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So We Will Never Forget: A Population-Based Survey On Attitudes About Social Reconstruction and the Extraordinary Chambers in the Courts of Cambodia

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A POPULATION-BASED
SURVEY ON ATTITUDES
ABOUT SOCIAL
RECONSTRUCTION
AND THE EXTRAORDINARY
CHAMBERS IN THE
COURTS OF CAMBODIA

JANUARY 2009



HUMAN RIGHTS CENTER
University of California, Berkeley

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The Human Rights Center, University of California, Berkeley and its Initiative for Vulnerable Populations conducted the survey and released the study findings in Phnom Penh, Cambodia on 21 January 2009. The report here has been re-printed with minor editing to the original text.

The **INITIATIVE FOR VULNERABLE POPULATIONS** uses empirical research methods to give voice to survivors of mass violence and improve the capacity of local organizations to collect and analyze data about marginalized populations. The Initiative and its partners work to ensure that the needs of survivors are recognized and acted on by governments, UN agencies, and nongovernmental organizations.

The **HUMAN RIGHTS CENTER** promotes human rights and international justice worldwide and trains the next generation of human rights researchers and advocates. More information about our projects can be found at <http://hrc.berkeley.edu>

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EXECUTIVE SUMMARY

This report provides the findings of a nationwide, population-based survey conducted in Cambodia from 9 September to 1 October 2008. Teams of interviewers used a structured questionnaire to interview 1,000 Cambodians 18 years old or older. The primary objectives of the study were to

- measure public awareness of the Extraordinary Chambers in the Courts of Cambodia (ECCC);
- assess the desire for justice and reparations for crimes committed by the Khmer Rouge from 1975 to 1979;
- determine the level of access Cambodians have had to the ECCC and the national criminal justice system; and
- recommend ways in which the ECCC, the Cambodian government, civil society, and the international community can ensure that Cambodians become engaged participants in—and not merely auxiliaries to—the work of the court.

For the survey, researchers randomly selected 125 communes out of 1,621 using systematic random sampling proportionate to population size. At least one commune was then selected in each of the 24 provinces of Cambodia. Next, researchers randomly selected two villages from each commune, resulting in a sample of 250 villages. Within each village, four households were randomly selected using linear systematic sampling with equal probability of selection. Within each household, a Kish grid was used to select at random one household member to interview. Finally, researchers analyzed the data using the Statistical Package for Social Sciences (SPSS) version 16.0. Further information about the survey methodology and limitations is provided in the Introduction.

By the time of the survey, the ECCC had arrested and charged five former leaders of the Khmer Rouge. The first to be taken into custody, in July 2007, was Kaing Guek Eav (Duch), former head of the notorious Tuol Sleng prison (also known as S21). He was later charged with crimes against humanity and war crimes. By late 2007, four other suspects had been detained and charged with similar crimes: Ieng Sary, Deputy Prime Minister of Foreign Affairs of Democratic Kampuchea, the name given to Cambodia by the Khmer Rouge regime; Nuon Chea, known as “Brother Number Two” and second-in-command to the Khmer Rouge leader Pol Pot; Khieu Samphan, President of Democratic Kampuchea; and Ieng Thirith, Minister of Social Affairs of Democratic Kampuchea. The first to stand trial will be Kaing Guek Eav and proceedings are expected to begin in February-March 2009.

Our principal findings are summarized as follows:

EXPOSURE TO VIOLENCE

Eighty percent of respondents in our survey considered themselves to be victims of the Khmer Rouge. Nearly all those who lived under the Khmer Rouge regime identified themselves as victims (93%), while half (51%) of those who did not live under the regime said they were victims. Among respondents who lived under the Khmer Rouge regime, over two-thirds reported having experienced starvation/lack of food (82%), lack of shelter (71%), personal property stolen or destroyed (71%), and forced evacuation (69%). Approximately one in four respondents reported having been tortured (27%) or having witnessed torture (30%) or killings (22%). Sixty-three percent said they had been forced to perform labor. Respondents who lived under the Khmer Rouge regime were significantly more likely to have been exposed to violent events.

OVERALL PRIORITIES

Respondents said their priorities were jobs (83%) and services to meet basic needs including health (20%) and food (17%). When asked what the priorities of the government should be, justice was seldom mentioned (2%), with the most frequent answers being the economy (56%) and building infrastructure (48%). When given more specific choices among priorities, three out of four respondents (76%) said it was more important to focus on problems that Cambodians face in their daily lives rather than address crimes committed during the Khmer Rouge regime.

KNOWLEDGE OF THE KHMER ROUGE

Nearly thirty years after the end of the Khmer Rouge regime, two-thirds of the population of Cambodia never directly experienced the violence and abuses of that period: 68 percent of the population is 29 years old or younger. Eight-one percent of respondents in our survey *who did not live under the Khmer Rouge regime* described their knowledge of that period as poor or very poor. Most (84%) said their main source of information about the Khmer Rouge was from families and friends, while only 6 percent said they acquired it in school. Seventy-seven percent of all respondents said they wanted to know more about what had happened during the Khmer Rouge regime, while 85 percent of those who did not live under the regime wanted to learn more.

SURVEY RESPONDENTS

The average age of survey respondents was 39.8 years old (standard deviation, 13.8 years), with equal numbers of male and female. A majority of respondents were Khmer (95%). Three out of four respondents (74%) had at least some primary education. Seventy-one percent reported being literate in at least one language.

Over two-thirds of respondents (69%) reported they had lived under the Khmer Rouge regime, while 31 percent said they were born after it had left power. We found statistically significant differences between these two groups on a range of topics regarding the ECCC and the need for justice and accountability. This suggests that outreach programs for the ECCC should be tailored to reflect the needs of these two subgroups.

LIVING WITH FORMER MEMBERS OF THE KHMER ROUGE

The vast majority of respondents said they still harbored feelings of hatred towards those Khmer Rouge members responsible for violent acts. Seventy-one percent said they wanted to see the Khmer Rouge suffer in some way. A third said they wished they could take revenge (37%) against former Khmer Rouge and that they would do so if they had the opportunity (40%). Forty-seven percent said they were uncomfortable living in the same community with former Khmer Rouge members. However, one-third of respondents (36%) said they had forgiven the Khmer Rouge. Feelings of hatred were more frequent among those who lived under the Khmer Rouge regime compared to those who did not. Likewise, forgiveness was less frequent among those who lived under the Khmer Rouge regime compared to those who did not.

ACCOUNTABILITY

Nine out of ten respondents in our survey said that members of the Khmer Rouge should be held accountable for the crimes they committed. When asked to specify who should be held accountable, half (51%) mentioned Khmer Rouge leaders or officials, and 20 percent mentioned the Khmer Rouge regime in general. One-quarter (24%) identified Pol Pot, the deceased Khmer Rouge leader, while 11 percent mentioned one or more of the five Khmer Rouge leaders currently in custody. Forty-nine percent of respondents said Khmer Rouge who committed crimes should be tried in a court of law. When asked who should be in charge of holding these individuals accountable, respondents said the current Cambodian government (58%), the international community (18%), the national judicial system (17%), and the ECCC (9%).

EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

- **Knowledge of the ECCC.** Thirty-nine percent of the respondents in our survey had no knowledge of the ECCC, and nearly half (46%) had only limited knowledge. Among those who had some level of knowledge about the ECCC, 53 percent adequately described it as a hybrid court comprising national and international judges and staff. However, 82 percent of these respondents were unable to name all five accused currently awaiting trial. Of those who had heard about the ECCC the main sources of information were radio (80%) and television (44%). Twenty-eight percent of these respondents reported having seen specific TV programs about the ECCC, most frequently news reports (45%) and soap operas (16%). The vast majority (98%) said they would watch the ECCC proceedings if they were broadcasted live on TV. Finally, less than 1 percent of those respondents who had lived under the Khmer Rouge regime had participated in an outreach activity related to the ECCC over the twelve-month period prior to the survey.
- **Perceptions and Expectations of the ECCC.** In general, those respondents who were aware of the ECCC gave it very high marks. Eighty-seven percent said the court would respond to the crimes committed by the Khmer Rouge. About two-thirds (67%) believed the ECCC judges would be fair and the court was neutral. Sixty-eight percent believed the ECCC would have a positive effect on the victims of the Khmer Rouge and their families. However, there was ambiguity among some

respondents about the court's objectivity and integrity. One-third said the court was not neutral and, among them, 23 percent felt it was corrupt. Respondents had high expectations of the ECCC. Of those respondents who had "a little knowledge" of the ECCC, 26 percent said the court would bring justice and 20 percent said the court would punish the guilty. However, 37 percent did not know what the ECCC would accomplish.

- **Recommendations to the Extraordinary Chambers in the Courts of Cambodia.** Respondents who had at least some knowledge of the court were given the opportunity to make one recommendation to the ECCC. Consistent with their perceptions and expectations, respondents wanted the court to speed up the trials (30%) and for it to be fair and independent (22%). Seventeen percent said they did not know what to recommend to the court.
- **Reparations.** ECCC judges have the authority to rule that reparations of a collective, symbolic, and moral—but not financial—nature be provided to certain groups of victims (i.e., civil parties). Such reparations could include erecting statues, building memorials, renaming public facilities, establishing days of remembrance, expunging criminal records, issuing declarations of death, exhuming bodies, and conducting reburials. The vast majority of our respondents (88%) said reparations should be provided to victims of the Khmer Rouge, and that they should be provided to the community as a whole (68%). Over half (53%) said reparations should be in a form that affects the daily lives of Cambodians, including social services (20%), infrastructure development (15%), economic development programs (12%), housing and land (5%), and provision of livestock, food, and agriculture tools (1%).

NATIONAL CRIMINAL JUSTICE SYSTEM

Respondents showed little confidence in the national criminal justice system. Only 36 percent said they trusted it, and a slightly higher number (37%) said they trusted Cambodian judges. Less than half of respondents (44%) agreed with the proposition that Cambodian justice is for everyone, or that Cambodian judges treat everyone equally (40%). Eighty-two percent said going to court was too expensive and required bribing judges (82%) or the police (77%).

Key recommendations to emerge from our findings are as follows:

TO THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

- *Deal immediately and effectively with allegations of corruption and lack of transparency at the ECCC.* Among Cambodians who are knowledgeable of the ECCC, there is strong support for its work. Survey respondents expressed high expectations that the court will be fair and independent. This is good news for the ECCC, but it could easily erode if allegations of corruption continue. Respondents showed little confidence in the national criminal justice system because of corruption and a lack of trust in court officials. The ECCC should not succumb to the same fate. Moreover, the court should ensure that trials are transparent and conducted in a timely fashion.

- *Greatly expand and improve the outreach efforts of the ECCC.* Knowledge of the ECCC nationwide should be much higher at this point in time, given that it became operational in 2006. Less than 1 percent of those who lived under the Khmer Rouge (four individuals) had participated in an ECCC-related outreach activity during the 12 months prior to the survey. Public service announcements about the court should be broadcast on radio and television. Interviews with court judges and staff should be commonplace during the trials to help explain complicated legal and judicial concepts to the public. Finally, a weekly summary of trial proceedings—preferably in a talk show format that encourages debate—should be aired on both radio and television.
- *Appoint a staff member to serve as an “educational liaison officer” to donors, nongovernmental organizations, and the Cambodian government.* The ECCC’s primary obligation, as with all courts, is to hold fair and public trials. That said, the court is in a unique position to act as a catalyst for educational programs that will connect the court’s activities to Cambodian history. Cambodia’s school system has failed to educate young people about the crimes of the Khmer Rouge. Working together, the ECCC, donors, nongovernmental organizations, and Ministry of Education should use this unprecedented opportunity to create curricular modules combining historical texts and visual materials from the forthcoming trials for use in primary and secondary schools. These educational products could also serve as part of the court’s legacy.
- *Recognize that the vast majority of Cambodians view themselves as direct or indirect victims of the Khmer Rouge and desire some form of collective and symbolic reparations.* Why this is a pressing issue for the ECCC is reflected in the finding that most respondents said it was more important for the country to focus on problems Cambodians face in their daily lives than the crimes committed by the Khmer Rouge. This suggests that the ECCC must find ways to ground its activities in the current concerns and needs of the population. Providing reparations—especially those aimed at providing social services and infrastructure development—could help meet this need.

TO DONORS AND NONGOVERNMENTAL ORGANIZATIONS

- *Find ways to help the ECCC better inform Cambodians about its mandate and activities.* Donors and nongovernmental organizations have played a critical role in supporting the ECCC on many levels, including outreach and training. Yet the data suggests most Cambodians are not aware of the court or know very little about its mandate and procedures. It also appears that outreach efforts have not been well coordinated. A centralized process with clear guidelines and goals could help remedy this situation.
- *Continue to provide support to the ECCC in defining what reparations will work in the Cambodian context.* As noted earlier, Cambodians favor especially those reparations that affect their daily lives. One workshop has already been convened in late November 2007 focusing on the history of reparations following mass violence and reparations that have worked in post-war settings. A follow-up workshop could focus on how to provide victims and their families a voice in the process of determining the most appropriate reparations and how to deliver reparations in an effective manner.

- *Develop a comprehensive plan for promoting discussion in communities where tensions between former Khmer Rouge members and the general population are known to be high.* The survey data suggest that a degree of unspoken hostility lingers in some Cambodian communities over the crimes of the Khmer Rouge. Studies in other post-war settings indicate trials can further divide communities that have not reconciled their differences. To mitigate the possibility of escalating tensions, community-based discussion should be held before and after ECCC judges render their verdicts.

TO THE GOVERNMENT OF CAMBODIA

- *Conduct a major review and overhaul of the national criminal justice system that integrates the judicial legacy of the ECCC, ends corruption, and institutes transparency, accountability, and efficacy.* The survey data are clear: Cambodians have little faith in their criminal justice system. The ECCC's presence could provide the opportunity for donors, nongovernmental organizations, and the Government of Cambodia to come together and tackle this problem in a meaningful and sustainable way. For respondents, justice meant uncovering truth and being fair, enforcing and respecting existing laws, and knowing who is right and wrong. Only a few reported that they rely on the legal system when faced with disputes.
- *Continue to work with the civil society to integrate what happened during the Khmer Rouge regime into school history curriculum.* As mentioned earlier, Cambodia's school system has thus far failed to educate young people about the crimes of the Khmer Rouge regime.

1. INTRODUCTION

After a decade of negotiations leading to the adoption of its internal rules in June 2007, the Extraordinary Chambers in the Courts of Cambodia (ECCC) is the first serious effort to bring the law to bear, however belatedly and incompletely, on the horrendous crimes committed by leaders of the Khmer Rouge more than a quarter of a century ago. In power for just under four years (1975 to 1979), the Khmer Rouge more than decimated Cambodia. At least 1.7 million Cambodians, fully one quarter of the population, were killed or died as a result of the oppressive policies imposed by the Khmer Rouge, with execution, starvation, exhaustion from slave labor, malnutrition, and torture as the leading causes of death.

The ECCC faces several serious challenges.¹ First, as the latest in a series of tribunals—starting with Nuremberg and culminating most recently with the International Criminal Court—it faces the daunting task of securing criminal accountability for mass atrocities. Supporters and skeptics alike are scrutinizing the ECCC’s performance and judicial legacy. Should it be marred by incompetence, corruption, or political interference or fail to comply with international due process standards, it could jeopardize further attempts to root international justice principles in domestic legal systems.

Second, the ECCC must contend with the passage of time and its tendency to erode the probative value of evidence. The ECCC is investigating and will soon adjudicate alleged crimes committed over thirty years ago. This is complicated for any court, especially a “hybrid court” that combines both national and international legal standards and procedures on the admission of evidence. How will the passage of time have affected the memories of witnesses or their willingness to testify? Can documents linking the accused to the elements of the alleged crimes be secured and verified, and withstand judicial scrutiny? Will the health and age of the five accused affect their ability to stand the rigors of a trial? What will a trial 30 years later mean for survivors?

¹ See James A. Goldston, “An Extraordinary Experiment in Transitional Justice,” in *Justice Initiatives* (New York: Open Society Institute, Spring 2006), 1–6.

Third, it is likely that the ECCC will be the last and only hope for victims of the Khmer Rouge regime to receive formal acknowledgement and recognition of the grave injustices and losses they have suffered. In recent years, Cambodian human rights organizations have amassed an impressive amount of documentation and testimony about the Khmer Rouge period. Yet no serious and systematic attempt has been made to establish a truth-seeking process or other mechanisms for addressing past crimes. Nor have there been any purely domestic trials, beyond the clearly substandard proceedings convened in the immediate aftermath of the Khmer Rouge's fall.

Fourth, the ECCC faces several internal challenges, including allegations of corruption and lack of independence, transparency, and funding. Since its early beginning, the ECCC has been plagued with allegations of corruption, especially kickbacks on salaries of national staff.² Many human rights organizations have raised concerns regarding the potential interference of the government in the ECCC.³ Lack of funding has also been a recurring issue, in part because some critical items were not included in the initial budget. Set at \$56 million over three years, it is now estimated that \$135.4 million will be necessary through the end of 2010. Several states have already contributed or pledged funds. However, funding will remain on the agenda for the years to come. All of those issues, as well as the overwhelming amount and quality of translation and difficulty in hiring skilled staff have hindered the work of the court and caused delays.

Finally, the ECCC faces the exigencies of great expectations. International and national observers have opined that the court has the potential to establish a more complete historical record of the Khmer Rouge regime and reform Cambodia's judicial system. As a prominent Cambodian human rights advocate argued in 2006: "Judges [in Cambodia] can learn from the international process—from [the ECCC's] international judges and their codes of conduct. People may have the opportunity to watch a fair trial and compare it with the trials they have seen in the past, and in the future. If there is a good strategy as to how to introduce the lessons from the court into the Cambodian judiciary, it is to record it, to transcribe it, and to have Cambodian lawyers and judges review this process and examine the record, to train them."⁴ Whether or not this expectation can be met will depend heavily on the ECCC's performance, the Cambodian government's willingness to institute sweeping judicial reforms, and the extent to which donor governments will continue to bankroll legal programs.

² Open Society Justice Initiative, "Progress and Challenges at the Extraordinary Chambers in the Courts of Cambodia" (Phnom Penh, Cambodia: The Open Society Institute, June 2007).

³ For example, see Human Rights Watch, "Cambodia: Government Interferes in Khmer Rouge Tribunal," 5 December 2006, available at <http://www.hrw.org/english/docs/2006/12/05/cambod14752.htm>.

⁴ See interview with Thun Saray, President of the Cambodian Human Rights and Development Association, in "No Perfect Justice," in *Justice Initiatives* (New York: Open Society Institute, Spring 2006), 111.

THE SURVEY

Against this background, the UC Berkeley Human Rights Center and its Initiative for Vulnerable Populations conducted a population-based survey in Cambodia to capture opinions and attitudes about accountability, social reconstruction, and the ECCC. Researchers interviewed 1,000 adult Cambodians from 9 September to 1 October 2008 with the following objectives:

1. To measure public awareness of the ECCC and outreach and victim participation programs initiated by the court and local nongovernmental organizations;
2. To capture attitudes about the Khmer Rouge regime and the desire for justice and reparations for past crimes;
3. To assess knowledge about and the level of access of Cambodians to the national criminal justice system; and
4. To recommend ways in which the ECCC, Cambodian judicial and administrative institutions, civil society, and the international community can ensure that Cambodians become engaged participants in—and not merely auxiliaries to—the work of the court.

METHODOLOGY

Respondents for the survey were randomly selected among all adults (18 years of age or older) who are residents of Cambodia. A four-stage cluster sampling strategy was designed to ensure that results would be representative of this population. The sampling frame used for the survey was the Cambodia General Population Census 2008 Village's database prepared by the National Institute of Statistics, Ministry of Planning.⁵

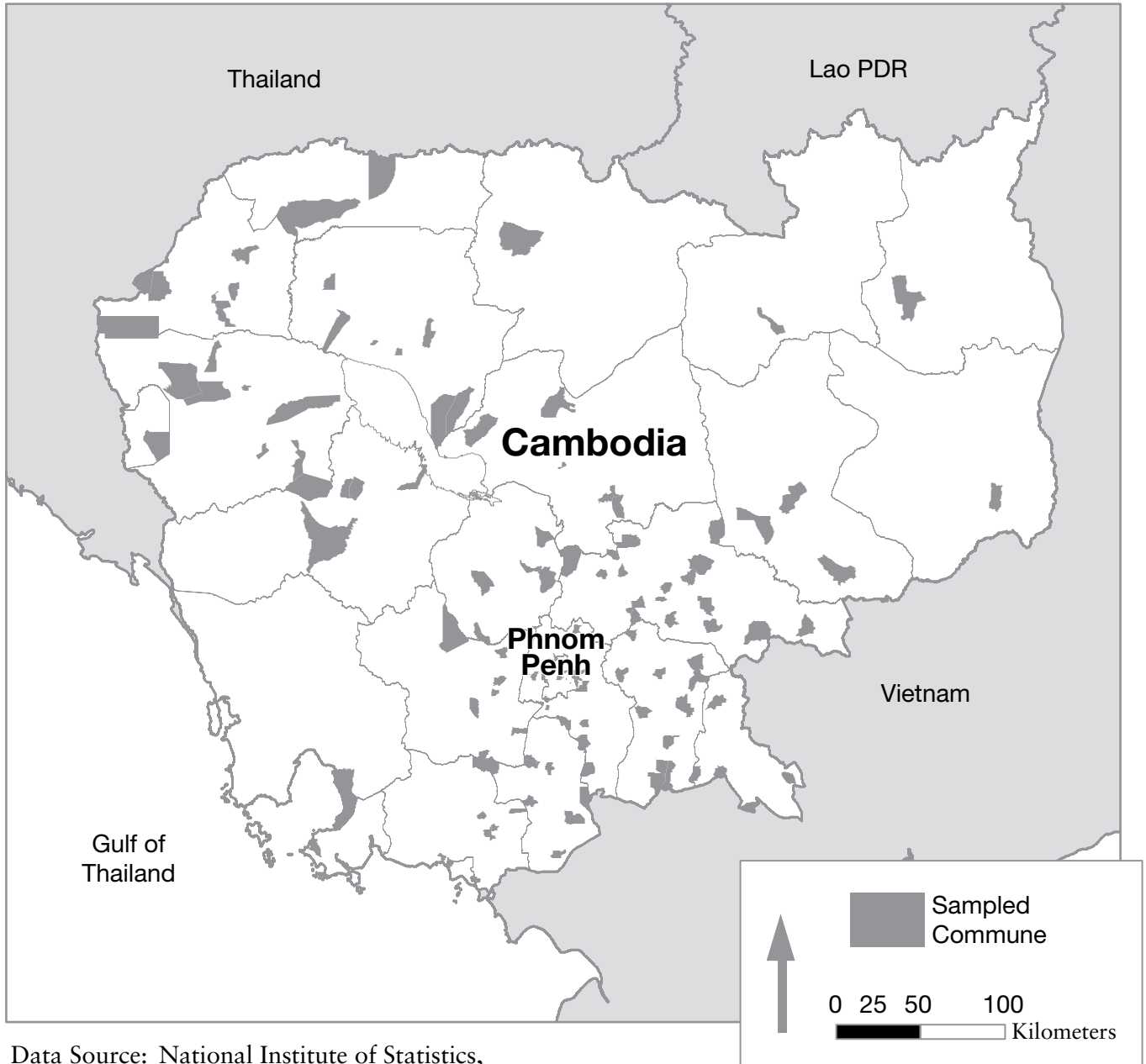
The survey took place in two stages. During the first stage, researchers randomly selected 125 communes out of 1,621 using systematic random sampling proportionate to population size.⁶ At least one commune was selected in each of the 24 provinces of Cambodia. During the second stage, researchers randomly selected two villages from each commune using a simple random sampling procedure proportionate to population size, resulting in a sample of 250 villages. Within each village, four households were randomly selected using linear systematic sampling with equal probability of selection. Finally, within each household, a Kish grid was used to select one household member at random for an interview.⁷ The total expected sample size was 1,000 individuals.

⁵ See <http://www.stats.nis.gov.kh/index.htm>.

⁶ Communes (Khum) are an administrative division regrouping villages.

⁷ 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.

FIGURE 1: SAMPLE DISTRIBUTION



Data Source: National Institute of Statistics, Cambodia, Map by Vinck P.

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. A standard consent form was used to present the project (i.e., university-based research not affiliated with the government), stress the confidentiality of the responses, and inform respondents of the voluntary nature of their participation (i.e., no compensation was provided, they were given the option to refuse to answer or stop the interview at any time).⁸

Interviewers used a structured questionnaire covering nine topics including (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) establishing a historical record, truth telling, and reparations; (8) exposure to violence; and (9) mental health (results 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 pre-tested with 60 randomly selected respondents in non-study sites to ensure that the instrument was culturally adapted and easily understandable to respondents.

The data collection was conducted in partnership with the Center for Advanced Study, a Cambodian-based, nonprofit survey research organization. A total of 25 experienced Cambodian interviewers and supervisors organized in 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 survey pilot. This procedure enabled trainers to improve the survey instrument and identify and improve the weaknesses of interviewers. 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. A second check was performed by the supervisor. The average estimated interview time per questionnaire was one hour and forty-five minutes. Finally, researchers analyzed data using the Statistical Package for Social Science version 16.0.

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.

⁸ 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.

Second, 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, 147 households (13% of all households) had to be replaced because no one was home (76%), no one was eligible (14%), all members refused to be interviewed (5%), or no one was available (5%). In addition, within selected households, 297 individuals (23%) had to be replaced by the next randomly selected individual within the same household because the respondent was not home (85%), refused to participate in the interview (13%) or because the interview could not be completed (2%).

Third, the data collection for the survey started on 9 September 2008, two weeks after Co-Prosecutors appealed the Closing Order of the trial of Kaing Guek-Eav (alias “Duch”) issued by the Co-Investigating Judges on 12 August 2008. The delay caused by the appeal may affect how respondents view the ECCC. Because views and attitudes are influenced by local and contemporaneous events (such as media coverage), the views expressed in this report present only a snapshot at the time of the survey.

Finally, while the survey questions were finalized following piloting and in-depth consultations with local experts on terminology, respondents were free to interpret the questions according to their own perceptions of the terms used. Careful choice of phrasing and translation reduced the risk of misinterpretation of the questions.

ORGANIZATION OF THE REPORT

The remainder of the report consists of six chapters. Chapter 2 provides background on the rise and fall of the Khmer Rouge, the establishment of the ECCC, and the role of local nongovernmental organizations in court-related activities. Chapter 3 sets out the demographics for the survey. Chapter 4 examines how survey respondents experienced and perceived the Khmer Rouge regime, as well as their knowledge of its policies. Chapters 5 and 6 present respondents’ views about the need for justice and truth telling and their attitudes about the ECCC. And, finally, Chapter 7 presents our conclusions and recommendations. These are also summarized in the Executive Summary.

2. BACKGROUND

The years of the Khmer Rouge regime from 1975 to 1979 mark one of the most horrific times in modern history. Nearly one quarter of the Cambodia population—a least 1.7 million people—perished as a result of the oppressive policies imposed by Khmer Rouge leader Pol Pot and his cronies.⁹ Professionals and educated persons, especially teachers, doctors, police, and former government officials—viewed by the Khmer Rouge as objects of Western decadence—were singled out for persecution. Throughout Cambodia, anyone who questioned the supremacy of the Khmer Rouge or committed the slightest infraction could be summarily executed or sent to one of a dozen or more prison camps where torture was routine.

Pol Pot (Saloth Sar) was born into a well-to-do Cambodian farming family in 1925, in an area then part of French Indochina. At the age of twenty-four, he traveled to Paris to study radio electricity and became heavily influenced by Marxism and Maoism. Pol Pot returned to Cambodia in 1953 and subsequently became the leader of the Cambodian communist movement¹⁰ popularly known as Khmer Rouge. After the anti-left campaign led by Sihanouk put him at risk of arrest, Pol Pot retreated into the jungle where he started to establish clandestine guerilla bases. By 1970, a full-fledged civil war descended on the country.¹¹ On April 17, 1975, the Khmer Rouge troops seized control of the capital, Phnom Penh, marking the beginning of 3 years, 8 months and 20 days 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).

⁹ See Ben Kiernan, *The Pol Pot Regime: Race, Power, and Genocide in Cambodia under the Khmer Rouge 1975-1979* (New Haven: Yale University Press, 2002).

¹⁰ Stephen J. Morris, "Vietnam and Cambodian Communism," 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), 2.

¹¹ See Dawn Kelly Askin, "Prosecuting Senior Leaders of Khmer Rouge Crimes," in *Justice Initiative* (New York: Open Society Institute, Spring 2006), 72–73.

Cambodia was effectively sealed off from the outside world.¹² The Khmer Rouge expelled all foreigners, closed embassies, banned the use of foreign languages, and refused any foreign economic or medical assistance.¹³ Newspapers and television stations were shut down, radios and bicycles confiscated, currency and the postal system were abolished and telephone usage curtailed.¹⁴ All businesses were shuttered, religion banned, education halted, health care eliminated, and parental authority revoked.¹⁵

Angkar's polices were largely uniform across the country with some regional¹⁶ and individual variations. Officially, there was no class 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, while New People were mostly city dwellers, including peasants in the cities at the time of the evacuation.¹⁷ People from the city had been exposed to foreign influences and were considered politically unreliable. Most of them were put to work in forced labor camps throughout the country. 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.¹⁸ The most infamous prison was Tuol Sleng in Phnom Penh where thousands of people were tortured and later executed. Broad cohorts of the population were marked for extermination. Educated urban elite, soldiers from previous regimes, Buddhist monks, Cambodians returning from overseas and ethnic populations such as Chams, Khmer of Vietnamese origin, and Chinese were eliminated. As the leaders' obsession with potential infiltration and treason increased, the regime conducted major purges among their own ranks, torturing and killing countless of innocent victims.¹⁹

After several years of border wars, the Vietnamese invaded Cambodia. On January 7, 1979, the Pol Pot regime collapsed, overthrown by the Vietnamese. More than 300,000 Cambodians fled to Thailand or Vietnam. Pol Pot and some 30,000 to 50,000 supporters, including most of its army, fled to remote areas in north and west Cambodia.²⁰

¹² 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.

¹³ Library of Congress, *Cambodia: A Country Study*, Washington D.C.: GPO for the Library of Congress, 1990; Columbia Encyclopedia, 6th ED., 2005; Gottesman, *Cambodia After the Khmer Rouge*, 25.

¹⁴ Ibid.

¹⁵ Library of Congress.

¹⁶ Chandler, *A History of Cambodia*, 211.

¹⁷ Michael Vickery, *Cambodia 1975–1982* (Boston MA: South End Press, 1984), 81–82.

¹⁸ 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).

¹⁹ Chandler, *A History of Cambodia*, 213; 218–19.

²⁰ Ibid., 192.

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 border²¹ and the isolation of Cambodia by the international community.

In September 1989, under international pressures, the Vietnamese finally withdrew their troops.²² After a decade of negotiations, 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 an election in 1993 and repatriation of more than 350,000 Cambodians from Thai refugee camps.²³ However, it did not succeed in disarming the factions or rallying the Khmer Rouge who refused to participate in the elections. The Khmer Rouge continued their resistance and guerilla warfare until 1998 when the revolutionary movement collapsed.

LEGAL AND JUDICIAL SYSTEM

Based on the French model of “civil law,” the Cambodian judicial system was disrupted during the civil war and was nonexistent during the Khmer Rouge regime. Today, despite some gains and improvements, the judiciary system has been criticized for its lack of independence, incompetence, and corruption.²⁴ The situation is exacerbated by a confused legal framework and lack of resources. In rural areas, people often prefer to solve their problems within their community.²⁵ People take matters into their own hands, or use a third party, or conciliator, as mediator. In general, people try to avoid courts arguing that they are costly and involve transportation, accommodations, and bribes to civil servants and judges. People trust the law but not the officers of the court.²⁶

Rooted in a “culture of impunity” and patronage, the major problems of the legal and judiciary system are corruption and absence of independence.²⁷ The Ministry of Justice often provides instructions to judges on how to interpret the laws; the Executive pressures the court to overturn their rulings;²⁸

²¹ Three factions allied to fight the Vietnamese: Norodom Sihanouk's United National Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC), Son Sann's Kampuchean People's National Liberation Front (KPNLF), and the National Army of Democratic Kampuchea (the Khmer Rouge army) represented by Khieu Samphan.

²² Raoul M. Jennar, *The Cambodian Constitutions (1953-1993)* (Bangkok, Thailand: White Lotus, 1995), 111.

²³ Raoul M. Jennar, *Les Cles Du Cambodge (Excerpts)*, available at <http://vorasith.online.fr/cambodge/livres/cles.htm>.

²⁴ Center for International Development & Conflict Management, *Polity IV Country Report 2003: Cambodia*, available at <http://www.cidcm.umd.edu/inscr/polity/report.htm>.

²⁵ For additional information on local conflicts management, see Fabienne Luco, “Between a Tiger and a Crocodile” (Phnom Penh, Cambodia: United Nations Educational, Scientific and Cultural Organization (UNESCO), September 2002), 97–116.

²⁶ *Ibid.*, 144.

²⁷ 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.

²⁸ “National Integrity Systems. Country Study Report” (Cambodia: Transparency International, 2006), 23.

selection, appointment, and promotion of judges are determined by the executive or legislative and political parties;²⁹ and judges are often closely associated with the ruling Party³⁰ making it difficult to separate Executive and Judiciary powers.

The judiciary and legal system is considered one of the most corrupt and least trustworthy institutions in Cambodia.³¹ In 2003, a survey conducted by the Center for Advanced Study showed that Cambodians have little or no faith in the Cambodian courts or its officials.³² 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.³³

The capacity of the judicial system is clearly lacking.³⁴ 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 budget³⁵ leading to understaffing and a lack of space and basic necessities. In 2003, judicial remuneration was the lowest in Southeast Asia and the second most bureaucratically embedded judiciary in the region.³⁶

THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

The ECCC, also known as the Khmer Rouge Tribunal, began its work on July 1, 2006, after 10 years of negotiations between the United Nations and the Royal Government of Cambodia, a process that involved multiple actors and several states.³⁷ Its jurisdiction covers senior leaders and those most responsible for crimes and serious violations committed during the period from 17 April 1975 to 6 January 1979. The subject matter jurisdiction of the ECCC includes genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, and other crimes.³⁸

²⁹ Ibid., 24; and The Asia Foundation, “Judicial Independence Overview and Country-Level Summaries,” 15, available at http://www.adb.org/Documents/Events/2003/RETA5987/Final_Overview_Report.pdf.

³⁰ Leuprecht, “Continuing Patterns of Impunity in Cambodia,” 26.

³¹ “National Integrity Systems. Country Study Report,” 16.

³² Leuprecht, “Continuing Patterns of Impunity in Cambodia,” 26.; Tara Urs, “Imagining Locally-Motivated Accountability for Mass Atrocities: Voices from Cambodia,” in SUR (Sao Paulo, Brazil: Human Rights University Network, 2007), 70.

³³ “National Integrity Systems. Country Study Report,” 24.

³⁴ Urs, “Imagining Locally-Motivated Accountability for Mass Atrocities: Voices from Cambodia,” 64.

³⁵ The Court Watch Project, “Annual Report,” 7.

³⁶ The Asia Foundation, “Judicial Independence Overview and Country-Level Summaries,” 19, 24.

³⁷ For details on the negotiations see Craig Etcheson, “A “Fair and Public Trial”: A Political History of the Extraordinary Chambers,” in *The Extraordinary Chambers*, ed. Open Society Justice Initiative (New York: Open Society Institute, Spring 2006).

³⁸ 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.

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 (5 judges), the Trial Chamber (5 judges), and the Supreme Court Chamber (7 judges). The Pre-Trial Chamber convenes to settle disagreements between the co-prosecutors, between the co-investigating judges, and between the co-prosecutors and the co-investigating judges. It also hears Pre-Trial appeals. Trial Chamber's decisions can be appealed at the Supreme Court Chamber. 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 including one Cambodian national and one international. All judges and judicial officers are appointed by the Supreme Council of the Magistracy of Cambodia. However international appointments are taken from a list provided by the UN Secretary General.³⁹ 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 a Cambodian director and an international deputy.

Modeled after the Cambodian national court system, the ECCC operates in a civil law system. As such, the role of the co-prosecutors is to conduct a preliminary investigation and send factual allegations constituting crimes and suspects to the co-investigating judges. This is the introductory submission. The co-investigating judges examine only the allegations made in the initial submission unless the co-prosecutors submit additional facts through supplementary submissions. The co-investigating judges have the power to arrest and charge suspects, if deemed necessary. Following notification that the investigation is closing, the co-prosecutors make a final submission of their charges. The final submission is followed by the co-investigating judges' closing order which can be appealed by the co-prosecutors.⁴⁰

Once the suspect has been charged and brought into custody, the Defense Support Section's main role is to ensure effective representation of the charged person. In doing so, it provides a list of lawyers to defendants, gives legal and administrative support to chosen lawyers, and pays legal fees. Defense Support Section also acts as a voice for the defense, and liaises with nongovernmental organizations.⁴¹

In addition to being called as witnesses, victims can participate in the court's proceedings as a complainant or a civil party by submitting a Victim Participation form. The Victims Unit is the focal point for victims wishing to participate in the ECCC's proceedings. It acts as the intermediary receiving and processing all forms and transmitting them to the appropriate office. Co-prosecutors are responsible for considering the complaints whereas the co-investigating judges or the Trial Chamber, as appropriate, assess civil party applications.

³⁹ The information in this paragraph is drawn from UNAKRT website, available at http://www.unakrtonline.org/01_home.htm.

⁴⁰ For more details on roles and procedures, see "Internal Rules (rev. 2)," Cambodia: Extraordinary Chambers in the Courts of Cambodia, 5 September 2008, available at http://www.eccc.gov.kh/english/cabinet/fileUpload/88/IR_Revision2_05-01-08_En.pdf.

⁴¹ The information on the Defense Support Section is drawn from UNAKRT website, available at http://www.unakrtonline.org/07_defencesupport.htm.

Any person who witnessed, has knowledge, or was a victim of crimes covered within the jurisdiction of the ECCC can file as a complainant. Complaints can be broad and related to any alleged criminal acts within the jurisdiction of the ECCC. The co-prosecutors can commence an investigation based on a complaint or other information they have gathered. Then victims or anyone else who has 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 civil party, the applicant must have suffered harm as a result of crimes committed within the ECCC's jurisdiction and the case must be under investigation by the co-investigating judges. In practice, this means that the alleged crime in the application has to be part of the initial or any supplementary submission.⁴² As ruled by the Pre-Trial Chamber, 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.⁴³ Recently, the Pre-Trial Chamber has ruled that civil parties could only address the court through their lawyer or when the court accepts their request to do so, if they are not represented⁴⁴ and the internal rules have limited the period for civil party applications.⁴⁵ Civil parties are entitled to legal representation which is assumed either by a Cambodian lawyer or by an international lawyer in collaboration with a Cambodian lawyer. Civil parties can also apply through various victim associations. Only Civil Parties will be entitled to reparations.

OUTREACH AND PARTICIPATION

Another ECCC unit of importance is Public Affairs which provides information about the court to the public, media, and other interested parties. Its main activities include outreach, media relations, and audio/video recording of the proceedings.⁴⁶ The office of Public Affairs has developed booklets, posters, stickers, a website, and a newsletter, Court Report, to address the information needs of the public at large. The office also meets regularly with the media and participates in activities related to

⁴² This is an important point as the initial and supplementary submissions are confidential. For information regarding application process, see "Victim Participation, Practice Direction 02/2007/Rev.1," Cambodia: Extraordinary Chambers in the Courts of Cambodia, available at http://www.eccc.gov.kh/english/cabinet/courtDoc/160/PD_Victims_Participation_rev1_En.pdf.

⁴³ For more details on the ruling, see "PTC decision on civil participation in provisional detention appeals, Criminal Case File #002/19-09-2007-ECCC/OCIJ(PTC01)," Cambodia: Extraordinary Chambers in the Courts of Cambodia, available at http://www.eccc.gov.kh/english/cabinet/courtDoc/53/PTC_decision_civil_party_nuon_chea_C11_53_EN.pdf.

⁴⁴ For more details on the ruling, see "Public Directions on Unrepresented Civil Parties' Rights to Address the Pre-Trial Chamber in Person, Criminal Case File #002/19-09-2007-ECCC/OCIJ(PTC03)," Cambodia: Extraordinary Chambers in the Courts of Cambodia, available at http://www.eccc.gov.kh/english/cabinet/courtDoc/127/C22_I_69_EN_Directions_on_unrepresented_civil_parties.pdf.

⁴⁵ Previously, civil party applications were considered until the opening of the proceedings before the Trial Chamber. In the revised internal rules, "civil party applications must be filed within the Victims Unit at least 10 (ten) working days before the initial hearing." See, "Internal Rules (rev. 2)" Cambodia: Extraordinary Chambers in the Courts of Cambodia, 5 September 2008, rule 23, available at http://www.eccc.gov.kh/english/internal_rules.aspx.

⁴⁶ The information on Public Affairs is drawn from the ECCC website, available at http://www.eccc.gov.kh/english/public_affairs.aspx.

the ECCC organized by nongovernmental organizations. However, a lack of funding has prevented the office from implementing a comprehensive outreach program. As a result, civil society organizations have stepped in to fill the gap.

Several nongovernmental organizations have developed outreach programs related to the court. The Documentation Center of Cambodia (DC-CAM) has been working on the Khmer Rouge era for more than 10 years. Other organizations such as the Cambodian Human Rights and Development Association, the Khmer Institute of Democracy, the 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, Youth Resources Development Program, and others have provided outreach services. Their mandates, target populations, and activities vary greatly. However, their activities can be grouped into two broad categories: disseminating information and participating in ECCC proceedings. Many of these groups also try to “manage” Cambodians’ expectations towards the court. In addition, Open Society Justice Initiative hosts monthly meetings ensuring exchange of information among nongovernmental organizations and between nongovernmental organizations and the court.

INFORMATION DISSEMINATION

Local nongovernmental organizations have played a key role in disseminating information about the court both nationally and internationally. This is done through the distribution of written, visual, and audio materials; facilitating community meetings or public forums; and helping Cambodians visit the ECCC and commemoration sites. As early as February 2006, the Documentation Center of Cambodia began bringing groups of villagers to visit the court and commemoration sites such as Tuol Sleng and Choeug Ek. Upon return to their communes, participants would inform their families and neighbors.⁴⁷ The Cambodian Human Rights and Development Association also started a vast program of information at the district level informing mixed groups of officials and ordinary citizens about the court.⁴⁸ The Khmer Institute of Democracy has trained Citizen Advisors who, in turn, inform people in their community about the work of the court. The Center for Social Development has held a series of public forums gathering people at the district level to inform them of the court and provide an opportunity to ask questions of court officials and express their expectations. Youth for Peace and the Youth Resources Development Program have held information sessions to inform young people about the court’s mandate. Nongovernmental organizations have also produced radio programs and distributed brochures and booklets. Mekong Films, in collaboration with East-West Center, the War Crimes Studies Center at the University of California, Berkeley, and the ECCC, has produced a series of films about the court which have aired on national television. Open Forum and Open Society Justice Initiative send updates regularly to subscribers of their listservs.

⁴⁷ Dara P. Vanthan and Dacil Q. Keo, “February ECCC Tour Report” (Phnom Penh, Cambodia: Documentation Center of Cambodia, February 2006).

⁴⁸ The Cambodian Human Rights and Development Association, “Report on ECCC/ICC Training Sessions” (Phnom Penh, Cambodia: ADHOC, August 2007), 2.

PARTICIPATION IN ECCC PROCEEDINGS

Since 2007, outreach activities have gradually shifted towards encouraging victim participation. The Documentation Center of Cambodia is in the process of gathering 10,000 complaints and civil party applications, while member organizations of the Cambodian Human Rights Action Committee⁴⁹ focus on collecting mostly civil party applications. As of November 2008, the Victims Unit had received 2,500 complaints and civil party applications,⁵⁰ of which 34 civil parties have been accepted.⁵¹

Legal representation is a key issue in the case of civil parties. Several local groups have been working in collaboration with international lawyers, yet more resources, expertise, and funding are needed.

CURRENT STATUS OF THE ECCC

Several surveys prior to 2006 showed strong support for the establishment of the ECCC.⁵² A survey by the Open Society Justice Initiative in 2005 found that 62 percent of respondents favored the establishment of a court. Fifteen percent said they did not want a court or were not interested, while 23 percent chose not to respond to the question.⁵³ In February 2008, nineteen months after the establishment of the ECCC, the International Republican Institute found that 71 percent of Cambodians were aware of the court and 69 percent supported trials of top Khmer Rouge leaders.⁵⁴ In October 2008, the Khmer Institute for Democracy compiled results of questionnaires gathered through their Citizens Advisor program. Out of 9,074 respondents, 8,502 (94%) supported ECCC trials.⁵⁵

⁴⁹ CHRAC is an umbrella organization for human rights organizations involved in the process of systematizing civil party information.

⁵⁰ “Media Alert,” Phnom Penh, ECCC press release, 6 November 2008, available at http://www.eccc.gov.kh/english/cabinet/press/81/Media_Alert_German_contribution-En.pdf.

⁵¹ Personal communication; confidential source.

⁵² Throughout the last decade, several surveys have been done on public attitudes towards a Khmer Rouge Tribunal (KRT). For details on some of the results, see Laura McGrew, “Truth, Justice, Reconciliation and Peace in Cambodia” (Phnom Penh, Cambodia: Funded by the Canadian Embassy (Canada Funds), February 2000); The Khmer Institute of Democracy, “Survey on the Khmer Rouge Regime and the Khmer Rouge Tribunal 2004,” available at <http://www.bigpond.com.kh/users/kid/KRG-Tribunal.htm>; Suzannah Linton, *Reconciliation in Cambodia, Documentation Series No.5* (Phnom Penh, Cambodia: Documentation Center of Cambodia, 2004), and William Burke-White, “Preferences Matter: Conversations with the Cambodian People on the Prosecution of the Khmer Rouge Leadership,” in *Bringing the Khmer Rouge to Justice: Prosecuting Mass Violence before the Cambodian Courts*, ed. Jaya Ramji and Beth Van Schaack (New York: The Edwin Mellen Press, 2005).

⁵³ “Strategies for Reaching Rural Communities in Cambodia: Outreach for the Extraordinary Chambers” (Phnom Penh, Cambodia: Open Society Justice Initiative, 2006), 24.

⁵⁴ “Survey of Cambodian Public Opinion” (Phnom Penh, Cambodia: International Republican Institute, January 27 – February 26, 2008), 42, 44.

⁵⁵ Victim and Witness Project Standards for the ECCC and Beyond Project, “KID-VWP Outreach Survey on Knowledge and Interest in the ECCC” (Phnom Penh, Cambodia: The Khmer Institute of Democracy, October 2008), 4.

As of December 2008, the ECCC has arrested and charged five suspects. On July 30, 2007, the co-investigating judges arrested and later charged Kaing Guek Eav (alias Duch), former head of Tuol Sleng (also known as S21) with crimes against humanity and war crimes. Within four months, Ieng Sary, Khieu Samphan, Nuon Chea, and Ieng Thirith⁵⁶ were also arrested and charged with similar crimes. In August 2008, the co-investigating judges issued a closing order indicting Duch for crimes against humanity and war crimes⁵⁷ and ordered continued provisional detention until he is brought before the Trial Chamber.⁵⁸ Following appeal by the co-prosecutors, Duch is now indicted for crimes against humanity, war crimes as well as murder and torture under domestic law.⁵⁹

⁵⁶ 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.

⁵⁷ See “Closing Order Indicting Kaing Guek Eav Alias Duch,” Cambodia: Extraordinary Chambers in the Courts of Cambodia, August 8, 2005, available at http://www.eccc.gov.kh/english/cabinet/courtDoc/115/Closing_order_indicting_Kaing_Guek_Eav_ENG.pdf.

⁵⁸ *Ibid.*, 45. The co-prosecutors appealed the charges described in the closing order arguing that they should also include murder and torture under domestic law, and joint criminal enterprise (JCE) as a theory of liability. The trial is expected to start during the first quarter of 2009. See “Media Alert: The ECCC Trial Progress,” Phnom Penh, ECCC press release, October 9, 2008.

⁵⁹ See “Pre-Trial Chamber decision on appeal against closing order indicting Kaing Guek Eav alias ‘Duch’,” Criminal Case File #001/18-07-2007-ECCC/OCIJ(PTC01),” Cambodia: Extraordinary Chambers in the Courts of Cambodia, available at http://www.eccc.gov.kh/english/cabinet/courtDoc/198/D99_3_42_EN.pdf.

3. DEMOGRAPHICS

Researchers randomly sampled and interviewed 1,000 adult residents of Cambodia from 9 September to 1 October 2008. By design, half the respondents were male and half were female.⁶⁰ The average age of respondents was 39.8 years old (standard deviation, 13.8 years) and a majority of respondents were Khmer (95%). Three out of four respondents (74%) had at least some primary education and 71 percent reported being literate in at least one language.

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	
1,000	50.0	39.8 (13.8)	16.7	26.5	25.0	16.7	10.6	4.6	69.3%

Ethnicity (%)					Religion (%)			
Khmer	Cham	Viet	Chinese	Other	Buddhist	Muslim	Catholic	Other
94.5	2.1	1.0	0.4	2.0	94.5	2.1	1.0	0.4

Over two-thirds of respondents (69%) reported they had lived under the Khmer Rouge regime that ruled Cambodia from 1975 to 1979, while 31 percent said they did not live under the regime. We found statistically significant differences in attitudes towards the Khmer Rouge (KR) regime, justice, and the ECCC among respondents who had lived under the Khmer Rouge regime and those who were born after it had left power. This report presents the results disaggregated for those two categories. Among the 31 percent respondents who did not live under the Khmer Rouge regime, all but four respondents were not yet born during the Khmer Rouge period. The remaining four were living outside of Cambodia.

⁶⁰ The respondents' demographic profiles are similar to that of the general population according to the 2008 census. The 2008 census found that Cambodia's sex ratio is close to 1 (.94). The 2004 inter-censal survey reports that the overall literacy rate for the adult population is 73.6%.

Nationally, 15 percent of respondents reported that they were “old people” or “base people,” terms for those who lived in insurgent zones under the control of the Khmer Rouge and may have contributed in some fashion to the revolution. The vast majority joined the Khmer Rouge before March 18, 1975, the starting date of the war.⁶¹ About one in four respondents (23%) described themselves as “new people.” These Cambodians generally lived outside of the Khmer Rouge zones or were evacuated from city dwellings after the war. They were brought into the revolution, usually by force, after the fall of Phnom Penh to the Khmer Rouge in April 1975.⁶²

Eight percent of the respondents stated that they were too young at the time to fit into any category. About 7 percent said they were in adult, youth, or child mobile units (work units set up by the regime to fulfill the need for rural labor). Less than 1 percent stated that they were a member of an ethnic minority during the Khmer Rouge period. About 1 percent said they were Khmer Rouge soldiers and 0.3 percent said they participated in a militia group.

TABLE 2: ROLE UNDER THE KR REGIME

	Percentage of respondents
Did not live under KR regime	30.7
New People	22.9
Old People	15.3
Too Young	8.0
Mobile Group	6.8
Victim	3.5
Preparatory People	1.5
Khmer Rouge Soldier	0.9
Ethnic Minority	0.5
Feudal People (Middle People)	0.4
Civil Servant	0.4
Militia	0.3
Group Leader	0.2
Khmer Rouge Cadre	0.1
Don't Know	8.6

⁶¹ Elizabeth Becker, *When the War Was Over: Cambodia and the Khmer Rouge Revolution* (New York: Simon and Schuster, 1986), 226–29.

⁶² *Ibid.*

4. EXPERIENCE, KNOWLEDGE, AND ATTITUDES TOWARDS THE KHMER ROUGE REGIME

EXPOSURE TO VIOLENCE

During the four years of the Khmer Rouge regime, between 1.7 and 2.5 million Cambodians died from execution, torture, starvation, overwork, and sickness.⁶³ A vast prison system was instituted across the country. Although it is difficult to estimate the number of prisoners, it could reasonably be in the range of 400,000 to 600,000 people.⁶⁴ At Tuol Sleng prison in Phnom Penh alone, at least 14,000 people were tortured and executed.⁶⁵

Our earlier studies suggest that exposure to violence influences attitudes towards peace and justice.⁶⁶ To better understand factors influencing respondents' knowledge, perception, and attitudes towards the Khmer Rouge regime and the ECCC, this survey assessed exposure to violence during and after the Khmer Rouge held power. Eighty percent of respondents in our survey considered themselves victims of the Khmer Rouge. Nearly all those who lived under the Khmer Rouge regime identified themselves as victims (93%), while half (51%) of those who did not live under the regime said they were victims.

TABLE 3: VICTIM STATUS

	Did not live under KR	Lived under KR	Total
Do you consider yourself a victim of the Khmer Rouge Regime? (% yes)	50.7	92.5	79.7

⁶³ See Kiernan, *The Pol Pot Regime* (Yale University Press, 2000), and Kiernan, "The Demography of Genocide in Southeast Asia. The Death Tolls in Cambodia, 1975-79, and East Timor, 1975-80," *Critical Asian Studies* (2003), 35/4: 585-97.

⁶⁴ 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).

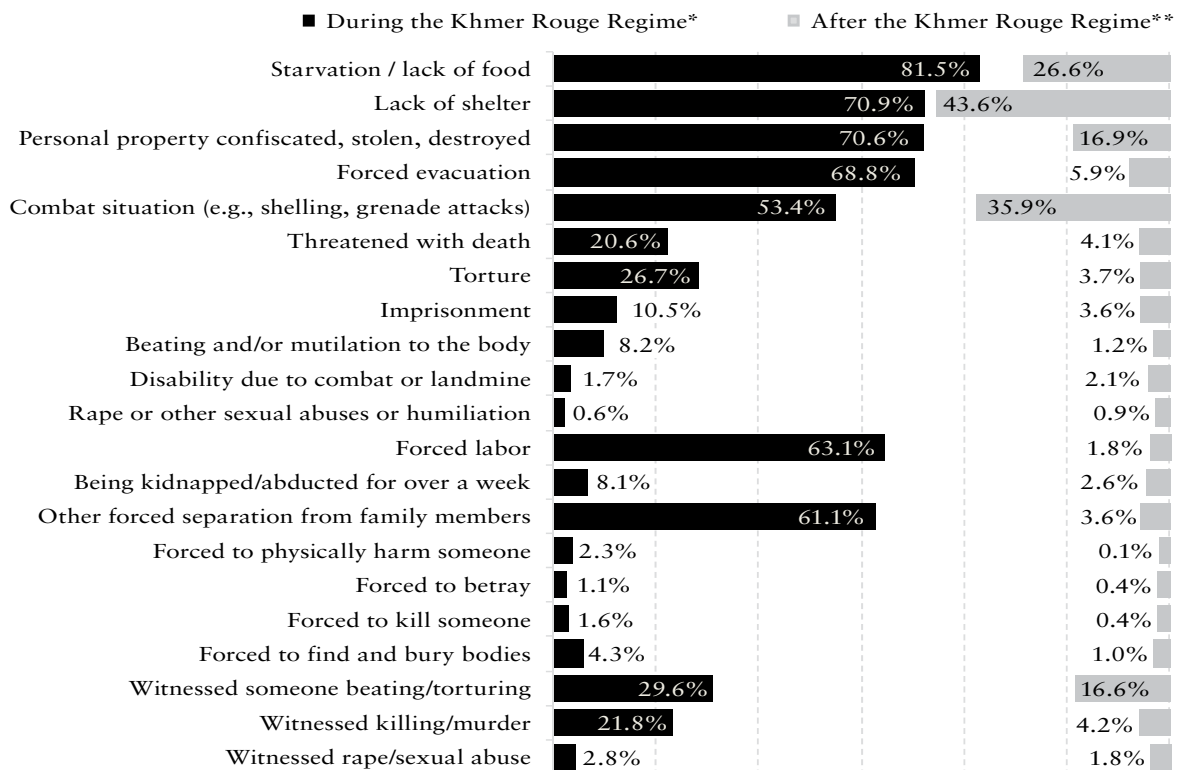
⁶⁵ David Chandler, *Voices from S-21: Terror and History in Pol Pot's Secret Prison* (Berkeley and Los Angeles: University of California Press, 1999), 6.

⁶⁶ Vinck P, Pham PN, Stover E, Weinstein HM, "Exposure to War Crimes and its Implications for Peace Building in Northern Uganda," *Journal of the American Medical Association (JAMA)* (2007) 298/5: 543-54; Pham PN, Weinstein HM, Longman T. "Trauma and PTSD symptoms in Rwanda: implications for attitudes towards justice and reconciliation," *Journal of the American Medical Association (JAMA)* (2004), 292/5: 602-12.

Among respondents who lived under the Khmer Rouge regime, the survey found over two-thirds reported having experienced starvation/lack of food (82%), lack of shelter (71%), personal property stolen or destroyed (71%), and forced evacuation (69%). Approximately one in four respondents reported having been tortured (27%) or having witnessed torture (30%) and/or killings (22%). Many respondents said they had been forced into labor (63%) and 61 percent were separated from family members. Fewer reported having been abducted for over a week (8%), forced to physically harm someone (2%), and/or forced to kill someone (2%).

Since the conflict and violence persisted after the Khmer Rouge regime was forced from power, the survey also assessed exposure to violence after the Khmer Rouge regime among all respondents. Reported frequencies of exposure to violence were always lower after the Khmer Rouge regime compared to during the Khmer Rouge regime, with the exception of becoming disabled as a result of combat, injury due to landmine or unexploded ordnance (1.7% during, 2.1% after), and rape or other sexual violence (0.6% during, 0.9% after).⁶⁷ Respondents who lived under the Khmer Rouge regime are significantly more likely to have been exposed to violent events.

FIGURE 2: EXPOSURE TO VIOLENCE DURING AND AFTER THE KHMER ROUGE REGIME



* Only among those who lived during the Khmer Rouge Regime (n=693, 69.3% of the sample)

** Among the entire sample (n=1,000, 100%)

⁶⁷ There is anecdotal evidence substantiating that rape and other sexual abuse happened frequently during the KR; most of the victims were executed. See Nakagawa Kasumi, *Gender-Based Violence During the Khmer Rouge Regime. Stories of Survivors from the Democratic Kampuchea (1975-1979)*, (Phnom Penh: June 2007). See also, “Victim of Khmer Rouge sexual abuse seeks justice,” International Herald Tribune, September 3, 2008, available at <http://www.iht.com/articles/ap/2008/09/03/asia/AS-Cambodia-Khmer-Rouge.php>.

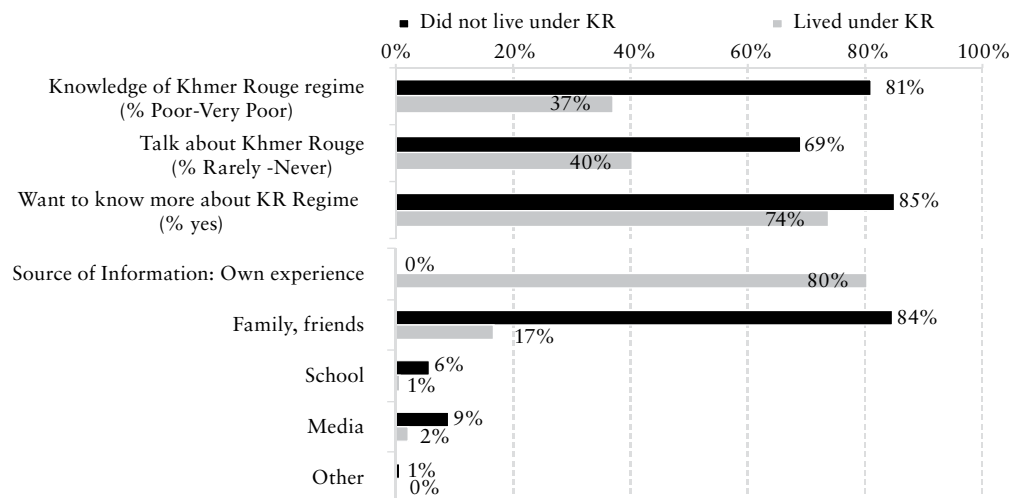
KNOWLEDGE OF THE KHMER ROUGE REGIME AND TRUTH SEEKING

KNOWLEDGE

Nearly thirty years after the end of the Khmer Rouge regime, two-thirds of the current population of Cambodia is estimated to have escaped the violence and abuses of that period: 68 percent of the population is 29 years old or younger.⁶⁸ Scholars and practitioners have pointed to the lack of public education policies to examine the past in Cambodia, resulting in limited knowledge about the Khmer Rouge, especially among the country's youngest citizens.⁶⁹

Four out of five respondents (81%) in our survey who did not live under the Khmer Rouge regime described their knowledge of that period as poor or very poor. Six percent said that the primary source of knowledge about the Khmer Rouge was school.⁷⁰ Media also played only a minor role, including radio (6%), television (1%), and newspapers (1%). For most (84%), the main source of information was family and friends. However, 69 percent of those who did not live during the Khmer Rouge period rarely or never spoke about the regime.

FIGURE 3: KNOWLEDGE AND SOURCE OF INFORMATION ABOUT THE KHMER ROUGE REGIME



In contrast, about one-third (37%) of those who lived under the Khmer Rouge regime described their knowledge of that period as poor or very poor while about one-third (32%) described their knowledge as good (20%) or very good (12%).⁷¹ Eighty percent said that their main source of

⁶⁸ Computed by the authors using projected population data for 2004 from the National Institute of Statistics (NIS) of Cambodia.

⁶⁹ See for example S. Linton, *Reconciliation in Cambodia* (2004).

⁷⁰ Very little is currently taught in school about the Khmer Rouge regime. However, the government in collaboration with the Documentation Center of Cambodia is currently working on a textbook and training program for teachers.

⁷¹ The poor or very poor level of knowledge even among those who lived under the Khmer Rouge may be explained by the climate of secrecy with which the regime surrounded itself. It is likely that people knew about living conditions at their location but had very limited knowledge and understanding of the broader situation.

information about the regime was based on their own experience, while 17 percent mentioned family and friends. School (1%) and media (radio 1%, television 1%) were rarely mentioned among the main sources of information. This group spoke more frequently about the Khmer Rouge regime compared to those who did not live through it, but still 40 percent of them rarely or never spoke about it.

TRUTH SEEKING

The limited knowledge of the Khmer Rouge regime may influence how meaningful the proceedings of the ECCC are for the Cambodian population. On one hand, the trials could be of no concern to those who do not consider the Khmer Rouge period as an integral part of their history. On the other hand, the trials may open a dialogue and generate interest in learning more about the Khmer Rouge regime.

Seventy-seven percent of all respondents said they wanted to know more about what happened during the Khmer Rouge regime, while 85 percent of those who did not live under the Khmer Rouge regime wanted to learn more. When asked about the value of truth seeking, 86 percent of respondents believed establishing the truth was necessary. Sixty-four percent agreed with the statement that people could not reconcile their differences without knowing the truth about what happened. Most respondents disagreed with the proposition that it was too late to learn what happened (74% disagreed), that a written historical record was not necessary (81% disagreed), or that what happened was already known (65% disagreed).

Results among those who lived and those who did not live under the Khmer Rouge regime were similar, suggesting a desire for the truth and education about what happened during the Khmer Rouge regime. However, only half (50%) of respondents would be willing to talk openly in a public setting such as a court or a public hearing about what they or their family experienced during the Khmer Rouge regime.

TABLE 4: TRUTH SEEKING

It is necessary to find the truth about what happened during the Khmer Rouge regime	People cannot reconcile without knowing the truth of what happened during the Khmer Rouge regime	It is too late to learn about what happened during the Khmer Rouge regime	A written historical record of what happened in Khmer Rouge is NOT necessary	We know what happened already so it is unnecessary to do any further inquiry
(% agree)	(% agree)	(% disagree)	(% disagree)	(% disagree)
85.5	64.2	74.4	81.3	64.5

When asked about which mechanisms would be appropriate to establish the truth, nearly half of respondents (45%) stated they did not know. The remaining respondents recommended trials (14%), dialogue with victims (12%), a truth commission (8%), or allowing people to talk freely (7%).

ATTITUDES TOWARDS FORMER MEMBERS OF THE KHMER ROUGE

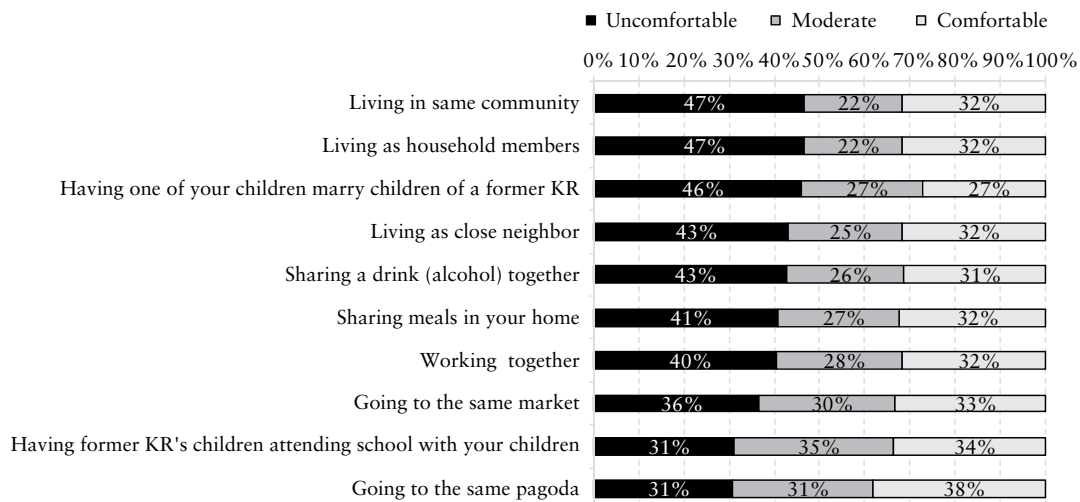
Recognition and acknowledgement of past crimes are often necessary steps for social reconstruction and reconciliation.⁷² The survey results presented above suggest that there is a general lack of knowledge and understanding among respondents about what happened during the Khmer Rouge regime. The survey further examined Cambodians’ perceptions of the Khmer Rouge.

LIVING TOGETHER

Respondents characterized reconciliation as the absence of violence and conflict (56%) and as unity and living together (33%). Some respondents also mentioned communicating and understanding each other (9%) and good education (5%). Eight percent stated they did not know how to define reconciliation.

The survey asked respondents about their level of comfort interacting in various social settings with former Khmer Rouge members. Despite the various reconciliation programs and activities implemented by the government and civil society,⁷³ one third to one half of the respondents claimed they were uncomfortable interacting with former members of the Khmer Rouge in various situations as illustrated in FIGURE 4. The responses show they were most comfortable going to the same pagoda or having their children attend the same school as children of former Khmer Rouge children. Respondents were least comfortable living in the same household or same community and having their children marry children of a former Khmer Rouge. The responses did not statistically differ between those who lived under the Khmer Rouge and those who did not.

FIGURE 4: ATTITUDES TOWARDS FORMER KHMER ROUGE



⁷² See, for example, Lederach JP, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, D.C.: United States Institute of Peace Press, 1997), 29.

⁷³ For examples of reconciliation programs and activities in Cambodia, see Laura McGrew, “Transitional Justice Approaches in Cambodia,” in *Justice Initiatives* (New York: Open Society Institute, Spring 2006), 139–50. See also, Craig Etcheson, “Reconciliation in Cambodia: Theory and Practice” (Phnom Penh: 2004).

Four out of five respondents in our survey said they harbored feelings of animosity towards those Khmer Rouge members who were responsible for violent acts. Seventy-one percent said they wanted to see them suffer in some way. A third said they wished they could take revenge (37%) against former Khmer Rouge and that they would do so if they had the opportunity (40%). However, one third of respondents (36%) said they had forgiven the Khmer Rouge. Feelings of hatred were more frequent among those who lived under the Khmer Rouge regime compared to those who did not. Likewise, forgiveness was less frequent among those who lived under the Khmer Rouge regime compared to those who did not.

The prevailing belief system of respondents might explain the apparent contradiction between these feelings of animosity and forgiveness. About 94 percent of respondents considered themselves Buddhists. Forgiveness is a central part of Buddhist teaching, affecting one’s mind and karma. One tenet of Buddhist teaching is that “vindictiveness is not ended by being vindictive.” Buddhism also aims at “[bringing] the disturbed minds of both perpetrators and their victims back to a state of moral and spiritual calm, and to reconfigure the natural order”⁷⁴ In that sense, “forgiveness” is related to coming to terms with one’s past experiences, calming down, or putting aside negative feelings⁷⁵ rather than being associated with past wrongdoers. When asked about forgiveness, that understanding of the concept could have influenced respondents’ responses. From a Buddhist perspective, this does not contradict feelings of anger or hatred resulting from past experiences and fueled by attitudes and negative stereotypes towards the Khmer Rouge who are seen as “the enemy.”⁷⁶ Thus, on a daily basis, people are still experiencing anger although some also recognize the need to forgive. It is also possible that the apparent contradiction reflects the difficulty of generalizing findings to all former members of the Khmer Rouge. People could forgive individual Khmer Rouge but still have feelings of anger towards the leaders or the Khmer Rouge violence in general.

TABLE 5: HATRED AND FORGIVENESS

	Did not live under KR	Lived under KR	Total
Feelings of hatred towards those KR responsible for violence? (% yes)	79.1	84.6	82.9
Wish you could take revenge on those responsible? (% yes)	34.3	38.1	37.0
Would seek revenge on the Khmer Rouge if you could? (% yes)	40.7	39.3	39.7
Wish to see those responsible hurt or miserable? (% yes)	70.8	71.8	71.5
Have forgiven the Khmer Rouge top leaders? (% yes)	42.2	32.6	35.5

To explore further the theme of forgiveness, researchers asked respondents what needed to happen before they could forgive the top leaders of the Khmer Rouge. The most common answer was the need for punishment (39%). Punishment was more frequently mentioned among those who lived under the Khmer Rouge regime (42%) compared to those who did not (33%). At the same time, one in five

⁷⁴ Ian Harris, *Buddhism under Pol Pot, Documentation Series No. 13* (Phnom Penh, Cambodia: Documentation Center of Cambodia, 2007), 240.

⁷⁵ S. Linton, *Reconciliation in Cambodia*, 21.

⁷⁶ *Ibid.*, 22.

respondents said nothing could be done to make them forgive the Khmer Rouge top leaders. Compensation was mentioned by 5 percent of respondents, and most frequently among those who did not live under the Khmer Rouge regime (10%).

TABLE 6: CONDITIONS FOR FORGIVENESS

What needs to happen before you can forgive the Khmer Rouge top leaders?	Did not live under KR	Lived under KR	Total
Nothing, I cannot forgive them (%)	19.9	23.9	22.8
They must be punished (%)	33.1	41.8	39.4
They must confess, tell the truth (%)	4.5	12.3	10.2
They must apologize (%)	10.9	5.4	6.9
They must confess, apologize, and show remorse (%)	7.7	4.9	5.6
They must compensate us (%)	10.0	3.7	5.4
They must be tortured like people suffered (%)	3.5	1.7	2.2
They must show remorse for what they did (%)	1.7	1.2	1.3
Other (%)	3.9	1.7	2.3
Don't know (%)	4.8	3.5	3.8

ACCOUNTABILITY

The previous sections suggest that Cambodians remain divided over the presence in their communities of those former Khmer Rouge members who were responsible for violent acts, and that forgiveness, if at all possible, must be preceded by some form of punishment. We found that nine out of ten respondents believed it is important to hold accountable those responsible for what happened during the Khmer Rouge regime. When asked in more general terms, over half of respondents (55%) believed only the person who directly killed their family, relatives, and friends should be held accountable.

However, when asked to specify who should be held accountable, about half (51%) mentioned Khmer Rouge leaders or officials, and 20 percent mentioned the Khmer Rouge regime in general. Respondents frequently provided specific names, including individuals already deceased, currently in jail, or serving in public positions. Nearly one-quarter (24%) identified Pol Pot, the KR top leader, 11 percent mentioned one or more of the five Khmer Rouge leaders currently in custody (Kaing Guek Eav, a.k.a. “Duch”; Nuon Chea; Ieng Sary; Ieng Thirith; and Khieu Sampan), and 10 percent stated Chhit Choem (“Ta Mok”), a senior Khmer Rouge leader. Some respondents mentioned Khmer Rouge cadres (6%), and foreign countries that supported the Khmer Rouge regime (2%). Respondents mentioned the current Cambodian government (58%), the international community (18%), the national judicial system (17%), and the ECCC (9%) as institutions that should be in charge of holding these individuals accountable.

The responses to questions of who should be responsible seem to contradict the response that only the person who killed their relatives or friends should be held accountable. The discrepancy could be related to the way the questions were phrased. The respondents may believe that the Khmer Rouge leaders are generally responsible for killing their relatives and want to hold them accountable. Thus when asked in an open-ended manner, they mentioned Khmer Rouge leaders/officials and some specific names. However, when asked specifically if they believe only the person who killed their family or friends should be held accountable they responded yes.

TABLE 7: ACCOUNTABILITY

		Did not live under KR	Lived under KR	Total
Is it important to hold accountable those responsible for what happened during the Khmer Rouge regime? (% yes)		90.3	90.5	90.5
Do you believe only the person who killed your relatives or friends should be held accountable? (% yes)		58.3	53.5	54.9
Who should be held accountable?	KR leaders/officials (%)	43.2	54.5	51.0
	Pol Pot (deceased) (%)	16.6	27.1	23.9
	Khmer Rouge regime (%)	19.8	19.9	19.9
	The 5 currently arrested* (%)	7.7	12.9	11.3
	Ta Mok (deceased) (%)	6.8	10.6	9.5
	KR Cadres/Local Officials (%)	1.9	7.8	6.0
	Those who gave orders for murder/torture (%)	2.0	2.5	2.3
	Those who directly killed someone (%)	2.9	1.7	2.1
	Foreign countries who supported KR (%)	0.7	2.0	1.6
	Other (%)	0.4	1.5	1.2
Don't know (%)		23.5	8.9	13.4

*Kaing Guek Eav, aka “Duch”; Nuon Chea; Ieng Sary; Ieng Thirith; and Khieu Sampan

Data on exposure to violence presented earlier in this report are consistent with other studies of serious violations of human rights committed by the Khmer Rouge regime.⁷⁷ Respondents interviewed in our survey said the Khmer Rouge should be held accountable for killings (80%), starving the population (63%), forced labor (56%), torture (33%), separation of families (14%), absence of freedom of expression (6%), and lack of health care (6%). Respondents had the opportunity to provide more than one response and on average, those who lived under the Khmer Rouge regime provided more answers than those who did not. This pattern of responses reflects the lack of knowledge about what happened during the Khmer Rouge regime among those who did not live through it.

⁷⁷ Joop T. V. M. de Jong, et al., “Lifetime Events and Posttraumatic Stress Disorder in 4 Post-conflict Settings,” *Journal of the American Medical Association (JAMA)* (2001), 286/5: 555–62.

TABLE 8: WAR CRIMES AND ACCOUNTABILITY

What happened under the Khmer Rouge regime that people should be held accountable for?	Did not live under KR	Lived under KR	Total
Killing (%)	77.1	80.6	79.5
Starvation (%)	47.9	69.8	63.1
Forced labor (%)	45.9	60.7	56.2
Torture (%)	29.7	33.7	32.5
Separation of family members (%)	11.3	14.7	13.7
No freedom of expression (%)	6.2	6.4	6.4
Lack of medical care (%)	4.3	7.0	6.2
Confiscating/ destroying properties, livestock, land (%)	5.9	5.9	5.9
Evacuating people (%)	1.8	6.3	4.9
Forcing children to be part of the army (%)	0.8	3.2	2.5
No schooling (%)	1.2	2.8	2.3
No religious practice (%)	0.8	2.8	2.2
Other (%)	5.1	8.5	7.3
Don't know (%)	11.9	4.2	6.5

To better understand what respondents meant by accountability, researchers asked what, if anything, should happen to perpetrators. One in two respondents (49%) said they should be put on trial. Respondents frequently talked of punishment. Twenty-three percent said they should be punished, 12 percent said they should be put in prison, 12 percent said they should be killed, and 6 percent wanted them to be tortured. Some respondents wanted those responsible to confess their crimes (5%), tell the truth (5%), or apologize (3%).

TABLE 9: ATTITUDE TOWARDS THOSE RESPONSIBLE

What would you like to see happen to those who are responsible for what happened during the Khmer Rouge regime?	Did not live under KR	Lived under KR	Total
Put them on trial (%)	45.6	50.4	48.9
Punish them (%)	24.6	22.0	22.8
Put them in prison (%)	11.9	12.7	12.4
Kill them (%)	10.4	12.7	12.0
Torture them (%)	5.0	6.0	5.7
Have them confess their crimes (%)	3.0	5.5	4.7
Have them speak the truth, explain why (%)	3.4	5.9	5.1
Have them apologize (%)	1.9	2.7	2.5
Re-educate them (%)	2.7	2.1	2.3
Forgive/Pardon (%)	0.4	1.5	1.2
Other (%)	1.9	1.9	1.9
Nothing (%)	6.9	7.1	7.0
Don't know (%)	3.2	3.0	3.1

5. PERCEPTIONS OF JUSTICE

PERCEPTION OF JUSTICE AND CONFLICT RESOLUTION MECHANISMS

The survey results suggest that the Cambodian people want the leaders of the Khmer Rouge who committed atrocities held accountable. Respondents indicated the best mechanisms for the task were the Government of Cambodia and the national court system. However when more specific questions were raised, most of the respondents indicated apprehension towards the national courts.

For respondents, justice meant revealing/establishing the truth (43%) and being fair (37%), enforcing and respecting existing laws (15%), and knowing who is right and wrong (9%). One out of eight respondents could not define justice (13%). Asked more specifically about the Cambodian court system, respondents' views were somewhat ambiguous. Only 36 percent said they trusted the Cambodian court system and 37 percent said they trusted Cambodian judges. Less than half of respondents agreed with the proposition that justice is the same for everyone (44%), or that Cambodian judges treat everyone equally (40%). Sixty-one percent said going to court meant paying bribes to judges. Over three-quarters of respondents also said that going to court was too expensive (82%) and that involving the police meant paying a fee (77%). Those results are consistent with established reports on corruption and lack of independence of the judicial sector.⁷⁸ How Cambodians perceive the national court system may in turn affect how they view the ECCC.

TABLE 10: PERCEPTION OF JUSTICE AND COURTS

	Agree (%)	Neutral (%)	Disagree (%)
Justice is the same for everyone	44.2	25.1	30.6
Cambodian judges treat everyone equally according to the law	39.9	32.3	27.9
Police treats everyone the same way	35.2	27.9	36.9
I trust the Cambodian court system	36.1	38.2	25.7
I trust Cambodian judges	36.8	39.6	23.6
Officials who commit crimes go unpunished	35.1	22.8	42.1
Going to court means paying bribes to the judge	60.7	21.6	17.7
Going to court is too expensive	81.6	11.2	7.1
Involving the police when I have a conflict means having to pay a fee	77.3	10.5	12.2
Going to court means losing face	41.9	18.9	39.2

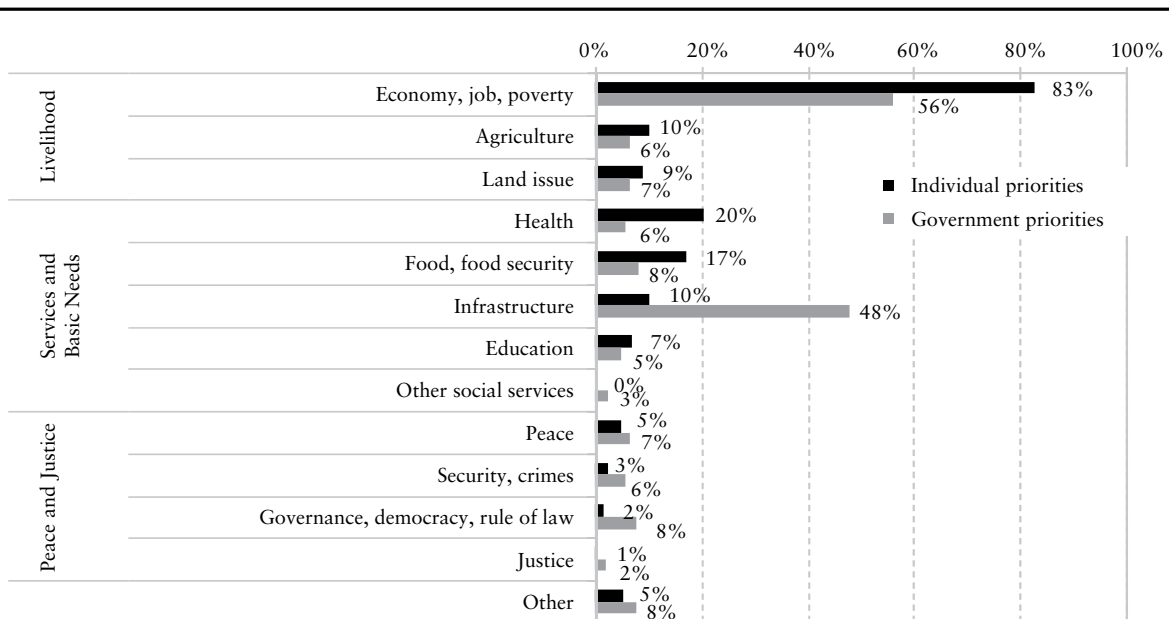
⁷⁸ See, for example, Center for International Development & Conflict Management, Polity IV Country Report 2003: Cambodia, and Leuprecht, "Continuing Patterns of Impunity in Cambodia," 26.

The perception of the Cambodian court system may be explained by the respondents' experience with courts. Eight percent of respondents reported having experienced conflicts or disputes of some sort within their community over a twelve-month period prior to the survey. These conflicts were most frequently related to land issues (41%), domestic disputes (26%), or conflict with neighbors (26%) and were usually resolved by the village chief (55%), the family (31%), or the commune council (28%). The police intervened to resolve the conflict in 8 percent of the cases and provincial courts were mentioned as being involved in 7 percent of the cases.

JUSTICE AND CURRENT PRIORITIES

While respondents viewed accountability as important and frequently wanted to see former Khmer Rouge tried and punished for past crimes, justice was not a priority for most respondents.⁷⁹ Rather respondents said their priorities were jobs (83%), services to meet basic needs including health (20%), and food (17%). When asked what the priorities of the government should be, justice was again seldom mentioned (2%), with the most frequent answers being the economy (56%) and building infrastructure (48%).

FIGURE 5: PRIORITIES



⁷⁹ This is consistent with similar findings in conflict situations in eastern Congo and northern Uganda, with basic needs and livelihood concerns superseding justice and accountability as priorities. See Phuong Pham, Patrick Vinck, Eric Stover, Andrew Moss, Marieke Wierda, and Richard Bailey, *When the War Ends: A Population-Based Survey on Attitudes about Peace, Justice and Social Reconstruction in Northern Uganda* and Patrick Vinck, Phuong Pham, Suliman Baldo, and Rachel Shigekane, *Living with Fear: A Population-Based Survey on Attitudes about Peace, Justice, and Social Reconstruction in Eastern Democratic Republic of Congo*.

When given more specific choices between priorities, three out of four respondents (76%) said it was more important to focus on problems Cambodians face in their daily lives than to address crimes committed during the Khmer Rouge regime. Over half (53%) of the respondents would rather spend money on something other than the ECCC. Those who did not live under the Khmer Rouge regime said more frequently that spending should be used to tackle current problems compared with those who lived under the regime. This suggests the importance given to the trials at the ECCC is different among those two groups.

Those results do not suggest that the government and international community should not pursue justice for past crimes in Cambodia, but rather highlight the need to invest more broadly in human development, social justice, and the national court system. Indeed, the perception and potential impact of the Khmer Rouge trials would be undermined if they are seen as disconnected from daily concerns and priorities of the Cambodian people. The following chapters examine respondents' perceptions and attitudes about justice and the ECCC.

TABLE 11: JUSTICE AND PRIORITIES

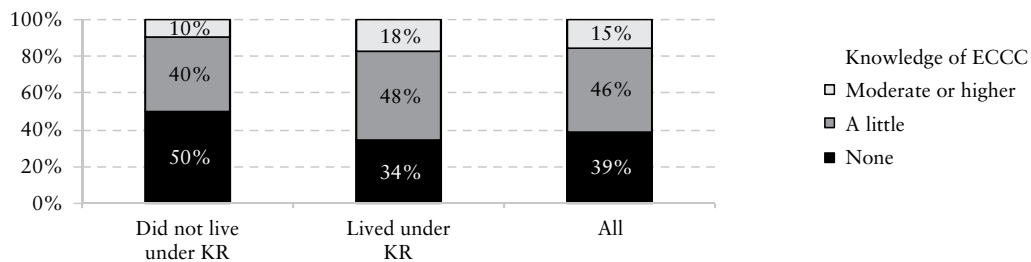
Which is more important: To focus on problems Cambodians face today or address crimes committed during the Khmer Rouge period?	Did not live under KR	Lived under KR	Total
Today (%)	83.3	73.2	76.3
Khmer Rouge (%)	15.4	25.2	22.2
Don't know (%)	1.3	1.6	1.5
If you could choose, would you spend money on the ECCC or would you spend it on something else?	Did not live under KR	Lived under KR	Total
ECCC (%)	43.8	49.0	47.4
Something else (%)	56.2	51.0	52.6

6. PERCEPTIONS AND ATTITUDES ABOUT THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

KNOWLEDGE OF THE ECCC

Respondents in our survey said they had little experience with Cambodian courts and often distrusted judges and the courts in general. Before inquiring about perceptions of the ECCC, researchers assessed respondents' knowledge of it. Nationally, 39 percent of respondents had no knowledge of the ECCC, while 46 percent had only limited knowledge. Respondents who did not live under the Khmer Rouge regime reported more frequently having no knowledge of the ECCC compared to those who lived under the Khmer Rouge Regime (50% and 34%, respectively).

FIGURE 6: KNOWLEDGE OF THE ECCC



To better evaluate knowledge about the ECCC, all respondents were asked whether the ECCC was international only, national only or a mixed system with Cambodians and international judges and staff. Nationally, 53 percent of respondents adequately described it as a mixed system. Respondents who lived under the Khmer Rouge regime were more likely to provide the correct answer compared to those who did not (55% vs. 49%), but they were also more likely to say it was international only (14%).

The questionnaire further asked if respondents could accurately state how many people had been arrested and were awaiting trial at the time of the survey. Nationally, only 10 percent correctly answered that five individuals had been arrested and were awaiting trials. A majority simply did not know (54%). Those who provided an answer (46% of respondents) were further asked to name those who had been arrested and were awaiting trial. Many respondents were able to identify Khieu Samphan (57%), Ieng Sary (47%), Kaing Guek Eav, alias “Duch” (36%), Nuon Chea (35%), and less frequently Ieng Thirith (18%). However, 45 percent also named individuals who were not arrested and awaiting trials and most were unable to name all five (82%). Nationally, when we include those who were unable to say how many had been arrested, this means that only 3 percent of respondents were able to identify the five individuals currently awaiting trial without any errors. The results show differences between those who lived under the Khmer Rouge regime and those who had not: less than one percent (0.2%) of those who had not lived under the Khmer Rouge regime were able to identify the five individuals awaiting trial compared to 5 percent among those who had lived under the Khmer Rouge.

TABLE 12: KNOWLEDGE OF THE ECCC

	Did not live under KR	Lived under KR	Total
Correctly identified mixed nature of the ECCC (%)	48.9	55.3	53.3
Correctly identified number awaiting trial at the ECCC (%)	3.0	12.4	9.6
Correctly named the 5 individuals awaiting trials with no errors (%)	0.2	4.7	3.3

The results suggest that knowledge of the ECCC remains limited. Although over half the respondents were able to identify correctly the nature of the court, few were able to provide more detailed information such as the number and names of those awaiting trials. The finding that knowledge about the ECCC was higher among those who lived during the Khmer Rouge regime may reflect a stronger interest to find out about the ECCC among that group. Additional questions examined respondents’ sources of information and contact with programs aimed at informing the public about the work of the ECCC.

OUTREACH AND MEDIA

Nationally, 64 percent of respondents reported never having heard about the ECCC during the month prior to the survey, 20 percent had heard about it less than once a week, and 15 percent had heard about it once a week or more frequently. Among those who had heard about the ECCC at least once over the one-month period prior to the survey, the main sources of information were radio (80%), television (44%), family/friends (15%), and newspapers (11%). Few respondents heard about the ECCC from posters or booklets (3%), NGOs (3%), or commune councilors (2%).

TABLE 13: FREQUENCY AND SOURCES OF INFORMATION

		Did not live under KR	Lived under KR	Total
How often have you heard about the ECCC in the last month?	Never (%)	76.8	58.5	64.1
	Less than once a week (%)	13.3	22.3	19.6
	Once a week or more (%)	9.1	17.6	15.0
	Don't know (%)	0.8	1.6	1.4
Main sources of information:	Radio (%)	74.4	81.6	80.2
	Television (%)	40.6	44.4	43.6
	Family/Friends (%)	22.7	13.4	15.2
	Newspapers (%)	10.1	11.7	11.4
	NGO (%)	3.6	2.6	2.8
	Poster or booklet (%)	1.6	3.0	2.7
	Commune councilors (%)	0.0	2.4	2.0
	Other (%)	3.8	2.3	2.6

Among those who had heard of the ECCC, media were an important source of information. However, respondents seem to be apprehensive about the media. All of the respondents were asked to rank their level of trust in radio, television, and newspapers. Television and radio appeared to be more trusted sources of information than newspapers. In addition, about 41 percent of respondents believe journalists are either extremely or quite a bit free to report openly about social and political issues in Cambodia. Nearly the same percentage believed that journalists are only “moderately” free to report openly.

TABLE 14: RESPONDENTS' TRUST IN MEDIA SOURCE AND PERCEPTION OF FREEDOM OF EXPRESSION

	Not at all	A little	Moderately	Quite a bit	Extremely
Trust radio (%)	1.8	8.9	46.0	23.7	19.7
Trust television (%)	1.9	9.3	44.8	23.5	20.4
Trust newspapers (%)	1.6	11.2	57.0	16.2	14.0
Believe journalists are free to report openly about social and political issues in Cambodia (%)	1.9	11.8	45.1	22.8	18.4

Nationally, 28 percent of all respondents reported having seen specific TV programs about the ECCC, most frequently news reports (45%) and soap operas (16%). One-third of respondents (33%) could not specify the type of program. Although less than a third of respondents had seen TV programs about the ECCC, about all of them (98%) said they would watch the ECCC proceedings if they were broadcasted live on TV.

In addition to exposure to the media, respondents were asked whether they had participated in an activity related to the ECCC over the twelve-month period prior to the survey. Less than 1 percent of those who lived under the Khmer Rouge regime (four individuals) answered positively. None of those who did not live under the Khmer Rouge regime participated in an activity related to the ECCC. Among those four individuals, two went to public meetings or meetings in the community and two went on a trip to Phnom Penh (Tuol Seng, Choeng Ek and/or the ECCC).

ATTITUDES TOWARDS THE ECCC

PERCEPTIONS OF THE ECCC

Regardless of whether the respondents lived under the Khmer Rouge regime or not, a majority of them (87%) believe the ECCC should be involved in responding to what happened during the Khmer Rouge regime (KR). Furthermore, a majority of respondents have a positive perception towards the ECCC. About two-thirds believed the judges at the ECCC will be fair and/or that the ECCC is neutral. Among the one-third of respondents who did not believe the ECCC was neutral, 30 percent explained that no proceeding-related results have been achieved, 23 percent believed the ECCC is corrupt (a higher percentage among those who did not live under the Khmer Rouge compared to those who did), 20 percent believed the ECCC is associated with the government, and about 15 percent believe the process is taking too much time. Only those who lived under the Khmer Rouge regime said the ECCC is not neutral because the UN wants to protect the Khmer Rouge (5%) and/or the ECCC is associated with foreign countries (3%).

TABLE 15: PERCEPTIONS OF THE ECCC

	Did not live under KR	Lived under KR	Total
Should the ECCC be involved in responding to what happened during the Khmer Rouge regime? (% yes)	86.1	87.3	86.9
Do you believe the judges at the ECCC will be fair or unfair? (% fair)	69.1	65.6	66.7
Do you believe the ECCC is neutral? (% yes)	69.2	66.2	67.1
If not,			
why not?			
(n=119)			
No proceeding-related result has been shown (%)	21.7	32.3	29.7
It is corrupt (%)	34.6	19.2	22.9
ECCC associated with Cambodian government (%)	22.2	19.5	20.2
It takes too much time (%)	10.0	16.7	15.1
Judges working/serving the government (%)	11.5	6.9	8.0
UN wants to protect the Khmer Rouge (%)	0.0	5.2	4.0
It is associated with foreign countries that support KR (%)	0.0	2.6	2.0
It can't sentence KR top leaders due to lack of money (%)	0.0	0.5	0.4

EXPECTATIONS

Respondents seemed to have high expectations for what the ECCC can achieve. Among those who have at least a little knowledge of the ECCC (61% of the respondents), one fourth (26%) believed that the ECCC would bring justice and one fifth (20%) believed the ECCC would punish those who committed atrocities during the Khmer Rouge regime. However, about a third of respondents (37%) did not know what the ECCC would achieve. Sixteen percent of those who lived under the Khmer Rouge had more frequently no expectations at all or negative expectations such as long trials, no punishment, or unrest compared to 9 percent among those who did not live under the Khmer Rouge.

TABLE 16: PERCEPTIONS OF THE POTENTIAL ACHIEVEMENTS OF THE ECCC

What will the ECCC achieve? (among 61% who had at least a little knowledge of ECCC)	Did not live under KR	Lived under KR	Total
Justice (%)	27.5	25.0	25.6
Punishment (%)	22.2	19.3	20.0
Justice and punishment (%)	1.1	1.4	1.3
Truth, education (%)	0.5	0.8	0.8
Help victims (%)	0.1	1.5	1.2
End return of Khmer Rouge (%)	0.5	0.3	0.4
Long trials (%)	2.5	4.8	4.2
Nothing but long trials (%)	0.0	2.9	2.2
Nothing (%)	5.2	6.5	6.1
No punishment/freedom of accused (%)	1.5	0.6	0.8
Unrest (%)	0.0	0.8	0.6
Don't know (%)	38.8	36.1	36.8

The survey further asked more specific questions on the same topic to all respondents. Almost three-quarters (74% of the all respondents) agreed with the statement that the ECCC would bring justice to the KR regime victims and/or their families. Most respondents had defined justice as establishing truth (43%) and being fair (37%). In addition, 71 percent believed the ECCC would help rebuild trust in Cambodia and 67 percent believed that it would help promote national reconciliation.

TABLE 17: EXPECTED IMPACT OF THE ECCC

	Did not live under KR	Lived under KR	Total
ECCC will bring justice to KR victims and/or family (% yes)	76.8	72.1	73.6
ECCC will help rebuild trust in Cambodia (% yes)	75.0	68.9	70.8
ECCC will help promote national reconciliation (% yes)	68.8	66.0	66.9

Furthermore, among all respondents, 68 percent believed that the ECCC would have a positive effect on the victims of the Khmer Rouge and/or their family. Most of those who believe that the ECCC would bring a positive effect explained that the court would sentence people who had committed crimes (37%) and would establish the truth for victims (35%). This is consistent with how they defined justice and their expectation of what the ECCC can accomplish. On the other hand, those who considered that the court would not have a positive impact believed the ECCC would not bring justice (22%), or that it was operating too slowly and that defendants would die before the trial ends (16%). Less than 8 percent mentioned that it would remind victims of the past. About two out of five people could not explain why they believe the court will have a negative impact on the Khmer Rouge victims and/or their family.

TABLE 18: PERCEPTION OF THE POTENTIAL LEGACY OF THE ECCC

		Did not live under KR	Lived under KR	Total
Do you believe that the ECCC will have a positive or negative impact on KR victims and/or their family?	Positive	66.7	69.2	68.4
	Negative	9.5	10.9	10.5
	Don't know (%)	23.8	20.0	21.1
If positive impact, why?	Will sentence people who committed crime to imprisonment (%)	39.3	35.3	36.5
	Will find the truth for victims (%)	30.6	36.3	34.6
	Will reduce suffering of the victims (%)	9.5	9.7	9.6
	Will bring justice / trials (%)	2.7	1.7	2.0
	Will end the returning of Khmer Rouge regime (%)	1.0	2.4	2.0
	Will bring national reconciliation (%)	2.5	1.3	1.7
	Arrested Khmer Rouge leaders who committed crimes (%)	1.9	0.9	1.2
	Other (%)	1.7	4.9	3.9
	Don't know (%)	11.3	8.1	9.0
If negative impact, why?	Will not bring justice for the victims (%)	17.3	24.0	22.1
	Too slow, leaders will die (%)	10.0	17.8	15.7
	Reminds victims of the past (%)	9.0	7.3	7.8
	Will bring no achievement (%)	0.0	7.7	5.6
	Will affect next generation of Khmer Rouge (%)	9.7	1.2	3.6
	It is corrupted (%)	5.6	2.3	3.3
	It sets peoples' mind on revenge (%)	6.3	0.7	2.3
	Too few leaders arrested and awaiting trials (%)	0.0	3.6	2.6
	Will defame families of Khmer Rouge leader (%)	3.4	0.0	0.9
	It cannot reduce suffering of the victims (%)	0.0	0.1	0.1
	Don't know (%)	38.7	38.4	38.5

RESPONDENTS' RECOMMENDATIONS TO THE ECCC

Respondents were given the opportunity to make one recommendation to the ECCC. About 34 percent of *those who lived under the KR* and 22 percent of *those who did not* recommended that the ECCC speed up the trials. About 19 percent of those who lived under the KR and about 30 percent of those who did not recommended that the ECCC be fair and independent. Overall, about 11 percent recommended that the ECCC punish those who committed atrocities during the Khmer Rouge regime. Again, these recommendations are consistent with their expectations of the ECCC.

TABLE 19: RESPONDENTS' RECOMMENDATIONS TO THE ECCC

Recommendations to ECCC	Did not live under KR	Lived under KR	Total
Speed up trials (%)	22.2	33.7	30.2
Be fair, independent (%)	29.8	18.9	22.2
Punish (imprisonment, death, exile) (%)	8.0	11.8	10.7
Find justice (%)	8.4	7.4	7.7
Find / establish the truth (%)	2.1	4.3	3.6
Forgive Khmer Rouge top leaders (%)	0.9	2.1	1.7
Other (%)	3.4	3.4	3.4
No recommendations (%)	3.1	3.5	3.4
Don't know (%)	22.1	14.8	17.0

PARTICIPATION IN ECCC PROCEEDINGS

Based on the survey, none of the respondents reported having been contacted by any organization to participate in ECCC proceedings. On the other hand, 2 percent of respondents reported knowing how to participate in ECCC proceedings. As of November 6, 2008, the Victims Unit of the ECCC had received 2,500 forms. About one-third of these forms were from individuals who wished to participate as a civil party against at least one of the accused,⁸⁰ while the remainder were from individuals lodging complaints against the various five defendants. This means that less than 1 percent of the population has been contacted by the ECCC or nongovernmental organizations.

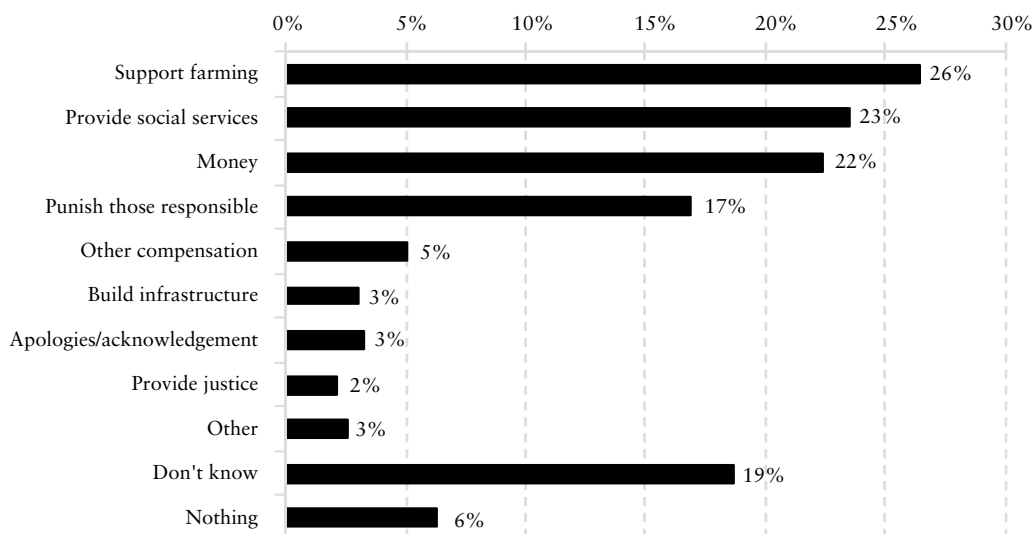
The questionnaire further asked those respondents in what capacity they can participate in ECCC proceedings. Among those who knew how to participate, over one-third (42%) said they could actively participate by filing a complaint with a nongovernmental organization (21%) or with the court (21%). About one in five said they could participate as witnesses (21%) or attend official hearings/proceedings (18%). Fewer said they could simply visit the court (11%) or did not know (8%). Despite the lack of contacts and knowledge on how to participate, over half the respondents (52%) wanted to personally participate in ECCC proceedings, given the opportunity. This is consistent with most respondents' desire to know more about the Khmer Rouge and expectations that the court will find the truth. Respondents who lived under the Khmer Rouge were slightly less frequently willing to participate in the proceedings (51%) compared to those who did not (54%).

⁸⁰ As of the end of November, 34 civil parties were accepted.

REPARATIONS

When asked generally what should be done for victims of the Khmer Rouge regime and their families, 26 percent stated that support for agriculture and farming should be provided, 23 percent mentioned social services such as health care and counseling, 22 percent mentioned financial support, and 17 percent asked that those who were responsible for the violence be punished. Other symbolic gestures, such as apologies (3%) and providing justice (2%), were also mentioned.

FIGURE 7: MEASURES FOR VICTIMS



The Internal Rules of the ECCC note that reparations, if granted, will be collective, symbolic, and moral and *non-financial* in nature.⁸¹ Symbolic 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.

TABLE 20: SYMBOLIC REPARATIONS

	Did not live under KR	Lived under KR	Total
Is it important to provide symbolic (moral) reparation to victims of the Khmer Rouge or their family? (% yes)	88.1	87.7	87.8
Should reparations be provided to individuals or communities as a whole or both?	Individual (%)	10.5	11.3
	Community (%)	70.5	68.3
	Both (%)	19.0	20.5
If there is no reparation provided to the victims/and their family, would you accept that? (% yes)	18.9	29.7	26.4

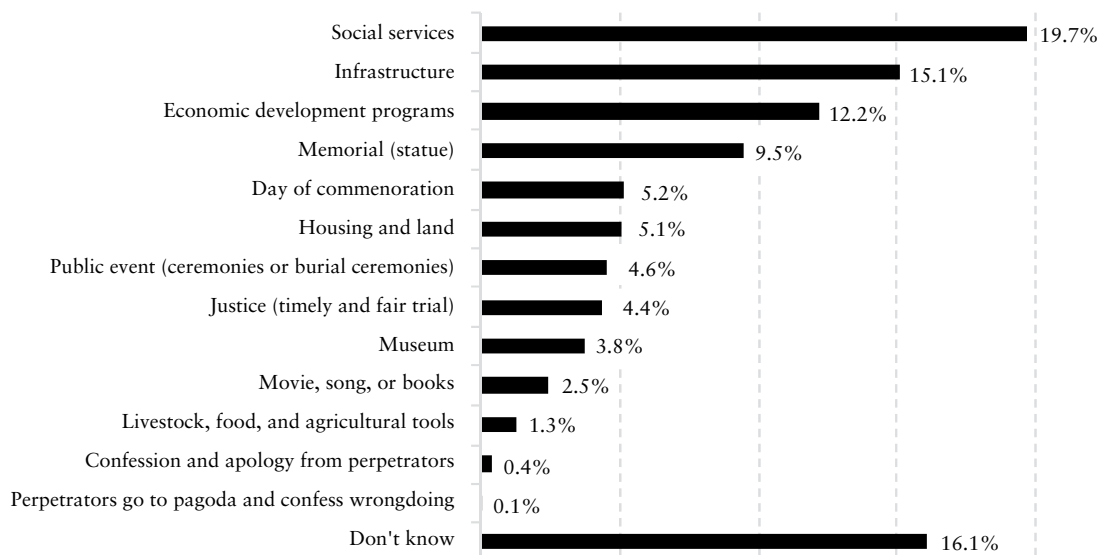
⁸¹ See “Internal Rules (rev. 2),” rule 23.

Most respondents (88%) believe it is important to provide symbolic reparations to victims of the Khmer Rouge. Only 26 percent of respondents said they would accept it if no reparations were paid to the victims or their families. Those who did not live under the Khmer Rouge were less likely to accept that no reparations be provided compared to those who lived under the KR. However, the majority (68%) said that reparations should be provided to a community as a whole and about 20 percent believed it should be provided to both the communities and individuals alike. Interestingly, only 11 percent of respondents believe that reparations should be provided to individuals only. Furthermore, those who lived under the Khmer Rouge regime were more likely to prefer community reparations than those who did not.

When asked specifically what kind of reparations should be provided, 20 percent of respondents indicated that social services such as health service, education, and psychological counseling should be provided to victims. Fifteen percent mentioned infrastructure and 12 percent economic measures. Less than 10 percent recommended a memorial, day of commemoration, public events, and museums as symbolic measures.

With regard to who should pay for reparations, 64 percent stated the government, 22 percent said the perpetrators (KR leaders), 10 percent said the international community, 3 percent said the community, 2 percent mentioned nongovernmental organizations, 1 percent mentioned the ECCC, and 1 percent specifically stated foreign countries that supported the Khmer Rouge.

FIGURE 8: TYPES OF REPARATIONS RECOMMENDED BY RESPONDENTS



7. CONCLUSIONS AND RECOMMENDATIONS

Our principal findings are summarized as follows:

EXPOSURE TO VIOLENCE

Eighty percent of respondents in our survey considered themselves to be victims of the Khmer Rouge. Nearly all those who lived under the Khmer Rouge regime identified themselves as victims (93%), while half (51%) of those who did not live under the regime said they were victims. Among respondents who lived under the Khmer Rouge regime, over two-thirds reported having experienced starvation/lack of food (82%), lack of shelter (71%), personal property stolen or destroyed (71%), and forced evacuation (69%). Approximately one in four respondents reported having been tortured (27%) or having witnessed torture (30%) or killings (22%). Sixty-three percent said they had been forced to perform labor. Respondents who lived under the Khmer Rouge regime were significantly more likely to have been exposed to violent events.

OVERALL PRIORITIES

Respondents said their priorities were jobs (83%) and services to meet basic needs including health (20%) and food (17%). When asked what the priorities of the government should be, justice was seldom mentioned (2%), with the most frequent answers being the economy (56%) and building infrastructure (48%). When given more specific choices among priorities, three out of four respondents (76%) said it was more important to focus on problems that Cambodians face in their daily lives rather than address crimes committed during the Khmer Rouge regime.

SURVEY RESPONDENTS

The average age of survey respondents was 39.8 years old (standard deviation, 13.8 years), with equal numbers of male and female. A majority of respondents were Khmer (95%). Three out of four respondents (74%) had at least some primary education. Seventy-one percent reported being literate in at least one language.

Over two-thirds of respondents (69%) reported they had lived under the Khmer Rouge regime, while 31 percent said they were born after it had left power. We found statistically significant differences between these two groups on a range of topics regarding the ECCC and the need for justice and accountability. This suggests that outreach programs for the ECCC should be tailored to reflect the needs of these two subgroups.

KNOWLEDGE OF THE KHMER ROUGE

Nearly thirty years after the end of the Khmer Rouge regime, two-thirds of the population of Cambodia never directly experienced the violence and abuses of that period: 68 percent of the population is 29 years old or younger. Eight-one percent of respondents in our survey *who did not live under the Khmer Rouge regime* described their knowledge of that period as poor or very poor. Most (84%) said their main source of information about the Khmer Rouge was from families and friends, while only 6 percent said they acquired it in school. Seventy-seven percent of all respondents said they wanted to know more about what had happened during the Khmer Rouge regime, while 85 percent of those who did not live under the regime wanted to learn more.

LIVING WITH FORMER MEMBERS OF THE KHMER ROUGE

The vast majority of respondents said they still harbored feelings of hatred towards those Khmer Rouge members responsible for violent acts. Seventy-one percent said they wanted to see the Khmer Rouge suffer in some way. A third said they wished they could take revenge (37%) against former Khmer Rouge and that they would do so if they had the opportunity (40%). Forty-seven percent said they were uncomfortable living in the same community with former Khmer Rouge members. However, one-third of respondents (36%) said they had forgiven the Khmer Rouge. Feelings of hatred were more frequent among those who lived under the Khmer Rouge regime compared to those who did not. Likewise, forgiveness was less frequent among those who lived under the Khmer Rouge regime compared to those who did not.

ACCOUNTABILITY

Nine out of ten respondents in our survey said that members of the Khmer Rouge should be held accountable for the crimes they committed. When asked to specify who should be held accountable, half (51%) mentioned Khmer Rouge leaders or officials, and 20 percent mentioned the Khmer Rouge regime in general. One-quarter (24%) identified Pol Pot, the deceased Khmer Rouge leader, while 11 percent mentioned one or more of the five Khmer Rouge leaders currently in custody. Forty-nine percent of respondents said Khmer Rouge who committed crimes should be tried in a court of law. When asked who should be in charge of holding these individuals accountable, respondents said the current Cambodian government (58%), the international community (18%), the national judicial system (17%), and the ECCC (9%).

EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

- **Knowledge of the ECCC.** Thirty-nine percent of the respondents in our survey had no knowledge of the ECCC, and nearly half (46%) had only limited knowledge. Among those who had some level of knowledge about the ECCC, 53 percent adequately described it as a hybrid court comprising national and international judges and staff. However, 82 percent of these respondents were unable to name all five accused currently awaiting trial. Of those who had heard about the ECCC the main sources of information were radio (80%) and television (44%). Twenty-eight percent of these respondents reported having seen specific TV programs about the ECCC, most

frequently news reports (45%) and soap operas (16%). The vast majority (98%) said they would watch the ECCC proceedings if they were broadcasted live on TV. Finally, less than 1 percent of those respondents who had lived under the Khmer Rouge regime had participated in an outreach activity related to the ECCC over the twelve-month period prior to the survey.

- **Perceptions and Expectations of the ECCC.** In general, those respondents who were aware of the ECCC gave it very high marks. Eighty-seven percent said the court would respond to the crimes committed by the Khmer Rouge. About two-thirds (67%) believed the ECCC judges would be fair and the court was neutral. Sixty-eight percent believed the ECCC would have a positive effect on the victims of the Khmer Rouge and their families. However, there was ambiguity among some respondents about the court’s objectivity and integrity. One-third said the court was not neutral and, among them, 23 percent felt it was corrupt. Respondents had high expectations of the ECCC. Of those respondents who had “a little knowledge” of the ECCC, 26 percent said the court would bring justice and 20 percent said the court would punish the guilty. However, 37 percent did not know what the ECCC would accomplish.
- **Recommendations to the Extraordinary Chambers in the Courts of Cambodia.** Respondents who had at least some knowledge of the court were given the opportunity to make one recommendation to the ECCC. Consistent with their perceptions and expectations, respondents wanted the court to speed up the trials (30%) and for it to be fair and independent (22%). Seventeen percent said they did not know what to recommend to the court.
- **Reparations.** ECCC judges have the authority to rule that reparations of a collective, symbolic, and moral—but not financial—nature be provided to certain groups of victims (i.e., civil parties). Such reparations could include erecting statues, building memorials, renaming public facilities, establishing days of remembrance, expunging criminal records, issuing declarations of death, exhuming bodies, and conducting reburials. The vast majority of our respondents (88%) said reparations should be provided to victims of the Khmer Rouge, and that they should be provided to the community as a whole (68%). Over half (53%) said reparations should be in a form that affects the daily lives of Cambodians, including social services (20%), infrastructure development (15%), economic development programs (12%), housing and land (5%), and provision of livestock, food, and agriculture tools (1%).

NATIONAL CRIMINAL JUSTICE SYSTEM

Respondents showed little confidence in the national criminal justice system. Only 36 percent said they trusted it, and a slightly higher number (37%) said they trusted Cambodian judges. Less than half of respondents (44%) agreed with the proposition that Cambodian justice is for everyone, or that Cambodian judges treat everyone equally (40%). Eighty-two percent said going to court was too expensive and required bribing judges (82%) or the police (77%).

Key recommendations to emerge from our findings are as follows:

TO THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

- *Deal immediately and effectively with allegations of corruption and lack of transparency at the ECCC.* Among Cambodians who are knowledgeable of the ECCC, there is strong support for its work. Survey respondents expressed high expectations that the court will be fair and independent. This is good news for the ECCC, but it could easily erode if allegations of corruption continue. Respondents showed little confidence in the national criminal justice system because of corruption and a lack of trust in court officials. The ECCC should not succumb to the same fate. Moreover, the court should ensure that trials are transparent and conducted in a timely fashion.
- *Greatly expand and improve the outreach efforts of the ECCC.* Knowledge of the ECCC nationwide should be much higher at this point in time, given that it became operational in 2006. Less than 1 percent of those who lived under the Khmer Rouge (four individuals) had participated in an ECCC-related outreach activity during the 12 months prior to the survey. Public service announcements about the court should be broadcast on radio and television. Interviews with court judges and staff should be commonplace during the trials to help explain complicated legal and judicial concepts to the public. Finally, a weekly summary of trial proceedings—preferably in a talk show format that encourages debate—should be aired on both radio and television.
- *Appoint a staff member to serve as an “educational liaison officer” to donors, nongovernmental organizations, and the Cambodian government.* The ECCC’s primary obligation, as with all courts, is to hold fair and public trials. That said, the court is in a unique position to act as a catalyst for educational programs that will connect the court’s activities to Cambodian history. Cambodia’s school system has failed to educate young people about the crimes of the Khmer Rouge. Working together, the ECCC, donors, nongovernmental organizations, and Ministry of Education should use this unprecedented opportunity to create curricular modules combining historical texts and visual materials from the forthcoming trials for use in primary and secondary schools. These educational products could also serve as part of the court’s legacy.
- *Recognize that the vast majority of Cambodians view themselves as direct or indirect victims of the Khmer Rouge and desire some form of collective and symbolic reparations.* Why this is a pressing issue for the ECCC is reflected in the finding that most respondents said it was more important for the country to focus on problems Cambodians face in their daily lives than the crimes committed by the Khmer Rouge. This suggests that the ECCC must find ways to ground its activities in the current concerns and needs of the population. Providing reparations—especially those aimed at providing social services and infrastructure development—could help meet this need.

TO DONORS AND NONGOVERNMENTAL ORGANIZATIONS

- *Find ways to help the ECCC better inform Cambodians about its mandate and activities.* Donors and nongovernmental organizations have played a critical role in supporting the ECCC on many levels, including outreach and training. Yet the data suggests most Cambodians are not aware of the court or know very little about its mandate and procedures. It also appears that outreach efforts have not been well coordinated. A centralized process with clear guidelines and goals could help remedy this situation.
- *Continue to provide support to the ECCC in defining what reparations will work in the Cambodian context.* As noted earlier, Cambodians favor especially those reparations that affect their daily lives. One workshop has already been convened in late November 2007 focusing on the history of reparations following mass violence and reparations that have worked in post-war settings. A follow-up workshop could focus on how to provide victims and their families a voice in the process of determining the most appropriate reparations and how to deliver reparations in an effective manner.
- *Develop a comprehensive plan for promoting discussion in communities where tensions between former Khmer Rouge members and the general population are known to be high.* The survey data suggest that a degree of unspoken hostility lingers in some Cambodian communities over the crimes of the Khmer Rouge. Studies in other post-war settings indicate trials can further divide communities that have not reconciled their differences. To mitigate the possibility of escalating tensions, community-based discussion should be held before and after ECCC judges render their verdicts.

TO THE GOVERNMENT OF CAMBODIA

- *Conduct a major review and overhaul of the national criminal justice system that integrates the judicial legacy of the ECCC, ends corruption, and institutes transparency, accountability, and efficacy.* The survey data are clear: Cambodians have little faith in their criminal justice system. The ECCC's presence could provide the opportunity for donors, nongovernmental organizations, and the Government of Cambodia to come together and tackle this problem in a meaningful and sustainable way. For respondents, justice meant uncovering truth and being fair, enforcing and respecting existing laws, and knowing who is right and wrong. Only a few reported that they rely on the legal system when faced with disputes.
- *Continue to work with the civil society to integrate what happened during the Khmer Rouge regime into school history curriculum.* As mentioned earlier, Cambodia's school system has thus far failed to educate young people about the crimes of the Khmer Rouge regime.

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