

REACHING FOR JUSTICE: THE PARTICIPATION OF VICTIMS AT THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

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Executive summary

- The Extraordinary Chambers in the Courts of Cambodia (ECCC) is the first international or internationalised tribunal to include the participation of victims as Civil Parties during the trial.
- There was a steep learning curve regarding management of victims' involvement in the first trial.
- There was initially insufficient funding allocated to support victims' participation, with late establishment and understaffing of victim support at the ECCC.
- Cambodian non-governmental organisations (NGOs) have proved instrumental in ensuring the submission of Civil Party applications, legal representation and other forms of support for Civil Parties throughout the process and played a pivotal role in outreach activities.
- Donors should consider financing NGO and civil society activities that support victim participation, in order to maximise the impact of the significant expenditures they are often allocating to the ECCC.
- The challenges and successes of the first trial provide lessons not only for future ECCC cases but also for other courts concerning the participation of victims such as the International Criminal Court.



* The first photograph shows the verdict in the trial of Kaing Guek Eav and is courtesy of the ECCC. The second photograph is of the Tuol Sleng Genocide museum on the site of the S-21 prison.

Introduction

This policy paper is based on research in Cambodia, assessing the activities and strategies regarding participation of victims before the Extraordinary Chambers in the Courts of Cambodia (ECCC), funded by the University of East London Promising Researcher grant.¹ It is hoped by the international community and by Cambodian civil society that the participation of victims will play a key part in ensuring that the ECCC has a lasting impact on Cambodia. The ECCC, in common with other hybrid tribunals, is expected to engage the affected society and victims, since it is located within the country rather than based elsewhere as the International Criminal Tribunal for Rwanda (ICTR) and International Criminal Tribunal for Yugoslavia (ICTY) are. This policy paper reviews how the victim participation process functioned during the first case and the preparation for the second case at the ECCC, and offers insights to improve practice at the ECCC and other courts that are undertaking other forms of victim participation.

Firstly, the paper gives an overview of the history and establishment of the ECCC as a hybrid court. Secondly, it outlines the victim participation process so far. It then identifies lessons learned and finally provides policy insights and recommendations. Acknowledging that there have been important advances in the jurisprudence concerning the participation of Civil Parties, this paper focuses on the support given to the Civil Parties and how the court's decisions may have impacted the work of those who were trying to assist the Civil Parties, or the Civil Parties themselves.

History and establishment of the ECCC

The ECCC was established to prosecute key members of the Khmer Rouge, the repressive regime led by Pol Pot in Cambodia from 1975-1979, which sought to create a socialist agrarian society. During this period of time, the Khmer Rouge committed widespread human rights abuses including the torture and execution of hundreds of thousands of people. The violence was widespread throughout all sections of society but was particularly directed at religious and ethnic minorities, intellectuals and members of other political parties. Many more died through starvation and as a consequence of forced labour. The total dead are estimated at up to three million.

The first trial concerning crimes committed during the Khmer Rouge period started in March 2009. It took more than a decade to create the court. In 1997 the Cambodian Prime Ministers requested assistance from the United Nations (UN) regarding accountability options. Following a UN Group of Experts report there was disagreement over whether an ad hoc tribunal following the style of the ICTR or ICTY should be established (preferred by the UN), or a

hybrid tribunal as suggested by the Royal Government of Cambodia (RGC). In June 1999 Prime Minister Hun Sen asked the UN to help draft legislation for a hybrid tribunal, based within the national court system and located in Cambodia but with the participation of foreign judges and prosecutors. The UN wanted a majority of international judges and the RGC wanted a Cambodian majority, with compromise reached through the requirement of a 'supermajority' for decision-making. The agreement was that there would be a majority of Cambodian judges but they would need the agreement of at least one international judge to make the decision. Following three more years of negotiation, the General Assembly approved an agreement between the UN and RGC May 2003. This agreement was signed between the UN and RGC the following month and approved by the Cambodian National Assembly and Senate in October 2004.

The ECCC is a Cambodian court with international participation. It has a Pre-Trial Chamber, Trial Chamber and Supreme Court Chamber. All three have a majority of Cambodian judges but any decision needs to have the agreement of at least one international judge. This mix of international and Cambodian staff is continued in other parts of the court including the Victims Support Section, Defence Support Section and Office of Administration. The Office of the Co-Prosecutors is led by one Cambodian and one international Co-Prosecutor. Distinct to other internationalised tribunals and in accordance with Cambodian domestic law, investigations before the trial stage are carried out by two Co-Investigating Judges (one Cambodian and one international).

The mandate of the ECCC is to bring to trial senior leaders of the Khmer Rouge and those most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom and international conventions recognized by Cambodia that were committed from 17 April 1975 to 6 January 1979. It began operation in February 2006 and the Internal Rules were agreed upon in June 2007. The Co-Prosecutors made an Introductory Submission of five people in July 2007, with all five arrested by November of that year. The first individual placed on trial was Kaing Guek Eav (known as Duch), head of the notorious Tuol Sleng or S-21 prison, where thousands of people were tortured and killed and only a few people survived. His case is referred to as Case 001 and the trial ended in November 2009, with the verdict given on the 26th July 2010. He was found guilty of crimes against humanity and grave breaches of the Geneva Conventions and sentenced to 35 years imprisonment. The other four accused held high-level positions during the Khmer Rouge period: Ieng Sary, former deputy prime minister and former foreign minister; his wife Ieng Thirith, minister of social affairs; Khieu Samphan, president, and Nuon Chea, second in command to Pol Pot. They are charged under Case 002 with a combination of crimes against humanity, genocide

¹ This research also builds on earlier fieldwork funded by the EU's VII Framework Programme project "Just and Durable Peace by Piece" (no. 217488).

and grave breaches of the Geneva Conventions, and their case is still in the investigative phase. Case 002 is expected to start in 2011, depending on whether the Closing Order (expected for September 2010) determines that the four accused will stand trial as expected. In September 2009, five names were given by the international Co-Prosecutor to the Co-Investigating Judges for investigation; these are known as case 003 and case 004 and are confidential.

The victim participation process at the ECCC

In recent years there has been a growing recognition of the rights of victims of mass atrocity. This developed from criticism of the ICTR and the ICTY that not enough attention was paid to the victims of the crimes being prosecuted. Although they had a limited standing as witnesses, this seriously restricted their role to what was required by the prosecution. Victims' rights have since evolved, with the *UN Basic Principles on the Rights to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* adopted by the General Assembly in December 2005 elaborating on the rights of victims. A number of courts and tribunals have now tried to put these principles into practice, with provisions for participation of victims in different capacities at the International Criminal Court (ICC) and the Special Tribunal for Lebanon.

The ECCC is unique in that for the first time at an internationalised tribunal, victims of crimes alleged to have been committed by the accused can act as complainants or Civil Parties to the trial. This means victims can have a role at the ECCC beyond being called as witnesses. Rule 23 of the Internal Rules adopted in June 2007 outlined the Civil Party action that could be taken by victims. Victims can act as a Civil Party, not only supporting the prosecution but also allowed to seek collective and moral reparations. Anyone who has suffered physical, psychological or material harm as a direct consequence of the Khmer Rouge regime can apply to become a Civil Party. They then have the same rights as every other party to the proceedings and are eligible for reparations. On the 5th October 2007 the ECCC issued a Practice Direction on victim participation, which outlined these rights and the procedures for victim participation.

It is the hybrid nature of the court that has enabled the inclusion of victims as Civil Parties, as it utilizes not only international but also domestic Cambodian law. Cambodian law is based on the French legal system and as such is a civil rather than common law system. The Criminal Procedure Code of Cambodia states that Civil Parties have the same right to be heard

as other parties to criminal proceedings and allows their involvement through all the stages of the trial. Following the initial inclusion of Civil Party participation in the Internal Rules, there was recognition within civil society of the potential contribution that the voice of victims could make to the trial as well as the effect such participation could have on their own lives. A number of Cambodian NGOs and international organisations such as Redress, *Advocats Sans Frontières* (ASF) and The International Federation for Human Rights (FIDH) undertook advocacy to ensure that the Civil Parties were afforded the most expansive rights possible. In 2008, the first ruling from the Pre-Trial Chamber regarding the participation of Civil Parties found that they could be full parties to proceedings. However, it has not been easy to adapt this mechanism to cases concerning mass atrocity crimes.

Given the novelty of this process, a number of challenges arose, requiring alterations to the Internal Rules. These are discussed further below.

Support given to Civil Parties

Civil Parties need support at all stages of the application and participation process, from NGOs or the Victims Support Section (VSS), ranging from the initial form-filling, to financial or logistical assistance in getting to trial. One key actor is the Cambodian Human Rights Action Committee (CHRAC), a coalition of NGOs in Cambodia, which coordinates activities supporting victim participation via its members, in particular the Cambodian Human Rights and Development Association (ADHOC), the Khmer Institute for Democracy (KID), the Center for Social Development (CSD), the Cambodian Defenders Project (CDP) and Legal Aid Cambodia (LAC).

The main stages of the Civil Party participation process are as follows:

- **Outreach to the potential Civil Parties**

A number of Cambodian NGOs, such as ADHOC, KID, the Documentation Center of Cambodia (DC-CAM) and CSD began to undertake outreach activities to inform victims of their rights to participate as complainants or Civil Parties at the end of 2007. As part of this outreach, they also distributed the necessary forms for participation. The Victims Unit (VU/VSS)² was unable to undertake much outreach at this crucial early period because it was still not fully set up. NGO activities helped to fill the gap.

- **Submission of Civil Party applications**

The Victim Information Form is quite complicated, requiring personal information about the victim, information about the alleged crimes and details about the injury suffered. It is often quite difficult for victims to do themselves since a great deal of detail is required

² The Victims Unit was renamed the Victim Support Section in February 2010. This paper will refer to VSS regarding activities and strategy from this date and use VU/VSS when referring to past activities in order to show the continuity between the two.

and they are unfamiliar with this type of form. NGOs provide assistance in completing the forms, as well as informing victims about their right to participate and give basic legal advice. If assisted by CHRAC member organisations, the completed forms are sent onto the CHRAC secretariat, where they are checked and sent onto the VSS or sent back if additional information is needed. This is a time consuming process, further slowed by the poor infrastructure in the country. For Case 001 there were 94 applications, largely facilitated by the hard work of civil society. The VSS has indicated that over time the quality of forms received has improved, which demonstrates that NGOs involved are learning and improving their practice.

- **Processing of forms**

For Case 002, the VSS received nearly 4,000 applications. The large numbers generated organisational and logistical problems. Forms have to be translated, summarized, and categorized, which takes about 2-5 hours per application, and a large backlog in processing them developed. Unfortunately, this meant that some victims did not receive information from the ECCC regarding their applications for up to two years. The Co-Investigating Judges set a deadline of 30 April 2010 for submission of all Civil Party applications for Case 002 and the VSS managed to submit 3,989 Civil Party applications by this time.

- **Finding legal representation**

The ECCC did not provide any legal aid for Case 001, and it thus completely fell to NGOs to provide support to both national and international lawyers who represented the victims. Civil Parties at the trial were split into four groups, according to the NGO that facilitated their application: ADHOC, KID, DC-Cam, CSD. The NGOs that assisted with form-filling also worked to ensure that victims had legal representation. Legal assistance was also provided by CDP, LAC and ASF.

The revised Internal Rules from February 2010 require all Civil Parties to be represented by the time of the Closing Order. To ensure this, the ECCC now does provide some legal assistance to victims. In addition, in May 2010, ASF stated that it was willing to represent the Civil Parties not yet represented. In order to ensure that each Civil Party was represented, they needed to be contacted, have their options explained to them and sign the power of attorney to authorise their lawyer to represent them. By 31 May 2010, 3,321 powers of attorney had been received following a huge effort by the VSS and NGOs.

- **Attending the trial**

NGOs have provided significant assistance for Civil Parties to get to trial. Although, 10 seats were allocated to them in the courtroom, the travel and subsistence

required to get to Phnom Penh is a considerable expense for Civil Parties from the provinces. The VSS has assisted Civil Parties in attending pre-trial hearings for Case 002 and the cost for Civil Parties to attend hearings is included in the 2010-11 budget. With estimates of up to 2,000 Civil Parties in Case 002, the question remains of the number that will attend and how this will be decided.

- **Psychosocial support**

The Transcultural Psychosocial Organisation is the only provider of psychosocial support to Civil Parties and provided a counselling hotline which victims regularly accessed. They also provided staff to attend the court during the trial.

- **Communication**

It is important to keep Civil Parties and Civil Party applicants up to date with what is going on at the court. Most of the Civil Parties in Case 001 could not travel to the court every day and so had to be informed through phone calls and meetings. With the large number of Civil Party applicants in Case 002, this will obviously present logistical problems in terms of giving them news or consulting them. To address this problem, ADHOC has started a Civil Party representative scheme, in which the Civil Parties will vote for representatives in their province and receive updates from them.

The ECCC is seeking to build regular information exchange with Civil Parties. In the 2010-11 ECCC budget there is provision for regional forums, participation visits of Civil Parties to the ECCC and meetings with their lawyers.

- **Victims Associations**

The Internal Rules allow the formation of Victims Associations which are made up of victims of crimes under the ECCC's jurisdiction. There is a registration process, and once recognised the Victims Association can provide assistance to Civil Parties enabling them to act collectively. There are a number of Victims Associations that are in the process of being formed, some supported by NGOs.

Development of the Victims Support Section

The Victims Unit was a relatively late addition to the structure of the court, established by Rule 12 of the Internal Rules in 2007. Its main tasks were: to maintain a list of lawyers who wished to represent victims; to assist victims in lodging complaints; to assist victims in submitting Civil Party applications; to provide information to victims and lawyers; to facilitate participation of victims and Civil Parties; and to assist the Public Affairs Section in outreach related to victims. The Victims Unit was meant to act as the central point of contact

between the ECCC and victims, answering questions and referring victims for support. However, at the beginning it was perceived as purely the office for which to process complaints and Civil Party applications. It was severely underfunded and had insufficient staff and so could not engage in assistance to Civil Parties. It was not until it received a large grant from the German Technical Cooperation agency (GTZ), announced in 2008, for improvement of victim participation that the office recruited more staff and was able to take on more activities. Although it did provide victims with a list of names of lawyers, it did not have the funds to provide them with any representation. However, this changed in late 2009 when it began recruiting an ECCC-funded legal team that could represent unrepresented Civil Parties. In June 2010, the GTZ provided a further 400,000 Euros.

In February 2010 there were important changes to the mandate of the Victims Unit, the name was changed to the Victim Support Section and its activities expanded to include the development and implementation of programs and measures other than legal ones. These non-legal projects should address the broader interests of victims and could include cooperation with NGOs. Further, the Judges made changes to the Internal Rules regarding the participation of Civil Parties. The Civil Parties now form a consolidated group, represented by two Co-Lead Lawyers (one Cambodian and one international). The VSS will provide administrative and substantive support to the Civil Party Co-Lead Lawyers. This was an attempt by the Judges to balance the need for an expeditious trial with the needs of victims.

Lessons from the participation of Civil Parties at the ECCC

Contribution made by the Civil Parties

22 Civil Parties spoke during the trial of Duch. Their testimony was significant for themselves and the other Civil Parties, and during the rest of the trial the presence of Civil Parties in their courtroom seats every day reminded participants and observers of a key purpose of the trial. Participation in Case 001 built solidarity amongst the Civil Parties. They were empowered by their participation, directing questions at Duch through their lawyers, and compelling the inclusion of forced marriage among the crimes for which he was on trial through their complaints. One indicator of their success in raising awareness of the ECCC is the number of applications that have been made for Case 002.

Funding and resources for Civil Parties at the ECCC

At the start of ECCC operations, the VU/VSS was neglected. The late establishment, lack of funding and few staff meant that it was unable to ensure the successful participation of Civil Parties. It lacked the resources to ensure coordination among the Civil Party lawyers and communication between the ECCC and

victims. Instead, coordination was initiated by key NGOs, through meetings held by CHRAC and others. Although the NGOs were able to coordinate reasonably well, they looked towards the VSS/VSS for direction and strategy which they felt was not forthcoming.

The outreach to victims, and provision of information to people of their right to participate as complainants or Civil Parties thus fell to NGOs. It was NGOs that ensured that the Civil Parties were legally represented in Case 001. For the first two years, the message from the ECCC was that Civil Parties have the right to participate but the court could not give them assistance. It is questionable how meaningful the right to participate is, in the absence of any legal aid.

Civil Parties thus did not receive the type of support given to witnesses and the defendant, including psychosocial support. The Transcultural Psychosocial Organisation had an agreement with the ECCC to provide support services, but were not paid and their work was crucial not only through the trial but also for outreach activities.

Questioning by Civil Party lawyers during the trial

Civil Parties are allowed to ask questions of witnesses through their lawyers. As there were four groupings of Civil Parties, each with one international lawyer and one national lawyer, at any one time 8 lawyers could be questioning witnesses on behalf of the Civil Parties. Unfortunately, a lack of coordination among the Civil Party lawyers, due to lack of time and resources, meant that there was often repetitive questioning. This slowed down the trial. There were a number of complaints made by the defence concerning the scope of questioning taken by the Civil Parties.

The judges thus sought to limit the role of Civil Parties halfway through the trial in June 2009, when the Trial Chamber introduced time limits to questioning. The prosecution was limited to 30 minutes and Civil Party groups to 10 minutes each to question witnesses, experts and the accused on the stand. Although some Civil Parties felt that this limited their role, the judges were under pressure to manage the trial process more efficiently.

In August 2009, the judges ruled that the Civil Parties could not question the character witnesses for the accused or make submissions concerning sentencing of the accused. Civil Parties felt that they were being silenced right at the end of the Duch trial and many Civil Parties boycotted the trial on August 31st, instead going to S-21 and Choeung Ek (the Killing Fields).

Unfortunately, characterization of Civil Parties as “supporting the prosecution” left their role unclear, and this uncertainty contributed to some of the problems described above. Obviously definition of the scope of their role was needed, and will certainly be useful for Case 002. In October 2009, the Trial Chamber

addressed the status of Civil Parties, ruling that their role must not transform them into additional prosecutors. The new system of Co-Lead Lawyers representing a single group of Civil Parties will hopefully facilitate Case 002, in which there could be thousands of Civil Parties, resulting in many more than the 4 teams of lawyers of Case 001.

Status of Civil Parties

The defence challenged 24 of the 90 Civil Parties (1 applicant was declared inadmissible and 3 withdrew) in Case 001 on grounds of lack of kinship with a victim and lack of documentation. However, it was not until the verdict that these Civil Parties found out their status. The Judges ruled that only 66 of the Civil Parties proved they were either immediate victims or had a close kinship with victims. This means that a large number of individuals participated in the whole trial only to be disappointed when the verdict was read out and their names were not included. Civil Party status is now determined at pre-trial stage, but this means reducing the time for submissions, which is explored below.

Victim Expectations

The Internal Rules allow “moral and collective reparations” to be awarded to the victims. It has been difficult to manage the expectations of Civil Party applicants, who often assume incorrectly that this will entail individual monetary reparations. However, the revised Internal Rules of February 2010 state there will be a single claim for collective and moral reparation, whereas in Case 001 each Civil Party group provided their own individual submission on reparations as well as a joint submission between all four groups. There needs to be clarification regarding what a single claim for reparations means in practice.

The verdict of the Duch trial provided the minimum of reparations requested by the Civil Parties. The names of the 66 Civil Parties and their relatives who died were included in the judgment and the ECCC will compile and publish all statements of apology made by Duch during the trial. Other requests such as the publication of the judgment, individual monetary awards, national commemoration day, construction of pagodas, preservation of archives and access to medical care and education were considered outside the competence of the ECCC or lacking specificity.

Specific challenges to Case 002

Due to the backlog at the VU/VSS, some complaint forms were not processed quickly enough to form part of the investigation for Case 002. This was a missed opportunity for victim participation in the investigation stage of the case.

Civil Parties have been submitting applications for Case 002 since 2007 but it was only in November 2009 that the Co-investigating Judges announced the scope of the investigation, limiting it to certain geographical sites. Many applicants did not make an explicit connection to these sites in their applications submitted prior to this decision. NGOs and VSS thus had to seek supplementary information from victims to demonstrate the link to the investigation. VSS outreach staff, NGOs and Civil Party lawyers had to meet as many people as possible by the supplementary information deadline of 30th June 2010. A further difficulty was that in November 2009 the Civil Party application deadline changed to 15 days after notification of conclusion of the judicial investigation, (estimated at the time to be the end of 2009), which severely reduced the time of submission compared to case 001. Thus many applicants may fall outside the scope of investigation and have their status rejected.

Rules regarding appeals have changed, such that the Civil Party applicant or the accused can appeal the decision on Civil Party status only within 10 days of the decision. This gives very little time for lawyers to consult with clients and also very little time for the Defence to challenge a large number of applications, which raises questions regarding the rights of the accused.

Policy insights and recommendations

Recommendations for the ECCC

- **Strengthen the Victims Support Section**

As the VSS has developed and the full scope of its work has been realised, the ECCC must ensure that it is fully supported. The 2010-11 budget includes the staff and activities that were previously paid for by GTZ, which is important symbolically to ensure that VSS is seen as part of the ECCC. This still needs to be supplemented with other initiatives. With the retirement of the Head of VSS in June 2010, there must be no delay in recruitment of a new head. There has been a high turnover of staff already, which creates a perception for observers that the ECCC does not place a high level of importance on victims. Furthermore, a clear strategy needs to be conveyed to civil society, which is looking to the VSS for leadership. This is particularly important for Case 002 to ensure coordination regarding the numbers that are likely to be involved.

- **Facilitate communication and coordination between the Co-Lead Lawyers and Civil Party lawyers**

Recruitment is underway for the Co-Lead Lawyers and once they are appointed, there is much work to do to ensure that they provide a coordinating role between the Civil Party lawyers, and reflect the interests of

everyone, rather than pursuing their own agenda. It may be useful to have clear guidelines about their roles and relationship with Civil Parties and Civil Party lawyers. The ECCC should revise the Practice Directive on Victim Participation concerning the new roles. It is important that the success of these positions does not depend on personality but that there are procedures in place to ensure and protect the interests of all parties involved.

- **Formulate a clear strategy for rejections for Case 002**

With the announcement of the scope of investigations after many Civil Party applications for Case 002 had been submitted, even with supplementary information subsequently gathered and submitted – it is likely that there will be many rejections. For the intermediary organisations which are liaising with potential Civil Parties, clear guidance is needed so that all applicants are informed in the same way. Direct communication from the ECCC is needed so that victims feel that they have received 'official' word. If there are non-legal measures that have been agreed by this point, then this information should be provided as part of the rejection so that applicants know that they can continue to be included within the process.

- **Formalise support and facilitation for civil society actors**

There are a number of regular meetings between the ECCC and civil society, but the ECCC should take the lead in victim participation meetings. NGOs want some guidance and confirmation of what they are working towards. VSS should chair these meetings with a clear agenda and objectives. This group could also look at reparations and non-legal measures, consult with victims, and engage in fundraising to implement such measures. Furthermore, there is no central point of coordination for civil society to approach the ECCC about their concerns. The VSS is obviously the first contact concerning Civil Parties, but for other issues NGOs have to go to each department in turn depending on the topic they wish to address. A position such as civil society liaison officer within the ECCC would be extremely useful for NGOs.

- **Provide a clear message and facilitate coordination regarding reparations**

The definition of moral and collective reparations needs to be clear to Civil Parties. With the verdict from Duch outlining the type of reparations that the court can consider, there is much work to be done in managing the expectations of victims. With the new amendment that there is to be one single claim for reparations, the Co-Lead Lawyers should facilitate coordination between the Civil Party groups on this matter. With the Judges stating that the requests in Case 001 lacked specificity, particularly concerning cost, this may be something that can be improved for Case 002.

- **Develop non-legal measures**

With the new expanded mandate for the VSS including non-legal measures that reach a broader range of victims than the Civil Parties, it is crucial that a consultation is undertaken with Cambodian civil society. Since a number of NGOs undertake a range of activities around history, memory and reconciliation, it may be useful to consider their experience. Providing victims with opportunities to get information, be heard and engage with others will reduce the impact of those who were rejected as Civil Parties and help many more who did not apply. The proposed Victims Register could benefit from the knowledge and expertise of NGOs. It would also make sense to undertake a mapping exercise to identify gaps which the VSS could address. Activities such as memorials, services to victims, and documenting truth, are being conducted in some form already and so it would be useful not to duplicate but rather build on these experiences.

- **Capitalise on interest in the Duch trial to continue outreach to victims**

The media coverage and interest around the verdict of the Duch trial provides a useful way to interact with victims and continue momentum and interest between case 001 and case 002. The VSS can use this as an opportunity to engage with a broader constituency of victims rather than just with Civil Parties.

For Donors

- **Provide support to NGOs that carry out activities concerning Civil Parties**

Although donors may be reluctant to support NGOs working around the ECCC because they already provide significant support to it, assistance to NGOs working with Civil Parties ensures the ECCC has an impact beyond holding a few accused accountable. A small investment in this area will maximise any other money put into the ECCC. Germany has been a significant donor through DED and GTZ but it has been difficult for NGOs to attract interest from others, and some projects such as ADHOC have been threatened due to lack of funding.

There is also a need for continued psychosocial support. The Transcultural Psychosocial Organisation has been instrumental in ensuring that Civil Parties have had psychosocial support, however without additional financial support it is unlikely that they would be able to replicate the phone service for thousands of Civil Parties. The experience of engaging with the ECCC may not always be positive for Civil Parties and psychosocial support will go some way in dealing with any traumatisation.

Conclusion

There are a number of lessons from the experiences of the ECCC for other courts. The participation of Civil Parties obviously increases the length and cost of the trial, but their voices provide a much-needed reminder of the purpose of the trial. There was wide media coverage of the 5 days when the Civil Parties testified. This was the first time that Civil Parties could participate in a trial concerning crimes of mass atrocity and the process functioned relatively well, thanks to the commitment of NGOs, the Civil Parties themselves and the ECCC. Given that the ECCC has faced allegations of corruption and political interference, which could potentially affect perception of its legitimacy, it may be the participation of victims that leaves a real legacy. Unfortunately, difficulties during the trial gave opponents of the Civil Party system some ammunition to challenge the participation of victims. In order to leave a real legacy for victims all over the world, the ECCC needs to ensure that Case 002 runs smoothly. Now that the scope of the work of VSS is clear, hopefully now it will be used to its full potential and play a major role in facilitation for the next cases. This could cement the legacy of the ECCC, the first court of its kind to include such a victim-centred approach to justice.

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