

4 Transitional justice time

Uncle San, Auntie Yan, and outreach at the Khmer Rouge Tribunal

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Uncle San lives suspended in time.¹ He is caught in a state of traumatic dysfunction, unable to escape from a violent past that afflicts him with nightmares. Uncle San stands as the image of the Cambodian everyman or of Cambodia itself, and he lives in transitional justice time. It is a timescape of the 'other', at once helped and remade.

Who is Uncle San? He is the protagonist in a 34-page booklet, entitled *Uncle San, Auntie Yan, and the KRT* [Khmer Rouge Tribunal], the pages of which are divided (on the left-hand page) by visual representations accompanied (on the right-hand page) by explanatory text, which was produced in 2008 by the Khmer Institute of Democracy (KID), a non-governmental organization (NGO) in Cambodia conducting outreach for the KRT, officially known as 'The Extraordinary Chambers in the Courts of Cambodia' (ECCC).

After several years of negotiation, this United Nations (UN)-backed hybrid court was established in 2003 to try the surviving leaders of the Khmer Rouge. Upon taking power in Cambodia on 17 April 1975, this group of Maoist-inspired revolutionaries set out to launch the 'Super Great Leap Forward' that would outdo all other communist revolutions, even that of their close socialist ally China. By the time of their downfall on 6 January 1979, the Khmer Rouge policies, ranging from collectivization and forced labour to increasingly frequent purges of suspected enemies, had resulted in the death of perhaps 1.7 to 2.2 million of Cambodia's 8 million inhabitants – almost a quarter of the population – due to starvation, overwork, malnutrition, or execution.²

The ECCC, whose mandate is to try the 'senior leaders' and those 'most responsible' for the atrocities that took place during this period, began operation in 2006. The court includes international and Cambodian officials in all major offices, including co-lawyers, co-prosecutors and co-judges.³ It is one of a growing number of 'hybrid' tribunals established in the 2000s (other hybrid tribunals include Kosovo, Sierra Leone, Timor Leste and Lebanon) to offset some of the problems that emerged with the ad hoc tribunals of the 1990s (the International Criminal Tribunal for the former Yugoslavia and Rwanda), particularly in terms of cost, duration and proximity to the populations involved in given conflicts.

Hybrid tribunals, like their ad hoc counterparts and other modes of redress such as truth and reconciliation commissions, are often referred to as transitional justice mechanisms. The field of transitional justice emerged in the late 1980s and early 1990s as the Cold War was ending and a number of places, ranging from Southern Cone states to Eastern European countries, were grappling with recent violent pasts while seeking a way forward, what was often referred to as 'democratic transition'.

The term 'transitional justice' emerged in the post-Cold War 'new world order', as criminal tribunals, truth and reconciliation commissions, memorialization and reparation efforts, and institutional reforms emerged as favoured mechanisms for providing some sort of redress and sense of justice that would enable these countries under transition to move from troubled pasts to better futures.⁴ Such transitional justice mechanisms directly grapple with the legacies of the past and are often said to have a preventative dimension (see the editors' introduction to this volume), diminishing the potential for the recurrence of violence by seeking to 'combat impunity', promote the 'rule of law', reveal 'the truth' and educate the larger populace.

More broadly, this essay argues that transitional justice mechanisms are based on a particular concept of time – one that is manifest in the booklet *Uncle San, Auntie Yan, and the KRT* and is part of a larger 'transitional justice imaginary',⁵ or set of interrelated discourses, practices and institutional forms that, through performance, help generate a sense of shared belonging among a group of people – in this case the transitional justice community (which is itself part of the larger 'international community') in the broadest sense.⁶ Such imaginaries may be gleaned from a variety of sources, ranging from ritual practices to myths and, as in this case, stories.

The transitional justice imaginary is not monolithic and varies across localities and individuals. Nevertheless, I would argue that it can be found in most transitional justice contexts, including the Khmer Rouge Tribunal, as the members of the 'international community' and local elites constitute themselves through the assertion of a transitional justice imaginary – one that may differ significantly from local vernaculars (an examination of this issue is beyond the scope of this essay but is addressed in the book on the tribunal that I am writing).

The transitional justice imaginary is normative (i.e. it is associated with certain truth claims and moral-laden assumptions), performative (i.e. through its enactment, people constitute an imagined community), and productive (i.e. the imaginary produces certain subject positions and types of being). The imaginary is also characterized by a particular temporality, what I am calling 'transitional justice time', premised on a value-laden pre-post conflict state of conflict and teleological movement between them.

More specifically, implicit within transitional justice time is a highly normative concept of past and present. Violent pasts are delimited and narrowed, erasing historical complexities and suggesting an essentialized notion of regressive being, epitomized by phrases such as 'failed states' or 'indexical registers

equating a country with violence and death (for example, the frequent juxtaposition of countries like Cambodia with images of skulls). This foreshortened vision of the authoritarian past is set against an imagined liberal democratic future, with transitional justice as the mechanism of teleological change. This splitting of past and future, mediated by a liminal present, is linked to a series of binary oppositions, such as contamination/purity, savagery/civilization, authoritarian/democratic, and so forth. Within this timescape, people like Uncle San, and the larger group of Cambodian victims for whom he stands, are imagined in certain sorts of ways.

Uncle San lives within transitional justice time. The first line of the booklet delimits a temporal horizon of the past, as the introductory note explains: 'The Khmer Rouge Regime is generally recognized as the time between 17 April 1975 and 6 January 1979. This was a time in Cambodian history where the Communist Party of Kampuchea held control over the entire country and committed many crimes against the Cambodian people' (page 2).

Here, at the very start of the booklet, time is immediately constructed in three interlinked ways. First, in terms of periodicity, time is placed within a delimited period: 17 April 1979 to 6 January 1979, or the period of Khmer Rouge rule in Cambodia. This interval is then coloured in two ways. On the one hand, it constitutes a juridical frame, or what is called the temporal jurisdiction of the court. On the other hand, this interval is marked as one of criminality as criminal acts ('many crimes') have been committed by a perpetrator (the Communist Party of Kampuchea) against a victim ('against the Cambodian people'). There is no space in this temporal horizon for ambiguity; there are perpetrators and victims and nothing in between. Transitional justice time does not do well with 'gray zones'.⁷ This delimitation of time is further bound by a spatial framing, as the crimes take place in a particular national space, as opposed to a geopolitical space that is thereby erased, suggesting the problem was solely internal to Cambodia.

The booklet provides a quick overview of what happened in this spatio-temporal context through the eyes of Uncle San, a moustached Cambodian villager who wears a chequered yellow Cambodian scarf slung over his right shoulder. 'Hello, my name is San,' his story begins. 'I am 64 years of age ... I have lived in this village since I was young, but during the Khmer Rouge Regime I was forced to live in another area' (page 4). The accompanying graphic shows Uncle San sitting cross-legged on a table-like platform telling several of his fellow villagers about his forcible eviction. The importance of his experience is emphasized by the attentiveness of those gathered around, including two young children, as he tells his story.

Uncle San's experiences could be those of any Cambodian village survivor. Indeed, Chhaya Hang, the Executive Director of KID, told me that they selected the names Uncle San and Auntie Yan because they were 'common names among [the] rural population ... very poor, grassroots type of names'.⁸ Individual difference is thereby compressed as Uncle San's experiences could be those of any rural Cambodian survivor. The image asserts Uncle San's

everyman status – he stands as an emblem of the Cambodian survivor-victim and, through metonymy, of Cambodia itself.

He, and Cambodia by extension, exists in a deeply troubled state, one that suggests a lack and failure ('a failed state'). On page 5 of the booklet, Uncle San dozes fitfully in a hammock, dreaming about the Khmer Rouge past, which is represented by four recollections: his stealing a crab, and the Khmer Rouge torching a village, menacing two Buddhist monks who are being forcibly disrobed, and executing a man who looks like Uncle San in a mass grave filled with skulls. As in earlier shots, all of the characters resemble the moustached Uncle San. He is everyone and yet no one. He tells us:

During the Khmer Rouge Regime, I was forced to plant rice all day long. Once, I took a crab from the field and was beaten for doing so. I remember the mistreatment of monks, hard work, poor food, tortures, and killings. When it was over and I went back to my village, my home was destroyed. What makes me most sad is that all of my family members were killed. Since then, I have bad dreams every night about what happened.

(page 6)

In the next frame, Uncle San sits chatting with Auntie Yan and some other villagers in a rustic, traditional village space, one that lacks signs of modernity (for example, electricity, cars, motorcycles, industry, upscale commodities). 'Usually,' Uncle San tells us in the accompanying text, 'I try not to think about the past by spending my time planting rice, going to the pagoda, and chatting with my neighbors' (page 8). Auntie Yan, it turns out, is a childhood friend who also lost her family during the Khmer Rouge regime and with whom Uncle San often shares meals or drinks tea.

If time is partly one of criminality in the booklet, it also suggests a pre-existing stasis. Perpetrators bear the impurity of their act, an unchanging stigma marking them as nefarious. Victims, in turn, remain wounded and unhealed, awaiting rescue. Thus Uncle San reveals, 'Since then, I have had bad dreams every night about what happened' and he tries 'not to think about the past' by keeping busy (page 6). This spatio-temporal freezing is indexed grammatically, as the temporal marker, 'since then' (*chap teang pi pel nuh mok*) frames the pronoun 'I' (*khnom*). Uncle San, and as the everyman, by implication all Cambodian victims of the Khmer Rouge, lives suspended in a past of traumatic experience, which persists, unchanging, through a set of symptoms, including re-experiences (flashbacks, bad dreams and nightmares), avoidance behaviours (trying 'not to think about the past'), and, as the frowning photo of him in the hammock suggests, hyper-arousal (difficulty sleeping and feeling tense).⁹

Indeed, there is a direct relationship between transitional justice time and one of the subject positions produced by the transitional justice imaginary: that of 'the trauma victim'. We could even speak of a sort of pop-psychology

'trauma imaginary' that overlaps with the transitional justice imaginary. In this trauma imaginary, individuals are viewed as existing in a state of regressive dysfunction, trapped by the seeds of past trauma. These 'seeds' manifest themselves through the aforementioned set of symptoms (the 'shoots' of the trauma 'seeds'). The trauma victim is more or less helpless until saved.

Within the transitional justice imaginary, the helpers are a legion of psychosocial specialists who treat trauma victims in a post-conflict situation. But the transitional justice mechanism itself is depicted as constituting a form of treatment, evident in the frequent assertion that transitional justice mechanisms will help the society to 'heal'. The post-conflict society is metonymically represented by the 'trauma victim', frozen in a regressive, impure, backward 'pre-' state until liberated by transitional justice and its practitioners, who launch it forward to a pure, progressive, liberal democratic state through a given form of 'treatment', the transitional justice mechanism (mirrored by the healing of the trauma victim through engagement with transitional justice practitioners and practices, especially the mechanisms in question).

On pages 9–10 of the booklet, this past and present of transitional justice time come sharply into focus. The left-side graphic shows a split scene of Uncle San lighting incense and praying for the spirits of the dead juxtaposed with an Auntie Yan speech bubble as she hails him to come to a 'special meeting about the Khmer Rouge ... in our village' being conducted by a 'Citizen Adviser' from KID, the NGO that produced the booklet to use in its tribunal outreach activities.

Here we see transitional justice time in motion, as Uncle San moves from his frozen, backward state (performing ineffective 'traditional' practices incapable of healing his trauma) to active, progressive, civilized states (engaging with the court, which has the potential to heal the traumatic wounds that have afflicted him for so long). In this context, civil society practitioners serve as the mediators of transformation as they bring the court to the villages that are so distant from it, a practice aptly termed, as noted above, 'outreach'. The court reaches out and provides its healing touch to even those living in the remote countryside with the help of organizations like KID.

Particularly during the early phases of the court, which started operation in mid-2006, a number of these organizations served as intermediaries between the court and the population. Many of these intermediary organizations had been established during or soon after the 1993 UN-sponsored elections in Cambodia to promote human rights, law and democracy. Over time, each developed particular areas of focus and distinct mechanisms to fulfil their missions.

KID, for example, was established on 6 October 1992, just prior to the UN-backed elections, by a group of Cambodian-Americans and Ambassador Julio Jeldres, an adviser to and official biographer of King Norodom Sihanouk.¹⁰ KID's homepage states that the NGO's mission is 'to foster democratic values in Cambodian society by maintaining a neutral political position'.¹¹ To this end, KID 'carries out a number of activities to promote a

liberal democratic order as determined by the 1991 Paris Peace Agreement of 1991, based on a multi-party liberal democracy system, on human rights, and the respect of law as stipulated in the Constitution'.¹²

This mission is reflected in KID's Khmer Rouge Tribunal outreach programme, which began in November 2005 and involved tens of thousands of villagers in seven provinces. It was carried out with the goal of 'eliminating Cambodia's culture of impunity, ensuring respect for the rule of law, and facilitating people's participation in the tribunal process'.¹³ KID's 184 'citizen advisers', comprising respected and more educated villagers such as teachers, stand at the heart of this and other KID initiatives. Inspired by the citizen advisers created in Britain during World War II, KID's citizen advisers seek to help and inform 'local people in remote areas, where there is a poor knowledge of democracy and limited respect for human rights', and thereby 'promote understanding of the law and its administration, how to prevent and resolve conflict, and how to promote peace in the community'.¹⁴

Starting in 2007, KID's citizen advisers were tasked with conducting outreach workshops with groups of 25–30 people in different villages.¹⁵ The sessions provided a basic explanation of what the tribunal was and how it operated, as well as how victims might become involved. Indeed, the citizen adviser also assisted those who were interested in filling out applications to become civil parties, complainants, or witnesses at the tribunal. Prior to the start of this initiative, KID's outreach team had begun to develop a variety of outreach materials, ranging from a flip chart and films to several explanatory booklets, including *Uncle San*, *Auntie Yan*, and *the KRT*.

In the speech bubble juxtaposed to the image of Uncle San praying to the spirits of his ancestors, an 'interested' and 'curious' Uncle San is hailed, like the reader of the booklet, to participate in a KID outreach session. Standing in front of a European Union (EU) and an ECCC poster affixed to a wooden beam, a KID citizen adviser reads from one of the KID outreach booklets (several of them also hold KID booklets) to 20 villagers. Uncle San relates how, 'at the meeting, KID's CA [citizen adviser] described the Khmer Rouge Trials', about which the villagers had never before heard (page 12). He learns that the tribunal is located in the capital of Cambodia, Phnom Penh, and is composed of international and national staff.

The citizen adviser also tells Uncle San and his fellow villagers how the UN and the Cambodian government reached an agreement to hold the tribunal in 2003 in order to 'to seek justice, national reconciliation, stability, peace, and security in Cambodia' (page 12). A graphic shows Cambodian and UN officials in suits signing the agreement. No one in this frame looks like Uncle San. Here we meet transitional justice time head on as we jump from the Khmer Rouge period (1975–79) to the origin of the transitional justice mechanism in 2003. Uncle San, the Cambodian everyman who is locked in a static, traumatized, primitive and savage time of the past, steps into the progressive, healing, developed and civilized time of the present transitional justice moment. What happened prior to 1975 and between 1979 and 2003 is

flattened and erased,¹⁶ a temporal erasure that is one of the hallmarks of dichotomous transitional justice time.

In other words, transitional justice time de-historicizes, in contrast to the truth claim with which it is often associated. We learn nothing of the origins or the immediate aftermaths of the conflict, such as the Viet Nam War or the geopolitical politics that helped civil war until the late 1990s. After being toppled in early 1979, the former *genocidaires* were rearmed by the United States, China, Thailand and others – and even given Cambodia's seat at the UN. Uncle San does not occupy this time. There is just the Khmer Rouge period and then the 2003 agreement. Without it, there is no progression, just stasis. Uncle San, like the 'failed' state of Cambodia, is frozen in time until this moment, in which he is remade. Despite the oft-heard claims that the Khmer Rouge Tribunal will reveal 'the truth', transitional justice time involves erasures, as a broader understanding of Cambodian society, history and geopolitics – factors that provide the critical backdrop and aftermath of the genocide – disappear from sight, diminishing understanding and producing an eclipsed truth.

In the next frame, Uncle San and Auntie Yan are seen sitting on a Cambodian platform bench in front of her cement house, which suggests somewhat greater wealth and status – and perhaps education – than Uncle San, who lives in a traditional wooden house. A radio hangs from a window. Uncle San holds a pen and looks expectantly toward her as they fill out forms. He states: 'Auntie Yan knows more about the KRT than me because she listens to the radio every day. Auntie Yan taught me that the victims can submit a complaint to the court. She showed me the complaint form and taught me how to fill it out' (page 14).

This scene suggests some of the key normative goods underlying the transitional justice imaginary, particularly freedom of choice and equality. On the one hand, Uncle San has the right and freedom to choose whether or not to participate in the tribunal. He asserts this liberal subjectivity by stating, 'I think I want to [become a complainant]!' (page 16). On the other hand, the positions of Uncle San and Auntie Yan reverse traditional village gender norms, where the man would normally be assumed to speak from the position of authority.

The KID project officer who was in charge of developing the booklet told me that the picture was drawn this way because 'we have a human rights project. Here it is the influence of the human rights concept ... of gender'.¹⁷ He stated that they wanted to combat the notion that 'women don't know anything in the grassroots [level]' and to teach people 'to not look down on the women in the community, but to show that every person has the same rights and dignity'.¹⁸ This focus on gender equality can also be seen in the legal proceedings, where gender-based crimes, such as sexual violence and forced marriages, have been foregrounded.

The page concludes with Uncle San stating, 'Auntie Yan and I also want to take a trip to the ECCC' (page 16). Most of the remainder of the booklet describes their journey and experiences there. Their mode of transportation is

a sleek, modern bus with an ECCC logo on the side. The project officer explained that the bus was meant to reflect the 'international standards' of the court.¹⁹

Here we find a spatiotemporal progression that mirrors the transformation of consciousness taking place. Uncle San's position of stasis is first destabilized by the KID village outreach programme, which 'hails' him toward the transitional justice imaginary. There, he begins to learn the outlines of this vision, manifest in discussions about the court and its operations. He is invited to become a part of the process, first by considering becoming a complainant ('I think I want to'), and then, through the bus ride, directly entering into the spatio-temporal zone of the court, thereby 'leaving behind' the 'static' and 'less developed' village. All of this could readily be viewed through the anthropological lens of a rite of passage, in which Uncle San passes over a threshold, boarding the 'international standards' bus and crossing the gates of the court (behind which, in the booklet, stands the courtroom building, which is modern yet looks almost royal with towering Khmer spires in the background), and is transformed through ritual activities (legal procedure in the broadest sense) in this liminal space.

The remainder of the book describes Uncle San and Auntie Yan's trip to the Khmer Rouge Tribunal, where they learn about the court and Uncle San meets with the head of the Victims Unit, who tells him that if he fills out an application that is accepted by the judges 'based on several conditions of the law', he will become a civil party and 'have the right to participate in all of the court proceedings, plus a right to request collective and moral reparations' (page 24).

The day after their trip to the KRT, Uncle San and Auntie Yan are depicted discussing the tribunal with several of their fellow villagers. They have become like emissaries of the court – a manifestation of the longed for 'multiplier effect' that one often hears mentioned in the outreach community – as they inform other villagers about what they saw and learned. The entry of this information into the consciousness of the other villagers is illustrated by a series of five thought bubbles in the graphic: a convicted criminal being led to jail, the scales of justice, the court itself, a well, and a stupa – images that contrast strongly with the images of Khmer Rouge violence that preoccupied Uncle San at the start of the booklet. 'We talked a long time about the KRT and the future of Cambodia,' Uncle San tell us (page 32). 'We agreed that the establishment of the KRT is very good to seek justice for victims. The trials can find truth and give us relief (*sabay chhet*) from the past' (page 32). Here we find another manifestation of the normative dimension of the transitional justice imaginary: the notion that such mechanisms will deliver a set of goods such as truth, healing, moral reparation and societal transformation. These normative goods are thereby connected to the end point of the teleology driving transitional justice time toward a longed-for state of progress and development.

This seemingly simple booklet, so popular that apparently the court considered purchasing the rights to it, can be read in many ways. On the most

obvious level, it provides an overview of the reasons for and structure of the court with a particular focus on victims' participation. In this sense it echoes, in a very general sense, much of the outreach message that the Khmer Rouge Tribunal and various intermediary organizations have been attempting to convey.

As such, it may also be read as a token of the court that symbolizes and condenses its larger meanings. Most broadly, I want to argue that the booklet is productive in two senses. First, the booklet embodies notions of transitional justice that are central to the larger functioning and legitimation of the court itself and are part of a larger transitional justice imaginary. This imaginary, as I have written elsewhere,²⁰ suggests a teleology of a movement from a contaminated pre-state (of regressive savagery, violence, chaos, anarchy, etc.), to a purified post-state of a modern liberal democratic order (associated with what is civilized, peaceful, ordered, progressive, etc.), with the transitional justice mechanism – in this case the tribunal – serving as the mechanism of change.

This schema is directly manifest in the booklet. It begins with a coding of Cambodia as a place of violence, savagery and regression, as Uncle San recalls the horrors of the Khmer Rouge. He himself embodies the regression, as he is plagued by dark memories of the past. He is a traumatized victim, childlike, an incomplete, not fully functioning being. Like Cambodia, he needs help to move forward.

The court is the vehicle of this transition. Indeed, the slogan of the court is 'Moving Forward through Justice'. The end state of the transition is stated in its basic goals: justice, reconciliation, peace, truth and relief, as we are told several times. The court itself signifies Cambodia's lack, manifesting the modernity it has not achieved. Uncle San notes the technology at the court even as the graphic images suggest the sleek, modern, high-tech nature of the court. Even the bus Uncle San and Aunt Yan take to the KRT must be of 'international standards'.

This mechanism already suggests the end, the post-state of modernity to be achieved. At the end of the process, Cambodia will attain what it lacks. Thus, after their visit to the court, Uncle San, Aunt Yan and their neighbours discuss not just the court but the future of their country, the post-state. The accompanying graphics contain a picture of the court as part of a series of interlinked images that suggest this better future: criminals (who lived freely because of a 'culture of impunity' and a lack of 'the rule of law') are taken to jail as justice is upheld; the scales of justice balanced; a stupa symbolizing peace for the dead and reparations for the living; and a well signifying reparation, development, social justice and repair. Once again, at the end, Uncle San himself embodies the new state of progress as he, like Cambodia, is healed and democratized by the process. He then sleeps through the night like a young child who has finally stepped forward into a blissful new stage of development.

Symbolically Uncle San is not the same. His very being has been transformed as he becomes (at least it is suggested) a modern, liberal, rights-bearing subject

who is healed through the process. Indeed, he now lives in a new world of modernity. The last graphic shows Uncle San sleeping in his hammock near a thatched house, where he dreams of a new Cambodia, like him remade – one with electricity, fancy wooden houses and even a factory in the distance.

In contrast to the initial hammock frame in which a frowning Uncle San is plagued by the nightmares of the past, the last graphic shows him sleeping comfortably in his hammock, a slight smile on his face as he dreams of this new Cambodia. The accompanying caption reads, 'Then ... I slept the whole night with no bad dreams' (page 34). Uncle San, like Cambodia, is imagined as purified, renewed and remade through the mechanism of the court as he passes through transitional justice time.

The KID project leader, who worked with an art student to design all of the graphics, was explicit about the message of this last frame: 'Here, Uncle San, after his participation, a long walk and journey, comes [back] to his own house. He can now close his eyes peacefully. He [dreams of] a peaceful situation and happiness.'²¹ Flipping back and forth between the initial graphic of Uncle San's 'bad dreams' and his dream on the last page, he explained:

This one [the first page] is tragedy, bad things, the [last page has] good things ... birds and trees ... kids who go to school in peace. The villagers have jobs [and] there is no mistreatment of monks ... And you can see [that the village] now has electricity ... Normally only the rich have money to buy wood tile [houses]. So [this page] means that there is prosperity ... no famine ... [and] where we have factories, [we have] development.²²

The project leader explained that the meaning of the booklet was that people would live 'peacefully after participating in the court process. This is the real output we would like to explain to the grassroots ... That is your benefit'.²³ Uncle San, he continued, is a changed man, who no longer has psychological syndromes or bad dreams. 'We let the reader conclude that the court changed him because of his participation.'²⁴ The factory, in turn, symbolized economic development in a rural landscape that normally lacks such industry. The people imagined in Uncle San's new dream bubble 'go to the factory to produce the final product [that is sold on the] market. That is the development process'.²⁵ Here the KID team leader explicitly describes the end point of transitional justice time: a liberal democratic order occupied by the functional, rights-bearing individual, capitalism and, of course, the qualities that supposedly come with it: peace, happiness and progress.

With Uncle San, the reader journeys through the transitional justice imaginary. Our minds, like his, become filled with new thoughts and images, symbolically depicted by the thought bubble graphics. Like him, the reader symbolically passes through a transformative rite of passage and produces a new state of being. This imaginary asserts specific sorts of time (a transitional justice time characterized by temporal erasure, a teleology, and the instantiation of a series of pre- and post-state binaries), subjectivity (liberal,

democratic, rights-bearing, juridical beings such as lawyers, civil parties, and even defendants whose fair-trial rights are frequently invoked), and moral economies of justice (the 'gift' of the international community and the sorts of normative goods it bestows, such as peace, reconciliation, healing, truth, justice). In this imaginary, even as the transitional society emerges, it achieves a still-fragile status of 'newly emerging democracy', one that is not on par with the implicitly 'mature' democratic governments and institutions – which are part of the 'international community' constituted in the transitional justice imaginary – that help guide the transition.

To seek to unpack the assumptions of transitional justice is not simply to dismiss it. It is to engage in a 'critical transitional justice studies'²⁶ that allows us to recognize the gaps within and shadows behind that which is assumed and naturalized. In particular, this imaginary has a tendency to erase historical and sociocultural complexities, ones that are directly relevant to the presumed normative goods of 'truth', 'prevention', and 'understanding the past' that are so often asserted in transitional justice rhetorics. Even for a strong supporter of transitional justice initiatives, such understanding is crucial, for it suggests alternative ways in which such mechanisms for dealing with the legacies of the past might unfold. To ignore such critical thinking is to risk remaining, like the initial construction of Uncle San, caught, unknowing, in the webs of the transitional justice imaginary.

Notes

- 1 This essay is based on an ongoing ethnographic research project on the Khmer Rouge Tribunal that extends from the court itself to rural villages. This research has been supported by grants from the US Institute of Peace and the Rutgers Research Council. The essay was written while the author was in residence as a Member of the Institute for Advanced Study at Princeton (2011–12). In addition to thanking these institutions for their support, the author would like to thank Nicole Cooley, Deborah Mayersen, Annie Pohlman, and the reviewers for their thoughtful comments and suggestions.
- 2 For more information about this period of Cambodian history, see: D. Chandler, *Voices from S-21: Terror and History in Pol Pot's Secret Prison*, Berkeley: University of California Press, 1999; A. Hinton, *Why Did They Kill? Cambodia in the Shadow of Genocide*, Berkeley: University of California Press, 2005; and B. Kiernan, *The Pol Pot Regime: Race, Power, and Genocide in Cambodia under the Khmer Rouge, 1975–79*, New Haven: Yale University Press, 1996.
- 3 A 'supermajority' of judges is required for conviction, thereby ensuring that at least one foreign judge must join in any decision made by the Pre-Trial Chamber (four out of five judges), Trial Chamber (four out of five judges), or Supreme Court Chamber (five out of seven judges), each of which has a majority of Cambodian jurists.
- 4 On the origins and history of transitional justice, see P. Arthur, 'How "Transitions" Reshaped Human Rights: A Conceptual History of Transitional Justice', *Human Rights Quarterly* vol. 31, no. 2 (2009): 321–67; A. Hinton (ed.), *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence*, Piscataway, NJ: Rutgers University Press, 2010; and R. Teitel, 'Transitional Justice

- Genealogy', *Harvard Human Rights Journal* vol. 16 (2003): 69–94. On the components of transitional justice from a practitioner side, see the website of the International Center for Transitional Justice, ictj.org/about/transitional-justice (accessed 8 November 2011).
- 5 A. Hinton, 'The Transitional Justice Imaginary: Outreach at the Khmer Rouge Tribunal', unpublished essay.
 - 6 On the notion of social imaginaries, see: B. Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, New York: Verso, 2006; C. Castoriadis, *The Imaginary Institution of Society*, Cambridge, MA: MIT Press, 1987; and C. Taylor, *Modern Social Imaginaries*, Durham, NC: Duke University Press, 2004.
 - 7 P. Levi, *The Drowned and the Saved*, New York: Summit Books, 1988.
 - 8 Interview with Chhaya Hang, 23 June 2011.
 - 9 On the symptoms of post-traumatic stress disorder (PTSD), see www.nlm.nih.gov/health/publications/post-traumatic-stress-disorder-ptsd/what-are-the-symptoms-of-ptsd.shtml (accessed 3 November 2011). The booklet seems to assume a Western biomedical model of PTSD symptomology as opposed to local idioms of distress that are found in Cambodian villages (see D. Hinton, A. Hinton, K.-T. Eng, S. Choung, 'PTSD Severity and Key Idioms of Distress among Rural Cambodians: The Results of a Needs Assessment', in B. Van Schaack, D. Reicherter and Y. Chhang (eds) *Cambodia's Hidden Scars: Trauma Psychology in the Wake of the Khmer Rouge, An Edited Volume on Cambodia's Mental Health*, Phnom Penh: Documentation Center of Cambodia, 2010, 47–68).
 - 10 The Khmer Institute of Democracy, www3.online.com.kh/users/kid/index.htm (accessed 3 November 2011).
 - 11 Ibid.
 - 12 Ibid.
 - 13 Khmer Institute of Democracy, 'Outreach Activities', www.khmerrough.com/pdf/OutreachActivities.pdf (accessed 3 November 2011).
 - 14 Khmer Institute of Democracy, 'Proto-Ombudsman Program (Citizen Advisor Project)', www3.online.com.kh/users/kid/program.htm (accessed 3 November 2011).
 - 15 Khmer Institute of Democracy, 'Citizen Advisor Training and Outreach', www.khmerrough.com/citizen.htm (accessed 3 November 2011).
 - 16 For an overview of some of the events that took place during this time, see T. Fawthrop, and H. Jarvis, *Getting Away with Genocide: Cambodia's Long Struggle Against the Khmer Rouge*, London: Pluto, 2004.
 - 17 Author interview, 6 February 2012.
 - 18 Ibid.
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Legacies and prevention

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