



The Role of the Arts in Cambodia's Transitional Justice Process

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Abstract

Within the study and practice of transitional justice, the roles played by the arts in addressing past human rights violations have become increasingly well accepted. This article examines the role of the arts in Cambodia's transitional justice process, from the initial coupling of attempts to revive the arts with the pursuit of human rights in the early 1980s to the reparations orders provided by the Extraordinary Chambers in the Courts of Cambodia (ECCC). It identifies five main contributions the arts may make to transitional justice processes—evidence, complementary justice, outreach, activism, and critique—and demonstrates not only that various art forms have assumed each of these roles in Cambodia but also that this case extends the place of the arts in transitional justice. In particular, by highlighting the role played by local activists in seeking to revive the arts in the aftermath of the Khmer Rouge period, this article reveals the significance of arts initiatives, instigated in the absence of a formal justice process, for formal processes once they eventually emerge. In doing so, it argues that without the arts initiatives and activism that preceded it, the formal inclusion of the arts in the ECCC process would not have been possible.

Keywords Transitional justice · Arts · Human rights · Cambodia

January 7, 2019, marked 40 years to the day since Vietnamese forces toppled Pol Pot's murderous Khmer Rouge regime. The Phnom Penh they found was largely deserted, the population forcibly evacuated to the countryside in 1975 as part of a plan to establish Cambodia as a 'fully independent and self-sufficient' agrarian utopia (Ciorciari 2006: 11). In the city once known as the 'Paris of the East' for its tree-lined boulevards, grand architecture, and vibrant arts scene, the shops had been boarded up, the markets closed, and money banned. All forms of culture, whether traditionally Khmer or of foreign derivation, had either been outlawed or sanctioned for the exclusive use of the regime's propagandists.¹ Marked as

¹For accounts of the Khmer Rouge era and its aftermath see Becker 1998; Kiernan 2008; Chandler 2007.

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‘undesirables’, member of the arts community, along with professionals, intellectuals, and educated Cambodians, fared particularly poorly under the Khmer Rouge regime (James 2012). By the time it was defeated, less than 10% of the country’s artists, dancers, and musicians remained in Cambodia (Sam 1990). While some fled abroad, most died at home from starvation, disease, or the excesses of forced labour or were killed by the Khmer Rouge, which sought to ‘smash’ anyone who might pose a challenge to its ideology (Chandler 1999: 51). By 1979, only 40 ballet dancers and three master musicians remained, the University of the Fine Arts had been closed, and the Khmer Association of Artists registered only 300 members (Sam 1990).

Forty years on, however, Cambodia once again boasts a vibrant arts scene, the result of decades of dedicated work to revive and restore traditional art forms and develop the country’s contemporary arts capacity. While that revival has seen the emergence of a new generation of visual and performing artists, its impact extends well beyond the immediate scope of the arts themselves. Rather, the revival of traditional Cambodian arts and the development of new contemporary arts practice has been intimately linked to Cambodia’s attempts to come to grips with its violent past and to address human rights violations committed during the Khmer Rouge era. This article examines the role of the arts in Cambodia’s transitional justice process, from the initial coupling of attempts to revive the arts with the pursuit of human rights in the early 1980s to the reparations orders provided by the Extraordinary Chambers in the Courts of Cambodia (ECCC) in Cases 002/01 (2014) and 002/02 (2017). In doing so, it situates the case of Cambodia in the wider literature on the role of the arts in contemporary transitional justice processes and considers its contribution to a growing body of practice. To do so, the article draws on interviews with representatives of nongovernmental organizations (NGOs) engaged in transitional justice, peacebuilding, and the arts in Cambodia, the analysis of official documents produced by the ECCC and arts organizations, interviews with key artists in the public domain, and observations made during a decade of regular fieldwork in Cambodia.²

Although they are not purely benevolent—the use of the arts in Khmer Rouge propaganda is testimony to the nefarious purposes to which they may be put—the arts represent a small but increasingly prominent facet of transitional justice. In contexts of transitions from authoritarian rule to democracy, or from conflict to peace, they have tended to play five main roles: evidence (Whitty 2010: 700), complementary justice (Aksenova 2018), outreach (Garnsey 2016), activism (Shefik 2018), and critique (McLeod et al. 2014). In the case of Cambodia, art forms have, in various ways and in varying times, assumed each of these roles. In particular, the revival of traditional Cambodian arts and the development of new art forms in the post-Khmer Rouge period has been closely associated with human rights activism and critique. At the same time, the ECCC has admitted paintings as forms of evidence and drawn on traditional and contemporary art forms, ranging from classical Khmer dance to photography and interactive theatre, as modes of outreach and means of providing complementary justice in the form of reparations. Particularly significant in this case, however, is not just the breadth of engagement between transitional justice and the arts but the interactions between formal and informal, local and institutional activities. This article highlights the role played by local arts activists in appealing for justice for human rights violations committed during the Khmer Rouge period and revealing the limitations of formal justice efforts, and demonstrates that without the

² Interviews and attendance at art exhibitions and performances for the specific purposes of this research took place in March and November 2019. Human Ethics Approval for the research was granted in 2019, GU 2019/208.

activism that preceded it, the formal inclusion of the arts in the ECCC process would not have been possible. In doing so, it argues that the case of Cambodia not only extends the place of the arts in transitional justice but also reveals the significance of arts initiatives, instigated in the absence of formal justice processes, for the formal processes once they eventually emerge.

The article begins by examining the increasing acceptance of the arts as contributing to processes of transitional justice. It notes that while the use of art forms like photographs has long been accepted in international criminal justice processes, growing recognition of the roles played by a wide range of art forms is strongly associated with two key trends in the study and practice of transitional justice: the move from legalistic to holistic approaches and the advent of the 'local turn'. The first section identifies five main roles played by the arts in transitional justice processes: as evidence, complementary justice, outreach, political activism, and critique. The second section examines the revival of the arts in Cambodia after the Khmer Rouge period. It highlights, in particular, the roles played by the arts in documenting and responding to human rights violations, as well as the development of multiple initiatives that sought both to revive the arts and call for justice for human rights abuses. The third section then turns to the work of the ECCC and the establishment of a central role for the arts in its reparations program. Of the 24 reparations projects approved in Cases 002/01 and 002/02 at the ECCC, one-third were arts-based projects. These projects have ranged in form from travelling and permanent exhibitions, interactive theatre, and multimedia presentations to the production of a contemporary Khmer dance exploring the practice of forced marriage under the Khmer Rouge and a youth song writing contest. While many of these projects have origins in the works of individuals and organizations that for many years sought to highlight and address the atrocities committed by the Khmer Rouge, they no longer sit wholly outside Cambodia's formal transitional justice process. By including them in the ECCC's reparations orders and justifying their inclusion in terms of the fulfilment of the court's mandate, these projects have themselves become a means of pursuing official transitional justice. That is, the Cambodia case has opened up the possibility for the arts to play a much more significant role in formal transitional justice processes.

Transitional Justice and the Arts

The role of the arts in providing justice to victims and societies in the aftermath of large scale atrocities is slowly gaining acceptance among scholars and practitioners of transitional justice (Kurze and Lamont 2019; Rush and Simic 2014; Clarkson 2014).³ In recent years, a growing body of work on transitional justice, human rights, and international law has acknowledged and examined the contributions made by paintings, photography, sculpture, music, theatre, creative writing, and dance in a range of contexts, from transitional justice processes in South Africa (Garnsey 2019), Northern Ireland (Bell 2011), Chile (McAuliffe 2014), Peru (Falcón 2018), Cambodia (Elander 2014), and the former Yugoslavia (Simic and Milosevic 2014) (to name a few) to reparations orders made by the Inter-American Court of Human Rights and the International Criminal Court (Aksenova 2018). While most of these works identify the specific contributions made by particular art forms in specific contexts, this article argues that together

³ A similar trend, though starting slightly earlier, can also be observed in the fields of peacebuilding, and peace and conflict studies. See for example, Pruitt 2011, 2013; Jeffrey and Pruitt 2019; Premaratna and Bleiker 2016; Premaratna 2018; Shank and Schirch 2008.

the arts play five major roles in transitional justice. Although not all art forms lend themselves to all five roles, together the arts serve (i) as evidence in international criminal trials; (ii) to complement the formal justice processes undertaken by institutions like human rights tribunals and truth commission; (iii) to facilitate the outreach activities of formal institutions; (iv) to critique and counter aspects of official transitional justice processes; and (v) to mobilize local communities to engage in unofficial processes and campaign for formal justice. While the first of these roles has much earlier origins, the remaining four are strongly associated with two recent trends in the study and practice of transitional justice: the move from legalistic to holistic approaches to transitional justice and the rise to prominence of the ‘local turn’.

Art as Evidence

The idea that certain art forms may be considered evidence predates the advent of ‘transitional justice’ as a field of practice and enquiry. Since the mid-nineteenth century, photographs have been routinely used as evidence in courts of law (Green-Lewis 1996: 3; Mnookin 1998). By the middle of the twentieth century, photographic evidence became a key element of the first international criminal trial held at Nuremberg. In that case, ‘stacks of photographs’, some taken by war correspondents, others taken by the Nazis to document their activities, were tendered as evidence during the trial (Freeman 2018: 286). As part of his mission ‘to establish incredible events with credible evidence’, Justice Robert Jackson also took the unprecedented step of ‘presenting motion pictures as evidence in court’ (Delage 2014: 2 & 1). As the assistant prosecutor, James Donovan explained, the documentary film, *Nazi Concentration Camps*, was ‘compiled from motion pictures taken by Allied military photographers as the Allied armies in the West liberated the areas in which these camps were located’ (in Douglas 1995: 454). Although it was ‘anything but an unambiguous document ... the film offered visual proof of astonishing atrocities’ (Douglas 1995: 453) prosecuted at Nuremberg. Since then, photographic evidence has played an increasingly expansive role in international criminal justice processes, appearing in all the major international human rights trials of the twenty-first century (Tallgren 2017). As Andrew Cayley, international co-prosecutor at the ECCC from 2009 to 2013, has argued, ‘[p]hotographs are a highly probative form of documentary evidence’ (2012: 118). Not only can they help ‘identify victims’ and ‘help establish hierarchical relationships’ between particular actors, but even when their provenance is unclear, ‘they can still be useful as evidence’ (Cayley 2012: 118).

Beyond the scope of international criminal trials, photographs have also been used as evidence during several truth and reconciliation processes. For example, in the report of the South African Truth and Reconciliation Commission, photographs were referred to as a ‘form of forensic evidence testifying to the nature and extent of a victim’s injuries’ (Miles 2019: 55). Going one step further, the Comisión de Verdad y Reconciliación in Peru, not only gathered photographic evidence but curated a photography exhibition, *Yuyamapaq: Para Recordar* (‘To Remember’) that sought to bring that evidence to a public audience.

Despite their widespread use, however, the use of photographs as a form of evidence begs two important questions. The first concerns whether or not photographs are as factual as they seem, while the second, relevant not only in the context of understanding the role of the arts in transitional justice processes, centres on whether photographs can be considered works of art. These concerns, and responses to them, are intimately linked. Indeed, as Susan Sontag wrote in *On Photography*, ‘[a]lthough there is a sense in which the camera does indeed capture reality, not just interpret it, photographs are as much an interpretation of the works as paintings and

drawings are' (1973: 4). Even photographs intended as purely documentary forms involve subjective decisions on the part of the photographer, about composition, subject matter, and production. As forms of evidence, photographs may thus be both 'partial, biased and unreliable ... as well as valuable forms of evidence that can affirm new facts about the past' (Miles 2019: 55).⁴ Indeed, sounding a note of caution over their place in legal proceedings, Richard Sherwin argues that the sort of 'aesthetic gratification' that often accompanies the use of images as evidence tends to serve 'the natural human craving for certainty' and, as a result, can make that evidence appear more persuasive than it may actually be (2011: 112; Biber 2019). Desmond Manderson similarly implores us to stop thinking of visual evidence as a form of 'external fact' but to conceive it, instead, as a 'visual *discourse*, a network of the symbolic expression of values, ideas, and feelings, in which we are always already enmeshed' (2018: 4). What this suggests is that photographs and other visual images are both types of evidence and forms of art. This dual character is significant for it allows other art forms to also be considered forms of evidence during transitional justice processes. As we will see shortly, in the case of Cambodia's transitional justice process in particular, it has facilitated the inclusion of paintings as forms of evidence in the proceedings of the ECCC.

Holistic Approaches to Transitional Justice

Within the study and practice of transitional justice, the now well-established move from the exclusive use of singular and highly retributive mechanisms, namely trials, to the widespread acceptance of holistic approaches has opened up a space for the inclusion a broader range of activities within its processes (UN Secretary General 2004: 1). At its inception, transitional justice was predominantly conceived in legal terms, as 'the conception of justice associated with periods of political change, characterized by legal responses to confront the wrongdoings of repressive predecessor regimes' (Teitel 2003: 69). As increasing numbers of states began to institute transitional justice processes to address past human rights abuses, however, it became clear that even if courts could adequately undertake 'the task of prosecuting everyone who might deserve it, in order to reconstruct a damaged social fabric, other initiatives would be required' (International Center for Transitional Justice 2009). Together with a growing understanding that 'the problems that flow from past abuses are often too complex to be solved by any one action' (Ibid), the observed limitations of purely legal, court-based approaches motivated the development of more broadly based programs that included a range of activities such as truth commissions, reparations programs, security sector reform, and memorialization efforts (Fletcher and Weinstein 2002).

The Arts as Complementary Justice

Within holistic approaches to transitional justice, the arts often serve as complementary forms of justice. In these contexts, art forms like documentary films, paintings, sculptures, and installations contribute to comprehensive justice processes by enriching and supplementing the work of formal institutions, such as courts and truth commissions. Most prominently, while purely legal approaches struggle to fully understand, engage, or address the complex ways 'in

⁴ Of course, in the context of legal proceedings, this dual nature of photography gives rise to challenges associated with standards of evidence and manipulation made even more complicated in the age of digital photography (Freeman 2018), although these are not the main concerns of this article.

which the past colours the present' in the aftermath of atrocity (Bell 2011: 327), the engagement of the arts serves to 'reveal depth, complexity, and the affective and embodied dimensions' of experiences and events and, in doing so, give greater meaning to formal transitional justice processes (Cole 2014: 317). In large part, the arts thus often play a symbolic role in delivering justice in the aftermath of atrocities.

Conceived in terms of its contribution to holistic processes, memorialization provides the most obvious opportunity for the engagement of the arts in transitional justice. This is reflected in the small body of work on memorials and transitional justice, and the massive literature on memory and the aesthetics of memorials across a range of disciplines (Lessa 2013; Light and Young 2015; Buckley-Zistel and Schäfer 2014; Senie 2016; Sci 2009; Mitchell 2003). Indeed, although memorials may also exist in non-official, grassroots, and spontaneous forms (Margry and Sánchez-Carreto 2013), official memorials are a widespread phenomenon, often reflected in the reparations orders of formal institutions (Mégret 2010).

Reparations are measures designed to repair damage or harm that has been wrongfully inflicted on an individual, group, or state. They are ideally intended to 're-establish the situation prior to ... [a] wrongful act or omission' (Sohn and Baxter 1961) and thereby 'wipe out all consequences of the illegal act' (Pasqualucci 1996–1997: 25). A right to reparations is established in all the major human rights instruments as well as the International Law Commission's Draft Articles on the Responsibility of States for Internationally Wrongful Acts (2001: art. 31) and the United Nations' Basic Principles and Guidelines on the Right to a Remedy and Reparation for the Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (2005: VII.11[b]). In cases where the permanent nature of the crimes committed has rendered restitution impossible—for example, where victims have been murdered or severely tortured—these instruments argue that reparations ought to take the form of compensation, rehabilitation, guarantees of non-repetition, and satisfaction (Basic Principles 2005: IX.20).

In contrast to material reparations, which address physical damage to persons or property, as well as other quantifiable losses, moral or symbolic reparations respond to less tangible harms, such as 'emotional distress' or damage inflicted on social structures, values, and human comforts (Jeffery 2014: 104). As these forms of harm 'cannot be calculated mathematically by the use of a precise formula', reparations awarded in these circumstances are often moral or symbolic and take the form of memorials, museums, and plaques, public apologies, and the 'preservation of archives or of repressive sites as museums', among other similar measures (Pasqualucci 1996–1997: 34; Roht-Arriaza 2003–2004: 159). It is here that a clear role for the arts, in complementing the work of formal institutions, is readily identified. For example, the Inter-American Court of Human Rights, the institution most responsible for the majority of the most significant developments in jurisprudence concerned with moral reparations, has long recognized the value of artistic provocations of memory and representations of harm and has routinely included 'acts or works of a public nature', including the building of memorials in its reparations orders.⁵ More recently, the International Criminal Court has affirmed the importance of collective reparations in its judgments and decisions in the *Lubanga Case*.⁶ In that case, the Court approved the award of both service-based and symbolic reparations, the latter

⁵ Villagrán Morales et al. v. Guatemala (2001) The "Street Children" Case. Inter-Am. Ct. H. R. (ser. C) No.77, (26 May), 84; *Moivana Community v. Suriname*, SURINAME. (2005) Inter-Am. Ct. H. R. (ser. C) (15 June), 201–218).

⁶ Trial Chamber Judgment, 7 August 2012; decision on reparations 15 December 2017

of which included the construction of 'commemorative structures' at three community centres and the development of a mobile memorialization program designed to 'create awareness and acknowledgment of the crimes committed and their effects on child soldiers, and reduce trauma and stigmatization of the former fighters' (International Justice Monitor 2016).⁷

The Arts as Outreach

Holistic approaches also recognize that the success of formal transitional justice mechanisms depends, 'on their impact not only on the individuals they affect directly, but also on the broader societies in which they operate' (Ramírez-Barat 2011: 3). By extension, they identify 'outreach' as a core element of institutional effectiveness. It has four main components: the dissemination of information, the establishment of dialogue, community consultation, and participation. '[C]ultural activities', including the arts, play a role in each of these components (Ramírez-Barat 2011: 4).

As Marina Aksenova (2018) notes, the arts provide 'alternative ways of delivering the message of international criminal law to the affected communities'. They are a mode of communication that serves to translate legal processes and findings and provide information about past atrocities to a broad audience through media such as art exhibitions and documentary films. Other art forms similarly provide modes of outreach centred on facilitating dialogue or increasing participation in transitional justice processes. For example, Ramírez-Barat notes that '[d]rawings, craft, and music' can all help to 'facilitate participation and promote engagement at a local level', while theatre can provide a way of instigating dialogue about difficult subjects, by raising issues, evoking empathy, and exploring multiple perspectives on and interpretations of past events (2011: 20 & 21; Simic and Milosevic 2014: 103). Together, these approaches serve to complement formal transitional justice processes, to translate and communicate their core ideas to a broad public audience.

The Local Turn in Transitional Justice

At the same time, transitional justice has also undergone a 'local turn', in which the contributions made by 'bottom-up' approaches to transitional justice have become increasingly well accepted (Jeffery and Kim 2014: 16; Shaw and Waldorf 2010). In contrast to 'top-down' or structural approaches, 'which typically take place within established state institutions or derive their legitimacy from them' (Wallis et al. 2016: 159), bottom-up processes tend to be informal and 'operate at the small-scale interpersonal and/or grassroots level' (Shaw and Waldorf 2010: 4). Driving the growing acceptance of transitional justice programs initiated, managed, and owned at the local level have been concerns over the effectiveness of imposing top-down, liberal international models on post-conflict societies.⁸ As proponents of bottom-up approaches argue, 'transitional justice needs to more deeply grapple with the messiness of global and transnational involvements and the local, on-the-ground realities with which they intersect, complexities that are too often glossed over' (Hinton 2001: 1). It is here that arguably the most significant contributions are made by the arts. The arts, as Catherine Cole argues, have the power to 'signal presence, highlight absence, and tolerate silence' and, unlike formal, top-down measures, allow for 'opacity, ambiguity, irony, indirection [and] instability' (2014: 317 & 315). In the context of localized transitional justice, they typically play one of two roles.

⁷ As Carla Ferstman notes, however, due to the lengthy appeals process and ongoing political wrangling over the implementation of the reparations order, 'not a single victim has benefited from Court-ordered reparations' (2018: 221).

⁸ These concerns are also reflected in similar debates about the effectiveness of top-down liberal international peacebuilding efforts. See Nadarajah and Rampton 2015; Richmond and Franks 2008.

The Arts as Critique

In the first, the arts serve as an alternative to formal processes and the narratives they establish around the perpetration of atrocities and the pursuit of justice in their aftermath. Rather than promoting or translating the work of formal institutions, they act as ‘critical interventions’ that seek to challenge, disrupt, and provoke public debate (McLeod et al. 2014: 27). As Laura McLeod et al. argue, ‘art stimulates the exploration of alternatives ... provides a space for reflection and consideration’ and can open up ‘public debates about the best way to achieve transitional justice’ (2014: 27; Garnsey 2019). They examine the role played by Serbian arts organizations and artists in prompting their audiences to reflect on particular aspects of the human rights abuses perpetrated during the conflict in the former Yugoslavia and patterns of ‘resistance towards transitional justice processes’ (McLeod et al. 2014: 37). Similarly, focusing on the Chilean playwright, Ariel Dorfman’s work, *Death and the Maiden*, Pdraig McAuliffe highlights the ways in which a play served to tease out the complicated ‘relationship between cultural expression, political transition, and the contours of justice in transitional situations’, and in doing so, ‘draw attention to what was lacking in Chile’s response to the past’ (2014: 96). Alongside theatre, a range of other art forms including dance, painting, and film readily serve to critique formal processes, practices, and responses to past violence.

The Arts as Political Activism

In the second, the arts provide a means of pursuing some form of justice or reconciliation in the absence of a formal transitional justice process. In this context, ‘[a]rt is closely linked to political activism’ and can itself serve as ‘a Trojan horse for bottom-up transitional justice efforts’ (Kurze and Lamont 2019). It can provide a means for the marginalized to have a voice and help build public support and momentum among local activists to campaign for formal transitional justice processes. For example, ‘in the absence of a formal national’ transitional justice process in the case of Colombia, ‘local arts-based initiatives’ have been established by local activists in conflict affected areas in order to ‘repudiate past violence ... demand remembrance ... and insist that violence not be repeated’ (Nadia Siddiqui et al. 2014: 118–119). Similarly, the ‘photography as advocacy’ work of Vera Lentz, who captured images of the conflict in Peru long before its TRC was established, sought to highlight atrocities committed against civilians and, in particular, indigenous peoples by both the military and guerrilla forces (Open Society Foundations 2004). Her works became evidence examined by the Peruvian TRC and have since been included in the Yuyanapaq exhibition it organized.

In the case of Cambodia, the arts have at various times played each of these roles. As we will see in the following sections, however, arts activism in the aftermath of the Khmer Rouge period did not just contribute to growing demands for justice to be served but became incorporated into the official justice process, serving not simply as a complement to it but as one of its constituent elements.

The Arts in Cambodia: a Brief Overview

At their core, the arts serve to interpret and critique, communicate and represent, to challenge and transform. It is thus wholly unsurprising that, just as they have in other post-conflict contexts, performing and creative artists would choose to address atrocities as egregious as

those committed during the Khmer Rouge period. In the case of Cambodia, however, two further factors have underpinned the close association between the arts, human rights, and transitional justice. First, the fact that the arts were so strongly targeted by the Khmer Rouge has meant that both their revival and their work have been intimately linked to the pursuit of justice for human rights violations. Indeed, in the absence of meaningful transitional justice until the formal establishment of the ECCC in 2004, for most of the post-Khmer Rouge period, the arts community has engaged in initiatives that, alongside the core tasks of revival and restoration, have been designed to document atrocities and highlight the need for justice. The second concerns the central place of the arts in Khmer culture, the injustice wrought by the deliberate destruction of that culture, and the need to recover and rehabilitate as many of its constituent elements as possible in the post-Khmer Rouge era. To give some sense of this wider context in which the relationship between the arts and transitional justice have been forged in Cambodia, in what follows is a brief overview of the role played by the arts in both traditional Khmer culture and modern Cambodia.⁹

The importance of the arts in traditional Cambodian culture is well documented. Across a range of mediums, the most prominent of which include theatre, dance, and music, the arts are afforded significant roles as sacred rituals, religious offerings, modes of spiritual engagement, and expressions of social relationships, norms, and order. As Stéphanie Khoury (2017) writes, ritual theatre plays several important roles in aspects of Buddhist worship, festivals, and major events in local communities. Its three dominant forms, *Ikhon preah reach troap* ('sacred royal theatre'), *Ikhon khol* ('masked drama'), and *Ikhon sbaek thom* ('big leather shadow theatre'), are engaged, respectively, in the performance of royal rites, the 'worship of local tutelary spirits', and ceremonies asking blessings for fertility, prosperity, and rain in the new year (Khoury 2017: 4).

Similarly, traditional music has long been 'central to the conduct of life-cycle rituals', ceremonies and festivals in Cambodia, its importance evident in the '[b]as-relief images of musicians playing instruments ... [that] adorn the monuments of Angkor' (Grant 2014: 28). As Catherine Grant notes, the five most common genres of traditional Cambodian music all perform particular cultural roles: *pinn peat*, which is both a music genre and a traditional Cambodian ensemble, has 'celebratory and ceremonial functions' and accompanies the shadow puppet theatre; *pleng kar buran* is performed in wedding ceremonies; *kantaoming* music featuring gongs, drums, and the *srolai*, a Khmer reed instrument, is 'historically played at each stage of the funeral rite to guide the spirits of the deceased into the afterlife'; *smot* is a form of Buddhist chanting performed in private healing or cremation ceremonies; and *chrieng chapei* is a form of 'epic singing' in which traditional legends and stories are transmitted (2014: 28–29).

Also performing an 'essentially spiritual function' (Cravath 1986: 195), dance is 'integral to all aspects of life' and sometimes even referred to as 'the "soul" of the Khmer people' (Needham 2015: 110). Performed in a ritual context, classical dance is viewed as a form of prayer, 'one of the most powerful temple offerings to obtain assistance from the spirits' (Cravath 1986: 181). Its long history, which stretches back at least as far as the sixth century, is 'interwoven' with Cambodia's religious history, monarchy, and identity as a modern nation-state (Shapiro-Phim 2008: 305). Supported by the royal courts, dancers were perceived as intermediaries between the monarch and the spirit world and, for several centuries, were 'integral to the social and religious fabric of Cambodia' to an extent that has perhaps been

⁹ It is by no means possible to do justice to the intricacies of Khmer culture or the role of the arts within them in the context of this article. For a more detailed discussion see Ebihara et al. (1994).

‘unequaled’ in any other civilization in the world (Cravath 1986: 184). In a prominent Khmer creation story, ‘a celestial dancer’, or *apsara*, is said to have become the mother of the Khmer people after her ‘union with a wise man’ (Shapiro-Phim 2008: 305). *Apsaras* are carved in their thousands on the walls of the temples of Angkor and remain a potent cultural and religious icon in contemporary Cambodia. Today, the *apsara* is seen as a symbolic ‘embodiment of “Khmerness”’ (Ebihara et al. 1994: 9; Phim and Thompson 1999: 2), while contemporary dancers of the Khmer tradition ‘are seen as living *apsaras*’ (Miller 2001: 657). The *apsara* dance, or *robam tep apsara*, is among the most prominent examples of *robam kbach boram*, or ‘pure dance’. Alongside *robam kbach boram*, the other main form of classical Khmer dance is *roeung*, dance dramas derived from 40 classic Khmer stories.

During the Khmer Rouge period, these and other traditional art forms were condemned by the regime, for their intimate connections to Buddhism and monarchy, their centrality to Khmer culture, and their counter-revolutionary potential. Indeed, the destruction of the arts during this period was not simply manifested in the elimination of artists and the prohibition of artistic practices, but, in everyday ways, in the fact that ‘[p]eople were forbidden to conduct religious rituals openly or practice their religious faith’ (Ledgerwood 2008: 204). Among the key tasks of those committed to reviving the arts in Cambodia has thus been the restoration of these traditional art forms, both for their aesthetic value and for their cultural importance in traditional rituals, ceremonies, and spirituality. As Ebihara et al. (1994) note, however, the issue of what constitutes ‘traditional’ Cambodian culture looms large. As they argue, some so-called ‘classical folk dances’ that have become part of the traditional dance repertoire were actually choreographed in the 1960s and 1970s (1994: 5). They also remind us that, like all cultures, Cambodian culture is not static and caution against the tendency to view ‘certain Khmer cultural features’ that have ‘persisted from early historical periods’ as being representative of “‘traditional” Khmer society and culture’ (1994: 5).

Considered from the perspective of the arts, this warning speaks to a tension within efforts to revive the arts in Cambodia, between the identification and restoration of traditional art forms and the renewed development of contemporary practices (Wolff 2012; Shapiro 1993; Billeri 2017; Kallio and Westerlund 2016). Of course, not all forms of art practiced prior to the Khmer Rouge period or targeted by the regime were sacred or traditionally Khmer. As Toni Shapiro notes, since at least the 1950s, Khmer classical dance has existed in both secular and sacred forms and appreciated for both its spiritual and aesthetic value (1993: 2–3). Similarly, the twentieth century also saw the development of modern spoken drama (Diamond 2003; Wetmore et al. 2014), the introduction of European theatre (Wetmore 2008), and the growing influence of foreign modes, genres, and techniques. With modern artists and art forms also faring poorly under the Khmer Rouge, the revival of the arts in contemporary Cambodia faces the challenge of simultaneously conserving and regenerating those art forms that are central to Cambodian culture and Khmer identity, and facilitating progress (Kallio and Westerlund 2016: 91), ‘transformation, modernization, and globalization’ through the adaptation of traditional arts and the promotion of new art forms (Billeri 2017: 8).

The Revival of the Arts in Cambodia

The earliest initiatives designed to stimulate the revival of the arts came in the immediate aftermath of the Khmer Rouge period. In 1980, a national arts festival was held at Phnom Penh’s Bassac Theatre (Meneses 2004). The performances, which brought together many of

Cambodia's surviving artists, served as 'testimony to the eternal endurance of Cambodia's great performing arts heritage' and 'an agonising recognition of the loss of life' (Frumberg 2006: 160). They became the first in a series of efforts by visual and performing artists to represent the nature and extent of the atrocities committed by the Khmer Rouge.

In 1981, the School of Fine Arts was reopened,¹⁰ initially in a disused grain silo on the outskirts of Phnom Penh and, in the 1980s and 1990s, the Ministry of Culture and Information made some attempts to rehabilitate the arts. Yet, the restoration and broader revival of the arts was 'hampered by the lack of trained personnel, documents', (Sam 1990) and funding, an issue that continues to limit such efforts in contemporary Cambodia (Grant 2017: 7). Particularly problematic in the post-Khmer Rouge period was the extent to which the regime had interrupted the modes of transmission according to which new generations had long been trained in the traditional Cambodian arts (Grant 2014: 27). The deaths of so many artists led to a rupture in the oral heritage tradition, particularly in the performing arts, according to which traditional repertoire, skills, and techniques were 'passed down through a system of mentorship' (Frumberg 2006).

At the same time, the degradation of the arts during the Khmer Rouge era also saw the loss of objects and cultural artefacts essential to the visual and performing arts (Ebihara et al. 1994: 2). By 1979, only two instruments from the royal palace ballet orchestra remained, though 'one was so damaged' it was 'unusable' (Lobban 1990). While brass instruments had been repurposed as saucepans and other kitchen implements and wooden instruments 'left out in the rain to rot or ... used for firewood', the closure of traditional instrument building workshops during the Khmer Rouge period meant they were not easily replaced (Lobban 1990; Grant 2014: 27). With a loss of skilled craftspeople and limited funding, replacing those instruments remains an ongoing challenge.

It was in this context that a number of individuals, civil society organizations (CSOs), and nongovernmental organizations (NGOs) dedicated to reviving the arts, documenting human rights violations, and campaigning for justice emerged.

Evidence of Atrocities

Among Cambodia's most well-known artists was the painter, Vann Nath. In 1980, he was commissioned to produce a series of artworks depicting his experiences as a prisoner in Tuol Sleng prison for its newly established genocide museum. Tuol Sleng, also known as S-21, was a 'security centre tasked with interrogating and executing perceived opponents' of the Khmer Rouge (Jeffery 2014: 107; ECCC Judgment Case 001 2010: 2.3.111). Described as 'an anteroom to death' (Chandler 1999: 15), where '[e] very individual ... was destined for execution' (ECCC Judgment Case 0012010: 2.3.3.5), it is there and at its associated execution site that an estimated 14,000 individuals are thought to have been killed during the Khmer Rouge period (Jeffery 2015: 38). Vann Nath was one of only seven people to survive incarceration at Tuol Sleng, his ability to paint portraits of Pol Pot ultimately saving his life (Nath Testimony 2009: 26; Nath 1998: 49). As the documentary archives of S-21 reveal, although his name was on a 1978 execution list, the prison commandant, Kiang Guek Eav (known as Duch), annotated the list, scribbling 'Spare the painter' next to his name at the last minute (Fawthrop 2011; Vann Nath Testimony 2009: 26).

With the widespread 'elimination of artists' and the 'absence of visual representation of the genocide' that followed, Vann Nath's paintings are of particular importance (Ly 2008: 119). As Y-Dang Troeung notes, 'they represent the only survivor visual testimonial archive of the crimes against humanity committed at S-21' (2015: 247). The paintings he produced are 'among the most

¹⁰ It was renamed the University of Fine Arts in 1988 and Royal University of Fine Arts in 1993,

powerful and iconic images' depicting the human rights violations perpetrated at S-21 (Hinton 2014: 9). They are graphic and unflinching depictions of torture, inspired by abuse the artist suffered and witnessed himself, as well as those he heard but did not see taking place. They show prisoners being beaten, shackled in rows, suspended from ropes, near drowned, and hog-tied, their emaciated bodies little more than skin and bones. One shows an interrogation scene in which a prisoner is electrocuted—something Vann Nath experienced himself—and another depicts a man having his fingernails pulled out. Less gruesome, but equally disturbing, is a painting in which a child is wrenched from the arms of its desperate mother.

Shown as part of his testimony before the ECCC, Vann Nath explained that he had deliberately set out to compile an account of the events that took place at Tuol Sleng. Driving this endeavour was both a commitment to preserve evidence of the atrocities committed there and a desire to ensure that younger generations of Cambodians understood what happened to 'the lives of those who were accused with no reason, who committed no wrong' (Nath Testimony 2009: 54–55; in Hinton 2014: 14). Alongside his paintings, Vann Nath also produced a memoir, *A Cambodian Prison Portrait: One Year in the Khmer Rouge's S-21*, which situates his artworks in the broader context of his experience of life under the Khmer Rouge. This work makes explicit the way in which he used his artworks as a means of uncovering historical truth and campaigning for justice for the victims and survivors of the Khmer Rouge. Together with the efforts of many other activists from a range of different fields, that campaign only came to fruition toward the end of Vann Nath's life. Although he did not live long enough to hear the final verdict in Case 001, that of his jailer and tormentor, Kaing Guek Eav, he was able to testify before the ECCC. Significantly, although the Accused disputed the accuracy of at least one of the scenes that Vann Nath depicted, in its Judgment, the Trial Chamber found that it was 'consistent and reliable and meets the standard required to prove torture' (2010: 2.4.4.1.2, para. 251, 89). That is, his paintings were accepted as evidence, thus establishing the legitimacy of this art form in an international legal process and extending the scope of evidence from the visual arts to include paintings alongside photography and film.

Activism and Critique

The revival of the arts in Cambodia has also been implicitly, and more recently explicitly, connected to human rights. In particular, efforts in the 1980s and 1990s to rehabilitate traditional art forms had, by the late 1990s and early 2000s, become explicitly framed in terms of collective human rights and international cultural heritage law (Billeri 2017: 48; Kurin 2004).¹¹ At the same time, many in the arts community were driven by the belief that art forms can make a unique contribution to justice, reconciliation, and peace in the aftermath of violent conflict.¹²

¹¹ The idea that the Khmer Rouge's attempt to 'extirpate the cultural heritage of Cambodia' constituted a human rights violation was being discussed in academic works in the early to mid-1980s (Hawk 1986: 7). Although it is unclear precisely when Cambodian artists began explicitly framing their efforts in terms of human rights, it seems that that connection was well-accepted by the time Arn Chorn-Pond established the Cambodian Master Performers Program in 1998.

¹² In addition to the specific projects discussed here, arts projects that have sought to address aspects of human rights violations committed during the Khmer Rouge have also been undertaken or supported by a range of other institutions and organizations including the Documentation Centre of Cambodia which, together with Amrita Performing Arts helped create the play *Breaking the Silence*, written by Annemarie Prins (2018), and Java Creative Café, which was originally a single café that curated art exhibitions and is now a series of community art spaces.

Among those at the forefront of these efforts was Arn Chorn-Pond, the founder of Cambodian Living Arts. A Cambodian flautist, Chorn-Pond describes himself as a human rights activist, musician, and survivor. In 1998, he established the Cambodian Master Performers Program. Its mission was 'to locate and support those surviving Master Artists, so they could pass on their skills and preserve Cambodia's rich cultural heritage' (Varbanova 2016: n.p.), an objective conceived in terms of the restoration of the arts as being of value in and of themselves and in terms of the individual human rights of the artists themselves and the collective rights associated with the destruction and restoration of Cambodian culture. This program later became Cambodian Living Arts. Along with the continuation of its initial mission, Cambodian Living Arts now engages in arts development and education programs, supports artists, and sees an explicit role for the arts in the promotion of human rights and conflict transformation. For example, its 'Arts for Transformation' program focuses on 'the role of the arts in Cambodia's process of recovery from conflict, and ... how the arts and culture contribute to the rebuilding of post-conflict societies' (Cambodian Living Arts 2016/17: 12).

Among its most prominent commissions is *Bangsokol: A Requiem for Cambodia*, a piece of performance art that combines music, film, dance, interactive theatre, and Buddhist ritual. A collaboration between composer Him Sophy and film-maker Rithy Panh, *Bangsokol* is a work of remembrance that takes its name from the white shroud placed over the deceased in Buddhist funeral rites, as well as the act of its removal. As Panh explains, the work is 'a vital act of memory. It is an attempt to give dignity to the dead; reconcile with our own past; to give a face and a name to the victims, to give their souls peace' (Lenfest Centre for the Arts 2017). However, it is also a work of critique. By cleverly interspersing archival images of 'the faces of Cambodian refugees and Khmer Rouge victims' with footage of the aerial bombardment of Cambodia in the 1960s and early 70s, and footage of US President Nixon proclaiming 'Cambodia is the Nixon doctrine in its purest form', *Bangsokol* also interrogates silences and omissions in the attribution and acceptance of responsibility for what took place in Cambodia (Hong 2017). In particular, by juxtaposing these images, the work raises questions about the role of the USA in creating the conditions necessary for the Khmer Rouge regime to seize control and serves to critique narratives that accord responsibility for the atrocities committed between 1975 and 1979 solely at the feet of the Khmer Rouge. As Sophy Him explains, while *Bangsokol* ends with a message of hope and love, it thus serves as 'a warning to the world about the impact of war and genocide' (Hong 2017).

Another pioneer of Cambodia's arts revival is Sophiline Cheam Shapiro, a classical Khmer dancer and founder of the Khmer Arts Academy and Sophiline Arts Ensemble. Shapiro was 8 years old when the Khmer Rouge took control. After the regime fell, she was a member of the first class of students to graduate from the newly reopened University of the Fine Arts before joining the faculty in 1998. In 1991, she moved to the USA with her husband, establishing the Khmer Arts Academy in California in 2002 and, later, the Khmer Arts Ensemble (now known as the Sophiline Arts Ensemble) in Takhmao province, just outside Phnom Penh.

While her aim has always been to contribute to the revival and continued development of Khmer classical dance, Shapiro has 'often used her art to explore social justice issues' (Eaton 2017). While still in Cambodia in 1998, she produced a Cambodian adaptation of *Othello*, titled *Samritechak*, meaning 'dark prince'. The production was, at least in part, a work of political activism, which sought to highlight and comment on the absence of justice for the crimes committed by the Khmer Rouge. In a 2002 PBS interview, Shapiro explained her motivation in alluding to the Khmer Rouge in her adaptation of *Othello*: 'I felt very upset and angry that nowadays

no one among the Khmer Rouge leadership admits that they did anything to Cambodia. They never take any responsibility. And so I made Othello take responsibility'. At the same time, Shapiro also sought to take 'ownership' of her art by choreographing a new adaptation of a western classic in the traditional style of Cambodian classical dance (2008: 166).

Among Shapiro's most prominent works, however, is *Phka Sla Krom Angkar*, a classical Khmer dance that examines the practice of forced marriage under the Khmer Rouge and the sexual violence that took place within those marriages. This work drew on the work of American academic, Theresa de Langis, who spent 'four years gathering the oral histories of witnesses and survivors of sexual violence during the Khmer Rouge period' (Eaton 2017). While the interviews have now been published, making them accessible to younger generations, the dance and wider project that emerged around it and became supported by three other NGOs—Kdei Karuna, the Transcultural Psychosocial Organization, and Bophana—serves several purposes.¹³

As Shapiro explains, the dance 'shines a light on a traumatic experience'. It takes 'a story that has been a source of shame and anguish for so many' and retells it in the language of 'Cambodia's most revered art form ... a language usually reserved for the stories of gods and angels' (Eaton 2017). In particular, by exploring the issue of forced marriage through the medium of dance, Shapiro has been able to overcome the reluctance of many female (and male) victims of forced marriage to openly discuss the sexual nature of their experience. The dance thus allows 'victims of forced marriage to express their sadness to the younger generation' and to help them to 'face their past' (Sophiline Arts Ensemble documentary film, 2015). At the same time, *Phka Sla Krom Angkar* is a form of activism and critique that seeks to provoke public acknowledgement 'that forced marriage is a crime of the Khmer Rouge era'. It also serves the purpose of further documenting the memories of the victims of forced marriage.

Yet, as we will see in the following section, *Phka Sla Krom Angkar* is not simply a work of activism and critique. Rather, it was created in response to a call for proposals, issued by the Victim Support Section at the ECCC, for activities and works that could become part of the official packages of symbolic reparations endorsed by the ECCC in Cases 002/01 and 002/02.

The Arts at the ECCC

The arts have played an evolving role in the justice process of the ECCC, initially centred on its outreach activities and later forming a key part of its reparations program. At its inception, the ECCC was widely praised for forging a new, ground-breaking approach to victim participation and reparations in international human rights trials (Jeffery 2014). In a move unprecedented in either Cambodian domestic law or international law, at the outset the ECCC permitted Civil Parties—individuals who can demonstrate that they 'suffered physical, material, or psychological injury ... as a direct consequence of at least one of the crimes alleged' (ECCC Internal Rules 2010: Rule 23, 1(a)(b) against the Accused—not simply to provide testimony but to '[p]articipate in criminal proceedings against those responsible for crimes

¹³ Kdei Karuna is a peacebuilding NGO. Bophana is an audiovisual resource centre which seeks to preserve and make accessible film, television, photography and sound archives on Cambodia and train new generations of film makers. The Transcultural Psychosocial Organization provides mental health care to the general population and has developed or been involved in several programs directly focused on Khmer Rouge survivors prior to and during the ECCC process.

within the jurisdiction of the ECCC by supporting the prosecution' (Internal Rules Rev. 7 2011: Rule 23(1)(a)). What is more, the court was also mandated to award reparations to the victims of crime. Although the sheer scale of the atrocities committed during the Khmer Rouge period has rendered the possibility of awarding individual financial compensation to the victims of those found guilty, the Court provides the opportunity for Civil Parties to '[s]eek collective and moral reparations' (Rule 23(1)(b)). This provision was widely seen as an historic opportunity for the Court to develop international jurisprudence on reparations and to provide a workable model for how best to address victims' rights in international criminal trials. It also opened up a significant opportunity for the arts to play a prominent role in Cambodia's traditional justice process as forms of moral reparation.

The Arts as Outreach

From the very start, those charged with drafting the Internal Rules governing the ECCC recognized that if the court was going to be a success, it would need to engage in substantial outreach efforts. To that end, it established a Public Affairs Section (PAS) to provide information about the court and its proceedings to the general public. It would sit alongside a Victims Support Section, which was also mandated to engage in outreach, albeit to a more circumscribed audience, namely victims and civil parties. Among the outreach activities undertaken by the PAS are programs that allow Cambodian citizens to visit the court, live video streaming of court proceedings, the production of court summaries for television programs, the publication of court transcripts on the ECCC website, and school visits and information programs. In addition, the PAS was also responsible for initiating a 'Study Tour' program, which brought people from across Cambodia to Phnom Penh to visit Tuol Sleng and the ECCC (Scully 2011: 345). This study tour was designed to enhance ordinary Cambodians' understanding of the court in general and, in particular, the subject matter of Case 001.

Case 001 centred on the actions of Kaing Guek Eav, the commandant of Tuol Sleng prison (S-21) and began on 8 August 2008. After an 8-month long trial, the Trial Chamber handed down its Judgment on 26 July 2010, finding the Accused individually criminally responsible for crimes against humanity and war crimes (2010: 559). He was sentenced to 35 years imprisonment, with a reduction of 5 years on account of his illegal detention by a Cambodian Military Court between 1999 and 2007, although this was increased to a life sentence on appeal (ECCC Judgment Case 0012010: 631 & 632; ECCC Supreme Court Chamber 2012).

Among the starkest examples of the role of the arts in the Court's outreach program is the photography exhibition that participants in the PAS Study Tour viewed during their visits to the Tuol Sleng Genocide Museum. Obsessed with documenting its activities, the officers who ran S-21 meticulously photographed, numbered, and catalogued each prisoner on arrival at the facility. Of the 7200 photographs that have survived, thousands are now on display at the genocide museum established at the former S-21 site.¹⁴ The display is a haunting representation of the lives lost in just one facility run by the Khmer Rouge. As Maria Elander describes it, in 'room after room' and on 'wall after wall ... pictures of men, women and children staring into the camera, with disbelief, terror, surprise, sorrow or in spite' are displayed. (2014: 44). Although it predates the establishment of the court, this exhibition 'has come to play an important part in the outreach work of the ECCC' (Elander 2014: 44). In particular, with the chairman of S-21, the first person to be tried and convicted by the court, the photographs

¹⁴ On debate over whether the S-21 photographs can be considered 'art' see de Duve (2008).

themselves have become ‘a medium of communication between the ECCC and the general public’ (Elander 2014: 45). They help convey the extent and gravity of the crimes committed at Tuol Sleng and an implicit justification for Case 001 and its findings.

The Arts as Complementary Justice: Case 001

Despite the sense of anticipation surrounding the ECCC’s reparations program, however, the final judgment in Case 001 proved a profound disappointment (Studzinsky in ECCC Supreme Court Chamber 2011: 58). The Trial Chamber awarded only minimal reparations, which amounted to the publication of Duch’s expressions of apology on the ECCC website and the inclusion of the names of the Civil Parts in the Final Judgment. Requests for psychological and physical care, an official apology from the Royal Government of Cambodia, educational programs, and the establishment of memorials were all rejected (Civil Parties’ Co-Lawyers’ Joint Submission 2009: 5 & 45). Among the most significant reasons tendered by the Court for refusing to approve several requested reparations projects was a perceived failure to provide sufficient detail on the nature of some reparations and, most importantly, with the Accused found to be indigent, a lack of funding to see them through to fruition (ECCC Judgment Case 001 2010: 663–675). On Appeal, the Supreme Court upheld the decision to reject the requested reparations ‘because of the lack of financial means to ensure their implementation’, adding that ‘[i]t is of primary importance to limit reparations to such awards that can realistically be implemented so as to avoid the issuance of orders that, in all probability, will never be enforced and would be confusing and frustrating for the victims’ (ECCC Summary of Appeal Judgment Case 001 2012: 68 & 67).

As Christoph Sperfeldt notes, the disappointing reparations result in Case 001 provoked a substantial rethink of the ECCC’s reparations program before the commencement of Case 002 (2012: 466). In particular, at the 7th Judges Plenary Session in 2010, the court’s Internal Rules were amended in two significant ways. First, it was decided that all civil parties would share the common legal representation of two Lead Co-Lawyers, rather than being divided into several groups, as occurred in Case 001. The Lead Co-Lawyers were to be responsible for ‘the overall advocacy, strategy and in-court presentation of the interests of the consolidated group of Civil Parties at the trial stage and beyond’ (ECCC Press Release 9 February 2010). Second, the Plenary Session also ‘expanded the mandate of the Victim Support Section’, originally established to provide assistance to victims who wished to take part in Court proceedings, ‘to implement “non-judicial measures”’ (Sperfeldt 2012: 466). The Victims Support Section was now charged with developing and implementing ‘new programs and measures occurring outside of formalized court proceedings’ (ECCC Press Release 9 February 2010). Together with the Lead Co-Lawyers, it was to ensure that any proposed reparations programs not only gained the support of the Civil Parties but had sought sufficient external funding. In order to facilitate this, the VSS turned to the local NGO community to develop reparations projects and to a range of mostly international donors to fund them.

It was in this context that several arts initiatives, originally intended as works of activism and critique, became incorporated into the official reparations packages approved in the final judgments on Cases 002/01 and 002/02.

The Arts as Complementary Justice: Case 002/01 and 002/02

While four individuals were originally indicted in Case 002, only two convictions, those of Nuon Chea and Khieu Samphan, were ultimately secured. Co-Accused, Ieng Thirith, was

declared unfit to stand trial on account of advanced dementia before her death in 2015, while her husband, Ieng Sary, died in 2013 before his trial was complete. Owing to the advanced age of the co-Accused and volume of evidence to be considered, Case 002 was split into two separate cases, each focusing on different aspects of the indictment. In Case 002/01, the co-Accused were found guilty of ‘the crimes against humanity of extermination (encompassing murder), persecution on political grounds, and other inhumane acts (comprising forced transfer, enforced disappearances and attacks against human dignity) committed within the territory of Cambodia between 17 April 1975 and the end of 1977’ (ECCC Judgment Case 002/012014: 622). In what was heralded a landmark verdict, in Case 002/02, the court found Nuon Chea and Khieu Samphan guilty of crimes against humanity, genocide, and war crimes for atrocities committed during the Khmer Rouge period, 1975–1979. Of particular note was the judgment’s recognition, for the first time, that both the widely imposed practice of forced marriage and rape within forced marriage constituted crimes against humanity. Also important was its ruling that the attempted elimination of the Cham and Vietnamese populations of Cambodia amounted to genocide.

Included in the reparations order for Case 002/01 was a mobile exhibition and education project proposed by a consortium of Cambodian NGOs, and a sculpture by the French-Cambodian artist Séra, funded by the French and initially installed next to the French Embassy.¹⁵ The sculpture, a mottled bronze recumbent figure appearing to fall backwards with hands clasped in the *sampeah* position, ‘is at once a comment on a personal experience, on the shattering of families and on the crime of forced population transfer, and on the continued movement to and from the city’ (Elander 2018: n.p.).¹⁶ Both the work, and its placement, symbolize Séra’s loss of his father: while ‘his mother and siblings took refuge at the embassy and later fled the country, his Cambodian-born father was refused entry’ (Handley 2018). It was outside the French Embassy that Séra not only saw his father for the last time but also watched the exodus of people forcibly evacuated from Phnom Penh. Although the sculpture was already in development before the reparations process for Case 002/01 began, representatives of the court were of the view both that Séra’s story was a good fit with the aims of the court and that the sculpture would be a fitting act of memorialization to include in its reparations program (Author Interview 2019).

As Maria Elander notes, as part of the reparations process, the sculpture underwent a number of modifications to address concerns raised by some of the civil parties about its original design. In its initial form, the sculpture was comprised of multiple pieces intended to refer to ‘ancient Khmer statutes that today often appear somewhat disfigured, with a piece or a limb missing’ (2018: n.p.). However, some of the victims were offended by the missing limbs and argued that the work contradicted the ‘Khmer Buddhist beliefs that the whole body needs to be buried if the spirits are to rest’ (Elander 2018: n.p.). In response, the final sculpture awarded as a reparation shows an intact body.

In its formal justification for approving the inclusion of Séra’s sculpture as an official reparation, the Trial Chamber in Case 002/01 argued that ‘Public memorials may further assist to restore the dignity of victims provide public acknowledgment of the crimes committed and harm suffered, and assist in healing the wounds of all victims by diffusing their effects far beyond the individuals who were admitted as civil parties’ (ECCC Judgment 002/012014: 617). By specifically designating Séra’s sculpture as an official reparations project, the ECCC

¹⁵ It has since been moved to the grounds of Tuol Sleng prison.

¹⁶ *Sampeah* is a traditional Cambodian greeting in which the palms are brought together in a prayer position.

recognized the power of art to achieve those ends. At the same time, inclusion in the ECCC process also brought benefits to the artist himself as France was willing to provide additional funding for the project if it was considered an ECCC reparation.

While Case 002/01 took an important step toward recognizing the importance of the arts in holistic approaches to transitional justice, the most significant developments took place in Case 002/02. Here arts projects have been explicitly engaged to meet the requirements of the reparations program to provide guarantees of non-repetition, satisfaction, and rehabilitation to the victims of the Khmer Rouge. Again, they drew on several existing projects, including the Turtle Project and A Time To Remember. Also included in the Case 002/02 reparations package, *Phka Sla Kraom Angkar* took on special significance given the finding in that case that forced marriage and rape within forced marriage is a crime against humanity (Shapiro-Phim 2019). Its inclusion as a reparations project was justified as ‘documentation of the experiences of specific groups of Civil Parties ... with a view to prevent the recurrence of crimes targeting these groups’ (Summary of Judgment 2018: 28) although, as we saw earlier, in practice it also played other reparative roles.

The Turtle Project is an interactive theatre production aimed at educating Cambodian youth about Khmer Rouge history and promoting civic courage with its central message that ‘[t] he turtle only makes progress if it sticks out its neck’ (The Turtle Club 2015). As its playwright, Sokyou Chea explains, ‘[t] he play is a dramatization of how we can learn from the past to build a better today and tomorrow for ourselves and for our country’ (‘The playwright’, The Turtle Club 2015). For this reason, its inclusion as an official reparations project was justified as a means of guaranteeing non-repetition through forms of education alongside two other education projects (ECCC Summary of Judgment 2018: 28). Launched in 2015, by the time it was included as an official reparations project in the Case 002/02 Judgment in 2018, more than 50,000 students had already taken part in the Turtle Project (Author Interview 2019). Designed and led by the Cambodian-German Cultural Association and Khmer Art Action and with early involvement from Youth for Peace, the Turtle Project is part of a broader arts education agenda pursued by the Cambodian-German Cultural Association. That agenda has a dual focus: it aims at the same time to use the arts as means of educating Cambodian youth about their history and key social issues and to educate youth about the arts, what they are, what they can do, and what they contribute to society (Author interview 2019).

Also part of a larger education program, A Time to Remember was a song writing competition designed by the Youth Resource Development Program (YRDP), a local NGO established in 1992, to engage and empower Cambodian youth. Implemented as part of the YRDP’s ‘dealing with the past and peace education program’ (GIZ 2017), the competition called on contestants to compose and perform a song of remembrance for Cambodia. Designed in consultation with several civil parties, A Time to Remember aimed to acknowledge the ‘experiences of survivors by fostering intergenerational dialogue between civil parties and the younger generation’ and commemorate the suffering of the civil parties (ECCC Final Claim for Reparation 2017: 20). It took place in 2016, with the final concert on 25 December that year attended by nearly 400 people and generating significant social media interest across the country. Although it was concluded almost 2 years before the 002/02 Judgment was released, it too was approved as an official reparations project on the grounds that it aimed to ‘commemorate the suffering of the civil parties and make their accounts accessible to the society at large, thus providing measures of satisfaction’ (Summary of Judgment 2018: 28).

Conclusion

In the past 40 years, the arts have undergone a major revival in Cambodia. From its earliest efforts in the 1980s to the present, that ongoing revival has been closely linked to human rights activism and, more recently, to the formal transitional justice efforts of the ECCC. Indeed, the case of Cambodia not only demonstrates that the arts can and do play a range of important roles in the pursuit of justice for past human rights violations but also has significant implications, both for the practice of transitional justice and for the place of the arts in post-conflict societies.

First, the case of Cambodia extends role of the arts in transitional justice practice. Not only does it boast perhaps the most extensive use of the arts in a transitional justice process—engaging the arts in each of the five major roles they are accorded in the literature—but it extends their contributions in new ways. In particular, the ECCC has not only broadened the range of art forms admitted as evidence in a human rights trial but has also gone beyond the use of art as a mode of outreach. Rather, by including arts projects in its reparations packages, it appears to acknowledge that the arts may contribute to guarantees of non-repetition, help prevent the recurrence of, and provide satisfaction beyond what a formal court process can achieve. That is, it seems to suggest that the arts do not just complement the provision of justice but contribute to its achievement.

Second, the Cambodian case provides further recognition of the idea that while formal criminal justice processes cannot address the multitude of complex inter-group and interpersonal issues that mark conflicted societies or engage marginalized sectors of the population, the arts may play an effective role in filling those gaps. This has been particularly evident in the contributions made by a range of different arts projects in Cambodia to fostering intergenerational dialogue as a means of achieving formal, legal satisfaction but also as way of encouraging reconciliation, rebuilding relationships, encouraging understanding, and healing emotional wounds. Together, these projects have not only made a significant contribution to Cambodia's transitional justice process but also further established the place of the arts in holistic approaches to transitional justice more broadly.

Finally, the case of Cambodia also further highlights the importance of the arts in addressing human rights violations, in the absence of formal justice processes, alongside court proceedings, and as part of human rights trials. As the case of Cambodia demonstrates, the revival of the arts in the decades before the ECCC was established was instrumental, not only in highlighting atrocities committed during the Khmer Rouge period and campaigning for justice but also in paving the way for the arts to play a significant role in the ECCC process. Indeed, without the work of arts activists and NGOs in the years before the ECCC was conceived and operational, the roles that the arts have come to play in Cambodia's transitional justice process would have been inconceivable.

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Compliance with Ethical Standards

Conflict of Interest The author declares that she has no conflict of interest.

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