

SOUTHEAST ASIAN STUDIES

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Julie Bernath. *The Khmer Rouge Tribunal: Power, Politics, and Resistance in Transitional Justice*. Madison: University of Wisconsin Press, 2023.

Southeast Asian Studies, Vol. 13, No. 3, December 2024, pp. 589-593.

How to Cite: Im, Soksamphoas. Review of *The Khmer Rouge Tribunal: Power, Politics, and Resistance in Transitional Justice* by Julie Bernath. *Southeast Asian Studies*, Vol. 13, No. 3, December 2024, pp. 589-593. DOI: 10.20495/seas.13.3_589.

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The Khmer Rouge Tribunal: Power, Politics, and Resistance in Transitional Justice

JULIE BERNATH

Madison: University of Wisconsin Press, 2023.

The Khmer Rouge genocide, a historical tragedy that continues to resonate in Cambodia’s politics, underscores the importance of understanding the country’s social and political dynamics. Julie Bernath’s *The Khmer Rouge Tribunal: Power, Politics, and Resistance in Transitional Justice* offers a comprehensive examination of transitional justice in post-conflict Cambodia, providing a rich empirical foundation. The book delves into the establishment and impact of the Extraordinary Chambers in the Courts of Cambodia (ECCC), also known as the Khmer Rouge Tribunal Court, in facilitating transitional justice in Cambodia. Employing the concept of “resistance” as a guiding framework, Bernath has structured the book into four chapters, with the first one examining the background of the Khmer Rouge regime and the three subsequent chapters discussing the three forms of resistance to transitional justice. The three forms of resistance encompass senior members of the ruling party, victims of the Khmer Rouge regime, and marginalized groups who have suffered under both the Khmer Rouge and contemporary regimes.

The first chapter provides an overview of Cambodia’s long-term conflicts and multiple regime changes from its independence from France in 1953 to 1998. Through these decades, Cambodia experienced a range of transformations—from a brief period of prosperity in the 1960s to successive political upheavals and violent conflicts in the 1970s and 1980s, followed by an era of experimentation with liberal values in the 1990s. These shifts were driven by power struggles among ruling elites influenced by both Eastern and Western powers. The prolonged process of reconciliation and peace negotiation in the 1990s, prioritizing negative peace over accountability, delayed the establishment of an ad hoc tribunal to address the Khmer Rouge crimes until October 2004. This delay, with the tribunal being set up twenty years after the Khmer Rouge regime’s collapse and Hun Sen’s successful consolidation of power with many former Khmer Rouge defectors, led to criticisms that the ad hoc ECCC tribunal resembled a “show trial”—akin to the People’s Republic of Kampuchea’s People’s Revolutionary Tribunal, which was set up shortly after the fall of Democratic Kampuchea in July 1979. The ECCC’s limited impact in delivering justice for the victims stemmed from two major factors: first, the operational delays caused by many disagreements within the hybrid trial chamber between the United Nations and the Cambodian government judges; and second, a race against time to try aging Democratic Kampuchea leaders

and survivors, with many responsible figures, such as Pol Pot, dying before the ECCC's establishment, and others, like Nuon Chea, passing away during the trial. Consequently, only a few cases were concluded by the time of the ECCC's dissolution in 2022.

In Chapter 2, Bernath discusses empirical findings and analyzes the process through which the ruling Cambodian People's Party (CPP) government strategically and effectively controlled the narrative by resisting in-depth accountability to the ECCC. Drawing from diverse and credible sources—such as public statements made by Hun Sen and senior CPP officials, interviews with ECCC personnel and donor country representatives, trial monitoring, media coverage, declassified ECCC documents, and academic works—Bernath exposes the party's resistance. In this chapter, the author shows that the ruling party's senior members' resistance to tribunal accountability went beyond mere power consolidation and legitimacy pursuits; it aimed to shape a personalized peace narrative portraying Hun Sen as the “father of peace” or “savior of the nation from the genocidal regime” (p. 67)—credited to his 1998 win-win policy leading to the reintegration of remaining Khmer Rouge soldiers (Post Staff 2024). Bernath shows how, led by this personalized narrative, the CPP strategically utilized forms of resistance, including the practices of patronage, coercion, and co-option of all three branches of government, while selectively engaging with legal proceedings. This approach aimed to ensure a balance between maintaining power dominance, keeping a clean image for defected senior Khmer Rouge CPP officials, upholding international respectability, and facilitating the continuous flow of aid into the country. Bernath also identifies two key challenges to comprehensive transitional justice facilitated by the international aspect of the tribunal. First, the UN's Office of Legal Affairs, tasked with ECCC oversight, displayed limited interest in pushing for deeper trial accountability. Second, the individual interests of the ECCC's international donors impacted the proceedings, exemplified by Japan's “off-hand diplomatic” stance despite criticisms of irregularities attributed to concerns over Cambodia's increasing reliance on China (p. 101).

Chapter 3 examines Khmer Rouge victims' resistance through the ECCC proceedings and their engagement as civil parties in two distinct spaces—the “invited” and “invented”—to seek transitional justice (p. 111). The “invited” space, exemplified by the highly regulated ECCC courtroom, adheres to predefined rules. Conversely, the “invented” space refers to a place that is less formal and more open to liberal interpretations of transitional justice, such as a training workshop for representatives of civil parties organized by nongovernmental organizations. This space-based approach helps the author critically analyze the civil parties' struggles and perspectives on the transitional justice process in Cambodia. Drawing from surveys and qualitative interviews with Khmer Rouge victims, Bernath uncovers insights into how victims navigated justice amidst Cambodia's authoritarian regime and their own trauma despite the existence of the ECCC and support from many NGOs. The fear among victims participating in the ECCC trials as civil parties stemmed primarily from distrust of Cambodia's ruling CPP government and

the lack of judicial independence. This distrust was exacerbated by the lingering effects of international actors prioritizing negative peace, which facilitated the CPP's consolidation of power in the late 1990s through the reintegration of Khmer Rouge officials and cadres into government positions. This integration instilled fear in many survivors, discouraging a majority of them from participating in and testifying during the ECCC trials. The small number of victims who participated did so as an act of personal courage and resistance to fight for justice: it showed their readiness to face any risks that came with fighting for justice. In this chapter, the author differentiates the experiences of victimization according to whether "one held any [low-level] positions during the Khmer Rouge regime, such as chief of a communal kitchen unit or a former militia—basically, the victims of order from the Communist Party of Kampuchea (CPK) government" or "if one was forced to work in the rice field in a starving and torturing condition" (p. 124). This constitutes the question of whether the "victim of order" or the "victim of torture" deserves justice. Besides analyzing the challenges faced by victims in participating as civil parties, Bernath also discusses the lack of adequate reparations from the ECCC for victims who dared to participate in the trials—especially those who came from rural areas and poor economic backgrounds.

Chapter 4 focuses on another form of resistance—nonparticipation—by marginalized groups that were victims of both the Khmer Rouge and the current authoritarian regime in the context of political violence. Bernath has selected three marginalized groups as case studies: those affected by forced displacement, those affected by land disputes, and those who participated in the mass protest at Freedom Park in Phnom Penh following the contested 2013 election. In addition to enduring the violent past trauma, these groups continued to face human rights abuses in modern-day Cambodia, perpetrated by a government comprising many former Khmer Rouge officials. Discouraged by the oppressive and corrupt regime and recognizing their own powerless position, many in these marginalized groups expressed their discontent and resistance by not participating in the ECCC trials. Their nonparticipation reflected a deep distrust of the Cambodian judiciary's ability to deliver justice to impoverished and vulnerable individuals like themselves.

The concluding chapter emphasizes the author's intention for the book to contribute to a better understanding of the politics of transitional justice in a specific political context. Bernath highlights the three sites of resistance to transitional justice: the ruling party, civil parties, and the nonparticipation of citizens affected by contemporary political violence. Through empirical case studies of the three sites, Bernath reveals the complexity of the transitional justice process for Khmer Rouge crimes, shaped by long-standing contestations over justice, peace, and political order. Her findings further highlight the way in which the ECCC emerged as a central site of struggles over the interpretations and directions of the country's social, economic, and political transformations.

Overall, the book provides an impressive breadth of knowledge and insights into the study of resistance in relation to transitional justice in the context of political violence. Bernath's extensive

research on ECCC tribunal proceedings and the experiences of Khmer Rouge survivors sheds light on the intertwined dynamics of temporal governance between the ECCC and the ruling party in connection with time and justice. This complex tribunal process included the CPP's hegemonic influence over the Cambodian judicial system, which undermined the ECCC's neutrality. In addition, the pragmatic approach of international actors and donors contributed to the ECCC's failure to deliver optimal justice to the Khmer Rouge victims.

Finally, while this study offers valuable insights into the inquiry of resistance and transitional justice in authoritarian regimes, it would have benefited from further investigation into how the opposition party, the Cambodian National Rescue Party (CNRP), leveraged the flaws of the Khmer Rouge Tribunal to provoke resistance and mobilize support during the 2013 election. More important, it could have explored how the CNRP engaged both Cambodian diasporas, many of whom are refugees who fled the Khmer Rouge regime, and marginalized communities, predominantly the poor and working class, in response to present-day political violence. There is more to say about the significance of the ECCC in shaping and reversing Cambodia's political trajectory. The opposition party has often criticized and equated the inefficiency and truncating of the ECCC's judicial process to the non-independent and corrupt domestic courts controlled and used by the ruling CPP to stamp out perceived threats to the ruling regime (Sam 2022). According to a statement by the CNRP, "Cambodia's reversion to one-party rule following the CNRP's dissolution in 2017 and arrest of its senior leaders is reminiscent of the Khmer Rouge era of which Hun Sen and many senior CPP officials had their political development" (Lipes and Yun 2018). Without a thorough analysis of how the opposition CNRP reacted to the political violence imposed by the ruling CPP, a comprehensive understanding of the transitional justice struggle in post-conflict Cambodia remains elusive.

In Chapters 3 and 4 Bernath explores various factors that dissuaded Khmer Rouge victims from participating in the ECCC as civil parties. These factors included the influence of Buddhism, which emphasizes good karma (non-revenge and forgiveness), and the victims' ability to forgive and coexist with former Khmer Rouge cadres in rural villages. However, the author makes limited references to existing literature on social memory following the Khmer Rouge era. For instance, engagement with Eve Zucker (2013), a cultural anthropologist who studied morality and trust within a village community in Cambodia's southwest—a former Khmer Rouge base—could have added nuance to the analysis. This broader engagement would have enhanced understanding of why many victims opted out of participating in ECCC transitional justice, going beyond a mere distrust of the judicial system and lack of information about the tribunal. Nevertheless, Bernath's broad approach to understanding transitional justice through the lens of resistance proves useful beyond Cambodia's case, offering important lessons for socio-legal studies scholars and practitioners advocating for respect for human rights and transitional justice in post-conflict societies.

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Electrifying Indonesia: Technology and Social Justice in National Development

ANTO MOHSIN

Madison: University of Wisconsin Press, 2023.

In his seminal article “The Idea of Power in Javanese Culture,” Benedict Anderson (1972, 22) likened the concept of Javanese power to a lamp radiating light outward with a “gradual diminution of radiance from the bulb.” Anderson called this an “exact metaphor” for the structure of the state, its center-periphery relations, and territorial sovereignty. He went on to note:

The cone of light’s luminosity expands as the ruler is able to force the submission of rival rulers and demote them to the status of provincial notables; it contracts as provincial notables free themselves from the center and establish their own independent areas of rule. (Anderson 1972, 35)

In *Electrifying Indonesia*, Anto Mohsin writes literally of light bulbs via the broader subject of the electrification of the Indonesian Archipelago. And while taking a notably different approach, he also delves into notions of political and social power in Indonesia. Mohsin brings together two fields, science and technology studies and Indonesian studies, and in their articulation produces a fascinating account that is both deeply empirical and theoretically engaging.

Through in-depth fieldwork and extensive archival research, Mohsin explores how ideas of social justice, development, and nation building came to be woven into the project of electrification, making it much more than a techno-scientific enterprise and one embedded in the transformation