

Reconstructing Memory and Reality

Exploring civil society's contestation of memory reconstructions within the Extraordinary Chambers in the Courts of Cambodia

*"The past is like shadow, following us all the time, even we try to reject it
... By not rejecting this past, this shadow, we need to learn about it, to
reflect on it, to move forward, to have good future."*



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Cover page photos taken by the author at the Anlong Veng Peace Centre (with DC-Cam and subjects' permission).

Clockwise from left: Anlong Veng students at the Centre; Civil Parties to the ECCC from Oddar Meanchey Province assessing the Centre as a potential ECCC reparations project; an Anlong Veng resident reflecting on her life in the area.

ABSTRACT

This thesis explores how the institutional practices and activities of civil society actors inadvertently contest the memories of Democratic Kampuchea and the Khmer Rouge that are reconstructed within the Extraordinary Chambers in the Courts of Cambodia. First, this thesis identifies the framing processes that take place within the court, which thereby reconstruct memories of the past in ways that, this research has found, favour existing asymmetrical structures of power that exist within Cambodian society. Further, the court is framed as the most legitimate mechanism for achieving justice, peace and truth for Cambodian citizens, and thus these memory reconstructions strive to be perceived as the dominant truth in Cambodia. Second, this thesis then moves on to identify those civil society institutional practices and activities that contest the memory reconstructions espoused by the court. This inadvertent contestation is analysed in line with three major themes: the involvement of youth, perceptions of victimhood and guilt, and gendered narratives of the past. I argue that these practices and their underlying analysis are illustrative of a way in which the fissure that often exists between memories reconstructed within TJ mechanisms, and the memories of those over whom a TJ mechanism governs, might be narrowed by engaging in practices that encourage participant-ownership over, and active engagement with, memory, knowledge and the past.

Key Words: Cambodia, Extraordinary Chambers in the Courts of Cambodia, transitional justice, hybrid criminal tribunal, institutional practices, memory, framing, contestation

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List of Abbreviations

CPP	Cambodian People's Party
CNRP	Cambodia National Rescue Party
CS	Civil Society
CWOHP	Cambodian Women's Oral History Project
DC-Cam	Documentation Centre of Cambodia
DK	Democratic Kampuchea
ECCC	Extraordinary Chambers in the Courts of Cambodia
HCT	Hybrid Criminal Tribunal
HRW	Human Rights Watch
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
KR	Khmer Rouge
RGC	Royal Government of Cambodia
TJ	Transitional Justice
TPO	Transcultural Psychosocial Organisation
UN	United Nations
YFP	Youth For Peace

ONE • An Introduction

The Khmer Rouge (KR), an agrarian communist regime that rose out of an anti-Imperialist, anti-classist sentiment in Cambodia, ruled the country in its entirety between 1975 and 1979, following a number of years of violent conflict between the KR and the Cambodian Lon Nol government¹. Under the KR's rule between these years, the nation was known as Democratic Kampuchea (DK). Reverting Cambodia back to 'Year Zero', the KR established a peasant agrarian society in which ordinary Cambodians were forcibly transferred from cities and homes into rural communes centred around forced agricultural labour; ultimately, the KR were responsible for the deaths – as a consequence of famine, hard labour, torture and killings - of approximately 1.7 million Cambodians². Beyond this, the KR committed various other crimes, including sexual violence and forced marriage, and the use of child soldiers. The KR were eventually removed from power by Vietnam in 1979³ – however, this in no way marked an end to the KR in their entirety, and further violent conflict followed the demise of their nationwide control as the group continued to operate in more rural areas of the country. Years of guerrilla warfare ensued across Cambodia, finally coming to an end in 1998 following the collapse of the movement⁴.

Over time, Cambodia has begun to 'heal' – for want of a less loaded word – in terms of socio-economics and the occurrence of violent conflict within society. However, psychological remnants of the KR past remain evident amongst those who lived through the KR regime, 'genocide' remains fresh in the minds of older Cambodians, and the lack of knowledge and understanding of the era, amongst both young and old Cambodians, is

¹ Horsington, H., 'The Cambodian Khmer Rouge Tribunal: The Promise of a Hybrid Tribunal', *Melbourne Journal of International Law*, Vol. 5 (2) 2004, pp.462-482, p.464; Taylor, A. 'Why the world should not forget Khmer Rouge and the killing fields of Cambodia', *The Washington Post*, 7th August 2014. Accessible at:

https://www.washingtonpost.com/news/worldviews/wp/2014/08/07/why-the-world-should-not-forget-khmer-rouge-and-the-killing-fields-of-cambodia/?utm_term=.0ea24b1f7e19

² Ly, S., *Reconciliation Process in Cambodia 1979-2007*, (Cambodia: DC-Cam, 2017), p.27

³ Pham, P., Vinck, P., Balthazard, M. and Hean, S., *After the First Trial: A Population-Based Survey on Knowledge and Perception of Justice and the Extraordinary Chambers in the Courts of Cambodia*. (Berkeley: Human Rights Centre, University of California, 2016), p.8

⁴ *ibid*, p.9

striking⁵. Numerous official and unofficial reconciliation initiatives followed the end of manifest violence in the 1990's⁶, eventually culminating in the convoluted establishment of an official transitional justice mechanism intended to address the atrocities of the DK era; the Extraordinary Chambers in the Courts of Cambodia (ECCC), a hybrid criminal tribunal backed by both the United Nations (UN) and the Royal Cambodian Government (RGC), and mandated to prosecute 'senior leaders and those most responsible' within the KR between April 1975 and January 1979⁷.

1.1 The Puzzle

For the purpose of this thesis, transitional justice can be understood as the "field of enquiry and practice" concerning "various judicial and non-judicial approaches to dealing with ... the legacy of human rights violations in societies emerging from conflict and/or authoritarian rule"⁸. Cambodia's central transitional justice mechanism has suffered extensive criticism throughout its existence, often focused on issues of judicial corruption, government interference and limited convictions⁹. Recent literature has also begun to 'call out' particular portrayals of the past within the ECCC and, particularly, the way that these have been influenced, shaped – and even distorted – by those

⁵ Discussions with young people in Cambodia reveal that there is limited knowledge, or interest, in the Democratic Kampuchea era and ensuing conflict, despite the fact that this regime changed irrevocably the nation that Cambodia is today. Beyond this, there is also limited knowledge or interest in the ECCC, particularly outside of the country's major cities and towns, regardless of age. These observations are drawn from informal discussions and interviews with various university students and recent graduates in Phnom Penh, all in their early to mid-twenties, one high-school graduate based in Anlong Veng, and two primary-school students based in Anlong Veng, alongside analysis of my own report ('Genocide Education in Cambodia: Democratic Kampuchea History Education') on DC-Cam's March 17th 2017 Genocide Education classroom forum at Wat Koh High School in Phnom Penh, inclusive of a pre-forum survey of the 86 students in attendance, in which 86% of students responded that they "know a little about the Democratic Kampuchea period", and 4% said the "know nothing about the DK period". Hetherington, K. *Genocide Education in Cambodia: Democratic Kampuchea History Education*, (Phnom Penh: DC-Cam, 2017) Accessible at: http://www.dccam.org/Projects/Genocide/pdf/WatKohHigh_School_March_17_2017.pdf

⁶ For more information regarding the various peace and reconciliation processes that took place in Cambodia in the 1990's' (and between 1979 and 2007) see: Ly, S. *Reconciliation Process in Cambodia*

⁷ *Who will be put on trial?*, eccc.gov.kh, accessed: 15th March 2017. Accessible at <https://www.eccc.gov.kh/en/faq/who-will-be-put-trial>

⁸ Haider, H., *Transitional Justice Topic Guide*, (Birmingham: GSDRC University of Birmingham, 2016). Accessible at: [TransitionalJustice_GSDRC.pdf](#), p.3

⁹ See, for example: Sperfeldt, C., 'From the Margins of Internationalised Criminal Justice: Lessons Learned at the Extraordinary Chambers in the Courts of Cambodia', *Journal of International Criminal Justice*, Vol.11 (3), 2013, pp. 1111-1137; various Open Society justice Initiative reports, *Recent Developments at the Extraordinary Chambers in the Courts of Cambodia*, between 2007-2017

institutional structures that were fundamental to its creation: the Royal Cambodian Government (RGC) and the wider Westerns transitional justice sphere¹⁰. The ECCC (much like many TJ mechanisms of a similar nature) is loaded with a number of core expectations: the ending of impunity in Cambodia, the attainment of justice for victims, the realisation of a 'truth' about the KR era and a national reconciliation, both with the past and between ex-cadres and victims¹¹. My fieldwork conducted in Phnom Penh between March and May 2017 appears to indicate, however, that the way that the ECCC attempts to enact these values and goals (both within and without the courtroom) is contested by local civil society actors- i.e. through the creation of alternative practices that contradict the memories espoused by the ECCC. ECCC memory reconstructions and framing activities approach the past in a limited manner. Particular examples of civil society activity analysed during my fieldwork encourage permanent engagement with memory, a wider conceptualisation of past crimes, intergenerational dialogue in preserving the lessons of the past, and the enactment of this within further court convictions. In this way, civil society (CS) actors - without coming into direct conflict with the court - both fill a transitional justice 'gap' created by the ECCC, and simultaneously contest these memory reconstructions and framing processes which attempt to dictate how Cambodian people should interact with past atrocity.

Transitional justice mechanisms inevitably operate in a complex environment, and the ECCC is no different. The ECCC must attempt to appeal to both an international and domestic audience, and achieve legitimacy and resonance in the eyes of citizens with inevitably high expectations of its abilities. It is heavily reliant on the approval of both the domestic government (whose own political leanings must also be addressed) *and* the wider international transitional justice sphere. The two also heavily influence the ECCC and the way in which it frames the past. For the purposes of this thesis, framing here can be understood as "an interpretive schemata that simplifies and condenses the

¹⁰ See, for example: Gray, T., 'No Justice without Narratives: Transition, Justice and the Khmer Rouge Trials', in *Transitional Justice Review*, Vol.1 (5), 2017, pp.62-96; Manning, P., 'Governing memory: Justice, reconciliation and outreach at the Extraordinary Chambers in the Courts of Cambodia', in *Memory Studies*, Vol.5 (2), 2011, pp.165-181

¹¹ Oeung, J. 'Expectations, Challenges and Opportunities of the ECCC', in Meisenberg, S. and Stegmiller, I. (eds.) *The Extraordinary Chambers in the Courts of Cambodia: Assessing their Contribution to International Criminal Law*, (The Hague: T.M.C Asser Press, 2016), pp.103-122, p.103

‘world out there’ by selectively punctuating and encoding objects, situations, events, experiences, and sequences of actions within one’s present or past environment”¹².

The ECCC, much like any hybrid criminal tribunal, espouses a transitional justice (TJ) narrative, in which ‘justice’ for past crimes and ‘peace’ within a post-conflict nation are understood as achievable through the legal instruments of the court. This TJ narrative essentially contends that legal convictions are a mechanism for achieving ‘justice’ for a population, creating a ‘positive peace’ within a post-conflict nation, and establishing a set of societal rules that discourage the recurrence of violent conflict¹³. As the principal TJ mechanism within Cambodia, the ECCC attempts to establish itself and its practices as hegemonic, legitimate and authoritative within the Cambodian TJ space (the reason for this will be elaborated upon below). However, the puzzle identified within my research also looks at a reading of CS activity within Phnom Penh as indicative of a CS attitude that ECCC activities - which intend to enact a construction of the past that will in turn work towards achieving ‘justice’, ‘peace’ and a ‘national reconciliation’ - often do not resonate with their audiences’ expectations¹⁴, and in fact, do not reach the right audiences. This inadvertent contestation works to subtly undermine the ECCC as the hegemonic mechanism for peace and justice in Cambodia.

During the construction phase of this research, literature analysis lead to a proposed research that focused on the way in which CS actors in Cambodia (de)-constructed the sociological legitimacy (that is, the perceptions of legitimacy amongst Cambodian citizens) of the ECCC via their own institutional practices. However, as fieldwork progressed it became evident that important CS institutional practices were not focused specifically on framing perceptions of the court, but instead on contesting the framing activities taking place at the ECCC and the reconstruction of memory that this resulted in. The complication identified within the case, based on my identification of CS institutional practices that attempt to address memories, voices and audiences that the ECCC does not, built upon earlier presumptions about the Cambodian TJ sphere and the ECCC’s and CS’s roles within this. As a consequence, this thesis will analyse how CS

¹² Benford, R. and Snow, D., ‘Framing Processes and Social Movements: And Overview and Assessment’ in *Annual Review of Sociology*, Vol.26, 2000, pp.611-639, p.137

¹³ *About us*, ictj.org, accessed: 20th March 2017. Accessible at: <https://www.ictj.org/about>

¹⁴ Open Society Justice Initiative, *Performance and Perception, The Impact of the Extraordinary Chambers in the Courts of Cambodia*, (New York: Open Society Foundations, 2016).

Accessible at: <https://www.opensocietyfoundations.org/sites/default/files/performance-perception-eccc-20160211.pdf>, p.72

institutional practices inadvertently contest both the ECCC's position as the authoritative constructor of memories of the past, and the parameters of these memory and the audiences they reach.

CS actors formulate alternative institutional practices, which they imagine resonate with and have legitimacy for the 'everyday Cambodian' within the TJ space. This culminates in the following research question:

What institutional practices are specific civil society actors based in Phnom Penh engaging in, which serve to contest the reconstruction of memory, and practices enacting this, contained within the ECCC institution in 2017?

Following an outline of the methodology within this chapter, and the analytic framework in Chapter Two, Chapter Three will answer the following sub-questions:

1. How does the ECCC engage in a framing process of the Khmer Rouge past?
2. How are particular stories about the past constructed at the ECCC, and what actors play a role in this process?
3. How does this memory manifest itself in the present, in the ECCC?
4. Do these frames and memory reconstructions succeed in becoming established as resonant and legitimate amongst Cambodian CS?

Following this, Chapter Four will answer the following sub-questions:

1. What CS institutional practices are taking place that work with alternative memories or audiences to those identified within ECCC framing processes?
2. How do these institutional practices engage with alternative memories, and/or reach an alternative audience, than the ECCC?
3. How do identified CS institutional practices inadvertently contest the memory and framing processes adopted by the ECCC?

1.2 Social and Academic Relevance: an overview

International and hybrid criminal tribunals have existed in three transitional justice generations. First generation Nuremberg and Tokyo Trials of the 1940's, both military tribunals, were followed by the International Criminal Tribunal for the former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR), second

generation experiments in TJ and both ad hoc tribunals located outside the country in which the crimes they were mandated to prosecute were committed. Currently, TJ has borne a third generation of 'hybrid' or 'international' criminal tribunals. Over this evolutionary process, TJ mechanisms have come to be considered an "essential aspect of post-conflict transitions and peace-building interventions"¹⁵, and extensive literature surrounds the topic focusing on its various complexities. Indeed, De Brito and Enriquez contend that "interest in the politics of blame and atonement has peaked", as illustrated in the multitude of "new and distinctive legal forms of response" to internationalised crime and atrocity¹⁶. Despite this, the ECCC – a third generation hybrid tribunal - exists somewhat at the margins of TJ literature, and receives little academic attention in comparison to other international or hybrid criminal tribunals¹⁷. Evidently, the international community continues to favour criminal tribunals as a central justice mechanism in post-conflict or peace-building endeavors, despite the various critiques such mechanisms receive. It is important that these tribunals continue to receive critical analysis in order to inform the formation of future TJ mechanisms and bring them ever-closer to effectively addressing mass atrocity.

The relationship between such tribunals and CS is obvious, and yet the discrepancies between the two bodies' practices, and the way in which those of the latter can contest the former, remains under-studied. Addressing this empirical gap in the Cambodian case provides an interesting opportunity to analyse alternative practices that contest the legitimacy of the ECCC. We can understand CS in Cambodia, a nation with an extensive CS community that provides a multitude of valuable services, as something of a 'stepping stone' between citizens and government. Empirical research on the ECCC and its resonance and legitimacy has discussed perceptions and attitudes at the level of Cambodian citizens¹⁸, however little similar academic analysis has been conducted at the CS level. CS has the opportunity to construct and deconstruct perceptions of international tribunals, which suffer legitimacy deficits by nature as alien mechanisms in a host judicial system. This research, therefore, finds its empirical relevance in its study of CS contestation of ECCC practices, and hopes to illustrate how CS's framing of

¹⁵ Haider, H., *Transitional Justice: A Topic Guide*, Birmingham: GSDRC (University of Birmingham, 2016) p.3. Accessible at: [TransitionalJustice_GSDRC.pdf](#) p.3

¹⁶ De Brito, A. B., Enríquez, C. G., & Aguilar, P. (eds.) *The politics of memory: Transitional justice in democratizing societies* (Oxford: Oxford University Press, 2001) p.2

¹⁷ Sperfeldt, C. 'From the Margins of Internationalised Criminal Justice', p.1111

¹⁸ See, for example: Open Society Justice Initiative, *Performance and Perception*; Pham, P, *After the First Trial*

the past and practices which enact this frame, might indeed have greater resonance with the 'ordinary Cambodian' than that TJ mechanism whose space they exist within.

1.3 Methodology

1.3.1 Research Design

This research focuses on gaining insight into the practices and activities of specific CS actors based in Phnom Penh, and the way in which these differ from those memory reconstructions and framing processes that take place at a higher level within Cambodia's TJ hierarchy – at the ECCC.

As this research is focused on understanding ECCC framing practices from the point of view of civil society actors themselves, rather than providing an external explanation for these practices, I adopted a qualitative research strategy and an interpretivist epistemological stance. This allowed for in-depth, detailed analysis of the activities of selected civil society actors, with a focus on mapping activities and *understanding* the framing processes that underlie their practices, rather than attempting to precisely *explain* these practices. Ontologically, this research takes the holistic, or non-reductionist position¹⁹, and looks at processes of relational interactions. This means that I treat agency and structure as mutually constitutive entities²⁰, rather than one completely determining the other.

1.3.2 Sampling

This research utilised non-probability sampling in the selection of CS actors within the CS space that exists in Phnom Penh²¹. Whilst the majority of this took place in the Cambodian capital, Phnom Penh, research was also carried out in two other provinces: Kampong Cham, and Anlong Veng. The inclusion of the two provinces outwith Phnom Penh is the result of access granted to me via my internship position with DC-Cam, and was conducted with a focus on DC-Cam as a CS actor based in Phnom Penh.

¹⁹ List, C., and Spiekermann, K., 'Methodological Individualism and Holism in Political Science: A Reconciliation', in *American Political Science Review*, Vol.107 (4), 2013, pp.629-643, p.2

²⁰ Giddens

²¹ Phnom Penh was chosen as the location for this research because of the concentration of CS actors, engaging in TJ-related activities, based in the city. This is largely due to the location of the ECCC in the outskirts of Phnom Penh.

Four organisations and one independent CS actor, in conjunction with an on-going project, were selected: these were the Documentation Centre of Cambodia (DC-Cam), Transcultural Psychosocial Organisation (TPO), Youth For Peace (YFP), the Bophana Centre, and the Woman's Oral History project in conjunction with Theresa de Langis. The research does not require the creation of statistical generalisations of the Cambodian population (given that it analyses in relational interactions that occur between institutional bodies, rather than between the ECCC institution and Cambodian citizens). Further, given the restricted time limit within which this research was conducted, alongside a full-time internship position with DC-Cam, purposive non-probability sampling allowed for me to utilise knowledge gained within my internship of the CS space within which DC-Cam operated, and investigate which CS actors were currently engaging in practices and activities that appeared to contest the memory reconstructions at the ECCC level. Thus, sampling aimed to give consideration to those memory reconstructions taking place within the ECCC, and this allowed for the selection of actors whose activities and practices corresponded with some central themes that arose as a result of research into both the ECCC and the wider CS space in Phnom Penh – namely, the involvement of youth, perceptions of victimhood and guilt, and gendered narratives of the past.

Furthermore, this study does not intend to provide a large-scale representation of the entirety of Phnom Penh's civil society community, and indeed, not all civil society actors appeared to be engaging in activities and processes that contested, to varying degrees, the memory reconstructions taking place within the court. Therefore non-probability, rather than random sampling, proved most suitable in approaching Phnom Penh's CS community and selecting the most relevant organisations and their practices to focus this research on. This research design allowed for small-N, in-depth data collection and analysis of specific participants and activities, whilst removing the pressure to attempt to draw broad representations or statistical generalisations and allowing for the potential to find themes within the activities (as has been identified above).

1.3.3 The Data Collection Process

Fieldwork was conducted in Cambodia between March and May 2017, and the stages within which the data was gathered can be summarised in five steps.

Step One involved preliminary investigation around my wider research question. At first this step focused on expanding my knowledge of the CS space in Phnom Penh and trying to identify those organisations that were engaging in practices and activities that tried to shape the sociological legitimacy of the ECCC. However, within this stage my research revealed that these activities were not occurring as widely as expected, and thus at this point I began to investigate other ways that relational interactions were taking place between the ECCC and CS, by shifting my focus to the court's proceedings, perceptions of the court amongst that CS organisation with which I was conducting my internship, and expanding my knowledge of other CS actors whose activities involved the ECCC in some way.

Step Two moved on from this new research trajectory, and mapped the major CS organisations in Phnom Penh that were engaging in activities related in any way to the ECCC. Next, I identified the areas in which civil society actors' activities focused via document research. At the same time, I began to identify the memory reconstructions and framing processes that were taking place within the ECCC, and to contextualise the ECCC institution within the wider political space in Cambodia. This utilised document and media analysis, and an in-depth interview with the ECCC public information officer. Combining these two parts of step two, I identified where there were gaps between the two bodies' focuses and practices.

In *Step Three*, I began to integrate myself into the CS space, attending conferences and forums, and expanding my network based on a preliminary selection of actors and organisations on which I hoped to focus my research on. This stage also saw the beginning of in-depth interviews and informal discussions within my internship, DC-Cam.

Step Four involved my concrete selection of CS institutional respondents beyond DC-Cam, having identified areas of contestation in terms of memory and framing, between the ECCC and select CS actors. In this step, I conducted further in-depth interviews with staff and directors of the select CS respondents. I also conducted contextualisation research, through non-participant and participant observation, informal discussions with attendees of CS projects, and interviews and discussions with Cambodians outwith Phnom Penh (Kampong Cham and Anlong Veng), and with Civil Parties to the court.

Step Five centred on analysing my findings, and corroborating my previously identified areas of contestation with the data gathered. I arranged my CS data within three major themes: young Cambodians as an audience, perceptions of victimhood, and gendered narratives of the past. Similarly, I identified the separate framing activities taking place within the ECCC.

TWO • An Analytic Framework

This thesis will analyse the specific CS institutional activities that contest the audiences and voices that are addressed within the ECCC's framings of Cambodia's past, and in doing so formulate institutional practices and activities that such actors appear to deem more legitimate and resonant means of engaging with memory. The institutional practices of both the ECCC and the selected CS actors, whilst each pursuing a general TJ narrative in which peace and justice are understood to be central to the 'healing' of a post-conflict nation, encapsulate a framing of the past which determines what is important, and what is not. In order for a TJ institution's framing of the past to be widely accepted as the 'correct' history, it must resonate with those citizens whose past it frames. Resonance is understood within this thesis as the "credibility" of an institution and its practices, based on its consistency with an audience's beliefs²². The resonance of the ECCC framing captured within their institutional practices is inadvertently contested by CS activity. In Cambodia, ECCC framing processes are intrinsically tied up with those of the Royal Cambodian Government (RGC) who, for context, comprise many ex-cadres and espouse a general attitude that favours moving on from the Khmer Rouge past, in addition to being dogged by accusations of corruption and bribery.

The CS institutional practices that will be explored within the following chapters are, this thesis argues, based on a conceptualisation of what elements of the past, and means of addressing this past, are legitimate and have resonance for the 'ordinary Cambodian'. Before this analysis can begin, however, the analytical framework upon which this thesis rests will be outlined, organised structurally around the central concepts that will be woven throughout this thesis.

2.1 Memory Reconstruction and Framing Processes

"The power to create and stabilise memory is in fact a general sign of power at all levels of social organisation."²³

²² Benford, R. and Snow, D., 'Framing Processes and Social Movements', p.629

²³ Cavalli, A. in Jedlowski, P., 'Memory and sociology: themes and issues', in *Time & society*, Vol.10 (1), 2001, pp.29-44, p.34

When a hybrid criminal tribunal²⁴ (HCT) deals with past violence and atrocity, the past is - in an ideal world - portrayed within a particular construction of meaning that is intended to “resonate with a population’s cultural predispositions” and “communicate a uniform message”²⁵ about the past and present. Inevitably, however, importance is afforded to particular events, whilst others are overlooked. This can be understood as constructing a particular frame through which events and memories are viewed and understood, taking the definition of framing as outlined within the introduction of this thesis. Manning’s work on the construction of accounts of memory helps to illustrate how this framing activity relates to a TJ mechanism; his study examines how “the strategies of justice and reconciliation organise memory by privileging some memorial accounts over others”²⁶. These tend, in his opinion, to “emerge in ways that favour existing hierarchies of power”²⁷. Indeed, in a country emerging or emerged from past atrocity and totalitarian or authoritarian rule, “legacies of repression”²⁸ can continue to influence a contemporary TJ process, which can as a consequence favour historical and existing power asymmetries even as it attempts to abolish such structures. A hybrid criminal tribunal thus constructs a frame through which memory is understood and engaged with, and in determining what within this past is – and is not – important, builds upon the power structures that exist within a society.

Benford and Snow, in their analysis of framing processes, relate this concept to social movements. Comparatively, here I draw upon the pair’s work and apply it to institutions and institutional practices within a TJ space. According to Benford and Snow, framing – which can also be understood as meaning construction – involves “agency ... at the level of reality construction”²⁹: particular agents actively construct a version of reality. Essentially, according to Goffman – upon whose 1974 work Benford and Snow draw heavily – frames “help to render events or occurrences *meaningful* and thereby function to organise experience and guide action”³⁰. Thus, within a HCT, particular memories and events are afforded attention (whilst others are not), through the situation of such

²⁴ Hybrid, in this sense, refers to such courts’ mixed nature, “incorporating at the same time international and national features”. Hybrid courts are comprised of “international and local staff ... and apply a compound of international and national substantial and procedural law”. *Hybrid Courts*, Project on International Courts and Tribunals, accessed: __. Accessible at: <http://www.pict-pcti.org/courts/hybrid.html>

²⁵ Demmers, J., *Theories of Violent Conflict*, (Oxon: Routledge, 2016), p.100

²⁶ Manning, P., ‘Governing Memory’, p.166

²⁷ *ibid*

²⁸ De Brito A. B. et al., *The Politics of Memory*, p.1

²⁹ Benford, R. and Snow, D., ‘Framing Processes and Social Movements’, p.614

³⁰ *ibid*, p.615 (emphasis added)

memories and events within a structure of meaning that attempts to frame this reading of the past as resonant and meaningful for an audience. The privileging of particular memories, voices and audiences illustrates the way in which memory reconstruction tends, as Manning claims, to favour those structures of power that already exist within a social world.

A HCT, therefore, is influenced by those power structures that exist within the society in which it operates. However, as well as being influenced by power, a HCT is also in *possession* of power. Benford and Snow understand social movements as agents with the power to name grievances and problems³¹. Similarly, Boltanski understands an institution as a “being to which is delegated the task of stating the whatness of what is”, and “saying and confirming what matters”³². A HCT, as a TJ institution, assumes the role of determining the ‘what’ of a particular TJ process, and in doing so, determining those memories, voices and audiences that are important. This speaks to both Manning and Benford and Snow’s discussions of memory construction and framing respectively. Drawing upon this definition, a HCT can be understood as an active agent involved in reality and memory reconstruction. A HCT will reconstruct a conceptualisation of the past, defining those events, voices and audiences that ‘matter’.

Framing, according to Benford and Snow, comprises three major framing tasks. Two are relevant to the theoretical framework of this thesis. Diagnostic framing focuses on the attribution of “blame or responsibility” for an issue – but, it should be noted, this does not automatically confer consensus about the attribution of blame amongst relevant agents³³. Applying this framing task to the TJ sphere, a HCT engages in diagnostic framing when the responsibility for past atrocities is situated with a particular actor or group, effectively constructing a framing of the past in which other actors are removed from conceptualisations of guilt and responsibility. Prognostic framing, comparatively, “involves the articulation of a proposed solution to the problem ... and the strategies for carrying out the plan”³⁴. Similarly, a HCT can be understood to engage in prognostic framing when it builds upon the diagnostic frame and constructs institutional practices through which blame and responsibility can be addressed. Building upon this, Benford and Snow move on to discuss frame development, and within this, the process of frame

³¹ *ibid*, p.615

³² Boltanski, L., *On Critique, A Sociology of Emancipation*, (Cambridge: Polity Press, 2016) p.74

³³ Benford, R. and Snow, D., ‘Framing Processes and Social Movements’, p.616

³⁴ *ibid*

amplification. This refers to the process of “accenting and highlighting some issues, events, or beliefs as more salient than others”³⁵. This thesis conceptualises a HCT as involved in both the diagnostic and prognostic framing of memory and the past, and within this, frame amplification as it defines “the whatness of what is”³⁶.

2.2 Legitimacy and Resonance

“The most enduring forms of domination are those to which, on whatever basis, ‘legitimacy’ is ascribed by the participants.”³⁷

If we are to agree that the extent to which a frame “resonates with potential constituents” is tied up with the frame’s correspondence with “existing cultural values, beliefs, narratives, folk wisdom, and the like”³⁸, we can infer that, in order for any frame to gain traction with an intended audience, this frame should be built upon a culturally relevant structure of norms and values that said audience exists within.

A HCT’s memory reconstruction, and *how* and *by whom* this is conveyed in the present, can be understood as requiring resonance with a populations’ belief structures in order to have authority as the dominant memory within a post-conflict country. On an abstract level, a TJ institution can be understood as ‘legitimate’ when its “authority is perceived as justified”³⁹. Legitimacy is thus that quality which leads a “given actor”⁴⁰ to perceive an institution, the memories it encompasses and those practices that address these memories, as both “meaningful”⁴¹ and authoritative.

Frame resonance – the credibility of a framing of the past - is closely related to legitimacy, in that a HCT’s construction of memory and framing of the past will, similarly, achieve legitimacy amongst a target audience when a frame is perceived as meaningful and authoritative as a consequence of said audience’s evaluative beliefs

³⁵ *ibid*, p.623

³⁶ Boltanski, L., *On Critique*, p.74

³⁷ Barry Jones, R. (eds), ‘Entries P-Z: Max Weber”, *Routledge Encyclopedia of International Political Economy*, (London: Routledge, 2001), p.1682

³⁸ Benford, R. and Snow, D., ‘Framing Processes and Social Movements’, p.624

³⁹ Grossman, N., ‘Legitimacy and International Adjudicative Bodies’, in *41 George Washington International Law Review*, Vol.107, 2009, pp.643-653, p.5

⁴⁰ *ibid*

⁴¹ Buchanan, A. and Keohane, R., ‘The Legitimacy of Global Governance Institutions’, in *Ethics and International Affairs*, Vol.20 (4), 2006, pp.405-437, p.576

about their social world. A court's diagnostic framing of the past and a subsequent process of frame amplification and prognostic framing, must be perceived by the target audience as legitimate and correct in order to create self-disciplinary compliance with and acceptance of the court's framing. Such an institution "will only thrive if [it is] viewed as legitimate by democratic publics"⁴². Submission without coercion to any authority relies on the acceptance of that authority as legitimate.

Hobbs asserts that legitimacy is "particularly crucial for hybrid courts" in order to ensure that the "promised benefits"⁴³ of such courts are achieved – here these 'promised benefits' can be understood as, for example, the attainment of justice for past crimes and creation of peaceful society. HCT's exist in an immanent "state of crisis" and are "haunted by legitimacy deficits" and must, therefore, "constantly prove their worth to both international and domestic audiences"⁴⁴. This activity is difficult. A HCT's diagnostic and prognostic framing activities resonate with the societal power structures in which it is situated. Yet, to overcome the legitimacy deficit that Vasiliev identifies, its framing processes must also, according to the literature, resonate with the social norms and beliefs that exist within the society in which the HCT exists. These two necessities often exist in contradiction with one other.

2.3 Contestation: Institutions and Institutional Practices

"It is because there are institutions everywhere that there is domination everywhere."⁴⁵

Within Boltanski's work *On Critique*, he explores critical theories of domination, arguing that they suggest the "existence of enduring asymmetries" in social life, which are "constantly replicated to the point of colonising reality as a whole"⁴⁶. In regard to the concept of domination that runs throughout Boltanski's work, this can be understood as referring to the asymmetries of power that allow for powerful elites to dictate the way

⁴² Buchanan and Keohane, 'Legitimacy of Global Governance', p.407

⁴³ Hobbs, H., 'Hybrid Tribunals and the Composition of the Court: In Search of Sociological Legitimacy', *Chicago Journal of International Law*, Vol.16 (2), 2016, pp.482-522, pp.494-495

⁴⁴ Vasiliev, S., 'Between International Criminal Justice and Injustice: Theorising Legitimacy' in Bailliet, C. and Hayasi, N. (eds.) *The Legitimacy and Effectiveness of International Criminal Tribunals*, (Cambridge: Cambridge University Press, 2017), pp.66-91, p.5

⁴⁵ Boltanski, L., *On Critique, A Sociology of Emancipation*, p.51

⁴⁶ *ibid*, p.2-3

that a particular social world is understood by those within it. The basic premise of this argument speaks to the concept of memory governance, insofar as Boltanski argues that domination (of a particular social world) is something “concealed in systems” that “must be unmasked”⁴⁷. The goal of critical theories of domination is, according to Boltanski, to “render reality unacceptable”. In a TJ space, ‘reality’ can refer to both the past, and that structure’s activities via which this past is addressed in the present.

Hodgkin and Radstone acknowledge that to contest the past is also “to pose questions about the present, and what the past means in the present”⁴⁸. Thus, significantly, “contests over the meaning of the past are also contests over the meaning of the present”⁴⁹; the pair argue that processes of justice build upon the idea that “the present is obliged to accommodate the past in order to move on from itself”. In this perceived obligation, contestation often emerges over the issue of *who* or *what* has the authority or legitimacy to “speak for that past in the present”⁵⁰. These ideas, therefore, illustrate the issues of contestation that exist within the politics of memory regarding representation of and engagement with a past and its ‘truths’ and stories. Contestation therefore need not refer only to the actual content of a past, but importantly, “how truth can best be conveyed”⁵¹; whether that manifests itself in contestation over whose voices should be included in a media article, or which audiences should be engaged in an artistic memory installation, for example. Contestation of an institution’s framing of memory is thus conceptualised within this thesis as the contestation of the legitimacy and resonance of that memory and the particular institutional practices via which memory is dealt. This can be understood as illustrative of, on a deeper level, the contestation of an asymmetry of power that allows for memory and its meaning in the present to be framed in a particular way in the first place.

⁴⁷ *ibid*

⁴⁸ Hodgkin, K. and Radstone, S. (eds.), ‘Introduction: Contested pasts’ in *Memory, History, Nation: Contested Pasts*, (New-Jersey: Transaction Publishers, 2006) pp.1-23, p.1

⁴⁹ *ibid*

⁵⁰ *ibid*

⁵¹ *ibid*

THREE • Framing Processes and Memory Reconstruction at the ECCC

The ECCC, as one might assume, frames itself as the most meaningful and legitimate mechanism for establishing peace, justice and reconciliation in Cambodia through various means, some of which will be outlined within this chapter. This is illustrative of a wider TJ narrative that conceptualises mechanisms like hybrid criminal tribunals, inclusive of criminal convictions and legal instruments, as the most appropriate means of ‘reckoning’ with past atrocity. Further, this narrative in turn frames those parameters within which the past is understood and addressed within the ECCC as ‘correct’; in pursuing truth, the court is framed as the ‘identifier’ of truth, and as a result its outcomes and practices are perceived as the true account of the past. The ECCC’s position as the country’s predominant TJ mechanism seeps into the memory it constructs via its practices within and without the courtroom, and attempts to establish this reconstruction of a national memory as similarly predominant within Cambodia. The problem here, of course, is that no one ‘national memory’ can possibly correspond with the individual intricacies of every Cambodian’s own experiences. Further, the ECCC exists within a specific TJ and political context that is closely involved in the construction of, respectively, the framing of the court as the dominant mechanism for achieving peace and justice, and the subsequent (attempted) construction of a legitimate and resonant national memory. Within this chapter I will, therefore, address the framing process that takes place within and around the ECCC, and based on my findings in the field, ask what role the RGC plays in the construction of memory at the ECCC. Further, I will address the extent to which these reconstructions of memory achieve resonance amongst CS actors.

This research has found that the ECCC engages in framing processes, inclusive of diagnostic and prognostic framing activities and frame amplification, in two ways. First, the ECCC is involved in a prognostic framing process. It attempts to situate itself as the dominant mechanism for reckoning with the KR past as it is framed as the most legitimate solution to the ‘problem’ that is how to deal with past atrocity. In analysing this first framing process, I work with a conceptualisation of framing as based on its general definition as meaning and reality construction. Second, and *within* this wider framing activity, the ECCC situates the DK era and KR atrocities in a self-constructed structure of meaning (that is in part constructed by two ‘bodies’, the TJ narrative and the RGC). It engages in a diagnostic framing process within the court as blame and

responsibility for the past is attributed to particular actors, and in frame amplification, in which particular events, voices and audiences are afforded importance (and thus addressed within and without the courtroom by ECCC activities) whilst others are not.

3.1 Framing Activities I: the ECCC as the dominant mechanism for peace, justice and truth

“The primary function of the court is to provide justice through accountability for gross and systematic human rights violations, thereby bringing an end to wholesale impunity.”⁵²

Prognostic framing of the ECCC as the most appropriate mechanism for dealing with Cambodia’s KR past occurs in the stories told about the court and its function. Considering this, an example of the way that ECCC staff frame the court as the most legitimate mechanism for achieving peace and justice in Cambodia took place in a Youth For Peace (YFP) conference⁵³ held in March 2017. I listened to a discussion on the “Culture of Accountability” and “Truth Seeking Mechanisms” in Cambodia involving Kun Sothy, a Legal Officer within the Civil Party Lead Co-Lawyer Section at the ECCC. He contended that the ECCC was “not useless”, and framed the court as the central mechanism for the ending of impunity, and the creation of a “legacy of justice”⁵⁴ in Cambodia. In this kind of language, the problem of impunity for serious crimes, and lack of ‘justice’ for Cambodian citizens, are diagnostically framed as problematic issues existing in the country’s TJ space, and the ECCC is prognostically framed as the “solution” to these problems⁵⁵.

Examples of prognostic framing taking place can also be found in ECCC documents. In the ECCC-produced *An Introduction to The Khmer Rouge Trials*, made available to all those who visit the ECCC, a preface by Prime Minister Hun Sen utilises highly inclusionary language, and hails the tribunal as the central means of easing the burden

⁵² Open Society Justice Initiative, *Performance and Perception*, p.31

⁵³ This conference was entitled ‘Learning from Khmer Rouge History’ and was conducted in cooperation with the ECCC’s Victim Support Section (VSS) and the Civil Party Lead Co-Lawyer Section

⁵⁴ Author’s own fieldnotes, 24th March 2017, Phnom Penh

⁵⁵ Benford, R. and Snow, D., ‘Framing Processes and Social Movements’, p.616

of the past through “justice in the name of the victims”⁵⁶. Within this document, in addition, the importance of the RGC in the construction of the ECCC is clearly outlined. Deputy Prime Minister Sok An, in the same publication, illustrates the central role that the RGC played in the creation of the ECCC, noting that the RGC “insisted that, for the sake of the Cambodian people, the trials must be held in Cambodia using Cambodian staff and judges together with international personnel”⁵⁷. This kind of story frames the ECCC as *the* deliverer of justice for Cambodian citizens. Furthermore, it infers a problem – that a court outwith Cambodia could not achieve resonance and legitimacy with Cambodian citizens – and henceforth identifies the situation of the ECCC within the country as a solution to this problem (effectively, as it were, brushing over the fact that this also situates the ECCC within the control of the government). Finally, it constructs a link between the court and the government in order to insinuate that the RGC, too, are crucial agents in bringing peace and justice to the Cambodian people and thus central to the formulation of a resonant and legitimate ‘solution’ in the pursuit of justice, peace and truth within Cambodia.

3.2 Framing Activities II: the ECCC’s reconstruction of memory

“The strategies of justice and reconciliation organise memory by privileging some memorial accounts over others.”⁵⁸

The ECCC, as a body that investigates the KR past and creates accounts of this past, engages in a process of memory reconstruction and framing. This occurs in two major ways; in the attribution of blame, the ECCC is involved in a diagnostic framing process; in the naming of important grievances, the ECCC engages in frame amplification. Both processes culminate in a memory reconstruction of the KR past which, it is found, is translated into court activities and a wider TJ discourse espoused by the RGC as the legitimate account of the DK era.

⁵⁶ Sen, H., *An Introduction to The Khmer Rouge Trials, 6th Edition*, (Phnom Penh: Public Affairs Section ECCC, n.d) p3

⁵⁷ *ibid*, p.4

⁵⁸ Manning, P., ‘Governing Memory’, p.166

3.2.1 Diagnostic Framing: the attribution of blame

Even before the existence of the ECCC, actors⁵⁹ that were reckoning with the establishment of an official TJ mechanism engaged in diagnostic framing. The mandate of the court - to prosecute 'senior leaders' and 'those most responsible'⁶⁰ - can be understood as an exercise in diagnostic framing as the parameters of blame were set and ex-cadres below the KR's top tiers were, in an official and legal sense, absolved of guilt and responsibility⁶¹. These parameters for the attribution of guilt and responsibility were important in creating a court that could function in actuality (without facing the impossible and impractical task of attributing blame for the atrocities of the DK era to every member of the KR). However, they also constructed a story about the attribution of blame for the KR past that situated responsibility with only a select group of cadres. This did not resonate with the memories of many 'ordinary Cambodians', in which personal experiences of violence revolved around the actions of low-level cadres.

Power asymmetries, I argue, are intimately involved in the ability of a TJ institution like the ECCC to engage in diagnostic framing. This is illustrative of Manning's identification of the problematic nature of the contemporary TJ mechanism; emerging out of a violent and convoluted history, power asymmetries of the past and present can become replicated in the TJ mechanism. During my research, I identified such a replication in a major source of influence over the ECCC and its framing process: the RGC. A 2015 Human Rights Watch (HRW) report entitled *30 Years of Hun Sen: Violence, Repression, and Corruption in Cambodia*⁶² is, from the title alone, exemplary of the nation's political climate under the now thirty-one year authoritarian leadership of Prime Minister Hun Sen and the Cambodian People's Party (CPP). The report finds that Hun Sen's time in power has been characterised by a "wide range of serious human rights violations"⁶³, and the ECCC is in no way immune to the powerful influence and interference of this authoritative leader and the memory that he and the CPP propagate. An ex-Khmer Rouge commander himself - much like many of the CPP's, and therefore government's,

⁵⁹ Namely, the RGC, the United Nations, and various CS actors

⁶⁰ *Who will be put on trial?*, eccc.gov.kh, accessed: 15th March 2017. Accessible at <https://www.eccc.gov.kh/en/faq/who-will-be-put-trial>

⁶¹ *ibid*

⁶² Human Rights Watch, *30 Years of Hun Sen: Violence, Repression and Corruption in Cambodia* (2015). Accessible at: <https://www.hrw.org/news/2015/01/13/cambodia-30-years-hun-sen-violence-repression>

⁶³ *ibid*, p.1

senior members – the report explains in part the way in which the Prime Minister has repeatedly “obstructed justice for international crimes” under investigation at the ECCC, “relying on his control of a Cambodian judiciary that also ensures continuing impunity for abuses in the present”⁶⁴. The report continues, arguing that Hun Sen’s control of Cambodia’s courts “allowed him to ensure that any efforts to bring members of the Khmer Rouge to justice would only happen at his discretion”⁶⁵. Indeed, the construction of the court in a manner favourable to Cambodia’s ruling elite (after years of negotiations and a temporary UN withdrawal) largely revolved around Hun Sen’s contention that “the Cambodian courts were competent to conduct their own trials” (courts which are, to reiterate, under the control of Hun Sen and the CPP) in response to UN calls for ad hoc trials outwith the country as a consequence of concerns over judicial independence⁶⁶.

It is important to explain the control that the CPP and Hun Sen have had the ability to exercise over the ECCC since its creation, via, for example, the embedded nature of the court in the Cambodian judiciary, the “insufficient” super-majority formula⁶⁷, a sole reliance on Cambodian police in the arrest of suspects⁶⁸, and the “majorities of Hun Sen-approved Cambodian judges”⁶⁹ in each of the ECCC’s chambers. As regards this last point, for example, one civil society actor commented during a discussion of the court’s creation that at the time of judge selection during the ECCC’s infancy stage, he and his colleagues at the Cambodia Justice Initiative “looked through a list of judges that were – what we called at the time – ‘the best among the worst’ and there was no option at that time, because you don’t have any better than that pool”⁷⁰. This contention is indicative of the widely acknowledged nature of the RGC’s domination of the judiciary in Cambodia and its lack of political independence, and speaks to an acceptance of governmental

⁶⁴ Human Rights Watch, *30 Years of Hun Sen*, pp.2-3

⁶⁵ *ibid*, p.58

⁶⁶ *ibid*, p.61

⁶⁷ The super-majority formula at the ECCC refers to the following judges decision-making process: “the judges will try to reach unanimous agreement on any decision made. If they cannot all agree, then a decision requires what is called a ‘super-majority’. In the Trial Chamber, 4 out of the 5 judges must vote for a conviction and, in the Supreme Court Chamber, 5 of the 7 judges must vote for an appeal decision. Every decision must therefore have the support of both Cambodian and international judges. Because of this formula, if the super-majority cannot be reached, the defendant will be released.” *How will the judges reach decisions?* eccc.gov.kh, accessed 6th June 2017. Accessible at: <https://www.eccc.gov.kh/en/faq/how-will-judges-reach-decisions>

⁶⁸ *ibid*, pp.62-63

⁶⁹ *ibid*, p.63

⁷⁰ Author’s own interview, Panhavuth Long, Phnom Penh, 25th March 2017

control over the ECCC institution and the wider peace process. In the foreword of the Open Society Justice Initiative's report a particular comment by Executive Director James Goldston, surmises this argument.

“Today, as in 2006 or 1996, few ordinary Cambodians have any illusion about where power in their society lies – or about a judge’s or prosecutor’s independent ability to change it ... In many ways, the history of the Khmer Rouge tribunal has been a series of concessions to Hun Sen.”⁷¹

How do these powerful agents reach a situation in which they are actively involved in reality *and* memory construction at the TJ level in Cambodia? In a climate in which Hun Sen’s ruling party occupy a position of domination of the country’s political and judicial landscape, the ECCC as a judicial body is structured and influenced in part by the RGC, and so its diagnostic framing process favours an “existing hierarchy of power”.⁷² Indeed, Ciorciari and Ramji-Nogales argue that in Cambodia, “political elites prioritise the maintenance and growth of their own power”, which translates, in Cambodia’s TJ space, into a disregard for some voices, and the “pursu[it of] a shallower form of reconciliation that privileges their narrow interests”⁷³

3.2.2 Frame Amplification: attributing importance

The way in which the ECCC has attributed importance through frame amplification is most significant in two domains: the gender dimension of the conflict and the inclusion of youth. Before elaborating on this, however, the progress of the court to date will be outlined.

The ECCC, in 2017, has completed Case 001 against Kang Guek Eav, commonly known as Duch, and is close to completing the second half of Case 002. Case 002 has been severed into two separate trials, Case 002/1 and Case 002/2. Case 002 initially saw the indictment of Ieng Sary, who passed away in 2013 before judicial proceedings could be brought against him, and Ieng Tirth, who was found unfit to stand trial in 2012 and

⁷¹ Goldston, J., in Open Society Justice Initiative, *Performance and Perception*, p.13

⁷² Manning, P., *Governing Memory*, p.166

⁷³ Ciorciari, J. and Ramji-Nogales, J., ‘Lessons from the Cambodian Experience with Truth and Reconciliation’, in *Buffalo Human Rights Law Review*, Vol.19, 2012, pp.193-216, p.193

passed away in 2015. In addition, Khieu Samphan and Nuon Chea stand accused of crimes against humanity, genocide and grave breaches of the Geneva Conventions, with their charges spread between Cases 002/1 and 002/2. The former's trial judgement was announced in August 2014, with the latter's closing statements beginning at the court in June 2017⁷⁴. The five cadres mentioned, in addition to Pol Pot, constitute the KR's 'inner circle'. However based upon the court's mandate to prosecute not only 'senior leaders' but also 'those most responsible', in 2009 two introductory submissions were filed by the international Co-Prosecutor, "requesting the Co-Investigating Judges to initiate an investigation of five additional suspected persons"⁷⁵ and proposing Cases 003 and 004. Within Case 003, Sou Met's initial naming as a suspect was "extinguished" by his passing in 2014, whilst Meas Muth was "charged *in absentia*" in 2015⁷⁶. In Case 004, the case against Im Chaem was dismissed in 2017 "for lack of personal jurisdiction"⁷⁷, whilst cases against Yim Tith and Ao An still stand. Not only do Cases 003 and 004 involve ex-cadres who operated at the zone level, outwith the elite inner circle of the KR (and thus pose the potential for greater investigation into areas of the past that could implicate important members of the RGC), they also deal with gendered atrocities and thus address, in a more expansive manner than ever before within the court, an audience that has been previously afforded little significance⁷⁸.

Starting August 22nd, 2016, the ECCC's trial chamber began hearing evidence regarding the Regulation of Marriage within Case 002/02, which includes "charges of forced marriage and rape during the period of Democratic Kampuchea"⁷⁹. The closing order states:

"The Communist Party of Kampuchea implemented a policy of regulation of marriage by any means necessary to defend and

⁷⁴ *Case 002*, Extraordinary Chambers in the Courts of Cambodia, accessed on 16th March 2017, Accessible at: <https://www.eccc.gov.kh/en/case/topic/2>

⁷⁵ *Case 003*, Extraordinary Chambers in the Courts of Cambodia, accessed on 16th March 2017, Accessible at: <https://www.eccc.gov.kh/en/case/topic/286>

⁷⁶ *ibid*

⁷⁷ *Co-Investigating Judges Issue Reasons for Dismissal of Case 004/1*, Extraordinary Chambers in the Courts of Cambodia, Accessed on 16th March 2017, Accessible at: <https://www.eccc.gov.kh/en/articles/co-investigating-judges-issue-reasons-dismissal-case-0041>

⁷⁸ See, for example: de Langis, T., 'A missed opportunity, a last hope? Prosecuting sexual crimes under the Khmer Rouge Regime' in *Cambodia Law and Policy Journal*, Vol.2 (2014), pp.39-44

⁷⁹ Thirion, L., *Trial Chamber heard evidence on forced marriage and rape*, 2016, accessed on: 10th April 2017. Accessible at: <https://www.eccc.gov.kh/en/blog/2016/09/02/trial-chamber-heard-evidence-forced-marriage-and-rape>

implement the socialist revolution in Cambodia, starting from before 1975 and continuing at least until 6 January 1979. Both men and women were allegedly forced to marry throughout Cambodia, often in mass ceremonies that would range from two to more than 100 couples at a time. By allegedly imposing the consummation of forced marriages, the perpetrators committed a physical invasion of a sexual nature against a victim under coercive circumstances in which the consent of the victim was absent.”⁸⁰

Case 002/02 was the first time the issue of forced marriage appeared on the ECCC trial agenda after years of campaigning on the part of survivors, lawyers and civil society actors, and indeed, the inclusion of investigations of forced marriage in the Case is the result of the submission of a supplementary request by the co-prosecutors’ office rather than an initial component of investigations⁸¹. Thus whilst charges of forced marriage and rape within forced marriage have been afforded significance within Case 002/02, the multitude of complex experiences of men and women in this regard have not been afforded the same attention as issues of, for example, genocide and torture, and indeed sexual violence outside of marriage within Cases 001 and 002, has received no attention whatsoever. An investigative order to address gendered violence inside *and* outside of forced marriage in Case 004⁸² exists, but the current political climate surrounding both cases 003 and 004 indicates that these cases are unlikely to go forward.

Government support is central to the independent operation of cases at the ECCC⁸³. On numerous occasions the RGC have made explicitly clear their opposition to Cases 003 and 004 going ahead. Tangible examples of the political interference that reflects this claim can be found in various refusals of cooperation of the Cambodian police and

⁸⁰ *ibid*

⁸¹ de Langis, T., ‘A missed opportunity, a last hope?’, p.40

⁸² Open Society Justice Initiative, *Performance and Perception*, p.48

⁸³ Open Society Justice Initiative, *Performance and Perception*, p.16

Cambodian co-investigative team⁸⁴, failure to pay wages⁸⁵, claims of “political interference and controversy” of the International Co-Investigating Judge Siegfried Bunk⁸⁶, (2010-2011⁸⁷) and the eventual resignation of International Reserve Co-Investigating Judge Laurent Kasper-Ansermet (2010-2012⁸⁸) following what he called “egregious dysfunctions” within the ECCC institution. The RGC, in contestation of Cases 003 and 004, have gone so far as to contend that such cases could pose a threat to the country’s political stability⁸⁹. In essence, a lack of importance has been attributed to the gendered crime-focused voice and audience throughout the ECCC’s Cases.

The attribution of importance (or lack thereof) can also be analysed in regard to the role of young generations. Cambodia’s youth *are* afforded salience within the ECCC, within identified parameters. This takes place through a subtle exploit in frame amplification. Young people are central agents in taking those memory constructed within a TJ mechanism and installing them in a wider ‘national memory’ that is carried in dialogue, documents and activities, long after a TJ mechanism has formally concluded. Indeed, following a diagnostic framing process this is identified within ECCC discourse as a ‘problem’ for which, in subsequent prognostic framing activities, ‘solutions’ are provided. These solutions include, for example, the inclusion of youth study trips in ECCC outreach. The ECCC has for years been relatively active in making the court accessible to young people in Cambodia. An interview with a Public Information Officer at the ECCC exemplifies this numerically, as it was explained that 370,000 people, since 2009, have attended hearings and ECCC-organised study tours, of which “half [were]

⁸⁴ In 2015, Reuters reported that Cambodian police had “refused to arrest three former Khmer Rouge cadres charged with crimes against humanity” (in Cases 003 and 004) with the “implicit support” of Hun Sen. Prak, C. T, *Hun Sen hostility puts decade-old U.N. Khmer Rouge tribunal in doubt*, Reuters, April 21st 2015. Accessible at: <http://www.reuters.com/article/us-cambodia-rouge-idUSKBN0NC0UZ20150421>. Following the announcement of the then international co-investigative Judge Mark Harmon on March 3rd, 2015, that two former leaders (Im Chem and Meas Muth) had been charged in absentia, his Cambodian counterpart, You Bunleng, “following the policy of non-cooperation in these cases announced by Prime Minister Hun Sen” refused to put forward the cases to the Cambodian police, whilst simultaneously, the police force “reportedly refused to act on Harmon’s charges” Human Rights Watch, *Cambodia: Stop Blocking Justice for Khmer Rouge Crimes*, March 22nd 2015. Accessible at: <https://www.hrw.org/news/2015/03/22/cambodia-stop-blocking-justice-khmer-rouge-crimes>.

⁸⁵ Vandenbrink, R, ‘Cambodian Government Criticised for Failing to Pay Khmer Rouge Tribunal Staff’, *Radio Free Asia*, 5th September 2013. Accessible at: <http://www.rfa.org/english/news/cambodia/eccc-09052013190316.html>

⁸⁶ Open Society Justice Initiative, *Performance and Perception*, p.27

⁸⁷ Dr. Siegfried Blunk, eccc.gov.kh, accessed: 20th March 2017. Accessible at: <https://www.eccc.gov.kh/en/persons/dr-siegfried-blunk>

⁸⁸ Mr. Laurent Kasper-Ansermet, eccc.gov.kh, accessed 20th March 2017. Accessible at: <https://www.eccc.gov.kh/en/persons/mr-laurent-kasper-ansermet>

⁸⁹ Human Rights Watch, *Cambodia: Stop Blocking Justice*

young generation”⁹⁰. Additionally, ECCC outreach *is* inclusive of Cambodian youth to an extent; the distribution of information booklets (in Khmer language) and organisation of ECCC-specific lectures have, according to information provided within this interview, taken place in various provinces throughout the country⁹¹. Analysis of relevant outreach figures indicates that these activities indeed intend to include young people in Cambodia’s TJ mechanism. What is important to identify is that this inclusion, in which young Cambodians are encouraged through activities like court visits to intake the KR past and learn from the court’s proceedings, is restricted⁹². By this, I refer to the fact that this youth involvement is centred on the reconstructions of memory that are espoused by the ECCC, rather than including young people in the reconstruction of memories. As has been illustrated throughout this chapter, these memory reconstructions and framing activities both portray the ECCC as the most important mechanism for achieving justice, peace and truth for Cambodia which henceforth works towards a portrayal (to young Cambodians, *and* the wider population) of the court’s memory reconstructions and framing activities as a legitimate, socially-resonant ‘truth’. Furthermore, this approach to the inclusion of youth as ‘carriers’ of the memories that emerge within a TJ process, does not engage in activities geared towards formulating ECCC memory reconstructions in a way that might be meaningful and resonant for young people with limited knowledge of the period. Instead, memories are *presented* to young Cambodians in a unilateral way through lectures and presentations of Cases and the memories they contain, and framed as the outcome of the country’s legitimate mechanism for truth, justice and peace, without contextualisation or attempts at social relevance.

3.3 Frame Resonance

In the previous sections, I have discussed the prognostic and diagnostic framing of the ECCC. The question we need to ask now is, did these framing processes result in an ECCC memory reconstruction that has achieved perceptions of legitimacy and resonance within Cambodia?

In framing the pursuit of Cases 003 and 004 as a risk to the peace and stability that Cambodia has achieved⁹³, the RGC effectively engages in frame amplification. Opposition

⁹⁰ Authors own interview, Neth Pheaktra, Phnom Penh, 10th April 2017

⁹¹ Authors own interview, Neth Pheaktra, Phnom Penh, 10th April 2017

⁹² Author’s own fieldnotes, ECCC visit, Phnom Penh, 13th March 2017

⁹³ Human Rights Watch, *Cambodia: Stop Blocking Justice*

to Cases 003 and 004 highlights the preservation of the status quo (which in turn is framed as ‘under threat’) as more salient than a comprehensive judicial process in which a wider spectrum of KR atrocities and KR cadres are addressed. The RGC-constructed diagnostic frame which situates blame with those leaders prosecuted in Cases 001 and 002, undergoes a process of frame development as the maintenance of the justice and peace that Cases 001 and 002 are portrayed as having already achieved, are highlighted as more important than pursuing a deeper justice process. Furthermore, insofar as ECCC staff within the court also propagate a negative approach to the continuation of Cases 003 and 004⁹⁴, it would appear that the RGC framing process has found traction within the ECCC.

However outwith the court, most observers agree that the efforts to stall or conclude Cases 003 and 004 are merely illustrative of the self-preservation tactics of the RGC, and serves as a “smokescreen” for their legitimate concerns; that further cases could “embarrass the party” by implicating current government figures⁹⁵. DC-Cam Director Youk Chhang, for example, urged that the court “think about the justice for the victims”⁹⁶ in approaching the Cases rather than institutional dilemmas, whilst HRW described obstructions as “the Cambodian government’s refusal to cooperate in bringing Khmer Rouge leaders before the UN-backed tribunal”, and not a consequence of national stability concerns or budgetary issues but, simply, yet another example of “obstruction, delay and corruption”⁹⁷. It would seem, therefore, that particular ECCC and RGC framing activities have not achieved resonance amongst CS actors, that group upon which this thesis focuses.

Furthermore, the lack of government support for the Cases can be read as a lack of support for dealing effectively with events beyond those already addressed in Cases 001 and 002, for example, those gendered memory that have thus far been afforded far less significance and attention than the other crimes within the court. Frame amplification within the court in this way inevitably translates, to an extent, into the CS space that surrounds Cambodia’s TJ mechanism, and has resulted, until recent years, in equally limited salience afforded to gendered atrocities in the outreach activities of major CS

⁹⁴ Khemara, S., *‘Unwanted’ Khmer Rouge Tribunal Cases Remain Stuck*, VOA, 23rd March 2016. Accessible at: <https://www.voacambodia.com/a/unwanted-khmer-rouge-tribunal-cases-remain-stuck/3251088.html>

⁹⁵ Open Society Justice Initiative, *Performance and Perception*, p.26

⁹⁶ Khemara, S., *‘Unwanted’ Khmer Rouge Tribunal*

⁹⁷ Human Rights Watch, *Cambodia: Stop Blocking Justice*

actors in the country. For example, one CS actor commented that there was a tangible attitude in the CS space that gendered atrocities were not as “widespread” as other atrocities that occurred during the DK era; she went on to assert, referring to the same CS space, “I can’t tell you how many times I’ve heard people say its not that important”⁹⁸. These comments illustrate how the process of frame amplification was successful in this regard; the ECCC framing process that identified gendered crimes as less salient than other crimes, did for some time disseminate into the institutional practices and audience selection of central CS actors, and so achieved a degree of resonance with CS assumptions about Cambodia’s TJ journey and the importance of particular atrocities of the past. However as the following chapter will elucidate, the legitimacy this frame appears to have achieved within the CS space in early years, has given way to examples of direct CS contestation of the memory reconstruction and framing.

⁹⁸ Author’s own interview, Theresa de Langis, Phnom Penh, 9th May 2017

FOUR • Contestations of Memory and Frame: Institutional Practices of Local Civil Society

This thesis has thus far attempted to illustrate the framing processes engaged in by the ECCC, and as a result of its dominance over Cambodian political and judicial life, the CPP government. As was discussed in the previous chapter, diagnostic and prognostic framing is carried out by the ECCC and the RGC, and frame amplification in stories about the court, and in its Cases, situates particular audiences and memories as more salient than others. Further, the previous chapter also briefly attempted to assess the resonance amongst CS and observers of the ECCC, of those frames specifically identified.

During my fieldwork in Phnom Penh, I found that the ECCC (influenced by the RGC) constructs a memory through various framing processes. Further, in framing the court as the most legitimate mechanism for achieving justice, peace and truth for Cambodian citizens, the ECCC memory reconstruction inevitably becomes situated as the dominant truth in Cambodia. However, elite-level dialogue is not enough to situate an institution and its stories about the past as hegemonic within a country. In order to “thrive”⁹⁹ these stories must, as outlined within the analytic framework of this thesis, resonate with and have legitimacy in the eyes of a particular audience. Cambodian citizens must largely perceive the memory reconstructions espoused by the ECCC as meaningful and credible (that is, consistent with a societal structure of meaning). My research has, however, focused on CS institutions as something of a ‘stepping-stone’ existing between the ECCC and the Cambodian population. As a consequence, this chapter will move from the identified memory reconstructions that take place within the ECCC, and document the institutional practices conducted by select CS actors based in Phnom Penh, that inadvertently contest these reconstructions and, equally, the audiences they reach. In mapping these practices along three central themes – gender, youth and victimhood – this chapter aims to illustrate how peaceful contestation of memory (that strive for hegemony in the TJ space) takes place between two ‘bodies’ involved in Cambodia’s TJ journey in a tangible way. This chapter will, therefore, outline select relevant institutional practices identified within the activities of five civil society groups/actors, of which five are local (DC-Cam, the Bophana Centre, TPO, YFP) and one, a singular actor, is non-Cambodian but locally based and working in conjunction with local groups (Head Researcher of the Cambodian Women’s Oral History Project).

⁹⁹ Buchanan and Keohane, ‘Legitimacy of Global Governance’, p.407

4.1 Victimhood and Ownership

DC-Cam's Anlong Veng Peace Centre, in Oddar Meanchey province, is located in a controversial site. A former meeting place of local KR commanders, the district is made up of a majority of former KR cadre and their families. Perceptions of the DK era and ensuing guerrilla conflict are markedly different from other regions of Cambodia, particularly given that pre-1975 residents in rural areas like Anlong Veng were considered by the KR as 'Base People' (the name given to the rural peasant class untainted by urban life) and thus granted positions of authority and afforded a relatively better quality of life than 'New People' or '17 April People' (those Cambodians forcibly transferred from the cities, largely Phnom Penh). However, victimhood within Cambodia is a complex notion, and whilst contentious, some ex-cadre interviewed by this author in the Anlong Veng district self-identified as victims of the KR rule. One local village chief, and an ex-soldier in the KR, recalls his experience travelling between provinces in 1979, during and after the fall of the KR in Phnom Penh. Unsure of his destination or purpose, travelling through the jungle and engaged in sporadic fighting with Hun Sen's troops, he recalls that of the one hundred soldiers that began the journey to Anlong Veng, four reached their destination. Contracting malaria whilst living in the jungle in Anlong Veng, he eventually travelled across the Thai border, settling in a refugee camp until 1998 when the KR had fallen from power throughout Cambodia. Having visited the court, this respondent identified with the suffering of victims, given that he regarded himself as a victim despite his role as a KR soldier¹⁰⁰.

At the ECCC, the parameters within which one can be considered a victim are both wide *and* restricted:

“Any person or legal entity who has suffered from physical, psychological or material harm as a direct consequence of the crimes committed in Cambodia by the Democratic Kampuchea regime between 17 April 1975 and 6 January 1979.”¹⁰¹

This respondent's experience of victimhood does not fit within the neat bracket that has been constructed by the ECCC's parameters for prosecution. The respondent is not

¹⁰⁰ Author's own interview, Ouk Ra, Anlong Veng, 23rd April 2017

¹⁰¹ *Victims Participation*, ECCC, accessed 10th March 2017

Accessible at: <https://www.eccc.gov.kh/en/victims-support/participation>

excluded from engaging with his experience of victimhood in the ECCC space as a consequence of his role within the KR, which corresponds with the previously identified framing of guilt as exclusive to those senior KR leaders. Thus, the court conceptualises victimhood in a less 'black-and-white' manner – although the idea that ex-cadre might identify with notions of victimhood is, according to Gray, “not widely addressed by the ECCC of the RGC or in the NGOs”¹⁰².

However, this respondent's experience of victimhood occurred primarily *after* 1979, once the KR had fallen from power in Phnom Penh. As a consequence, this cadre's experiences of suffering fall outwith the ECCC conceptualisation of the conflict between April 1975 and January 1979. Fieldwork conducted in Anlong Veng illustrates institutional practices conducted by DC-Cam that can be read as inadvertently contesting these parameters of victimhood by focusing less on exclusionary delineations of victimhood in conjunction with limited perceptions of time. For example, the Centre encourages Cambodian students (both university and high school level), brought to the centre on field trips, to conduct interviews with Anlong Veng residents in order to discuss their experiences during the DK era¹⁰³. The facilitation of dialogue with people who might otherwise be conceptualised solely as 'perpetrators' allows for the opening up of a space within which residents' stories can be discussed without being constrained by limiting perceptions of guilt or victimhood. In observations in Anlong Veng, it was possible that concerns about judgement limited acknowledgement of guilt on the part of residents to an extent. However, what was important was the way in which these discussions facilitated a space within which long-term Anlong Veng residents, many of whom were ex-cadre, could engage with their past in whatever way they wished. Whether this included self-identification as a 'victim' following the fall of the KR in 1979, was unrestricted by the time frame propagated by the ECCC mandate's memory reconstruction.

4.2 Cambodian Youth: intergenerational dialogue and a relevant audience

Cambodian youth comprise a large and important component of society: around two-thirds of Cambodia's population are under the age of thirty, and one in five Cambodians

¹⁰² Gray. T., 'No Justice without Narratives', p.17

¹⁰³ Author's own fieldnotes, Anlong Veng, 19th/20th April 2017

are aged between fifteen and twenty-four¹⁰⁴. As discussed within the previous chapter, this significant proportion of Cambodian society are included (to an extent) in ECCC activities, largely via the propagation of a narrow memory reconstruction amongst a group with no direct experience of this past and, therefore, no experiences of their own to act as a reference point or contextualisation tool.

An ICTJ Report on Youth Outreach in the TJ context identifies four components that CS activity should be based upon in order to “maximise” the “potential” for youth “engagement”,

1. “Disseminate information through different formats”
2. “Open consultation exercises”
3. “Create forums for two-way communication through dialogues”
4. “Facilitate possibilities of participation at all stages of the TJ process.”¹⁰⁵

Within my research, areas of contestation are found to exist between the memory reconstructions within the court and CS practices that engage with a wider memory. The way that this contestation takes place with regard to youth involvement will be explored within the following sections with integration these four components.

4.2.1 DC-Cam Teacher Training and Genocide Education

DC-Cam, the largest archive centre for Khmer Rouge era documents and testimonies, is focused on two major objectives: the recording and preservation of memory, and the pursuit of justice using archives in Cambodia’s TJ process.

Through non-participant observation, two central youth-oriented programmes within DC-Cam’s activity were observable during my internship placement with the organisation; one of the NGO’s five-day teacher training programmes in the Kampong Cham province, and a high school genocide education forum in Phnom Penh. The two activities will be expanded upon in an effort to illustrate the way in which they approach

¹⁰⁴ United Nations Population Fund, *Cambodia Youth Fact Sheet 2015*, (2016) Accessible at: http://cambodia.unfpa.org/sites/default/files/pub-pdf/Flyer_Cambodia_Youth_Factsheet_final_draft_%28approved%29.pdf

¹⁰⁵ Ramirez-Barat, C., *Engaging Children and Youth in Transitional Justice Processes: Guidance for Outreach Programmes*, ICTJ Report, 2012. Accessible at: <https://ictj.org/sites/default/files/ICTJ-Report-Children-Youth-Outreach-2012.pdf>, p.11

the inclusion of youth as ‘carriers’ of memory, and how the practices within this approach indirectly contest the ECCC approach outlined within the previous chapter.

DC-Cam’s seventeenth Commune Teacher Training in Kampong Cham province¹⁰⁶ took place between April 3rd and 7th, centred on the organisation’s central idea that “genocide education is genocide prevention”¹⁰⁷. The training session saw one hundred and seventeen teachers from six provinces across the country in attendance¹⁰⁸, and intended “to provide the resources for teachers to incorporate the history of ... Democratic Kampuchea in their curriculum”¹⁰⁹ via the provision of both knowledge and teaching methodology. Drawing on the content of two DC-Cam textbooks, *A History of Democratic Kampuchea (1975-1979)* and the accompanying *Teacher’s Guidebook*, the training brought content and methodology together, and attempted to avoid common Cambodian teaching methods (e.g. lecture-oriented classes, minimal class discussion). Instead, student-teacher presentations and group work were utilised, external speakers including Civil Parties at the ECCC and academic experts were brought in, and numerous student-teachers were pushed in terms of their own teaching confidence via feedback sessions and mock-lessons. Overarching conclusions regarding the training (assumed as exemplary of the previous training sessions that have taken place elsewhere) can be drawn. The goal of the project is to educate Cambodian teachers (many of whom are themselves second-generation Cambodians and lacking in a comprehensive understanding of the KR era) about this part of the past, and to equip them with the tools with which to teach Cambodian children about this era. Similarly, the organisation’s classroom forums on genocide education attempt to address the “surprisingly little”¹¹⁰ done to educate people born after the DK era on the subject, and involves the use of a DC-Cam produced textbook, *A History of Democratic Kampuchea (1975-1979)*. The two projects are inextricably linked. In Cambodia, “few teachers are properly trained on teaching such sensitive but critical subjects as genocide”¹¹¹, and thus

¹⁰⁶ Pechet, M., *Report for the 17th Commune Teacher Training in Kampong Cham Province*, Documentation Centre of Cambodia, 2017. Accessible at: http://d.dccam.org/Projects/Genocide/pdf/Report_17th_Commune_High_School_Teacher_Training.pdf

¹⁰⁷ *ibid*, p.1

¹⁰⁸ Kampong Cham, Tbong Khmum, Kratie, Stung Treng, Rattanak Kiri, and Mondul Kiri

¹⁰⁹ Pechet, M., *17th Commune Teacher Training*, p.2

¹¹⁰ *Genocide Education*, DC-Cam, accessed 10th April 2017. Accessible at: http://www.d.dccam.org/Projects/Genocide/Genocide_Education.htm

¹¹¹ *ibid*

the two projects attempt to not only educate the younger generation, but “enhance the capabilities of teachers ... to convey the regime’s history”¹¹².

These activities can be analysed at a deeper level. Poor educational attention to the DK era at the nationwide level on the part of the RGC has resulted in a young population with limited knowledge about an era of Cambodia’s past that continues to have implications in the present. Further investigation into the actual results of ECCC outreach (to young Cambodians) appears to reveal both a focus on achieving high visitor numbers¹¹³ with little attempt to ensure inclusive and meaningful understanding of the past, nor an application of Cambodian history to a contemporary setting that has relevance for young people today. Indeed, the ECCC’s inclusion of young people within the court involves inserting them within the memory reconstructions that the court espouses. The format of a court visit involves the provision of information about court proceedings and portrayals of atrocities under prosecution, but with little opportunity for engagement with these portrayals¹¹⁴.

Comparatively, the importance afforded to equipping Cambodian youth with an *understanding* of this past is readily observable in DC-Cam’s emphasis on youth education. The institutional focus identified above, on equipping teachers with knowledge and skills that can be transferred intergenerationally, can be understood as a means of granting a degree of ownership over the process of understanding, and propagating an inclusive memory in Cambodia that moves beyond the memory reconstructions that are formulated within ECCC and RGC activity. Whilst DC-Cam’s genocide education programme involves the direct provision of knowledge from DC-Cam experts to Cambodian children, the teacher training workshop attempts to find sustainable means of addressing the identified knowledge gap, and encourages teachers not only to take on board the knowledge provided within the training, but to identify and construct ways of passing this information on to children in socially-relevant ways via both DC-Cam and their own teaching tools. In both classroom forums and the outcome of teacher training workshops, children are encouraged to take this knowledge and discuss it within their own social world beyond the academic sphere. Power over knowledge is placed not within a remote legal TJ institution. Instead, power over knowledge is situated within the familiar surroundings of the education system but in

¹¹² *ibid*

¹¹³ Author’s own fieldnotes, private conversation with CS actor, Phnom Penh, 16th March 2017

¹¹⁴ Author’s own fieldnotes from ECCC visit, Phnom Penh, 13th March 2017

conjunction with non-traditional learning techniques and, it is intended, renewed confidence of teachers regarding a part of the past that many were rather unfamiliar with. Further, teachers are encouraged to utilise their own experiences of DK¹¹⁵ (this of course is age-dependant). Essentially, these practices correspond with the ICTJ identified importance of adopting a “pedagogical perspective” in disseminating information related to memory and the past amongst youth¹¹⁶, and allows for youth involvement to be contextualised in the familiar framework of formal education. Further, “interactive activities”, in which “spaces for dialogue”¹¹⁷ are opened up, allow young people to exercise “their right to participation” in memory. This practice lies in stark contrast with youth involvement within the court, which largely focuses on the passive consumption of reconstructed memory.

4.2.2 The Bophana Centre: Multimedia as a Means of Contextualisation

The Bophana Audiovisual Resource Centre collates Cambodia-specific film, photographic, sound and television archives and provides the public with free access to Cambodia’s heritage, and for Cambodians, “it opens the door to large swathes of memory”¹¹⁸. The Centre is a mechanism for the construction of visual and audio memory in Cambodia, which documents not only the DK era, but also conflict within the country surrounding those years and, significantly, non-conflict related art in a variety of forms dating back to 1899¹¹⁹. Importantly, Bophana’s activities comprise a distinct youth orientation, and bringing the DK era together with a recognition of the country’s extensive artistic history can be read as a source of inspiration and national pride for Cambodian youth. A focus on capacity building is identifiable in the Bophana Centre’s central objective of providing vocational training to young Cambodians, as well as the utilisation of new multimedia and ever-growing Internet and smart-phone accessibility within the country¹²⁰. Insofar as the Bophana Centre acts as a means of recording and revivifying artistic history within Cambodia, this activity can be considered as a way to counter the “Cambodian memories [that] have been destroyed by three decades of

¹¹⁵ Author’s own fieldnotes, Kampong Cham, 3rd-7th April 2017

¹¹⁶ Ramirez-Barat, C., *Engaging Children and Youth*, p.11

¹¹⁷ *ibid*, p.12

¹¹⁸ *About the Bophana Centre*, bophana.org, accessed: 12th April 2017. Accessible at: <http://bophana.org/about/>

¹¹⁹ Author’s own interview, Chea Sopheap, Phnom Penh, 12th May 2017

¹²⁰ *ibid*

war”¹²¹ and, as a result, to reach an understanding of history whilst “build[ing] their present and invent[ing] their future”¹²². Within Bophana’s institutional activity there appears to be a focus on contextualising the past within the present, which can be read as a means of lending relevance to a past that young people have no direct experience of. Indeed, insofar as the organisation places importance on giving “prospects to the youth”¹²³, this implies a practice of placing responsibility over the past in the hands of young people by equipping them with the tools to analyse their country’s past – outwith the memory reconstructions taking place in the ECCC at the top of the country’s TJ tier - and construct an image of Cambodia ‘tomorrow’.

One of Bophana’s central projects in 2017 is the creation of a KR History application, for use on smart-phones and tablets. Conceptualised as an “educational tool”, it intends on completion to provide “very easy, simple information about the past to the younger generation”¹²⁴, integrating text with film, interviews with survivors, photography and sound recordings. The tool takes advantage of now widespread Internet and WiFi access across Cambodia. One member of Bophana’s staff, discussing the App’s conceptualisation, notes that “one-third” of the total population are connected to the Internet, and the majority of that third comprises young people. The App builds upon the country’s technological developments and portrays Bophana’s knowledge and archives in a way that is relevant and accessible for its target audience. Informal conversations with students and young people in both Phnom Penh (the country’s capital city) and Anlong Veng (one of the country’s most rural areas) revealed a general lack of interest or knowledge in both the ECCC and the DK era¹²⁵. The App conceptualises the past in a format that young people are increasingly familiar with (an online application), is freely accessible regardless of geographical location or legal knowledge, and comprises various forms of multimedia.

Within a TJ mechanism like the ECCC, young generations with no direct experience of the events governed by said court are understandably not conceptualised as ‘victims’ of a conflict, and the salience afforded them within the parameters of the ECCC focuses mainly the one-way provision of information within previously-constructed parameters of memory. Comparatively, within this seemingly simple App, inadvertent contestation

¹²¹ *About the Bophana Centre*, bophana.org

¹²² *ibid*

¹²³ *ibid*

¹²⁴ Author’s own interview, Chea Sopheap, Phnom Penh, 12th May 2017

¹²⁵ Author’s own fieldnotes, Anlong Veng, 22nd-23rd April, and Phnom Penh, 12th May 2017

of the ECCC memory reconstruction and framing processes identified within the previous chapter takes place. Such activities are illustrative of the alternative practices via which a wider memory are engaged with by particular CS actors, that envisions a post-conflict Cambodia inhabited by young Cambodians who understand, rather than bury, the past, engage with it in two-way dialogue rather than inhabiting elite-level reconstructions of reality, and have contextualised the history experienced by their elders in such a way as to make memories applicable in the present.

4.2.3 Youth For Peace: a focus on Cambodia's youth

YFP is a local Cambodian NGO that delivers peace and conflict resolution education, as well as training in leadership and reconciliation, for Cambodian youth. Whilst addressing the wider structures of poverty, inequality and power disparity that exist in Cambodia alongside an “elusive” “true peace based on social justice”, YFP also focuses specifically on the role of young people as constructors and transporters of memory as part of its goal of “building a culture of peace in Cambodia”¹²⁶ and “empower[ing] youth to be agents of social change”¹²⁷. Similar to Bophana’s work, YFP focuses on capacity building in a conceptualisation of Cambodian youth as the “future leaders of Cambodia”¹²⁸. This corresponds with what the ICTJ conceptualises as ‘participatory activities’: “projects in which ... youth can themselves lead the process”. The purpose of such practices is to “help to construct a sense of ownership of the process among younger generations, while building their capacity for civic engagement”¹²⁹. An interview with YFP’s Executive Director is illustrative of this focus as regards YFP’s acknowledgement of the centrality of young people in Cambodia’s post-conflict journey:

“After the war, there are a lot of old people involved in peacebuilding ... we can see that should be the role of young people in peacebuilding process and reconciliation process, so we start to develop a project in the beginning, to really strengthen young people in terms of identity,

¹²⁶ *Welcome to Youth for Peace*, [yfpcambodia.org](http://www.yfpcambodia.org), accessed on: 12th April 2017. Accessible at: <http://www.yfpcambodia.org>

¹²⁷ Author’s own interview, Long Khet, Phnom Penh, 27th April 2017

¹²⁸ *ibid*

¹²⁹ Ramirez-Barat, C., *Engaging Children and Youth*, p.14

in terms of critical thinking and communications, solidarity among young people, responsibility.”¹³⁰

Acknowledging specifically the KR/DK knowledge gap that is prevalent amongst Cambodian youth (much in the same way as DC-Cam), in 2007 YFP developed an on-going project called Youth for Justice, which both educates young people on the KR past and its root causes, and provides a mechanism for young people to engage in the country’s “healing and reconciliation process” via the construction of a “safe space for the survivor[s] to share their stories” during “intergenerational dialogue”¹³¹.

Survivors – particularly those who are not directly involved in the ECCC institution’s proceedings - do not possess ownership of the way the past is conceptualised within the ECCC institution. The memory created by the court are constructed and framed with a focus on establishing powerful actors in Cambodia, and the ECCC institution, as a dominant producer of ‘truth’. Comparatively, ownership of the peace and justice process can be understood within the YFP Youth for Justice project, and the NGO’s wider goals as they relate to the DK era and surrounding years, as being situated, through particular institutional practices, with both victims and youth. One particular practice elaborated on by the NGO’s Executive Director involves the use of art therapies with survivors, in which they utilise art to recall memories of the past, which are then used to structure intergenerational dialogue with Cambodian youth¹³². In this practice, survivors have complete control over the memory that exists within the social space, and indeed over the entire dialogue process as the parameters of the discussion are framed by the survivor’s work within the art therapy session. Importantly, it also situates young people firmly within the peace and justice narrative. Receiving knowledge about the past, young people become carriers of these memory and a means of ensuring that the lessons of Cambodia’s past are incorporated into a wider framework of capacity building propagated by YFP as, their Executive Director went on to explain, the organisation equips youth with the skills to propagate a “culture of peace” within the country¹³³.

¹³⁰ Author’s own interview, Long Khet, Phnom Penh, 27th April 2017

¹³¹ *ibid*

¹³² *ibid*

¹³³ *ibid*

4.3 A Contestation of Gendered Memory Reconstructions

Sexual violence during the DK era has, since the ECCC's establishment, been a neglected component of the legal agenda. It seems that this has had consequences for conceptualisations of the magnitude of harm such violence caused, and in turn the extent to which such violence has been discussed. An OSJI report notes that “despite having jurisdiction, various organs of the ECCC have continually limited the scope of when and under what circumstances the court will hear evidence relating to sex crimes”¹³⁴. As de Langis explains, Case 002's closing order conceptualises “forced marriage and rape *inside* the context of forced marriage as a central element of control under the Khmer Rouge regime”¹³⁵. This means that, whilst the order touches on further examples of sexual violence beyond this, “the indictment determines that the accused cannot be linked to these crimes because the Khmer Rouge aimed to prevent them through an official policy”¹³⁶. Thus, diagnostic framing activities within the ECCC place an inherently limited lens on sexual violence, in which punishment within the legal domain is restricted, and the complex and varied memories (of both female and male victims), which by their nature do *not* exist within a pre-defined conceptualisation of violence, are inadequately addressed and ultimately silenced by both the way in which diagnostic framing situates punishable sexual crimes within limited parameters and frame amplification gives greater salience to such crimes *within* forced marriage and, thus, less attention to sexual crimes without this domain.

In contestation of this reconstruction of memory, institutional practices and activities that specifically intend to empower and illuminate a more gendered discussion of the DK era – and, importantly, the surrounding years – can be found within the local CS ‘social world’ that finds its base in Phnom Penh¹³⁷. Further, similarities can be drawn between these activities and those identified within the previous section, insofar as they incorporate practices favouring personal ownership of memory. This is evident within the two following projects, which focus on the pursuit of a victim/survivor-defined memory construction. In a further example of inter-institutional practice similarity, the latter project in particular incorporates an intergenerational/youth focus as it works

¹³⁴ Open Society Justice Initiative, *Performance and Perception*, p.47

¹³⁵ de Langis, T., *A missed opportunity, a last hope?*, p.40

¹³⁶ *ibid*

¹³⁷ It should be noted that whilst the civil society actors discussed here are based within Phnom Penh (where much of this research was carried out) the activities identified here take place in various locations throughout Cambodia.

beyond 'reflecting back' survivors' stories by making efforts to contextualise a specific component of the past in a generationally-relevant manner, and incorporating large-scale intergenerational discussions.

These practices that inadvertently contest the memory reconstructions that emerge out of the ECCC have arisen within a Cambodian TJ context in which stories about sexual violence were considered, according to one CS actor, as "not that important"¹³⁸. According to the same respondent, those involved in the construction of practices to counter the initial position of the ECCC – and, interestingly, NGOs in Cambodia – which "neglected" the gender narrative, faced "a really long road ... to counteract this"¹³⁹. Identifying this problem, a number of significant CS actors are essentially engaging in a process of counter-framing, defined by Benford and Snow as "attempts to rebut, undermine, or neutralise a person's or group's myths, versions of reality, or interpretative framework."¹⁴⁰ . In this, the following two projects can be understood as an exercise in counter-framing, insofar as they "rebut" that "[version] of reality"¹⁴¹ in which gendered memories are regarded as less salient than other memories of the DK era.

4.3.1 The Cambodian Women's Oral History Project

The Cambodian Women's Oral History Project (CWOHP) collects oral histories in a life story format from Cambodian women who survived the Khmer Rouge regime. Excerpts of these histories are available online to facilitate global access, and full testimonies will in time be archived in a public repository¹⁴². Theresa de Langis, the Project's creator and head researcher, provides an illuminating insight into the process facilitating the Project¹⁴³. Importantly, the research addresses gendered violence beyond rape, and works towards empowering memory beyond the confines of forced marriage, in which stories illustrating "the other ways the atrocities were gendered and had gendered impacts" are heard¹⁴⁴.

¹³⁸ Authors own interview, Theresa de Langis, Phnom Penh, 9th May 2017

¹³⁹ *ibid*

¹⁴⁰ Benford, R. and Snow, D., 'Framing Processes and Social Movements', p.662

¹⁴¹ *ibid*

¹⁴² *Cambodian Women's Oral History Project: Life Stories of Survival under the Khmer Rouge Regime*, cambodianwomensoralhistory.com, accessed: 18th April 2017. Accessible at: <http://cambodianwomensoralhistory.com/about/>

¹⁴³ Author's own interview, Theresa de Langis, Phnom Penh, 9th May 2017

¹⁴⁴ *ibid*

The project can be understood as inclusionary of a sense of freedom and empowerment; “you tell your story the way you want to and you say, make sense of your crazy life in the way that you want to, tell it to me and I’m going to save it, I’m going to be a steward and I’m going to find the best way to keep it in the loop”¹⁴⁵. Indeed, as de Langis expands,

“Part of the violence of a forced marriage and these kinds of sexual issues was the fact that there was no asking for consent, so replicating that kind of practice and trying to repair it just isn’t going to work ... giving the power to the person who is providing this oral history is very important.”¹⁴⁶

Major themes are identifiable here. Wide-ranging gendered memories of the DK era have been suppressed in the Cambodian transitional justice experience, and indeed in Cambodian social life in general. This is reflective of a frame amplification process that locates the most meaningful and legitimate pursuit of truth and justice within the inevitably narrow confines of a criminal court, and thus cannot ‘hear’ the Cambodians whose experiences do not match the ECCC’s construction of KR atrocity. This in turn poses a risk of rendering the ECCC as unidentifiable and, therefore, illegitimate and without resonance for this audience. The practices identified within the CWOHP contest this process of framing and memory reconstruction, by situating women (and men) who have experienced sexual violence (without restriction of type) in a position in which they are in control of their own history and the lens through which that history is understood. Not only does this allow for an expanded understanding of sexual violence during – and beyond – the DK era, but it works towards countering a double injustice of sexual violence, in which victims, stripped of personal sovereignty during a crime, face a second ‘assault’ on their own authority as their histories are shaped - or excluded - by reconstructions of the past that take place at the top of a memory hierarchy.

4.2.2 Phka Sla

“The question is, can art heal?”¹⁴⁷

¹⁴⁵ *ibid*

¹⁴⁶ *ibid*

¹⁴⁷ Authors own interview, Theresa de Langis, Phnom Penh, 9th May 2017

Integrative approaches to addressing the gender/sexual violence gap within the ECCC narrative are also identifiable. Exploring forced marriage during DK, *Phka Sla*, a traditional Khmer dance performance, was developed as a result of work between de Langis and the Khmer Arts Academy¹⁴⁸. In conjunction with the BOPHANA Centre, Kdei Karuna and TPO¹⁴⁹, the project, according to de Langis, is an “interesting experiment” in that the organisations are “the only NGOs working in that coordinated fashion”¹⁵⁰. The *Phka Sla* project is illustrative of the utilisation of art in civil society institutional practices as an alternative means of addressing the past outside legal confines. The use of Khmer classical dance can be understood as a way of “open[ing] up new means of conversation”¹⁵¹. The use of Khmer-specific art in this context has, according to two civil society actors involved in the project¹⁵², provided a means of displaying stories about the past that are accessible at all levels of Cambodian society and beneficial to victims within and beyond the ECCC. Further, it has facilitated discussions of gender and sexual issues beyond forced marriage that are more applicable to contemporary Cambodian life. Benford and Snow’s identify the concept of narrative fidelity as an aspect of frame resonance – defined as “the extent to which a frame is congruent with the target’s culture”¹⁵³. Similarly, his framing process tries to find similarity with already-existing cultural narratives. The framing of narratives of the past through art forms that are traditional within Cambodian society illustrates a desire to situate the gender narrative in a relevant context for survivors, and ‘reflect back’¹⁵⁴ their own experiences in a manner that is accessible and familiar.

The institutional practices identified throughout this chapter should not be conceptualised singularly but as they relate to each other. Both those practices relating to Cambodian youth and intergenerational dialogue are being constructed within the *Phka Sla* project. The involvement of Kdei Karuna, a peace building NGO focused on youth and intergenerational dialogue, is significant in the creation of day-long community forums following the performance. The purpose of these forums is to

¹⁴⁸ Warburton, M., *The Power of Dance: Recounting Forced Marriage during the Khmer Rouge period*, 2017, accessed on: 18th April 2017.

Accessible at: <https://www.eccc.gov.kh/en/blog/2017/02/13/power-dance-recounting-forced-marriage-during-khmer-rouge-period>

¹⁴⁹ Author’s own interview, Chea Sopheap, Phnom Penh, 12th May 2017

¹⁵⁰ Authors own interview, Theresa de Langis, Phnom Penh, 9th May 2017

¹⁵¹ *ibid*

¹⁵² Author’s own interview, Chea Sopheap, Phnom Penh, 12th May 2017; Authors own interview, Theresa de Langis, Phnom Penh, 9th May 2017

¹⁵³ Benford, R. and Snow, D., ‘Framing Processes and Social Movements’, p.622

¹⁵⁴ Authors own interview, Theresa de Langis, Phnom Penh, 9th May 2017

facilitate dialogue between survivors and younger generations, and significantly, to situate the discussions in a contemporary context, allowing the conversation to address the changing roles of men and women in Cambodian society¹⁵⁵.

¹⁵⁵ *ibid*

FIVE • Conclusion

Reflecting on memories of the DK era and the complexities of victimhood, DC-Cam's Executive Director Youk Chhang explained in an interview,

“My mother has no idea whoever the accused are at the ECCC at all, it doesn't make her less of a victim at all, but people will say, ‘oh, you don't know Ieng Sary?’ My mother will say ‘I don't know’. But she lost five brothers and sisters, some of her kids: not knowing the name of a perpetrator doesn't make her less of a victim.”¹⁵⁶

This seems emblematic of the gap that this thesis has attempted to analyse; that fissure between the memory constructed within a TJ mechanism like the ECCC, and the way that this memory is experienced by people for whom these memories do not correlate with their own. Throughout, this thesis has looked to respond to the following research question,

What institutional practices are specific civil society actors based in Phnom Penh engaging in, which serve to contest the reconstruction of memory contained within the ECCC institution in 2017?

In responding to this question, I have tried to address two major objectives. First, I have attempted to illustrate the way that TJ mechanisms like HCT's in post-atrocity societies can become inextricably tied up in the asymmetrical structures of power that already exist within said society, and subsequently engage in framing processes that reconstruct memories of the past that favour the needs of powerful societal actors. Secondly, I have identified institutional practices and activities that local CS actors are engaging in that, operating in the TJ space that surrounds the ECCC, address a wider body of memory, voices and audiences and attempt to construct their practices so that they favour participant-ownership over memory, knowledge and experience. In this, I argue that these practices inadvertently contest particular ECCC manufactured memory reconstructions, and are representative of peaceful contestation between two major bodies within the Cambodian TJ space.

¹⁵⁶ Author's own interview, Youk Chhang, Phnom Penh, 26th April 2017

Any social world can be understood as inclusive of innumerable realities, and a TJ space is much the same. Comprising a mass of voices, experiences and memories, no one reality will be identical to another, and no one reality is more true than the rest. However, we must acknowledge that asymmetries of power inevitably exist in any social world, and these asymmetries can filter through the fabric of this social world into the body of a TJ mechanism.

This research has identified a number of framing processes taking place within the ECCC. We can take framing to refer, at the most abstract level, to meaning and reality construction; engaging in diagnostic and prognostic framing, a particular reality is effectively constructed via ECCC framing. Two major framing activities are found to occur. Firstly, the court (understood as, in part, a construct of the RGC) is framed as the most legitimate and dominant mechanism for achieving truth, justice and peace in Cambodia. Secondly, a wider body of framing activities focus on memory reconstruction. Parameters of guilt and responsibility are established via framing activity that favours power asymmetries within Cambodia. Beyond this, frame development takes place as greater salience is afforded to particular memories and atrocities from the DK era within court proceedings, and to particular audiences within court outreach.

Bringing in earlier discussions of legitimacy and resonance, the analytic framework upon which this thesis rests touched upon the contention that in order for any frame or memory reconstruction to gain traction with an audience, it must correspond with that audience's own values and meaning-making structures. In the Cambodian case, we can build on this and contend that for the memories that the ECCC espouses, and indeed its position as the country's most legitimate mechanism for finding truth, peace and justice, to be considered resonant amongst 'ordinary Cambodians' they must feel that their own experiences, voices and memories are being reflected back to them. It was beyond the scope of this research to begin the extensive data-collection necessary to analyse whether ECCC memory reconstructions are resonating with Cambodian's own conceptualisations of the DK era. However, in identifying areas of contestation identifiable in particular CS practices, this thesis illustrates that these ECCC-propagated memories and frames are not achieving resonance amongst the CS institutions that surround the court. No open contestation of the court's legitimacy as a TJ mechanism exists, but alternative practices that indirectly contest the court's memory reconstructions and framing activities are prevalent in particular areas of Phnom Penh's CS space. These can be found in, amongst others, youth-oriented educational

programmes, the use of art and multimedia to engage with young and gender-focused audiences, and the facilitation of inter-generational dialogue with a consideration of notions of victimhood.

Despite these findings, this research experienced a number of limitations that can be linked with suggestions for further research. As a consequence of both geographical access constraints, my research was limited to a focus on the contestation of memory on the part of select CS actors based within Phnom Penh only. The Cambodian capital is markedly different to other areas of the country in terms of political support¹⁵⁷, and combined with its proximity to the court, it must be acknowledged that CS activity in Phnom Penh cannot be considered representative of nationwide attitudes and practices. It was clear to me that expanding my research to analyse and compare CS activity in other areas of the country could help to reduce the geographical bias that inevitably underlies this research.

I also acknowledge that in CS activity's contestation of memory reconstruction and framing processes within the ECCC, so CS actors themselves engage in their own framing activities. Indeed, the memory reconstruction that CS institutional practices engage in intends to provide greater ownership over memory for participants of CS activities. However, these practices and activities are ultimately determined in part by CS assumptions about what is legitimate and resonant for Cambodian people in terms of engaging with the past. In this, we must acknowledge that CS actors, much like the ECCC institution, also possess a degree of control over the naming of grievances¹⁵⁸, and determining "the whatness of what is"¹⁵⁹ in the construction of institutional practices and activities that they deem most legitimate for and resonant with 'ordinary Cambodians'.

It would, therefore, be useful to draw upon these limitations in future research. This thesis has attempted to fill an academic gap by addressing a social one. Hybrid and international tribunals continue to feature prominently in international and domestic

¹⁵⁷ Commune election results from June 2017 reflect this. The Cambodia National Rescue Party (opposition party to the CPP) won the elections in Phnom Penh, Siem Reap (another major city in the country) and Kampong Cham, whilst the CPP maintained its "majority grip on the country's communes" elsewhere. Khy, S. and Mom, S., *CPP still top*, The Khmer Times, June 5th 2017. Accessible at: <http://www.khmertimeskh.com/news/39043/cpp-still-top/>. CPP support, therefore, varies between urban and rural areas.

¹⁵⁸ Benford, R. and Snow, D., 'Framing Processes and Social Movements', p.616

¹⁵⁹ Boltanski, L., *On Critique*, p.74

efforts to deal with conflict and atrocity, as recent ventures in the likes of the Special Tribunal for Lebanon, beginning in 2009, and the Extraordinary African Chambers, beginning in 2013, indicate. Their continued use should not, however, be misconstrued as indicative of a lack of need for the continued improvement of such mechanisms. Frequently dealing with past atrocity that directly affected ordinary citizens, such mechanisms can often become, as this thesis has illustrated, distant from the experiences and memories of those over whom they govern. CS can be conceptualised as something of a middle ground between an elite-level TJ mechanism and ordinary citizens, possessing in themselves a degree of power insofar as their activities can exist in contestation of the TJ mechanism. In analysing TJ contestation from the perspective of CS, therefore, I have attempted to move beyond a concentration on citizens' perspectives of TJ mechanisms that is evident throughout much ECCC commentary. In doing so, I hope to illustrate those institutional practices that CS actors engage in - based on a conceptualisation of such practices as more legitimate and resonant for 'ordinary Cambodians' - that might be built upon in future literature that looks at ways of narrowing that gap that often comes to exist between hybrid tribunals and ordinary citizens in post-atrocity societies. In analysing the way in which select CS actors in Cambodia strive to situate ownership over memory in the hands of citizens, give voice to young people as carriers of memory, and acknowledge the multitude of experiences that comprise past atrocity, this thesis contends that an important lesson can be taken forward into the on-going discussion surrounding TJ. This focuses on repairing the fracture that exists between the memories constructed within criminal tribunals, and those of the citizens over which they govern.

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Appendix

List of Interviews (in order of interview date)

1. Savina Sirik, Documentation Centre of Cambodia, Phnom Penh, 24th March 2017
2. Panhavuth Long, Independent, Phnom Penh, 25th March 2017
3. Bun Lemhuor, Transcultural Psychosocial Organisation, Phnom Penh, 18th April 2017
4. Sokunnara Thlen, Transcultural Psychosocial Organisation, Phnom Penh, 18th April 2017
5. Chea Chhauet, Civil Party at the ECCC, Anlong Veng, 19th April 2017
6. Hov Teng, Civil Party at the ECCC, Anlong Veng, 19th April 2017
7. Khien Ram, Civil Party at the ECCC, Anlong Veng, 19th April 2017
8. Lun Nora, Student, Anlong Veng, 19th April 2017
9. Morn Mao, Civil Party at the ECCC, Anlong Veng, 19th April 2017
10. Srang Saroem, Civil Party at the ECCC, Anlong Veng, 19th April 2017
11. Long Chi, Resident, Anlong Veng, 22nd April 2017
12. Long Ty, Resident, Anlong Veng, 22nd April 2017
13. Mr. Poasan, Retired teacher, Anlong Veng, 22nd April 2017
14. Sat Seoun (& husband, name withheld), Residents, Anlong Veng, 22nd April 2017
15. Som Kmson, Student, Anlong Veng, 22nd April 2017
16. Esther (last name withheld), Anlong Veng, 23rd April 2017
17. Kaong Seangny, Resident, Anlong Veng, 23rd April 2017
18. Kim Ngo, Resident and teacher, Anlong Veng, 23rd April 2017
19. Ouk Ra, Village Chief and ex-soldier, Anlong Veng, 23rd April 2017
20. Youan (last name withheld) Anlong Veng, 23rd April 2017
21. Youk Chhang, Documentation Centre of Cambodia, Phnom Penh, 26th April 2017
22. Long Khet, Youth For Peace, Phnom Penh, 27th April 2017

23. Theresa de Langis, Cambodian Women's Oral History Project, Phnom Penh, 9th May 2017
24. Chea Sopheap, The Bophana Centre, Phnom Penh, 12th May 2017
25. Penlong Kuoch, Student, Phnom Penh, 12th May 2017
26. Srey Neang, Student, Phnom Penh, 12th May 2017