

TRUTH AND RECONCILIATION IN CAMBODIA



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Peace Processes, April 2019

INDEX

1. Introduction to the topic - Felipe Mañanes
2. Historical background - Cristina Boal
3. Case presentation- Miki Barañano
4. Explain transition - Felipe Mañanes
5. Consolidation and peace actions - Mónica Adán
6. Conclusion: evaluate actions & future perspectives - Citlalie Tello

1. Introduction to the topic (Felipe Mañanes)

The Cambodian Genocide was carried out from 1975 to 1979: the Khmer Rouge and their party leader Pol Pot seized power and tried to turn the country into an agrarian society based in the Chinese Communist model. The people of Cambodia who lived in the cities were forcibly taken to rural work camps where they were tortured or died of diseases and starvation. Pol Pot and the Khmer Rouge systematically exterminated up to 3 million people: by the end of the massacre, the Khmer Rouge had wiped out nearly 25 percent of the population (Oliver, 2017). The genocide ended in 1979: on January 7, 1979 Vietnam invaded Cambodia, overthrowing the Khmer Rouge and installing a socialist regime comprised of Khmer Rouge defectors. (United to End Genocide , 2016).

Nations that have suffered such a traumatic episode during their history need specific actions aimed at healing wounds and rebuilding the society. However, this is not always possible as governments are not always committed to prosecuting war criminals and providing justice. The objective of remembering the past has not always been clear in Cambodia: it has evolved and changed during the years. According to Hayner:

In the early 1980s, immediately after the Khmer Rouge was driven from power, there was initial interest in recounting stories and letting the world know what had happened [...] There were spontaneous efforts to record survivors' experiences, and a number of Cambodians wrote autobiographies of their experiences. But interest in digging up these events lessened after a few years. By the early 1990s, it was often reported that Cambodians wanted to simply forget the past (Hayner, 2011)

The first retributive trials were not set up until the 21st Century. In 2001, the Extraordinary Chambers in the Courts of Cambodia (ECCC) were created to try the offenders of the most serious crimes under the regime. This came after the death of Pol Pot, which is illustrative. "The Extraordinary Chambers in the Courts of Cambodia (ECCC) is tasked with bringing to trial those responsible for the war crimes, crimes against humanity, and genocide committed by the Khmer Rouge regime between April 1975 and December 1979" (Open Society Justice Initiative, 2016). These actions have also to be meaningful to Cambodian citizens. The ECCC began operations in 2007. As it is noted by this report:

Its prosecution of the top surviving Khmer Rouge leaders has been called the biggest war crimes trial since Nuremberg. Yet the tribunal's operations have been dogged by allegations of political interference, and complaints over the slow pace and the costs of the proceedings. (Open Society Justice Initiative, 2016).

Since governments have not usually shown deep commitment and the ECCC's action has been limited, the interesting thing about Cambodia's process of reconciliation is that its measures are usually carried out by civil society members, and most importantly, at a local level. While Cambodia has taken some steps toward truth and reconciliation, the process remains far from complete (Ciorciari & Ramji-Nogales, 2012). The aim of this paper is to provide an overview of this reconciliation process: we will be examining Cambodia's historical background, its transition from conflict to peace, the actions aimed at reconciliation that have been developed, and finally, a conclusion about how these have resulted and what is to be expected in the future.

2. Historical background (Cristina Boal)

“Cambodia does not have a gentle past. In the last half century its people have experienced violence from the U.S. bombings during the Vietnam War from 1965 to 1973, followed by (...) civil war.” (Gellman, 2008) “When the Khmer Rouge came to power in Cambodia [in 1975], they herded the entire population to work camps in the countryside. Families were separated, and everyone, including children, was forced to work long, grueling hours digging ditches and growing rice.” (McCormick, 2012, p. 1).

The history of Cambodia kicks off with its most prosperous epoch: the Khmer Empire, also known as the Angkor Empire. There is no consensus amongst the dates of this period. However, Chandler (1992) argues it is framed within the 9th and 15th centuries. Khmer people refer to the Khmer Empire as the “Kingdom of Wonder”, it is the golden era of current Cambodia. Its territory comprised most part of current Cambodia but also some portions of its neighbor countries: Thailand, Vietnam, Laos, Myanmar and Malaysia. This era has gifted us with one of the Wonders of the Premodern World: *Angkor Wat*, the biggest religious construction in the world, which receives the visit of millions of tourists every year. This temple is a reason to be proud for all Cambodians. Despite its successes, the Khmer Empire collapsed in the 15th century due to rivalry with other Empires and the lack of a strong common identity. From this moment, a period of foreign control and invasion from Thailand and Vietnam began. At the end of the 18th century Cambodia was devastated by civil war and foreign invasion. Consequently, France took advantage of the weak situation in Cambodia with a view to exercise its power over Cambodia. The first French explorers arrived to Cambodia in 1860. By 1863, a French protectorate was established in the country. The goal of France was to explore its commercial interest in the area. Through the forced implementation of the French system and the consequent elimination of the traditional Khmer model, the decline of Cambodia commenced (Strangio, 2014). At the beginning, Cambodians happily welcomed the French but the protectorate soon evolved into a firm control over Cambodia’s territory which ended up collapsing in 1953 when Cambodia finally gained independence.

Image 1: Independence Monument in Phnom Penh (Cambodia Travel)



During the Vietnam War, from 1955 to 1975, Cambodia was terribly affected. After Cambodia regained its independence in 1953 under the reign of Norodom Sihanouk, who left his father the role of head of state to stand for election. His father, as King, defined Cambodia as a neutral country in the Vietnam (Tellado, 2014). The country had declared itself neutral, nevertheless, it suffered from

continuous bombing from the United States who were worried about the communist expansion in Asia. The aftermath of this situation was a military coup by Lon Nol who carried out an autocratic regime behind an alleged Republic: The Republic of Kampuchea. Due to this regime change that favored the elite, the peasants plunged into a feeling of betrayal and formed the Kampuchean United Front for National Salvation, also known as Salvation Front and later referred to as the Khmer Rouge (Chandler, 1992). On April 17, 1975 the Khmer Rouge take Phnom Penh claiming that the US was going to bomb the city. They evacuated everyone. If someone refused to leave their house, they were executed. All properties were taken away. "The revolution (...) swept through the country like a forest fire or a typhoon, and its spokesmen claimed that over two thousand years of Cambodian history had ended". (Chandler, 1992, p. 209). They called the new era the "year zero". Since then, "Cambodian society was transformed radically. The following years were characterized by mass killings, forced labor, forced marriages, rapes, deportations, separations from family members, torture, and starvation." (Bockers et al., 2011, p. 74). Schools, government offices, courts and embassies were closed. The aim of the regime was to create an independent agrarian culture where foreign influence was not tolerated. They wanted to replace everything they thought was an impediment to national autonomy and social justice (Chandler, 1992). "All foreigners were expelled, religious practice was outlawed, the use of foreign languages was banned, and foreign medical and healthcare assistance was refused." (Bockers et al., 2011, p. 74). "No Cambodian government had ever tried to change so many things so rapidly; none had been so relentlessly oriented toward the future or so biased in favor of the poor." "Cambodia's poor had always been exploited and enslaved. Liberated by the revolution and empowered by military victory, they would now become the masters of their lives and collective masters of their country" (Chandler, 1992, p. 209). The Khmer Rouge were in charge of the organized killing of professionals and educated persons, especially doctors, teachers, and former government officials. "Simply wearing glasses or being able to speak a foreign language was reason enough to be killed." (Bockers et al., 2011, p. 75). People were given less food than they needed to survive. Everyone was forced to work long hours in the rice fields but it was prohibited to eat the food they grew. (Chandler, 1992). "Most Cambodians had to work ten to twelve hours a day." (Chandler, 1992, p. 215). "It is the worst genocide ever inflicted by a country on its own people." (McCormick, 2012, p. 1).

While these dreadful acts were taking place, the world was unaware of the situation; the borders were closed with landmines. Although the country is taking efforts to remove the landmines. Still today, the mines that did not explode are in the place where they were laid, making Cambodia one of the countries with the highest number of people with an amputated limb. Even today, in the rainy season, bones and teeth emerge on the surface of the Khmer Rouge extermination camps (Choeunk Ek Killing Fields, 2018).

The Khmer Rouge regime ended on January 7th, 1979, with the invasion of Vietnamese forces, but low-intensity warfare continued throughout the 1980s. After a series of complex negotiations, the Paris Peace Accord was signed by all factions (including the Khmer Rouge) in 1991, and the United Nations Transitional Authority in Cambodia (UNTAC) was established. However, the Khmer Rouge, who backed out of the peace process and refused to participate in elections, continued their guerilla warfare until the movement finally collapsed in 1998 (Bockers et al., 2011, p. 75).

3. Case presentation (Miki Barañano)

During the twenty years that followed the Cambodian genocide, as Hayner explained, the main focus was to dig up past horrors (Hayner, 2016, p. 196). One may ask: “why was reconciliation in Cambodia not the priority for post conflict nation building after violent conflict and war?”. The fear inflicted in the society was such, that even during the transition process, the population decided not to revive the horrors suffered under Pol Pot's regime. Fragile peace, especially in local communities, was feared to be lost if society kept on living in the past. The right to truth encompasses many initiatives that exceed government and international community actions and needs the population support and involvement. Moreover, the government at the time, showed little interest in truth-seeking initiatives, neither did independent actors. The consequences of the war were such at that time, that reconciliation was far from seen as a priority. Transition was to be built in the Cambodia's killing fields that have witnessed the murder of between 1 and 2 million people. Smith provides another comprehensive idea to understand this delay, assessing that: “prior to the early 1990s there was a general lack of international co-operation and consensus on international issues, resulting from the politics of the Cold War.” (Smith, 2018) At this juncture, we are to understand why trials and the first steps towards reconciliation took that long. Nevertheless, before the first official trials of 2006 that will be later explained, the first steps towards justice, in words of Smith:

Were possible thanks to the work of independent researchers, academics, journalists, investigators and analysts working within or outside key NGOs filled an important void, and ensured justice would be served for these crimes. (Smith, 2018, p. 21)

Individuals worked alone collecting information, photography, victim's experiences, or in organizations such as the Cambodian Genocide Project led by Gregory Stanton, the Cambodian Documentation Program led by David Hawk or the Documentation Centre of Cambodia (DC-Cam) led by Youk Chhang. This bottom-up investigation allowed the future tribunals to have, despite the twenty years that had gone by, thousands of witness and suspect interviews, documents and Khmer rouge materials. Many books were written at that time, with deep analyses of the crimes that were committed, the policies that promoted those crimes, the structure of the CPK party and the DK government, their modus operandi...

On the basis of a review of the material and documents made available to it, the Group of Experts concluded that the evidence gathered to date testifies to the commission of serious crimes under international and Cambodian law, and that sufficient physical and witness evidence exists to justify legal proceedings against the Khmer Rouge leaders for those crimes. (General Assembly Security Council, 1999)

Undoubtedly, for almost twenty years, the Cambodian government was unwilling to enlighten the war crimes and genocide suffered in their territory. In fact, it was not until 1998 that the last Khmer Rouge leaders surrendered, which entailed the virtual end of this violent movement. It's at this point, in 1999 after the report carried out by a group of experts of the UN, it was considered that the crimes committed by Khmer Rouge leaders during the 1975-1979 period included crimes against humanity, genocide, war crimes, forced labour, torture and crimes against internationally protected persons, as well as crimes under Cambodian law.

Plai Ngarm believes that a substantive reconciliation is at least to achieve three basic dimensions:

- Political: It is about functionality and stability of political systems that have benefits for all rather than just a particular group.
- Social: It is about social fabric, relationships, and peaceful interaction.
- Emotion: It is about healing the wound, relief from the impacts of trauma and moving on. (Ngarm, 2017)

The judicial dimension is the other dimension that needs to be taken into consideration to truly understand the truth and reconciliation process in Cambodia.

In 1998, as mentioned, the UN issued a report assessing the continuous violations of human rights in Cambodia and that no leader had been brought to account for this respect. Hun Sen, once the last KR surrounded, asked Kofi Annan for assistance in this matter.

That year, Hun Sen, the Cambodian Prime Minister, started to talk about the importance of Truth Commissions and Trials for what had happened. In 2003, the UN and the Cambodia Government decided to sign up together to create a Tribunal for Khmer Rouge members that started operating in 2006. This hybrid tribunal, known as the Extraordinary Chambers in the Courts of Cambodia (ECCC). As the Centre for Justice and Accountability states:

The court's hybrid nature includes Cambodian and international crimes and mixed procedure. Perhaps the most innovative development was the system of victim participation, where victims of the crimes tried before the court can participate directly as civil parties and seek collective and moral reparations for the harms they suffered. (The Centre of Justice and Accountability, 2019)

The court was created on the basis of the three necessary principles for the attainment of peace:

- i. Respect and search for peace
- ii. The maintenance of peace, political stability and national unity
- iii. Respect of national sovereignty

From the year 2000 onward, the Cambodian population desire to know why Khmer killed Khmer increased, and the already mention tribunal was not supposed to able to cover those increasing needs for truth and reconciliation.

On 2007, the Court explicitly started operating, and as published by the ECCC:

This first Introductory Submission represents the results of preliminary investigations conducted by the Office of the Co-Prosecutors with the assistance of the Cambodian national police during the past few months. Based on those investigations, the CoProsecutors believe that serious and extensive violations of international humanitarian law and Cambodian law occurred in this country during the period of Democratic Kampuchea from 17 April 1975 to 6 January 1979. These violations amount to crimes within the jurisdiction of the ECCC. (ECCC, 2007)

By 2009, five Khmer Rouge officials were sent to prison. On 2012, Kaing Guek Eav was sentenced to life imprisonment by the Supreme Court Chamber. In its decision appeals, the Supreme Court Chamber sentenced KAING Guek Eav alias Duch to life imprisonment, the maximum sentence

available under the law, for crimes against humanity and grave breaches of the 1949 Geneva Conventions. On 2014, another two suspects were sent to life imprisonment.

On November 16, 2018, the ECCC handed down the last verdicts on the Khmer rouge case. There have been many doubts about the effectiveness of the Trial. It has nothing to do with similar trials such as The Nuremberg Tribunal or the American trials at Guantanamo in the number of suspects processed, nevertheless, the Trial has been a success from several points of view. The historical record already mentioned and explained helped the process and the development of the trials. According to the research *Justice and Reconciliation for the victims of the Khmer Rouge?*:

The trials were rated positively, with 65% of respondents agreeing that the ECCC had brought justice for the victims of the Khmer Rouge regime and their families, whilst 27.3% believed that the ECCC had brought justice, but that other factors had contributed, too. (Williams, Bernath, Tann, & Kum, 2018)

At this stage, it's in the hands of the UN to confirm the sentences and help to clarify the future of Cambodia (Maguire, 2018) Apart from the Extraordinary Chambers of the Courts of Cambodia, scholars believe that for a true consolidation of peace and reconciliation in Cambodia, a Truth and Reconciliation Commission is needed. Many citizens in Cambodia, and following many international reports, it's hard nowadays, to consider Cambodia a true democracy, which undeniably leads to mistrust to the judicial processes of the ECCC. 80% of the Cambodians do not find enough the judgement of the trials and wish to go further, and clarify how and why the tragedies happened. (Craig, 2003)

Sok-Kheang Ly states that in fact, Cambodians and their government carried out many social, political, religious, traditional and cultural activities to address the legacy of the Genocide and the dictatorship Although not called and officially established as Truth and Reconciliation tribunals, these efforts were designed to help people overcome trauma, loss, hopelessness and the tremendous suffering Cambodians experienced during the KR regim (Ly,2009). Dicklitch believes that the sentences of the trials are considered retributive justice, and therefore, some believe that for a true reconciliation in Cambodia, we need to go beyond symbolic peace and fight for a restorative justice as the only way for a successful transitional justice. (Dicklitch, 2010).

Once the case has been presented, and following the last reports and scholars analysis such as the one carried out by (Craig, 2003) in which he claimed that 80% of cambodians want to go further from the trials, we believe Cambodia is more likely to benefit from restorative justice rather than the retributive justice. In any case, the retributive one has not been enough and the delay of the process has contributed to damage the effectiveness of the trials and contribute to the myriad problems suffered by the ECCC. We are not to forget the attempts for restorative justice of the ECCC through the Victims Units, yet is far from enough.

Cambodia is slowly becoming a normal country again—with all the attendant problems of the developing world—and the process by which its people seek justice will undoubtedly set an important precedent for future post-conflict countries. (Doung, 2009)

4. Transition (Felipe Mañanes)

As we have explained in the previous section, during the years that followed the Cambodian genocide, the main idea was to dig up the terror because of the fear that had been inflicted upon the population. Moreover, bringing these horrors to the light was seen as something that could damage the fragile peace after the catastrophe.

There are a lot of factors that come into play and, precisely because of the interaction between these factors, these transitions to democracy do not always succeed. This is the case of Cambodia: according to International Relations tradition, transitions usually work better in countries that have been democratic before. This did not happen in Cambodia; besides, the situation was very different as it was a country that had been struggling under a communist regime. The process of transition in a country that has suffered a great tragedy, as it is the case with Cambodia, usually starts immediately after the conflict.

One of the factors that influences the most in transitions is the international scenario: the global community can be an actor that pushes democratization. Since the formal justice systems in post-conflict societies are generally deemed unfit to uphold international standards of due process, various models of international justice have been developed to try the perpetrators of mass crimes (Kent, 2019). Thus, we can see how important it is that there is a commitment for the transition to take place: this is of course related to the conflict of transitional justice. According to Kent:

Transitional justice denotes a range of mechanisms, including criminal trials, truth commissions and illustrations, used to deal with the legacy of mass atrocities in societies emerging from authoritarian rule or conflict towards recognition of victims' rights and the democratic rule of law. (Kent, 2019)

In this regard, we can make a distinction between fully international courts such as the Court that was set up for Yugoslavia (the International Criminal Court for the former Yugoslavia, established in 1993) and hybrid courts. The tribunal for Cambodia was one of the hybrid tribunals. Hybrid courts ensure that there is a participation of the affected community, as we can see in the following extract:

Fully international courts [...] this model has been criticised for failing to engage with the affected communities or to involve domestic legal staff so as to strengthen those countries' own judicial systems. By the early 2000s, 'hybrid' tribunals were therefore being promoted. These meant that international and national legal staff would work side by side [...] and it was hoped this would provide capacity-building for local staff as well as enabling greater local participation. (Kent, 2019)

In spite of the rulings that the Extraordinary Chambers in the Courts of Cambodia (ECCC) produced for the criminals who were convicted in the 2009-2012 procedure that was dealt with in the previous section, the fact is that there are little people in Cambodia who trust the judiciary. Surveys have shown that the judiciary is the least trusted institution in Cambodia and there is little evidence that the ECCC has altered this: the Cambodian establishment's growing capacity to draft and implement laws does not guarantee an independent judiciary (Kent, 2019). Still we have the fact that the judiciary police who has to execute the Court rulings depends on Cambodian Ministries and are not inclined to go after their superiors.

Still we need to consider that the model of transitional justice that was applied in Cambodia was somewhat innovative because it improved the models of Rwanda and the abovementioned Yugoslavia. According to Ellen Emilie Stensrud:

Despite their immense contribution to international criminal law and their relative success in fulfilling their backward-looking role in terms of punishment, it is apparent that the international tribunals after the war in Yugoslavia and the genocide in Rwanda cannot serve as models for the future. In addition to the low impact on the societies in which the atrocities were committed, they have taken up more than 10% of the UN regular budget. (Stensrud, 2009).

The key of this new approach is thus ensuring that the Court has an impact on the society that suffered the abhorrence. However, this does not mean that mixed or hybrid tribunals are going to be ideal for the sole reason of having the participation of the society in situ. The international community must still be able to conduct the trials in a manner that there is no interference from local authorities who wish to protect those who are being prosecuted.

[...] mixed courts can be legitimate locally by providing ‘ownership’ through the proximity to the affected population and involvement of national judges. It is in this regard that the international tribunals have failed to live up to expectations. This article argues, however, that such ‘ownership’ does not automatically lead to legitimacy. Importantly, the legitimacy of the courts may depend more on their ability to generate direct positive effects than on the symbolism of conducting the trial in situ. (Stensrud, 2009)

That is why, when negotiations between the Cambodian government and the United Nations first started in the year 1999, the perfect balance between international and local was the objective. Once more, in the words of Kent: “the agreement that was finally entered in 2003 provides for a majority of Cambodian- appointed judges, with a decision making procedure based on a ‘supermajority’ principle: at least one international judge must support every decision the court makes” (Stensrud, 2009).

These negotiations were arduous but served to preserve the Cambodian sense of sovereignty while holding the court to the UN standards. According to Mydans, Over the years, it has led to clashes between the international and Cambodian staff members over the scope of the trial. (Mydans, 2017).

Stensrud does also support the claim that we mentioned before: there is political influence on the judiciary system of the country:

The political influence over the Cambodian judiciary, combined with the Cambodian government’s insistence that the court must have a majority of Cambodian judges, has clearly undermined the legitimacy of the ECCC. This is a contrast to Sierra Leone, where there have been calls from civil society actors and international NGOs for stronger national participation. (Stensrud, 2009).

There is no doubt that this represents a highly complex issue. Where is the balance for international courts between being outside the scope of national interference and directly producing observable effects? The ECCC is very polemic because there is the assumption that that transitional justice mechanisms necessarily accompany a transition from authoritarianism towards the ideals of liberal democracy and the end of impunity (Kent, 2019). Paradoxically, it seems that the ECCC may instead have accompanied a transition in Cambodia from a tragedy that was not dealt with towards a situation in which the tragedy was not fully dealt with

The key to this issue is provided by one of the authors that we have prolifically cited in this section, Stensrud: “in order to become legitimate, the courts must be carefully constructed towards creating direct, observable local effects, such as legacy on the judiciary or truth-telling, while at the same time they must be outside the scope of national political interference” (Kent, 2019). In the following section, the situation of democracy in the country will be dealt with. Even though the country got over the authoritarian regime, its traces extent to our day and age. The crisis of a non-democratic regime

does not necessarily mean that there is an effective transition to democracy. The current political leader has not shown any interest in the peace process of his country and the UN plans for the country have suffered dramatically. It is illustrative that the main peace process initiatives are offered by non-governmental organisations who organise activities locally and on a small scale.

5. Consolidation and peace actions (Mónica Adán)

A transformation of political culture from traditional monarchy to democratic society cannot happen without struggle and confusion. Culturally the concept of political dialogue did not exist in the Cambodian monarchy system, only one-way communication from leader to follower or from king Sihanouk to his subjects, while a democratic system depends very much on two-way communication through consultation and dialogue. With this confusion of the emerging political concept of democracy and his strong determination to protect the monarchy, from 1955 to the late 1960s, domestically King Sihanouk was transitioning from King to prime minister, to president and back to King again. By 1975, the Khmer Rouge (KR) took over Cambodia. Everything was turning upside down, no monarchy, no democracy, no money, no religion, and no culture. After the Peace Accord was signed, all Cambodian rival factions were to settle their differences through the general election of 1993, organized and managed by the United Nations Transitional Authority in Cambodia (UNTAC) (Ngarm, 2017).

UNTAC took care of the administration during the period of transition, it organized and supervised the first general election that took place in 1993. This operation achieved its main goals by obtaining an elected government, a parliamentary monarchy and national armed forces recognized as such. Nevertheless, this operation had other issues unresolved that still today affect negatively the country. The country still had extremely volatile domestic politics, deep social fraction, high corruption rate, high numbers of human trafficking and the proliferation of prostitution (García-Galán, 2018, p. 2-3).

Hun Sen became the prime minister of Cambodia in 1985 and Cambodia was established as a democracy on the 23rd of October of 1991 with the signing of the Paris Peace Accords, which put an end to the twelve-year civil war. Since then, elections have taken place periodically.

Hun Sen took power right after the UN mission, and he had no interest in democracy. It is true a more prosperous and peaceful era began for Cambodia, but Hun Sen continued to govern through the use of force, coercion, briberies and threats (Ponniah, 2018).

The year 2003 sets a milestone in democratic consolidation as the represented a significant step towards multi-party democracy. Nevertheless, in the 2013 elections had a supposed electoral fraud and the political party CNRP obtained important results. In the last elections, that took place in 2018, the opposition was banned from running, which shows that Hun Sen was afraid that the same that happened in 2003 would happen again and he would lose power.

In the elections of 2018, the Cambodians were denied their right to choose freely their representatives. The Cambodia National Rescue Party was dissolved, and the Supreme Court prohibited 118 members of the CNRP any political activity for five years. We cannot deny that the country has had its elections, but the results are known even before the elections take place due to the intimidation and fear and the buying of votes of the Cambodian People's Party. Cambodia has gone from a multi-party government in the 2003 elections to a unique party government in this past year. CPP obtained 125 seats in the National Assembly. Hun Sen has been in power since the year 1985 and has already announced his intentions of being the leader with the largest number of years in presidency in history (Human Rights Watch, 2018).

As of today, Cambodia's democracy has reached its lowest point since the UNTAC intervention more than 25 years ago. Now Cambodia is facing threats as China's influence which poses a problem for the development of a stable and democratic government because China is only interested strategically in Cambodia.

The elections of 2003, which were the third elections since the peace agreements in 1991 were a great advancement in the democratic life of Cambodia, these elections had no violent problems nor corruption compared to the past elections, but this situation did not last long.

In the 2013 elections there was a great disturb from the opposition who felt there was an electoral fraud. In 2014 the dominant parties reached an agreement to stop the disputes, but this agreement ended in 2015. As we have mentioned before, in the 2018 elections any kind of opposition was banned. Because of this situation, the US ended all the economic and electoral assistance it was giving to Cambodia which summed up to nearly 8 million dollars. On the other side, Japan and China maintain their economic aid to Cambodia for the sake of their manipulation of the country in their favor.

Cambodia depends greatly on humanitarian aid coming from foreign countries, it stands for half of the government budget. But as we have mentioned the aid from western countries started to diminish in 2015 and countries like China came in, China does not pay attention to the democratic state or freedom of Cambodia.

Recently, from 2015-16, the politically motivated violent incidents have returned. So, Cambodia is still in the circle of the past, even though a generation is almost over. The division begins to seep into the new generation. However, it does not translate well into a collective social consciousness or actions to address it (Ngarm, 2017).

Why did the Paris Agreements not work? It established a form of government that tried to stop the conflict by power-sharing. But this system ended up working very negatively, if a party had 50% of the votes and one more seat, they would have 100% of the power in the national and local levels and the checks and balances between the executive, legislative and judicial powers were not effective. Basically, losing the elections with 49% percent means losing any chance of power, therefore the parties would do anything not to lose (Meisburger, 2014).

Until 2002, the Cambodian Constitution had generated a very centralized government and the decentralization did not work because: (a) the agencies involved in this action were partnered with the central government which dragged their attention away, and (b) the CPP was in control of the administrations and they had little incentives to promote decentralization. But in 2002, directly elected commune councils were established and this had limited impact in the local accountability which brought improvements to the governance (Meisburger, 2014).

Concerning the genocide, there has not been any national reconciliation action for the population to be able to forgive, there has not been much leadership coming within the country to manage this issue. Hun Sen has given amnesty to many high-level Khmer Rouge officials and has appointed them in government jobs. Some elders refuse to remember the history of the Khmer Rouge, but others want to tell this story to the new generations to prevent them from going into the same violence again. The prime minister has contested numerous times along with other Cambodian elites the tribunals of the Khmer Rouge claiming it will only “serve the need for retributive justice” (Gellman, 2008, p. 40). Different NGOs working in the country have given great importance to the history of the Khmer Rouge for children in schools, but the government has not reached an agreement whether it is appropriate to teach this history in schools. NGOs consider it important due to promotion of the understanding of human rights.

The NGOs working in Cambodia provide trainings and seminars to teach basic concepts such as basic human rights, democracy education, and other peacebuilding skills like comprehension of rule of law and education on democratic rights. But it is not enough with the role of NGOs, the central government must take part of the responsibility. It is important that the institution that caused all the suffering and violence in the Cambodian population now takes action to reconcile and change the

social behavior. “Thus, the Cambodian national government must take part in peacebuilding efforts in some concrete way to ensure structural capacity” (Gellman, 2008).

The corrupt and weak legal system in Cambodia is unable to promote the necessary training for community leaders for them to be able to rebuild the social order, it is diminishing the reconciliation. The disputes that need the legal system to contribute with juridical resolutions are usually forgotten while waiting to obtain it and this situation leads to the population taking the decision to *solve* the disputes by violence. According to Mneesha Gellman it might be “financial constraints, lack of motivation, and underdeveloped legal frameworks” that cause the underparticipation of the government in the reconciliation actions. Prime Minister Hun Sen declared in the year 1999: “The national reconciliation in Cambodia, which was the source of peace and stability, had been fulfilled once and for all”, but he never clarified how he thought this reconciliation had been achieved. And this has not been the only claim made by a government official about reconciliation being obtained.

This mentality and position showed by the government in reluctance to address the grievances and foster a dialogue, inhabits the citizens to address the issue how they would like and obtain restorative justice.

Historically, tribunals have been used to obtain retributive justice, while truth commissions have been created for restorative justice. Though reconciliation may be easier for victims when perpetrators have been held accountable in some way, the reconciliation process is a restorative rather than retributive approach. (Gellman, 2008)

It seems like it is now the role of the Tribunals mentioned and of NGOs to help the Cambodian community at the grassroots levels achieve dialogue and local empowerment to rectify national reconciliation and achieve a real and precise understanding of history.

6. Conclusion: Evaluating Peace actions and Future Perspectives (Citlalie Tello)

When evaluating peace actions the most important and prevalent to criticize is the Extraordinary Chambers in the Courts of Cambodia (ECCC). There exists pros and cons to this measure that have made it apparent as to how and why the Cambodian government is taking little action in regards to truth and reconciliation. Beginning with a critical standpoint, the tribunals began two decades after the genocide had already happened. Not only was this a delayed action, but it may have not taken place had the UN not gotten involved in the matter. During the twenty year transitional stages of Cambodia's government, leaders were reluctant to participate in any official truth-seeking measures regarding the Khmer Rouge regime. This is "...due to the intense emotional sensitivity of the issues and possibility of social conflict, and in part due to the fear that a full vetting of the truth would expose some unwanted facts about individuals currently in power"(Hayner, 2011). This reflects how many politicians in Cambodia's government that had taken part in the regime were appointed to positions of power without consequence of their actions. As a result this also lead to political interference during the transitional stages of government and during the tribunals.

It is also argued that due to the amount of reconstruction the country had to go through after the Khmer Rouge regime, truth finding was postponed and not a priority. Most of the countries foundation was destroyed and many of its educated population such as doctors, lawyers, teachers, and engineers were exterminated (Hayner, 2011). Because valuable resources were not present, the reconstruction and development of the country was much more difficult. What little infrastructure existed was destroyed by the regime prolonging the aptness to reach stability. This also meant that institutional structures that could support a truth seeking process were non existent. Since there was a lack of initiative by the government to find the truth of what happened while also neglecting to provide the Cambodian people with a formality, it resulted in there being little evidence during the trials causing many limitations to be applied during prosecution. The length of time that it has taken for the ECCC to take place has caused the evidence to become either non existent, tampered with or was never documented to begin with. While this made retribution difficult, it was more disappointing for the Cambodian people when only five Khmer Rouge leaders were indicted due to other top leaders having already died, such as Pol Pot, or others having fled the country. On the other hand, the Cadres who were likely responsible for most of the torture and killings were not selected to be indicted due to the magnitude of the crime, limited resources, and the tribunals inability to bring all perpetrators to justice.

Just how the court is unable to bring all to justice, they were also unable to allow all witnesses to testify. Victim participation in the tribunals has enabled Cambodians to speak their truth and be heard only very recently. In theory this helps in a victims healing but in practice this was unsuccessful in the healing process through the ECCC. Judges would ask witnesses to restrain their emotions and to restrict their testimonies to only the facts that the judge considered useful (Ciorciari & Ramji-Nogales, 2012). It was viewed positively that victims would be given the opportunity to testify during the tribunals but this privilege was very limited and simultaneously caused frustration for the victims due to the restrictive nature of their responses.

"So many survivors and civil parties have no chance to testify during the proceedings, though they very much wish to be asked to tell what has happened to them, what they went through, and the impact of the KR period on them. As we know, the court cannot bring them all to testify, [but] testimonial therapy allows them to express their suffering outside the court and creates a space for victims of human rights violations to express suffering in a healing process combined with Buddhist concepts. Research is being done with control groups to see which methods work best, but there are problems to obtain enough funding, so many civil parties are not included." (Ciorciari & Ramji-Nogales, 2012)

The inability of the court to give all victims the opportunity to speak demonstrates how their capacity was limited, it also shows how they were understaffed and not nearly well funded enough to exercise comprehensive justice on all levels of society and most importantly at a local level where reconciliation is needed most. This along with other factors put in question the tribunals legitimacy and affected people's attitudes towards the ECCC.

On the other hand, it is acknowledged that the ECCC may not have served as a solution for the yearning of justice and reconciliation but it has served as a starting point to open conversation and to allow for dialogue. Many Cambodian's search for truth and understanding, meanwhile the tribunals served as the first step in that direction after the matter had been avoided over decades. From a religious perspective, it is believed that Cambodians had previously avoided the topic out of fear or because of the Buddhist tendency to not confront conflict. "Cambodians preferred accommodation with the Khmer Rouge rather than continued fighting; the judiciary was too weak to expect serious trials; the Cambodian king, held in high esteem, had proposed a policy of reconciliation with the Khmer Rouge; and Cambodian Buddhism teaches that reconciliation does not require justice or retribution." (Hayner, 2011). Leading into another peace action, Buddhism and religion has served as a strong and successful means of reconciliation for Cambodian's on a local community level. The temples and churches that were once sought to be destroyed are now spaces of healing for victims. Most appealing is the Buddhist principles of tolerance and forgiveness, just how other faiths have proven equally central to reconciliation efforts (Ciorciari & Ramji-Nogales, 2012). Sharing communal suffering has proven to be successful in the healing process for Cambodians, this has allowed for them to focus on honoring and remembering lost loved ones instead of directing any form of animosity towards perpetrators or their families. It's important to notice that when these ceremonies are not connected to politics, they better serve local communities because they are centered around the purpose of encouraging reconciliation. Such ceremonies include the Pchum Ben festival also known as remembrance of the dead. The engagement of religious leaders in these efforts of reconciliation help ensure that these dialogues are more effective while they tailor to local sensibilities and culture.

Cambodia is an example of how power politics can prevent, impede, or slow down a countries healing process. The government is taking very little effort to make peace building efforts for the same reason that the government remains corrupt and guilty of maintaining Khmer Rouge members in active roles of government. Even so, bottom-up reconciliation efforts have slowly come into play after the ECCC sparked desire for truth seeking and knowledge about what has happened. This has inspired grass-roots movements to encourage dialogue within communities and in schools. Thanks to the help of NGOs such as the U.S Institute of Peace, in recent years Cambodia has been able to train about 600 teachers a new secondary school curriculum about the genocide and human rights.

"This project is helping to heal the profound divisions in Cambodia that have persisted between survivors and perpetrators for the last four decades," said Katherine Wood, a USIP grants advisor who worked with the Documentation Center to manage the project. "Genocide education is an important step toward preventing violent conflict and future genocide. By training teachers, we are providing the next generation of Cambodians with a better understanding of their shared past, a means of releasing their anger, fear and pain, and a path towards national reconciliation." (USIP Staff, 2015)

Education has served as a fundamental way to raise awareness and insure conflict prevention measures to be learned by younger generation. It's one of the best means in having a positive outlook for future perspectives along with safe spaces for dialogue and a stronger initiative to take on the past. This is also a product of the ECCC, mostly influenced by NGOs, where raising awareness has spurred inclusion of the Khmer Rouge history in the core curriculum of the public education system (Open Society Justice Initiative, 2016). According to the Transcultural Psychosocial Organization of Cambodia (TPO), memorialization is important in fighting policies of injustice and violence by

informing the public about the Khmer Rouge through setting up learning centers, and peace libraries which have all benefited the communities that are actively involved.

Unfortunately however, it's been observed that the Cambodian government has done very little in participating with national healing which is recommended in order for full reconciliation to take place. Cambodia's wounds are far from healing due to many factors that slow down this process. It's corrupt government, poverty, and landmine fields that today still plague its rural areas are all shadows of the Khmer Rouge regime that continue to affect the present and future of Cambodia's people. Even so, local communities have used self healing methods such as, religious teachings, education, memorialization and dialogue. Cambodia will continue to be in a state of recovery while true peace will most likely be achieved individually and within small local communities when aided by a support group, but not through government means.

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