



Asia Exchange Report

‘Memory for Change’

Memorialisation as a Tool for Transitional
Justice

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Foreword: Memorialisation and its Potential for Human Rights Activism

Gross Human Rights Violations (GHRV) exist by the ‘grace’ of impunity, and impunity is sustained by denial. Thus, the struggle for truth has always been a quintessential part of human rights work. Such a struggle is not only about uncovering the facts about atrocities committed, though this is certainly an important task. It is also about generating answers to the questions of why these atrocities occurred in the first place and how those responsible were rendered immune from legal prosecution.

Throughout history, those in power have been known to invent or ‘frame’ historical narratives in order to serve and protect certain vested interests. In public discourse, those in power, perpetrators and accomplices often simultaneously deny and justify historical human rights abuses. Or, they magnify certain abuses, while ignoring or justifying others. Such denial, manipulation or omission is not random, but tuned to serve concrete political purposes. In this way, contemporary political power becomes anchored in past violence, whilst simultaneously serving as a guarantor for continued impunity.

This is why ‘memory struggles’ are pivotal to democratic transition processes. While the issue of acknowledgement and clarification of past abuses is central to these struggles, ultimately these also embody a contest about the meaning and content of the democratic transition itself. The struggles for memory lie at the heart of any transitional justice process. Overcoming multiple obstacles in order to deal with the past is inconceivable without memory struggles paving the way. This insight is clearly embodied by the experience of, for example, Latin American transitions since the 1980s. Throughout the continent, as Elizabeth Jelin has convincingly argued, justice, truth-finding, reparation, non-recurrence measures and societal reconciliation - or lack thereof - were all shaped through constant interaction with unfolding memory struggles. Similar arguments have been made in relation to countries as diverse as South Africa, Cambodia and the former Yugoslavia.

Indeed, memory struggles are as much about the present as they are about the past. And even though human rights groups often play an important role in such memory struggles, these are by no means the exclusive terrain of activist groups. In fact, the principal proponents of standardised memory narratives tend to be political power holders that try to sanction their preferred official truths, often mobilising state resources to do so. In academic research, the growing recognition of such dynamics have led to the rise of a new disciplinary field called ‘memory politics’. It is important to be aware that memory struggles unfold in a contentious field, in which genuine attempts to unlock potentially multifaceted historical truths coincide with manipulated or Manichean narratives.

‘Memorialisation’ is best understood as a distinct form of memory politics. In memorialisation initiatives, the partisanship and manipulation that characterise most memory politics is actively counteracted by the use of a series of practical principles that favour truth telling, healing and the avoidance of recurrent violence. While mainstream memory politics emphasises the role of elites and of the state, memorialisation focuses primarily on citizens and victims, and their capacity to generate and promote narratives that effectively respond to their needs and perspectives.

Memorialisation can be conceived of as a repository for marginalised or repressed truths. It functions as a safeguarding of political space, while at the same time seeking to expand the boundaries of available political space. It cannot be overstated how important it is for victims and family members to be able to address their plight. If in earlier years you were killed for saying something about such sensitive issues, to be able to commemorate without fear of being targeted or persecuted is already an important symbolic victory. It is a necessary pioneering step to help break with the dominant culture of fear and impunity.

Human rights organisations - including victims' groups - have increasingly acknowledged the importance of memorialisation initiatives, both for their intrinsic value as well as for the impact they can have on a range of important human rights objectives, of which human rights education is but one among many. Latin American human rights groups have made particularly strong headway into this topic, and increasingly also, groups and initiatives in other regions of the world are stepping up their efforts. In this light, it is important for human rights organisations to share experiences and discuss possible strategies and pitfalls.

Together with a range of human rights groups operating in different contexts around the world, Impunity Watch (IW) has established a set of principles that organisations - including victims' groups - can use in order to plan, design and evaluate different memorialisation initiatives. The set of principles is also intended as a reflection tool for broader strategies of engagement on the topic of memorialisation. Issues like context analysis, critical self-reflection of all participants, grassroots participation - including conditions for victims' participation -, complementarity with other justice initiatives, sustainability, multiple narratives and youth involvement are addressed in these [Guiding Principles of Memorialisation](#). Indeed, one of the key elements of memorialisation initiatives is their potential to communicate across generations. With innovative tools like digital storytelling playing an increasingly promising role in memory work, human rights organisations need to take advantage of the potential of digital technologies.

Memorialisation initiatives are set to play a central role in broader struggles against impunity. Though more comparative research on this matter would certainly be useful, experiences in Latin America and beyond have already demonstrated that promoting bottom-up memorialisation initiatives can constitute an effective avenue to help create the political space required to be able to eventually address issues of justice and impunity in a successful manner. As memorialisation initiatives help foster more inclusive and respectful societal narratives, they contribute to enhancing societal trust and cohesion, both essential features of democratization processes at large.

If basic principles are respected, memorialisation provides a widely applicable tool to help create societal foundations for transformative change in favour of human rights. Unfortunately, this potential has not yet translated into much international support for memorialisation initiatives, and - save a few exceptions - local human rights organisations often find it difficult to acquire funding for this purpose. Memorialisation should no longer be seen as a 'sideshow', but rather deserves a spot on the central stage of national and international human rights efforts. IW hopes that initiatives like the Exchange 'Memory for Change' in South and Southeast Asia (S/SE Asia) - the meeting reported on in this document - help to bring the transformational potential of memorialisation to fruition.

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We would like to thank all the participants for their commitment and hard work in preparing for the Exchange, in being proactive during the event as well as in providing feedback on each country document before and after the Exchange Meeting.

While Impunity Watch (IW) coordinated the drafting of this report, it has been a collaborative effort. The writing process was as inclusive and participatory as possible. Some statements were written by particular participants and may not always reflect the views of IW or of the co-organisers.

During the Exchange, various volunteers from FORUM-ASIA took notes. The comparative section was written by Laura McGrew, PhD, based upon the outcomes of the Exchange, and on the content of a discussion paper by Anna Kiebert. Certain parts were based on a set of country summaries on transitional justice and memorialisation related to the Exchange project, named the Country Explorations. The overall editing was done by Laura McGrew and Annet van Offenbeek, and finalised by Ralph Sprenkels and Marina Oliver - Tomić.

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Executive Summary

The Exchange brought together a select group of national and international human rights practitioners to review contemporary transitional justice processes in S/SE Asia in a comparative perspective. The main focus was on the potential offered by **bottom-up memorialisation initiatives** in contributing to transitional justice processes. The key issue debated in the Exchange Meeting was the following: **can memorialisation activities help to reduce impunity in Asian countries that suffer from a culture of silence and impunity?**

In many S/SE Asian countries, local human rights organisations work hard to promote accountability for past atrocities, as well as to defend groups against continued human rights violations. Transitional justice processes, often internationally sponsored, play a potentially important role in achieving such historical accountability, as well as in upholding the necessary reform in order to avoid recurrent abuse, and relapse into violence. However, **transitional justice processes in S/SE Asia have only witnessed limited advancement over the last years**. One of the crucial shortfalls herein has been a lack of bottom-up participation channels that allow local human rights groups, victims' organisations and other grassroots initiatives to help establish the accountability process in a broader societal context.

Two key factors sustain this shortfall. The most important one is **the lack of political space for human rights activism**. Although the available manoeuvring space for particular human rights topics varies per country, in general, human rights activism continues to be a risky endeavour, subject to political disqualification, intimidation and persecution. Even in countries where some positive steps have been taken to come to terms with the past, political space might still be particularly constrained at the local level. The other factor often obstructing a stronger role for human rights activists and victims is the **international design of support for transitional justice processes**. This is not to say that international engagement in transitional justice issues is not highly necessary and transcendental. On the contrary, strong international commitment to justice is key in helping sustain local pressure for accountability. The problem is rather that such engagement is often subject to other international 'priorities'. In addition, engagement with transitional justice routinely suffers from an excessively narrow focus on particular (judicial) mechanisms alone, with low priority given to local contributions for victims' participation and broader societal outreach.

In this context, **memorialisation initiatives provide** local organisations with a significant tool to **open up political space**. This in turn involves different groups within populations in the broader political struggle for **victims' recognition and human rights**. Even in the absence of official recognition of past atrocities, a monument, a film, a storytelling session, or other kinds of memorialisation initiatives, still serves as important historical markers. If those responsible for the violence are now unable to shut down the voices of the victims, it stands to reason that those responsible were unsuccessful in silencing the people they had targeted, and that they now have less power to violently retaliate. **A memorialisation initiative is a historical claim that speaks to present political space**. Thus, bottom-up memorialisation initiatives translate into societal acceptance of narratives that challenge the conflict's 'official story', or the version proposed by the perpetrators, and help to gradually lift the veil of imposed amnesia and denial.

In order to be beneficial and to contribute to broader human rights' goals, memorialisation initiatives need to comply with certain principals. Participants in the Exchange were adamant to point out that perpetrators and regimes tend to promote their own historical narrative, justifying and/or

downplaying past human rights violations. **Top-down memorialisation initiatives** – such as those promoted by the state - were seen as partial and insensitive, at the least, and genocidal at the worst. Hence, the importance of generating an **alternative bottom-up memorialisation practice** to be promoted by civil society organisations, victims' groups and other organisations committed to human rights principles. Although additional research on ongoing memorialisation initiatives in S/SE Asia would be highly recommendable in order to provide deeper insight, based on their practical experience, the Exchange participants saw IW's [Guiding Principles](#) as providing an adequate framework to promote bottom-up, human rights-based memorialisation processes that stand to help generate most benefits for victims and communities, as well as to help contribute towards broader transformative justice goals in the future.

Civil society engagement in memorialisation cannot be seen as separate from larger commitments to human rights and transitional – or transformative - justice. Memorialisation initiatives speak to **all four pillars of transitional justice** (Truth, Justice, Reparation, and Non-Recurrence (TJRNR)). At the same time, initiatives present an ongoing appeal on behalf of survivors to engender structural change necessary to stop atrocious events of the past from taking place ever again. One of the lessons from the Exchange was that, if planned well enough, it would be possible to link bottom-up memorialisation initiatives in effective and practical terms to the specific agenda advanced in each of the pillars. Practical examples of how this may be done are illustrated in this report. Hence, the participants of the meeting emphasised the need to deepen their commitment to the support of bottom-up memorialisation initiatives. At the same time, they recognise the need to think **methodologically** about civil society engagement in memorialisation initiatives and the importance of thinking **strategically** about memorialisation in relation to the development of broader transitional justice processes in each specific country.

Throughout the Exchange participants shared important reflections on the challenges and results of memorialisation initiatives relevant in their specific contexts. The participants from these countries identified similar challenges in securing measures geared at transitional justice, as well as in addressing the underlying structures and dynamics that continue to perpetuate impunity. Memorialisation initiatives presented by different participants served as inspiration and lessons learned to others, and led to extensive cross-fertilisation between countries and even, in a few cases, between different regions in the same country. Historical, cultural and religious factors are key to memorialisation initiatives. Beyond context specificity, memorialisation should be understood as a process that is context-driven.

Through viewing bottom-up memorialisation as a human rights strategy, participants in the Exchange identified a **range of components** that need to be linked to memorialisation support. Memorialisation initiatives allow for - and often require - various elements: **capacity building, research, advocacy, participatory planning, socio-psychological support and fundraising** to name a few. **Artistic and communicational** aspects also clearly play an important role. Hence, memorialisation support sparks a **multi-disciplinary agenda of engagement** for the future. To this end, the Exchange also generated a list of recommendations (included in this report) providing the possibility to incorporate memorialisation support more prominently into the agenda of national and international practitioners concerned with human rights affairs in S/SE Asia. The organisations participating in the Exchange have already started follow-up processes in their respective countries in order to develop parallel agendas around memorialisation as a tool to further transitional justice and human rights causes.

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1. Introduction

This report is based upon the **Asia Exchange Meeting ‘Memory for Change’**, held in Bangkok from 3-7 November 2014. It was organised by IW, Asian Forum for Human Rights and Development (FORUM-ASIA) and swisspeace. The Exchange brought together 34 Civil Society Organisations (CSOs), two victims’ groups and seven international organisations working on human rights and transitional justice, including Asian Justice and Rights (AJAR), and Asian Federation Against Involuntary Disappearances (AFAD).¹ The event built on a previous exchange meeting on memorialisation organised by IW in 2012.² Participants included representatives from Burma/Myanmar³, Cambodia, Indonesia, Nepal, Sri Lanka, Thailand and Timor-Leste.

The Exchange aimed to reflect comparatively upon the involvement of victims and human rights defenders in memorialisation efforts, and to understand the relevance of this in relation to broader transitional justice efforts. Objectives included: exchanging experiences among civil society and victims’ groups on strategies for tackling obstacles to justice; developing policy recommendations for policy-makers; and creating strategies for using memorialisation as a complement to institutionalised transitional justice mechanisms and as a wider platform upon which to deal with the past.

The entrenchment of impunity and human rights abuses in S/SE Asia call for an urgent need to bring active representatives together to reflect on their experiences, and develop forward thinking strategies to deal with obstacles towards transitional justice. As was confirmed throughout the Exchange, memorialisation initiatives offer a versatile, innovative, effective and sensitive means to continue to forward transitional justice agendas within the constraints of the present political context in the region.

To work on transitional justice – or, as IW prefers, ‘transformative justice’ – is a difficult and often times dangerous task in most S/SE Asian countries.⁴ Tackling impunity not only means working towards the rights of victims and affected communities, but also includes addressing the root causes of the conflict, challenging unfair power relationships and the politics of exclusion. This may cause friction with the established powers. Civil society actors can easily become targeted or repressed, and thus have limited space to manoeuvre when it comes to delicate or controversial issues such as justice and redress for victims of past violence. International support for transitional justice processes is a sensitive issue. Opponents often frame it as illegitimate interference in internal affairs.

Whereas in some of the participating countries a number of institutionalised mechanisms for transitional justice can be found, the political status of these mechanisms is often precarious. Furthermore, such mechanisms lack the necessary accompaniment that needs to be provided by non-judicial measures. In other countries, such as Burma/Myanmar, discussions on transitional

¹ See Appendix 7.1 for a full list of participating organisations.

² This IW meeting, called the ‘International Memory Initiatives Exchange Forum’, held in Phnom Penh in 2012, explored the role of memorialisation in five post-conflict countries; Bosnia-Herzegovina, Burundi, Cambodia, Guatemala and South Africa. Report available at: http://www.impunitywatch.org/docs/Memory_Initiatives_Exchange_Forum_Report.pdf

³ While both Myanmar and Burma are used as names for the country, and choosing one appears to be a political choice, IW has decided to use both names in this report.

⁴ Conceptually related to transitional justice, transformative justice ‘emphasises local agency and resources, the prioritisation of process rather than pre-conceived outcomes, and the challenging of unequal and intersecting power relationships and structures of exclusion at both local and global levels’. In: Gready, P. & Robins, S. (2014) From Transitional to Transformative Justice: A new agenda for practice. The University of York, Centre for Applied Human Rights. Briefing Note. Available at: <http://www.transformativejustice.co.uk/TfJBriefingPaper.pdf>, page 1. For further discussion of transformative versus transitional justice, see Gready & Robins From Transitional to Transformative Justice; Lambourne, W. (2009) Transitional Justice and Peacebuilding after Mass Violence, *International Journal of Transitional Justice* 3, 28-48.

justice are controversial and contentious. In this context, CSOs perceive memorialisation initiatives as having the potential to play a key role in opening up and harnessing discussions on dealing with the past and addressing victims' demands.

The countries participating in the Exchange were selected based on the strong interest of local human rights organisations in discussing memorialisation initiatives in a comparative perspective. In spite of the differences between these countries, all have experienced repressive regimes and subsequently struggle to address legacies of abuse and impunity. Though the experiences that the different countries have had with transitional justice mechanisms vary significantly, the countries face similar obstacles grappling with a violent past and suffer from limited political space. With their differences, all countries present significant transitional justice shortcomings, particularly from the perspective of civil society and victims' organisations. The differences and similarities in this group of countries provide a fruitful basis for constructive exchange and mutual learning. This Exchange allowed participants to think through and re-invigorate bottom-up memorialisation efforts.

The Exchange participants presented the situation of transitional justice in each country. They discussed similarities and differences between various obstacles, and discussed country specific strategies and recommendations for overcoming them. The [Guiding Principles of Memorialisation](#) were reviewed as a tool for assessing similarities and differences between memorialisation initiatives and ways forward. Also, a Joint Statement (see Appendix 7.2) was developed by the group and publicised. On the final day of the Exchange, policy makers and donors from the region were briefed by each of the country groups, and 'speed dates' offered individual organisations, country groups, CSO and international organisation representatives the chance to meet.

An important component for this Exchange was to strengthen grass roots-based ideas about memorialisation in relation to transitional justice. Such ideas then inspired possible ways forward to be taken on by CSOs, networks and regional groups. These ideas also help policy makers and donors to provide better support - something dealt with in the concluding chapters of this report. This report summarises as well as complements the findings from the Exchange, and provides a comparative reflection on memorialisation and transitional justice across the participating countries, with recommendations at country-level and at regional-level.

The Exchange helped to deepen reflection among civil society groups and victims' organisations regarding different memorialisation efforts in S/SE Asia and inspired plans and follow-up meetings which have already been set in motion in several countries. In addition to this report, Country Explorations on Memorialisation as Related to Transitional Justice Processes have been written in order to outline the specific situation of each country. These explorations (seven in total) present an overview of the state of affairs in the field of transitional justice in each country, mapping out existing memorialisation initiatives and possible ways forward.

2. The Transitional Justice Context in South and Southeast Asia: Comparisons

In this section, we provide comparison concerning the seven countries in the following aspects: the type and intensity of predating conflict (mainly analysed through the lens of the GHRV that took place); transitional justice initiatives; and obstacles to transitional justice. Sections about the role of the international community and memorialisation, and the concluding sections on lessons learned and ways forward, compare and contrast the various findings of the Asia Exchange Meeting. Finally, they suggest some country-level and regional strategies and recommendations.

2.1 Context and Politics

The populations of the seven countries participating in the Exchange differ greatly; Indonesia is the largest country at 250 million, followed by Thailand (67 million), Burma/Myanmar (53 million), Nepal (27 million), Sri Lanka (20 million), Cambodia (15 million) and finally the smallest, Timor-Leste (1 million).⁵ Geographical and demographical consideration can also be relevant for transitional justice issues. For example, in Indonesia, its size (and geography of various distant islands) has proven an obstacle for transitional justice as communication between and for victims is difficult. Geography was noted as a challenge in Nepal as well. The greatest challenge in Nepal, however, is the limited socio-economic development: in an overwhelmingly rural nation with poor infrastructure, how can memorialisation remain locally and contextually relevant, while also unfold on a national scale and be able to impact national narratives?

Religion, Culture & Ethnicity

It is clear that (the manipulation of) religion has played an important role in several of these conflicts – and thus should not be omitted when considering the modes of recovery and social reconstruction. For example, both in Sri Lanka and Burma/Myanmar, Buddhist extremists have fomented violence against minority groups (Tamils and Muslims in Sri Lanka, and Muslims in Burma/Myanmar).

Many countries attending the Exchange are predominantly Buddhist (Cambodia (97%), Thailand (94%), Burma/Myanmar (89%), Sri Lanka (70%)), while Nepal has a minority Buddhist population (9%), and Indonesia and Timor-Leste are less than 1% Buddhist.⁶ In the Buddhist religion, there may be a tendency to ‘forgive and forget’ due to the Buddhist belief in ‘karma’ or that punishment for past violations may occur in future lives. This does not mean however that all Buddhists prefer to forgive and forget, as multiple surveys have shown for example that the majority of Cambodians support the Extraordinary Chambers in the Courts of Cambodia (ECCC).⁷ However, in Buddhist countries, the views on karma, as well as compassion and tolerance should be considered when planning transitional justice activities.

Indonesia is the only country with a Muslim-majority (87%). Sri Lanka, Thailand, Burma/Myanmar and Nepal have experienced conflict between Muslim minorities and other religious/ethnic groups. Timor-Leste is the only country of the Exchange with a Roman Catholic-majority (97%), while all other

⁵ Based on 2013 estimates in millions from the World Bank, available at <http://data.worldbank.org/indicator/SP.POP.TOTL>.

⁶ See CIA (2014) World Factbook, available at: <https://www.cia.gov/Library/publications/the-world-factbook/fields/2122.html>.

⁷ See for example: Pham, P., Vinck, P., Balthazard, M. & Hean, S. (2011) After the First Trial: A Population-Based Survey on Knowledge and Perception of Justice and the Extraordinary Chambers in the Courts of Cambodia, Human Rights Center, University of California, Berkeley, June 2011, available at https://www.law.berkeley.edu/files/HRC/Publications_After-the-First-Trial_06-2011.pdf

countries have small Christian-minorities. In general, memorialisation events in Timor-Leste include a traditional Roman Catholic ritual, which involves putting flowers on graves, and delivering speeches of recognition. Death rituals in Islam and Christianity differ to those practiced in Buddhism. Even when the complex traditional and animist views common to many parts of S/SE Asia furthermore shape such rituals, **religious aspects of memorialisation** are necessary to consider.

Ethnicity has played a significant role in several of the conflicts resulting in the occurrence of GHRV in Burma/Myanmar, Nepal, and Sri Lanka, while it has also played a relevant role in southern Thailand, among other places. Concerning S/SE Asia, further exploration is needed into ethnicity as a root cause of conflict and resulting GHRV. In addition, research is needed into ethnicity's role in social recovery and transitional measures in the region. The same goes for issues related to religion and culture.

Though cultural aspects to memorialisation are discussed throughout the report (also in the country case studies), more comparative research on cultural aspects relating to memorialisation and transitional justice is needed in order to provide comprehensive treatment of the matter. Forms of memorialisation that are dissonant with cultural precepts hamper the effectiveness of memorialisation initiatives and may undermine its benefits for certain groups or sections of populations.⁸

Politics and Ideology

All of the countries participating in the Exchange currently have regimes that can be defined as authoritarian or post-authoritarian.⁹ The authoritarian regimes that have dominated the region over the last decades have in most cases been involved in GHRV and are therefore trying to ensure that transitional justice initiatives are either closely controlled, or cannot take root in the present day. In some cases, resistance and opposition groups have also committed human rights violations, but mostly not to the same degree as the governing powers. Authoritarian modes of governance have dominated the political landscape, marginalising social classes and ethnic groups. In ideological terms, authoritarian politics has often found inspiration in anti-communist or nationalist ideologies, closely associated with the creation of political imaginaries that seek out internal and external enemies.

Such ideologies have also been combined with factors like **historical marginalisation** of certain groups, migration, forced relocation and identity politics. In Indonesia for example, social groups have been formed based on a combination of religion, ethnicity and political ideology. A policy of transmigration imposed by the Dutch colonial government eventually resulted in separatist movements and communal violence, perpetuating the divisions of social groups.¹⁰ In Nepal, the Maoist insurgency was driven by a legacy of feudalism that marginalised indigenous peoples, lower castes and women. Therefore, most of the victims of this conflict came from these historically marginalised communities.

Some countries face ongoing civil war or insurgencies/conflicts (such as in Burma/Myanmar, Thailand), while populations in all countries suffer from ongoing human rights abuses and significant shortcomings in rule of law. This affects the ability of CSOs, victims' groups and opposition parties to

⁸ The popular rejection of the use of skulls and other human remains for memorialisation purposes in Cambodia is a case in point. The example is dealt with more extensively later on in the report.

⁹ The case of Timor-Leste could be seen as an exception to this, since this country's crisis was very much connected to the Indonesian occupation. At the same time, however, the Indonesians did implement authoritarian rule.

¹⁰ Hardjono, J. 1989. The Indonesian Transmigration Program in Historical Perspective. *International Migration* 26: 427-439.

operate and speak out. While some participating countries faced primary conflicts years or decades ago, they and other countries with ‘fresh’ abuses still experience the harmful effects of the unaddressed root causes of violence, such as land disputes, unequal access to natural resources, rule of law deficits, the accumulation of wealth among a small elite and corruption. In the ongoing conflicts of Burma/Myanmar and Thailand, civil society space is extremely limited. Although several bilateral ceasefire agreements with ethnic armed groups have been signed in Burma/Myanmar, the government and ethnic rebel groups have failed to reach a nationwide ceasefire. Journalists, activists, human rights defenders, and CSO workers have been systematically imprisoned, in addition to experiencing other human rights violations that continue to occur on a daily basis. Thailand’s human rights activists have recently experienced a period of repression and a wave of arrests. Naturally, within this context of ongoing violence and impunity, CSOs have limited space to speak out.

Transitional Justice Initiatives

These seven countries that have participated in the Exchange are in **different stages of developing transitional justice mechanisms**. Such mechanisms may be ineffective in the face of ongoing conflict and authoritarian abuse for several reasons. Without sincere commitment from the government, there is a strong likelihood of slipping back into a situation where impunity reigns. This reflects the situation in Burma/Myanmar, Thailand, and Indonesia. Memorialisation initiatives are contested and communities are mostly afraid to undertake them, much less, push for major transitional justice initiatives.¹¹ Sri Lanka has been subject to ongoing human rights violations by an authoritarian government for many years, though recent political developments generate hope for possible improvement.

In Nepal, civil society has become the principle voice opposing government efforts to sustain impunity. It is still in a state of limbo - although it has quite a number of memorialisation initiatives, many transitional justice efforts have either been thwarted by a dysfunctional coalition government, or by an active blockade initiated by powerful voices fearing prosecution. Nonetheless, some innovative approaches have already rendered interesting experiences such as the creation of a Ministry for Peace and Reconstruction, as well as Local Peace Committees at the district level. A Peace Trust Fund was created to raise donor support and to foster peace.

Timor-Leste has had major transitional justice initiatives spearheaded by the international community, yet they have been unable to address the issue of justice for the perpetrators (most of whom currently reside in Indonesia), and there has been little buy-in by local communities. For these reasons, much of the past in Timor-Leste remains unaddressed. Cambodia may be the most developed in transitional justice mechanisms due to the recognition that has been given to GHRV in the country. In spite of the lengthy duration of its transition process, and the extensive intervention of the international community, Cambodia still has a long way to go.

The **level of awareness** that people from these countries have about transitional justice and its objectives differs significantly. In Burma/Myanmar and Thailand the idea of transitional justice is relatively new. The government is very sensitive about even the use of this term, so CSOs are forced to work on this issue with caution. In Sri Lanka, under the new government, there is gradually more discussion about transitional justice mechanisms. The Commission of Inquiry for Missing People in Sri

¹¹ A possible exception, in the case of Indonesia, is the ‘International People’s Tribunal ‘65’, scheduled to take place in The Hague in November 2015. The fact that it is not possible to hold this event within Indonesia shows how sensitive the issue still is.

Lanka offers assistance, but does not provide answers about what happened to victims of enforced disappearances. In Cambodia, there is widespread awareness of transitional justice due to the presence of the ECCC. However, the transitional justice process is seen by many as restricted, partial and connected to contemporary political interests.

In all countries involved in the Exchange, **transitional justice mechanisms have only marginally been informed by a victim-centred/bottom-up approach**. For example, the limited amount of consultation with CSOs before the ECCC was set up in Cambodia, and before the Commission for Reception, Truth and Reconciliation (CAVR) was set up in Timor-Leste, did not fulfil the aspirations of victims. In addition, while victims' groups have insisted on providing inputs into various initiatives in Nepal, results have been disappointing.

International Community Engagement

The level of international support the different countries receive varies significantly. Three of the countries had significant **UN interventions** that addressed some form of transitional justice (Cambodia, Nepal, Timor-Leste); two had some UN presence but with less emphasis on transitional justice (Sri Lanka, Indonesia) while two others had little or no UN intervention (Burma/Myanmar and Thailand). The varying degrees of international intervention also relate to the stage of conflict and the number of years that have passed since the occurrence of GHRV. Outcomes related to transitional justice have not only been slightly more advanced in countries, which have had significant interventions. The current economic interests in SE Asia, especially in light of China's interest in the region, furthermore threaten to overpower the international community's focus on transitional justice – this is most notable in Burma/Myanmar, but is also an important factor when considering initiatives in Thailand.

The EU has been engaged in various transitional justice initiatives.¹² The EU states that it shares values incompatible with crimes against humanity, genocide and war crimes, declaring that 'the memory of those crimes must be a collective memory, shared and promoted, where possible, by us all'.¹³ The EU provides considerable financial support to a wide range of transitional justice initiatives, especially through the European Instrument for Democracy and Human Rights (EIDHR). Furthermore, it is finalising its strategy on transitional justice, which would guide the European Commission's foreign policy on transitional justice.

The ASEAN Intergovernmental Commission on Human Rights (AICHR) established a Human Rights Declaration in 2012. In it, members promise to 'enhance friendship and cooperation in the furtherance of peace, harmony and stability in the region'.¹⁴ The AICHR aims at enhancing and protecting human rights, and organises regional consultations with CSOs.

The UN has emphasised the importance of 'ensuring active consultation of, and participation by, victims' groups and the public', and that 'without such consultation and participation, the prospect of designing and operating credible and effective transitional justice policies is greatly reduced'.¹⁵ In

¹² The Council of the European Union (2008) Providing Security in a Changing World. Report on the Implementation of the European Security Strategy, S4047/08, page 12.

¹³ The Council of the European Union (2009). The Stockholm Programme – An open and secure Europe serving and protecting the citizens, 17024/09, available at: http://ec.europa.eu/home-affairs/doc_centre/docs/stockholm_program_en.pdf

¹⁴ AICHR (2012) ASEAN Human Rights Declaration, available at: <http://www.asean.org/news/asean-statement-communicates/item/asean-human-rights-declaration>

¹⁵ UN (2008) What is Transitional Justice? UN Background Note, available at: http://www.un.org/en/peacebuilding/pdf/doc_wgll/justice_times_transition/26_02_2008_background_note.pdf

relation to the combatting of impunity, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has established the 'Updated Set of principles for the protection and promotion of human rights through action to combat impunity'. Two of the principles observed here are 'the victims' right to know' and 'the duty to preserve memory'.¹⁶

2.2 Common Obstacles to Transitional Justice

'Common problems in all States include denial, lack of acknowledgement and silence on issues of past human rights violations. In failing to address the root causes of the conflict, a culture of impunity continues to prevail, leading to recurring and sustained human rights violations'.

Joint Statement from the Asia Exchange

The countries participating in the Exchange experience common obstacles in securing effective transitional justice. This warrants a regional perspective. The seven countries are all characterised by longstanding impunity – arising in most cases from decades of political violence as well as hierarchical societal structures with systems of patronage. In such contexts, the space for political opposition is often restricted, as is the space for civil society groups that demand transitional justice processes. In Cambodia, Prime Minister Hun Sen suggested to 'dig a hole and bury the past'. Reflecting this, Cambodians face political repression and little space to discuss their history; regimes often teach their communities not to be critical of authority.

Sri Lanka also serves as an example where silence with regard to GHRV prevails; memorialisation initiatives are only made for and by the majority Sinhala population, while minority Tamil and Muslim populations are rarely able to speak out. Memorialisation processes are blocked because they would allegedly hinder the reconciliation process. This context offers limited space to CSOs. Nonetheless, the new government has raised hopes for change in this aspect.

In a broader sense, several S/SE Asian governments have established a **discourse against 'Western' involvement** in their internal affairs, stating that such involvement is based on 'Western' notions of justice and liberal peacebuilding approaches. Governments have waved off critique on their approach for dealing with the past. Also, governments may instrumentalise transitional justice to manipulate local politics.

Political opposition to or manipulation of transitional justice processes has been a common obstacle in the region. In Cambodia for instance, the government has refused to allow its senior officials to testify at the trials for the Khmer Rouge (KR) leaders at the ECCC, and recently prosecutions have been blocked.¹⁷ In most countries, even preliminary discussions of possible transitional justice processes have been quashed, as military regimes remain in power. Another problem is that **recommendations stemming from transitional justice mechanisms are not fully implemented**. Nonetheless, in the case of the National Lessons Learnt and Reconciliation Commission (LLRC) in Sri Lanka for example, there has been slow, superficial progress concerning the implementation of the recommendations of the LLRC report through the National Action Plan. In the case of Nepal, the implementation of the recommendations stemming from the National Human Rights Commission has been weak or inadequate.

¹⁶ UN (n.d.) General Comment on the Right to the Truth in Relation to Enforced Disappearances. Working Group on Enforced or Involuntary Disappearances, available at: http://www.ohchr.org/Documents/Issues/Disappearances/GC-right_to_the_truth.pdf

¹⁷ See: <http://www.hrw.org/news/2015/03/22/cambodia-stop-blocking-justice-khmer-rouge-crimes>

Moreover, several of these countries have **not witnessed a real transition**, since many of the perpetrators of GHRV are still in power or are protected by the powerful. In many countries there continues to be a strong connection between the military and the government: while some have an open military rule, most militaries play a strong role behind the scenes. Although transitional justice mechanisms have been established in some countries (Nepal, Timor-Leste), there is no real political will to acknowledge the suffering of affected communities or to hold perpetrators of GHRV accountable. The case of Cambodia should be seen as an exception in this regard, albeit that only a handful of perpetrators are prosecuted, GHRV of other periods than the KR era are not taken into account and members of the KR regime are still in power.

Even if perpetrators are brought to court, sentences have not always been served. This issue is for instance apparent in the case of Timor-Leste. In Jakarta, 18 defendants were originally tried for crimes committed in Timor-Leste by the ad hoc Human Rights Court in Jakarta, only to be acquitted later.

Finally, **a lack of understanding and exposure to transitional justice and memorialisation processes hampers progress**. Comparative and conceptual understanding of transitional justice and memorialisation is limited among local groups that might be able to support such an agenda or help it move forward. This is related to the need to strengthen both international and local engagement on human rights issues in multiple ways that can mutually re-enforce each other and that can help involve broad sectors of the population in diverse ways. For example, in Nepal, memorialisation efforts receive minimal attention from the government, civil society and victims' groups. In Thailand, the matter of transitional justice is still scarcely debated among victims, policy makers, and CSOs and largely absent from the media.

3. Memorialisation Initiatives

Impunity Watch understands memory [memorialisation] initiatives to mean any activity that aims to commemorate or enhance understanding of a conflictive past, including – but not limited to – the erection and maintenance of memorials and monuments, the operation of museums and exhibits, traditional ceremonies and rituals, musical and theatrical performances on relevant topics, the running of educational, awareness-raising, dialogue and remembrance programmes, the teaching of history and the gathering and preservation of information.

IW Policy Brief: Guiding Principles of Memorialisation

3.1 The Role of Memorialisation in Countries Affected by Conflict

In IW's [Guiding Principles](#), memorialisation initiatives are defined as activities that aim to commemorate or enhance understanding of a conflictive past – they can create both opportunities and risks. These memorialisation initiatives can include public memorials such as museums and monuments, various documentation activities - including oral history collections and archives - and other events such as art or performance. Memorialisation initiatives can create many opportunities for survivors and societies, including: the recognition of survivors; becoming a location for mourning and healing; contributing to truth telling; representing a form of justice or reparation; contributing towards the construction of national identity and social reconstruction; creating a space for public education, dialogue and engaging second generations; providing a basis for dialogue and reconciliation between groups in conflict; serving as a basis for non-recurrence, and preventing impunity.

In societies affected by conflict, memory shapes how people, groups, and cultures deal with a past characterised by human rights abuses. In these contexts, memorialisation initiatives may serve as a tool to examine the past and address inequalities and structural violence emanating from this past - thus linking the past with the present. Memorialisation initiatives are thus important as they offer insight into the root causes of violence, which can offer lessons learned for non-recurrence. Equally, they acknowledge the experiences of victims and ascribe accountability for their suffering, thereby fighting impunity.¹⁸ For elaboration of the key components that need to be taken into account to ensure that memorialisation can play a positive role, consult the [Guiding Principles](#).

3.2 Memorialisation in S/SE Asia

Within the contexts of the countries included in the Exchange, memorialisation initiatives have played a varying but significant role. IW's hypothesis is that memorialisation plays a role in opening up processes of truth finding in regions where official transitional justice measures are opposed by the regime.

Nonetheless, it is also true that making connections between the reduction of impunity and memorialisation efforts is difficult, as both are long-term processes. Especially for activists dealing with human rights abuses on the ground, it is difficult to see the forest from the trees. Opening up repressed societies through memorialisation can eventually lead to more discussions about the past – therefore increasing the likelihood of recognising perpetrators, truth telling and acknowledgment

¹⁸ Moore, L.M. (2009) (Re)covering the Past, Remembering Trauma: the Politics of Commemoration at Sites of Atrocity, *Journal of Public and International Affairs*, Spring 2009 (20): 47-64. Truth Commissions may be somewhat more focused on victims' rights and needs than are criminal trials, and may include recommendations with a transformative justice approach.

of GHRV. Discussions revolving around present-day impunity mechanisms and the exposure of those in power who benefit from the status quo may eventually lead to a reduction of impunity. However, such discussions will only take place as a result of different forms of societal pressures working long term to create the necessary space for recognising impunity. In the countries participating, it is clear that such societal pressure is mostly weak. In many contexts, it is still dangerous to advocate for meaningful ways to deal with the legacies of past crimes.

When working on memorialisation, it has to be taken into account that regimes themselves are invariably involved in memory work, promoting narratives of the past that justify their position and harness impunity. As mentioned in the introduction, authoritarian regimes often silence dissident counter-memories that challenge their nation-building myths. The situation in Sri Lanka reflects this well. After the initial GHRV, the suffering of Tamil victims has not been acknowledged, and is excluded from national discourse. There are hopes however that the situation is gradually improving. Otherwise, resentment could increase and renewed cycles of violence could occur. Indonesia is another case in point, whereby memorialisation initiatives are used as a state propaganda tool. Propaganda is delivered through literature, school curricula and many monuments and statutes for the so-called heroes of independence and anti-communist fighters.

In fact, many existing memorialisation initiatives in this region are state-led and politicised, without consultation of affected communities. These politicised memorialisation initiatives offer a selective (often confined to only one part of the conflict's history), one-sided narrative that is not victim-centred. However, non-state initiatives can be politicised as well – this can occur when actors at this level push for their own agendas, excluding 'the other'. Furthermore, the difficult problem of how to deal with the perpetrators in memorialisation efforts has not been tackled by any of the countries.

When memorialisation initiatives prove to be insensitive to the local culture, there is a risk that these initiatives are not locally owned. This would lead to a lack of legitimacy of the initiative. This is for instance the case in Cambodia where the Tuol Sleng Museum, where more than 15,000 were killed, had a display of a map of Cambodia made up of victims' skulls.¹⁹ Though context specificity is key, Cambodia has several examples of adapting outside ideas to create appropriate and appreciated memorialisation initiatives. For example, the so-called 'Testimonial Therapy', as well as interactive museums at the community level, combine learning about the past and intergenerational dialogue.

As revealed in the Country Exploration, the military leadership in Burma/Myanmar allowed various memorialisation events and unofficial truth projects to proceed since the 2011-2012 reforms.²⁰ However, while some memorialisation initiatives at the national level have been tolerated, truth-telling events in rural areas continue to be a sensitive topic. As a result, NGOs struggle in finding ways to work in this context.

Hence, this issue of memory initiative 'levels' is particularly important, and indicates two categories often pitted against each other: national versus local. This dichotomy begs the question: who own the initiative? In Nepal, memory work often has a partisan dimension promoting either the narrative of the Maoists, or that of the former regime. Both narratives hardly pay attention to the actual suffering of the communities as a result of the violence, and largely ignore the actual grievances of the victims.

¹⁹ The museum and map were created by the Vietnamese and their Cambodian allies, immediately after the end of the Khmer Rouge regime. Its political purpose was the denouncing of the Khmer Rouge. Many Cambodians have objected to the use of skulls in this manner and the map was eventually removed.

²⁰ Many rights groups are deeply sceptical about how genuine the reform processes are in Burma/Myanmar.

3.3 Memorialisation and TJNR

Taking into consideration the positive as well as the harmful effects associated with memory work, this section outlines how well-conceived memorialisation initiatives can become part of the four pillars of transitional justice (TJNR). However, memorialisation initiatives cannot be strictly divided between the four pillars. Memorialisation processes do not only pertain to institutionalised legal justice, but also involve locally relevant mechanisms and processes, many labelled as ‘non-judicial measures’ that contribute to accountability, acknowledgement, socioeconomic justice and political justice. These elements are part of a wider transformative justice model. In this framework, memorialisation serves as a tool to address local needs and expectations, ensuring local ownership of the transitional justice process.

Cambodia has the largest number of memorialisation initiatives initially created post-GHRV in 1980 by a government that used the ‘Pol Pot – Ieng Sary Genocidal Clique’ KR as a symbol of their triumph over evil. Two out of the four main tourist sites in Phnom Penh are related to genocide: Tuol Sleng Prison museum and Cheung Ek Killing Fields, as well as various historical remembrance sites, and at least one ‘skull memorial’ in each province. Due to the presence of the hybrid court to try KR leaders, many other memorialisation initiatives have arisen. CSOs as well as communities have promoted such initiatives. The Country Exploration on Cambodia includes numerous examples.

While CSOs from other countries look with great interest to Cambodia’s large experience with memorialisation initiatives, in reality the initiatives implemented in this country are still operating in a general climate of political oppression - only a specific part of history is allowed to be discussed. Especially at the village level, the freedom to speak out is limited. Local authorities have attempted to hegemonise the topic of memorialisation, including the civil society initiatives on this matter, to enhance their political legitimacy. Cambodian People’s Party’s (CPP) supporters – Cambodia’s ruling party since 1979 – often discourage other groups from voicing their perceptions of the past.

3.3.1 The Right to Truth

Victims’ testimonies for TRCs, which can be published, form an integral part of the historical memory of a post-conflict society. However, TRCs are much more effective when locally endorsed and when local practices of healing and reconciliation are incorporated.²¹ An advantage of TRCs is that they provide a platform for other collective memories and alternative histories to the legal ‘truths’ of criminal prosecutions. The CAVR, established by the UN Transitional Administration in East Timor (UNTAET) and Timorese leaders in Timor-Leste, was a unique process that rendered many lessons, and which could serve as a model for other countries considering local TRCs (such as CSOs in Cambodia). The Country Exploration provides more details on this process.

Several other S/SE Asian countries are considering TRCs. The Sri Lankan government, for example, has sought out advice from South Africa. The UN OHCHR Special Rapporteur for Myanmar for 2012 and 2013 made public statements encouraging the government to consider establishing a Truth Commission. In Nepal, a TRC and Commission of Inquiry into Enforced Disappearances (CIED) were to be created within six months of the 2006 peace accords, but they have been stalled for years (though these commissions were finally created in 2015). In 2005 a National Reconciliation Commission (NRC) was created in Thailand. Sadly it did not function effectively and its final report did not address the underlying problems of the violence. Again in 2010, another commission was created, under the

²¹ Shaw, R. (2005) ‘Rethinking Truth and Reconciliation Commissions Lessons from Sierra Leone’, US Institute of Peace, Special Report 130, February 2005, available at: <http://www.usip.org/sites/default/files/sr130.pdf>.

name Truth for Reconciliation Commission of Thailand (TRCT). The final report of this commission has been released, but its recommendations have not been implemented.

Commissions of Inquiry (COI) are another form of truth telling – a large number have been created in Sri Lanka, but results have been limited due to lack of implementation. The most recent Commission has more hope for success, however. In Thailand, between 2004 and 2012, there have been 12 COIs, but similarly, their proposed measures have not been implemented, without any resulting court cases. In Timor-Leste, the International Commission of Inquiry in East Timor, established by the Secretary-General of the UN, released its report in 2000.

There are alternative **public hearings** to the ones held at TRCs, which are designed to give a voice to a small number of survivors of GHRV. They differ from TRCs insofar that they are not set up by the state, and are limited in scope and resources. The public hearings campaign in Indonesia is a case in point (see Country Exploration). Another example of this type of hearing is the ‘Women’s hearings’ in Cambodia, which were designed to acknowledge the survivors of gender-based violence and to create a more accurate historical record by documenting their experiences.²² A similar process was undertaken for Burma/Myanmar, named the ‘International Tribunal on Crimes Against Women of Burma’. It was held in New York, which provided a platform for survivors of sexual violence to expose the atrocities inflicted upon women throughout decades of oppression.²³ GHRV can be addressed through a **People’s Tribunal, such as in Indonesia**, an ad hoc organisation organised by private citizens. Besides urging for accountability, non-governmental actors can assemble to create a forum in order to register public protests against these violations.²⁴

National Human Rights Institutions (NHRIs) or Human Rights Commissions (HRC) can address GHRV after their establishment, or they may be given a mandate to inquire into past abuses.²⁵ Several of the Asia Exchange countries have NHRI’s. The example of Nepal is a fairly positive one, relatively independent, and has raised several significant issues. A HRC has been in place in Burma/Myanmar since 2011, but has failed to make substantial impacts. Several parliamentary committees were formed, for example on land issues, and have had some effect on dealing positively with conflicts. In September 1999, the National Human Rights Commission of Indonesia established the Commission for Human Rights Violations for the conflict in Timor-Leste.

Through **documentation** of GHRV, which can come in the form of archives, websites, or by other means, a greater understanding can be provided on the nature and roots of violence. The Documentation Centre of Cambodia (DC-Cam) is a model of a successful and far-reaching documentation, including a multitude of sources, formats, and uses. DC-Cam’s archives have been the major source of documents for the ECCC. The experience DC-Cam has to offer in documentation has served as an example in several other countries, including Syria and Burma/Myanmar. The Transitional Justice Reference Archive in Nepal serves as another relevant example.

In contexts of ongoing violence, abuses need to be documented, collected and used in advocacy and awareness-raising activities. For example, in Burma/Myanmar a wide variety of organisations are

²² Ye, B. (2014) Transitional Justice Through the Cambodian Women’s Hearings, *Cambodia Law and Policy Journal*, July 2014 (2): 23-38.

²³ Noble Women’s Initiative (2010) *International Tribunal on Crimes Against Women of Burma*, available at: <http://www.nobelwomensinitiative.org/wp-content/archive/stories/burma.pdf>

²⁴ Kaufman, Z. (2008) Transitional Justice Delayed Is Not Transitional Justice Denied: Contemporary Confrontation of Japanese Human Experimentation During World War II Through a People’s Tribunal, *Yale Law & Policy Review*, Vol. 26 (2): 645-659, page 650.

²⁵ See OHCHR (2010) ‘National Human Rights Institutions History, Principles, Roles and Responsibilities,’ available at: http://www.ohchr.org/documents/publications/pts-4rev1-nhri_en.pdf.

documenting past as well as ongoing human rights abuses; ND-Burma (Network for Human Rights Documentation-Burma) is in the forefront, while other groups such as the Karen Human Rights Group (KHRG) and Shan Women's Action Network (SWAN) are also very active in documentation.²⁶ Indonesia now has CSO and victims' organisation activities to document human rights violations of the past (1965 and 1998).

Educational programmes can foster understanding of competing narratives and support historical re-envisioning. DC-Cam has worked with the Ministry of Education in Cambodia for many years and was finally successful in introducing a curriculum addressing the GHRV of the KR period.

By means of **oral history projects**, affected communities are enabled to give testimonials of the GHRV they experienced. Storytelling projects help give victims a voice and make them visible. New storytelling techniques can help involve and empower victims with varying education levels. At the same time such innovative platforms for outreach and education are only starting to be discussed among CSOs and victims' groups, such as the instrument of **digital storytelling**. There are several oral history projects underway in Cambodia, by DC-Cam as well as several other CSOs which have documented sexual and gender-based violence (SGBV).²⁷ **Books, theatre, films, art and other forms of expression** memorialising the past have been initiated in and about all seven countries. Certain groups have written a large number of memoirs, such as victims/survivors of the KR regime in Cambodia, and Maoist ex-combatants in Nepal.

3.3.2 The Right to Justice

Criminal prosecutions are also important for memorialisation initiatives, as they generate a great deal of information and documentation, and create accountability. The justice process also allows for the opening of a new chapter in the story of the violence, and thus can become integrated in the storytelling and memorialisation itself. For example, the ECCC in Cambodia has helped to generate various memorialisation activities, as has been the case to a lesser extent in Timor-Leste.

Memorialisation initiatives could be used as part of **outreach activities of criminal prosecutions**. Prosecutions may stimulate memorialisation initiatives and in turn, memorialisation initiatives could open up space for the collection of oral histories and interviews. This would encourage further investigation and/or **historical record building**, in addition to forensic evidence required at the trial. Furthermore, memorialisation initiatives can garner public support for prosecutions.²⁸ Cambodia has considered a 'virtual archive' for storing and sharing the records from the ECCC. Although discussions are currently stalled, many documents are still available on the ECCC website.²⁹ Due to the presence of DC-Cam and its plans to expand its public display space into the Sleuk Rith Institute,³⁰ there is already an extensive local ability for the sharing of historical records.

Victims Units of Tribunals or Truth Commissions are significant for transitional justice processes. The Victims Support Section was established as part of the ECCC in Cambodia,³¹ and offers space for memorialisation processes, such as documentary and audio-visual archives, reparation activities,

²⁶ See nd-burma.org, www.khrg.org and www.shanwomen.org.

²⁷ See www.dccam.org and <http://cambodianwomensoralhistory.com/about/>

²⁸ IW & Anne Frank House, *Understanding the Role of Memory Initiatives*, page 10.

²⁹ See <http://www.eccc.gov.kh/en>.

³⁰ For more information on the Sleuk Rith Institute, see: <http://www.cambodiasri.org/>

³¹ See <http://www.eccc.gov.kh/en/victims-support>. See also: Redress (2009) 'Considering reparations for victims of the Khmer Rouge Regime', available at:

<http://www.redress.org/downloads/publications/CHRA%20REDRESS%20Cambodia%20Reparations%20final%2018%20Nov%2009.pdf>

commemorative services and other truth-seeking initiatives. However, careful consideration is needed of the actual role of victims and communities.

3.3.3 **The Right to Reparations**

Memorialisation initiatives can contribute to raising awareness of the victim's right to reparations. At the same time, initiatives can be seen as an integral part of **symbolic and collective reparations** taking place. Through commemoration, documentation, activities aimed at remembrance, education and preventing the recurrence of similar crimes, memorialisation connects directly to the restoring of the dignity of victims.³² Civil Parties to the ECCC in Cambodia have already received substantial symbolic reparations for the trials already completed, and more are in process.³³ **Individual reparations** can serve as important tools of transitional justice and indeed memorialisation, as victims are recognised and remembered individually. The Interim Relief Programme (IRP) in Nepal constitutes an example, the relation of this effort to broader acknowledgement of victims is problematic.

Memorials, monuments and museums are the most obvious forms of reparations, which pay tribute to affected communities and preserve the collective memory of a society. Such sites could also be considered under the pillars of truth, justice, and guarantees of non-recurrence (see descriptions elsewhere in this paper for the many types, successes, and obstacles of memorialisation initiatives). In Timor-Leste numerous memorials and other initiatives refer to the struggle against Indonesia. There is much less attention for the ongoing grievances of victims.

Several **commemorative practices** are in place to offer truth seeking and healing to victims. In the participating countries, there are a wide variety of practices. For example, in Burma/Myanmar the Assistance Association for Political Prisoners (AAPP) holds regular remembrance ceremonies to offer survivors a forum through which to share their experiences of incarceration, and to commemorate deceased prisoners. The ceremonies that commemorate uprisings which resulted in large-scale torture and mistreatment of prisoners draws public attention to continuing practices of intimidation and judicial harassment. Supporting political prisoners that reveal ongoing abuses in detention centres is also an important component of non-recurrence. In Cambodia the platforms for commemoration include local truth ceremonies, Buddhist reconciliation ceremonies, water ceremonies, food offering ceremonies and commemoration days. In addition to these traditional practices, new forms are being developed. For instance, Timor-Leste Exchange participants highlighted a body mapping exercise, in which people draw life-size pictures of themselves, to pull forth memories of their life's journeys. Another example in Timor-Leste includes the use of memory boxes; a personal tool for affected communities to collect images or objects that remind them of specific moments in their lives. These processes allow victims to speak about traumatic events they experienced.

As part of reparations, rehabilitation programmes may provide **psychological assistance** to survivors. An example of this kind of assistance is 'Testimonial Therapy', conducted by the Transcultural Psychosocial Organisation in Cambodia (TPO Cambodia). This includes psychotherapy for survivors of

³² OHCHR (2005) Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>.

³³ See ECCC, (2014) "Wide ranging support secured for the reparations for victims of the Khmer Rouge," April 21, 2014, available at: <http://www.eccc.gov.kh/en/articles/wide-ranging-support-secured-reparations-victims-khmer-rouge>, and ECCC, (2014) "Annex: Overview of Civil Party Reparation Projects in Case 002/01," April 4, 2014, available at <http://www.eccc.gov.kh/sites/default/files/articles/Annex%20Case%20002-01%20ReparationProjects.pdf>

torture. Subsequently, survivors may be interested in helping to raise public and international awareness of human rights violations. Other initiatives that are part of psychological assistance are art therapy and apology ceremonies.

3.3.4 Guarantees of Non-Recurrence

Memorialisation is often thought of first and foremost in relation to the non-recurrence pillar of transitional justice. This is because memorialisation is mostly associated with awareness-raising of the impact of past violence, and therefore also of the necessity to avoid further violence in the future. Memorialisation can also be connected more directly to specific elements of non-recurrence such as the need for dismantling the institutional arrangements that allowed for violence to develop in the first place. For example, clarifying the role that different institutions played in the violence emphasises the need for specific reform to prevent institutions going down the wrong path once again in the future.

It is also interesting to think about **Disarmament, Demobilisation and Reintegration (DDR)** programmes as spaces in which to include memorialisation connected to non-recurrence and institutional reforms. Here, memorialisation is used as a tool to collect testimonies of ex-combatants in order to preserve a form of public memory of violence and human rights violations. This includes abuses connected directly to the armed institution they participated in.³⁴ In peace negotiations on a **Track II diplomacy** level, memorialisation initiatives may be introduced in order to transform negative perceptions and attitudes. These types of initiatives are central to, for instance, dialogue projects. Reaching a minimum level of shared understanding between political adversaries, and committing such understandings to memorialisation efforts can help to depolarise political situations, paving the way for a more inclusive understanding of national history.

In **education projects** and **intergenerational dialogue projects**, memorialisation can be used to raise awareness and enhance communication. The aim of these projects is to diminish chances of recurrent conflict through deconstructing stereotypes, by showing different interpretations of the conflict, and by combatting discrimination of marginalised communities. Such projects can be useful in reaching later generations who have no direct experience of GHRV. Through these projects, they can learn about the past, and assist older generations to ensure the message: 'Never Again'. Such efforts have been common in Cambodia.

³⁴ Dudouet, V., Giesmann, H.J., & Planta, K. (2012) 'From Combatants to Peacebuilders,' Berghof Foundation, available at: http://www.berghof-conflictresearch.org/documents/publications/Policy_Paper_dudouetetetal.pdf.

4. Good Practice and Lessons Learned

The IW hypothesis is that, in regions where regimes oppose official transitional justice measures, and societies focus on keeping silent (either due to fear or cultural/religious traditions), where geopolitical and economic interests stop the international community from pushing for these measures, memorialisation can play a role in opening up processes of truth-finding and accountability, touching upon the deeper structures of impunity. This chapter provides some concrete examples to verify this hypothesis. While the previous chapter refers to possible roles for victims' groups, CSOs and the international community in memorialisation and transitional justice measures, this chapter focuses on recommendations related to the international community only.

States have the primary responsibility to address past and present violations. However, other stakeholders, such as national and regional human rights institutions, international organisations and the media, also have a critical role to play in ensuring that these violations are addressed. Diplomatic, financial and technical support are crucial elements for acknowledging the importance of sustainable assistance in the long-term process of transitional justice and ensuring that donors engage in a two-way dialogue with community and grassroots organisations to ensure local ownership. In conclusion, our gathering emphasised the importance of continuing exchanges and solidarity amongst civil society actors towards the common goal of greater accountability and an end to impunity in the region.

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International presence can provide space for transitional justice and memorialisation initiatives. A good example is the involvement of the ECCC in Cambodia, which has allowed for public space to be given to CSOs and communities. Through this space other initiatives are explored, albeit with a government that initially *promoted* memorialisation until it became a politically uncomfortable venture. The provision of this space can be seen as a model example for the international community, illustrating that they should always strive to fund CSO and community memorialisation initiatives *alongside* larger transitional justice processes.³⁵ This approach is crucial for meaningful and sustainable memorialisation initiatives that arise from the local. In addition, the international community needs to acknowledge the fact that their support for bottom-up memorialisation initiatives can provide some protection to groups that cannot act alone.

Memorialisation initiatives can contribute to preparing the ground for further and more comprehensive justice initiatives in the absence of formal transitional justice mechanisms. The documentation of survivors' and victims' stories, for example, readies potential future judicial and non-judicial investigations and therefore needs a long-term perspective. At the same time, this documentation should provide acknowledgment to victims and their families. Experiences in Burma/Myanmar are an example of this, where rejected judicial cases - despite not being processed - still raise awareness of past and present atrocities, complementing bottom-up judicial reform.

It is only due to the activities of CSOs and other international organisations working on transitional justice initiatives that the eventual processes cause transformation. For example, in Cambodia, through efforts of CSOs, the ECCC Victim's Unit, and the German Civil Peace Service (which has

³⁵ McGrew L. (in press) Cambodia Case Study, in Arthur P., Yakinthou C., Bernath T., Isaacs, A., & McGrew, L. International Assistance to Transitional Justice: Case Studies on Support to Sustainable Civil Society Engagement.

supported the Victims Unit, as well as most CSOs), participatory sections of the ECCC, and the many other transitional justice and memorialisation initiatives created by the ECCC have grown. In the traditional transitional justice model, there is little room for local and indigenous initiatives, and some researchers suggest that local views of transitional justice may be very different to what is imposed by the international community.³⁶ However, local initiatives can in fact make up for the problem of imposed top-down mechanisms, proving to respond more effectively to the needs of local populations and promoting transformation at both the individual and community level. For example, TPO Cambodia is using ‘Testimonial Therapy’ whereby civil parties connected to the ECCC write testimonies about harm suffered during the KR period, which is combined with Buddhist water blessings and counselling to promote healing. Participants explored these kinds of local approaches during the Exchange, recommending that the international community consider giving more support to local initiatives.

Some innovative transitional justice initiatives can serve as models for other contexts. These include: Burma/Myanmar’s active CSO documentation on human rights abuses and advocacy organisations (ND-Burma, KHRG, SWAN, AAPP); Cambodia’s documentation on abuses initiated by DC-Cam, the Victim Support Service of the ECCC and the local memorialisation initiatives of Youth for Peace (YFP) and Kdei Karuna Organisation (KdK); Nepal’s Ministry for Peace and Reconstruction, and Local Peace Committees at the district level and Timor-Leste’s CAVR. Take note that such initiatives would need revision and adaptation before being directly applied elsewhere (see the Country Explorations for an in-depth explanation of these initiatives).

Mobile exhibits can be useful. It is vital that activities are not all concentrated in capital cities alone. Often, the majority of victims of serious crimes live in rural areas. If memorialisation initiatives are concentrated in the capital, these victims are excluded from initiatives and denied participation. For this reason, they are often unaware of the initiatives’ existence, and initiatives will fail to impact local communities. Mobile exhibits can be particularly useful in countries with geographic challenges. The touring Peace Museum of Nepal, and the mobile exhibitions in Cambodia could serve as good models, since they have been able to reach a large audience, both rural and urban, and helped to stimulate new local initiatives.

Cultural ideas, customs and behaviours are important to consider in transitional justice initiatives. Many of these countries share some similarities in how they remember the dead. For example, all of them have concerns that spirits of deceased family members who have not had proper burials will not rest easily. Unfortunately, in all seven countries, many of the dead and missing have never been found, so traditional death rites cannot be carried out. This is a particularly important factor to consider in transitional justice measures. In addition to this tradition, many of the Exchange countries have oral history traditions, rather than a reliance on the written word, since populations have a limited level of literacy. Developing oral initiatives therefore permits a wider reach of public and societal impact.

³⁶ McDonald, A. (2013) Local Understandings and Experiences Of Transitional Justice: a review of the evidence. London: Justice and Security Research Programme, JSRP Paper 6, July 2013, page 4, available at: <http://www.lse.ac.uk/internationalDevelopment/research/JSRP/downloads/JSRP6-Macdonald.pdf>.

Memorialisation can be an effective tool in raising awareness and challenging dominant narratives of oppressive regimes at the community level. The Exchange countries' often present a large degree of repression particularly at the village level, where the suffocating effects of militarised and authoritarian regimes are prone to be very palpable. While some urban centres may allow for a certain degree of freedom of expression, rural villages are often social environments with extremely limited political space. Local repression is tightly practiced by local authorities, and in some cases, militias, making it difficult for people to challenge dominant narratives (the exception is Timor-Leste, oppressed by its neighbouring country). While the transformation process is slow, small cracks in political space can allow for quiet remembrances to re-emerge and take root. A good example of this is a recent community ceremony in Sri Lanka performed by Tamil relatives of civilians killed during the war - the first time that such a service was allowed to take place.

Enthusiasm for memorialisation initiatives may ebb and flow over time, depending on the political context, the actors involved, international support and other factors. For example, in Timor-Leste, victims and NGOs have created memorialisation initiatives with the intention of expressing their demands for justice, recognition and reparation from the government, and for the new generation to be exposed to anti-violence education. However, the governmental policy is to forget the past (as they do not want to antagonise their powerful neighbour). Its leaders are primarily ex-combatants who may focus on their own struggles and ignore the plight of ordinary victims, excluding local communities in planning decisions. Thus over time, enthusiasm for memorialisation initiatives has waned. The international community should learn from this and ensure its commitment to processes of memorialisation over time, rather than to the creation of 'one-off initiatives'.

Communication between groups within and between countries is important. Even within the same country, individuals and groups working on transitional justice and memorialisation initiatives may not know about other initiatives for various reasons: geographic challenges, lack of funding for communication or travel, lack of networks, fear of exposure of sensitive human rights activities, and other reasons. For example, participants working on the central political conflict in Thailand, and those working on the Southern conflict saw their work as separate issues before the Exchange. During the Exchange, they quickly realised that the conflicts are linked. Timor-Leste and Indonesia portray another interesting lesson. While Indonesia often is considered to be the country of the GHRV perpetrators, during the Exchange, the Timor-Leste participants confirmed that collaborating with Indonesian human rights NGOs is an important strategy in order to uphold claims for accountability since they are dealing with the same perpetrators. Regional organisation Asian Justice and Rights (AJAR) can play a significant connecting role in this regard as they have offices in both countries.

Local memorialisation initiatives have increased social cohesion. For example, in Cambodia, given the public space allowed for memorials commemorating victims of the KR regime, local memorialisation initiatives have been created by CSOs, which have in some cases served to bring previously torn communities together and in other cases has acted as a tool to educate their youth.

Empathy developed from listening to others' challenges can stimulate creativity. Exchange participants, especially from countries where people are more free to speak out, could learn more about the great oppression that participants from Burma/Myanmar, Sri Lanka and Thailand are operating under. The process of listening to the hardship of others was very moving, and helped participants develop insights into their own situations. Learning about memorialisation activities in the different countries also proved to be useful – for example, participants from Timor-Leste were

very interested in the memorialisation activities carried out in Cambodia. Investing in these sorts of exchanges can, therefore, contribute to improving the memorialisation process, and help empower actors involved in this field.

Social media can be an important tool for transitional justice advocacy. An example is the successful social media campaign set up by Indonesian groups (#AgainstForget), which was made to try to stop former human rights offender General Prabowo Subianto from becoming President. Exchange participants realised that particularly for non-recurrence, it is essential to set up social media platforms to educate the new generation on past human rights violations. For example, Chega Ba Ita (ACBIT, the programme in Timor-Leste that was set up to promote the *Chega!* report findings) has implemented several of these kinds of projects. The potential for using social media for promoting memorialisation should be further researched and stimulated, as there is a benefit in such strategies for the other Exchange countries. For example, the #AgainstForget campaign could be a movement to learn from for the Timor-Leste context.

5. The Way Forward and Recommendations

Given the abovementioned prevailing situation in which the participants operate, there is an urgent need to adopt holistic, democratic and participatory approaches to transformative justice and facilitating civil society space to address human rights violations including through memorialisation initiatives.

Joint Statement, Asia Exchange

As discussed above, it is clear that memorialisation has the potential to play an important role within processes seeking transformative justice. Understanding this role helps to identify ‘the way forward’ for these processes. In this chapter, we begin with a section on international community engagement, then provide a summary of the Exchange participants’ initial plans (though many of the groups are still in the process of developing further plans) and finally provide a series of recommendations to strengthen memorialisation initiatives as related to transitional justice.

It is important to note that this report is the reflection of an exchange meeting between various organisations from multiple S/SE Asian countries, and therefore not the product of a deeper comparative research project focusing on the region. Therefore, these recommendations need to be seen as a first step to exploring practical ways forward with memorialisation.

The recommendations do not necessarily reflect the visions of all CSOs and victims’ organisations involved in transitional justice in these countries. Also, additional research is needed to deepen our understanding of memorialisation initiatives in each country in a comparative perspective. Along with increasing our knowledge of memory politics and its relationship with memorialisation, research should comprise of multiple parts. It should include: a full list of CSOs and victims’ groups working on human rights and transitional justice; identification of other groups and individuals working on this; a summary of current activities and plans for the future. The Country Explorations already provide a good basis for this. Expanded country group meetings with the aim of stimulating strategic cohesion and cooperation between all relevant actors have started to take place.

5.1 Stepping up Involvement of the International Community

There is growing concern in the international community about the gap between transitional justice theory and the practices that are actually set in motion. Although many international donors have policies related to peacebuilding and transitional justice, one cannot assume that individual personnel are aware of these, nor that the various departments dealing with these overlapping issues are necessarily in communication with each other.³⁷ Thus their interests and lack of knowledge has often impeded the follow-up of support given to transitional justice initiatives. Communication between donors and local CSOs needs to become more substantial and frequent. For all international programmes, it is key that they become locally embedded and owned. The EU has emphasised the importance of building a sustainable relationship with local and international CSOs. This philosophy is underwritten by the Exchange participants.

The international community is interested in strengthening bottom-up initiatives to include those previously excluded. Such initiatives are increasingly being seen as a key factor that could alter the course of how transitional justice is handled. International organisations including - but not limited to the UN, EU, and ASEAN (Association of Southeast Asian Nations) would greatly benefit from policy

³⁷ McGrew L. (in press) Cambodia Case Study, in Arthur P., Yakinthou C., Bernath T., Isaacs, A., & McGrew, L. International Assistance to Transitional Justice: Case Studies on Support to Sustainable Civil Society Engagement.

research and recommendations exploring alternative or complementary transitional justice mechanisms, including on the topic of memorialisation. These endeavours would act as opportunities for these organisations to enhance their existing work in the area of transitional justice, peacebuilding, conflict transformation, development and human security.

It is also significant to take into account the international dimension of advocacy efforts. This Exchange has provided opportunities to share ideas around international advocacy on transitional justice and memorialisation. For example, the People's Tribunal '65 to be held in The Hague will hopefully make the international community reconsider their lack of support for transitional justice measures in Indonesia. Several films have become widely popular and have spread awareness of GHRV – including Joshua Oppenheimer's films on Indonesia, and Thet Sambath and Rob Lemkin's film on Cambodia.

5.2 Country Groups' Ways Forward

5.2.1 Burma/Myanmar

Transitional justice in Burma/Myanmar has only just begun. Memorialisation is not welcomed at the State's institutional level – some memorialisation activities are permitted by the government, but support is limited beyond sending a government representative to attend and/or monitor. For this reason, most initiatives take place at the unofficial, civil society level. International support is necessary to expand the amount of opportunities that memorialisation could have here, and to preserve the memory of those affected by atrocities. International support can also help to protect those advocating for the transitional justice process, and to safely repatriate exiles.

Societal awareness of the potential of transitional justice is limited. Outreach activities on this topic therefore are important. In addition, regional and bottom-up approaches can help in order to guarantee inclusivity. CSOs have gradually become more vocal in publicly raising demands for justice. The facilitation of public dialogue on victims' needs and expectations, and the incorporation of these into memorialisation activities, will allow the process to become more needs-oriented and participatory. It is also important to explore the possible connections between reparation, rehabilitation efforts and memorialisation initiatives.

Exchange participants consider that CSOs have an imperative role in continuing to reveal rights violations and advocate for more comprehensive measures to address them. However, the oppressive legal framework and ongoing acts of intimidation prevent many activists from operating at a higher level and addressing questions of justice and accountability more explicitly. Until now, both the Nationwide Ceasefire Coordination Team (NCCT) and the Union Peace-Making Work Committee (UPWC) have been unwilling to consider transitional justice issues in their ceasefire negotiations.

Even if the space for national-level transitional justice processes remains limited, Burmese Exchange participants propose to focus on local memory work as a means through which to confront the past, and also to sow community-based narratives, which is particularly important in the Burmese context. Coordination and networking between different civil society groups needs to increase to allow for the revealing of the bigger picture of human rights abuses at various levels.

5.2.2 Cambodia

Many NGOs have indicated the necessity for deeper coordination and networking between the different initiatives and groups involved. Exchange participants created a plan to streamline documentation and oral history collections and through this established a joint platform from which to make the survivors' stories publicly available (specifically for the post-war generation).

Cambodian memorialisation initiatives experience challenges, such as making a solid connection between past atrocities and current injustices, and attracting young audiences who only have blurred memories of the civil war. Involving this post-war generation is vital for transitional justice initiatives to make an impact. The links made to this generation should be part of a bigger social transformation, initiating an expanded dialogue on the citizen's role and responsibilities. A valuable starting point to better understand their perspectives on reconciliation could be to conduct a youth survey on transitional justice.

Cambodian internet usage has grown by 400% since January 2014. In order to attract the youth's attention on historical and social issues, it is vital to use new internet-based media, making information accessible in interactive ways. For example, Bophana Center has a mobile app in the workings. This app would be available for young people to access information on the ECCC and related issues. The designing of a virtual truth commission has been discussed among multiple NGOs.

The tribunal is now starting to address some of the most important crimes.³⁸ NGOs can make good use of the stories revealed, for example to try and reflect on their relevance for contemporary social issues. Sadly, radio- and TV-centred outreach efforts have declined over time. The latest research has shown that despite the significance of outreach, the (rural) population is not well versed about the trial. It is crucial to reemphasise the need for continued outreach if the tribunal is to have social impact.

For the youth to develop a more comprehensive understanding of the legacies of war, KR history needs to be included in civic education initiatives. This would also allow the youth to feel that the past concerns them.

5.2.3 Indonesia

Indonesian Exchange participants proposed to focus on the empowerment of victims and on the communication with community actors, including local authorities and members of the security apparatus. Intergenerational dialogue and attempts to bring victims and perpetrators together (as presented by the Cambodian participants) were two other significant elements that the group was interested in. Recognising the varying contextual realities of each location, especially concerning the security situation for victims, it is important to design tangible and realistic interventions that take into account these elements.

Concerning memorialisation, Indonesia groups were also very much inspired by the Cambodian experience concerning integrated archive systems. The participants committed to improving coordination of data management among the different civil society groups, and producing joint reports on past atrocities. The use of digital tools was also highlighted - both for archiving and outreach, and for an Online Virtual Museum. For the community investigations Indonesian groups will use Participatory Action Research Tools to engage communities and empower victims.

³⁸ See: <http://www.eccc.gov.kh/en/case/topic/1299>

As said above, the IPT '65 will create publicity both at the national and international levels and explicitly address the issue of responsibility and accountability. The challenge will be to bring the results of this internationally oriented endeavour to the local level and to ensure impact at the policy level as well. Education and dialogue projects will be crucial to this, as will advocacy initiatives.

5.2.4 Nepal

Memorialisation initiatives in Nepal face a challenging dilemma. While they are expected to reinforce the two commissions set in place, they are also expected to come up with alternatives that might substitute these, as these commissions might fail to meet the goals set for them and not be able to engage with all Nepalese. Working at the local level, memorialisation initiatives cannot only help to acknowledge and promote narratives that are marginalised by the commissions, but can also help strengthen local ownership. In this way, Exchange participants envision memory work to increase the political space, address impunity, and bring people together across traditional divides to construct shared narratives for the new Nepal.

Exchange participants consider that the [Guiding Principles of Memorialisation](#) can support the struggle for truth and justice in Nepal. Working with these principles would translate into taking into account official commissions as the TRC and Disappearance Commission, while also recognizing that a centralised commission based in the capital is not able to create a community-based view of narratives like local memory work can. Memorialisation is driven by an impulse to acknowledge, commemorate and dignify victims and survivors in manners that institutionalised, formal mechanisms are unable to. It can challenge the status quo and the official narrative provided by those in power – two things the transitional justice process often fails to accomplish. Exchange participants envision memorialisation initiatives as taking on the role of truth-teller, of helping to guarantee that human rights abuses and cases of impunity are remembered long after the work of commissions is finalised.

Plans forwarded in relation to local memory work include:

- Promoting memory education through intergenerational exchange. This helps to integrate memory education into school curricula. There should be an emphasis on including students and youth wings of political parties.
- Collecting and distributing narratives in ways that challenge superficial understandings of the conflict. Narratives have to be shared across divides defined by caste and ethnicity, and across rural/urban divides. Media such as film, photos, community archives and mobile/fixed museums could aid with this process.

One route to broadening and deepening memorialisation in Nepal is to advocate for the government to adopt a national policy on the topic and to provide funding for memory work. NGOs need to be cautious however with regard to the role of the government in memory work. State ownership might place perpetrators in a position of power, causing memory to serve political goals. Memory work, in the context of impunity, should allow the truth to come about despite narrow political space. State ownership of memory work may strengthen impunity by creating the illusion that it is an alternative to actual accountability. This would in turn deepen societal divisions and disturb the preliminary objectives of memorialisation: shedding light on the truth. A national policy formed by the government might well be able to properly address needs at the local level, and ultimately may only oppress ongoing local memory work.

There is great significance in including local approaches to memorialisation in the transitional justice process. Not enough funds are being provided for memory work, in comparison to what is being given for advocacy. A more appropriate structure would involve victims' organisations, which have deep roots in communities, being given a leading role in advancing memorialisation work. This could be done by not only mapping ongoing efforts, but also by seeking funding and supporting locally led approaches to memory. Participants in the Exchange suggested that a national network including victims' groups and CSOs should be formed under the name NaMe-Net.

5.2.5 Sri Lanka

One challenge identified by the Exchange participants is that the Sri Lankan educational curriculum does not reflect the reality of the conflict, and instead excludes the teaching of post-independence history, the causes of the violence and does not acknowledge the views and injustices of minority groups. In turn, such groups presently lack space and recognition needed to step up memorialisation initiatives. This issue should be addressed - future generations must learn of the risks that come with perpetual repression in a country that is ethnically diverse. Spaces should be given to families of combatants, it should also be given to families of missing soldiers – this counts for families on both side of the conflict. Such a space could nurture solidarity through shared losses being expressed. With such a diverse collection of testimonies and narratives, such spaces need to be formed through cautious discourse in order to guarantee that all perspectives are considered and to ensure a possible consensus.³⁹

One way to do this is to expand and eventually publicise documentation efforts. As a matter of urgency, the Presidential Commission on missing persons (among other databases on missing persons) should be turned into a public database. Such an endeavour could be established as a state led memory initiative based on the testimonies provided by the victims' families – with the government providing funding and allowing the national archive to be involved. This would help sustain official and unofficial memorialisation initiatives established by the state and victims' families.

With a new reformist government in Sri Lanka, the state is only just now becoming open to transitional justice processes. It is possible that, in the post-election period, the government will view memorialisation as a complimentary measure to transitional justice. In order for the new government to garner a faithful relationship with the country's population, previous COI reports, findings and recommendations must be publicised and be made available in all languages. This would demonstrate their commitment to recognising past atrocities and seeking ways of redress. In this vein, Sri Lanka's Prime Minister recently announced the building of a centre dedicated to aiding war windows and female-headed households. A female Tamil lawyer would head this centre.

Recent research focusing on group discussions with 200 (mainly Tamil) survivors in the north underwrites memorialisation as an essential for reconciliation. Among other measures, this report encourages: 'The creation of a memorial to the civilian dead..., and an end to the security services' practice of preventing any public grieving for those who died in the war'.⁴⁰

³⁹ The groups "Parents of Servicemen in Action" and the "Parents of the Disappeared in the North" have tried to start such an initiative but unfortunately the initiative never took place because of differences of opinion among certain activists.

⁴⁰ The Sri Lankan Campaign for Peace and Justice. "How can we have peace?" New report says survivors' needs must drive Sri Lanka reconciliation." 24 March 2015, available at: <http://www.srilankacampaign.org/how-can-we-have-peace-new-report-says-survivors-needs-must-drive-sri-lanka-reconciliation/>

5.2.6 Thailand

In Thailand's current repressive political climate, CSOs find it challenging to organise public gatherings, as many events have been cancelled before they even could take place or cracked down once the regime took notice of it. A recommendation is that these groups should continue the documentation of abuses - future memorialisation initiatives and calls for justice could benefit greatly from this information. In addition, dialogues that are organised on a smaller-scale should be fully supported.

CSOs in Thailand thus far have only limited experience with the concepts of transitional justice and memorialisation. Capacity building on these topics is crucial. From there, these groups could raise awareness of them among political leaders and individuals in influential positions, and could use public memorialisation activities as a catalyst. The use of public activities should be considered carefully though as it could also easily lead to further violence if manipulated by those who defend the status quo. Despite the political tensions, memorialisation could be a vehicle through which to challenge the silence surrounding the political oppression.

5.2.7 Timor-Leste

The Exchange helped to reinforce relations between Timorese and Indonesian human rights NGOs. Further collaboration is important in order to move forward with joint strategies, advocacy campaigns and continued solidarity.

The participants also decided to step up their efforts in national campaigning to promote accountability and intensify lobbying with the parliament. The aims of these initiatives are to discuss and develop policies for the implementation of the *Chega!* report's recommendations as well as those mentioned in the Commission of Truth and Friendship (CTF) report. One particular lobbying goal is to ensure the mainstreaming of the *Chega!* report in the school curriculum, which is currently being worked on. This includes facilitating consultation with teachers and key individuals that have great knowledge of the history of Timor-Leste and the conflict. They start with the primary school curriculum, for grades five and six, and will then continue with higher education. To ensure a successful project, the government should make enough funding available.

Another important point is the continued search for the disappeared. Only 58 cases of the 504 reported to the UN Working Group on Enforced Disappearances have been resolved on the basis of information provided by the Indonesian government, while only 18 cases have been resolved on the basis of information provided by other sources. 428 cases still remain outstanding. Advocacy is needed with both the governments of Timor-Leste and Indonesia to ensure full commitment to solving these cases.

With respect to reparations, the lobby goals are twofold. First of all, the government should put pressure on Indonesia to pay their share as the principal actor responsible for committing the atrocities. Secondly, the government should shift their focus from only taking care of ex-combatants to paying attention to all victims, ensuring that their livelihoods improve, and that health and psychosocial services are available. CSOs play a role in this but this does not mean that they take over the responsibilities of the government.

There are differences of opinion on the proposed Law on Reparations and Memory Institute within the groups of Exchange participants. The CSO La'o Hamutuk believes that responsibility for the atrocities committed lies with Indonesia and its allies. Therefore, they state that an International Tribunal should be established to deal with cases of mass atrocities during the period since the

invasion, and that Indonesia and its allies should pay all the required reparations. They argue that approving the Law on Reparation and the creation of a Memory Institute give the signal to the international community that no further action is needed with regard to the demand for an International Tribunal and the paying of reparations. Other organisations believe that the law needs to be passed for there to be some kind of support for victims. These organisations also state that this will not stop their advocacy in favour of the formation of an International Tribunal. In addition, such organisations feel that memorialisation initiatives can be used as an advocacy tool to not forget and keep the issue of an international tribunal on the agenda.

5.3 Recommendations from the Asia Exchange Participants

While time did not allow for a full discussion of detailed recommendations for each country, the following transitional justice and memorialisation strategies for CSOs and victims' organisations stemmed from the discussions:

General Recommendations

- **Reinforce the common view that transitional justice initiatives must be victim-centred, bottom-up, inclusive and participatory.**
- **Raise awareness and build capacity on the topic of transitional justice;** through projects, education, dialogues and workshops. Embrace an inclusive approach. Learn from other countries' experiences through workshops and exchange visits (especially in countries where the concept of transitional justice is relatively new - as is the case with Burma/Myanmar and Thailand).
- **Conduct systematic documentation and other memorialisation processes** through grassroots initiatives.⁴¹ Documentation and research activities may be the most practical entry points for countries such as Burma/Myanmar, Indonesia, Sri Lanka and Thailand.
- **Advocate and campaign for state accountability and implementation of transitional justice initiatives,** including institutional reform.
- **Generate dialogue and strengthen cooperation between CSOs.** Create networks and ensure improved data management within and between CSOs.
- **Create a safe space for victims** to speak out and provide counselling to traumatised testifiers. Avoid re-victimisation in transitional justice measures. Assist victims in accessing government services and social programmes.
- **Guarantee protection** of and legal consultations to human rights defenders including victims' groups.
- **Enhance education and information provision about the past,** stimulating inclusive narratives, grass-root and victim-centred perspectives, both in the formal educational system as well as in popular education initiatives, social media etc.

⁴¹ IW has many lessons learned on memorialisation related to youth and other aspects, available at: <http://www.impunitywatch.org/html/index.php>. As noted by Barsalou and Baxter, 'Memorial projects that encourage survivors to explore contested memories of the past, promote learning and critical thinking, and facilitate ongoing cultural exchange are more likely to advance social reconstruction.' See Barsalou, J. & Baxter, V. (2007) 'The Urge to Remember: The Role of Memorials in Social Reconstruction and Transitional Justice', US Institutes of Peace (USIP) *Stabilization and reconstruction Series No. 5*, Washington: USIP, available at: <http://www.usip.org/sites/default/files/srs5.pdf>, page 1.

- **Foster intergenerational dialogue** to relay knowledge of what happened in the past and its implications for the present.
- **Create memorialisation initiatives through consultation of local, regional and national actors**, to ensure that they address the needs of the victims. Specific emphasis should be placed on SGBV and youth education. Local and informal initiatives could offer more inclusive memorialisation initiatives, reflecting multiple perspectives of the conflict.
- **Ensure greater local ownership** of memorialisation initiatives, by adopting local rituals or cultural practices.

The Exchange participants also drafted the following specific recommendations to feed policy discussions and offer points for further discussion.

To National Governments:

- Establish or strengthen reparation programmes that include social service provision. Symbolically honour victims and do not rely on court convictions to provide complementary mechanisms.
- Support memorialisation initiatives that consider the context and root causes of the conflict, victim participation and local ownership. Allow space for families to mourn their deceased/missing family members.
- Develop memorialisation policies and/or implement recommendations that stem from existing transitional justice mechanisms.
- Adopt lessons from existing transitional justice mechanisms and incorporate human rights education into the education curriculum.

To the Governments of Sri Lanka and Thailand:

- Establish an independent TRC.

To Governments in Countries of Ongoing Conflict:

- Ensure that the constitution is in line with international standards; repeal oppressive laws and acts.
- Stop all forms of intimidation, including arbitrary detention; extrajudicial killing; judicial harassment; and restrictions and oppressions on human rights defenders, CSOs, and the general public.
- Allow for international monitoring and the establishment of accountability and transitional justice mechanisms.

To Civil Society and Non-State Actors:

- Empower victims to take a major role in memorialisation processes and develop alternative or creative ways of memorialisation.
- Monitor transitional justice mechanisms in cooperation with victims' groups.
- Collaborate with the government, the international community, non-state actors, civil society groups, as well as victims and perpetrators for reparation and non-recurrence programmes.
- Provide awareness and knowledge of TJNR measures to policy makers, civil society and the general public.
- Demand state accountability of TJNR.

To the International Community and Donor Aid Organisations:

- Urge the national government to create an inclusive public participatory peace process.
- Provide funding for transitional justice initiatives including memorialisation, using a victim-centred approach.
- Promote the establishment of monitoring and accountability mechanisms at national and regional levels.

5.4 Additional Suggestions

- **Widen the circle** of discussion on memorialisation in each participating country to make it as inclusive as possible, including more grass-root voices.
- **Focus on an inclusive *process* of memorialisation** that engages all actors – victims, perpetrators and bystanders (including ex-combatants). This formulation emphasises that memory is something that you *do*. It illustrates that the *process* of memory work is more important than the *product*, due to the fact that the process allows for engagement with competing narratives. Collective memory is created through such activities.
- **Visualise gender issues as related to memorialisation initiatives.**
- **Support solidarity activities between CSOs** in countries that have been relatively more limited in their transitional justice activities (Burma/Myanmar, Indonesia, Sri Lanka, Thailand), to stimulate memorialisation initiatives that have, to date, been suppressed.
- **Begin a regional dialogue on opportunities and risks of TRCs** since several countries are in the process of considering them (Burma/Myanmar, Nepal and Sri Lanka) and some CSOs are exploring informal or local truth-telling mechanisms (Indonesia and Cambodia).
- **Create or strengthen existing support mechanisms** for countries beginning memorialisation activities. This could include raising awareness of IW's [Guiding Principles of Memorialisation](#) and a website of ideas and 'how-to's; a roster of experts on memorialisation who could be commissioned to visit or provide advice on specific questions; and a series of exchange visits or specific training programmes targeting memorialisation by IW and/or AJAR.
- **Enhance capacity-building around memorialisation support**, in terms of methodological considerations, of strategy-building and in relation to its multi-disciplinary components, with a particular emphasis on bringing grassroots voices into the process .
- **More research on memorialisation is crucial** to help organisations in strategising and fine-tuning interventions. Research questions could include:
 - Based on practical examples from across the region, how can memorialisation initiatives contribute to opening up more political space for transitional justice and human rights issues?
 - How do current legal frameworks related to potential future transitional justice and memorialisation activities?⁴²
 - In what forms and ways can memorialisation initiatives contribute to improving victims' participation? What are the best and worst practices in this particular field?
 - What are the gender implications of the memorialisation initiatives undertaken so far? How can gender equality and specificity be further taken into account as part of memorialisation efforts?

⁴² See: Barron, P. (2015) 'What Role Does Transitional Justice Have to Play in Thailand's Deep South?' [DeepSouthWatch](#) on 16 March, 2015, available at: <http://www.deepsouthwatch.org/node/6957>.

- Are there any other lessons for countries outside the region that can assist in enhancing memorialisation engagement in S/SE Asia?
- What have been the unintended consequences of memorialisation in relation to transitional justice processes (especially at the local level) undertaken in the region or similar settings so far? Have there been negative consequences that should be avoided in the future, or positive ones to emulate?
- How can involvement with the perpetrators be best used in transitional justice and memorialisation activities?

6. Appendices

6.1 Participating Organisations

Burma/Myanmar
Civil Society Forum for Peace
ND Burma
Assistance Association for Political Prisoners - Burma
88 Generation
Cambodia
Kdei Karuna Organisation (KdK)
Youth for Peace (YFP)
Documentation Center of Cambodia (DC-Cam)
Cambodian Human Rights Action Committee
Cambodian Women Oral History Project
Transcultural Psychosocial Organisation Cambodia (TPO Cambodia)
Youth Resource Development Program (YRDP)
Indonesia
Commission for 'the Disappeared' and Victims of Violence (KontraS)
Imparsial (The Indonesian Human Rights Monitor)
Elsam/ Coalition of Truth and Justice Revealing (KKPK)
IKOHI (Indonesian Association of Families of the Disappeared)
IPT 1965
Asian Justice and Rights
National Papua Solidarity (Napas)
Nepal
Informal Sector Service Center (INSEC)
National Victims Alliance and Committee for Social Justice (CSJ)
Advocacy Forum
Conflict Victims' Society for Justice (CVSJ)
Collective Campaign for Peace (COCAP)
Sri Lanka
Citizen Committee-Mannar/Association of families of Disappeared
Centre For Policy Alternatives
Association of War Affected Women

Thailand
Justice for Peace Foundation
People's Information Centre
Persekutuan Mahasiswa Pelajar dan Remaja Se Patani (Permas)
Duaijai Group
Timor-Leste
Judicial System Monitoring Programme (JSMP)
HAK association
ACBIT (Asosiasaun Chega ba Ita)
La'o Hamutuk
Asian Justice and Rights
Invited Speakers
Patrick Burgess, Asian Justice and Rights (AJAR)
Mary Aileen D. Bacalso, Asian Federation Against Involuntary Disappearances (AFAD)
Amielle del Rosario, Coalition for the International Criminal Court (CICC)
Main Organisers
Impunity Watch (IW)
Asian Forum for Human Rights and Development (FORUM-ASIA)
Swisspeace
Funders
Oak Foundation
Hivos
Swiss embassy in Bangkok
Ford Foundation
Asia Foundation
Dutch embassy in Jakarta
Misereor

6.2 Joint Statement from the Asia Exchange: Memory for Change

JOINT STATEMENT

Following a five day exchange on memorialisation as an alternative or complementary transitional justice measure, participants from Burma/Myanmar, Cambodia, Indonesia, Nepal, Sri Lanka, Thailand, Timor-Leste shared the following experiences and lessons learned in addressing past and ongoing human rights violations.

The prevailing situation and the long-term fight for justice in the countries represented in the exchange highlight past and on-going situations of rights-violations with limited means to address genuine transitional justice.

Common problems in all states include denial, lack of acknowledgement and silence on issues of past human rights violations. In failing to address the root causes of the conflict, a culture of impunity continues to prevail, leading to recurring and sustained human rights violations.

Given the abovementioned prevailing situation in which the participants operate, there is an urgent need to adopt holistic, democratic and participatory approaches to transformative justice and facilitating civil society space to address human rights violations including through memorialisation initiatives. This also entails avoiding re-victimisation and ensuring protection of the most vulnerable as well as preventing the destruction of memorials that are meaningful to affected communities.

In this context, memorialisation becomes an important alternative and/or complementary mechanism for truth, justice, reparations and non-recurrence, but also opens up space for greater and inclusive discussion at the local and societal level on the needs of affected communities, with special emphasis on gender based violence and youth education. Nevertheless, attention should also be paid to the dangers and risks of memorialisation initiatives since they can potentially divide communities, rather than unite.

States have the primary responsibility to address past and present violations. However, other stakeholders, such as national and regional human rights institutions, international organisations and the media also have a critical role to play in ensuring those violations are addressed.

Diplomatic, financial and technical support are crucial elements to acknowledging the importance of sustainable assistance in the long-term process of transitional justice and ensuring that donors engage in a two-way dialog with community and grassroots organisations to ensure local ownership.

In conclusion, the gathering emphasised the importance of continuing exchanges and solidarity amongst civil society actors towards the common goal of greater accountability and an end to impunity in the region.

6.3 Acronyms

AAPP = Assistance Association for Political Prisoners
 ACBIT = Asosiasaun Chega ba Ita
 AICHR = ASEAN Intergovernmental Commission on Human Rights
 AJAR = Asian Justice and Rights
 ASDT = Timorese Social Democratic Association
 ASEAN = Association of Southeast Asian Nations
 CAVR = Commission for Reception, Truth and Reconciliation in Timor-Leste
 CIED = Commission of Inquiry into Enforced Disappearances
 COI(s) = Commission(s) of Inquiry
 CPP = Cambodian People's Party
 CSO(s) = Civil Society Organisation(s)
 CTF = Commission of Truth and Friendship
 DC-Cam = Documentation Centre of Cambodia
 DDR = Disarmament, Demobilisation and Reintegration
 ECCC = Extraordinary Chambers in the Courts of Cambodia
 EIDHR = European Instrument for Democracy and Human Rights
 GHRV = Gross Human Rights Violations
 IPT '65 = International People's Tribunal '65
 IRP = Interim Relief Programme
 IW = Impunity Watch
 KdK = Kdei Karuna Organisation
 KHRG = Karen Human Rights Group
 KR = Khmer Rouge
 LLRC = Lessons Learnt and Reconciliation Commission in Sri Lanka
 NCCT = Nationwide Ceasefire Coordination Team
 ND-Burma = Network for Human Rights Documentation-Burma
 NHRIs = National Human Rights Institutions
 S/SE Asia(n) = South/Southeast Asia(n)
 SGBV = Sexual and Gender-based Violence
 SWAN = Shan Women's Action Network
 TJRNR = Truth, Justice, Reparation, and Non-Recurrence
 TPO Cambodia = Transcultural Psychosocial Organisation Cambodia
 TRC = Truth and Reconciliation Commission
 TRCT = Truth and Reconciliation Commission of Thailand
 OHCHR = Office of the United Nations High Commissioner for Human Rights
 UNTAET = UN Transitional Administration in East Timor
 UPWC = Union Peace-Making Work Committee
 YFP = Youth for Peace

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Impunity Watch (IW) is a Netherlands-based, international non-profit organisation seeking to promote accountability for atrocities in countries emerging from a violent past. IW produces research-based policy advice concerning processes intended to enforce victims' rights to truth, justice, reparation and non-recurrence (TJRNR). IW works closely with civil society organisations in countries emerging from armed conflict and repression to increase their influence on the creation and implementation of related policies. IW runs Country Programmes in Guatemala and Burundi, while also undertaking specific and comparative research in other conflict-affected countries on particular aspects of impunity.

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