
Briefing Paper

CAMBODIAN DIASPORA COMMUNITIES IN TRANSITIONAL JUSTICE

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About the ICTJ

The International Center for Transitional Justice (ICTJ) assists countries pursuing accountability for past mass atrocity or human rights abuse. The Center works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved.

In order to promote justice, peace, and reconciliation, government officials and nongovernmental advocates are likely to consider a variety of transitional justice approaches including both judicial and non-judicial responses to human rights crimes. The ICTJ assists in the development of integrated, comprehensive, and localized approaches to transitional justice comprising five key elements: prosecuting perpetrators, documenting and acknowledging violations through non-judicial means such as truth commissions, reforming abusive institutions, providing reparations to victims, and facilitating reconciliation processes.

The Center is committed to building local capacity and generally strengthening the emerging field of transitional justice, and works closely with organizations and experts around the world to do so. By working in the field through local languages, the ICTJ provides comparative information, legal and policy analysis, documentation, and strategic research to justice and truth-seeking institutions, nongovernmental organizations, governments, and others.

About the Author

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The ICTJ's Work in Cambodia

The ICTJ's engagement in Cambodia dates to September 2003, when the Center, together with the Asia Society and Human Rights Watch, co-hosted a symposium in New York on "Transitional Justice in Cambodia: Challenges and Opportunities." Since then the Center has continued to monitor the progress of the Extraordinary Chambers in the Courts of Cambodia (ECCC), examined other areas of transitional justice activity in Cambodia through regular missions to the country, and focused on two areas: capacity building of local organizations and technical assistance to the ECCC. The ICTJ has organized multiple workshops in and outside Cambodia, providing a forum for members of local NGOs, Court staff (including judges), and the media to discuss technical issues related to the Court, memorials, reparations, victim participation, and legacies. Current work includes analysis of memorialization efforts in Cambodia, a preliminary survey of visitors to the "Killing Fields" site at Choeng Ek, and an overview of past transitional justice initiatives in Cambodia. As an area of increasing engagement for the Center Cambodia presents a set of unique circumstances, a particular history, and a set of transitional justice challenges from which the ICTJ can learn a great deal. Gaining a nuanced understanding of the tribunal is a crucial part of the ICTJ's increasingly specialized work on hybrid tribunals, as well as on international and domestic prosecutions.

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EXECUTIVE SUMMARY

Diasporas have assumed a new and important role in the judicial and political arenas as a result of their increasing influence in international relations. When involved in transitional issues they have used not only organizational, financial, and human resources but also the media and other communication tools to adopt judicial remedies, actively participate in truth-seeking, and create and sustain forums for discussion and exchange of ideas.

The Cambodian diaspora in France and Belgium has been actively following the development of efforts to prosecute Khmer Rouge officials responsible for crimes committed in Cambodia between 1975 and 1979. This study outlines the communities' concerns and mixed feelings about this process. On the one hand its members feel caught between fear and the lingering effects of traumatic experiences; on the other hand they need to see justice done and to be recognized as victims. Despite the lack of resources, disorganization, internal divisions, and the bond of silence that prevails within the community and between generations, victims in the diaspora have expressed their desire to seek justice. They have affirmed their position as full-fledged actors in the justice process, not only through their work in national and international court systems but also through numerous demonstrations and outreach activities. These efforts are bolstered by the work of the second generation in the diaspora. In seeking to uncover the truth so long unrevealed by their parents, they have and will continue to contribute to assuming the "responsibility for remembrance"—keeping alive the memory of those who suffered.

Although determined, the Cambodian diaspora remains vulnerable and must overcome its fears by coming out of isolation, equipping itself with the necessary human and material resources, and taking initiatives using a complementary approach.

I. INTRODUCTION

On April 17, 1975, a small ultra-Maoist group, created in the 1960s in opposition to King Sihanouk and his successor, President Lon Nol, took Phnom Penh by force. In the following four years, until invading Vietnamese forces overthrew Pol Pot's Khmer Rouge regime on January 7, 1979, nearly 2 million people died. A plan to transform the country into a communist agrarian utopia sought to erase all Cambodian culture. Forced to leave the urban areas, the people were put to work on rural collective farms, often until they dropped from exhaustion. The farms resembled concentration camps, where starvation, epidemics, and summary executions were rampant. With the creation of the all-powerful Angkar to govern the country, the Khmer Rouge introduced a policy of propaganda and isolationism, effectively cutting off the Cambodian people from any outside information source or means of communication. To accomplish their goals, the militants of this authoritarian system set out systematically to exterminate Cambodian intellectuals, potential opposition, and ethnic minorities such as the Chams; they even suspected and eliminated their own comrades.

Following the fall of the regime a large number of refugees fled to Thailand, hoping to obtain shelter from a host country. Approximately 600,000 refugees went into exile.¹ The majority of the French-speaking Cambodian elite relocated to France, while Cambodian military officials, farmers, and their families moved to the United States. Both Australia and Canada accepted a limited number of refugees. It is difficult to pinpoint the exact number of Cambodian refugees who went to France. In 1989 the number was estimated at about 50,000.² According to a census report published by the French National Institute for Statistics and Economic Studies (INSEE) in 1999, the total number of Cambodians in France (including naturalized citizens) was 63,284.³

Only in 1997, at the request of the Cambodian government, did the United Nations start the justice process against those responsible for the genocide. A Cambodian law of August 10, 2001, created the Extraordinary Chambers in the Courts of Cambodia (ECCC). After a series of negotiations, an agreement on June 6, 2003, concerning the prosecution of those responsible for crimes committed under the Khmer Rouge regime. Cambodia ratified this agreement on October 19, 2004.⁴ To bring Cambodian law in line with the international agreement, the law establishing the ECCC was amended on October 27, 2004. The international agreement, which set the terms and conditions for international cooperation and laid out the applicable international standards, only came into force on April 29, 2005, when the funds necessary for the court's operations were finally raised.

The ECCC is hybrid in nature. During the investigation stage international judges participate and enjoy equal powers with their Cambodian counterparts. During the trial stage, however,

¹ Stéphanie Nann, "Les Cambodgiens en France, entre l'image et la réalité," *Migrations Société* 19, no. 109 (January-February 2007): 152.

² Ida Simon-Barouh, "Les Cambodgiens en France: une identité retrouvée et transformée," *Migrants-Formation* 76 (1989): 71.

³ See Nann, 149.

⁴ *Agreement between the United Nations and the Royal Government of Cambodia concerning the Prosecution under Cambodian Law of Crimes Committed during the Period of Democratic Kampuchea, June 6, 2003, Doc. U.N. A/RES/57/228B (2003), May 13, 2003, "Khmer Rouge trials,"* annex; ratified by the Cambodian government on October 19, 2004, entered into force after a declaration of the UN secretary-general, April 29, 2005.

international judges are in the minority.⁵ The ECCC has jurisdiction over international crimes (genocide, crimes against humanity, war crimes, and so on) and serious crimes committed between April 27, 1975, and January 6, 1979.⁶ To avoid creating a climate of fear among former Khmer Rouge soldiers, the personal jurisdiction of the Chambers has been limited; it is estimated that only four to 10 suspects will be prosecuted according to these criteria. The ECCC did not become fully operational until the adoption of the Rules of Procedure of the Chambers on June 12, 2007, and their entry into force on June 19.⁷

During these discussions Cambodian refugees abroad, who had been attentively following the developments of the justice process, started to organize more formally. Different victims' associations (in particular the Khmer Rouge Victims' Committee and the Khmer Rouge Genocide Victims) formed in France in the early 2000s while negotiations were under way to try Khmer Rouge leaders. Association Solidarité Cambodge (ASSOCA), the victims' association in Belgium, was founded in 1999 after Hun Sen's government surrendered Khieu Samphan and Nuon Chea, two former Khmer Rouge leaders. This event was the origin of a complaint brought before the Belgian courts. Justice for Cambodia was created in 2005, when the 2003 agreement between the United Nations and the Cambodian government finally became effective.⁸

In an attempt to join their efforts and give greater weight to their demands, nongovernmental organizations (NGOs), student groups, research institutes, and victims' associations in France created the Khmer Rouge Victims' Collective on June 2005. Its goal is to facilitate the participation of Khmer Rouge victims in ECCC proceedings. Today the Collective is the organization in which the Cambodian diaspora is most actively involved. Its members include associations such as Asie-Aide à la Jeunesse, Asie Extrême, Centre for Applied Research on International and European Criminal Justice (CARIECJ), Connecté, Les Enfants du Sourire Khmer, and Justice for Cambodia.

This study focuses on the Cambodian diaspora in France and Belgium and its commitment to bringing Khmer Rouge leaders to justice.⁹ It draws comparisons to the Rwandan diaspora in

⁵. *Resources on the Extraordinary Chambers in the Courts of Cambodia*, by David Boyle, <http://www.ridi.org/boyle/infoeestruct.htm>

⁶. Arts. 4–8 of the Law on the establishment of Extraordinary Chambers in the Courts of Cambodia for the prosecution of crimes committed during the period of Democratic Kampuchea, Kram (Law) NS/RKM/0801/12, August 10, 2001, amended by Kram NS/RKM/1004/006, promulgated October 27, 2004. Ibid, art. 3.

⁷. See <http://www.unakrt-online.org/Docs/Court%20Documents/2007-06-18%20IRs%20English.pdf>

⁸. The association aims to enable Cambodian victims, wherever they reside, to have their case presented at the proceedings. It disseminates information regarding victims' rights and puts victims in contact with French attorneys and other attorneys abroad. See <http://www.justicepourlecambodge.org>.

⁹. In addition to the cited written sources, the current study is based on semi-directive interviews conducted with: the Paris-based association Khmer Rouge Victims' Committee; the Paris-based association Justice for Cambodia; the Brussels-based victims' association, as well as their family members; the Extraordinary Chambers in Phnom Penh; ADHOC, a Phnom Penh-based organization, also affiliated with the Cambodian diaspora in France; one member of the Cambodian diaspora living in the United States; Cambodian refugee family living in France since 1980 that refuses to join any victims' association; one member of the Chilean diaspora living in Brussels who brought a claim against General Pinochet; the Reims-based association Collectif des Parties Civiles Rwandaises; the Brussels-based association Collectif des Parties Civiles Rwandaises; the NGO RCN Justice & Démocratie, who has worked on the Rwandan diaspora in Belgium.

Outside actors, such as the Brussels federal prosecutors' department and other legal experts, were also consulted.

France and the Chilean diaspora in Belgium. In the case of the Rwandan diaspora, the short period between the 1994 genocide and the proceedings before the International Criminal Tribunal for Rwanda (ICTR) led to greater direct participation of victims in the proceedings, in contrast to the participation of the Cambodian diaspora's second generation. In the Chilean case the political repression that characterized Pinochet's regime (1973–88) and led to the Chilean diaspora had an immediate and pronounced effect on the perceptions and demands of Chilean refugees; these differ significantly from those of Cambodian refugees.

The significant potential of diaspora communities as actors in the judicial process has not yet been fulfilled. Their role in the fight against impunity, especially through legal mechanisms such as universal jurisdiction, is crucial.¹⁰

The Cambodian diaspora is part of a long political tradition of exile communities. Over time men and women who arrived as refugees become part of the entity commonly known as a diaspora, a very fuzzy concept in constant evolution.¹¹ Although the role of diasporas in international relations is hardly a new phenomenon, it has taken on new dimensions over the past few decades.

This intensified political activity may be explained by a number of factors: new communication technologies, greater and easier mobility, host states' adoption of new multicultural policies that respect ethnic identity, migrants' increased financial resources as a result of renewed migratory flows, and the advent of democracy in formerly closed countries, particularly in Central and Eastern Europe.¹²

International political involvement may take a number of different forms. The diaspora community may:

- Lobby the host country in favor of or against the homeland;
- Influence the homeland by supporting or challenging the government in power.¹³ It may also exercise influence by sending diplomatic or military assistance to the homeland;¹⁴

The scope of this study is limited by problems in the information collecting stage and individuals' hesitation to speak out. In addition, the limited sample of interviewees does not claim to be perfectly representative of the Cambodian, Rwandan, and Chilean diasporas (groups within which there are many differing opinions) and cannot be used to establish a trend. Furthermore, as the interviews were generally limited to groups located in the capital cities of Paris and Brussels, these opinions cannot be generalized to all Cambodian communities in France and Belgium. Many associations are outside the capitals. Finally, the limited amount of research conducted on these groups makes any in-depth and exhaustive analysis of their behavior difficult, especially regarding the diaspora's second generation.

¹⁰ Youk Chhang, "Universal Jurisdiction and the Problem of Impunity in Cambodia: The Khmer Rouge's Case," *Searching for the Truth* no. 11 (November 2000): 28.

¹¹ For a definition of diaspora, see Lisa Anteby-Yemini and William Berthomière, "Di[a]spositif: Décrire et Comprendre les Diasporas," in *Diasporas, 2000 ans d'Histoire*, under the direction of Lisa Anteby-Yemini, William Berthomière and Gabriel Sheffer (Rennes: Presses Universitaires, 2005), 9.

¹² Steven Vertovec, *The Political Importance of Diaspora*, Migration Policy Institute, Migration Information Source, June 1, 2005, <http://www.migrationinformation.org/Feature/display.cfm?ID=313>.

¹³ The degree of the diaspora's involvement differs from country to country. Countries like Israel pay for plane tickets for members of the diaspora so that they may participate in elections; whereas others, such as Croatia, allowed for the creation of parliamentary or governmental representation for the diaspora. See Vertovec.

¹⁴ Milton J. Esman, "Diasporas and International relations," in *Modern Diasporas in International Politics*, Gabriel Sheffer (London: Croom Helm, 1986), 335.

- Be used as a policy tool by the host country in its policies and relations with the homeland. This phenomenon has arisen through the increasing independence of some diasporas, leading to the development of interests distinct from those of the local homeland population, a specific agenda, and specific political opinions.¹⁵ The involvement of the diaspora is therefore not always positive, since it does not have to live with the consequences of the policies it defends;
- Support political factions, social movements, or civil society in the homeland. This activism is especially noticeable among those who fled their country for political reasons;¹⁶
- Support violent actions in the homeland, in particular by financing armed organizations.¹⁷

Contrary to a common stereotype, the diaspora's loyalty to the homeland is far from systematic. An increasingly independent actor rather than an expatriated branch of the homeland, it resembles a network of independent and distinct entities.¹⁸ In reality, the diaspora may prove more of an inconvenience for the homeland, which sees it as an uncontrollable element. Even if the homeland covets the diaspora's financial resources, it still seeks to reduce the diaspora's political clout by strictly limiting voting rights, dual nationality, or the right to be represented by a political body in the homeland. Second, differences may arise within the diaspora itself. Far from being a monolithic bloc, the diaspora has the same political divisions as the homeland society (liberal vs. conservative, religious vs. secular, and so forth).¹⁹

Though numerous and varied, trilateral initiatives (host country–homeland–diaspora) will not be examined in this study.²⁰ The diaspora's influence is conditioned by a number of factors:

- Organizational, material and cultural resources available within the group;
- Opportunities in the host country to promote the collective interest;
- Motivation to unite as a community and maintain a link of solidarity with the home country.²¹

The experience of these exiled communities in transitional contexts varies considerably. A few notable examples are worth mentioning here. In criminal proceedings:

- Despite deep-seated disagreement between the Iraqi community in the United States and its homeland, the U.S. community was particularly involved in the establishment of the Iraqi Special Tribunal, as well as victims' reparations program;²²

¹⁵ Thus the Iraqi diaspora in the United States supported the American government's policy of war on Iraq, aligning itself with the neoconservative movement. This divergence in opinion may result from the fact that most members of the diaspora have never lived in Iraq or emigrated more than 40 years ago. Gabriel Sheffer, *Diaspora Politics, At Home Abroad* (Cambridge: Cambridge University Press, 2003), 30.

¹⁶ Gabriel Sheffer, "The politics of ethno-national diasporas," in *Diasporas, 2000 ans d'Histoire*, 128.

¹⁷ The diaspora was thus able to perpetuate conflicts in Ethiopia, Kosovo, Kashmir, Israel, Palestine, and other countries. See Vertovec. Furthermore, acts of armed violence in opposition to the government in power were financed by diasporas in Ireland, Palestine, or the former Soviet Union; see Sheffer, *Diaspora Politics*, 205.

¹⁸ Sheffer, *Diaspora Politics*, 208.

¹⁹ Sheffer, "The politics of ethno-national diasporas," 129.

²⁰ See Esman, 340–43.

²¹ *Ibid.*, 338.

²² The reparations program established in 2004 arose more from civil society's effort than from an institutional program.

- The Chilean and Argentinean diasporas have appealed to universal jurisdiction laws in an attempt to have criminals arrested and tried while traveling through Europe.

In truth-seeking activities:

- The Haitian diaspora distinguished itself by actively participating in the creation of a truth commission and establishing the terms and conditions of the commission's operations and practice;
- The Liberian diaspora is deeply involved in the truth-seeking process. The Liberian truth commission intends to take depositions from exiled Liberians living in the United States as well as those in refugee camps in Ghana.²³

The activities of the Cambodian diaspora must be considered in relation to these examples. Cambodia stands out for its 30-year concealment of the genocide, both in the private sphere and by the judiciary. The continued presence of former and infamous Khmer Rouge officials in government, leaving little room for opposition voices, may also account for this stasis, a symptom of profound trauma in Cambodian society. The fear of reprisals accompanied refugees into exile.

Thirty years after the genocide, when the first fruits of the hope for justice have finally appeared, it is relevant to analyze how the victims in the diaspora view and understand this process. They have rebuilt their lives in another society, founded their families, and undergone a sort of rebirth through their children. What place does justice have in their lives—and more important, what place do they have in justice? What are the handicaps, misgivings, and hopes of these communities? More concretely, what are their many and varied accomplishments in exile? And finally, what improvements may be proposed to develop the potential of the diaspora as an actor in the judicial process?

II. THE IMPUNITY VS. JUSTICE DILEMMA

Although the Cambodian diaspora clearly wants to see justice done, it has been discouraged by persistent and unchangeable impunity, paranoia, and the fraction of society that would rather forget the past. These factors seriously handicap all direct efforts by the victims to pursue justice. While it is impossible to generalize, three main movements exist within the diaspora: those who do not wish for justice (either because they were forced to participate in the genocide, or because they would simply prefer to forget); those who want to see justice done but do not actively work for it (the largest category); and a few symbolic figures who step into the public limelight to work actively for justice. Many exiled survivors do not pursue justice because of psychological obstacles (such as fear of reprisals or trauma) and both material and logistical difficulties (lack of financial and human resources, weak coordination, and weak mobilization).

A. Resistance and Inertia in the Justice Process

1. Continuing Trauma and Fear of Reprisals

The severe trauma that still affects most survivors is one of the main causes of survivors' resistance to participating in the justice process. Some victims interviewed blame the lack of psychological counseling in the host societies, while others blame the law of silence that reigns within the community. Despite serious after-effects, very few survivors have sought out

²³. With the aid of Minnesota Advocates for Human Rights, <http://liberiatrc.mnadvocates.org/>.

counseling services, deterred also by the language barrier.²⁴ The victims have hardly ever spoken of their experiences, and some even deny having been victims. Other victims harbor guilt for having been forced to cooperate with the Khmer Rouge during the violence.

Fear of reprisals after going to court, or even after any attempt to form associations, paralyzes survivors. Those interviewed maintain that filing a suit or standing as a witness would be very dangerous. These victims no longer have any faith in the judicial system. Furthermore, the genocide destroyed the social fabric of Cambodian society, leading to the heightened importance of the nuclear family and making the very existence of victims' associations precarious at best.²⁵ The extremely closed character of the community lends itself to rumors—often unfounded—and is sometimes exacerbated by fabricated visions and demonization of present-day Cambodia.

The current political situation in Cambodia, where former Khmer Rouge leaders still hold important offices in the government, justifies these fears. Some of the interviewed survivors admit that they are afraid of getting involved in any cause that might target individuals seen as powerful or dangerous. This political situation effectively suppresses any opposition within the country and also within the diaspora.

Moreover, the lack of interest and motivation among some members of the Cambodian diaspora is linked to the past 30 years of impunity and the indifference it has engendered. Some feel powerless and prefer to abandon this cause, forget, and move on. Recent rumors of corruption among Cambodian judges in the ECCC seem to reinforce the victims' distrust. The victims see it as political interference that compromises the independence and impartiality of the justice system.

This situation may be compared to that of the Rwandan diaspora in France. The purpose of the Association of Rwandan Victims is to pursue and bring suits against criminals currently in France. The association has had little success and attributes this to the lack of political will in France to have these cases tried. Many victims in the association have become discouraged and no longer wish to participate in the justice process. One member stated:

Some spoke in the beginning, believing that their testimony would serve the greater cause of justice. When they saw that nothing was happening, they started to hesitate, thinking that it was useless.... Seeing that there has been no headway in the justice system is the greatest deterrence.

In the face of impunity, calls for justice inevitably taper off until some actors eventually settle into the role of spectator, leaving the Association of Rwandan victims to wonder:

We try to provide information regarding the advances in terms of justice. Is this information well received? Are victims interested? We sometimes have our doubts.

Being recognized as a victim is crucial in sparking a desire for justice. The example of Chilean victims of political repression illustrates this particularly well. During the Pinochet case, political refugees previously “rejected, forgotten, and, in any matter, unlawful,” who felt guilty for having survived, gone into exile, or lost the political battle, were finally able to provide testimony about what they suffered and come together to promote justice; thereafter they were exonerated and

²⁴ Pierre Duterte, “Les victimes de Pol Pot,” *Trimestriel de l'Association des victimes de la répression en exil* (Havre) no. 22 (October 2000): 5.

²⁵ Maryse Alie, “Tribunaux cambodgiens pour juger les Khmers rouges,” *Revue Belge de Droit International* 1–2 (2005): 610.

seen as heroes.²⁶ The Pinochet case has allowed these victims in the Chilean diaspora to speak publicly.

It should be noted that religion plays a significant role in the perception of justice. While all Buddhists agree that according to the law of karma, criminals will be punished in the next life, various views exist as to the question of trials. One view maintains that trials would be useless, since the law of karma already would have condemned the criminals. Any attempt to bring the criminals to justice would be an act of vengeance and would only perpetuate the cycle of suffering.²⁷ Another view supports impartial trials conducted in accordance with Buddhist principles and international justice standards.²⁸ Even if it were possible to pardon soldiers who re-confessed their crimes and presented their excuses, the possibility of granting amnesty to Khmer Rouge leaders is often rejected.²⁹ Furthermore, according to some scholars, the concept of pardon is an importation from Western Christian civilization, there being no equivalent in Buddhism.³⁰ Still others see the pardon as a saving power for the authority who grants it, independent of the effect on the person pardoned.³¹ Officials should take into account these cultural and religious considerations when developing the justice process.

2. Disorganization and Lack of Resources

The greatest weaknesses among victims are division and lack of organization. Though including the most educated Cambodian refugees, the Cambodian diaspora in France is largely composed of individuals from modest economic backgrounds. Their limited education reduces to a certain extent their ability to take the initiative, responsiveness, organizational skills, and ability to use legal tools. The perception of justice in the diaspora, as well the ability to use justice, depends on its members' level of formal education. The members of the Chilean diaspora, many of whom are

²⁶ Fanny Jedlicki, "Les exilés chiliens et l'affaire Pinochet. Retour et transmission de la mémoire," *Cahiers de l'Urmis* (June 7, 2001): 59.

²⁷ For the case of Tep Vong, monk and supreme patriarch of the Mohanikay Order, see François Ponchaud, *Jugements des ex-responsables Khmers rouges, site internet des Missions Etrangères de Paris, 3 février 2007*, <http://phnompenh.mepasie.net/jugement-des-ex-responsables-khmers-rouges.fr-fr.48.54.content.htm>

²⁸ Craig Etcheson, *La foi, tradition, et reconciliation au Cambodge*, School of Advanced International Studies (2004).

²⁹ "Those interviewees who, under these conditions, supported amnesty usually explained their forgiveness from a Buddhist perspective. The belief that "hatred cannot be conquered by hatred" was repeated several times in the interviews. It is important to note that this belief in amnesty often did not extend to the top leaders. [...] Thus, even for people operating under an explicitly Buddhist interpretation and worldview, amnesty is not always prescribed," Jaya Ramji, "Reclaiming Cambodia History: The Case of a Truth Commission," *Fletcher Forum of World Affairs Journal* (Spring 2000).

³⁰ "La société khmère est une société où la notion de personne est absente : l'être humain n'est qu'un agrégat d'énergies, contingent, temporaire, sans sujet, la vie n'est qu'une période de purification. Les énergies vitales se chargent de positif ou de négatif, en fonction des actes posés, jusqu'à l'épuisement total du karma, au terme de plusieurs vies purificatrices. Partant de là, il n'y a pas de pardon: 'C'est celui qui mange qui est rassasi', 'Celui qui fait le bien, obtient le bien, Celui qui fait le mal, reçoit le mal.' Il n'y a pas de rééducation possible, car les mérites ou les démérites, suivent l'être humain comme son ombre," François Ponchaud, *Jugements des ex-responsables Khmers rouges, site internet des Missions Etrangères de Paris, 3 février 2007*, <http://phnompenh.mepasie.net/jugement-des-ex-responsables-khmers-rouges.fr-fr.48.54.content.htm>

³¹ Theresa Klosterman, *The Feasibility and Propriety of a Truth Commission: In Cambodia, Too Little, Too Late?* Arizona Journal of International and Comparative Law, 1998.

former political opponents, are very highly educated.³² Hence, they have organized and mobilized large numbers of victims across Europe and intelligently formulated different initiatives. The creation of a network of Chilean victims' associations allowed the development of a forum for dialogue and exchange of ideas.

Moreover, getting diaspora members involved in victims' associations requires first gaining their trust as well as being credible and legitimate. Given the internal divisions in the Cambodian diaspora, this is difficult to achieve. These divisions have led to a proliferation of associations, thereby lessening the strength of claims.

The lack of human, material, and financial resources also significantly limits the diaspora's actions. The Rwandan, Chilean, and Cambodian diasporas undertake projects only with the funds raised from members. They do not receive any governmental financing. To raise funds they organize events such as cultural nights and colloquia. One Cambodian victim explained that the dwindling number of lawsuits brought in the host country resulted from the costs plaintiffs incurred in judicial proceedings. Also, the associations' volunteers carry out their activities after work and during vacations. Confronted by daily life and worries in their host country, they hardly have any time or financial means to dedicate to these activities. Justice for Cambodia, active in the Khmer Rouge Victims' Collective, is run by its members and pro bono attorneys. The victims, over time, may become discouraged by this lack of resources. One member of the Rwandan victims' association noted:

In the Rwandan diaspora, few get involved concretely in the fight for justice—a fight for the long haul which requires an important investment of time and money.... The majority simply wait for things to get done.... Justice is a fight that sometimes requires superhuman strength, a strength which survivors, faced with life's everyday problems, do not have.

Because there is no provision for the ECCC to cover the travel expenses of victims and witnesses, refugees dread the potential costs these measures could involve; therefore, costs have already deterred participation.

On the one hand the Cambodian diaspora's involvement underlines the trauma, discouragement, and fear of direct reprisals that slow justice initiatives; on the other hand, it shows the second generation's interest in a rarely addressed topic.

B. Lack of Communication between the Two Generations

Participation is also deterred by the lack of dialogue on genocide between victims and their children in both the diaspora and Cambodia. This has led to various consequences.

As a result of the almost-total extermination of a whole generation during the genocide and the explosion in the birth rate that followed it, more than 50 percent of today's Cambodian population is younger than 18. The victims of the genocide preferred to keep silent, both privately and publicly, about their experiences under the Khmer Rouge. School syllabi barely treat this grim period in history, while at home parents choose to cover up their painful experience. There are several reasons for this silence: the desire to forget the atrocities, shame, the desire not to transmit suffering or bitterness. This phenomenon also occurred among victims of the Chilean repression:

Chilean refugees, already subject to the tensions of their memories, do not easily talk with their children about what happened. The horror may seem even harder to verbalize to their children: indeed, how does a mother or father portray him or herself as a martyred victim? Chilean refugees generally decide to not "poison" their children with these

³². See Jedlicki, 58.

traumatic stories, nor to pass on to them feelings of hate, or to “dogmatize” them. A type of reserve prevails, or it may be that victims find it impossible to verbalize certain parts of the family history, so often, these stories are passed down in snippets, including omissions, the occasional lie, and moments of great revelation.³³

Confronted with this silence in a society that has lost its bearings, identity, and values, Cambodian youth seem to react to history either by negating it completely or by organizing to establish the truth and make that history their own.

Youth in Cambodia know alarmingly little about the genocide, but their counterparts in the diaspora’s second generation quickly learned about its circumstances and conditions. These young people intuitively understood their parents’ traumatic experience and respect their wish to remain silent. They then see confirmed either in school or through family friends what they had always intuitively known. School lessons and access to public information play an important role in the ability to act and feel involved.

The decision to conduct trials presents an important opportunity to open lines of communication and encourage youth of the Cambodian diaspora to ask questions about their history, just as the Pinochet case sparked and increased the interest of the children of Chileans in exile in justice, as well as their desire to come to grips with the harsh realities of their home country.³⁴

III. THE DIASPORA’S EMERGENCE ON THE JUDICIAL SCENE

Despite the reluctance of most victims living abroad, a number of initiatives have called for justice. Using legal and international institutions, these actions include not only legal action but also outreach activities and efforts to disseminate information in the community and host countries. Taking advantage of the greater freedom afforded it through exile, the diaspora has slowly started to master the legal tools and remedies available in the host country and speak out (though this is less so in Cambodia) in favor of greater democracy in the home country. The diaspora can thus act as the spokesperson for Cambodians who can not speak out on political affairs at home.

A. The Diaspora’s Relations with Institutions and the Cambodian Population

1. Complaints Before National Courts

Different cases were tried before the Belgian and French national courts and have contributed to the justice process, both symbolically and by collecting evidence that will be introduced at the ECCC.

The glorious return to power in December 1998 of two former Khmer Rouge leaders, Khieu Samphan (former president of the Kampuchea Democratic State) and Nuon Chea (former vice-secretary of the party) profoundly shook the Cambodian diaspora.³⁵ According to the group of experts sent by the UN secretary-general in November 1998, the government saw this event as a necessary step in eliminating the military threat of the Khmer Rouge. This strategy also included amnesty for Khmer Rouge leaders for crimes perpetrated from 1975 to 1979.³⁶ In the end only

³³ See Jedlicki, 67.

³⁴ See Jedlicki, 70.

³⁵ Sylvaine Pasquier, “Les liaisons dangereuses de Hun Sen,” *L’Express* (August 1, 1999): 48.

³⁶ Report of the Group of Experts for Cambodia, Doc. N.U. A/53/850 - S/1999/231, March 16, 1999, 29. The government had already granted amnesty to Ieng Sary.

two former leaders were arrested and detained: Ta Mok, an important Khmer Rouge leader who died in July 2006, and Duch, former head of Tuol Sleng prison, arrested shortly after the surrender of Khieu Samphan and Nuon Chea.

Following the surrender, victims from the diaspora in Belgium brought the first lawsuit against the Khmer Rouge.³⁷ The claim was filed on February 4, 1999, in Brussels by 17 families from the ASSOCA against three Khmer Rouge leaders, Khieu Samphan, Nuon Chea, and Ieng Sary (former foreign affairs minister of Democratic Kampuchea), for crimes against humanity, crimes under international law, and genocide.³⁸

In their press statements the victims expressed their wish that the following points be recognized:

- The genocidal nature of the large-scale extermination of men, women, and children perpetrated in Cambodia under the Khmer Rouge regime;
- The criminal responsibility of the Khmer Rouge as a party and the individual responsibility of their leaders and advisers for the crimes committed;
- The danger to the current Cambodian population as demonstrated by the Khmer Rouge's return to influence in the country's governing sphere.

Through these claims victims clearly reaffirm not only their wish to see criminals judged but also their opposition to former Khmer Rouge leaders' return to power in Cambodia. It is interesting to note the commitment of the diaspora not only to justice but also to the political sphere.

The plaintiffs had hoped that international arrest warrants would be issued to limit the movements of those accused and that a commission to examine witnesses would be sent to Cambodia to gather evidence and testimonies.³⁹ Two months after the initial filing, other Cambodian families living in France added their testimony to the suit because no such judicial route was available in France. The investigation opened in April 1999 expanded to include the murders of two Belgian nationals in Cambodia during the 1975–79 period.⁴⁰ An arrest warrant was issued for Duch but has not yet been executed; he is being held by Cambodian authorities. The investigation is continuing, since the arrest warrants have not been executed on a smaller scale.

Nevertheless, when the suit was filed their attorney announced to the press that he hoped, “[I]f an international tribunal should try these men, the case investigated by the Belgian courts would be ready to be heard and serve as a foundation for their work.” With the creation of the ECCC the case may be transferred to its courts, which could use the evidence and testimonies gathered for the complaint in Belgium. The court will have to become fully functional before this can be confirmed.

In addition, this suit brought together victims in Belgium and France who had previously been split because of their divergent political ideals.⁴¹

³⁷ Patrice Leprince, “La justice belge saisie du génocide khmer rouge,” *Le Soir* (May 2, 1999): 8.

³⁸ Sabine Verhest, “Une plainte contre les Khmers Rouges,” *La Libre Belgique*, (May 2, 1999): 5.

³⁹ *Ibid.*

⁴⁰ Damien Vandermeersch, “Prosecuting International Crimes in Belgium,” *Journal of International Criminal Justice* (April 2005).

⁴¹ Veerle Beel, “Steen kan lawine veroorzakken,” *De Standaard* (February 6–7, 1999).

The second suit, brought against X, was filed in France in October 1999 by the widow of Ung Bun Hor, former president of the National Assembly. Ung Bun Hor had sought refuge in the French Embassy on April 17, 1975, during the battle for Phnom Penh. He either subsequently surrendered or was taken to the Khmer Rouge (the complaint was brought on these grounds). This case is noteworthy because during the investigation the French state agreed to declassify confidential documents of the Direction de la Surveillance du Territoire (DST) at the request of the examining magistrate. This case revealed new information about events in Phnom Penh from the three weeks preceding the fall of the capital until the evacuation of the last French nationals to Thailand. This information may clear up some historical doubts and provide important evidence in trials of Khmer Rouge leaders.⁴²

2. International Justice Initiatives

Although it is too early to foresee cooperation between the ECCC and the Khmer Rouge Victims' Collective, it is already possible to perceive an informal consultative relationship. For example, a delegation representing the Collective went to Cambodia in May 2006 to meet with several government officials, including Vice-Prime Minister Sok An and Minister of Justice Ang Vong Vathana, and presented the Collective's white paper on victims' rights. This document was also sent to ECCC representatives.

Furthermore, in November 2006 the Collective made recommendations on the ECCC's rules of procedure, including victims' representation, transparency, the publication of diverging opinions, terms and conditions of testimony, and the sticky question of reparations. Through other meetings and informal exchanges the Collective has taken a substantial role in the process.

The relationship between the Cambodian diaspora and the Cambodian population seems ambivalent. Indeed, all proceedings before the national courts have been brought independent of local victims in Cambodia. Members of the diaspora have not established any working relationships or contacts with Cambodian associations. Regrettably, survivors in the diaspora are often completely cut off from the reality of daily life in the home country. Although the refugees may maintain personal relationships with the Cambodian population, they have formally undertaken no joint initiatives on legal matters.

Two French Khmer Rouge victims' associations independently opened local branches in Cambodia in 2006 to gather testimony from local victims. According to the first available estimates, results are rather sparse, and these entities have clearly distanced themselves from local organizations, some of which have also been gathering testimony for a long time. The fact that the work was duplicated shows lack of coordination and communication between civil society organizations, as well as different expectations and perceptions of this process among exiled and local victims. Some local organizations have expressed negative sentiments about the diaspora's participation. They fear that the diaspora, with its greater resources, may overshadow local victims' demands, thereby displaying an image of justice for the diaspora.

The relationship between the diaspora and the population in the home country is often complex, difficult to grasp, and may be tainted by some resentment. For example, the position of exiled Chilean nationals vis-a-vis the local population is unclear: Exiled nationals were often rejected by people at home, who saw them as traitors or as living the good life in their new host countries. Faced with this resentment and their guilt as victims who have not been recognized as such, these

⁴² Piotr Smolar, "Phnom Penh, 1975: nuits rouges sur l'ambassade," *Le Monde* (January 2007).

individuals often invested considerable energy in activism.⁴³ As a result of the Pinochet case they were finally recognized as victims and took on a legitimate role in the process.⁴⁴

B. Outreach and Awareness-building Initiatives

Outreach and awareness-building activities in the diaspora and by the host state support the justice process and optimize its impact. Associations are increasing their systematic use of various media. Although the Cambodian diaspora's media space remains very small in comparison to other groups, it has increased its visibility by participating in radio shows or other public events, publishing newsletters, and so on.

The associations interviewed organize events such as colloquia by prominent personalities, genocide commemorations, and witnesses' publications to raise awareness among the general public of the post-genocide justice process. Large international NGOs, such as the International Federation for Human Rights (FIDH) and Amnesty International, increasingly accompany associations in their legal actions. This "sponsoring" maximizes the visibility and media impact of initiatives by victims in exile.

More specifically, the newly developed Cambodian media in the host countries have become the primary tools for disseminating news about current Cambodian politics to the diaspora. Different media were set up when refugees arrived, starting with simple newsletters. Since then communication tools have diversified and become more sophisticated; today they include journals of political analysis and quality radio programs.⁴⁵

Some members of the Cambodian diaspora, concerned with promoting democracy in their home country, have become involved in politics in the host country. Cambodian political divisions have been exported, if only in discourse.⁴⁶ The political leader Sam Rainsy, the main opponent of the current regime, works both in Cambodia and in the diaspora. The use of communications and technology has been crucial.

In the same way relations have been fostered with other exile communities of victims of mass violence, leading to "inter-diaspora" conferences. As a result of having lived through similarly traumatic experiences, these communities face many of the same problems. Jean Hatzfeld outlines these similarities.

Genocide killers do not feel responsible for anything; what they have done is so huge that they cannot recognize [their actions].... Similarly, there are strong similarities between genocide survivors: a sort of survivor's guilt, difficulty talking [about their experiences], the fear of rejection, not being believed. On one side, you have killers who consider themselves victims, who shirk off their responsibility, who don't crack; on the other, you have survivors who feel guilty and bruised. Take Primo Levi, *Shoah* by Claude

⁴³. See Jedlicki, 60.

⁴⁴. See Jedlicki, 62.

⁴⁵. One can cite, among others, the newspaper *Chatomuk*, the magazines *Espace Asie* and *l'Ecrit d'Angkor*, the radio program of the Cambodian division of Radio France Internationale, *Dossier: Les médias cambodgiens en France*, *L'Ecrit d'Angkor*, no. 3, November 2003.

⁴⁶. Ida Simon-Barouh, *Les réfugiés du Cambodge en France et leur descendance*, in *Diasporas, 2000 ans d'histoire*, 401.

Lanzmann, Rithy [Panh] films, or my own books—you will find heartbreaking analogies.⁴⁷

Indeed, one member of a Cambodian association in France mentioned the close relationships they had with the Jewish, Rwandan, and Armenian diasporas.⁴⁸

One Rwandan victims' association also mentioned its contacts with Holocaust and Armenian genocide victims, thereby confirming the existence of such inter-diaspora relations:

[F]or example we participated in a colloquium on revisionism organized by HEVEL, a Jewish and Armenian association. Our exchanges with the Jews ... who have better-known official structures (the Center of Contemporary Jewish Documentation at the Shoah Memorial in Paris), Hachomeran, an organization of young Jews which plans trips to Rwanda and to Israel, the Simon Wiesenthal Center..., these exchanges allow us to confront our experiences. The Jewish experience is useful for Rwandans in understanding how to come to grips with memory...

Thus, a forum for victims of the same type of violence exists among these communities in exile. Their exchanges allow the different groups to learn from each other and to draw from their respective means of action. In this context new comparative research is being done, developing know-how and methodology specific to victims in the diaspora.

Victims in the Cambodian diaspora participate only as individuals, not as members of a victims' collective, in international proceedings. For example, when Ung Bun Hor's widow spoke at the inauguration of the prosecutor of the International Criminal Court, she did so as a victim and not in her capacity as president of an association. Some members of victims' associations have also been consulted as experts on the crime of genocide or on Cambodia by international institutions such as the International Criminal Court, the European Parliament, and the UN (in particular during the negotiations on the terms and conditions of the international court to judge Khmer Rouge criminals). These individuals were consulted because of their personal experiences rather than as members of a group of victims.

Through the association Justice for Cambodia, victims in France work to build awareness among the French authorities of issues related to the trial of former Khmer Rouge leaders. They do this through parliamentary groups, among others, and they have a contact in the Senate, Catherine Tasca. Victims' associations have been able to engage in dialogue with French authorities on a number of occasions, inviting them to colloquia and commemorations. This moral support for the diaspora is essentially symbolic and has been reaffirmed in the recent statement of the French government favoring the justice process and the fight against impunity.⁴⁹ It should be noted that France's support for Cambodia is directed exclusively to the local population and includes other

⁴⁷ Philippe Mangeot, Jean-Philippe Renouart, and Isabelle Saint-Saens, "Une mémoire des corps, entretien avec Jean Hatzfeld et Rithy Panh," *Revue Vacarme* no. 27 (Spring 2004).

⁴⁸ Conferences have been organized by the Lyon-based "Collectif de reconnaissance des génocides," which includes, among other groups, Jewish, Armenian, Cambodian, Chilean, and Rwandan associations.

⁴⁹ "Sans lutte contre l'impunité, dans le respect de l'identité et de l'histoire cambodgiennes bien évidemment, il ne peut y avoir de réconciliation nationale durable," address by Dominique de Villepin at a lunch hosted in honor of His Majesty Norodom Sihamoni, King of Cambodia (Paris, November 21, 2006).

issues as well as justice.⁵⁰ Belgium also offers symbolic moral support to the Cambodian diaspora.⁵¹

C. The Second Generation's Role in the Truth-seeking Process

In the diaspora the second generation has progressively taken on a greater role within the family. Relationships have a tendency to invert themselves; the young people who speak French often help their parents with daily problems.⁵² In general, children whose parents were intellectuals have no problems in school, learn to speak French perfectly, and go on to have careers in more highly-regarded professions than those of their parents. These young people have a renewed and strong interest in Cambodia and Cambodian history, even taking classes in Khmer, a language they forgot during their teenage years. In the same vein, some have become involved in associations and have undertaken initiatives to promote the home country.⁵³ From this renewed interest was born a network of young French men and women of Cambodian descent.⁵⁴ Along with its associations and cultural activities, this network created a forum for exchange and reflection on justice. Increasing activism led to initiatives such as the large-scale genocide commemoration in 2005 and several conferences to build public awareness of Cambodian history and the fight against impunity.⁵⁵ Several students' associations were also among the founding members of the Khmer Rouge Victims' Collective. On finishing their studies the most committed of these young people go to Cambodia. These highly qualified workers become particularly involved in development and cooperation.⁵⁶

This interest in Cambodia is not, however, shared by all youth to the same extent; Cambodian youths in the United States, for example, do not show as much interest. As previously mentioned, refugees who fled to the United States came from the military or were farmers. This phenomenon of mobilization could therefore be attributed to victims' education levels, as well as the levels of education of their children. A few individual initiatives, such as films, have been undertaken in the United States.⁵⁷

The involvement of Cambodian survivors follows a logic similar to that of the Chilean refugees:

The Pinochet case freed suppressed memories of the Chilean exile, changing family relations and transforming the very framework of memory transmission. Children discovered, often through the media, their parents' testimonies, while the discussions

⁵⁰ For example, the Bophana audiovisual center, financed by the French government and founded by the director Rithy Panh, looks not only at the genocide but at Cambodian culture more generally.

⁵¹ Belgium supports the trials of the Khmer Rouge leaders through financial contributions to the ECCC. See *Contribution Belge au Tribunal Khmer Rouge*, press release, Belgian Ministry of Foreign Affairs, April 15, 2005.

⁵² See Nann, 159.

⁵³ Ida Simon-Barouh, "Migrations et vie en France des populations originaires du Cambodge, du Laos, du Vietnam et de leurs descendants," *Revue Passerelles* no. 14 (Winter 1997), 165.

⁵⁴ See <http://www.lesjeuneskhmers.com>.

⁵⁵ "17 Avril 2005, journée de commémoration du génocide commis pendant le régime des Khmers rouges," *L'Écrit d'Angkor* no. 8 (April 2005).

⁵⁶ Simon-Barouh, 406.

⁵⁷ For example, the award-winning Socheata Poev film, "New Year Baby," could be followed by a project to collect witness testimonies within the diaspora;

<http://www.newyearbaby.net/site/c.grKNIWPHIsE/b.672275/k.CBF1/Home.htm>

brought on by the event sparked their interest in family history... The young people's presence at first represented a type of solidarity with their parents, the veritable actors in the case; this presence was then rather quickly transformed over a seventeen-month period by a small group of between fifteen and forty refugees' children: They didn't always understand their elders, so they met amongst themselves, and became an independent force driving the movement. The generational groups allowed the children to truly identify with and take on their family legacy.⁵⁸

The Pinochet case thus generated a strong sense of identity and a political activism among diaspora youth.

IV. A POTENTIAL TO DEVELOP

With its participation on the international judicial stage the diaspora has shown its great potential. Universal jurisdiction has awoken the collective conscience of communities in exile, offering a unique possibility of justice, particularly when the justice system in the home country is unable or unwilling to prosecute. Moreover, the diaspora can play an important outreach and awareness-building role within its host country. For example, the high-profile Pinochet case in Europe piqued the interest not only of the Chilean diaspora but also that of the Belgian, English, and Italian populations (among others). Petitions, lobbying, and other actions are especially effective with increasing support from civil society and the intervention of large NGOs.

Organizations can enhance their impact and effectiveness by taking the following steps:

- Increasing communication to end the diaspora's isolation;
- Diversifying and using complementary initiatives, reinforcing legal actions with advocacy and outreach;
- Obtaining financial, human, and material resources to ensure the continued operation and existence of associations.

A. Fighting the Isolation of Diasporas

A number of factors contribute to the diaspora's isolation, sapping its energy and diminishing the impact of initiatives. Synergies should be created at three levels to improve communication.

1. Dialogue between peoples in exile

Given different groups' similar life and integration experiences in the host country, this kind of dialogue is particularly relevant. Forced into exile to escape violence in their home countries, diasporas struggle with many of the same dilemmas: grieving, reconciliation, and guilt. They have the same needs and obligations: justice, remembrance, speaking out on behalf of the home population. They organize similar events, including seminars, commemorations, and information sessions.

Inter-diaspora exchanges could help victims in exile realize they are not alone; other peoples have survived similar atrocities. They would feel less isolated and would find a form of recognition that would allow them to accept their status as victims, despite the lack of any formal recognition, such as a legal ruling. Indeed, other exile communities have taken inspiration from Holocaust victims in coming to terms with their grief, taking on the responsibility of remembrance, and using judicial tools. Even if all diasporas are far from having the same resources, dialogue among

⁵⁸. See Jedlicki, 72.

them to explore the numerous possibilities would create a beneficial dynamic and help promote legal knowledge and common sentiments among exiled communities. This methodology, inherent to the diaspora, would be particularly useful to communities that have just arrived and feel disoriented in their host country.

2. Dialogue Within a Diaspora Throughout the World

Often withdrawn in their own community, victims' associations are isolated and powerless, and their claims are ignored by the host state. Joining with other communities from the same home country but currently living in different host states may prove fruitful and encourage exiles to emerge from these closed groups. Depending on the host country and the education level of each community, diasporas may not have the same vision of justice or the same potential tools for action. The possibilities for legal remedies may differ from one national legal system to the next. Indeed, the universal jurisdiction law making possible powerful symbolic legal action in Belgium does not exist in France. The Cambodian diaspora in France had to include its suit in the complaint filed by Belgian victims in 1999. This joint suit offered legal remedies to refugees residing in a host country where no such remedy existed. It also added weight to the suit, both symbolically and in terms of sheer evidence. The Rwandan diaspora in France took this approach during the trials in Belgium of those accused of genocide. Finally, the Chilean diaspora has demonstrated the potential for solidarity among different Chilean communities in Europe. During the Pinochet case a network of associations formed, organizing marches and other events and brainstorming on potential actions to bolster their pursuit of justice.

3. Dialogue Among Victims' Associations Abroad and in the Home Country

Victims in the diaspora and the home country would gain from coordinating their work. If well coordinated, the diaspora can speak out to the international community for local victims who may not be able to do so because of systems intolerance to opposition. In the case of claims brought under universal jurisdiction laws, support in the form of evidence, testimony, and follow-up by civil society in the home country would help establish the importance of such a claim. It would also optimize the claim's symbolic and material effects, offering people at home the possibility to participate and be recognized as victims. Both the symbolic significance of the diaspora and the importance of local civil society, in terms of sheer numbers, would lend legitimacy to their actions. Local organizations could also transmit information to victims in the home country about actions taking place outside the country.

Actions must be coordinated and complementary, and the diaspora's activities must add value to the process by capitalizing on its geographic location. This could mean trying criminals abroad or even recording testimonies in the diaspora.⁵⁹ Effective coordination between the two groups should prevent duplication of work. Of course diaspora associations may also work in Cambodia but must coordinate their efforts with local associations; instead of working on the same projects they must divide the work thematically or regionally.

Many diaspora members retain the image of a demonized and imagined Cambodia as a result of lingering trauma. Close and continued collaboration with local associations may demystify this image of their home country. It is important to note that victims' inaction is often linked to trauma that has not been properly addressed. Victims must first find peace with themselves and with their Cambodian identity before being able to progress and demand reparations. Contact

⁵⁹ The UN Group of Experts had mentioned the possibility of investigating suspects living in states such as France, the United States, Australia, and Canada that had accepted large groups of refugees. Report of the Group of Experts, Doc. N.U. A/53/850 - S/1999/231 (March 16, 1999), 33.

with the local population could represent the first step toward personal reconciliation. Indeed, refugees who have returned to Cambodia for short visits could “challenge longtime dreams and nightmares of a country which, with the distance of exile, they had reinvented, and replace this fictional country with that which they rediscover in returning to their roots.”⁶⁰

B. Undertaking Complementary Initiatives

The diaspora can take advantage of its geographical location abroad by using the legal actions available to fight impunity by bringing lawsuits before national or international courts. Legal actions should be accompanied by services related to the proceedings, including gathering testimony among refugees, setting up counseling services, and others.

Advocacy and outreach should complement legal actions. Outreach must be directed both to the host society and to other diaspora members. It should consist of information about events in the home country as well as about the legal proceedings. Informational sessions should discuss legal actions (or international justice in the case of Cambodia), justice issues, their characteristics, and victims’ roles in the process through testimony and filing of claims. These sessions could also serve to gather individual opinions and expectations so future activities might be planned accordingly.

Outreach among the population of the host state should be done at university conferences or conferences in cultural centers with well-known personalities. More generally, the creation of cultural associations, public events such as commemorations, and media appearances may expose the host society to the situation of refugees.

In conjunction with legal proceedings, intergenerational dialogue should take place within the diaspora. Memory transmission, along with truth-seeking and rewriting history, may be easier in the foreign context as a result of censorship in the home country. These activities could give the younger generation opportunities to learn about Cambodian history and to break the silence in their families. These forums could be created at language schools and in cultural spaces.

C. Finding Sufficient Resources to Continue Activities

Given their modest human, financial, and logistical resources, diasporas find it extremely difficult to effectively manage their victims’ associations and maintain their visibility. Finances to manage these structures come from members’ dues, donations, and money raised at special events. These funds cannot cover legal fees related to lawsuits. In the long term, fees and the slow pace of proceedings discourage victims and weaken mobilization efforts.

Several avenues can be explored.

1. Logistical and Other Forms of Assistance From NGOs in the Host Country

The increase in international public political movements and claims has contributed to better organization of exiled communities. Help from humanitarian organizations and human rights NGOs has given new voice to these communities.⁶¹

Associations of victims in exile would gain from working with NGOs with broad media coverage; such collaboration would increase their visibility and make them known in the host

⁶⁰. Simon-Barouh, 402.

⁶¹. Chantal Bordes Benayoun and Dominique Schnapper, *Diasporas et Nations* (Paris: Odile Jacob, 2005), 118.

society. The experience of these organizations in legal matters and outreach would also benefit the victims' associations. Finally, victims find moral support in an interested and informed audience that can bring them out of isolation and motivate them. FIDH, Amnesty International, the Human Rights League, and others often engage in this kind of "sponsoring."

2. Project Proposals to Institutional Donors

Funds to finance outreach activities and dialogue may be solicited from institutional donors that contribute to human rights efforts, democracy building, and the fight against impunity. The diaspora has the potential to develop internationally, and it seems logical that funds be allocated to increase its capacity.

3. Providing Testimony Remotely

Because bringing refugees home to testify may involve prohibitive travel costs, investigators should be sent abroad to gather testimony. Article 26 of the ECCC's Rules of Procedure provides for witness testimony via videoconferencing, which would make refugees' participation financially possible.⁶²

V. CONCLUSION

To date, little attention has been given to the diaspora's role in transitional justice. This study shows the significant contribution of the Cambodian diaspora in France and Belgium to bring to justice those responsible for crimes committed under the Khmer Rouge regime. The judicial proceedings before the Belgian and French courts have generated support for the creation and operation of the ECCC, through the evidence provided by the criminal investigations and the victims' participation. However, diasporas play an ambiguous role. Within traumatized communities isolated from their countries and their countrymen and women, interpersonal relationships are complex, to say the least. Therefore, in pursuit of justice, relations with other diasporas and victims' groups in Cambodia should be promoted and developed.

Greater cooperation within and across diasporas would create opportunities for exchange to understand how the legacy of past crimes can affect communities today. This joint action would also allow for greater dialogue on the means of supplementing legal initiatives to support a more efficient justice process.

⁶² Art 26.1 of the Rules of Procedure: "The testimony of a witness or expert during a judicial investigation or at trial shall be given in person, whenever possible. However, the Co-Investigating Judges and the Chambers may allow a witness to give testimony by means of audio or video technology, provided that such technology permits the witness to be interviewed by the Co-Investigating Judges or the Chambers, and the parties, at the time the witness so testifies. Such technologies shall not be used if they would be seriously prejudicial to, or inconsistent with defense rights."