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After the First Trial: A Population-Based Survey on Knowledge and Perception of Justice and the Extraordinary Chambers in the Courts of Cambodia

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# AFTER THE FIRST TRIAL

A POPULATION-BASED  
SURVEY ON KNOWLEDGE  
AND PERCEPTION OF  
JUSTICE AND THE  
EXTRAORDINARY CHAMBERS IN  
THE COURTS OF CAMBODIA

JUNE 2011



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The **INITIATIVE FOR VULNERABLE POPULATIONS** conducts research in countries experiencing serious violations of human rights and international humanitarian law. Using empirical research methods to give voice to survivors of mass violence, the Initiative aims to ensure that the needs of survivors are recognized and acted on by governments, UN agencies, and non-governmental organizations.

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Vinck P, Pham PN, Baldo S, Shigekane R (2008). *Living with Fear: A Population-Based Survey on Attitudes about Peace, Justice and Social Reconstruction in Eastern Congo*. Human Rights Center, University of California, Berkeley; Payson Center for International Development, Tulane University; International Center for Transitional Justice, New York.

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# EXECUTIVE SUMMARY

On July 26, 2010, Kaing Guek Eav, alias Duch, was convicted of crimes against humanity and grave breaches of the 1949 Geneva Conventions for events that took place three decades earlier under the Khmer Rouge regime. Following this important milestone for the Extraordinary Chambers in the Courts of Cambodia (ECCC), the present study was implemented to (1) monitor public awareness and knowledge of the ECCC's work, as well as of outreach and victim participation initiatives organized by the tribunal and local non-governmental organizations, (2) assess attitudes about justice and the desire for reparations for past crimes, and (3) recommend ways in which the ECCC, civil society, and the international community can continue to engage Cambodians in the work of the ECCC.

This report presents the results of a survey of 1,000 Cambodians, aged 18 or above, randomly selected throughout the country to be representative of the adult population. The interviews were conducted anonymously and confidentially in December 2010 by a team of trained interviewers using a structured questionnaire. This is the second population-based survey conducted in Cambodia by the Initiative for Vulnerable Populations at UC Berkeley's School of Law Human Rights Center.

It is hoped that the findings will contribute to establishing a dialogue between the ECCC, the government, the Cambodian population, non-governmental organizations (NGOs) and the international actors on the role and impact of the ECCC, expectations of the population, and beyond the Court, what must be done to deal with the violent past.

Our **principal findings** are summarized as follows:

- While justice is important for the population, its **priorities** were jobs and services to meet basic needs, including health and food as well as improvements in the country's infrastructure, such as electricity, roads, and building of schools. A majority of Cambodians would rather focus on problems that Cambodians face in their daily lives than address crimes committed during the Khmer Rouge regime (83% in 2010 compared to 76% in 2008), or would rather spend money on something other than the ECCC (63% in 2010 compared to 53% in 2008).
- Since 2008, both **awareness of and knowledge about the ECCC** have increased. In 2010, the percentage of the population claiming no knowledge of the ECCC decreased among those who lived under the Khmer Rouge regime (22% in 2010 compared to 34% in 2008) and those who did not live under the Khmer Rouge regime (33% in 2010 compared to 50% in 2008). In addition, 67% of people (compared to 53% in 2008) could adequately describe the Court as a hybrid court comprising national and international judges and staff. Eleven percent could correctly identify how many people had been arrested (compared to 10% in 2008), and 11% could also correctly name the individuals who had been arrested (compared to 3% in 2008). In 2010, the gap in knowledge was significantly larger among those who did not live under the Khmer Rouge regime (only 3% correctly identified the individuals that have been arrested and are to stand trial) compared to those who lived under the regime (14%). Despite improvement in the knowledge indicators, 38% stated that they felt little informed and 39% stated they felt moderately informed, indicating that more information about the Court may be needed.
- In 2010, the media remained an important vehicle for **information**. Of those who had heard about the ECCC at least occasionally, the main sources of information were television (72% in 2010 compared to 44% in 2008) and radio (73% in 2010 compared to 80% in 2008). Forty-seven percent of the respondents reported having seen TV programs about the ECCC, and among those, about one out of two (46%) said they had specifically seen "Duch on Trial." Finally, in 2010, 1% of the respondents



reported that an organization had contacted them to participate in the ECCC proceedings (compared to none in 2008) and 1% indicated that they had participated in the proceedings, mainly by attending hearings or visiting the Court. None of the respondents had applied to become a Civil Party or filed a complaint.

- Over the last two years prior to the survey, **attitudes toward the ECCC** remained positive and had become more favorable on certain indicators. A vast majority of respondents believed the Court would respond to the crimes committed by the Khmer Rouge (84%); help rebuild trust in Cambodia (82%); help promote national reconciliation (81%); and bring justice to the victims of the Khmer Rouge regime (76%). Seventy-five percent believed the Court to be neutral. Among those who did not believe the Court to be neutral, the lack of neutrality was generally associated with the Cambodian government (31%) and/or the fact that judges are working for the government (23%). Compared to 2008, the 2010 results show more than a 10% increase in the number of people who believed the Court would help rebuild trust in Cambodia and promote national reconciliation, and an 8% increase in the number of people who believed the Court is neutral.
- In 2010, respondents still had high **expectations** of the ECCC. Over three-quarters of respondents (compared to 68% in 2008) believed the ECCC would have a positive effect on the victims of the Khmer Rouge and/or their families. The nature of the expected positive impact, however, has changed in the last two years. Respondents still considered the positive impact of the ECCC to be punishing those responsible for past crimes through jail sentences (32% comparable to 37% in 2008) but increasingly mentioned the idea of bringing justice to the victims (37% compared to 2% in 2008) and its potential impact on mental health with 25% of the respondents indicating that the trials at the ECCC could help victims feel better, have less anger, or help relieve the pain and suffering endured during the Khmer Rouge period. In 2010, the respondents' definition of justice was mostly associated with being "fair" (71%), knowing who is right and who is wrong (25%), and applying the law (24%).
- While the potential **impact of the Court** was viewed as largely positive, 9% indicated that the Court would have a negative impact, and 16% were unsure. Among those who mentioned a negative impact, about one-quarter (24%) stated that the trial would remind victims too much of their past. Others linked it to the outcome of the Duch trial, mentioning that the Duch sentence was too short (15%) and that the trial did not bring justice to the victims (15%).
- Among all respondents, 54% knew that **Duch** was on trial. About one in ten respondents was able to state accurately for how many years the Trial Chamber had sentenced Duch to prison (12%) and was able to state accurately how many years he will spend in prison (11%). After being informed that Duch would probably spend 18 to 19 years in prison according to the current verdict, about 46% responded that Duch should spend more time in prison, 39% said the current time was adequate, and 10% thought that Duch should spend less time. At the time of the survey, 91% of people did not know that the verdict was being appealed. Respondents' overall perception of Duch's Trial was positive, although some data suggest that they were not pleased with aspects of the trial. Most people agreed with the statement that "the Duch Trial was conducted fairly" and that the "Court was right to find Duch guilty for what he did at S21" [Tuol Sleng] (69% and 77%, respectively). But a strong sentiment also emerged that "the Court gave too much time to Duch to explain himself," and that the "victims did not have enough time to tell their story" (50% and 56%, respectively).
- Responses to several questions suggest that since the Duch trial began, **trust in the justice sector** has increased, but belief that the judicial system is corrupt has increased as well. Compared to 2008, a higher proportion of 2010 respondents believed that justice in Cambodia is the same for everyone (61% vs. 44%), that Cambodian judges treat everyone equally (56% vs. 40%), and trusted the Cambodian justice system overall (52% vs. 36%). However, at the same time, a higher proportion believed that Cambodian officials who commit crimes go unpunished (40% vs. 35%), that going to court means paying a bribe (68% vs. 61%), and that going to court is too expensive (86% vs. 82%). When asked

about the direct impact of the Duch trial on their trust in the law, a majority of respondents (72%) said the trial had increased their trust, while only 6% reported a decrease in trust.

- The respondents' **recommendations** to the ECCC were most frequently to speed up the trial, be fair, and to punish the accused.
- Support for **truth-seeking** was still strong and in fact was increasing, with a majority of respondents wanting to know more about what happened during the Khmer Rouge regime. On the other hand, since the 2008 survey, knowledge of the Khmer Rouge period has not changed. Four out of five respondents (80% compared to 81% in 2008) among those who had not lived under the Khmer Rouge regime and over one-third among those who lived under the regime (36% compared to 37% in 2008) stated that their knowledge of the Khmer Rouge regime was poor or very poor. Nevertheless, a little over half of the respondents (57%) mentioned knowing more about what happened under the Khmer Rouge regime after the Duch trial, indicating that despite a perceived increase in knowledge, respondents still considered their knowledge of the regime as inadequate.
- Since 2008, feelings of animosity and a **desire for revenge** toward the Khmer Rouge have decreased only very slightly, with a majority continuing to report feelings of hatred (81% compared to 83% in 2008), and desire to see those responsible suffer (68% compared to 72%). The proportion of respondents who said they forgave the Khmer Rouge top leaders remained unchanged (36%); however, slightly more (around half) indicated having forgiven Duch after the trial. Only a minority (41%) of the respondents stated they were ready to **reconcile with Duch** or members of Khmer Rouge who were responsible for atrocities committed during the Khmer Rouge regime.
- When asked what should be done for victims, the population indicated most frequently that providing services such as education and health care, as well as providing justice should be the priority. The vast majority said **reparations** should be provided and emphasized the need for community-level reparations. The population further recommended most frequently that reparations should be in the form of memorials, ceremonies, and social services.

**Key recommendations** to emerge from our findings are as follows:

#### TO THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

- *Ensure transparency at the ECCC* and address political interference with the justice system. Respondents showed strong support for and increasing expectations towards the ECCC. The Duch trial helped augment respondents' trust in the law and in the national justice system. This is positive news for the court and the national justice system. But to sustain that trend, transparency must be prominent especially as Cases 003 and 004 are debated in the media.
- *Expand and improve the outreach efforts of the ECCC.* In the last two years, awareness and knowledge of the ECCC have increased. Television and radio are still powerful means to reach the population. Visiting the court and attending a hearing are ways to participate in the ECCC proceedings. The second trial is about to begin; live proceedings on television, weekly summaries of trial proceedings and opening up the court to Cambodians should resume to ensure information dissemination to a large portion of the Cambodian population. But because legal language and proceedings could be difficult to understand for people outside the legal profession, interviews with court judges and staff should be commonplace during and after the trials to help explain complicated legal and judicial concepts and more importantly the verdicts to the public.
- *Expand education programs* in collaboration with donors, non-governmental organizations, and the Cambodian government. Results of the survey are clear and consistently show over time that respondents want to know more about what happened during the Khmer Rouge regime. Non-governmental organizations in collaboration with the Ministry of Education, Youth and Sport have

made big strides in introducing school curriculums in high schools across the country and educating Cambodians in villages. Building on what is already in place and working together, the ECCC, donors, non-governmental organizations, and the Cambodian government should use this unprecedented opportunity to create curricular modules combining historical texts and visual materials from the first and forthcoming trials for use not only in universities but also in communities across Cambodia. These educational products could also serve as part of the court's legacy.

- *Recognize that the vast majority of Cambodians desire some form of collective and symbolic reparations.* The Court has acknowledged the need of the victims to be recognized and has entrusted the Victims Support Section (VSS) with the mandate of developing non-judicial measures for the victims. VSS should take lessons learned from the other projects, forge partnerships with relevant governmental and non-governmental actors, and consult with the victims. As the second trial gets underway, this crucial issue should not be sidelined but rather reinforced with the necessary political will and resources.

#### TO DONORS AND NON-GOVERNMENTAL ORGANIZATIONS

- *Develop coordinated outreach efforts with clear guidelines and goals to provide needed information to the public.* The second trial will be complex and difficult to understand for ordinary Cambodians. Yet the data suggest most Cambodians are not very knowledgeable about the Court's mandate and procedures, or about the outcome of the Duch trial.
- *Support and focus on how to provide and deliver reparations and other non-judicial measures that are determined in partnership with victims and their families.* Cambodians favor reparation measures that directly affect their livelihood and access to services. However, many also offered examples of measures that could be implemented in communities (e.g., public ceremonies and memorials).
- *Develop and implement a comprehensive strategy when funding Cambodia's transitional justice process (i.e., not only the court, but also a few restorative or truth-telling measures around the ECCC).* The objective would be to engage in community-based dialogues and discussions that could have lasting impacts beyond the judicial process, including ones on unity and reconciliation. The results suggest that trials alone are insufficient to achieve the type of social changes that are needed.
- *Develop integrated psycho-social health programs across the country.* Respondents have signaled that the trials at the ECCC could help victims feel better, have less anger and help relieve their pain and suffering. Non-governmental organizations have paid attention to civil parties and witnesses' mental health before, during, and after the first trial. As the second trial is about to begin, non-governmental organizations and donors should collaborate to ensure that such programs be expanded to Cambodians across the country, ensuring that the expected positive impacts be maximized.

#### TO THE GOVERNMENT OF CAMBODIA

- *Develop ways to integrate ECCC best practices into the national justice system.* For respondents, justice meant being fair, enforcing and respecting existing laws, and knowing who is right and wrong. The ECCC's presence provides an opportunity for donors, non-governmental organizations, and the Government of Cambodia to come together and strengthen the national criminal justice system, address political interference with the justice system, and integrate the judicial legacy and legal best practices of the ECCC, instituting transparency, accountability, and efficacy.

# INTRODUCTION

On July 26, 2010, Kaing Guek Eav, alias Duch, was convicted of crimes against humanity and grave breaches of the 1949 Geneva Conventions.<sup>1</sup> The judgment was an important milestone for the Extraordinary Chambers in the Courts of Cambodia (ECCC) created four years earlier in 2006. The case against Duch focused on the infamous prison Tuol Sleng, where at least 12,200 Cambodians were imprisoned, tortured, and ultimately killed. He was the first former Khmer Rouge to stand trial at the ECCC for the horrendous crimes committed during the Khmer Rouge regime, which reigned over Cambodia between April 17, 1975, and January 6, 1979. More than 1.7 million Cambodians died of starvation, exhaustion from slave labor, summary executions, and torture over that period.

The ECCC is the first serious effort to hold accountable the members of the Khmer Rouge regime (KRR) most responsible for what happened during that period. For many Cambodians, it may also be the last opportunity to obtain justice for crimes committed over 30 years ago. In September 2010 the Co-Investigating Judges indicted four more suspects for crimes of genocide, crimes against humanity and war crimes, as well as homicide, torture and religious persecution, under the Cambodian Penal Code 1956: Ieng Sary, Khieu Samphan, Nuon Chea, and Ieng Thirith.<sup>2</sup> Recently, the Co-Investigating Judges further notified the parties that they completed investigations into a third case, Case 003, and were examining the evidence in a fourth case.<sup>3</sup>

As the second trial of the ECCC will unfold in the coming year, there is an urgent need to examine the lessons learned from the first trial, and to identify the challenges that the Court will continue to face. This study was undertaken to contribute to that process. Its contribution is to present a representative assessment of the population's view about the ECCC's work, and the trial of Duch, as well as the outcome and impact of the proceedings. Understanding the population's views about justice and the Court is necessary to ensure that the proceedings are meaningful for the population. The study relies on two population-based surveys of 1,000 adult Cambodians randomly selected throughout the country. The first survey was conducted in 2008 before the trial of Duch began. The second survey was undertaken in 2010, nearly six months after the sentencing.

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<sup>1</sup> The judgment was made on July 26, 2010. See, "Judgment, Criminal Case File # 001/18-07-2007-ECCC/TC" Cambodia: Extraordinary Chambers in the Courts of Cambodia, available at <http://www.eccc.gov.kh/en/documents/court/judgement-case-001>

<sup>2</sup> During the DK regime, Ieng Sary was deputy prime minister and foreign minister; Khieu Samphan was president; Nuon Chea, also known as "Brother no. 2", was second in command; and Ieng Thirith was minister of social affairs. For details on Case 002 initial hearing, see "Media Advisory. Media Accreditation for the Initial Hearing in Case 002 27-30 June 2011", Cambodia: Extraordinary Chambers in the Courts of Cambodia, available at <http://www.eccc.gov.kh/en>; for details on the charges, see "Closing Order, Criminal Case File # 002/19-09-2007-ECCC-OCIJ", Cambodia: Extraordinary Chambers in the Courts of Cambodia, available at <http://www.eccc.gov.kh/en/documents/court/closing-order>

<sup>3</sup> For details of Case 003, see "Notice of Conclusion of Judicial Investigation, Case file #003/07-09-2009-ECCC-OCIJ", Cambodia: Extraordinary Chambers in the Courts of Cambodia, Available at <http://www.eccc.gov.kh/en/document/court/notice-conclusion-judicial-investigations>. Cases 003 and 004 are widely expected to be dismissed.

## BACKGROUND

On April 17, 1975, the Khmer Rouge troops seized control of the capital, Phnom Penh, marking the beginning of an attempt to transform Cambodian society into an agrarian utopia. Pol Pot's first action was to force the population out of the cities and towns and into the countryside. He and his top leaders established a society based on agriculture and total collectivism. The Angkar or "Organization," as the revolutionary movement named itself, was the sole governing power and the owner of all means of production and private property. Cambodia was renamed Democratic Kampuchea (DK) and was mostly sealed off from the outside world.<sup>4</sup>

Angkar's policies were largely uniform across the country with some regional and individual variations.<sup>5</sup> Officially, class was abolished but in practice all Cambodians were labeled as either "Old or Base People" or "New People." Old People were those who resided in areas controlled by the Khmer Rouge prior to 1975. New People were mostly city dwellers, including peasants in the cities at the time of the evacuation<sup>6</sup> who had been exposed to foreign influences and considered politically unreliable. Millions of Cambodians were forced into slave labor where they began dying from overwork, disease, and malnutrition.

To enforce their drastic changes, the Khmer Rouge created and maintained a climate of constant terror, violence, and secrecy. They also instituted a vast prison system across the country.<sup>7</sup> The most infamous prison was Tuol Sleng in Phnom Penh where at least 12,000 thousand people died as a result of torture or execution. The regime marked large cohorts of the population for extermination: the educated urban elite, soldiers from previous regimes, Buddhist monks, Cambodians returning from overseas and ethnic populations such as Chams, Khmer of Vietnamese origin, and Khmer of Chinese origin. As the leaders' obsession with potential infiltration and treason increased, the regime also conducted major purges among their own ranks, torturing and killing countless innocent victims.<sup>8</sup>

After several years of border skirmishes, the Vietnamese invaded Cambodia on January 7, 1979, and overthrew Pol Pot and his regime. The Vietnamese installed a pro-Vietnamese government, the People's Republic of Kampuchea (PRK), led by Heng Samrin. Cambodia entered a period of reconstruction hindered by a resistance movement at the Thai border and continuing isolation from the international community. In September 1989, the Vietnamese withdrew their troops.<sup>9</sup> In 1991, all factions (government and resistance, including the Khmer Rouge) signed the Paris Peace Agreement. The signing of this accord marked the beginning of the operations of the United Nations Transitional Authority in Cambodia (UNTAC). The mission led to the election in 1993 of two Co-Prime Ministers, Norodom Ranariddh (National United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia, FUNCINPEC) and Hun Sen (Cambodian People Party, CPP)<sup>10</sup> and repatriation of more than 350,000 Cambodians from Thai refugee camps.<sup>11</sup> However, it did not succeed in disarming the factions or

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<sup>4</sup> David P. Chandler, *A History of Cambodia* (Boulder, Colorado: Westview Press, 1983), 209–11; Evan Gottesman, *Cambodia After the Khmer Rouge. Inside the Politics of Nation Building* (New Haven: Yale University, 2003), 24–25.

<sup>5</sup> Chandler, *A History of Cambodia*, 211.

<sup>6</sup> Michael Vickery, *Cambodia 1975–1982* (Boston MA: South End Press, 1984), 81–82.

<sup>7</sup> Henri Locard, "The Khmer Rouge Prison System," in *Khmer Rouge History & Authors: From Stalin to Pol Pot – Towards a Description of the Pol Pot Regime* (Phnom Penh, Cambodia: ADHOC and Center for Social Development, January 2007).

<sup>8</sup> Chandler, *A History of Cambodia*, 213; 218–19.

<sup>9</sup> Raoul M. Jennar, *The Cambodian Constitutions (1953-1993)* (Bangkok, Thailand: White Lotus, 1995), 111.

<sup>10</sup> John D. Ciorciari, "History and Politics behind the Khmer Rouge Khmer Rouge trials", in John D. Ciorciari and Anne Heindel, ed., *On Trial: The Khmer Rouge Khmer Rouge Accountability Process, Document Series no 14*" (Phnom Penh, Cambodia: Documentation Center of Cambodia, 2009), 43

<sup>11</sup> Raoul M. Jennar, *Les Cles Du Cambodge (Excerpts)*, available at <http://vorasith.online.fr/cambodge/livres/cles.htm>.

rallying the Khmer Rouge who refused to participate in the elections. The Khmer Rouge continued guerilla-style resistance until 1998 when the revolutionary movement collapsed.

## **The Extraordinary Chambers in the Courts of Cambodia**

Thirty years after the Khmer Rouge regime, the ECCC, also known as the Khmer Rouge Tribunal, began its work on July 1, 2006. Its jurisdiction covers senior leaders and those most responsible for crimes and serious violations committed during the period from April 17, 1975, to January 6, 1979, including genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, and other crimes.<sup>12</sup>

Developed as a hybrid court within the Cambodian Court System, the ECCC is a mix of Cambodian and international judges with a majority of Cambodians. The Court includes three Chambers: the Pre-Trial Chamber (five judges), the Trial Chamber (five judges), and the Supreme Court Chamber (seven judges). The Supreme Court Chamber's rulings are final. The ECCC applies both Cambodian and international law. The ECCC's judicial offices are led by two Co-Prosecutors and two Co-Investigating Judges, each pair consisting of one Cambodian national and one international.<sup>13</sup> Following the hybrid pattern, the Office of Administration and major sections such as Budget and Finance, Personnel, Security and Safety, and Public Affairs also have Cambodian directors and international deputies.

The ECCC is modeled after the Cambodian national courts and so operates according to a civil law system.<sup>14</sup> Co-Prosecutors first conduct a preliminary investigation and send the Introductory Submission, comprising factual allegations of crimes and suspects, to the Co-Investigating Judges. The Co-Investigating Judges examine only the factual allegations made in the Introductory Submission unless the Co-Prosecutors submit additional allegations through supplementary submissions. The Co-Investigating Judges have the power to arrest and charge suspects, if deemed necessary. Following notification that the investigation is closed, the case file is returned to the Co-Prosecutors, who then file the Final Submission requesting indictment for specific crimes.

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<sup>12</sup> Genocide is defined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide; crimes against humanity are defined in the 1998 Rome Statute of the International Criminal Court, and grave breaches of the 1949 Geneva Conventions and other crimes are defined in Chapter II of the Law on the Establishment of the Extraordinary Chambers promulgated on 10 August 2001. The information in this paragraph is drawn from United Nations Assistance to the Khmer Rouge Trials (UNAKRT) website, available at [http://www.unakrt-online.org/01\\_home.htm](http://www.unakrt-online.org/01_home.htm)

<sup>13</sup> The information in this paragraph is drawn from UNAKRT website, available at [http://www.unakrt-online.org/02\\_court.htm](http://www.unakrt-online.org/02_court.htm).

<sup>14</sup> Cambodia's legal system, nonexistent during the Khmer Rouge regime, is based on the French model of "civil law." Rooted in a "culture of impunity" and patronage, the major cited problems of the legal system and the judiciary are corruption and absence of independence. The Ministry of Justice often provides instructions to judges on how to interpret the laws; the Executive pressures the court to overturn their rulings; selection, appointment, and promotion of judges are determined by the executive or legislative and political parties; and judges are often closely associated with the ruling Party making it difficult to separate Executive and Judiciary powers. The absence of rules on conflict of interest, on requirements to disclose assets or gifts, and on protection of whistleblowers heightens the possibilities of corruption. In 2010, the Cambodian national assembly adopted the long-awaited Anti-Corruption Law. However, by the end of the year 2010, the Anti-Corruption Unit established under the Anti-Corruption Law had not yet taken action against alleged perpetrators and was not fully operational. In addition, the capacity of the judicial system is limited. In 2007, Cambodia had only 142 judges, 72 prosecutors, and 601 court clerks for 23 courts including the Appeals and Supreme Courts. Officers of the court are poorly trained. The budget for the courts is only a small fraction of the national budget, leading to understaffing and a lack of space and basic necessities. In 2003, judicial remuneration was the lowest in Southeast Asia. The legal system was the second most bureaucratically embedded judiciary in the region. Peter Leuprecht, "Continuing Patterns of Impunity in Cambodia" (Phnom Penh, Cambodia: United Nations Cambodia Office of the High Commissioner for Human Rights, October 2005), 26; The Court Watch Project, "Annual Report" (Phnom Penh: Center for Social Development, March 2008), 6; "Consideration of reports submitted by States parties under article 19 of the Convention. Concluding observations of the Committee against Torture. Cambodia" CAT/C/KHM/CO/2, (New York: United Nations, 20 January 2011)

The Co-Investigating Judges' Closing Order that either indicts the suspects or dismisses the case follows the Final Submission. The Co-Prosecutors can appeal the Closing Order, if deemed necessary.<sup>15</sup>

The ECCC system also includes other sections: the Defence Support Section (DSS), the Victims Support Section (VSS), and the Witness Expert Support Unit (WESU). Once a suspect has been indicted and brought into custody, the DSS's main role is to ensure he or she has effective legal representation. In doing so, it provides a list of lawyers to the defendants, gives legal and administrative support to chosen lawyers, and pays legal fees. The Defence Support Section also acts as a voice for the defense, and liaises with non-governmental organizations (NGOs).<sup>16</sup>

In addition to being called as witnesses, victims can participate in the Court's proceedings as complainants or as Civil Parties by submitting a Victim Information Form. The Victims Support Section (formerly Victims Unit) is the focal point for victims wishing to participate in the ECCC's proceedings. It acts as the intermediary by receiving and processing all Victim Information Forms and transmitting them to the appropriate office. The Co-Prosecutors are responsible for considering the complaints, whereas the Co-Investigating Judges or the Trial Chamber, as appropriate, assesses Civil Party applications.

Any person who witnessed, has knowledge of, or was a victim of crimes covered within the jurisdiction of the ECCC can file as a complainant. Complaints can be broad and provide information about any alleged criminal act within the jurisdiction of the ECCC. The Co-Prosecutors can commence an investigation based on a complaint or other information they have gathered. Then complainants or anyone else with information that can prove guilt or innocence can be brought as witnesses. Once a person has been designated as a witness, the Witness Expert Support Unit is responsible for coordinating protection matters at all stages of the proceedings as well as providing support services to protect witnesses from emotional and psychological stress.

To join a case as a Civil Party, a person must have suffered harm as a result of crimes within the ECCC's jurisdiction, and under investigation by the Co-Investigating Judges. In practice, this means that the applicant, to be accepted as a Civil Party, must describe crimes in the Victim Information Form that have already been alleged in the introductory or any supplementary submission.<sup>17</sup> Civil Parties are considered a party in the same way as the prosecution and defense and thus have the right to participate in all parts of the proceedings.<sup>18</sup> Civil Parties have the right to legal representation, either by a Cambodian lawyer or by an international lawyer in collaboration with a Cambodian lawyer, and can also apply through various victim associations. Only Civil Parties have the right to seek reparations.

Within the Court, the ECCC Public Affairs Section (PAS) and the Victims Support Section (VSS) were set up to be the main interfaces between the Court and external audiences. PAS is part of the Office of Administration, and its responsibilities include media relations, outreach and public information, and recording of proceedings. Its objective is "to provide as much information as possible on the activity of the Court," so as to build public

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<sup>15</sup> For more details on roles and procedures, see all versions of the Internal Rules, available at <http://www.eccc.gov.kh/en/document/legal/internal-rules>

<sup>16</sup> The information on the Defense Support Section is drawn from UNAKRT website, available at [http://www.unakrt-online.org/07\\_defencesupport.htm](http://www.unakrt-online.org/07_defencesupport.htm).

<sup>17</sup> This is an important point as the initial and supplementary submissions are confidential. For information regarding the application process, visit the website of the Victim Support Section, Cambodia: Extraordinary Chambers in the Courts of Cambodia, available at <http://www.eccc.gov.kh/en/victims-support>; see also, "Victim Participation, Practice Direction 02/2007/Rev.1," Cambodia: Extraordinary Chambers in the Courts of Cambodia, available at: [http://www.eccc.gov.kh/sites/default/files/legal-documents/PD\\_Victims\\_Participation\\_rev1\\_En.pdf](http://www.eccc.gov.kh/sites/default/files/legal-documents/PD_Victims_Participation_rev1_En.pdf)

<sup>18</sup> For more details on Civil Party role and participation in the criminal proceedings, see "Internal Rules (rev.7) , Rule 23", (Cambodia: The Extraordinary Chambers in the Courts of Cambodia, 23 February 2011)

confidence in the process.<sup>19</sup> VSS, for its part, serves as the focal point for people who wish to participate in the ECCC.

## The Duch Trial

The initial hearing in the trial of Duch was held on February 17, 2009. The substantive part of the trial began on March 30, 2009. The trial lasted 77 days ending on November 27, 2009. Duch, a former mathematician, was deputy and then chairman of the infamous national prison Tuol Sleng (also known as S21) during the Khmer Rouge regime. On July 26, 2010, the Trial Chamber convicted Duch of crimes against humanity and war crimes. He was sentenced to 35 years in prison, which was then reduced to 19 years for illegal detention by the Cambodian Military Court as well as time served in detention at the Cambodian Military Court and the ECCC.<sup>20</sup> The Trial Chamber accepted 66 Civil Parties but denied Civil Party status at sentencing to 24 applicants on the ground that they had not demonstrated a link to S21,<sup>21</sup> either as a direct survivor or by bond of kinship, affection or dependency with a S21 victim. Finally, the Chamber ruled that reparations would be limited to the inclusion in the judgment of the names of the 66 accepted Civil Parties and the names of their family members who may have been harmed at S21, as well as a compilation and publication on the ECCC website of the accused's statements of apology.<sup>22</sup>

Both Duch and the Co-Prosecutors appealed the verdict to the Supreme Court Chamber. Most Civil Parties have also filed appeals against the Trial Chamber rulings on reparations and admissibility of Civil Party applicants.<sup>23</sup> The appeal hearing was held March 28 to 30, 2011. The Supreme Court Chamber's verdict is expected sometime in 2011.

## Outreach

Since the beginning of the Duch trial, PAS has taken the lead in ECCC outreach. PAS was instrumental in bringing more than 27,700 visitors to the Court during the trial, for example, as well as for disseminating information about the trial to the media and other interested organizations.<sup>24</sup> It also made the proceedings accessible by providing access to live feeds, distributing DVDs, posting transcripts in a timely manner, and launching an ECCC page on Facebook, Flickr and Twitter.

In conjunction with publicizing the Duch trial, PAS has produced a variety of general informational materials (e.g., films, brochures, *The Court Report*, etc.) and reached out to the general public, students, and donors. In addition, it developed the Study Tour, a one-day program bringing Cambodians to visit the ECCC and the Tuol Sleng Museum.<sup>25</sup> PAS reported that in 2009, more than 3,018 villagers from 14 provinces participated in the Study Tour in addition to the people who attended the trial. In 2010, this number reportedly increased to 32,633 participants from all provinces across the country.<sup>26</sup> The Study Tour continues in 2011.

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<sup>19</sup> See <http://www.eccc.gov.kh/en/office-of-administration/public-affairs>

<sup>20</sup> See, "ECCC, Kaing Guek Eav, Biography", available at <http://www.eccc.gov.kh/en/indicted-person/kaing-guek-eav>

<sup>21</sup> Originally 94 people applied to become Civil Parties in Case 001. Out of those, three withdrew their applications and one was denied. Ninety civil party applicants participated in the first trial.

<sup>22</sup> See, "Judgment, Criminal Case File # 001/18-07-2007-ECCC/TC" Cambodia: Extraordinary Chambers in the Courts of Cambodia, 26 July 2010, available at <http://www.eccc.gov.kh/english/caseInfo001.aspx>

<sup>23</sup> See, "ECCC, Kaing Guek Eav, Biography"

<sup>24</sup> The total number of visitors during the first trial was 31,349 including 27,709 public visitors and 3,640 journalists. See "ECCC Public Affairs Section, Outreach Work" presented at the ICTJ Workshop on Outreach, Phnom Penh, Cambodia, 3-5 March 2010

<sup>25</sup> "32,633 Persons Visited ECCC in 2010", Phnom Penh, ECCC press release, 30 December 2010, available at <http://www.eccc.gov.kh/en/media-center/press-releases>

<sup>26</sup> *Ibid*



PAS has also partnered with local organization Bophana to present video screenings in villages, and with the Ministry of Education, to educate young people about the ECCC.<sup>27</sup> Finally, the Section is hosting, in collaboration with the Cambodian Human Rights Action Committee (CHRAC), monthly meetings to coordinate with NGOs that are doing their own ECCC outreach.

After a difficult start due to lack of funding and resources, the VSS also in 2009 began to reach out proactively to victims of the Khmer Rouge. The Section's outreach activities included using the media (radio talk shows, radio spots and advertisements in newspapers) to inform Cambodians about the application process for becoming a complainant or Civil Party in Case 002; participating in NGO meetings and forums; assisting people to visit the Court; and starting a helpline. It also in 2009 organized its own series of regional forums to hear the views and concerns of Civil Party applicants and Civil Parties, and to answer their questions.<sup>28</sup> Those regional forums continue today.<sup>29</sup>

In addition to PAS and VSS outreach programs, more than a dozen local NGOs have provided information to the general public or specific target groups.<sup>30</sup> Their outreach work focused on diffusing information about the ECCC and assisting victim participation in the ECCC proceedings. Radio has been used to broadcast weekly ECCC updates, discuss ECCC proceedings and respond to listener questions through call-in sessions. Audio information is complemented by the distribution of written materials at the district and commune levels or to subscribers of listservs. In addition, the NGOs have developed outreach activities to foster the Cambodian public's interest and participation in the judicial process. Community meetings, public forums, visits to the Court, attendance at the first trial hearings and community screenings of the first trial hearings are a few mechanisms through which these goals have been implemented. Many NGOs have used their extensive network to reach several hundred thousand people across the country.

In addition to outreach activities, three major groups of national and international NGOs are monitoring the court activities: (1) Open Society Justice Institute (OSJI) releases regular reporting as well as organizes update meetings in Cambodia; (2) Asia International Justice Initiative (AIJI) had a trial-monitoring program for Case 001 with weekly reports and summary films aired on Cambodia Television Network (CTN) with plans for a similar program for Case 002; (3) Documentation Center of Cambodia (DC-CAM) with Northwestern University School of Law website, Cambodia Tribunal Monitor, provides videos of the proceedings, news, information, and expert commentaries on its website. Additionally several NGOs have monitored Case 001 and plan to do so for Case 002.

## **Victim Participation in ECCC Proceedings**

During Case 001, the VSS was the designated support body to Civil Parties, for example, by assisting with transportation to some hearings and finding private places to rest at break times. It also organized meetings between all Civil Parties before and at the end of the trial. But, due to VSS' limited resources, NGOs were at the forefront of victim support, which included assisting people to file applications, notifying applicants of the

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<sup>27</sup> The video screenings include: 1) "A Day at the ECCC", video about the court, produced by the ECCC Public Affairs Section; 2) "About my Father" a focus on a Civil Party's journey, produced by Bophana; and 3) "Testimonial Therapy," a culturally adapted trauma therapy approach, the result of a collaboration between TPO and Bophana.

<sup>28</sup> "ECCC Victims Unit, Outreach Activities, June-October 2009," presented at the DED Workshop for the Monitoring of Component 1: Outreach, Phnom Penh, October 19, 2009.

<sup>29</sup> For information on that topic, see "Victims Support, press releases", (Cambodia, The Extraordinary Chambers in the Courts of Cambodia), available at <http://www.eccc.gov.kh/en/victims-support>.

<sup>30</sup> Those include but are not limited to the Documentation Center of Cambodia (DC-CAM), the Cambodian Human Rights and Development Association, the Khmer Institute of Democracy, the Center for Justice and Reconciliation/Center for Social Development, Cambodian Defenders Project, Legal Aid of Cambodia, Cambodian Human Rights Action Committee, International Center for Conciliation, Youth for Peace, Transcultural Psychosocial Organization, and Youth Resources Development Program.

results of their applications, providing legal representation, and informing and supporting accepted Civil Parties and applicants. The Cambodian Human Rights and Development Association (ADHOC) organized monthly meetings to inform Case 001 Civil Party applicants about the process, as well as giving them opportunities to meet their lawyers, and gathering information about their needs and their expectations of reparations. The Cambodian Defenders Project (CDP) and Legal Aid of Cambodia (LAC), jointly with international pro bono civil party lawyers, provided legal assistance. The Transcultural Psychosocial Organization (TPO) offered psychological support before, during and after the trial to victims participating in the proceedings.<sup>31</sup>

In respect to Case 002, NGOs expanded their work and the VSS took up more victim support responsibilities. The Co-Investigating Judges released the scope of the investigation in Case 002 in November 2009<sup>32</sup> and gave potential Civil Parties a deadline to file their applications of January 29, 2010.<sup>33</sup> Some organizations such as ADHOC shifted their resources toward facilitating victim participation. CDP, LAC and TPO continued their work and also developed new projects, such as CDP's Gender-Based Violence During the Khmer Rouge regime project. VSS became increasingly involved, often coordinating with NGOs, in informing victims interested in applying as a Civil Party about the process and in gathering and processing Victim Information Forms to ensure they met the Court's requirements.

Accordingly, participation in Case 002 has been vastly higher than in Case 001. The VSS received 8,202 Victim Information Forms, 84% of which were submitted through NGOs.<sup>34</sup> Among those, 3,988 were Civil Party applications. By the time of the Closing Order in Case 002 (September 2010), the Co-Investigating Judges had declared that 2,123 people were admissible as Civil Parties.<sup>35</sup> Most of the applicants declared inadmissible are currently appealing the decision before the Pre-Trial Chamber.

Since the end of the Duch trial, the ECCC Judges have amended the Internal Rules to entrust VSS with the responsibility of identifying, designing and implementing reparations projects for Civil Parties, as well as developing "non-judicial" measures for victims at large. They have also modified the Civil Party legal representation scheme by introducing the positions of Civil Party Lead Co-Lawyers to represent the consolidated group of Case 002 Civil Parties at trial and beyond.<sup>36</sup>

## Legacy

The Court is still operating, but many organizations are already implementing projects beyond the trials to institutionalize education about the Khmer Rouge period, memorialize the victims, and foster reconciliation. In respect to the first goal, the DC-CAM's Genocide Education Project disseminates the history of Democratic Kampuchea to high school students across the country. As part of this project, DC-CAM has, in collaboration

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<sup>31</sup> Those services include but are not limited to on-site psychological support for Civil Parties and witnesses of the ECCC, phone counseling, psychological support during outreach activities, training, radio programs, testimonial therapy and psychological services. For details, see "Justice and Healing in Times of the Khmer Rouge Tribunal" (Cambodian: Transcultural Psychosocial Organization), available at

[http://www.tpocambodia.org/index.php?option=com\\_content&view=article&id=48&Itemid=60](http://www.tpocambodia.org/index.php?option=com_content&view=article&id=48&Itemid=60)

<sup>32</sup> Office of the Co-Investigating Judges, "Statements from the Co-Investigating Judges Judicial Investigation of Case 002/19-09-2007-ECCC-OCIJ and Civil Party Applications, (Cambodia: the Extraordinary Chambers in the Courts of Cambodia, 5 November 2009), available at

[http://www.eccc.gov.kh/sites/default/files/media/ECCC\\_Press\\_Release\\_5\\_Nov\\_2009\\_Eng\\_0.pdf](http://www.eccc.gov.kh/sites/default/files/media/ECCC_Press_Release_5_Nov_2009_Eng_0.pdf)

<sup>33</sup> Office of the Co-Investigating Judges, "Conclusion of Judicial Investigation in Case 002/19-09-2007-ECCC-OCIJ," (Cambodia: the Extraordinary Chambers in the Courts of Cambodia, January 14 2009), available at

[http://www.eccc.gov.kh/sites/default/files/media/ECCC\\_OCIJ\\_PR14Jan2010-Eng.pdf](http://www.eccc.gov.kh/sites/default/files/media/ECCC_OCIJ_PR14Jan2010-Eng.pdf)

<sup>34</sup> "VU/VSS Outreach. Brief report for the International Center for Transitional Justice (ICTJ) Workshop" presented at the ICTJ Workshop on Outreach, Phnom Penh, Cambodia, 3-5 March 2010

<sup>35</sup> See, ECCC Court Report, Issue 29, Phnom Penh, September 2010, 4, available at <http://www.eccc.gov.kh/en/public-affair/publication/report>

<sup>36</sup> "Internal Rules, (rev. 6)", Rule 12 *bis* and *ter*, Rule 23 *quinquies* (Cambodia: The Extraordinary Chambers in the Courts of Cambodia, 17 September 2010)

with the Ministry of Education, Youth and Sport, published a textbook,<sup>37</sup> developed a teacher guidebook and a student workbook, and trained thousands of teachers across the country. To complement education in the classroom, DC-CAM conducts Genocide Education public forums and has obtained permission from the Ministry of Education to distribute anti-genocide posters and post anti-genocide slogans in 1,700 high schools across Cambodia.<sup>38</sup>

To remember the victims of the Khmer Rouge, Youth for Peace (YFP) and a newly founded Victims Association (Ksem Ksan) have been encouraging the construction of memorials at the community level or at commemorative sites such as S21. To promote reconciliation, the International Center for Conciliation, Cambodia (ICfC) and TPO have been giving trainings on conflict resolution and mental health, and offering a safe place for dialogue between victims and perpetrators.

To encourage the ECCC to have an influence on the Cambodian justice sector in general, CHRAC and the United Nations Office of the High Commissioner for Human Rights (OHCHR) Cambodia are beginning to implement legacy projects. Both are fostering opportunities for judicial officers or lawyers working with the ECCC to share and discuss their experiences, both among themselves and with Cambodian legal professionals and academics. CHRAC has organized a meeting between its members and civil society Civil Party lawyers. OHCHR has brought Cambodian judges to visit the Court and is developing a Code of Procedures and Best Practices. Soon national judges will have the opportunity to talk with court personnel about their experiences working at the ECCC.<sup>39</sup>

## **The Challenges Ahead**

Cambodians' participation in the ECCC proceedings has been unprecedented in international justice. More than 31,000 people, mostly Cambodians, attended the hearings during the Duch trial<sup>40</sup> and several thousand watched the trial on T.V.<sup>41</sup> In addition, 94 people applied to become a Civil Party in the Duch trial and more than 8,000 people either filed a complaint or applied to become a Civil Party in Case 002.<sup>42</sup> As of May 18, 2011, 318 and 178 people had applied to become civil parties in Case 003 and Case 004, respectively.<sup>43</sup> In parallel to the work of the Court, local organizations have developed and implemented an array of outreach and information programs. Some of these programs inform the population about the accountability process, while others, using the ECCC as a platform, are looking more broadly at issues such as education about the past, healing, truth-telling, and reconciliation. The ECCC is thus not only a series of legal proceedings but its existence also triggered a much larger discussion about the past and the role of the past in the present.

Yet, the ECCC is still facing serious challenges in its work, its image and its operations. First, Case 002 will be more complex to prosecute than the first case. Case 001 was confined to one crime site, Tuol Sleng and its branches, and had only one defendant. That defendant actively participated in the trial and expressed remorse

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<sup>37</sup> Khamboly Dy, (2007) *A History of Democratic Kampuchea (1975-1979)*, Documentation Center of Cambodia, Cambodia

<sup>38</sup> All documents related to the Genocide Education project including the teacher guidebook and student workbook are available at [http://www.dccam.org/Projects/Genocide/Genocide\\_Education.htm](http://www.dccam.org/Projects/Genocide/Genocide_Education.htm)

<sup>39</sup> United Nations Office of the High Commissioner for Human Rights, "International Justice and Human Rights: Supporting the legacy of Cambodia's Extraordinary Chambers", available at [http://cambodia.ohchr.org/EN/PagesFiles/ECCC\\_legacy\\_program.htm](http://cambodia.ohchr.org/EN/PagesFiles/ECCC_legacy_program.htm); also Michelle Staggs-Kelsall and Jeudy Oeung, presentation at OSJI NGO Update Meeting, Sunway Hotel, Phnom Penh, Friday, May 6, 2011

<sup>40</sup> "ECCC Public Affairs Section, Outreach Work" presented at the ICTJ Workshop on Outreach, Phnom Penh, Cambodia, 3-5 March 2010

<sup>41</sup> Brendan Brady, "A new TV Show is Rapidly Extending the Reach of the Khmer Rouge War Crimes Court to Cambodian Households," Special to Global Post, November 20, 2009, available at <http://www.globalpost.com/dispatch/asia/091116/cambodia-genocide-tribunal-television?page=0,0>.

<sup>42</sup> The information is from Victims Support Section, "VU/VSS Outreach. Brief report for the ICTJ Workshop" presented at the ICTJ Workshop on Outreach, Phnom Penh, Cambodia, 3-5 March 2010

<sup>43</sup> Julia Wallace, "Government Opposes 318 Civil Party Applications", *The Cambodia Daily*, May 19 2011, 22.

early on.<sup>44</sup> The second trial will be of four persons who have decided not to talk and a crime scene that covers several sites across Cambodia. Additionally, it will be much more logistically complicated with elderly defendants, four defense teams and many more Civil Parties. As mentioned by Marcel Lemonde, a ECCC former international Co-Investigating Judge, this trial will be challenging to manage and may be one of the most complex since the Nuremberg trials.<sup>45</sup>

Second, the ECCC has had to manage expectations of what it can and should accomplish. Victims and the general public have high expectations of seeing justice done, and several victims and victims associations have heavily criticized the sentence in Case 001. The indictment of the four remaining charged persons on genocide against the Cham and the Vietnamese but not against the Khmer is likely to raise questions.<sup>46</sup> Observers, international and national, have also opined that the Court has the potential to establish a more complete historical record of the Khmer Rouge regime and to reform Cambodia's judicial system. The latter, especially, is a difficult proposition that will be achieved only if the ECCC meets international due process standards, if the Cambodian government institutes sweeping judicial reforms, and if donor governments continue to bankroll legal programs.

Furthermore, allegations of political interference and lack of transparency continue to mar the image of the Court, jeopardizing opportunities to root principles of international justice in the domestic legal system. The Court had difficulty obtaining interviews with members of the government during the investigation of Case 002, and Prime Minister Hun Sen has made negative statements about Cases 003 and 004. The Court has released limited information about the latest investigations, raising concerns among court monitors about the ECCC's independence and the transparency of its processes.<sup>47</sup>

Finally, funding is a recurrent issue for the Court. The initial estimate for establishing and operating the ECCC for an anticipated three years was US\$56.3 million.<sup>48</sup> The court is now in its fifth year of operation and the total cost of the ECCC operations was just over \$100 million by the end of 2010. Total expenditures from 2006 up to the end of 2011, are estimated at \$149.8 million.<sup>49</sup> With at least one more trial to go, observers are increasingly concerned that the ECCC will not have sufficient funding to pursue both its judicial work and other residual activities related to the ECCC's legacy.

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<sup>44</sup> See, "Prosecutor v Kaing Guek Eav alias "Duch", Criminal Case No. 001/18-07-2077-ECCC/TC", Cambodia: Extraordinary Chambers in the Courts of Cambodia, Available at <http://www.eccc.gov.kh/en/indicted-person/66/transcript>. All cited references to documents from the Duch trial can be accessed at this web address.

<sup>45</sup> Stephanie Gee, « Quatre responsables khmers rouges renvoyés devant le tribunal international pour génocide » ; Radio France International, Sept. 16 2010, available at : <http://www.rfi.fr/asi-pacifique/20100916-quatre-responsables-khmers-rouges-renvoyes-devant-le-tribunal-international->. Interview with Marcel Lemonde

<sup>46</sup> See "Closing Order, Criminal Case File # 002/19-09-2007-ECCC-OCIJ"

<sup>47</sup> For details on these issues, see "Political Interference at the Extraordinary Chambers in the Courts of Cambodia", (Cambodia: Open Society Justice initiative, July 2010), available at [http://www.soros.org/initiatives/justice/focus/international\\_justice/articles\\_publications/publications/political-interference-report-20100706/political-interference-courts-cambodia-20100706.pdf](http://www.soros.org/initiatives/justice/focus/international_justice/articles_publications/publications/political-interference-report-20100706/political-interference-courts-cambodia-20100706.pdf)

<sup>48</sup> "Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea. Revised Budget Estimates from 2005 – 2009," (Cambodia: Extraordinary Chambers in the Courts of Cambodia, July 2008), 3, available at [http://unakrt-online.org/04\\_documents.htm#Budget](http://unakrt-online.org/04_documents.htm#Budget)

<sup>49</sup> See, "Note to Media: Correct ECCC Financial Data", press release, (Cambodia: Extraordinary Chambers in the Courts of Cambodia 20 May 2011), available at <http://www.eccc.gov.kh/en/media-center/press-releases>

# METHODS

This study was undertaken to assess the population's knowledge, perceptions and attitudes toward social reconstruction and the ECCC, and related changes between 2008 and 2010. Specifically, the goals of the 2010 study were:

1. To monitor public awareness and knowledge of the ECCC's work, as well as of outreach and victim participation initiatives organized by the tribunal and local non-governmental organizations;
2. To reassess attitudes about justice and the desire for reparations for past crimes; and
3. To recommend ways in which the ECCC, civil society, and the international community can continue to engage Cambodians in the work of the ECCC.

To achieve this objective, a survey of 1,000 adult Cambodians was conducted over the first 20 days of December 2010. The research followed the methodology used for a survey implemented by the research team in 2008. The 2008 survey serves as a baseline for comparison with the 2010 survey.

In 2008 the research team randomly selected respondents from among all adult (18 years of age or older) residents of Cambodia. As a sampling frame, the team used the Cambodia General Population Census 2008 Village's database prepared by the National Institute of Statistics, Ministry of Planning.<sup>50</sup> A multi-stage cluster sampling strategy was then designed to ensure that results would be representative of this population. The first stage involved researchers randomly selecting 125 communes out of 1,621 using systematic random sampling proportionate to population size.<sup>51</sup> They selected at least one commune in each of the 24 provinces of Cambodia. Second, researchers randomly selected two villages from each commune using a simple random sampling procedure proportionate to population size, resulting in a sample of 250 villages. Then, within each village, the team randomly selected four households using linear systematic sampling with equal probability of selection. Finally, within each household, one respondent was selected for an interview at random using a Kish grid.<sup>52</sup>

In 2010, researchers returned to the same 250 villages selected in 2008. Within each village, four respondents were selected. All efforts were made to interview at least one participant of the 2008 survey. For the remaining respondents, up to three households were randomly selected and, within each household, one respondent was selected using the same sampling strategy as in 2008. The total sample size was 1,000 individuals with 300 people (30%) of the sample overlapping with the 2008 sample.

Interviewers attempted to contact randomly selected respondents three times over the course of a day. If a selected respondent could not be interviewed or refused to participate, the next randomly selected respondent was approached. One-on-one interviews were conducted anonymously in a confidential setting at or near respondents' dwellings. The interviewer read to each of the selected respondents a standard consent form that presented the project (i.e., university-based research not affiliated with the government), stressed the confidentiality of the responses, and informed respondents of the voluntary nature of their participation (i.e., no compensation was provided and they were given the option to refuse to answer or stop the interview at any time).<sup>53</sup> Verbal consent was obtained before the interview began.

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<sup>50</sup> See <http://www.nis.gov.kh/>.

<sup>51</sup> Communes (Khum) are an administrative division regrouping villages.

<sup>52</sup> The Kish grid is a selection method in which all eligible participants are ordered by sex and age and assigned a number. Interviewers use a selection table to randomly select a number and the corresponding eligible participant is interviewed.

<sup>53</sup> The study protocol was reviewed and approved by the Committee for the Protection of Human Subjects of the University of California, Berkeley. The Cambodian Ministry of Interior and local authorities in sampled villages approved the study but were not involved in the design of the study or in the analysis and presentation of the results.

Interviewers used a structured questionnaire similar to the one used in 2008. It covers the same nine topics and questions but adds questions related to the Duch trial and Civil Party participation. The topics include: (1) demographics; (2) needs and priorities; (3) justice and rule of law; (4) the Khmer Rouge regime; (5) the ECCC's outreach efforts; (6) knowledge, attitudes, and perceptions of the ECCC; (7) establishment of a historical record, truth-telling, and reparations; (8) exposure to violence; and (9) mental health. Exposure to violence and mental health results are not discussed in this report. The instrument was first developed in English and then translated into Khmer. Back-translation and consultation with local experts ensured the quality of the translation. The questionnaire was further pre-tested with 67 randomly selected respondents in non-study sites to ensure that the instrument was culturally adapted and easily understandable to respondents.

The research team conducted the data collection in partnership with the Center for Advanced Study (CAS), a Cambodian-based, nonprofit survey research organization. A total of 25 experienced Cambodian interviewers and supervisors organized into five teams conducted the interviews. The interviewers and supervisors participated in a five-day training to familiarize themselves with the questionnaire, interview techniques, including non-suggestive probing, and selection of respondents. The training included discussion of the study objectives and concepts, mock interviews, and a survey pilot. This procedure enabled trainers to improve the survey instrument and to identify and improve weaknesses in interview techniques. In the field, supervisors provided oversight to ensure proper execution of household sampling procedures, as well as uniform application of the research protocol. To reduce data collection errors, interviewers checked the survey instrument for completeness and entry errors before leaving the selected household. Each team supervisor then performed a second review. The interview time per questionnaire ranged between 90 minutes to two hours. Finally, researchers analyzed data using the Statistical Package for Social Science (SPSS) version 18.0.

## **Limitations of the Study**

While the study was conducted as rigorously as possible, some limitations must be acknowledged. First, the survey contained questions related to events that took place over 30 years ago. For respondents, the passage of time could have resulted in recall errors or created certain biases. However, we developed several questions to test the validity of their responses. These questions are discussed in further detail in the results and the discussion sections below.

While three attempts were made to contact selected respondents, not all selected individuals could be interviewed due to the limited time spent in each village. In the end, 397 households (23% of all households) had to be replaced because no one was home (90%), no one was eligible (2%), all members refused to be interviewed (5%), or no one was available (3%). In addition, within selected households, 347 individuals (20%) had to be replaced by the next randomly selected individual within the same household because the respondent was not home (97%), or refused to participate in the interview (3%).

Because views and attitudes are influenced by local and contemporaneous events (such as media coverage), this report represents only a snapshot of views as they were at the time of the survey. The data collection for the survey started on December 1, 2010, fewer than two weeks after the stampede at Diamond Island (Koh Pich).<sup>54</sup> Although not related to the ECCC, the tragedy may have affected some respondents' state of mind and thus some of their responses to the survey. Finally, while the survey questions were finalized following piloting, respondents were free to interpret the questions according to their own understandings of the terms used. Careful choice of phrasing and translation and in-depth consultations with local experts about terminology, however, reduced the risk of misinterpretation of the questions.

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<sup>54</sup> On November 22, 2010, in Phnom Penh, several hundred people were killed or injured while being caught in a stampede on a bridge between Diamond Island and the mainland. For details, see "Cambodia Stampede at Koh Pich on CNN", YouTube, available at <http://www.youtube.com/watch?v=GZFANh4bGYI>

# DEMOGRAPHICS

The study was conducted among a sample of 1,000 individuals representative of the adult population of Cambodia. The interviews took place in December 2010, over a 20-day period. In the remainder of the report, results from the 2010 survey are compared with the results of a comparable survey of 1,000 individuals conducted by the same team in 2008.

As shown in Table 1, the sample included an equal proportion of men and women, with the average age of respondents being 43 years old, slightly above the average respondents' age measured during the 2008 survey. As was the case in 2008, the majority of 2010 respondents were Khmer (98% compared to 95% in 2008). Three out of four of the 2010 respondents (76%) had at least some primary education and 71% reported being literate in at least one language, which is consistent with the 2008 data.

*Table 1: Respondents' Demographic Characteristics*

	Sample Size (n)	% Female	Mean Age (S.D.)	Age Groups (%)						% Lived under Khmer Rouge regime
				18-25	26-35	36-45	46-55	56-65	>65	
2008	1000	50	39.8 (13.8)	16.7	26.5	25	16.7	10.6	4.6	69.3
2010	1000	50	43.4 (15.0)	13.8	20.5	23.1	19.7	15.1	7.8	71.8

	Ethnicity (%)					Religious belief (%)				
	Khmer	Cham	Viet	Chinese	Other	Buddhist	Muslim	Catholic	Other	
2008	94.5	2.1	1	0.4	2	2008	96.8	2.1	0.2	0.9
2010	97.7	2	0.3	0	0	2010	97.5	1.9	0.4	0.2

Over two-thirds of the respondents (72%) reported having lived under the Khmer Rouge regime that ruled Cambodia from 1975 to 1979, while 27% said they were born after the regime had left power, and 1% was living abroad during its rule. In this survey, more than 25% of respondents reported that they were “Old” or “Base” people under the Khmer Rouge regime, terms for those who lived in insurgent zones under Khmer Rouge control and who may have contributed in some fashion to the revolution. This is significantly more than in the 2008 survey, in which 15% of the adult population identified themselves as ‘Old’ or ‘Base’ people.

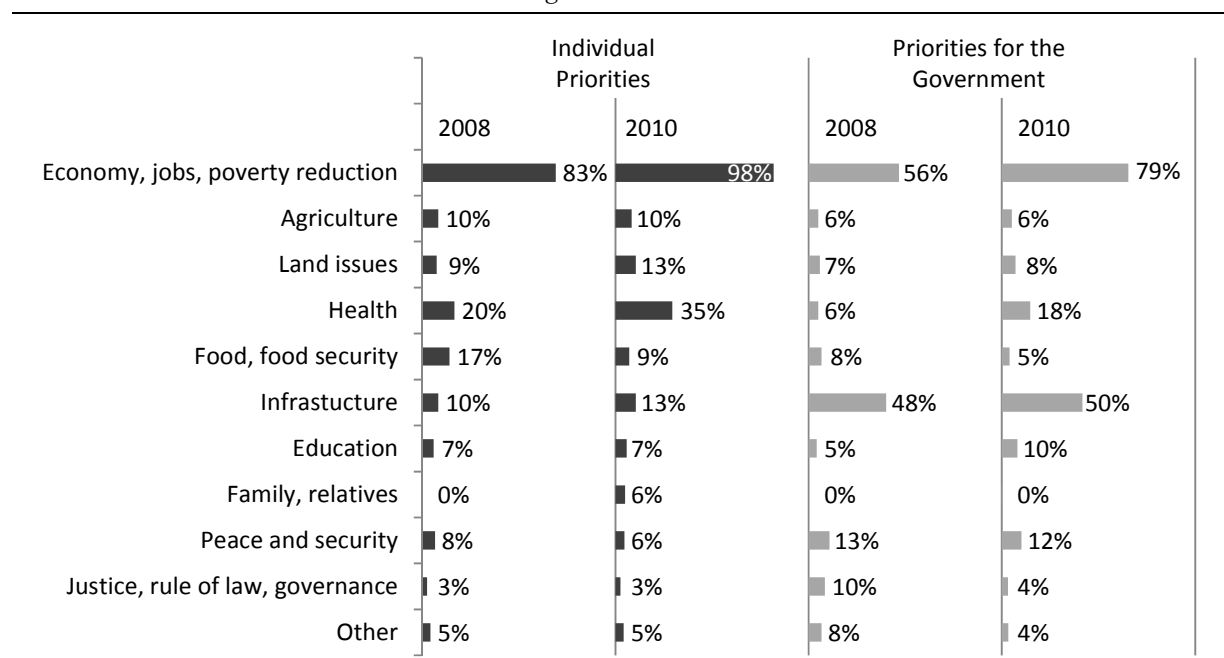
Another 23% described themselves as “New People”, the same proportion as in 2008. These Cambodians generally lived outside of the Khmer Rouge zones or were evacuated from city dwellings after the Khmer Rouge came into power. They were brought into the revolution, usually by force, after the fall of Phnom Penh to the Khmer Rouge in April 1975.<sup>55</sup> For the present study, results for those who lived under the Khmer Rouge regime and those who did not are compared and discussed where significant differences exist.

<sup>55</sup> Elizabeth Becker, *When the War Was Over: Cambodia and the Khmer Rouge Revolution* (New York: Simon and Schuster, 1986), 226–29.

# JUSTICE AND CURRENT PRIORITIES

The 2008 survey conducted among the adult Cambodian population suggested that, although the population viewed accountability as important and expressed a desire to see former Khmer Rouge tried and punished for past crimes, their priorities were basic socio-economic needs rather than justice. The 2010 survey shows that respondent priorities have not changed since 2008. At the time of the survey, respondents continued to prioritize the economy and jobs (98%), health services (35%), and basic needs such as food (9%). Slightly more respondents listed land issues as a priority (an increase from 9% in 2008 to 13% in 2010) as well as improvements in infrastructure such as electricity, roads and schools. Similar to the 2008 data, respondents proposed that the government’s priorities should be the economy (79%), infrastructure (50%), and health services (18%), with very few mentioning justice (4%).

Figure 1: Priorities



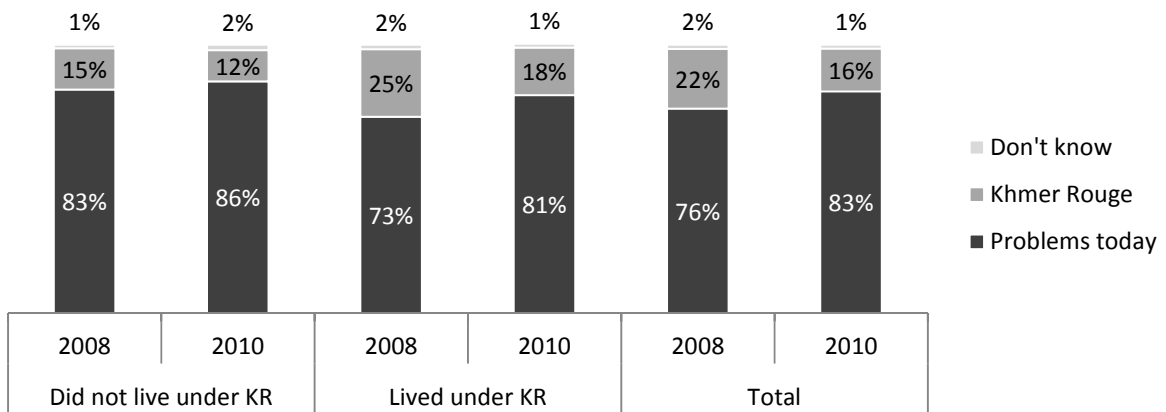
Justice is, therefore, not a priority, and an increasing percentage of respondents (83% in 2010 compared to 76% in 2008) said it was more important for the government to address problems in Cambodians’ daily lives rather than crimes committed during the Khmer Rouge regime. Similarly, 63% of the respondents in the 2010 survey (compared to 53% in the 2008) would rather spend money on something other than the ECCC. Compared to those who lived under the Khmer Rouge regime, those who did not experience that regime said more frequently that spending should be used to tackle current problems rather than addressing the crimes committed during that period. The gap between the two generations has not changed since 2008.

Despite the low priority given to justice and questions about the resources allocated to the trials, accountability for those who committed atrocities during the Khmer Rouge regime is strongly supported by respondents (94% said it was important, compared to 90% in 2008). Although they see accountability as important, the results suggest that it is not part of their overall priority and that resources are needed to address their basic needs first.

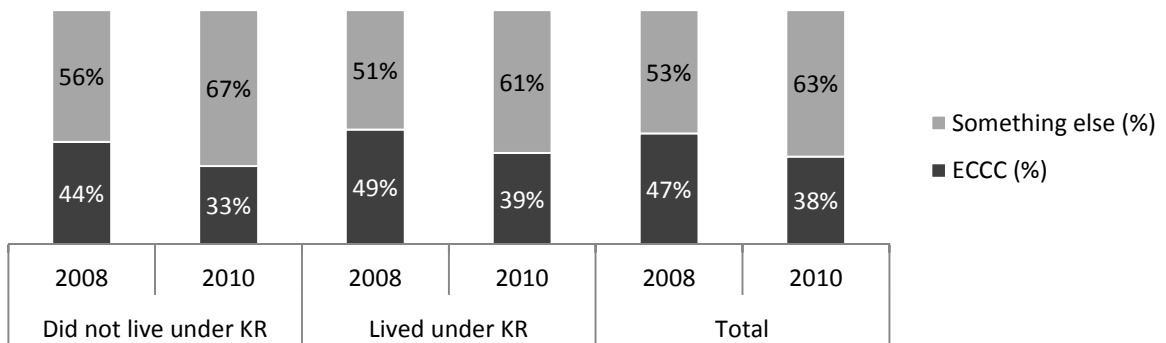


Figure 2: Justice and Priorities

Which is more important: To focus on problems Cambodians face today or address crimes committed during the Khmer Rouge period?



If you could choose, would you spend money on the ECCC or would you spend it on something else?



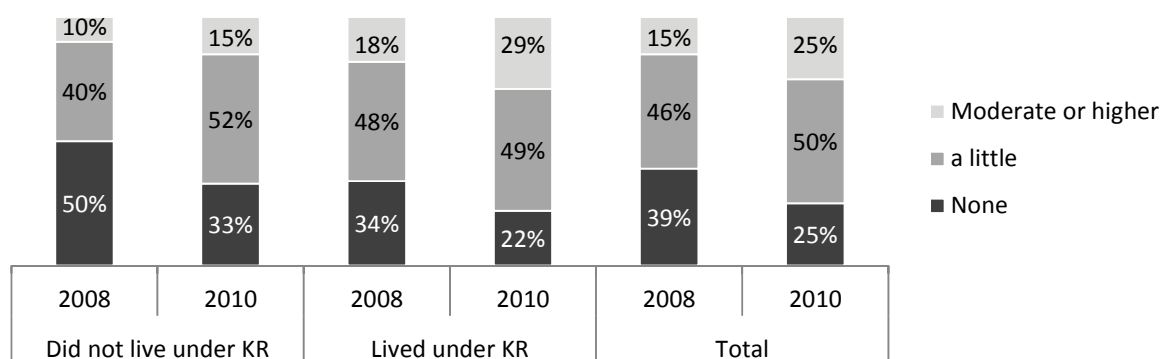
# AWARENESS AND KNOWLEDGE ABOUT THE ECCC

One of the objectives of the survey was to monitor changes in awareness and knowledge about the Court as part of understanding the broad impact of the ECCC on Cambodian society. Both were expected to increase, given that at the time of the first survey in September and October 2008, the first trial had not yet begun, while in 2010, at the time of the second survey, the first trial was finished and the suspects in the second trial had been indicted. Also during this two-year period the Court and local organizations conducted numerous outreach and informational activities to raise awareness about the Court. These expectations were confirmed in the results, although it was also found that a significant proportion of the respondents still know little about the Court and its work.

## Awareness about the Court

Overall, awareness of the Court increased among adult Cambodians. In 2010, 25% of adults reported having no knowledge at all about the ECCC, compared to 39% in 2008. Awareness increased among both older and younger Cambodians, but particularly among the younger generation. Of those who lived under the Khmer Rouge regime, 22% said they had no knowledge of the ECCC in 2010 compared to 34% in 2008, and among those who did not live under the Khmer Rouge regime, the proportion with no knowledge about the ECCC was 33% in 2010, down from 50% in 2008. While awareness increased among all groups, the majority of both generations still felt insufficiently informed. When asked whether they felt sufficiently informed about the ECCC, one out of five (21%) respondents stated they felt quite a bit or extremely informed, but 38% and 39% mentioned they felt a little or moderately informed respectively.

Figure 3: Knowledge of the ECCC



## Sources of Information about the ECCC

Information about the ECCC also reached more people more often. In 2008, 15% of adults stated that they heard about the ECCC once a week or more, and in 2010 the percentage increased to 19%. Radio remains the top source of information on the ECCC but is losing ground to television. Among those who had heard about the ECCC at least occasionally, 72% reported that television was their main source of information on the ECCC in 2010 compared to 44% in 2008. With respect to radio, the percentage decreased from 80% in 2008 to 73% in 2010.

*Table 2: Information on the ECCC – Frequency and Sources*

		Did not live under KR		Lived under KR		Total	
		2008	2010	2008	2010	2008	2010
How often have you heard about the ECCC in the last month?	Never	77%	61%	58%	66%	64%	65%
	Less than once a week	13%	20%	22%	14%	20%	15%
	Once a week or more	9%	17%	18%	20%	15%	19%
	Don't know	1%	1%	2%	0%	1%	0%
Main sources of information:	Radio	74%	71%	82%	74%	80%	73%
	Television	41%	82%	44%	68%	44%	72%
	Family/Friends	23%	27%	13%	11%	15%	15%
	Newspapers	10%	6%	12%	11%	11%	9%
	NGO	4%	0%	3%	0%	3%	0%
	Poster or booklet	2%	4%	3%	1%	3%	2%
	Commune councilors	0%	4%	2%	0%	2%	2%
	Other	4%	3%	2%	0%	3%	1%

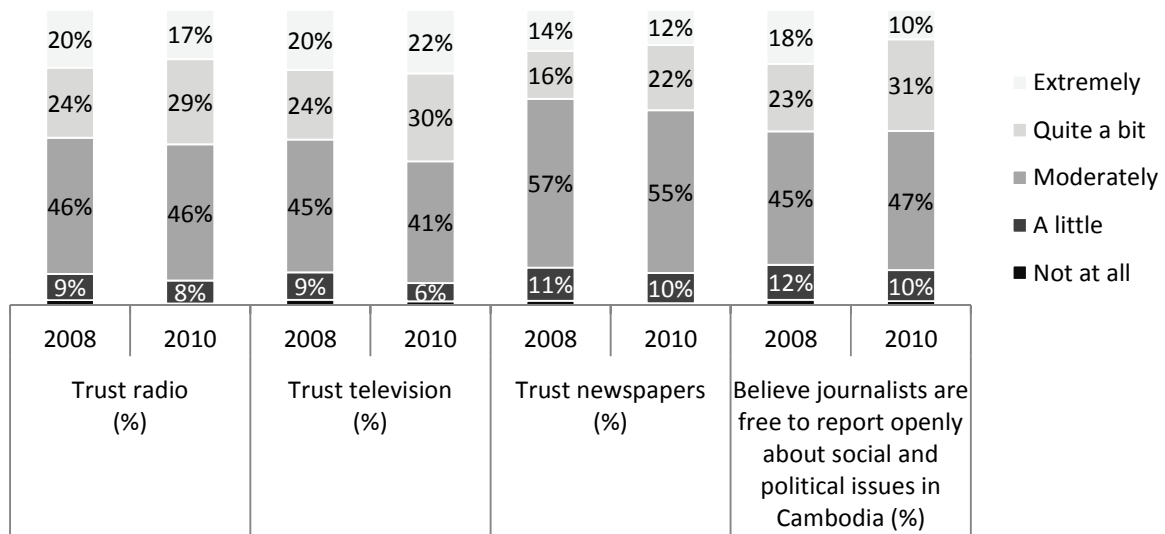
About half of respondents (47%) stated they had seen a program on TV about the ECCC and, among them, 46% (meaning about one-quarter of all respondents or 23%) said they specifically had seen the television show “Duch on Trial.” Among those 23% who watched the program, four out of five (82%) had seen it more than once, and among those, 6% watched it on a weekly basis.

*Table 3: Duch on trial TV Program*

		Did not live under KR	Lived under KR	Total
Have you seen "Duch on Trial" one half hour that is shown weekly?		19%	24%	23%
If yes, how often did you watch the program?	Once	16%	19%	18%
	Two to six times	73%	63%	65%
	More than 6 times	10%	11%	11%
	Every week	1%	7%	6%

The growing prominence of television is also observed in responses about trust in radio, television, and newspapers. Television is the most trusted medium, followed by radio. With regard to television, the level of trust has increased since 2008: 52% of the respondents stated they trusted television as a source of information either quite a bit or extremely in 2010 compared to 44% in 2008. Trust in radio and newspapers only marginally increased (2% and 4% of change, respectively).

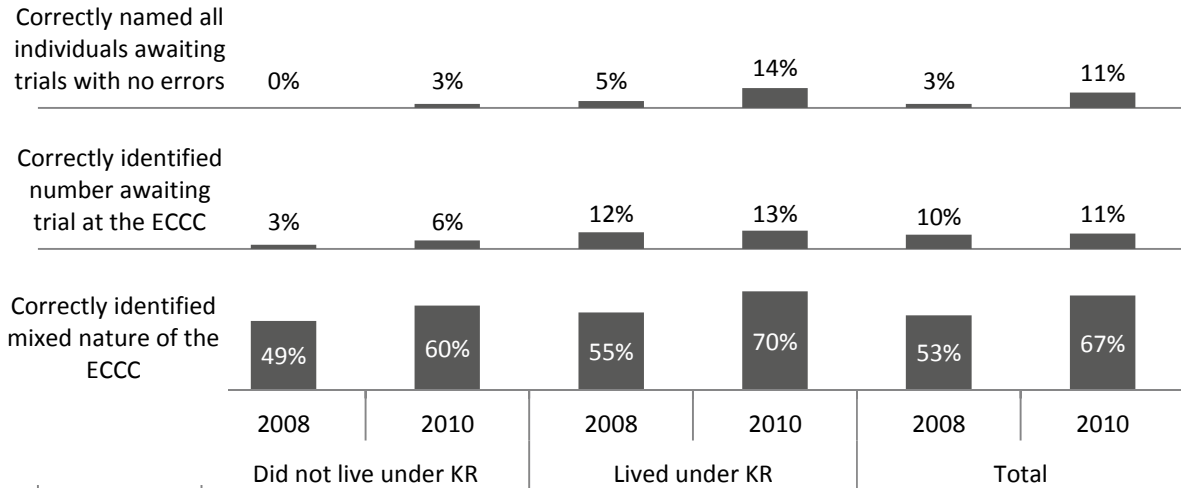
Figure 4: Respondents' Trust in Media and Perception of Freedom of Expression



### Knowledge about the ECCC

To understand knowledge of the ECCC better, all respondents were asked several questions about their factual knowledge of the Court. In general, responses show an overall good knowledge and an improvement on the 2008 results. For instance, in 2008 only about half of respondents (53%) appropriately described the ECCC as a mixed tribunal and in 2010, this proportion increased to two-thirds (67%).

Figure 5: Factual Knowledge about the ECCC



However, many facts about the Court remain unknown. The questionnaire asked if respondents could accurately state how many people had been arrested and were awaiting trial at the ECCC at the time of the survey. Nationally, just 11% of adult Cambodians correctly identified the number of people arrested and 11% correctly named them. More than half (54%) knew that Duch was on trial, leaving 46% either not knowing or mistaken about who was on trial. Most important, knowledge about the ECCC among those who did not live under the Khmer Rouge regime was significantly lower compared to those who did. In 2010, just 3% of those who did not

live under the Khmer Rouge regime were able to identify correctly the individuals that had been arrested to stand trial, compared to 14% of those who lived under the Khmer Rouge regime.<sup>56</sup>

*Table 4: Factual Knowledge about the Duch Trial at the ECCC*

		Did not live under KR	Lived under KR	Total
Can you name the person who was on trial at the ECCC last year?	Kaing Guek Eav alias Duch	41%	59%	54%
	Khieu Samphan	0%	0%	0%
	Tamok	2%	1%	1%
	Pol Pot	0%	0%	0%
	Don't Know	57%	40%	45%

Despite the wide coverage of the Duch trial in the media, the responses indicate general confusion both in the media and among the population about Duch's jail sentence.<sup>57</sup> That verdict is currently being appealed, which may explain some of the uncertainty. Nevertheless, just 12% of the population was able to state accurately for how many years the Trial Chamber sentenced Duch to prison, and 11% could accurately state how many years he will spend in prison. The majority either did not know or provided inaccurate responses to either or both of these questions. Furthermore, 91% of the respondents did not know that the verdict was being appealed at the time of the survey.

*Table 5: Factual Knowledge Duch Trial's Verdict at the ECCC*

		Did not live under KR	Lived under KR	Total
Duch has been convicted for the crimes he committed at S21. Can you tell me what his overall jail sentence is?	35 years	7%	14%	12%
	18-19 years	2%	3%	3%
	More than 20 but not life	9%	10%	9%
	Life	4%	4%	4%
	3-6 years	2%	0%	1%
	10-16 years	1%	1%	1%
	20 years	0%	0%	0%
	Don't know	77%	67%	70%

## Participation in ECCC Proceedings

In addition to receiving information and communications from the Court and other actors, Cambodians also have the chance to participate in the tribunal's proceedings. In 2010, 1% of the respondents reported that an organization had contacted them to participate in ECCC proceedings. This is an increase from 2008 when none of the respondents reported having been contacted. Similarly, 1% of the 2010 respondents indicated having

<sup>56</sup> See Legacy section in the Background Chapter for information about history curriculum and education project implemented recently.

<sup>57</sup> The confusion arose because of the distinction between the sentence, 35 years, and time Duch would actually serve in prison. This confusion was especially acute on the day of the verdict, see Sirik Savina and Richard Kilpatrick, "The Duch Verdict: A DC-CAM Report from the Villages", (Cambodia: The documentation center of Cambodia, July 26 2010), available at [http://www.dccam.org/Projects/Living\\_Doc/pdf/The\\_Duch\\_Verdict-A\\_DC-CAM\\_Report\\_from\\_the\\_Villages.pdf](http://www.dccam.org/Projects/Living_Doc/pdf/The_Duch_Verdict-A_DC-CAM_Report_from_the_Villages.pdf). Some newspapers announced 30 years, see for example, "Duch Trial: Khmer Rouge prison chief sentenced to 30 years in prison", The telegraph, 26 July 2010, available at <http://www.telegraph.co.uk/news/worldnews/asia/cambodia/7909799/Duch-trial-Khmer-Rouge-prison-chief-sentenced-to-30-years-in-prison.html> while others said 19 years, see for example, "Khmer Rouge Prison Chef sentenced to 19 years" VOANews.com English, Voice of America, available at <http://www.voanews.com/english/news/Cambodia-Verdict-2010Jul26-99215139.html>

participated in ECCC proceedings, mainly attending hearings or visiting the Court. None of the respondents had applied to become a Civil Party at the Court, which is not surprising given the limited number of parties as a proportion of the total population. It also highlights that while factual knowledge has increased about the Court, much remains to be done in terms of informing Cambodians about such possibilities to participate if Case 003 or 004 take place.

# PERCEPTION AND ATTITUDES TOWARDS THE ECCC

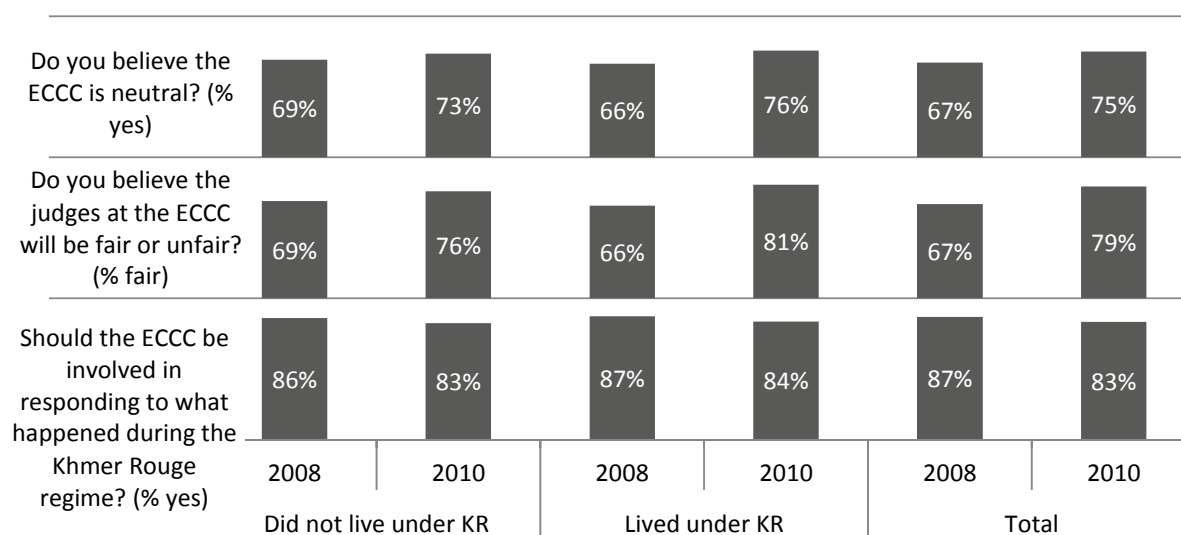
After just one trial, it is difficult to determine the ECCC’s achievements or know how it will affect Cambodians in the long term.<sup>58</sup> At the same time it is possible to gauge changes, if any, in perceptions and attitudes over the two-year period between the two surveys. This section examines Cambodians’ perceptions both of the Court and its ability to influence long-term goals such as forgiveness and establishing a historical record.

## General Perception of the ECCC

Over the 2008 to 2010 period, perceptions of the ECCC remained positive and, on certain indicators, have become more favorable toward the Court. *Regardless of whether the respondents lived under the Khmer Rouge regime or not*, a large majority of people (83%) believed the ECCC should be involved in responding to what happened during the Khmer Rouge regime.

Further, respondents’ views of the neutrality and fairness of the ECCC has significantly improved. In 2010, 75% of adults believed the Court to be neutral, compared to 67% in 2008. Those who did not believe the Court to be neutral generally associated the lack of neutrality with the Court’s perceived connection to the Cambodian government (31%) and/or the fact that judges are working for the government (23%). Other explanations included a perception of corruption within the ECCC (14%), disappointment with the ECCC’s lengthy judicial process (14%), and disappointment with the Duch’s sentence (10%).

Figure 6: Perception of the ECCC



<sup>58</sup> Patrick Vinck and Phuong Pham. “Outreach Evaluation: The International Criminal Court in the Central African Republic.” *International Journal of Transitional Justice* (2010) doi:10.1093/ijtj/ijq014

## Perceptions of the Duch Trial

As some of the responses above indicate, perceptions of the Court are associated in part with perceptions of the Duch trial, the first and only trial heard by the ECCC at the time of the interviews. A series of questions were asked specifically about that trial.

As mentioned above, just 54% of respondents were able to identify Duch as the person who was on trial last year at the ECCC, and only one in ten had been able to state his sentence correctly. Those knowledge-oriented questions were followed by a series of questions on perceptions of the trial or the trial proceedings. Respondents were informed that Duch would probably spend 18 to 19 years in prison according to the current verdict. Interviewers then asked for their opinion about this sentence. The results suggest that about 46% of adults in Cambodia believed that Duch should spend more time in prison, 39% believed the current time was adequate, and 10% thought that Duch should spend less time. Another 5% did not know enough about the case to provide an opinion.

Respondents' overall perception of Duch's trial was positive; however, the data suggest that people were not pleased with some aspects of the trial. During the development of the research instrument, we had preliminary discussions with various people, including those who participated as Civil Parties in the Duch trial. Based on this preliminary assessment we developed several statements surrounding the Duch Trial and asked the respondents to tell us whether they "strongly agree," "agree," "are neutral," "disagree," "strongly disagree," or "have no opinion." To facilitate the presentation of results, "agree" and "strongly agree" have been merged together, as well as "disagree" and "strongly disagree."

The responses reveal that the majority of people agreed or strongly agreed that the "Duch Trial was conducted fairly" and that the "Court was right to find Duch guilty for what he did at S21" (69% and 77%, respectively). There was also a strong sentiment that the "Court gave too much time to Duch to explain himself" and that "victims did not have enough time to tell their story (50% and 56%, respectively). Over one-quarter of the respondents did not have an opinion. This may be because they did not know, or did not know enough, about the Duch Trial and/or that they do not want to provide a response.

*Figure 7: Perception of Duch's Trial*

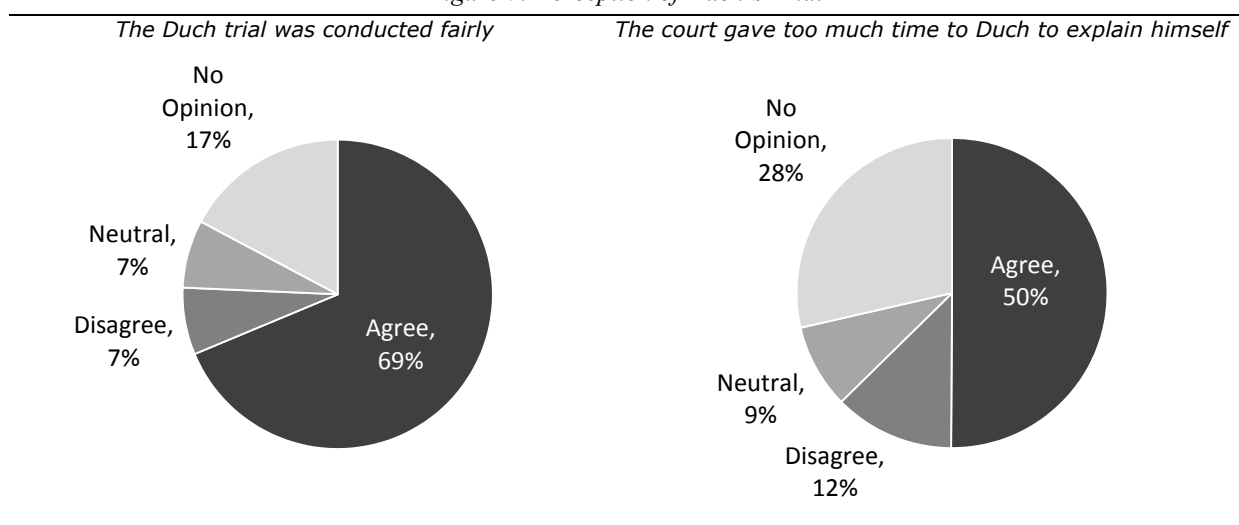
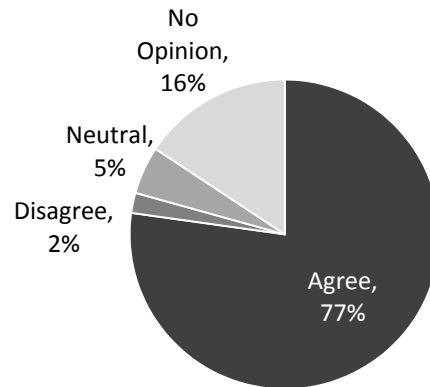
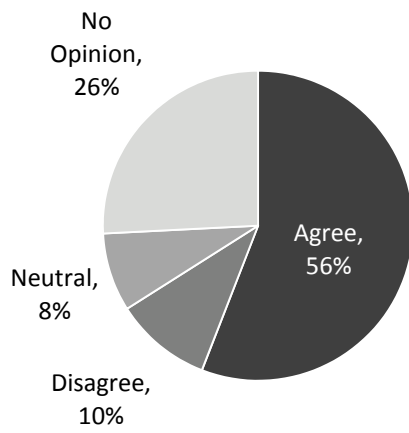




Figure 8: Perception of Duch's Trial (2)

Victims did not have enough time to tell their story

The court was right to find Duch guilty for what he did at S21

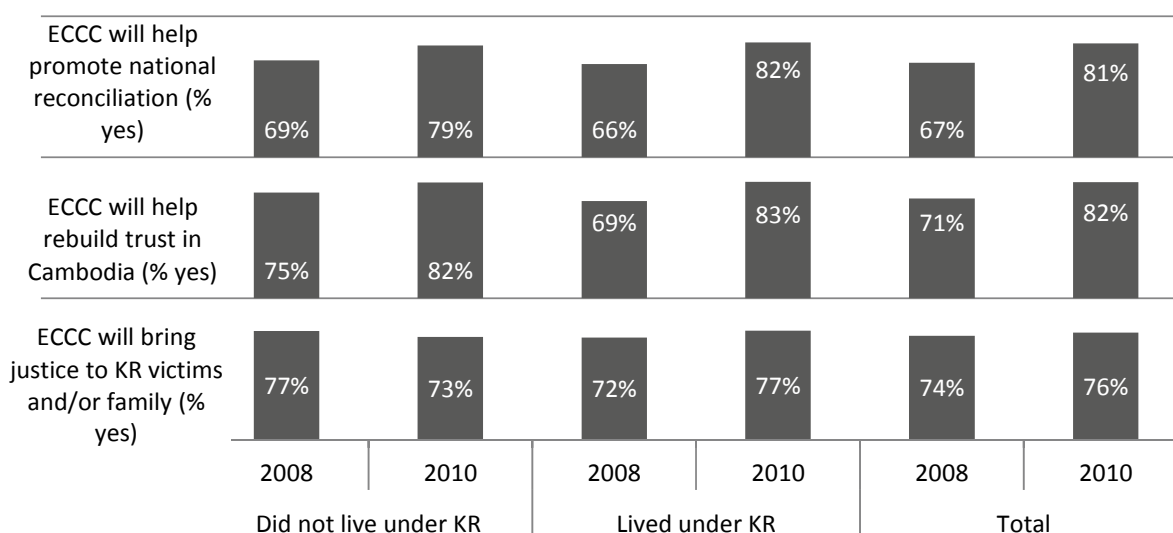


# IMPACT OF THE ECCC AND THE DUCH TRIAL

## General Impact

Measuring the impact of the ECCC proceedings is methodologically and conceptually challenging, but some indication can be drawn from changes in perceptions of and attitudes about the Court. Responses to specific questions about the expected impact of the ECCC suggest an overall improvement in the ECCC’s public image. Comparing the 2010 and 2008 data, Cambodians increasingly believed the ECCC would help rebuild trust in Cambodia (11% increase) and would help promote national reconciliation (14% increase). Although opinions about whether the ECCC would bring justice to the KR regime had not significantly changed, the overall sentiment remains very optimistic (Table 7).

Figure 9: Expected Impact of the ECCC

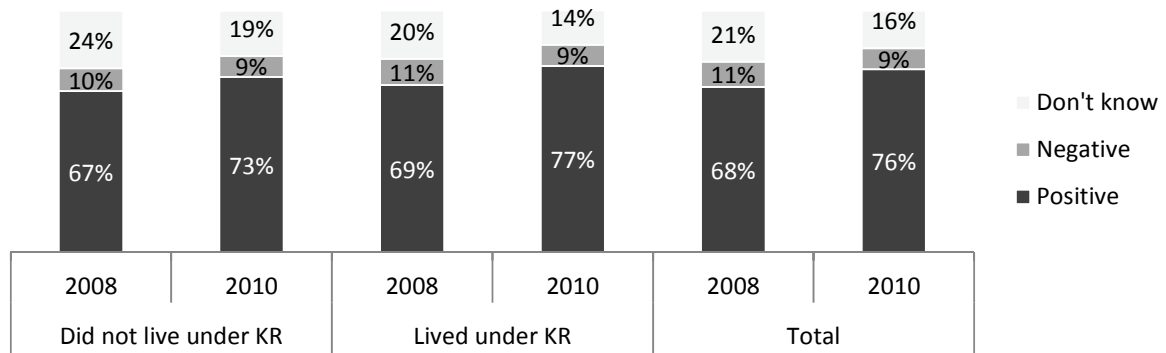


Expectations that the Court will have a positive impact on victims have also improved since 2008. Over three-quarters of people believed the ECCC would have a positive effect on the victims of the Khmer Rouge and/or their families, compared to 68% in 2008. The nature of the positive effect changed, however. In the 2008 survey, respondents believed that the Court would have a positive impact because it would sentence people who had committed crimes to prison (37%) and would provide a better understanding (i.e., establish the truth) for victims (35%). In 2010, slightly fewer Cambodians associated the positive impact of the ECCC with the punishing of perpetrators through prison sentences (32%), and “bringing justice” became a much more frequent response. In 2008 just 2% of adults considered that justice would be a likely positive impact of the ECCC, whereas in 2010 it was 37%. Justice in 2008 was defined as establishing the truth (43%) and being fair (37%), but in 2010 it was understood to mean being “fair” (71%), knowing who is right and who is wrong (25%), and applying the law (24%). The results suggest that how adult Cambodians define justice has changed over time, and may have been influenced by proceedings at the ECCC.<sup>59</sup> Another anticipated positive impact of the Court was its potential impact on mental health: 25% of the respondents thought that the trials at the ECCC could help victims feel better, have less anger, or help relieve the pain and suffering caused by the Khmer Rouge.

<sup>59</sup> This is similar to what the authors (Pham and Vinck) found in their 2003 study in Iraq, where respondents’ definition of justice was a mirror image of what they had experienced under Saddam Hussein’s regime.

Figure 10: Perception of the Potential Legacy of the ECCC

Do you believe that the ECCC will have a positive or negative impact on KR victims and their families?

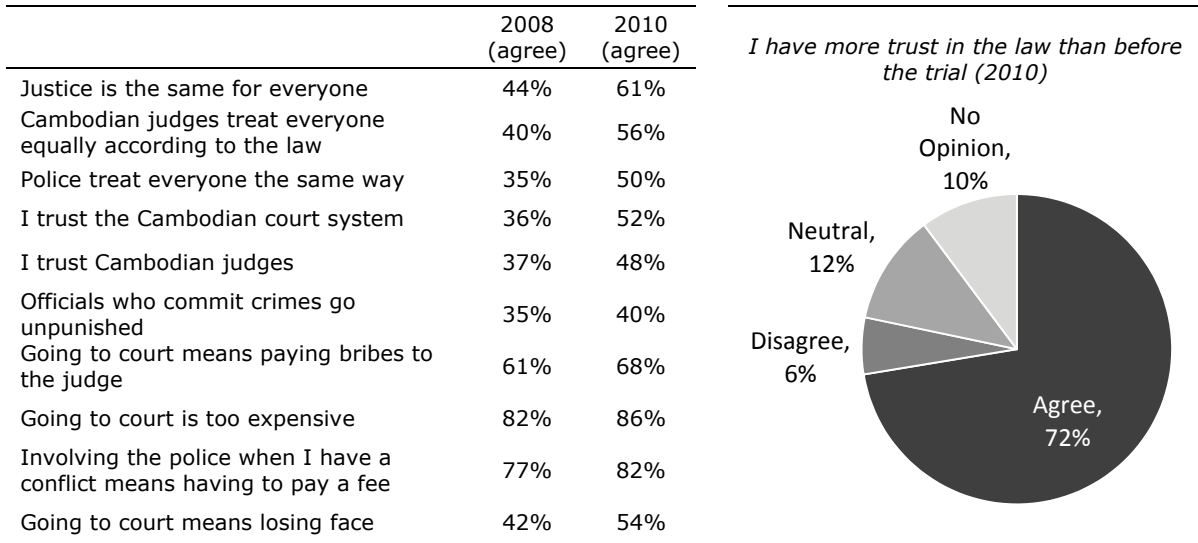


While the potential impact of the Court was largely viewed positively, a minority (9%) indicated that the Court would have a negative impact, and 16% were unsure. About one-quarter (24%) of those who were negative about the ECCC's impact stated that the trial would remind victims too much of their past. Others focused specifically on what they viewed as a negative outcome of the Duch trial, including the fact that the sentence was too short (15%), and that the trial did not bring justice to the victims (15%).

### Trust in the Justice Sector

Responses to several questions suggest that trust in the justice sector increased since the Duch's trial started. Compared to 2008, a significantly higher proportion of 2010 respondents believed that justice in Cambodia is the same for everyone (61% vs. 44%), that Cambodian judges treat everyone equally (56% vs. 40%), or overall, trusted the Cambodian justice system (52% vs. 36%). However, at the same time, a higher proportion believed that Cambodian officials who commit crimes go unpunished (40% vs. 35%), that going to court means paying a bribe (68% vs. 61%), and that going to court is too expensive (86% vs. 82%). When asked about the direct impact of the Duch trial on their trust in the legal system, a majority of respondents (72%) said the trial had increased their trust, while 6% said their trust had decreased.

Figure 11: Perception of Justice and Courts



## Truth-Seeking and Knowledge of the Khmer Rouge Regime

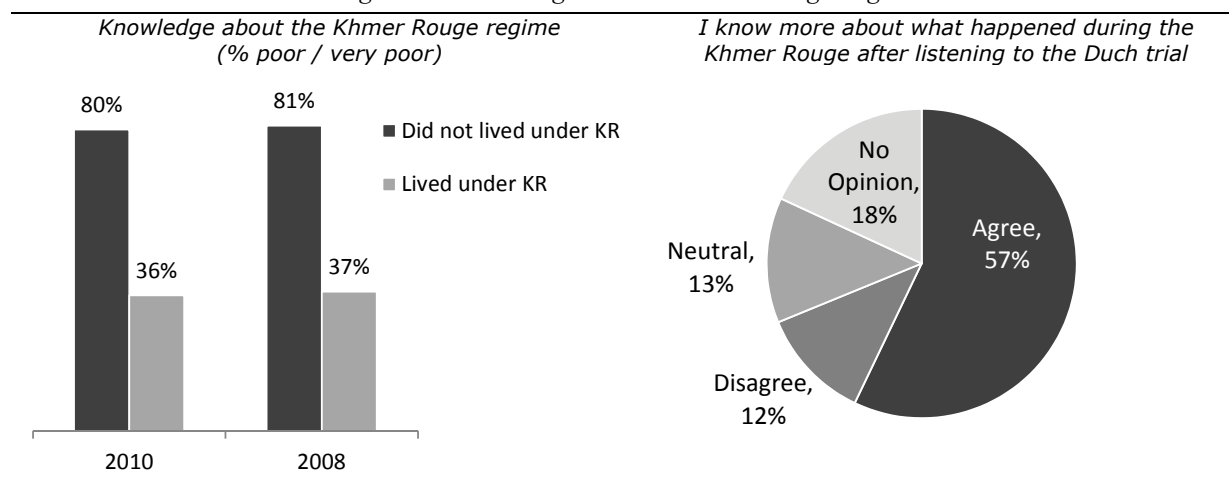
It is common to find among individuals affected by mass atrocities a strong desire to know and understand what happened and why it happened. In Cambodia, the desire for truth is high and has been increasing over the last two years, with a large majority supporting the idea that truth-seeking is necessary and that people cannot reconcile or feel better as long as the truth about what happened is not known. For a majority of Cambodians, knowing the truth was necessary for reconciliation and some form of healing. Most further disagreed with the idea that it was too late or unnecessary to discover the truth.

Table 6: Truth Seeking

	It is necessary to find the truth about what happened during the Khmer Rouge regime (Agree)	People cannot reconcile without knowing the truth of what happened during the Khmer Rouge regime (Agree)	People cannot feel better if they do not know what happened to their loved ones (Agree)	It is too late to learn about what happened during the Khmer Rouge regime (disagree)	A written historical record of what happened in Khmer Rouge is NOT necessary (disagree)	We know what happened already so it is unnecessary to do any further inquiry (disagree)
2008	85%	64%	64%	74%	81%	65%
2011	93%	81%	83%	79%	86%	71%

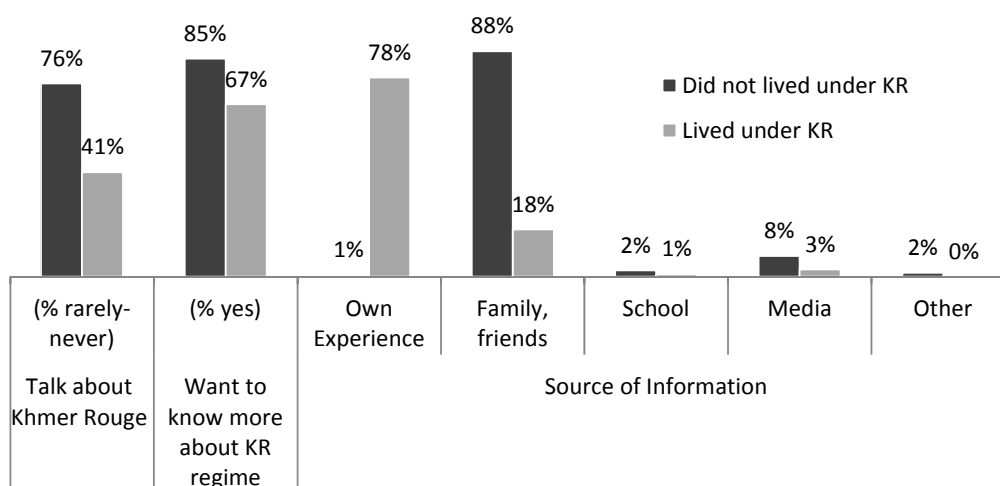
The strong support for truth-seeking may reflect the overall lack of knowledge about the Khmer Rouge regime, and an overall desire to know more. According to the 2008 survey, knowledge of that period was poor or very poor for four out of five respondents (81%) who did not live under the Khmer Rouge regime and for over one-third (37%) of those who lived under KR regime. Two years later, respondents' assessment of their knowledge of the regime remained unchanged (80% and 36%, respectively). Nevertheless, a little over half of respondents (57%) indicated knowing more about what happened after the Duch Trial. This suggests that the proceedings at the ECCC have not resulted in a significant increase in knowledge about what happened under the Khmer Rouge regime among the population or that despite a perceived increase in knowledge, respondents still considered their knowledge of the regime as inadequate.

Figure 12: Knowledge about the Khmer rouge Regime



Overall, the source of information about the Khmer Rouge regime and the frequency with which Cambodians talk about the regime did not change between 2008 and 2010. For most respondents who lived under the Khmer Rouge regime, that experience is their main source of information (78%). For those who did not live under the KR, their main source of information is friends and family (88%). Many respondents, however, indicated that people rarely or never speak about that period, especially those who did not live under that regime (76%). The proportion has not changed between 2008 and 2010. Many, however, also indicate wanting to know more about the events that unfolded during the Khmer Rouge regime.

Figure 13: Knowledge about the Khmer Rouge regime

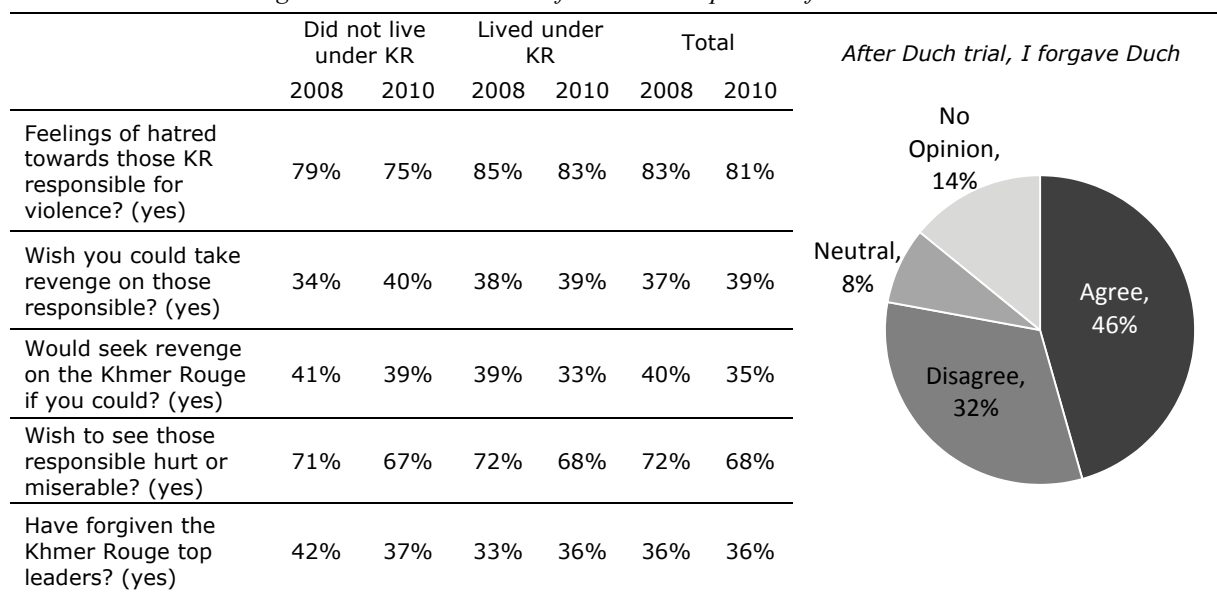


### Forgiveness, Reconciliation, and Desire for Revenge

The idea that transitional justice in general and the ECCC in particular, can contribute to forgiveness and reconciliation has been advanced as one of the reasons to support such mechanisms.<sup>60</sup> Duch, during his trial, asked victims’ families for forgiveness. The survey included a series of questions aimed at understanding community attitudes toward forgiveness and reconciliation. It found that the proportion of respondents who forgave the Khmer Rouge top leaders has remained unchanged (36%) since 2008. At the same time, feelings of animosity and desire for revenge towards KR decreased only slightly, with a large majority of Cambodians continuing to report feelings of hatred (81%), and a desire to see those responsible suffer (68%). The survey further asked directly about the impact of the trial on forgiveness toward Duch. Less than half the population indicated having forgiven Duch after the trial, which is slightly more than the proportion that indicated having forgiven Khmer Rouge top leaders.

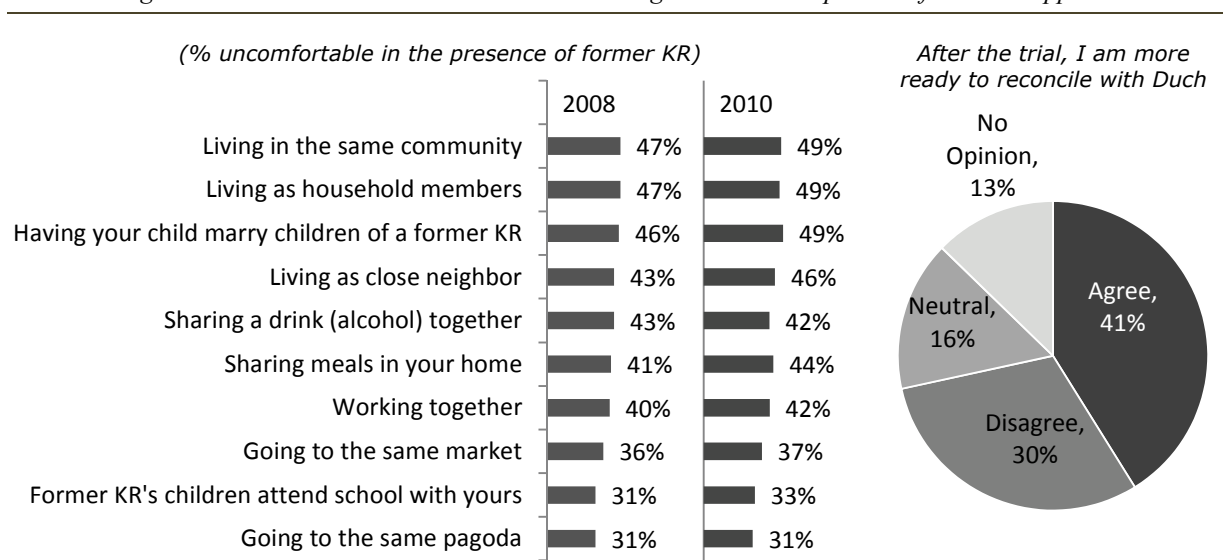
<sup>60</sup> Reconciliation is specifically stated in the Preamble of the ECCC Internal Rules and in the “Introduction to the Khmer Rouge Trials,” Third Edition, 2008, ECCC Publication, at [http://www.eccc.gov.kh/english/cabinet/publications/an\\_introduction\\_to\\_Khmer\\_Rouge\\_Trials\\_3th.pdf](http://www.eccc.gov.kh/english/cabinet/publications/an_introduction_to_Khmer_Rouge_Trials_3th.pdf).

Figure 14: Attitudes toward former KR responsible for the violence



A second series of questions aimed at capturing understanding of and attitudes about reconciliation. Respondents defined reconciliation slightly differently in 2010 compared to 2008. In 2008 a majority of the population defined reconciliation as the absence of violence and conflict (56%); however only 15% did so in 2010. In the 2010 survey, a majority (54%) characterized reconciliation as unity and living together, and more mentioned communicating and understanding each other (38%) and gentleness (compassion) for each other (27%) as reconciliation. About 8% defined reconciliation as forgiveness and about 5% defined it as “no revenge.” The survey further shows that the level of comfort interacting with members of the former Khmer Rouge who were responsible for what happened during the Khmer Rouge regime during various social settings has changed very little between 2008 and 2010 and that only a minority (41%) was ready to reconcile with Duch after his trial.

Figure 15: Attitudes Towards Former Khmer Rouge who were responsible for what happened



## Respondents' Recommendations to the ECCC

After assessing respondents' knowledge and perceptions of the Court, interviewers asked them what recommendations they have for the Court, if any. About one in five individuals *who lived under the KR* (19%) and 15% of *those who did not* recommended that the ECCC speed up the trials. The recommendation was less frequent than in 2008, which may reflect the fact that the Duch trial had actually taken place over a relatively short time period.

Another 19% recommended that the ECCC should be fair and independent, and the same proportion said the ECCC should punish those who committed atrocities during the Khmer Rouge regime. The call for punishment was more frequent than in 2008, and some respondents specifically mentioned that Duch should have been given a longer sentence.

*Table 7: Recommendations to the ECCC*

	Did not live under KR		Lived under KR		Total	
	2008	2010	2008	2010	2008	2010
Speed up trials (%)	22%	15%	34%	19%	30%	18%
Be fair, independent (%)	30%	24%	19%	18%	22%	19%
Punish (imprisonment, death, exile) (%)	8%	18%	12%	19%	11%	19%
Find justice (%)	8%	6%	7%	8%	8%	8%
Find/establish the truth (%)	2%	4%	4%	9%	4%	7%
Forgive Khmer Rouge top leaders (%)	1%	2%	2%	2%	2%	2%
Other (%)	3%	2%	3%	1%	3%	1%
No recommendations (%)	3%	13%	4%	10%	3%	11%
Don't know (%)	22%	15%	15%	9%	17%	11%

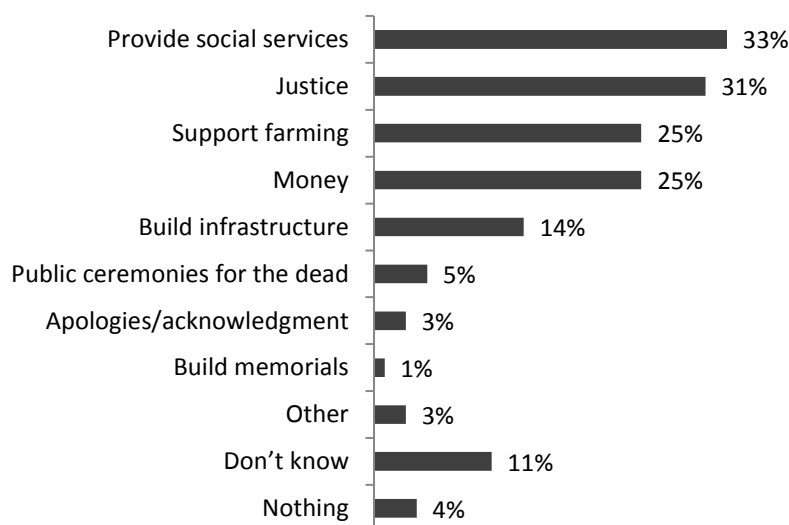
# REPARATIONS

Reparations pose a challenge for transitional justice mechanisms such as the ECCC. Questions such as what should be done, for whom, and where are difficult for both courts and policy-makers to answer. Interestingly, most respondents did not emphasize reparations or compensation when talking about the trials or obtaining justice for the crimes committed by the Khmer Rouge. Nevertheless, the surveys have sought to understand what the population thinks should be done for victims of these crimes and their families.

The results show some changes over the period between the surveys. In 2008, Cambodians answered a general question about what should be done for victims with a call for individual reparations, specifically for livelihood and social support: 26% stated that support for agriculture and farming should be provided; 23% mentioned social services such as health care and counseling; and 22% mentioned financial support. In terms of more symbolic gestures, 17% asked that perpetrators be punished and others asked for apologies and acknowledgment of the suffering of victims (3%) and provision of justice (2%).

In 2010, justice, in the form of trials and punishment of the wrongdoers, became the second most frequent recommendation (31%). This is not to say that material and financial compensation were ignored: about one-third recommended social services, such as healthcare and education for victims and/or their families; one-quarter suggested monetary compensation and/or agricultural support: and 14% wanted the government to build infrastructure, such as roads and bridges, within affected communities.

Figure 16: Measures for Victims



About 64% of the population believed the ECCC was doing enough for victims while 21% believed it was not. The remainder said they did not know enough to provide an opinion. It is also worth mentioning again that 91% of those who lived under the Khmer Rouge regime considered themselves to be victims compared to 53% of those who had not.

After asking respondents in general terms what should be done for victims, specific questions were asked about reparations. The Internal Rules of the ECCC note that reparation, if granted, will be collective, moral and *non-*



*financial* in nature.<sup>61</sup> Reparations could include erecting statues, building memorials, renaming public facilities, establishing days of remembrance, expunging criminal records, exhuming bodies, issuing declarations of death, and conducting reburials. As was the case in 2008, most adults (91%) believed it was important to provide symbolic reparations to victims of the Khmer Rouge or their families. Fewer indicated that no reparations of any sort would be acceptable (20% in 2010, compared to 26% in 2008). Those who did not live under the Khmer Rouge were less likely to accept no reparations compared to those who lived under the KR.

The majority of the adult population (73%) further said that reparations should be provided to the community as a whole and about 19% believed they should be provided to both the community and individuals. Few respondents believed that reparations should be provided to individuals only (8% compared to 11%). Furthermore, those who lived under the Khmer Rouge regime were more likely to prefer community reparations than those who did not.

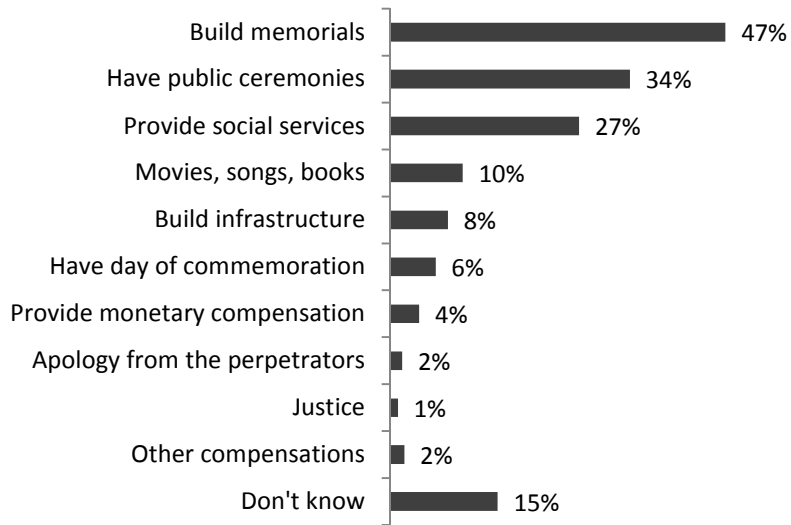
*Table 8: Symbolic Reparations*

	2008	2010
Is it important to provide symbolic (moral) reparation to victims of the Khmer Rouge or their family? (% yes)	88%	91%
Should reparations be provided to individuals or communities as a whole or both?	Individual (%)	8%
	Community (%)	73%
	Both (%)	19%
If there is no reparation provided to the victims and their families, would you accept that? (% yes)	26%	20%

While the 2008 and 2010 surveys show the importance of reparations, and specifically symbolic reparations, there was a marked shift in what such reparations should look like. Nearly one-half of the respondents suggested constructing a memorial (47%) in 2010 compared to 10% in 2008. Having public events decreased as a possible measure, with 34% mentioning it in 2010 compared to 46% in 2008. The proportion of respondents that mentioned providing social services, such as health services, education, and psychological counseling, did not change significantly. Other measures mentioned in 2010 also include writing books and songs, and making movies as symbolic measures. Eight percent also mentioned building infrastructure and four percent mentioned economic measures. Most people see it as the responsibility of the government to support financially any reparation program (75%). Fewer also mentioned the Khmer Rouge leaders themselves (17%) and the international community (17%).

<sup>61</sup> See Internal Rules (rev.7), Rule 23 (Cambodia: The Extraordinary Chambers in the Courts of Cambodia, 23 February 2011)

Figure 17: Forms of reparations



# CONCLUSIONS AND RECOMMENDATIONS

Our **principal findings** are summarized as follows:

- While justice is important for the population, its **priorities** were jobs and services to meet basic needs, including health and food as well as improvements in the country's infrastructure, such as electricity, roads, and building of schools. A majority of Cambodians would rather focus on problems that Cambodians face in their daily lives than address crimes committed during the Khmer Rouge regime (83% in 2010 compared to 76% in 2008), or would rather spend money on something other than the ECCC (63% in 2010 compared to 53% in 2008).
- Since 2008, both **awareness of and knowledge about the ECCC** have increased. In 2010, the percentage of the population claiming no knowledge of the ECCC decreased among those who lived under the Khmer Rouge regime (22% in 2010 compared to 34% in 2008) and those who did not live under the Khmer Rouge regime (33% in 2010 compared to 50% in 2008). In addition, 67% of people (compared to 53% in 2008) could adequately describe the Court as a hybrid court comprising national and international judges and staff. Eleven percent could correctly identify how many people had been arrested (compared to 10% in 2008), and 11% could also correctly name the individuals who had been arrested (compared to 3% in 2008). In 2010, the gap in knowledge was significantly larger among those who did not live under the Khmer Rouge regime (only 3% correctly identified the individuals that have been arrested and are to stand trial) compared to those who lived under the regime (14%). Despite improvement in the knowledge indicators, 38% stated that they felt little informed and 39% stated they felt moderately informed, indicating that more information about the Court may be needed.
- In 2010, the media remained an important vehicle for **information**. Of those who had heard about the ECCC at least occasionally, the main sources of information were television (72% in 2010 compared to 44% in 2008) and radio (73% in 2010 compared to 80% in 2008). Forty-seven percent of the respondents reported having seen TV programs about the ECCC, and among those, about one out of two (46%) said they had specifically seen "Duch on Trial." Finally, in 2010, 1% of the respondents reported that an organization had contacted them to participate in the ECCC proceedings (compared to none in 2008) and 1% indicated that they had participated in the proceedings, mainly by attending hearings or visiting the Court. None of the respondents had applied to become a Civil Party or filed a complaint.
- Over the last two years prior to the survey, **attitudes toward the ECCC** remained positive and had become more favorable on certain indicators. A vast majority of respondents believed the Court would respond to the crimes committed by the Khmer Rouge (84%); help rebuild trust in Cambodia (82%); help promote national reconciliation (81%); and bring justice to the victims of the Khmer Rouge regime (76%). Seventy-five percent believed the Court to be neutral. Among those who did not believe the Court to be neutral, the lack of neutrality was generally associated with the Cambodian government (31%) and/or the fact that judges are working for the government (23%). Compared to 2008, the 2010 results show more than a 10% increase in the number of people who believed the Court would help rebuild trust in Cambodia and promote national reconciliation, and an 8% increase in the number of people who believed the Court is neutral.
- In 2010, respondents still had high **expectations** of the ECCC. Over three-quarters of respondents (compared to 68% in 2008) believed the ECCC would have a positive effect on the victims of the Khmer Rouge and/or their families. The nature of the expected positive impact, however, has changed in the last two years. Respondents still considered the positive impact of the ECCC to be punishing those responsible for past crimes through jail sentences (32% comparable to 37% in 2008) but

increasingly mentioned the idea of bringing justice to the victims (37% compared to 2% in 2008) and its potential impact on mental health with 25% of the respondents indicating that the trials at the ECCC could help victims feel better, have less anger, or help relieve the pain and suffering endured during the Khmer Rouge period. In 2010, the respondents' definition of justice was mostly associated with being "fair" (71%), knowing who is right and who is wrong (25%), and applying the law (24%).

- While the potential **impact of the Court** was viewed as largely positive, 9% indicated that the Court would have a negative impact, and 16% were unsure. Among those who mentioned a negative impact, about one-quarter (24%) stated that the trial would remind victims too much of their past. Others linked it to the outcome of the Duch trial, mentioning that the Duch sentence was too short (15%) and that the trial did not bring justice to the victims (15%).
- Among all respondents, 54% knew that **Duch** was on trial. About one in ten respondents was able to state accurately for how many years the Trial Chamber had sentenced Duch to prison (12%) and was able to state accurately how many years he will spend in prison (11%). After being informed that Duch would probably spend 18 to 19 years in prison according to the current verdict, about 46% responded that Duch should spend more time in prison, 39% said the current time was adequate, and 10% thought that Duch should spend less time. At the time of the survey, 91% of people did not know that the verdict was being appealed. Respondents' overall perception of Duch's Trial was positive, although some data suggest that they were not pleased with aspects of the trial. Most people agreed with the statement that "the Duch Trial was conducted fairly" and that the "Court was right to find Duch guilty for what he did at S21" [Tuol Sleng] (69% and 77%, respectively). But a strong sentiment also emerged that "the Court gave too much time to Duch to explain himself," and that the "victims did not have enough time to tell their story" (50% and 56%, respectively).
- Responses to several questions suggest that since the Duch trial began, **trust in the justice sector** has increased, but belief that the judicial system is corrupt has increased as well. Compared to 2008, a higher proportion of 2010 respondents believed that justice in Cambodia is the same for everyone (61% vs. 44%), that Cambodian judges treat everyone equally (56% vs. 40%), and trusted the Cambodian justice system overall (52% vs. 36%). However, at the same time, a higher proportion believed that Cambodian officials who commit crimes go unpunished (40% vs. 35%), that going to court means paying a bribe (68% vs. 61%), and that going to court is too expensive (86% vs. 82%). When asked about the direct impact of the Duch trial on their trust in the law, a majority of respondents (72%) said the trial had increased their trust, while only 6% reported a decrease in trust.
- The respondents' **recommendations** to the ECCC were most frequently to speed up the trial, be fair, and to punish the accused.
- Support for **truth-seeking** was still strong and in fact was increasing, with a majority of respondents wanting to know more about what happened during the Khmer Rouge regime. On the other hand, since the 2008 survey, knowledge of the Khmer Rouge period has not changed. Four out of five respondents (80% compared to 81% in 2008) among those who had not lived under the Khmer Rouge regime and over one-third among those who lived under the regime (36% compared to 37% in 2008) stated that their knowledge of the Khmer Rouge regime was poor or very poor. Nevertheless, a little over half of the respondents (57%) mentioned knowing more about what happened under the Khmer Rouge regime after the Duch trial, indicating that despite a perceived increase in knowledge, respondents still considered their knowledge of the regime as inadequate.
- Since 2008, feelings of animosity and a **desire for revenge** toward the Khmer Rouge have decreased only very slightly, with a majority continuing to report feelings of hatred (81% compared to 83% in 2008), and desire to see those responsible suffer (68% compared to 72%). The proportion of respondents who said they forgave the Khmer Rouge top leaders remained unchanged (36%); however, slightly more (around half) indicated having forgiven Duch after the trial. Only a minority (41%) of the

respondents stated they were ready to **reconcile with Duch** or members of Khmer Rouge who were responsible for atrocities committed during the Khmer Rouge regime.

- When asked what should be done for victims, the population indicated most frequently that providing services such as education and health care, as well as providing justice should be the priority. The vast majority said **reparations** should be provided and emphasized the need for community-level reparations. The population further recommended most frequently that reparations should be in the form of memorials, ceremonies, and social services.

**Key recommendations** to emerge from our findings are as follows:

#### TO THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

- *Ensure transparency at the ECCC* and address political interference with the justice system. Respondents showed strong support for and increasing expectations towards the ECCC. The Duch trial helped augment respondents' trust in the law and in the national justice system. This is positive news for the court and the national justice system. But to sustain that trend, transparency must be prominent especially as Cases 003 and 004 are debated in the media.
- *Expand and improve the outreach efforts of the ECCC.* In the last two years, awareness and knowledge of the ECCC have increased. Television and radio are still powerful means to reach the population. Visiting the court and attending a hearing are ways to participate in the ECCC proceedings. The second trial is about to begin; live proceedings on television, weekly summaries of trial proceedings and opening up the court to Cambodians should resume to ensure information dissemination to a large portion of the Cambodian population. But because legal language and proceedings could be difficult to understand for people outside the legal profession, interviews with court judges and staff should be commonplace during and after the trials to help explain complicated legal and judicial concepts and more importantly the verdicts to the public.
- *Expand education programs* in collaboration with donors, non-governmental organizations, and the Cambodian government. Results of the survey are clear and consistently show over time that respondents want to know more about what happened during the Khmer Rouge regime. Non-governmental organizations in collaboration with the Ministry of Education, Youth and Sport have made big strides in introducing school curriculums in high schools across the country and educating Cambodians in villages. Building on what is already in place and working together, the ECCC, donors, non-governmental organizations, and the Cambodian government should use this unprecedented opportunity to create curricular modules combining historical texts and visual materials from the first and forthcoming trials for use not only in universities but also in communities across Cambodia. These educational products could also serve as part of the court's legacy.
- *Recognize that the vast majority of Cambodians desire some form of collective and symbolic reparations.* The Court has acknowledged the need of the victims to be recognized and has entrusted the Victims Support Section (VSS) with the mandate of developing non-judicial measures for the victims. VSS should take lessons learned from the other projects, forge partnerships with relevant governmental and non-governmental actors, and consult with the victims. As the second trial gets underway, this crucial issue should not be sidelined but rather reinforced with the necessary political will and resources.

#### TO DONORS AND NON-GOVERNMENTAL ORGANIZATIONS

- *Develop coordinated outreach efforts with clear guidelines and goals to provide needed information to the public.* The second trial will be complex and difficult to understand for ordinary Cambodians. Yet

the data suggest most Cambodians are not very knowledgeable about the Court's mandate and procedures, or about the outcome of the Duch trial.

- *Support and focus on how to provide and deliver reparations and other non-judicial measures that are determined in partnership with victims and their families.* Cambodians favor reparation measures that directly affect their livelihood and access to services. However, many also offered examples of measures that could be implemented in communities (e.g., public ceremonies and memorials).
- *Develop and implement a comprehensive strategy when funding Cambodia's transitional justice process* (i.e., not only the court, but also a few restorative or truth-telling measures around the ECCC). The objective would be to engage in community-based dialogues and discussions that could have lasting impacts beyond the judicial process, including ones on unity and reconciliation. The results suggest that trials alone are insufficient to achieve the type of social changes that are needed.
- *Develop integrated psycho-social health programs across the country.* Respondents have signaled that the trials at the ECCC could help victims feel better, have less anger and help relieve their pain and suffering. Non-governmental organizations have paid attention to civil parties and witnesses' mental health before, during, and after the first trial. As the second trial is about to begin, non-governmental organizations and donors should collaborate to ensure that such programs be expanded to Cambodians across the country, ensuring that the expected positive impacts be maximized.

#### TO THE GOVERNMENT OF CAMBODIA

- *Develop ways to integrate ECCC best practices into the national justice system.* For respondents, justice meant being fair, enforcing and respecting existing laws, and knowing who is right and wrong. The ECCC's presence provides an opportunity for donors, non-governmental organizations, and the Government of Cambodia to come together and strengthen the national criminal justice system, address political interference with the justice system, and integrate the judicial legacy and legal best practices of the ECCC, instituting transparency, accountability, and efficacy.



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