Cambodian people through the participation in their activities, the victim participation procedures became the source of dissatisfaction for many victims.

**Implications for future research**

The implication from the examination of the role of Cambodian NGOs in the country’s TJ process goes beyond the issues of international justice, and presents larger questions that require further studies. For example, one potential area of future inquiry is the work of Cambodian civil society. Given the context in which the Cambodian NGOs operate, namely heavy aid dependency and contested relationship with the Cambodian government, can the NGOs create an effective coalition with the international as well as domestic actors, while being aware of the constraint it could pose on them? Is there another model for the work of NGOs to look for, potentially from other Southeast Asian countries?

Considering both positive and negative influence that the NGOs had through their participation in the ECCC process, the Cambodian case also poses us a question regarding the better position for the NGOs: is it more beneficial to advocate from outside, or to collaborate from within? The hybrid nature of the ECCC seems to have provided more favorable conditions for the NGO participation in the process than the ad-hoc international tribunals have done. While the NGO participation at ad-hoc international tribunals (ICTY and ICTR) can be characterized as external critiques (though with some formal participation in the legal proceedings at the court), the number of participating NGOs as well as the role they play are rather limited. In contrast, in the ECCC process, its physical proximity to the affected community as well as its relatively wider mandate that attempts to achieve more significant victim engagement in the trial process necessitate the participation of Cambodian NGOs as the agents of the ECCC. As the examples of pathologies in the ECCC process amply suggest, the positive impacts of the
NGO participation need to be evaluated in due consideration of its shortcomings. Conducting a closer comparison of NGO roles in a hybrid tribunals and in ad-hoc international tribunals could therefore provide an interesting insight in this regard.

There are many more potential future research areas that go beyond the role of civil society actors as well. For example, somewhat distinct presence of Khmer diasporas in the various aspects of Cambodia’s endeavor to deal with the past (for example among artists and NGO workers) poses us a question as to what kind of role they play in the international justice process as well as in other interactions between the international norms and local dynamics. Last but not least, comparative studies with societies that have gone through similar tragedies but have not implemented TJ initiatives can be another issue that could generate interesting insight.

These questions go beyond the scope of this thesis, but would significantly benefit the study of TJ and other relevant issues. I hope that this thesis has made a convincing case for the importance of a close examination of local context in order to enhance our understandings of the contributions and challenges of the local intermediary actors.
Appendices

Appendix A. Original text of the excerpt from “Understanding the ECCC/Khmer Rouge Tribunal and ICC”

៥. អ្នត្តធម៌ និងកមមផល ប្រយោជន៍អ្វីដល់សងគមជាត្ិ

ប្រការប្រការអន្តរជាត្ិ អ្នត្តធម៌មិនជាការសងសឹកយទគឺអ្នត្តធម៌នាំឲ្យសងគមមានសនតិភាពនិងនិរនតរភាព។ 

យុត្តធម៌មានសារៈប្រយោជន៍ខ្លាំងណាស់សប្មារ់ធានដល់សនតិភាពនិងសថិរភាពកាុងសងគមប្រករយោយនិរនតរភាពជាពិយសសគឺទរ់សារតម

យុត្តធម៌មិនតមនជាការសងសឹកយទគឺយុត្តធម៌នាំអ្ាកយធវើបារបានបារអ្ាកយធវើរុណយរីកយុត្តធម៌វិញអ្ាកយធវើបារប្ត្ូវតត្ទទួលយោសយោយការោក់ទណឌកមម។ 

Source: 
Appendix B. Glossary of transliteration for Khmer terms

Transliterations in this thesis (regarding the words that I transliterated) are based on the Franco-Khmer transcription system developed by Franklin E. Huffman, as it is adapted and used in the book “Cambodia Emerges from the Past”, Eds. Judy Ledgerwood and Kheang Un.

Kâmmphâl [កាម្មាម]  
Khsae [ចេះ]  
Pie rumdap daoy kar min châng pie [បេះលំបោស្តាយការមិនចងយពៀ]  
Yuttethom [យុត្តធម៌]
Appendix C. Interview questions

Basic information for the organization

- How many staffs does [the name of the organization] have?
- What is the typical background of the workers at your organization? Is there any international staff? If so, what do the international staffs do?
- How many staffs are working for the ECCC-related project?
- What are the main activities and goals of your organization? Any updates for the information available on the website?

NGO’s role in the ECCC process (how NGOs got involved)

- What were the factors for your organization to decide its participation in the ECCC process? (Why has your organization joined the ECCC process?)
- Does [the name of the organization] share goals with the ECCC (i.e., provide justice and educate young generation)?
- When your organization decided to cooperate with the ECCC, who did make specific projects?
- What do you think about the role of NGOs for the ECCC process? Could you describe the relationship between the ECCC and NGOs? For example, can the ECCC function without NGOs? And/or, what do NGOs benefit by participating in the ECCC process?
- Are there common goals shared by the NGOs participating in the ECCC process (through outreach as well as supporting witnesses at the court, etc)? Was there any formal process for making it?
- Are the activities by different NGOs coordinated well? Why?
- Could you describe the relationship between your organization and the government?
- Is the government supportive of your organization’s work? Why (not)?

Understandings of Justice

- Do you think justice and reconciliation is a new idea in Cambodia (for Cambodian people?)
- What do you think justice means for the Cambodian people?
- What role do you think culture and religion play in people’s understanding of justice?
- Do you think the ECCC will achieve justice for the Cambodian people? If so, how? If not, what needs to be done?
- Have you found any cultural differences in people’s attitudes towards the ECCC and justice it promotes?
• What challenges do you face in order to explain the ECCC’s work or any of its goals (such as achieving justice) to the people? Did the people find anything difficult to understand or accept?

Outreach
• What is the importance of doing outreach about the ECCC process?
• It seems to me that outreach activities gives space for the people and bring various stories from many parts of the country. Why is it important to bring stories from the people?
• When the ECCC process completes, what kind of legacies do you want to see in Cambodia? What needs to be done (if any) to maximize the potential?
• How much do you think the ECCC will promote the rule of law in Cambodia?

Connection between international idea and local
• How should the international community contribute for the Cambodian society? Can you also talk about it in relation to justice for the Cambodian people?
• What do you think Cambodia can learn from other societies’ experiences in dealing with the past?
• What can other societies (international community) learn from Cambodia’s experience with the ECCC?

Working as a NGO worker
• What challenges do you face in your work?
• What motivates you to work for your organization?
• What motivates you to work for the project on Khmer Rouge tribunal/the ECCC?

Feedback from people (clients)
• How does [the name of the organization] get feedback from people? how important is people’s feedback for your activities?
• What reactions do you get from people when you conduct your activities (outreach activities)?
Bibliography


---. “The Political Economy of Aid and Regime Legitimacy in Cambodia.” In Beyond


---. “Politics, Diplomacy, and Accountability in Cambodia: Severely Limiting Personal Jurisdiction in Prosecution of Perpetrators of Crimes Against Humanity.” In Historical Justice in International Perspective: How Societies Are Trying to Right


Leebaw, Bronwyn. “The politics of Judging the past: South Africa’s Truth and


106


---. Uncle San, Aunty Yan, and the KRT, A booklet used at the Citizen Advisors’ meetings organized by KID.


Van de Put, Willem A.C.M. and Maurice Eisenbruch. “Internally displaced Cambodians:


Youth For Peace, Eyes on Darkness: Paintings of Memory, Phnom Penh, 2010.

---. Stories from the Ground: Memorial Sites in Cambodia. Phnom Penh.