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*"Thesis' includes 'treatise', dissertation' and other similar productions.
JUSTICE AND RECONCILIATION:
POST-CONFLICT PEACEBUILDING
IN CAMBODIA AND RWANDA

Wendy R. Lambourne

PhD Thesis
University of Sydney
2002
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PREFACE

Except as otherwise indicated, the ideas expressed and research reported in this thesis are my own. The research was conducted according to the ethical standards and guidelines of the University of Sydney. Human Ethics Committee approval was obtained for the field research component of the study.
ACKNOWLEDGEMENTS

This thesis could not have been completed without the unquestioning commitment of my husband, Stephen, who provided financial and emotional support and allowed me the freedom and means to follow my dreams and aspirations. I am also indebted to my parents who endowed me with the intellectual curiosity, determination and self-confidence to tackle such an exciting and daunting project, and my grandmother whose interest and pride in my achievements never wavered.

I owe a great deal to the enthusiasm and faith of my supervisor, Stuart Rees, who encouraged me to write my story and helped me to climb out of the quagmire and complete my thesis. Also instrumental in the completion of this thesis were my colleagues at the Centre for Peace and Conflict Studies who have displayed much patience and ability to listen – Cheryl Minks, Paul Clark, Jane Fulton, Antonia Stephenson and Abe Quadan – and my students who have had to put up with my stress and distraction during the last year.

The initial inspiration for this thesis was provided by my first supervisor, Greg Tillett, and was nurtured along the way by others including Bob Howard, Kevin Clements, Rich Rubenstein, Chris Mitchell, Alec Pemberton, Ian Lubeck, Alan Tidwell and Ken Macnab. Funding was provided by the University of Sydney and an Evans-Grawemeyer Scholarship made possible by the former Australian Foreign Affairs Minister, Gareth Evans, through an endowment from his 1995 University of Louisville Grawemeyer Award for Ideas Improving World Order.
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I must also acknowledge the many organisations that gave me access to their resources and/or provided me with the opportunity to learn more about peacebuilding and reconciliation. Two organisations deserve special mention: the Institute for Conflict Analysis and Resolution at George Mason University, where I was welcomed as a Visiting Scholar and encouraged to participate in classes and other activities, and the United States Institute of Peace where I spent countless hours in the library and was able to meet and hear many distinguished scholars in the field.

I wish to pay tribute to those Cambodians and Rwandans who helped me to find my way, shared their pain with me and their experiences, their hopes and fears, explained things to me and educated me about their cultures, customs, history and language, and who are facing life with courage and determination in the face of much loss and suffering. Also I wish to thank the many others in the countries I visited who hosted me and helped with my research.
This thesis is dedicated to my mother and grandmother, neither of whom lived to see this project come to fruition, and to the many victims of genocide who have not been able to take advantage of the possibilities for peace and reconciliation in their countries.
ABSTRACT

The United Nations was formed in 1945 with the mandate to “maintain international peace and security” and the Genocide Convention was signed in 1948 in an effort to ensure that “never again” would the world witness such horrors as occurred during the Holocaust. And yet, in 1975-78 in Cambodia, and in Rwanda in 1994, the human devastation of genocide was repeated. The United Nations was unable or unwilling to intervene in either case to prevent these genocides from occurring, and in the aftermath is endeavouring to deliver on its mandate to uphold international law and promote peace and security. At the same time, the governments and civil societies of Cambodia and Rwanda are also struggling to deal with the challenges of rebuilding peace and reconciliation in their war-torn countries.

The international community has until recently devoted insufficient theoretical and practical attention to the implementation of justice and reconciliation as part of post-conflict peacebuilding. In this thesis I explore the complexity of the concepts of justice and reconciliation, and assess the enormity of the task of dealing with transitional justice and reconciliation in the aftermath of genocide in Cambodia and Rwanda. In Rwanda, both the international community and national government have pursued retributive justice, with some belated attempts to foster reconciliation and restitutive justice. By contrast, a culture of impunity has prevailed in Cambodia and justice has been sacrificed to a policy of ‘national reconciliation’ that fails to satisfy the needs of the population. In neither country have efforts to promote justice, peace and
reconciliation been comprehensively addressed by the international community in partnership with the local communities.

I argue that international interveners involved in peacebuilding need to:

➢ take into account the uniqueness of each conflict and peacebuilding situation and not impose ready-made solutions that might not be culturally appropriate or acceptable;

➢ focus on justice and reconciliation as a means of promoting long-term peace and stability; and

➢ address the complexities of meanings and significance attributed to justice and reconciliation in a collaborative process that prioritises the needs of the local population.

A focus on justice and reconciliation is critical to the success of post-conflict peacebuilding processes. This requires an interdisciplinary approach that includes the psychosocial in conjunction with international legal and political considerations. Peace, justice and reconciliation are inextricably intertwined, and efforts to promote one without the others will inevitably fail.
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>ASEAN</td>
<td>Association of South East Asian Nations</td>
</tr>
<tr>
<td>CDR</td>
<td>Coalition pour la Défense de la République</td>
</tr>
<tr>
<td>CGDK</td>
<td>Coalition Government of Democratic Kampuchea</td>
</tr>
<tr>
<td>CGP</td>
<td>Cambodian Genocide Program</td>
</tr>
<tr>
<td>CIHR</td>
<td>Cambodian Institute of Human Rights</td>
</tr>
<tr>
<td>CPK</td>
<td>Communist Party of Kampuchea</td>
</tr>
<tr>
<td>CPP</td>
<td>Cambodian People’s Party</td>
</tr>
<tr>
<td>CRTR</td>
<td>Commission for Reception, Truth and Reconciliation</td>
</tr>
<tr>
<td>CSD</td>
<td>Centre for Social Development</td>
</tr>
<tr>
<td>DC-Cam</td>
<td>Documentation Centre Cambodia</td>
</tr>
<tr>
<td>DK</td>
<td>Democratic Kampuchea</td>
</tr>
<tr>
<td>DRC</td>
<td>Democratic Republic of Congo</td>
</tr>
<tr>
<td>FAR</td>
<td>Forces Armées Rwandaises</td>
</tr>
<tr>
<td>FUNCINPEC</td>
<td>Unified National Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia</td>
</tr>
<tr>
<td>ICC</td>
<td>International Criminal Court</td>
</tr>
<tr>
<td>ICG</td>
<td>International Crisis Group</td>
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<tr>
<td>ICTR</td>
<td>International Criminal Tribunal for Rwanda</td>
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<tr>
<td>ICTY</td>
<td>International Criminal Tribunal for the Former Yugoslavia</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organisation</td>
</tr>
<tr>
<td>IPA</td>
<td>International Peace Academy</td>
</tr>
<tr>
<td>IRIN</td>
<td>Integrated Regional Information Network</td>
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<tr>
<td>IRIN-CEA</td>
<td>Integrated Regional Information Network - Central and East Africa</td>
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KPNLF  Khmer People’s National Liberation Front
KPRP  Khmer People’s Revolutionary Party
KR  Khmer Rouge
MDR  Mouvement Democratique Republican
MRND  Mouvement Revolutionnaire National pour le Developpement
NATO  North Atlantic Treaty Organization
NGO  non-government organisation
NMOG  Neutral Military Observer Group
NURC  National Unity and Reconciliation Commission
OAU  Organization of African Unity
ONUMOZ  United Nations Operation in Mozambique
PLO  Palestinian Liberation Organization
PRK  People’s Republic of Kampuchea
RPA  Rwandan Patriotic Army
RPF  Rwandan Patriotic Front
RTLM  Radio Televison Libre des Mille Collines
SNC  Supreme National Council
SOC  State of Cambodia
TRC  Truth and Reconciliation Commission
UN  United Nations
UNAMIR  United Nations Assistance Mission in Rwanda
UNCHR  United Nations Commission on Human Rights
UN DHA  United Nations Department of Humanitarian Affairs
UNGA  United Nations General Assembly
UNOMUR United Nations Observer Mission Uganda-Rwanda

UNSC United Nations Security Council

UNTAC United Nations Transitional Authority in Cambodia

UNTAET United Nations Transitional Authority in East Timor

USIP United States Institute of Peace

WVSS Witness and Victim Support Section (ICTR)
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PROLOGUE: EVOLUTION OF A THESIS

This thesis grew from a passion to understand and support the development of approaches to prevent genocidal violence and promote peaceful conflict resolution. "How could individuals so dehumanise each other as to enable such mass violence to occur?" I asked myself. I was sad and puzzled that people could let this happen, and angry about the apparent impotence of the international community to protect the victims of genocide and other violent conflict within states. I wanted to do something to improve the ability of the international community to respond meaningfully before, during and after such violence occurs.

I pursued postgraduate studies in international relations and international law – the United Nations, foreign policy decision-making, international human rights law, humanitarian intervention – to understand the role of the international community in violence prevention and protection of human rights. But something was missing in this study of statecraft and political will – the personal human element. I was drawn to the study of conflict resolution with its interdisciplinary approach and began to appreciate the need for cross-fertilisation from the insights of such disciplines as sociology and psychology (which I had studied as an undergraduate). I was introduced to the pioneering work of Vamik Volkan (1994) on the process of enmification, a psychoanalytical approach to analysing ethnic conflict based on the need to have enemies and allies. This made intuitive sense to me, explaining how one can see the other as a threat to one's own survival: to be absorbed or eliminated.
I thus embarked on my PhD in international conflict resolution, extolling the need to marry the wisdom of psychology and international relations in the quest to resolve ethnic conflicts. The working title of my thesis was “Healing the Gap Between Self and Other: Creating Cultures of Peace in Multiethnic Societies”. In addition to Volkan, the theoretical groundings for my work were John’s Burton’s human needs theory and Henri Tajfel’s social identity theory. My goal was to analyse the contribution of these theories to understanding and preventing ethnic violence.

Fate stepped in, however, as the interdisciplinary conflict resolution centre in which I was enrolled closed and my supervisor left the university. I moved to a political science department where I could pursue my thesis in international relations. The title of my thesis evolved to reflect a new emphasis on the role of the international community in peacebuilding in the aftermath of genocide, but still retaining the psychological component: “Healing the Gap Between Self and Other: Genocide, the United Nations and Post-Conflict Peacebuilding.”

I persevered in international relations, determined to expand the outlook of my chosen discipline to incorporate more of the psychosocial aspects of peacebuilding. The key question that I was trying to answer concerned ways to overcome the enmification process and cycles of violence that in extreme circumstances lead to genocide. I chose to focus on post-conflict peacebuilding rather than conflict prevention as it seemed that the psychological aspects of post-conflict peacebuilding were being neglected. I was interested in Volkan and Montville’s methods for healing people and communities in
the aftermath of violent conflict, and in applying their insights to the post-genocidal situation.

I went to the United States and spent a year as a Visiting Scholar at the Institute for Conflict Analysis and Resolution at George Mason University, Fairfax, Virginia. Whilst there I studied and consulted with experts in international conflict resolution, developed my ideas, and narrowed my thesis topic to consider the roles of apology and forgiveness, justice and reconciliation in post-conflict peacebuilding. I was fascinated by the increasing number of public apologies around the world, the attention received by the South African Truth and Reconciliation Commission, and the differing approaches to the meanings of apology and forgiveness displayed by the people I knew (including within my own family). From an international legal perspective, I was also excited by the developments in international criminal accountability with the formation of international tribunals for the former Yugoslavia and Rwanda. It seemed that the international community was becoming increasingly involved in post-conflict justice and reconciliation via ostensibly political processes but without analysing the psychological aspects and their impact on peacebuilding. I therefore resolved to focus my research on the international community and approaches to justice and reconciliation as an important component of peacebuilding.

Unfortunately, the development of my ideas and research plans was not easy to fit into the positivist mode of analysis favoured by my supervisor in international relations, so another move became inevitable. Under the supportive guidance of my fourth and final supervisor and department (Social Work, Social Policy and Sociology) I was able to
complete my thesis with a much more interpretive and self-reflective analysis of the concepts and processes of justice and reconciliation in post-conflict peacebuilding. The international community is still part of the analysis – but as a means of delivering justice and reconciliation rather than as a focus of study. I make observations about the effect of particular peacebuilding mechanisms on the population in question without claiming to conduct a full-scale empirical impact assessment.

The other significant aspect of the development of my thesis was the issue of case studies. My initial focus was general and theoretical – an analysis of concepts and processes, with illustrative examples. It soon became apparent in the confines of international relations that this approach would not be feasible, so I selected four case studies to represent different regions, conflict types and intervention mechanisms. These were Cambodia, El Salvador, Rwanda and the former Yugoslavia. This number of case studies proved to be unmanageable, however, so I further restricted my thesis to two case studies: Cambodia and Rwanda. I was particularly drawn to these two countries because of the obvious contrast in approach to international criminal accountability – in Cambodia a culture of impunity had prevailed, while in Rwanda there was an international tribunal as well as local trials. Both countries had experienced massive destruction, violence and abuse of human rights and the deaths of a large proportion of their respective populations. The United Nations took an important role in post-conflict peacebuilding, but with a different emphasis in each case. In Chapter 3, I elaborate on the theoretical justifications for the selection of these two case studies.
But then came the issues of practicality. I rejected the feasibility of evaluating the success of particular peacebuilding strategies. Not only is the measurement of the attainment of peace an inexact and unknown science, it would require a great deal more time and resources than I could provide within the structure of completing a PhD. I decided to leave this important task to such major research programs as the joint Stanford University/International Peace Academy project assessing the implementation of negotiated settlements to civil wars (see Stedman, Rothchild & Cousens, 2002). Instead, I decided to focus on exploring the attitudes of Cambodians and Rwandans towards justice and reconciliation and the efforts of the international community towards achieving these goals. I would also need to investigate the attitudes of members of the international community towards the concepts of justice and reconciliation and how these were incorporated into peacebuilding mechanisms.

It was clear to me that I could not presume to research and write about these issues without travelling to each country and experiencing what was happening first hand. I needed to interview Cambodians and Rwandans, as well as government officials, international NGO workers and staff at the ICTR in Arusha, Tanzania. Again, there was the question of what I could hope to achieve or discover of any import, as one researcher, with limited time and resources, and limited local language skills. These practical aspects of case study selection are also discussed in Chapter 3.

Despite the methodological challenges, I was determined to travel to Cambodia and Rwanda, meet and talk with the people (especially the survivors of genocide), and to observe and experience what I could as an outsider of how the interventions of the
international community were being received by the local populations. I believed I could make a contribution to highlighting the issues and to an understanding of how to better harness the skills and resources of the international community to promote justice and reconciliation in the aftermath of genocide.

The logistical challenges of travelling to Rwanda and Cambodia and setting up and conducting interviews were not insignificant. In both cases I had to contend with issues of health, language, money, culture, accommodation, communications, transport, weather, establishing contacts and time constraints. Dealing with and overcoming these challenges became part of my learning experience. I met and talked with people in the street; I observed people and their living conditions; I experienced many aspects of life in Kigali and Phnom Penh; I conducted interviews with survivors, government officials, NGO and UN workers, and students; I read newspapers and watched local television; I conducted primary research in libraries and gained access to documents prepared by NGOs and the ICTR; I visited genocide memorials and people’s homes. My visits were extremely rewarding, both personally and in terms of the greater knowledge and understanding I was able to gain of the experiences and attitudes of Cambodians and Rwandans towards justice, reconciliation and peacebuilding. See Chapter 3 for an overview of my field research process and experience.

I was humbled by my experiences of interacting with and observing those endeavouring to rebuild their lives and countries with so much dignity and wisdom in the aftermath of such horror and devastation. Who was I to presume to come in and try to help? What gives any international intervener the qualifications to think that he or she can make a
difference in such circumstances? I have been struck by the inappropriateness of presuming that anyone knows the answers without first listening to the stories and needs of the victims and survivors of mass atrocities such as occurred in Cambodia and Rwanda. This is more than an academic exercise – it is about real people in real life-and-death struggles for survival. Peacebuilding is a complex challenge that requires sensitive, context-specific thinking and planning, and not simply the imposition of formulaic responses. It requires an approach based on inclusive partnership between intervenors and local populations that is collaborative rather than condescending. It calls for empathy and understanding, for anger and sadness, for courage and compassion. That is what I hope to bring to this thesis - and what I argue others need to bring to the world of international peacebuilding interventions.

We who write scholarly reflections on other people’s agonies are not necessarily useless for the prevention of repetitions of such agonies; but we have an obligation to make clear from the first that we have no right to peer over the boundary between our comfort and their pain without first admitting our inexpert first-order qualifications to speak about the matter. Here, the wisdom and respect of the three men who came to Job’s blistered side seem altogether the right model for all outsiders who look on at the pain of others: “They raised their voices and wept aloud.” But then, “They sat with him on the ground seven days and seven nights, and no one spoke a word to him, for they saw that his suffering was very great.”
Tears are seldom at home in academic gatherings, and silence almost never is. But we do well to make room for both gestures, lest we add to the unjust pejorative popular reputation of the word “academic”. Hannah Arendt said that to “describe the concentration camps sine ira [without outrage] is not to be ‘objective’ but to condone them”. (Shriver, 1999, p. 207)

I do not claim to be objective in my analysis. This would not only be impossible, it would also be inappropriate (as argued by Hannah Arendt above). The model I espouse is that of the self-conscious researcher, aware of my own biases and background that I bring to the research project. For example, I was brought up as a Protestant Christian, an experience that has undoubtedly influenced my thinking on the significance of apology, forgiveness and reconciliation. On the other hand, as someone who has rejected a particular religious belief system as a means for determining my moral and spiritual outlook on life, I believe I am more open to the approaches and belief systems of those from different faiths and cultures. It is necessary for me to acknowledge, nonetheless, the conscious challenge I undertake in attempting to understand the experiences and interpret the communications of those from completely different cultural backgrounds.

The best I can claim is to be comprehensive, honest and inclusive in my attempts to convey the feelings and perceptions of my interviewees and the research and ideas of academics and practitioners in the field. In this way I hope to shed more light on the complex processes of justice and reconciliation and their contribution to peacebuilding, not only in Cambodia and Rwanda but in all societies struggling to come to terms with the causes and effects of human rights abuses and violent conflict.
PART I

SETTING THE STAGE

In Chapter 1, I provide an overview of the theoretical context of my thesis. The focus is interdisciplinary, drawing on the contributions of peace studies, conflict resolution, international relations and international law. Chapter 1 also includes a guide to the contents of each chapter of my thesis.

From an assessment of the international community’s involvement in post-conflict peacebuilding in Chapter 2, I conclude that reconciliation and justice have received insufficient attention in theoretical and practical considerations of rebuilding war-torn societies. As a contribution to this gap in the theory and practice of post-conflict peacebuilding, my research looks at the approaches to reconciliation and justice in the aftermath of genocide in Cambodia and Rwanda.

In Chapter 3, I outline the development of my research design and process, followed by a summary of my field research experiences interviewing Cambodian and Rwandan genocide survivors and others, and an overview of cultural, language and ethical considerations. I conclude by previewing the strategy for analysis of my case studies.
CHAPTER 1

THESIS OVERVIEW AND GUIDE

Only when the whole person and the total environment in which the person lives become the focus of analysis can there be an identification of the real problems that lead to social conflicts, and, therefore, to the resolution of conflicts between societies and their members, and amongst their members. (Burton, 2001)

This thesis explores the diverse meanings of reconciliation and justice and their pursuit as part of post-conflict peacebuilding in the aftermath of genocide in Cambodia and Rwanda. It represents a departure from traditional international relations and international legal approaches by focussing on the social-psychological dimensions as an integral part of the analysis. The legal and political dimensions are not ignored but are included in a more holistic view of human aspirations and experiences in societies recovering from genocide. The rationale behind this study is that the viewpoints of individual survivors and other community members are important in the development of programs and policies to promote justice, reconciliation and peace.

In the prologue I described how my thesis topic evolved as I struggled with the theoretical and methodological challenges of fitting my holistic approach into a disciplinary framework. Whilst respecting the intellectual rigour of each discipline that informs my analysis, I persist with an interdisciplinary approach to research on post-
conflict peacebuilding. In a rapidly evolving interdisciplinary field of study, this emphasis has been illuminating and an inherent feature of the topic.

Peace studies and conflict resolution are by their nature interdisciplinary, drawing their inspiration, theories and methods from disciplines as diverse as theology, psychology, physics, sociology, anthropology, political science and law.¹ One of the founding fathers of peace studies, Kenneth Boulding, was an economist and a Quaker, while the founder of conflict resolution, John Burton, is a psychology graduate and former diplomat. Johan Galtung was a sociologist, philosopher and mathematician before applying himself to peace studies. These and other visionary theorists in the field share a common ideal: the attainment of peace and social harmony through the illumination of the causes of violence and the means to eliminate it.

International law is also a normative endeavour; it is about legal norms and how they shape state behaviour. The purpose of international law is to regulate relations between states, and is thus directly involved with promoting cooperative relationships that respect the rule of law. International law has more recently evolved to address norms associated with non-state actors. The international human rights regime is a particularly clear example of laws that have been formulated with the aim of protecting and promoting the well-being of human beings and social groups.

International relations, by contrast, has been regarded in certain schools of thought as a neutral social science involved with the study of relations between states. Despite the

¹ It should be noted that John Burton (1986, p. 40) prefers to describe the field of conflict resolution as "a-disciplinary".
plethora of modern and post-modern schools of thinking in international relations, from
neo-realist to feminist to constructivist, the realist model still dominates the field: man
is essentially evil, life is brutish and short, politics is all about power, and the state is the
primary unit of analysis. Now this summary may seem simplistic and outdated to
sophisticated theoreticians in international relations, but I would argue that the
theoretical debates occurring in the halls of academe have not in practice penetrated the
decision-making of politicians and diplomats in action. Foreign policy decisions and
the functioning of states in the international realm are driven primarily by respect for
state sovereignty and non-intervention, despite the emergence of theoretical challenges
to the state as the primary organising principle of international relations.3

In practice, international relations is far from neutral. This was recognised by Hedley
Bull (1972):

Of course, I do not wish to imply anything so absurd as that this study is
value free. A study of this kind that did not derive from moral and political
premises of some kind would be impossible, and, if it were possible, it
would be sterile. What is important in an academic inquiry into politics is
not to exclude value-laden premises, but to subject these premises to
investigation and criticism ...

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2 See Falk (1995, pp. 37-44) for an overview of the development of the "realist consensus as the basis of
diplomacy" and the "deficiencies of realism in the present era" of increasing globalisation. Banks (1986,
p. 5) also claims "there is a disjunction between what the academics say and what the practitioners are
doing".

3 See, for example, Ruggie's international regimes theory (1983) and Wallerstein's world systems theory
(1974).
The idealism of inter-war international relations reflected in the setting up of the League of Nations is alive and well in the Charter of the United Nations. The main purpose of the United Nations is the maintenance of international peace and security, a normative goal. Similarly at the domestic level, the provision of security can be regarded as the raison d'être of the state. As the international human rights regime develops, and new conceptions of human security replace the traditional narrow definition of military security, the mandate of the nation-state and hence the domain of international relations has expanded to include the peace and security of social groups and individual human beings (Newman, 2001).

I therefore argue in this thesis that the concern of peace studies and conflict resolution with the psychosocial realm is rightly also the focus of study of international relations and international law. This is consistent with constructivist theories of the social construction of political reality: that interests of states and non-state actors are constructed through social interaction and are shaped by perceptions of international norms and the behaviour of international organisations (Finnemore, 1996; Pettman, 2000). My thesis is also grounded in liberal theories of international relations that downplay the role of power and focus on the role of civil society in determining state behaviour. I do not intend to imply that power is not important, or that military security is not a significant area of concern for governments and international relations scholars. Rather, my thesis embraces the complexities of meaning and relationships inherent in an inclusive perspective on significant and controversial human experiences.
I take as my starting point the argument that the scope of enquiry of international relations needs to be broadened to include the diverse interpretations of key people involved in peacebuilding and conflict resolution, and I illustrate this with my study of post-conflict peacebuilding in Cambodia and Rwanda. This is an extremely practical exercise that illustrates how the relativism and emphasis on interpretation of post-modern thinking can contribute to enhanced understanding and hence to more successful peacebuilding interventions. My project is normative. The goal is to move away from considerations of power and geopolitics towards a greater concern for truly democratic and humane governance that is committed to meeting the basic needs and rights of all peoples (Falk, 1995). As argued by Burton (2001), “by introducing the individual person into thinking, barriers between disciplines are broken down. A holistic approach becomes possible, but no less analytical and ‘scientific’.”

In Chapter 2, I provide a brief overview of the role of the United Nations in the maintenance of international peace and security, followed by a more detailed analysis of the international community’s involvement in post-conflict peacebuilding. In the light of previous research on the reasons for success or failure of peace settlements, I propose the need for greater analysis of the previously neglected justice and reconciliation components of peacebuilding. The psychosocial processes of reconciling former enemies and achieving a sense of justice are important prerequisites for long-term peace and stability.

In Chapter 3, I explain my research design and process. I outline the theoretical reasons for the selection of Cambodia and Rwanda as case studies, and the practical challenges
posed by my research methodology. A summary of my field research experience, including a statistical overview of my interviewees, is provided in Chapter 3 along with a discussion of the issues of culture and language and the ethical considerations of the study. Detailed profiles of my interviewees can be found in Appendix IV.

Chapters 4 and 5 provide the reader with an overview of the historical and cultural context of the genocides in Cambodia and Rwanda, highlighting the impact of colonisation and other international interventions on the development of violent conflict in each country. In the case of Rwanda, a major focus is placed on analysing the relationship between Hutu and Tutsi drawing on insights from pre-colonial anthropological studies as well as more recent political and social accounts. The Cambodian story emphasises the pattern of subjugation and domination that Cambodians have experienced since once being the most successful empire in South East Asia. This historical journey provides a necessary backdrop for the analysis of post-conflict peacebuilding in each country that follows in Chapters 9 and 10.

In Chapters 6 and 7, I review the approaches to justice and reconciliation reflected in the English language literature on the theory and practice of reconciliation and justice. This literature review is multidisciplinary, drawing on the writings of international relations scholars, international lawyers, philosophers, psychologists, sociologists, theologians, and conflict resolution theorists and practitioners. Chapter 6 explores the multiple meanings of justice, while Chapter 7 analyses the concept of reconciliation and its relationship to the concepts of apology, forgiveness, justice, peace and coexistence.
In Chapter 8, I outline the various mechanisms that can be implemented in the quest to promote justice and/or reconciliation in transitional societies. A special emphasis is placed on the Genocide Convention and the role of international criminal tribunals, these being the most relevant to the case studies under consideration in this thesis. The roles of domestic prosecutions, truth commissions, traditional healing rituals and reconciliation workshops are also covered. I make reference to examples to illustrate the application of these mechanisms to promoting justice and reconciliation, including South Africa, former Yugoslavia, Sierra Leone, East Timor and Mozambique.

In Chapters 9 and 10, I analyse how justice and reconciliation have been approached by the international community, national governments, NGOs and civil societies as part of post-conflict peacebuilding in each of Cambodia and Rwanda. The International Criminal Tribunal for Rwanda is discussed and evaluated, as are the local trials, efforts to create a truth commission, the National Unity and Reconciliation Commission, and the planned reintroduction of traditional gacaca justice. In relation to Cambodia, I focus on the continuing culture of impunity and inability to establish an international tribunal, ideas about a truth commission, civil society responses and the role of public apologies.

In Chapter 11 the approaches to justice and reconciliation of the Cambodian government, Cambodians and international interveners in Cambodia are compared with the approaches of the Rwandan government, Rwandans, and international interveners in Rwanda. The diversity and complexity of attitudes towards justice and reconciliation are explored, including reference to the relevance of religious and cultural influences. I conclude in Chapter 12 by making recommendations for peacebuilding, and conflict
resolution projects more generally, based on the lessons learned from Cambodia and Rwanda in relation to the promotion of justice and reconciliation.

In attempting a comparative analysis and generalising learning from particular case studies, I highlight the contextual features that are relevant to planning international interventions. Each conflict is unique and requires sensitivity to local and cultural factors in designing successful conflict resolution interventions. The different ways that different cultures deal with or process their experiences need to be taken into account in any reconciliation and peacebuilding work. Despite this uniqueness, however, there are common experiences that people go through across different races and cultures if they have perpetrated, suffered and/or witnessed extreme violence in conflict situations (Gronow, 1996; Herman, 1992). From the villages of Cambodia, to the newly formed states of the former Yugoslavia, and the hills of Rwanda, there are strong calls for justice emanating from the survivors and an obvious need for trauma healing and reconciliation between survivors, perpetrators and bystanders in the conflict. As suggested by Anderson (1996), no matter what war, ethnic background, political motivation or religion, in the struggle for justice, human rights and true peace and reconciliation, there is much common ground. Addressing this pattern of experience is a crucial part of the reconstruction and reconciliation process. I argue that from past experiences we can learn more about the diverse meanings of justice and reconciliation and thus identify some of the key issues to be addressed in designing future post-conflict peacebuilding interventions and mechanisms.
CHAPTER 2

THE INTERNATIONAL COMMUNITY AND POST-CONFLICT PEACEBUILDING

Peace agreements, however, do not in themselves end wars or bring about lasting peace. In most cases, prewar continuities and the war mentality jeopardize the prospects of a consolidated peace and postwar reconciliation. (Francis, 2000, p. 357)

2.1 The United Nations and the Maintenance of International Peace and Security

Despite the establishment of the United Nations (UN) in 1945 with its intention to “save succeeding generations from the scourge of war” and to “maintain international peace and security”, the succeeding fifty years saw an estimated 86 million people killed in non-international conflicts (Bassiouni, 1997). In response to the Holocaust in which an estimated six million Jews and other targeted groups of civilians were methodically killed by the Nazi regime during World War Two, the Convention on the Prevention and Punishment of the Crime of Genocide (hereafter referred to as the Genocide Convention) was adopted by the UN General Assembly (UNGA) in 1948 (see Appendix I). And yet, genocides have since claimed the lives of more than 10 million people (Nyankanzi, 1998). The impressive international human rights regime developed over the past fifty years represents a new focus of international law – the protection of individuals, including citizens who are abused by their own governments. And still we are continuing to see thousands, if not millions, of people every year suffering human
rights abuses, rape and torture at the hands of governments and opposition groups engaged in identity-based conflicts and other civil wars.

In the new era of mass media and the ending of Cold War political constraints, the UN and other members of the international community have faced greater pressure and unprecedented opportunities to intervene in resolving violent ethnic conflicts around the globe. This has resulted in foreign policy and resource dilemmas for governments and organisations including the UN, as well as for non-government organisations (NGOs) struggling to cope with the increasing demands to alleviate the suffering of populations caught up in the violence. This greater involvement in the resolution of ethnic conflicts and other civil wars has created new challenges for the international community. As many of these conflicts are regarded as intra-state (as distinct from inter-state or international), the international community has been grappling with the fundamental issues of respect for state sovereignty, and the obligation to intervene to protect citizens from gross human rights abuses and pursue the perpetrators of genocide and other war crimes and crimes against humanity. The UN was not set up to deal with the political dilemmas and complexities of violent conflicts within state borders (Bertram, 1995).

Foreign governments, regional and international organisations, and NGOs must develop

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4 For the purposes of this analysis, the international community is defined as including all actors or interveners in a conflict other than those originating from the country in question. The international community thus includes international organisations such as the United Nations and its associated organs, specialised agencies, commissions and separately constituted peace operations (such as the UN Transitional Authority in Cambodia and the UN Human Rights Field Operation in Rwanda); regional organisations such as ASEAN and the OAU; sovereign states; international non-government organisations (NGOs); national liberation movements and similar political groups (such as the PLO); individual academics, professional institutions and ad hoc groups of eminent persons (such as the International Peace Academy, Carter Center and Harvard Program on Negotiation). This definition and list of actors is derived from a chapter by Evans (1993, pp. 17-36) in which he outlines the composition of the UN and the various other actors in the international community. While the definition used in this thesis is broad, the focus of analysis is on the activities of the UN and related international bodies and the motivations of the people who determine the policies and practices of the UN and related international interventions.
new policies and strategies for successful intervention to promote peace in internal violent conflict situations.

There are various stages in the conflict cycle and corresponding methods by which the international community may intervene in violent conflicts, ranging from conflict prevention to military intervention, peacemaking, peacekeeping and peacebuilding. The intervention stages of preventive diplomacy, peacemaking, peacekeeping, and post-conflict peacebuilding were first defined and discussed by UN Secretary-General Boutros Boutros-Ghali in his seminal report *An Agenda for Peace* (1992) and were further elaborated by Australian Foreign Minister, Gareth Evans, in *Cooperating for Peace* (1993). Evans (1993) defined four categories of intervention: peacebuilding (including international regimes and pre-conflict peacebuilding as well as post-conflict peacebuilding), peace maintenance (including preventive diplomacy and preventive deployment), peace restoration (including peacemaking and peacekeeping), and peace enforcement (including sanctions and military enforcement).

In practice, these categories overlap and are not always easy to identify. They are even more difficult to implement and very rarely achieve what they set out to achieve. For example, international attempts at preventive diplomacy often fail to prevent violence, and peacemaking efforts frequently fail to ‘make peace’. One need look no farther than Northern Ireland and the Middle East for examples of failed peacemaking. Peacekeeping missions are often deployed when there is in fact no peace to keep, as in Somalia in 1993 for example, and most post-conflict peacebuilding programs are too limited in scope and duration to build peace on a sustainable basis. On the other hand,
Iest we become too pessimistic, we must also recognise that international interventions have on many occasions contributed to violence prevention, peacemaking, peacekeeping and peacebuilding. The UN intervention following the civil war in Mozambique, for example, is widely seen as an example of a successful peacekeeping and peacebuilding mission.

2.2 Post-Conflict Peacebuilding

One of the most important underlying assumptions of this study is that the ending of overt violence via a peace agreement or military victory does not mean the achievement of peace. Rather, the ending of violence or a so-called ‘post-conflict’ situation provides “a new set of opportunities that can be grasped or thrown away” (Rothstein, 1999, p. 224). The international community can play a significant role in either nurturing or undermining this fragile peacebuilding process.

The focus of this study is on the post-conflict peacebuilding phase of conflict intervention. Unlike Cousens and Kumar (2001) I see no problem in using the term post-conflict peacebuilding as suggesting that I am in some way limiting myself to a linear view of the conflict process. As Evans (1993) makes clear, peacebuilding can be

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3 My decision to focus this study on post-conflict peacebuilding should in no way be taken as suggesting that I see this stage as more important than pre-conflict peacebuilding. It is imperative that more effort and resources be directed towards pre-emptive peacebuilding before conflicts become violent and destructive. This, I believe, is one of the biggest and most difficult challenges facing the international community - not because of the costs and strategies involved, but because of the need to raise sufficient political will to allocate the resources and apply the strategies before the more obvious urgent need arises following the outbreak of violence.

4 I prefer the term ‘post-conflict’ to ‘post-settlement’ even though I agree with Rasmussen’s observation that most conflicts are not actually over when peace agreements are signed, so the term ‘post-conflict’ is
either pre- or post-conflict, and the two will often merge in practice as the conflict cycle continues. However, the types of interventions appropriate in the post-conflict phase are not always identical to those that would be included as part of pre-conflict peacebuilding. For example, the justice and order aspects of peacebuilding are most relevant in a post-conflict situation where there is a need to end violence, disarm combatants, restore the rule of law, and deal with the perpetrators of war crimes and other human rights abuses. The need to overcome or transform the enmities developed during a violent conflict would also suggest different reconciliation mechanisms would be required than in the pre-conflict phase. The distinction between pre- and post-conflict peacebuilding is therefore justified for analytical as well as practical purposes.

Like the other stages of international conflict intervention, peacebuilding is difficult to define and even more difficult to achieve in practice (Cousens, 2001). According to Boutros-Ghali (1995, p. 61), “preventive diplomacy is to avoid a crisis; post-conflict peacebuilding is to prevent a recurrence.” More specifically, post-conflict peacebuilding is “action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict” (Boutros-Ghali, 1995, p. 46). This definition represents a fairly short-term view of peacebuilding that is limited to the goal of violence prevention. Harbottle (1984) refers to peacebuilding as “practical implementation of peaceful social change through socio-economic reconstruction and development”, but this definition is also too narrow. As argued by Love (1995), it

“literally inappropriate” (2001, p. 121). However, I am more concerned that the term ‘post-settlement’ excludes considerations of peacebuilding when there has not been a negotiated end to the violence, as in Rwanda. For this reason I have adopted the widely accepted terminology of the UN and World Bank by referring to ‘post-conflict peacebuilding’ to describe the phase of peacebuilding that occurs after a recognised (but not necessarily negotiated) ending of violent conflict.
appears to restrict peacebuilding to material change and fails to take into account the
need for a change in attitudes.

The definition of post-conflict peacebuilding used in this study is broader and has a
more long-term focus. I define post-conflict peacebuilding as “strategies designed to
promote a secure and stable lasting peace in which the basic human needs of the
population are met and violent conflicts do not recur”. This definition incorporates the
goals of both negative peace (absence of physical violence) and positive peace (absence
of structural violence), a distinction first outlined by Galtung (1969, reprinted 1990).8
My analysis is also informed by the more comprehensive and normative definition of
peacebuilding provided by Spence (2001, pp. 137-8) drawing on Lederach (1998) and
Cockell (2000):

those activities and processes that: focus on the root causes of the conflict,
rather than just the effects; support the rebuilding and rehabilitation of all
sectors of the war-torn society; encourage and support interaction between
all sectors of society in order to repair damaged relations and start the
process of restoring dignity and trust; recognize the specifics of each post
conflict situation; encourage and support the participation of indigenous
resources in the design, implementation and sustainment of activities and
processes; and promote processes that will endure after the initial
emergency recovery phase has passed.

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7 Long-term follow-through has been identified by a number of researchers as important to the success of post-conflict peacebuilding (see, for example, Stedman & Rothchild, 1996; David, 1999).
8 Galtung (1969, reprinted 1990) distinguished between negative peace as the outcome of efforts to stop physical or personal violence (direct violence), and positive peace as the goal of efforts to end indirect structural and cultural violence (indirect violence) that threaten the economic, social and cultural well-being and identity of individual human beings and groups.
These definitions assume that, to be successful, post-conflict peacebuilding must address the underlying causes of conflict in addition to the surface manifestations such as the military culture and proliferation of weapons. As argued by Evans (1993, p. 39):

At the heart of the notion of peacebuilding is the idea of meeting needs: for security and order, for a reasonable standard of living, and for recognition of identity and worth.

This focus on satisfying human needs is derived from the conflict resolution theories of Burton (1990). According to Spence (2001, p. 145), “the process of peacebuilding calls for new attitudes and practices: ones that are flexible, consultative and collaborative and that operate from a contextual understanding of the roots causes of conflict”. The approach is transformative: it is based on terminating something undesired (violence) and the building of something desired through the transformation of relationships and construction of the conditions for peace (Lederach, 2000). It is consistent with the perspective enunciated by Ryan (1990, pp. 61-2) that the task of peacebuilding:

involves a switch of focus away from the warriors, with whom peacekeepers are mainly concerned, to the attitudes and socio-economic circumstances of ordinary people ... So whereas peace-keeping is about

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9 I disagree with Cousins (2001, p. 10) who claims that in some cases, such as El Salvador and Bosnia, the conflict “may have evolved in ways that make retrospective attention to root causes unnecessary and even counterproductive.” Addressing root causes is fundamental to the resolution of any violent conflict, according to Burton’s human needs theory of conflict resolution (1990). While it might be perceived as necessary to ignore root causes in the process of achieving a peace settlement, once the immediate goal of stopping the violence has been achieved, then attention needs to turn to methodologies designed to resolve the underlying issues and deal with the root causes in order to minimise the chances of a return to violence. Unfortunately, the limited focus on root causes during peace negotiations can undermine the potential for long-term peacebuilding, as we have seen in Cambodia where the failure to pursue accountability for the Khmer Rouge has had a lasting impact on peace in that country (see Chapter 9).
building barriers between the warriors, peace-building tries to build bridges between the ordinary people.

Some of the activities that may be included in the peacebuilding process include: economic development assistance and reconstruction; refugee repatriation and reintegration; promotion of the rule of law and respect for human rights; development of police forces and judiciaries; strengthening of civil society, election monitoring and support for democratisation; demining; disarmament and demobilisation of militaries; prosecution of war criminals; trauma healing and reconciliation workshops (Evans, 1993; Gronow, 1996; United Nations, 1996). This recent growth in peacebuilding has been described by Cousens (2001) as “a virtual cottage industry of operational activities”, illustrated most vividly by the recent mushrooming of peacebuilding activities in East Timor (see, for example, Hunt, Bano & Patrick, 2001; Taudevin & Lee, 2000).

The international community (other than the non-government sector) has in the past primarily concentrated its energies and resources on the stages of the conflict cycle involved with ending direct violence or providing assistance during violent conflict. These include peacemaking (mediation, negotiation, sanctions and use of force), humanitarian intervention (emergency humanitarian assistance) and peacekeeping (including monitoring of cease-fires, separation of combatants and protection of human rights). Expanded peacekeeping missions such as that in Cambodia have included many peacebuilding components, but mostly without the long-term commitment necessary to achieve lasting peace. Conflict prevention (including early warning, fact-finding, aid
and development, mediation and negotiation) overlaps with post-conflict peacebuilding in the conflict cycle and has received even less priority in the allocation of resources.\textsuperscript{10}

Post-conflict peacebuilding has until recently received little attention from the international community both in terms of theoretical analysis and practical application. This thesis will contribute to filling this analytical gap in the literature. From the practical perspective, Bertram (1995) observes that of the 25 peacekeeping operations undertaken by the United Nations between 1988 and 1995, only 12 included some elements of peacebuilding. It is widely acknowledged that the UN’s significant role in peacekeeping has not been matched by progress in the areas of peacemaking and peacebuilding (see, for example, Ryan, 1990; Rupesinghe, 1994; Drülke, 1994).

The emphasis of the United Nations and international state actors has been on funding peacekeeping operations and official diplomatic mediation efforts, with less attention being paid to the maintenance of international support for post-conflict reconstruction and development, and even less focus on the need for justice and psychological reconciliation between peoples traumatised by ethnic or political violence.\textsuperscript{11} These aspects of peacebuilding have generally been left to the national government in question.

\textsuperscript{10} See Brown & Rosecrance (1999) for a detailed analysis of the costs of failing to prevent the escalation of violent conflicts.
\textsuperscript{11} The United Nations’ Inventory of Post-Conflict Peace-Building Activities (1996), for example, includes the term ‘reconciliation’ in the title of one section of chapters, but the concept is not mentioned specifically in the text of that section. It seems to be assumed that reconciliation comes naturally as part of the process of reconstruction and rehabilitation of civil society. The human rights chapter does include one point referring to the need for activities to promote the healing of conflict-torn societies, including “ending impunity, bringing human rights violations to justice, establishing mechanisms to bring to light misdeeds of war (‘truth commissions’), granting amnesty and security guarantees to former parties to conflicts, ensuring accountability and national reconciliation” (p. 41). The potentially mutually contradictory implications of these activities is not acknowledged (i.e. ending impunity, granting amnesty and ensuring accountability) and the use of the term ‘national reconciliation’ suggests a political focus rather than attention to the need for activities to promote individual psychological as well as group reconciliation to support the national peace process.
and non-government organisations to implement. For example, Evans (1993, p. 34) refers to the role played by development assistance provided by national governments in "facilitating political reconciliation and economic reconstruction in post-conflict situations". As indicated by Bertram (1995), United Nations guidelines and rules of engagement were designed for traditional peacekeeping and were not able to provide the conceptual and organisational guidance necessary for its new peacebuilding role.

However, there are signs that the balance of focus in the international community is changing. From a theoretical perspective, we have witnessed a shift from a focus on first generation conflict management (peacemaking, mediation, etc) "located in an artificial and limited state-centric discourse in which activity in the international system is framed by power politics", to second generation conflict resolution strategies that address some of the shortcomings of traditional diplomacy (Richmond, 2002, pp. 41 & 75). And there is an increasing recognition in practice of the importance of post-conflict peacebuilding to consolidate the work of peacekeeping and ensure the successful implementation of peace settlements. For example, the Project on Implementation of Peace Agreements in Civil Wars, a joint venture between Stanford University's Center for International Security and Cooperation (CISAC) and the International Peace Academy, has recently completed a study on the reasons why some negotiated settlements to civil wars are successfully implemented and why others fail (Stedman, Rothchild & Cousens, 2002).
2.3 *Justice and Reconciliation as Components of Peacebuilding: The Missing Link?*

The following summary of research findings of those concerned with the apparent successes and failures of peace settlements concludes that a focus on reconciliation and justice might be an important missing link in international efforts to promote peace and stability in formerly war-torn countries. In previous research the problems of defining and measuring ‘peace’ are not adequately addressed with reference to issues such as who is defining the relative degree of peace in these societies, and over what time period the so-called ‘lasting peace’ is being measured. What is short-term and what is long-term? The point at which a particular society is being assessed in terms of ‘peacefulness’ might be critical in any decision whether to define a peace settlement as successful. These issues will be further explored in the final chapter of this thesis when I speculate on the implications of this research for future international peacebuilding interventions.

Licklider (1995) concluded that only one-third of the negotiated settlements of ‘identity civil wars’ (or ethnic conflicts) between 1945 and 1993 that lasted for at least five years resulted in lasting peace. For example, Hampson (1996) outlines how the peace settlements in Namibia and El Salvador were relatively successfully implemented, while the Cambodian peace settlement was only partially successful, and those in Angola and Cyprus were complete failures. According to Stedman and Rothchild (1996), peace settlements had been successful in ending wars in 50% of cases, namely Namibia, El

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12 Hampson (1996, p. 200) concludes that the Cambodian peacemaking and peacebuilding process was successful in that a transitional authority was installed, foreign troops were withdrawn, refugees were repatriated, and free and fair elections were conducted. The elements of failure included the inability to disarm all parties to the conflict and end the fighting.
Salvador and Mozambique. However, they point out that failed settlements can have catastrophic results, as in Angola and Rwanda where more people died after peace agreements failed than in the preceding wars. The other case categorised as a failure by Stedman and Rothchild was Cambodia. They identify reasons for the failed implementation of peace agreements including the actions of spoilers; incomplete, vague or expedient agreements; incomplete adherence to agreements; poor coordination; and lack of follow-through (1999, pp. 23-28).

Cousens and Kumar (2001) have completed a comprehensive assessment of the post-settlement peacebuilding processes in five cases with large-scale international intervention: Haiti, Somalia, Cambodia, Bosnia and El Salvador. They argue that political factors are critical to the success of peacebuilding and should take priority over other dimensions of conflict and its resolution. For Cousens (2001, p. 4), the "defining priority of peacebuilding thus becomes the construction or strengthening of authoritative and, eventually, legitimate mechanisms to resolve internal conflict without violence". Kumar (2001, pp. 198-208) identifies the factors needed to enable the emergence of resilient political processes in the five cases under study: genuine participation by all sectors in the political process (Haiti); providing for peaceful and secure relations between clans (Somalia); creating a less factionalised and corrupt state apparatus (Cambodia); creating the conditions for the emergence of political moderates (Bosnia); and international coordination and orientation towards dispute resolution (El Salvador).
Paris (1997) concluded that all of the eight case studies of peacebuilding in his analysis were doomed to failure because of unforeseen obstacles to transplanting the liberal model of market democracy. Building on the work of Paris, David (1999) identifies three critical objectives that need to be addressed if peacebuilding is to be successful: the security transition, democratic transition, and socioeconomic transition. His recommendations include the need for more realistic timeframes and more effective coordination, and he proposes a guide to criteria and questions to facilitate the evaluation of case studies of peacebuilding (pp. 37-8). Stedman and Rothchild (1996) also suggest three components necessary for successful post-conflict peacebuilding: confidence-building, security building, and the involvement of the international community. They further identify four categories of security building measures that need to be addressed: military, political, cultural and economic.

Neither David (1999) nor Stedman and Rothchild (1996) mention the role of transitional justice in their analysis of post-conflict peacebuilding. Nor do they include any reference to the role of psychological reconciliation between former enemies in the quest for peace. Cousens and Kumar (2001) do not discuss justice or reconciliation in their overall conclusions, but Orr (2001, pp. 157 & 165-7) mentions the absence of justice as a root cause of the conflict in El Salvador, and the role of improvements in human rights protection and administration of justice in supporting peacebuilding in that country. It is my contention that the political focus of these studies is necessary but insufficient. This myopic perspective reflects the artificial separation of disciplines in theory that inevitably leads to gaps in practice. For example, interveners operating at a political level fail to adequately consider the psychosocial aspects and impacts of their
interventions. The political realist emphasis on peace and order à la Hobbes also fails to give sufficient priority to the Kantian focus on justice as a means to achieving peace.

Another researcher, Hatzell (1999), acknowledges the role of justice in peacebuilding, but declines to include it in her analysis. In her study of the causes of stability and instability of negotiated settlements to intrastate wars, Hartzell (1999) analyses three security concerns: coercive apparatus, political power, and economic advantage. She excludes the issue of amnesty agreements for alleged perpetrators of human rights abuses “because its relevance to the security dilemma is not as clear as that of the other three institutional arrangements” (p. 6). This seems to have been a missed opportunity as her study covered a large data set comprising 23 settlements to intrastate conflicts between 1945 and 1997.

Bertram (1995) identifies three dilemmas for United Nations peacebuilding: the sovereignty dilemma, neutrality dilemma and security-versus-democracy dilemma. Even though Bertram relates her analysis to the role of the UN, many aspects of these dilemmas apply equally well to other international interveners in internal conflicts. For example, NGOs struggle to maintain the appearance of neutrality by trying to avoid bias in the distribution of humanitarian assistance to victims on both sides of violent conflicts. Foreign governments and regional organisations also face the dilemmas of respect for state sovereignty versus the desire to intervene to prevent genocide and other gross abuse of human rights, while the dilemma of peace versus justice (or security versus democracy) is faced by all organisations and governments seeking to protect human rights.
Unlike the other researchers cited above, Bertram (1995, pp. 397-8) highlights the dilemma of how to deal with those accused of past human rights abuses and the question of “amnesty or reconciliation”. She describes it as “one of the most troubling quandaries for peace builders” (p. 397) and claims that a policy of impunity or blanket amnesty creates “ominous implications for UN efforts to build democracy and a sustainable peace” (p. 398). And yet, this has been the trend in most post-conflict settlements in the past fifty years. In the interests of reaching a settlement, alleged perpetrators of human rights abuses have been included in the negotiations, and even in the new governments in some cases (such as in Cambodia, for example). This process not only perpetuates a culture of impunity that fails to deter future war criminals, it also fails to produce a just peace. A peace agreement that allows power-sharing with criminals and amnesties for their crimes is perceived by the victims or survivors as an “unjust peace” and therefore “detrimental to postwar stability and reconciliation” (Francis, 2000, p. 364). I agree with Francis (2000, p. 372) that “issues of justice and accountability for war crimes and gross violations of human rights should not be glossed over in the civil war peace settlement”.

In the past, it appears that “justice was a function of political power” (Huntington, 1991 as quoted in Rothstein, 1999). According to Francis (2000, p. 357):

The key analytical and policy concern is how to reconcile the conflict between implementation of a civil war peace settlement that requires the consent of all warring factions while at the same time addressing broad
societal demands that perpetrators of gross violations of human rights and war crimes be brought to justice.

It seems that international interveners are increasingly recognising that short-term pragmatism is not a recipe for long-term peace and stability. As observed by Kritz (1997), there appears to be a paradigm shift in terms of attitudes towards acknowledgement of past human rights violations and international involvement in the implementation of accountability mechanisms in the pursuit of justice and reconciliation. The extent of violence (and failure of the international community to prevent the escalation of this violence) in the former Yugoslavia and Rwanda has triggered the establishment of the first ad hoc international war crimes tribunals since Nuremberg, and in July 1998 diplomats and international lawyers from about 150 countries negotiated the text of an agreement for the establishment of the world’s first permanent International Criminal Court (Schabas, 1999c). In both Sierra Leone and East Timor, the international community is supporting the establishment of both criminal tribunals and truth commissions to deal with the aftermath of violent conflict and gross human rights violations. An increasing number of NGOs are involved in promoting processes of conflict resolution and reconciliation in post-conflict situations.

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13 Various national transitional justice mechanisms (including criminal tribunals, truth commissions, administrative reforms and reparations) have been invoked both during and after the end of the Cold War to deal with human rights abuses and crimes against humanity in many countries (including those of the former Soviet bloc, Africa and Central America) but generally with little or no involvement of the international community (Hayner, 1994; Kritz, 1995).

14 Fisher (1997) analyses the various conflict resolution approaches that are being pursued by non-government or Track Two interveners as a contribution to peacebuilding in violent conflict situations. The various methods include analytic and interactive problem-solving workshops developed by Burton (1990) and Kelman (1997), the psychodynamic approach of Volkan and Montville (1990), and intercommunal dialogue. Diamond & McDonald (1996) provide a useful survey of nine tracks of activities in peacemaking and peacebuilding including lists of organisations and individuals involved in each track.
The implementation of the rule of law as part of post-conflict reconstruction has emerged in the last five years as a "sort of panacea" and has gained an "enduring appeal as a mechanism for restoring long-term stability as well as short-term order to post-conflict societies" (Mani, 1998, p. 3). Programs designed to promote the rule of law, including support for war crimes trials, have been implemented by a range of international actors including various UN agencies and departments, regional organisations, international financial institutions, bilateral donor agencies, and international NGOs (Mani, 1998, pp. 2-3). Promotion of the rule of law as part of post-conflict peacebuilding can comprise many different activities, including judicial reform, redrafting constitutions, rebuilding courthouses, protecting human rights, and training lawyers, as well as support for international war crimes tribunals (Mani, 1998, p. 3).

Another growing global trend has been the use of public events of reconciliation to cement a peace agreement, such as the famous handshake of Israeli Prime Minister Yitzhak Rabin and Palestinian leader Yasser Arafat overseen by US President Bill Clinton on the lawns of the White House in Washington, DC. Political and religious leaders around the world are increasingly engaging in acts of public apology for wrongs committed against groups of people.\textsuperscript{15} The symbolic significance of public reconciliation events and their impact on the prevention of future violence is being

\textsuperscript{15} For example, on 16 March 1998 the Roman Catholic Church formally apologised for failing to take more decisive action in challenging the Nazi regime to stop the extermination of the Jews during World War Two (\textit{Washington Post}, 17 March 1998, pp. A1 & A15). Other recent examples include the Queen of England's apology to the Maoris of New Zealand for the confiscation of their land by 19\textsuperscript{th} century British settlers, and Japan's apology for its wartime atrocities and role as the aggressor in World War Two (Woodley, 1997). The implication of these public apologies is that forgiveness is being sought from the victimised populations in a quest for reconciliation. The roles of public apologies and forgiveness in reconciliation processes will be further discussed in Chapters 6 and 7.
studied by Brecke & Long (1997). A preliminary survey suggested that reconciliation events had a positive effect on bilateral relations in three of the four cases that provided sufficient data for analysis. As a result, Brecke & Long (1997) recommended further investigation using more detailed analytic techniques to determine if public reconciliation events help to reduce the likelihood of further outbreaks of violence.

Members of the international community increasingly refer to the need to promote national reconciliation, but few actually define what they mean by reconciliation. In the shift from peacekeeping to peacebuilding, and the increasing focus on international justice, the international community has taken on the goals of justice and reconciliation without adequately analysing the concepts and how they are best achieved in different conflict circumstances and cultural contexts. There is a lack of discussion in policy circles and the international relations literature of the relationship between mechanisms and desired outcomes in terms of justice and reconciliation. There are many assumptions made about the role of justice in achieving reconciliation, such as the assumption that the International Criminal Tribunal for Rwanda would somehow automatically contribute to reconciliation in Rwanda. This is particularly true in the context of peacebuilding, as argued by Pankhurst (1999, p. 254):

Justice and reconciliation are fundamental to peacebuilding, but there is no adequate theorising of how these relate to each other or even a common

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16 Mani (1998) and Kritz (1995; 1997) are two of the few researchers I have come across who are specifically studying the role of legal justice in post-conflict peacebuilding. Hayner's work on truth commissions also makes a rare contribution to this discussion (Hayner, 1994; 1996), as does Pankhurst (1999). Studies of particular post-conflict transitions also contribute to the debate on justice and reconciliation (see, for example, Frost (1998) on South Africa and Johnstone (1995) on El Salvador).

17 See Shinoda (2001) who discusses the lack of explicit articulation of the role of international tribunals in contributing to national reconciliation and peacebuilding.
language of what they all mean in the context of post-conflict peace-
building.

It is now being argued by some that justice is a necessary component of reconciliation
(International Peace Academy, 1996; Lederach, 1995), although in practice the two are
often seen as mutually incompatible (for example, in Bosnia).\textsuperscript{18} There seems to be
widespread lack of agreement, if not confusion, about the relationships between justice,
reconciliation, conflict resolution and peace. In this thesis I will attempt to unravel some
of these relationships (see Chapters 6 and 7) and will present ideas for a more nuanced
and consistent approach to the pursuit of justice and reconciliation in the context of
post-conflict peacebuilding (see Chapter 12).

One of the conceptual confusions revolves around the various definitions of justice.
Until now in this thesis, when I have referred to the importance of justice in the
peacebuilding process, the meaning of legal justice has been assumed. However, this is
not the only type of justice that is important in peacebuilding (see Chapter 6). As
outlined by Lederach (1999a), socioeconomic justice is also critical to peace. He
identifies what he calls the “justice gap” in peacebuilding: “we have not adequately
developed a peace-building framework that reduces direct violence and produces social
and economic justice” (Lederach, 1999a, p. 32). As a result, he advocates a broadening
of our understanding of peacebuilding to include conflict transformation, restorative

\textsuperscript{18} The Prosecutor for the International Criminal Tribunal for the Former Yugoslavia (ICTY), Justice
Louise Arbour, was quoted as saying that a truth commission for the Balkans and the ICTY “couldn’t
report that both the former ICTY president, Gabrielle Kirk McDonald, and prosecutor, Louise Arbour,
argued at a conference in Belgrade in November 1998 that the establishment of a truth commission would
confuse people and would undermine the work of the Tribunal. On the other hand, Judge Richard
Goldstone, the first ICTY prosecutor, said publicly that he regarded the Tribunal and a truth commission
as complementary rather than contradictory (Boraine, 2000, p. 389).
justice and socio-economic development. This argument is taken up in my thesis based on my analysis of the concepts of justice and reconciliation and the meanings suggested by my case study interviewees in Cambodia and Rwanda.

There is a need for more cross-fertilisation between the discussions of these concepts in the literatures of conflict resolution, psychology, sociology, theology and anthropology, and those of international relations and international law. It is hoped that by analysing the concepts of justice and reconciliation and their application to particular peacebuilding situations, this thesis will help bridge the gap between the psychosocial and political/legal theory, and between theory and practice in conflict resolution and international politics.

Post-conflict peacebuilding is evidently not a simple process. There are significant limitations and complications that need to be addressed, including political and resource constraints, lack of political will, and lack of capacity to implement terms of the peace agreement (Bertram, 1995). The efforts of the international community to promote peace in societies recovering from violent conflict are further complicated when there has not been a negotiated end to the violence involving the international community, as in Rwanda after the genocide in 1994. Boutros-Ghali (1995) draws the distinction between post-conflict peacebuilding in the context of a comprehensive peace settlement, and peacebuilding activities where the UN does not already have a peacemaking or peacekeeping mandate. In the latter situation, it is not clear who has the responsibility for implementing, monitoring and co-ordinating peacebuilding activities, and the parties to the conflict are not bound by any agreement as to their part in the peacebuilding
process. If the violence has ceased because of a military victory, then there is the problem of an imbalance of power between the victors and losers to deal with in the reconstruction of society and the implementation of justice mechanisms.

Previous studies have concentrated on evaluating post-conflict peacebuilding as part of the implementation of peace agreements and have generally not included cases without a negotiated settlement (see, for example, Stedman & Rothchild, 1996; Hartzell, 1999; Hampson, 1996). This study, by contrast, includes the case of peacebuilding in Rwanda following the 1994 genocide where the 'peace' was achieved by military victory rather than a negotiated settlement.¹⁹ This will provide an opportunity to look at the complexities of peacebuilding in the absence of a peace settlement.

In the aftermath of genocide, the peacebuilding process faces even greater challenges in dealing with the total devastation of societies and individuals physically, psychologically, structurally, politically, economically, socially and spiritually. However, researchers have generally not drawn the distinction between peacebuilding in the aftermath of genocide and peacebuilding following other civil wars or ethnic conflicts. Hartzell (1999) concluded from her study of 23 civil wars (of which 16 were defined as identity-based) that there was no significant relationship between identity conflicts and the stability or otherwise of peace agreements. However, her analysis seems somewhat simplistic as each conflict was defined as either identity-based or politico-economic “based on the motivating concern of the actors involved in the civil

¹⁹ Previous studies have looked at post-conflict peacebuilding in Rwanda following the Arusha Accords that were negotiated in 1993 but were abruptly curtailed by the start of the genocide in April 1994, rather than what has occurred since the RPF victory that halted the genocide in July 1994 (Bertram, 1995; Hartzell, 1999).
war” (p. 16), even though many conflicts are actually mixed in motivation. For example, the Rwandan conflict is generally characterised as ethnic, and yet the grievances of the Hutu majority were based on socioeconomic disadvantage, and the primary targets of the genocide (at least initially) were political opponents of the governing regime.

This thesis explores the concepts of justice and reconciliation and investigates how the justice and reconciliation aspects of peacebuilding have been addressed by international interveners in the aftermath of genocide in Cambodia and Rwanda. As previously indicated, it will fill gaps in the literature by analysing:

- processes designed to promote justice and reconciliation as part of international post-conflict peacebuilding interventions;
- the meanings of justice and reconciliation and their relationship in a post-genocidal peacebuilding context; and
- case studies with different conflict settlement scenarios.

The purpose of the case studies examined in this thesis is to analyse the concepts of justice and reconciliation and their application in post-conflict peacebuilding in two different cultural settings, one in Africa and the other in Asia. In Cambodia, post-conflict peacebuilding occurred as a component of a comprehensive peace agreement (the Paris Peace Accords) while in Rwanda the international community’s involvement in post-conflict peacebuilding after the genocide occurred following the military defeat of the Hutu government by the Tutsi-dominated Rwandan Patriotic Front.²⁰

²⁰ It should be noted, however, than the UN did already have a presence in Rwanda in the form of its peacekeeping mission prior to the genocide (UNAMIR), and although there was a follow-up mission in
My argument is that pursuing both justice and reconciliation are fundamentally significant goals that need to be addressed in the design of successful post-conflict peacebuilding processes and mechanisms, especially in the aftermath of genocide. This argument is based on Burton’s human needs theory of conflict resolution (1990), Lederach’s theories on conflict transformation (1995; 1997; 1999; 2000), and Volkan and Montville’s theories of how to overcome enmities through psychoanalytical problem-solving and attention to developing shared histories and empathy with the other (1990; 1994). These theories suggest the importance of reconciliation as a means to conflict resolution and transformation.

This argument is supported by one of Kühne’s “lessons learned” which he concludes from his review of the move from peacekeeping to peacebuilding:

There will be no lasting peace and stable democracy in war-torn societies without truth, justice, and reconciliation. Mass killing, ethnic cleansing, rape, and other brutal forms of conducting war in ethnic, religious, and similar types of conflict render reconciliation extremely difficult. Although it is a long-term process, it has to be started as soon as the peace operation and peacebuilding are initiated. (Kühne, 2001, p. 386)
The focus of my analysis is thus on the concepts of justice and reconciliation, and the related concepts of apology and forgiveness, and their pursuit through the implementation of such post-conflict peacebuilding mechanisms as war crimes tribunals, public apologies, truth commissions and financial restitution. It is my contention that these concepts and mechanisms have received insufficient attention in international relations theory and past practice (as discussed earlier and further elaborated in Chapters 6-8). The focus on the political rather than the personal has tended to mask the underlying psychosocial processes that contribute to the willingness and readiness of people to choose a path of peace and reconciliation rather than engaging in further mass violence and/or abuse of human rights. As argued by Rasmussen (2001), the concern with “hard-nosed” geopolitics needs to expand to include the realm of geosocial politics in which relationship-building and reconciliation take centre stage.

Lederach’s theories on peacebuilding also identify relationships as a central component. He argues that one of the most important needs is for peacebuilders to “find ways to understand peace as a change process based on relationship building” (Lederach, 1999a, p. 35). He goes further to say that we need to reorient our peacebuilding framework “toward the development of support infrastructures that enhance our capacity to adapt and respond to relational needs rather than being defined and driven by events and agreements” (Lederach, 1999a, p. 35). In other words, rather than focussing on the political and legal mechanisms such as peace agreements, truth commissions and criminal tribunals, we need to focus on the task of relationship-building and how that may be enhanced through various processes.
As Rasmussen (2001, p. 119) points out, the conflict resolution community's concern with psychosocial issues and emotional problems has been regarded with suspicion and too easily dismissed as irrelevant to the realities of peacemaking and peacebuilding by traditional international relations practitioners. However, as Rothstein (1999, p. 239) argues: “Since there is obviously an important psychological component of protracted conflicts, there is surely likely to be an equally important psychological or emotional component to their resolution”. Consistent with conflict resolution theory’s emphasis on the need to address underlying human needs, international interveners need to address the underlying causes, as well as the effects, of the broken relationships manifested in violent conflicts. As Rothstein (1999, p. 239) points out, this emphasis on psychological needs does not mean that other political interest-based approaches to peacebuilding are irrelevant or less important. Concerns with power, security, resources and structural issues need also to be addressed. My argument is that psychological, relationship-based aspects of peacebuilding have not been considered sufficiently in the implementation of post-conflict peacebuilding: there needs to be a questioning of realpolitik assumptions and a redress in the balance of priorities and understanding.

There has been a recent burgeoning of literature in the fields of international relations and international law discussing mechanisms for the pursuit of justice and reconciliation in transitional societies (see, for example, Kritz 1995, 1997; Hayner 1994, 1996). There has been a parallel development of work focussing on the meanings of forgiveness and reconciliation (mostly in a Christian context), but little overlap between the two.\textsuperscript{21} We

\textsuperscript{21} The various contributors to Abu-Nimer (2001) and Helmick & Petersen (2001) are recent exceptions to this.
have very little evidence about the impact of war crimes tribunals and truth commissions on processes of reconciliation and justice.\textsuperscript{22} Only recently have the meanings of these concepts begun to be analysed and discussed in the context of conflict resolution or peacebuilding in the secular literature of law, politics and international relations (see, for example, Montville, 1993; Ackermann, 1994; Minow, 1998; Pankhurst, 1999; Hayner, 1999). Much of the previous work on reconciliation has been approached from a particular religious perspective (most commonly Christian) or within the disciplinary outlook of sociology (see, for example, Murphy & Hampton 1988; Tavuchis 1991; Frost 1991; Shriver 1995). Most of the writing on international law and transitional justice, meanwhile, does not include any analysis of the various types of justice and their relationship to reconciliation or conflict resolution (see, for example, Roht-Arriaza 1995; Ratner & Abrams 1997; Ball 1999). Lederach (1997; 1999) is one of the few theorists in the conflict resolution field who has written about the meanings and linkages between justice, reconciliation, peace and conflict resolution (or conflict transformation).

In Chapters 6 and 7, I explore the newly emerging literature on theoretical and practical approaches to justice and reconciliation. By analysing the approaches to justice and reconciliation taken in Cambodia and Rwanda in the aftermath of genocide (see Chapters 9-11), I will identify the ways in which this study can shed light on our understanding of these concepts and their role in post-conflict peacebuilding.

\textsuperscript{22} Fatić (2000) considers this in relation to the International Criminal Tribunal for the Former Yugoslavia.
But first, I turn in Chapter 3 to an outline of my research process and experience, starting with an explanation of my research design and selection of case studies, followed by description of my field research in Cambodia and Rwanda.
CHAPTER 3

RESEARCH PROCESS AND EXPERIENCE

3.1 Research Design

This thesis is neither explanatory nor predictive. Rather, it is an exploratory descriptive study involving an analysis of the concepts of justice and reconciliation and their application in two countries in the aftermath of genocide. The goal is to obtain a perspective on peacebuilding in Cambodia and Rwanda that is grounded in the contexts and cultures of these two countries, and therefore stands a chance of being useful in practice. Employment of a comparative approach to highlight differences and similarities is seen as an appropriate means of identifying specific lessons to be learned for peacebuilding in other countries.

The sources of information for analysis include a review of the literature on the issues and case studies, as well as the results of ongoing observation and experience, and research in the field. Primary research data from previous surveys of attitudes towards justice and reconciliation will add to that which I have collected from my interviews and observations. In relation to the two case studies of Cambodia and Rwanda, I examine how the goals of justice and reconciliation were approached: their significance in the peacebuilding process; means of implementation; and the attitudes of implementing bodies, victims/survivors and others in the community. I also make some preliminary observations of the impact on the peacebuilding process of the mechanisms employed to achieve justice and reconciliation. The aim is to develop a greater understanding of the
concepts of justice and reconciliation and how they interact, and to generate insights to assist conflict resolution practitioners and policy decision-makers in the design of effective post-conflict peacebuilding mechanisms and interventions.

The methodology is essentially ethnographic in its reliance on careful and detailed observation as well as interviews in the field.\(^23\) My reasons for choosing an ethnographic approach were consistent with those suggested by Baszanger & Dodier (1997, p. 8): the need for an empirical approach; the need to remain open to elements that cannot be codified at the time of the study; and a concern for grounding the phenomena observed in the field. Understanding how others view reconciliation and justice cannot be deduced without empirical observation in the field. Many writers have analysed the concepts of reconciliation and justice from a purely hermeneutic perspective, discussing the meanings of these concepts with reference to their own ideas and those of other theoreticians without going into the field to ask people their definitions. As I am interested in how justice and reconciliation are interpreted by Cambodians and Rwandans, I must ask them. Furthermore, while I go to the field with some prepared questions, I also remain open to context specific issues and phenomena that I might not have predicted in advance. A rich interpretation of events and experiences is reliant on asking questions and keeping my eyes and ears open and attuned to the nuances of meaning and the significance of what might appear at first to be minor and unrelated comments and occurrences.

\(^{23}\) I was clearly an outsider and did not fully immerse myself in the Cambodian or Rwandan culture or International Tribunal environment for long enough to conduct a true ethnographic study, nor was I aiming to produce an integrated picture of each culture. See Berg (1998, pp. 120-159) for a useful analysis of ethnographic field strategies.
To understand and analyse how Cambodians and Rwandans view justice and reconciliation I must gather this information with full regard for the historical and cultural context in which my interviewees express their views. My observations are therefore "embedded in a field that is limited in time and space" (Baszanger & Dodier, 1997, p. 11). However, I am not only interested in exploring the situation in Cambodia or Rwanda: my objective is to learn something from comparing these two case studies that is useful for extrapolating from the particular to the general case of post-conflict peacebuilding. This generalisation is not based on any statistical summation of experiences (i.e. seven Cambodians thought this and five Rwandans thought that), but rather on a combination of observations that inform a complex picture of ideas, attitudes and experiences. I am not expecting to make generalisations based on an integrated account of what Rwandans think versus what Cambodians think, or how Rwandans behave versus how Cambodians behave (i.e. not an integrative ethnography). My research process fits most closely under the category of combinative ethnography or ethnographic casebook approach, combined with semistructured interviews. As described by Baszanger & Dodier (1997, p. 17), my research "aims to take stock of the dynamic relationship between the real activities of individuals within the framework of complex, normative references, which are related to the situation and are not unified."

My research approach is phenomenological in that I place the highest value on the stories people tell about their lives as the most important source of knowledge. I believe that the greatest understanding can be reached by listening and analysing people's lived experiences. Complex social and political phenomena cannot be understood by reducing them to numbers and statistics. My analysis is therefore qualitative, inductive and
thematic. Statistical analysis would not be appropriate due to the large number of variables and the non-representativeness of the samples. There are both philosophical and practical reasons for avoiding any attempt at quantitative analysis. Conclusions and observations must thus be seen as preliminary and illustrative, and deserving of further investigation in these cases and in relation to other cases.

My study will not provide definitive answers to any precise research questions. Rather, I have identified four general research questions that will guide my enquiry:

- How are the concepts of justice and reconciliation defined and related?
- How have the goals of justice and reconciliation been defined and pursued in the context of post-conflict peacebuilding in Cambodia and Rwanda?
- What can we learn about the differences in meanings and interpretations of the concepts of justice and reconciliation from experiences with post-conflict peacebuilding in Cambodia and Rwanda?
- What are the implications of these observations for the design and implementation of effective post-conflict peacebuilding and other conflict resolution mechanisms that aim to promote justice and reconciliation?

Based on these general research questions, I prepared interview schedules of questions appropriate for the various categories of interviewees. My primary research technique in the field comprised individual semi-structured interviews. I also consulted documents and recorded observations of the environment, people's behaviour and communications
with others. In one case I conducted a focus group interview involving a guided
discussion on the essential research questions.

My interviewing technique incorporated many scheduled and unscheduled probing
questions to supplement the essential scheduled questions. The style was more
conversational than formal because I wanted as much as possible to create a friendly,
trusting environment in which interviewees were most likely to respond honestly and
openly to my questions and to help me to understand their perspectives.\(^\text{24}\) I also took
great care to ensure that interviewees understood the questions I was asking by
explaining concepts in different ways and in different words, adjusting the terminology
and structure to match the level of English language skills of the interviewee.\(^\text{25}\) As an
exception to this attempt to reword questions in order to aid communication, I always
asked the questions on the meanings of reconciliation and justice in the same way in
English (at least initially), as my purpose was to explore the interviewees’
understanding of these two specific terms. I did sometimes follow up with clarifying
questions using the respective local language terms for justice and reconciliation.

In this study I envisage myself in the shoes of an international intervener, investigating
the context for developing peacebuilding mechanisms that will be most likely to
promote justice and reconciliation for the populations of Cambodia and Rwanda
respectively. In effect, that is what I am: an international intervener conducting

\(^{24}\) See May (1997, pp. 109-131) for a discussion of interviewing methods and processes including the
importance of developing rapport with interviewees.

\(^{25}\) See Berg (1998, pp. 68-69) for a brief discussion of issues involved in ensuring clear and effective
communication between interviewer and interviewees from different cultures or subcultures.
research. By asking questions and inviting interviewees to talk about their experiences I am intervening in their lives. Even though I may not follow through with any action projects in the field, the interviewees’ awareness that I am writing about their experiences and sharing their ideas and opinions with a wider international audience could influence their own ideas and future actions.

I see my role in this research as trying to shed some light on the subtleties and complexities of approaches to justice and reconciliation in Cambodia and Rwanda, and thereby to suggest some guidelines for international interveners in other situations. The aim is to avoid going in blindly and transplanting justice and reconciliation mechanisms from different cultural contexts and conflict settings. No-one can claim to know how different people in different circumstances and at different times will react with regard to the pursuit of justice and reconciliation, but we can at least increase our awareness of the issues involved. We can also approach our research and interventions with respect for the awareness and contributions of those we are intending to study or help. My research approach mirrors that which I advocate for international peacebuilding interventions: a model that is participatory, inclusive and empowering rather than the condescending imposition of ready-made solutions.

What I bring to this research project needs to be acknowledged as part of the analysis. I am not an uninterested observer. I bring my own ideas and prejudices and I make these

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26 Lane & Cormick (1978, p. 206) proposed a typology of five intervention roles commonly assumed by interveners in community disputes: activist, advocate, mediator, researcher, and enforcer. In this study I have adopted this broad definition of intervention as used in conflict resolution, in preference to the definition of intervention as "dictatorial or coercive interference" derived from international law and politics (Bull, 1984, p. 1; Oppenheim, 1905, p. 181).
explicit rather than pretending neutrality and objectivity.\textsuperscript{27} I agree with Berg (1998) and Rubin and Rubin (1995) that "maintaining the facade of neutrality prevents a researcher from examining his or her own cultural assumptions or personal experiences". In a study of the meanings of reconciliation and justice and their role in peacebuilding it is essential that I am aware of my own cultural biases so that I do not unintentionally infuse these biases into my analysis of the views of others with different cultural backgrounds. By including a prologue to this thesis outlining my personal experience in selecting my topic of study and conducting the research, I hope to add to the reader's understanding of the context and implications of my observations and conclusions.

One of the fundamental positions that I hold is that killing and violence against other human beings are wrong in any context, and that we should work to minimise their occurrence through effective peacebuilding. This position is consistent with international law on genocide and human rights, and I value the importance of the implementation of international legal principles in this area. I also believe in the need for justice in all its facets (see Chapter 4), with a special priority on restorative justice and reconciliation to heal the wounds and rebuild relationships in the aftermath of conflict. However, I also believe in not imposing my beliefs on others, and am committed to listening to and reporting faithfully on the ideas and perspectives of my interviewees in relation to justice and reconciliation in the aftermath of genocide. I am especially conscious that my views on the importance of apology, forgiveness and reconciliation are most probably linked to my Christian upbringing, so I must listen and observe carefully to understand how non-Christians conceptualise and value ideas of

\textsuperscript{27} Ideas of the neutral social scientist have been gradually eroded by challenges from feminist and other researchers (Berg, 1998, p. 126).
forgiveness and reconciliation. Similarly, my frame of reference is challenged in trying to understand indigenous reconciliation and justice mechanisms which have no equivalent in my own culture.

3.2 Selection of Case Studies

In this section I will elaborate from both theoretical and practical perspectives on the selection of Cambodia and Rwanda as my primary case studies for this research.

3.2.1 Theoretical Justification

The initial criteria for selection of the case studies were as follows:

1. Internal conflicts

Internal or intra-state conflicts involve different international legal implications and political attitudes to intervention than do inter-state conflicts. Therefore, in order to compare the involvement of members of the international community in resolving the conflicts in question, the case studies should both be of the same type (i.e. either intra-state or inter-state). The decision was made to focus on internal conflicts as these have been by far the most prevalent and deadly in the past 50 years, and the role of the international community in resolving these conflicts has been a subject of much debate in the international relations literature. Furthermore, the psychology of individuals and

28 See, for example, Brown (1993, 1996); Gurr & Harff (1994); Ramsbotham & Woodhouse (1996).
groups, which is relevant to this study in terms of attitudes toward justice and reconciliation, differs greatly depending on whether the conflict is between members of the same community or the populations of different states. The focus of this study is on the challenge of reconciliation between peoples of the one community who have committed acts of violence against each other. The potential case studies were thus limited to internal conflicts.

Cambodia and Rwanda are both defined as internal conflicts. The Cambodian genocide of 1975-1979 was perpetrated by the Khmer Rouge, a political movement of Cambodians, against other Cambodians and ethnic Vietnamese living within the borders of Cambodia. The 1994 Rwandan genocide was perpetrated by one ethnic group of Rwandans, the Hutus, against other Rwandans, primarily Tutsis and some Hutus, living within the borders of Rwanda. The invasion of the Tutsi-led army to reclaim their country from the Hutu majority government could be viewed as a violation of state borders in order to attack a legitimate government, but the fact that the invaders were mostly refugees from Rwanda suggests that this aspect of the conflict could also be legitimately regarded as an internal conflict. It was, in fact, defined as a civil war by the United Nations (1996).

2. *Conflicts defined as genocide*

Genocide was defined as an international crime following the Jewish Holocaust during World War Two.\textsuperscript{29} According to the Convention on the Prevention and Punishment of the Crime of Genocide (1948)\textsuperscript{30}, genocide is defined as follows:

\textsuperscript{29} For a comprehensive account of the origins of the legal prohibition of genocide, its definition and implementation in international law, see Schabas (2000).
Article II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;
(b) Causing serious bodily or mental harm to members of the group;
(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
(d) Imposing measures intended to prevent births within the group;
(e) Forcibly transferring children of the group to another group.

I have chosen to focus my thesis on post-genocidal conflict peacebuilding as the process of genocide involves the most extreme experience of group identity and enmification of the other: the willingness to kill and desire to destroy another group. The psychological experiences of the genocide participants (victims, survivors, perpetrators and bystanders) are uniquely devastating and difficult to come to terms with, so the pursuit of justice and reconciliation is thus particularly challenging in the aftermath of genocide. The international legal obligations and, therefore political response, to genocide may also be seen as unique. It is therefore important that both case studies involve genocide.

Rwanda is clearly defined as genocide under the Convention: one ethnic group (Hutus) contrived to destroy another (Tutsis) by killing members of the other group. While the

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See Appendix I for the full text of the Genocide Convention.
international community was slow to acknowledge that genocide was occurring in Rwanda, the United Nations and various states (including the US) have since described the events of April-July 1994 as genocide (United Nations, 1996). The International Criminal Tribunal for Rwanda was established explicitly to try the perpetrators of genocide in Rwanda during that period, and the indictments and judgements issued by the Tribunal include charges of genocide as well as crimes against humanity.

The case of Cambodia is not as clear; some writers such as Vickery (1984, as quoted in Kiernan, 1994) and Chandler (1996) have declined to define the Khmer Rouge regime of terror and death as genocide. While the Khmer Rouge policies and resulting deaths have been generally thought of as politically and economically motivated, Montville (1990) and Thayer (1995) have argued that the Khmer Rouge goal of cleansing the Cambodian people and economy of any foreign presence was racially motivated and essentially anti-Vietnamese. Kiernan (1997, p. 339) refers to the ideology of the genocide as being to rid Cambodia of “national impurities” including the foreign-educated and “hereditary enemies”, especially the Vietnamese. Thus, some may argue that, strictly speaking, the Cambodian genocide does not fit the definition laid out in the Convention as the definition does not include the destruction of groups defined economically or politically. On the other hand, it is clear that the intent of Pol Pot and the Khmer Rouge was to create a racially pure Khmer state. Their policies of terror, torture, hard labour and starvation resulted in the destruction of those not fitting into that group by means of all of the five types of acts defined in the Genocide Convention (as listed in Article II).

31 See Chapter 5 for further details of international acknowledgement of the genocide in Rwanda.
Kiernan (1994, pp. 197-202) describes three categories of Cambodian victims targeted for destruction which fit the Genocide Convention definition: religious groups like the Buddhist monks; ethnic or racial groups like the Cham and Vietnamese minorities; and at least one part of the majority Khmer national group (the eastern Khmer population from the provinces near the Vietnamese border) and possibly also the Khmer urban population as a whole (the urban elite were the enemy to be destroyed or transformed into rural peasant workers). Furthermore, the United Nations has recommended the establishment of an international tribunal “to try Khmer Rouge officials for crimes against humanity and genocide”.\(^{32}\) Even though this recommendation has not yet been fulfilled, it does provide further evidence for regarding Cambodia as an appropriate case study of the international community’s role in responding to genocide.

I would argue for the expansion of the definition of genocide to include groups defined politically or economically. The extent of devastation is arguably the same, and from an international legal perspective, the intent to destroy a political or economic group should attract the same level of punishment.\(^{33}\) For this reason also, I feel justified in classifying Cambodia as a genocide for the purposes of this research. On the other hand, the fact that the Cambodian genocide did not have a primarily ethnic motive makes it less comparable to Rwanda. The fact that Cambodians did not experience the same level

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\(^{33}\) The definition of genocide in the Genocide Convention deliberately excluded politically motivated mass killings so the Soviet Union would not veto the Convention, as Stalin would have been implicated as the perpetrator of genocide against his own people. For this reason, some genocide scholars have argued for the expansion of the definition to include the destruction of political groups in order to overcome the bias in the original legal definition (see, for example, Fein, 1996; Charny, 1994; Kuper, 1981).
of ethnic enmification as did Rwandans has implications for the analysis of attitudes towards justice and reconciliation. This could be seen as a drawback in the choice of case studies for comparative analysis in this thesis.

3. Post-World War Two

The international legal regime for the protection of human rights has evolved primarily since the end of the Second World War, including most significantly for this study, the Genocide Convention. To be comparable in terms of assessing the involvement of the international community, the case studies chosen should thus both relate to conflicts that have occurred since the end of the Second World War. The focus of this thesis on the role of the international community, and in particular the United Nations, in post-conflict peacebuilding also indicates that the case studies should both be taken from the era since the UN was established (i.e. since 1945). While it is undoubtedly interesting to compare the earlier experiences of communities attempting to rebuild peace in the aftermath of genocide (such as the Armenians), this would not be centrally relevant to the current study because of the entirely different composition and approach of the international community. On the other hand, the attitudes of survivors and perpetrators and their descendants, and of the international community, towards the concepts of apology and forgiveness, justice and reconciliation in the aftermath of genocidal conflicts at any time in history are relevant background for this thesis and may be the subject of future study.
4. **International involvement in conflict resolution**

As part of the focus of this study is on the role of the international community, the case studies should provide examples where the international community in its various guises has played a major role in conflict resolution processes. More specifically, the two cases have been chosen because of the significant and groundbreaking international interventions in post-conflict peacebuilding. The Cambodian peacekeeping mission was the most complex ever attempted, involving many aspects of peacebuilding including human rights monitoring, promotion of democratic elections, de-mining and development assistance. In Rwanda, the international community established an international tribunal to try the perpetrators of genocide, crimes against humanity and war crimes, the second of only two ad hoc tribunals established since Nuremberg. It is useful to compare two case studies with different responses regarding the prosecution and punishment of perpetrators in order to assess the attitudes towards justice and reconciliation in a culture of impunity (Cambodia) versus accountability (Rwanda) as part of the process of post-conflict peacebuilding. It is also valuable to explore reconciliation in two countries where truth commissions have not been established.

5. **Cultural variety**

The impact of cultural differences on attitudes to justice and reconciliation is also a component of this study. Thus the case studies were deliberately chosen to represent different geographical regions – one from Asia and the other from Africa. The original plan was to include case studies from Central America and Europe as well, namely El Salvador and the former Yugoslavia, but for various reasons these two case studies were rejected in favour of the two chosen. These reasons included the inability to do a
thorough study of more than two case studies under the parameters of time and resource constraints. In addition, it was not clear that any Central American examples fitted the established criteria (especially that of genocide), while the former Yugoslavia has been described as an international rather than purely internal conflict. Also, the combination of Rwanda and former Yugoslavia was rejected as it was thought that comparing two cases which both resulted in international tribunals would not have been as interesting as including one where the perpetrators have not been brought to justice (as discussed in the previous point). On the other hand, including El Salvador would have enabled an assessment of attitudes towards justice and reconciliation where there has been a truth commission established as part of the peacebuilding process.

Cambodia and Rwanda were both colonised by French-speaking European nations for similar periods: Cambodia from 1863-1953, and Rwanda from 1885-1962. The peoples of Cambodia and Rwanda have therefore been exposed to similar cultural overlays onto their traditional cultures. Two of the most relevant cultural influences brought by the colonisers to both Cambodia and Rwanda were Christianity and the Western legal tradition. However, in Cambodia most people retained their Buddhist religion, while in Rwanda more than 80% converted to Christianity. This difference in religious orientations has important implications for attitudes towards reconciliation, making the cases of Cambodia and Rwanda interesting to compare. The similarity in legal systems and ideas imported from the West, meanwhile, provides a common point of reference for comparing Cambodian and Rwandan approaches to justice.
Summary

The case studies of Cambodia and Rwanda were chosen because they were both internal conflicts involving human rights atrocities and mass killings that could be defined as genocide. In both cases the international community has had significant levels of involvement in various stages of the conflict resolution process, but with different priorities and policies. In Cambodia the emphasis has been on post-conflict reconstruction and development, while in Rwanda the UN has focussed more on international criminal accountability. A case from the African region and one from the Asian region with different religious orientations were chosen to enable an examination of cultural factors affecting attitudes towards justice and reconciliation. On the other hand, both countries were colonised by French-speaking European nations, and thus share some cultural experiences. Such common ground provides further incentive for a comparative analysis of the two cases.

Both populations are suffering the effects of years of war and violence, and are traumatised by the impact of genocide. Human rights abuses are continuing in both countries and the survivor populations have been subject to continuing violent attacks and killings by the perpetrator groups (the Khmer Rouge and Interahamwe respectively). In both cases the perpetrators included peasants, and the elites were targeted and destroyed. Both countries needed to completely rebuild their legal justice systems and to reinstall some kind of legitimate government. The people are very poor and required massive investments from the international community to rebuild their economies. However, one significant difference relevant to post-conflict peacebuilding processes is that the Cambodian conflict resulted in a peace settlement and
implementation supervised by the United Nations, while the Rwandan conflict ended with a military victory of one side over the other and no agreed process of peacebuilding was established. In Cambodia, the Vietnamese invasion ended the genocide, but the peace process was instigated and managed by the United Nations (after a delay of several years). In Rwanda, the UN peace process failed prior to the genocide, and the rebuilding of peace has been managed by the new Rwandan Government representing the winners of the civil war that stopped the genocide.

Much greater time has elapsed since the Cambodian genocide and we can see the results of the international community’s intervention and lack of accountability. It is early days in Rwanda, but it seems that attempts to overthrow the culture of impunity are not so far doing much to assuage the strong feelings of hurt and desire for justice. This difference in time elapsed since the genocide in each of the case studies will be taken into account in the comparative analysis.

3.2.2 Practical Considerations

In selecting the case studies, the following practical considerations were taken into account:

1. Accessibility

The two case studies were chosen bearing in mind the feasibility of travelling to both countries and conducting the planned research. Both Cambodia and Rwanda were considered to be relatively peaceful and safe for foreigners at the time of the planned
field trips, other than particular regions of each country that were still experiencing occasional violence. The decision was made to avoid travelling to the more dangerous regions in both countries, even though this meant being unable to interview residents of those regions. In Cambodia, this meant not being able to conduct interviews with the former Khmer Rouge congregated in the Pailin district, while in Rwanda this meant having less access to the extremists and members of the general Hutu population resident in the northwest of the country. Instead, interviews were conducted only in the capital city of each country, leading to a somewhat skewed albeit comparable sample from each population. The implications of the interviewees being largely urban, educated, and from victim/survivor rather than perpetrator groups will be discussed.

2. Language

Selecting countries for field research with the same colonial language was a major advantage in terms of minimising language preparation and translations of interview materials. In both Cambodia and Rwanda, French is still the dominant foreign language spoken, although an increasing number of residents of both countries now speak English. The majority of the rural population in both countries speak only the local language and French, but in the cities English is more prevalent. Although not fluent in French, I have sufficient background in the language to be able to conduct basic conversations and translate written materials. Whilst being able to speak the local languages of my case study countries (Khmer and Kinyarwanda respectively) would have been extremely useful, this was not considered a feasible option.34

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34 A diplomat who had worked in many overseas countries told me that despite spending several years in Rwanda, he did not learn Kinyarwanda – he considered it to be one of the most difficult languages to learn. Khmer would have been easier to learn, and I did in fact make use of my growing familiarity with
My fluency in English and knowledge of French thus enhanced the feasibility of my research trips. I had my research questions translated into French and Kinyarwanda prior to my trip to Africa, and planned to tape record interviews in languages other than English. In the event, however, I found that my time was fully taken up in contacting and interviewing people who spoke English. The cost of employing an interpreter would have been prohibitive in Rwanda. I did, nevertheless, try to organise a friend of one of my interviewees (who worked for the Tribunal) to assist with interpreting, but she was unexpectedly called out to travel to a rural area so she became unavailable. Even if I could afford to employ an interpreter and could obtain assistance in later transcribing tape recordings of interviews, I realised that I would not be able to do justice to understanding and analysing in a foreign language the nuances of meanings inherent in my research topic. I thus made the decision after I arrived in Rwanda to conduct interviews only in English despite the impact this would have on the representativeness of my sample of interviewees. To be fair, this meant also restricting my Cambodian interviews to English speakers.

The decision to restrict my research to the capital city in each case made the possibility of conducting interviews in English more feasible. Even so, a number of the Cambodians I interviewed were not as fluent in English, so I used a Khmer translation of the ethics form and key terms from the research questions (prepared by the translator at the Australian Embassy in Phnom Penh – see Appendix II & III) to assist with the interviews. I still recorded most of the answers in English, but with occasional reference the language in my interviews in Phnom Penh. By contrast, I found it extremely difficult during my stay in Kigali to pick up any Kinyarwanda for use in my research.
to Cambodian terms. My Cambodian moto driver with his good English language skills was an invaluable asset. We spent evenings together working on my understanding of the Khmer words for reconciliation, justice and other key concepts. I have subsequently spent time with native English and Khmer speakers to confirm the accuracy of my interpretations and translations.

Only one of my Rwandan interviewees was less than fluent in English, and we conducted parts of the interview in French. Again, I recorded his responses in English with occasional inclusion of French terms.

3. Resources

The financing and time taken for field research trips also needed to be taken into account. Cambodia is a relatively close and inexpensive travel destination from Australia, so this field research trip did not pose a major problem financially nor in terms of allocation of time. By contrast, Rwanda is a long way from Australia and an extremely expensive travel destination. However, driven by a strong desire to visit Africa and to conduct research in Rwanda, I decided to make it possible. I was able to obtain travel funding to present a conference paper in Durban, South Africa, which offset part of the cost of my African trip. I was also in the fortunate position of being able to obtain financial support from my husband whilst pursuing my research full-time; otherwise travelling to Rwanda would not have been feasible. The time allocated to planning and conducting my research in Kigali, Rwanda, and Arusha, Tanzania did, however, add significantly to the time taken for completion of my thesis.
4. Contacts / obtaining interviewees

In order to conduct any type of field research, it is necessary to have contacts in the field to provide access to interviewees. I felt confident that I would be able to make Cambodian contacts through networks in Australia and the US, but Rwanda was more of a challenge. I decided that the time I was spending in the United States as a Visiting Scholar would best afford me the opportunity to make the necessary contacts for my research in Rwanda. I participated in conferences, joined African research networks, searched websites, interviewed regional specialists, and made contact with expatriate communities in both the United States and Australia prior to my trips to both Cambodia and Rwanda. In this way I was able to compile names and contact details for organisations and individual contacts in both countries in preparation for my field trips.

Actually contacting potential interviewees and obtaining their agreement to be interviewed was another methodological hurdle. In the case of Cambodia, this was quite feasible in terms of communications, and everyone I contacted readily agreed to be interviewed unless they were travelling or out of town. In Rwanda, however, it was much more difficult to make contact because of problems with communications, and some of those I contacted were reluctant to be interviewed (see later discussion of research experience for further details and implications).
5. Cultural diversity

In selecting my case studies I also considered my ability and aptitude for understanding the cultural diversity I would encounter in conducting my field research. A basic prerequisite was to read as much as possible and to interact as much as possible with people from each country, both before and during my stay. I therefore immersed myself in a number of African research networks in the US and made a point of talking with Rwandans and Cambodians prior to each research trip.

Another means of preparation was to be open-minded about what I would encounter and not to have fixed ideas about cultural stereotypes. I therefore needed to strike a balance between being aware of Rwandan and Cambodian religious approaches and cultural habits, but at the same time not letting this awareness dictate my interpretations of people’s responses to my interview questions.

Summary

Cambodia and Rwanda were chosen as case studies on the basis of theoretical relevance and personal interest, with less weight being given to the practical feasibility of conducting field research in those countries. The practical obstacles were seen as challenges to be overcome, as would be the case in any international intervention. International interveners face the challenges of accessing people, information and resources in countries where crises have occurred: they don’t get to choose the location of a crisis. International workers in a post-conflict situation are unlikely to speak the local language and are often less than fluent in the colonial language (where relevant). Lack of resources is invariably an issue for the United Nations and other international
organisations, especially in Third World countries such as Cambodia and Rwanda. On the other hand, international interveners would be more likely to hire interpreters and travel to rural areas and be in a better position than I was to obtain a wider perspective on attitudes and needs throughout a whole country.

3.3 Field Research

Analysis of the case studies was facilitated by field research trips to Rwanda and Cambodia to interview international interveners, government representatives, local NGO workers and survivors of the conflict. Because of the differences in the time elapsed since the genocide and the types of interventions by different members of the international community in each case, the categories of people interviewed and the types of questions asked were not directly comparable. However, the purpose of the interviews remained consistent between the two case studies: to determine what has happened in each country in relation to the pursuit of justice and reconciliation, and to ascertain the attitudes towards justice and reconciliation of the members of each population. In addition to the field research in Rwanda, interviews were conducted at the ICTR in Arusha, Tanzania to explore the role of the Tribunal in promoting justice and reconciliation.

The information gained from these field research trips was in both cases supplemented by interviews with members of the refugee or diaspora populations (in Australia, the US, the UK and Canada), and members of the international community who have
played a part in post-conflict peacebuilding in each country (including NGO workers, government representatives, UN officials and international lawyers).

Following is a summary of my field research experience focussing on the numbers and characteristics of the people interviewed in relation to each case study. Profiles of my interviewees are provided in Appendix IV and a list of other primary sources (academics and others interviewed) is provided in Appendix V.

3.3.1 Rwandan Interviews

In June/July 1998 I conducted a total of 23 interviews in Kigali, Rwanda and Arusha, Tanzania. Interviews were conducted with eight survivors (six Tutsi, one Hutu, one unknown) and five returnees (all Tutsi), comprising a priest, lawyer, government official, NGO workers, radio correspondent and UN/ICTR employees. I also interviewed ten ICTR officials including a judge, prosecutor, investigators, legal officers/advisers, Deputy Prosecutor, Advisor on Gender Issues, and Head of Witness and Victims Support Section. A Canadian NGO manager based in Kigali was also interviewed. All of the interviews were conducted in English. Brief profiles of each of the interviewees are provided in Appendix IV (see Tables 3.1 and 3.2 for a summary).

An interview schedule of eleven questions was developed in English and translated into French and Kinyarwanda (see Appendix II). The questions asked of survivors and returnees were designed to ascertain each respondent’s attitudes towards peacebuilding, justice and reconciliation efforts in Rwanda including both local and international
mechanisms. A number of questions specifically addressed attitudes towards the International Criminal Tribunal for Rwanda (ICTR) and domestic trials.

### TABLE 3.1 Interviews with Rwandans in Kigali, Arusha & Toronto

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<th>Survivors</th>
<th>Returnees</th>
<th>Refugees</th>
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<td>3</td>
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<td>2</td>
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<tr>
<td>Tutsi</td>
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<td>9</td>
<td>20</td>
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<th>Returnees</th>
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<tr>
<td>Total</td>
<td>8</td>
<td>5</td>
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### TABLE 3.2 Interviews with ICTR Officials

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<th>Judges</th>
<th>Prosecutors</th>
<th>Investigators</th>
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</tbody>
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- 61 -
I used the interview schedule as a guide to covering all the topics in a conversation with the interviewees rather than asking the questions exactly as written. The topics were not necessarily covered in the order indicated by the questions but as and when seemed appropriate in the natural flow of the interview conversation. These questions were asked of Rwandan survivors and returnees, while foreigners and Rwandans working in NGOs were asked about their observations of the attitudes of others towards the topics raised in the questions. If the interviewees did not spontaneously identify themselves as Hutu or Tutsi, the answers to the last question about their experiences of the genocide were used to deduce their ethnicity.

The Ministry of Justice official was asked about progress with the local trials; the government’s relationship with the ICTR and NGOs; how the government was going to rebuild trust and peace; and how the government was responding to the continuing violence in the northwest.

Interviews with ICTR staff focussed on the functioning of the Tribunal; the relationship between the ICTR and the government and NGOs; the impact of Kambanda’s confession; progress with investigating and prosecuting sexual crimes; witness protection and compensation; and the contribution of the ICTR to reconciliation and peacebuilding in Rwanda.

Interviews were also conducted with members of the diaspora, government officials, UN and NGO representatives in the US, Canada, UK and Australia. Specifically, I interviewed a Hutu refugee student in England, a Hutu refugee academic in the US, and
nine Tutsi refugees in Canada. I met with the Rwandan Ambassador in Washington, DC on a number of occasions.

Ideally, I would have liked to have returned to Rwanda in order to interview some of the alleged perpetrators as well as more survivors (especially Hutus and non-English speaking Rwandans) with the interviews focussing more on the concepts of justice and reconciliation, as well as talking to more NGO workers, media representatives and government officials. It would also be interesting to assess attitudes towards the ICTR and local trials after they have been operating for longer and in the context of subsequent events, and to explore responses to the introduction of the gacaca trials. Unfortunately, resource constraints precluded this additional research trip to Rwanda. However, I was able to take advantage of a visit to Canada in June 2000 to interview Rwandan refugees now resident in Canada.

I spoke with a total of nine Rwandan refugees in Toronto in June 2000 (seven male and two female). All were Tutsi and all except one spoke good English, although most were originally French speakers and had learnt English after moving to Toronto. The one woman who still spoke only French had only recently left Rwanda. None were actually in Rwanda at the time of the genocide, although all had lost most of their family.

These interviews added valuable information and ideas about Rwandan approaches to justice and reconciliation, even if the views could be attributed to only a particular category of the population (Tutsi refugees living in English-speaking Canada). I was told that most of the Hutu refugees were living in French-speaking Canada. There were
some Hutus living in Toronto, but I was unable to make contact, except with one who
did not agree to be interviewed. This was consistent with my experience in Rwanda:
Hutus are more reluctant to talk with foreigners while Tutsis are much more eager to
share their stories and opinions. The discrepancy in numbers of Hutu and Tutsi
interviewed during my field research trips could thus be at least partially attributed to
the relative willingness of members of each group to be interviewed. Whilst my focus
on urban rather than rural, and English-speaking rather than French-speaking, accounted
for much of the difference in numbers, the fact that the Hutus I contacted declined to be
interviewed exacerbated this situation.  

As partial compensation for this bias towards Tutsi interviewees, I managed to
interview two Hutu refugees, one in England and one in the US. These interviews added
a great deal to my understanding of the perspective of Hutus who were not involved in
the killings but who identified themselves as survivors of the genocide. The most
significant shortcoming in my research is the lack of interviews with alleged genocide
perpetrators and relatives of those who killed. Where possible, I have tried to
compensate for this by including comments on justice and reconciliation from
Rwandans interviewed by other researchers and the media.

Arusha, Tanzania

I spent a week at the ICTR in Arusha, Tanzania before my visit to Rwanda. I had
difficulty on the first day gaining entry to the Tribunal compound as none of my
contacts were available to sign me in. I spent hours standing outside negotiating with

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35 No-one directly refused to be interviewed – they just failed to return my calls or meet me as arranged.
guards and making phone calls to various offices. I finally gained admittance, and was able to move around freely inside over the next four days, once I learnt how to gain entry more easily. I met with six officials of the Tribunal, and interviewed four Rwandans about their experiences. I also met with officers at the ICTR office in Kigali - five interviews in one day! In both Arusha and Kigali my interviewees were happy to talk with me and explain about the functioning of the Tribunal, and about the relationship of the Tribunal to achieving justice and reconciliation.

*Kigali, Rwanda*

I spent a lot of time in my first week in Kigali trying to make phone contact with NGO and government contacts and potential interviewees, and I spent a whole day in bed recovering from an illness I contracted in Nairobi and too exhausted to do anything else. I had one productive day at the office of an international NGO interviewing a Rwandan employee and making appointments for the following week. I had more success in the second week, but even then it was very frustrating. For example, I had an appointment at my hotel on the Monday, but the interviewee was about three hours late, causing me to have to postpone my next appointment until Tuesday. Most of my interviews were in the last few days; I even stopped at the Department of Justice for an interview on my way to the airport. Despite all the difficulties, I made some good contacts and learnt a lot about life in post-genocide Rwanda, but the number of interviews was disappointingly low (only one interview in the first week and eight in the second) and I did not get to visit the rural town of Butare as I had planned. I was well set up for a return visit to Rwanda (including an offer to help with finding somewhere to stay), but unfortunately this was precluded by time and resource constraints.
Toronto, Canada

In June 2000 I visited Toronto to attend a course on “Identity-Based Conflicts and Conflict Resolution” and to work on my PhD thesis. The course tutor provided me with contact information for Rwandans and Canadians working on Rwanda who lived in Toronto and vicinity. In particular, she put me in touch with a Rwandan refugee (T8) living and working in Toronto who then organised a group interview for me with himself and seven other Rwandans on a Sunday afternoon. This involved a lot of follow-up and persuasion on his part, and he was most thorough in providing me with names and information about those attending prior to the meeting. None of those who attended had actually been in Rwanda at the time of the genocide, but all had lost the majority of their family. They seemed to be still quite traumatised by the experience. I could not have arranged such a successful meeting without T8, and I wished I had such a helpful contact in Kigali.Whilst in Toronto I also talked with a young Canadian student who had been to Rwanda twice for her research, and also with the Director of the Holocaust Memorial Museum who told me about meetings between Holocaust and Rwandan genocide survivors. After the group meeting, T8 tried very hard to find a Rwandan Hutu in Toronto who would be willing to be interviewed, but he was unsuccessful. However, he did put me in touch with another Tutsi refugee (T9) who came to the apartment where I was staying for an interview. He was very keen to share his ideas with me about justice and reconciliation, and left me with a paper he had written on the subject. This experience completed a very rewarding research period in Toronto.
Bradford, England and Bloomington, Indiana

During my stay in England on the way home after my trip to Africa, I visited the Department of Peace Studies at the University of Bradford. After telling one of the professors about my research, he gave me the contact information for a Rwandan PhD student in the department. The student was quite keen to be interviewed. We met for dinner and then went back to my hotel and talked until quite late, primarily about his experiences of the genocide as a radio journalist. This interview was especially welcome as it turned out that he was a Hutu. I also met with a Rwandan working with Amnesty International in London.

In May 2001 I was attending a conference in Bloomington, Indiana, where I was discusssant for a session on “Applications of Social Science to Rebuilding Civil Society”. One of the papers was co-written by a Rwandan Hutu refugee who was living and working in upstate New York. He was most generous with his time and ideas, providing me with an invaluable alternative perspective on Rwandan history and culture, the genocide and its aftermath.

3.3.2 Cambodian Interviews

In October 1999 I spent two weeks in Cambodia consulting primary resources and interviewing NGO and UN agency workers, local NGO representatives, government officials, and survivors of the genocide and their descendants. A total of 29 interviews were conducted, comprising 22 Cambodians and 7 foreigners. Of the 22 Cambodians interviewed, 15 were survivors of the genocide (11 male, 4 female), 3 left the country
before the genocide but had subsequently returned (2 male, 1 female), and 4 were
descendants of survivors (2 male, 2 female). Four of the survivors had lived outside
Cambodia for a significant period after the genocide having left as refugees following
the Vietnamese invasion in 1979 (all male). The majority of Cambodian interviewees
were NGO workers (13) compared with two government workers, one journalist, one
academic, four students, and one other (a moto driver). The foreigners interviewed were
all NGO (6) or UN workers (1). See Table 3.3 for a statistical summary and Appendix
IV for profiles of interviewees.

A list of twelve questions (adapted from those asked in Rwanda) was developed in
English and translated into Khmer to be used as a guide for interviews with survivors
and others (see Appendix II). All of the interviews were conducted in English, although
use was made of a Khmer vocabulary sheet for those with less well-developed English
skills to ensure that key words and concepts were understood (see Appendix II). Where
possible the Cambodian interviewees were asked all of the questions, while the
foreigners working in Cambodia were asked their observations about some of the issues
raised by the questions. Cambodians were asked what they knew about the work of the
international community and local organisations in the area of peacebuilding, including
specifically the role of the Cambodian Genocide Program. They were then asked about
their perceptions of the concepts of justice and reconciliation, and their attitudes
towards the punishment of the former Khmer Rouge and the role of apology and
forgiveness, and the potential for a truth commission in Cambodia. At some stage
during each interview information was ascertained concerning the interviewee’s life
story and especially his or her experiences during the Pol Pot regime and immediately afterwards.

During the course of my two weeks of research and interviews, I added questions to follow up on some gaps in the literature, including information about the response of the survivors to the Khmer Rouge in the immediate aftermath of the genocide (such as revenge killings and jailings).

In Australia and the US I talked with former peacekeepers and election monitors, human rights monitors, members of the diaspora, government officials, academics and those pursuing war crimes investigations. The purpose of these interviews was to plan my field research; to ascertain what has happened and is happening in relation to the pursuit of justice and reconciliation in Cambodia; and to discover the attitudes of Cambodians to these efforts and their outcome (including the pending trials of some former Khmer Rouge leaders).
### TABLE 3.3 Interviews with Cambodians in Phnom Penh

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<td>2</td>
<td>15</td>
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<tr>
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<table>
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<th>Survivors who returned (refugees)</th>
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<tbody>
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<td>4</td>
<td>11</td>
</tr>
<tr>
<td>Female</td>
<td>4</td>
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<tbody>
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<td>Total</td>
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<td>4</td>
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<td>3</td>
<td>6</td>
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<td>1</td>
<td>1</td>
<td>3</td>
<td>-</td>
<td>7</td>
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<table>
<thead>
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<th>academic</th>
<th>government</th>
<th>journalist</th>
<th>driver</th>
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<tbody>
<tr>
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<td>1</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>13</td>
</tr>
<tr>
<td>Female</td>
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<table>
<thead>
<tr>
<th></th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td>Total</td>
<td>13</td>
</tr>
</tbody>
</table>

- 70 -
Phnom Penh, Cambodia

Arranging appointments in Phnom Penh was relatively easy, although I did lose a day getting through the bureaucracy to see some government officials (in contrast to Rwanda where I made many phone calls trying to get an appointment with a government minister, and finally discovered that there was no bureaucracy, I just had to turn up and sit outside his office and wait!). As in Rwanda, I did not have sufficient time to travel to other major cities in rural areas (such as Battambang). Most of my interviewees were busy people, but were more than happy to speak with me. Unlike Rwanda, I was fully occupied following up interviews and researching information in Phnom Penh. I could have used at least another week in Cambodia because I was progressing so well, with more people to interview than I had time for (compared with Rwanda where I needed more time to find more people to interview). The weather (torrential rainstorms) cost me some time, as did the public holidays that fell during my stay, but overall my visit was extremely productive, averaging three interviews per day and providing valuable insights and material for my thesis.

In Kigali I interviewed the General Secretary of the Ministry of Justice, but in Phnom Penh I was unable to secure an appointment with anyone in the Justice department (the bureaucracy defeated me) to provide an official view on the proposed international tribunal and its role in achieving justice and reconciliation. I talked instead with non-government representatives and a representative of the UN Commission on Human Rights about the proposed tribunal.
3.3.3 Language and Culture

In both countries I faced the difficulty of being understood as many Cambodians and most Rwandans speak very little (if any) English. I spoke some French, which was helpful, but not sufficient. The local Rwandan language, Kinyarwanda, is notoriously difficult to learn, and I did not have anyone to help me learn even the basics. In Cambodia, my moto driver taught me some Khmer while I helped him with his English. He was able to assist me when I was trying to gain access to places or talk to people in shops or organisations. While the people I interviewed all spoke English, the people who worked for them and organised appointments often didn’t. This was a major problem in Rwanda, but not so much in Cambodia both because English was more widely spoken and because I had the help of my moto driver/interpreter. I could not afford to hire an interpreter in Rwanda, and I was not able to establish contact or rapport with anyone with the skills or time to help me in Kigali. The people I could interview in each country was therefore restricted, but the information and ideas I gained from my interviews can still make a valuable contribution to understanding Cambodian and Rwandan approaches to justice and reconciliation.

Cultural barriers were also an issue in obtaining appointments and conducting meaningful interviews. I had to learn how best to approach someone for an interview, how to develop rapport and gain trust, and how to tell if they were being open and honest with me. I was aware that my cultural assumptions were not necessarily the same as those of my interviewees, although in many cases the influence of European occupation brought us closer together in terms of communication styles than might have
been expected. Gender was also a relevant factor, especially in Rwanda. For example, I felt it was relatively easy to develop rapport with most of the Rwandan women I interviewed, but I was not as sure of the motives and level of honesty of some of the Rwandan male interviewees.\(^\text{36}\)

In nearly all of my interviews, I was struck by the apparent level of candidness and eagerness to share opinions, ideas and experiences. A number of interviewees expressed strong feelings about those who killed or tortured them or their families, and about how they should be brought to justice. I was often moved by what they shared with me, and in most cases I felt no doubt about their honesty. There was, however, one trick I had to learn in Cambodia: not to ask a yes/no question because of the propensity of people to say ‘yes’ to be agreeable. I therefore adjusted my questions to avoid misleading answers in this regard.

My original intention was to interview a representative cross-section of Rwandans and Cambodians, including both perpetrators and survivors. However, the difficulty in obtaining interviews with Hutus in Kigali was compounded by my inability to travel to more Hutu-dominated rural areas and lack of access to prisoners to interview. Similarly in Cambodia, I was unable to travel to the former Khmer Rouge region of the country. As a consequence, the interview responses I have analysed from my own field research are more accurately characterised as the ideas and opinions of genocide survivors in both countries (Tutsi and non-Khmer Rouge) rather than of Rwandans and Cambodians per se. However, I have been able to supplement these observations with quotations and

\(^{36}\) Sibomana (1999, p. 78) refers, in fact, to Rwandans as being “masters of the art of lying”, a skill they had developed as a “means of survival”. Despite this warning, I feel reasonably confident that the opinions and ideas I have reported were genuinely expressed in the context of my interviews.
conclusions from other field research that has more widely canvassed the views of Cambodians. Unfortunately, very little of this type of interview data from other sources was available for Rwandans, although I was able to interview Rwandan Hutu refugees in the US and UK to help redress the balance.

3.4 Ethical Considerations

All interviews were conducted according to the ethical guidelines laid out by the University of Sydney and in a manner consistent with the primary obligations of researchers to:

1) do no harm;
2) protect the anonymity and confidentiality of subjects; and
3) obtain informed consent.

At the beginning of each interview I introduced myself and my institutional affiliation, fully explained the purpose of my research, outlined the content and purpose of the interview, sought permission to take notes, and provided the opportunity for interviewees to remain anonymous. Interviewees in Cambodia were required to read and sign a Subject Information and Consent Form prepared according to University of Sydney Ethics Committee guidelines (see Appendix III). This form was provided in either English or Khmer, depending on the level of English-language proficiency of the interviewee. I endeavoured to obtain the written consent of my Rwandan interviewees in Canada, but they were not interested in signing a form that said their responses would
be treated in confidence: by contrast, they were keen to have their responses be public. For example, T2 said that he “wanted things to be public and not confidential” and the others agreed. They appeared to appreciate the opportunity to have a voice. By contrast, some of the Rwandans still living in Rwanda or working for the ICTR in Arusha wanted to protect their anonymity, but at the same time were keen to have their voices heard. I obtained verbal consent and agreement on confidentiality for the interviews conducted in Kigali and Arusha.

I had planned to tape record interviews conducted in a language other than English, but this was not necessary as all interviews were conducted primarily in English. I chose not to tape-record interviews conducted in English in order to minimise the possibility of interviewees feeling constrained or self-conscious, and thereby to maximise the chances of openness and honesty in their communications. I took notes as close to verbatim as possible during each interview and also recorded aspects of the environment and the interviewees’ non-verbal responses.

Most Rwandan interviewees (wherever they were interviewed) did not request anonymity, but the majority of Cambodian interviewees were concerned about anonymity. In both cases, the responses of interviewees have been reported in this thesis without identifying the names of those interviewed, except in relation to government, non-government and UN officials who were interviewed in their official capacity and whose positions give their comments particular significance. In the case of those who requested anonymity, their responses have been recorded without names and removing any identifying features from my notes. I have been particularly concerned to ensure the
safety and confidentiality of survivors who requested anonymity by, for example, describing an interviewee as “a 25 year old female genocide survivor” without indicating her occupation or place of employment or any other identifying feature.

3.5 Analysis of Case Studies and Interviewee Responses

The responses of interviewees for each case study have been analysed, collated and compared to extract information regarding peacebuilding processes and to determine attitudes towards justice and reconciliation. Comments relating to the history and culture of each region have also been identified and incorporated in the appropriate sections of the thesis. As much as possible quotations have been used to illustrate points and opinions expressed by interviewees, rather than imposing my language and interpretations to summarise or otherwise paraphrase the responses of interviewees (except as an adjunct to direct quotations). Analysis of the case studies has involved relating the experiences and attitudes of interviewees to those found in previous surveys and to the theories and concepts researched and discussed throughout this thesis.

A comparative analysis of the two case studies has been made, covering:

- the conflict history, including analysis of the causes and characteristics of each genocide;
- societal structure, including religious and traditional justice systems;
- colonial experiences, including legal systems introduced;
- attitudes to justice and reconciliation;
Justice and Reconciliation: Post-Conflict Peacebuilding in Cambodia and Rwanda

➢ responses of the international community before, during and after the genocide;
➢ peacebuilding mechanisms and processes established; and
➢ a preliminary assessment of the impact and effectiveness of these mechanisms and processes for addressing justice and reconciliation needs.

Observations will be made about the meanings of justice and reconciliation and their application in the two conflicts under study. This will be followed by a comparative analysis of Cambodian and Rwandan approaches to justice and reconciliation and the apparent outcomes in terms of progress towards peace with justice.

To set the scene for this analysis, Chapters 4 and 5 provide the reader with an overview of the historical context of genocide in Cambodia and Rwanda respectively.
PART II

AN HISTORICAL JOURNEY

Chapters 4 and 5 provide a historical background and cultural context for understanding the genocides and their aftermath in Cambodia and Rwanda. Details about the development of national and ethnic identities are discussed in each case, focussing on the contested relationship between Hutu and Tutsi in Rwanda and the ideological and anti-Vietnamese foundations of the Khmer Rouge policies. Pre-colonial, colonial, and post-independence phases of national history are covered for both countries, followed by accounts of the genocidal period and post-genocide changes in governance, population and structure of civil society. The role of the international community, and especially the colonial powers and United Nations, is emphasised for each stage of Cambodian and Rwandan history.

Some details of the atrocities and suffering experienced by Cambodians and Rwandans are included to give the reader a sense of the enormity of the task faced by survivors and others in each community in coming to terms with the past and considering how to promote justice and reconciliation. National history and culture, and individual experiences of genocide, all contribute to shaping ideas, attitudes and policies towards justice and reconciliation.
CHAPTER 4

CAMBODIA: HISTORICAL AND CULTURAL ORIGINS OF A GENOCIDE

Cambodia has a long history with an unusually high level of continuity in terms of language and culture (Chandler, 1996). Archaeologists have found evidence of prehistoric inhabitants as early as 4200 BC whose bone structures resemble those of modern-day Cambodians. The languages spoken at the time of the introduction of writing around the third century AD are related to the language of Khmer spoken by Cambodians today. The methods of pottery-making and the patterns used have “remained unchanged for perhaps six thousand years” (Chandler, 1996, p. 10). There is a high degree of ethnic homogeneity, including an estimated 90% ethnic Khmer plus Vietnamese, Chinese and Cham-Malay as the most significant minority populations (Vickery, 1986, p. 2).37

The existence of a written culture ensures that we know something about the history of Cambodia for at least the past 2000 years. However, as Chandler (1996) points out, the sources of this knowledge during the Angkor period (AD 802 – 1431) are limited to inscriptions (in Sanskrit and Khmer) that cover mostly deeds, obituary notices and orations, as well as the tableaux and bas-reliefs on the temples.38 Foreigners have reconstructed the chronological history of the great Angkor period using these inscriptions, a history that had been forgotten by the Cambodians themselves. As outlined by Steinberg (1959, p. 7), “History, for most Cambodians, is legend

37 See Steinberg (1959, pp. 28-53) for an analysis of the ethnic groups comprising the Cambodian population.
38 Similarly Vickery (1998) sources his analysis of the social and economic basis of pre-Angkor life in Cambodia from Khmer and Sanskrit inscriptions.
symbolizing the subjective experiences of their ancestors rather than the more or less factual record of events usual in the West." There is a lack of reliable historical record from the end of the fourteenth to mid-sixteenth centuries, but from around 1550 the history of Cambodia becomes clearer and more detailed based on European records and narratives (Chandler, 1996, p. 77; Steinberg, 1959, p. 12).

Most accounts of the early history of Cambodia were written in French, so I have relied primarily on the writings in English of historian David Chandler, as well as Indian writer Bijan Raj Chatterji. I have also drawn on the works in English of two Cambodians, Seanglim Bit and Serge Thion, as well as Michael Vickery, Milton Osborne and Ben Kiernan, and the many commentators on the recent history of Cambodia focusing on the Pol Pot era and its aftermath. Other important sources for my analysis are the personal memoirs of the Khmer Rouge period written by Cambodian survivors of the genocide, as well as the stories told to me by the Cambodians I have interviewed in the course of my research.

The following is a relatively brief overview of the history and culture of the Khmer people, focusing on issues and aspects most relevant to my analysis of the genocide and its aftermath in terms of the quest for justice and reconciliation. Especially relevant is the experience of a glorious empire followed by centuries of being besieged by more powerful neighbours Thailand and Vietnam, as well as China, France and the US. As described by Shawcross (1994, p. 5), "Cambodia is a victim of its geography and of its political underdevelopment". The reader is referred to the works of historians such as

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39 This evidence consists mainly of Chinese references to Cambodia, a few Cham and Thai inscriptions, two very incomplete Thai chronicles, and Cambodian chronicles that Chandler (1996, p. 77) describes as being impossible to corroborate.
Chandler (1996) for more thorough and nuanced accounts of the pre-Pol Pot era, and to writers such as Kiernan (1996) who have analysed the Khmer Rouge period in great detail.

4.1 Pre-Angkor (1st-8th Century) and The Khmer Empire (9th-15th Century)

Cambodia was once a great nation covering much of Southeast Asia, with its own distinct Khmer culture influenced by India’s two great religions, Hinduism and Buddhism. Unlike its later experience of being alternatively invaded and subjugated by its neighbours, Thailand and Vietnam, Cambodia’s formative foreign experience was with the peaceful absorption of Indian cultural influences during the first century AD. “Indian influence in Cambodia was not imposed by colonization or by force.” (Chandler, 1996, p. 12). This period of ‘Indianisation’ resulted in aspects of Indian culture being gradually absorbed by the Cambodian people over a period of a thousand years or more (Chatterji, 1928). For example, Cambodian clothes, jewellery, musical instruments and eating habits were still recognisably Indian in rural areas of Cambodia in the nineteenth century (Chandler, 1996, p. 11). Perhaps most significantly, this process of Indianisation included Hindu religious beliefs and cult traditions, and the building of Hindu temples throughout the country (Chatterji, 1928, pp. 241-3). The name Cambodia (Kampuchea in Khmer, Cambodge in French) is actually derived from Indian mythology: “kambu-ja” or “born of Kambu” (Vickery, 1986, p. xiii).
It seems likely that Cambodia, at this stage in its history, comprised a collection of small states, each equipped with a court and an elite, rather than being a large-scale unified kingdom (Chandler, 1996, p. 17). Politics centred on villages, with very little evidence of urbanisation. The reliance on irrigated rice apparently allowed for some surpluses, but for only a small degree of social differentiation. The leaders, or overlords, provided protection for the peasant society, and the overlords in turn sought protection from the Hindu god, Siva. "The transmission of Siva’s potency via the overlord and his ritual acts to the people and the soil was an important source of cohesiveness in Cambodian society", as well as being a source of continuity (Chandler, 1996, p. 18).

According to Chandler (1996), human sacrifices to a consort of Siva were still being made as late as 1877, with the goal of transmitting fertility to the soil at the beginning of the agricultural year.

Buddhism also flourished in Cambodia during the pre-Angkor period (Chatterji, 1928, pp. 143-185). Chandler (1996) describes how the Buddhist concept of merit and its acquisition through good deeds in a previous life pervaded Cambodian thinking about society. For example, performance of virtuous acts such as subsidising a temple or being generous to monks would build merit and lead to an improvement in personal status in the next life. The process of blending religions meant that Cambodians worshipped Siva, Vishnu and the Buddha; ancestors became gods and gods became ancestors; and local spirits from pre-Indian times were renamed as Hindu gods in an expression of the "continuity of sacredness" (Chandler, 1996, p. 20).
Early Cambodian society was clearly differentiated between the \textit{raja} or king, and the \textit{knjom} or slave, although in both cases the Cambodian meanings of these terms is thought to differ from those applicable to European ideas of feudalism (Chandler, 1996, p. 23). The relationship between \textit{raja} and \textit{knjom} was exploitative but the \textit{knjom} were apparently attached to a place rather than to a particular \textit{raja} or lord. Slaves of various kinds apparently made up the majority of the Cambodian population, and the rulers used the hierarchical ideologies inherited from India to “legitimise the extraction of surpluses more or less by force” (Chandler, 1996, p. 27). Historians have suggested that the Cambodian peasants’ acceptance of this hierarchical relationship was a source of harmony in traditional Cambodian society, but Chandler (1996, p. 25) argues that there is plenty of evidence of rebellions and civil wars in Cambodian history and that “events in the 1970s should make us wary of views that insist on Cambodian peasants’ natural passivity”.

During the Angkor period (802 – 1431 AD), Cambodia was “the mightiest kingdom in Southeast Asia, drawing visitors and tribute from as far away as present-day Burma and Malaysia as well as from what were later to be Thai kingdoms to the west.” (Chandler, 1996, p. 29). One of the few sources of information about Cambodian society during the Angkor period are the temple inscriptions, but these provide only a patchy view. “The Sanskrit poems proclaim the grandeur of kings; the Khmer inscriptions exhibit the precision with which jurisdictional squabbles were prosecuted and slaves registered” – there is little if any information about the political processes at Angkor or the details of life among the rural poor (Chandler, 1996, p. 31).
The Cambodian kings of the early Angkor period were closely linked with the earth and the ancestral spirit as illustrated by their close relationship with the Hindu god, Siva. As described by Chandler (1996, p.46), the king acted as patron of agriculture and resembled the Chinese emperor more than the raja of traditional India. On the other hand, the king’s role also included the “repeated and ritual enactment of lordliness and superiority in battle, sexuality, poetry, possessions, ceremony, and so forth” in such a way that he appeared to the people like the hero of an Indian epic (Chandler, 1996, p. 46). Finally, from an administrative perspective, the king performed many significant functions including bestowing titles and emblems on officials; granting land and slaves to religious foundations; constructing and maintaining irrigation works and temples; conducting foreign relations; and acting as the court of last appeal in the intricate judicial system.

The apparently well-organised, stratified Cambodian society consisted of intricate “webs of relationships, responsibilities and expectations within which everyone appears to have been entangled”, including a “bewildering complexity of categories in use for what we would call ‘slaves’ and the bewildering number of tasks that were assigned to them.” (Chandler, 1996, p. 47). According to Chandler, there were cases “of ‘slaves’ who owned slaves; ‘slaves’ who married members of the royal family; and ‘free’ people who were disposed of by others, just like slaves” (1996, p. 47). It seems difficult for us to understand how Cambodian society operated during the Angkor period – an alien culture in a very different time – with no written sources to assist the historian in his analysis. Patronage was widespread, from the king down, but it is not clear how the system of patronage played out in relationships between people, for example, whether
patrons and kings were revered or resented. According to Vickery (1986, p. 51), social mobility was minimal and there was limited opportunity for accumulating wealth.

Not all of the kings of the Angkor period worshipped Siva. In fact, each new king seems to have taken on a different religious focus to distinguish his reign from that of his predecessor. Suryavarman I, who fought his way to power in 1003, expanded the Khmer empire, destroyed Hindu religious images, and took on a patronage of Buddhism (Chatterji, 1928, p. 167). His successor, Utyadityavarman II, was a devotee of Siva and revived interest in the devaraja cult linking the monarch directly with Siva (devaraja is a Sanskrit word meaning “god king” or “king of the gods”, Chandler, 1996, p. 34). Suryavarman II, the next king to rule over a unified Cambodian kingdom, chose devotion to Vishnu and commissioned the largest of all the monuments of Angkor - the temple, tomb and observatory now known as Angkor Wat (Chatterji, 1928, p. 197). His successor has been described as “a devout Buddhist” (Chatterji, 1928, p. 212), as was Jayavarman VII who ruled from 1178 until around 1220 (Chandler, 1996).

Jayavarman VII’s reign signalled a break from the previous Cambodian Buddhist kingship system that arose naturally from the Indian tradition that linked the king with a particular Hindu deity. Rather than being seen as a devotee of a divinity, “Jayavarman sought to redeem himself and his kingdom by his devotion to Buddhist teachings and by the performance of meritorious acts.” (Chandler, 1996, p. 58) He sought to impose Mahayana Buddhism as the national religion and undertook an extensive Buddhist-oriented construction program. He also expanded the kingdom with aggressive campaigns, so that by the beginning of the thirteenth century “Angkor was extracting
tribute from much of what is now Thailand and southern Laos as well as from Champa, occupying the southern coastal areas of southern Vietnam.” (Chandler, 1996, p. 61). According to Chatterji (1928, p. 223), this expansion “must have been a heavy strain on the resources of the State and probably was one of the causes of the rapid decline and fall of the Khmer kingdom”.

It is not clear how this changing religious allegiance of the monarchy affected the everyday lives of the Cambodian people, at least until the thirteenth century when it appears that the majority of the population converted to Theravada Buddhism. This appears to have been part of a trend that occurred in Southeast Asia at that time: in Burma, Siam and Laos as well as Cambodia, Theravada Buddhism replaced state-sponsored Hindu cults (Chandler, 1996, p. 70). The Hindu Brahmans retained their positions at court, but they became less important, and Buddhist values began to take over Cambodian literature and architecture. At the same time, the Khmer kingdom started to weaken and lose political control over outlying areas including those in present-day Thailand and in Laos. Cambodia thus became vulnerable to invasion, and at the end of the thirteenth century was subject to a major Thai invasion.

According to the memoirs of a Chinese envoy, Chou Ta-kuan, who visited Cambodia in 1296-1297, three religions enjoyed official status at Angkor: Brahmanism, Theravada Buddhism, and Shaivism (Chandler, 1996, p. 72). He described the Shaivites as “Taoists” and reported that they lived in monasteries that were less prosperous than the Buddhist monasteries. As Buddhism took over prominence, monastic Shaivism gradually died out following the abandonment of Angkor, but (as mentioned earlier) the
Indianised cults retained some significance and Brahmans continued to perform royal rituals and maintained astronomical tables at the Cambodian court (Chandler, 1996, p. 72). All three religions were practised in Cambodia until quite recently.

Our Chinese informant also confirms that many people living at Angkor were slaves, who were generally taken as captives from the mountain tribes, a practice that persisted into the colonial era (Chandler, 1996, p. 72). Chou reported that some people had more than a hundred slaves, while only the very poor had no slaves at all. Discrimination against slaves was enshrined in law and social practice. For example, slaves had no civil privileges (their marriages were not even recognised), they frequently tried to escape, and when they were caught they were physically abused (Chandler, 1996, p. 73). By contrast, special privileges were bestowed on the elite and religious sects. Even though we know little about the rest of the population (those in between the slaves and the elite) we can still conclude that pre-colonial Cambodia had a clear class structure with a long history of conquest and violence against outsiders and especially those considered to be “barbarians”.

Another striking feature of Cambodian history is how little some customs and structures of life have changed between the Angkor period and today. Chandler (1996, p. 74) comments that Chou’s description of rural marketing at the end of the thirteenth century “could easily have been written about Cambodia in the 1990s”. Similarly, Chou’s account of a royal procession when compared with twentieth century coronation processions indicates that “ceremonial Cambodian life and the hierarchical arrangement

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40 It is worth noting that the Chinese envoy, Chou Ta-kuan, referred to Cambodia as a “kingdom of barbarians” (Chandler, 1996, p. 76). This comment raises the question of how being regarded as “barbarians” by their powerful neighbour might have affected the psyche of Cambodians.
of such events changed little between Angkorean times and our own era.” (Chandler, 1996, p. 75). Chatterji (1928, p. 170) refers to the similarity between the oath of allegiance taken by Suryavarman I in 1002 AD and the pledge taken by officials in Phnom Penh nearly one thousand years later.

However, marked changes did occur in Cambodian society in the areas of foreign relations, language and economy during the two centuries post-Angkor, but with very little evidence about how and when these changes actually occurred. There is also very little known about the shift in geographical focus from Angkor to Phnom Penh, other than the assumption that it was aimed at supporting maritime trade with China. As mentioned earlier, evidence of events in Cambodia between the middle of the fourteenth and beginning of the sixteenth centuries depends largely on Chinese references to Cambodia, supplemented by Cham and Thai inscriptions, two Thai chronicles and Cambodian chronicles derived primarily from folklore.

It is assumed that the Khmer kingdom remained active and powerful until at least the early fifteenth century based on evidence of the many tributary missions sent to China and the respect apparently accorded them by the Chinese (Chandler, 1996, p. 78). Successive Thai invasions resulted in migrations of displaced Cambodians southwards to Phnom Penh, and the most important Thai invasion in 1431 closely preceded the abandonment of Angkor in the 1440s. Chandler (1996) suggests, however, that the decline of Angkor might have been much less dramatic than sometimes portrayed. He argues that there were good reasons for moving the capital to Phnom Penh in order to develop Cambodia as a trading kingdom. There is also evidence to suggest that
Cambodia remained relatively strong during the next few hundred years as it was able, at least occasionally, to defeat Siam in battle and also to maintain a trading relationship with China.

Some of the changes thought to characterise post-Angkor Cambodia had actually taken place after the conversion of the Cambodian elite to Theravada Buddhism prior to the move to Phnom Penh. These included the ending or diminishing importance of at least four traditions: inscriptions, stone temples, a Hindu-oriented royal family, and extensive irrigation (Chandler, 1996, pp. 78-79). The changes that characterised Cambodian life after Angkor are the subject of the next section in my brief overview of Cambodian history.

4.2 Invasion and Subjugation? (15th-19th Century)

Culminating in the Angkor dynasty, the glorious Khmer Empire lasted from the ninth to the mid-fifteenth century, after which it was progressively weakened by invasions from its neighbours Siam (now Thailand) and Vietnam. The Thai-oriented administration at Angkor was defeated by Phnom Penh forces in the middle of the fifteenth century but was then abandoned. Chandler (1996, p. 83) dates the “rediscovery” of Angkor by the Cambodian royalty to the mid-sixteenth century as evidenced by the reappearance of dated inscriptions from the 1560s. According to Chatterji (1928, p. xii), however, a Dominican friar who “discovered” Angkor in 1570 described it as “a deserted city”.
Either way, by 1672, a French priest described Angkor Wat as “a shrine where worship had been resumed by Buddhist monks” (Chatterji, 1928, p. xii).\textsuperscript{41}

The first European eye-witness account of Cambodia was written in 1556 by the Portuguese missionary, Gaspar da Cruz, who admired the solidarity and loyalty of the Cambodian people but at the same time lamented his inability to convert them to Christianity. He said of the Cambodians that they “dare do nothing of themselves, nor accept anything new without leave of the king, which is why Christians cannot be made without the king’s approval ... nothing is done that the king knoweth not ... without the king’s good will nothing can be done.” (quoted in Chandler, 1996, p. 82). By contrast, Osborne (1973, pp. 14-15) argues that the king’s power was not absolute, although he was the “pre-eminent symbol of his country’s unity, whether this unity was a reality or an ideal” (p. 13). According to Osborne (1973, p. 14), the Cambodian king’s symbolic importance increased under French rule, and continues to this day as evidenced by Cambodian loyalty to King Sihanouk that surpasses and overrides political loyalties.\textsuperscript{42}

To the Cambodian people, King Sihanouk represents stability, honour and virtuous values, a necessary antidote to the corrupt, violent and unreliable political factions fighting for control of Cambodia.

During the latter part of the sixteenth century there were numerous battles between the Cambodians and Thai, which culminated in 1594 with the fall of the Cambodian city of Lovek. This was by all accounts a traumatic event for the Cambodian people that

\textsuperscript{41} It was not until the “rediscovery of Angkor by the French naturalist Henri Mouhot in 1861” that Angkor Wat became known to the Western world (Chatterji, 1928, p. xii).

\textsuperscript{42} During my stay in Phnom Penh I was able to participate in the celebrations for the King’s birthday and to witness the huge crowds who gathered to express their support for their king.
signified a turning point in Cambodian history “ushering in centuries of Cambodian weakness and Thai hegemony” (Chandler, 1996, p. 85). The Cambodian king tried courting the patronage of the Spanish based in the Philippines by allowing Catholic missionaries to preach and sending gifts in exchange for the promise of military support that never eventuated (Chandler, 1996, p. 84). Spanish imperialism was evident in Cambodia in the last five years of the sixteenth century, and the reports of a Spanish missionary, San Antonio, reflected the prosperity evident around Phnom Penh. San Antonio observed only two classes of people in Cambodia: the rich “nobles” and the poor “common people” (quoted in Chandler, 1996, p. 87). The rural rice farmers do not appear in the historical record.

From the seventeenth century we get a clearer picture of Cambodian society and values, enshrined in the “aphoristic collection of ‘laws’, or *chhah*, until very recently memorized by Cambodian schoolchildren” (Chandler, 1996, p. 89). These values “delineate proper conduct for the people” in terms of how people in different groups or classes should be addressed, including the proper relationship between parent and child, teacher and student. For example, the teacher is regarded as an authority figure who conveys material to be memorised and not discussed: “The teacher, like a parent, bestows, transmits, and commands. The student, like the child, receives, accepts, and obeys.” (Chandler, 1996, p. 90). Egalitarian ideals were not part of traditional Cambodian hierarchical society. According to Chandler (1996, p. 90), “What kept society coherent, Cambodians thought, was the proper observance of relationships among people ... [including] proper language and appropriate behavior.” (Chandler, 1996, p. 90). They did not think in terms of society, but rather as a “spectrum of relative
merits", consisting of a king and his subjects, or as people sharing the same values because they share the same lowly origins (as farmers), language (Khmer) and religion (Buddhism).43

The Cambodian version of the Ramayana, the Reamker, is also a statement in defence of hierarchy and the status quo as well as reflecting Theravada Buddhist values. It chronicles the conflict between good and evil: "Goodness in the poem and its three heroes are linked to meritorious action and elegance. Evil characters are unpredictable, passionate, in disarray." (Chandler, 1996, pp. 92-3). But unlike in real life, neither good nor evil is victorious or destroyed: they are portrayed as always in balance. By contrast, chronicles and European sources reveal a seventeenth century Cambodia "whose capital was isolated from its hinterland; whose royal family was murderous, intriguing, and unstable; and which was at the mercy, much of the time, of elite factions, national catastrophes, and invaders." (Chandler, 1996, p. 93).

A collection of fifty anecdotes dating from the 1690s confirms the picture of "a variegated, conservative, and hierarchically organized society, consisting of a few thousand privileged men and women, propped up by an almost invisible wall of rice farmers, in which great emphasis was placed on rank and privilege and on behavior thought to be appropriate to one's status." (Chandler, 1996, p. 94) The anecdotes also reveal that the Cambodian king ruled through changeable networks of favourites and

43 According to Chandler (1996, p. 91), seventeenth century Cambodians did not actually have a word for "society". Bit (1991, pp. 22-23) also discusses the development within Cambodian society of cultural values relating to the role of hierarchy in social relations, power-based patron-client relationships, and the significance placed on harmony in interpersonal relationships.
relations: “Although the society was permanently ranked, change was possible and could rarely be predicted.” (Chandler, 1996, p. 94).

Adding to the instability of the period were frequent wars with the Thai to the north and west, and increasing interference from the Vietnamese in the south and east. Following a marriage alliance between a Cambodian king and Vietnamese princess in the 1630s, increasing numbers of Vietnamese moved into what is still known today as “lower Cambodia” or Kampuchea Krom (Chandler, 1996, p. 82). The resulting rivalry between Thai and Vietnamese patrons and pro-Thai and pro-Vietnamese factions of the Royal family characterised Cambodian political life from the 1630s until the 1860s, and was evident in a new form after 1975 (Chandler, 1996, p. 82).

In the early 1640s a Cambodian king married a Malay and converted to Islam, and in the 1650s rival princes joined forces with military help from Vietnam to overthrow the Moslem monarch (Chandler, 1996, p. 88). The effect of increasing Vietnamese and Chinese settlement in coastal areas was a decline in Cambodian access to international trade as it lost maritime access to the world. Phnom Penh was replaced by Saigon (formerly Prey Nokor) as a significant trading centre, and Cambodia entered a period of isolation that lasted nearly two hundred years. The loss of territory and ethnic Khmer population to Vietnam produced “a legacy of resentment and anti-Vietnamese feeling that fuelled the collapse of Democratic Kampuchea” and is still evident in the attitudes of many Cambodians today (Chandler, 1996, p. 95; personal interviews). The entrenchment of prejudice against the Vietnamese is illustrated by the 1850s version of
a chronicle describing the anti-Vietnamese rebellion of 1820-21 in which “all” Vietnamese are portrayed as cruel (Chandler, 1996, p. 121).

The eighteenth and nineteenth centuries mark the real decline of Cambodian power and influence, with almost continuous invasions from Vietnam and Siam punctuated by ruinous civil wars and instability of the monarchy. The eighteenth century culminated in increasing intervention by Siam into Cambodian life. After the Thai burned down Phnom Penh in 1772, a Thai protégé was placed on the Cambodian throne and in 1790 he was crowned in Bangkok before returning to Cambodia in 1794. But his successor, crowned in 1806, became alienated from the Thai court and increased Cambodia’s connections with Vietnam. In 1811-1812 Thai and Vietnamese forces clashed inside Cambodia, and by 1834 Cambodia found itself under Vietnamese control. But this situation was not to last long, as Siam continued to fight the Vietnamese for control of Cambodia. Thai-sponsored kingship was returned to Cambodia with the coronation of Duang in 1848. His twelve-year reign was relatively peaceful, Buddhism was restored, and Thai influence over Cambodian political life was minimal. It was regarded by some as a “golden age” of Cambodian independence prior to the onset of French control.

In the first half of the nineteenth century, the population of Cambodia has been estimated as less than one million, of which the overwhelming majority was rural. Most were ethnic Khmer rice farmers living in villages⁴⁴; the rest were monks or involved in public life. Cambodia was relatively poor compared with its Southeast Asian

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⁴⁴Cambodian villages could be divided into three types: the *kompong* that were located along navigable bodies of water; rice-growing villages enclosing the *kompong*; and villages hidden in the *prei*, or wilderness where the people were illiterate and usually non-Buddhist (Chandler, 1996, pp. 102-4). The *prei* were the source of slaves as well as forest resources.
neighbours, with few precious gems or metals; poor communications; undeveloped internal markets; and underdeveloped manufacturing, trade and commerce. It was a subsistence economy with a lack of agricultural surplus and limited use of money. The Vietnamese emperor writing in 1834 described Cambodia as a truly “barbarian” country because “the people do not know the proper way to grow food” because they “use mattocks and hoes, but no oxen” and they “grow enough rice to have two meals a day, but do not know how to store rice for an emergency” (quoted in Chandler, 1996, p. 101).

Village life in Cambodia was relatively unstable, with no means of defence and no institutionalised ancestor cult to link people to their place of abode. Buddhist, animist and Hindu-related ceremonies marked the agricultural year. Village “government” was limited and the “ruler” was usually an elderly man chosen for his agricultural skill, literacy, and fair-mindedness (Chandler, 1996, p. 104). Conflicts within a village or between neighbours were settled by conciliation rather than by law and, according to Chandler (1996, p. 104) “often smoldered on for years”. In the kompong and the capital, where people did not grow their own food, patronage and clientship were more important and more complex. But even in the rice-growing villages, there was structural consistency underpinned by the pervasiveness of the Cambodian identification of self in relation to the other. As described by Chandler (1996, p. 105):

The rectitude and permanence of these relationships had been drummed into everyone from birth. Cambodian proverbs and didactic literature are filled with references to the helplessness of the individual and to the importance of accepting power relationships as they are. Both sides of the
patron-client equation, in theory at least, saw their relationships as natural, even obligatory ones. ‘The rich must protect the poor’, a Cambodian proverb runs, ‘just as clothing protects the body.’

Chandler (1996, p. 106) speculates that people accepted these arrangements because they effectively had no choice: “the alternatives of individual flight or organized resistance were often impossible”. Having a patron was necessary for survival; as described by Thion (1983, p. 11), the patron-client system was the “backbone of the traditional political structure”. For most Cambodians the “shifting networks of subordination and control” represented the limits of their experience and social expectations. Monks were generally respected as “repositories of merit” and “sources of spiritual patronage”, while the king was viewed as being endowed with mythological qualities including the ability to influence the weather and to dispense “true justice” (unlike the sauphea, or judges). According to Chandler (1996, pp. 107 & 112), the king was remote from his subjects but was often the only political source of hope among the peasants, as reflected in today’s continuing popular support for King Sihanouk (see earlier comments).

Life for Cambodia’s high-ranking officials was unpredictable: “favorites or people out of favor were given jobs to do or removed from them on an ad hoc basis” (Chandler, 1996, p. 108). Titles could be bestowed or removed by the king at will. “Uncertainty was an occupational hazard of Cambodian life. Everyone was on the lookout against everyone else” (Chandler, 1996, p. 110). Unlike China and Vietnam, Cambodia was not
a bureaucratic society; the officials were not used to the paperwork and administrative duties introduced by the Vietnamese.

4.3 French Colonisation (1863-1953)

In an attempt to escape from Thai control and defend Cambodia against the Vietnamese, the Cambodian king Duang sought the assistance of the French (Steinberg, 1959, p. 12). In 1863 Cambodia became a French protectorate and then colony until 1953 when King Norodom Sihanouk regained the country’s independence. The colony began peacefully with the signing of a treaty that offered Duang’s heir, Norodom, protection by the French in exchange for timber concessions and mineral exploration rights (Chandler, 1996, p. 141). King Norodom’s coronation in 1864 was jointly sponsored by the Thai and French, and Norodom moved the capital to Phnom Penh as the French requested. Thai influence subsequently waned while the Vietnamese became more significant. Ironically, after eliminating Vietnamese influence, the French proceeded to encourage Vietnamese immigration into Cambodia.

Although there were several unsuccessful rebellions (Kiernan, 1982, p. 2), French colonial rule in Cambodia was relatively stable in contrast to the turbulence experienced by the French in Vietnam. According to Chandler (1996, p. 139), the French therefore tended to romanticise and favour the Cambodians at the expense of the Vietnamese, but at the same time they also looked down on the Cambodians as “lazy” and “obedient”. Progress was slow, from the French perspective, but eventually administrative reforms
were introduced including the abolition of slavery, institutionalising the ownership of land, and bringing the collection of direct taxes under French control. The costs were high, however, including a nationwide rebellion in 1885-86 as Cambodians reacted against what they saw as attacks on the essential character of their civilisation. A decade later Norodom’s son, Prince Yukanthor, whilst in France sought to publicise French injustice in Cambodia, saying “You have created property [in Cambodia], and thus you have created the poor.” (Chandler, 1996, p. 147)

In an effort to achieve its goals of a rationalisation of Cambodian government and control over the kingdom’s economy, France switched its allegiance to Norodom’s brother Sisowath who eventually took the throne in 1904 at the age of sixty-four. He was apparently a more popular leader amongst the ordinary rice-growing villagers and the local officials for whom life continued relatively unchanged by French rule. According to Chandler (1996, p. 148), “old habits of patronage, dependence, violence, fatalism, and corruption” continued in the sruth, but at court things changed markedly. The next three kings after Sisowath were all chosen by the French; high-ranking Cambodian officials were relegated to subordinate, ceremonial roles; low-ranking officials were “underpaid servants of a colonial power”; and at no level was initiative rewarded (Chandler, 1996, p. 148). The French continued the custom of providing free opium to the Cambodian king (Chandler, 1996, p. 149).

Life in rural Cambodia was difficult under French rule: banditry, violence and disorder continued unabated, and hunger and disease (including malaria and cholera) were widespread, although starvation was relatively uncommon and peace with neighbouring
countries was preserved (Kiernan, 1982, p. 3). The contrast in lifestyles between the capital and the *sruk* increased in the twentieth century, exacerbated by the ever-increasing taxes collected by Cambodian officials on behalf of the French to fund infrastructure improvements in Phnom Penh and the high salaries of French officials.\(^{45}\) Cambodian peasants showed little evidence of resentment until the eventual outbreak of violence against the French in the 1950s, with the exception of two significant incidents in 1916 and 1925.

The "1916 Affair" was a reaction to the increased tax burden imposed by the French during World War I. A petition was presented to Sisowath asking him to reduce taxes, and an estimated 40,000 peasants marched into Phnom Penh to the palace to place their grievances before the king.\(^{46}\) According to Chandler (1996, p. 154): "the incident undermined French mythology about ‘lazy’ and ‘individualistic’ Cambodians, supposedly impervious to leadership or ideology". The French were further shocked out of their view of the "peaceable Cambodian character" when in 1925 a French official trying to extract additional taxes from the local population was murdered in a "confused melee" by the angry villagers (Chandler, 1996, p. 157). A somewhat prophetic observation was offered by a French resident writing at the time: "It’s permissible to ask if the unvarying calm which the [Cambodian] people continue to exhibit is not merely

\(^{45}\) Chandler (1996, p. 155) reports that French officials were paid by far the most and paid by far the least in taxes. For example, a French official would typically pay 30 piastres in tax on a salary of 12,000 piastres per year (0.25%), while a Cambodian farmer could be required to pay up to 12 piastres per year on an annual income of as little as 40 piastres (30%). Cambodian peasants reportedly paid the highest per capita taxes in Indochina (Chandler, 1996, p. 158).

\(^{46}\) This form of civil protest was evident during my stay in Phnom Penh in October 1999. Crowds of villagers were camped along the streets near the palace. I was told by my guide that they were there to protest to the king about access to land, and that such protests happened regularly. As in 1916, the people were bypassing the administrators and bureaucrats in preference to seeking justice directly from the king.
an external appearance, covering up vague, unexpressed feelings ... whose exact nature we cannot perceive.” (quoted in Chandler, 1996, p. 158).

The French spent very little on infrastructure and development to benefit the Cambodian population. Until the 1930s, they spent almost nothing on education, medical services were almost nonexistent, and electricity and running water were virtually unknown outside Phnom Penh. An extensive road network and a railroad from Phnom Penh to Battambang were built by the French, but this improvement in overland communications benefited mostly the French and Chinese in their exploitation of the rural economy. Literacy was the domain of the Buddhist monks, until the late 1930s when the first Khmer-language newspaper (*Nagara Vatta*) was produced and the first novel in Khmer was published. This followed the first graduation of Cambodian students from the French lycee in Saigon in 1930 and the opening of the first Cambodian lycee, Lycee Sisowath, in Phnom Penh in 1936.

Lycee Sisowath, the newspaper *Nagara Vatta*, and the Institut Bouddhique were the first channels through which Cambodians began to express their self-identity and nationalist inclinations. They were starting to participate more in the administration of the French colony, and a new Cambodian educated elite began to emerge. The newspaper *Nagara Vatta* was pro-Cambodian, but not at first anti-French. It was, however, decidedly anti-Vietnamese. According to Chandler (1996, p. 163), one editorial “even went so far as to compare Hitler’s territorial aggrandizement in Europe to that of Vietnam in nineteenth century Cambodia”. The paper criticised Vietnamese domination of the Cambodian civil service, lack of employment opportunities for
educated Khmer, the low pay of Cambodian civil servants, and the domination of Chinese commerce. Its mission was reportedly to awaken the Cambodian people (Chandler, 1996, p. 164).

It took World War II and the influence of the Japanese to foster Cambodian nationalism and dislodge the French from Indochina. The French continued to rule in Cambodia by making substantial concessions to the Japanese and not declaring war on Japan, but by August 1941 there were 8000 Japanese troops stationed in Cambodia. Vichy rule was more liberal in the sense that Cambodian officials were given greater salaries and responsibilities, and a sense of national identity was encouraged by the idealisation of the Angkor and Jayavarman VII eras. On the other hand, repressive measures included the abolition of elected bodies, and the suppression of Nagara Vatta and long-term imprisonment of thirty Cambodians following an anti-French demonstration in 1942.

The demonstration involved more than a thousand people, including a significant number of monks, protesting the arrest of two monks suspected of instigating an anti-French plot. It was organised by the Cambodian intellectuals and nationalists associated with the newspaper and Buddhist Institute with the support of the Japanese. The nationalists were encouraged by the weakness of the French military and Japanese sympathy for anti-colonial causes. As the French worked closely with the Cambodian monarchy, the nationalist intellectuals who opposed the French became increasingly anti-monarchy, laying the groundwork for the factions in Cambodian politics that are still evident today (Chandler, 1996, p. 166).
Norodom Sihanouk was chosen by the French to succeed Monivong as King of Cambodia and was crowned in 1941. The Japanese military forces stationed in Cambodia encouraged the nascent nationalist movement to challenge the French administration, and in July 1942 two Cambodian monks were arrested for distributing pamphlets critical of the French (Osborne, 1973, p. 34). In March 1945 the Japanese removed the French from their posts in Indochina, and King Sihanouk declared Cambodia independent under the name Kampuchea (reflecting the Khmer in preference to the French pronunciation). From March until October 1945, Cambodians were able to express their patriotic ideals and to form politically oriented groups, with a nationalist demonstration at the end of August attracting 30,000 people (Chandler, 1996, p. 171). Officially sponsored antipathy to the Vietnamese arose as part of Cambodian nationalism, and clashes occurred between Cambodian and Vietnamese residents of southern Vietnam. Nationalist leader Son Ngoc Thanh, who had been supported by the Japanese, proposed to his colleagues that they form an alliance with the Vietnamese against the French, but was arrested by French officials after the Japanese surrender (Osborne, 1973, p. 40; Chandler, 1996, p. 172). Sihanouk subsequently concluded an agreement with the French in 1946 for a new colonial arrangement in which Cambodia would have a constitution and the right to form political parties, while France would retain control of finance, defence and foreign affairs (Chandler, 1996, p. 172).

The two leading political parties that emerged were the Democratic party and the Liberal party. The Democratic party was led by Prince Sisowath Yuthevong, who had recently returned from higher education in France and wanted to negotiate

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47 See Osborne (1973) for an account of Cambodian politics focusing on “the Sihanouk years” which ended with the coup in March 1970.
independence as soon as possible and build a new Cambodia modelled on the
democracy he observed in France. The Liberal party, meanwhile, was led by Prince
Norodom Norindeth, a conservative Cambodian landowner whose political priorities
involved educating the people slowly whilst maintaining a dependence on France. The
Democratic party’s followers included younger members of the bureaucracy, members
of the sangha, intellectuals, and those who had been attracted to the Nagara Vatta and
the ideas of Pach Chhoeun and Son Ngoc Thanh. The supporters of the Liberal party
included wealthy landowners, older members of the government, the Cham ethnic
minority and the Sino-Cambodian commercial elite. King Sihanouk did not align
himself with either party, but rather sought to regain Cambodia’s independence through
peaceful, diplomatic negotiations with the French.

At the first elections in September 1946, 60% of eligible Cambodian voters went to the
polls. The Democrats won 50 of the 67 seats, the Liberals won 14, and independent
175), the result indicates that the majority of Cambodian authorities supported the
Democrats, while the peasants voted according to instructions from these authority
figures. Sihanouk, meanwhile, was dismissive of the Democratic party and worked to
make their control of the General Assembly politically irrelevant. The Democrats had
no power over the economic elite – the French, members of the royal family, the
Chinese and Sino Cambodians – and were cut off physically and intellectually from
ordinary Cambodians. By contrast, Sihanouk spent a lot of time amongst his people and
was able to retain the image of the benevolent, paternalistic leader. Even though the
Democrats enjoyed political power in theory, it was the king who retained political power in practice.

While the power of the Democrats and the General Assembly was weakened, the comparatively right-wing political groups grew in strength. Frustrated in their efforts to regain independence, the left-wing resistance to the French inside Cambodia also grew and consolidated their position with the founding of a Cambodian Communist party – the Khmer People’s Revolutionary Party (KPRP) – in September 1951.\(^{48}\) Cambodian university students exposed to the “radical politics, personal freedom and anticolonial solidarity” in France were an important source of recruits for the Cambodian communist movement. Sihanouk’s suppression of the Democratic party also caused disaffected young Khmers to drift to the left and join the Communists. These included such future leaders as Saloth Sar (Pol Pot), Ieng Sary, Son Sen and Khieu Samphan (Chandler, 1996, p. 183).

Over the next few years, Communist-controlled guerrilla groups operating in cooperation with the Viet Minh came to control more than half of the kingdom of Cambodia. The leaders of the KPRP accepted the leadership of the Vietnamese in the struggle to liberate Indochina from the French, and the number of pro-Vietnamese forces in Cambodia increased (Chandler, 1996, p. 181). Determined to regain control of the kingdom and forcibly gain independence from the French, Sihanouk staged a coup against his own government. Without any shots being fired, he removed the Democrats from office. Student demonstrations against the coup called for Sihanouk’s abdication

\(^{48}\) See Kieran (1985) for a detailed account of the history of Communism in Kampuchea from 1930 until the Khmer Rouge took power in 1975.
and accused him of being pro-French and a “traitor to the nation” (Chandler, 1996, p. 184). Sihanouk, meanwhile, travelled to France to further his “crusade for independence”, but his advances were snubbed and the French “respectfully told the king to go home” (Chandler, 1996, 184-5).

In October 1953, however, the French, under pressure from the war in Vietnam and prospects of increased fighting in Cambodia, and embarrassed by Sihanouk’s appeals to other Western governments, relented and granted King Sihanouk authority over Cambodia’s armed forces, judiciary and foreign affairs (Osborne, 1973, p. 51; Chandler, 1986, p. 186). France maintained control over the Cambodian economy, including the lucrative trading sphere and rubber plantations. Sihanouk ordered officials in the sruk to organise demonstrations in his honour, and he was officially proclaimed a national hero (Chandler, 1996, p. 186).

4.4 Independence and the Vietnam War (1953-1975)

After gaining Cambodia’s independence at the end of 1953, Sihanouk was so confident that he no longer felt obliged to maintain peaceful relations with his neighbours, Thailand and South Vietnam. He also felt less constrained in his treatment of political opponents and those he disliked. Although weakened by their failure to deliver independence, the Democrats were still the best organised party and expected to win the 1955 elections. Sihanouk, however, decided to gamble on his personal popularity and abdicated the throne so that he could lead a new political movement, the Sangkum. By
using his influence and power over the civil servants, Sihanouk managed to coopt large numbers of members for the new movement. He also suppressed dissent by closing opposition newspapers and harrassing opposition candidates, and ensured victory through election irregularities such as intimidation of voters and losing ballot boxes thought to contain Democrat votes (Chandler, 1996, p. 189). The Democratic party was subsequently forced out of politics after members were harrassed and beaten by palace soldiers and police (Chandler, 1996, p. 192). In 1960, Sihanouk became Chief of State of Cambodia, thus giving him administrative control of government as well as high formal status (Osborne, 1973, p. 67).

Sihanouk was labelled a “procommunist” by the United States, and his government survived a number of plots against it that originated in Saigon and Bangkok with the knowledge of the US. These plots further alienated Sihanouk from the US and his neighbours, and he focussed his attention instead on Cambodia’s more positive relationships with France, Indonesia and the Communist bloc. In the early 1960s, Sihanouk allied himself with the left within Cambodia as well as with Communist China. As a result, the media became more left-wing, left-wing teachers (including Saloth Sar and Ieng Sary) were tolerated, and leftists educated in France (including Khieu Samphan) were elected to the General Assembly. By contrast, Sihanouk’s right-wing opponents did not do so well during this period. Sihanouk nationalised Cambodia’s banks and import-export trade as part of his vision of making Cambodia a genuinely socialist state, and in 1963 he cut off all US economic and military assistance.
Sihanouk exercised a virtual monopoly on political power in Cambodia until the 1966 elections in which, for the first time, Assembly members not chosen personally by the prince were elected. By the late 1960s, Cambodia’s economy was affected by falling revenues as a result of “clandestine trading, mismanagement of state-controlled industry, and extravagant expenditures” (Chandler, 1996, p. 202). Increasing Cold War tensions and the Vietnam War further destabilised the Cambodian economy and Sihanouk’s hold on power. The urban elite became increasingly determined to see change (Osborne, 1973, p. 113). The renamed Communist Party of Kampuchea (CPK) started an armed struggle against Sihanouk and by 1970 occupied nearly one-fifth of Cambodia’s territory. Increasing poverty and fighting in rural Cambodia had the effect of decreasing support for Sihanouk amongst the local people. Meanwhile, young Cambodians in the city became alienated from Sihanouk’s “narcissistic rule” and were attracted by the communist uprisings in France and revolution in China as alternatives to the corruption and conservatism of Cambodian politics (Chandler, 1996, p. 203). While Sihanouk was out of the country for his summer holiday in March 1970, his General Assembly voted him out of office and replaced him with Cheng Heng as president while Lon Nol continued as prime minister.

“By treating Cambodia as a personal fief, his subjects as children, and his opponents as traitors, Sihanouk did much to set the agenda, unwittingly, for the lackadaisical chaos of the Khmer Republic and the horrors of Democratic Kampuchea” (Chandler, 1996, p. 190). Sihanouk’s intolerance of dissent manifested in closures of opposition newspapers, and surveillance, beatings, disappearances, secret trials, incarceration and executions of opponents (Chandler, 1996). Furthermore, thousands of Cambodian
peasants were killed in the aftermath of a Communist uprising in the northwest in 1967. At the same time, Cambodian communists became disaffected from their Vietnamese patrons because of their alliance with Sihanouk and their lack of encouragement for Cambodia to stage its own revolution. Thus the anti-Vietnamese sentiment of Cambodia’s new leaders post-Sihanouk was fuelled.

Between 1961 and 1970, Sihanouk largely succeeded in keeping Cambodia out of the Vietnam War. He proclaimed Cambodia’s neutrality, tried to obtain guarantees for his country’s borders, and broke off diplomatic relations with the US. Sihanouk wanted to remain in power, to maintain his country’s independence, and to prevent Cambodians from being killed, but at the same time he believed that the Vietnamese Communists would win the war (Chandler, 1996, p. 194). He therefore decided to forge a secret alliance with the North Vietnamese according to which they were allowed to station troops inside Cambodian territory and to receive arms and supplies from North Vietnam and China via the Cambodian port of Sihanoukville.

After 17 years of relative peace as an independent country, Cambodia thus became drawn into the Vietnam War. In 1969 the US Air Force had begun secretly bombing Cambodia in an effort to eliminate the Vietnamese communist bases, and the anti-Vietnamese Lon Nol government took power in Cambodia (renamed the Khmer Republic). Sihanouk responded by encouraging riots against Lon Nol, and the Cambodian military massacred thousands of unarmed Vietnamese civilians suspected of being allied with the Communists (Chandler, 1996, p. 205). Lon Nol ordered the North Vietnamese Communist forces to leave Cambodia, and when they ignored his order
many Cambodians joined the fight to drive the "invaders" out. In May 1970, a joint US-South Vietnamese force invaded southern Cambodia and drove the North Vietnamese deeper into Cambodia. Encouraged by the US, Lon Nol mounted two major offensives against the Vietnamese but was soundly defeated on both occasions. Thousands of Cambodians were killed and wounded in these clashes.

On the domestic front, Lon Nol was rapidly alienating his former supporters as he increased his political domination, suspending the National Assembly in October 1971 and saying that he would no longer "play the game of democracy and freedom" (Kiernan, 1985, p. 347). As described by a French missionary at the end of March 1972: "Youth, students and intellectuals hang their heads. The fine patriotic and republican spirit of March 1970 is broken. Their dream of social justice is vanishing in the face of reality" (Kiernan, 1985, p. 347)

Sihanouk, now in self-imposed exile, forged a coalition with the communist-backed Khmer Rouge who then proceeded to fight a civil war with the US-backed Lon Nol government. By the end of 1972, most of Cambodia outside Phnom Penh and Battambang was controlled by the Communists or was "unsafe for anyone to administer" (Chandler, 1996, p. 207). In 1973 the US engaged in massive bombing of the Cambodian countryside. The bombing delayed the Communist takeover of Phnom Penh, but it also resulted in death and destruction for ordinary Cambodians that fuelled their antipathy to the US. The North Vietnamese withdrew from Cambodia and the Communists (CPK) responded by killing most of the Cambodians associated with North Vietnam. The CPK was also rumoured to be massacring the inhabitants of defeated
villages, and they began to experiment with collectivisation. In early 1975, the Communists led by Saloth Sar (Pol Pot) decided to take Phnom Penh, and so began the three and a half years of a nationwide experiment of radical socialism that left more than one million Cambodians dead and a country in ruins.

4.5 The Pol Pot Regime and the Killing Fields (1975-1978)

Despite the rumours of CPK excesses, the residents of Phnom Penh welcomed the Communist victory as an end to the civil war and the corrupt and ineffective Lon Nol regime. As evocatively described by Chandler (1996, p. 208): “On the morning of April 17, 1975, columns of Communist troops, dressed in peasant cloths or simple khaki uniforms, ominously silent and heavily armed, converged on the capital. Many of them were under fifteen years of age. Walking slowly down the capital’s broad avenues, emptied of other traffic, they responded coldly to the people’s welcome.” Two weeks later the Communists won in South Vietnam and the US withdrew from Vietnam.

The Communist or Khmer Rouge regime that controlled Cambodia from April 1975 until January 1979 was known as Democratic Kampuchea (DK). According to Kiernan (1997, p. 191) it was “likely the world’s most radical political, social, and economic revolution”. Led by Pol Pot (Saloth Sar), the Khmer Rouge sought to remove all vestiges of family life, individualism and other “feudal” institutions that stood in the way of their revolution. National autonomy and social justice were to be achieved by liberating the poor from their exploitation and enslavement. The economy was
militarised, and the nation's currency, wages, and markets were abolished (Kiernan, 1997). Residents of cities and towns were forcibly evacuated to the countryside, including the sick, elderly and young children, many of whom died and were abandoned along the roadsides. The evacuations were brutal and shocking for the Cambodian people as well as outsiders "who had hoped that the new regime would try to govern through reconciliation" (Chandler, 1996, p. 210).

The DK socioeconomic experiment envisioned the cultivation of enough rice to feed the population of Cambodia and to produce a surplus for export. The export income from surplus rice and other crops (cotton, jute, rubber, coconuts, sugar and kapok) would then provide the hard currency for imports and the eventual industrialisation of the nation. This project required the involvement of all Cambodians and all available land in the production of rice, hence the forced removal of city workers to rural areas, and the mass clearing of land for rice cultivation. Ideologically, the move represented the domination of the countryside over the cities and the privileged position of the poor. The educated, former professionals and other city dwellers became the "new people" or "April 17 people" who joined the rural peasants in the fields growing rice and other crops under the supervision of the Khmer Rouge soldiers and cadre (Chandler, 1996, p. 211).

Young, rural Cambodians formed the backbone of the Khmer Rouge cadre. Their revolutionary zeal was fuelled by the desire for freedom – from feudalism and foreign control – for self-respect and power. The Khmer Rouge leaders called themselves the "revolutionary organisation" (angkar padevat) and the young cadre referred to angkar as their "mother and father": they owed nothing to the past and everything to angkar.
(Chandler, 1996, p. 211). They were taught to regard themselves as superior, and treated the people with contempt. In the northwest of the country, where the cadre were not as well disciplined, ill-treatment was more widespread. Throughout the country, conditions were harsh, and became worse as rice crops were increasingly diverted to exports and people were given less to eat. People died from overwork, neglect, mistreatment, illness, malnutrition and starvation. Those identified as “enemies of angkar” were killed outright.

The Khmer Rouge was reportedly responsible for the deaths of an estimated 1-2 million Cambodians (approximately 25% of the population) between April 1975 and January 1979, although at least one commentator (Vickery, 1984) says the statistical evidence indicates the number killed was more likely between 500,000 and 1 million. Either way, the extent of human rights violations during the Pol Pot era has been described as the worst to have occurred anywhere in the world since Nazism (Chanda, 1986). In addition to the economic and physical deprivations there was a complete denial of all social and cultural rights. Foreign and minority languages were banned; schools and hospitals were closed; the labour force was conscripted; families were separated; religions and folk cultures were destroyed, including the majority Buddhist religion (Kiernan, 1994, p. 191). The Constitution of Democratic Kampuchea promulgated in January 1976 failed to guarantee any human rights and abolished private property, organised religion and family-oriented agricultural production, and the four-year economic plan drafted in 1976 said nothing about leisure, religion, formal education or family life (Chandler, 1996, pp. 214-215).49

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49 The four-year plan referred to the need to “abolish illiteracy among the population” but primary schooling was limited, and education beyond the primary level was not available until 1978. The killing
The "new people" were regarded as dispensable by the Khmer Rouge cadre and were frequently told: "Keeping you is no profit; losing you is no loss." (Chandler, 1996, p. 213). According to Chandler (1996, pp. 215-216), "most Cambodians had to work ten to twelve hours a day, twelve months a year" and "many survivors recall months of eating rice gruel and nothing else". One of my interviewees (C4), who was around 24 years old in 1975, told me how he was sent from Phnom Penh to the provinces and then put in jail because he had some education. There he was "re-educated" and had to work in the fields, and was not allowed any books or pencils. Another (C5) who was 19 years old lost his three older brothers and told me how he saw his sister's clothes and knew she was dead, and saw a close friend killed for stealing. C6 was 12 years old in 1975 and recalled how he used to go to work in the field with his family, there was not enough food, and some of his family died of starvation. He said with great emphasis that he had to "work hard". C7, now a member of the government, said he lost his father, sister and brothers. C10 was 9 years old in 1975 and, with his family, was evacuated from Battambang to the countryside. He said it was like a "terrible dream" until the Vietnamese came, but then later in 1979/80 there was a "second wave of starvation" that he described as a "nightmare". Another survivor, C11, was 23 years old in 1975 and told how she was "captured and taken to the provinces to work as a slave, 3 am to 6.30 pm". Her parents died of hunger and disease. C20 was 31 years old and incarcerated by the KR in 1976. He described it as the worst experience of his life: "interrogation, torture, fainted five times".  

of former teachers regarded as "class enemies" was not a policy consistent with the education of the masses.

50 See also recently published accounts by survivors including Prun (1997) and Ung (2000), and the testimonies of "life under the Khmer Rouge" reported in Kiernan & Boua (1982, pp. 318-362).
I asked my interviewees how they survived the Pol Pot era. One (C1) answered that he was “young (too young for the army), did what he was told, and followed the rules” and C5 said in a similar vein that he was “young, strong enough to survive ... keep working, keep quiet”. C1 added that there was a Cambodian joke that “only the bad survived”. He told me that wasn’t true: Cambodians survived the genocide also if they were “clever and lucky”. He was lucky because the students in a neighbouring village were killed, but in his village they weren’t, so he had a chance to survive. Another (C2) said he survived because he “didn’t think about dying or about survival”. C4 also attributed his survival to being young, and C17 said he was “small”, the Khmer Rouge “didn’t think [he was] an important person, so they didn’t notice me”. C8 said he was “very lucky” that he was not killed. He was “on the list” as he was considered an intellectual because he had finished a degree and was a teacher, but the village chief saved him by sending him out whenever the KR came to take him to a concentration camp. His parents and brother were killed. C5 was also protected by a KR cadre, a woman, who had pity for him and “fell in love with me”. She could have had him killed for not agreeing with her, but she didn’t.

The “new people” were not eligible to vote or stand in the National Assembly elections that were held in March 1976. The CPK candidates, representing different classes of Cambodian people such as “peasants” or “rubber workers”, were elected unopposed (Chandler, 1996, p. 214). The elected leaders included Pol Pot, Ieng Sary, Sary’s wife Ieng Thirith, Son Sen, Nuon Chea, and Khek Pen. By September 1976 a split had developed in the CPK and two prominent members with links to the Vietnamese-
dominated phase of the party’s history (Keo Meas and Non Suon) were arrested and accused of treason. They joined other political prisoners at the DK interrogation centre in the Phnom Penh suburb of Tuol Sleng where at least 20,000 men and women were questioned, tortured and executed during the Khmer Rouge period. Only half a dozen Tuol Sleng inmates survived (Chandler, 1996, p. 218). Those arrested and taken to Tuol Sleng included soldiers who had fought for Lon Nol; anyone with a middle-class background; those associated with the Vietnamese Communists; people who had been exposed to foreign countries; and other suspected “counterrevolutionaries” including military commanders and high-ranking members of the CPK (Chandler, 1996, p. 219).

The systematic and carefully planned regime of terror, torture, hard labour and starvation was aimed at establishing a racially pure and independent Khmer state uninfluenced by the West or the trappings of wealth and privilege. The victims were identified by a political ideology that characterised the enemy as people of the elite or middle class: the educated, city dwellers, professionals, those who could write, wore glasses or spoke foreign languages. The mass killing that occurred under the Pol Pot regime was thus essentially politically and socioeconomically motivated, although there were some ethnic and religious groups that were specifically targeted, including Buddhists, the Vietnamese and minority Cham groups. It was a communist-inspired class struggle taken to extremes and augmented by identity-based violence and killing.

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51 Tuol Sleng was a primary school converted into a prison and interrogation centre with torture rooms and tiny brick cells complete with shackles. Today it is a museum open to the public with two buildings preserved as they were during the KR period, and one building converted to memorialise those killed with photographs and displays, including a large map of Cambodia made with skulls. During my visit I noticed that Tuol Sleng looks no different from the outside to other schools in Phnom Penh, and I wondered about the psychological impact of associating a place for educating children with a place of torture and killing.

52 See Kiernan (1997, pp. 340-345) for statistical details of the minority groups targeted and the impact of the genocide on these groups. One result is that the population mix of Cambodia changed from 80% ethnic Khmer in 1962 to 90% by 1981 (Brown, 1998, p. 87).
As discussed in Chapter 3, the Cambodian socialist experiment does not clearly fit the definition of genocide. However, as I have argued, the severity of the crimes of the Khmer Rouge period warrants the same degree of condemnation as an occurrence of genocide as defined under the Convention (such as that in Rwanda in 1994). The terms ‘auto-genocide’, ‘politicide’ and genocide have been used by different commentators to describe what happened in Cambodia (see, for example, du Preez, 1994; Kiernan, 1996, 1997; Hinton, 2002). During the Paris peace negotiations, one of the areas of disagreement involved how to deal with “the genocide issue” (Berry, 1997, p. 16). This issue will be discussed in Chapter 9 in the context of international responses to the Cambodian genocide.

Montville (1990) applies a psychodynamic analysis to the Khmer Rouge regime of terror and concludes that the source of the extreme violence could be traced to the Khmer experience of victimhood at the hands of outside aggressors, and especially the Vietnamese. Added to this was the recent experience of being bombed by the US as part of its military campaign against Vietnam.\(^5\) Historically, the Khmer people had not experienced independence and a sense of self-worth as a people since the Angkor era between the 9\(^{th}\) and 15\(^{th}\) centuries; they were alternately invaded and controlled by Siam/Thailand and Vietnam until the French occupation during which time the Vietnamese were recruited even for the lowest level positions. It seems that the extent of hatred of the Vietnamese and mission of purity extolled by Pol Pot and the Khmer

\(^5\) Up to 150,000 Cambodians were killed in the American bombardments between 1969-1973. The Communist Party of Kampuchea and its leader, Pol Pot, used the US bombings as recruitment propaganda and as a basis for their “brutal, radical policies and their purge of moderate and pro-Vietnamese Khmer communists and Sihanoukists”. (Kiernan, 1994, p. 194)
Rouge indicates an identity-based or ethnic motive, rather than simply political ideology, as the source of inspiration for the killing spree.

According to Montville (1990, p. 203):

Cambodia as a country was consistently victimized by rapacious neighbors, and its people were taught to fear for their very survival, both as individuals and as a group. There was a special xenophobic quality to the Cambodia upheaval that had an historic precedent and in its ‘purification’ mode greatly resembled the Nazi extermination campaign of Jews and other ‘undesirables’. A sociopathic leadership undertook to cleanse and protect the violated state, and in doing so followed the advice of Western apocalyptic ideologues who advocated total upheaval in corrupt, backward Third World societies. By going this route, victimized peoples could regain their self-esteem and the respect of others around the world. The cost of this effort was anywhere from 500,000 on up to two million dead.

For the first years of the Khmer Rouge period, Cambodia was isolated from the rest of the world. The 1976 Constitution denied any foreign alliances or assistance (Chandler, 1996, p. 214). It was not until September 1977 that the existence of the CPK was announced to the world in a speech by Pol Pot on Phnom Penh Radio. Pol Pot then flew to Beijing for talks with China’s leader, Hua Guofeng. China was keen to obtain Cambodian assistance to curb Vietnamese expansionism, and Cambodia wanted Chinese military support for a full-scale war with Vietnam. Skirmishes had been continuing along the Cambodian-Vietnamese border, and after the Chinese visit by Pol
Pot, Vietnam mounted a full military offensive against Cambodia. When the Vietnamese troops retreated they took with them Cambodian villagers as hostages. To reinforce victory, Pol Pot conducted a secret purge of military officers and CPK cadre in the eastern zone where the Vietnamese had been concentrated. Hun Sen, a former DK commander, and Heng Samrin, a DK soldier, both fled Cambodia at that time to form a government in exile set up by the Vietnamese.

In 1978 the DK regime began to open itself to the outside world, with the establishment of diplomatic relations with non-communist countries such as Burma and Malaysia, and the first visits of foreign journalists. For the first time, the world saw visual images of life in Democratic Kampuchea to complement the stories that had begun filtering out through refugees who had escaped into neighbouring Thailand. These refugee reports had initially been dismissed as exaggerated rumours or “anticommunist diatribes” (Hannum, 1989, p. 84). As international concern mounted, the Vietnamese mounted a full-scale invasion that was to be labelled by some in the international community as an example of humanitarian intervention (see, for example, Klintworth, 1989 and Abiew, 1999).

4.6 Vietnamese Invasion and Occupation (1979-1989)

By January 1979 the Vietnamese had captured Phnom Penh and much of the eastern part of the country. A Vietnamese-backed government of former CPK members who had defected to Vietnam in 1978-79 was installed in Phnom Penh, and the country’s
name was changed to the People’s Republic of Kampuchea (PRK).\textsuperscript{54} Pol Pot and the other DK leaders retreated with their families to the Thai border where they continued to organise the CPK resistance to Vietnamese rule. The international community condemned the Vietnamese invasion, and the DK regime continued to be recognised by the UN as the official government of Cambodia for fourteen years after its overthrow (Kiernan, 1993, pp. 18-19). Aid to Cambodia was embargoed throughout most of the 1980s, while the Khmer Rouge refugee camps in Thailand received international assistance from the UN as well as military assistance from China.

Most Cambodians, however, welcomed the overthrow of Pol Pot: “for nearly everyone, the DK era had been one of unmitigated suffering, violence, and confusion” (Chandler, 1996, p. 215). Despite the negative implications of being invaded and ruled by a foreign power, this seemed a better alternative to the continuation of the DK regime. The new PRK government led by Heng Samrin, and later by Hun Sen, promised to respect human rights but, like its predecessors, reacted harshly to political opposition. According to a survivor whom I interviewed in Phnom Penh (C5), the Vietnamese-controlled government was a “ride on the same car, just a different driver”.

During 1979, immediately after the Vietnamese invasion, most Cambodians were on the move, criss-crossing the country in search of relatives and food, returning to their homes and trading (Gottesman, 2003, p. 38). Famine broke out by the middle of the year as the rice crops were not harvested. One of my interviewees (C5) said he walked about 300 km from Pailin to Phnom Penh to Siem Reap to the border in search of food.

\textsuperscript{54} See Vickery (1986) for a detailed account of the history of the PRK.
Thousands of Cambodians crossed the border into Thailand, many of them abducted at gunpoint by the Khmer Rouge, where they sought refuge from the United Nations and attracted massive amounts of humanitarian aid (Gottesman, 2003, p. 38). The educated elite who had survived the Khmer Rouge were also leaving Cambodia because they were not happy with living under a foreign socialist government. Many became long-term residents of refugee camps on the Thai-Cambodian border, while others were able to obtain refuge in foreign countries including France, the US and Australia. For example, one of my interviewees (C5) worked as a teacher in the border camps and was lucky to be recruited by UNTAC for retraining in Singapore. He worked for the ILO after UNTAC left, and later went to Phnom Penh where he now works for a human rights organisation. Another (C7) was sponsored by an American family and then worked in Australia where he learnt about democracy. He is now in the Cambodian Ministry of Justice. C10 went to the US as a refugee in 1981 where he studied political science and returned to Cambodia in 1992. C17 lived on the border for 14 years, from 1979 until 1993. He now works for a legal aid organisation in Phnom Penh.

Rice harvests doubled in 1980 but rural Cambodia was still in chaos: “Villages had been abandoned or torn down; tools, seed, and fertilizer were nonexistent; hundreds of thousands of people had emigrated or been killed; and in most areas the survivors suffered from malaria, shock, or malnutrition.” (Chandler, 1996, p. 230). A high proportion of those remaining were widows and their families. International aid embargoes meant no foreign assistance to ease their plight. Living standards did gradually improve, though, according to at least one observer of life under the Heng Samrin government (Boua, 1983, p. 259).
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The DK leadership in exile and the CPK continued to be active, supported by the US, China, Singapore and Thailand who opposed the Soviet-backed Vietnamese Communist regime that controlled the new Cambodian government. A new political resistance faction led by former Prime Minister Son Sann emerged in the refugee camps and gained support from Cambodians living overseas, but was unable to raise a military force (Chandler, 1996, p. 231). The UN development and human rights agencies were able to help those in the border camps, but could not operate inside Cambodia because of the diplomatic isolation of the PRK regime. Only a small number of anti-American states, India and what remained of the Soviet block provided assistance to the PRK (Chandler, 1996, p. 231).55

During the Pol Pot period, Sihanouk had lived under guard in a small villa in the grounds of the royal palace in Phnom Penh, until he was sent on a diplomatic mission by the DK in January 1979 (Chandler, 1996, p. 213). In 1981 he was living in exile in Beijing when China and other foreign powers succeeded in persuading him to return to political life. Negotiations between Sihanouk, Khieu Samphan (representing the Khmer Rouge) and Son Sann resulted in the formation of the Coalition Government of Democratic Kampuchea (CGDK), consisting of the Khmer Rouge (KR), Khmer People’s National Liberation Front (KPNLF) and the Unified National Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia (Funcinpec). The KR was

55 My hosts for my visit to the Department of Sociology at the Royal University of Phnom Penh (not on the main campus) told me that the building and grounds were a legacy of the PRK era of Soviet funding. It was my first real-life encounter with Soviet-style architecture and symbolised for me another example of attempted external control of the Cambodian people.
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communist, the KPLNF led by Son Sann was republican, and Funcinpec was monarchist and loyal to Sihanouk (Brown, 1998, p. 89).

The CGDK, supported by ASEAN, China and the US, made several military incursions into Cambodia from their base in eastern Thailand. The civil war in Cambodia became at the same time both a regional and great power proxy war (Brown, 1998, p. 89). When the CGDK were driven back to Thailand by Vietnamese and PRK forces, the latter left landmines along the border to prevent any subsequent incursions.

Early in 1989 the PRK renamed itself the State of Cambodia, formally renounced communism, and was becoming increasingly self-sufficient. Influenced by the break-up of the Soviet bloc and consequent reduction in Soviet aid, the Vietnamese had removed all of their troops from Cambodia by September that year. The Cambodian government, meanwhile, announced a number of popular reforms including changing the national anthem and flag, amending the Constitution to make Buddhism Cambodia’s state religion, and amending the statute limiting the monkhood to middle-aged Khmer (Chandler, 1996, p. 236). Private land ownership was introduced and the death penalty was abolished. At the same time, corruption began to flourish in the new State of Cambodia, setting a pattern that continues today.56

Following the Vietnamese withdrawal, DK forces took Pailin, a gem-producing area not far from Battambang, and by 1990 the DK held regions of the northwest and southwest and were threatening Battambang, Cambodia’s second-largest city. The DK planted

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56 Corruption was described as endemic in Cambodia, with little or no prospect of change, by the Economic Intelligence Unit in late 1994 (Curtis, 1998, pp. 146-7).
antipersonnel landmines along roadways, paths and in villages, resulting in many civilian casualties. In a war purportedly fought by the Khmer Rouge against the Vietnamese, the majority of victims were again ordinary Cambodians.

4.7 Peace Negotiations, UNTAC and the State of Cambodia (1989-2001)

UN-sponsored peace negotiations to end the civil war in Cambodia finally led to the Paris Peace Agreements signed on 23 October 1991. The United Nations Transitional Authority in Cambodia (UNTAC) was established to implement the peace plan. UNTAC was the largest and most comprehensive peacekeeping mission ever undertaken by the United Nations, and marked the beginning of a new era of UN involvement in post-conflict peacebuilding. Its mandate included seven components: human rights, electoral, military, civil administration, police, repatriations and rehabilitation (United Nations, 1995, p. 12). A politically significant feature of the mission was the powerful role played by the Supreme National Council (SNC) delegated by the UN as the “unique legitimate body and source of authority” in Cambodia during the transitional period (Article 3 of the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict). The SNC comprised six members from the incumbent Cambodian People’s Party (CPP) installed by the Vietnamese, two members from each of the resistance factions, and Sihanouk as the thirteenth member empowered to break deadlocks (Brown, 1998, p. 90).

The pillar of the UNTAC mission was the internationally-supervised elections held in May 1993. During the election campaign, the KR continued to threaten and carry out violent attacks and the CPP and SOC forces harassed members of opposition groups (Brown, 1998, p. 92). On 13 April 1993, the KR formally withdrew from the peace process and the May 1993 election, thereby undermining its ability to end the civil war.

The election went ahead, despite fears of disruption by the KR. Candidates from 20 registered parties contested the election. Despite the CPP’s dominance during the campaign, the majority of votes went to Funcinpec with 58 seats. The CPP won 51 seats and the Buddhist Liberal Democratic Party (a breakaway party from the KPNLF led by Son Sann) won 10 seats. The CPP tried to challenge the election procedures, but on 10 June the UN declared the “freeness and fairness of the Cambodian elections” (quoted in Brown, 1998, p. 96). After much political maneuvering and secessionist violence on the Vietnamese border, a coalition government was formed with Prince Ranariddh (Sihanouk’s son and leader of Funcinpec) and Hun Sen (leader of the pro-Vietnamese CPP) as co-prime ministers.\(^{58}\) However, following a violent \textit{de facto} coup against Ranariddh and his other opponents in July 1997, Hun Sen declared himself sole Prime Minister of Cambodia, thereby effectively erasing the results of the 1993 UN-supervised elections and undermining the Paris Peace Agreement (Plunkett, 1998, p. 66). Hun Sen remained as sole Prime Minister after the July 1998 election, despite allegations of electoral impropriety and failure to gain a clear majority of votes (Downie, 2000).

The people of Cambodia have a good record of voter turnout (60% in 1946, over 90% in 1993) when allowed to express their political preferences in democratic elections. However, they have an even stronger tradition that has not allowed the survival of pluralistic politics. Dissent has invariably been regarded as treason, and political opposition has been crushed. Despite UNTAC’s best efforts to leave behind a functioning pluralistic democracy in Cambodia, within four years the political situation has again reverted to one of single-party rule. The opposition parties are allowed to exist, but their leaders exercise little power. Hun Sen wields effectively full political control, with King Sihanouk as the ceremonial figurehead. Whilst travelling around the outskirts of Phnom Penh I was struck by the number of dwellings that displayed the CPP sign, indicating their public support of the ruling Cambodian People’s Party led by Hun Sen. I wondered whether this truly indicated widespread support for Hun Sen, or rather the tendency to adopt a pragmatic approach to align with the ruling party and avoid violence directed towards the political opposition.

Actions of the Hun Sen government to deal with the aftermath of the genocide will be analysed in Chapter 9 along with the responses of the PRK government, international community and civil society. The focus of analysis will be on approaches to justice and reconciliation, including the continuing culture of impunity evident in Cambodia. In the meantime, we now turn to a historical account of the origins of genocide in Rwanda.
Rwandan history is complex, controversial and difficult to analyse, especially for a 
foreigner without the language skills to conduct research in the local language, 
Kinyarwanda, or to examine original documents in the European languages of the 
colonial occupiers. It is also dangerous, according to Gourevitch (1998, p. 48): “Like all 
of history, it is a record of successive struggles for power, and to a very large extent 
power consists in the ability to make others inhabit your story of their reality – even, as 
is so often the case, when that story is written in their blood”.

Even Rwandans do not agree on some aspects of the history of their country. Their pre-
colonial cultural tradition is oral, with history being created through stories passed on 
from one generation to the next. These stories are open to interpretation and alteration 
over time and to deliberate manipulation for political or other purposes. Furthermore, 
the strongly hierarchical nature of Rwandan society suggests that stories told by the 
more powerful would receive more credence, thus producing a potentially skewed 
version of Rwandan history.59

In the absence of any reliable record of pre-colonial Rwanda, the theories and 
observations of the European colonisers became the only written source of historical 
analysis available to both Rwandans and the outside world. As will be discussed below, 
the historians and anthropologists who first studied Rwanda were influenced by the

59 In addition to folktales and legends, Rwandan history was “supplemented by the memory of court 
historians whose task was to hand down to posterity the glorious traditions of the realm – not as history 
might have it but, rather, as royal ordinance prescribed.” (Lemarchand, 1970, p. 32)
theoretical outlook of their time and the colonists were driven by motivations beyond
the purely scientific. Subsequent studies have sought to produce more balanced and
thoroughly researched accounts of pre-colonial and colonial Rwanda. Unfortunately,
however, the water has been muddied even further in recent years, especially in the
lead-up to and aftermath of the genocide, by the political motivations of Rwandans and
the former colonisers seeking to defend and justify their past positions and actions.

The following brief account of the history of Rwanda is based on my reading of the
English-language literature, translations of French and Rwandan writings, and
conversations with Rwandans and Rwandan scholars. Where controversy exists over
interpretations of history, this will be indicated and the implications discussed. This
account is not intended to be a complete or thorough portrayal of Rwandan history (this
would require another thesis). Rather, it is an attempt to summarise the key aspects of
Rwandan history and culture which I believe are necessary to understanding the
background to the genocide of 1994 and the prospects for peacebuilding. Where
appropriate, the reader has been referred to more expert historians and regional
specialists for further details and analysis of Rwandan history and society.

5.1 Pre-Colonial History: How Did It All Begin? (pre-1885)

What is a Tutsi? What is a Hutu? What is a Twa? A Tutsi is a person whose
father is Tutsi. A Hutu is a person whose father is a Hutu. A Twa is a person
whose father is a Twa. That is about the only point on which everyone
agrees. If you go beyond this fact, you enter the debate which ended in genocide.  
(Sibomana, 1999, p. 83)

At the centre of Rwandan history lies the controversial debate about the origins of the three ethnic groups that inhabit Rwanda: the Twa, the Hutu and the Tutsi. All three speak the same Bantu language, Kinyarwanda, and have lived together on the same land for at least five centuries. Prior to European colonisation, the Hutu and Tutsi practised the same animist religion (the “kubandwa” cult), often intermarried, and shared cultural traditions. It has therefore been argued by some that they should not be described as different ethnic groups, but rather as different social groups or classes within the same Rwandan ethnic identity. On the other hand, the Hutu and Tutsi have been consistently identified with different physical characteristics and occupational ties. These clearly observable differences led to theories about the distinct ethnic origins of the three groups, and the subsequent consolidation of differences to the extent that the Hutu, Tutsi and Twa consider themselves to be separate ethnic groups today. Whether

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60 According to one of my Rwandan informants, “it is not quite this simple” (personal communication with a Hutu refugee who escaped the genocide and now lives in the United States). Despite what Sibomana claims, not everyone agrees on this definition of who is a Hutu, a Tutsi and a Twa.

61 The three ethnic groups are referred to as Batwa, Babutu and Banutsi in the local language construction, where the prefix “Ba” denotes the plural and means people. Matwa, Mahutu and Mahutu are the singular form. I have chosen to use the shorthand names of Twa, Hutu and Tutsi which are in more common usage in English.

62 Kinyarwanda is the national language of Rwanda. It is also spoken in eastern Congo (former Zaire) in Kivu province and in the Bufumira district of Uganda. The language of Kirundi that is spoken in Burundi is related but distinct. Kinyarwanda and Kirundi are mutually intelligible to their respective speakers and could be considered dialects of the same language (Kimenyi, 1978, p.1).

63 The “kubandwa” cult was a possession cult that had a popular flavour and is thought to have been of Hutu origin (Prunier, 1995, p. 15).

64 See, for example, Dominique Franche (Sibomana, 1999, p. 83). There are various schools of thought regarding the level of significance of the ethnic differences between the Hutus and Tutsis of Rwanda. According to Destexhe (1995), Rene Lemarchand and Filip Reyntjens can be classified as “ethnists” and Jean-Pierre Chretien and Claudine Vidal as “anti-ethnists”. Unfortunately for this author, all four wrote in French, and only Lemarchand and a little of Reyntjens have been translated into English. I have, however, used this awareness of potential biases in primary source material to inform my analysis of the English language accounts of Rwandan history and culture.
or not the ethnic categories can be substantiated biologically or anthropologically, they are undoubtedly of political and sociological significance.\(^6^5\)

The Twa (or Batwa) are a pygmyoid people thought to come from the forests and to be the original inhabitants of what is today called Rwanda. They represent only about 1% of the Rwandan population and are generally regarded as inferior by Hutu and Tutsi alike (Destexhe, 1995, p. 39). The European colonisers who arrived at the turn of the century observed that the Twa lived either as hunter-gatherers in the forested areas or "served the high-ranking personalities or the King in a variety of menial tasks" (Prunier, 1995, p. 5). According to Destexhe (1995, p. 39), the first European on Rwandan soil, Count von Goetzen, declared them to be "a caste of dwarfs". Like other marginalised minority groups throughout the world, the Twa have been engaged in a struggle for their rights and recognition in Rwandan society.

The Hutus comprised some 85% of the population and at the time of European colonisation were agriculturalists or peasants who cultivated the soil.\(^6^6\) European historians identified them as the first "tribe" to settle Rwanda, most probably coming from the south and west (Lemarchand, 1970; Gourevitch, 1998). The Hutu were described by the colonisers as a Bantu people with typical negroid features and were regarded as superior to the Twa but inferior to the Tutsi. Adolphus Frederick, Duke of Mecklenburg, wrote in 1910 that the Hutu "are a medium-sized type of people whose

\(^{65}\) See Mamdani (2001) for an account of how interpretations of the relationship between Hutu and Tutsi have since colonial times been framed in political terms. From his assessment of the anthropological and other evidence for the two main schools of thought concerning the origins of Hutu and Tutsi, Mamdani (2001, pp. 73-75) concludes that they are historical and political identities that have changed over time in relation to changes in power but are descended from one cultural identity.

\(^{66}\) Although up to 1 million Tutsi were killed during the genocide in 1994, the relative proportion of Hutu and Tutsi in the population has remained virtually unchanged because of the subsequent return of Tutsi refugees (Gourevitch, 1998, p. 230).
ungainly figures betoken hard toil, and who patiently bow themselves in abject bondage to the later arrived yet ruling race, the Tutsi.” (Lemarchand, 1970, p. 19). In 1948 a Belgian doctor described the Hutu as “possessing all the characteristics of the negro: flat noses, thick lips, low foreheads, brachycephalic skulls. They are like children, shy and lazy and usually dirty” (quoted in Destexhe, 1995, p. 39).

The remaining 14% of the population were the cattle-herding Tutsi. The Tutsi were described as much taller and thinner, with sharp, angular facial features and a somewhat regal appearance that led the European invaders to conclude that they were of a different and superior racial stock to the local Hutu peasants (Prunier, 1995, p. 5). Mecklenburg said of the Tutsi that “they possess that same graceful indolence in gait which is peculiar to Oriental peoples, and their bronze-brown skin reminds me of the inhabitants of the more hilly parts of northern Africa. Unmistakable evidence of a foreign strain are betrayed in their high foreheads, the curve of their nostrils, and the fine, oval shape of their faces.” (Lemarchand, 1970, p. 18). The same Belgian doctor referred to above wrote of the Tutsi in 1948 that they “are 1.09 metres tall. They are slim. They have straight noses, high foreheads, thin lips. The Hamites [or Tutsi] seem distant, reserved, polite and refined” (quoted in Destexhe, 1995, p. 39).

The hypothesis was developed that the Tutsis were descended from nomadic pastoralists who had migrated from the north, most probably from southern Ethiopia, and conquered the indigenous Bantu societies in the fifteenth century (Destexhe, 1995).\(^\text{67}\) Lemarchand (1970, p. 18) reports that the physical features of the Tutsi suggested an ethnic link with

\(^\text{67}\) The British explorer J. H. Speke first suggested this theory in 1863 based on his observations of Rwandans from a vantage point in Tanzania, and references to it continued until at least 1945 (Destexhe, 1995, p. 86).
the Galla tribes of southern Ethiopia and extended racial links to peoples in the Middle East and Europe.\textsuperscript{68} According to this “Hamitic hypothesis” the Tutsis were one of the African tribes descended from Noah’s son, Ham, who along with his descendants was cursed after seeing his father naked, their colour being a result of the curse (Destexhe, 1995, pp. 37-8). The other “blacks” (including the Hutu of Rwanda), meanwhile, were classified according to their physical characteristics (such as skin colour and skull shape) as different (and lesser) human beings not descended from Noah.\textsuperscript{69}

The ideology of ethnicity or “Hamitic hypothesis” was used by the German and Belgian colonisers to explain what they perceived to be the superiority of the Tutsi group and to justify their favoured treatment (Klinghoffer, 1998, p. 7).\textsuperscript{70} The theory of Tutsi superiority was also adopted by the church as it was consistent with its claim that all the peoples of the earth are descended from Noah, and the Roman Catholic Church was quite influential in the Belgian decision to give preference to the Tutsi (Destexhe, 1995, pp. 38 & 40).\textsuperscript{71} In a strange twist, the Hutu extremists used the Hamitic hypothesis to justify the killing of Tutsis during the Rwandan genocide by referring to them as outsiders and invaders who should return to Egypt from whence they came.

The anthropologist Jacques-Jean Maquet and other social scientists who studied Rwanda in the 1940s and 1950s were responsible for reinforcing the early European

\textsuperscript{68} The Galla or Oromo were a nomadic Cushitic group from Abyssinia (Ethiopia) traditionally linked with the monarchic institution (Prunier, 1995, p. 7).

\textsuperscript{69} This racist categorisation of peoples based on ‘objective’ criteria that was developed from social Darwinism during the twentieth century was also used as an ideology to support the killing of Jews and other ‘lesser human beings’ during the Nazi Holocaust.

\textsuperscript{70} According to Rwandan Ntaganzwa-Rugamba (1999), the “tutsi Ethiopian/caucasian myth is one of the most tragic misrepresentation and misinterpretation of African culture, deliberately falsified by colonial powers as part of their plan to discredit, to ridicule the Africans and to confuse western public”.

\textsuperscript{71} Later, however, under social pressure from home, the Belgian church in Rwanda reversed its position and supported the Hutus in their struggle against Tutsi domination.
theories that the ethnic and class stratification between Hutu and Tutsi was a fixed feature of traditional Rwandan society. To the colonisers, it seemed the minority Tutsi pastoralists held political power and controlled the sources of wealth, and exploited their Hutu subjects (Newbury, 1988, p. 3). However, the situation was much more complex than that.

According to Lemarchand (1970, pp. 19-20), Rwandan society was highly centralised prior to colonisation. However, while the south of the country was dominated by a single Tutsi monarchy (the ‘mwami’, who was revered as a divinity, absolute and infallible, Gourewitch, 1998, p. 49), the north was still ruled by several Hutu kings (Sibomana, 1999, p. 81). The amalgamation of autonomous chieftaincies into a small nuclear kingdom centred around Kigali under the leadership of a royal clan (the Tutsi monarchy) probably took place in Rwanda during the fifteenth century (Lemarchand, 1970, p. 19). This was followed by a period of expansion involving the gradual incorporation of outlying areas, with the last of the small Hutu kingdoms not being annexed until the early 1920s (Lemarchand, 1970, p. 21). The Tutsi dynasty had gradually defeated the Hutu kings and chiefs since the seventeenth century, but it was the European invaders, and especially the Christian missionaries (the “White Fathers”), who reinforced the Tutsi lineage as the most important and formalised the centralisation of political control under the Tutsi King, Mwami Yuhi Musingwa (Destexhe, 1995, p. 40; Prunier, 1995, p. 19; Sibomana, 1999, pp. 81-2).

The Tutsi as a group most probably acquired economic and hence political power using the ownership of cattle as a lever (Lemarchand, 1970, p. 19). The Tutsi possessed
ubuhake – the right to own cattle – which was passed down from father to son (Destexhe, 1995, p. 39). This ensured their socioeconomic and political domination over the Hutu who, like the Twa, were required to sell their labour and agricultural produce in return for protection from the chief (who was usually a Tutsi). The ownership of cattle thus formed the basis of a clientage system in which reciprocal bonds of loyalty were built up through the exchange of commodities and services between patron and client (Lemarchand, 1970, p. 36). Tutsi would generally provide their Hutu clients with cow’s milk and access to pasture land, as well as protection, in return for labour and agricultural produce. However, as Lemarchand (1970, p. 37) points out, the roles of patron and client were not mutually exclusive, and the client-patron relationships “formed a web of reciprocities embracing a wide segment of the population”. The relationship between Tutsi and Hutu could thus be seen as more symbiotic than exploitative.

Although the social and political structure of pre-colonial Rwanda has been described as feudal, this does not imply that the relationship between the aristocracy and peasants was fixed as in Europe in the twelfth century. As argued by Grimes (1975), Maquet’s depiction of Tutsi as a class or caste ruling over Hutu was inconsistent with the indications that some Tutsi were “commoners” and some Hutu were chiefs. The ideology that Tutus were “born to rule” should arguably be replaced by one that identifies Tutsi as “born fit for a special, ritual association with cattle, Hutu were born to be agriculturalists and Twa – hunters” (Grimes, 1975, p. 55). The categories of Hutu and Tutsi were fluid: a Hutu could become a Tutsi by acquiring cattle or becoming a chief, and a Tutsi could become a Hutu by losing his cattle-owning status and turning to
cultivation (Watson, 1991, p. 3). However, as soon as he acquired cattle or became a chief of sufficient power, a Hutu was reclassified as a Tutsi — "they are absorbed into the upper caste. Their Hutu origins are ‘forgotten’" (Lemarchand, 1970, p. 39). Therefore, as argued by Lemarchand (1970, p. 39), the Hutu as a group "were inevitably destined to remain in an inferior position. A Tutsi could be both a client and a patron; but a Hutu could only be a client." As explained by Mamdani (2001, p. 75), "to be a Tutsi was thus to be in power". In Rwanda, ethnic identities have tended to "coalesce with class differences" (Lemarchand, n.d.).

The Tutsi were thus "not strictly a hereditary group but socially defined; for given the clientage system and intermarriage, Hutu could become Tutsi." (Grimes, 1975, p. 66)\(^{72}\) Intermarriages were possible, if not common, and the tracing of ethnic heritage could be arbitrary as Rwandans do not normally carry family names (Feil, 1998, p. 34). Furthermore, many Tutsi were in a similar position economically to the Hutu, and often did not own cattle, but socially these "*petits* Tutsi" retained the privileges afforded to the rich Tutsi but not to the Hutu (Mamdani, 2001, p. 74). The strong identification as a socially oppressed group was not developed by the Hutu until the era of European colonialism that overwhelmingly favoured the Tutsi group thereby transforming the structure of domination to one of blatant exploitation (Newbury, 1988, p. 6). Perhaps most significantly, the Belgian colonisers introduced the ethnic identity card system that not only created fixed categories of Hutu and Tutsi, but was also used by the *génocidaires* in 1994 to identify their victims according to their ethnicity.

\(^{72}\) As further support for the idea that there is a history of Rwandans exchanging identities, Keane (1995, p. 11) claims that the leader of the *Interahamwe* militia, Robert Kajuga, was a Tutsi whose father had succeeded in changing the family’s identity to Hutu.
Many Rwandans, commentators and historians (such as Klinghoffer, 1998 and Destexhe, 1995) maintain that Hutus and Tutsis have the same cultural traditions. Destexhe (1995, p. 36), for example, claims that: “It would be extremely difficult to find any kind of cultural or folkloric custom that was specifically Hutu or Tutsi.” However, my experience observing and talking with Rwandans suggested that there may indeed be cultural distinctions that are being deliberately downplayed, especially by the current Rwandan government. For example, when I was attending a conference dinner in the US sitting with a group of Rwandans (all Tutsi), one of them confessed to me that the dance they were performing was only done by Tutsis; it was not part of Hutu cultural traditions. This observation is consistent with a claim by Sibomana (1999, pp. 83-4) that Hutu and Tutsi children are told different stories in the evenings, and that a particular type of war poetry exists in Tutsi but not Hutu culture. Sibomana (1999, p. 84) also refers to differences in attitudes towards sexual modesty between the three Rwandan ethnic groups.

The fact that Sibomana was a Hutu, while my informant was a Tutsi, suggests that their claims may be authentic and not simply reflections of the political positions being taken by their respective ethnic groups. The current Rwandan (Tutsi) government position is to minimise ethnic differences, which is consistent with my Tutsi informant’s apparent reluctance to admit this cultural difference: a secret, not something she should be telling me. The current Hutu position, meanwhile, is to emphasise ethnic differences. Sibomana is thus following the Hutu position, my informant was breaking the Tutsi position, and Destexhe (a Belgian) was supporting the Tutsi position.

73 In June 2001 I spoke with a Hutu refugee in the US who reinforced the idea of ethnic differences. He specifically mentioned differences in eating habits.
The significance of physical differences between Hutu and Tutsi has also been challenged by Rwandans themselves and in recent times, by foreign commentators. Intermarriage has tended to blur the physical differences to some extent, resulting in many exceptions to the stereotypical picture of a Hutu or Tutsi. And yet most of the Rwandans I encountered took special care to tell me that while it was impolite to enquire if someone was a Hutu or a Tutsi, they considered it to be a social skill to deduce from the interaction the ethnic group to which the other belonged. In other words, in the absence of a clear physical distinction, there were other social and language clues that would unequivocably identify someone as either a Hutu or a Tutsi. This was a skill I endeavoured to learn as part of my interviewing technique, and I did generally find it possible to pick the ethnic identity of a Rwandan from their physical appearance, using other clues from the conversation to confirm this first impression.

This approach is contradicted to some extent by other Rwandans who say it is not possible to tell whether someone is a Hutu or a Tutsi. For example, a Rwandan was quoted by Gourevitch (1998, p. 50) as saying: “We can’t tell us apart. I was on a bus in the north once and because I was in the north, where they [Hutus] were, and because I ate corn, which they eat, they said, ‘He’s one of us’. But I’m a Tutsi from Butare in the south.” Both Gourevitch’s informant and most of my interviewees were Tutsi, which suggests that some of my interviewees might have been following a political line in asserting the certainty of ethnic differences. On the other hand, there may simply be legitimate differences in opinion on this issue not related to politically correct ethnic positions.
I mentioned earlier the hierarchical nature of Rwandan society. More precisely, it is a strong respect for authority and consequent tendency to conformity that is seen as typically Rwandan by a number of commentators including Prunier (1995) and Gourevitch (1998). This observation is supported by Lemarchand’s characterisation of pre-colonial Rwandan society as unusually highly centralised politically, with strongly hierarchical patterns of authority. The “mwami” was the source and symbol of authority, and was served by a triple hierarchy of army chiefs, land chiefs, and cattle chiefs (1970, p. 27). This strong pre-colonial tradition of unquestioning obedience to authority was reinforced by the German and Belgian colonial administrations. Gourevitch (1998, p. 23) refers to the comments of a lawyer from Kigali whose father was Hutu and whose mother and wife were Tutsi:

Conformity is very deep, very developed here. In Rwandan history, everyone obeys authority. People revere power, and there isn’t enough education. You take a poor, ignorant population, and give them arms, and say, ‘It’s yours. Kill.’ They’ll obey. The peasants, who were paid or forced to kill, were looking up to people of higher socio-economic standing to see how to behave. So the people of influence, or the big financiers, are often the big men in the genocide. They may think that they didn’t kill because they didn’t take life with their own hands, but the people were looking to them for orders. And, in Rwanda, an order can be given very quietly.

My interviews with Tutsi expatriates in Canada supported the perception that the rural Hutu were less educated and more likely to follow orders without question, thereby
contributing to their capacity to kill without remorse (see later discussion in section 5.6.2).\textsuperscript{74}

In summary, the pre-colonial history of Rwanda reveals a succession of inter-clan fighting and expansion of a dominant ruling class over a bonded labour class in a feudal system of clientage. Indistinguishable in terms of language and religion, but identifiable by their different physical appearance and occupational ties, the predominantly cattle-owning Tutsi achieved political domination over the majority Hutu agriculturalist population during the 15\textsuperscript{th} – 19\textsuperscript{th} centuries. However, this relationship was by all accounts more symbiotic than exploitative. The categories of Tutsi and Hutu were treated as interchangeable according to a person’s status rather than being seen as a fixed ethnic identity. Intermarriages were possible, if not common. There was a strong feeling of national unity.

The inter-ethnic hatred and cycles of violence and revenge between the two groups that we see today did not begin until the end of the colonial era, but the seeds were sown in the “double-edged aspect of the clientage system” and the development of a superiority/inferiority relationship between Tutsi and Hutu (Lemarchand, 1970, pp. 43-44). According to Kamukama (1993, p. 25), “the people of Rwanda were subjected to both monarchical and colonial exploitation and oppression” that fuelled the revolution and subsequent cycles of violent conflict. Mamdani (2001, p. 74) also argues that the Hutu and Tutsi “emerged as state-enforced identities” derived from their history of state centralisation and changes in clientship “that led to the social degradation of the Hutu”.

\textsuperscript{74} See, for example, Fromm (1941) who explained the psychology of Nazism using the concepts of authoritarianism, destructiveness and automation conformity.
According to Lemarchand, the clientage system not only created “a web of inter-caste solidarities”, it also created “the conditions of its rupture” by seeming to reinforce social and political inequalities between Hutu and Tutsi (pp. 40-41). Furthermore, “submissiveness and self-doubt remained the most enduring characteristics of Hutu behaviour” and resulted in pathological extremes of violence that could be “regarded as the blind reaction of a people traumatised by a deep and lasting sense of inferiority.” (Lemarchand, 1970, pp. 43-44). Lemarchand was here referring to the violence that he witnessed being perpetrated by Hutu against Tutsi during 1963-64, which he said had been “described as an act of genocide” (p. 44). The observation could equally well apply to the scale of violence again perpetrated by the Hutu against Tutsi in the civil war of 1993 and the subsequent genocide of 1994.

5.2 *European Colonisation and the Entrenchment of Ethnic Divisions (1885-1959)*

Rwanda was colonised relatively late due in part to the inaccessibility of the region, and to the “ferocious exclusiveness” of the Rwandans that repelled even the slave traders (Gourevitch, 1998, pp. 53-4). The first European explorers arrived in Central Africa in the mid-nineteenth century, and in 1885 a conference of major European powers designated Rwanda and Burundi as provinces of German East Africa. The first European to enter Rwanda was a German count named von Götzén. He visited the royal court in 1894. The following year the long-reigning Mwami Rwabugiri died and as Rwanda fell into political turmoil, the Germans set up administrative offices and a
system of indirect rule over the combined territory of Ruanda-Urundi. The feuding Tutsi clan leaders collaborated with the German colonisers in return for patronage and support for the system of political dominance over the Hutu majority. The German system of indirect rule “reinforced the absolutism of the monarchy, and hence the hegemony of the ruling caste.” (Lemarchand, 1970, p. 62) In this way the Tutsi chiefs were able to take over most of the remaining Hutu kingdoms.

Following the defeat of Germany in World War I the colony became a trustee territory of Belgium administered under a League of Nations mandate, and after World War II as a United Nations Trust Territory. As in other parts of the world, Belgium followed the colonial strategy of “divide and rule”, reinforcing the division between Tutsi and Hutu. Legitimacy was favoured over violence, whereby the Belgian administration operated through the Tutsi kings as the “prime legitimisers of Belgian colonial policies and practices” (p.66).  

According to Lemarchand (1970, pp. 71-2), the policies of indirect rule meant the Belgians had little understanding of the Rwandan triple hierarchy and its stabilising role in society. When the Belgians decided to abolish the army chiefs from the traditional power structure they disturbed the balance of power and through the suspension of the military code enabled “all the abuses associated with the ‘buhake’” (p. 72). The army chief had traditionally acted as the public defender, and in his absence the system

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75 Whilst sharing a similar language and ethnic composition, Burundi and Rwanda existed as separate kingdoms before colonial rule, and separate independent states since 1 July 1962. The two kingdoms were amalgamated under colonial rule as Ruanda-Urundi. (Lemarchand, 1970, p. 1; Gourevitch, 1998, p. 53).
76 Contrast this with the fate of the colonised peoples of neighbouring Congo who were terrorised and murdered during the reign of Belgium’s King Leopold (Hochschild, 1999). At this time Ruanda-Urundi was still under German control.
became more authoritarian, and the Tutsi king became more dependant upon "the will of an alien power" (p. 72). The introduction of native tribunals by the Belgians in 1936 served to further entrench the power of the Tutsi elite as they used them to "legitimise abuses and wrong-doings" rather than to dispense justice (Lemarchand, 1970, p. 76).²⁷

The Belgian administrative reforms also resulted in the deposing of most of the remaining Hutu chiefs and the introduction of identity cards that had the effect of fixing the formerly fluid ethnic categories of Hutu and Tutsi. However, the allocation of identity cards by the Belgians was somewhat arbitrary, with those possessing at least ten head of cattle being considered Tutsi (Klinghoffer, 1998, p. 6). The ethnic category of the whole family was determined by that of the father, and many Hutu chiefs were redefined as Tutsi in line with the Belgian preference for Tutsi rule.

As previously mentioned, the Belgians regarded the Tutsi as superior and used the Hamitic hypothesis as justification for their discrimination in favour of the Tutsi minority. They ruled indirectly through the existing power structure of the Tutsi aristocracy and gave preferential treatment to the Tutsi in terms of education, employment and political office. The lower level of school participation and university education enjoyed by the Hutu under colonial rule reinforced their lower socioeconomic standing in Rwandan society. The Belgians used the Tutsi as the administrators of their harsh policies and the Hutu became increasingly resentful — not of their colonial masters, but of the Tutsi monarchical system. The Tutsi, meanwhile, became more

²⁷ It is interesting (and instructive in the light of backlogs in the dispensing of justice for the alleged genocide perpetrators currently being held in Rwandan jails) to note that by 1949 the Mwami's tribunal was faced with a backlog of some 900 untried cases, with an average of sixty cases being handled each year (Lemarchand, 1970, p. 76). According to Lemarchand (1970), it was clear that justice was being grossly miscarried in Rwanda during the latter part of the Belgian colonial administration.
attached to the idea that they were the superior ethnic group and deserved to be in power.\textsuperscript{78}

An important aspect of the growing resentment between the Hutu and Tutsi has been attributed to the lack of natural resources, high population density and subsequent poverty and hardship that was not equally shared (Lemarchand, 1970, p. 15; Uvin, 1998). The Hutu revolution that secured Rwandan independence was largely driven by economic grievances and the struggle for access to the means of production (Newbury, 1988, p. 213). For the majority of the population, ethnicity and class overlapped: “most of the people who were poor and exploited were categorized as Hutu” (Newbury, 1988, p. 213). There were Hutu professionals who were better off, and not all Tutsi were rich and powerful. But by the end of colonial rule a strong ethnic awareness had been developed (at least among the elite) and the Hutus as a group were generally regarded as inferior or subordinate.

The European missionaries also supported the Tutsi power structure and, after converting the Tutsi chiefs to Christianity, used them to convert the Hutu masses. The influence of the Roman Catholic Church in Rwanda gradually increased, while the role of the monarchy was diluted by the policies of the colonisers. Rwanda experienced an unusually high conversion rate, with almost 65% of Rwandans having joined the

\textsuperscript{78} According to my Hutu informant in the US, the Tutsi had always regarded themselves as superior, as illustrated by two myths – one (Ibimanuka) about the sky and the other (Gihanga) about the collection of pots of milk. I am not sure of the exact stories, nor have I been able to confirm these myths from other sources. However, as I remember it, the latter myth told of how the Tutsi collected and carried the milk successfully, the Hutu stole the milk, and the Twa broke the pot and spilled the milk, thus illustrating the stereotypes of the three groups as clever (Tutsi), untrustworthy (Hutu) and stupid or clumsy (Twa).
Catholic Church by the end of the colonial era.\textsuperscript{79} Towards the end of colonial rule, it was the Church, led by a new generation of socially progressive missionaries, that began to educate the Hutus thereby producing the first generation of Hutu intellectuals. Under the influence of this “Christian socialism” now spreading throughout Europe, the Belgian Church in Rwanda began to support the Hutus in their quest for emancipation, and the Tutsi gradually lost their religious as well as political authority in Rwanda.

5.3 \textit{Civil War and Revolution (1959 – 1962)}

During the latter part of their rule, the Belgians responded to pressure from the United Nations and the Catholic Church, and began to open up the political and socioeconomic system to the majority Hutu. The Hutu ascendancy of the 1950s and 1960s was encouraged by the Belgians in a policy turnaround that saw the establishment of political parties and more democratic elections. Belgian policy now sought to bring an end to the feudal system of clientage, but the policies of democratisation were, according to Lemarchand (1970, p. 79), “a classic example of ‘too little and too late’”. From 1952 to 1959, a period of limited constitutional reforms resulted in the introduction of advisory councils at each level of the administrative hierarchy. From 1959 to 1962 accelerated democratisation policies led to the establishment of popularly elected organs of government at both local and central levels, and ultimately to the independence of each territory as a separate political entity (Lemarchand, 1970, pp. 80-1).

\textsuperscript{79} At the time of the genocide in 1994, the percentage of Christians in Rwanda had reportedly risen to 95%, with 85% belonging to the Catholic Church.
At the same time, the Belgians allowed Hutu riots against the authority of the Tutsi chiefs to escalate into full-scale civil war, and the first of thousands of Tutsi refugees began flowing into the neighbouring countries of Uganda, Burundi, Tanzania, and former Zaire. In the midst of the bloodshed of civil war, the Hutus attained political control within the colonial framework. Following the death of the Mwami Mutara III in July 1959 and expulsion of his successor, Kigeri V, with Belgian approval, the Tutsi monarchy of four centuries came to an end. The Hutu shed their loyalty for the Mwami in a political backlash against the monarchical system of exploitation that had been encouraged by the colonial powers, and Hutu extremists adopted the Hamitic hypothesis as justification for labelling the Tutsi as outsiders who should be expelled or killed.

The growing resentment and cycles of violence between Hutu and Tutsi could thus be blamed on the Belgian colonisers, both because of their policy of 'divide and rule' and because of their switch in ethnic group loyalty that supported a reversal in power relations between the two groups. And yet, as explained by Sibomana (1999, p. 87), the Hutu and Tutsi should not be completely absolved of their responsibility in the ongoing power struggle and ethnic violence:

If power had not been given in its entirety to one group (the Tutsi) to the detriment of the other two groups (the Hutu and the Twa) and if, subsequently, it had not been taken away in its entirety from that group and handed over in its entirety to another group (the Hutu), we might have been able to avoid a genocide ... The Belgian settlers implanted racist stereotypes which we were not able to shake off. But the responsibility of these settlers
should not obscure the responsibility of Hutu and Tutsi extremists who, one after the other and each in their own way, exploited these stereotypes which served the purposes of their struggle to conquer or to hold onto power.

The Hutu revolution in Rwanda was extremely violent and was driven as much (if not more) by the internal conflict between Hutu and Tutsi as by the conflict between colonial society and the coloniser (Lemarchand, 1970, p. 81). Nationalism was more of a by-product rather than a cohesive force for independence from the colonial power. According to Lemarchand (1970, p. 95), the Hufu revolution was a “long and painful enterprise, which may not have succeeded without the auxiliary support extended by the Belgian administration to the insurgents.” The Hufu were not, at that time, a united group, and could not all be classified as “peasant” due in part to their limited upward social mobility. In fact, Lemarchand (1970, p. 95) argues that the revolution was led by the higher level Hufus of the northern region who remained a political force despite the superimposing of Tutsi rule. The traditional social stratification of the northern Hufu subculture again came to the fore in the politics of the civil war of 1993 and genocide of 1994 led by the northern Hufu elite.


The Hufus, encouraged by the Belgians in a policy reversal, had rebelled. Following the civil war and revolution, Rwanda achieved its independence and became a republic under Hufu leadership on 1 July 1962. During the civil war, an estimated 20,000 Tutsi
were killed and approximately 200,000 Tutsi fled the country and became refugees in neighbouring Uganda, former Zaire, Tanzania and Burundi.

The first president of Rwanda following independence was Gregoire Kayibanda, a Hutu from Gitarama in the south-central region of the country. He belonged to the Parmehutu party that became institutionalised in 1965 with the establishment of a one-party state. However, in July 1973 the defence minister, Major-General Juvenal Habyarimana, took power through the military and created a new one-party system with the formation of the Mouvement Révolutionnaire National pour l'É Développement (MRND) in 1975. Habyarimana came from Gisenyi prefecture in the northwest. Following his takeover, 40 southern politicians associated with the former regime were killed in jail (Klinghoffer, 1998, p. 8). This shift in power to the Hutu of the north was to last until the civil war and genocide of 1994.

The Hutu governments of Kayibanda and Habyarimana maintained the ethnic identity system instituted by the Belgians and initiated a policy of discrimination against the minority Tutsi population in retaliation for the years of subjugation under Belgian/Tutsi rule. The Habyarimana government also introduced a quota system that discriminated against Hutus from the south. Hutus from the north received 60% of university places and civil service positions, while Tutsis were limited to 9% and were excluded from the military (Klinghoffer, 1998, p. 8). A social hierarchy was formed, with Habyarimana and his wealthy Hutu business associates at the top of the pyramid, followed by the northern Hutu, southern Hutu, Tutsi, and Twa at the bottom. By 1994 the number of Rwandan Tutsi living outside the country had risen to almost 500,000. Only one of the
eleven Rwandan prefects was a Tutsi, and none of the 143 bourgemasters (Klinghoffer, 1998, p.8).\textsuperscript{80}

The Tutsis of the diaspora tried on several occasions to return by force, but each time the Hutu government responded with anti-Tutsi pogroms, further discrimination and quotas. There was a complete purge of Tutsis from universities in 1973 along with further killings which resulted in another major outflow of refugees. The Habyarimana regime, citing Rwanda’s problem of chronic overpopulation, would not repatriate these refugees (Gourevitch, 1998, p. 73). During this period of discrimination, violence and exile under Hutu rule, the ethnic identities of Hutu and Tutsi and cycles of revenge became entrenched. A culture of impunity also became the norm, as the Rwandan government failed to bring to trial or prosecute anyone for the Tutsi massacres (Gourevitch, 1998, p. 94). An emphasis on the underlying ‘tribal’ nature of the killings was used by the government to satisfy any concerns expressed by the international community (Des Forges, 1999, p. 91).

Between 1973 and 1990 there was a period of relative calm within Rwanda, but the ethnic tensions continued to grow as the Tutsi faced the limitations of institutionalised discrimination and their fellow Tutsis remained in exile in neighbouring countries. Both the Hutu and Tutsi also began to develop historical memories of those who were killed in the civil war and massacres. The fear of the other based on these ‘chosen traumas’

\textsuperscript{80} Based on the system set up by the Belgian colonial power, Rwanda is divided politically and geographically into 11 regions or prefectures, each headed by a prefect. Local government areas are headed by bourgemasters.
reinforced the growing interethnic hatred (Volkan, 1997). Added to this could have been the "bitter memories" harboured by the northern Hutu of their brutal suppression "by the Germans and their Tutsi allies" which helped to foster such strong nationalism in the northern part of the country (Keane, 1995, p. 17).

Population growth and deteriorating economic conditions triggered by falling coffee prices and bad weather resulted in food shortages, adding to the political and ethnic tensions within Rwanda. These tensions were exacerbated even further when, on 1 October 1990, the Rwandan Patriotic Front launched its first offensive from Uganda. The Hutu population of Rwanda reacted by uniting behind their President, and supporting the anti-Tutsi pogroms incited by Habyarimana.

The Tutsi exiles and Hutu dissidents resident in Uganda had formed the Rwandan Patriotic Front (RPF) in 1988 with the aim of removing Habyarimana and allowing the return of Rwandan refugees (both Hutu and Tutsi) to their homeland. The RPF, whilst originating in Uganda, was supported by Tutsi exiles in the former Zaire, Burundi and Tanzania. Although predominantly Tutsi, the RPF did include Hutu, did not focus on ethnicity, and did not call for the reestablishment of the Tutsi monarchy (Klinghoffer, 1998, p. 14). Led by Major-General Fred Rwigyema until his death in battle, and later by Major Paul Kagame, the RPF launched several attacks on Rwanda between 1990 and

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81 Volkan (1997, p. 48) uses the term ‘chosen trauma’ to describe “the collective memory of a calamity that once befell a group’s ancestors”. According to Volkan, it is “more than a simple recollection; it is a shared mental representation of the event, which includes realistic information, fantasized expectations, intense feelings, and defenses against unacceptable thoughts”.

82 My Hutu informant in the US maintains that this claim that the RPF was not exclusively Tutsi was only for ‘public relations’ purposes.
1993. The Hutu government\textsuperscript{83} conducted periodic massacres of Tutsis in Rwanda in retaliation for the RPF invasions.

The Belgians withdrew their support from the Hutu government in 1990 and the vacuum was filled by the French who became identified with the Hutu majority.\textsuperscript{84} The Tutsi-led RPF was supported by anglophone Uganda while the Hutu majority were supported by the French-speaking Democratic Republic of Congo (former Zaire) (Feil, 1998, p. 35).

5.5 \textit{Civil War, the International Community and Arusha Peace Agreement} \\
\textit{(1990-1993)}

At the same time as the RPF was exerting military pressure on the Habyarimana regime, the international community was pressuring the Rwandan government to introduce political reforms. In July 1990, Habyarimana announced that multiple political parties would be legalised and that a commission would be established to draft a new constitution. He also promised to remove ethnicity from identity cards. Whist the latter promise was never fulfilled, the new constitution was introduced in June 1991 and the first coalition government was formed in December. Amongst the new parties was the Mouvement Democratique Republican (MDR), the successor to Parmehutu, and the Hutu extremist Coalition pour la D\'efense de la Republique (CDR).

\textsuperscript{83} It should be pointed out that the so-called 'Hutu' government was dominated by northern Hutus, and southern Hutus did not necessarily see themselves as being represented by the Habyarimana government (personal communication, Hutu refugee living in the US).

\textsuperscript{84} See Callamard (1999) for an assessment of French policy in Rwanda including its responsibility for failing to prevent, if not actively supporting, the genocide in 1994.
The Rwandan government was also engaged in negotiations with the RPF under the auspices of regional governments, primarily Tanzania. Known as the Arusha process, these negotiations resulted in two ceasefire and power-sharing agreements being signed in October 1992 and January 1993. However, the extremist Hutu groups were not represented at these negotiations. Under the agreements, the RPF and MRND would receive five out of 21 ministerial posts, while the MDR would receive three plus the post of Prime Minister. Several other parties were also to be included, but not the Hutu extremist CDR. The role of President was to be weakened, but Habyarimana was entitled to retain his position during a transitional period. The ceasefire agreements did not hold, however, while negotiations on military issues, refugees and the proposed transitional government continued at Arusha.\(^{85}\)

The civil war coincided with economic decline in Rwanda. Foreign aid donors imposed a structural adjustment program that included reducing the civil service, freezing salaries, lowering government spending and increasing exports. These austerity measures, combined with the effects of the war and poor management practices, contributed to a declining standard of living. Famine in the southern regions exacerbated the hardships, and levels of refugees and internally displaced people increased throughout Rwanda. These conditions made it more attractive for young Hutu men to join the army and militias, and created an environment conducive to ethnic propaganda against the former elite Tutsi group. At the same time, the failure of the

Rwandan government to resolve the refugee issue was a major impediment to ending the civil war (Kamakuma, 1993, p. 59). 86

Hutu extremism grew in opposition to the RPF military invasions and democratisation and power-sharing proposals. Fears regarding the decline of MRND political dominance triggered the formation of the MRND’s Interahamwe militia, as well as the CDR’s Impuzamugambi militia. 87 Propaganda against the ‘Hamitic invaders’ became blatant, and the Hutu Ten Commandments were published in December 1990 calling for Hutu domination of political and economic positions, an exclusively Hutu army, and guidelines against mixed marriages and Hutu-Tutsi business partnerships (see Table 5.1). 88 From as early as 1990, over a dozen newspapers in Kinyarwanda and French that “systematically exploited ethnic hatred” had begun to appear (Human Rights Watch/Africa, 1996, p. 16).

The activities of the Interahamwe, including death squads, were publicised in Europe as early as October 1992. In January 1993, an International Commission of Inquiry into human rights abuses in Rwanda called for the disbandment of the Interahamwe militia and withdrawal of international military assistance to both the government and RPF (Klinghoffer, 1998, p. 22). The Radio Télévision Libre des Mille Collines (RTLM), founded by relatives and associates of Habyarimana in July 1993, began broadcasting anti-Tutsi and anti-Arusha process messages that became increasingly inflammatory.

86 Writing in 1993 during the Arusha peace negotiations, Kamakuma (1993, p. 59) maintained that peace and reconciliation in Rwanda could be hastened by the Rwandan government accepting the refugees as their responsibility, and by an international effort to support Rwanda on the road to economic recovery.
87 According to my Hutu informant in the US, the extremist militia groups were formed as a reaction to the creation of youth movements such as the Inkuba, or Jeune Democrats, and the Jeune Liberaux.
88 The Hutu Ten Commandments were published in the Hutu paper Kangura (“Wake Up!”) in December 1990. The translation reproduced here (see Table 5.1) was published in Power (2002, pp. 338-39).
leading up to the genocide in April 1994.\textsuperscript{89} A speech given by Leon Mugesera, vice-president of MRND in Gisenye prefecture, on 22 November 1992 “implied that Tutsi should be killed and recommended that their bodies be thrown into the Nyabarongo River as a means of returning them to their supposed Ethiopian homeland” (Klinghoffer, 1998, pp. 21-22). The Rwandan Minister of Justice, Stanislas Mbonampeka, issued an arrest warrant against Mugesera for inciting hatred, but instead of going to jail Mugesera received protection from the army and then emigrated to Canada, while Mbonampeka was dismissed from his post as Justice Minister (Gourevitch, 1998, p. 97).

Approximately 6,500 Rwandans were killed in the civil war. However, against all odds, by the end of July 1993 the country appeared to be relatively peaceful, an African peacekeeping mission was in place (NMOG, the Neutral Military Observer Group) and the UN had dispatched an observer mission (UNOMUR, UN Observer Mission Uganda-Rwanda). Habyarimana was never fully aligned with the Arusha process, but under pressure from the international community, the Arusha Peace Agreement was formally signed in August 1993 and the UN agreed to send a peacekeeping mission by 11 September.

\textsuperscript{89} Again, my Hutu informant maintains that the Radio Télévision Libre des Mille Collines was created to counter the influence of Radio Muhabura, the radio of the RPF. I have been unable to verify these arguments that Hutu groups were specifically formed as a reaction to the formation of Tutsi groups, indicating that the literature on the genocide (at least in English) is seemingly biased in favour of the Tutsi position. My Hutu informant was very angry about this, and determined to educate me about the full picture. The truth is probably somewhere in between: the Tutsi were not only the victims, and the Hutu were not only the perpetrators, as the popular media would have us believe. Both groups were victims as well as perpetrators, and this needs to be acknowledged as part of the process of justice and reconciliation. At the same time, the genocide perpetrated by members of the Hutu group and the consequent huge loss suffered by the Tutsi group, also need to be recognised in the interests of justice.
According to the peace accord, the Rwandan Army (FAR) and the Rwandan Patriotic Army (the RPF military wing) were to be integrated on a 60:40 ratio basis, and an RPA battalion was to be stationed in Kigali to protect RPF members of the new transitional government. Again, ethnic identifications on documents were to be eliminated, but this was never implemented. The United Nations Assistance Mission for Rwanda (UNAMIR) was not established until October (Security Council Resolution 872) and the withdrawal of French troops was consequently delayed until December.\(^9\) This belatedly paved the way for the RPF battalion to set up in Kigali by the end of December. The transitional government that was to have been installed by 10 September 1993 was also delayed by the late deployment of UNAMIR, and on 5 January 1994 Habyarimana declared himself president of the non-existent transitional government. The RPF objected to this breakdown in the Arusha peace agreement.

UNAMIR commander, Brigadier-General Dallaire, cabled the UN in New York on 11 January warning about assassination plans aimed at preventing the transitional government from taking power; Interahamwe plans to kill Tutsi in Kigali; and a plot to kill Belgian peacekeepers in order to cause UNAMIR’s withdrawal from Rwanda (Ronayne, 2002, p. 155; Goureевич, 1998). The UN Peacekeeping Office denied Dallaire’s request to seize weapons secreted for use by Hutu militia and instead advised him to share his information with the Habyarimana government and other Western diplomats (Ronayne, 2002, p. 156). Evidence of planning for the Rwandan genocide was actually discovered by UN peacekeepers as early as December 1993 when they received an anonymous letter from Hutu army officers “warning of a plan for

assassinations and massacres" (Ronayne, 2002, p. 155). According to Prunier (1994, p. 238), “all the pre-conditions for a genocide were present: a well-organised civil service, a small tightly-controlled land area, a disciplined and orderly population, reasonably good communications and a coherent ideology containing the necessary lethal potential”.

On 17 February, UN Security Council president Ibrahim Gambari reported on deteriorating security in Kigali and non-compliance with a weapons-free zone agreement. Other warning indications received and ignored by the UN included: information about illicit arms trading and weapons stockpiling; RTLM anti-Tutsi radio propaganda;91; past massacres and assassinations; and political manoeuvring by extremists to undermine the peace process (Berry, 2001; Dorn & Matloff, 2000; Melvern, 2000). Interahamwe violence around the country was increasing, and on 21 February a moderate Hutu, designated to be a minister in the transitional government, was assassinated. Lists of opposition figures were drawn up and plans to kill Rwandans opposed to Habyarimana were revealed (Dorn & Matloff, 2000).

At the same time, international mediation and preventive diplomacy efforts continued. The UN failed to act on the warnings it received of the impending genocide in Rwanda. According to Barnett (1996), UN staff were motivated by self-preservation: they believed they could not afford another failed mission with the loss of civilian lives as had recently occurred in Somalia. It has also been argued that the UN had less incentive to intervene because African lives were not valued as highly as European lives, as

91 According to Berry & Berry (1999, p. 117), the international community in Rwanda “largely ignored its racist and provocative broadcasts before the genocide” because RTLM broadcast in Kinyarwanda.
suggested by the observation that tens of thousands of troops were deployed in Bosnia-Herzegovina while fewer than 300 troops were left in Rwanda (Berry, 2001). The US was reluctant to intervene in Rwanda due to fears of a repeat of the October 1993 Somalia debacle in which 18 American soldiers were killed and 73 wounded in a firefight with militia loyal to Mohammed Aideed (Ronayne, 2002, pp. 163-165). Furthermore, the recently issued US Presidential Decision Directive 25 (PDD 25) discouraged US involvement in UN peacekeeping missions (Ronayne, 2002, pp. 165-167). France, meanwhile, failed to act because of its bias towards supporting the Hutu government (Dorn & Matloff, 2000, p. 43). Berry (2001, p. 11) describes the international community’s “active indifference” to the Rwandan genocide as “one of the worst cases of bystanderism in the history of the United Nations”.

On 5 April 1994, the Security Council renewed UNAMIR’s mandate (Resolution 909) and on 6 April Habyarimana attended a meeting with regional leaders in Dar es Salaam, Tanzania, that appeared to augur well for the peace process. However, as the plane carrying Habyarimana and Burundian president, Cyprien Ntaryamira, approached Kigali airport on the evening of 6 April it was struck by two missiles and crashed, killing all nine passengers and three French crewmen. Responsibility for the crash is still officially unknown and a matter of some controversy, but the impact on triggering the onset of the

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92 See Feil (1998) and Des Forges (2000) for accounts of how the early use of force might have succeeded in saving lives in Rwanda. Kuperman (2001), by contrast, argues the limits of humanitarian intervention even though prevention of the genocide in Rwanda would have been an admirable goal. Dorn and Matloff (2000, p. 44) argue that the Rwandan genocide “definitely could have been foreseen and possibly prevented”. They conclude that the information and resources were available, only the political will was missing.
mass killings by Hutu extremists of Tutsis and moderate Hutus perceived as their political enemies is not in question.\footnote{One explanation is that the downing of the plane carrying Hutu President Habyarimana and the subsequent genocide were orchestrated by Hutu extremists determined to stop the power-sharing agreement about to be implemented by Habyarimana, as well as to eliminate the Tutsis from Rwanda once-and-for-all (Prunier, 1994, p. 225). Alternatively, it has been claimed that the RPA was responsible for shooting down the plane carrying Habyarimana and the Burundian president as part of an RPF plan to attack Kigali and take power in Rwanda (Paul Mugabe, Former Intelligence Officer of the Rwandan Patriotic Army, “The Shooting Down of the Aircraft Carrying Rwandan President”, 21 April 2000, http://www.globalresearch.ca/articles/MUG109A.html). The ICTR is investigating any link between this event and the genocide.}

5.6 The “April Genocide” (April - July 1994)

5.6.1 Preparations and Propaganda

The organisers of the genocide created an exaggerated fear in the Hutu masses in order to mobilise them to kill the Tutsis and their allies. Through a massive propaganda campaign, in which the Tutsi were described as “cockroaches” (\textit{Inyenzi} in Kinyarwanda) to be stamped out, the Hutu population were instilled with the belief that invading Tutsi soldiers would mutilate, kill or even eat them alive (Berry & Berry, 1999, p. 3). Once the genocide began, Radio Rwanda joined RTLM in broadcasting extremist propaganda in Kinyarwanda, describing the Tutsi as “the enemy” and the RPF as “vengeful Ugandans” (Klinghoffer, 1998, p. 45). Hutu were encouraged to “finish the 1959 revolution” and to “gather in the harvest”, “get to work” and “clean around their houses”, all euphemisms for murder and killing. They were urged to “do their
duty” and to “‘fill up’ the half-empty graves with Tutsis” (Berry & Berry, 1999, p. 116).94

Government ministers also played a role in inciting the genocide in speeches and at public meetings. For example, the interim president Sindikubwabo called for the “killing” of accomplices in his hometown of Butare (Klinghoffer, 1998, p. 45). Rwanda’s only Tutsi prefect, the prefect of Butare, was then replaced by a northern Hutu, and the militia and Presidential Guard were brought in to begin the killings in the area.

5.6.2 The Killing Spree and International Withdrawal

During the night of the plane crash that killed president Habyarimana, hit squads killed twelve opposition political figures, including eleven Hutu and one Tutsi. During the day of 7 April, Prime Minister Agathe Uwilingiyimana, a moderate Hutu, was killed by members of the Presidential Guard who also killed the ten Belgian peacekeepers who were protecting her. These and other Hutu were killed on the basis of previously prepared death lists, but Tutsi were slaughtered without such selectivity (Klinghoffer, 1998, p.44). A curfew was imposed at 6 am on 7 April, and on 8 April telephone connections in Kigali were cut and the indiscriminate killing of Tutsi began. Hutu were killed because of their perceived political opposition, and thus southern Hutu were also

94 See Schabas (1999a) and Chalk (1999) for analyses of hate radio in Rwanda and Western responses. Major-General Dallaire claimed that many lives could have been saved if he had been provided with the equipment to jam the transmission of the hate radio broadcasts (Chalk, 1999, p. 101).
indiscriminately targeted, at least at the beginning. The foreign community in Rwanda was evacuated, and the UNAMIR contingent was reduced after the loss of the Belgian peacekeepers.

Militiamen and the Presidential Guard were the main perpetrators, but soldiers of the Rwandan army (FAR) also participated in the killing (Klinghoffer, 1998, p. 44). The Interahamwe were joined by the Impuzamugambi to create a militia force of approximately 30,000. These young militiamen ran riot, setting up their own roadblocks, murdering in return for payment in the form of alcohol from businessmen, and targeting wealthy Tutsi for their houses, cattle and other possessions. Ordinary Hutu also killed for economic gain, or were forced to kill or be killed themselves. According to Human Rights Watch/Africa (1996, p. 14), “many ordinary citizens acted from fear, both fear of the Tutsi whom they had been taught were coming to kill them, and fear of other Hutu who threatened reprisals on any who did not join in the carnage”. Some of the killers were motivated by the desire to take land and property from the Tutsi who were perceived to be more wealthy than the majority of Hutu.

Whole Tutsi families were killed in their homes, sometimes being forced to kill fellow family members before being killed themselves. Tutsi women were often raped and mutilated prior to being killed. Testimonies from survivors confirmed that rape was

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95 My Hutu informant fled Rwanda as a refugee because he was being targeted by the génocidaires on the basis that he was a southern Hutu and had refused to publish extremist propaganda in the media. He managed to escape because his daughter had been born in the US, so she had US citizenship and was able to escape with the departing Americans. He felt very lucky to be alive, and attributed his survival to his daughter’s US citizenship.
extremely widespread (Human Rights Watch/Africa, 1996). To take just one example from the testimony of a 29 year old woman who was living in Kigali with her husband when the killing began and the militia came to their house while they were eating dinner with a group of people:

About ten of them came. They picked two of the women in the group: a twenty-five year old and a thirty year old and then gang-raped them. When they finished, they cut them with knives all over while the other *Interahamwe* watched. Then they took the food from the table and stuffed it into their vaginas. The women died. They were left dead with their legs spread apart. My husband tried to put their legs together before we were told to get out of the house, and to leave the children behind. They killed two of our children. My husband begged them not to kill us, saying that he did not have any money on him, but that he had shoes and second-hand clothes that he sells at the market. He gave them all the clothes. Then, one *Interahamwe* said “you Tutsi women are very sweet, so we have to kill the man and take you”. (Human Rights Watch/Africa, 1996, pp. 45-6)

The woman’s husband was killed and she was taken to the house of the head of the militia and raped, but she eventually managed to escape. This and many even more graphic stories of rape and mutilation were reported by Human Rights Watch/Africa (1996).

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Roadblocks were set up by armed militiamen who killed anyone with a Tutsi identity card, and sometimes even those who looked Tutsi or had no identity card. In this way, those who tried to escape being killed at home faced almost certain death on the road. Those who did manage to escape took refuge in churches and missions. These places had previously been considered safe havens, but this was not to be the case in Rwanda in 1994. One of my interviewees, a teacher who was in Kigali at the time of the genocide, said he “didn’t go to the church, thank goodness, but ran the other way”. Goureivitch (1998) claims that many priests participated in the killings or didn’t do anything to protect the people, although some Hütu priests did provide safe hiding places for Tutsi. According to Prunier (1994, p. 250), although ordinary Christians performed some “admirable acts of courage ... the church hierarchies were at best useless and at worst accomplices in the genocide”. By contrast, Sibomana (1999) defends the church as an institution and maintains there is no proof that priests participated in the killing (pp. 123-4). He acknowledges that many church members did not live up to their “moral, spiritual, political or economic responsibility”, but at the same time, he points out that many priests, nuns and other religious officials were killed during the genocide (p. 123).

Organised groups of armed militia came and massacred Tutsis taking refuge in public places, including churches, missions, the stadium in Kigali, hotels, hospitals and the UNAMIR compound after the UN force had departed. Those who were not killed in the massacres lay still amongst the dead bodies until they were able to crawl out to the hills to hide (Des Forges, 1999, p. 217). In many instances the Tutsi formed organised groups of resistance, the most well-known being the case of Bisesero, “a mountainous
ridge in Kibuye, where Tutsi stood off militia and military from April 8 until July 1” (Des Forges, 1999, pp. 217-218).

Reading and hearing the stories of survivors, it is hard to believe that anyone was able to survive at all. One of my interviewees, a Tutsi woman (R8) with three children related how she had to keep running and hiding, all the time keeping her baby on her back, and was eventually able to seek refuge in the Hôtel des Milles Collines. Some, such as a young female university student whom I interviewed (R4), managed to survive because of the courage of Hutus who hid their Tutsi neighbours until the genocide was over. Abbé Modeste, a priest at the cathedral in Butare, told Gourevitch (1998, p.21) how he had “hidden for weeks in his sacristy, eating communion wafers, before moving under the desk in his study, and finally into the rafters at the home of some neighbouring nuns”. The comment by Abbé Modeste that “every survivor wonders why he is alive” was echoed by others interviewed by Gourevitch (1998) as well as by some of my interviewees.

Some Tutsis were unaccountably saved by former friends or colleagues or other officials at roadblocks, through bribery or other means (see Staub & Pearlman, 2001, pp. 201-2, for some short accounts of such stories). For example, Ndamyumugabe (2000, pp. 83-5) recounts how he paid 1000 Frw to a militiaman with a machete and was allowed to go on his way down the road, and on another occasion was able to pass through a roadblock by acting confident and greeting them in a way that seemed to confuse them. Many Tutsi survived because they were protected by Hutu neighbours,

97 Gourevitch (1998, pp. 132-144) recounts how a man with a “rare conscience”, Paul Rusesabagina, managed to protect Tutsis taking refuge at the Hôtel des Milles Collines until the UN was able to evacuate them under RPF protection.
but others were not so lucky if they were found by the militia. In one case, as related by Sibomana (1997, p. 104): a Hutu peasant managed to hide and feed a Tutsi family for several weeks, but when the militia came they ordered him to kill the family he had hidden or they would kill his wife and family. So, the man killed the family he had been hiding, but the militia still killed the man’s family as punishment.

It appears that the Rwandan tendency to conformity and unquestioning obedience to authority contributed to the effectiveness of the genocide (Prunier, 1994, p. 245; Gourevitch, 1998, p. 23). My Tutsi interviewees reinforced the significance of this factor in causing the extent of the genocide, while my Hutu interviewees downplayed this factor in comparison with others such as economic motives and hatred caused by the civil war. By contrast, Sibomana (1999, p. 31), a Hutu, echoes the Tutsi sentiment that “you cannot believe the power of submission of Rwandan peasants”. He attributes this to the fact that “the vast majority of the illiterate peasants who live in the countryside live under the moral guidance of chiefs”. This view is supported by observations of the role of radio as a medium to spread messages of hatred and fear, and instructions to kill the Tutsis. According to Berry & Berry (1999, p. 116), the use of radio was significant in “in preparing and orchestrating the genocide” amongst the masses of “illiterate peasants [who tend] to believe that anything said on the radio is the truth” (Berry & Berry, 1999, p. 116). For example, a captured Interahamwe killer interviewed by Berkeley (1998, p. 26) said that he believed the army radio broadcasts that told him “you must kill or you will be killed” and that “the RPF was Tutsi and if it

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98 Prunier (1994) outlines the pre-colonial tradition of unquestioning obedience to authority that was reinforced by both the German and Belgian colonial administrations.
wins the war all the Hutus will be killed”. This suggests that many of the killers were operating out of fear rather than hatred of the Tutsi.

Smith (1998) attributes the intensity of the genocidal killing to a combination of structural factors (poverty, class inequities, the coffee crisis and IMF pressure) fuelled by psychocultural factors including propaganda, sexual projectivity, aspects of traditional religion and authoritarianism. The ongoing civil war and culture of violence, along with the strong administrative authority in many parts of the country, enabled the violence to flourish with some semblance of legitimacy. Within 100 days, between 500,000 and 1 million people were killed -- that’s a staggering 5,000-10,000 people per day or approximately 300 per hour or one person every 12 seconds. While some massacres were achieved with the assistance of guns, most of the killing was done individually using machetes and clubs with nails. This rate of killing could only be achieved with the complicity of a large percentage of the general population. As in Nazi Germany, bystanders (including the international community) played a part in enabling the genocide to proceed so rapidly and successfully.

When the killing commenced on 6 April there were 2,539 UN troops stationed in Rwanda. After the ten Belgian peacekeepers were murdered, the Belgian government withdrew its troops on 12 April and actively lobbied the other UN Security Council members to vote for a reduction in the UNAMIR force. On 21 April the Security Council voted unanimously (Resolution 912) to reduce UNAMIR to a skeleton force of 270 men. By contrast, Security Council Resolution 914 passed six days later approved 6,500 extra troops for Bosnia. As the UN troops withdrew from Rwanda, they knew
they were abandoning the Tutsis, some of whom had sought their protection, to an almost certain death at the hands of the Hutu militia.\(^\text{99}\)

At first the international community defined the violence that erupted in Rwanda on 6 April 1994 as a continuation of the civil war in response to the RPF invasion, and focussed on using the Arusha process to secure a ceasefire. By portraying the violence and killings in Rwanda as spasmodic and part of a civil war, the UN provided good reason for non-intervention: it was up to the warring parties to observe a ceasefire (Barnett, 2002, p. 120). The US and the UN avoided both the use of the term genocide and the acknowledgement that a genocide was indeed occurring.\(^\text{100}\) Then UN Secretary-General, Boutros Boutros-Ghali, said the Security Council hesitated to define what was happening in Rwanda as genocide as it might then have been obliged to intervene militarily: Security Council members “were reluctant to utter the word ‘genocide’, fearing its discursive ability to command action” (Barnett, 1996, p. 147). In a similar vein, US President Clinton said the international community failed to “immediately call these crimes by their rightful name: genocide”, thus implying that if they had identified it as genocide, they should have taken effective action (Schabas, 1999, p. 6).

The UN Security Council advocated a ceasefire prior to the deployment of additional peacekeepers. However, the Secretary-General, Boutros Boutros-Ghali, eventually decided on 31 May that UNAMIR II should be deployed as the prospects for a ceasefire

\(^{99}\) This abandonment is vividly portrayed in the BBC documentary “When Good Men Do Nothing”.

\(^{100}\) The first Western organisation to suggest that what was occurring in Rwanda was indeed genocide was Human Rights Watch in a letter to the UN Security Council on 19 April 1994. The Pope first used the word genocide on 27 April, and the UN Secretary-General finally declared that genocide was occurring on 4 May (Kuperman, 2001; Des Forges, 1999). US Secretary of State Warren Christopher began talking firmly about genocide occurring in Rwanda in June, around the time that the French intervention force was deployed so “there would be less pressure on the United States to act”. (Klinghoffer, 1998, pp. 99-100).
seemed as distant as ever. The Security Council approved UNAMIR II on 8 June (Resolution 925) but none of the troops that were offered were ever deployed due to problems with funding, transport, equipment, and training. Instead, despite concerns about the neutrality of such a force, a French intervention force “Operation Turquoise” was endorsed by the Security Council on 22 June (Resolution 929) and deployed on 23 June. The operation, described as a humanitarian mission, succeeded in saving some lives, but was very much a case of “too little, too late” with a focus on protecting the fleeing Hutus rather than the Tutsi who were the primary target of the genocide (Berry, 2001).  

5.6.3 The Flight of Refugees and International Response

As the RPF advanced into Rwanda in response to the genocide and ceasefire breakdown, two million mostly Hutu refugees (including the genocide perpetrators) fled to neighbouring Congo (former Zaire) and Tanzania, creating a massive humanitarian emergency that finally attracted some assistance from the international community. Operation Support Hope was deployed by the US in July 1994 to provide food and medical services to the refugees suffering from hunger and disease. “Seemingly oblivious to the genocide that preceded and caused the refugee crisis, President Clinton called Goma [a town near the northwest border of Rwanda] “the worst humanitarian crisis in a generation”” (Ronayne, 2001, p. 183).  

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101 Further evidence of French bias is provided by the refusal of French President Chirac to invite the new Rwandan president to a meeting of francophone African leaders in 1995, and his honouring of the memory of President Habyarimana “and not the dead of the genocide that had been committed in Habyarimana’s name” (Gourevitch, 1998, p. 292).

102 See Schofield (1996) for a personal account of the catastrophe in Goma.
This rapid and extensive humanitarian response saved lives, but at the same time it served to strengthen the domination of the refugee camps by the Hutu extremists. For example, it was reported that the *Interahamwe* in the camps regarded it as a "sort of ethnic public service" to impregnate as many women as possible in order to breed more Hutus (Gourevitch, 1998, p. 269). The humanitarian agencies focused on feeding people and saving lives, rather than thinking about the political implications (Gourevitch, 1998, p. 268). The possibility of disarming the militia was never really addressed (Prunier, 1999, p. 299). As the Hutu extremists were able to survive and consolidate their power, the stage was set for the continuing violence and insecurity experienced in the northwest of Rwanda, and over the border in the DRC, for the next eight years (Destexhe, 1995, 58; Ronayne, 2001, p. 182).

5.6.4 RPF Revenge and Victory

After three months of violence in which thousands of Tutsi women were raped and between 500,000 and 1 million people were killed by the Hutu extremists and their followers, the RPF won a military victory and installed a new Tutsi-led government in July 1994. During their advance towards Kigali, the RPF were also guilty of killing civilians, but to nowhere near the same extent as the massacres perpetrated by the Hutu militia and their followers against Tutsi (and Hutu) civilians.\footnote{The Rwandan Ministry of Local Government and Social Affairs announced on 19 December 2001 that 1,074,017 people were killed in massacres and genocide between 1 October 1991 and 31 December 1994. This figure is based on a census taken with a view to identifying all of those killed in the genocide. A list of 951,018 names was collated. The census also found that 66% of the genocide victims were male, 97.3% were Tutsi, and that the young up to age 21 were the most affected age group. Politically moderate Hutus were also killed. The government report indicates that the data collection was affected by people being reluctant to come forward, there are many unreported cases. We refer to this as the "official" figure in this report.} One significant
exception was the RPF massacre of Hutu civilians in Gitarama prefecture on 19 June and also the assassination of the Catholic Archbishop of Kigali on 3 June (Klinghoffer, 1998, p. 46). In May 1995, the largest documented RPF revenge killing took place at the overcrowded internally displaced persons (IDP) camp at Kibeho, with the slaughter of an estimated 2-4000 Hutus including many génocidaires as well as innocent Hutus who were seeking refuge from the Tutsi army (Schofield, 1996, p. 155; Gourevitch, 1998, pp. 188-194).\textsuperscript{104} According to Lemarchand (n.d.), there is “little question that many such killings stemmed from a sense of uncontrolled rage by Tutsi troops, many of whom had lost members of their family during the genocide”.

Most of the 1994 Hutu refugees who stayed in Africa were eventually repatriated. After 30 years of exile, more than 750,000 Tutsi exiles returned to their home country following the RPF victory, “nearly a one-to-one replacement of the dead” (Gourevitch, 1998, p. 230). According to Gourevitch (1998, p. 232), in 1996 more than 70% of the population in the major towns of Kigali and Butare and in some rural areas of eastern Rwanda were said to be newcomers. The percentage of Tutsi in the urban areas has risen to 40%, with an estimated 90% of the residents of Kigali now Tutsi (Middleton, 1997). These figures were supported by my observations visiting Kigali in 1998: most businesses seemed to be run by Tutsi returnees and a high proportion of workers were Tutsi returnees, from both Europe and neighbouring African countries. As a result,

\textsuperscript{104} For more details about the Kibeho massacre and the role of the génocidaires, UNAMIR and RPA, see Gourevitch (1998, pp. 188-194). The new RPF-led regime conducted an inquiry, the Kibeho Commission, which called for a government “investigation of individual responsibilities within its armed forces” (Gourevitch, 1998, pp. 203-4). According to Gourevitch (1998, pp. 207-8), Vice-President General Kagame openly admitted that his soldiers committed “excesses” in the effort to close the IDP camp at Kibeho.
many of those who stayed, both Hutu and Tutsi, feel displaced from their homes and express some resentment of the newcomers taking the jobs and business opportunities:

We survivors find it very difficult to integrate into the present society and – I hate to say it – into the government, too. They have their own style from outside, and they don’t have much trust in us either. When they came they took the country as in a conquest. They thought it was theirs to look after. They said of us Tutsis who were here, ‘The smart ones are dead and those who survived are traumatized.’ … ‘If they killed everyone and you survived, maybe you collaborated.’ (Tutsi survivor quoted in Gourevitch, 1998, p. 233).

As described by Carr (1999), one of the few foreign residents who returned to Rwanda after the genocide: “the once fertile potato fields of the Hutu are now pastures for the long-horned cattle of the Tutsi” (p. 220). Carr (1999) describes the complete destruction and devastation faced by those trying to rebuild their lives in Rwanda: “There were no banks, no schools, no factories. There was no money, no postal service, no electricity or telephones. Almost every house and business had been looted, and almost everyone had lost everything.” (p. 221)

According to Gourevitch (1998, p. 234), there is also discontent within the Tutsi returnee population as they discover the differences that have developed among them as a result of their long periods of exile in Uganda or Burundi, Zaire or Belgium, or elsewhere. The official language change to include English, as well as French and Kinyarwanda, reflects the influx of returnees from English-speaking Uganda and
Tanzania who now dominate the political elite. In the aftermath of the 1994 genocide and civil war, the divisions of Hutu and Tutsi have been broken into an intricate array of further categories and subcategories of Rwandans, all of whom must be taken into account in political planning and peacebuilding programs. They include: Tutsi survivors and returnees; those who speak English or French, and even some who no longer speak Kinyarwanda; old case (1959-1973) and new case (1990-1994) refugees; RPF, non-RPF and anti-RPF Tutsis; current or former urban and rural Tutsis; Hutu survivors with good records and suspect Hutus; former militia extremists and refugees; Hutus who worked with the RPF, anti-Hutu Power and anti-RPF Hutus; Hutus from the north and Hutus from the south; rich and poor; Catholics and Protestants, Muslims and animists. There is even a “significant cultural and attitudinal” distinction between “old case” Tutsi refugees who have returned from Zaire and Burundi (francophones) and from Uganda and Tanzania (anglophones) (Middleton, 1997, p. 13). Overall, the Tutsi survivors feel marginalised by the returnees, and the Hutu feel the most marginalised as well as stigmatised by the génocidaires label.

5.7 Post-Genocide Rwanda (1994-2001)

The new Rwandan government comprised both Hutus and Tutsis, although with a significant Tutsi majority. Its stated policy has been one of inclusiveness, to the point where ethnic categories are no longer officially recognised. As described by the Public Affairs Officer of the RPA during a conference in Kigali in January 1995, the goal is to dispel the distorted myth of Rwandan history brought by the colonisers and “to forge
unity and to focus on the common values that we have shared for 500 years" (Berry & Berry, 1999, pp. 58-64).

The stated aim of the government is to promote peaceful coexistence, but it seems that ethnic discrimination is still alive and well in practice, raising fears of a return to greater ethnic violence again in the future. The Tutsis retain effective control and occupy most of the key positions in the country, adding to the alienation and resentment felt by the Hutu population (Prunier, 1997). Some of the Hutu members of the government have fled the country, while others have been marginalised (Vandeginste, 2001, p. 228). Some Tutsi members of the government have also fled the country after criticising government policy for failing to match its performance with its rhetoric in relation to inclusiveness and non-discrimination. More specifically, the RPF-Tutsi in power are said to discriminate against other Tutsis because they don't fully trust them, wondering how they survived the genocide. As a result of the Hutu resignations, the Rwandan government has become less representative of both ethnic groups. The completion of the political transition process to a genuine power-sharing between Hutu and Tutsi seems a long way off.

Instead of focusing on the two identities of Tutsi and Hutu, the new Rwandan government has emphasised the significance of the genocide as the defining event for categorising the Rwandan population into five categories: returnees, refugees, victims, survivors, and perpetrators (Mamdani, 2001, p. 266). By excluding Hutu from the

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105 The Hutu ministers who have left or been forced to leave the government include Faustin Twagiramungu, MDR Hutu Prime Minister who resigned and fled in 1995; Seth Sendashonga, RPF Hutu minister of the interior who resigned in 1995 and was assassinated in Nairobi in 1997; and Faustin Nteziryayo, Hutu minister of justice who resigned and fled in 1999 (Vandeginste, 2001, pp. 248-9).
category of survivor, the Rwandan government is implying that all Hutu are perpetrators, either as active participants or passive onlookers (Mamdani, 2001, p. 267). This categorisation is not helping to heal the ethnic divisions in Rwandan society.

The government’s policy of achieving justice for the victims of the genocide is also seen as divisive as thousands of prisoners, mostly Hutus, are held in terrible jail conditions and face unfair trials and possible execution. According to some estimates, up to 25% of those who are in jail are innocent. These perceived injustices and other aspects of justice and reconciliation in post-genocidal Rwanda will be examined in Chapter 10, after exploring theories of justice and reconciliation in Chapters 6 and 7 and their application by the international community in Chapter 8.
TABLE 5.1  The Hutu Ten Commandments

1. Every Hutu should know that a Tutsi woman, wherever she is, works for the interest of her Tutsi ethnic group. As a result, we shall consider a traitor any Hutu who marries a Tutsi woman; befriends a Tutsi woman; or employs a Tutsi woman as a secretary or a concubine.

2. Every Hutu should know that our Hutu daughters are more suitable and conscientious in their role as women, wives and mothers of the family. Are they not beautiful, good secretaries and more honest?

3. Hutu women, be vigilant and try to bring your husbands, brothers and sons back to reason.

4. Every Hutu should know that every Tutsi is dishonest in business. His only aim is the supremacy of his ethnic group. As a result, any Hutu who does the following is a traitor: makes partnership with a Tutsi in business; invests his money or the government's money in a Tutsi enterprise; lends or borrows money from a Tutsi; gives favors to Tutsi in business (obtaining import licenses, bank loans, construction sites, public markets, etc.).

5. All strategic positions, political, administrative, economic, military and security should be entrusted to Hutu.

6. The education sector (students and teachers) must be majority Hutu.

7. The Rwandese Armed Forces should be exclusively Hutu. The experience of the October 1990 war has taught us a lesson. No member of the military shall marry a Tutsi.

8. The Hutu should stop having mercy on the Tutsi.

9. Hutu, wherever they are, must have unity and solidarity, and be concerned with the fate of their Hutu brothers. To this effect, the Hutu inside and outside Rwanda must constantly look for friends and allies for the Hutu cause, starting with their Bantu brothers; they must constantly counteract Tutsi propaganda; the Hutu must be firm and vigilant against their common Tutsi enemy.

10. The social revolution of 1959, the referendum of 1961, and the Hutu ideology must be taught to every Hutu at every level. Every Hutu must spread this ideology widely. Any Hutu who persecutes his brother Hutu for having read, spread and taught this ideology, is a traitor.
TABLE 5.2  Chronology of a Genocide

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>pre-1885</td>
<td>Precolonial domination of cattle-owning Tutsi immigrants over majority Hutu agriculturalist population</td>
</tr>
<tr>
<td>1885</td>
<td>Rwanda becomes part of the German Empire</td>
</tr>
<tr>
<td>1924</td>
<td>Belgium accepts the mandate of the League of Nations to administer Rwanda and Burundi</td>
</tr>
</tbody>
</table>
| 1926 | Belgians introduce a system of ethnic identity cards differentiating Hutus from Tutsis  
Under Belgian rule Tutsis are favoured and ethnic divisions entrenched |
| 1959 | Hutus revolt against the Tutsi nobility and Belgian rule  
Civil war results in the massacre of 20,000 Tutsis and the exodus of refugees to Uganda, Tanzania, Burundi and Zaire |
| 1962 | Rwanda gains independence from Belgium and is led by Hutu nationalist government  
Further mass exodus of refugees |
| 1963 | Unsuccessful attempts by Tutsis of the diaspora to return by force on two occasions result in anti-Tutsi pogroms |
| 1973 | Purge of Tutsis from universities, fresh outbreak of killings and refugees  
General Juvenal Habyarimana seizes power in a bloodless coup and sets up a one-party state  
Policy of ethnic quotas introduced for all public service employment |
| 1988 | Exiled Tutsis and dissident Hutus in Uganda form the Rwandan Patriotic Front (RPF) |
| 1990 July | Under pressure from western aid donors, Habyarimana sets up national commission to develop multiparty democracy |
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Oct  RPF launches attack from Uganda, Tutsis arrested and massacred in Rwanda

1991-92  Ceasefires signed between Rwandan government and RPF, but massacres continue
         Habyarimana stalls on development of multiparty system with power-sharing

1993  Feb.  Fresh RPF offensive provokes exodus of Hutu refugees
         Aug.  Peace accords signed in Arusha, Habyarimana agrees to power-sharing
         Dec.  RPF arrives in Kigali
         Radio Milles Collines begins broadcasting extremist exhortations to attack the
         Tutsis

1994  Apr.  Habyarimana killed in plane crash and killings begin in Kigali
         RPF launches major offensive to end genocide and rescue its troops based in
         Kigali
         Massive exodus of mainly Hutu refugees to Tanzania, Burundi and Zaire
         Jul.  RPF captures Kigali and Rwandan army defeated, new government installed
         Killing of Tutsis continues in refugee camps
PART III
UNDERSTANDING JUSTICE AND RECONCILIATION

As foreshadowed in Chapter 2, Chapters 6 and 7 explore in some depth the concepts of justice and reconciliation as they have been defined and discussed in the literature by theorists and those working in the field of peacebuilding. This analysis includes reference to the related concepts of apology and forgiveness, as well as coexistence, all of which are integral to understanding the concept of reconciliation – both in terms of what it is and what it is not. I also discuss the relationship between justice and reconciliation and how they both contribute to building peace. In Chapter 8, I provide an overview of the various mechanisms employed by the international community to promote justice and reconciliation in transitional societies. These discussions will highlight the tension that arises from the apparent incompatibility in practice of the seemingly competing but interdependent goals of reconciliation and justice.

Where relevant, I have included in this analysis reference to the application of these ideas of justice and reconciliation to the case studies of Cambodia and Rwanda. The Cambodian and Rwandan approaches to reconciliation and justice in practice are discussed in more depth in Chapters 9 and 10 respectively, and Cambodian and Rwandan ideas about the meanings of justice and reconciliation are addressed in Chapter 11.

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106 It is important to recognise that these chapters are limited mostly to a survey of the Western English-language literature on the concepts of justice and reconciliation, and the related concepts of apology, forgiveness and coexistence. It is far from comprehensive, but does represent the dominant language and culture of international relations, development and peacebuilding. An analysis of French-language literature on the subject would also be pertinent, given the status of French as the second official language of the United Nations and as the colonial language of both Cambodia and Rwanda, but this was unfortunately beyond the scope of this study.
From this analysis I conclude that justice and reconciliation mean different things to different people, at different times and in different places. Western theorists and practitioners vary in their interpretations of these concepts and their role in peacebuilding. The ideas about justice and reconciliation of those in different cultural settings are likely to vary even more. I argue that it is recognition and cognisance of these multiple meanings and priorities that are critical to the effectiveness of international interventions to support justice and reconciliation as part of post-conflict peacebuilding (see Chapter 12).
CHAPTER 6

ANALYSIS OF THE CONCEPTS: WHAT IS JUSTICE?

To assume that individuals and groups who have been the victims of hideous atrocities will simply forget about them or expunge their feelings without some form of accounting, some semblance of justice, is to misunderstand human psychology and to leave in place the seeds of future conflict. (Kritz, 1999, p. 168)

The need for justice is a strong motivating force in human life, whether it plays out in violent retribution or the application of legal principles in court. As a concept, it has been accepted as part of political discourse since the “golden age of Athens” when courts of justice were established in order to “take the right to vengeance out of the hands of the victims and to allocate it to the state” (Shriver, 1995, p. 13; Shriver, 1999, p. 212). Justice is a central tenet of monotheistic religious doctrine (Gopin, 2000) and has been the subject of significant debate and analysis in political and moral philosophy from Plato’s The Republic to Hume’s A Treatise of Human Nature and Rawls’ A Theory of Justice published in the 1970s (Barry, 1989; Rawls, 1999). Social psychologists including Adams (1965), Lerner (1975) and Folger (1984) also began to explore the significance of social justice in social life.

Deutsch (1975) expanded the discussion beyond the idea of justice as equity to consider principles of equality and needs as components of distributive justice. Deutsch (1985) was concerned with how injustice affected conditions of conflict and cooperation.
Social justice theorists and practitioners such as Rees (1991) and Clark (2000) have drawn on these philosophical and psychological theories in developing social welfare principles and policies. Legal philosophers and practitioners have also contributed to the debate on meanings of justice, including analyses of procedural justice and “why people obey the law” (Tyler, 1990). Most recently, the idea of restorative justice has been promoted in the field of criminal justice by Consedine (1999), Zehr (1995) and others (see Morris & Maxwell, 2001).

The above is a thumbnail sketch of the development of theories of justice. For the purposes of this research project, I will now highlight some of the different theoretical conceptions of justice with a view to their relevance to the meanings of justice identified by Cambodian and Rwandan genocide survivors and the processes and mechanisms intended to promote peace and justice in societies recovering from human rights abuses and violent conflict. This discussion will be developed further in Chapter 11. To assist in following my overview of definitions of justice, please refer to Table 6.1. The typology of justice I have outlined is more functional than philosophical. I will, however, make reference to philosophical debates where relevant.

6.1 Legal Justice

Most people, when they hear the term ‘justice’, think of legal justice. The definition of justice assumed in Western legal traditions, and thus in the functioning of international
war crimes tribunals, is based on the ideas of retribution and restitution. Retributive and restitutive or reparative justice are concerned with "how to respond to the violation of moral norms and how to repair the moral community that has been violated" (Deutsch, 2000, p. 42). Retribution originally meant a settling of one's accounts, involving both the punishment of evil and rewarding of good deeds, but has become associated solely with punishment and revenge in common usage in the twentieth century (Borneman, 1997, p. viii). Retributive justice thus deals primarily with responding to moral injuries or wrongs with 'punishment to fit the crime'. Restitution, meaning the recovery of losses or compensation to rectify harms, is commonly associated with legal justice. It generally takes the form of a financial payment (sometimes labelled compensation or reparations) made to the victim either by the offender or by the state. Both retribution and restitution are concerned with "righting an imbalance" and have symbolic as well as practical value (Zehr, 1995, p. 193). They have meaning and practice outside the legal justice system, as will be discussed in Chapters 9 and 10 in relation to both Cambodia and Rwanda where violent retribution followed in the immediate aftermath of the genocides in both countries.

The psychology of retributive and reparative justice as discussed by Deutsch (2000) is particularly important for the study of responses to genocide. According to Deutsch (2000, p. 48), it is reasonable to expect a person's response to moral rule breaking to be "influenced by the nature of the transgression, the transgressor, the victim, and the amount of harm experienced by the victim, as well as by the person's relations to the

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107 Aristotle used the term rectificatory (or corrective) justice as opposed to distributive justice in his treatise *Nichomachean Ethics* (Digeser, 2001, p. 36). I have chosen to use the terms retributive and restitutive justice because they are more commonly understood and provide a useful distinction between two aspects of rectificatory or corrective justice.
transgressor and victim”. In both Cambodia and Rwanda, the amount of harm experienced by the victims was the greatest possible: torture, physical deprivation, rape and mass murder. The people interviewed for this study were mostly survivors of the genocide or refugees whose families were victims. It would thus be expected that the desire for justice, and especially retributive justice, would be extremely strong, if one accepts a universally shared condemnation of the crimes associated with genocide. On the other hand, as Deutsch (2000, p. 49) points out, different cultures and subcultures vary greatly in the way they conceive of moral rules and how to respond to violations of them.

According to Deutsch (2000, pp. 48-9), retribution can serve the following functions: reasserting the continuing strength and validity of the moral rule that has been violated; providing an opportunity for cathartic release for the members of the moral community who have been affronted and angered by the transgression; deterring future transgressions if the retribution is in the form of punishment; compulsory reeducation and reform of the transgressor that could reduce the likelihood of future transgressions; and restitution that can help the victim recover from the losses and suffering he or she has experienced. I will examine these functions more fully in relation to Cambodia and Rwanda in Chapters 9 and 10 respectively.

Many traditional societies take a more restorative approach to justice in response to the violation of moral norms where the emphasis is placed on restoring relationships between the parties in a conflict rather than inflicting punishment.\footnote{Restorative justice does not preclude the possibility of punishment: “a key defining element of restorative justice is its privileging of reconciliation over retribution” (Kiss, 2000, p. 79).} For example,
Archbishop Desmond Tutu (1999, p. 51) contends that restorative justice was characteristic of traditional African jurisprudence in which the spirit of *ubuntu* was the basis for “the healing of breaches, the redressing of imbalances, the restoration of broken relationships”. The restoration of relationships as well as restitution (‘making things right’) are also the focus of biblical justice according to Christian theology. The South African Truth and Reconciliation Commission married the traditional and Christian beliefs of South Africans into a model of restorative justice to deal with the human rights abuses of the apartheid era (Boraine, 2000). As will be discussed in Chapter 10, the traditional restorative justice *gacaca* model is being adapted to deal with the large numbers of alleged *génocidaires* in Rwanda.

Kiss (2000, p. 79) describes restorative justice as comprising four commitments:

1. to affirm and restore the dignity of those whose human rights have been violated;
2. to hold perpetrators accountable, emphasizing the harm that they have done to individual human beings;
3. to create social conditions in which human rights will be respected; and
4. to promote reconciliation.

Only the fourth of these commitments distinguishes restorative justice from retributive justice, although in the case of retributive justice the first three are less likely to be achieved because of the lack of emphasis on giving victims a voice (Kiss, 2000). The focus on reconciliation can thus be seen as a defining feature of restorative justice.

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109 As explained by Tutu (1999, pp. 34-5) *ubuntu* means “a person is a person through other people”. If a person has *ubuntu*, they are generous, hospitable, friendly, caring and compassionate. Each person’s humanity is inextricably bound up in others’ humanity: he or she “is diminished when others are humiliated or diminished, when others are tortured or oppressed, or treated as if they were less than who they are”. See also Boraine (2000).
Asian approaches to conflict resolution are generally considered to be based more on consensus than on confrontation, with an emphasis on maintaining relationships and a more restorative approach to justice. In Japan, for example, restorative justice processes play a greater role in the formal legal justice system, with a higher value being placed on apologies and forgiveness (Estrada-Hollenbeck, 2001, p. 75). Despite the overlapping Buddhist background, and the influence of Christian colonisers, Cambodians do not appear to have a functioning restorative model of justice (see Chapter 11).^{110}

The shift away from community justice that emphasised the restoring of relationships and restoring of peace in the Western legal tradition has been attributed to the influences of William the Conquerer and Henry I of England (Estrada-Hollenbeck, 2001, p. 67). These rulers introduced the idea of offences against the King's peace which led to the development of a legal system that privileges the court and the state over victims' needs for justice. The strong tradition of retributive justice based on punishment and "correction" that was developed in the British criminal justice system over 1000 years has been passed on to its former colonies, including New Zealand, Australia, Canada and the United States (Consedine, 1999).

Restorative justice, by contrast, is based on recognition of the humanity and dignity of both offender and victim. The goal is to heal the wounds of every person affected by the conflict or offence (Consedine, 1999). As described by Shriver (1999, p. 211)

^{110} See McConnell (1995) for a detailed analysis of a Buddhist approach to peacemaking. Note that the concepts of forgiveness, justice and reconciliation do not appear in the index. I will discuss the relationship between Buddhism and reconciliation in Chapter 11.
restorative justice comprises public truth-telling, retreat from vengeance and the "renewal of empathy". Options are explored that focus on repairing the damage and thus the concept of restitution also plays a role in the implementation of restorative justice. Restorative justice approaches aim to overcome the limitations of a legal criminal justice system that silences the victim and reinforces the view of the alleged perpetrator as the enemy to be punished or even vanquished. As described by Consedine (1999, p. 10):

We need to discover a philosophy that moves from punishment to reconciliation, from vengeance against offenders to healing for victims, from alienation and harshness to community and wholeness, from negativity and destructiveness to healing, forgiveness and mercy. That philosophical basis is restorative justice.

Zehr (1995), another major proponent of restorative justice, argues that restitution may also be seen as a positive method of restoring equity and relationship. By allowing the opportunity for repentance as well as seeking to raise the victim to his or her previous level, restitution focusses on acknowledging the moral worth of both the victim and offender. By contrast, retribution lowers the offender to the level of the victim by inflicting harm in the guise of punishment.

There is a growing trend of applying the models of restorative justice in Western societies to complement the legal justice system. Such alternative mechanisms as victim-offender mediation and family group conferenceing have become widely used in
the criminal justice systems of Australia, New Zealand, the UK and North America. In these processes, victims of crime are given a chance to be heard and offenders are encouraged to take responsibility for their actions. The aim is to repair the damage of criminal acts and contribute to crime prevention through understanding, compassion and healing. The origins of some of these processes may be found in the traditional restorative justice mechanisms of indigenous peoples, including sentencing circles used by the First Peoples of Canada and community conferencing derived from the traditional processes of the Maoris of New Zealand (Van Ness, Morris & Maxwell, 2001; Consedine, 1999).

Five features of restorative justice have been identified (Van Ness, Morris & Maxwell, 2001, pp. 5-6):

1. Restorative justice invites full participation and consensus.
2. Restorative justice seeks to heal what is broken.
3. Restorative justice seeks full and direct accountability.
4. Restorative justice seeks to reunite what has been divided.
5. Restorative justice seeks to strengthen the community in order to prevent further harms.

Internationally, this trend towards restorative justice has been reflected in the implementation of truth commissions to deal with the human rights atrocities of former regimes. The South African Truth and Reconciliation Commission is the most well-known, but there have been a number of variations of commissions of inquiry or truth

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111 See, for example, the Victim Offender Reconciliation Program (VORP) described by Zehr (1995, pp. 158-174) and the Restorative Justice Unit of the NSW Department of Corrective Services based in Sydney, Australia.
commissions in 16 countries over the past 25 years, and many more are currently in the process of creation (Hayner, 1994, 1996, 2001; Rotberg & Thompson, 2000). Truth commissions can provide a form of restorative justice by allowing an opportunity for reconciliation between victims and perpetrators. Typically, victims are able to tell their stories and perpetrators to acknowledge what they have done, often in return for amnesty, in a quest to uncover the truth of what has occurred. The focus of truth commissions is on healing and victim-centred justice in which the dignity of victims is recognised. Truth commissions may also contribute to achieving restitutive justice by providing compensation for victims, but cannot in themselves provide a sense of retributive justice. Accountability in the form of legal prosecution and punishment could be provided by trials held after or in conjunction with a truth commission, but in practice truth commissions have been seen more as alternatives to legal trials.¹¹² This study considers how the truth commission model focussing on restorative and restitutive justice, rather than simply the retributive justice model of criminal trials, might contribute to reconciliation and peacebuilding in Cambodia and Rwanda.

Substantive legal justice thus comprises retributive and restitutive justice, and sometimes restorative justice. Another related legal justice concept is that of procedural justice. Procedural justice is “concerned with fair treatment in making and implementing decisions that determine the outcome” (Deutsch, 2000, p. 41). Procedural justice may be assessed in relation to a court case or other conflict resolution procedure,

¹¹² The Argentinian Truth Commission in the early 1980s was established on the assumption that the perpetrators would be prosecuted and punished, and the South African TRC provided for prosecutions if the alleged perpetrators did not come forward and acknowledge their crimes (Kiss, 2000). Kiss (2000, p. 75) lists legal and political obstacles to prosecutions in transitional regimes, including amnesties, inadequate resources, and military insecurity. More recently, trials and truth commissions are being pursued simultaneously in Sierra Leone and East Timor, signalling a change in international attitudes to the compatibility of retributive and restorative justice mechanisms (see Chapter 8).
or any process where a decision is made about an outcome. This type of justice has applications outside the legal justice system, and has been widely studied in social psychology as a counterpoint to distributive justice (see later discussion of socioeconomic justice).

Empirical studies have shown that people are as concerned about procedural justice or fairness of treatment as much as they are about the fairness of outcomes (Tyler & Belliveau, 1995, pp. 296-7; Deutsch, 2000, pp. 44-5). Thibaut & Walker (1975, as quoted in Tyler, 1990) concluded that people focus on the degree to which they are able to influence third-party decisions as a form of indirect control over outcomes. Tyler (1990) distinguishes between this instrumental approach to procedural justice, and the normative perspective that views people as being concerned with aspects of their experience not linked only to outcomes. For example, aspects of procedural fairness that people value include neutrality, lack of bias, honesty, efforts to be fair, politeness and respect for citizens’ rights (Tyler, 1990, p. 7). In non-Western cultures, procedural justice might take on different characteristics such as the requirement for a respected elder to take control rather than the conflict participants needing to feel that they have some control over the process.

Procedural justice is particularly hard to achieve in the aftermath of genocide or other mass violence when the police and judicial systems have been destroyed. This occurred in both Cambodia and Rwanda, and thus it can be expected that survivors will not be completely satisfied with the implementation of legal justice if it is perceived to be procedurally unfair or biased, even if the perpetrators are tried, found guilty and
punished. The members of the perpetrator group (Khmer Rouge in Cambodia and Hutu extremists in Rwanda) would also be expected to be dissatisfied with the legal justice system because of what they might perceive to be unfair outcomes as well as unfair procedures. Furthermore, both Cambodians and Rwandans could experience a sense of procedural injustice if they do not have a voice in the design and decision-making processes of legal justice mechanisms (Deutsch, 2000, p. 45). This is most vividly illustrated by the response of Rwandan genocide survivors to the ICTR, as discussed in Chapter 10.

Perceptions of procedural justice have been found to have a particularly strong influence on “loyalty and commitment to groups and organizations” (Tyler & Belliveau, 1995, p. 297). The lack of procedural justice in the Cambodian legal system has not only resulted in a total lack of respect for legal justice in Cambodia, but also to a reduced loyalty to the Cambodian government. The Hutus accused of genocide who are languishing in jail and awaiting trial in Rwanda would also be expected to feel a reduced sense of loyalty to the Rwandan government, not only because of its Tutsi bias but because of the procedural unfairness of the domestic legal justice system.

Before leaving the topic of legal justice, I will refer briefly to the relevance of Hume’s theories of justice to the functioning of international law. “According to Hume, the rules of justice arise out of a sense of the general advantage to be obtained, provided certain conditions hold, from a system of mutual constraints on the pursuit of self-interest.” (Barry, 1989, p. 148). This not only applies to individuals who accept state laws as legitimate means of organising and controlling social behaviour, but also to states who
accept international law as a system necessary to organise and control the actions of states. Hume’s view of “justice as a virtue, a disposition to behave in a certain way” represents the traditional philosophical approach to writing about justice in relation to people, an approach that has been overtaken in the literature by the analysis of social justice as being about institutions and structures of society (Barry, 1989, p. 152).

6.2 Socioeconomic Justice

The other major category of substantive justice concepts relates to social and economic justice. Social justice, as indicated earlier, has been the subject of extensive philosophical analysis. Plato distinguished between political justice that is determined by governments and those with power, and natural justice (or social justice) that refers to the treatment of all peoples as equal. Both Hume (1978) and Rawls (1971) wrote about justice as a virtue. According to Rawls (1999, p. 4), justice and truth are the first virtues of human activities and are thus uncompromising. “Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override” (Rawls, 1999, p. 3). In a just society, argued Rawls (1999, pp. 3-4), the equal rights of citizens are taken as settled, and cannot be bargained away. Furthermore, justice requires positive discrimination in favour of the disadvantaged to ensure equity (Rawls, 1999, p. 266).

Deutsch (1985) uses the term distributive justice to describe a concept of justice that centres on “the fairness of the distribution of the conditions and goods that affect
individual well-being” (p. 1). Deutsch’s theory of distributive justice includes two further principles in addition to equity: equality and need. According to Deutsch (2000, p. 42):

- The *equity principle* asserts that people should receive benefits in proportion to their contribution; those who contribute more should receive more than those who contribute less.

- The *equality principle* states that all members of a group should share its benefits equally.

- The *need principle* indicates that those who need more of a benefit should get more than those who need it less.

Deutsch (1985, p. 115) argued that his research with psychology students in 1949 showed how students in groups operating under the equality principle were more productive, developed great self-confidence and friendlier interpersonal relations than those working under the competitive equity principle. In other words, the distribution of rewards in accordance with level of contribution is insufficient to ensure distributive justice; one also needs to introduce the principle of equality of outcome. Furthermore, the special needs of those with disabilities or those living in poverty need to be addressed in order to ensure they receive their fair share of resources.

Deutsch’s expansion of equity theory to include notions of equality and needs challenged the assumptions underlying the meritocratic ideology derived from the Protestant ethic that provides the value framework of Western capitalism (Deutsch, 1985, p. 9). From this theory of social justice, Western governments derived part of
their rationale and justification for the promotion of social welfare and health services. From such an aggregate of services, and the administrative structure which underpinned them, emerged the claims about welfare states. Such social welfare states were thought to redress the socioeconomic imbalances of free markets. The parallel development of a focus on overseas aid and development is a further extension of theories of distributive justice to the international arena. This is seen not only as a moral project, but as a means of preventing conflict and promoting cooperation in societies and the international community (Evans, 1993, pp. 52-5).

As summarised by Folger, Sheppard & Buttram (1995, pp. 264-5), Deutsch’s three distributive justice principles have the following functional implications:

1. Relative equality of distribution validates people’s feelings of full-fledged membership in a cohesive group, whereas gross inequality can fractionate a society or organisation.

2. Equity can foster the motivation to produce. Without rewards based on productivity, the motivation to produce may lag.

3. Distribution of resources according to need ensures that the essential needs of all societal and organisational members are met.

Perceived injustices can cause divisions in society that may lead to violent conflict and, in extreme cases, genocide. This factor is seen as relevant to the causes of genocide in both Cambodia and Rwanda, as discussed in Chapters 4 and 5 respectively.

According to Clark (2000, p. 147), “justice is held up as the key to right action for the public sphere and its institutions”. It is a “complex and multifaceted” concept. Clark
(2000, pp. 148-152) identifies five “primitive” notions of justice: justice as due process (procedural); justice based on desert (equity); justice as human rights (equality); justice as fair shares (need); and justice as liberation. These categories correlate neatly with the more traditional philosophical notions of justice, as indicated, with the exception of the more recently introduced category of justice as liberation.

Justice as due process is seen by Clark (2000) as necessary to validate a substantive decision and is related to the proper rules of procedure being followed. Justice as desert “means that individuals of particular merit should have preferential access to certain resources and positions” and is thus related to ideas of equity (Clark, 2000, p. 149). Justice as human rights is about individuals being entitled to “equality of concern and respect” (Clark, 2000, p. 149). However, Clark (2000, pp. 149-150) argues that justice based on human rights is insufficient and controversial because human rights are not conclusively defined and competing rights are often seen as incompatible. Justice as fair shares requires that needs be equitably satisfied, suggesting that uneven distributions of resources are necessary because needs are unevenly distributed (Clark, 2000, p. 150). Finally, Clark (2000, pp. 151-2) proposes the idea of justice as liberation where outdated and erroneous assumptions about human nature and capacity need to be challenged in order to provide justice for all. For example, feminist liberation invoked new ideas about the nature and capacity of women in order to provide justice for women as a group in society.

Socioeconomic justice can be divided into social justice and economic justice. Social justice is achieved when socially disadvantaged groups are provided with some means
(most commonly structural) of achieving social equality with the dominant group. For example, policies designed to ensure equal access of all to social services will foster a sense of social justice. Economic justice is concerned with giving each person his or her proper share and achieving a fair outcome in economic terms. Both restitutive and restorative justice can contribute to achieving socioeconomic or distributive justice. In cases where one group has suffered economic discrimination over many years, economic justice may take the form of programs to lift the disadvantaged group out of poverty. In the case of South Africa, for example, the pursuit of socioeconomic justice has taken the form of land rights restitution, the Government’s Reconstruction & Development Programme, and the Truth & Reconciliation Commission’s Reparations & Rehabilitation Committee. This type of justice may also be seen as retributive if it means the dominant or advantaged group has to pay or suffer a fall in socioeconomic status in order to enable the disadvantaged group to catch up.

There is clearly a link between people’s desire for economic justice and the role of the international community in providing development assistance and a national government’s promotion of socioeconomic reconstruction in the aftermath of violent conflict. Distributive justice implies the need for structural processes to be built into reconciliation programs in the form of redistribution of resources to address the economic causes of a conflict. This type of justice could be expected to be important in the case of Rwanda where both groups have suffered years of socioeconomic discrimination and exclusion (the Hutus under colonial rule and the Tutsis as refugees and under Hutu rule from 1962-1994) and where animosities over unequal access to limited resources appear to have contributed to the subsequent genocide (Uvin, 1998).
Lack of socioeconomic justice is a major contributing factor in causing many violent conflicts and genocides, including those in Cambodia and Rwanda (Chandler, 1996; Uvin, 1998). However, it is not simply the absolute level of poverty or deprivation that causes violence. It is the sociopolitical exclusion and sociopsychological results of structural violence that create the conditions for genocide.\textsuperscript{113} As argued by Uvin (1998) and Lindner (2001), it is the perception of relative deprivation and “an illegitimate violation of ideals of equality and dignity” that can cause feelings of disempowerment, frustration and humiliation which in turn can transform structural violence into acute violence:

When people are denied the realization of their full human and intellectual potential, when they are deprived of choices and information, they are more easily manipulated. When people are treated in a humiliating and prejudicial manner, when they are made to lose their self-respect, the result is frustration and anger, as well as a strong need to regain self-respect and dignity. As Willame (1995b, 445) writes, ‘the population [of Rwanda], who slid unnoticed from poverty to misery, is easily manipulable by forms of ethnicity in which the “other”, the “stranger”, or the “invader”, becomes the scapegoat.’ Recourse to ethnic identity, scapegoating, and the projection of

\textsuperscript{113} As defined by Galtung (1990), structural violence involves “lowering the real level of [human] needs satisfaction below what is potentially possible”. It is reflected in “uneven life chances, inequitable distribution of resources and unequal decision-making power” (Jeong, 1999). According to Uvin (1998, p. 128), the sociopsychological aspects of structural violence include “the disregard for people’s knowledge, abilities, creativity, self-respect, and, ultimately, humanity; and their exclusion from the basic norms of civility and respect.” Uvin (1998) maintains that the approach of foreign development workers in addition to that of the Rwandan elite caused feelings of mass frustration and loss of self-respect amongst the poor (mostly Hutu) who were then easily manipulated by state-sponsored anti-Tutsi racism to participate in the genocide “out of fear, anger, resentment, and greed” (p. 110).

I argue, therefore, that post-conflict peacebuilding processes must address the social and economic as well as legal justice needs of the population in order to promote the attainment of both negative and positive peace. Positive peace, or the absence of structural violence, is necessary to ensure that resentments and ethnic prejudices do not again grow into the conditions ripe for violence and genocide.

6.3 Symbolic Justice

Symbolic justice (as distinct from substantive legal or socioeconomic justice) also plays a role in promoting peace and reconciliation. For example, the Aboriginal population in Australia has continued to call for a public apology from the Prime Minister for what they have suffered at the hands of previous governments; the Australian Government’s emphasis on providing funding and mechanisms for achieving more substantive socioeconomic justice has not proved sufficient in the quest for reconciliation.

Symbolic justice may be achieved when victims perceive that authorities or perpetrators acknowledge the injustice that they have experienced, even in the absence of substantive retributive or restitutive justice. This can be quite powerful, especially in cases where human rights abuses have been previously unacknowledged. Truth commissions that produce a public, official historical account of abuses and allow
victims a chance to tell their stories can provide a sense of symbolic justice. Public apologies and commemorations are also aimed at achieving symbolic justice. If national or international trials of war criminals fail to deliver procedural or restitutive justice, or satisfactory retributive justice, at least they can contribute to achieving symbolic justice. Experiences of symbolic justice in relation to public apologies and memorials in Cambodia, and in response to the trials and confessions in Rwanda, will be investigated in Chapters 9 and 10 respectively.

Symbolic justice – having one’s personal story believed and validated – can be an integral part of the reconciliation and healing process. Gronow (1996, p. 10) cites the example of the Truth Commission in El Salvador, and her work with rape survivors in Zagreb:

While these women realised it was too late for them, a ruling that rape is a war crime would be an important verification that what they had experienced was not only unacceptable and illegal, but also that it should never have happened, and should not happen again. Justice does not necessarily demand revenge, just as peace does not demand forgetting.

Similarly, in Bosnia-Herzegovina, some women have reported how the opportunity to tell their stories and to have their suffering publicly acknowledged was a significant part of the process of psychological reconciliation (Gronow, 1996).
6.4 Multiple Meanings and Interactions

The various categories of justice identified above tend to overlap and interact, and any particular individual may value one type of justice over another at different times and in different circumstances. Added to this are the differing cultural interpretations of justice that need to be taken into account in designing post-conflict peacebuilding programs in order to address the multiple justice needs of the population in question. For example, in South Africa, the establishment of the Truth and Reconciliation Commission reflected the dominant Christian focus on forgiveness and reconciliation as a form of restorative justice. However, following the conclusion of the TRC, a growing number of South Africans have been calling for retributive justice for the perpetrators of human rights abuses under the apartheid regime – perhaps because those given amnesty expressed no contrition for their crimes, or perhaps because the restitutive justice component failed to meet expectations (van der Merwe, 1997). In Chapter 11, I will discuss the various Cambodian and Rwandan interpretations of justice.

Legal justice, both domestically and internationally, focuses on punishment of the guilty party and compensation for the victim. This may serve the victim’s desire for retribution if the punishment is seen as sufficient and it is actually carried out. Legal justice may also provide the victim with some restitution, most likely financial. Public court hearings can also satisfy the victim’s desire for symbolic justice - that is, the wrong that was done is publicly acknowledged and the right to seek restitution is confirmed. Even if convictions are not forthcoming, the formation of a war crimes tribunal to hear the case can aid in the psychological process of healing and reconciliation. Truth
commissions also allow the victims to have their experiences heard and the perpetrators condemned, even if they are not punished. In both cases, the pragmatic need of the new government or international community to appease or negotiate with the perpetrators mitigates against the likelihood of their trial and conviction. But where does this leave the victims? Is the achievement of symbolic justice sufficient to promote healing and deterrence? What about the need for retribution and restitution? And what about the perpetrators? What impact does retributive and restitutive justice for the victims have on the desire for peacebuilding amongst the perpetrator group? And where does socioeconomic justice fit in? Is it more important for the victims than legal justice? These and other questions about multiple justice needs and their interactions will be addressed in relation to Cambodia and Rwanda in Chapters 9-11.
TABLE 6.1  TYPES OF JUSTICE

Substantive Justice

Legal Justice

Retributive justice (or retribution)
- settlement of one’s accounts involving punishment or revenge

Restitutive justice (or restitution)
- recovery of losses, reparations or compensation to rectify harms

Restorative justice (or reconciliation)
- emphasis on restoring or healing relationships between conflicting parties
- recognises the humanity and dignity of all parties and allows the opportunity for victims to tell their stories and offenders to acknowledge their actions

Procedural justice
- fair treatment in making and implementing court decisions or other outcomes

Socioeconomic or Distributive Justice
- fair distribution of conditions and goods that affect individual well-being

Economic justice
- gives parties their proper share and achieves a fair outcome

Social justice
- gives parties the means to achieve social equality

Symbolic Justice
- provides parties with a sense of justice by acknowledging verbally or with symbolic actions that an injustice has occurred or has been experienced, or that a party has been wronged
CHAPTER 7
ANALYSIS OF THE CONCEPTS:
RECONCILIATION IN THEORY AND PRACTICE

Reconciliation is, of course, the ultimate aim of peace making. (Curle, 1981)

Reconciliation is a journey, an encounter and a place ... [where] truth and mercy have met together [and] justice and peace have kissed. (Lederach, 1999b, pp.26 & 53, derived from the Spanish version of Psalm 85 in the Christian Bible)

7.1 Meanings of Reconciliation

The concept of reconciliation had its origins in religion and is a very important theme in Christian theology even though the term itself occurs relatively infrequently in the Bible.114 Schreiter (1992) summarises the Christian understanding of reconciliation that involves God as the central actor in a process of discovery rather than achievement, more a spirituality than a strategy:

To enter into a process of reconciliation is better described as entering a mysterion, a pathway in which God leads us out of suffering and alienation into the experience of the grace of reconciliation. This grace is transforming,

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114 The term reconciliation is not used at all in the Hebrew Scriptures, although it is implied in the concept of atonement (Schreiter, 1992, p. 42).
and creates the conditions of possibility not only for forgiving our enemies, but also helping them to rediscover their humanity. (pp. 58-9)

According to Schreiter (1992), reconciliation occurs at three levels: in which Christ is the mediator through which God reconciles the world to God’s self; in which Christ reconciles Jews with Gentiles; and in which God through Christ reconciles all the powers in heaven and earth. This second level may be extrapolated to apply to our relations with ‘the other’: how, in our unreconciled state, we create boundaries for security and identity by seeing the other as alien and stranger, thus making possible acts of violence against our perceived enemies. Reconciliation through Christ, being brought together in the one body, enables us to rediscover a new relationship with the other in which both parties discover a new humanity.

Reconciliation is described by Shriver (1995), also from a Christian perspective, as the end of a process that forgiveness begins. Forgiveness precedes repentance in the Christian understanding of reconciliation. Repentance is not necessary to earn forgiveness. This order of things has been reversed in the common secularisation of ideas of reconciliation, at both personal and political levels. Reconciliation at a personal level is seen as a reciprocal process requiring the involvement of two or more parties in coming together in an interaction of apology and forgiveness. By contrast, psychologists and other healing professionals have recognised the power of forgiveness as a unilateral, first step necessary for reconciliation and healing. In both cases, taking the first step towards reconciliation, whether it be an apology or expression of forgiveness, requires a commitment to risk (Kraybill, 1998).
The term reconciliation is derived from the Latin root word, ‘conciliatus’, which means “to come together, to assemble” (Assefa, 1993, p. 9). The dictionary defines reconciliation as “the process of making friendly after an estrangement” (Concise Oxford Dictionary, 1964). Many writers have expanded on these definitions to describe reconciliation, often drawing on the term’s religious roots. For example:

- Reconciliation involves “returning to peace, harmony, or amicable relations after a conflict” (Brecke & Long, 1997, p. 1)
- “Reconciliation involves re-establishing harmony and co-operation between antagonists who have inflicted harm in either a one-sided or reciprocal manner.” (Fisher, 1999, p. 83)
- Reconciliation comprises “ideas and procedures aimed at transforming individual and inter-group relationships by helping conflicting parties to experience needed psychological and spiritual changes.” (ICAR Newsletter, Fall/Winter 1996, 8:1, p. 13).
- “Reconciliation is a process which restores broken relationships of those who have been alienated from each other by conflict to create a community again. At its core, reconciliation is about overcoming distrust and animosity.” (Borris, 1997b, p. 14)
- “Reconciliation requires an acknowledgement of wrongs committed and a re-evaluation by their perpetrators of the morality which lay behind them.” (Asmal, Asmal & Roberts, 1996, p. 47).
- “[Reconciliation] involves really listening to the pain of the other, and attempting to take it seriously – together. … Reconciliation has to be part of a process that
transforms a relationship into one of mutuality where it becomes possible to accept
the other person’s autonomy and identity.” (Love, 1995, pp. 9-10)

- Reconciliation involves “bringing people to have faith again in civil institutions, in
  justice and in the rule of law. In the final analysis, lasting reconciliation must be
  built on forgiveness.” (Colletta, Kostner & Wiederhofer, 1996, p. 75)

- Reconciliation is “a joint process of releasing the past with its pain, restructuring the
  present with new reciprocal respect and acceptance, and reopening the future to new
  risks and spontaneity.” (Augsburger, 1992, pp. 282-3)

- Reconciliation is “a collective act which neither ignores the past nor overlooks it,
  neither overlooks justice nor reduces justice to revenge, insists on the humanity of
  enemies even in their commission of dehumanizing deeds, and values the justice
  that restores community rather than justice which destroys it.” (Shriver, 1995)

- “Reconciliation refers to the act by which people who have been apart and split-off
  from one another begin to stroll or march together again. Essentially, reconciliation
  means the restoration of broken relationships or the coming together of those who
  have been alienated and separated from each other by conflict to create a community
  again. Reconciliation is conflict resolution, but ... it has greater dimensions and

- “... reconciliation means ... people finding a way of living together in difference. It
  means wanting the other to be there with you and not wanting to destroy, dominate
  or separate from or drive him or her out. It means being able to take the other
  community into account and sharing power, responsibility and resources. It means
  going beyond the ‘rights’ and ‘wrongs’ of the conflict, the vicious cycle of action
and reaction, of the self-righteousness of who started it, to create new relationships." (Stevens, 1988 quoted in Love, 1995, p. 11)

- "Genuine reconciliation involves moral and political restitution in the sense of the German term wiedergutmachung which means ‘to make good again’." (Asmal, Asmal & Roberts, 1996, p. 47).

This list of different ideas about how to define reconciliation may seem daunting, and yet at the same time presenting such a large number of approaches can serve to illuminate the many and varied aspects of reconciliation that may need to be taken into account in post-conflict peacebuilding. As indicated above, one thing most people agree on is that reconciliation is about people and relationships. Many, however, define reconciliation as a course of action or an event that can be observed or achieved at a particular moment in time. I agree with those who regard reconciliation not as an event, but as an ongoing process.

Reconciliation is generally seen as the means of restoring harmony in a relationship, but it can be that reconciliation is called for where two groups have never experienced a harmonious relationship before. For example, in seeking reconciliation, the blacks and whites in South Africa were endeavouring to create a new harmonious relationship to replace a past relationship characterised by racial disharmony (Dwyer, 1999). How does this affect the reconciliation process? In Cambodia, the former Khmer Rouge were arguably no different to other Cambodians prior to the Pol Pot era, except perhaps in terms of socioeconomic status. The relationship between rural and urban, lower and higher economic status Cambodians was not one characterised by animosity. The idea
of restoring relationships to their former status thus holds some meaning in relation to Cambodia. In Rwanda, however, the Hutu and Tutsi had not lived in harmony since before colonisation, almost a century earlier, so the use of the term reconciliation may be seen as somewhat misleading when the need is to create something new. The Rwandan government’s policy to promote unity and reconciliation refers to the idea of going back to the common identity shared by Rwandans prior to European colonisation, but changes in governance and socioeconomic relationships mean that such a unified societal structure would necessarily look very different to that which has prevailed before.

Ethnic conflicts, such as that seen in Rwanda, often involve processes of mutual victimisation or competing victimhoods that need to be addressed if the parties are to be reconciled and the conflict resolved (Montville, 1993). As part of the reconciliation process, both sides must recognise that they are also perpetrators or perpetrators as well as victims (Fisher, 1999). This recognition of mutual responsibility for each other’s suffering lays the groundwork for reconciliation. Another critical component often neglected by theorists is the need for parties to feel assured that the hurtful actions of the past will not be repeated: “it is essential that the parties anticipate mutual security and well being as a final element of reconciliation” (Kriesberg, 1998). This factor is also stressed by Dwyer (1999, p. 94): “a person’s word will rarely be enough to secure reconciliation”. The commitment to reconciliation must be accompanied by a genuine commitment to changing behaviour. For example, reconciliation at the macro-level in South Africa “requires the credibility that can be established only by implementation of

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115 See Chapter 8 for an outline of how psychoanalytic problem-solving workshops such as those advocated by Volkan (1991) and Montville (1993) can contribute to the process of reconciliation.
social and economic programs that concretely address the substantive injustices of apartheid” (Dwyer, 1999, p. 95). In other circumstances, such as in Cambodia or Rwanda, punishment of perpetrators could contribute to reconciliation by helping to reassure victims that the past abuse of human rights will not be repeated, although this would most likely be insufficient without a genuine commitment to change behaviour.

According to Assefa (1993), there are four interdependent dimensions of reconciliation: spiritual, social, personal/psychological and ecological. He posits that spiritual reconciliation is at the centre of the process; it is not essential, but “a peacemaking process which enables the parties to reflect on the spiritual implications of their behavior, especially their hatred, contempt, callousness, or self-centeredness, and on their destructive actions in general, is likely to lead to a more conducive atmosphere for the quest of just and lasting solutions to their disputes” (Assefa, 1993, p. 18). Assefa’s model of reconciliation opens the possibility of different types of reconciliation that do not necessarily require a process of apology and forgiveness between the perpetrator and victim. These include intrapersonal reconciliation within a person’s own psyche regarding what happened to them, and spiritual reconciliation with God or humanity about what God or society has allowed to happen.

The more secular, political definitions of reconciliation offered by authors such as Ackermann (1994) and Kriesberg (1998) seem to equate more with the idea of coexistence (as discussed later in this chapter) than the type of spiritual transformation outlined above. For example, Kriesberg (1998, pp. 1-2) defines reconciliation as:
the process of developing a mutual conciliatory accommodation between antagonistic or formerly antagonistic persons or groups ... [in which] members of adversary entities ... give up or at least do not act on their feelings of hate, fear, and loathing or their desires for revenge and retribution.

Based on the pioneering work of Daniel Smith (on cultural resources for reconciliation in Arab and Israeli societies) and Lily Gardner Feldman (on reconciliation and international relations of the European Union), Ackermann (1994, p. 230) defines reconciliation as:

a process by which countries can establish structures and procedures for establishing durable peace with their former adversaries once they have entered a postsettlement and/or postconflict phase. In other words, reconciliation functions as a postwar reconstruction policy, designed to build peace among peoples with long-standing animosities by creating a political, economic, social and cultural relationship that is ... ongoing and continuous.

Hurley (1994, quoted in McKay, 1997) warns against the secularisation of reconciliation, as he sees the focus shifting from a primary aim of changing the heart to one of changing the mind. He sees the emphasis on justice as an impediment rather than essential component of reconciliation. I would argue, however, that the pursuit of justice is often a necessary prerequisite or corequisite for reconciliation, and that the focus only on structural or secular aspects of reconciliation weakens its power to transform relationships as seen in Cambodia (see later discussion on the relationship between reconciliation and coexistence).
Internationally renowned Mennonite peacemaker, John Paul Lederach, integrates secular and spiritual components in his model of reconciliation and embraces justice as part of the process (1995, 1997, 1999). He describes reconciliation as “built on mechanisms that engage the sides of a conflict with each other as humans-in-relationship and assumes an encounter. Reconciliation represents the point of encounter where concerns about both the past and future can meet.” (1995, p. 51) Lederach sees reconciliation as the bringing together of justice and mercy, reconciling relationships through understanding and forgiveness. According to Lederach (1997, p. 26), “Acknowledgment is decisive in the reconciliation dynamic. ... Acknowledgment through hearing one another’s stories validates experience and feelings and represents the first step toward restoration of the person and the relationship”. And yet, at the same time, Lederach (1999b) maintains that the mysterious turning point that is the experience of reconciliation cannot be humanly controlled:

I have learned that there is no magic formula or technique we can apply to create the turn. The mystery of reconciliation is the most significant aspect of the journey. The turn is not something we can humanly produce or control. (p. 21)

For Lederach (1997, p. 29), reconciliation represents a social space where truth and mercy, justice and peace meet, in an interaction which at the same time creates and resolves paradoxes. While truth requires the acknowledgement of wrongs and validation of pain and suffering, mercy calls for acceptance and letting go; justice represents the search for restitution and social restructuring, while peace requires interdependence and
security. These paradoxes, as reflected in political tensions during peace processes, will be further addressed later in this chapter, and in relation to Cambodia and Rwanda in Chapters 9-11. According to Lederach (1997, p. 31), “the basic paradigm of reconciliation embraces paradox” by suggesting a focus on relationship that provides new ways to address the impasse on issues “or that providing space for grieving the past that permits a reorientation toward the future and, inversely, that envisioning a common future creates new lenses for dealing with the past.” Peacebuilding for Lederach is about transformation and sustainability, and reconciliation plays a critical role in this process. We must therefore look outside mainstream international relations discourse “to find innovative methods of reconciliation” (Fisher, 1999, p. 94).

Embracing Lederach’s theory of reconciliation suggests that promoting reconciliation could well be one of the most difficult challenges undertaken by the international community in the quest for peace. Given the complexity and ‘mystery’ of the concept and process, it is incumbent on international interveners to examine carefully the assumptions and principles underlying post-conflict peacebuilding activities that are intended to promote reconciliation. The following analysis of the components and potential stages of reconciliation will contribute to this process.

A crucial element in the reconciliation process is an ending of the cycle of accusation, denial and counter-accusation (and counter-denial) that feeds violent conflicts and keeps conflicting parties estranged from one another. As argued by Mitchell (1996, p. 14), “reconciliation involves the replacement of the whole ‘culture of revenge’ and reprisal with a different ethic that emphasises both responsibility on the one side and acceptance
(if not forgiveness) on the other”. Mitchell (1996) proposes the following five-stage process of conflict resolution, culminating in reconciliation:

(1) acceptance – of joint responsibility for the past

(2) acknowledgement – of damage and wrong done to others

(3) apology – for admitted harm caused (mutually) during the conflict

(4) restitution – for damage inflicted

(5) reconciliation

Habel (1999) proposes that reconciliation processes need to include the five principles of: truth, justice, identity, forgiveness and suffering. The truth principle states that “no serious reconciliation is possible until the suppressed stories are told in public, especially by the oppressed party, and the underlying source of the alienation is exposed” (p. 34). This truth includes the “deep memories” of all those involved in the conflict and the acknowledgement of past injustices and wrongs. The justice principle requires that these past injustices, losses and wrongs are addressed by a mutually agreed procedure: that injustices be compensated and restoration be made for past losses. Justice is thus an integral component of reconciliation, according to Habel (1999). The identity principle “asserts that the cultural identity of both parties in a conflict, especially that of the oppressed party, is to be valued equally and not negated as alien or ‘other’.” (Habel, 1999, p. 39). This principle proposes policies of inclusiveness and unity in place of the enmification and dehumanisation that often accompanies violent conflict. Finally, Habel (pp. 40-3) describes the principles of forgiveness and suffering that are part of the process of healing necessary for authentic reconciliation. Rituals of reconciliation to promote such healing can include public confessions, public apologies,
public expressions of sorrow, public acts of repentance and public pleas for forgiveness (Habel, 1999, p. 41).

In Chapters 9-11, I will consider the extent to which any of Mitchell’s five stages of reconciliation have been reached, or Habel’s five principles have been addressed, as part of post-conflict reconciliation in Cambodia and Rwanda. This discussion will help to ascertain the cultural transferability or appropriateness of using such models in Cambodia or Rwanda, or other non-Western cultures.

Galtung (2001), by contrast, takes a more cross-cultural view in his proposed twelve approaches to reconciliation. Galtung (2001) claims that “only by constructing an adequate combination of these approaches can the goal of reconciliation be reached” (p. 4). These twelve approaches are:

1. the exculpatory nature-structure-culture approach;
2. the reparation/restitution approach;
3. the apology/forgiveness/approach;
4. the theological/penitence approach;
5. the juridical/punishment approach;
6. the codependent origination/karma approach;
7. the historical/truth commission approach;
8. the theatrical/reliving approach;
9. the joint sorrow/healing approach;
10. the joint reconstruction approach;
11. the joint conflict resolution approach; and
12. the *ho’o ponopono* approach.

Galtung’s model is useful because he breaks down the components of reconciliation processes into their constituent elements in a way that makes it possible to reconstruct or create mechanisms that comprise the chosen combination of approaches. For example, a truth commission comprises 7, and may or may not incorporate approaches 2, 3 and 4 but would by definition not include 5. The model is also valuable as a means of identifying the cultural assumptions inherent in each approach. The Western bias of the single linear processes involved in 4 (submission-confession-penitence-absolution) and 5 (submission-confession-punishment-readmission to society), is revealed by contrasting them with the more holistic and inclusive approaches 6 and 12. As described by Galtung (2001, pp. 18-19), the *ho’o ponopono* approach shows how “Polynesian culture puts together what Western culture keeps apart” by incorporating aspects of all of the other 11 approaches in the one reconciliation process.

It may be helpful in designing post-conflict reconciliation to take these alternative approaches and match them to the expressed needs and cultural biases of the society in transition. Even better, as Galtung suggests, might be to enable and assist the conflict participants to discuss the issues and the various options, and to devise the most appropriate responses themselves: and “as they discuss reconciliation, some reconciliation takes place” (Galtung, 2001, p. 21). This research looks at how Cambodians and Rwandans have been included, or have included themselves, in the development of justice and reconciliation processes as part of post-conflict peacebuilding in their respective countries. This study also assesses the cultural
appropriateness of the mechanisms that have been implemented and/or supported by international interveners, and identifies alternative approaches that might be considered. Even as I caution against the dangers of cultural imperialism, I also recognise the wisdom of Galtung’s conclusion that: “cultural eclecticism is a must in the field of reconciliation; we cannot draw on any one culture alone”. This is doubly true when the current make-up of the societies in question has been influenced by more than one culture, as in both Cambodia and Rwanda.

Different approaches to reconciliation may be more appropriate in different cultures, and non-Christian approaches may be seen as more accessible to a broader cross-section of people. Hurley (1994) provides an overview of how different religious traditions approach reconciliation, including Islam, Hinduism, Buddhism and Judaism. For the purposes of this research, I have focused on Christian and Buddhist approaches, these being the two most relevant to my case studies of Cambodia and Rwanda. In Chapter 11, I discuss the relationship between Buddhism and ideas of reconciliation in the Cambodian context.

Rituals of reconciliation exist in all cultures, from the simple to extremely complex (see Augsburger, 1992, pp. 275-6 for examples). Augsburger (1992, p. 263) provides a useful model of how people in different cultures approach reconciliation. As he cautions, the differences within cultures may be as great or even greater than those between cultures, but the model serves as a pointer to some general differences in behaviour patterns, e.g. the two-level process of overlooking and accepting, or exacting repayment to earn reacceptance or regain honour, is seen as authentically Chinese, while
the dominant polarity in Western culture is described as gracious denial on the positive pole and alienation and denial on the negative pole. In this study I will be looking out for evidence of different cultural approaches to reconciliation revealed in the cases of Cambodia and Rwanda. In relation to Rwanda I will consider the potential contribution to reconciliation of the reintroduction of the traditional gacaca system; the role of indigenous reconciliation rituals appears to be less relevant in Cambodia.

7.2 Kriesberg's Model of Reconciliation

Kriesberg (1998) offers a useful theoretical model for analysing inter-communal reconciliation from which I will draw in my analysis of reconciliation in Cambodia and Rwanda. Firstly, Kriesberg suggests that reconciliation varies in three significant ways: units and settings, dimensions and degrees, and symmetry. Units may be individuals, peoples, officials, governments, families, or other groups or combinations of them, while settings may be a region, neighbourhood or city, a single country, or two or more countries. For example, members of groups differ in the level of reconciliation they may reach in different regions of a country and at different times in history. In analysing reconciliation efforts in Cambodia and Rwanda, I take into account the perspectives of the different sectors of the population, as well as the dimensions outlined below.

The dimensions of reconciliation suggested by Kriesberg are: truthful acknowledgement (but not necessarily contrition) about the past and present including injuries suffered and losses experienced; expressions that acknowledge the humanity of those who have
committed the injuries, stretching from recognition that not all members of the group are guilty and that the next generation is not responsible, to the expression of mercy and forgiveness; seeking redress for the injustices suffered which may be in the form of restitution, punishment, or protection against future harm; and looking forward to living together in peace "without threatening each other and with mutual respect and security", in the context of mutually agreed integration or separation (Kriesberg, 1998, p. 3). These dimensions mirror quite closely the steps suggested by Mitchell (1996) as discussed earlier.

The symmetry of the reconciliation process is affected by the relative suffering of the antagonists (which is likely to be contested), as well as the extent to which the outcome is experienced as balanced or equitable. For example, reconciliation is more likely to be equitable if the outcome of the conflict is relatively balanced rather than there being a clear winner and loser. In Rwanda, the reconciliation process is unlikely to be experienced as equitable because of the power of the Tutsi-dominated government and new Tutsi elite relative to the defeated Hutu army and general Hutu population. This has ramifications for the means of implementing justice and reconciliation processes in Rwanda that help to redress this power imbalance. Similarly in Cambodia, there are power imbalances between the former Khmer Rouge and the rest of the Cambodian population, and between the government and each of these population sectors, that influence the success of reconciliation processes.

Kriesberg (1998, pp. 4-6) analyses the alternative paths that can be taken in the movement towards mutual accommodation and reconciliation: one-step form of
movement, linear progress, wave progression, decline and rise, steady ebb and flow, progress and reaction, and wave deterioration. The conditions which may affect the trajectory followed include the nature of the relationship between groups, changes in the conditions within one or more of the groups, and changing conditions in the external environment. For example, the relative political, economic, and status rankings of communal groups and any changes in these may have an impact on the reconciliation process. In the third category, changing international beliefs about the universality of human rights could affect the path of reconciliation. Kriesberg's model thus highlights the various factors that can influence reconciliation and the importance of recognising that reconciliation processes are unlikely to progress in a simple, linear path.

Kriesberg (1998, pp. 6-12) distinguishes between three types of policies that can influence the reconciliation process – structural, experiential and interpersonal - and types of strategies to achieve reconciliation – top down, lateral and bottom up, from the inside, from the outside, or combined sources. Structural methods are aimed at changing the structure of relations between communal groups and may involve policies to reduce inequalities, develop crosscutting ties, foster superordinate goals and identities, safeguard human rights, or institute mutually-agreed upon separation. For example, political power-sharing and affirmative action policies can alter the structure of the relationship between two groups and foster reconciliation. Experiential methods may include public trials, truth commissions, education, social institutions, public events and products, public apologies and expressions of forgiveness. Interpersonal methods may involve post-traumatic stress counselling; special workshops for small groups of

116 These methods will be discussed in more detail in Chapter 8.
students, employees, members of religious institutions, community leaders or other group members; and personal meetings between leaders of enemy groups. These various methods may be implemented by different people at different levels, either simultaneously or sequentially.

Top down strategies for reconciliation are initiated by high-ranking leaders, either from the inside (government officials) or from the outside (interveners such as the United Nations). Peacekeeping missions and international tribunals are examples of top down external interventions to promote reconciliation. Middle rank or lateral policies are implemented by middle level leaders such as religious, business or political leaders internally, or by external actors such as international NGOs, academically-based conflict resolution centres, or refugee and diaspora communities. Bottom up or grassroots strategies are led by local leaders using such means as protest demonstrations, or by external interveners such as international NGOs or transnational social movement organisations.

This study will focus on top-down, experiential methods of promoting reconciliation, with less emphasis on middle-level and structural approaches, and only passing reference to grassroots and interpersonal methods. The reason for this focus is that the United Nations and state-level international actors are more likely to be involved in these methods. A thorough analysis of other levels and types of approaches is critical to understanding and assessing the complex interactions of reconciliation processes, but was outside the scope of this study. I agree with Kriesberg’s assessment that concerted
efforts at all levels are necessary to counteract and overcome resistance and backsliding in the quest for reconciliation (1998, p. 12).

Kriesberg's model of reconciliation is very broad and encompassing of conflict resolution strategies at every stage – including conflict prevention, peacemaking, peacekeeping, and post-conflict peacebuilding. As such his definition of reconciliation is broader than that used in this study. However, the theoretical framework is useful to define the scope of this study and in identifying issues for analysis in relation to the post-genocide reconciliation efforts being undertaken by the international community and other actors in the chosen case studies of Cambodia and Rwanda. For example, my analysis of reconciliation in Cambodia and Rwanda highlights two factors that Kriesberg (1998, p. 15) identifies as important in the quest for reconciliation: cooperation between the various actors and co-ordination of reconciliation efforts; and taking a long-term perspective recognising that reconciliation takes time and may suffer setbacks.

7.3 Reconciliation as a Political Process

This study is concerned with how the essentially personal psychological or spiritual process of reconciliation is transferred into the politico-legal realm of post-conflict peacebuilding. The transformation required to support reconciliation in the political world of post-conflict peacebuilding must take place at three levels of the psychosocial realm: intrapersonal, interpersonal, and intergroup (Rasmussen, 2001, p. 116). These
processes require long-term commitment and interaction between public and private worlds. As described by Kraybill (1998) reconciliation is a difficult and delicate process that involves not only the head, but the heart as well. It requires a realignment of one’s cognitive and emotional world (Fisher, 1999, p. 94). What is the relationship between individual (or ‘micro-level’) and collective (or ‘macro-level’) reconciliation? How do states foster reconciliation when there is no possibility of one-on-one transactions of apology and forgiveness? How can the emotive values of feelings, identity, memories and relationships enshrined in reconciliation be generalised and applied in group or national settings? (Love, 1995, p. 7). How can the process of reconciliation be promoted, especially when the parties involved do not subscribe to the Christian notions of forgiveness and reconciliation? The challenge for peacebuilders, in any setting, is to create the conditions most likely to be conducive to reconciliation.

Only relatively recently has the term reconciliation found its way into political discourse, even though it is arguably the most fundamental process required for the transformation of conditions of conflict and competition into cooperation and social harmony. According to Digeser (2001, p. 66), the “concept of reconciliation is largely ignored in political philosophy” with the exception of Hegel “for whom reconciliation is essential”. For Hegel, “reconciliation entails overcoming one’s alienation and accepting and embracing the world as one’s home” (as quoted in Digeser, 2001, p. 66). This type of self-actualisation is profoundly political, and holds implicit the idea that one is not yearning or fighting for something different or more.

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117 As defined by Dwyer (1999, p. 83), micro-level reconciliation typically involves local, face-to-face interactions, while macro-level reconciliation concerns more global interactions between groups of persons, nations, or institutions.
As described by Brecke & Long (1997, p. 1), reconciliation can be seen as "integral to mitigating future violence and maintaining societal stability" and has been observed in the actions of humans throughout history and in various cultures, as well as in the behaviour patterns of other primates. For example, ethologist Frans de Waal recorded the example of two chimpanzees kissing and embracing in the aftermath of an attack (Brecke & Long, 1997, p. 1). Many indigenous cultures incorporate rituals of reconciliation into the process of resolving conflicts and promoting healing, such as those observed after the civil war in Mozambique (Honwana, 1997) and in Bougainville where former combatants have been welcomed back into the community following ritual ceremonies.\textsuperscript{118}

Reconciliation became a popular political buzzword in the 1990s at the same time as I was developing this thesis proposal. For example, South Africa established a Truth and Reconciliation Commission to deal with the legacy of apartheid and Australia commenced a decade-long reconciliation process between indigenous and non-indigenous peoples. Since then, numerous governments have begun to promote policies of ‘national reconciliation’ in the interests of achieving national peace and stability.\textsuperscript{119}

According to some, the word reconciliation has been used, abused and misunderstood to the extent that "one could feel moved to call for a moratorium on its use." (Love, 1995, p. 69). According to at least one South African commentator, the political usurping of the reconciliation debate in the wake of the TRC has meant that: “The concept of

\textsuperscript{118} The documentary film “Breaking Bows and Arrows” documents the ritual reconciliation process in Bougainville.

\textsuperscript{119} Some recent African examples include Somalia (IRIN Africa, 10 April 2001), Cote d’Ivoire (IRIN Africa, 18 December 2001), Zanzibar/Tanzania (IRIN Africa, 8 January 2002) and Comoros (IRIN Africa, 16 January 2002).
reconciliation is in danger of becoming a dirty word.” (van der Merwe, 1997, p. 7). In this context, it seems extremely timely and valuable to explore in this thesis the multiples meanings of reconciliation and the means proposed for achieving it.

Shriver (1995) argues that post-conflict reconciliation requires the political equivalent of the religious notion of forgiveness, but this approach is by no means universally accepted – in theory or in practice. In a secular translation of the reconciliation process, the role of apology has taken precedence to the extent that forgiveness has even been excised from the process. Dwyer (1999) sees this as a positive thing because it means that “reconciliation might be psychologically possible where forgiveness is not” (p. 96) – but is this really reconciliation?

Digeser (2001) asks whether political forgiveness is necessary for reconciliation and concludes that it is not when demands for justice are fully met. As part of his philosophical analysis of the meaning and role of political forgiveness, Digeser (2001) explores the relationship between political forgiveness and each of justice and reconciliation. He concludes that while political forgiveness “can be part of a process of reconciliation that involves the restoration of trust and civility ... it neither guarantees nor secures a resulting state of reconciliation in which civic friendship is created or restored” (p. 67). Political forgiveness is therefore not the only process required for reconciliation as “political forgiveness cannot completely displace the pursuit of justice” (Digeser, 2001, p. 55). Without justice, past claims that appear to have been forgotten

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120 Digeser (2001, pp. 67-8) distinguishes between reconciliation as a ‘process’ and reconciliation as a ‘state’, and the use of the terminology of ‘promoting’ reconciliation versus ‘achieving’ reconciliation. Because I have defined reconciliation as a process in this thesis, to be consistent I have used the verb ‘promoting’ rather than ‘achieving’. 
are actually lying dormant – "and dormancy is not the same as reconciliation" (p. 73). For Digeser, political forgiveness can play a role "because the demands of justice cannot always be completely satisfied" (p. 53). For example, the passage of time and the enormity of past injustices can render justice intractable:

Slavery, Nazism, apartheid, 'the disappeared', death squads, collectivization, the rape of Nanking are all wedded to present politics like the chains attached to Marley's Ghost. It is not difficult to think of additional recent examples. (Digeser, 2001, p. 53)

I would add the genocide in Rwanda to this list of potentially intractable injustices.

I agree with Love (1995) that the political cooption of the term reconciliation has had the unfortunate effect of watering down the meaning of the concept so that "it has almost come to mean all things to all people" (p. 6). For example, the reconciliation discourse in Australia rarely mentions the idea of forgiveness, despite a central focus on the need for an apology. In South Africa, the focus was on forgiveness, without any necessity for the perpetrators to apologise. In Cambodia, the term 'national reconciliation' seems to have lost any relationship to the ideas of apology or forgiveness.

According to Love (1995, p. 7), reconciliation "has become a catch word that is increasingly misused by people to describe some act of coming together where differences are covered over and all live happily together ever after." In some cases, forgetting seems to be the order of the day, rather than forgiveness. And yet forgetting is never really possible, and in the absence of true reconciliation, victims and aggrieved
parties are likely to maintain their desire for revenge and retribution. For example, the Anglo-Irish Agreement was described by the government as “an instrument of reconciliation”, even though many Protestants saw it as “unjust, unfair, undemocratic as well as having been imposed without consultation” (Love, 1995, p. 8).

Reconciliation cannot be imposed – it must be voluntarily chosen and embraced by the parties involved in the process: “politics can ... be imbued with reconciliation but it cannot, of its own, create it” (Love, 1995, p. 216). This poses challenges for a reconciliation process that is driven by the state or international interveners. It requires leadership that demonstrates reconciling relationships, such as the example set by Nelson Mandela in South Africa and Xanana Gusmao in East Timor. A so-called “reconciliation mechanism” (such as a truth commission) can be put in place but the actual process of reconciliation cannot be rushed or assumed to have taken place. For example, the goal set by the Australian Government of reconciliation by the anniversary of Federation in 2001 was seen by many indigenous and non-indigenous Australians as unrealistic and inappropriate. The collective or political process of reconciliation is complex and time-consuming. Assuming it is not, undermines the true meaning and power of reconciliation to transform relationships and build peace.

For some indigenous Australians, the Prime Minister’s failure to apologise has made a mockery of the reconciliation process. The Cambodian government’s policy of encouraging and welcoming the defection of former Khmer Rouge in the name of national reconciliation has been experienced by many Cambodians as a betrayal of their right to justice. Reconciliation has thus come to be seen as synonymous with
appeasement, concession or betrayal in the eyes of many people, and as being incompatible with justice (Love, 1995, p. 8). The problem with international involvement in promoting justice and reconciliation is the potential for political interests and agendas taking priority over the needs of the particular population in question. International relations are conducted at the state level, and by definition do not involve the general population in decision-making.

There is a danger in politics of the concepts of apology, forgiveness and reconciliation being misused and abused (e.g. apology as rhetoric), thus undermining the potential value of authentic reconciliation processes. The apology/forgiveness transaction may be positive if it signifies a bond of compassion, but is negative if it is perceived as superficial (Galtung, 2001, p. 7). If abused populations perceive an attempt at reconciliation as insincere, then further violence and retribution is likely to ensue. Wink (1998) refers to the distinction between “true” and “false” reconciliation. According to Wink (p. 26):

> True reconciliation can be subverted by a government propaganda apparatus that equates reconciliation with compromise, the toleration of injustice, and obedience to the higher powers ... Reconciliation can be even more grossly perverted when religious leaders in a revolutionary situation call for ‘peace’, meaning that the oppressed should not disturb the false tranquility of a society built on violence.

Wink (1998, p. 26) uses the case of a South African church during the apartheid era which claimed that “in order to be agents of reconciliation ... we must avoid taking
sides and be neutral” as an example of false reconciliation. By supporting the status quo of structural violence imposed by the apartheid system, the church was failing to address the social injustices that made true reconciliation impossible for the oppressed in South African society. As described by Boraine (2000, p. 361), reconciliation, at its worst, can be “an excuse for passivity, for siding with the powerful against the weak and dispossessed”. To illustrate the potential “perversion of reconciliation ... which preaches a gospel of personal salvation at the expense of social action” I include the following poem by Filipino poet J. Cabazares (quoted by Wink, 1998, p. 27):

Talk to us about reconciliation
Only if you first experience
the anger of our dying.

Talk to us of reconciliation
If your living is not the cause
of our dying.

Talk to us about reconciliation
Only if your words are not products of your devious scheme
to silence our struggle for freedom.

Talk to us about reconciliation
Only if your intention is not to entrench yourself
more on your throne.

Talk to us about reconciliation
Only if you cease to appropriate all the symbols
and meanings of our struggle.
Another type of false reconciliation can occur when people “ask forgiveness, or extend an apology without first listening to the pain, understanding the hidden stories, repenting of the wrong or seeking ways to right the wrong”, or when “the governing authorities focus on the superficial dimensions of an issue within the reconciliation process … without taking into account deeper dimensions that affect the minority group involved” (Habel, 1999, pp. 22-3). As described by Tavuchis (1991), “individuals and groups routinely employ the language of apology in self-interested and exploitive ways”. Insincere apologies or acknowledgements, such as have occurred in Cambodia and Rwanda (see Chapters 9-11), can undermine the reconciliation process, or at the least do not contribute to its progress. In Australia, the Howard Government’s focus on “practical reconciliation” without attempting to understand the deeper spiritual and cultural dimensions relating to the identity of indigenous and non-indigenous Australians, is retarding the journey towards authentic reconciliation.

On the other hand, ‘pragmatic’ or ‘instrumental’ reconciliation processes initiated by governments can still have a positive effect if they function to begin a process of authentic reconciliation, or at least promote a more peaceful coexistence between conflicting parties. According to a study by the International Peace Academy and the Organization of African Unity (1996, p. 17), “reconciliation and rebuilding are long-term processes, and intrinsically involve healing of individuals, communities and entire societies”. The report identifies the following as some key elements of reconciliation, none of which refer to the need for apologies or forgiveness:

➤ some form of justice
➤ community-level confidence-building measures
strategies & mechanisms for dealing with actors who could potentially derail the peace process

There is a distinction to be made between reconciliation with a group as a whole, an individual belonging to that group, and an individual belonging to that group who is known to have committed human rights atrocities. An individual belonging to a particular group may be perceived as guilty by association even if he or she did not personally commit atrocities. Alternatively, he or she may be seen as an exception because he or she is known to have actively resisted or saved people, or because he or she is personally known to the person judging him or her. A person of one ethnic group may not be reconciled with individuals of the other group known to have committed atrocities, but may feel okay about the group as a whole. Another person may see the other group as a whole as the enemy, but may have good relationships with individual members of the group whom they know as friends or as someone who saved people rather than killing them. For example, while the continuing recalcitrance of former South African leaders for the human rights violations under apartheid may mean that reconciliation is not possible at a societal level, forgiveness is still possible at an individual level, as is reconciliation between particular victims and perpetrators.

In Rwanda, a Tutsi genocide survivor may work with or even be friends with a Hutu whom he or she know saved Tutsis from the genocide, but not be reconciled with individual Hutus who killed. This particular survivor may or may not see Hutus as a group as the enemy, and this may change over time depending on his or her experiences. For example, if the genocide perpetrators are punished, and there is no
more violence or killing of Tutsis by Hutus, then the Tutsi survivors may over time begin to feel reconciled with Hutus as a group. But there is a lot of healing involved, which takes time and a rebuilding of trust. Some mechanisms to promote reconciliation and justice can help accelerate this process, although if they are perceived as biased or ineffective or in some way not providing what the survivors want, then they may in fact be counterproductive. For example, the Rwandan response to the ICTR has been mostly negative and therefore the international efforts at promoting justice may actually hinder reconciliation. This highlights the importance of the international community putting a priority on addressing the needs of the population in question, rather than simply following formulae or political agendas that seem to ignore the uniqueness of each particular case. Also, to be successful, care must be taken not to have one reconciliation mechanism undermining another (see earlier discussion in relation to Kreisberg's model for reconciliation).

Having ascertained that there is a distinction between reconciliation with a group as a whole, and with particular individuals or sub-groups within that group, the question remains: how can group reconciliation be promoted? How can we change attitudes of whole populations? The mass media is useful, but the process also depends on interpersonal communications in which respected opinion leaders and near peers accept new information. Consistent empirical findings indicate that once an innovative idea is accepted by 15-20% of the population, it takes on diffusion rates and cannot be stopped (Rogers, 1988, quoted in Montville, 1993, p. 125). In other words, if a process of individual or interpersonal reconciliation is embraced by at least 15-20% of the population, then a process that could be called national reconciliation may be said to be
occurring. This process could be applied to the situation in South Africa resulting from the TRC.

7.4 Reconciliation and Apology

In the past few years, it has become very popular for political leaders or religious leaders to apologise on behalf of the populations they represent for the abuse of human rights of other populations (Gibney & Roxstrom, 2001; Habel, 1999; Wink, 1998). For example, on 30 September 1997 the Roman Catholic Church apologised to the Jews for their deportation by France during the Nazi occupation in World War Two. Other examples include the Queen’s apology to the Maoris for the confiscation of their land by 19th century British settlers; Bill Clinton’s apology to black Americans used as guinea pigs testing the long-term effects of syphilis; and Japan’s apology for its wartime atrocities and role as the aggressor in World War Two (Latif, 2000; Woodley, 1997). The motivations for these public apologies vary from a desire to divert attention away from demands for material compensation, to authentic expressions of remorse that recognise wrongdoing and acknowledge victims’ dignity and rights. Whatever the motivation, the implication is that forgiveness is being sought from the victimised population in a quest for reconciliation and avoidance of continuing cycles of violence and retribution. Apologies can be effective, however, even if forgiveness is not forthcoming or they are not even accepted by the victim. The symbolic value of the

121 This definition of national reconciliation should not be confused with the use of the term ‘national reconciliation’ to refer to a compromise political process mandated by the government but not necessarily experienced by the general population (as in Cambodia).
apology and acknowledgement of ‘the truth’ can at least open the door to reconciliation further down the track.

Brooks (1999), Latif (2000) and Gibney & Roxstrom (2001), amongst others, have recently produced analyses of the role of apologies in supporting legal justice and redress for past injustices. A public apology can contribute to reconciliation by offering the truth, and by incorporating an expression of remorse, an offer of compensation, acknowledgement of a person’s or people’s dignity, and recognition of a wrong done in which people’s rights have been violated.\(^{122}\) An apology may be seen as necessary but insufficient for reconciliation. The context in which a public apology is delivered needs to be taken into account, as does the perceived sincerity of the apology. Another critical component of an effective public apology is the cessation of the wrongs for which the responsible person or representative is apologising.

In his seminal work on the sociology of apology and reconciliation, Tavuchis (1991, p. 13) defines genuine apologies as:

the symbolic foci of secular remedial rituals that serve to recall and reaffirm allegiance to codes of behavior and belief whose integrity has been tested and challenged by transgression, whether knowingly or unwittingly. An apology thus speaks to an act that cannot be undone but that cannot go unnoticed without compromising the current and future relationship of the parties, the legitimacy of the violated rule, and the wider social web in which the participants are enmeshed.

Tavuchis (1991) thus sees the apology as a “relational symbolic gesture” that goes beyond the interpersonal, private transaction. It has ramifications for recognising and reaffirming the prevailing social moral order. The significance of the apology is even greater when considering the case of “apology from the many to the many” (p. 98): “the consummate collective apology is a diplomatic accomplishment of no mean order” (p. 100). According to Shriver (1999, p. 220):

Confessions by politicians are a hard test of their ability to combine the humiliating as well as the proud truth about their peoples’ past ... and in doing so, they rise above partisan apologies to tell a ‘story that unites’ the victims and the perpetrators of the past in new truth-filled civic bonds. ... The possibility of forgiveness in politics rests on the possibility of contrition in politics. Whether they call it that or not, the makers of lasting peace will have to consider the utter practicality of that rule. ‘To be social is to be forgiving,’ said Robert Frost. To be political may be the same.

For example, the unwillingness of Prime Minister Howard to apologise to the Australian Aboriginal people for past injustices is consistent with his emphasis on the “proud truth” whilst minimising and denying the “humiliating” aspects of Australian history. According to this analysis, his approach is unlikely to foster peace and reconciliation between the indigenous and non-indigenous peoples of this country. Boraine (2000) agrees with this assessment. According to Boraine (2000, p. 371), by not offering an apology, Howard has hindered reconciliation “through a lack of wisdom and courage”. Botha and de Klerk similarly failed to express contrition for their part in apartheid
(Boraine, 2000, p. 365). The South African and Australian leaders have failed to seize the opportunity to act with sensitivity and compassion as have other leaders such as West Germany’s Chancellor Willy Brandt who apologised to the Polish people who had suffered under the policies of the Nazis; US President Gerald Ford who apologised to Japanese-Americans unjustly incarcerated during World War Two; and Pope John Paul II who apologised for the errors of the Roman Catholic Church over the past 2000 years (Boraine, 2000, pp. 365-371).

Boraine (2000, pp. 364-5) explains how these and other leaders can take responsibility for the human rights violations of previous generations by invoking the concept of political guilt. He outlines five types of guilt distinguished by Karl Jaspers in an essay exploring the question of German guilt following World War Two:

1. **criminal guilt** is assigned by a court of law, when a person is found guilty of breaking the law;

2. **political guilt** concerns the acts of politicians and civil servants responsible for human rights violations;

3. **moral guilt** describes moral responsibility for criminal, political and military actions, as well as inaction, indifference and passivity in the face of human rights violations; and

4. **metaphysical guilt** is a concern between the individual and his or her god.

While criminal guilt applies only to those who actually committed the crimes in question, political guilt assumes that all members of a particular society or state may be held responsible for what their nation does in their name (Wink, 1998, p. 20). Pol Pot,
for example, and other Khmer Rouge leaders could be seen as owing the Cambodian people an apology because of their criminal and political guilt — and, arguably, their moral guilt as well. Members of the international community could be expected to feel moral guilt because of their failure to stop the genocide in Rwanda, and in fact, US President, Bill Clinton, did apologise to the people of Rwanda during a brief visit to Kigali in March 1998 (Barnett, 2002, pp. 153-4). Belgian Prime Minister, Guy Verhofstadt, also apologised for his country’s mistakes in relation to Rwanda on the sixth anniversary of the genocide:

In order for Rwanda to turn its eyes toward the future, toward reconciliation, we have first to assume our responsibilities and acknowledge our mistakes ... In the name of my country, I pay tribute to the genocide victims, and in the name of my country, my people, I beg forgiveness. (Los Angeles Times, 8 April 2000, quoted in Digeser, 2001, p. 64)

Verhofstadt clearly accepts that he can apologise on behalf of his country and his people, and that acknowledgement and forgiveness are critical to the process of reconciliation. He both expresses sympathy and accepts responsibility.

Folger et al. (1995, pp. 284-5) propose two functions for apologies: one that intends to convey remorse about one’s conduct and seeks forgiveness, and another that focuses on expressing sympathy about the other person’s suffering. In English, saying “I’m sorry” does not distinguish between these two types of communications. In other languages and cultures, different words or expressions may be used to convey these two different meanings. For example, in French the two translations of ‘I’m sorry’ are: ‘Pardon!’
derived from the verb 'pardonner' meaning 'to forgive', and 'Je suis désolé' which is derived from the verb 'désoler' meaning 'to distress or grieve'.

The observation that women apologise more readily than men in at least some Western cultures could be attributed to a difference in interpretation of the words "I'm sorry": women are more likely to apologise to express sympathy, as well as to express remorse, while men are more likely to apologise only when expressing remorse. Prime Minister Howard's refusal to apologise to the Australian Aboriginal people is based on the first meaning: he has on a number of occasions expressed sympathy for their plight, but he is not willing to accept responsibility or blame. This failure to apologise may be seen as another injustice added to the many others the Aboriginal people have suffered. As described by Folger et al (1995, p. 284): "not to receive an apology puts someone outside the category of 'all other' human beings, ostracized and disenfranchised from equal dignity and respect". The impact on the survivors of the lack of acknowledgement and authentic apologies from the genocide perpetrators in Cambodia and Rwanda will be explored in Chapters 9-11.

Goldberg, Sanders & Rogers (1993, p. 138) describe how apology plays a central role in dispute resolution in Japan. An example they provide is the Japan Airlines crash in 1982 after which the president of the company visited families of the crash victims to

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123 Definitions taken from Collins Gem French Dictionary, 4th edition, HarperCollins, 1997. Other translations given for 'sorry' include 'triste' meaning 'sad' and 'excusez-moi' meaning 'excuse me'. 'To feel sorry for' is translated as 'plaindre' or 'to pity'.

124 Fisher (1999, p. 99), refers to the significance of personal fears and inadequacies that make apology difficult, as well as to cultural and gender factors such as the 'macho pride' that affects the likelihood of men admitting their errors and apologising.

125 See also Tavuchis (1991, p. 37) who describes Japan as "the apologetic society par excellence" and Augsburger (1992, p. 274) who refers to the Japanese having "an almost magical regard for the power of an apology" to bring reconciliation.
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offer apologies and compensation. As a result, no lawsuits were filed. This contrasts with the American approach in which apology is akin to admitting guilt and can be used as evidence in court or as the basis for massive law suits. Apology and forgiveness are not encouraged in the Western legal tradition which is based on the models of retributive and restitutive justice, rather than on the model of restorative justice. Western legal solutions are limited in their ability to promote reconciliation because of their reliance on an adversarial approach to dispute settlement in which the accused is “forced to fight any implication of legal or moral responsibility.” (van der Merwe 1997, p. 7)\textsuperscript{126}

The importance of apology in dispute resolution has been put forward by conflict resolution practitioners as an argument for using alternative dispute resolution or restorative justice mechanisms instead of going to court. They argue that an apology can be the key to resolution by reducing tensions and repairing any damage to the ongoing relationship between the parties (Goldberg, Sanders & Rogers, 1993, p. 137). Although this may work well in the case of disputes over property or other relatively minor criminal or non-criminal acts, the applicability of this strategy for dealing with cases of criminal violence involves more serious ramifications. As argued by Benard (1996), the mediation or dispute resolution approach does not distinguish between the aggressor and victim. Similarly, it may be argued that by providing amnesty for war criminals in exchange for public apologies, the victims are being expected to forgive their transgressors without being given the opportunity to seek retribution and restitution which is their legal right and may also be necessary for long-term psychological

\textsuperscript{126} "A retributive (western criminal) justice system focuses on building a social order through harsh condemnation of injustice and expulsion of perpetrators ... This does not exactly invite perpetrators to participate in moral reflection." (van der Merwe, 1997, p. 7).
reconciliation. Blanket amnesties may be seen as “ultimately destructive of peace in deeply damaged persons and societies” (Shriver, 1999, p. 209).

As described by Tavuchis (1991, p. 21), some crimes such as those committed by the Nazis could be seen as “beyond the purview of apology” because “they so violated human sensibilities that no apology could possibly mollify feelings of violation, outrage, and revulsion in order to call forth the cleansing spirit of forgiveness”. This observation could equally be made of the genocidal crimes committed by the Khmer Rouge in Cambodia and the Hutu extremists in Rwanda. The question of whether an apology could even be considered appropriate, and whether forgiveness could ever be expected, in the aftermath of genocide raises the question of the feasibility of achieving reconciliation in such a context. Can the survivors be expected to forgive on behalf of the victims, and if not, is reconciliation ever possible? Furthermore, is there such a thing as “national reconciliation” or can reconciliation only ever take place between individuals? If the latter, how can the individual healing benefits of public rituals of atonement and reconciliation processes such as a truth commission be transferred to the society as a whole? These questions (and more) will be explored in relation to Cambodia and Rwanda in Chapters 9-11.

7.5 Reconciliation and Forgiveness

Collective memory without the collective will to forgive and to ask for forgiveness is a virulent poison. (Oestreicher, 1998, p. 37)
The famous political theorist and philosopher Hannah Arendt (1958) describes two primary requirements for global society to recover from past sufferings: the ability of people to make agreements to live reciprocally in new ways which contrast to the ways of the past (reconciliation) and the freedom to enter into these agreements with integrity, setting aside, not the memory, but the continuing hostility and need for retribution associated with the memory of the painful past (forgiveness). She separates the two terms conceptually, but indicates that they must go together in practice in order to promote healing. Arendt (1958) maintains that human society could not exist without forgiveness and the public acts of contrition and confession that make reconciliation possible.

A religious concept originally, forgiveness has been adopted in various forms of secular thinking (philosophical and psychological) but, along with reconciliation, has only recently started to gain some legitimacy in the political arena.¹²⁷ Like Arendt (1958), Frost (1991) and Shriver (1995) have argued for the importance of forgiveness in social and political life, but from a Christian perspective. According to Frost, the relationship between forgiveness and justice is the vital concept to consider “for much political action is based on the sense of an injustice which needs reversing” (p. 3). Frost raises the important question of the relevance of religious orientation or beliefs to the use of forgiveness in politics: “is forgiveness part of human experience and wisdom regardless of what faith politicians profess?” (p. 5). His survey of the relationship between

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¹²⁷ Since beginning this research project, a whole field of “forgiveness studies” appears to have emerged, including the establishment of research and funding organisations such as the University of Wisconsin’s International Forgiveness Institute, Coventry University’s Centre for the Study of Forgiveness and Reconciliation, and the Templeton Foundation (Dwyer, 1999; Heller, 1998).
individual and group forgiveness in different cultural contexts suggests there is a “thread of forgiveness” running through even the most violent regions. For example, Kaunda believes Africans show a particular preparedness to forgive, and he refers to the “spirit of forgiveness” which he sees in African leaders (Frost, 1991, p. 162).

Forgiveness does not imply forgetting; it is not about ‘giving up’, ‘turning the other cheek’ or ‘letting the other off the hook’. Forgiveness is a “self-realization that allows one to develop a sense of compassion”; it allows for a ‘civil’ relationship and can be seen metaphorically as overcoming a ‘point of view’ (Murphy & Hampton, 1988, p. 37). According to Borris (1997), forgiveness is “a complex act of consciousness” which “liberates the psyche and soul from the need for personal revenge” and “empowers us and releases us from feeling victimized” (p. 2). Forgiveness means:

- giving up rage, the desire for vengeance, and a grudge towards those who have inflicted grievous harm on you, your loved ones, or the groups with whom you identify. It also implies willingness to accept the other into one’s moral community so that he or she is entitled to care and justice. (Deutsch, 2000, pp. 58-9)

Like reconciliation, forgiveness is a process, not an instantaneous event (Kraybill, 1995). As Volkan (1994) and others have emphasised, forgiveness follows after a period of mourning and healing, and is an internal process that does not necessarily rely on the contrition of the one being forgiven. There is certainly a role for acknowledgement, apology and acts of contrition in facilitating forgiveness, but one does not need to precede the other. Both are important components of reconciliation.
While forgiveness can be unilateral, reconciliation is always mutual: “we may forgive our enemies in our hearts, but reconciliation requires that we pick up the phone or meet face to face and try to work things out” (Wink, 1998, p. 14).

Shriver (1995; 1999) has identified four elements of a genuine process of forgiveness: moral judgement; forbearance from revenge; empathy for the humanity of the enemy; and the intent to renew relationship and stay together in some form of coexistence that “might eventually deserve the name ‘reconciliation’.” (1999, p. 208) These elements should not be seen as stages, but as co-existing, interactive and mutually reinforcing components of a potentially long-term social process.


Without forgiveness, hurts go unchecked and we recycle failures, resentment, bitterness, and mistrust in our lives ... Without forgiveness, there can be no real peace and no lasting reconciliation.

Dwyer (1999), by contrast, maintains that forgiveness and reconciliation are conceptually independent, “even if they often go together” (p. 90). This view is supported by Augsburger's (1992) description of three parallel forms of forgiveness, only one of which relates to reconciliation:

1. punitive – concrete repayment process (leads to overt or covert retaliation)
2. inclusive – generous, vertical or benevolent acceptance but without restored mutuality

3. reconciliatory – involves transformation of relationship (true forgiveness)

This model illustrates how forgiveness has more than one face and that ‘true forgiveness’ is necessarily associated with a mutual process of reconciliation.

Enright (1989, as quoted in Borris, 1997) proposed a six stage structural model of forgiveness as well as a process model incorporating “cognitive, affective and behavioral strategies involved in formulating a moral response” (p. 6). Enright’s structural model overlaps with and expands on Augburger’s model, suggesting six developmental stages:

1. revengeful forgiveness (depends on punishment)

2. conditional or restitution forgiveness

3. forgiveness under pressure of expectations

4. lawful expectational forgiveness (e.g. because a person’s religion expects it)

5. forgiveness as social harmony

6. forgiveness as love

Only the last of these stages, equivalent to Augsburger’s ‘true forgiveness’, opens the possibility of reconciliation and removes the possibility of revenge (p. 5). In Rwanda I found evidence of people operating mostly from stages 1 and 2, as well as 4, and limited evidence of stages 5 or 6. In Cambodia, meanwhile, the prevailing approach appeared to be stage 3 and 5, with some examples of 6 and others at stage 1. In other words, forgiveness can manifest in different ways for different people in different circumstances, and there is no single formula for pursuing or achieving forgiveness.
According to Borris (1997, p. 3):

The critical dimension of forgiveness is a shift in one’s understanding of, and relationship to the other person, oneself, and the world. The hurt is seen differently, and as a result of someone else’s woundedness. The shift permits us to see a larger perspective where the injury becomes a shared pain with other human beings. We see someone else’s suffering and struggles and so feelings of victimization make way for feelings of compassion. No longer is there only one possible connection with the other person. There are choices. A new vision creates feelings of interconnectedness which empowers us. It is with this backdrop that the stage is set for reconciliation to take place.

Forgiveness should lead to empowerment of the individual and group. Compassion and, if possible, empathy towards the perpetrator can take the power of the victim’s healing and give it back to him or her. As expressed by two contributors to an email discussion list on genocide:

To expect freedom from suffering to be entirely contingent on [the perpetrator’s] acts of contrition locks [the victim] in a permanent state of suffering and victimization. (Shaanon Lindauer, Genocide email list, December 1998).

I refuse to live with the bitterness of unforgiveness about the Armenian Genocide ... I don’t want to wait a lifetime, for the Turks to come and
release me from my anger and bitterness; I would like to make the choice to free myself of that anger, and to live in the freedom that forgiveness brings.

(Armen Gakavian, Genocide email list, December 1998)

The following illustrates the power of forgiveness to promote reconciliation. Both Montville (1991) and Borris (1997) tell the story of Mme Irene Laure, a member of the French resistance during World War Two who witnessed atrocities committed by Germans and ended up hating Germany and all Germans. She participated in a workshop at Caux, Switzerland, organised by Moral Re-Armament and found it difficult to be around the Germans also present at the workshop. She and the other French people present would leave the hall each time a German addressed the meeting. The Lutheran Minister who invited her to the meeting, Frank Buchman, asked her how she envisaged a united Europe. Two days later she was able to tell a German woman how she felt about the Germans, and the German woman reciprocated with her own story of suffering during the war. This shared suffering helped Irene to see the humanity in the German people. Later that day she addressed the meeting and said “I have so hated Germany that I wanted her erased from the map of Europe. But I have seen that my hatred is wrong. It is this kind of hatred which begins wars in the first place. I wish to ask the forgiveness of all the Germans present.” (Montville, 1991) Irene decided to dedicate the rest of her life to building bridges between the French and German people.

Paradoxically, the ability to forgive and reconcile requires a strong sense of identity and self-esteem. The psychological state of victimhood and projection of blame can be seen as a protective device as it serves to bolster the identity and security of the individual,
especially when it involves identification with a victim group. Thus premature attempts to push a victim to forgive can be seen as threatening to take away his or her only means of protection and support, and should be avoided. Allowing time for the healing or mourning process to reach a place of genuine forgiveness is critical. Victims may also need time and assistance to recover from post-traumatic stress before they are able to contemplate forgiveness or reconciliation. On the other hand, the processes of forgiveness and reconciliation can also play an important role in relieving post-traumatic stress (Deutsch, 2000, p. 60).

Forgiveness can be seen in a positive or negative light in different cultures, which can affect the individual’s or group’s ability or willingness to forgive. Recognition of the differences between anxiety-based, shame-based and guilt-based cultural approaches can help to understand different approaches to forgiveness (Augsburger, 1992, p. 272):

Forgiveness has many faces. Each culture shapes its understandings of forgiveness from its central values. Harmony calls for a forgiveness of overlooking; justice for a forgiveness of repentance; solidarity for a forgiveness of ostracism; honor for a forgiveness of repayment; dignity for a forgiveness of principled sacrifice. Each group gives forgiveness a face composed of multiple values, framed by its unique history, and formed by its collective ledgers of justice and injustice received and given, harmony and disharmony chosen or imposed, and honor or dignity won or lost. (Augsburger, 1992, p. 262)

This study will look at the cultural values associated with forgiveness in Cambodia and Rwanda (see Chapter 11) and how these might influence the likelihood of the genocide
survivors forgiving the perpetrators. For example, the Buddhist emphasis on harmony could help to explain the apparent willingness of Cambodians to ‘overlook’ the transgressions of the former Khmer Rouge, while the ostracism of the Khmer Rouge is a sign of the importance of solidarity in Cambodian culture.

7.6 **Forgiveness, Reconciliation, Justice and Peace**

Justice preserves the peace, but it never makes peace. Only reconciliation and forgiveness do that. (Khuzwayo Mbonambi, quoted in Gopin, 2000, p. 162).

Peacebuilding entails building a just society: creating economic and ecological security in addition to military security; healing the wounds of war and violence psychologically as well as physically. As described by Kiss (2000, p. 80), “the task of creating a just society is one of moral reconstruction” which “cannot be accomplished by judicial means alone; it is at once political, legal, cultural, moral, psychological, and spiritual”. The complexity and challenges of the task requires understanding how the concepts of forgiveness, reconciliation, justice and peace overlap and interact.

Eminent peace theorist Johan Galtung (2001, p. 3) interprets reconciliation as “the process of healing the traumas of both victims and perpetrators after violence, providing a closure of the bad relation” that “prepares parties for relations with justice and peace”. Furthermore, he proposes that: “the more justice, the easier it is to achieve and maintain
peace”. His conception is of a mutual interdependence between the three concepts of justice, reconciliation and peace. Forgiveness and apology appear as only one of the twelve approaches to reconciliation that he proposes (as outlined earlier in this chapter).

Other theorists, mostly writing from a Christian perspective, propose a more central role for forgiveness. For example, Augsburger (1992) maintains that reconciliatory forgiveness involves both justice and repentance in recreating the relationship. Both Shriver (1995) and Kaunda (in Augsburger, 1992) also focus on the necessary interdependence of forgiveness and justice. In both cases, the type of justice described is restorative rather than retributive. According to Shriver (1995, p. 9):

Forgiveness in a political context ... is an act that joins moral truth, forbearance, empathy, and commitment to repair a fractured human relation. Such a combination calls for a collective turning from the past that neither ignores past evil nor excuses it, that neither overlooks justice nor reduces justice to revenge, that insists on the humanity of enemies even in their commission of dehumanizing deeds, and that values the justice that restores political community above the justice that destroys it. ... So defined, political forgiveness links realism to hope. It aims at delivering the human future from repetitions of the atrocities of the past.

Shriver (1999, p. 213) argues for the primacy of restorative over punitive justice as a practical political priority “especially if the aim of restorative procedures is to reintegrate both victims and perpetrators into some approximate positive civic
relationship.” Kaunda similarly favours a definition and implementation of justice that is restorative rather than retributive:

Forgiveness is not, of course, a substitute for justice. Forgiveness is a gift, not something we earn, but to know the reality of forgiveness we must be ready to turn our backs on the things we have done which required us to seek forgiveness in the first place. Justice and forgiveness are related this way. To claim forgiveness while perpetuating injustice is to live a fiction; to fight for justice without also being prepared to offer forgiveness is to render your struggle null and void. Justice is not only about what is due to a human being; it is also about establishing right relationships between human beings. (Kenneth Kaunda, first president of Zambia, quoted in Augsburger, 1992, p. 277).

As with forgiveness, reconciliation should not be equated with a culture of impunity in which perpetrators of genocide are not brought to justice under international law. I argue in this thesis that processes of legal justice and reconciliation need to go hand in hand and not be seen as alternatives. Reconciliation implies the acknowledgement of wrongs committed. Compassion towards the perpetrator should not be equated with condoning the crimes committed. I agree with those (such as Digeser, 2001) who argue that retributive justice may in some cases be a necessary prerequisite for reconciliation. Without justice, forgiveness can perpetuate impunity. Individual perpetrators, and particularly the leaders and organisers, should be held accountable. Criminal trials for the key perpetrators provide a sense of retributive and symbolic justice, while a public
acknowledgement and reconciliation process can heal the relationship between the victim and perpetrator groups.

As outlined earlier, most theorists consider justice to be an integral component of reconciliation; both contribute to conflict resolution and peacebuilding and are thus practically as well as theoretically interdependent. Yet in practice, politicians and lawyers seem more than willing to recommend sacrificing one for the other.\footnote{Two recent exceptions include East Timor and Sierra Leone where both criminal tribunals and truth and reconciliation commissions are being established.} The prosecution of human rights violators and perpetrators of genocide has often been seen as incompatible with the promotion of peace and reconciliation, as will be discussed later in relation to Cambodia. In South Africa, for example, those who confessed their apartheid crimes were granted amnesty from prosecution in the interests of reconciliation. By contrast, the United Nations supported the establishment of the International Criminal Tribunal for the former Yugoslavia, but representatives of the ICTY were very critical of the proposal to establish a Bosnian truth commission (Boraine, 2000).\footnote{Gavin Ruxton and James Stewart from the ICTY argued against a Bosnian truth commission because the necessary preconditions did not exist; Bosnians did not support a truth commission; the timeframe was unrealistic; such a commission should not be imposed from outside; it could not produce a definitive truth; and its existence would interfere with the work of the Tribunal (Boraine, 2000, p. 395). However, the majority of delegates at the conference to consider the establishment of a Bosnian truth commission supported the idea and “saw the intervention by the Tribunal representatives as arrogant and uninformed” (Boraine, 2000, p. 395). It should be noted that Richard Goldstone, the first ICTY Prosecutor, was a consistent supporter of the idea of a truth commission for Bosnia as long as it did not involve provision for amnesties (Boraine, 2000; Minow, 1998).} ICTY Chief Prosecutor, Justice Louise Arbour, for example, actively lobbied against any reconciliation mechanisms that could interfere with the process of justice (Dyson & Spencer, 2000).
It is a paradox that amnesties are often granted in the name of national reconciliation. Governments often decide that the gains of offering amnesty in terms of appeasing the perpetrators and ending or avoiding a violent conflict outweigh the potential losses in terms of credibility and respect for the rule of law. But the question should be asked: is the form of peace and stability created in the absence of justice the same as reconciliation? Digeser (2001, p. 76) concludes that amnesties “appear to be official acts of forgetting that do reconcile the state, as a victim, to the past”. This would apply to the case of South Africa, where the government that set up the TRC was representative of the victims. However, this potential for reconciliation does not hold if the state is the perpetrator nor does it reconcile individual victims to the past (as will be argued later in relation to Cambodia). Furthermore, as argued by Digeser (2001, pp. 76-7), state amnesty creates a new wrong in the eyes of the victims: “in closing one rift with the offenders, the state opens another with the victims and, in its official capacity, disrupts the reconciliation with the past”. According to Minow (1998, p. 137), although amnesties can sometimes be justified “in terms of getting on with the future”, an amnesty can also be viewed as “cowardice if it grows out of fear of the continuing power of the wrongdoers, or even fear of the costs of naming the wrongs”. The role of power — or the perception of power — in disrupting (or promoting) reconciliation is a relevant issue here.

Part of the confusion about the relationship between justice and reconciliation in Christian societies could be explained by the differing perspectives of Catholics and Protestants. According to Love (1995, p. 11), most Protestants would put peace and reconciliation first, believing that justice will naturally follow, while Catholics “would
feel that peace and reconciliation are impossible without first establishing justice”. In the Judeo-Christian tradition, justice is integral to authentic reconciliation: “justice and peace belong together in a Christian understanding” (Stevens, 1988, quoted in Love, 1995, p. 11). The Greek ‘eirene’, Hebrew ‘shalom’ and Arabic ‘sala’am’ all set peace in the context of justice, by including the concept of the absence of structural violence. By contrast, the Roman ‘pax’ means ‘absence of violence’ under the rule of law, and thus relates only to the absence of direct violence. The Hindu ‘shanti’ invokes the concept of ‘inner peace’ as a harmonious state of mind, while the Buddhist/Jainist ‘ahisma’ adds the concept of non-violence to the peaceful inner state of mind. The Chinese idea of ‘ho p’ing’ and the Japanese concept of ‘heiwa’ suggest “social harmony, peacefulness and adjustment” (Love, 1995, p.59). In these Eastern religions, peace is linked more closely with reconciliation than with justice.

I would argue that the best way to unravel the relationship between reconciliation and justice is to break down the concept of justice into the various meanings described in Chapter 6. Firstly, there is the relationship between reconciliation and retributive justice. This is the relationship most often seen as incompatible. The Christian notion that forgiveness is a precondition for reconciliation does seem, at face value, to rule out retribution (Little, 1999, p. 69). And yet, as indicated above, forgiveness and reconciliation do not mean condoning or accepting the behaviour of the perpetrator (Wink, 1998).\footnote{For example, parents will make it clear that they forgive their children at the same time as needing to punish them for their wrongdoings (Wink, 1998, p. 20).} From a theological perspective, it can be shown that retribution is not necessarily opposed to reconciliation, even though some elements may be inconsistent with forgiveness (Little, 1999). Retributive justice on its own is certainly not sufficient
for reconciliation. The rejection of retributive justice in favour of restorative justice or reconciliation can be attributed at least in part to the practice of requiring punishment that involves isolating the offender from society and inflicting suffering in proportion to the crimes (Little, 1999, p. 66). Public condemnation and punishment are not, however, necessarily inconsistent with a process of reconciliation, as long as the punishment is intended to “reform the harmdoer so that he or she can become a moral participant in the community” (Deutsch, 2000, p. 59).

Another distinction between retribution and reconciliation is the procedure each entails. According to Little (1999, p. 79), under reconciliation the procedures are typically consensual and voluntary, while in a conventional retributive justice setting the procedures are more likely to be formal and externally imposed. This does not make them incompatible, however, just different.

Some of the disagreement on whether retributive justice is compatible with reconciliation can be attributed to a conceptual confusion between revenge and retribution. As defined by Little (1999, p. 65), “revenge is the desire for retaliation acted on without benefit of impartial adjudication” and is thus more likely to be excessive and to provoke an “unending cycle of mutual reprisal”. It is a type of ‘out of control’ retributive justice which, by contrast, needs to be seen as procedurally fair and controlled. Revenge is aimed at ostracising or removing the perpetrator from the community, sometimes through the commission of further violence. Revenge is therefore incompatible with reconciliation, as it is motivated by a lack of forgiveness or empathy with the humanity of the perpetrator.
The distinction between justice and revenge has been explained by Jose Ramos Horta in relation to the people of East Timor and their reaction to the human rights abuses they suffered at the hand of the Indonesian government and militia:

In seeking justice we do not want revenge. In seeking justice, all we want is peace and reconciliation. For there cannot be real peace if justice is not done. The victims of torture, rape, abduction, the families of the deceased ones, will never rest in peace with themselves and the community, the whole nation cannot heal itself, if perpetrators of crimes are not brought to justice. … There is a fine line that separates justice and revenge. … We have to appeal to our best sentiments of humanity, tolerance and forgiveness not to allow the demand for justice and the temptation for revenge to be blurred. (José Ramos Horta, 1998)

This quotation also demonstrates the holistic view that Horta holds of the interdependence of forgiveness, reconciliation, justice and peace.

In the aftermath of the September 11 terrorist attacks on the World Trade Center and Pentagon, US President Bush vowed that the perpetrators would receive justice, but failed to define what he meant by justice. By contrast, the UN Secretary-General, Kofi Annan, clearly defined a call for legal justice: “No effort should be spared in bringing the perpetrators to justice, in a clear and transparent process that all can understand and accept.”131 The focus on violent retributive justice, or revenge, in the US-led war against the Taliban government of Afghanistan has been seen by some commentators as

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131 UN Secretary-General Kofi Annan, Address to the UN General Assembly, 24 September 2001.
inimical to the achievement of peace and justice. As argued by Amnesty International, justice would best be served by pursuing legal retributive justice incorporating procedural justice and reparations. ¹³² This approach would be more compatible with a policy of reconciliation with those who would support further terrorist attacks, in the interests of violence prevention and conflict resolution. Reconciliation and conflict resolution are about analysing, acknowledging and treating the underlying causes of violent conflict so that peace is more likely to prevail in the longer term.

Similarly, restitutive justice or the payment of compensation can be seen as compatible with reconciliation, where the restitution is accompanied by feelings of forgiveness rather than revenge. Many victims say they can only feel reconciled if the perpetrators are punished or pay compensation for their crimes. In both cases, retributive justice and restitutive justice are only compatible with reconciliation if the perpetrator is given the opportunity to acknowledge his or her crimes and to express authentic contrition. If the perpetrator defends his or her actions, fails to apologise, or denies the crimes and their impact, then reconciliation may not be possible even if justice is achieved in some form.

By contrast, restorative justice is perfectly compatible with reconciliation as it requires perpetrators to acknowledge their actions, and the emphasis is on healing or reconciling the relationship between victim and perpetrator. It offers the possibility of reconciling forgiveness with justice (Digeser, 2001, p. 40).

¹³² "Pursuing Justice, Not Revenge: Amnesty International's position on bringing to justice those responsible for the crimes of 11 September and for abuses committed in Afghanistan", Amnesty International, AI Index: ACT 30/068/2001 (available online at http://www.amnesty.org)
Socioeconomic justice is in many cases an essential component of reconciliation. For example, after visiting Brazil, Williamson (1998, p. 71) observed that “there can be no reconciliation between such appalling living conditions and such excessive wealth; there has to be fundamental social change”. As described by Oestreicher (1998, p. 39), justice as revenge causes violent conflict, but socioeconomic justice is necessary for peace:

An uncompromising pursuit of justice is a recipe for conflict. It is the rationale for almost every war and every violent revolution. The end is seldom the desired end. It is equally true that there are conditions of injustice that make a mockery of peace, ‘peace where there is no peace’. When children die of hunger, that is a declaration of war by the rich on the poor.

Symbolic justice can coexist with reconciliation, as in the case of a truth commission that provides an opportunity for victims to have their experiences acknowledged and recorded. Symbolic gestures such as public apologies and commemorations can also promote reconciliation by acknowledging the wrongs experienced by the victims and helping to restore their dignity and self-worth. However, if symbolic gestures are somehow perceived as insincere, then reconciliation will be undermined.

Such ‘false’ or ‘cheap’ reconciliation is not compatible with justice: “to pursue cheap reconciliation means to give up on the struggle for freedom, to renounce the pursuit of justice, to put up with oppression” (Volf, 2001, p. 35). According to Volf (2001, p. 36), in the context of cheap reconciliation, forgiveness entails acting as if the wrongdoing
did not occur; it implies forgetting. Cheap reconciliation thus sets justice and peace in opposition to each other: in order to gain political unity, justice must be sacrificed. This would not be an issue in Rwanda where both unity and justice are being pursued. In Cambodia, however, the pursuit of ‘national reconciliation’ has (at least until now) precluded anything more than symbolic justice (see Chapters 9 and 11).

The complex interaction between the need for both justice and reconciliation is particularly difficult to manage in the aftermath of genocide. Because of the extremes of suffering and feelings of victimhood, and the legal obligation to punish the perpetrators, the pressure for criminal prosecutions is increased. While this may satisfy the need for retributive justice that may be necessary before the survivors can contemplate reconciliation, at the same time the focus on retribution appears to compete with the need for restorative justice that is necessary to foster reconciliation and peacebuilding. The role of the international community in facilitating this complex process is a focus of this study.

The cause-and-effect relationship between the local, national and international processes of justice and reconciliation, and the outcome in terms of peaceful societies, is not easy to assess. There are too many uncontrolled variables involved: the emergence of leaders promoting either conflict or reconciliation; the differing responses of individuals and groups, and which take precedence in influencing the reaction of the society as a whole; how effective different mechanisms are at addressing the issues they aim to address (e.g. an ineffective truth commission may have more of an adverse impact on reconciliation in a particular society than if there were no truth commission in that
society); and the interaction of the various justice and reconciliation processes occurring at the same time. There is a lack of consensus on how to assess “the strength of either justice or reconciliation” and limited comparative research from which to draw any lessons (Pankhurst, 1999, p. 239).

7.7 Reconciliation and Coexistence

Coexistence means “peoples of different political and social systems, living in mutual toleration” (Concise Oxford Dictionary, 1964). The use of the word ‘toleration’ implies that people are willing to endure or permit others with different customs, beliefs or values to exist without condemnation or persecution. As such, the goal of peaceful coexistence would be a minimum requirement of any multicultural society, where different ethnic groups are required to share the same geographical space, including in the aftermath of violent ethnic conflict or genocide. According to Galtung (2001, p. 3), coexistence is “an agreement between parties to proceed on parallel tracks, each within its own dialectic”. As described by Shriver (1995, p. 9):

Co-existence may be only the mildest of moves toward reconciliation and only the faintest anticipation of a genuine political connection. It may be little different from passive tolerance. But it is a move away from the past towards a new political future.

Peaceful coexistence, while necessary, is therefore not sufficient for successful conflict resolution as defined by the pioneer in the field, John Burton. In the terminology of
John Burton, the goal of coexistence may be seen as equating with dispute management or settlement, but not resolution, as it does not deal with the underlying psychological causes of the conflict (Burton & Dukes, 1990). Achieving legal or socioeconomic justice can promote peaceful coexistence, but the deeply held hatreds and view of the other as the enemy can only be changed with a complete psychological transformation that is part of the process of reconciliation. If the post-conflict peacebuilding process stops at peaceful coexistence and fails to address the need for reconciliation at this level, then the ethnic hatreds and desire for vengeance may simmer just below the surface ready to reassert themselves in further violent conflict or even genocide some time in the future.

My definition of reconciliation here equates with Crocker’s third and “thickest” notion of reconciliation that includes processes of forgiveness, mercy, mutual healing and commitment to a shared comprehensive vision (1999, p. 60). Crocker (1999, p. 60) defines three levels of reconciliation, the thinnest of which he equates with “simple coexistence”. This he contends comprises “living together nonviolently”. The second level involves respecting others as fellow citizens described variously as “liberal social solidarity” or “democratic reciprocity” (Crocker, 1999, p. 60). Digeser (2001, p. 65) similarly defines three levels of reconciliation: one in which enemies who were divided are reunited as friends in a harmonious relationship; a state of political reconciliation where civil strife has ended and injustices have been settled, but where a state of

133 It should be noted that not all theorists and practitioners agree with this definition of coexistence. For example, The Handbook of Interethic Coexistence edited by Eugene Weiner (1998) appears to assume a definition of coexistence that is more akin to the concept of reconciliation. Weiner describes coexistence work as consisting of “getting people to participate in an intimate encounter with their ethnic enemies” (p. 13). I think it would be a pity if the two concepts of coexistence and reconciliation were used interchangeably as this could lead to confusion and a watering down of the idea of reconciliation as a transformational process and promotion of the idea that coexistence (as I have defined it) is necessary and sufficient for the attainment of lasting peace.
harmony is not reached; and one where reconciliation is masking acquiescence or submission through lack of choice.

Reconciliation at the ‘thickest’ level (rather than coexistence) is a much more demanding and possibly unrealistic goal for post-conflict peacebuilding, especially in the aftermath of genocide. It may not always be necessary in order to achieve a ‘peaceful coexistence’, at least in the short-term, but in the long-term the failure to achieve reconciliation is a recipe for further violence and bloodshed. In many cases, the victims/survivors of extreme violence, and especially genocide, are not willing or able to contemplate the possibility of reconciliation. Dwyer (1999, p. 84) argues that it is not morally justifiable to promote reconciliation in order to bring psychological peace “when interpersonal reconciliation is psychologically impossible”. She is quite pessimistic about the ability of most ordinary people to forgive their enemies and live together in harmony. Dwyer’s definition of reconciliation is based on one that should be more widely attainable: restoring narrative coherence or equilibrium in the aftermath of atrocities. However, the question remains whether macro-level reconciliation should be attempted when micro-level reconciliation is psychologically impossible. In this case, would the pursuit of national reconciliation be at the cost of denying justice to individuals? This question is of central importance to the analysis of reconciliation in both Cambodia and Rwanda (see Chapters 9 - 11).

The goal of peaceful coexistence may be seen as a necessary first step, but without some form of reconciliation this peaceful coexistence is unlikely to last (or even be achieved in the first place). I believe that peaceful coexistence remains vulnerable to disruption
and new outbreaks of conflict or violence if reconciliation is absent. Reconciliation, over and above peaceful coexistence, is necessary for people or societies who need to live or work together in the long-term. For example, a married couple have an argument. The couple may be able to agree to get on with the daily chores of living in a relatively peaceful way, but until they go through a process of reconciliation (involving authentic remorse, compassion and forgiveness, on both sides) resentments are likely to grow and further arguments and fights are likely to recur periodically. In the end, this accumulation of non-relating to the other's experience and the build-up of resentments and anger may result in the couple separating. At the societal level, this separation process (between two ethnic groups, for example) may take the form of war or even genocide. The danger of failing to deal with the memories of past traumas and losses in a way that includes genuine reconciliation with the 'enemy' is illustrated most vividly by the recent ability of Serb leaders to exploit the memories of the 1389 Battle of Kosovo in inciting violence against the Bosnian Muslims.

The psychoanalytic theories of Volkan (1994) and Scheff (1994) suggest that an emphasis on apology, forgiveness and reconciliation is the only path that can lead us to a safer and more peaceful world based on trust rather than suspicion and dehumanisation of our enemies. If we continue to accept that punishment is the only just and effective means of dealing with criminals, we will not progress very far with changing the mindsets that create enemies of the other. As practitioners have found in dealing with spousal abuse, it is insufficient to blame and punish the perpetrator (usually the man). The cycle of violence will only be broken when men are helped to understand their violent impulses and to develop alternative ways of dealing with
conflict. This is not to avoid condemnation of the perpetrator, but rather to work with him in changing his behaviour. Similarly, in the international setting, violent conflicts are likely to recur unless the desire for vengeful retribution is transformed into a desire for peaceful reconciliation.
CHAPTER 8

THE PURSUIT OF JUSTICE AND RECONCILIATION IN THE AFTERMATH
OF GENOCIDE AND OTHER MASS HUMAN RIGHTS ABUSES

"When someone kills a man, he is put in prison. When someone kills 20 people, he is declared mentally insane. But when someone kills 20,000 people, he is invited to Geneva for peace negotiations." (Office of the High Commissioner for Human Rights, 2000, quoted in Chesterman, 2001, p. 145)

This chapter will serve as an introduction to discussion in Chapters 9 and 10 of the processes and mechanisms employed in Rwanda and Cambodia to promote justice and reconciliation. I begin with a brief overview of the international criminal regime that underlies the prosecution of war crimes, crimes against humanity and genocide. I then briefly outline the various mechanisms and processes that have been implemented by the international community and others in an effort to promote justice and reconciliation in post-conflict societies. The approaches to justice and reconciliation in Sierra Leone, East Timor and Mozambique receive special attention because of the example they set for the future of international involvement in this area.

The reader is referred to other sources for more indepth analysis of the international human rights regime, the Genocide Convention, and the various types of transitional justice and reconciliation mechanisms and processes discussed.
8.1 Genocide and the International Human Rights Regime

The international human rights regime developed since World War Two represents a new focus of international law – the protection of individuals, including citizens who are abused by their own governments. The list of international human rights treaties adopted by the UN General Assembly in the last fifty years includes the Convention on the Prevention and Punishment of the Crime of Genocide (1948), Convention on the Elimination of All Forms of Discrimination Against Women (1979), International Convention for the Elimination of All Forms of Racial Discrimination (1965), Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), Convention on the Rights of the Child (1989) and the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973). In addition, there are regional human right treaties in Africa, Europe and the Americas; a number of United Nations Declarations such as the Declaration on the Protection of All Persons from Enforced Disappearance (1992) and Declaration on the Elimination of Violence Against Women (1993); and the Geneva Conventions and their Protocols covering the protection of human rights of soldiers, prisoners of war, and civilians during international and non-international armed conflicts. The Universal Declaration of Human Rights (1948) and its two Covenants (1966) are now considered part of customary international law. Human rights are thus, at least theoretically, protected under international law.

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In discussing human rights, one needs to counter the dangers of cultural relativism but still retain the concept of a cultural context for the application of universal human rights standards. It has become increasingly clear that while political leaders may invoke local cultural values to defend the violation of human rights, those who fall victim to such abuse do not generally reject international human rights standards by invoking local cultures (An-Na’im & Deng, 1990). According to Leary (1990, pp. 29-30):

Concepts of human dignity can be expressed by many terms: social justice, dharma, human rights. The particular form in which the international community, under Western influence, has chosen to express human dignity, however, is the concept of human rights. Despite its Western origin, the concept of human rights must now be recognized as a universal term accepted throughout the world. ... Western influence, dominant in the origin of the development of international human rights norms, is now only one of a number of cultural influences on the development of international human rights standards.

Silk (1990) also argues for the importance of accepting the universality of basic human rights, starting with the right to personal security. Berger (1977) distinguishes the grossest abuses of human rights which receive condemnation from a consensus much wider than Western civilization; these include genocide, torture, terror, religious persecution and destruction of ethnic institutions. According to international law, there are twenty-four categories of international crimes, including war crimes, crimes against humanity, and genocide as three of the most serious after crimes of aggression. As indicated above, other crimes relating to the protection of human rights recognised
internationally include racial discrimination and apartheid, slavery and related crimes, torture, and unlawful human experimentation (Bassiouni, 1994).

And yet states have (until recently) done little to develop mechanisms to enforce the law against these crimes. The International Court of Justice is only accessible to states (or UN bodies), and thus offers little protection to individuals or groups who suffer human rights abuses at the hand of states. The Genocide Convention requires that states enact offences of genocide in their domestic criminal codes and ensure that it is effectively punished, but many states (including Australia) have failed to do so (Margossian 2001; Aarons 2001). Furthermore, given that genocide is generally a state crime it is unrealistic to expect that states will pursue trials unless the perpetrators have been vanquished, as in the case of Rwanda post-1994 (Schabas, 1999). The option of states pursuing the prosecution of foreign nationals for human rights has been taken up on occasion, illustrated by the recent attempt in a London court to try the former Chilean dictator, Augusto Pinochet (Ball, 1999; Waltz, 2001).

In Article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, genocide is defined as “acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group” (see Appendix I for the full text of the Genocide Convention). The limitations of this definition (i.e. not including political, economic or social groups) have made it more difficult for the international community to legally determine whether genocide has occurred. As discussed in Chapter 2, this observation applies to the case of Cambodia where it was not clear that the victims of mass starvation and killings comprised a group identifiable as such under the Genocide
Convention (Kiernan, 1997). From a moral or ethical perspective, however, mass killings of any group would seem to warrant the same condemnation. It has therefore been argued that the legal definition of genocide should be expanded to include the "mass destruction of any human collective based on any integral element of human identity" (Ratner & Abrams, 1997, p. 43). This is certainly a more useful definition for the purposes of comparative study of genocides and attempts to foster reconciliation in the aftermath of genocide, and is the definition used in this study. The legal definition becomes relevant when considering the obligations to prosecute the perpetrators.

The Contracting Parties to the 1948 Genocide Convention confirmed that "genocide whether committed in time of peace or in times of war, is a crime under international law which they undertake to prevent and to punish" (Article I). The international community, and individual states, are obliged to punish those who commit, conspire to commit or attempt to commit genocide (Article III). Parties to the Genocide Convention have also undertaken to prevent genocide, but the extent of this obligation is much less clear. In addition to the deterrence impact of punishment, it has been argued that there is an obligation of humanitarian intervention to prevent genocide (Schabas, 2000). Respect for state sovereignty, the Cold War and geopolitical strategic priorities have, however, combined to impede the international community's implementation of the 1948 Genocide Convention.

The implementation of international human rights and humanitarian law to prevent genocide and crimes against humanity has been notoriously weak, primarily because of the apparently competing requirement of adherence to the twin principles of state
sovereignty and non-interference in the internal affairs of states (Pease & Forsythe, 1993). When faced with political concerns and constraints, states fall back on respect for state sovereignty as an excuse for inaction, at least at a collective level. This is illustrated most vividly in the case of the 1994 Rwandan genocide, which the international community failed to stop despite clear evidence before and during its occurrence.\textsuperscript{135} By contrast, there was some doubt about what was happening to the people of Cambodia during the closed regime of 1975-78, although there were refugee reports of mass killings and starvation reported widely in the press in 1977-78 (Kiernan, 1997). The international community failed to identify that a genocide was being perpetrated in Cambodia and therefore failed to prevent the Cambodian genocide from occurring, but the Vietnamese invasion and occupation did prevent the genocide from continuing.\textsuperscript{136}

On a unilateral basis, states have intervened in internal conflicts, often in neighbouring states, where the conflict has been perceived as a threat to national security. This was the case when Tanzania intervened in Uganda to end the genocidal regime of Idi Amin, and the Vietnamese intervened in Cambodia and overthrew Pol Pot and the Khmer Rouge. Only following the end of the Cold War, has the international community begun moving more towards intervention in internal affairs on a collective basis (through the United Nations or regional organisations such as the OAU or NATO) where gross abuse

\textsuperscript{135} Then UN Secretary-General, Boutros Boutros-Ghali, said the Security Council hesitated to define what was happening in Rwanda as genocide as it might then have been obliged to intervene militarily. In a similar vein, US President Clinton said the international community failed to “immediately call these crimes by their rightful name: genocide”, thus implying that if they had identified it as genocide, they should have taken effective action. (Schabas, 1999, p. 6).

\textsuperscript{136} The US and the rest of the Cold War alliance treated Vietnam’s invasion of Cambodia as an illegal use of force against a sovereign state, rather than as the legitimate use of force to prevent the continuation of a genocide. The Khmer Rouge, the perpetrators of genocide, meanwhile continued to represent Cambodia in the UN as the Vietnamese-run government was regarded as an illegal occupying force.
of human rights has occurred, as in Iraq, Somalia and the former Yugoslavia. However, this progress has been inconsistent and largely ineffective in promoting change. Some lives have been saved, but the tyrannical regimes and leaders have remained. For example, the US-led, UN-sanctioned humanitarian interventions in Somalia and Iraq were breakthroughs in the implementation of international law, but not very successful in protecting the victims from further abuse (Clements & Ward, 1994; Community Aid Abroad, 1994; Ramsbotham & Woodhouse, 1996). In Rwanda in 1994 and East Timor in 1999, the international community failed to intervene to protect the lives of civilians threatened by genocidal violence until after the bulk of killings and mass human rights abuses had occurred (Lambourne, 2001).

In the area of accountability and punishment for crimes against humanity, genocide and war crimes, the international community has made more significant progress in recent years, most notably with the formation of the international criminal tribunals for Rwanda and the former Yugoslavia, and the recent agreement for the establishment of an International Criminal Court. For the first time since the signing of the 1948 Genocide Convention, the crime of genocide is being prosecuted. However, this progress has only occurred after 40 years of inaction following the Nuremberg and Tokyo tribunals. During the Cold War in particular, corrupt regimes were able to abuse their citizens with impunity as the international community suffered from the paralysis of Cold War alliances and Western political priorities driven by anti-communism. National governments in Africa, Central America and Europe implemented transitional justice mechanisms to deal with former corrupt regimes and human rights abusers, but these generally did not involve the international community and mostly incorporated
amnesties for the alleged perpetrators in the interests of political stability (Hayner, 1994; Kritz, 1995).

The problem of impunity is defined by the United Nations as covering those measures and practices whereby states fail in their obligation to investigate, try and sentence those responsible for the systematic practice of gross violations of human rights, and thereby impede the enjoyment by victims and their families of the right to know the truth and have their rights restored (quoted in Harper, 1996, p. ix). Impunity can occur by default or can be part of a deliberate policy of political expediency, as in Cambodia. In the interests of national reconciliation, perpetrators of human rights abuses and even genocide may be granted amnesty. But, for some people, especially the survivors of genocide, reconciliation will never be possible without justice (see discussions in Chapters 7 and 11).

An example of the importance of the international enforcement of human rights law and overcoming the tendency to permit impunity for political leaders guilty of war crimes, genocide and other crimes against humanity is a comment made by Adolf Hitler in 1936 "and who now remembers the Armenians?"137 It seems that impunity can breed contempt (Blakesley, 1997, p. 192). And yet, despite the trials of Hitler (in absentia) and other Nazi war criminals at Nuremberg, we have subsequently witnessed massive human rights violations in numerous countries of Central America, Africa, Asia and Europe, including the genocides in Cambodia, Rwanda and the former Yugoslavia. The Cambodian genocide took place during the Cold War, making it more difficult for the

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137 Hitler was referring to the killing of Armenians by the Turks 25 years earlier for which no-one was held legally accountable (Kritz, 1999, p. 180).
international community to mobilise to prosecute the perpetrators, but the two recognised post-Cold War genocides have resulted in the establishment of international criminal tribunals. Furthermore, the international community is supporting criminal prosecutions in several other countries emerging from civil war and gross abuse of human rights, including East Timor and Sierra Leone. It is too soon to determine if these developments in international humanitarian law enforcement will act as deterrents to would-be war criminals\textsuperscript{138}, but in the meantime, we can at least start to assess whether these tribunals do address the justice and reconciliation needs of the people in the communities affected.

8.2 Accountability and Transitional Justice Mechanisms

"With the aid of the international community, each society emerging from genocide, war crimes or sustained mass repression will need to find the specific approach or combination of mechanisms which will best help it achieve the optimal level of justice and reconciliation." (Kritz, 1997, p. 23)

To deal with the human rights abuses of the past, states and communities can choose from a variety of mechanisms and processes designed to promote justice, reconciliation

\textsuperscript{138} One could observe that the existence of the ICTY did little to deter the Serbian leaders from continuing violence and alleged perpetration of crimes against humanity in Kosovo. This lack of deterrence may be attributable to the problem of impunity associated with the ICTY as the Prosecutor had failed to obtain custody of key alleged perpetrators who were being protected by Serbia. The Indonesian militia who allegedly perpetrated crimes against humanity in East Timor in the aftermath of the August 1999 referendum on independence also did not seem to have been deterred by the enforcement of international criminal law in other conflict situations. In this case as well, the accused felt they could seek protection within their sponsoring state, in this case Indonesia. In both cases, however, this protection has broken down, with Milosevic now facing trial in The Hague and arrest attempts having been made for Karadzic and Mladic, and Enrico Guterres being arrested in Indonesia on charges of crimes against humanity.
and peace. The international community may or may not choose to become involved, either directly with the formation of its own mechanisms or indirectly through funding, technical or other resource assistance to local initiatives. The decision about which method or methods to employ in any particular transitional society will depend on legal, political, practical and philosophical considerations (see discussion in Chapter 12).

National or international accountability or transitional justice mechanisms can include:\cite{139}

- criminal prosecutions and punishment (legal justice via domestic courts or international tribunals)
- official investigations and acknowledgement of the past (such as fact-finding commissions, commissions of inquiry or truth commissions)
- civil/non-criminal sanctions, such as social shaming and banning of perpetrators from public office (‘lustration’, purges)
- compensation and rehabilitation for victims or their families (civil remedies, national reparations)
- public access to police records
- public apologies, commemorations or memorials to victims
- reburial of victims
- literary and historical writing
- blanket or individualised amnesty (legal immunity from prosecution)

At the local or non-official level, reconciliation mechanisms can include:

- Track Two or problem-solving workshops
- traditional healing rituals
- religious ceremonies or other activities

The type or combination of types of accountability or transitional justice mechanisms chosen by the state in question or international community is likely to vary according to the:

- severity of the crimes;
- perceived need for political accommodation of the perpetrators; and
- relative weight given to retributive, restitutive and restorative justice needs.

In cases of genocide, war crimes and crimes against humanity, the international community could be obliged to establish mechanisms to implement prosecution under international law if the state in question is unable or unwilling to do so. But the question still remains as to what other mechanisms should also be employed, and to what extent these should be locally or internationally driven – “there can be no single model for addressing serious violations of international human rights and humanitarian law” (Ratner & Abrams, 1997, p. 136). In any case, local strategies may still require or benefit from support provided by the international community, including the UN and its various agencies, governments and universities, international lawyers and international NGOs.
Crocker (1999, p. 45) suggests the decision should be based on consideration of what lessons might be learned from other societies; an examination of its own capabilities and limitations; and the establishment of clear objectives. Furthermore, he identifies eight goals as a moral framework for societies coming to terms with past atrocities to decide on the most appropriate way forward: truth; public platform for victims; accountability and punishment; rule of law; compensation to victims; institutional reform and long-term development; reconciliation; and public deliberation. Crocker (1999, p. 62) claims that these goals may be mutually interdependent and can be adapted to fit any particular context in order to devise policies “sensitive to specific historical and local facts”. The following statement by Crocker (1999, pp. 63-4) is relevant to both Cambodia and Rwanda:

Policies and strategies that are designed and implemented solely under pressure of immediate circumstances and without proper attention to the relevant ethical questions are likely to be ad hoc, ineffective, inconsistent and unstable. Moral questions have a habit of not going away. They may be trumped in the short term by certain strategic and prudential imperatives, and some measure of peace can be established without paying close attention to them. Long-term peace, however, cannot be realized if resentment, bitterness, and moral doubts about the just treatment of perpetrators and victims of human rights abuses linger in the minds of citizens.

I will now review a selection of these mechanisms and processes that are relevant to the current study of Cambodia and Rwanda.
8.3 *International Criminal Tribunals and Domestic Prosecutions*

Domestic legal systems are the mechanisms of first resort for the enforcement of international criminal law. However, there are limits to the ability and willingness of states to apprehend and prosecute war criminals. Consequently *ad hoc* international tribunals have been implemented to deal with war crimes, crimes against humanity and genocide perpetrated during World War Two, wars in the former Yugoslavia, and the Rwandan genocide. Such tribunals were also planned for East Timor and Sierra Leone. There have also been national trials associated with the Holocaust in a number of countries including Canada, France and Australia, and other national tribunals in Argentina, Ethiopia, Rwanda and post-Communist Germany.\(^{140}\)

The process of criminal accountability can provide victims/survivors with a sense of justice and catharsis; a public record of historical facts and the illegality of human rights abuses; and a new faith in judicial systems and legal accountability (Kritz, 1997). The prosecution of war crimes and crimes against humanity can be particularly important in promoting long-term reconciliation by holding specific individuals rather than whole ethnic or other groups accountable for the atrocities committed. In this way, the dangerous culture of collective guilt and retribution is rejected, making it more likely that the cycle of violence and revenge will be broken (Kritz, 1999).

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\(^{140}\) See Ratner & Abrams (1997, pp. 146-156) for an account of these national tribunals.
However, the application of criminal law in the aftermath of violent conflicts is fraught with difficulties and especially susceptible to promoting a culture of impunity, as discussed in the previous section of this chapter. In the interest of maintaining a fragile peace agreement, amnesty may be granted to political leaders, and the arrest and prosecution of war criminals may be seen as selective or biased. If people do not develop a faith and trust in the legal justice system, they are more likely to resort to violent retribution again in the future, and deterrence of would-be perpetrators will be undermined.

The “International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991” (ICTY) was established by the UN Security Council in May 1993 in the “explicit belief that accountability would ‘contribute to the restoration and maintenance of peace’” (Kritz, 1999, p. 170). The ICTY is based in The Hague and comprises judges, prosecutors and other staff from countries that were not party to the conflict. Unlike Nuremberg, it could not be accused of providing only ‘victor’s justice’. Those accused by the Tribunal have come from all sides of the conflict, including Bosnian Muslims, Croats and Serbs. According to Kritz (1999), there was some pressure to sacrifice the ICTY to the peace process, but its proponents prevailed and the Tribunal has continued to create significant precedents for the prosecution of genocide, war crimes and crimes against humanity by an ad hoc international court.

Advantages of international tribunals include the message that the international community will not tolerate such abuses of human rights; greater chance of expert
staffing and availability of sufficient resources; perception of independence and impartiality more likely; opportunity to advance the development and enforcement of international criminal norms; and greater chance of obtaining physical custody and extradition of indicted war criminals (Kritz, 1997, p. 4). Some problems of international tribunals can include the physical distance of the court from the affected population (as with the Rwanda tribunal based in Arusha, Tanzania) and the difficulties of ensuring the dissemination of unbiased reports of proceedings to the local population (for example, via the media).

Domestic prosecutions have the advantages of potentially enhancing the legitimacy and credibility of the new government; providing a focus for rebuilding the domestic judiciary and criminal justice system; being closer to the people and being potentially more sensitive to the nuances of local culture; and being able to cope with larger numbers of lower level perpetrators compared with the selective and restricted capacity of an international tribunal (Kritz, 1997, p. 6). From his review of the ICTR, Alvarez (1999, p. 482) concludes that:

while international tribunals need to be kept as an option of last resort, good faith domestic prosecutions that encourage civil dissensus may better preserve collective memory and promote the mollification of victims, the accountability of perpetrators, the national (and even the international) rule of law, and national reconciliation.

On the other hand, domestic trials are subject to the political bias of the incumbent government (as in Rwanda) and a greater potential for corruption (as is threatening to occur in Cambodia).
As can be seen in Rwanda in relation to both domestic and international prosecutions, there is still a danger of retribution in the form of violence towards witnesses and released prisoners who are either not brought to trial, or are granted amnesty or shorter sentences after confessing. It is clear that the holding of trials is not in itself sufficient to produce a sense of justice and a process of reconciliation – other mechanisms are also necessary, as well as the conscious incorporation of the goals of achieving justice and reconciliation into the strategy of prosecution (Kritz, 1997, p. 8). Otherwise the trials may be seen as just another means of continuing the conflict, with a biased focus on arresting and prosecuting perpetrators only on one side, and a fuelling of the desire for violent retribution in the absence of legal justice. Similarly, the absence of credible enforcement and arrest of indicted war criminals, and the absence of unbiased media coverage of the legal proceedings, can undermine the process of justice as a means to reconciliation (Kritz, 1997, p. 10). On the other hand, effective co-operation and communication between international and domestic accountability mechanisms can assist the ability of both to address the justice needs of the local population.

Legal solutions are also limited in their ability to promote reconciliation because of their reliance on an adversarial approach to dispute settlement. A court of law is not generally the best forum for generating true conflict resolution as it does not allow the parties to explore and analyse the underlying reasons for the conflict. The purpose is to decide on a winner and a loser and impose a judgement rather than allow the parties to come to a mutually agreed win-win (or, at least, a compromise) solution. Furthermore, the rules of evidence, at least in the US, treat an apology as an admission of fault that may be used
to prove wrongdoing; the emphasis is on the accused avoiding any hints of admission of
guilt in order to avoid conviction and punishment. Western legal tradition does not
therefore encourage the expression of contrition or forgiveness; it is based on the
models of retributive and restitutive justice, rather than on the model of restorative
justice.

In Chapters 9 and 10, I examine the types of justice being pursued in Rwanda and
Cambodia. Both domestic and international criminal prosecutions of the perpetrators of
genocide are taking place in Rwanda, while in Cambodia none of the perpetrators of the
genocide have been effectively tried for their crimes. What can we learn from
comparing these two countries about the impact of the pursuit of legal justice versus a
culture of impunity on societies recovering from genocide? How can we judge whether
the ICTR is indeed promoting justice and reconciliation as its mandate indicates?

This study complements the findings of Ivkovic (2001) whose doctoral research
focussed on perceptions of the ICTY and the justice it dispenses. Ivkovic asked a
conceptually similar but more limited question in her study: “Is it possible for such a
body to provide a sense of justice for the war victims?” (p.259). Her focus was on
interviewing victims of the ethnic violence in the former Yugoslavia to ascertain their
opinions about the tribunal’s functioning and effectiveness. She concluded that, even
though overall evaluations of the ICTY have been positive, the “negative perceptions of
procedural and substantive fairness at the ICTY may ultimately impede its most
important goal – that of providing a sense of justice to the victims and thereby
advancing the processes of healing and reconciliation in the former Yugoslavia” (p.
334). Her interview schedule was much more complex and asked more indepth questions about the ICTY, but did not specifically address the respondents' ideas about justice and reconciliation. Ivkovic's research only addressed legal justice — both procedural and substantive. By contrast, my research takes a more ambitious goal of analysing the meanings of and interactions between different types of justice and reconciliation. Her observation that victims' perceptions are important in assessing the impact of war crimes tribunals is consistent with my focus on seeking the ideas of Cambodians and Rwandans in assessing the likely impact of processes intended to promote reconciliation and justice.

8.4 Truth Commissions

Truth Commissions establish a full, official accounting of the 'truth' of past abuses and provide an opportunity for reconciliation between perpetrators and victims. They can provide an important healing function as victims/survivors are able to tell their stories and to be heard, thus creating a cathartic public airing and acknowledgement of their loss and suffering. Truth commissions also provide an historical record that may be perceived domestically and internationally as legitimate and impartial, and they may also provide the formal basis for subsequent compensation of victims. Truth commissions cover not only individual cases of abuse, but also reveal the broader context and government structures that enabled the pattern of violations to occur, and may recommend measures to deal with past abuses and avoid their repetition (Kritz, 1997, pp. 14-17). As discussed in Chapter 6, truth commissions provide a form of
restorative justice, as well as the potential for restitution, but cannot in themselves provide a sense of retributive justice. Truth commissions are most appropriate when the ‘truth’ regarding human rights abuses has been hidden or denied, as in South Africa.

The South African Truth and Reconciliation Commission (TRC) is the most well-known, but there have been a number of variations of commissions of inquiry or truth commissions in 22 countries mostly in Africa and Latin America over the past 27 years.\footnote{141} International consultant Priscilla Hayner has produced the most comprehensive analysis of these truth commissions (1994, 1996, 1999, 2001). She considers both the procedures and the impact of the various truth commissions, and offers recommendations for the development of effective truth commissions (Hayner, 1999). Truth commissions were also under consideration for East Timor, Bosnia, Cambodia, Colombia, the Philippines, Jamaica and Burundi (Hayner, 2001). As Hayner (2001) points out, in most cases it is the national government or local communities that are calling for truth-telling processes, but at the same time the international community is becoming more involved as these countries request assistance in the planning of post-conflict transitions.

Each ‘truth commission’ is unique in form, structure and mandate, and the formal titles vary. Hayner’s definition of a truth commission has four primary elements (1996, p. 20):

\footnote{141 In chronological order, these truth commissions have occurred in: Uganda (1974, 1986), Bolivia, Argentina, Uruguay, Zimbabwe, Nepal, Chile, Chad, South Africa (1992, 1993, 1995), Germany, El Salvador, Sri Lanka, Haiti, Burundi, Ecuador, Guatemala, Nigeria, Sierra Leone (Hayner, 2001, pp. 291-7). Alternative semi-official inquiries into the past have been held in Ethiopia, Rwanda, Honduras and Northern Ireland (Hayner, 2001, pp. 300-1). Hayner (2001, pp. 298-9) also lists four “historical truth commissions” held in the US, Canada and Australia (the “Bringing Them Home” enquiry and report of 1997).}
(1) focus on the past
(2) focus on record of abuses over a period of time
(3) temporary body, generally concluding with submission of a report
(4) officially sanctioned by government (or opposition, if appropriate) to investigate the past

Borris (1997, p. 17) describes the significance of truth for the pursuit of reconciliation and peace:

By revealing the truth, victims can be acknowledged, can be empowered and can have their humanity and civil dignities rehabilitated in the process. That in turn enables the victims to be in a position to be ready to forgive. It is this search for truth which can create the moral climate in which reconciliation and peace will flourish.

According to Shriver (1999, p. 114), the truth-telling process is an important method of incorporating respect into the peace-building process: “Respect of victims begins with the very invitation to them to tell their stories publicly. Respect for perpetrators begins with treating them as moral agents, not as automatons of a governmental system.” The South African TRC National Unity and Reconciliation Act, paragraph 11 speaks of the “compassion and respect” that the Commission owes those victims who come forward to testify.
Many writers have analysed the TRC and its impact on reconciliation in South Africa.\textsuperscript{142} Boraine (2000, p. 340), for example, argues that while the TRC uncovered significant knowledge about South Africa’s past, “it offers very little in the way of reconciliation”. He cites the continuing widespread crime and corruption as impediments to reconciliation, and claims that “most whites don’t trust blacks … [and] most blacks don’t trust whites” (p. 358). South Africa is still “riddled with racism, divisions, and stereotyping” (p. 358). He poses the question whether a nation can indeed be reconciled or healed, or whether only individuals or groups of individuals can be reconciled, healed, forgive and start again (p. 360).\textsuperscript{143} Nevertheless, he concludes that the TRC “contributed to a national process of acknowledgement, accountability, and responsibility which has unlocked the greater possibility of a measure of reconciliation, not only for individuals, but for the nation.” (Boraine, 2000, p. 378). Villa-Vicencio (2000, p. 199) similarly concludes that the TRC was inevitably limited in its ability to “reconcile the nation” but it did lay the “foundation on which national unity and reconciliation could be built”. His warning of the likelihood that a “state-sanctioned programme on national reconciliation can lead to a new brand of nationalism – which plays down a focus on justice and human rights” (p. 199) is relevant to both Cambodia and Rwanda (as discussed in Chapters 9-11).

War crimes tribunals and truth commissions should not be regarded as mutually exclusive, even though they are often seen that way in practice.\textsuperscript{144} They may indeed complement each other (Hayner, 1999, 2001). For example, a truth commission may be


\textsuperscript{143} See Chapter 7 for a discussion of this issue.

\textsuperscript{144} This argument parallels that in Chapter 7 about seeing the pursuit of justice and reconciliation as complementary rather than incompatible.
established more quickly and begin collecting evidence which may later be used in criminal prosecutions, such as in Argentina in 1983 (Kritz, 1997, p. 16). In South Africa, perpetrators who failed to confess and seek amnesty from the TRC could be prosecuted by the domestic courts.

In Bosnia, three separate war crimes commissions (Bosnian, Serb and Croat) were cooperating to form a single Bosnia-wide truth commission to complement the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) established in 1994 (Kritz, 1997, p. 17). However, this move was not supported by officials from the ICTY who regarded the idea of a truth commission as a threat to the viability of the Tribunal, as previously discussed in Chapters 2 and 7. According to Hayner (2001, p. 207), the Bosnian “truth commission idea was rooted in the recognition that three contradictory versions of history were being taught by the three ethnic communities of Bosnia – the Serbs, Muslims, and Croats – and that such radically different understandings of the atrocities of the recent war could well lead to future violence”. This need was contradicted by ICTY officials who argued that the tribunal was already providing the historical truth, that Bosnia was not ready for a truth commission, and that the process was likely to be manipulated by local political factions (Hayner, 2001, p. 208).

This conflict over the establishment of a truth commission for Bosnia highlights not only the perceived tensions between justice and reconciliation, but also the role of a

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145 Boraine (2000, p. 387-404) and Hayner (2001, pp. 207-8) provide accounts of the arguments for and against a Bosnian truth commission being established alongside the ICTY. Hayner (2001, pp. 209-211) also discusses the implications of truth commissions existing in conjunction with the International Criminal Court.

146 The Federal Republic of Yugoslavia (FRY) has subsequently announced the establishment of a “Commission for Truth and Reconciliation” that will be open to public scrutiny and lead to “reconciliation within the Federal Republic of Yugoslavia, between the country and neighbouring peoples and states, and the international community.” (TFF PressInfo #139, 11 December 2001).
unified history and recognition of multiple truths in promoting reconciliation, and issues of locally versus internationally managed or imposed justice and reconciliation mechanisms. These issues will be considered in the context of discussions regarding the possibility of truth commissions being established in Cambodia or Rwanda. Truth commissions in the aftermath of the genocides in Cambodia and Rwanda have been suggested but not implemented. The conditions conducive to restorative justice in the form of a truth commission do not appear to be present in Cambodia or Rwanda. This study will consider the potential contribution a truth commission could make to reconciliation and peacebuilding in each of these countries (see Chapters 9 and 10).

International attitudes to peacebuilding appear to have shifted in the past five years (during the course of this research) towards a much greater awareness of the interdependence of peace, justice and reconciliation. The international community is supporting both East Timor and Sierra Leone to establish truth commissions as well as mechanisms for trying the perpetrators of crimes against humanity in their respective countries. These developments will be discussed briefly in the next section, before turning to consideration of other transitional justice mechanisms.
8.5 **Tribunals and Truth Commissions in Sierra Leone and East Timor**

**Sierra Leone**

The 10-year civil war in Sierra Leone finally ended in July 1999 with the signing of the Lomé Peace Accord.\(^{147}\) The externally-brokered Lomé agreement provided for a political settlement of the civil war through power-sharing made possible by granting amnesties to those who had perpetrated gross violations of human rights during the course of the war. At the same time, the agreement called for the establishment of nine institutions to promote peace and national reconciliation, including a Commission for the Consolidation of Peace and a Truth and Reconciliation Commission.\(^{148}\) The Lomé Accord thus resembled many other peace agreements (including the Cambodian Paris Peace Agreement) by its acceptance of a political compromise that “‘barters’ crimes against humanity for peace and stability” by favouring reconciliation over justice (Francis, 2000, p. 366). However, in a significant departure, the UN Special Envoy to Sierra Leone, Francis Okello, signed the Lomé agreement with a notation that “amnesty and pardon shall not apply to international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law”.

The Truth and Reconciliation Commission for Sierra Leone was established by law in February 2000 with a mandate to:

create an impartial historical record of violations of human rights and international humanitarian law related to the armed conflict in Sierra Leone,

\(^{147}\) *Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone (Lomé Accord),* Lomé, Togo, 7 July 1999 (http://www.sierra-leone.org/lomeaccord/html)

\(^{148}\) The Lomé Accord also resulted in a peacekeeping force (UNAMSIL and ECOMOG) which was responsible for disarmament, demobilisation and reintegartion of ex-combatants.
from the beginning of the Conflict to the signing of the Lomé Peace Agreement; to address impunity, to respond to the needs of the victims, to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered.  

In August 2000 the TRC Community Sensitisation Programme was launched by the Special Representative of the UN Secretary-General in Sierra Leone, while in New York the UN Security Council adopted a resolution calling for the creation of a Special Court to try those individuals who bear the greatest responsibility for the commission of “crimes against humanity, war crimes and other serious violations of international humanitarian law as well as crimes under relevant Sierra Leonean law committed within the territory of Sierra Leone”. In January 2002, the UN and the Government of Sierra Leone signed an agreement for the establishment of the tribunal (IRIN Africa, 17 January 2002). By pursuing the establishment of both a tribunal and a truth commission, the government of Sierra Leone and the United Nations are demonstrating a commitment to both justice and reconciliation for the people of Sierra Leone:

Justice is a pre-condition for reconciliation, if the victims of human rights abuses are denied justice, there is every likelihood that they will take the law into their own hands and seek retribution. Forgiveness cannot be granted without acknowledgement of crimes and without forgiveness there cannot

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be meaningful reconciliation. The purpose of the TRC is to address these issues.\textsuperscript{151}

\textit{East Timor}

A similar recognition of the interdependence of forgiveness, justice and reconciliation has also developed in East Timor. East Timorese president, Xanana Gusmao, has been spreading a message of interpersonal reconciliation, but he is also committed to achieving justice for the East Timorese people. In an Australian radio interview in November 2000, Gusmao said that the East Timorese had practised reconciliation for many years, but that “last September they got very angry and now a lot of people want justice”.\textsuperscript{152} He said that if the social and economic conditions in East Timor were improved, he believed that people would be able to forgive. Gusmao said he hoped that the East Timorese could find a new unity to fight against other things, such as poverty, illiteracy and disease, rather than fighting amongst themselves in the name of justice. While he acknowledged that there were East Timorese who want to see justice in the courts, he was hoping that this desire could be overcome by explaining the advantages of moving forward in a spirit of reconciliation. Gusmao believes that by honouring the dead as heroes of the resistance who made a sacrifice for their country’s independence, he and the people of East Timor can keep the memories alive without falling into the trap of cycles of revenge and retribution.

Reconciliation in East Timor is needed between the militia and the broader community, between East Timor and Indonesia, and also between the former political enemies in

\textsuperscript{151} “The TRC at a Glance”, National Commission for Democracy and Human Rights, Sierra Leone, Series No. 7-2001

\textsuperscript{152} Radio interview with Xanana Gusmao, ABC Radio National, 19 November 2000.
East Timor. Many of the militia have returned to their communities, but many others have remained in the refugee camps in West Timor, deterred by the uncertainty regarding their safety in the face of possible revenge attacks (Hill & Saldanha, 2001, pp. 169-170). Those who have returned have sometimes been ostracised, beaten or even killed, according to Horton (2000), while others have been accepted back into the community.\footnote{Personal interview with Graham Day, Senior Fellow at US Institute of Peace and former UN peacekeeper serving in East Timor, Washington, DC.} In a move reminiscent of the Cambodian government approach, Indonesia has urged East Timorese leaders “in a spirit of reconciliation” to invite pro-integration groups to participate in the political process (Hill & Saldanha, 2001, p. 90).

The UN Commission of Inquiry on East Timor issued a report in January 2000 calling for an international human rights tribunal under UN auspices that would “try and sentence those accused by the independent investigation body of serious violations of fundamental human rights and international humanitarian law which took place in East Timor since January 1999” (quoted in Chomsky, 2001, p. 130).\footnote{The UN Commission of Inquiry found that human rights abuses that occurred in East Timor in 1999 included destruction of property, threats and kidnapping, sexual assaults of women, injuring and killing, forced transportation, establishment of roadblocks, sieges, and blocking of food, water and medical supplies to displaced persons camps (Devereux, 2000a, pp. 140-141).} At the same time, the Indonesian government established its own Commission of Inquiry into Human Rights Violations in East Timor. The Indonesian Commission of Inquiry also found strong evidence of human rights abuses and the involvement of the Indonesian military, but insisted that it was Indonesia’s right to deal with crimes occurring on Indonesian soil and involving Indonesian citizens (Devereux, 2000a).
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The UN Transitional Authority in East Timor (UNTAET), meanwhile, has been focussing on the establishment of the new East Timorese court system, including a specialised Prosecution Service and International Panel which would have exclusive jurisdiction over the crimes committed in East Timor during 1999 including both international crimes (genocide, war crimes, crimes against humanity and torture) and with respect to murder and sexual offences committed between 1 January 1999 and 25 October 1999 (Devereux, 2000b). The International Panel would comprise local and international judges, and would serve as a substitute for an international tribunal in the domestic setting. However, the East Timorese tribunal would most likely only be able to try local East Timorese militia. It would not have access to Indonesian suspects unless Indonesia agreed to their extradition - an unlikely scenario, especially in relation to senior Indonesian military (Gorjao, 2001).

As in Rwanda, the East Timorese court system is facing huge challenges due to lack of infrastructure, resources, and trained and experienced judges, and the large number of serious cases to be tried. Despite the delays, 70 suspected militia had been detained as at February 2000 compared with not one detainee in Indonesia (ICG, 2000). The international legal experts who are assisting with the establishment of the new court system in East Timor have raised the issue of how to work with the traditional justice system in East Timor.\textsuperscript{155} Traditional justice in East Timor is very strong but takes many forms, and ways to integrate this into the new judicial system are being examined.

\textsuperscript{155} Annemarie Devereux, address to a conference on “Australia’s Role in the Reconstruction of East Timor”, Sydney, 30 August 2000.
The Indonesian government has undertaken to pursue trials, but the investigations are proceeding too slowly for the East Timorese and there have been repeated calls for an international tribunal that would be perceived as fairer and more transparent. UN High Commissioner for Human Rights, Mary Robinson, has expressed her “hope that efforts to hold those responsible for the human rights atrocities in East Timor will go on so that there is no impunity” (quoted in Chomsky, 2001, p. 130). The head of the UN Commission of Inquiry, Sonia Picardo, said that “the East Timorese deserve compensation – moral and material compensation – because their families and their country have been devastated, and the United Nations has to give that to them: it cannot be provided through an Indonesian tribunal” (quoted in Chomsky, 2001, p. 130).

Indonesian President Wahid acknowledged Indonesian responsibility for the atrocities in East Timor, visited the Santa Cruz cemetery in Dili (the site of the November 1991 massacre), and made an apology to the East Timorese. But fears that the Indonesian trials would not provide justice for the East Timorese have been supported by the results of the trial of militia leader, Eurico Guterres, who was accused of crimes against humanity during the massacres of East Timorese in 1999. The trial appeared to be more like a show trial than a serious attempt to challenge impunity. Guterres was greeted like a hero, and allowed to take control of the proceedings. The minimal sentencing for relatively insignificant crimes accorded to Eurico Guterres did not bode well for the Indonesian government fulfilling its undertaking to try those responsible for the violence in East Timor.\footnote{Guterres was sentenced in May 2001 to six months’ jail for inciting violence, with the four months he had already served under house arrest awaiting the outcome of his trial to be deducted from the sentence. Lindsay Murdoch, “Guterres set to slip through the net on atrocities”, \textit{Sydney Morning Herald}, 1 May 2001.} Even if the Indonesian trials were run with some degree of
impartiality, it is unlikely that East Timorese witnesses would feel safe to travel to Jakarta to give evidence to a government tribunal (Chomsky, 2001).

The UN High Commissioner for Human Rights together with UNTAET held workshops in Dili to consult with East Timorese groups and international truth commission experts on the possibility of a truth commission in East Timor. The East Timorese Transitional Administration agreed on 13 December 2000 to the proposal to establish a Commission for Reception, Truth and Reconciliation (CRTR) focusing its activities in three areas: facilitating the reintegration of East Timorese refugees (reception); establishing a historical record about human rights abuse (truth); and recommending legal and institutional safeguards to protect human rights in the future (reconciliation). The CRTR is an independent statutory authority that will inquire into human rights violations committed on all sides, between April 1974 and October 1999, and facilitate community reconciliation with justice for those who committed less serious offences. The Commission will not give amnesty.

It seems that the approaches to justice and reconciliation taken by the East Timorese leaders and the international community are setting some good examples for future post-conflict peacebuilding programs. Perhaps most importantly, both Gusmao and members of the international community have emphasised the importance of working in partnership with the local people. Gusmao has been at great pains to minimise the importance of his views: he refers often to the importance of listening to the East

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158 See Candio & Bleiker (2001) for an account of the peacebuilding challenges being faced in East Timor, including the needs for justice and reconciliation, and popular participation in the reconstruction process.
Timorese people and designing policies that incorporate what they say they want. However, Gusmao is not so naïve as to assume that he can please everyone: that there is still a task of changing the hearts and minds of some people to foster unity in order to achieve the outcomes that are best for his country. He also engages with the 'enemy' and insists on seeing only the structures and particular regimes and leaders as those responsible. He refers to the importance of his time in jail in Jakarta in enabling him to move from hating all Indonesians to being able to identify with the plight of the Indonesian people who were also suffering under the military regime.\textsuperscript{159} This ability to identify with the 'so-called enemy' has played a critical role in his focus on reconciliation. It is also politically astute to engage with the 'enemy' in the interests of peacemaking and peacebuilding, as Nelson Mandela demonstrated in his negotiation of the ending of the apartheid regime in South Africa.

8.6 \textit{Traditional Justice and Healing Rituals}

In some countries where there have been no national accountability or transitional justice mechanisms, locally-driven reconciliation processes have contributed to the healing of the community and development of a culture of peace to replace the prevailing culture of war and violence. One example is Bougainville, where the use of symbols and rituals played a large part in enabling former warring parties within the community to be reconciled.\textsuperscript{160} Another frequently cited success story is that of

\textsuperscript{159} Interview with Xanana Gusmao, ABC Radio National, 19 November 2000

\textsuperscript{160} See the film "Breaking Bows and Arrows" written and directed by Liz Thompson (Firelight Productions & Vision TV Canada, 2001) which shows the Bougainville reconciliation process making use of indigenous rituals and symbols.
Mozambique, where cleansing rituals for returning soldiers (and particularly youth) facilitated their reintegration into the community and contributed to national reconciliation.

The former Portuguese colony of Mozambique gained its independence in 1975 after a long guerrilla war that lasted from 1964 until 1974. The Marxist government of the Front for the Liberation of Mozambique (Frelimo) was, however, soon at war again – this time with the guerrilla rebels of the National Mozambican Resistance (Renamo). Renamo was founded by members of the Rhodesian security forces with the aim of destabilising the newly independent country. The resistance movement made the most of the growing disaffection of the Mozambican population with the autocratic 'communist' rule of the Frelimo government in order to gain supporters and fighters. It also used fear and brutality to gain forced recruits and support from villagers, and built on the split between the urban and rural segments of Mozambican society (Van Crikinge, 2000, p. 18). During the 17 year civil war, between 350,000 and 600,000 people were killed, two million were displaced, and most of the country's infrastructure was destroyed. The people were subject to the most horrible atrocities, and the countryside was left littered with landmines.

After the demise of apartheid in South Africa and the end of the Cold War, the Mozambican combatants lost much of their external support. Suffering from war fatigue and facing a seemingly unwinnable war, both parties agreed to a UN-brokered peace settlement in 1992. The United Nations Operation in Mozambique (ONUMOZ) was established to monitor and verify the implementation of the peace agreement (Synge,
1997). The operation included demobilisation, preparation for elections, mine clearance and humanitarian assistance. What was unique about the Mozambican peacebuilding effort was the emphasis placed on healing and reconciliation and the lack of any form of retributive justice against the perpetrators of human rights abuses during the war.

The churches were especially significant in promoting the peace and reconciliation process. The Mozambican Christian Council (CCM), an ecumenical body of mostly Protestant churches, established a Peace and Reconciliation Commission in 1984 that brokered local ceasefires, while the Roman Catholic Church played a key role in mediation between the two parties (Van Crieninge, 2000, p. 19). Other non-government organisations emerged following the peace settlement, including human rights and landmines awareness groups, and also played a role in the peace and reconciliation process. Perhaps most significant, however, was the widespread rural use of traditional rituals of healing and reintegration. Returned fighters participated in ritual cleansing and healing in order to regain their human dignity and be accepted as full members of their families and villages. This traditional reconciliation process did not involve telling the truth about the past; rather, it required participants to leave behind their past in order to live in harmony with their communities (Rigby, 2000, p. 34).

Reconciliation and reintegration rituals have also been recorded in East Timor and Rwanda where there are both national accountability and reconciliation processes being implemented. Such locally-driven mechanisms can thus complement national accountability mechanisms by providing the missing elements not provided by the

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161 Information obtained from interviews about Rwanda with Sekai Shand, World Vision (Melbourne, 24 April 2000) and about East Timor with Graham Day, Lester B. Pearson International Peacekeeping Training Centre (Washington, DC, 12 July 2001).
national mechanisms, such as interpersonal experiences of reconciliation that are more meaningful and relationship-oriented than a nationally-mediated process.

Unfortunately, an examination of the contribution of such locally-driven traditional healing rituals to post-conflict peacebuilding in Cambodia and Rwanda is beyond the scope of this study. The focus is rather on national and international processes, supplemented by interviewee opinions on how best to promote reconciliation and justice. The involvement of the local NGO communities in promoting justice and reconciliation in each of Cambodia and Rwanda will be considered, especially in the area of canvassing Cambodian and Rwandan opinions about justice and reconciliation issues. In addition, the potential contribution of the traditional justice system of gacaca to promoting a sense of justice and reconciliation in Rwanda will be examined because of the role of both the national government and international community in supporting the implementation of the gacaca courts. It would be useful for future research to examine the relative contributions of locally-driven, national and international accountability and transitional mechanisms to the overall peacebuilding process, especially in terms of justice and reconciliation. In particular, the potential role of the international community in supporting these traditional processes should be assessed.

8.7 Public Apologies and Commemorations

In a spirit of reconciliation, political and religious leaders around the world are increasingly engaging in acts of public apology for wrongs committed against groups of
people (see Chapter 7). In Chapter 7, the relationship between apology and reconciliation was examined in some depth. According to Brecke and Long (1997), it is a “powerful yet untested assumption that future violence is less likely to occur, and societal order more likely to be maintained, if parties to a conflict engage in a formal, public process of reconciliation”. The role of expressions of apology (and lack thereof) in peacebuilding in Cambodia and Rwanda will be discussed in Chapters 9 and 10 respectively. Reference will also be made to commemorations and memorials, such as the Tuol Sleng Genocide Museum in Phnom Penh, and their role in promoting peace and reconciliation.

8.8 Reconciliation Workshops

Joseph Montville, a former diplomat who became convinced of the importance of psychology to political conflict resolution in international relations, coined the term ‘track two diplomacy’ to describe unofficial processes of peacemaking and peacebuilding (1991). He is a major proponent of psychodynamic problem-solving workshops as a form of track two diplomacy to engage the antagonists in a dialogue to promote reconciliation. Pioneered by John Burton, problem-solving workshops and similar Track Two approaches can help to overcome barriers between conflicting parties by:

- encouraging the parties to penetrate each other's perspective, to differentiate their image of the enemy, to develop a de-escalatory language and ideas for mutual reassurance, and to engage in joint problem-solving designed to
generate ideas for resolving the conflict that are responsive to the fundamental needs and fears of both sides. (Kelman, 1997, p. 233)

Volkan (1991) and Montville (1993) developed the technique of psychoanalytic problem-solving workshops to promote reconciliation in the aftermath of violent conflicts. Psychodynamic problem-solving workshops “aim to make possible a process of undermining negative stereotypes held by participants and rehumanizing their relationships” (Montville, 1993). According to Montville (1993), the psychology of victimhood is transformed via the liberation of forgiveness. Interactive conflict analysis and genuine dialogue are essential components of problem-solving workshops – and of reconciliation (Fisher, 1999, p. 85).


Healing and reconciliation in violent ethnic and religious conflicts depend on a process of transactional contrition and forgiveness between aggressor and victims which is indispensable to the establishment of a new relationship based on mutual acceptance and reasonable trust. This process depends on joint analysis of the history of the conflict, recognition of injustices and resulting historic wounds, and acceptance of moral responsibility where due.

Such workshops offer skills training in problem-solving, as well as enabling the exploration of competing victimhoods and providing an opportunity for expressions of
contrition and forgiveness, and can thus make a valuable contribution to the reconciliation and peacebuilding process.

The history-taking component of psychodynamic problem-solving workshops, or the production of an agreed historical account of each side’s chosen traumas as part of a truth commission or other commission of inquiry, can contribute to the overcoming of the cycle of accusation and denial typical of violent conflicts. Falconer has called this truth-telling process “the reconciliation of memories” in which varying perspectives of history are shared and melded into a new political culture (Shriver, 1999, p. 210). To be effective, this historical accounting must incorporate multiple truths:

The public telling of all sorts of stories, including the most painful and embarrassing ones from all sides, signals the hope for an inclusive body politic, in which no one’s suffering is invisible in the public record, the history books, the mass media, and the celebratory occasions of religion and government. (Shriver, 1999, p. 211).

Other types of reconciliation workshops not based on the psychodynamic problem-solving model may be conducted by local and international NGOs as part of conflict resolution programs. For example, in the Philippines an inter-religious dialogue of Muslim and Christians is being conducted as a means of grassroots peacebuilding. One of the organisers of this program commented on the difficulties of dialogue in the absence of justice. He quoted a priest who cried when he said:

when it is only the Christians who are killed and no justice is given them ...

and when those killed are relatives of those who are always present in
dialogue sessions ... and when the killers are known yet no-one bears witness because of fear ... when the killers are of other faith ... how difficult it is to dialogue". 

In Rwanda, reconciliation workshops organised by two Catholic priests in Butare included young Tutsis and Hutus, but not those who killed. Similarly, women involved with AVEGA (Association of Widows of the April Genocide) in Kigali include both Tutsis and Hutus, but not if they are widows of men who killed. These examples suggest that people recovering from genocide and other gross human rights abuses of one group against another need to experience justice before they are ready to participate together in reconciliation workshops.

Such track two reconciliation workshops may be conducted by local organisations or by international NGOs, or by the two working together. Again, examination of such multi-track approaches to reconciliation as may have been implemented in Cambodia and Rwanda is beyond the scope of this study. However, examples will be cited where known and their relevance will be canvassed in relation to their potential role in reconciliation processes in Rwanda and Cambodia.

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162 Quote from a letter to the email discussion list of the Summer Peacebuilding Institute, Conflict Transformation Program, Eastern Mennonite University, from Deng, Peace Education Center, Notre Dame University, Cotabato City, Philippines, 2 November 1998.
PART IV

JUSTICE AND RECONCILIATION IN CAMBODIA AND RWANDA

In Chapters 9 and 10, I examine in some depth the approaches to reconciliation and justice taken by international and national actors, as well as non-government organisations and civil society, in the aftermath of genocide in Cambodia and Rwandan respectively.

In relation to Cambodia, I look at the initial civilian and government response of revenge followed by the years of negotiations to establish a tribunal for the former Khmer Rouge. The possibility of a truth commission is canvassed, and local reconciliation initiatives including the role of public apologies are discussed. Throughout I include responses from my interviewees and from other researchers who have investigated Cambodian attitudes towards justice and reconciliation. The chapter on Cambodia concludes with an assessment of the impact of the ongoing culture of impunity on the human rights situation in Cambodia and the unlikely prospects of peace and reconciliation for Cambodians.

The chapter on Rwanda starts with a discussion of the challenges of implementing legal justice in the form of both domestic trials and the International Criminal Tribunal for Rwanda. I look at measures taken to improve the impact of both local and international trials on justice and reconciliation for Rwandans, including the Rwandan government’s introduction of the traditional gacaca court system and the National Unity and Reconciliation Commission. I include reference to the role of confessions and
apologies, local and international NGO projects to promote reconciliation, and efforts to establish a truth commission for Rwanda. The attitudes expressed by my interviewees towards justice and reconciliation are discussed in the last section, as well as being included where relevant throughout the chapter. The chapter concludes with some consideration of the issues that need to be addressed in order to promote peace and reconciliation for Rwandans.

In Chapter 11, I provide a comparative analysis of Cambodian and Rwandan ideas about the meanings of justice and reconciliation, and of the local and international responses to promoting justice and reconciliation in the aftermath of genocide as discussed in Chapters 9 and 10 respectively. The influences of culture and religion on reconciliation and justice ideas, policies and programs in each country are discussed, followed by a brief assessment of the impact of a culture of impunity, continuing violence and abuse of human rights on peacebuilding.
CHAPTER 9
RESPONDING TO GENOCIDE IN CAMBODIA:
APPROACHES TO JUSTICE AND RECONCILIATION

Peace is like fire – we’ve only thrown ashes on it. When the wind blows, the flame will return even larger than before. (former Cambodian Government Minister interviewed in Takhao province, 2 June 1997)\textsuperscript{163}

9.1 Revenge and the PRK Approach to Justice

In the immediate aftermath of the Vietnamese invasion, there were numerous acts of revenge perpetrated by the Cambodian genocide survivors on the fleeing Khmer Rouge. Revenge was not promoted officially, but neither was it impeded by the Vietnamese who “sometimes surrendered Khmer Rouge prisoners to vengeful mobs” (Gottesman, 2003, p. 38). According to Hinton (2002, p. 274), “most Cambodians can relate a … violent story about the post-DK revenge killing of former Khmer Rouge cadres”. Gottesman (2003, pp. 37-8) includes some vivid descriptions of such “spontaneous acts of violence” reported by Cambodian survivors such as Ung (2000). For example, Ung (2000, p. 206) describes how a woman carrying a hammer claims that a Khmer Rouge prisoner killed her children and grandchildren and then “the old woman’s hands shake

\textsuperscript{163} Interview #3 (male, former Government Minister), conducted by Jaya Ranji on 2 June 1997 in Takhao Province, Cambodia, as part of a project funded by the Cambodian Genocide Program and Schell Center for International Human Rights, Yale University (Ranji, 1999). Taken from transcripts of interviews provided by Jaya Ranji.
as she raises the hammer high above her head and brings it crashing down into the prisoner’s skull”.

A number of my interviewees referred to witnessing these killings and other acts of personal revenge. For example, a 40 year-old male Cambodian genocide survivor (C1) described what happened after the fall of the Pol Pot regime:

In 1979 the Vietnamese came - I want you to understand - in my village all the Khmer Rouge cadre ran away. Authority was not organised, so the people organised their own authority and every leader captured by the people were [sic] killed by the people. I joined in one time – a Khmer Rouge was killed in front of me. After that I couldn’t accept that activity. I wasn’t sure that this was the real people involved or not with the killing of my father or brother, so I couldn’t join in any more.

This Cambodian survivor had experienced first hand and subsequently rejected personal revenge as a means of achieving justice. He became a Buddhist monk, but only for a short time:

I went to the pagoda and became a Buddhist monk. I wanted my father to be taken care of in the next life … I stayed 3-4 months. Then I heard from my other brother who was still alive who told me that I would have to be a monk for my whole life, so I decided to leave.

He referred to the need to seek the Buddhist middle way:

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164 Hearing these first-hand stories was the first time I knew about the occurrence of these revenge killings as they were not reported widely in the literature until very recently.
In the philosophy of Buddhism, revenge can’t resolve the problem. But we need to have justice: if we don’t then the nation can’t clear everything in the past and can’t look to the future. Buddhism proposes middle way for resolving the problem. ... If all justice [sic] – would affect many people. It would be a new genocide if we kill for justice. We need to find middle way ...

C1 thus equated killing for revenge as a means of attaining justice with perpetrating a new genocide, something he would not condone because of his Buddhist belief in finding the ‘middle way’.

Another of my interviewees, a female genocide survivor aged 47 (C11), described the feelings of anger and revenge that erupted in 1979:

The feeling of people towards the Khmer Rouge – they were very angry with the killers. For example, a family whose husband was the killer, he ran away and left his wife and children. She tried to hide, but once the people knew, a group of people came and pushed her to the farms and cut her in three parts. She begged for forgiveness but the people were very angry.

These stories illustrate Hinton’s argument that Cambodians will either seek “disproportionate vengeance” or may “choose to invoke Buddhist norms of emotion control and forgiveness” (2002, p. 274).

The Khmer Rouge also killed more Cambodians as they fled the Vietnamese invasion. One of my interviewees, a 43 year-old male genocide survivor (C5), told me how the
Khmer Rouge forced people to walk to the mountains but that others tried to get to the
city. He said he “saw lots killed and shot – approximately 10,000, including Khmer
Rouge”. Another, a male genocide survivor aged 33 (C10), said that:

In the final days, the Khmer Rouge tried to kill as many as possible; in the
Vietnamese-liberated areas people [Cambodians] took individual revenge in
an emotional burst of hatred, killing Khmer Rouge leaders, soldiers and
family members of soldiers; and some Vietnamese killed Khmer Rouge
soldiers because of their resistance (‘take no prisoners’).

During the course of my research I heard claims that there were local trials and
imprisonsments of Khmer Rouge in the immediate aftermath of the Vietnamese
takeover.\textsuperscript{165} However, I could find no written record of these, other than the famous
PRK government trial of Khmer Rouge leaders, Pol Pot and Ieng Sary, held in Phnom
Penh in August 1979.\textsuperscript{166} The sentence imposed on Pol Pot and Ieng Sary (of death in
absentia) was not recognised internationally because of due process objections to the
trial procedures and the diplomatic isolation of the PRK regime (Vickery & Roht-
Arriaza, 1995, p. 246; Marks, 1999). One of my interviewees (C10) said he heard about
the trial at the time when he was in a village in Battambang: that there were “leaflets
around the country at the time saying who was responsible”. He said he didn’t know
who put out the leaflets, but he guessed it was “Soviet propaganda”. When asked about
the effect of the trial on the people, he responded that they “didn’t care”, that they were

\textsuperscript{165} Personal interview with Ben Kiernan (former Director, Cambodian Genocide Program, Yale
University), Melbourne, 2 July 1999.

\textsuperscript{166} Youk Chhang (Director, DC-Cam) suggested records of local trials and jailings were available, but
only in Khmer (personal interview, 18 October 1999). I was unable to confirm this.
“concerned about what was happening next — their next meal, whether or not to move on, etc.” He said he didn’t hear anything about any other trials or jailings.

Other former Khmer Rouge leaders who stayed in Cambodia were given informal amnesties by the PRK regime (Chandler, 2000). The PRK regime also instituted efforts to memorialise the genocide, but their focus was on condemning the Khmer Rouge and demonising Pol Pot and Ieng Sary, rather than any apparent intention to promote reconciliation. These memorials included the Tuol Sleng genocide museum and the Choeung Ek “Killing Fields”. I visited both of these memorials during my research trip to Phnom Penh in October 1998 and recorded the following descriptions. I believe they provide some useful insights into how Cambodia has officially chosen to memorialise the genocide.

Over the door of Building A at Tuol Sleng there is a sign describing the cells that were part of the torture centre and prison. The English translation concludes by saying: “Nowadays there are a lot of evidences [sic] remaining in all the cells, which prove the atrocities of Pol Pot clique”. This evidence includes instruments of torture, chains and shackles. In Building D there are photos of all the victims and a map of Cambodia made of skulls with the rivers in red to represent blood. At Choeung Ek there is a sign that reads:

The people of Kampuchea always inscribe themselves with this suffering and wrath against the genocidal and criminal clique of Pol Pot and Ieng Sary. We cannot forget it. We are absolutely determined no [sic] to let this genocidal regime to reoccur in Kampuchea.
Another sign starts by claiming that the genocidal clique of Pol Pot was more cruel than the "genocidal act committed by the Hitler fascists" and goes on to describe in some detail the sufferings of the Khmer people who were "beaten with canes, ... stabbed with knives or swords, ... dying of starvation, forced labour or torture". The tone of the message is to lay the blame on the leaders, describing how they:

wanted to transform Kampuchean people into a group of persons without reason or a group who knew and understood nothing, who always bent their heads to carry out Angkar's orders blindly. They had educated and transformed young people and the adolescent whose hearts are pure, gentle and modest into odious executioners who dared to kill the innocent and even their own parents, relatives or friends.

The Choeung Ek memorial comprises mass gravesites and, most strikingly, a commemorative stupa containing skulls and clothing remnants, which was built in 1988 shortly before the name change to State of Cambodia and the withdrawal of the Vietnamese.

The PRK also introduced a national holiday on 20 May that was known as the "Day To Remain Tied in Anger" (or "Day of Hate"). As described by Hinton (2002, p. 258):

In each district, people would gather at the local DK killing field to listen to government officials and victims speak about the atrocities that had occurred under the Khmer Rouge regime. Villagers often carried knives, axes, clubs, or placards saying things like 'Defeat the Pol Pot, Khieu Samphan, Ieng Sary Clique' or 'Remember Life under Pol Pot who tried to Destroy the Cambodian Lineage'.
According to Hinton (2002, p. 259), this kept the anger and desire for revenge alive. Far from promoting any feelings of restorative or even symbolic justice, these memorials appeared to serve to heighten desires for retributive justice. At the time, of course, the Khmer Rouge were still engaged in guerrilla warfare against the government, which could explain the PRK government’s desire to encourage a continuation of hatred against the Khmer Rouge in order to minimise any threat to the power of the PRK regime. However, the ‘Day of Hate’ is still commemorated each year, as reported by Cambodians interviewed by Yale University researcher Jaya Ramji in June 1997:

> On Anger Day, 20 May, the Party commemorates not only the souls of the dead but also expresses anger toward the brutality of the regime. ... The latter does two things: commemorates the souls of the people and allows for the venting of anger against the regime, which hopefully builds awareness and ultimately prevents the return of the regime to political power.¹⁶⁷

This focus on keeping the anger alive does not seem consistent with a policy of ‘national reconciliation’ as promoted by Prime Minister Hun Sen. As pointed out by Staub and Pearlman (2001, p. 208) such group ceremonies or memorial events can be destructive as well as constructive: rather than facilitating healing and reconciliation, they can serve to “maintain woundedness and build identity through enmity and nationalism”.

¹⁶⁷ Interview #6 (male aged 59), interviewed by Jaya Ramji on 4 June 1997 in Kampong Speu Province, Cambodia, as part of a project funded by the Cambodian Genocide Program and Schell Center for international Human Rights, Yale University (Ramji, 1999). Taken from transcripts of interviews provided by Jaya Ramji.
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Following the genocidal Pol Pot regime, there were no significant or effective official public processes of acknowledgement, apology or legal justice implemented in Cambodia, despite the numerous initiatives proposed by the international community and Cambodian government. Nor were there any official international acts of condemnation or prosecution. Etcheson (1997b) provides a thorough analysis of the various attempts at redress or justice over the first 20 years since the fall of the KR regime, including: domestic prosecutions in 1980-82 and 1995-97; two outsider attempts to take a case against the Khmer Rouge to the International Court of Justice in the mid 1980s; US attempts to impose immigration and travel restrictions in 1992; both domestic and US-based financial penalties proposed in 1992-93; a planned civil action in a US court in 1993; a Cambodian lustration law adopted in 1994; the US Cambodian Genocide Justice Act also adopted in 1994; and efforts to establish a truth commission in 1996-97.

The Khmer Rouge, meanwhile, were able to maintain their strongholds in towns such as Pailin near the Thai border, from which point they continued their guerrilla activities with impunity for the next 20 years. The Khmer Rouge remained a threat to the local populations as well as to foreign tourists and aid workers until the organisation was formally disbanded in 1998 after the death of Pol Pot and the defections of two of the last of the former Khmer Rouge leaders, Khieu Samphan and Nuon Chea. Ieng Sary had defected some years earlier, while two other former Khmer Rouge leaders, Ta Mok and Duch, were arrested by the Cambodian government in March and May 1999.

168 For example, Hannum (1989) argued the feasibility and political desirability of taking a case to the ICJ under the terms of Article IX of the Genocide Convention.
respectively. Both men faced charges of treason, torture, murder and genocide as well as breaking the 1994 law banning the Khmer Rouge.\textsuperscript{169}

9.2 \textit{UNTAC and the Paris Peace Agreement}

Once the Cold War was over, the United Nations played a significant role in rebuilding peace in Cambodia, but the issues of justice and reconciliation were not addressed in the final peace agreement. During peace negotiations, the Hun Sen government apparently stressed the issue of genocide and the need to bring the perpetrators to justice, but the United States and China supported the Khmer Rouge in blocking any moves in this direction.\textsuperscript{170} Indonesia and France, co-chairs of the Paris Peace Conference in 1991, accepted Phnom Penh's proposal that the final agreement include provisions that the new constitution would be consistent with the provisions of the UN Genocide Convention, but this was vetoed by the Permanent Five of the UN Security Council (Kiernan, 1993, p. 230).

The final peace agreement did not preclude the KR from participating in the Cambodian elections, nor did it prevent former officials of the KR associated with the genocide from holding office in the future. There was a reference to ensuring “the non-return to the policies and practices of the past” but there was no provision made for war crimes trials or other means of achieving justice (Findlay, 1995, p. 10). Numerous Khmer

\textsuperscript{169} "Charges Filed Against Ta Mok", \textit{South China Morning Post}, 10 March 1999; "Khmer Rouge Genocide Charge", \textit{The Australian}, 10 September 1999, p. 8.

\textsuperscript{170} On his return to Phnom Penh in November 1991 Sihanouk called "from the balcony of the palace ... for an international tribunal to try the Khmer Rouge" (Gottesman, 2003, p. 345).
Rouge leaders subsequently defected and joined the Cambodian government and military. In the interests of ‘national reconciliation’, the Hun Sen government accepted the former Khmer Rouge and, in some cases, offered them immunity from prosecution. In July 1994, a controversial law banning the Khmer Rouge was passed by the Cambodian government, but King Norodom Sihanouk signed an amnesty stating that the law did not apply to Khmer Rouge leader, Ieng Sary.\textsuperscript{171}

For a detailed assessment of the impact of UNTAC and the Paris Peace Agreement on the development of national reconciliation and a peaceful democracy in Cambodia, see Brown (1998). According to Brown (1998, p. 97), the UN focus on “comprehensiveness” blurred the question of how to handle the Khmer Rouge and, as a result, the KR were placed in an untenable position: contest the elections and face political suicide, or withdraw and be politically ostracised. The international community, meanwhile, placed great faith in the elections and their ability to legitimise the political parties and thus promote reconciliation. In so doing, they risked the potential resurgence of the KR, an event unlikely to contribute to national reconciliation. As argued by Brown (1998, p. 98), “from the outset the political realities of Cambodian political culture made genuine national reconciliation extremely problematic”. At the same time, the opportunity to pursue international justice for the Khmer Rouge was lost because of the fear held by China and other states that they might also be held to account for their role in supporting the Khmer Rouge.

Etcheson (1997b, p. 10) lists the reasons for the failure of the State of Cambodia and international actors to end Khmer Rouge impunity: disputes over the various Cambodian regimes; irregularities in the various legal proceedings; lack of institutionalised accountability mechanisms; failure to obtain custody of the accused; failure to obtain jurisdiction over the accused; capricious selection of persons to be prosecuted; considerations of ‘national reconciliation’; financial corruption; superpower politics; regional politics; domestic politics; and a general lack of political will. It seems the local Cambodian people required the assistance of the international community to implement justice, but this was not forthcoming until recently because of the Cold War and its legacy of geopolitical alliances.

9.3 An International Tribunal for Cambodia?

Since early 1997, the UN Special Representative of the Secretary-General has been focussed on trying to establish an international criminal tribunal to try the Khmer Rouge leaders. In June 1997 the Cambodian co-prime ministers, Prince Norodom Ranariddh and Hun Sen, formally requested UN assistance in setting up a tribunal. The UN Secretary-General, Kofi Annan, issued the unprecedented ruling that either the UNSC or UNGA could establish an _ad hoc_ tribunal. US Secretary of State, Madeleine Albright, told reporters that the US was committed to bringing Pol Pot to justice, but efforts foundered in trying to find a country willing and legally able to hold and possibly try Pol Pot. Then, in July 1997, Prince Ranariddh confirmed an alliance agreement between the Royalists and the Khmer Rouge. The subsequent renewal of
violence and terror slowed down the momentum for an international tribunal, although both Ranariddh and Hun Sen (now also in alliance with a faction of the Khmer Rouge) both publicly reiterated their endorsement of an international tribunal for the Khmer Rouge genocide (Etcheson, 1997b). Following a violent de facto coup in July 1997, Hun Sen took over as sole Prime Minister of Cambodia and has remained in that position.

While negotiations for an international tribunal continued, the Khmer Rouge held their own trial of Pol Pot in July 1997. This so-called ‘show trial’ referred to the alleged killing by Pol Pot of his former foreign minister and family as part of a purge of the Khmer Rouge, and not to the genocide. According to Marks (1999, p. 702), the trial and conviction of Pol Pot was aimed at avoiding criminal prosecution by an international tribunal of Pol Pot and other Khmer Rouge leaders. Marks (1999) speculates further that the subsequent death of Pol Pot on 15 April 1998, officially attributed to the natural result of illness, was conveniently timed to avoid his extradition for trial in Canada or Denmark. As Greg Sheridan wrote in *The Australian* newspaper on 17 April: “The death of Pol Pot suits the interests of all the powerful players in Cambodia and its immediate neighbours.” James Pringle wrote in *The Times* of London: “Pol Pot knew too much and an international tribunal would have been embarrassing for many states including China, his chief backer at one time, Thailand and America.”

Whether or not political intrigue played a part in Pol Pot’s death at the age of 73, it is interesting to look at the impact of this untimely event on the prospects of establishing a

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172 Unless otherwise indicated, these and the following quotes were included in a report on reactions to the death of Pol Pot published by the Cambodian Institute for Cooperation and Peace (Hourn & Theriault, 1998).
tribunal and achieving justice for Cambodians. The following quotations from various Cambodians and international commentators in the immediate aftermath of the announcement that Pol Pot was dead, reflect various perspectives on the implications for peace and justice in Cambodia. The first three, from the king, a young boy and a Southeast Asian newspaper, suggest Pol Pot's death could give Cambodians a chance to move on:

King Norodom Sihanouk: "Let him be dead. Now our nation will be very peaceful." (Reuters, 17 April 1998)

_Singapore Strait Times_, Editorial, 18 April 1998: "In Pol Pot's end could be Cambodia's new beginning ... It is extraordinary that though he had long ceased to play an active role in public life, Pol Pot haunted the country he had brought to its knees during the last 19 years ... Having escaped that embarrassment (of a public trial), Cambodia's leaders and friends should now consider how to make the best use of the reprieve ... Pol Pot's death should release Cambodia from the bondage of a vicious past."

Dy Neth, age 14, in Prek Kdam village: "Who? I never heard of him."
(Associated Press, 17 April 1998)

By contrast, other Cambodians expressed their anger about Pol Pot dying without being punished, and that his death did not mean an end to their suffering. For example, a 67 year-old Phnom Penh fruit seller said she lost her husband and ten children during the Pol Pot regime and that she was "very, very angry with Pol Pot, and I wanted him to go to trial before he died. He killed millions of us."¹⁷³ A 29 year-old Cambodian refugee

¹⁷³ This and the following quote are taken from "Death of Pol Pot: Public Cheated of Justice", camnews.v001.n590.15, 17 April 1998.
living in Japan said that she had lost many relatives to the Pol Pot regime: "Wounds in my heart will not be so simply erased, even if he is dead". And another example:

Kenneth T. So: "Pol Pot's death left me angry because he died better than the average Khmer people. He died clothed like a normal Khmer citizen instead of his revolutionary communist outfit. He died too comfortably resting on a mattress bed where such a luxury is beyond the dream of his own Khmer Rouge people or even average Khmer citizens. The picture of his death disturbed me because he does not deserve such a dignified death."

This sentiment is echoed by the comments of Western NGOs and journalists who argue that the legacy of Pol Pot can only removed by pursuing justice for the remaining senior Khmer Rouge leaders:

_San Jose Mercury News_, Editorial, 18 April 1998: "Pol Pot is dead at last. But he lives on in a myriad of nightmares and ghosts spawned in the thousands of Khmer Rouge cadre lurking in Cambodian society, and millions of landmines buried in the countryside. Pol Pot lives on in the stagnated economy, corrupt government and political inertia that is Cambodia today. And worst, he lives on in a terrible legacy: that the world will sit by and watch while you slaughter millions, brutalize a society, devastate a nation, and it will never bring you to justice ... Pol Pot could never pay for the horror he created. But putting him and his terrorists on trial could have chronicled their madness and brought at least symbolic justice. A trial would have given the ghosts a voice."
Amnesty International: “Pol Pot’s legacy is a continuing cancer at the heart of Cambodia. The failure to bring Pol Pot and his fellow Khmer Rouge commanders to justice is reflected in ongoing human rights abuses in Cambodia today. The spectre of political killings still stalks Cambodia today. Perpetrators of human rights abuses still escape the courts with impunity and ordinary people are still not free from fear. Until truth and justice become a reality in Cambodia, the country will be trapped in a cycle of despair.” (Reuters, 16 April 1998)

US officials also continued to reiterate their commitment to bringing senior Khmer Rouge leaders to justice, despite the death of Pol Pot in April 1998. US President Bill Clinton said that:

Although the opportunity to hold Pol Pot accountable for his monstrous crimes appears to have passed, senior Khmer Rouge, who exercised leadership from 1975 to 1979, are still at large and share responsibility for the monstrous human rights abuses committed during this period. We must not permit the death of the most notorious of the Khmer Rouge leaders to deter us from the equally important task of bringing these others to justice.”174

The UN expressed its regret that Pol Pot died without international justice being served:

“The secretary-general regrets that Pol Pot’s death rules out the possibility of his trial under international law for crimes against humanity.”175 However, Thomas

Hammarberg, the Special Representative of the Secretary-General for Human Rights in Cambodia, said that "the death of Pol Pot did not remove the need to assist the Cambodian people in establishing justice for what happened from 1975-1979".\textsuperscript{176} In fact, Pol Pot’s death seemed to strengthen the resolve of the international community to pursue justice for the surviving KR leaders. In November 1998 a panel of UN experts visited Cambodia to assess the scope for an international genocide tribunal.\textsuperscript{177} The Group of Experts’ report recommended that the UN establish an \textit{ad hoc} international tribunal covering the Pol Pot period from April 1975 to January 1979 that could charge the Khmer Rouge with offences such as genocide, crimes against humanity, destruction of cultural property, forced labour and torture.\textsuperscript{178}

In March 1999, Kofi Annan submitted a proposal for an international tribunal to both the Security Council and the General Assembly. Establishment of the tribunal has been delayed, however, by the inability of the UN and Cambodian government to agree on the composition and functioning of the proposed tribunal. At one stage, Prime Minister Hun Sen formally rejected an international tribunal as being a threat to the country’s fragile national reconciliation, and indicated his preference for national trials with foreign legal assistance.\textsuperscript{179} He said that nothing less than putting all surviving top KR leaders on trial “would satisfy Cambodia’s thirst for justice”.

\textsuperscript{176} United Nations Press Release HR/98/26, 16 April 1998.
\textsuperscript{177} Craig Skehan, “Cambodia: The long road from genocide to justice”, \textsl{Sydney Morning Herald}, 29 August 1998, p. 28.
\textsuperscript{179} Associated Press, 4 November 1999.
The Hun Sen government has been reluctant to cede control to the international community despite the commonly held belief that the Cambodian justice system could not deliver fair trials for the former Khmer Rouge. According to Opposition Leader, Sam Rainsy, Hun Sen has opposed a “free and fair” tribunal “for fear it would expose criminals from (the government’s) own ranks”.

A senior Cambodian Justice Ministry official, Seng Sivutha, told a seminar organised by the NGO Forum on Cambodia that he supported an international court to try the Khmer Rouge leaders for genocide and crimes against humanity as the Cambodian court system could not be trusted. But he later denied that his view represented the official position of the government.

One of the arguments against a tribunal has been that it would threaten the security and stability of Cambodia if the Khmer Rouge were to become alienated and thereby likely to instigate another violent uprising. Senior Khmer Rouge defectors in Pailin warned in January 1999 that “demands for leaders to be tried could shatter the country’s ‘fragile peace’”.

A former Khmer Rouge cadre living in Pailin told reporters:

I think the problem for our nation will be reconciled through government policy, a plea to bring people together. But if the reconciliation is already in place and then a trial is introduced, this will set a very bad example to former KR soldiers. They will feel very angry and isolated and betrayed by the government.

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180 “Rainsy says government afraid of Khmer Rouge trial”, AFP, 14 August 1999.
183 See, for example, “Former Khmer Rouge official warns against tribunal”, Reuters, 4 February 2000.
This comment illustrates the view that legal justice is inimical to peace and reconciliation (see discussion in Chapter 7 and 8). From the point of view of the alleged perpetrators, that might appear to be the case. But this definition of ‘national reconciliation’ is inconsistent with the perspective of many survivors who see justice as necessary for the attainment of ‘real’ reconciliation. On the other hand, former KR leader, Ieng Sary, argues that “whatever breaks national reconciliation should be avoided” – such as attempts to try the former Khmer Rouge leaders – and that Cambodians “need both peace and justice”. Ieng Sary seems to be saying that justice is necessary for reconciliation, but only if it doesn’t involve trials. Integral to his argument is the idea that trials for the former Khmer Rouge would in fact not represent justice, but he doesn’t elaborate on what would constitute justice for him.

A number of Cambodians in addition to the former Khmer Rouge have expressed the fear that a trial could result in further violence. Others dismiss the threat as propaganda promulgated by the former Khmer Rouge to protect themselves from the possibility of prosecution, and by Hun Sen as part of his policy of ‘national reconciliation’ with the former Khmer Rouge.

Another argument against trials for the Khmer Rouge is put by mental health professionals who fear that “although judging the Khmer Rouge regime may bring relief to some people, it will inflict new damage on victims as they are reminded of their past”. Some psychiatrists claim that “reliving and talking about haunting experiences is a western way of dealing with traumas and that it doesn’t necessarily work in

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186 “Ieng Sary Warns Against Trial”, Reuters, 5 February 1999.
Cambodia. Other mental health professionals disagree with this perspective, however. A representative of the NGO Social Services of Cambodia said that “talking therapy definitely helps some people”.\textsuperscript{188} The process might “provide clarification and inner peace to some victims” but it is possible that the trauma might be worsened for others. Furthermore, trials could be divisive in communities where former Khmer Rouge cadre have already been reintegrated, and people at the village level may not relate to justice that is served only for the leaders. How can these arguments be weighed up against the evidence of Cambodians expressing a strong desire for justice? The cultural aspects of Cambodian approaches to forgiveness, justice and reconciliation will be discussed further in Chapter 11.

Attempts to punish the former Khmer Rouge for their crimes are further complicated by the number of Khmer Rouge defectors who have joined the Cambodian security forces, some occupying senior positions. Hun Sen appears reluctant to hold some of the former leaders accountable. Khieu Samphan and Nuon Chea have made public statements rejecting allegations of guilt, and Ieng Sary is maintaining that he is free from prosecution because of the amnesty and pardon granted to him in return for mass Khmer Rouge defections in 1996. According to legal experts, the pardon granted to Ieng Sary related only to his conviction for the crime of genocide by a Cambodian court in August 1979, so he could still be charged with crimes against humanity.\textsuperscript{189} Of the surviving former Khmer Rouge senior leaders, only Ta Mok and Duch are safely in custody in a Phnom Penh jail. The other Khmer Rouge leaders are either living comfortably in rural areas or have been absorbed into the Cambodian military.

\textsuperscript{188} Quoted in McGrew, 2000, p. 42.
\textsuperscript{189} *South China Morning Post*, 21 August 2001.
On 6 January 2000, almost 21 years after the end of the Khmer Rouge regime and following three years of negotiations with the UN, the Cambodian government indicated it would approve a draft law setting up a tribunal to try the former Khmer Rouge leaders. This proposal was rejected by the UN because of legal flaws and procedural inadequacies, but the Cambodian government said it would go ahead with or without UN support. A breakthrough in negotiations occurred in April 2000 when US Senator John Kerry helped broker an agreement for a joint UN-Cambodian trial that would include both Cambodian and foreign judges and prosecutors (Langren, 2001). In January 2001, the Cambodian government finally passed legislation allowing for the establishment of the tribunal, and in August, King Sihanouk signed the legislation and a copy was forwarded to the UN in New York.

The next stage of the tribunal’s establishment required the signing of a memorandum of understanding between the UN and Cambodia determining the logistical framework for the court. However, on 8 February 2002 the UN announced that it was abandoning negotiations with the Cambodian government because “as currently envisaged the Cambodian court would not guarantee independence, impartiality and objectivity which are required by the UN for it to cooperate with such a court”.

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190 South China Morning Post, 7 January 2000.
191 Senator Kerry acted as a mediator between the UN and the Cambodian government in Phnom Penh on 28-29 April 2000 (San Jose Mercury News, 30 April 2000).
192 South China Morning Post, 21 August 2001.
193 Associated Press, 8 February 2002.
The Cambodian ambassador to the UN, Ouch Borith, said the negotiations had failed because the UN tried “to dictate the terms of cooperation”. The chief UN legal counsel, Hans Corell, said the main reason for the UN decision to withdraw from the negotiations was the Cambodian government’s insistence that its national law take precedence over an agreement with the UN on the functioning of the court. The UN would therefore not be able to ensure that international standards of justice were being met. One of the UN’s concerns was that under the national law, the accused would not be allowed to appoint defence counsel of their choice. The UN and many foreign nations have expressed concern that “the corrupt and poorly trained Cambodian justice system was not capable on its own of producing a fair and impartial trial and verdict”. The UN’s decision meant that if the Cambodian government proceeded with the trials of the former Khmer Rouge leaders, it would lack international legitimacy. According to Youk Chhang, director of DC-Cam, justice will never come to Cambodia unless the UN participates in the tribunal to ensure its credibility in the eyes of both Cambodians and the international community.

The US expressed surprise at the UN announcement, saying the “tribunal is important to help resolve many of the issues that remain in Cambodia”. The US ambassador in Phnom Penh said the State Department would lobby both sides to settle their differences and reach an agreement. The Australian government also indicated it would lobby the
UN to resume talks with Cambodia on the establishment of a tribunal.\textsuperscript{201} Cambodia’s ambassador to the UN, Ouch Borith, said the Cambodian government was determined to go ahead with or without UN assistance, but Prime Minister Hun Sen told reporters that he could wait “two or three more months” for the UN to change its mind.\textsuperscript{202}

According to UN legal counsel, Hans Corell, the Hun Sen government’s pattern of alternately agreeing and objecting over the years had delayed the negotiations and suggested a “lack of urgency” that was of concern to the UN.\textsuperscript{203} This lack of consistency has raised questions about Hun Sen’s commitment to proceeding with a trial. In July 2001, Prime Minister Hun Sen told reporters: “I don’t care if the foreigners participate or not. I am not the son of the UN.” He indicated that political realities dictated that he follow Cambodian law.\textsuperscript{204}

Nevertheless, in making the announcement, the chief UN counsel, Hans Corell, said:

\begin{quote}
The United Nations shares with the Cambodian people a desire to bring the Khmer Rouge era to a close in a way that contributes to national reconciliation and justice and wishes the government well in its efforts to reach this goal.\textsuperscript{205}
\end{quote}

This comment suggests that the UN believes the people of Cambodia want an international tribunal, and diplomatically asserts the well-meaning intentions of the Cambodian government to support this goal. Some commentators, however, more

\begin{footnotes}
\item[201] Reuters, 18 February 2002
\item[202] CNN, 11 February 2002
\item[203] Seth Mydans, “UN Ends Cambodia Talks on Trials for Khmer Rouge”, \textit{New York Times}, 9 February 2002
\item[204] Agence France-Presse, 9 February 2002.
\item[205] Reuters, 8 February 2002
\end{footnotes}
directly attribute responsibility for the UN’s withdrawal to the lack of commitment of Cambodian Prime Minister, Hun Sen. For example, Adam Piore encouraged readers of *Newsweek International* to:

> "put the blame where it belongs: on Cambodia’s astutely manipulative leader, Prime Minister Hun Sen. Hun Sen has never wanted a fair tribunal ... [he] fears it would destabilize his country and embarrass him. He has subtly sabotaged negotiations with transparent delaying tactics, shifting demands and public vitriol."\(^{206}\)

Piore argues that Hun Sen has used the prospect of an agreement on the tribunal to secure more aid funding and to “mute criticism of his strong-arm domestic political tactics”. He recommends that the US pressure other donor nations to condition aid on Hun Sen’s willingness to accept a credible tribunal: “Cambodians have suffered too long under the weight of impunity” (Piore, 2002).

In August 2002, UN Human Rights Commissioner, Mary Robinson, visited Cambodia and was strongly critical of the justice system, the prevailing culture of impunity, and especially the fact that the perpetrators of such “egregious human rights abuses” as the former Khmer Rouge had not been brought to justice.\(^{207}\) After speaking with Mary Robinson, Prime Minister Hun Sen agreed to a resumption of talks with the UN on the proposed tribunal.

As indicated above, the international community has been pursuing an international tribunal, believing it is what the Cambodian people want. The Prime Minister Hun Sen


\(^{207}\) As reported on SBS Television News, 21 August 2002.
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has been alternately supportive and dismissive of the idea of a tribunal, apparently uninterested in whether Cambodians want or need a tribunal. As argued by Cambodian NGO leaders, "we must ask the people their opinions". So what do Cambodians say they want? In the next section I will review non-government initiatives and Cambodian attitudes towards the prospect of a tribunal to try the former Khmer Rouge as revealed by my interviews and the surveys of others.

9.4 NGO Initiatives and Cambodian Attitudes Towards a Tribunal

In weighing the demands of reconciliation, revenge and justice “you need to gauge what the Cambodian people want, although that is very difficult”.

(Winston Lord, former Assistant Secretary of State, April 1998)\textsuperscript{209}

Even before a tribunal is established and functioning, some points have already arisen that deeply concern me. The first is the goal of the tribunal. Is it going to bring justice to the Cambodian people and to fight against the culture of impunity? Or is it just a show trial for the international community, especially to appease the donors? If the tribunal is a ‘gift’ to the Cambodian people, why not ask the Cambodian people if they want a

\textsuperscript{208} Chea Vannath, President, Centre for Social Development, as quoted in “Cambodians talk about the Khmer Rouge trial”, Phnom Penh Post, 4-17 February 2000, p. 12.

\textsuperscript{209} Quoted in “Pol Pot Death Does Not End Search for Justice”, Reuters, 16 April 1998.
national or international tribunal? No one has asked the people! (Dr Kek Galabru, President, LICADHO)\textsuperscript{210}

In the absence of formal justice and reconciliation mechanisms, non-government organisations (NGOs) in Cambodia have pursued other avenues to explore Cambodian attitudes and options to promote justice and reconciliation. One of the first was an international conference entitled “Striving for Justice: International Criminal Law in the Cambodian Context” held in Phnom Penh in August 1995. Organised by the NGO Forum on Cambodia, the conference included sessions on international criminal law, Cambodian law, international criminal tribunals and truth commissions. First prime minister, Prince Norodom Ranariddh, opened the conference with an address expressing his support of the “Cambodian Genocide Investigations” initiated by the Yale University program, and his government’s determination to “bring those responsible for the perpetration of these heinous crimes against the Cambodian people to justice”. In his closing address to the conference, second prime minister Hun Sen also called for justice and for assistance from the international community in bringing the Khmer Rouge leaders to trial for their crimes (Jarvis, 1995; NGO Forum on Cambodia, 1995).

At the conference, international lawyers Jason Abrams and Steven Ratner presented the preliminary conclusions of their evaluation of the legal case against the Khmer Rouge prepared under the auspices of the Cambodian Genocide Justice Act passed by the US

\textsuperscript{210} Dr Kek Galabru, President, LICADHO (Cambodian League for the Promotion and Defense of Human Rights), as quoted in “Cambodians talk about the Khmer Rouge trial”, \textit{Phnom Penh Post}, 4-17 February 2000, p. 12.
Congress in April 1994.\textsuperscript{211} The Cambodian Genocide Justice Act had created a US Department of State Office of Cambodian Genocide Investigations (CGI). One of the functions of the CGI was "to develop the United States proposal for the establishment of an international criminal tribunal for the prosecution of those accused of genocide in Cambodia". To further this aim, the CGI launched two ventures: the appointment of two international legal experts to evaluate the legal case against the Khmer Rouge; and the creation of the Cambodian Genocide Program at Yale University to carry out a two-year program of documentation, research and training on the Cambodian genocide (NGO Forum, 1995).

Abrams and Ratner concluded that there was a \textit{prima facie} case against the Khmer Rouge for acts of genocide against the Cham minority group, the ethnic Vietnamese, Chinese and Thai minority groups, and the Buddhist monkhood; crimes against humanity (including murder, extermination, forced labour, torture, rape, forced population transfers, removal of children, and closure of religious institutions); war crimes in connection with Cambodia's conflict with Vietnam; and breaches of other international treaties, including slavery and torture (Jarvis, 1995; Ratner & Abrams, 1997). They also found evidence of systematic violations of the Cambodian criminal code, including homicide, rape, torture, unlawful detention and attacks on religion. In February 1996, Ratner and Abrams' report on their findings, "Striving for Justice: Accountability and the Crimes of the Khmer Rouge" was presented to the US

Congress.\textsuperscript{212} The report recommended a "mixed commission of Cambodians and international experts ... set up perhaps by the United Nations".

Meanwhile, the US-funded Cambodian Genocide Program (CGP) has been working since 1994 on producing a thorough documentation of the genocide, researching the conflict, and undertaking training of Cambodian judges, lawyers, police and human rights activists so they can participate effectively in achieving accountability of the Khmer Rouge (Etcheson, 1997b; CGP, 1998; Kieman, 1999).\textsuperscript{213} CGP has developed four databases documenting the genocide (CGDB) – bibliographic, biographic, geographic and photographic – that have been made available to the Cambodian people through the Documentation Centre in Phnom Penh (DC-Cam), on the CGP website and a CD-Rom.\textsuperscript{214} The CGDB was first mounted on the internet in January 1997, and as at May 2000 included 10,800 biographical records, 3,000 bibliographic records, and over 6,000 photographs and images, as well as information on the 520 mass graves, prisons, and memorials.\textsuperscript{215}

DC-Cam was set up by CGP in 1995 but has operated as an autonomous Cambodian academic research institute since January 1997 (CGP, 1997). It has located thousands of previously unknown mass graves suggesting that the number of Cambodians who died during the Khmer Rouge regime could be closer to two million, and has established that

\textsuperscript{213} For a detailed history of CGP and DC-Cam, see Craig Etcheson’s monograph A Brief History of the Cambodian Genocide Program and the Documentation Centre of Cambodia (2000).
\textsuperscript{214} The database is available at http://www.yale.edu/cgp/cgdb/cgdbmain.htm or through http://welcome.to/dccam. See also http://149.171.229.149/egm/camb.html for interactive maps of Cambodia’s ‘killing fields’ and http://www-cgp.sismu.unsw.edu.au/cbio.htm for biographical information.
"the killings were centrally organized on orders of the Khmer Rouge leadership". The records it has collected include documents detailing Cambodian experiences under the Khmer Rouge, including stories collected between 1979 and 1983 by the Vietnamese regime as part of a large-scale research project which sought to interview every family in Cambodia – the so-called ‘Million Documents’ because they comprise petitions from more than 1 million Cambodian families (Etcheson, 1997a; CGP, 1997). It has also completed historiographical studies (on the Khmer Rouge leadership and policies towards women, Buddhist monks and the Cham minority) and translations. DC-Cam’s tasks from 1997 to 2001 included preservation, cataloguing, and analysis of the Pol Pot regime’s top secret ‘Santebal’ archives.

I was surprised to find that quite a few of the Cambodians whom I interviewed in Phnom Penh had not heard of CGP or the Documentation Centre, despite the high level of media exposure in both Khmer and English. For example, of the four Cambodian students I interviewed, none had heard of DC-Cam, although all had heard of Tuol Sleng and three had visited there. A 49 year-old genocide survivor and president of a human rights organisation (C4) also maintained that “a lot of people didn’t know about [DC-Cam’s] existence”. During my visit the exact location of the DC-Cam office was not widely publicised due to security concerns, and there were no signs outside, making it difficult to find. I speculated that the apparent lack of public awareness of the

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219 Youk Chhang, the Director, has received a number of death threats from former Khmer Rouge and “those who oppose DC-Cam’s task on the grounds that the ‘killing fields’ ... should be left behind for the sake of national reconciliation” (“Life After Death”, Bangkok Post, 2 March 2000).
Documentation Centre in Phnom Penh, its location and its information resources may be limiting its impact on the Cambodian people, but this was vehemently denied by DC-Cam’s director, Youk Chhang.\textsuperscript{220} Youk Chhang, a passionate advocate for the establishment of a tribunal to try the former Khmer Rouge, told me that everyone in Cambodia knew about the work of DC-Cam, even the people in rural provinces where he had visited and talked about the documentation program. Cambodians frequently visit DC-Cam’s office, “wanting to know what happened to their loved ones”.\textsuperscript{221} Cambodian researcher, Craig Etcheson, echoed Youk Chhang’s claims, saying he thought that “DC-Cam's penetration of the public consciousness is quite high, perhaps the highest of any Cambodian NGO”.\textsuperscript{222}

CGP and DC-Cam’s non-official investigations and documentation of the genocide have provided some form of acknowledgement of people’s sufferings. They also support at least the potential for a valuable healing opportunity, in addition to their primary function in preparing materials for use as legal evidence if and when an international tribunal is established (Cook, 1997). As argued by one of my interviewees (C1, a 40 year-old journalist and genocide survivor), DC-Cam is “good for Cambodia” because it represents an “independent team to research Khmer Rouge activity”; it is good because the “new generation especially can understand what happened before – some don’t believe – good to open to all people to understand and know”.

The UN Group of Experts that visited Cambodia in November 1998 did consult with representatives of Cambodian NGOs as part of the process of determining their

\textsuperscript{220} Personal interview with Youk Chhang, DC-Cam, Phnom Penh, 21 October 1999.
\textsuperscript{221} “Life After Death”, \textit{Bangkok Post}, 2 March 2000.
\textsuperscript{222} Personal communication, January 2001.
recommendations. A press release issued by the Cambodian Human Rights Action Committee, a coalition of 17 Cambodian NGOs, on 30 December called upon “the Royal Cambodian Government to cooperate with the United Nations to establish an international tribunal to try persons responsible for crimes against humanity committed during the Khmer Rouge regime.” While the criticism could be made that these NGO views represent only those of elite, educated, urban Cambodians, it is also true that a number of these NGOs have consulted widely with their constituencies.

For example, the Cambodian Human Rights Action Committee presented to the UN Secretary-General, Kofi Annan, on 20 January 1999 a petition signed by 84,195 Cambodian nationals that read:

We, the people of Cambodia, whose signatures and thumbprints are attached, request the United Nations to establish an international tribunal to try the Khmer Rouge leaders for the mass killings and crimes against humanity committed during their rule from 1975 to 1979.

In Vuthy, Director of the Task Force, reported that NGO workers who were collecting signatures for the petition “were intimidated by several commune and district authorities” and in one province government authorities “threatened to arrest an NGO worker for his participation in collecting signatures for the petition”. During my visit to Phnom Penh I talked with In Vuthy and he gave me copies of the letter and petition in English, and two pages of the original Khmer petition with signatures (thumbprints).

He told me that during the petition process he interviewed 75 villagers of whom 73 said they supported an international tribunal and two said it was “up to the government” – but only 15 of them dared to sign the petition.\textsuperscript{225} This made him wonder how many more Cambodians supported the petition but didn’t sign it because of fear or actual police harassment. In a letter to the editor of the Phnom Penh Post, Amy Jersild of the International Human Rights Law Group in Phnom Penh congratulated the Human Rights Action Committee on the petition, saying it was a “significant testimony of the will of the Cambodian people. Those who signed the petition understood there is no conflict between peace and justice”.\textsuperscript{226}

The other NGO leaders I spoke with in October 1998 also had strong opinions of their own about justice and reconciliation, and made reference to evidence that large sectors of the Cambodian community supported their perspective. For example, C19, a female survivor of the genocide who heads a Cambodian human rights NGO, maintained that “almost the whole Cambodian population would like a tribunal”. Another of my interviewees, a 30 year-old genocide survivor (C18), said that “if they [former Khmer Rouge] are still detained and there is no tribunal, then all Cambodian people will be unhappy because they want the UN to find the justice for Cambodian victims”. Furthermore, he told me how he went with an Italian journalist to a KR stronghold and observed that “people want peace, to be included back in Cambodian society, and for the leaders to be tried.”

\textsuperscript{225} Personal interview with In Vuthy, Executive Director, Legal Aid of Cambodia, Phnom Penh, 22 October 1999.
Further evidence showing widespread Cambodian support for an international tribunal has included a rally of 5000 people during the visit of a UN delegation to Phnom Penh in August 1999,\(^{227}\) and the results of a number of surveys that have been conducted in recent years. Funded by the Asia Foundation, a survey by the Khmer Journalists’ Association in 1995 or 1996 reportedly found that 80% of Cambodians were in favour of trying the top Khmer Rouge leaders.\(^ {228}\) In January 1999, the Institute of Statistics and Research on Cambodia (IFFRASORC) also reported that “over 80% of respondents from all walks of life wanted the surviving Khmer Rouge leaders to be prosecuted”.\(^ {229}\) The Institute polled 1,503 Cambodians, of whom 81.1% supported prosecutions, 13% had no opinion, and 5.9% said they opposed prosecution of the Khmer Rouge. Older people, who had lived through Pol Pot’s rule, “were more eager than the younger ones to see the prosecution of those suspected of responsibility for mass killings under the Pol Pot regime”.

Expatriate Cambodians have also been surveyed on their attitude towards a tribunal for the former Khmer Rouge. As part of its project entitled “Justice in Cambodia: A Collective Inquiry”, CGP conducted a public forum for Cambodian genocide survivors in Lowell, Massachusetts, in June 1999.\(^ {230}\) Twelve out of seventeen participants at the forum responded in a questionnaire that they thought there should be a trial for the former Khmer Rouge leaders. Three thought there should be a truth commission.

\(^{227}\) \textit{The Australian}, 27 August 1999, p. 6
\(^{228}\) The existence of this survey was reported to me by former CGP Director, Ben Kiernan (personal interview, Melbourne, 2 July 1999). Despite personal approaches to both the Khmer Journalists’ Association (through a former member of the now disbanded organisation) and The Asia Foundation (the funding agency), I was unable to find any written reports of the survey results. My former-KJA informant (C1) remembered the survey, but not any of the findings. He remembered only that there was “lots of conflict over the methodology” and that “many Cambodians didn’t want to answer”.
\(^{230}\) Original documents provided by Susan Cook, Director, Cambodian Genocide Program, Yale University, New Haven, Connecticut.
Thirteen of the respondents thought the US, UN or other foreign countries should also be held responsible in some way for the crimes committed in Cambodia between 1975 and 1979.

Also in 1999, Joshua Phillips, a journalist, talked with Cambodians living in California about justice and a trial for the Khmer Rouge.\textsuperscript{231} Phillips reported that many of the Cambodian Americans he interviewed were aware that their concept of justice might differ from that of their fellow Cambodians back home. For example, a 26 year-old college student felt that the UN should try the remaining Khmer Rouge because “families are still suffering from the genocide and (the Khmer Rouge) should not get away with it”, but went on to say that he had been exposed to Western philosophy and values and that “maybe I wouldn’t be calling for tribunals if I lived in Cambodia.” A 29 year-old graphic designer whose father was killed during the Khmer Rouge regime said that: “We’re the type of people who forgive. Forgiveness is a way of Buddhism. But I believe that a genocide trial would be good for the nation. I want to see the people hang”. Another, a health worker who assists traumatised Cambodians, said that for her and most of her patients “the tribunals are no panacea … even if you put all the guilty people in prison, the suffering will still continue”. One of the patients agreed that trials would not lessen his pain, but at the same time he “regards them as an important step to correct problems that continue to plague the country”.

At least two academic research projects canvassing Cambodian views on justice for the Khmer Rouge have been conducted over the past five years, the first of which was

conducted two years before my field research and the other three months after mine. Jaya Ramji conducted a survey for the Cambodian Genocide Program and Schell Center for International Human Rights, Yale University in 1997 (DC-Cam, 1997; Ramji, 1999); and Laura McGrew, an independent researcher, conducted a survey and interviews funded by the Canadian Embassy in Phnom Penh over three months from December 1999 to February 2000 (McGrew, 2000).

Both researchers interviewed Cambodians representing a wide cross-section of socioeconomic groups in rural provinces as well as Phnom Penh, but neither claimed that their samples could be seen as representing the opinions of the Cambodian population as a whole. McGrew’s English-language survey results, which inform the bulk of her analysis, were derived from 48 Cambodians who were primarily educated NGO and international organisation workers living in cities.232 Her sample therefore closely resembles mine, albeit twice as large. Statements were also solicited from 15 civil society leaders and published in the Phnom Penh Post, as was a summary article by McGrew.233 McGrew obtained supplementary comments from a broader cross-section of Cambodians as a result of individual interviews and focus group discussions with approximately 180 people. Ramji interviewed a smaller but more diverse group of 25 Cambodians.

Approximately 45% of Ramji’s interviewees supported a trial of the top Khmer Rouge leaders, while a further 30% thought both the former leaders and their subordinates

232 McGrew also obtained survey results in Khmer, which would have increased the diversity of her respondents, but these had not been analysed at the time of her report.

should be tried (DC-Cam, 1997; Ramji, 1999). The trial should be international according to 70% of interviewees. Of the interviewees, 45% said they would testify and only 20% said anonymity would be important. The interviewees were divided on the question of amnesty: 35% said confession and apology was acceptable, while 35% said it was totally unacceptable. A further 15% said amnesty was unacceptable for the top KR leaders. Approximately 55% of interviewees said the results of a trial should be communicated via both radio and television, 35% said the names of the perpetrators should be published, and 25% favoured publication of the victims’ names. When asked about kinds of reparations that would be appropriate, 40% said improvements to education and schools, 35% said pagodas, 20% favoured payment by countries which backed the KR, 20% favoured spending on the legal system, while 10% thought money should be given to individual victims and 10% favoured spending on memorials. Only 10% indicated reparations would not be necessary if there was a trial and/or an apology.

McGrew (2000, p. 2) found that “a vast majority of Cambodians who participated in this study felt that was justice was very important – most [45/48] said they wanted a fair and credible trial of the former KR leaders with at least international participation, while some wanted total UN control over an international tribunal outside the country”. As in Ramji’s survey, the majority [40/48] wanted at least the top and senior leaders prosecuted, with some indicating that lower level former KR cadre should also be investigated. Half of the participants [24/48] said they would testify and all 48 said a trial should be public and broadcast widely. Almost all respondents thought that discovery of the truth was very important and that this would be provided by a trial. Very few of the participants knew anything about truth commissions, but 28/48 said
they wanted one. Confessions were valued by many participants, with apologies and forgiveness of less importance. Many made strong pleas for no more war, and thought that a trial would be an important first step to reducing the "rampant impunity in society" (p. 2). Significantly, although most said that talking about the KR made them feel worse, it was more important to them to tell their stories and to "let the world know what happened to them" (p.2). This comment is reminiscent especially of my experience with Rwandan interviewees in Toronto.

Most of these results were consistent with the comments made during my interviews in Phnom Penh in October 1999: almost all said the former Khmer Rouge leaders should be tried and punished for their crimes. Only one, a female student and descendant of survivors (C14), appeared to follow a Buddhist approach, saying "most people want to sentence them. For me, what's past is past. According to Buddha, people must have tolerance." Other aspects of my interviewees' responses will be discussed in detail in the following sections of this chapter and in Chapter 11, including reference to comments made by Ramji's and McGrew's interviewees in relation to justice and reconciliation. The comments on the functioning of a potential tribunal will also be compared with experiences in Rwanda (see Chapter 10).

In September 1999, the Cambodian Institute of Human Rights (CIHR) produced a research paper on impunity that concluded: "Reconciliation is important, but justice may be more so. ... The people of Cambodia have said they want justice and a UN court majority is necessary to ensure justice is done." (1999, p. 18). According to Hun Sen, however, Cambodia has "achieved 100% peace and national reconciliation, but this
is a fragile peace which could be lost very quickly” (p. 18). Hun Sen espoused the idea that justice must be sacrificed in order to maintain peace and reconciliation. By contrast, CIHR’s report argues that the rule of law and justice cannot be sacrificed in the name of national reconciliation and peace: “Indeed reconciliation or full integration of our various peoples and peaceful co-existence will not happen while there is the cycle of impunity” (p. 5). Interestingly, CIHR defines justice not only in terms of legal accountability, but also as meaning the promotion of better lives and livelihoods, alleviating poverty, and providing basic services for all including health and education as priorities (p. 5).

In the first three months of 2000, the Centre for Social Development (CSD) organised public forums on “National Reconciliation and the Khmer Rouge” in Cambodia. For the first time, the Cambodian people were given the opportunity to publicly and openly debate the issues of justice and reconciliation and to face their former Khmer Rouge tormentors. According to CSD director, Cheah Vannath, “the process of national reconciliation begins with dialogue”:

A trial will only solve the problem on the surface. We Cambodians need to sit down and talk about this issue, to exchange views and discuss openly. That includes hearing the opinion of the minority – in this case the KR.\textsuperscript{234}

Genocide researcher Craig Etcheson argued that “a trial is still the essential starting point” in order to demonstrate that those who committed crimes would be punished and to “release the fear that the victims have repressed for so many years”. He also said that

\textsuperscript{234}“Cambodians Talk About the Khmer Rouge Trial”, Phnom Penh Post, 4-17 February 2000.
much more was needed in order for Cambodians to really understand what happened and why: “some kind of truth telling mechanism, civil law suits and social education ... even before the trial begins”.235  

At the first public forum held on 27 January in Battambang (near the former Khmer Rouge stronghold of Pailin), the majority of speeches were against a trial, but the 124 participants (including a large contingent of former Khmer Rouge cadre) voted in favour of a Khmer Rouge tribunal in a secret ballot at the end of the forum.236 Almost two-thirds believed a trial would be beneficial for national reconciliation.237 For example, one of the attendees argued that “the Khmer Rouge trial is the key to Cambodia’s social justice” and Buddhist monks urged that “Buddhists should not take revenge on each other”.238 A number of participants expressed concerns about the potential of a trial to rekindle hostilities. For example, one of the attendees warned that “we have to be careful about the Khmer Rouge trial. We can not allow war to return. It’s only the poor people in the countryside who will suffer”. A former Khmer Rouge official said that leaders who had surrendered to the government should not be prosecuted: “If we sentence the people who have already integrated (into society) it’s a bad lesson for the next generation”. An aide to Ieng Sary told the meeting that: “A trial is discrimination against the Khmer Rouge, and it will divide our society into two or three parts and we will never have national reconciliation”. Following the first public

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235 “Cambodians Talk About the Khmer Rouge Trial”, Phnom Penh Post, 4-17 February 2000.
236 The statistical analysis that follows including details of those who attended each of the three public forums was provided by the Centre for Social Development via personal email communications.
237 Phnom Penh Post, 4-17 February 2000.
forum, former Khmer Rouge leader, Khieu Samphan, offered to speak at a subsequent public forum.\footnote{239}

The second public forum organised by CSD was held in Phnom Penh on 24 February with 136 participants, followed by the third forum in Sihanoukville on 30 March with 95 participants. Not surprisingly, a higher percentage of participants at the Phnom Penh and Sihanoukville forums indicated in the secret poll that a trial of the former KR leaders would be advantageous to true national reconciliation: 82% in Phnom Penh and 76% in Sihanoukville, compared with 64% in Battambang. In Phnom Penh 0% of participants thought that there was no need to try the former KR and that the past should be forgotten, compared with 26% in Battambang and 18% in Sihanoukville. These findings suggest that the former KR are less interested in a tribunal, and also that Phnom Penh residents are the most in favour of a tribunal. These observations have ramifications for generalising from the results of my interviews that were conducted only in Phnom Penh with non-Khmer Rouge.

Some of the former KR at the forum in Battambang and other officials in Pailin reportedly support “a public ceremony at which former leaders admit and apologise for the atrocities”, an idea originally proposed by Dr Lao Mong Hay of the Khmer Institute of Democracy.\footnote{240} Voting was relatively consistent over the three public forums on this question: an average of 36% thought the former KR leaders should publicly admit their faults and apologise. Finally, participants in Battambang and Sihanoukville were more enthusiastic about a public religious ceremony “to put the bad karma of the past to an

\footnote{239} "Khieu Samphan wants to go public", \textit{Phnom Penh Post}, 4-17 February 2000.
\footnote{240} "Cambodians Talk About the Khmer Rouge Trial", \textit{Phnom Penh Post}, 4-17 February 2000.
end”, with 24% and 26% respectively voting for this option compared with 15% in Phnom Penh. This observation suggests a potential urban/rural or educated/less educated difference on this issue, thus indicating further reservations that should be placed on generalisations from my interview results.

In addition to these formal surveys and polls, we can learn about Cambodians’ feelings about justice and reconciliation from literary works and memoirs of genocide survivors. One of those who has written about her experiences as a child of the genocide is Luong Ung, author of *First They Killed My Father: A Daughter of Cambodia Remembers*, who wrote in the *New Straits Times* (Malaysia, 19 July 2000):

> As for the Khmer Rouge trial, God, I’ve waited for this to happen for 20 years. The idea of it, the belief that it could actually happen soon takes my breath away. I support the trial because there needs to be a trial. Many Westerners seem to think that Cambodians don’t know what’s going on. In my experience, even if they cannot read, they have a sense of justice. So when I ask them what they want in terms of a trial, they say ‘an international trial’. When I explain that it looks like we will have a ‘mixed’ tribunal with foreign judges and Cambodian judges together, they accept that. They are willing to compromise. In the US, I’ve talked to many Westerners who want an international trial or nothing at all ... It’s nice to talk about principles, to stick to principles when you don’t have to worry about where your next meal is coming from. In a way, I think we Cambodians are more accepting and more willing to compromise because we have to ... This trial is not only about who killed whom and who is accountable. That is important but this
trial is also about much more than that. It’s about our place in the world. It’s about saying to the world, ‘this happened, some of you didn’t know it happened, some of you pretended you didn’t know, but here we are. And I’m going to push this trial in your face so that you know, so that you can’t say to me, I never knew’.

She is writing as an outsider and insider – a Cambodian genocide survivor who was brought up in the US after escaping Cambodia when the Vietnamese invaded. Like many outsiders and educated insiders, she believes that Cambodians want a trial for the former Khmer Rouge. Other Cambodians such as Soth Plai Ngarm criticise this perspective. He maintains that Cambodians are too busy with survival needs and social justice to worry about legal justice.\textsuperscript{241} He asks: “Is it right to provoke people to do something about justice when we don’t know what the consequences for them might be? It is too easy for educated people to define what justice is for the majority whom they assume do not know what it means.”\textsuperscript{242} He was responding to comments from the international community such as that by UN negotiator, Hans Correll, that “it is not possible to have peace without justice and for justice to be done a trial of the Khmer Rouge leaders must be held.”\textsuperscript{243}

The inadequacy of the justice system in Cambodia is a significant factor mitigating against the effectiveness of a tribunal run by the Cambodian government – hence the

\textsuperscript{241} This view is supported by the findings of a Dutch journalist who reported that villagers in the provinces talked more about wanting “rice tonight” than about wanting justice. This information was provided to me by a non-Cambodian employee of a Cambodian human rights NGO (Personal Interview with Caroline Ort, ADHOC, Phnom Penh, 19 October 1999).


\textsuperscript{243} From speech made by Hans Correll while visiting the killing fields near Phnom Penh, reported by Emma Leslie, \textit{In Unity}, 47:2, May/June 2000, p. 1.
focus of the UN on negotiating international involvement in such a tribunal (see previous section). Although at least some Cambodians are aware of the potential limitations of a tribunal for the Khmer Rouge, the Cambodians I interviewed still believe some justice would be better than none. For example, one of my interviewees (C1) said: “The government agree [sic] with US proposal for a tribunal – it's good – will help in Cambodia. Can do justice – but not for all.” Another (C4) said that trying the Khmer Rouge leaders could have a good impact on impunity: “not a magic wand, but can show to criminals or bad people that even the Khmer Rouge who are powerful must be punished”. One survivor (C5) said he thought the leaders responsible for the genocide should be in prison for their whole lives, and that he “wouldn’t stop all people involved in the killing fields from standing in front of court and being brought to justice”. Another survivor (C6) said she thought that there should be a tribunal because so many were killed during the Khmer Rouge regime: “somebody should be brought to court”. She said she was still angry but if the Khmer Rouge were in jail that would help her to feel better. A woman interviewed by journalist, Adam Piore, in the 1990s said “as tears streaked her wrinkled face” that: “They killed my children. That’s why I am like this”. It is possible that a tribunal that offered some hope of justice might help heal the sorrow and trauma still suffered by Cambodians 25 years after the Pol Pot regime. As discussed in the next section, a truth commission might also help to serve this function.

A tribunal (or truth commission?) might also function at a symbolic level as a means of reducing Cambodians’ anger and desire for “disproportionate revenge” (Hinton, 2002).

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Hinton’s theory helps to explain why Cambodians appear to be getting on with their lives and yet still express anger against the KR and the desire to see them punished. At one level they may have adopted a Buddhist forgiveness or trust in karma, or are “sitting on their grudge”, and yet the desire for revenge could be triggered if given the opportunity. This theory shows the dangers inherent in not providing Cambodians with a controlled means of expressing their desire for “disproportionate vengeance”.

9.5 A Truth Commission for Cambodia?

The UN Group of Experts recommended that Cambodia also set up a “process of reflection” and possibly a “truth-telling mechanism” dealing with the history of Khmer Rouge atrocities. The US rejected the truth commission approach as being an inadequate substitute for international accountability, although US Ambassador for War Crimes, David Scheffer, has supported the idea of a truth commission as an adjunct to an international tribunal.245 Following the UN Group of Experts’ visit, Prime Minister Hun Sen spoke about the possibility of a Cambodian truth commission based on the South African model, but the proposal did not gain much support and was not acted upon.246 Opposition leader Sam Rainsy described the idea as “nonsense” because Cambodia did not have good leaders such as Nelson Mandela or Desmond Tutu who could establish such a truth commission.247 In a similar vein, Lao Mong Hay, Executive Director of the Khmer Institute of Democracy, wrote in a letter to the editor that a

process such as the South African Truth and Reconciliation Commission would be extremely unlikely to be successful in Cambodia because:

In this country, there is no Nelson Mandela, no Desmond Tutu, no culture of accountability, no culture of guilt and independent courts of law that could compel people to such a commission.\(^{248}\)

While I was in Phnom Penh I spoke with a UN human rights official who also suggested a number of reasons why a truth commission based on the South African model would not work in Cambodia: different level of crime (more serious in Cambodia); a different type of conflict (not a protracted civil conflict); different religious tradition (Buddhist rather than Christian); purpose wouldn’t be nation-building or reconciliation as in South Africa; and it wouldn’t work on a voluntary basis as the perpetrators wouldn’t participate. On the other hand, she did agree that there was a need for a clear historical accounting in Khmer, but not in the form of testimony.\(^{249}\)

The reaction of the Cambodians I interviewed in October 1999 was mixed: some thought it was too late for a truth-telling mechanism (“we have been telling the truth all these years”), some thought it was too soon (“a tribunal should come first”), while others thought it would not work in a Buddhist country. Very few expressed any enthusiasm about the idea of a truth commission for Cambodia. For example, C2 said that “people don’t understand the need for a truth commission as they have been telling the truth every day!” By contrast, 58% of McGrew’s Cambodian respondents indicated

that they supported the idea of a truth commission even though their knowledge about truth commissions was limited.²⁵⁰

One of my interviewees, C1, spontaneously referred to the South African Truth and Reconciliation Commission (TRC) as an example that could provide a possible mechanism for achieving the Buddhist goal of the middle way, but seemed unsure that it would work in Cambodia, especially since a tribunal had been officially proposed by the UN. C3 also referred to the South African TRC but he dismissed the idea for Cambodia because he thought it would “cause friction with Buddhists”. He said that it was “linked with Christian values” and that “to say sorry is not in the Buddhist tradition as practised in Cambodia”. In a similar vein, C16 questioned whether a truth commission “could be done with the Cambodian culture and mentality?” and whether it was “applicable to confess and forgive”. She said that “truth commission came from Christian concept, compared with Buddhism where people who commit crimes can’t get away from them; they are always responsible – not about God forgiving them.” She added “I don’t think it would work”. C3 and C16 also pointed out that Cambodia doesn’t have anyone with the independent moral authority of a Mandela or Tutu who could ensure the public acceptance of a truth commission process.

Despite these concerns, it does seem that the idea of a truth commission of some kind (not necessarily modelled on the South African example) could be beneficial for Cambodians, many of whom continue to express a desire to understand why the

atrocities of the Pol Pot era were committed.\textsuperscript{251} C10, for example, said he had a great interest to know the “real truth – why they did what they did, their rationale”. He went on to say that: “Truth can be more important than justice. Justice needs to be objective, not vindictive. Without truth, don’t really have justice. Truth can help with justice.” Ramji (1999) found that discovering the truth was the highest priority of many Cambodians surveyed, and she argued in favour of a truth commission as a means of promoting healing and reconstruction of Cambodian society. On the other hand, despite Buddhist support for the concept of amnesty, Ramji also found that most Cambodians did not support amnesty for the top leaders of the Khmer Rouge. Some have advocated the idea of combining a truth-telling process for the lower level Khmer Rouge who would receive amnesty, whilst trying the senior Khmer Rouge who bear the primary responsibility for the genocide. This proposal would address both the need for truth – ‘understanding why’ – and the need for justice – to assuage anger and desire for revenge, and would set an example that would help end the culture of impunity in Cambodia.

NGOs in Cambodia are continuing to consider the truth commission option as a potential mechanism for promoting reconciliation. Ashley (1998, p. 77) argues that a truth commission would be important to “provide a wider debate and understanding about the causes and legacy of the Khmer Rouge regime”. During my stay in Phnom Penh I spoke by telephone with a Cambodian activist who said she was leading a mission to South Africa to look at the TRC and other factors that might contribute to

\textsuperscript{251} See Ashley (1998) for a discussion of the possible benefits and drawbacks of a Cambodian truth commission.
reconciliation, such as economic, land and judicial reform.\textsuperscript{252} Vannath subsequently wrote that her South African trip led her to conclude that Cambodia did not have the societal trust nor religious leadership necessary for a truth commission along the lines of the South African model, although she did indicate that the king could play a significant role “in any justice or truth-telling process for Cambodia”.\textsuperscript{253}

A truth commission in Cambodia could play a valuable role in providing a historical record and public acknowledgement of the atrocities of the Khmer Rouge period. The four university students I interviewed indicated that their parents told them stories about what it was like during the Pol Pot era, and three said that they had visited Tuol Sleng. For example, C12 (born in 1977) told me that his older sister died of disease, but his parents survived because they were farmers. His mother told him that life was very bad, that they had to work hard, had no food, and could be “killed for no reason if did wrong just a little bit”. Another student (C14, born in 1980) said her parents always told her about it, how they “can’t eat enough, Pol Pot always beat them”. She said she wanted to hate Pol Pot, but “only hated him 80%” because she had never seen his face.

For the younger generations, this access to first-hand accounts will soon be lost, and the memories could begin to fade. As one of my interviewees (C15) observed, a truth commission that produced a written record of what happened “would be a good idea so that all people who were just born will understand everything about the Pol Pot regime. If not, will forget because no people to tell them again”. Already today, teachers report that young Cambodians do not know a lot about what happened during the Khmer

\textsuperscript{252} Personal interview by telephone with Chea Vannath, Phnom Penh, 21 October 1999.

\textsuperscript{253} “Cambodians talk about the Khmer Rouge trial”, \textit{Phnom Penh Post}, 4-17 February 2000, p. 12.
Rouge period: "I know children are curious, but some doubt that Pol Pot killed so many Cambodians. The other day, one asked me whether the exhibition here [at Tuol Sleng] could have been computer generated."254 Another Cambodian teacher says that "some students insist the Khmer Rouge story was not true ... They don't believe someone would starve other people and make them work so hard, and have no school."255 One of my interviewees (C10) said there was "not sufficient history, in Khmer, for Cambodians" and that some in the younger generation don't care, don't know what happened, and "sometimes don't even believe what happened." C11 said: "my child doesn't believe me when I tell her about eating rice only, and eating rats".

A related argument in favour of a truth commission (or a tribunal) is the continuing denial by some former Khmer Rouge that the Pol Pot era was really that bad: that reports of the conditions and killings are exaggerated by political opponents, and that the policies were pursued in the best interests of the Cambodian people. For example, Nghem Enn, who was the official photographer at Tuol Sleng, told reporters that:

Khmer Rouge education was very disciplined. It taught people how to look after their family. It never taught anyone to kill people or carry out massacres. As for the media – the world news coverage was exaggerated in some ways. Khmer Rouge rules were very good. No prostitution, alcohol, gambling, extortion, burglary or human rights abuses. They taught people well.256

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It is arguably not in the interests of future generations of Cambodians to risk the mythology being generated of a glorious Khmer Rouge period that denies the atrocities that occurred. The lack of acknowledgment and accountability causes confusion, anger and pain for survivors and their descendants, whilst at the same fails to reduce the likelihood of similar atrocities in the future. An honest historical account would allow Cambodians as a whole, including perpetrators, bystanders and survivors, to come to terms with their past and face the future with a joint resolve to prevent a repeat of such a genocidal regime as that led by Pol Pot. A truth commission or a tribunal could challenge the prevailing culture of impunity. As one of my interviewees said (C4), forgetting the past, pardoning the Khmer Rouge and not having a tribunal would mean that "future leaders will think they can kill people and get away with it".

On the other hand, one former Khmer Rouge leader who used to be assistant to Ieng Sary, told reporters that:

Sometimes you have to avoid to know about the sins of your parents. You see? So there in the history in the life of the country, maybe the same thing hold true. You should learn more about positive thing than the negative thing.²³⁷

One of my interviewees (C10) claimed that "forgiveness and forgetting are easy for Cambodians to do because they are Buddhists and believe that whoever committed crimes will be responsible later on – that if done bad things they will come back to you later in future". As explained by Hinton (2002, p. 275), some Cambodians may "choose to invoke Buddhist norms of emotional control and forgiveness" while "others may take

comfort in the Buddhist notion that the form of future rebirth is determined by actions in the present".

Cambodian Buddhist leader, Venerable Yos Huot Khemacaro, goes further, however, in suggesting that in order to forgive, the problem needs to be recognised and the wrongdoer must undertake to avoid repeating the "bad actions". He advocates the Buddhist path of "loving-kindness" and compassion that involves helping the wrongdoers to abandon the bad actions. Punishment from authorities can also be a response to bad actions, according to Khemacaro. Thus both forgiveness, and a tribunal that provides punishment for the former KR leaders and sets an example to prevent a recurrence of such "bad actions", are entirely consistent with a Buddhist approach.

A focus on development and ‘national reconciliation’ – meaning the reintegration of former Khmer Rouge into society and politics – has taken precedence over legal justice and psychological reconciliation in Cambodia. Only by thoroughly canvassing the views of ordinary Cambodians, including former Khmer Rouge and survivors, can one conclude whether a policy of forgetting and ‘national reconciliation’ as currently practised is possible and desirable for the future of Cambodia. From the evidence derived from surveys and interviews conducted by researchers and NGOs working in Cambodia, the answer, on balance, appears to be “no”. This research supports Brusky’s observation that: “memories of the four year regime scar the lives of millions who were affected, and a continued failure to address the crimes of the Khmer Rouge leaves open the wounds of history” (1995, p. 12). It is argued that accountability could

258 "Cambodians talk about the Khmer Rouge trial", Phnom Penh Post, 4-17 February, 2000, p. 15.
259 See responses of my interviewees reported in this thesis, Ramji (1999), McGrew (2000), and the surveys conducted by the Centre for Social Development discussed earlier in this chapter.
“assuage the pain and unanswered questions of many as well as help build a culture of respect for human rights” (Brusky, 1995, p. 12).

9.6 Local Reconciliation Initiatives

A number of local projects hoping to have an impact on the process of reconciliation have emerged over the years since the genocide, including Thai and Cambodian Buddhist monks organising peace marches and assisting to revitalise the Buddhist religion and wats or temples (Colletta et al., 1996). The most significant of these has been the Dhammayietra — or “pilgrimage of peace” — annual peace marches through Cambodia.  

Maha Ghosananda, one of Cambodia’s most respected Buddhist monks, organised the first Dhammayietra in 1992 that started in the refugee camps on the Thai side of the Thai-Cambodian border and ended in Phnom Penh. The walks represent a link between spiritual awareness and non-violent conflict resolution, and are centred on the key Buddhist value of compassion and philosophy of “active mindfulness” (ECCP, 1999, pp. 219-223). Each year the hundreds of walkers have received training in non-violence before participating in the Dhammayietra. Unfortunately the Dhammayietra of 1993 and 1994 were caught in the crossfire of the still ongoing civil war, with some participants killed and others wounded, but in subsequent years further violence was avoided. Non-violence practitioners from around the world believe the Dhammayietra contribute.

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awareness and solidarity for people to promote peace and reconciliation in Cambodia; for at least one villager along the route of the walk: "It is the only thing that gives us hope." (ECCP, 1999, p. 223)

Another local project has been the "Culture of Peace" campaign run by the Cambodian Institute of Human Rights (CIHR). The project "aims to promote the values of justice, sustainable peace and tolerance nationwide" focusing on schools and Buddhist temples and making use of Buddhist teachings of loving-kindness, compassion, tolerance, sympathetic joy and equanimity (CIHR, 1999a, Appendix I). The campaign culminated in a peace rally in Pailin, the heart of former Khmer Rouge territory, on 29 April 1999. The rally attracted hundreds of participants, including former adversaries and supporters, top officials of government and NGOs, monks and nuns, representatives of the international community, and ordinary Cambodian men, women and children (CIHR, 1999a, p. 3). "This was the first time for many people in Pailin to enjoy freedom. True freedom. The freedom to demonstrate in public." (p. 4) The fact that Buddhist monks marched along with former Khmer Rouge chanting "Santepheap Neou Kampuchea" (Peace in Cambodia) was particularly significant as Buddhism was all but annihilated by the Khmer Rouge (p. 8). The "Pailin Culture of Peace Flower" was created as participants wrote messages on the petals that were then joined together to make the flower (p. 10). The tone of the report is very emotive and positive, inspired by a Buddhist approach to love and peace.

The Director of CIHR and a survivor of the genocide, Kassie Neou, believes in amnesty and forgiveness for the former Khmer Rouge leaders in the interests of peace (CIHR,
1999a, Appendix 6). He argues that a trial would not mean true justice, but merely the illusion of justice, and would not promote reconciliation. Genuine reconciliation would only be possible if leaders such as Ieng Sary “truly repent the deeds of the Khmer Rouge and make restitution to the society he helped rip apart.” In return, Cambodians need to forgive, according to Kassie Neou: “Try to forgive but not forget – dangerous to forget because may happen again. But for sake of peace and harmony for the living, need national reconciliation and forgiveness.”261

Raised in both Buddhist and Christian traditions, Kassie Neou believes forgiveness is consistent with both religions (Henderson, 1996). He has been trying since 1992 to get a public apology from the Khmer Rouge that he felt could start a nationwide healing process. However, this task is not easy because “Asians don’t admit they have made a mistake and say sorry – not Hun Sen, Ranariddh, Suharto, Mahathir”.

The impact of the Caux program in peace and reconciliation run by the Swiss Foundation for Moral Re-armament is evident in the work of Kassie Neou and others promoting reconciliation in Cambodia.262 Two peace conferences were held in Phnom Penh in March 1993 and March 1994 involving Cambodian political leaders, university students, monks, foreign diplomats, UN volunteers and NGO workers. The Buddhist patriarch, the Venerable Maha Ghosananda, addressed the first conference and invited participants to join him on the second Dhammayietra peace march. Members of the

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261 Personal interview, Phnom Penh, 29 October 1999.
262 Henderson (1996) describes the early association of Caux with the Cambodian leader, Son Sann, and later in organising private meetings during the Paris peace negotiations in 1989. Caux, a village in Switzerland, was the site of informal meetings that brought together French and Germans in the aftermath of World War Two in a spirit of forgiveness and reconciliation. The program continues to provide encouragement to peacemakers throughout the world, hosting reconciliation encounters between “enemies” from many different conflict zones such as Israelis and Palestinians.
Cambodian government were delegates at Caux in 1994 and 1995, and one of them, Ung Huot, subsequently embarked on a concerted campaign as Education Minister to eliminate corruption in the Cambodian education system. A Cambodian genocide survivor who had been raised in exile in the US, Renee Pan, underwent a personal transformation similar to that experienced by Irene Laure, a French woman who asked the Germans present at Caux to forgive her for her past hatred of all Germans (Henderson, 1996; see Chapter 7). Renee Pan learned to forgive the Khmer Rouge, and worked to assist Cambodian refugees and founded the Cambodian Children’s Education Fund. In 1985 a moving reconciliation occurred at Caux between a Khmer Rouge official and a group of Cambodians during which the Khmer Rouge official apologised for the suffering imposed by the Pol Pot regime (Henderson, 1996, pp. 97-99). Some of the Cambodians present at the conference were critical, but others responded with forgiveness and an extension of trust, according to Henderson (1996). One of the Cambodians returned to Cambodia to work for reconciliation for his people, while the Khmer Rouge official resigned from the party and became a monk and then a teacher.

The influence of Christian ideas of reconciliation is evident in these stories, and yet the process has been embraced by at least some Buddhist Cambodians. Kassie Neou translated the film of the story of Irene Laure into Khmer and reportedly commented that he saw her as a Cambodian woman as much as a French woman.

There is one sentence of hers that I love: “All these things I cannot forget, but I can forgive.” Someone has got to say that to Cambodians. (Kassie Neou, quoted in Henderson, 1996, p. 93).
The relationship between Christian and Buddhist ideas of forgiveness and reconciliation and how they play out will be further explored in Chapter 11.

9.7 Public Apologies and Reconciliation

One of the Khmer Rouge leaders who defected at the end of 1998, Khieu Samphan, apologised to the people of Cambodia during an international press conference.\textsuperscript{263} It is not clear whether Khieu Samphan’s apology was an authentic plea for forgiveness or a cynical ploy to encourage the Cambodian people to forget the past and any idea of trials. Most of the Cambodians I interviewed were sceptical about the authenticity of Khieu Samphan’s apology (“saying sorry is simple” – “it’s just a word” – “not sincere” – “it doesn’t mean anything”) and some suggested he did it for the benefit of the international press in order to gain sympathy from the international community. For example, a 38 year old male Cambodian-American survivor/refugee (C2) said that Khieu Samphan’s apology “doesn’t mean anything ... only makes a difference if judged by an independent court. ‘Sorry’ – one word – we don’t know if it comes from his heart, whether it’s true or not – and besides – it was in English ...”. He only repeated the apology in Khmer at the insistence of reporters.\textsuperscript{264}

A Cambodian-American returned refugee (C16) questioned whether Khieu Samphan’s apology was “because of the Cambodian people or because in front of international press. If his motivation was to say ‘sorry’ to the Cambodian people, then he would have

\textsuperscript{263} Associated Press, 30 December 1998.
done it in a way that Cambodian people could hear.” Another Cambodian-American returned refugee (C20) maintained that Khieu Samphan apologised “just to buy pardon”.

Another of my interviewees (C10) described it as a “very belated apology” and maintained that the “crimes he and his gang were committing could not be compensated just by saying ‘sorry’”. C11 also said it was “late to say sorry” and that she thought he:

- said sorry and that’s all – not fair. Even though good to have reunion or reconciliation … if need peace for people, reunion with Khmer Rouge good idea, but not happy to see those criminal people sitting in good chair, still has position. Even though we forgive him for peace, shouldn’t let him live with special treatment. He should live as ordinary people; he should work.

McGrew (2000) also found that many of her respondents questioned the sincerity of Khieu Samphan’s and Nuon Chea’s apologies: 8 thought they was sincere while 23 were not convinced. Fifteen of her respondents welcomed the apologies but were unable to forgive, 16 said they felt angry, and 11 were unhappy. Only one person felt glad and was able to forgive them. This high level of scepticism and anger was consistent with the feelings expressed by my interviewees.

In response to questions about responsibility and guilt, Khieu Samphan requested that Cambodians leave the responsibility of the Khmer Rouge for large numbers of deaths to history: “This is an old story. Please leave it to the past.”

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developments of history in our country are very complicated. Please don’t keep stirring things up”. This lack of acknowledgement suggests that his apology was indeed disingenuous.

Other former Khmer Rouge have shown a similar lack of concern or contrition for their actions. For example, In Sopheap, described as a “top Khmer Rouge ‘intellectual’”, said he regretted nothing: “I did my job as a good patriot. I did nothing wrong. As a man, I am among the best sons of Cambodia. I am proud of my life. I did not participate in any wrongdoing or killing.”266 In an exclusive interview with journalist Nate Thayer in July 1997, Pol Pot admitted that he made mistakes and said that he regretted his “lack of experience” and that they had not always done things properly, but refused to admit any feelings of guilt or contrition for the suffering of the Cambodian people under his regime.267 An American journalist reported that:

What feels most eerie is that all of Pailin has selective amnesia. There is no repentance, no soul-searching. No one accepts culpability, or blames the Khmer Rouge, for crimes committed 20 years ago, and the prospect of any war crimes tribunal is remote. The only culprit, people say, is Pol Pot, the movement’s mastermind, who died last year in a reported suicide. With him, they say, are buried the horrors of the past.”268

Hun Sen’s policy of ‘national reconciliation’ seems to have created dissatisfaction amongst the Cambodian population. Accepting the former Khmer Rouge leaders back

into society, and allowing them to live in comparative luxury, does not seem ‘just’ to those who suffered and lost loved ones under their rule. Rather than promoting reconciliation, the government policy appears to be creating more anger and disharmony. For example, C3 said that inviting Khieu Samphan to Phnom Penh and giving him “VIP treatment” was a “mockery”, whilst C4 asked “why should the former Khmer Rouge live so freely and be received by Hun Sen in a five star hotel? This makes a lot of people angry”. A reporter who had lost most of his family during the Khmer Rouge years said it was “difficult to forgive – very difficult” when he saw the two KR leaders arrive at a luxury hotel in their “chauffeured sport utility vehicles”.\(^{269}\)

One of my interviewees, a student descendant of survivors (C12), said he didn’t hear Khieu Samphan’s public apology, but when I showed him the media report he said the “people who have done wrong can say this word, but in fact this word is only a word that they say. Their activity is very different.” Another student (C14) said that Khieu Samphan “doesn’t think about the result of what they did. But what about the Khmer people who died? Can’t live again. Up to court to sentence them. Should be tried – that’s what the Khmer people want.”

At least two Cambodian genocide survivors whom I interviewed thought that Khieu Samphan’s expression of remorse might have some credibility. When asked whether they thought Khieu Samphan was really sorry, C15 said he “thought he was” and C1 responded “Yes. I can understand in other way that he’s upset by it – that killing really happened – but didn’t say truly who related to doing it.” C1 indicated, however, that:

even if he did believe Khieu Samphan’s apology, it was not enough: “Apologise only one way to show accept real situation but justice need to do – responsibility ...”. At least according to this Cambodian survivor, there is a responsibility to provide justice even if the perpetrator apologise: justice is necessary for reconciliation. C15 said he felt angry that the apology indicated a breakdown from an international tribunal “because I lost my father and my older sisters and other relatives”. C2 also referred to the greater importance of justice over apologies, and C17 said that Khieu Samphan’s apology “was not enough” and that “most people want a tribunal to happen. They committed a crime and should be punished, otherwise impunity still exists.” It seems that, even after 21 years, at least some Cambodians are calling for justice before reconciliation can be contemplated.

By contrast, Kassie Neou argues that only after reconciliation and peace have been sustained for long enough for the development of a reliable judicial system can justice be achieved (see Marks, 1999, p. 717). His approach is more consistent with Cambodian Buddhism that “teaches reconciliation in a way that does not necessarily require justice or retribution” and advocates love and compassion rather than the perpetuation of a cycle of retaliation, hatred and revenge (Marks, 1999, p. 716). Only two of my interviewees other than Kassie Neou reflected the Buddhist notion of reconciliation in their responses. Both were highly educated and had spent significant time outside Cambodia in English-speaking countries. One (C2) referred to reconciliation as being a healing process, while the other (C3) described “real reconciliation” as being “not just political” but about shaking hands, “heart to heart” with a “moral element” that “should be overpowering”.

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One of my interviewees (C1) gave some insight into how the Buddhist notion of reconciliation had become problematic and less relevant to Cambodians. When asked about his definition of reconciliation, C1 responded:

Difficult question ... All nations have their own national prestige or nationalism. In Cambodia, there is no nationalist ideal. Sihanouk promoted the ideology of ‘Sokhum vrasniyun’ – combining Khmer style with communist. In Lon Nol time – wanted to build nationalist ‘Khmer moun’ ideology but not success – only intellectual, not for simple people. Sihanouk’s ideology also not success - but now no ideology so that reconciliation very difficult. In one party, different groups – and outside (Mao Tse Tung) – all parties have the same problem. For example, CPP has no one ideology. For example, technology: Khmer no standard keyboard because American, Australian and French all different so can’t get reconciliation. People who say ‘reconciliation …’ – can’t do. Buddhism used to be base of nation for reconciliation – now not sure – now reconciliation a big problem. Need to set up nationalist ideology for Cambodia – need to trust and respect each other and law, e.g. education law in Cambodia – can’t work with foreigners who don’t respect.

This Cambodian and a number of others I interviewed seemed to suggest that any past ideas of reconciliation as a personal or spiritual process had been overtaken by the political definition of ‘national reconciliation’ promulgated by Hun Sen. For example, C2 indicated that reconciliation had become linked to the idea of defection and had
come to mean less as used by the Cambodian government, while C3 said “reconciliation means to our ruler submission to their rule – not real reconciliation”. C4 defined reconciliation as a “compromise that we reach from conflicting parties” in a similar way that national reconciliation means finding a compromise in order to avoid a new war or new conflict. C10 also used the term ‘compromise’ to describe his meaning of reconciliation: “an act of compromise, of striking a balance of interest in pursuit of collective interest.” Significantly, one interviewee C11 explained that reconciliation meant trying to facilitate things illegally to make them legal:

For example, conflict between two people – poor with rich – try to reconcile between them. Powerful do wrong – try to lobby poor one to agree or accept. Political example involving the Khmer Rouge and government: reconciliation in political situation is to hide wrong things or mistakes done [in the past].

For this Cambodian, the original meaning of reconciliation appears to have been totally subsumed by a perception of the political misuse of the concept.

9.8 Elusive Peace for Cambodia

The policy of impunity for perpetrators of genocide, and the inclusion of the Khmer Rouge in the political process, have arguably not aided the reconciliation process and have certainly not produced a lasting peace in Cambodia.270 The lack of firmness of UNTAC with the Khmer Rouge seemed to reduce the compliance of the new

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270 Asia Watch and Human Rights Watch both argued that “the UN’s timid promotion of human rights... bequeathed the Cambodian people a troubling precedent of impunity for political violence” (Findlay, 1995, p. 148).
Cambodian government with the terms of the peace agreement, especially in relation to the implementation of human rights protection (Vickery & Roht-Arrazia, 1995). General Sanderson, who headed the armed forces of UNTAC, has subsequently recognised that the failure to disarm the Khmer Rouge was a critical factor in reducing the success of the peacekeeping mission in Cambodia.\textsuperscript{271} On the other hand, the emphasis of UNTAC on human rights did influence the beginnings of a strong civil society, but with little power to actually influence government policy (Hourn, 1999).\textsuperscript{272}

There are continuing reports of government human rights abuses in Cambodia: prison conditions remain poor, arbitrary arrest is a problem, detainees have been tortured and killed, and the legal system is marred by inefficiency, lack of training and resources, and corruption (United States, Department of State, 2000).\textsuperscript{273} In 2000 there was a significant rise in vigilante justice and the pervasiveness of corruption (Langren, 2001):

\begin{quote}
This kind of mob justice, often abetted by police officers who say they find the lynchings and beatings a short-cut around the vagaries of the courts, has become an epidemic in Cambodia.\textsuperscript{274}
\end{quote}

Government-sponsored violence continues, human rights protection mechanisms are ineffective, the government is unstable, no compensation has been provided for the victims of the Pol Pot era, and the Khmer Rouge leaders have not been held accountable. How can Cambodians be expected to respect the rule of law or be willing

\textsuperscript{271} As quoted on CNN "Inside Asia", 15 December 2001.
\textsuperscript{272} See Shawcross (1994, pp. 58-63) for an overview of the development of human rights and the justice system in Cambodia. He describes the UNTAC period as "a golden age for human rights in Cambodia" with human rights NGOs boasting more than 250,000 members, but the justice situation did not improve after the UN's departure because of inadequate training and continuing corruption.
\textsuperscript{273} Similarly under the Vietnamese there was a pervasive culture of impunity and human rights abuses, as reflected in the statement by the PRK's Minister of Justice in June 1988: "I will resign from the Ministry of Justice. I cannot work any longer because there is no justice at all ..." (Gottesman, 2003, p. 238).
to embrace reconciliation if the perpetrators of such massive crimes against humanity are allowed to walk free, and in some cases are given “VIP treatment” (C3)? Ashley (1998, p. 76) maintains that:

The question of accountability for the crimes of the 1970s cannot be divorced from the problem of contemporary impunity – the de facto and sometimes de jure freedom of those with power, money, or weapons to conduct all kinds of illegal activity without fear of prosecution.

As described by one of my interviewees (C22), “We have to punish [the former Khmer Rouge] ... a matter of national responsibility ... biggest case of impunity in the world and the mother of other smaller impunities in Cambodia.”

The Cambodian people were not consulted during the peace negotiations. They were given a chance to vote for a government, but were not given a chance to express their needs and desires in relation to justice and reconciliation. The international community and the national government decided that a policy of impunity would best serve the interests of ‘national reconciliation’. This definition of reconciliation ignores the needs of the people for psychological reconciliation – to heal the wounds of the past through a process of acknowledgement, apology and forgiveness. The climate of impunity also denied the Cambodian people their right to justice – to see those who had harmed them held accountable and punished. There was a peace settlement and a peacekeeping mission, but no credible official justice or reconciliation process. As UNTAC Head, Yasushi Akashi reportedly admitted two months before the election in May 1993: “We have not been able to achieve peace and national reconciliation.” (Kamm, 1998, p. 219).

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275 See, for example, reactions to the welcome of former Khmer Rouge leaders by Hun Sen in December 1998 (New York Times, 30 December 1998).
In short, no sense of justice – retributive, restitutive or restorative, legal or symbolic – has been achieved for the Cambodian people. Nor have there been any credible processes of genuine reconciliation. There has been little evidence of authentic atonement from the former Khmer Rouge. The Cambodian people are aware of this and the survivors still bear the scars. While some have expressed a spirit of forgiveness, there is a great deal of resistance to consider even a peaceful co-existence with the former Khmer Rouge (“They should be in jail.”). If the long-awaited tribunal is established, will it offer the much needed sense of justice and reconciliation sought by Cambodians? Or will it be a case of too little, too late? Or in the words of David Chandler (2000, p. 82):

Perhaps genuine, full-scale reconciliation in the face of so much evil, ambiguity, and amnesia is an unattainable goal, and perhaps, as Hannah Arendt suggests, no trial can ever deliver sufficient retribution to the victims for what has happened.

Perhaps the final word should go to Cambodian Van Nat, the last living survivor of the Khmer Rouge torture centre, Tuol Sleng. When asked if there were anything that would help him to cope with the past, he responded “It’s impossible. I simply can’t forget it.”

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276 See, for example, the comments made by Khieu Samphan and Nuon Chea indicating that they felt no guilt for their actions during the Pol Pot regime (New York Times, 30 December 1998).

CHAPTER 10
RESPONDING TO GENOCIDE IN RWANDA:
APPROACHES TO JUSTICE AND RECONCILIATION

The prosecutor of the International Criminal Tribunal for Rwanda, Carla del Ponte, returned from the Rwandan capital, Kigali, to Arusha, Tanzania, on Friday [28 June 2002], a day after some 3,500 genocide survivors marched through the streets of Kigali, in a demonstration against her office and the alleged harassment of witnesses at the court. The demonstrators, some carrying placards inscribed “No justice from ICTR” and “No justice without compensation”, had marched from central Kigali to the ICTR’s office in the suburbs. (IRIN, Nairobi, 28 June 2002)

Both the international community and the national government see legal justice as crucial to the peacebuilding process in Rwanda, and yet, as indicated above, Rwandans have not necessarily experienced justice as a result of the trials implemented locally and at the international level. The Rwandan domestic courts are trying those accused of genocide and crimes against humanity committed since October 1990, while the international community has established the International Criminal Tribunal for Rwanda (ICTR) to prosecute those accused of genocide, crimes against humanity and war crimes committed during 1994. Over the past few years, both the Rwandan government and the ICTR have begun to focus more on reconciliation, including the move to domestic ‘gacaca’ trials of genocide suspects, the establishment of the Rwandan National Unity and Reconciliation Commission, and measures taken by the ICTR to make the justice
and reconciliation aims of the Tribunal more real and meaningful for the Rwandan people. This chapter explores these and other attempts to promote justice and reconciliation in Rwanda and will assess the responses of Rwandans to these programs and initiatives.

10.1 *Genocide Law and Domestic Trials*

In August 1996 the Rwandan government passed Organic Law No. 08/96 on the "Organization of Prosecutions for Offences constituting the Crime of Genocide or Crimes against Humanity committed since October 1, 1990". From the government’s perspective, the detention and trial of perpetrators of the genocide is an important step towards ending the culture of impunity prevailing in Rwanda. There are, however, huge logistical problems involved in the domestic prosecution of all those accused of committing crimes during the genocide. Some 95% of Rwanda’s lawyers and judges were either killed or are in exile or in prison, making it very difficult for the criminal justice system to cope.

The Rwandan legislation created four levels of culpability for the genocide: (1) the planners and leaders of the genocide, notorious murderers and those who committed acts of sexual torture or violence; (2) others who killed; (3) those who committed other crimes against the person; and (4) those who committed offences against property. Categories 1 – 3 are subject to full prosecution and punishment including the death penalty, although reduced penalty incentives for voluntary confession are available for
categories 2 – 3 (Kritz, 1997, p. 8). Since the genocide, Rwanda’s jails have been overflowing with up to 130,000 detainees of whom about 2,100 have been designated as Category 1 and thus subject to the death penalty if tried and found guilty.

The first 22 of those accused of genocide and sentenced to death by the Rwandan courts were executed by public firing squad in May 1998. In October 1998 the Rwandan government released 10,000 suspects, sparking fears of revenge killings, as reportedly occurred when some 1,500 detainees were released in 1997. Three defendants were sentenced to death and five others were sentenced to life imprisonment at a trial of 20 genocide suspects in Butare in March 1999. In June 1999 it was reported that a local court (Nyamata) had concluded a trial of 40 people accused of genocide: one man was convicted of genocide and crimes against humanity and sentenced to life imprisonment; 18 others received sentences between 7 and 20 years; and 31 suspects were released because of lack of evidence or because they were found to be not guilty.

On 31 December 1999 the Rwandan government issued an updated list of genocide suspects, including the late president Juvenal Habyarimana and other deceased suspects in Category 1. According to Rwandan Prosecutor, General Gerald Gahima, access to this list would allow the victims to pursue damages including the confiscation of properties of deceased suspects. It is therefore possible for genocide survivors to obtain some form of compensation or restitutive justice as well as retributive justice from the domestic courts in Rwanda.

278 See also the Rwandan government website, http://www.rwanda1.com/government/justice.htm
In the first six months of 2001, 577 genocide suspects in Rwandan jails were tried, resulting in 180 acquittals, 192 life sentences and 74 death sentences. As of September 2001, more than 2,500 of the accused had been tried and more than 300 sentenced to death in Rwanda. Still some 115,000 remained in overcrowded jail conditions throughout Rwanda, costing the Rwandan government approximately US$1 million per year to maintain. In order to speed up trials and sentencing, as well as revealing the truth about the genocide and fostering reconciliation, the Rwandan government is introducing *gacaca* courts based on traditional community justice to try those accused of crimes in Categories 2-4. The potential contribution of the *gacaca* system to justice and reconciliation in Rwanda will be discussed in a separate section later in this chapter.

The Rwandan government sees legal accountability as an integral part of the reconciliation process: “there can be no reconciliation without justice.” Paul Kagame, leader of the Rwandan Patriotic Front (RPF) and the Vice President in the new Rwandan government, has argued that the prosecution of those responsible for crimes against humanity is urgently needed so the nation can be reconciled. Similarly, Prime Minister Faustin Twagiramungu, a Hutu moderate in the new government, also argued

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that only with trials and punishment of the guilty could true reconciliation – and ultimately peace – take hold (quoted in Blakesley, 1997, p. 198).287

This attitude was reflected by many of the Rwandans whom I interviewed in Kigali and Arusha in July 1998, as well as by those I interviewed in Toronto, Canada, in June 2000. According to R4 (a Tutsi survivor), “justice is also important for reconciliation because someone will feel lighter if the man who killed her husband is punished.” R9, another Tutsi survivor, said that “justice will resolve problems. It is a condition for reconciliation.” R9 also said that “we need justice before forgiveness. Forgiveness is not possible without justice. Too many people were involved. Rwanda does not have enough money and human resources to prosecute all those in jails. But the people behind it all – the leaders – must be punished even if not everyone. They must accept that they did wrong, then ask for forgiveness, then be forgiven.” R12, a Tutsi survivor who had become a Catholic priest since the genocide, maintained that:

Some people think that justice is just about revenge, if they haven’t travelled their own suffering and mourning. Some outside see the Tutsi government as a group getting justice, but they should see them as a group healing their own wounds. Corrective justice is important as a way of reconciliation. The church’s role is to help people to understand what is justice and to help people to give mercy and forgiveness. If legal justice is done well, then it is one step towards reconciliation.

287 Twagiramungu resigned in August 1995 in protest at the way the RPF was running the country; by curtailing the activities of the Hutu moderates, the Tutsis in power were boosting the position of the Hutu extremists (Pruiner, 1997, p. 367).
One genocide survivor (R2) indicated that Rwandans thought the perpetrators would not be punished, so the local trials and executions had become “a source of hope for the Rwandan population”. According to this survivor:

The executions have led to a change in perception as the population sees that punishment can happen ... People are being educated about criminal law through the public trials. Prisoners are not necessarily sentenced – some are released – this sets a good example.

A Tutsi returnee (R11) echoed the sentiment that the executions have “brought hope to some people” in Rwanda as they have seen that the government is “really starting to address issues” and that the génocidaires would be punished if found guilty. It has also been claimed that “many Hutus realise that the prosecution and conviction of those responsible for the 1994 genocide is the only way to rid themselves of collective guilt” (Reyntjens, 1997).

According to the RPF’s Tito Ruteremara (quoted by Gourevitch, 1998, p. 249):

It’s materially impossible to judge all those who participated in the massacres, and politically it’s no good, even though it’s just. This was a true genocide, and the only correct response is true justice. But Rwanda has the death penalty, and – well, that would mean a lot more killing.

Most of the Rwandans I interviewed felt that justice demanded that the perpetrators of the genocide receive the death penalty. Reactions were mixed, however, with regard to the Rwandan government’s decision to hold the executions in public. For example, R8 (a Tutsi survivor) said “I am against the death penalty in principle, but for the génocidaires, it is not enough”. She added that she “felt annoyed with the Pope
complaining about the executions but he kept quiet during the genocide.” Another Tutsi survivor (R4) said:

I don’t like the public executions. I have seen so much killing – enough – but I am not against the death penalty. For example, a 10 year imprisonment for killing 1,000 people is not enough – but not in public. The ICTR should have the death penalty for the ‘big fish’. It seems unfair while the small fish in Rwanda are being killed. Rwandans can’t understand why they get only 5-10 years when they are more guilty.

R9 (a Tutsi survivor) said similarly “I don’t believe executions are the solution because they are like another genocide, especially if they are held in public”. By contrast, R8 (another Tutsi survivor) argued that it was an important message that “for the first time since 1959 Rwandans were being punished in public for killing Tutsis”. T9, a Tutsi refugee in Canada, reflected this ambivalence when he said: “I’m not too happy about that [executions] but we have to set an example … but killing people in public – what kind of society is that? It is not going to help. You can’t correct a mistake by doing another one.”

Unfortunately I was unable to travel to rural areas nor to interview Hutu survivors, refugees or prisoners in Rwanda who might have provided a different perspective on the role of the local trials and executions in promoting or hindering reconciliation. An NGO worker whom I interviewed in Kigali maintained that the executions were generally welcomed by the Tutsi population and by some Hutus who could begin to dissociate themselves from the feeling of group guilt as individual perpetrators are found guilty and punished. The country director for a major foreign NGO commented that she
thought the "public executions provided a mass catharsis" and that "hopefully they won't be 'needed' again". She said she thought they did not pose a "security risk".  

These views contrast with the official international response that such public killings could promote feelings of revenge rather than contribute to the process of national reconciliation. Neuffer (2001, p. 337), for example, argues that the public executions served to further polarise the Hutu and Tutsi population over questions of justice. This is not difficult to understand, especially in the light of Neuffer's description of the first executions:

It was April 24, 1998, when the executions took place, and the crowds, some 20,000 strong, were exultant. The condemned, in their pink prison uniforms and with black hoods slipped over their heads, were lashed to stakes in Kigali's sports stadium. Onlookers cheered wildly as policemen took up their assault rifles and shot them to death. One woman held her baby aloft for a better look.

To me, as an outsider with a strong commitment to human rights and non-violence, this sounds horrific and barbaric. And yet, from a legal perspective, this official act of public retribution cannot be equated with a genocide. It is arguably not as morally reprehensible as the mass killings that it seeks to punish; I can relate to the Tutsi survivors who say this punishment is not enough. But do the benefits outweigh the potential cost in terms of developing a reconciled Rwandan nation? Even though public executions might help some Hutus to dissociate from the feelings of collective guilt, and

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288 Personal interview with Kathy Zieg, Country Director, Catholic Relief Services, Kigali, 14 July 1998.  
provide a cathartic release for the Tutsi survivors, they might at the same time engender feelings of anger and helplessness in other members of the Hutu population. Rather than promoting reconciliation, the incarceration and execution of Hutus in the name of justice could instil new desires for revenge, especially if the Rwandan legal system and trials are perceived as biased and procedurally unjust.

Rwanda’s justice system is dominated by the victims of the genocide (the Tutsi-led government) and is thus accused of being unfair and biased in favour of guilt. For example, a newspaper report indicated that the first trials in the Rwandan capital of Kigali were adjourned because of criticism of the justice system where Hutu defendants were being tried by the Tutsi-dominated authorities. Human Rights Watch has criticised the Rwandan trials because the accused have no right of defence. Furthermore, the failure of the Rwandan government to prosecute RPF officers for massacres and other human rights abuses perpetrated during the invasion and subsequent years since the RPF has been in power, is leading to the perception of “victor’s justice” and criticism from both the Hutu population and the international community (Prunier, 1997).

In an effort to assist the Rwandan government to conduct a fair and efficient processing of court cases relating to the genocide and other domestic legal cases, the international community has played a role in supporting the reconstruction and maintenance of the Rwandan justice system. International support has focused on training and some

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funding for the reestablishment of courts and legal infrastructure. For example, Canadian and American academics have contributed to the training of lawyers and judges through the Law School at the University of Butare in Rwanda, and the United States Institute of Peace (USIP) has funded research and given advice regarding implementation of the Rwandan justice program. The US State Department sent detectives from the Los Angeles Police Department to teach Rwandan prosecutors how to preserve a crime scene, the German government created a database of prisoners and their alleged crimes, and the Belgian-based Lawyers Without Borders offered free defence counsel.

In June 1999 the US government pledged US$10 million to support the Rwandan government’s domestic justice initiatives, including the proposed use of gacaca law, in order to speed up the justice process. In October 1999, a Rwandan delegation toured the United States to publicise the gacaca system and solicit advice from American lawyers and human rights groups. This indicates the significance of international, and especially American, influence and funding on the implementation of justice in Rwanda.

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292 The UN Security Council Resolution establishing the ICTR included reference to the “need for international cooperation to strengthen the courts and judicial system of Rwanda” (United Nations, 1996, p. 387).
296 Associated Press, 8 October 1999.
Despite all of the above, the Rwandan government has still received relatively little assistance from the international community for its domestic legal justice system compared with the amount of resources allocated to funding the International Criminal Tribunal for Rwanda (as discussed in the next section).

10.2 The International Criminal Tribunal for Rwanda

The Special Rapporteur of the UN Commission on Human Rights travelled to Rwanda and neighbouring states in June and July 1994 and concluded that "the conditions specified by the 1948 Genocide Convention had been found to exist and that the term 'genocide' was applicable to the killings of Tutsis in Rwanda in 1994" (United Nations, 1996, p. 63). The Commission concluded that there existed "overwhelming evidence" that the extermination of Tutsis by Hutus had been planned months in advance, had been carried out in a "concerted, planned, systematic and methodical way", and had been motivated by ethnic hatred, thus clearly in violation of the Genocide Convention. By contrast, the Commission found no evidence that Tutsi elements had conspired to destroy the Hutu ethnic group as such (United Nations, 1996, p. 64).

The Special Rapporteur called upon the UN to establish an international tribunal, as did the UN Security Council Commission of Experts that visited Rwanda in August-September 1994. The International Criminal Tribunal for Rwanda (ICTR) was subsequently established by the United Nations under Security Council Resolution 955 of 8 November 1994 to prosecute war crimes, crimes against humanity and crimes of
genocide committed in Rwanda between 1 January and 31 December 1994 (United Nations, 1996). According to Resolution 955, the Security Council was “convinced that in the particular circumstances of Rwanda, the prosecution of persons responsible for serious violations of international humanitarian law would ... contribute to the process of national reconciliation and to the restoration and maintenance of peace.”297

The decision was made to locate the proceedings of the ICTR in Arusha, Tanzania, with an investigative/prosecutorial centre in Kigali. Kenya declined to host the ICTR in Nairobi, a venue that would have been preferred by the UN because of its more developed infrastructure. Kigali was rejected as a location because of “a severe shortage of premises” (United Nations, 1996, pp. 65-66). The impact of not locating the Tribunal in Rwanda on justice and reconciliation will be discussed later in this section.

The ICTR’s focus is on prosecuting the leaders and planners of the genocide but, unlike the domestic judicial system, it does not have a mandate to impose the death penalty.298 The Rwandan government originally requested the Tribunal’s establishment and indicated its readiness to cooperate and work with the ICTR, but voted against Security Council Resolution 955 because it did not empower the Tribunal to impose the death penalty (United Nations, 1996, p. 65). This schism between the Rwandan government

297 It is worth noting that, just because the two UN missions recommended the establishment of a tribunal for Rwanda, this did not necessarily mean it would be created, as we have seen in Cambodia. The timing was critical – the ICTY had just been established and it would have opened the UN to criticisms of racism if it did not also establish a tribunal for Rwanda. Furthermore, it offered the international community an opportunity to do something after failing to prevent the genocide from occurring in the first place.

298 The Nazis and Japanese war criminals at Nuremberg and Tokyo faced the death penalty, but the UN would not allow the ICTR to recommend a death penalty. When Rwanda objected, the UN apparently advised Rwanda to abolish its death penalty, advice which Kagame called “cynical” (Goureivitch, 1998, p. 254).
and the UN has continued to affect relations during the operation of the Tribunal, as will be discussed later.

After a slow start plagued with administrative difficulties and alleged corruption, the ICTR has made significant progress and as at August 2001 had obtained custody of 51 suspects, including the former Prime Minister, Jean Kambanda. The first two trials were completed and the judgements announced in September 1998. After pleading guilty to genocide, Kambanda was sentenced to life imprisonment while Jean-Paul Akayesu, a former village mayor, begged for forgiveness and a light sentence but was ordered to serve three life sentences for genocide plus 80 years for other violations, including rape. Both Kambanda and Akayesu appealed their sentences, but in both cases their appeals were eventually dismissed.

In February 1999 a former Rwandan militia leader, Omar Serushago, was sentenced to 15 years in prison for crimes against humanity after pleading guilty and apologising to the people of Rwanda for his role in the genocide. The trial of former Interahamwe vice-president Georges Rutaganda was concluded in June 1999. Charged with eight counts of genocide, crimes against humanity and war crimes, he was found guilty and sentenced to life imprisonment on 6 December 1999. In February 2000 two high-ranking former military officers with the Rwandan army (ex-FAR) were arrested in Europe (France and Denmark) on the basis of warrants issued by the ICTR. By August 2001 another four trials had been completed resulting in two life sentences, one sentence of 25 years and one sentence of 12 years. In total, eight suspects had been tried.

299 A 52nd suspect was acquitted and released in June 2001 (http://www.ictr.org/ENGLISH/factsheets/detainee.htm).
300 IRIN-CEA Update 862 for the Great Lakes, 16 February 2000.
and sentenced by the ICTR, one had been acquitted, and a further 17 were undergoing trials as at September 2001.\footnote{\url{http://www.ictr.org/ENGLISH/factsheets.detainee.htm}}

There has been much criticism of both international and national attempts at achieving justice for the Rwandan people; while the domestic trials are being conducted primarily by one ethnic group with inadequate judicial protection, the ICTR is administratively challenged and under-staffed, and in both cases the trials are proceeding very slowly.\footnote{See Kumar (1997, pp. 68-70) for details of some of the problems faced by the ICTR, including logistics, inadequate funding and staffing. Scharf (1999) and Vandeginste (2001, pp. 230-1) also critique the performance of the ICTR including its temporal and territorial limitations, bureaucratic infighting and suspect leadership, the slowness of its proceedings, the appearance of ‘victor’s justice’, and the lack of involvement of victims in the proceedings and of the possibility of reparations. On the positive side, the ICTR has been relatively successful in apprehending the principal perpetrators of the Rwandan genocide for trial (Scharf, 1999, p. 632).}

Despite the inadequacies of the ICTR’s performance to date, it does have an important role to play in enforcing international law, demonstrating equitable treatment of both sides in the conflict, and hopefully providing some deterrence to future potential war criminals. Rwandans have, however, criticised the ICTR’s inability to impose the death penalty on some of the alleged ringleaders of the genocide, and have said it would be better if the ICTR were disbanded and the money used for rehabilitation schemes.\footnote{UN DHA IRIN, 7 March 1997.}

Gerald Gahima, Secretary-General of Rwanda’s Ministry of Justice, expressed resentment at the ICTR’s US$50 million annual budget: “If we received a twentieth of that, we would have gone a long way toward solving our problems [with bringing to trial the 120,000 genocide suspects being held in local jails]”.\footnote{Lara Santore, “For Rwandans, Justice Done Only for Others”, \textit{Christian Science Monitor}, 11 September 1998.}
While the progress of trials may appear to be painfully slow, the fact that many key perpetrators of the genocide have been arrested is a significant breakthrough in achieving accountability under international law and may in time contribute to peacebuilding and reconciliation in Rwanda. In the short term though, it does seem that the ICTR is doing more to assuage the guilt of the international community for not intervening earlier to stop the genocide than it is to promote a sense of justice for the Rwandan people. One of my interviewees, a Rwandan lawyer trained in Paris who was monitoring gender crimes for the ICTR in Kigali (R7), maintained that the “ICTR is not victim-oriented; it is international community oriented. Rwandans don’t understand why it is in Arusha.” The lack of death penalty and slow pace of trials have been a focus of criticism by the Rwandan government and have significantly undermined the perception that justice is being done.  

The establishment of the ICTR was specifically intended to help overcome the culture of impunity evident in Rwandan society and thereby to promote reconciliation and peacebuilding (Akhavan, 1996, p. 265). The UN Security Council stated the aim of the ICTR as being to “put an end to such crimes [as genocide and other violations of international humanitarian law] and to take effective measures to bring to justice the persons who are responsible for them” and to “contribute to the process of national reconciliation and to the restoration and maintenance of peace” (UN Security Council Resolution 955, Preamble). The functioning of the Tribunal has not, however, lived up to its mandate in a number of ways during its first years of operations.

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305 See Alvarez (1999) for a detailed assessment of the disadvantages of the international legal principles of the ICTR that may have “undermined the goals for judicial truth, for accountability to victims, for fair treatment of all those accused of crimes” (p. 481).
One of the difficulties the ICTR faces in achieving its aim to promote reconciliation has been the location of the tribunal in Arusha and the challenges inherent in communicating the proceedings of the tribunal to the Rwandan population. Most Rwandans are unable to attend the Tribunal in person and take advantage of the public gallery because of its location in another country. I spoke with a judge at the ICTR in Arusha who told me that the proceedings were being broadcast live into Rwanda. However, the Radio Rwanda correspondent I spoke with in Arusha told me that he produced only a short news summary of the day’s court proceedings, sometimes including interviews, which was broadcast each evening in Rwanda. Another source confirmed that only 5-10 minutes of coverage on the Tribunal would be broadcast to Rwandans each day.306 Furthermore, the Court proceedings are conducted only in French and English, with simultaneous translation into the other language. Kinyarwanda testimony is translated into French and English, but there is no ongoing translation of the proceedings into Kinyarwanda. Therefore the many Rwandans who do not understand French or English would not be able to understand the proceedings even if they could attend in person or were able to tune into live radio broadcasts.

According to Howland and Calathes (1998, p. 161), the “structural distance of the ICTR from the Rwandan social process makes it very difficult for the ICTR’s work to be relevant and even more unlikely that its work will address the root causes of the

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306 This experience suggested to me that the officials of the ICTR are not necessarily in touch with the impact of their work on the Rwandan people. They are operating in a vacuum – in isolation from the people for whom they are supposedly providing justice. This observation is consistent with the Rwandan criticism that the Tribunal officials have not visited Rwanda to see for themselves the devastation, trauma and living conditions of the survivors.
genocide".\textsuperscript{307} I agree with their conclusion that “the Rwandan trials will not help achieve reconciliation if they are considered unfair or if they are removed from the population” (p. 162). A report by the International Crisis Group (2001) also concluded that “if the opinions of the majority of Rwandans are to be believed, the ICTR’s contribution to this goal [of national reconciliation] remains invisible to date” (p. 26).

The ICTR is making some belated attempts to remedy this situation, including the transmission of judgements and other important judicial events to Rwanda in the local language, Kinyarwanda.\textsuperscript{308} In addition, a project by the international NGO, Internews, has undertaken to bring the ICTR to the people of Rwanda via a specially made video in Kinyarwanda that explains the functioning of the Tribunal and includes highlights of the first six trials (“The Arusha Tapes”).\textsuperscript{309} This will help build on the limited radio broadcasts already reaching the Rwandan people. As described by the Rwandan reporter whom I interviewed in Arusha (R3):

It helps towards reconciliation because people are getting justice. It is important that people hear that the former Prefet of Kibuye is being tried and imprisoned – an example that they can’t get away with it – that they will be punished, that it can’t continue. This is especially important for the people in that province.

\textsuperscript{307} It is worth noting that international reporting of the achievements of the ICTR is also hampered by the location of the ICTR in Arusha – a bumpy (in my experience) five-hour bus ride from the regional hub for the international press in Nairobi, Kenya (Berkeley, 1998, p. 27).
\textsuperscript{308} ICTR Press Briefing, Arusha, 17 February 2000.
\textsuperscript{309} “Genocide on Trial: Bringing Justice Home to Rwandans”, Internews Bulletin, November 2000. See also http://www.internews.org. I have viewed the English summary version of “The Arusha Tapes” and was most impressed with its coverage of the history of international criminal prosecutions, putting the Rwandan genocide and Tribunal into context, as well as providing extensive footage of each of the trials so far conducted by the ICTR.
The lack of accessibility of the ICTR to the people of Rwanda has thus contributed to the Tribunal proceedings having a reduced impact on Rwandans’ experiences of justice. As argued by Kritz (1999, p. 171), “for the tribunal to have its maximum effect, it is essential that its proceedings be accessible to the Rwandan people, at least by radio”. But even radio is seen as insufficient, according to the women survivors interviewed by Neuffer (2001). Neuffer (2001, pp. 376-377) describes the attitude of a group of women survivors meeting in Kigali’s Presbyterian church towards what they call “Arusha justice”:

They accepted that the tribunal, which prosecuted key leaders, would always provide a symbolic and not a particular justice for women like them, who had come face to face with the genocide’s foot soldiers. Still, they hadn’t expected justice to be so confusing, so abstract, and so remote. It wasn’t just that they had lost faith in the tribunal; it was that, for them, the war crimes court had lost its relevance.

None had seen news accounts of the trials, in a land where only the rich have televisions or the electricity to run them. Only a few had read about the cases in the newspaper, given literacy rates of about 50 percent. Most tried to follow the tribunal and its case via the radio, which remained the main source of news for most Rwandans, ... [but even when] translated into Kinyarwanda, the tribunal’s intricate proceedings often dissolved into meaningless words and phrases. ... Only about a third of the women survivors said they had heard radio reports that former Rwandan prime minister Jean Kambanda had pleaded guilty to genocide.

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310 I have included such a long quote because it raises many critical issues and provides a rich analysis of Rwandans’ attitudes toward justice and reconciliation and their experiences of the ICTR.
Even those who knew about the confession were disappointed. It wasn’t enough to hear a report that he had acknowledged his guilt, they explained; the real catharsis would have come if they could have watched him confess to the crimes. ‘We prefer to see and hear those who did those crimes,’ volunteers one survivor, Patrice, her voice quavering slightly.

A few women clapped their crutches together in a kind of applause ...

Patrice continued. Having trials outside Rwanda, she said, deprived genocide survivors of something they need in order for reconciliation: the need to confront those whose orders left them mutilated or robbed them of their families. That confrontation could occur if survivors are sitting in a court’s public gallery or even watching a film about the genocide. What would matter was that the accused was sitting before them – and they could see his reaction to the charges.

‘We have to feel that justice had been done in order to forget and move on,’ Patrice explained. ‘It’s not the same if I am listening to it on the radio, as seeing it with my own eyes.’ In a culture where reconciliation begins with a formal admission of one’s wrongs, these women wanted, at the very least, to see the expression on a defendant’s face as the guilty verdict was delivered – if not hear him admit remorse – to validate their suffering.

‘Why won’t the UN let us have the justice here?’ asked Patrice, her voice angry. In her mind, there was no difference between the UN that had failed to stop the genocide and the UN that administered the courts. ‘This is a court for Rwandans, isn’t it?’

I wasn’t sure what to say.
The question of ‘justice for whom?’ is central to my thesis. While the ICTR is an international legal instrument, its mandate is to provide justice for Rwandans, not just the international community. It is only justice experienced by Rwandans that will contribute to peace and reconciliation in that country, which is the goal of the Tribunal as outlined in UNSC Resolution 955. One of the genocide survivors whom I interviewed in Arusha (R2) echoed the sentiment that “reconciliation occurs between people, not governments. People need to see the ICTR working on the ground.”

There is also a “mental distance” reported between the ICTR and the Rwandan population (Vandeginste, 2001, p. 231):

They [ICTR officials] are incapable of approaching those who have lived through the genocide. They don’t ask the right questions. People are offended by their attitudes and their discourse. The Rwandans had invested great hope in the ICTR. They are very disappointed. (Sibomana, 1999, p. 111)

Legal justice as interpreted and implemented by the ICTR does not necessarily match the idea of justice held by Rwandans. This is highlighted in the contrast between the importance placed on procedural justice and due process in the Western or international legal setting, and the preference of Rwandans to focus on the actual occurrence of the crime in question in determining guilt. The decision by Judge McDonald in the case of Jean-Bosco Barayagwiza illustrates this difference most starkly. While there was apparently little doubt that Barayagwiza was guilty of genocide, the judges found that
his rights had been violated by the prosecutors of the ICTR in such a manner that a fair trial could not be guaranteed (Neuffer, 2001, p. 375). As described by Neuffer (2001, p. 375):

The decision not only prompted irate protests, it further divided the Rwandans from the tribunal over what 'justice' meant. To the judges, the decision exemplified the purest justice: a reminder that the war crimes court, in essence the highest court in the world, must hold itself to the most rigorous legal standards, which included protecting the rights of the accused. Yet to Rwandans, the decision was the highest injustice. They knew only that the international court created to prosecute the genocide's leaders had ordered one set free. To many it was tantamount to saying that Barayagwiza was innocent and that the genocide had never happened.

In criticising the ICTR, Rwandans often mention the length of time taken for trials: why should there be a need for weeks or months of defence preparations and testimony when everyone knows that the accused is guilty? I must admit that I could relate to the Rwandans' lack of understanding when I observed the ICTR in action over four days, most of which was taken up with testimony from a French psychiatrist talking about mass group psychology as a defence for the actions of the accused. Even from my perspective, with a background in international law and psychology, this seemed like a waste of UN resources. Neuffer (2001, pp. 375-376) quotes the Rwandan justice minister Jean de Dieu Mucyo to illustrate this point:

American people see justice in a different way than Rwandans. In Western law, a man can be guilty but released because of some procedures. But in
Rwanda, a man who is a criminal cannot be released without being punished. In Rwanda, the meaning is in the fact – not the form, not the procedure. Now can you understand why Rwandans don’t have faith any more in this tribunal?

As a result of my interviews and observations in Arusha and Kigali I concluded that the Tribunal would need to make itself more accessible and relevant to the expressed needs and perspectives of the Rwandan people if it were to fulfil its mandate to promote justice and reconciliation. The increasing use of Kinyarwanda and radio transmissions of the Tribunal proceedings are steps in the right direction, but perhaps even more important is the Internews project described above as it addresses the need for Rwandans to see and feel justice being done. Also important is the possibility that the ICTR could hold some trials in Kigali (Akhavan, 2001, p. 25).

The ICTR has taken a number of steps in the past few years to improve its administrative capacity in response to criticisms. A significant area of improvement has been in the ICTR’s capacity to investigate crimes committed against women during the genocide. The UN has recognised that the “trauma endured by all Rwandans as a result of the genocide has been particularly extreme for the thousands of women who were raped or forced to have incestuous intercourse” (United Nations, 1996, p. 67). In July 1997, two years after the Tribunal began operations, an Advisor on Gender Issues and Assistance to Victims was appointed, Francoise Ngendahayo. Her mandate includes the fostering of restitutive justice and national reconciliation in Rwanda through the
provision of legal and psychological counselling and limited rehabilitation assistance to the genocide survivors.

At the time of my visit to Arusha in July 1998, I was advised that a Sexual Assault Team had recently been established in the Office of the Prosecutor based in Kigali, and the recruitment of female investigators had begun. One of the concrete changes resulting from this new emphasis on crimes against women included the amendment of the indictment of Akayesu after the trial had begun to include charges of rape as part of the counts of genocide and crimes against humanity. The first judgement ever on rape defined as an act of genocide was delivered by the ICTR in September 1998. Subsequent trials have also included charges of sexual violence and rape.

Based on my interviews in Kigali and Arusha (and subsequent reading), I concluded that for many of the women survivors of genocide in Rwanda, criminal justice seemed a distant and irrelevant goal. Their needs are immediate and urgent - for health care and medicines, clothing, food for their children, housing, and for counselling to help them to deal with the trauma of being raped. UNHCR was caring only for refugees in camps; the survivors of rape were interspersed throughout the community and were not receiving material assistance from the UN. The ICTR, based in Arusha, is a long way from their homes and families. What incentive is there for them to spend their precious time and resources visiting the prosecutor's office in Kigali or making the journey to

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311 I interviewed one of the male investigators on the Sexual Assault Team when I was in Kigali a few weeks later.
312 See Berkeley (1998) for a personal account of the trial and judgement of Akayesu.
Arusha? Women who do make it to Arusha to testify are in need of physical and psychological support. For example, one woman was freezing cold in the court room and having difficulty speaking, but there was no-one available to support her. Another needed antibiotics as she was still suffering painful discharges as a result of the rapes she experienced, but there was no-one provided by the ICTR to assist her. What role can and should the ICTR play in supporting these women whom it is using as witnesses?

According to its Statute, the ICTR is obliged to provide for the protection of victims and witnesses (Article 21). Francoise Ngendahayo and others have argued that the ICTR is obliged to provide physical and psychological support for witnesses under Rule 34 of the Tribunal's rules of procedure and evidence. Rule 34 (as amended as of 6 June 1997) provides that a Victims and Witnesses Unit be established consisting of qualified staff to: "recommend protective measures for victims and witnesses ... ; provide counselling and support for them, in particular in cases of rape and sexual assault ... [and] develop short and long term plans for the protection of witnesses who have testified before the Tribunal ...". A gender sensitive approach is needed as women in Rwanda are denied access to land, for example, so this needs to be considered in the need for reparations and rehabilitation. Also, women may need special assistance to be able to testify if this would not be allowed by their husbands. In terms of counselling and support, the UN could (and should) work with the non-government organisations which are already doing that job. In Arusha, more support is needed in terms of safety and security for the

313 See Neuffer (2001) for detailed accounts of the experiences of women who travelled to Arusha as witnesses for the ICTR to testify against Akayesu.
314 The following stories were told to me during an interview with Francoise Ngendahayo, Adviser on Gender Issues and Assistance to Victims, ICTR, Arusha, 30 June 1998.
witnesses, for example having more women as safety officers and drivers (instead of Tanzanian soldiers with guns).

More protection and assistance is also needed for the women who have appeared as witnesses for the ICTR when they return to their villages in Rwanda. Neuffer (2001) details the experiences of women who travelled to Arusha as witnesses for the ICTR to testify against Akayesu:

Testifying had been cathartic. The guilty verdict against Akayesu was confirmation of their suffering. It had uplifted their souls. The problem, the women agreed, was that it had done very little to improve their material and physical circumstances. If anything, testifying in some ways had made their lives worse, tarring them as pariahs, not heroines. Participating in international justice had left them isolated, alone and afraid. The local Hutu ostracized them: taxi drivers refused them rides, and some vendors wouldn’t sell them food. Witness PP was once chased away from the local hospital when she arrived with a sick child. Both Witness JJ and Witness PP had received crude letters threatening their lives. Even Tutsi survivors in Taba shunned them, fearful that they also would be suspected of working with the Rwanda Tribunal and therefore threatened.

I would argue that the international community has a moral as well as legal obligation to consider and take responsibility for the well-being of the women it is using as witnesses. The ICTR was established with the mandate to contribute to justice and reconciliation in Rwanda. One of the keys to reconciliation is the attitude and well-being of the
survivors. And yet, the focus of the ICTR (like most Western courts of law) is on the perpetrator – proving his/her guilt or innocence – and on the upholding of the rule of law, rather than on the needs of the victims/survivors. Many of the survivors of genocide in Rwanda see the ICTR as a “waste of time and money”; those who give evidence are ostracised. Thus, in order to fulfil its mandate to contribute to reconciliation in Rwanda, the ICTR should provide its potential witnesses with physical and psychological support and some kind of reparations, whether or not they decide to testify. In this way, the survivors will have the opportunity to experience both retributive and restitutive justice, thus decreasing the likelihood that victims will participate in retributive violence against the accused if they are released from the prisons in Rwanda. Only the survivors can forgive. Providing reparations and support mechanisms can be an entry point for the processes necessary for reconciliation. As argued by a Rwandan lawyer monitoring gender crimes for the ICTR (R7), “the lack of rehabilitation, reparations and communication can’t help in the process of national reconciliation.”

The Witness and Victim Support Section (WVSS) was established in October 1996, two years after the establishment of the ICTR. At the time of my visit in July 1998 it was just beginning to have an impact in overcoming the earlier bad experiences of Rwandan witnesses who were not adequately protected during the process of agreeing to give testimony and travelling to Arusha. According to the director of the WVSS, Roland Amoussouga, the task force includes a psychiatrist, psychologist and gynaecologist in a team of seven or eight people who look after the security of witnesses and provide
support for potential witnesses. As mentioned earlier, the new Unit for Gender Issues and Assistance to the Victims of the Genocide was created in July 1997 to provide legal and psychological counselling and limited rehabilitation assistance to the genocide survivors. This unit aims specifically to foster restitutive justice and reconciliation in Rwanda. In her appointment as Adviser on Gender Issues and Assistance to Victims, Francoise Ngendahayo has linked the development of this new unit with her work with the Women’s Caucus for Gender Justice and the International Criminal Court.

The lack of compensation or restitution has been a significant area of dissatisfaction experienced by genocide survivors in relation to the ICTR. A Tutsi survivor whom I interviewed in Arusha (R4), told me that “women in Rwanda want compensation. They don’t understand that the ICTR is not a social institution so they are not fulfilled; their expectations are not being met.” According to Francoise Ngendahayo, women need restitutive justice more than retributive justice, and are more interested in rehabilitation than criminal justice. A Rwandan lawyer told Gourevitch (1998, p. 249), that:

When you speak of justice with our peasants, the big idea is compensation. A cattle keeper or cultivator who loses his whole family has lost his whole economic support system. You can kill the man who committed genocide, but that’s not compensation – that’s only fear and anger. That is how our peasants think.

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316 Personal interview with Francoise Ngendahayo, Adviser on Gender Issues and Assistance to Victims, ICTR, Arusha, 30 June 1998.
317 Personal interview with Francoise Ngendahayo, Adviser on Gender Issues and Assistance to Victims, ICTR, Arusha, 30 June 1998.
However, the Security Council resolution establishing the ICTR did not specify reparations as a goal of its proceedings (Yacoubian, 1998). The Rwandan judge whom I interviewed in Arusha said that "the court should focus on its primary function: bringing perpetrators to justice (as a contribution to reconciliation) ... compensation and humanitarian assistance are the role of other UN agencies." 318

At the time of my visit in July 1998 a program of restitution was being considered by the ICTR despite the apparent lack of support in some areas of the Tribunal's judiciary and administration. 319 The ICTR was planning to expand its functioning from "retributive justice targeted at the culprits" to include a "compassionate restorative justice directed at the victims of genocide" (Moghalu, 1998). The restorative justice idea was conceived by the Registrar as a means of improving the ICTR's role in promoting reconciliation. According to Kingsley Moghalu, there were legal arguments in favour of restorative justice, but political objections including the perception that implementation would be difficult because it fell outside the ICTR's mandate. 320 Roland Amoussouga told me he fully supported the idea of the ICTR providing compensation from both a legal and humanitarian perspective. 321 He said he saw the role of the ICTR as being that of a catalyst, getting international attention to support activities to promote reconciliation, and to coordinate with NGOs, government agencies and international NGOs to provide humanitarian assistance to genocide survivors. Two years later, the

318 Personal interview with Judge Navanathem Pillay, ICTR, Arusha, 1 July 1998.
new Chief Prosecutor, Carla del Ponte, announced that efforts were underway to make compensation payments available to the victims.\textsuperscript{322}

Although there is some recognition that only the ICTR could have arrested the so-called ‘big fish’ who had fled the country – “some positive impact on government because taking suspects into custody so that they see that people are being stopped” (R2); “Rwanda needs the international community to arrest the ‘big fish’ - countries would not agree to send them to Rwanda” (R4) – there is also a perception that the accused are being held in comparative luxury. The penalty of life imprisonment in some comfortable Western jail is seen as insufficient and unlikely to satisfy the Rwandan people in their call for justice. For example, R2 (a genocide survivor) responded to my question about the impact of the ICTR by saying:

The ICTR will be seen as relevant if justice is really carried out …
Rwandans don’t see the ICTR addressing the issue – as if suspects are being well looked after – too well-treated. They see the international community as lenient.

R1 (a Tutsi returnee) echoed these concerns: “The people of Rwanda don’t understand – they see the ICTR as a waste of time and money, and think it would be better to put resources into the local justice department. They see the accused as well-treated by the ICTR.” As explained by an RPF officer (quoted in Gourevitch, 1998, p. 255): “It doesn’t fit our definition of justice to think of the authors of the Rwandan genocide sitting in a full-service Swedish prison with a television”.

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From an outsider’s perspective, the ICTR has an important role to play in demonstrating equitable treatment of both Hutu and Tutsi and hopefully providing some deterrence to future war criminals. And yet even that expectation has not been met due to the perceived need not to alienate the Rwandan government by indicting RPF soldiers. To date, only alleged perpetrators of the genocide (primarily Rwandan Hutus) have been indicted by the Tribunal, raising questions about the impartiality of the ICTR. Only belatedly has the Chief Prosecutor announced an intention to investigate the RPF with regard to alleged war crimes and crimes against humanity, apparently without raising the ire of the Rwandan government.\(^\text{323}\)

Before the ICTR can contribute to the process of justice and reconciliation in Rwanda, the public perception of the tribunal’s deficiencies and the poor relationship between the Rwandan government and the ICTR that I observed during my visit also need to be addressed. Significant steps in this direction have subsequently been taken, including the appointment of a Special Representative of the Government of Rwanda to the ICTR and the visit of a delegation of the Rwandan National Assembly to the ICTR in Arusha in October 1999. The delegation was reportedly impressed by the effectiveness and efficiency of the ICTR, and the Special Representative said his government appreciated the “successes and improvements recorded by the ICTR in recent times.”\(^\text{324}\)


In August 2000, the Special Representative, Martin Ngoga, was less enthusiastic about progress at the ICTR. He reported satisfaction with the fact that suspects were in custody, trials were being conducted and judgements being handed down, but expressed concern about the lack of concrete measures to remedy the slow pace of the trials.\(^{325}\) He was also critical of the leniency of sentencing, and the lack of commitment of some officials to their work at the ICTR:

There are some agents or bodies of the tribunal for whom the trials are not a priority, rather more a background affair. There are people who spend all the time attending conferences across the world.

He confirmed, however, that there was definitely cooperation between the ICTR and Rwanda. Even though “90% of ICTR judges have not even set foot in Rwanda”, the Rwandan government was proposing to send some of its judges to visit the ICTR. Other projects include University of Rwanda law students working as interns at the ICTR, and proposed schemes to assist genocide survivors and to allow Rwandans to follow Tribunal proceedings and events without having to send reporters.

In order to speed up proceedings, the ICTR opened an additional court and appointed three new judges, and has begun group trials of more than one accused at a time. The first of these group trials known as the “media trial” concluded in August 2002. As at September 2001 there were 17 accused undergoing trials at the same time. These efforts could help allay the concerns of Rwandans about how long the Tribunal takes to prosecute cases. Facing major delays in progress with cases at the Tribunal in Arusha, the ICTR was also reportedly considering a program of returning detainees to their

\(^{325}\) “Quite often, the ICTR fails to live up to our expectations”, Interview with Martin Ngoga, Kigali, August 2000, reported in Judicial Diplomacy: Chronicles and Reports on International Criminal Justice (http://www.diplomatiejudiciaire.com/UK/Tpiruk/RuggiuUK6.htm).
villages for trials based on the traditional community system, “gacaca”, which “might even encourage reconciliation”. 326

Despite these proposals and operational enhancements, the ICTR is still not expected to complete its work before 2008 (International Crisis Group, 2002). In the meantime, it is hoped that the improvements in the functioning of the ICTR in recent years and the increased rate of prosecutions will have a positive impact on reconciliation in Rwanda.

In addition to the ICTR, Rwandans have been tried for crimes against international law in national courts outside Rwanda. In the first application of the Belgian law on crimes against international law that came into effect in 1993, four Rwandans living in Belgium were tried for their alleged participation in the Rwandan genocide. 327 The four include two Catholic nuns who were accused of failing to help Tutsis fleeing for their lives during the genocide. In April 1999, a former mayor, Fulgence Niyonteze, was sentenced to life imprisonment by a Swiss military court (Vandeginste, 2001, p. 231).

Rwandans have been critical of the international community’s complicity in the Rwandan genocide and the United Nations set up an independent commission of inquiry into the actions of the UN during the Rwandan genocide. Anastase Mulumba, secretary-general of the IBUKA survivors’ association, argued that Rwandan survivors should take part in the proposed commission of inquiry. 328 Accountability for the international

community would also be expected to contribute to the Rwandan experience of justice in the aftermath of the genocide.

10.3 *A Truth Commission for Rwanda?*

It has been argued that the process of reconciliation in Rwanda could be assisted by a truth commission modelled on the South African Truth and Reconciliation Commission (TRC), but with some important differences. It would not be acceptable to the Rwandan people and the international community to allow amnesties in return for confessions due to the seriousness of the charges. Genocide, war crimes and crimes against humanity are clearly breaches of international law and should not go unpunished. As observed by one of my interviewees (R9, a Tutsi survivor): “A truth commission could be helpful, but South Africa and Rwanda are really very different cases, for example in relation to the number of people killed.” Another genocide survivor (R6) said:

> We shouldn’t just use something from abroad … the conflict and experiences of the population were different … It is a long process to get to the truth. People are not ready or willing to look at history because it will get them in trouble somewhere, especially if they are named and are now in government. It is a long process … We are not ready for a truth commission.

In both the local and international trials the focus is on the perpetrator. One advantage of a truth commission would be the emphasis on hearing and validating the stories of
victims and survivors without needing to follow strict legal principles of admissibility of evidence. According to a Tutsi returnee (R1): “A truth commission would be very important for Rwanda. Otherwise the people are closed up and could explode again in the future.” A truth commission could produce a report that provides a unified account of the history of Rwanda and the injustices perpetrated against both Hutus and Tutsis. Such a truth commission could exist in parallel with the local and international trials, as has been proposed in the former Yugoslavia, Sierra Leone and East Timor.  

To date, attempts to establish a truth commission for Rwanda have not met with any success. Rwandan officials have visited South Africa to examine the workings of the TRC, and it was anticipated that, despite the calls for vengeance, a similar mechanism encouraging confessions from perpetrators in exchange for indemnity from prosecution would be implemented in Rwanda. A non-government project entitled “Conflict Prevention and Justice After Genocide” was also launched in the Netherlands with the goal of establishing truth commissions and the holding of public hearings on the genocide in Rwanda. The project saw the basis for reconciliation lying in the application of the principle of justice, but in a way that avoids both impunity and vengeance.  

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330 UN DHA IRIN, 7 March 1997.
332 A useful list of major aims and functions of truth commissions is provided by the Rwanda Truth Commission project: creating awareness of crimes at all levels of society through public hearings; breaking through the wall of silence and fighting the suppression of collective traumatic experiences; developing accountability and guilt-consciousness on the side of the perpetrators; reparation for survivors and rehabilitation of the dignity of victims; and standard-setting for government policy in dealing with genocide. (*AFB-INFO, 2/95*)
While the residents of Kigali appear to be getting on with their lives and building a peaceful society, there are obvious tensions beneath the surface which have the potential to emerge especially in response to the continuing violence in northwest Rwanda and neighbouring Congo. I would argue that there needs to be some public process of recording the historical experiences and sufferings of both ethnic groups in addition to accountability for genocide and crimes against humanity. What prospects are there for true reconciliation if resentments, hurt and anger remain unexpressed and unacknowledged? In the terminology of Vamik Volkan (1994), each ethnic group has its chosen trauma that is continuing to influence its attitude to the other. According to Volkan (1994) and Montville (1993), the process of enmification and cycles of violence can only be short-circuited if a comprehensive reconciliation process is undertaken in which past losses are mourned and each side expresses contrition and forgiveness of the other.

One potential advantage of a truth commission would be allowing the opportunity for the genocide perpetrators to express contrition in return for forgiveness, although this would be difficult to implement without offering amnesties as happened in South Africa. On the other hand, as a predominantly Christian country, Rwandans could be expected to relate more to the idea of a TRC with a forgiveness philosophy as in South Africa. But as one of my interviewees (R1) commented: “How can people forgive if they are not sorry and do not ask for forgiveness?” According to R4 (a Tutsi survivor): “No-one in Rwanda is ready to confess. It is not enough. There has to be some kind of punishment. It is not the same situation as in South Africa.” Many of those who killed argue that they did so in the context of the war their government was fighting against
the invading RPF, and therefore their actions were justified (as in Cambodia, where former KR leaders have justified their actions as being a necessary part of the social revolution). Others do not admit to having participated in the genocide because of fear of reprisals from the genocide survivors and relatives of victims.333

R10 (a Tutsi returnee) said that Rwandans “need heroes or leaders willing to say ‘sorry’ on behalf of the group”. He said he thought “a ‘National Sorry Day’ would be a good idea for Rwanda ... we need Hutus to acknowledge and apologise for what their brothers did so it will be easier for us to forgive.” This is an interesting contrast to the annual ‘Day of Hatred’ held in Cambodia, but is similar to the idea of some Cambodian NGO leaders for a public ceremony with the former Khmer Rouge leaders apologising for their past actions (see Chapter 9).

10.4 Confessions and Apologies

While the idea of creating a truth commission in Rwanda does not appear to have taken hold, one innovation of the Rwandan domestic trials is the requirement for perpetrators who confess their role in the genocide in exchange for lenient treatment to also formally apologise to their victims. The assumption is that victims are more likely to accept lesser punishment if the perpetrators show remorse, thus facilitating the process of national reconciliation (Kritz, 1997, p. 8). At one of the first domestic trials, the defence lawyer said that the defendant should ask the people’s forgiveness and be spared the

death penalty, while the defendant himself told the court “that if his death would help bring about national reconciliation, then so be it”.  

The Rwandan government’s encouragement of prisoners to confess in return for reduced sentences applies only to Category 2-4 prisoners (i.e. not those subject to the death penalty). International lawyer, Schabas (1999b, p. 20) argued that “the fact that thousands have now availed themselves of the confession program shows the promise of such an approach”. To date, more than 2,000 prisoners have reportedly confessed, but there are suspicions that their motives were to avoid punishment rather than reflecting contrition for their crimes. For example, a Tutsi returnee (R11), told me that it was “positive because people are coming out and apologising” but also “negative because the apology is just a strategy”.

Similarly, some of my interviewees regarded the confession of Kambanda during his trial at the ICTR as a cynical plea for mercy rather than an authentic expression of remorse: “Kambanda’s confession didn’t mean anything. He may be afraid of being killed. He deserves to be killed. He would need 50 years to change and have society change to accept him” (R6, a genocide survivor). These confessions in the context of criminal prosecution are thus not expected to do much to further the cause of reconciliation in Rwanda: “confessions made out of fear are not real and are therefore not useful for reconciliation” (quote from a Tutsi returnee, R1).

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334 UN DHA IRIN, 7 March 1997.
On the other hand, Kambanda's confession has been welcomed by some as an indication that the genocide can no longer be denied. For example, R8 (a Tutsi survivor) said "I'm glad he did [confess]. No-one can deny the genocide any more. I question why he confessed. I hope it's his humanity." Another Tutsi survivor (R9) said he thought Kambanda's confession was "a good thing. It will help justice, but it is not enough. It would be more helpful if Bagasora confessed. It would also be better if he told everything he knows." R11 (a Tutsi returnee) said that "people were really excited about Kambanda's confession", while R12 (a Tutsi survivor) said he thought that Kambanda's confession would have a positive impact on prisoners as well as Kambanda himself in terms of providing some relief or solace: "I wrote him a letter of encouragement. It is best for reconciliation. By confessing and not defending himself he recovered his humanity. I don't know why, but it is very important."

10.5 Gacaca and Traditional Justice

Rwanda has a traditional system of community justice, known as "gacaca", that long predates European colonisation and the introduction of the Western legal justice system. Gacaca is a term used to describe a field of grass or open space where, under traditional law, members of a community gathered to arbitrate small disputes over property or petty theft. Gacaca is a system of participatory and restorative justice, with a focus on achieving reconciliation through appropriate punishment and restitution. For example, a thief may be required to repay his victim or repay the debt. In the case of a

killing, the death penalty would be symbolically imposed, with the victim’s family pretending to kill the accused in front of the community and the accused would walk away, humiliated but unharmed. “The families would then shake hands, people would drink their beer, drum their drums and the families would go on, having been reconciled.”336 Imprisonment was not a punishment under gacaca, as this would not be consistent with the goals to restore harmony and social order and “reincorporate the person who was the source of the disorder” into the community (Vandeginste, 2001, p. 239).

As described by a Rwandan graduate student in the US:

... in traditional Rwanda, Gacaca was a conflict resolution mechanism. It consisted of a group of elders in the community to whom all disputes/conflicts and social/political issues at the community level were submitted. Among other tasks, Gacaca regulated relationships among community people. Every community member was expected to abide by the sentences/decisions of Gacaca which was community-based in nature and characterized by community participation. Gacaca cases were debated in the open in a public place and all male adults and late teenagers were allowed to attend. The purpose of allowing late teens was to empower them to acquire the skills of conflict resolution and social wisdom. Gacaca was destroyed by colonization as it was a mechanism of social control that the colonial administration wanted to take out of the hands of the indigenes. Re-

336 Tharcisse Karugaram, vice-president of Rwanda’s Supreme Court and head of courts and tribunals, Associated Press, 8 October 1999.
instituting Gacaca now is seen as a move to reconnect with the old good Rwandan tradition. (Ntambara, 2000, p. 13)

In an attempt to deal with the overcrowded prisons and backlog of cases awaiting trial in the Rwandan courts, the Rwandan government has taken steps to reintroduce the traditional gacaca system. In February 2000 the Rwandan parliament unanimously adopted the Gacaca Law establishing the community-based gacaca tribunals.\textsuperscript{337} The amended constitutional law provides for a sixth branch in the Supreme Court that will monitor the operations of the gacaca tribunals.

The gacaca system as it is being introduced to deal with those accused under the genocide law thus differs greatly to its traditional origins. It is being imposed by the state with operational mechanisms dictated by a state law, rather than being community-controlled (Ntambara, 2000; Vandeginste, 2001). On the other hand, the new gacaca courts will be located in the community where the crimes allegedly occurred, with judges elected from the local community instead of being appointed by the Council of Magistrates.\textsuperscript{338} Families of victims will be allowed to speak and sanctions include jail time or community service. The maximum penalty that can be imposed is life imprisonment; the death penalty will not be allowed. Only those accused under Categories 2-4 of the genocide law can be tried under the gacaca system; those accused under Category 1 (who planned, organised, instigated or ordered the killings) will be tried in the conventional court system and will still face execution if convicted. The

\textsuperscript{337} IRIN-CEA Update 862 for the Great Lakes, 16 February 2000.
\textsuperscript{338} 260,000 gacaca court judges were to be elected in October 2001 (Rwandan government press release, 11 August 2001, http://www.rwanda1.com/government/07_11_01_gacaca.htm).
Gacaca law, like the genocide law of 1997, will have jurisdiction over crimes committed since October 1990.

The *gacaca* courts will operate at four levels (cell, sector, district and province) and defendants will have the right of appeal to a superior court. The judges chosen by the population in each cell will designate representatives for the sector level, and so on up to the district and provincial levels. Category 4 crimes will be judged at the cell level, category 3 at sector level, and category 2 at district level, with the provincial level courts being reserved for appeals. Each cell will elect 19 judges who must meet the criteria laid out by the Gacaca law: the judges must be people of integrity, honesty and good conduct who have never been sentenced to more than six months in prison and are above suspicion of involvement in genocide or crimes against humanity. They must also be "free of sectarian and discriminatory attitudes" and known in the community for a spirit of encouraging dialogue.\(^{339}\) Those elected will undergo a six-month training course before the *gacaca* courts can begin operation. The process of *gacaca* trials is expected to last three years.\(^{340}\)

The Rwandan Supreme Court announced that the *gacaca* traditional court trials were expected to begin in May 2002 after 780 trainers (consisting primarily of magistrates and final year law students) had trained 254,152 *gacaca* judges in basic principles of law, group management, conflict resolution, judicial ethics, recognising and dealing with trauma, human resources, equipment, and financial management.\(^{341}\) The training

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\(^{339}\) "Gacaca Judges to be elected in October", [http://www.rwanda1.com/government/07_11_01_gacaca.htm](http://www.rwanda1.com/government/07_11_01_gacaca.htm)

\(^{340}\) IRIN, 25 September and 5 October 2001.

\(^{341}\) IRIN, 12 December 2001.
program and printing of training manuals face significant challenges in terms of limited resources and the judges' lack of formal education.\footnote{IRIN, 12 December 2001.}

On the day before the election of judges and officials to the gacaca courts on 4 October 2001, Rwandan President Paul Kagame appealed to the public to discard ethnicity, sexism and regionalism and to vote "without discrimination, [for] people who are honest, principled and hardworking".\footnote{IRIN, 4 October 2001.} He told Rwandans that "by so doing the courts would be able to meet public expectations in promoting national understanding, development and justice" and that, if successful, the gacaca trials "would help solve some problems resulting from the 1994 genocide such as lack of care for the survivors, the prisoners and their families; improve the economy, help end the culture of impunity, and encourage unity among Rwandans."

However, many criticisms and concerns have been raised about the functioning and potential impact of the proposed gacaca system. According to Rwandan Justice Minister Jean de Dieu Mucyo, some high-ranking people such as ministers will have immunity and cannot be tried by the gacaca tribunals.\footnote{IRIN-CEA Update 862 for the Great Lakes, 16 February 2000.} Catholic bishops in Rwanda have expressed concern that the proposed gacaca courts "might become instruments of injustice, especially if they were not well prepared".\footnote{IRIN-CEA Update No. 642, 1 April 1999.} Human Rights Watch has indicated concern that the gacaca system could be subject to political pressure in the absence of internationally recognised safeguards such as the right to legal counsel.\footnote{IRIN, 4 October 2001.}
In answer to criticisms of too much state control, the Rwandan government has attempted to consult with Rwandans as to the form of the gacaca implementing legislation. The Rwandan Ministry of Justice conducted seminars, town-hall meetings, and radio and television talk shows in order to seek the input of Rwandan citizens. As an example of popular participation, the Rwandan government reported that an estimated 90% of the electorate voted in the elections for judges and other officials to serve in the traditional gacaca court system. On the other hand, a sociological study conducted in 1996 found that a majority of Rwandans rejected the idea of genocide being dealt with by gacaca courts, as reported by Vandeginste (2001, p. 231). Respondents favoured trial by the state and the death penalty for those found guilty. This is consistent with the responses from my interviewees, and raises questions about the potential effectiveness of the gacaca for promoting reconciliation as envisaged by the Rwandan government. Not only has the genocide created a different type of crime not previously adjudicated by gacaca, but it has also changed Rwandan society; the “shared values and norms of reciprocity” necessary for gacaca to operate no longer exist, according to Vandeginste (2001, p. 240).

According to Tharcisse Karugarama, vice-president of Rwanda’s Supreme Court and head of courts and tribunals:

    Rwanda is in desperate need of reconciliation ... Going back to our traditional system – a system where both Tutsis and Hutus worked together – is one way of doing that.  

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348 Associated Press, 8 October 1999.

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Drumbl (2001, p. 228) agrees that a more “contextual, socio-legal approach” to justice as represented by *gacaca* could be “more successful in attaining the goals of building justice, a shared sense of citizenship, reconciliation and reconstruction” than either the international or domestic trials. Rwanda’s Justice Minister, Jean de Dieu Mucyo, has also emphasised the role that *gacaca* could play in achieving reconciliation between Rwanda’s Hutu and Tutsi populations by providing a forum for the collective profession of guilt by the genocide perpetrators.\(^{349}\) Whether this is likely to occur is still an open question. Apart from Kambanda’s guilty plea in the ICTR (which he has since sought to overturn), there has been little if any public acknowledgement of responsibility by the Hutus who stand accused of perpetrating genocide (see earlier discussion).

10.6 National Unity and Reconciliation Commission

After focussing primarily on justice in the immediate aftermath of the genocide, the Rwandan government in 1999 created a National Unity and Reconciliation Commission with a mandate to encourage a culture of peace, unity and reconciliation and to monitor government programs to ensure their observance of policies of national unity and reconciliation.\(^{350}\) In October 2000 the Commission organised a conference in Kigali focussing on the role of security in the reconciliation process; the role of history,

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\(^{349}\) *Christian Science Monitor*, 5 August 1999.

governance and leadership in conflict management; promotion of justice in the reconciliation process; and the relationship between poverty, unity and reconciliation.\textsuperscript{351}

In June 2001, members of the Commission met foreign experts from Germany, South Africa and Namibia to share their experience with reconciliation policies.\textsuperscript{352} The Executive Secretary, Aloysea Inyumba, reported that the Commission had made progress in its first two years of operation, including speeding up the process of justice, helping to find homes for 300,000 orphans from the genocide, and running programs bringing together Hutu and Tutsi communities.\textsuperscript{353} As described by Staub and Pearlman (2001, pp. 206-7), the Commission has conducted discussion meetings with Rwandans to ask what they need in order to reconcile. For example, according to Staub (2000, p. 379), women at a meeting organised by the Commission “expressed the need for a better economic situation for their families as part of the kind of justice that will help with reconciliation”. Staub and Pearlman (2001) argue that the advantages of this elicitive process include: giving Rwandans an opportunity to engage with the idea of reconciliation; helping them to identify what they need for reconciliation to take place; and giving them an opportunity to express their views and actively engage with each other. It will be interesting to study the impact of these discussion meetings and other work of the Commission on reconciliation in Rwanda.

\textsuperscript{352} IRIN-CEA Great Lakes Update 1204, 20 June 2001.
\textsuperscript{353} IRIN-CEA Great Lakes Update 1209, 27 June 2001.
10.7 Civil Society and Reconciliation Projects

The thirst for vengeance in Rwanda is understandable... The elimination of impunity is essential to ensure that the cycle of genocide is broken in Rwanda. National reconciliation will only be brought about when justice is seen to be done... While doubting the main architects of the genocide feel any remorse for their actions, many Tutsis accept that they have to live side by side with their Hutu neighbours again, despite feelings of suspicion and mistrust. The tentative steps towards national reconciliation and rehabilitation must be respected and sensitively handled. (UN DHA IRIN, 7 March 1997)

In the early days following the genocide, most Rwandans were understandably reluctant to talk about reconciliation. Some were offended by the international NGO focus on reconciliation:


I was warned by NGO workers and Rwandan expatriates prior to my trip in July 1998 not to use the word 'reconciliation', but rather to talk about peacebuilding. The US Committee for Refugees (USCR), for example, avoided the use of the word
'reconciliation' in the title of its report *Life After Death: Suspicion and Reintegration in Post-Genocide Rwanda* (US Committee for Refugees, 1998). According to USCR (1998, p. 15), Catholic Relief Services changed the name of its seminar program talking about "reconciliation" to a program on "justice and peacebuilding" after discovering that Rwandans were not ready to reconcile and found the use of the term "insensitive at best, offensive at worst."

Very soon after the genocide a conference was organised to "offer Rwandans the opportunity to speak about the horrible experience their country had just been through and to raise awareness among non-Rwandans about the origins and impact of the genocide" (Berry & Berry, 1999, p. xxxi). The conference was organised by an American couple resident in Kigali who were evacuated from Rwanda three days after the genocide began. Entitled "Genocide: A Collective Memory", it was held in Kigali on 19-20 January 1995. Part of the motivation was to enable foreign relief workers to learn about the context of the post-genocide reconstruction they were facing. The speakers included government ministers, NGO workers, army officers, journalists, academics and representatives from the ICTR and UNAMIR. Even though a number of these speakers indicated they were speaking in a personal capacity about their experiences, my impression from reading the publication based on the conference transcripts was that many used the opportunity to make ethnically or politically partisan statements about the origins and conduct of the genocide (Berry & Berry, 1999). On the other hand, a valuable opportunity was provided for participants to experience some acknowledgement and healing by sharing their experiences both with others present and with the rest of the world through the publication of the transcripts.
Local and foreign NGOs and church groups have been active in organising trauma and social healing workshops and programs, often with a reconciliation component or focus that is not explicitly identified. The Rwandan NGO, AVEGA (Association of Widows of the April Genocide), for example, has a psychosocial program that provides a counselling service as well as using the media to promote trauma healing.\textsuperscript{354} Catholic Relief Services has conducted peacebuilding seminars with Hizkias Assefa, an African theorist and practitioner specialising in reconciliation, and offers training in conflict resolution to children and youth who have little or no memory of the genocide.\textsuperscript{355}

Supported by the Templeton Foundation, psychologist and genocide scholar, Ervin Staub, and trauma psychologist, Laurie Anne Pearlman, have been conducting a project on “Healing, Forgiveness and Reconciliation in Rwanda” (Staub & Pearlman, 2001, pp. 199-206). They talked with survivors about their experiences of the genocide and concluded that forgiveness and reconciliation would be very difficult in the aftermath of such difficult and painful experiences. Their project involved conducting a two-week seminar to “promote more healing, forgiveness, and reconciliation” with both Hutus and Tutsis from around the country who worked with community groups on healing, reconciliation or other types of community-building.

The seminar comprised opportunities to learn empathic listening skills and practise them while listening to others tell their stories; and education and discussions on four different topics: the origins of genocide, impact of trauma, avenues towards healing, and

\textsuperscript{354} Personal interviews with several staff at AVEGA, Kigali, 14 July 1998.
\textsuperscript{355} Personal interview with Kathy Zieg, Country Director, Catholic Relief Services, Kigali, 14 July 1998.
basic human needs. One of the interesting observations they made was that Hutu participants did not tell their stories of experiences during the genocide, which is consistent with my experience of difficulty in obtaining Hutu interviewees. Nevertheless, Staub and Pearlman (2001, p. 206) suggest that by listening to the stories of Tutsis, empathy in Hutus could have been promoted thereby contributing to reconciliation between the two groups. Another significant observation from this project was that, by the time the seminar was conducted in September 1999, Rwandans were ready to talk about forgiveness—and spontaneously did so, “expressing their need, in order to be able to forgive, for perpetrators to acknowledge what they had done, apologize, and ask for forgiveness” (p. 212).

Staub and Pearlman (2001, pp. 206-207) advocate the importance of listening to the needs of Rwandans and of actively engaging them in the process: “healing, forgiveness, and reconciliation can only be facilitated but not created or imposed by others”. And yet, I found that the tone of their article suggested a universalistic, non-culturally sensitive approach to dealing with trauma. For example, their statements about the importance of expressing memories of traumatic experiences (p. 204) and of truth (p. 207) as a basis for healing, forgiveness and reconciliation were quite definitive and did not allow for the possibility of these processes not being as important in some societies or cultures. Their workshop method also revealed some cultural insensitivity in the plan to start with an exercise that involved participants writing or drawing their experiences; as Staub and Pearlman soon discovered, the oral focus of Rwandan culture meant this exercise was not appropriate as a means of expression (p. 205). This experience illustrates the importance of designing reconciliation workshops in conjunction with
local consultants, and not assuming that what works in North America (or elsewhere) will work in Rwanda.

Another project aiming to promote reconciliation in Rwanda was conducted during 1999 by academics from the Institute for Conflict Analysis and Resolution at George Mason University and consultant practitioner, Hizkiyas Assefa, with funding from the United States Information Agency.356 The project focused on training Rwandan NGO leaders in conflict resolution, NGO management and leadership development. The potential for enhancing reconciliation was seen as a byproduct of participant involvement in the training sessions and subsequent networking, rather than being explicitly included in the project design.

10.8 Towards Peace and Reconciliation in Rwanda

How can we focus on reconciliation? It is a complex, very long process. It must be attached to healing ourselves and our community – to become human again, to be tolerant, to find reasons to live together again without suspicion. How do we rebuild trust? We must use time – to build positive evidence. But we can’t rely on time. We need to face our problems, to understand. We need to talk about things other than external problems. We need to look at what they mean to us, at what to do differently rather than

killing. We need to look at internal problems as well, to question ourselves about what to do about the failures of the past. (Tutsi returnee, R7)

At the time when I conducted my interviews in Kigali and Arusha, it seemed that the people of Rwanda were not yet ready or willing to embrace the concept of reconciliation on a large public scale. However, as described in the previous section, there are a growing number of reconciliation initiatives being pursued by international and local NGOs on the ground. For example, one of my interviewees, a Tutsi returnee (R10), told me that he had worked with the reconciliation department of a major foreign NGO where he had been involved in inter-denominational reconciliation workshops with pastors. He said the pastors "didn't think they had a problem with ethnic differences", but they discovered there were feelings they needed to "uncover and change".

There were individual survivors who had forgiven the perpetrators and expressed their commitment to reconciliation, but they were in the minority. For example, R12 (a Tutsi survivor who had become a Catholic priest since the genocide) told me how he had decided to devote his life to "living life as a gift and to give mercy" rather than seeking revenge. He said he would like to see his "‘enemies’ – those who killed his family – repenting”. He also told me how he had worked with groups of young people in Butare whose families had either been killed or engaged in killing (i.e. Tutsi and Hutu) to give them an opportunity to talk about their suffering and to hear about each other's suffering. He said that in this way, these people could confront their histories and become reconciled within themselves, thus opening the way to reconciliation with others.
On the other hand, there were many other survivors and returnees who were not willing to reconcile; they were hurting and angry because of the betrayal by their friends and neighbours who killed, or had not yet forgiven the Hutus for the years of discrimination and exile. Some want revenge, such as the "woman who survived the Saint-Famille church hell" quoted by Prunier (1994, p. 341):

I don’t want to lie … I expect vengeance. I want revenge. I am hurting so much inside. And do you think it is going to stop because we are safe now? So much death, so much grief, so many families wiped out, and we are to forget about it. The fire is out, at least here in Kabuga; but not the fear. And what about the fire inside?

Many survivors were not ready to forgive the perpetrators of the Rwandan genocide: "A Hutu asking for pardon should not be pardoned but should get justice" (R6, a genocide survivor). Another Tutsi survivor (R4) told me that she "could not forgive – at least, not yet – those people whom [she] knew before whom [she] suspected helped in the killing, and/or didn’t act to stop it." She said it was "getting better with time – it was much worse in 1995 and 1996 – it was very painful and difficult to keep going". As argued by Montville (1993), allowing time for the healing or mourning process to reach a place of genuine forgiveness can be critical.

R4 (a Tutsi survivor) responded to my question about reconciliation in Rwanda by saying that it was "too soon". R9, also a Tutsi survivor, said that "with special consideration for survivors, reconciliation will come. You can’t tell people – it is a long process but must start now." R4 went on to say that:
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Reconciliation has not started yet. People are still divided. They are looking at each other but are not mixing. There is a curtain or barrier between the two groups. For example, at university, when people suspected of killing they can’t be friends.

R6, also a genocide survivor, said something similar:

People are living together, but not together – physically, but not mentally. They are struggling to survive, so the trauma takes longer to heal … There is a need for rehabilitation. People should get a minimum of what they lost. Blaming others is a kind of trauma … rehabilitation would help bring them out of trauma … rehabilitation would contribute to reconciliation.

R4 also talked about the importance of restitutive justice to foster reconciliation:

In practice it is very difficult compared with theory. People still need material things to reconstruct houses and replace stolen or burnt things. Therefore they can’t forget and live peacefully together with others. They need some compensation. If their material needs are met, they are more able to reconcile.

This approach was echoed by R9, another Tutsi survivor, who said that “the government is asking us to forget – but how? … The government should try to reduce poverty, especially for the survivors, because it is hard to forget when living in such conditions”.

R7, a Tutsi returnee and lawyer, argued for a more victim-oriented justice that would foster reconciliation by addressing social and economic justice as well as legal justice. She maintained that the current “lack of rehabilitation [of prisoners] and reparations and
communication can’t help in the process of national reconciliation”. Economic justice could not, however, replace legal justice, according to R7: “economic empowerment won’t break impunity”. In the face of the “problem of poverty, money is not all that the survivors need. They also need visibility of the crimes and recognition of the genocide” (R7).

The variation in Rwandans’ experiences in relation to reconciliation was illustrated by the comments of one of my interviewees (R6), a genocide survivor who worked with a foreign NGO in Kigali. She described how:

People in Rwanda are expecting a reconciliation ‘event’ or ‘day’, but that can’t be. People are at different stages. First there is reconciliation with the self, if one tries to be honest with oneself. Some are living reconciliation already, compared with others who are not ready to start the reconciliation process. If there is one ‘reconciliation day’ that would be an obstacle because it would stop other initiatives by leading people to conclude that we ‘don’t need any more’.

Reconciliation will obviously take time – to heal the wounds and to rebuild trust. The Tutsi survivors need to begin to trust their Hutu neighbours again and the returnees need to overcome their fear of the return of majority Hutu rule, while the Hutus need to dissociate themselves from the guilt of being associated with genocide and to trust that the Tutsis will not take a bloody revenge. It was fear of the Tutsi invaders that enabled the Hutu extremist leaders to manipulate the masses into participating in their genocidal
plans. Trust is therefore a key element in preventing a recurrence of such violence.\textsuperscript{357} The biggest threat to rebuilding trust was the continuing extremist activity in the northwest and how this was being handled by the Rwandan government.

To further the building of peace and reconciliation in Rwanda, there is a need to deal with regional instability and, in particular, the activities of Hutu extremists operating out of the Democratic Republic of Congo (DRC) – not only because of the violence itself, but also because of the continuing ethnic hatred (if not genocide) that was being preached and perpetrated.\textsuperscript{358} The Banyumalenge Tutsi who live in the Kivu region of the DRC are closely connected with the Tutsi of Rwanda, and have been the subject of continuing extremist activity. It has seemed that the Rwandan genocide was continuing, albeit on a much smaller scale, immediately across the northwest border of Rwanda in the DRC. The Rwandan government has primarily dealt with this continuing cross-border violence and threat to Tutsis in both DRC and Rwanda with counter-violence – sending in troops to support the rebel army fighting in the civil war in DRC (in the name of national security) and by launching retaliatory attacks on \textit{Interahamwe} and other extremists who attack civilians within Rwanda. The focus of the Rwandan government has therefore been on retributive justice in the form of violence.

While a number of other African countries joined Rwanda and the DRC in the war, other members of the international community have focused on pursuing legal justice to deal with the alleged perpetrators of human rights abuses in the DRC war. Belgium

\textsuperscript{357} This observation is supported by Borris (1997b, p. 13): “Trust, and its restoration, is the most important ingredient in the reconciliation process”.

\textsuperscript{358} See Orth (2001) for an account of the military threat and source of regional instability posed by the ex-FAR and \textit{Interahamwe} still operating in the DRC.
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issued an international arrest warrant for the (now former) DRC Foreign Minister, Yerodia Abdoulaye Ndombasi, on charges of inciting ethnic hatred. Belgium argued that this step was consistent with the UN Security Council’s call for the investigation of atrocities and incitement of ethnic hatred in the DRC. The International Court of Justice held public hearings on the issue of the international arrest warrant, at which it was revealed that Yerodia had said on DRC state radio in 1998 that the Tutsi ethnic group were “vermin that must be methodically eliminated”.359 One of the DRC rebel groups has supported the call for the creation of an international criminal court to try the perpetrators of war crimes in the DRC.360

In an effort to stop the cycles of violence being played out in the Kivu region, the Rwandan-backed armed opposition movement in the DRC (RCD-Goma) had taken steps to implement the Lusaka peace agreement of 1999 by indicating it would create a reconciliation council for the North and South Kivu provinces.361 On 30 July 2002 the Rwandan government signed a peace agreement with the DRC (the Pretoria accord) that called for the withdrawal of Rwandan troops from the DRC, and the dismantling of the former Rwandan army (ex-FAR) and their Interahamwe allies.362 As argued by one of my interviewees (R12, a Tutsi survivor from Butare), the Rwandan government needs to find alternatives to meeting violence with violence if it is serious about building peace and reconciliation.

359 IRIN-CEA, 22 November 2000.
362 IRIN, 12 August 2002; IRIN 28 August 2002.
The future of peace in Rwanda depends on the quality of moderate leadership that is committed to promoting inclusiveness, reconciliation and a comprehensive approach to peacebuilding and justice. R4 (a Tutsi survivor), for example, commented that Rwanda “needs good leaders. They can help or not help reconciliation by what they say”. Another interviewee (R8) maintained that the mistakes of the previous government in excluding part of the population must not be repeated. Unfortunately, it appears that this policy of exclusion is being repeated (in reverse), although not as blatantly as in the previous government. While maintaining the outward appearance of moderate leadership and inclusiveness, the new government has not included the Hutus in positions of real power, and the RPF was covering up, and perhaps continuing to perpetrate, violent reprisals against the Interahamwe and Hutu civilians (Prunier, 1997). Violence against those who oppose the regime is tolerated; there is a sense of “victor’s justice” because the justice system is addressing the genocide to the exclusion of other crimes and human rights abuses (Uvin, 2001, pp. 183-4).

According to Mamdani (2001), a fatal mistake being made by the new Rwandan government is to follow a line of “victim’s” rather than “survivor’s” justice. He argues that the Tutsi have reacted like the Jews in Israel: setting up a state based on an ideology of “memory of the genocide and the moral compulsion never to let it happen again” (p. 271). As a result, the government and administration have been “Tutsified” and pursuit of the génocidaires has become a morally justified raison d’être of the state. The price, according to Mamdani (2001, p. 272), is the need to maintain eternal vigilance against the possibility of a further uprising or civil war. He advocates “survivor’s justice” as an alternative that would embrace all Rwandans as survivors of the civil war who must
work together against the political system of discrimination and power imbalance that has caused the ongoing cycles of violence. Mamdani’s idea of focusing on political justice would require a process of reconciliation between Hutu and Tutsi in such a way that “guilt and innocence” no longer “run parallel to ethnic lines” (Lemarchand, n.d.). Instead, of fighting each other in a carryover of the system inherited from the colonial power, Rwandans need to join forces to fight against the system that created the entrenched hatreds and genocide (Mamdani, 2001, p. 273). One means of encouraging a uniting of Hutus and Tutsis as survivors could be to create a truth commission that enabled a “reconciliation with history” in what Mamdani (2001, pp. 266-270) describes as a process of “contextualizing the truth”.

A comprehensive sense of justice could be achieved by including legal justice, social and economic justice, and restorative justice, as well as political justice. In other words, there is a need for the perpetrators of genocide to be punished to satisfy the retributive justice desires of the survivors; there is a need for social and economic programs to promote equality, non-discrimination and poverty reduction; and there is a need for relationship-building, restorative justice programs which promote reconciliation between and within the two ethnic groups. Even the World Bank has acknowledged that its work on demobilisation and reintegration needs to be accompanied by social reconstruction and reconciliation (Colletta, Kostner & Wiederhofer, 1996). Following the 1993 Peace Accord, the Bank had planned a demobilisation and reintegration program in Rwanda that was curtailed by the return to violence in 1994; it was subsequently invited back but with social reconciliation included as part of the program.
My observation was that such a comprehensive approach to peacebuilding was being implemented in Rwanda, albeit slowly and not without difficulty, and with insufficient attention to the restorative justice component and no attention to the idea of political justice as outlined above.\textsuperscript{363} The government and international community were pursuing legal justice, and there were local and international NGOs involved in such projects as housing reconstruction, microcredit and economic empowerment, trauma healing, reconciliation workshops, joint Hutu/Tutsi activities, prisoner reintegration, health care, education and youth programs. More resources are needed to support these programs, as well as greater trust and cooperation between the different sectors — government, NGOs and the international community. My interviews suggested that this level of cooperation was improving, but there was still a long way to go, especially in terms of co-ordination and trust.\textsuperscript{364}

Reconciliation in Rwanda will also require a renewed faith in humanity and, for some, a rebuilding of their spiritual faith. Rwandans’ faith in humanity was shattered by the atrocities they either witnessed or perpetrated; their spiritual faith was severely challenged by the apparent complicity of the church and involvement of ‘so-called Christians’ in perpetrating genocide.\textsuperscript{365} The potential for this rebuilding of faith is illustrated by the following quote from a genocide survivor reflecting on the courage of a fellow survivor:

\textsuperscript{363} This need for greater emphasis on restorative justice has subsequently been addressed to some extent by the planned introduction of traditional gacaca courts to deal with many of the genocide suspects in Rwanda (see earlier discussion).
\textsuperscript{364} One of my interviewees, the Country Director for a major foreign NGO working in Kigali, identified insufficient coordination between NGOs and with the government as a major impediment to peacebuilding in Rwanda.
\textsuperscript{365} This observation is based on the comments of Rwandan interviewees, especially R8 and R10 and those I interviewed in Toronto, as well as the speech referred in the following footnote.
I just want you to know that there are people who are strong enough to keep others going and who are bringing back a bit of this faith, a bit of this faith in humanity, and it is not an easy thing... we feel there is such a strength when we come together to say 'no', please let us be alive, alive, and we can't allow those who couldn't get our bodies to get our inside ... Those who have not been able to take our bodies they can't take our humanity, and I think this, I am convinced that it is possible. Because I have seen it, and I saw it every day and this is what is keeping us alive and fighting.\textsuperscript{366}

\textsuperscript{366} Esther Muzawayo, transcript of speech to “Trauma and Change: A Gender Perspective”, a seminar hosted by the Centre for the Study of Violence & Reconciliation, Johannesburg, 23 April 1998. Esther is a counsellor with AVEGA, the Association of Widows of the April Genocide, based in Kigali.
CHAPTER 11

JUSTICE AND RECONCILIATION IN CAMBODIA AND RWANDA:
COMPARATIVE ANALYSIS

11.1 Definitions and Meanings of Justice and Reconciliation

The definitions and meanings of reconciliation and justice offered by my interviewees in Cambodia and Rwanda varied and overlapped to such an extent that the idea of proposing the existence of a clear difference between Rwandan and Cambodian approaches to the two concepts could not be supported. On the other hand, this comparative analysis does contribute to enhanced understanding of Cambodian and Rwandan approaches to these two complex psychosocial and political processes. The patterns of similarity and difference that emerge could be used to explain past experiences and inform future decision-making regarding implementation of mechanisms designed to promote justice and reconciliation in these two countries and elsewhere.

Transcripts of interviewees’ responses regarding definitions of reconciliation and justice are provided in Appendix VI. The following summary is organised thematically, covering the following aspects: contextualisation; ideas about justice; ideas about reconciliation; influence of religion; relationship between justice and reconciliation; public apologies and reconciliation.
11.1.1 Contextualisation

The definitions of justice and reconciliation offered by both Cambodians and Rwandans were frequently contextualised. A number of interviewees told personal stories or spontaneously referred to political events to explain what justice or reconciliation meant to them. In some cases they talked about the impact of the genocide on them and on their families, and how justice or reconciliation had or had not, should or could be realised. For example, when asked his definition of justice, a 40 year-old male Cambodian professional who had survived the Pol Pot era (C1) responded:

Very complicated ... My father and brother were killed - I remember everything. In 1979 the Vietnamese came - I want you to understand - in my village all the Khmer Rouge cadre ran away. Authority was not organised, so the people organised their own authority and every leader captured by the people were killed by the people. I joined in one time - a Khmer Rouge was killed in front of me. After that I couldn't accept that activity. I wasn't sure that this was the real people involved or not with the killing of my father or brother, so I couldn't join in any more ... I went to the pagoda and became a Buddhist monk. I wanted my father to be taken care of in the next life ... I stayed 3-4 months. Then I heard from my other brother who was still alive who told me that I would have to be a monk for my whole life, so I decided to leave. Justice? - everywhere they killed, needed justice. If we do like that, what about their families thinking like this? It would start a cycle of revenge (I kill your father, you kill ... etc). In the philosophy of Buddhism, revenge can't resolve the problem. But we need to have justice: if we don't then the nation can't clear everything in the past and can't look to the future.
Buddhism proposes middle way for resolving the problem. ... The
government agree with US proposal for a tribunal – it’s good – will help in
Cambodia. Can do justice – but not for all. For example, ... chief of village
– know he was a criminal but he’s not on the list (too low). For example,
chief responsible to kill all related to old regime – some kill by himself,
some all chiefs involved in killing. If all justice – would affect many people.
It would be a new genocide if we kill for justice. We need to find middle
way - not sure ...? South African example? Hun Sen said one time do as in
South Africa - Truth and Reconciliation Commission – this was before
official UN proposal. Not justice in Khmer Rouge time - problem of war –
Lon Nol army – many Vietnamese killed and many killed by Khmer Rouge.
Some justice in Sihanouk regime – can’t do all justice.

This story shows how this particular survivor related his ideas about justice to his
personal experiences following the demise of the Khmer Rouge regime. He recognised
that his view on justice was “complicated” because of his experiences. As noted in
Chapter 9, he had experienced first hand and subsequently rejected personal revenge as
a means of achieving justice. Even though he supported the idea of a tribunal as a means
of achieving justice, he questioned the ability of a tribunal or any other means of
providing justice for all based on his knowledge of how many people would be
involved.
A number of Rwandans also specifically related their ideas about justice to their experiences following the genocide. For example, T8 (a male Tutsi refugee), responded to my question about his definition of justice by saying:

It is a very relevant question – hadn’t thought about it before. When I think about Rwanda it is very relevant. When you feel nothing has happened then you feel you have justice. In Rwanda what happened did not give justice. When life is taken, how do you have justice? Even if killed or punished can’t lead to justice. After your brother is killed nothing could make you feel okay. There is no justice that can satisfy you. What justice? Compensation? Nothing can equal to what happened to us.

11.1.2 Ideas About Justice

Cambodian survivor C1 equated killing as a form of justice as consistent with perpetrating a new genocide. This idea was echoed by two of my Rwandan interviewees. A survivor (R9) suggested that the public execution of genocide perpetrators was “like another genocide”, while a Rwandan refugee whom I interviewed in Toronto (T8) maintained that:

Regarding human beings being killed, you can’t do anything to make the family happy again. In theory, [justice is] right. [But] if justice is done as justice it would lead to a second genocide.

By contrast, another Rwandan refugee in Toronto (T2) disagreed, saying that:

Justice should be a way of dealing with lawbreakers even if it means being killed. All should face justice ... If someone is released, what kind of example is that? ... If a child learns that his Dad was killed because he
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killed a Tutsi, then that child will never kill. Justice should be done, no interpretation.

Significantly, T2 drew on Muslim Sharia law to support his position, while C1 was influenced by his interpretation of Buddhism. T8 did not reveal any strong religious influences in his response, although his views were most likely informed by his Christian background. In theory he believed in justice, but in practice he thought this was not practical. He and others were sceptical of the Christian approach to reconciliation, perhaps because of what they heard or observed that Christians did during the genocide.

A Cambodian genocide survivor interviewed for television told a similar story to C1 about the impact of Buddhism on quelling his desire for revenge:

Before I was ordained [as a Buddhist monk], I was very angry. I swore I would kill the person who had killed my father. But much later on, when I was ordained, Buddhist philosophy taught me to be calm. That’s what I was learning, how to manage my anger.367

In a similar vein, but in this case influenced by the Christian ideas of forgiveness and reconciliation, R12 (a Catholic bishop) said that:

Some people think justice is just about revenge, if they haven’t travelled their own path of suffering and mourning. Some outside see the Tutsi government as the group getting justice, but they should be seen as a group healing its own wounds. Corrective justice is important as a way of

reconciliation. The church has a role in helping people to understand what justice is, and to help people to give mercy and forgiveness. If legal justice is done well, then it is one step towards reconciliation, but it is unable to deal with the problems in Rwanda.

The concept of fairness was mentioned by a number of my Cambodian interviewees, more often than punishment, as part of their definition of justice. Truth and impartiality were also mentioned a few times. For example, C3 (a returnee) said that "truth" should come first, followed by "redress", while C14 (a university student) defined justice simply as "truth, impartial". C9 (a survivor and lawyer) said that justice meant to be "fair and equal". According to C15 (another university student), justice means to do something in a way that is "neutral and impartial". C18 (a survivor and moto driver) concurred that "justice means fair, neutral, unbiased, impartial". C16 (a returnee and NGO director) maintained that justice was about "starting with just law and its enforcement without giving any special treatment to any special group". C20 (a survivor and human rights advocate) said that justice is "when every party in a conflict is satisfied ... doesn't have to be equal as in Communism ... [but should be] according to need". C22 (a returnee and NGO director) said that for him, justice is when "every individual as a member of the community you perceive you are treated fairly by the legal framework and by the power that runs the country". Only C4 (a survivor and human rights advocate) and C6 (a survivor and NGO worker) specifically mentioned punishment of criminals through the court system as part of their definition of justice.
By contrast, Rwandans more often indicated that justice was about punishment. For example, R4 (a female Tutsi survivor) said that as part of justice, “the person who is responsible gets sentenced” and R9 (a male Tutsi survivor) said that “first, legal justice is the punishment of those involved”. T6 (a female Tutsi refugee) said that “justice means to punish” but she also said that “justice is fairness in legal terms”. T5 (a male Tutsi refugee) argued that:

In Kinyarwanda, justice is created based on some violations or crimes to please both sides (defendant and accuser). Should have to follow rules, state of right [sic], should be punished based on actions and wrongdoing.

This definition reflects both the restorative and retributive aspects of the traditional gacaca justice system (as discussed in Chapter 10). And yet T8 (another male Tutsi refugee) told me that in Kinyarwanda, “ubutabera” or “justice” means “to be fair, not partial”. Another returnee (T6) claimed that justice as punishment “is a Western definition”, and yet she also claimed that if those who perpetrated the genocide are punished then she can hope that it will not happen again.

These observations suggest the influence of Western legal thinking on the ideas of my Rwandan interviewees, most of whom were educated and spoke good English. My Cambodian interviewees were most likely responding to the perceived lack of fairness and impartiality in the Cambodian justice system in the definitions they gave. Vigilante justice provides punishment for criminals, but this is not perceived by Cambodians as what justice ought to be (see later discussion), so fairness thus becomes a more important distinguishing feature of definitions of justice than does punishment.
One Rwandan and quite a few Cambodian interviewees specifically mentioned the role of human rights in their definitions of justice. For example, T9 (a Tutsi refugee) said that if there were respect for human rights in Rwanda, "then justice would be served in my country". C5 (a genocide survivor and human rights advocate) said that the "goal of human rights education [should be] to realise and use human rights to claim justice". C8 (a genocide survivor and university official) also said that in order "to have justice we need to have real democracy and respect for human rights" and according to C18 (a genocide survivor and moto driver) justice means "to respect someone's rights, look up to the human rights of each other, of our neighbours, including women's and children's rights". This is consistent with the Cambodian focus on procedural justice and fairness while Rwandans appeared to be more concerned with punishment and reparations.

The idea of restitutive justice in terms of compensation or reparations was not specifically mentioned by any of my Cambodian interviewees, although it was indirectly suggested by those who linked justice to ideas of "equity of distribution of resources" (C4) and the need for "victims to get redress" and "criminals to be made responsible for their crimes, to pay for their crimes" (C3). By contrast, quite a few Rwandans mentioned the idea of restitution or compensation. For example, R4 (a Tutsi survivor) said that justice means that "someone who is a victim of anything gets compensation". R7 (a Tutsi returnee and lawyer) indicated that the "problem of poverty" and "need for health care" were things that needed to be addressed in relation to the justice being provided by the international community. According to T4 (a Tutsi refugee), Rwandans "need action at the international level, e.g. compensation" to make up for justice not being provided before in a way "so that genocide [could have been]
prevented”. These comments are significant in terms of assessing the role of the ICTR in promoting justice for Rwandans, as discussed in Chapter 10. It also suggests that the restitutive aspect of justice may not be as important in designing any justice or reconciliation mechanisms for Cambodians.

The importance of the legal procedural definition of justice featured prominently in the answers of the Cambodians interviewed for this research. Many referred to the lack of such justice in their country caused by the prevalence of corruption and inappropriate linking of politics with the law. For example, C11, a female genocide survivor and NGO worker, said that:

Justice is nonsense, from my point of view, here now in Cambodia. Money is number one. Justice can be bought. Justice should be independent, not be involved or under the oppression of powerful people. Judges should think about morals rather than money.

In a similar vein, C13, a female university student, said that “justice in Cambodia is not good because we have a lot of corruption. We should have institutions to stop corruption, but it doesn’t work properly.” According to C7, a male genocide survivor and government official: “justice relies on the rule of law and the procedure of the court.” He went on to say that “Cambodia doesn’t have a good court procedure because of corruption … You have to have a good judge with a good knowledge of the law and rules to get justice.”

C9, a female genocide survivor and lawyer, also described the unfairness of the Cambodian legal system in her response:
Justice means fair and equal. According to the law, when you present evidence, you can win and get legal justice, but not fair. For example, a landowner can prove title to land but the other one might be the real owner. You find justice when you don’t include political issues.

These responses indicate a clear and consistent idea of what justice ought to be, rather than what justice appears to be in Cambodia, in terms of procedural fairness and impartiality. This is significant in considering the negotiations between the UN and Cambodian government over the establishment of a tribunal for the former Khmer Rouge. If Hun Sen decides to go ahead with a tribunal without international involvement, then many Cambodians would regard its procedures as unfair and biased, and would therefore be unlikely to feel a sense of justice.

Only a minority of Cambodians mentioned the concept of social or economic justice in their responses. One of these, C4 (a genocide survivor and human rights advocate), said that justice is “not only punishment of a criminal or somebody who has done something bad for people or society; it is also equity of distribution of resources and wealth of the nation.” He referred to “NGO people talking about social justice, no discrimination, no gap between rich and poor.” Another, C8 (a genocide survivor and university official), observed that “many conflicts come from a lack of economic justice” and made the link between the lack of economic justice and corruption in the legal justice system. In a similar vein, C5 (another genocide survivor and human rights advocate) said that “social justice is the goal of human rights education to realise and use rights to claim for justice.”
These insightful comments reflect the relative high education of these Cambodians and their exposure to the goals of human rights organisations and other NGOs working in their country. By contrast, one Cambodian genocide survivor with less well-developed English skills (C6) said she hadn't heard of economic justice, while C2 (a genocide survivor and director of a Cambodian NGO) maintained that "Cambodians do not have a clue about social or economic justice. For example, having enough food to eat is not about justice." This observation was consistent with the emphasis of most of my interviewees on defining justice in legal terms. This, of course, does not mean that Cambodians do not value socioeconomic justice, only that they have more awareness of justice as a legal concept. It could also mean that the translation of the Khmer word for justice could distinguish between these two aspects, although I am only aware of one Khmer translation for justice: 'yut te'tor'. According to C2, an educated Cambodian NGO director, the English and Khmer words for justice are an "almost perfect translation".

A number of Rwandan interviewees mentioned social justice as part of their definition of justice. For example, R6 (a female Tutsi survivor) said that "there are different types of justice. Social justice is the most important. It includes other types of justice, including judicial, social welfare, etc.". R9 (a male Tutsi survivor) indicated that legal justice should come first, but after that "special consideration for survivors – psychological and economic, social justice. ... Justice should resolve problems." Rwandans were thus more likely to relate the meaning of justice to social justice as well
as retributive and restitutive justice, while Cambodians referred more often to procedural justice and the concept of 'fairness'.

According to C2, a Cambodian genocide survivor educated in the US:

Different people define justice differently. For example, for the Khmer Rouge justice means to put the US in jail; for [Cambodian] people it means put the chief in jail; for the international community it means try the Khmer Rouge.

This comment is telling in the way it highlights the potential for the international community to view justice in a different way to the Cambodian people. It also suggests how Western or international ideas influence Cambodian thinking about concepts, especially when those ideas are presented and discussed in a foreign language.

According to one of my Rwandan interviewees, a Tutsi returnee and lawyer (R7):

Rwandan genocide survivors don’t believe in justice as it is presented to them. They don’t recognise themselves in the type of justice given. They don’t have a background in the rule of law, so they reject it; they don’t believe it is possible. Justice is a strange thing, not linked to daily life. Also, the problem of poverty, but money is not just what they need. They need the visibility of crimes and recognition of genocide. The international community is not interested in justice as such. They say to forget about crimes and focus on reconciliation. How can we do that? Women talk about the need for health care because they don’t believe justice is possible. It is a complex, very long process.
Again, the approach of representatives of the international community to justice and reconciliation is seen as different to the approach of many Rwandans, as discussed in Chapter 10. This is not only a matter of language – of how the language of intervention is interpreted by both interveners and target population – but of how the language is operationalised and translated into peacebuilding programs and how these programs are received by the population in question. As argued by one of my interviewees, R5 (a genocide survivor and NGO worker):

How justice is understood and accepted by the communities in question [is important]. Outsiders can demonstrate if something is unjust, but it is up to the community to adjust. People have to develop their own awareness of injustice.

It seems that colonial and other Western influences have ‘muddied the waters’ in terms of any clear cultural patterns in relation to ideas about justice. Also influential are how people experienced the genocide and their feelings afterwards, as well as how people experience their government’s approach to justice. Religious beliefs can also have a significant influence on attitudes towards justice and reconciliation, as will be discussed further later in this chapter.

These observations support the argument of this thesis: that justice is a complex and multifaceted concept. International interveners need to be sensitive to the needs and aspirations of the various sectors of the population they are trying to assist. Only by meeting the needs of the population in question can peacebuilding ever be successful.
Satisfying the international community's need for international justice is only part of the equation in promoting respect for the rule of law, prevention of human rights abuses and the maintenance of international peace and security.

11.1.3 Ideas About Reconciliation

Ideas about reconciliation were also mixed. As discussed in Chapters 9 and 10 respectively, there did seem to be a trend towards Cambodians interpreting the term as promulgated by the Cambodian government, while Rwandans referred more often to personal definitions of reconciliation. For example, R4 (a Tutsi survivor) said that reconciliation “should happen between the victim and person responsible”. Cambodians tended to define reconciliation as ‘national reconciliation’ – a political compromise. This could be attributed to the lack of a concept of interpersonal reconciliation in Buddhism, as discussed later in this chapter. Rwandan definitions of reconciliation, by contrast, included the idea that reconciliation should occur between the victim and the person responsible: “Reconciliation occurs between people, not governments.” (R2).

A Rwandan refugee (T3) went further, arguing that “you can’t have reconciliation without forgiveness. How can you forgive without someone asking for forgiveness? Otherwise reconciliation is a mirage.” T9 (also a Tutsi refugee) said that:

Reconciliation doesn’t mean you have to like them, but if you love the people who killed your friends, family, etc ... loving means respect, knowing the other person is a human being and trying to forgive people.

His approach was driven by a Christian perspective on reconciliation which meant he needed to overcome his desires for revenge and retribution for the good of his country –
so they could find peace and reconciliation. This view was unpopular amongst other Tutsi refugees, and T9 was finding it difficult to get support for his approach to reconciliation in Rwanda. It seems that many Rwandans, especially the Tutsi who have become disillusioned with the church, have also abandoned the importance of forgiveness as a Christian concept. This observation was supported by the story of an NGO worker who was trying to implement a forgiveness project for a foreign Christian NGO in Rwanda. She found that Rwandans would say that they would forgive when interviewed by the “white father” who was conducting the project, but when she (a fellow African woman) spoke informally with these women she found that they were only saying that they had forgiven in order to “please the white father”. Privately, they were still angry and wanting retribution.368

By contrast, none of my Cambodian interviewees mentioned the role of forgiveness in reconciliation, and only one mentioned the idea of reconciliation as a healing process (C2). Links were made between reconciliation and peace, however, including the idea that reconciliation meant people putting aside their differences, stopping fighting and living together without violence (C6, C11, C12, C13, C15, C20 and C22). The Buddhist idea of replacing anger with calm was mentioned by C7, but surprisingly not by any other Cambodians I interviewed. Nevertheless, the Cambodian responses were consistent with Buddhist philosophy, linking reconciliation with peace but not with forgiveness (see later discussion).

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368 Information from personal interview conducted with Sekai Shand of World Vision, Melbourne, 24 April 2000.
This conceptual confusion between interpersonal and ‘national’ reconciliation in Cambodia could be explained by the fact that reconciliation in English has three translations in Khmer: one meaning ‘unity’ (‘kar bankroup bankroum’), another meaning ‘settlement’ (‘kar psa:s psar’), and the third meaning ‘compromise’ or ‘mediation’ (‘kar sarmrus sarmroul’). It could be that most Cambodians relate the English word ‘reconciliation’ to the use of the term by Hun Sen in the context only of ‘national reconciliation’. Therefore the responses to my question about reconciliation asked in English would be expected to refer to the political settlement meaning of reconciliation. If the interview were conducted in Khmer, the answers might have revealed more information about interpersonal definitions of reconciliation. The conclusion that reconciliation as a term in English has come to mean a political compromise for Cambodians is still valid, but the possibility of interpersonal reconciliation as a means of healing should not necessarily be dismissed as being of less relevance to Cambodians.

As previously mentioned in Chapter 10, the Rwandan local language term for reconciliation is apparently an almost direct translation, so this possibility of conceptual confusion caused by language differences is less likely to have occurred in relation to my Rwanda interviewees. The Kinyarwanda word for reconciliation implies that it should happen between the victim and person responsible. Not only is this impossible in the aftermath of genocide when the victim is dead, it is also highly offensive to suggest that the survivors should “shake hands” and become friends again with those who have murdered their family and friends (Drumtra, 1998). For this reason, the terms

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369 The transliteration of Khmer symbols into the Western alphabet varies. These particular transliterations were provided by Sokhom Kith (personal communication, Sydney, November 2000) and one of my interviewees (C18).
peacebuilding and coexistence have been substituted for reconciliation by many of those working in Rwanda. It is therefore difficult to use the term reconciliation in Rwanda, not only because it is too soon after the genocide, but also because of the personal meaning it has in the local language.

The strong Christian influence in Rwanda also suggests that ideas about reconciliation are likely to be more similar to the traditional Western concept of reconciliation as discussed in the literature and in Chapter 7 of this thesis. This was indeed the case, as discussed in Chapter 10. For example, the definition of reconciliation suggested by R2, a male genocide survivor, included the idea of stages involving acceptance, trials and confessions, and moving on together in a new relationship:

> In Kinyarwanda there are stages in reconciliation. People need to accept what happened. Trials and confessions (including Kambanda) mean that people can’t deny what happened. After they accept what happened, then they can start life anew.

These stages are remarkably similar to those suggested by theorists such as Mitchell (1996) and also relate to the first two principles of reconciliation suggested by Habel (1999), namely the truth and justice principles.

As discussed in Chapter 7, Mitchell’s stages of reconciliation include acceptance, acknowledgement, apology, restitution and reconciliation. The definition quoted above suggests all of these except the restitution stage. This might have been because R2 had Hutu relatives and therefore related more to the experience of Hutus who were also displaced and destitute, so the idea of the victims needing restitutive justice would have
seemed less appropriate to him. A majority of the Tutsi Rwandans interviewed mentioned restitution as being important aspects of both justice and reconciliation. For example, R7 (a Tutsi returnee) indicated that rehabilitation and reparations were important for reconciliation, while R6 (a Tutsi survivor) mentioned that “rehabilitation contributes to reconciliation”. R4 (a Tutsi survivor) said that survivors “need some compensation. If their material needs are met, they are more able to reconcile”.

The idea of retributive justice as being part of a reconciliation process as suggested by R2 was not, however, one of the stages suggested by Mitchell (1996). Justice is one of the principles of reconciliation listed by Habel (1999), but his definition of justice incorporates restitutive and restorative components but doesn’t explicitly include retributive justice. The juridical/punishment approach to reconciliation is, however, one of those listed by Galtung (2001). This observation suggests the importance of interveners taking a cross-cultural and conflict-specific approach that takes into account the perspectives and needs in a particular context in order to determine the importance of different types of justice to a particular reconciliation process.

It is worth noting that, consistent with the argument of this thesis, both Cambodians and Rwandans saw reconciliation as a process, and yet in both countries there was also an expectation of some type of reconciliation event acting as a catalyst to promote a feeling of reconciliation amongst the general population (see Chapters 9 & 10).
11.1.4 Public Apologies and Reconciliation

Further insights into ideas about reconciliation were revealed by answers to my question about reactions to Khieu Samphan’s apology in Cambodia, and to Kambanda’s admission of guilt in Rwanda. Responses of both Cambodians and Rwandans suggested a lack of faith in the authenticity of the apologies and confessions offered by the alleged perpetrators of genocide in their respective countries. In the Cambodian case, the impact of Khieu Samphan’s apology was limited by many factors, including the fact that it was delivered in English to the foreign press rather than in Khmer to the Cambodian people. It was also tainted by the link to amnesty and ‘national reconciliation’ as promoted by Hun Sen, rather than an authentic people’s movement for reconciliation. In the Rwandan case, Kambanda’s confession was delivered in the context of an international trial, and was thus linked with the idea that he was trying to encourage a more lenient sentence from the court.

The responses of the Cambodians and Rwandans interviewed suggested that authentic expressions of remorse and acknowledgement of wrongdoing by the former Khmer Rouge and Hutu extremists respectively would go a long way towards promoting reconciliation in each society. Even though Cambodian and Rwandan interviewees did not refer to acknowledgement and apologies as part of their definitions of the term reconciliation, they nevertheless revealed that this aspect of the Western or Christian definition of ‘reconciliation’ is still very relevant to them.

On the other hand, the apology/forgiveness aspect of reconciliation was not given as much weight as the need for legal justice – to see the perpetrators punished. In both
cases, the emphasis was on the need for the leaders or those perceived as most responsible for the crimes to be tried and convicted. The Cambodians interviewed were less interested in apologies, presumably because of their strong desire for justice that had been denied them so long, or because of the perceived irrelevance of the concept in Buddhism. Animosity towards all in the perpetrator group was still expressed, including a reluctance to live with any who killed. This observation is contraindicated by expectations based on religious affiliations: Cambodian responses were not consistent with Buddhist ideas of oneness and identification with the perpetrator, perhaps because of a loss of faith in Buddhist principles following the Khmer Rouge period.

11.1.5 Relationship between Justice and Reconciliation

When I mentioned to an educated male Cambodian interviewee (C10) that my research topic was on justice and reconciliation, he responded by saying that: “the two are not linked in Cambodia at the moment. They are like oil and water – they don’t mix!” He went on to say that “if you really look at them seriously, they do go together. They are intertwined – but politically they’re not.”

R9, a Tutsi genocide survivor, suggested that:

Justice should solve problems. It is a condition for reconciliation. If survivors are given special consideration — psychological, economic and social justice [as well as legal justice in the form of punishment of those involved] — then reconciliation will come. You can’t tell people. It is a long process but it must start now.
In Rwanda my respondents stressed that many Hutu did not kill and were also victims. Reconciliation with non-killers was possible, but justice was necessary for those who killed. Reconciliation with those who killed might also be possible, if the perpetrators expressed remorse, but not at the expense of justice. For example, T8 (a Tutsi refugee) said he didn’t see a Hutu as his enemy: “I think about who killed my family”. He went on to say that:

In 1995, the first person I saw in my neighbourhood – I didn’t think about that she was a Hutu. I jumped to say ‘hi’, but she couldn’t look at me. She pretended not to know me because her sons killed in the neighbourhood. If she wasn’t feeling remorse then it wasn’t going to happen … My cousin – a Hutu – saved her …

The relationship between justice and reconciliation was therefore seen as interdependent by both Cambodians and Rwandans, but the issue of what type of justice and how to prioritise these processes varied both within and between the two groups. As discussed in Chapter 9, Cambodians were focussed very much on wanting justice because they had already experienced ‘national reconciliation’ as defined by Hun Sen, while in Rwanda the focus was on achieving justice ahead of reconciliation. In Cambodia the emphasis was on human rights and procedural justice, as well as punishment for the former Khmer Rouge, while in Rwanda retributive and restitutive justice were prioritised. In the next section I look at how these aspects of reconciliation and justice have actually been addressed in both Cambodia and Rwanda.
11.2 *National Government, International Community and Civil Society Responses to Genocide*

Both Cambodian and Rwanda government leaders have expressed their resentment and lack of trust, if not contempt, for the international community for its apparent duplicity and complicity in the deaths of Cambodians and Rwandans respectively. For example, when interviewed for television in August 2001, Prime Minister Hun Sen said:

> The United Nations never really understood us. In the past, when the Khmer Rouge killed people here, they were still allowed to have a seat at the UN. And when we toppled the KR and brought them to trial, the UN condemned us and gave us a hard time while still allowing the KR to have a seat at the UN.\(^{370}\)

He accused the UN of hypocrisy because it was now insisting that the former Khmer Rouge be tried for their crimes in an international court.

Both Cambodia and Rwanda experienced interference and colonisation by external powers over most of their recent history. This could help to explain the propensity to demonise the other because of a build-up of resentment and fear of being taken over and exploited. In Rwanda, this manifested in increased ethnic tensions within Rwandan society - the development of ethnic hatred as each group has experienced attacks and discrimination from the other. More recently, the Tutsi minority has experienced betrayal by the international community that failed to protect them during the genocide (and even supported the perpetrators), while the Hutu population has grown up with a

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historical legacy of being discriminated against by the German and Belgian colonisers. In Cambodia, there is a general resentment of the outsider springing from the experience of invasion and occupation by the Vietnamese and French, and the bombings and interference in domestic affairs by the US. In addition, the international community has failed them by not holding the Khmer Rouge accountable for the genocide.

Both countries have experienced abandonment, if not abuse, by the international community. In both cases, the UN and its member states have shown a bias towards supporting the perpetrators of genocidal violence because they were regarded as the legitimate governments of the country in question. The Hutu government which perpetrated discrimination and genocide was supported while the Tutsis were seen as foreign invaders, while the Khmer Rouge was recognised as the representative of the Cambodian people (even though they were responsible for the deaths of more than 10% of the population) and the Vietnamese who overthrew Pol Pot were regarded as foreign invaders and occupiers.

The Cambodian and Rwandan governments differed markedly in their approaches to justice and reconciliation in the aftermath of genocide. The political compromise reached during the UNTAC negotiations and the UN-supervised elections held in 1993 resulted in a Cambodian government that was unstable and (as outlined in Chapter 4) subject to political power struggles. The nominal inclusion of the Khmer Rouge in the peace settlement and the international community’s reluctance to pursue legal accountability for the atrocities committed during the Khmer Rouge regime did not set a good example for the new Cambodian government. The climate of impunity was
seemingly endorsed by the international community, at least initially, giving the Hun Sen government that eventually took control greater confidence in avoiding the issue of justice for the former Khmer Rouge to the extent that former KR leaders were even welcomed back with offers of amnesty. According to Hun Sen, this was part of a conscious strategy to promote national reconciliation or reintegration of the former KR into the general Cambodian population.

Despite this rhetoric of national reconciliation, the people of Cambodia do not seem to have accepted this process of reconciliation as a substitute for justice. According to my interviews and the research of others in the field, many Cambodians want to see at least the leaders of the Khmer Rouge tried and punished for their crimes. As argued by a human rights NGO director interviewed by Ramji (1999):

National reconciliation is an important goal, but there are limits to the supremacy of this goal. King Sihanouk uses the example of Saddam Hussein – everyone knows that he has done wrong, but nobody captures him. This is no excuse for impunity!371

In Cambodia, reconciliation and justice have been seen as separate and competing goals of post-conflict peacebuilding. I would argue that this is most likely because of how Hun Sen has defined reconciliation for the people of Cambodia: a political compromise that is a substitute for justice. By contrast, the Rwandan government has embraced

371 Interview #4 (male, head of human rights NGO), conducted by Jaya Ramji on 3 June 1997 in Phnom Penh, Cambodia, as part of a project funded by the Cambodian Genocide Program and Schell Center for International Human Rights, Yale University (Ramji, 1999). Taken from transcripts of interviews provided by Jaya Ramji.
justice as a necessary component of reconciliation. Unlike Cambodia, Rwanda has received the consistent support of the international community in prioritising justice.

In Rwanda, the approach of both the government and international community has been inclusive of reconciliation, at least in terms of rhetoric. In practice, as discussed in Chapter 10, the ICTR did not initially operationalise the goal of reconciliation as included in its mandate, and the Rwandan government was similarly slow in promoting reconciliation. Subsequently, however, both the ICTR and the Rwandan government have introduced measures that explicitly seek to promote reconciliation. As outlined in Chapter 10, the Rwandan government established the National Unity and Reconciliation Commission and is introducing a form of the traditional “gacaca” courts to foster reconciliation as part of the legal justice process. The ICTR, meanwhile, has taken a more proactive role in communicating the proceedings of the Tribunal to the Rwandan people and in providing “compassionate restitutive justice” in an attempt to influence reconciliation (Moghalu, 1998).

A point of similarity between the Rwandan and Cambodian cases is that neither country has embraced the idea of a truth commission. The United Nations has recommended a truth commission for Cambodia in addition to trials for the former Khmer Rouge. Neither of these options has been fully accepted by the Cambodian government, nor have they been completely rejected. Hun Sen’s opinions on both have been inconsistent, an approach consistent with his style of leadership: to be unpredictable and noncommittal in his dealings with the international community. The feelings of the
Cambodian people also seem to be mixed on the desirability of a truth commission; they are much more clear that they want a legal trial.

It has been suggested that a truth commission would not be appropriate in a Buddhist country such as Cambodia, because of the different approach to forgiveness and reconciliation. (as discussed in Chapter 9 and later in this chapter). And yet Rwanda, a predominately Christian country, has also been reluctant to pursue the truth commission option. In part this could be attributed to the perception that a truth commission implies amnesties, and therefore would not be compatible with the ICTR and domestic trials. The only proposals for a Rwandan truth commission have come from foreign NGOs, and not from the United Nations, although the Rwandan government has actively considered and rejected the South African TRC model.

According to Lemarchand (n.d.), “justice and truth are singularly elusive; in each case [Bosnia, Cambodia and Rwanda] truth, like memory, is intensely politicized”. This claim supports the lack of pursuit of a truth commission option by either Hun Sen or Kagame; in both Cambodia and Rwanda the current governments have a stake in not uncovering the whole truth about the past as it could undermine their legitimacy and their policies towards the former Khmer Rouge and Hutu respectively. At the same time, others such as Mamdani (2001) and Mironko (1998, p. 7) have argued that only by reconstructing a unified historical truth for Rwanda (and, I would add, for Cambodia) can the rule of law be established and the means of reconciliation be created.
In the case of Rwanda (and also former Yugoslavia) the UN has regarded international tribunals and truth commissions as incompatible, and the Rwandan government seemed to agree. By contrast, the UN Group of Experts recommended both for Cambodia. Two more countries facing the need for transitional justice processes as part of post-conflict peacebuilding, Sierra Leone and East Timor, have subsequently indicated that they will establish both truth commissions and legal accountability mechanisms. This suggests a trend in the international community and post-conflict countries towards a greater acceptance of the interdependence of reconciliation and justice as discussed in Chapters 7 and 8.

Another interesting area of commonality and difference is the role of civil society in reconciliation in both countries. Admittedly this has happened more quickly in Rwanda, but in both countries NGOs have led the debate on reconciliation. As discussed above, governmental bodies in Rwanda (both national and international) have followed the NGO lead towards a greater role in promoting reconciliation. NGOs in Cambodia have become increasingly active in consulting with the people about their ideas and desires in relation to justice and reconciliation. This model of community consultation has not been followed in Rwanda, except in relation to certain aspects of the gacaca court implementation (including voting for judges). The Rwandan government has been autocratic in its approach, presuming to speak on behalf of the Rwandan people and their needs. In Cambodia, the government has allowed the civil society to grow and to practice some democratisation at the grassroots, but has so far been reluctant to take any notice of the views of the people in determining government policy. A model of
community inclusion in political decision-making relating to justice and reconciliation is provided by East Timor, as discussed in Chapter 8.

In the immediate aftermath of the Rwandan genocide, only foreign NGOs were involved in promoting reconciliation; for the local people it was too soon, except for some religiously motivated Rwandans who tried to bring Hutus and Tutsis together in workshops (see Chapter 10). Even though the ethnic character of the enmities in Rwanda appears to make them so much harder to overcome, it is clear that the ostracism of the former KR is also significant in Cambodia. The former KR tend to live separately, as do the Hutu and Tutsi in the aftermath of the genocide, and the survivors I interviewed in both countries expressed a reluctance to live and work alongside those associated with the killings. In both cases they thought justice should take precedence over reconciliation, especially in relation to the leaders in Cambodia and those who killed in Rwanda. In both countries, a distinction was being drawn between the more serious and less serious offenders, and the need for punishment versus the possibility of reintegration and reconciliation.

Also interesting in both cases was the evidence I found of widespread acts of revenge immediately following the genocides. In Cambodia, people spontaneously attacked and killed the KR as they fled the invading Vietnamese troops, while in Rwanda the advancing RPF massacred the fleeing génocidaires. In Rwanda, it seems that the victims did not turn on their former abusers, but this could have been because they were not in a position to do so (either they were dead or seeking refuge in neighbouring countries). It also seems that those who were in hiding still within Rwanda felt less
inclined to take revenge because they had often been saved by their ‘enemy’, and those who had actually done the killing were already on their way to seek refuge in the former Zaire/DRC. The Cambodian survivors, it seemed, had a much greater opportunity to take immediate revenge. This process was short-lived, however, as KR gathered in their strongholds in the border regions of Cambodia, and the survivors turned their focus towards survival (as evidenced by my interviewees’ stories). The RPF acts of revenge were also relatively short-lived, and once the army took control of Kigali the new government moved to a policy of legal retributive justice rather than revenge.

In both Cambodia and Rwanda I found evidence of survivors who had forgiven those who had participated in the respective genocides, and who were able to talk about the importance of reconciliation. Given the greater time elapsed since the genocide in Cambodia, it is not surprising to find this willingness to forgive to be apparently more widespread amongst Cambodians than amongst Rwandans. This ‘willingness’ occurs despite the different religious orientations that would suggest that Rwandans would be more likely to forgive than would Cambodians. The Cambodian civil society interest in reconciliation could be attributed to the role of returnee refugees influenced by their experience of Western Christian values in their countries of refuge (such as the US, France and Australia). In Rwanda, by contrast, survivors appear to be disenchanted with Christianity because of the role of the churches in the genocide. To such survivors, the Christian emphasis on forgiveness and reconciliation does not seem plausible.

In neither Cambodia nor Rwanda has any kind of reconciliation process been fully and comprehensively pursued. In relation to Mitchell’s model, for example, there has been
minimal acknowledgement of wrongdoing and only limited apologies by either the former Khmer Rouge or Hutu extremists. Acceptance of joint responsibility for the past is totally absent in both countries, although in Cambodia this is arguably less relevant because there was a clear perpetrator and a clear victim group rather than both groups sharing some responsibility. In Cambodia there has been no restitution, and this has not been sought. In neither case could one say that a state of reconciliation has been achieved.

Habel’s principle of truth has not been achieved in either country, nor have his principles of forgiveness and suffering that are part of the process of healing (Habel, 1999). Habel’s justice and identity principles are being sought in Rwanda, but not in Cambodia. In short, none of Habel’s five principles of reconciliation have been pursued in Cambodia, while in Rwanda those that have been pursued have not been achieved in practice. In neither country has there been a smooth progression towards reconciliation, but rather some evidence of progress and reaction in Rwanda and more of a deterioration path in Cambodia (Kriesberg, 1998). Justice is needed in Cambodia because political forgiveness, as described by Digeser (2001), has not been sufficient. In Rwanda, meanwhile, there is a need for political forgiveness because of the intractability of the injustice perpetrated (Digeser, 2001). In both cases, international political agendas determined whether international justice would be pursued, and the political priorities of the national governments have determined the shape of domestic justice. In neither case has the needs of the general population been taken into account in designing reconciliation and justice processes.
11.3 The Roles of Culture, Religious Beliefs and Institutions

Rwanda has a clearly articulated traditional indigenous concept of justice and community-based legal mechanism known as *gacaca* (as outlined in Chapter 10). However, this was overlaid with the European justice system and Christian religion brought by the German and Belgian colonisers. This mix was reflected in the responses I received when interviewing Rwandans about the meaning of justice. For example, one Tutsi survivor defined justice as "somebody who is a victim of something gets compensation and the person responsible gets sentenced", clearly a combination of restitutive and retributive components. It is therefore not a simple process to determine the most appropriate means of implementing justice in response to the genocide. For example, the Rwandan government has instituted local trials and the international community has created the ICTR, both of which follow the Western legal system. However, both the Rwandan government and international community have also raised the possibility of using the indigenous concept of *gacaca* to help in the post-genocide reconciliation process.

Cambodia, by contrast, never followed the principle of equality before the law and its traditional law included provision for torture (Vickery & Roht-Arriza, 1995). Mediation was and is used as a traditional form of dispute resolution in rural areas in Cambodia, not unlike the Rwandan traditional *gacaca* system, with a central importance placed on "open and public discussion and the achievement of consensus" (Collins, n.d.,
p. 17). However, passing disputes up to higher authorities and the courts was seen by the villagers as “dangerous and expensive”, according to Collins (n.d., p. 16).

According to Vickery (1984, p. 15), “for the rural 80-90 % of the Cambodian people arbitrary justice, sudden violent death, political oppression, exploitative use of religion and anti-religious reaction, both violent and quiescent, were common facts of life long before the war and revolution of the 1970s”. The French colonial legacy of privilege for the elites and corrupt legal system lasted until the civil war beginning in 1968, and following 1970 the Cambodian people suffered successive incompetent and brutal regimes until the Vietnamese invasion in 1979. The Vietnamese effort to implement the rule of law in Cambodia was severely hampered and inevitably flawed, but by the latter years of the PRK regime people did experience a much improved legal order, personal freedom and respect for human rights (Vickery & Roht-Arriaza, 1995).

Following the 1993 peace accord the UN, in conjunction with local NGOs who were established in the wake of UNTAC, attempted to develop a human rights regime in Cambodia, with mixed success. The focus on future safeguards rather than addressing past human rights abuses supported a culture of impunity for the perpetrators of genocide. The Cambodian people have not displayed acceptance and trust for the new police, legal and judicial systems due to the continuing political violence, widespread disrespect for the rule of law, and ongoing failure of the government to protect human rights. Interpersonal disputes and crime are generally resolved using vigilante justice:

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372 Further insights into Cambodian approaches to conflict resolution could be obtained by Khmer readers by consulting the CICP publication Cambodian Approaches to Conflict Resolution. Unfortunately an English translation was not available at the time of this study.

373 Many of the foreign NGOs which operated in Cambodia during and immediately after the UNTAC period have been transformed into Cambodian-run NGOs, many of which focus on human rights.
the rule of law is community rather than government-driven. The Cambodian people appear to be afraid to criticise their government, although a reported 90% of the population turned out for the elections in July 1998 and returned Hun Sen to power. As I was told by several of my interviewees working in human rights organisations, Cambodians are intimidated by threats of government-sponsored violence.\textsuperscript{374}

At one stage, Cambodia was referred to as the “Gentle Land of Smiling People”, but this view of the Khmer people changed dramatically with the stories that emerged of the horrors of the Pol Pot era. The contrast between the glorious Angkor era and the poverty of the people colonised by the French reinforces this picture of a contradictory and inconsistent Cambodian personality and culture (Bit, 1991).\textsuperscript{375}

The unique mix of Indian, Chinese, Vietnamese, Thai and French influences on Cambodian culture is immediately apparent to the international visitor – not only in the diverse blend of food-styles and restaurants, but also in the religious practices and temples that have re-emerged since the Pol Pot period as an important basis of social life for many Cambodians. My guide took me to various temples in and around Phnom Penh that incorporated both Brahmin and Buddhist deities and rituals. Whilst Buddhism is certainly the dominant religion today, it seems that, at least for some Cambodians, the influence of Brahminism is still current. As an outsider I was surprised (and puzzled at first) by how my guide seemed to take the mixing of religions in the temple ruins totally for granted. In response to my questions, he described his beliefs as incorporating

\textsuperscript{374} I was shown photographs displaying the results of horrendous violence perpetrated on individuals, both government-sponsored and examples of vigilante justice in response to crimes.

\textsuperscript{375} The Cambodian expatriate scholar and psychologist, Seanglim Bit (1991), has produced a fascinating account of the psychosocial roots of Cambodian culture and the impact of the trauma experience on prospects for developing a just and peaceful society.
aspects of both Brahminism and Buddhism, as well as Christianity. Of the Cambodians I interviewed, the majority identified as Buddhist, while a few were Christians, and some did not report any religious affiliation.

Chandler (1996) identifies patronage and hierarchy as pervasive themes in Cambodian “thinking, politics, and social relations” (p. 2), even though the bureaucratic institutionalising of hierarchy was brought by the Vietnamese and French. The pervasiveness of hierarchy was certainly evident in my experience of the Cambodian bureaucracy as I endeavoured to obtain permission to interview members of the government, public service, and university. I also observed the deference and politeness of Cambodians towards those in authority in business and family environments. My guide, interestingly, did not seem to fit this mould of respect for authority and the group. For example, on several occasions he was quite impatient and ‘pushy’ when obtaining service (in a shop or restaurant), and he was apparently somewhat unpopular with his fellow moto drivers – I presumed because of his more independent and entrepreneurial approach that was less socially acceptable.

This deference to authority can help to explain the ease with which Pol Pot and his cohort were able to gain the unquestioning obedience of so many young Cambodians in carrying out their social revolution. Hinton (2002) proposes another aspect of Cambodian culture that contributed to the genocide, what he calls “the Cambodian model of disproportionate revenge”. Hinton concluded from his 15 months of anthropological fieldwork in Cambodia in 1992 and 1994-95, that Cambodians are socialised to value honour and shame and thus, in an effort to regain their honour, they
may resort to disproportionate vengeance (2002, p. 261). According to Hinton (2002, p. 158), “vengeance has a distinct moral basis in Cambodian culture”: “just as people must return a good deed, so too are they morally obliged to repay a bad deed”. When Cambodians lose face they tend to hide their anger inside their bodies, and this storing of memories or grudges can later manifest as an act of revenge (p. 259). In this way, Pol Pot and his KR ideology were able to manipulate a build-up of class resentment through propaganda and basic education about class struggle to encourage the poor “to take revenge upon the rich for past abuses” (Hinton, 2002, p. 260). To illustrate this, Hinton tells the story of a ‘new person’ who joked to others in his work group that “such Khmer Rouge cadre were not ‘communist’ (kommuyonis) but ‘revenge people’ (kum-monuss) … All they know is that city people like us used to lord it over them and this is their chance to get back.” (Hinton, 2002, p. 271)\(^{376}\)

The deference to authority displayed by Cambodians and the Buddhist teachings on forgiveness should not, however, be interpreted as meaning that “inaction in the face of injustice” can be justified, according to Khemacaro (1998). Despite the “strong disincentive among monks and the wider population to challenge the existing social order”, Khemacaro advocates that Buddhist monks follow the principles of non-violence and neutrality in taking the “Middle Path” to become more politically active in promoting social justice.

As illustrated above, religious belief can sometimes influence a person to hold values counter to the majority of the population. For example, the focus on forgiveness

\(^{376}\) There was a similar tendency towards respect and obedience to authority developed in pre-colonial Rwandan society that has been used to explain how the genocide was able to be carried out with such efficiency (see Chapter 5).
expressed by Abbé Modeste in Rwanda coming from a Christian perspective, and Kassie Neou in Cambodia coming from a combined Buddhist and Christian perspective, could be seen as out of step with the prevailing calls for justice in both countries. While the Christian approach to reconciliation has been well-canvassed in Chapter 7 of this thesis, the Buddhist influence on Cambodian society requires some further exploration.

11.3.1 Cambodia: Buddhism and Reconciliation

According to May (1994, p. 177), “reconciliation – bringing people or their viewpoints together (again), helping people to be of one mind – certainly has a place in all strands of Buddhist tradition”. Why, then, do Cambodians and others exposed to a predominantly Buddhist culture decry the relevance of reconciliation to their situation? For someone brought up as a Christian, the Buddhist mindset is hard to comprehend in theory and practice. This is equally true for the Buddhist: understanding the relevance of the Christian concept of reconciliation is difficult. Opening a text on Buddhism, one does not find the word ‘reconciliation’, even in the context of peacemaking (see, for example, McConnell, 1995). However, as explained by May (1994, pp. 181-2), “universal reconciliation, including within its scope the natural as well as the human world, is the ultimate aim of Buddhist practice”. The terminology and the philosophy are different, but the outcome is remarkably similar.

As described by May (1994), the actions of the Dalai Lama, Sulak Sivaraksa and Thich Nhat Hanh from three different Buddhist traditions illustrate leadership in reconciliation akin to that demonstrated by Christian-influenced leaders such as Nelson Mandela and Xanana Gusmao. The Dalai Lama stresses the importance of compassion, love and the
oneness of human nature everywhere. As a result, “no word of condemnation of the Chinese themselves has ever escaped his lips” (May, 1994, p. 179). Nelson Mandela negotiated with the white South African political leaders to obtain a peaceful transition to black rule, while East Timorese leader Xanana Gusmao treated the Indonesians as allies in the liberation of his country from oppressive Indonesian rule. In all three cases, reconciliation is favoured over violence and hatred.

Christian philosophy promotes the idea of dualities – of good and evil, right and wrong – and reconciliation involves overcoming differences through a process of contrition and forgiveness. In Buddhism, differences are transcended and dualities denied. There is no need for apologies and forgiveness. As described by Sulak Sivaraksa, the key to reconciliation in Buddhism is that we “must come to see that there is no ‘other’” (as quoted in May, 1994, p. 179). Or as expressed by Thich Nhat Hanh, the most important teaching of Buddhist non-duality is that “interbeing means that you cannot be a separate entity. You can only interbe with other people and elements” (as quoted in May, 1994, p. 179). This involves by necessity the complete identification with the evil-doer: “I am the twelve-year-old-girl, refugee on a small boat, who throws herself into the ocean after being raped by a sea pirate, and I am the pirate, my heart not yet capable of seeing and loving.” (Thich Nhat Hanh, quoted in May, 1994, p. 179). In Christianity, the focus is on forgiving the evil-doer: “Father, forgive them; for they know not what they do.”  

Nhat Hanh’s description of identifying with the oppressor as well as the oppressed is reminiscent of modern Western ideas of conflict resolution and reconciliation in which

the goal is to recognise the suffering of the other and forgive the perpetrator (Montville, 1993). In Buddhism, however, the interpersonal transaction of contrition and forgiveness is not necessary:

Reconciliation is to understand both sides, to go to one side and describe the suffering being endured by the other side, and then to go to the other side and describe the suffering being endured by the first side. Doing only that will be a great help for peace ...(Nhat Hanh, 1987, reprinted in Barash, 2000).

It is as if reconciliation is automatically part of Buddhist philosophy of living – there is no need to do anything, just to be, in order to be reconciled with all people and all things. As described by May (1994, p. 180), “the Buddhist doctrine of the interconnectedness of all things grounds a practice of universal reconciliation which refuses to take sides because it transcends all possible partisanship”.

So where does this leave the idea of reconciliation processes in a Buddhist country such as Cambodia? Is it simply a case of spiritual or religious acceptance or transcendence? If this were true, why are so many Cambodians calling for justice for the former Khmer Rouge? Is this the result of Western, Christian influences, or is the apparent incompatibility of justice and reconciliation illusory in Buddhism as it is in Christianity? The answer may lie in the need to breakdown the meaning of justice. What is the motive for Cambodians calling for justice for the Khmer Rouge?

The focus of my interviewees’ responses was on fairness rather than punishment, which is consistent with Buddhist beliefs and principles: retribution is a function of the Law of
Karma and does not need human intervention to implement. As described by a former Government Minister interviewed by Ramji (1999):

Cambodians must try to heal their wounds; to do so they must give amnesty and forgive each other. ... It is very difficult to forget hatred. We must return to the primary Khmer nature of tolerance; this is what Buddha teaches us. ... We can transform perpetrators of evil deeds just by talking to them, without violence and without prisons.378

On the other hand, the strong call for international justice in the form of a tribunal can be explained by combining Hinton’s model of “disproportionate revenge” with a Buddhist ‘Middle Path’ focus on reforming the wrongdoer as well as forgiveness and political action to correct injustice (Hinton, 2002; Khemacaro, 1998). As described by another one of Ramji’s interviewees:

The trial is not important simply as a method of individual punishment. More crucially, it should be used as a lesson, and the mistakes must be pinpointed and distributed. It is more important to set an example in order to prevent further genocidal regimes than to simply punish KR criminals.379

The Buddhist notion of justice is not related to punishment or retribution and would seem at face value not to be addressed by a tribunal. Although in the absence of any other acknowledgement of the ‘truth’, a legal tribunal could provide this function. As

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378 Interview #3 (male, former Government Minister), conducted by Jaya Ramji on 2 June 1997 in Takhaeo Province, Cambodia, as part of a project funded by the Cambodian Genocide Program and Schell Center for International Human Rights, Yale University (Ramji, 1999). Taken from transcripts of interviews provided by Jaya Ramji.

379 Interview #6 (male, political party leader), conducted by Jaya Ramji on 4 June 1997 in Kampong Speu Province, Cambodia, as part of a project funded by the Cambodian Genocide Program and Schell Center for International Human Rights, Yale University (Ramji, 1999). Taken from transcripts of interviews provided by Jaya Ramji.
outlined by Burmese pro-democracy leader Aung San Suu Kyi, acknowledgement is critical to justice that is consistent with reconciliation:

This is why we are talking about the connection of truth and reconciliation. I think that first of all, their sufferings have to be acknowledged. You can’t just wipe away the past. If you try, there will always be this ocean of festering resentment within those who have truly suffered. They will feel that their sufferings have been pushed aside, as though they’ve suffered for nothing; as though they’ve undergone torture for nothing; as though their sons and fathers had died for nothing. Those people must have the satisfaction of knowing that their sufferings have not been in vain, and this very fact, that there’s an admission of the injustice done, will take away a lot of the resentment. (Suu Kyi & Clements, 1997, p. 86)

And yet, the lack of Cambodian interest in a truth commission displayed by my interviewees seems to argue against the importance of acknowledgement for reconciliation, unless Cambodians are interpreting the idea of a truth commission only in the sense that it was conceived in the case of South Africa, with its strong emphasis on the Christian notion of forgiveness. If so, then the perceived antipathy of at least some Cambodians towards a truth commission could be explained as a lack of interest in Christian ideas of forgiveness and reconciliation. A truth commission fashioned in a Buddhist context could satisfy the Cambodian cry for justice and acknowledgement of their suffering, as outlined in Chapter 9.
11.4 Impunity, Violence and Human Rights: The Impact on Peacebuilding

In arguing for the importance of justice and reconciliation in promoting peace, I am not suggesting that other aspects including disarmament, demobilisation and reintegration of former militia are not also critical to the peacebuilding process. As illustrated in the case of Cambodia, the failure to disarm the Khmer Rouge meant the civil war continued for another five years following the departure of UNTAC, and reduced the likelihood of national reconciliation between the political parties.\(^{380}\) In Rwanda, the continuing violence and killings perpetuated by the *Interhamwe* and other extremists groups in the northwest region, and the violent reprisals by the Rwandan government, have been major impediments to peacebuilding. These cases illustrate the importance of establishing an environment of order and military security before justice and accountability mechanisms can be effectively implemented.\(^{381}\)

The failure of UNTAC to disarm the Khmer Rouge not only impeded the promotion of peace in Cambodia, it also contributed to the continuing culture of impunity in that country. By treating the Khmer Rouge as a legitimate political party to the peace process, and failing to condemn the gross human rights abuses that they had perpetrated against the Cambodian people, the United Nations implicitly approved the Cambodian government’s approach to political reconciliation rather than accountability for the former Khmer Rouge. In Rwanda, by contrast, even though the UN did not have a formal peacekeeping mission in the aftermath of the genocide in 1994, the international

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\(^{380}\) The US Ambassador to Cambodia, for example, has attributed the apparent lack of commitment to real political reconciliation by the various factions during the 1993 peace process to the failure to disarm (quoted on CNN “Inside Asia”, 15 December 2001).

\(^{381}\) See arguments by Graham Day, former peacekeeper in East Timor, for the prioritising of order and security in peacekeeping missions (based on personal interview, US Institute of Peace, July 2001).
community showed strong support for legal accountability and thus contributed to ending the culture of impunity in that country.

There are choices to be made in negotiating peace agreements and promoting peacebuilding in relation to the relative priority placed on justice and human rights, versus peace, security and order. And yet peace with justice – or ‘justpeace’ as defined by Lederach (1999) – is necessary to support a long-term, stable peace. As seen in Cambodia, the failure to address the prevailing culture of impunity has produced a legacy of continuing human rights abuses and a desire of Cambodians to see justice done. Peacebuilding without accountability is bound to be insufficient. On the other hand, a focus on justice without considering how to promote peaceful reconciliation is also inadequate, as seen in Rwanda. Even though cultural differences influence how Cambodians and Rwandans define reconciliation and justice, my interviews suggest there is a common understanding and need for a combination of accountability, acknowledgement and peaceful coexistence. In Rwanda, survivors are also seeking restitution. How to balance these intertwining needs for justice and reconciliation is a challenge for peacebuilders that requires patience and recognition that these are complex, long-term processes. Consultation and concern for the uniqueness of each conflict situation are crucial in the design and implementation of justice and reconciliation processes to meet the multiple and sometimes competing needs of the various members of the society in question.
PART V
RECONCILING THE THESIS

In Chapter 12, I conclude with an overview of the lessons that can be learned from this study of post-conflict peacebuilding in Cambodia and Rwanda for conflict resolution and peacebuilding in other situations. I look at how national and international political priorities have played a significant role in determining the approaches taken to justice and reconciliation in Cambodia and Rwanda. A culture of impunity has resulted in continuing violence and abuse of human rights in Cambodia, while a lack of emphasis on reconciliation has undermined the impact of justice initiatives on building peace in Rwanda. I argue that international interveners need to focus more on justice and reconciliation, and that the needs and involvement of the local populations must be given more priority in the design and implementation of peacebuilding processes.
CHAPTER 12

LESSONS FOR THE FUTURE: IMPLICATIONS FOR CONFLICT RESOLUTION AND POST-CONFLICT PEACEBUILDING

We have no illusion that any option taken will be easy – or that the results will satisfy many – but it’s a call best left to Cambodians to make. After all, it’s their past. ("Cambodians and the Khmer Rouge", Editorial, *Far Eastern Economic Review*, 18 March 1999)

This thesis highlights the challenges for the international community in assisting societies in transition to balance the complex and seemingly competing demands for reconciliation and justice. In both Cambodia and Rwanda, the idea of perpetuating a culture of impunity in the aftermath of genocide has been rejected by non-government organisations and other representatives of civil society, but only in Rwanda did the government and the United Nations immediately and fully support the establishment of legal justice mechanisms to prosecute the perpetrators. At the same time, the Rwandan government also established a National Unity and Reconciliation Commission, and the mandate of the ICTR included the promotion of reconciliation in Rwanda. Reconciliation and justice have thus been regarded as compatible goals in Rwanda, although with legal retributive justice taking the lead. In Cambodia, by contrast the two goals of reconciliation and justice have been seen as alternatives. In the interests of peace and stability, the UN-brokered peace agreement ignored the need for justice, and the Cambodian government has been reluctant to support the establishment of an international tribunal. Prime Minister Hun Sen appears to equate amnesties for the
former Khmer Rouge with a government policy of national reconciliation, and to see the pursuit of trials as a threat to peace and stability.

The tendency to regard justice and reconciliation as incompatible goals was also demonstrated in the former Yugoslavia, as discussed in Chapters 7 and 8. However, attitudes appear to have evolved over the past few years towards a more inclusive approach to promoting both justice and reconciliation as part of post-conflict peacebuilding. This is illustrated by the cases of Sierra Leone and East Timor where the international community is supporting both truth commissions focusing on restorative justice and reconciliation, and tribunals where the primary goal is retributive justice (see Chapter 8). Both the ICTR and Rwandan government have increasingly recognised that types of justice other than retributive are also important and can be more compatible with reconciliation: the ICTR is pursuing restitutive justice and the Rwandan government is placing a greater emphasis on restorative justice.

How can these different national and international responses to justice and reconciliation be explained and influenced? Boraine (2000, pp. 382-5) proposes a model to describe how new democracies in transition deal with retroactive justice. He proposes that:

A country's particular mode of transition and level of political restriction define the parameters of the choice between the competing theories of retroactive justice. The more that peaceful coexistence is a stated goal of the transition, the greater the political restrictions faced by the transitional government. Moreover, history bears out that as the level of restriction
increases, transitional societies turn away from retributive models and towards more restorative models of justice.

The transition mode in South Africa was by negotiation followed by election loss, and thus restorative justice and lustration in the form of amnesties and a truth commission were the favoured response. Rwanda’s transition resulted from a victory in armed conflict, which is consistent with the emphasis on retributive justice and criminal trials. The later turn to more restorative justice processes in the form of gacaca trials was motivated by a need to deal more efficiently with the large numbers in jail. Indirectly, this reflects a concern with what’s next in the transition: the likely need for elections and support from the Hutu majority. Greatly outnumbered and feeling insecure, the Tutsi-dominated Rwandan government is showing increasing concern with promotion of policies of national unity and reconciliation. The Cambodian situation most closely resembles the category of transition from a communist regime, with the implications of guilt associated with some members of the current government, including Prime Minister Hun Sen, combined with a negotiated settlement. Hence Cambodia’s focus on amnesties and impunity is not surprising according to Boraine’s model. The Khmer Rouge were defeated in armed conflict by the Vietnamese, but the peace agreement was negotiated.

The cases of Cambodia and Rwanda thus support Boraine’s model and conclusion that socio-political circumstances rather than moral or legal considerations determine the form that justice can take in societies recovering from mass violations of human rights under a former regime. This model suggests that the international community can have
little influence on the type of transitional justice mechanisms pursued in any particular case. Regard for the sociopolitical situation can determine whether a truth commission or a tribunal can be established (Boraine, 2000). On the other hand, the model does not fit so neatly with the case of the former Yugoslavia. In fact, it identifies the tension experienced in the former Yugoslavia with the international community trying to pursue trials (that would be indicated by a military victory) when the conflict was ended by a negotiated settlement. The complexity of the features of the Yugoslav conflict and its conclusion is at least consistent with the lack of clarity over what transitional justice mechanisms to pursue – a tribunal only, a tribunal and truth commission, or impunity (as apparently favoured by some in Serbia).

In both Sierra Leone and East Timor, both truth commissions and criminal prosecutions are being pursued. How did this come to happen in Sierra Leone and East Timor, and not in Cambodia or Rwanda? In Sierra Leone, there was a clear tension between the perceived need to offer amnesties in order to secure peace, and the desire to offer justice for the survivors and victims. It was a negotiated settlement, but with a component of military defeat, which could explain the initial focus on amnesties and a truth commission followed by a switch to a tribunal. East Timor was much more a moral defeat than a military defeat, followed by an election, somewhat similar to South Africa. Thus the call for a truth commission is not surprising, but the strong focus on trials and prosecutions is not explained by Boraine’s model.

In addition to the characteristics of the transition, the motivations of the international community also vary in different cases. Again, rather than being determined by
international law or morality, international organisations and single countries “often determine their course of action on the basis of political considerations and self-interest” (Boraine, 2000, p. 386). In the case of Rwanda, the international community had nothing to lose politically and everything to gain by supporting a tribunal. The stability of Rwanda is of little strategic significance, so a divisive tribunal would not be a potential threat. On the other hand, the international community had a lot to gain legally and morally by prosecuting the perpetrators of the genocide they had failed to prevent. By contrast, at the time of the Vietnamese victory over the Khmer Rouge, and again during the peace settlement, the UN and its member states had a political stake in not upsetting the boat and pushing for legal accountability. In East Timor, the international community was morally predisposed to favour a tribunal because of its failure to prevent the suffering of the East Timorese, but politically nervous because of the desire not to upset the powerful Indonesian former occupier. This tension can be seen in the “on-again, off-again” support for the tribunal depending on the perceived support from Indonesia.

In East Timor, strong moral leadership appears to have played a major role in keeping reconciliation processes on the agenda in addition to prosecutions. Xanana Gusmao’s approach mirrors that of Nelson Mandela in his willingness to engage with ‘the enemy’ in a spirit of true reconciliation. This type of leadership is notably absent in both Cambodia and Rwanda. Even though Hun Sen has clearly engaged with ‘the enemy’, his focus on ‘national reconciliation’ has been perceived as false or cheap reconciliation. Whilst Gusmao constantly refers to and empathises with the suffering of his people, Hun Sen is seen as a leader who is driven by political ambition and not
sincerely interested in the well-being of his people. Kagame, meanwhile, has engaged in a ‘war’ against ‘the enemy’ – *Interahamwe* and other Hutu extremists still operating in parts of the DRC and northwest Rwanda.

Decisions in relation to transitional justice therefore depend on the political priorities of both national and international actors, as well as the type of event leading to the transition. In this thesis, I argue that both national and international actors need to play a role in developing transitional justice mechanisms that more comprehensively meet the justice and reconciliation needs of the population in transition. Roht-Arriaza (1995) describes how the state in transition is ultimately responsible for transitional justice, but that the international community is morally and legally obliged to play a supporting role in ensuring legal accountability is pursued:

> Ultimately, responsibility to investigate, prosecute, and provide redress will remain largely with each state for the foreseeable future... International actors can help move us closer to the ideal by providing support for governments attempting to overcome impunity, by refusing to recognize or support de facto regimes that overthrow elected governments, and by consistent and steadfast enunciation and application of the applicable legal norms. We owe the victims of mass executions, disappearances, and other crimes no less. (Roht-Arriaza, 1995, p. 304)

It is no good relying on governments to bring their own nationals to justice. This point has been illustrated most recently in the failure of the Indonesian government to effectively prosecute those responsible for the human rights abuses and massacres of the
East Timorese during 21 years of Indonesian occupation. The Cambodian government has not displayed a strong commitment to bringing the Khmer Rouge leaders to justice, while in Rwanda the government appears to be implementing victor’s justice at a slow and ineffective pace while the RPF perpetrators of crimes against humanity remain largely unpunished.

Despite the inadequacy of relying on national governments, respect for state sovereignty, as well as political priorities, have impeded the international community in the implementation of international criminal law. The international war crimes tribunals for the former Yugoslavia and Rwanda are the first such tribunals since Nuremberg and Tokyo following World War Two. For the first time, the crime of genocide is being prosecuted. An *ad hoc* tribunal is also being negotiated for Cambodia, but only after Pol Pot has died and most of the other Khmer Rouge leaders have been granted amnesty by the Cambodian government. Finally, after 50 years, an International Criminal Court is to be established which should assist in the prosecution and punishment of perpetrators of genocide and other war crimes. The ICC will overcome to some extent the need to rely on the political will of the international community to establish *ad hoc* tribunals as in the former Yugoslavia and Rwanda, but it will still be limited by state sovereign rights and will only be able to pursue cases with the approval of the UN Security Council.

It has been argued that if *ad hoc* tribunals and the much vaunted International Criminal Court are to succeed in preventing future war crimes from occurring, the international community must be seen to be taking a strong stand in punishing war criminals.
regardless of their political standing and seeming importance in the peace process. However, it has also been suggested that psychological processes of apology and forgiveness may be more significant in promoting deterrence as well as reconciliation in at least some cultures.

There is no clear answer regarding whether international tribunals, domestic prosecutions or truth commissions, or a combination of these approaches, are the optimum means of achieving justice and reconciliation for peoples devastated by genocide. The answer will vary in each particular case. I have argued in this thesis that reconciliation is a process necessary for psychological healing and the ending of cycles of violence based on ethnic hatreds and resentments. But is this goal too ambitious? Should the international community be focussing simply on providing the political and economic assistance to support peaceful coexistence based on democracy and equitable distribution of resources?

It seems that this was not enough in Cambodia to produce a long-term peace; the question remains whether ending the culture of impunity in that country may yet contribute to reconciliation. In Rwanda, on the other hand, attempts to end the culture of impunity are being made at both the international and national levels, but their contribution to achieving a sense of justice and reconciliation is being undermined by the slow pace of trials and other perceived inadequacies. In the absence of authentic contrition or even acknowledgement on the part of the perpetrators, the ability of legal justice to promote reconciliation is reduced.
In both Cambodia and Rwanda, no lawyers, judges or legal system remained after the genocide. There is thus a role for the international community in capacity-building, training and possibly bringing in lawyers and judges from other countries to address immediate needs (IPA, 1996, p. 18). The international community also has a role in facilitating and supporting the establishment of truth and reconciliation commissions and dissemination of results, and in assisting in the establishment of local institutions, structures and culture to promote accountability for human rights abuses and respect for the rule of law (Kritz, 1997, p. 20). There is a potential for the international community to undertake a partnership role in empowering the society victimised by abuse. There should be local ownership of the mechanisms with international technical assistance and monitoring as necessary.

The need for justice, the type of justice and the question of "justice for whom?" should be considered by international interveners in violent conflict resolution, and local or indigenous concepts of law and justice should be taken into account in the decision to implement international justice mechanisms (Mani, 1998). As argued in my thesis, the "regeneration of a culture of lawfulness and justice ... requires the full involvement, ownership and investment of the local population in the process" (Mani, 1998, p. 17). I agree with Boraine (2000, p. 385), that the international community:

must be careful not to barge into situations of conflict offering solutions which may be unworkable or which may even exacerbate the conflict. It is always preferable to be invited, and even then one should tiptoe into traumatised societies with great sensitivity. That is not to say we should do nothing. Many societies do not have the resources to bring about even a
semblance of normality, of restoration, accountability, and reconciliation
(Boraine, 2000, p. 385).

The ultimate goal of post-conflict peacebuilding is social change. This is most obvious in the case of Rwanda where the economic inequalities and power imbalances between Hutu and Tutsi persist. During the colonial era the Tutsi dominated; the Hutu took control following independence; and then post-genocide the Tutsi regained political power. This cycle of domination and powerlessness must be broken in order to break the cycle of inter-ethnic violence. The Rwandan government’s attempts to promote a culture of inclusiveness in order to break down the ethnic divide have had mixed success. Some commentators see a lack of real commitment to the reconciliation process on the part of the Tutsi leaders, as disillusioned Hutu politicians continue to resign from the government. The fear, mistrust and hatred that have developed between Hutu and Tutsi will take a long time to overcome. In the meantime, government policies and international interventions need to focus on encouraging fair distribution of resources, housing and land use, access to training and markets, rather than strict economic efficiency goals (Prendergast, 1997, p. 177).

While there are strong calls for legal justice in both Cambodia and Rwanda, there is also a need for equitable economic development to help overcome one of the root causes of the genocide. The achievement of social and economic justice is critical to post-conflict peacebuilding. Even though Cambodians and Rwandans mostly defined justice in legal terms, their comments and answers to other questions indicated that social and economic justice were very important to them. Inclusive, democratic processes that
represent the needs of all population groups, including the minority Twa in Rwanda and the Cham and other minority groups in Cambodia, can help promote social and economic justice.

At the political level, creative ideas for power-sharing between Hutu and Tutsi will need to be developed at national, regional and local levels. Clearly and understandably, the Tutsis would want to exclude the génocidaires from political control. The model of Western democracy cannot simply be transplanted into a country with such strong ethnic affiliations and such a large discrepancy between the numbers in the two competing groups. A democratic election would return the Hutus to power, and the minority Tutsi (and Twa) would again be effectively disenfranchised and powerless in their own country – a recipe for disaster. However, a continuation of Tutsi-dominated rule over the Hutu majority without the development of institutional democracy could also spell a tragic return to inter-ethnic violence. As suggested by Drumbl (2001, pp. 228-9), “until political institutions are created to implement consociational or ethnically shared governance, peace in Rwanda will remain elusive”.

In Cambodia, the political issues are very different. It is clear that the former Khmer Rouge will not be returned to power as a political force. The perpetrators of the atrocities against the Cambodian people have mostly been isolated and excluded from the rest of Cambodian society, while those who have been integrated have been required to renounce their Khmer Rouge allegiances. As in Rwanda, social and economic inequalities in Cambodian society must still be addressed in order to avoid the recurrence of a violent revolution. The struggle for political power is also a potential
source of greater violence in Cambodia. Those who do not support Hun Sen and the ruling party feel disenfranchised and powerless to influence political decision-making. The number of NGOs and the voice of civil society have grown exponentially over the past eight years, but their impact on political decision-making is still minimal. There is a need not only for democratic elections, but also for the development of democratic institutions to support inclusive and participatory politics.

In Cambodia, there is not the same inter-ethnic hatreds to overcome, but the calls for justice and reconciliation sound similar. Even after 30 years, Cambodian genocide survivors are saying that only with justice will they be able to achieve some reconciliation with what occurred during the Khmer Rouge period.

My observations and conclusions are based on a very small sample of potential sources in Cambodia and Rwanda, and are biased almost exclusively towards the responses of genocide survivors rather than representatives of the perpetrator group. The variety and complexity of responses demonstrates the need to further explore attitudes towards justice and reconciliation in other sectors of each population (preferably making use of researchers with local language skills) and in other countries confronting the challenges of post-conflict peacebuilding. This study suggests that international interveners, national governments and local peacebuilders need to take a more inclusive and democratic approach to ascertaining the needs of all sectors of the population in relation to justice and reconciliation in the aftermath of genocide and in other transitional justice situations.
An indepth analysis of the religious and cultural influences on the attitudes of Cambodians and Rwandans towards justice and reconciliation was beyond the scope of this study. Such studies in future would be enhanced by the contributions of anthropologists and theologians who could provide more specific insights into the roles of culture and religion in the processes necessary to promote justice and reconciliation in different societies.

In practical terms, international organisations and governments would do well to employ as consultants multidisciplinary teams of analysts with specialised expertise in countries of interest around the globe. The teams would include academics as well as local workers experienced in peace, development and conflict resolution work in addition to the technical skills of providing water resources, medical services, building construction, etc. Experts in disarmament and demobilisation need to be partnered with psychologists experienced in trauma counselling, conflict resolution practitioners and those who understand the local rituals and customs.

Pankhurst (1999) argues that international involvement in post-conflict reconciliation should be limited because of problems with unclear objectives, non-existent evaluation and short timeframes. These complex issues are best left to domestic peacebuilders to implement, she maintains, while international actors should focus on assistance with justice mechanisms. This thesis refutes this argument because of the complex interdependence of justice and reconciliation processes, and the philosophical position that international politics needs to change to embrace the psychosocial in its orbit in order to be effective in the real world of human beings, emotions and relationships. The
lesson to be learnt from Pankhurst's concerns is the same as that identified by this research project: the importance of international interveners consulting and working with the people they seek to help rather than imposing ready-made solutions from outside.

I agree with Richmond (2001, p. 344):

By recognizing the intersubjective nature of conflict and its social, political, economic, ethnic, and cultural implications at local, regional and global levels, and by agreeing on some basic universal normative positions, it may well be possible to see the future of approaches to ending conflict represented as a vast web of multifarious actors operating on this framework rather than thoughtlessly imposing their own norms and objectives in the guise of conflict management, preventative diplomacy, or peace building. In this way, approaches to conflict become sensitized to local conditions and to the need for broad sustainability.

The success of post-conflict peacebuilding activities is at least partially determined by the extent to which local, indigenous actors are included in peacebuilding activities. As argued by Spence (2001, p. 136), international interveners need to ensure that the ideas and activities of indigenous actors are supported.

This same lesson has been identified in the field of overseas aid and development. Development NGOs are embracing the partnership model of intervention. Governments, the UN and conflict resolution organisations have been slower to adopt this approach. In the same way that I am asking "what are the meanings of the terms reconciliation and
justice?”, development theorists are asking “what are the meanings and transitions of words such as sustainable development and local governance and the political and cultural pre-conceptions they promote?” This self-awareness of cultural assumptions and Western-biased interpretations is essential if the international community is to meaningfully assist with psychosocial peacebuilding tasks such as the promotion of reconciliation and justice. The intervener inevitably carries psychocultural baggage – whether it be religious belief, gender bias or Western liberal conceptions of justice and democracy. This baggage cannot be easily shed, but it can be made conscious and explicit in order to assess the impact on programs being implemented in other cultural contexts. The intervener’s biases can be responsibly monitored and adapted by listening to the needs and ideas of the population undergoing the peacebuilding process.

The international community is not an amorphous conglomerate; it is made up of individuals and groups with many and varied beliefs and biases. Similarly, the victims and survivors of gross human rights abuses, war and genocide also vary greatly in their needs and aspirations. There is a danger, however, that consciousness of this variety will be lost in the Western-bias towards simplifying and generalising in order to understand and apply models for intervention and peacebuilding. This tendency can be counteracted by deliberate efforts to treat each intervention as a unique case requiring original thinking and consultation to determine the most appropriate peacebuilding processes. For example, if the UN had taken into account the needs of the Rwandan people, the decision might have been made to locate the ICTR in Kigali rather than Arusha in order to have a more direct impact on the Rwandan experience of justice and reconciliation.
From my review of the literature and examination of the cases of Cambodia and Rwanda, I conclude that reconciliation and justice have been undervalued as goals by the international community despite their potentially critical role in post-conflict peacebuilding. Evidence to support this thesis is primarily theoretical and anecdotal. The uncertainties involved in defining and measuring ‘peace’ (as outlined in Chapter 2) make the task of assessing the contribution of reconciliation and justice processes to peacebuilding difficult. Nevertheless, further attempts to untangle the web of influences on the successes and failures of post-conflict peacebuilding need to be made if we are to improve the performance of the international community and the lives of those suffering from the after-effects of violence and genocide.

Cambodia is currently relatively peaceful in terms of the absence of direct violence in the form of civil war or ethnic violence. However, as discussed, human rights are routinely abused, civilian violence continues unabated, and the rule of law is generally disrespected. Poverty is widespread and Hun Sen’s rule is more autocratic than democratic. This continuing absence of both positive and comprehensive negative peace may be at least partially attributable to the lack of accountability for the crimes of the former Khmer Rouge. While the crimes of the Khmer Rouge are widely condemned and acknowledged with memorials and public statements of condemnation, the absence of any expression of contrition or even admission of responsibility by the surviving former Khmer Rouge could be seen as retarding the healing of the Cambodian people. Based on the results of my field research, I argue that a sincere apology from a former senior Khmer Rouge leader, a public accounting of the truth of what occurred during the Pol
Pot regime, and/or the successful prosecution of former Khmer Rouge, would contribute to justice and reconciliation and hence to peace in Cambodia. The question remains: can we conclude that if these events come to pass, and Cambodia becomes more 'peaceful', then the evidence could be seen as supporting this argument?

The cause and effect relationship is almost impossible to prove, but we can observe correlations and conduct in-depth investigations to determine the views of Cambodians about what they feel they need to promote peace. In other words, assessments of post-conflict peacebuilding strategies require more than empirical observation of evidence to indicate levels of 'peacefulness'. They also require an attempt to understand the perceptions of those involved in the conflict and peacebuilding process: how do they view the relationship between justice and reconciliation and peace? As suggested in Chapter 2, the political focus at the expense of the psychosocial in research is reflected in practice: international interventions are planned by politicians, diplomats and the military, and assessments are carried out by political scientists (mostly specialists in international relations) and defence analysts. The contribution of psychosocial factors and the perceptions of ordinary people (as distinct from the political elite) are not normally the subject of these disciplines. In the area of post-conflict peacebuilding, this disciplinary boundary needs to be breached.

Rwanda is also relatively peaceful from a negative peace perspective. The interethnic violence, although continuing over the border in the DRC, is no longer a major problem within Rwanda. In both countries local democratic elections are being held. Unlike Cambodia, the rule of law is quite strong. However, like Cambodia, poverty is
widespread. The government, while democratic in principle, is dominated by one ethnic
group and is wielding power over the vanquished group. The social and economic gap
between Tutsi and Hutu is widening. Positive peace has arguably not been achieved in
Rwanda.

Despite the focus on legal justice, other aspects of justice that are seen as important by
the Rwandans interviewed for this study, have not received as much attention:
restitutive justice, socioeconomic justice and restorative justice in the form of
reconciliation between Hutu and Tutsi. Again, empirical observations provide
insufficient evidence to determine the relationship between justice, reconciliation and
peace. There is a war crimes tribunal, but many Rwandans do not perceive it as
providing justice. Only by exploring the views and needs of the people for whom peace
is being sought can we hope to determine the factors that contribute to a perception as
well as appearance of peace in a particular country.

On the surface it appears that Rwanda has gone a lot further than Cambodia towards
promoting justice and reconciliation processes in a much shorter time period: there is an
international tribunal, national trials and a national reconciliation commission.
However, Rwandans reveal a continuing fear and antipathy towards the other ethnic
group – especially towards those who took part in the genocide – that is understandably
much stronger and potentially more dangerous than the Cambodian rejection of the
former Khmer Rouge. The efforts in Rwanda to bring the justice and reconciliation
processes more to the community level via gacaca trials and greater visibility of the
Arusha process are attempts to address this underlying ethnic tension. However, as
argued by Vandeginste (2001, p. 245), it is important that Rwandans “own the process” as otherwise the “prevalence of extreme suspicion and social antagonism” may make “any top-down attempt at imposing collective truth telling and the restoration of social harmony extremely difficult” and the *gacaca* tribunals will not produce the desired restorative and reconciliatory effect.

In Cambodia, I would venture to say that lack of psychological healing is the main stumbling block to peace. The perception that not only have the former Khmer Rouge not been punished, but they live more comfortably and with more privileges than the vast majority of Cambodians, is a significant concern for many Cambodians. This observation is an important argument to support the potential contribution of a criminal tribunal to building peace in Cambodia.

What can we learn from Cambodia and Rwanda for peacebuilding in other post-conflict situations? Firstly, despite the cultural and religious differences, people in both Cambodia and Rwanda express the desire for justice and accountability for the genocide perpetrators. The relative importance of pursuing retributive, restitutive or restorative justice, and how each could be best implemented, should be determined by local needs but with recognition of the valuable contribution of resources and legitimacy to be made by involvement of the international community. It may be impossible to completely heal the wounds of genocide and mass abuse of human rights, but efforts to promote justice and reconciliation can go a long way to preventing the recurrence of such horrendous violence.
Justice and Reconciliation: Post-Conflict Peacebuilding in Cambodia and Rwanda

It is very difficult to implement successful justice and reconciliation mechanisms. Even if the needs of the community in question are taken into account, these needs are by no means clear or uniform, as illustrated by the responses of my interviewees. While some people may want economic justice, others may want a public or private process of apology and forgiveness, and others may not feel reconciled until the perpetrators are punished or even executed. As outlined by Minow (1998, p. 4):

Survivors of violence often ache for retribution against identifiable perpetrators, and for public acknowledgment of what happened. Some want financial redress; psychological or spiritual healing seems crucial to others. Some survivors, and their fellow citizens, place higher priorities on moving ahead with life, building or rebuilding trust across previously divided groups, and establishing or strengthening democratic institutions. Many believe that the entire society needs to stand behind efforts to punish the wrongdoers, and to deter any such conduct in the future. People understandably may have great trouble sorting out priorities amongst these possibilities.

The international community must tread warily in its efforts to promote reconciliation in such a complex and volatile situation. A comprehensive reconciliation process needs to take all of these varied needs into account and to prioritise them without sacrificing one goal for another.

This thesis raises the question of whether it is appropriate to talk about forgiveness and reconciliation in the context of genocide. Hannah Arendt maintained that in the face of genocides, we “are unable to forgive what [we] cannot punish and [we] are unable to
punish what has turned out to be unforgivable” (as quoted in Minow, 1998, p. 4). By contrast, Digeser (2001, p. 61) argues that by “employing a secularized version of the Christian distinction between the sin and the sinner and respecting the moral worth of all individuals, no perpetrator is absolutely unforgivable”. By distinguishing “actors from their actions” we can recognise that, “while certain deeds may be unforgivable, all actors possess the capacity for social change” (Digeser, 2001, p. 61). In the context of political forgiveness, however, Digeser argues that there are situations where the minimal conditions of justice cannot be met and the evil act is “unconditionally unforgivable”, such as when the victim is dead or disappeared (Digeser, 2001, p. 63).\(^\text{382}\)

Furthermore, he argues that it is dangerous for citizens to forgive governments for acts that should not be forgiven (p. 63). In other words, interpersonal forgiveness is possible, even if the act itself is not forgivable in a personal or political context.

I would argue, from a practical perspective, that in the extreme case of genocide, forgiveness and reconciliation are most important. I am not saying it is easy, nor that justice is not also important, but that it is essential in the long-term if the survivors and perpetrators are ever to come to terms with what they have suffered or done. Drumbl (2001, p. 228), agrees that peace in Rwanda will not be possible unless “psychological transformations occur in individual Rwandans” through processes of acknowledgement and expressions of regret or remorse. The individual who does not forgive, and the group that does not forgive, will always be a victim of their feelings of revenge or guilt. Not only will they not be at peace with the other, they will not be at peace with

\(^{382}\) This situation is particularly relevant in the case of Rwanda where most of the victims died, as well as in Cambodia. However, it seems to be more of a concern for Rwandans as illustrated by their greater reluctance to forgive or reconcile on behalf of those who died (see Chapter 11).
themselves. At a psychological level, they will remain open to encouragement or manipulation by political or military leaders to wreak revenge on the other group.

My hypothesis is that cycles of violence can only be short-circuited if a process of reconciliation is entered into. Only by recognising the sufferings and understanding the motives of the other group, can a survivor of genocide ever live together in peace with members of the group that perpetrated the genocide. Similarly, only by acknowledging and expressing contrition for the crimes they have committed and the suffering they have caused can perpetrators ever hope to live together with members of the victim group (if that is the goal). This model of reconciliation fits most comfortably within a Christian culture, but as I have argued in this thesis, Cambodians influenced by Buddhist as well as Christian philosophies are asking for acknowledgement and explanations. The Cambodian dissatisfaction with the perceived insincerity of Khieu Samphan’s apology, and the call to understand ‘why’ the Khmer Rouge destroyed their own people, illustrate this point.

As expressed by a descendent of genocide survivors, an Armenian Christian:

… this rage, this desire for revenge and ‘justice’ and this refusal to forgive, is exactly the same animal instinct that leads to such atrocities in the first place. So the self-discipline of forgiveness starts right here, in my own heart, even before the perpetrator has acknowledged his/her crime … it is not … a denial of the enormity and criminality of the atrocities committed. … So it is my duty to confront the perpetrator with his/her responsibility and not to let

382 From a Christian perspective, forgiveness not only liberates the victim, it is necessary to bridge the divide “that separates us from our enemies” and thereby to liberate the soul of our enemy (Wink, 1998, p. 16).
him/her get away with the crime; it is also my privilege to offer forgiveness and to be honest with the perpetrator about my own weaknesses and propensity to commit the same crimes. And if the perpetrator remains recalcitrant, then it is not my loss but his/hers – I have gained much and lost only my bitterness and illusions of moral superiority ... Oddly enough, the impunity of perpetrators, and the unforgiveness of victims, can both lead to the same problem: recurrence of genocide. (Armen Gakavian, Genocide email list, December 1998)

This stance takes great personal courage and determination to maintain personally and in the face of others still filled with anger and hate who would argue for revenge. Many find this strength from religion, trusting their faith in a Christian God who is merciful and in whom all things are reconciled, or the Buddhist principles of loving-kindness and compassion and a belief in karma. Others are able to recognise and experience the benefits of inner peace through forgiveness and reconciliation from a non-religious (but arguably spiritual) perspective. In either case, a personal transformation is required to enable someone to experience legal justice and reconciliation in a way that extinguishes all desire for revenge.

Despite my advocacy for the promotion of reconciliation and justice in the aftermath of genocide, I would agree with Minow (1998, p. 5), that:

no response can ever be adequate ... Closure is not possible. Even if it were, any closure would insult those whose lives are forever ruptured. ... Legal responses are inevitably frail and insufficient. As Larry Langer writes: 'the
logic of law will never make sense of the illogic of genocide.' But inaction by legal institutions means that the perpetrators prevail in paralyzing the instruments of justice.

The pursuit of international justice sets an example for transitional societies as they seek to develop a new or renewed respect for the rule of law. It also serves as a deterrent to potential war criminals, and as a statement on international moral and legal values, and can thus help to prevent future abuse of human rights. It can also provide a forum for the delivery of restitutive justice. Expectations of international justice need to be tempered, however, by an understanding of the difficulties involved and the need to also pay attention to reconciliation processes. If, as has happened to some extent in Bosnia and Rwanda, the survivors put all their faith in legal justice, and successful prosecutions with adequate procedures and punishment are not forthcoming, then this could be experienced as another betrayal to fuel the desire for revenge (Minow, 1998, p. 8).

As a result of my field research interviews with Rwandans and Cambodians I felt humbled by their experiences and wisdom, and their insight into what they need and the problems they face. Who am I? Who is anyone in the international community to come and tell them what they need? There is the practical, political level and the human needs level, and we can't afford to ignore either. They need to be tackled together, as an integrated whole. Citizens are human beings with needs and wants, sometimes unpredictable. They are not pawns to be manipulated by governments and international actors; this will backfire in the end.
I don’t believe in the inevitability of the Hobbesian state of nature. Yes, human beings are selfish, but they are also capable of great sacrifice. We can nurture the cooperative, caring side of human nature to create cultures of peace if we focus on human security. Hatred and violence towards the other are based on fear and insecurity. The main barrier to reconciliation is fear, at the most basic level the fear of annihilation. The question is: how do we overcome that fear and create a climate of security?

In the aftermath of genocide, there is an overriding need to develop a safe and secure environment for the survivors or victim group to live together peacefully with the perpetrator group. At the political level, there is a need for policies that respect group identity and individual differences; do not discriminate; provide equal access to opportunities and resources; and implement justice for human rights abusers and truth-telling processes that create a common history. At the societal and individual level, there is a need for trust-building projects and problem-solving workshops that provide the opportunity to hear each others’ stories and begin to identify with the others’ experiences so the other is no longer seen as a threat. Reconciliation processes that rebuild trust are an essential component of any peacebuilding exercise. Otherwise it may prove to be potentially self-destructive and ultimately futile.

Peace is not just the absence of physical violence; it is also the presence of social justice. The psychological perception of a ‘just peace’, not just the cessation of hostilities, is critical to the long-term success of post-conflict peacebuilding. The components of a ‘just peace’ include socioeconomic justice and restorative justice as
well as legal justice and a perception of security. Lederach (1999a) identified three gaps in peacebuilding: the interdependence gap, justice gap and process-structure gap. All three are relevant to the findings of this study. Post-conflict peacebuilding that promotes transformation of conflict from destructive to constructive manifestations must focus on:

➢ the role of relationship-building both vertically and horizontally, within and between grassroots, middle-level and top-level leaders and groups, and within and between the local, national and international;

➢ the role of social and economic justice in reducing structural violence in addition to the ending of direct physical violence;

➢ and the recognition that peace and reconciliation are dynamic and ongoing processes that need to be supported by inclusive and democratic social, organisational, economic and political infrastructures.

In summary, I conclude that international interveners involved in peacebuilding need to:

➢ take into account the uniqueness of each conflict and peacebuilding situation and not impose ready-made solutions that might not be culturally appropriate or acceptable;

➢ focus on justice and reconciliation as a means of promoting long-term peace and stability; and

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384 See Lederach's definition of "justpeace" as "an adaptive process-structure of human relationships characterised by high justice and low violence; an infrastructure of organisation or governance that responds to human conflict through nonviolent means as first and last resorts; a view of systems as responsive to the permanency and interdependence of relationships and change." (Lederach, 1999a, p. 36)
address the complexities of meanings and significance attributed to justice and reconciliation in a collaborative process that prioritises the needs of the local population.

These conclusions may sound deceptively simple and obvious in this era of growing international involvement in reconciliation and justice processes as part of post-conflict peacebuilding. However, the lessons are not necessarily being implemented and bear repeating, especially in relation to conflicts where political priorities and biases can interfere with the international community’s focus on the needs of the population in question. Indonesia, Iraq, Afghanistan and Israel are just some current examples where peacebuilding could be threatened by a lack of attention to meeting human needs for justice and reconciliation. Cambodia and Rwanda illustrate some of the pitfalls of an overemphasis or insufficient emphasis on justice at the expense of reconciliation. In Sierra Leone and East Timor, reconciliation processes are being pursued for the less serious crimes, with an intention to try the more serious war criminals. But, as we are seeing in relation to East Timor, political accommodations and respect for state sovereignty can impede this process and justice can be threatened.

These lessons are important for current and future peacebuilding in other countries such as the states of the former Yugoslavia, Somalia, Sri Lanka and Afghanistan. How important or appropriate is restitution? Can the perpetrators be expected to apologise for the suffering they have caused? Is there a cultural or religious predisposition towards forgiveness and reconciliation? Is punishment or procedural justice more likely to be important? Are there local indigenous reconciliation processes that can be used in
conjunction with or instead of Western legal justice mechanisms? These questions raised in assessing peacebuilding in Rwanda and Cambodia need to be considered routinely in the design and implementation of justice and reconciliation mechanisms and processes as part of post-conflict peacebuilding. They are also relevant to considerations of how to resolve conflicts such as those between Israel and the Palestinians, Indonesia and the West Papuans, India and Pakistan over Kashmir, and the US/UN and Iraq over weapons of mass destruction. In negotiating settlements, or enforcing peace, how justice and reconciliation are addressed can be critical in determining the long-term success of the transition from peacemaking to peacebuilding.

Peace is not the endpoint of a journey, it is the journey: a process that involves constant attention to meeting human needs for justice and reconciliation. Peace, justice and reconciliation are inextricably intertwined, and efforts to promote one without the others will inevitably fail.
APPENDIX I

Convention on the Prevention and Punishment of the Crime of Genocide

*Approved and proposed for signature and ratification or accession by General Assembly resolution 260 A (III) of 9 December 1948*

ENTRY INTO FORCE: 12 January 1951, in accordance with article XIII

_The Contracting Parties,_

_Having considered_ the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world.

_Recognizing_ that at all periods of history genocide has inflicted great losses on humanity, and

_Being convinced_ that, in order to liberate mankind from such an odious scourge, international cooperation is required.

_Hereby agree as hereinafter provided:*

**Article I**

_The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish._

**Article II**

_In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:_

a. killing members of the group;
b. causing serious bodily or mental harm to members of the group;
c. deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
d. imposing measures intended to prevent births within the group;
e. forcibly transferring children of the group to another group;

**Article III**

_The following acts shall be punishable:_

a. genocide;
b. conspiracy to commit genocide;
c. direct and public incitement to commit genocide;
d. attempt to commit genocide;
e. complicity in genocide.

**Article IV**

_Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals._
APPENDIX I

Article V

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention, and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in article III.

Article VI

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Article VII

Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

Article VIII

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

Article IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

Article X

The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic shall bear the date of 9 December 1948.

Article XI

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950, the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.
APPENDIX I

Article XII

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

Article XIII

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a procès-verbal and transmit a copy thereof to each Member of the United Nations and to each of the non-member States contemplated in article XI.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected, subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

Article XIV

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.

It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

Article XV

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

Article XVI

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

Article XVII

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in article XI of the following:

a. signatures, ratifications and accessions received in accordance with article XI;

b. notifications received in accordance with article XII;

c. the date upon which the present Convention comes into force in accordance with article XIII;

d. denunciations received in accordance with article XIV;

e. the abrogation of the Convention in accordance with article XV;

f. notifications received in accordance with article XVI.
APPENDIX I

Article XVIII

The original of the present Convention shall be deposited in the archives of the United Nations.

A certified copy of the Convention shall be transmitted to each Member of the United Nations and to each of the non-member States contemplated in article XI.

Article XIX

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.
APPENDIX II

FIELD RESEARCH QUESTIONS - CAMBODIA

The following questions will be used as a guide to covering all the topics in a conversation with the interviewee rather than being asked verbatim. The topics will not necessarily be covered in the order indicated by the questions but as and when seem appropriate in the natural flow of the interview conversation. However, the questions about building peace will always be discussed before introducing the specific questions about justice and reconciliation, tribunals and truth commissions (i.e. questions 1-6 will always precede 7-11). These questions will be asked of Cambodian survivors of the genocide and their descendents as well as other Cambodians resident in Cambodia, while non-Cambodians will be asked about their observations of the attitudes of others towards the topics raised in the questions.

1. What does ‘peace’ mean to you? Is it important? Has it happened in Cambodia? If so, how? If not, how could it?

2. What do you think of what the international community is doing / has done to help end the violence and rebuild peace in Cambodia? Do you know what they have been doing to help rebuild peace in Cambodia?

3. Do you think that the former Khmer Rouge should have been punished? If so, is it still important or is it too late? How do you feel about the fact that the former Khmer Rouge leaders were not brought to justice?

4. What do you know about the current efforts to bring the former Khmer Rouge leaders to trial? Is it a good idea? Do you think it will help rebuild peace in Cambodia? Why/why not?

5. What do you know about the work of the Cambodian Genocide Program? Do you think it’s a good idea? How has having a public record of the crimes of the perpetrators and their victims affected you? Do you think this has helped rebuild peace? Why/why not?

6. Do you know about any local programs to help build peace in Cambodia? Have you been involved in any groups or projects to help people in Cambodia to rebuild their lives and live together again without violence? Do you think these types of programs are important? Why/why not?

7. What does ‘justice’ mean to you? Is it important? Has it happened in Cambodia? If so, how? If not, how could it? Is justice important for peace in Cambodia? Why/why not?

8. What does ‘reconciliation’ mean to you? Is it important? Has it happened in Cambodia? If so, how? If not, how could it? Is reconciliation important for peace in Cambodia? Why/why not?
APPENDIX II

9. Do you think there is a role for apology or forgiveness following what happened in Cambodia under Pol Pot in 1975-78? If so, who should apologise and who should forgive? Which should come first? Is it important? Why/why not?

10. Have you heard of the International Criminal Tribunals for Rwanda and former Yugoslavia? Do you think it could be useful to have a similar type of war crimes tribunal in Cambodia? Why/why not?

11. Have you heard of the South African Truth & Reconciliation Commission? If so, do you think it could be a useful type of thing for Cambodia? If there were a Truth Commission in Cambodia would you want to participate? If so, how? If not, why not?

12. Where were you in 1975-78 during the genocide in Cambodia? What happened to you and/or your family? How do you feel about it now? Who do you blame for what happened? How do you feel about them now?
Peace: សមស្រប សុីសុពី
International community: សាធារណៈអន្តរជាតិ
Rebuild peace: សម្រាប់ការកែសម្រួលក្រុងភូមិ
Khmer Rouge: គោកក្រុង
Punish: ព្រឹកព្រាយ
Documentation Centre of Cambodia: សារព័ត៌ម្វើវិទ្យាសាស្ត្រអង្គការកម្ពុជា
Justice: ស្រាវជ្រាវ
Reconciliation: សម្បត្តិប្រចាំប្រទេស សម្បត្តិប្រាំពេល សម្បត្តិប្រការ
Apology: អប់រំ អំពូលអប់រំ
Apologize: អប់រំ អំពូលអប់រំ អំពូលសុីសុពី
Forgive: អនុញ្ញាតិ សុំអនុញ្ញាតិ អនុញ្ញាតិសម្រាប់អង្គការ
Forgiveness: អនុញ្ញាតិសម្រាប់អង្គការ អនុញ្ញាតិសម្រាប់អង្គការ
Sorry: អំពូលសុីសុពី អំពូលសម្រាប់អង្គការ
War crime tribunal: សារព័ត៌ម្វើអាជីវកម្មវប្បក榛ាលាកញ្ចartz
Truth Commission: សារព័ត៌ម្វើអោយដឹកនាំសេរី
Genocide: គោកក្រុង សារព័ត៌ម្វើ ប្រតិបត្តិ
FIELD RESEARCH QUESTIONS - RWANDA

The following questions were used as a guide to covering all the topics in a conversation with the interviewee rather than being asked verbatim. The topics were not necessarily covered in the order indicated by the questions but as and when seemed appropriate in the natural flow of the interview conversation. These questions were asked of Rwandan survivors and returnees, while non-Rwandans and Rwandans working in NGOs were asked about their observations of the attitudes of others towards the topics raised in the questions. If the interviewee did not spontaneously identify themselves as a Hutu or Tutsi, the answers to the last question about their experiences of the genocide were used to deduce their ethnicity.

1. What do you think needs to happen to end the violence and rebuild peace in Rwanda?

2. What do you think of what the international community is doing / has done? Do you know what they are doing to help rebuild peace in Rwanda?

3. What do you know about the International Criminal Tribunal for Rwanda? Is it a good idea? Do you think it will help rebuild peace in Rwanda? What impact did Kambanda’s confession have on you and others in the community?

4. How about the local Rwandan trials? Are they a good idea? Do you think they will help rebuild peace?

5. Did you go to the executions? How did that make you feel? Do you think the genocidaires should be punished?

6. Do you know about any local programs to help build peace in Rwanda? Have you been involved in any groups or projects to help people in Rwanda rebuild their lives and live together again without violence?

7. What does ‘justice’ mean to you? Is it important? Is it happening in Rwanda? If so, how? If not, how could it?

8. What does ‘reconciliation’ mean to you? Is it important? Is it happening in Rwanda? If so, how? If not, how could it? Do you think there is a role for forgiveness following what happened in Rwanda in 1994?

9. Have you heard of the South African Truth & Reconciliation Commission? If so, do you think it could be a useful type of thing for Rwanda? If there were a Truth Commission in Rwanda would you want to participate? If so, how? If not, why not?

10. Where were you in 1994 during the genocide? What happened to you and your family? How do you feel about it now? Who do you blame for what happened? How do you feel about them now?
The Ministry of Justice official was asked about progress with the local trials; the government’s relationship with the ICTR and NGOs; how the government was going to rebuild trust and peace; and how the government was responding to the continuing violence in the northwest.

Interviews with ICTR staff focussed on the functioning of the Tribunal; the relationship between the ICTR and the government and NGOs; the impact of Kambanda’s confession; progress with investigating and prosecuting sexual crimes; witness protection and compensation; and the contribution of the ICTR to reconciliation and peacebuilding in Rwanda.

The intention is for the interviewer to approach the interviewees as a concerned fellow human being in order to gain confidence and trust, rather than as a representative of an institution or foreign country. The aim of the interview process is to reduce the formality as much as possible and create an atmosphere for a relaxed discussion.

At the beginning of each interview the researcher will:
- introduce herself and her institutional affiliation;
- fully explain the purpose of the research;
- outline the contents and purpose of the interview;
- seek permission to take notes and/or tape record the interview;
- and provide the opportunity for interviewees to remain anonymous.

At the end of the interview the researcher will provide in writing her personal contact details for any follow-up the interviewee may want, and those of the University of Sydney Manager of Ethics and Biosafety for any concerns or complaints.

The interviews do not require personal identifying information, techniques are not invasive nor do they present any threat to the interviewees. It will be clear that participation is entirely voluntary and confidential and no inducements will be offered to encourage participation.
Research Project Title: Peacebuilding in Cambodia

The researcher, Wendy Lambourne, is a PhD student at the University of Sydney in Australia. The purpose of her research is to find out more about what has happened in relation to peacebuilding in Cambodia since the overthrow of the Khmer Rouge government in 1979 and the UN peacekeeping mission in 1993. The interview will cover such topics as the role of the international community in post-conflict peacebuilding and ideas about justice and reconciliation for Cambodians.

The interview will take approximately one hour to complete in full, but you are under no obligation to complete the interview once it has started. You are free to choose whether or not to participate, and you may change your mind at any point during the interview if you would prefer not to continue for any reason. With your permission, the researcher will take notes during the interview. Your responses will be kept confidential and no-one other than the researcher will have access to any records kept of the interview. You can choose to remain anonymous if you wish, and your comments and answers will be recorded without reference to your name or any other identifying features.

If you have any further questions or would like to find out more about this research project you can contact the researcher as follows:

Wendy Lambourne  
PhD Candidate  
Department of Social Work, Social Policy and Sociology  
University of Sydney  
NSW 2006 AUSTRALIA  
Telephone: 61 2 9415 1515  
Facsimile: 61 2 9351 7686  
Email: wlam8247@mail.usyd.edu.au

If you have any concerns or complaints about the conduct of this research, please contact:

Manager of Ethics and Biosafety Administration  
University of Sydney  
NSW 2006 AUSTRALIA  
Telephone: 61 2 9351 4811

Please sign below if you agree to be interviewed for this research. Your signature indicates that you understand the purpose of the research and the conditions of the interview as outlined above.

(signed)  
(date)

(witness)  
(date)
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តំលៃពីអតិថិជន$p_{\text{commission}}$
Wendy Lambourne

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wlam8247@mail.usyd.edu.au

This page is a document in Khmer with some personal information and a signature. It appears to be a letter or a formal document.
Research Project Title: Peacebuilding in Rwanda

The researcher, Wendy Lambourne, is a PhD student at the University of Sydney in Australia. The purpose of her research is to find out more about what has happened in relation to peacebuilding in Rwanda following the 1994 genocide. The interview will cover such topics as the role of the international community in post-conflict peacebuilding and ideas about justice and reconciliation for Rwandans.

The interview will take approximately one hour to complete in full, but you are under no obligation to complete the interview once it has started. You are free to choose whether or not to participate, and you may change your mind at any point during the interview if you would prefer not to continue for any reason. With your permission, the researcher will take notes and/or make an audiotape of the interview. Your responses will be kept confidential and no-one other than the researcher will have access to any records kept of the interview. You can choose to remain anonymous if you wish, and your comments and answers will be recorded without reference to your name or any other identifying features.

If you have any further questions or would like to find out more about this research project you can contact the researcher as follows:

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Please sign below if you agree to be interviewed for this research. Your signature indicates that you understand the purpose of the research and the conditions of the interview as outlined above.

__________________________  ________________________
(signed)                   (date)

__________________________  ________________________
(witness)                  (date)
APPENDIX IV

INTERVIEWEE PROFILES

CAMBODIANS

Phnom Penh, Cambodia

C1: male, age 40, genocide survivor
editor of Khmer language daily newspaper, interviewed 20 October 1999
- 6 y.o. in 1975, after Khmer Rouge period no support for students, started working for
newspaper in 1981 and eventually became editor, stayed in Cambodia
[interviewed because he worked previously with the Khmer Journalists’ Association
which conducted a survey of Cambodian attitudes towards a trial for the KR prior to
July 1997; couldn’t remember content of survey, but lots of conflict re methodology;
survey funded by Asia Foundation]
- English not great, got quite emotional when telling me about his experiences of Pol
Pot era, seemed to appreciate my listening to his story, wanted to talk

C2: male, age 38, genocide survivor
director of Cambodian NGO, interviewed 21 October 1999
- 14 y.o. in 1975, referred me to published article for his personal story of Pol Pot
period, went to US as refugee, university education
- very good English, seemed a little circumspect, rushed, not that interested in helping,
made an appointment for another day to continue interview but he wasn’t there ...
[I later read articles C2 has written about his experience during the Pol Pot period,
including the brutal murder of his oldest sister by the Khmer Rouge]

C3: male, age around 50, returnee
executive director of Cambodian NGO, interviewed 21 October 1999
- grew up in countryside, law degree in Phnom Penh, became public servant, went to
Wales in 1972 for postgraduate studies, returned to Thai border 1988 (joined Khmer
People’s Democratic Liberal Front), back to Phnom Penh in 1991, joined peace process
1992, 1993-94 with CMAC, started NGO 1995 (Khmer Institute of Democracy), has been lobbying for an international tribunal since 1986!
- very helpful and forthcoming, excellent English, happy to be quoted

C4: male, age 49, genocide survivor
president of Cambodian human rights NGO, interviewed 21 October 1999
- 24/25 y.o. in 1975, in Phnom Penh, went to provinces, put in jail because had some education, "re-educated"
- gathered signatures for petition requesting UN Secretary-General to arrest and try the former KR, went around Cambodia for approximately two weeks
- seemed uncomfortable about talking about his experiences during Pol Pot era, but otherwise happy to answer interview questions, quite passionate about human rights and positive about possibilities for change

C5: male, age 43, genocide survivor
executive director of Cambodian human rights NGO, interviewed 22 October 1999
- 19 y.o. in 1975, came back from Vietnam because he missed his family, described his experience of Pol Pot era in some detail including the luck he had to enable him to survive, after Vietnamese ousted KR walked around Cambodia and eventually to Thai border in search of food (arrived Jan. 1980), in 1981 FAO established school and became a teacher along border, retraining in Singapore, worked for UNTAC as teacher then ILO project as interpreter, went back to Phnom Penh to work for human rights organisations
- very open and fluent but dominated meeting time with his story so limited time for answering my interview questions (manipulative?)

C6: female, age 36, genocide survivor
librarian Cambodian NGO, interviewed 26 October 1999
- 12 y.o. in 1975, living in countryside with family during Pol Pot period, afterwards went to Phnom Penh with parents
- limited English, shy, needed to convince her that I wanted to interview her as well as her boss(1), answered questions but didn’t elaborate, she seemed pleased that I wanted to talk with her

C7: male, age 50s, genocide survivor
official in Ministry of Justice, interviewed 26 October 1999
- learnt English before 1975; lost his father, sister, brothers; went from border camp in 1981 to political team research Khmer Rouge regime, refugee sponsored by American family and worked in Australia for a while where he learnt about democracy
- some difficulty with English; happy to answer personal questions and to talk about his experience during Pol Pot period but not about anything construed as political (including the potential tribunal, apology and potential truth commission); when I showed him an article about the truth commission idea he was dismissive, became protective, and I lost the rapport I had with personal questions

C8: male, age 49, genocide survivor
high level official at Royal University of Phnom Penh, interviewed 27 October 1999
- 24/25 y.o. in 1975, parents and brother killed, very lucky to survive because considered an intellectual, still cries when he thinks back but believes have to look forward to change, build peace; in Australia for one year in 1997 sponsored by an Italian, decided to stay with education rather than follow friends into power positions
- highly educated, very open and friendly, especially about his Australian experience and ideas about building peace in Cambodia

C9: female, age 27, genocide survivor
researcher/lawyer with Cambodian NGO, interviewed 27 October 1999
- 3 y.o. in 1975 in Battambang in the country, lucky no-one in her family killed (except aunt and uncle), remembers fighting every day; went to Phnom Penh in 1984/85 after finished primary school; worked as public defender and with human rights NGO; now working on conflict prevention for elections, good governance, and education re conflict resolution (new concept in Cambodia)
- English okay, intelligent but narrow focus (a lawyer!), not very talkative
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C10: male, age 33, genocide survivor
director of Cambodian NGO, interviewed 26 October and 27 October 1999
- 9 y.o. in 1975; grew up in province, went to Phnom Penh in 1970, then to Battambang
city in 1973 until evacuated to countryside in 1975; lost two members of family – like a
terrible dream; after Vietnamese came second wave of starvation, went to border late
1980, Thai side of border a nightmare; in 1981 went to US as a refugee, back in 1992
via Thai border camp, studied political science in the US ...
- extremely helpful and fluent, lots of ideas keen to share, very well-informed and
highly educated, published in English as well as Khmer

C11: female, age 47, genocide survivor
section director of a women's media organisation, interviewed 27 October 1999
- 23 y.o. in 1975, born in Phnom Penh, captured and taken to province to work as slave
3 am – 6.30 pm, parents died of hunger and disease; after Vietnamese came worked in
province 1979-84, then moved to Phnom Penh and worked as journalist on Khmer
newspaper
- English not great but sufficient, keen to tell me all about the NGO where she worked
and her experience visiting genocide museum in Czechoslovakia (something for
Cambodians to learn from), answered all questions very directly and openly

C12: male, age 22, 4th year university student, interviewed 28 October 1999
- born 1977 in province during Pol Pot period, older sister died of disease but parents
survived because they were farmers, life much harder for city people transplanted to
farm; parents told me about Pol Pot regime, that people had to work hard and had no
food, people killed for no reason “if did wrong just a little bit”, no justice but no
corruption (!)
- English quite good, seemed intent on answering questions well

C13: female, age 22, 4th year university student, interviewed 28 October 1999
- born in province in 1977 during Pol Pot time, parents tell me that in Pol Pot regime
“all people cannot eat enough meals and work long and hard (6 am – 10 pm)”, more
than 10 people in family lost
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- very shy, English poor, reluctant to try to answer questions

C14: female, age 19, 3rd year university student, interviewed 28 October 1999
- born in Phnom Penh in 1980, parents separated during Pol Pot time, parents and aunt and uncle told me about that time, they are unhappy -- always say about it, not enough to eat, always beaten; want to hate Pol Pot but can only hate him 80% because never saw him or heard him
- English very good, matter-of-fact, efficient, answered questions and moved on quickly

C15: male, age 19, 3rd year university student, interviewed 28 October 1999
- born 1980 after Pol Pot regime in province, went to Phnom Penh to study at university, parents told me about genocide regime -- killed many people who were against state, old and young separated, not enough food to eat but a lot of work to do
- English quite good, keen to answer questions and talk about Pol Pot regime, especially details of torture and killing; tendency to say “yes” when meant “no”

C16: female, age 47, returnee
director of Cambodian NGO, interviewed 28 October 1999
- born in Phnom Penh, left Cambodia in 1974 age 21/22, went to Thailand for five years, then US in 1979 as refugee, as a Buddhist worked with Cambodian refugee population in the US, came back in 1992 before election (dual citizen, Cambodian American)
- very keen to talk, especially about experiences with peace marches and her feelings of guilt about Buddhist monks being attacked during election violence; very angry about killing and violence, government denial, inappropriate memorials (anonymous, skulls) -- disrespectful; very passionate and caring, driven by strong Buddhist beliefs

C17: male, age 42, genocide survivor
director of human rights NGO, interviewed 28 October 1999
- 18-20 y.o. in 1975, in countryside, lost brother and father, angry then but not now -- “believe that one who commits sin will receive their dessert one day”; in 1979 lived on
border for 14 years – saw Khmer Rouge killed, heard about trial in 1980; learnt English before 1970, but small, so they didn’t notice me
- limited time for interview because very busy, talked about legal system in Cambodia for quite a while so not enough time for all questions, not so comfortable with personal questions

C18: male, age 30, genocide survivor
moto driver, interviewed 28 October 1999
- born in Phnom Penh, family separated under Pol Pot regime, sent to provinces, separated from brother, lost older sister at time of Vietnamese invasion, children had to call their parents “comrade” and lived separately from parents; worked for Ministry of Finance on Thai border, got malaria, then worked for NGOs, learnt English
- English quite good, became my regular moto driver and interpreter/translator, very keen to learn more English and to help with my research

C19: female, age 44, genocide survivor
president of human rights NGO, interviewed 29 October 1999
- in 1975 a student (in Faculty of Law), 20 y.o., in jail of Pol Pot regime; in 1979 worked back in Phnom Penh in Faculty of Law; after UNTAC started local human rights NGO in 1992
- hard to follow her English, some confusing ideas, asked me at the end what I thought of what she said, keen to communicate but didn’t come across very coherently

C20: male, age 54, genocide survivor
director of Cambodian human rights organisation, interviewed 29 October 1999
- born near Phnom Penh, 30 y.o. in 1975, incarcerated at 31: “worst experience of my life – interrogation, torture, fainted five times. Now teach myself to forgive them for the sake of humanity”; escaped to US in 1979, lived 10 years in McLean, Virginia [near where I lived]; born a Buddhist but not interested in becoming any one religion, also went to Christian church and Muslim – all seeking one common thing: social harmony and respect for human dignity (cf. human rights!); involved with Moral Re-Armament
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- I didn’t have an appointment (despite having tried all week) and was lucky to catch him; he was very busy and preparing to leave, but became interested in my research and talked for quite a long time; he talked a lot about his ideas of peace and reconciliation and the possibility of a major public apology event; also mentioned that he had visited Rwanda three months after the genocide and saw hundreds of bodies — "very sad country"; he was clearly committed, quite passionate and emotional in some of his responses, also very intelligent and well-educated

C21: male, age 54, genocide survivor
official in Ministry of Education, interviewed 29 October 1999
- high school teacher in 1968, in 1975 lived in province under Khmer Rouge power; assisted with peace process 1990-93, working closely with UNTAC, spent 3 months in Australia in 1990, visited the US
- wanted to tell me more story about UNTAC period if I had time — to help me understand what happened; very political, defensive, resentful towards UN and international community; didn’t answer questions — because French speaker or being deliberately evasive?

C22: male, age 41, returnee
head of Cambodian peace and conflict resolution NGO, interviewed 29 October 1999
- born in Phnom Penh, graduate high school, went to Faculty of Medicine, went to France; came back to join the resistance on the Thai/Khmer border in 1981; went to Phnom Penh in 1992 and founded a political party, failed in 1993 election but invited to join government ("a real reconciliation for me"); end of 1998 moved from government to NGO — to work on building peace — very excited about it
- had to end interview quickly because it was late and he said he needed to leave; very keen to tell me about the NGO’s work in conflict prevention in the communal elections, and his ideas for building a culture of peace and acting as a bridge to bring government and NGOs together
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RWANDANS

Arusha, Tanzania

R1: male, Tutsi returnee, working with ICTR, interviewed 1 July 1998
- born in eastern Rwanda; went to Zaire at age 16 to join other [Tutsi] exiles trying to
get a better education; revealed some bitterness regarding growing up in exile that led
him to support organisation of RPF invasion by attending meetings and helping raise
funds to buy weapons, but didn’t fight himself; in 1993 went to South Africa to study
and work; returned to Rwanda in 1994 [after the genocide] to work for the Tribunal; lost
one brother and three sisters in the genocide, but his mother is still alive; brought up
Catholic but now a Pentecostal pastor
- very helpful, friendly, excellent English; met in evening at my hotel because he was on
leave from work that week, he had his family with him; well-connected with RPF, gave
me lots of contacts including Rwandans working with ICTR, politicians, former military
and religious leaders; unable to ask many personal questions – I felt somewhat
constrained and intimidated by his family being present and his personal approach -
quite political but seemed sincere in his intent to tell me how he felt about
peacebuilding, justice and reconciliation

R2: male, genocide survivor, Hutu?, working with ICTR, interviewed 2 July 1998
- a teacher of languages for 8 years, then joined UNAMIR in February 1994, then
UNAMIR II and then ICTR in November 1995; in Kigali in 1994 – “didn’t go to the
church (thank goodness) but went the other way …”; has some relatives in prison
- a little hesitant about being interviewed; very good English and quite analytical; he
seemed relatively open but I sensed some diffidence and lack of clarity in some of his
answers (I wasn’t sure whether this could have been attributed to language or cultural
differences, or whether it might have been a deliberate strategy on his part); he did not
identify his ethnicity – I guessed he was at least part Hutu because of his physical
appearance and because he mentioned he had some relatives in prison, and also because
he said that people had different reasons for killing, but he fled Kigali when the killing
started

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- in Rwanda in 1994 and started working with radio after war.
- this was a short interview on the run mainly to get some information about radio
  coverage of the Tribunal proceedings for Rwandans; included as an interviewee even
  though I didn’t get any personal details about him because he made a couple of
  interesting comments about reconciliation and justice and the role of the ICTR; I felt
  somehow that he didn’t want to talk about his experience in 1994 so I didn’t ask any
  more probing questions; also time constrained because the Court proceedings had just
  closed for the day and we both needed to leave

R4: female, Tutsi survivor, working with the UN, interviewed 3 July 1998
- at university in Butare but at the time of the genocide on holiday in Kigali; her parents
  were killed, she was hidden by neighbours
- very good interview; good English; she seemed shy but eager to tell me her feelings
  about justice, reconciliation and the role of the international community; she seemed
  quite frank in her communications but keen to ensure that her anonymity would be
  protected because of concerns about the implications for her work; she seemed very
  honest and open about her feelings and her struggles to deal with them

Kigali, Rwanda

R5: male, Hutu survivor, working for church, met 7 July 1998 in Kigali but not
  interviewed
- attended summer peacebuilding institute in the US (that’s where I had met him)
- very quiet, shy, hesitant, reluctant to talk about himself; English okay but not good;
  very helpful/solicitous driving me back to my hotel after I met him at his workplace;
  didn’t return my calls despite having agreed to be interviewed – I assume he changed
  his mind and was avoiding me; I thought I had developed a rapport when we first met in
  the US, and I was most disappointed that he apparently didn’t feel comfortable being
  interviewed, I assume because he would have felt quite vulnerable living and working
  for the church in Kigali (now dominated by Tutsi returnees)
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R6: female, Tutsi survivor, working for foreign NGO, interviewed 9 July 1998
- found out she was Tutsi at school, age 7 in 1975 when government started implementing new policy – this was quite a shock to her and caused a fight with her [Hutu] friend – left her with a lot of anger …; sisters harassed in school, ran away to Burundi in 1993
- extremely talkative and very fluent in English, even if a little hard to follow at times; very keen to share her ideas and opinions with me and to answer interview questions, even though this meant the interview lasted almost two hours (I was exhausted afterwards!); very definite opinions and quite judgemental on some issues; she revealed a strong resentment of the treatment she received as a child and the impact of this ethnic discrimination; her anger and strong opinions seemed somewhat incongruent with her commitment to peacebuilding; later I heard a rumour that there was something not quite clear about her allegiances, and that maybe she was half Hutu rather than Tutsi and couldn’t be trusted to be “straight” about things – this doesn’t at face value tally with her story nor my experience of her, but it is an interesting observation about the political sensitivity of ethnicity in post-genocide Rwanda and the possibility that I (as an interviewer) could be deceived by the apparent genuineness of people

R7: female, Tutsi returnee, lawyer, interviewed 13 July 1998
- Rwandan born in Burundi, studied in Burundi and Paris, working as legal consultant for international human rights organisation and monitor of gender crimes for ICTR
- highly educated, fluent English, very committed, seemed genuinely to care about helping Rwandans to achieve justice and reconciliation and assisting me with my research; very busy person, appointment delayed by two hours meant I had to postpone another interview till the following day, but when she finally arrived she was very helpful – introduced me to director of Rwandan NGO and showed me their office location where I made an appointment for the following day, then drove me to her office where we had an extensive interview going quite late into the evening; she gave me the phone number for her driver in case I needed someone
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R8: female, Tutsi survivor, working with Rwandan NGO, interviewed 14 July 1998
- her father was the Presbyterian minister in Kigali and was killed outside the church – “people were killing people they were praying with four days before on Easter Sunday”; she survived with her three daughters by running with baby on her back and ending up at Hotel des Milles Collines (I later read about the protection of Tutsi at the hotel – incredible story); working for Oxfam, seconded to AVEGA (supporting widows of the genocide), completed counselling course in England (sponsored by Oxfam)
- extremely committed, troubled about how to retain faith in Christianity but passionate about her work counselling genocide survivors, self-reflective and insightful; we struck up a very good rapport and discovered that we were almost exactly the same age (our birth dates were only one week apart!) – it was quite eerie meeting and connecting so well with someone who had such a completely different life experience – we even talked about the spiritual connection between all peoples; she talked about her experience of the genocide and her work but unfortunately I didn’t have time to ask her all the interview questions; she introduced me to others in the office including those visiting from Butare – they were very welcoming and interested in my research – and in obtaining advice and help to get more funding for their work; her English was quite good but none of the others spoke much English at all

R9: male, Tutsi survivor, working as accountant with foreign NGO, interviewed 14 July 1998
- at time of genocide he was in Butare, a student at the university; he lost his source of income so had to work after genocide – first at Banque de Kigali and then joined NGO
- seemed not very enthusiastic about being interviewed but did agree to make an appointment; very busy so interview time limited; English good; seemed to answer honestly and openly, but not very extensively (compared with female interviewees); not worried about anonymity – said I could use his name in my research report

R10: male, Tutsi returnee, working as aid officer with British Embassy, interviewed 14 and 15 July 1998
- born in Rwanda, grew up in Tanzania (primary school) and Burundi (secondary school); biologist – studied science in “Faculty for Foreigners” (couldn’t do Medicine
because he wasn’t a citizen) and became a teacher and headmaster of expatriate school; then after the war he came to Kigali to work for World Vision, first as an administrative assistant then moved to reconciliation department; completed courses in peacebuilding at summer institute in US; left World Vision because of problem with head of department – couldn’t reconcile! (he made a point of telling me this story and the irony of it …)

- English quite good; very passionate about the need for reconciliation and wanting to work in that area, and very disappointed and frustrated that he was unable to do so; I had not met him before, but his name and contact details were given to me by someone in the US who knew him; he was so disappointed that we hadn’t met earlier during my stay (so was I because he would have been a good friend and useful for my research progress) – I hadn’t been able to track him down because I didn’t know he had moved from World Vision to the British Embassy; he took me to two different restaurants in different parts of Kigali and home to meet his wife and five children – he was quite a "gentleman" and very keen to show me around and I learnt a lot from him about living conditions in Kigali (e.g. he was paying half his salary in rent, and he was paid relatively well – how did others survive??) and Rwandan customs; we talked a lot about the issues of my research, but I didn’t formally interview him including all the research questions

R11: female, Tutsi returnee, working as program coordinator for Rwandan NGO, interviewed 15 July 1998
- returned from Europe after the genocide, working with “Polyclinic of Hope” funded by Church World Service – strong foreign funding connections
- English good, very effusive, entrepreneurial, wanting to tell me all about her work and achievements, had her own agenda that seemed more important to her than helping me with my research; she took me out to lunch – that was nice, but I was frustrated and didn’t really connect with her very well; she seemed to be out of touch with other Rwandans working in the same field (because she was a returnee educated in Europe?); her office was impressive and she seemed to be well off – dressed in flamboyant European clothes (cf. other Tutsi returnee from Europe (R7) who was dressed in
flamboyant African dress and seemed much more in touch with those she was trying to help); her control of the interview meant I didn’t get to ask all my interview questions

R12: male, Tutsi survivor, working with Catholic Bishops Conference
interviewed 16 July 1998
- grew up in Butare, studied theology and then chemistry in Geneva; in Butare hid during genocide, felt guilty to have survived while so many others died; after genocide became priest and worked with grassroots bringing young people together in spirit of reconciliation; later called to Secretary of Bishops and moved to Kigali
- my oldest interviewee; primarily French speaker and he was struggling with English communication – we managed with a mixture of my French and his English; even though we didn’t have a very long time together, he answered most of my interview questions; he was a little reluctant at first but I managed to build up enough rapport for him to tell me a lot about his personal experiences and feelings; recommended to me by the manager of a Catholic NGO in Kigali

R13: male, Tutsi returnee, government minister
interviewed 17 July 1998
- no personal details sought because I was interviewing more as a representative of government. I did, however, ask him questions about his own personal perspective on justice and reconciliation. He did, of course, answer as a politician, but some of his comments were quite insightful and useful – not just political, although I’m sure the political agenda was an influence on his answers

Toronto, Canada

T1: male, age 35, Tutsi refugee, group interview 11 June 2000
- left Rwanda in 1991 because too dangerous to stay, in Kenya for 6 years, and then in Canada for past 4 years; studied fashion design for 2 years, now working as production assistant, would like to start a small business like he was doing in Rwanda before he left; lost his whole family (except his brother) who were in Kigali in 1994, he was in
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Kenya on 6 April and after three days he knew about what had happened to his family …
- he was the first to introduce himself and spoke in some detail about his reaction to the genocide and what happened to his family; I was told later that he had never spoken about this before – his brother (who was also at the interview) had never heard before about the impact it had on him (‘‘couldn’t sleep in 3 months, getting up at 4 am to take a shower, getting drunk trying to forget everything …’’); polite, thoughtful, sad; didn’t say as much later in the discussion

T2: male, age 35, Tutsi refugee, group interview 11 June 2000
- born in Butare; at age 13 (1972) “voluntarily exiled myself to Burundi” because Tutsis didn’t have the right to go to school; studied economics at university but had to change, went to university in Senegal and studied computer science and worked in that field; then back to Rwanda – like a grave; big family with 10 children – all inside Rwanda were killed, 3 children outside survived
- a bit of a joker (covering up insecurity?), angry; said a lot early on but not so much later; very definite about things (no compromises)

T3: male, age 30, Tutsi refugee, group interview 11 June 2000
- born and grew up in former Zaire; age 24 went to South Africa for 1 year; in 1994 moved to Toronto, family returned to Rwanda after genocide; civil engineering student
- not as forthcoming; started off very combative – challenged me on my motives for being there (the others came to my defence and told him not to give me such a hard time); angry – with Christianity, colonisation, slavery, international community, dismissive of ICTR, etc; opened up a little more towards the end

T4: male, age 34, Tutsi refugee, group interview 11 June 2000
- born in Rwanda; at age 23 (1989) moved to Canada, in Quebec in 1994; lost whole family – father, mother, sisters, brothers plus two aunts …; mechanical engineer in training
- quiet, considered responses; seemed more sad than angry; expressed interest in the results of my research
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T5: male, age 35, Tutsi refugee, group interview 11 June 2000
- left Rwanda in 1992 (age 27) and went to Toronto, Canada; “my brother and I are the only two alive today” – friends, family all lived in downtown Kigali and are no longer alive; now 4th year student in translation and international relations at York University, Toronto
- tended to dominate discussion but often by asking a lot of questions (including asking why I had come to Toronto) rather than imposing his opinions; thoughtful; English not quite as good as others

T6: female, Tutsi refugee, group interview 11 June 2000
- born in Rwanda, in small town near Butare; age 2 left Rwanda and went to live in Nairobi, and then in Toronto; now works in pharmaceutical industry
- didn’t say as much but very interested and following discussion, and on a few occasions was quite assertive about saying something when she felt strongly; she commented afterwards that it was not easy to get in a word in sometimes – I congratulated her on speaking up and empathised with her difficulties in being heard in a male-dominated group; she was my host and catered wonderfully for the afternoon – she was very polite and formal in some ways, very well-dressed, and spoke very good English; she was keen to help with my research and drove me home afterwards

T7: female, age 37, Tutsi refugee, group interview 11 June 2000
- born in Kigali in 1963, came to Toronto in 1999
- very little English; she said nothing during discussions but seemed to be following; I had to encourage her to participate by directing questions specifically to her at times because her English wasn’t as good; very shy but opened up more when I spoke to her on the phone later in the week; the other female in the group (T6) translated her responses and T8 (the organiser) explained my questions to her; I followed up with a brief phone interview two days’ later (on 13 June)

T8: male, age 31, Tutsi refugee, group interview 11 June 2000
- left Rwanda in December 1990, two months after war started, and came straight to Canada; now working as a school teacher in Toronto
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- my main contact, he organised the group interview for me, including contacting Rwandans living in Toronto and encouraging them to come; he was very reliable and thorough, including giving me names and information about those he was hoping would attend; he tried to get as many survivors as possible, but this was difficult; he also tried to arrange for me to meet with at least one Hutu separately in Toronto, but this was also difficult (most live in French-speaking Canada, and those in Toronto appeared to be more shy – and possibly ashamed or afraid – of speaking about their experience of the genocide); he contributed a lot during the discussions, quite thoughtful and self-reflective, seemed to be the unofficial leader of the group

Overall comments on group interview:
Immediately following the interview the Rwandans talked animatedly amongst themselves in Kinyarwanda. On the way home my hostess, T6, told me that they were very surprised that I was so at ease talking with them, like I had done so before. She observed that people opened up, spoke freely in a way that they don’t normally do – that it was good that someone cared about them and wanted to know about their thoughts and feelings. Discussions were quite animated at times, especially during discussion on the meaning of justice and the role of the church – people interjecting a bit but still respectful and polite – acknowledging each other but also willing to disagree. Everyone had a chance to contribute – fairly balanced, although the 5 male participants certainly dominated the discussions. Overall they displayed hurt, sadness, anger, helplessness – lost their families, their country, most of the meaning in their lives ... a profoundly moving and humbling experience for me.

T9: male, age 31, Tutsi refugee, interviewed 17 June 2000
- in prison in Rwanda in 1990 because he was thought to be cooperating with RPF; released after 6 months, stayed in Kigali working for criminal justice department; left in 1993 and went to Nairobi, then to Canada
- very keen to assist with my research and to share his ideas with me; he came to my apartment for an interview on my last morning in Toronto; gave me a copy of a paper he had written entitled “Revenge is Not the Answer”; keenly aware that what he was saying about the need for forgiveness was controversial, seen by fellow Rwandans as
betrayal; seemed sincere, self-reflective, analytical; drew distinction between his personal feelings (would like revenge) and what is good for Rwanda (reconciliation)
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INTERVIEWS WITH ACADEMICS AND OTHERS

During the course of my research I met with and consulted many academics, practitioners, Cambodians and Rwandans, and others with expert knowledge and experience of my thesis topic. The following is a non-exhaustive, chronological and geographically organised list of meetings and interviews. I wish to acknowledge the contribution these people and organisations made to the development of my ideas and research.


Prof. Rich Rubenstein, Institute for Conflict Analysis and Resolution
Prof. Chris Mitchell, Institute for Conflict Analysis and Resolution
   George Mason University, Fairfax, Virginia, various meetings

Joseph Montville, Center for Strategic and International Studies (CSIS)
   Washington, DC, 14 April 1997 & other meetings

Dr Vamik Volkan, Center for the Study of the Mind and Human Interaction, University
   of Virginia, Charlottesville, Virginia, 6 October 1997

Ambassador John McDonald, Institute for Multi-Track Diplomacy
   Washington, DC, October 1997 & other meetings

Ambassador David Scheffer, Ambassador at Large for War Crimes Issues, US
   Department of State, Washington, DC, 3 April 1998

Dr Theogene Rudasingwa, Ambassador, Embassy of the Republic of Rwanda
   Washington, DC, 3 April 1998
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Priscilla Hayner, Researcher and Consultant on Transitional Justice based in New York
Washington, DC, 3 April 1998

David Crocker, Senior Research Scholar, School of Public Affairs, University of
Maryland, Washington, DC, 16 April 1998

Nina Bang-Jensen, Special Counsel, Coalition for International Justice
Washington, DC, 25 April 1998

Susan Cook and Charles Mironko (Rwandan), Cambodian Genocide Program, Yale
University, New Haven, Connecticut, 27 April 1998 & 22 July 1999

Francoise-Xavier Nsanzuwera, International Federation of Human Rights (FIDH),
Washington, DC, 7 May 1998

George Irani, Senior Fellow, US Institute of Peace, Washington, DC, 7 May 1998


Ambassador Richard Bogonisian, Special Assistant, Greater Horn of Africa Initiative,
US AID, Washington, DC, 11 June 1998

Neil Kritz, Senior Scholar, Rule of Law Program, US Institute of Peace
Washington, DC, 11 June 1998, 13 December 2000 & other meetings

Dr Hizkias Assefa, Nairobi Peace Initiative and Eastern Mennonite University

Kurt Stevens, Great Lakes Policy Forum and Foreign Policy Institute
Washington, DC, June 1998
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Dr Wallace Warfield, Larissa Fast, Dr Terrence Lyons (Africa Working Group)
Institute for Conflict Analysis and Resolution, George Mason University
Fairfax, Virginia, various meetings

William Schabas, Visiting Scholar, US Institute of Peace, Washington, DC

Craig Etcheson, International Monitor Institute (formerly Cambodian Genocide
Program), New Haven, Connecticut, 22 July 1999 & December 2000

Jaya Ramji, Law School, Yale University, New Haven, Connecticut, 22 July 1999

John McAuliff, Director, Fund for Reconciliation & Development (US-Indochina
Reconciliation Project), New York, 23 July 1999

Dr Richard Sezibera, Ambassador, Embassy of the Republic of Rwanda
Washington, DC, 27 July 1999

Chandra Sriram, International Peace Academy

Lili Cole, Carnegie Council on Ethics and International Affairs
New York, 15 December 2000

Jean-Marie Higiro (Hutu refugee), Western New England College
Bloomington, Indiana, 22-23 June 2001

Graham Day, Lester B. Pearson International Peacekeeping Training Centre, Canada
Washington, DC, 12 July 2001

AFRICA (June-July 1998)

Hugo van der Merwe, Centre for the Study of Violence and Reconciliation
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Kingsley Moghalu, Legal Officer, ICTR
Durban, South Africa, 26 June 1998; Arusha, Tanzania, 2 July 1998

Dr Christian Scherrer, Senior Research Fellow, Copenhagen Peace Research Institute
Durban, South Africa, 26 June 1998

Jean-Pele Fomété, Legal Advisor
Francoise Ngendahayo, Advisor on Gender Issues and Assistance to Victims
ICTR, Arusha, Tanzania, 30 June 1998

Navanethem Pillay, Judge, ICTR, Arusha, Tanzania, 1 July 1998

Danford Mpumilwa, Public Relations Officer
Bocar Sy, Officer in Charge, Press and Public Affairs Unit
James Stewart, Prosecutor
ICTR, Arusha, Tanzania, 2 July 1998

Roland Amoussouga, Witness and Victim Support Section
ICTR, Arusha, Tanzania, 3 July 1998

Kathy Zieg, Country Director, Catholic Relief Services, Kigali, Rwanda, 14 July 1998

Paul Dobby, Investigator
Harriett Solloway, Legal Officer
Bernard Muna, Deputy Prosecutor
Maxwell Nkole, Commander-Investigators
male member of Sexual Assault Team
ICTR Office of the Prosecutor, Kigali, Rwanda, 16 July 1998

George Wachira, Director
Emmanuel Bombande, Programme Officer
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Associate Professor Andy Dawes, Department of Psychology, University of Cape Town
Cape Town, South Africa, 22 July 1998

AUSTRALIA (July 1999 – July 2002)

Prof. Ben Kiernan, former Director, Cambodian Genocide Program
Melbourne, 2 July 1999

Prof. Colin Tatz, Director, Comparative Genocide Studies Centre, Macquarie University
Sydney, 16 November 1999

Sekai Shand, World Vision, Melbourne, 24 April 2000

Revd Alan Nichols, Change Networks Inc., Melbourne, 7 June 2000

Marten Bergsmo, international lawyer (ICTY), Sydney, 4 September 2000

Sarah and Sokhom Kith (Cambodian Americans)
Sydney, November 2000 & other meetings in Fairfax, Virginia

Dr Sandra Grimes, independent researcher, Sydney, April 2001

Aimé Ndayisaba, Burundian refugee, Community Aid Abroad volunteer
Sydney, November 2001

Souk Narin, Cambodian visiting scholar, Royal University of Phnom Penh
Sydney, May 2002
CAMBODIA (October 1999)

Helen Jarvis, Consultant, Cambodian Genocide Program (UNSW Information Services)
Youk Chhang, Director, Documentation Centre Cambodia (DC-Cam)
  Phnom Penh, 18 October 1999

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Kingston, Ontario, Canada, 2 June 2000

Dr David Wurfel, York University (Toronto), Kingston, Ontario, Canada, 2 June 2000

Dr Anne Adelson, Department of Peace Studies, McMaster University
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Melanie, university student and film producer (visited Rwanda twice)
Toronto, Canada, 13 June 2000

Carole Ann Reed, Director, Holocaust Memorial Museum, Toronto
Toronto, Canada, 14 June 2000

Sherma Gilbert, Director, Hope for Rwanda’s Children (a small Canadian NGO)
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APPENDIX V

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APPENDIX VI

DEFINITIONS OF JUSTICE

Cambodians

C1: “Very complicated …” (see story reproduced in text of Chapter 10)

C2: “Almost perfect translation. Different people define differently, e.g. for the KR justice means to put the US in jail; for [Cambodian] people it means put the chief in jail; for the international community it means try the KR. Individual personal definition reflects political interests, passion or reason. Legal justice: in English and Khmer the same thing: judge/lawyer put criminal in jail. Cambodians have no clue about social or economic justice, e.g. having enough food to eat not about justice.”

C3: “Truth first, then victims need to get redress and criminals need to be made responsible for their crimes, to pay for their crimes.”

C4: “Not only punishment of criminal or somebody who did something bad for people or society, also equity of distribution of resources and wealth of nation. NGO people talk about social justice, no discrimination, no gap between rich and poor, etc.”

C5: “Justice in Cambodia: country could not be able to enjoy stability or happiness unless everything in place, state of law, real court. Social justice: goal of human rights education to realise and use rights to claim for justice.”

C6: “When somebody do wrong thing, law, court, judge, lawyers give justice and punish.” [hadn’t heard of economic justice]

C7: “Rely on rule of law and procedure of court – structure, how to operate, e.g. Cambodia doesn’t have a good court procedure because of corruption. Should operate legal system like a business, to make a profit. Got to have good judge with good knowledge of law and rules to get justice.”

C8: “Very philosophical. Myself looking at society, to have justice we need to have real democracy and respect for human rights. People have to share the same interests – legally, not illegally
- no corruption. In practice more economic that philosophical. Many conflicts come from lack of economic justice.”

C9: “Fair and equal. According to law, when you can present evidence, you can win and get legal justice, but not fair. For example, a landowner can prove title to land but the other one might be the real owner. Find justice when don’t include political issues.”

C10: 26 October: “Noble, ultimate goal.” ... 27 October: “Think of social justice. Very broadly defined: notion of everyone who is a member of society has equal opportunities and access to what is guaranteed by the state within the existing legal framework – and also that person should be included – fairness.”

C11: “Nonsense, from my point of view here now in Cambodia. Money is number one. Justice can be bought. [how should it be?] Justice should be independent, not be involved or under oppression of powerful people. Judges should think about morals rather than money.”

C12: “In Cambodia, justice means ... Three powers: executive, legislative and judicial. Must be independent. Justice means people who judge must do right for the people. No corruption. Must be judged if do wrong. No bribery. Wrong people must be judged.”

C13: “Difficult to say in English ... Justice in Cambodia is not good because we have a lot of corruption. [how should it be?] We should have institutions to stop corruption, but doesn’t work properly. Legal justice more important than economic justice.”

C14: “Truth, impartial.”

C15: “Neutral and impartial to do something. If refer to leadership of government, [justice] means to do something not against the principle of law.”

C16: “Start with just law and its enforcement without giving any special treatment to any special group.”

C17: “Under current law don’t have justice. In rural areas, land dispute committee has the power to make a judgement. Mediator tries to make a
compromise. Very effective, solves problem quickly. Government worried because it looks like trying to take away judiciary power from government ... Problem with law because UNTAC didn’t have time to consult, didn’t understand clearly about our custom [of reconciliation instead of jail for petty crime].”

C18: “Justice means fair, neutral, unbiased, impartial. To do something properly. To respect someone’s rights, look up to the human rights of each other, of our neighbours, including women’s and children’s rights. No violence, no threatening.”

C19: “Judges independent, shouldn’t be under government or under party control, should be representative of all people and try to solve problems between people. Not in Cambodia. Human rights a problem ... Some people don’t believe in justice. I studied in the Faculty of Law and this created a conflict – not sustainable because can’t be independent. International cooperation between NGOs and judges should be independent, neutral, to help, strong.”

C20: “Every party in conflict is satisfied, and if someone is not satisfied, then it is not justice. Doesn’t have to be equal as with Communism. For example, if you have four oranges, if the older brother is not hungry he gets one, while the younger brother who works hard gets three – according to need. All agree after a while, after discussion. Need an exchange to promote mutual agreement to have satisfactory outcome.”

C22: “I lived in France for many years and have a French wife, so my answer probably won’t sound very Cambodian. For me, for every individual as a member of the community you perceive you are treated fairly by the legal framework and by the power that runs the community. As long as you feel that way you can build peace and stability. If anyone doesn’t feel that way, then the balance is broken, and you have conflict already, especially if the biggest part doesn’t feel treated well by the smallest group. In all areas: health, education, etc. If you see differences then you can’t get sustainable development and war is still very close.”
Rwandans

R4: “Somebody who is a victim of anything gets compensation and the person who is responsible gets sentenced.”

R5: “Different types of justice; social justice is the most important. It includes other types of justice, including judicial, social welfare, etc. How it is understood and accepted by the communities in question [is important]. Outsiders can demonstrate if something is unjust, but it is up to the community to adjust. People have to develop their own awareness of injustice.”

R7: “Very political issue – don’t speak about it if you want to stay alive. Survivors don’t believe in justice as it is presented to them. They don’t recognise themselves in the type of justice given. They don’t have a background in the rule of law so they reject it, they don’t believe it is possible. Justice is a strange thing, not linked to daily life. Also the problem of poverty, but money is not just what they need. They also need the visibility of crimes and recognition of the genocide. The international community is not interested in justice as such. They say to forget about crimes and focus on reconciliation. How can we do that? Women talk about the need for health care because they don’t believe justice is possible. It is a complex, very long process.”

R9: “First, legal justice is the punishment of those involved. Second, special consideration for survivors – psychological and economic – social justice ... Justice should resolve problems. It is a condition for reconciliation. If survivors are given special consideration, then reconciliation will come. You can’t tell people. It is a long process but it must start now.”

R12: “Some people think justice is just revenge, if they haven’t travelled their own suffering and mourning. Some outside see the Tutsi government as the group getting justice, but should be seen as a group healing its own wounds. Corrective justice is important as a way of reconciliation. The church has a role in helping people to understand what justice is, and to help people to give mercy and forgiveness. If legal justice is done well then it is one step towards
reconciliation, but it is unable to deal with the problems in Rwanda.

T2: “There should be no interpretation or philosophy of justice. It should be universal, otherwise become evil. I don’t know why the West is fighting against Sharia law ... everyone knows “thou shalt not kill”. Justice should be a way of dealing with law breakers even if it means being killed. All should face justice. Some say there is no justice for the poor. They are wrong. Justice should be clear like Sharia. You are not giving a good message for future generations if you don’t have justice. If someone is released, what kind of example is that? If you want to heal them ... If a child learns that his Dad was killed because he killed a Tutsi, then that child will never kill ... Justice should be done, no interpretation.”

T3: “Vague question. Justice is justice. If someone breaks the law ... What if justice would mean to kill another 1 million Hutus? Maybe they would then feel the same way and no-one will want to do it again.”

T4: “Justice is universal in a way. It is about fairness. Everyone should be responsible for what he did. Nobody should be punished for nothing. No-one will provide us with justice. Even if I said whoever killed should be killed, will I get peace from that? Or reparations? Justice should have happened before so that genocide prevented. Need action at the international level, e.g. compensation. I can live with those responsible if they take responsibility ... Whoever killed is responsible. Everyone understands that killing is bad. I don’t believe in making a distinction between those leading and those following. Everyone knows killing is bad, even a child. Everyone is responsible.”

T5: “Do you mean politically or literally? ... It is a foreign language to us. Go to the dictionary to work out what it means. In Kinyarwanda, justice is created based on some violations or crimes to please both sides (defendant and accuser). Should have to follow rules, state of right, should be punished based on actions and wrongdoing ... No justice if don’t have both sides there. Dead ones are not there so you can’t say anything. You might be on the side of the dead ones, but you can’t say anything on their behalf or accept
apology. You can only do that if have both sides. It is not fully justice if one person is not there. The law is missing one side ... In Rwandan tradition, e.g., if you have a bunch of oranges and one orange is rotten, then you take that one away so you don’t contaminate the other oranges. If you think they haven’t changed, then the proper answer should be to kill them. It is up to the politicians whether to keep the oranges ... If justice means being punished, how many have to be killed?"

T6: “Justice means to punish ... Emotionally, justice is a complex word to define. I believe justice is peace where peace is justice. Justice is fairness in legal terms. Nothing will compensate us for the beloved ones. Up to each person whether we forgive or forget. I believe you can’t forget. If there is justice, then others won’t do the same because they know they will be punished. Justice won’t bring back the dead. It may prevent it happening again and those left behind will have peace to live in the country. It gives me hope. If not punished, then no hope because it could happen again ... [justice as punishment] is a Western definition.”

T8: “In Kinyarwanda ‘Ubutabera’ means to be fair, not partial ... It is a very relevant question – hadn’t thought about it before. When I think about Rwanda it is very relevant. When you feel nothing has happened then you feel you have justice. In Rwanda what happened did not give justice. When life is taken, how do you have justice? Even if killed or punished can’t lead to justice. After your brother is killed nothing could make you feel okay. There is no justice that can satisfy you. What justice? Compensation? Nothing can equal to what happened to us. Justice should be done so you can see that if you kill, look what can happen to you. This could prevent others committing genocide. But not giving compensation to those who lost loved ones. Regarding human beings being killed, you can’t do anything to make the family happy again ... In theory, [justice is] right. If justice is done as justice it would lead to a second genocide. It is not practical in practice as the whole process of justice will take a long time to reach a verdict. It will take too long.”

T9: “Tough one. In the case of Rwanda, the way I wish it would be respect for
human rights, then justice would be served in my country.”

DEFINITIONS OF RECONCILIATION

Cambodians

C1: “Difficult question. All nations have their own national prestige or nationalism. In Cambodia, there is no nationalist ideal so that reconciliation is very difficult. People who say ‘reconciliation …’ – can’t do. Buddhism used to be the base of the nation for reconciliation. Now not sure, now reconciliation is a big problem. We need to set up a nationalist ideology for Cambodia. We need to trust and respect each other and the law.”

C2: “Exact translation into Khmer but again, defined differently by different people. Cambodians are ruled by passion. [your definition?] A healing process. You heal something that is going to be reconciled ... National reconciliation is also a healing process. The problem is too big. Like when a patient has been sick a long time, it doesn’t help; it is not enough. As used by Cambodian government, reconciliation is linked to defection, so it is less than reconciliation tends to mean. They have the intent to reconcile but it means a long time. It doesn’t reflect the extent of the need. The aim might be reached. It takes too long to respond. Instead they are aiming to respond quickly. Cambodia doesn’t have the right road, can’t be enforced every day. The court is the legal road and would help to turn Cambodia in the right direction. People still want justice; they are not healed.”

C3: “Reconciliation means to our ruler submission to their rule. This is not real reconciliation.

C4: “Compromise that we reach from conflicting parties. [Hun Sen’s national reconciliation?] To avoid a new war or new conflict. Also means to find compromise. But there is also a link to justice if we want sustainable peace or reconciliation, so we should combine justice and reconciliation. We can’t
realise everything at the same moment, so we need to give priority to one. In Cambodia, reconciliation comes first and then justice in order to maintain reconciliation, stability and peace. For example, if we leave the rich/poor gap to grow it may lead to the poor wanting to change the situation again.”

C5: “Reconciliation sounds very nice. National reconciliation has a practical meaning. It makes me quiet to consider about it. ... Psah psah is a good word - national reconciliation, compared with the courts – are they independent? Need to be all in place to achieve reconciliation.”

C6: “When two people are fighting and you or I ask them to come together so they are not fighting any more.”

C7: “To reconcile anything, used to cool myself down first. I would rethink many times before starting to talk about it in order to keep calm rather than jumping up and down. Getting angry is not the right way because then can’t reconcile easily.”

C8: “People have to accept the change, new ideas, keep self-sufficient, own interests. In terms of society - have to share, respect the other. In work situation – manage people by listening and work as a team rather than by power, working individually. Have to look at interests of Cambodian people, not just own, also region’s interests. About sharing – not just own perspective and ideas.”

C9: “Reconciliation is sometimes very important - because of the political situation not really reconciliation. Need to facilitate to make reconciliation. Heard of national reconciliation – not in the law.”

C10: 26 October: “Reconciliation is an important process for building peace. It should be the top priority at the expense of justice which is seen as ‘down the road’. I have argued all along that without justice, peace and reconciliation are not sustainable. The idea has not been bought by many people. There is still a long way to go ... Trust-building is the core of reconciliation. Without trust, can’t have reconciliation. So much suspicion, mistrust – key challenge to nation-building, peacebuilding and development in Cambodia.”

27 October: “Reconciliation is an act of
compromise, of striking a balance of interest in pursuit of the collective interest.”

C11: “Reconciliation means that you try to facilitate things illegally to make them legal. For example, conflict between two people – poor with rich – try to reconcile between them. If the powerful one does wrong, try to lobby poor one to agree or accept. Political example involving the Khmer Rouge and the government: reconciliation in political situations is to hide the wrong things or mistakes done in the past.”

C12: “People must help each other, no violence and neutralise each other.”

C13: “Two political parties fighting each other and want to win. Want to have peace, make reconciliation to stop fighting.”

C14: “To repair between two or more parties, bring together as one.”

C15: “Negotiation, when two people have a conflict together and want to have peace, or between two countries. Make reconciliation, master of peace – need first.”

C16: “To accept that something has happened – some bad thing has happened – and look for ways to live with one another and to prevent it happening again. Everyone in a small or large way is responsible for what happened.”

C17: “Here means compromise. The other side draws up a complaint agreeing to settle. Under current law justice doesn’t [happen], but reconciliation still our custom.”

C18: “Reuniting, cooperating … Settlement and mediation. Unity, solidarity, making friends.”

C19: “In government, should be cooperation with Khmer Rouge, doesn’t happen through war. I support reconciliation because slow down and cut down war, but doesn’t close or complete regarding what happened.”

C20: “To me and my people in Cambodia, it is a top priority to stabilise peace and the political situation. Unique because we went through destruction for past 30 years so that people divided and factionalised. In order to live
together as a member of the family of
nations we need reconciliation. If we
fight everyone we won’t progress. It
doesn’t mean everyone has to agree, to
walk all on one line together, though we
should not go back to war. We should
talk, resolve conflict through dialogue.
Then we will achieve peaceful conflict
resolution and reconciliation.”

C22: “Based on personal experience,
reconciliation means a process members
of the community who used to fight
together because of different beliefs or
convictions, somehow come up and put
those differences aside and have to
build a society living together. People
have to work together through
reconciliation process.”

Rwandans

R2: “Reconciliation occurs between
people, not governments ... In
Kinyarwanda there are stages in
reconciliation. People need to accept
what happened. It is a problem that
people keep denying what happened.
Trials and confessions (including
Kambanda) mean that people can’t deny
what happened. After they accept what
happened, then they can start life
anew.”

R4: “Reconciliation should happen
between victim and person responsible.
A new beginning because relationship
broken, so should start anew and rebuild
relationship. Victim may be group or
two groups, e.g. Hutu and Tutsi agree to
rebuild and reconstruct what was
broken.”

R6: “Rehabilitation contributes to
reconciliation.”

R7: “Lack of rehabilitation and
reparations and communication can’t
help in the process of national
reconciliation.”

T3: “You can’t have reconciliation
without forgiveness. How can you
forgive without someone asking for
forgiveness? Otherwise reconciliation is
a mirage. No-one is asking for
forgiveness ...”

T4: “Personally reconciliation means
that if I am fighting a fellow of mine
over something, if we get to talk and
realise what wrong part we have both
done and then move on together. I don’t know if that can happen in Rwanda.”

T7: “Reconciliation means to ask pardon to each other, to apologise to each other.”

T9: “Reconciliation doesn’t mean you have to like them, but if you love the people who killed your friends, family, etc ... loving means respect, knowing the other person is a human being and trying to forgive people.”
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