

# **Restorative Justice in the Cambodian Community: Challenges and Possibilities in Practice**

## **Author:**

Pen Khek Chear (penkhek.chea@gmail.com)  
MSW candidate  
Boston University School of Social Work  
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## **Introduction**

Between 1969 and 1973, the Republic of Vietnam and the United States bombed and invaded Cambodia in an effort to attack two Communist groups, the Viet Cong of Vietnam and the Khmer Rouge of Cambodia. As a result, two million Cambodians were displaced and fled to the capital, Phnom Penh. It is believed that the devastation from the bombings encouraged Cambodians, mostly peasants, to join the Khmer Rouge.

In 1975, the Khmer Rouge, led by Pol Pot, took over Cambodia. The Khmer Rouge had a utopian-agricultural vision and sent the entire population for long marches to agricultural projects. The Khmer Rouge was determined to destroy anything considered “Western,” intellectual, or a signifier of wealth, including people. During their rule, out of 8 million people, 1 million died from starvation, torture, disease, and work exhaustion (Chandler 2008).

Today, Cambodia is a promising country that is trying to revive itself through economic and social development. It has a growing tourism and textile industry. Education and social welfare programs are growing, too (Asia Development Bank 2009). However, Cambodia continues to struggle with issues such as corruption, sex trafficking/tourism, poverty, interpersonal distrust and interpersonal violence (World Health Organization 2009). In the Cambodian Diaspora, there are refugees around the world who maintain an active transnational

(financial, cultural, familial and emotional) relationship to Cambodians in Cambodia (Chan 2004).

This paper discusses justice and restorative justice among Cambodians in Cambodia and transnational Cambodian Americans. There is an overview of social roles, social order and Cambodian Buddhism. It is important to understand these aspects of Cambodian culture in order to understand the relational ideals among Cambodians. For example, there is an important distinction between instituted religion and civil religion in the Cambodian community and thus aspects to justice. There is then contextualization of the principles and practices of restorative justice and the social and cultural values of Cambodians. This is explained in three sections dedicated to the stakeholder units of community, victims and offenders. Lastly, it should be noted that in this paper the “Cambodian community” refers to Cambodia and transnational Cambodian communities.

## **Social order, social roles and Cambodian Buddhism**

### *Cambodian Buddhism and social order*

While Cambodia is not an official Buddhist state, it is estimated that 95% of the country is Buddhist (CIA 2011). It has been, for centuries, a region dominated by Buddhist culture and thought. Cambodian Americans continue to be predominately Buddhist. Theravada, the oldest form of Buddhism, is the predominant sect in Cambodia (Harris 2005). The differences between the three major sects of Buddhism—Theravada, Mahayana and Vajrayana—are debated. Generally, Theravada is known for its emphasis on monastic practices to reach *nibbana*, an ultimate state of awareness. Cambodian Buddhists also believe in reincarnation and

the law of *kamma*, a theory of action and results based on the conditions of past, present and future life. For example, bad/negative actions may lead a person to suffer in their next life (Mitchell 2002).

In the Cambodian community, traditionally, meditation practices and Buddhist scholarship has been exclusive to monks. Monks serve as spiritual and community leaders in the Cambodian community. Cambodian monks are responsible for holding services where laypeople listen to Buddhist teachings and participate in rituals such as chanting scriptures. To the layperson, monks are an authority for everyday moral and ethical issues. Through interpretation of scripture, Buddhist monks in the Cambodian community helped develop the social roles and social order that continues to exist today (Chan 2004).

Another important aspect of Buddhism in the Cambodian community is its syncretic nature with folk religion and animism. While there are institutions and temples that entirely devote themselves to Buddhism as it's been described in classic Buddhist scripture, laypeople have often practiced a syncretic form of Buddhism. For example, laypeople may use mediums or healers called *gru*. The *gru* provides fortune telling, healing for physical ailments and often gives advice, based on spiritual insight, for relationship issues. In the perspective of laypeople, there is no distinction between Buddhism based on classic scripture and the syncretic nature of their practices. Many mediums and healers refer to Buddhist teachings and adopt Buddhist symbols despite criticism by some Buddhists that *gru* practices are contradictory to Buddhist beliefs and superstitious (Marston and Guthrie 2004).

For many centuries, Buddhism has influenced monarchal rule and government in Cambodia. Kingship, for example, was a

reflection of kammic rebirth and therefore the king had an inherent, spiritual right to his throne. However, kingship could be challenged if there was evidence of corruption as defined by Buddhist thought. Kings had “moral imperatives besides being politically wise” (Harris 2005, p. 45) and were expected to follow two ideals: (1) the *cakka-vatti*, which is defined in various *suttas* addressing rulers and their expectations, and (2) King Ashoka, a legendary Indian emperor who instituted Buddhist ethics in his kingdom. Today, it is still believed by many in Cambodia that at all levels of social relationships—family, communities, and government—there is divine intervention and determination (Harris 2005).

### *Social roles*

In traditional Cambodian culture, gender and age-based roles are very important. It is embedded in social interaction and language. For example, there are different ways to ask people to eat. If a person is an elder or of high social status, they are asked to eat by saying, *pi-sa*. If a person is a peer or stranger, it is polite to ask them to eat by saying, *nyam*. In an informal relationship, such as between close friends, people may say, *si* (Derks 2008).

When a man or woman is spoken to who is older but not yet an elder, they are addressed as *bong*. An older brother or sister is also addressed as *bong*. When a man or woman is spoken to who is younger, they are addressed as *oun*. In a marriage, the husband may refer to his wife as *oun* and the wife may refer to her husband as *bong* (Derks 2008).

The language that Cambodians use with each other reflects moral and behavioral guidelines for men and women. Women are to follow *chbab srey*, which translates to “Code of Women.” Men are to follow *chbab pros*, which translates to “Code of Men.” The codes are taught in schools, at home and by

monks. There are similar teachings for both women and men. For example, both are taught from a very young age how to properly address adults, especially elders. However, there are differences in the way they should interact and address each other (Brown 2000). The following is a sample of the “Code of Women” that was written centuries ago but still applied today:

Your skirt must not rustle while you walk. You must be patient and eat only after the men in your family have finished. You must serve and respect your husband at all times and above all else. You cannot touch your husband’s head without first bowing in respect. You must prove your patience and never respond to your husband’s anger. School is more useful for boys than girls. A woman’s place is at home tending to her husband and children (Challenging Tradition in Cambodia 2011).

Women’s rights activists in Cambodia have fought the patriarchal aspect of the codes. NGOs and different governmental agencies are working to change the way in which schools and Buddhist monks teach *chbab srey* and *chbab pros*. Some have suggested that, combined with poverty and lack of education, the patriarchal aspect of *chbab srey* and *chbab pros* is responsible for widespread domestic violence in the Cambodian community (Challenging Tradition in Cambodia 2011).

Despite the flaws of the codes, it is very important to understand their significance today. During the Khmer Rouge rule, these centuries old traditions were systematically destroyed. The Cambodian community, especially elders, holds on tightly to *chbab srey* and *chbab pros* for this reason. Encouraging these practices and social roles is not stubbornness nor intentional sexism but an act of cultural preservation. When the principles and practices of restorative justice are used in the Cambodian community, one should be sensitive to the ongoing effort

among Cambodians to preserve and restore traditional culture.

## **Restorative justice and the Cambodian community**

### *Community context*

For Cambodian Buddhists, things are the way they are because of *kamma*. From a scripturally-based Theravadan Buddhist perspective, one intervenes in suffering by awakening to the Four Noble Truths, which are: (1) Life means suffering, (2) the origin of suffering is attachment/desire, (3) the cessation of suffering is non-attachment (*nibbana*), and (4) the path to cessation is the Eightfold Path, a guideline for ethical and mental development. Within the Eightfold Path, Buddhists are encouraged to be mindful of their actions and intentions to deal with conflict (Mitchell 2002). However, as described earlier, the syncretic beliefs among Cambodians lead them to also use *gru* to alleviate suffering and deal with conflict. Here is a personal example from the author of this paper that occurred in the Cambodian American community:

There was an attempted robbery at my aunt’s liquor store, where one of the robbers was shot and killed in the store by police. The liquor store is in a predominately African American community; the robber and the police officer were also African American. The local community was outraged when they heard about the killing and suspicious of the fact that my aunt refused to talk to press or community members about what had happen. This led to a boycott of her store. She went to a *gru* for help. The *gru* said that, in order to alleviate the current problems, she had to paint the back of two turtles and let them go into a local creek. This would send the bad spirits away. She did as she was told. The boycott eventually stopped and after some months, things went back to normal.

The aunt in this story speaks English well, so language was not a barrier to

dialogue. But what she could not understand, or rather accept, was the community demand for dialogue after an incident of violence. The Cambodian community appreciates and encourages social cohesion and therefore her reluctance to participate in dialogue wasn't an act of individualism as one may assume. Western perspectives of justice may see dialogue and directness as leading to greater social cohesion, but Cambodians tend to believe the opposite: to be indirect is to be polite and saves face for all parties (Chan 2004). In this example, the African American community wanted a restorative process and to hear from everyone including the aunt. She did want to be heard but under the conditions of her culture and social norms.

Given this example, where dialogue is indirect, it may be challenging to implement the restorative practice of circles in the Cambodian community. ROCA, a community organization in Revere and Chelsea, MA, uses circles and serves a relatively large Cambodian population. However, the circles are often used with youth raised in the United States who are Cambodian and from other ethnic backgrounds (Watson 2008). In a Cambodian community context, with its specific social roles, expectations and hierarchy, the circle may be a mismatch because it is intended to be a non-hierarchical form of dialogue. Family group conferencing (FGC), which has no intention of being hierarchical or non-hierarchical, seems more of a match with the social values in the Cambodian community.

#### *Victim orientation*

The practices of restorative and retributive justice, in a Western context, accept the expression of anger by victims (Zehr 2002). In a trauma framework, it is accepted as a natural and necessary event in achieving healing and/or justice (Yoder 2005). In the practices of victim offender

mediation (VOM) and FGC, involved parties are asked to respectfully dialogue with each other. They may not be able to curse at each other or call each other names, but they are encouraged to talk about how they've been hurt or angered.

Theravada Buddhism acknowledges that people will feel angry, however, people are discouraged from harboring anger and expressing it. Here is an excerpt from the first chapter, entitled 'Twin-Verses,' of the *Dhammapada* addressing anger toward an offense:

"He abused me, he beat me, he defeated me, he robbed me,—in those who harbor such thoughts hatred will never cease.

'He abused me, he beat me, he defeated me, he robbed me,—in those who do not harbor such thoughts hatred will cease" (Muller 2008)

The encouragement for restraint of anger is again addressed in a chapter of the *Dhammapada* entitled, 'Anger':

"He who holds back rising anger like a rolling chariot, him I call a real driver; other people are but holding the reins." (Muller 2008)

The Buddhist ideal suggests that the betterment of oneself and others can be achieved without expression or thought of anger. In the syncretic practice of Cambodian Buddhism, a *gru* and laypeople may follow what is said in the *Dhammapada*. It does not seem common practice for a *gru* to encourage confrontation or dialogue between a victim and offender (Marston and Guthrie 2004). In a situation of injustice, a layperson may approach a *gru* to spiritually heal pain or loss accrued from an offense.

In terms of traditional roles and expectations, restorative practices should consider the status of people in family and community contexts when encouraging victims and offenders to express themselves. There is not a singular identity for victims

and offenders in a Cambodian restorative context. For example, if the victim was a woman and the offender was a man in VOM, there is community wide expectation that both parties still adhere to *chbab srey* and *chbab pros*. In a Western context, a woman may be encouraged to say whatever she feels, but Cambodians may see this as “unwomanly.” From a Western perspective, it would be difficult to accept because the victim is in a subordinate position to the offender. It may be possible to alleviate the power imbalance in this interaction while respecting traditions by encouraging involvement of family and community members. If a woman cannot fully speak for herself, the voice of supportive elders and men can balance the victim-offender relationship.

#### *Offender expectation and obligation*

Much of what is written on justice in Cambodia pertains to the prosecution of the Khmer Rouge. In the vast literature on this issue, there have also been critiques about the disconnection between non-governmental organizations (NGOs) and the concerns of the Cambodian community, namely that the demand for prosecution is largely an effort by NGOs. The Cambodian community, on the other hand, has not responded with the same fervor for justice and the prosecution of the Khmer Rouge. Some have theorized that the lackluster response for transitional justice among Cambodians reflects cultural beliefs pertaining to justice (International Center for Transitional Justice 2009). What, then, do Cambodians want in terms of justice? What is the expectation of offenders, if any?

There are Buddhist texts, in line with Theravadan tradition, that discuss offenders and justice. The *Dhammapada* has a chapter entitled, ‘Punishment,’ which describes the kammic result of an offender’s actions:

“He who seeking his own happiness does not punish or kill beings who also long for happiness, will find happiness after death... He who inflicts pain on innocent and harmless persons, will soon come to one of these ten states: [1] He will have cruel suffering, loss, injury of the body, heavy affliction, or loss of mind, [2] or a misfortune coming from the king, or a fearful accusation, or loss of relations, or destruction of treasures, [3] or lightning-fire will burn his houses; and when his body is destroyed, the fool will go to hell.” (Muller 2008)

Essentially, it is taught that one way or another, an offender will face the consequence of their actions. The first line of the quote suggests that the only thing that should not be of consequence is punishment or violence from the victim or anyone for that matter. “Beings who also long for happiness” include offenders, with Buddhists believing that everyone longs for happiness (Hanh 1999).

Since everyone longs for happiness, this means that everyone also suffers, where suffering is defined as desire or longing for anything. The *Brahmaviharas*, or Four Immeasurables/Four Sublime States, are Buddhist virtues concerning the relationship among humans and other beings. One of the Four Immeasurables is *upekkha*, or equanimity. Here is a definition:

“The real meaning of *upekkha* is equanimity, not indifference in the sense of unconcern for others. As a spiritual virtue, *upekkha* means equanimity in the face of the fluctuations of worldly fortune. It is evenness of mind, unshakeable freedom of mind, a state of inner equipoise that cannot be upset by gain and loss, honor and dishonor, praise and blame, pleasure and pain” (Bodhi 1998)

In the worldview where divine justice exists in *kamma*, liberation from suffering is one’s own responsibility and where no beings are exempt from *kamma* and suffering, there is no victim or offender. The victim does not suffer anymore than the offender. To be

Enlightened is to be aware that there is essentially no difference between beings.

Restorative justice recognizes this to some extent: that people are in a web of relationships, all of who have interdependent needs (Zehr 2002). However, in a Theravadan Buddhist perspective, the methods that restorative justice uses to help people realize interdependence may be disagreed upon. In VOM, FGC and circles, there is recognition of the harm to victims and the obligation and accountability of offenders. Community members also become stakeholders in the restorative process between the victim and offender. From a Theravadan Buddhist perspective, awareness of interdependence and healing is ideally achieved through personal insight (e.g. meditation, mindfulness) (Mitchell 2002). In other words, while an offender is responsible for the harm they've done to others, victims are equally responsible for the suffering they feel from harm. Dialogue isn't rejected but neither is it seen as necessary to realize one's role and responsibilities as interconnected beings.

## Conclusion

The principles and practices of restorative justice, as they've been developed in Western contexts, do not fully match the social values in the Cambodian community. Hierarchical social values, such as *chbab srey* and *chbab pros*, conflict with the non-hierarchical ideal in circles. In VOM, gender roles and expectations are active and challenges victim empowerment ideals. The victim and offender dichotomy, a relationship of right and wrong, challenges the Buddhist value of equanimity. FGC is perhaps the most compatible practice to Cambodian social values. The principles of restorative justice do match with Cambodian social values in the mutual recognition of interconnectedness and collective responsibility. The

preservation and re-building of culture is very important among Cambodians because of the social and economic losses incurred during the Vietnam War and Khmer Rouge period. Any effort to promote restorative practices in the Cambodian community should bear this in mind.

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