

DISCUSSION PAPER

Memory for Change

Background

The present discussion paper serves as a basis for the Asia Exchange Meeting “Memory for Change”, which is being organised by Impunity Watch (IW) in Bangkok, Thailand from 1 until 7 November 2014.

The Exchange Meeting seeks to explore with civil society organisations and victims’ groups from Cambodia, Burma/Myanmar, Nepal, Sri Lanka, Indonesia, Timor Leste and Thailand how memorialisation can be used as a complementary or alternative transitional justice process (TJ),¹ and/or as a step towards institutionalised processes of TJ such as trials and truth commissions.

This Exchange Meeting builds on the IW “International Memory Initiatives Exchange Forum”, held in Phnom Penh in 2012.² This Forum explored the role of memorialisation after violence in tackling impunity and its contribution to TJ, which led to IW’s Guiding Principles of Memorialisation.

This discussion paper provides a starting point for a discussion among Civil Society Organisations (CSOs) and victim groups, and as a basis for policy recommendations that will be formulated towards the end of the Exchange. The document is divided into the following sections: I) Purpose of the Exchange; II) Memory & memorialisation; III) Relevance to policymakers & key questions; IV) Context of TJ & obstacles to truth, justice, reparations and non-recurrence (TJRNR); V) International memorialisation initiatives - lessons learned; and VI) Concluding remarks & looking ahead.

I. Purpose of the Exchange

A culture of silence that supports a culture of impunity often prevails in countries affected by conflict. This situation results in a lack of acknowledgement or recognition of suffering, competing versions of the past, absence or insufficient education about historical events and manipulation by certain groups after gross human rights violations (GHRV). In addition, the debate in these countries is often either ‘stifled, non-existent or politicised’.³

IW’s research has established that criminal prosecutions and truth commissions are still prioritised by international decision-makers as central to TJ in countries where we have worked. Impunity Watch asserts that tackling impunity not only means achieving the rights of victims and affected communities to truth, justice, reparation and non-recurrence of violence (TJRNR), but that it also involves transformative justice, in which the dynamics and structures that created the conditions for violence are addressed.⁴

¹ We use the term, ‘transitional justice’ as the general term used to denote efforts to redress past abuses. However, the term ‘transformative justice’ is perhaps more apt, particularly since notions of transformation better recognise the need to transform the social, political and institutional relations that created the conditions for violence, but that also continue to exist as remnants of the past and impunity in the present.

² IW Perspectives series conference report “Breaking the Silence”: International Memory Initiatives Exchange Forum, http://www.impunitywatch.org/docs/Memory_Initiatives_Exchange_Forum_Report.pdf

³ Report of expert meeting *Understanding the role of memory Initiatives in communities struggling with impunity*: Prof. S. Parmentier, ‘The multifaceted meaning of “memory”’: pp. 10

⁴ IW Policy Brief: ‘The Expanding Societal Impact of International Criminal Justice- Exploring the links with memory initiatives’: http://www.impunitywatch.org/docs/Policy_Brief_-_The_Expanding_Societal_Impact_of_In1.pdf

Fundamental to addressing these dynamics and structures are the needs and expectations of local communities.⁵ Memory initiatives can serve as a tool to address these needs, by recognizing and acknowledging victims, countering the official collective memory discourse to open up the debate for a negotiated memory and raising awareness on past abuses in order to avoid a repetition of Gross Human Rights Violations (GHRV).⁶ Lessons from Argentina and similar countries demonstrate that memory initiatives can play a crucial role in ensuring that memories of violence are maintained so that one day accountability can be realised. For this reason, an important Guiding Principle from IW's research is the positive 'Complementarity'⁷ between memory initiatives and other mechanisms of TJ.

Within the context of Cambodia, Burma/Myanmar, Nepal, Sri Lanka, Indonesia, Timor Leste and Thailand, memory initiatives can play a significant role. While there may be no specific 'Asian problem' of transitional justice, there are a number of commonalities that warrant a regional perspective. The region is characterised, for example, by governments described as authoritarian or with authoritarian tendencies. In such contexts, the space for political opposition is often restricted, as is the space for civil society groups that demand processes of TJRNR. Nonetheless, the international political will to support thorough and wide-ranging processes of TJ is often lacking.

With respect to the latter, the continuing debates over 'Western' notions of justice and liberal peacebuilding approaches mean that governments in the region have been accused by some observers as keen to deflect criticism from themselves by accusing other states of interfering in their internal affairs. Ideas of 'Asian values' may then become political fodder, with transitional justice instrumentalised to serve political goals aimed at preventing certain individuals and civil society groups from addressing the past.

Within this context, IW has identified a need among civil society organisations and victim groups for exchange and for the development of creative alternatives for bottom-up, locally-led initiatives of TJ. The central aim of the Exchange is therefore the sharing of international knowledge and experiences to build the capacity of these CSOs and the creation of policy recommendations for donors and policymakers.

The Exchange seeks to explore the following key questions:

- What are the obstacles to TJRNR in the Asian countries participating in this Exchange? Are there common obstacles experienced by local actors? What role does culture, religion and ethnicity play in this respect? What role does the international community play?
- If we can identify certain common obstacles, in what way(s) can groups from different countries learn from each other to tackle these obstacles? What tactics have been used so far, what has been effective, and what not?
- Who do you target with your memorialisation efforts (local communities, national intellectual elite, media, authorities, international community)? How can we ensure that these are not counter-effective (i.e. more repression from authorities)? What can we learn from processes of memorialisation in Latin American and African countries?
- What type(s) of memorialisation efforts can encourage processes of TJRNR (local truth-telling, TRCs, tribunals)? Are archives, testimony-taking, and/or local dialogue processes important? Which efforts best fit with Asian cultures? And which are realistic within the prevailing contexts?

⁵ W. Lambourne, 'Transitional Justice and Peacebuilding after Mass Violence', *International Journal of Transitional Justice*, 3, (2009), pp. 28-48

⁶ Report of expert meeting *Understanding the role of memory Initiatives in communities struggling with impunity*: Prof. S. Parmentier, 'The multifaceted meaning of "memory"': pp. 10

⁷ Complementarity in this context has a different meaning than how the ICC uses the term, i.e. the complementarity with national justice systems. In the context of memorialisation we refer to complementarity to express the way in which memorialisation can have an additional or complementing role next to criminal justice efforts to transform societies.

II. Memory & memorialisation

Prior to examining how memory initiatives could serve as a complementary or alternative tool to TJ mechanisms, it is imperative to understand the role that memory and memory initiatives play in societies affected by conflict. This section will delve deeper into the concepts of memory and memorialisation, to explore opportunities and risks of memory initiatives.

Memory is the remembrance of lived or transmitted experiences.⁸ It is socially framed and allows us to understand what categories people, groups and cultures employ to make sense of their lives, their social, cultural and political attachments and their ideals.⁹ Memory is thus central to one's identity. As memory is malleable and reshaped over time, it needs to be placed in the appropriate socio-historical context in order to be able to fill the lacunas of official histories.¹⁰

Impunity Watch understands memory 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.

In societies affected by conflict, memory may reflect how people, groups, and cultures deal with a past characterised by human rights abuses. In these contexts, memory 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. Memory 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 a culture of impunity.¹¹

Whilst memory initiatives can promote social recovery after violent conflict, they inherently also carry potential risks. Memorialisation can generate (or sustain) divisiveness in a society when leading to an increased sense of 'victimisation, injustice, discrimination, and the desire for revenge'.¹² Many repressive authoritarian societies recovering from a violent past tend to silence or forget dissident counter-memories, especially since they challenge the official national representation of a heroic past that is part of a nation-building myth. Marginalised groups that these types of memory exclude are then victimised twofold, through the violations of their rights in the past and their exclusion from a national discourse, thus lacking acknowledgement in the present.

Simultaneously, authoritarian governments tend to control the way the official past is represented, a process that is referred to as the 'politics of memory' within memory studies.¹³ In this process they may manipulate history for partisan political ends. When myths are used as a tool to levy political support, entire communities continue to be entrenched around distorted images and stereotypes of others.¹⁴ Memory then becomes the product of social contestation.

⁸ V. Rosoux, 'Human rights and the "work of memory"', *Journal of Human Rights*, (2004), 3, pp. 160

⁹ J. Olick, V. Vinizky-Seroussi, D. Levy, *The collective memory reader*, (2011), pp. 37

¹⁰ N. Adler & S. Leydesdorff, *Tapestry of Memory* (2013), pp. ix

¹¹ L.M. Moore (re) covering the Past, Remembering Trauma: the Politics of Commemoration at Sites of Atrocity, (2009) 20, *Journal of Public and International Affairs*.

¹² J. Barsalou, V. Baxter, 'The Urge to Remember: The Role of Memorials in Social Reconstruction and Transitional Justice', *USIP Stabilization and reconstruction series no. 5*, (2007), pp. 1

¹³ C. Tilly, *The politics of collective violence*, (2003) Eric Hobsbawm in his *Invention of traditions*, mentions that the void left by the decline of traditional political structures has led to invented traditions that symbolise societal cohesion.

¹⁴ P. Arthur, "Fear of the Future, Lived through the Past: Transitional Justice in the Wake of Ethnic Conflict", P. Arthur, *Identities in transition: challenges for Transitional Justice in Divided Societies* (2011), pp. 278

When traumatic memories are either silenced and excluded from the official memory or politicised, renewed cycles of conflict may occur. When not addressed effectively, these traumatic memories might become embedded in the memory of different communities, leading to their intergenerational transmission.¹⁵

III. Relevance to policymakers & key questions

Taking into consideration the opportunities and risks of memory initiatives, this section will assess the relevance of these initiatives for policymakers, as an alternative or complement to existing TJ mechanisms.

In the countries where IW has operated, decision-makers have thus far favoured criminal prosecutions and truth commissions over alternative TJ measures. However, most international criminal justice mechanisms do not address the underlying structures and dynamics that perpetuate impunity, which are part of a transformative justice model.¹⁶ To prevent countries from relapsing into violent conflict, the social, economic and political structures underpinning conflict should be addressed. If legacies of violence, ongoing impunity for crimes committed and failure to establish the nature and experiences of violence and conflict remain unaddressed, this can be an ongoing source of grievance and fragility.¹⁷ Therefore, local needs and expectations of affected communities should be considered, in order to create conditions for sustainable peace. Research shows that the societal impact of international trials is limited in relation to the needs and interests of victims.¹⁸

Therefore, international organisations including -but not limited- to the UN, EU, ASEAN and national governments would greatly benefit from recommendations exploring alternative or complementary TJ mechanisms, as it is an opportunity for them to enhance their work in the area of TJ, peacebuilding and conflict transformation, development and human security. Moreover, these organisations have expressed commitment to objectives that are in line with the priorities of the Exchange. This Exchange will enable them to continue this line of action and to explore ways in which memorialisation could serve as a tool to address legacies and deeper structures of conflict and injustice. Especially in repressive contexts where other mechanisms are more prone to failure, memorialisation could engender greater awareness on a societal level to deal with the past, foster dialogue and raise awareness about the need for complementary or alternative strategies and TJ mechanisms.

The UN has emphasized the importance of ‘ensuring active consultation of, and participation by, victim 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.’¹⁹ In addition, in the combat of impunity, the Office of the High Commissioner for Human Rights (OHCHR) has established an *Updated Set of principles for the protection and promotion of human rights through*

¹⁵ M. Hirsch, ‘The Generation of Postmemory’, *Poetics Today*, (2008), 29, pp. 103

¹⁶ IW Policy Brief: ‘The Expanding Societal Impact of International Criminal Justice- Exploring the links with memory initiatives’ http://www.impunitywatch.org/docs/Policy_Brief_-_The_Expanding_Societal_Impact_of_In1.pdf

¹⁷ P. Domingo, L. Denney ‘The politics of practice: Security and justice programming in Fragile and Conflict Affected States’, Office of Development initiatives, December 2012

¹⁸ Eric Stover and Harvey M. Weinstein (Eds), *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*.

¹⁹ Un *Background document to TJ*:

http://www.un.org/en/peacebuilding/pdf/doc_wgll/justice_times_transition/26_02_2008_background_note.pdf

action to combat impunity. One of the principles entails the right to know, among which the duty to preserve memory.²⁰

The EU has been engaged in various TJ initiatives and is committed to an increased role in transitional contexts.²¹ The EU states that its institution shares values that are incompatible with crimes against humanity, genocide and war crimes, including crimes committed by totalitarian regimes and that ‘the memory of those crimes must be a collective memory, shared and promoted, where possible, by us all’.²² Moreover, the EU provides considerable financial support to a wide range of TJ initiatives, especially through the European Instrument for Democracy & Human Rights (EIDHR). As the EU emphasizes the importance of nationally owned processes and deems it fundamental to engage official and non-governmental institutions, it would benefit from a sustainable relationship with local and international civil society organisations to ensure that its programmes and funded projects are locally embedded and owned. Thus, this Exchange is timely for the EU and other donors.

The current Exchange is also in line with the ASEAN Intergovernmental Commission on Human Rights (AICHR) that established a Human Rights Charter in 2012. In this Charter, members express their commitment to ‘enhance friendship and cooperation in the furtherance of peace, harmony and stability in the region’.²³ The AICHR aims at enhancing and protecting human rights and organises regional consultations with civil society organisations. The current Exchange will enable members to pursue this approach and to strategise on further engagement with different local stakeholders.

The policy recommendations that will be formulated towards the end of the Exchange will be guided by the following questions, which will be posed to the participating CSOs and victim organisations:

A. Challenges TJRNR

During the Exchange, the obstacles to TJRNR that the participating countries face will be addressed, to tailor the recommendations to the country context. The following question will be posed:

- What obstacles to TJRNR exist in these countries and how can memorialisation serve as a means to tackle these obstacles?

B. Complement or alternative to criminal prosecutions

How can memory initiatives complement or offer an alternative to criminal prosecutions? It is much debated whether international criminal trials can produce historical records that would form part of the historical memory of a given society. Nevertheless, international criminal trials still remain ‘a focal point for the collective memory of whole nations’.²⁴

- 1) Into what form of TJ mechanism could memorialisation initiatives best be integrated? Are these initiatives effective in the political, social and cultural contexts of their respective countries?
- 2) What impact do memory initiatives have on non-judicial TJ mechanisms?

During the Exchange, participants will explore how memory initiatives have been embedded in TJ institutions, programmes and in diplomacy efforts, to assess which form is most effective in encouraging TJRNR within the contexts of their countries. The following forms will be considered:

²⁰ UN Working Group on Enforced or Involuntary Disappearances General Comment on the Right to the Truth in Relation to Enforced Disappearances: http://www.ohchr.org/Documents/Issues/Disappearances/GC-right_to_the_truth.pdf

²¹ European Council, *Report on the Implementation of the European Security Strategy – Providing Security in a Changing World* (December 2008), S4047/08, at 12.

²² EU Stockholm Programme: http://ec.europa.eu/home-affairs/doc_centre/docs/stockholm_program_en.pdf

²³ ASEAN Human rights declaration: <http://www.asean.org/news/asean-statement-communiques/item/asean-human-rights-declaration>

²⁴ M, Osiel, ‘Mass atrocity, collective memory, and the law’, pp. 470 in: J. Olick, V. Vinitzky-Seroussi, D. Levy, *Collective Memory Reader*, (2011)

- Memory initiatives could be used as part of **outreach** activities of criminal prosecutions. Prosecutions may stimulate memory initiatives and in turn, memory initiatives could open up space for the collection of oral histories in order to build **historical records** in addition to forensic evidence required at trial. In addition, memory initiatives can garner public support for prosecutions.²⁵
- **Victims Units** – for instance as established as part of the ECCC in Cambodia - offer space for memorialisation processes, such as documentary and audio-visual archives, commemorative services and truth-seeking initiatives.²⁶
- Testimonies of victims for **Truth and Reconciliation Commissions** (TRCs) can be published and form an integral part of the historical memory of a post-conflict society.²⁷ An advantage of TRCs is that they provide a platform for other collective memories and alternative histories to the legal ‘truths’ of criminal prosecutions.
- Although **National Human Rights Institutions** (NHRIs) can only address GHRV after their establishment, in post-conflict situations NHRIs may be given a mandate to inquire into past abuses in order to prevent impunity.²⁸
- Memory initiatives form a part of **symbolic reparations**, a principle that encompasses memorialisation to restore the dignity of victims, through commemoration, activities aimed at remembrance and education and at preventing the recurrence of similar crimes.²⁹
- Memorialisation can be used as a tool to juxtapose competing narratives of historical events in **educational programmes**, to offer insight in the perspectives of different people and communities in societies in transition. Opening up space for multiple narratives ensures a better understanding of current challenges of exclusion and violence. In addition, educational programmes can dispel persisting historical myths and foster historical re-envisioning. These educational programmes can be part of school curricula or public educational projects of CSOs.
- In **Disarmament, Demobilisation and Reintegration (DDR)** programmes, memorialisation is used as a tool to preserve testimonies of ex-combatants to preserve public memory of GHRV.³⁰
- In peace negotiations on a **Track II diplomacy** level, memory initiatives are deployed to transform negative perceptions and attitudes. These types of initiatives are central to, for instance, dialogue projects.

C. Content: addressing local needs

The Exchange will not only address in what form memorialisation could be integrated, but will also develop a strategy on the content of these initiatives, in relation to local needs, expectations of victims, ownership and a potential regional strategy:

- What local needs should be addressed in these memorialisation initiatives?
- Do existing memory initiatives within international criminal trials do justice to the suffering of victims?

²⁵ Report of expert meeting *Understanding the Role of Memory Initiatives in communities struggling with impunity*, pp. 10

²⁶ Redress (2009), *Considering reparations for victims of the Khmer Rouge Regime*:
<http://www.redress.org/downloads/publications/CHRAC%20REDRESS%20Cambodia%20Reparations%20final%2018%20Nov%202009.pdf>

²⁷ R. Shaw, ‘Rethinking Truth and Reconciliation Commissions Lessons from Sierra Leone’:
<http://www.usip.org/sites/default/files/sr130.pdf>

²⁸ National Human Rights Institutions History, Principles, Roles and Responsibilities:
http://www.ohchr.org/documents/publications/pts-4rev1-nhri_en.pdf

²⁹ UN 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:
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>

³⁰ V. Dudouet, H. J. Giesmann, K. Planta, ‘From Combatants to peacebuilders’ Berghof Foundation:
http://www.berghof-conflictresearch.org/documents/publications/Policy_Paper_dudouetet.pdf

- Are existing judicial and non-judicial initiatives locally owned, or should they adapt to national/local techniques of social recovery?
- What common local needs can be distilled from the participating countries?

D. Tailoring aid programmes donors

In relation to donors of TJ initiatives, how could they ensure effective aid delivery tailored to the country context?

IV. Context of TJ & obstacles to TJRNR

The identification of **Cambodia, Burma/Myanmar, Nepal, Sri Lanka, Indonesia, Timor Leste and Thailand** was made with an eye to which countries victims' and civil society representatives will most benefit from a regional exchange of experiences to stimulate new initiatives. In these countries, we find processes of TJ being effectively blocked or politicised. Equally, in these countries international support for TJ processes is seen as interference in internal affairs – itself a sensitive issue in most Asian countries – and where political space for civil society organisations for these processes is restricted.

Whereas there are a number of institutionalised mechanisms in the countries of this Exchange – the Extraordinary Chambers in the Courts of Cambodia (ECCC), the Special Panels of the Dili District Court (Timor Leste), the Commission for Reception, Truth and Reconciliation in Timor Leste (CAVR), and the National Lessons Learnt and Reconciliation Commission in Sri Lanka – these mechanisms are often criticised for their political interference. In other countries such as Burma/Myanmar, discussions on TJ are contentious. Therefore, there is a need for these more traditional criminal justice mechanisms to be accompanied by non-judicial measures which focus on the vindication of victim's rights to truth, reparations and guarantees of non-recurrence.³¹ Memorialisation has the potential to play an important role or could serve as a first step towards opening up discussions and the demand for accountability.

A. Obstacles to TJRNR

IW has identified several commonalities between the selected countries in the obstacles that they experience in the areas of TJRNR. These characteristics include, but are not limited to:

- 1) Repressive regimes with either members in government that were involved in GHRV or military linked to these current governments (entrenched interests). Some have an open military rule but most militaries play at least a strong role behind the scenes;
- 2) Discourses of governments against "Western" involvement in their internal business and promises of national measures of dealing with the past that either never take place or do not meet basic international standards;
- 3) A current human rights situation that is still of concern and no functioning Rule of Law;
- 4) Enforced disappearances, with relatives of the missing suffering from ambiguous loss;
- 5) The root causes of conflict partially traceable to colonial legacies; and
- 6) Memorialisation embedded in a nationalist discourse from which victims are usually excluded.

31 T. Unger, *The European Union and Transitional Justice*, Working papers 2010/1
http://www.asser.nl/upload/documents/2172010_25518CLEER%20WP%202010-1%20-%20UNGER.pdf

While there are similarities between these countries regarding their obstacles to TJNR, the countries also have partial commonalities or characteristics that are country specific that should be taken into account when building capacity of the CSOs and victim organisations and when formulating policy recommendations. These different backgrounds should be considered as a lack thereof may lead to oversimplifications and generalisations. These obstacles to TJNR do not encompass all characteristics of these countries, but will serve as a starting point for further discussion during the Exchange.

1) Ethnic/ religious conflict and exclusion of marginalised groups

Burma/Myanmar serves as an example where there is mistrust between ethnic and religious groups and where minority groups are marginalised. Since Burma's /Myanmar's independence in 1948, ethnic armed conflicts erupted between Ethnic Armed Organisations (EAOs) and the Burman dominated government. The EAOs pleaded for self-determination and ethnic equality. Since then, the opposing sides take entrenched positions out of mistrust, fear, exacerbated by the military nature of the state.

Patterns of impunity continue to exist against the backdrop of authoritarianism and religious and ethnic diversity. Anti-Muslim sentiments and violence by militant Buddhist nationals, especially against the Rohingya prevails. The Myanmar government has persistently refused to investigate allegations of state involvement in anti-Muslim violence.

In Indonesia, various conflicts have marked the history of the country. The year '65 undoubtedly marks one of the most well-known conflicts in the history of Indonesia. The conflict started after the violent suppression by Suharto of the coup of the Indonesian Communist Party (ICP), after which an anti-communist campaign was launched, causing an estimated 500,000 people to be killed. Following the coup, many Chinese Indonesians were suspected to have ties with the ICP, resulting in assaults and mass violence, culminating with the 1998 riots which reported an estimated thousand killings. In addition, religious and/or interethnic conflicts have caused violent clashes and killings throughout the archipelago, in among others Aceh, Papua, the Moluccas, Sulawesi and Kalimantan.

In Sri Lanka, ethno-religious identities are at the heart of the conflict. After decolonisation in 1948 the Sri Lankan government passed laws discriminating against the Tamil and Muslim minorities. In 1972 Sinhala nationalism controlled political decision-makers, making Buddhism the state religion and further alienated the Tamils (Hindus and Christians) and Muslims. Between 1983 and 2009 a civil war raged between the Sri Lankan government forces and the Liberation Tigers of Tamil Eelam (LTTE). 2009 marked the year in which the LTTE were militarily defeated, bringing an end to a three-decade civil war.

2) Social unrest about unequal division of resources and corruption (land disputes, labour protests) that also relate to the root causes of conflict

Both in Cambodia and Burma land disputes have occurred on a large scale. These disputes are part of a culture of impunity that emanates from decades of conflict in both countries. In Cambodia, more than 500,000 people have been unlawfully evicted since 2003, having become one of the primary causes of human rights violations In Cambodia.

In Burma, land confiscation especially occurs in ethnic minority regions. Renewed violence has erupted in Kachin State after confiscation of land by large business enterprises. The human rights violations in Kachin State which are related to land-disputes 'appear to be operating with a degree of impunity reminiscent of that enjoyed by those connected with previous military regimes.'³² In addition, there

³² P.Pierce, C. Reiger (2014) *Navigating Paths to Justice in Myanmar's Transition* , ICTJ, <http://www.ictj.org/sites/default/files/ICTJ-Myanmar-Development-Report-2014.pdf>

are several other land and natural resource disputes which have resulted in violence across Burma/Myanmar.

V. International memorialisation initiatives-lessons learned

The IW “International Memory Initiatives Exchange Forum”, held in Phnom Penh in 2012, resulted in eight Guiding Principles of Memorialisation, distilled from research conducted in five post-conflict countries, Bosnia-Herzegovina, Burundi, Cambodia, Guatemala and South Africa.³³ These principles provide an important tool to improve policy on memorialisation in a framework of TJ.

The following section serves as a preliminary exercise of how these principles can be applied in practice to the five countries above and what lessons can be learned from these examples. This exercise is not exhaustive and by way of example only. During the Exchange, the principles will serve as a tool to develop a strategy for memory initiatives in the participating countries.

A. Guiding Principles applied to international examples

1. Context: Consider the root causes of the violence, the nature of the conflict, how (if at all) the conflict ended, the current social and political situation, and enduring legacies of the conflict, such as structural violence

Stari Most: The Old Bridge at Mostar (Bosnia-Herzegovina)

The Stari Most bridge, once the symbol of peaceful coexistence, was destroyed during the 1990s war in the Western Balkans. Reconstructed by the international community as a symbol of reconciliation between Croats and Bosniaks, two communities divided by violence, research found little evidence that the bridge has had any reconciliatory impact.

This failing is partly attributable to the overly-ambitious rhetoric of reconciliation resulting from a lack of understanding of the local context and the character of nationalist sentiment still in existence. Indeed whilst Bosniaks and Serbs have their political centres situated in towns where they constitute a clear majority (Sarajevo and Banja Luka), the Croats feel aggrieved in not having such a political centre. Thus, Croats view Mostar as historically their capital. Up until today, Mostar remains divided along ethnic lines: the west is predominantly Croat, whilst the Bosniak majority inhabits the east. The citizens of Mostar (around 100,000) are still facing divided institutions in the field of communal services, culture, sport and recreation.³⁴

A lesson learned from this example is that memory initiatives should take into account the current social and political situation that emanates from a divided and conflict ridden past. It is crucial that the enduring legacies of conflict are addressed and understood, as otherwise methods to prevent recurrence will ultimately disappoint.

³³ IW Policy Brief: Guiding Principles of Memorialisation

http://www.impunitywatch.org/docs/Policy_Brief_Guiding_Principles_of_Memorialisation.pdf

³⁴ IW Perspectives Series Research Report: ‘Do Memory Initiatives Have a Role in Addressing Cultures of Silence that Perpetuate Impunity in Bosnia and Herzegovina?’

http://www.impunitywatch.org/docs/BiH_Mem_Research_Report_English.pdf

2. Critical Self-Reflection: about each actor's role in memory initiatives in light of differing values, biases and with awareness that the very presence of different actors can influence memorialisation, taking care not to burden memorialisation with overly ambitious goals. Seek inspiration from other contexts, but simultaneously be aware of the dangers of transplanting experiences from one context to another.

As an actor, specifically as an outsider, engaged in memory initiatives in countries after violence, it is crucial to have a critical examination of efforts, to understand the possibility of unintended consequences and to avoid promoting political agendas. Memorialisation has often been prescriptive and imposed, rather than genuinely bottom up. In addition, there is an inherent risk in transplanting experiences or models from one country to the other.

An example of the latter is the replication of memory initiatives surrounding the Holocaust. The Holocaust has turned into a powerful symbol or referent for other genocides and as a lesson on how to engage in memory initiatives. An example of this is the Kigali memorial centre in Rwanda, constructed with the support of outside actors, which drew heavily on the images and rhetoric of the Holocaust. However, the analogies constructed by Holocaust comparisons remain to be very contentious.³⁵

3. Participation: Genuine grassroots participation can ensure that local needs, traditions, human rights, and socio-cultural sensitivity are respected for the purposes of ensuring local ownership, meaningful engagement and context-sensitive memorialisation.

The National Monument to All Victims in Burundi

Facilitating genuine participation in memorialisation can enable policymakers and practitioners to better identify conflict-sensitive strategies that complement memorialisation as part of a wider process of transformation. In Burundi, as stipulated in the 2000 Arusha Peace and Reconciliation Agreement, the Burundian government constructed a national monument dedicated to all victims of violence in 2010.

The monument is intended to commemorate each Burundian who died during the waves of cyclic violence in the country. However, since there was no consultation or involvement of the population, the monument now stands idle and has been largely rejected or dismissed as meaningless by the country's many victims.

This example serves as a lesson learned that societies do not deal with their past by means of one-off, simplistic, politicised efforts, but that it requires the involvement of affected communities in order to ensure local ownership and impact. At the same time, decision-making must not romanticise the grassroots or ignore some of the problems associated with local participation.³⁶

³⁵ Angi Buettner, 'Media Representation of Catastrophe, Holocaust Imagery, and the Politics of Seeing' http://www.nzmediastudies.org.nz/articles/031101_Buettner.pdf

³⁶ IW Perspectives Series Research Report 'Lieux de mémoire, Commemorative Initiatives and Memorials to Burundi's Conflicts: Invisible and Permanent Memories', http://www.impunitywatch.org/docs/Burundi_Mem_Research_Report_EN.pdf

4. Complementarity: Memory initiatives must be considered as part of a framework for transformative justice that includes complementary mechanisms for guaranteeing truth, justice, reparations and the non-recurrence of violence. Attention should be given to the diverse ways that memory initiatives can contribute to the goals of political and institutional reform, addressing socio-economic inequalities, demands for human rights, as well as the range of individual and community needs after violence.

Memory initiatives (and other methods for dealing with the past) have an important role to play after violence, particularly when the shortcomings of other institutionalised mechanisms are considered. The ICTY has been prosecuting cases related to the Balkan conflicts for over 16 years, yet in Bosnia-Herzegovina the truth about the crimes committed and the historical record is still deeply contested. People are still divided along ethnic lines and competing versions of the conflict still exist, preventing communities from engaging in a constructive dialogue.³⁷

In Guatemala, the shortcomings of the official truth commission led different communities to initiate their own 'recovery of memory' projects in order to ensure that their narratives did not go unheard. These include; publications documenting the life stories of victims, who they were and what they stood for, and the way the violence has affected them and their struggles, the recovery and preservation of archives, commemorative events documenting the memory of the victims, monuments, plaques, documentary films and photographic exhibitions. These initiatives have served to document and denounce the atrocities committed, to dignify and honour victims, recover histories of heroism and resistance of the survivors, promote community organisation and the rebuilding of the social fabric as well as to inform and educate new generations.³⁸

Research conducted by IW shows that the more conventional TJ mechanisms are rarely sufficient for transformation and for guaranteeing the rights of victims to TJNR. Complementarity in approaches for dealing with the past are therefore crucial. Memory initiatives could serve as a tool to address the root causes of conflict, socio-economic inequalities, demand for human rights and uncover the needs of communities after violence.

5. Process: Memorialisation is a long-term, participatory process that requires the sustained involvement of all actors and in particular the involvement of younger generations through inter-generational dialogue. Timing and sequencing are key factors in memorialisation.

Memory as a Basis for Dialogue in Cambodia

In Cambodia, initiatives at the local community level have used memory as a basis for dialogue and for opening up those areas of the past that have otherwise remained unspoken. Local communities are encouraged to take care of memorials and to keep local memories and historic knowledge alive in a self-determined participatory process. Through their involvement in dialogue processes, the local communities feel relieved and have an increased sense of community.

Further, inter-generational dialogue, through the collection of personal stories from survivors of the Khmer Rouge period and engagement in local Buddhist healing rituals, has demonstrated important

³⁷ IW Perspectives Series Research Report: 'Do Memory Initiatives Have a Role in Addressing Cultures of Silence that Perpetuate Impunity in Bosnia and Herzegovina?'

http://www.impunitywatch.org/docs/BiH_Mem_Research_Report_English.pdf

³⁸ IW Perspectives Series Research Report: 'Guatemala Resists forgetting: Post-conflict memory initiatives'

http://www.impunitywatch.org/docs/Guatemala_Mem_Research_Report_English.pdf

benefits for the survivor generation in Cambodia to have credence given to their suffering, but also benefits for the younger generation that previously found the violence incomprehensible.

This example shows that if local communities are involved in memorialisation processes, they feel confident and empowered to discuss their experiences. As illustrated, inter-generational dialogue can have a particular positive impact, as it helps to spread a culture of respect for human rights and rejection of violence.³⁹

6. Multiple Narratives: There can be no one truth after violence; the multiplicity of discourse, different understandings and the value of social dialogue should be acknowledged, respected and adapted to, but recognising that this does not inevitably lead to reconciliation or require affected communities to give up their claims for justice.

Appropriation of the memoryscape in South Africa

In South Africa, the appropriation of the memoryscape by the ANC in order to advance a newly constructed national narrative is commonplace. The establishment of a new national narrative and its associated myths has often suppressed other narratives about the past. This carries, however, the risk of further alienating those already marginalised groups and individuals that were central to the liberation struggle. It has led to new struggles, tensions and grievances, often revolving around the purpose of memory initiatives and the truth being presented.

In two memory initiatives the Ditshwanelo and the Hector Pieterse cases, there were perceptions that the memorials were instrumentalised by the government to forward an ANC narrative and that the community did not have ownership over what the memory initiatives represent.

Regarding inclusion of other narratives, efforts were made to include the narratives of the young men who became (sometimes reluctant) perpetrators. An inclusion of these narratives would be constructive to the truth of apartheid and explanations of the past.⁴⁰

The context of South Africa informs us that truth-telling must necessarily be inclusive. A comprehension of all narratives will offer a greater understanding of the system of repression underlying the perpetration of violence, which will in many contexts contribute to a more effective way of dealing with the past.

7. Youth: Memorialisation must prioritise and promote the active inclusion of younger generations as agents for change, for the non-recurrence of violence and for dignifying the memories of survivors, especially since youth are often left on the sidelines of memory initiatives by a focus on direct conflict actors.

³⁹ IW Perspectives Series Research Report 'Pacifying vindictiveness by not being vindictive': Do memory initiatives in Cambodia have a role in addressing questions of impunity?

http://www.impunitywatch.org/docs/Cambodia_Mem_Research_Report.pdf

⁴⁰ IW Perspectives Series Research Report 'Do memory initiatives have a role in addressing cultures of silence that perpetuate impunity in South Africa?'

http://www.impunitywatch.org/docs/SouthAfrica_Mem_Research_Report.pdf

Memorialisation has often focused solely on the population that experienced the violence, leading to youth being left somewhat on the sidelines.

In Bosnia-Herzegovina, youth are dependent on their environment, parents, teachers, peers and the media for information on the conflict, as they did not experience the war themselves. As a consequence, youth are fed an ethno-political discourse about the past that becomes part of the polarisation between ethnic groups that exists in the country. They are thus raised to uphold divided identities. Through inter-generational transmission of memories, we see that identities of young people are formed and the ideologies of previous generations reproduced. As a result, new generations are raised to uphold the culture of silence or take up violence, which will offer a volatile future for BiH.⁴¹

A lesson learned from this situation is that memory initiatives must promote an inclusion of younger generations. The participation of youth in memory initiatives will encourage them to question the identities and ideologies that they inherit and at the same time it will offer them an opportunity to understand the inequalities in the present or identify dynamics in the future that may lead to recurrence of violence.

8. Politicisation: Memorialisation is an inherently political process that can be utilised for the reclamation of violated rights or appropriated to serve malevolent purposes that can entrench impunity and subvert fundamental rights.

State-Level Memory Initiatives and Politicisation

State-level, national memory initiatives are susceptible to politicisation, often introducing hegemonic truths that may convey a one-sided version of the past. Enhanced during moments of political upheaval, these moments are favourable for memory initiatives that support the legitimacy of a new elite in power.

The Tuol Sleng Museum in Cambodia, also known as S-21 represents one of the earliest memory initiatives in the country. S-21 is a former KR detention, torture and execution centre. Transformed under Vietnamese auspices into the Tuol Sleng Genocide Museum immediately after the overthrow of the DK regime in 1979 and opened to the public in 1980, the main goal was to illustrate, remember and condemn the atrocities committed during the DK regime. The museum supported the Vietnamese in conveying a powerful justification to overthrow the KR regime in 1979. The pictures and display of torture instruments convey that the absurd mass slaughter by the KR necessitated an urgent intervention from outside to bring it to a halt.⁴²

This example illustrates that memory initiatives do not operate within a vacuum but are inherently politicised. It should thus be taken into account that they may convey a one-sided version of the past.

⁴¹ IW Perspectives Series Research Report: 'Do Memory Initiatives Have a Role in Addressing Cultures of Silence that Perpetuate Impunity in Bosnia and Herzegovina?'

http://www.impunitywatch.org/docs/BiH_Mem_Research_Report_English.pdf

⁴² IW Perspectives Series Research Report 'Pacifying vindictiveness by not being vindictive': Do memory initiatives in Cambodia have a role in addressing questions of impunity?

http://www.impunitywatch.org/docs/Cambodia_Mem_Research_Report.pdf

VI. Concluding remarks & looking ahead

In this document, which serves as a basis for the “Memory for Change” Exchange between CSOs from Cambodia, Burma/Myanmar, Nepal, Sri Lanka, Indonesia, Timor Leste and Thailand, we have explored how memorialisation can be used as a complementary or alternative transitional justice process (TJ), and/or as a step towards institutionalised processes of TJ such as trials and truth commissions.

We argue that there is a need to establish a more transformative justice model, in which the dynamics and structures that created the conditions for violence and impunity are addressed. We have tried to show that memorialisation could be an effective tool in this sense and that memorialisation also has a significant role to play in consulting with victims and affected communities on their needs and expectations, in order to generate a more inclusive approach to TJ and to have a sustainable effect in this area. This document has pointed out that especially local, bottom-up memory initiatives have the potential to offer a more inclusive TJ process, the ability to tackle politicisation and address the root causes and deeper structures of conflict. However, at the same time, memory initiatives on a grassroots level should not be romanticized, as they often cultivate and maintain the negative consequences of memory, which sustain or generate divisiveness. It is crucial to maintain a critical look towards these dynamics and understand their background, especially as an outside actor.

This notwithstanding, memory initiatives can serve as an important tool for policymakers working on TJ or conflict management, as addressing the grievances and expectations of local communities will advance their rights to TJRNR and will have a greater transformative impact. This document has outlined questions that will be addressed during the Exchange, in order to assess into which TJ mechanism(s) memorialisation can be integrated and what local needs should be incorporated. Examples include the incorporation of memory initiatives in outreach programmes of tribunals and historical records, victims units, TRCs, National Human Rights Institutions, as part of symbolic reparations & educational programmes, DDR and Track II diplomacy. Further, this Exchange will explore the question of how donors can tailor their programmes to the needs and expectations of local communities.

This document offers insights in the similarities and partial similarities in the obstacles that the participating Asian countries face to TJRNR. It has argued that in these countries that are characterised by governments described as authoritarian or with authoritarian tendencies, memory initiatives could play a significant role in opening up the debate for a negotiated memory, in raising awareness on past abuses in order to avoid a repetition of GHRV and in establishing a greater understanding of the dynamics and structures that continue to perpetuate impunity.

Lastly, in this document we applied the IW Guiding Principles of Memorialisation to international examples from Bosnia-Herzegovina, Burundi, Cambodia, Guatemala and South Africa, in order to provide lessons learned to the countries participating in the Exchange.

Looking ahead, the outcome of this Exchange will be two-fold. First, after exchanging experiences and best practices during the Exchange, a strategy will be designed by and for the participating CSOs and victim organisations, that will give advice on how memorialisation can serve as a tool to tackle some of the obstacles to dealing with the past.

Second, the Exchange will result in concrete policy recommendations for institutions working on an international, regional and national level. For each of the participating countries and as part of a regional approach, policy recommendations will offer advice on how memory initiatives can be integrated into TJ mechanisms. It will enable policymakers and donors working in the area of TJ, conflict management, development and human security to develop alternative or complementary strategies to dealing with the past and TJ in order to ensure greater local ownership of their efforts and increase the impact of their work in the participating countries.