



Transitional Justice and DDR: The Case of Cambodia

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Transitional Justice and DDR Project

This research project examines the relationship between disarmament, demobilization and reintegration (DDR) programs and transitional justice measures. It explores the manifold ways in which DDR programs may contribute to, or hinder, the achievement of justice-related aims. The project seeks not only to learn how DDR programs to date have connected (or failed to connect) with transitional justice measures but to begin to articulate how future programs ought to link with transitional justice aims. The project is managed by Ana Patel, Deputy Director of the Policymakers and Civil Society Unit at the ICTJ. For more, visit www.ictj.org/en/research/projects/ddr/index.html.

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Introduction

This paper considers the relationship between disarmament, demobilization and reintegration (DDR) processes and transitional justice initiatives in Cambodia from the signing of the Paris Peace Agreements (PPA) in 1991 through 2007. The DDR initiatives examined include the initial effort supported by the UN in 1992, the Cambodian Veteran's Assistance Program (CVAP) financed by the World Bank from 1994 to 1996, and the revamped CVAP negotiated and finally financed by international donors in 2000 and implemented through 2002. Transitional justice processes considered in this paper include the Cambodian Genocide Justice Act passed by the United States Congress in 1994, the Cambodian 1994 Law Outlawing the Khmer Rouge,¹ the amnesties provided to Democratic Kampuchea (DK) leaders in the 1990s, the organization of the Extraordinary Chambers and civil society efforts, such as those undertaken by the Documentation Center of Cambodia and the Center for Social Development.

DDR and transitional justice are emerging practices. Contemporary armed conflicts continue to evolve and are resolved in unexpected and nonlinear ways. The complex relationship between the international community and occupied states, liberated states, conflict states, failed states, parties to conflict and other stakeholders in fighting mutates all the time. DDR initiatives are commonly looked at in the context of conflict transformation (peace agreements/an end to war) and/or through a development lens as longer-term security sector reform (SSR)² and rightsizing³ exercises.

Historical Context

Cambodia had been at war in one form or another for thirty years, since the Khmer Rouge commenced their armed struggle in 1968 until early 1999, when the last of the movement yielded to the Royal Government of Cambodia (RGC). During that time, Cambodia experienced several abrupt regime changes. Prime Minister Sirik Matak and Defense Minister Lon Nol deposed Prince

Norodom Sihanouk, who had ruled a relatively peaceful and independent Cambodia since 1954, in a March 1970 coup. A brutal civil war ensued in which Sihanouk and the Khmer Rouge formed a united front against the U.S.-backed Lon Nol regime, amidst the final phase of the war in Vietnam. Between 1969 and August 1973, Cambodia was subject to massive bombing by the United States. The United States dropped three times more tonnage on Cambodia than it did on Japan in World War II.⁴

On April 17, 1975, the Khmer Rouge took Phnom Penh and commenced a “cultural revolution” aimed at creating a “pure Khmer race.”⁵ Cities were emptied, money and religion were abolished and 1.7 million Cambodians died through violence and starvation in a utopian nightmare described by some as autogenocide.⁶

In late 1978, Vietnam invaded Cambodia, quickly overran the DK and sent its senior leaders and supporters fleeing to the western border. Under Vietnamese tutelage, the People’s Republic of Kampuchea (PRK) was established and consisted of many former Khmer Rouge cadres. The PRK went on to be called the State of Cambodia (SoC) and embrace a “market economy” under Hun Sen in 1989, and subsequently changed its name again to the Cambodian People’s Party (CPP) in 1991. The country’s military wing was called the Cambodian People’s Armed Forces (CPAF).

On the Thai-Cambodia border, the DK, under Pol Pot, reconstituted itself and emerged along with two other Khmer factions as the main opposition groups to the PRK. These factions were the royalist National United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia [*Front Uni National pour un Cambodge Indépendant, Neutre, Pacifique, et Coopératif*] (FUNCINPEC)⁷ and the republican Khmer People’s National Liberation Front (KPNLF), which was linked to the Lon Nol regime. This grouping retained Cambodia’s seat at the UN under the designation of Democratic Kampuchea until 1991.⁸

The various Cambodian political groups became involved in a proxy war between China and Vietnam in 1979, with the PRK fighting with support from and on behalf of Vietnam, and the “resistance factions,” including the DK, receiving backing from China. The end of fighting in Cambodia came, after protracted negotiations between the four Cambodian factions, with the signing of the Paris Peace Agreements (PPA) in 1991. While some observers saw the inclusion of the DK in the process as a fatal compromise given that this party perpetrated the worst atrocities against civilians and thrust the country into further turmoil, it reflected the realities of UN involvement in the peace process: the DK’s chief patron, China, is on the Security Council. The Chinese and Vietnamese agreement to end hostilities was the only way to start peace negotiations among the Cambodian factions. The Vietnamese People’s Army withdrew from Cambodia in 1989 and China and Vietnam reached agreement in 1990.

The PPA mandated the UN to create a Transitional Authority in Cambodia (UNTAC) to organize and conduct elections and resolve Cambodia’s contested sovereignty once and for all. Comprehensive in nature, the PPA also contained military (that is, DDR) and human rights

provisions to prevent recidivism of past crimes, but with a forward-looking focus enshrined in its key objective: “a continuous process of national reconciliation” among the four factions. This was a difficult mandate, and in reality, the factions deeply mistrusted one another; distrust was particularly acute between the DK and State of Cambodia.

After the signing of the PPA, Prince Sihanouk said the DK’s inclusion was not his responsibility: “This plan is that of the five major powers. . . . Let them amend it to read that the Khmer Rouge be left as rebels . . . let them change it. I will not object.”⁹ Hun Sen also expressed his frustration:

I just do not understand what a number of countries want really. When I proposed measures to prevent [the return of] the genocidal Pol Pot clique, they said Hun Sen behaved like an obstacle to the political solution. But when we conceded to the Agreement, many countries began expressing concern over the Pol Pot issue . . . either we have to start negotiating again in order to expel the Polpotists and put them on trial or we have to implement the Paris Agreement.¹⁰

In any event, the Khmer Rouge withdrew from the peace process in mid-1992 to avoid UN control over its zones, and the disarmament, cantonment and demobilization process ceased barely three months after it started. The three other factions then worked with UNTAC to successfully secure the May 1993 Constitutional Assembly elections and participated in drafting a new constitution, which subsequently led to the formation of the Royal Government of Cambodia (RGC) in September 1993. Before the elections, some 360,000 refugees residing in Thai border camps were repatriated and were tenuously absorbed and/or integrated into areas under SoC control in northwestern Cambodia.

Political violence was endemic throughout the 1993 electoral process and records indicate that members of the CPP killed more than 200 FUNCINPEC activists.¹¹ While the royalist FUNCINPEC party won 45 percent of the vote compared to the CPP’s 38 percent, it did not have the required two-thirds majority needed to rule outright. Under pressure from Sihanouk and the threat of violence and secession from the CPP, and with the tacit acceptance of the international community, FUNCINPEC’s leader, Prince Norodom Rannariddh—who was also Sihanouk’s son—accepted a power-sharing formula with the CPP whereby the two parties would effectively split government fifty-fifty, with Rannariddh as titular “first Prime Minister.” While an accurate reflection of the balance of power in Cambodia, it compromised, perhaps fatally, the democratic gains of holding Cambodia’s first ever free and fair elections.

Meanwhile, the DK continued to fight a low-level war while trying to negotiate a place in government until mid-1994, when the RGC outlawed the organization. Through 1994 to 1996, the coalition-government partners competed with one another in successfully negotiating the capitulation of some DK groups. However, in mid-1997 the RGC coalition disintegrated when the CPP successfully mounted a coup against FUNCINPEC. This action is now broadly understood as a means of better preparing the CPP for the 1998 national elections, where the CPP could claim that

it was solely responsible for the defeat of the DK while simultaneously breaking the prospects for a FUNCINPEC-DK electoral alliance—an alliance the CPP feared running against in the emerging electoral contest.

During the outbreak of violence that followed the CPP's 1997 coup, at least fifty FUNCINPEC members were killed, including key party officials and mobilizers. This and the absence of FUNCINPEC leaders, including Prince Rannariddh,¹² who fled Cambodia during this new round of fighting, had a dramatic impact on the party's ability to organize in the countryside in the lead-up to the 1998 elections.¹³

The CPP won the 1998 election, but did not receive the two-thirds majority votes required to govern outright. Rather, after a bloody standoff in the streets of Phnom Penh, Rannariddh again led FUNCINPEC into a coalition government with the CPP, but this time as a lesser partner, in both form and substance. Hun Sen became the sole prime minister of Cambodia.

In parallel, the DK all but dissolved in a renewed series of violent, internal purges that saw Pol Pot placed on trial by his own generals in 1997, his eventual death in 1998, and the final surrender of the last pockets of DK remnants in remote parts of Cambodia in 1999.

From 1999 to 2006, the CPP steadily consolidated its political and economic power through subsequent elections (that is, 2002 Commune elections and 2003 National Elections), each time successfully cajoling FUNCINPEC back into government. In 2006, the CPP swept not only village chief elections but Senate elections as well, taking outright control of the legislature.

In March 2006, the Core Group of Donors pledged \$600 million to the RGC, the largest promise yet of development funds. Within weeks, China promised \$601 million of unconditional assistance, highlighting its renewed influence in Cambodia. Preceding the Core Group meeting on March 2, the National Assembly (NA) amended the Constitution to require just 50 percent plus one—a simple majority—of the NA to form a government. On the same day, Hun Sen fired the co-minister of national defense and the co-minister of the interior, both of whom were ranking FUNCINPEC leaders. The following day, FUNCINPEC chief Prince Rannariddh resigned as president of the National Assembly.

These changes generally reflect CPP control of all branches of government: the executive, legislature, judiciary and the security sector. Because of this, there are serious concerns that there is simply no separation of powers in Cambodia; however, as the U.S. ambassador to Cambodia declared, “In reality, [the two-thirds majority government] hasn't worked very well; it's been terribly inefficient.¹⁴ [Hun Sen] may have a more efficient and streamlined bureaucracy after this, but he still has to answer to the people. There are serious issues out there like land reform and corruption that the people are fed up with. And now frankly, it's up to the CPP to fix these things.”¹⁵

In this “postconflict” period, the RGC attempted DDR processes in a development context. This meant longer-term institutional reform of the military and also finally hammering out an agreement with the United Nations to establish the Extraordinary Chambers in the Courts of Cambodia (ECCC) to bring to trial those Khmer Rouge leaders “most responsible” for the atrocities committed while the group ruled Cambodia between 1975 and 1979.

At present, Cambodia is experiencing huge infrastructure gains (roads, bridges, telecommunications and so on), a sustained average GDP growth rate of 11.4 percent for the last three years, and an environment, according to the International Monetary Fund (IMF), of macroeconomic stability that is attracting foreign investment.¹⁶ A construction boom is evident in the major cities. These rapid changes, however, are occurring in a context of high unemployment and urban migration, in addition to the demographic challenges faced by societies whose populations are predominately young. In some circumstances, these trends might lead to violent confrontation with the government. However, power appears so entrenched behind the CPP, it is hard to imagine a disturbance that could alter Cambodia’s current trajectory, let alone dent the status quo.

Since 1979, the CPP has completed a journey from penury to hubris in which its leaders have pursued various strategies to co-opt and reintegrate enemies, combatants, political foes and fellow-elite members of society. The overriding consideration has been the preservation of stability, narrowly interpreted by the CPP elite in terms of their own physical, economic and political security. In general, the international community has broadly supported these considerations. Post-UNTAC, this journey has been partly underwritten by generous disbursements from the international community and an extraordinary regional economic transformation led by China, Vietnam and Thailand (notwithstanding the setback of the 1997 Asian financial crisis).

The RGC has played its part in this transformation, through achieving a hard-won stability and by providing raw resources to its neighbors at extremely competitive rates. Further windfalls are anticipated through oil and gas revenues in the Gulf of Thailand, which may realize US\$2 billion per annum between 2009 and 2012. Other revenues may materialize from aluminum, iron ore, gold and other mineral deposits in Cambodia’s northern and northeastern regions or from growth in the economy’s current mainstays: the garment industry, tourism and agriculture. It is in these circumstances that the RGC and the UN commenced the ECCC in July 2006.

Each of the DDR and transitional justice processes examined in this paper provide insights into contemporary power politics in Cambodia and its notions of justice. In broad terms, it is hard to argue against what Steve Heder describes as an established norm in Cambodia of “victors’ justice.” In part, this has been caused by French, U.S. and Vietnamese policies in Cambodia and reinforced by “international apathy and inaction vis-à-vis war crimes, crimes against humanity, persistent patterns of gross violations of human rights and even genocide in Cambodia.”¹⁷

DDR-UNTAC, 1991–1993

The Paris Peace Agreements signed on October 23, 1991, facilitated the process of national reconciliation while giving the UN an enhanced role, “with full respect for the national sovereignty of Cambodia.”¹⁸ During the transition period, Cambodian sovereignty would reside with the Supreme National Council (SNC), comprising the four Khmer factions and cochaired by Prince Norodom Sihanouk and Yasushi Akashi, the chief of UNTAC.

In substance, UNTAC was to regroup and canton 200,000 regular troops, disarm 420,000 combatants (including 250,000 militiamen) and secure and guard 350,000 weapons and 80 million rounds of ammunition.¹⁹ On average, each cantonment site contained 3,846 soldiers and 1.5 million rounds of ammunition. This occurred in the context of broader UN responsibilities for the security of Cambodia’s borders and territorial waters, the resettlement of more than 500,000 people, including refugees, demobilized soldiers and internally displaced people, and conducting nationwide elections.²⁰ At the time, it was the UN’s largest undertaking since the Congo operation in the 1950s.

UNTAC Cantonment Table

Faction	Strength	# of deployed positions	Cantonment sites
CPAF	131,109*	397	33
DK	27,422	>100	10
KPNLAF	27,790	114	6
ANKI	17,500	35	3
Total	203,821	646	52

*Figure excludes militia of 220,290 all ranks belonging to the CPAF/SoC.

The cantonment process involved a simultaneous nationwide regrouping of all factions, their weapons and equipment. Under the PPA, the factions had agreed to a phased process of demobilization of at least 70 percent of their military forces. The DK had in fact sought 100 percent demobilization, but the CPP had easily countered this by arguing that only they could ensure the disbanding of the Khmer Rouge. Hence, the factions were to retain 30 percent of their forces in cantonments and under UN supervision until after the 1993 elections—at which time the factions would consolidate its militaries, in theory, behind the new government. While the troops were disarmed and cantoned, UNTAC supervised and controlled another 54,000 individuals who made up the various factions’ police (one UNTAC police officer per fifteen local civil police), whose role was to ensure a neutral political environment for the elections.²¹

These numbers are significant because during UNTAC operations, it was thought that the respective factions had each overstated their effective strengths by about two-thirds in order to retain their effective troops for the new army or for continued struggle, depending on how the process unfolded. The CPP's military, the CPAF, was the largest of all the factions and was thought to have less than 50,000 troops.²² Because the CPP wanted to canton and demobilize 70 percent of its military before the wet season so that this manpower could be used for rice planting, many believed that 70 percent of the CPAF were actually seasonal conscripts or were hastily recruited since the Vietnamese People's Army withdrew from the country in 1989.²³

The two smaller factions, the KPNLF and FUNCINPEC, had only (external) funding, from the United States, for cantonment for three months. The CPAF was broke and had very little or nothing coming in from Vietnam. UNTAC provided only food to canted soldiers. The controversy over troop numbers and the lack of distinction between regular professional forces and irregulars and civilians continues to this day and has hampered all DDR programs and reform efforts of the new integrated army, the Royal Cambodian Armed Forces (RCAF).

Although UNTAC set aside US\$27 million for food and basic shelter (some DDR sites were in jungle clearings) and budgeted US\$14 million for basic vocational programs for demobilized soldiers, the costs for regrouping, cantonment, disarmament and demobilization was borne by the factions—each of which was destitute.²⁴ Moreover, the war-torn economy could not absorb the large number of former fighters, however poorly paid, except in basic subsistence agriculture (from where they had come anyway). This was problematic for the 360,000 refugees along the Thai-Cambodia border who also had to integrate in the countryside somehow.

Repatriation

Aid packages for each family in the refugee camp population initially consisted of two hectares of agricultural land; transport to a final destination of their choice in Cambodia; housing materials; and household supply kits to last for twelve months. A vast majority (90 percent) of the refugee population was under the age of forty-five, and almost half were under fifteen years of age.²⁵

Like military demobilization, all repatriation in theory had to occur before voter registration commenced in November 1992 so returnees and soldiers alike could register and vote in the upcoming elections. Two-thirds of the camp populations wanted to return to northwestern Cambodia, which contained a vast number of minefields, and in any case had a shortage of arable land. Recognizing this, in May 1992, UNHCR broadened the range of discrete options available to include a cash grant of US\$50 per adult and US\$25 per child under the age of twelve, with no additional material aid granted, but not excluding the eventual allocation of agricultural land. Ultimately, 87.6 percent of all repatriated refugees would take the cash option.²⁶

More than sixty international and local NGOs participated in a broad reintegration program that included literacy training for demobilized soldiers; rehabilitation of schools, hospitals, wells and latrines; small credit schemes; and some 400 days of free food from the World Food Programme and the Cambodian Red Cross.²⁷ Despite this, the renewed fighting that occurred shortly after UNTAC operations ceased forced many of the returnees to uproot and flee, in some cases on more than one occasion. To this day, the rural population of the northwest remains vulnerable. Unemployment and land tenure are the most pressing issues.

In hindsight, the mutual obligations bestowed by the PPA on UNTAC and the four factions seem astonishing. It is not clear that such an operation could be repeated today, so cheaply and in such a short time frame. The cost of maintaining an UNTAC troop in the field in 1992 was estimated at US\$8.50 per day. In stark contrast, the cost of feeding a Cambodian soldier at a cantonment site was estimated at US\$0.57 per ration, which the UN wanted to reduce to just US\$0.22.²⁸ Conversely, daily subsistence payments for UNTAC civilian staff were around US\$150 per day.

While all the refugees successfully repatriated into Cambodia, the DDR process ceased after only 52,000 troops had been cantoned (of which 38,000 had been released on agricultural leave after surrendering their weapons and receiving ID cards).²⁹ UNTAC served as only a temporary caretaker in this mission and the 55,000 weapons it collected from combatants were originally supposed to go to the government emerging from the elections. In the lead-up to the May 1993 elections, however, UNTAC released some of the weapons to the KPNLF, CPP and FUNCINPEC so they could help defend the election proceedings in their zones against DK attacks.

On June 10, 1993, the military chiefs of FUNCINPEC, CPP and KPNLF agreed to form a single army, eventually known as the Royal Cambodian Armed Forces. In mid-July, the UN Security Council agreed to provide US\$20 million in emergency financial assistance to Cambodia. The funds were to be used to pay the salaries of civil servants, police and the military for a period of three months to reduce banditry, improve stability and assist in an orderly transfer to the new government.³⁰

From July to September 1993, UNTAC paid salaries to 127,464 troops in twenty-one provinces in Cambodia, including the CPAF navy.³¹ By faction, this comprised 94,706 CPAF members, 16,967 KPNLAF members and 15,791 ANKI members. All three factions had to find recruits to match their claimed numbers. Some soldiers attended several pay parades, some had forged ID cards or none at all, and people were granted ID cards on the spot. Children as young as thirteen years of age and old men were also paid.³²

Almost immediately, the RCAF went to war against the Khmer Rouge in a series of offensives in central and northern Cambodia. In addition to pressuring the DK, the offensives were also designed to test the loyalties of the smaller factions that made up the new army; they led the assaults and propaganda efforts to win over their erstwhile Khmer Rouge comrades. Since UNTAC's arrival a steady stream of DK soldiers had presented themselves to the UN. They were tired of fighting and

living a hard life in the forest and wanted to lay down their arms. Two hundred DK soldiers had defected to UNTAC by the end of 1992.³³ A further 1,300 had come across by September 1993, and by February of the following year, approximately 3,000 DK soldiers had defected to the new government.³⁴ This represented between one-fifth and one-quarter of the movement's core fighters. The government placed them in reeducation camps on the outskirts of Phnom Penh; it was the beginning of the end for the DK.

UNTAC's DDR mandate was devised as a support measure for creating a neutral political environment for the 1993 national elections, with disarming and cantoning military factions viewed as prerequisites for this. UNTAC structured the planning and timing for DDR accordingly, much like the repatriation process, around these elections. The factions bore the brunt of the costs, yet they were hardly in a position to meet the "immediate economic and social needs of the ex-combatants at the time of demobilization."³⁵ Nor could the economy absorb them after thirty years of war. UNTAC did not have funds for this purpose, either, and in any case, much of the countryside experienced high levels of insecurity and near warlike conditions throughout UNTAC's tenure; the electoral contest only exacerbated this situation. In addition, the PPA and DDR process dealt with gender issues in name only—the UN headquarters in New York requested a head count of women bureaucrats on UNTAC staff.

UNTAC successfully resolved the international dimension of the Cambodia conflict by helping the country proceed with the May 1993 elections, thereby allowing the international community to engage with a sovereign and legitimate Cambodian government. The onus, however, remained with the Cambodians to take responsibility for their own internal reconciliation and development. This was not a complete omission on the part of UNTAC. Indeed, transitional plans for the integration of three of the faction armies were presented—and rejected—by the newly formed government in August 1993. Similarly, interactions between the international community and the Cambodian government concerning the development of Cambodia's security and justice sectors since UNTAC have either been hostage to the turbulent politics of the moment, wallowed in bureaucratic inertia or actively sidelined in favor of government initiatives.

The UNTAC operation was sensitive to charges of neocolonialism and drew heavily on its distinctly "Asian" flavor in terms of consensus approaches with respect to its operations. It was also encouraged to cut costs. The UN's military sector managed the DDR processes and the UNHCR (and partners) worked, with mixed success, in reintegrating refugees. The human rights component of UNTAC served to document abuses but, in aggregate, the UN was unable to modify or stop violent modes of behavior and was unable to create the conditions for national reconciliation.

DDR—The Cambodian Veteran’s Assistance Program, 1994–2006

By May 1994, the three factions, CPAF, KPNLAF and ANKI, had been amalgamated and restructured into twelve military divisions with ranks awarded by proportion based on faction population.³⁶ The integration process led to what one RCAF general described as “anarchic recruitment” and “anarchic promotions.”³⁷ Suddenly, the RCAF had more than 2,000 officers in the rank of general. This number was reduced to 400 in 1995, but by 2006, it had grown again to 613.

In 1994, the RCAF was still a grouping of semiautonomous armed units highly suspicious of one another.³⁸ These factors, coupled with the ubiquity of weapons and high unemployment, allowed for the widespread banditry and lawlessness that followed. The ill-disciplined military was as great a threat to Cambodia’s recovery as the outlawed Khmer Rouge. A simple way of dealing with both was to keep the RCAF in the field fighting the DK and out of urban centers. As an incentive, the government transferred responsibility for timber contracts to the Ministry of National Defense (MND). Although responsibility would be transferred back to the Ministry of Finance (MoF) a few months later, in August 1994, the forestry continues to be dominated by the security sector in Cambodia. Autonomy for the armed forces to exploit natural resources and engage in transnational business without allowing the state to direct revenues was established in the early 1980s, strengthened in the 1990s and became a source of increased national tension by 2006.³⁹

Recognizing it needed to overhaul its large military, the RGC sought international assistance to underwrite DDR packages, including security sector reform. In parallel, the government allocated 6 percent of all concession land across the country’s five military regions to RCAF general staff. Soldiers were to be granted leasehold titles for subsistence plots, while adjacent “development land” was to attract agro industries and provide employment opportunities for demobilized soldiers.⁴⁰

In late 1994, the RCAF halted the retirement plans of military personnel in anticipation of a “significant pay-off from donors in the form of benefits for demobilized soldiers.”⁴¹ Allied to this was new legislation that would guarantee a pension for retired soldiers.⁴² The RCAF was preoccupied with controlling the defense budget, determining its future on its own terms and obtaining recognition for the sacrifices of the past. These institutional preoccupations with establishing unity in the new coalition government dominated planning.

Between 1994 and 1995, the RCAF mounted a series of disastrous offensives against the DK. Through these military engagements, it became clear that despite 165,000 troops on paper, “in some divisions only 200 out of 2,000 were in reality available.”⁴³ Troops had either bought their way out of the fighting, simply did not exist or had abandoned military life altogether.

In 1995 and 1996, the government and the World Bank prepared a Cambodian Veteran’s Assistance Program targeting some 40,000 RCAF soldiers and 3,000 DK defectors. The program focused on assistance to the disabled, the chronically ill and the spouses of deceased soldiers. While an implementing agency, the National Commission for Demobilization and Reintegration of War Veterans, and a General Secretariat—later superseded by the Council on Demobilization of the Armed Forces (CDAF)—were established,⁴⁴ the program was never carried out due to the political turbulence of the time and the 1997 CPP coup.⁴⁵ As described by a Cambodian general: “the political reality, of the time, was that recruitment was more important for stability than demobilization.”⁴⁶

Defeating the Khmer Rouge

In parallel developments, the government passed the Law on the Outlawing of the “Democratic Kampuchea” Group, promulgated on July 15, 1994.⁴⁷ The law codified specific criminal acts committed by the DK, including secession, destruction of the organs of state authority and incitement to take up arms. It granted a six-month “stay” to encourage defectors, excluding Khmer Rouge leaders; allowed for royal amnesty; and stated that crimes of genocide had “no statute of limitations.”⁴⁸ Those prosecuted under the law could expect sentences ranging from twenty years to life imprisonment.

The law also criminalized the exploitation of natural resources (timber and gems) by the Khmer Rouge in recognition of their lucrative cross-border trade with Thailand (which UNTAC had also focused on). Together, the military offensives and the legislation invoked policies employed by PRK, now the CPP, since 1979. Finally, fifteen years after its overthrow, the Khmer Rouge faced the prospect of bandit status before the law, passed by an internationally recognized government. The Khmer Rouge was now on its own.

International pressure on Thailand to cease its logistic support of the Khmer Rouge also increased. The 1994 U.S. Foreign Operations Act allowed for sanctions against countries assisting the Khmer Rouge militarily,⁴⁹ and a 1995 amendment included sanctions against countries dealing with the Khmer Rouge commercially.⁵⁰ Thailand formally closed its border in May 1995. While cross-border trade and movements through Thai territory continued to a lesser degree, weapons and ammunition became increasingly difficult for the Khmer Rouge to source.⁵¹ Morale plummeted among the Khmer Rouge and a few, tired of “so much blood on the floor,” began to actively explore options with the Cambodian government.⁵²

Implementing the Law

Through 1994 and 1995, the government stepped up its efforts to encourage Khmer Rouge combatants and their families to defect. This included leaflet drops by helicopter and radio

broadcasts to guerrilla areas assuring fighters protection and national integration “under the cool shade of Preah Bat Samdech Preah Norodom Sihanouk Varman, the highly revered King of us,” and the right to retain their property.⁵³ At the time, Hun Sen also made many trips to Beijing to discuss bilateral political and military ties between Cambodia and China. Although he claims he never discussed the Khmer Rouge issue, he knew that DK leadership believed otherwise.

This combination of policies had encouraged approximately 7,000 defections by the amnesty deadline of January 15, 1995.⁵⁴ Of these, some 2,970 DK defectors gained positions within the RCAF and returned to the conflict.⁵⁵ The RCAF used these ex-DK combatants to plan and implement military maneuvers against their former comrades, and they were frequently sent back to their old redoubts to encourage further defections. The government also indefinitely extended the six-month amnesty period stipulated in the 1994 law.⁵⁶ In part because of this, there were prominent defections in 1995 and 1996, including Sar Lemouth (the Khmer Rouge’s financial chief), Heng Sarath (the political commander of Division 980) and Heng Pong (the commander of the Eighteenth Division). Lemouth’s public comments indicated serious internal divisions within the movement over harsher policies on private ownership for the rank and file, corruption among the elite and no end in sight to the war with the government.⁵⁷

While DK defection seemed effective, there were also controversial cases. For example, in October 1994, the Khmer Rouge commander Chhouk Rin, implicated in the murder of three Western tourists in Kampot province, brought 147 defectors, fifty families, and numerous weapons across to the government, lured by the promise of amnesty and a post in the RCAF.⁵⁸ Rejecting international criticism at the time, Hun Sen argued that defectors like Rin “must have the right to join the national community and to be ordinary citizens.” Punishment was to be set aside as reward for leaving the Khmer Rouge.⁵⁹ Hun Sen was committed to assuring defecting Khmer Rouge of their physical safety and survival, the right to work and to carry out their professions, and the security of their property.⁶⁰

The last point regarding security of property is important in understanding the dismantling of the Khmer Rouge. At the time, the DK were undergoing fatal internal squabbles over private property rights, among other renewed curbs on life in the movement. The narrative of this dramatic period by DK commanders places these internal imperatives as the major reason for defection, rather than Phnom Penh–initiated policies. Whichever, both internal and external factors reinforced each other.

The Defection and Pardon of Ieng Sary

Working through Thai military intermediaries in June 1996, I-Chhean, Sok Pheap and Mey Mak (Khmer Rouge commanders in Pailin and Malai) met the RGC’s minister of defense and the RCAF chief of general staff to negotiate their breakaway from the DK. Discussions centered on including a specific amnesty for Ieng Sary within the defection process. As deputy prime minister and foreign minister of the Khmer Rouge from 1975 to 1979, Ieng Sary was sentenced to death in absentia for

“genocidal crimes” at the PRK’s People’s Revolutionary Tribunal in 1979 and faced similar charges under the 1994 law banning the DK. Further to these negotiations was the de facto amnesty for all DK officials involved in the talks, autonomous rule of their zones and government protection from attacks by the remaining Khmer Rouge.⁶¹ Rank-and-file combatants in the autonomous zones each received two-hectare plots of land as part of this military reintegration agreement.⁶²

King Sihanouk formally pardoned Ieng Sary on September 14, 1996, of his 1979 death sentence and granted him amnesty under the 1994 law, at the written request of Hun Sen and Prince Rannariddh.⁶³ Widespread national and diplomatic disbelief at the decision at the time was countered in many circles by the acknowledgment that the armed conflict needed to end in order to save lives.⁶⁴ The compromise between peace and stability and accountability for past crimes had never been placed in starker contrast.⁶⁵

Under these negotiations, the government expected former Khmer Rouge leaders to join the CPP. When I-Chhean, for example, attempted to join the Sam Rainsy Party⁶⁶ in early 1998, he was immediately summoned to Battambang province and was strongly reprimanded. Subsequently, all ex-DK leaders have faithfully remained with the CPP.⁶⁷

These particular defections sent shock waves through the DK, and approximately 3,000 combatants in Pursat, Koh Kong and Banteay Meanchey followed suit. On November 6–7, 1996, Ieng Sary officially passed control of 4,400 combatants and approximately 30,000 civilians to the government, representing some 20 percent of the Khmer Rouge force now under the RGC.⁶⁸

Rising Tensions in the Coalition Government

By late 1996, the coalition government began to crack as the CPP and FUNCINPEC openly competed for influence with the remaining Khmer Rouge groups. Hun Sen and the CPP had long accused FUNCINPEC of using “the Khmer Rouge as a counter-weight to achieve their objectives.”⁶⁹ Rannariddh’s top general, Nhek Bun Chhay, had been instrumental in facilitating many of the defections, but at the time, Hun Sen’s CPP had a greater number of defectors on its side.⁷⁰

The CPP feared the emergence of a political coalition of FUNCINPEC, Sam Rainsy’s Khmer National Party, and former Khmer Rouge groups that would contest the 1998 national elections. At a deeper level, Hun Sen objected to anyone else taking the credit for defeating the DK. Tensions in Phnom Penh rose as the competition to co-opt the remaining Khmer Rouge groups intensified. On March 30, 1997, unknown assailants threw four grenades into the throng at a Sam Rainsy–organized demonstration in the center of Phnom Penh. Twenty people died and more than one hundred were wounded.

In June 1997, Nhek Bun Chhay announced a potential FUNCINPEC deal with the Khmer Rouge that would allow Pol Pot, Ta Mok and Son Sen to go into exile and Khieu Samphan to join the government. Reportedly, King Sihanouk had offered to provide pardons for Khieu Samphan, Son Sen and Nuon Chea if both prime ministers formally requested it, but refused to grant pardons to Pol Pot and Ta Mok.⁷¹

Over two days in 1997, July 5 and 6, CPP forces launched a violent coup against FUNCINPEC in Phnom Penh, eventually killing more than sixty of their top political-military operatives. Prince Rannariddh fled the country and Nhek Bun Chhay escaped north to O'Smach. The 1998 elections eventually went forward under international pressure, and while FUNCINPEC participated, the royalist movement never fully recovered its power.

The Final DK Defections

Disillusionment among some Khmer Rouge defectors after the events of July 1997 led a small number to return to forest bases, but the writing was on the wall. After Pol Pot's death in 1998, the core of the movement's remaining intelligentsia—Chan Youran, Mak Ben, Thiounn Thioeunn, In Sopheap and Kor Bun Heng—defected in June 1998.⁷² On December 4, 1998, Khmer Rouge Chief of Staff Khem Nguon handed over control of some 5,000 people in Anlong Veng, the group's last significant bastion.⁷³ Nuon Chea, chief ideologist of the DK, and Khieu Samphan, president of the DK from 1976 to 1979, defected on December 26, 1998. In February 1999, Co-ministers of Defense Tea Banh and Prince Sirirath announced the defection and reintegration of the remaining 3,500 Khmer Rouge combatants.⁷⁴

The Khmer Rouge's demise was publicly heralded as a triumph of national reconciliation and vindication of the CPP's long-standing policy of "Divide, Isolate, Finish, Develop."⁷⁵ The war with the DK was finally over, and yet only five individuals were ever arrested and charged with criminal offenses relating to the Khmer Rouge period. Chhit Chooun, alias Ta Mok, the infamous commander of the southwest zone, was arrested by the Cambodian military on March 6, 1999, under the 1994 law. Kang Kech Eav, alias Duch, the notorious overseer of Tuol Sleng prison, was also arrested under the same law. In August 1999, the Cambodian National Assembly approved new legislation that extended the period of ECCC pretrial detention from six months to three years for people charged with war crimes, crimes of genocide and crimes against humanity. A week later, Ta Mok and Duch were charged with "war crimes" and "genocide" during the Khmer Rouge period under Decree No. 1 issued on August 15, 1979.⁷⁶ The ECCC has renewed the charges every three years, once in February 2002 and again in February 2005. Nuon Chea, Khieu Samphan, Ieng Sary and Ieng Thirith were all arrested in 2007.⁷⁷

Ta Mok died in custody on July 21, 2006, at eighty-one years of age, leaving Duch, Nuon Chea, Khieu Samphan, Ieng Sary and Ieng Thirith in custody and awaiting prosecution.

Second Round of Veteran's Assistance

Because of the continuous DK defections for four years from 1994 to 1998, the RCAF continued to grow, on paper at least, and DDR programs remained on the shelf. After the 1998 national elections and the reestablishment of a CPP-FUNCINPEC coalition government, international donors, driven by budgetary concerns, placed DDR back on the table. National defense in 1998 (the RCAF, the national police and the gendarmerie) accounted for over half of government's recurrent expenditures, higher than expenditures for economic and social services sectors combined.

Following the reintegration of the Khmer Rouge remnants, the RCAF claimed it had a total force of 155,000 troops, and in February and May 1999, the RGC presented a revamped CVAP program to donors, taking the extra numbers into account. The initial goal was to reduce the RCAF by 31,500 soldiers after removing the ghost soldiers and widows from the ranks. In theory, any savings obtained would be used to fund the social sectors.⁷⁸

Ultimately, the demobilization program was to cut the RCAF by “one-third,” to just under 100,000 soldiers. Fifteen thousand troops were to be demobilized in 2001 and another 15,000 in 2002 “into the peacetime life of a civilian.”⁷⁹ The total program cost US\$45 million, of which the RGC would pay US\$7.2 million. Donors resisted an earlier plan to hand out cash payments of US\$1,200 per soldier. Instead, soldiers received a US\$240 cash payment, equal to about one year's pay and allowances, based on the typical US\$20 per month salary. The government's plan also promised mosquito nets, farming implements, animals or “even a motorbike” to soldiers.

In 2000, the RGC launched a pilot demobilization program for 1,500 soldiers (costing US\$2.5 million) with the support of the World Bank, the World Food Programme and the governments of Japan, Sweden, the Netherlands and Germany.⁸⁰ The program focused on community development projects in four pilot provinces, and recognized that many soldiers had been out of active combat—some for years—and the majority had already settled, for the most part, in local communities and were engaged in farming and other rural development activities.

Indeed, a survey in Kampot and Kampong Thom provinces gave a consistent and coherent picture that most soldiers had already de facto demobilized: “70–90 percent already live in communities and are active in farming activities.”⁸¹ Under the circumstances, donors preferred to allocate resources to long-term development activities rather than the “transitional and short-term needs of the veterans.” An allied concern was that the RCAF's pilot demobilization project would commence before an SSR strategy had been developed, a defense white paper⁸² produced in 2000 notwithstanding.

Between 1999 and 2006, the EU assisted the RGC in disposing of the surplus weapons collected during DDR. Despite this, a perennial concern of the project donors was that there were no clear guidelines for disarming the soldiers.⁸³ The Ministry of National Defense (MND) worked out criteria for demobilization with priority accorded to category-two soldiers—that is, those who are

disabled, chronically ill or elderly. Category-two soldiers represented 10.14 percent of the RCAF, or 13,334 personnel, in 2000, and had been “specifically targeted because of their unfitness for service and the resulting high cost to the military.”⁸⁴ For example, in the 2000 pilot demobilization project set up in Battambang province, the vast majority of Khmer Rouge recipients were disabled. They received the following in four shipments of supplies over the year:

- A cash payment, a medical checkup, 150 kilograms of rice, 2.55 kilograms of fish, 3.44 kilograms of cooking oil, 1 kilogram of salt, one mosquito net, one blanket, one mat and one *krama* (a traditional Cambodian clothing item).
- A second package of a long knife, axe, hand hoe, big hoe, saw, two tents, two hammocks, 1 kilogram of nails, two water baskets, a boiling kettle, a rice pot, 1 kilogram of cleaning powder, a basket and some vegetable seeds.
- The third package comprised a bicycle, blanket, mosquito net, mat, three shirts and one *krama*.
- A final package of 150 kilograms of rice, six tins of fish, one jar of cooking oil and 1 kilogram of salt. The MND also envisaged that longer-lasting support might also include a larger item per soldier: “perhaps a motorbike, a water pump, housing materials or a draft animal.”

The soldiers receiving these shipments complained that the payment was not enough to buy sufficient land or animals to run a profitable farm. In effect, the demobilization effort was a “huge shopping trip for the government,” purchasing and delivering thousands of pieces of equipment. Assistance to be provided included community-based reintegration activities, including information, counseling and referral; skills enhancement; micro-projects; community social and physical infrastructure; community social activities; and other vocational training. Forty former soldiers in Kampot province also received truck driver training.⁸⁵

By December 25, 2001, the government had demobilized 15,000 soldiers.⁸⁶ The second group of 15,000 soldiers was to be demobilized through the end of 2002, as part of the US\$42 million effort.⁸⁷ In 2002, donor concerns began to emerge, however, particularly because high-ranking officers were not retiring and nonperforming soldiers (those working elsewhere but still on RCAF roll books) who also needed to be removed had not been. In response to these inconsistencies, donors specifically asked the government to accelerate the disbursement of allowance packages; strengthen the monitoring mechanism for the exercise; provide vocational training and psychological counseling for soldiers; share experiences; set up a civil society support group; and collect the weapons from demobilized soldiers.⁸⁸

At no point was there a suggestion to link the demobilization and reintegration process with any transitional justice measures. As noted above, many international donors expressed concern that the process was not linked to disarmament, either. The prime effort was on improving the degree of state-provided care and services for veterans in general—a notion driven by donors on the basis that

savings from such demobilizations could then be rolled back into social services. An RGC spokesperson also stated, “If we can pacify the country, we can downsize the military, make the army more professional and reduce its role in politics.”⁸⁹ If this was truly the government’s intention, the military has ignored it, given its actions and the public statements made by the RCAF’s commander in chief in April 1999, claiming that any savings from demobilization would go toward professionalizing the army, mainly via higher salaries for its members.⁹⁰

Thus, by end of 2002, the German government had ceased its support of the demobilization program, as there were no longer any soldiers left to demobilize, “identifying specific groups or individuals was close to impossible,”⁹¹ and the majority of ex-combatants had already returned to subsistence agriculture by 2001–2002. Additionally, the proposed transition packages, such as motorbikes and sewing machines, were dividing communities rather than uniting them, and as a result Germany abandoned the demobilization program and focused instead on government decentralization.⁹²

Finally, the World Bank suspended its involvement in July 2003, after declaring a massive misappropriation of funds in the US\$18.4 million project.⁹³ The World Bank forced the government to repay US\$2.8 million or risk losing funding for all other projects sponsored by the organization.⁹⁴

In 2006, there were ongoing nationwide complaints that disabled soldiers received their salaries and pensions between 150 and 200 days late, with blame shifting between the MoF and the Ministry of Social Affairs, Veterans, and Youth Rehabilitation. Corruption was rampant. For example, the provincial social affairs department in Kampong Cham province embezzled up to US\$200,000 earmarked for disabled veterans in the area, and funds had allegedly only been distributed to three of the province’s sixteen districts. Of the 1,823 disabled veterans in the area, only 368 had received payments.⁹⁵

In August 2006, 200 demobilized soldiers from Banteay Meanchey province camped in front of the National Assembly to protest the sale by their commanders of land earmarked for them and their families in 2001.⁹⁶ In Takeo province, the practice of “rich people buying the identities of poor, disabled people” to collect monthly pensions has been reported and has led to disabled people complaining about the reductions and late payments of their pensions.⁹⁷

Despite their protestations, military veterans in Cambodia have no associations to speak up on their behalf and their complaints go unanswered. Demobilized personnel are simply transferred to the Ministry of Women’s and Veteran’s Affairs, on lower allowances.⁹⁸ This process was halted in 2003 “due to a lack of funds,” but at a March 30, 2006, inter-ministerial meeting between the MoF, MND and Ministry of Social Affairs it was agreed that another 7,500 personnel would be transferred between ministries by the end of 2006. Further transfers were made in 2007 to bring troop numbers down to 100,000 with an overall target strength of 70,000 to 80,000 by the end of 2009. In reality, there would be minimal actual demobilization, as the number of category-two personnel will have

greatly increased by 2009.⁹⁹ As in 1999, the MND will most likely roll any savings from personnel transfers back into upgrading military facilities and improving conditions of service instead of channeling the funds to improve national social services—the primary rationale for DDR in Cambodia in the first place.

The RCAF, in effect, has been implementing a pension and retirement scheme that has its basis in legislation from 1996.¹⁰⁰ Yet by and large, this has been a process of natural attrition. Demobilization, when it did occur, happened in predominantly Khmer Rouge areas and the target groups were the most vulnerable elements of the armed groups: the aged, infirm and disabled. In effect, this too was a retirement and pension process rather than a DDR program. Troops who had returned to subsistence farming after the various defections of the early to mid-1990s often found themselves recalled through 2000–2002 to attend demobilization parades and receive reintegration packages. Perhaps it provided a form of closure on their former lives, and former combatants must have welcomed any compensation package, however meager. For unit commanders, though, demobilized soldiers translated into a loss of revenue, as they lost a salaried soldier they could potentially tax.

Proposed Conscription—The Law on Military Service

Institutionally, the RCAF was getting old and emerged as an aging, unsustainable body unable to raise, train and maintain a professional volunteer force. In its *White Paper 2001* (and subsequent supplement, *Defense Strategic Review 2002*), the RCAF first mooted the notion of conscription as “selective compulsory military service” because, in a rather frank disclosure, the RCAF stated that it might only have “commanders and aging officers with no fit, strong and young soldiers to perform their roles and responsibilities.”¹⁰¹ Where were the troops? By 2004, the average age of the RCAF was forty years.¹⁰²

The very concept seems absurd in the context of the demobilization program, the first period of sustained peace in Cambodia since 1968 and a government commitment to reduce defense spending.¹⁰³ However, in a creative spirit the MND said it would fund the drafting of between 3,000 and 5,000 conscripts by demobilizing 7,000 ghost soldiers in 2006 and “retiring” 30,000 “elderly” soldiers in 2007. Under the draft law, up to 3 million people between the ages of eighteen and thirty may be eligible for eighteen months of service.¹⁰⁴ The law is too open for abuse both by candidates paying their way out of the obligation or zealous recruiters taxing the same.

In March 2006, the National Assembly changed the pensions and disability law to lower the compulsory retirement age across the RCAF. Colonel-level members will retire at the age of sixty, lieutenant colonels at fifty-eight, majors at forty-three, and all other ranks must retire between the ages of thirty-eight and forty-two. This amendment will supposedly cut some 38,000 positions from 110,000 existing in the RCAF. However, the 613 one- to four-star generals or those with

“Hero” status, who have reached retirement age, can remain in the national army with the approval of the MND.¹⁰⁵

Despite three different DDR rounds in the last fifteen years in Cambodia, the RCAF still has somewhere between 110,000 and 112,000 troops. In the unique circumstances described above it is clear that there has been little relationship with transitional justice measures, although RCAF generals do claim a process of vetting in not allowing former Khmer Rouge leaders in command of armed units, “at best they could only be deputies.”¹⁰⁶ It also appears clear that the rank and file left the battlefield for subsistence farming as soon as their elite leaders had finalized respective integration deals. Still, security spending has been falling as a percentage of the overall budget in real terms: in 1995 it absorbed 62 percent of revenue; in 2000 it was 40 percent, and in 2003 it was down to 23 percent.¹⁰⁷

Disarmament, 1994–2006

There is increasing recognition that “the blurring of the divide between civilians and combatants means that traditional DDR programs, largely focusing on combatants, are insufficient to address the challenges that armed civilians pose for effective and sustainable disarmament and weapons control.”¹⁰⁸ Further, the reduction of violence in postconflict societies is linked to “a broader transformation agenda including security sector reform, reconciliation, (re)establishment of the rule of law and—ultimately—sustainable development.”¹⁰⁹ With this in mind, it is interesting to consider that the disarmament and weapons management processes were pursued separately, and more successfully, than demobilization and reintegration in Cambodia. This is because, over time, the Cambodian government was much more serious in dealing with problems associated with small arms and light weapons (SALW) than with SSR, rightsizing the military or genuine integration, which were equally shaped by self-interest.

During and after the UNTAC mission, Cambodia was awash in war weapons of every description. Best estimates based on faction data provided to the UN and insider knowledge of the RCAF suggest that more than 500,000 SALW and more than 80 million rounds of ammunition were in Cambodia in the mid-1990s. In late 1993, the Ministry of Interior registered more than 10,000 handguns from private citizens in Phnom Penh alone.

The real push for disarmament came after the 1998 elections. At that point, homicide rates had climbed back up to 1993 levels.¹¹⁰ A convergence of local and international pressures, coming from NGOs and businesses, among others, encouraged the government to crack down on crime and banditry once and for all. Presented initially as Hun Sen’s “eight point security program,” the new government policies restricted the number of personal bodyguards, outlawed illegal checkpoints, barred tinted car windows, reduced some local militias and curbed the sale and carriage of weapons.¹¹¹

In a matter of months, the Ministry of Interior established a nationwide system of Provincial-Capital Weapons Confiscation and Control Committees under the autonomy of provincial governors.¹¹² Coercion (in the form of house searches) and incentives (including buyback schemes of varying success) were used in combination to bring all remaining weapons under government control.¹¹³ Through these methods, 29,804 weapons were recorded in provincial and town storage depots and a further 66,309 weapons were confiscated or voluntarily handed in from the general populace.¹¹⁴ Of these, 36,505 weapons were publicly destroyed in seven provincial ceremonies.¹¹⁵

In time, the RGC requested international assistance to finish the job, leading to the establishment of the EU's Assistance on Curbing Small Arms and Light Weapons (ASAC) program in 2000 and a Japanese equivalent in 2002. A flurry of programs and policies ensued. The government established the National Commission for Weapons Collection and Management in June 2000, developed a comprehensive new arms law (promulgated in April 2005) and created a registration system and safe storage program for all military duty weapons. Additionally, several community-based "Weapons for Development" and Voluntary Weapons Collection Programs (VWCP) established themselves, police support/training and commune council capacity-building initiatives were implemented and many public awareness campaigns were under way. By mid-2006, the RGC and international partners had overseen the public destruction of some 200,000 surplus and illegal SALW.

Between 2000 and 2002, the RGC more or less successfully achieved a monopoly on state violence. However, the misuse of weapons by powerful officials, their associates and family members, as well as by criminals, continues to be a problem. In 2005, National Police Chief Hok Lundy acknowledged: "Phnom Penh has the most big brothers [gangsters] who are usually sons of high ranking officials, Ohknas and ministers. Police could crack down on them, but we do not."¹¹⁶

The RGC has successfully tackled the widespread proliferation of weapons in Cambodia through a sustained, *whole-of-government* approach that included working with international and local partners. The focus of disarmament programs, like the demobilization pilots, was in former Khmer Rouge areas. The one exception was Snuol, in eastern Cambodia, where a banditry problem persisted until 2002.

One by-product of the earlier violence has been a long list of unsolved political crimes, including assassinations, murders and intimidation, among others. The UN's Office of the High Commissioner for Human Rights and numerous local human rights NGOs have provided a well-documented account of this climate of impunity. To be sure, fatal attacks have been in steady decline since 1998, in part mirroring the CPP's growing confidence and control since that time. Open discussion of numerous high-profile incidents, attacks and deaths, however, is limited to a few among the gossip-hungry press. This is partly because of an increasing tendency for Cambodia's elite to file defamation suits against the press and others.

A more critical examination of Cambodia's recent history and elite affairs, in particular, has not been encouraged; it could be argued that the legal and moral space for this is even contracting. It is in this

context that the Extraordinary Chambers in the Courts of Cambodia is commencing its examination of crimes committed during the Khmer Rouge period in Cambodia, some thirty years ago.

Transitional Justice in Cambodia

The UN Group of Experts

On June 21, 1997, a month before the CPP coup, First Prime Minister Norodom Rannariddh and Second Prime Minister Hun Sen wrote the UN requesting assistance to bring to justice “those persons responsible for the genocide and crimes against humanity”¹¹⁷ during the Khmer Rouge period. According to the letter, “this would bring about national reconciliation, strengthen democracy and address the issue of individual accountability in contemporary Cambodia.”¹¹⁸ Hun Sen had sent a similar letter in September 1986.¹¹⁹ In response, the UN appointed a three-member “Group of Experts” to evaluate the existing evidence, to assess the feasibility of bringing Khmer Rouge leaders to justice and to explore options for bringing them to justice before an international or national jurisdiction.

In March 1999, the Group of Experts recommended the establishment of an international tribunal to try Khmer Rouge officials for acts of genocide and crimes against humanity committed between April 17, 1975, and January 7, 1979.¹²⁰

The Extraordinary Chambers in the Courts of Cambodia

The UN and Cambodian government finally signed the agreement to establish the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea on June 6, 2003. The ECCC would serve to prosecute the surviving leaders of the Khmer Rouge regime of Democratic Kampuchea who committed genocide and other crimes against humanity between April 17, 1975, and January 7, 1979. The agreement was ratified by Cambodia’s National Assembly almost a year later and took effect on April 29, 2005, when pledges for the three-year operation of the ECCC with up-front funding for the first year were confirmed by the UN. All funding for the ECCC is voluntary, and except for in-kind contributions (for example, facilities), the RGC has allowed other countries to pay for the tribunal’s US\$56 million budget.

The agreement provides for a Pre-Trial Chamber (three Cambodian judges and two international judges), a Trial Chamber (three Cambodian judges and two international judges), and a Supreme Court Chamber (four Cambodian judges and three international judges). In all, there are seventeen Cambodian and twelve international judges and prosecutors at the court. Decisions would require a

“supermajority,” in which at least one of the international judges would have to agree to any verdict handed down by the tribunal.

Under the agreement, Cambodian laws and existing judicial procedures must be applied to all cases. However, in the event of a conflict, international law will prevail. There are two distinct features of the ECCC: The “Pre-Trial” Chamber is an innovation in the Cambodian judicial system, and its function is to mediate procedural disputes. The second feature is the absence of an appeals court—a mutually agreed cost-cutting measure between the government and the UN. The enhanced pretrial chamber could, in theory, handle procedural appeals.

During the pretrial, information-gathering phase, witnesses are questioned by the investigating judges to determine who will be charged, what crimes they will be charged with and what recommendations the investigating judges will make to the trial judges. Eventually, the defendants will appear before a panel of Khmer and foreign judges, and the public trial itself may last only a few weeks, with the possibility of little cross-examination of witnesses and “only limited public truth-telling.”¹²¹

The ECCC adopted its Rules of Procedure (Internal Rules) on June 12, 2007, ending six months of intense debate, and almost a decade after negotiations between the Cambodian government and the UN first began.¹²² Hotly contested issues included the modalities for the participation of foreign defense lawyers and the role of victims in the proceedings. With respect to the victims’ role, arguing parties agreed that victims will have the right to join as civil parties to the proceedings but can only receive collective and nonfinancial reparations.

The decade-long negotiations on rules of procedure between the Cambodian government and the UN revolved around recurring themes: the court’s independence and impartiality; due process and fair trial standards; and transparency and public engagement. The UN’s key concerns were largely met. Specifically, these were guarantees that those indicted would be arrested; that there would be no amnesties or pardons; that independent, international prosecutors would be appointed; and that foreign judges would be appointed. However, despite U.S. support in establishing the Documentation Center of Cambodia, and its stated objective of assisting in bringing perpetrators to trial, it has been reluctant to fund the ECCC. There has been a concurrent lack of cooperation from U.S. intelligence agencies.¹²³ This reluctance is tied to domestic legislation that conditions assistance against the tribunal’s credibility and impartiality—attributes, in its view, that have yet to materialize.¹²⁴

A generous interpretation for the delay was the inherent complexity of merging Khmer law with international law, the civil law–common law clash (inquisitorial versus adversarial approaches to court conduct), and the handling some 100 articles in three languages: Khmer, French and English.¹²⁵ The judges’ statement acknowledged that the drafting of the internal rules was complex and that the ECCC was a “unique exercise” in international justice. The first defendant was expected to appear before a judge in 2008.

On July 18, 2007, prosecutors submitted the names of five Khmer Rouge leaders selected to stand trial for potential crimes against humanity, war crimes, torture and genocide. Accompanying the list of five suspects were thousands of documents, most provided by the Documentation Center of Cambodia. Candidates for prosecution include Nuon Chea, Pol Pot's deputy; Khieu Samphan, who served as head of state during the Khmer Rouge years; Ieng Sary, the former foreign minister; and Kang Kech Eav, the Tuol Sleng prison chief in Phnom Penh.

Information-Gathering Efforts on the Cambodian Genocide, 1994–2006

Although the United States supported the DK's participation in the PPA, the U.S. Congress passed the Cambodian Genocide Justice Act (CGJA) on April 30, 1994. The CGJA made it the policy of the United States to "support efforts to bring to justice members of the Khmer Rouge for their crimes against humanity" committed in Cambodia between April 17, 1975, and January 7, 1979, and thus to establish a means of investigating such claims.¹²⁶

Pursuant to the CGJA, the Documentation Center of Cambodia (DC-Cam) was established in Phnom Penh in January 1995 with an initial grant of US\$500,000 under the auspices of Yale University's Cambodian Genocide Program. Further generous funding has come from the governments of Sweden and the UK.¹²⁷ DC-Cam began researching and gathering information on all aspects of the DK period, for historical purposes, public education and in the event (unforeseen at the time) of a "new" and internationally acceptable Khmer Rouge trial, to amass a body of potential evidence for any "duly constituted legal body."¹²⁸

In 1997, DC-Cam became an autonomous Cambodian research organization and announced, perhaps prematurely, that it had amassed enough evidence to try and convict senior members of the Khmer Rouge for crimes against humanity committed during the period 1975 to 1979.¹²⁹ DC-Cam has amassed more than 17,000 primary and secondary source materials, including the final report of the PRK's 1983 "Research Committee on Pol Pot's Genocidal Regime." Some of these materials are of "legally probative value."¹³⁰ By 2005, a biographical database had entries for 10,412 members of the Khmer Rouge, as well as records from their "Human Resources Department."¹³¹ The center has completed extensive mapping reports of the majority of Cambodian districts, providing evidence of the systematic nature of the Khmer Rouge killings. Between 1995 and 2004, DC-Cam teams located more than 160 "genocide sites" with 19,521 mass-grave pits with the remains of approximately 1.1 million KR victims.¹³²

There are also more than 25,000 photos in the archive, including 6,000 portraits of Tuol Sleng prisoners. Ongoing data collection faces the dual challenges of a competitive media market and political sensitivity. Video documentation is invaluable, highly perishable and potentially incriminating. DC-Cam formally requested to review the material, but in 2003, amid some speculation that it might incriminate government leaders, ninety reels of Khmer Rouge films were

sent to France from the Cambodian Ministry of Culture and Fine Arts' Cinema Department with the approval of then minister Nouth Narang¹³³ before DC-Cam could collect it.¹³⁴

Publication and Dissemination

Since 2000, the DC-Cam journal *Searching for the Truth* has provided background articles on the DK period, as well as articles on progress toward the establishment of the ECCC. The journal is published in both English and Khmer, with the cover price of the former offsetting the costs of the latter. In 2006, DC-Cam distributed up to 5,000 copies per month at the district level in Cambodia at no cost.¹³⁵

The current DC-Cam director, Youk Chhang, views the publication as an essential outreach tool in support of the ECCC: “Whenever we talk to victims of the KR regime they almost always say ‘I want to know what happened, who ordered the killings, and why.’ Publicizing exactly what happens as the KR trial proceeds will provide a truth-telling mechanism that is important for national reconciliation.” It will also raise the public’s general awareness of how the rule of law is, or is not, reflected in the DK tribunal.¹³⁶

Searching for the Truth disseminates sensitive information that might otherwise not reach the public domain, sometimes with unintended consequences. During a public forum on national reconciliation in Pailin in March 2006, one participant claimed that his brother had been “killed by people” when his name was linked to the S-21 Center in one particular issue of the publication.¹³⁷ The participant asked for justice for his brother.

Many DK documents and records were destroyed before the Vietnamese invasion in 1979 and again before the arrival of UNTAC in the 1990s.¹³⁸ DC-Cam representatives have visited Vietnam to investigate the existence of documents held there. The Cambodian government’s generally cooperative attitude toward DC-Cam’s work has not extended to granting access to CPP or private archives of “certain political figures.” The United States has not provided financial support to the ECCC, citing an ongoing lack of confidence in the ability of the hybrid court to free itself from government influence and meet international standards.

To date, it is still not clear how much of the information held by DC-Cam will indeed be of a legally probative value to ECCC prosecutors. It continues, however, to make a solid contribution to the academic and historical record. DC-Cam also organizes visits to the Tuol Sleng Genocide Museum, the Choeng Ek Killing Fields, and the venue of the Extraordinary Chambers for both victims and perpetrators from the provinces in efforts to expand understanding of the process.

The efforts of DC-Cam are particularly important for younger people. Those brought up under the PRK learned about the “genocidal regime” of Pol Pot and Ieng Sary “every day,”¹³⁹ but the lessons on the regime virtually disappeared from the state school system in the 1990s and remain notably absent in curricula in 2006.¹⁴⁰ According to Youk Chhang, “the younger generation has the right to

know their own history and the government has the obligation to provide the whole truth. For example, in the history book for Grade 9 [ages sixteen and seventeen] there is only one paragraph about the Khmer Rouge.”¹⁴¹

Truth-Telling Mechanisms in Cambodia, 1994–2006

There have been calls for the establishment of a truth commission in Cambodia similar to the Truth and Reconciliation Commission implemented in South Africa in 1996. The Cambodian government expressed initial interest in this model, but did not follow up early inquiries.

In exploring potential transitional justice options in 1999, the UN Group of Experts acknowledged that a truth commission “could not replace prosecutions for Cambodia in terms of the goals of justice, closure and accountability.” The Group of Experts nonetheless recognized that “telling a story beyond that concerning the defendants alone, including one that includes the historical context of the atrocities and the roles of many actors,” could help educational and psychological processes of victims and provide some form of spiritual reparation.¹⁴² The authors suggested the government, civil society and UN encourage reflection on the nature and utility of truth commissions in Cambodia, but were not convinced that Cambodians would participate, noting from wider experiences that testimony from perpetrators is difficult to obtain.

While to date no formal national truth-telling process has been implemented in Cambodia, DC-Cam’s investigative work, which has involved extensive interviews with victims and perpetrators (estimated in 2003 to be more than 40,000), and its journal *Searching for the Truth*, could be considered forms of truth-telling.¹⁴³ DC-Cam–sponsored visits for victims and perpetrators to the Tuol Sleng Interrogation Center, the Choeung EK Killing Field site and the ECCC venue also resulted in discussions between the two groups that were subsequently publicized in the media.¹⁴⁴

Perhaps better examples of localized truth-telling mechanisms have been the numerous public forums organized since 2000 by a local NGO, the Cambodian Center for Social Development (CSD). These forums on National Reconciliation and the Khmer Rouge and Justice and National Reconciliation have brought victims and perpetrators together to discuss reconciliation and the ECCC’s work, and in passing have provided a voice for regular citizens who might not be heard otherwise.

One hundred twenty former DK cadres and victims attended the first CSD forum held in Battambang on January 27, 2000. This represented the first time both groups had met face-to-face in a formal venue. In addition to former rank-and-file cadre, higher-level intellectuals and military commanders, mainly from former DK strongholds in northwestern Cambodia, also attended the forum.

Many DK leaders then opposed a tribunal, arguing that it would harm national reconciliation and possibly violate the amnesties negotiated through the various defections after the 1994 anti-DK law. Echoing comments made by many defectors both in the media and in later forums, cadres disliked the label of “Khmer Rouge,” arguing that its use contributed to a continued sense of division: “The animosity and the killings for the last three decades were not only on the part of the DK. There were other factions, too. If only one faction is prosecuted for trial, it can lead to discrimination or a form of racism.”¹⁴⁵ They urged people to use the term “Democratic Kampuchea” instead.

The CSD held two additional forums in March 2000, one in Phnom Penh and the other in Sihanoukville. At the Phnom Penh forum, 136 participants voted via secret ballot on how best to bring reconciliation to Cambodia. Of the group, 114 participants (83.8 percent) said Khmer Rouge leaders must be tried, while 77 (56.6 percent) said a trial should apply to persons from all regimes both before 1975 and after 1979, not just to the leaders of the Khmer Rouge regime.¹⁴⁶

Forums were also held in Pailin, on March 16, 2006, and Kampot, on May 19, 2006, and took place during the establishment of the ECCC. This impacted the nature of the debate, as the discussion focused not on whether there should be a trial or not but on how to conduct outreach and educate young people about Cambodia’s recent history. Another forum on September 28, 2006, in Kratie province focused on similar themes. The rank and file of the Khmer Rouge and indeed the wider population remain ignorant about the ECCC process and often deeply confused about what actually happened under the Khmer Rouge.

In Pailin, senior cadres presented familiar themes and defenses: The ECCC’s temporal jurisdiction (1975–1979) was unfair and needed an extension to include the U.S. bombing of Cambodia from 1970 to 1973. The roles of China, Vietnam and the USSR also needed consideration.¹⁴⁷ Concerns were expressed whether CPP-affiliated judges could be impartial and whether current government officials who once served in the Khmer Rouge would be investigated.¹⁴⁸

Typical narratives of DK members defending themselves and the organization included many of the same arguments. DK members made the case that many joined the DK after Sihanouk was deposed in 1970. Furthermore, they fought against the 1970 U.S. invasion of Cambodia and its subsequent bombing campaign; they had a great victory over U.S. imperialism in 1975; they were legitimate because they had a seat in the UN through the 1980s; and they fought the Vietnamese at this time as well.¹⁴⁹

There is a professed demand for knowledge, history and the truth by DK cadres, sometimes for anomalous reasons: such as, “the trial will show which country tried to eliminate Cambodia.”¹⁵⁰ For the most part, various parties have offered sensible suggestions for what to do with information pertaining to the Khmer Rouge and Cambodian history. These suggestions include the need to compile a Khmer Rouge history for the next generation and establish a research committee to study this history clearly, while creating a monitoring committee to ensure the history recorded is accurate. Furthermore, the structure and rulings of the ECCC should be taught in schools and at the village

level. The creation of committees for national reconciliation, with provincial authorities taking responsibility for local-level discussions of history, has also been suggested as means of dealing with the truth. CSD plans to conduct further forums across the country over the next three years, and each year there will also be a national conference.

Even the process towards establishing the ECCC has begun to dispell some mythologies—namely, that the events that took place starting in 1975 were solely the fault of external actors: “Cambodians can kill Cambodians. We must admit that Cambodia’s biggest tragedy is Cambodians themselves. They always say it’s someone else’s fault. We never say it’s our own fault.”¹⁵¹ Information Minister Khieu Khanharith has publicly noted: “If Cambodians had maturity they should look at their own actions at that time. It was Cambodians killing Cambodians. Pol Pot was the catalyst for the beast in all of us.”¹⁵²

Establishing a consensus historical record is difficult, but in the view of the peace studies doyen Johan Galtung, it is the only way forward for genuine national reconciliation.¹⁵³ In a public lecture given in Cambodia in 2006, Galtung stated that a textbook of Cambodian history would have to cover the period from 1961 to 1989, and it would require input from the United States, Vietnam, the Khmer Rouge and the Phnom Penh government. In this model all parties must admit to wrongdoing in order to reconcile: “if not, then you get a verdict, a result, but not reconciliation and then the ECCC might create some problems.”¹⁵⁴ Each of the players and factors in the conflict must be examined. For instance, Galtung points to the societal differences between urban and rural citizens of Cambodia before the violence and notes that the structural urban-rural violence is based on these discrepancies: “the Khmer Rouge was also about revenge, a peasant revenge against urban societies and 3,000 years of being slaves.”¹⁵⁵ This has to be addressed as well, otherwise, “maybe the Khmer Rouge will come back.”¹⁵⁶ According to Galtung, if the ECCC only tries the DK strand of the conflict, then it becomes victors’ justice:

Reconciliation means healing and closure. Tell the whole story—let it become a uniting force for Cambodians. But if you push it all onto one side or one party—that doesn’t work. Do the tribunal. But let the people speak the whole truth. Open the discourse. Don’t be square and single-minded about the law. The civil war parties should come together and do something. A peace museum, a joint reconstruction, write the history book together. Relive the horror, condemn the atrocities but [you] also need side-activities.¹⁵⁷

Trauma Counseling

The mental health counseling work of the Transcultural Psychosocial Organisation (TPO) could also be considered a form of truth-telling. Cambodia’s mental health care provision is virtually nonexistent in a society where many individuals and families continue to suffer from the effects of suppressed trauma. Of particular importance for the organization has been a focus on women

traumatized by witnessing the loss of family members. TPO has also acknowledged the impact trauma has on the offspring of parents who grew up during the Pol Pot regime.

TPO has provided education and training and has established self-help groups and counseling services in rural areas to allow traumatized individuals to discuss their experiences under the DK regime and their lives since then.¹⁵⁸ This trauma extends to perpetrators as well, and TPO has worked in close cooperation with DC-Cam to assist former DK combatants suffering from mental health problems to openly discuss their experiences: “The former Khmer Rouge are human beings and part of our society. They deserve the same treatment as everyone else. . . . Besides, if their wound inside is mended, they will be able to speak more openly, freely and truthfully. They all have important stories to tell.”¹⁵⁹

Thus, while formal truth commissions have not occurred in the Cambodian context, civil society has implemented numerous localized efforts to enable victims and perpetrators to discuss their experiences.

Conclusion

DDR and transitional justice initiatives have had a limited interrelationship in Cambodia since 1992. Under UNTAC and through the PPA the past was contractually erased in a bid to promote a forward-looking process of ongoing reconciliation. This foundered due to acute mistrust between political factions. DDR attempts after UNTAC initially failed because of political turbulence, and because of this, parties sought political power and stability, making national army recruitment fundamentally more important than demobilization.

Subsequent initiatives for demobilization and reintegration took a path of least resistance in the form of a retirement and pension plan, rather than a DDR program per se. Any savings created by demobilization were returned to the military and not reallocated toward the social services, as envisaged by the World Bank and other donors. Institutional self-interest on the part of the RCAF drove later legislation on the retirement of soldiers and conscription of new recruits.

The wider population was successfully disarmed because of a sustained *whole-of-government*, multipronged approach, with international and local partners. By the government’s own admission, however, these efforts have not yet confronted Cambodian elites. The same applies to the justice sector and indeed most aspects of contemporary Cambodian life: that is, “no money, no justice.”¹⁶⁰ Impunity prevails for those who have been with the CPP longest. The current government operates on a loyalty-based patronage system that is stable enough to jointly host the ECCC and deal with crimes of the past. Truth-telling and information-gathering efforts are under way in this regard, but there is no evidence that the government will permit scrutiny of more contemporary crimes anytime soon. It might in fact be moving in the other direction. A new law removes the right of

parliamentarians to speak freely in parliament—described by one diplomat as an act of “self-castration.”¹⁶¹

The tendency in Cambodia is not toward “rule of law” but rather “rule by law”—where state institutions submit to laws that are entirely of their own creation.¹⁶² Cambodia is stable for now, and as one study has suggested, there may already be a decline in extrajudicial execution; however, “without an indigenous moral order that is reflected in law and relief from desperation, homicide will remain a potent symbol of Cambodia’s desperation.”¹⁶³

As one report notes, “significant evidence could be marshaled to paint a bleak picture of the future, in which corruption, feuding elites, an uncompetitive economy, and a stagnant countryside deny the vast majority of Cambodians an opportunity to enjoy happier, healthier, and more prosperous lives.”¹⁶⁴ The same study saw future oil and gas revenues as Cambodia’s greatest opportunity for growth and economic stability, but warned that a misuse of oil revenues could lead to further concentration of wealth, which is already a problem in the country.

There has also been an “alarming increase”¹⁶⁵ in land concentration. The top one-fifth of landowners held 59 percent of the land in 1999 and 70 percent in 2003.¹⁶⁶ This is seen as a major shift toward inequality “and one very seldom observed in peace time anywhere in the world.”¹⁶⁷ There needs to be a fundamental change in the role of the state if Cambodia is to realize its potential. This means shifting the focus from short-term political stability to “investing in a more efficient and inclusive kind of economic growth.”¹⁶⁸ Whether this occurs and in what form remains to be seen.

It is not clear through all of the above if the insertion of transitional justice measures against the various DDR initiatives would have improved Cambodia’s social cohesion today or not. There are simply too many variables confounding the context of DDR and transitional justice in the country. The overriding assumption is that DDR would first have to have been grouped together in a coherent manner (it was not) and then correlated to transitional justice measures (prosecutions, truth-telling, reparations, vetting and other forms of institutional reform), which also clearly did not happen. Accountability is being sought only now for events that occurred some three decades ago.

Impunity goes unchecked for the elite and the rank-and-file DK have no protection. As we have seen above, land, brokered in some integration packages, is not secured and even the identities of disabled veterans are up for sale as a resource that can be exchanged. There are no veterans’ or victims’ associations to prevent this from happening. Cambodian relationships are still hierarchical and modes of social control remain informal and unpredictable. The need to take the next step and shift to a more predictable, rule of law model is what makes the demonstrative effect of the ECCC so important. Other opportunities to do this simply do not appear to be on the horizon.

¹ The name “Khmer Rouge” was coined by Prince Sihanouk in the 1960s. At various times, the organization has called itself the Communist Party of Kampuchea, the Parti Democratic Kampuchea or simply Democratic Kampuchea. We refer to them as DK or Khmer Rouge interchangeably, for stylistic purposes, throughout this paper.

² SSR involves rebuilding, restructuring and reforming state security services and developing democratic security sector oversight mechanisms.

³ Rightsizing is a process whereby the correct size and composition of security forces is determined in relation to its tasks, threat environment and budget.

⁴ Evan Gottesman, *Cambodia After the Khmer Rouge* (New Haven, CT: Yale University Press, 2003), 24. For a full explication, see William Shawcross, *Sideshow* (London: Hogarth Press, 1993).

⁵ As described by Mey Mak, current deputy governor of Pailin province and onetime private secretary to Pol Pot, at a public forum on reconciliation held in Pailin in February 2006.

⁶ Ron Gluckman, “Cambodia’s Agonizing Wait for Justice,” *Far Eastern Economic Review* 170, no. 4 (2007).

⁷ FUNCINPEC’s armed wing was the National Army of Independent Kampuchea [*Armée Nationale du Kampuchea Indépendant*] or ANKI.

⁸ It was codified as the Coalition Government of Democratic Kampuchea (CGDK) in 1982 and later as the National Government of Cambodia.

⁹ *Voice of the Cambodian People*, “Sihanouk Addresses Mass Rally,” November 16, 1991.

¹⁰ *Voice of the Cambodian People*, “Hun Sen Gives 17 November News Conference,” November 19, 1991.

¹¹ FUNCINPEC suffered the most casualties of all the political parties. See United Nations Transitional Authority in Cambodia, *Human Rights Component Final Report* (UNTAC: Phnom Penh, 1993).

¹² Prince Rannariddh was charged in absentia with the crimes of illegally importing arms into Cambodia for his bodyguard unit and holding illicit negotiations with an outlawed group (an allegation that could equally be leveled at CPP officials). The judiciary then pardoned Rannariddh and he was allowed to return to the country with his party apparatus to contend in the 1998 elections.

¹³ See Caroline Hughes, *The Political Economy of Cambodia’s Transition, 1991–2001* (London: Routledge-Courzon, 2003), 122.

¹⁴ In fact, the two-thirds majority rule was written into the Constitution by the CPP in the first place.

¹⁵ Charles McDermid and Vong Sokheng, “RGC Counts \$601 Million Blessings,” *Phnom Penh Post*, March 10–23, 2006.

¹⁶ Erika Kinetz, “A Mouse in Asia Gets Ready to Roar,” *International Herald Tribune*, July 28–29, 2007.

¹⁷ Steve Heder, “The ‘Traditions’ of Impunity and Victors’ Justice in Cambodia,” *Phnom Penh Post*, February 19–March 4, 1999.

¹⁸ Final Act of the Paris Conference on Cambodia, art. 10, October 1991.

¹⁹ United Nations, “United Nations Transitional Authority in Cambodia Background,” www.un.org/Depts/dpko/dpko/co_mission/untacbackgr2.html.

²⁰ Peter Bartu, *The Fifth Faction: The United Nations Transitional Authority in Cambodia* (Ph.D. Dissertation, Monash University, Melbourne, 1998, forthcoming), 83.

²¹ Faction police strengths were as follows: CPP had 48,500 members of its police force, DK had 9,000 police (UNTAC could not distinguish them from DK soldiers), KPNLF had 400 military police, and FUNCINPEC had 50 military police. Only the SoC could truly claim de facto government status.

²² United Nations, *The United Nations and Cambodia 1991–1995* (New York: United Nations Office of Public Information, 1995), 6.

²³ Bartu, *The Fifth Faction*, 112. See also Craig Etcheson, *After the Killing Fields: Lessons from the Cambodian Genocide* (Westport, CT: Praeger, 2005), 28–29. In August 1989, the National Assembly approved the conscription of all men above the age of sixteen who had not enrolled in local or provincial

militia forces. Further orders for the conscription of all youth aged seventeen to thirty were issued in May 1991.

²⁴ United Nations Security Council [hereafter UNSC], *Report of the Secretary-General on Cambodia Containing His Proposed Implementation Plan for UNTAC, Including Administrative and Financial Aspects*, UN Doc. S/23613, para. 154.

²⁵ *Ibid.*, para. 136.

²⁶ UN, *The United Nations and Cambodia 1991–1995*, 33.

²⁷ *Ibid.*, 40.

²⁸ Bartu, *The Fifth Faction*, 118.

²⁹ UNSC, *Report of the Secretary-General on the Implementation of Security Council Resolution 783 on the Cambodia Peace Process*, UN doc. S/24800, para. 17. The World Bank, however, claims only 28,000 soldiers were demobilized. See World Bank, “Military Demobilization Program: Current Status and Key Issues” (paper presented at Cambodia Consultative Group Meeting, Paris, France, May 24–26, 2000).

³⁰ UNSC, *Letter Dated 14 July 1993 from the Secretary-General Addressed to the President of the Security Council*, UN Doc. S/26095.

³¹ The World Bank put the number of troops at 140,000, after amalgamation. See World Bank, “Military Demobilization Program.”

³² Bartu, *The Fifth Faction*, 262.

³³ *Ibid.*

³⁴ USAID implemented several projects to assist with the reintegration of defecting Khmer Rouge soldiers in 1994. See Etcheson, *After the Killing Fields*, 44.

³⁵ Stockholm Initiative on Disarmament Demobilization Reintegration, *Final Report* (Stockholm: SIDDR / Ministry of Foreign Affairs, 2005), 14.

³⁶ UNSC, *Final Report of the Secretary-General on the United Nations Military Liaison Team in Cambodia*, UN Doc. S/1994/645, para. 4.

³⁷ Author’s interview with Cambodian government official, who requested anonymity.

³⁸ Dylan Hendrickson, “Cambodia’s Security Sector Reforms: Limits of a Downsizing Strategy,” *Conflict Security and Development* 1, no.1 (1999): 70.

³⁹ Gottesman, *Cambodia After the Khmer Rouge*, 230–31, 298. See also Colonel (Ret.) David Mead, “Business by the Gun: Lethal Consequences of a Failed Demobilization,” in *Safeguarding Peace: Cambodia’s Constitutional Challenge*, ed. Dylan Hendrickson, *Accord* 5, special issue (1998); and Cambodian Human Rights and Development Association, *Human Rights Situation Report 2005* (Phnom Penh: ADHOC, 2006).

⁴⁰ Colonel (Ret.) David Mead, “Why Does Cambodia Need Conscription?” *Phnom Penh Post*, November 11, 2001.

⁴¹ Hendrickson, “Cambodia’s Security Sector Reforms,” 70.

⁴² Law on Retirement and Infirmity Pensions for Military Personnel of the Royal Cambodian Armed Forces, 1994.

⁴³ RCAF general, interview by author, Phnom Penh, March 31, 2006.

⁴⁴ World Bank, “Military Demobilization Program.”

⁴⁵ One source who participated in designing the program on behalf of the World Bank describes these plans as detailed and far-reaching, but ultimately not politically viable at the time. Nat Colleta, in conversation with the author, New York, July 13, 2006.

⁴⁶ Author’s interview with Cambodian government official, who requested anonymity.

⁴⁷ Reach Kram No. 1, NS/94, Law on the Outlawing of the “Democratic Kampuchea” Group, 1994, www.cambodia.gov.kh/krt/pdfs/Law%20to%20Outlaw%20DK%20Group%201994.pdf.

⁴⁸ *Ibid.*, Preamble, para. 8.

⁴⁹ Etcheson, *After the Killing Fields*, 133.

⁵⁰ Matthew Grainger, “Thais Forced to Play Key Role in Breaking the KR,” *Phnom Penh Post*, August 23–September 5, 1996.

⁵¹ Defecting DK commander Heng Sarath confirmed allegations that the DK purchased ammunition from RCAF middlemen. Mey Makk, Deputy Governor of Pailin, interview by coauthor, Pailin, January 2005; and Tricia Fitzgerald, “KR Defector Tells of Purges and Killings,” *Phnom Penh Post*, August 25–September 7, 1995.

⁵² Mey Makk, interview by coauthors, Pailin, March 16, 2006.

⁵³ *Phnom Penh Post*, “Psy-Wars: Government Coaxes Rebels,” *Phnom Penh Post*, January 13–26, 1995.

⁵⁴ Listed as a total of 6,624 DK troops: 4,922 guerrillas and 1,702 village militia members. Michael Hayes, “Defector Program Big Success for Government,” *Phnom Penh Post*, January 13–26, 1995.

⁵⁵ *Ibid.*; and Ros Sokhet, “KR Defections Almost 7,000,” *Phnom Penh Post*, January 13–26, 1995.

⁵⁶ Michael Hayes, “RCAF Beefs Up Troop Strength in Preah Vihear,” *Phnom Penh Post*, January 13–26, 1995.

⁵⁷ Nate Thayer, “Senior KR ‘Money-Man’ Keeps Silent on Finances,” *Phnom Penh Post*, February 10–23, 1995.

⁵⁸ Ros Sokhet, “KR Defectors Give No News of Hostages,” *Phnom Penh Post*, October 21–November 3, 1994.

⁵⁹ Nate Thayer, “Govts Row Over Defectors,” *Phnom Penh Post*, November 4–17, 1994. Chhouk Rin would later be sentenced to life imprisonment in 2002 for his role in the tourists’ murders. In February 2005, the Supreme Court rejected his final appeal, after which he disappeared. He was rearrested in October 2005 after a personal appeal from French President Jacques Chirac to Prime Minister Hun Sen in Paris, as one of the victims was French.

⁶⁰ Sok An, closing remarks, International Conference on “Dealing with a Past Holocaust and National Reconciliation: Learning from Experiences” (Phnom Penh, Cambodia, August 28–29, 2006).

⁶¹ Mey Mak, interview with the author, Pailin, February 2006.

⁶² Pin Sisovann and Phann Ana, “Malai Villagers in Phnom Penh to Protest Alleged Land Grab,” *Cambodia Daily*, May 18, 2006.

⁶³ Royal Decree NS/RKT/0996/72, 1996, www.eccc.gov.kh/english/cabinet/legislation/2/pardon_for_ieng_sary.pdf.

⁶⁴ Etcheson, *After the Killing Fields*, 71.

⁶⁵ In 2007, the Cambodia Tribunal issued a warrant for his arrest and Ieng Sary now faces trial for charges of war crimes and crimes against humanity.

⁶⁶ Originally founded in 1995 as the Khmer National Party, and given its current name, the Sam Rainsy Party, in 1998, it is the third largest political party in Cambodia and constitutes the official opposition to the CPP.

⁶⁷ One source claimed that DK leaders who joined the Sam Rainsy Party in Kampot province in 1998 were subjected to harassment and even jail time for past crimes, and development assistance was withheld in their areas of control. Unnamed participant, CSD Public Forum on National Reconciliation and the Khmer Rouge, interview by the author, Kampot, May 19, 2006.

⁶⁸ Nate Thayer, “KR Hardliners—Down but Not Out,” *Phnom Penh Post*, October 4–17, 1996.

⁶⁹ Hun Sen, “Premier Hun Sen Replies to the King,” *Phnom Penh Post*, July 1–14, 1994.

⁷⁰ Christine Chaumeau and Reuters, “CPP Gains Some Ground in Competition for Defectors,” *Phnom Penh Post*, December 27, 1996–January 9, 1997.

⁷¹ Chea Sotheacheath and Christine Chaumeau, “Hardliners Split as PMs Quarrel,” *Phnom Penh Post*, June 13–26, 1997.

⁷² Bou Sarouen and Peter Sainsbury, “Defection of KR Politicos Isolates Mok,” *Phnom Penh Post*, June 19–July 2, 1998.

⁷³ Bou Sarouen and Peter Sainsbury, “The KR Ends Its 47-Year War,” *Phnom Penh Post*, December 11–24, 1998.

- ⁷⁴ Beth Moorthy and Sarah Stephens, “KR Heart Transplant Uncertain as Clothes Changed Easily,” *Phnom Penh Post*, February 19–March 4, 1999.
- ⁷⁵ Suzannah Linton, *Reconciliation in Cambodia* (Phnom Penh: Documentation Center of Cambodia, 2004), 94.
- ⁷⁶ Order to Forward Case for Investigation, No. 044/99, 1999, www.cambodia.gov.kh/krt/pdfs/Mok%20&%20Duch%202nd%20indictment.pdf.
- ⁷⁷ Sopheng Cheang, “Ex-Khmer Rouge Head of State Arrested,” *Washington Post*, November 19, 2007.
- ⁷⁸ World Bank, “Military Demobilization Program.”
- ⁷⁹ Matt McKinney and Phann Ana, “When the Fighting Is Over, Former Khmer Rouge Troops Face an Uncertain Future,” *Cambodia Daily*, September 15–16, 2001.
- ⁸⁰ Kao Kim Hourn, “Military Reform, Demobilization and Reintegration in Cambodia: Measures for Improving Military Reform and Demobilization in Cambodia,” CICP Policy Paper No. 7 (Phnom Penh: Cambodian Institute for Cooperation and Peace, 2002), 2.
- ⁸¹ World Bank, “Military Demobilization Program.”
- ⁸² A white paper is a statement of a government’s security and defense policies based on a comprehensive analysis of political, security, economic, social and environmental threats. Generally, the paper establishes the security sector’s roles, functions and missions, as well as resources and funding requirements.
- ⁸³ World Bank, “Military Demobilization Program.”
- ⁸⁴ *Ibid.*
- ⁸⁵ *Ibid.*
- ⁸⁶ Kao Kim Hourn, ed., *Civil-Military Relations in Cambodia: Issues, Challenges, and Prospects* (Phnom Penh: Cambodian Institute for Cooperation and Peace, 2002).
- ⁸⁷ David Kihara, “1,200 Soldiers Set for Demobilization,” *Cambodia Daily*, October 31, 2001.
- ⁸⁸ Kao, “Military Reform, Demobilization and Reintegration,” 2–13.
- ⁸⁹ Hendrickson, “Cambodia’s Security Sector Reforms,” 79.
- ⁹⁰ Michael Richardson, “With Khmer Rouge Collapse, Pressure Grows to Rein in Army,” *International Herald Tribune*, January 11, 1999.
- ⁹¹ Marcos Smith, Civil Peace Service, Deutscher Entwicklungsdienst (DED), informal interview by the author, Phnom Penh, January 31, 2006.
- ⁹² *Ibid.*
- ⁹³ Yun Samean, “Retirement Age for Low Ranking Soldiers Slashed,” *Cambodia Daily*, March 2, 2006.
- ⁹⁴ Erik Wasson and Phann Ana, “Funds Frozen as World Bank Alleges Misuse,” *Cambodia Daily*, May 29, 2006.
- ⁹⁵ Lor Chandara and Samantha Melamed, “Governor: Officials Stole Disabled Veteran’s Aid,” *Cambodia Daily*, February 24, 2006.
- ⁹⁶ Pin Sisovann, “200 Ex-Soldiers Construct Protest Camp Near NA,” *Cambodia Daily*, August 31, 2006.
- ⁹⁷ Pin Sisovann, “Leaflets Charging Corruption Are Scattered in Takeo,” *Cambodia Daily*, August 11, 2006.
- ⁹⁸ Lao Mong Hay, “Redefining the Role of Military in a Post-Conflict Cambodian Society,” in *Civil-Military Relations in Cambodia*, 20.
- ⁹⁹ Senior RCAF general, interview by the author, Phnom Penh, May 2006.
- ¹⁰⁰ Law on the Implementation of the Regime of Retirement and Disability Pensions of Military Personnel, 1996, chap. III, art. 14.
- ¹⁰¹ Mead, “Why Does Cambodia Need Conscription?”
- ¹⁰² Western Defense Attache, interview by the author, Phnom Penh, April 2006.
- ¹⁰³ Mead, “Why Does Cambodia Need Conscription?”
- ¹⁰⁴ Draft Law on Compulsory Military Service, 2006, chap. I, art. 2. For news story, see Pin Sisovann, “Lawmakers OK Military Conscription,” *Cambodia Daily*, October 26, 2006.

¹⁰⁵ Draft Law on Amendments to the Law on Retirement and Disability Pension Regimes for Soldiers of the Royal Cambodian Armed Forces, 2005, art. 1, para. 5.

¹⁰⁶ Author's interview with Cambodian government official, who requested anonymity.

¹⁰⁷ Roderic Broadhurst, "Lethal Violence, Crime, and Political Change in Cambodia," in *The Politics of Death: Political Violence in Southeast Asia*, ed. Aurel Croissant, Beate Martin, and Sascha Kneip (Manila: Friedrich-Ebert-Stiftung, 2006), 353.

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