

Perspectives on memory, forgiveness and reconciliation in Cambodia's post-Khmer Rouge society

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Abstract

Transitional justice is a conspicuous feature of responses to mass atrocities. Rooted in accountability and redress for victims, transitional justice mechanisms influence and are influenced by collective memory of conflicts. This article looks at the dynamics between memory, trauma and forgiveness in Cambodia. Thirty years after the Khmer Rouge regime, Cambodians expressed limited knowledge of the past, a strong desire for the truth, and lingering feelings of hatred. The Extraordinary Chambers in the Courts of Cambodia (ECCC) created or renewed demand for

truth, along with some desire for harm to come to the wrongdoers. Although the ECCC was set up several decades after the mass atrocities, the data suggest that the ECCC and the civil society movement associated with it may have had positive outcomes on addressing the legacy of the violence.

Keywords: memory, Cambodia, Khmer Rouge, forgiveness, reconciliation.



Introduction

Several decades after the end of the Khmer Rouge (KR) regime, some Cambodians are still struggling with its aftermaths. Memories of the regime, feelings of hatred towards the perpetrators, and an inability to forgive still affect those who lived under the KR and some of the next generation. The Extraordinary Chambers in the Courts of Cambodia (ECCC) was established in 2006 to address the violence of the KR. Its mandate is to bring to justice those who were responsible for human rights abuses committed during the regime. For the government of Cambodia and Cambodians, the ECCC is also intended as a means to pursue national reconciliation.¹

Promoting reconciliation is a common goal of transitional justice processes, as stated in the mandates of truth commissions, reparation programmes and trials in multiple countries. Reconciliation is generally accepted as both a goal that post-conflict societies strive to meet and a process they must undergo in order to prevent the recurrence of violence.² Despite much discussion, however, there is a large degree of variation in how reconciliation is understood in measurable and operational terms.³

Reducing feelings of hatred and vengefulness toward other groups is seen by individuals and communities as an important aspect of violence prevention.⁴ Forgiveness as part of reconciliation is commonly seen as antithetical to revenge, and leaders have frequently attempted to foster forgiveness after atrocities. In

- 1 Agreement between the United Nations and the Royal Government of Cambodia Concerning the Prosecution under Cambodian Law of Crimes Committed During the Period of Democratic Kampuchea, 6 June 2003 (ECCC Agreement), available at: www.eccc.gov.kh/en/documents/legal/agreement-between-United-nations-and-royal-government-cambodia-concerning-prosecutio (all internet references were accessed in July 2019); ECCC, Internal Rules, Phnom Penh, 2007–15, available at: www.eccc.gov.kh/en/document/legal/internal-rules. See also Phuong N. Pham, Patrick Vinck, Mychelle Balthazard and Sokhom Hean, *After the First Trial: A Population-Based Survey on Knowledge and Perception of Justice and the Extraordinary Chambers in the Courts of Cambodia*, Human Rights Center, University of California, Berkeley, CA, 2011, p. 29, available at: www.peacebuildingdata.org/sites/m/pdf/Cambodia_2011_After_the_first_Trial.pdf. When asked specific questions, Cambodians said that the ECCC would bring the KR regime to justice (76%), help promote national reconciliation (81%) and help rebuild trust in Cambodia (82%).
- 2 David Bloomfield, Theresa Barnes and Luc Huyse, *Reconciliation after Violent Conflict: A Handbook*, International IDEA, 2003, p. 12.
- 3 Kelly McKone, *Reconciliation in Practice*, United States Institute of Peace, 2015, p. 5, available at: www.usip.org/publications/2015/08/reconciliation-practice.
- 4 D. Bloomfield, T. Barnes and L. Huyse, above note 2.

1998, following amnesty deals and massive defections of KR guerrillas, Cambodian premier Hun Sen invited Nuon Chea and Khieu Samphan,⁵ top KR leaders, to the Cambodian capital, Phnom Penh. During a press conference, Khieu Samphan stated that people should “let bygones be bygones” and “forget the past”, while Hun Sen said “the KR leaders should not be welcomed with guns, bullets, prison or handcuffs, but a bunch of flowers for the spirit of national reconciliation”.⁶ Hun Sen further stated: “We should dig a hole and bury the past and look ahead to the 21st century with a clean slate.”⁷ Efforts to promote forgiveness have been criticized, however, for pressuring victims to suppress their natural feelings of anger, with potentially harmful psychological consequences and the broader effect of downplaying the violence itself.⁸ Arguably, such efforts have also been unsuccessful. Cambodia has not seen a return to mass violence, but as discussed in greater detail further in this paper, suppressing the past has prevented affected individuals and communities from processing and understanding what happened under the KR in order to achieve reconciliation.⁹ By the late 1990s, the movement for an international tribunal to try senior KR leaders was growing, culminating in the opening of the ECCC in 2006.¹⁰

In addition to their potential role in reconciliation, trial processes such as the ECCC are said to play an important role in shaping memory in post-conflict societies.¹¹ Law and legal processes have an implicit level of authority because they are empowered to differentiate between victims and perpetrators. At the same time they have inevitable limits, leaving out what has been described as a “counter-archive”, which contains the unwritten stories and events that never come to light.¹² Truth-telling processes have been praised for their role in illuminating past abuses and for uncovering the fate of people who went through the violence. Yet they too have been described as producing “amnesia”, a loss of

5 Nuon Chea, known as “Brother Number 2”, was second-in-command to Khmer Rouge leader Pol Pot. Khieu Samphan was head of State during the KR’s reign.

6 Keith B. Richburg, “A Small Apology to the Dead”, *Washington Post*, 30 December 1998, available at: <https://tinyurl.com/y2wq9tbc>.

7 Alexander Laban Hinton, *The Justice Façade: Trials of Transition in Cambodia*, Oxford University Press, Oxford, 2018, p. 58.

8 K. McKone, above note 3; Thomas Brudholm and Valérie Rosoux, “The Unforgiving: Reflections on the Resistance to Forgiveness after Atrocity”, *Law and Contemporary Problems*, Vol. 72, No. 2, 2009; Rebecca Saunders, “Questionable Associations: The Role of Forgiveness in Transitional Justice”, *International Journal of Transitional Justice*, Vol. 5, No. 1, 2011.

9 Estelle Bockers, Nadine Stammel and Christine Knaevelsrud, “Reconciliation in Cambodia: Thirty Years after the Terror of the Khmer Rouge Regime”, *Torture: Quarterly Journal on Rehabilitation of Torture Victims and Prevention of Torture*, Vol. 21, No. 2, 2011; Craig Etcheson, “The Limits of Reconciliation in Cambodia’s Communes”, in Elin Skaar, Siri Gloppen and Astri Suhrke (eds), *Roads to Reconciliation*, Lexington Books, Lanham, MD, 2005.

10 David P. Chandler, “Cambodia Deals with Its Past: Collective Memory, Demonisation and Induced Amnesia”, *Totalitarian Movements and Political Religions*, Vol. 9, No. 2–3, 2008.

11 Brandon Hamber, “Dealing with Painful Memories and Violent Pasts: Towards a Framework for Contextual Understanding”, in Beatrix Austin and Martina Fisher (eds), *Transforming War-Related Identities: Individual and Social Approaches to Healing and Dealing with the Past*, Berghof Handbook Dialogue Series 11, Berghof Foundation, Berlin, 2016.

12 Stewart Motha and Honni van Rijswijk, *Law, Memory, Violence: Uncovering the Counter-Archive*, Routledge, Abingdon and New York, 2016.

partial or total memory, due to having limited mandates that can lead them to formalize a particular version of the truth.¹³

The way in which the memory of the past emerges is critical and influences individual and national narratives. At the individual level, memories after war or violence are inherently connected to trauma and personal stories.¹⁴ Memory, knowledge of the past and the sharing of stories are inextricably linked. Knowledge can refer to absolute truth or facts (content knowledge), or can be defined as an “individual’s personal stock of information, skills, experiences, beliefs and memories”.¹⁵ Memory is central to both understandings of knowledge: it encompasses both what a person knows and what they believe to be true.¹⁶ Through the sharing of stories, individual memories lead to the creation of collective memory and the emergence of “memory narratives”.¹⁷ While collective memory can emerge organically, historical narratives are often produced, or controlled, as a means to record a particular viewpoint on war or violence during a political transition.¹⁸ A new government might support a certain narrative as a way to de-legitimize the previous regime or the opposing warring parties, and narratives that are politicized and consciously promoted can become “hegemonic”, dominant and exclusionary of alternative experiences of the violence.¹⁹

During the KR regime, harsh policies applied across the country, but their implementation varied among regions²⁰ and among groups.²¹ With the creation of the ECCC, non-governmental organizations and the Court held outreach sessions to talk about the past and explain the ECCC’s role and developments related to it. During those sessions, participants often described harm and suffering that they experienced during the KR regime. Despite people’s diverse experiences, it seems there was little space for participants to express a different narrative. To conform and to be accepted, everyone had to have experienced hunger, suffering and harm.²²

13 Berber Bevernage, *History, Memory, and State-Sponsored Violence: Time and Justice*, Routledge, London and New York, 2013.

14 Hollie Nyseth Brehm and Nicole Fox, “Narrating Genocide: Time, Memory, and Blame”, *Sociological Forum*, Vol. 32, No. 1, 2017, p. 117. See also Devon E. Hinton and Alexander L. Hinton, “Introduction: An Anthropology of the Effects of Genocide and Mass Violence: Memory, Symptom, and Recovery”, in Devon E. Hinton and Alexander L. Hinton (eds), *Genocide and Mass Violence: Memory, Symptom and Recovery*, Cambridge University Press, New York, 2015, p. 24.

15 Patricia A. Alexander, Diane L. Schallert and Victoria C. Hare, “Coming to Terms: How Researchers in Learning and Literacy Talk about Knowledge”, *Review of Educational Research*, Vol. 61, No. 3, 1991, p. 317.

16 *Ibid.*

17 Francesca Lessa, *Memory and Transitional Justice in Argentina and Uruguay: Against Impunity*, Palgrave Macmillan, New York, 2013.

18 Ann Rigney, “Reconciliation and Remembering: (How) Does It Work?”, *Memory Studies*, Vol. 5, No. 3, 2012, p. 252.

19 F. Lessa, above note 17; Johanna Mannergren Selimovic, “Making Peace, Making Memory: Peacebuilding and Politics of Remembrance at Memorials of Mass Atrocities”, *Peacebuilding*, Vol. 1, No. 3, 2013.

20 David P. Chandler, *A History of Cambodia*, Westview Press, Boulder, CO, 1983, p. 211.

21 The society was in fact divided into three groups: new people, candidates and base people. People from the cities were almost *de facto* labelled as new people and were submitted to the harshest conditions. Subsistence farmers and KR devotees became the elite, with full rights and enforcement power. See Michael Vickery, *Cambodia 1975–1982*, South End Press, Boston, MA, 1984, pp. 81–82.

22 Authors’ observations from attending several outreach sessions in 2006–12.

This article examines the role and importance of the ECCC in shaping the dynamics of memory and knowledge, hatred and revenge, and forgiveness among Cambodians. It begins by presenting the Cambodian context and the methodology; then, using both quantitative and qualitative data gathered by the authors between 2008 and 2014, it addresses the possible effects of the ECCC, firstly on the relative silence surrounding the KR regime, and secondly on the lingering desire for revenge and on attitudes about forgiveness.²³ In exploring these questions in the context of Cambodia, the authors identify ways in which the memory of the past affects the present-day reality of communities that were affected by war.

The authors hope that this research will contribute to the understanding of how memory and narratives are created after mass violence, how transitional justice mechanisms affect these processes, and how memory interacts with other factors to influence the possibility of reconciliation. Responses to these questions are critical to sustaining peace in countries that are emerging from violent conflicts and engaging in transitional justice efforts.

Memory of the Khmer Rouge regime

For almost four decades, Cambodian society has struggled with the government's efforts to frame an unforgettable past under Democratic Kampuchea, also known as the KR regime, between 1975 and 1979. The regime saw approximately one quarter of its population killed (2 million out of a total population of 7.5 million) and the systematic persecution of elites, minority ethnic groups and eventually party members.²⁴

After the KR were removed from power, the newly established government sought first to create its own narrative and then to bury the past, in part because of its own links to the KR.²⁵ The efforts to impose a collective memory narrative

23 The data presented throughout the article draw on the research previously conducted by the authors. For more information, see Phuong N. Pham, Patrick Vinck, Mychelle Balthazard, Sokhom Hean and Eric Stover, *So We Will Never Forget: A Population-Based Survey on Attitudes about Social Reconstruction and the Extraordinary Chambers in the Courts of Cambodia*, Human Rights Center, University of California, Berkeley, CA, 2009, available at: www.peacebuildingdata.org/sites/m/pdf/Cambodia_2009_So_We_Will_Never_Forget.pdf; P. N. Pham *et al.*, above note 1; Phuong N. Pham, Patrick Vinck, Mychelle Balthazard, Judith Strasser and Chariya Om, "Victim Participation in the Trial of Duch at the Extraordinary Chambers in the Courts of Cambodia", *Journal of Human Rights Practice*, Vol. 3, No. 3, 2011; Nadine Kirchenbauer, Mychelle Balthazard, Latt Ky, Patrick Vinck and Phuong N. Pham, *Victims Participation before the Extraordinary Chambers in the Courts of Cambodia*, Cambodian Human Rights and Development Association (Association pour les Droits de l'Homme et le Développement au Cambodge, ADHOC) and Harvard Humanitarian Initiative, 2013, available at: www.eccc.gov.kh/sites/default/files/Victims-participation-before-ECCC-Baseline-Study-Jan-2013.pdf.

24 Simon Payaslian, *20th Century Genocides*, Oxford Bibliographies in International Relations, 2012. According to the prisoners list produced by the Office of the Co-Prosecutors at the ECCC, nearly 78% of prisoners at the infamous S-21 prison were KR cadres. See ECCC, Office of the Co-Prosecutors, "Revised OCJ S-21 Prisoner List", May 2017. On file with authors.

25 D. P. Chandler, above note 20, p. 213, pp. 218–219; Evan Gottesman, *Cambodia after the Khmer Rouge: Inside the Politics of Nation Building*, Yale University Press, New Haven, CT, 2003, pp. 28–29.

co-existed with civil society efforts to preserve and document the past, and with transnational efforts to hold those responsible accountable for the violence.²⁶ Some memorial sites have acquired international renown, such as the prison facility at Tuol Sleng, also known as S-21, and the nearby killing fields of Choeng Ek, where several thousands prisoners from S-21 were executed and buried.²⁷ These sites exist within a broader landscape including dams, bridges and roads where people died during the KR and that still function today.²⁸ Further, people frequently told their stories within their families or communities, but the official record of the history of that period still overlooks many experiences of violence at the time.

Accounts of the creation and functioning of collective memory in Cambodia since the fall of the KR are in many ways emblematic of the dynamics of memory after violence. After the fall of the KR in 1979, the new government of the People's Republic of Kampuchea (PRK) prioritized building a certain narrative of the KR period that aimed to legitimize its own standing as the force that liberated Cambodia from a genocidal regime.²⁹ In 1979, the government organized the People's Revolutionary Tribunal, resulting in the condemnation of the KR regime and death sentences *in absentia* for Pol Pot and Ieng Sary.³⁰ The government arrested and executed thousands, with few ever appearing in court in judicial processes against former KR cadres. At the same time, the government urged local communities across the country to discuss the KR experience and promoted memorials and ceremonies to honour the dead.³¹ Those initiatives helped to pacify the country, but many activists and scholars have questioned the due process of the trials³² and the impact of the different non-judicial initiatives. Observers noted that these processes provided only very limited information about the past to the population and failed to encourage real dialogue among Cambodians.³³

The KR violence was pervasive, and many Cambodians were forced to commit violations to save themselves. People could be simultaneously victims, perpetrators and bystanders. Some could be members of the KR, but not perpetrators of violence. The lack of official acknowledgement and exploration of these multiple roles is said to have hindered reconciliation on many levels:

26 Jeudy Oeung, "Expectations, Challenges, and Opportunities of the ECCC", in Simon M. Meisenberg and Ignaz Stegmüller (eds), *The Extraordinary Chambers in the Courts of Cambodia: Assessing their Contribution to International Criminal Law*, T. M. C. Asser Press, The Hague, 2016.

27 ECCC, *Kaing Guek Eav alias Duch*, Case File/Dossier No. 001/18-07-2007/ECCC/TC, Judgment (Trial Chamber), 26 July 2010.

28 James A. Tyner, Gabriela Brindis Alvarez and Alex R. Colucci, "Memory and the Everyday Landscape of Violence in Post-Genocide Cambodia", *Social & Cultural Geography*, Vol. 13, No. 8, 2012.

29 E. Gottesman, above note 25, pp. 7–11, 60–66.

30 Revolutionary People's Tribunal, Judgment A/34/491, August 1979, available at: <https://tinyurl.com/y24woa2r>.

31 John D. Ciorciari and Sok-Kheang Ly, "The ECCC's Role in Reconciliation", in John D. Ciorciari and Anne Heindel (eds), *On Trial: The Khmer Rouge Accountability Process*, Documentation Center of Cambodia (DC-Cam), Phnom Penh, 2009.

32 Craig Etcheson, *After the Killing Fields: Lessons from the Cambodian Genocide*, Praeger, Westport, CT, 2005, pp. 40–42.

33 J. D. Ciorciari and S.-K. Ly, above note 31.

victims may be unwilling to accept former KR members in their communities, and former KR members may be perceived as perpetrators regardless of the level of responsibility they had for the violence.³⁴

The KR continued to be an opposition political and military force in Cambodia until 1999, when the last armed forces surrendered. They were weakened, in part, by the granting of amnesties for acts they had committed during 1975–79, including for high-level KR officials. The movement for an international tribunal to try senior KR leaders was growing. After almost a decade of negotiations, the ECCC was finally established in 2006.³⁵ Some have questioned whether the ECCC itself promoted a narrow narrative of justice and reconciliation, being confined by its temporal mandate, which covers only the period of KR rule, and by its singular focus on senior leaders and those most responsible for violations.³⁶ It is commonly accepted, however, that the tribunal and the civil society movement which surrounded it maintained a level of public dialogue about the era – an initiative that was not always supported by the country's political leadership.³⁷ Generally, individuals in Cambodia have memories of the KR years either from their own experience or from stories told by others.

Cambodia has not seen a return to mass violence, but feelings of anger and revenge persist, hindering national reconciliation.³⁸ In a 2011 study, Laura McGrew found that Cambodians had reached a state of “shallow coexistence”, but they remain far from the trust and interdependence that characterize a cohesive society.³⁹ Among the victims McGrew interviewed, some had begun to accept perpetrators into the community, but those seen as responsible for the more serious violations were less likely to be accepted.⁴⁰ Those seen as committing violations to save themselves, or out of ignorance, were accepted more compared to those who had not shown remorse or atoned in any way.⁴¹ In cases where perpetrators continued to hold political power, victims reported living in a state of continued fear.⁴² Burca Munyas' study found that among families that discuss the KR period openly, young people reported feelings of anger, vengeance and fear that a similar era could recur.⁴³

34 Nastasia Bach and Meredith Deane, *Breaking the Silence: Achieving Justice and Reconciliation in Post-Genocide Cambodia*, DC-Cam, Phnom Penh, 2009; Laura McGrew, “Pathways to Reconciliation in Cambodia”, *Peace Review: A Journal of Social Justice*, Vol. 23, No. 4, 2011.

35 D. P. Chandler, above note 10.

36 Peter Manning, “Governing Memory: Justice, Reconciliation and Outreach at the Extraordinary Chambers in the Courts of Cambodia”, *Memory Studies*, Vol. 5, No. 2, 2012.

37 Open Society Justice Initiative, *Performance and Perception. The Impact of the Extraordinary Chambers in the Courts of Cambodia*, Open Society Foundations, New York, 2016, pp. 31–69.

38 E. Bockers, N. Stammel and C. Knaevelsrud, above note 9; C. Etcheson, above note 9.

39 L. McGrew, above note 34.

40 *Ibid.*

41 *Ibid.*

42 *Ibid.*

43 Burca Munyas, “Genocide in the Minds of Cambodian Youth: Transmitting (Hi)Stories of Genocide to Second and Third Generations in Cambodia”, *Journal of Genocide Research*, Vol. 10, No. 3, 2008.

The context of Cambodia, where a court was set up three decades after the events that it focuses on, is particularly appropriate for examining the effects of trials on memories and forgiveness as it avoids some of the tumultuous time in the direct aftermath of the conflict.⁴⁴

Methods and data sources

This article uses multiple datasets from surveys and mixed-methods research conducted by the authors between 2008 and 2014 with the general population (nationwide surveys), as well as interviews conducted with civil parties (CPs) engaged in legal proceedings against KR leaders at the ECCC.⁴⁵

The goal of the population studies was to assess the population's knowledge, perceptions and attitudes toward the ECCC and social reconstruction, as well as to examine changes in those key factors over a two-year period. Interviews were conducted in 2008 and 2010, and each survey was answered by a total of 1,000 randomly selected adult Cambodians. As a sampling frame, the team used the Cambodia General Population Census 2008's database, prepared by the National Institute of Statistics at the Ministry of Planning. Thereafter, a four-stage cluster sampling strategy⁴⁶ was then designed to ensure that results would be representative of this population. Interviewers used a structured questionnaire that was similar for both surveys. The two surveys included nine topics: (1) demographics; (2) needs and priorities; (3) justice and the rule of law; (4) the KR regime; (5) the ECCC's outreach efforts; (6) knowledge and perceptions of, and attitudes towards, the ECCC; (7) establishment of a historical record, truth-telling and reparations; (8) exposure to violence; and (9) mental health. The survey included several sets of questions aimed at understanding how much knowledge of the period of violence respondents had, particularly young people who did not experience it themselves, and how that knowledge was transmitted between people and across generations.⁴⁷ In 2010, questions related to the first case at the ECCC and the participation of victims in the legal

44 In the aftermath of the conflict, outside countries and institutions supported factions with different ideologies. The Soviet Union allied with the Vietnamese; China, the United States and the Association of South-East Asia supported the resistance movement; and the United Nations recognized Democratic Kampuchea (Khmer Rouge) as the representative of Cambodia. The country was isolated for at least ten years. It is only at the beginning of the 1990s that the United Nations got involved in Cambodia facilitating the 1993 elections. See John D. Ciorciari, "History and Politics: Behind the Khmer Rouge Trials", in J. D. Ciorciari and A. Heindel (eds), above note 31, Chap. 1; C. Etcheson, above note 9, pp. 17–30; E. Gottesman, above note 25, pp 42–45.

45 See note 23 above.

46 During the first stage, researchers randomly selected 125 out of 1,621 communes using systematic random sampling proportionate to size. During the second stage, researchers randomly selected two villages from each of the selected communes using simple random sampling. Within each village, four households were randomly selected using linear systematic sampling with equal probability of selection. Finally, during the fourth stage, within each household, a Kish grid was used to select one household member at random for an interview.

47 In the questions, the definition of knowledge and how they talk about the events was left up to the interviewee.

proceedings as a CP were also added.⁴⁸ The instrument was first developed in English, and then translated into Khmer.⁴⁹ Consultations with local experts and pre-testing with sixty-seven randomly selected respondents in non-study sites ensured that the instrument was easily understandable to respondents.

In addition, the authors conducted three waves of interviews with civil parties to cases before the ECCC.⁵⁰ The objectives of those studies were to monitor and assess the CPs' participation process at the ECCC and in the programme led by the Cambodian Human Rights and Development Association (Association pour les Droits de l'Homme et le Développement au Cambodge, ADHOC), which assisted nearly half of the CPs accepted in Case 002 before the ECCC. The studies also gathered CPs' opinions of the broader transitional justice efforts in the country. Table 1 shows the amount of CPs interviewed by the authors in Cases 001 and 002 before the ECCC.

The first wave of interviews was conducted around December 2010 at the conclusion of the trial of Kaing Guek Eav, alias Duch (Case 001). The second wave was carried out in 2011, prior to the substantive trial of Nuon Chea and Khieu Samphan in Case 002,⁵¹ and the third wave was conducted in January 2014 following the substantive trial and before the judgment in Case 002/01.⁵²

The structured questionnaires for the CP studies were similar to those of the population-based surveys, with emphasis on the participation process at the ECCC, including but not limited to the CP application process, legal representation, participation in the trial, and specific questions related to the ADHOC scheme where applicable.

While the studies were conducted as rigorously as possible, some limitations must be acknowledged. First, the instruments contained questions related to events that took place over thirty years previously. For respondents, the passage of time could have resulted in recall errors or created certain biases.

48 The Cambodian legal system is based on civil law, which allows victims to participate in legal proceedings. Following Cambodian law, the ECCC also allows victims to participate in its proceedings as CPs or complainants. See ECCC, Internal Rules, Rev. 8, as revised on 3 August 2011, Rule 23(1), available at: <https://tinyurl.com/y4ys9myo>.

49 Prior to its use in the study, the instrument was back-translated into English to ensure comparability.

50 The ECCC has had four main cases. Case 001 was the first case and as such was a landmark in the pursuit of justice, according to international standards, for the crimes committed during the KR regime. The defendant, Kaing Guek Eav alias Duch, was the chairman of the notorious central Tuol Sleng prison and its branches in Phnom Penh. During the KR regime, he oversaw the imprisonment, torture and execution of more than 12,000 people. Duch, found guilty of crimes against humanity and war crimes, was convicted to life imprisonment. Case 002 involved two KR leaders, Nuon Chea and Khieu Samphan. This case covers several sites across country, and diverse charges including genocide against the Cham and the Vietnamese, and forced marriage. The ECCC handed down a judgment in Case 002/02 in November 2018, and Cases 003 and 004 are still in progress. See ECCC, "Case Load", available at: www.eccc.gov.kh/en/case-load. See also P. N. Pham *et al.*, "Victim Participation in the Trial of Duch", above note 23; N. Kirchenbauer *et al.*, above note 23.

51 The initial hearing started on 27 June 2011. The substantive part of the trial commenced on 21 November 2011; see: www.eccc.gov.kh/en/case/topic/119.

52 To speed up proceedings, and considering the advanced age of the accused, the Trial Chamber ordered the severance of Case 002 into several sub-trials. See ECCC, "Severance Order Pursuant to Internal Rule 89ter", 22 September 2011, paras 1, 5, available at: www.eccc.gov.kh/en/document/court/severance-order-pursuant-internal-rule-89ter.

Table 1. *Civil parties and civil party representatives interviewed*

Case (year)	Total number of CPs or CP applicants	Total number of civil parties interviewed (including civil party representatives (CPRs))
001 (2010)	90 CP applicants	75 CP applicants (including 22 who were denied civil party status)
002 (2011)	2,124 CPs (as of May 2011)	414 CPs (including 120 out of 122 CPRs)
002 (2014)	2,124 CPs (as of May 2011)	329 CPs (including 113 of the original 122 CPRs)

Moreover, because views and attitudes are influenced by local and contemporaneous events, the data are only a snapshot of views as they were at the time of the survey. Several survey questions were designed to test the validity of responses. Finally, while the questions were finalized following piloting, respondents were free to interpret them according to their own understandings of the terms used. Careful choice of phrasing and translation and in-depth consultations with local experts about terminology reduced the risk of misinterpretation of the questions.

Some of the most notable results relate to people’s knowledge of the KR, their willingness to talk about the KR era, their interest in knowing the truth about the period, and their feelings about the possibility of reconciliation. To explore these results further, the authors undertook a new literature review to identify some of the key issues surrounding memory and transitional justice globally, and new analyses to identify insights on how memory intersects with reconciliation after violence. The new analyses focused on a set of variables related to memory and reconciliation, in order to understand the relationships between them.

Breaking the silence?

Transitional justice mechanisms may, arguably, contribute to breaking the silence that surrounds serious crimes and abuses committed during conflicts. This silence surrounding often critical events obviously hinders the emergence of a complete narrative and collective memory. A legitimate question, however, is how much of that silence really exists – in other words, was there a silence to break in Cambodia?⁵³

According to the 2008 and 2010 surveys, self-reported knowledge of the KR era (see [Table 2](#)) was particularly low among younger respondents who did not live

53 Tallyn Gray, “No Justice without Narratives: Transition, Justice and the Khmer Rouge Trials”, *Transitional Justice Review*, Vol. 1, No. 5, 2017.

Table 2. *Knowledge about the Khmer Rouge regime**

Knowledge of the KR	Source of information	Experience			
		Did not live under KR		Lived under KR	
		2008	2010	2008	2010
	Poor/very poor	81%	80%	37%	36%
	Own experience	N/A	1%	80%	78%
	Family and friends	84%	88%	17%	18%
	School	6%	2%	1%	1%
	Media	9%	8%	2%	3%

* This question was not asked to the CPs since the focus in their case was solely on their experience as CPs.

under the KR.⁵⁴ Around 80% of them, as well as one third of those who lived under the KR, described their knowledge of that period as poor or very poor in both 2008 and 2010. This might seem surprising, but it can be explained by the regime's secrecy at the time and by people having little contact with their wider surroundings outside their immediate environment.

The main source of information about the KR period for about 80% of the people who lived under the KR was their own experience, while family and friends were the main source for more than 80% of younger respondents. Very few respondents said they heard about the KR era in school or from the media, although both school and media were slightly more common sources for the younger generation. These results are not surprising – the media covered stories of the KR era at the time of the ECCC, but rarely before that. Furthermore, information through the media was often difficult to access or even unavailable for people with low literacy or living in rural areas.⁵⁵ The school system was almost non-existent during the 1980s, as schools were being rebuilt and teachers trained,⁵⁶ and the rudimentary history of the KR era introduced in the 1980s was eliminated from the school curriculum in 1993 and reintroduced only in 2010.⁵⁷

54 69% of respondents in 2008 and 72% in 2010 had lived under the KR; 31% and 27% in 2008 and 2010 respectively were born after the regime had left power. See P. N. Pham *et al.*, *So We Will Never Forget*, above note 23; P. N. Pham *et al.*, above note 1.

55 Open Society Justice Initiative, *Strategies for Reaching Rural Communities in Cambodia: Outreach for the Extraordinary Chambers*, Phnom Penh, 2006.

56 Sideth S. Dy, "Strategies and Policies for Basic Education in Cambodia: Historical Perspectives", *International Education Journal*, Vol. 5, No. 1, 2004.

57 DC-Cam, in collaboration with the Ministry of Education, started distributing textbooks in 2007. See Khamboly Dy, *A History of Democratic Kampuchea (1975–1979)*, DC-Cam, Phnom Penh, 2007; see also the DC-Cam Genocide Education Project, available at: www.dccam.org/Projects/Genocide/Genocide_Education.htm; United States Institute of Peace, "In Cambodia's Schools, Breaking a Silence Over the 'Killing Fields'", 8 April 2015, available at: www.usip.org/publications/2015/04/cambodias-schools-breaking-silence-over-killing-fields.

Along with lack of knowledge, there is some reluctance to speak about the era (see Table 3). About 40% of those who experienced the KR first-hand rarely or never speak about it; among those who did not live under the KR, this figure rises to around three out of four. This may be part of a broader tendency to avoid speaking about, and hence remembering, past violence. In psychology, avoidance of painful memories is a common coping and survival mechanism.⁵⁸ In surveys conducted by the Transcultural Psychosocial Organization Cambodia (TPO Cambodia) in 2015 and 2016, young people said that their parents do not talk about the KR because it is too painful, because it reminds them what happened to family members, or because they do not want to say what they themselves did during that time.⁵⁹ Based on interviews with youth, Munyas described many inconsistencies in the stories told by Cambodians who lived under the KR to their children. Some parents were too traumatized or too focused on their day-to-day struggles to discuss old traumas.⁶⁰ Former KR members may also have hidden their true identities or their involvement during the regime once the regime fell, fearing they could be brought before the ECCC or ostracized by their community.⁶¹

Both surveys also indicate strongly that respondents' priorities were the economy, jobs and poverty reduction (83% and 98% in 2008 and 2010 respectively); infrastructure (48% and 50% in 2008 and 2010 respectively); and services such as health and food. It is understandable that people with these priorities might not take the time to speak or inquire much about an era that is thirty years in the past. Previous studies found that, faced with poverty, displaced Cambodians prioritized daily tasks and survival over dealing with the past.⁶² It is worth noting that CPs and civil party representatives (CPRs) were far more likely to talk often about the KR – as CPs, they were regularly involved in activities and receiving information related to the ECCC process.⁶³

This does not mean, however, that the general population in Cambodia lacks interest in the KR period: among those who did not live under the KR, 85% in both 2008 and 2010 wanted to know more, as did a large majority of those who lived under the KR (74% in 2008 and 67% in 2010). Given the lack of knowledge and tendency not to speak about the KR era, particularly among the younger generation, the authors will now look at attitudes toward truth-telling and historical exploration of the period of violence. This is particularly relevant since Cambodia's official policies promoted a narrow narrative about the regime, and there may still be a need to foster a broader dialogue.

58 Susan Roth and Lawrence J. Cohen, "Approach, Avoidance, and Coping with Stress", *The American Psychologist*, Vol. 41, No. 7, 1986.

59 TPO Cambodia, *Truth, Reconciliation and Healing in Cambodia: Baseline Survey Report*, July 2015; TPO Cambodia, *Midterm Survey Report*, March 2016. Both reports were produced for review by the United States Agency for International Development. On file with authors.

60 B. Munyas above note 43.

61 *Ibid.*

62 Richard F. Mollica, *Healing Invisible Wounds: Paths to Hope and Recovery in a Violent World*, Harcourt, Orlando, FL, 2006, pp. 100–102.

63 N. Kirchenbauer *et al.*, above note 23.

Table 3. Talking about the Khmer Rouge

	Did not live under KR		Lived under KR		Cps and CPRs				
	2008	2010	2008	2010	2010	2011	2014	2014	
Rarely/never talk about the KR	69%	76%	40%	41%	Cps 16%	Cps 12%	CPRs 7%	Cps 20%	CPRs 7%

The survey data show clearly that attitudes toward truth and memory changed considerably from 2008 to 2010 (see Table 4), the period when the ECCC trials started and were accompanied by extensive civil society work. The changes from the first to the second survey are notable when considering attitudes toward pursuing the truth. In 2010, almost 10% more respondents believed in the necessity of finding out the truth. The proportion of respondents who believed that people cannot reconcile without knowing the truth increased from 64% in 2008 to 81% in 2010. Moreover, far more respondents in 2010 believed that people cannot feel better if they do not know what happened to their loved ones: 83% compared to 64% in 2008. This suggests that during the period when the first ECCC trial took place, Cambodians felt a change in their environment toward a greater possibility of openness. At the most basic level, the trial yielded details about the KR period that were previously unknown to many people. By giving a platform to at least some victims, the trial may have kindled a sense that it is possible to speak about the past and that this can be done safely. The increased coverage of the KR period in the media and more attention to it through civil society activities likely added to the effect.⁶⁴ More than half (61%) of respondents in the 2008 survey had been forcibly separated from family members, so it is likely that for many Cambodians, the pursuit of truth is about acquiring more information on the fate of their loved ones as much as it is about creating a historical record.

Participation in the trial proceedings as a CP, as well as NGO activities, might have triggered greater interest in knowing the truth. In 2011 and 2014, nearly 100% of CPs and CPRs in Case 002 stated that it was important to find the truth, with the clear majority stating that people could not reconcile without the truth or that people could not feel better if they do not know what happened to their loved ones.

These respondents' status as CPs could explain the difference between their responses and those of the general population. Because of their status and the support provided to help them with the proceedings, CPs had more opportunities than the general population to learn about the KR. They were supported by several NGOs, had legal representation and were in contact with the Victims Support Section responsible for facilitating victims' participation at the ECCC. CPs had opportunities to meet as a group, to ask questions about the ECCC, and to talk about and reflect on their experience during the regime. Additionally, through the ADHOC scheme, CPRs received several trainings and were key actors in providing information to the CPs. CPRs and CPs had a favourable environment for talking about the ECCC and the KR regime.⁶⁵

64 In the 2010 survey, 47% of respondents had seen TV programmes about the ECCC; among those, 46% said they had specifically seen *Duch on Trial*, which in part talked about events during the KR regime. More than 31,000 people attended hearings during the Duch trial, and several thousand watched the trial on television. ECCC Public Affairs Section, "Outreach Work", presentation at the ICTJ Workshop on Outreach, Phnom Penh, Cambodia, 3–5 March 2010; Brendan Brady, "Lights, Camera, Genocide!", Public Radio International, 2009, available at: www.genocidewatch.org/images/Cambodia_09_11_20_Lights_camera_genocide.doc.

65 N. Kirchenbauer *et al.*, above note 23.

Table 4. *Attitudes toward the truth and the historical record of the KR era*

	General population*		CPs and CPRs				
	2008	2010	2010	2011		2014	
			CPs	CPs	CPRs	CPs	CPRs
It is necessary to find the truth about what happened during the Khmer Rouge regime (% agree)	85%	93%	95%	98%	99%	99%	99%
People cannot reconcile without knowing the truth of what happened during the Khmer Rouge regime (% agree)	64%	81%	84%	82%	88%	88%	91%
People cannot feel better if they do not know what happened to their loved ones (% agree)	64%	83%	84%	84%	95%	89%	96%

* Responses among those members of the general population who lived under the KR and those who did not were similar on these questions, and this distinction is therefore not presented in the table.

Indeed, the discourse around the KR regime's atrocities has profoundly changed since the ECCC was established. The education system is starting to integrate the history of the KR in its curriculum: in 2017, eight focus groups at four universities in Phnom Penh indicated that family remained the main source of information about the KR, but schools now follow closely.⁶⁶ The ECCC has growing archives describing what happened during the regime and has implemented several projects that provide more detailed information about the KR.⁶⁷ Civil society continues to lead the way with projects informing and fostering dialogue about the KR era, or providing avenues to understand the

66 Caitlin McCaffrie, Somaly Kum, Daniel Mattes and Lina Tay, "'So We Can Know What Happened': The Educational Potential of the Extraordinary Chambers in the Courts of Cambodia", WSD HANDA Center for Human Rights and International Justice at Stanford University and the East-West Center, 2018.

67 These projects include the institution of a National Remembrance Day, a Public Memorials Initiative, construction of a memorial in Phnom Penh to honour victims of forced evacuations, testimonial therapy, self-help groups, permanent exhibitions in five provinces to educate the public about the KR, and several educational projects. Open Society Justice Initiative, above note 37, p. 24.

past.⁶⁸ These efforts aim to fulfil the victims' and their families' desire to understand what happened during the KR regime, and offer an opportunity to process it through public and interpersonal conversations.⁶⁹

Revenge or forgiveness?

Reconciliation is a key objective of the ECCC: it is explicitly mentioned in the United Nations–Cambodia Agreement on the creation of the tribunal and in the ECCC's Internal Rules.⁷⁰ However, the value of trials and collective memory for reconciliation is debated. David Rieff, for example, argues for the value of forgetting rather than engaging in mechanisms to establish the truth and/or collective memories.⁷¹ Reconciliation, however, is a complex process that evolves over time and operates at several levels.⁷² Among the Cambodian adult population, the definition of reconciliation has evolved. In the 2008 survey, a majority of the population defined reconciliation as the absence of violence and conflict (56%). In the 2010 survey, Cambodians characterized it as unity and living together (54%), communicating and understanding each other (38%), and gentleness (compassion) (27%). About 8% defined reconciliation as forgiveness and about 5% defined it as “no revenge”. Only 15% mentioned reconciliation as the absence of violence and conflict, indicating a more positive conception of reconciliation. During the same period, however, respondents reported very little change in the level of comfort they felt interacting with former KR members in various social settings.⁷³ The authors therefore examined variables related to various aspects of reconciliation, notably feelings of hatred and desire for revenge. At the time of the surveys, feelings of hatred were still strongly present among Cambodians (see Table 5), reflecting in part the successive governments' own narrative of hatred toward the KR regime. More than 80% of respondents in both population surveys reported that they still felt hatred towards those responsible for KR violence. Slightly more than one third expressed a desire for revenge, and the majority would wish to see those responsible hurt or miserable. There are small differences between the 2008 and 2010 surveys. Among those who did not live under the KR, the proportion of respondents who wished they could take

68 Through the years, several NGOs and individuals have provided information on the KR regime through radio programmes, mobile exhibits, and films about or visits to the ECCC or memorials. See, for example, *ibid.*, pp. 74–77; ECCC, “Victims Support Section”, available at: www.eccc.gov.kh/en/organs/victims-support-section. In 2019–21, DC-Cam will continue to promote memory, justice and reconciliation through different projects. See, for example, DC-Cam, “Responding to the Cambodian Genocide in a Global Context: Strategic Plan 2019–2021”, available at: http://d.dccam.org/Abouts/Annual/pdf/DC-Cam_Strategic_Vision_2019-2021_panel.pdf.

69 Open Society Justice Initiative, above note 37, p. 90.

70 ECCC Agreement and ECCC Internal Rules, above note 1.

71 David Rieff, *In Praise of Forgetting: Historical Memory and Its Ironies*, Yale University Press, New Haven, CT, 2016, p. 160. See also David Rieff's article in this issue of the *Review*.

72 Craig Etcheson, “Reconciliation in Cambodia: Theory and Practice”, Cambodia, 2004. On file with authors.

73 P. N. Pham *et al.*, above note 1, p. 33.

revenge on those responsible for what happened during the KR regime slightly increased (40% in 2010 compared to 34% in 2008). On the other hand, the proportion of respondents who wanted to see those responsible hurt or miserable reduced slightly. This trend is true for both groups, among those who did not live during the regime (67% in 2010 compared to 71% in 2008) and those who experienced the regime (68% in 2010 compared to 72% in 2008).

CPs and CPRs expressed hatred and desire for revenge at similar rates, with a notable increase from 2011 to 2014 in the proportion of CPs and CPRs wanting to seek revenge and wishing to see those responsible hurt or miserable. It is possible that the ECCC trials might have triggered memories and increased knowledge of what happened during the regime, therefore increasing desire for revenge. This would also explain why the effect is more pronounced among CPs and CPRs than in the general population, as they were more invested in the trials.⁷⁴ In addition, the survey questions did not distinguish between perpetrators with different levels of responsibility. It is possible that the trials may have highlighted these distinctions and caused more feelings of vengeance toward those with more responsibility.

In both 2008 and 2010, 40% to 50% of respondents said they were uncomfortable with a range of social situations involving former KR members (living in the same community, living as household members, having a child marry a former KR member, living as a close neighbour, etc). Notably, only half of respondents would be willing to talk openly in a public setting such as a court or a public hearing about what they or their family had experienced. This may be indicative of the overall reluctance to speak about the KR period and may also point to deeper fears about speaking out, given the prevalence of feelings of hatred and interest in revenge.

To more closely analyze the complex dynamics mediating memory, hatred, revenge and forgiveness, the authors conducted a logistic regression analysis for a range of variables that were hypothesized as influencing one outcome variable: having forgiven former members of the KR or not. Although the ECCC's primary purpose was to try senior leaders of the KR, forgiveness was widely cited by respondents to the surveys as a desirable outcome of holding the trials, and as a component of reconciliation.⁷⁵ Approximately one third of the total respondents in both general population surveys said they had forgiven the former KR. This analysis sheds light on the dynamics of forgiveness by showing which factors contribute to it. The final regression yielded the odds ratio⁷⁶ for the association of twelve separate variables with having forgiven the KR for the

74 To be accepted as CPs, applicants had to demonstrate a direct link between being harmed and at least one of the crimes alleged against the charged person. See ECCC Internal Rules, Rev. 8, above note 48, Rule 23 *bis*.

75 P. N. Pham *et al.*, above note 1.

76 Logistic regression is similar to linear regression except that the outcome variable is a binary categorical variable. In this particular analysis the outcome variable is whether the KR regime is forgiven (yes) or not (no). One of the results calculated from logistic regression is odds ratios for statistically significant predictors (i.e., variables that are associated with or predict whether someone has forgiven the KR regime or not).

Table 5. *Feelings of hatred and revenge*

	Did not live under the KR				Lived under the KR				CPRs			
	2008	2010	2008	2010	2008	2010	2010	2014	2011	2014	2011	2014
Feelings of hatred towards KR members responsible for violence? (% yes)	79%	75%	85%	83%	89%	97%	97%	92%	91%	97%	91%	92%
Wish you could take revenge on those responsible? (% yes)	34%	40%	38%	39%	45%	49%	49%	55%	43%	60%	43%	55%
Wish to see those responsible hurt or miserable? (% yes)	71%	67%	72%	68%	76%	80%	80%	78%	68%	91%	68%	78%

atrocities they caused. One of the twelve variables was composed of different forms of accountability that respondents mentioned as being most suitable for dealing with the KR era: truth-telling and reparations, which are categorized as “restorative”, and trials and other forms of punishment (including killing) which are categorized as “retributive”. The combined variable is referred to as “restorative versus retributive” in the model shown in Table 6. The authors also included several variables that point to respondents’ economic status: satisfaction with standard of living and opportunity to find work, monthly income, and education level. These were included to understand how economic factors influence individuals’ ability to feel conciliatory toward past abusers. Levels of knowledge about the KR and about the ECCC were included to assess the influence of memory (manifested by knowledge) and exposure to the main transitional justice mechanism of the time. Knowledge of the KR was highly correlated with living under the regime and thus was not included in the final regression. Three variables were included as indicative of reconciliation at the individual level: continued presence of post-traumatic stress disorder (PTSD) symptoms, having feelings of hatred toward the KR, and wanting to see them hurt or miserable.

Table 6 presents the results with odds ratios, which demonstrate the likelihood (in terms of odds) that someone has forgiven the KR regime for each predictor variable. An odds ratio greater than 1 means increased likelihood of forgiveness given the status of the predictor variable, and an odds ratio of less than 1 means a decreased likelihood of forgiveness. For example, respondents who are in favour of restorative justice are 1.8 times more likely to have forgiven former KR members than those who preferred retributive justice. Overall, Table 6 tells us that four of the variables were associated with a greater tendency toward forgiveness. Those variables are: (1) did not live under the KR regime, (2) satisfaction with standard of living, (3) satisfaction with opportunity to find work, and (4) preference for restorative justice measures.

Respondents who did not live under the KR were more likely to report that they have forgiven the KR. This is to some degree intuitive – the younger generations forgive more easily because they did not experience the regime directly, and their knowledge and memory of the regime were indirectly acquired through their family, school or environment. Munyas’ study on understandings of the KR era among Cambodian youth found that there has been some inter-generational transmission of trauma, anger and vengefulness, but that some youth either disbelieve their parents’ stories or are more concerned with their daily priorities and challenges.⁷⁷

In addition, those who were generally satisfied with their economic status – as indicated by their standard of living and ability to find work – were also more likely to have forgiven. However, those with higher monthly incomes were less willing to forgive. This shows a difference between actual economic status (as measured by wealth) and satisfaction, which may be influenced by a perceived improvement in economic conditions. The results point toward a need for more

77 B. Munyas, above note 43.

Table 6. *Logistic regression of variables associated with having forgiven former KR members**

Dependent variable: Have you forgiven former KR members?	Odds ratio	95% CI for EXP(B)		Sig.
		Lower	Upper	
Restorative versus retributive	1.824	1.229	2.708	0.003
Did not live under KR regime	1.416	1.002	1.999	0.048
Satisfaction with standard of living	1.371	1.086	1.732	0.008
Satisfaction with opportunity to find work	1.309	1.105	1.549	0.002
Confident in the government performance	1.028	1.002	1.053	0.032
Monthly income	0.871	0.773	0.982	0.024
Educational level	0.852	0.782	0.927	0.001
Level of knowledge about ECCC	0.733	0.593	0.907	0.004
Symptoms of PTSD (PCL-C > 44)	0.458	0.283	0.741	0.001
Feeling of hatred toward KR	0.432	0.287	0.649	0.001
Wish KR to be hurt and miserable	0.29	0.202	0.415	0.001

* This table presents an advanced analysis of survey data gathered in 2008 and published in 2009. See P. N. Pham *et al.*, *So We Will Never Forget*, above note 23.

holistic or transformative transitional justice processes, as proposed by Hamber and others, which address not only the “justice” aspect of the transition but also people’s socioeconomic environments.⁷⁸ Examples of more holistic approaches are rare in practice, as most transitional countries implement some accountability measures without a comprehensive process and without concrete links to the country’s broader economic development. Implementing a more transformative approach to transitional justice is also complicated because it involves addressing not only the impact of the conflict but also the structural context that enabled the conflict to occur.

The analysis also shows that higher education levels and more knowledge of the ECCC are less associated with tending to forgive. As previously noted, CPs and CPRs, who had more interaction with the ECCC, also had more feelings of hatred and revenge. This suggests that people who knew more about the ECCC as a justice mechanism were less willing to accept and forgive the abuses. CPs and CPRs are excluded from the regression model, but less than 10% of them said they had forgiven the KR’s “top” leaders. The process to become a CP meant that the CPs were more likely to be invested in the trials and had more access to information

78 B. Hamber, above note 11, p. 5.

on the ECCC. It is possible that other members of the population who experienced direct harm, notably people with higher education who were especially targeted by the KR,⁷⁹ were also more motivated to seek information about the ECCC. Based on other research on victims of mass violence, including in Cambodia, one of the strongest demands from victims is to know what happened and why.⁸⁰ Victims may have seen the ECCC as an important way to gain information and insights on the past.

In terms of the intersection between memory, justice and reconciliation, perhaps the most notable result is that those who expressed a preference for restorative measures – reparations and truth-seeking – were almost twice as likely to have forgiven the KR than those with a preference for retributive measures. The association of a preference for reparations and truth-seeking with forgiveness in many ways corroborates theories of forgiveness in the Cambodian context. Thirty years after the KR regime, those who experienced less violence, who had less contact with perpetrators or who still tended to support the KR on some level may have more easily come to terms with their experiences. They might view reparations and truth-seeking as more appropriate responses to events thirty years in the past. Cambodian culture and Buddhist beliefs also have a role: in Cambodian Buddhism, forgiveness can coexist with a desire for revenge or an understanding of justice that involves misfortune either in this life or the next befalling those who commit wrongful acts. Respondents may have forgiven while at the same time believing that justice will be done for the perpetrators, just not necessarily through the mechanism of trials.⁸¹ Further analysis supports this view. Among those who reported having forgiven the KR, two thirds also reported still harbouring feelings of hatred (67%), and almost half wished to see the KR hurt and miserable (49%), but only a small number (15%) said they would seek revenge if they could.

What distinguishes trials from other forms of accountability is that they will single out individual perpetrators to potentially be punished if found guilty. The analysis shows that the respondents who supported the possibility of individual punishment were less likely to have forgiven the KR. Looking at the variables that were associated with less willingness to forgive provides further insight on this result. Those who were most likely to have feelings of hatred and wishing to see the KR hurt or miserable were the least likely to have forgiven the KR. Again, this may be explained either by the intensity of their exposure to violence under the regime or aspects of their lives since the KR was in power, such as poverty, ill

79 Pin Yathay, "A Brief Description of the Society under DK", in *Khmer Rouge History & Authors: From Stalin to Pol Pot – Towards a Description of the Pol Pot Regime*, ADHOC and Center for Social Development, Phnom Penh, January 2007; M. Vickery, above note 21, pp. 81–82.

80 Eric Stover, Mychelle Balthazard and K. Alexa Koenig, "Confronting Duch: Civil Party Participation in Case 001 at the Extraordinary Chambers in the Courts of Cambodia", *International Review of the Red Cross*, Vol. 93, No. 882, 2011. See also Ernesto Kiza, Corene Rathgeber and Holger C. Rohne, *Victims of War: An Empirical Study on War-Victimization and Victims' Attitudes towards Addressing Atrocities*, Hamburger Edition Online, Hamburg, 2006, p. 60.

81 Phuong N. Pham, Patrick Vinck, Mychelle Balthazard, Michelle Arévalo-Carpenter and Sokhom Hean, "Dealing with the Khmer Rouge Heritage", *Peace Review: A Journal of Social Justice*, Vol. 23, No. 4, 2011.

health or ongoing interaction with perpetrators. This interpretation is supported by the finding that those with higher symptoms of PTSD were considerably less likely to have forgiven the KR.

Conclusion

This article has sought to shed light on the dynamics of memory, transitional justice and reconciliation in Cambodia thirty years after the end of the KR era. Memories of violence are inherently personal and individual. They are the legacy of individual experiences of and responses to trauma, but they are also moulded by prevailing policy environments which seek to shape communal memory and produce narratives that serve political purposes, and are influenced by the socioeconomic and environmental contexts which survivors inhabit. The results of the studies illustrate how the ECCC, as the major development in transitional justice in Cambodia in recent decades, has changed the environment surrounding memory. The data suggest that the ECCC created or brought back demand for truth – respondents felt strongly about the need for truth, that the truth will help people reconcile and that finding out the truth about their loved ones would help people to feel better. This may be driven by the large numbers of those who lost loved ones during that period and never learned of their fate, but it also reflects the lack of public education in school curricula and the officially promoted lack of transparency about the KR period that prevailed until recently.

At the time of the second survey in 2010, the possibility of greater demand for truth did not seem to have translated into more willingness to talk about the regime, especially among the older generation. This may point to an element of fear, anxiety or lack of interest in speaking out, which are important aspects of creating communal memory. For example, in a two-year TPO Cambodia project aiming at improving relationships between former KR members and victims, those identified as former KR were reluctant to talk or reveal their past, expressing concerns associated with safety and security.⁸² This has practical consequences for efforts to shape communal memory and establish historical records as it necessitates special protections for victims who testify publicly. On the other hand, participating in a process, whether a legal one such as the ECCC, or one supported by NGOs, can provide a “safe” environment and the necessary platform so that people feel free to express themselves and to shape a different narrative.⁸³

Another notable change was that the desire for revenge increased from 2008 to 2010, particularly among CPs – those most closely involved in the trials. Through its legal processes and other activities that it inspired, the ECCC

82 See above note 59.

83 At the Women’s Hearings, many women spoke openly about gender-based violence committed during the KR regime. Cambodian Defenders Project, *Women’s Hearing: True Voices Of Women under the Khmer Rouge. Report on the Proceedings of the 2011 Women’s Hearing on Sexual Violence under the Khmer Rouge Regime*, Phnom Penh, May 2012, available at: gbvkr.org/wp-content/uploads/2013/01/Report-on-2011-Womens-Hearing_Phnom-Penh.pdf.

provided new details about the violence which may have caused feelings of vengeance. The authors' analysis suggests that, at least in Cambodia, a preference for restorative justice through reparations and truth-seeking is strongly associated with forgiveness. This could be due to the passage of time since the violence took place or due to the different roles people played and their exposure to the violence. Religious beliefs that forgiveness can coexist with feelings of hatred and wishing harm to come to the wrongdoers are also relevant. Respondents with higher levels of PTSD are notably less likely to forgive, suggesting that their stronger, more traumatizing memories, or perhaps their ongoing experiences of violence, fear or deprivation in their everyday lives, are inhibiting their ability to accept coexistence with former KR members. Those satisfied with their economic status are more likely to forgive. The elements presented above point to the interrelation between individual survivors and the environment in which they live: conditions of daily life play a vital role in healing and should be an integral part of any transitional process.

In practical terms, the data suggest that the ECCC and the civil society movement associated with it may have had some positive outcomes in addressing the legacies of mass atrocities caused by the KR in Cambodia, even several decades later. The ECCC created a possibility of open dialogue where very little existed before. It also established a criminal justice mechanism to administer some form of punishment, which was the preferred way of achieving justice for those who had not forgiven the KR. These include people showing symptoms of PTSD and other mental health issues, those with higher incomes and education levels, and those who still hold stronger feelings of hatred. While forgiveness might be desirable as an indication that society is moving toward reconciliation, it cannot be forced on those whose residual trauma or anger have not been addressed through other means, such as trials and psychological counselling.⁸⁴

This analysis also points to the need to address underlying tensions in a post-conflict society caused by lasting memories of a conflict or a period of violence. A population can be pressured to accept a particular collective narrative by its government, but sentiments of hatred and anger at the individual level are not so easily erased. Overall, the results point to the importance of truth-seeking efforts and more open, transparent dialogue about the past that welcomes multiple viewpoints. Civil society has greatly contributed to these efforts, and the ECCC has created an opportunity, if not a momentum, for such a dialogue. In recent years, for example, Women's Hearings related to gender-based violence during the KR regime have been held, and the Documentation Centre of Cambodia (DC-Cam) has released a history textbook entitled *A History of Democratic Kampuchea (1975–1979)* which is now used in schools to educate pupils about the KR regime.⁸⁵ These developments cannot be directly attributed to the ECCC, but the existence of the Court may have shaped an environment favourable to their initiation.

84 For further discussion on the limits of forgiveness as a transitional justice goal, see R. Saunders, above note 8.

85 K. Dy, above note 57.

As the ECCC draws closer to its end, many organizations have continued to work with Cambodians across the country. These projects target young people and the elderly in both urban and rural settings, aiming to promote healing through education, memorialization, mental well-being or empowerment. Addressing similar themes, in its judgment in Case 002/01 against Nuon Chea and Khieu Samphan, the Trial Chamber endorsed twelve of the fourteen projects requested by the co-lead lawyers representing the CPs at trial.⁸⁶ Those projects, some already implemented, also work toward fostering the healing process in Cambodia. Mental health support projects such as testimonial therapy and self-help groups might be especially important for decreasing PTSD among survivors.

Opening dialogue about the past is not easy. Cambodians' reluctance to speak about the past, especially publicly, means that ways to operate around such reluctance must be found, for example by relying on private rather than public testimonies or by creating a safe environment for people to speak. Despite the strong support for learning the truth, the authors are not aware of any official, governmental truth-seeking effort in Cambodia since the time the surveys were conducted. Official acknowledgement remains important in both practical and symbolic ways. It is essential that the government provide support for steps such as rendering public the information gathered through the ECCC after its closing. Greater transparency and more commitment to an accurate historical record would provide victims with a sense of recognition and acknowledgement that has to date been absent.

On 16 November 2018, the ECCC's Trial Chambers convicted and sentenced Nuon Chea and Khieu Samphan to life in prison for war crimes, crimes against humanity and genocide against the Vietnamese (both accused) and the Chams (Nuon Chea).⁸⁷ Although appeals are likely, the judgment is the culmination of the last of the cases of former KR leaders at the ECCC.⁸⁸ It is also the first time a leader has been officially found guilty of the crime of genocide, even though genocide as a descriptor has long been part of the Cambodian narrative of the violence.⁸⁹ For some, the judgment was considered "historic".⁹⁰ For others, it changed nothing: as one victim said, "I won't ever have peace".⁹¹ People interviewed in the media expressed varying degrees of satisfaction, with no

86 See above note 67.

87 ECCC Trial Chamber, "Summary of Judgment: Case 002/02", Case No. 002/19-09-2007/ECCC/TC, 16 November 2018, available at: www.eccc.gov.kh/en/document/court/summary-judgement-case-00202-against-nuon-chea-and-khieu-samphan.

88 Cases 003 and 004 are still in progress, but the charged persons are considered by the ECCC to be "most responsible" and not KR leaders. See ECCC, "Case Load", available at: www.eccc.gov.kh/en/case-load. Nuon Chea died on 4 August 2019; any further legal proceedings will continue with Khieu Samphan only. See ECCC, "Accused Person Nuon Chea Dies", available at: www.eccc.gov.kh/en/articles/accused-person-nuon-chea-dies.

89 See, for example, DC-Cam, above note 67.

90 Leonie Kijewski, "Khmer Rouge Tribunal/Khmer Rouge Leaders Committed Genocide of Minorities, International Tribunal Finds", *Southeast Asia Globe*, 16 November 2018, <https://sea-globe.com/khmer-rouge-leaders-committed-genocide-of-minorities-international-tribunal-finds/>.

91 Hannah Beech, "Khmer Rouge's Slaughter in Cambodia Is Ruled a Genocide", *The New York Times*, 15 November 2018, available at: <https://tinyurl.com/y2uahcvj>.

indication as yet of how the decision will advance forgiveness or reconciliation, if at all.⁹²

In closing, this article points to several lessons that can be learned from the Cambodian transitional justice case by researchers and practitioners. Firstly, judicial measures like the ECCC create an opportunity to open a broader dialogue about past violations. Secondly, transitional justice measures such as truth-telling, trials and memorial projects need to provide an accessible and safe environment for people to speak openly about their experiences. Lastly, analyses of the role of forgiveness in transitional justice need to take a more nuanced perspective of how the concept operates among individuals and communities differently impacted by violence. These data suggest that forgiveness is neither synonymous with nor a precondition to reconciliation. It is a personal process. The anticipated end of the work of the ECCC and the fifty-year anniversary of the end of the brutal Khmer Rouge regime will bring another opportunity for Cambodians to reflect and provide the young population with lessons learned from the past. As this research shows, that is still very much needed.

92 See, for example, “Khmer Rouge Verdict: ‘I Live Next to My Torturer’”, *BBC News*, 16 November 2018, available at: www.bbc.com/news/world-asia-46233582; “Khmer Rouge Leaders Found Guilty of Cambodia Genocide”, *BBC News*, 16 November 2018, available at: www.bbc.com/news/world-asia-46217896; Sok Khemara, “Mixed Views on Khmer Rouge Tribunal Impact, Legacy Ahead of Genocide Verdict”, *VOA Khmer*, 16 November 2018, available at: www.voacambodia.com/a/mixed-views-on-khmer-rouge-tribunal-impact-legacy-ahead-of-genocide-verdict/4660156.html.

