



NARRATIVE JUSTICE

A study of transitional justice in
Cambodia in light of Paul
Ricoeur's theory of narrative

By

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1. Introduction

This dissertation explores ways in which Paul Ricoeur's theory of narrative can help us reconceptualise the dynamics of "transitional justice". Parts of this reconceptualisation are summed up in the concept narrative justice. Using Cambodia as the template, this thesis expands on Ricoeur's theories of narrative to reach a fuller understanding of how transitional efforts in post-conflict societies, and indeed efforts by international and local societies in general, influence and are influenced by the victims in these societies as they struggle to come to terms with their conflicting past and progress towards a future of peace and democracy. As I will explain later, I use abduction and retroduction as modes of inferences to adopt and adapt Ricoeur's theories of narrative to build greater understanding and a new body of knowledge on transitional justice by developing the following broad theme:

How a creative study of Ricoeur's theories of narrative reconceptualise common themes and dynamics of transitional justice explaining how the processes are related to the victims searching for truth, justice and a peaceful future in former conflict societies.

I use Cambodia's efforts to emerge from the long and dark shadow of the Khmer Rouge as my original case study. My work draws upon primary research conducted and experiences gathered during a prolonged visit to the country.

War, genocide, violent revolutions and suppressive dictatorships are a historical reality. Sadly, this reality is still alive in different countries around the world today. Some societies have come beyond these horrors, but the task of reconciliation still burdens them. Various efforts designed to deal with the criminal past have been launched as a result.

On an institutional level, examples of such efforts include national and international tribunals, and truth and reconciliation commissions. Two of the better known tribunals are the International Criminal Tribunals for the former Yugoslavia and

Rwanda, established in the 1990s. Sixteen truth commissions have come up around the world since 1974. Perhaps the best known among these is the South African Truth and Reconciliation Commission, also established in the 1990s.

In addition to the tribunals and truth commissions, non-government organisations (NGOs) are often involved in documenting and archiving historical evidence of the violent past. Elsewhere, historical accounts are compiled for inclusion in education and reconciliation programmes. Films, plays and other cultural media are also commonly used as instruments to deal with the violent past. Other uniquely creative efforts have been used to promote truth, justice and reconciliation in former conflict societies.

A common theme in these efforts is that histories of the conflicting, violent, criminal past are related to the present processes of dealing with the crimes, to empower victims to move towards a brighter future.

Separately, scholars have compiled extensive research and developed theories on the processes post-conflict societies can use to move on from the violent past, and establish a lasting foundation for a future of peace and democracy. About ten years ago, the term *transitional justice* was conceptualised to describe and understand these processes.

Transitional justice today is a highly institutionalised field. Its original roots lie in the discourses that emanated from legal institutions establishing justice in former conflict societies. This knowledge is an important part of understanding transitional justice, but as I argue in this thesis, it is not sufficient.

Early theoretical accounts of transitional justice were based on legal studies emerging from the work of tribunals. The academic nature of this output meant that these theories failed to explain how the transitional justice processes were actually related to the individual expected to be part of the transition from the conflicting past. To understand this, we need to address the phenomenon of transitional justice from interdisciplinary and complex theoretical perspectives. Too much institutionalised respect for disciplinary boundaries, especially as propounded by Western legal institutions, may prevent a global and holistic

understanding of transitional justice. I draw upon the work of French philosopher Paul Ricoeur to overcome some of these obstacles. A leading philosopher in post-war Europe, Ricoeur has given us theories that tap into many of the philosophical debates needed to understand how transitional justice is related to the individual.

Practical approaches to achieve the goals of transitional justice also are becoming increasingly creative and polyphonic. Therefore, the field now needs to be addressed from interdisciplinary as well as theoretical perspectives. At this stage of the development of the field, more holistic, creative and theoretical accounts and conceptual frameworks are needed to understand the various processes. Lambourne (2009:47) writes: “What is needed is a revolution in thinking that challenges the dominance of western legal discourses and creatively and inclusively develops new ways of conceiving of accountability mechanisms that provide a more comprehensive and holistic experience of justice.”

This thesis is an attempt to fill part of this knowledge gap in existing transitional justice literature. I do this in four stages:

Stage One: Establishing the scientific philosophical grounds for theory generation.

In Chapter Two, I present the scientific philosophical grounds for making theoretical reconstructions that explain the underlying dynamics of transitional justice. I present and discuss the basic ontological and epistemological elements of one of this thesis’ main theoretical goals, which is to generate new creative theoretical accounts and conceptualisations of transitional justice.

Critical realism is the foundation for my research design on the theoretical re-conceptualisations. Based on this model, I present abduction and retroduction as two related modes of inference that guide how I go from the basic conception and pre-understanding of the phenomenon of transitional justice to arrive at new creative re-conceptualisations of the phenomenon.

Stage Two: Presentation and re-conceptualisation of the phenomenon of transitional justice.

The research project aims to deliver new and creative theoretical accounts of the dynamics of transitional justice studied in relation to the individual expected to be part of the transition. This requires me to present transitional justice in a way that makes it open for theoretical re-description. I do this in Chapter Three by presenting different cases of transitional justice and the theories generated in relation to these cases. By illuminating the complexity of the phenomenon of transitional justice, I seek to fill what I see as knowledge gaps in the existing literature.

Stage Three: Presentation of the cases of transitional justice in Cambodia.

To generate new theories that address the principal theme of this dissertation, I relate the theoretical study to empirical cases of transitional justice efforts in Cambodia. These efforts, which are still under way in the country, are designed to deal with the history of the violent Khmer Rouge regime that killed an estimated two million people. I spent about four months in Cambodia in 2008, studying different cases and formats of transitional justice efforts. I spent time with a group of victims as it participated in the first public hearing at the Khmer Rouge tribunal, and I interviewed several other victims.

These cases are the empirical framework for my effort to create new theories about the phenomenon of transitional justice.

In Chapter Four, I present the historical context and cases of transitional justice in Cambodia.

This serves as the background and empirical context for the creative theoretical interpretations of the phenomenon of transitional justice in the last two chapters.

Stage Four: Generate new theoretical accounts of the research theme.

I start by studying Ricoeur's theories of narrative in Chapter Five. I focus particularly on Ricoeur's theories of mimesis, historical consciousness and narrative identity. The aim is to re-

conceptualise Ricoeur's theories in such a way that they explain common themes and dynamics of transitional justice.

In Chapter Six, I complete the theoretical inferences by presenting narrative justice as a concept that would fill part of the knowledge gap in the existing transitional justice literature. I do this by studying Ricoeur's theories of memory and justice from a narrative perspective. This is adapted to the previous theoretical re-conceptualisations when interpreting the empirical findings from the case study in Cambodia. I do not present narrative justice as a complete theory, but as a concept that summarises theoretical re-conceptualisations made in this work.

1.1 Why Ricoeur?

Ricoeur's hermeneutic philosophy lends new meaning to post-conflict transition and how this involves a reconfiguration of the meaning of the past. Ricoeur's general attempt to solve this hermeneutical question explains common themes and dynamics of transitional justice.

Ricoeur presents multiple hermeneutic detours that explain how the victims may interpret the transitional justice processes they are expected to be part of. For Ricoeur, interpretation does imply inter-subjective relations that collectively determine the meaning and value of the text or narrative. Interpretation is not a subjective internal reflection, but it involves inter-subjective mediated contexts of meaning that include history. Ricoeur reminds us that we must pay attention to the particular context and pre-supposition of each speaker and each reader (Kearney 2004:5).

One consequence of this when adapted to understanding transitional justice is that it clarifies the dynamics of how the individual relates to the transitional justice processes.

By adapting Ricoeur's theories of mimesis, historical consciousness, narrative identity and memory I explain the victims' context and pre-supposition for interpreting what I describe as the transitional justice narratives. It also enables me to explain the context of the transitional justice institutions and

initiatives from a narrative perspective, that may be part of how the victims interpret the transitional justice processes. One example of this is the understanding of how the victims may or may not view the institution as a legitimate provider of truth and justice when interpreting the transitional justice narratives presented by the institutions. And finally, it enables me to include the historical context of the victims' interpretation process when they relate to the transitional justice narratives.

An understanding of how the inter-subjective relations between the Khmer Rouge victims are intertwined with various "broader" inter-subjective relations mediated by the NGOs, social groups, the tribunal, and the documentation centre makes it easier to appreciate how the transitional justice processes is related to the individual.

Ricoeur's theories of narrative illuminate how, in the absence of a publicly communicated and legitimatised collective history of the crimes of the past, and amid a lack of legitimate institutional judgement and condemnation of the violent past, the inter-subjective relations may have established a disempowering context of interpretation that prevents the victims from leaving the violent conflicting past behind and move towards a brighter future. Such background allows me to examine potential constructive effects of the transitional justice narratives as frameworks for re-interpretation of memories, and disempowering stories of the conflicting past.

These examples could be studied as hermeneutic problems. From this perspective I find Ricoeur's theories of narrative fruitful. They bring a better understanding of how the processes under study relate to the individual expected to be part of the transition.

By studying transitional justice from a narrative perspective, I explain how narratives of the past, present and future serve a constructive function in the transition, providing more comprehensive re-contextualisation and re-interpretation of the memories of the conflicting past – i.e., how the transitional justice narratives influence people's reflection upon their memory of the conflicting past in relation to the present transitional

situation, potentially forming new constructive orientations towards the future.

1.2 “Transitional justice narratives”

Throughout the thesis I use the concept “transitional justice narratives”. The concept refers to the narratives that describe the transitional justice processes. By the concept of “narrative” I do not mean the history and stories of the conflicting past in Cambodia itself, but rather the telling of these stories and histories as part of a transitional plot, both as oral tales and written narratives.

Tribunals, documentation centres and NGOs relating the conflicting past to the present provide narratives to assist and empower the victims and the society as a whole to orient towards a brighter future. While a historical narrative can be interpreted on its own terms as an account of historical events, transitional justice narratives relate the past, present and future. This could be understood as a transitional plot where a conflicting past is followed by a “break” in the plot, which leads on to a brighter future. This is how the concept transitional justice narratives are to be understood in this dissertation.

I adapt Ricoeur’s mimetic model of emplotment to understand how the history and memories of the conflicting past in Cambodia are related to an imagined future of lasting peace and democracy, in order to establish the configured present transition. The narratives that are communicated about this transition or transformation by legitimate institutions recognised as being part of transitional justice processes are my “transitional justice narratives.”

2. Research design and method

This chapter addresses three tasks. First, I highlight ontological and epistemological considerations essential for studying the research theme. Next, I present the methodological approaches used when studying these phenomenon. Finally, I discuss potential biases and limitations of these approaches.

Before I look at this from a formal philosophical perspective, I describe my pre-understanding, from where my intuitions originated and inspired me to come up with the research theme. I believe this platform will reveal the strength as well as the potential bias inherent in my approach to the research theme.

2.1 Pre-understanding

My pre-understanding is that studying transitional justice policies and processes from a narrative perspective that relates the past, present and future make them more relevant. This pre-understanding is both a product of my work experience at a Norwegian centre for historical learning, and my exposure to peace-building efforts as reported worldwide and selective readings of narrative theory. A more selective reading of French philosopher Paul Ricoeur's theories of narrative before I went to Cambodia, and later as part of my interpretation of the case study experiences from Cambodia, embellished this pre-understanding.

I first thought systematically about the constructive role and function of narratives relating the past, present and future when I started to work as researcher and later as research co-ordinator at the historical learning and peace-building centre in Norway called "Stiftelsen Arkivet". This institution, located in the city of Kristiansand in southern Norway, was established to memorialise and educate the public about the brutal events that took place at the location during World War II, when it served as

headquarters as well as a prison and torture place for the German secret police Gestapo. The museum in the basement was constructed with the aid of some of the former prisoners. The goal was to tell stories about what happened here, and convey the historical context of these events, to prevent similar outrages from transpiring in new forms in future.

Story-tellers at the museum seek to achieve this goal by relating the past to the present, in an attempt to form attitudes and knowledge that may strengthen the foundation for a future of lasting peace and democracy.

Different NGOs like Save the Children, Amnesty International, Red Cross and the United Nations Association of Norway are located in the building. The various educational and research projects handled here provide a solid basis to understand the histories of the conflicting past, and the related obligation to learn from this serves as the foundation for gaining new knowledge about other conflict societies.

My first task at the institution was to conceptualise the processes and dynamics taking place when the past, present and future are related as part of the didactics of the guided tour at the museum.

To answer these questions, I started reading about historical consciousness and historical learning processes. This led me to reflect on the role of narrative both in historical constructions, and in understanding how the visitors relate to the narrative and the story-telling in the reconstructed torture cells and exhibitions at the centre.

I had not read Ricoeur's take on these themes at this time.

My initial idea for a research project was to study how the school children and students who visit the museum as part of their extra-curricular school activities relate to the story-telling. I appreciated that this may have an expected as well as unexpected effect on them, and I wanted to better understand this process.

When I started to develop a design for such a study by conducting some preparatory interviews, I realised that to understand how the school children and students interpreted and related to the narrative and story-telling, I needed a more complex theoretical perspective. I then started reading about the

relationship between narrative, identity and historical consciousness.

This reading established in my mind that historical learning does not have a linear perspective. Rather, I had to include theories and methods that explained how the narrative identity, memory and prejudice of each individual are part of the historical learning processes expected to happen.

I then started to think of a two-fold approach to studying of historical learning processes. On the one hand, the story-telling could be studied as a basic narrative with a plot. On the other, the individual brings his or her own stories and memories, which are incorporated into the interpretation of the narrative.

It was with this impetus that I started to read about the processes of establishing a tribunal in Cambodia to deal with the brutal history of the Khmer Rouge regime. What became immediately obvious was that the expected main effect of a tribunal in post-conflict Cambodia was to establish historical narratives that could legitimise the suffering of the victims, and help them relate their own personal memories to a bigger historical context. I learnt that it was forbidden to educate Cambodian school children about Khmer Rouge history, and the reports I read bore stories of confusion and lack of historical consciousness about the conflicting past.

As the tribunal was established, my interest increasingly turned towards Cambodia. I first thought about doing a comparative study of the historical learning processes in Norway and the historical learning processes, or lack thereof, in Cambodia. This could have been an interesting comparison to illuminate the relationship between time and history. However, when I learnt more about the struggles in Cambodia I realised that this would be an almost impossible comparison, because the historical and cultural dimensions of the two nations are poles apart.

Still, my original interest in transitional justice from the narrative perspective had made it clear to me that the theories would be strengthened if the transitional justice processes and policies were studied from a narrative perspective, relating them

to the individual expected to be part of the transformation from a conflicting past towards a peaceful and democratic future.

As this pre-understanding became stronger, I decided to fully shift my focus to Cambodia and the newly established Khmer Rouge tribunal.

When I went to Cambodia in December 2008, I had already developed a wide set of theoretical assumptions and expectations of what I was going to find. This represented a methodological challenge. I did not go Cambodia with a blank sheet of paper. I went there with a creative set of theories in my mind. I now had started to read Ricoeur's theories on narrative.

In the following sections I will argue how this starting point becomes a benefit when I adopt a critical-realist approach to the research theme. Relating the theoretical studies with the case study experiences in Cambodia enables me to arrive at new theories to explain the research theme.

2.2 Critical realism

To understand how transitional justice efforts may be related to the individual searching for truth and justice in post-conflict societies, one needs to make creative theoretical claims about relationships and dynamics that are not directly observable. Accordingly, instead of just describing or mapping variations related to the events under study, my focus is on what may produce the events, and what dynamics may be part of understanding these events. To do this, in turn, I adopt theories to my investigation (Layder 2005).

An important part of this process is to conceptualise the relationships and dynamics I observe through my case study within new theoretical perspectives relevant to the research theme. To illuminate and critically engage the narrative elements of these relationships, I use selected theories on narrative as provided by Paul Ricoeur.

Central to this approach is to realise that conceptualisation is a crucial part of social reality. Critical-realist theories of ontology and epistemology tell us that reality is not theory-

dependent, but that it is theory-determined (Layder 2005). As a researcher, I do acknowledge that there exists a world outside language. Nonetheless, it is only possible to gain knowledge about the world by making theoretical interpretations. I will touch on this important distinction in Chapter Five, when I introduce Ricoeur's hermeneutic phenomenology. Later in this chapter I argue that the acknowledgement that there exists a world outside language is also an ethically relevant claim when studying genocide.

I study conceptualisations, and how they relate to the phenomenon of transitional justice. My task is to interpret other people's interpretations of their experiences of the story-telling or narratives related to the tribunal. This double hermeneutic is present in all social science work. This implies that conceptualisation is part both of the research process, and the research object (Danermark et al. 2002:36). One consequence of this is that the concepts and conceptualisations need to be the very starting point when I construct theories.

The core of my investigation of the story-telling efforts studied in relation to transitional justice strategies in post-conflict societies is to address how mediations of the meaning of different concepts like justice, revenge, forgiveness, memory, and transition are embedded in the narratives related to the tribunal. How, for example, a guided tour arranged by a Cambodian NGO for Khmer Rouge victims to witness the tribunal can be studied as a narrative relating the conflicting past to the present, and to empower and educate the victims to orient towards a brighter future. To understand the potential effect of the narrative, I need to construct theories of the dynamics and processes of transitional justice, explaining how the story-telling efforts could inform action that is in accordance with the instrumental purpose of the story-telling.

To explain how people's notions and concepts may be related to expected social practices of transitional justice, I contextualise the conceptualisations within theoretical forms at a more general level. I examine social pragmatic functions of narrative as they fit within social reality. To do this, I adopt Ricoeur's theories on narrative in relation to theories and

empirical examples on transitional justice, summed up in the concept narrative justice.

Later I outline how I make these connections through two related modes of inference, termed abduction and retroduction. Inference is defined by Danermark et al. (2002:75) as “descriptions of various procedures, ways of reasoning and arguing applied when we in science relate the particular to the general”.

I later take the ontological and epistemological dimensions into account when forming my methodological approach guided by theory. But first, I present critical realism as a philosophical concept basic to understanding these modes of inference.

Critical realism is about establishing the ontological and epistemological grounds for social transformations (Patomäki 2006). Critical realism as a Meta theory contains specific ontological and epistemological considerations that make it a fruitful philosophical ground on which to base a narrative study of transitional justice processes.

Danermark et al. (2002:116) lists some central starting points of critical realism, concerning the relation between theory and observation/data:

1. We can never understand, analyse or categorise reality without using a theoretical language of concepts.
2. The concepts are constantly being developed.
3. The development of concepts pre-supposes an (intransitive) reality independent of these concepts.
4. The relation between theories/theoretical concepts and the properties or objects the concepts are referring to is not unambiguous and simple; nor is it arbitrary. All theoretical descriptions are fallible, but not equally fallible.
5. Theories and theoretical concepts are developed in relation to the experiences we obtain when we use them to understand reality.

Critical realism came as a critique of positivistic claims that there should be a separation between empirical descriptive knowledge and normative claims about reality. Hume is perhaps the most known early representative of the position later adopted by positivists, that the only statements we can consider as true or false are statements made about empirical facts about the real world. This is based on a belief in reason’s capability to make

rational claims about the world. Statements of how things should be, in contrast, were viewed as subjective and emotional statements with no universal value.

After Hume's separation between *is* and *ought*, the distinction has been part of positivistic and logical-positivistic arguments that hold that we cannot deduce normative claims from empirical descriptions. Critical realism criticises this strict distinction, among several other things, on grounds that researchers have to try to understand how the two are related, rather than make a strict distinction between how things are and how they ought to be.

Critical realism is a philosophical concept referring to several schools of thought. The first two issues I discuss are related to critical-realist philosophical ontology about reality and critical-realist epistemological arguments of a pragmatic theory of truth. This has implications for my choice of research methods.

The newer approaches to critical realism are associated with the work of Roy Bhaskar in the 1970s. His philosophy of science, termed transcendental realism, and particularly his philosophy of the human science, termed critical naturalism, when combined lend a new interpretation to the umbrella term "critical realism".

A basic assumption of Bhaskar's work is that in general, the object investigated must have real internal mechanisms that can be manipulated to produce particular effects. This stands in opposition to positivist and empiricist approaches, which seek to establish causal relationships at the level of events. Critical realism draws on Bhaskar's distinction when arguing that causal mechanisms must be located at the level of generative mechanisms. This means that conceptualisation becomes an essential part of research in the processes of illuminating the generative mechanisms that could better explain relationships between events.

2.2.1 How does this relate to Ricoeur?

This concerns how I will apply Ricoeur's theories of narrative. Essentially, the existing theoretical perspectives on transitional justice need to be supplemented by theoretical accounts that

explain how transitional justice processes and dynamics have to be studied as linguistic and hermeneutical mediations of meaning.

The critical-realist paradigm presents an account of science that encompasses natural as well as social science. This paradigm rests on certain ontological and epistemological considerations that are basic to my choice of research design and method. Relational perspectives on social reality are an important element of this paradigm.

It is essential to accept that the conceptual categories we use to identify and understand social events are historically and socially determined. But as mentioned earlier, nothing exists outside language. On this backdrop, critical realism makes a distinction between what could be described as natural structures, and the empirical patterns of events that we are able to map using different methodological approaches.

This is related to Ricoeur's hermeneutic phenomenology that I outline in Chapter Five. Ricoeur (1983 [1990]) argues that to understand the world and ourselves we have to go on what he describes as a detour of the already mediated meaning of the world in meaningful language. This means that as a researcher I have to accept that reality is layered, and that to gain knowledge about the underlying structures and dynamic I have to critically engage and construct mediations of meaning in meaningful language about the phenomena I study. This is how I argue that Ricoeur's theories of narrative make a new contribution to understanding the underlying dynamics of transitional justice processes.

2.2.2 Interpretation, theory and method

An ontological consequence of accepting that reality is layered is that reality exists independently of us and our knowledge of it, but that the way we can understand and explain reality is by making theoretical assumptions about it. A methodological consequence of this for my project is that interpretation becomes an essential part of the research.

Danermark et al. (2002) refers to a distinction made by Bhaskar (1975) between transitive dimensions of reality, our

perceptions of reality and intransitive dimensions of reality, understood as the underlying structures.

This distinction between reality and its conception is fundamental to the whole research process. Especially when studying processes and dynamics of how victims of genocide and suppression relate narratives and story-telling, it is important to understand the reality of the historical events as something that also exists outside the conceptual re-constructions of the events.

However this does not mean that the phenomenon cannot be addressed from a creative theoretical perspective. A critical-realist approach to the research theme requires me to create something new out of a number of different perspectives (Danermark et al. 2002:2). The research problems and cases under my investigation are polyphonic and made up of many structures and dynamics of social relations, and my choice of design and methodological approach must take this into account. The different properties of social reality I study are possible objects of knowledge that could be understood as dynamics of the research theme. I conduct what Danermark et al. (2002:2) refers to as a “well-informed discussion” about the potential consequences of dynamics working in different settings. In doing this I introduce different theoretical perspectives that illuminate the dynamics that I try to explain.

Therefore, discussions on method and what Danermark et al. refers to as the mode of inference need to accommodate how theory is implemented in the research process. Danermark et al. (2002:3) argues that method and theory cannot be treated as two separate entities of social science; theorising is an inherent part of the research method itself, and our objectives of study are always theoretically defined. By adapting critical-realist ontology to the study of social reality, theory becomes essential to the whole research process. By theorising generative dynamics of social reality, theory serves a creative and constructive function relating past, the present and future. There are some normative questions related to this.

2.2.3 Some normative implications

As Patomäki (2006) argues, critical-realist ontology explains why there are multiple possible futures and how the world consists of non-actualised possibilities of the already existing structures and mechanism. This brings out the important fact that social sciences are involved in “envisaging better possible futures in terms of concrete utopias” (Patomäki 2006:9) when trying to better conceptualise generative dynamics in human worlds. By adopting Ricoeur’s theories of narrative to this study I arrive at a better understanding of the generative dynamics of transitional justice.

I have remained conscious of normative aspects, especially how the transitional justice narratives may be better related to the individual searching for truth and justice. I also produce interpretations of significance and meaning that could potentially influence how people relate to transitional justice.

By producing new conceptualisations of the more basic conditions of transitional justice I also seek to highlight new constructive possibilities of the structures and dynamics illuminated by Ricoeur’s theory of narrative. In this regard, the research is constructive in, to use Patomäki’s (2006) words, “envisaging a better possible future”. This constructive element is to some extent balanced by the limitations realised by critical-realist philosophy. Even though we can form new creative conceptualisations of the phenomenon under study that may provide new insights into the dynamics and tendencies that make things happen in the phenomenon, we cannot predict concrete events (Danermark et al. 2002). I seek to establish conceptual tools and perspectives that may enrich and develop the field of transitional justice, not exact predictions of particular cause-and-effect relationships of one particular possible future. Rather than predicting concrete events in the future, I try to explain why there are “multiple possible futures” (Patomäki 2006:9). Nevertheless, there are important normative critical aspects to this. In the next chapter I address this more explicitly, by studying some critical perspectives of transitional justice.

2.2.4 Concluding remarks

By relating a specific philosophy of science to concrete methodological working procedures, critical realism provides a basis for my research design. The critical-realist ontology and epistemology outlined so far form the basis for the methodological considerations that guide my choice of method in practical research. The philosophical discussions of critical realism make it imperative to understand the relations between practice, meaning, concepts and language (Danermark et al. 2002:39-41).

When basing my modes of inference on critical realism I also take into account the temporal dimensions of the social phenomena I study. By turning the focus from events to mechanisms or dynamics, critical-realist ontology enables me to introduce Ricoeur's theories of narrative as part of the methodology of explaining generative dynamics of the transitional justice processes I study.

2.3 Abduction and retroduction

I have presented parts of the ontological and epistemological issues related to the grounds of my argument in relation to a critical-realist movement in social science. I will now focus on some consequences of the previous discussions for my choice of research design and modes of inference.

Bryman (2004:27) defines research design as: "Providing the framework for the collection and analysis of data ... the research design should reflect decisions about the priority being given to a range of dimensions for the research process."

When I relate the particular to the general, I do this from certain ontological and epistemological considerations that determine my choice of research design. In other words, I relate my previous discussions of a critical-realist approach to considerations of deciding on choices of research design.

Danermark et al. (2002:73) argue that as a researcher, I cannot commit to a particular research method without constantly relating the method to the law that governs the meaning of what I

am investigating. They write: “We cannot decide which method is the most appropriate without taking into consideration the properties of the objects we wish to acquire knowledge about”.

The properties of transitional justice I study are theorised and formulated as phenomena and processes from a narrative perspective of inference. According to Danermark et al. (2002:74), this way of describing and conceptualising the properties and causal mechanisms or dynamics generating and enabling events of the phenomena under study is an essential part of explaining events and processes as law-governed. To do this, I apply theories. In other words, to describe how different dynamics manifest themselves under specific conditions illustrated by my case study in Cambodia, I re-contextualise the empirical observations and variations within certain theoretical perspectives. According to a critical-realist perspective, this kind of investigation requires a methodological approach based on what Danermark et al. (2002) describe as abduction and retroduction

Abduction is a form of inference or thought operation that interprets particular phenomena from a set of general ideas or concepts (Danermark et al. 2002). For my project my abductive move is to use general ideas and concepts from Ricoeur’s theories of narrative to interpret transitional justice. Danermark et al. (2002:95) write: “In a research practice guided by abduction, the interplay between theoretical re-description of cases and case study-based theory development is absolutely central.”

This is how I approach the cases of transitional justice in Cambodia, ending up with new theoretical perspectives on transitional justice.

I went to Cambodia with different theoretical perspectives and concepts that shaped much of my pre-understanding of the phenomenon I was going to investigate. My abductive mode is to theoretically re-describe the cases of transitional justice under my investigation and to develop new theoretical accounts of the phenomenon based on the case study.

Applying an abductive mode of inference, my task is to re-contextualise the empirical phenomenon of transitional justice processes within the framework of alternative theories. My aim is to integrate theorising and empirical findings in a creative way

that will contribute to new knowledge (Danermark et al. 2002:115). This means that theory and method cannot be dealt with separately, but seen as complementary throughout the research project.

For my research project, abduction means that I relate the phenomenon of transitional justice and the particular events I study to Ricoeur's theories of narrative as a frame of interpretation/theory leading to a new supposition about transitional justice, summed up by the term "narrative justice". By interpreting the original ideas about transitional justice in the frame of a new set of ideas forming creative conceptualisations of the concept narrative justice, I end up with a possibly deeper conception of transitional justice.

As Danermark et al. (2002:92) argue, the foundation of abduction is creativity and imagination and the ability to form associations. They write:

"Besides comprehensive knowledge of established alternative theories, models and frameworks of interpretation, abduction requires a creative reasoning process enabling the researcher to discern relations and connections not evident or obvious – to formulate new ideas about the interconnections of phenomena, to think about something in a different context, an ability to see something as something else."

This is how I relate a creative reading of Ricoeur to the case study experiences and theoretical study of transitional justice. The case studies do not just demonstrate how the events can be interpreted and fitted into a readymade theory: they illuminate what the events say about the theory (Danermark et al. 2002:95). In this way, I introduce new ideas of how individual phenomena studied through my case study experiences are part of the dynamic structure and internal relations of transitional justice (Danermark et al. 2002:96).

An abductive mode of inference is neither deductive nor inductive. The concept was first outlined by Charles S. Peirce. I will however draw on Danermark et al. (2002) who presents abduction in three steps. First, they present abduction as formalised inference. Then they present abduction as re-description or re-contextualisation. They conclude by showing that abduction can be understood as a central element in all

perception. I mainly focus on the first two aspects of the concept. I start with looking into abduction as a form of reasoning.

Inductive reasoning starts with observations of events or incidents, and from these, conclusions are made about the general. This is a form of empirical generalisation where the premises of the argument are believed to support the conclusion, but the premises do not ensure the conclusion. There is always a chance the conclusion may be false, but it provides the opportunities to learn new things that may not be visible from the evidence at first glance.

Deductive reasoning on the other hand starts with general principles and makes observations or derives particular information to arrive at a conclusion that follows logically from the premises. Deductive reasoning depends on its premises. If the premises are false the conclusion following from the premises may be false.

The purpose of both inductive and abductive modes of inference is to arrive at generalising claims, but abduction has a different way of getting there that is neither a purely empirical generalisation like induction, nor is it logically rigorous like deduction (Danermark et al. 2002:90). Central to all abduction, according to Danermark et al. (2002:90), is that we have an empirical event/phenomenon which we relate to a rule, which leads us to new supposition about the event/phenomenon. By relating and interpreting different original ideas about the case being investigated and the empirical findings within new frameworks of concepts and theories describing the underlying structures and dynamics, I produce new insights answering the research question. The conclusion will be one of many possible conclusions, as I relate different ideas and knowledge to each other (Danermark et al. 2002:91). This is what Danermark et al. (2002) describe as re-description or re-contextualisation.

The next step is to explain what is constitutive for the structures and relations highlighted from the re-description or re-contextualisation (Danermark et al. 2002:96). For example, I have to ask questions like: What makes the relationship possible where the past serves an orientative function for the future? What dynamics are related to the formation of historical consciousness

in relation to transitional justice processes in post-conflict societies?

Danermark et al. (2002:96) describes this mode of inference as retroduction; “as a mode of inference by which we try to arrive at what is basically characteristic and constitutive of these structures.” In other words, a retroductive mode of inference is applied to go from the observable, the empirical observations from my case study – through my re-contextualisation of the events through an abductive inference – to arrive at explanations of what Danermark et al. (2002) calls trans-factual conditions (what is beyond the empirical). This is how I apply and construct theory throughout the research project.

2.3.1 Abduction, retroduction and the use of theory

The most important starting point for integrating theoretical argumentation in the empirical investigation of the cases of transitional justice in Cambodia is to demonstrate how the research theme is related to the theories I use to critically engage and illuminate the phenomena I study. In other words, the research theme needs to be clearly grounded in theory (Danermark et al. 2002:146).

The research theme is related to both general theoretical claims about transitional justice which I outline in the next chapter, and to more specific ontological theories of narrative that are more directly related to the empirical investigation.

One important goal of applying theories as framework for interpretation of the empirical findings is to bring new theoretical perspectives into the field of transitional justice to illuminate new ways of understanding and thinking about the processes, with this process following an abductive and retroductive mode of inference. By relating the transitional justice cases I study to new theoretical conceptions of the phenomenon, I present a creative insight into the social dynamics expected to affect the success of the transitional justice policies and projects. I do this by presenting the concept of narrative justice studied in relation to the transitional justice cases in Cambodia.

In retroduction, general abstract theory is an important resource to illuminate the structures that structures are

fundamental for the phenomenon I study. In this process, the objects I study could both be seen as individual phenomena and as manifestations of general structures (Danermark et al. 2002:88).

2.3.2 Concluding remarks

Abduction and retroduction are not easily distinguished from one another in concrete research practice. But as Danermark et al. (2002) argues, it is important to discriminate between them as two distinct modes of inference when the core of the methodology is to be described. Retroduction is about going back to the general structures of the abductive move that is not empirically observable, and asking questions about and developing concepts of “the more fundamental, trans-factual conditions for the events and phenomena under study” (Danermark et al. 2002:96). By making this move, retroduction is about starting from the empirical observations of the transitional justice processes in Cambodia to end up with the concept narrative justice, as a conceptualisation of the basic conditions for the social relationships and mechanisms illuminated by the theoretical constructions.

By using abduction and retroduction as modes of inference I make connections and illuminate dynamics not directly observable from my case study investigation. This culminates in theories making general claims about the phenomenon under study.

In the following sections I show how abduction and retroduction guide my research.

2.4 Case study and interviews

The main empirical case that I use to illuminate the theoretical reconstructions is the Documentation Centre of Cambodia (DC-Cam) and its projects in co-operation with the Extraordinary Chambers of the Court of Cambodia (ECCC), commonly known as the Khmer Rouge tribunal. The documentation centre is said to be the main reason why the tribunal was established. The centre is involved in different outreach projects that relate processes

happening at the tribunal to individual and groups of Cambodians searching for truth and justice. I present the case in detail in Chapter Four. From a methodological perspective, I first explain how I approached the documentation centre and its activities to compile empirical data.

My empirical findings are based on observations of the documentation centre's activities, and reading the texts produced by the centre describing the purpose and goals of the different activities. I interviewed people that were taking part in the projects arranged by the centre. I also interviewed a selection of Cambodian people, who represented the variety of Cambodians expected to reflect on and react to the transitional justice processes, but who were not taking an active part in the processes.

Abduction and retroduction as modes of inference allowed me to generate theory from the case study observations and interviews. Now I describe how I conducted the empirical investigation, gathering data for the abductive and retroductive inferences, leading to a new theory about transitional justice.

2.4.1 Interviews

I selected interview participants that would provide knowledge about how various groups of Cambodians reflect on the transitional justice processes.

There are many different ways of grouping the population, but I broadly identified these groups:

- Middle-aged Cambodian men and women that experienced the Khmer Rouge/DK that are taking an active part in the transitional justice processes.
- Middle-aged Cambodian men and women that experienced the Khmer Rouge/DK that are not taking an active part in the transitional justice processes. Within this group I make a selection based on socio-economic status, since poverty and education are expected to influence how people reflect on the transitional justice processes.
- Religion is also expected to play a role in how these processes are interpreted, so I selected Buddhist monks as one particular group to be interviewed.

- Lastly, I identified the younger generation, which did not experience the Khmer Rouge/DK themselves, as a group to be interviewed. Here I made a selection from university students and younger people with no education.

I had no intention of collecting data that would represent the whole population, let alone the various groups of the population. My goal was to conduct qualitative in-depth interviews that would help me relate the theoretical discussions to my case study experiences, to relate to my theoretical pre-understanding and propositions and help me form new theoretical perspectives on transitional justice.

Since the point of in-depth interviews is to tap into a person's subjective views on the world and to understand how they create their lived experiences (Bryman 2004:53), and the interpretation they make to construct their everyday worlds and their identity, I needed to keep the interviews flexible and open enough to let the stories evolve as naturally as possible. I wanted to be flexible to follow the story-telling as it went along.

Because part of what I wanted to find out from the interviews was how people narrated their present situation and perspectives on the future in relation to the transitional justice narratives communicated by the documentation centre, I did not operate with a fixed order of questions.

Instead of operating with a structured interview guide with a prepared coding system, I prepared some key words and themes to address. These were drawn from my theoretical assumptions about the phenomenon I studied. The main keywords and themes were:

- Memory and stories: How they relate to their own memory of the conflicting past and how they relate to other people's stories of the conflicting past. Keywords: *memory, story, conversations, limitations, truth, myth, forgetting.*
- History: How they reflect on history or the lack of history in making sense of their own memory and the story-telling of other people's memories. Keywords: *teaching in school,*

truth, knowledge, belief, family story, value, importance, future, next generation.

- Narrative identity: How they relate this to their own life story in relation to the conflicting past. Keywords: *self/other, oneself in relation to others, victim, perpetrator, plot, orientations, past/present/future.*
- Tribunal/Documentation Centre of Cambodia. How they understand the role and function of these institutions and how they relate them to their lives and the future of Cambodia. Keywords: *history, truth, justice, documentation, story-telling, participation.*
- Cambodia's past, present and future. How they think of the relationship between the conflicting past, the time until the establishment of the tribunal, the present situation in Cambodia, and the future of Cambodia. Keywords: *past/present/future, historical consciousness, empowerment/disempowerment, hope/despair, belief/disbelief.*

I interviewed 25 Cambodian Khmer Rouge victims: Cambodians who either experienced the genocide regime between January 1975 and April 1979, or those who experienced the difficult years in the aftermath of the Khmer Rouge regime. In addition to the more formal interviews, I had many conversations with Cambodian victims without using a tape recorder. These conversations played a part in forming my understanding of the phenomenon I studied.

It is not easy to talk about the Khmer Rouge in Cambodia. I had to be conscious of the sensitivity and the risk that some of the participants may have felt that they took by allowing me to interview them. I did explain to them that the results of the interview would be anonymous. This was important in order to prevent some of them from feeling afraid after the interview.

Despite the outward unease, the risk of talking about the conflicting past in Cambodia today is actually very little. Nevertheless, it is a fact that the government in some cases still makes an active effort to control and censor people's opinions about the conflicting past. I experienced this myself, and some of

the interviews ended suddenly because the participants suspected that there were government spies observing them.

The topic of the interviews was also very sensitive for the participants asked to talk about their own brutal memory, their suffering and personal losses. All of the persons I interacted with had lost some of their family members during the Khmer Rouge regime. Some had witnessed the killing of their whole family. I had to be sensitive to this when I prepared and conducted the interviews. I discussed this with the experienced staff at the documentation centre, who advised me on how to approach the topics. I had also confirmed with the centre staff that they would be available for follow-up questions and to address concerns that the participants may have after the interview. I informed interviewees that they could contact the centre if they had any questions and concerns.

Before the interviews I told the participants that they were free to end the interview at any time if they felt unsafe or uncomfortable about the topics raised.

I used a tape recorder in all of the interviews, after asking for permission to use it and informing the participants about the strict ethical rules of anonymity and rules of storing and applying the tape recordings. I started the interview by introducing the purpose of the conversation. I operated with an interpreter in all of the interviews. After the interview, the interpreter translated and transcribed them into English for me so I could use the tentative findings, the interesting traces and themes in the previous interview, as I prepared for the next interview.

2.4.2 Working with an interpreter

There are many challenges in operating with an interpreter in a foreign culture. I spent a great deal of time with my interpreter before we conducted the interviews, explaining to him the purpose of the project and discussing what could be the best ways of asking the questions to get the information I needed. The conceptual framework of the interviews was very different from the conceptual framework of the theories I wanted to adapt to the interviews, so the interpreter had to ask the questions differently when translating into Khmer. This does not only have to do with

the fact that I was conducting the interviews in a foreign culture. When adopting a more or less abstract set of theories to illuminate and critically engage social phenomena, it is always a challenge to relate the theoretical pre-understanding to questions in an interview situation. This posed a great methodological challenge to my research project.

In some cases the initial questions I had prepared provided answers to different questions than what I asked. Sometimes this changed the direction of the interview in a negative direction. In other cases this turned out to be an advantage because the interpreter was able to pick up on themes that I had not thought of beforehand because of my lack of a deeper understanding of the Khmer culture and language.

I will deal in more detail with potential biases of doing research in a foreign culture at the end of this chapter.

2.4.3 Interpretation and analysis

When conducting a case study there are many different analytical strategies one might follow. What strategy is best suited depends on the nature of the object you study, and variables such as level of control of the surroundings and complexity of the phenomenon you study. The aim of my investigation of the cases was not to acquire as much empirical details about them as possible to make generalisations from the empirical variations.

The aim, guided by abductive and retroductive moves, was to construct new creative theoretical accounts of transitional justice. This guided how I conducted the case studies.

I took care to ensure that each case study was generalizable to my theoretical propositions. The methods were constructed to generate and critically engage the theories, not to test theories. This also means that the empirical data are not expected to be representative of the population, rather serve the purpose of constructing creative theoretical accounts that explain the mechanisms and structures of the phenomenon. All this is in line with the critical-realist ontological perspective and the abductive and retroductive modes of inference that guides my research.

Generally there are many different strategies that could be applied when analysing the case study evidence. These include coding systems or pattern matching, comparing an empirically based pattern with a predicted pattern (Yin 1994:119). In my case, basing the case study on abduction and retroduction as modes of inference, the theoretical propositions guide the analysis. Since theories studied within the framework of critical realism are not “first and foremost regarded as ordering frameworks, but as conceptualisations” (Danermark et al. 2002:120), applying a coding system to the gathering and interpretation of data would have hindered a more creative interpretation of the phenomenon. I found it easier to abstract and isolate fundamental qualities of the phenomenon by not relating my interpretation to a coding system.

Another aspect of applying abduction and retroduction as modes of inference to my empirical investigation is that general theory is used throughout the project as an interpretative framework and a tool in retroduction. I do not reduce the theories into testable hypotheses to be tested in relation to empirical studies. Because the theories I apply and construct are not inductively grounded in data, I follow different methodological procedures gathering and interpreting the data than would have been the case in positivist or empiricist meta-theoretical starting points.

Based on my theoretical pre-understanding about the phenomenon, I operated with keywords that influenced how I conducted the interviews, but I did not use these in a systematic way.

Developing a strict coding system for my analysis would break with the critical research design outlined earlier. Theory guided what I initially was looking for, and how I interpreted the findings in relation to new theoretical accounts of the phenomenon.

The limited number of interviews simplified data management. I initially considered developing a suitable coding system to organise the interview data. I found I would be better suited to interpret the data in relation to the overreaching goal of theory development by not applying a coding system.

By basing the interviews in the context of theoretical assumptions of the dynamics and structure of the phenomenon I studied, I had to some extent already prepared a form of pre-coding that guided how I approached the empirical analysis. After I had conducted the first interviews I based the next interviews on field notes from the preceding interviews. Between interviews, I spent time talking to people working at the documentation centre on how I could interpret particular themes and responses that came up during the interview.

When relating theory and empirical research I have to be conscious of critical perspectives and potential biases in generating theories about the phenomenon. I will now explain some of the methodological and ethical challenges I faced when conducting research in a foreign culture like Cambodia.

2.5 Critical perspectives and potential biases

As mentioned earlier, Danermark et al. (2002) assumes that all science should have generalising claims. There are many critical aspects to consider when moving from a study of the events of transitional justice to explanations and suggestions of structures and dynamics.

As we have seen, abduction and retroduction are about making creative moves from the particular to the general, from a study of events to a study of mechanisms or dynamics. A first broad critical question is: how can I be sure that a creative re-contextualisation or re-interpretation of the phenomenon does not lead to fiction? How can I be sure that the dynamics I claim to have explained are not a mere product of linguistic constructions, not rooted in social reality?

There is no clear answer to such questions. But using a critical-realist approach to the modes of inference, my task as a researcher is to convince the reader that the theories I produce are actually related to the phenomenon studied.

My interpreting task is to find meaning behind the elements I observe from my case study. I need to interpret the

interview material and observations to find meaning behind what is said and written. As I mentioned in the introduction, I start with my own prejudice and pre-understanding of the phenomena I am studying. This is the conceptual framework for my creative inference of the phenomenon. To answer the critical questions raised above, we can imagine that I never went to Cambodia to experience how the transitional justice processes and policies are practiced, and that I never interviewed and observed the Khmer Rouge survivors when they were taking part in the processes. How would my theoretical claims have been different?

The theories of transitional justice I read would obviously be the same. But how I interpreted them and what elements I chose to study would not have been the same. Still, my creative construction of new theoretical accounts would have been somehow based in social reality, because many of the original theories would have been rooted in practical experiences and real-life situations. During my four-month case study in Cambodia, my pre-understanding of which theoretical traces to follow changed.

Nonetheless, my understanding and interpretations are heavily influenced by my original prejudice, and so I do not claim to provide an objective or real representation of transitional justice in Cambodia. This is an important realisation that makes it imperative that I, in the research project, reveal how I relate theory and practical research. By formulating the theoretical framework for interpretation and by making explicit my assumptions of how this is related to the phenomenon I study, it becomes subject to critical analysis and internal scientific debate. My effort is to use abduction and retroduction to explain how my theoretical re-description and interpretations of the phenomenon are related to social reality.

An important realisation I have to be conscious of is that all interpretation of social reality needs to go on hermeneutical detours of already mediated conceptualisations of reality. This is an essential part of Ricoeur's hermeneutic phenomenology I adapt making theoretical claims about the phenomenon I study. To understand certain events or phenomena we always have to grasp them within a larger conceptual or narrative context. This goes for both social science and for interaction and interpretations in social

reality. When I meet another person, I interpret what he or she says within a complex set of conceptual frameworks of already mediated and constructed meanings.

With familiar people and situations I do this almost automatically, without even thinking consciously about how I make the interpretations. But when I am faced with strangers and new situations I have to consciously consider alternative frames of inference. Social research derived from a critical-realist scientific philosophical ground is about mapping out various conceptual frameworks of understanding – grounded in theory – and applying this when interpreting texts or utterances from real life situations. Just as I might relate a person's action and utterances to her or his biography, I cannot interpret the utterances of the people I interviewed in Cambodia without relating them to the historical context of the stories they told me, and the social, cultural and political situation of the society they live in.

I am seeking knowledge about a socially produced reality. Following critical realism, I accept the idea that all knowledge is socially produced and that our knowledge of it is historically determined. This is closely related to the fact that all knowledge is conceptually mediated and concept-dependent. An important element of this is to realise that the relationship between terms and the meaning they signify is determined by linguistic and cultural agreement that are changeable (Danermark et al. 2002:121). However, a real world does exist beyond our conceptualisations. As addressed earlier, critical realism states that there is a real world that we can gain knowledge about, but we cannot measure the dynamics and structures directly. We rather have to go on a detour of formulating hypotheses from more abstract and creative theories to understand what makes things happen in the real world. This represents a methodological challenge.

I have therefore provided thorough theoretical accounts of how I identified elements of the empirical phenomenon as structural conditions.

Concepts like reliability, replication and different types of validity are often discussed in relation to research designs. There is a discussion whether such concepts are relevant when talking

about qualitative research designs (Bryman 2004:30, 51). When I conduct the abductive and retroductive moves making a theoretical re-description of the case and theory development based on the case study, I must consider the validity of how the theories are integrated when I study the phenomenon of transitional justice. Danermark et al. (2002:148) writes: “When general theories are applied as frameworks of interpretation they are evaluated with respect to whether they are usable and generate new insight into the phenomena of interpretation.”

The validity of the research is evaluated from how I use general theory as a conceptual framework to say something new about the phenomenon studied. I ask questions about whether the theories promote a deeper understanding of transitional justice. I explain what it can explain, while at the same time point to what it cannot explain. I ask critical questions about the limits of the theories I suggest. To meet this challenge, I present the ontological and epistemological scientific philosophical grounds for the theoretical re-constructions, to make them explicit and open for criticism. This is one of the reasons why I have presented critical realism and the related modes of inference in detail at the start of the research project.

When I present Ricoeur’s theories of narrative in Chapters Five and Six, I start by presenting the phenomenological hermeneutic foundation on which Ricoeur bases his narrative theories. This is to secure the validity of the research by presenting the theory in a way that makes it open to critical examination (Danermark et al. 2002:148). Nevertheless, when I adapt the theories I argue that the theories may tell us something new about the dynamics of the phenomenon studied. This means that I do not suggest alternative theoretical perspectives when I apply them to the study of the empirical cases. There are many different theoretical perspectives that can be applied to illuminate the same phenomenon, but my task is to show how Ricoeur’s theories of narrative in particular may explain transitional justice in new ways that were not visible before my creative theoretical re-description.

2.6 Practical, methodological and ethical challenges

I experienced two main challenges when conducting research in Cambodia. First, I was faced with the challenge of not being able to understand the spoken language and fully understand the symbolic language of the people I interviewed. As already mentioned, I had to operate with an interpreter when I conducted and transcribed the interviews. This represents a limitation on my interpretation of the interviews. Even though I had many conversations with my interpreter discussing how I should interpret the different sentences and how I could interpret their body language during the interview, I soon realised that I lacked the cultural understanding to make legitimate claims about the underlying meaning of what my informants told me.

There are many cultural codes of how to approach sensitive issues in a conversation in Cambodia. I learnt some of these, but I also learnt to be humble and modest about my own limitations while interpreting the interviews. I tried to meet this challenge by not over-valuing the empirical evidence as proving truth value of the theoretical perspectives I suggest. The empirical findings are used to illustrate how the theoretical perspectives may be related to the empirical elements of the case study. I do not aim to provide valid explanations of the phenomenon based on representative empirical findings. The empirical findings are provided as part of theory generation, more as examples and illustrations than empirical evidence.

Secondly, I experienced ethical challenges conducting research in Cambodia. One issue was how I should approach the sensitive topics I was investigating. I was conscious of the fact that I used the informants to get information that I could use to generate theory. There is a dividing line between the intellectual operation of how I related general abstract theories to investigate and interpret the phenomenon, and the inter-personal operation of asking the informants to narrate their experiences and thoughts about the violent past. Since my project is theory-driven and the goal is to generate new theories, I had to keep this goal in mind

when I conducted the research. I had to balance the desire to follow interesting theoretical and conceptual traces with the emotional desire of the informants to tell their story. This was an ethical dilemma I felt in all the interviews. For example, if one of the informants started to tell a story with great enthusiasm and emotions, and if I felt that this was important for him/her, I would show interest in their story even though it was not relevant for my goal of generating theory. In other cases I may have had to curb my own enthusiasm to learn more because the interviewee was reluctant or not ready.

I tried to deal with the ethical challenges of asking questions about sensitive topics by following established research ethical standards.

2. 7 Concluding remarks

In this chapter I explained the scientific, philosophical and methodological foundation for this study, especially the more underlying ontological and epistemological elements.

Using abduction and retroduction as modes of inference means I have to be clear on the philosophical and methodological foundations on which I relate theory and the empirical case study to generate new theories about the phenomenon. When I adapt Ricoeur's theory of narrative, I base this on a critical consideration of how the hermeneutic-phenomenological basis for his theories is related to the theories I adapt and construct to explain the dynamics of transitional justice.

To make this theoretical move, I develop an understanding of the phenomenon I study. In the next chapter I will critically engage transitional justice as a theoretical concept and as a practical approach to post-conflict transformations.

3. Transitional Justice

In this chapter I take up three main tasks: I give an introduction to the emerging field of transitional justice as a policy and method for dealing with the conflicting past in former conflict societies in their transition towards a democratic and peaceful future. I present some of the most known cases of transitional justice efforts that have contributed to shape transitional justice theories. It is important to appreciate how the existing theoretical framework has developed in relation to the practical challenges of dealing with the conflicting past. This presentation of the establishment of the field is also essential to appreciate how the cases I present from Cambodia in the next chapter could be studied as being part of transitional justice policies and processes.

I introduce the reader to some of the complexity of transitional justice by examining how the field is complicated when different scholars study transitional justice from a more interdisciplinary and polyphonic theoretical perspective. Through this exercise, I expose some knowledge gaps in the existing transitional justice literature. Thus broadening theoretical and practical fields of transitional justice sets the stage for Chapters Five and Six, which highlight how Ricoeur's theories of narrative contribute to the development of the field.

I present some overall critical perspectives on the field of transitional justice. I also ask the question if transitional justice is even a coherent field of study. It is important to keep such critical perspectives in mind when studying transitional justice from alternative theoretical perspectives.

3.1 Introduction

Societies that have experienced dark histories of violence under communism, apartheid, military dictatorships or violent revolutions face different challenges in moving on from the brutal past towards a peaceful future of freedom and democracy. In each

transitional movement there is one common question: how should so-called post-conflict societies best deal with the brutal past?

If the suppressive military dictatorship is overthrown and stability is re-established, one strategy could be to forget the past and move on. If we introduce concepts like justice, reconciliation, social reparation, impunity, historical learning and historical consciousness, we are reminded of why this may not be the best strategy. Even though forgetting may be an important part of personal reconciliation and forgiveness in some cases, it is a common view that post-conflict societies need to look back and deal with the conflicting past in order to reach forward towards peace and democracy.

Transitional justice has become a major field of study that aims to understand how societies that have experienced periods of violence or mass violation of human rights should best deal with the past in order to move on towards a peaceful and democratic society.

Zalaguet in Kritz (ed.) (2004:6) lists three goals of transitional justice approaches:

1. To achieve a measure of national unity and reconciliation.
2. To build or reconstruct institutions conducive to a stable and fair political system.
3. To procure economic resources needed to achieve these ends.

The general idea is that only by confronting the brutal legacy of widespread violence and human rights abuses can former conflict societies achieve reconciliation and renewed civic trust. This calls for several sets of theoretical approaches.

The means to achieve the various transitional justice goals have broadened as the field becomes more interdisciplinary. At the same time, the transitional justice models established so far as practical responses to local challenges call for new theories explaining how they may contribute to reaching different transitional justice goals. I suggest such creative theoretical approaches in later chapters.

It is important to keep in mind that the goals of transitional justice and the approaches to achieve them never are quick-fix

standard solutions, but rather complex and fragile responses to complicated problems.

One such theoretical and practical challenge that I critically engage in Chapter Five is how efforts made to collectively remember and narrate past human rights abuse and violence may be related to the individual searching for truth and justice. I study this in relation to efforts made to reconcile with the past as the society moves on towards peace, democracy, the rule of law, and respect for individual and collective rights.

In the latest development of the field of transitional justice such efforts have been broadened from their initial focus on legal procedures and processes to a focus on the importance of relating internal proceedings at the tribunals or truth commissions to the individual searching for truth and justice. The case of transitional justice in Cambodia that I present in the next chapter is a good illustration of this.

The International Centre for Transitional Justice (www.ictj.org) lists five basic approaches to transitional justice:

- Criminal prosecutions based on juridical investigations of the most senior figure accused of massive crimes against humanity or genocide.
- Truth commissions with the primary purpose of revealing the truth and setting the stage for reconciliation by allowing the perpetrators to admit their crimes publicly. By making recommendations to remedy the abuses of the past, the goal of the truth commissions is to prevent the abuses from happening again.
- Reparation programmes aiming to repair the material and moral damages of past abuse. The reparation could be material and/or financial, and it can be symbolic like making official apologies or rebuilding of symbolic places that were destroyed during the conflicting past.
- Security system reform transforming the military, police, judiciary and related state institutions from instruments of repression into instruments of public service and integrity. This is about trust-building. The fight against corruption in such institutions is also part of the transitional justice process.
- Memorialisation efforts preserving public memory of the victims. Establishing museums and memorials builds historical and moral consciousness about past abuse to allow the victims to re-interpret their painful past and orient themselves towards a brighter future. An essential part of memorialisation is to recognise the victim's memories

and to remind others, the next generations, about what happened, so we can learn from this and it will not happen again.

Recent studies suggest that various institutional accountabilities for past atrocities as listed above are instrumental to processes of establishing the foundation for peace and stability in former conflict societies (Henkin ed. 2002). However, transitional justice is a new field that is still in the process of being conceptualised into a coherent field of study.

There are knowledge gaps in the existing literature that need to be filled. This provides great opportunities for scholars to contribute to the development of this field of study.

The homepage of the International Centre for Transitional Justice (www.ictj.org) says:

“After two decades of practice, experience suggests that to be effective, transitional justice should include several measures that complement one another. For, no single process is as effective on its own as when combined with the others.”

The need for complementary approaches in transitional justice is stated in many reports and articles (Bell 2009:5-27, Sajjad 2009:424-444, Miller and Kumar eds. 2007).

Experiences from various transitional justice processes in the past and on-going processes like the one in Cambodia suggest that a multiple set of methods and projects need to work together to achieve transitional justice.

The role and power of the tribunal and investigative commissions to make judgements over the truth value of the stories and documentations of the past, and the power of the tribunal to define the perpetrators and to punish them, are essential and necessary parts of achieving transitional justice.

On the other hand, transitional justice literature that overvalues the role of law and legislation fails to address the role of culture and education as part of understanding how post-conflict societies could best deal with the legacy of the violent past. To understand the relationship between how we relate to and deal with the past today and the prosperity needed for a future of lasting peace requires another set of theories.

We need to use a creative combination of theories to understand how different elements work together in transitional justice processes. To understand how the processes of making judgements over a country's violent conflicting past also enable the creation of a historical consciousness of how the past relates to the present and the future, we need to create theories that address how the narratives of these processes may have a liberating function, opening up new orientations towards a brighter future. In Chapter Six I suggest narrative justice as a theoretical contribution, filling part of this knowledge gap in the existing transitional justice literature.

Before I fill these gaps, I introduce the reader to the field of transitional justice and the practical and theoretical challenges it faces.

First I take a closer look at the short history of the field by addressing some of the cases under whose influence it has developed. This will serve as important historical background for understanding the importance of the later theoretical discussions.

3.2 The development of the field of transitional justice

The question of how to react in the aftermath of genocide and massive state violence and suppression is not new. As a response to the crimes and mass murders committed by the German Nazi regime, the United Nations was established in 1945. The London Charter was issued in the same year, formulating the legal basis for trying perpetrators from the German Nazi regime.

On January 14, 1942, representatives from the nine occupied countries met in London to draft the Inter-Allied Resolution on German War Crimes. At the meetings the three major wartime powers, the United States, the Soviet Union and the United Kingdom, agreed on the format of punishment for those responsible for war crimes during World War II. This exercise would later be known as the Nuremberg trials.

These trials prosecuted prominent members of the political, military, and economic leadership of Nazi Germany after its defeat in World War II.

Some 200 German war crimes defendants were tried at Nuremberg, and 1,600 others were tried under the traditional channels of military justice.

The international military tribunal held at Nuremberg attempted to meet the challenges of dealing with the unprecedented crimes of the German Nazi regime on a legal basis. As a result, new concepts were established, and the trials sparked a global discourse on how to describe and condemn such crimes. One such concept that sadly has come to be used when describing other mass murders since the Holocaust is “genocide”.

The concept “genocide” was first conceptualised in 1943 by a lawyer of Jewish decent named Raphael Lemkin. The word is made up of the Greek word *genos* meaning race, and the Latin word *sic* meaning killing. Before World War II, Lemkin had called for an international law to prevent mass murder of people based on religious or ethnic differences. After the war, he continued his campaign and in 1948 he succeeded when the UN General Assembly enacted his convention on the prevention and punishment of the crimes of genocide.

The law contains an internationally recognised definition of genocide which was incorporated into the national criminal legislation of many countries. The genocide laws represented a new epoch in the fight against impunity, and crimes against humanity. The internationally recognised definitions of genocide were also adopted by the Rome Statute of the International Criminal Court, the treaty that established the International Criminal Court (ICC) on July 1, 2002.

Even though early attempts at internationally condemning and punishing genocide were meant to ensure that the Holocaust would never repeat itself, the world has sadly witnessed many genocides since then.

The thoughts and arguments behind the establishment of these laws and institutions, and the debates they initiated, created a need for a more coherent field of study addressing the challenges they tried to deal with.

The goal of “never again” that was the motivation behind the establishment of the laws and institutions was not fulfilled. Punishing the perpetrators responsible for war crimes, genocide and crimes against humanity is often a necessary response to such crimes; nevertheless, it has proven not to be sufficient. This is why I argue that we need to look at the term justice from a narrative perspective to better understand how it may be related to the individual and to the collective memory.

Punishing the perpetrators has both a potential restorative effect on the victims and an expected preventive effect warning other states that such crimes would not go unpunished, but this depends on how the processes of punishing the perpetrators are narrated and related to the individual expected to go through the transformation. As the world is witnessing even more war crimes and crimes against humanity, and also genocide, there is a need to conceptualise a deeper understanding of the mechanisms and methods of dealing with the criminal past.

According to Bell (2009:5-27) it was first in reference to the transitions from authoritarian rule in Eastern Europe and Central America in the late 1980s and early 1990s that the need for a more coherent conceptualisation of the mechanisms and methods of dealing with the conflicting past that we today term “transitional justice” emerged.

It is not possible to trace just one starting point from where transitional justice grew up as a field of study, but the first academic publications (Orentlicher 1991:2537 – 2615, Roht-Arriaza 1990:449 – 513) that argued clearly the need for accountability after state violence and suppression emerged in the context of the fight against impunity in Central and South America in the 1990s (Bell 2009:7).

These theoretical contributions at this early stage of the development of the field, and later theories, focused particularly on studying legal procedures and human rights concerns. It is only very recently that researchers have started to analyse the relationship between justice, reconciliation and peace-building under the banner of transitional justice (Lambourne 2009:28).

To better understand how transitional justice developed into a more coherent field of study, I present some of the most

known cases that fostered new knowledge and raised new questions about the mechanisms and processes of dealing with the conflicting past in former conflict societies. This will serve as a historical context for later theoretical discussions about transitional justice.

The Nuremberg trials are the best known post-war military tribunal. As we have seen, part of the motivation to establish the tribunal was to prevent genocide and massive crimes against humanity from happening again. The new concepts established in relation to the tribunal, of how to describe and condemn such crimes, were later used to establish international criminal tribunals in other post-war societies such as the former Yugoslavia and Rwanda.

3.2.1 International Criminal Tribunals

In 1993, the UN ad-hoc International Criminal Tribunal for the former Yugoslavia (ICTY) was established to deal with war crimes that took place during the conflicts in the Balkans in the 1990s.

While most cases heard at the tribunal dealt with alleged crimes committed by Serbs and Bosnian Serbs, the tribunal investigated and brought charges against persons from every ethnic background. Convictions were secured against Croats, as well as both Bosnian Muslims and Kosovo Albanians for crimes committed against Serbs and others (Lambourne 2009:28-48).

By investigating war crimes on both sides of the conflict line, the tribunal made it clear that those suspected of bearing responsibility for atrocities can be called to account regardless of political, religious and ethnic affiliations. It also established that guilt should be individualised.

The international tribunal for the former Yugoslavia was the UN's first special tribunal for the prosecution of those responsible for violations of international humanitarian law. It has been highly praised for setting a new standard to deal with the conflicting past in post-conflict societies. Nonetheless, critics argue that the tribunal was a political tool rather than an impartial judicial institution. Still, its successful convictions of central political and military leaders of the conflicting regimes helped

bring justice to victims and perhaps also prevented others from committing such crimes in the future.

About one year later, in 1994, the UN established a second special international criminal tribunal in Rwanda. The International Criminal Tribunal for Rwanda (ICTR) was established to prosecute those most responsible for the 1994 genocide, when over the course of approximately 100 days, from the assassination of Juvénal Habyarimana on April 6 through to mid-July, at least 500,000 people were killed. Most estimates indicate a death toll between 800,000 and 1,000,000.

The tribunal was established to assist the process of national reconciliation in Rwanda and the maintenance of peace in the region, in the aftermath of conflict. This was a strong signal to other regimes that war crimes, crimes against humanity and genocide would generally not be tolerated by the international community. This illustrates the “instrumental purpose” of a tribunal.

After genocide and war, societies are in a state of shock. There is reason to question whether fast responses initiated by the international community through the UN, such as the tribunals in former Yugoslavia and Rwanda, are the best way to deal with the recent past in former conflict societies.

Some commentators have argued that the Rwanda tribunal was formed using the same model as the Yugoslavian tribunal established in 1993. The two tribunals shared certain facilities and officers; in particular, they had the same Chief Prosecutor and Appeals Chamber.

Various research projects investigating transitional justice policies and processes have shown that there is never a quick-fix standard model of how to deal with the past in former conflict societies (Sajjad 2009:224-244). If the models and procedures used by the international community become too standardised and powerful, there is a risk that the methods and models become almost self-fulfilling regardless of the context they are implemented in.

The main difference between the earlier tribunals at Nuremberg and the Tokyo trials established in 1945, and the recent ones in former Yugoslavia and Rwanda, is that after World

War II it was the victors who set the rules for punishing the perpetrators. Today, as with the Khmer Rouge tribunal in Cambodia, it is often the international community as a whole which is seeking to bring perpetrators of genocide and other crimes against humanity to justice. This calls for a sensitive and careful approach, aligning the international demands for prosecution and democratisation with local demands and needs of the victims. This is one of the reasons why I argue that narrative theoretical perspectives on transitional justice can illuminate important elements of how transitional justice processes could be better related to the individual searching for truth and justice.

Tribunals are not the only means to search for truth and justice in former conflict societies. As I show later, there are different forms of justice at play when societies confront their violent pasts, acknowledging the painful memories of the victims and condemning the people and structures that caused the suffering.

Truth commissions represent an alternative, and in some cases a supplement, to tribunals' search for truth and justice. Truth commissions are an important reminder that there are many more forms of justice at play when talking about transitional justice than just legal or retributive justice associated with a criminal tribunal. Truth commissions illuminate some important parts of what I later describe as narrative elements of justice.

3.2.2 Truth commissions

From 1974 to date, 16 truth commissions have been established around the world: Argentina, Canada, Chile, El Salvador, Fiji, Ghana, Guatemala, Liberia, Morocco, Panama, Peru, Sierra Leone, Solomon Islands, South Africa and East Timor. Many of these have been a success, but some have been stymied by political constraints and limitations.

Truth commissions go under various names, but generally they could be described as commissions set up to investigate a past history of violations of human rights in societies that are struggling to come to terms with the conflicting past. This is done in the hope of resolving conflicts left over from the past, fostering

reconciliation and forgiveness and allowing the society to move forward towards a future of peace.

Hayner in Kritz (ed.) (2004:225-226) defines a truth commission as being characterised by four primary elements:

1. It focuses on the past.
2. It tries to paint an overall picture of the crimes of the past over a period of time rather than focusing on a specific event.
3. It usually exists temporarily and for a predefined period of time.
4. It is always vested with some sort of authority.

In most cases, truth commissions need to be studied as an alternative to legal prosecution as an approach to deal with the crimes of the past. This has to do with the philosophy behind a truth commission leaning on alternative approaches to the concept of justice, and belief in the liberating and healing power of establishing the truth. In most of the 16 cases listed above, the truth commissions' reports have not been followed up by legal prosecution. The choice to establish a truth commission is often a product of the political circumstances of the transition.

While the first nine truth commissions established since 1974 were all sponsored by the president or parliament of the country, many of the later truth commissions were either sponsored by the UN, by an opposition party, or by a coalition of NGOs (Hayner, in Kritz ed. 2004:227).

Truth commissions and tribunals share a common function in establishing the truth about the past in order to orient towards a peaceful future. As transitional justice theories develop more coherent details of how these relations work and how processes of acknowledging and narrating truth claims about the conflicting past are instrumental in reaching various goals of transitional justice, it is expected that more hybrid models combining the strengths of both tribunals and truth commissions will be established.

For example, a tribunal could be formed for the most senior officials of the past violent regime, while a truth commission allows lower ranking officials to tell the truth about the past without risking legal prosecution.

The work of DC-Cam that I present in detail in the next chapter could partly be studied as an informal truth commission

that supplements the work of the Khmer Rouge tribunal. The documentation centre has conducted thousands of interviews with former Khmer Rouge cadres and officials that tell their side of the story. Some admit guilt, while others just explain what happened without showing any signs of remorse.

In the next chapter I study the work of the documentation centre in relation to the tribunal. I will later use this to illuminate theoretically the narrative elements of transitional justice processes, summed up under the concept narrative justice. To set the stage, and lend an historical context to later discussions of how truth-telling is an important narrative element of transitional justice, I now present two of the most known truth commissions: the truth commissions in Argentina and South Africa, that are generally believed to have made significant contributions to the development of later truth commissions.

3.2.2.1 Argentina: “Never Again”

Investigations conducted by Argentina’s National Commission on the Disappearance of Persons (CONADEP) during the brutal military dictatorship in Argentina from 1976 to 1983 resulted in a report named *Nunca Más* (Never Again). The report has had a significant influence on the later development of transitional justice policies and models.

The success of the report made truth commissions the main vehicle in other post-conflict societies around the world (Crenzel 2008:173-191).

CONADEP gathered evidence for prosecution of the perpetrators. It had elements of both processes: establishing the truth about the past, and achieving justice.

After a coup d’état on March 24, 1976, the military dictatorship of Argentina used politically motivated murder to exterminate its opponents. Torture and murder became part of the play for power and political influence in the country. The state used various techniques to hide the murders and thousands of people disappeared. The opposition disappeared without a trace.

Despite great pressure from international NGOs reporting the human rights violations in the country, the dictatorship

managed to neutralise all allegations until Argentina's defeat in the Falklands War in June 1982 (Crenzel 2008:175).

After this defeat, the public demanded that the perpetrators should be brought to justice. As the public awoke to the brutality and scale of the crimes committed by the former regime, their first demand was that they should be punished.

In December 1983, Raúl Ricardo Alfonsín became the first democratically elected president of Argentina. He instituted CONADEP immediately after his inauguration, and tasked it with investigating the disappearance of the opposition and other human rights violations. The commission handed over its report to the president on September 20, 1984. Although the number of disappeared people is estimated by human rights organisations to be more than twice as high, the report recorded that about 9,000 persons disappeared during the military dictatorship from 1976 to 1983.

CONADEP decided that the best way to learn what happened was to identify who was responsible for the disappearances, so that these individuals could explain the events in court (Crenzel 2008:181). To accomplish this goal, the explanations provided by the perpetrators needed to be backed by other evidence and testimonies. Testimony thus took on a decisive importance in the process (Crenzel 2008:181).

To record the testimony of local witnesses, CONADEP established local delegations in various provinces. These testimonies provided new information and revealed the magnitude of the disappearances, information the commission would not have obtained by just interviewing people in the city areas.

This also changed existing notions, as new details emerged. Crenzel (2008:173-191) writes about this in his publication; *Argentina's National Commission on the Disappearance of Persons: Contributions to Transitional Justice*.

“Some of the survivors had been missing for days or weeks, others had spent years in captivity in the same place, and still others had been in several different clandestine detention centres. Some of the survivors had collaborated with the state, and because their imprisonment conditions had been relatively better, they had a clearer visual memory of their experience. Others remembered very little and could draw only on their body's memories, which were formed through heightened

senses caused by the sensory-motor deprivation to which they had been subjected. The evocation of smells and sounds, the sense of touch and furtive glimpses that managed to get by the blindfolds or hoods, were all used to reconstruct the topography of horror and the identity of the tormentors and of fellow captives.”

Crenzel (2008:173-191) argues that because of this heterogeneity of the testimonies, the existing evidence was enriched and confirmed. This heterogeneous body of testimony generated new ones where hundreds of military and police centres throughout the country were added to the already known cases. The various testimonies from various districts also helped the investigators to map out how centres where the persons were held captive were part of a system (Crenzel 2008:173-191).

These testimonies were the basis for legal cases against alleged perpetrators, which argued that the dictatorship had co-ordinated repressive actions. Another important effect of the report was that responsibility was finally attributed to the military junta. This would later become the foundation for the legal prosecution of the perpetrators (Teitel 2000:78).

After the commission gathered a large amount of evidence from interviewing the survivors and mapping out the activities of the former regime, it found itself divided on the question of what the juridical consequences of the evidence should be. Those who belonged to human rights organisations argued that the evidence should be submitted to civilian courts, and those who represented the government argued that it should be submitted to the military courts (Crenzel 2008:186). After some discussion, the president of the commission decided that the evidence should be submitted to the civilian courts.

Crenzel (2008:187) writes that the challenge for the commission was to “adopt a narrative style and an interpretative model” that would achieve the two objectives of condemning the system of disappearance and building a legacy for future generations which would help prevent these events from being repeated.

The narratives presented in the report were thoroughly constructed in reference to how the report could best reach the objectives of the commission’s work. By constructing a new

public truth about the disappearance, and in the process gathering legal evidence for prosecuting the perpetrators, the commission helped to fulfil the victims' and the public's demand for justice and truth. The process that led up to the final report was perhaps just as important in this regard. For the first time since the collapse of military rule, the terrible crimes of the former regime were aired openly to the public over an extended period (Teitel 2000:73). In this way, the CONADEP experience offered many good lessons for future policy-making in the field of transitional justice (Crenzel 2008:190).

The success of the investigation commission in Argentina is believed to be one of the main reasons why truth commissions became legitimate instruments for constructing a truth about what happened in other post-conflict societies around the world.

We see how narrative and memory is an important part of this ground-breaking effort to deal with the past. Crenzel (2000:77) writes: "The testimonies represented an exercise in public remembrance, a task of memory that enabled the expansion of the knowledge of what had happened."

Repressive periods could be seen as a "gap" in a state's historical time (Teitel 2000:77). Repressive periods often represent a break in the collective memory of the society leaving a historical gap between the past, the present and the future. In Chapters Five and Six I critically engage Ricoeur's theories of narrative to illuminate this.

By analysing the case study and the interviews from a narrative perspective I show how memory and testimonies of the conflicting past in Cambodia may become the remedy for filling the historic gap. I illuminate how the testimony of the victims and other time-witnesses becomes instrumental to the transition.

Through the 1990s, various cases of state-sponsored efforts to account for the conflicting past fostered new knowledge about the processes. The case that would become the very model of later truth commission was the South African Truth and Reconciliation Commission. This case highlights important narrative elements of truth-telling as part of transitional justice processes, and also presents critical perspectives on the limitation and fragility of truth-telling in post-conflict transition.

3.2.2.2 The South African Truth and Reconciliation Commission

The South African Truth and Reconciliation Commission (TRC) is the most known and commonly praised truth commission in the world (Skaar 2009:150-152). Even though TRC was not the first truth commission, it has influenced the design of more recent truth commissions as a form of transitional justice. The commission has served as a model for other post-conflict societies' search for reconciliation by acknowledging the suffering of the victims and revealing the truth about the suppressive past.

Human rights violations and crimes against humanity in South Africa vary from those committed during the dictatorship in Argentina. The violations in Argentina occurred during a period of internal political conflict. The atrocities and suppression in South Africa occurred over a much longer period, under the apartheid political system of racial segregation established in 1948 (Humphrey and Valverde 2008:83-85)

After more than four decades of institutionalised racial segregation and a longer violent history, South Africa's liberation movement reached an agreement with state representatives to end apartheid and hold democratic elections (Leebaw, in Berg and Schaefer eds. 2009:266-267). The end of apartheid laid the ground for the establishment of TRC.

In 1994, the South African parliament enacted the Promotion of National Unity and Reconciliation Act 34 of 1995. This gave effect to a policy of conditional amnesty in exchange for telling the truth about the crimes of the past (McAdams 2001:277). The idea behind the policy was that by inviting people from both conflicting sides of the past to tell the truth and confess that they did something wrong, you would prepare the ground for national reconciliation. To establish "the truth" about what happened and the motivation behind the crimes of the past, the Act also laid the path for the establishment of TRC.

TRC was mandated to establish the truth about the crimes and human rights violations committed between 1960 and 1993 by means of hearings and investigations. The mandate of the TRC was to "facilitate the granting of amnesty, to recommend reparation to the victims of human rights abuses, and to prepare a

report containing recommendations of measures to prevent the future violations of human rights” (McAdams 2001:277).

A commission presided over by Archbishop Desmond Tutu was established in 1996.

The establishment of the TRC led to a broader focus on how to deal with the past, focusing on alternative legal mechanisms and providing the ground for critical thinking about the concept of truth and reconciliation in relation to the need for justice and empowerment.

3.2.3 Truth commissions versus tribunals

Truth commissions are an important alternative to tribunals as a response to the violent and suppressive past. On a theoretical level, the commissions in Argentina and South Africa raised important questions that helped nuance the dichotomy between punishment and impunity.

Many scholars have argued that truth commissions address the needs of victims in a manner that prosecution cannot do (Leebaw, in Berg and Schaefer eds. 2009:268). Truth commissions are more flexible than tribunals, as they focus on the broader context of crimes of the past. Because of this, truth commissions may invite a wider group of victims and their stories to be part of the processes.

By allowing the perpetrators to admit guilt in a forum that places a moral judgement on their actions, the victims may feel that a moral agreement is made condemning the crimes of the past. At a tribunal, the perpetrators are judged according to the legal principles of fair trials regardless of whether they admit guilt or show regret for what they did. The truth about the past is settled even though the perpetrators refuse to acknowledge this as the truth. When truth is settled through the testimonies of the perpetrators at the truth commission, it is connected to an acknowledgement of guilt. This makes it a different form of truth than the truth established at the tribunal.

That said, there are also cases at the tribunal where the perpetrator admits that he or she did something wrong, and where the perpetrator asks for forgiveness. As I show in the next chapter, this is the case of the former mass murderer Duch who stood trial

at the Khmer Rouge tribunal. However, this case also illustrates the fragility of the tribunal model, which is totally dependent on the willingness of the perpetrator to tell the truth about past crimes.

Truth commissions, on the other hand, allow a unique opportunity for perpetrators to admit guilt without the fear of legal retribution. An important goal of transitional justice is to make victims feel that their stories of pain and suffering are heard and acknowledged as part of official truth about the past, which in turn is condemned by legitimate official authorities. When the transitional narratives are also related to stories of how the perpetrators admit that they did something wrong, it is expected to have a constructive effect on the reconciliation processes. Many victims I talked to in Cambodia stated that for them to forgive the perpetrators and reconcile with the past, they needed the perpetrators to actually admit that they did something wrong.

Another potential positive effect of truth commissions is that by involving a larger part of the population, they serve as a good model of democratic problem-solving. Allowing both perpetrators and victims to be heard communicates that each voice is important in a democracy. It demonstrates how freedom of expression is now part of the new political order.

Even though the South African TRC has been widely praised both by scholars and practitioners, it has not been spared from criticism. I end this section on truth commissions by presenting some of the critical perspectives on TRC.

3.2.4 Criticism of truth commissions

One criticism has to do with the fact that the desire of TRC to establish a common interest in healing prohibited a clear judgement on the past regime. The desire to transform competing political positions into a shared rejection of human rights violations committed by all parties led to a strategy to depoliticise its condemnation of the past violence (Leebaw, in Berg and Schaefer eds. 2009:269). This made it harder to communicate an official break with the past political order. However, the TRC report did condemn apartheid as a system, and identified various agents and institutions accused of oppression and gross violations

of human rights. Nevertheless, it is relevant to ask whether TRC prevented political judgement by focusing on more timeless and transcendent norms of healing and reconciliation.

Another criticism of the TRC raised by many victims is that the commission let the perpetrators off too easily. When the victims are not convinced the testimonies of the perpetrators are sincere, or if they feel they were designed to avoid legal prosecution rather than based on genuine remorse, there is always a danger that the victims would feel disempowered. And when both perpetrators and victims are asked to admit their guilt for committing human rights violations in the past, this could be misinterpreted by the victims. This becomes even more problematic if there is a lack of clear official condemnation of the past political order.

3.2.5 Concluding remarks

Even though it had its limitations, TRC in South Africa would later become a model case for how to promote reconciliation by providing a stage where the truth about the past could be established and where the suffering could be acknowledged.

The TRC processes in South Africa raise many important theoretical and practical questions. What is the relationship between political judgement and moral judgement? What is the relationship between judging the system and the individual? What kind of justice is fulfilled by allowing the perpetrators to admit guilt in exchange for amnesties? What is the interplay of political judgement and remembrance?

Truth commissions are founded on a belief that the truth may have a liberating effect on healing and reconciliation processes. Truth established through a truth commission is ordinarily different from the truth revealed at a tribunal, because of the different ways in which the truth is established. At a tribunal, the authority of the legal procedures legitimises the stories of the victims as the truth regardless of whether the perpetrators acknowledge the witness statements as true or not. At a truth commission, in addition to the witness statements of the victims, the perpetrators' testimonies legitimise the histories of past suffering as the truth about the past.

The idea behind truth commissions is that by establishing the truth about the past based on perpetrators' testimonies admitting guilt and showing remorse, this will have a healing effect on both parties allowing the nation to reconcile with its conflicting past.

Even though the intentions and normative aims of the truth commission are easy to support because of the language of forgiveness, reconciliation, peace and healing, it also is important to look at the commission from a critical perspective. There is always a danger that it could become a circular self-fulfilling process where the effects are defined as positive simply by being part of the truth and reconciliation processes.

One important critical question is whether you can achieve reconciliation without punishing the perpetrators. This is a very complicated question related to the relationships between justice and reconciliation and truth and justice. If we look into the many forms of justice at play in both tribunals and truth commissions, it becomes clear that there is no easy answer. We may ask if the truth established at truth commissions is an alternative to justice achieved at the tribunal, whether it is a different form or justice.

Transitional justice processes as defined by scholars might be about restorative justice, criminal justice, retributive justice, and historical justice. By looking into the various forms of justice at play in transitional justice processes, it is possible to illuminate how the various processes may actually be related to the individual searching for truth and justice.

By looking at the relationship between truth and justice from a narrative perspective I illuminate how they need to be studied as complementary to each other. Truth is both the starting point and the end point of justice.

Scholars and practitioners' theoretical accounts help one understand the broader implications of tribunals and commissions. These accounts have laid the foundation for the field of transitional justice.

In 2000, Ruti Teitel published a book titled *Transitional Justice*. This publication has shaped many of the formulations of later theories of transitional justice.

To illuminate and critically engage some of the more underlying themes of transitional justice, I will present some of the ideas and dilemmas identified by Teitel. This highlights some of the complexity of transitional justice from a narrative perspective, which comes up later in Chapters Five and Six when adapting Ricoeur's theories of narrative to a study of transitional justice. A creative reading of Teitel's conceptualisation of the complexity of transitional justice opens up for understanding how Ricoeur's theoretical perspectives on narrative may contribute to our understanding of how this complexity may be part of common themes and dynamics in transitional justice processes.

Teitel is professor of comparative law at New York Law School. Teitel's study of the term justice from historical and comparative perspectives has formed part of my pre-understanding of how the concept narrative justice may contribute to new knowledge in the field of transitional justice.

In the following sections I critically engage and re-conceptualise theoretical perspectives from Teitel's book. This is a selective and creative reading of the themes I follow in later abductive and retroductive inferences.

3.3 A creative reading of Teitel's book Transitional Justice

Teitel's book *Transitional Justice* was published at a time when the term transitional justice was broadened to cover elements that went beyond legal responses to the violent past as part of the transition to democracy. As Bell (2009:5-27) argues, it was only at this time that the field of practice and study officially known as transitional justice was established.

Teitel's book is an important contribution to the development of the theory of transitional justice. She uses transitional justice as a broader label to describe "the conception of justice in periods of political transition" (Bell 2009:8) I study Teitel's exploration of forms of justice in a historical and narrative context. This study is as an important foundation for how I later

present the concept of narrative justice studied in relation to the cases of transitional justice in Cambodia.

It is important to be aware of the complexity of theorising transitional justice. To address part of this complexity, I now take a closer look at some of the core concepts of Teitel's historical and comparative presentations of constitutional, legislative and administrative responses to the conflicting past in former conflict societies.

3.3.1 Transformative dimensions of condemnation of past crimes

Teitel (2000:4) argues that an idealist perspective on how to deal with the crimes of the past in times of transition often falls back on universal conceptions of justice as fully retributive or corrective responses to the crimes.

Teitel begins her book by rejecting that transition towards a democratic society and peaceful future implies a universal norm. Instead, she presents an alternative way of thinking about the relationship between law and political transformation.

By focusing on the nature and role of legal phenomena in relation to a broader inquiry into practices of liberal democracy, Teitel suggests a phenomenology of liberalising transition that “points to a close tie in the normative shifts in understandings of justice and law’s role in the construction of the transition” (Teitel 2000:6).

Teitel identifies what she describes as a “threshold dilemma”, where law is caught between the past and the future and between the individual and the collective. She argues that the approach to understanding justice in transitional justice policies needs to be related to this context of retrospective and prospective perspectives, and personal and collective meanings and effects of the processes of justice-seeking. I address this complexity in Chapter Six.

By exploring various forms of the role of law in periods of political change, such as punishment, historical inquiry, reparation, purges, and constitution-making, Teitel illuminates many important aspects of transitional justice as a field and as a coherent theoretical approach to studying the transition from a

violent conflicting past towards a future of a functional democracy and lasting peace.

3.3.2 Justice in times of post-conflict transition

At first glance, justice in transformative periods may look simple: justice is served by identifying and judging by law the perpetrators responsible for the crimes in the past.

Reflecting on justice in times of post-conflict transition, we can ask questions like: Who or how many need to be punished before the victims feel that justice has been served? How should they be punished? Should there be a military or civilian court? By what standards should they be judged, international standards or by local standards? Should this be mixed? How are the victims divided on the question of justice?

Such questions make it clear that the term “justice” needs to be studied from a number of theoretical and practical perspectives when understanding transitional justice.

An internationally supported tribunal could provide justice for some and not for others. Should there be an extraordinary court fully separated from the national court or should the tribunal be more adapted to the local or national courts to help shape the legitimacy and trust in the national or local legal system? Should the processes of judging the perpetrators be adjusted to the communicative needs in relation to transitional justice goals, or should they focus strictly on the juridical procedures?

Tribunals happen within a political context, and are set to serve political purposes as part of the transformation towards a functional democracy. The question then is how this should be balanced with the autonomous standards of the legal system.

According to Teitel (2000), contemporary theorising on this important phase of the conceptualisation of transitional justice largely justifies punishment in transition for its potential role in constructing a newly democratic order.

Punishment is then expected to lay the ground for a new liberal order. To illustrate how punishment is largely defended on the grounds that it “advances the society’s political identity in the transition as a democratic rule of law abiding state”, Teitel (2000:29) refers to historical examples of successor trials going

back to Charles I, Nuremberg and more contemporary trials such as Argentina's trials of its military commanders.

As illustrated earlier, successor trials serve a political and historical function of drawing a line between the former regime of the conflicting past and the new regime in transitional periods. While they help legitimise the political order of the new regime, they de-legitimise the old regime (Teitel 2000:30). In this way, the trials advance other purposes of political change by attempting to reinforce normative change as part of the transitional responses to the conflicting past.

Awareness of how "condemnation of past wrongs has transformative dimensions" (Teitel 2000:50) is an important part of theorising transitional justice. The criminal sanctions are limited; only a few of the perpetrators are often punished. Full or lasting punishment is not possible, so to understand the effect of the tribunal we must look at the dynamic role of criminal justice in advancing normative change (Teitel 2000:49). According to Teitel (2000: 33) "the core transitional dilemma is how to conceptualise justice in the context of a massive normative shift." In Chapter Six I argue how Ricoeur's theories of narrative illuminate important aspects of this transition.

Teitel (2000:66) argues that reconciling the need for normative change with criminal prosecution at the tribunal requires transitional practices that limit the punishment to partial symbolic processes.

This means the role of criminal justice in transitional times transcends that of conventional punishment. For example, criminal justice may potentially contribute to reaching other goals of transitional justice such as building trust about the reconstruction of a functional legal system. At the same time, it should address various personal needs of the victims, such as the desire to know the truth about what happened and the desire to see that the perpetrators are punished.

When trying to reconcile the desire for normative change with the need for criminal justice being served, we have to conceptualise justice in a way that honours the communicative and normative implications of the legal response to the conflicting past.

According to Teitel (2000:67), criminal justice could be seen as a liberating ritual through which norms are publicly instantiated:

“Through known, fixed processes, a line is drawn, liberating a past that allows the society to move forward. Though punishment is conventionally considered largely retributive, in transition, its purposes are corrective, going beyond the individual perpetrator to the broader society.”

To understand this, we need to conceptualise justice in times of transition as something more than just criminal justice, as a liberating instrument of social change. By introducing the concept narrative justice I hope to contribute to a new conceptualisation of the historical and liberating function of justice. Teitel’s description of the concept historical justice illuminates important elements of how I later conceptualise the concept narrative justice.

3.3.3 Historical Justice

Teitel (2000:69-118) explores the historical response to the conflicting past and the role historical accountability plays in liberal transition. She begins by noting that transitions appear to imply periods of historical discontinuity. The transition implies a break with the conflicting past.

Transitional justice projects and processes try to address this discontinuity by orienting the historical consciousness towards a brighter future.

Teitel (2000) introduces the term historical justice, as an additional normative claim to the criminal justice of the tribunal, a normative claim of an official historical account that enables a shift towards a peaceful and democratic future.

The term historical justice is still very much in flux. There is no consensus on theories that conceptualise historical justice in relation to the transition towards a peaceful and democratic future. As Berg and Schaefer (eds.) (2009:8) point out, because it is not possible to quantify and rate past injustice on an agreed schedule, it is difficult to develop fixed models of how to develop a culture of historical justice. Historical justice may be theorised as focusing on the individual, collective and structural levels and it

operates with many different aims and goals of how societies should face the painful legacy of their violent history (Berg and Schaefer eds. 2009:3).

I now focus on how elements of Teitel's (2000) conceptualisation of the term historical justice illuminate some limitations and possibilities of historical accounts in the language of justice.

Because the transition involves a break with the past, leaving a gap in the cultural, social and historical narratives that in ordinary times shape collective memory, the tribunal and its frameworks and processes have the potential of shaping the formation of collective memory and identity.

In cases like Cambodia, the tribunal is established a long time after the past criminal regime collapsed. Thirty years after the Khmer Rouge collapsed, a handful of the perpetrators are now facing the ECCC tribunal in Cambodia. As I discuss in the next chapter, the situation in Cambodia illustrates how the alternative to a legal accounting or a truth commission often is disempowerment and confusion. I argue that this could be the result of the lack of a clear historical narrative about what happened and a clear condemnation of the crimes of the past.

The international society in the years that followed the collapse of the Khmer Rouge refused to make clear judgements on the regime. In addition, the new government has attempted to keep the history of the Khmer Rouge from being known by the public, and many confusing stories have been constructed and told to the public as part of political power play. This illustrates how the lack of a clear narrative of justice representing a break with the past may prevent the victims from forming a collective memory that empowers them to move towards a better future.

In other words, the lack of historical justice often results in confusion and disempowerment of the victims. One implication of this is that history and justice need to go hand in hand in times of post-conflict transitions.

Just as criminal justice needs history to provide justice to the victims, history needs truth claims to become a legitimate source for the search for justice. Even though history and truth

cannot be seen as the same thing, this often is a general belief behind contemporary transitional justice efforts.

This calls for a critical approach when studying transitional justice. Since the field has developed so fast in reference to processes that almost by definition are seen as good and constructive, and as a negation and reaction to the evil past, it is important to question its theoretical basis.

3.3.4 Some preliminary critical remarks

When considering the role of punishment in pursuing historical justice, Teitel (2000:72) argues that “trials are long-standing ceremonial forms of collective history-making.” This view may be criticised from different perspectives.

Trials have two main purposes: to establish truths about the crimes of the past, and to judge the responsible actors and punish them. Without the memories that enable story-telling about the evil past, there would be no grounds to define the crimes and to punish the responsible actors. Nevertheless, due to the nature of the court proceedings that features a defence team and a prosecuting team, the historical account of the tribunal is often complex and polyphonic. The task of the defence is to present historical evidence that may contradict the evidence against their client. For example, during the first detention hearing of Brother Number Two of the Khmer Rouge regime, Nuon Chea, the French defence lawyer stated that all the stories and histories of the crimes committed by his client should not be considered as the historical truth unless someone could present evidence as proof that they actually happened. Even if the histories were proven beyond reasonable doubt to be the truth about the past, he demanded additional stories with a similar truth value that could link his client to the crimes.

The prosecuting team, for its part, needed to present documents and witness statements that prove that the accusation actually happened and that Nuon Chea actually was responsible for the crimes he is accused of. This process is as a form of collective history-making in a context that is believed to provide legitimate judgments on the truth value of the histories. It is in this

context that “the accounting for the past affects and constructs a distinct view of historical justice” (Teitel 2000:72).

However, the collective history-making in relation to the transitional narratives at the tribunal is limited to the historical period the tribunal is mandated to investigate. In Cambodia, this is the period from April 1975 to January 1979. This represents a challenge when talking about historical justice.

Viewing the narration of truth about the past as the same as collective history-making has risks. One danger is the tendency to see it as a dialectical process that may overshadow the complexity of the transitional processes.

In Chapter Six I introduce elements from the interpretative turn in history that challenge the view of an objective and autonomous history. By introducing the intrinsic connection between historical theories and historical memory embedded in the culture and the everyday lives of people (Straub ed. 2006), interpretative theories of history challenge the assumption of a linear progress of history which is the ideological foundation for many transitional justice processes.

By studying transitional justice in light of Ricoeur’s theories of narrative, I study the argument that historical accountability in transition is idealised on a belief in the liberalising potential of history based on a linear perspective that does not fit with the contemporary theorising of history. By conceptualising history and transitional narrative in relation to the individual’s search for truth and justice, I hope to present an alternative perspective on the liberalising potential and transformative role of history and story-telling.

When introducing the concept narrative justice, I argue that it is by looking past the assumption of an autonomous objective history that we are able to illuminate how the transitional justice processes may fulfil the liberalising potential of history.

Rather than looking at the liberalising potential of history from a linear Enlightenment view, we need to recognise the significance of the political, normative and social context from where the search for the truth about the past is motivated and from where the historical narratives are constructed. We need to

understand how the narratives of the tribunal are being related to the individual searching for truth and justice.

3.3.5 History, truth and justice

Considering the role of historical narratives produced in post-conflict transformative periods, Teitel (2000:88) asks to what extent the transformative truth-telling is a form of justice. Or is it a prelude or an alternative to justice? By addressing this relationship it is possible to illuminate important narrative elements of transitional justice.

As stated earlier, truth and justice are not the same thing. One way of looking at this relationship is to see justice as something that is made possible by making legitimate truth claims about the crimes of the past. To some extent you could then say that truth is ante to justice, meaning that truth claims come before justice, presenting a narrative starting point from where to search for justice.

By looking at the relationship between truth and justice from a narrative perspective I illuminate how they need to be studied as complementary to each other. Truth is both the starting point and the end point of justice.

In Chapter Five I will introduce Ricoeur's mimetic model of emplotment. This model, which deals with the mediating role of emplotment between the activity of narrating a story and the temporal character of human experience (Ricoeur 1983 [1990:52]), enables me to illuminate how the end point of the narrative of truth and justice, the final judgements made at the tribunal, could also be seen as a starting point from where the memories of the past are remembered or re-interpreted.

When the tribunal punishes the perpetrators based on what is proven beyond reasonable doubt to be the truth about the crimes of the past, the truth claims are emploted in relation to a narrative of how justice has been served by punishing the perpetrators.

By punishing the perpetrators, the historical narratives are provided what may be described as a liberating potential enabling a re-interpretation of the memories of the past sufferings. By identifying and punishing the perpetrators, the tribunal also clarifies truths about the larger political and social context of the

crimes they committed. In this fashion, the tribunal is legitimising the victim's dark and suppressive memories as being related to a bigger historical context. And when a human face is put on the perpetrator, and when he or she is judged and punished, the result may potentially be that the victims are empowered to re-interpret their own life stories and memories orienting towards a brighter future. I follow the pre-understanding of such effects of the transitional justice processes in Chapter Five and Six. Here, I only point to how my reading of Teitel's (2000) conceptualisation of transitional justice has shaped my pre-understanding of the theoretical connections I investigate in later chapters.

The tribunal is not the only source that provides the liberating potential of the historical narratives. However, there needs to be a transition based on the establishment of official truths about the conflicting past. There also needs to be a legitimate authority making judgements over the past, identifying the perpetrators and the victims.

For example, a truth commission represents an alternative approach to dealing with the conflicting past, as opposed to a clear dichotomy of punishment versus impunity. The processes should ideally be based on a need and desire among the people to know the truth and reconcile with the conflicting past.

According to Teitel (2000) there are two sorts of narrators from where the truth emanates, the people and the representative elite.

At tribunals and truth commissions, the victims and perpetrators serve a key role as witnesses. The judges and commissioners are the authority that legitimises the stories as the truth. The institutional frameworks from where the stories are staged and communicated are a central element of the epistemology of the transitional truth. And when the stories are communicated by the tribunal and commission, they become what Teitel (2000:82) describes as "a shareable truth, a national story, and the basis of transitional consensus." Understanding how historical consensus is constructed in times of post-conflict transformations is important. These processes often are related to processes of forming political consensus. I will now describe some of these challenges.

3.3.6 Political instrumental values of forming historical consensus

In times of transition the new political regime needs to construct or defend historical accounts linking the conflicting past to the present and future in such a way that the regime is seen as the start of something fundamentally different from the suppressive violent past. This is complicated in societies like Cambodia, where some of the officials of the former regime are now part of the new government. This has led to a situation where the Prime Minister of Cambodia, Hun Sen, is protecting some of the former Khmer Rouge officials from being prosecuted, while he supports the prosecution of other Khmer Rouge officials.

Cambodia is a good case to illustrate this complex relationship between building historical and political consensus in transitional periods. The political power play often is intrinsically linked to the production of historical accounts of the past.

Making historical claims in the language of justice enables the new regime to be associated with the liberating political order. Ideally, the government should stand behind the goals of the tribunal and communicate this to the population.

The consensus on what should count as the official truth about the conflicting past is not constructed in isolation. It is linked with the transitional justice narratives of the tribunal or truth commission. There are many different processes leading up to the acceptance of official truths.

A major shift in the public consciousness of how to reflect on the narratives of the past has a political context. The construction of historical narratives reflects how the new regime stands in opposition to, or how it is different from, the previous violent regime. How the narratives of the past are communicated is intrinsically linked to the political situation of the transition. There is often a political need to narrate the past in such a way that it legitimises the new government. By narrating the conflicting past and its actors as standing in opposition to the new regime, the transitional regime positions itself as the start of a new bright future.

The often dramatic changes of social, cultural and historical frameworks of reference in times of transition provide a situation where new consensus may be formed and where collective identity may be strengthened.

The transitional narratives can be employed in different ways, and historical consensus is often tightly linked to building political consensus. As I illustrate in the next chapter, the construction of official truths about the past often becomes an important instrument in the political power play in post-conflict situations.

The tribunal represents the main source from where the official truth derives its power.

Ideally, the official truth established by the tribunal should be shared by the political community. If the history produced by the tribunal and the history produced by the government are not the same, it becomes more difficult to establish official truths about the past as the foundation for achieving transitional justice.

Justice is made possible by making legitimate truth claims about the crimes of the past. To make such claims, you need an authority that is seen as a legitimate provider of the truth. If there are several different authorities that disagree over what is the truth on the past, it becomes difficult to achieve transitional justice.

As Teitel (2000:85) says, the truth regime that supports the political aim of the successor is not always historically just, and it is often short lived; "it is a truth for a particular politics."

As mentioned earlier, the historical accountings of the tribunal are limited by the timeframe it is mandated to investigate. The historical accounts are also limited by the fact that only a handful of the perpetrators are punished. This could both be seen as a limitation and as a benefit when looking at the liberating potential of establishing official truth about the past.

If the historical accounts of the past were to follow the scientific demand for detail and nuances as academic historical articles, they would be too complicated and multi-voiced to be communicated and established as official truth.

There are always numerous elements to a conflicting past that could complicate or nuance a clear dichotomy between victims and perpetrators. Often, there are long historical lines that

could be drawn, changing the plot of the narratives of the official truth and complicating the relationship between history, truth and justice.

Transitional narratives are employed according to the political and historical context of the transition, but the narratives and the histories they produce are never neutral true accounts of the past. As with all claims about the past, the truth value needs to be studied in relation to the historical evidence produced and narrated, especially in transitional periods where the processes of building political consensus often are closely related to processes of building historical consensus.

3.3.7 Historical narrative and social transformation

The transitional historical inquiry often springs out of a particular need to deal with the conflicting past. This could be the desire by the victims to know the truth about the past, or pressure from the international community, or a political desire to mark a defining moment communicating a clear break with the past regime. Often, it is a combination of different motivations and desires.

For example, in post-World War II Germany, historical inquiry began with the desire to deal with the past in such a way that it could balance the need to acknowledge a national collective responsibility, while recognising the need for constructive orientation towards the future based on lessons learnt from the past.

As a result of this, the teaching of history in Germany could not just narrate the past as something that was over and done with. In the 1970s and 1980s, the concept historical consciousness became part of the discussion, and didactic history developed as a field of study in Germany.

By studying all kinds of historical learning, not just the ones produced by historians, and how these learning processes are related to collective memory, cultural narratives and moral identity, researchers like Karl Ernst Jeismann and Jörn Rüsen showed history is related to social life.

This raises different implications for understanding the transformative constructive potential of transitional justice

processes, and how historical consciousness needs to be part of the study of transitional justice.

To understand the relevance of historical narratives to social and personal change in times of transition, we need to look at history as something more than just historical facts and knowledge. We need to look at the narrative structure of the histories that are documented, constructed and then narrated to serve particular transitional purposes. We need to understand how the very “narrative line” (Teitel 2000) of transitional justice narratives determines how the narrative is interpreted and related to the individual searching for truth and justice. Understanding this is essential to the understanding of relations between historical processes and liberalising political transformation.

Teitel (2000:109) writes about the narrative line of transition:

“Transitional narratives are of a distinct form or genre, what might be regarded a mixed tragic-comedy, or tragic-romance. While the narrative of transitions commence in tragedy, they end in a comic and romantic mode. In the classical understanding, tragedy comprises the elements of catastrophic suffering involving the fate of entire groups, cities, and countries, followed by some discovery or change from ignorance to knowledge, a moment of clarification. Just as ancient tragedy focused on the plight of individuals, whose fate, due to their status, implicated entire collectives, contemporary stories of suffering similarly concern affliction on a grand scale.”

The transformative role of transitional narratives could partly be studied as a change in interpretation of the memories of the violent past. This change could be studied from the perspective of a narrative turning point, opening up a possibility for change and transition.

To understand the relevance of using historical storytelling to achieve personal and social change related to the goals of transitional justice, we need to illuminate how the narrative line of transitional justice determines how the narrative is interpreted and related to the individual searching for truth and justice.

Only at the most dramatic moments in life do our consciousness of identity, our lives story and of being part of a larger historical and social context become clear. Only at defining

moments in time does the direction of the narrative plot of our lives change dramatically, and new opportunities for change and transition occur. This is why it is so essential that the transitional justice processes at the tribunal are narrated and communicated to the public as a defining transitional moment in history.

If a former conflict society refuses to look back and deal with the conflicting past, no clear turning point is narrated. And with no defining moment that marks a separation from the past and the start of something new, it is harder to create a historical consciousness among the victims that may help them orient towards a brighter future.

A tribunal or truth commission may mark a historical turning point that allows the victims to form a historical consciousness of how their narrative identity is related to their cultural, social and historical surroundings: a historical consciousness about the relationship between the past, present and future that crystallises how they may re-interpret their own identity as witnesses and survivors in a way that empowers them to move on towards a better future.

To understand these connections and mechanisms we need to adopt a wide range of theoretical perspectives.

3.3.8 Concluding remarks

In just a few years, transitional justice has developed into a complicated field of study. Studying transitional justice from an interdisciplinary and multi-theoretical perspective calls for critical reflections about its fragility and limitations.

I presented some of the complexity of transitional justice methods and theories. Since this concept is still in the process of being conceptualised into a coherent field of study, there are many potential pitfalls of over-emphasising or simplifying some of the mechanisms and relationships suggested by the theories. This calls for a cautious approach.

In the following sections I reflect on critical perspectives and potential biases and pitfalls related to the field of transitional justice. The first question I ask, which has been asked by scholars such as Bell (2009:5-27) and Mendez (2009:157-162), is whether transitional justice can be identified as a field at all. The reason

why I ask this question is to address the danger of simplifying or taking for granted the interconnections of transitional justice.

3.4 Is transitional justice a field?

We have seen how fast transitional justice has emerged as an analytical concept and as a practical approach defining policies and methods of dealing with the conflicting past in former conflict societies.

Bell (2009:6) uses the term field to connote “a sphere of knowledge, interest and activity held together by distinctive claims for legitimacy.”

In less than ten years, transitional justice scholarship has developed across a diverse range of disciplines. Institutions and NGOs have been established as a practical response to the new knowledge and models of transitional justice.

In 2001, the International Centre for Transitional Justice opened in New York. The centre helps societies heal by accounting for and addressing past crimes after a period of repressive rule or armed conflict. ICTJ has offices around the world, and facilitates and communicates information and new knowledge on transitional justice.

Centres like ICTJ have contributed to establishing transitional justice as a field. The examples introduced earlier of practices and policies adapted in various cases around the world can be studied as practices within the field of transitional justice.

However, Bell (2009) argues that because the processes vary so much from case to case, transitional justice should not be studied as a field. Rather, transitional justice should be studied as what she describes as “a cloak that covers a range of particularised bargains on the past.” Bell (2009:15) writes:

“This cloak has been woven into a superficially coherent whole through processes of international diffusion, similarity in institutional provision and the common language of transitional justice field hood itself, but most notably because each particular bargain has needed to articulate a relationship to the accountability standards of international law, (...).”

I do not fully agree with Bell's rationale that transitional justice should not be studied as a field. The phenomenon of transitional justice, and the need to deal with the past as part of the process of preparing for a better future after war and suppression, is not a superficial coherent whole, but a common phenomenon that unites the various cases. By conceptualising the processes that bring together the interdisciplinary perspectives and the practical implementation of the theories, transitional justice can be presented as a coherent field.

Nevertheless, I agree with Bell (2009) that we need to be cautious in our acceptance of the concepts and narratives about the value of transitional justice articulated in relation to the standards of international law. The danger is that too strong narratives about the value of international law and the related concepts and cultural elements would make the result contextually less sensitive and culturally less appropriate.

In the book "Transitional Justice in the Twenty-First Century", Roth-Arriaza and Mariezurrena (eds.) (2006) address different experiences of transitional justice processes from East Timor, Rwanda, Iraq and Afghanistan. One conclusion is that to be effective, transitional justice processes must be both culturally and contextually appropriate (Roth-Arriaza and Mariezurrena eds. 2006:333). Comparative case studies like these are helpful in highlighting how transitional justice cannot be studied as a standard solution independent of the context in which it is being implemented. It also shows the many challenges faced by transitional justice processes.

The question whether transitional justice could be regarded as a field points raises important dilemmas and possibilities. As Mendez (2009:1-4) points out: "When we consider the definition of transitional justice as a field we need to consider both scholarly disciplines with practical operational implications."

Mendez argues that on the scholarly level and in the area of social and political endeavour, transitional justice stands out as a distinct field. However, on the operational level, defining transitional justice becomes more complicated. This is because there are so many transitional justice actors operating around the world.

Transitional justice efforts are performed on different levels in society and vary according to state involvement, size, national or local initiatives, etc. When certain activities are labelled transitional justice they are then read as part of a bigger process defined within the scholarly disciplines of transitional justice.

As we learn more about transitional justice and how the various operational initiatives work, it is expected that the practical field would be guided more directly according to the scholarly models and conceptualisations of the field. How the various scholarly contributions conceptualise transitional justice would have operational consequences.

As transitional justice develops into a field, it becomes important that the conceptualisations and models it suggests are related to the operational level in a constructive manner.

Since transitional justice processes as defined today emanate from local desires of searching for truth and justice about the crimes of the past, there is a risk that transitional justice models and conceptions growing out of the scholarly field of transitional justice may interrupt or overshadow local initiatives that otherwise would make important contributions to the transition.

The processes do have their own history that will be part of the methods of achieving transitional justice. If all initiatives are arranged and initiated by a foreign western country and alien organisations, the stories of the processes may lose their potential of being narrated as part of the public's search for truth and justice.

By questioning if transitional justice could be studied as a coherent field, we are reminded that transitional justice is not unproblematic or neutral. Transitional justice initiatives therefore need to be sensitive to the particular contexts and circumstances in each particular transitional society.

I now look into examples of how transitional justice needs to be sensitive to the particular context in which it is being implemented. These examples illuminate important practical elements as a background for understanding the later theoretical discussions of how narrative perspective on justice could help us

understand how transitional justice processes could be related to the individual and the community searching for truth and justice.

3.5 Marginalized perspectives

Transitional justice initiatives need to be balanced with particular historical, political and social needs related to the transition. In addition, the mandate of the tribunal to only prosecute crimes committed within a particular historical period limits the perspective of transitional justice initiatives. All these circumstances demand that particular choices have to be made regarding what the transitional justice initiatives should focus on. This may in some cases represent a potential bias and limitation of transitional justice policies.

For example, Ismael Muvingi (2009:163-182) argues that to date, transitional justice initiatives have focused on the legacies of violence, establishing order and correcting civil and political injustices. Muvingi (2009:163-182) studies the fact that social and economic factors have been given second or no place at all in transitional justice policies and methods. Yet, as he writes; “social and economic grievances can be powder kegs that, if left unaddressed, threaten to blow up peace initiatives” (Muvingi 2009:163).

By presenting empirical evidence from experiences of transitional justice efforts in Zimbabwe, Muvingi (2009:163-182) illuminates the dangers of marginalising social and economic imperatives in the transition from repression.

In Zimbabwe, the historically constructed socio-economic injustice could be traced back to the civil and political oppression and abuses of the colonial days and the liberation war leading up to the recent history of President Robert Mugabe’s failed land redistribution policy that was marred by violence, corruption and unfair forced redistributions. Muvingi (2009:163-182) argues that without addressing how the post-conflict socio-economic inequality is related to the conflicting past, future transitional justice efforts in Zimbabwe will fail.

Muvingi's (2009:163-182) study reveals a potential bias: transitional justice processes often address only a limited focus area of the historically constructed injustice in former conflict societies. He argues that because socio-economic issues have been absent from the transitional justice discourse, the conceptualisation of the field itself needs some discussion.

In Cambodia, the historically constructed socio-economic inequalities are part of many victims' expressions of their desire for truth and justice. Many of the victims I spoke with expressed how they felt disempowered by the fact that many of the former Khmer Rouge leaders that were given amnesty in exchange for joining the new government now live in luxury while the victims themselves still live in extreme poverty.

If historically constructed socio-economic injustice is not addressed or narrated as part of transitional justice initiatives, there is a risk that the victims would not feel that justice has been served. Some of the victims I interviewed in Cambodia responded that for them, justice would be served if they were provided some sort of material compensation for their losses. This could take many economic forms: money or a new road to their village.

One danger of marginalising the focus of transitional justice to historical and retributive justice served at the tribunal is that one may overlook the importance of other forms of justice, such as compensatory justice or reparatory justice. The latter can only be achieved if the socio-economic injustices related to the histories of the conflicting past are part of the justice process.

In this regard, Muvingi (2009:163-182) talks about distributive justice, conceptualising justice in term of socio-economic equality in addition to liberty.

Poverty and starvation could be an important political weapon to control the opposition. When you have to fight hard every day to make sure you provide enough food for your family to survive, the search for truth and justice would expectedly become a second priority. The liberalising effect of the transitional justice narratives may be lost because of the effect of socio-economic injustice.

Scholars like Carranza address the potential bias of marginalised perspectives in transitional justice by arguing that

traditional transitional justice mechanisms would be strengthened by a mutual engagement with both economic crimes and human rights violations. Since both economic crimes and human rights violations are mutually reinforcing forms of abuse, Carranza (2008:310-330) argues that both sources of impunity need to be confronted.

I do not engage in this debate here. I only point to the fact that because transitional justice perspectives need to be limited to particular historical timeframes and balanced against various political and social needs, there is always a risk that the perspectives become too marginal.

As Carranza (2008:311) writes: “The legacies of large-scale corruption and other economic crimes committed by politically exposed persons or by leaders and members of non-state armed groups have been, with a few exceptions, ignored in transitional justice initiatives.”

Cases where economic crimes and corruption have been part of transitional justice initiatives, such as the initiatives carried out in Chad, the Philippines, Sierra Leone, East Timor, Peru and, most recently, Liberia, demonstrate that “transitional justice can be strengthened and can confront impunity more effectively if it engages with accountability for corruption and economic crimes” (Carranza 2008:311).

Broadening the perspective of transitional justice to focus on economic crimes and corruption presents some challenges to the very nature of transitional justice.

Since the historical lines of the economic crimes and corruption may differ from the historical narrative of war crimes or crimes against humanity the tribunal is mandated to investigate, it becomes hard to mark clear historical or narrative turning points essential to defining transitional justice. In a post-conflict society, corruption and economic crimes that were part of the conflicting past may continue after the war has ended and under a new regime.

The question of whether avoiding economic crimes as part of transitional justice initiative represents a bias or not needs to be decided in reference to each particular case. In Cambodia, the socio-economic difference and the extra suffering caused to the

victims as the result of the corrupt post-war regime represents an additional form of disempowerment of the victims. It represents an additional denial of the victims' right to justice, adding to the existing impunity in Cambodia.

3.6 Ideological biases

It is dangerous to take for granted that transitional justice by definition is a good thing with positive effects. It is very easy to do this because of association with “positive” concepts like justice, truth, peace, democracy, empowerment, and development. Because transitional justice, to some degree, stands as a negation of the forces of the conflicting past, it is at danger of becoming blind to its potential negative effects and side effects.

There is an ideological element to this. The dialectics of the transitional justice narrative as being the start of a brighter future represent an ideological agreement that the processes and mechanism are necessary elements of a liberating ritual. If the transitional justice narrative is not related to and adapted by the victims' search for truth and justice, the processes might not have a constructive effect. Therefore, it is important that transitional justice initiatives stay sensitive to the particular cultural and historical context. This is why I argue that transitional justice needs to be studied in relation to the personal and collective narratives of the victims' identities and memories. In the concluding chapter I conceptualise this as narrative justice. But this calls for a critical approach.

By studying the transitional justice narrative as a positive force to identity formation, I advocate the ideological motives of the transitional justice processes.

This becomes even more evident when you illuminate the processes from a narrative perspective as I have explained more explicit in Chapter Five and Six. By arguing that narrative constructions and story-telling may serve orientative functions in the construction of collective and personal identity, I consider how this also may have a negative potential as manipulation of memory.

Another danger of taking for granted the constructive effect of transitional justice is that we may overlook how in some cases story-telling of truth and justice may disrupt processes where forgetting has been part of a constructive process of dealing with the past.

By enforcing a re-narration of memory you are also constructing new realities. I show how theories dealing with historical meaning-construction need to be sensitive to this fact.

3.7 Need for more knowledge

Transitional justice should ideally be a response to particular problems and challenges faced by former conflict societies trying to move on from a conflicting and brutal past. This could be the need to identify what really happened in the conflicting past, answering questions such as who was responsible for the crimes and how the crimes could happen. This is complemented by a desire to see justice being done.

Truth and justice are therefore two central concepts in understanding transitional justice policies and processes. A central question is, whose truth is established and whose justice is being fulfilled? If transitional justice theories over-emphasise the institutional and legal aspects of the processes, this issue becomes a concern.

Ideally, transitional justice theories should explain and illuminate how these aspects work together as a response to concrete challenges and problems in a particular post-conflict situation. There are many practical elements that complicate these relations, one example being the nature of the political transition and the complexity of the history of past violence. The complexity of post-conflict transitions calls for creative and interdisciplinary theoretical accounts of the processes. If, for example, the truth about the past is established at documentation centres and by historians working in isolated institutions, and if these facts and figures about the crimes of the past are stored in a closed archive without being communicated to the public, it is not possible to talk about transitional justice. And similarly, if a closed court is

secretly punishing a handful of the perpetrators without communicating this to the public, we cannot speak of transitional justice.

The role of law and documentation in transitional justice processes is of no use unless combined with how these processes are narrated, communicated and interpreted.

Transitional justice needs to be studied from the perspective of how the processes at the tribunal and the truth commission are narrated, communicated and interpreted by the individuals searching for truth and justice.

Even though the narrative element is implicit in many transitional justice processes and policies, the employment processes of the transition are seldom addressed explicitly in the transitional justice literature. To understand transitional justice as a response to post-conflict societies' need to deal with the conflicting past in order to move on towards a better future, we need to understand this within the context of how the past may be related to the present to form or transform orientations towards a better future of peace and democracy.

From the earlier theoretical accounts that were to a large extent limited to a narrow focus on legal responses to crimes of the past, transitional justice theories were broadened to include many different elements of the transition such as trust-building, social reparation, education and cultural production. They were implemented in various methods and practical interventions such as victims' group involvement, educational programmes, and plays and so on.

Much of the existing literature addresses this vast variety of approaches from an interdisciplinary perspective. I argue that there is a knowledge gap in the existing literature that fails to conceptualise how these various processes may work together under the banner of transitional justice. In other words, how the processes at the tribunal or truth commission may be studied in relation to other transitional justice initiatives such as the DC-Cam outreach projects presented in the next chapter.

It is possible to gain a deeper understanding of how the transitional justice processes of searching for truth and justice at

the tribunal may be better communicated and related to the individual searching for truth and justice.

Scholars are now calling out for more comprehensive and holistic conceptual frameworks that relate the various processes and interdisciplinary theoretical accounts of transitional justice. Lambourne (2009:47) writes:

“What is needed is a revolution in thinking that challenges the dominance of western legal discourse and creatively and inclusively develops new ways of conceiving of accountability mechanisms that provide a more comprehensive and holistic experience of justice. As Lederach advocates, we need to nurture our moral imagination in order to overcome dualism and embrace paradox. Rather than seeing issues in dualistic terms – peace versus human rights, reconciliation versus justice, retribution versus restorative justice – we need to be able to hold multiple and apparently contradictory perspectives and to transcend the dominant, western worldview of justice, which often serves more to divide and separate than to unite and reconcile.”

As Lambourne (2009:28-48) points out, to understand transitional justice we need to introduce more conceptualisations of justice than what can be drawn from the literature of law and legal accounts. Transitional justice needs to be studied in relation to psychosocial processes, socio-economic conditions and political context (Lambourne 2009:28-48). There is a need for more theories investigating how the processes at the tribunal and truth commission may be better related to the individual and groups of victims searching for justice, and how this may contribute to processes of securing peace, democracy and reconciliation.

3.8 Conclusion

My general argument from this outline and critical study of various elements and concepts of transitional justice is that transitional justice as a field of study and as policy and process serves a powerful tool for post-conflict transformations. Nevertheless, by illuminating the complexity of the polyphonic field of transitional justice I have highlighted how the field needs to be studied from a narrative perspective on how the various

initiatives and processes may work together to empower the victims to orient towards a brighter future.

The abductive and retroductive move in Chapters Five and Six will make creative theoretical interpretations and re-conceptualisations of Ricoeur's theories of narrative to introduce the concept narrative justice, with the goal of filling part of the knowledge gap in existing transitional justice literature.

But first I present the cases and the historical context behind these theoretical moves.

4. Cambodia's search for truth and justice

“Cambodia is like broken glass, and we need to glue it together piece by piece.” - Youk Chhang.

In this chapter I present cases of transitional justice in Cambodia that I later use as context and examples to illustrate how a creative reading of Ricoeur's theories of narrative explains more general over-reaching elements of transitional justice.

This chapter is an attempt to illuminate the Cambodian context basic to the abductive and retroductive move in the next two chapters, going from one initial pre-understanding of the phenomenon of transitional justice to end up with new conceptualisations, assumptions and theory of the phenomenon. Much of the theoretical re-constructions in the next two chapters are influenced by the context I present in this chapter. I will therefore start by presenting part of the history of the long path to justice in Cambodia, leading up to a presentation of some of the transitional justice processes happening today.

It is important to be aware of this historical context to understand the narrative effects of the proceedings at the tribunal and the related activities of the documentation centre. I present DC-Cam as the main case for my investigation. DC-Cam is involved in the transitional justice processes in Cambodia on many levels. It is often credited as the main reason why the tribunal finally was established, it is also the main provider of evidence for the ongoing trials.

The documentation centre is responsible for organising victims' participation in projects in relation to the tribunal. The centre has developed several teaching projects to educate the public about the transitional justice processes. DC-Cam has recently developed the first teaching programme in Cambodian schools about the Khmer Rouge. The centre is also responsible for

the exhibition at the Toul Sleng Genocide Museum. I present these activities as part of my case study of the documentation centre. I spent about four months at the centre in 2008 studying its activities. The presentation of the cases is based on my experiences observing the activities, and reading texts written about the different activities.

As a framework to understanding the cases I first present the historical context leading up to the establishment of the Khmer Rouge tribunal. I also illuminate parts of the social and political situation in Cambodia today. This will serve as the context to interpret the interviews in the next chapter.

4.1 Snapshot of the current tone in Cambodia

As a result of the Khmer Rouge's failed attempt to forge a communist utopia in Cambodia, up to two million people lost their lives from overwork, starvation and execution between April 1975 and January 1979, when Khmer Rouge held power in Cambodia. Almost all of Cambodia's educated people were executed or died of starvation and overwork. People were forced to separate from their families and forget their past. When the regime was toppled in 1979 by Vietnamese forces, Cambodia was left paralysed and broken. "Cambodia is like broken glass, and we need to glue it together piece by piece," Youk Chhang, the director of DC-Cam, has famously said.

In order to even attempt to understand transitional justice in the context of post-conflict Cambodia, it is essential that we first understand the current tone of the country. "Broken glass" is a good metaphor.

It would not be right to blame the Khmer Rouge for everything that is wrong in Cambodia today, but there is no doubt that the brutal regime left Cambodia in a state of shock and confusion that has disempowered the population.

Cambodia is a poor and under-developed country. About 35 percent of the population lives below the national poverty line. In large parts of the capital Phnom Penh, you find slum quarters

where people have made shelters with whatever material they could find. Wherever you go, you see homeless people with bare feet begging for money or food. Sitting at the restaurants you are often approached by small children with no shoes, and wearing dirty shorts and T-shirts, with their hands outstretched begging for food.

Cambodia has also become a free spot for paedophiles and others looking for easy access to young girls and boys. Many of the prostitutes and sex-slaved children are either sold by their parents in desperation, or they are kidnapped and forced to work at the many brothels around Cambodia.

The police and other law enforcement agencies are generally very corrupt, and usually do not interfere with people with bad intentions as they conduct their crimes. In many cases, doctors and health workers are also corrupt, so only those that can afford to pay get medical treatment.

As a brute contrast to the impoverished multitudes, you find the minority of super-rich Cambodians living in great mansions, behind tall walls, driving their luxury cars while ignoring traffic rules. Outside the few luxury clothes stores in Phnom Penh, you see Rolls Royces and Bentleys parked in the middle of the road. Many of these cars belong to the sons and daughters to the former Khmer Rouge officials who were awarded money and land in exchange for joining the new regime.

People I talked to in Cambodia struggled to accept that some of the perpetrators and their families should live in luxury while they had to live on the streets fighting hard to survive. There is much social injustice in Cambodia, and in many cases there is a clearer line drawn between rich and poor than between perpetrators and victims.

This snapshot of the current Cambodia illustrates some of the many challenges faced by the processes of achieving true justice and reconciliation in this broken country. Youk Chhang, the director of DC-Cam, told me: “As with broken glass, you need to put it together peace by peace, and to fix it, you need to consider how all the pieces fit together.”

There is no quick fix to all the problems in Cambodia, but an important step in the right direction is being taken today by the

Khmer Rouge tribunal and the related documentation and education programmes.

Before I present these cases we need to look at the historical context of the violent past and the long path to justice leading up to the establishment of the tribunal.

4.2 Historical context

On April 17, 1975, the Khmer Rouge were victors after a five-year-long civil war in Cambodia. Khmer Rouge's official name was the Communist Party of Kampuchea (CPK). The CPK created the state of Democratic Kampuchea in 1976 (hereafter referred to as DK).

As part of the plan to inflict a Maoist and Marxist-Leninist revolution, the cities were emptied of people. All that represented modern society was erased: money, law, private property and markets. As part of the transformation programme, religious practices were banned and almost everyone was relocated by force to the countryside to work on the rice fields. Persons with education were defined as enemies of the revolution and most of them were murdered.

In DK only the people defined as pure were seen as worthy of fulfilling the communist utopia. This resulted in the execution of hundreds of thousands of intellectuals, former city dwellers, and minorities such as the Cham Muslim community, Vietnamese and Chinese (Dy 2007).

These decisions were made by the hidden and all powerful CPK, under the leadership of a former school teacher known by the pseudonym Pol Pot. Until January 1979, the Khmer Rouge regime committed some of the most brutal crimes against humanity in modern history. It is estimated that up to two million Cambodians lost their lives during that time.

On January 7, 1979, Vietnamese troops backed by soldiers from the United Front for the National Salvation of Kampuchea captured Phnom Penh. Even though this is said to mark the end of the civil war, it was not the end of the Khmer Rouge.

When Vietnam fought its way into Cambodia in December 1978, the Khmer Rouge fled to the west and re-established their forces in the Thai territory, aided by China and Thailand (Dy 2007). In 1982, the Khmer Rouge formed a coalition with Prince Sihanouk and the non-communist leader Son Sann to create a three-party coalition government (Dy 2007). Adding to their legitimacy, the UN acknowledged the Khmer Rouge as the legitimate government of Cambodia by allowing them a seat in its General Assembly until 1990. The Khmer Rouge continued to exist until 1999.

4.2.1 How did the Khmer Rouge gain power?

The CPK shared a Marxist-Leninist ideology with Vietnam and other communist countries, making it part of a larger political and ideological movement. Nevertheless, Cambodia's revolution differed sharply from other communist revolutions in its brutality and violence. It also differed in the absence of discussions of policies inside the party (Chandler 1991).

It is possible to draw many historical lines suggesting how various events may have foreshadowed the Cambodian revolution. For example, the fight against French colonial power in Cambodia in the 1950s led to the formation of the Khmer People's Revolutionary Party (KPRP) that strengthened Cambodian communist movements. This involved people like Nuon Chea, who would later become Brother Number Two of the Khmer Rouge, and Salot Sar, who would later take the revolutionary name Pol Pot and become leader of the Khmer Rouge. However, these first communist movements were brutally stopped by Prince Sihanouk's party, the People's Socialist Community Party. Under the leadership of the Prince's army chief of staff Lon Nol, as many as 90 percent of KPRP members were arrested and killed (Dy 2007). Pol Pot continued to run the party's activities supported by some of the survivors.

In 1966, Pol Pot changed KPRP's name to the Communist Party of Kampuchea, which, in turn, later became known as Khmer Rouge. The party started gaining more and more members. The head of state, Prince Sihanouk, still held the support of a large group of Cambodians. Lon Nol and his pro-American associates

in March 1970 staged a successful coup deposing Prince Sihanouk as head of state. Many people joined the Khmer Rouge to fight a common enemy, and at the same time help restore the Prince to power (Dy 2007).

During the time when more and more people ran into the forest to fight the US-friendly army of Lon Nol's Khmer Republic government, the war in Vietnam spread to neutral Cambodia. In the early 1970s, the US dropped about 500,000 tons of bombs over Cambodia. This was done to disrupt communist supply lines and bases. It is estimated that as many as 300,000 people were killed. The anger and frustration caused by the US bombing led many more Cambodians to join the Khmer Rouge to fight the US-friendly government of Lon Nol.

Aided by the Vietnamese, the Khmer Rouge began to defeat Lon Nol's forces and by the end of 1972 Vietnam withdrew from Cambodia (Dy 2007). By 1973 almost all of Cambodian territory was in the hands of the Khmer Rouge, but because of US assistance Lon Nol's army was able to continue its fight until April 17, 1975 when the Khmer Rouge won control of the capital Phnom Penh.

4.2.2 Explaining the unexplainable

The brutality of the murders and number of casualties in DK is impossible to fully understand. Nevertheless, this has not stopped historians and other scholars from asking the important questions of how this could happen, and how Khmer could kill Khmer on such a scale and with such brutality.

There are many factors at play here. Some focus on the fact that the Khmer Rouge gained their legitimacy and status as the force that was part of liberating Cambodia from the French colonial powers. Some focus on the fact that America dropped about 500,000 tons of explosives on Cambodia during the war in Vietnam. This sparked the support for the Khmer Rouge amongst the people living in rural areas. The Khmer Rouge was at this time fighting the army of Lon Nol, who was seen as an America-friendly anti-communist. Another explanation could be that there were big socio-economic divisions between the people living in Phnom Penh and those living in rural areas.

When you read books about the Khmer Rouge era in Cambodia, it becomes evident that it is not easy to find one easy and clear explanation of why this could happen. It depends on how the authors narrate their histories. Biographies of perpetrators, like Philip Short's biography of Pol Pot, provide one perspective: the Khmer Rouge was established in the context of its own violent past. If you include historical perspectives on the conflicts in the neighbouring countries, and how these for example fit into the Cold War, it is possible to narrate other explanations of why this could happen.

Another way of understanding how this could happen is to study the histories from a psychological or sociological perspective. We could, for example, explain it as pure evil, that this was the work of an evil force that was somehow present at that time. This would not be a fruitful starting point. The Khmer Rouge was made possible by historical and political circumstances, and the people it recruited were often forced to become killers or they were manipulated into believing that they needed to be true to the revolution. Many were recruited at a very young age and forced to kill for the regime. The historical realities are much too complicated to just search for explanations within the dichotomy of good versus evil.

To approach the question of how this could happen we could try to imagine how it might have been like to live in Cambodia during the Khmer Rouge, and try to imagine how we would have reacted. For example, if we look at the routines at Toul Sleng, also known as the S-21 prison, children were made to torture prisoners. They were told that your mother is the enemy and they were forced to kill their own mother. Such incidents are well-documented, and from this it is possible to give a face to the answers to the difficult questions. I spent a great deal of time walking around in the Toul Sleng compound, trying to imagine how the young prison guards might have felt while patrolling the hallways and committing the most brutal torture imaginable.

I visited some of the former Killing Fields and torture cells established by the Khmer Rouge to murder people they saw as being a threat to the revolution. Walking around in such places, I pictured the prison cells filled with half-naked men, women and

children chained to the ground. If prisoners needed to change their position on the floor they had to ask permission from one of the prison guards. I tried to imagine being 12 years old, and being asked permission by an adult person if he or she could move one inch. I imagined how I would try to tell myself that my mother really was the enemy and that I had to kill her since she had betrayed me and the whole country, and how I would tell myself things like this to legitimise my murder.

Even though experiments like this evoked deep emotions and empathy, they did not necessarily make me understand more deeply why this could happen. What I experienced was my emotions as a visitor, using my imagination to try to understand what it must have been like to be part of the tragic history, but I can never know what it was like and from my emotions I can never know why they did this. At best, this could help me to sort out other information about the historical facts about what happened, but we can never go back in time and re-experience the past. I bring my own life stories, my own rucksack of expectations, prejudice, images and knowledge to the situation, and all this influences my imagination about the past.

Yet another way of trying to understand is by listening to the stories of the people that experienced the atrocities, either as victims or as perpetrators. One Khmer Rouge survivor told me about a common strategy used by the regime to recruit cadres to commit the murders. The typical scenario was that a higher ranking Khmer Rouge came over to your house smiling and saying in a friendly tone: “Can you kill two people?” The man or woman was then told that if they refused, the Khmer Rouge would kill his or her whole family.

These threats were not empty, so they then went on committing the murders. And after they completed their task, they were asked to kill perhaps 10 more people. To do this, they then had to recruit others to assist them, using the same threat under which they were forced to commit the murders in the first place. This is one example of a vicious circle that could perhaps explain some of the reasons behind why Khmer could kill Khmer at that time. But again, it is not sufficient. By looking at rational explanations like this we risk taking away the guilt from the

murderers' actions by freeing them from responsibility. Nevertheless, explanations like this may balance the temptation to talk about victims and perpetrators within the dichotomy of good versus evil.

If we consider how human beings depend on cultural, social and historical contexts in constructing their lives, and how moral identity is dependent on relations with others that share and legitimise the stories you tell, we could identify part of the problem as being related to the fact that Khmer Rouge sought to erase all forms of traditional and foreign cultural influences. In effect, this meant the country was being turned back to “year zero”. Anything that had roots in the pre-revolutionary society was often seen as a threat. Families were separated and the children were taught that the regime was their new family. People that fell in love without the permission of the regime were often tortured and killed. Religion was forbidden and ethnic minority groups were eliminated. The Cham Muslim minority suffered tremendously under the regime. Buddhist monks were seen as suspects, and many were killed.

From a sociological perspective we could ask: where do you find support for your ideas about human worth and human dignity when the roots of your moral identity are erased, when the narratives that you relate to when legitimising your moral behaviour are condemned and forbidden?

There are numerous ways of approaching the question of what made the genocide in Cambodia possible. It is not possible to trace one clear explanation; rather we have to look at this from different perspectives related to different theoretical and historical contexts.

This thesis does not seek to answer why and how the genocide in Cambodia could happen. Nevertheless, it is unavoidable to ask the question when you look into the history of the Khmer Rouge.

I now look into the history of impunity and disempowerment of the Cambodian people. Understanding how this is related to the lack of legitimate historical accounts of the past and/or any form of public condemnation of the past is an

important part of understanding the narrative theoretical discussions in the next chapter.

4.2.3 Long path to justice

Until the tribunal delivers its final verdicts, no officials of the Khmer Rouge regime are held legally responsible for the brutal crimes committed by the regime between 1975 and 1979. Pol Pot died in 1998 in the dusty province of Palin, close to the Thai border. The defence minister, Son Sen, education minister Yun Yat, and Ta Mok known as “the butcher” all passed away in recent years. When Ta Mok died in July 2006, hundreds of people gathered for a last farewell.

They will never have to face the consequences of the suffering and atrocities they caused to millions of Cambodians. Today six senior leaders of the Khmer Rouge regime are under arrest, waiting to get their case tried at the Khmer Rouge Tribunal. They are former head of the notorious prison and torture centre Toul Sleng, Kaing Gueak Eav better known as Duch, Brother Number Two Nuon Chea, former foreign minister Ieng Sary and his wife Ieng Tirth, and former head of state Khieu Samphan. Many of them are suffering from poor health, and there is great concern that some will not live to face the tribunal. The tribunal has been delayed many times.

In June 2003, the UN and the Cambodian Government signed an agreement to establish the ECCC. Until this time, efforts of foreign institutions to establish a tribunal had failed due to political and strategic considerations. Local initiatives failed to meet the necessary standards of a fair and legally justifiable tribunal. The first hearing of the ECCC was held in January 2008. Until this date, bigger and smaller challenges constantly delayed progress. Some of these were part of the defence strategy to delay the court hearings as long as possible. There have also been several allegations of corruption and disagreement over salaries and funding.

The tribunal is made up of Cambodian and international judges, prosecutors, investigators and court administrators. It is housed in a former military building on the western outskirts of

Phnom Penh. In this same compound the former Khmer Rouge officials are now imprisoned while they stand trial for abuses.

During the Cold War, it was difficult to prosecute Khmer Rouge officials. This was due to the ties between the new regime in Cambodia and Vietnam framed aligned with the so-called “wrong” side with Russia. Many foreign governments viewed the new PRK regime as an element of the Soviet-supported communist state of Vietnam. This is also part of the explanation why the UN did not recognise the new regime as the formal representative of Cambodia.

After the Cold War ended, the strategic reason for not prosecuting the Khmer Rouge disappeared, and after Vietnam withdrew from Cambodia in 1989, there were new grounds for prosecuting the Khmer Rouge. In 1994, the US government passed the Cambodian Genocide Justice Act which provided funds to start the search for factual evidence of Khmer Rouge crimes. This led to the establishment of DC-Cam.

The hybrid structure of the tribunal is a result of a balance between demands set by the UN and political desires of the Cambodian government. The court will prosecute crimes committed between April 17, 1975 and January 6, 1979, which is the period the Khmer Rouge were in power. After some disagreement, the mixed tribunal decided to limit the amount of perpetrators to include only the most senior leaders and ones that were most responsible for the crimes.

Another delay in the prosecution of the Khmer Rouge was caused by the fact that the international community viewed them as an essential part of the negotiation over peace in the conflicted atmosphere in Cambodia at that time. A Khmer Rouge delegation represented Cambodia alongside three other parties in the initiative by the international community in 1991 to end the conflict between the parties. Justice was put aside to end the conflict.

To prosecute the Khmer Rouge, which still was a strong force in Cambodia at that time, was seen as a threat to the peace process. On October 23, 1991, the four Cambodian parties signed the Paris Peace Accord, producing a power-sharing deal between the parties. During the transition period – the UN Transitional

Authority in Cambodia (UNTAC) – the Khmer Rouge were treated as equal participants.

The power-sharing formula set by UNTAC resulted in a dysfunctional system of governance with two Prime Ministers, Prince Norodom and Hun Sen. This power-sharing led to great suspicion between the two parties and a struggle for power. A result of this was that the government resumed the same strategy used by the Vietnamese-supported PRK in luring Khmer Rouge cadre and higher officials over to their side by offering amnesty from prosecution, and in many cases the defecting officer was offered a high position in the Cambodian military. In addition, defecting Khmer Rouge officials were offered land and protection.

By the end of 1994, the government had secured some 6,600 defections under the amnesty programme (Linton, 2004:46). In June 1997, Khmer Rouge forces detained Pol Pot and prosecuted the former leader in what has been described as a sham trial. Along with three other senior leaders Pol Pot was held before a so called People's Tribunal in Anlong Veng in the north-western Cambodian jungles (Cioreiari ed. 2006). The court decided to hand over Pol Pot to an international tribunal for crimes committed when the Khmer Rouge was in power. He served his sentence under house-arrest until his death in April 1998.

Before the election in 1998, the defections became a part of the political power play. Both camps supported as many defections as possible expecting political loyalty from the defecting cadres and officers. This was part of the reason for the July 1997 violent conflict between the two Prime Ministers' security forces. Several people were killed during fighting in the streets of Phnom Penh. Hun Sen gained full power in Cambodia through what has been described by the international observers as a violent coup against Prince Norodom.

Even as the violent competition over defecting Khmer Rouge delayed justice, the process resulted in further disempowerment of the victims who could not understand why the former enemies were provided wealth and power. The same thing could be said about the fact that the international community

recognised the Khmer Rouge. This disempowerment of the victims is important to keep in mind when interpreting the response of the Cambodian people I interviewed.

I end this section by describing some of the efforts made by the government to prevent the history of the conflicting past from becoming part of collective memory. This historical context of impunity and disempowerment in Cambodia is relevant to the next chapter, where I make theoretical claims about constructive effects of the transitional justice narratives.

When the two leading Khmer Rouge figures, Khieu Samphan and Nuon Chea, defected in 1998, Prime Minister Hun Sen said, “Let’s dig a hole and bury the past and look to the future” (Cioreiari ed. 2006:39). After the most senior leaders had defected, it seemed like Hun Sen wanted to forget about the past. Observers have made the argument that Hun Sen only used the threat of prosecution as a means to defeat the remaining Khmer Rouge leaders. And the strategy was in fact efficient in ending the violent resistance. However, long-term lasting peace may have been compromised in the bargain.

Ta Mok, “the butcher”, was arrested in March 1999. After his arrest, Hun Sen called for an end to any discussion about an international tribunal, insisting that the trials of Ta Mok would be conducted in Cambodian court (Cioreiari ed. 2006:40). After extensive international pressure, Hun Sen reached a compromise with the international community that ultimately led to the October 2004 UN agreement with the government that established ECCC.

Until then, the prime minister warned the international community that a tribunal would cause so much instability and tension that there could be a new war in Cambodia. Even after the tribunal was established he has repeatedly spoken out against expanding the list of defendants beyond the ones now on trial.

I will give one example. On September 8, 2009, a prosecutor at the tribunal formally recommended that five more suspects be investigated for crimes against humanity. Shortly after, the Prime Minister stated that such action could lead to civil war. He was quoted by the media saying: “I would like to tell you that if you prosecute (more leaders) without thinking beforehand

about national reconciliation and peace, and if war breaks out again and kills 20,000 or 30,000 people, who will be responsible?”.

DC-Cam director Youk Chhang got a written warning from Hun Sen against interfering in these additional cases. Hun Sen’s reaction came after Youk Chhang was quoted by a local newspaper saying that “they should show the motives to Prime Minister Hun Sen if they want to charge other KR leaders”. Hun Sen ordered Chhang to clarify his meaning.

Many observers viewed this as an attempt by the Prime Minister to protect some of his political supporters that are former Khmer Rogue, rather than as a genuine concern about the nation’s stability.

This illustrates the complicated and fragile grounds on which the transitional justice processes in Cambodia is established.

This example also points to a more general dilemma in the field of transitional justice, about how criminal justice should be balanced with the need to secure peace and stability in an unstable post-conflict society.

The complicated relationship between the successor regime and the conflicting past in Cambodia affects the very possibilities of justice. Absence of punishment, presence of impunity, and the fact that only a handful of perpetrators limited to a certain timeframe are punished, limits the possibility of justice being served thirty years after the atrocities happened.

Before I present DC-Cam as the main case for my study, I present the first case that was completed at the tribunal. This is a good illustration and background for understanding the narrative theoretical perspective on the search for truth and justice in Cambodia.

4.3 S-21 and the case against comrade Duch

“I am solely and individually responsible for the loss of at least 12,380 lives. These people, before their deaths, endured great and prolonged

suffering and countless indignities. I forever wish most respectful and humble apologies to the dead souls. As for the families, I am asking you to kindly leave your door open for me to make my apologies. May I meet with you to allow me to share your intense and enduring sorrow any time in order to express my most excruciating remorse?"

These are the words of Kaing Guek Eav, also known as Duch, at one of the hearings at the Khmer Rouge tribunal in August 2009. Duch, aged 67, is the only one of the defendants who has admitted guilt and asked for forgiveness. Duch was the leader of the notorious torture and detention centre S-21, also known as Toul Sleng.

This former school complex was transformed to a house of horror where people accused of opposing the revolution were tortured for days, weeks and even months at a time. The guards at the centre was told that if they did not make the accused confess their crimes, their family would be the next in line to be tortured and killed. All were presumed guilty at the moment they were arrested. During the trials of Duch many new details of the brutality of the torture committed to force false confessions were revealed. Of the 12,380 prisoners registered entering the S-21 compound, only a handful survived. All the rest were sent to nearby mass graves to be killed and buried.

Shortly after the S-21 compound was discovered by the invading forces in 1979, it was turned into a museum. Communists were invited from different countries to come and view the horror of the former regime. It is said by commentators like Dunlop (2004) and others that this was done to prove to the world that the Vietnamese invasion was legitimate. The objective was to paint a picture of the former regime as organised by a handful of demons with millions of innocent victims. The museum then became instrumental in narrating the violent past in a way that fit their political aim of holding power in Cambodia. Since the communist Vietnamese had helped build up the Khmer Rouge in the fight against the anti-communist and US-friendly government of Lon Nol, they needed to communicate how the communist movement in Cambodia was a constructive force even while legitimising their toppling of the Khmer Rouge just a few years after they supported them. After the Cold War ended and

Vietnam withdrew from Cambodia, the museum lost its support from the government. Today this is one of the most popular tourist attractions of Cambodia, but the facilities are falling apart due to the lack of proper maintenance.

This instrumental use of history to support the political power play was just the start of a long period of confusion and disempowerment in Cambodia. The trial against Duch may be the first time for many that they heard the truth about what really happened in the violent past. While I argue in support of the constructive potential of the transitional justice narratives, it is important to understand the destructive and disempowering effect of how the history of the Khmer Rouge has been manipulated and used as a political instrument. As I suggest in Chapter Six, when the narrative of Toul Sleng is related to the transitional justice narratives, it may serve a different purpose for the victims in their search for truth and justice.

The handful of persons who survived their imprisonment at S-21 are serving as key witnesses in the case against Duch. These were people like artists who were useful for Duch to document the torture and other routines at the centre in form of illustrative paintings. These paintings are displayed at Toul Sleng Museum. Duch was very particular about documenting the daily routines at the centre. When the Vietnamese forces liberated Phnom Pen on January 9, 1979 the staff left behind a huge archive of information that was later preserved by DC-Cam. Today this is presented as part of the evidence in the case against Duch.

Cambodia does not practice the death penalty. The most severe punishment the accused can receive is life in prison. The end of the court hearings against Duch in December 2009 disturbed many observers.

Duch's regrets and admission of guilt had sparked optimism among some of the Cambodian victims. This was the first time that a former Khmer Rouge senior official had showed any sign of remorse. Duch had even asked for forgiveness. When visiting the former S-21 compound as part of the trial proceedings he collapsed in tears asking the victims for forgiveness. I talked to one of the Cambodian tribunal officials that joined the group bringing Duch to visit the former prison he headed during the DK

regime. He told me that Duch's remorse was just a play. Duch is an expert in manipulation, he said, and his expression of remorse is just a play to gain sympathy from the victims so it would be easier for him to ask for a lower penalty later. I remember I was a bit uncertain if my informant really had interpreted Duch's remorse right when he said it was just a play. Since Duch was arrested in 1999 he has portrayed himself as a born again Christian who now wants to ask for forgiveness and repent for his sins. I talked to many Cambodians who were sceptical of the fact that Duch was a Christian. I talked to Buddhists in the monastery who viewed this as an attempt by Duch to escape the punishment he according to Buddhist beliefs will receive in the next life.

Even though there was much scepticism about Duch's intentions in admitting guilt and asking for forgiveness, many observers believed this could be an important step towards securing transitional justice in Cambodia. But at the last hearing in the case against Duch the sceptics would sadly learn that they were right. As it turned out, Duch's remorse had most probably been part of a clever defence strategy where his lawyer made the final arguments that Duch should be set free.

Since Duch already had been imprisoned for about ten years the defence team argued that Duch should not be judged to life in prison. The fact that Duch admitted guilt and also contributed to enlighten many areas of the secretive Khmer Rouge regime should reduce his punishment, they argued. As part of their defence, Duch's lawyers referred to the case of Adolf Hitler's chief architect Albert Speer. Speer escaped the death penalty at the Nuremberg tribunal by admitting responsibility for taking part in the genocide of the Jews during World War II. Speer was also the only one from Hitler's closest circle that co-operated with the tribunal. The Duch defence referred to Speer's memoirs *The Two Worlds of Albert Speer* to show the similarity between Duch and Speer in contributing to the revelation of the truth about the brutal regimes.

The trial against Duch was broadcast live on national television in Cambodia. The tribunal could be viewed as a transitional ritual which could mark a break with the past by narrating a common condemnation of the past crime and

recognition of the victims' suffering. The punishment is not necessarily the most important, and if Duch's remorse had been accepted by most victims a reduced sentence could perhaps have been part of a reconciliation process which would empower the victims. However, since Duch's remorse is viewed with scepticism by many of the victims, much of the story-telling effect of the transitional justice narrative may now have been lost. If Duch does not receive the most severe punishment and perhaps one day walks the streets in Cambodia as a free man, this will complicate the story-telling that is so important to reach transitional justice.

This complexity of the court proceedings is important to keep in mind when making theoretical claims about the narrative effects of the tribunal. The case against Duch also provides important background to understand communicative challenges faced by the outreach projects of the tribunal and the documentation centre.

I now come to DC-Cam, the main case I use to shed light on theoretical discussions.

4.4 Archived memory and living documents: The Documentation Centre of Cambodia

The Documentation Centre of Cambodia was founded after the US Congress passed the Cambodian Genocide Justice Act in April 1994. That legislation established the Office of Cambodian Genocide Investigations in the US State Department's Bureau of East Asian and Pacific Affairs in July 1994, which was charged with investigating the atrocities of the Khmer Rouge period (1975-1979)

Since then DC-Cam has been at the forefront of documenting the crimes and atrocities of the Khmer Rouge era, and communicating this to the victims to secure transitional justice in Cambodia.

As stated in Chapter Two, the aim of presenting the empirical cases of transitional justice in Cambodia is to illustrate and shed light on the theoretical claims leading up to a conceptualisation of narrative justice. I will therefore present the documentation centre in a way that is useful in making the theoretical moves in the next chapters. The following presentation stems from different conversations with the centre's director Youk Chhang and readings of texts produced by the centre to present its function and activities. The quotes are transcribed from taped conversations.

To understand the value and function of the documentation centre it is interesting to look at how it was established.

The centre's roots go back to the first field trip of a young law student from Yale University who came to Cambodia in 1980, one year after the Khmer Rouge collapsed. Every week he was invited to go and see a new mass grave site. There are more than 20,000 mass graves in Cambodia. After his visit, the young student went back to law school and tried to campaign to raise awareness about the mass murders of the Khmer Rouge, but he received no support. In 1983, a human rights activist from Columbia University made several field trips to Cambodia, taking pictures and documenting traces of the Khmer Rouge brutality. As with the previous field trips, this also failed in gaining any reaction from American society.

In 1987, Youk Chhang became engaged in the same mission and later he became director of DC-Cam. Chhang is said to be the most important reason why there is a tribunal in Cambodia today. An article about Chhang in the New York Times magazine says:

“For more than a decade, Youk Chhang has been Cambodia's conscience. If today there is a real possibility of bringing at least some of the former Khmer Rouge leaders before the international tribunal that will begin hearings next year, he, more than anyone, is responsible.” (The New York Times Magazine, November 13, 2006, Volume 168).

In a conversation I had with Youk and some students he explained how the centre developed:

“I was young and naive, and got sick and tired of people asking me about the Killing Fields in Cambodia. As you know there are two things that we are known for in Cambodia, the Killing Fields and the Angkor Wat. One from hell and one from heaven, and we did not want to talk about Killing Fields because we were so ashamed. It is Khmer killing Khmer. Nothing to be proud of about the Killing Fields, we lost two million lives, the whole country was destroyed and everybody lost a family member. So many of us did not want to be identified as Khmer when living abroad. We wanted to be confused as being Thai or from the Philippines. People did not want to be confronted by the history and the suffering. Yet it is part of us, so in 1987 I went to the States as a refugee and lived in Texas. Everywhere I met people that asked me, “Did you experience the Killing Fields? Is it true that your sister was murdered in front of your eyes?” And finally I said: why should I lie about this? It is bad enough to have lost almost your whole family, so I wanted to come back to Cambodia to work – to do something positive.”

Youk then got a job at the UN working as a consultant to assist the democratic process before the upcoming election. His task was to go to the villages to teach people about the democratic process and assist them in voting in the upcoming election. During this time, he was shot at several times by Khmer Rouge, and they burned his office and injured several of his staff. “So I said this is enough.”

Chhang tells the story about how his sister and brother were killed. His brother was caught stealing some rice and he was beaten to death. Later the same night his sister got a stomach ache and they took her to the hospital and cut her stomach open to see if she had eaten rice, and left her to bleed to death on the table.

He tells this story to illustrate the point that he wants justice, and then he can forgive. In 1979, the village chief responsible for killing his sister and brother came to his mother’s house in Phnom Penh with a basket of fruit asking for forgiveness, so she forgave him. Chhang says:

“She forgave him, and I said; I want prosecution – so in my own family we are divided about how justice is being done (...) I want tribunal, I want people to be judged – and then I can forgive. For me, without legal prosecution, I can never reach full forgiveness – so I decided to take this job for revenge.”

As stated on DC-Cams homepage (www.dccam.org): In January 1995, Yale University's Cambodian Genocide Programme (CGP) started conducting research, training and documentation on the Khmer Rouge regime. The CGP was to assemble evidence concerning DK and to determine whether the DK regime violated international criminal laws against genocide, war crimes, and crimes against humanity. The CGP had three main objectives: 1) to prepare a documentation survey and index, 2) to undertake historiographical research, and 3) to provide legal training. The grant expired on December 31, 1996.

As further stated on DC-Cam's homepage:

"In pursuit of these objectives, the CGP founded DC-Cam as a field office in Phnom Penh in January 1995 under the leadership of its Programme Officer, Mr. Youk Chhang, a survivor of the Khmer Rouge's 'killing fields.' DC-Cam became an independent Cambodian research institute on January 1, 1997. Since that time, it has continued its extensive research and documentation activities. DC-Cam is not a for-profit, governmental or political organisation, and we are not a judicial body. We receive our funding from a wide range of international sources, both private and government (see donors list). DC-Cam is acknowledged as an independent and nonpartisan institute in Cambodia, and we disseminate information on the Khmer Rouge regime based on our impartial inquiry into facts and history."

Chhang joined the Yale University Genocide project in 1995. One of the first things he did was to go back to the village chief who tortured him to interview him. In a conversation I had with Youk he told this story:

"Not a single word he told us was a lie – he told us everything about what happened in that village including the killing of this couple that had fallen in love without permission (...). There was a big crowd gathering and I went along with them, 13-14 years old at the time, and then they brought the couple, both were blindfolded and then they told the crowd the story that they had fallen in love without permission and they asked what shall we do? The whole crowd shouted: Kill them! Kill them! Kill them! Including me who said that – and then a young guy pulled out a stick and hit the man. I began to learn the lesson of humanity from that day, how humans resist death and how humans are so capable of destroying others. The man was beaten until the blood started to come out of his eyes, his ears and nose and then they unblindfolded the woman and her face looked like a white piece of paper, there was no blood left in her face – she must have been so

scared and she did not say a word, and then they hit her before they pushed both of them into the graves they dug up – and I can swear to God they were both not dead yet, but they buried them there.

So I came back to get revenge, to tell people these stories. 25 years later I wrote the story of the couple and lots of people called me after this, including the prison guard from the village, and they told me that people did not believe them when they told their stories, but now with your story they do. Some time people are united through terrible stories. (...) I started this work because of a personal thing with the idea back in my head that one day there will be a prosecution. I then went to the US and Europe and said there must be a tribunal and it must be here. Even if you cannot get the most pure international tribunal, you want a process where we can see each other as human beings. This is the first genocide tribunal of the 21st century and we must learn a lesson from this. It took Khmer Rouge three years to kill two million people and destroy a whole country, but it has taken 25 years now to find justice.”

Chhang believes it should be the obligation of the 21st century to prevent genocide through different means:

“For me it’s through documentation. It’s not because I like to collect documents – I do this for two reasons; legal prosecution and memory. We collect interviews with perpetrators and victims – we do not analyze the data, but we make it available for public use. We let the history speak for itself through our documentation.”

DC-Cam operates with 1) paper documents, 2) physical evidence, 3) interviews, 4) photographs and 5) documentary films. These are the major primary sources. DC-Cam has archived more than 1 million documents. A lot of them are official Khmer Rouge documents. Chhang says:

“They did not document crimes against humanity – they documented their glory. Each time they killed a person, it was a measure of their success. If you kill a person there is always something left behind; clothes, relatives, bones and memory. The Khmer Rouge failed to understand that and we documented all this so we could have the tribunal we have today.”

Eighty percent of the archive is used as evidence today at the Khmer Rouge tribunal. The narrative of DC-Cam does not end there. Being part of the evidence for the court is only one way the

documentation is being used. The centre has several other projects based on the documentation process.

For example, in 2008 DC-Cam published the first textbook ever to be used in Cambodian schools to teach the children about the Khmer Rouge. Such textbooks were not allowed previously. In 2010, the centre established the Genocide Education Project which aims to educate thousands of Cambodian teachers in how to use the textbook and the related teaching material as part of curricular activities at schools.

Each month DC-Cam publishes the magazine *Searching for the Truth*, which disseminates the centre's work to the public, facilitates discourse on issues related to the Khmer Rouge, and otherwise promotes justice and reconciliation in Cambodia. About 7,000 copies of each issue are printed per month. Over 80 per cent of the magazines are distributed free of charge, mostly in Cambodia, by DC-Cam and related NGOs. The magazine creates a space for the victims to be heard and to speak their own voice. Chhang says: "It is a positive twist; they should be proud of being a survivor who has survived and are now telling their story – they should be aware that they are heard and that we make use of it. The idea is that they are the heroes."

I will present the Genocide Education Project and the magazine *Searching for the Truth* in more detail later.

DC-Cam is operated entirely by Cambodians. It plays a key role in the transitional justice processes in Cambodia today. It is the world's largest archive of printed documents and other original documentary materials relating to the DK regime. The materials are of the utmost historical interest.

The centre's views on its role and function as part of the search for truth, justice and reconciliation in Cambodia are presented on its homepage:

"DC-Cam has two main objectives. The first is to record and preserve the history of the Khmer Rouge regime for future generations. The second is to compile and organise information that can serve as potential evidence in a legal accounting for the crimes of the Khmer Rouge. These objectives represent our promotion of memory and justice, both of which are critical foundations for the rule of law and genuine national reconciliation in Cambodia.

To accomplish these objectives, DC-Cam carries out ongoing research to compile and analyze primary documentary materials collected through various means (including fact-finding missions abroad), attempting to understand how they fit into the overall historical context of the Khmer Rouge period. A society cannot know itself if it does not have an accurate memory of its own history. Toward this end, DC-Cam is working to reconstruct Cambodia's modern history, much of which has been obscured by the flames of war and genocide.

We have catalogued approximately 155,000 pages of primary Khmer Rouge documents and more than 6,000 photographs. The bulk of DC-Cam's archives have not yet been catalogued, including more than 400,000 additional pages of documents and a wide array of other types of materials. By collecting, preserving and analyzing these individual pieces of historical memory, DC-Cam endeavours to help Cambodians understand the country's difficult journey through the twentieth century. As a permanent institute for the study of Cambodia's history, DC-Cam stands poised to assist the nation in guiding the way toward a more peaceful and prosperous tomorrow.

In addition, DC-Cam is constantly cataloguing the materials gathered through various means and entering them into computer databases to produce annotated indexes to the archive's contents. Through this process, in cooperation with its international partners, DC-Cam has assembled extensive bibliographic, biographic, photographic and geographic databases (for instance, we have located and mapped 189 prisons, 19,403 mass graves, and 80 genocide memorials throughout Cambodia) of information related to Khmer Rouge abuses. This provides legal scholars, investigators, researchers and historians with valuable tools to understand precisely who did what to whom, when, where and how, and sometimes, even why. This also allows Cambodians to know their own history and to come to terms with it.

Based principally on their examination of DC-Cam holdings, in February 1999 the UN Group of Experts found a prima facie case against certain former Khmer Rouge leaders for war crimes, genocide and other crimes against humanity. DC-Cam also expects to be called upon as the principal source of evidentiary materials for the Khmer Rouge tribunal. A memorandum from the United Nations, A/59/432 of 12 October 2004 stated: "It is expected that the Chambers will rely heavily on documentary evidence. Some 200,000 pages of documentary evidence are expected to be examined. The bulk of that documentation is held by the Documentation Centre of Cambodia, an NGO dedicated to research and preservation of documentation on crimes perpetrated during the period of Democratic Kampuchea."

Successfully achieving our two primary objectives of memory and justice will help build a foundation for the rule of law and genuine national reconciliation in Cambodia. We will continue to pursue these objectives in several ways. First, we will sustain and then accelerate our rate of cataloguing the primary materials relating to the Khmer Rouge regime. Second, we will expand the scope of the analysis of these primary materials (this will be done by individual scholars from outside DC-Cam), focusing on topic areas relevant to accountability and finding the truth. Third, we have initiated a number of new projects (e.g., the development of a textbook on Democratic Kampuchea and a project to bring villagers nationwide to attend trials of former Khmer Rouge leaders) to keep alive the memory of Cambodia's genocide.

DC-Cam's quest for memory and justice has more to do with the future than with the past. It is about the struggle for truth in the face of an overwhelming power that virtually destroyed our society, a power that continues in more subtle ways to threaten our aspirations for a peaceful future. The violence of that power shattered Cambodian society and scattered the Cambodian people across the planet in a terrible diaspora. But no matter how far or near to the homeland, and whether they are survivors or the new generation born after the overthrow of Pol Pot, all Cambodians still suffer from a profound sense of dislocation. This dislocation is rooted in a loss deeper than material deprivation or personal bereavement. It is a loss that can never be recovered, and thus full healing of the wounds of genocide will require that something new be built to take the place of that which has been lost. By reconstructing a historical narrative of what happened to Cambodia, and by striving for justice where that is an appropriate remedy, we aim to lay a foundation upon which all Cambodians can find firm footing in moving toward a better future. Reconciliation in Cambodia will happen one heart at a time. Cambodians cannot forgive one another until they know who to forgive, and for what. DC-Cam's focus on memory and justice seeks to assist Cambodians in discovering the truths upon which a genuine national reconciliation depends."

I later interpret such statements made by the centre about its role and function in relation to my conceptualisations of relationships between Ricoeur's theories of narrative and transitional justice processes and its underlying dynamics. As stated in Chapter Two, the starting point for my theoretical interpretations of the cases is my own pre-understanding or prejudices. Based on my field notes, I will now describe my first impression of the centre.

4.4.1 My first impressions of the documentation centre

I arrived in Cambodia on an invitation from the director of DC-Cam, Youk Chhang, to stay at the centre for about four months to study its activities. After spending the first week travelling to various corners of this, for me, strange and exotic country, and spending the second week sick in bed, the time had come to officially start my research.

I come to the address on a tuk-tuk, which is a motorbike with a carriage that is very typical for Cambodia. The driver had never heard about the Documentation Centre of Cambodia, at least not in English, so he lets me off on what he claimed was the address I had written down on a piece of paper. When the tuk-tuk drives away, I still cannot find the building. Beside me is the busy main road in Phnom Penh, Shianouk Boulevard, and opposite to the road is the park that is crowded with people at night playing all kinds of ball-games. The address, Shianouk blvd. 66 is the right address, but I see no sign or logo of the documentation centre.

In my mind I am expecting a big building that would symbolise the importance of this centre. On the road I find myself in, there are just three story-high apartment buildings facing the park and small restaurants and newsstands.

I enter what seems to be a copy place and ask where I can find the documentation centre. Nobody knows where it was. On my way out I see a brown heavy wooden gate with a small sign next to an inter call. Shianouk blvd. 66, says the sign. And in small letters I read: Documentation Centre of Cambodia.

I have read a lot of this centre and my expectations are very high when I press the button. Nobody answers the inter call. But after a while a skinny boy with a modest smile opens the heavy gate and I tell him I have an appointment to see the director, Mr. Youk Chhang. Inside the gate there is a small yard where the employees park their motorbikes. The building is about 15 meters wide and from where I stand it looks no more than two stories high. The lobby is air-conditioned and there are tiles on the

floor. There is a big mahogany table in the middle of the lobby with various books and magazines where visitors are allowed to sit down and read about the Khmer Rouge and the tribunal. Behind the counter there is a big book shelf with glass doors displaying the various books and films published by the centre. I see one of the books I read in Norway by Suzannah Linton, called “Reconciliation in Cambodia”. I buy this, and sit down to read while I wait to be called up to see Mr. Chhang. It is very quiet and I get the same feeling sitting here on the hard wooden bench as I get when I am visiting a church.

My head is full of expectations and as I sit there waiting, I start to feel a bit anxious about meeting this man who was voted Number 60 of the 100 most influential people in modern history in Time magazine’s prestigious listing. CNN has produced a special programme on him and the stories I read about him have given me a sense that this is a man of mystery.

When I start to think of this I stop reading and just pretend that I am reading the book. Then the boy at the reception goes upstairs, and when he comes down he tells me that Mr. Chhang is ready to see me. He then escorts me up the same stairs. When we come to the 2nd floor I learn that there is yet another floor to this building and on the top of these steps there is a big office with glass walls with wooden drapes. Up against the glass walls there are huge stacks of documents and books. On the roof balcony outside the office is a small garden with a table, a hammock and a white bird in a cage.

The boy opens the door to the office and show me the way in. Mr. Chhang is on the phone and I stand by the door waiting, trying to look confident. His desk looks like an old antique desk from colonial times. It is filled with neatly organised piles of documents and an old Nikon photo camera with a huge lens. On the walls there are lots of framed black and white photographs. Mr. Chhang leaves his desk and greets me with a firm handshake and a big smile. He speaks in a typical American tone, with a slight Cambodian accent. We sit down on two wooden chairs facing each other in front of his desk. I had prepared for a long conversation about my first impressions of Cambodia and why I was here. Chhang goes right to the point. “So, what do you need

from us?" he says. I tell him that I am very grateful to be here and I tell him very briefly about what I want to achieve while I am here. Then he calls on one of his employees, Mr. Ly S. Kheang, to show me my office and inform me about the centre's activities, and then he tells us to come back to his office afterwards to make the final arrangements. The conversation is over in about two minutes.

Kheang shows me to my desk in an open office space below Chhang's office. There are four other desks in the room. Mr. Kheang's desk is by the big glass window facing the park. My desk is in the corner. In the middle of the room there is a big mahogany table and in the other corner of the room is the desk of DC-Cam's deputy director and his secretary. I will later learn that the two other desks belong to an American lawyer working as a legal adviser to the tribunal and an art student from London who is responsible for arranging an exhibition at Toul Sleng genocide museum.

On the walls there are some big photos of scenes from the Khmer Rouge times, and one of monks being beaten by Hun Sen's security forces during the coup in 1989 when he took sole power in Cambodia. The room is cold, a sharp contrast to the burning heat outside. Kheang seems to blend in with the quiet atmosphere of the room. People speak in low voices and they don't seem to pay me much attention. The first impression I get of this office is the same kind of intellectual atmosphere you find in old libraries. There are no books here, but the way people move and talk has the same effect as in a library, so I also start to speak with a low tone and move slowly.

This first impression of the centre lasted throughout the four months I stay there. The people I met here seemed different from most other Cambodians I met outside the centre. They were more confident and cheerful. Everyone spoke fluent English, and many had higher degrees from abroad. Almost all the staff is under 30 years old.

From the outside the building does not look big. But when you enter one room, you see that there is a hall leading to another room and then there is yet another hall or some stairs leading to yet another office space. To this day, I have not figured out how

many of the buildings you see from the outside are really part of the documentation Centre. I think this is part of a well thought through security plan. To keep a low profile seems to be the strategy of the director as well. One of the big topics for conversation at the centre was where Mr. Chhang lived. The rumour was that he has an apartment hidden inside the complex building structure. Not before we became friends and Youk came to see me in Norway did I dare to ask him this question.

When Kheang gave me the tour, he told me how the place used to be much more heavily guarded before 1998 when the Khmer Rouge still held power in parts of Cambodia. Now it is not so dangerous, he tells me, but still the archives are well protected.

Before I came to Cambodia I had read about the centre's outreach projects. One of the main projects is titled Living Documents Project. The project aims to make the processes at the tribunal available for the Cambodian people to relate to their own personal and collective search for truth and justice. Another outreach project is the already mentioned Genocide Education Project, that is established to teach Cambodians about genocide and the tribunal. For the first time since the collapse of the Khmer Rouge it is now, due to the work of DC-Cam, allowed to teach part of the history of the Khmer Rouge in Cambodian schools. I will now present these outreach projects that I use as empirical examples and context in making the abductive and retroductive moves in the next two chapters.

4.4.2 Living Documents Project

The Living Documents Project was established to ensure the involvement of the regime's victims in the transitional justice processes. To achieve this goal, the centre brings residents of communes throughout Cambodia to attend the trials at the tribunal and visit the documentation centre and memorial sites. Each representative then returns to his or her village and engages other members of the public in discussions on the proceedings. DC-Cam staff and other experts attend some meetings to field technical questions and film the proceedings. The team also publicises the forums in the neighbouring villages that did not have a representative at the trials.

DC-Cam describes the value and goals of the project on its home page:

“Although newspapers, television, radio, Internet, and other media are easy to access in Phnom Penh and some of Cambodia’s other cities, few members of the country’s approximately 1,621 communes (particularly those in rural areas) have the means to obtain information on the forthcoming Khmer Rouge tribunal. This is especially true of many of Democratic Kampuchea’s survivors, who are often poor and whose educations were interrupted by the regime.

Seeing justice done is perhaps the most critical element of the healing process for the survivors. The nearly two million lives lost during the regime can never be brought back, nor can the chance to enjoy the fruits of a society that might have prospered had the Khmer Rouge not come to power – but the tribunals will give survivors an opportunity to know that the world acknowledges their sufferings and that the regime’s leaders must account for their actions.

The project will also help build the momentum for democracy in Cambodia by allowing participants to serve as surrogate witnesses and “judges” at the tribunals; holding open, participatory discussions; making people aware of their “right to know”; and beginning a popular movement to demand more freedom of information. It will give the commune representatives a turn in the public eye (speaking, leading discussions, fielding questions), thus helping to build leaders for future commune and village elections. We intend to strengthen this benefit by giving community innovation and leadership training to emerging commune leaders.”

The tribunal’s rules on victim participation are ground-breaking. On March 20, 2008 the ECCC pre-trial chambers made the decision to allow civil party participation in the provisional detention appeals. The tribunal provides for the participation of victims in three ways: by volunteering to be witnesses, by filing complaints, and by applying to join the proceedings as civil party.

Hundreds of people have applied to the Khmer Rouge Tribunal to be recognised officially as victims of the Khmer Rouge/DK and to bring parallel civil cases against them. This is the first time that victims have been allowed to take part as active parties. In this context, “active” means they have the ability of being represented by a lawyer, to call witnesses, and to question the accused at trial. The tribunal’s victims unit describes this

initiative as a tool of empowerment that allows the victims to tell their story. Victim participation is part of the latest transitional justice developments aimed at improving international and hybrid tribunals.

In 2008, DC-Cam assisted about 10,000 victims in filling out victims participation requests with the Khmer Rouge tribunal.

I now present some of the centre's outreach projects.

4.4.3 Community outreach trip to Phnom Penh, February 2008

In the first public hearing of the appeal on the pre-trial detention of Nuon Chea alias Brother Number Two on February 4, 2008, victims participated for the first time as civil parties in the proceedings of the tribunal. This was possible as part of the Living Documents Project.

Nuon Chea was expected to ask to be released on bail.

I was with this first group throughout the process of filling out the complaint forms and visiting the tribunal to be part in the hearings. This was a historic day in international criminal law, as this was the first time that any tribunal mandated to investigate war crimes, crimes against humanity or genocide had involved victims as civil parties with full procedural rights. This allows victims to play an active role in the trial, and to be legally represented by their lawyer. They have the same right as the accused.

Based on my case study experiences of these projects, in Chapter Six I present the findings from my observation of and interviews with this first group of victims participating at the tribunal hearing. Here I present more general observations of this case.

I first met the group when they came to the documentation centre the day before they were to witness the first public hearing at the tribunal. DC-Cam had invited about 50 commune chiefs from different villages in Cambodia to come to Phnom Penh to fill out complaint forms to be handed over to the tribunal, as part of the victims' civil cases against the former Khmer Rouge leaders. They were gathered in the lobby of the documentation centre where they were welcomed by the director Mr. Youk Chhang

before Kheang introduced them to the day's activities. He also informed them that I was going to take part in the tour to the tribunal and that I was going to interview some of them about their taking part in the proceedings and their general ideas of the Khmer Rouge history and the tribunal.

After they filled out the complaint forms I interviewed some of the participants before they went to the hotel. The next morning I arranged with some of the participants to meet me in the lobby of the hotel to be interviewed before they went to join the public hearing at the tribunal.

DC-Cam had arranged for a tour bus to take us to the tribunal. I felt alien as the only non-Asian person on the bus. All of them had in some way or another experienced great losses and suffering during the Khmer Rouge, and the atmosphere in the bus was quietly exited. I felt that they tried to hide some of their emotions by smiling and making light jokes. My interpreter confirmed this later. Even though I had my interpreter with me, I did not want to ask any question at this time. I did not want to intrude in this personal moment for the victims.

For many of the participants, the court hearings were a disappointment. After spending more than an hour getting through the many security posts, we finally entered the public viewing room of the court where we sat down in comfortable soft chairs with headsets that were connected to the microphones in the courtroom. A court interpreter translated proceedings into English and French for the few foreign visitors. When Nuon Chea finally arrived he appeared alert and focused, reading a prepared statement in Khmer. He started by saying, "If this proceeding goes ahead, I believe it is not fair for me." He made his statement in a clear voice claiming that he had not done anything wrong, that he is not a "cruel" man. He called himself "a patriot and not a coward who would run away". He also argued that the judges did not have sufficient grounds to detain him and therefore he should be released. But mostly it was the lawyers who spoke, arguing successfully for a postponement of the pre-trial hearing due to the fact that one of the foreign defence counsels, Victor Koppe from the Netherlands, was not able to join the proceedings.

The absence of the foreign defence counsel was later commented on as being part of a legal strategy to delay the trials. The result was that many of the Cambodians in the public viewing room expressed their anger and disappointment by shouting and laughing. They were asked to quiet down or leave the courtroom. Many of the participants had travelled for miles to witness the prosecution of the man who they believe is responsible for their suffering and murders of their loved ones.

On the bus back to the hotel many of them were quiet. But this time there was no excitement, but only some brave attempts to smile. My interpreter told me later that all of them showed signs of great anger and disappointment. I spoke to some of them on the way back to the hotel. One of the elderly men expressed what I expect many of them were feeling: “What shall I tell the people in my home village now? They expect me to tell them that the perpetrators are going to be punished. That I have seen this with my own eyes. Now they will not believe that what they have heard is true.”

Another of the elderly men followed up by saying: “In Cambodia we have a saying that if you hear a hundred times it is not as good as to see ten times, and to see ten times is not as good as to touch one time.”

My interpreter told me that what he meant by this was that he was expected to be an important witness to his people in the village, and that they relied on his story because he was supposed to have seen with his own eyes that justice was finally going to happen. But now, he had no story to tell.

This illustrates some of the challenges and complexities of narrating the transitional justice processes. Many of the victims are illiterate, many do not understand how the legal system works. The documentation centre and the tribunal are working hard to narrate the events in court as being part of a new legal order based on fair trials, democracy and humanity. On the bus back to the hotel one of DC-Cam staff members spoke to the participants using a microphone. He told them that this delay did not mean that Nuon Chea would not get the punishment he deserves, and that this was how a fair trial system worked.

I got the impression that many of them understood this, but that they were concerned about how they should communicate this to the people in their home village. This illustrates how transitional justice has much to do with narrative and story-telling.

The centre has arranged many similar outreach trips. Based on reports provided by DC-Cam, I now present another outreach trip arranged in 2010.

4.4.4 Community outreach trip to Phnom Penh, February 2010

From February 10 to 12, 2010 the living Document Project of DC-Cam invited 93 visitors from selected rural provinces to visit the documentation centre, the memorial sites and the tribunal to better understand the history of DK and the ongoing processes at the tribunal. The programme started on the morning February 10 at the National Senate building in Phnom Penh.

The opening session had a special meaning for Youk Chhang, the director of DC-Cam, because some of the groups of participants were residents of Trapeang Veng Village where he was sent to live with his mother during the period of DK. On the request of some of the villages Youk was asked to bring his mother to the session. This was the first time since the regime ended that she saw her former neighbours. She had lost three of her brothers, one sister, one daughter and many grandchildren during the regime. At age 82 she could still recognise all of her former neighbours. Some of them were responsible for her suffering and that of her family, and some had helped her during that time. According to the DC-Cam report from the session, this was a warm and respectful meeting.

After the group had settled down, the morning session started. The first presentation was by ECCC deputy international co-prosecutor William Smith who gave a talk on the challenges of the tribunal prosecutions. He addressed two issues that are recurrent themes in debates concerning the ECCC. On the first controversy about whether it is worthwhile to prosecute former senior DK leaders when they are all getting old, he pointed out that millions of Cambodians still suffer daily due to the crimes committed in the past, and that is why the perpetrators should be

punished even though they are getting old. On the second question about the primary purpose of the tribunal, Smith stated that the ECCC is designed to provide some measure of justice to the millions of victims that suffered and/or died during DK. In addition, the court is designed to create an accurate history of the controversial DK period. He pointed out that ECCC designers hope to improve human rights and encourage the rule of law in Cambodia by creating a model court as an example for the Cambodian judiciary. He ended by stressing that by addressing past atrocities, the ECCC will hopefully help contribute to reconciliation and memory in Cambodia.

The presentation was followed by a short question and answer session. Some of the questions were: Why did the UN give the Khmer Rouge Cambodia's seat after 1979? Why was the tribunal established so late? Why did the Khmer Rouge kill and starve people? Are there other countries that have experienced such mass killing?

The session was followed by the DC-Cam deputy director's presentation on the forthcoming cases at the tribunal. After he had finished, one of the participants asked: "Is it true that Ieng Sary and the other charged persons are in jail?" The deputy director assured him that all charged persons were in pre-trial detention, and that all visitors would see this at the ECCC the following day.

After a break, the group watched a video of Toul Sleng filmed shortly after Vietnam entered Cambodia in January 1979, and the documentary film produced by Youk Chhang called "Behind the Walls of S-21". The morning session ended with a presentation by a former guard at S-21 called Him Huy. He gave a short summary of his experience of being drafted into the Khmer Rouge guerrilla army, and his experiences of functioning as a prison guard at Toul Sleng prison. He talked about how he was constantly afraid of getting killed, and claimed that he only killed one of the prisoners to prove that he was a loyal servant of the regime.

After lunch the group visited the Cheung Ek killing field memorial and Toul Sleng genocide museum to see with their own eyes the places discussed in the morning session. One of the

participants recognised his cousin in one of the photographs of prisoners displayed at the exhibition. Before seeing this picture, he had no knowledge of what had happened to him. All he knew was that he used to work for the DK ministry of information before disappearing prior to 1979.

The next day, the visitors travelled to the ECCC to witness one of the court sessions of the case against Ieng Sary. This was an oral argument concerning his appeal against the extension of his provisional detention order. Before they could enter the courtroom they had a little dispute with the ECCC security personnel, who refused entrance due to the dress code of the tribunal. Many of the participants wore T-shirts given to them by DC-Cam with the words “Breaking the Silence”. It was only after DC-Cam staff convinced the officers that this was not meant as propaganda or any sort of message, but that it was merely a gift to the villagers from DC-Cam, that they were allowed to enter the courtroom.

The group was eager to see Ieng Sary in person after hearing so much about the regime he was a central part of organising. However, some of the optimism died out when the day in court ended early because of Ieng Sary’s poor health. This sparked concern amongst the audience that Ieng Sary could die of natural causes before facing justice.

The third and final day was spent at ECCC, where the visitors watched the oral hearing on Khieu Samphan’s appeal against the extension of his provincial detention order. At the end of the hearing Khieu Samphan rose and spoke on his own behalf for several minutes. At this time, the audience perked up and paid extra attention. During his speech Samphan claimed that all he did during the DK regime had been to help Cambodia. He tried to convince the court that he did not have anyone under his command during the regime, and that he was different from the other detainees.

During a break in the court one of the visitors told DC-Cam staff that he was generally pleased with what he saw, and that he felt the court is important to Cambodia in general, as well as to victims and their families. Before the ECCC he did not

believe that any Khmer Rouge leaders would ever be held accountable. He now hopes the court can finally uncover the truth.

After a visit to the Royal Palace the visitors watched a performance of the play “Breaking the Silence” at the National Institute of Education. After the play one of the visitors told DC-Cam staff that the play provided an accurate representation of what occurred during DK, and that he felt that this play was important for the younger generation of Cambodia as a way to learn about the DK period and for survivors to tell their stories. He felt that the play would help survivors both remember and discuss their experiences during DK.

About 200 university students were also invited to view the play. Afterwards one of them asked the director of the play, Son Bunrith, about the significance of the title “Breaking the Silence”. He said the main purpose of the play is to promote the sharing of stories and experiences of DK survivors, both amongst themselves and among the younger generation. He believes this process can encourage survivors to tell the truth about their experiences during DK. The secondary purpose of the play is to promote the study of the DK period in Cambodia, especially amongst the younger generation. The play is not designed to ask for forgiveness or to grant forgiveness, it is merely designed to promote dialogue.

DC-Cam director Youk Chhang closed the evening with a few personal remarks. He told the group that for him, it was of great personal meaning that a group of visitors from his former home village could attend the tour. He had suffered a lot and some of the persons that were part of the group had caused him much pain and anger. He told them that for many years he was angry with the people living in this village and he did not want to have anything to do with them. But over time Youk found that as depicted in the play “Breaking the Silence”, sharing his experiences was a method for healing for him. He told this to stress the point that the play can change the attitudes of victims and help them find forgiveness, tolerance and reconciliation.

After Youk had ended the tour and thanked the visitors for attending, one man approached him and quietly took him to the side. He then told the story about his son who died shortly after

the DK was ousted from power in 1979. His son was the guard who arrested Youk once and tortured him by beating him severely with an axe. The man told Youk that he forced himself not to cry and feel sorrow at the death of his son, because he knew he had done a lot of bad things during the regime.

This man's short narrative about his son is a typical way of showing regret and asking for forgiveness in the Cambodian culture. There is no tradition of publicly stating your remorse. Instead you communicate this by taking a humble position, speaking in a low voice, and forcing yourself to smile. Both Youk and the man knew much of the details of what had happened during that time, but instead of talking about it the man only told this short narrative about how he did not allow himself to feel sad over the death of his son. To understand the expression of remorse in Cambodia, you have to pay attention to the unspoken sub-text that occurs during emotionally charged interactions like this.

The overall sentiments among the visitors were strongly positive, and many of the participants felt that they had learnt a lot.

The community outreach trips involve witnesses who experienced the Khmer Rouge regime. The goal is that they should acquire the necessary knowledge, understanding and motivation to communicate the transitional justice message to the people in their home villages. To reach the younger generation more directly, DC-Cam has established another project called Genocide Education Project.

4.4.5 Genocide Education Project

Until now in classrooms and textbooks the history of forced labour, torture and murders committed by the Khmer Rouge was narrated by the teachers. Some teachers might have told the class about their own memory, and younger teachers might have related some of the stories that their parents told them about the sufferings of the past. Nevertheless, there were no clear narratives about the genocide to be taught in schools.

DC-Cam's success in convincing the government to allow the Khmer Rouge history to be part of the curriculum at Cambodian schools means that students, for the first time, have

begun to learn about their country's brutal past. DC-Cam has published the first Cambodian textbook explaining the genocide. The textbook is titled *A History of Democratic Kampuchea (1975-1979)*. There was a long and complicated process of negotiating with the government that finally led to this publication, written by Cambodian researcher Khamboly Dy.

So far about 300,000 copies have been distributed to students around Cambodia. Parallel to this, DC-Cam is working to educate teachers about how to incorporate genocide education into their teaching. DC-Cam has developed a teacher's guidebook. It has been the object of some controversies. The government is sceptical as to how the material should be taught. The guidebook encourages teachers to interact with their students, use role-playing and draw parallels to genocides in other countries as part of the education. This style of teaching differs from the traditional way of teaching in Cambodian schools. Ordinarily there is not much room for interaction with the students. This represents a huge challenge to the success of the project.

Another reason why genocide has not been part of the school curriculum, besides the fact that the government has opposed this, is the lack of knowledge among teachers about what really happened during the Khmer Rouge regime. For example, the Phnom Penh Post newspaper, reporting on a teachers' training session in Takeo province, reported the following about a 39-year-old teacher from Kampot:

“In previous years, he had often told students of being separated from his parents and of being ordered, at the age of 5, to retrieve clothes from the dead bodies of cadres at the co-operative to which he was sent. But he said he had been unable to relate those experiences to broader crimes committed by the regime because he himself had known little about the scale of its destruction.” (Robbie Corey Boulet, Phnom Penh Post, January 8, 2010).

The teacher was quoted by the newspaper: “I was alive during the Pol Pot time, so some of this is not news to me, but this week I have been very shocked to learn about all of the people that Pol Pot killed.” (Robbie Corey Boulet, Phnom Penh Post, January 8, 2010).

DC-Cam hopes that including genocide in the curriculum of Cambodian schools can help the country embark on the road to national reconciliation by not only raising students' historical knowledge and understanding, but also their empathy with people who experienced the historical events.

This project was established only recently, so I have not been able to follow its activities myself. However, reports from DC-Cam staff confirm the challenges inherent in teaching about the Cambodian genocide.

Based on reports provided by DC-Cam I now give a short presentation on one of the outreach sessions related to the genocide education project.

4.4.6 DC-Cam education outreach session at Panha Cheat University

On March 10, 2010, DC-Cam arranged an information session at Panha Cheat University in Phnom Penh. According to a report written by Randle C. DeFalco, the purpose of the session was to bring students up to date on the proceedings at the tribunal and to share knowledge about the court's outreach mechanisms.

The day-long session opened with a presentation of the tribunal's official website (www.cambodiatribunal.org) that offers much information about the proceedings at the tribunal and its joint ventures with DC-Cam. The DC-Cam staff member who gave the presentation used a computer to show the students how the website could be used as a resource by the public to gain information about the tribunal. The webpage contains videos of the proceedings, a blog for sharing information and reports and articles related to the tribunal.

This was followed by a lecture on the tribunal processes by ECCC prosecution representative Tarik Abudulhak. He first asked the students to raise their hands if they had watched any of the ECCC proceedings on television. About a third of the students did so. He then informed the students about the major events at the tribunal and the events to come. As part of the presentation of the different cases and the accused perpetrators, he explained the importance of the perpetrators getting a fair trial and their right to defend themselves. He also talked about the importance of the

legal evidence and the role of witnesses to the processes. The lecture was followed by a question and answer session, where the students asked questions about the court proceedings and why it had taken so long before the tribunal was established.

The group then travelled to ECCC by bus, where they were welcomed by public affairs officers. The students then received a short tour of the courtroom building and the surrounding area. Following the tour the group entered the courtroom viewing gallery to attend a presentation by the Defence Support Section (DSS) on the role of defence counsel and the struggles the defence has had to face to maintain fair standards at previous international trials. The DSS representative talked about the Nuremberg Tribunal and how this trial had about 8,000 prosecutors and only one defence lawyer. After providing a historical overview of the evolution of defence counsel rights at previous trials, he stressed the importance of securing a fair and just defence following international legal standards. The presentation ended with a question and answer session.

In addition to the outreach projects introduced above, DC-Cam also publishes books and articles about the history of Khmer Rouge and the transitional justice processes. One of the most known publications is the monthly magazine *Searching for the Truth*. For many Cambodians, this magazine is the main source of information about the transitional justice processes.

4.4.7 Magazine Searching for the Truth

In addition to communicating the centre's work to the public, the magazine disseminates knowledge on issues related to the Khmer Rouge.

The title *Searching for Truth* conveys the sense of an ongoing process, not a presentation of an already known truth.

Part of the magazine is devoted to family tracing. People who want to know what happened to their families write to the magazine, and in each issue selected stories of how people lost their families or their questions about what happened to them are published. Here is an example from the 1st Quarterly 2008 issue of the English version of the magazine:

“Missing brother: My name is Gek Ly, age 47, and now I am living in Australia. My father is Bun Duk. In 1975 he had a shoe shop called Nam Yoeung in Kampong Som. I would like to search for my brother Bun Trach aka Crouk (he would now be 50 years old) , who left home to serve in the revolution in 1970 and other five cousins: Ing Sina (female), Ing Sipa (female), Ing Ya (male) and two younger cousins whose names I do not remember. In Sangkum Reastr Niyum, this family lived near Vimean Tip Cinema, selling shoes. If anyone has knowledge or heard anything about him, please contact me via phone:xx/address:xxx or e-mail:xxx.”

The magazine was first published in 2000. The centre has distributed more than half a million copies nationwide of the Khmer issue. About 7,000 copies are printed every month, and over 80 percent of the magazines are distributed free of charge. Every quarter an English version of the magazine is published and sold at newsstands and various other locations in Phnom Penh and Siem Reap.

In addition to an occasional headline in one of the main newspapers, this was the only public reminder of the Khmer Rouge history and the tribunal I could see on my daily walks in the streets of Phnom Penh. The front cover of the magazine in February had a big picture of Nuon Chea. The picture was taken at his first detention hearing in the court. He stares straight into the camera with a clear look in his eyes: the same look I had witnessed earlier during the court proceedings.

4.5 Different groups related to the tribunal

The centre’s outreach projects described above are the main cases I relate to when making the abductive and retroductive moves in the next two chapters.

Before I study theoretically how these cases, studied as part of transitional justice narratives, may be related, interpreted or read by the individuals expected to be part of the transitional processes, I first explain how the group of people that is targeted by the outreach projects mentioned above must be studied as a

diverse group with different backgrounds and motivations. This is important in context of the abstract theoretical perspectives in the next chapter that seek to understand the importance of studying the transitional justice processes from a narrative perspective, both from the perspective of the narrative elements of the outreach projects studies such as texts and story-telling and from the perspective of the individuals and groups that are interpreting and relating to the projects.

According to Youk Chhang, director of DC-Cam, the tribunal is important and prosecution is needed before Cambodia can reach the point of true forgiveness. This is about more than just convincing the public that the perpetrators are actually punished. Justice was already obtained to some degree at the local level in the 1980s when people took the law into their own hands and killed many of the Khmer Rouge perpetrators. For this reason, Chhang feels that the trials will not so much bring justice to the victims as they will give people a perception that justice is possible for the future. In an article in *The International Journal of Transitional Justice* he writes: “The larger Cambodian family, both at home and abroad, is also divided over the trials. This is because genocide has always been a political act, and always will be,” (Chhang 2007:157-172). Chhang claims that people have now, after 30 years, largely moved beyond the need for revenge: “they are concerned about how the tribunal will affect their future and the future of their country, but they view justice from many different political perspectives,” (Chhang 2007:157-172). In light of this, it becomes even more essential to include the public in the processes related to the tribunal. The narratives related to the tribunal and the education efforts expand the initial purpose of the tribunal of providing justice for the victims.

The tribunal is justice for some and not justice for others. Chhang identifies two categories among the survivors in Cambodia in this regard: “The first is survivors who support the tribunal. Most of them have never been out of the country and have decided that at least some of their future lies within the ruling Cambodian People’s Party (CPP), who they see as liberating Cambodia from the Khmer Rouge and in the 1990s fighting to bring the guerrillas to heel when the international

community was ignoring Cambodia. As evidence of their party's intent to broker honest trials, they point to the ranking CPP government officials who are former Khmer Rouge and have publicly stated their willingness to appear before the tribunal," (Chhang 2007:157-172). This group, according to Chhang, distrusts the international community and blames it for the country's culture of impunity.

The second category contains many people who returned from the Thai border refugee camps in the 1990s: "They are generally opposed to the government, and believe that national problems like poverty and corruption are linked directly to the CPP. They feel the trials will only serve to polish the ruling party's image," (Chhang 2007:157-172). This group is calling for international control of the proceedings and would like to see certain CPP officials brought to trial.

Chhang identifies another group, which also is divided on the tribunal. This group is made up of so-called expatriates who moved to foreign countries during or after the Khmer Rouge. According to Chhang, this is a highly politicised group. One faction of this group supports the government and is strongly supporting the tribunal. Some representatives from this faction are actively involved in the tribunal's work on various levels. Within the group of expatriates three other groups oppose the trials, according to Chhang: "The first comprise the supporters of former King Sihanouk, who worry that he might be brought before the chambers. Like the king, they argue that the money dedicated to the trials would be better spent on alleviating poverty in Cambodia. The second is made up of people opposed to the CPP for political reasons, by adopting a strong anti-communist stance, which they retain to this day (during the 1980s the CPP was closely associated with the ruling Vietnamese communist party). And the last is a small group of immigrants who were Khmer Rouge, they are simply afraid their former lives might be revealed," (Chhang 2007:157-172).

The final group highlighted by Chhang is the younger next generation in Cambodia. This group is somewhat more cohesive as well as more nationalistic. Most of them find it difficult to believe that Cambodians could have killed each other: "thus, they

feel that foreigners must have caused the genocide in their country. Some of them are curious to learn what happened, but don't have what could be termed as a 'political agenda'. Others are much more interested in finding justice for the victims, and look at the genocide in black and white terms: the Khmer Rouge were always, and will always be, bad. Both groups, however, seem far better able to hold dialogues with each other than the adult survivors." (Chhang 2007:157-172).

4.6 A transition to the explicit abductive and retroductive move

From this presentation of cases of transitional justice in Cambodia and the historical context I am now making a transition to the explicit abductive and retroductive moves turning turn the focus to Ricoeur's theory of narrative. This means that I will be going back and forth between theoretical and practical pre-understandings, real world empirical phenomena, and abstract theory – to end up with new conceptualisations and theories about the phenomena.

As stated earlier, the phenomenon of genocide in Cambodia and the transitional justice projects described in this chapter are not theory-dependent, but they are theory-determined. I offer new ways of looking at some elements of the phenomenon, trying to explain some of the underlying generative dynamics. I cannot do this by only describing or trying to mirror the phenomenon. I have to make new creative theoretical interpretations about the underlying dynamics that are not directly observable or measurable. The reading of Ricoeur's theory of narrative that I present in the next chapter is shaped by the case study experiences of transitional justice in Cambodia. Nevertheless, I have to approach the theories on their own ontological and epistemological terms before I can adapt them to make new inferences of the phenomenon I study.

So, the transition from the empirical and practical cases to the more or less abstract theoretical nature of the next chapter is necessary to conduct the abductive and retroductive moves. These

two worlds are related in the final chapter where I interpret the empirical findings in relation to Ricoeur's theory of narrative.

5. Ricoeur's theories of narrative

In this chapter I study key ideas from the French philosopher Paul Ricoeur's theories of narrative that I adopt when the abductive and retroductive moves in the last chapter, arguing how the concept of narrative justice generates new theoretical perspectives on transitional justice.

This presentation of Ricoeur's theories of narrative is part of the abductive inference interpreting the phenomenon of transitional justice from Ricoeur's general ideas and concepts of narrative. Part of the abductive move is to provide the abstract theoretical elements of the re-contextualisation of the events. The theoretical interpretations made in this chapter are part of the concluding abductive and retroductive inferences in the last chapter going from the observable, the case study and the phenomenon of transitional justice presented in the previous chapters, to the abductive inference of Ricoeur's theory of narrative, ultimately to throw up explanations of the underlying generative dynamics of the phenomenon.

Ricoeur's theory of narrative is very complex. I study this as a constellation of ideas that includes Ricoeur's theory of mimesis, historical consciousness, narrative identity, and memory. In this chapter I focus particularly on Ricoeur's narrative theories of historical consciousness, mimesis and identity. In the next chapter I present and adapt Ricoeur's narrative theories of memory and imagination related to his theories of justice studied from a narrative perspective. To illustrate what the theories say about the phenomenon of transitional justice, I relate them to the interviews of Cambodian Khmer Rouge victims and other case study material.

As we have seen in Chapters Three and Four, transitional justice is about relating a conflicting past to the present in an attempt to form a constructive orientation towards the future. This dialectical element of the transitional justice processes and

policies needs to be challenged and nuanced. By presenting Ricoeur's theories of narrative, I hope to illuminate some of the complexity and also constructive potential of studying transitional justice from a narrative perspective that relates the processes to the individual searching for truth and justice.

Understanding how destructive historical memory may be turned into constructive historical consciousness is an essential part of understanding the narrative effects of the transitional justice processes. To make this inference I adopt theories that explain some of the underlying dynamics of these processes.

I start with a short introduction to Ricoeur's writing.

5.1 Introduction to Ricoeur's writing

Paul Ricoeur (1913 – 2005) was known as one of the most influential philosophers of our times. His philosophical work covers a broad range of issues such as the philosophy of free will and freedom, time and narrative, history, metaphor and language, history and narrative, memory and forgetting, and philosophical theories of the self, others and personal and collective identity, to mention some.

Theoretical reflections on the possibility of understanding the self are a key theme for Ricoeur.

As he continued to develop his anthropology, Ricoeur made a major methodological shift during the 1960s. He concluded that to study human reality one had to combine phenomenological descriptions with hermeneutic interpretations.

For hermeneutics, the world is made accessible to us in and through language. Ricoeur argues that to understand the world and ourselves, we have to go on a detour of already mediated meanings of the world in meaningful language. All deployments of language in understanding the world and our self require interpretation. This is why there is no self-understanding that is not mediated by signs, symbols, and texts (Dauenhauer 2008). Ricoeur's hermeneutic phenomenological turn required him to revisit his earlier investigations to recast and clarify their implications, possibilities and limitations.

However, he did not abandon his earlier understanding of human reality made from a tradition of existential phenomenology. Rather, his shift made it possible for him to see more clearly how his philosophical anthropology of the capable person could be expanded to include a linguistic or hermeneutic element of mediations of meaning by signs, symbols and texts.

One of Ricoeur's earliest descriptions of a central theme in his anthropology is the separation between the voluntary and involuntary dimensions of human existence. This first anthropological account for freedom was put forth in Ricoeur's doctorate thesis, later published as *Freedom and Narrative* (1950). This early work established Ricoeur's name as an expert on phenomenology. This especially focused on Husserl's phenomenology, translating some of his writing into French.

In his later works, *Fallible Man* (1960) and *The Symbolism of Evil* (1967), Ricoeur investigated the big and difficult question of how humans are fallible, how we can go wrong in life. He tries to understand how evil may happen and how individuals exercising their freedom may have unintended and intended effects that make them go wrong in life. He realised that a structural and phenomenological perspective are not enough. His suspicion led to what became one of the key themes of his hermeneutic anthropology: that language, signs and symbols need to be studied in reference to their context. This context is made up of mediated meanings. For Ricoeur it became evident that there is no unmediated self-understanding.

The main themes of Ricoeur's mature anthropology are: (a) discourse and action, (b) selves as agents, (c) the temporality of action, (d) narrativity, identity, and time, (e) memory and history, (f) ethics, and (g) politics (Dauenhauer 2008). Each of these themes deals with a fundamental feature of the constitutive capabilities of the human person.

5.1.2 Some critical perspectives on Ricoeur's writing

However important Ricoeur's ideas may be, they are not without difficulties. I will therefore briefly mention some alternative perspectives and critical comments to Ricoeur's attempt to redefine hermeneutics and phenomenology.

It is not an easy task to sum up criticism of Ricoeur. Books such as *On Paul Ricoeur* by David Wood (1991), the book with the same title by Richard Kearney (2004), *Reading Derrida & Ricoeur* by Pirovolakis (2010), and *Paul Ricoeur* by Karl Simms (2003) are a starting point. In all these books, criticism of Ricoeur is intertwined with complex theoretical discussions. I have not been able to find critical summaries on Ricoeur's writing. I think the reason for this is that Ricoeur was a very thorough and open philosopher. In his books he spends much time addressing alternative philosophical perspectives on a deeper ontological and epistemological level, which makes it hard to identify and sum up clear negations to his writing. In addition, my interpretation is that he often takes a middle position between opposing philosophical perspectives on the same phenomenon when he formulates his theories. Nevertheless, it is possible to identify some basic critical alternative perspectives to Ricoeur's writing if we look into the history of philosophy of science.

One basic critical perspective on Ricoeur's hermeneutic philosophy can be drawn from the positivist philosophy of science, which holds that science should not be part of moral debates. Science should rather act to produce objective and precise descriptions of reality.

This is related to the status of language as truth-bearing. The positivist philosophy of science shows how language may hold truth, and how science may provide objective descriptions of reality. This could be an alternative critical perspective to Ricoeur's hermeneutic philosophy. All deployments of language in understanding the world and our self require interpretation. Ricoeur's argument that to grasp the meaning of reality we always have to go on hermeneutical detours of mediations of meaning breaks with the positivistic view. For Ricoeur, language is not a mirror of the real world, but provides interpretation and context.

Ricoeur was not the first to question the truth-bearing capacity of language. Structuralist movements within social science can be seen as an early attack on claims that language is a mirror of reality. Objective accounts of reality are not seen as directly determined by events as they are, but by structuring

systems. Most structuralists claimed that the knowledge of structures had a rational or objective foundation (Gergen 1997).

One common element of structuralist perspectives on social science and Ricoeur's hermeneutic is that both attack the positivist claim that language can be seen as a mirror of reality.

Nevertheless, structuralist critique based in linguistics can be aimed at Ricoeur's hermeneutic phenomenology raising interpretation from the level of epistemology to that of ontology of multiple meaning. Structuralist claims that language should be reduced to the functioning of a system of signs stands in opposition to Ricoeur's hermeneutic phenomenology which argues that language as a system of signs need to be studied in reference to its context and relations outside the systems of signs. Structuralist emphasis of hidden structures of language could be studied as a rival perspective to Ricoeur's phenomenological movement.

Post-structuralists also raised a critical question on the rational and objective foundation of the structures. Gergen (1997:49) writes:

“If observation is not determined by the objective objects in the world, but by underlying structures, and if the descriptions one can give of these structures are also formed in language, to what extent can these descriptions provide a map of the structures of reality?”

This question brings us back to Ricoeur's hermeneutics of how we are always bound to ontology of prior significance. Ricoeur's hermeneutic detour represents a transition from a pure phenomenology of consciousness to a hermeneutic of symbols (Kearney 2004:18). From this it is possible to identify another opposition to Ricoeur's hermeneutic detours, which is found in psychoanalysis' emphasis on the unconscious. While Freud attempted to use his patient's utterances to explore the structure of unconscious desires etc., the task of Ricoeur's hermeneutics is to understand the frameworks of the pre-understanding within which our various interpretations arise, and understand how this predisposes us to certain readings of the signs (Kearney 2004:25).

As mentioned earlier, according to Ricoeur all self-understanding is dependent on already mediated or constructed

meanings of symbols and texts. For Ricoeur there is no unmediated self-understanding.

The last critical alternative perspective on Ricoeur's writing I will mention is related to the question of representation and meaning of the past. Ricoeur's attempt to make sense of the past and our ongoing involvement in it stands in opposition to the claims made by Hegel and Marx that there is one universal history. For Ricoeur there are no unchangeable and uninterpreted facts that are accessible to memory. Ricoeur's hermeneutic phenomenology stands in opposition to positivistic claims that memory and history correspond directly to what happened. For Ricoeur facts are rather established through the historian's questions.

As I show later in this chapter, for Ricoeur memories and testimonies need to be studied as part of hermeneutical detours, not as pictures of how things actually were in the past. Nevertheless, this does not mean that Ricoeur rejects objective historical knowledge. Rather we have to understand how the establishing of true objective historical knowledge is the product of historiographical operations that are rhetorical and interpretative as a substitute representation of the past. For Ricoeur, the truthfulness and objectivity of the historical accounts is made possible by being faithful to the available evidence and testimonies of the past. Testimony is an important representative and mediating element in representing the past. According to Ricoeur, testimony refers to a world in which something actually happened. Even false testimonies refer to inter-subjective relations that collectively determined the meaning and value of the text or narrative of one particular context of meaning that actually occurred in the past.

I now take a closer look at Ricoeur's redefinition of hermeneutics that is an essential basis to understanding the transitional justice process from a narrative perspective as interpretation and mediation of meaning.

5.2 Hermeneutic-phenomenology

Heidegger, Gadamer and Ricoeur are the best known representatives of the movement of hermeneutic-phenomenology. When interpretation rather than pure description is put forth in gaining knowledge about the world, phenomenology becomes hermeneutical.

Heidegger was the first to conceptualise this approach to phenomenology. He argued that all forms of awareness or descriptions are interpretation. All description of reality is always already interpretation, and every form of human awareness is interpretive.

One consequence of Heidegger's argument is that the development of concepts pre-supposes a reality independent of the concepts. We can empirically observe the layers that are observable by human beings. When presenting abduction and retroduction as modes of inference, understanding how social reality is layered and how the conceptions of it are socially and historically constructed is an essential underlying part of my theoretical argument in this thesis. This is central to understanding how post-conflict victims may form historical consciousness by re-narrating and re-conceptualising the consequences of the conflicting brutal past as underlying historical phenomena.

Heidegger defines the historicity of understanding as a person's history or background (Laverly 2003:21-35). This is not something a person can step out of or "escape". Heidegger defines pre-understanding as the meanings of a culture that is present before we understand it and it becomes part of our historicity or background (Laverly 2003:21-35).

In his work *Truth and Method*, Heidegger's student, Hans-George Gadamer, continued the development of a hermeneutic phenomenology. He tried to uncover the nature of human understanding by exploring the role of language, the phenomenology of human conversation, and how people are embedded in the particular history and culture that shapes them. He argues that human consciousness is historically constructed or historically mediated, in that it is shaped by the context where the people are embedded.

Understanding how people are embedded in cultural and historical constructions is essential to understanding how changes in historical narratives and cultural signs may empower the victims in post-conflict societies to move on towards a brighter future. At the same time, when studying genocide, how victims construct narratives relating the past, present and future does not imply a purely constructivist or social-constructionist account of reality. The reality of genocide does exist outside language.

Ricoeur argues that meaning is not given directly to us. Rather we have to go on a detour through symbol, myths, and language to gain understanding. As illustrated by the Cambodian cases, the meaning of the brutal events in the past is not given directly to the victims. They have to go on a detour of the interpretations of the events, either made from myths and local stories constructed amid the lack of clear legitimate historical accounts, or as part of the interpretative detour constructed by the plot of the transitional justice narratives.

Ricoeur's hermeneutic phenomenology represents a move from a pure descriptive method towards an interpretative approach to the phenomenon. This is in line with the critical-realist philosophical ground presented in Chapter Two.

Ricoeur redefines hermeneutics to understand the mediation of meaning through symbol, myth, dream, image, text, narrative and ideology (Kearney 2004:13). We always have to go on a detour of already mediated realities that reside outside our immediate consciousness. The consequence of this is that the human subject can only interpret itself by interpreting the signs of an external world (Kearney 2004:13).

Being aware of the interpretative influences of our pre-understanding is important to understanding transitional justice narratives as mediators dealing with experiences and memories of a destructive past.

By identifying cultural interpretations as one of the primary sources of grasping meaning and knowledge about the self and others, Ricoeur provides understanding of the workings of remembrance, narrative and story-telling in the extension of the symbolic mediation into thought. This process is historical to the extent that we realise that we are "bound by a relation of

belonging to past sedimentations and future projects of meaning” (Kearney 2004:17).

According to Ricoeur, all meaning is necessarily mediated by meanings which are not constituted by the self alone (Kearney 2004). By emphasising interpretation as a continuous part of the process, Ricoeur differs from Husserl who argued about a phenomenology starting with a pure reflective consciousness upon which all human understanding is grounded. Husserl called this a transcendental phenomenology, which is a phenomenology of consciousness.

While Husserl’s transcendental phenomenology is based on interpretation of the epistemological claim that phenomenology is a rigorous interpretation clarifying the assumption upon which all human understanding is grounded, Ricoeur raises the level of interpretation from epistemology to that of ontology of the phenomenon of multiple meaning.

If we contrast Patomäki’s (2006) claim that critical realism is about establishing the ontological grounds for social transformation in relation to Ricoeur’s hermeneutic phenomenology revealing how we are always bound to the ontology of the “tradition of recollection” (Kearney 2004:17) we can relate Ricoeur’s theoretical ground to the modes of inference I have adopted in this thesis.

Understanding how “I belong to history before I belong to myself,” Ricoeur (1973 [1990:63]) is an essential part of understanding the potential transformative constructive effect of the transitional justice narratives. This is Ricoeur’s primary hermeneutic focus. The task of hermeneutics is thus to understand the frameworks of pre-understanding within which our various interpretations arise, and understand how this predisposes us to certain readings of the signs (Kearney 2004:25).

Without diving into the big debate about the phenomenon of the text, it is important to understand what Ricoeur’s phenomenological-hermeneutics adds to this debate when he emphasises that we need to understand all writing within the context of a human-world relationship. In his three-volume work *Time and Narrative* (1983, 1984, 1985) Ricoeur addresses the contrast between the limits of semiotics and life-world semantics.

Ricoeur talks about an inter-relation between the human and the world across temporality and through reference (Wood ed. 2002:127).

In *Time and Narrative* Ricoeur outlines this connection by drawing together two independent studies of the experience of time and emplotment. Ricoeur (1983 [1990:52]) writes:

“The moment has come to join together the two preceding independent studies and test my basic hypothesis that between the activities of narrating a story and the temporal character of human experience there exists a correlation that is not merely accidental but that presents a trans-cultural form of necessity. To put it another way, time becomes human to the extent that it is articulated through a narrative mode, and narrative attains its full meaning when it becomes a condition of temporal existence.”

For Ricoeur, narrative is both actional and structural in that the narratives provide a plot that is related to the time dimensions of past, present and future when the textual worlds are constituted in relation to human life-worlds.

Ricoeur’s attempt to solve the problem of time and narrative is not directly applicable to a study of transitional justice. As mentioned at the start of this chapter I read Ricoeur’s theories of narrative as a complex constellation of ideas that includes mimesis, memory, identity and historical consciousness. I will therefore start with a presentation of the concept of historical consciousness as an important narrative theory that enables me to relate Ricoeur’s theories of narrative to a creative study of transitional justice.

Ricoeur’s narrative theory of historical consciousness is the main structure of the abductive and retroductive moves in the last chapter.

I first present a theoretical account of how the term historical consciousness illuminates how narratives relating the past, present and future can serve a constructive purpose to the individuals’ search for meaning, truth and justice in post-conflict societies.

In post-conflict societies like Cambodia where there has been a lack of a clear narrative relating the conflicting past, the present and the future, transitional justice is about establishing the

truth about the past, acknowledging how it is related to the present, and in the process constructing a positive orientation towards the future. In the following sections I hope to show how this needs to be studied from a narrative perspective, not as a linear process, and as a complex mediation of meaning in time and narrative.

5.3 General approach to historical consciousness

Before I study Ricoeur's narrative theory of historical consciousness I will give a general introduction to the concept.

The concept of historical consciousness can be understood from many different perspectives. At a social level it could be studied as a general part of human consciousness of the world in relation to others. The inter-relation between the three time dimensions of past, present and future plays an essential role in how I understand myself and others.

It could be studied more strictly within the framework of didactics, as a goal of teaching history: that pupils need to learn about the past to better understand the present and to be able to orient towards the future. Inculcating the ability to navigate between the three time dimensions of past, present and future is one of the goals of teaching history in schools.

Use of the term historical consciousness in European tradition is often related to the formation of competences believed to be needed to become a reflective democratic citizen, to be able to reflect critically about the present by relating it to the past and the consequences for the future.

One of the competences is related to the ambitious goal of being able to learn from the past. This is one of the reasons so many school children in Norway are brought to see the former concentration camps from World War II in Poland and Germany or other memorial museums. By learning about a time when you risked getting killed if you expressed yourself freely or a time when some people were treated as if they were not human because of race or religion, pupils can relate to present challenges and

establish attitudes and knowledge that will orient them towards a different and better future. One consequence could be that they learn how they cannot take for granted the freedom to express themselves freely, and so feel committed to using their freedom of expression when they witness wrong-doings in other forms happening today.

As a consequence of viewing historical consciousness as part of such learning processes, it became essential for researchers and practitioners to understand how historical consciousness is developed. In his analysis of the meaning of the remembered past, John Lucas (2005) discusses the evolution of historical consciousness. Different researchers such as Ernst Jeismann and Jørn Rüsen have written about this. Rüsen (1983) suggests that historical consciousness is the result of a mental process where emotional and cognitive processes work together. There are many ways of approaching this theoretically.

I will give a practical example to illustrate the complexity of historical consciousness. At the institution where I work as research co-ordinator, Arkivet Peace Foundation, we base much of our story-telling on a historical narrative related to the building in which the institution is located. As mentioned earlier, this building used to be the headquarters of the German Gestapo during World War II. In the basement we have reconstructed the torture chambers and prison cells, trying to illustrate how it was during that time. More than 5,000 school children visit the basement every year, where they are taken on a guided tour by older guides who have experienced the war, some of whom were imprisoned here themselves during the war. The visitors are told stories about the torture, the suffering and the people and systems that were responsible for the atrocities. This is an example of a historical narrative of what happened at Arkivet during the war, with a plot and context provided by the story-telling of the guides. In addition to telling stories of the past, they also try to relate this to the present by drawing parallels to the school children's lives, for example by comparing the torture with situations of group pressure and bullying in the school yard. And they try to relate this to what's happening in other parts of the world today.

We can ask questions like: Does this promote historical consciousness? What does it mean to form historical consciousness? Is historical consciousness mostly a feeling or mostly a competence? Is there a conflict between empathy and reflection and competence-building? What is the relationship between historical knowledge, historical reflection and experiences of historical reproductions?

Questions like these highlight the complexity of studying historical consciousness. Contemporary analyses draw on many disciplines and intellectual traditions (Wertsch, in Seixas ed. 2006:49). Before I present this complexity by addressing Ricoeur's phenomenology of historical consciousness in more detail I will comment briefly on the questions raised above.

I will start by saying that historical consciousness is about something more than just historical knowledge. But what is this "something more"? One way of addressing this is to say that this is about the processes happening in individuals when they reflect on the histories they are told or the histories they read in the history books. Historical knowledge is to know the historical facts about an event presented as a historical narrative. For instance, to know the dates when the Khmer Rouge took power in Cambodia, and to know the history of what happened and in what order it happened, who were the central people involved, and where did this happen. While these could be understood as historical facts, the matter could also be studied as constructed narratives that may have different effects on the individuals learning the historical facts.

If we understand historical consciousness as a competence of orienting between the time dimensions of past, present and future, there needs to be both an awareness that history is something different from the present, and awareness about how history is related to the present. Historical consciousness is about being able to see how the historical event happened in a different time and in a different context than my own. It is about being able to reflect on how the characters in the historical narrative were influenced by the time they were living in, that they had a past that influenced their present, and that this formed their expectations about the future.

This could be seen as a competence of orienting within the time dimensions of past, present and future. This competence requires that the individuals reflecting on the past realise that they cannot experience or re-live the past. To form historical consciousness, the individual needs to construct the narratives of the past when trying to understand it by imagining how it must have been like to live in that time, or try to imagine how he or she would have acted within the historical event, and so on.

When addressing historical consciousness, we must take into consideration the identity and the life experiences of the individual expected to form historical consciousness. Just as historians can never represent the past as it really was, individuals reflecting on histories always have to make selections between their interpretations to end up with a narrative suggesting an interpretation of the past.

For example, we cannot expect that all of the victims of the Khmer Rouge have the same reflections or interpretations of the transitional justice narratives. We can imagine one man who never accepted that his wife was murdered during the Khmer Rouge/DK. He would perhaps listen to the story-telling, putting together the information to try to answer his personal question of what happened to his wife. Another listener could perhaps be a daughter of a minority Cham Muslim woman who was killed during the regime and she may perhaps listen selectively to the stories and re-narrate the elements of the narrative that would satisfy her desire to learn how the Cham Muslims are represented at the tribunal.

We all bear ideas and stories that have an effect on our interpretation of the transitional justice narratives. They influence what we remember and how we emplot the narrative when we make our own interpretations. To understand this we need to address the phenomenon from a narrative perspective, conceptualising how the past is brought into the present and how this relationship forms our orientations towards the future.

Transitional justice occurs in the middle of a historical turning point. As we saw in Chapters Three and Four, transitional justice is much more than just a transition from war to peace. It has to do with history and how the former conflict society relates

to the conflicting past. Cambodia is a good example to illustrate this. The transition from war to peace started in 1979 when the Vietnamese, backed by Cambodian resistance forces, ousted the Khmer Rouge from power. Even though this was not a transition to a democratic and strictly non-violent regime, it was nevertheless a liberation from an ultra-violent genocide regime. However, this transition of power had little to do with transitional justice as I described it in Chapter Three.

As discussed in Chapter Four there are many reasons for this, but most important is the fact that there were no publicly legitimate historical narratives of a clear break with the historical past, either in the form of legal prosecution, public condemnation or legitimate historical facts. Instead, the history of the former regime was used and manipulated to serve as a useful tool in the political power play. And the victims' memories were silenced rather than acknowledged.

To explain how history also holds a constructive potential, I examine the generative dynamics of what happens when historical narratives are communicated as part of transitional justice narratives relating the past, present and future, and what happens when these narratives are interpreted by the individuals searching for truth and justice. As a basis to make these abductive and retroductive inferences, I present Ricoeur's narrative theory of historical consciousness.

5.4 Ricoeur's narrative theory of historical consciousness

“A society cannot know itself if it does not have an accurate memory of its own history.” - Youk Chhang.

In the following sections I outline Ricoeur's narrative theory of a phenomenology of historical consciousness. *Time and Narrative* (1985 [1990]) presents it as the mediation of the network of interweaving perspectives of the “expectation of the future, the reception of the past, and the experience of the present” (Ricoeur

1985 [1990:207]). To understand how the transitional justice narratives may shape the reception of the past, the experiences of present and the expectations of the future, we need to theoretically understand the dynamics of the formation of historical consciousness.

5.4.1 Space of experience and horizon of expectation

Historical consciousness has to do with how the past, present and future are related in social life. To this end, Ricoeur (1985 [1990]) adopts a polarity, first conceptualised by Reinhart Koselleck (1985), between space of experience and horizon of expectation.

Koselleck (1985) addressed the fundamental historical concepts of being in the world. He held that historical processes are marked by a kind of temporality that is different from that found in nature. For Koselleck, historical reality is social reality and the temporality of historical processes functions as a causal force in the determination of social reality (Ricoeur 1985 [1990]).

Thus, Koselleck makes a distinction between what he terms space of experience and horizon of expectation.

Ricoeur (1985 [1990]) refers to “space of experience” as natural or cultural events in the past that a person remembers. The process of remembering the past events takes place in the present. So, space of experience could be said to be the past made present. But since the past cannot be made present by going back in time and “re-experiencing” the past, we have to rely on memory and imagination.

By “horizon of expectation” Ricoeur (1985 [1990]) refers to every kind of private or public manifestations that could influence the future, such as fear and desire, hopes and beliefs, rational calculations, and so on. I adopt Ricoeur’s theory of how the expectation of the future is inscribed in the present (1985 [1990:208]) based on interpretations of experiences of the past. This is part of the abductive and retroductive inferences, generating new theories about the underlying dynamics of the transitional justice processes. Illuminating and critically engaging the function of the transitional justice narratives provides the victims an opportunity to re-interpret or re-narrate the past in

relation to the present, to form new constructive expectations of the future.

Ricoeur (1985 [1990:209]) argues that “the previously existing space of experience is not sufficient for the determination of the horizon of expectation.” He argues that the horizon of expectation and the space of experience mutually condition each other.

In other words, we have to relate the past to the present, and to the future. Horizon of expectation is the imagination and realisation of the array of actions that one can undertake, it is the future made present (Ricoeur 1985 [1990]). In this way, the space of experience and the horizon of expectation mutually condition each other.

Ricoeur’s point that the horizon of expectation cannot be derived from the previously existing space of experience establishes the hermeneutic-phenomenological ground for thinking about narrative in relation to the transitional justice processes: how victims in a post-conflict transitional period have to go on a detour of already mediated meanings, stories and narratives to deal with the memories of the conflicting past as they orient towards a brighter future.

The mediation of meaning in relation to the transitional justice narratives could be studied as a hermeneutical detour. The abductive and retroductive moves I make in the last chapter will argue how Ricoeur’s hermeneutical detour can be used to illuminate new elements of the dynamics of transitional justice processes.

Through retroactive expectation, the experience of the past is provided new meaning. To make this theoretical move from a narrative perspective I use Ricoeur’s narrative theories on mimesis, memory, imagination and identity, as they work together in forming historical consciousness. The concept narrative justice explain how transitional justice narratives are related to the individual reflecting on them, while at the same time, different interpretations of the transitional justice narratives may arise and these may dispose the victims to read the narratives in certain ways.

5.4.2 Victims' pre-understanding

We all are bound to prior significances or mediations of meaning. As presented in the introduction, Ricoeur's hermeneutic-phenomenology raises the level of interpretation from epistemology to the level of an ontology of the phenomenon of multiple meaning. The task of hermeneutics is to understand the frameworks of pre-understanding within which our various interpretations arise, and understand how this predisposes us to certain readings of the signs (Kearney 2004:25).

I use Ricoeur's theories of narrative to illustrate how various pre-understandings of the individuals that are expected to be part of the transition may be related to the transitional justice narratives. Thus, I argue that transitional justice cannot be studied as a linear process. The transition from the violent past towards a peaceful future needs to be studied in relation to the complexity and variety of how individuals and societies form historical consciousness. This enables us to explain the dynamics of what happens when the narratives of transitional justice processes are interpreted or read by the victims.

Understanding the meaning and function of how the various pre-understandings of the victims are related to the interpretations of the conflicting past is essential to the understanding of how they relate to the transitional justice narratives.

According to Ricoeur (2006), it is when we open up the past to be changed that the expectation of the future may change. This is an essential part of transitional justice: how, through a tribunal or/and truth commission, the past is opened up to be re-narrated by legitimate institutions that are believed to deliver true and just accounts of the violent past. Transitional justice happens when the survivors or victims relate their pre-understanding to the transitional justice narrative, and in the process form new and constructive expectations of the future.

To explain how this can happen we need to understand the complexity of the dialectic of the past and the future, and their exchanges in the present. I now look into this.

5.4.3 Narrative and reality

Ricoeur (1985 [1990:206]) talks about an imperfect mediation within the network of interweaving perspectives of the expectations of the future, the reception of the past and the experiences of present. This has much to do with narrative and story-making.

Story and story-making are increasingly accepted by scholars from different research fields as legitimate explanatory frameworks for understanding human beings. Philosophers, historians, psychologists and sociologists all approach the topic from different perspectives and with different purposes in mind. There is a great diversity of theories of narrative.

Narrative psychologists positioning themselves within a constructivist and constructionist understanding show how narrative plays a role in the social construction of reality. For example, psychologist Kenneth J. Gergen views the self not as a private, cognitive structure, but as a linguistic action, a mediation of the self in the public. He views the self as a story which is made understandable from the various relations in which it is embedded (Gergen 1997:189). According to Gergen we understand our self and others through stories. And we orient ourselves to others through stories. For White and Epston (1990:13), humans give meaning to their lives and social relations by constructing stories from their experiences. Other writers like Mink (1970) and MacIntyre (1981) write about the meaning-making function of narrative to social life.

Within the theoretical discourse on narrative and psychology there are various debates between those who position themselves within a cognitive psychologist view and those who position themselves within a social constructivist/constructionist or social learning view (Polkinhorne, in Straub ed. 2006:6). Within these views there are various distinct orientations towards narrative, such as realist, phenomenological, psychodynamic, cognitive, textual and rhetorical (Gergen, in Straub ed. 2006:99), “each raising different implications for our understanding of history, identity and the place of historical consciousness in contemporary society”.

Authors like Roland Barthes, Louis Mink and Hayden White remind us that there is a difference between narrative and real life. The structure of a narrative providing its meaning through a plot, with a beginning, a high or low point and an ending, is not reflective of the real world, but rather the essence of our explanatory fictions. The same argument is made by Koselleck when he draws a distinction between time in the natural world and the temporality of historical processes. Real events in life do not have the same temporality or character of those we find in stories (Carr, in Wood ed. 1991:160). On the other hand, debates about narrative versus reality or language versus reality are not easily solved by just concluding that reality is made up of things happening after one another in sequence.

I will touch on this debate without any ambitions of solving these complex questions.

5.4.4 The vanishing reality of the past

What is in the past vanishes by time and we can never go back and re-experience the past as it really was (Ricoeur 2006). This is why we always have to put together fragments and different pieces of events in the past and present them as history, as something that represents a history of what happened in the past, but never as the “whole representation” of the past. This is quite obvious of course, but historians’ task is to come as close to this as possible. It is necessary to remind ourselves that history is also about interpretations, not a copy of the past as it really was. To be able to look back in time you have to use various lenses and listen to various voices that make their own interpretations of how it really was.

Ricoeur argues that history is a fruitful way to address the vanishing reality of the past. He views history as “what has to be made, in order to rediscover in it the dialectic of the past and the future and their exchanges in the present” (Ricoeur 1985 [1990:207]). This hermeneutic approach is useful to highlight the complex interplay within this dialectic when trying to understand the role and function of the transitional justice narratives. Studying the historical accounts from the dialectic of past, present and future as narratives allows us to avoid making abstractions

about the past as past. From a more practical perspective this is essential to achieve the goals of transitional justice: to re-narrate the past within a transitional justice narrative, establishing the truths about the past in relation to narratives of justice. Opening up the past to be narrated once again could be understood as mediation between truth and justice within the time dimensions of past, present and future.

The historical present is made up of what Ricoeur (1985 [1990]) describes as “an interplay of interweaving perspectives” and according to Ricoeur (1985 [1990:208]) “it is within the dimension of acting (...) that thought about history will bring together its perspectives, within the horizon of the idea of an imperfect mediation.” Ricoeur (1985 [1990:209]) quotes Droysen’s formula, “in history as narrative, history as event comes to know itself.” How can we understand this process of constructing a collective singular of the events in history as narrative?

5.4.5 Historical narratives

For Ricoeur, historical narrative is a form of allegory of temporality, but it is a true allegory. The historical narratives describe a pre-figured time, the time of real action, in the form of a re-figured time of the historical narrative. The historical narrative of the Khmer Rouge/DK regime set within the plot starting on April 17, 1975, when the Khmer Rouge forces occupied the capital Phnom Penh, and ending on January 9, 1979, when the Khmer Rouge were beaten by the Vietnam-supported forces, is an example.

This is the historical narrative of the war. A historical narrative trying to explain and understand the Khmer Rouge would have to start the plot much earlier, perhaps with the group of Cambodian students that left to study in Paris, and how the French communist student movement inspired them to come back and start the revolution. This narrative could end either in 1998 when the last Khmer Rouge/DK forces laid down their arms, or it could end with the result of the tribunal taking place today.

The point is that historical narrative should strive to form true allegories of the time of real action, the event that actually

happened at a certain time. This only becomes history when it is told as part of a narrative within a certain timeframe of the plot. For Ricoeur the plot is what provides the stories with meaning. Without a plot all kinds of events and interpretations of events may be reduced to historical facts. The plot mediates between the various elements, deciding what should be included in the historical narrative. This is also a form of mediation between events and certain universal “experiences of temporality” (Wood ed. 1991). According to Hayden White, in Wood (ed.) (1991:144), historical discourse is a “privileged instantiation of the human capacity to endow the experiences of time with meaning, because the immediate referent of this discourse is real, rather than imaginary, events.”

The events the historical narrative sets out to describe are, according to Ricoeur, constructed in the same way that the historical narrative is constructed (Wood ed. 1991). The historical narrative cannot include all kinds of events, time relations and interpretations, and the human experiences of the events that the historical narrative sets out to describe are also based on a configuration of events and time in a more or less coherent story or stories. This is important to keep in mind when trying to understand how individuals expected to reflect and act on the transitional justice narratives bring their own pre-understanding to the process.

One historical event may become a historical narrative in many different ways, depending on what the historian is looking for. One historian may focus mainly on the actions of a certain historical figure as part of a larger historical narrative, while another may focus primarily on the history of the historical figure to explain the same historical event. This is evident in various historical books written about the Khmer Rouge regime. Some focus on the history many years before and after the Khmer Rouge/CPK ruled Cambodia, when others focus strictly on the time period between 1975 and 1979. What is more interesting in this regard is how some focus on describing details of the characters like Pol Pot (Brother Number One) and Nuon Chea (Brother Number Two) to narrate the brutal history of the Khmer Rouge. The main plot of the story may be the same with the

starting point of the Khmer Rouge, the time it went wrong and the mass murders started, and the end point when the Khmer Rouge were ousted from power. Where the story starts and ends varies according to what the authors believe is important to narrate within the historical event.

Philip Short's (2007) historical biography of Pol Pot tries to understand who this man was and how he became the leader of the murderous Khmer Rouge regime. In the process he identifies certain turning points that may contribute to the plot of the story.

I use the same tool of emplotment and narrative discourses to understand who I am, and to be able to see myself as a human individual. In this process I adopt narratives to mediate what should be included and what I see is irrelevant to describe and understand who I am. This is set within a plot with a beginning, mid-points and an end. I use various stories or narratives to explain myself, and to see myself as an individual with a will, motivation, and imagination and as a goal-oriented person.

Without plots describing certain turning points and starting points, I will just see myself as the sum of the continuation in time of events happening. In the same way, historical narratives need to place the events in relation to each other within plots giving value and direction to the events. This is a type of symbolic representation that joins together sequences of events that would otherwise be unutterable in language, namely, the ineluctably "aporetic" nature of the human experience of time (Wood ed. 1991:144).

This has relevance for understanding the constructive effect of the transitional justice narrative in post-conflict societies like Cambodia, where there has not been a publicly legitimate narrative relating the conflicting past to the present and future. This is how I argue that the plot of the transitional justice narrative may empower the victims to orient towards a brighter future.

Historical narratives are characterised by their possession of plots. Plot is what makes certain chronicles of events into a story. This is a process of mediation of events, and certain universally human experiences of temporality (Wood ed. 1991:144). The emplotment is what gives the story its meaning by

linking together (configuring) sequences of events into a temporal whole.

This goes both for fiction and historical stories or historical discourses. What separates them is that historical stories refer to historical events that have actually happened at a certain time and at a certain place. The events that are part of historical narrative do have their own history of characters and plots that is related to the historical narrative as a whole. The events that are discovered or expected to be part of the history are related to each other in time and narrative. What is being included and what is being excluded from the historical stories is mediated by the emplotment process, and the historian's way of searching for the truth or facts of what really happened in the past. While the novelist can invent the events of his stories, the historian must find or discover the events (Wood ed. 1991:144).

DC-Cam serves this function by searching for the truth or facts about the conflicting past. Documentation is an important starting point of the transitional justice narrative. But documentation alone is not enough. The historical evidence and documents need to be narrated in relation to processes of making moral and legal judgements of the events in the past.

White, in Wood (ed.) (1991:145) writes:

“By discerning the plots “prefigured” in historical actions by the agents that produced them and “configuring” them as sequences of events having the coherency of stories with a beginning, middle and end, historians make explicit the meaning implicit in historical events themselves.”

It is not only the historians that provide meaning to historical events by emplotment. Documentation centres, tribunals and truth commissions also construct and configure meaning and value into historical narratives. In this regard, understanding the function of emplotment in transitional justice processes is an essential part of how I in the next chapter present the concept of narrative justice in relation to the cases of transitional justice in Cambodia.

As we saw in the previous chapter, in Cambodia the past has been narrated and emplotted in various ways according to when it was useful and when it was threatening to the governing elite. Due to this, there has been a lack of a clear historical

narrative of the violent past. I identified this as part of the disempowerment of the Cambodian people and as a constructive potential for the transitional justice narratives, but this mediation also represents a fragility and a potential for negative manipulation of memories of the past.

If we consider, as Ricoeur argues in *Time and Narrative* (1985 [1990:213]), that “we are affected by history, and that we affect ourselves by the history we make”, we are reminded how important the historical narratives are in how we think about our existence in history. It is from understanding the tension between the two meta-historical categories of space of experience and horizon of expectation that we understand the role of history and historical narratives in transitional justice. Without this tension there is no history at all, says Ricoeur (1985 [1990:215]).

It is from understanding this tension that I in the next chapter adapt Ricoeur’s theories of narrative, before completing the abductive and retroductive moves by presenting the concept narrative justice to explain dynamics of transitional justice.

5.4.6 Concluding remarks

Ricoeur’s (2006) holds that only when we open up the past to be changed that the expectation of the future may change. If the past is closed and silenced under a motivation to forget, the orientations and expectations towards the future may be set in a locked pattern of thought. This is why I see the space of experience of victims in a post-conflict society as being both potentially disempowering and empowering depending on how it is narrated and interpreted as part of their historical consciousness. This goes both on a personal and collective level.

The events happening in a certain time, the experiences, are the historical reality that has the potential of being narrated as historical “facts”, or historical “truth”. Depending on how the narratives are told and related to narratives of historical change or narratives of a new time of justice, humanity and freedom, they have the potential of being part of a new horizon of expectation that may empower people identifying themselves with the narratives.

To be able to do this we have to “re-open the past, to revivify its unaccomplished, cut-off – even slaughtered – possibilities.” (Ricoeur 1985 [1990:216]). According to Ricoeur; “our critical mediation on the future calls for the complement of a similar mediation of the past.”

We are all affected by the past. This is important to recognise when studying how the future may be opened up as a landscape of hope and liberty from the experiences of a hopeless and suppressive past. A person living in a free society with a history of democracy and justice is also affected by the past. My horizon of expectation is related to my space of experience.

I argue this is part of how we can understand the importance of historical teaching and memorial museums in recent post-conflict societies like Cambodia, and also in modern democratic societies like Norway with a more distant conflicting past. When the youngest generations in Norway grow up, their space of experience would be of a reality where they do not necessarily have to think of the freedom and rights they live out every day as free democratic citizens. They may take these for granted without facing any immediate consequences. They have not experienced times when democratic freedoms and rights were threatened, and their parents and grandparents have no memories of this themselves.

This is why story-telling like the one that takes place in the basement of the old Gestapo prison and torture centre at Stiftelsen Arkivet in Norway may be important. By opening up the space of experience to be related to a narrative of a time of totally different experiences, the expected effect is that the school children may relate their horizon of expectations of the future to the re-constructed representation of a past space of experience in such a way that it engenders knowledge that democratic rights and liberties cannot be taken for granted.

In Cambodia, however, the democratic freedoms and rights are linked with a different horizon of expectation of a brighter future that is related to people’s own personal space of experience. The expectations of the future can be positive or negative depending on how they form a historical consciousness relating the past, present and future. This is where the transitional

justice narratives may serve a constructive function in empowering the victims to orient their disempowering horizon of experience towards a positive expectation of the future.

The role of history teaching and memorialisation is different in Norway and Cambodia, but for the future generations in Cambodia, the history education and memorial museums will perhaps serve the same function as Stiftelsen Arkivet in Norway.

To understand the dialectic relation between the efficacies of the past we undergo and the reception of the past that we bring about, Ricoeur turns to two notions within phenomenology, that of a situation and that of a horizon. Ricoeur (1985 [1990:220]) writes:

“Between the absolute knowledge that would abolish every horizon and the idea of a multitude of incommensurable horizons we have to put the idea of a “fusion of horizons”, which occurs every time we test our pre-judgements in setting out to conquer some historical horizon, imposing upon ourselves the task of overcoming our tendency to assimilate the past too quickly to our own expected meanings.”

The hermeneutics of historical consciousness is about the tension between the horizon of the past and the horizon of the present (Ricoeur 1985 [1990:220]), and the expectation of the future. This is how I address the time dimensions of past, present and future when conceptualising narrative justice as a theoretical perspective that illuminates some common structures and processes of transitional justice. The narrative element of this is best illustrated in Ricoeur’s three-part circle of mimesis.

5.5 Time and narrative: Ricoeur’s mimetic model of emplotment

As discussed in the previous chapter, the Cambodian post-conflict situation is characterised by confusion and disempowerment due to the lack of a clear judgement of the violent past. Cambodians are still in the process of reconfiguring their identity. Ricoeur’s writing on phenomenological hermeneutics uses a three-part circle of narrative mimesis to show how the past is brought together

with an imagined future in order to establish the configured present.

Expectation and anticipation of a world that is reconfigured in the light of history, tradition and past events drive the process of mimesis into the present.

An understanding of how time is interpreted in social phenomena is an essential part of an understanding transitional justice. Time heals all wounds is a common saying. However, the violent past and present in the Middle East, or how old historical narratives were used to foster violence and conflict in the Balkans, prove that time does not heal every wound. We rather see how distance in time enables old historical conflicts to survive as part of narratives, history and myths.

In his three-volume work *Time and Narrative* (1983, 1984, 1985) Ricoeur shows how time becomes human to the extent that it is articulated through a narrative mode and how narrative becomes so when it shares a temporal line. By joining together the two independent studies of Augustine's *Confession* and Aristotle's *Poetics*, Ricoeur shows how this circle can be something more than a dead tautology.

Ricoeur's hypothesis is that "between the activity of narrating a story and the temporal character of human experience there exists a correlation that is not merely accidental, but that presents a trans-cultural form of necessity" (Ricoeur 1983 [1990:52]). By highlighting this intermediary link between time and narrative, Ricoeur explains the dynamic of emplotment within a threefold structure of mimesis.

In exploring this, Ricoeur adopts from Aristotle's *Poetics* the three moments of mimesis that he names Mimesis1, Mimesis2 and Mimesis3. While Aristotle ignored the temporal aspects of emplotment, Ricoeur (1983 [1990:54]) shows the "mediating role of the time of emplotment between the temporal aspects pre-figured in the practical field and the re-figuration of our temporal experience by this constructed time."

Ricoeur's mimetic model sheds light on how narrative and historical consciousness are an essential part of the processes of transitional justice. On a general level Ricoeur's mimetic model of emplotment is useful to illuminating how the transitional justice

narratives may empower and assist the survivors to orient themselves towards a better future. The mediation between the time dimensions of past, present and future that is illustrated in Ricoeur's mimetic model of emplotment sheds light on how theories of narrative and identity are essential to understanding the instrumental value of the transitional justice narratives.

Ricoeur's mimetic model shows how an understanding of emplotment and mediation between the time dimensions of past, present and future is essential to understanding transitional justice. I will not dive deep into Ricoeur's philosophical discussions of the configuration of time and narrative, but rather use the model as a framework to understand how a theoretical study of transitional justice needs to be studied from a narrative perspective in relation to a mediation between the time dimensions of past, present and future.

5.5.1 Three phases of mimesis

Mimesis¹ is part of our pre-understanding of the world where we order events imaginatively in terms of plots. By plot is meant that events and experiences are related to each other within a time dimension of a past, with a beginning, and a mid point that represents a turning point in the story determining the end point. We do not experience the world as just a series of arbitrary events following each other in time. We relate the events in accordance with plots.

The temporal significance is here enacted by the actor as he or she orders events related to consequences, norms and standards. Symbolic dimensions of culture and character are part of how we at this level of emplotment understand events in time. This stage of emplotment according to Ricoeur (1983 [1990:54]) does not require their listing to be a closed one. There is no demand for an evaluation of the composition of the plot, except for it to be grounded in a pre-understanding of the world of actions, norms, agents and so on. Making use of our familiarity with the conceptual network of action is part of this moment of emplotment.

To interpret events by asking questions like where, what and why is a complementary process basic to human

understanding. But as Ricoeur reminds us, narrative is not limited to making use of our familiarity with the conceptual network of action.

Ricoeur refers to discursive features of historical narratives or fictional narratives. In other words, human action is always symbolically mediated. For Ricoeur symbolism is not in the mind, but it is to be understood as meaning incorporated into action and social relations (Ricoeur 1983 [1990:57]).

This element of Mimesis1 illustrates how the transitional justice narratives are not read or interpreted from just one particular context or framework. They are interpreted and mediated in relation to previous sets of symbolic mediations that make the interpretation or emplotment possible. These symbolic mediations are part of different social relations in sub-groups in the society, ethnic or religious groups or more biographically defined groups. For example, one event or statement may mean one thing to an illiterate from the Cambodian countryside and it may be narrated and interpreted in a totally different way by an educated Cambodian living in the capital Phnom Penh. In this way, for Ricoeur “symbolism confers an initial readability of action” (1983 [1990:58]). He writes:

“As a function of the norms immanent in a culture, actions can be estimated or evaluated, that is, judged according to a scale of moral preferences. They thereby receive a relative value, which says that this action is more valuable than that one. These degrees of value, first attributed to action, can be extended to the agents themselves, who are held to be good or bad, better or worse.”

Ricoeur attaches ethical pre-suppositions to the level of Mimesis1.

Another part of the pre-understanding of action at this mimetic level is how understanding of action requires recognition of how action is made up of temporal structures that call for narrative (Ricoeur 1983 [1990]). The phenomenology of action needs to reflect how everyday praxis “orders the present of the future, the present of the past, and the present of the present in terms of one another” (Ricoeur 1983 [1990:60]).

Mimesis2 serves a mediating function between the pre-understanding of Mimesis2 and the, to use Ricoeur’s words “post understanding” of Mimesis3. According to Ricoeur (1983

[1990:65]) the mediating function of Mimesis² has to do with its mediating role between what precedes fiction and what follows it. Mimesis² is an emplotment operation. Ricoeur writes:

“In fact all the concepts relative to this level designate operations. The dynamism lies in the fact that a plot already exercises, within its own textual field, and integrating and, in this sense, a mediating function, which allows it to bring about, beyond this field, a mediation of larger amplitude between the preunderstanding and, if I may dare to put it this way, the postunderstanding of the order of action and its temporal features.”

Ricoeur (1983 [1990:64-66]) lists three ways that plot are mediating:

1. It is mediation between the individual events or incidents and a story as a whole. “Emplotment is the operation that draws a configuration out of a simple succession”.
2. “Emplotment brings together facts as heterogeneous as agent, goals, means, interactions, circumstances, unexpected results”. This is the work of the configurating activity of emplotment making up the passage from mimesis¹ to mimesis².
3. “Plot is mediating in terms of its temporal characteristics as a synthesis of the heterogeneous.”

All these mediating functions of the plot are what make it possible to follow the story as meaningful whole. To understand the story is then to understand how and why the episodes led to the conclusion of the plot (Ricoeur 1983 [1990:67]).

Mimesis³ marks the valued end point of the narrative. Mimesis³ could be described as the reading of the text/narrative in a reconfigured future. In this process of emplotment you read the ending of the narrative in relation to the beginning and its valued turning points (Ricoeur 1983 [1990]). At this third stage of the circle of mimesis the temporarily end point leads back to the pre-understanding across the emplotment process at the midpoint. And this should be understood as a circle where the emplotment process passes the same starting point in the mediated meanings of the pre-understanding. Ricoeur (1984 [1990:76]) writes: “Thus the hermeneutic circle of narrative and time never stops being reborn from the circle that the stages of mimesis form”.

According to Ricoeur it is reading that joins Mimesis² and Mimesis³, understanding reading as a configuration of meaning. And to be followable the story needs to proceed from discourses that already have a narrative form.

It is this relation of narrative forms, changing situational contexts, and stories that I will now study further illuminating how Ricoeur's theory of emplotment makes it possible to explain how the individual victims may relate to the transitional justice narrative. I will study Ricoeur's (1983 [1990]) concept of the "followability of the narrative" to draw out theoretical perspectives that I will adapt in the last chapter making the concluding abductive and retroductive moves.

5.5.2 The followability of the narrative

The transitional justice processes could be studied as an emplotment process where events in the past that are part of the pre-understanding get a new meaning from its contribution to the development of the plot of the transitional justice narrative. Emplotment is "the operation that draws a configuration out of a simple succession" (Ricoeur 1983 [1990:65]). Understanding the mediating character of emplotment, which brings together heterogeneous factors such as "agents, goals, norms, interactions, circumstances and unexpected results," (Ricoeur 1983 [1990:65]) allows one to understand important narrative elements of justice in times of post-conflict transition.

I study the transitional justice processes as a configurational transition. The configurational dimension of the plot of the transitional justice narratives transfers the events of the past into narratives by making claims of historical truths, documentary proofs, and by recognising witness statements at the tribunal as legitimate accounts of the past. From this basis I make the argument that narrative justice has to do with the "followability" (Ricoeur 1983 [1990]) of the transitional justice narratives, where the plot of the transitional justice narratives transfers the events into a story. A central element of this is to understand how the perceived legitimacy of the transitional justice institutions that construct and communicate the narratives of truth and justice influences the followability of the narrative.

Through the processes of judging the characters of the stories of past wrongdoings, the numerous stories of the conflicting past and the present characters accused of inflicting the crimes of the past are related as part of a narrative that the audience is asked to follow to move on and orient towards a better future.

An essential part of the transitional justice processes is about convincing the reader to follow the narrative. A valued end-point projecting a brighter future is expected to convince the reader to follow the narrative.

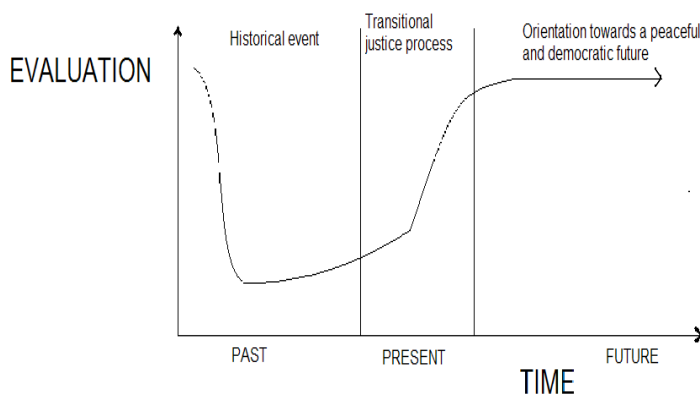
Secondly, the configuration of the plot imposes the “sense of an ending.” According to Ricoeur (1983 [1990:67]) it is in the act of retelling rather than in that of telling that “this structured function of closure can be discovered.”

Understanding how emplotment mediates between the two poles of event and story is essential to understanding the transitional justice processes. What Ricoeur calls the “followability” of a story has to do with convincing the reader/listener how and why the successive episodes led to this conclusion (Ricoeur 1983 [1990:67])

Thus, the transitional justice processes could be studied as configurational arrangements that assemble the events of the conflicting past and the present together as part of a followable story. The transitional justice processes are then interpreted as one “thought” with a common point or theme. The transitional justice processes are provided value from the expected end point, which is to provide truth and justice in a post-conflict situation. This is the common thought or theme that makes the transitional justice narrative followable. I have used this narrative element of justice to reach a new interpretation of the concept narrative justice.

Before the tribunal makes its legal judgements or the truth commission presents its final report, there is bigger room for uncertainty about the believability of the narrative. What keeps the story together before its final end point is imagination and anticipation. The followability of the story depends on the imaginative capacity of the reader/listener. And, as pointed out earlier, it also depends on the legitimacy of the institutions providing the transitional justice narrative.

In Cambodia there is a growing concern that the tribunal will not deliver justice after all. Because it has been flawed by corruption scandals, national pressure to limit its cases, constant delays and so on, some are publicly expressing concern that justice delayed will be justice denied. If the tribunal does not succeed in convincing the Cambodian population about the followability of the transitional justice narrative, the transitional justice effect would be severely limited. We see how this problem relates to the theoretical dimensions of Ricoeur's three-part circle of mimesis depicted in the following illustration:



The horizontal axis represents real time and the vertical axis represents how actors evaluate their experiences in time going from a lower to a higher degree of positive evaluation.

If we relate the Cambodian case to Ricoeur's mimetic model of emplotment we see how Mimesis I could be understood as part of the experiences of events at the time when the Khmer Rouge held power in Cambodia. This is the pre-understanding or pre-narrative situation, or the prefigured plot of historical events. Mimesis I

placed in the time dimension of the past also refers to the cultural elements guiding individual's moral and social evaluations of their experiences. This is the horizon of experience (Ricoeur 1985 [1990]) as discussed earlier.

The plot of the transitional justice narrative has as a dramatic starting point the coming to power of the Khmer Rouge/DK. I do not see this as a linear historical development, but rather as the plot of the transitional justice narrative that aims to contribute to such a development. The documentation work of DC-Cam could be studied as one important part of narrating this.

Mimesis2 could be understood as the transitional justice processes projecting explanations and evaluation/judgements of the real historical events. This makes the establishment of the tribunal the second valued turning point in the transitional justice narrative.

Because of the Khmer Rouge's attempt to erase Cambodian history and culture and because of the secrecy and manipulations of the regime, the emplotment of the events during that time was to a large extent based on myths and false beliefs. By relating the historical past to a present search for truth and justice, the past is opened up for being narrated once again. The emplotment process is dependent on the followability of the story. The individual will only re-narrate their memories and stories of the conflicting past in relation to the plot of the transitional justice narrative if they value the narrative as legitimate truth claims about the past and as legitimate and believable orientations towards the future. The followability of transitional justice is dependent on the believability of its valued end point, its truth claims about the past, and the legitimacy of the turning point in the present.

If the reader/listener finds the narrative followable, the transitional justice narratives presenting legitimate truth claims and judgements about the historical events in the past may serve a constructive function in the emplotment process. This turning point in the narrative could be described as the expectations of the future.

Mimesis3 marks the valued end point of the transitional justice narrative. Mimesis3 described as the reading of the

text/narrative in a reconfigured future could then be seen as part of the orientation towards peace and democracy where the experiences, myths, beliefs and evaluations of Mimesis¹ are re-narrated in relation to the transitional justice narrative as a whole. The final verdict of the tribunal narrated as an end point of the transitional justice narrative would mark this culmination. In this process of emplotment you read the ending of the narrative in relation to the beginning and its valued turning points (Ricoeur 1983 [1990]).

5.5.3. Concluding remarks

The effect of the tribunal and the related transitional justice projects have much to do with the followability of the story/narrative. The victims need to feel related to the transitional justice narrative and that their life story and memories are being narrated in a legitimate and just manner as part of a broader historical narrative. This is how I interpret the term justice from a narrative perspective and make theoretical claims about how the transitional justice processes are related to the individual. To understand this we need to address the relationship between historical consciousness and narrative identity.

The emplotment process related to transitional justice has much to do with how transitional justice narratives may enable the individual to form historical consciousness orienting towards a brighter future when reflecting about the history, stories and memories of his or her conflicting past in relation to the transitional justice narratives. As a background to the theoretical claims I make in the next chapter on how the transitional justice processes may be related to the individual, I end this chapter by studying the processes as a reconfiguration of identity, both personal and collective.

I show how the temporal dimension between past, present and future presented above becomes essential to understanding both stability and change of identity. This theoretical perspective is part of understanding how the transitional justice narratives may become part of identity formation.

5.6 Narrative and identity

A main criterion of identity is related to time and narrative. I do not view myself as the product of just one arbitrary thing happening after another. I view myself as a continuous self through time. I order my experiences by constantly relating and evaluating them within the timeframe of past, present and future. It is within this timeframe that the stories and narratives become an important part of identity formation, and it is from understanding this relationship between past, present and future in identity formation that it is possible to identify essential elements of how the transitional justice narratives may be related to the individual searching for truth and justice. In the following sections I will show how an understanding of configuration and re-configuration of identity would engender an understanding of the narrative perspective on transitional justice as it relates to the individual expected to take part in the transition.

Ricoeur (1992:113) identifies a lacuna between the temporal dimensions of the self in definitions of the person: that people have a history and that they are their own history. To fill this lacuna Ricoeur reconstructs a theory of narrative from its contribution to the constitution of the self (Ricoeur 1992:114). From the arguments made in Chapter Three, that transitional justice could not be studied as a linear process from a meta perspective on the historical turning point of the transition, but that transitional justice needs to be studied from a narrative perspective that relates the processes to the individual searching for truth and justice, I will show how a narrative understanding of personal and collective identity may illuminate important elements of transitional justice.

A person's identity is constructed and configured by relating the past, present and future, and this has to be turned into meaningful narratives to be able to be communicated and grasped as part of an identity. The transitional justice narrative may then play a role in configuring the victim's identity. To understand this I present Ricoeur's theory of narrative identity in more detail. I start by presenting Ricoeur's theoretical perspective on a two-fold

meaning of identity identified as the dialectic of sameness (Latin: idem) and selfhood (Latin: ipse).

By studying these two meanings of identity in relation to each other and by merging them with theories on time and narrative, Ricoeur presents a dialectic between the two poles enabling us to use this as a context to better understand both stability and change of identity in times of transition.

Ricoeur argues that only narrative identity demonstrates the two poles of identity conceptualised as the dialectic of sameness and selfhood. He identifies a confrontation between them that may tell us something about the dynamics of the processes where the victims relate to the transitional justice narratives. To understand and critically engage this dialectic we have to understand the temporal implications of permanence in time, and we need to consider the narrative dimension (Ricoeur 1992:116). When we view identity from a narrative perspective we can understand the dialectic between the two meanings of identity as personal identity and narrative identity.

5.6.1 Sameness and selfhood

How can I say that a person is the same over time? Ricoeur suggests that we look at the continuity between the first and last stages of what we consider to be the same individual (Ricoeur 1992). This makes us identify the person as the same person over time even though the person changes gradually. This has to do with the idea of structure, of the genetic code of a biological individual (Ricoeur 1992:117). This is for example how we can identify the former Khmer Rouge torture chief Duch at the Khmer Rouge tribunal as being the same physical person sitting in the courtroom at the tribunal today as the person responsible for the torture and death of more than 12,000 people at the notorious Toul Sleng prison during the Khmer Rouge regime.

Regardless of how he changed physically by aging or personally or morally, he is at one level – on the level of sameness – identified as the same over time. This is the principle of permanence in time, regardless of how he tries to convince the victims at the court hearing that he has changed as a person, or that he has now become a born again Christian asking for

forgiveness. This makes it possible to conceive of change as happening to something which does not change (Ricoeur 1992:118).

According to Ricoeur (1992) the self implies a relation between the same and the other to such an extent that selfhood cannot be separated from otherness. Selfhood refers to the identity of an individual. Ricoeur's (1992) term *oneself as another* that points to the dialectics of selfhood between the same and the other also implies that the self may refer to itself as other than itself.

The dynamics of the dialectic between oneself and another illuminates how individual victims identifying the sameness of the perpetrator charged at the tribunal may feel empowered to see themselves as another – or to see the other as oneself.

Identifying the sameness of the perpetrators, narrated as part of the transitional justice narrative, may empower the victims to transcend themselves seeing their suffering as part of other victims' suffering – and making other victims' suffering as part of their suffering.

Having conceptualised what Ricoeur describes as a relational invariant of personal identity, giving it permanence in time, Ricoeur (1992:118) asks: Is there a form of permanence in time which can be connected to the question "who?" inasmuch as it is irreducible to any questions of "what?" Is there a form of permanence in time that is a reply to the question "who am I?"

He identifies two models of permanence in time that he sums up in two expressions: "character" and "keeping one's word." Ricoeur's (1992:118) hypothesis is that the polarity of these two models of permanence;

"results from the fact that the permanence of character expresses the almost complete mutual overlapping of the problematic of idem and ipse, while faithfulness to oneself in keeping one's word marks the extreme gap between the permanence of the self and that of the same and so attests fully to the irreducibility of the two problematics one to the other."

The polarity Ricoeur identifies suggests an interval of narrative identity in the conceptual constitution of personal identity where narrative identity serves as a mediator between the pole of character, where sameness and selfhood tend to coincide, and the

pole of self-maintenance, where selfhood frees itself from sameness (Ricoeur 1992:119).

Ricoeur understands character as the set of distinctive marks which permit the re-identification of the human individual as being the same (Ricoeur 1992:119). Character makes up the set of lasting dispositions by which a person is recognised.

The first notion related to the set of lasting dispositions designated by character is habit (Ricoeur 1992:121). Habit may be a distinctive sign by which a person is recognised as the same. This gives character the sort of permanence in time discussed earlier. Ricoeur interprets this as the overlapping of sameness and selfhood, but this does not mean that they are not different. Ricoeur writes: “My character is me, myself, ipse; but this ipse announces itself as idem” (Ricoeur 1992:121).

The second notion related to the set of lasting dispositions designated by character is acquired identification (Ricoeur 1992:121). Here the other enters into the composition of the same. This is according to Ricoeur the identifications with values, norms, ideals, models and heroes that to a large extent make up the identity of the person or the community. This is the identification in which the person or the community recognise themselves.

When I identify myself with a heroic figure or a role model, I assume this otherness as my own. This point made by Ricoeur introduces an evaluative dimension when I identify with values or ideals as when the evaluations are internalised as part of a character that is predicted to act in certain ways that is in accordance with the acquired dispositions. Here the question of “who am I?” overlaps the question of “what am I?”

Again Ricoeur reminds us that this overlapping of sameness and selfhood does not mean that we cannot distinguish between them (Ricoeur 1992:122). We must keep in mind that character has a history of its own construction – this sets character in relation to understanding the narrativisation of a historical community.

Through a reflection on narrative identity Ricoeur is able to balance on one side what he describes as immutable traits which this identity owes to the anchoring of the history of a life in

a character and, on the other, the traits which tend to separate the identity of the self from the sameness of character (Ricoeur 1992:123).

Ricoeur outlines two models of permanence in time: the perseverance of character and the constancy of the self in promising. Within this interval he situates his theory of narrative identity. According to Ricoeur (Ricoeur 1992:125) narrative identity may operate within two limits: “A lower limit where permanence in time expresses the confusion of sameness and selfhood (*idem* and *ipse*) and an upper limit where the sameness poses the question of its identity without the aid and support of the selfhood.”

This has to do with what Ricoeur describes as the fragility of identity, and this fragility tells us something about how transitional justice processes may be related to a process of a reconfiguration of identity.

Ricoeur (2006:81) addresses the fragility of identity from three causes. These are relevant to understanding how the individual relates to the transitional justice processes.

5.6.2 Identity and its difficult relation to time

The first cause is identity and its difficult relation to time. Ricoeur (2006:81) writes: “This is a primary difficulty that, precisely, justifies the recourse to memory as the temporal component of identity, in conjunction with the evaluation of the present and the future.”

A central part of identity is to be able to perceive of oneself as something stable over time. That my past is somehow related to my present and that this relation holds a promise that I may, to some extent, predict what I would do in the future. That the future follows as part of what has been in the past and what I am in the present. This does not mean that identity is the same as stability over time. Locked patterns of predictable action that are not part of a flexible relationship to others are more likely to be described as a psycho-pathological state than as identity. Identity is the product of constant evaluations and choices in relation to others. At the same time, identity is the mediating factor that

governs what you choose, in which direction you go, and how you legitimise your choices.

When I am faced with a dilemma where I have to choose between two opposing options of action I confront my own life story. I ask myself, “Am I a person who would do this?” This is relational in the sense that my life story is intertwined with others, my family background, persons I admire and whose behaviour I try to copy and so on. Our memories of past events and stories of others we want to identify with all may be brought into the present as part of how we describe who we are, and why we act as we do in a certain situation.

The heart of the problem of memory and identity is the mobilisation of memory in the search for and telling of identity. This is why I argue that a narrative perspective on identity illuminates important aspects of the transitional justice processes.

In studying transitional justice in post-conflict situations we need to consider how the memories, stories, narrative and myths about the conflicting past are part of the victims’ identity.

To question these stories and the truth value of their memories is to question a fundamental part of their identity. The transition requires them to think differently about the stories and narratives of the past that they have used to configure their identity. This fragility of identity also holds a constructive potential for the victims. As is illustrated in the cases from Cambodia in Chapter Four, there is much confusion due to the lack of knowledge and the lack of clear narratives and judgements about the conflicting past.

If we relate this to a narrative perspective on identity, we could say that the narratives that have been constructed among the victims in Cambodia could be part of a disempowering narrative identity based on confusion, disbeliefs and politically manipulated memories of the conflicting past. It is from this that I argue that the transitional justice narratives have a constructive function in reconfiguring the victims’ narrative identity as witnesses and providers of the truth about the past. Transitional justice narratives relating past, present and future are related to the individual, and these narratives may become part of reconfiguring their narrative identity forming constructive orientations towards the future.

The second cause of fragility of identity according to Ricoeur (2006) lies in the confrontation with others that I as an individual see as being a threat or a danger to our collective identity, and to my identity personally. When I am asked to describe what I am or who I am, I often answer by saying what I am not or who I am not. This goes for my personal identity and for collective memory and identity, and these are related. Even more powerful is the confrontation if the other is seen as a force that threatens my way of being or threatens our values, and our existence as a group. I am what I am in relation to what I am not. If I want to appear as just I need to relate to stories where I have proven my capability of being a just person. The story is significantly strengthened if I am able to present a narrative with different temptations and characters I had to fight in order to gain justice at the end.

This fragility of identity points to one important transformation expected to take place as a result of involving the victims in the transitional justice processes. An expected result of the victims' participation in projects described in Chapter Four is that they will reconfigure their identity as victims to identify themselves as witnesses. It is expected that this will have an empowering effect that will enable them to move on towards a brighter future. This is how I in the next chapter interpret the concept narrative justice in relation to the empirical findings and interviews from Cambodia.

5.6.3 The heritage of founding violence

Ricoeur's third cause of fragility is related to the second. This is the heritage of founding violence (Ricoeur 2006:82). Every post-conflict society has wounds of violence, suppression and genocide stored in the collective memory. According to Ricoeur, here the third cause of fragility merges with the second.

I will present a practical example. The annual celebration "Day of Hate" held on May 20 in Cambodia is a day where the Cambodian people are invited to commemorate and express their grief and anger towards the Khmer Rouge. "Day of Hate" marks the date in 1973 when Khmer Rouge started their fight for a revolution. The historian Stephen Heder argues that the point of

“Day of Hate” was not that it was culturally acceptable to the Cambodian people, but that it was politically acceptable for the government. The celebration has not been formally supported by the government since the Paris Peace Accord was signed on October 23, 1991 (Linton 2004:64).

There is a debate between the Cambodian Peoples Party (CPP) and the opposing Sam Rainsy Party (SRP) whether January 7 should be celebrated as the day Cambodia was liberated from the Khmer Rouge or the day Cambodia was occupied by Vietnam. CPP is run by Prime Minister Hun Sen, who came to power with support from Vietnam. Hun Sen has publicly warned opposing parties of using history as a political tool in their campaign for political power.

This example illustrates Ricoeur’s point about how it is in the heritage of founding violence that the third cause of the fragility of identity merges with the second, and it is in this way that real and symbolic wounds are “stored in the archives of collective memory” (Ricoeur 2006:82).

I will follow this example by addressing how different forms of use and misuse of memory in Cambodia can be “grafted” onto the demand for identity. Ricoeur describes this as an ideological process taking place between the demand for identity and the public expression of memory.

According to Ricoeur (2006:82) the ideological process is opaque. It remains hidden, “it masks itself by inverting itself.” Ricoeur claims that according to the one who uses ideology, it is the other, the enemy, who uses ideology to foul the people. Ideology plays a role in the formation/mediation of identity as a factor of integration through symbolic responses to the causes affecting the fragility of identity (Ricoeur 2006:82). This is where the transitional justice narratives may serve a constructive purpose. It is in this mediation that manipulation of memory may be used as an instrument for gaining power, or legitimising political power as may be the case in Cambodia after Khmer Rouge.

It is between our beliefs related to our identity and the power of the system controlling the major structures we operate within as individuals that ideology becomes a powerful

mechanism, with both constructive and destructive potentials. Ideology provides our belief with something more, it adds value and momentum and thereby a sense of common will and communality to our belief. In this way ideology makes us feel part of something in relation to a bigger society. This does not have to be based on the abuse of memory or manipulation of the heritage of founding violence. It may just as well be based on a constructive purpose of transitional justice.

5.6.4 Concluding remarks

The relationship between ideology and the legitimising processes related to systems of authority is an important part of understanding the concept narrative justice. This has to do with the followability of the transitional justice narratives. To understand how the victims may relate the transitional justice narratives to their own memories and stories of the conflicting past we need to address this also from theoretical perspectives on narrative and identity.

According to Ricoeur (2006:84) it is through the narrative function that memory is incorporated into the formation of identity. This takes place on the level of symbolic mediation of action. The selective function of the narrative provides the possibility of manipulation. Forgetting is also part of this selective process (Ricoeur 2006:85). The selective function of the narratives about the conflicting past holds both a constructive and a destructive potential in influencing how individuals form historical consciousness and narrative identity.

The history and stories of Khmer Rouge have been told and staged in different ways from 1979 till today. Ricoeur's (2006:85) writings on narrative are useful; "the selective function of the narrative that opens to manipulation the opportunity and the means of a clever strategy, consisting from the outset in a strategy of forgetting as much as in a strategy of remembering."

This holds both a destructive and a constructive potential. On a reconciliation conference held in Kristiansand, Norway 17th September 2009 the Turkish Jew and author Moris Farhi talked about "the courage to forget". This is also the title of an essay written by Farhi published in *Index on Censorship* (Vol.24, No.2,

2005). In the essay and at the conference Farhi expresses the importance of exploring the effects of memory in reconciliation processes, but his conclusion is rather the opposite of my constructive account of memory in post conflict transitions. After visiting many different memorials and Holocaust centres Farhi had concluded that none of these visits empowered him to deal with what happened to his Jewish family members during the war. Instead he was disempowered by feelings of grief and desire to get revenge by arranging a Holocaust for the perpetrators. From these experiences he was convinced that an active process of forgetting is what is needed to reconcile with the violent past.

It is important to keep in mind how forgetting in some cases may be constructive to promote peace and reconciliation. Never the less, when studying transitional justice and historical learning, memory becomes an essential constructive element. It is also important to keep in mind that in many cases forgetting is used as part of processes to prevent truth and justice.

Cambodia holds many examples of what could be described as destructive instrumental uses of forgetting and manipulation of memory. “Let’s dig a big hole and bury the past” are the notorious words of Cambodia’s Prime Minister Hun Sen. To manipulate and wilfully forget the past could to some extent be described as the opposite of how I present the concept of narrative justice in the next chapter.

To publicly communicate and sponsor a narrative would be an instrumental use of ideology, to add value to certain readings of the history of the conflicting past. One example of this is how the new government in Cambodia that toppled the Khmer Rouge offered a narrative portraying the government as liberators against a few evil demons of the past. This added to the Cambodian people’s belief that they were moving towards a better future. But this was based on forgetting and manipulation of memory and false historical accounts to hide the fact that the new government actually was made up of many former Khmer Rouge officials.

This becomes problematic when we relate it to the formation of narrative identity. To use Ricoeur’s (2006:85) words; “the circumscription of the narrative is thus placed in the service

of the circumscription of the identity defining the community.” An important point here that is well illustrated by the Cambodian cases is that when this is based on false accounts of the historical past, and when it is based on collective forgetting and manipulation of memory, the result will be the formation of a disempowering narrative identity.

It is tempting to speculate that it has been perhaps more useful for the governing elite in Cambodia to construct stories that allow victims to identify themselves as victims to a almost abstract force, to a few demons that in an unexplainable way were responsible for murdering their family and friends. And it is important for the governing elite in Cambodia today to isolate the Khmer Rouge history to the time period 1975 – 1979. They have to tell stories that legitimise why they gained their power through a Vietnamese invasion and why they had to bring down the very same political movement and regime they were part of building up.

The fact that many of the senior figures in the government in Cambodia are former Khmer Rouge complicates the followability of the transitional justice narrative for many victims. Questions like why they hold high positions and live wealthy and respected lives while the majority of the Cambodian people live in poverty with no support from the government may be hard for ordinary Cambodians to answer.

Many of the people I talked to and interviewed in Cambodia expressed an uncertainty about what really happened, who were responsible and how this could happen. I interpret this as partly being caused by the lack of what I in the next chapter explain more explicitly as narrative justice.

We all use stories and narratives to orient to others in social life. We evaluate our actions in accordance with our life story and in accordance with other characters’ life stories. In a post-conflict society like Cambodia where a lack of a clear narrative about the conflicting past has been legitimised as a true representation of the past, while offering no public acknowledgement of the victims memories, it may be argued that the fragility of identity has resulted in the formation of disempowering narrative identities among the Khmer Rouge

survivors. From this empirical and theoretical perspective it is possible to adopt the previous creative reading of Ricoeur's theories of narrative to explain how the transitional justice narratives may serve a constructive potential in empowering the victims to orient towards a brighter future. For, as Ricoeur (2006:86) reminds us: "The very notion of use of history, implicit in that of abuse, is unavoidably related to the question of the end and how the exemplary value of referring to the past is directed towards the future."

I now will conceptualise narrative justice within this dialectic of past, present and future.

6. Towards a theory of narrative justice

In this chapter I present the concept of narrative justice to explain connections between the victims' search for truth and justice and the processes that construct and legitimise historical truths at the documentation centres and deliver legal judgement of the violent historical past at the tribunal. I adapt Ricoeur's theories of narrative to the presentation of narrative justice, explaining how the time dimensions of past, present and future influence how the victims relate to and interpret the transitional justice narratives while orienting towards a brighter future. In other words, narrative justice says something about how the victims may render the transitional justice narrative as followable.

As mentioned in Chapter Two, when applied as modes of inference in actual research, abduction and retroduction need to be understood as complementary. The abductive move in this chapter will be to reconceptualise transitional justice by adapting Ricoeur's theories of memory and justice studied from a narrative perspective. This is followed by the retroductive move which suggests how Ricoeur's theory of narrative helps us make sense of the underlying dynamic structures that are conditional for transitional justice to work in context of narrative justice.

The title of the chapter is "Towards a Theory of Narrative Justice." *Towards* indicates how this is not a complete theory that aims to fill all the knowledge gaps I have described in Chapter Three. I do not present the narrative perspectives on the transitional justice processes as an alternative to the existing theories of transitional justice. I attempt to re-conceptualise some of the common themes of transitional justice to explain how the transitional justice processes need to be understood in relation to the victims. It is not a complete alternative theory. Nevertheless, narrative justice is a contribution to fill part of the knowledge gap in the existing transitional justice literature that fails to understand and explain how the processes may actually be related to each

other, and how they are related to the individual expected to take part in the transition.

In previous chapters I argued that this has a lot to do with how past, present and future are narrated in relation to each other, and how this relates to the individual's processes of searching for truth and justice. I will now argue more explicitly how justice in times of post-conflict transition needs to be studied from a narrative perspective.

I relate the discussions to the empirical case studies from Cambodia presented in Chapter Four and the interview material from the interviews I conducted during my field work in Cambodia. This will establish how the objects I study can be seen as individual phenomena as well as manifestations of general structures (Danermark et al. 2002:88).

To explain how transitional justice could be studied in relation to the victims' search for truth and justice, I start by explaining how a narrative perspective on memory could be related to the theoretical reconstructions of the previous chapter.

The reason why I start with a theoretical discussion on memory is that memory could be said to be the very starting point of transitional justice. Without memories of the conflicting past there would be no grounds to search for truth and justice. Without memories narrated in the form of testimonies, history books, and memorial museums like the Toul Sleng Museum and archives like the one at DC-Cam, there would be no grounds to relate the conflicting past to the present and future. There would be no grounds to establish justice for the crimes of the past. As stated in DC-Cam's mission statement: "DC-Cam's focus on memory and justice seeks to assist Cambodians in discovering the truths upon which a genuine national reconciliation depends."

6.1 Narrative, memory and transitional justice

"To memory is tied an ambition, a claim – that to be faithful to the past." (Ricoeur 2006:21).

Because memory is the very starting point of transitional justice and the essence of the transitional justice narratives and the pre-understanding of the victims, I start by relating a study of memory to the theoretical claims made in Chapter Five. To do this I interpret some of the interviews of Cambodian Khmer Rouge survivors.

To understand how the conflicting past is narrated by the victims and how theories of memory are an essential part of the narrative elements of justice, I present a narrative provided by an elderly Cambodian Khmer Rouge survivor I interviewed the day before he was to take part in the public hearing at the tribunal.

I interviewed him in the lobby of his hotel. He had arrived from a remote province the same morning with a group from his village. I asked him about his expectations of coming the tribunal, and he answered in one full narrative:

“First of all, I would like to thank you because you are foreigner but you join to hear and recognise for the sufferings of Cambodian people from the regime led by Pol Pot, Ieng Sary, Khiev Samphan. During the 3 year, 8 months and 20 days, Cambodian people suffered greatly and it was really a tragic. In that regime, it cause the nation to have five kinds of disasters: 1) economy, 2) social, 3) culture, 4) tradition, and 5) religion.

Humanity in the Cambodia have never seen this and never seen in the history so far. I am 75 years old now. During the 3 year-8 month-20 days regime, I personally suffered; I lost one child, study at the highest grade during Lon Nol regime. As for me, I was living in zone 33, district 5, (also called Rivieng), Takeo province. It was called zone 33. Why I called it a tragedy. It’s because the 17 April 1975, it is the day when we congratulate the victory over America Imperialist. I saw the genocide regime of Pol Pot, who came to Phnom Penh City. They forced people out of the city, regardless of occupation, to go out of the city with only a small bag. They said we only go out for short time. Even a bag of rice, we are not allowed to bring with us.

Some small children were leading their blind father. Husband carried their wives, who are newly delivered their baby, on his neck. When I come to this point I got emotional. It was so tragic. From Phnom Penh to the zone 33, it took half a month to get there, (15 days). It is only 50 km. We starved, died on the road. Money can’t be spent. There were different nationalities: Khmer, Islam, Chinese, Canadian... . I saw by my own eyes. If someone died, we were not allowed to bury them. If

we stopped to bury them, we would be killed. One little boy become the patrol with AK-rifle. In Khmer it is called “chorb” [meaning patroller].

When we got to the designated zone, we slept on hay stack, under trees, without mats or pillows. We become sick, diarrhoeas, dysentery, cough It was particularly difficult for the 17-April people. They were not allowed to talk to each other, otherwise, we would be killed.

These new people, (this is an expression used to refer to the people that used to live in the city), were located in different places. Older residents in the villages were appointed to be leaders of these new people. The leaders were not the well educated ones. They were the least educated. The new people do not know much about crab, snails ... but because they were so hungry, they had to use their hands to poke into whole to catch crab to eat. There were no tools, but the hands.

About half a year, people were evacuated from zone 33 to Battambang province. Pursat, Siem Reap, Kampong Speu. And local people were also moved around to different villages.

Those who could not swim were relocated to other places where there was water. Those who know how to swim were sent into forest.

In 1976, they interrogated about people's occupation. I was found guilt because my father was a village chief. I was put in security cell [prison]. I was asked to plant squash, watermelon, so the troops had something to eat. I was among a group of 150 people. They were male, female, singles and couples. There were seven big pots; each pot was for 50 people. We were given only four canes of rice [about one kilogram]. We chopped the banana trees to eat. When they killed a cow for food, they let us have this big piece of beef. Eight people sitting in circle when eating but no one dare to eat at beef. We only dare to eat the water. If anyone picked up that beef, he or she would be considered as feudist or capitalist and got used to tasty food.

Up to 1977, they started to pick up people to be trained. Patrollers only come to invite people during night time. Each night, 3 or 4 families were invited to be trained in other areas but we had no idea where they would go to. During the next morning, I saw the clothes of those people given to other people. It means that those people were already killed. When I saw those cloths, I was always shocked and feared that I would be called as well. So, I had to try very hard. They asked us to construct dikes and canal. They used all kind of people even women regardless of their pregnancy or baby delivery, old or

young. First they asked us to work to make the dike 2 meters long; if we could do that, they increase to 3 meters, then four But they gave us less and less food. They measured the rice by spoon. We ate with water lily. Because of hunger, I even ate frog and larva with salt.

At night time, we listen for sound of palm fruit falling down from the trees. When we heard the sound, we went to pick up the palm fruit to eat. We sucked the husk of the palm one piece and left buried other pieces in the ground so we could eat it a later time. The collective knew about this; and he smeared the palm with human faeces and asked me to eat. It was so horrible.

My wife was separated to Kampong Cham province. We were asked to travel at different directions. We were not allowed to change directions so we could meet our family.

In 1978, I had a little radio. A man lived near me was a doctor. His name was Sea Soth. He could understand French. He told me that I should continue to work hard so that the organisation would think that I was a good man. Soon, we will be liberated, he said. I kept on trying to work hard. Around one mountain named Chiso Mountain in Takeo, I grew all kinds of vegetable around the foot of the mountain. Many groups of people were taken out. I know who that man is. He is still alive today.

In 1979, Jan 5, I heard the tank roaring. I was told that the troop of the front liberation had arrived. I did not do anything, but I was content in my heart. Then, on the 6 January, Vietnamese troops came. All the people in the collective run away. But they were just hiding in the forest nearby. Some said they went to Phnom Srong already.

There were so many pigs we raised in the barn. They were so big; we had so much rice. I appointed myself to be rice distributor. I said you get this and that. When I was distributing the rice, suddenly Vietnamese troops retreated to other area near Koh Thom. Then a lady came to tell me that I must run away. The troops [Khmer Rouge] were coming to kill me. Suddenly, I did really see them coming. That time it was 6 p.m. There were two people; one is Kay, the collective leader and Heng is also the collective leader. They opened fire on me about 10 meters away. I knew that if I run on the street, I would be killed easily because they have motorbike. I decided to run into forest. They stopped chasing me. I got at Kandal province and I met Vietnam soldiers. They asked if I was soldier or commoner? I told them I am just commoner. [He spoke in Vietnamese]. I was allowed to study in Vietnam for 6 months. After that, I was appointed to work in the provincial committee, responsible for culture and media department.

We did not have any salary, but we were paid with rice. We were given 25 kg of rice per month. I wanted to marry a lady, who I still live with until now, in 1980. My wife asked the committee chief to transfer me to Kampong Thom province.

I was the head of health department for a district as I have some knowledge. They just assigned whoever available to work, not basing on qualification. Because of my anger [toward the Pol Pot regime], I asked to be in charge of military. I oversee 650 soldiers with Vietnamese partners. At my house, there were 12 Vietnamese soldiers to help watch. I had a pistol. I have a military rank which I can lead a team to fight any difficult points in the battlefield. Wherever there is a difficult situation, I got ask to take care of it.

I come here, I am so happy because I have the anger. I don't want to ask for my own compensation but for the nations as a whole. This regime has caused the nation to sink. Therefore, I come here, I want to request for justice. I lost a sister, a child, a wife and many people through the country. We don't want personal compensation. But we want public compensation. This is my purpose. I'm glad that we have court to try them. But I am concerned because there is always delay. I'm worried that those people will die. Pol Pot and Ta Mok died. Nuon Chea is not very healthy either. They might not be tried. All of us come here; even we don't have the money, because we want to see by our own eyes and ears.

In Cambodia, we have saying: "if hear ten times, it is not as nice as to see once; if you see ten times, it is not as nice as to touch once". I saw what happened, so it is more reliable than those who only heard. Only heard them is not easy. If you check with these people, they will give you the same answer. We all both saw and faced the reality. We also did the work.

You have seen all of these by your own eyes. How about younger generation, I ask him:

Even we have some evidences; some generations still do not believe us. If you ask 20 years old person, they won't know anything. So, when you come from far to learn about this, we would like you to help compile the documents so younger generation will know what happened. Please help disseminate so there won't be genocide like this again. This is my request, please help find solutions, NGOs or government, so there will be teaching on TV spot or radio or newspaper. We trust all our leaders that this information will go to people. If we only talk right here, there won't be good result.

When I share information to you, you understand it. Today, we talked about 3-4 hours. We may not remember all. We are getting old. We are forgetful. We can only remember what we can still read on document.

Thank you very much for interpreter and the interviewer who cares about Cambodia. This will help Cambodia more stable and enable younger generation to learn.

Our experiences were very painful. Now, we are happy.”

This narrative illustrates how justice needs to be studied in relation to memory and remembering of the past on the one hand, and hope and constructive orientation towards the future on the other. To grasp this theoretically, we need to understand the phenomenology of memory in relation to a narrative perspective on transitional justice.

To understand how the transitional justice narratives have a desired effect on the people expected to be part of the transition, it is important to understand how the stories or narratives influence how the past is remembered when related to the individuals searching for meaning, truth and justice.

As shown in Chapters Three and Four, memory is an essential part of the transitional justice processes. The memories of the conflicting and brutal past are the foundation for the processes of dealing with the past. Without the memories of the victims and witnesses, there would be no tribunal. DC-Cam has gathered more than half a million documents and pictures from the Khmer Rouge era, which is the biggest and most legitimate source of information about the Khmer Rouge history. Without the archived memories of the documentation centre and the victims’ testimonies it would have been impossible to establish a tribunal. There would have been no motivation to establish one, because it would have been impossible to identify victims and perpetrators.

On a different note, memory is essential to understanding the relation between the conflicting past, the present and the perspectives on the future that form historical consciousness. If we frame the approach to studying memory within Ricoeur’s hermeneutic-phenomenology outlined in Chapter Five, we see

how memory needs to be studied in relation to narrative and stories.

For me to reconstruct a memory to myself, I need to relate past events within the time dimensions of the past, present and future. This is not done arbitrarily, by simply placing one event following another in time. According to Ricoeur's mimetic model of emplotment, the relationship between past, present and future is represented in a narrative construction that gives meaning and direction to the events. To relate the events and experiences to a meaningful whole I need to go on a detour of already mediated meanings of the signs, language, symbols, metaphors, myths and other interpretations that are part of the narrative representation of the memories. Ricoeur (1985 [1990]) argues that the horizon of expectation cannot be derived directly from the previously existing space of experience. This highlights important hermeneutic-phenomenological elements for thinking about memory and narrative in relation to the transitional justice processes: how, through retroactive expectation, the memories of experiences of the past are provided new meaning.

This perspective on memory explains how the transitional justice narratives may have a constructive effect enabling the victims to reinterpret their memories of the violent past. Ricoeur's understanding of memory is essential to illuminating important ontological elements of the transitional justice processes as re-interpretations or re-orientations of memories of the conflicting past.

Memory is a fundamental part of transitional justice. The role of testimony in the transitional processes is about narrating memories of the past, but again, this could not be studied as a neutral representation of the past event. It has to be studied in relation to the settings of the tribunal, and the narratives of how the testimonies are related to the broader history of the conflicting past. This is illustrated by DC-Cam's victims' participation programme presented in Chapter Four.

For Ricoeur (2006), testimony constitutes the fundamental transitional structure between memory and history. When the victims come to the documentation centre to file their complaints and to apply to be recognised officially as victims of the Khmer

Rouge/DK, they are part of establishing the historical truths about the conflicting past. By coming to the documentation centre to file their complaints also shows their awareness that they are part of a bigger process related to the narrative of the centre and the tribunal.

They relate their memories to a process of searching for truth and justice that is recognised in relation to the mandate of the documentation centre as a legitimate provider of historical evidence and documentary proof, and how this is related to the bigger transitional justice narrative of establishing justice at the tribunal.

I will now introduce Ricoeur's (2006) phenomenological perspective on memory to illuminate how we need to consider the fragility of memory when studying transitional justice from a narrative perspective.

6.2 The phenomenology of memory

Ricoeur (2006:21) begins his phenomenological sketch of memory by reminding the reader that “we have no other resource, concerning our reflection to the past, except memory itself.” To memory is tied an ambition – to be faithful to the past. When searching for truth and justice, we have to rely on memories about the past crimes.

Narrative justice is about being faithful to the memories of the past. Part of this is to identify what happened in the conflicting past and in the process making legitimate claims about who were responsible.

This process is based on memories. Ricoeur's hermeneutic-phenomenology explain how memories in post-conflict transitions need to go on a detour of emplotment and mediated meanings of the various elements of the event of the conflicting past.

How the transitional justice narratives serve as a detour of emplotment of memories of the conflicting past to empower the victims to orient towards a better future is an element of narrative justice.

Ricoeur addresses memory from a positive standpoint, not just by focusing on the uncertainty and unreliability of memory, and forgetting, manipulation and imagination. Because we have nothing better than memory to signify that something has taken place, we need to rely on memory when trying to find out what happened in the past and how we can understand the circumstances and context of the remembered event.

Ricoeur realises that a phenomenology of memory will be somewhat splintered. Memory is object-oriented to the extent that we do remember something about “what” and “how” things were in the past. In this sense, Ricoeur (2006:22) draws a distinction in language between “memory (*la mémoire*) as intention and memory (*le souvenirs*) as the thing intended.” In the same phenomenological sketch, Ricoeur (2006:22) draws a distinction between memory (*la mémoire*) and memories (*les souvenirs*): “Memory in the singular is a capacity, an effectuation: memories are in the plural; we have memories.”

On the phenomenological level we have memories of events, we remember certain things happening in particular instances in the past. For Ricoeur (2006:23) the memory-event is in a way paradigmatic to the extent that it is the “phenomenal equivalent of a physical event.” But there is great variety in memory between the two poles of singular events and generalities, which Ricoeur terms states of affairs.

If something extraordinary happens that breaks with the general patterns of everyday life, I remember this as a singular event that stands out. For the Khmer Rouge survivors this could be certain happenings that marked the beginning of the DK years, or it could be certain events during the regime that signify the suffering, such as the day their family was killed or the day they were tortured. This is illustrated by the statement made by the Khmer Rouge survivor quoted at the start of this chapter:

“17 April 1975, it is the day when we congratulate the victory over America Imperialist. I saw the genocide regime of Pol Pot, who came to Phnom Penh City. They forced people out of the city, regardless of occupation, to go out of the city with only a small bag. They said we only go out for short time. Even a bag of rice, we are not allowed to bring with us.

Some small children were leading their blind father. Husband carried their wives, who are newly delivered their baby, on his neck. When I come to this point I got emotional. It was so tragic. From Phnom Penh to the zone 33, it took half a month to get there, (15 days). It is only 50 km. We starved, died on the road. Money can't be spent. There were different nationalities: Khmer, Islam, Chinese, Canadian... I saw by my own eyes. If someone died, we were not allowed to bury them. If we stopped to bury them, we would be killed. One little boy become the patrol with AK-rifle. In Khmer it is called "chorb" [meaning patroller].

When we got to the designated zone, we slept on hay stack, under trees, without mats or pillows. We become sick, diarrhoeas, dysentery, cough It was particularly difficult for the 17-April people. They were not allowed to talk to each other, otherwise, we would be killed."

This could be read as the Khmer Rouge survivors' "memory event" (Ricoeur 2006). On the opposite poles are the things we remember because they are part of a general pattern that does not have to be evoked by a particular event to be remembered. This could be how you remember your friends, the faces of the people you know, and so on. When these characteristics break with the pattern you remember, a new kind of memory may occur as a singular event that changes the pattern of how you remember a person or a situation.

Given this diversity of past things, Ricoeur (2006:24) asks: "By what features are these 'things' – these *praeterita* – recognised as being of the past?". Ricoeur adopts a conceptualisation from Bergson between the two poles of memory and habit: "In both cases it remains true that memories are of the past but then according to two distinct modes of marked and unmarked references to the place in time of the initial experience" (Ricoeur 2006:25).

Habit could be the ways of acting and ways of reacting in social relations as part of the social rituals and norms of a group and society. As part of my daily routine, I just do things without thinking about why I do them or remembering when I learnt how to do things this way. Habit is less marked by reflexivity, or to use

Ricoeur's words; "one exercises knowledge without being mindful of it" (Ricoeur 2006:38).

When I study memory from a narrative perspective in relation to the transitional justice processes, I am mostly concerned with memory that is more marked with reflexivity. We could say that transitional justice is about empowering and motivating the victims to reflect on their memory in relation to the followability of the transitional justice narrative. On the pole of memory and habit, the function of the transitional justice narratives is to assist the victims to reflect on their memories in a new way that would empower them to move on towards a better future. When the victims' memories of the past have been silenced or denied by the public and when they have learnt that it is better not to remember, disempowering habits of acting and reacting may be the result. To some extent this is the opposite of what I mean by narrative justice.

6.2.1 "We can only remember what we can still read on paper"

To explain why theories of memory studied in relation to the theoretical perspectives is fruitful to better understanding the mechanism and processes of transitional justice, I now relate the discussions to some of the statements made by the informants I interviewed in Cambodia.

I interviewed four male participants aged between 40 and 50 from the first group of Khmer Rouge survivors I met. This tour was arranged as part of DC-Cam's community outreach programme presented in Chapter Four. I interviewed them in two different groups. I conducted the interview in one of the meeting rooms at the documentation centre.

I started the interview by asking them what they felt about filing the complaints. One of the men answered:

"I think ... it is something that makes me believe that this trial is real. They really try the Democratic Kampuchea regime leader. I can also have chance to express what I have been attempting to speak out about what I suffered for more than three years. This is my expectation."

He is expressing the uncertainty that many Cambodians share, “if it is really true that the Khmer Rouge/DK leaders are finally going to be punished for what they did.” The other thing he expresses is the need to tell his story of what he has suffered.

As we have seen in Chapter Four, the disempowerment of the victims in Cambodia has a lot to do with the fact that the history of the Khmer Rouge has been manipulated and wilfully prevented from becoming part of collective memory. As a result, the victims’ personal memories are not acknowledged as legitimate representations of the conflicting past. There is much confusion among victims on how to interpret their memories of the brutal past. In addition to this, many of the perpetrators and victims are getting old, and as a consequence their memory may also be fading. There is a lack of a collective publicly legitimised historical narrative. Therefore, the documentation work and outreach projects of DC-Cam are critical in teaching Cambodians about Khmer Rouge history to establish transitional justice.

This was illustrated in the narrative referred to in the introduction of the elderly Khmer Rouge survivor: “We can not remember all. We are getting old. We are forgetful. We can only remember what we can still read on paper.”

This statement points to the relationship between the memories of the past and the transitional justice narratives.

Suppose some of the Khmer Rouge officials were punished by law in a closed foreign trial in the aftermath of the regime, but this had not been communicated to the public. Imagine that the situation in Cambodia was the same as it has been until today, where people have not felt free or able to speak about what they experienced during the regime. Could we then talk about transitional justice or justice at all? I argue that justice in times of post-conflict transition needs to be studied in relation to whether the individuals feel that the transitional justice narratives are followable and whether they feel that the processes empower them to relate differently to their own memories and the collective memories and narratives forming constructive orientations towards the future. As the Khmer Rouge victim quoted above said, he now has a chance to express what he has

been attempting to speak out about his suffering during the regime.

Narrative justice, therefore, insists that justice is studied in relation to how the narratives of transitional justice are related to the individual retrospectively in terms of constructive re-interpretation of memory, and are future-oriented in terms of how the transitional justice narratives assist and empower the victims to orient towards a brighter future.

The DC-Cam mission statement in this context explains how the activities of the documentation centre could be studied as contributing to establishing narrative justice. Part of the mission statement says: “By reconstructing a historical narrative of what happened to Cambodia, and by striving for justice where that is an appropriate remedy, we aim to lay a foundation upon which all Cambodians can find firm footing in moving towards a better future.”

The victims have memories of what happened during the Khmer Rouge regime. They remember the events, their suffering and their pain. The transitional justice narratives could potentially serve the function of clarifying the memories of the brutal past. If, however, the transitional justice processes happening in relation to the tribunal are never communicated to the public, there would not be a consciousness of a collective narrative turning point that marks a distinction between the memories of the past as being of the past, and the continuing suffering and hardships. Without a publicly shared transitional justice narrative, there is little ground to establish the reflexivity of how the individual victim’s memories are related to collective narratives of a historical past.

DC-Cam’s mission statement says: “DC-Cam’s quest for memory and justice has more to do with the future than with the past.” In this way, the documentation centre is a good illustration of the theoretical reconstructions I make while presenting the concept of narrative justice. This brings us to another set of opposites of the phenomenology of memory presented by Ricoeur (2006:26): evocation and search.

6.2.2 Evocation of and search for memory

Ricoeur understands evocation as the unexpected appearance of a memory. Evocation is an affection that stands in contrast to the search. The affection brings back an event of the past, or a thing that you learnt in the past. Ricoeur follows the attempts made by Plato and Aristotle to solve the enigma of how things of the past may be made present through memory.

The statement by one of the victims participating at the Nuon Chea court hearing is an example. On the bus that was taking the group back to the hotel after the hearing, I asked him if he thought a lot about the Khmer Rouge/DK. He said that “when the weather is nice he does not think so much about it.” But when it rains at night, all his memories comes back. Also, when he sees younger people dressed in black trousers and shirts – the Khmer Rouge uniform – he feels angry and scared. “They do not know what this signifies to us, but for me this brings back many bad memories,” he said. Another Khmer Rouge survivor I interviewed told me something similar:

“I remember about the regime when I go to rice field especially during rainy season, but for dry season it does not remind me as much. During rainy season, it was very difficult to live because water is everywhere. Roofs were leaking and we could not sleep. We have to work hard even we don’t have enough rest.”

This is an example of what Ricoeur describes as evocation of memories. To understand how the transitional justice narratives are read and interpreted by the victims we need to consider how the images used in the text, films and photos create affections that may bring back events from the past.

According to Ricoeur (2006:29), the voluntary evocation of a memory consists of two planes of consciousness. The first is “pure memory that is not yet transmitted into distinct images.” The second plane is where “the same memory is actualised in nascent sensations and incipient movements” (Ricoeur 2006:29). Ricoeur suggests a model for distinguishing between “the role of automatic, mechanical recall, from that of reflection, of intelligent reconstruction, intimately mingled in ordinary experience” (Ricoeur 2006:29).

The evocation of memories stands in contrast to the search for memories (Ricoeur 2006). When we talk of unhappy memories or violent memories in former conflict societies, the search for memory becomes an important part of fulfilling the “duty to remember.”

This is how a study of memory relates to a narrative study of justice in times of post-conflict transition. As stated earlier, narrative justice is about being faithful to the memories of the past. Narrative justice has a lot to do with convincing the victims that punishing the perpetrators also establishes legitimate truth claims about the past, and judgements about the historical past would prevent the past crimes from happening in the future in new forms. The duty to remember and being faithful to the memories of the past is an essential part of narrative justice.

The Toul Sleng Genocide Museum presented in Chapter Four could be studied as an example of memorialisation that fulfils part of this duty to remember. However, how the museum was initially used as part of the communists’ political agenda and play for power is also a good illustration of manipulation of memory.

The museum has not changed much since then, but with the tribunal established, the future historical context may potentially change how people approach the museum as part of their critical and reflective search for memory. In the lack of a transitional justice narrative and legitimate historical narrative the exhibition at the museum may evoke memories, but only when it is related to a historical and critical context of transitional justice would it constructively guide a search for memory to form historical consciousness and empower victims to orient towards a brighter future.

Uncertainty and lack of a legitimate historical context could also serve as a basis or motivation to search for memory. This is illustrated by my interview of a younger female school teacher from Siem Reap:

“The first time I went there (Toul Sleng) my grandmother did not tell me that my grandfather’s picture was on the wall – he looked at me – and I looked at him; *It’s my grandchild*. That was a shock. He was a doctor and he was one of the high educated people that was arrested and was brought to that place but we did not know that he was arrested

and kept in there. But after the war everyone wanted to find their family. So one day my grandmother's friend went to Toul Sleng wondering if he had died or if he had escaped. And then she said to my grandmother *I saw your husband's picture* and then my grandmother went there.”

Search for memory motivated by confusion and lack of a broader historical context of the events differs than search for memory that is related to the plot of a transitional justice narrative. To use Ricoeur's (2006) words, only the latter basis of searching for memory can turn into expectations of a brighter future.

To search for a memory, you need to be conscious that you have forgotten something (Ricoeur 2006). Forgetting is a necessary part of the search for memory, to the extent that to start to recollect an event of the past, you need to be aware that there is something of the past that could be recollected. This is where the transitional justice narratives may play a constructive role as a guide for a reflective voluntary “guide” for searching for memories.

Ricoeur's (1983 [1990]) three-part mimetic model of emplotment shows how the plot of the transitional justice narrative, if rendered followable, may guide victims' critical search for memories of the past orienting them to a constructive future end point.

Ricoeur describes this as the configurational dimension of the plot. Narrative justice is about understanding how the transitional justice narratives may transfer the memories of events in the past into narratives by making claims of historical truths and documentary proofs, and by recognising witness statements at the tribunal as legitimate accounts of the past.

The statement made by the informant quoted earlier saying: “We can not remember all. We are getting old. We are forgetful. We can only remember what we can still read on paper,” illustrates the narrative configurational effect of the documentary proofs of the archives of DC-Cam that enable victims to transfer the memories of the events in the past into narratives.

This leads to a conclusion that narrative justice has to do with the followability (Ricoeur 1983 [1990:67]) of the transitional

justice narratives. Transitional justice processes studied from the perspective of narrative justice could be understood as configurational arrangements that combine the events of the conflicting past and the present into a followable story.

DC-Cam's Living Documents Project provides an example. The community outreach trip to Phnom Penh and the ECCC arranged in February 2010 could be studied as a story-telling of the transitional justice narrative. By presenting the Khmer Rouge history in relation to the processes of the tribunal, and by ending the tour with a talk about the importance of breaking the silence of the brutal past and how this can promote reconciliation and forgiveness, the tour became a form of story-telling relating the past, present and future. In this manner, the transitional justice processes are interpreted as one "thought" with a common point or theme.

These processes gain value from the expected end point, which is to provide truth and justice in a post-conflict situation. Narrative justice enables or empowers the victims to reconcile with the bad memories of the past, being convinced that the end point of the transitional justice narrative is the start of a new narrative that will be part of collective memory and historical consciousness that could prevent this from happening in new forms in the future.

It is essential to understand how the victims may relate their own memories to the transitional justice narrative. The relationships between primary and secondary memory and personal and collective memory are important elements.

6.2.3 Primary and secondary memory

In the work *Phenomenology of the Consciousness of Internal Time Between Retention or Primary Memory and Reproduction or Secondary Memory*, Husserl tries to understand how something that we perceive at a certain moment in time remains present to us over time (Ricoeur 2006:31). This may happen because the experience undergoes a modification when turned into recollected memory or secondary memory. The modification happens when the experience is related to or linked up with the everyday experience we have of various categories of things. The secondary

memory is a part of the process of interpreting an experience, or of the perception process. In other words, the event is contextualised in time and space, and what I remember over time is the event within a certain context or category of meaning. The transitional justice narratives could be understood as context or category of meaning that relates the memory of the past to the processes of searching for truth and justice.

This is how I interpret the concept narrative justice in relation to this theoretical perspective on primary and secondary memory.

Due to the lack of a clear historic narrative of the conflicting past in Cambodia and in the absence of public acknowledgments of the truths about what happened in the past, the recollected or secondary memory of the victims may have been reproduced as a disempowering and ongoing historical consciousness of suffering.

Based on Ricoeur's theories of narrative, it is possible to show how the distinction between beginning and continuing influences the effect of the transitional justice narratives.

Justice needs to be studied in relation to how it modifies the memory of the crimes of the past in such a way that it empowers the individual to move towards a brighter future. The modification in this regard is about reflecting on the past as past, not as the continuity of the initial experience. This is the situation in Cambodia, where people struggle to come to terms with the brutal past due to the lack of a political will to deal with the criminal past. This chimes with Ricoeur's (2006:35) suggestion about the polarity of "primary memory and secondary memory, of retention and reproduction."

One of the most important effects of the transitional justice narratives is to enable the victims to modify their memories according to historical plots with valued turning points. The concept of historical consciousness illuminates how the transitional justice narratives may mark a break with the past, assisting or motivating the victims to orient towards a better future.

In post-conflict situations like Cambodia, the lack of a legitimate historical narrative formulating a clear break with the

past has prevented the victims from orienting towards a brighter future. Ricoeur's account of primary and secondary memory is therefore essential to understanding transitional justice from a narrative perspective.

Many of the victims I interviewed in Cambodia told stories of how they remembered the violent past. Many talked about how they starved or how they saw their family members being killed. During an interview with two Khmer Rouge survivors one of the men made the following comment: "My father's hands were tied behind his back. He screamed *I have a terrible headache, I don't want to live*. He was starved for one month before he died."

I had asked them to reflect on how they felt the history of the Khmer Rouge that was now told in relation to the tribunal would help them in their own lives. For these men, it was just recently that they had started to learn the truth about the Khmer Rouge regime. The statement made about how his father was killed could be studied as an expression of a primary memory. The perception of the memory may still be part of his consciousness. The function of the transitional justice narratives, documentation and story-telling processes could then be to narrate secondary memories that allow victims to make a break with the past.

Earlier in the interview he told me that his wife was killed. He did not see how his wife was killed. In other words, he does not have a primary memory of the perception of the moment of when his wife was killed.

"I did not see how my wife was killed but there are other people who saw her. DC-Cam's documents have helped us know some information. Sometimes I do not know anything but the documents list down the names such as some names that are listed in the S-21 prison."

Because he did not witness the murder of his wife, he needs to rely on other people's memories of what happened. This is an example of how transitional justice narratives and story-telling may help the victims. When I asked him if he thought the tribunal is important for the future of Cambodia and how he felt about participating in the trials as a victim his answer was: "It is painful for me because I lost my wife, brother and my child. I want the

perpetrators to be tried so it will be clear in my mind and heart what happened.”

One way of interpreting this is to say that the transitional justice narratives of the documentation centre and the tribunal enable him to reflect on how his own primary memories of suffering and pain are related to a broader history, and how it is related to others who suffered during the same historic time. There are many different elements that constitute the relationship between his primary memories of how he suffered during the Khmer Rouge/DK and the secondary representation of collective memories in the transitional justice narratives.

For Ricoeur, secondary memory is not presentation, it is re-presentation. While retention or primary memory hangs on to the perception of the moment, secondary memory removes itself from the initial perception. It is of the past.

Historical consciousness is about the competence to orient between the time dimensions of past, present and future. As discussed in Chapter Five, historical consciousness is about realising that the past is of the past, while being aware of how the past is related to the present. If there is a lack of a clear historical narrative and a public condemnation or legal process that makes judgements of the crimes, it becomes hard to make a break with the primary memory of the perception of the events from the conflicting past.

Modification of memory is an essential part of interpreting the concept narrative justice and understanding how transitional justice narratives could enable and empower the victims to reflect on the past as past, not as a disempowering continuity of the initial bad experiences. If we relate this to the theoretical perspective on narrative identity, it becomes apparent that the lack of public or legitimate narratives that make a separation between the violent past and the present lead to a disempowering narrative identity of the victims.

6.2.4 Personal memory and collective memory

Memorial sites and museums could be studied as representations of collective memory. How the historical events are narrated at these sites gives an indication of the collective memory of the

events. Nevertheless, it is only an indication of collective memory. Since memorials are constructed within a particular political and historical context, as we saw in the case of Toul Sleng in Cambodia presented in Chapter Four, the value of the collective memory is dependent on how it is legitimised by the population, and particularly the victims, as being a true representation of the past.

Scholars have come up with various theories and definitions of the phenomenon of collective memory. Assmann (1992) talks about communicative memory studied as a variety of collective memory based on everyday communication. In order to differentiate different kinds of collective memory, Assmann (1992) makes a distinction between cultural and communicative memory. For Assmann, communicative memory is what is shared within a social group. He focuses on the communicative and interactive elements of memory where social emotions are shared by the social group from one generation to the next.

While communicative memory is open for everybody to take part in and to form in relation to the interpretation of their own life history, Assmann (1992) describes cultural memory as more controlled and differentiated related to long-standing traditions. Other writers like James E. Young (1993) talk about collected memory as opposed to collective memory. Others like Connerton (1989) write about social memory. Writers like Rüsen (1983) enter the debate discussing the concept of historical consciousness. All these approaches show that the phenomenon is very complicated, and the accounts are polyphonic.

I focus primarily on Ricoeur's theoretical perspective on collective memory. According to Ricoeur (1965 [2007]), memory alone is fallible, and collective memory is not the same as history. Collective memory must be studied as part of a mutual reconstruction based on interpretations of events in the past. Collective memory therefore needs to be studied in relation to how individuals and societies try to represent the past in the present through memory, history and the archives (Ricoeur 1965 [2007]).

Ricoeur's sketch of a phenomenology of memory illuminates some interconnections between collective and

personal memory juxtaposed with memory and identity. This is therefore a fruitful theoretical distinction to understand how the personal memories of the victims in post-conflict societies may be reinterpreted in relation to the consciousness of a collective memory of legitimate truth claims about the past and collective judgements of the crimes of the past, marking a historical turning point. The Khmer Rouge victims I interviewed reflected on justice in terms of perspectives on a future-oriented collective memory of the conflicting past, that could prevent the history from repeating itself in new forms. To understand the relation between personal and collective memory is therefore an essential part of understanding the concept of narrative justice.

One way of addressing the relationship and also the two-fold dimension of personal and collective memory is to ask to whom memory should be attributed. Ricoeur argues that by opening up the space of attribution to all of the grammatical persons and appropriate frameworks, we can escape an either/or answer to the question of whether memory is of the individual experiencing an event or that of the collective taken as a whole (Ricoeur 2006:93).

My argument is that in the relationship between personal and collective memory lies some of the potential for a constructive transformation for the victims, as they learn that their bad memories are shared by a collective group of victims.

By reflecting on their memories in relation to the transitional justice narratives, they learn that the brutal events in the past are part of a collective memory that is now being legitimised as historical truths about the past.

I now return to the group of victims that came to DC-Cam to file the complaints to be handed over to the tribunal as part of their participation as victims and witnesses. When I asked them if they felt that it was important for Cambodia's future that they participated in the process by filing the complaint, one of them answered: "I think it is very important for Cambodia, especially for victims."

He talked about victims as a group, not just his own sufferings. This is obviously a result of how the question was asked. Nevertheless, it is interesting to see how another

informant's statement, as presented earlier, answers the same question differently: "It is painful for me because I lost my wife, brother and my child. I want the perpetrators to be tried so it will be clear in my mind and heart about what happened."

Both in their own way relate personal memories to expectations of the establishing of collective memories. The first informant does this by saying the tribunal is important for victims. The second informant expresses one of the main goals of the transitional justice efforts, that by prosecuting the perpetrators you also establish narratives that legitimise their memories as part of the truth about what happened. Narrative justice points to the importance of narrating the processes at the tribunal and other transitional justice measures in such a way that the individual feels related to the narrative. This is illuminated by Ricoeur's mimetic model of emplotment, which explains how justice in times of post-conflict transition needs to be valued in relation to the followability of the narrative of transitional justice.

The tribunal has the function of proving legally that something actually happened in the past, that what happened actually was a crime, and that somebody was identified as responsible for the crime. As the lawyers stated clearly at the first detention hearing of Nuon Chea, the defendant is assumed innocent until proven guilty in the court of law. The documents and the witnesses' testimonies will decide if there is enough evidence to judge him. All memories are not read as the truth of the past, but victims' stories are placed in relation to a bigger narrative that legitimises their suffering as part of a collective suffering.

For both the informants it is personal, but by coming to the documentation centre with the group they feel they are not alone, that this is something they share with millions of other Cambodians.

6.3 Punishment and narrative constructions

When reflecting on the second informant's statement "I want the perpetrators to be tried so it will be clear in my mind and heart about what happened," I am reminded of Droysen's formula (Ricoeur 1983 [1990]: "It is in history as narrative, that history as event comes to know itself."

If we study the processes of transitional justice as the foundation of a more singular narrative of what happened in the past, the expectation is that the unity of the narrative could, using Ricoeur's (1985 [1990:209]) words; "bring to language an assembling of the events themselves, (...) an interconnection between them, which confer their own epic upon them."

How can we understand the informant's answer in relation to this process of constructing a collective singular of the events in history as narrative?

The statement brings out one important side-effect of the tribunal, that by punishing the perpetrators at the tribunal you also construct narratives. These narratives clarify what should count as the truth about what happened. At the same time, the narratives are loaded with values judging the events of the past as crimes. There is much uncertainty in Cambodia about what actually happened and how the past should be judged.

The informant quoted in the previous section is relating the processes to his own personal clarification of his memories of the past, not just factual, but also emotional, by saying that it will be clear "in my mind and heart" about what happened. This man has experienced big losses during the Khmer Rouge/DK years. He comes from a remote province and only recently when he heard about the tribunal did he start to learn what actually happened. His memories of how he lost his wife, brother and child may be re-lived or re-interpreted in relation to this new expectations of taking part in the process of ensuring the perpetrators are punished.

I asked participants at the first public hearing at the tribunal about their reflections on the history of the Khmer Rouge

regime and the tribunal before they came to the documentation centre, and if their perspectives and expectations may have changed by coming here. One of the informants answered by referring to DC-Cam's outreach projects:

“I think about it all the time. I follow all news published about the crime. I always ask myself when they will try these people. Now my expectation has come. Now I can join the hearing. Documents distributed by DC-Cam are distributed every month. If we follow it, we can expect that this day will come.”

When he talks about the documents distributed by DC-Cam every month, he refers to the monthly magazine *Searching for the Truth* presented in Chapter Four.

This shows how the magazine may play a part in the transitional processes by providing knowledge and stories that lead up to the bigger narrative of the tribunal. To learn more about how these stories may have influenced how the victims relate to the tribunal, I asked the same informant: Since you have read these documents, have they changed your view or ideas?

“There are some changes; firstly, it helps me emotionally [Interpreter's clarification: It means helps him to feel better]. It helps me to be peaceful in my mind through this truth unfolding in public. There is no mystery about the Democratic Kampuchea regime. Many people recognise this. So, this helps me to be peaceful in my heart rather than seeing that the history is being hid from people.”

Again he refers to his own emotions and his personal life. I read this as partly being a feeling of peace because he now believes that the truth will finally be made public. The narrative of the magazine provides the framework from where this can happen. Since the history of the Khmer Rouge/DK has been used, hidden and then staged in various ways as part of the political power play, it is interesting to see how the respondent now feels that the truth will unfold.

It seems important for him that his personal memories are acknowledged and related to a collective acknowledgment of what should count as the truth about the past.

So is unfolding the truth important, I asked him.

“Yes. Because I have lost many of my relatives; last time, I was not sure if my relatives were killed. We were just informed that they went to be trained [this is a term used by the regime which indicates that those people will be taken to be killed]. After I see the name list of people from the DC-Cam, I am sure that they [my relatives] were already killed. I don’t expect them to come back.”

I asked him if he was happy to receive the documents provided by the centre. “Yes. There was something that satisfied my heart. I learn a lot from them. The document also causes me to be angry [against the perpetrators] especially on the cruel activities.”

The second respondent agreed with this.

“I think the same way as he does. I don’t see how my wife was killed but there are other people who saw her. DC-Cam’s document has helped us know some information. Sometimes we don’t know anything but the documents lists down the name such as some names are in S-21 Prison.”

Because he did not see with his own eyes what happened to his wife, he has probably made up many images of what happened without being able to relate them to a particular memory of an event in the past. When his personal memories of losing his wife are related to other people’s memories of what happened to his wife, he can make up an image of what actually happened to his wife. Ricoeur says that memories are of images of the past.

Imagination is part of the process of making memory understandable through narrating and re-imagining the images of the past as being part of collective memories. Narrative justice is about understanding how the transitional justice narratives may empower the victims to orient towards a better future by allowing the personal disempowering memories of the victims to be related to future-oriented collective memories. Narrative justice is about understanding how the fragility of memory holds a constructive potential to the transitional justice processes. When we study the complexity of the relationship between collective and personal memory, it becomes possible to illuminate how the transitional justice narratives may be related to the individual expected take part in the transition.

6.4 The fragility of memory

In his book titled *Remembering*, Edward Casey presents what he describes as three “mnemonic modes”: 1) reminding, 2) reminiscing and 3) recognising (Ricoeur 2006). The third mode, recognising, is one of transition. This is about recognising that the present impression of a phenomenon is the same as the first impression of the phenomenon. Recognising the phenomenon as being the same bridges the past and the present in the moment of recognising. This memory is re-presentation in Ricoeur’s two-fold sense of “re”, turning back, and anew (Ricoeur 2006:39).

When studying the effect of the transitional justice narratives it is important to be conscious of how this representation, where the otherness of the past almost vanishes when the phenomenon is recognised as being the same, threatens to disable reflection. This is a concern for Ricoeur (2006).

The vanishing of what Ricoeur calls the otherness of the past also points to another critical element we need to keep in mind when studying the effect of the transitional justice narratives. This is the fact that they are narrative constructions. The historical accounts of the transitional justice narratives are constructed in relation to the plot of the transitional justice narrative and the limits of the historical time period for which the tribunal is mandated to search for truth and justice. In this, there is a danger that the transitional justice narratives may be read as the full representation of the historical past, and not as a narrative construction of interpretation of events in the past in the search for truth and justice.

On the other end of the spectrum, Ricoeur (2006) points to another challenge in studying transitional justice from a narrative perspective. This is the fact that the recognised past “tends to pass itself off as a perceived past” (Ricoeur 2006:44). In relation to Ricoeur’s framework of the phenomenology of memory, we see how this could be problematic.

The critical point of Ricoeur’s phenomenology of memory is to be found in the question: is a memory a sort of image, and if so, what sort? Ricoeur (2006:44) asks: “Do we not speak of what we remember, even of memory as an image we have of the past?”

When I ask a Khmer Rouge survivor to narrate the past, I expect him or her to have an image of the event. For example, an elderly Khmer Rouge survivor I interviewed told the following story: “Sometimes, we see footsteps like human, but faeces like pig. We eat all kinds of trees such as banana, papaya. We eat anything eatable. One time I ate with morning Gloria. I ate so much that I became bloated and almost died.”

Her story reminds me of Ricoeur’s thoughts on the phenomenology of memory: “The process in which the representation of the past seems to consist, is that of an image” (Ricoeur 2006:5).

When she told the story, I could see how she was going through the emotions of the experience. Perhaps she was picturing the footprints and perhaps she could feel how her stomach felt full for the first time in many months and the pain afterwards.

How can I understand this representation?

Ricoeur is not content with an answer with two separate intentions – the first of imagination directed towards fiction and the unreal or the imagination of possibilities or the utopian, and the second of memory directed toward prior reality (Ricoeur 2006:6).

Ricoeur’s (2006:7) claim that “The return of a memory can only take place in the mode of becoming-an-image,” reminds of a critical element of how we can interpret the effect the transitional justice narratives have on the individual. If we cannot lean on a twofold specification of the imaginary on the one hand and memory on the other, we are left with a constant danger that the witness is confusing remembering and imagining.

The problem of memory and image is also an important discussion on an epistemological level, concerning historians’ and documentation centres’ representation of the past. Ricoeur starts the investigation of the “eidetic difference” between image and memory by referring to Husserl’s writings on the objective side of memory. This is a complex comparison between image and memory. I will sidestep these discussions here and instead focus on the problem from a different perspective: the passage from what Bergson conceptualises as pure memory to memory-image (Ricoeur 2006:50). How are we to explain that memories return in

the form of an image and that the imagination mobilised in this way comes to take a form that escapes the function of the unreal?

Ricoeur starts by accepting that a pure memory that has not yet been put into image does not exist (Ricoeur 2006:51). By recollection, a pure memory is turned into an image. But to be an image of a memory, the image has to be of something in the past. But there is no guarantee that the image is actually of the past. Imagination could also move in the direction of fiction. Ricoeur's *Time and Narrative* (1985 [1990]) distinguishes between fictional narratives and historical narratives. Ricoeur (1985 [1990]) also refers to Sartre's writing in the *Psychology of Imagination* where he studies the phenomenology of the unreal, and tries to uncouple imagination from memory.

When we talk about memory and use memory as the basis for historiographical operations at the documentation centres, and memorial rituals and memorial places as part of transitional justice efforts, we need to keep in mind this fragility of memory. Memory is of an image, and imagination is part of the process of making memory understandable through narrating it and re-imagining the past.

In this way, to use Ricoeur's (2006:54) words: "Writing history shares the adventures of memories put into images under the aegis of the ostensive function of imagination."

6.5 Historiographical operations and narrative justice

At the start of this chapter I argued that without memory there could be no transitional justice. Memories as testimony are part of an epistemological process. Testimony and documentation can be studied as the very condition for the historiographical operations, leading up to the documentary proof and the instrumental use of this as part of the transitional justice processes.

Documentation processes as happening at DC-Cam can be studied in relation to Ricoeur's (2006) identification of three segments of the historical or historiographical operation: 1) the

documentary phase, 2) the explanation/understanding phase, and 3) the representative phase.

The documentary phase “runs from the declaration of eyewitnesses to the constitution of archives, which takes as its epistemological programme the establishing of documentary proof” (Ricoeur 2006:136). The explanation/understanding phase “has to do with the multiple use of the connective *because* responding to the question *why?*” (Ricoeur 2006:136). The double term explanation/understanding is not seen by Ricoeur as opposite, rather as part of the full complexity of the “treatment of the historical *because*” (Ricoeur 2006:136).

The final phase, the representation phase, is the “putting into literature or written form of discourse offered to the reader of history” (Ricoeur 2006:136). He writes:

“It is also at this third phase that the major aporias of memory return in force to the foreground, the aporia of the representation of an absent thing that occurred previously and that of a practice devoted to the active reading of the past which history elevates to the level of a reconstruction.”

Ricoeur (2006:136) makes it clear that the three segments of the historiographical operation are not a question of distinct chronological stages, but of methodological moments, interwoven with each other. He writes:

“If the major epistemological crux occurs in the explanation/understanding phase, it does not exhaust itself there inasmuch as it is the phase of writing that plainly states the historians’ intention, which is to represent the past just as it happened – whatever meaning may be assigned to this *just as*.”

The documentation centre’s Living Documents Projects presented in Chapter Four can be studied along the lines of the three phases of the historiographical operation. Nevertheless, as Ricoeur reminds us, it is only in the discourse related to the “unfolding of the historiographical operation” that these phases becomes stages (Ricoeur 2006).

Transformation of identity and re-narration of memories of the conflicting past is related to how the memories of witnesses are recognised and legitimised as testimonies as part of the

transitional justice processes, and how the testimonies are narrated as legitimate truth claims about the conflicting past as collective memory. The understanding of this relation is linked with the theoretical considerations made so far that lead up to the concept of narrative justice.

It is important to make a distinction between memory as a perception of the past making claims about the past as real, and imagination as being on the side of fiction. But the distinction is very hard to sustain, since the two aspects often intersect. For Ricoeur, testimony is the ultimate link between imagination and memory.

According to Ricoeur, imagination has two functions: “One is to bring us outside of the real world – into unreal or possible worlds – but it has a second function which is to put memories before our eyes” (Kearney 2004:155).

As discussed earlier, memories are of an image of the past, and at the same time there exists a difference between the real and the unreal. Ricoeur (2006) describes this as the debt we owe to the past. This is why we need to keep the distance between the past as the past and the reproductions in the present that narrate the reproduction of the images of the past. How do we make the past visible, as if it were present, while acknowledging our debt to the past as it actually happened? (Kearney 2004:155). This is Ricoeur’s main ethical question about memory and it is also an essential part of narrative justice.

Testimony and witnesses are two core concepts of the transitional justice processes. As stated earlier, without any testimonies or witness statements to support the case that the event actually happened in the past, there would be no ground for the transitional justice processes to happen.

For Ricoeur, testimony is one way of bringing memory and imagination together. Testimony is the very condition for the historiographical operation. Ricoeur (2006:161) writes: “With testimony opens an epistemological process that departs from declared memory, passes through the archive and documents, and finds its fulfilment in documentary proof.”

Ricoeur approaches this as an epistemological process of narrative representation of the past as part of the historiographical operation.

Ricoeur addresses the role of testimony from its everyday use and function to its historical and juridical use and function. In all these uses of testimony, we need to be aware of the extent to which the testimony is trustworthy.

There are many elements to this. Ricoeur nuances between discourse and narrative. On the one hand, the testimony has to be seen as valuable as part of a certain narrative, and on the other it needs to be part of a discourse deeming it important and trustworthy.

This is how this applies to the documentation centre. First, the testimonies are valued as important or unimportant in relation to the narrative or plots of the historical events the documentation centre wants to document. Testimonies are of certain events in time. Secondly, testimonies are deemed as important and trustworthy within the context of the legitimacy of the documentation centre. If the centre is not seen as a legitimate institution to deliver the truths about the past, the testimonies would be valued as not trustworthy and they would be excluded from being part of the transitional justice discourses. A central element of this is the boundary between memory and imagination presented as the fragility of memory. And as discussed earlier this fragility of memory does not mean that all memory is fiction. Ricoeur's phenomenological account of memory views this from a constructive perspective, identifying how memory can be reinterpreted as part of historiographical operations transforming personal memory and witness statements into legitimate historical narratives.

6.6 Concluding remarks

Reflecting on the interviews of the Khmer Rouge survivors, it becomes evident that a fundamental part of understanding the meaning and value of the transitional justice narratives is to understand the relationship between personal and collective

memory. For the informants, knowing the fact that many people recognise the truth about the Khmer Rouge/DK regime and that the history is becoming known to more and more people helps them find peace in their heart. This is an example of how the transitional justice narratives are related to the individual.

The *Searching for Truth* magazine's reports on the historical narratives of the conflicting past and the current processes of searching for truth and justice at the tribunal enable the victims to feel that their personal memories are part of a collective memory shared by all victims. Knowing that thousands of other people read the magazine every month is reassuring for the victims. This highlights the relationship between personal and collective memory. In this way, the transitional justice narratives may have an empowering effect on the individual, that I interpret as narrative justice.

Understanding the relation between personal and collective memory raises many important questions about the relationship between the individual and the collective in transitional justice processes, and between the personal identity and the collective identity and how the collective narratives and historical and cultural surroundings are inter-related with the individual.

Memories are of events in the past, of feelings related to certain happenings in relation to others. They are of interpretations drawn in the past, and they are of certain sensations at a certain time. Nevertheless, people's memories are obviously not something that could be studied as isolated from the society, culture and social relations of which they are a part. How we remember the past may change over the years, as we gather new experiences that change how we see the past. Memory is selective, and its valuation is changeable. It is not like a photo imprinted in the consciousness that you may bring forth exactly as it was when you experienced the event. In this regard, memory holds a constructive potential for change.

Narrative justice is about understanding how historical accounts and judgements of the conflicting past communicated as part of the transitional justice narratives are interpreted by the victims as legitimate and just accounts of the historical context of their memories. They render the transitional justice narrative as

followable, empowering them to orient towards a brighter future. The victims' memories may be re-interpreted in relation to a new identity as Khmer Rouge survivors, or witnesses who now are the providers of truth about the past and evidence that can assist the tribunal in punishing the perpetrators. Youk Chhang once told me: "I do not want the survivors to cry and be passive; I want them to be proud of being a witness and feel empowered to make a turning point in the Cambodian history."

I now make the final abductive and retroductive moves by relating the critical reconstructions of Ricoeur's narrative theories to a study of the concepts of justice in relation to the victims' search for truth, justice and a better future.

6.7 Narrative, justice and hope for a better future

"Memory is the ultimate form of justice" (Enrrera, in Kritz ed. 2004:44).

In "The Just" (1996 [2000:106]) Ricoeur asks, "How apart from some underlying teleology can the regard directed to the past turn back in expectation towards the future?" By referring to Kant's eight theses on the *Idea for a Universal History* Ricoeur (1996 [2000]) identifies hope as a bridge between the witnesses of the past and orientations towards the future.

I use Ricoeur's theory of narrative to explain the link between justice, retrospection and hope in times of transition. This concludes the retroductive inference conceptualising narrative justice in relation to the creative study of Ricoeur's theories of narrative to explain how the transitional justice processes may be understood in relation to the individual expected to take part in the transition.

Transitional justice processes motivate and empower victims of the Khmer Rouge to imagine a better future of hope and prosperity. To further understand the potential transformative

effect of the transitional justice narratives, we need to understand how justice is related to hope and imagination.

If Cambodians look back, they may see no further than the overshadowing and confusing memory of the Khmer Rouge/DK. However, transitional justice narratives could play an important part in assisting the victims in narrating the memories of the conflicting past in relation to the collective processes of searching for truth and justice to form constructive orientations towards the future. This is how I present the concept narrative justice.

I now investigate how looking back into a violent past in the search for truth and justice may motivate and empower the victims to be “the cause of their own advance” from Kant’s *The Conflict of the Faculties* (Ricoeur 1996 [2000]) towards a better future. I will show how justice in times of post-conflict transition needs to be studied and valued in relation to how it relates memories of the conflicting past to hopes for a better future.

To understand these relationships and processes we need to relate them to Ricoeur’s theory of narrative.

To illustrate the theoretical claims, consider how the projects of DC-Cam and the Khmer Rouge tribunal serve this function for the Khmer Rouge victims as narratives for retrospective gazes into the conflicting past and prospective orientations towards a brighter future. By studying memory in relation to the transitional justice processes, it becomes clear how narrative justice is about understanding how transitional justice narratives may enable the victims to identify with thousands of other victims knowing that they as witnesses are making it possible for justice to finally happen.

6.7.1 Reflections on justice and forgiveness in relation to the tribunal

The term “justice” in transitional justice implies that some sort of justice ending the impunity is a necessary part of the transition. For example Abborn (1999), Little (1999), Mendez (1997), DeGreiff (1996), Mani (2002), Vandoginste (2003), Bloomfield, Narnes, Huyse (eds.) (2003) investigate the relationship between justice and accountability in times of transition.

Since the aim of this thesis is to present new and complementary perspectives to the many juridical theoretical discussions on transitional justice, I argue that such studies, focusing on institutional strategies and legal understanding of justice, have to be supplemented by a more philosophical account of how justice is used and perceived by the individual to orient towards a better future and reconcile with the conflicting past. In *Oneself as Another*, Ricoeur (1992) notes how justice is rooted in life as a wish and a desire to live a good life in relation to others.

Reflections on the just and justice in transitional justice have much to do with how the conflicting past is related to the present and the future. If we apply Ricoeur's theories of narrative to how people reflect on justice in times of post-conflict transition, we see important narrative elements of justice that are not visible when studying the term from a more juridical perspective.

There are many different forms of justice at work in transitional justice processes, such as compensatory, distributive and restorative justice. By opening up the concept to include various strategies that are not narrowly focused on prosecution, the concept becomes more relevant to understanding what kind of transitional processes are needed to deal with legacies of human rights abuses that would empower the victims to move on towards a better future. The fact is that only a small percentage of the perpetrators is prosecuted in new democracies. This represents a huge communicative challenge for the tribunal in narrating how this should count as justice for all the survivors.

The success of transitional justice depends to a large extent on how the narrative of justice is evaluated as followable by the survivors. This is why I argue that a narrative perspective on justice becomes important to explain processes and mechanism needed to achieve the goals of transitional justice.

The success of transitional justice is not only measured from its capacity to deliver fair trials based on international standards of justice. Transitional justice is equally dependent on the success of communicating how this should count as justice for all. Various elements of historical consciousness relating the conflicting past and the present to form new orientations towards

and hope for a better future therefore become instrumental in understanding these processes. I argue that a narrative perspective on justice is essential not as an alternative perspective in times of post-conflict transition, but as a complementary perspective that illuminates important narrative elements to be considered as part of transitional justice processes.

As presented in chapter Three, the field of transitional justice is broadened to include restorative measures, social reconstructions, and other approaches that take into account separate patterns of abuse, such as suppression of females or religious minorities. The term also includes other efforts of dealing with the conflicting past, such as memorialisation in the form of museums, art exhibitions and plays. To further develop explanations of how this could be studied from a narrative perspective I will continue to relate the theoretical discussions to empirical data from my case study in Cambodia.

The first interview at DC-Cam allowed me to meet survivors who have experienced great personal losses during the Khmer Rouge regime. Even though it was painful for them to come to the tribunal, they want the perpetrators to be tried, and to know for sure what really happened in the past.

I asked one of them if it is important to know the truth and if they thought the Khmer Rouge tribunal is important:

“It is important to try the person who commit the crime and it is important that the trial is really going to happen (...). I think this is very important especially for younger generation to know what has happened. They should know what was good and what was bad. If it is bad, the doers have to be brought to justice. Therefore, this trial is to fulfil the needs of victims throughout Cambodia. We expect to know how seriously the perpetrators will face their punishment. I’m content with the Khmer Rouge Tribunal. Even though I don’t know much about regulations and proceedings, but I know that this trial is really happening. This makes me feel better at least to a certain level.

This will help us know who was good and who was bad. This will help future generation to believe in democracy.”

To know who was good and who was bad is an important part of the formation of historical consciousness in relation to the transitional justice narratives. Without narrating a break with the past and without a moral judgement identifying people along the

lines of good and bad, it is difficult to form a historical consciousness of the past that may empower the survivors to orient towards a brighter future.

The lack of such clarity is why many survivors have formed a disempowering historical consciousness based on disbeliefs, myths and manipulated historical accounts of the violent past. Without a broader historical narrative that identifies perpetrators and victims, it will be hard to reach true reconciliation and forgiveness. If nobody is identified as the wrongdoers that caused the suffering, how can you reconcile with the past?

Nevertheless, a continuing judgement separating good and bad persons cannot carry into the future. This would be counterproductive to reconciliation and transitional justice. The importance of identifying the good and the bad is limited to the narrative of the historical past. The transitional justice narrative is constructed by identifying certain characters and actors that are viewed as either good or bad along the lines of perpetrator/victim. This is what drives the plot of the narrative, where the turning point is the punishment of the perpetrators at the tribunal. By punishing them you construct a narrative that could be followed by the survivors when they try to come to terms with their memories of a brutal past.

Selected senior officials of the Khmer Rouge are the main characters in the plot of the transitional justice narrative in Cambodia. As seen in the case against Duch, when the characters of the plot are narrated in relation to changes in the person's biography or narrative identity that is not recognised by the victims – as when Duch is presented as a born again Christian – the result may be confusion and disbelief that may hinder the followability of the plot of the transitional justice narrative.

Ricoeur's mimetic model of emplotment illustrates how many of the Khmer Rouge victims feel that the perpetrators need to be punished in order to prevent such crimes from happening again in the future.

6.7.2 Legal justice and historical truths

Many different narratives among the Cambodian survivors explain the violent past. Many survivors believe foreigners arranged the genocide and that Cambodians were innocent victims. One man I interviewed in a café in Phnom Penh put it like this:

“We also want to find out who are behind the regime. To try them is not yet enough. If it was only Khmer, there won't be such a terrible thing. I am afraid that some other nationals pretend to be Cambodian people. They are either at lower or higher levels. This is still a mystery. Even siblings are not allowed to talk to each other.”

His statement that it is not enough to try them legally, but that he wants to find out the truth about who was behind the regime, is relevant in my interpretation of the concept narrative justice. It is not enough to punish some of the perpetrators if the survivors are not convinced that the historical narratives of the violent past are correct and truthful, and guilty characters are identified and punished. Justice needs to be studied in relation to the emplotment processes related to the tribunal and the followability of the transitional justice narrative.

As presented in Chapter Five, expectation and anticipation of a world that is reconfigured in the light of history, tradition and past events drives the process of mimesis into the present (Ricoeur 1983 [1990]). Ricoeur's mimetic model helps us understand the mediating function of the plot of the transitional justice narrative in empowering the victims to re-orient their confusing memories and histories of the conflicting past towards a brighter future of lasting peace. This has to do with the configurational dimensions of the plot of the transitional justice narrative.

Narrative justice describes what is achieved when the transitional justice narratives are related to the individual victims' search for truth and justice assembling the events of the conflicting past and the present together as a followable narrative empowering the victims to orient towards a brighter future.

Another informant answered the question about the importance of the tribunal as follows:

“I think it is very important because a lot of victims lost their families. They lost their schoolings and a lot of people were killed. (...). It is important to know the truth because people want to know the truth. I will tell my friends about this. It is important because our people are demanding the trial for those who did something wrong. The court now tries the perpetrators for the first time. This trial never existed before.”

He felt it is important that he join the group going to visit the tribunal because it will enable him to share the experience with the people in his home village. I asked him what he thought about the tribunal when he first heard about it. He said: “I was thinking, what will the judges do to the perpetrators? I want to know if the perpetrators will be killed or imprisoned.”

What did he think the court should do, I asked him: “I think that all are Cambodian. This happened a long time ago. I think they should.”

He was interrupted by another informant: “If the judges decide that they have to be killed, it is up to them. It is also up to the court if they want to sentence the perpetrators to a life in imprisonment.”

To learn more about how he views the tribunal as a form of historical learning or transformation, I asked him what part of the Khmer Rouge history he would like to teach his children. He answered that the history he wants them to know is about the crimes they committed. He said: “This will let the younger generation know what happened from this time to another time or from that era to another era.”

I asked if he wanted to teach them only the history of the Khmer Rouge from 1975 to 1979, or if he would also teach them about the history leading up to the trial and after the trial: “We teach them everything from the beginning, about the genocide and then about the trial. This is combined to make a story.”

It is interesting that he will combine stories of the conflicting past with stories of the trials happening in the present to construct a story that he will teach the younger generation. This is an illustration of how transitional justice needs to be studied from a narrative perspective relating the time dimensions of past, present and future.

It is therefore interesting to learn more about how the Khmer Rouge survivors and other victims reflect on the importance of judging the perpetrators in relation to a future-oriented perspective. This is at the core of how I understand the concept narrative justice: how justice in times of post-conflict transition needs to be studied as part of a narrative that is followable for the victims relating the crimes of the past to collective transitional justice processes in the present, empowering them to orient towards a better future.

To illustrate these theoretical assumptions I was curious to know what kind of punishment the informants would evaluate as just, and why it is important or not important to punish the perpetrators. I wanted to know if they only reflected on this in terms of their own personal memories and narrative identity, or if they reflected on this in terms of historical consciousness as described in Chapter Five and collective memory in Chapter Six.

6.7.3 “Never again”

In 1905 George Santayana wrote: “Those who cannot remember the past are condemned to repeat it”. Many of my interviewees in Cambodia expressed the importance of punishing the perpetrators to prevent similar crimes from happening in the future. This can be viewed from a narrative perspective on justice, which establishes that justice for the Khmer Rouge victims is something more than just getting personal or collective revenge.

When I asked a group of Cambodian middle-aged men sitting in a café about how they reflected on the tribunal, one of them said: “I think it gives us hope that such things will not happen again in the future. It will prevent this from happening again.”

Another followed up by saying: “I have the same feeling. I don’t want to see the communists kill their own race again.”

My impression from talking to representatives from various groups about the tribunal is that a common element in how they reflect on the tribunal is that it is important to punish the perpetrators to prevent this from happening again in the future. One man I interviewed in one of the poorest areas in Phnom Penh gave me a similar answer: “It prevents other leaders from doing so in the future.”

The expectation that by punishing the perpetrators you could potentially prohibit similar things from happening again is related to how many of the victims reflected on what kind of punishment they felt that the perpetrators should receive before justice could be fulfilled. For example, a Buddhist monk I interviewed about his thoughts on the tribunal told me that they should not allow the death penalty at the tribunal. For him this would not be a way to prevent this from happening again in the future.

“We should find peaceful solutions. It is a good way because it ends the anger. We don’t want to kill each other. Killing does not stop any problem. (...). As my experience, this is a way to prevent this from happening again. We don’t want to see all of this happen again.”

I asked him if he thought that we can avoid similar things from happening in the future by learning from the tribunal. He answered: “We can’t guarantee, but future generation will feel that this was too cruel and they want to avoid it.”

To learn more about how he reflects on this in terms of the time dimensions of past, present and future, I asked him if he believed the processes that are happening today are important for the future: “I think the past is important for us to apply now because it is an experience. If it is bad, we avoid them, but if it is good, we accept. Past experience is good and we should avoid doing the same mistakes.”

A school teacher from Siem Reape expressed something similar: “I think it will change after the judgement because the new regime cannot do the same, they will know that if you do bad things like the Khmer Rouge you will be judged.”

When I interviewed various Khmer Rouge victims about their thoughts on the tribunal and how they reflected on the concept of justice, I learnt that many of them reflected on the tribunal by drawing parallels between the time dimensions of past, present and future. Many of them felt the tribunal was important to ensure that history would not repeat itself in new forms in the future. Nonetheless, it is important to recognise that this represents a huge communicative challenge, and is not an automatic effect of the transitional justice processes. As illustrated in Chapters Five and Six, the fragility of identity and memory

could lead to the construction of a disempowering historical consciousness. One female student I interviewed at one of the public universities in Phnom Penh said:

“We do talk about the tribunal, but it is difficult. We talk and compare about today and how we can learn from the past in order to develop our country today and into the future (...). We talk about the leaders in the past and how they can organise the country like they did, and we compare today like if it’s the same as in the past or different today.”

I wanted her to elaborate on this, so I asked her if they compare the past to the present situation today and if she thinks about the future from this. Students of her age do this, and that is why they think it is hard to develop the country, she said. To some extent this could be said to be the opposite effect of what I have described as an empowering historical consciousness of the conflicting past. I conducted the interview when the tribunal had just started and there was much confusion and disbelief about the conflicting past.

I asked her if she thought that the tribunal can help her learn from the past:

“Yes it is important. That is why we study it in high school, but you know we don’t have any clear evidence about the Khmer Rouge. We don’t have. Even the documents we just learn by talking to the people that lived in that regime. Because in that regime; if you are a teacher you will get killed. You work as politician you got killed and we don’t have any clear evidence.”

She is expressing doubt whether the testimonies that form the foundation for the documents about the Khmer Rouge/DK era really provide clear evidence for what happened. One expected effect of the tribunal and the related transitional justice processes is that she will be convinced about the truth value and legitimacy of the transitional justice narratives relating the past, present and future, but at the moment she is not convinced.

Did she feel it is hard to know what the truth is, I asked her.

“Yes, but we still think it’s true because my mother lived in that regime too and she said that she don’t want to live in that regime again. It was very bad for all people because they had no rights. If they said something wrong they would get killed. It’s not only if they did a

big mistake. (...). My mother talks about it. She said that during the Khmer Rouge regime she used to live in Phnom Penh in the past and during 1975 all people living in Phnom Penh were sent to the province to work as a farmer.”

Narrative justice is about understanding how the establishment of the transitional justice narratives enables or empowers the victims to follow the transitional justice narrative relating past, present and future when trying to cope with the memories of the conflicting past orienting towards a better future. If we relate this to the statement made by the university student quoted above, you could say that in the lack of narrative justice she can only follow the narrative provided by her mother who lived during the regime. This helps her to believe part of what happened in the past, but it is not related to collective memories and legitimate public truth claims about the broader history and narrative of the conflicting past.

This has to do with the legitimacy and the followability of the narrative. The victims’ need to punish the perpetrators and prevent this from happening again in the future is proof that justice needs to be studied from a narrative perspective. Establishing transitional justice narratives making legitimate truth claims and judgements of the crimes of the past may convince the victims that this narrative of justice may also be part of other people’s historical consciousness that could prevent this from happening again.

Narrative justice happens when the victims render the transitional justice narrative as followable and, as a result, feel that the conflicting past has been narrated in relation to the processes of searching for justice in the present in a way that prevents such crimes from happening again. This depends partly on the extent to which the victims evaluate the tribunal or the documentation centre as legitimate providers of justice and truth.

This is illustrated further by the statements made by another student I interviewed at a private university in Phnom Penh about her thoughts on what kind of punishment she believed the perpetrators should receive before she felt that justice was served. “I think our country don’t have the capital punishment we should put those people in jail for their life.”

I challenged her by asking if she would like them to have the death penalty if she could so choose.

“I don’t want to do that. But I want the judge to put them in jail and have them to learn about what happened in the past during that regime. Ask them to learn about their actions in the past and ask why they kill many people in that regime. And if they can learn that, they will have regrets of what they did in the past.”

I asked her why she thought it is important not to kill them.

“We don’t have to kill them because we want them to learn to know their mistakes in the past and if they learn and know their mistake in the past they may be able to say to other people that they have regrets and they feel sorry for that and they may say to other people that we should not have that kind of regime again.”

I asked her if she believed they did not have to be hurt or killed to have justice.

“No because in the past people were killed and if they kill the people that made mistakes in the past today it’s still the same thing.”

To make her elaborate on this I asked her if she thought it is a good example for the new generation that you do not kill the perpetrators, that you prove that you are a better society now, and that you believe in things other than murder. “Yes. Actually this was actually my idea when I said that we don’t have to kill these people”

To make her elaborate further I asked her if she wants to forget about the past. “No, I want the future generation to know what happened in the past too.” Why is that important, I asked her. “It’s important to let them know about the history of our country and if they learn from the history they can learn and compare the history of the past with what happened today and in the future.”

A common element in the statements quoted above is that they reflect on justice and the role of punishment in relation to the time dimensions of past, present and future, and how it is important to punish the perpetrators to prevent this from happening again in the future. This is how I understand the concept narrative justice. Justice in times of post-conflict

transition needs to be studied in relation to how the transitional justice narrative is evaluated by the survivors and other victims as a collective memory that may enable present and future generations to learn from the past to fulfil the collective desire of “never again.” To learn more about this, I asked different Khmer Rouge victims about forgiveness.

6.8 Forgiveness and narrative justice

Most of them said the senior former Khmer Rouge officials need to be punished and that they cannot forgive them. My impression is that they to varying degrees equal forgiveness with the lack of punishment and justice. I asked a school teacher from Siem Reap to clarify what she means by forgiveness.

“Forgiveness means that if somebody did something wrong and then we will not be angry and keep these memories in our mind we just forgive it. We just try to make friends. We are not angry and we do not want to hurt them back. We just forget it. That is forgiveness. This is related to Buddhism’s words. (...). If we say that we can forgive the Khmer Rouge we will not argue for a judgement, it is too painful so people cannot forgive the Khmer Rouge. It is too much. Sometimes if we just think like a Buddhist we cannot stop the burning in our heart. It is too much. We need the tribunal. We will punish the Khmer Rouge, but if we do not get the change to do this we just say we forgive them.”

I asked her if the perpetrators should be forgiven.

“For these leaders, we can’t forgive them. We can’t forgive them due to the loss of the lives of almost three millions. If we lost our education, we can restore; but when our parent is lost, we can’t bring them back. We cannot bring back the lives of the three millions.”

One of the other informants clarified this point: “If we keep forgiving the killers, so in the future anyone will be able to kill others.”

This statement illustrates interesting narrative elements of justice in times of transition. The belief that “if we forgive the perpetrators anyone will be able to kill others in the future” is an important future-oriented element of the processes of judging the

perpetrators. The perpetrators need to be punished to prevent similar things from happening again in the future.

If we relate this to the theories of historical consciousness, we see how reflections on forgiveness are related to narrative elements of justice by relating past, present and future. Narrative justice could then be described as the followability of the transitional justice narrative, convincing the victims that the stories of the crimes of the past and the judgment of the crimes in the present will become part of collective memory and historical consciousness that could prevent this from happening again in the future.

This is illustrated further by the interviews of two informants at DC-Cam before they went to attend the first public hearing at the tribunal: “We cannot forgive them because they committed genocide.”

One of the other informants followed up by saying: “If the guilt is not so serious, we can forgive, but otherwise they cannot be forgiven by law. This is the history.”

The first informant then said: “We cannot forgive them because it is the whole society.”

I asked him if he would like the society to reconcile. “I want the society to reconcile with the perpetrators, but I alone cannot reconcile if the whole society does not.”

Many of the informants said that that if the crime was smaller the perpetrators could be forgiven, but because the crimes of the Khmer Rouge were so brutal and because so many people suffered, they could not forgive. This illustrates how they relate personal and collective memory when reflecting on forgiveness and justice.

Ricoeur’s (2006) perspective on the relationship between personal and collective memory explains this as a desire among the victims to construct a collective singular of the personal memories of the conflicting past, a narrative that would become part of collective memory that could prevent this from happening again.

Narrative justice, therefore, is about understanding how the transitional justice narratives may assist and empower the victims to construct a collective singular of the events in history

as a narrative that relates the past, present and future, and makes the memory of the conflicting past understandable through narrating and re-narrating the images of the conflicting past as being part of a future-oriented collective memory.

6.9 Conclusion

Ricoeur (2007:224) says that no one is authorised to do justice for himself. We need distance between the victims and the perpetrators to achieve justice. Distance is a key concept in understanding justice from a narrative perspective.

In *Oneself as Another*, Ricoeur (1992) says the philosophical place of the just lies at the intersection between two ontological axes, the horizontal axis being the dialogical constitution of the self, and the vertical axis “the predicates that qualify human actions in terms of morality” (Ricoeur 2000:xii). By placing a philosophical theory of the just in relation to this *ipseity* of identity in opposition to sameness, Ricoeur explains how justice needs to be studied in relation to both the relational structures of the constitution of the self, and in relation to the other.

This theoretical perspective underpins the importance of studying the documentation centre and the tribunal from a narrative perspective, as institutions that identify the characters of the transitional justice narrative – perpetrators, victims and the judge – as another, and also narrating a distance from the other. According to Ricoeur (2000), degree of justice is contingent upon distance from the other. This relation to the other is immediately mediated by the institution (Ricoeur 2000). Ricoeur (2002:xiv) writes:

“With the institution of the tribunal, the trial brings into confrontation parties who are constituted as “others” by the judicial procedure. What is more, the institution is incarnated in the person of the judge, who, as a third party between the two parties, takes on the figure of a second-order third party. The judge marks out the just distance the trial establishes between the parties in conflict.”

Only a third party institution that regulates the legitimate use of punishment or reprisals can provide this distance. A distinction needs to be made here between reprisals and punishment that does not break the rules, laws or values regulated by the third party institution. The institutions of the transition cannot mete out violent punishment, lest this appear as reprisal.

Suppose the family of former Khmer Rouge is not welcomed into the village by a family living there who suffered. This form of sanction or punishment would be legitimate. But would this punishment qualify as justice?

If all others in the community do not punish the family in the same way, but keep inviting it to various public gatherings, the family's punishment would not be forceful. Therefore, a third party institution is necessary to lift the punishment and retribution to a higher level based on a social agreement of the process of punishment. Constructing this distance between the victim and the perpetrator could ensure that punishment of only the senior leaders of Khmer Rouge may count as justice for all the victims.

The abductive and retroductive moves of this thesis adopting and adapting Ricoeur's theories of narrative have been to show how this issue could be studied from a narrative perspective, explaining how a narrative relation needs to be established between the two spheres to describe the process of the tribunal as transitional justice. The victim has to be involved in the process as the one on whose behalf justice is served. DC-Cam's participation programme established for victims in relation to the tribunal is one example of how this could be achieved in practice as part of the transitional justice processes.

The victim should be authorised to demand that the perpetrator is punished and that the presumed damage is rectified or compensated (Ricoeur 2006:318).

I asked the questions: If the victims are not informed about the procedures and the proceedings of the tribunal in a way they understand, would this count as justice? If the perpetrators are convicted, judged and punished at a tribunal in a foreign country without informing the majority of the victims, would this be justice? I argue that you can only speak of transitional justice if the victims share a feeling that they are handing over the rights to

a third party institution to punish the perpetrators on their behalf, and if they find the transitional justice narrative communicated by the institutions to be followable.

By adapting Ricoeur's theories of mimesis, historical consciousness, narrative identity and memory I have explained the victims' context and pre-supposition for interpreting what I describe as the transitional justice narratives. It also enabled me to explain the context of the transitional justice institutions and initiatives from a narrative perspective that may be part of how the victims interpret the transitional justice processes.

To understand how transitional justice efforts may be related to the individual searching for truth and justice in post-conflict societies, one needs to make creative theoretical claims about relationships and dynamics that are not directly observable. My abductive and retroductive moves have been to explain ways in which Ricoeur's theories of narrative helps us reconceptualise the dynamics of transitional justice. By theoretically re-describing the cases of transitional justice under my investigation and by developing new theoretical accounts of the phenomenon based on the case study, I have contributed to filling parts of the knowledge-gap in the existing transitional justice literature.

Parts of this reconceptualisation are summed up in the concept narrative justice. By conceptualising justice in times of transition as something more than just criminal justice, I have explained how justice also needs to be studied from a narrative perspective as a liberating instrument of social change. By introducing the concept narrative justice I have contributed to a new conceptualisation of the historical and liberating function of justice. This serves not as an alternative, but as a complementary conception of justice in times of post conflict transition.

As identified in chapter Three, one knowledge gap in the existing transitional justice literature is theories explaining how the processes are related to the individual expected to be part of the transition. Narrative justice explains how the transitional justice processes are related to the individual searching for truth and justice by illuminating how this has much to do with the followability of the transitional justice narrative. Rather than looking at the liberalizing potential of history from a linear

Enlightenment view on history, I have explained the significance of the relationship between the individual and social context from where the search for the truth about the past is motivated and the institutional context where the historical narratives are constructed. I have tried to explain how transitional justice is much about understanding how the narratives of the tribunal are being related to the individual searching for truth and justice.

Handing over the rights to seek justice on their behalf to third party institutions has an effect on the followability of the transitional justice narrative. The victims need to see the institution providing justice as legitimately working on their behalf. They need to feel part of the institutions and culture of the transition. Story-telling that relates the past, present and future makes this connection. This establishes the importance of narrative and story-telling in reaching the goals of transitional justice.

If the transitional justice narrative is followable by the victims, they still need to accept that the third party institution that they hand over the right to punish the perpetrators on their behalf is a legitimate provider of truth and justice. This represents a huge communicative challenge to institutions like the tribunal, documentation and learning centres and other NGOs working to achieve the goals of transitional justice.

Ricoeur's statement that nobody is authorised to do justice for himself explains why a third party institution needs to be involved if justice is to be fulfilled. But this does not mean that no action is required by the victims. According to Ricoeur, justice requires that the victims accept that the punishment the perpetrator will receive would not be the same as the suffering he or she caused the victims. An "eye for an eye" punishment would be vengeance, not justice. For Ricoeur, all justice requires at least a degree of pardon on the part of the victim of the crime. Justice obeys the "economy of the gift of pardon." (Simms 2003:120). Pardon is a gift given with no expectation of getting something in return.

Narrative justice is about understanding how pardon can be sought by not forgetting, by fulfilling the obligation of remembering the violent past. To explain this I have adapted

Ricoeur's sketch of a phenomenology of memory illuminating some interconnections between collective and personal memory juxtaposed with memory and identity. I have used this theoretical distinction to explain how the personal memories of the victims in post-conflict societies may be reinterpreted in relation to the consciousness of a collective memory of legitimate truth claims about the past and collective judgements of the crimes of the past, marking a historical turning point.

The Khmer Rouge victims I interviewed reflected on justice in terms of perspectives on a future-oriented collective memory of the conflicting past that could prevent the history from repeating itself in new forms. Understanding the relation between personal and collective memory is therefore an essential part of understanding the concept of narrative justice.

My argument is that in the relationship between personal and collective memory lies some of the potential for a constructive transformation for the victims, as they learn that their bad memories are shared by a collective group of victims. By reflecting on their memories in relation to the transitional justice narratives, they learn that the brutal events in the past are part of a collective memory that is now being legitimised as historical truths about the past. The followability of the transitional justice narrative reflects a process of re-identification and empowerment of the victims, so that they reconcile with the past and orient towards a brighter future.

However, the obligation to remember the crimes of the past means that pardon is not the same as forgetting. Pardon is tied to memory, in that the victim's conscious decision of not seeking personal vengeance but narrative justice is firmly rooted in memories of past sufferings. The obligation to remember goes both for the individual life stories and memories, and for society as a whole. On the level of society, the collective memory of the sufferings of the past would need to be acknowledged by a legitimate institution before pardon can be asked for. The story-telling and narratives of the processes of establishing truth and justice become important as interpretative frameworks for the victims at this higher stage.

Narrative justice happens when the victims see the transitional justice narrative as followable, accepting narrative justice as a better response than personal vengeance. By accepting the followability of the transitional justice narrative, the victims are empowered to re-interpret memories of the conflicting past and orient themselves towards a better future.

End.

Norsk sammendrag

I avhandlingen studerer jeg temaet overgangsrettferdighet i transformasjonen fra krig og konflikt til fred og demokrati i tidligere konfliktsamfunn. Studiet av overgangsrettferdighet, oversatt fra det engelske ordet *transitional justice*, ble etablert som et sammenhengende studiefelt for om lag ti år siden. Fra i hovedsak å være fokusert på juridiske spørsmål har feltet i løpet av de senere årene blitt åpnet opp for å inkludere et stort mangfold av praktiske og teoretiske tilnærminger. Dette har ført til at det i dag er en økende etterspørsel etter teoretiske redegjørelser som kan belyse og forklare deler av de mer underliggende dynamikkene som er nødvendig for å forstå hvordan de ulike overgangsrettferdighets-prosessene virker sammen. Spesielt er det få teoretiske bidrag som forklarer hvordan overgangsrettferdighets-prosessene relaterer seg til individet som forventes å ta del i transformasjonene.

Avhandlingen er et bidrag til å tette deler av dette kunnskapshullet innen feltet. Jeg gjør dette ved å forklare fenomenet overgangsrettferdighet fra et narrativt perspektiv som relaterer individets søken etter sannhet og rettferdighet til overgangsrettferdighets-prosessene. Jeg anvender Paul Ricoeurs teorier om mimesis, narrativ identitet, minne, historiebevissthet og rettferdighet studert som en konstellasjon av narrative teorier.

For å gjøre Ricoeurs narrative teorier tilgjengelige som et redskap for å komme opp med ny kunnskap om overgangsrettferdighet støtter jeg meg på abduksjon og retroduksjon som metodiske grep. Abduksjon og retroduksjon kan svært forenklet beskrives som en form for tankeoperasjoner for å tolke et bestemt fenomen fra et sett generelle ideer eller begrep for å komme opp med ny kunnskap om fenomenet som ikke var synlige før den teoretiske omformuleringen.

Fenomenet overgangsrettferdighet belyses gjennom en casestudie av overgangsrettferdighets-prosessene som finner sted i Kambodsja i dag med gjennomføringen av Røde Khmer-tribunalet. Jeg var blant annet med under de første høringene ved tribunalet hvor ofrene fikk sitte ansikt til ansikt med Nuon Chea,

kjent som Bror nummer to i Røde Khmer-regimet. I løpet av et om lag firemåneders langt opphold ved det Kambodsjanske dokumentasjonssenteret (DC-Cam) fulgte jeg ulike overgangsrettferdighets-prosesser. DC-Cam regnes å være den viktigste årsaken til at det finner sted et rettsoppgjør i Kambodsjia i dag. Dokumentasjonssenteret har samlet inn over 500 000 dokumenter og intervjuet mer enn 5 000 overlevende etter Røde Khmer regimet. DC-Cam er hovedleverandør av bevismateriale for tribunalet og arrangerer ulike prosjekt som forsøker å opplyse og involvere ofrene i prosessene med å sikre overgangsrettferdighet. Dokumentasjonssenterets prosjekt i relasjon til tribunalet er derfor en god case for å belyse mangfoldet i fenomenet overgangsrettferdighet. I løpet av casestudieperioden intervjuet jeg 25 ofre.

For å forstå hvordan overgangsrettferdighets-prosesser kan relateres til individet har jeg fremsatt teoretiske påstander om forhold og dynamikker som ikke er direkte observerbare fra casestudiet. Deler av den abduktive og retroduktive bevegelsen har vært å anvende casestudie materialet for å forklare ulike måter hvor Ricoeurs narrative teorier gjør det mulig å omformulere forståelsen av de mer underliggende dynamikkene ved overgangsrettferdighets-prosessene.

Deler av omformuleringene er oppsummert i begrepet narrativ rettferdighet. Ved å omformulere rettferdighet i post-konflikt overgangsperioder som noe mer enn rettslig rettferdighet har jeg forklart hvordan rettferdighet også må studeres fra et narrativt perspektiv som et frigjørende instrument for sosial transformasjon. Ved å introdusere begrepet narrativ rettferdighet har jeg bidratt til en ny formulering av de historiske og frigjørende funksjonene ved rettferdighet i post-konfliktoverganger. Dette utgjør ikke en alternativ, men en komplementær formulering av rettferdighet i post-konfliktoverganger.

Et sentralt begrep jeg trekker ut og tilpasser studien av de empiriske funnene er Ricoeurs begrep om narrativets følgbarhet. I stedet for å studere historiens frigjørende potensial i overgangsrettferdighets-prosesser fra en lineær forståelse av historie, har jeg forklart betydningen av forholdet mellom individet og sosial kontekst fra hvor søken etter sannhet og

rettferdighet er motivert, og den institusjonelle kontekst hvor de historiske narrativ konstrueres.

Overgangsrettferdighet handler mye om hvordan narrativ og fortellinger om prosessene relateres til individets søken etter sannhet og rettferdighet. Følgerbarheten til det jeg beskriver som overgangsrettferdighets-narrativet handler da mye om hvordan institusjonene som kommuniserer dette lykkes i å overbevise individet om at de er en legitim forvalter av historiske fakta og at de er en legitim leverandør av sannhet og rettferdighet.

Dette er et avgjørende element i overgangsrettferdighets-prosessen. For at overgangsrettferdighet skal finne sted må individet være villig til å overlate retten til å søke rettferdighet til en tredje parts instans som tribunalet. Dette er et sentralt funn fra casestudiet av overgangsrettferdighets-prosesser i Kambodsja og intervjuene av ofrene hvor neste alle reflekterte rundt rettferdighetsbegrepet ved å trekke forbindelser mellom tidsdimensjonene fortid, nåtid og fremtid. For dem handlet rettferdighet ikke om å få personlig hevn, men om å sikre at sannheten og fortellingen om hva som hendte i fortiden blir kjent, og at denne kan bli del av kommende generasjoners historiebevissthet, identitet og kollektive minner.

For å forklare dette anvender jeg blant annet Ricoeurs skisse av minnets fenomenologi til å belyse deler av forholdet mellom kollektivt og personlig minne knyttet sammen med identitet. Jeg bruker denne teoretiske distinksjonen til å forklare hvordan de personlige minnene i post-konfliktsamfunn kan re-fortolkes i relasjon til bevisstheten om etableringen av et kollektivt minne om den konfliktfulle fortiden. Narrativ rettferdighet handler om hvordan dette er basert på historier om legitime sannheter og fordømmelser av de kriminelle handlinger som ble begått i fortiden og hvordan disse prosessene markerer et historisk vendepunkt. Dette belyses gjennom å relatere de teoretiske studiene til de empiriske funnene.

Narrativ rettferdighet finner sted når ofrene tolker overgangsrettferdighets-narrativet som følgbart ved å akseptere narrativ rettferdighet som en bedre respons enn hevn. Ved å akseptere overgangsrettferdighets-narrativets følgerbarhet myndiggjøres individet til å orientere seg mot en bedre fremtid.

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