

i n s e a r c h o f j u s t i c e





in search of justice

A Survey among Cambodian-Americans about their Participation in the Khmer Rouge Tribunal

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foreword

HUMAN RIGHTS WORKERS ARE AT THE FOREFRONT OF CURRENT STRUGGLES TO challenge injustice, inequality and violence, particularly as it affects some of the most vulnerable populations across the world. The Rotary Foundation has made it a priority to contribute to these efforts at many levels, including support for educators and for policy intervention. As part of this commitment the Rotary Foundation embraces the fundamental need for systematic research and policy analysis. This involves training human rights workers to investigate, analyze and evaluate specific instances of human rights abuses, and to make proposals for policy and political intervention. This current report, conceptualized, undertaken and produced by the seven members of the 2009-2011 cohort of Rotary Peace Fellows at the University of California at Berkeley, with the support of Assistant Director Xuan Quach and Faculty instructor Dr. Patrick Vinck, is one striking example of this commitment. The Rotary Peace Fellows have researched a topic that raises question about our fundamental notions of humanity and justice. And they have produced a report that provides information and insights while at the same time conveying a clear sense of how the past is here in the present, in immediate, palpable and highly consequential ways.

This report demonstrates the critical importance of recording, documenting and communicating the views of the U.S.-based Cambodian Diaspora on the proceedings of the Extraordinary Chambers in the Courts of Cambodia (ECCC). By identifying and interviewing both victims and their families, the research provides an opportunity for victims to have a voice, and be heard. The research offers general conclusions that are valuable; and it also involves an opportunity that has its own intrinsic value – the opportunity for victims to tell their stories, despite the pain of remembrance, and the reminder of loss. Telling one’s story can contribute in fundamental ways to healing for both individuals and families. And the research provides participants with an opportunity to maintain the memory of what has happened to them, as the next generation of Cambodian Americans, those who did not directly experience the atrocities, is born and raised. The opportunity to participate in the ECCC was an affirming experience for nearly all of the participants.

The report offers recommendations to organizations and agencies. This includes the need for greater dissemination of information, the strategic use of outreach programs, and the need to deploy multiple media for communicating information about people's experiences, including storytelling, art and drama. The report also calls for more sustained efforts to link up individuals and organizations both inside and outside Cambodia. And it raises issues to do with reparations, including symbolic, legal and financial reparations.

The authors recognize that current policy and political solutions to past atrocities are complex and they don't claim to have all the right answers or to have identified all the necessary solutions. But they do insist that instead of silencing the victims, we must seek to raise their voices, and continually bring them to the center of the discussion. Strong if traumatic memories shape the responses of many Cambodians in the United States; as does the irrepressible desire for justice. This is an insightful, well-written and compelling report. And surely we must be grateful to the authors for their sincere and heart-felt intervention.

STEPHEN SMALL, P.H.D.

Director

Rotary Center for International Studies in Peace and Conflict Resolution
University of California, Berkeley

IMPLEMENTING A FULL RESEARCH PROJECT IS A CHALLENGING TASK. IT REQUIRES the careful definition of a problem statement, the design of a data gathering plan and its implementation, and finally the analysis of the data and communication of the results. When the idea of using the weekly Rotary Peace Fellow seminar as an applied research method course emerged, I knew it would not be an easy task, but I also knew I would be working with a talented group of individuals with diverse skills.

To make it even more challenging, it was decided early on that the research would have to have some real-life relevance, and not be merely an academic exercise. Cambodia – and more specifically questions around the participation of the Cambodian diaspora in the Khmer Rouge Tribunal imposed itself as a topic of importance. Furthermore, several of the peace scholars – and myself – had related work experience.

The Khmer Rouge Tribunal was set up as a hybrid international tribunal to try senior leaders of the Khmer Rouge and those who were most responsible for crimes and serious violations committed during the Khmer Rouge regime. The regime's rule, which lasted from 17 April 1975 to 6 January 1979, resulted in the death of at least 1.7 million people, or a quarter of the population. Not only does the Tribunal represent the first effort to bring justice to the victims of the Khmer Rouge, nearly 30 years after the violence, it also is the first time in the history of international criminal justice in which surviving victims of the alleged crimes could participate directly in the proceedings as civil parties. This meant that victims could bring civil claims for reparation against the defendants, and have nearly-equal procedural rights as the Defense and Prosecution, including being represented in the proceedings. The possibility of participating extended to the Cambodian diaspora victims of the regime.

And so a serious and challenging topic was identified. The research cycle delivered all its good and bad moments to the fellows, from the long nights adding stamps on mailed-in survey to the powerful experience of interviews.

At the end of the cycle, though, comes the communication of the results. This is the report that closes the chapter, with fascinating results. Congratulations Agustina, Nerve, Rosa Maria, Rebecca, Becky, Eleanor and Julia!

PATRICK VINCK, P.H.D.
Director, Initiative for Vulnerable Populations
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IN THE FALL OF 2010, DURING THEIR LAST YEAR AS ROTARY PEACE FELLOWS studying at the Rotary Center for International Studies in Peace and Conflict Resolution at the University of California, the seven members of the 2009-2011 cohort decided as part of their course of studies to attempt a research project utilizing some of the skills they had been acquiring. This cohort represents the countries of Australia, Colombia, Italy, the Philippines, and the United Kingdom.

The first task was to determine a project acceptable to the entire cohort and then to petition the University to allow the project to become the focal point of their last semester's weekly seminar. These two tasks were accomplished and with the assistance of Xuan Quach, the Assistant Director of the Peace Center, Patrick Vinck was secured as the faculty instructor for the seminar and project. During the course of their final semester, the Peace Fellows planned and implemented the research project. The steps included everything from identifying the subject, contacting outside agencies, determining the scope and depth of the study, researching the literature, developing a mail questionnaire, interviewing subjects, preparing and delivering a presentation on the subject and finally producing a final report. This is that report.

The project has served two major purposes. The first is the research, findings and recommendations included in this report. The second and equally important is the development of additional skills that will serve the Fellows in their future endeavors. It is the hope that both of these purposes will be of interest to the reader.

BRUCE CAMPBELL
Rotary Host Area Coordinator
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PHOTO 1

In front of the altar at a Buddhist temple in San Jose, California, survivors of the Khmer Rouge brought photographs of their dead loved ones to be honored. Many participants in the ECCC did so out of a responsibility to those they lost.



introduction

BETWEEN 1975 AND 1979 THE KHMER ROUGE RULED CAMBODIA AND WERE responsible for the deaths of an estimated 1.7 million Cambodians. Based on their own brand of communist ideology, the regime attempted to turn the country into an agrarian utopia, resulting in widespread suffering and deaths from murder, torture, starvation, and lack of medical treatment.¹ Some were able to flee the country as the Khmer Rouge took power, but most endured the regime until the Vietnamese liberated the country in January 1979. At that time hundreds of thousands of survivors were able to flee across the Thai border, where they lived in Thai refugee camps before being resettled.²

More than thirty years after the downfall of the Khmer Rouge, Cambodia and the international community are jointly prosecuting the regime's senior leaders in the Extraordinary Chambers in the Courts of Cambodia (ECCC), also referred to as the Khmer Rouge Tribunal. This hybrid international tribunal is part of Cambodia's domestic court system, but operates as a traditional international criminal tribunal with some additional features. In particular it allows surviving victims of the Khmer Rouge, both in Cambodia and abroad, to participate in the trials as civil parties. This gives them the ability to be represented in the proceedings as well as to request reparations. Victims can also participate as complainants by providing information to the court. Victim participation to this extent is new to international tribunals, and many are hoping that it will make the process more meaningful to the people who experienced the crimes being prosecuted.

Our study focuses on the participation in the ECCC of Cambodians who have settled in the United States (U.S.) and now form part of the Cambodian diaspora. We chose this topic for two important reasons: first, victim participation in the ECCC represents the first time that victims are given the opportunity to participate as civil parties in an international tribunal; and second, the current participation by Cambodian diaspora in the U.S. in the ECCC is the first time that this cohort are engaged in the transitional justice process. We wanted to know: why would people who left Cambodia so long ago want to reconnect to past painful events? How does the Cambodian diaspora in the U.S. find out about the ECCC and decide to be involved given their

distance from the proceedings? What are their hopes and expectations in regards to the justice process in particular and for Cambodia in general as Cambodians living abroad? And how does their participation affect their present day-to-day life in the U.S.?

We believe that the results of this research provide useful information in understanding the motivations for participation in the ECCC of the Cambodian diaspora in the U.S. as well as their expectations from the process. Lastly, as victim participation is an expanding field, its future will no doubt be shaped by the experience of the ECCC. Being far from Cambodia and the ECCC, members of the diaspora in the U.S. have had less opportunity to engage with the Cambodian national narrative of the atrocities of the Khmer Rouge. Participation to the justice process, therefore, is a way for them to contribute their voices.

This research has involved the labor of many and we extend our gratitude to all who have contributed their time to make this report possible. We would like to acknowledge the significant assistance that we have received from two institutions in particular. The CENTER FOR JUSTICE AND ACCOUNTABILITY (CJA) is a non-profit human rights organization based in San Francisco, California that uses litigation to hold perpetrators individually accountable for human rights abuses, develop human rights law, and advance the rule of law in countries transitioning from periods of abuse. CJA represents 41 Civil Parties in Case No. 002 before the ECCC against four senior leaders of the Khmer Rouge. CJA's clients are all members of the Cambodian diaspora living in the U.S. The APPLIED SOCIAL RESEARCH INSTITUTE OF CAMBODIA (ASRIC) is a non-profit organization that seeks to assist survivors of the Khmer Rouge regime to overcome the human rights violations that they suffered and to find psychological and emotional strength. ASRIC is working extensively with Cambodian-American civil parties and complainants to support them in their participation in the ECCC.

We would also like to thank Dr. Patrick Vinck and Dr. Phuong Pham from the HUMAN RIGHTS CENTER for their guidance of this research project, and Dr. Stephen Small, Xuan Quach, Bruce Campbell and Del Raby of the ROTARY CENTER FOR INTERNATIONAL STUDIES IN PEACE AND CONFLICT RESOLUTION for supporting the project both financially and in spirit.

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BRIEF HISTORY OF THE KHMER ROUGE

ON APRIL 17, 1975 KHMER ROUGE TROOPS SEIZED CONTROL OF PHNOM PENH, the capital of Cambodia. Over the next three years and nine months, they sought to build a utopian society based around agriculture, renaming the country 'democratic Kampuchea'. Cities were abolished and all Cambodians, including children and the elderly, were forced into the countryside to live in communes and work in rice fields. The leadership abolished currency, time, and western medicine. Cambodians had few means of escape: being caught outside ones' commune without a pass warranted the death penalty. Yet hundreds of thousands attempted to flee, and many died in the process, including from hunger, sickness or exhaustion. In less than four years it is estimated that around 1.7 million people died from murder, torture, starvation, overwork and lack of medical care, around one quarter of the 1975 population.³

Approximately 600,000 refugees managed to flee, mostly by walking to the Thai/Cambodian border.⁴ After what was for many a lengthy stay in squalid conditions in refugee camps, many of these Cambodians were granted refugee status and resettled in third countries. Of those who were resettled, most members of the French-speaking Cambodian elite moved to France, while Cambodian military officials, farmers, and their families moved to the U.S.⁵

The Khmer Rouge regime ended on January 9, 1979 when Vietnamese troops forced them to flee to the mountainous west of the country, where they acted as a 'government-in-exile' for the next twelve years. In 1991 a peace treaty was signed allowing UN-backed elections in the country, and despite some ongoing skirmishes, by 1999 all of the Khmer Rouge leaders had either passed away, been captured or were living in relative obscurity.

EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

For decades, the leaders of the Khmer Rouge regime who committed the atrocities and forced Cambodians to flee their country went unprosecuted. However, in 1997 negotiations commenced between the Cambodian government and the UN for the establishment of a hybrid war crimes tribunal. In 2003 the court was finalized, to be known as the Extraordinary Chambers in the Courts of Cambodia (ECCC).⁶

The ECCC has jurisdiction to try senior ranking members of the Khmer Rouge for crimes under international law, including genocide, crimes against humanity and war crimes as well as crimes under Cambodian law such as murder, torture, and religious persecution. The maximum penalty the ECCC can order is life imprisonment, as the death penalty is not available under Cambodian law.⁷

The ECCC commenced hearing cases in July 2007 and to date has handed down one decision against Kaing Guek Eav alias Duch. Duch was found guilty of crimes against humanity and grave breaches of the Geneva Conventions of 1949 and was sentenced to 35 years imprisonment, later on reduced to 19 years for time served, currently on appeal.⁸

Case 002 concerns four of the most senior former Khmer Rouge leaders: Ieng Sary (former Deputy Prime Minister for Foreign Affairs); Khieu Samphan (former Chair of the State Presidium); Nuon Chea (former Chair of the People's Representative Assembly and the Khmer Rouge's chief ideologue) and Ieng Thirith (former Minister of Social Affairs, also Ieng Sary's wife).⁹

This research concerns victim participation in Case 002. At the time of writing, the trial was in the pre-hearing stage.

VICTIM PARTICIPATION

One of the ECCC's distinguishing features is its progressive mandate for victim participation. Victims can be involved in a case before the ECCC in two ways: as complainants or civil parties.

Complainants can submit complaints to the Co-Prosecutors, who will take their interests into account when deciding whether to prosecute. The purpose of a complaint is to help with the investigation, and a complainant may be asked to give evidence or testify as a witness. Any person who has useful information about the crimes that the ECCC is investigating may become a complainant.

Civil parties, on the other hand, are formal parties to the proceedings. To be accepted by the Trial Chamber as a civil party, an applicant must demonstrate that they have suffered physical, material or psychological harm as a result of one of the

crimes the ECCC is investigating. Civil parties are more involved than complainants. They can:

- Choose a lawyer to represent them in the case
- Request the investigation of particular crimes
- Request the judges ask specific questions of the accused
- Ask the ECCC to take measures to protect their safety and wellbeing
- Request collective and moral reparations.¹⁰

Any victim of the Khmer Rouge, regardless of whether they remained in Cambodia or resettled elsewhere, can apply to the ECCC to be recognized as a civil party in a prosecution. In Case 001, 93 Victims applied to be Civil Parties and 66 were accepted, although this is currently on appeal.¹¹ In Case 002, relevant to this report, almost 4,000 people applied to become parties to the proceedings, and 2,124 Civil Parties have been admitted against four accused.¹² Most are in Cambodia, but some are from diaspora communities.

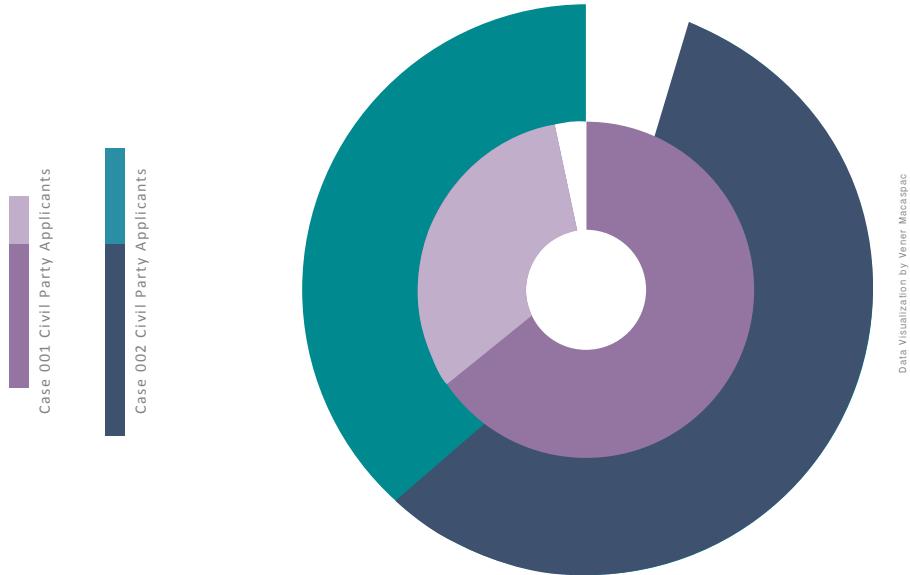


DIAGRAM 1
Civil Party Applicants and Accepted Civil Parties in Case 001 and Case 002

Case 002 Civil Parties (2,124)

Case 001 Civil Parties (66)

This level of victim involvement is still very new in international tribunals. In contrast, previous ad hoc international criminal justice mechanisms had much more limited victim participation, generally only victims who were called upon to testify in the trial could be directly involved. Further, in the International Criminal Court, victims do not have as many trial participation rights as compared to the ECCC, as they cannot apply to be civil parties.¹³ The ECCC therefore allows a much larger group of victims to participate in the justice process and to participate far more extensively. Victim participation in the ECCC came about through a combination of factors. For one, the ECCC is a hybrid tribunal that builds upon Cambodian domestic law, which has a tradition of victim participation (from the French civil law system).

In the International Criminal Court, victims do not have as many trial participation rights as compared to the ECCC, as they cannot apply to be civil parties. The ECCC therefore allows a much larger group of victims to participate in the justice process and to participate far more extensively.

International legal scholars and donors were also interested in making the ECCC more participatory in response to criticisms of previous ad hoc tribunals for not giving an adequate voice to victims.¹⁴ This also reflects gradual developments in international law that recognizes the rights of victims of crime and human rights violations.¹⁵

Proponents of victim participation in international criminal justice claim such participation has a number of benefits:

TRUTH-SEEKING. By encouraging more people who experienced the crimes to have their voices heard in the process, it is hoped that a more complete version of the truth will be generated. This provides an opportunity to provide a more complete narrative than the narrow perspective obtained from victims who are called upon as witnesses responding to questions put to them by the prosecution. It may also bring to light events of the past that may not have been spoken about in Cambodia or other communities before the opportunity of the trial.¹⁶

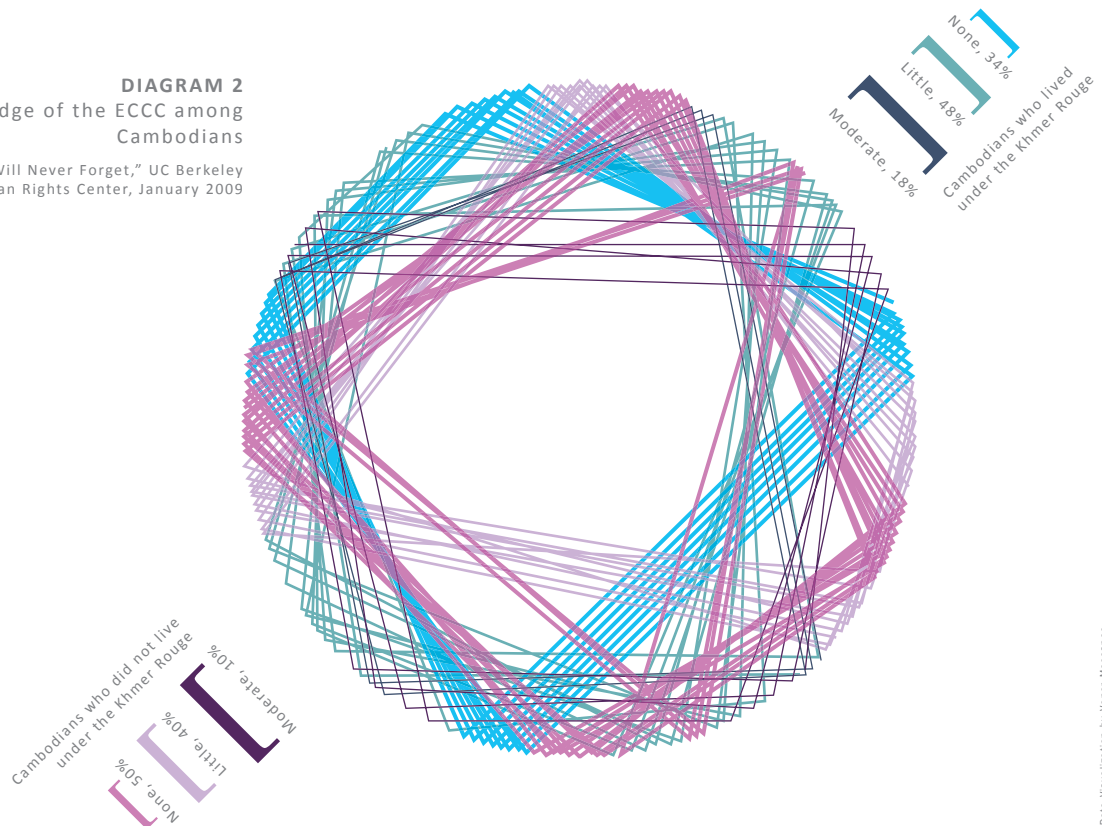
HEALING AND CLOSURE. It is hoped that allowing victims to share their experiences and their losses, to be heard, and to receive a final judgment will support the personal healing of both civil parties and complainants.¹⁷

EMPOWERMENT. By being informed about the process and having their views presented at key stages of the process, it is hoped that involvement as a civil party will be an empowering process.¹⁸

SYMBOLISM AND REPARATIONS. The recognition of victims as essential actors in the case has symbolic power. Further, victims have a

DIAGRAM 2
Knowledge of the ECCC among
Cambodians

source: "So We Will Never Forget," UC Berkeley
Human Rights Center, January 2009



Data Visualization by Vener Macaspac

right under international law for reparations and can inform the court of their priorities for any court-awarded reparations.¹⁹

Yet these purported benefits are very much contested. Other observers point to potential negative aspects of victim participation. For example, they argue that it can delay proceedings²⁰ or be unfair to the accused. From a victim's perspective, critics argue that participation may in fact be re-traumatizing and reignite old conflicts, and that many victims are distant from the process and not able to experience 'empowerment.'²¹

The victim participation process at the ECCC is still evolving. In Case 001, 17 lawyers represented the different civil parties, and lack of coordination led to repetition, frustration and delays.²² As a result of an Internal Rule amendment in February 2010, there are now two lead co-lawyers (one Cambodian and one international) to represent all civil party lawyers.

Another challenge to the efficacy of victim participation in the ECCC is the lack of resources for effective court outreach. A 2009 study by the Human Rights Center at UC Berkeley found that 39% of people within Cambodia had no knowledge of the ECCC, and 46% had only little knowledge.²³ This survey did not include diaspora communities, and little research has been done into the U.S. diaspora's levels of knowledge about the ECCC. Outreach by the ECCC to victims is important because

it can garner a broader public understanding of the goals and limits of the ECCC, provide the court with valuable feedback, and can lead to valuable information being provided to the court to assist with prosecution.²⁴

Failure to carry out effective outreach can lead to misunderstanding and disillusionment with the ECCC. The significant number of Cambodians now living in the diaspora, and their unique stories mean that outreach strategies should also engage diaspora communities (see further, RECOMMENDATIONS).

CAMBODIAN DIASPORA IN THE U.S.

After the fall of the Khmer Rouge, the U.S. accepted an estimated 120,000-150,000 Cambodian refugees.²⁵ These refugees settled across the country, but formed several large communities in Lowell, Massachusetts, and Long Beach, California. Many of those who arrived were single mothers, their husbands having been lost in the conflict, and they had to put the past behind them and make ends meet. Several studies have found Cambodians to be the most traumatized of all South East Asian refugees coming to the U.S. in the late 1970s and through the 1980s.²⁶ These refugees have suffered ongoing trauma from their experiences, compounded by a lack of access to counseling and an inability to share their experience with community members due to isolation from other Cambodians.²⁷ They continue to experience the following challenges at a far higher rate than the general community:

- Poverty²⁸
- Illiteracy
- Prolonged Dependency on Welfare
- Cultural Differences
- Social Isolation
- Language Barriers
- Loss of Social Status
- Psychiatric Stress
- Post-Traumatic Stress Disorder²⁹

The Cambodian-American community that grew from Khmer Rouge refugees continue



DIAGRAM 3
Distribution of Cambodian-American Civil Parties and Complainants in the U.S.
source: Center for Justice and Accountability

Data Visualization by Vener Macaspac

to feel the effects of that trauma today. One survey found that 67% of Cambodian-Americans suffer from post-traumatic stress disorder, a rate 17 times higher than the average American.

In 2009, ASRIC (Applied Social Research Institute of Cambodia) initiated the Cambodian Diaspora Victims' Participation Project (CDVPP), "which functions as an instrument for participation for survivors who are interested in filling out and filing Victim Information Forms (VIFs)."³⁰ ASRIC believes participating in the ECCC is empowering by "transforming victims into witnesses and facilitate individual and communal healing through justice." ASRIC held workshops in Long Beach, Santa Ana and San Jose, California; Portland, Oregon; Lowell, Massachusetts; Washington, D.C. (including surrounding areas in Maryland and Virginia); and Philadelphia, Pennsylvania.

ASRIC filed complaints for 129 complainants and applications for 44 civil parties in relation to Case 002. Almost all of these individuals are represented by CJA.³¹ It is possible that other organizations have also supported civil party applications, and some have filed on their own, such as Sophal Ear who is interviewed for this report.

Of the civil parties represented by CJA, 30 have been accepted in Case 002 and all of those not accepted have appeals pending. According to CJA's records, 56% (23) of the civil parties are men, and 44% (18 parties) are women. CJA's civil party clients are mostly from Massachusetts (29%), Pennsylvania (27%) and California (24%).³²

RESEARCH QUESTION

Our principal research question was why Cambodian-Americans chose to participate in Case 002 before the ECCC. In addition, we gathered information about their experience of participation to date and its impact on them, their sources for information about the ECCC, and their expectations of participating in the Court.

METHODOLOGY

We chose a mixed methods approach to answer these questions. First, we developed a questionnaire, which was mailed to all Cambodian-American civil parties and complainants in the U.S. represented by CJA. This survey posed questions about motivations for participation, and the impact of participation on them. We also conducted in-depth interviews with six Cambodian-Americans, and conducted field visits to two Cambodian-American victim participation related events for non-participant observation.³³

This mixed approach was intended to gain both broader information about common patterns of participation within the population, and a deeper insight into the motivations and expectations of those who had chosen to participate. Because questions of motivation can be complex, we wanted to conduct the in-depth interviews to explore the mix of reasons, uncertainties and hopes that people held.

We also did not differentiate between civil parties and complainants in our research, although we did ask people if they knew which one they were, and their reasons for seeking to participate in the ECCC as one or the other. The reason we included both complainants and civil parties in our research was that, first, both had decided to participate, and second, to date both civil parties and complainants have had a similar level of engagement – attending forums and completing statements to send to the ECCC. For practical purposes and also given only 44 people are civil parties, we chose to expand the research to include complainants to ensure more responses.

SCOPE AND LIMITATIONS

Our research has a number of limitations. First, we only sent the survey and interviewed Cambodian-Americans who had been accepted by the ECCC as Civil Parties or Complainants, rather than Cambodian-Americans more generally. We chose to limit the cohort in this way in order to gain specific information on those already engaged and participating in the ECCC.

Survey responses received were also a relatively small group of the total number of participants, and likewise, only a small number of in-depth interviews were conducted.³⁴ The low response rate to the survey is perhaps not surprising, given that the Cambodian-Americans participating in the Court are geographically diverse locations, may have limited literacy, and had limited contact with ASRIC or CJA subsequent to filing their complaint with the Court over one year ago.

However, we hope that our results shed some light on individual motivations and experiences of participation among the Cambodian-Americans in particular, and diaspora communities in general to the transitional justice process, and to provide recommendations for related researches in the future.

Further, our in-depth interviews were limited to Northern California (San Jose and Monterey) apart from one interview in Long Beach, Southern California. It is possible that the feelings expressed by interviewees may be different in different parts of the country, although this was not indicated by the survey.

I. CHARACTERISTICS OF PEOPLE WHO CHOSE TO PARTICIPATE IN THE ECCC AND IN OUR SURVEYS

OUR STUDY FOCUSES ON FINDING OUT WHAT KINDS OF PEOPLE AMONG THE Cambodian diaspora in the U.S are interested in participation in the ECCC. If certain characteristics can be identified, this could be used to both reach out to these people, and also provide insights on how to engage others. Of the individuals that responded to the survey, half were in California and Massachusetts, with only one or two responses from most other states.

Photo by Rebecca Palmstrom



PHOTO 2

A Buddhist temple in San Jose, California serves as a venue for the gathering of Cambodian-Americans where they tell their stories and learn about the transitional justice process.

The civil parties are mainly located in the states of Pennsylvania (27%,11 civil parties); California (24%,10) and Massachusetts (24%,10).

The complainants who responded to us were mainly located in the states of California (71%, 92 complainants); Pennsylvania (13%, 17 complainants).

In total, the responses to our survey came mainly from the states of California (64%, 14) in the case of complainants and Massachusetts (50%, 4) in the case of the civil parties. For our interviews, all were conducted in California: four in San Jose, one in Monterey, and one in Long Beach.

COMMON FEATURES

We found that Cambodian-Americans who have chosen to participate in the Tribunal and to respond to our survey consistently demonstrated strong connections with Cambodia, both in the past and continuing to this day.

Almost all survey respondents had lived in Cambodia, and 83% lived there during the Khmer Rouge period. On average they had lived in Cambodia for 30 years before leaving, most of them left Cambodia between 1979 and 1980, which was right at the end of the Khmer Rouge period. Five of our interviewees arrived in America when they were in their twenties and early thirties, with only Sophal Ear leaving Cambodia when he was still a child. All survey respondents had returned to Cambodia at least once with many respondents indicating returning to Cambodia multiple times. Twenty-three percent of the respondents returned 3 to 5 times while sixteen percent returned 6 to 10 times.

These results were consistent with our qualitative interview results. In those interviews, interviewees described their continuing connection with Cambodia, in spite of the distance and time that separates them from their country of birth. As Kelvin So says:

“I still love Cambodia despite my half blood Chinese and Cambodian. I was born as Cambodian.”

Many of the interviewees are active within the Cambodian community centers or Buddhist temples and half of them described themselves as leaders in their communities.

We did not ask about income or education in our survey, or about past experiences in Cambodia. In the interviews however, we heard rich histories and detail about life in the U.S. that gave us some insight into the types of people who are applying as civil parties or complainants.

Unlike the diaspora as a whole, most interviewees in the qualitative research were very well educated - four of them speak French in addition to Khmer and English.



PHOTO 3

Mementos like pictures of their families are the only things left, which the survivors hold onto in remembering those who died under the Khmer Rouge.

Most of our interviewees also had high levels of education: Kelvin So gained a law degree in Cambodia while Sania Meas possesses three masters degrees and was a Fulbright scholar before the Khmer Rouge came to power. Sophal Ear has a Ph.D. and is currently an assistant professor.

Loss and grieving was a common theme. All, except one of our respondents had lost a close relative in Cambodia. From Sophany Bay who lost all three of her children, her brother, her sister, her mother; to Om, who lost her father, mother and brother; and through to Sophal who lost his brother and his father.

Many also spoke about memories and sadness from their past living with them today. Almost everyone spoke about nightmares and dreams they still have about Cambodia. Chanthon spoke about weeks and months of sleeplessness. Sophany Bay says:

“I never dream about my life in the United States. All I dream about are stories in the communist regime, Pol Pot regime. Sometimes I have nightmare. I scream at night.”

Many mentioned searching for some kind of relief from the mental health consequences of their time in Cambodia. Sania says:

“I still have denial about my husband’s death, about my son’s death... Every mother’s day, I dream of my husband. For forty years... Only after coming to America that I was able to deal with PTSD (post-traumatic stress disorder)... I went through a lot of counseling, it didn’t help me. I went to about a hundred session, nothing cured me. You ask me when I will be cured? I say I don’t think I will be cured until the day I die. Because too many (things) happened to my family.”

All of them spoke about violent episodes they had either witnessed or experienced, from torture and beatings to watching people blown up by landmines. Sania lost her teeth to beatings. Kelvin So explained:

“I was beaten and tortured by the Khmer Rouge soldier. My brother got killed, taken away without news, my uncles, my cousins. I have

a lot of uncles and cousins, they all vanished, no trace. I was called by the Khmer Rouge soldier for interrogations. Then I knew what's going on. He beat me. I still remember.”

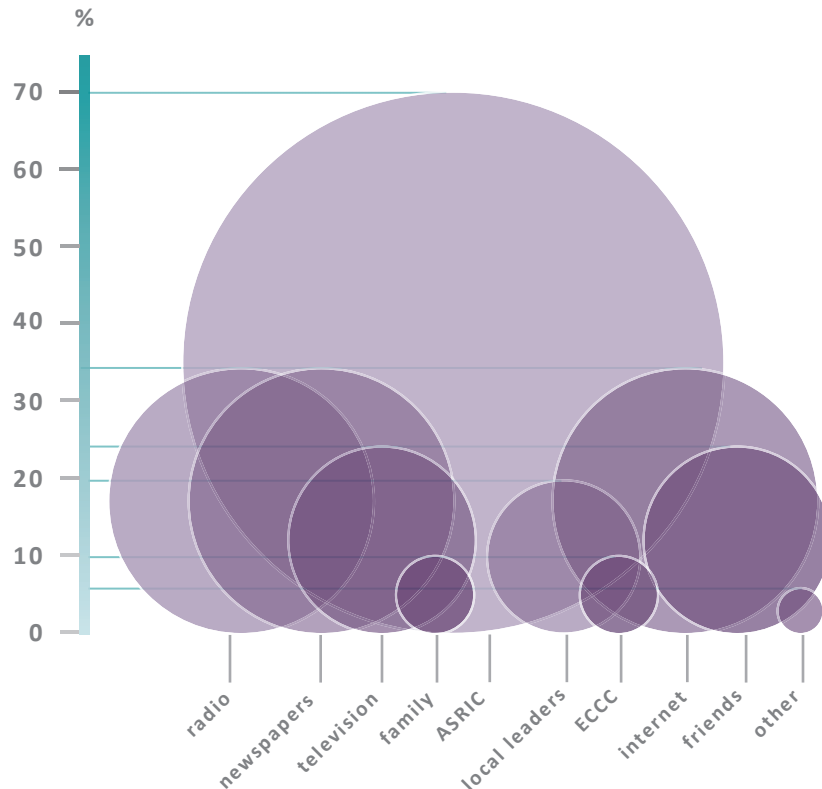
When people spoke about life under the Khmer Rouge they invariably mentioned hunger and had memories of risking their lives for food. Kelvin So described watching a land mine blow up a cow, but being so hungry that he crept out through the mined field to fetch the meat from the cow so he and his village could eat.

Our respondents' careers have also been shaped by their history. Chanthon has never been able to work since she arrived here. Three of them studied psychology and mental health in order to understand the impact on themselves and the community around them. Sophal Ear has become an academic specializing in Cambodia.

But life in America has not been easy. Sania Meas mentioned the hardship of working several jobs and never seeing their children because they were working so hard. But despite the difficulties, there was also a feeling that they were in many ways more fortunate than those who are in Cambodia. There was a feeling of sympathy for Cambodians who continue to struggle for survival in what they called a “developing” and “poor” country.

II. KNOWLEDGE OF THE ECCC AND THE OPPORUNITY TO PARTICIPATE AS CIVIL PARTY AND COMPLAINANT

DIAGRAM 5
Sources of information
about the ECCC
Data Visualization by Yener Macaspac



The ECCC provides for victim participation. It does not, however, engage in any kind of substantial outreach programs to inform victims about the court, or about the participation process. In light of this, we wanted to find out how victims learned about the court, what they know about the court, and what they understand about the process of participation.

As discussed above, the ECCC provides for victim participation. It does not, however, engage in any kind of substantial outreach programs to inform victims about the court, or about the participation process. In light of this, we wanted to find out how victims learned about the court, what they know about the court, and what they understand about the process of participation. Such responses may be used to develop a more effective outreach program, again possibly allowing for a greater degree of participation from the community.

Overwhelmingly, our survey results showed that participants had found out about the ECCC and the possibility of participating through one of only two NGOs – ASRIC (68%) and CJA (10%). Their involvement in the ECCC was again dependent on these two NGOs, with 78% of respondents naming ASRIC as the organization that provided information and organized the submission of their statement, and 7% referring to CJA.

However, survey respondents did not indicate an increase in their level of understanding of the court after their contact with both organizations. Respondents also indicated having minimal contact with ASRIC and CJA with 73% of respondents reported having contact with ASRIC once every six months or less, and 92% having contact with CJA only once every six months. They almost never had any contact with the ECCC itself. The low levels of contact may be attributable to a range of factors including the disparate locations of Cambodian participants, the lengthy court timeframe between application and trial, and the lack of resources of NGOs (ASRIC, for example, is run solely by volunteers).

Further, a low contact rate between the respondents and CJA can be attributed to first, the fact that most respondents, particularly the civil parties, have not yet met their CJA lawyers or were meeting them for the first time when this survey was conducted; and second, that respondents included complainants who are not part of the cohort of civil parties that CJA is representing.

Another possible reason of low contact between respondents and the NGOs could be that the respondents filed their VIFs two years ago prior to this survey, and that

there was minimal court activity in regards to the respondents' participation, which needed to be relayed to the complainants and civil parties.

III. PERCEPTIONS OF THE ECCC

Perhaps because of their little contact with the Court, most people did not consider themselves well informed about the ECCC or its processes. Only 25% of the respondents described their knowledge of the Tribunal as good or very good. Others evaluated their knowledge as average (39%) or little or not informed (36%).

Based on the survey responses, it seems that people are hearing about the ECCC through friends and family, or from the news. In general, perceptions of the Court are not positive, mainly based on stories of alleged corruption as well as the decision in Case 001.



Photo by Rebecca Palmstrom

PHOTO 4
Cambodian-American civil parties and complainants attend a one-day gathering in San Jose, California to discuss updates on their cases.

Perceptions of Case 001 at the ECCC among respondents and interviewees were mixed. The Cambodian-Americans that we interviewed and surveyed about the ECCC revealed that they had little confidence in the ECCC's independence. Sophal Ear confided that:

"I (have) been told that the Tribunal was getting visits at night, in the middle of the night, from the Cambodian military intelligence, going through the files on computers there. I think that's really unacceptable. Now the person who told me

was an international person working there, and this person did not feel that there was anything wrong with this."

Kelvin So was even more skeptical:

"First I was thinking (about the prosecution of Duch during the first trial) that it was a joke, because I didn't believe it. Because how can you prosecute Khmer Rouge? And they are still in the present government. They are Khmer Rouge (and) ex-Khmer Rouge too!"

Our interviewees also felt very strongly that the ECCC had been too lenient with the sentence in case 001. Sophany Bay was furious:

"I saw that Duch (will) stay in prison about 19 years. I say it's not fair. It's not fair! He killed so many people. About 10-11 thousand in Toul Sleng prison. Why (will) he stay in prison (for) only 19 years? You see

in (the) United States, even (if a person) kill one (or even) two people, they stay in prison forever. Forever. So that's why (when) I saw the first trial like that, I want the second year to have real justice. Yes! Because in Cambodia, the law says that they don't have (death penalty). They just put them in prison forever."

However, concerns about the Court were to some extent mitigated by the international element of the Court. As Cita, not her real name, a complainant, stated:

"We want those people to be prosecuted. And who can initiate and take action from the beginning if there's no international community to be involved? We as Cambodians are powerless. We cannot do it!"

Sania's confidence was also boosted by the international element of the ECCC:

"I'm Cambodian, I know my Country very well. I know how corrupt it is, everything is. I don't have any hope that my judgment (will go) well. But since I have my friend who is a U.S. citizen over there, so (I have a) little bit of hope that the judgment will be all right."

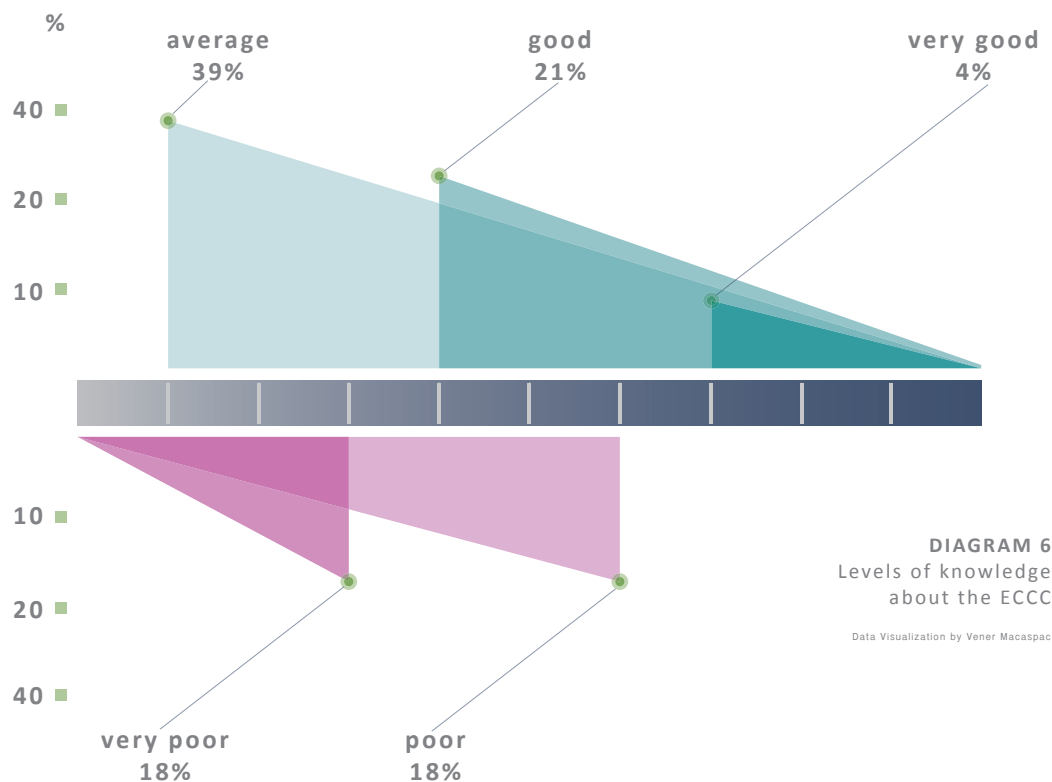


DIAGRAM 6
Levels of knowledge
about the ECCC
Data Visualization by Vener Macaspac

Others, however, found the international element to be confusing and possibly problematic. Sophal Ear asked:

“Should it be the Cambodian national law that should prevail over the Tribunal or should it be the ECCC as an Extraordinary Chamber in the Courts of Cambodia and so you know who is really in charge? I would say even today you see an impasse whereby the decision to either indict more people or not is kind of in a frozen state because I would say that the international side has a desire to do that but the Cambodian side is adamantly opposed to it. So this seems to indicate that there are weaknesses in this process that cannot be overcome.”

One thing that became clear from these mixed responses is that participants are not necessarily well informed about the ECCC and the legal proceedings. This is perhaps not surprising as legal proceedings are complex.

IV. MOTIVATIONS FOR PARTICIPATION

Determining precisely what factors motivate people to participate would also be valuable information for future tribunals that seek to engage the diaspora community. Our studies found that people want to participate in the ECCC for a variety of reasons.

SEEKING JUSTICE

The strongest theme that emerged in relation to motivation for participation was a desire to seek justice – almost 80% of respondents reported that justice for themselves or their families was a motivating factor. As Sania told us, “When Professor (Leakhena) Nou (of ASRIC) asked what do we want, I say ‘Justice and civil rights!’” and Sophany said “I really want to see justice because I am the most victim of the Khmer Rouge.”

Justice, however, is a broad term and means different things to different people. Our interviews explored people’s perceptions of justice, and identified justice as being about a sense of duty to family members, as well as having punitive characteristics.

JUSTICE FOR SELF AND FAMILY MEMBERS

Everyone we spoke to said justice meant both recognition for their own losses, and for their families. As Sophany said:

“I am the most victim of the Khmer Rouge regime. They killed my whole family, they killed my children. I want you to know (that) I want justice.”

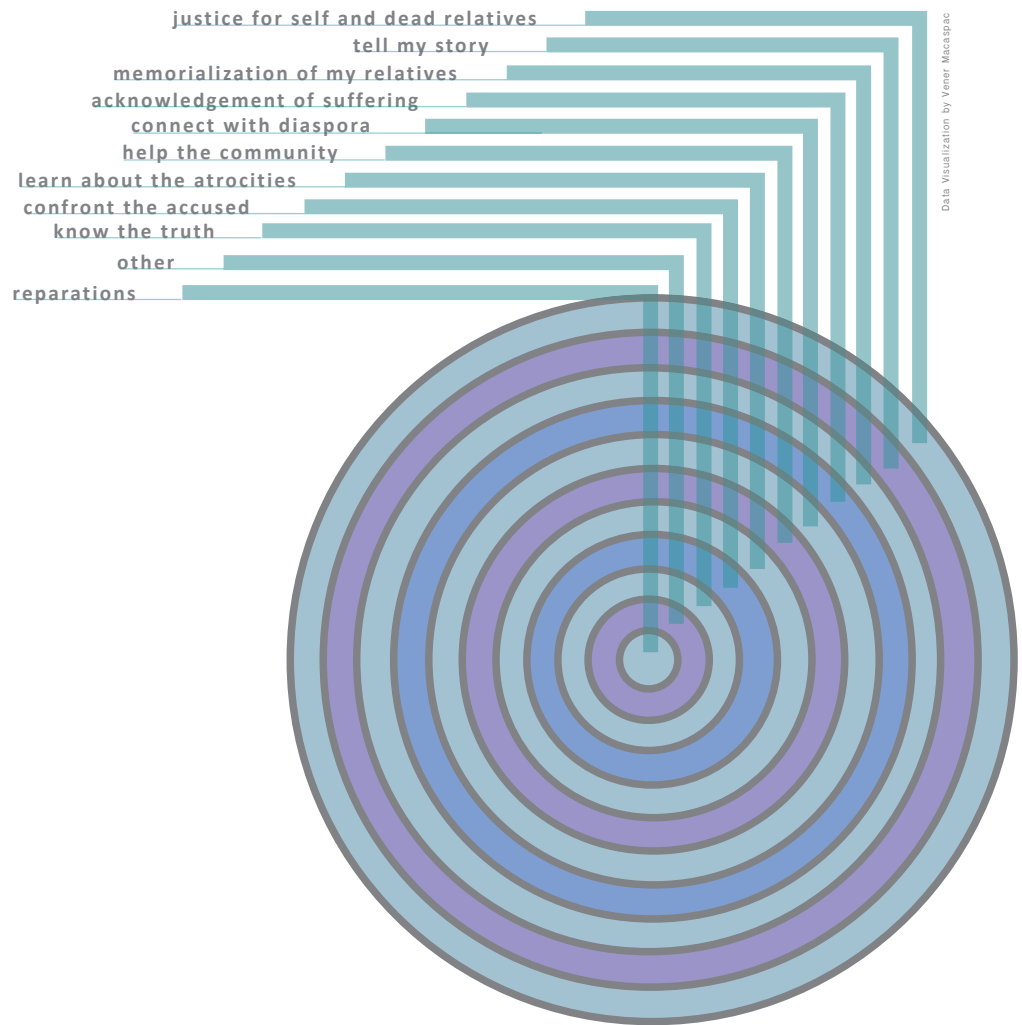


DIAGRAM 7
Motivations for
participation in the ECCC

All of the interviewees had lost several relatives during the reign of the Khmer Rouge, and they expressed the need to participate in the ECCC as a formal mark of acknowledgement. Sophany Bay later explained that:

“I am getting old right now. (I am) 65 years old. I say that before I die, I need to see justice for my children, for my parents, for my family. Because if I do not see justice, it seems I cannot close my eyes properly when I die. The spirits of my children, my parent, still ask me why I did not try to find justice for them.”

Sophal Ear, the only second generation civil party to be interviewed, explained his motivation as:

“I wanted accountability for what had been done to my family, and I wanted justice for the loss of my father and the loss of my brother, my oldest brother. These two people needed to be memorialized in some way.”

One of the hardest aspects for many of the interviewees was that their relatives were disappeared or lost, and the family had no opportunity to go through the required Buddhist rites to put their soul to rest.

He later said it was important to him that there was justice for all Cambdians who had died, to ensure that they are not forgotten:

“I just want to make sure that something is brought up for the (victims). Look, people have died, there are lots of victims, what will make sure that their suffering is not forgotten at least.”

One of the hardest aspects for many of the interviewees was that their relatives were disappeared or lost, and the family had no opportunity to go through the required Buddhist rites to put their souls to rest. Some have previously returned to Cambodia to find out what happened to family members. Chanthon was fortunate in that she went back to Cambodia and found some record of her brother. She said: My brother died in Tuol Sleng (prison). I saw his name on the list, but there was no photo of him.”

Kelvin So, however, was looking to the ECCC to provide a sense of closure for his lost relatives:

“My brother got killed, took away without news, my uncles, my cousins. I have a lot of uncles and cousins (and) they all vanished. No trace. So I decided that this is the time for me to find justice for the people who already died (and) passed away.”

For others, the ECCC is not enough to heal these wounds, however. Sania told us that:

“My husband is gone. I can’t even revive my husband back. My child is gone. Bee (my child) is gone. He (Bee) was born here. So, Bee is gone, my husband is gone. I don’t care any more. You see why I feel so bad because I cannot find my husband’s ash. I cannot find my son’s ash to put in a stupa. And this pains me to death. I cannot find my husband, I cannot find my son. This make me very pitiful. So, I don’t care (about) the judgment day.”

PUNISHMENT

For most people justice had a retributive element – people are still angry about what happened, and they want to see people held accountable. A third of the respondents chose to participate because they wanted to confront the accused. Kelvin So said:

“If I could go (to Cambodia) (and) if (I) had no financial problem I would go, because I want to see those Khmer Rouge criminal face-to-face.”

Sania was keen for leaders of the Khmer Rouge to receive punishment for their crimes:

“I think it is good (that Duch was in prison) so he can learn something, so he can feel how people feel when they are in prison. I want to ask him in person: ‘Put yourself in the prisoners’ shoes, how do you feel?’”

Sophany Bay said that:

“Justice, it seems like if they have (a) court, (an) international court, they can find justice. In 1998, I asked to bring the killer to international court. Now, I heard (about the trial), so I want to (participate).

I want to ask those leaders, because they have to take responsibility for that regime. Even they didn’t kill, they didn’t use their hand to kill my son or my father, but the high authority (are) supposed to take responsibility for that regime.”

Sophany Bay said she wants “real justice” as in prosecution and conviction and a sentence that she thought was appropriate for the crimes. No interviewee mentioned reconciliation in their conception of justice.

PHOTO 5
Sophal Ear, a professor of international studies and shown here with a photo of his mother, demands accountability over the deaths of his father and brother.



Photo by Vener Macaspac

SHARING THEIR STORIES

The second most common reason for joining the proceedings was the chance to tell one’s personal stories, which was identified by 65% of the survey respondents and almost all of the interviewees as a motivation for participation.

HEALING

Sharing these stories was described as cathartic. Many interviewees revealed to us that they are already finding ways to tell their stories even without a forum. Sania Meas told us that she has written 200 pages of testimony about her experiences. In the middle of our interview with Kelvin So, he pulled out a hand-held recorder and told us he takes it everywhere he goes and records his thoughts. Sophany Bay said that she wrote songs about her experiences.



PHOTO 6

“I never dream about my life now in the United States, only the past,” Sophany Bay shares how her experience under the Khmer Rouge has encouraged her to speak out and tell her story.

The need to express these experiences may be related to the continued preoccupation with events of the past. Every interviewee we spoke to felt their experiences in Cambodia are ever present in their minds. Chanthon spoke about perpetual sleeplessness. Sania Meas said told us that

“I still have denial about my husband’s death, about my son’s death. I dream of my husband. For forty years.”

The need to remember and record their history seems an important part of coming to peace with what happened. It is thus not surprising that many embrace the opportunity to participate in the ECCC as a formal process of sharing experiences and putting them on the record.

It is possible that participation may also help with healing. As Sophany Bay told us: “(People who suffered under the Khmer Rouge regime) have depression if they keep inside, so we have to talk. We have to talk and express (our) feelings, see people in the community, do some kind of activity, social activity or participate in community. It’s better for them! And (if) the international court and the court in Cambodia do a good thing, they can help reduce (the) depression of the victim.”

As a counselor for Cambodian-Americans in San Jose, California, Sophany Bay added:

“The majority they want to talk, they want to express their feeling. Because they don’t want to keep inside! Keep inside is not good, (they get) more and more depress. They want to talk, to speak out, to let people know about their story. It’s good for them. (If they) still

keep inside (their feelings they get) so depress, and just stay home and stay in a room quietly, (and) withdraw from society. It's not good."

This desire to narrate their trauma was also borne out in our survey results in which 65% of respondents said that they were motivated to participate in order to testify about their suffering. Sharing of experiences is also regarded as the respondents' responsibility to the next generation and to Cambodia.

PASSING EXPERIENCES ON TO THE NEXT GENERATION

A persistent theme throughout the interviews was a sense of generational divide between Cambodians who had arrived in the U.S. as refugees, and the second generation that had grown up as Americans. Interviewees expressed sadness that their culture was not being carried forward, and concern that their children did not understand what they had experienced. As Sania Meas explained:

"We are very traditional, but the young generation they don't care anymore. They don't care unless those born in Cambodia and expatriated here as refugees then they are interested (with the past). But the ones who (were) born here, they don't care. They don't even know anything."

She spoke of how she showed her son the pages of a manuscript that she had written about her experiences and that her son felt uncomfortable and told her to put the manuscript away. Kelvin So believed that because of this disconnection, the second generation would not be interested in the trials:

"The young generation (are not) really interested very much. Only the old generation like myself who survived the Khmer Rouge. Those who still remember the struggle, who still remember the killing fields. Those who really pay attention to the trial more or less, but not the young generation."

The interviewees believed that it was important that their memories be passed on. Sophany Bay said that she wanted the younger generation to know about the "killing fields" so that they would be inspired to "build up their life better." And others thought it would help them to respect their elders and carry on their culture.

This aspect of story-telling may be relevant also in Cambodia where until recently little is taught about the Khmer Rouge in public schools. But it also seems a particular feature of the diaspora community's experience with the ECCC. The refugees who arrived in the U.S. as adults have not only a generational divide to overcome when connecting with their children, but also a large cultural divide between traditional Cambodian and American culture. Having the opportunity to tell their experiences has allowed a sense of recognition of their experiences.

(CONTINUE ON PAGE 25)



Photo by Rebecca Palmstrom

SANIA MEAS

SANIA MEAS WAS BORN IN THE YEAR OF THE RABBIT. SHE IS a woman of many names, a throaty laugh and a fondness for British detective series shown late at night on American satellite television. She can recall with painstaking detail the meals she cooked between the years 1975 and 1979 (barbequed fish, sticky rice and purple and white yucca plucked from the forest) and the sound her son's pet pig made when it was slaughtered on the road out of the city she grew up in ("I don't let my children see it..."). She still has a scar on her hand caused by the leeches from the rice fields where she and her children were forced to work. Now in her 70's Meas lives in San Jose, California and is a participant in the ECCC.

When Sania Meas' mother was pregnant with her in 1939, she dreamed about a rainstorm. The rain fell from the sky so hard Meas' mother pulled her sarong over her head to shield herself from its weight. As the rain fell, Meas' mother realised it was not water but drops of gold that were falling from the sky. So Meas was named after that dream: goddess of golden rain or star. It was the name of a prince. In her first few months of life Meas was so sick her father worried they had named her wrongly and they were being punished for it. When the little family moved from the countryside to the capital, Phnom Penh, in 1940 the communists

SANIA MEAS, continue on page 25

(CONTINUATION FROM PAGE 23)

STRENGTHENING THE RULE OF LAW IN CAMBODIA

Cambodian-Americans also see participation in the ECCC as fulfilling a responsibility toward the people in Cambodia. Partly, this was a sense that they were lucky to have had the chance to move to the U.S. and wanted to help Cambodians who are struggling economically. Sania Meas said

“I feel very sad and hurt, my feeling numb (and) sad (about) how poor they are.”

One of the ideas behind hybrid tribunals – tribunals supported by the international community but located in a domestic court system – is that they can help to strengthen and develop domestic legal systems in accordance with international legal standards. Many participants in our interviews and surveys intuitively identified this goal as motivating their participation. As Sophany Bay told us:

“The big reason for me is that I want the next leader of Cambodia to stop using the law of the jungle. Stop killing people, stop using

(CONTINUE ON PAGE 27)

SANIA MEAS, continuation from page 24

were gaining momentum and it seemed safer to change the toddler’s name to something less royal and less obviously intellectual. “I only changed the first name for survival, that’s all,” Meas says. So at one-year old Meas received a new name - Sania, which means promise.

Sania Meas’ name might have changed, but she was still a star. She grew up to be a professor at one of Cambodia’s universities and won a Fullbright scholarship to Kent State, Ohio. “I applied without telling my parents,” she says. “They don’t want a young girl to travel alone, even a scholar.” Three days before she boarded the flight to America she told her mother and grandfather she had applied and won the scholarship and despite reluctance she was allowed to go.

Four years later, in 1965, she returned to Cambodia as a mother herself. She called her new-

born son, Bee. Over the next ten years she and her husband, an architect, had two more children, Jerry and Henry.

As April 1975 approached there was tension in the country and particularly in Meas’ household. Meas was teaching French to the children of ambassadors in the city and had been told she could flee to France or Australia if trouble came. As the Khmer Rouge entered Phnom Penh, Meas begged her husband, “I said, let’s go!” she says. But her husband refused. She recalls him saying: “Nah, I’m a technician therefore nobody is going to kill me.”

At five in the morning, straight from his office at the Public Works, Meas’ husband accompanied his best friend, an engineer who had also studied in America, to welcome the communists. “I said don’t go,” Meas says. But he did not listen.

SANIA MEAS, continue on page 26

SANIA MEAS, continuation from page 25

As they greeted the communists they were recognized as intellectuals and arrested. Perhaps it was that they wore glasses, perhaps it was the clothes they wore, or the way they spoke. Meas' husband was kept and tortured until November 27, 1976, Meas says, when he was beheaded. His best friend was also killed.

"I was full of anger," Meas says. "Number one at my own husband. Number two with the communists."

Meas' recalls her eight-year old son, Henry, saying, "I'm going to be a pilot so I can bomb all the communists." Ten-year old Jerry wanted to be a doctor – a profession that was now, overnight outlawed in communist Cambodia. This was the era of a new Cambodia and the beginning of year zero. The grieving family buried all their possessions and along with the entire population of Phnom Penh left for the countryside, afraid that the Khmer Rouge would do as they claimed and drop bombs on the city.

Once in the countryside Meas and her children were separated into different working camps

**Meas kept her education secret.
At one point a Khmer Rouge
leader heard a rumour that Meas
was a health practitioner and
beat her until her
teeth fell out.**

and forced to harvest rice. Meas kept her education secret. At one point a Khmer Rouge leader heard a rumour that Meas was a health practitioner and beat her until her teeth fell out. As she recalls, as they beat her, they told her: "We don't like doctor, we don't like engineer... We just like farmer, like peasant. You guys stay in your air conditioning for the whole day and take advantage of the poor people. We are the poor people whom you take advantage of, so I need to kill you."

Meas survived only because another Khmer Rouge leader took her side and claimed she was a hard worker and not an intellectual. There was little food and Meas would figure out ways to cheat the system or smuggle fish from local fishermen to survive. "I had to improvise whatever I can to feed my group," she says. Often she would uproot vegetables from the forest to supplement the meager rice rations they lived on. Her son like so many during that time suffered malnutrition. "His legs were skinny, like heron legs and his stomach protruded, swollen and his genitals, also partly swollen," Meas remembers, "when he passed by me, you know, I smell the smell of fish when you have taken it from the sea and you let it die."

She had managed to save her engagement ring, by wrapping it in some traditional herbs, around one of her children's necks. She gave it to a Khmer Rouge leader in exchange for a little extra rice to save her son's life. But in the struggle of those years Bee, her U.S.-born son, died.

Meas grew up speaking French, the language of the intellectuals of Cambodia. Her English today,

SANIA MEAS, continue on page 27

Meas still dreams. They are not dreams of falling gold, as her mother once dreamed, but dreams of Cambodia and her dead husband and child. She does not believe being a party in the ECCC will rid her of her dreams, but she does want justice in Cambodia.

SANIA MEAS, continuation from page 26

as she sits clasping weathered hands at a table in a Buddhist temple in San Jose, still holds the hint of the French she spoke at school. When she describes the beatings she received at the hands of the Khmer Rouge and the loss of her teeth, she uses the French word, “dent.” Since coming to America as a refugee she has completed another master’s degree – in psychology. She hoped it would help her deal with her trauma. But, she says, it doesn’t help. “Nothing cures me,” she says. “Nothing, I’m still stressful and hateful and in denial, everything, you know. I mean, I accepted why my husband was dead, but I can not face it.”

Meas still dreams. They are not dreams of falling gold, as her mother once dreamed, but dreams of Cambodia and her dead husband and child. She does not believe being a party in the ECCC will rid her of her dreams, but she does want justice in Cambodia.

“I want change,” she says, “I want the new generation to know how bad the Communist regime was from 1975 to 79. That’s all.”

(CONTINUATION FROM PAGE 25)

power and the law of the jungle. I want to talk to the next leader (of Cambodia) not to copy the leader of the Khmer Rouge regime. If the leader of Cambodia still uses the law of the jungle, the people of Cambodia will have nightmares and depression forever. They can not find peace of mind. They can not do something that will make their lives better.”

Sania Meas also said:

“All I ask is civil rights. I don’t want people (to be) abused without investigating. I want them to (uphold) civil and political rights, not the jungle law anymore.”

(CONTINUE ON PAGE 28)

“I would like to make sure that this legal process which is taking place through the ECCC at least says: if you kill a bunch of people you know something is going to happen to you, something should happen to you.”

- Sophal Ear, Civil Party

(CONTINUATION FROM PAGE 27)

Sophal Ear was also concerned about general accountability in Cambodia through his academic work on Cambodian political economy, and hoped that the court would make a statement about the rule of law. He explained:

“The government, the authorities in Cambodia are today not held to account for what they do. Part-

ly because, frankly, while there is a democratic system veneer to what goes on, election wise... because Cambodia has very low tax revenues, and domestic revenues in general, and a lot of foreign aid, this kind of breaks the accountability, that is the feedback loop needed to make people understand who is the boss, and that is usually the people should be the boss and the leader should be their servant and so on, but instead Cambodia has that in reverse which is the leaders are the boss and the people are their servants. So, I would like to make sure that this legal process which is taking place through the ECCC at least says: if you kill a bunch of people you know something is going to happen to you, something should happen to you.”

Interviewees in general expressed the belief that the Tribunal was important for Cambodia as a society, and that they had a duty to support the Tribunal in its work for this reason.

REPARATIONS

Some suggest that victims may want to become civil parties in order to get some compensation for what happened to them. However, this was not borne out at all in our research. Reparations was one of the least selected reasons for participating, with only 10% of those surveyed mentioning it as a motivation. Those who did mention some kind of reparation usually related it to collective or symbolic reparations for the community. Nobody mentioned individual reparations.

Again, this can be related to the notion of social responsibility. People want to see the Khmer Rouge pay for the damage that they did to Cambodians by contributing back to the community through schools and hospitals. As Kelvin So said:

“We don’t want anything, (we don’t want) money from them. We want to get benefits for the people inside Cambodia because they are poor. They need help, they need more doctors, they need good



PHOTO 7

Most of the Cambodian-American civil parties and complainants see participation in the ECCC as living up to their responsibility to the people of Cambodia, particularly to the younger generation of Cambodians.

health system. Let them (Khmer Rouge leaders) build hospitals and schools for Cambodia.”

Others hoped for a reparations program that would memorialize those who had been lost. Sophany Bay saw the trial as a way to facilitate the creation of a memorial site:

“We want a place (like a) library or museum to put the pictures of (our) parents, family, siblings, children, and other things that they have before the communist took over the country. For me, (I can put) my baby’s picture. I (can) write her name (so we can) remember. It’s a kind of memory to remember.”

The views of Cambodian diaspora in the U.S. seem in general to support the approach of the ECCC, which can only offer collective or symbolic reparations to the Cambodian community.

TRUTH-SEEKING

Transitional justice theory suggests that creating a collective and final version of the truth is also an important function of a Tribunal. However, again, this did not appear as a main motivating factor for victim participation.

Some participants indicated that they saw participation in the ECCC as an opportunity to find answers to questions that have long plagued them. Sophany Bay told us that:

“I want to go to the court to see those killers and to ask them. I have three questions that I want to ask them: one, I want to ask them why you killed so many people? Second, (did) you want to kill people because you want power, to get power? (That) you don’t want to lose your power? Or (was there) somebody behind you? Number three, who stayed behind the scene? (These are the) three questions I want to ask those killers, those Khmer Rouge leaders.”

“I have three questions that I want to ask them: First, I want to ask them why did you kill so many people? Second, did you want to kill people because you want power, to get power? Or somebody is behind you? Third, who stayed behind the scene? These are the three questions I want to ask those killers, those Khmer Rouge leaders.”

- Sophany Bay, Civil Party

Opportunity to tell their own story to the court and to the younger generation, than in having a definitive version of the truth.

Truth-seeking was not a very strong theme, however. One interviewee was actually skeptical of the Court’s ability to find ‘the truth’ because it did not give much space for perpetrators to tell their own version of events or explain what really happened. Sophal Ear stated: “I think this process is not suited for truth-telling. I think it has actually increased the range of permissible lies in some ways because people are now able to say: Hey, I confess to killing or to being head of this torture center, but yet I expect you to set me free because I am not really responsible for my actions.”

Overall, it seemed that people were more concerned with having the opportunity

V. REASONS FOR NOT PARTICIPATING

We did not meet with people who had decided not to participate, although some of our interviewees explained to us why they thought people would make this decision. Usually, the reasons were a wish to forget the past, and an unwillingness to share painful experiences. As Sophany Bay explained:

“Some people don’t want to come (out) to talk about their story, to let people know about their story. Some people have fear. They still have fear to talk, and some people they don’t want to talk (and) to remember about the past because it’s too hard for them. They want to forget it. (They) don’t want to remember.”

One researcher also briefly spoke to a community leader about his reasons for not participating and he mentioned the fragile state of his health, and the emotional

difficulty he had recalling events of the past. He did not wish to be stressed or anxious. As Chanthon said, “many people don’t want to do it because it makes them remember things and they find it too upsetting, they just want to forget.”

VI. EXPERIENCE OF PARTICIPATION TO DATE

Although applications to the Court to be either civil parties or complainants were filed over a year prior to this research, participation for most respondents to our survey has largely consisted of making the decision to participate, and completing their statement. The interviewees shared interesting perceptions of these experiences.

COMPLAINANT AND CIVIL PARTY

Most participants learned about the Court in detail from attending the one-day forums that ASRIC organizes around the country. At the forum, potential participants decide whether or not to become involved, and if so, whether to be a complainant or a civil party. Most survey respondents were able to identify their preferred mode of participation although seven people did not answer this question, suggesting some confusion. We were able to interview three civil parties and three complainants, and this provided an opportunity to gain insight into the motivations for selecting each particular mode of participation.

The civil parties did not explain why they made the decision to choose this option. However, of the complainants, the main reason for not choosing to apply to be a civil party was a mistaken belief that it would cost money because they would be required to hire a lawyer and travel to Cambodia. Two of the complainants said they would like to have been a civil party if it wasn’t for this. As Sania Meas said:

“I’m only a complainant, I can’t be there (during the hearings in Cambodia). I want to be a civil party but I can’t afford to be there. I don’t understand very well, I’m very poor.”

The third, Chanthon, said she was satisfied with her level of involvement as a complainant, and was also concerned that she would have to go to Cambodia if she was a civil party. However her worry was not the finances but the prospect of seeing the Khmer Rouge:

“I just wanted to submit my statement, I didn’t want to go to Cambodia or anything like that, I am happy just with my statement. Yes, they (the Court) might call me (but) I don’t want to go there. I don’t want to see the killers.”

In general, it seemed that participants had some confusion about the options for their participation and the consequences for them if they chose to become a civil party.

PREPARING STATEMENTS

For both civil parties and complainants, however, the main action of involvement has been completing the complaints and victim statements that have been submitted to the Court. These statements, which required the participants to detail their experiences of the crimes committed under the Khmer Rouge, were also written at the ASRIC forums. They were written in a communal space with many other people around. This experience was described as quite emotional for all who took part. Chanthon explained:

“We wrote the statement. We wrote it all together here at the center. It was hard (because) I (have forgotten) a lot. Before, when I was a teacher I could write quite fast, but now it takes me a long time and it brings back a lot of memories. I worked on my own. It is easier for me to focus my thoughts and write down what happened. With other people around it was harder. It is easier to write about it than talk about it. Talking about it brings up more emotions, writing is easier.”

Sophany Bay also recalled:

“I have some kind of emotional feeling at that time too but I tried to write even (if) it hurts my feeling.”

After submission, the applications to become a civil party were assessed by the Court and accepted or rejected. Technically, acceptance of a civil party statement is not about whether the court believes the content, but rather whether it describes the specific events that are being investigated and tried for Case 002. However, the interviewees who had been accepted felt a great sense of satisfaction about receiving news that their applications were successful. Sophal Ear recalled his feelings on finding out that his application was accepted:

“That was very good (being accepted as a civil party). I felt okay, all right. It felt great, it is a sense of being formally recognized as having had something happen to you, as opposed to (being told) you made this up, didn't you.”

Kelvin So expressed a similar feeling of validation:

“I am happy because it seems like they believe in me (in) providing all the evidence. I feel a little bit released. I feel okay. So I had been accepted, my complaint had been accepted, that means they considered me (and) my case. I am happy. You know, it's not that easy.”

The complainants' statements are neither accepted nor rejected, so they will not receive this kind of recognition. However they did not express dissatisfaction with this, although Chanthon recalled that she had put her number on the statement and was half-expecting that she would receive a call for more information, so she continued to think about her statement a lot.

(CONTINUE ON PAGE 35)

PROFILE



KELVIN SO

KELVIN SO KEEPS AN AUDIO RECORDER IN HIS POCKETS AT ALL TIMES. HE takes it from his inner jacket pocket and holds it carefully between his hands, fiddling with the buttons, until there's a spurt of noise and a sputtering voice fills the air. It is So's own voice. He listens, "this is the part I record from the beginning when my father left Cambodia, before the fall of Phnom Penh," he says in English. "I start from there and then I tell the story, how I've been evacuated, step by step."

He has kept the tape recorder for years, so that whenever he has a spare moment he can narrate his story. "Sometimes I close my eye, like this, and I can still see the picture of the old village. I used to live, to stay there," he says. Even in the height of the Khmer Rouge, as he and his family worked in the rice fields in forced labour, Kelvin So believed he would survive. "I believe in my dreams," he says. "One year before I escaped, I had dreamed, not every day, but often a lot of flags, like the United Nations, I could fly like superman. Sometimes I dreamed I could walk on the water. I was thinking about maybe, I will find my freedom." When the Vietnamese marched into Cambodia, So says he knew his dreams were true. "The UN rescued me, walking on the water and flying when you fly the airplane and when you cross the river, that's amazing."

Despite his positive outlook, life under the Khmer Rouge was not easy. "I was beaten, tortured by the soldier, the Khmer Rouge soldier," he says. "My brother got killed, taken away without news, my uncles, my cousins, they all vanished, no trace."

Kelvin So was a police officer before the communists forced him and millions of other people like him out of the capital Phnom Penh and into labour camps, separating the

KELVIN So, continue on page 34

He spoke about what he described as “luck,” but could just as easily be called his own resilience and quick thinking. At one point, Kelvin watched a land mine blow up a cow. He was so hungry that he crept out through the mined field to fetch the meat from the cow so he and his village could eat.

KELVIN So, continuation from page 33

children from the adults. He spoke about what he described as “luck”, but could just as easily be called his own resilience and quick thinking. At one point, Kelvin watched a land mine blow up a cow. He was so hungry that he crept out through the mined field to fetch the meat from the cow so he and his village could eat.

It helped him survive – as did his quick thinking. When the party first swept through the capital, the Khmer Rouge often forced people to write their own biographies, detailing who they were and what jobs they used to have, before the “Year Zero”. The party was looking for the bourgeois capitalists, who, they claimed enslaved the peasants. When it was the turn of Kelvin’s community, Kelvin took his old student card and used it to convince them that he was just a law student and not a police officer. Incredibly it worked and he was separated into the group that was allowed to live. All the other police officers were described as “intellectuals” and were killed. Kelvin spoke about this as the Khmer Rouge policy of “cleanliness” – intellectuals were seen, as he described it, as “pollutants” and “unclean” for the new society they were

building. He described himself and his family as born lucky.

Now, as a community leader in San Jose he feels a responsibility to Cambodia and to all those who died. That is why he applied to be a civil party at the ECCC. He imagines what he would say to the Khmer Rouge leaders on trial, if he had the chance. “How many millions of people died under your hand, not directly from you, but you are morally, politically (responsible), because you are a leader, you authorized them to kill people.” He wants them to accept that responsibility.

Kelvin So’s case was accepted by the ECCC. “I am so happy,” he says. “This is the first step, for Cambodia and for the people around the world. If you are successful to prosecute those Khmer Rouge then people will believe more and more in justice.”

(CONTINUATION FROM PAGE 32)

FOLLOWING EVENTS AND ENGAGING OTHERS

Aside from direct participation, the complainants and civil parties have also felt involved by following proceedings and by assuming a leadership role in engaging others. Chanthon said that she has told many people in Long Beach “I think it is a good thing to do”, and Sophany Bay was active in engaging others in San Jose where she lives. Sophany Bay explained:

“Life is a struggle for (Cambodian refugees). We just try to explain, to spread out the news or the story or the process of the court, and then explain to the people in the community about the process and about the benefit from expressing their stories to let the people know, to let the court, judges or lawyer find justice for the victim.”

Other interviewees said that they did not want to get too involved in outreach fearing that involvement with the court is political and that they left politics behind in Cambodia.

Three of the interviewees, said they followed the media about the court: Sophany Bay by listening to Cambodian radio out of Long Beach, California; Kelvin So by watching television and listening to the radio; and Sophal Ear by receiving emails through a human rights listserv. These were the three civil parties. The complainants did not express the same interest in the proceedings.

Most interviewees in fact did not follow events closely. Sophal himself said that he is not a court-watcher and expressed some concerns again about the legitimacy of the court:

“I would waste too many brain cells thinking about this all the time. Obviously, I feel that its important that this process continues, that the Tribunal itself be held to account for decisions it makes, and actions it takes. And in so far as that is concerned I care about what’s happening.”

Chanthon expressed similar feelings:

“I don’t want to read about it. I don’t want to follow it. I hear so many problems, it is very slow. It stops, starts, and Hun Sen says things about (how the Court) costs so much money. I just want to know at the end if it is a success.”

One interviewee also said that she did not follow events closely because it would bring back bad memories and she would have nightmares.

Overall, it seems that people had invested much emotional energy in making the decision to become involved and writing their statements, and were cautious of be-

ing disappointed by the process or the outcome of the Tribunal. Thus they did not want to watch the day-to-day events at the court on a regular basis.

VII. IMPACT OF PARTICIPATION

It is early to know the lasting impact of participation in Case 002 for the Cambodian civil parties and complainants in the U.S. However, some initial effects were indicated in the survey responses.

IMPACT ON SELVES AND COMMUNITIES

We first considered the impact on the individuals themselves and their communities. The survey asked people whether involvement in the Tribunal had affected the frequency that they thought or spoke about their past under the Khmer Rouge.

The results indicate that before the ECCC, life under the Khmer Rouge was very present in people's minds. A total of 93% of survey respondents reported that prior to their involvement in the ECCC, they thought about the Khmer Rouge period at least once a month and 50% reported that they thought about it at least once a day. After their involvement, the frequency was reduced. This may indicate that participation in the Tribunal was easing the burden of memories of the past.

A total of 93% of survey respondents reported that prior to their involvement in the ECCC, they thought about the Khmer Rouge period at least once a month and 50% reported that they thought about it at least once a day. After their involvement, the frequency seems to have been reduced.

Survey respondents also indicated they were more likely to speak about the Khmer Rouge within the community after becoming involved in the ECCC. Prior to involvement, respondents

indicated that they most frequently (at least once a month) talked about the Khmer Rouge period in a group consisting of parents (67%), children (61%), extended family (58%), and friends (64%). After their involvement, the frequency of talking about the Khmer Rouge is still as high with family and friends but it is interesting to note that communication increased with community leaders (45% as compared to 19% previously). Some of the interviewees, such as Chanthon and Kelvin So, also mentioned that they were talking about the events of the past more at community events and gatherings.

Of course, given that forums were held with community leaders about the trials, it is not surprising that discussions with community leaders increased. However, it does suggest that the ECCC has helped to break the silence in some communities about events of the past and encourage some sharing of experience between community members.

Some of the interviewees also mentioned that the Court had given them hope after many years of feeling that their experiences had been forgotten. Sophany Bay said: “Before, there was no court. So yes, (I feel) a little different (now). Before I feel (there is) no hope to find justice. But right now, I feel I have hope.”

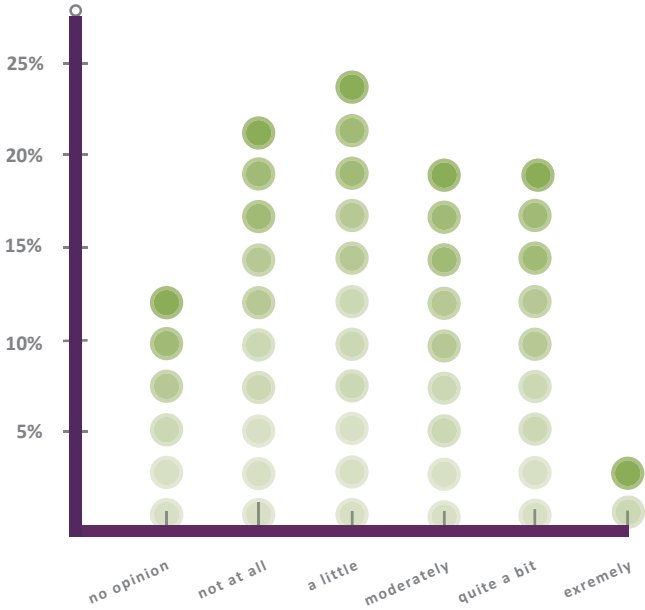
IMPACT ON THE TRIBUNAL

We also asked participants if they feel that their participation in the Khmer Rouge Tribunal so far has made a difference to the Tribunal. The results were mixed, with almost half stating not at all or a little – the two most frequent responses. Around one third stated “moderately” to “quite a bit”, and one respondent said “extremely”. Approximately 15% had “no opinion”.

These results suggest again a sense of distance between the respondents and the Tribunal, and did not indicate that respondents feel they are part of a larger movement for justice in Cambodia. Rather, it seems for many their involvement is very personal.

This was supported in the interviews where people thought that the Tribunal itself was a good thing for Cambodia, particularly for strengthening the rule of law, but nobody mentioned that their own personal contribution to this process was important for them. Rather, the emphasis was on their families and their personal healing.

DIAGRAM 8
Perceptions among court participants as to whether their involvement has made an impact on the court
Data Visualization by Vener Macaspac



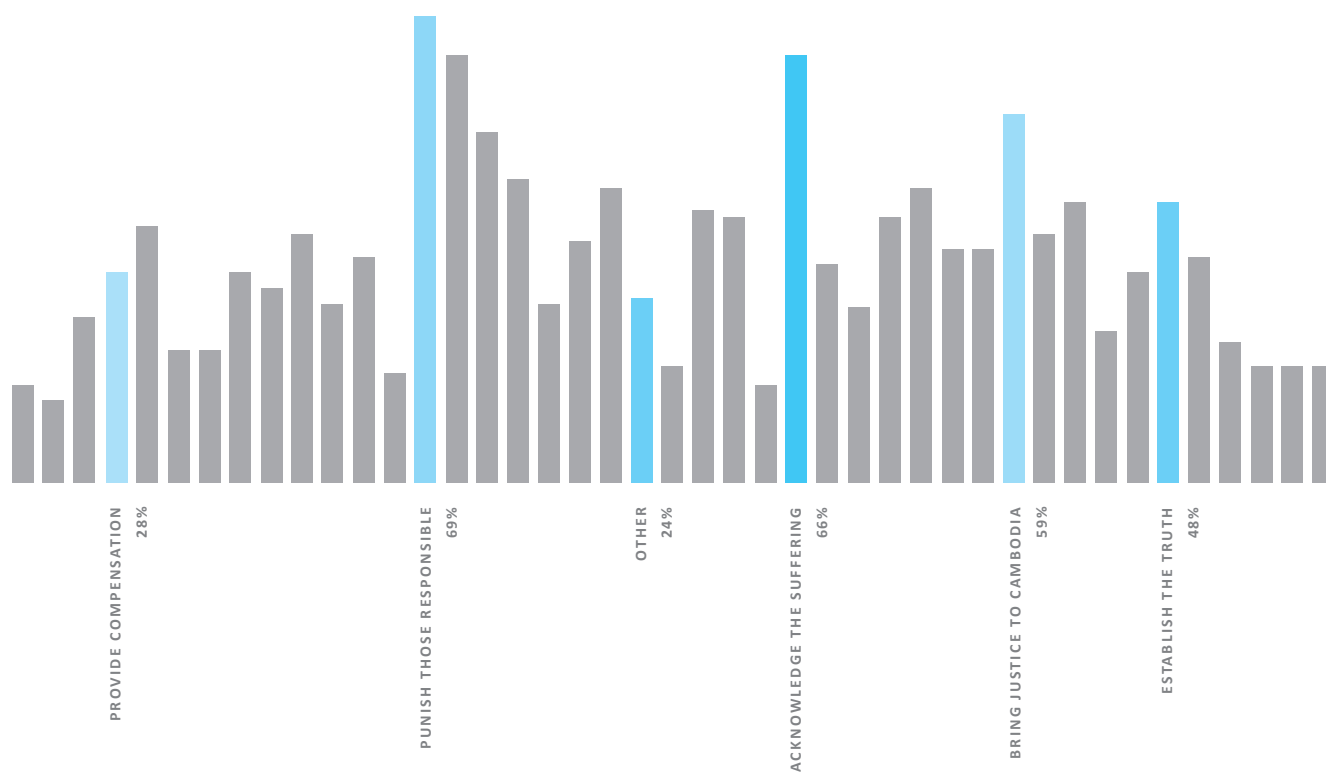


DIAGRAM 9
Expectations on the result
of the ECCC

VIII. EXPECTATIONS FOR THE ECCC

As mentioned above, Case 002 is still in preliminary stages and at the time of writing, the hearing has not yet commenced.

Survey responses to the question “what do you think the Khmer Rouge Tribunal will achieve” resulted in 69% of the respondents stating that the ECCC would punish the perpetrators of the atrocities of the Khmer Rouge; 65% believe that it will acknowledge the suffering of the Cambodian population; 58% think that the Tribunal will bring justice to Cambodia; and 48% believe that it will establish the truth about what happened under the Khmer Rouge. Truth-seeking was not a significant personal motivating factor, but it is nevertheless an expectation of the court.

As can be noticed, the results about expectations of the Tribunal’s achievements reflect that justice, finding the truth, and acknowledging the suffering of Cambodian population have almost the same importance for the respondents.

These expectations accord with the motivations of individuals for participating – to obtain justice for themselves and their families and to tell their stories. Similarly, although establishing the truth was important, they were not as confident about the possibility for the Tribunal to establish complete truth.

Only 27% of the respondents believe that the Tribunal will provide compensation for those who suffered. This reiterates again that participants did not decide to join in for financial or other kind of personal compensation for themselves or others.

Several of the interviewees expressed worries that the ECCC would run out of money or the trials would take too long and the defendants would pass away or the community would lose interest. As Kelvin So said, for example:

“If the international community has enough money to continue the prosecution it would be great. But I am afraid that we don’t have the money, you never know, the political situation change every time like you see in the rest of the world and you never know in Cambodia. I believe that if the trial won’t start and finish quickly (and) those Khmer Rouge some day will die during the trial. The old generation are very old and it looks like not many people are interested, and the young generation they know nothing about it. If the process lasts for ten years, that’s too long.”

conclusion and recommendations

ALTHOUGH TO DATE RESEARCH HAS BEEN CARRIED OUT EXAMINING THE PERCEPTIONS OF THE ECCC AMONGST CAMBODIANS THAT HAVE REMAINED LIVING IN CAMBODIA, LITTLE ATTENTION HAS BEEN GIVEN TO PERCEPTIONS OF THE ECCC AMONGST CAMBODIAN DIASPORA COMMUNITIES, PARTICULARLY IN THE U.S. THIS RESEARCH ATTEMPTS TO START TO ADDRESS THAT GAP.

THE CAMBODIAN DIASPORA IN THE U.S. UP UNTIL NOW HAS NOT SIGNIFICANTLY ENGAGED IN THE ECCC AND TRANSITIONAL JUSTICE PROCESSES. THERE HAVE NOT BEEN ANY ECCC DIASPORA OUTREACH PROGRAMS THAT SEEK TO INCLUDE THE VOICES OF THIS COHORT IN THE NARRATIVE OF THE ECCC, AND NOR HAS THERE BEEN A STRONG MOBILIZATION OF CAMBODIAN-AMERICAN ORGANIZATIONS PUSHING FOR JUSTICE. THE WORK OF ASRIC IN GATHERING TOGETHER CAMBODIANS IN THE U.S. AND FACILITATING THE LODGMENTS OF CIVIL PARTY OR COMPLAINT FORMS WITH THE ECCC IS A KEY EVENT THAT HAS FORGED A LINK FOR SOME VICTIMS BETWEEN THE U.S. AND CAMBODIA. NOW THAT THIS STEP HAS BEEN TAKEN, OUR RESEARCH INDICATES THERE IS A NEED TO DO MORE TO CEMENT THE PARTICIPATORY NETWORK.

The work of ASRIC in gathering together Cambodians in the US and facilitating the lodgments of civil party or complaint forms with the ECCC is a key event that has forged a link for some victims between the US and Cambodia. Now this step has been taken, our research indicates there is a need to do more to cement the participatory network.

THIS COULD BE DONE THROUGH MECHANISMS SUCH AS A COURT-LED DIASPORA FOCUSED OUTREACH PROGRAMS, OR PROGRAMS EMANATING FROM DIFFERENT CAMBODIAN NGOs IN THE U.S. THAT PROVIDE COMMUNITIES WITH INFORMATION ABOUT THE COURT. THIS WOULD IN SOME WAY ADDRESS THE INFORMATION AND KNOWLEDGE GAP THAT CIVIL PARTIES AND COMPLAINANTS SEEM TO EXPERIENCE. DIVERSIFYING THE RANGE OF NGOs IN THE U.S. WORKING ON ISSUES RELATING TO THE ECCC IS IMPORTANT, DUE TO THE GEOGRAPHIC SPREAD OF U.S.-BASED DIASPORA

PARTICIPANTS AND THE DIVERSE WAYS IN WHICH THEY MAY WANT TO CONNECT WITH THE WORKINGS OF THE COURT.

PHOTO 8
For more than
thirty years now,
Cambodians are
still in search of
justice.



Photo by Rebecca Palmstrom

Our research indicates a strong need amongst the U.S.-based complainants and civil parties to document their own experience and tell their story. Many framed their participation in the ECCC in terms of an opportunity to provide their own account of suffering. Initiatives that provide a mechanism for U.S. diaspora to engage in storytelling should be supported. Storytelling should not be confined to the more narrow legal accounts required of civil parties and complainants but could include written and oral history, videos, art, drama and so on. Initiatives such as the Virtual Tribunal as a forum for receiving and documenting these narratives are indeed very relevant.

Our research has sought to better understand the interests of U.S.-based Cambodian diaspora participants. We are well aware that it is limited in scope but we hope that it will be a useful starting point for a more detailed consideration of this cohort.

RECOMMENDATIONS FOR U.S. AND INTERNATIONAL DONORS

1. Appropriately fund the ECCC Victim Support Section to enable the provision of a diaspora outreach program.
2. Provide greater support for the work being done by existing diaspora-based civil society organizations that are working on international criminal accountability in Cambodia.
3. Strengthen and diversify the kinds of NGO involved in linking the U.S.-based Cambodian diaspora in Cambodian transitional justice.

RECOMMENDATIONS FOR U.S.-BASED ORGANIZATIONS

1. Enhance the information flows and feedback between Cambodians in the U.S. and the Court. Connect the Cambodian diaspora in the U.S. to information channels that allow them to obtain information themselves (e.g. Virtual Tribunal).
2. Support programs and initiatives that provide a channel for victims to tell and document their stories outside of formal court processes.
3. Offer a space for information and discussion including time to ask questions at forums and public meetings in the U.S.
4. For future cases, ensure a real understanding about basic ECCC processes and categories of participation, and the implications for each type of participation in the Court.
5. There should be further studies into the actions and impact of the participation of the U.S.-based Cambodian diaspora in the ECCC and transitional justice mechanisms. This study has provided a small glimpse at some of the issues raised by the diaspora's participation in the ECCC and it is hoped that further studies will follow.

RECOMMENDATIONS FOR THE ECCC

1. Participation should be construed broadly – beyond formal court-based procedural participation to include information flows and non-legal means to participate in transitional justice in Cambodia.
2. Recognizing the important and unique perspectives that diaspora communities bring to the court narrative, the ECCC Victim Support Section should be funded to provide a program to engage the diaspora community. Where possible this should be tailored to the needs of the Cambodian diaspora in the U.S.
3. Should Case 003 and 004 proceed, the Court should provide a letter to complainants to acknowledge their role in the ECCC.
4. Publicize and make accessible channels for victims to directly connect with court proceedings.

notes

1. United States Central Intelligence Agency, “Kampuchea: A Demographic Catastrophe” (1980). Available online at <http://www.mekong.net/cambodia/demcat.htm> (last accessed 1 January 2011).
2. Eve Bernstein Carlson and Rhonda Rosser-Hogan, “Mental Health Status Of Cambodian Refugees Ten Years After Leaving Their Homes,” *American Journal of Orthopsychiatry* 63(2), 224 (1993).
3. See generally, David Chandler, “The Tragedy of Cambodian History,” (1991); Chambers in the Courts of Cambodia [hereinafter ECCC], “KAING Guek Eav alias Duch, Judgement,” Case File 001/18-07-2007/ECCC/TC, 26 July 2010 (hereinafter Case 001 judgement).
4. International Center for Transitional Justice (hereinafter ICTJ), “Cambodian Diaspora Communities in Transitional Justice,” Briefing Paper, 1 (2008).
5. *ibid*
6. See “Introduction to the ECCC,” Extraordinary Chambers in the Courts of Cambodia (ECCC) website: <http://www.eccc.gov.kh/en/about-eccc/introduction>.
7. See “Introduction to the ECCC,” Extraordinary Chambers in the Courts of Cambodia (ECCC) website: <http://www.eccc.gov.kh/en/about-eccc/introduction>.
8. ECCC Press Release, “Kaing Guek Eav Convicted Of Crimes Against Humanity and Grave Breaches of the Geneva Conventions of 1949,” 26 July 2010. Available online at: http://www.eccc.gov.kh/english/cabinet/press/162/20100726_Press_Release_Case_001_ENG.pdf (last accessed 11 January 2011). ECCC Closing Order. Available online at: <http://www.eccc.gov.kh/english/cabinet/courtDoc/740/D427Eng.pdf> (last accessed 12 January 2011).
9. The four were all ministers in the former Pol Pot regime.
10. Rule 23 bis, ECCC Internal Rules. Available online at www.eccc.gov.kh.
11. “KAING Guek Eav alias Duch, Judgement,” Case File 001/18-07-2007/ECCC/TC, 26 July 2010, at 230.
12. See ECCC Victims Support Section, “Moving Forward Through Justice,” Report of Regional Public Hearing, 3

13. See generally: Liesbeth Zegveld, "Victims Reparations Claims and International Criminal Courts: Incompatible Values?," *Journal of International Criminal Justice* 8(1), 79 (2010).
14. Fiona McKay, "Victim Participation in Proceedings before the International Criminal Court," *Human Rights Brief* 15(3), (2008).
15. See generally, G.A. Res. 40/34, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, U.N. Doc. A/RES/40/34 (Nov. 29, 1985); G.A. Res. 60/147, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights law and serious violations of international humanitarian law, U.N Doc. A/RES/60/147 (16 December 2005).
16. M. Cherif Bassiouni, International Recognition of Victims' Rights, 6 *Human Rights Law Review* 205–06 (2006).
17. See, eg, Jamie O'Connell, Gambling with the Psyche: Does Prosecuting Human Rights Violators Console Their Victims?, 46 *Harvard International Law Journal* 295, 330 (2005).
18. See, eg, Naomi Roht-Arriaza, 'Impunity and Human Rights', in Naomi Roht-Arriaza (ed.), *International Law and International Law and Practice*, 1995, p. 19.
19. See, e.g., Charles P. Trumball "The Victims of Victim Participation in International Criminal Proceedings," *Michigan Journal of International Law* 29, (2008) 803.
20. See, e.g., Charles P. Trumball 'The Victims of Victim Participation in International Criminal Proceedings,' *Michigan Journal of International Law* 29, (2008) 823.
21. See generally, Madev Mohan, "The Paradox of Victim Centrism: Victim Participation at the Khmer Rouge," *Tribunal International Criminal Law Review* 9 (2009).
22. See generally, Madev Mohan, "The Paradox of Victim Centrism: Victim Participation," *Khmer Rouge Tribunal International Criminal Law Review* 9 (2009).
23. University of California, Berkeley Human Rights Center "So We Will Never Forget: a Population-Based Survey on Attitudes about Social Reconstruction and the Extraordinary Chambers in the Courts Of Cambodia," 36 (2009).
24. See e.g., FIDH, 'Victims' Rights Before the International Criminal Court : A Guide for Victims, their Legal Representatives and NGOs,' (2007) 3.
25. See e.g., Walter Leitner International Human Rights Clinic (hereinafter WLIHRC), "Removing Refugees: U.S. Deportation Policy and The Cambodian-American Com-

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26. See, e.g., Bernstein Carlson et al, *Supra* note 2, at 224; Richard Mollica, Grace Wyshak, and James Lavelle, “The Psychosocial Impact of War Trauma and Torture on Southeast Asian Refugees,” *American Journal of Psychiatry* 144(12), 1567 (1987).

27. ICTJ, *supra* note 4, at 1.

28. See U.S. Census Bureau, “Poverty Rates For Families And People For Whom Poverty Status Is Determined” in “Cambodian alone or in any combination.” 2007 American Community Survey 1-Year Estimates. Last accessed 13 January 2011.

29. Bernstein Carlson et al, *supra* note 2, at 224.

30. <http://www.asricjustice.org/node/14>

31. Technically, only civil parties have a right to representation. However, CJA is including both civil parties, complainants and other members of the community involved in its information and outreach work.

32. CJA does not have the same information about complainants because they are not technically clients of the organization.

33. After several discussions about what was the best way to approach the Cambodian Diaspora in the U.S and understand their participation in the ECCC, we reached the conclusion that the best way to do it was designing a mailing a survey to all the civil parties and complainants in the U.S. and conducting in-depth interviews. The process of designing the questionnaire took us several meetings and drafts in order to narrow down to the relevant questions we wanted to ask. We designed a questionnaire composed of 28 questions (open and multiple selection) about the relation of the diaspora with Cambodia, the reasons for their participation on the Tribunal, their expectations about it, and their knowledge about the Tribunal. Once the questionnaire was ready, we translated it into Khmer and sent the questionnaire in both English and Khmer. Like in any research, we protected the identity of the respondents by assigning a code to the questionnaires we mailed, which was connected to a master list of participatns that we have.

34. We mailed the survey questionnaire to a total 129 complainants and 41 civil parties (170 surveys). Of those, we received back 31 responses (18%). After getting the surveys back, we used SPSS (Statistical Package for the Social Sciences) for getting basic frequencies.

