

**The Survivors' Voices:
Attitudes on the ECCC, the Former
Khmer Rouge and Experiences
with Civil Party Participation**

DECEMBER 2010



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The **Berlin Center for the Treatment of Torture Victims (bzfo)** was founded in 1992 with support from the German Red Cross. The bzfo is a non-profit association committed to the rehabilitation of torture victims.

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0. Executive Summary

This report describes the findings of two surveys conducted in Cambodia. The first survey was conducted between October 3, 2008 and May 22, 2009. Participants were born before 1975 and considered themselves to be victims of the Khmer Rouge regime. The total sample consisted of N=1,077 respondents. About one quarter of the sample (n=247) had applied to become Civil Parties before the Extraordinary Chambers in the Courts of Cambodia (ECCC). These Civil Party applicants were among the first victims who applied to the ECCC.

The participants were asked about their attitudes towards the former Khmer Rouge, the ECCC, possible reparations and their readiness to reconcile with the perpetrators. Furthermore, the Civil Party applicants were interviewed about their reasons for participating in the tribunal.

In the second survey, which was carried out between November 2, 2010 and December 10, 2010, the Civil Party applicants were interviewed again. Of the 247 Civil Party applicants from the first survey, 91.5% (n=226) could be interviewed again.

Objectives here were to find out about the effect that the application to and participation in the ECCC had on the Civil Party applicants and their families, sources of legal and psychosocial support, knowledge about the proceedings and especially how the first trial against Kaing Guek Eav, alias Duch, was perceived. Our main findings were:

Among survivors of the Khmer Rouge regime the ECCC is highly appreciated. The follow-up survey

showed that Civil Party applicants did not report negative consequences in relation to their applications. Furthermore, they seemed to place trust in the court and expressed satisfaction with its work. Many respondents expected the ECCC to contribute to reconciliation and also expressed that it had led to a greater inclination towards reconciliation in themselves. The most common reason for filing an application form was to seek justice and to take revenge for what had happened under the Khmer Rouge regime.

Reparations were considered as being important by most of the participants. Contrary to the rules of the ECCC, many favored individual monetary compensation over moral or collective compensation. However, Civil Party applicants expressed a wish to have ceremonies for deceased family members more often than survivors who did not apply to the ECCC.

Civil Parties were satisfied with the support they received from their lawyers and were backed by their family members. Many participants indicated that they had followed the proceedings at the ECCC. However, many Civil Party applicants seem to have had a lack of information about their applications and the proceedings at the court.

Nevertheless, the first trial against Duch and the respective judgment were received positively.

Civil Party applicants were found to talk mainly to their family members and other survivors of the Khmer Rouge regime about their painful pasts. Most of them consider ceremonies for the deceased and the documentation of their experiences as being a helpful measure in the relief of their suffering.

1. Introduction

For the first time, and more than 30 years after the devastating events that occurred under the Khmer Rouge regime (1975–1979), former perpetrators are being brought before an official tribunal that applies international law standards: the Extraordinary Chambers in the Courts of Cambodia (ECCC).

The ECCC represents a unique endeavor in international justice as well as in Cambodian national law. A new approach distinguishes it from former international war crimes tribunals.

The ECCC is located in Cambodia itself and consists of Cambodian and international staff that apply both Cambodian and international law in a hybrid approach.

For the first time in the history of war crimes tribunals, victims are allowed to actively participate in the court proceedings as Civil Parties.

In addition the ECCC is the first international tribunal with a specific reparations mandate.

The above-mentioned characteristics of the ECCC offer new opportunities for broad participation by the affected population and provide an environment that aims to bring justice to the people.

This report contains the findings of two surveys carried out with survivors of the Khmer Rouge regime.

A first survey with 1,077 respondents was conducted in various provinces in Cambodia between October 3, 2008 and May 22, 2009, in the run up to the court's first trial.

The main questions of the first survey were:

- Which incidents did the respondents experience during the rule of the regime?
- How do they view the former Khmer Rouge today?
- What attitudes and expectations do they hold in relation to the trials?
- What opinions are held in terms of reparations and what kind of reparations are claimed?

Of the 1077 participants about one fourth had applied to become Civil Parties to the ECCC.

A follow-up survey was started on November 2, 2010 and completed by December 12, 2010. Here respondents of the first survey, who had applied to become Civil Parties, were interviewed again, on average 1.7 years after the first interview.

In the second survey 226 interviews were conducted.

In the aftermath of the sentencing of the first trial, and with a second trial due in 2011, the following questions were addressed and will make up the main part of this report:

- What experiences did the survivors have in terms of their Civil Party applications to the ECCC (outreach, support by organizations and lawyers)?
- To what extent were their own or their families' lives affected by their activities in relation to the ECCC?
- What attitudes do they have towards the first trial and its verdict?
- What kind of psychosocial support is sought by the survivors in order to deal with their painful pasts?

This report is organized into five chapters. Chapter 2 will outline background information on the Khmer Rouge regime, the ECCC, victim participation and reparations in the context of the court. Within chapter 3 methods and findings

of the first study will be presented. This is followed by recent results from the second survey in chapter 4. Finally chapter 5 contains a summary of the main findings and a discussion related to the field of Civil Party participation.

2. Background

2.1 The Khmer Rouge Regime

The Communist Party of Kampuchea (CPK)—better known as the Khmer Rouge—emerged in 1966 from the Khmer People’s Revolutionary Party (KPRP), which was originally an anti-French movement fighting against colonial occupation and for Cambodian independence (“Khmer Issarak”).

The roots of the KPRP lie in the spread of communist ideology in the French colonies of Indochina (Vietnam, Cambodia and Laos) in the 1940s and 50s.¹

Under Prince Sihanouk, royalist forces finally achieved independence in 1953.²

As head of state, the prince immediately began to persecute radical communist groups in the country—he also coined the term “Khmer Rouge.”

He was referring to rather small and politically insignificant factions.³ Later the term would be adopted internationally to denote the CPK.

Things changed though when the Vietnamese conflict escalated in the 1960s to the point that neighboring countries like Cambodia were drawn into the fighting.

Prince Sihanouk became an ally of the Vietnamese communist forces and support lines—popularly referred to as the “Ho Chi Minh Trail”—were established on Cambodian territory. A growing Vietnamese influence along these lines strengthened the local communist movement and became the target of United States carpet bombardments from 1969 onwards.⁴

The Sihanouk administration became increasingly destabilized by the communist opposition that grew into a serious military force. The situation was further destabilized by the growing number of civilian casualties caused by military strikes and the political interference of the United States.

¹ Carney, T. (1989). The Unexpected Victory. In: Jackson, K.D. (ed.) *Cambodia, 1975-1978: Rendezvous with Death*, New Jersey: Princeton University Press.

² Tully, J. (2005). *A Short History of Cambodia*, Sydney: Allen & Unwin.

³ Kiernan, B. (2008). *The Pol Pot Regime*, New Haven: Yale University Press.

⁴ Carney, T. (1989). The Unexpected Victory. In: Jackson, K.D. (ed.) *Cambodia, 1975-1978: Rendezvous with Death*, New Jersey: Princeton University Press.

In 1970 Lon Nol—the Prime Minister of Cambodia at that time—overthrew Sihanouk in a US-backed military coup.

It was as a guerilla movement fighting against the new government that the Khmer Rouge could finally gain broad popular support among the civilian population.

This was not least because the former head of state, Prince Sihanouk—who still had the collective respect of many Cambodians—joined sides with the Khmer Rouge after being forced into exile.

Under Lon Nol the United States bombardments intensified. An estimated 0.5 million tons of bombs were dropped—the civil population suffered severely. It is estimated that over 100,000 people lost their lives as a result of the US bombardment.⁵

This lead directly to civil war and the Khmer Rouge was able to present themselves as defenders of Cambodia against the US “imperialists”, counting on a stable flow of often young soldiers who had often lost relatives in the fighting. When the Vietnam War ended in 1975 the Khmer Rouge had already occupied most of the country and only extensive military aid from the United States had kept Lon Nol in power.

When this support ended, the Khmer Rouge was finally able to capture the capital Phnom Penh on April 17, 1975. From this day on, the period of the

“Khmer Rouge regime” began.

On the very same day the Khmer Rouge soldiers set in motion the deportation of the entire urban population from major Cambodian cities to the countryside.⁶

Cambodia was transformed radically in an attempt to turn the country into a classless agrarian-based society.

Fundamental elements of the old society and Cambodian culture were abolished—schools, universities, monasteries and courts were closed, television and radio stations stopped broadcasting, free markets and the use of money were prohibited, religious practice, traditional rituals and even the use of foreign languages were banned.⁷

The “Angkar”—the organization—as the leaders of the party were now called, demanded servile obedience and had to be respected as “mother and father” of the people.

Almost the entire population had to work in rural areas, mostly in agricultural projects.

Forced labor was common, as were food shortages. Thousands had already died during the evacuations and many more starved to death, died due to illness or exhaustion or were first tortured and then killed in the extensive prison system established in former monasteries, mosques, churches and schools.

⁵ Kiernan B. (1989). *The American Bombardment of Kampuchea, 1969 -1973, Vietnam Generation*, 1(1).

⁶ Kiernan, B. (2008). *The Pol Pot Regime*, New Haven: Yale University Press.

⁷ Tully, J. (2005). *A Short History of Cambodia*, Sydney: Allen & Unwin.

Any form of protest as well as any signs of higher education could lead directly to execution. In particular former intellectuals, teachers, soldiers, government officials and members of ethnic minorities were systematically hunted down. At least 1.7 million people lost their lives—about every fourth Cambodian at that time.⁸

Meanwhile Cambodia's relations with its Vietnamese neighbors grew increasingly hostile and on January 7, 1979 the Khmer Rouge were overthrown by Vietnamese troops.⁹

Many of those who survived the regime were severely traumatized by their experiences.

Fighting between Khmer Rouge forces and government forces continued for more than a decade.¹⁰

Following international mediation, the Paris Peace Agreement was signed in 1991, which led to a United Nations mission being sent to Cambodia (United Nations Transitional Authority in Cambodia, UNTAC) to ensure free elections—these took place in 1993.

The Khmer Rouge refused to cooperate with the

UNTAC even though they had been part of the original peace agreement.¹¹

In some isolated strongholds their leaders—among them some of those who are now in the custody of the ECCC—remained in power until the movement finally collapsed in 1998.

Even 30 years later, Cambodians still suffer from their losses and painful memories.

Almost every citizen lost family members and many were physically and psychologically harmed.

Compared to the populations of other post-conflict countries, Cambodians have an exceptionally high rate of posttraumatic stress disorder (PTSD), reportedly between 11.2%¹² and 28.4%.¹³

⁸ Kiernan, B. (2008). *The Pol Pot Regime*, New Haven: Yale University Press.

⁹ Tully, J. (2005). *A Short History of Cambodia*, Sydney: Allen & Unwin.

¹⁰ Rowley, K. (2005) *Second Life, Second Death The Khmer Rouge After 1978*. In Cook, S.E. (ed.) *Genocide in Cambodia and Rwanda*. New Jersey: Transaction Publishers.

¹¹ Ibid.

¹² Sonis, J., Gibson, J. L., de Jong, J. T., Field, N. P., Hean, S., & Komproe, I. (2009). Probable posttraumatic stress disorder and disability in Cambodia: associations with perceived justice, desire for revenge, and attitudes toward the Khmer Rouge trials. *JAMA*, 302(5), 527-536.

¹³ de Jong, J. T., Komproe, I. H., Van Ommeren, M., El Masri, M., Araya, M. & Khaled, N. (2001). Lifetime events and posttraumatic stress disorder in 4 postconflict settings. *JAMA*, 286(5), 555-562.

2.2 The Extraordinary Chambers in the Courts of Cambodia (ECCC)

Establishment

The Extraordinary Chambers in the Courts of Cambodia (ECCC) were created as a cooperative endeavor by the United Nations and the Kingdom of Cambodia.

Following an official request by the Cambodian government, as early as 1997, negotiations about the possibilities of UN assistance lasted until 2003 when an agreement was met.¹⁴

In June 2007 the Extraordinary Chambers in the Courts of Cambodia adopted their Internal Rules and started working on their mandate to “[...] trial senior leaders of Democratic Kampuchea and those who are most responsible for crimes and serious violations of Cambodian penal law and international humanitarian law and custom and international conventions recognized by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979”.¹⁵

Organization and Scope

The ECCC is implemented within the Cambodian legal system, working largely with international funding and a mixed workforce consisting of international members of staff and Cambodians.

Important positions within the court—for example the Co-Prosecution, responsible for investigations prior to the actual trials to ascertain whether there is sufficient evidence to justify a trial—are staffed by two officials. One of them has to be from the international community and the other must be Cambodian.

In the chambers of the court, nationals represent the majority, but decisions have to be made according to the principle of supermajority.¹⁶ For example in the trial chamber, which consists of three national and two international judges, every decision can only be made with a minimum of four votes. Therefore, the vote of at least one international judge is required for any decision. Because of the incorporation of national and international features, the ECCC is called a hybrid court.

Furthermore, the ECCC is a criminal measure: perpetrators are held accountable for crimes they have committed and receive an individual punishment, serving the notion of justice in which the wrongdoing has to be paid for.

¹⁴ For further details see the official webpage of the ECCC, <http://www.eccc.gov.kh/>

¹⁵ Internal Rules, June 12, 2007, Preamble, Retrieved November 14, 2010: www.eccc.gov.kh/english/cabinet/files/irs/ECCC_IRs_English_2007_06_12.pdf

¹⁶ Internal Rules, June 12, 2007, Rule 5; Rule 98.

This approach is subsumed under the term retributive justice and has already been applied in a number of “ad hoc” tribunals like the International Criminal Tribunal for the former Yugoslavia (ICTY) and the Criminal Tribunal for Rwanda (ICTR).

An alternative path to retributive approaches is given in measures of restorative justice. They are represented for example by truth and reconciliation commissions.

Under this category fall approaches encouraging perpetrators to openly testify while offering them an amnesty in exchange, which was realized, for example, in South America (for instance in Argentina, Chile, El Salvador) and South Africa.¹⁷

Here, the main emphasis lies on reconciliation processes brought about by bringing former conflicting parties together and publicly acknowledging the suffering of victims and survivors of human rights violations.¹⁸ In the field of posttraumatic stress reactions, the

acknowledgement of injustice that has occurred is considered an integral part of the healing process.¹⁹ This was also intended to be the case in those societies in which a truth and reconciliation commission has been established.²⁰

Although a tribunal like the ECCC has a different scope, and also different outcomes compared to a truth commission, it is assumed that tribunals should also contribute to reconciliation while addressing impunity at the same time.²¹

The ECCC adopted a different approach to other tribunals, like the ICTY or the ICTR, especially in terms of the issue of victim participation. The court has made it its mandate to take decisive steps to ensure the active participation of victims in the proceedings and to ensure the legal certainty and transparency of proceedings.²²

¹⁷ Hayner, P.B. (1994). Fifteen Truth Commissions -- 1974 to 1994: A Comparative Study [Digital Version]. *Human Rights Quarterly*, 16 (4), 597-655. Publication. Retrieved November 9, 2010: <http://pics3441.upmf-grenoble.fr/articles/huma/Fifteen%20Truth%20Commissions--1974%20to%201994.pdf>

¹⁸ Bockers, E., Stammel, N., & Knaevelsrud, C. (in press). Reconciliation in Cambodia: 30 Years after the Terror of the Khmer Rouge regime. *Torture*.

¹⁹ Herman, J. (1997). *Trauma and recovery: The aftermath of violence from domestic abuse to political terror*. New York: Basic Books.

²⁰ Survivors' Perceptions of the Truth and Reconciliation Commission and Suggestions for the Final Report [Electronic Resource]. *Centre for the Study of Violence and Reconciliation & the Khulumani Support Group*. Retrieved November 16, 2010: http://www.csvr.org.za/index.php?option=com_content&task=view&id=728

²¹ Linton, S. (2004). Reconciliation in Cambodia. Documentation Center of Cambodia. And therein the reference to the judgment of Anto Furund'ija before the ICTY, December 10, 1998 (VII, G, 288). Retrieved November 15, 2010: <http://www.icty.org/x/cases/furundzija/tjug/en/fur-tj981210e.pdf>

²² Internal Rules (Rev.6), September 17, 2010, Rules 21 & 23.

The latter includes, for example, public broadcasting of the trial hearings and providing facilities for visitors to the ECCC complex in Phnom Penh.

The Accused

To this date pre-trial investigations have been completed in two cases (referred to as Case 001 and Case 002). Case 001 started in March 2009 with the trial against Kaing Guek Eav, alias Duch—the former head of the notorious Khmer Rouge torture prison Tuol Sleng (S-21).

On July 26, 2010 the judgment was handed down and Duch was found guilty of war crimes and crimes against humanity and was convicted to 35 years in prison. The sentence was reduced by 5 years because of his illegal military detention prior to the establishment of the ECCC.²³ Given that Duch had already spent 11 years in prison when the judgment came into force he will have to spend another 19 years in jail.

With this judgment the court presented the first sentence against a Khmer Rouge official that had ever been handed down according to international rules of law and after a fair trial.²⁴

Following the Closing Order in Case 002 from September 15, 2010, the court will carry out hearings in the cases of four high-ranking Khmer Rouge leaders in 2011.

They are Ieng Sary, the former Prime Minister and former Minister of Foreign Affairs; his wife Ieng Tirth, the former Minister of Social Affairs; Nuon Chea, the former second-in-command, after Pol Pot; and Khieu Samphan, the former President of Democratic Kampuchea.

Attitudes Towards the Tribunal

A survey conducted by the Human Rights Center of the University of California, Berkeley²⁵, showed that Cambodians consider the greatest potential of the ECCC as being its ability to bring justice to the victims and punish perpetrators, with the most relevant positive impacts being that of seeing the responsible persons imprisoned and discovering the truth for the victims.

²³ KAING Guek Eav alias Duch, Judgment, July 26, 2010. Retrieved October 23, 2010: www.eccc.gov.kh/english/cabinet/courtDoc/635/20100726_Judgement_Case_001_ENG_PUBLIC.pdf

²⁴ Recent Developments at the Extraordinary Chambers in the Courts of Cambodia: September 2010 Update. Open Society Institute. Retrieved November 16, 2010: http://www.soros.org/initiatives/justice/focus/international_justice/articles_publications/publications/cambodia-report-20109002

²⁵ Pham, P., Vinck, P., Balthazard, M., Hean, S., & Stover, E. (2009). So we will never forget. A population based Survey on Attitudes about Social Reconstruction and the Extraordinary Chambers in the Courts of Cambodia. Publication. Retrieved November 16, 2010: <http://hrc.berkeley.edu/pdfs/So-We-Will-Never-Forget.pdf>

Cambodians have expressed their desire for a tribunal on several occasions in the past.²⁶ The Documentation Center of Cambodia (DC-CAM) highlights the fact that the long period of impunity enjoyed by the perpetrators represents a particular burden for the victims.

Many questions still have to be answered given that even the direct survivors only have a scarce knowledge about the background and mechanisms of the regime.²⁷ Moreover, there is a need to finally get an answer to the often-asked question: "Why did Khmer kill Khmer?" (p. 413)²⁸ Sonis and colleagues pointed out that Cambodians generally expected positive effects from the tribunal, specifically that it would help to find out what really happened under the regime and that it would protect the country from similar events in the future. On the other hand they were concerned that the tribunal might revive hurtful memories.²⁹

Furthermore, Field and Chhim showed³⁰ that respondents who were expecting the unearthing of painful memories also exhibited a higher desire for revenge compared to other participants. Additionally those with a higher desire for revenge also expressed a higher desire to attend the trial hearings and to testify before the court. The authors identified revenge as "an important factor in adjustment to large-scale human perpetrated trauma" (p. 367). They were able to further show that revenge mediates a number of other factors in their effects on attitudes towards the Khmer Rouge tribunal.

²⁶ Lambourne, W. (2008). 'The Khmer Rouge Tribunal: Justice for Genocide in Cambodia?'. Law and Society Association Australia and New Zealand (LSAANZ) Conference 2008 'W(h)ither Human Rights' 10-12 December University of Sydney. Publication. Retrieved November 10, 2010: <http://ses.library.usyd.edu.au/bitstream/2123/4042/1/LSAANZ%20Lambourne%20Cambodia%20conf%20paper%20final.pdf>

²⁷ Linton, S. (2004). Reconciliation in Cambodia. Documentation Center of Cambodia.

²⁸ Münyas, B. (2008). Genocide in the minds of Cambodian youth: transmitting (hi)stories of genocide to second and third generations in Cambodia. *Journal of Genocide Research*, 10 (3), 413-439.

²⁹ Sonis at al. (2009). Probable posttraumatic stress disorder and disability in Cambodia: associations with perceived justice, desire for revenge, and attitudes toward the Khmer Rouge trials.

³⁰ Field, N. & Chhim, S. (2008). Desire for revenge and attitudes toward the Khmer Rouge tribunal among Cambodians. *J Loss Trauma*. 13(4), 352-372.

The ECCC's Challenges

Two major issues seem to summarize the court's challenging task:

The first is the necessity of applying international standards of law, resulting in an independent, fair and internationally recognized process. In the long-term, this is intended to have positive repercussions on the Cambodian legal system.³¹

The second is to address the victims' wishes, hopes and needs. The key tasks here are to respond adequately to the victims' demands for justice and to manage their expectations concerning the trials.³²

2.3 Victim Participation

Civil Parties

In the somewhat short history of war crimes tribunals the lack of victim participation arises as an essential flaw of the first ad hoc war crimes

tribunals, like the ICTY or the ICTR.³³

The International Criminal Court (ICC) already strengthened the role of victims by implementing victim participation.

While in former tribunals victims could only be called by the court to testify as witnesses, according to Article 68(3) of the Rome Statute, the ICC allows victims to pursue their own interests by communicating their views and concerns at any stage of the proceeding.³⁴ The ECCC takes this a step further by allowing victims to participate actively in the court proceedings for the first time as Civil Parties. Internationally the ECCC has attracted growing interest because it represents the first practical implementation of victims in the proceedings that goes beyond the role of a mere witness.³⁵

³¹ Political Interference at the Extraordinary Chambers in the Courts of Cambodia: July 6, 2010. *Open Society Institute*. Retrieved November 16, 2010:

http://www.soros.org/initiatives/justice/focus/international_justice/articles_publications/publications/political-interference-report-20100706

³² Carranza, R. (2009) Practical, Feasible and Meaningful: How the Khmer Rouge Tribunal Can Fulfill its Reparations Mandate. International Center for Transitional Justice. Publication. Retrieved November 9, 2010: http://www.ictj.org/static/Publications/ICTJ_Carranza_KH_ECCCReparations_Nov2009_Eng.pdf

³³ Trumbull, C.P. (2008). The Victims of Victim Participation in International Criminal Proceedings. *Michigan Journal of International Law*, 29 (4), 777-826. Publication. Retrieved November 16, 2010: <http://students.law.umich.edu/mjil/article-pdfs/v29n4-trumbull.pdf>

³⁴ McKay, F. (2008). Victim Participation in Proceedings before the International Criminal Court. *Human Rights Brief*, 15(3), 2-5. Publication. Retrieved December 05, 2010: www.wcl.american.edu/hrbrief/15/3mckay.pdf?rd=1

³⁵ Werner, A. & Rudy, D. (2010). Civil Party Representation at the ECCC: Sounding the Retreat in International Criminal Law? *Northwestern Journal of International Human Rights*, 8 (3), 301-309.

In common law there are only two parties before the court: the defense and the prosecution.

A Civil Party is basically a third party before the court and has the same status as the other two parties.

This allows active participation on an equal level, which includes, for example, the right to examine witnesses, mediated by their lawyer, the right to be present in the courtroom during the whole trial and to have access to internal documents.³⁶

Civil Parties have the following rights according to the Internal Rules (6th revision) of the ECCC.³⁷

- “Participate in criminal proceedings against those responsible for crimes within the jurisdiction of the ECCC by supporting the prosecution”
- “Seek collective and moral reparations”

Therefore, Civil Parties can actively participate in a criminal case that goes before the court and within that case they can seek reparations, which according to the ECCC cannot be of an individual or monetary character.

In addition to that the ECCC also offers active victim participation in the run-up to trials.

As a complainant a victim files a complaint form and sends it to the court in which information about experiences related to crimes that might be part of the court’s mandate are laid down. The complaint will be included in the court’s investigations and becomes part of the extensive documentation of the events under the Khmer Rouge regime created by the court’s work. Information from complaint forms can lead to a trial in which Civil Parties have the right to participate and demand reparations.

The basis for this system lies in Cambodia’s history as a French protectorate between 1864 and 1953 meaning that the organization of its law is essentially influenced by French civil law.³⁸

By nature this kind of legal system allows for more direct participation of victims in a criminal case. Common law systems, like that of the United States, differentiate between criminal and civil trials, whereby victims can only seek compensation in a civil trial.

A civil law system, however, allows the victim to participate actively in the criminal trial not only as a witness, but with extensive procedural rights, and to seek reparations at the same time.³⁹

³⁶ Ntoko Ngome, E. (1995). *The Civil Party in Criminal Trials: a comparative study-guide to the criminal procedure harmonization process in Cameroon*. Published Master thesis. Retrieved November 16, 2010: http://digitool.library.mcgill.ca/R/?func=dbin-jump-full&object_id=22701&local_base=GEN01-MCG02

³⁷ Internal Rules (Rev.6), September 17, 2010, Rule 23.

³⁸ Herman, J. (2010). *Reaching for Justice: The Participation of Victims at the Extraordinary Chambers in the Courts of Cambodia*. *Centre on Human Rights in Conflict Policy Paper No. 5*.

³⁹ Ntoko Ngome, E. (1995). *The Civil Party in Criminal Trials: a comparative study-guide to the criminal procedure harmonization process in Cameroon*. Published Master thesis.

The ECCC is able to adopt these facets, because unlike other tribunals, such as the ICTY, ICTR or the current Special Tribunal on Lebanon, the ECCC is located in the affected country itself and implemented within the Cambodian legal system.

Basing a tribunal like the ECCC on civil law must be considered a precedent in international law and it created a number of difficulties that had to be addressed by the court in the course of the first trial.

For example:

- Civil Parties appeared before the court in four groups, each having two lawyers. Due to the presence of these eight lawyers, a restriction of the time each Civil Party lawyer was allocated to examine a witness was introduced. One reason was to guarantee the establishment of a process that was not overly protracted.
- The court limited the right of participation in the case by Civil Parties to proving guilt and receiving reparations and excluded them from examining character witnesses who might have an influence on the final sentence. This led to an éclat and the

Civil Parties refused to participate in the further hearings of character witnesses.⁴⁰

Civil Party Applications

In February 2007 a Practice Direction was issued that specified the proceedings for Civil Party participation and introduced the necessary application form.⁴¹ As described above, the status of a Civil Party requires that there are actual charges against a person in a specific criminal case. That means a victim has to know the name of the perpetrator and which crime that person is charged with. Only with this knowledge is it possible to submit the application form. After that the applications have to be admitted by the Co-Investigating Judges according to the following criteria.⁴²

- Applicants must “be clearly identified”
- They must “demonstrate as a direct consequence of at least one of the crimes alleged against the Charged Person, that he or she has in fact suffered physical, material or psychological injury upon which a claim of collective and moral reparations might be based”

Hence, the application form asks for personal

⁴⁰ Herman, J. (2010). Reaching for Justice: The Participation of Victims at the Extraordinary Chambers in the Courts of Cambodia. *Centre on Human Rights in Conflict Policy Paper No. 5*.

⁴¹ Practice Direction on Victim Participation, February 2007 and Internal Rules, June 12, 2007, Rule 23; for the application form see: Practice Direction on Victim Participation (Rev. 1), October 27, 2008: http://www.eccc.gov.kh/english/cabinet/courtDoc/160/PD_Victims_Participation_rev1_En.pdf

⁴² Internal Rules (Rev.6), September 17, 2010, Rule 23.

information and for a detailed description of experiences, including evidence of physical, material or psychological injury. Furthermore it is necessary that these events are directly related to the accused and the specific crimes alleged against them. As soon as the names of perpetrators were submitted by the Co-Prosecution to the trial chamber, Civil Party applications could be submitted.

Due to the need for essential information and difficulties with the rather complicated application form—many victims are old people, unused to official and especially court documents and possibly illiterate—outreach became indispensable. Under the umbrella of the Cambodian Human Rights Action Committee (CHRAC) a number of non-governmental organizations (NGOs) offered assistance to help victims to file their applications. Usually these applications were first sent to CHRAC to be screened for missing information. Then they were forwarded to the Victim Support Section (formerly Victims' Unit) of the ECCC.⁴³ The Victim Support Section hands Civil Party applications to the Co-Investigating Judges, while complaints go to the Co-Prosecutors.

After recent changes in the internal rules of the

court, any decisions relating to failed or accepted Civil Party applications have to be made by the Co-Investigating Judges before they announce their closing order, which in turn sends the case to the trial chamber, where the actual hearings take place.

After that the applicants have to be informed about the success or otherwise of their application.⁴⁴ This is done by the respective NGOs, the Victim Support Section itself or the lawyers. A personal lawyer is obligatory for each Civil Party applicant, in order to appeal in the case of a denied application, for example.

While Case 001 had the rather manageable total of 93 participating Civil Parties,⁴⁵ in Case 002 the Co-Investigating Judges had to process about 3,988 applications. Of those, 2,123 were accepted and will participate as Civil Parties before the court. This number may however change in the light of appeals.⁴⁶ A denied application is automatically treated as a complaint. Many applications were inadmissible because the sole presence of physical, material or psychological injury is not sufficient for Civil Party application approval. This harm must be "related to the factual circumstances set out in the Introductory and Supplementary Submission."⁴⁷

⁴³ Herman, J. (2010). *Reaching for Justice: The Participation of Victims at the Extraordinary Chambers in the Courts of Cambodia. Centre on Human Rights in Conflict Policy Paper No. 5.*

⁴⁴ Internal Rules (Rev.6), September 17, 2010, Rule 23.

⁴⁵ KAING Guek Eav alias Duch, Judgment, July 26, 2010.

⁴⁶ Closing Order in Case 002, September 15, 2010.

⁴⁷ Ibid.

The ECCC had only five defendants when applications became possible and until now there are no additional names issued. In each of the cases (Case 001 and 002) there is a selection of crimes and geographical “crime scenes” that were chosen to be part of the trial. Therefore, an applicant will not be accepted if he does not relate to these specific crimes and “crime scenes” — even if the respective person presented sufficient information in the application form.

Outreach

Due to initial underfunding, the Victims’ Unit could not ensure the necessary outreach activities to inform victims about their right to participate and to offer them help with the application form.⁴⁸ Non-governmental organizations (NGOs) filled this gap. Among them the following four organizations started to collect Civil Party applicants and made legal assistance available to them:

- Cambodian Human Rights and Development Organization (ADHOC)
- Khmer Institute for Democracy (KID)
- Center for Social Development (CSD)
- Documentation Center of Cambodia (DC-CAM)

The result of this was that the Civil Parties in Case 001 later appeared in four groups before the court.

Outreach activities usually serve the purpose of informing people and building capacity. In the early stages of the ECCC, related procedures also included the contacting of possible applicants or complainants, the provision of application forms and assistance with filling them in and submitting them. The ongoing outreach requires regular updates and training for Civil Parties, especially those who will speak before the court. The Cambodian context gives rise to a number of difficulties here due to a lack of infrastructure in rural areas and insufficient financial resources to ensure the necessary number of staff needed to stay in close contact with the applicants.

Civil Party Representation

In the 6th revision of the Internal Rules from September 17, 2010 the court introduced an extensive restructuring of Civil Party participation.⁴⁹

⁴⁸ Herman, J. (2010). Reaching for Justice: The Participation of Victims at the Extraordinary Chambers in the Courts of Cambodia. Centre on Human Rights in Conflict Policy Paper No. 5.

⁴⁹ Internal Rules (Rev.6), September 17, 2010, Rule 23.

From the trial stage on and beyond, Civil Parties will now be represented by two Civil Party Lead Co-Lawyers (one national and one international).

The Civil Party Lead Co-Lawyers have to:

- Balance “the right of all parties and the need for an expeditious trial within the unique ECCC context”
- Work with the Civil Party lawyers “to reach consensus in order to coordinate representation of Civil Parties at trial”

Therefore, in the upcoming Case 002 Civil Parties will be represented in one consolidated group, which can be seen as a consequence of the above-mentioned fragmentation in Civil Party representation and the extensive number of applications.⁵⁰

Reparations

The ECCC is the first internationalized tribunal with a specific reparations mandate. However these are restricted to Civil Parties. Therefore the chance of receiving reparations might be a big motivator for victims to file an application. Even though the ECCC adopted this element of civil law, it is important to note that reparations are limited to those with collective and moral characteristics. Reparations can only be awarded in the case of a conviction and they must:

- “Acknowledge the harm suffered by Civil Parties as a result of the commission of the crimes for which an Accused is convicted”
- “Provide benefits to the Civil Parties which address this harm”

Furthermore it is stressed that “these benefits shall not take the form of monetary payments to Civil Parties.”⁵¹

Reparations can only be granted if they are related to an injury that was caused by the specific crime(s) a perpetrator is convicted of. They must further provide benefits for the Civil Parties that are of a moral and collective nature, which specifically excludes monetary compensation for individuals and includes instead symbolic compensation for the group of Civil Parties as a whole.

For Case 001 the Civil Parties requested a number of reparations that were presented in a joint submission from September, 2009.⁵²

These included:

- “The compilation and dissemination of statements of apology made by KAING Guek Eav throughout the trial acknowledging the suffering of victims [...]”

⁵⁰ Herman, J. (2010). Reaching for Justice: The Participation of Victims at the Extraordinary Chambers in the Courts of Cambodia. *Centre on Human Rights in Conflict Policy Paper No. 5*.

⁵¹ Internal Rules (Rev.6), September 17, 2010, Rule 23.

⁵² KAING Guek Eav alias Duch, Judgment, July 26, 2010.

- “Access to free medical care (both physical and psychological), including free transportation to and from medical facilities”
- “Funding of educational programs which inform Cambodians of the crimes committed under the Khmer Rouge regime and at S-21 in particular”
- “Erection of memorials and pagoda fences at S-21 (Choeung Ek and Prey Sar) as well as in the local communities of the Civil Parties”
- “Inclusion of the names of the Civil Parties in Case 001 in the final judgment, along with a description of their connection to S-21”

Each civil party group also submitted further claims for reparations.

In the final judgment only the publication of apologies made by the convicted during the trial and the inclusion of all civil parties in the judgment were granted. All other claims were rejected, because, among other reasons, they were considered out of the court’s scope, not specific enough, or as referring directly or indirectly to monetary compensations.⁵³

In preparation for Case 002, new regulations were included in the Internal Rules that stated: “Reparations shall be requested in a single submission “[...] by the consolidated group of Civil Parties and submitted by the Civil Party Lead Co-Lawyers.” Practically, this means that Civil Parties cannot demand reparations as an individual any more, but have to find a joint solution for their claims before they submit them to the court.

One decisive limitation of the possible scope a reparation could have was “that the costs of the award shall be borne by the convicted person”⁵⁴—that is, the perpetrator would have to pay for it. However the accused do not generally have substantial enough assets that could be used to fund larger reparation projects, therefore the court opened up a way to access external funding in the form of a new regulation. It can now “recognize that a specific project appropriately gives effect to the award sought by the Lead Co-Lawyers and may be implemented. Such projects shall have been designed or identified in cooperation with the Victim Support Section and have secured sufficient external funding.”⁵⁵

⁵³ KAING Guek Eav alias Duch, Judgment, July 26, 2010.

⁵⁴ Internal Rules (Rev.6), September 17, 2010, Rule 23

⁵⁵ Internal Rules (Rev.6), September 17, 2010, Rule 23

This makes so called non-legal measures possible that can be developed in cooperation with the Victim Support Section and get the official recognition of the court, but then be placed, for example, in the hands of a state-sponsored program that can be supported by international donations.⁵⁶

⁵⁶ Sperfeldt, C. (2009). Reparations for Victims of the Khmer Rouge [Electronic Version]. *Oxford Transitional Justice Research Working Paper Series*. Retrieved November 10, 2010, from <http://www.csls.ox.ac.uk/documents/SperfeldtFinal.pdf>

3. Study with Direct Survivors (2008/2009)

3.1 Methodology

Sample Distribution

A total number of N=1077 respondents were interviewed in 19 provinces of Cambodia as illustrated in the chart below.

Table 1: Participants in each province (%)

Kandal	23.2
Phnom Penh	17.4
Takéo	7.2
Kampot	6.3
Kampong Speu	5.1
Svay Rieng	4.2
Battambang	4.0
Kampong Cham	4.9
Pursat	3.5
Siem Reap	3.0
Stung Treng	3.0
Sihanoukville	3.0
Ratanakiri	2.9
Koh Kong	2.9
Kampong Thom	2.7
Kampong Chhnang	2.6
Kratié	2.6
Bantey Meanchey	1.5
Pailin	0.9

Of all participants 23 percent (n=247) applied to become Civil Parties in one or both cases before the ECCC.

Interviewers

The interviews were conducted by Cambodian interviewers holding a BA in Psychology. Prior to the start of the first survey, the interviewers participated in a two-weeks training seminar on psychological consequences of war and trauma, diagnostics of relevant psychological disorders, interviewing techniques as well as on the background of the ECCC and the Khmer Rouge regime.

During the training the application of the questionnaires was taught and relevant concepts and content of the applied questionnaires were discussed and adapted if necessary. During the survey the interviewers were supervised by two experienced psychologists.

Procedure

The recruitment of participants followed a two-fold methodology:

First Civil Party applicants were contacted with the help of the Cambodian Human Rights and Development Association (Adhoc) and asked to participate in the survey. All Civil Party applicants had been contacted by Adhoc in their initial stage of outreach activities and had already submitted a complaint form to the ECCC. This means that all Civil Party applicants who participated in this survey were among the first victims to apply to the court.

The rest of the participants were recruited using a convenience sampling approach.

Of those n=120 were conducted in villages in which our partner organization Transcultural Psychosocial Organisation (TPO Cambodia) was working, as well as in TPO Cambodia's outpatient clinic in Phnom Penh.

The remaining participants were recruited in different villages in Cambodia that were visited in order to conduct these interviews.

All possible participants had to be born before 1975 and consider themselves victims of the Khmer Rouge regime. No other exclusion criteria was applied.

Among all contacted victims who were asked to participate, 820 people refused the interview. In addition, in five cases the interview could not be completed due to language difficulties, lack of time or the level of stress caused to the interviewee. Those five participants were excluded from data analysis.

The participants were interviewed in structured face-to-face interviews in the Khmer language between October 3, 2008 and May 22, 2009.

Prior to any interview, participants were informed about the following points and had to give their informed consent:

- The completely voluntary nature of the interview
- The duration and the topics of the interview
- The right to refuse to answer any question as well as to end the interview at any time
- The principles of confidentiality and anonymity

Interviewers were instructed to ensure that an appropriate place for the interview was found that provided the necessary privacy. No financial compensation was given to the respondents for their participation in the survey. However, at the end of each interview, a small present consisting of a piece of soap and a “krama” (a traditional Cambodian scarf) was given, which the respondent was not told about preceding the interview.

The average amount of time spent on an interview was one and a half hours.

3.2 Measures

The measures presented were developed in our working group.

All items were translated from English into Khmer by Cambodian psychologists and were subsequently re-translated back into English by interpreters who were unfamiliar with the original English versions to verify how well the translations corresponded with the original text.

In addition four questions on attitudes towards reparations developed by Pham et al. (2009) were included.⁵⁷

⁵⁷ Pham, P., Vinck, P., Balthazard, M., Hean, S. & Stover, E. (2009). So we will never forget. A population based Survey on Attitudes about Social Reconstruction and the Extraordinary Chambers in the Courts of Cambodia.

3.3 Results

Data Analysis and Presentation

The data was analyzed using the Statistical Package for Social Sciences (SPSS) version 17.0.

The results in this chapter are generally presented in a divided way, showing the percentage in the group of Civil Party applicants (n=247; referred to as “Civil Party applicants”) and the group of respondents who have not participated in the ECCC (n=830; referred to as “no participation in ECCC”). These two groups are often presented in comparison to the whole sample (N=1,077, referred to as “total”).

Where only a single or a separate total score is reported it always refers to the percentage in the combined group of applicants and not-participants (N=1,077).

Sociodemographics

On average participants were 56.2 years old, ranging from 35 to 98 years of age. 61.7 percent of our sample was female. Two thirds of the participants were married and about one third were widowed. About 89 percent were ethnic Khmer and 92 percent said their religious faith was Buddhism. The participants spent on average four years in school. About 38 percent stated that they were able to read and write, while about 31 percent stated that they were illiterate.

Table 2: Sociodemographics

Sample size (n)	% Female	Mean age (S.D.)	Marital status				
			married	widowed	divorced	single	other
1077	61.7	56.2 (10.2)	66.2	27.9	2.8	1.6	1.5
Age distribution (%)				Education			
35–44 years	45–54 years	55–64 years	> 65 years	Mean education in years (S.D.)	literacy (%)		
13.6	31.3	32.3	22.8		yes	a little	no
				3.9 (3.6)	38.3	30.5	31.2
Ethnicity (%)				Religious faith (%)			
Khmer	Cham	Chinese	other	Buddhist	Islam	Christian	other
89.1	4.5	1.7	4.7	92.2	5.8	1.7	0.3

Traumatic Events

Exposure to traumatic events was widespread under the Khmer Rouge regime. The reported traumatic events were either experienced or witnessed by the participants. The presented data shows the lifetime events of the sample and therefore includes events that happened before and after the rule of the Khmer Rouge regime. Most of the events, however, were reported as happening almost exclusively under the Khmer Rouge regime.

Nearly every participant witnessed or experienced a lack of food and more than 92 percent were forced to work or saw this happening to others. At least three thirds reported witnessing or enduring forced separations from family members, deportations and combat situations.

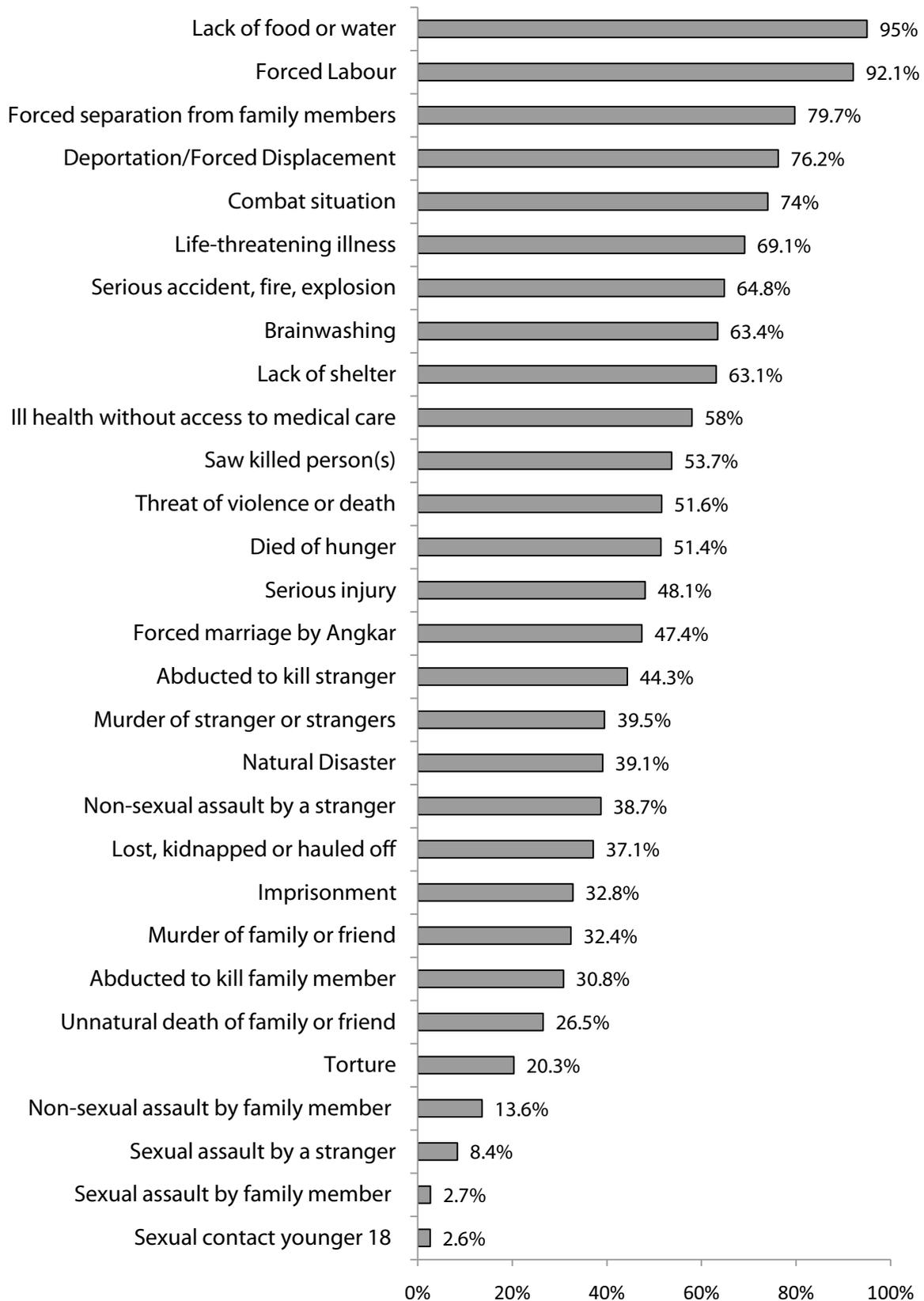
However the latter might include the events of the Vietnam War, which took place before 1975, or during the internal political struggles that followed the collapse of the regime.

Forced marriages by the Angkar—a term referring to the leadership of the Communist Party of Kampuchea—were seemingly common, given that almost half of the respondents indicated that they had at least witnessed it. Altogether 15.1 percent of the participants reported that they themselves were forced to marry by the Angkar. As many of the respondents were already married during the time of the regime, or too young to get married, this number is fairly high. Surprisingly, of the participants who experienced an attempt to force them into marriage, 45.7 percent said they could refuse to do so (data not shown).

Also often reported was the abduction of people in order to execute them. About 44 percent witnessed this happening to a stranger and nearly one third saw their family members being sent to their deaths.

Percentages for all experienced or witnessed traumatic events as reported by the participants are shown in the table below.

Figure 1: Traumatic Events (experienced and witnessed) as reported by the participants



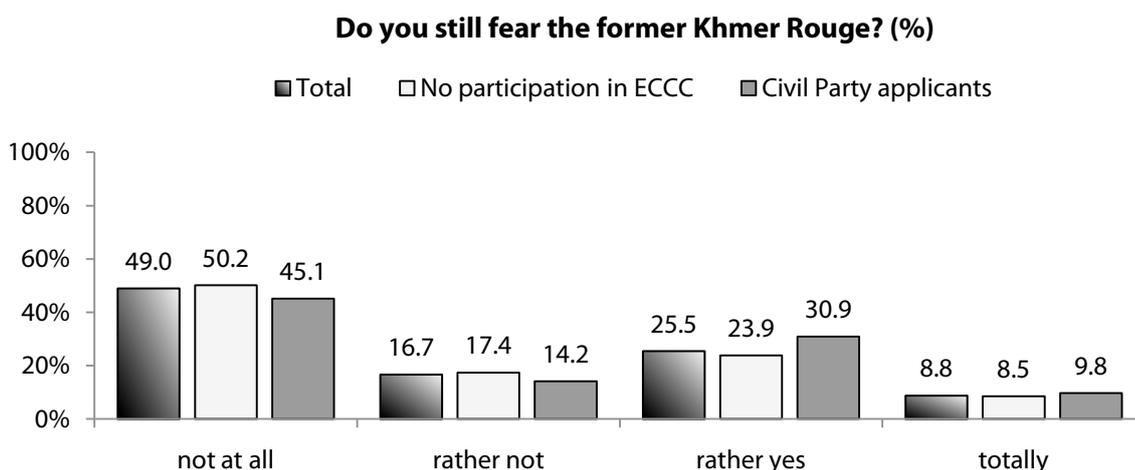
Attitudes towards the Former Khmer Rouge

The results shown above provide a picture of severe and sometimes prolonged suffering in a majority of the participants. It can be assumed that this still affects their views of the former Khmer Rouge and their willingness to reconcile, forgive or to take revenge instead. Here, it also should be pointed out that in Cambodia many victims and perpetrators are still living together in the same villages.

Asked whether the participants still perceive there to be a conflict between former Khmer Rouge and non-Khmer Rouge, the majority denied that this was the case. Civil Party applicants said “no” in 92.1 percent and not-applicants in 90.0 percent of the cases (data not shown).

The majority of the respondents stated that they do not still fear the Khmer Rouge. Civil Party applicants showed a slightly higher level of fear as still being present.

Figure 2: Fear of the former Khmer Rouge as perceived by the respondents



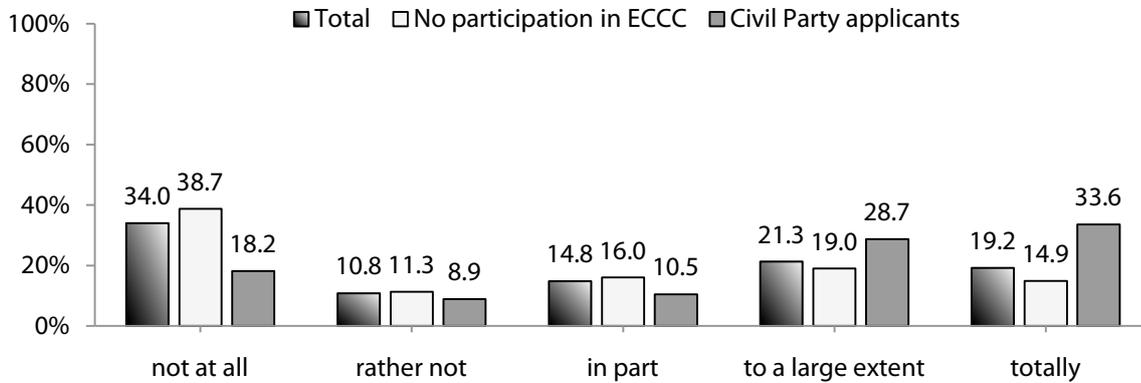
Almost one fifth of the respondents agreed “totally” when they were asked about having feelings of revenge, another fifth stated that they had feelings of revenge towards the former Khmer Rouge “to a large extent.”

Civil Party applicants report much higher feelings of revenge compared to those who did not apply to the ECCC. This is underpinned by the findings of Field and Chhim⁵⁸ who were able to show that victims who were interested in participating in the tribunal had stronger feelings of revenge towards the perpetrators.

⁵⁸ Field, N. & Chhim, S. (2008). Desire for revenge and attitudes toward the Khmer Rouge tribunal among Cambodians. *J Loss Trauma*. 13(4), 352-372.

Figure 3: Feelings of revenge as indicated by the participants

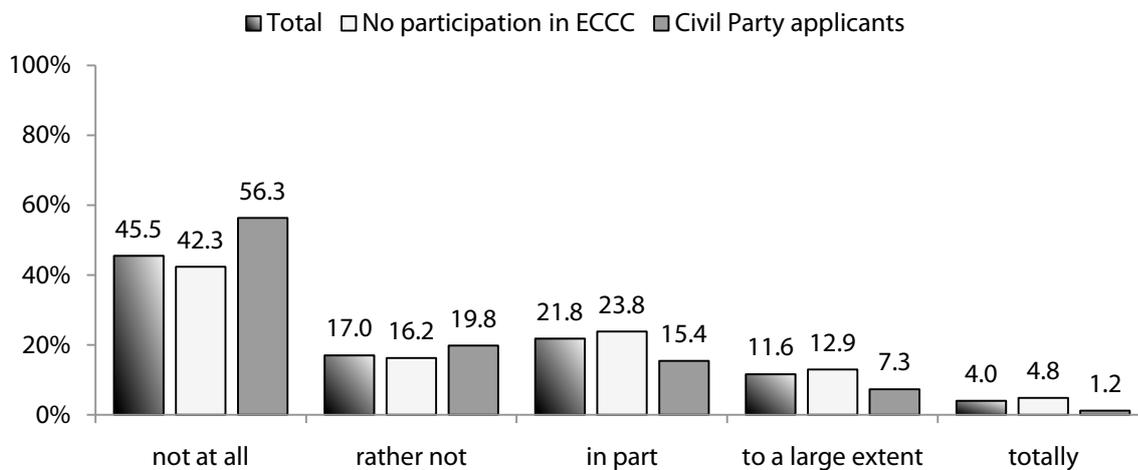
Do you have feelings of revenge towards the former Khmer Rouge? (%)



Consistent with findings shown above, almost half of the respondents reported that they had “not at all” forgiven the Khmer Rouge, while only 16% indicated they had done so “to a large extent” or “totally.” Civil Party applicants considered themselves on average less ready to forgive the former Khmer Rouge, with only 1.2% (3 in 247 respondents) answering that they had forgiven them “totally.”

Figure 4: Forgiveness as expressed by the respondents

Did you forgive the former Khmer Rouge? (%)

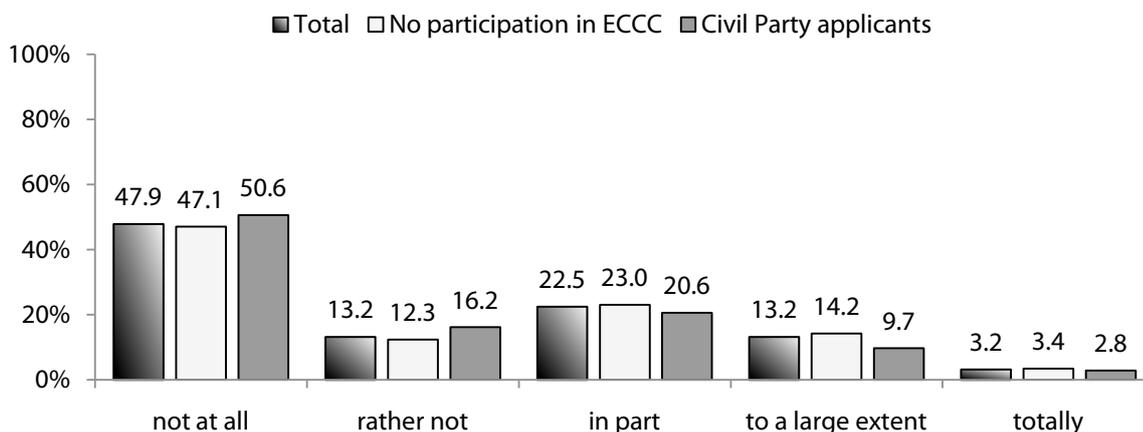


Similar findings were obtained when the respondents were asked about their readiness to reconcile. About one half stated that they were “not at all” ready and more than one fifth said that they were “in part” ready to reconcile with the former Khmer Rouge, while only 13 percent were ready “to a large extent” and 3 percent “totally” ready to reconcile.

The figures below indicate that Civil Party applicants tend to be slightly less ready to reconcile, which is hardly surprising given their higher tendency for feelings of revenge and their lower willingness to forgive.

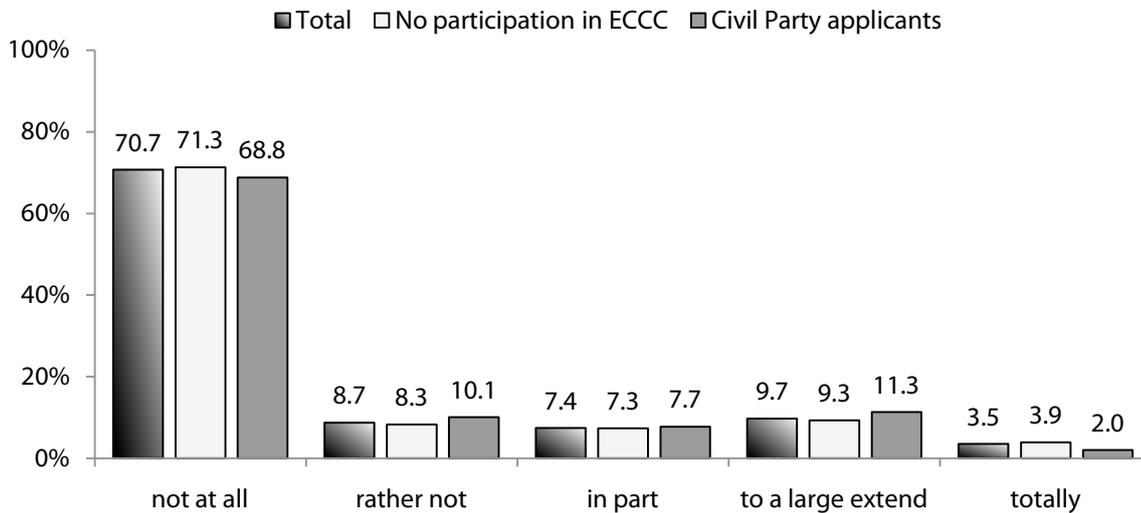
Figure 5: Readiness to reconcile as expressed by the respondents

Are you ready to reconcile with the former Khmer Rouge? (%)



Given this rather low inner preparedness for reconciliation it might be instructive to ask what actually has happened in this context during the past 30 years. More than two thirds of the participants stated that reconciliation between Khmer Rouge and non-Khmer Rouge had occurred “not at all” in their village. It is worth noting here that applicants and non-applicants do not differ to any great extent in their assessment of previous reconciliation processes.

Figure 6: Occured reconciliation as perceived by the participants
Do you think that reconciliation has occurred in your village? (%)



Up until this point the results show a lack of perceived reconciliation processes in communities together with a low readiness to reconcile and relatively common feelings of revenge especially in the subgroup of our sample that were Civil Party applicants.

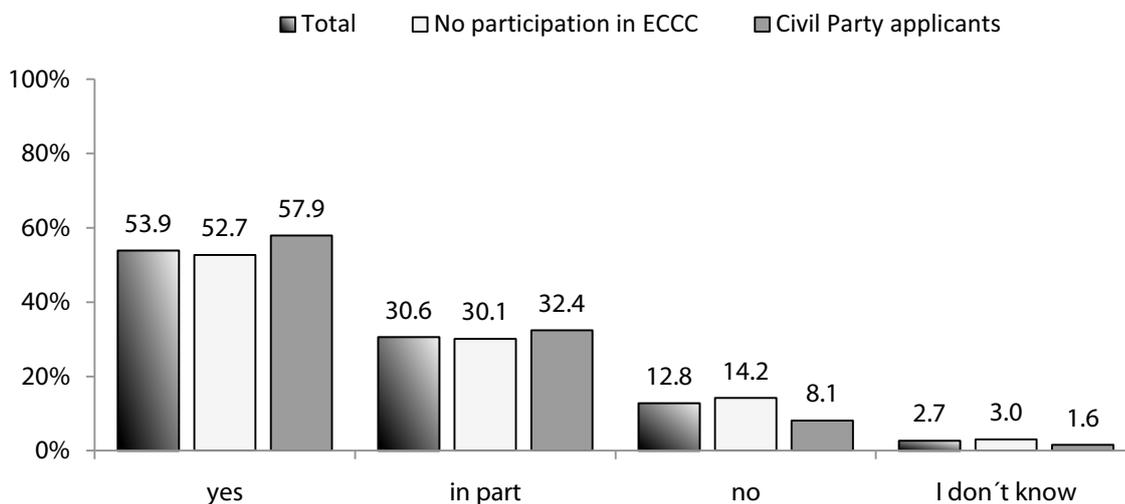
Attitudes towards the ECCC

Considering the findings described above, there seems to be a need for measures to promote reconciliation in Cambodian society. The ECCC was designed to promote not only justice but to contribute to reconciliation in the Cambodian society as well.

Asked whether participants assume that the ECCC will contribute to reconciliation in Cambodia, more than half of the participants agreed and one third expected the ECCC to contribute at least “in part” to reconciliation. Thus, the answers of about four out of five participants indicate that there is an expectation that the ECCC will facilitate reconciliation in Cambodia.

Figure 7: Contribution to reconciliation by the ECCC as assessed by respondents

Do you think the ECCC will contribute to reconciliation in Cambodia? (%)

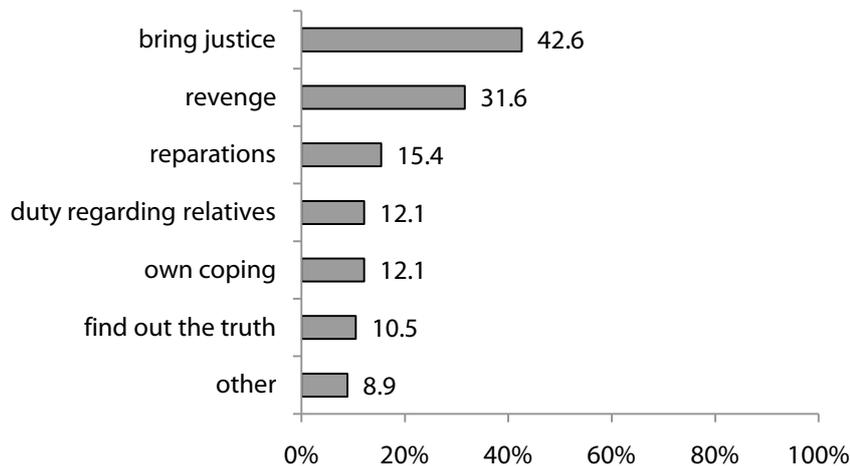


Information dissemination, outreach activities and the recruitment of witnesses as well as civil participants are among the ECCC's crucial tasks in meeting these expectations. To begin with it is therefore important to inform people about the mere existence of the tribunal. As described above, informing possible victims about the ECCC was the first step in the outreach activities of NGOs. Of those respondents who were not contacted via an organization doing outreach (n=873), 84.7 percent said they knew about the existence of the Khmer Rouge tribunal. The remaining 15.3 percent had never heard about the ECCC before they were interviewed for this survey (data not shown).

Respondents were also asked whether they appreciated the Khmer Rouge tribunal. The majority agreed: 92.1 percent answered "yes" and 2.8 percent answered yes but added that it took too long until the court had finally been established (data not shown).

Civil Party applicants were also asked in an open question why they personally decided to submit the application form. Bringing justice was the most frequent answer, followed by revenge—a reason that made every third applicant submit the form. Reparations and feelings of duty regarding relatives were mentioned less often. Figure 8 presents only the 6 most frequently indicated reasons.

Figure 8: Reasons for the application as a Civil Party
Why did you decide to submit the application form? (% of cases)



*Attitudes towards reparations*⁵⁹

Reparations for the victims were considered to be important by most of the respondents. Civil Party applicants demanded this significantly more often in comparison to non applicants.

Asked who should provide the reparations, about 60% said the perpetrators should pay for them. About half of the participants indicated that these reparations should be given to communities, but more than one third responded that they should go to individuals.

Most of the respondents wanted individual monetary compensations. Collective compensations like social services or infrastructure improvements were requested less. Only a small number of participants wanted reparations that fall into the category of moral compensations, such as ceremonies for victims or apologies by the perpetrators. However, ceremonies were claimed noticeably more often by Civil Party applicants compared to victims who do not participate in the ECCC.

⁵⁹ Results are already published in: Stammel, N., Bockers, E., Taing, S. & Knaevelsrud, C. (2010). The Survivors' Needs: Opinions on Reparations for Victims of the Khmer Rouge Regime in Cambodia. *Traumatic Stress Points*, 24 (6), 7-9.

Table 3: Opinions on reparations mentioned by respondents

	Total	No CPA	CPA	
Is it important to provide reparations to the victims of the Khmer Rouge regime? (% yes)	80.0	78.0	86.6	
Should the reparations be provided to individuals or communities or both?	Individuals (%)	35.3	34.1	38.9
	Communities (%)	51.2	53.2	45.2
	Both (%)	13.5	12.7	15.9
Who should pay to provide the reparations to the victims?	Perpetrators (%)	60.8	60.8	60.6
	Community (%)	1.2	1.5	-
	Government (%)	20.8	22.9	14.4
	International Community (%)	11.0	8.9	17.4
	Other (%)	6.3	5.8	7.6

CPA = Civil Party applicants

Table 4: Types of reparations claimed by respondents

	Total (%)	No CPA (%)	CPA (%)
Individual monetary compensation	36.8	39.1	30.3
Social services (health services, education)	15.2	13.7	19.5
Ceremony for dead or living victims	9.2	6.7	16.0
Infrastructure	9.1	8.4	11.3
Housing, land	8.5	9.2	6.5
Economic development, business enhancement programs	6.9	7.5	5.2
Livestock, food, agricultural equipment	3.7	4.1	2.6
Statue, museum, memorial	3.1	2.8	4.3
Apology from the perpetrators	2.9	3.7	0.9
Pagoda, mosque	1.5	1.4	1.7
Justice	0.8	1.1	-
Day of commemoration, historical records	0.3	0.2	0.4
Other	1.9	2.1	1.3

CPA = Civil Party applicants

3.4 Limitations

There are some limitations to the results of the survey that have to be indicated.

First, the sampling procedure did not follow a randomized approach and the findings can therefore not be generalized to the population of Cambodia. Furthermore, as participants were chosen by asking villagers for their participation it is possible that those survivors included in the sample were mainly those who were interested in the topic and felt ready to talk about their experiences.

Another issue appears when ideas and meanings are translated from English into the Khmer language. Both languages differ to some extent from each other. To address this problem an extensive translation and discussion process was carried out in order to finalize the questionnaire, including retranslation back into English and a detailed discussion with local experts on the meanings of the terms used in the survey.

Due to the interviewing period from October 2008 to May 2009 the Civil Party applicants in this survey are among the first survivors in Cambodia who had the chance to submit an application to the ECCC. The whole procedure as well as outreach activities by NGOs were still new and underwent further development building on the first experiences. Therefore the data in this survey might not represent the Civil Party applicants that applied later and received adapted outreach.

Finally, the process against Kaing Guek-Eav, alias Duch, started during the period of data collection on February 17, 2009. It is possible that respondents who were informed about the trial could have been influenced in their attitudes to the ECCC and the former perpetrators by this event.

4. Study with Civil Party Applicants (2010)

4.1 Methodology

Sample Distribution

A total number of N=226 Civil Party applicants were interviewed in 15 provinces of Cambodia as illustrated in the chart below. Some of them had already been informed about the rejection or approval of their Civil Party applications at the ECCC. As described in chapter 3, all participants in this survey were among the first victims who applied as Civil Party to the ECCC.

Table 5: Participants in each province (%)

Kampot	24.3
Svay Rieng	17.7
Kampong Speu	10.6
Stung Treng	8.4
Kampong Cham	7.1
Takèo	6.6
Koh Kong	5.8
Sihanoukville	4.9
Ratanakiri	3.5
Kampong Chhnang	3.5
Kratie	2.7
Phnom Penh	1.8
Kandal	1.3
Pailin	1.3
Siem Reap	0.4

Interviewers

The interviews were conducted by Cambodian psychological interviewers. Half of them had already participated in the 2008/2009 survey. The interviewers were trained in a two-week seminar. Relevant psychological concepts related to war, trauma and mental health consequences were introduced. Contents and concepts of the questionnaires were discussed and adapted if necessary. In practical training sessions interviewers were taught how to administrate the questionnaires.

Procedure

All participants that are included in the second survey are Civil Party applicants, who had already been interviewed once in 2008 or 2009. They were contacted again in order to ask them to participate in the second survey.

Of all participants in the first survey, 12 persons could not be found again, 5 refused to participate, while 2 interviews could not be conducted due to age-related health problems. Sadly, two former participants had died in the intervening period. In total, of 247 Civil Party applicants from the first survey, 226 could be re-interviewed for the second survey.

The participants were interviewed in structured face-to-face interviews in the Khmer language between November 2, 2010 and December 10, 2010.

Prior to any interview, participants were informed about the following points and had to give their informed consent:

- The complete voluntary nature of the interview
- The duration and the topics of the interview
- The right to refuse to answer any question as well as to end the interview at any time
- The principles of confidentiality and anonymity

After the interview each participant received a small gift in the form of a mosquito net.

The average amount of time spent on an interview was one and a half hours.

4.2 Measures

The measures presented were developed in the bzfo-working group in cooperation with TPO Cambodia.

Some measures were taken from the first survey. Several trial variables (satisfaction with the sentence, emotional reaction to the court decision, impacts of the trial on the participant's life) are an expanded adaptation of a questionnaire originally developed by Orth & Maercker.⁶⁰ Four items on the perception of Duch's apology and forgiveness were adapted from items originally developed by Allan and colleagues.⁶¹ All items were adapted to the Cambodian context.

All new items were translated from English into Khmer by Cambodian psychologists and were subsequently re-translated back into English by interpreters who were unfamiliar with the original English versions to verify how well the translations corresponded with the original text.

4.3 Results

Data Analysis and Presentation

The data was analyzed using the Statistical Package for Social Sciences (SPSS) version 17.0.

Findings are usually presented for the whole group of N=226 Civil Party applicants.

Some questions allowed multiple responses (marked in the title of the figure as "% of cases"), the respective graphs therefore show the percentage of people who gave each answer.

If questions were asked in both surveys a comparison between the first (2008/2009) and the second (2010) assessment is shown.

⁶⁰ Orth, U. & Maercker, A. (2004). Do Trials of Perpetrators Retraumatize Crime Victims? *Journal of Interpersonal Violence*, 19(2), 212-227.

⁶¹ Allan, A., Allan, M.M., Kaminer, D. & Stein, D.J. (2006). Exploration of the Association between Apology and Forgiveness amongst Victims of Human Rights Violations. *Behavioral Sciences and the Law*, 24, 87-102

Sociodemographics

Sociodemographics of the N=226 Civil Party applicants in this survey are presented from the first survey in 2008/09. The respondents were on average 1.7 years older.

Table 6: Sociodemographics

Sample Size (n)	% Female	Mean Age (S.D.)	Marital Status				
			married	widowed	divorced	single	other
226	70.4%	58.5 (9.7)	56.2	36.7	2.2	2.7	2.2

Age distribution (%)				Education			
35-44 years	45-54 years	55-64 years	> 65 years	Mean education in years (S.D.)	literacy (%)		
					yes	a little	no
8.0	27.1	36.9	28.0	3.8 (3.8)	40.4	24.4	35.1

Ethnicity (%)				Religious Faith (%)			
Khmer	Cham	Chinese	other	Buddhist	Islam	Christian	other
77.9	13.3	0.9	8.8	79.2	18.1	2.2	0.4

Reactions and effects within the families of Civil Party applicants

All participants had filed an application for Civil Party status prior to the first survey in 2008/2009.

The Civil Party applicants in this sample said, in over 75 percent of the cases, that all of their immediate family members were informed about their application. Only 5 percent did not inform anyone in their family.

Figure 9: Family members' knowledge about the application as indicated by the participants

Do your immediate family members know that you applied to become a civil party to the ECCC? (%)

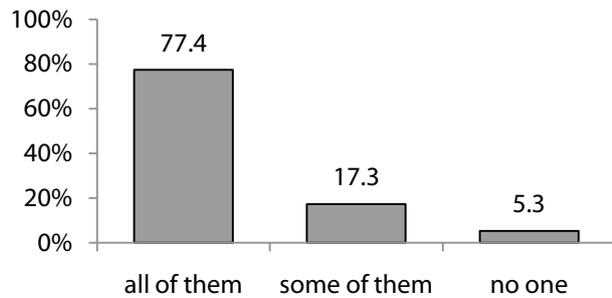
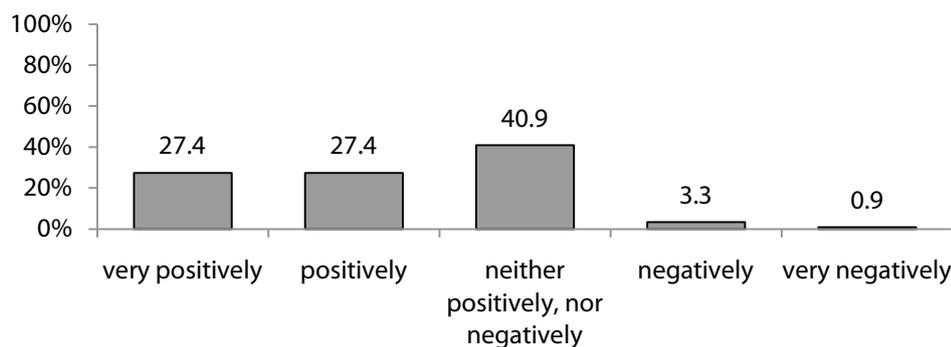


Figure 10: Family members' reaction towards the application as indicated by the participants

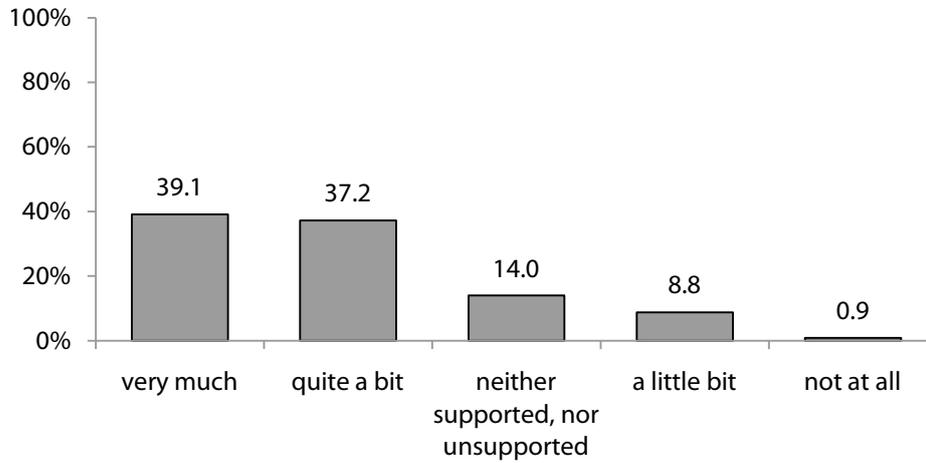
How did they react when they heard that you applied to become a Civil Party to the ECCC? (%)



Of those who informed their family members (n=214) very few respondents reported negative reactions from their family members when they informed them. More than half of them said that the reaction was positive and in the remaining cases the reactions were neither positive, nor negative. Furthermore family members seem to be an important source of social support and encouragement in relation to the application. 40 percent felt supported by their family members “very much” regarding their application to the ECCC. Another 37 percent said that they felt supported “quite a bit”, 10 percent perceived their family’s support as only existing “a little bit” or “not at all”.

Figure 11: Feeling of support by family members as indicated by the participants

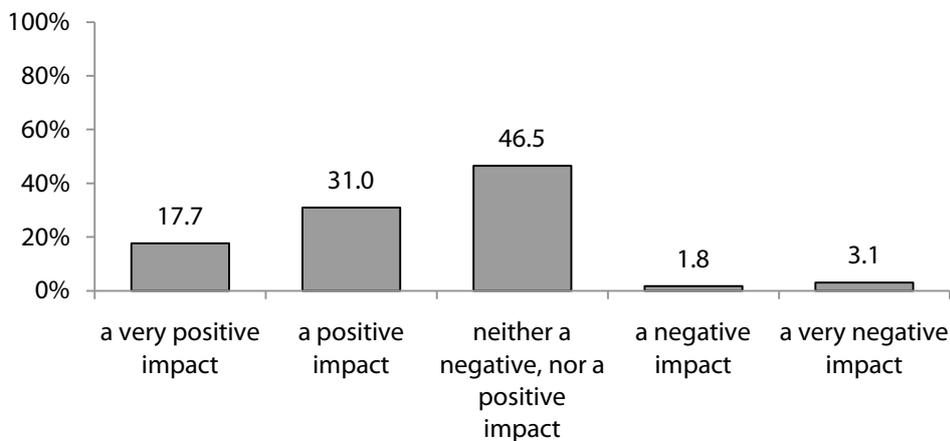
Did you feel supported by your family regarding your application as Civil Party to the ECCC? (%)



The impact that an application or the participation of the applicant with the ECCC had on their families was generally positive, respectively neither positive, nor negative. All in all only five percent indicated a negative impact.

Figure 12: Impact of application/participation on the family as indicated by the participants

What impact has your application/participation at the ECCC on your family? (%)



Support by Lawyers

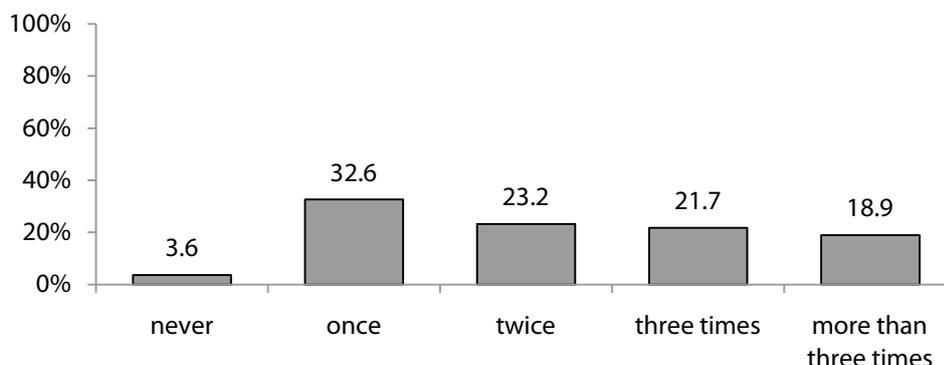
Applicants for Civil Party status not only need support from their families, but also legal assistance. “From the issuance of the Closing Order onwards, in order to participate in proceedings, Civil Parties shall at all times be represented by a Civil Party lawyer” (p. 23)⁶². From the moment that applicants become accepted Civil Parties they also necessarily must have a lawyer.

They also play an important role prior to the Closing Order by meeting and interviewing clients and giving legal advice in relation to the applications. Moreover, only with the assistance of a lawyer do appeals against a rejection become possible. In this sample, 61.1 percent (n=138) of the Civil Party applicants knew who their lawyer was (data not shown). The following results that are shown in figure 13 and 14 refer only to these participants.

The contact with their lawyer was in 84.1 percent of cases a direct meeting and in 20.3 percent of cases done over the phone (data not shown). Almost every respondent who knew their lawyer had had direct or indirect contact at the time of the interview at least once. More than 60 percent said that they had had contact with their lawyers several times.

Figure 13: Frequency of lawyer consultation as reported by the respondents

How often did you consult your lawyer, either by phone or by direct contact? (%)

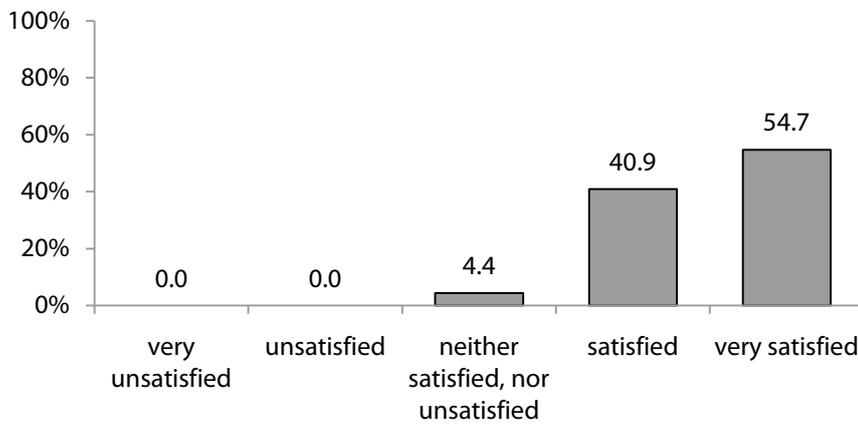


Most of the participants who indicated to know their lawyer were substantially satisfied with their lawyers. Only six participants were “neither satisfied, nor unsatisfied,” everyone else was at least “satisfied”, if not “very satisfied”.

⁶² Internal Rules (Rev.6), September 17, 2010, Rule 23.

Figure 14: Satisfaction with the lawyer as reported by the respondents

How satisfied are you with your lawyer? (%)



Knowledge about the Civil Party Application

At the time of the second interview, on average 1.7 years after the first one, about half of the respondents did not know which trial case(s) they had originally applied for. Looking only at the subsample of already informed Civil Party applicants (n=113), about one third (28.3%) still did not know which case they had been approved or denied for (data not shown).

With the Closing Order in Case 002 from September 15, 2010 the first decision about the acceptance or rejection of applications was issued.

However, because rejected applicants could submit an appeal against this decision within ten days and via their lawyers, those who did so were still waiting for the final outcome in their cases at the time of the interview.

Nevertheless, exactly half of the participants had already received information about the final decision of their application (data not shown).

The main sources of information regarding their applications were NGO staff (in 37.2% of the cases), local Civil Party representatives—that function as key figures in NGO community networks— (32.7% of the cases) and lawyers (24.8% of the cases). Other sources were reported by 7.1 percent, multiple answers were possible (data not shown). Commonly respondents were informed in person — reported by 82.3 percent — and in 17.7 percent by telephone. Letters, informing participants about their applications were received by 7.1 percent of them (data not shown).

Perception of the Duch Trial

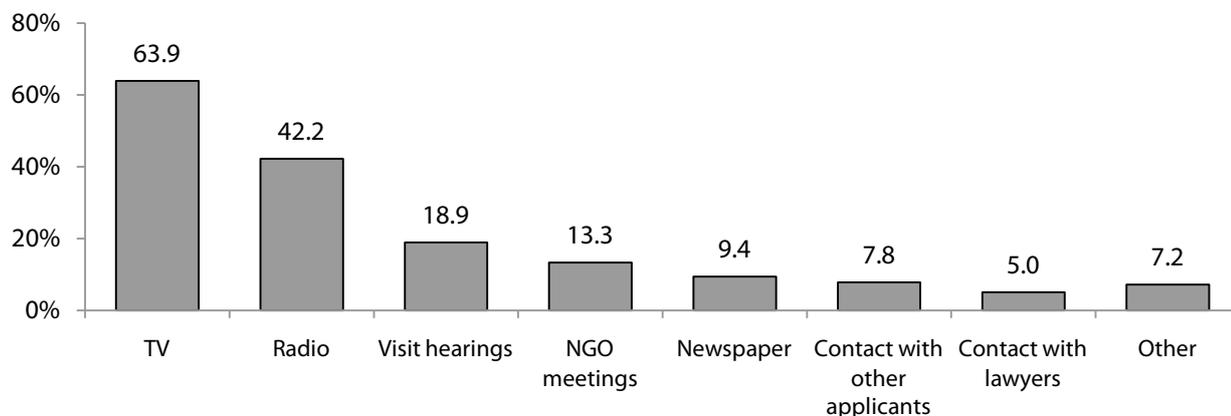
Kaing Guek Eav alias Duch was the first perpetrator being sentenced by the ECCC. Trial hearings started on March 30, 2009 and the judgment was handed down on July 26, 2010. 79.2 percent of the Civil Party applicants included in this survey said that they followed the proceedings at the ECCC (data not shown).

Among those who indicated to follow the proceedings, most frequently mentioned sources of information were media, especially TV — which was used by about two thirds of the respondents — and radio (42% of cases). Further sources were outreach activities like meetings organized by NGOs and of civil participation, such as being invited to visit ECCC hearings in person (18.9% of cases).

43.1 percent of the respondents had already visited the court in Phnom Penh (data not shown).

Figure 15: Sources of information about the trial as indicated by the respondents

How did you follow the proceedings at the ECCC? (% of cases)



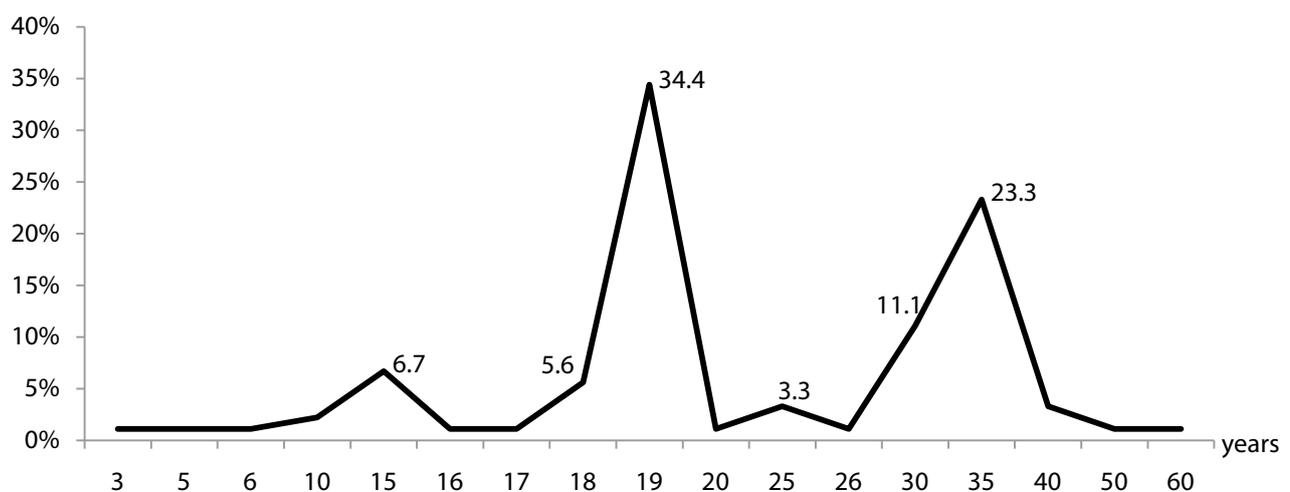
Among all participants 41.2 percent said they knew what sentence was given to Duch (data not shown). These people were then asked to indicate the exact number of years that Duch still had to serve in prison after the verdict.

The official prison term, as it was issued in the judgment, was 35 years, though it was cut down for two main reasons laid down in the further explanatory statement of the judgment: Firstly the court decided to suspend five years, because Duch was held in illegal military detention prior to his transfer into ECCC custody. Secondly Duch had already spent 11 years in prison when a sentence was finally handed down, these years count as part of the prison term and are therefore deemed to have already been served. This means Duch has 19 years left to serve, which was defined as the correct answer to the above question. In cases in which a participant answered 35 years more, their answer was interpreted as an indicator that the part suspension was unknown to them.

The answers of those who indicated to know the sentence (n=93) are distributed around the relevant years 19 (34.4%) and 35 (23.3%), indicating that the respondents had a certain knowledge about the judgment. More than 50 percent said that Duch was either sentenced to 19 or 35 years. Of those who stated to know the prison term, about one third actually knew the correct prison term of 19 more years that Duch still has to serve in prison. This shows, on the one hand, that a considerable number of applicants was well informed about the judgment, but might on the other hand be an indicator that the verdict was observed more broadly than it was understood in detail. Three participants excluded in these figures said they were sure that Duch received a life-long sentence. For the total sample this means that 13.7 percent knew the correct prison term (data not shown).

Figure 16: Prison term of Duch according to the respondents knowledge

How many more years does Duch have to serve in prison? (%)

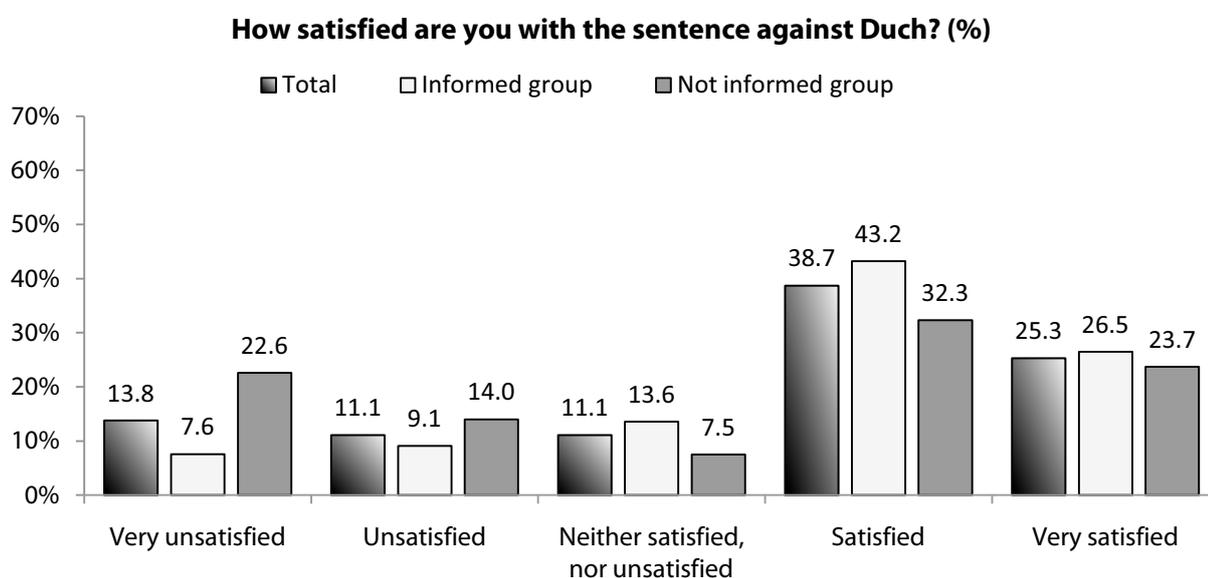


Every respondent who followed the proceedings but indicated that they did not know the sentence given to Duch was informed by the interviewer about the judgment. This was done by reading a standardized text that included the above-mentioned aspects that led to the actual prison term (informed group). If the interviewees thought that they knew the correct term, but gave an incorrect answer, no further information was provided (not-informed group).

Generally more than 60 percent were “satisfied” or “very satisfied” about the judgment, 10 percent said they were “neither satisfied, nor unsatisfied” while about one in four were “unsatisfied” or “very unsatisfied.”

A comparison between the group of respondents who gave the number according to their own knowledge (not-informed group) and the group of people who were informed during the interview (informed group) was run. The group that was informed by the standardized text tended to be “unsatisfied” or “very unsatisfied” less often than the other group —16.7 percent compared with 36.6 percent – and were also more often “satisfied” or “very satisfied” — 69.7 percent compared with 56 percent.

Figure 17: Satisfaction with the sentence against Duch as reported by the participants



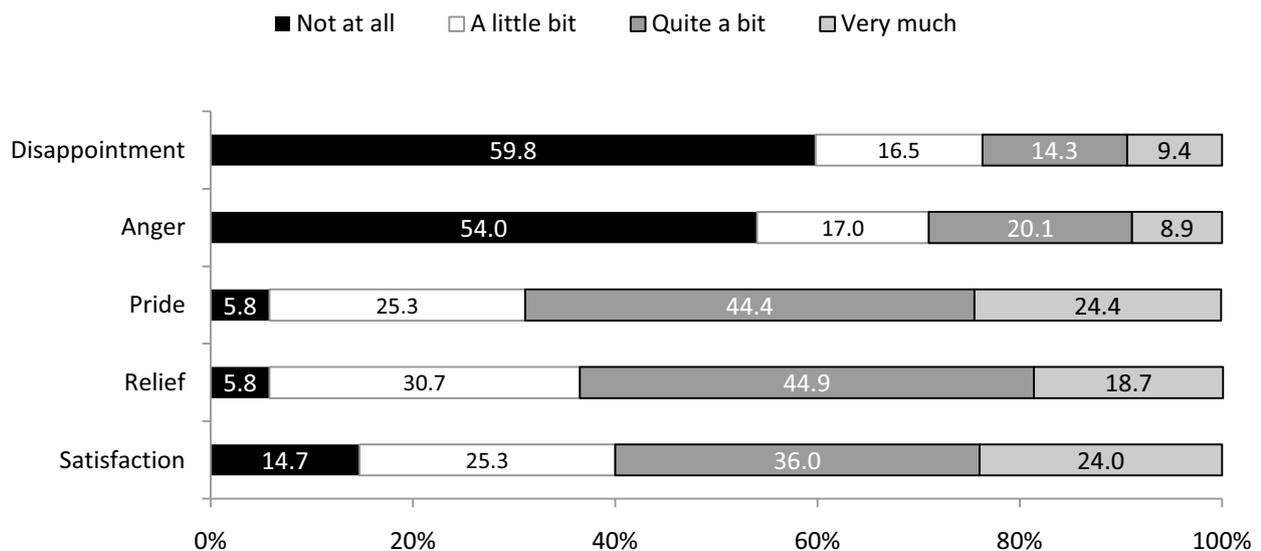
It was further investigated how the verdict was perceived by the Civil Party applicants. 36.7 percent said it was “neither lenient, nor severe”, 16.9 percent considered it “lenient”, 17.8 percent “very lenient” and the rest were of the opinion that it was “severe” (20.9%) or “very severe” (7.6%)(data not shown).

The rather large middle group that considered the sentence not lenient, but also not severe, together with the above-mentioned generally high satisfaction with the judgment might indicate that the prison term is considered appropriate by many Civil Party applicants in this survey.

Emotional reactions about the sentence of Duch were often reported as being positive by the participants, like satisfaction, relief and pride. Negative emotional reactions, like anger or disappointment were reported less often.

Figure 18: Emotional reactions about the sentence as experienced by the respondents

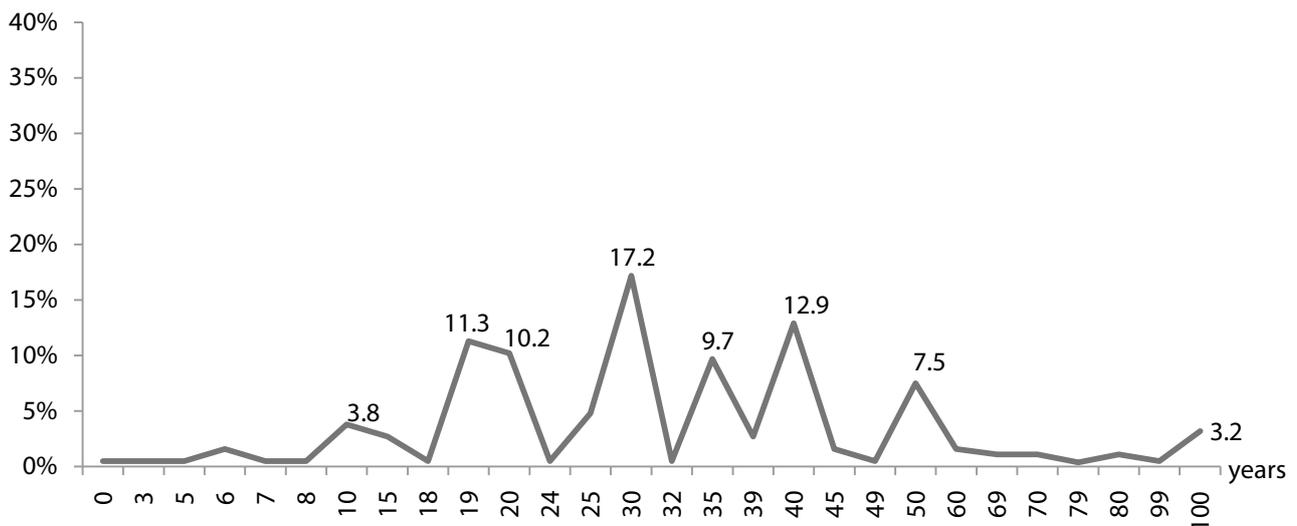
What did you feel when you heard that Duch was sentenced to serve 19 more years in prison? (%)



In order to find out what sentence the participants would consider appropriate they were asked to say how many more years Duch should have been sentenced, according to their own sense of justice. The answers show a threefold pattern: about 20 percent chose a prison term around the 19 years that Duch actually has to serve; another fourth thought he should get a term closer to the uncut sentence of 35 years — though they more often mentioned 30 years; a third group supported a higher sentence of 40 years or more.

A remarkable 39 respondents (excluded in these figures) refused to give a number and said they wanted to see Duch in jail for the rest of his life.

Figure 19: Prison term of Duch that the participants wish for
To how many more years in jail should Duch have been sentenced? (%)



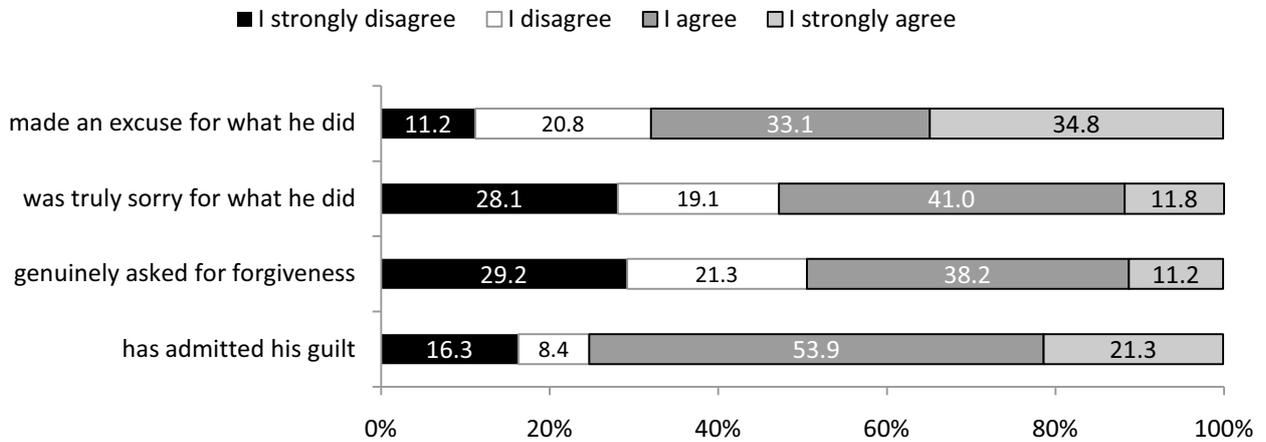
With Duch the ECCC brought the individual Khmer Rouge perpetrator to the attention of the broader public. The participants were therefore asked about their current perception of Duch.

Almost half of the survey sample agreed that “Duch has genuinely asked for forgiveness”. About one in three disagreed strongly with this statement though. The same distribution was also found for the questions of whether they think that “Duch was truly sorry for what he did under the Khmer Rouge regime.”

Participants agreed more often with statements that said “Duch made an excuse for what he did” and “Duch has admitted his guilt”.

Figure 20: Perception of Duch today as reported by the participants

What do you think about Duch today? Duch ... (%)

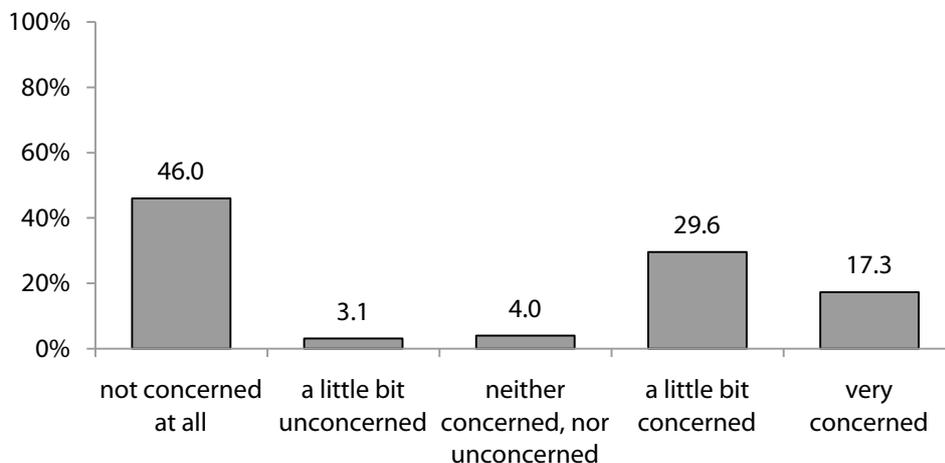


Perception of the ECCC and related activities

90 percent of all participants said that, with the knowledge they had today, they would apply again as a Civil Party — 84.1 percent said “definitely yes” and 5.8 percent said “rather yes” (data not shown). However, almost half of the respondents are concerned at least “a little bit” about their personal safety as a result of their application.

Figure 20: Concerns about their personal safety as stated by the participants

Are you concerned about your personal safety as a result of your application as a Civil Party to the ECCC? (%)

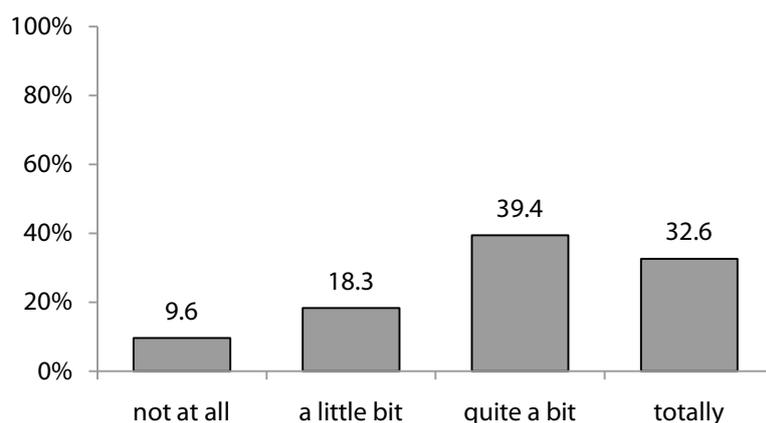


Actual negative experiences were reported only by a handful of people. 97.3 percent said that they never experienced any problems, regarding their personal security, as a result of their activities related to the ECCC. 96.9 percent also said that they did not experience any other problems related to the ECCC (data not shown).

One third said that they believed the court acted “totally” independently from political influence. 10 percent said they did not believe so at all and 18 percent believed in the courts independence only “a little bit”. Though 33 percent believed in the total absence of political influence — which is a very positive result in the Cambodian context, which is often characterized by mistrust of the courts⁶³ — the remaining respondents indicated that they did not believe in the complete independence of the court.

Figure 21: Opinion on political influence as stated by the respondents

Do you believe the court acts independently from political influence? (%)



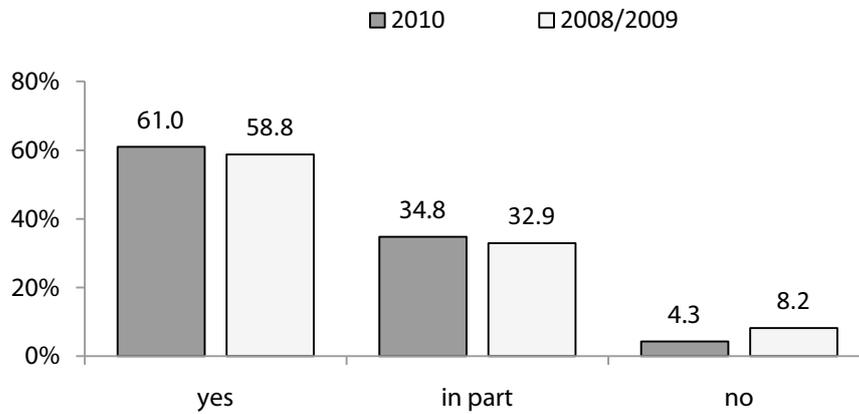
Readiness for reconciliation

Two thirds thought that the ECCC will contribute to reconciliation in Cambodia and almost all remaining respondents thought it will contribute at least “in part”. The same question was asked to the participants in the first survey in 2008/09.

The number of people who said it would not contribute was a little bit higher in the first survey compared to the second.

⁶³ Pham, P., Vinck, P., Balthazard, M., Hean, S. & Stover, E. (2009). So we will never forget. A population based Survey on Attitudes about Social Reconstruction and the Extraordinary Chambers in the Courts of Cambodia. Publication. Retrieved November 16, 2010: <http://hrc.berkeley.edu/pdfs/So-We-Will-Never-Forget.pdf>

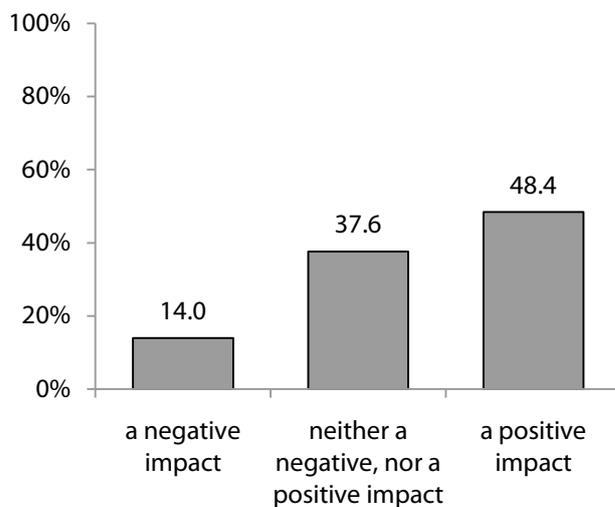
Figure 22: Opinions on the ECCCs contribution to reconciliation as indicated by the participants
Do you think the ECCC will contribute to reconciliation in Cambodia? (%)



Reactions to the Duch trial might have played a role here. Participants were asked what kind of impact the process of the trial had on their readiness to reconcile with the perpetrators.

48 percent said the trial had “a positive impact on their readiness to reconcile” while 14 percent said it had “a negative impact” and 38 percent saw “neither a negative, nor a positive impact”.

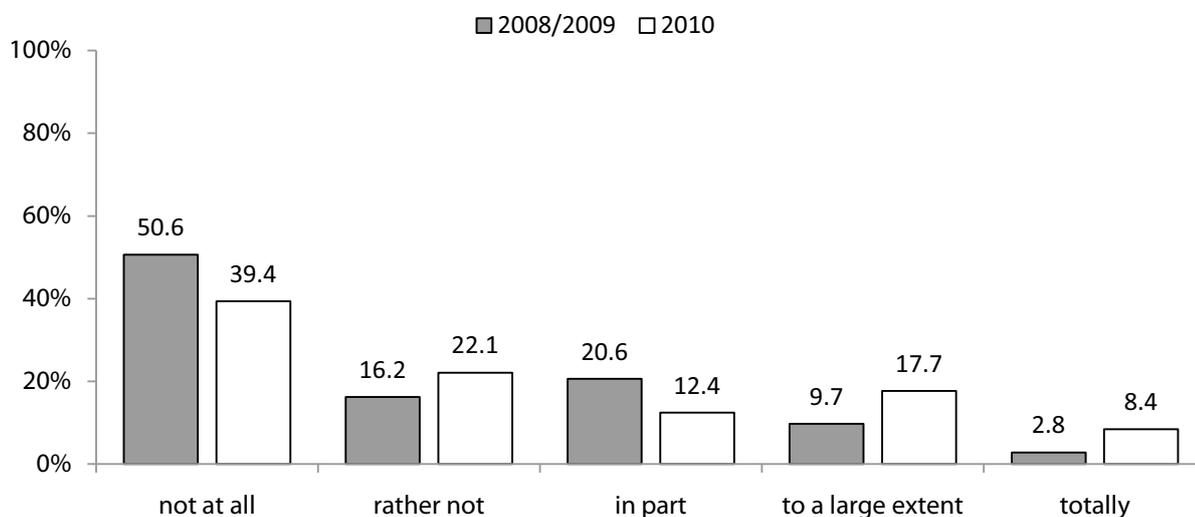
Figure 23: The trials impact on readiness to reconcile as stated by the respondents
What impact has the trial against Duch on your readiness to reconcile with the perpetrators? (%)



Still, 39 percent said that they were not ready to reconcile “at all” when they were asked directly. Only 8 percent were “totally” ready to reconcile, but 18 percent answered that they were ready “to a large extent.” It is noteworthy here that the readiness to reconcile has increased in the sample since the first survey in 2008/2009. The comparison shows that in the quite short period between the two surveys a considerable progress towards more readiness to reconciliation has occurred — a period that comprised most of the court’s first public trial.

Figure 24: Readiness to reconcile as indicated by the respondents

Are you ready to reconcile with the former Khmer Rouge? (%)

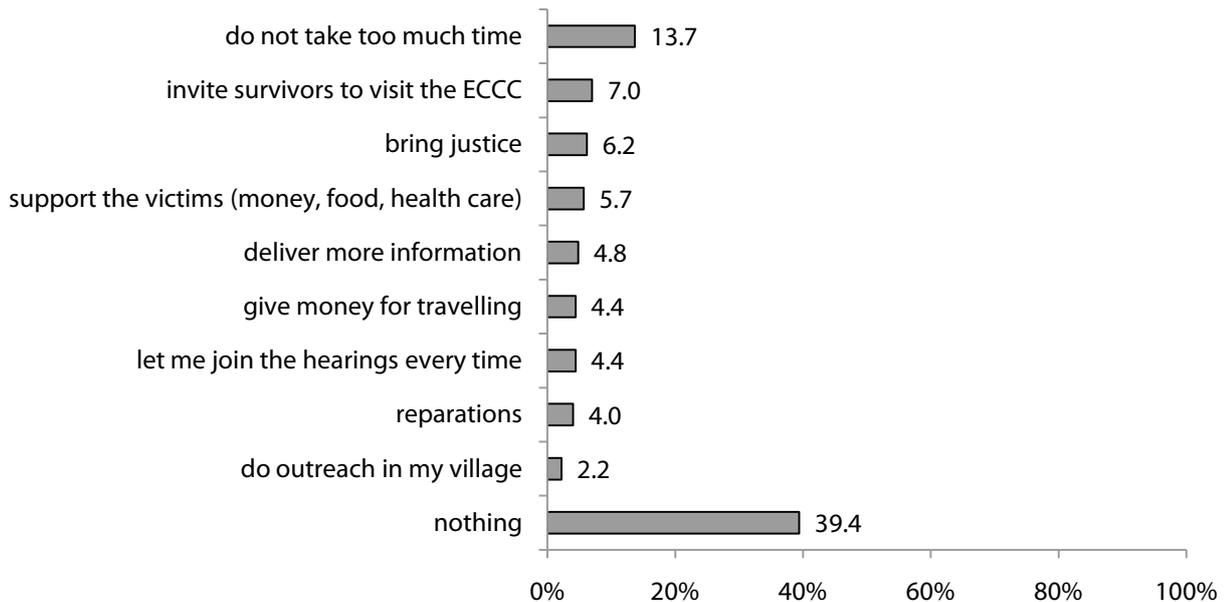


Participants were also asked whether there was anything that they perceived as being stressful in regard to their activities related to the ECCC. 66.4 percent said that there was nothing that they perceived as being stressful (data not shown). 14.6 percent of the participants, however were bothered by the long period of time that the tribunal had already taken. They often expressed concern that the perpetrators might die before they had been judged. Only a few respondents were concerned that the trial would not bring justice (4.0%) or mentioned that it brought up memories of painful events (2.2%) (data not shown). Furthermore respondents were asked for any suggestions that they might give to make participating at the ECCC easier for them. 14.0 percent said that the court should work faster and sentence the perpetrators sooner. Seven percent wanted to be invited to the ECCC and another about 4 percent also asked for money to pay for the travelling to and accommodation in Phnom Penh. Money, food and access to health care were requested by six percent and four percent also said that reparations would help them.

Some participants wished for more information (5%), outreach activities close to their homes (2%) and said that they wanted to take part in court hearings on a daily basis (4%). However almost 40 percent said there was nothing that could make participating in the ECCC easier for them.

Figure 25: Suggestions made by the respondents to make their participation easier

What would you suggest to make participation in the ECCC easier for you? (% of cases)



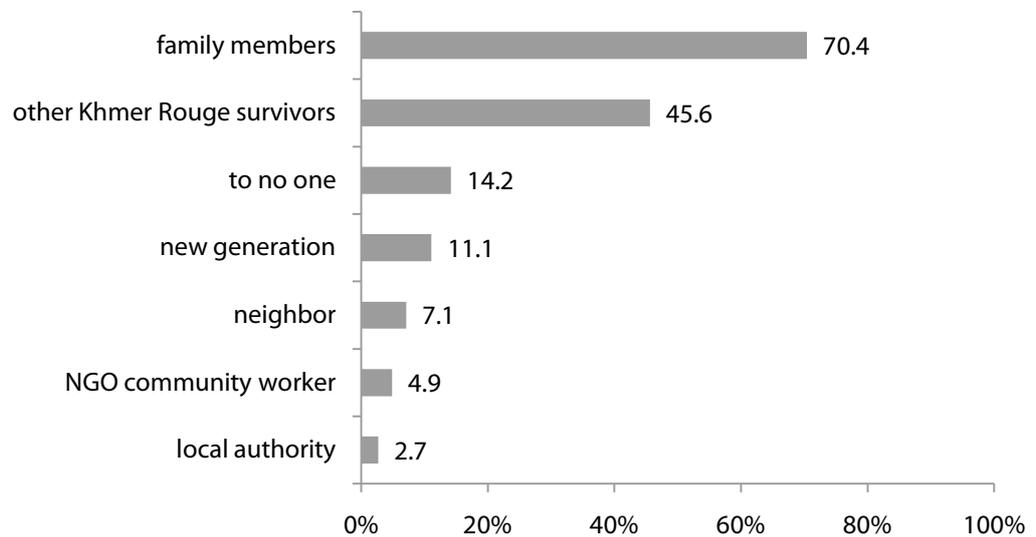
Resources

Participation in the ECCC can also be a chance for victims to discuss their experiences, but it may also cause them to remember painful events from their past. Therefore, participants were asked about resources they are able to use in their daily lives in order to cope with stressful memories and thoughts. The participants in this sample were asked in an open question about whom they approach when they think too much about their experiences under the Khmer Rouge regime.

Most of the participants reported that they talked to family members, followed by other Khmer Rouge survivors. Professionals or local authorities were only mentioned marginally by the participants. 15 percent of the sample reported that they talked to no one.

Figure 26: Approached persons as indicated by the participants

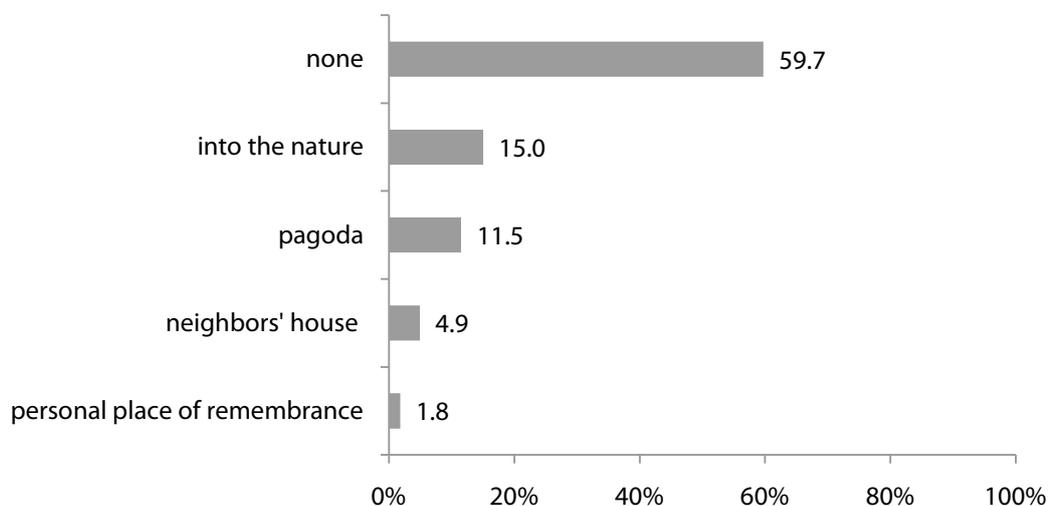
When you think too much about your experiences in Khmer Rouge time, to whom do you talk to? (% of cases)



While the majority of the sample (59.7%) reported that there was no special place they go to when they think too much about their experiences, some participants reported that they went to the pagoda, into the nature or to their neighbor’s house.

Figure 27: Places mentioned by the participants

When you think too much about the experiences you went through in Khmer Rouge time, are there any special places in or near your community you are going to? (% of cases)



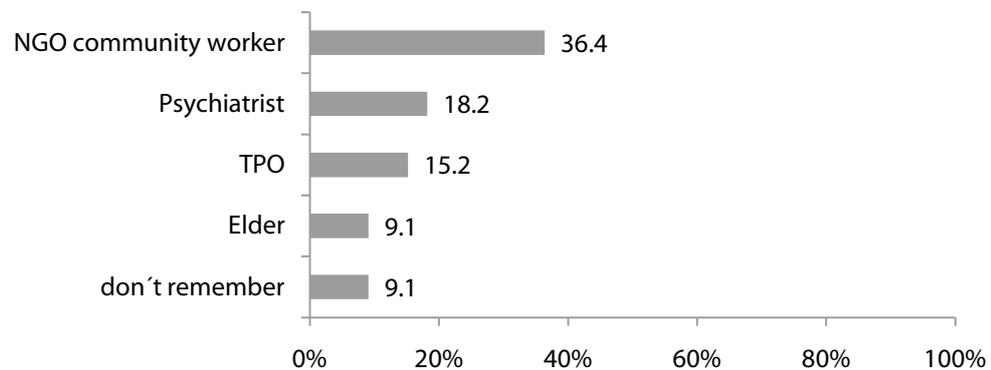
When the participants were asked about the people they talk to about their stressful experiences under the Khmer Rouge regime, many replied that they talk to family members or to other survivors. About 5 percent also mentioned NGO community workers who may also offer mental health support.

When the participants were asked whether they seek help from professional mental health providers, 85.4 percent answered no. Though this is the clear majority it also means that about 15% (n=33) try to get help from professional mental health providers (data not shown).

Civil Party applicants in this survey reported that they got mental health support from a number of different providers. Of those who reported to seek mental health support, 36 percent went to NGO community workers. Elders were mentioned by three people as a source for mental health assistance.

Figure 28: Sources of professional mental health support as reported by the participants

From which mental health provider do you seek support when you feel stressed due to your experiences during the Khmer Rouge regime? (% of cases)

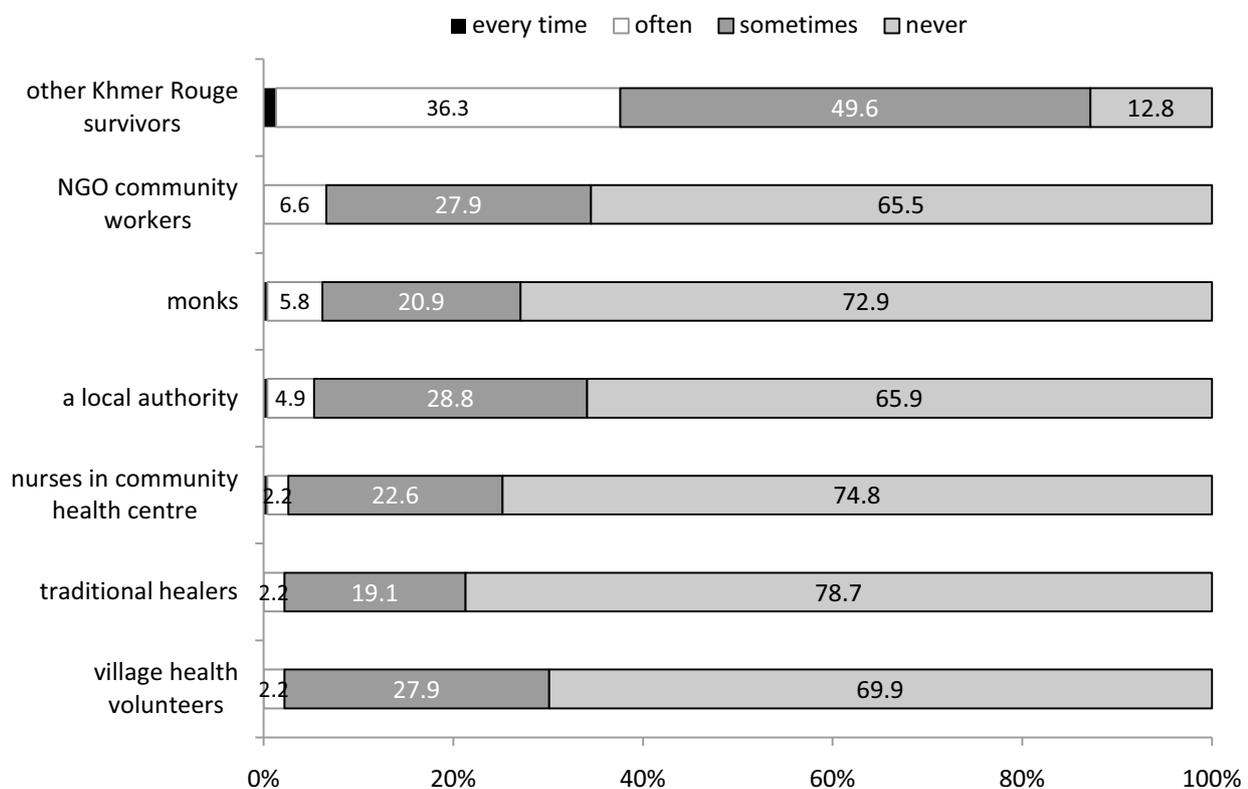


In the next six questions, the participants were directly asked how often they approach different providers of psychosocial support when they feel stressed because of their experiences under the Khmer Rouge regime. The most frequently consulted group of people here were other Khmer Rouge survivors followed by NGO community workers, local authorities and then monks. Health volunteers, nurses and traditional healers were mentioned less often. Compared to other possible providers of psychosocial support, the participants indicated to that they talked to other Khmer Rouge survivors relatively often when feeling stressed because of their experiences.

While only 13 percent reported that they “never” talked to other survivors, at least half of the sample reported that they talked to them “sometimes” and 36 percent that they did so “often”.

In Summary, when the Civil Party applicants in this survey think too much about their hurtful experiences under the Khmer Rouge regime they often talk to family members or other survivors, but only some have a place to go and few seek help from mental health providers.

Figure 29: Frequency of respondents talking with possible mental health providers
How often do you talk to ... when you feel stressed due to your experiences in Khmer Rouge time? (%)



Beyond that, participants were also asked whether they think that certain activities help to release their suffering from their Khmer Rouge experiences.

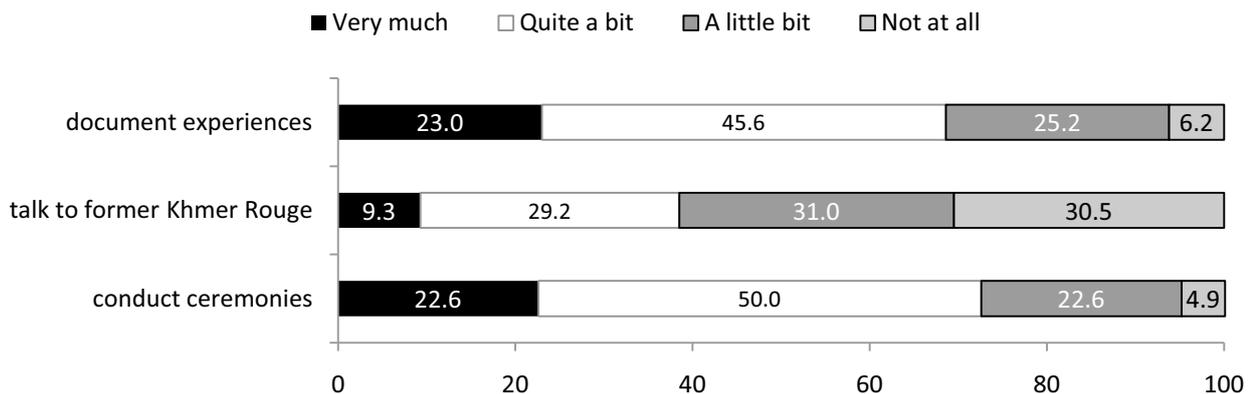
The Buddhist tradition of conducting ceremonies to worship the spirits of the dead was considered by most of the participants a helpful ritual to cope with their own suffering. Three out of four Civil Party applicants indicated that ceremonies would help them “quite a bit” or “very much.”

The opinions on whether talking to former Khmer Rouge would make one feel better about one's experiences were very heterogeneously distributed among the sample of Civil Party applicants. While 40 percent thought this could help them "quite a bit" or "very much," 60 percent indicated that this could only help "a little bit" or "not at all."

The majority of participants (69 %) considered the documentation of their experiences under the Khmer Rouge regime as being "quite a bit" or "very helpful" in dealing with their own suffering. Only a few respondents (6%) thought that the documentation could not help them at all to cope with their experiences. A large majority would like to have these documents be open to the public (89%), while only 11 percent don't want to have them published (data not shown).

Figure 30: Opinions on possible measures to deal with own suffering as evaluated by the respondents

To what extend could it help you to ... in order to deal with your painful past? (%)



Limitations of the Survey

Also in the follow-up survey it is important to note that the participants belong to the first group of survivors that applied as Civil Parties. Therefore it is not possible to generalize the findings. The results might be different in other groups of Civil Party applicants that joined outreach activities by Adhoc and further organizations at a later point in time.

Respondents—especially direct survivors of the Khmer Rouge regime—often belong to a generation of Cambodians that lacks basic education. Illiteracy is widespread—about two thirds of the participants in this survey indicated that they can only read or write a little bit—and many are not familiar with judicial terms or the law. Furthermore, survivors are often now old, which comes with its own health-related problems. In particular cases these factors can affect the respondents' ability to hear or understand questions. Interviewers were trained to monitor the participants understanding and repeat questions where necessary.

The survey was conducted shortly after the Closing Order in Case 002 was issued and some applicants had already received the information about their acceptance or rejection. However, the process of informing all Civil Party applicants will likely take until the beginning of 2011. This means that not all participants had received notice of their status at the time of the interview. It is possible that an acceptance or a rejection shortly before the interview could have affected the way that people perceived the ECCC. Additionally, the other group of participants who had not yet been informed might be influenced in their answers by the long period that they had waited since submitting their application.

5. Discussion

Attitudes on the ECCC

Shortly after the invasion of Cambodia in 1979 a brief tribunal was held by the Vietnamese occupying government. Pol Pot and other leaders were sentenced in absentia. Following this judgment there was no more effort to hold the perpetrators of the Khmer Rouge regime accountable. Victims faced what is often called a culture of impunity—the former Prime Minister of Democratic Kampuchea Ieng Sary was even granted an amnesty. Now he is to be held to account before the ECCC in what could be perceived as long awaited justice by the survivors.

Outreach activities aimed at informing people throughout the country about the existence of the ECCC have ensured that it is embedded in the conscience of the Cambodian population. Also those who were not directly involved in outreach activities were found to know about the court in about 85 percent of cases.

In the first survey conducted in 2008/2009 the overwhelming majority of participants indicated that they appreciated having a Khmer Rouge tribunal. Only a very small number said they appreciated it, but that it was too late.

In about 90 percent of cases participants said that they do not think that there was still a conflict between Khmer Rouge and non-Khmer Rouge. However, fear of the former Khmer Rouge was still common among one third of the participants.

As discussed later, almost no Civil Party applicant faced a problem in relation to their application to the ECCC. The apparent lack of negative experiences could be an element that has built trust up over time and which has allowed people to consider the ECCC as being something worth pursuing, despite their concerns. Trust was also shown in relation to the potential fear of political interference in the ECCC, a topic that has accompanied the court from the first conceptual negotiations to the present uncertainties related to those investigations that might lead to further cases in the future.

Asked whether the Civil Party applicants believed that the court acted independent of political influence, about three quarters believed so “quite a bit” or “totally.”

One of the intentions behind the establishment of the ECCC in Cambodia itself was without question to help develop the national judicial system and a key element of this has to be the building up of trust. The positive reputation of the ECCC is an especially promising signal in relation to this. This also often goes hand-in-hand with high expectations.

Respondents often took part in the court proceedings in order to seek justice and they appreciated its existence. However a considerable number of respondents are bothered by the length of time that the proceedings are taking and fear that the perpetrators may die before they are sentenced.

In summary, we found a high level of appreciation for the ECCC in survivors of the Khmer Rouge regime. Additionally Civil Party applicants did not report negative consequences in relation to their applications to the ECCC. Furthermore we did not find that Civil Party applicants in this survey were unsatisfied with the court's work or that they mistrusted the court. This is also supported by the respondents' attitudes towards the Duch trial.

What Motivated Survivors to Join the ECCC?

All in all almost half of the respondents felt concerned about their personal safety to a certain degree as a result of their Civil Party application to the ECCC. There were two main reasons that made them apply as Civil Parties, even though they expressed that they had felt considerable fear. The most frequently mentioned reasons for participating in the ECCC, in this survey, were to seek justice and to take revenge for what happened to them under the Khmer Rouge regime.

Therefore, a desire for revenge towards the former Khmer Rouge is still prevalent and it was reported especially often by those who applied as Civil Parties. Also Civil Party applicants reported that they had forgiven the former Khmer Rouge less often than survivors who did not apply to the ECCC. Every third applicant in this survey said that they wanted to join in order to take revenge. This tallies with findings by Field and Chhim who found that survivors of the Khmer Rouge regime who were willing to attend or testify at the ECCC had a stronger desire for revenge towards the perpetrators.⁶⁴

⁶⁴Field, N. & Chhim, S. (2008). Desire for revenge and attitudes toward the Khmer Rouge tribunal among Cambodians. *J Loss Trauma*. 13(4), 352-372.

Civil Party Applicant Participation at the ECCC

As stated above, the wish to have justice done and the desire to take revenge for what happened under the Khmer Rouge regime were mentioned as the main reasons for applying to the ECCC by the Civil Party applicants.

Four out of five Civil Party applicants interviewed indicated that they followed the proceedings at the ECCC. At that point, these proceedings had comprised most of the trial against Kang Guek Eav, alias Duch. The hearings in this, "Case 001", were held between March 2009 and the end of July 2010. For most of our participants media broadcasts were the main source of information about the trial proceedings. Furthermore, a considerable number (about 19%) reported that they had already visited trial hearings at the court in Phnom Penh.

Regular visits to the trial hearings are likely to be rare due to the expense of travelling to and staying in Phnom Penh. Some of the Civil Party applicants interviewed asked for transportation to the ECCC and for monetary support to pay for travelling and accommodation in order to stay in Phnom Penh and attend the hearings. This underlines our findings that the applicants in this survey tend to be interested in the ECCC and want to seize the unique opportunity of seeing the court in action with their own eyes.

An official news broadcast issued by the ECCC on July 22, 2010 deals with this form of victim participation. It said that up until that point 12,000 visitors had already attended hearings in Case 001 and it stressed that free bus transportation could be provided for attendees.⁶⁵

When asked what they perceived to be stressful, regarding their activities in relation to the ECCC, more than 66 percent said that there was nothing they perceived as stressful. The only other single answer that was given by a large number of the Civil Party applicants in this sample (nearly 15%) was that the ECCC is taking too much time and about the same number of people suggested that proceedings be sped up.

Respondents were asked in an open question if there was anything they would suggest to make their participation in the ECCC easier for them. Commonly here the answer was also "nothing." Thus it seems that the Civil Party applicants have no recommendations to improve the proceedings, which could mean that they are satisfied.

⁶⁵ Official ECCC news from July 22, 2009: http://www.eccc.gov.kh/english/news.view.aspx?doc_id=299

In regards to perceived contact with lawyers, we found that those who knew their lawyers (61%) were found to be especially satisfied with them. Contact with the lawyers happened in most cases several times—in about 80 percent of the cases more than once—and usually represented a direct meeting. Not a single participant indicated that they were unsatisfied, while more than half of the respondents indicated that they were “very satisfied” with their lawyers.

Support was not only received by lawyers—Civil Party applicants in this survey also found support within their families. Three out of four interviewees felt supported by their families regarding their Civil Party applications to the ECCC.

Correspondingly, immediate family members had been informed about the application by most of the applicants.

The families’ reactions when they heard about the application were usually reported as being positive by the Civil Party applicants. Neutral reactions were also often reported, but negative responses failed to materialize.

Asked about what impact their participation in the ECCC had had on their families so far, about half of the respondents said it was neither negative, nor positive while the other half considered it to have had a positive impact.

Our findings so far indicate that the respondents tend to be interested in the court and that they are satisfactorily supported by lawyers and family members.

When asked about which cases the Civil Party applicants had applied for, almost half of the sample answered that they did not know which case it was. Even among the already informed Civil Parties, this rate was still as high as one third.

In the original form that had to be submitted to the court, every applicant is asked to: “Please indicate the proceedings to which you wish to be joined.”⁶⁶ The only options were to indicate Case 001, Case 002 or both.

A possible explanation for this problem is that the said participants did not fill in the application form by themselves. This is likely due to the complex nature of the form, which contains several judicial terms and asks for detailed descriptions of alleged crimes, as well as the high rate of illiterate people in our sample. Often NGO outreach-staff gathered the necessary information in interviews with the applicants and filled out the application forms with them.

⁶⁶ Practice Direction on Victim Participation (Rev. 1), October 27, 2008

The long period of time between the application and the interview might also lead to the fact that the participant cannot remember which case they applied for, especially if that person did not follow the trial and was not contacted again.

Finally, when the participants were asked whether, with the knowledge they had today, they would apply again as a Civil Party, 85 percent said yes.

Our findings indicate that Civil Party applicants were all in all satisfied with their participation at the ECCC and the way they were supported by lawyers, NGOs and their own families. An improvement suggested by the respondents, was greater support for realizing visits to the ECCC and for following the hearings. Despite the high satisfaction with the court and its support network, our findings also show that there is a lack of information or deeper understanding of the procedures of the ECCC for many participants.

Readiness for Reconciliation

Although it is important to fight against the culture of impunity, the ECCC is only responsible for those who could be defined as being most responsible. In reality in Cambodia many still face the difficult situation that former perpetrators live among them in their villages and even hold positions of power. The number of those that can be referred to as “former Khmer Rouge” is theoretically very high.

Based on this, forgiveness and reconciliation seem to be essential for the Cambodian society in order to move to a situation in which victims no longer fear former perpetrators.

More than half of the respondents in the first survey were not ready to reconcile with the former Khmer Rouge—about two thirds of the participants considered themselves to be “not at all” or “rather not” ready to reconcile. Civil Party applicants were even less ready for reconciliation. About the same amount of participants stated that reconciliation had occurred “not at all” in their villages yet.

However many believed that the ECCC would contribute to reconciliation (53.9%)—among Civil Party applicants the number was even higher (58.1%). The follow-up survey showed an interesting development in relation to reconciliation. Compared to the percentages from 2008/2009, in 2010 the number of Civil Parties who thought the ECCC would contribute to reconciliation rose slightly and was now at almost 60 percent. Including those who said the ECCC would contribute in parts to reconciliation the percentage rose to 95 percent in 2010 compared to 90 percent at the time of the first survey. It could be assumed that the Duch trial probably had an impact on the above-mentioned findings on reconciliation.

Nearly half of the sample of Civil Party applicants indicated that the trial had a positive impact on their readiness to reconcile. Civil Party applicants were asked again about their personal readiness to reconcile. The comparison with findings from the first survey, held about two years earlier, revealed that the level of self-reported readiness to reconcile had increased.

Compared to the 51 percent who said they were “not at all” ready to reconcile in 2008/2009, only 39.4 percent said the same in the second survey, while the number who said “to a large extent” nearly doubled (from 9.3% to 17.7%) and the percentage that indicated “totally” was three times higher than before.

Knowledge and Opinions on the Duch Trial

As shown above, a clear majority of the Civil Party applicants in this sample indicated that they followed the proceedings at the ECCC. However, it is not clear how often the participants consulted the different sources of information, therefore it is difficult to say how comprehensively they were able to follow the trial. This might be one way of explaining why about 80 percent indicated that they followed the trial, but only about 40 percent said that they knew the sentence against Duch and of those only about 30 percent could give the correct number of years that Duch still has to serve in prison.

The results show that the knowledge and understanding of the trial is not distributed equally in the sample of Civil Party applicants interviewed in this survey. While 60 percent did not know the sentence against Duch. A considerable number of the remaining respondents had very detailed knowledge about the trial and did therefore know that the final judgment had been cut to 19 years (34.4%). Many also answered that Duch still has to serve 35 years in prison (23.3%), indicating that this element of the judgment was not understood by many participants. The remaining participants had in fact declared that they knew what the sentence was, but gave the wrong number of years. It therefore seems that the trial was observed on a broad basis, but only a small group of respondents showed a deeper understanding of the proceedings.

A number of reasons for this are possible. Firstly the infrastructure in Cambodia’s rural areas is poorly developed, therefore not everyone has access to basic media, like TV or radio. Secondly people with little money tend to be more involved in securing basic needs for their families and one could imagine that following the ECCC would be less of a priority for them. Thirdly the way information is presented might be too complicated for some people, especially for those who are too old and have no educational background.

And finally, due to the fact that many participants complained that the court

proceedings took too much time (14.6%), it is possible that some people lost interest over the course of the process and stopped following the proceedings.

The outcome of Case 001 was generally seen positively. Two out of three participants were satisfied with the sentence (64% were either “satisfied” or “very satisfied”). A large group of people also considered the judgment as being neither lenient, nor severe (36.9%), which might be an indicator that it was perceived as fair or appropriate.

About one quarter of the respondents were not satisfied with the sentence (24.9% were “unsatisfied” or “very unsatisfied”) and about 18 percent also said it was too lenient. The satisfaction might be influenced by the expectations people had in terms of the sentence—for some the mere existence of a judgment might already have been satisfying, while others wished for a more severe judgment.

The interviewed Civil Party applicants were asked about their preferred sentence according to their own sense of justice, which might give a sense of what they expected. The data shows that most people would have set a higher sentence, a considerable number far beyond 35 years and up to a true life-sentence, therefore expectations in

relation to Duch’s sentence were probably high. It seems that some of the respondents who indicated that they were satisfied still think that Duch should have been sentenced to more years in jail.

A possible explanation for this might be that these persons understood the sentence on a factual level, but did not accept it emotionally. Among the immediate emotional reactions were also anger and disappointment, though the majority did not report these feelings. About one third was “quite a bit” angry or even very angry and one fourth was disappointed “quite a bit” or “very much.” Positive reactions, however, were much more common.

Sources of Psychosocial Support

Survivors of the Khmer Rouge regime are likely to be witnesses or victims of traumatic events. Among the most frequently reported Khmer Rouge-related experiences in this survey were lack of food or water, forced labor and deportation/forced displacement. Several studies in the past have suggested that Cambodians have high rates of trauma-related mental health disorders.^{67,68}

⁶⁷Sonis, J., Gibson, J. L., de Jong, J. T., Field, N. P., Hean, S., & Komproe, I. (2009). Probable posttraumatic stress disorder and disability in Cambodia: associations with perceived justice, desire for revenge, and attitudes toward the Khmer Rouge trials. *JAMA*, 302(5), 527-536.

⁶⁸de Jong, J. T., Komproe, I. H., Van Ommeren, M., El Masri, M., Araya, M. & Khaled, N. (2001). Lifetime events and posttraumatic stress disorder in 4 postconflict settings. *JAMA*, 286(5), 555-562.

In the context of the ECCC, the suffering of victims and their horrific stories catch one's attention and also raise questions about treatment and support, especially in terms of the possibility of reparations intended to be a compensation for damages suffered.

Civil Party applicants in this survey were asked about their main sources of help when they become overwhelmed by their painful pasts. They reported that they almost exclusively talk to family members and other Khmer Rouge survivors.

The family plays an important role in Cambodian society; due to a lack of social services family members have to rely on each other when they need help. Three quarters of the respondents felt supported by their family members regarding their Civil Party applications ("very much" 39.1%, "quite a bit" 37.2%). Usually the families were informed and did not react negatively when they heard about the applicant's decision.

When they thought too much about their experiences during the Khmer Rouge regime the majority of respondents said they had no special place to go to—about 60 percent stayed at home. This intensifies the role of the family because the whole burden of supporting the survivor weighs on its members most of the time. Other Khmer Rouge survivors were the only other group found in this survey that survivors relate to and with whom they talk to about their experiences outside of their families.

Sharing the same fate might have made it much easier for them to talk openly. 87% of the interviewed Civil Party applicants indicated that they often or sometimes talk to other Khmer Rouge survivors.

This finding also implies that supporting survivor associations and self-help approaches might be an effective measure in relieving families from their burden.

Seeking professional help was reported by only 15 percent of the Civil Party applicants in this survey. The main source for support of this kind were NGO community workers (36.4%) and 15.2% mentioned the Transcultural Psychosocial Organisation (TPO Cambodia) that also provides support to communities in some areas of Cambodia.

The findings clearly show that professional mental health support is still uncommon in Cambodia.

Civil Party applicants are considered as being an especially vulnerable group and are a main focus for mental health providers, over other vulnerable groups in the country. There is, for instance, a special counseling hotline for them provided by TPO Cambodia.

Measures like a hotline increase the availability of professional mental health support, but the small number of Civil Party applicants that accesses professional help indicates that the local care structures in many areas do not yet offer this kind of support.

On the community level there are a number of other people that can provide some form of help. However none of them were consulted on a regular basis. These groups include monks, local authorities, nurses in community health centers, traditional healers and village health volunteers.

This shows that there are some local structures that could be used to implement measures in order to support survivors in dealing with their painful past. Although the above-mentioned groups are likely to have a certain professional authority, they are not consulted often enough to ensure regular interventions.

As almost 86 percent of the interviewed Civil Party applicants talk “often” or “sometimes” to other survivors about their painful experiences, it would seem to be a promising approach to base psychosocial interventions on groups of survivors that are empowered to organize self-help groups on a regular basis.

Reparations

In the first survey about 16 percent of the interviewed Civil Party applicants stated that reparations were one of the reasons that they applied to the ECCC. Civil Party applicants considered reparations as more important than survivors who did not apply to the ECCC. Therefore reparations seem to be an important motivator for the application, alongside bringing justice and taking revenge.

About 60 percent said that the reparations should be paid for by the perpetrators, 21 percent mentioned the government and nearly eleven percent said the international community should pay for them.

In contrast to the official regulations of the ECCC, 37 percent demanded individual reparations and monetary compensation. 16 percent of the Civil Party applicants expressed a desire for ceremonies for dead and living victims; they did this considerably more often than non-applicants.

In the second survey three aspects that might directly be linked to possible reparations were presented to the participants in order to assess their interest. The measure that most of the participants considered helpful was that of conducting ceremonies. Almost three quarters of the interviewed Civil Party applicants considered ceremonies as “very helpful” or “quite a bit helpful” in dealing with their own suffering.

A second finding was that 70 percent think that documenting their experiences can be “very helpful” or “quite a bit helpful”—about 89 percent also wanted these documents to be publicly available.

Considering that these measures are likely to fall into the definition of collective and moral reparations they should be considered in future approaches to compensation.

Meetings and talks with former Khmer Rouge were evaluated as being less useful. However 40 percent still considered this as “very helpful” or “quite a bit helpful.”

In summary, regarding possible reparations, we found that conducting ceremonies for family members who died under the Khmer Rouge regime, as well as group interventions with other Khmer Rouge survivors or family members as a psychosocial measure, would seem to be promising approaches in relation to the sample of interviewed Civil Party applicants.

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