Exploring the idea of 'values' for a reconciliation process of Bangladesh's liberation war: A Restorative Justice and Peacemaking Criminology Perspective

by

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Abstract

The 1971 Independence War, when Bangladesh broke away from Pakistan, was one of the bloodiest conflicts in history. Official, albeit disputed, figures put the number of deaths near 3 million—a death toll half that of the Holocaust in just nine months. After the war, the then President, Sheikh Mujibur Rahman—the Father of the Nation—chose to 'forgive and forget'; however, this blanket amnesty failed to reflect the people's desire for justice. Four decades later, the country is bringing to trial the local Bangladeshi collaborators for war crimes tied to the Independence War. Political tensions mount as verdicts of life imprisonment and death sentence are handed down, pushing the country to the verge of protracted civil unrest.

This qualitative study explores the potential of a set of values as a foundation for a future reconciliation process in Bangladesh. Drawing on their use in the transitional contexts of Rwanda and Cambodia, four restorative justice (RJ) process values—participation, empowerment, reintegration and transformation—are used as deductive variables in the study. Ten in-depth, semi-structured qualitative interviews were conducted to explore how these variables could be used to ground a future reconciliation process. Deductive and inductive findings suggest RJ process values could play a guiding role in the reconciliation. Using the values unearthed through the research, a value-based model to ground this process is also proposed.

Keywords: Bangladesh, 1971 Independence War, Transitional Settings, Process Values, Restorative Justice, Peacemaking Criminology

Dedication

To the millions of victims of genocide in Bangladesh, Cambodia and Rwanda.

Acknowledgements

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List of Acronyms

BAL	Bangladesh Awami League
BNP	Bangladesh Nationalist Party
BJI	Bangladesh Jamat-e-Islami
CPP	Cambodian People's Party
DC-CAM	Documentation Center of Cambodia
DSS	Defence Support Section
ECCC	Extraordinary Chambers in the Courts of Cambodia
FIND	Fonds d'indemnisation (Indemnification Funds)
HRW	Human Rights Watch
ICC	International Criminal Court
ICTR	International Criminal Tribunal for Rwanda
ICTB	International Crimes Tribunal Bangladesh
ICTY	International Criminal Tribunal for the former Yugoslavia
INGOs	International Non Governmental Organizations
NGOs	Non Governmental Organizations
PMC	Peacemaking Criminology
RJ	Restorative Justice
RPF	Rwandan Patriotic Front
TARR	Truth Accountably Reparation Reconciliation
TRC	Truth and Reconciliation Commission
UK	United Kingdom
UN	United Nations
USSR	Union of Soviet Socialist Republics
VSS	Victim Support Section

Chapter 1.

Introduction

Bangladesh is a small country of nearly 56,000 square miles inhabited by 165 million people, surrounded by India to its north, east and west, and by Myanmar to the south east (Sicherman and Valliant, 2005). The country has been under foreign yoke innumerable times in its history: *Mughal* Empire from 1576 to 1700s; British Empire from 1757 to 1947; and Pakistan from 1947 to 1971 (Sicherman and Valliant, 2005). But the current Bangladeshi psyche remains deeply affected by the events of 1971 when the West Pakistani military carried out a nine-month attack on the predominantly civilian populace of the then East Pakistan. The death toll crossed 3 million[1], along with an estimated 200,000 rape victims and 25,000 unwanted pregnancies (Akmam, 2002; Mookherjee, 2011; Sharlach, 2000; Takai, 2011). The ferocity of the genocide was remarkable—leading some contemporary writers to suggest it had "no parallel in the world history" (Mehrish, 1972, p. 1). Given this war-torn past, it is not surprising that memories of genocide still haunt Bangladeshis (Beachler, 2007; Hensher, 2013).

In the aftermath of the genocide, the founding father of Bangladesh, *Bangabondhu* ('friend of Bengal', a title given to him after the war) Sheikh Mujibur Rahman had two options: blanket amnesty (Cammegh, 2012), or the model of the Nuremberg or Tokyo tribunals (Mehrish, 1972). Insisting that the "people of Bangladesh knew how to forgive" (Clause 14 of the Tripartite Agreement between India, Bangladesh and Pakistan, 1974), *Bangabandhu* adopted blanket amnesty, to 'forgive and forget', as the official state response to the massive atrocities committed during the nine-months of the war (Cammegh, 2012). This policy of blanket amnesty failed to heal the historical wounds and restore the shattered relationships, and created a culture of impunity, which

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[1] Although this figure has recently been disputed, almost all estimates put the toll above 300,000-500,000 fatalities (Bose, 2011).

dissatisfied countless victims and the majority of Bangladeshis. The country remains severely polarized on how to respond to the trauma of 1971 and deliver justice. Nearly four decades after the war, these debates have spilled over into violent political clashes.

To end this culture of impunity and establish a culture of accountability, in 2010 the Bangladeshi government established the International Crimes Tribunal Bangladesh (ICTB) (Bergsmo & Novic, 2011). For all intents and purposes, this was a domestic tribunal with no international oversight (D'Costa, 2013; Linton, 2010). As of March 2014, it has delivered ten verdicts—eight death sentences (one of which was carried out in December 2013) and two life imprisonments (death sentence deferred to life imprisonment in consideration of the advanced age of the accused). These verdicts received severe criticism from Amnesty International, Human Rights Watch, United Nations etc., arguing the tribunal had not adhered to due process nor protected the rights of the accused (Razzaq, 2013). The ICTB is also contributing to civil unrest. In recent times, more than 300 people have died in political confrontations between the government and the opposition political parties, in many cases while protesting against these verdicts (The Economist, 2013b). It is noteworthy that the vast majority of those on the dock represent the opposition political parties of Bangladesh, notably Bangladesh Jamat-e-Islami, the largest Islamist faction in the country (The Economist, 2013a). When a popular leader of this party was sentenced to death by the ICTB in February 2013, it sparked off one of the bloodiest bouts of street protests the country has seen since the war. In three days (February 28 to March 2, 2013), over 100 people were killed in political violence across Bangladesh (The Economist, 2013a). The fact that the ICTB has been at the centre of numerous scandals that point to it being a government-controlled purge of its enemies has made the 1971 war crimes issue murkier (The Economist, 2012).

To end this vicious cycle of violence, establish a culture of accountability, and heal the wounds, a "third way" is necessary (Tutu, 1997, p. 30). Archbishop Tutu describes this third way as a way of restoration, reparation, reconciliation and amnesty (Tutu, 1997), in which people experience cathartic healing instead of bitter anger (Tutu, 2009). In using reconciliation as a way of doing justice in the aftermath of genocide and large-scale human rights violations, Bangladesh would join many countries around the world. South Africa, Rwanda, Cambodia, Northern Ireland, Argentina, Chile, Canada, El

Salvador, Haiti, and East Timor, Guatemala, Rwanda, Ghana and Sierra Leone are examples where reconciliation processes have been implemented with varying degrees of success (Bloomfield, 2005; ICTJ, 2008; USIP, n.d.).

Numerous scholars have documented the horrific details of the 1971 genocide (Akmam, 2002; Beachler, 2007; Bose, 2011; Mehrish, 1972; Mookherjee, 2011; Sicherman and Valliant, 2005; Takai, 2011). However, there is an absolute dearth of literature on a future reconciliation process for Bangladesh. This study aims to explore the values needed for this third way—a proposed way forward towards a fully-fledged reconciliation framework for the country. A significant volume of research already exists on reconciliation in other transitional settings: South Africa, Rwanda, Cambodia, Northern Ireland and Bosnia (Bloomfield, 2005; Chea, 2005; Doung and Ear, 2009; Drumbl, 2000; Nikolic-Ristanovic, 2006; Tiemessen, 2004; Tutu, 1997; Tutu, 2005). While reconciliation processes vary from Rwanda to Cambodia and from Northern Ireland to Bosnia, certain common features exist in every context (Tutu, 2005). The idea of value is one of these "unifying" notions (Pranis, 2007, p. 59), as illustrated in the extant literature of Peacemaking Criminology (PMC) and Restorative Justice (RJ). So, to find the values for a third way in Bangladesh, the study draws upon this literature.

The lead research question is: *What are the 'values' needed for a future reconciliation process in Bangladesh?* This is followed by the secondary question: *How are these values operationalized in the form of participation, empowerment, reintegration, and transformation?* These four specific variables—participation, empowerment, reintegration and transformation—are explored through case studies and in-depth qualitative interviews. The case studies are of Rwanda and Cambodia, whose colonial legacy and nature of genocide display similarities with the Bangladeshi scenario; the interviews are of a diverse group of Bangladeshis across the political spectrum.

Chapters 2 and 3 provide a comprehensive literature review, beginning with a general discussion of values and its usages within the context of crime and justice. This is followed by a review of values within PMC and RJ. Restorative process values in transitional settings are particularly explored, with Clamp's (2014) four restorative process values—participation, empowerment, reintegration and transformation— highlighted. Rwanda and Cambodia are used as case studies to better understand the

utility of transitional process values in the Rwandan *gacaca* courts and the Extraordinary Chambers in the Courts of Cambodia (ECCC). The literature review ends by identifying the gaps in literature in understanding the potential for a reconciliation process in Bangladesh's future.

Methodology is discussed in Chapter 4, including the role of the researcher, interpretative paradigm, sampling techniques, and the recruitment of the participants. A transformative inquiry paradigm is established as the researcher's methodological position. The chapter includes a discussion on the procedures of data collection and the data analysis techniques. Ethical and legal considerations, especially the steps taken to maintain confidentiality, are outlined. It ends by addressing the limitations of the research design.

The findings are presented in Chapter 5, starting with the deductive findings of the four variables—participation, empowerment, reintegration and transformation. Inductive findings reveal values, such as *sroddha* (respect), *shohonshilota* (tolerance), *shomjhota* (reconciliation), and *shochchota (*transparency), as prerequisites for the future reconciliation process.

Analysis and implications are addressed in Chapter 6, which is divided into two sections. The section on 'analysis' uses the deductive findings for a comparative discussion between the Bangladesh scenario and the Rwandan and Cambodian ones. Inductive values from the findings and case studies are explored too. Building on the core values that emerged from the research, a proposed model for a future reconciliation process of Bangladesh is discussed in the section on 'implications'.

Chapter 7 concludes this study by discussing the strengths and limitations of this research. It identifies that future research should especially study different theoretical, contextual and methodological approaches to address war crimes and large-scale human rights violations.

Chapter 2.

Literature Review: Values

2.1. Outline of Literature Review

The literature review comprises two chapters and has five key components (Figure 2.1). The review begins with a general description of values and their usage in crime and justice. It then moves to the use of values in Restorative Justice (RJ) and Peacemaking Criminology (PMC), describing some commonly used RJ and PMC values. Finally, it explores the use of restorative process values in transitional settings. Four specific process values—participation, empowerment, reintegration, and transformation—are highlighted. These transitional values are examined through two case studies: Rwanda and Cambodia. The researcher charts out the gap in literature by citing the paucity of literature on restorative values or reconciliation mechanisms to heal the wounds for Bangladesh's 1971 genocide. Thus, this leads to the research questions of this study.

General discussion on 'values' and their usage in crime and justice

Values of restorative justice and peacemaking criminology

Restorative values in transitional settings

Restorative values in Rwanda and Cambodia

Gaps in literature in using restorative values in post-genocide Bangladesh

Research Question

Figure 2.1.   Structure of Literature Review

2.2. General Discussion of Values

For decades, debates, discussions and arguments about values have captured the interest of social scientists. This section describes the varying definitions of values, beginning with a broad description of the concept itself and ending with a discussion of the feminist perspectives of values in the context of crime and justice.

2.2.1. Definition

The term *value* has been used as a "social psychological phenomena" (Kluckhohn, 1951, p. 389) across many disciplines including, among others, sociology, criminology, peace studies, education, biology, economics, political science, psychology, philosophy and business (Ball-Rokeach and Loges, 1992; V. Braithwaite, 2009; Hitlin and Piliavin, 2004; Pranis, 2007; Rokeach, 1979; Williams, 1979). Value has been termed a form of "internal moral compass" (Hitlin and Piliavin, 2004, p. 362) and a "science of preferential behavior" (Kluckhohn, 1951, p. 390). Sometimes the term value has been used interchangeably with principles, ideals, beliefs, and outcomes, contributing to the confusion in the use and definition of the concept (Pranis, 2007).

The literal meaning of value has several interpretations. Value means "interests, pleasures, likes, preferences, duties, moral obligations, desires, wants, goals, needs, aversions and attractions, and many other kinds of selective orientations" (Williams, 1979, p. 16). V. Braithwaite (2009, p. 88) described values as "abstract" and "overarching concepts" that can be applied to different times and contexts. One of the most widely quoted definitions is "Value is a conception, explicit or implicit, distinctive of an individual or characteristic of a group, of the desirable which influences the selection from available modes, means, and ends of action" (Kluckhohn, 1951, p. 395). The other generally accepted notion of values is "enduring beliefs that a specific mode of conduct is personally or socially preferable to an opposite or converse mode of conduct or end-state of existence" (Rokeach, 1973, p. 5). Within the field of restorative justice, values have been defined as "unifying concepts that grounds theory and guides practice" (Pranis, 2007, p. 59). As active agents, the explicit use of values helps to span "differences of culture, age, gender, geography, status, etc., because they are widely understood and endorsed" (Pranis, 2007, p. 66). For the purpose of this research,

Pranis' (2007) definition of values has been used due to its focus on the active role of values as guiding principles and agents for restorative practices.

2.2.2. Values in crime and justice

This section discusses values in the context of crime and justice. Feminist scholars used the concept of values with regard to crime and justice much before peacemaking criminologists and restorative justice practitioners. Although the emphasis on values shifted from the personal to the public across the four waves of feminism, French (1985, cited from Harris, 1987, p. 30) identified that all tenets of feminism share three core values for crime and justice: "equality" of human beings; "harmony and felicity" as more essential than the rule of law, power and control; and "personal is the political" (Harris, 1987, p. 30).

Unlike feminism, mainstream criminology concentrates more on the values of hierarchy, authority, power, control, and punishment (Harris, 1987). Gilligan (1982) discussed this contrasting vision in her research on the modes of moral reasoning. After analyzing the worldviews of two 11-year old children, Jack and Amy, and using the devise developed by Kohlberg (1973) to measure moral development, Gilligan found significantly different modes of moral reasoning. One mode is based on the values of hierarchy, logic, consequence, individual success, and respect for rule of law, while the other mode emphasizes non-hierarchy, relationships, caring, interconnectedness, and fulfilling the unmet needs of all individuals. Gilligan (1982, p. 210) described the first mode of reasoning as "the language of rights that protects separation" and the second mode as "the language of responsibilities that sustains connection". The latter draws on the feminist mode of reasoning, emphasizing social justice, notion of equality, inclusiveness, mutuality and interconnectedness (Gilligan, 1982).

With regards to crime and justice, the value that feminism highlights is equality. This value encompasses respect for each and every individual as a human being, access to opportunities and resources, and acknowledgement and recognition of individual identity (Harris, 1987). Other feminist values along the same theme include empathy, compassion, love, and healing (Harris, 1987).

Akin to feminist views, and unlike mainstream criminology, peacemaking criminologists and restorative justice practitioners also advocate values of equality, respect, caring, sharing, nurturing, and loving, instead of hierarchy, authority, power and control (Pranis, 2007). The following chapter explores the concept of values in peacemaking criminology and restorative justice.

2.3. Values in PMC and RJ

This section of the literature review begins by describing the origin and definition of Peacemaking Criminology (PMC) and the common values it espouses. This is followed by a discussion on Restorative Justice (RJ) and some widely acknowledged restorative values.

2.3.1. Peacemaking Criminology (PMC)

Proponents of PMC explain that it is a peacemaking, humanist, nonviolent, need-based, and visionary approach towards crime, conflict, and justice, which is grounded in the values of compassion, mutualism, spirituality, and love (Barak, 2005; Klenowski, 2009; Pepinsky, 2012; Pepinsky and Quinney, 1991; Tifft, 2002; Wozniak, 2000). PMC is "the nonviolent criminology of compassion and service, [which] seeks to end suffering and thereby eliminate crime" (Quinney, 1991, p. 4). PMC perspectives offer a framework in which the "values of peace" are the guiding principles to deal with crime and justice (Klenowski, 2009, p. 207). It does not advocate for control, violence or punishment as tools for doing justice. Instead, PMC uses peace as the basis of doing justice. It is treated as a "humanist solution" towards crime and social problems (Siegel, 1995, p. 257), as well as a "need-based" perception of doing justice (Tifft, 2002, p. 255).

The history and tradition of 'doing justice with peace' dates back to ancient Eastern philosophies, like Buddhism, Taoism, and Confucianism, and can even be found in later times, like in Gandhi's concept of *Satyagraha* (Pepinsky and Quinney, 1991). Early Western religious traditions, such as the Mennonites, Quakers, Amish, Lutherans and Catholics, also contributed to the modern understanding of 'doing justice with peace'. Along with these early Eastern and Western traditions, feminist, radical, conflict

and critical criminology have also influenced the growth of peacemaking approach to justice (Klenowski, 2009; Pepinsky and Quinney, 199; Wozniak, 2008).

Peacemaking criminologists view the current criminal justice system, which is heavily based on the values of punishment and control, as more "crime-encouraging" than "crime-discouraging" (Siegel, 1995, p. 257). Fuller (2003, p. 88) called the current criminal justice paradigm a "war on crime" that uses violence, control, and punishment as means of achieving social control, while PMC "embraces conflict" and promotes greater social discourse on the subject (Pepinsky, 1985, p. 111). Pepinsky (1985, p. 112) calls the punishment-based criminal justice system "entropic", and peacemaking criminology more "synergistic". According to Quinney (1991, p. 12), this criminal justice system pits violence against violence, or "evil" against evil. So it is not conducive to true resolution. Instead of using a narrow definition, PMC widens the lens and looks at crime from the perspective of "social harms" that exist within the fabric of society (Wozniak, 2000, p. 273). Social harm is suffering (Quinney, 1991). Using this concept of crime based on social harms (or suffering) allows an understanding of non-traditional causes for criminological analysis, such as the role of poverty, hunger, homelessness, pollution, destruction of the environment, war, unequal distribution of power and resources, and oppression (Wozniak, 2002).

A few of the core values and the principles upon which PMC is grounded include compassion, nonviolence, equality, inclusive participation, respect, relationship, spirituality, mindfulness, interconnectedness, consensus, cooperation, patience, and responsibility (Ame and Alidu, 2010; Elliott, 2011; Klenowski, 2009; Pepinsky, 1991; Quinney, 1991; Wozniak, 2002; Wozniak, 2008). PMC operates by the values of consensus instead of "patriarchal management" (Pepinsky, 1991, p. 315). In other words, it is peacemaking instead of war-making; participatory and democratic rather than hierarchal and top down; compassionate instead of judgemental; inviting rather than coercive; and circular rather than linear (Pepinsky, 1991).

2.3.2. Commonly used values in PMC

The following section discusses some of the core values of PMC that can be applied at the micro (Wozniak, 2000), meso (Fuller, 1998) and macro levels (Thomas et al., 2003). In PMC, micro level indicates interpersonal transformation; meso level refers to institutional reforms; and macro level indicates societal or structural changes (Fuller, 1998; Thomas et al., 2003; Wozniak, 2000).

2.3.2.1. *Compassion*

One of the core foundations of PMC is compassion. It is an integral part of humanity (Armstrong, 2010), which helps us to re-discover ourselves and empathize with others. It teaches human beings are interconnected entities (Quinney, 2000), so we cannot end individual suffering before ending collective suffering (Quinney, 1991). Crimes, social harms, and structural inequalities are all manifestations of suffering; and the key to an effective response lies in compassion (Quinney, 1991; Wozniak, 2002). A compassionate society is predicated by compassion in human actions, because compassion helps see the root causes of sufferings (Quinney, 2000). Knowing the root of suffering is important since that, in turn, shows the path to healing (Quinney, 1991).

2.3.2.2. *Nonviolence*

PMC is "nonviolent criminology" rooted in compassion, equality, forgiveness, connectedness, and service that aims to end suffering and crimes (Klenowski, 2009; Quinney, 1991, p. 4). Nonviolence is a key foundational practice of PMC upon which social justice, inclusion and correct process depends (Fuller, 2003; Wozniak, 2008). Gandhi's philosophy of *Satyagraha*—firm belief in truth and *ahimsa* (free from causing harm)—sets the foundation of nonviolence (Quinney, 2000). So peacemaking criminologists believe that "oppression of all kinds is to be actively resisted, but without causing harm to other" (Quinney, 2000, p. 27). The writings of Vietnamese Buddhist and peace activist Thich Nhat Hanh have also influenced peacemaking criminologists in formulating the values of nonviolence in criminology. According to Hanh, "hatred, desire, and fear" are "negative forces", which are the root causes of all sufferings (Quinney, 1991, p. 12). These negative forces cannot be used as tools for any nonviolent movement because they harm both the movement and the people. Instead nonviolence

must be based on "love and compassion" (Quinney, 1991, p. 12). Thus, capital punishment, mandatory sentencing, use of firearms and other punitive responses preferred by the current criminal justice system are in direct contradiction to the peacemaking values of nonviolence (Fuller and Wozniak, 2006, p. 261).

2.3.2.3. *Equality*

Promoting equality is one of the core themes of PMC (Tifft, 2002). With its roots in critical criminology, PMC challenges the status quo and examines harms built within the unequal structures of social, political and religious institutions (Quinney, 1991; Wozniak, 2002). Here, the teachings of Quakers in social equality and social justice have influenced PMC (Klenowski, 2009). Highly unequal distribution of wealth, resources, rights, and privileges in the current societal structure creates social harms, crimes and various social problems. Echoing conflict and radical criminology, PMC recognizes crimes are inevitably connected to social harms and inequalities in society (Klenowski, 2009; Wozniak, 2002). Unlike Marx's top-down revolutionary concept though, peacemaking criminologists advocate for equality through an "evolutionary" process stemming from the grassroots (Pepinsky, 1991, p. 305). According to Sullivan (1980, cited from Wozniak, 2000, p. 271):

> [PMC] offer[s] a conception of justice defined in terms of equal well-being for all, where the needs of all are met equally but differently, that is, according to the unique need of each.

2.3.2.4. *Relationship*

Another core value of the PMC paradigm is relationship. In keeping with the Hebrew tradition of *tsedeka*, Elliott (2011) and many other peacemaking criminologists believe justice brings peace and reconciliation and improves relationships among different stakeholders. In the Socratic/Platonic approach as well, "justice is relational", and based on "values rather than laws" (Elliott, 2011, p. 51). Relationships in PMC begin with the people around us—partners, children, elderly parents, siblings, relatives and friends. Restoring relationships within this immediate circle will nurture the restoration of relationships within the community and the society in general (Tifft, 2002).

2.3.2.5.   Spirituality

Spirituality in PMC refers to a transformation in knowing and understanding the self; recognizing the sufferings of each and every individual; and learning how to be at peace within oneself and with others. In other words, it teaches us how we can be "our brother's keeper" (Klenowski, 2009, p. 215). PMC believes that spiritual transformation is fundamental before any micro or macro level changes in society—"We as human beings must *be* peace if we are to live in a world free of crime" (Quinney, 1991, p. 11, emphasis in original). Taking lessons from Eastern philosophers and religious traditions, PMC also advocates self-awareness, particularly the understanding of who we are as human beings. Understanding the self helps in becoming fully aware of individual pains and sufferings, and this eventually motivates the inner soul to serve a compassionate world (Klenowski, 2009). Thus, spiritual transformation leads to inner peace, which can then be transformed to the community and society in general (Quinney, 1991).

2.3.2.6.   Mindfulness

Zen Buddhist teachings influenced peacemaking criminologists to be "mindful" of fellow human beings and of the planet (Klenowski, 2009, p. 215). The concept of mindfulness in PMC refers to "the cultivation of inner peace as a fundamental point of departure for our responses to crime and to those we designate as criminals" (Friedrichs, 1991, p. 103). Mindfulness also suggests individual efforts to make peace with everybody at home, the work place, and the community (Pepinsky, 1991). To be mindful, acceptance and openness are crucial. Klenowski (2009, p. 208) quotes Buddhist monk Achaan Chah to explain this: "Only when our words and deeds come from kindness can we quiet the mind and open the heart".

2.3.2.7.   Interconnectedness

The value of interconnectedness has been discussed in details in PMC (Friedrichs, 1991; Pepinsky, 1991; Quinney, 2000). Drawing from Thich Nhat Hanh's 'everything is everything else' and 'everyone is responsible for everything that happens in life', Quinney (2000, pp. 25-26) promoted "interdependence" in PMC because "Nothing exists by itself". This refers to the bond each individual has with one another as human beings in society. It also refers to the connection with the environment and the need for reconciliation with it (Friedrichs, 1991). The Mennonites' and Quakers' ideas of

"community live in mutuality" resemble the peacemaking concept of interconnectedness as well (Pepinsky, 1991, p. 305). Similar to religious and humanist traditions, radical feminists also believe in "mutualism", though they applied this idea to assert men and women are complementary rather than competing beings (Pepinsky, 1991, p. 312). In essence, PMC refuses to believe in any "social ethic" that promotes separation and isolation (Wozniak, 2000, p. 283).

2.3.2.8. Cooperation

Influenced by anarchist criminologists, PMC holds that a sense of cooperation must always exist in society. "Cooperation, community, and mutual aid for all rather than competition induced by capitalistic desires" are the preconditions for a healthy community (Klenowski, 2009, p. 212). Unlike positivist criminologists, PMC proponents do not believe the world, populated by self interest-led human beings, is a place of 'zero sum games' where you either win or lose. Instead, PMC believes in mutuality and cooperation where a 'win-win' solution is possible. A decentralized community-based system that concentrates on mutual cooperation can solve crime and other social problems, and transform society into a peaceful place (Klenowski, 2009).

2.3.2.9. Patience

Another important value in PMC is patience. Peacemaking is a long-term process that takes considerable time. Changes in the inner-self, institutions, and structural levels of society do not happen overnight; they require persistence and patience. This gradual process is richly rewarded when it ultimately succeeds in transforming violence (Pepinsky, 2012).

2.3.2.10. Responsibility

PMC tries to balance individual responsibility of crime with the societal influences fostering social harms. On the one hand it encourages the offenders to take "personal responsibility" for their actions and to practice "responsiveness" (Wozniak, 2002, p. 225), while on the other it challenges the imbalanced power structure of the state, and demands a just and fair system (Fuller, 2003). By taking conflict and crime away from the community and handing it over to the professionals, PMC believes society disempowers the key stakeholders and helps offenders to escape responsibility

(Christie, 1977). PMC aspires for a world where the offenders, victims and community all take responsibility and confront one another to resolve disputes (Pepinsky, 1991).

This section has summarized the conceptual foundation of PMC, with a particular emphasis on its core values. With the aim of bridging common conceptual foundations, the following section discusses the concept of RJ and explores some commonly articulated restorative values.

2.3.3.   Restorative Justice (RJ)

The term "restorative justice" was first used in 1977 by Albert Eglash in an article titled "Beyond Restitution: Creative Restitution", and was later further developed by Howard Zehr in his seminal work "Changing Lenses" (Llewellyn and Howse, 1998, p. 4). The concept of RJ has been derived from ancient Arab, Greek, Roman, and Indian civilizations; ancient Buddhist, Taoist, and Confucian, Mennonites, and Quakers traditions; and indigenous peoples from around the world. In the West, RJ was "rekindled" through the development of a Victim-Offender Reconciliation Program in 1974 in Kitchener-Waterloo, Ontario (J. Braithwaite, 1999, p. 2). Particularly, Victims' Rights Associations, Prison Abolition Movements, and Social Justice Organizations around the world have contributed to the growth of the RJ field (Cormier, 2002; Van Ness and Strong, 2010). Today, RJ programs are prevalent in many parts of the world. For example, victim-offender reconciliation programs in Canada; family group conferencing in New Zealand; community justice forum in Australia; victim-offender mediation in the United States; *Jirga* (a community based justice system in Pakistan and Afghanistan); community policing program in Bangladesh and in the United Arab Emirates; healing circles in indigenous communities around world; *gacaca* courts in Rwanda; and TRCs in South Africa, Cambodia and Bosnia (Asadullah, 2013; J. Braithwaite, 1999; Elliott, 2011; Hand et al., 2012; Morrison, 2006; Roy, 2005; Yousufzai and Gohar, 2005; Zehr, 2002; Zehr, 2005).

Commonly known as the "grandfather" of this field (Van Ness and Strong, 2010, p. 24), Zehr (2005, p. 124) calls RJ a "paradigm shift". To him, "paradigms shape our approach not only to the physical but also to the social, psychological, and philosophical world" (Zehr, 2005, p. 86); as such, RJ serves to shift the paradigm from a punishment-

based retributive system to a transformative justice system. Sherman (2003, p. 6) calls this paradigm of addressing crimes "emotionally intelligent justice".

Even though there is no consensus on the definition of RJ, Marshall (1996, p. 37) gives the most widely adopted process-focused definition of RJ:

> Restorative justice is a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future.

Another definition that also concentrates on the process comes from Van Ness and Strong (2010, p. 43):

> Restorative justice is a theory of justice that emphasizes repairing the harm caused or revealed by criminal behavior. It is best accomplished through cooperative processes that include all stakeholders.

Notwithstanding the diversity of opinions on how RJ is operationalized, advocates, theorists, and practitioners agree on particular values and principles that guide its practices and applications (Sharpe, 2010). These values help the practitioners to distinguish between restorative and non-restorative practices, making them the "essence" and "impulse" of RJ programs (Pranis, 2007, p. 60).

J. Braithwaite (2002, p. 569) conceptualizes RJ values in three categories: "constraining" values, which set the foundation of RJ programs, and must be honored and enforced; "maximizing" values, which are nurtured in RJ programs; and "emergent" values, which are "gifts" and should not be imposed in any RJ process.

V. Braithwaite (2009), on the other hand, proposes a two-fold typology of values: security-oriented values and harmony-oriented values. Security-oriented values, which include national security, rule of law, development, and individual reward, usually motivate conservative agendas; whereas harmony-oriented values, such as equality, cooperation, dignity, freedom and economic equity, generally promote left wing ideologies. A "balance model" that includes both security and harmonizing values are essential (V. Braithwaite, 2009, p. 90).

Van Ness and Strong (2010, p. 48) separate RJ values into normative and operational values. Normative values include active responsibility, peaceful social life, and solidarity. The ten operational values are amends, assistance, collaboration, empowerment, encounter, inclusion, moral education, protection, reintegration and resolution (Van Ness and Strong, 2010).

Pranis (2007) categorizes RJ values into process values and individual values. Process values emphasize the process of restorative justice. They check the quality and guide the process, particularly the "design and implementation" of RJ programs (Pranis, 2007, p. 61). Individual values guide the stakeholders involved in the RJ process—victims, offenders and community members (Pranis, 2007).

The most commonly expressed restorative values include, but are not limited to, respect, non-domination, accountability, trust, inclusive participation, personalism, equality, honesty, humility, truth-telling, active listening, responsibility, empathy, fairness, compassion, restitution, reconciliation, relationships, hospitality, democracy, reparation, empowerment, collaboration, safe space, healing, reintegration, renewal, interconnectedness, mutual understanding, holistic, determination, ingenuity, integrity, creativity, mutual caring, individual dignity, love and transformation (J. Braithwaite, 2002; Clamp, 2014; Morrison, 2006; Pranis, 2007; Roche, 2003; Umbreit and Armour, 2011; Van Ness and Strong, 2010; Zehr, 2005).

2.3.4.   Commonly used values in Restorative Justice

There are many important values that guide RJ practices—the following section discusses some of the frequently mentioned ones in the literature.

2.3.4.1.   Respect

Respect for the victims, offenders, and the community is one of the most articulated restorative values (Morrison, 2006; Pranis, 2007; Zehr, 2002), because justice cannot be restorative in the absence of respect for all stakeholders (Zehr, 2002). Feeling respected and heard is one of the fundamental needs of every human being (Morrison, 2006; Pranis, 2007). Mutual respect sets the foundation for interaction and active listening, and builds working relationships among those involved. RJ's bottom-up

approach offers a process of ensuring respectful dialogue and partnership that empowers everyone, upholds their dignity and increases trust and confidence among the victims, offenders, and community members (Umbreit and Armour, 2011).

2.3.4.2. *Volunteerism*

One of the predominant restorative values is volunteerism. Volunteerism indicates the participation of the victims, offenders and the community in the RJ process is completely voluntary (Umbreit and Armour, 2011). In victim-offender reconciliation, if victims or offenders are not ready to participate voluntarily, there is no scope of coercion. Thus, since there is no imposition in the process, it empowers everyone involved. Furthermore, volunteerism also invites the participation of the community members. Participants in RJ program very often describe, "they can trust the [RJ] process because it uses volunteers whose care is more trustworthy than the caring of paid professionals" (Umbreit and Armour, 2011, p. 41).

2.3.4.3. *Accountability*

"Accountability is multidimensional and transformational" in RJ (Zehr, 2005, p. 202). Firstly, it holds the perpetrator morally responsible for their actions (Toews and Zehr, 2003). It indicates the offender acknowledges the harms and takes responsibility for what needs to be done to right the wrongs (Zehr, 2005). Secondly, RJ also advocates that the community in general must be accountable to (a) the victims to fulfill their unmet needs; and (b) the offenders for help with rehabilitation and reintegration (Zehr, 2005). Accountability can be formal and informal, and helps to ensure "the quality and legitimacy" of RJ programs (Roche, 2003, p. 51). Roche (2003, p. 79) particularly emphasizes "deliberative accountability" that occurs during RJ conferences. This multidimensional emphasis makes accountability a comprehensive value in RJ.

2.3.4.4. *Responsibility*

Crime and wrongdoing create an obligation not only on offenders but also on the community, so both must bear responsibility (Zehr, 2002). Taking responsibility also help communities get rid of the '9/11 mentality', in which everybody depends overwhelmingly on law enforcement agencies (Stuart, 2007). People rising to the responsibility of dealing with crime, drugs, social disorders and other problems in the community ultimately

strengthen democracy in society (Nicholl, 1999). Nicholl (1999, p. 153) is convinced that crime prevention cannot be a "monopoly" of the police and law enforcement agencies. The burden of responsibility to maintain safety and security goes beyond the police, justice department and correction office. She refers to USA's 1967 Presidential Commission on Law Enforcement and Administration of Justice report, which also rejects the notion of the police having sole responsibility for maintaining law and order. It states "individual citizens, civic and business organizations, religious institutions, and all levels of government must take responsibility", but with the consideration that all community, particularly dysfunctional ones, may not have the skills and motivations to take responsibility for maintaining social order (Nicholl, 1999, p. 13).

2.3.4.5.   *Relationship*

Since crime is a violation of relationships, restoring and protecting them from future harms is one of RJ's salient features (Llewellyn and Howse, 1998). Morrison (2006, p. 373) explains this concept cogently by saying RJ "empowers individuals and communities through building healthy relationships, where fellow citizens support each other while holding each other accountable for behavior". This value not only connects victims and offenders, it also includes "the larger web of relationships" surrounding them, like their relatives, friends and members of the community (Pranis, 2007, p. 59). The relationship value is one of equality, which means dignity, respect, concern and equal treatment for all the stakeholders, including the victims, offenders and community members (Llewellyn and Howse, 1998).

2.3.4.6.   *Interconnectedness*

Crime, injustice and social harms affect both those who harm and those harmed. Since everyone, including the victims and offenders, is considered an integral part of the community, RJ promotes a sense of communal bond and encourages all to take collective responsibility in restoring broken relationships (Toews and Zehr, 2003). So it re-establishes a sense of belonging and attachment for both parties (Umbreit and Armour, 2011).

Martin Luther King, Jr. (1964, pp. 78-79) neatly described interconnectedness and mutuality when he said:

I am in Birmingham because injustice is here. I cannot sit idly by in Atlanta and not be concerned about what happens in Birmingham. Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly.

The value of interconnectedness is widely used among the First Nations, Native Americans and indigenous people all over the world (Pranis, 2007). Similarly the African concept of *Ubuntu,* commonly translated as 'I am what I am because of who we all are', or 'I am because you are', or 'my humanity is tied up with your humanity', also affirms the RJ value of interconnectedness (Llewellyn and Howse, 1998; Msafiri, 2008). In South African tradition, *"ubuntu* is the capacity to express compassion, justice, reciprocity, dignity, harmony, and humanity in the interests of building, maintaining and strengthening the community" (CIDA, 2004, p. 01). This widespread application has made interconnectedness a key value in the RJ field.

2.3.4.7.   Participation

When individuals or groups commit harms, RJ invites all parties to be involved in the process because injustice affects everybody and damages all forms of relationships. As such, subsequent decisions in RJ are made by the key stakeholders who have been affected, and not by lawyers, professionals or representatives of the state (Toews and Zehr, 2003). For the offenders, RJ provides a respectful, inclusive and safe place to understand the consequences of their actions. As for the victims, RJ puts them at the center of participation, unlike the criminal justice system where victims occupy a passive role (Van Ness and Strong, 2010). This inclusive participation helps both victims and offenders to find a way of reparation, healing, and restoration (Van Ness and Strong, 2010)**.** Sometimes offenders or victims may not want to directly participate; although not ideal, in these cases "surrogate" offenders or victims, who have undergone similar experiences, participate in the process (Umbreit and Armour, 2011, p. 300).

2.3.4.8.   Reintegration

Unlike the criminal justice system's dependence on punishment, incarceration and isolation, RJ emphasizes reparation and reintegration (Van Ness and Strong, 2010). Van Ness and Strong (2010, p. 98) describe four elements that constitute the value of

reintegration—safety; respect for dignity and worth; practical and material help; and moral and spiritual care. Even though victims and offenders have contrasting experiences in the aftermath of interpersonal or community level harms, both may receive negative treatment from community members; feel socially isolated and stigmatized; and face emotional and physical trauma (Van Ness and Strong, 2010). Thus, both need social support, such as housing, food, employment, healthcare, education, and training for successful reintegration (Llewellyn and Howse, 1998).

Successful reintegration is only possible if the community can fulfill the unmet needs of both the victims and the offenders (Van Ness and Strong, 2010). For victims, reintegration starts with the intervention immediately after the crime and continues with all manner of support to heal physical, emotional and spiritual wounds. Offenders also face enormous challenges to reintegrate into the community. They also have material needs, such as jobs; emotional needs, like pro-social skills, confidence and self-esteem; and spiritual needs.

2.3.4.9. Empowerment

RJ processes give voice, ownership and control to all stakeholders, and prevent the domination of any particular group (Umbreit and Armour, 2011). Giving victims and offenders a voice in deciding if they want to pursue RJ is itself empowering (Barton, 2000). Yet, the value of empowerment goes further, and assumes that marginalized and minority communities get a safe space in RJ, where their voices are heard respectfully, and their dignity and self-esteem are protected (Umbreit and Armour, 2011).

2.3.4.10. Truth-telling

Fact-finding is necessary because restoration depends on truth—unclouded by deception and lies—so truth-telling is a "precondition" of the RJ process (Llewellyn and Howse, 1998, p. 57). The offenders must confess to their wrong doings in order to move towards restitution and restoration (Llewellyn and Howse, 1998). However, RJ also recognises that truth is relational, meaning the "truth is always someone's interpretation of reality" (Llewellyn and Howse, 1998, p. 60). This feature of truth is significantly more powerful than mere facts. Confrontation between the victims and offenders in the RJ process "dispels the myths and stereotypes", and contributes to the discovery of

"relational truth", which ultimately moves both parties towards restoration (Llewellyn and Howse, 1998, p. 61).

2.3.4.11. *Apology*

Both in interpersonal harms and historical harms, apology plays a significant role in the victims' healing process. Lazare (2004, p. 1) notes:

> Apologies have the power to heal humiliations and grudges, remove the desire for vengeance, and generate forgiveness on the part of the offended parties. For the offender, they can diminish fear of retaliation and relieve the guilt and shame that can grip the mind with a persistence and tenacity that are hard to ignore.

According to Schneider (2000), there are three elements to apology: a) acknowledging the harms; b) expressing remorse and regret; and c) showing the vulnerability of the offender. Moreover, an apology from the offender means taking responsibility for the crime, expressing guilt and repentance, taking concrete actions to right the wrong, and affirming that the hurtful behaviour will not be repeated (Johnstone, 2011). The ideal form of apology also comes with restitution and positively "changed behavior" (Van Ness and Strong, 2010, p. 166).

2.3.4.12. *Forgiveness*

Forgiveness is an "emergent" value, which should not be imposed on the RJ process (J. Braithwaite, 2002, p. 570). Offenders, victims and communities experience forgiveness differently since crime affects individuals differently. For offenders, it opens the door of healing and salvation. For victims, forgiveness can help regain the power lost through the harm done to them, as well as a sense of freedom and spiritual healing (Umbreit and Armour, 2011; Zehr, 2005).

2.3.4.13. *Transformation*

Miler and Baca (2001, cited from Umbreit and Armour, 2011, p. 72) describe transformation as an experience of "quantum change"—"a new way of making sense out of life". Baca and Wilbourne (2004, p. 532) call the experience a "deep shift in core values, feelings, attitudes or actions". Transformation happens when victims and offenders successfully reintegrate in society and start living peacefully without stigma

and fear. Requiring physical, emotional and spiritual healing, in the RJ process transformation happens at three levels—transformation in: a) perspectives or worldviews; b) structures; and c) persons (Van Ness and Strong, 2010). For the victims, transformation happens through truth-telling, apology and remorse from the perpetrators. On the other hand, through acceptance, safety, social supports and forgiveness, perpetrators can be transformed into productive and responsible members of the community (Umbreit and Armour, 2011; Van Ness and Strong, 2010).

The above has been a discussion on the values used in the RJ process, focusing largely on interpersonal crime and conflict. The discussion now shifts to restorative values in transitional contexts, which brings the focus to intergroup settings.

2.3.5. Restorative values in Transitional Settings

This section begins with a description of transitional settings and the restorative responses needed to deliver justice in such settings. Clamp (2014) uses four process values—participation or engagement, empowerment, reintegration and transformation—to address harms in transitional settings. These are discussed at length in this review.

2.3.5.1. Transitional Settings

Transitional settings refer to the aftermath of large-scale human rights violations, genocides, and war crimes. In these scenarios, harms have largely been perpetrated between ethnic groups, such as in Rwanda; between faith groups, such as in Bosnia; and between ideologically opposed groups, such as in Cambodia. It may also happen across racial lines, such as in South Africa, and because of linguistic and nationalistic differences, such as in the 1971 war in Bangladesh. They can be caused by simmering colonial legacy as well, such as between the First Nation and Native peoples, and the Europeans in North America (Johnstone and Quirk, 2012). Addressing and repairing these harms, particularly historical harms, is considerably more difficult and complex than interpersonal and community level harms (Johnstone and Quirk, 2012).

Responses to these harms vary from context to context, country to country, community to community, and era to era. Nuremburg trials in Germany; Tokyo tribunal in Japan; Truth and Reconciliation Commissions in South Africa; *gacaca* courts in Rwanda;

Extraordinary Chambers in the Courts of Cambodia in Cambodia; International Criminal Tribunal for the former Yugoslavia for Bosnia and Serbia; Truth and Reconciliation Commission in Canada; *Fambul Tok* in Sierra Leone; and International Crimes Tribunal in Bangladesh are examples of responses to transitional contexts.

Certain retributive and restorative values and principles have always guided these responses. The restorative response, which forms the focus of this study, emphasizes healing and restoration instead of punishment; aims at finding the truth rather than proving one party guilty; involves all stakeholders, and not just the professionals (McEvoy and Tim, 2003). However, J. Braithwaite (2002, p. 564) cautions that restorative responses initiated by the government or state agencies gain less legitimacy because of the mistrust, misunderstanding, and disconnect between the people and the pre-existing state powers.

2.3.5.2. *Process Values in Transitional Settings*

The current study particularly concentrates on process values in transitional contexts. The following section explores four process-centric values—"participation" (Clamp used the term "engagement" in place of participation), "empowerment", "reintegration" and "transformation" (Clamp, 2014, p. 33). Participation is chosen for this study instead of engagement because participation is the most widely used value in transitional literature. Analysis using the software NVivo led this researcher to conclude that participation is the most frequently used value in electronic resources on transitional settings, particularly those on Rwanda and Cambodia. Besides, participation is also an initial phase of engagement, so engagement ultimately emerges from participation.

2.3.5.2.1. Participation

The nature of participation in transitional contexts is different from that in interpersonal contexts. In transitional contexts, participation refers to the "engagement" of key stakeholders, including the victims, perpetrators, community members, and the international community, in the reconciliation process (Clamp, 2014, p. 32). The phase of participation in transitional contexts can be called a stage of "negative peace", denoting the absence of war and conflict (Galtung, 1964, p. 2). In this phase, ceasefire exists among all conflicting parties (Rioux and Redekop, 2013).

In interpersonal and community settings, victims and offenders are easily identifiable, but in transitional contexts, labelling one party 'victims' and the other 'perpetrators' may be counter-productive and risky. In the aftermath of large-scale human rights violations, such as in Bosnia, Rwanda, South Africa, Northern Ireland, and Cambodia, the line between survivors and perpetrators became hair thin, making it challenging to find clear-cut victims and perpetrators (Clamp, 2014; Clamp and Doak, 2012). This is because the survivors or freedom fighters sometimes participate in revenge attacks and commit atrocities of their own when the conflict does not resolve peacefully. Bystanders, who are usually in the majority, can also be drawn in as victims or perpetrators, depending on the power dynamics and which side wins the war.

As the line between the "victims and perpetrators is blurred" (Clamp, 2014, p. 36), ensuring safety and security for all parties are crucial in transitional contexts, as is ensuring the rights guaranteed in the Universal Declaration of Human Rights. Special protection must also be given to victims of sexual assault and rape (Danieli, 2006; Sullivan and Tifft, 2006). These steps protect a diverse range of victims from re-victimization, which is a precondition for inclusive participation and active engagement in transitional contexts (J. Braithwaite, 2002). The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (United Nations, 1985) and the 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 (OHCHR, 2005) explicitly state that victims have the right to dignity, the right to know the truth, the right to justice and equality under the law, the right to combat impunity, the rights to reparation and compensation, and the guarantee of non-recurrence and non-discrimination among the victims.

For the alleged perpetrators, right to a free and fair trial that maintain international standards is very important. Rights guaranteed in Articles 6 and 7 of the European Convention on Human Rights include the right to have access to a lawyer, right to appeal, and be free from coercion to participate in the process (McEvoy et al., 2006, p. 329).

Along with the survivors and perpetrators, the community's involvement in restorative initiatives is vital in transitional contexts. It ensures accountability,

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transparency, and legitimacy of the process—though the latter may sometimes be questioned because of state-sponsored responses to harm (McEvoy et al., 2006). It also reinforces that the process belongs to the people and the community rather than to a few government officials. Inclusive participation here also demands balanced participation and support from the political and military leadership (McEvoy et al., 2006). However Clamp and Doak (2012) expresses concerns over the role of the state in transitional settings because of its poor acceptance among the public.

Unlike interpersonal or community level restorative practices, where there is typically only one face-to-face meeting, the intensity of the harms in transitional contexts necessitate several encounters, testimonies, ceremonies, and engagements between the survivors and the alleged perpetrators. So though one meeting will not necessarily lead to any solution, such multiple encounters will help the parties understand the larger picture of the conflict, and discover the facts of what actually happened before, during and after the conflict (Clamp, 2014).

Thus, the fundamentals of inclusive participation in transitional contexts are protection of human rights and safety of all stakeholders; involvement of survivors, alleged perpetrators, and the community; and support from the political and military leadership (Clamp, 2014; Danieli, 2006; McEvoy et al., 2006; Sullivan and Tifft, 2006).

2.3.5.2.2. Empowerment

Empowerment is the immediate outcome of an inclusive participatory process. It is a phase where victims, offenders, and community believe that their voices are heard, and validated with dignity and respect. Empowerment in transitional settings assumes that key stakeholders, particularly the victims and alleged perpetrators, are aware of their rights, responsibilities, self-worth and capacities (Clamp, 2014). It indicates they have "problem-solving skills" with which to actively engage in the transitional process (Clamp, 2014, p. 33). Empowerment in transitional settings occurs when conflicting parties concentrate on the interest of the community instead of their own, and focus on problem-solving rather than past conflict (Clamp, 2014).

Finding the truth is a core component of empowerment. Truth-telling in transitional contexts requires detailed description of the incidents, documentation of the

entire confession, and testimonies of the perpetrators. It includes disclosure of their involvement and role, and exposes the impact of their actions through victims' testimonies (Arsovska et al., 2008). It motivates the victims to break what Sullivan and Tifft (2006, p. 338) called the "conspiracy of silence".

Learning the truth, along with acknowledgement of the wrong doings from the perpetrators, serves to empower the victims and help heal their wounds (Cunneen, 2006). Becker et al. (1990, pp. 147-8) explains the importance of truth to victims thus:

> The victims know that individual therapeutic intervention is not enough. They need to know that their society as a whole acknowledges what has happened to them... Truth means the end of denial and silence... Truth will be achieved only when literally everyone knows and acknowledges what happened.

However, as discussed above, truth is a dynamic concept. So the Truth and Reconciliation Commission of South Africa identified four types of truth needed in transitional communities: a) the factual or forensic truth; b) the personal or narrative truth; c) the social or dialogue truth; and d) the healing or restorative truth (Parmentier and Weitekamp, 2007, p. 132).

For the alleged offenders, it is empowering to find a process in which expressing "remorse" sometimes may not be a prerequisite (Clamp, 2014, p. 38). In ideologically and politically charged settings, offenders may tell the truth of what happened but may not feel remorse for the political, ideological and ethnic affiliation they had during the conflicts (Clamp, 2014). Nevertheless, opportunities for the perpetrators to tell the truth and acknowledge their wrong doing in a safe space may ultimately lead towards remorse and repentance, which are crucial for their reintegration into transitional communities (Arsovska et al., 2008).

After finding the truth, holding the perpetrators accountable for their actions is very important. It ensures rule of law, human rights, and justice, and helps end the culture of impunity. This accountability refers not only to holding perpetrators responsible for their crimes, it also asks for commitment to try to right the wrongs so the conflict is never repeated (Arsovska et al., 2008). Difficulty in distinguishing between the victims and offenders in transitional contexts, however, makes this task very challenging. It is

also hard to distinguish between perpetrators on the basis of their involvement with planning, execution or command during large-scale human rights violations or genocides. Added to this mix is the difficulty of fathoming the role of collaborators and bystanders whose contribution to the conflict may be unclear. Nevertheless, it is extremely crucial for transitional communities to find a mechanism to hold perpetrators responsible for their actions so a culture of accountability can be established (Parmentier and Weitekamp, 2007).

2.3.5.2.3. Reintegration

Reintegration in transitional contexts indicates that parties from both sides of the conflict have full access to their rights in the newly established "democratic" institutions (Clamp, 2014, p. 33). During an O'Neil Lecture, Kofi Annan (2004) explicitly described the need for reintegration:

> Nowadays we no longer contemplate demobilization and disarmament – the two "Ds" – without adding "R", which stands for reintegration into civilian economy. Without this, it is a virtual certainty that new weapons will be acquired and violence will resume.

Community plays a great role in keeping the alleged perpetrators free from stigma, social harms, isolation and negative shaming (Clamp, 2014). For them, reintegration includes safety and support to make them productive members of society. Unfortunately, the reintegration process for victims in transitional settings is much more challenging. Rapes, sexual assaults, amputation, critical injury, and Post Traumatic Stress Disorder play major obstacles to reintegration. Thus, active support from local and international communities is crucial for smooth reintegration in such settings (Clamp, 2014).

Compensation, or restitution and rehabilitation, are also essential for successful reintegration. It can be materialistic, such as monetary and proprietary, or symbolic acts, such as building museums and memorial services (Danieli, 2006). Symbolic compensation can also include "rehabilitation, satisfaction and guarantees of non-repetition" (Clamp and Doak, 2012, p. 352). Compensation is a way of vindication and acknowledgement for the wrongdoings. However, for some victims, compensation may seem like an insult to their sacrifice (Sullivan and Tifft, 2006). In many situations, the

state agencies and the international community are responsible for large-scale human rights violations, making them and the alleged perpetrators mainly responsible for paying compensation (Cunneen, 2006).

The UN document entitled "Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Violations of Humanitarian Law" outlines the nature of compensation, restitution, and rehabilitation through the following principles (OHCHR, 2005):

> Principle 19: Restitution should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property.

> Principle 20: Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as: a) physical or mental harm; b) lost opportunities, including employment, education and social benefits; c) material damages and loss of earnings, including loss of earning potential; d) moral damage; e) costs required for legal or expert assistance, medicine and medical services, and psychological and social services.

> Principle 21: Rehabilitation should include medical and psychological care as well as legal and social services.

In practice though, most reparation plans, particularly those involving financial compensation, are extremely difficult to achieve, since they require money, resources and other materialistic benefits. But for many victims of historical harms, mere financial compensation is not enough; an apology is in fact more important to them (Johnstone and Quirk, 2012).

Apology plays an important role in reintegration because it affirms the perpetrators' commitment to the transitional process—reassuring the victims that the harms will never be repeated (Cunneen, 2006). A restorative apology in the context of harms is an apology from the offending group with substantial initiatives. These initiatives include compensations, financial restitutions, educational awareness about the

harms and injustices, creating dialogue to bridge the gap, documentation in text books, and building memorials and museums (Johnstone, 2011). In this context, the most important feature of apology is the expression of collective guilt; and repentance and acknowledgement of past wrongdoings with genuine intention and action plan for reparation (Johnstone, 2011).

2.3.5.2.4. Transformation

Transformation is a long-term outcome of the transitional process. It is a state of "positive peace" (Galtung, 1964, p. 2) in which violence has ceased, and "collaborative and valued relationships" have developed among conflicting parties (Rioux and Redekop, 2013, p. 388). This can only happen through emotional and spiritual healing at a personal level, which takes time and patience (Clamp, 2014).

Having a voice as participants in the process; knowing the truth of what happened through testimonies and confessions; remorse, reparations and apology; commemorations, and rituals all play important roles in the healing of the victims of large-scale human rights violations (Gobodo-Madikizela, 2012). In the absence of political stability, none of the above values can be achieved; wounds cannot be healed; and relationships seldom restored (Bloomfield, 2005). A more "systematic and fundamental" change is therefore needed to protect the rights of all parties to yield fruitful results for reconciliation in the long term (Clamp, 2014, p. 33).

One method of healing that has also been used is commemoration through building museums, monuments, and statues of heroes (Sullivan and Tifft, 2006). Since commemorations have "a shared context, shared mourning, shared memory" they heal not only victims, but also perpetrators, and can function as conduits for a shared vision of the future (Danieli, 2006, p. 351). When done with honour and dignity, commemorations pay tribute to the victims; preserve the memory of the past; and raise awareness about the conflicts' horrendous impact in a bid to prevent reoccurrence (Danieli, 2006).

With healing comes forgiveness. Gobodo-Madikizela (2012, p. 294) finds forgiveness a "remedy" for transitional societies—a "gesture of hope" for the reconciliation process when victims can re-humanize their perpetrators. To Holter et al.

(2006, p. 311), forgiveness is an "internal process" for the victims, by doing which they neither accept the crimes nor condemn the accused. Rather forgiveness is a "gift of mercy" from the survivors to the perpetrators (Holter et al., 2006, p. 311).

This chapter discusses the concept of values with regard to crime and justice. It explores several well-known PMC and RJ values and their application in transitional settings. It further discusses transtional contexts and the peculiarities that distinguish restorative responses in such contexts from interpersonal and community level restorative interventions. It also discusses in-depth four restorative process values that are particularly relevant to transitional societies. The following chapter examines the use of these values in the restorative responses in Rwanda and Cambodia.

Chapter 3.

Literature Review: Case Studies

3.1. Restorative values in Rwanda and Cambodia

This review now explores how the four restorative values for transitional settings—participation, empowerment, reintegration and transformation—were operationalized and contextualized in the Rwandan *gacaca* courts and Extraordinary Chambers in the Courts of Cambodia (ECCC). Given the purpose of this research is to identify the restorative values needed for Bangladesh's future reconciliation process, it is worthwhile to examine their relevance in the Rwandan and Cambodian contexts.

3.1.1 Why Rwanda?

Firstly, both Rwanda and Bangladesh have a colonial past. Colonial legacy, in particular the 'divide and rule' policy of colonial powers, contributed to the conflict between Hutus and Tutsis in Rwanda (Mamdani, 2001). Similarly, the root cause of Bangladesh's 1971 war was its colonial legacy (Akmam, 2002). British colonial power separated the people of South Asia by arbitrarily drawing the geographical boundaries of India and Pakistan on the basis of the 'two nation theory', and ultimately causing most of the regional conflicts leading up to the 1971 war between Bangladesh, India and Pakistan (Akmam, 2002; Verma, 2001).

Secondly, both genocides were committed in a short period of time. From April to July 1994, more than 800,000 people died in the Rwandan genocide (Drumbl, 2000; Tiemessen, 2004; Uvin, 2005) and in the nine months from March 25, 1971 to December 16, 1971, approximately 3 million people died in Bangladesh (Sharlach, 2000). The 3 million figure has since been disputed, but recent claims still put the number as high as 500,000 (Takai, 2011).

The two genocides however are not completely identical in nature. In Bangladesh, the genocide was mostly military-led as Pakistani soldiers and some of their local collaborators participated in the killings, whereas the Rwandan genocide was mostly civilian-led as a large number of Hutu civilians along with Hutu extremists took part.

3.1.2 Why Cambodia?

Cambodia is the geographically closest country to Bangladesh that experienced large-scale human rights violations in the 1970s. The Cold War-fuelled geopolitical divide between the Russian Federation (formerly USSR) and the United States extended the duration of both the Cambodian and Bangladeshi genocides. In both countries, war crimes were committed by the then state powers against their vulnerable civilian populations. The nature of these similarities led to Cambodia being chosen for this study.

Despite the similarities, the post-genocide responses in these countries have been very diverse, and can provide excellent lessons for Bangladesh as a foundation for its own journey down this path. Rwanda started with the International Criminal Tribunal for Rwanda (ICTR), supported by the United Nations and the international community, but later adopted an indigenous and bottom-up approach called *gacaca*, a traditional way of doing justice. The Cambodian government and the United Nations established a hybrid tribunal called the Cambodia Extraordinary Chambers in the Courts of Cambodia (ECCC). Unlike the *gacaca*, ECCC is a top-down approach of doing justice. The following section explores the use of participation, empowerment, reintegration, and transformation in each of these transitional contexts.

3.2. Rwanda

3.2.1. Background

The divide and rule colonial policies of Germany and Belgium, coupled with historical trauma, mistrust and extreme intolerance between ethnic groups contributed to one of the most horrendous ethnic cleansings in human history. Between April to July

1994, more than 800,000 Tutsis (approximately 10 percent of the total population) were killed; 400,000 were widowed; 500,000 were orphaned; and over 130,000 predominantly Hutus were jailed for alleged war crimes and genocide (Drumbl, 2000; Tiemessen, 2004; Uvin, 2005). The entire nation was devastated and there was only fear, uncertainty, anxiety and revenge left between the Hutus and Tutsis (Mamdani, 2001).

3.2.2.   Delivering justice: Process and values

To address these gross human rights violations and deliver justice, the international community and the Rwandan post-genocide government created the International Criminal Tribunal for Rwanda (ICTR) through the UN Security Council Resolution 955 in November 1994. The main purpose of the tribunal was "to contribute to the process of national reconciliation in Rwanda" (UNICTR, n.d.), but it failed to fulfill its promise and achieve co-existence and reconciliation.

As a result of the limited effectiveness of ICTR, and also to speed up the trial process and reduce the number of overcrowded prisoners, on October 12, 2000 the Transitional National Assembly, Rwanda's parliament, initiated and re-structured the country's traditional form of doing justice called *gacaca* (ga-cha-cha) (Kirkby, 2006; Tiemessen, 2004; Waldorf, 2006). The word *gacaca* is derived from *Kinyarwanda* meaning "grass" or "lawn" (Clark, 2010, p. 3). It denotes an indigenous Rwandan model of conflict resolution that usually takes place on the grass or in an open space where everybody in the community can participate (Clark, 2010; Waldorf, 2006). Rwandan President Paul Kagame called it an "African solution to African problem" (Human Rights Watch, 2011, p. 1).

Under the auspices of the National Service for Gacaca Jurisdictions, *gacaca* courts officially began in March 2005. Rwandans elected around 260,000 lay people—both male and female, Hutu and Tutsi—as judges to preside over the open-air trial processes in more than 10,000 locations all over Rwanda (Graybill, 2004; Kirkby, 2006; Waldorf, 2006). Since its inception, the 1,210 community-based *gacaca* courts have tried approximately 2 million people across Rwanda (BBC, 2012). Finally on June 18, 2012, President Kagame declared the official closure of the *gacaca* courts (Office of the President, 2012). During the closing ceremony at the Rwandan parliament, he described

the *gacaca* as an alternative model of justice that does not promote revenge or blanket amnesty; instead they restore communities and promote reconciliation. According to President Kagame (Office of the President, 2012), Rwanda had three options after the genocide: one was to adopt a "path of revenge"; the other was a policy of "general amnesty"; and the last was to employ a process of restoration. With the formation of *gacaca* courts, Rwanda chose the third option.

3.2.3.   Restorative process values in Rwanda

The following section explores how four RJ process values—participation, empowerment, reintegration and transformation—were operationalized in the *gacaca* courts and in the transitional context of Rwanda in general.

3.2.3.1.   *Participation*

The *gacaca* court, "a populist response to a populist genocide" (Daly, 2002, p. 381), was a locally framed, traditionally practiced, bottom-up approach of dealing with crimes and conflicts. Instead of top-down adversarial retributive models, like the International Criminal Tribunal for Rwanda (ICTR), *gaacca* courts centred on the community and belonged to the people (Tiemessen, 2004). Since the tradition of *gacaca* was rooted in Rwandan customary practices, they provided an opportunity for all Rwandans to practice their democratic rights and to define justice on their own terms after the genocide (Daly, 2002; Purdon, 2008). Most importantly, *gacaca* succeeded because "localizing justice ensures that justice is visible to those who suffered" (Daly, 2002, p. 377).

The key stakeholders in *gacaca* courts were respected elders, popularly known as *'inyangamugayo'* (literally those who detest disgrace), survivors, alleged perpetrators (commonly known as '*génocidaires*'), and ordinary Rwandans (Daly, 2002, p. 381). The entire community—remarkably including many women (Tiemessen, 2004)—got involved in *gacaca* courts as voters, participants, eyewitnesses, court officials, and jurors (Daly, 2002). A survey conducted by Megwalu and Loizides (2010) in Rwanda found that almost 82 percent of the respondents participated in *gacaca* courts. Among them, 42 percent participated weekly and 26.5 percent participated at least once or twice in *gacaca* sessions.

During his address to the parliament, President Kagame acknowledged this participatory nature by saying (Office of the President, 2012):

> …it [*gacaca* court] has been a process where the contribution of every Rwandan has been valued. This has led to mobilizing our cumulative strength towards common goals, and restoring respect for the sanctity of life, resulting in increased productivity of our country in many ways.

The international community was also an important stakeholder in the justice process in Rwanda. Funding from the governments of France, Belgium, and the United States, plus international agencies and INGOs contributed to the success of the courts (Kirkby, 2006).

Even though this traditional form of justice began with great enthusiasm and tried to involve people from all walks of lives, Waldorf (2006, p. 423) argues, "…over time, *gacaca* has become less participatory and more coercive". He expressed concerns over the influence of the state on *gacaca,* particularly in the selection process of the judges (Waldorf, 2006). He also observed serious confrontations between Hutus and Tutsis during the *gacaca* sessions, noting that such concerns of safety and mutual trust endanger participation (Waldorf, 2006, p. 429):

Survivors and perpetrators often fear retaliation, one from the other. A few survivors were killed, and others intimidated to prevent them from testifying in *gacaca* courts. In contrast, there were also complaints about forced participation because of poor attendance in many *gacaca* sessions. Article 29 of *gacaca* law that states, "Every Rwandan citizen has the duty to participate in the *gacaca* courts activities" (*Gacaca* Law, 2004), further reinforced the notion of coercive participation (Waldorf, 2006).

3.2.3.2. *Empowerment*

This section begins by discussing the safety and security of the survivors and alleged perpetrators in transitional Rwanda. It explores the concepts of truth-telling, confession, and accountability in *gacaca* courts and how they empowered reintegration among survivors, perpetrators and the Rwandan society in general.

For inclusive participation, guaranteeing the safety and security of survivors and alleged perpetrators were essential. Genocide-related rape cases were a particular concern, but unfortunately:

> Although the law provided for *gacaca* courts to hear rape cases behind the doors, victims still feared that the community-based nature of the court would mean that the local population would know what the closed-door trials were about (Human Rights Watch, 2011, p. 5).

Nevertheless, discovering the truth received top priority in *gacaca* courts. Truth-telling and confession by the alleged perpetrators helped Rwandans uncover what happened during the genocide. According to Article 54 of *gacaca* law, alleged perpetrators had to: a) provide detailed and accurate description of the crimes; b) surrender the names of all collaborators and accomplices; and c) apologize for the crimes (Gacaca Law, 2004). So, unlike ICTR, in *gacaca* courts perpetrators were encouraged to confess, especially through the possibility of reduced sentencing, depending on the nature of their crimes. This is why the number of confessions in *gacaca* courts was very high (Graybill, 2004; Kirkby, 2006). There were immediate benefits of this policy as well—through these confessions, many victims were able to find the bodies of murdered relatives and give them dignified burials (Human Rights Watch, 2011).

With truth-telling and confessions, arose the matter of accountability. To ensure accountability, *gacaca* courts divided genocide-related crimes into four categories. The Rwandan criminal justice system, which had the power to hand out death penalty, tried Category-1 crimes of "notorious murderers", those who planned and executed the genocide, and sexual torturers (Tiemessen, 2004, p. 61). *Gacaca* courts, which could not give the death penalty, only tried crimes that fit Category-2 (manslaughter and collaboration), Category-3 (aggravated assaults), and Category-4 (looting or destruction of property).

Throughout the *gacaca* court process, a few troubling issues remained. All Hutus were labelled perpetrators, stigmatized, and made to suffer collective guilt. In reality, many Hutus saved Tutsis during the genocide; many Hutus became victims due to their unwillingness to participate in the massacre; and Tutsis actually participated in revenge

killing during and after the genocide. So painting one group as perpetrators and the other as victims is problematic, and was a serious stumbling block towards inclusive participation and active engagement in Rwanda (Cobban, 2002a; Human Rights Watch, 2011; Tiemessen, 2004).

Furthermore, Human Rights Watch (2011) and other rights organizations observed that *gacaca* courts do not follow international standards, exhibiting a lack of due process and fair trial. Curtailment of the rights of the accused, particularly their right to have a lawyer, limited training of *gacaca* judges, over dependency on hearsay, and spread of corruption were serious problems that diminished the credibility of *gacaca* courts.

Despite these problems, during the closing ceremony of *gacaca* courts, President Kagame (Office of the President, 2012) described how they had empowered Rwandans:

> *Gacaca* has empowered Rwandans in ways few could have envisaged. It has illustrated the liberating value of truth. When truth came out in court, from both the perpetrators and survivors of genocide, from witnesses and the community – freely, not at the prompting or tutoring of paid lawyers – it set everyone free and prepared the ground for the restoration of social harmony.

3.2.3.3.   *Reintegration*

Repentance is a key component of reintegration, and it was treated as such in Rwanda. According to *gacaca* law, "…*génocidaires* who plead guilty must make public apology and reveal the whereabouts of their victims' remains" (Waldorf, 2006, p. 428). Repentance significantly influenced survivors to consider forgiveness, which ultimately is very crucial in reintegrating the victims and perpetrators of a transitional community (Kirkby, 2006).

Confession and repentance was followed by apology in Rwanda. Article 54 of *gacaca* law explicitly state (*Gacaca* Law, 2004):

> Any person who has committed offences aimed at in article one of this organic law, has right to have recourse to the procedure of confessions, guilt plea, repentance and apologies.

Confession, repentance, and apology guaranteed "commutation of penalties" and reduced sentencing according to Article 55 of *gacaca* laws (*Gacaca* Law, 2004). In accordance to Article 72, if the perpetrators do not confess, repent and apologise, there could be serious consequences, including death sentences, life imprisonment, twenty-five or thirty years of imprisonment (*Gacaca* Law, 2004). Incorporation of these values of confession, repentance and apology in *gacaca* courts however created some suspicions. There are still serious doubts about whether the alleged perpetrators were taking responsibility, repenting genuinely, and telling the truth, or lying in their testimonies to get easy sentences; or the victims were making false accusations (Waldorf, 2006).

Another important element of reintegration is the focus on "shame over guilt", or "reintegrative shaming" (Tiemessen, 2004, p. 60). By recognizing their guilt publicly in *gacaca* courts, elders and community members created a sense of shame for the offenders that could lead them towards remorse and repentance (Kirkby, 2006). But Waldorf (2006) considered it unrealistic that 'reintegrative shaming' would work in a severely fragmented community like Rwanda, thus, this remains a contested area.

Compensations or restitutions are also crucial for successful reintegration. Most Rwandans had high expectations from *gacaca*, trusting it would ensure compensation for them. The Indemnification Funds or *Fonds d'indemnisation* could have been a viable method of compensation in *gacaca* courts but it was not ultimately adopted in *gacaca* law (Rubio-Marin, 2011). Limited funds and resources, coupled with the acute poverty of many alleged perpetrators, crippled the compensation process (Kirkby, 2006). Nevertheless, some survivors still believed expressing "moral guilt" and asking for "forgiveness" sincerely are more important than mere materialistic compensations (Kirkby, 2006, p. 112).

Most importantly, a clever innovation in the *gacaca* courts, which directly helped perpetrators reintegrate into the community, was the inclusion of community service (Cobban, 2002b; Kirkby, 2006). It provided them with an opportunity to make amends to society and helped them to contribute to the reconstruction efforts (Waldorf, 2006). Convicted perpetrators usually did this community service "for and with the survivors" to rebuild the communities they destroyed (Kirkby, 2006, p. 115).

Finally, despite serious concerns over funding for compensation, *gacaca* courts provided a better space for reintegration between Hutus and Tutsis than ICTR. Inclusion of community service, confession and apology in *gacaca* law contributed to the reintegration process in Rwandan society (Cobban, 2002b*; Gacaca* Law, 2004; Kirkby, 2006).

3.2.3.4. *Transformation*

Transformation is a long-term achievement of the *gacaca* courts in Rwanda which aims to move the country from its bitter divided past to a future where Rwanda belongs to all Rwandans. The ideas of forgiveness and healing are integrally connected to transformation, but:

> Survivors can only begin to think about forgiveness after seeing their violators' guilt established by a tribunal, a punishment inflicted, and tangible, symbolic compensation made for the wrong committed (Kirkby, 2006, p. 116).

Kirby (2006) believes that forgiveness helps victims heal their trauma. When perpetrators confess their crimes, and express true remorse, fear of the trauma repeating gradually recedes from the victim's psyche. This experience motivates victims to offer forgiveness, which ultimately sets the foundation for a "new social pact" between survivors and perpetrators (Kirkby, 2006, p. 116). However, Penal Reform International (2011) observes that asking for forgiveness without expressing remorse and compassion is very superficial and does not heal the victims.

There were several challenges to achieving transformation in Rwanda. One of the challenges was ensuring a balance of social and political rights for all Rwandans— Hutus and Tutsis—in government, civil society organizations and public institutions. Any imbalance would jeopardize the entire transitional process, particularly *gacaca* courts (Tiemessen, 2004, p. 59). The second challenge was that the Hutus and Tutsis had different goals and expectations from *gacaca* courts. For some Hutus, this process was just a tool to free wrongfully convicted Hutus, while some Tutsis saw the *gacaca* courts as a means to get "disguised amnesty" for the killers of their kith and kin (Waldorf, 2006, p. 428). Absence of a common goal makes transformation tough. Finally, the most difficult challenge in the long run was to hold Rwandan Patriotic Front (RPF) accountable

for their crimes against Hutus from 1990 to 1994 (Human Rights Watch, 2011). Even though *gacaca* courts explicitly prohibited trying war crimes by the RPF, Rwanda's government had a duty to ensure justice for all, but it could not deliver on this front (Waldorf, 2006).

Despite these criticisms, *gacaca* court was a viable and pragmatic alternative for Rwandan society. In their survey in Rwanda, Megwalu and Loizides (2010) found 79 percent of the respondents agreed *gacaca* court was helping them reconcile. Its indigenous roots, local ownership, inclusion of *Inyangamugayo* (elders), victims, offenders and community members, cost-efficiency, speediness of the trial, and social justice values were some of the distinctive features that contributed to their success (Megwalu and Loizides, 2010).

Having discussed the transitional context in Rwanda, this review now focuses on Cambodia, which dealt with its post-genocide scenario in a very different manner.

3.3. Cambodia

3.3.1. Background

A brutal chapter in Cambodia began in 1970 with the forced ouster of the then Prince Norodom Sihanouk by General Lon Nol's Republican forces (Chea, 2005). The situation became worse when Khmer Rouge leader Saloth Sar, popularly known as Pol Pot, took power after overthrowing General Lon Nol in 1975. Pol Pot evacuated the capital and major cities, abolished the currency and re-named the country Democratic Kampuchea (Doung and Ear, 2009; Menzel, 2007). From 1975 to 1979, around 1.7 million Cambodian, one fourth of the entire population, died through starvation, execution and forced labour; thousands of people were brutally tortured and around 5 million people were displaced (Chea, 2005; Ciorciari and Ramji-Nogales, 2012; Doung and Ear, 2009; Eastmond, 2010).

In terms of their ethnic, religious and linguistic identity, Cambodians are relatively homogenous (Doung and Ear, 2009). The conflict in Cambodia was therefore not across racial or ethnic lines, like in South Africa or Rwanda, rather it was across social lines.

Motivated by communism, particularly 'Maoist collectivism' and *'Angkar'* (denoting organization), Khmer Rouge leader Pol Pot and his regime wanted to wipe out existing social, cultural, economic, and religious order and replace them with new norms and identities (Menzel, 2007). The Union of Soviet Socialist Republics (USSR) supported Democratic Kampuchea's Vietnamese-backed opposition whereas the United States and its allies supported the Khmer Rouge regime. This polarization of the world's superpowers, because of their geopolitical interests during the Cold War, precipitated the atrocities in Cambodia (Kiernan, 1985).

3.3.2.   Delivering justice: Process and values

Almost thirty years after the genocide, on July 1, 2006, the Cambodian Government and the United Nations established a "hybrid tribunal", the Extraordinary Chambers in the Courts of Cambodia (ECCC), by combining Cambodian law and international law (Doung and Ear, 2009, p. 13). This special tribunal, which operates till date, consists of Cambodian and international judges, prosecutors, and administrators (ECCC Law, 2004). According to Article 1, ECCC law (2004) only tries:

> Senior leaders of Democratic Kampuchea and those who were most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognized by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979.

ECCC aspires to bring reconciliation through different innovative initiatives and programs in which victims, perpetrators and community members, local NGOs, civil society organizations, and international communities participate (Doung and Ear, 2009).

3.3.3.   Restorative process values in Cambodia

The following section explores how four RJ process values—participation, empowerment, reintegration and transformation—are operationalized in the ECCC and in Cambodian society in general.

3.3.3.1.   *Participation*

During the Khmer Rouge rule, thousands of Cambodians were forced to leave their homes and take shelter in villages. Those who were exempt from the regime's forced eviction plan are called "Base People" or "Old People", while the thousands who were forced to relocate to rural areas are called "New People" (Etcheson, 2005, p. 202). The regime maintained cordial relations with the Old People, giving them more power, prestige, and privileges than the New People, who were the main victims of the purge. As a result, many Old People sided with the regime and some were even recruited as soldiers. This is how the regime sowed discord in society, and attempted to create a new social class among Cambodians (Etcheson, 2005).

ECCC has been designed as a "device for empowerment" of the victims whose voices have been neglected for the last thirty years (Ciorciari and Ramji-Nogales, 2012, p. 4). It promotes extensive participation of both victims and perpetrators (Sperfeldt, 2012), and is the first court of its kind in Cambodia that allows victims to participate directly in the trial process as civil parties. This opportunity to interact with the judicial process directly is an empowering experience for the victims (ECCC, 2013). ECCC's Victim Support Section also actively supports, promotes, and protects victims' rights. Victims can participate as complainants, witnesses and civil party "to seek collective and moral reparations" (ECCC, 2013; Leyh, 2012, p. 388;). According to ECCC (2013), "this reflects the commitment of the ECCC to its mandate of helping the Cambodian people in the pursuit of justice and national reconciliation". A survey among Cambodians found that sixty-eight percent of the respondents believed the ECCC to be beneficial (Pham et al., 2009, p. 3). Leyh (2012, p. 407) acknowledges that the process is participatory, but accuses it of also being "cumbersome and problematic".

Involvement of all parties is crucial for inclusive participation in ECCC. So offenders' rights are also protected in ECCC. Defence Support Section of ECCC provides logistical support and ensures "fair trials through effective representation of the accused" (ECCC, 2013). Finally, the ECCC court hearings are open to all Cambodians, an opportunity used by civil society organizations and local NGOs to actively promote ECCC's community outreach activities (Ciorciari and Ramji-Nogales, 2012).

Nonetheless, there still remain challenges in terms of participation and public awareness. Pham et al.'s (2009) survey in Cambodia found 85 percent of the respondents had very limited or no knowledge of the ECCC, and 64 percent had never even heard of the ECCC. This lack of public awareness negatively impacts attendance and participation in the proceedings. In a more recent survey, Pham et al. (2011) found only 1 percent of the respondents had participated in ECCC court proceedings, and none had applied to become a civil party at the court. Leyh (2012, p. 398) also observes that while inclusion of the victims as civil party in ECCC is important, the processes "greatly inflate the expectations of victims and hamper efficient and effective court operation".

3.3.3.2. Empowerment

Active participation from all stakeholders, including victims, offenders and general Cambodians, is the first step of empowerment. This section explores how ensuring safety and security, truth-telling, confession, and indictment, can empower survivors to establish a culture of accountability in Cambodian society.

From 1975 to 1979, thousands of Cambodians were internally displaced. Ensuring the safety and security of these refugees returning to their homes is a vital component of empowerment in Cambodia (Eastmond, 2010). It not only empowers them physically, it also empowers them socially, as they are able to reunite and reconnect with their homes (Jansen, 2006; Malkki, 1995). This can only succeed through the support of the ECCC and other UN agencies, INGOs, NGOs, and international donor agencies (Eastmond, 2010).

Exposing the truth is also an act of empowerment. Pham et al.'s survey (2011) found an overwhelming majority of Cambodians, i.e. 93 percent, believe it necessary to find out what happened during the Khmer Rouge regime. As with all conflicts, multiple versions of the truth exist, so hearing the direct accounts of the Khmer Rouge leadership help all parties establish a common truth (Chea, 2005). A policy "to dig a hole and bury the past" is doomed to fail (Doung and Ear, 2009, p. 15).

On the other hand, it has been argued that the ECCC is ill equipped to uncover a complete picture because confessions of just a few Khmer Rough leaders cannot satisfy

the needs of thousands of Cambodians (Doung and Ear, 2009). It would only unearth a "partial truth" (Doung and Ear, 2009, p. 15) and ensure a "symbolic" form of justice (Menzel, 2007, p. 224). To combat this, Menzel (2007) and Leyh (2012) suggest holding public confessions in the form of truth commissions, claims commissions, and other non-judicial processes.

Although Cambodians hope to end the "culture of impunity" and establish a "culture of accountability" (Doung and Ear, 2009, p. 12), corruption, slow proceedings of the cases, shortages of funds and resources, lack of political commitment by the Cambodian government, questionable appointments, political influence over judges, and lack of qualified local judges with experience in international crimes can all act as barriers to empowerment (Menzel, 2007; Doung and Ear, 2009).

3.3.3.3. *Reintegration*

Reintegration in Cambodia is extremely difficult. Even after two decades, people still have lingering anger against the Khmer Rouge. In Pham et al.'s 2009 survey, 71 percent of the respondents wanted the Khmer Rouge to suffer in some way. A more recent survey found 81 percent of the respondents hate the Khmer Rouge regime and 68 percent want them to suffer (Pham et al., 2011, p. 32).

Documenting what happened, establishing a common truth, testimonies of Khmer Rouge leadership are all positive steps, but expressions of remorse and repentance by the perpetrators are doubly crucial for their reintegration into the communities. A victim of the regime puts it succinctly, "The reintegration of ex-Khmer Rouge soldiers into their former villages depended more on their attitude of regret than on the actual truth of their deeds" (Eastmond, 2010, p. 8). The confession and repentance of Kaing Khek Iev, popularly known as 'Duch', the commander of the infamous prison Tuol Sleng (or S-21) in Phnom Penh, was a significant move, especially for its potential to inspire others to follow suit (Doung and Ear, 2009).

For maximal impact, confession has to be followed by reparations. This is why the indictments of the top five Khmer Rouge leaders in the ECCC, followed by moral and collective reparations, genuinely satisfied many victims (Doung and Ear, 2009). These reparations include:

…erecting statues, building memorials, renaming public facilities, establishing days of remembrance, expunging criminal records, issuing declarations of death, exhuming bodies, and conducting reburials (Pham et al., 2009, p. 4).

Victims disagree on how reparations should be paid. 88 percent of respondents in a survey mentioned reparations should be paid individually to the victims, whereas 68 percent wanted reparations to be given to the community as a whole (Pham et al., 2009, p. 4).

After the first trial, the victims' lawyers requested the following as reparations (Sperfeldt, 2012, p. 463):

…(a) compilation and dissemination of apologetic statements made by Duch throughout the trial; (b) access to free psychological and physical health care; (c) funding of educational programs to inform Cambodians of the crimes that took place under the Khmer Rouge; (c) the erection of memorials and pagodas at S-21 and throughout the civil parties' local communities; and (d) inclusion of the names of all civil parties in Case 001 in any final judgment.

Most of these requests, however, were rejected by the ECCC. In a reaction after the verdict, Chum Mey, one of the victims said, "We are victims two times, once in the Khmer Rouge time and now once again" (Leyh, 2012, p. 405). REDRESS, an NGO based in UK, also expressed concerns, noting the ECCC "were unable to meet the vast majority of victims' requests, due to the inadequacy of the applicable internal rules that the judges had established" (Sperfeldt, 2012, p. 463).

Subsequently, Victims Support Service of ECCC, along with the Lead Co-Lawyers, made new categories for reparations (Sperfeldt, 2012, p. 468):

…(1) memorialisation/remembrance (including the recognition of a remembrance day and the establishment of memorial sites); (2) rehabilitation (including psychological services and self-help group among victims); (3) documentation/education (including educational programs about the history and the establishment of learning centres); and (4) other awards, often focusing on specific victim groups (including minority and gender-based crimes victims) and matters in relation to implementation, such as the establishment of a trust fund and an oversight entity after the ECCC ceases to exist.

Alongside the above, the annual *pchum ben* festival, which is a traditional Khmer day of remembrance of the dead, also plays an important role in reintegration. During this festival, ordinary Cambodians gather at their religious places of worships and offer prayers, food and blessings. Through celebrating this festival, the Cambodians believe they are helping the "reincarnation" of their loved one who were interred without proper religious ceremonies during the Khmer Rouge era (Ciorciari and Ramji-Nogales, 2012, p. 11). Other social days, like the Day of Anger, Ancestor Day, New Year, and the King's Birthday, also contribute towards the reintegration process because they provide a space for all Cambodians to socialize, helping to improve relationships between conflicting parties, and thus herald gradual reintegration (Ciorciari and Ramji-Nogales, 2012; Etcheson, 2005). Chea (2005) contends that Buddhist teachings can be a great vehicle for reintegration and rebuilding trust, but Eastmond (2010) cautions religion can easily be coopted by politicians.

3.3.3.4. Transformation

The essence of transformation in Cambodia is found in the Khmer concept of "*kar phsas phsa"* which internally denotes a "process of healing" and externally indicates the reunification of erstwhile enemies (Ciorciari and Ramji-Nogales, 2012, p. 5). This healing process results in a change in heart and restoration of relationships (Romduol and Barbour, 2007). According to Menzel (2007), variations of post traumatic stress disorder affect over thirty percent of the survivors in Cambodia; so without healing, true reintegration and transformation will not be possible.

There are core challenges for transformation in Cambodia. A confrontational political culture is a genuine threat because the division between Vietnamese-backed political parties, like the Cambodian People's Party (CPP), and other political parties is still stark, resulting in continued abuse (Eastmond, 2010). All parties, particularly the ruling CPP and their elites, must stop "widespread institutional corruption, human rights violations, such as land-grabbing, and oppression of freedom of expression, especially of journalists and opposition parties" (Doung and Ear, 2009, p. 15). Other parties, such as the Democrat Party, the *Sangkum Reastr Niyum* (People's Socialist Community), and *Front Uni National pour un Cambodge Independent, Neure, Pacifique et Cooperatif,*

must have a level playing field for free and fair elections so that monopoly of one party does not create power imbalance and political instability (Houghes, 2009).

There are also concerns over ECCC's procrastination and lengthy trial proceedings. Even though Article 33 (new) of ECCC Law (2004) ensures "fair and expeditious" trials, Leyh (2012) found the process actually takes a long time, which may directly contradict the defendants' right to an expeditious trial.

Finally, ECCC should be equipped with qualified judges, increased manpower, funds and resources to ensure expeditiousness of the trials and reparations, and be free from political interference, corruption, and secrecy of its operations. Relationships between Cambodian government and the United Nations over ECCC and its operations must be constructive (Menzel, 2007). Capacity building training for the judges, prosecutors and other staffs involved with ECCC are also essential for truly transformative peace in Cambodia (Doung and Ear, 2009).

Steps are being taken to confront these challenges too. Documentation Center of Cambodia (DC-Cam), an NGO partner of ECCC, has begun to rewrite and preserve the documents of Cambodian history. Their aim is to heal the wounds of the past by documenting, researching, and sharing the history of the Khmer Rouge period (Ciorciari and Ramji-Nogales, 2012). Awareness about the ECCC's reconciliation process and its objectives are also essential. A survey found that 80 percent Cambodians believe the ECCC process helps to build trust (Ciorciari and Ramji-Nogales, 2012, p. 19), and 25 percent respondents believe the ECCC contributes to ease the victims' mental anguish. This bodes well for the success of the ECCC.

In summary, this section discussed Rwandan and Cambodian responses to their genocides. Rwanda started with ICTR and later adopted indigenous *gacaca* courts, whereas Cambodia took a different route and involved the United Nations and international community in its formation of ECCC. This section also unearthed the four restorative process values—participation, empowerment, reintegration and transformation—as they were used in the transitional settings of Rwanda and Cambodia.

Unlike Rwanda and Cambodia, there have been no studies of values in Bangladesh to ground a transitional justice process. This dearth of research, and the

consequent lack of practice, has had violent consequences in recent times for Bangladesh. The following part of the literature review explores restorative values in the context of Bangladesh's 1971 genocide.

3.4. Delivering Justice: Restorative values in Bangladesh

A truly horrendous genocide happened in Bangladesh in 1971. While the exact number of deaths is disputed, the popular narrative talks of 3 million people dead, 200,000 rape victims with 25,000 unwanted pregnancies, countless injured, and millions of refugees (Akmam, 2002; Mookherjee, 2011; Sharlach, 2000; Takai, 2011). As stated in Chapter 1, Bangladesh adopted a policy of blanket amnesty, which is to 'forgive and forget', as a means of dealing with the massive atrocities committed during the nine-month war (Cammegh, 2012) However, this policy of blanket amnesty failed to heal the historical wounds and restore the relationships that were shattered, leading to old wounds reopening over four decades later.

Even though the intensity of the 1971 genocide was as horrific as Rwanda or Cambodia, Bangladesh has gotten little attention from the international community (Linton, 2010). In recent times though, numerous scholarly books and articles have been written on Bangladesh's 1971 genocide, with detailed accounts of the freedom fighters and the victims (Akmam, 2002; Beachler, 2007; Bose 2011; Mookherjee, 2011; Takai, 2011). While some, like Bose (2011), question the extent of the genocide, and bring to light the horrifying atrocities committed by the Bangladeshi freedom fighters as well as the Pakistani army—all are united in their assessment of a terrible wrong that was never properly righted. There have also been some studies on the current punitive model of the International Crimes Tribunal Bangladesh (ICTB) (Cammegh, 2012; D'Costa, 2013; Linton, 2010; Razzaq, 2013). But scholarly writings are almost non-existent on restorative values or any other reconciliation mechanisms in the context of Bangladesh's 1971 war.

Given this absolute dearth of research, coupled with the violent consequences of the current punitive form of justice in ICTB (through the provision of death sentences in article 20 (2) of the International Crimes Act, 1973), this study seeks to chart the values

needed for the future reconciliation process of Bangladesh. It assumes that identifying relevant and legitimate restorative values could be the foundation of a full-fledged reconciliation framework in the future, which could avert continuing bloodshed and civil unrest.

Therefore, the primary research question is: *What are the 'values' needed for a future reconciliation process in Bangladesh?* This is followed by the secondary question: *How are these values operationalized in the form of participation, empowerment, reintegration, and transformation?*

In conclusion, this chapter explores Rwanda's *gacaca* courts and Cambodia's ECCC. Due to similarities in their colonial past and geopolitical experience with Bangladesh, this study focuses on the Rwandan and Cambodian responses to genocides. The application of four restorative values—participation, empowerment, reintegration and transformation—is particularly explored. Finally, the chapter discusses the devastating 1971 genocide in Bangladesh, revealing a dearth of literature on restorative values. Thus, this research aims to explore the values for a future reconciliation process of Bangladesh.

Chapter 4.

Methodology

4.1. Research Question

The primary question that leads the research is: *What are the 'values' needed for a future reconciliation process in Bangladesh?* This is followed by a secondary question: *How are these values operationalized in the form of participation, empowerment, reintegration, and transformation?* The primary research question is informed through an inductive methodology, while the secondary question is explored through a deductive methodology. Clamp's (2014) four specific RJ process values, which emerged from the literature review, were chosen as deductive variables for the secondary research question.

4.2. The Research

This research is entirely qualitative in nature. Qualitative research is human-centered, interpretative, interdisciplinary, and an inductive field of inquiry that employs case studies, interviews, personal experience, introspection, life story, artefacts, observation, and productions (Denzin and Lincoln, 2003; Grossberg et al., 1992; Palys and Atchison, 2014). Based on its usages and techniques, qualitative research may vary from context to context and discipline to discipline. According to Denzin and Lincoln (2003, p. 4) "qualitative research is a situated activity that locates the observer in the world. It consists of a set of interpretive, material practices that make the world visible". The current research employs in-depth qualitative interviews to explore the values needed for a future reconciliation process in the context of Bangladesh's 1971 war of independence.

4.3. Interpretative Paradigms

This research is based on the following ontological, epistemological, methodological and restorative paradigms.

4.3.1. Ontological Position

Constructivism is the ontological paradigm in this research. It assumes that "social phenomena and their meanings are produced by social actors through their social interaction and that they are in a constant state of negotiation and revision" (Bryman and Teevan, 2005, p. 13). The researcher and participants both co-create knowledge and understanding of certain phenomena in a manner that Denzin and Lincoln (2011, p. 13) termed "subjective epistemology". In other word, this paradigm presents "a specific version of social reality, rather than one that can be regarded as definitive" (Bryman and Teevan, 2005, p. 13). The participants in this study created knowledge about a future reconciliation process of Bangladesh through sharing their wisdom, stories, opinions and experiences. Both deductive and inductive findings represent this form of knowledge creation. The researcher's job is to synthesize the findings with the literature review, and present a comprehensive analysis for a future reconciliation process. Hence, both the participants and the researcher are co-constructing knowledge through this research.

4.3.2. Epistemological Position

The epistemological position in this research is interpretive and phenomenological. Phenomenologists argue (Palys and Atchison, 2014, p. 8):

> …humans are cognitive beings who actively perceive and make sense of the world around them, have the capacity to abstract from their experience, ascribe meaning to their behaviour and the world around them, and are affected by those meanings.

In this study, the researcher interprets the opinions and experiences of the interviewees in a restorative framework. The researcher also interprets both deductive

and inductive findings and proposes a value-based model for a potential reconciliation process in Bangladesh.

4.3.3. Methodological Position

The methodological position of this research is "exploratory", relying heavily on open-ended qualitative interviews, instead of closed or structured interviews (Creswell, 2009, p. 211). This research uses in-depth qualitative interviews with four deductive variables—participation, empowerment, reintegration and transformation.

Table 4.1.   Quantitative and Qualitative Research Methods (adapted from Bryman and Teevan, 2005, p. 15)

Fundamental differences between quantitative and qualitative research strategies		
Issues	Quantitative	Qualitative
Role of theory in research	Deductive; testing theory	Inductive; generation of theory
Epistemological orientation	Natural science model; positivism	Interpretivism
Ontological Orientation	Objectivism	Constructionism
Restorative Philosophy	Transformative inquiry paradigm	Transformative inquiry paradigm

4.3.4. Restorative Position

Grounded in restorative justice philosophy, the study is based on the 'transformative inquiry paradigm'. Toews and Zehr (2003) identify ten principles of this paradigm. Of these, the researcher's restorative position was most influenced by the greater emphasis placed on the process rather than the outcome, and the principle of respecting the participants as active subjects. In this paradigm, the researcher's identity is seen as a "facilitator, collaborator and learner", instead of "neutral expert" (Toews and Zehr, 2003, p. 266).

4.4. The Researcher

There are different images and metaphors used to describe qualitative researchers. Denzin and Lincoln (2003, p. 5) see the qualitative researcher as "bricoleur"

or "quilt maker", while Kvale (1996, p. 3) uses "traveler" to describe qualitative researchers and "miner" for quantitative researchers.

Toews and Zehr (2003, p. 268) described the contrasting roles of quantitative and qualitative researchers as:

> The miner [quantitative researcher] digs up nuggets of buried knowledge that are waiting to be discovered. The pieces of knowledge are then refined and purified through a process that extracts from them the essential elements and shapes them so that they are usable for the researcher's purposes. The miner is expert and arbiter of the outcome; the subject is passive and unaffected resource in the process.

The traveler, i.e. the qualitative researcher, on the other hand (Toews and Zehr, 2003, p. 269):

> …sets out on a journey in which they have conversations with the people they encounter. From these encounters, they hear the many and varied stories of the land through which they are travelling. They meet and become friends with the unique individuals that live in the land. Upon return, the researcher retells the stories they have heard to colleagues. Using their own voices and words, they reflect on the individualism of the people they have met and communicate the knowledge that has been learned.

On the basis of the researcher's restorative research position in this study—i.e. the transformative paradigm—he played the role of a 'traveler' rather than a 'miner', actively listening to the participants, and being a "facilitator" and "collaborator" during the interview process (Toews and Zehr, 2003, p. 266).

The researcher also came with experience in student activism in Bangladesh, as well as with a background in peacebuilding and restorative justice. This made reflexivity very pertinent to the research—it was important to be "consciously and critically aware of multiple influences" on the researcher's interpretations (Palys and Atchison, 2014, p. 42). On the one hand, these previous experiences were very helpful in finding relevant people to interview and being aware of the cultural backdrop against which the study took place. On the other hand, it made the researcher susceptible to beliefs that are a fabric of Bangladeshi society, such as the unquestioning reverence accorded to the freedom fighters, and the nationalist narrative in the country that paints a simplistic black

and white picture of 1971. One strategy to tackle this was for the researcher to actively seek out voices from opposition parties, and ensure they were represented equally in the sample, because their narrative differed from the mainstream one. Another strategy has been to modify the language the researcher used to describe issues of 1971—a tendency to wax poetic was reined in after helpful feedback from the supervisors.

4.5. The Participants

Ten individuals were purposefully selected from the researcher's social capital and network. Gender balance, political diversity, and religious pluralism were maintained. Representations from grassroots, meso and upper levels of society have also been balanced in this sample. All the individuals who participated in this research were 25-55 years old and citizens of Bangladesh.

4.6. Population Sampling

Stakeholder sampling and snowball sampling techniques were used in this study to recruit ten individuals for in-depth qualitative interviews. Since this study aims to explore the opinion of five major groups of Bangladesh, a stakeholder sampling method ensured all key parties were included in the sample.

This technique involves identifying and interviewing the major stakeholders so "all relevant views are represented… [and] heard" (Palys and Atchison, 2014, p. 113). Keeping the scope, time, and limitations of the project in mind, this research identified key stakeholders as supporters from three political parties, non-political activists, and members of civil society organizations in Bangladesh.

Within the stakeholder sampling technique, the researcher used snowball sampling, in which each participant was asked 'who should I interview to understand more about this topic' (Patton, 2002). A snowball sampling technique "involves starting with one or two people and then using their connections, and their connections' connections, to generate a large sample" (Palys and Atchison, 2014, p. 115). The

researcher selected five individuals from the five identified stakeholders. Each individual then refereed another person from his or her own political or social backgrounds.

People from the following categories were recruited for the in-depth semi structured qualitative interviews:

Table 4.2.   Participants' social and political background

Number	Social or Political Background	Number of Participants
1	Civil Society	2
2	Activist	2
3	Bangladesh Awami League (BAL)	2
4	Bangladesh Jamat-e-Islami (BJI)	2
5	Bangladesh Nationalist Party (BNP)	2
Total Participants		10

All the participants were interviewed at least once. Depending on the researcher`s and interviewees' availability of time, four interviews were face-to-face and six were via Skype. The researcher had greater interaction with the face-to-face participants than the Skype interviewees. All the participants were cordial, hospitable and eager to express their opinions, but the older participants were more voluble than the younger participants. The researcher intended to keep a gender balance; however, only three female participants were willing to be interviewed. Of these, one could not participate due to schedule conflicts.

4.7. The pilot study

A pilot study was used to help shape the research instrument, particularly the interview questionnaire, before the actual interviews (Palys and Atchison, 2014, p. 174). To check the questionnaire's efficacy, the researcher conducted a mock interview with a participant from a civil society organization. A few minor changes were made to the questionnaire after the pilot study. Feedback from the participant in the pilot test also contributed to shaping the current structure of the semi-structured qualitative interview questionnaire.

4.8. The Interview

In-depth, semi-structured interviews were completed with ten individuals from Bangladesh's main political parties, civil society and non-political activist groups. The interviews were used to identify schisms among the narratives of the opposing parties, and to explore their views on values needed for a potential reconciliation process. The interviews were recorded, transcribed and coded to identify values, both deductive and inductive. After sharing some background of the current political situation in Bangladesh, all interviews began by simply asking what the participants knew about 1971. Such broad and open-ended questions allowed participants to get grounded and relaxed because the 1971 war is one of the most sensitive topics in Bangladesh, albeit widely discussed. This approach enabled the participants to accustom themselves to the sensitive nature of the research at their own pace. Keeping both the inductive and deductive variables in mind, seven semi-structured interview questions were formulated (see Appendix B).

4.9. Variables

Deductive variables and inductive variables were used to guide the research.

4.9.1. Deductive Variables

Deductive variables involve discovering themes and patterns from pre-existing data (Patton, 2002). The four deductive variables are a) participation, b) empowerment, c) reintegration, and d) transformation (Clamp, 2014). For this research, the operational definitions of these variables are as follows.

4.9.1.1 Participation

Participation refers to the engagement of the key stakeholders who would be important to a future reconciliation process of Bangladesh. Participation includes the involvement of victims, alleged perpetrators, elders, political parties, civil societies, international communities, and the community members who supported different sides during the conflict.

4.9.1.2 Empowerment

Empowerment emerges from participation. Empowerment is a phase where victims, offenders and community believe their voice and opinion are heard and validated. It also means the key stakeholders, who experienced the war from a range of perspectives, find a sense of safety and protection in expressing their opinions and views during the process of participation. Empowerment emerges when their voices are heard, and listened to, with respect. All major stakeholders involved in the process must believe there is no domination of one group over another, or victims over offenders and vice versa. Empowerment emerges from the satisfaction of the key stakeholders with the process of participation.

4.9.1.3 Reintegration

By reintegration, the researcher means a peaceful co-existence between victims, offenders and their family members. Reintegration is also indicative of a level of positive working relationship among people who were hostile towards each other. Reintegration emerges from the short-term outcome of a reconciliation process.

4.9.1.4 Transformation

Transformation refers to the development of a respectful and empathic relationship among the key stakeholders, particularly among the members of different ethnic and political groups who represent varying interests during the conflict. Transformation can be realized as a long-term outcome of a reconciliation process.

4.9.2. Inductive Variables

Inductive variables involve identifying emerging themes, patterns, and categories from the interviews and literature review.

4.10. Procedures

Following approval of the study as a minimal risk research, as determined by SFU's Office of Research Ethics, electronic mails were sent to fifteen potential participants explaining the purpose of this study, as well the method for maintaining

confidentiality. An informed consent statement was included as an attachment to the emails (Appendix A). Seven participants replied affirmatively and agreed to take part in the research. In the final sample, five of these participants were chosen from the five broad categories previously discussed.

A snowball sampling technique was used for the next five participants. Emails were sent to eight potential participants refereed by earlier participants. Five of them replied and agreed to take part in this research.

Four participants were interviewed face-to-face at their homes, while six interviews were conducted over Skype. A semi-structured and open-ended questionnaire was sent to the participants a day before the interview to give them the opportunity to familiarize themselves with the topics. On average, each interview lasted between one and a half to two hours.

4.11. Data Collection

Data were collected from the interviews over a period of two months. Seven interviews were digitally recorded and transcribed. Three participates did not want their interviews to be recorded but allowed the researcher to take notes. All audio recordings, transcripts and notes were kept secure in a locked cabinet when not in use.

4.12. Data Analysis

All the interviews were analyzed using deductive and inductive variables. Four interview questions focused on the four deductive variables, and three questions focused on widening the research through inductive categories. Key themes identified from the four deductive variables were analyzed first, followed by themes that emerged from the inductive findings. Computer-assisted NVivo software was also used to analyze the articles on Rwandan and Cambodian transitional justice mechanisms. This helped identify, for example, that participation is one of the most widely used values in transitional contexts.

4.13. Ethical and Legal Considerations

4.13.1. Method for maintaining confidentiality

With the permission of the participants, the interviews were recorded and saved in the researcher's laptop without the participants' names. This laptop is password-protected and only the researcher has access to it. During analysis, to further ensure anonymity, in place of their names, the interviewees were identified through code numbers known only to the researcher. The content of the interviews was only used for research purposes and the data collected will be used for publication or conference presentation only. From the end of the research project, the audio recordings will remain in a password-protected file for two years to ensure confidentiality. During that time, no one will have access to them besides the researcher. After two years, all the recordings will be deleted.

Consent statements and questionnaires were sent to all participants via email prior to the interviews. Face-to-face participants returned the signed consent forms before the interviews. In contrast, for the convenience of the Skype/telephone participants, the researcher did not collect written consent forms from them. For Skype/telephone interviewees, affirmative replies to the researcher's email address were regarded as consent to participate in this study.

4.13.2. For Skype/telephone Interviews

Even though Skype describes itself as a secure communication software, confidentiality cannot be guaranteed because Skype/telephone are not officially considered to be confidential mediums (Churcher, 2012).

4.13.3. Risk to the participants and researcher

None of the ten individuals faced any direct or indirect threats or risks in this research. There were also no physical, psychological or social risks of this research. Participants' names will not be disclosed anywhere in this research without the permission of the interviewees.

4.13.4. Benefits to the participants

There was no financial benefit for participating in this research. However, through participation, interviewees could contribute to shaping the values for future work on the reconciliation process in Bangladesh. This research on reconciliation would be the first of its kind in the history of Bangladesh, and hence may bear some sentimental significance for the interviewees.

4.14. Limitations of the Research Design

A key concern of this research was the current political instability in Bangladesh and the confrontation between the government and the opposition political parties over the war crimes issue, which may have discouraged participants from expressing their genuine opinions and thoughts. The extent of the instability can be seen tangibly through this figure: more than three hundred people died during recent clashes between the government and opposition political parties (The Economist, 2013b).

There were limitations to using the word 'reconciliation' when designing the questionnaire and conducting interviews. During the interview, the researcher never used the word 'reconciliation' because of its negative connotation and misuse in the context of Bangladesh. Instead, the researcher had to use phrases like 'forward looking process', 'healing process' and 'way of doing justice'.

The researcher also did not use the words participation, empowerment, reintegration and transformation in the interview questions because these four values are used as deductive variables in this research, and hence they might have been considered leading questions. Even though this approach helped methodologically, some core insights might have been lost because of the open-ended nature of the questionnaire.

The other limitation was that a few participants did not want their interviews to be recorded. Although the researcher took detailed notes, recorded interviews and transcripts are more accurate in analyzing data than notes.

Finally, the researcher is mindful of his Bangladeshi identity. So he was cautious about portraying any groups solely as victims or offenders in this study. He is also aware that the first five participants were chosen directly from his personal contacts in order to ensure representation from all stakeholders, and hence this precludes any attempts at generalization of the research findings. To avoid leading the interview responses, the researcher took special care to never express any opinion on politics or reconciliation during the interviews.

Chapter 5.

Findings

The findings of the ten in-depth qualitative interviews reveal the contextualized meaning and application of four deductive values in the context of Bangladesh's 1971 war. The value of participation identified the key stakeholders; the value of empowerment explored the challenges of finding the truth, safety and acknowledgement; the value of reintegration revealed the need for a formal apology and compensation; and the value of transformation was indicative of a future long-term vision for Bangladesh. The findings also suggest four inductive values, which can be termed the four Ss — *sroddha* (respect), *shohonshilota* (tolerance), *shomjhota* (reconciliation), and *shochchota (*transparency). These 4 Ss could be used as core values for a future reconciliation process in Bangladesh. The inductive findings respond to the first part of the research question, which focuses on core values. The deductive findings respond to the operational definition of the four RJ process values, which is the second part of the research question. The following section discusses in details both the deductive and inductive findings from the ten interviews.

5.1. Deductive findings

Deductive findings respond to the second part of the research question: *How are the values for a future reconciliation process operationalized in the form of participation, empowerment, reintegration, and transformation?* The key themes that emerged on the basis of these four variables are discussed below.

5.1.1. Participation

By participation, this research refers to the engagement of the key stakeholders. The following section explores what the ten interviewees think of participation for the future reconciliation process in Bangladesh. The interviewees identified some international, regional and national actors. Most of them agree on the necessity of UN involvement. Differences exist on the role and nature of participation of local collaborators and the governments of India and Pakistan.

International actors

A majority of the participants—nine of them—want the United Nations to be involved in the process for reasons succinctly explained by Participant-10:

> *From December 4, 1971 to the last moment, the war became between India and Pakistan. In fact, Pakistani soldiers surrendered their weapons to the Indian army, not the Bangladeshi army. Pakistani soldiers committed most of the atrocities; there are already 195 identified Pakistani war criminals. Without bringing them to face justice, any process would fail. Involvement of the United Nations [as an international actor] could facilitate the justice process.*

Similarly Participants 1, 9 and 5 argue that all parties, including freedom fighters, political leaders from all political parties in Bangladesh, the governments of India and Pakistan, and the United Nations, should be involved in the process. *"As Bangladesh, India and Pakistan were directly involved in the 1971 war, United Nations' involvement is necessary to facilitate effective participation [from all nations]"* (Participant-5).

Participant-9 elaborated the modalities of a trial under the UN mandated International Criminal Court:

> *The entire forward moving process can be done through the [current] International Crimes Tribunal. The UN and the governments of respective countries can appoint international judges and prosecutors. International Criminal Court has experience dealing with this kind of human rights violation. They are supporting Bosnia and many other countries... Bangladesh can easily take this opportunity and ask for their help. Only then can international standards be maintained.*

Participant-3 holds that key stakeholders in this process should be freedom fighters, preferably sector commanders, civilian leadership of Bangladesh, India and Pakistan, local collaborators, identified war criminals from Pakistan and Bangladesh Army, and veteran lawyers.

However, Participant-10 does not think India and Pakistan should be primarily involved in the process, nor the United Nations. She described the entire process must be in line with international laws, and the United Nations could perhaps monitor the process, but not have a more active role. Her justification was centred on self-determination: *"We should not let anybody interfere with the internal affairs of Bangladesh. Bangladesh should handle its own problem"* (Participant-10).

Participant-1 on the other hand does not think it was practical or possible to get the governments of India and Pakistan involved in any reconciliation or trial process to deal with the war crimes of 1971: *"Pakistan and India closed the chapter of 1971 with appropriate international treaties and agreements. I don't think that they would be willing to engage at all in any war crimes tribunal in Bangladesh"*.

National actors

Participant-4 believes the key stakeholders in a future reconciliation process should be freedom fighters; relatives of the martyred freedom fighters, especially the immediate family members; top civilian and army leadership of Pakistan and India; top leadership of Bangladesh Awami League (BAL) and Bangladesh Nationalist Party (BNP); representatives from the younger generation who are active on social media; expatriate military personnel of Bangladesh who served the country between 1971 to 1975; and student leaders from all political parties. But this participant categorically rejects the idea of bringing the local collaborators (mostly from Bangladesh Jamat-e-Islami) into the process. Similarly, Participant-2 also thinks the local collaborators are beyond redemption:

> *The people of Bangladesh know how to forget and forgive but Jamat people [supporters of Bangladesh Jamat-e-Islami] killed thousands of*

innocent people, university teachers, university students and intellectuals. Their sins are unforgivable.

On the other hand, Participants 7 and 8 believe the current party in power, Bangladesh Awami League (BAL), has an ulterior motive of destroying opposition political parties. These two participants do not believe any process under the current government will be fair and free from political vengeance. They think the current government's processes and policies will take Bangladesh down a dark path.

We want justice like so many other Bangladeshis, but the process must be free and fair, and must follow international standard. The current government is just taking its vengeance against opposition political parties. (Participant-8).

Expressing a similar concern, Participant-7 thought any process under the current regime would jeopardize the future of Bangladesh because, according to him, BAL wants to "*wipe out opposition political leaders*" through this "*kangaroo tribunal*". He criticized the International Crimes Tribunal Bangladesh, terming its verdicts that led to execution: "*judicial killing*".

Bangladesh Awami League and left wing parties just have pure vengeance against Jamat and they are using the war crimes issue to wipe out opposition political leaders. (Participant-7).

5.1.2. Empowerment

Empowerment follows from active participation. Empowerment is a phase where victims, offenders and the community believe their voices are heard and validated. It also means the key stakeholders, who were for and against the war, feel safe enough to express their views. The themes of truth-telling, confession and ensuring safety for all stakeholders emerged as the immediate results of the future reconciliation process. The interpretation of these themes, however, varied from participant to participant.

Truth

A number of participants (Participants 1, 2, 4 and 10) believe that the alleged perpetrators, particularly local collaborators, must tell the truth about their roles and actions during the war:

Before anything, they [local collaborators] have to tell the truth. So many years passed by but still they did not acknowledge their crimes and did not tell the Bangladeshi people what they did during the war. People of Bangladesh have the right to know their roles and activities during the war (Participant-2).

Participant-4 is more explicit:

Punishing just anybody is easy but finding the truth and the true story should be the most important goal of the trial. Jamat and Pakistan have to take responsibility for their actions and tell the truth. Only then shomjhota [reconciliation] will be possible.

A few participants (Participants 3, 7 and 8) think there are multiple versions of truths for what happened during the war, who committed crimes, and who are to blame for genocide. According to them, Pakistani soldiers were largely responsible for the genocide and war crimes during 1971, not the local collaborators. They also believe that pro-liberation forces, popularly known *muktijodhdha* (freedom fighters), were responsible for atrocities committed against *Biharis*—Urdu speaking people living in Bangladesh during the war, viewed by Bengalis as sympathetic to Pakistan. Participant-8, for example, categorically denied the accusations against Bangladesh Jamat-e-Islami:

Jamat was not involved with any crime during the war. Opposing the liberation was a political decision of Jamat. All accusations against them are just political lies.

Participant-7 also mentioned the same:

I strongly believe all accusations against them [Bangladesh Jamat-e-Islami] are just political vengeances. Like so many other Bangladeshis, I also want to know the truth, and want justice for the crimes committed during the war.

Participant-3 emphasized that "*finding the truth*" should be the top-most priority of the government. He also contends that there are many "*exaggerations*" regarding the 1971 war because most of the nation's knowledge on this topic came from the media and politicians, and therefore was susceptible to sensationalism. Recollecting his own memories during 1971, he mentions:

> *My father used to work at the Foreign Ministry during the war. Our house was very close to the house of Sheikh Mujib [the father of the nation]. My cousins were freedom fighters. [Still] till today, we don't know how many people died. All of us are 100% dependent on politicians, media and hearsays. There should international investigation so that people of Bangladesh know the real facts, not the chapabaji [made-up stories] of the politicians.*

To uncover the truth and understand the real impact of the war, one participant suggests that the government should conduct an impact study:

> *War happened around 40 years ago and it would be difficult to find the facts, eyewitness and other necessary information. Government should conduct a wide range of impact studies on surviving freedom fighters, cousins and relatives of the martyrs to assess the level of destruction and how much resources we need for compensation* (Participant-5).

Acknowledgement

Acknowledgement of harms and complicity was considered an important part of empowerment:

> *The local collaborators must acknowledge their mistakes in front of the people of Bangladesh. Without acknowledgement, no process can be successful… Even if they were not involved with any human rights violations during the war, they should still acknowledge that their decisions to support Pakistan during 1971 was wrong and a political mistake* (Participant-1).

Participants 2 and 4 sincerely believe that local collaborators, particularly the members of Bangladesh Jamat-e-Islami, were responsible for the atrocities during the war, and so acknowledgement was of paramount importance, even linking it to the core justification of a reconciliation process:

I believe the local collaborators committed most of the massacres. Pakistani soldiers could not do anything without their guidance and support. So Jamat has to acknowledge and take responsibilities for their crimes against humanity. If they don't acknowledge, there is no purpose of having a truth commission (Participant-2).

Safety and security

Six participants (Participants 1, 3, 6, 7, 8 and 9) expressed deep concerns about the deteriorating law and order situation in Bangladesh, indicating that the scene was not set for any reconciliation at all:

For the last few months, countless people died, hundreds of people were injured. Extra judicial killing also increased at an alarming rate. The government must ensure safety and security for all people (Participant-9).

Most of our [BJI] manpower and members are in hiding. Basic human rights are violated every single day by law enforcement agencies. Police are arresting our members indiscriminately without any charges and demanding ransoms for their release. Members of Awami League are responsible for vandalism, and looting and killing of our activists. (Participant-8).

Finally, when asked what can be done to heal this historical wound, and what will empower and heal the victims, Participant-4 described the process of empowerment thus:

Ask the freedom fighters and the relatives of martyred freedom fighters, preferably those of the first blood, what they want to be healed; ask them what they want and give them opportunity to express their opinions about their needs, demands and expectations.

5.1.3. Reintegration

The concept of reintegration can be understood as a short-term outcome of a reconciliation process. A number of themes like apology, compensation and shaming emerged from the interviews. The most articulated theme in this section was the demand for a formal apology from the government of Pakistan and the local collaborators.

Apology

The participants consider that an apology is crucial. Describing from his own experiences during the 1971 war, Participant-2 said:

I saw countless dead bodies across Barisal [a division in Bangladesh] during the 'shongram' [liberation war]. Rajakar, Al Badr, Ash Shams [organizational names of the local collaborators], and the Pakistani soldiers are 100% responsible for the genocide. They have to confess and ask for unconditional apology from the people of Bangladesh.

Participant-4 also thinks a formal apology from the government of Pakistan is a prerequisite for any process regarding the 1971 war crimes:

Thousands of women were raped during the war. Even though I was not born during that time, I heard there were many war babies because of the assaults on our sisters and mothers. We need an apology from Pakistan, the United States, and collaborators. Otherwise, we will never be healed.

He goes on to say that local collaborators, particularly Bangladesh Jamat-e-Islami, should ask for a formal apology from the public: *"Jamat ke jateer shamne khoma chaite hobe"* (Jamat needs to ask for forgiveness from the people of Bangladesh).

Conversely, a few participants did not think BJI should apologize for their role in the 1971 war:

Opposing the liberation war of 1971 was Jamat's political decision. They supported the then Pakistani regime politically but were not involved with any war crimes committed during that time. So there is no reason to apologize, as they did not commit any crime. (Participant-8).

Similarly Participant-7 also thinks BJI did not commit any crime during 1971:

If Pakistan won [in 1971], they [BJI supporters] would have been called the most patriotic people in the country now. As they lost, all blame is cast on Jamat. Jamat did not commit any murder, rapes, or vandalism or any other crimes in 1971. Opposing [the war] politically is not a war crime. So there is no question of apology (Participant-7).

Nonetheless, these two interviewees (Participants 7 and 8) echo the other eight participants in wanting an official apology from Pakistan for the atrocities of the Pakistani army during 1971:

Pakistan should obviously ask for formal apology from the people of Bangladesh, and help to establish a truth commission, so that people of the world know what actually happened during that time (Participant-8).

Compensation

Another theme of the interviews was restitution or compensation. Seven participants believe *khotipuron* (compensation) is important as a short-term achievement of any future reconciliation process. They also believe the international community should help to create a fund for compensation, though there is difference of opinion about which particular members of the international community should be involved:

Cold war was partially responsible for the genocide in 1971. International community played a controversial role that instigated Pakistan to commit the crimes. Both Russia and the United States should be largely responsible in managing funds for a future reconciliation process (Participant-9).

On the other hand, Participant-1 thinks the UN should be responsible for managing funds and resources, but the Bangladeshi diaspora around the world could also help.

Participants 3 and 6 emphasized a combined fund, from both local and international stakeholders, to ensure sustainability. They also expressed their frustrations about the status quo, *"I don't know why international community did not offer any help to deliver justice for the war crimes committed in 1971. Their attitude was as if nothing happened"* (Participant-6).

Interestingly, Participants 2 and 4 believe the local collaborators, particularly Bangladesh Jamat-e-Islami should be held responsible for paying compensations to the victims: "*Most of the lootings and vandalism were committed by local collaborators and they should be held responsible for their actions. They should also pay financial compensation*" (Participant-2).

The final theme that emerged in this section is the concept of shaming. Most participants view negative shaming of the Pakistani army and local collaborators with approval, and only two mentioned it will hinder reintegration if the relatives of the alleged perpetrators are stigmatized. Even the isolation of the supporters of Bangladesh Jamat-e-Islami, who were not all involved with the 1971 war, will be counter-productive: *"We will create another tragedy and vicious cycle if we punish the family members of the alleged perpetrators even though they did not commit any crime during the war"* (Participant-4).

In summary, a formal apology from the government of Pakistan and the local collaborators; effective and just distribution of resources as a part of restitution or compensation to the victims; and an effective mechanism to deal with the relatives and supporters of the alleged perpetrators, particularly Bangladesh Jamat-e-Islami, are expected as short term outcomes of any reconciliation mechanism in Bangladesh.

5.1.4. Transformation

Transformation can be realized as the long-term outcome of a reconciliation process. All the participants of this study want 'a closure' of the issues related to 1971 because political parties use 1971 to manipulate the people and their sentiments: *"Closure is essential. All political parties must stop blaming each other on the '71 issue and must find common ground"* (Participant-1).

The most important theme that emerged as a long-term achievement is 'political stability'. All participants want political stability; they especially want to see politicians find common ground to resolve disputes over the issue of 1971 because "*Finding long term solution for the 1971 war crimes is in our national interest"* (Participant-6).

Political stability is seen as a prerequisite for long-term peace:

From its birth, Bangladesh never had political stability for a good period of time. Army-backed government, non-democratic regime, and extreme intolerance among political parties did not allow any national reconciliation process on 1971 (Participant-9).

Participant-10 emphasized the will of the political parties for achieving a long-term solution for 1971: *"Political parties must have genuine political will for the long-term solution of 1971"*. Participant-3 also argued a political consensus is needed to ensure justice:

A unanimous and acceptable political decision, if possible a referendum, is necessary to find a way to solve this long lasting problem. Any one-party decision will jeopardize Bangladesh.

The interviewees also shared their views on how to achieve political stability. Participant-3 suggests major constitutional reforms so political parties abandon high stake politics, in which losers lose everything and the winner wins everything—*"Proportional representation is essential to establish political stability in Bangladesh"*.

Participant-5, on the other hand, went beyond political stability; to him, ensuring justice for all parties is necessary for permanent peace. The Bangladesh government must investigate vengeance attacks committed by their own citizens against innocent civilians after the war ended—*"Some muktijodhdha [freedom fighters] committed revenge killing after the war of '71. Without bringing them to face justice as well, a true reconciliation will not be possible"* (Participant-5)*.

5.2. Inductive Findings

Along with the four deductive themes, there are twelve inductive themes that emerged from the interviews. This section starts with discussing some of the values commonly expressed by the interviewees, followed by a discussion on some other key inductive findings of this research.

5.2.1. Values that emerged from the interviews

5.2.1.1. Respect (Sroddha)

The Bengali word *"sroddha"*, which denotes respect and dignity, is the most commonly expressed inductive value found in this research. Eight of the ten interviewees believe ensuring respect for all parties is needed to set the scene for any

reconciliatory mechanism. "*Sroddha ebong shomman chara kono kichu orjon kora shombhob na*", meaning "*Without ensuring respect and dignity, nothing can be achieved*" (Participant-3).

However, two of the interviewees (Participants 2 and 4) argue local collaborators do not deserve respect: *"War criminals and rajakar [derogatory term for local collaborators] don't have full rights and respects as they do not belong here"* (Participant-4)*.*

5.2.1.2.   Tolerance (Shohonshilota)

The second most discussed value in the interviews is tolerance. While describing some of the golden days of Bengali politics, Participant-10 reminisced:

> *Back in the days, politicians and people of opposing parties had more tolerance than today… Reconciliation cannot be achieved without tolerance and acceptance.*

The extreme political polarization in Bangladesh was blamed on the lack of tolerance. Politicians cannot compromise on any issue: *"People are extremely polarized and have very hostile attitudes towards each other about 1971. Compromise from all political parties is needed"* (Participant-1). Participant-6 suggests, "*The civil society and NGOs could play a major role in bridging the gap here*".

5.2.1.3.   Reconciliation (Shomjhota)

Shomjhota in Bengali refers to a position derived from understanding, compromise and negotiation. It also popularly refers to reconciliation. A number of participants highlighted the need for reconciliation among politicians:

> *The main political parties must step down from their egoistic positions and take a stand for Bangladesh's national interest. Only then is reconciliation possible* (Participant-9).

Participant-6 noted older leaders are ill prepared for reconciliation:

> *Sheikh Hasina, Khaleda Zia and other veteran leaders in main political parties are the real obstacle to proper 'shomjhota' [reconciliation]. We*

need fresh blood and the young generation to find a forward-looking approach for the future of Bangladesh (Participant-6).

Participant-3 used the contrasting examples of Vietnam and Sri Lanka to caution Bangladesh. In Vietnam, prolonged stability has developed after the terrible war because of political compromise. In Sri Lanka, the Sinhalese and Tamil failed to reach any political compromise and began a civil war.

5.2.1.4.   Transparency (Shochchota)

Honesty, integrity and transparency are needed for any future reconciliation process, but corruption plagues Bangladesh today. Participiant-3 mentioned the scandals around the current International Crimes Tribunal Bangladesh showing major collusion between the government, judges and prosecutors. These pose a threat because "*Anything based on lies, deceptions, and dishonesty will not lead us towards reconciliation*" (Participant-3). Participant-1 believed this was symptomatic of a larger corruption problem:

> *Bangladesh was once called a 'bottomless basket' because of wide spread corruption. So it's inevitable that it will be challenging to ensure transparency in the selection process of judge, prosecutors and other officials for the [war crimes] tribunal* (Participant-1).

5.2.2.   Other inductive findings

5.2.2.1.   Non-politicization

A majority of the participants viewed politicization as a problem: "*Politicization is creating all problems. The process must be independent and free from political influences*" (Participant-3). This was echoed by Participant-6, who thinks that independence of the process is mandatory, and "*International community must ensure Bangladesh government does not interfere in the trial process.*"

5.2.2.2.   Multiple narratives

Participants have multiple narratives about the 1971 war. These narratives differ regarding the contribution of Sheikh Mujibur Rahman, the founding father of Bangladesh and the head of Bangladesh Awami League (BAL); Ziaur Rahman, a key military

commander during the war and the founder of Bangladesh Nationalist Party (BNP); and the role of India.

Four participants (Participants 2, 4, 9 and 10) believed the contribution and role of Sheikh Mujibur Rahman during the war is indisputable. According to this narrative, there should not be any doubts about his contribution, *"Bangabandhu spent his entire life for the sake of Bangladesh. Without his call for independence, Bangladesh could never have achieved liberation from Pakistan"* (Participant-4). These participants thought the current BNP leader's disregard for Sheikh Mujib, exemplified by her celebrating her birthday on the anniversary of his death, was despicable.

The others, however, contended that Ziaur Rahman, the founder of Bangladesh Nationalist Party (BNP), deserved a larger chunk of the credit. He was a military leader and one of the sector commanders during the 1971 war. So, for example, Participant-3 mentioned: *"I clearly remember that Ziaur Rahman declared the independence of Bangladesh. I heard it myself. There is no reason to doubt it".* This participant also blamed Sheikh Mujib because:

> *After the war, we gave a blank cheque to Sheikh Mujib but he completely failed to utilize it. He had the greatest opportunity to take reconciliatory initiatives and rebuild the nation. But his authoritarian leadership and failed governance from 1971 to 1975 created real problems for Bangladesh* (Participant-3).

The final narrative dispute is about the role of India during the war. Some participants believed the entire war was planned and instigated by India. India always wanted to *"break up the unity of Pakistan"* and *"establish itself as the regional superpower"* (Participant-8). India also wanted to capture Bangladesh's market and see a "*subservient state*" at its border (Participant-7). Other participants though viewed India as a saviour that gave Bangladeshi refugees shelter for nine months and finally intervened against Pakistan to end the war.

5.2.2.3. Death sentences

Two participants expect death sentences for the alleged perpetrators. Both of them described the horrendous actions of 25th March 1971, when the Pakistani military

killed civilians indiscriminately across the capital of the then East Pakistan and signalled the start of the war, as justification for the sentences. According to them, the local Bengali collaborators were more responsible than the Pakistani soldiers in committing the massacre. *"If they are found guilty, we must execute their death sentences. It will help us to end impunity and ensure justice for the victims"* (Participant-2). Participant-4 also thinks that the government should not hesitate to implement death sentences. Of course, the participants who viewed the alleged perpetrators as innocent vehemently opposed the death sentence.

5.2.2.4.   Causes of the war

Understanding the root causes of the war is very important for the future reconciliation process. The participants mentioned the following causes for the war.

5.2.2.4.1.   Two-nation theory

Participant-1 thinks the root cause of the 1971 war dates back to the creation of Pakistan and India in 1947, when the British left after centuries of colonisation. The two-nation theory *"was just a theoretical and emotional decision, but there was no practical basis to it"* (Participant-1). Participant-5 also views the two-nation theory as a "*failed experiment*" in South Asia.

5.2.2.4.2.   Cultural differences

Even though Bengal (the current Bangladesh) was annexed with Pakistan in 1947, cultural differences between the Bengali and Urdu-speaking Pakistanis were huge. *"The people of Bengal were more nationalistic and moderate in their religious beliefs than the rest of Pakistan"* (Participant-1). This led the West Pakistani rulers to adopt policies that were widely unpopular in the then East Pakistan. Ultimately, cultural differences contributed significantly to the war.

5.2.2.4.3.   Language policy

In 1952, the then West Pakistan wanted to impose Urdu as the state language on the Bengali speaking majority population of the East. But the entire population of East Pakistan reacted angrily, and though the West Pakistani leadership backed down, the effort to impose this language policy was counter-productive to building relationships and

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developing trust. *"Pakistan's imposition of Urdu as the state language triggered the nationalistic spirit of the Bengalis"* (Participant-5).

5.2.2.4.4. *Political and economic discrimination*

A number of the participants believe political discrimination and economic disparity between West Pakistan and East Pakistan contributed to the war. *"The political elite in West Pakistan always tried to suppress leadership developing from East Pakistan. The then Pakistan government also failed to ensure economic and structural development in East Pakistan* (Participant-4)*.* Participant-1 disagrees: *"Weakness in governance rather than political and economic deprivation"* was the key cause for the unrest leading up to the war.

5.2.2.4.5. *Military rule*

The military rule in West Pakistan was a great obstacle to democracy in the region. Nepotism, intolerance and mismanagement of the then Pakistani military badly influenced civil political parties as well. As a result, *"Pakistan's military leadership completely ignored the result of the 1970 national election [which saw Sheikh Mujib win the Presidency of united Pakistan]"*, which angered East Pakistanis (Participant-5). The military's subsequent crackdown completely burnt the bridges between the two parts of the then united Pakistan.

5.2.2.4.6. *Role of India*

A number of participants blamed India for its controversial role in the 1971 war. Echoing Participants 7 and 8, Participant-6 said,

> *India always wanted to separate East Pakistan from West Pakistan for its geopolitical interests and [ambitions of] regional domination. India's role in instigating the war, training the Bengali guerrillas, and supporting the people of East Pakistan in every possible way is well known in Bangladesh.*

Participant-4, however, believes India's intervention saved thousands of lives from the massive atrocities of the Pakistani army. In fact, *"The nine months war could have been shortened and many lives could have been saved if India intervened earlier"*

(Participant-4). Participant-1 also thinks that India played a positive role in the liberation war, particularly by sheltering millions of refugees and training the freedom fighters.

5.2.2.4.7. *Geographical location*

One participant identified that the geographical distance between East and West Pakistan contributed significantly to the conflict. East Pakistan (currently Bangladesh) did not have any direct border with West Pakistan. This physical distance "*affected relationships, communication and trust building between the two sides*" (Participant-6).

5.2.2.5. **Doubts on death tolls**

Participants expressed serious doubts about the death toll during the war. Some argued that death toll was approximately 3 hundred thousand, not 3 million. *"When journalists asked how many people died after the war, Sheikh Mujib mistakenly said 3 million instead of 3 lakhs [3 hundred thousand]"* (Participant-3). Participant-1 echoed this, adding Sheikh Mujibur Rahman never bothered to correct the mistake, leading him to seriously doubt "*whether the death toll is even 3 lakhs*". According to Participant-5, after the war there should have been detailed documentation and academic research on how many people died.

In contrast, Participants 4 and 2 think it is unimportant whether the death toll was 3 million or 3 hundred thousand. *"People's lives are more important than just counting numbers"* (Participant-2). Participant-4 also thinks, *"It does not matter how many people died out of 7 million people at that time. Any number, whether it is 3 million or 3 lakhs [3 hundred thousand], is still huge"*.

5.2.2.6. **Blame game**

Blaming others is common practice in Bangladeshi politics. Two participants believe that closure about 1971 is not going to come in the near future because of this blame game. Participant-6 accuses the government political party, Bangladesh Awami League (BAL), for the blame game: *"Awami League will always keep the issue of 1971 alive so they can serve their political interests [by blaming the opposition]."* Participant-9, on the other hand, accuses the opposition political parties: *"BNP and their allies never*

addressed the issues of 1971. They always blamed Awami League for not taking any initiatives."

5.2.2.7. *Vision for future Bangladesh*

When envisioning the future of Bangladesh, the participants draw three different pictures.

A number of participants (Participants 2, 4, 9 and 10) envision Bangladesh as 'secular and socialist', which they commonly refer to as *"mukti judhher chetona"*—the spirit of the liberation war (Participant-2). According to them, "*Freedom fighters sacrificed their lives for a secular golden Bangladesh in which people from all faiths, creed and color can flourish and prosper"* (Participant-4).

Some participants (Participants 3 and 5) see Bangladesh as progressive and self-sufficient. In this narrative, *"The future of Bangladesh rests on the growth of the private sector and rise of the general public, particularly the youth. I see a progressive, agro-based, and moderate Bangladesh in the future"* (Participant-3).

The other theme—"moderate Islam"—represents the third vision for Bangladesh. Participants 6, 7 and 8 view Bangladesh as a peace loving and moderate Muslim state. According to this paradigm, *"Majority of the people in Bangladesh are moderate Muslims. There is no place of secularism or socialism or extremism in the history of Bengal"* (Participant-6).

In summary, both the deductive and inductive findings addressed the two crucial elements of the research questions, which are the values and their application for the future reconciliation process in Bangladesh. The findings also exposed some key issues of contention, such as reasons behind the genocides, the polarized war narratives and the differing visions for Bangladesh.

Chapter 6.

Analysis

This chapter analyses the findings from which a value foundation for a future reconciliation processes is explored. Themes that emerged from the deductive and inductive findings are examined, with particular attention given to the four deductive variables that address the second part of research question (*How are these values operationalized in the form of participation, empowerment, reintegration, and transformation?*). In order to answer the first part of the research question (*What are the 'values' needed for a future reconciliation process in Bangladesh?*), this section also discusses the inductive values that emerged from the interviews. The final section explores the possible options available to Bangladesh to move forward. Different restorative models employed to address transitional contexts are discussed. The section ends with a proposed model for Bangladesh adapted by this researcher from the work of Kerry Clamp (2014).

6.1. Analysis

The analysis of this section is based on the literature review, and deductive and inductive findings of this research. Themes that emerged from the four process values in Rwandan *gacaca* courts, Cambodia's ECCC and the ten interviews are highlighted.

6.1.1. Deductive Analysis

This section discusses the emergent themes, issues and values from the deductive variables used in the qualitative interviews. The transitional contexts of Rwanda, Cambodia and Bangladesh form the core of the discussion.

6.1.1.1.   Participation

Participation demands the involvement of all stakeholders, including both the victims and the perpetrators. The challenge, in transitional settings, is defining who the stakeholders are and their stake in the process. In all three countries, Rwanda, Cambodia and Bangladesh, a large number of people participated in the genocides, countless people were collaborators, thousands of people were bystanders, and millions were victims (Table 6.1). This makes it extremely difficult to draw a line between the victims and offenders as "the boundary between victims and perpetrators is blurred" in transitional societies (Clamp, 2014, p. 36).

In the case of Rwanda, there is a tendency to paint all Hutus as *génocidaires* (those who committed genocide) and Tutsis as victims. This generalization is problematic because there are many accounts of Hutus who saved the lives of many Tutsis, as well as numerous reports of Tutsis participating in revenge attacks after they took control of Rwanda (Cobban, 2002a; Human Rights Watch, 2011; Tiemessen, 2004).

During the Khmer Rouge regime, from 1975 to 1979, an artificial social class was created in the name of "Old People" and "New People" (Etcheson, 2005, p. 202). 'Old People' were allowed to remain in the cities, whereas 'New People' were forcibly relocated to the most disadvantageous areas of Cambodia. Given the opportunities and prestige associated with such a stance, a large number of 'Old People' Cambodians sided with the Khmer Rouge during the genocide. But documents show there were nonetheless many 'Old People' Cambodians who did not support the brutal regime (Etcheson, 2005). So relying on popular perception to paint all 'Old People' Cambodians as collaborators of the Khmer Rouge regime is disingenuous.

Table 6.1.   Key stakeholders in post-genocide Rwanda, Cambodia and Bangladesh, based on the literature review and interviews

Issue	Rwanda	Cambodia	Bangladesh
Major Victims	Tutsi	New People and civilian population of Cambodia	*Muktibahini* (freedom fighters) and general civilian population of Bangladesh
Other Victims	Hutu	Old People	*Biharis* and minority population
Major Alleged Perpetrators	Hutu	Khmer Rouge leaderships and ex-Khmer Rouge soldiers	Pakistani soldiers and local collaborators
Other Alleged Perpetrators	Tutsi and Rwandan Patriotic Front (RPF)	Old People	*Muktibahini* (freedom fighters)
Key Political Actors	Rwandan Patriotic Front (RPF)	Cambodian People's Party (CPP)	Bangladesh Awami League, Bangladesh National Party and Bangladesh Jamat-e-Islami
Key International Stakeholders	Uganda, German, Belgium, French United States	Vietnam, China, Thailand, Russia (USSR), United States	India, Pakistan, Russia (USSR), United States
UN involvement	ICT	ECCC	None

In Bangladesh, the situation is more convoluted than Rwanda and Cambodia because, unlike those countries, Bangladesh was in a state of war in 1971—fighting a civil war with Pakistan in the midst of a broader war between India and Pakistan. So identifying the perpetrators, victims, and collaborators is an exceptionally challenging task for Bangladesh, if only because of the sheer number of people from various nationalities involved.

Political polarisation further muddies the issue. Two of the interviewees believed a minority of political parties in the then East Pakistan politically opposed 1971's liberation war out of their "patriotic zeal" to save the unity of West and East Pakistan (Participant-7). These interviewees are emphatic in their denial that these political parties were involved in any war crimes. In contrast, other participants portrayed all the people who opposed the war as *"rajakar"* (Participant-4), a derogatory term for collaborators guilty of horrendous crimes. Yet another group of participants (like Participant-8) believed the *muktibahini*—Bangladeshi freedom fighters who are popularly

viewed as saviours—also committed war crimes during and after the war as part of revenge killing, citing examples of attacks on civilian populations, such as the *Bihari* minorities (Urdu speaking Pakistanis living in Bangladesh). Bringing these *muktibahini,* who are worshipped as heroes in Bangladesh, to justice is indeed a daunting task. This is why defining the stakeholders and their stake in the process is fraught with difficulty in Bangladesh.

Due to this narrow and contested distinction between victims and offenders, the necessity of involving a neutral third party, such as the UN, to identify the victims and perpetrators is of paramount importance in Bangladesh. In the case of Rwanda and Cambodia, the United Nations, through the International Criminal Tribunal for Rwanda (ICTR) and the Cambodian Extraordinary Chambers in the Courts of Cambodia (ECCC), directly participated. In Bangladesh, though, there has been no official involvement of the United Nations. It is therefore significant that nine of the ten interviewees want UN involvement in addressing war crimes in Bangladesh, finding in the international organisation a trusted partner to resolve the complex problem (Table 6.2). Although the participants could not fully articulate how the UN involvement would be operationalized, some participants suggested Bangladesh should specifically seek help from the UN's International Criminal Court (Participants 3, 6, 9, 10).

The reason for such faith in the UN possibly stems from a multitude of factors. Firstly, the UN has a good reputation among Bangladeshis, because the country is the biggest contributor of peacekeepers to the UN. In the last two and a half decades, 1,07,354 members of Bangladesh's armed forces have participated in 54 UN peacekeeping missions (Armed Forces of Bangladesh, 2013). As a result, families of these peacekeepers across Bangladesh were financially benefited, and learnt to view the UN as a benevolent force. Secondly, most Bangladeshis are politically conscious about national and international affairs, so when the war crimes issue started grabbing global headlines, they might have felt a neutral international force was ideal to overcome the crisis. Thirdly, Bangladesh, India and Pakistan are now three sovereign states with active membership in the United Nations. This makes the UN the most feasible forum for these sovereign countries to negotiate and settle the concerns of 1971. Finally, widespread disintegration of faith in the domestic judicial system, coupled with notorious

scandals surrounding the International Crimes Tribunal Bangladesh, also possibly played a crucial role in swinging public opinion (Silva, n.d.; World Justice Project, 2014).

At the regional level, the majority of the participants highlighted India and Pakistan's involvement. This is because: a) at the end of the war, the 195 identified war criminals were all Pakistani soldiers; and b) from December 4 to December 16, 1971, the war morphed into a direct confrontation between Pakistan and India on Bangladeshi soil. In fact, on December 16, 1971, Pakistan surrendered to India, not to Bangladesh. So without active involvement of these key stakeholders, justice will be elusive (Participants 3, 5, 6, 7, 8, 9 and 10).

Table 6.2.   **Key stakeholders' opinion on participation in Bangladesh**

Participants	Believe in inclusive and respectful participation	Want India and Pakistan's involvement	Want only Bangladeshis to be involved	Want UN involvement	Want ICC involvement
Participant-1	✓			✓	
Participant-2			✓	✓	
Participant-3	✓	✓		✓	✓
Participant-4			✓		
Participant-5	✓	✓		✓	
Participant-6	✓	✓		✓	✓
Participant-7	✓	✓		✓	
Participant-8	✓	✓		✓	
Participant-9	✓	✓		✓	✓
Participant-10	✓	✓		✓	✓

6.1.1.2. *Empowerment*

Like participation, the value of empowerment has varying interpretations in different contexts. But the common themes that emerged from Rwanda, Cambodia and Bangladesh are safety, truth, and accountability. Among these, finding the truth seems to be the most crucial, albeit highly challenging, step.

Transitional societies have polarized narratives of the conflicts. People have different versions of truth depending on which side they support—the victorious and the

defeated seldom agree on the same story. According to Bianchi (1994, cited from Llewellyn and Howse, 1998, p. 60), "…truth is always someone's interpretation of reality". This is evident in the polarized narratives surrounding Bangladesh's 1971 war. Some interviewees believe the local collaborators committed the most egregious of crimes (Participants 2 and 4); others argue the Pakistani armed forces were mostly responsible for the genocides (Participants 3, 7 and 8); and one participant thinks that all parties, including Pakistan and India's militaries, and the *muktibahini* (freedom fighters of Bangladesh), were responsible for the atrocities committed during the war (Participant 6).

Obviously it is impossible for all the conflicting narratives to be true, and this was recognised by the participants, who all expressed the need to know what exactly happened during the nine-month war. In Rwanda and Cambodia, establishment of ICTR and ECCC boosted the documentation process of the genocides, which ultimately enabled many to find a truth they could all share. Civil society organizations, such as Documentation Center of Cambodia, an NGO partner of ECCC, began to re-write and preserve the documents of Cambodian history (DC-Cam, 2014). Given Bangladesh has a remarkable concentration of civil society organisations (Siddiquee and Faroqi, 2009), their involvement may become critical to ensuring empowerment in the reconciliation process.

Another significant issue in terms of empowerment is the protection of the victims and survivors during the transitional period. In Rwandan *gacaca* courts, the most vulnerable stakeholders, who needed special security, were genocide-related rape cases. Due to the openness of the courts and the great degree of community participation, many sexual assault victims ended up feeling re-victimized (Human Rights Watch, 2011). In Cambodia, 'New People' refugees, returning to the urban homes they had been banished from by the Khmer Rouge, required protection from the state (Eastmond, 2010; Jansen, 2006; Malkki, 1995). In Bangladesh though, politicization of the trial has meant some interviewees expressed security concerns for the opposition political parties, particularly members of Bangladesh Jamat-e-Islami (Participants 1, 7 and 8). The difference from the Rwandan and Cambodian contexts is that the people who are being identified as the most vulnerable in Bangladesh are not the principle offenders, instead most are alleged collaborators (Table 6.3).

Table 6.3.   Truth and safety in Rwanda, Cambodia and Bangladesh

Issue	Rwanda	Cambodia	Bangladesh
Discovering Truth	ICTR and *gacaca* courts	Documentation by D-Cam	Truth is heavily contested but all want to know the truth
Security concerns	Sexual assault victims	Refugees (New People)	BJI supporters and minorities

6.1.1.3.   *Reintegration*

Reintegration in transitional contexts involves apology, reparations or compensations, and reintegrative shaming—censuring of the act while supporting a forward movement. In Bangladesh, apology and compensation are very challenging issues.

Gacaca laws and ECCC laws were clear about the role and nature of apology (ECC Law, 2004; *Gacaca* Law, 2004). This made apology—from the Hutus in Rwanda, and the Khmer Rouge leaders in Cambodia—a prerequisite that has already been achieved in the *gacaca* courts and ECCC in many cases. In contrast, apology is heavily contested in Bangladesh. Even though all the interviewees believe a formal apology from Pakistan is absolutely necessary, they are divided about local collaborators and Bangladesh Jamat-e-Islami (BJI). A number of them want a formal apology from the local collaborators, particularly from BJI (Participant 1, 2, 4 and 10). But Participants 7 and 8 saw no need for BJI's apology, since they were certain of its innocence. Interestingly, one interviewee wants a formal apology from the United States government for supporting Pakistan during the genocide (Participant-4). This is an indication that reintegration through apology cannot happen before truth is first established in Bangladesh.

The other vital issue of this phase is compensation. Both in Rwanda and Cambodia, there was considerable dissatisfaction among the stakeholders regarding reparations. Many people had participated in the *gacaca* courts and ECCC expecting sizeable restitutions, but most of them came away empty-handed. In the *gacaca* courts, lack of funding and the perpetrators' acute poverty crippled the entire compensation mechanism (Kirkby, 2006). Nevertheless, some victims were satisfied because community service was included as a part of sentencing (Cobban, 2002b), ensuring

perpetrators worked alongside their own victims to contribute to the communities they destroyed (Kirkby, 2006). Like the *gacaca* courts, ECCC in Cambodia also largely failed to address both individual and collective reparations, much to the dissatisfaction of the victims (Sperfeldt, 2012). After their reparation appeal was rejected by the ECCC, Chum Mey, one of the frustrated victims of the Khmer Rouge regime said, "We are victims two times, once in the Khmer Rouge time and now once again" (Leyh, 2012, p. 405).

For Bangladesh, none of the interviewees were clear about the kind of compensation that may be needed, perhaps because the participants knew little about the intensity of 1971's damage. Despite their palpable passion about 1971, a number of the participants noted they had not even been born at that time. Nevertheless, all of them understood a reconciliation process is expensive, and unanimously agreed that financial assistance from the international community is needed for any reconciliatory mechanism in Bangladesh. Some participants also believed that the local collaborators should pay restitution for their involvement in the war. Whatever the source of the fund though, this clearly establishes the decided presence of compensation in Bangladesh's future reconciliation process.

Table 6.4.   Reintegration in Rwanda, Cambodia and Bangladesh

Issue	Rwanda	Cambodia	Bangladesh
Apology	*Gacaca* Law 2004: Article 54 Reduced sentence	ECCC Law	From Pakistan and local collaborators
Reparations/Compensation	Lack of funds Community service	Collective and individual reparations	International community and local collaborators

6.1.1.4.   Transformation

Transformation is a long-term goal, which includes ending the culture of impunity, and establishing a culture of accountability (Doung and Ear, 2009). In Rwanda, ICTR, *gacaca* courts and the Rwandan criminal justice system tried to hold Hutus accountable for their crimes during the genocide, but failed to do the same to Tutsis for the crimes committed in the guise of revenge attacks. Rwanda also systematically ignored holding the Rwandan Patriotic Front (RPF) accountable for their crimes against the Hutus from 1990 to 1994 (Human Rights Watch, 2011; Waldorf, 2006). Similarly in Cambodia,

ECCC is only trying a few select Khmer Rouge leaders, while ignoring the rest of the Khmer Rouge apparatus, in order to ensure "symbolic justice" (Menzel, 2007, p. 224). This does not bode well for ending the culture of impunity (Table 6.5). Their apparent failures are an indication that transformation will be a difficult road for Bangladesh too.

All the interviewees highlighted political stability as the foremost long-term achievement Bangladesh needs to aim for, because "Bangladesh never had political stability for a good period of time" (Participant-9). That is possibly why the country has failed to find a process to heal the festering wounds of 1971 in the last four decades. In Bangladesh, holding all parties accountable for their crimes has great significance for a future reconciliation mechanism because these would be the 195 identified Pakistani war criminals, collaborators, and any other groups involved with genocide, including, according to Participant-8, the freedom fighters of Bangladesh. Without political will, this immensely challenging task will never be undertaken, and without political stability any attempts will not be successful.

Table 6.5.   Nature of impunity in Rwanda, Cambodia and Bangladesh

Issue	Rwanda	Cambodia	Bangladesh
End the culture of Impunity	Hutus, RPF crimes from 1990-1994	Senior leaders of Khmer Rouge regime and all others responsible for genocide	195 identified war criminals, and the collaborators

6.1.2.   Inductive Analysis

The following section discusses the inductive findings from the qualitative interviews and links them to existing literature, especially those discussing Rwandan *gacaca* courts and Cambodia's ECCC.

6.1.2.1.   *Core values for a future forward-looking process*

The four key inductive values that emerged from the qualitative interviews form the 4 Ss, the core values of a future reconciliation process—respect (*sroddha*), tolerance (*shohonshilota)*, reconciliation (*shomjhota)*, and transparency *(shochchota)*. Even though the interviewees differed on a wide range of issues, when asked about the guiding principles for a forward-looking process in the future, almost all of them offered

similar values. Pranis (2007) observed in her work that when participants were asked what characteristics they want to see in a restorative process, there were marked similarities in their answers. The safe space provided by the interviews motivates participants to be their "best self"; thus, they espouse almost universal values (Pranis, 2007, p. 63). From their spontaneous participation, and eagerness to share their opinions, it is evident the interviewees genuinely want justice. It is assumed that out of their 'best self' and authentic intention, participants want to see the values of *sroddha*—respect to all parties (Participant-3), *shohonshilota*—tolerance towards each other (Participant-10), *shomjhota*—reconciliation for a united Bangladesh (Participant-9), and *shochchota*—transparency in everything (Participant-10) as the guiding principles for the future reconciliation process of Bangladesh.

6.1.2.2. Hybrid models: An exploration of delivering justice

Though both the Rwandan *gacaca* courts and the ECCC of Cambodia are hybrid models of delivering justice, they are still different at their roots. *Gacaca* courts blend indigenous traditions with a focus on confession, plea-bargains, compensation, community service, and forgiveness (Cobban, 2002a; Purdon, 2008; Waldorf, 2006). On the other hand, ECCC is a hybrid model because it combines international criminal laws and local Cambodian laws.

Bangladesh does not have any existing popular community-based local practice similar to the *gacaca* courts of Rwanda. Before British colonization, a community based justice system—the *panchayat* system—was practiced in many parts of South Asia (Encyclopaedia Britannica, n.d.). Although those have now become extinct in Bangladesh, some existing local practices, like *shalish*, village courts, community policing and indigenous justice in the Chittagong Hill Tracts, remain as very community-oriented processes of doing justice (Asadullah, 2013; Roy, 2004; Roy, 2005). A hybrid model combining international criminal laws, through the involvement of the United Nations and International Criminal Courts, along with local traditions, such as indigenous justice system or *shalish,* could play an important role here. The current outlook for this does not seem too optimistic though because, apart from the domestic political hurdles, there are widespread doubts about hybrid models in the literature too—"linking the two

systems tends to undermine the positive attributes of the informal system" (Waldorf, 2006, p. 425).

6.1.2.3. *State-based initiatives*

Both Rwandan *gacaca* courts and Cambodia's ECCC are state-based initiatives. Since the state is usually the culprit when massive crimes are committed, state-based initiatives in transitional settings are usually viewed with suspicion (McEvoy et al., 2006). However, inclusion of community elders, popularly known as *'inyangamugayo'* (literally those who detest disgrace), and community members, along with international stakeholders, improved the credibility of state-based initiatives in Rwanda (Daly, 2002). In Cambodia, the involvement of international judges, prosecutors and investigation officers, alongside local judges and lawyers, strengthened the credibility of ECCC. In Bangladesh, most of the interview participants mention the necessity of UN involvement, rather than state-involvement. The UN is expected to ensure due process, fair trial and international standards. It can also increase the credibility of the Bangladesh government, thus paving the path for greater reliance on the state in the future.

6.1.2.4. *Power dynamics*

Creating a balance of power among different stakeholders in transitional communities is crucial because monopoly of one particular group over another is a breeding ground for injustices, and even genocides. In the case of Rwanda, it was the Hutus majority's supremacy over the Tutsi minority; in Cambodia, the Khmer Rouge regime's dominance over all other social and political parties; and in the then East Pakistan, it was West Pakistan's monopoly over power. Ironically, that same monopoly of power exists in the current governance structures of Rwanda, Cambodia and Bangladesh. Cambodian People's Party sees itself as the "the liberator and patron of Cambodian society" (Chea, 2005, p. 50), a feeling echoed by the Rwandan Patriotic Front and Bangladesh Awami League, who both see themselves as the saviours of their respective nations. This proves all three nations are still a considerable distance away from true healing.

6.1.2.5.　　Role of punitive punishment

Some of the world's most despicable crimes were committed in Rwanda, Cambodia, and Bangladesh. The ghosts of genocide still haunt people in these countries, making victims harbour a keen desire for harsh punishments. The national courts of Rwanda could sentence Category-1 offenders, including those who planned and organized the genocide, to life imprisonment or the death penalty (Tiemessen, 2004). On the other hand, in Cambodia, maximum punishment under the ECCC tribunal is life imprisonment (Doung and Ear, 2009). For Bangladesh, two vocal interviewees were adamant only "death sentences" could deliver justice to the victims and martyrs of the liberation war (Participants 2 and 4). It is interesting that non-restorative sentencing like the death penalty is expected from a future reconciliation process in Bangladesh, even though most of the alleged perpetrators were not the principle force behind the genocide—they are accused of collaborating with Pakistani soldiers during the war. However, other participants (Participants 7 and 8) vehemently denied the allegations against the accused local collaborators, and termed the current ICTB a process of "judicial killing".

6.1.2.6.　　Sufficient funding

Lack of funding is a huge impediment to initiatives in transitional settings, because such trials are very costly. "The very nature of these crimes makes investigation of the facts surrounding them more difficult to prove and more expensive to process" (Leyh, 2012, p. 406). Lack of proper funding also affected the entire compensation mechanism, leading to complaints from many Rwandan and Cambodian victims. The small number of cases the Cambodian ECCC took on is also due to a lack of resources. In Bangladesh, the magnitude of war crimes, and the fact that it occurred over forty four years ago, mean the country needs a large amount of money and logistical support to unearth adequate amount of evidence needed for the trials. Most interviewees believed the financial and logistical support should come from national and international stakeholders.

6.1.2.7.　　Swiftness of the trials

'Justice delayed is justice denied' is poignantly true in transitional settings. In Rwanda, the international community responded quicker than in Cambodia and

Bangladesh. Rwandan genocides were committed from April to July 1994, killing more than 800,000 Tutsi, approximately ten percent of the total population (Drumbl, 2000; Tiemessen, 2004). A few months after the genocide, in November 1994, the United Nations established International Criminal Tribunal for Rwanda (ICTR) through UN Security Council Resolution of 955. However, the ICTR failed to process the trials fast, so Rwanda adopted *gacaca* courts in 2000. By the time Rwandan President Kagame declared the official closure of *gacaca* courts on June 18, 2012, they had already tried 2 million people (Republic of Rwanda, 2012).

In Cambodia, around 1.7 million Cambodians, one fourth of the entire population, were killed from 1975 to 1979 (Chea, 2005; Doung and Ear, 2009; Eastmond, 2010). The international community and the government of Cambodia responded after almost thirty years of the genocide. In July 2006, the Extraordinary Chambers in the Courts of Cambodia (ECCC) was established. Article 33 (new) of ECCC Law ensures "expeditious" trials (ECCC Law, 2004), but Leyh (2012) argues the trials under the ECCC are protracted ones that risk violating the defendants' right to speedy trials.

In Bangladesh, war crimes were committed from March to December 1971. Almost 45 years have passed, and yet no international bodies have taken any major initiative to address this genocide. A highly controversial, and locally formed, International Crimes Tribunal Bangladesh started in 2010, with hardly any international supports and oversights (D'Costa, 2013; Linton, 2010). This apathy has generated anger and frustration among the populace (Participant-6).

6.1.2.8. *Polarized narratives*

Differences in ethnicity, identity, ideology, and social class fed the conflicts in Rwanda, Cambodia and Bangladesh. Even though the genocides were committed decades ago, polarization still exists in these countries, albeit in different forms. These days, the polarization usually centres on who should be blamed for the genocides, why they happened, and how to heal the wound and move forward.

When discussing the 1971 war in Bangladesh, the interviewees were polarized over three core issues. Firstly, they were divided about who the perpetrators of the genocide were. Some view the Pakistani army and leadership, along with their local

collaborators, as the only guilty parties responsible for genocide (Participants 2 and 4). Others argue that Indian soldiers and the *muktibahini*, freedom fighters of Bangladesh, also carried out criminal atrocities during and after the war (Participants 7 and 8). Secondly, there appears to be serious debates about the death toll of the war. Some believe the death toll is three million, but others argued that Sheikh Mujibur Rahman, the father of the nation, had mistakenly said three million instead of three hundred thousand. Finally, there is polarization around the process of delivering justice as well. Two participants completely supported the harsh punitive punishments of the current International Crimes Tribunal Bangladesh (Participants 2 and 4). In contrast, two other participants severely criticized this policy, terming it "vengeance" and "judicial killing" of opposing political parties (Participants 7 and 8). In Bangladesh, over the years, these polarized narratives have become institutionalized in the form of political parties—thus, there are extreme differences between different political parties, particularly between Bangladesh Awami League (BAL), Bangladesh Nationalist Party (BNP), and Bangladesh Jamat-e-Islami (BJI).

6.2. Potential for a value-based model

A number of restorative models have been developed in response to genocides, war crimes and large-scale human rights violations. This section discusses three models based on restorative justice that have been developed for use in transitional settings: TARR model, relation-focused model, and value-focused model.

6.2.1. TARR Model-1

TARR Model-1 is based on four values—truth, accountability, reparation, and reconciliation. It was developed by Parmentier (2003), who argue that these four issues are crucial in delivering transitional justice: discovering and knowing the *truth* of what happened; holding people *accountable* for their actions during the conflicts; paying *reparations* to the survivors; and finally, moving towards unity and *reconciliation* from the divided past (Parmentier, 2003; Parmentier and Weitekamp, 2007, p. 131).
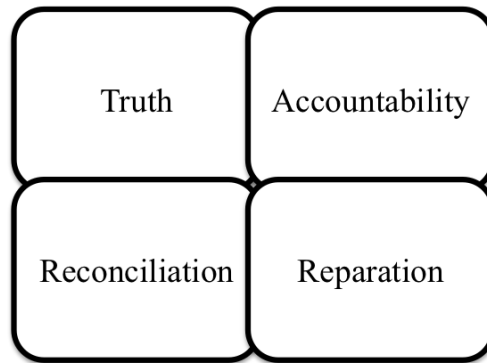
Figure 6.1.   TARR Model-1 (adapted from Parmentier and Weitekamp, 2007)

Subsequently, Parmentier and Weitekamp (2007) added two more values and developed TARR Model-2. Their work in Bosnia influenced them to incorporate trust and trauma in this second model. To them, "dealing with trauma" of the victims and "building trust" among all stakeholders are crucial for a successful transitional mechanism (Parmentier and Weitekamp, 2007, p. 131). However, this model does not explicitly mention the gradual steps and process in which a transitional community can move from its divided past towards reconciliation.

6.2.2.   Relation-focused Model
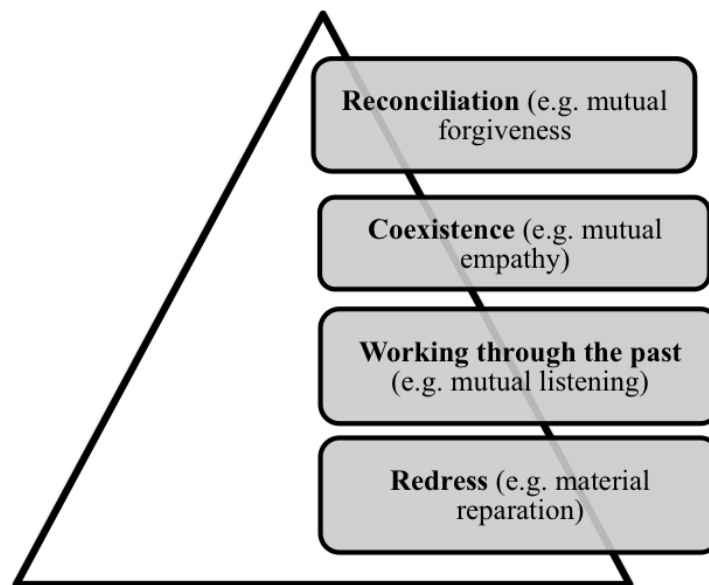
Figure 6.2.   Relation-focused model (adapted from Rohne, Arsovska, and Aertsen, 2008)

Another way to address transitional contexts is through the relation-focused model developed by Rohne (2006). In this model, reparation, listening, empathy and forgiveness are the four values that have been emphasised. These values are also connected to four relational positions, which are mutual redress, working through the past, coexistence, and reconciliation (Rohne, 2006; Rohne, Arsovska, and Aertsen, 2008). This model highlights the restoration of relationships in each level, from redress to reconciliation. However, this does not describe the process in detail, nor how each phase is operationalized and contextualized in transitional settings.

6.2.3.   Proposed value-based model for Bangladesh

Based on the four process values of Clamp (2014), this study proposes a process-centric model for Bangladesh's transitional context, which is based on the values of participation (Clamp, 2014, p. 33 used 'engagement' instead of 'participation'), empowerment, reintegration, and transformation. In this model, each phase strengthens the next phase, i.e. participation promotes empowerment and empowerment leads towards reintegration, etc. (Figure 6.3).

Emergent Outcomes **PMC and RJ Values**

Political stability
Closure
Positive peace

**Phase 4
(Transformation)**

PMC (Compassion, Spirituality, Mindfulness)
RJ (Healing, Mercy, Forgiveness, Amnesty)

Formal apology
Repentance
Compensation/Reparation

**Phase 3
(Reintegration)**

PMC (Interconnectedness, Responsibility)
RJ (Reintegrative shaming, Apology, Repentance)

Finding truth
Acknowledgement
Confession

**Phase 2
(Empowerment)**

PMC (Cooperation, Empathy)
RJ (Empathy, Active listening, Accountability)

Participation of all stakeholders
Negative peace

**Phase 1
(Participation)**

PMC (Equality, Nonviolence, Patience)
RJ (Respect, Non-domination, Self space, Volunteerism)

4 Ss (Core Values)

Figure 6.3.   Proposed value-based model for Bangladesh

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6.2.3.1. Key Features

There are five key components of this proposed model a) core values; b) key phases; c) emergent outcomes; d) PMC and RJ values; and e) impact levels.

6.2.3.1.1. <u>Core Values</u>

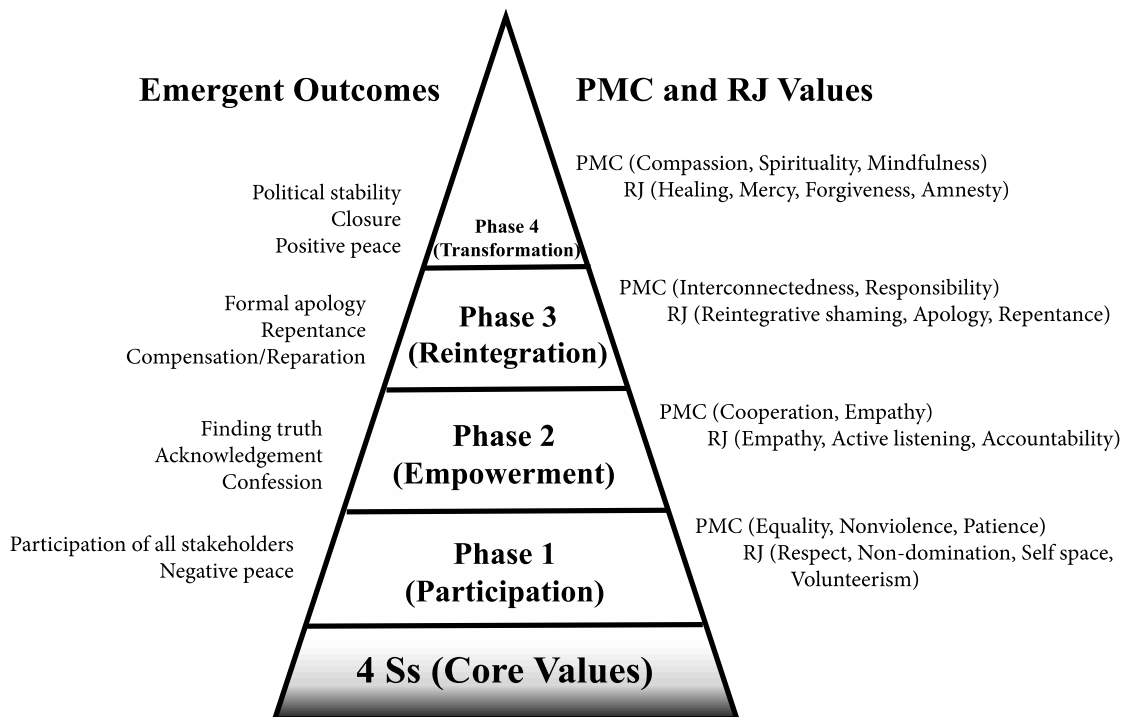The four values that emerged from the qualitative interviews are the foundation of this model. These 4 Ss are *sroddha*—respect, *shohonshilota*—tolerance, *shomjhota*—reconciliation, and *shochchota*—transparency.

6.2.3.1.2. <u>Key Phases</u>

There are four phases in this model. Phase-1 is participation, which focuses on the involvement of the stakeholders. Phase-2 is the emergent outcome of Phase-1, i.e. empowerment, and this phase concentrates on finding the truth. Phase-3 is reintegration, which is the short-term outcome of a transitional mechanism. Finally, Phase-4 is transformation, which is a long-term outcome of a transitional process.

6.2.3.1.3. <u>Emergent Outcomes</u>

There are distinct outcomes that emerge in each phase of this model. In Phase-1, the emergent outcomes are the participation from all stakeholders and a state of negative peace in which political violence ceases. In Phase-2, the key outcome is finding a commonly accepted truth, which can supersede the many polarized narratives on 1971 that exist in Bangladesh. Acknowledgement and confession from the perpetrators are also emergent outcomes at this stage. In Phase-3, a formal apology from the state of Pakistan and the local collaborators are the emergent outcome. Repentance and compensation may also emerge at this stage. In Phase-4, political stability, a closure for 1971 issues and a state of positive peace are the emergent outcomes.

6.2.3.1.4. <u>PMC and RJ Values</u>

In Phase-1, PMC values of equality, nonviolence, and patience strengthen participation. Without nonviolence in communication and action; equal opportunities for all parties; and patience and trust on the process and its outcome, there cannot be any truly empowering participation for all stakeholders (Pepinsky, 2012; Quinney, 2000; Wozniak, 2000). The core RJ values of respect, volunteerism, safe-space, and non-

domination will also bolster the participation process. Respectful dialogue, voluntary involvement and non-domination are the cornerstones of successful participation (J. Braithwaite, 2002; Umbreit and Armour, 2011; Zehr, 2002).

In Phase-2, PMC values of cooperation (Klenowski, 2009), and empathy (Quinney, 1991), capture the essence of empowerment in transitional settings. An experience of cooperation and collaboration helps parties across the divide to think out of the box, and create a safe space for all, so that a united future can be built. Similarly, a sense of empathy helps both parties to understand each other from the opponents' shoes. Accountability, empathic listening, and sense of connectedness are all RJ values that empower the process and the participants (Pranis, 2007; Zehr, 2002).

In Phase-3, the PMC values of interconnectedness (Quinney, 2000), cooperation and responsibility (Pepinsky, 1991) that promote individual accountability and collective responsiveness can help the reintegration process for victims, perpetrators and the general people. Restorative values such as re-integrative shaming—in which the actions are condemned instead of individuals (J. Braithwaite, 1989), repentance (Llewellyn and Howse, 1998) and apology (J. Braithwaite, 2002) can embolden the reintegration process too.

PMC values of compassion (Quinney, 2000), mindfulness (Friedrichs, 1991), and spirituality (Quinney, 1991; Klenowski, 2009) resonate deeply with Phase-4's goal of interpersonal and relational transformation. The PMC value of equality (Quinney, 1991) reinforces the notion of structural change needed for political and social stability in transitional contexts like Bangladesh. It also affirms that equal rights in voting, governance, education, judiciary, health care, and all other sectors, are needed to end the cycle of violence. While transformation itself is an important process value in RJ, other values such as relationship (Zehr, 2002), forgiveness, healing (Pranis, 2007), and mercy (J. Braithwaite, 2002) will also strengthen transformation in transitional settings.

6.2.3.1.5. <u>Impact levels</u>

Core values, restorative values and the emergent outcomes will have positive impacts at all levels. Still, Phase-1 and Phase-2 will have more impact at the

interpersonal and community levels, whereas Phase-3 and Phase-4 will have more impact at the community and state levels.

Table 6.6.   Proposed value-based model for Bangladesh

Phase	Core Values	Emergent Outcomes	PMC Values	RJ Values	Impact Level
Phase-4 Transformation	4 Ss	Political stability, closure, state of positive peace	Compassion, spirituality, mindfulness	Healing, Mercy, Forgiveness, Amnesty	State and Community
Phase-3 Reintegration	4 Ss	Formal apology from Pakistan, repentance, compensation/restitution	Interconnectedness, responsibility	Re-integrative shaming, apology and repentance	State and Community
Phase-2 Empowerment	4 Ss	Finding truth, acknowledgement, and confession	Cooperation, empathy	Empathy, active listening, accountability	Interpersonal and Community
Phase-1 Participation	4 Ss	Participation of all stakeholders, and state of negative peace	Equality, non-violence, and patience	Respect, non-domination, safe-space, volunteerism	Interpersonal and community

Chapter 7.

Conclusion

The world experienced a number of heinous atrocities in the 20th century, including the European holocaust, and genocides in Rwanda, Cambodia, and Bangladesh, prompting scholars to call the twentieth century "the bloodiest century in human history" (Forsythe, 1998, p. 114). In 1971, Bangladeshis experienced this first hand, when one of the worse genocides of the century happened within its borders, resulting in 3 million deaths, 200,000 rape victims, 25,000 unwanted pregnancies, countless injuries, and millions of refugees (Akmam, 2002; Mookherjee, 2011; Sharlach, 2000; Takai, 2011). Nevertheless, Bangladesh has made considerable progress in the last four decades, especially with regards to the Human Development Index, sometimes scoring even higher than its more famous neighbor, India (Sen, 2013). Unfortunately, the unhealed trauma of 1971 risks undoing the good wrought over the years.

Even though the intensity of the 1971 genocide was as horrific as Rwanda or Cambodia, Bangladesh's plight has received little attention from the international community (Beachler, 2007; Linton, 2010). Academia chose to record the facts of 1971 (e.g. Akmam, 2002; Beachler, 2007; Bose 2011; Mehrish, 1972; Mookherjee, 2011; Sicherman and Valliant, 2005; Takai, 2011), but none explored reconciliation and restoration for Bangladesh, despite the ever-present need for such intervention.

This research seeks to address this research gap, through exploring the concept of values for a future reconciliation process in Bangladesh. The first part of the research question (*What are the 'values' needed for a future reconciliation process in Bangladesh?*) employed inductive inquiry, while the second part of the research question (*How are these values operationalized in the form of participation, empowerment, reintegration, and transformation?*) used deductive approaches. A comprehensive

literature review on values, its application in transitional societies, and in-depth semi-structured qualitative interviews with ten participants were conducted. In answer to the first part of the research question, this study found that the core values for Bangladesh's future reconciliation process are *sroddha*—respect*, shohonshilota*—tolerance, *shomjhota*—reconciliation, and *shochchota*—transparency. Through deductive findings from the interviews, the second part of the research question revealed the contextualized applications of the four restorative process values—participation, empowerment, reintegration and transformation. Using the values that emerged from this research, the study ended with a proposed model for a reconciliation process for Bangladesh. The rest of this chapter is devoted to a discussion of the strengths and limitations of this study, along with an outline of future research directions.

7.1. Strengths and achievements

Firstly, by focusing on restorative values, this study reveals some unifying themes that can act as a foundation for the highly polarized Bangladeshi society. A number of participants emphasized on finding a common narrative to resolve the issue of 1971. Some even suggested that healing this historical wound would be in Bangladesh's "national interests" (Participant-6). Inductive and deductive values that emerged from the interviews can play a significant role in creating this common narrative. Similarly, the participants had some common needs too. United Nations' involvement in the reconciliation process is one of the key common themes on which nine (of the ten) participants agreed. Former Chief Prosecutor General of the UN Special Court for Sierra Leone, Sir Desmond de Silva, also insists that a free and fair trial under UN supervision is needed for justice and peace in Bangladesh (Silva, n.d.). These findings can establish a foundation for such a reconciliation process.

Secondly, the proposed value-based model (Figure 6.3) is a key outcome of this study because it incorporated PMC and RJ theories with the emergent values from the interviewees. Grounded on four core inductive values—the 4 Ss (*sroddha*—respect, *shohonshilota*—tolerance*, shomjhota*—reconciliation, and *shochchota*—transparency) —this model illustrates how the four restorative process values, participation, empowerment, reintegration and transformation, can be operationalized. The model

offers a comprehensive picture by identifying emergent outcomes, four key phases and the core guiding principles (4 Ss, and PMC and RJ values) for the future reconciliation process of Bangladesh.

Thirdly, the genocide in Bangladesh is largely ignored in genocide-related study (Beachler, 2007; Linton, 2010). This seems to be the consequence of Bangladesh's post war blanket amnesty policy, followed by decades of political instability stemming from dictatorship and multiple military coups—since the Bangladeshi government chose to ignore this issue for over four decades, it got limited attention elsewhere. This research is an initial exploratory attempt to address the genocide from a restorative justice perspective. At a theoretical level, this study attempts to bridge criminology through PMC, transitional justice through RJ, and peace studies through the concept of values.

Fourthly, this study provided a safe space for the ten participants to express their opinions on the future reconciliation process. Participants found a sense of ownership and empowerment throughout the interview process. Spontaneity and sincerity in sharing, and enthusiastic participation displayed their genuine passion for this topic. The restorative approach of the research, which allowed such a sensitive topic to be discussed so openly, is worth noting for future researchers. The restorative position of the researcher was based on the "Transformative Inquiry Paradigm" where the researcher is a "facilitator, collaborator and learner" (Toews and Zehr, 2003, p. 266). This paradigm contributed to creating a safe space for the participants to air their views.

Finally, during the course of the study, the researcher saw numerous proofs that countries need a "third way" to break the vicious cycle of violence (Tutu, 1997, p. 30). This was evident in the healing journey of Sokreaksa who, at the age of fourteen, saw thirteen members of his family murdered by Khmer Rouge soldiers (personal communication, March 6, 2014); and the wisdom from Saidih, a Rwandan whose relatives were killed during the genocide (personal communication, February 20, 2014). The substantive body of the research revealed that while the aim of the third way is always the same—"*Aar kokhono noy*" or *Never again* (Mookherjee, 2011, p. 78)—the modalities of this way can be as varied as the countries themselves. It can be a hybrid model, like Rwanda's *gacaca* courts and Cambodia's ECCC. It can include the UN International Criminal Court (Participants 3, 6, 9 and 10), to address the most serious of

crimes of the planners, organizers of genocides and genocide-related rapists. The third way can also include the conflict resolution practices of *shalish*, village courts, or indigenous justice systems in the Chittagong Hill Tracts of Bangladesh, to deal with relatively minor crimes like property damages and looting (Asadullah, 2013; Roy, 2004; Roy, 2005). Whatever the ultimate modality, the third way is a necessity for Bangladesh to move forward.

7.2. Limitations and challenges

This research is not without its limitations. Although generalization was not the goal of this qualitative research, the researcher acknowledges that ten individuals out of 165 million people in Bangladesh is a very small population sample. The ongoing political instability in Bangladesh and researcher's inability to visit Bangladesh to conduct more interviews affected the sample size. To yield richer data in spite of this limitation, the study used in-depth qualitative interviews, as opposed to surveys which would provide too few data points. Furthermore, the study's conclusions are only valid for exploratory purpose, not for generalized conclusions.

Similar to population sampling, a gender balance in participation was expected, however, only two female participants finally agreed to be interviewed. Another female participant was willing to be interviewed but because of her occupation, she had to travel constantly. Conflicting schedule and vastly different time zones also exacerbated this problem.

A further limitation of the sampling is that there were no participants from India and Pakistan, even though these two countries were key stakeholders during the war. Understanding the Indian and Pakistani narratives is crucial for a comprehensive reconciliation process in this region. The findings of this study only reveal the perspectives of Bangladeshis for a future reconciliation process.

Another limitation of this research was the dependence on Skype interviews. More than half (six out of ten) of the interviews were conducted through Skype. Even though these interviews were recorded and, in some cases, were longer than direct interviews, returning to Bangladesh and conducting face-to-face interviews might have

produced more insights. This is especially since Bangladesh's slow internet connection precluded video interviews. Audio interviews inevitably meant body language, a major tool of communication, had to be sacrificed.

The most challenging issue the researcher faced during this research was the lack of access to direct victims or alleged perpetrators. Even though the researcher attempted to reach out to a number freedom fighters and direct victims, due to the escalating political violence stemming from the verdicts of the ICTB, fear and anxiety among prospective participants were rampant. Being present in Bangladesh during the study may be one way future researchers can counter this problem, but, if the political violence continues, this may still prove to be very difficult.

7.3. Directions for future research

There are three core directions for future research in this field. First, at a contextual level, a similar study with more interview participants is needed to gain better insights. A study including participants such as direct and indirect victims, freedom fighters, and alleged perpetrators from Bangladesh, India and Pakistan is crucial. This future study could enhance knowledge of the application of the four restorative process values in Bangladesh as well. As the findings of this research show, polarized narratives on the genocide exist in Bangladesh, and it is conceivable that similar, polarized narratives are also prevalent in India and Pakistan. Unearthing those diverse narratives can contribute to establishing a shared truth and shared history. Even if future researchers cannot access a significantly larger group of participants, if several researchers conduct similar studies, the results can be aggregated to yield a comprehensive picture.

Secondly, at a theoretical level, a study combining procedural justice theory (Blader & Tyler, 2003; Tyler and Blader, 2000), transitional justice theory (Arthur, 2009; Bell, 2009; Roht-Arriaza and Mariezcurrena, 2006), and PMC and RJ is essential. Procedural justice theory can provide a theoretical foundation; transitional justice literature can contribute the bottom-up approach needed as immediate response to transitional settings; and PMC and RJ can offer the bottom-up approach required for

long term impact in transitional settings. It has been argued that criminology largely "failed" to address war crimes, genocides and other human rights violations (Parmentier and Weitekamp, 2007, p. 129)—Bangladesh is ripe for research to remedy this. Multi-disciplinary studies combining criminology and peace studies (Pepinsky, 1991), or criminology with transitional justice and RJ (Parmentier and Weitekamp, 2007) are also essential to understand the phenomena of genocides and international crimes. A study incorporating indigenous or customary laws and transitional justice can also further enhance our understanding of restorative responses in transitional societies.

Finally, at a methodological level, a study combining qualitative and quantitative method is essential to grasp the opinions of as many Bangladeshis as possible. Similar surveys to those carried out in Rwanda (Megwalu and Loizides, 2010) and Cambodia (Pham et al., 2009; Pham et al., 2011) can be conducted in Bangladesh to document the voice of the people. Although qualitative study provides richer data, they are necessarily restricted by a smaller, more manageable number of participants. So, combining both methods could prove more fruitful.

In conclusion, this chapter summarized the key themes that emerged through the literature review and qualitative interviews, and identified the strengths and limitations of the study. It ended by outlining possible future research directions.

References

Akmam, W. (2002). Atrocities against humanity during the liberation war in Bangladesh: A case of genocide. *Journal of Genocide Research*, *4* (4), 543-559.

Ame, R. K., & Alidu, S. M. (2010). Truth and reconciliation commissions, restorative justice, peacemaking criminology, and development. *Criminal Justice Studies: A Critical Journal of Crime, Law and Society*, *23* (3), 253-268.

Annan, K. (2004, October 18). *Learning the lessons of peace-building.* Retrieved from UN Senior Officials on Peacekeeping: http://www.un.org/ar/peacekeeping/articles/sg_article181004.htm

Armed Forces of Bangladesh. (2013). *Bangladesh in UN peacekeeping mission.* Retrieved from Armed Forces Division: http://www.afd.gov.bd/index.php/un-peacekeeping/bangladesh-in-un-mission

Armstrong, K. (2010). *Twelve steps to a compassionate life.* New York: Alfred A. Knopf.

Arsovska, J., Valiñas, M., & Vanspauwen, K. (2008). From micro to macro, from individual to state: restorative justice and multi-level diplomacy in divided societies. In I. Aertsen, J. Arsovska, H.-C. Rohne, M. Valiñas, & K. Vanspauwen (Eds.), *Restorative Justice after Large-scale Violent Conflicts* (pp. 444-460). Devon, UK: Willan Publishing.

Arthur, P. (2009). How "Transitions" Reshaped Human Rights: A Conceptual History of Transitional Justice. *Human Rights Quarterly*, *31* (2), 321-367.

Asadullah, M. (2013). Indigenous Justice System in the Chittagong Hill Tracts: An Exploratory Listening Project in Bangladesh. *Alaska Journal of Dispute Resolution, 2013* (1), 87-100.

Baca, J.C, & Wilbourne, P. (2004). Quantum change: Ten years later. *Journal of Clinical Psychology, 60* (5), 531–541.

Ball-Rokeach, S. J., & Loges, W. E. (1992). Value theory and research. In E. F. Borgatta, & M. L. Borgatta, *Encyclopedia of sociology* (pp. 222-228). New York: Macmillan Publishing Company.

Barak, G. (2005). A reciprocal approach to peacemaking criminology: Between adversarialism and mutualism. *Theoretical Criminology*, *9* (2), 131–152.

Barton, C. (2000). Empowerment and retribution in criminal justice. In H. Strange, & J. Braithwaite (Eds.), *Restorative justice: Philosophy to practice* (pp. 55-76). Aldershot: Ashgate Publishing Ltd.

BBC, British Broadcasting Corporation. (2012, June 18). *Rwanda 'gacaca' genocide courts finish work*. Retrieved from Rwanda 'gacaca' genocide courts finish work: http://www.bbc.co.uk/news/world-africa-18490348.

Beachler, D. (2007). The politics of genocide scholarship: The case of Bangladesh. *Patterns of Prejudice*, *41* (5), 467-492.

Becker, D., Lira, E., Castillo, M. I., Gómez, E., & Kovalskys, J. (1990). Therapy with victims of political repression in Chile: The Challenge of social reparation. *Journal of Social Issues*, *46* (3), 133–149.

Bergsmo, M., & Novic, E. (2011). Justice after decades in Bangladesh: National trials for international crimes. *Journal of Genocide Research*, *13* (4), 503-510.

Bell, C. (2009). Transitional Justice, Interdisciplinarity and the State of the 'Field' or 'Non-Field'. *The International Journal of Transitional Justice*, *3* (1), 5-27.

Blader, S. L., & Tyler, T. R. (2003). What constitutes fairness in work settings? A four-component model of procedural justice. *Human Resource Management Review*, *13* (1), 107-126.

Bloomfield, D. (2005). Reconciliation: An introduction. In D. Bloomfield, & L. Huyse (Eds.), *Reconciliation after violent conflict: A Handbook* (pp. 10-18). Stockholm: International Institute for Democracy and Electoral Assistance.

Bose, S. (2011). The question of genocide and the quest for justice in the 1971 war. *Journal of Genocide Research*, *13* (4), 393-419.

Bose, S. (2012). Fragments of memories: Researching violence in the 1971 Bangladesh war. *History Workshop Journal*, *73* (1), 285-295.

Braithwaite, J. (1989). *Crime, shame, and reintegration.* Cambridge: Cambridge University Press.

Braithwaite, J. (1999). Restorative justice: Assessing optimistic and pessimistic accounts. *Crime and Justice*, *Vol. 25*, 1-27.

Braithwaite, J. (2002). Setting standards for restorative justice. *British Journal of Criminology*, *42* (3), 563-577.

Braithwaite, V. (2009). Security and harmony value orientations and their roles in attitude formation and change. *Psychological Inquiry*, *20* (2-3), 162-167.

Braithwaite, J., & Strang, H. (2000). Connecting philosophy and practice. In H. Strang, & J. Braithwaite (Eds.), *Restorative justice: Philosophy to practice* (pp. 203-220). Aldershot: Ashgate Publishing Ltd.

Bryman, A., & Teevan, J. J. (2005). *Social research method: Canadian edition.* Ontario: Oxford University Press.

Cammegh, J. (2012). *Justice without politics?* Retrieved March 2013, from International Special on Bangladesh in Counsel: http://search.lib.sfu.ca/?q=Cammegh+on+Justice+without+politics%3F+&_search =Search

Chea, V. (2003). Reconciliation in Cambodia: Politics, culture and religion. In D. Bloomfield, T. Barnes, & L. Huyse (Eds.), *Reconciliation after violent conflict: A handbook* (pp. 49-53). Stockholm: International Institute for Democracy and Electoral Assistance.

Christie, N. (1977). Conflicts as property. *The British Journal of Criminology, 17* (1), 1-15.

Churcher, J. (2012). On: Skype and privacy. *The International Journal of Psychoanalysis, 93* (4), 1035-1037.

CIDA, Canadian International Development Agency. (2004). *Ubuntu: Working together for a bright future : CIDA's country development programming framework for South Africa.* Quebec.

Ciorciari, J. D., & Ramji-Nogales, J. (2012). *Lessons from the Cambodian experience with truth and reconciliation.* Forthcoming, Buffalo Human Rights Law Review, Sept. 2012; Temple University Legal Studies Research Paper No. 2012-38. Available at SSRN: http://ssrn.com/abstract=2078982, 1-25.

Clamp, K. (2014). *Restorative justice in transition.* New York: Routledge.

Clamp, K., & Doak, J. (2012). More than words: Restorative justice concepts in transitional justice settings. *International Criminal Law Review, 12* (3), 239-360.

Clark, P. (2010). *The Gacaca courts, post-genocide justice and reconciliation in Rwanda.* New York: Cambridge University Press.

Cobban, H. (2002a). *The legacies of collective violence.* Retrieved from Boston Review: http://new.bostonreview.net/BR27.2/cobban.html

Cobban, H. (2002b). *Helena Cobban Replies.* Retrieved from Boston Review: http://new.bostonreview.net/BR27.3/cobbanreplies.html

Cormier, R. B. (2002). *Restorative justice: Directions and principles – developments in Canada.* Ottawa: Department of the Solicitor General Canada.

Creswell, J. W. (2009). *Research design: Qualitative, quantitative, and mixed methods approaches.* California: SAGE Publications, Inc.

Cunneen, C. (2006). Exploring the relationship between reparations, the gross violation of human rights, and restorative justice. In D. Sullivan, & L. Tifft (Eds.), *Handbook of restorative justice: A global perspective* (pp. 355-368). New York: Routledge.

Daly, E. (2002). Between punitive and reconstructive justice: The gacaca courts in Rwanda. *New York University Journal of International Law and Politics*, *34* (2), 355-396.

Danieli, Y. (2006). Essential elements of healing after massive trauma: Complex needs voiced by victims/survivors. In D. Sullivan, & L. Tifft (Eds.), *Handbook of restorative justice: A global perspective* (pp. 343-354). New York: Routledge.

DC-Cam,Documentation Center of Cambodia. (2014). *Documentation Center of Cambodia (DC-Cam).* Retrieved from Documentation Center of Cambodia (DC-Cam): www.dccam.org/

Denzin, N. K., & Lincoln, Y. S. (2011). Introduction: The discipline and practice of qualitative research. In N. K. Denzin, & Y. S. Lincoln (Eds.), *The SAGE handbok of qualitative research* (pp. 1-20). Los Angeles: SAGE.

D'Costa, B. (2013). War crimes, justice and the politics of memory. *Economic & Political Weekly*, *48* (12), 39-43.

Doak, J., & O'Mahony, D. (2012). Transitional justice and restorative justice. *International Criminal Law Review*, *Vol.12*, 305–311.

Doung, V., & Ear, S. (2009). Transitional justice dilemma: The case of Cambodia. *The Peace and Conflict Review*, *4* (1), 1-31.

Drumbl, M. A. (2000). Sclerosis: Retributive justice and the Rwandan genocide. *Punishment & Society*, *2* (3), 287-308.

Eastmond, M. (2010). Introduction: Reconciliation, reconstruction, and everyday life in war-torn societies. *Focaal - Journal of Global and Historical Anthropology*, *2010* (57), 3–16.

ECCC Law. (2004, October 27). *The Law on the Establishment of the Extraordinary Chambers as amended.* Retrieved February 10, 2014, from The Law on the Establishment of the Extraordinary Chambers as amended: http://www.eccc.gov.kh/en/documents/legal/law-establishment-extraordinary-chambers-amended

Elliott, E. M. (2011). *Security,with care: Restorative justice and healthy societies.* Halifax and Winnipeg: Fernwood Publishing.

Etcheson, C. (2005). The limits of reconciliation in Cambodia's communes. In E. Skaar, S. Gloppen, & A. Suhrke (Eds.), *Roads to reconciliation* (pp. 201-224). Oxford: Lexington Books.

European Convention on Human Rights. (2010, June 1). *European Convention on Human Rights*. Retrieved February 3, 2014, from: http://www.echr.coe.int/Documents/Convention_ENG.pdf

European Parliament. (2013, March 13). *JOINT MOTION FOR A RESOLUTION* . Retrieved March 2013, from: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONSGML%2bMOTION%2bP7-RC-2013-0133%2b0%2bDOC%2bPDF%2bV0%2f%2fEN

Forsythe, D. P. (1998). Human rights and foreign policy in the next millennium. *International Journal*, *53* (1), 113–132.

French, M. (1985). *Beyond power: on women, men, and morals.* New York: Summit Books.

Friedrichs, D. O. (1991). Peacemaking criminology in a world filled with conflict. In B. D. MacLean, & D. Milovanovic (Eds.), *New direction in critical criminology* (pp. 101-110). Vancouver: The Collective Press.

Fuller, J. (2003). Peacemaking criminology. In M. D. Schwartz, & S. E. Hatty (Eds.), *Controversies in critical criminology* (pp. 85-95). Cincinnati: Anderson Publishing Co.

Fuller, J. R. (1998). *Criminal justice: A peacemaking perspective.* Boston: Allyn & Bacon.

Fuller, J. R., & Wozniak, J. F. (2006). Peacemaking criminology: Past, present, and future. In F. T. Cullen, J. P. Wright, & K. R. Blevins (Eds.), *Taking stock: The status of criminological theory* (pp. 251-273). New Brunswick, N.J: Transaction Publishers.

Gacaca Law. (2004). ORGANIC LAW N°16/2004 OF 19/6/2004**,** *Official Gazette of the Republic of Rwanda*, 1-42.

Gilligan, C. (1982). NEW MAPS OF DEVELOPMENT: New visions of maturity. *American Journal of Orthopsychiatry*, *52* (2), 199-212.

Gobodo-Madikizela, P. (2012). Transitional justice and truth commissions: Exploring narratives of repair and healing in the post-Holocaust era. *Psychology, Crime & Law*, *18* (3), 275-297.

Graybill, L. S. (2004). Pardon, punishment, and amnesia: Three African post-conflict methods. *Third World Quarterly*, *25* (6), 1117-1130.

Galtung, J. (1964). An Editorial. *Journal of Peace Research*, *1* (1), 1-4.

Hand, C. A., Hankes, J., & House, T. (2012). Restorative justice: The indigenous justice system. *Contemporary Justice Review*, *15* (4), 449-467.

Harris, K. M. (1987). Moving into the new millenium: Toward a feminist vision of justice. *The Prison Journal, 67* (2), 27-67.

Hensher, P. (2013, February 19). *The war Bangladesh can never forget.* Retrieved March 2013, from The Independent: http://www.independent.co.uk/news/world/asia/the-war-bangladesh-can-never-forget-8501636.html

Hitlin, S., & Piliavin, J. A. (2004). Values: Reviving a dormant concept. *Annual Review of Sociology, 30* (1), 359-393.

Holter, A. C., Martin, J., & Enright, R. D. (2006). Restoring justice through forgiveness: The case of children in Northern Ireland. In D. Sullivan, & L. Tifft (Eds.), *Handbook of restorative justice: A global perspective* (pp. 311-320). New York: Routledge.

Houghes, C. (2009). Reconstructing legitimate political authority through elections? In J. Öjendal, & M. Lilja (Eds.), *Beyond democracy in Cambodia: political reconstruction in a post-conflict society* (pp. 31-69). Copenhagen: NIAS Press.

Human Rights Watch. (2011). *Justice compromised: The legacy of Rwanda's community-based gacaca courts.* New York: Human Rights Watch.

Human Rights Watch. (2013, February 14). *Bangladesh: Post-trial amendments taint war crimes process.* Retrieved March 2013, from Human Rights Watch News: http://www.hrw.org/news/2013/02/14/bangladesh-post-trial-amendments-taint-war-crimes-process

ICTJ, (2008, January 1). The International Center for Transitional Justice. *Truth Commissions.* Retrieved from Truth Commissions: http://ictj.org/sites/default/files/ICTJ-Global-Truth-Commissions-2008-English.pdf

International Crimes Tribunal. (1973). *THE INTERNATIONAL CRIMES (TRIBUNALS) ACT, 1973.* Retrieved from: http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=435

IRIN. (2013, March 27). *Time to reconcile in Bangladesh?* Retrieved March 2013, from IRIN humanitarian news and analysis, a service of the UN Office for the Coordination of Humanitarian Affairs: http://www.irinnews.org/Report/97738/Time-to-reconcile-in-Bangladesh

Jansen, S. (2006). The privatisation of home and hope: Return, reforms and the foreign intervention in Bosnia-Herzegovina. *Dialectical Anthropology, 30* (3), 177-199.

Johnstone, G. (2011). *Restorative justice: Ideas, values, debates.* New York: Routledge.

Johnstone, G., & Quirk, J. (2012). Repairing historical wrongs. *Social & Legal Studies, 21* (2), 155–169.

Kiernan, B. (1985). *How Pol Pot came to power: A history of communism in Kampuchea, 1930-1975.* London: Verso.

King, M. L. (1964). *Why we can't wait.* New York: New American Library.

Kirkby, C. (2006). Rwanda's gacaca courts: A Preliminary Critique. *Journal of African Law*, *50* (2), 94-117 .

Klenowski, P. M. (2009). Peacemaking criminology: Etiology of crime or philosophy of life? *Contemporary Justice Review*, *12* (2), 207-222.

Kluckhohn, C. (1951). Values and value-orientations in the theory of action: An exploration in definition and classification. In T. Parsons, & E. A. Shils (Eds.), *Toward a general theory of action* (pp. 388-433). Cambridge: Harvard University Press.

Kvale, S. (1996). *Interviews: An introduction to qualitative research interviewing.* California: Sage Publications.

Laird, J. (1929). *The idea of value.* Cambridge: Cambridge University Press.

Lazare, A. (2004). *On Apology.* Oxford University Press, USA. Retrieved 18 January 2014, from: http://www.myilibrary.com?ID=84594

Leyh, B. M. (2012). Victim-Oriented Measures at International Criminal Institutions: Participation and its Pitfalls. *International Criminal Law Review*, *12* (3), 375–408.

Llewellyn, J. J., & Howse, R. (1998). *RESTORATIVE JUSTICE ~ A CONCEPTUAL FRAMEWORK.* Ottawa: Law Commission of Canada.

Linton, S. (2010). BANGLADESH AND THE PROSECUTION OF INTERNATIONAL CRIMES FROM THE 1971 WAR OF INDEPENDENCE FROM PAKISTAN. *Criminal Law Forum*, *21* (2), 187-190.

Malkki, L. H. (1995). Refugees and exile: From "Refugee studies" to the national order of things. *Annual Review of Anthropology*, *24* (1), 495-523.

Mamdani, M. (2001). *When victims become killers: Colonialism, nativism, and the genocide in Rwanda.* New Jersey: Princeton University Press.

Marshall, T. F. (1996). The evolution of restorative justice in Britain. *European Journal on Criminal Policy and Research*, *4* (4), 21-43.

McEvoy, K., & Tim, N. (2003). *Criminology, conflict resolution and restorative justice.* New York: Palgrave Macmillan Ltd.

McEvoy, Kieran, & Eriksson, A. (2006). Restorative justice in transition: Ownership, leadership and 'bottom-up' human rights. In D. Sullivan, & L. Tifft (Eds.), *Handbook of Restorative Justice: A Global Perspective* (pp. 321-335). New York: Routledge.

111

Mehrish, B. (1972). *War crimes and genocide: The trial of Pakistani war criminals.* Delhi: Oriental Publishing.

Megwalu, A., & Loizides, N. (2010). Dilemmas of justice and reconciliation: Rwandans and the gacaca courts. *African Journal of International and Comparative Law*, *18* (1), 1-23.

Menzel, J. (2007). Justice delayed or too late for justice? The Khmer Rouge tribunal and the Cambodian "genocide" 1975–79. *Journal of Genocide Research*, *9* (2), 215-233.

Mookherjee, N. (2011). 'Never again': aesthetics of 'genocidal' cosmopolitanism and the Bangladesh Liberation War Museum. *Journal of Royal Anthropological Institute (JRAI), 17* (1), 71-91.

Morrison, B. (2006). School bullying and restorative justice: Toward a theoretical understanding of the role of respect, pride, and shame. *Journal of Social Issues*, *62* (2), 371-392.

Msafiri. (2008). STRAY THOUGHTS: Ubuntu. *Information Development*, *24* (2), 176.

Munro, E. (2013). Feminism: A fourth wave? *Political Insight*, *4* (2), 22-25.

Nikolic-Ristanovic, V. (2006). Truth and reconciliation in Serbia. In D. Sullivan, & L. Tifft (Eds.), *Handbook of restorative justice: A global perspective* (pp. 369-386). New York: Routledge.

Öjendal, J., & Lilja, M. (2009). *Beyond democracy in Cambodia: political reconstruction in a post-conflict society.* Copenhagen: NIAS Press.

Office of the High Commissioner for Human Rights (OHCHR). (2005, December 16). *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.* Retrieved from United Nations Human Rights: Office of the High Commissioner for Human Rights (OHCHR): http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx

Office of the President*,* Republic of Rwanda. (2012, June 18). *Office of the President*. Retrieved from Office of the President: http://www.presidency.gov.rw/speeches/654-speech-by-he-paul-kagame-president-of-the-republic-of-rwanda-at-the-official-closing-of-gacaca-courts

Palys, T., & Atchison, C. (2014). *Research Decisions: Quantitative, Qualitative, and Mixed Methods Approaches.* 5th ed. Ontario: Nelson Education Ltd.

Parmentier, S. (2003). Global justice in the aftermath of mass violence. The role of the international criminal court in dealing with political crimes. *International Annals of Criminology*, *Vol. 41*, 203-224.

Parmentier, S., & Weitekamp, E. G. (2007). Introduction: On the double relationship of crime and human rights. In S. Parmentier, & E. G. Weitekamp (Eds.), *Crime and human rights* (pp. 1-8). Oxford: Elsevier.

Parmentier, S., & Weitekamp, E. G. (2007). Political crimes and serious violations of human rights: Towards a criminology of international crimes. In S. Parmentier, & E. G. Weitekamp (Eds.), *Crime and Human Rights* (pp. 109-144). Oxford: JAI Press.

Patton, M. Q. (2002). *Qualitative research and evaluation methods.* California: Sage Publications.

Penal Reform International. (2001). *Research on Gacaca report: Gacaca juridictions and its preparations.* Paris/Kigali: Penal Reform International.

Pepinsky, H. (1985). *Peacemaking: Reflections of a radical criminologist.* Ottawa: University of Ottawa Press.

Pepinsky, H. E. (1991). Peacemaking in criminology and criminal justice. In H. E. Pepinsky, & R. Quinney (Eds.), *Criminology as peacemaking* (pp. 299-327). Bloomington and Indianapolis: Indiana University Press.

Pepinsky, H. (2012). Peacemaking criminology. In W. S. Dekeseredy, & D. Molly (Eds.), *Routledge handbook of critical criminology* (pp. 186-193). New York: Routledge.

Pepinsky, H. E., & Quinney, R. (1991). *Criminology as Peacemaking.* Indianapolis: Indiana University Press.

Pham, P., Vinck, P., Balthazard, M., & Hean, S. (2011). *A population-based survey on knowledge and perception of justice and the ECCC.* Berkeley: Human Rights Center, University of California.

Pham, P., Vinck, P., Balthazard, M., Hean, S., & Stover, E. (2009). *So we will never forget: A population-based survey on attitudes about social reconstruction and the Extraordinary Chambers in the Courts of Cambodia.* Berkeley: Human Rights Center, University of California.

Pranis, K. (2007). Restorative values. In G. Johnstone, & D. W. Ness (Eds.), *Handbook of restorative justice* (pp. 59-74). Cullompton, Devon: Willan Publishing.

Purdon, S. J. (2008). Transitional justice failing? A gendered evaluation of the transitional justice program in post-genocide Rwanda. (Unpublished Master of Arts Thesis). Simon Fraser University, Burnaby, British Columbia.

Quinney, R. (1991). The way of peace on crime,suffering and service. In H. E. Pepinsky, & R. Quinney (Eds.), *Criminology as peacemaking* (pp. 3-13). Indianapolis: Indiana University Press.

Quinney, R. (2000). Socialist humanism and the problem of crime: Thinking about Erich Fromm in the development of critical/peacemaking criminology. In K. Anderson, & R. Quinney (Eds.), *Erich Fromm and critical criminology: Beyond the punitive society* (pp. 21-30). Urbana: University of Illinois Press.

Razzaque, B. A. (2013, March 24). *War crimes tribunal and the future of Bangladesh.* Retrieved March 2013, from Daily Ittefaq: http://ittefaq.com.bd/index.php?ref=MjBfMDNfMjVfMTNfMV81XzFfMjg2MzI

Rioux, J.-F., & Redekop, V. N. (2013). *Introduction to conflict studies: Empirical, theoretical, and ethical dimensions.* Ontario: Oxford University Press.

Roche, D. (2003). *Accountability in restorative justice.* Oxford: Oxford University Press.

Rohne, H.-C. (2006). Conceptualizing restorative justice in the context of large-scale conflicts. Unpublished paper presented at COST Action A21 symposium 'Restorative Justice Development in Europe', 2-3 March.

Rohne, H.-C., Arsovska, J., & Aertsen, I. (2008). Challenging restorative justice - state-based conflict, mass victimisation and the changing nature of warfare. In I. Aertsen, J. Arsovska, H.-C. Rohne, M. Valinas, & K. Vanspauwen (Eds.), *Restoring justice after large-scale violent conflicts: Kosovo, DR Congo and the Israeli-Palestinian case* (pp. 3-43). Cullompton, UK: Willan.

Roht-Arriaza, N., & Mariezcurrena, J. (2006). *Transitional justice in the twenty-first century: Beyond truth versus justice.* Cambridge University Press. Retrieved 11 February 2014, from: http://www.myilibrary.com?ID=70263

Rokeach, M. (1979). *Understanding human values.* New York: The Free Press.

Romduol, H., & Barbour, J. (2007). Exploring Asian approaches to peace building – Practical insights and reflections. In A. G. Rodicio, *Talking with the Enemy - Reconciliation in Former Khmer Rouge Areas* (pp. 31-36). Action Asia.

Roy, R. D. (2004). Challenges for juridical pluralism and customary laws of Indigenous peoples: The case of the Chittagong Hill Tracts, Bangladesh. *Arizona Journal of International & Comparative Law*, *21* (1), 114-182.

Roy, R. D. (2005). *Traditional customary laws and indigenous peoples in Asia.* United Kingdom: Minority Rights Group International (MRG).

Rubio-Marin, R. (2011). *The gender of reparations: Unsettling sexual hierarchies while redressing human rights violations.* Cambridge: Cambridge University Press.

Schneider, C. D. (2000). What it means to be sorry: The power of apology in mediation. *Conflict Resolution Quarterly*, *17* (3), 265-280.

Sen, A. (2013, January 5). *Bangladesh ahead of India in gender equality: Amartya Sen.* Retrieved March 2013, from The Hindu: http://www.thehindu.com/news/national/bangladesh-ahead-of-india-in-gender-equality-amartya-sen/article4277151.ece

Sharlach, L. (2000). Rape as genocide: Bangladesh, the former Yugoslavia, and Rwanda. *New Political Science*, *22* (1), 89-102.

Sharpe, S. (2010). How large should the restorative justice "tent" be? In H. Zehr, & B. Toews (Eds.), *Critical issues in restorative justice* (pp. 17-31). London: Lynne Rienner Publishers, Inc.

Sherman, L. W. (2003). Reason for emotion: Reinventing justice with theories, innovations and research. *Criminology*, *41* (1), 1-37.

Sicherman, H., & Valliant, D. (2005). *Bangladesh.* [e-book]. Mason Crest Publishers; 2005:N.PAG. Available from: Canadian Points of View Reference Centre, Ipswich, MA. Accessed March 11, 2014.

Siddiquee, N. A., & Faroqi, M. G. (2009). Holding the Giants to Account? Constraints on NGO Accountability in Bangladesh. *Asian Journal of Political Science*, *17* (3), 243-264.

Siegel, L. J. (1995). *Criminology: Theories, patterns and typologies.* Minneapolis: West Publishing Company.

Sperfeldt, C. (2012). Collective Reparations at the Extraordinary Chambers in the Courts of Cambodia. *International Criminal Law Review*, *12* (3), 457–489.

Stuart, B. (2007). (2007). *A Healing River: An invitation to explore restorative justice values and principles.* Heartspeak Productions.

Sullivan, D., & Tifft, L. (2006). *Handbook of restorative justice: A global perspective.* New York: Routledge.

Takai, A. (2011). RAPE AND FORCED PREGNANCY AS GENOCIDE BEFORE THE BANGLADESH TRIBUNAL. *Temple International and Comparative Law*, *25* (2), 393-422.

The Court Report. (2014). *The Court Report.* Phnom Penh: The Extraordinary Chambers in the Courts of Cambodia.

The Economist. (2012, December 8). *Discrepancy in Dhaka.* Retrieved March 2013, from The Economist: http://www.economist.com/blogs/banyan/2012/12/bangladesh#sthash.dKsXUe4G.dpbs

The Economist. (2013a, February 16). *Mass disssatisfaction.* Retrieved May 2013, from The Economist: http://www.economist.com/news/asia/21571941-huge-protest-capital-against-islamist-party-and-its-leaders-mass-dissatisfaction

The Economist. (2013b, December 13). *The Hangman has spoken.* Retrieved February 2014, from The Economist: http://www.economist.com/blogs/banyan/2013/12/political-crisis-bangladesh

The Extraordinary Chambers in the Courts of Cambodia (ECCC). (2013). *VICTIMS SUPPORT.* Retrieved from Extraordinary Chambers in the Courts of Cambodia (ECCC) : http://www.eccc.gov.kh/en/victims-support

Thomas, J., Capps, J., Carr, J., Evans, T., Lewin-Gladney, W., Jacobson, D., Thompson, S. (2003). Critiquing the critics of peacemaking criminology: Some rather ambivalent reflections on the theory of 'Being Nice'. In K. McEvoy, & T. Newburn (Eds.), *Criminology, conflict resolution and restorativ justice* (pp. 101-134). New York: Palgrave Macmillan.

Tiemessn, A. E. (2004). After Arusha: Gacaca Justice in Post-Genocide Rwanda. *African Studies Quarterly*, *8* (1), 57-76.

Tifft, L. L. (2002). Crime and peace: A walk with Richard Quinney. *Crime & Delinquency*, *48* (2), 243-262.

Toews, B., & Zehr, H. (2003). Ways of knowing for a restorative worldview. In E. G. Weitekamp, & H.-J. Kerner (Eds.), *Restorative justice in context: International practice and directions* (pp. 257-271). Devon: Willan Publishing.

Tripartite Agreement between India, Bangladesh and Pakistan. (1974, April 9). *Tripartite Agreement between India, Bangladesh and Pakistan for normalisation of relations in the subcontinent.* Retrieved March 2013, from Stateless People in Bangladesh: http://statelesspeopleinbangladesh.net/tripartite_agreement.php

Truth and Reconciliation Commission of South Africa Report. (1998, October 29). *Truth and Reconciliation Commission of South Africa Report Volume 1.* Retrieved March 2013, from http://www.justice.gov.za/trc/report/finalreport/Volume%201.pdf

Tutu, D. M. (1997). *No future without forgiveness.* New York: Doubleday.

Tutu, D. (2005). Foreword. In D. Bloomfield, T. Barnes, & L. Huyse (Eds.), *Reconciliation after violent conflict: A Handbook* (pp. 4-5). Stockholm: International Institute for Democracy and Electoral Assistance (IDEA)

Tutu, D. (2009, October 22*). desmond tutu truth and reconciliation* [Video file]. Retrieved from Youtube: https://www.youtube.com/watch?v=g6tJQRxxGTM

Tyler, T. R., & Blader, S. (2000). *Cooperation in groups: Procedural justice, social identity, and behavioral engagement.* Philadelphia, PA: Psychology Press.

Umbreit, M., & Armour, M. P. (2011). *Restorative justice dialogue: An essential guide for research and practice.* New York: Springer Publishing Company.

Unitd Nations. (1985, November 29). *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.* Retrieved from General Assembly, 96th plenary meeting: http://www.un.org/documents/ga/res/40/a40r034.htm

United Nations News. (2013, February 7). *UN human rights experts urge Bangladesh to ensure fair trials for past crimes.* Retrieved March 2013, from United Nations News Centre: http://www.un.org/apps/news/story.asp?NewsID=44089&Cr=death&Cr1=penalty #.UVQbYKvfxsX

USIP, (n.d.). United States Institute of Peace. *Truth Commission Digital Collection.* Retrieved from Truth Commission Digital Collection: http://www.usip.org/publications/truth-commission-digital-collection

Van Ness, D. W., & Strong, K. H. (2010). *Restoring justice: An introduction to restorative justice.* New Jersey: LexisNexis Group.

Verma, A. K. (2001). *Reassessing Pakistan: Role of two-nation theory.* New Delhi, India: Lancer Publishers.

Waldorf, L. (2006). Rwanda's faling experiment in restorative justice. In D. Sullivan, & L. Tifft (Eds.), *Handbook of Restorative Justice: A Global Perspective* (pp. 422-434). New York: Routledge.

Williams, R. M. (1979). Change and stability in values and value systems: A sociological perspective. In M. Rokeach, *Understanding human values* (pp. 15-46). New York: The Free Press.

World Justice Project. (2014). *WJP Rule of Law Index® 2014.* Washington, D.C: World Justice Project (WJP).

Wozniak, J. F. (2000). The voices of peacemaking criminology: Insights into a perspective with an eye toward teaching. *Contemporary Justice Review*, *3* (3), 267-289.

Wozniak, J. F. (2002). Toward a theoretical model of peacemaking criminology: An essay in honor of Richard Quinney. *Crime & Delinquency*, *48* (2), 204-231.

Wozniak, J. F. (2008). Introduction to transformative Justice: Critical and peacemaking themes influenced by Richard Quinney. In J. F. Wozniak, M. C. Braswell, R. E. Vogel, & K. R. Blevins (Eds.), *Transformative justice: Critical and peacemaking themes influenced by Richard Quinney* (pp. 1-30). New York: Lexington Books.

Yousufzai, H. M., & Gohar, A. (2005). *Towards understanding Pukhtoon Jirga.* Peshwar, Pakistan: Just Peace International.

Zehr, H. (2002). *The little book of restorative justice.* Intercourse: Good Books.

Zehr, H. (2005). *Changing lenses: A new focus for crime and justice.* Ontario: Herald Press.

Appendix A.

Consent Statement

Principal investigator: *Muhammad Asadullah*
Faculty Supervisor: *Dr. Brenda Morrison*
Title of the Study: Exploring the idea of 'values' for a reconciliation process of Bangladesh's liberation war: A Restorative Justice and Peacemaking Criminology Perspective
School of Criminology
Simon Fraser University

My name is Muhammad Asadullah. I am an MA student at Simon Fraser University. I am conducting this interview as part of a study. You are being asked to participate in a study about your experience as a citizen of Bangladesh. This study will take 40-60 minutes of your time and will involve in-depth interview. You need to be 19 years or older and citizens of Bangladesh to participate in this study. Your participation is completely voluntary. There is no financial benefit for participating in this research. However, through expressing your opinion on this research topic and answering questions from the attached questionnaire, you can contribute in shaping the 'values' for future work on the reconciliation process in Bangladesh. Participating in this study will not have any risk to you because no name or personal information will be collected. You may stop participating in this interview at any time or choose not to answer any questions without any consequence.

The purpose and goals of this study:
The main purpose of this qualitative study would be to explore the idea of values for a future reconciliation process in Bangladesh. Four specific variables on values, namely participation, empowerment, re-integration and transformation, in the context of post-war settings will be explored. Identifying the core values for Bangladesh's reconciliation process is, therefore, the basic purpose of this research. In order to explore the values, this study will intensively study the key values and principles of restorative justice and peacemaking criminology. Emphasis will be given on how these values are used and implemented in post-war contexts particularly in Cambodia and Rwanda. An in-depth qualitative interview will be conducted to identify the opinion of the Bangladeshi people on values for a future reconciliation process. And finally the researcher will analyse the deductive and inductive 'findings' of the values from qualitative interviews with the core values of restorative justice and peacemaking criminology. These values (culturally and contextually appropriate) may be identified as the guiding principles for a future reconciliation process to right the historical wrongs during the 1971 liberation war of Bangladesh.

With your permission, this interview will be digitally tape recorded. If you do not want the interview to be recorded, please feel free to inform me, I will take notes without recording. So if you are face-to-face participants and do not want the interview to be recorded, you can select the option (recording/no recording) before signing the consent

form. Skype/telephone participants can inform me via email masadull@sfu.ca whether you want the interview to be recorded or not prior to the interview.

If you permit me to record the interview, the taped interview will only be used for this project; your name or identity will not be recorded or taped. No one will have access to these notes or tapes except me. The content of this interview will only be used for research purposes. Data collected will be used for publication or conference presentation. At the end of the research project, audio tapes will be kept in a locked file for two years to ensure confidentiality. During that time, no one will have access to tapes except me. After two years all the recording will be destroyed. If you do not understand any portion of what you are being asked simply ask for a clarification. There aren't any right or wrong answers. I want to hear about your experience and views. I am ready to hear anything you have to say.

If you have any questions or concerns about this interview and do not fully understand the nature and character of your involvement in this research as a participant, please feel free to discuss them with me. Remember that everything you say will remain confidential. If you have concerns and complaints with respect to your participation in this research study as a participant, please contact **Dr. Dina Shafey** Associate Director of Office of Research Ethics, Simon Fraser University at ████████ or ████████

Furthermore, you can obtain the research result of this study from the principal investigator, Muhammad Asadullah by contacting me at the following number: ████████ or via email: ████████

For Skype/telephone interviews:
Even though Skype is one of the most secure communication softwares, which cannot be tapped by any outsiders hacking into the system, confidentiality of identities cannot be guaranteed as Skype/telephone are not officially considered to be confidential mediums.

If you are participating in this research through Skype/telephone interview, you can acknowledge your consent to participate in this study by replying affirmatively or negatively to principle investigator's email at ████. If you are participating in this research face-to-face, you can hand over the singed consent form before the interview. So I will be collecting signed consent forms from the face-to-face participants. For the convenience of the Skype/telephone participants, I will not be collecting written consent forms. Affirmative reply to my email address (████) will be regarded as consent to participate in this study (for Skype/telephone interviewees).

By participating in this study you understand that you are consenting to fully participate. Any questions? If you fully understand the nature of your participation, with your permission I shall start the interview?

For face-to-face participants:
Print Name:
Recording/ No Recording
Signature: Date:
                                                                    (Month-Day-Year)

Appendix B.

Semi-structured Qualitative Interview Questions

Principal investigator: *Muhammad Asadullah*

Faculty Supervisor: *Dr. Brenda Morrison*

1. History of 1971 is the most discussed topic in Bangladesh. We know about the history of 1971 from our experience, books, schools and parents. Could you please share with me what you know about 1971 war of independence?
2. Keeping in mind the current political polarization with regard to 1971, how should we (the people of Bangladesh) try to heal our wounds or what should be the process or way or method to heal the wounds and ends impunity?
3. What guiding principles do we need for the process?
4. To heal this historical wound, who should be included in this process or method or who should be the key stakeholders in this healing process or method?
5. What do you think should be achieved or done in short-term basis from this process or method?
6. To move forward, what do you think should be achieved or done in long-term basis from this process or method to heal our historical wounds?
7. What else do you want to see for justice and healing?

Debriefing (closing comments)

"That concludes my questions. Is there anything you'd like to clarify or to add?

Do you have anything more you'd like to ask about before we finish the interview?" If the

interviewee has questions about the purpose or design of the study, the researcher will

answer more fully after the tape recorder is turned off.