The Khmer Rouge Tribunal
– Searching for Justice and Truth in Cambodia

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Abstract

The Cambodian Khmer Rouge Tribunal and the Search for Justice and Truth. A study of the process of reconciliation in a developing country with a violent past.

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The aim of this thesis is to analyze the relationship between the Khmer Rouge tribunal in Cambodia and the national reconciliation process. A qualitative method involving secondary source analysis as well as field study interviews is being used. The point of departure is a theoretical framework of reconciliation assembled from different sources, as there seems to be no coherent and widely accepted framework available for use. An analysis model is constructed, focusing on the concepts of justice and truth. The findings indicate that reconciliation is nowhere near fulfillment, although a few steps towards national reconciliation have been taken. The Cambodian process of reconciliation is only at its earliest stages. Furthermore, the findings suggest that there is a strong relationship between the tribunal and the reconciliation process, inasmuch as the tribunal is perceived to have positive effects on reconciliation, and that continued reconciliation would not be possible without the tribunal. The tribunal is not the only part in reconciliation though, it is a necessary but not sufficient precondition for continued reconciliation. The tribunal can not bring reconciliation close to fulfillment on its own, other mechanism must be involved in order to do so.

Key words: Cambodia, Khmer Rouge, reconciliation, transitional justice, tribunal, hybrid court, genocide, international law, UN
Foreword

I would like to take this opportunity to thank the director and staff of the Khmer Institute for Democracy in Phnom Penh, without whom this study would not have been possible. I also would like to thank my interpreters, you know who you are. Last but not least, I would like to express my respect for and gratitude to the respondents and informants, who willingly agreed to share their experiences of and opinions on these demanding issues.

Fredrik Persson, Stockholm, Sweden, 2009-06-16

The cover image shows a nameless sculpture made out of molten guns, erected in 1999 at the northern end of Monivong Boulevard, Phnom Penh.
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#### Facts on Cambodia

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Abbreviations and gallery of characters

CPP  Cambodian People’s Party
CSD  Center for Social Development
DC-Cam  Documentation Center of Cambodia
ECCC  Extraordinary Chambers in the Courts of Cambodia
FUNCINPEC  Front Uni National pour un Cambodge Indépendant, Neutre, Pacifique, et Coopératif
ICC  International Criminal Court
ICTR  International Criminal Tribunal for Rwanda
ICTY  International Criminal Tribunal for the Former Yugoslavia
KID  Khmer Institute of Democracy
KPNLF  Khmer People’s National Liberation Front
NGO  Non-governmental Organization
SRP  Sam Rainsy’s Party
UNAKRT  United Nations Assistance to the Khmer Rouge Tribunal
UN  United Nations
US  United States

Pol Pot  Originally Saloth Sar, Brother Number One and highest leader of Angkar Padevat (Central Committee of the Revolutionary Organization), Prime Minister 1975-79, dead 1998
Khieu Samphan  President and Head of State 1976-79, left the Khmer Rouge in 1998, arrested November 2007, on trial for crimes against humanity and war crimes
Nuon Chea  Brother Number Two, ex-Vice Prime Minister, left the Khmer Rouge in 1998, arrested September 2007, on trial for crimes against humanity and war crimes
Ieng Sary  Brother Number Three, brother-in-law of Pol Pot and ex-Foreign Minister, left the Khmer Rouge in 1996, arrested November 2007, on trial for crimes against humanity and war crimes
Ieng Thirith  Wife of Ieng Sary and sister-in-law to Pol Pot, ex-Social Minister, left the Khmer Rouge in 1996, arrested November 2007, on trial for crimes against humanity
Kaing Guek Eav  Aka Duch, Governor of S-21 (Tuol Sleng) Central Security Prison, arrested May 1999, on trial for crimes against humanity and war crimes
Hun Sen  Party Leader CPP, Prime Minister 1985-, ex-Khmer Rouge officer, defected in 1977
Lon Nol  Prime Minister 1970-75, died in US exile 1985
Norodom Sihanouk  King 1941-55, Prince 1955-70, Head of State 1975-76, King 1993-2004

Sources: various
1 Introduction

1.1 Background and problem description

Since about ten years work is in progress to hold trials against the former leaders of the Khmer Rouge in Cambodia. The aging Khmer Rouge leaders are to be tried for crimes regarding their participation in the death of about 1.7 million Cambodians, who perished from starvation, slave labor, disease, and summary executions between 1975 and 1979. The tribunal, the Extraordinary Chambers in the Courts of Cambodia or the ECCC, consists of both Cambodian and international judges, a compromise solution since the UN has demanded a trial for a long time, but not been able to reach an agreement with the Cambodian government on the design. The trials in this hybrid court are at the present under way.

The Khmer Rouge tribunal may be seen as a vital part in the reconciliation process in Cambodia. But the Khmer Rouge tribunal faces a wide array of problems - Cambodia suffers from grave democratic shortcomings, former Khmer Rouge members still hold high positions in the Cambodian administration, and the ones in custody grow yet older as the work of the tribunal seems to move at a snail’s pace, to mention but a few. A number of intriguing questions can thus be raised. Is the tribunal really going to be able to advance the reconciliation process? Is reconciliation actually a prerequisite of continued democratization? Will the relative lack of rule of law stall the tribunal’s work?

The focus of this study is thus to investigate the relationship between the tribunal and the reconciliation process. My hopes are that this study will be able to illuminate the mechanisms of reconciliation and the role of tribunals in developing countries with a violent past. The purpose of analyzing reconciliation processes should hold a high degree of relevance in political science, connected as it is to issues of democratization, although reconciliation studies are yet in its scientific infancy. This prospect is also intimately connected to development issues, and might offer valuable insights into the progress processes of developing countries with a similar history of violence and conflict.
1.2 Scientific aim and research questions

The scientific aim of this study is to analyze the relationship between the Khmer Rouge tribunal and the Cambodian reconciliation process. The study aims at investigating if there is a connection between the tribunal and reconciliation, and if so, what the nature of that connection is. This aim is embodied in the first and most important research question:

What is the relationship between the Khmer Rouge tribunal and the reconciliation process?

This research question is somewhat dynamic to its nature, in that it investigates a relationship, with all that might imply of connections, effects, and interdependency. In order not to venture into a quagmire of loose assumptions, we first must establish the present state of reconciliation, that is how far reconciliation has progressed. This leads to the second, more static, research question:

What is the present state of reconciliation in Cambodia?

These two research questions make up the lion’s share of this study. But if we are to really stand on firm ground, some attention must also be paid to a third object of investigation – the tribunal in itself. Likewise to establishing a picture of the present state of reconciliation, we must also illustrate the nature of the tribunal in itself, its *modus operandi*, if you please. This we do by posing a third, less important, background question, not to be seen as a proper research question in its own right:

What are the characteristics of the Khmer Rouge tribunal?

With point of departure from this series of research questions, in falling order of importance, I thus intend to frame the issue of the state of, and relationship between, the tribunal and the reconciliation process. I will be doing so by producing a reconciliation analysis tool, with help of which these research questions can be answered.
1.3 Scope of study

This study is focused on the concept of reconciliation. When discussing reconciliation, the sole interest lies in the open-ended process of reconciliation itself, not in related processes, such as conflict resolution or peace-making. Reconciliation in this context means national and political reconciliation, not personal and individual reconciliation, and without religious meaning. Although reconciliation can be seen out of lot of aspects, this study concentrates on juridical and political aspects. Since reconciliation is a contemporary and ongoing process, this study is very much centered on the present. Historical excursions are only used when deemed necessary for a complete understanding of the present issues at hand. As will be shown later on, democratization issues can not be entirely overlooked when discussing reconciliation, but this study is in the first place about reconciliation, why democratization issues regretfully are pretty much ignored. The concept of reconciliation will be defined and further delimited in the theory chapter. Even though issues on international law and transitional justice can not be completely evaded when discussing the tribunal, these aspects are deliberately held back since reconciliation, and not the tribunal in itself, is in focus. Furthermore, since this is a case study on Cambodia, international aspects and comparisons are left out of account to the highest possible degree.

1.4 Disposition

My point of departure is the concept of reconciliation, and the research state of this concept is being accounted for. A brief introduction to international law and tribunals is also included, after which a theoretical framework is designed, inclusive of an analytical tool. At the same time my qualitative method is being described. Then follows two largely descriptive chapters on Cambodia and the ECCC, needed for a full understanding of the context. The analysis is done in two parts: a static analysis of the present state of reconciliation, and a dynamic analysis of the relationship between the tribunal and the reconciliation process. The study ends with a conclusion of the findings, theory discussion, and suggestions for further research.
1.5 Review of reconciliation research

Regarding the position of this study in reference to previous research, there is extensive research on both reconciliation and tribunals, as I will show, but seemingly no comprehensive and all-embracing theory, due to the relative infancy of the research field. Especially the issue of tribunal influences on reconciliation processes is quite vague and elusive. My hopes are that this case study will fill a void in its partial aim to assemble a working theoretical model for analyzing reconciliation processes and their connection to tribunals.

According to statistics, around 50 per cent of ended armed conflicts will re-emerge within a ten-year period. Experience shows that peace can be consolidated by addressing issues such as lack of democracy, insecurity, and failed development. However, a fairly recent realization is that the concept of reconciliation is a basis for every effort of building lasting peace, illustrated by the increasing support for truth commissions and war tribunals (Brounéus 2003:1). There is no generally agreed upon definition of reconciliation in the literature. Attempts at definition focus on equality, prevention, forgiveness, attitudes, beliefs, relationships, time, and space. What they have in common is an emphasis on the mutual acknowledgment of past sufferings, the changing of destructive relationships into constructive ones, and the process towards sustainable peace. Recurrent central concepts in the reconciliation discourse are truth, justice, and security (Kriesberg 2001:60; Lambourne 2001:314-16).

Reconciliation applies to everyone in a society, not just to perpetrators and victims. The attitudes and beliefs that underpin violent conflict filters through a community and must be addressed at a broad and inclusive level (Bloomfield 2003:12-13). As for the question of the timeframe for reaching reconciliation, the scholarly response is, if not exact, unanimous: reconciliation takes time, maybe decades or even generations. This extensive time perspective makes reconciliation differ from other forms of conflict resolution. If traditional conflict resolution ends with the implementation of a peace agreement, this is approximately where reconciliation begins (Brounéus 2003:49-52).

1.5.1 Controversial issues regarding reconciliation

Reconciliation is not an undisputed concept; for many it may seem offensive to speak of reconciliation in the aftermath of violent conflict. The discourse concerning reconciliation as a means of breaking the vicious circle of war has nonetheless been increasing in recent years, as have official investigations of crimes against human rights through truth commissions and
war tribunals (Brounéus 2003:9-10). Another fundamental objection to reconciliation is whether societies should really remember past atrocities, as a process of reconciliation invariably brings up the past. But one may hold that the victims themselves will never forget and unaddressed grievances are sure to infect future relations, whereas acknowledgment of the past recognizes the victims’ sufferings and helps in reinstating a sense of dignity (Brounéus 2003:11-12).

Out of a political-philosophical viewpoint, it has been argued that reconciliation even is contradictory to politics; whereas reconciliation tends towards closure, harmony, and consensus, politics tend towards openness, conflict, and plurality. Nevertheless, a commitment to reconciliation enables politics between formerly divided citizens, but if this unity is presupposed as the final goal, politics end there. Along this line of argumentation, reconciliation needs to be politicized in order to sustain politics, or the logic of reconciliation brings the open, incomplete, and contestable to a close. In a sense, then, complete reconciliation is an impossibility and a political good only as long as it is not realized. It should be seen as an ideal future possibility towards which existing political relationships should be brought as close as possible (Schaap 2005:9, 77, 83-84, 149, 151). In relation to this, a certain matter of controversy has also arisen on the issue of goal versus process. Science would probably benefit from viewing reconciliation strictly as a long-term, deep, and broad process, as the final goal of reconciliation is a distant future aspiration, maybe even an ideal state only to hope for (Bloomfield 2003:12-13).

The strong religious connotations of reconciliation cannot be entirely evaded, as in Christian tradition it is used to describe the broken relationship between God and mankind, with Jesus re-establishing conciliation through the sacrifice of his life. This makes it a less than ideal term to use in conflict management, it may be argued. In post-conflict situations, it is also meaningful to distinguish between individual and national reconciliation, as individual reconciliation is a deeply personal process, not necessarily benefited by knowledge of the truth (Brounéus 2003:13-14). The question of forgiveness is a particularly interesting one; there is no consensus regarding whether forgiveness is a vital part of reconciliation or not, although scholars writing from a theological viewpoint tend to include forgiveness (Amstutz 2005:97; Galtung 2001:7-9; Gopin 2001:87-88). Separating forgiveness and reconciliation would probably benefit the scientific study of societal healing processes, though, as forgiveness mostly resembles an individual process and not a societal one, and thus should not be meddled with by society (Brounéus 2003:17-20). Discussions on specific ‘political forgiveness’ has also arisen,
bearing upon an interactive process in which collective injuries are healed and communal
relationships restored. This process would be dependent on elements such as consensus on
truth, remorse, renunciation of vengeance, empathy, and mitigation of punishment (Amstutz
2005:77-79).

1.5.2 Major strands of reconciliation discourse

Another issue central in the discourse on reconciliation is that of reparations, usually material
and monetary, which has in recent years become a major preoccupation of social change
scholars. The spread and growing recognition of reparations claims and 'coming to terms with
the past' mirrors a shift in the view upon the once-neglected suffering of victims vis-à-vis the
perpetrators of injustices. The core of the reparation debate lies at the concept of transitional
justice, inclusive of trials and truth commissions in its attempts to make sense of the global
democratization trends in the late twentieth century (Torpey 2003:1-3, 6-7). Transitional justice
can be seen as a variety of strategies, ranging from restorative measures such as amnesia,
amnesty, and forgiveness, over truth-telling, and on to retributive measures such as
reparations, purges, and trials. This largely puts its finger on two different approaches to
transitional justice, purists and pragmatists, focusing respectively on accountability, justice,
and punishment, and amnesty and forgiveness. The difference largely amounts to if
democratic institutions should precede reconciliation, or if reconciliation is a precondition for
a democratic society (Amstutz 2005:18, 103).

Also regarding the depth of reconciliation, a distinction can be made between a few
approaches: minimalists, maximalists, and in-between advocates of 'democratic reciprocity'.
The minimalists view concentrates on the establishment of order and non-lethal coexistence
without necessarily solving the underlying issues, while the maximalist view proposes
restoration of friendship through the reformation of people’s cultural values and political
beliefs. Democratic reciprocity, in its turn, involves the pursuit of peace by commitment to
democratic virtues and a climate where conflicts are resolved through democratic procedures
(Amstutz 2005:99-100).

1.5.3 Discussing with the scholars

We have seen above that reconciliation is a disputed concept, containing a few different
approaches. There might be need to clarify the position of this thesis regarding some of these.
To begin with, the basic point of view would be that reconciliation must be paid attention to,
even though it may be offensive to victims and perpetrators; renouncing efforts at reconciliation would do former victims of, and participants in, armed conflicts no good in the long run. Connected to this issue is that of if remembrance of past atrocities really is worthwhile, and the argument is the same: acknowledgment of the past is probably necessary to come to terms with infected relationships in the future.

There is some bearing in the argument that reconciliation basically is anti-political though, but in a deeply divided society there are no politics worth mentioning anyway, and reconciliation aims at just that, recreating political relationships. However, it seems justifiable to view reconciliation as a politicized ideal future possibility, a long-term process, rather than a goal in itself.

As for the religious connotations of the concept, the best thing to do would probably be to keep its meaning and use as free from religious content as possible. Also, when discussing political reconciliation, it should be clear that it is national reconciliation that is in view, not the deeply personal and utterly subjective process of individual reconciliation. Neither should forgiveness, individual or political, be included in a definition of reconciliation, as there is no consensus on its use or importance.

Turning to the approaches to transitional justice, this thesis leans towards a purist approach, as it investigates a tribunal – the highest form of retribution. However, there is no need to take sides between purists and pragmatists unless you are in a consultative position, as both approaches may offer valuable insights. The debate on democracy and reconciliation and its interplay is nevertheless very interesting and will be returned to later on.

Similarly, there is not necessarily any reason for taking sides between minimalists, maximalists, and advocates of ‘democratic reciprocity’ regarding the depth of reconciliation, even though the ‘democratic reciprocity’ case seems to hold substantial importance for the issues discussed in this thesis. Rather, these approaches could be seen as levels in a three-step process towards reconciliation; starting out with coexistence, over the introduction of democratic codes, and on to the reformation of values and beliefs.

1.6 Review of research - international law and tribunals

Even though reconciliation is the main focus of this study, inevitably issues of international law will be touched upon, as well as that of tribunals themselves. This section may serve as a brief introduction to the state of the art.
The Western tradition of international law has its roots in ancient Rome, where the concept of ‘natural law’ rested on the assumption that there was a natural order of things that people shared by virtue of their common humanity. The Roman natural law came to underlie western views on international law; and ideas on our common human nature and the self-evident law that stems from it, are put forth in works such as the Magna Carta in 1215, the Bill of Rights in 1689, the Declaration of Independence in 1776, and the Declaration of the Rights of Man and Citizen in 1789. The Enlightenment implied significant steps on the path to basic human rights and endowed human beings with fundamental rights, benefits, and protections, purely by reason of their humanity (Burchill 2005:67; Lieber 1991:295).

However, the discourse on ‘universal human rights’ became a dominant frame in world politics only in the aftermath of the Second World War by the Nuremburg and Tokyo tribunals – even though these were subject to the label of ‘victor’s justice’. A consensus has since then emerged on the international duty to prosecute perpetrators responsible for human rights violations. The legal foundations of such a duty can be found in the principle of universal jurisdiction and an array of UN conventions, such as the Genocide Convention and the Universal Declaration of Human Rights of 1948 (Olick and Coughlin 2003:39-40).

The last 15 years have seen a rapid development of international law. The creation of the ICC, the ICTR, and the ICTY, as well as numerous other smaller-scale special courts, are a clear sign that human rights violations will not be tolerated by the international society in the future. Tribunals have become the primary instrument of policing atrocities in accordance to international jurisprudence, and these may operate at a national or international level. National tribunals undertake domestic prosecution of perpetrators of human rights violations, but domestic prosecution has been extremely rare, largely because these crimes were not recognized in domestic legislation in the past. International tribunals may take form of ad hoc tribunals, the ICC, and national trials based on universal jurisdiction (Huyse 2003b:99-100).

The UN has established two international criminal tribunals, the ICTY and the ICTR. International ad hoc tribunals facilitate for taking strong, concrete steps towards building a society based on the rule of law through a process that is seen to be fair and law-based. An international tribunal under the UN need not be controlled by the ‘victors’, and therefore cannot be accused of seeking revenge. A new departure in international jurisprudence is the creation of hybrid national–international criminal courts. In the case of Sierra Leone, the UN has set up a tribunal that is a mixture of international and domestic law and judges. The Cambodian Khmer Rouge tribunal is also an example of a so-called hybrid court. The
establishment of a permanent international criminal court is another illustration of the emerging international consensus on the issue of transitional justice. The ICC effectively supplants temporary mechanisms used to prosecute crimes against humanity, and has jurisdiction over the most serious crimes of concern to the international community, such as genocide, crimes against humanity, and war crimes. There is also a growing tendency to accept the so-called ‘rule of universal jurisdiction’. This principle entails that the prosecution of genocide and related crimes is achievable by and in every state, no matter where the crimes were committed and regardless of the nationality of the victim or the offender. Various countries have incorporated the rule of universal jurisdiction into their national criminal legislation. According to some observers, further diffusion of the principle will be a major step in the direction of global justice (Huyse 2003b:100-102).

Genocide, crimes against humanity, and war crimes are the classification of crimes playing the leading parts in international humanitarian law. The crime of genocide signifies the deliberate attempt at complete or partial annihilation of a national, ethnic, racially defined, or religious group. Crimes against humanity bear upon crimes so vile that they are regarded a crime not only to the immediate victims, but to mankind itself. These crimes are generally directed at civilians and include murder, annihilation, slavery, deportation, and torture. War crimes are crimes committed during warfare, in the first place towards combatants, and include intentional killing, torture, taking civilian prisoners, and not respecting war prisoners’ rights (Espelund and Karlsson 2008).

A central question for theorists of transitional justice about principle versus consequence remains: Should abusive former leaders be pursued even if doing so diminishes the chances of undesired present and future leaders parting with power? Should human rights as a principle be allowed to outweigh political realities? Another unsolved question touches the fact that critics argue that universal human rights are in fact specifically Western values (Olick and Coughlin 2003:39-40). Regarding how to deal with crimes of the past, there is also a key decision in the discussion of transitional justice: retributive versus restorative justice. Retributive justice (criminal, procedural, or legalistic justice) focuses on crime as a violation of law and a matter between the perpetrator and the state. Punishment and victim compensation is decided upon by the justice system. Restorative or reparative justice, on the other hand, focuses on crime as a conflict between individuals as well as on the damage inflicted to both victims, perpetrators, and society in general. The main purpose of the justice system in this view is to heal conflictive relationships by official acknowledgment, formalized apologies, and victim
compensation. Regardless which view of justice to depart from, a delicate balance needs to be struck between the moral desire for restoration and the legal desire for retribution – accommodating individual responsibility and national conflict resolution. The tendency in thinking about justice this far has been to focus on the retributive dimension. Central to this view is the idea that perpetrators should not go unpunished (Amstutz 2005:106-113; Galtung 2001:9-10; Huyse 2003b:97).

Retributive justice is regarded by some as the obvious instrument to build confidence and trust, and to implant a culture of human rights and democracy. However, trials also incontestably have the potential to thwart these reconciliation efforts by destabilizing a fragile peace or transition process as hostile factions may be provoked. Thus, prosecutions may block or even reverse a reconciliation process. International tribunals, or national tribunals on universal jurisdiction, are less susceptible to threats such as intimidation, material obstacles, violation of procedural standards, lack of trained personnel, and the notion of ‘victor’s justice’, which make them a good complement, or even alternative, to local trials. They may however be constrained by factors such as lack of enforcement mechanisms, costliness, time-consumption, and distance away from the population (Estrada-Hollenbeck 2001:66-69, 74-76; Huyse 2003b:98, 103-105, 107-108).

Tribunals may not be what first comes to mind when thinking of reconciliation, but justice, accountability, and punishment of crimes are considered in both theory and practice to be important for reconciliation. There is a legal and moral perception that the most severe crimes must be punished. Reconciliation may not be the primary goal of criminal tribunals, however, considering the importance of justice and a functioning legal system in reinstating a sense of order and safety after violence, criminal tribunals have an important role for reconciliation. The positive aims notwithstanding, there are numerous problems with tribunals: they are tremendously expensive, they are limited in time and place, perpetrators escape during the time that they are established, and there is also the issue of justice becoming selective. All perpetrators can never be found, tried and punished, judges risk to be partial in their hearing, and the truth risks to be distorted by the defendants. Thus retributive justice will always be flawed. In the literature this is often referred to as the need to seek justice short of revenge. Tribunals will fill one piece of the scattered mosaic of the past, no more, no less. However, horrors can be condemned, norms can be established, and a sense of security, justice, and order begin to be restored (Brounéus 2003:31-32).
2 Theory and method

2.1 Reconciliation theory

The term reconciliation has its etymological roots in the Latin reconciliare (re – again, conciliare – make friendly), meaning the re-establishment of peace and friendship. A quite vague term, although many attempts at definition have been undertaken. In essence, these sum up as:

A societal process involving mutual acknowledgment of past suffering and the changing of destructive attitudes and behavior into constructive relationships towards sustainable peace.

Focus is on remembering, changing, and continuing with life in peace, not forgetting, forgiving, or loving one another (Brounéus 2003:13-20). The process of reconciliation involves the search for truth and justice in coexistence with former enemies. If politics is a process to deal with the issues dividing us in the past, then reconciliation is a parallel process aimed at redesigning the relationship between us – moving from a divided past to a shared future (Bloomfield 2003:12). Since I have been unable to find a coherent and general theory of reconciliation, this chapter attempts at constructing a working model of reconciliation by assembling fragments of theory from a diverse range of sources, all of which put together manifest a hopefully functional model. The point of departure is to assemble a model valid enough for answering the research questions, namely the state of reconciliation and the connections between the tribunal and the reconciliation process.

2.1.1 Aspects of reconciliation

Reconciliation can be seen from a wide array of aspects, such as religious, socio-cultural, economic, and psychological (Brounéus 2003:21; Galtung 2001:4; Hamber 2003:77). Without diminishing the importance of these aspects, the scope of this political science study demands that the focus should lie on juridical and political aspects. Juridical aspects aim at, not
surprisingly, delivering justice, while political aspects aim at revealing the truth; hence the importance of discussing the concepts of justice and truth when talking about reconciliation (Amstutz 2005:23-25, 37-40, 98). These both concepts form a potent set of explanatory elements intertwined by close links. Neither of them, however, has the power to bring full reconciliation on its own and are not part of any linear process; truth and justice are key ingredients, but only single ingredients, in the national healing process we call reconciliation. Nonetheless, they both remain essential ingredients for lasting reconciliation, and together they lay the foundations for the creation of the outcomes of the reconciliation process (Huyse 2003a:23-24). The juridical and political aspects of reconciliation referenced below can each be broken down into a number of variables, see table 1 in section 2.1.3.

2.1.1.1 Juridical aspects – searching for justice

The concept of justice aims at rebuilding confidence and trust within and between victims and offenders, as the acknowledgement of the humanity of others is the basis of mutual trust and opens the door for the gradual arrival of a sustainable culture of non-violence. It also aims at disaggregating individual and community regarding degrees of guilt among perpetrators. This is an important move in destroying atrocity myths, which keep alive the idea that all the members of a rival group are actual or potential perpetrators (Huyse 2003a:19-21; Rasmussen 2001:117).

For trust and confidence to truly develop, a post-conflict society has to put in place a safe environment with a minimum of basic functioning judicial institutions. This calls for courts of law with a non-partisan judiciary, whose mission is precisely to individualize guilt. Also vital is an effective civil service, as is an appropriate legislative structure in the form of the re-establishment of the rule of law. Any notion of justice must include the apparatus of the justice system being restored, as it has usually broken down and lost all legitimacy during the war. The rebuilding of the rule of law also may serve as an indication to combatants and civilians in war-torn societies of a return to security, order, and stability (Brounéus 2003:28-30; Kriesberg 2001:47-49).

Rectification of abuses is needed as it addresses the injustice and pain that has been suffered by people during conflict. Rectificatory justice is important from three distinct perspectives: by international law countries are bound to prosecute past abuses; politically it is needed to establish legitimacy and stabilize peace; and psychosocially it aids to understand and heal trauma (Lambourne 2001:312-14, 316-17).
Since justice is indispensable for reconciliation, when reintroducing rectificatory justice, an important choice has to be made between retributive and restorative justice. The dilemma for a country in the transition from conflict to peace is to find a balance between restoration, which inherently involves compromise regarding justice, and retribution, which innately carries the risk of silencing the past as war criminals will seek to avoid punishment by withholding certain truths (Brounéus 2003:28-30; Huyse 2003a:20-21).

2.1.1.2 Political aspects – searching for truth

The concept of truth concerns the creation of empathy by victims and offenders. This begins with replacing fear with non-violent coexistence between former antagonists. A major prerequisite for this to be achieved is the building or renewal of communication between offenders and victims. Empathy then comes with the victims’ willingness to listen to the reasons for the hatred of those who caused their pain, and with the offenders’ understanding of the anger and bitterness of those who suffered (Huyse 2003a:19-21; Lambourne 2001:316-17). Truth-telling is obviously also a precondition for reconciliation because it creates objective opportunities for people to see the past in terms of shared suffering and collective responsibility. More important still is the recognition that victims and offenders share a common identity, as survivors and as human beings, and simply have to get on with each other. In some cases the parties in a conflict will seek and discover meeting points where partnership appears more sensible than sustained conflict. Common interests may be found in roles and identities that cross former lines of division. One way to make this possible is the work of truth commissions, sifting fact from fiction, truth from myth. A truth commission, as a means of historical accounting via truth-telling, may be a very useful mechanism in advancing national reconciliation to the extent that it may help prevent basic points of fact from continuing to be a source of conflict or bitterness among political élites. Truth commissions should not be confused with judicial courts or viewed as replacements for trials, nevertheless they can be instrumental in establishing the truth about the past, promoting the accountability of perpetrators, and recommending legal and institutional reform. Furthermore, truth commissions help to consolidate a democratic transition by providing a public platform for victims, catalyzing public debate, recommending victim reparations, and promoting social reconciliation. Not being proper truth commissions, three other kinds of truth-seeking mechanisms occur: specific ’historical commissions’, organization-sponsored official or semi-official inquiries, and purely non-governmental projects operated by, for instance, human
rights groups. Many continue to assert that it is necessary to know the truth in order to advance reconciliation, and that this is one of the most important steps in the reconciliation process (Freeman and Hayner 2003:122-25; Galtung 2001:12-13; Lambourne 2001:316-17).

The presence or absence of reconciliation events after civil conflict and subsequent relations between former adversaries can be examined when studying reconciliation on a national, political level. Reconciliation events are defined as including a meeting between senior representatives of the former opposing factions; a public ceremony, covered by national media; and ritualistic or symbolic behaviour that indicates peace. It has been found that for countries in which a reconciliation event took place, more than half did not return to violent conflict. Among countries that did not experience a reconciliation event, only one out of ten did not return to war. This supports the notion that political attempts at reconciliation after internal conflict are quite essential in the quest for peace (Brounéus 2003:25-26).

The heart of the matter is official acknowledgment of and remorse for past atrocities and injustices inflicted, aimed at remembering the past. An example of political, symbolic behaviour indicating peace is the official apology – an increasingly common phenomenon over the last years. Official acknowledgment of, and expression of remorse for, past wrongs has an entirely new role in today’s world politics (Huysse 2003a:21; Rasmussen 2001:117). Also imperative are initiatives for increased awareness of and political responsibility for the reconciliation process among the political leadership in order to handle future conflict without violence and to respect the rights of all involved (Brounéus 2003:25-26; Freeman and Hayner 2003:122).

2.1.2 Levels of reconciliation

The process of reconciliation can also be seen from three societal levels: top-level, middle-range level, and bottom-level, or grassroots. At the top-level, criminal tribunals and political parties can be seen as instigators (or break-blocks) of reconciliation. Although tribunals proceed quite far away from the people, they may serve as powerful carriers of attitudes and norms in addition to their obvious function of promoting justice, accountability, and punishment. The importance of justice and a legal system in reinstating order and safety cannot be overstated. Prominent and respected political leaders may also be seen as top-level actors for reconciliation. Mid-range actors are civil society groups and NGO’s, truth commissions, and the media. These influence attitudes and behavior both at the top-level and in the grassroots community by taking an active, conscious role in promoting peace and
tolerance and acting as justice-supportive machinery. They represent different influences both upwards and downwards in society, and hold an important position in any reconciliation process, acting as a bridge between the people and the leadership. At the grassroots level are the ‘ordinary people’, represented by community leaders or village chiefs, which as key actors are spreading knowledge to their respective communities or villages. In many respects this is where the foundation for reconciliation lies (Brounéus 2003:32-38).

2.1.3 An analytical tool

We have thus found that the concept and process of reconciliation is made up of two main aspects, justice and truth. Each of these can be broken down into five variables, measurement of which will open up for possibilities to draw conclusions on the state of reconciliation and its connection to the tribunal proceedings. This analytical tool is illustrated in table 1, and these variables are also directly embodied in the interview guide, see the appendix. For further discussions on the use of the analysis tool, please see section 2.2.2.

Table 1. An analytical tool

<table>
<thead>
<tr>
<th>Justice</th>
<th>Truth</th>
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<tr>
<td>Confidence and trust</td>
<td>Empathy</td>
</tr>
<tr>
<td>Disaggregation of guilt</td>
<td>Truth-telling</td>
</tr>
<tr>
<td>Functional institutions</td>
<td>Reconciliation events</td>
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<tr>
<td>Rectification of abuses</td>
<td>Acknowledgment and remorse</td>
</tr>
<tr>
<td>Restorative balance</td>
<td>Awareness and support</td>
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2.1.4 Connections between reconciliation and democratization

Democracy issues hold a high degree of relevance when discussing reconciliation processes. A reasonable starting point for the discussion on the connection between reconciliation and democratization would be that the best form of post-conflict government is a democratic one. As universal human rights become increasingly accepted as core principles of governance, democracy clearly emerges as the most effective way of implementing principles such as equality, representation, participation, and accountability. Democracy is also unique in its capacity to handle conflict without recourse to violence, which obviously is a key attribute in
a post-violence context, involving debate, argument, disagreement, compromise, and cooperation. But a sound democracy needs both functional governance procedures and working relationships between the involved groups; without fair structures cooperation will not develop, and the structures will not work if there is not a minimum of cooperation. A ‘democratic culture’ and ‘codes of democracy’ need to ensue in order for constructive relationships between society’s differing constituencies to manifest (Bloomfield 2003:10-11; Huyse 2003a:21).

The transition towards a sustainable democracy should be premised on a sense of national reconciliation within the overall society, a process that must be nurtured and given time to root. In a post-conflict society, relationships tend to be based on entrenched antagonism, which is why reconciliation is an absolute necessity for democracy to arise. Reconciliation deals exactly with examining and addressing the relationships of former enemies, involving the entire population since no democratic system can survive if major parts of the population are not prepared to trust the system and each other. Hence, reconciliation underpins democracy by developing the working relationships necessary for its successful implementation, while democracy underpins reconciliation by providing political, economic, and social justice, and power-sharing. Structural injustices in the political, legal, and economic domains hamper reconciliation, why a gradual sharing of power, an honoring of political commitments, the creation of a climate of human rights, and a general willingness to accept responsibility for the past and for the future are essential. In other words, the reconciliation process must be supported by the recognition of fundamental democratic values. Democracy and reconciliation are therefore intertwined and interdependent, which is why a thorough study of reconciliation processes cannot evade discussing democratization processes as well (Huyse 2003a:21; Rasmussen 2001:104-105).

2.2 Method

This study uses a qualitative method, meaning to achieve a deep understanding of the problem complex and a full description of its context. This will be done by performance of field study interviews, in combination with literature studies whenever possible. Proximity to primary source material (respondents and informants) is imperative, since secondary source material (print) on these issues are quite scarce, incoherent, and disparate. A comprehensive picture,
obtained mainly by interview surveys, facilitates for understanding of social processes and connections (Whitehead 1998:361-62).

There are three major arguments for using a qualitative method in a case like this: 1) the possibilities for theory development or construction are good in a field where theory and concepts are young and underdeveloped; 2) culturally and historically specific phenomena would generally give too little data for a quantitatively viable study; and 3) qualitative study works well in case studies with few (or one) cases and an almost indefinite number of variables. A relevant objection to this arrangement could be to instead perform a comparative study of two or more cases (Ragin, Berg-Schlosser and de Meur 1998:750-55). As for the choice of a single case, the prospect of a comparative study falls flat upon reasons of similarity. No other case bear the same distinctive features of a mixed tribunal investigating crimes leading to the demise of a quarter of the population one generation back in time.

In-depth qualitative case studies with a main emphasis on comprehensive view and deep understanding have obvious limitations regarding generalization, research of this kind indeed produces extensive and detailed material, but which cannot be generalized without further notice. In addition, the open and heterogeneous material may lead to problems of relevance of interpretation. Other problems touch the risk that theory is not incorporated sufficiently enough with the effect that the conclusions only confirm what is already known or fill up with details without adding to common knowledge. On the other hand these studies tend to be well-founded in their focus on understanding the full context in which political decisions are being made (Apter 1998:390-91; Holme and Solvang 1991:13, 85-87, 90-91, 95; Mair 1998:319). Case studies have also been subjected to some methodological criticism focusing on the fact that single cases do not provide insights in causal relationships and general conditions. However, most scholars today seem to agree upon the merits of case studies due to their ability to complement other forms of research, their most obvious advantage being the provision of detailed analysis within the case (Lindwall 2007).

Three main techniques can be identified: informant interviews (those who are indirectly concerned by an issue), respondent interviews (those who are directly concerned by an issue), and source analysis (literature studies). Another three main principles are present: physical proximity to the investigation units, objective reproduction of interviews, and the use of direct quotations. Research questions and theoretical assumptions are tested in the meeting with the investigation units, and the unstructured and unorganized information that is produced might lead to new questions and understandings upon processing. By this interplay between the
theoretical and the empirical, new knowledge can be generated in the research process. There is reason to dwell a little upon the demand for relevance. When the veracity cannot be tried by evidence and counter-evidence, a set of relevance criteria is used. These can be formulated as a number of questions: What is the utility value of the information – can it constitute the basis for new knowledge? What is the comprehension value of the information – does it add to the understanding of the examined phenomenon? Do the results contribute to the development of new theoretical knowledge, concepts, and models? Is the description of the examined problem covering (Holme and Solvang 1991:99-108)?

2.2.1 Interview as a method

Research interview as a method demands thorough preparations and processing. The mode of procedure must be accounted for, as well as the conclusions being interpretatively valid. The amount of scope available to the respondent affects what kind of material that can be produced, but also the prospects of interpreting results. Standardized questions are to be avoided as they do not allow the respondent’s own opinions to come to hand sufficiently enough. A balance between freedom for the respondent and an interpretative structure is demanded. The goal is to obtain results structured enough to allow for comparison. As for the selection of respondents there are some principles worthy of consideration in order to maximize information content. A central guiding principle is width of selection (for example age, gender, residence, education and so forth), another is selection of respondents supposedly possessing a great deal of knowledge on the examined issues. A third principle that cannot be evaded is the fact that the respondents’ willingness to participate and ability to express themselves will affect the results. These results are then analyzed for themes, problem areas, and central statements in order to produce a coherent picture. As for the text analysis of the gathered information, two main methods can be distinguished: overall and section analysis. An overall analysis originates from one or more themes or problem areas, from which the interviews are analyzed systematically. A section analysis, on the contrary, originates from each individual interview, from which central themes are categorized and extracted (Holme and Solvang 1991:111, 114, 119-22; Jacobsen 1993:17-19).
2.2.2 Execution of the study

As soon as the idea of studying the Khmer Rouge tribunal out of a reconciliatory perspective took shape, a period of theory inventory followed. It soon became clear that no comprehensive single theory on reconciliation was to be found. Out of scraps of theory, a reconciliation study model was produced, and after a prolonged period of source material inventory and gathering, it was to be realized that the available material on reconciliation in Cambodia was scarce, incoherent, and disparate, and left a lot of questions unanswered. The next step was then to decide upon a twofold method; partly to analyze traditional source material, and partly to obtain primary source material by field interviews in Cambodia.

Upon collecting as much secondary source material as possible, I set out on a two-month trip through the Cambodian countryside in October, 2008. I performed 23 interviews at 40 minutes each, on average, using four different interpreters and a digital voice recorder. 17 of these were with ‘common’ Cambodians (respondents), three were with Cambodian NGO people (informants), and three were with top-level Cambodians from the tribunal and from the political sphere (informants). The ‘common’ Cambodians were found in collaboration with the KID, a Cambodian NGO working with promoting democracy, and with an extensive network across Cambodia. These respondents were chosen on basis of supposed knowledge, and width in age, gender, residence, and education. I was not denied a single interview. In performing the interviews, I departed from a structured interview guide with open questions concerning themes and issues relevant to all respondents (see the appendix), thus none of the interviews holds exactly the same questions as another; all in order to facilitate for a balance between freedom for the respondents and standardization/generalizability. Upon completion of the field study, the primary material was systematically analyzed for central themes and problem areas, and then fused with the traditional secondary source analysis.

The analysis is divided into two main parts, one of which is static (concerns the present state) and one of which is dynamic (concerns influences and relationships). When investigating the reconciliation process in Cambodia, it is deemed relevant to produce a picture of the present state of reconciliation, that is how far reconciliation has reached. That is the first part of the analysis, the static part, in which the analysis tool (Table 1, section 2.1.3) is used to investigate to what degree reconciliation is fulfilled. The more variables that have been addressed, and the more thorough their implementation, the further the process of reconciliation can be said to have progressed. The second part of the analysis, the dynamic part, concerns the connections between the tribunal and the reconciliation process. In a
likewise manner, the ten variables are analyzed for connections to the tribunal – which of these are already affected by the tribunal proceedings or are plausible to be so in the near future? The more variables that are affected, and the greater the extent to which they are likely to be so, the closer are the connections between the tribunal and the reconciliation process. Thus a picture is being produced in which we see a) the present state of reconciliation; and b) the connections between the tribunal and the reconciliation process. Out of this, it would be possible to draw at least some conclusions on the near future progress of the reconciliation process, due to the impact of the tribunal proceedings.

2.2.3 Levels of analysis

As previously mentioned, I have found that the research questions can not be satisfactorily answered by only using traditional source analysis, due to shortage of relevant material, which is why I am focusing on primary source material. This primary source material can be divided into respondents and informants. The respondents are made up of ‘common’ Cambodians, or grassroots, while the informants are officials within the ‘higher’ levels of society, such as NGO’s, political parties, and the ECCC itself. The separation of respondents and informants is relevant due to different basis of knowledge, as well as in providing an extra dimension of analysis. These sources – secondary sources, respondents, and informants – thereby constitute three levels of analysis. By using three levels of analysis, the results will hopefully stand strong in terms of reliability and veracity. In practice, the analysis procedure begins with a reproduction of facts gathered from secondary sources on a certain matter. These facts are then contrasted and compared to the view of the respondents, and as a third stage checked with the information collected from the informants. By going through all the scientific variables of reconciliation in the same three-step manner, a mass of information is produced to be analyzed by the researcher, searching for similarities, anomalies, and central themes. There is some difference regarding the nature of the material gathered from the different sources; while the material from the secondary sources mostly concerns facts on certain issues, the material collected from the respondents mostly regards views, opinions, and sentiments. The informant interviews probably lie somewhere in between, in that the

1 Originally I aimed at dividing the informants into top-level and mid-level, in accordance with the level theory component in section 2.1.2, thereby constituting a fourth dimension of analysis. This part of the plan did not
informants are both high-ranking officials with clear insight into the issues at hand, as well as Cambodian citizens with private views and opinions. One could argue that the views and opinions of ‘common people’ has very little to do the real political situation. I do not agree with that. On the contrary, the views and opinions of ‘common people’ in fact act as an important indication of the real political situation – if a majority of the respondents feel that a certain component of reconciliation is lacking, for instance apologies, then that tells us something about the political realities of society. Furthermore, as mentioned before, the view of the respondents is also triangulated with information from the other sources in order to verify the statements.

2.2.4 Criticism of sources

Criticism of sources traditionally work with four different criteria: authenticity, time relatedness, dependency, and tendency. Authenticity deals with if the source really is what it poses as. Are facts correctly reproduced? Is there a risk of falsification? Are there reconstructions? Time relatedness has to do with the more time that has surpassed since an event, the less trustworthy are reports from witnesses. Forgetfulness, reconstruction, mix-up, and additions all affect credibility negatively. Dependency means that external influence decreases the value of a source, for example a story about an event that passes from mouth to mouth, or conscious or unconscious influence by the source being in contact with other persons or institutions. Tendency, finally, bear upon impartiality, something which probably is quite rare in reality. Most sources contain some form of tendency, from unconscious reconstructions to fit one’s values to pure propaganda lies. However, there are a few principles on how to deal with biased sources: 1) There are no such things as reliable sources. A source that is truthful at one instance, might lie the next, so every story must be valued for itself. Values also affect tendency; 2) What two sources with opposite tendency agrees upon is probably true; 3) A source that states what it in advance can be expected to state is useless; 4) A source that states something disadvantageous, something out of the ordinary, is probably truthful; 5) A source that mentions trivial details is probably truthful; and 6) A few sources with opposite tendency probably gives a more complete picture than a single, supposedly neutral source (Thurén 1990:70-72).
A complementary method of working with criticism of sources includes the following four phases: observation, origin, interpretation, and usefulness. Observation of sources means to acquire an overview of relevant sources, a process which inevitably includes sifting out. Here the goal is to choose sources that put together give a general picture of the situation, without distortions regarding the material. An objective representation of the sources themselves and their tendencies is needed. Determination of origin aims at deciding what relations exists between the source and the reality it describes. Originator, dating, and purpose are central questions regarding the circumstances in which the source was conceived. How has the source been acquired? How does it relate to other sources? Is it a primary or a secondary source? The closer the source stands to the situation it discusses, the greater its importance. Interpretation is about determination of content, what does the source actually say and what has the originator meant to say? The source must be placed in the social context and the times in which it was conceived, and in addition be related to other sources in order to produce a coherent a picture as possible. Determination of usefulness touches how useful the source is for one’s purposes. An important factor here is the credibility of the source. Do the source’s description of a course of events correspond with other independent sources’? How far is the distance between the source and the situation it describes? An ideal situation for criticism of sources would be, finally, multiple sources, independent of each other, exhaustive and concordant, written down on the spot by neutral observers or by observers with opposite values among themselves regarding the described event (Holme and Solvang 1991:141-48).

2.2.5 Criticism of sources in practice

The source material in this study can broadly be divided into two categories; primary source material (respondent and informant interviews), and secondary source material (books, chapters, papers, articles, studies et cetera). Discussing secondary source material, the issue of the Khmer Rouge tribunal is a highly politicized one, leading to potential problems with both tendency, authenticity, and dependency. I have been working with these problems in so far as I have tried to acquire a complete overview of available sources, and then choosing those which facilitate for a general picture without distortions, in order to produce an objective a representation as possible. Questions regarding tendencies, relations to other sources, and credibility have been taken into consideration. When possible, facts are also cross-referenced, which leads to twin, triple, and sometimes even quadruple footnotes for a single fact. The
potential problem of time relatedness has been met by using as contemporary sources as possible, since this is a highly contemporary issue. Nevertheless, problems like the ones described above are persistive, why as a next step secondary sources are on a regular basis compared to what appears in the primary sources of respondents and informants. This method of source triangulation gives the researcher a second chance of eliminating problems with tendency, authenticity, and dependency by using multiple angles. As for primary sources, these are no less susceptible to problems of politicization. Fears of articulating what could be perceived as criticism of the government must always be taken into account in an authoritative surrounding, but also belief in authority figures or sheer obedience, leading to comments in line with whatever the interviewer is perceived to want to hear. These problems can to some degree be compensated for by guarantees of confidentiality and anonymity, but the most important tool would once again be triangulation. For the primary sources, there are possibilities for comparison by age, gender, education, and geographical location, as well as by societal level. Thus irrelevant discrepancies can be traced and left out of account. Furthermore, the material gathered from primary sources can in its turn be compared to data collected from secondary sources, which gives yet another possibility of neutralizing anomalies.

Something also needs to be said on principles of selection. Although the respondents were chosen on basis of supposed knowledge, representing both genders (ten male and seven female), five different regions (Kratie, Kompong Cham, Kampot, Seam Reap, and Kompong Speu), different age groups (three young, ten middle-aged, and four elderly), and educated (thirteen) and not educated (four), there is one problem I did not manage to overcome – all but one of the respondents perceive themselves as victims or neutrals, and not perpetrators. This is because the regions where the former Khmer Rouge are to be found are largely inaccessible, in remote mountainous areas bordering Thailand. In addition, it seems former Khmer Rouge do not willingly discuss their experiences of justice and truth. Therefore the views emerging from the interviews can only be said to represent the victims or the neutrals, if such a position as ‘neutrals’ could be considered in the Cambodian case.

Regarding the informant interviews, I failed completely in reaching the media, and largely failed in reaching the political sphere. It seems these spheres demand a lot of time and networking to be reached, both commodities I was in desperately short supply of. So the informants on the middle level represent only the views of the Cambodian NGO’s, and the top level is largely represented by the tribunal itself.
A few words on reliability and validity would probably not be out of place either. Validity can be defined as factual measurement of what a method aims at measuring, while reliability can be defined as repeated measurements with the same method leading to the same measured values (Rosing 1989:100). Regarding validity, consistency between theoretical concepts and empirical realization should vouch for that the study measures what it actually aims at. Highly operationalizable concepts and clear-cut definitions are key elements in this. Please see section 7.2 for further discussions on the subject of validity. As for reliability, the space open for interpretation in a qualitative study poses some problems in guaranteeing that another study would lead to the same result. I have found no other means of meeting this than careful triangulatory analysis and an open account of my method.
3 Cambodia

3.1 Political history -1991

The area on the lower Mekong has been populated for thousands of years. Documented history takes its beginning in the 1st century AD with the Funan kingdom, strongly influenced by Indian religion, politics, and culture. In the 9th century the Angkor kingdom emerged as the dominating power in the region. This was the peak of the Khmer civilization, with great progress in architecture, irrigation, and judicature. At its zenith, the kingdom embraced parts of present-day Vietnam, Laos, and Thailand. In the 15th century the Angkor kingdom was sacked by Thai invaders and the people of Cambodia were forced to accommodate to their stronger neighbours. When the colonial expansion of France reached South-east Asia, Cambodia turned in that direction. However, under the colonial reign of France the country was reduced to a harshly taxed protectorate (Utrikespolitiska institutet 2006:10).

In connection with the Japanese occupation during the Second World War an independence movement evolved. In 1945 an independent Cambodia was proclaimed with Norodom Sihanouk as monarch, but when the French returned in 1945, the independence was suspended. The demands for independence were accentuated during the French colonial war in Indochina, and in Cambodia the Communist-inspired guerrilla Khmer Issarak fought the French rule. In 1953 Cambodia once again reached independence. The period up to 1970 was characterized by balancing between political extremes. With leftist partisans in the government and Vietnamese guerrilla activity in the country, the US launched bombing campaigns against Cambodia in 1969. The discontent with the Sihanouk rule grew from both left and right, and in 1970 a coup d’état backed by the US was carried out by Lon Nol. Sihanouk sided with the Communist guerrilla group Khmer Rouge2, originally formed in Paris

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2 Khmer Rouge, or Khmer Krahom in Khmer, derives from the political vocabulary of Sihanouk. There were also Khmer Bleu (conservatives), Khmer Blanc (nationalists), Khmer Issarak (mentioned above), Khmer Rumdo (fought alongside Khmer Rouge against the Lon Nol regime), and Khmer Serei (fought the Khmer Rouge but later sided with them to repel the Vietnamese). The Khmer Rouge preferred to call themselves the Communist Party of Kampuchea, but the name ‘Khmer Rouge’ has stuck (Fröberg Idling 2007:149-50).
in the late 1950’s. The Khmer Rouge, backed by North Vietnam and China, fought the Lon Nol regime from their jungle bases (Utrikespolitiska institutet 2006:11).

When the US engagement in South-east Asia was de-escalated, the Lon Nol regime fell and the Khmer Rouge invaded Phnom Penh on April 17th, 1975. Immediately upon victory the Khmer Rouge initiated the most extreme transformation of society ever witnessed. The cities were evacuated and its dwellers forced into countryside farm work. The country was effectively cut off from the outside world and foreign languages banned. Schools, temples, and hospitals were closed and currency, wages, private ownership, and markets were abolished. University graduates, civil servants, police officers, members of the armed forces, teachers, minority groups, believers, and many others were executed or perished from disease, starvation, or exhaustion (Utrikespolitiska institutet 2006:12). The key factor in this genocide was social class, as the Khmer Rouge sought to abolish the existing culture and replace it with an extremely anti-individual rural utopian combination of Maoist principles and mythical ideas of an Angkorean past. The institutions of the state – educational, financial, legal, social, religious – were destroyed, as was all concepts of the individual and the self (Chea 2003:49; Margolin 1999:628). It is somewhat unclear exactly how many victims were claimed by the Khmer Rouge regime between 1975 and 1979, but the figure most commonly mentioned is 1,7 million, or about a quarter or a fifth of a population of seven to eight million (Karlsson and Schoenhals 2008:84; Lambourne 2001:317-18; Margolin 1999:599).

After years of Khmer Rouge raids across the border, in 1978 Cambodia was invaded by Vietnam and the Khmer Rouge were expelled from Phnom Penh on January 7th, 1979, an invasion deemed a violation of international law. The society was reorganized according to Vietnamese socialist standards, whereas the Khmer Rouge resumed guerrilla warfare directed against the new regime (Chea 2003:49). The Khmer Rouge fought side by side with other groups, all supported with money, guns, and diplomacy by both China, the US, and Thailand. In the UN, Cambodia was represented by the Khmer Rouge (Huor 2007:200-201). When the Soviet Union, backing the Vietnam-supported government, collapsed in the end of the 1980’s, the door was opened for the long road to peace. Negotiations during the first Paris conference on Cambodia between Sihanouk and prime minister Hun Sen led to the withdrawal of Vietnamese forces in late 1989 (Rasmussen 2001:109; Utrikespolitiska institutet 2006:12).
3.2 Political history 1991-

In October 1991 a peace treaty was signed in Paris between the four Cambodian factions; the Phnom Penh government, the Khmer Rouge, FUNCINPEC, and KPNLF, a group of political and military leaders still loyal to the Lon Nol government (Frieson 1996:226). The treaty much came into realization because the factions’ patrons withdrew their support upon the end of the Cold War – there simply was no other viable choice, despite their relationship of ‘mutual hate’. Upon the verification of the peace treaty, the Khmer Rouge however withdrew from further negotiations, boycotted the constituent election, set up a shadow cabinet in the rugged hills of North-western Cambodia, was declared invalid by the parliament, and subsequently expelled from the UN at last (Huor 2007:8).

The first free elections were held in May 1993 despite a climate of armed, cold peace, and turned into a duel between royalist FUNCINPEC and CPP, the heir to the 1980’s Vietnam-supported regime. FUNCINPEC won 45 per cent of the vote and CPP 38 per cent. Political violence in connection to the election was widespread, especially on the part of CPP, whose numbers had not been properly disarmed (Rasmussen 2001:105, 109). It is doubtful whether CPP would have been able to win as much as they did without its policy of intimidation and organized thuggery (Frieson 1996:234). Even though FUNCINPEC technically won the election, a UN-supported four-party coalition government was formed, due to very real fears of violence on behalf of CPP. The most permanent legacy from this first government is the constitution, and the fact that the election itself can be seen as a powerful protest against the Khmer Rouge and possibly as the beginning of the end of the movement (Hammarberg 2000; Kamm 1998:3). Sihanouk was reinstated as monarch, but CPP was still in control of the public administration and the military. The political situation was highly volatile (Lea and Milward 2001:34). Most of the military and almost all of the police were in support of CPP, but some military units supported FUNCINPEC, so the military was divided after party affiliation. Both sides competed in enticing defected Khmer Rouge units to join their numbers (Hammarberg 2000). Friction between FUNCINPEC and CPP lead to outright fighting between the armed forces of the both parties in July 1997. The coup led to the death of several FUNCINPEC leaders, and Hun Sen strengthened his grip on government considerably (Estrada-Hollenbeck 2001:73; Utrikespolitiska institutet 2006:13-14).

In the spring of 1998 an armistice was agreed upon after international intervention and the July election could be carried out as planned. CPP won 64 out of 122 seats, FUNCINPEC 43
seats and the opposition party SRP, a breakaway group from FUNCINPEC, 15 seats. The 1998 election can be regarded as more of a success than the 1993 ditto, since no factional fighting worth mentioning took place, although allegations of fraudulent abuse of the electoral system led to widespread controversies. International observers viewed the election as broadly representative (Lea and Milward 2001:38-39; Nationalencyklopedin 2000:303). A coalition government including CPP and FUNCINPEC ensued (Rasmussen 2001:11, 106).

An important element in the power struggle was the Khmer Rouge, still holding on to their jungle bases, although plagued with defections, mutinies, and internal conflicts. Their military activity was effectively refuted with generous promises of amnesty for defected soldiers. Upon demobilization, terms included a continuation of command within the Cambodian army, and an independent position of Khmer Rouge-controlled areas (Hammarberg 2000). When Pol Pot was arrested in 1997 by his own forces, and tried for murder of subordinates and offered for trial by an international tribunal, and in April 1998 died in captivity of uncertain causes in the last stronghold of Anlong Veng, North Cambodia, the last remnants of the guerrilla surrendered, the movement collapsed, and thereby the last vestiges of its political and military strength vanished into thin air (Huor 2007:208; Lea and Milward 2001:37-38). His death was curiously timely; with a trial looming as a real possibility, would there be a more authoritative witness against the surviving Khmer Rouge leaders on their roles in the genocide than Pol Pot? His remains were swiftly burned on a pile of used car tyres (Kamm 1998:241-42).

Elections were held again in July 2003, resulting in about equal results for CPP (47 per cent) and the FUNCINPEC-SRP opposition (21 and 22 per cent respectively). After a prolonged period of inconclusive stalemate, a new coalition government with CPP and FUNCINPEC followed in 2004, while SRP was outmanoeuvred by sordid means. The opposition found itself in a harsh political climate and even journalists and human rights activists risked being incarcerated and prosecuted at this time (Utrikespolitiska institutet 2006:15).

The July 2008 elections proved a landslide victory for CPP, with 90 out of 123 seats in the national assembly. The results meant that the CPP had strengthened its grip even more and were no longer reliant on coalition partners in order to form government (Election Guide 2008; Svenska Dagbladet 2008a). The opposition claims that extensive rigging took place and questioned the results. Apart from manipulation of the electoral register, leading to

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3 Amongst others featuring the short-lived ‘Democracy Square’ movement, rejecting alleged electoral fraud by use of demonstrations and a three-week ‘sit-in’ in a park across the national assembly, finally dispersed by police (Hughes 2001).
disfranchising, international observers also criticized the CPP control of the media and the unfair campaign financing system. Even though the election took place in a peaceful and open atmosphere, it is deemed ‘free but not fair’. The next elections are scheduled for 2013 (Svenska Dagbladet 2008b).

3.3 Domestic politics

The main front line in Cambodian politics runs between CPP on one side, and all others, traditionally spearheaded by FUNCINPEC, on the other. CPP is generally regarded as ‘Communist’, FUNCINPEC as ‘royalist’, and SRP as ‘democratic’ (Frieson 1996:236-38). CPP is virtually the party of government, capitalizing on its victory over the Khmer Rouge and dressing itself as the patron of Cambodia to whom the people remain indebted (Haynes 2005:89). CPP is in control of the administration and the security forces, and the separation of CPP and the state is thus incomplete. CPP depicts itself as the only party capable of solving the Khmer Rouge issue, campaigning on the genocide prospect, and the opposition as being Khmer Rouge sympathizers in disguise. Much of the loyalty to CPP stem from its role in delivering Cambodia from the Khmer Rouge (Frieson 1996:236-38).

The opposition emphasizes its Sihanouk heritage, viewed by many Cambodians as a golden age, and depicts CPP as Vietnamese invaders. They are also not late to point out that Hun Sen, the leader of CPP, has a Khmer Rouge past himself (Frieson 1996:236-38). Hun Sen is a person of great controversy; holding virtually dictatorial powers, he has been involved in countless political murders, regularly makes threats against adversaries, and dismisses documented abuse of human rights as well as charges of corruption (Duncan 2008). FUNCINPEC, in turn, has been damaged by accusations of corruption, internal conflicts, and the joint rule with CPP. The largest and most influential opposition party at the present is SRP, which is also the harshest critic of corruption. In general, Cambodian domestic politics are characterized by sectional controversies, corruption, and violence. There are few or no leading intellectuals around which to form a core of a coherent political opposition (Utrikespolitiska institutet 2006:8-10). The general election procedure can however be seen as a relatively well established institution. The major issues in domestic politics are corruption and violent crime, as well as spreading and upholding respect for human rights (Hammarberg 2000).
4 The Khmer Rouge tribunal

4.1 Origins of the Khmer Rouge tribunal

Following the ousting of the Khmer Rouge by the Vietnamese, no significant national or international attempts at acknowledgment or justice were implemented, despite numerous initiatives. The Vietnamese-backed government held trials of Khmer Rouge leaders Pol Pot and Ieng Sary in August 1979, but their death sentences *in absentia* were not recognized internationally due to process objections and the diplomatic isolation of the regime. During the 1980’s, the Khmer Rouge question did not lead to any official international acts of condemnation or prosecution. Even in the wake of the 1991 peace settlement, the issues of justice and reconciliation were completely ignored due to the focus on political issues related to the cessation of hostilities and the provision for national elections. The US and Chinese support of the Khmer Rouge faction also played a part, despite some Cambodian government probing for justice. Reconciliation was at this stage considered synonymous with free and fair elections, and a certain amount of amnesia among the political élite in order not to reopen wounds for fear of awakening vindictiveness and thus endangering a fragile peace, was surely at play too. The final peace agreement did not preclude the Khmer Rouge from participating in the elections, nor did it prevent former Khmer Rouge officials from holding office (Lambourne 2001:318-19).

Only in early 1997, attempts at establishing a tribunal finally bore fruit – the Cambodian government approved of the UN plan in June. Several years of discussions ensued, the Cambodian government preferring national trials with international assistance in order not to damage the reconciliation process and keep the trial close to and meaningful for Cambodians, as well as creating opportunities for popular participation, while the UN initially leaning on an international tribunal due to the belief that the Cambodian justice system would not be capable of delivering fair, impartial, and independent trials because of political interference and attempts at control by the government and political élite (Chea 2003:50, 52).
Pushing towards an international process was the establishment of the ICTR and the ICTY, although the enormous costs and the constant threat of a Chinese veto in the UN security council early on made the prospect of an entirely international tribunal a highly unlikely one (Fawthrop and Jarvis 2004:148, 157; Hammarberg 2000). It was also argued that a Cambodian trial carried far more immediacy and relevance for the Cambodian society than a Hague trial would, due to reasons of involvement and participation (Fawthrop and Jarvis 2004:237). The government of Hun Sen, himself a low level ex-Khmer Rouge officer, was somewhat ambivalent about imposing criminal justice (Forsythe 2007:111). Instead of demanding justice, the government put forth the proposition of a truth commission leading to amnesty; based on concepts of ‘forgetting’ and ‘reconciliation’ (Hammarberg 2000).

However, as early as 1999 the Cambodian government agreed with the UN upon the future establishment of a special tribunal due to growing domestic and international demands for judicial proceedings against the ex-leaders of the guerrilla. The tribunal would be composed of both Cambodian and internationally appointed judges, a compromise solution since the UN for long had demanded a trial, but not been able to reach an understanding with the Cambodian government on its composition. An agreement on establishing a tribunal in order to try the leadership of the Khmer Rouge was finally concluded in June 2003, despite continuous Chinese resistance, and after several years of delays, discussions, and negotiations with the UN (Utrikespolitiska institutet 2006:9-10).

A new UN unit, UNAKRT, was established to support the tribunal. The arrangement with a mixed international-national tribunal, a so-called hybrid court, prompted criticism by international human rights advocacy groups, as by the UN secretary general himself, against the background of a very weak local judicial system. But imperfect legal justice in the end came to be preferred rather than no legal justice at all, particularly since the senior Khmer Rouge leadership was rapidly dying off (Forsythe 2007:111). After the proposed bill was approved by the Cambodian supreme court, signed by the king and backed by the UN, the judges were appointed and the trials were at that point expected to begin in 2008 – the first indictments were brought in during the course of 2007 as the Extraordinary Chambers in the Courts of Cambodia, or the ECCC, became fully operational in June (Alm 2008b; Utrikespolitiska institutet 2006:14-17).
4.2 Organization of the ECCC

The tribunal consists of two chambers: the trial chamber and the supreme court chamber. The trial chamber is composed of three Cambodian and two international judges, and the supreme court chamber holds four Cambodian and three international judges. There is also a pre-trial chamber with three Cambodian and two international judges, dealing with pre-trial appeals and orders for provisional detention. All decisions are made by the judges, and appeals may go from the trial court to the supreme court. Two co-prosecutors (one Cambodian and one international) collect evidence and decide upon whom to charge with what crimes; the cases are then passed on to two co-investigating judges (one Cambodian and one international), deciding upon whether proceeding to trial or not (ECCC 2008:9-10).

If the co-prosecutors or the co-investigating judges disagree, the five judges in the trial chamber decide. A case cannot be blocked from going to trial by the trial judges, co-prosecutors, or co-investigating judges alone. In the trial chamber, the judges will try to reach unanimous agreement on convictions and appeals; if this cannot be reached, a ‘super-majority’ is required: four out of five in the trial chamber and five out of seven in the supreme chamber. This way, every decision needs support from both Cambodian and international judges (ECCC 2008:13).

The cost of the tribunal is estimated at $30 million per year over a period of three years. Its operation is being financed by international contributions from more than 35 countries, mainly Western, as well as $5 million left over from the early 1990’s UN operation (ECCC 2008:19).

4.3 Grounds for indictment

The aging ex-Khmer Rouge leaders are to be tried for their participation in the death of 1.7 million Cambodians, who perished between April 17th, 1975 and January 6th, 1979 (Nationalencyklopedin 2006:57). While a 1999 UN report recommended 2,030 ex-Khmer Rouge members to stand trial, the legislation only approves of individuals deemed ‘most responsible’ to face trial; significant numbers are thereby exempted (Lea and Milward 2001:39-41). The 2001 Khmer Rouge law clearly states that only ‘senior leaders of Democratic Kampuchea and those who were most responsible for the serious crimes and violations’ can be tried. Only Cambodians will be on trial; although voices have been heard for the widening of indictments
to include foreign officials involved in the Cambodian wars, it was obvious already at the outset of discussions that this would effectively block all international support for a tribunal (Duncan 2008; Fawthrop and Jarvis 2004:218, 246).

Mere position in the Khmer Rouge is thus not sufficient for indictment, as top leaders theoretically may not have held full knowledge of violations, and lower level members carried out some of the worst atrocities, in which the S-21 security prison acts as one example. All trials therefore need to be individual (Hammarberg 2000). Obviously, those indicted will argue that they were not privy to leadership decisions about internal security, thereby seeking to place the full blame on others. The main task of the prosecutors and investigating judges therefore is to find evidence that directly incriminates individual Khmer Rouge leaders (Fawthrop and Jarvis 2004:210-11). Regarding the number of cases to be tried by the ECCC, anything above 10 would probably be a surprise (Menzel 2006). The charged persons, at the time of writing, are only five: Duch, Nuon Chea, Ieng Sary, Ieng Thirith, and Khieu Samphan. The applicable possible paragraphs in international law are the following (ECCC 2008:7-8, 15):

- Genocide (killing or causing serious mental or physical harm intended to destroy all or part of a national, ethnic, racial, or religious group)
- Crimes against humanity (such as mass murder, extermination, enslavement, deportation, torture, imprisonment, persecution on political, racial, and religious grounds, rape and other crimes of sexual violence)
- War crimes (such as unlawful treatment of civilians or prisoners of war, attacks on civilian targets, destruction of educational or religious institutions)
- Destruction of cultural property (such as theft or damage of historical buildings, archaeological sites, museums, art, and important book collections)
- Crimes against internationally protected persons (such as diplomats).

The maximum sentence to be imposed by the tribunal is life in prison, and the minimum sentence is five years in prison. Unlawful acquisition of money or property may be confiscated and turned over to the state. However, no individual financial compensation of victims is possible within the ECCC (Karlsson and Schoenhals 2008:5). No amnesties or pardons will be contemplated by the tribunal; the scope of the royal pardon granted to Ieng Sary in 1996 will be decided by the tribunal – even though he may not be re-tried for genocide, other
charges will be brought against him. The defendants are at the present charged with crimes against humanity and/or war crimes (ECCC 2008:17). War crimes are an obvious act of accusation, and crimes against humanity cannot be too hard to find proof of as whole social classes were exterminated on the basis of alleged ‘political deviation’ (Karlsson and Schoenhals 2008:5).

4.4 The genocide issue

A big issue is whether the Khmer Rouge can be tried for genocide or not – strictly speaking, the act of genocide is only applicable if national, ethnical, racial, or religious groups are the target of extermination policies, which was arguably not the case in the Cambodian disaster – all Cambodians were potentially targeted. Some scholars have been discussing terms such as ‘politicide’, sociocide’, or ‘autogenocide’ to better grasp the kernel of the Cambodian experience of extermination on political or social grounds (Fröberg Idling 2007:389). Another option to use the genocide convention would be to prove that ethnical or religious groups were specifically targeted (Fröberg Idling 2007:390; Margolin 1999:645). The Chinese and the Muslim Cham minorities sustained death tolls of 50-60 per cent, and the Vietnamese minority and the Buddhist monk society were almost completely annihilated (Karlsson and Schoenhals 2008:89). Therefore it could be argued that since these groups were far more subjected to Khmer Rouge atrocities than the average Khmer population, ethnicity could be seen as a principal factor and thereby render the genocide convention possible (Alm 2008a). Others do not agree; there are clear definitions of genocide and the grounds for accusations against perpetrators – blurring these through careless use would be unfortunate and disrespectful, since genocide is the worst of crimes. Not denying other acts of gross violations of human rights, out of a judicial viewpoint, the distinction between genocide and other crimes should be upheld (Espelund 2007).

Whether the Khmer Rouge’s violent policies were primarily targeted at ethnical groups, or that these were targeted only secondarily as a consequence of their predominant social status, remains an open question. This far, all counts accordingly concern war crimes and crimes against humanity, counts of genocide are not included (Alm 2008b).
4.5 Purposes of the tribunal

The reasons and purposes of the tribunal can be summed up as justice, reconciliation, truth, and law. Firstly, there is the purpose of justice for victims and survivors. At least some justice will be served by bringing some of the leaders to justice. Prosecuting the top leaders may serve justice on a symbolic level – but even if the ECCC works well, this will only be ‘justice light’, as the criminal justice imposed will be only incomprehensive: the victims’ relatives, health, jobs, and property is lost forever, and there will be no compensation in any other way for this. Thus the justice imposed will be a ‘minimalist transitional justice’, not much, but still better than nothing. Secondly, there is the purpose of reconciliation. About one third of the Khmer Rouge regime survivors suffer from post-traumatic stress syndrome to this day, and the trials invariably will bring back memories and force people to reflect upon a period many had hoped to forget. This is probably necessary in order to find peace. Forgiveness will not serve as a basis for reconciliation in this case, on the contrary the trials are a clear message of retribution. In this process, honesty about the past and one’s responsibilities is an essential precondition for reconciliation. Thirdly, there is the purpose of truth. This is a real challenge as the ECCC is not in a position to give a comprehensive answer to the question ‘Why did it happen?’, only glimpses of history can be clarified as individual guilt is being pursued, not the criminal nature of a system. And fourthly, there is the purpose of exercise in law. The legal and judicial reform process are at present in a state of despair; most judges have no substantial legal training, and the courts are amongst the least trusted institutions in society, viewed as corrupt, politicized, and incompetent (Menzel 2006).

4.6 Problems facing the tribunal

There are several problems, though. One is that the Cambodian judicial system still suffers from the damage it was inflicted during the Khmer Rouge regime, when only a handful of judges survived. Only in 2005 the first batch of students from a special judiciary education, financed by aid, were graduated (Utrikespolitiska institutet 2006:20). Also, communication problems might occur between personnel with a background from criminal law and those with a background from common or civil law. There might also be cross-cultural communication problems, and problems with adequate translation, as international law documents and
Cambodian witnesses and documents will have to be available in English, French, and Khmer (Menzel 2006). Another problem is that 30 years has passed since the crimes were committed and that several of the Khmer Rouge top leadership therefore cannot be tried, as is the case with Pol Pot himself (Fröberg Idling 2007:391-92). The fact that the tribunal has been delayed time after time entails that the Khmer Rouge top leadership may pass away of natural causes before they can be tried. The surviving Khmer Rouge leaders are now most of them in their late 70’s or early 80’s (Fawthrop and Jarvis 2004:190; Huor 2007:45-47). A lot of witnesses have passed away as well, and memories are imprecise, and documents may have been lost. The rather limited budget puts additional pressure on the three-year time frame. Another aspect regards witness protection – some people are still too scared to witness (Menzel 2006).

Furthermore, some potential war criminals may already have escaped justice by being granted amnesty and being incorporated into the regular army. Others have even received economic aid in order to resettle and begin a new life in the semi-autonomous zone surrounding Pailin (Chea 2003:50; Utrikespolitiska institutet 2006:20). The village of Phnom Malai on the Thai border may serve as an example; one of the last Khmer Rouge strongholds, its former rulers maintain their presence, demobilized but hardly disarmed and all the same beyond the control of the central authorities (Fröberg Idling 2007:239).

On the whole, it is not unusual that ex-Khmer Rouge members hold high positions in the administration. When an ex-Khmer Rouge leader was appointed regional governor in 2005, demonstrations broke out because of the fact that such a highly positioned Khmer Rouge leader was allowed to make a career (Huor 2007:209). Another example of this is the vice governor of Pailin, within recent memory a Khmer Rouge commander, or leading Khmer Rouge military who were allowed to keep their rank upon defection and assimilation into the Cambodian army. There are concerns that key figures like these will be shielded from prosecution by mutually beneficial arrangements between the former Khmer Rouge and CPP (Chea 2003:50; Hammarberg 2000). By supporting a tribunal, some say ‘show tribunal’, Cambodia adheres to international demands, but if this tribunal digs too deep into the leadership of the Khmer Rouge, the names of today’s political élite could soon come up. Thereby the process is criticized for intending merely to satisfy the interests of Hun Sen and the international community rather than promoting justice for the Cambodian people (Duncan 2008; Espelund 2007; Kamm 1998:4).
5 Reconciliation

5.1 Views on reconciliation

When discussing reconciliation, most Cambodians seem to refer to national reconciliation rather than personal reconciliation, a more pragmatic and political group process, including elements such as ‘act of compromise’, ‘avoiding new conflicts’, and ‘striking a balance in pursuit of collective interest’ (Lambourne 2001:314).

It stands clear that the respondents have quite clearly worded and also corresponding views on reconciliation. Reconciliation is more or less being defined as ‘a way of bringing conflicting parties together and reaching an agreement in order to end hostilities, with the future aspiration of living together in peace without feelings of anger or revenge’ (for example GRR 15; 16; 17).

A NGO director explains further:

In Cambodia, reconciliation means something was broken and you try to fix it. I always compare it to broken glass, the glass has been broken and you try to put the pieces back together. It’s a very demanding responsibility, a very difficult task. And it’s become a memory of our nation, because everybody was broken. Only the victims themselves can understand this and decide on this, that’s why it’s so important that we can only provide a process (MLI 2).

5.2 Reconciliation and justice

We have found earlier that reconciliation can be discussed in terms of justice and truth, each of which can be divided into five variables. In order to address the research question of the state of reconciliation in Cambodia, we use the analysis tool from section 2.1.3. Beginning with justice, it can be divided into the variables of confidence and trust, disaggregation of
guilt, functioning institutions, rectification, and retributive-restorative balance. For reasons of simplicity, these will below be investigated as being close to fulfilled, partly fulfilled, or not fulfilled at all. In analyzing, each variable is firstly framed by secondary sources, then we hear the view of the respondents, and lastly this is checked with the information gathered from the informants. For reasons of clarity, material gathered from different kinds of sources are indicated by fresh paragraphs.

5.2.1 Confidence and trust

The first of the variables concerning justice is the rebuilding of confidence and trust within and between victims and offenders. It seems neither confidence nor trust have fully been rebuilt yet, and the perpetrators are in many cases still living in the same neighborhoods and on the same streets as their victims or victims’ families (Huor 2007:50; Menzel 2006). Real reconciliation will be found when trust returns between individuals, it is believed (Lambourne 2001:314).

A woman from Seam Reap says: "I still remember and feel scared and suffering. Sometimes I saw people being killed in front of my face. I still feel like I have a sadness’’ (GRR 12). A woman from Kompong Speu continues: "I remember my husband was taken away to be executed. After that, I carried a knife in order to kill those who killed my husband. But now I try to forget things” (GRR 16). She adds: "I don’t trust these people at all, because their hands are full of Cambodian people’s blood. If a regime like that comes again, these people will come back” (GRR 16). A man from Kampot: "I still want revenge. If I found the person that sent me to labor camp, I’d want to kill him. I wouldn’t feel happy” (GRR 7). Others are more successful in rebuilding confidence and trust: "Even though I’m living without my parents and my close relatives, I’m still satisfied with living with today’s regime” (GRR 3). Buddhism proves a valuable tool in doing so: "As a Buddhist, I don’t want to think of what happened anymore, I just want to forgive everybody” (GRR 15). The woman from Seam Reap again: "Even though I still remember I cannot hate, I still keep talking to members of the Khmer Rouge” (GRR 12). A youngster from Kampot concludes: "Even if they did something wrong during that time, they were commanded by the top leaders. So I trust them as usual” (GRR 8).

This twofold notion is verified by other levels of society. A NGO director speaks:
Cambodians have not yet restored their identity, Cambodia is searching for its identity. At least 25 per cent of the whole population are still traumatized. It’s perhaps another decade for Cambodians to rebuild a full confidence. The Khmer Rouge managed to destroy the family foundation of Cambodia, it’s so difficult to put it back in place. The family that make up a society has been completely destroyed (MLI 2).

He continues on the issue of trust between victims and perpetrators:

After 30 years, many Khmer Rouge have become accepted by the community. They work quietly to care for their families, they do their farming, but they don’t look straight to the eye of the neighbor. They’re sort of asking for forgiveness in a Cambodian way. And they’ve become socially integrated. People can see the grey area between the black and white (MLI 2).

5.2.2 Disaggregation of guilt

The above discussion leads directly to the next variable, which is the disaggregation of individual and community regarding degrees of guilt. Regarding the responsibility of the Khmer Rouge for the terror of the late 1970’s, the country is somewhat divided. While the majority recognize the criminality of the former regime and some hold Pol Pot personally responsible for the acts of cruelty that occurred, others, the Khmer Rouge cadre, still hold the Khmer Rouge in high esteem as a nationalist force (Huor 2007:68).

It seems the picture is mixed. We hear a woman from Seam Reap: ”I believe that the low-level members and the top commanders have the same guilt. Most of them committed crimes and are guilty to the same extent” (GRR 11). On the other hand, another woman from Seam Reap states: ”The top leaders are the most guilty. If the low-level members didn’t do what they were commanded to, their families would be killed. And the top leaders must’ve understood what they did!” (GRR 14).

A NGO director paints a bleak picture:

If two people talk and one says ’I was a Khmer Rouge’, a wall builds between the two. The Khmer Rouge has become like a symbol of evil. There’s no grey area, only pure black. And because they wore black uniforms, it confirms the evil of them, that black forever. It’s very difficult to try to humanize the former Khmer Rouge (MLI 2).
5.2.3 Functioning institutions

The next variable regards functioning institutions, of which courts of law, civil service, and rule of law are being investigated. The administration and the judicial system is signified by corruption, inefficiency, and lack of rule of law, and public confidence in these institutions is low (Lambourne 2001:321). The judiciary is weak, politically controlled by the executive branch, and marred by inefficiency and corruption (Freedom House 2008; Marshall and Jaggers 2006:2). Cambodia is deemed one of most affected countries by bribery, especially the legal system and the judiciary is perceived as severely affected by corruption (Transparency International 2007:4, 22). As a result, Cambodians do not trust any institution. With extremely low levels of trust for the rule of law and the judiciary, and low levels for all levels of government, citizens seem to assume that the state is not for them. The institutional framework could hardly be distrusted more (Henke and Hean 2004:10).

Regarding non-partisan courts of law there are no doubts; the courts enjoy a very low degree of trust. A man from Kampot speaks of his experiences: "Through my neighbors, who were tried by the provincial court, I know there’s no justice, no fairness, no truth" (GRR 7). The problem is corruption: "I don’t trust the courts to provide justice to the people, I can see these things everyday. If I killed a person and gave $1000 to the court, they would release me. But what if I don’t have any money? They’d sentence me to 25-30 years in prison” (GRR 6).

These views are also supported on higher levels of society, here by a NGO director: "I must be one of those that never trust a domestic court. The domestic courts have a very low level of trust because justice is only given to the rich and powerful. The poor are always guilty” (MLI 1). An opposition party representative is even less diplomatic: "The courts are free to say and to do everything they want, regardless law, regardless morality, regardless everything. The jurisdiction of Cambodia is in a sorry plight” (TLI 1).

A similar issue is that of an effective civil service. Although there is a lot of criticism, the civil service fares better than the courts in the public eye. A woman from Kompong Cham shares her opinions: "People in the civil service always try to help and to be of benefit for the people, helping the simple people. I support the authorities to try to improve the living conditions of the Cambodian people” (GRR 3). Others are not as forgiving: "The service that they provide us is not good. They just take into account their own people, their own relatives,
or their own party. They’re not for normal people” (GRR 6). Or as this elderly man from Kompong Speu puts it: “To be honest, I don’t trust any authorities. They never respect the rule of the government, they follow the party line only” (GRR 15).

A NGO director confirms these views:

I’m ashamed to say so, but Cambodian officials always talk about unofficial gains, about stealing some sort of public interest from their work. This is the attitude of corruption, and that’s why finding justice for people will never be effective, because they think of their own interest (MLI 1).

These issues lead us directly to the question of the re-establishment of the rule of law. It is obvious that Cambodia has not been able to re-establish the rule of law as of yet: ”We have laws all right, but no enforcement! The law is not transparent” (GRR 16). A man from Kratie explains his beliefs: ”I hope that the international community can put pressure on the government so we can have rule of law. Because in Cambodia there are a lot of former Khmer Rouge, people who have absolute power. The Communist ideology is still alive in Cambodia” (GRR 1). Even if the rule of law is not fully implemented, most of the respondents seem to think that it is at least partly implemented: ”We have gradually implemented the rule of law, but the government is still very young. The rule of law has not been implemented to a 100 per cent, but in the future maybe it’s much better” (GRR 11).

The higher levels of society are somewhat divided on the issue of rule of law. A NGO director agrees with the public view:

There is no rule of law. Because we don’t have enough laws at the moment, like anti-corruption laws, and the legal enforcement is still poor. There’s no way that we can say that we have rule of law at this moment (MLI 1).

An ECCC official is not quite so pessimistic:

I don’t agree with Cambodia not having a rule of law. But it will take time to implement fully, you can’t change human beings in one day. Without rule of law, you can’t survive, you can’t live. So I think it’s inaccurate to say that Cambodia has no rule of law (TLI 2).
5.2.4 Rectification

The next variable is about the need for rectification of abuses. The terror during the Khmer Rouge regime lies no further than a generation back in time, and the crimes that were committed then are neither investigated nor expiated yet. No punishment has been delivered this far, apart from some spontaneous revenge killings – a sense of impunity prevails (Huor 2007:50; Menzel 2006).

However, with the establishment of the ECCC, the promise of rectification seem to be well on its way to fulfillment: "I believe that the government has found a good solution of handling the Khmer Rouge issue. Even though the process has not been completed yet, later there will not be any civil war. Most of the people believe that if you commit a crime, you will be punished” (GRR 11). There is some understanding of the delays: "I don’t think the government should have tried to process a few years ago, because there need to be involvement by the UN” (GRR 9). At the same time, the delays form a basis for criticism: “The government should have tried to take action earlier, now it seems like it takes a long time. It might be suspended, because most of the leaders gradually get old and die, so…” (GRR 10). Another strand of criticism touches upon the motives of the government: "According to the villagers where I live, top leaders of the Khmer Rouge still stay inside the government’s ranks. The reason why the government hasn’t tried to process all Khmer Rouge members is because there are many, many high-ranking government officers who were Khmer Rouge members” (GRR 7).

Although there are some criticism, the bottom line can be concluded by an ECCC official: "The mere existence of the tribunal itself is proof enough of the government’s commitment to rectification! The government wants to see a success of the ECCC as bad as everybody else does” (TLI 3).

5.2.5 Retributive-restorative balance

The last variable of the justice component of reconciliation is about retributive versus restorative justice. When discussing notions of justice, it should be mentioned that Cambodia has a layer of traditional indigenous legal mechanisms. Due to these indigenous beliefs, reintegration initiatives are often based on traditional rituals expressing the acceptance of offenders back into community, such as the somroh-somruel system, a kind of restorative
dispute resolution measure. The traditional Asian vision of dealing with victims and perpetrators in a post-conflict society might clash with trial-based notions of justice, which might explain some of the early hesitation shown to the retributive action of a tribunal (Chea 2003:51).

Since the ECCC is clearly a retributive institution, it might be of interest to investigate the basis for restorative actions in order to find a balance between legal desires for individual criminal responsibility and moral desires for national reconciliation. It seems support for a \textit{somroh-somruel} solution is rather weak: "Somroh-somruel is not an alternative to the trials, because if we take a look at the definition of somroh-somruel, it’s about trying to make people agree and consent. As for me, I want to see that it is written into our history that a person who commits a crime is punished” (GRR 3). A woman from Seam Reap fills in: "Somroh-somruel is impossible if we don’t have a trial, because how can we implement the process of reconciliation without a trial? They cannot collect enough evidence!” (GRR 12). Some respondents however see the virtues of restorative measures: "I believe that somroh-somruel is one of the alternatives to the Khmer Rouge trials. Even though it cannot bring justice to a 100 per cent, it can show the public that we have a process of trials” (GRR 4).

According to the NGO’s, \textit{somroh-somruel} is a dead end:

We cannot do this. It cannot work at all, to use somroh-somruel to find justice for the victims. In cases of land disputes or light domestic violence, somroh-somruel can give resolution. But these are crimes, not only minor offences, but serious crimes! We have to go to the judicial system” (MLI 1).

5.2.6 Summary of reconciliation and justice

So out of the five variables of justice, only one can be said to be close to fulfillment, inasmuch as the operation of the tribunal holds a great promise of rectification. Two variables are only partly fulfilled; confidence and trust, and disaggregation of guilt. Two more are not fulfilled at all, namely functioning institutions and retributive-restorative balance. The results are illustrated in table 2 below.
Table 2. The state of reconciliation – justice variables

<table>
<thead>
<tr>
<th>Justice variables</th>
<th>Degree of fulfillment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Confidence and trust</td>
<td>Partly</td>
</tr>
<tr>
<td>Disaggregation of guilt</td>
<td>Partly</td>
</tr>
<tr>
<td>Functional institutions</td>
<td>None</td>
</tr>
<tr>
<td>Rectification of abuses</td>
<td>Close to fulfillment</td>
</tr>
<tr>
<td>Restorative balance</td>
<td>None</td>
</tr>
</tbody>
</table>

5.3 Reconciliation and truth

The second major part of reconciliation is truth, which can also be divided into five variables. These are empathy, truth-telling, reconciliation events, acknowledgment and remorse, and awareness and responsibility for reconciliation. They are analyzed in the same manner as the justice variables.

5.3.1 Empathy

The first of these variables regards the creation of empathy, or willingness to listen to reasons behind actions, between victims and offenders. Cambodians have deep-seated feelings of mistrust of and animosity towards each other as a consequence of the Khmer Rouge regime, which destroyed all traditional moral and cultural values, including the Buddhist virtue of compassion. Cynicism and egoism still marks Cambodian society, and sammaki, solidarity and communal spirit, has all but disappeared (Kamm 1998:13; Margolin 1999:615-17).

Empathy presupposes communication, a process which is conspicuous by its absence. We hear the victims’ views on the Khmer Rouge policies: ”I have never heard any explanations or reasons; why they wanted people to work very hard and made people starve. I never heard any explanations” (GRR 14). Or in the words of this man from Kampot: ”I don’t believe I’ve ever heard any reasons or explanations from the leaders, they just commanded: ’Do that, otherwise…’ You could be killed without any reason” (GRR 9). Another man from Kampot concludes: ”Just giving explanations, that’s not what those people did do” (GRR 10). Others
state that they’ve heard that the vague reason behind the Khmer Rouge policies was the ‘development of the nation’ (GRR 7; GRR 12; GRR 15), but no more specific explanations for the atrocities were given.

An ECCC official fills in the picture:

There were many stupid explanations, they all repeated the same thing, but never a clear policy. You didn’t know who brought that policy, they only said Angkar, meaning the top organization, and you don’t know who that is. Who’s the top organization? But there was never a clear policy (TLI 2).

When asked "What do you think were the reasons behind the Khmer Rouge policies?", the respondents give a wide range of more or less confused answers, pointing to the fact that they don’t have a clue, which some admit: "This is a question that cannot be answered, that I want to ask to the international community. Why did the Khmer Rouge commit such cruelties to their own people? I have no idea why they did so” (GRR 17). A woman from Seam Reap tries to give an insight into the mechanisms behind this:

I don’t have any idea of why they committed these crimes, and during that time we dared not ask why. We were afraid even to look in the face of the leaders. We only tried to work without asking any questions, we kept to our own minds, kept quiet. We never knew why (GRR 14).

The response of a NGO director epitomizes this issue: "That has been a question posted by the whole country for 30 years now. It is because what happened under the Khmer Rouge regime… There simply is no one that can express it in words or in any human language” (MLI 2).

5.3.2 Truth-telling

Obviously truth-telling is an important variable in the truth aspect, here handled in terms of the existence or not of a truth commission. There are at least four different versions of what happened during the Khmer Rouge regime: the government’s, the international community’s, the Khmer Rouge’s, and the ordinary Cambodians’. Each of these truths need to be accommodated to the satisfaction of all parties (Chea 2003:51). In the light of the fact that reconciliation presupposes both justice and truth, it stands clear that the thoroughly discussed concept of a truth commission could act only as a complement, but not an alternative, to a
tribunal (Hammarberg 2000). Some Cambodians are furthermore sceptical against replicating the ‘Christian concept’ of truth commissions based on confessing and forgiving, as this is not in concordance with the Cambodian Buddhist tradition – perpetrators will always be held responsible for their crimes and there is no God who will forgive. However, some Cambodians reach the opposite conclusion; forgiveness lies near at hand since perpetrators will be punished in the next life. The feelings of Cambodians are mixed on this issue, some believe it is too late for a truth commission, others that a tribunal should precede one. Due to this lack of support, the issue of a Cambodian truth commission has this far amounted to almost nothing (Brounéus 2003:22; Lambourne 2001:320).

As Cambodia has no proper truth commission, it is deemed urgent to investigate the respondents’ views on this matter. There is the DC-Cam though, a non-governmental institution committed to searching for the truth, among other things through its printed publication by the same name. The support for a proper Cambodian truth commission interestingly enough shows itself to be very strong, the respondents are almost unanimous on this matter: “Yes, I think there should be another commission to find out the truth. I just want to see why, the reason why they commanded the people to do what they did not want to do” (GRR 12). A woman from Kompong Cham takes the thirst for truth one step further: ”Not only about the Khmer Rouge, but also in order to find out the reality about everything that happened in Cambodia, and our neighbors. I want to have a full commission about the war in order to have real peace” (GRR 3).

If the grassroots are almost unanimous on the issue of a truth commission, the higher levels of society are more circumspective. This NGO director argues in favour:

Perhaps it can encourage the people that used to be local leaders to say the truth to the people and say ‘sorry’ for what they have done in their own communities. This could be considered another kind of justice-seeking for the people, to ensure that the anger will fade and that national reconciliation will happen truly (MLI 1).

An ECCC official does not agree:

I think a truth commission could be a social provocation and disturbance. If you start to identify those who have slept for 30 years without identity, you might cause social chaos, anarchy. I think it will be more effective to build a stupa as a collective reparation, with ceremonies and blessings, to act as a symbol of forgiveness, of apologizing. I think that’s better (TLI 2).
5.3.3 Reconciliation events

The above line of arguments leads directly to the next variable, which is reconciliation events. This far, reconciliation events have exclusively been the prerogative of NGO’s due to lack of governmental activities, such as the CSD arranging public rural forums debating issues of truth, justice, and community reconciliation (Lambourne 2001:320-21). Buddhism, a powerful influence in daily life, may also lead to social action of this kind, as demonstrated in the annual *Dhammayietra* ‘Pilgrimage of truth’ marches or numerous memorial cremation ceremonies (Chea 2003:52).

Is there need for further reconciliation events? It seems there has been quite a lot of public memorial ceremonies for the victims, but rather unofficial and uncoordinated by nature (GRR 11; GRR 13; GRR 16; GRR 17), which manifests itself in the strong support for further events, represented by this man from Kompong Speu: "Today there should be more memorial ceremonies. This in order to remind about what happened under the Khmer Rouge, but not for any anger or revenge, just to tell the new generation about what actually happened" (GRR 15).

The higher levels of society seem to agree with this: "There should be more memorial ceremonies. What they’ve done so far, it’s just like lightning; it comes, stops, and then doesn’t return until the next rainy season one year later. So in my opinion there should be more things like that” (TLI 2).

5.3.4 Acknowledgment and remorse

The next variable of truth is acknowledgment of the past and remorse for injustices inflicted. The Khmer Rouge leaders have not yet been held accountable and have even been included in the political process, showing no signs of remorse (Lambourne 2001:321-22).

It is clear that no acknowledgment has ever been heard from the Khmer Rouge: "I have never heard the Khmer Rouge admit anything” (GRR 1), or "They always blame others, they say they did not do anything, they were just indifferent parts” (GRR 3). With no acknowledgment, there can hardly be any visible remorse either: "I never heard any regrets to what they did. If we could hear any regrets, my mind would be satisfied. But never” (GRR 15), or "I never heard any regrets for what the Khmer Rouge committed. As a proverb says: We are not afraid of the
people who do something wrong, but we are afraid of the people who do something wrong and never accept their mistake” (GRR 16).

A NGO director confirms: "I heard only about their descriptions of their non-guilt. They talk only about their generosity, about their good heart. They never talk about the atrocities committed during their regime” (MLI 1).

5.3.5 Awareness and responsibility for reconciliation

The last variable concerns the awareness of reconciliation amongst the political leadership in order to handle future conflict, and the responsibility for reconciliation amongst the same in order to respect the rights of all involved. The ruling party CPP itself is however not completely united on the issue of a tribunal; despite the strong tendencies inside the party committed to see justice done, there are factions opposing a tribunal. ‘Nativists’ loath the idea of continued foreign involvement in Cambodian affairs, ‘rejectionists’ see the tribunal as a threat to national reconciliation, and ‘protectionists’ try to shield the party itself from possible damage since several important members are ex-Khmer Rouge (Fawthrop and Jarvis 2004:153-54).

A strong belief in both the awareness of, and responsibility for, the reconciliation process on behalf of the government is however revealed by the respondents: "I believe that the government supports the idea of national reconciliation in Cambodia. Otherwise there would be no ECCC in Cambodia now” (GRR 5). A youngster from Kampot expresses the self-evident: "The January 7th victory politically was about trying to release the Cambodian people from what we call ’The Black Regime’. That’s one of the things that could be representative of the government’s support for national reconciliation” (GRR 8). A man from Kratie gives another example: "From the very beginning I heard that the international community didn’t want the ECCC to be established in Cambodia, but in another country, Hague or whatever. But our government demanded that this is a Khmer issue, so it should be established in Cambodia” (GRR 6).

A NGO director agrees with these views:

They support the court to 100 per cent, for instance they announce that they support calls for reparations, so they’re talking about how to actually compensate the victims. Also, when the Pol Pot regime was still active, the
government managed to reconcile and get them to reintegrate with society. As a result we had this peace (MLI 3).

An ECCC official adds a little criticism, though: "To tell you the truth, I haven’t really seen much initiative from the government apart from the tribunal. There has been a certain reluctance this far" (TLI 3).

5.3.6 Summary of reconciliation and truth

To conclude, out of the five variables of truth, only one can be said to be fulfilled or close to fulfilled, and that is awareness of and support for reconciliation on behalf of the Cambodian government. Two others are partly fulfilled; truth-telling and reconciliation events, and the remaining two – empathy, and acknowledgment and remorse – are not fulfilled at all. The results are illustrated in table 3 below.

Table 3. The state of reconciliation – truth variables

<table>
<thead>
<tr>
<th>Truth variables</th>
<th>Degree of fulfillment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Empathy</td>
<td>None</td>
</tr>
<tr>
<td>Truth-telling</td>
<td>Partly</td>
</tr>
<tr>
<td>Reconciliation events</td>
<td>Partly</td>
</tr>
<tr>
<td>Acknowledgment and remorse</td>
<td>None</td>
</tr>
<tr>
<td>Awareness and support</td>
<td>Close to fulfillment</td>
</tr>
</tbody>
</table>

5.4 Conclusions on the state of reconciliation

All in all, neither the justice nor the truth aspect are anywhere near fulfillment, although a few steps towards national reconciliation have been taken. The most important of these are that the government is aware of and supports the reconciliation process, and has initiated a process of rectification. But there are several areas which completely fail to show any signs of progress; namely dysfunctional institutions, lack of restorative measures, lack of empathic communication, and a complete lack of acknowledgment of and remorse for past injustices. The fields of confidence and trust, disaggregation of guilt, truth-telling, and reconciliation
events lie somewhere in between. Clearly, the Cambodian process of national reconciliation is only at its earliest stages.

A vital component in explaining the relative lack of reconciliation in Cambodia this far would be the predominant so-called culture of impunity, not respecting basic judicial principles. No sense of justice has this far been achieved for the Cambodian people, and even peaceful coexistence with the former Khmer Rouge is sometimes met with a great deal of resistance. The international community and the national government for long ignored the needs of the population and their right to justice, a fact which today manifests itself in the relative lack of reconciliation (Lambourne 2001:321-22).

In analyzing the state of reconciliation, no significant discrepancies have occurred between respondents of different sexes, ages, geographical locations, or social backgrounds. Neither are there any major differences between the societal levels analyzed, nor between the secondary and the primary sources.
6 The ECCC and reconciliation

6.1 Views on the ECCC’s importance for reconciliation

The main research question of this study regards the relationship between the Khmer Rouge tribunal and the reconciliation process. Once again, we are using the analysis tool from section 2.1.3, only this time we are searching for evidence of connections between the two study subjects. The issue is analyzed in a manner likewise to that in the previous chapter regarding the three levels of analysis, only that instead of penetrating all variables, focus lies on those where there seems to be a clear connection between the tribunal and the reconciliation process.

The view of the Cambodians on the prospects of a tribunal seem to harbor two main notions: that a tribunal is vital for Cambodia to be able to develop as a nation; or that it will bring the past back to life and lead to new conflicts. A strong argument in favor of a tribunal holds that future peace is endangered by unpunished crimes, and that there is no inherent contradiction between a tribunal and lasting peace. Also is there no apparent contradiction between justice and reconciliation, on the contrary reconciliation may presuppose justice (Hammarberg 2000). A 2002 CSD survey states that 68 per cent of Cambodians feel that ex-Khmer Rouge leaders must be tried. The same survey also implicates that 51 per cent feel that a trial should apply to persons of all regimes, not only Khmer Rouge, and not only during the period of 1975-79. The opposition in this survey came primarily from former Khmer Rouge soldiers and officials (Fawthrop and Jarvis 2004:144-45, 169). In a KID study conducted April-July 2008, an overwhelming 94 per cent are positive to the work of the ECCC, and 85 per cent feel that the tribunal will contribute to a sense of justice in the Cambodian society (KID 2008:2-6).

When asked about their feelings for the Khmer Rouge tribunal, the respondents unanimously express happiness, excitement, and satisfaction, like this woman from Kompong Cham: “I’m very happy with the Khmer Rouge trials, because my parents were killed by the Khmer Rouge
regime” (GRR 3), or this man from Kompong Speu: “I’m very satisfied to have the Khmer Rouge trials today, and on behalf of the Cambodian people, I’m very, very happy. I’m one of the victims under the Khmer Rouge, and I really want to see the Khmer Rouge tribunal” (GRR 15).

Some of the higher levels of society agrees: “I think this is a very important institution, this is a historic institution in seeking justice for the victims of the Khmer Rouge regime” (MLI 1). An ECCC official himself explains his views: “This symbolic trial is a very important step in ending impunity, building up the judicial system, and for the sake of peace and national reconciliation” (TLI 2). But in this sphere there is also a certain amount of scepticism:

I believe the whole trial isn’t necessary, because it’s been 30 years and this hybrid court may be doing injustice to the Cambodian people. The funding of $55 million could have been better used in terms of community work pointing at national reconciliation (MLI 3).

Another NGO director sums up his views:

I think they are working very hard, but the differences between the legal systems, between the UN and the government, are making things a little bit complicated. Also, the role of the court is to provide a final judgment, but people have very high expectations, which is why the role of civil society becomes so important to help managing public expectations (MLI 2).

An overwhelming majority of the population hold that Khmer Rouge leaders should be tried and punished for their crimes, accordingly, and that this would be both necessary and beneficial for national reconciliation (Chea 2003:51). A 2002 CSD survey state that 82 per cent of the population think that a trial would be advantageous to true national reconciliation (Fawthrop and Jarvis 2004:145).

Regarding the role of the tribunal in the reconciliation process, the respondents are almost unanimously agreed upon that the tribunal affects reconciliation positively: “Even though I don’t believe that the trials can reach reconciliation to a 100 per cent, at least it can help the feelings of the people, because they see that the Khmer Rouge leaders are found guilty” (GRR 1). A man from Kratie explains his ideas:
I think that the court can set a good example for future leaders, that if they do something bad like the Khmer Rouge, they might have the same fate. If they kill so many people, commit so many crimes, they face the same thing. So the ECCC is an example, gives a lesson, to our next leaders (GRR 6).

Just as the role of the tribunal in the reconciliation process is seen as a very major one, likewise it is widely believed that reconciliation would not be possible without the tribunal, or at least that it would be a very flawed reconciliation. We hear a man from Kompong Cham: “It is impossible, reconciliation cannot happen without trials. These are not small crimes, they took place nationwide, and people have been waiting and want to see justice. They trust the Khmer Rouge trials and believe that real justice will be found. So reconciliation cannot happen without trials” (GRR 4). A man from Kampot agrees: “I’m certain that if there’s no court, reconciliation cannot happen. People seem to have anger and still remember all the things that happened then. It’s impossible to have reconciliation without the court” (GRR 10). A woman from Kompong Cham concludes:

If we don’t have the trials, we will not have reconciliation. The new generation might think that if the previous generation allowed crimes like those of the Khmer Rouge, why shouldn’t we be allowed to commit crimes too? So it’s a good idea that we have the trials. And at the same time reconciliation. We cannot have reconciliation without the trials” (GRR 3).

However, the general opinion seems to agree upon that a tribunal would be only one part of a reconciliation process and that reconciliation issues cannot be dealt with purely through politics – issues and relationships are separate but intertwined elements, just as politics and reconciliation are separate but interdependent processes (Lambourne 2001:315).

When discussing alternative ways to reach reconciliation, most respondents agree upon that the tribunal is a major part, but not the only part, in the reconciliation process. Several respondents mention the need for information, like this woman from Kompong Cham: “Actions that would bring reconciliation could be invitations to public hearings with the Khmer Rouge leaders. This means the process of reconciliation involves information to all the people that are related to the Khmer Rouge regime, but without demands of punishment for the low levels. Above all, we don’t want any more anger or war” (GRR 3). Another rather common suggestion is the need for plain confessions: “If those leaders only confessed what
they did, confessed that ‘Oh, I was wrong!’, just these words and we would feel satisfied already” (GRR 15).

Turning to the mid- and top-levels of society, these seem to confirm the grassroots’ statements. On the effects of the tribunal on the reconciliation process, an ECCC official says:

I think this process will have a lot to do with reconciliation. We can see that both victims and perpetrators want to live together, and both of them admit their mistakes from the heart. The perpetrators say they have followed the others, and many of them realizes that their own family members were also killed by the regime in which they were involved. So if we try senior leaders and the most responsible, national reconciliation means much for Cambodian people (TLI 2).

A NGO director discusses the risk of the trials damaging the reconciliation process: “I don’t think the trials could damage reconciliation, because the majority of the Cambodian people need justice. They want to see the perpetrators punished, so they will be in peace. But of course, if you speak to the grassroots people in Pailin, where the former stronghold of the Khmer Rouge is, they won’t say that, they will say that they don’t need justice from the court” (MLI 1).

On the issue of the necessity of the tribunal in order to proceed reconciliation, the same NGO director says: “There’s no way to reach reconciliation without trials. Of course you can tell the people to stay in peace and don’t take any revenge, but there’s still pain in our chests! There’s no way we can have reconciliation without this kind of judicial justice” (MLI 1).

Another NGO director on the same matter:

Without trials, the reconciliation process couldn’t move forward, that’s why we need the tribunal. People have been trying to move on for 30 years, but it’s not working. Cambodians tried to reconcile before the trial’s taken place, but it’s not working. There’s no final judgment. Without legal prosecution, it’s difficult for anyone to reach a full forgiveness. It’s impossible, because it’s all about human rights (MLI 2).

The same NGO director also has some ideas on complementary mechanizms for reconciliation: “Education for the children of the survivors. They are the best healing medicine, to me, they are the source to reconcile from. The children are the main force to put this back together, not the victims, for they are so broken. So for me, it’s education” (MLI 2).
6.2 The ECCC and justice

There is a strong sentiment among the respondents that the tribunal is going to bring justice to the Cambodian society. This man from Kratie explains why: “In Cambodia, there’s still impunity. If there is no tribunal, it will seem as if the leaders are trying to protect the killers. As for me, I lost wife, child, family, totally 19, during the Khmer Rouge regime. I think the trial will bring justice” (GRR 1). The international involvement plays a major part in this: “In the Khmer Rouge trials, there is not only the existence of Cambodian judges, but also of international judges. Thus the process of bringing justice could run very smoothly” (GRR 4).

The fact that only five leaders are being detained raises questions: “Five leaders are not enough to be tried. Through the bitter experiences that I’ve suffered, my own family was killed, slaughtered, I cannot agree with only five leaders being tried. I feel great sadness” (GRR 14). Others accept this fact: “If we try all of the Khmer Rouge, it will be a lot of people. I’m satisfied to have the five main leaders tried” (GRR 15), or “As the next step, the court can search for any other high-ranking leaders” (GRR 17). Yet others do not believe in justice at all: “People seem not interested and don’t respect that the Khmer Rouge trial can bring justice, because it’s a long time ago, and the procedure takes a long time” (GRR 11).

In general, the higher levels of society seem to support the notion of the tribunal bringing justice: “I think this tribunal would be a good mechanism to find justice for the Cambodian people and to heal traumas brought forward from the past” (MLI 1). Another NGO director speaks: “I think that many people feel that something’s been done that’s important, the establishment of the ECCC has already satisfied a lot of people. The process itself sends a lot of messages” (MLI 2).

6.2.1 Justice variables possibly influenced by the ECCC

If we take a look at the five variables of justice, it is obvious that the tribunal holds a great promise of rectification, as it partly aims at calling for accountability, demonstrating that justice is done, and making an example for future leaders that violations are punished (Hammarberg 2000). Apart from this, there are at least two more fields of reconciliation in which the tribunal is likely to have positive effects. The ECCC could have positive effects for the legal and judicial reform process, serving as a role model for appropriate criminal proceedings by ‘trickle-down’ effects. In that sense, the ECCC could serve as at least a symbolic challenge
to the so-called culture of impunity, as victims are likely to feel a sense of vindication when they see former leaders stand trial, confronted for their alleged crimes, and punished when found guilty (Menzel 2006; Uñac 2006:160).

This is supported by the understanding of several of the respondents: “Hopefully there will be a spillover effect to the court system in the future” (TLI 3), “The Khmer Rouge trials could be a good example for all the courts in Cambodia” (GRR 2), and “Even when the Khmer Rouge tribunal has finished its mandate, it is important for the justice system reformation in Cambodia” (GRR 1).

An ECCC official explains:

The tribunal already has had positive effects on the court system, because many judges who are working here, they work for the national courts as well. What they learn here implies there, and I think they will take this experience, this system of jurisdiction, with them (TLI 2).

Connected to this is also the contribution to and promotion of the rule of law, involving the local judiciary would be highly beneficiary for an evolving system of justice (Fawthrop and Jarvis 2004:237; Chea 2003:53). The Cambodian government has acknowledged that fact by making legal and judicial reform one of the pillars of its 2006-2010 national strategic development plan (Uñac 2006:163).

Or in the words of this man from Kratie: “I hope that through the tribunal, the international community can put pressure on the government so we can have rule of law” (GRR 1).

Furthermore, it would not be far-fetched to assume that the tribunal proceedings would also contribute to breaking down atrocity myths and help to disaggregate individual and community regarding degrees of guilt among perpetrators, as one of the objectives of the tribunal is to individualize guilt (Fawthrop and Jarvis 2004:210-11; Hammarberg 2000). By focusing prosecutions on former senior leaders of the Khmer Rouge, the tribunal will highlight the distinction between the policymakers and those who were simply swept up in the machinery. This can help alleviate tensions between ordinary Cambodians and contribute to the reintegration of former Khmer Rouge cadres into mainstream Cambodian society (Uñac 2006:160). Regarding the remaining variables, it is unlikely that the tribunal will have any
effects on restorative measures, as it is a clearly retributive institution (Chea 2003:51). The tribunal appears to be doing very little to provide restorative justice, excluding provisions for meaningful restoration for victims (Uñac and Liang 2006:136). There is lastly a distant possibility that some positive side effects will appear in the field of confidence and trust. By exposing the truth and differentiating fact from rumor, the Khmer Rouge tribunal can help build trust amongst neighbors, villages, and communities, moving towards a point when former adversaries ‘can smile at and trust each other again’ (Uñac 2006:158). See also discussion under section 6.3.1. The results from this part of the study are illustrated in table 4 below.

Table 4. Justice variables and their relationship to the tribunal

<table>
<thead>
<tr>
<th>Justice variables</th>
<th>Prospect of positive effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Confidence and trust</td>
<td>Possibly</td>
</tr>
<tr>
<td>Disaggregation of guilt</td>
<td>Likely</td>
</tr>
<tr>
<td>Functional institutions</td>
<td>Likely</td>
</tr>
<tr>
<td>Rectification of abuses</td>
<td>(Close to fulfillment)</td>
</tr>
<tr>
<td>Restorative balance</td>
<td>Unlikely</td>
</tr>
</tbody>
</table>

6.3 The ECCC and truth

Likewise, there is a strong sense that the tribunal will uncover the truth about the Khmer Rouge regime: “I believe that the ECCC will be able to disclose the truth about what happened during that time. Who are the real perpetrators? Who committed the crimes? Disclosure, sort of” (GRR 5). A man from Kratie gives his view: “I think the ECCC will give the truth about the crimes. Because we have lawyers, investigation charges, prosecutors, co-prosecutors, and it follows international law. Before, we didn’t have any of this and always prayed to the gods” (GRR 1).

These views are largely supported by higher levels of society: “I think the court will be able to provide some sort of truth to the Cambodian people. Why did that regime commit those crimes? Who led the crimes? This kind of truth will be revealed by the work of this tribunal” (MLI 1). Another NGO director dwells upon the concept of truth:
The whole idea of the ECCC is to be a foundation so that we can restore our identity, seek our own truth, reconcile, put this behind us, justify what happened to us. The ECCC itself is not everything, it’s not the only solution, but it’s helpful in making us confront this, in making us complete persons. It’s something that’s been missing” (MLI 2).

But there are critical voices heard as well:

We don’t care, because we all witnessed the truth, so we don’t need any revelation of the truth, that’s not necessary from the tribunal. People who were suffering under the Khmer Rouge regime can provide the truth. The truth is not important (TLI 1).

6.3.1 Truth variables possibly influenced by the ECCC

We have seen that the tribunal has some potential of advancing reconciliation along the justice parameter, not to be surprised, but it is also not unlikely that the tribunal will have at least some positive effects on the search for truth, although it does not primarily aim at comprehensively clarifying history. But in that it at least partly aims at educating the younger generation, uncovering the truth, and documenting crimes, some historical knowledge will surely be produced (Chea 2003:53; Hammarberg 2000). The ECCC’s findings can help establish an accepted history that can be disseminated to Cambodians, now and for future generations. One should not expect that the findings of the ECCC will amount to the ‘full truth’ about the Khmer Rouge. However, the public trials of former Khmer Rouge leaders can clarify important historical points, bring information to a wide general audience, and help Cambodians learn about and come to terms with the past (Uñac and Liang 2006:149-50). It should be mentioned that more than half of the population was not born during the Khmer Rouge regime, and knowledge of this era is poor. Very little is mentioned in schools and the younger generation has to rely on what their parents and relatives tell them. Cambodian society has tried hard for decades not to reflect on the topic of the Khmer Rouge regime, and Western research should not be confused with the knowledge of even the educated Khmer population. Lack of historical knowledge makes it easy to continue to believe the root causes are found in outside interference. Hopefully, the trials will lead to a more honest assessment of the country’s own history. The trial would thereby act as a public campaign of enlightenment and trauma healing (Espelund 2007; Fröberg Idling 2007:390-91; Menzel 2006).
We hear an ECCC official on this: “In order to have this trial, everybody will dig up the past, meaning we will be able to know the truth. I think many books will be written, and many parts of our history that have been buried for years will be revealed. So this trial will certainly bring the truth” (TLI 2).

Regarding the other variables, it is unlikely that the tribunal will have any effects on reconciliation events, there are no indications pointing to that direction. There is a vague possibility that some positive but basically unintentional side effects will appear in the fields of empathy, and acknowledgment and remorse. The way these aspects evolve depends to a large extent on what takes place during the proceedings. In case the Khmer Rouge leaders on trial would explain their policies, acknowledge their mistakes, apologize, and show genuine remorse, these aspects would be fulfilled to a higher degree and thus considerably contribute to the advancement of reconciliation. Possible apologies or explanations by Khmer Rouge defendants may assist victims in forgiving, reconciling, and moving on (Uñac and Liang 2006:160). This far, none of the accused have shown any signs of moving in that direction at all, with one exception: Duch. On his March 31, 2009 hearing, he both acknowledged the atrocities he committed, as well as apologized to the victims and asked for forgiveness. This expression of regret and remorse is unique for the court proceedings this far, as is the willingness to cooperate and the devotion to truth-telling, which offer some of the historical clarification Cambodians are seeking (Mydans 2009). The near future will show whether this is an anomaly or a breakthrough for reconciliation. The results from this part of the study are illustrated in table 5 below.

Table 5. Truth variables and their relationship to the tribunal

<table>
<thead>
<tr>
<th>Truth variables</th>
<th>Prospect of positive effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Empathy</td>
<td>Possibly</td>
</tr>
<tr>
<td>Truth-telling</td>
<td>Likely</td>
</tr>
<tr>
<td>Reconciliation events</td>
<td>Unlikely</td>
</tr>
<tr>
<td>Acknowledgment and remorse</td>
<td>Possibly</td>
</tr>
<tr>
<td>Awareness and support</td>
<td>(Close to fulfillment)</td>
</tr>
</tbody>
</table>
6.4 Conclusions on the connections between the ECCC and the reconciliation process

To conclude, the ECCC is held in high esteem despite the fact that it this far has not produced any tangible results. Expectations are high, and voices have been heard that the funding is dearly needed in other areas of society. There is however widespread belief in the tribunal bringing justice by ending the cycle of impunity; and also in the tribunal revealing the truth about the crimes of the Khmer Rouge regime, and thus reaching some form of closure. Even though the tribunal is restrained from putting anyone but the top layer of Khmer Rouge leadership on trial, providing at least some justice will inevitably push the reconciliation process forward (Chea 2003:53). It is thus widely believed that rectification will have positive effects on the reconciliation process; in fact, there seems to be a strong understanding that the tribunal is essential for reconciliation, and that reconciliation hardly could move forward without trials. There are complementary ways to reconcile, such as complying with the need for knowledge and confessions, but it seems these take a back seat to the tribunal. The variables of reconciliation most likely to be positively affected by the tribunal are functioning institutions, truth-telling, and disaggregation of guilt. Progress in the fields of confidence and trust, empathy, and acknowledgment and remorse depends entirely on how the proceedings turn out. Regarding restorative measures and reconciliation events, there are no indications whatsoever on any progress. In analyzing the connections between the ECCC and the reconciliation process, no significant discrepancies have occured between respondents of different sexes, ages, geographical locations, or social backgrounds. Neither are there any major differences between the societal levels analyzed, nor between the secondary and the primary sources.
7 Concluding discussion

7.1 Findings

The scientific aim of this study has been to analyze the relationship between the Khmer Rouge tribunal and the Cambodian reconciliation process. We have been investigating the connection between the tribunal and reconciliation by posing a series of research questions. After an exposé of the Cambodian political landscape and the characteristics of the ECCC, we turned to the present state of reconciliation in Cambodia. The research question was formulated as: “What is the present state of reconciliation in Cambodia?” The findings suggest that reconciliation is nowhere near fulfillment, although a few steps towards national reconciliation have been taken. The most important of these are that the government is aware of and supports the reconciliation process, and has initiated a process of rectification. But there are also several areas which completely fail to show any signs of progress. Clearly, the Cambodian process of national reconciliation is only at its earliest stages. A striking conclusion would be that reconciliation simply does not come about by itself – not even after 30 years! There have to be some sort of conscious and deliberate policies aiming at reconciliation for it to happen. The state of reconciliation can be illustrated by table 6:

Table 6. The state of reconciliation – an overview

<table>
<thead>
<tr>
<th>Justice variables</th>
<th>Degree of fulfillment</th>
<th>Truth variables</th>
<th>Degree of fulfillment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Confidence and trust</td>
<td>Partly</td>
<td>Empathy</td>
<td>None</td>
</tr>
<tr>
<td>Disaggregation of guilt</td>
<td>Partly</td>
<td>Truth-telling</td>
<td>Partly</td>
</tr>
<tr>
<td>Functional institutions</td>
<td>None</td>
<td>Reconciliation events</td>
<td>Partly</td>
</tr>
<tr>
<td>Rectification of abuses</td>
<td>Close to fulfillment</td>
<td>Acknowledgment and remorse</td>
<td>None</td>
</tr>
<tr>
<td>Restorative balance</td>
<td>None</td>
<td>Awareness and support</td>
<td>Close to fulfillment</td>
</tr>
</tbody>
</table>
The main research question was however: “What is the relationship between the Khmer Rouge tribunal and the reconciliation process?” The findings suggest that there is a strong relationship between the tribunal and reconciliation, inasmuch as the tribunal is perceived to have positive effects on the reconciliation process, and that continued reconciliation would not be possible without the tribunal. The tribunal is not the only part in reconciliation though, indicating that the tribunal is a necessary but not sufficient precondition for continued reconciliation. At this stage the tribunal is the most important part in the reconciliation process, but it can not bring reconciliation close to fulfillment on its own, other mechanisms must be involved in order to do so. The conclusion that the tribunal is imperative for continued reconciliation is a strong argument in favor of rectification in post-conflict situations, but perhaps even more interesting is the natural resulting question regarding its insufficiency: What measures must be taken apart from court proceedings in order to advance reconciliation? One part of the answer to that may lie in the areas that the tribunal can not influence, namely restoration and reconciliation events, as a sort of logical closure. On the other hand, it might be so that a theoretical model like this just is not adequate enough for capturing the finer details of such a complex process as reconciliation. The variables of reconciliation most likely to be positively affected by the tribunal are illustrated in table 7.

Table 7. Reconciliation variables and their relationship to the tribunal – an overview

<table>
<thead>
<tr>
<th>Justice variables</th>
<th>Prospect of positive effects</th>
<th>Truth variables</th>
<th>Prospect of positive effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Confidence and trust</td>
<td>Possibly</td>
<td>Empathy</td>
<td>Possibly</td>
</tr>
<tr>
<td>Disaggregation of guilt</td>
<td>Likely</td>
<td>Truth-telling</td>
<td>Likely</td>
</tr>
<tr>
<td>Functional institutions</td>
<td>Likely</td>
<td>Reconciliation events</td>
<td>Unlikely</td>
</tr>
<tr>
<td>Rectification of abuses</td>
<td><em>(Close to fulfillment)</em></td>
<td>Acknowledgment and remorse</td>
<td>Possibly</td>
</tr>
<tr>
<td>Restorative balance</td>
<td><em>Unlikely</em></td>
<td>Awareness and support</td>
<td><em>(Close to fulfillment)</em></td>
</tr>
</tbody>
</table>

The sheer fact that a tribunal seems to be a necessary condition for continued reconciliation furthermore holds some importance for the discussion between transitional justice purists and pragmatists, referenced early on. The findings support the purist argument that accountability, justice and punishment must be in place for reconciliation to progress, while it largely negates
the pragmatist claim for amnesty and forgiveness as reconciliation efforts. This issue is closely related to that of the connection between reconciliation and democratization. Although democratization issues regrettfully falls outside the scope of this study, a few thoughts might not be out of place.

As we found early on, there is an interdependence between functional governance procedures and working relationships between involved groups; without fair structures there is no basis for cooperation, and without a minimum of cooperation, the structures will not work properly. If relationships are based on entrenched antagonism, as in the case of post-conflict Cambodia, cooperation will hardly ensue and thus the structures will be dysfunctional, regardless of efforts to implement democracy. This could serve as a part-explanation to why democratic culture has had such a problem to take root in Cambodia. The solution to the problem of lacking cooperation in a post-conflict society could be reconciliation; by examining the relationships of former enemies a basis for future cooperation might be laid, and by that also a basis for a sustainable democracy. In other words, the key to democratization could be reconciliation. But at the same time, successful reconciliation is partly dependent on democratic measures providing a certain amount of justice and power-sharing. It seems the interdependence between these concepts takes shape of an intricate interplay, creating more new questions than it answers: What is the minimum level of democracy needed for reconciliation to arise? How far can reconciliation by itself push democratization? Is there in fact a two-sided incrementalism at play, where one step of reconciliation must be followed by one step of democratization, and so on?

Even though the research questions of this study hereby have been answered, there are a lot more questions that lie outside of the scope of study and thus remain unanswered. Questions that spring to my mind are, for example: Who are the actual stake-holders in the reconciliation process? Who will benefit from a tribunal? What are the hidden motives for the tribunal on behalf of the Cambodian government, if any? What are the grounds for calling the ECCC a ‘show tribunal’? What threats to the court proceedings might impede the work of the tribunal? How will the justice provided by the tribunal benefit the people of Cambodia in the long run? Are five trials going to suffice for a sense of justice among the Cambodian public? How many more ex-Khmer Rouge will be indicted, if any? What about the issue of reparations? And so on… Questions like these are very interesting, and it seems there are a lot more angles of approach to dig into regarding the tribunal and the reconciliation process.
7.2 Theory discussion

Already at the early stages of the work with this thesis, it became clear that there were no such thing as a unified, comprehensive theory on reconciliation, reflecting the relative infancy of the discipline. The theoretical framework used here is put together from a rather wide range of sources, and it is obvious that the research field of reconciliation would benefit greatly from a uniform and well integrated framework. There are a number of difficulties with the theory in its present form; firstly there is the problem of goal versus process. Even though the scholars are pretty much agreed upon the merits of viewing reconciliation as a process rather than a goal, the model opens up for measurement in terms of either/or, that is, either a variable is fulfilled, or it is not. That reflects a goal-reference and a lack of process-orientation, to my mind. This is also visible when comparing the static analysis with the dynamic; the static analysis works quite well, but the dynamic ditto somewhat lacks depth. The model seems not designed for analyzing processes, influences, and interdependencies.

Secondly, I have a hard time grasping the utility value of dividing reconciliation into the justice and truth aspects, other than that of sheer manageability. The fact that the findings indicate no differences whatsoever between reconciliation progress in these two fields point to it being a superficial construction. This also leads to the question of the variables, all of which are not very well-founded. Some of them are quite vague, not mutually exclusive, not argued of, of different significance, or even contradictory, without self-evident operationalization possibilities. A few of them may not even be relevant, which is why a lot more work is needed in this area. The theory furthermore gives no guidance whatsoever to issues of measureability, which opens up for problems of validity.

Thirdly, the theory takes no serious account of the democracy component, although it is constantly repeated that reconciliation and democratization are intertwined processes that can not easily be analyzed separately. This also leads to a last suggestion of mine regarding the development of the model, which would be to incorporate socio-economic and socio-psychological aspects. To sum up, the theory the way I perceive it is in its present form passable for analyzing reconciliation processes, but would probably benefit greatly from theoretical development in the areas stated.
7.3 Suggestions for future research

Beyond doubt, reconciliation studies are a promising field of research in future political science. During my work with this thesis, a number of ideas on possible future areas of study have emerged. The first of these concerns the object of this case study, Cambodia. Regretfully, the views and opinions at hand in this work only reflects those of the victims or ‘neutrals’, not those of the perpetrators, the ex-Khmer Rouge themselves. For a thorough excursion into the realms of reconciliation, I find it imperative to also incorporate their views, since reconciliation applies to all members of a society. My second idea is to add another layer of analysis to reconciliation, namely democratization. Since reconciliation and democratization issues seem to be so closely connected, I would find it very interesting to perform a parallel analysis of reconciliation and democratization on the same case, in order to more closely approach the relationship between the two. The third idea is rather obvious; if the results of this study can be deemed satisfactory, a next step could be to perform a comparative study of reconciliation with two or more cases in order to achieve a higher degree of predictionary force and generalizability.

The last two ideas are more related to the concept of reconciliation itself. I would be very much interested in a study examining the different impacts of retributive and restorative transitional justice on reconciliation processes. I believe research of that kind could prove highly valuable for decision-makers on the point of choosing between different ways to address issues of rectification. Lastly, I have found that in the Cambodian case, the tribunal is a necessary but not sufficient precondition for reconciliation to move forward. If this is true for more than one case, what is the next step after rectification? What other mechanisms are needed for a reconciliation process to advance towards fulfillment? The last word on reconciliation goes to an ECCC official:

When you have peace, you can have development. Social development, political development, infrastructure development. Without peace, without reconciliation, you don’t even have a bridge to walk, you don’t have a road to drive. Then you can forget about peace, not the least peace of mind. So, without reconciliation, you cannot achieve anything (TLI 2).
8 References

8.1 Print


8.2 Articles


### 8.3 Internet

Alm, Martin (2008a) “Etnisk rensning på order av regeringen”. Available 2008-08-10 at <http://www.levandehistoria.se/node/1800>


### 8.4 Interviews

Grassroots level respondents

GRR 1: Retired teacher, male, 60+ years. Kratie, November 6, 2008.


GRR 4: Legal advisor, male, ~50 years. Kompong Cham, November 11, 2008.

GRR 5: Retired teacher and deputy village chief, male, 60+ years. Kratie, November 15, 2008.


GRR 11: Civil servant, female, ~40 years. Seam Reap, December 6, 2008.


GRR 14: Teacher, female, ~60 years. Seam Reap, December 7, 2008.


Mid-level informants


Top-level informants


Facts on Cambodia

Official name: Preah Reacheanachakr Kampuchea/Kingdom of Cambodia
Form of government: Monarchy
Head of state: King Norodom Sihamoni (2004-)
Head of government: Prime minister Hun Sen (1985-)
Political parties (seats in the national assembly 2008): Cambodian People’s Party CPP (90), Sam Rainsy’s Party SRP (26), Human Rights Party HRP (3), FUNCINPEC (2), Norodom Ranariddh Party NRP (2)
Population: About 14 million
Area: About 180 000 square kilometres
Capital: Phnom Penh (about 1,2 million inhabitants)
Urban resident’s share of population: 17 %
Literacy: 69 %
GNP per capita: About $300
Ethnic groups: khmer 89 %, vietnamese 5 %, chinese 3 %, cham 2 %, khmer leou 1 %
Religion: buddhism 93 %, islam 5 %, christianity 2 %


Map 1. Cambodia

Interview guide

My name is Fredrik Persson and I am a student of political science from Sweden. I am presently conducting a study regarding the Cambodian people’s view on the ECCC tribunal. The tribunal is to examine and try the leadership of the Khmer Rouge for crimes committed during their regime. With your consent, I would like to ask a few questions on your view on this tribunal. Your answers will be handled with the utmost confidentiality, and your anonymity will be fully protected. Your participation will be for research purposes only. I would be very grateful for your help!

For research purposes only: Gender – Age – Occupation – Location

A) Reconciliation

1. How do you feel about the Khmer Rouge tribunal?
2. What does reconciliation mean to you?
3. How do you think the tribunal will effect national reconciliation?
4. What actions do you think could bring national reconciliation?
5. What if there were no tribunal, could there still be national reconciliation? Why/why not?

B) Justice

1. Do you think the tribunal will bring justice to the Cambodian society? Why/why not?

Sub-questions, B:
2. Do you still feel affected by what happened during the Khmer Rouge regime? In what ways?
3. Would you be able to have trust in a former Khmer Rouge member? Why/why not?
4. Do you think all Khmer Rouge members are guilty to the same extent? Why/why not?
5. How do you feel about the Cambodian courts?
6. How do you feel about the Cambodian civil service?
7. Would you say that there is a rule of law in Cambodia today? Why/why not?
8. Do you feel that the Khmer Rouge have been rectified? Why/why not?
9. How do you see upon somroh-somruel as an alternative or complement to the tribunal?

C) Truth

1. Do you think the tribunal will reveal the truth about the Khmer Rouge regime? Why/why not?

Sub-questions, C:
2. Have you ever heard the Khmer Rouge explain their actions? If so, what did they say?
3. What is your understanding of the the Khmer Rouge policies?
4. In your opinion, should there be a truth commission? Why/why not?
5. What do you think of reconciliation events, such as public memorial ceremonies?
6. Has there been any official Khmer Rouge acknowledgment of the past? If so, what was it’s nature?
7. In your view, do the Khmer Rouge show any remorse? If so, how?
8. What do you think of the government’s awareness of the reconciliation process?
9. What do you think of the government’s responsibility for the reconciliation process?