

Victim Participation and the Extraordinary Chambers in the Courts of Cambodia

Involvement of the Cambodian-American
Diaspora Community



June 2010

International Justice Clinic

UCLA School of Law



This report was researched, compiled, and written by Sakinah Khan, Seth Korman, and Jacqueline Serna, under the direction of Professor David Kaye, Executive Director of the International Human Rights Program and Director of the International Justice Clinic at UCLA School of Law.

This project would not have materialized except for the tireless work of Dr. Leakhena Nou, the Director of the Applied Social Research Institute of Cambodia (ASRIC) and professor of sociology at California State University at Long Beach. We also want to thank Audrey Redmond, ASRIC's indefatigable pro bono lawyer; Julie Sheker; Sean Butler; Cathy Schlund-Vials; Joshua Bender; and our classmates in the International Justice Clinic who helped us interview victims and record their stories. Finally, we want to thank the Righteous Persons Foundation, Sanela Diana Jenkins, and the UCLA School of Law for their support of the program, and for helping make our work possible.

Contents

I. Executive Summary	3
II. Introduction.....	4
III. Background.....	6
ABOUT THE COURT.....	7
A SHORT OVERVIEW OF CASE 001 AND 002	8
IV. Project Timeline & ECCC Information	11
FALL 2009.....	11
1. Victim Information Form Collection	11
2. Aggregation and Sorting of Victim Information Forms.....	11
JANUARY 2010: MISSION TO PHNOM PENH.....	12
1. Victims Unit (recently renamed the Victims Support Services).....	12
2. Prosecution.....	15
3. Defense Support Services	16
4. ECCC Outreach Activities: Office of Public Affairs	18
5. Civil Society Organizations.....	20
MAY 2010: MEETING WITH MEMBERS OF THE CAMBODIAN-AMERICAN COMMUNITY	22
V. Conclusion and Recommendations	24
Notes	27
Annex: Victim Information Forms	31

I. EXECUTIVE SUMMARY

This report provides a contemporary assessment of the Extraordinary Chambers in the Courts of Cambodia (ECCC), with a particular focus on the victim participation process, as observed by the authors. During the 2009–2010 academic year, we, the authors—three law students in the UCLA School of Law International Justice Clinic—engaged with members of the Cambodian diaspora community in the United States who had survived the Khmer Rouge genocide of the 1970s. Working in small groups and with several other teams throughout the country, and collaborating with the Applied Social Research Institute of Cambodia (ASRIC), we helped collect nearly two hundred victim information forms—stories of the survivors’ experiences in the 1970s, and testimony to be presented to the ECCC to be used in its investigation and prosecution of former Khmer Rouge leaders. After collecting, analyzing, and preparing the victim information forms, we traveled to Phnom Penh in January, 2010, and delivered the information directly to the ECCC. We then met with and reported our findings to representatives of the Cambodian victim community in Long Beach, California.

Our work has led us to make several observations, which we expand upon in this report. Our conclusions include the following:

- The Court has rightly spent resources on outreach and community involvement.¹ While the official victim integration process was created relatively late in the proceedings, it has given thousands of victims the opportunity to register as complainants, witnesses, and civil parties.
- The Court has not made significant outreach to Cambodians living abroad. This is now changing, but prior to ASRIC’s and our work, the Court had made little contact with the Cambodian-American Community.
- The civil party process, by which victims can obtain their own counsel and participate in the proceedings against the defendants, has significant efficiency problems. The Court’s desire to involve as many victims as possible and afford them maximal access to the trial conflicts with the Court’s ability to conduct timely and efficient hearings.
- The ECCC’s efforts to involve victims in the trial proceedings are admirable, and speak to the international community’s increasing understanding that victim participation should play a significant role in these types of tribunals.
- However, there needs to be a pre-planned process for working with and incorporating victims into the proceedings. The ECCC’s victim participation process has been *ad hoc*, and the Court has had to adjust its rules and procedures as the proceedings commenced, to the detriment of victims.
- As such, the Court, and future tribunals, needs to strike a balance between victim participation and the need to conduct a speedy and fair trial. While the two are not mutually exclusive, they can result in diverging interests, and courts thus need to promote victim involvement while taking into account their obligations respecting the expeditious pursuit of justice.

II. INTRODUCTION

In the fall of 2009, a handful of academics, lawyers, community members, and law students met with members of the Cambodian expatriate community in locations throughout the United States. Their goal was to work with survivors of the Khmer Rouge regime and help prepare Victim Information Forms (VIFs) for the Extraordinary Chambers in the Courts of Cambodia (ECCC), the hybrid domestic-international tribunal located in Phnom Penh and tasked with the prosecution of former Khmer Rouge officials. In all, nearly two hundred victims stepped forward to participate in the process, which for many required a detailed recounting of the crimes witnessed and personal traumas experienced at the hands of the Khmer Rouge regime. Three UCLA law students, working with Professor David Kaye and the UCLA International Justice Clinic, then organized the victim forms and delivered them to the ECCC.

For many of the victims, their involvement with the ECCC proceedings might end there. While their statements and VIFs may aid the investigating judges and prosecutors in establishing their cases, victim participation is, in many cases, limited to the time spent telling their stories and filling out documentation. Because of the prosecution's limited resources, much of the evidence that we collected will not be used directly in the cases against the remaining four defendants. Just as important, much of the victim information—while truly compelling and heartbreaking—may not match the evidentiary needs of prosecutors in particular cases.

For many of the Cambodian Americans with whom we spoke, the simple act of retelling their stories had its own palliative or cathartic effect. Many of the victims had rarely spoken about the atrocities that they suffered or witnessed. By participating in the ECCC's victim involvement program, however, these victims are able to gain some attachment to the pursuit-of-justice process. Even if the prosecutors decide not to use particular evidence, the Court should still recognize those victims who have stepped forward. At present, however, there does not appear to be a formalized post-submission victim communication procedure, although we were told that the Victims Unit makes an effort to at least send a letter to all victims. With our prodding, they did provide a form letter to members of the Cambodian-American victim community who participated in the process, though they left it to us to distribute them.

Going forward, a more formalized and personalized process may benefit the vast majority of victims who do not file as civil parties—victims who obtain representation

and are permitted to appear in court alongside the prosecution—and who are not called to testify. While we were able to provide some of that personalization for the victims with whom we worked, we were unable to meet for a second time with many of the Cambodian-American victims who filed with the Court, and thus we are unsure as to whether they have received letters or communication from the Court. While ASRIC may continue to meet with members of the victim community around the country, it remains unclear whether they will be able to follow up with each participating victim.

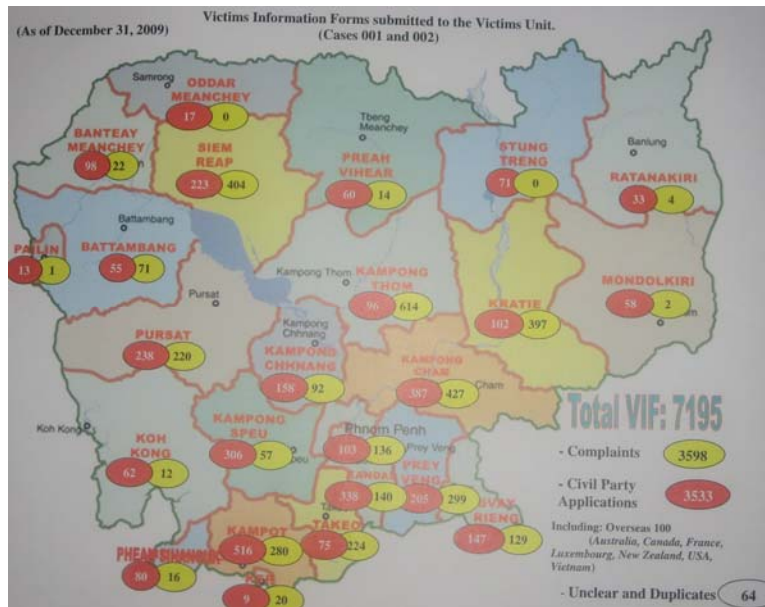
III. BACKGROUND

From 1975 to 1979, between 600,000 and three million Cambodians died at the hands of the Khmer Rouge, either directly or as a result of a massive nation-wide social reorganization, through which most citizens were expelled from their cities and forced onto camps or collective farms.² Though the Khmer Rouge regime was overthrown by the invading Vietnamese in 1979, it still controlled areas of the country until the late 1990s; much of its leadership remains at large or, like its leader, Pol Pot, has passed away, and few perpetrators have been held accountable

To address the problem, the Cambodian government invited the United Nations to help create a tribunal to prosecute Khmer Rouge officials. The Cambodian government and the United Nations officially reached an agreement in 2003 to create a court, which would be staffed jointly by Cambodian and international officials but which would be controlled by the Cambodian government. In 2006, judges were finally sworn in, and the first prosecution, against Kaing Guek Eav, or “Duch,” began in 2007. Since then, charges have been filed against four of the most senior surviving Khmer Rouge officials; at present, however, it is uncertain whether any further prosecutions will be undertaken.

Unique among other tribunals, the ECCC created a Victims Unit tasked not just with protecting witnesses and victims but with encouraging them to participate in the proceedings.³ While other international courts have created these services in some form, the ECCC has made the unparalleled effort to include *thousands* of victims in an official capacity.

Since the first ECCC charges were filed in 2007, over 8,000 victims have participated in the court proceedings by submitting victim information forms.⁴ While the majority of participating victims limit their involvement to providing statements and evidentiary support to the prosecution, all are given the option of becoming civil parties in the cases against the accused. Such status would allow them to retain counsel, participate in the trials alongside the prosecution, and seek “collective and moral” reparations from the defendants.⁵ While as many as 4,000 victims have indicated that they would like civil party status, only ninety-three have thus far been granted the privilege.⁶ As such, for the vast majority of participating victims, their involvement with the ECCC proceedings is limited to submitting their VIFs.



Submitted Victim Information Forms as of January, 2010
(Photo on file with authors)

For many of the Cambodian-American participants, involvement was limited to single-day sessions run by ASRIC, at which they watched a short presentation on the ECCC and then filled out a VIF with the help of volunteers and law students. The process called on victims to provide a detailed narrative account of their experiences between 1975 and 1979, with a particular focus on providing details—such as names, places, and dates—of any crimes they witnessed or experienced. Many participants were visibly emotional, and many had difficulty recounting the details of their traumatic experiences. Still, close to two hundred Cambodian-American victims came forward. Though several forms had to be withdrawn for technical reasons, we collected and certified close to 180, and in January, 2010, hand delivered them to the ECCC Victims Unit in Phnom Penh.⁷

ABOUT THE COURT

Structure

The ECCC consists of various offices, including the prosecution, defense, co-investigating judges, and lower-level administrative departments, including the Victims Unit. The Court also has three separate judicial chambers: the Pre-Trial Chamber, in which judges deal with certifying civil parties and addressing pre-trial motions; a Trial Chamber, which oversees the trial; and a Supreme Court Chamber, which handles all appeals.⁸ The official languages of the Court are Khmer, English, and French.

Judges and the “Super-majority” Requirement to Convict

Five judges sit on the Pre-Trial and Trial Chambers (three Cambodian and two international), while seven sit on the Supreme Court Chamber (four Cambodian and three international). Decisions by any of the chambers, including a guilty verdict, must be reached by supermajority vote. This is meant to ensure that at least one international judge concurs in all major decisions.

The Investigative Phase

In order for a defendant to be tried by the ECCC, the prosecutors must request a complete judicial investigation of the crimes alleged; the office of the co-investigating judges then investigates the prosecutions allegations. Much of this pre-trial investigative phase of a case is confidential. Pending the completion of a judicial investigation, an indictment may be issued and the case is sent to the Trial Chamber, where prosecutors are then able to try the case.

A SHORT OVERVIEW OF CASE 001 AND 002

To date, five senior officials of the Khmer Rouge have been charged by the ECCC: Kaing Guek Iev (Duch), former chief of Tuol Sleng prison; Nuon Chea, former deputy to the Khmer Rouge leader; Ieng Sary, former Khmer Rouge foreign minister; Ieng Thirith, former social affairs minister; and Khieu Samphan, former head of state.

Case 001: The Duch Trial

Kaing Guek Eav, or Duch, is the only defendant in the first trial. During the Khmer Rouge era, Duch served as the head of S-21, or Tuol Sleng Prison, where over 15,000 prisoners were tortured and then murdered.

In July, 2007, Duch was formally charged with crimes against humanity and detained by the ECCC. In August of the following year, the co-investigating judges issued a formal indictment charging him with crimes against humanity and grave breaches of the Geneva Conventions. The Pre-Trial Chamber later amended the indictment to include the domestic (as opposed to international) crimes of homicide and torture.



Duch, at trial.
(Photo from ECCC website⁹)

The trial commenced in February, 2009. Surprisingly, Duch accepted personal responsibility for the murder and torture of the thousands of victims at Tuol Sleng, expressed “heartfelt sorrow,” and agreed to work with the ECCC and plead guilty to the charges against him.¹⁰ In his closing arguments, however, Duch appeared to recant his admission. In a final statement, Duch’s attorneys acknowledged his involvement in the Khmer Rouge regime (including the execution of thousands of prisoners at Tuol Sleng), but claimed that the crimes were committed not by him but by other parties. There further appeared to be disagreement between Duch’s Cambodian and international attorneys, though both eventually argued that he should be found innocent and that, if found guilty, he be immediately released, given both his age (sixty-eight) and the near decade of confinement that Duch has already endured. The verdict will be announced at the end of July, 2010.

Case 002

The investigation into crimes committed by Nuon Chea, Ieng Sary, Ieng Thirith, and Khieu Samphan began several years ago, and the four defendants have been held in pretrial detention for over three years. Case 002, against these defendants, should prove to be the marquee trial before the ECCC, as, with the exception of the now deceased Pol Pot, these four defendants served as the top officials in the Khmer Rouge regime.



Case 002 defendants, from left to right: Nuon Chea, Ieng Sary, Ieng Thirith, and Khieu Samphan.
(Photos from ECCC Website¹¹)

The initial judicial investigation of Case 002 against the remaining four defendants was completed in December 2009, and the deadline for people wishing to file as complainants, witnesses, and civil parties has also ended. To date, more than 8,000 victims have filed as civil parties and or complainants, though decisions on certifying them are ongoing. The Court recently extended the pretrial detention of the four defendants in preparation for the trial, which is scheduled to commence in early 2011.

IV. PROJECT TIMELINE & ECCC INFORMATION

FALL 2009

1. Victim Information Form Collection

Throughout the fall, the UCLA team participated in several workshops in Long Beach and Santa Ana, California. At many of the workshops, ASRIC presented a short explanation of the ECCC's work and allowed a few survivors to tell their stories to the entire group. Volunteers, including a number of law students and pro bono attorneys, spent most of the time interviewing victims, recording their stories, and assisting them in filling out the VIFs. Given the breadth of victim experience, and the frequently encountered difficulty in remembering the details of their experiences, the interview process was time consuming: the average interview took well over an hour, and some took up to three or four. The victims were predominantly women over the age of fifty, although some men participated as well. Interpreters were on hand to provide translation services, and members of the local media attended some events as well.

While the UCLA team worked with the Cambodian community in southern California—the largest Cambodian diaspora community in the United States¹²—several pro bono attorneys, as well as a team from Harvard Law School, participated in similar workshops elsewhere in the country. Participants in the project conducted workshops and interviews and collected statements from members of the Cambodian-American community in California, Massachusetts, Oregon, Pennsylvania, and the Washington, D.C., area.

2. Aggregation and Sorting of Victim Information Forms

With help from ASRIC's pro bono attorneys, the UCLA team took the lead on aggregating and organizing the VIFs. Most victims applied to the Court as complainants, which enabled them to present their stories while allowing the Court to contact them as witnesses and have their names recorded in any final disposition. Some did seek to register as civil parties, which would allow them actual representation before the Court. The civil party registration process, however, requires judicial approval of each party; at the time of writing, the decision on the Cambodian-American civil party applications has yet to be made.

The team was aided by a November 5, 2009, decision by the ECCC co-investigating judges that limited the scope of the Court's investigation.¹³ Given the extent of the Khmer Rouge's crimes, the judges limited the investigation to specific crimes committed in specific regions—so as to enable prosecutors and the investigating judges to limit their inquiry and thus hasten the pre-trial investigation and preparation. These new limitations greatly aided the UCLA team, which was then able to sort the VIFs by subject matter jurisdiction and location of crimes alleged. The team then prepared the forms and created a master list of all applicants, sorted by application type and crimes alleged, to provide the ECCC Victims Unit with easy (and searchable) access to the nearly two hundred victim forms.

JANUARY 2010: MISSION TO PHNOM PENH

In January 2010, we traveled to Phnom Penh to meet with the Victims Unit and other members of the ECCC, hand deliver the VIFs to the Court, and speak with other officials and trial observers to gauge the status of the proceedings.

1. Victims Unit (recently renamed the Victims Support Services)

The Victims Unit oversees the victim registration process, which allows victims to register with the Court as either a complainant or a civil party. Complainants are able to file their stories and present evidence to the Court, and may be called as witnesses at a later date if the prosecution or investigating judges determine that their eyewitness accounts are particularly important to a case. The vast majority of victims with whom we worked filed as complainants. Alternatively, victims can also file as civil parties—a relatively unique feature among international tribunals—which lets them obtain representation and participate in the trials alongside the prosecution. Because the civil party registration and approval process is time consuming and expensive—parties must retain counsel and attend hearings—many of those who initially apply for civil party status eventually revert to complainants. A few victims with whom we worked indicated a desire to participate as civil parties and, pending representation, this may be possible. However, at the time of writing, none of the Cambodian-American victims have officially been accepted as civil parties.

We met with a number of officials from the Victims Unit, located away from the Court in central Phnom Penh. The Victims Unit is responsible for the preliminary intake and analysis of VIFs. It has assembled (and is constantly expanding) a massive database

to archive, record, and analyze the thousands of forms submitted for cases 001 and 002. The unit conducts a prima facie analysis, summarizes each individual's claims, inputs the information into the database, and then makes the forms available to the other branches of the Court.

The Victims Unit officials emphasized the confidential nature of the submitted documents. After the preliminary intake, complaints are initially only visible to prosecutors and investigating judges, then judges in pre-trial and trial chambers, and only later, if they are used as actual evidence, do they then become visible to all the parties (including the defense and civil parties) involved in the proceedings. However, if victims are concerned for their own safety, they may submit written requests for confidentiality to the Court. The Court also has a comprehensive system in place for the official filing of protective measures to ensure that identities of witnesses may be held confidentially.

The UN and Cambodian officials also discussed their outreach and victim-registration activities. The Victims Unit officials noted too that they have made a big push over the past months to register as many victims as possible, in preparation for the Court closing the window for new applicants (which occurred in early 2010, just after our visit).

At the close of the meeting, we officially presented the victim information forms to the Victims Unit. They indicated that they would be processed and forwarded on to the prosecution within a few months.



The UCLA team hands over the nearly 200 victim information forms
(Photo on file with authors)

In the wake of our visit, the Court instituted a number of changes to the civil party process. At its seventh plenary session in February, 2010, the judges provided guidelines for the upcoming case 002, and importantly altered the structure of legal representation for civil party applicants.¹⁴ Previously, there were eight groups of civil party applicants, representing different alleged crimes; these groups were represented by approximately twenty-five lawyers. Following logistic and practical challenges in case 001, the Court needed to find a way to streamline what was sure to be an increased number of civil parties in the second trial. The new system, then, has created two co-lead counsels for all civil parties, who will represent the interests of all other civil parties, and be the only civil party attorneys permitted a direct role in the trial courtroom proceedings. They will also be tasked with coordinating strategy, witness preparation, and communication between all the different factions. While certainly advantageous from an efficiency standpoint, this new paradigm presents its own set of problems. Many victims and due process advocates find this system problematic, as all civil parties will be represented in court by counsel they have not personally chosen. There have thus been complaints from victim groups and several outside organizations over the fairness of this new civil party representation structure.¹⁵

However, for members of the diaspora community—notably those victims with whom we worked—it may prove helpful in the long run to have lead counsel who represents the interests of *all* civil party applicants, not merely the ones with the most vocal advocates or immediate local presence. Because it is much harder for those victims living abroad to attend and participate in the trial, personal civil party involvement is understandably difficult. This new structure thus might actually benefit them, as they would have at least some involvement as members of a class, as opposed to little involvement if logistics prevented them from achieving full civil party status (at least as it existed in case 001).

In May, 2010, Helen Jarvis, the head of the Victims Unit, announced her resignation; at the time of writing, it is unclear who her successor will be, although some have called for a more independent head who is less close to the Cambodian government.¹⁶ Before announcing her retirement, however, Dr. Jarvis and her deputy, Paul Ortley, did record a personal message for the American Cambodian community, which we were able to play

before a group of victims in May, 2010, and which will be made available to other Cambodian-Americans who participated in the victim process.

2. Prosecution

The ECCC itself—the courtroom, administrative headquarters, and most of its offices—is located on a military base just outside Phnom Penh. The Office of the Co-Prosecutor (OCP) is an independent office within the ECCC that conducts preliminary investigations, prosecutes cases throughout the investigative, pre-trial, trial, and appellate stages, assesses victim complaints, and advises in judicial investigations. Like all other court offices, the OCP is jointly led by a Cambodian and international officials, and is staffed by both national and international personnel.

The OCP employs approximately thirty national and international staff members, including prosecutors, deputy prosecutors, assistants, investigators, analysts, researchers, information management personnel, and interpreters.¹⁷ The OCP usually hosts over ten interns, both national and international, as well as trainee judges from the Cambodian Royal Academy for the Judicial Professions for short-term internships on a rotating basis.

Our half-day with the OCP was quite informative. Prosecutors were candid about their work preparing for Case 002, which will hopefully commence during the first half of 2011 (though one should expect delays). Though we first met with both the Cambodian and UN deputy prosecutors, the language barrier prevented us from communicating fully with the Cambodian lawyers. However, they did express real gratitude in the efforts made to involve the Cambodian-American victims.

At international Deputy Co-Prosecutor William Smith's suggestion, we subsequently met with a much larger group of OCP staff. This group, comprised of a diverse selection of international and Cambodian professionals, law students, and interns, expressed sincere interest in our work. They were frank about difficulties they have with the victim statement collection process, most notably the lack of details in many victim information forms. Although the four defendants in Case 002 were undeniably leaders of the Khmer Rouge regime, the prosecution still must prove their guilt in relation to specific crimes at specific locations, and thus has had to wade through all the evidentiary submissions to look for actionable evidence. In hindsight, this information would have been helpful prior to our work collecting the information forms, as it could have better guided our efforts at shaping the narratives of the victims with whom we worked to

better provide the prosecution with the information that they most needed, and in the format that would be most helpful to the investigation.

We learned two things worth noting here:

- OCP is focused on preparing for case 002. It must thus concurrently review evidence, respond to defense motions (which are filed on a whole host of matters, including challenges to civil party applicants, pretrial detention, etc.), decide which charges to file and make sure that sufficient evidence exists to support those charges, and most importantly provide assistance to the co-investigating judges as they review and certify evidence.
- Though there has been some pressure on the OCP from victims' groups and the international community to broaden the scope of its investigation and potentially charge additional former Khmer Rouge officials, the office at this time of writing has made no decision to pursue potential future defendants.¹⁸ Many in fact predict that case 002 will be the ECCC's final case. Though the former international co-prosecutor had pushed (at least initially) for further investigations, the Cambodian co-prosecutor did not appear to agree, and as of this writing there appears to be little momentum towards additional investigations.¹⁹

3. Defense Support Services

After spending the morning with the prosecution, we then met with permanent UN staff in the Defense Support Services (DSS). Though each of the accused has his or her own pair of attorneys (one Cambodian and one international), the permanent staff works alongside defense counsel and provides legal assistance as the defense requires. Moreover, because the foreign defense counsel is not always in country, and because domestic defense counsel may be busy with other matters, the DSS serves as a constant defense-advocating presence at the Court, ensuring that the interests of the defendants are always taken into account in discussions on rules, procedure, and process.²⁰ As such, in practice, their day-to-day work entails:

- mediating between different defense attorneys—both domestic/foreign and the attorneys working for the different defendants;
- brokering assignments: for example, if a single motion for all Case File 002 defendants needs to be filed, DSS will allocate the work to one of the defense teams;

- fielding general inquiries for the defense, and relaying the information to appropriate counsel;
- serving as backend researchers, but only to a limited degree—most of the actual legal work still has to be done by the defense teams.

Defendants before the ECCC have the right to representation of their choosing. Further, to ensure adequacy of defense, the Court bears all appropriate costs beyond what the defendants are able to pay, and requires that defense attorneys be paid the same as prosecutors.²¹ Like the dual structure of the Court's other offices, defendants retain co-defense counsel—at least one local Cambodian attorney paired with an international counsel. In reality, teams for the five current defendants have generally consisted of four members—the two co-defense counsels, as well a foreign legal consultant and a local Cambodian case manager.²² Domestic counsel all have significant criminal law experience, while the foreign representation similarly have extensive defense experience in international tribunals. With one exception, all of the primary foreign defense attorneys have appeared before the ICTY, ICTR, or ICC, and have defended accused in many noteworthy cases.²³

While the prosecution provided us with a general outline of their work and prosecutorial strategy, the defense attorneys were less able to speak freely, mostly because of confidentiality concerns. While they did give us a general sense of how their office worked, and while they stressed the importance maintaining a strong defense to promote the general rule of law, the attorneys were understandably unable to discuss strategy, as well as details about their clients. They did however explain that much of their pretrial work has dealt with detention-related appeals as well as challenges to civil party applications.²⁴

A major critique of the current system of co-defense counsel is the inherent tension between multiple attorneys representing the single defendant. This was directly on display at the culmination of the Duch trial, in which, at the last moment, the Cambodian and foreign co-counsels made contradictory closing arguments. As recounted by the New York Times:

There was disarray in the courtroom . . . when Duch's two lawyers, in separate statements, took sharply diverging approaches. His Cambodian lawyer, Kar Savuth, broke from the defense strategy of admission and apology on Wednesday and asserted that his client was not guilty. The next day, Duch's French lawyer, Francois Roux, explicitly disavowed that assertion.²⁵

Rather than attack the request for release on the merits, the prosecution rebuked the domestic defense counsel for presenting to the Court with improper admission of evidence: “You have been grossly misled by defense counsel,” prosecutor William Smith, explained. He further noted that “[t]he defense is leaving its client behind and that’s improper conduct,” and that counsel [may] have acted without instructions from their client.”²⁶ Speaking with journalists after the incident, Mr. Roux weighed in on the disagreement. “‘There are, in Cambodia, a number of people who do not want this court,’ Roux told [the media], hinting that the strategy of his colleague, the lawyer of Cambodian Prime Minister Hun Sen, was motivated by political objectives.”²⁷

Another, unrelated incident involving defense attorneys arose when the international representatives of Nuon Chea challenged the impartiality of the judges. Instead of responding to the allegations on the merits, the judges instead issued a press release in which they attacked the attorneys, noting “that if the above accusation stems from bad faith in putting the blame on the judges, we reserve the right to legal recourse against any individuals who have provoked such a problem.”²⁸

4. ECCC Outreach Activities: Office of Public Affairs

Though we did not meet directly with the Public Affairs staff, we did learn much about their activities through conversations with members of the Victims Unit, Prosecution, and civil society organizations. Moreover, almost everyone with whom we spoke provided us with input on the Court’s outreach activities; the following discussion thus combines much of what we learned.

The recurring and seemingly inherent problem in all international tribunals conducted to date has been the competing concerns of administrative/judicial efficiency and victim involvement. As has been discussed, the ECCC’s hybrid nature—staffed by national and international officials, existing through the UN but falling within the Cambodian judicial system—and the involvement of civil parties were meant to address this dichotomy. And, to its credit, the Court has done much to engage both the victims of the Khmer Rouge and the general Cambodian population.

Though the over 8,000 registered civil parties and complainants are only a small percentage of the millions who suffered under the Khmer Rouge, that the Court was able to solicit and process their official involvement is truly a first for any major tribunal. Upon the Court’s inception, it had no built-in capacity for victim participation or formal outreach. In fact, the Victim’s Unit, responsible for registering victims, was not created

until later in the process; even today, its existence is due to the Court's internal rules, and not its founding charter.

Though created only in passing in the Court's internal rules, the Office of Public Affairs (OPA) has actually taken a quite proactive role in ECCC outreach. Though it lacks a clear mandate, it has still taken on the task of visiting the provinces, creating and distributing promotional material, coordinating visits from foreign and local press and other officials, and organizing conferences for visiting scholars and observers. Its successes include, among others:

- *Facilitating Visits to the Court and Tuol Sleng.* The OPA accommodates visitors to the Court, and has enabled village leaders from around the country to visit the Court and nearby crime sites, including Tuol Sleng (the detention and torture facility in Phnom Penh) and Choeung Ek (the killing fields). Working alongside and often through outside organizations, notably DC-CAM (which generally has handled the logistics of these visits), OPA makes available court facilities and personnel to speak with visitors.
- *Busing in of Spectators while Court is in Session.* One of the office's most successful programs has actually been the busing in of groups from around the country to visit the Court for a day and observe the trial. The Court hired and sent buses to villages around the country, often traveling through the night to ensure arrival before the commencement of daily proceedings. Tens of thousands of people from around the country were thus able to visit the Court.²⁹
- *Assisting External Media.* OPA also works to accommodate the independent media covering the trial. OPA staff work with reporters, photographers, and video news organizations to ensure that they have full access to court proceedings and personnel. For example, OPA ensures that print media reporters have seats at all important hearings, and allows photographers additional access during the first minutes of important hearings and trial proceedings.
- *Publications and Promotional Material.* The Court has made an effort to both promote its continuing relevance and keep the Cambodian people current on procedural and trial advancements. Because of the time it has taken to plan and conduct the proceedings, this task has not been easy. Still, the Court's public relations arm may actually be one of its most effective appendages, and has created and widely distributed easy to understand material and court information around the country.³⁰

- *Visits.* In addition, members of the Court have visited villages and towns in almost all provinces throughout the country, and distributed tens of thousands of booklets, pamphlets, and other promotional materials to both younger and older generations of Cambodians.³¹

5. Civil Society Organizations

Cambodia has a thriving nongovernmental and civil society community: It is one of the world's largest per capita recipients of foreign aid,³² and is believed to have nearly 3,000 registered NGOs, "the second most per capita behind Rwanda."³³ Further, many NGOs have stepped up to help the ECCC in its outreach and victim-participation efforts, while others monitor court activity and report on developments to the international legal community.³⁴

The level of involvement with the Court of many of the largest civil society organizations was clearly apparent. While different organizations understandably see the Court through varying lenses, all of those with whom we spoke were generally supportive of its efforts, despite some real and fair criticisms. We identify a sample of those organizations here:

Cambodian Human Rights Action Committee (CHRAC)

We spent a morning with Suon Sareth, Executive Secretary of the Cambodian Human Rights Action Committee (CHRAC), Christoph Sperfeldt, as well as several other Cambodian and international employees of the organization. CHRAC is a coalition of twenty-one nongovernmental organizations working together to address serious violations of human rights in Cambodia. When the ECCC was created, CHRAC was able to assist in the Court's outreach activities, and has since helped organize many victim information form submissions.

In addition to assisting victims in filing with the Court (similar to our own work in the United States), CHRAC seeks to ensure that the Court is accountable to the Cambodian people and make sure that the Cambodian public—outside of just the victim community—does not get lost in the Court's legal processes. In order to accomplish all of these goals, it both directly assists victims and acts as an unofficial court monitor. For example, during the Duch trial, CHRAC provided some claimants with legal representation, kept parties informed of their status through regional meetings, and

made suggestions to the Court in order to ensure people were adequately represented. In one instance, they pushed the Court to make rejected civil parties automatic complainants—a request that the Court granted. Of the ninety-three civil parties in Case 001, forty-five received assistance directly through the CHRAC.

Though they saw the Duch trial as a success, CHRAC officials stressed that it served as the precursor to the much bigger case 002, which they believe will be the Court's most enduring legacy. They explained that they (and other NGOs) could be one of the Court's greatest allies (as it relates to victim involvement and communication), but that the Victims Unit might be reluctant to let organizations like CHRAC take on too great a role.

Documentation Center of Cambodia

The Documentation Center of Cambodia (DC-CAM), led by its director, Youk Chhang, is one of the largest and most well-funded victim-focused civil society organization in the country. DC-CAM documents evidence of the Khmer Rouge atrocities, and, because of its extensive archives of victim and witness testimony and evidence, has become deeply involved with the Court. It not only provides evidence to the prosecution and co-investigating judges, but it has made its own victim-involvement efforts, and has facilitated the filing of a large number of victim information forms.

Chhang gave us a candid assessment of the Court and the victim involvement process. Though he sees value in prosecuting the former Khmer Rouge officials, he sees the role of the Court as a legitimating force for national reconciliation: While the delivery of a verdict will allow the process of reconciliation to move forward, the verdict itself, he explained, is not the ultimate goal. Rather, a successful prosecution is but one part of the reconciliation process. Education, outreach, and publicization of past atrocities are as important in helping the country heal from the many lingering effects of the Khmer Rouge regime.

Open Society Justice Initiative

We met briefly with a member of the Open Society's Justice Initiative (OSJI) based in Phnom Penh and working full time to monitor and report on the ECCC. OSJI publishes frequent updates on the Court, and has provided a voice against what it sees as government interference in the Court's operations.³⁵ The OSJI monitor with whom we spoke noted the government's likely reluctance to support trials beyond case 002, and

explained that government relationships with some of the Court's higher-level Cambodian officials calls into question the Court's real independence.

General Commentary on Civil Society Organizations

The civil society organizations with which we spoke had similar concerns: First, outreach by the Court did not occur on a large scale until 2009. Essentially, NGOs and civil society members who were working on outreach and helping people file victim information forms were operating blindly with respect to what crimes the Tribunal would be looking at in Case 002.

Second, the Tribunal's co-investigating judges did not release the jurisdictional information (what provinces and specific crimes were being investigated) for Case 002 until November 2009. Rather than providing NGOs and civil society organizations with specific information to assist their outreach efforts, this information came too late, when almost 7,000 victims had already filed with the Court. Moreover, the immediate filing deadline meant that little time was left to reconnect with victims and amend their information forms. Because of this, many victims who did file may not have provided evidence for those crimes that fell within the jurisdiction of Case 002.

Third, the secrecy of the co-investigating judges, frequent changes in the civil party designation, and late information on the jurisdiction of Case 002 all hurt the Court's legitimacy. Many of those with whom we spoke felt that victims' rights were being curtailed by the Court's administrative shortcomings. While such issues are certain to arise in any ad hoc tribunal, there was real concern that the victim involvement process had not been fully conceived, and that many of the rules governing victim involvement were being written on the fly. These problems were particularly frustrating because many civil society organizations had taken the initiative to independently go out and register victims; ex post facto changes to victim-submission guidelines or Victims Unit procedures then understandably frustrated those organizations that had, either independently or on the Court's behalf, registered the most number of victims.

MAY 2010: MEETING WITH MEMBERS OF THE CAMBODIAN-AMERICAN COMMUNITY

After our return from Cambodia and additional work documenting our findings, we returned to Long Beach, California, to meet again with members of the Cambodian community, including a number of Cambodian-American victims who had submitted victim information forms. We presented our findings, relayed information given to us

by court officials and members of the Victims Unit, and discussed the Court's work going forward. We especially noted the importance of victim involvement, though we did explain that not every victim would be called to participate. We further tried to explain why the trials are taking so long, and how the legal requirements and emphasis on the rule of law require certain legal safeguards that, unfortunately, dramatically increase the hearings' timeframes.

Though we were only able to speak with a small number of the victims with whom we had previously worked and whose victim information forms we delivered to the Court, we hope to be able to further distribute additional information as well as letters from the Victims Unit to all those that stepped forward to tell their story and file with the Tribunal.

V. CONCLUSION AND RECOMMENDATIONS

Though much of what we learned in Phnom Penh related to the Court more generally, we took steps to ensure that our work remained victim-focused. Our observations, then, were conducted through a lens colored by what is best for the victims, particularly those in the Cambodian-American diaspora community. Similarly, our recommendations are tailored towards the same community, and speak to increasing the Court's value—both legally and, as importantly, therapeutically—for both the general victim community as well as those victims residing abroad.

1. ***Need to Reach Out to the Expatriate Cambodian Community.*** The ECCC has done more than any other international tribunal to both involve victims in the proceedings as participants and invite them to observe the Court in action. This is commendable and speaks to a greater understanding of the need for more victim involvement in international criminal tribunals.³⁶ As is evident from the over 8,000 victims who have registered with the Court as either complainants or civil party applicants, as well as the over 20,000 visitors who attended the Duch trial, there is definite interest in the Tribunal.³⁷ Yet prior to our work, only a handful of Cambodians living overseas had registered with the Court. In fact, the 180 VIFs that we supplied nearly tripled the number of victim submissions from Cambodians living abroad. Moreover, while the Court has conducted extensive outreach work in Cambodia, much of that work has been through partnerships with civil society organizations on a relatively ad hoc basis. As such, but for ASRIC's work, there may have been little independent communication with the Cambodian-American community. Though the costs of sending representatives to the U.S. would likely be prohibitive, the Court could still communicate with Cambodian community groups in the U.S. and elsewhere, and not have to rely on the proactive work of outside organizations to facilitate this communication.

2. ***Manage Victim Expectations.*** Most of the victims with whom we spoke evinced the desire for some form of justice, and had, to varying degrees, faith that the Tribunal would hold the defendants accountable for their crimes. Yet the length of the trials—necessary, in order to promote rule-of-law legal norms and afford the defendants a fair and orderly trial—combined with the relatively vague instructions about how victim information would be used, has resulted in a situation where many victims are unclear on what to expect, and unsure as to their further

involvement. While this is in some way understandable, as the involvement of so many victims has never before been attempted in such an ad hoc international tribunal, the Court could have done a better job explaining to the victims how in fact their information would be used, and in what cases they would be contacted in the future. This could be as simple as a brief instruction on the VIF, or a provided set of talking points for those civil society organizations facilitating victim involvement. Again, such efforts were complicated because the Court had to make (and is still making) victim-involvement rules on the fly.³⁸ Yet because these decisions had real consequences for those victims who had invested themselves in the process, they came as somewhat of a shock. Put simply, if the Court wants to officially involve such a large group of victims, it needs to make sure to communicate developments directly to them, so that the (generally reasonable) rationale behind its decisions is not lost on the victim community.

3. *Balance the Needs of the Prosecution with the Needs and Concerns of Victims.*

Victim involvement in international tribunals is unquestionably important. These are the people who allegedly suffered at the hands of the accused, and who thus rightly have the greatest personal and emotional stake in any legal outcome. Yet a trial is, at its heart, about assigning guilt and pronouncing sentence. Victim involvement—including the ability for victims to confront the perpetrators, offer testimony, sit and observe the proceedings, have actual representation and participate in the proceedings, or serve as character witnesses—while crucially important, necessarily slows down the legal proceedings. Part of the reason why the Khmer Rouge Tribunals have taken so long³⁹ is that the civil party process is very time intensive: defendants can challenge the certification of each application, and then each party is entitled to spend time reviewing evidence and participating in the actual proceedings (though this last right has been curtailed slightly for case 002).⁴⁰ The ECCC—and all international tribunals—thus need to decide how to balance the degree of victim involvement with the simultaneous demands of prosecuting the accused. While this issue requires a lengthier discussion than is appropriate here, this dichotomy—between providing greater victim involvement and ensuring the efficient administration of justice—has been present since the ECCC's inception. That the Cambodian-American victims are so far removed (geographically) from the Tribunal only complicates the matter.

4. ***Court as a Work in Progress.*** Despite our observations and occasional criticism, we recognize the political and economic difficulties with which the Court must contend. Further, we recognize that international tribunals are in general still in their infancy, and that each requires different structures uniquely tailored to the needs of the various nations and parties involved. Still, despite these challenges, there are simple steps—generally related to transparency and communication—that a court can take when dealing with and communicating to the victim community. A targeted outreach program that reaches all victim communities, combined with simple explanations of a well thought-out and formulated victim-involvement process, can, it seems, do as much (if not more) for the victim community than can a guilty verdict.

NOTES

¹ For a discussion of the Court's outreach activities, see the rundown of its events and programs, available at <http://www.eccc.gov.kh/english/outreach.aspx>; similarly; for a graphical display, see <http://www.eccc.gov.kh/english/outreach.map.aspx>. For an overview of the Court's outreach efforts, see Norman Henry Pentelovitch, Note, *Seeing Justice Done: The Importance of Prioritizing Outreach Efforts at International Criminal Tribunals*, 39 GEO. J. INT'L L. 445, 465–470 (2008).

² See Israel W. Charny, *The Widening Circle of Genocide* 35 (1994) (“Considering the various estimates of the toll, from 600,000 to 3,000,000 were murdered during their reign, probably 2,000,000 Cambodians overall—close to a third of the population.”).

³ Interestingly, while the ECCC internal rules mention the need for the Court to protect witnesses and other participating victims, see ECCC Internal Rules, Rule 29, Protective Measures (outlining measures taken by the Court to protect witnesses and victims, including keeping secret names and addresses and providing physical protection), there is no language in the Victims Unit guiding rules discussing protection.

⁴ See ECCC Victims Unit, Statistics, <http://www.eccc.gov.kh/english/statistics.aspx>.

⁵ For a further explanation of Civil Party Status, see ECCC Victims Unit, Victim's rights, http://www.eccc.gov.kh/english/victims_rights.aspx (last visited May 18, 2010).

⁶ See ECCC, Press Release, 7th Plenary Session of the ECCC Concludes, Feb. 9, 2010, available at http://www.cambodiatribunal.org/images/CTM/7th_plenary_session_en.pdf. See also Youk Chhang, *Sad Situation for Civil Parties*, PHNOM PENH POST, Oct. 1, 2009, available at <http://www.phnompenhpost.com/index.php/2009100128677/National-news/sad-situation-for-civil-parties.html> (noting “the nearly 2,000 victims who have already applied for civil party status in the second case”).

⁷ For example, some of the victims were unable to provide sufficient identification, a requirement of the victim information form submission process.

⁸ For an organizational chart of the ECCC, see ECCC ORGANIZATION CHART, <http://www.unakrt-online.org/Links-Logos-Thumbs/ECCCchart.pdf> (last visited Mar. 28, 2010).

⁹ ECCC, Photo/Video Gallery, http://www.eccc.gov.kh/english/photo.view.aspx?id_album=275&photo=0 (last visited May 31, 2010).

¹⁰ See *Khmer Rouge defendant expresses “heartfelt sorrow”*, AP, Mar. 31, 2009, <http://ibnlive.in.com/news/khmer-rouge-defendant-expresses-heartfelt-sorrow/89139-2.html>.

¹¹ The Photographs are from ECCC, Case 002, <http://www.eccc.gov.kh/english/case002.aspx> (last visited May 31, 2010).

¹² The California Cambodian community is the largest in the United States. See SUCHENG CHAN & AUDREY U. KIM, *NOT JUST VICTIMS* 36 (2003) (noting that the largest concentrations of Cambodians in the U.S. are in California, followed by Massachusetts and the Washington D.C. area).

¹³ See ECCC, Press Release, Office of the Co-Investigating Judges, Statement of the Co-investigating Judges, Judicial Investigation of Case 002 and Civil Party Applications, Nov. 5, 2009, available at http://www.eccc.gov.kh/english/cabinet/press/137/ECCC_Press_Release_5_Nov_2009_Eng.pdf.

¹⁴ See ECCC, Press Release, 7th Plenary Session of the ECCC Concludes, Feb. 9, 2010, *available at* http://www.cambodiatribunal.org/images/CTM/7th_plenary_session_en.pdf.

¹⁵ See, e.g., International Federation for Human Rights, *A New Scheme for Civil Party Representation Before the ECCC: Victims to Bear the Highest Burden in Implementing the Need for an Expeditious Trial*, Mar. 3, 2010, <http://www.fidh.org/A-new-scheme-for-Civil-Party-representation> (noting that the “International Federation for Human Rights (FIDH) and its member organisations in Cambodia, the Cambodian Human Rights and Development Association (ADHOC) and the Cambodian League for the Promotion and Defense of Human Rights (LICADHO) . . . regret that [after the changes made at the plenary session] victims have to bear the highest burden to ensure an expeditious trial and that important issues remain unclear”).

¹⁶ See *Victims Support Head to Retire*, PHNOM PENH POST, May 6, 2010, *available at* <http://www.phnompenhpost.com/index.php/2010050638815/National-news/victims-support-head-to-retire.html> (discussing Helen Jarvis’s retirement announcement and many attorneys’ and outside observers’ calls for a more independent appointment).

¹⁷ See ECCC, Office of the Co-Prosecutors, <http://www.eccc.gov.kh/english/prosecutors.aspx> (last visited May 31, 2010) (“The OCP currently employs twenty-seven national and international staff members working in various capacities including as prosecutors, deputy prosecutors, assistants, investigators, analysts, researchers, greffier, information management personnel and interpreters.”).

¹⁸ See, e.g., Amnesty International, Press Release, *Cambodia: Extraordinary Chambers in the Courts of Cambodia - New International Co-Prosecutor should commit to fulfilling the Tribunal’s mandate*, Dec. 4, 2009, <http://www.amnesty.org/en/library/asset/ASA23/022/2009/en/316c67be-282e-411b-a8a5-4d54af9c6960/asa230222009en.html> (“On 7 September 2009, the Acting International Co-Prosecutor decided to proceed with filing two new introductory statements, naming five new suspects, relating to 40 situations of murder, torture, unlawful detention, forced labour and persecution. The National Co-Prosecutor opposed the decision to increase the total number of persons before the ECCC from five to ten. The Cambodian government also spoke out against additional investigations, apparently seeking to exert influence over the tribunal.”).

¹⁹ See *id.*

²⁰ The official role of the DSS is actually relatively small: Per the Court’s official rules, the DSS’s primary responsibility is to register and vet local and foreign attorneys, maintain a list of potential defense attorneys, and determine indigence-related eligibility for the defendants and the assignment of court-appointed attorneys. See ECCC Internal Rules, Rev. 4, 11 Sep., 2009, Rule 11.

²¹ See ECCC, Defense Support Section, The List, http://www.eccc.gov.kh/english/dss_the_list.aspx.

²² See ECCC, Defense Support Section, Defense Teams, http://www.eccc.gov.kh/english/dss_defence_teams.aspx.

²³ Examples include François Roux (attorney to Duch), who defended Zacarias Moussaoui, the alleged twentieth September 11 terrorist, and others defending many of the top Serbian figures to appear before the ICTR, and one attorney who worked on the Lubanga defense team at the ICC. See *id.*

²⁴ For example, the Court recently ruled against an appeal put forward by the defense opposing a motion to extend the defendants’ pretrial detention. See, e.g., *UN-backed tribunal denies appeal for release of*

three Khmer Rouge leaders, UN NEWS CENTER, Apr. 30, 2010,

<http://www.un.org/apps/news/story.asp?NewsID=34547&Cr=cambodia&Cr1>.

²⁵ Seth Mydans, *Khmer Rouge Warden Asks to be Freed*, N.Y. TIMES, Nov. 27, 2009.

²⁶ Statement of International Co-Prosecutor William Smith, Nov. 27, 2009, *available at* Cambodia Tribunal Monitor, <http://www.cambodiatribunal.org/blog/2009/11/duch-seeks-aquittal-and-immediate.html>.

²⁷ Didier Lauras, *Shock Khmer Rouge Plea Highlights Political Battle*, AFP Newswire, Nov. 28, 2009, *available at*

http://www.google.com/hostednews/afp/article/ALeqM5gDQtz4rmfKYq7squH_k9NtUVMxFA. Note that this newswire story was not picked up by many papers, and we personally question (slightly) its authority.

²⁸ ECCC Press Release, Jan. 9, 2009, *available at*

http://www.eccc.gov.kh/english/cabinet/press/85/National_Judges_Press_Release_En.pdf.

²⁹ For a nice ECCC video presentation of the busing in of spectators, see

<http://www.youtube.com/user/krtribunal#p/u/8/p7y8a9sHFOk>, as well as other videos on the ECCC's Youtube channel.

³⁰ For examples of Court outreach publications, see ECCC, Publications,

<http://www.eccc.gov.kh/english/publications.aspx> (last visited May 19, 2010).

³¹ *See id.*

³² *See* Bert Hoak & Ray Zepp, *Cambodia: Thoughts on Foreign Aid*, Mekong.net,

http://www.mekong.net/cambodia/aid_ess.htm (last visited May 19, 2010) (noting that "Cambodia [is] the highest per capita recipient of foreign aid -- for more than five years").

³³ Beyond Profit, *In Cambodia, Sustainable NGOs Move the Economic Needle* (Apr. 12, 2010),

<http://beyondprofit.com/?p=1314>.

³⁴ For example, the Cambodia Tribunal Monitor, a project sponsored by Northwestern University, DC-CAM, the Pritzker Foundation, and a number of other philanthropies, and *available at*

[cambodiatribunal.org](http://www.cambodiatribunal.org), provides a running commentary of ECCC developments, legal and nonlegal analysis, and links to important documents, hearing transcripts, and multimedia recordings.

³⁵ For example, their most recent report, published in March, 2010, discusses trial status and provides updates on key developments, but focuses as well on political influence and corruption at the Court. *See*

generally Open Society Justice Initiative, *Recent Developments at the Extraordinary Chambers in the Courts of Cambodia*, March 2010 Update, *available at*

http://www.soros.org/initiatives/justice/focus/international_justice/articles_publications/publications/cambodia-20100324/cambodia-court-20100324.pdf.

³⁶ For a discussion of the increasing need for victim involvement in human rights tribunals, see generally Charles P. Trumbull IV, *The Victims Of Victim Participation in International Criminal Proceedings*, 29 MICH. J. INT'L L. 777 (2008).

³⁷ *See* ECCC, Press Release, *More than 20,000 visitors have attended the Duch-trial*, Aug. 26, 2009, *available at*

<http://www.cambodiatribunal.org/images/CTM/eccc%20press%20release%2026%20aug%202009%20english.pdf>.

³⁸ For example, the Court decided in February, 2010, after nearly 3,000 victims had already applied for civil party status, to change and streamline the civil party participation process. While this was necessarily in reaction to the potentially overburdensome likelihood that too many civil parties would slow down the proceedings, the on-the-fly nature of the decision was not received well by many parties.

³⁹ The ECCC was founded in 2006, and at the time of writing, the first trial has yet to be completed and the second has yet to commence.

⁴⁰ As discussed, the Court decided in February, 2010, to appoint two lead civil party attorneys, who will represent the interests of the other civil parties at the actual trial. See ECCC Press release *supra* note 14.

Kingdom of Cambodia Nation Religion and King



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

- Office of the Co-Prosecutors
- Office of the Co-Investigating Judges

Case File No:

Victim Information Form

PART A

PERSONAL INFORMATION ABOUT THE VICTIM

1. Name(s) and first name:	2. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female
3. Place of Birth:	4. Nationality:
5. Age/Date of Birth (if known dd/mm/yyyy):	6. Occupation:
7. Marital Status <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Widow/Widower <input type="checkbox"/> Other	
8. Father's or Tutor's Name:	Mother's Name:
9. How many dependants do you have? <i>Please write number.</i>	
10. Have you ever had any disability or disabilities? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please specify:	
11. Which of the following proof of identity do you have? <i>Please indicate the number.</i>	
Type of proof of identity	Number or other reference
<input type="checkbox"/> Passport	
<input type="checkbox"/> Driver's licence	
<input type="checkbox"/> Identity card (such as students, employees)	
<input type="checkbox"/> Letter from Local Authority	
<input type="checkbox"/> Camp registration card	
<input type="checkbox"/> Card from humanitarian agency (such as UNHCR, WFP)	
<input type="checkbox"/> Tax document	
<input type="checkbox"/> Voting card	
<input type="checkbox"/> Other	
<input type="checkbox"/> None	

FOR VICTIMS UNIT USE ONLY		
Application:		
<input type="checkbox"/> Witness	<input type="checkbox"/> Complaint	<input type="checkbox"/> Civil Party Application
Action:		
<input type="checkbox"/> Co-Prosecutors	<input type="checkbox"/> Co-investigating Judges	

12. Please complete all that apply to you.	
<input type="checkbox"/> Current address <input type="checkbox"/> If you do not have a specific address, please provide your last residence	
Number/Plot:	Street:
Group/Village:	Commune:
District:	Province/City:
Country:	
13. Contact address. <i>Please tick as appropriate.</i>	
<input type="checkbox"/> I would like to be contacted at the address mentioned in question 12.	
<input type="checkbox"/> I would like to be contacted through a person acting on my behalf:	
<input type="checkbox"/> Lawyer:	<input type="checkbox"/> Victims Association:
<input type="checkbox"/> I would like to be contacted at the following address C/O:	
Number/Plot:	Street:
Group/Village:	Commune:
District:	Province/City:
Country:	
<input type="checkbox"/> I would like to be contacted at the following telephone number:	
Have you already submitted a complaint or an application for civil party participation to the ECCC or other places?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, please indicate what form of application, where and when:	
Form of application	
Place:	Day Month Year

PART B

INFORMATION ABOUT THE ALLEGED CRIME(S)

Please attach answers to this section on a separate sheet of paper if necessary.

1. Please provide details of crime(s).
Location (<i>village, district, area, zone</i>):
Date (dd/mm/yyyy):
Description of Crime(s) (<i>what crimes occurred and how they occurred</i>):
2. Who do you believe is responsible for these crime(s) and why you believe this? <i>Please answer to the extent possible.</i>
3. Were you a victim of these crime(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No
4. Were you a witness to these crime(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No
5. Do you know any other victims or witnesses to these crime(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If yes (and if you can), please give their names and addresses, unless you know that they wish to remain anonymous, or it would put the applicant or anyone else at risk):</i>

6. Do you have any relationship with these witnesses (are they family members, neighbours, friends, etc.)? Yes No
(If yes, please indicate):

In order for Civil Party action to be admissible, the injury must be: a) physical, material or psychological; b) the direct consequence of the offence, personal and have actually come into being.

PART C

APPLICATION TO BE JOINED AS A CIVIL PARTY

You should only complete this Part if you wish to be joined as a Civil Party to a judicial investigation

1. Please indicate the proceedings to which you wish to be joined:
Case File No:

2. Please state the injury, loss or harm you have suffered, and give a brief description (such as physical injury, mental pain and anguish, loss of or damage to property):

3. Were you examined by a doctor after the event or events occurred? Yes No

4. Did you receive any medical or psychological treatment? Yes No

5. If yes, do you have any records regarding any medical or psychological treatment? Yes No
If yes, please tick as appropriate and provide a photocopy, if available.
 Medical report from doctor, hospital or health centre X-rays Prescriptions/Invoices for medicines
 Other. *Please specify:* None

6. Does your condition persist today? Yes No
If yes, please give details:

7. Do you have any preference as to the form of collective or moral reparation that you would like to obtain? Yes No
If yes, please give details:

PART D

SIGNATURES

1. SIGNATURE OF THE VICTIM
Please sign or add your fingerprint and date this Form, whether or not someone is acting on your behalf or assisting you in filling in this Form.
I hereby declare that:
- To the best of my knowledge and belief, the information I have given in the present Form is correct, otherwise I will be liable under the applicable law.
- I wish to participate in proceedings before the ECCC as: a witness a complainant a civil party
If you answered "civil party", please ensure that you have filled in Part C above

Location: _____ Day: _____ Month: _____ Year: _____
Signature or fingerprint of the victim and name

Witnessed by/Signature : _____ Signature:

2. SIGNATURE OF THE PERSON ACTING ON BEHALF OF THE VICTIM AND CONSENT OF THE VICTIM

Consent of the victim:

I,

Print name of the victim

consent to

Print name of the person acting on behalf of the victim, in the capacity of
to act on my behalf in making this application.

Location:

Day:

Month:

Year:

Signature or fingerprint of a person acting on behalf of the victim and name

Witnessed by/Signature:

Signature:

Before submitting this Application Form, please review it and tick the following as appropriate:

I have attached the following documents in support of this Form:

- 1.
- 2.
- 3.

I have signed or added my fingerprint on every page of this Form as well as any other documents accompanying it.

Please indicate total number of pages of this Form including additional pages and photocopies of documentation:

Victim:	Person acting on behalf of the victim:
<input type="checkbox"/> I have provided a photocopy of proof of identity in response to Question 11 of Part A.	<input type="checkbox"/> I have signed or added my fingerprint on the second box in Part D.
<input type="checkbox"/> I have provided contact information in response to Question 13 of Part A.	
<input type="checkbox"/> I have signed or added my fingerprint on the first box in Part D.	

NOTE

Once the ECCC receives your Form, you will receive an acknowledgement. This acknowledgement will provide you with a registration number that you should use when communicating with the Court. If you send additional information to the Court, please use this registration number to ensure your application is properly updated. Please note that criminal proceedings take time and it may be a while before the ECCC judges make a decision on your application.

This Form and the process of applying are free of charge.

Victims Unit may be contacted at the address below or by email at victimsunit@eccc.gov.kh

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ការិយាល័យសហព្រះរាជអាជ្ញា
ការិយាល័យសហចៅក្រមស៊ើបអង្កេត

សំណុំរឿងលេខ:

ទំរង់បែបបទព័ត៌មានអំពីជនរងគ្រោះ

ផ្នែក “ក”

ព័ត៌មានផ្ទាល់ខ្លួននៃជនរងគ្រោះ

១. នាមត្រកូល និងនាមខ្លួន:	២. ភេទ <input type="checkbox"/> ប្រុស <input type="checkbox"/> ស្រី
៣. ទីកន្លែងកំណើត:	៤. សញ្ជាតិ:
៥. អាយុ/ថ្ងៃខែឆ្នាំកំណើត (ប្រសិនបើស្គាល់ ថ្ងៃ/ខែ/ឆ្នាំ):	៦. មុខរបរ:
៧. ស្ថានភាពគ្រួសារ <input type="checkbox"/> នៅលីវ <input type="checkbox"/> រៀបការ <input type="checkbox"/> លែងលះ <input type="checkbox"/> ពោះម៉ាយ/មេម៉ាយ <input type="checkbox"/> ផ្សេងៗ	
៨. ឈ្មោះឪពុក ឬអាណាព្យាបាល:	ឈ្មោះម្តាយ:
៩. តើមានអ្នកនៅក្នុងបន្ទុកចំនួនប៉ុន្មាននាក់? សូមសរសេរជាលេខ.	
១០. តើអ្នកធ្លាប់មានពិការភាពពីមុនឬទេ? <input type="checkbox"/> បាទ/ចាស <input type="checkbox"/> ទេ ប្រសិនបើឆ្លើយថា បាទ/ចាស សូមរៀបរាប់លំអិត:	
១១. តើភស្តុតាងនៃអត្តសញ្ញាណខាងក្រោមណាមួយដែលអ្នកមាន? សូមបញ្ជាក់ជាលេខ	
ប្រភេទនៃភស្តុតាងនៃអត្តសញ្ញាណ	លេខ និង យោងផ្សេងៗ
<input type="checkbox"/> លិខិតឆ្លងដែន	
<input type="checkbox"/> បណ្ណបើកបររថយន្ត	
<input type="checkbox"/> អត្តសញ្ញាណប័ណ្ណ (ដូចជាកាតសំគាល់និស្សិត, បុគ្គលិក)	
<input type="checkbox"/> លិខិតបញ្ជាក់ពីអាជ្ញាធរដែនដី	
<input type="checkbox"/> លិខិតចុះឈ្មោះនៅក្នុងជំរុំ	
<input type="checkbox"/> កាតសំគាល់ចេញដោយអង្គការមនុស្សធម៌(ដូចជា UNHCR, WFP)	
<input type="checkbox"/> ឯកសារពន្ធុ	

តើអ្នកធ្លាប់ដាក់ពាក្យប្តឹង ឬ ពាក្យស្នើសុំតាំងខ្លួនជាដើមបណ្តឹងរដ្ឋប្បវេណីនៅ អ.វ.ត.ក ឬកន្លែងណាមួយផ្សេងទៀត?

បាទ/ចាស ទេ

ប្រសិនបើឆ្លើយថា បាទ/ចាស សូមមេត្តាបញ្ជាក់អំពីពាក្យស្នើសុំ នៅពេលណា និង ទីកន្លែងណា

ពាក្យស្នើសុំ

ទីកន្លែង: ថ្ងៃ ខែ ឆ្នាំ

ផ្នែក “ខ”

ព័ត៌មានទាក់ទងឧក្រិដ្ឋកម្មដែលបានចោទប្រកាន់

សូមភ្ជាប់នូវចំណើយទាក់ទងនឹងផ្នែកនេះដោយក្រដាសដាច់ដោយឡែកប្រសិនបើចាំបាច់

១. សូមផ្តល់នូវព័ត៌មានពិស្តារអំពីឧក្រិដ្ឋកម្ម	
ទីកន្លែង (ភូមិ, ស្រុក, តំបន់, ភូមិភាគ):	
កាលបរិច្ឆេទ (ថ្ងៃ/ខែ/ឆ្នាំ):	
ការពិពណ៌នាអំពីឧក្រិដ្ឋកម្ម (តើឧក្រិដ្ឋកម្មអ្វីខ្លះដែលបានកើតឡើង ហើយកើតឡើងដោយរបៀបណា?):	
២. តើអ្នកណាដែលអ្នកជឿជាក់ថាត្រូវទទួលខុសត្រូវចំពោះឧក្រិដ្ឋកម្មទាំងនោះ ហើយមូលហេតុអ្វីដែលអ្នកជឿជាក់បែបនេះ? <i>សូមឆ្លើយសំណួរនេះទៅតាមលទ្ធភាពដែលអាចធ្វើទៅបាន</i>	
៣. តើអ្នកជាជនរងគ្រោះក្នុងឧក្រិដ្ឋកម្មទាំងនោះដែរឬទេ?	<input type="checkbox"/> បាទ/ចាស <input type="checkbox"/> ទេ
៤. តើអ្នកជាសាក្សីនៅក្នុងឧក្រិដ្ឋកម្មទាំងនោះដែរឬទេ?	<input type="checkbox"/> បាទ/ចាស <input type="checkbox"/> ទេ
៥. តើអ្នកបានដឹងអំពីជនរងគ្រោះ ឬសាក្សីនៅក្នុងឧក្រិដ្ឋកម្មទាំងនោះដែរឬទេ?	<input type="checkbox"/> បាទ/ចាស <input type="checkbox"/> ទេ
<i>(ប្រសិនបើឆ្លើយថាបាទ/ចាស (និងប្រសិនបើអ្នកមានលទ្ធភាព), សូមផ្តល់ឈ្មោះនិងអាសយដ្ឋានរបស់ពួកគេ, លើកលែងតែអ្នកដឹងថាពួកគេចង់នៅជាអនាមិក, ឬវាអាចធ្វើអោយមានហានិភ័យចំពោះអ្នក ឬអ្នកណាផ្សេងទៀត):</i>	
៦. តើអ្នកមានទំនាក់ទំនងអ្វីជាមួយសាក្សីទាំងនោះ(ជាក្រុមគ្រួសារ, អ្នកជិតខាង, មិត្តភក្តិ, ។ល។)?	<input type="checkbox"/> បាទ/ចាស <input type="checkbox"/> ទេ
<i>(ប្រសិនបើឆ្លើយថាបាទ/ចាស, សូមបញ្ជាក់):</i>	
ដើម្បីអនុញ្ញាតអោយដើមបណ្តឹងរដ្ឋប្បវេណីអាចចូលរួមបាន, ព្យួរសកម្មត្រូវតែជា ក) រូបកាយ, សម្ភារៈ ឬ ផ្លូវចិត្ត; ខ) ប៉ះពាល់ដោយផ្ទាល់ពីបទល្មើសនោះជាលក្ខណៈបុគ្គល និងមានឥទ្ធិពលរហូតមកដល់ពេលបច្ចុប្បន្ន។	

ផ្នែក “គ”

ពាក្យសុំតាំងខ្លួនជាដើមបណ្តឹងរដ្ឋប្បវេណី

អ្នកត្រូវបំពេញក្នុងផ្នែកនេះ ប្រសិនបើអ្នកមានបំណងចង់ចូលរួមជាដើមបណ្តឹងរដ្ឋប្បវេណីនៅក្នុងកិច្ចដំណើរការស៊ើបសួរ

១. សូមបញ្ជាក់អំពីដំណាក់កាលនីតិវិធីដែលអ្នកមានបំណងចង់ចូលរួម
សំណុំរឿងលេខ:

២. សូមបញ្ជាក់អំពីព្យសនកម្ម, ការបាត់បង់ឬ ផលវិបាកដែលបានទទួល និង សូមធ្វើការអត្តាធិប្បាយដោយសង្ខេប
(ដូចជាព្យសនកម្មនៅលើរូបកាយ, ផ្លូវចិត្ត និងភាពតានតឹងនៅក្នុងចិត្ត, បាត់បង់ ឬខូចខាតនូវទ្រព្យសម្បត្តិ):

៣. តើអ្នកត្រូវបានផ្តល់ព័ត៌មានក្រោយពីព្រឹត្តិការណ៍នោះកើតឡើងឬទេ? បាទ/ចាស ទេ

៤. តើអ្នកបានព្យាបាលដោយប្រើប្រាស់ថ្នាំ ឬដោយវិធីព្យាបាលផ្លូវចិត្តដែរឬទេ? បាទ/ចាស ទេ

៥. ប្រសិនបើបាទ/ចាស តើអ្នកមានកំណត់ត្រាអំពីការប្រើប្រាស់ថ្នាំ ឬដោយវិធីព្យាបាលផ្លូវចិត្តទាំងនោះដែរឬទេ?
 បាទ/ចាស ទេ

ប្រសិនបើឆ្លើយថាបាទ/ចាស, សូមគូសទៅតាមភាពសមស្របខាងក្រោម និងផ្តល់ឯកសារចំលងមួយច្បាប់ប្រសិនបើអាច.

របាយការណ៍វេជ្ជបណ្ឌិត, មន្ទីរពេទ្យ, ឬមន្ទីរពេទ្យសុខភាព កម្មវត្ថុ X វេជ្ជបញ្ជា/វិកិយប័ត្រថ្នាំ

ផ្សេងៗ សូមបញ្ជាក់ មិនមានអ្វីទាំងអស់ដូចខាងលើ

៦. តើស្ថានភាពនៃព្យសនកម្មនោះមានរហូតមកដល់សព្វថ្ងៃដែរឬទេ? បាទ/ចាស ទេ

ប្រសិនបើឆ្លើយថាបាទ/ចាស សូមបញ្ជាក់អោយបានពិស្តារ:

៧. តើអ្នកមានបំណងចង់ទាមទារអោយមានសំណងជាលក្ខណៈសមូហភាព ឬជាផ្លូវចិត្តណាមួយដែរឬទេ? បាទ/ចាស ទេ

ប្រសិនបើឆ្លើយថាបាទ/ចាស សូមបញ្ជាក់អោយបានពិស្តារ:

ផ្នែក “ប”

ហត្ថលេខា

១. ហត្ថលេខាជនរងគ្រោះ

សូមមេត្តាចុះហត្ថលេខា ឬផ្ដិតម្រាមដៃ និងចុះកាលបរិច្ឆេទនៅលើបែបបទនេះ ទោះបីជានរណាម្នាក់ធ្វើក្នុងនាមរបស់អ្នក ឬ មាននរណាម្នាក់ ជួយអ្នកក្នុងការបំពេញបែបបទនេះ

ខ្ញុំសូមបញ្ជាក់ថា:

- ព័ត៌មានទាំងអស់ដែលបានផ្តល់ក្នុងបែបបទនេះពិតជាត្រឹមត្រូវពិតប្រាកដមែន ប្រសិនបើមានចំណុចណាមិនពិត ខ្ញុំសូមទទួលទោសតាមច្បាប់ ជាធរមាន

- ខ្ញុំមានបំណងចង់ចូលរួមក្នុងនីតិវិធីនៅចំពោះមុខអ.វ.ត.ក ជា: សាក្សី ជាអ្នកប្តឹង ដើមបណ្តឹងរដ្ឋប្បវេណី ប្រសិនបើចង់តាំងខ្លួនជា “ដើមបណ្តឹងរដ្ឋប្បវេណី”, សូមបញ្ជាក់អោយច្បាស់ថាបានបំពេញនៅក្នុងផ្នែក “គ”

ទីកន្លែងធ្វើ: ថ្ងៃ: ខែ: ឆ្នាំ:
ហត្ថលេខា ឬស្នាមម្រាមដៃជនរងគ្រោះ និង ឈ្មោះ

ឈ្មោះសាក្សី:

ហត្ថលេខាសាក្សីក្នុងការបំពេញ: ហត្ថលេខា

២. ហត្ថលេខាបុគ្គលដែលជាអ្នកតំណាងអោយជនរងគ្រោះដោយមានការយល់ព្រមពីជនរងគ្រោះ

ដោយមានការយល់ព្រមពីជនរងគ្រោះ:

ខ្ញុំឈ្មោះ ,

ឈ្មោះជនរងគ្រោះ

យល់ព្រមអោយឈ្មោះ ធ្វើជាអ្នកតំណាង

សរសេរឈ្មោះបុគ្គលដែលជាអ្នកតំណាងអោយជនរងគ្រោះ, ក្នុងនាមនៃ

អោយបំពេញបែបបទនិងដាក់ពាក្យសុំនេះ

ទីកន្លែងធ្វើ: ថ្ងៃ: ខែ: ឆ្នាំ:
ហត្ថលេខាឬស្នាមម្រាមដៃរបស់បុគ្គលដែលជាអ្នកតំណាងអោយជនរងគ្រោះ និងឈ្មោះ

ឈ្មោះសាក្សី

ហត្ថលេខាសាក្សីក្នុងការបំពេញបែបបទនេះ: ហត្ថលេខា

នៅមុនពេលដាក់បែបបទពាក្យស្នើសុំនេះ, សូមពិនិត្យមើលឡើងវិញ និងគូសនៅខាងក្រោមនេះទៅតាមការសមស្រប:

ខ្ញុំបានភ្ជាប់មកជាមួយក្នុងពាក្យសុំនេះនូវឯកសារដូចខាងក្រោម:

១.

២.

៣.

ខ្ញុំបានចុះហត្ថលេខា ឬផ្ដិតម្រាមដៃនៅគ្រប់ទំព័រនៃបែបបទ និង ឯកសារដែលបានដាក់ភ្ជាប់មកជាមួយ សូមបញ្ជាក់អំពីចំនួនទំព័រសរុបនៃទំព័របស់បែបបទនេះរួមទាំងទំព័របន្ថែម និងឯកសារភ្ជាប់ផ្សេងៗទៀត:

ជនរងគ្រោះ:	បុគ្គលតំណាងអោយជនរងគ្រោះ:
<p><input type="checkbox"/> ខ្ញុំបានផ្តល់សេចក្តីចំលងឯកសារជាភស្តុតាងនៃអត្តសញ្ញាណឆ្លើយតបទៅនឹងតំរូវការនៅក្នុងសំណួរទី១១ នៃផ្នែក “ក” ។</p> <p><input type="checkbox"/> ខ្ញុំបានផ្តល់ព័ត៌មានឆ្លើយតបនឹងតំរូវការនៅក្នុងសំណួរទី១៣ នៃផ្នែក “ក” ។</p> <p><input type="checkbox"/> ខ្ញុំបានចុះហត្ថលេខា ឬផ្ដិតម្រាមនៅក្នុងប្រអប់ទី១នៅក្នុងផ្នែក “ឃ” ។</p>	<p><input type="checkbox"/> ខ្ញុំបានចុះហត្ថលេខា ឬ ផ្ដិតម្រាមដៃនៅក្នុងប្រអប់ទីពីរ នៅក្នុងផ្នែក “ឃ”</p>

កំណត់ចំណាំ

នៅពេលដែល អ.វ.ត.ក ទទួលបានបែបបទនេះ អ្នកនឹងទទួលបាននូវការបញ្ជាក់ ។ ការបញ្ជាក់នេះនឹងផ្តល់ទៅអ្នកជាមួយនឹងលេខដែលបានចុះបញ្ជីដែលអ្នកត្រូវប្រើនៅក្នុងការទំនាក់ទំនងជាមួយតុលាការ ។ ប្រសិនបើអ្នកផ្តល់ព័ត៌មានបន្ថែមមកតុលាការ សូមប្រើប្រាស់លេខដែលបានផ្តល់អោយនេះ ដើម្បីអោយគេអាចបន្ថែមនៅលើពាក្យស្នើសុំរបស់អ្នក ។ សូមបញ្ជាក់ថាដំណើរការនីតិវិធីព្រហ្មទណ្ឌត្រូវការប្រើប្រាស់ពេលវេលាវែង និងអ.វ.ត.ក អាចត្រូវការប្រើប្រាស់ពេលវេលាមួយដើម្បីធ្វើការសំរេចលើពាក្យស្នើសុំ ។

ការដាក់បែបបទនេះគឺធ្វើឡើងដោយមិនមានគិតថ្លៃ ។

អង្គការជនរងគ្រោះអាចទំនាក់ទំនងបានតាមរយៈអាសយដ្ឋានខាងក្រោម ឬតាមរយៈអ៊ីម៉ែល victimunit@eccc.gov.kh ។